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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549**

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**FORM 20-F**

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(Mark One)

**REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR 12(g) OF THE SECURITIES EXCHANGE ACT OF 1934**

OR

**ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2019

OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

OR

**SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

Date of event requiring this shell company report \_\_\_\_\_

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number: 001-33853

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**TRIP.COM GROUP LIMITED**

(Exact name of Registrant as specified in its charter)

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N/A

(Translation of Registrant's name into English)

Cayman Islands

(Jurisdiction of incorporation or organization)

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Shanghai 200335

People's Republic of China

(Address of principal executive offices)

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968 Jin Zhong Road

Shanghai 200335

People's Republic of China

(Name, Telephone, Email and/or Facsimile number and Address of Company Contact Person)

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Securities registered or to be registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol	Name of each exchange on which registered
American depositary shares, each representing 0.125 ordinary shares, par value US\$0.01 per share Ordinary shares, par value US\$0.01 per share*	TCOM	Nasdaq Stock Market LLC (Nasdaq Global Select Market)

\* Not for trading, but only in connection with the listing of American depositary shares on the Nasdaq Global Select Market.

**Securities registered or to be registered pursuant to Section 12(g) of the Act:**

**None**  
(Title of Class)

**Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act:**

**None**  
(Title of Class)

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Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report: 74,086,404 ordinary shares, par value US\$0.01 per share, as of December 31, 2019.

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.  Yes  No

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934.  Yes  No

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.  Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).  Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer  Accelerated filer  Non-accelerated filer   
Emerging growth company

If an emerging growth company that prepares its financial statements in accordance with U.S. GAAP, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards<sup>†</sup> provided pursuant to Section 13(a) of the Exchange Act.

<sup>†</sup> The term "new or revised financial accounting standard" refers to any update issued by the Financial Accounting Standards Board to its Accounting Standards Codification after April 5, 2012.

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

U.S. GAAP  International Financial Reporting Standards as issued by the International Accounting Standards Board  Other

If "Other" has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow.  Item 17  Item 18

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).  Yes  No

(APPLICABLE ONLY TO ISSUERS INVOLVED IN BANKRUPTCY PROCEEDINGS DURING THE PAST FIVE YEARS.)

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Sections 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court.  Yes  No

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## INTRODUCTION

In this annual report, unless otherwise indicated or unless the context otherwise requires:

- “ADSs” refers to American depositary shares, each of which represents 0.125 ordinary shares;
- “China” or “PRC” refers to the People’s Republic of China and, solely for the purpose of this annual report, excludes Taiwan, Hong Kong, and Macau, and “Greater China” refers to the People’s Republic of China, Taiwan, Hong Kong, and Macau;
- “Qunar” refers to Qunar Cayman Islands Limited, a Cayman Islands company, and unless the context requires otherwise, includes its predecessor entities and consolidated subsidiaries and consolidated affiliated Chinese entities;
- “Renminbi” or “RMB” refers to the legal currency of China; “U.S. dollars” or “US\$” refers to the legal currency of the United States; and “€” refers to the legal currency of Eurozone;
- “shares” or “ordinary shares” refers to our ordinary shares, par value of US\$0.01 per share; and
- “we,” “us,” “our company,” or “Trip.com Group” refers to Trip.com Group Limited (formerly known as Ctrip.com International, Ltd.), its predecessor entities and subsidiaries, and, in the context of describing our operations and consolidated financial information, its consolidated affiliated Chinese entities, unless otherwise indicated herein. We consolidate the financial results of Qunar starting from December 31, 2015. In calculating the number of hotels with which we have room supply relationships, downloads of and transactions through our mobile channel, and other operational data, where applicable, as well as in describing our marketing, branding, and intellectual properties, we have not taken into account the comparable operating data or other information of Qunar.

Any discrepancies in any table between the amounts identified as total amounts and the sum of the amounts listed therein are due to rounding.

This annual report on Form 20-F includes our audited consolidated financial statements for the years ended December 31, 2017, 2018, and 2019.

On December 1, 2015, we effected a change of the ratio of the ADSs to ordinary shares from four ADSs representing one ordinary share to eight ADSs representing one ordinary share. Unless otherwise indicated, ADSs and per ADS amount in this annual report have been retroactively adjusted to reflect the changes in ratio for all periods presented.

Our reporting currency is Renminbi because our business is primarily conducted in China and most of our revenue is denominated in Renminbi. This annual report on Form 20-F contains translations from Renminbi to U.S. dollars solely for the convenience of the reader. Unless otherwise stated, all translations from Renminbi to U.S. dollars were made at a rate of RMB6.9618 to US\$1.00, which was the certified noon buying rate in effect as of December 31, 2019, as set forth in the H.10 statistical release of The Board of Governors of the Federal Reserve System. The certified noon buying rate in effect as of April 3, 2020 was RMB7.0908 to US\$1.00. We make no representation that any Renminbi or U.S. dollar amounts referred to in this annual report on Form 20-F could have been, or could be, converted to U.S. dollars or Renminbi, as the case may be, at any particular rate, or at all. The PRC government imposes control over its foreign currency reserves in part through direct regulation of the conversion of Renminbi into foreign exchange.

**PART I.****ITEM 1. IDENTITY OF DIRECTORS, SENIOR MANAGEMENT AND ADVISERS**

Not applicable.

**ITEM 2. OFFER STATISTICS AND EXPECTED TIMETABLE**

Not applicable.

**ITEM 3. KEY INFORMATION***A. Selected Financial Data***Selected Consolidated Financial Data**

The following table presents the selected consolidated financial information for our business. You should read the following information in conjunction with “Item 5. Operating and Financial Review and Prospects” below. The selected consolidated statements of income data for the years ended December 31, 2017, 2018, and 2019 and the selected consolidated balance sheets data as of December 31, 2018 and 2019 have been derived from our audited consolidated financial statements and should be read in conjunction with those statements, which are included in this annual report beginning on page F-1. The selected consolidated statements of income/(loss) data for the years ended December 31, 2015 and 2016 and the selected consolidated balance sheets data as of December 31, 2015, 2016, and 2017 have been derived from our audited consolidated financial statements for these periods, which are not included in this annual report.

Our historical results do not necessarily indicate results expected for any future periods.

	<b>For the Year Ended December 31,</b>					<b>2019</b>
	<b>2015</b>	<b>2016<sup>(1)(2)</sup></b>	<b>2017<sup>(2)</sup></b>	<b>2018<sup>(2)</sup></b>	<b>2018</b>	
	<b>RMB</b>	<b>RMB</b>	<b>RMB</b>	<b>RMB</b>	<b>RMB</b>	<b>US\$</b>
	<b>(in millions, except for share and per share data)</b>					
<b>Selected Consolidated Statements of Income/(Loss) Data</b>						
Net revenues	10,897	19,245	26,796	30,965	35,666	5,122
Cost of revenues	(3,043)	(4,730)	(4,678)	(6,324)	(7,372)	(1,059)
Gross profit	7,854	14,515	22,118	24,641	28,294	4,063
Operating expenses						
—Product development <sup>(3)</sup>	(3,297)	(7,687)	(8,259)	(9,620)	(10,670)	(1,533)
—Sales and marketing <sup>(3)</sup>	(3,088)	(5,861)	(8,294)	(9,596)	(9,295)	(1,335)
—General and administrative <sup>(3)</sup>	(1,088)	(2,519)	(2,622)	(2,820)	(3,289)	(472)
Total operating expenses	(7,473)	(16,067)	(19,175)	(22,036)	(23,254)	(3,340)
Income/(Loss) from operations	381	(1,552)	2,943	2,605	5,040	723
Net interest income/(expense) and other income/(expense) <sup>(4)</sup>	2,624	(192)	581	(684)	4,047	581
Income/(loss) before income tax expense and equity in (loss)/income of affiliates	3,005	(1,744)	3,524	1,921	9,087	1,304
Income tax expense	(470)	(482)	(1,285)	(793)	(1,742)	(250)
Equity in (loss)/income of affiliates	(136)	602	(65)	(32)	(347)	(50)
Net income/(loss)	2,399	(1,624)	2,174	1,096	6,998	1,004
Net loss/(income) attributable to non-controlling interests	108	206	(19)	16	57	8
Accretion to redemption value of redeemable non-controlling interests	—	—	—	—	(44)	(6)

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	For the Year Ended December 31,					
	2015	2016 <sup>(1)(2)</sup>	2017 <sup>(2)</sup>	2018 <sup>(2)</sup>	2019	
	RMB	RMB	RMB	RMB	RMB	US\$
	(in millions, except for share and per share data)					
<b>Selected Consolidated Statements of Income/(Loss) Data</b>						
Net income/(loss) attributable to Trip.com Group's shareholders	2,507	(1,418)	2,155	1,112	7,011	1,006
Earnings/(losses) per ordinary share data:						
Earnings/(losses) per ordinary share <sup>(5)</sup> , basic	66.34	(23.97)	32.51	16.25	98.78	14.19
Earnings/(losses) per ordinary share <sup>(5)</sup> , diluted	56.85	(23.97)	30.75	15.67	92.02	13.22
Weighted average ordinary shares outstanding, basic	37,797,698	59,166,582	66,300,808	68,403,426	70,983,996	70,983,996
Weighted average ordinary shares outstanding, diluted	47,375,248	59,166,582	71,775,893	70,924,623	80,244,014	80,244,014

	As of December 31,						
	2015 <sup>(1)</sup>	2016 <sup>(2)</sup>	2017 <sup>(2)</sup>	2018 <sup>(2)</sup>	2019 <sup>(6)</sup>		
	RMB	RMB	RMB	RMB	RMB	US\$	
	(in millions)						
<b>Selected Consolidated Balance Sheets Data</b>							
Cash and cash equivalents		19,216	18,435	18,243	21,530	19,923	2,862
Restricted cash		2,287	1,744	1,749	4,244	1,824	262
Short-term investments		8,236	14,113	28,130	36,753	23,058	3,312
Current assets		40,602	45,928	59,418	79,394	67,955	9,761
Investments <sup>(4)</sup>		13,871	20,533	25,574	26,874	51,278	7,366
Total assets		118,844	144,430	162,240	185,830	200,169	28,752
Current liabilities		33,666	30,295	42,162	68,784	69,182	9,937
Long-term debt		18,355	34,651	29,220	24,146	19,537	2,806
Total liabilities		55,159	68,898	75,625	97,097	93,324	13,405
Redeemable non-controlling interests <sup>(7)</sup>		—	—	—	—	1,142	164
Share capital		4	5	5	5	6	1
Total Trip.com Group's shareholders' equity		44,551	71,548	84,836	86,715	103,442	14,858
Non-controlling interests		19,134	3,984	1,779	2,018	2,261	325
Total shareholders' equity		63,685	75,532	86,615	88,733	105,703	15,183

Notes:

- Our consolidated balance sheets data has reflected the effect of consolidation of Qunar's financial statements starting from December 31, 2015. Our consolidated statements of income/(loss) data has reflected the effect of consolidation of Qunar's financial statements starting from January 1, 2016.
- Effective from January 1, 2018, we adopted ASC Topic 606, a new accounting standard on the recognition of revenue issued by FASB in 2014, and have applied this accounting standard retrospectively to the years ended December 31, 2016 and 2017. The financial data for the year ended December 31, 2015 and as of December 31, 2015 has not been recast and as such is not comparable.
- Share-based compensation was included in the related operating expense categories as follows:

	For the Year Ended December 31,					
	2015	2016 <sup>(1)</sup>	2017	2018	2019	2019
	RMB	RMB	RMB	RMB	RMB	US\$
	(in millions)					
Product development	292	2,080	1,013	934	919	132
Sales and marketing	66	393	186	156	144	21
General and administrative	285	1,087	635	617	651	94

- In 2015, a gain of RMB2.3 billion was recognized in the other income for the deconsolidation of Tujia, which was once a subsidiary of our company. In 2017 and 2018, we also disposed of certain long-term investments and recognized a gain of RMB1.4 billion and RMB1.2 billion, respectively. In January 2018, we adopted a new financial instruments accounting standard ASU No. 2016-01, which requires equity investments to be measured at fair value with subsequent changes recognized in net income, except for those accounted for under the equity method or requiring consideration. Fair value changes for such equity investments were a fair value loss of RMB3.1 billion and a fair value gain of RMB2.3 billion for the years ended December 31, 2018 and 2019, respectively. See "Item 5. Operating and Financial Review and Prospectus — Results of Operations" for further information. The new standard also changes the accounting for investments without a readily determinable fair value and that do not qualify for the practical expedient to estimate fair value. A policy election can be made for these investments whereby investment will be carried at cost and adjusted in subsequent periods for any impairment or changes in observable prices of identical or similar investments.

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- (5) Each ADS represents 0.125 ordinary shares.
- (6) Effective from January 1, 2019, we adopted ASC No. 2018-11, a new accounting standard on the recognition of right-of-use assets and lease liabilities issued by FASB in 2018, and have applied this accounting standard on a modified retrospective basis and have elected not to restate comparative periods. See Notes 2 and 11 to our audited consolidated financial statements included elsewhere in this annual report for further information.
- (7) One of our subsidiaries issued redeemable preferred shares to certain third-party investors in 2019. These preferred shares are redeemable at a holder's option when that subsidiary fails to complete a qualified IPO in a pre-agreed period of time since its issuance with a redemption price measured by 10% interest per annum. These preferred shares are therefore accounted for as redeemable non-controlling interests in mezzanine equity and are accreted to the redemption value over the period starting from the issuance date.

### B. *Capitalization and Indebtedness*

Not applicable.

### C. *Reasons for the Offer and Use of Proceeds*

Not applicable.

### D. *Risk Factors*

## **Risks Relating to Our Business and Industry**

### ***Our business could suffer if we do not successfully manage current growth and potential future growth.***

Our business has grown significantly as a result of both organic growth of existing operations and acquisitions, and, despite the current COVID-19 outbreak, we may experience such growth from time to time in the future. We have significantly expanded, and may further expand, our operations and workforce, as a result of the continued growth of our service offerings, customer base, and geographic coverage. For example, we have invested in, and may continue to invest in, organic growth by rolling out new business initiatives focusing on a diverse range of areas including car services, bus tickets, and train tickets. Consequentially, in 2019, we invested US\$1.5 billion in product development. If such new business initiatives fail to perform as expected, our financial condition and results of operations could be adversely affected. Our growth to date has placed, and our anticipated future operations will continue to place, significant strain on our management, systems, and resources. In addition to training and managing our workforce, we will need to continue to improve and develop our financial and managerial controls and our reporting systems and procedures. We cannot assure you that we will be able to efficiently or effectively manage the growth of our operations, and any failure to do so may limit our future growth and hamper our business strategy.

### ***Pandemics, epidemics, or fear of spread of contagious diseases could disrupt the travel industry and our operations, which could materially and adversely affect our business, financial condition, and results of operations.***

Global pandemics, epidemics in China or elsewhere in the world, or fear of spread of contagious diseases, such as Ebola virus disease (EVD), coronavirus disease 2019 (COVID-19), Middle East respiratory syndrome (MERS), severe acute respiratory syndrome (SARS), H1N1 flu, H7N9 flu, and avian flu could disrupt the travel industry and our business operations in China and elsewhere in the world, reduce or restrict demand for travel and travel-related products and services, or result in regional or global economic distress, which may materially and adversely affect our business, financial condition, and results of operations. Any one or more of these events or recurrence may adversely affect our sales results, or even for a prolonged period of time, which could materially and adversely affect our business, financial condition, and results of operations.

The current COVID-19 pandemic has already adversely affected many aspects of our business. Since January 2020, we have experienced, and expect to continue to experience, a significant decline in travel demand resulting in significant customer cancellations and refund requests and reduced new orders relating to international and domestic travel and lodging. Since February 2020, supply of domestic transportation tickets and international air tickets also has dropped significantly in response to comprehensive containment measures in China and other international regions. We have been affirmatively facilitating our customers in their cancellations and refund requests and working with our travel suppliers to prepare for difficult market conditions, for which we have incurred and may continue to incur significant costs and expenses. In addition, our China-based facilities underwent temporary yet prolonged closure in February 2020, and most of our employees had worked from home for weeks and have only recently reported to work, both as part of China's nationwide efforts to contain the spread of the COVID-19. We and our suppliers and business partners are still recovering from the general shutdown and delay in commencement of operations in China. Even though our business is currently operational, our service capacity and operational efficiency are still adversely affected by the COVID-19 pandemic due to insufficient workforce as a result of temporary travel restrictions in China and the necessity to comply with disease control protocols in our business facilities. Our suppliers' abilities to timely deliver products and services and respond to rescheduling or cancellations are also adversely affected for similar reasons, especially those located in critical regions such as Hubei Province, China. The global spread of COVID-19 may also affect our overseas suppliers. While the duration of this disruption to our business and related financial impacts cannot be reasonably estimated at this time, we expect that our financial condition, results of operations, and cash flows for the first half of 2020 will be materially and adversely affected with potential continuing impacts on subsequent periods. In particular, our revenues for the first half of 2020 will be materially and adversely affected as a result of the domestic and international travel restrictions and significant incremental costs and expenses incurred to facilitate our users' cancellations and refund requests; we may experience difficulty in collection of receivables, which may result in additional allowance for doubtful accounts; if the impacts of the COVID-19 pandemic become other than temporary, we may also need to recognize significant downward adjustments or impairment to our goodwill or long-term investments, including the investments that are not measured at fair value in publicly traded companies whose share prices are declining recently. We currently expect our net revenue for the first quarter of 2020 to decrease year-over-year by approximately 45% to 50%, which reflects our preliminary view and is subject to change. We will continue to monitor and evaluate the financial impacts to our financial condition, results of operations, and cash flows for the first half of 2020 and subsequent periods. The global spread of COVID-19 pandemic in a significant number of countries around the world has resulted in, and may intensify, global economic distress, and the extent to which it may affect our financial condition, results of operations, and cash flows will depend on future developments, which are highly uncertain and cannot be predicted. We cannot assure you that the COVID-19 pandemic can be eliminated or contained in the near future, or at all, or a similar outbreak will not occur again. If the COVID-19 pandemic and the resulting disruption to our business were to extend over a prolonged period, it could materially and adversely affect our business, financial condition, and results of operations.

***Strategic acquisition of complementary businesses and assets, and the subsequent integration of newly acquired business into our own, create significant challenges that may materially and adversely affect our business, reputation, results of operations, and financial condition.***

We have made and intend to continue to make strategic acquisitions in the travel industry in Greater China and overseas. For example, in October 2015, we completed a share exchange transaction with Baidu Inc., or Baidu, whereby we obtained approximately 45% of the aggregate voting interest of Qunar in exchange for our newly issued ordinary shares. Subsequently, we issued ordinary shares represented by ADSs to certain special purpose vehicles holding shares solely for the benefit of certain Qunar employees and, in return, we received Class B ordinary shares of Qunar from these employees. We directly injected these shares to a third-party investment entity dedicated to investing in business in China. From an accounting perspective, we consolidated the financial statements of these non-U.S. investment entities and started to consolidate Qunar's financial statements from December 31, 2015. In October 2016, we participated as a member in the buying consortium in Qunar's going-private transaction and rolled our then existing equity stake into the entity that wholly owns Qunar upon the completion of the transaction in February 2017. In addition, in December 2016, we consummated an acquisition transaction whereby shares held by nearly all of the shareholders of Skyscanner, a leading global travel search site headquartered in Edinburgh, United Kingdom, were acquired by Trip.com Group (then known as Ctrip.com International, Ltd.).

If we are presented with appropriate opportunities, we may continue to acquire complementary businesses and assets in the future. However, strategic acquisitions and the subsequent integration of new businesses and assets into our own would require significant attention from our management and could result in a diversion of resources from our existing business, which in turn could adversely affect our business operations. In addition, acquisitions could result in potential dilutive issuances of equity securities, use of substantial amounts of cash, and exposure to potential ongoing financial obligations and unforeseen or hidden liabilities of the acquired business. The cost and duration of, and difficulties in, integrating newly acquired businesses and managing a larger overall business could also materially exceed our expectations. Moreover, we may not be able to achieve our intended strategic strategies and record substantial impairment charges to goodwill, if we fail to successfully integrate the newly acquired business or manage a larger business. Any such negative developments could materially and adversely affect our business, reputation, results of operations, and financial condition.



***Our strategy to acquire or invest in complementary businesses and assets and establish strategic alliances involves significant risk and uncertainties that may have a material adverse effect on our business, reputation, results of operations and financial condition.***

As part of our plan to expand our product and service offerings, we have made and intend to make strategic acquisitions or investments in the travel service industries in Greater China and overseas, such as the following, in addition to our transactions relating to Qunar and Skyscanner described elsewhere in this annual report:

- In May 2015, we acquired approximately 38% share capital of eLong, Inc. In May 2016, eLong, Inc. completed its going-private transaction and merger with E-dragon Holdings Limited, or eLong. In December 2017, eLong and Tongcheng Network Technology Co., Ltd., or LY.com, announced an agreement to merge and form Tongcheng-Elong Holdings Limited (SEHK: 0780), which was consummated in March 2018. In exchange for our prior holdings in eLong, we received an equity method investment in the enlarged group.
- In April 2016, we announced strategic collaboration with China Eastern Airlines Corporation Limited, one of China's three major air transportation groups, on a broad range of products and services. In June 2016, we invested approximately RMB3.0 billion in approximately 466 million A shares of China Eastern Airlines in a private placement.
- In December 2016, in connection with our share exchange transaction with BTG Hotels (Group) Co., Ltd., or BTG, a PRC joint stock company that is listed on the Shanghai Stock Exchange and principally engaged in the management of hotels and tourism destinations, and Homeinns Hotel Group, or Homeinns, we exchanged our previously held equity interest in Homeinns for 22% equity interest of BTG.
- We have invested in convertible notes (which had been subsequently converted to ordinary shares) and ordinary shares of MakeMyTrip Limited, or MakeMyTrip, a leading online travel company in India, in January 2016 and May 2017 respectively. In August 2019, we completed a share exchange transaction with Naspers Limited, or Naspers, pursuant to which Naspers exchanged its stake in MakeMyTrip, for newly issued shares in our company. Concurrent with the share exchange, we also invested certain ordinary shares and Class B shares of MakeMyTrip in a third-party investment entity. Immediately after the closing of the transaction, Naspers owned approximately 5.6% of our then total issued and outstanding ordinary shares, and we owned ordinary shares and Class B shares of MakeMyTrip, representing approximately 49.0% of the then total voting power in MakeMyTrip.
- In May 2018, we acquired substantially all of the remaining equity interest of an offline travel agency company in which we previously held approximately 48% equity interest for the consideration of RMB198 million in cash and 1.9% non-controlling interest of one of our subsidiaries with the fair value of RMB399 million.

If the ADS or share prices of the public companies that we have invested in or may invest in the future which are classified as equity securities with readily determinable fair values investments decline and become lower than our share purchase prices, as have happened historically, we could record changes in fair value recorded in the income statement under U.S. GAAP, which in turn would adversely affect our financial results for the relevant periods. In addition, if any of our investees in which our investments are classified as equity method investments incur net losses in the future, we will share their net losses proportionate to our equity interest in them.

Our strategic investments could also subject us to other uncertainties and risks, and our failure to address any of these uncertainties and risks, among others, may have a material adverse effect on our financial condition and results of operations:

- diversion of our resources and management attention;

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- high acquisition and financing costs;
- failure to achieve our intended objectives or benefits in making these investments or revenue-enhancing opportunities;
- potential claims or litigation regarding our board’s exercise of its duty of care and other duties required under applicable law in connection with any of our significant investments approved by the board; and
- failure to be in full compliance with applicable laws, rules and regulations.

In particular, our strategy of acquiring or investing in a competing business could be adversely affected by uncertainties in the implementation and enforcement of the PRC Anti-Monopoly Law. Under the PRC Anti-Monopoly Law, companies undertaking acquisitions or investments in a business in China must notify the PRC Ministry of Commerce, or MOFCOM, in advance of any transaction where the parties’ revenues in the China market and global market exceed certain thresholds and the buyer would obtain control of, or decisive influence over, the target. There are numerous factors MOFCOM considers in determining “control” or “decisive influence,” and, depending on certain criteria, MOFCOM will conduct anti-monopoly review of transactions in respect of which it was notified. In light of the uncertainties relating to the interpretation, implementation and enforcement of the PRC Anti-Monopoly Law, we cannot assure you that MOFCOM will not deem our past and future acquisitions or investments, including the ones referenced herein or elsewhere in this annual report, to have met the filing criteria under the PRC Anti-Monopoly Law and therefore demand a filing for merger review. However, there have been limited cases of MOFCOM anti-monopoly review of filings involving companies with a “variable interest entity” structure, or VIE structure, similar to ours. If we are found to have violated the PRC Anti-Monopoly Law for failing to file the notification of concentration and request for review, we could be subject to a fine of up to RMB500,000, and the parts of the transaction causing the prohibited concentration could be ordered to be unwound. Such unwinding could affect our business and financial results, and harm our reputation. Further, if any of our business cooperation arrangements with Qunar are determined to have violated the PRC Anti-Monopoly Law, we could be subject to sanctions including an order to cease the relevant activities, confiscation of illegal gains and fines of 1% to 10% of our sales revenue from the previous year.

In addition, we establish strategic alliances with various third parties to further our business purpose from time to time. Strategic alliances with third parties could subject us to a number of risks, including risks associated with sharing proprietary information, non-performance by the counterparty, an increase in expenses incurred in establishing new strategic alliances, inefficiencies caused by failure to integrate strategic partners’ businesses with our own, and unforeseen levels of diversion of our resources and management attention, any of which may materially and adversely affect our business.

As a result of any of the above factors, any actual or perceived failure to realize the benefits we expected from these investments may materially and adversely affect our business and financial results and cause the trading price of our ADSs to decline.

***Our business is sensitive to global economic conditions. A severe or prolonged downturn in the global or Chinese economy may have a material and adverse effect on our business, and may materially and adversely affect our growth and profitability.***

The global macroeconomic environment is facing numerous challenges. The growth rate of the Chinese economy has gradually slowed since 2010 and the trend may continue. There is considerable uncertainty over the long-term effects of the expansionary monetary and fiscal policies adopted by the central banks and financial authorities of some of the world’s leading economies, including the United States and China. Unrest, terrorist threats, and the potential for war in the Middle East and elsewhere may increase market volatility across the globe. There have also been concerns about the relationship between China and other countries, including the surrounding Asian countries, which may potentially have economic effects. In particular, there is significant uncertainty about the future relationship between the United States and China with respect to trade policies, treaties, government regulations, and tariffs. The terms of the United Kingdom’s exit from the European Union, commonly referred to as the “Brexit,” remain undetermined, resulting in market volatility and exchange rate fluctuations from time to time both globally and most specifically in the United Kingdom and rest of the Europe. The Brexit has created significant uncertainty about the future relationship between the United Kingdom and the European Union. These developments, or the perception that any of them could occur, may adversely affect European and worldwide economic and market conditions. Economic conditions in China are sensitive to global economic conditions, as well as changes in domestic economic and political policies and the expected or perceived overall economic growth rate in China. Any severe or prolonged slowdown in the global or Chinese economy may materially and adversely affect our business, results of operations, and financial condition.

Economic conditions in China are sensitive to global economic conditions. Our business and operations are primarily based in China and most of our revenues are derived from our operations in China. Accordingly, our financial results have been, and are expected to continue to be, affected by the economy and travel industry in China. Since we derive the majority of our revenues from accommodation reservation, transportation ticketing, and packaged-tour services in China, any severe or prolonged slowdown in the global or Chinese economy or the recurrence of any financial disruptions could reduce expenditures for travel, which in turn may adversely affect our results of operations and financial condition in a number of ways. For example, the weakness in the economy could erode consumer confidence which, in turn, could result in changes to consumer spending patterns relating to travel products and services. If consumer demand for travel products and services we offer decreases, our revenues may decline. Furthermore, continued turbulence in the international markets may adversely affect our ability to access the capital markets to meet liquidity needs.

***General declines or disruptions in the travel industry may materially and adversely affect our business and results of operations.***

Our business is significantly affected by the trends that occur in the travel industry in China, including the hotel, transportation ticketing, and packaged-tour sectors. As the travel industry is highly sensitive to business and personal discretionary spending levels, it tends to decline during general economic downturns. The recent worldwide recession has led to a weakening in the demand for travel services. Other trends or events that tend to reduce travel and are likely to reduce our revenues include:

- Actual or threatened war or terrorist activities;
- an outbreak of EVD, COVID-19, MERS, SARS, H1N1 flu, H7N9 flu, and avian flu, or any other serious contagious diseases;
- increasing prices in the hotel, transportation ticketing, or other travel-related sectors;
- increasing occurrence of travel-related accidents;
- political unrest, civil strife, or other geopolitical uncertainty;
- natural disasters or poor weather conditions, such as hurricanes, earthquakes, or tsunamis; and
- any travel restrictions or other security procedures implemented in connection with any major events in China.

We could be severely and adversely affected by declines or disruptions in the travel industry and, in many cases, have little or no control over the occurrence of such events. Such events could result in a decrease in demand for our travel and travel-related products and services. This decrease in demand, depending on the scope and duration, could significantly and adversely affect our business and financial performance over the short and long term. For a discussion of impact of COVID-19 on our business, see “Item 3.D. Key Information—Risk Factors—Risks Relating to Our Business and Industry—Pandemics, epidemics, or fear of spread of contagious diseases could disrupt the travel industry and our operations, which could materially and adversely affect our business, financial condition, and results of operations.”

***We recorded a significant amount of goodwill and indefinite lived intangible assets in connection with our strategic acquisitions and investments, and we may incur material impairment charges to our goodwill and indefinite lived intangible assets if the recoverability of these assets become substantially reduced.***

In connection with our strategic acquisitions over the recent years, we recorded a significant amount of goodwill and indefinite lived intangible assets booked in our financial statements. As of December 31, 2019, our goodwill was RMB58.3 billion (US\$8.4 billion) and our indefinite lived intangible assets were RMB11.8 billion (US\$1.7 billion). In 2015, our acquisition of Qunar securities resulted in a RMB43.0 billion increase in our goodwill. ASC 350 “Intangibles—Goodwill and Other” provides that intangible assets that have indefinite useful lives and goodwill will not be amortized but rather will be tested at least annually for impairment. ASC 350 also requires that long-lived assets be reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable from its undiscounted future cash flow. For 2017, 2018, and 2019, we did not recognize any impairment charges for goodwill or intangible assets. If different judgments or estimates had been utilized, however, material differences could have resulted in the amount and timing of the impairment charge. We may potentially incur significant impairment charges if the recoverability of these assets become substantially reduced in the future. Any such impairment charges would adversely affect our results of operations and financial condition. In light of the continuing global spread of the COVID-19 pandemic, our ADS price declined generally in the first quarter of 2020, and the amount by which the share price exceeded the carrying value of the reporting unit has become minimal. If our ADS price continues to decline and becomes lower than the carrying value of the reporting unit, it may be considered an indicator for us to perform interim goodwill impairment test and we may need to recognize impairment on goodwill or other long-lived assets if the impacts from the COVID-19 pandemic become other than temporary. See “Item 5. Operating and Financial Review and Prospects — Critical Accounting Policies and Estimates—Goodwill.”

***The trading price of our ADSs has been volatile historically and may continue to be volatile regardless of our operating performance.***

The trading price of our ADSs has been and may continue to be subject to wide fluctuations. In 2019, the trading prices of our ADSs on the Nasdaq Global Select Market have ranged from US\$26.32 to US\$46.50 per ADS, and the last reported trading price on April 8, 2020 was US\$24.51 per ADS. The price of our ADSs may fluctuate in response to a number of events and factors, including the following:

- actual or anticipated fluctuations in our quarterly operating results;
- changes in financial estimates by securities analysts;
- conditions in the internet or travel industries;
- changes in the economic performance or market valuations of other internet or travel companies or other companies that primarily operate in China;
- changes in major business terms between our travel suppliers and us;
- announcements by us or our competitors of new products or services, significant acquisitions, strategic partnerships, joint ventures, or capital commitments;
- negative publicity in connection with our business operation;
- additions or departures of key personnel; and
- market and volume fluctuations in the stock market in general.

In addition, the stock market in general, and the market prices for internet-related companies and companies with operations in China in particular, have experienced volatility that often has been unrelated to the operating performance of such companies. The securities of some China-based U.S.-listed companies have experienced significant volatility since their initial public offerings, including, in some cases, substantial declines in the trading prices of their securities. The trading performance of the securities of these China-based U.S.-listed companies after their offerings and the surge in the number of China-based U.S.-listed companies that commenced going-private proceedings in recent years may affect the attitudes of investors toward China-based U.S.-listed companies, which consequently may impact the trading performance of the ADSs, regardless of our actual operating performance. Furthermore, some negative news and perceptions about inadequate corporate governance practices or fraudulent accounting, corporate structure including the use of VIE structures or other matters of other China-based U.S.-listed companies have negatively affected the attitudes of investors towards China-based U.S.-listed companies, including us, in general in the past, regardless of whether we have engaged in any inappropriate activities, and any news or perceptions with a similar nature may continue to negatively affect us in the future. In addition, the global financial crisis and the ensuing economic recessions in many countries have contributed and may continue to contribute to extreme volatility in the global stock markets, such as the large decline in share prices in the United States, China and other jurisdictions in recent years. These broad market and industry fluctuations may continue to adversely affect the trading price of the ADSs, regardless of our operating performance. Additionally, volatility or a lack of positive performance in our ADS price may adversely affect our ability to retain key employees, all of whom have been granted share-based awards.

***If we are unable to maintain existing relationships with travel suppliers and strategic alliances, or unable to establish new arrangements with travel suppliers and strategic alliances at or on favorable terms or at terms similar to those we currently have, or at all, our business, market share and results of operations may be materially and adversely affected.***

We rely on travel suppliers (including without limitation hotels and domestic and international airlines) to make their services available to consumers through us, and our business prospects depend on our ability to maintain and expand relationships with travel suppliers. If we are unable to maintain satisfactory relationships with our existing travel suppliers, or if our travel suppliers establish similar or more favorable relationships with our competitors, or if our travel suppliers increase their competition with us through their direct sales, or if any one or more of our travel suppliers significantly reduce participation in our services for a sustained period of time or completely withdraw participation in our services, our business, market share and results of operations may be materially and adversely affected. To the extent any of those major or popular travel suppliers ceased to participate in our services in favor of one of our competitors' systems or decided to require consumers to purchase services directly from them, our business, market share and results of operations may suffer.

Our business depends significantly upon our ability to contract with hotels in advance for the guaranteed availability of certain hotel rooms. We rely on hotel suppliers to provide us with rooms at discounted prices. However, our contracts with our hotel suppliers are not exclusive and most of the contracts must be renewed semi-annually or annually. We cannot assure you that our hotel suppliers will renew our contracts in the future on favorable terms or terms similar to those we currently have agreed. The hotel suppliers may reduce the commission rates on bookings made through us. Furthermore, in order to maintain and grow our business and to effectively compete with many of our competitors in all potential markets, we will need to establish new arrangements with hotels and accommodations of all ratings and categories in our existing markets and in new markets. We cannot assure you that we will be able to identify appropriate hotels or enter into arrangements with those hotels on favorable terms, if at all. This failure could harm the growth of our business and adversely affect our operating results and financial condition, which consequently will impact the trading price of our ADSs.

We derive revenues and other significant benefits from our arrangements with major domestic airlines in China and international airlines. Our airline ticket suppliers allow us to book and sell tickets on their behalf and collect commissions on tickets booked and sold through us. Although we currently have supply relationships with these airlines, they also compete with us for ticket bookings and have entered into similar arrangements with many of our competitors and may continue to do so in the future. Such arrangements may be on better terms than we have. Starting in early 2016, some PRC airlines, including four of the largest airlines in China, announced suspension of their respective business cooperation with Qunar without indicating the length of such suspension and cited serious customer complaints in their respective announcements. Although most of these airlines have resumed cooperation with Qunar, if any airlines choose to take similar actions against us and additional airlines follow suit, our business, market share and results of operations may be materially and adversely affected. We cannot assure you that any of these airlines will continue to have supplier relationships with us or pay us commissions at the same or similar rates as what they paid us in the past. Further, on July 1, 2016, the four largest airlines in China announced that third-party ticketing agents are prohibited from selling tickets for domestic flights on third-party platforms, such as ours. Additionally, on July 1, 2016, most major domestic airlines also replaced their commissions and rebate incentives completely with a reduced, fixed "admin fee" per ticket. The loss of supplier relationships or further adverse changes in major business terms with our travel suppliers would materially impair our operating results and financial condition as we would lose an increasingly significant source of our revenues.

Part of the revenues that we derive from our hotel suppliers, airline ticket suppliers and other travel service providers are obtained through our strategic alliances with various third parties. We cannot assure you, however, that we will be able to successfully establish and maintain strategic alliances with third parties which are effective and beneficial for our business. Our inability to do so could have a material adverse effect on our market penetration, revenue growth and profitability.

***If we fail to further increase our brand recognition, we may face difficulty in maintaining existing and acquiring new customers and business partners and our business may be harmed.***

We believe that maintaining and enhancing our brands depends in part on our ability to grow our customer base and obtain new business partners. Some of our potential competitors already have well-established brands in the travel industry. The successful promotion of our brands will depend largely on our ability to maintain a sizeable and active customer base, maintain relationships with our business partners, provide high-quality customer service, properly address customer needs and handle customer complaints and organize effective marketing and advertising programs. If our customer base significantly declines or grows more slowly than our key competitors, the quality of our customer services substantially deteriorates, or our business partners cease to do business with us, we may not be able to cost-effectively maintain and promote our brands, and our business may be harmed.

***Negative publicity with respect to us or the travel industry in general could impair our reputation, which in turn could materially and adversely affect our business, results of operations and price of ADSs.***

The reputation of our brands is critical to our business and competitiveness. Negative publicity with respect to us or the travel industry in general, from time to time, whether or not we are negligent or at fault, including but not limited to those relating to our business, products and services, customer experiences, employee relationships and welfare, compliance with law, financial conditions or prospects, whether with or without merit, could impair our reputation and adversely affect our business and operating results. Prospective customers may be prevented from engaging in transactions with us if there is any negative publicity in connection with the use of our services or products, the operation of our business and other aspects about us. In addition, the negative publicity of any of our brands may extend far beyond the brand involved, especially due to our comprehensive presences in the travel industry in general, to affect some or all of our other brands. Furthermore, negative publicity about other market players or isolated incidents, regardless of whether or not it is factually correct or whether we have engaged in any inappropriate activities, may result in negative perception of our industry as a whole and undermine the credibility we have established. Negative developments in the market may lead to tightened regulatory scrutiny and limit the scope of our permissible business activities. We could lose significant number of customers due to negative publicity with respect to us or the travel industry in general, which may materially and adversely affect our business, results of operations and price of ADSs. We may incur additional costs to recover from the impact caused by the negative publicity, which may divert management's attention and other resources from our business and operations.

***If we do not compete successfully against new and existing competitors, we may lose our market share, and our business may be materially and adversely affected.***

We compete primarily with other consolidators of hotel accommodations and transportation reservation services based in China, including the platforms operated by other major internet companies. We also compete with traditional travel agencies and new internet travel search websites. In the future, we may also face competition from new players in the hotel consolidation market in China and abroad that may enter China.

We may face more competition from hotels and airlines as they enter the discount rate market directly or through alliances with other travel consolidators. In addition, international travelers have become an increasingly important customer base. Competitors that have formed stronger strategic alliances with overseas travel consolidators may have more effective channels to address the needs of customers in China to travel overseas. Furthermore, we do not have exclusive arrangements with our travel suppliers. The combination of these factors means that potential entrants to our industry face relatively low entry barriers.

In the past, certain competitors launched aggressive advertising campaigns, special promotions and engaged in other marketing activities to promote their brands, acquire new customers or to increase their market shares. In response to such competitive pressure, we started to take and may continue to take similar measures and as a result will incur significant expenses, which in turn could negatively affect our operating margins in the quarters or years when such promotional activities are carried out. For example, we launched a promotion program in recent years to offer certain selected transportation tickets, hotel rooms, and packaged tours as well as grant of e-coupons to our customers in response to promotion campaigns that our competitors have launched. Primarily as a result of the enhanced marketing efforts and additional investment in product developments in response to the intensified market competition, our operational margin was negatively affected. In addition, some of our existing and potential competitors may have competitive advantages, such as significantly larger active customer base on mobile or other online platforms, greater financial, marketing and strategic relationships and alliances or other resources or name recognition, and may be able to imitate and adopt our business model. In particular, other major internet platforms may benefit from the existing customer base of their other services. These platforms can utilize the traffic they already obtain and direct the customers from their other services offerings to their travel services and further achieve synergies effects. We cannot assure you that we will be able to successfully compete against new or existing competitors. In the event we are not able to compete successfully, our business, results of operations and profit margins may be materially and adversely affected.

***Our quarterly results are likely to fluctuate because of seasonality in the travel industry in Greater China.***

Our business experiences fluctuations, reflecting seasonal variations in demand for travel services. For example, the first quarter of each year generally contributes the lowest portion of our annual net revenues primarily due to a slowdown in business activity around and during the Chinese New Year holiday, which occurs during the period. Consequently, our results of operations may fluctuate from quarter to quarter.

***Any failure to maintain satisfactory performance of our mobile platform, websites, and systems, particularly those leading to disruptions in our services, could materially and adversely affect our business and reputation, and our business may be harmed if our infrastructure or technology is damaged or otherwise fails or becomes obsolete.***

The satisfactory performance, reliability, and availability of our infrastructure, including our mobile platform, websites, and systems, are critical to the success of our business. Any system interruptions that result in the unavailability or slowdown of our mobile platform, websites, or other systems and the disruption in our services could reduce the volume of our business and make us less attractive to customers. Most of our computer and communications systems are located at our customer service centers in China and abroad, such as Shanghai, Nantong, Tokyo, Seoul, and Edinburgh. Our technology platform and computer and communication systems are vulnerable to damage or interruption from human error, computer viruses, fire, flood, power loss, telecommunications failure, physical or electronic break-ins, hacking or other attempts at system sabotage, vandalism, natural disasters, and other similar events. For example, we experienced a network shut-down for a few hours in May 2015 resulting in temporary disruption to our mobile platform and websites and customer services, and a hotel booking system failure for a few hours in October 2019 affecting temporary hotel booking services. No data leakage occurred in either incident. We have implemented extensive measures to ensure prompt responses to any network shutdown, system failure, or similar incidents in the future, and to continue to update our security protocol to protect our systems from any human error, third-party intrusions, viruses or hacker attacks, information or data theft, or other similar activities. However, we cannot assure you that unexpected interruptions to our systems will not occur again in the future. We do not carry business interruption insurance to compensate us for losses that may occur as a result of such disruptions. In addition, any such future occurrences could reduce customer satisfaction levels, damage our reputation and materially and adversely affect our business.

We use an internally developed booking software system that supports nearly all aspects of our booking transactions. Our business may be harmed if we are unable to upgrade our systems and infrastructure quickly enough to accommodate future traffic levels, avoid obsolescence or successfully integrate any newly developed or purchased technology with our existing system. Capacity constraints could cause unanticipated system disruptions, slower response times, poor customer service, impaired quality and speed of reservations and confirmations and delays in reporting accurate financial and operating information. These factors could cause us to lose customers and suppliers, which would have a material adverse effect on our results of operations and financial condition.

In addition, our future success will depend on our ability to adapt our products and services to the changes in technologies and internet user behavior. For example, the number of people accessing the internet through mobile devices, including smart devices, mobile phones, tablets and other hand-held devices, has increased in recent years, and we expect this trend to continue while 5G and more advanced mobile communications technologies are broadly implemented. As we make our services available across a variety of mobile operating systems and devices, we are dependent on the interoperability of our services with popular mobile devices and mobile operating systems that we do not control, such as Android, iOS, and Windows. Any changes in such mobile operating systems or devices that degrade the functionality of our services or give preferential treatment to competitive services could adversely affect usage of our services. Further, if the number of platforms for which we develop our services increases, which is typically seen in a dynamic and fragmented mobile services market such as China, it will result in an increase in our costs and expenses. In order to deliver high quality services, it is important that our services work well across a range of mobile operating systems, networks, mobile devices, and standards that we do not control. If we fail to develop products and technologies that are compatible with all mobile devices and operating systems, or if the products and services we develop are not widely accepted and used by users of various mobile devices and operating systems, we may not be able to penetrate the mobile internet market. In addition, the widespread adoption of new internet technologies or other technological changes could require significant expenditures to modify or integrate our products or services. If we fail to keep up with these changes to remain competitive, our future success may be adversely affected.

***Our business depends substantially on the continuing efforts of our key executives, and our business may be severely disrupted if we lose their services.***

Our future success depends heavily upon the continued services of our key executives. We rely on their expertise in business operations, finance and travel services and on their relationships with our suppliers, shareholders and business partners. If one or more of our key executives are unable or unwilling to continue in their present positions, we may not be able to easily replace them. In that case, our business may be severely disrupted, we may incur additional expenses to recruit and train personnel and our financial condition and results of operations may be materially and adversely affected.

In addition, if any of these key executives joins a competitor or forms a competing company, we may lose customers and suppliers. Each of our executive officers has entered into an employment agreement with us that contains confidentiality and non-competition provisions. If any disputes arise between our executive officers and us, we cannot assure you of the extent to which any of these agreements would be enforced in China, where most of these executive officers reside and hold most of their assets, in light of the uncertainties with China's legal system. See "Item 3.D. Key Information—Risk Factors—Risks Relating to Doing Business in China—Uncertainties with respect to the PRC legal system could adversely affect us."

***If we are unable to attract, train and retain key individuals and highly skilled employees, our business may be adversely affected.***

If our business continues to expand, we will need to hire additional employees, including travel supplier management personnel to maintain and expand our travel supplier network, information technology and engineering personnel to maintain and expand our mobile platform, websites, customer service centers and systems and customer service representatives to serve an increasing number of customers. If we are unable to identify, attract, hire, train and retain sufficient employees in these areas, users of our mobile platform, websites and customer service centers may not have satisfactory experiences and may turn to our competitors, which may adversely affect our business and results of operations.

***The PRC government regulates the air-ticketing, travel agency, and internet industries. If we fail to obtain or maintain all pertinent permits and approvals or if the PRC government imposes more restrictions on these industries, our business may be adversely affected.***

The PRC government regulates the air-ticketing, travel agency, and internet industries. We are required to obtain applicable permits or approvals from different regulatory authorities to conduct our business, including separate licenses for value-added telecommunications, air-ticketing, travel agency and internet-related activities. If we fail to obtain or maintain any of the required permits or approvals in the future, we may be subject to various penalties, such as fines or suspension of operations in these regulated businesses, which could severely disrupt our business operations. As a result, our financial condition and results of operations may be adversely affected.

In particular, the Civil Aviation Administration of China, or CAAC, together with National Development and Reform Commission, or NDRC, regulates pricing of air tickets. CAAC also supervises commissions payable to air-ticketing agencies together with China Air Transport Association, or CATA. If restrictive policies are adopted by CAAC, NDRC, or CATA, or any of their regional branches, our air-ticketing revenues may be adversely affected.



Furthermore, we provide online consumer finance services incidental to our core businesses. Due to the relatively short history of China's online consumer finance industry, the PRC government is still in the process of establishing a comprehensive regulatory framework governing this industry. The relevant rules and regulations governing this industry are general in nature and yet to be further interpreted or supplemented. In addition, we may have to make significant changes to our operations from time to time in order to comply with changing laws, regulations and policies governing the online consumer finance industry, which may increase our cost of operation or limit our options of service offering, which in turn may adversely affect our results of operations.

***We may not be able to prevent others from using our intellectual property, which may harm our business and expose us to litigation.***

We regard our domain names, trade names, trademarks and similar intellectual property as critical to our success. We try to protect our intellectual property rights by relying on trademark protection and confidentiality laws and contracts. Trademark and confidentiality protection in China may not be as effective as that in the United States. Policing unauthorized use of proprietary technology is difficult and expensive. In addition, as our business operations further evolves globally, we may not be able to enforce our intellectual property rights throughout the world, which may in turn adversely impact our international operations and business. We may encounter significant problems in protecting and enforcing intellectual property rights in certain foreign jurisdictions. The legal systems of certain countries do not favor the enforcement of intellectual property protection, which could make it difficult for us to stop the infringement or misappropriation of our intellectual property rights. Proceedings to enforce our proprietary rights in foreign jurisdictions could result in substantial costs and divert our efforts and attention from other aspects of our business.

The steps we have taken may be inadequate to prevent the misappropriation of our proprietary technology. Any misappropriation could have a negative effect on our business and operating results. Furthermore, we may need to go to court to enforce our intellectual property rights. Litigation relating to our intellectual property might result in substantial costs and diversion of resources and management attention. See "Item 3.D. Key Information — Risk Factors — Risks Relating to Doing Business in China — Uncertainties with respect to the PRC legal system could adversely affect us."

***We rely on services from third parties to carry out our business and to deliver our products to customers, and if there is any interruption or deterioration in the quality of these services, our customers may not continue using our services.***

We rely on third-party computer systems to host our websites, as well as third-party licenses for some of the software underlying our technology platform. In addition, we rely on third-party transportation ticketing agencies to issue transportation tickets and travel insurance products, confirmations and deliveries in some cities in Greater China. We also rely on third-party local operators to deliver on-site services to our packaged-tour customers. Any interruption in our ability to obtain the products or services of these or other third parties or deterioration in their performance, such as server errors or interruptions, or dishonest business conduct, could impair the timing and quality of our own service. If our service providers fail to provide high quality services in a timely manner to our customers or violate any applicable rules and regulations, our services will not meet the expectations of our customers and our reputation and brand will be damaged. Furthermore, if our arrangement with any of these third parties is terminated, we may not find an alternative source of support on a timely basis or on favorable terms to us.

***If our hotel suppliers or customers provide us with untrue information regarding our customers' stay, we may not be able to recognize and collect revenues to which we are entitled.***

We generate a majority of our accommodation reservation revenues through commissions from hotels, which depend on the room nights booked through us. To confirm whether a customer adheres to the booked itinerary, we routinely make inquiries with the hotel and, occasionally, with the customer. We rely on the hotel and the customer to provide us truthful information regarding the customer's check-in and check-out dates, which forms the basis for calculating the commission we are entitled to receive from the hotel. If our hotel suppliers or customers provide us with untrue information with respect to our customers' length of stay at the hotels, we would not be able to collect revenues to which we are entitled. In addition, using such untrue information may lead to inaccurate business projections and plans, which may adversely affect our business planning and strategy.

***We may suffer losses if we are unable to predict the amount of inventory we will need to purchase during the peak holiday seasons.***

During the peak holiday seasons in China, we establish limited merchant business relationships with selected travel service suppliers, in order to secure adequate supplies for our customers. In merchant business relationships, we buy hotel rooms and transportation tickets before selling them to our customers and thereby incur inventory risk. As we expanded our offline business in 2019, partially attributable to our packaged-tour products, our demands also increased correspondingly. If we are unable to correctly predict demand for hotel rooms and transportation tickets that we are committed to purchase, we would be responsible for covering the cost of the hotel rooms and transportation tickets we are unable to sell, and our financial condition and results of operations would be adversely affected.

***If tax benefits available to our subsidiaries in China are reduced or repealed, our results of operations could suffer.***

Under the PRC Enterprise Income Tax Law and the relevant implementation rules, or the EIT Law, effective on January 1, 2008, foreign-invested enterprises, or FIEs, and domestic enterprises are subject to EIT at a uniform rate of 25%. Certain enterprises will benefit from a preferential tax rate of 15% under the EIT Law if they qualify as “high and new technology enterprises,” or HNTEs, or if they are located in applicable PRC regions as specified in the Catalogue of Encouraged Industries in Western Regions, or the Western Regions Catalogue, subject to certain general restrictions described in the EIT Law and the related regulations.

In December 2008 and 2009, some of our PRC subsidiaries, Ctrip Computer Technology, Ctrip Travel Information, Ctrip Travel Network and Qunar Software, and one of our consolidated affiliated Chinese entities, Qunar Beijing, were each designated by relevant local authorities as a HNTE under the EIT Law with an effective period of three years. Therefore, these entities were entitled to enjoy a preferential tax rate of 15%, as long as they maintained their qualifications for HNTEs that are subject to verification by competent authorities and renewals every three years. The qualifications of these entities as HNTEs have been renewed and will expire by the end of 2019 or 2020. We cannot assure you that our subsidiaries and the consolidated affiliated Chinese entity will continue to qualify as HNTEs when they are subject to reevaluation in the future. In 2002, the PRC State Administration of Taxation, or SAT, started to implement preferential tax policy in China’s western region, and companies located in applicable jurisdictions covered by the Western Regions Catalogue are eligible to apply for a preferential income tax rate of 15% if their businesses fall within the “encouraged” category of the policy and the revenue derived from such “encouraged” businesses accounts for more than 70% of the total revenue. Benefiting from this policy, Chengdu Ctrip and Chengdu Ctrip International obtained approval from local tax authorities to apply the 15% tax rate for their annual tax filing subject to periodic renewals over the years since 2012. After the initial effective period expired in 2014, the two entities were approved by the relevant government authority to renew this qualification, which will expire in 2020. In 2013, Chengdu Information Technology Co., Ltd., or Chengdu Information, obtained approval from local tax authorities to apply the 15% tax rate for its 2012 tax filing and for the years from 2013 to 2020. In the event that the preferential tax treatment for these entities is discontinued, these entities will become subject to the standard tax rate at 25%, which would materially increase our tax obligations.

***We have sustained losses in the past and may experience earnings declines or net losses in the future.***

We sustained net losses in certain past periods, and we cannot assure you that we can sustain profitability or avoid net losses in the future. We expect that our operating expenses will increase and the degree of increase in these expenses is largely based on anticipated growth, revenue trends and competitive pressure. As a result, any decrease or delay in generating additional sales volume and revenues and increase in our operating expenses may result in substantial operating losses. Moreover, consolidation of Qunar’s financial statements starting from December 31, 2015 had negatively impacted our financial statements previously, which may happen again in the future.

***We have incurred substantial indebtedness and may incur additional indebtedness in the future. We may not be able to generate sufficient cash to satisfy our outstanding and future debt obligations.***

As of December 31, 2019, our total short-term bank borrowings and long-term bank borrowings (current portions) were RMB21.1 billion (US\$3.0 billion), our total long-term borrowings (excluding current portions) were RMB11.0 billion (US\$1.6 billion), the aggregate principal amount of our outstanding convertible notes was US\$2.4 billion (RMB16.9 billion), and our securitization debt was RMB1.1 billion (US\$154 million). To the extent that we were to settle or redeem our convertible notes in cash, our debt obligations would become more substantial.

Our substantial indebtedness could have important consequences to you. For example, it could:

- increase our vulnerability to adverse general economic and industry conditions;
- require us to dedicate a substantial portion of our cash flow from operations to servicing and repaying our indebtedness, thereby reducing the availability of our cash flow to fund working capital, capital expenditures and other general corporate purposes; and
- limit, along with the financial and other restrictive covenants of our indebtedness, among other things, our ability to conduct additional financing activities, or increase the cost of additional financing.

We may from time to time incur additional indebtedness and contingent liabilities. If we incur additional debt, the risks that we face as a result of our substantial indebtedness and leverage could intensify. For example, since 2018, we entered into asset backed securitization arrangements with third-party financial institution and set up a securitization vehicle which issued revolving debt securities to third party investors. In addition, in July 2019, we entered into a facility agreement as a borrower with certain financial institutions for up to US\$2.0 billion equivalent transferable term loan facility with a greenshoe option of up to US\$500 million. In April 2020, we entered into another facility agreement as a borrower with certain financial institutions for up to US\$1.0 billion transferrable term and revolving loan facility with an incremental facility of up to US\$500 million.

Our ability to generate sufficient cash to satisfy our outstanding and future debt obligations will depend upon our future operating performance, which will be affected by prevailing economic conditions and financial, business and other factors, many of which are beyond our control. As a result, we may not generate or obtain sufficient cash flow to meet our anticipated operating expenses and to service our debt obligation as they become due.

***We may be subject to legal or administrative proceedings regarding information provided on our online portals or other aspects of our business operations, which may be time-consuming to defend.***

Our online portals contain information about hotels, transportation, popular vacation destinations, and other travel-related topics. It is possible that if any information accessible on our online portals contains errors or false or misleading information, third parties could take action against us for losses incurred in connection with the use of such information. From time to time, we have become and may in the future become a party to various legal or administrative proceedings arising in the ordinary course of our business, including actions with respect to labor and employment claims, breach of contract claims, anti-competition claims, and other matters. Although such proceedings are inherently uncertain and their results cannot be predicted with certainty, we believe that the resolution of our current pending matters will not have a material adverse effect on our business, consolidated financial position, results of operations, or cash flow. Regardless of the outcome and merit of such proceedings, however, any legal action can have an adverse impact on us because of defense costs, negative publicity, diversion of management's attention, and other factors. In addition, it is possible that an unfavorable resolution of one or more legal or administrative proceedings, whether in China or in another jurisdiction, could materially and adversely affect our financial position, results of operations or cash flows in a particular period or damage our reputation.

***We could be liable for breaches of internet security or fraudulent transactions by users of our mobile platform and our websites.***

Internet industry is facing significant challenges regarding information security and privacy, including the storage, transmission and sharing of confidential information. In recent years, PRC government authorities have enacted legislation on internet use to protect personal information from any unauthorized disclosure. See "Item 4.B. Information on the Company—Business Overview—PRC Government Regulations—Internet Privacy." We conduct a significant portion of our transactions through the internet, including our mobile platform and websites. In such transactions, secured transmission of confidential information (such as customers' itineraries, hotel and other reservation information, credit card information, personal information, and billing addresses) over public networks and ensuring the confidentiality, integrity, availability, and authenticity of the information of our users, customers, hotel suppliers, and airline partners are essential to maintaining their confidence in our online products and services. Our current security measures may not be adequate and may contain deficiencies that we fail to identify, and advances in technology, increased levels of expertise of hackers, new discoveries in the field of cryptography or others could increase our vulnerability. For example, a third-party website with focus on internet security information exchange released news in March 2014 that as a result of a temporary testing function performed by us, certain data files containing customers' credit card information had been stored on local servers maintained by us, which may lead to potential exposure of these customers' information to hackers. We removed the cause of the potential security concern within two hours of the release of the news report and then examined all other possible leaks and found that 93 customers' credit card information might have been downloaded by the above-mentioned website for the purpose of confirming potential risks. Although to our knowledge, no customer has suffered financial loss or other damage from the incident as of the date of that report, our business, results of operations, user experience, and reputation may be materially and adversely affected if similar incidents related to internet security recur in the future. In August 2011, the PRC Supreme People's Court and the PRC Supreme People's Procuratorate issued judicial interpretations regarding hacking and other internet crimes. However, its effect on curbing hacking and other illegal online activities still remains to be seen.

Significant capital, managerial and human resources are required to enhance information security and to address any issues caused by security failures. If we are unable to protect our systems and the information stored in our systems from unauthorized access, use, disclosure, disruption, modification or destruction, such problems or security breaches may cause loss, expose us to litigation and possible liability to the owners of confidential information, disrupt our operations and may harm our reputation and ability to attract customers.

***Our failure to comply with privacy and data protection laws and regulations in various jurisdictions could subject us to sanctions, damages, and litigation, and could harm our reputation and business.***

We collect and process certain personal data of our users, including email addresses, usage data, identification information, user passwords and additional information. We also collect and process user billing information, such as credit card numbers, full names, billing addresses and phone numbers of our users.

We are subject to the privacy and data protection laws and regulations in various jurisdictions, including China, European Union and Korea. Privacy laws provide restrictions and guidance in connection with our storage, use, processing, disclosure, transfer and protection of personal information. We strive to comply with all applicable laws, regulations, policies relating to privacy and data protection. We are also subject to privacy and data security-related obligations deriving from our privacy policy and terms of use with our users, and we may be liable to third parties in the event we are deemed wrongfully processed personal data.

European Union traditionally takes a broader view as to what is considered personal information and has imposed greater obligations under their privacy and data protection laws. In particular, the European Union adopted a new General Data Protection Regulation in April 2016, which became effective in May 2018. The General Data Protection Regulation results in more stringent requirements for data processors and controllers, including more fulsome disclosures about the processing of personal information, data retention limits, and deletion requirements, mandatory notification in the case of a data breach, and elevated standards regarding valid consent in some specific cases of data processing. The General Data Protection Regulation also includes substantially higher penalties for failure to comply with the requirements. For example, in the event of violations, a fine up to €20 million or up to 4% of the annual worldwide turnover, whichever is greater, may be imposed. In addition to General Data Protection Regulation, when other future laws and regulations come into effect, the more stringent requirements on privacy user notifications and data handling will require us to adapt our business and incur additional costs.

Privacy concerns are becoming more widely acknowledged and may cause our users to resist providing the personal data necessary to allow them to use our platform effectively. We have implemented multiple measures and security protocols to maintain and improve our privacy protection capability. However, measures we have implemented may not alleviate all potential privacy concerns and threats. In addition, a failure by us or a third-party contractor providing services to us to comply with applicable privacy and data security laws, regulations, obligations, or our terms of use with our users, may result in sanctions, statutory or contractual damages or litigation. These violations or proceedings may, among other things, force us to spend money in defense or settlement, result in the imposition of monetary liability or restrict access to our services from certain territory, which could adversely affect our reputation and business.

***We may be the subject of detrimental conduct by third parties, including complaints to regulatory agencies, negative blog postings, and the public dissemination of malicious assessments of our business, which could have a negative impact on our reputation and cause us to lose market share, travel suppliers, customers and revenues, and adversely affect the price of our ADSs.***

We may be the target of anti-competitive, harassing, or other detrimental conduct by third parties. Such conduct may include complaints, anonymous or otherwise, to regulatory agencies regarding our operations, accounting, revenues, business relationships, business prospects and business ethics. Additionally, allegations, directly or indirectly against us, may be posted in internet chat-rooms or on blogs or any websites by anyone, whether or not related to us, on an anonymous basis. We may be subject to government or regulatory investigation as a result of such third-party conduct and may be required to spend significant time and incur substantial costs to address such third-party conduct, and we cannot assure you that we will be able to conclusively refute each of the allegations within a reasonable period of time, or at all. Our reputation may also be negatively affected as a result of the public dissemination of anonymous allegations or malicious statements about our business, which in turn may cause us to lose market share, travel suppliers and customers and revenues and adversely affect the price of our ADSs.

***Our business is subject to the risks of international operations.***

We had overseas expansion of our business over the years and operate our business in many foreign jurisdictions such as European and southeast Asian countries. Compliance with foreign laws and regulations that apply to our international operations increases our cost of doing business in foreign jurisdictions. These laws and regulations include data privacy requirements, labor relations laws, tax laws, foreign currency-related regulations, anti-competition regulations, prohibitions on payments to governmental officials, market access, import, export and general trade regulations, including but not limited to economic sanctions and embargos. Violations of these laws and regulations could result in fines and penalties, criminal sanctions against us, our officers or our employees, and prohibitions on the conduct of our business, including the loss of trade privileges. Any such violations could result in prohibitions on our ability to offer our products and services in one or more countries, could delay or prevent potential acquisitions and could also materially damage our reputation, our brand, our international expansion efforts, our ability to attract and retain employees, our business and our operating results. Compliance with these laws requires a significant amount of management attention and effort, which may divert management's attention from running our business operations and could harm our ability to grow our business, or may increase our expenses as we engage specialized or other additional resources to assist us with our compliance efforts. Our success depends, in part, on our ability to anticipate these risks and manage these difficulties. We monitor our operations and investigate allegations of improprieties relating to transactions and the way in which such transactions are recorded. Where circumstances warrant, we provide information and report our findings to government authorities, but no assurance can be given that action will not be taken by such authorities. In addition, as our business and operation expand in international markets, we could be exposed to increased foreign exchange risks for other currencies.

***We have limited business insurance coverage in Greater China.***

Insurance companies in Greater China offer limited business insurance products and generally do not, to our knowledge, offer business liability insurance. Business disruption insurance is available to a limited extent in Greater China, but we have determined that the risks of disruption, the cost of such insurance and the difficulties associated with acquiring such insurance make it impractical for us to have such insurance. We do not maintain insurance coverage for any kinds of business liabilities or disruptions and would have to bear the costs and expenses associated with any such events out of our own resources.

***We hire celebrities to be our brand ambassadors to market our brands and products and this marketing initiative may not be effective.***

From time to time, we hire celebrities to be our brand ambassadors to market our brands or our products and services that are important to our business. However, we cannot assure you that the endorsement from our brand ambassadors or related advertisements will remain effective, that the brand ambassadors will remain popular or their images will remain positive and compatible with the messages that our brand and products aim to convey. Furthermore, we cannot assure you that we can successfully find suitable celebrities to replace any of our existing brand ambassadors if any of their popularities decline or if the existing brand ambassadors are no longer able or suitable to continue the engagement, and termination of such engagements may have a significant impact on our brand images and the promotion or sales of our products. If any of these situations occurs, our business, financial condition and results of operations could be materially and adversely affected.

***We may face greater risk of doubtful accounts as our business increases in scale.***

We provide credit terms to our merchant customers, and also extend credit to our users by making payments on behalf of them when they book travel products on our platform. Our accounts receivable and other receivables have increased as our business grows. We cannot assure you that we will be able to collect payment fully and in a timely manner on our outstanding receivables from our merchant customers and users. As a result, we may face a greater risk of non-payment of our receivables and, as our business grows in scale, we may need to make higher provisions for doubtful accounts. For the years ended December 31, 2017, 2018, and 2019, we recognized the provisions for accounts receivable and receivables relating to financial services of approximately RMB98 million, RMB69 million, and RMB191 million (US\$27 million), respectively. The increase in the provisions for accounts receivable and receivables relating to financial services from 2018 to 2019 was primarily due to our business growth. Our operating results and financial condition may be materially and adversely affected if we are unable to successfully manage our receivables.

***Our accounting treatment for share-based compensation could continue to significantly reduce our net income.***

We have accounted for share-based compensation in accordance with ASC 718 “Compensation — Stock Compensation,” or ASC 718, which requires a public company to recognize, as an expense, the fair value of share options and other share-based compensation to employees based on the requisite service period of the share-based awards. We have granted share-based compensation awards, including share options and restricted share units, to employees, officers and directors to incentivize performance and align their interests with ours. See “Item 6.B. Directors, Senior Management and Employees — Compensation — Employees’ Share Incentive Plans.” As a result of the grants and potential future grants under our share incentive plans, we had incurred in the past and expect to continue to incur in future periods significant share-based compensation expenses. The amount of these expenses is based on the fair value of the share-based awards.

Our board of directors has the discretion to change terms of any previously issued share options and any such change may significantly increase the amount of our share-based compensation expenses for the period that the change takes effect as well as those for any future periods. For example, in December 2019, we completed a one-time modification of share options, pursuant to which each eligible grantee could exchange every four of the share options that were granted under the 2017 Share Incentive Plan and the Amended and Restated Global Incentive Plan with exercise price exceeding US\$320 per ordinary share for one new option entitling each eligible grantee to purchase one ordinary share at the exercise price of US\$0.01 with the original vesting schedules remaining unchanged. As a result of the modification, the prior options to purchase 835,849 ordinary shares were exchanged for new options to purchase 209,026 ordinary shares. In addition, with the historic changes and extensions to our share incentive awards, the application of ASC 718 will continue to have a significant impact on our net income. Further, future changes to various assumptions used to determine the fair value of awards issued or the amount and type of equity awards granted may also create uncertainty as to the amount of future share-based compensation expense.

***Changes in accounting standards may affect the results of our operations.***

We are required to adopt new accounting standards under FASB from time to time. Certain new accounting standards may impose significant different accounting treatments on certain line items on our consolidated financial statements, which could result in unexpected changes to our results of operation.

For example, in May 2014, the FASB issued a new accounting standard on the recognition of revenue generated from contracts with customers that was designed to create greater comparability for financial statement users across industries and jurisdictions. The core principle of this new standard is that an “entity recognizes revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services.” We adopted this new standard, effective from January 1, 2018, and applied the full retrospective transition approach to all contracts, which means that the financial statements for the year ended and as of December 31, 2018 and 2019 were reported under this new standard and the financial statements for the years ended and as of December 31, 2016 and 2017 were retrospectively adjusted. The new standard did not change the presentation of our revenues, which continues to be substantially reported on a net basis. However, the timing of revenue recognition for certain revenue streams is changed under the new standard. In particular, revenue for accommodation reservation services, which used to be recognized after end-users completed their stays, is now recognized when the reservation becomes non-cancellable. Revenue for packaged-tour services, which used to be recognized when packaged tours were completed, is now recognized on the departure date of a tour.

On January 1, 2018, we adopted new financial instruments accounting standard ASU No. 2016-01, which requires equity investments to be measured at fair value with subsequent changes recognized in net income, except for those accounted for under the equity method or requiring consolidation. The new standard also changes the accounting for investments without a readily determinable fair value and that do not qualify for the practical expedient to estimate fair value. A policy election can be made for these investments whereby investment will be carried at cost and adjusted in subsequent periods for any impairment or changes in observable prices of identical or similar investments. With the adoption of the new standard, we recognized the changes in fair value for all equity investments measured at fair value through net income/(loss). For investments in equity securities lacking of readily determinable fair values, we elected to use the measurement alternative defined as cost, less impairments, adjusted by observable price changes. The new standard also requires us to reclassify the accumulated unrealized gain or loss of the equity investments measure at fair value that were previously recognized in other comprehensive income to retained earnings on the date of the adoption.

In February 2016, the FASB issued ASU 2016-02, Leases (Topic 842), which requires that a lessee should recognize the assets and liabilities that arise from operating leases. A lessee should recognize in the balance sheet a liability to make lease payments (the lease liability) and a right-of-use asset representing its right to use the underlying asset for the lease term. For leases with a term of 12 months or less, a lessee is permitted to make an accounting policy election by class of underlying asset not to recognize lease assets and lease liabilities. If a lessee makes this election, it should recognize lease expenses for such lease generally on a straight-line basis over the lease term. The new leases standard also provides lessees with a practical expedient, by class of underlying asset, to not separate non-lease components from the associated lease component. If a lessee makes that accounting policy election, it is required to account for the non-lease components together with the associated lease component as a single lease component and to provide certain disclosures. Entities were initially required to adopt the new leases standard using a modified retrospective transition method. Under that transition method, an entity initially applies the new leases standard (subject to specific transition requirements and optional practical expedients) at the beginning of the earliest period presented in the financial statements. In July 2018, the FASB issued ASU 2018-11, which provides another transition method in addition to the existing transition method by allowing entities to initially apply the new leases standard at the adoption date and recognize a cumulative-effect adjustment to the opening balance of retained earnings in the period of adoption consistent with preparers' requests. The amendments in this Update are effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years for public entities. We have adopted this new guidance for the year ended December 31, 2019. The standard had a material impact on our consolidated balance sheets, but did not have a material impact on our consolidated statements of income or statements of cash flows. The most significant impact was the recognition of right-of-use assets, or ROU assets, of RMB1.0 billion (US\$146 million) and lease liabilities of RMB980 million (US\$141 million) for operating leases. Other than disclosed, we do not expect the new standard to have a material impact on our remaining consolidated financial statements.

For further details, see "Item 5.A. Operating and Financial Review and Prospects — Operating Results — Critical Accounting Policy." As a result of changes in accounting standards, our results of operations may be adversely affected.

***Failure to maintain effective internal control over financial reporting could result in errors in our published financial statements, which in turn could have a material adverse effect on the trading price of our ADSs.***

We are subject to the reporting obligations under the U.S. securities laws. As required under Section 404 of the Sarbanes-Oxley Act of 2002, the SEC has adopted rules requiring public companies to include a report of management on the effectiveness of such companies' internal control over financial reporting in its annual report. In addition, an independent registered public accounting firm for a public company must issue an attestation report on the effectiveness of the company's internal control over financial reporting. Our management conducted an evaluation of the effectiveness of our internal control over financial reporting and concluded that our internal control over financial reporting was effective as of December 31, 2019. In addition, our independent registered public accounting firm attested the effectiveness of our internal control and reported that our internal control over financial reporting was effective as of December 31, 2019. If we fail to maintain the effectiveness of our internal control over financial reporting, we may not be able to conclude on an ongoing basis that we have effective internal control over financial reporting in accordance with the Sarbanes-Oxley Act. Moreover, effective internal control over financial reporting is necessary for us to produce reliable financial reports. As a result, any failure to maintain effective internal control over financial reporting could result in the loss of investor confidence in the reliability of our financial statements, which in turn could negatively impact the trading price of our ADSs. Furthermore, we may need to incur additional costs and use additional management and other resources in an effort to comply with Section 404 of the Sarbanes-Oxley Act and other requirements going forward.

***We may need additional capital and we may not be able to obtain it.***

We believe that our current cash and cash equivalents, short-term investments, cash flow from operations and proceeds from our financing activities will be sufficient to meet our anticipated cash needs for the foreseeable future. We may, however, require additional cash resources due to changed business conditions or other future developments, including any investments or acquisitions we may decide to pursue. If these resources are insufficient to satisfy our cash requirements, we may seek to sell additional equity or debt securities or obtain a credit facility. The sale of additional equity securities could result in additional dilution to our shareholders. The incurrence of indebtedness would result in increased debt service obligations and could result in operating and financing covenants that would restrict our operations. We cannot assure you that financing will be available in amounts or on terms acceptable to us, if at all. In particular, the recent financial turmoil affecting the financial markets and banking system may significantly restrict our ability to obtain financing in the capital markets or from financial institutions on commercially reasonable terms, or at all.

**Risks Relating to Our Corporate Structure**

***PRC laws and regulations restrict foreign investment in the travel agency and value-added telecommunications businesses, and substantial uncertainties exist with respect to the application and implementation of PRC laws and regulations.***

We are a Cayman Islands incorporated company and a foreign person under PRC law. Due to foreign ownership restrictions in the travel agency and value-added telecommunications industries, we conduct part of our business through contractual arrangements with our consolidated affiliated Chinese entities. These entities hold the licenses and approvals that are essential for our business operations.

In the opinion of our PRC counsel, Commerce & Finance Law Offices, our current ownership structure, the ownership structure of our subsidiaries and our consolidated affiliated Chinese entities, the contractual arrangements among us, our subsidiaries, our consolidated affiliated Chinese entities and their shareholders, as described in this annual report, are in compliance with existing PRC laws, rules and regulations. There are, however, substantial uncertainties regarding the interpretation and application of current or future PRC laws and regulations. Accordingly, we cannot assure you that PRC government authorities will not ultimately take a view contrary to the opinion of our PRC legal counsel due to the lack of official interpretation and clear guidance.

If we and our consolidated affiliated Chinese entities are found to be in violation of any existing or future PRC laws or regulations, the relevant governmental authorities would have broad discretion in dealing with such violation, including, without limitation, levying fines, confiscating our income or the income of our consolidated affiliated Chinese entities, revoking our business licenses or the business licenses of our consolidated affiliated Chinese entities, requiring us and our consolidated affiliated Chinese entities to restructure our ownership structure or operations and requiring us or our consolidated affiliated Chinese entities to discontinue any portion or all of our value-added telecommunications or travel agency businesses. In particular, if the PRC government authorities impose penalties which cause us to lose our rights to direct the activities of and receive economic benefits from our consolidated affiliated Chinese entities, we may lose the ability to consolidate and reflect in our financial statements the operation results of our consolidated affiliated Chinese entities. Any of these actions could cause significant disruption to our business operations, and may materially and adversely affect our business, financial condition and results of operations.

According to the PRC Property Rights Law, effective as of October 1, 2007, and the Measures for the Registration of Equity Pledge with the PRC State Administration for Industry and Commerce (2016 Revision), effective as of April 29, 2016, the effectiveness of the pledges will be denied if the pledges are not registered with the PRC State Administration for Industry and Commerce, or SAIC, which was integrated into the State Administration for Market Regulation, or the SAMR. Our equity pledges have been duly registered with the relevant local branches of SAMR. Under the equity pledge agreements between our subsidiaries and the shareholders of our consolidated affiliated Chinese entities, the shareholders of our consolidated affiliated Chinese entities pledged their respective equity interests in these entities to our subsidiaries. The effectiveness of the pledges upon registration will be recognized by PRC courts if disputes arise on certain pledged equity interests and that our subsidiaries' interests as pledgees will prevail over those of third parties.



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Furthermore, we were aware that a China-based U.S.-listed company announced in 2012 that it was subject to SEC's investigation, which it believed was related to the consolidation of its consolidated affiliated Chinese entities. Following the announcement, that issuer's stock price declined significantly. Although we are not aware of any actual or threatened investigation, inquiry or other action by SEC, Nasdaq or any other regulatory authority with respect to consolidation of our consolidated affiliated Chinese entities, we cannot assure you that we will not be subject to any such investigation or inquiry in the future. In the event we are subject to any regulatory investigation or inquiry relating to our consolidated affiliated Chinese entities, including the consolidation of such entities into our financial statements, or any other matters, we may need to spend significant amount of time and expenses in connection with the investigation or inquiry, our reputation may be harmed regardless of the outcome, and the trading price of our ADS may materially decline or fluctuate.

***If our consolidated affiliated Chinese entities violate our contractual arrangements with them, our business could be disrupted, our reputation may be harmed and we may have to resort to litigation to enforce our rights, which may be time-consuming and expensive.***

As the PRC government restricts foreign ownership of value-added telecommunications and travel agency businesses in China, we depend on our consolidated affiliated Chinese entities, in which we have no ownership interest, to conduct part of our business activities through a series of contractual arrangements, which are intended to provide us with effective control over these entities and allow us to obtain economic benefits from them. Although we have been advised by our PRC counsel, Commerce & Finance Law Offices, that the contractual arrangements as described in this annual report are valid, binding and enforceable under current PRC laws, these arrangements are not as effective in providing control as direct ownership of these businesses. For example, our consolidated affiliated Chinese entities could violate our contractual arrangements with them by, among other things, failing to operate our packaged-tour business in an acceptable manner or pay us for our consulting or other services. In any such event, we would have to rely on the PRC legal system for the enforcement of those agreements, which could have uncertain results. Any legal proceeding could result in the disruption of our business, damage to our reputation, diversion of our resources and incurrence of substantial costs. See "Item 3.D. Key Information — Risk Factors — Risks Relating to Doing Business in China — Uncertainties with respect to the PRC legal system could adversely affect us."

***The principal shareholders of our consolidated affiliated Chinese entities have potential conflict of interest with us, which may adversely affect our business.***

Some of our directors and officers were also the principal shareholders of our consolidated affiliated Chinese entities as of the date of this annual report. Thus, conflict of interest between their duties to our company and their interests in our consolidated affiliated Chinese entities may arise. We cannot assure you that when conflict of interest arises, these persons will act entirely in our interests or that the conflict of interest will be resolved in our favor. In addition, these persons could violate their non-competition or employment agreements with us or their legal duties by diverting business opportunities from us to others, resulting in our loss of corporate opportunities. In any such event, we would have to rely on the PRC legal system for the enforcement of these agreements, which could have uncertain results. Any legal proceeding could result in the disruption of our business, diversion of our resources and incurrence of substantial costs. See "Item 3.D. Key Information — Risk Factors — Risks Relating to Doing Business in China — Uncertainties with respect to the PRC legal system could adversely affect us."

***Our business may be significantly affected by the new PRC Foreign Investment Law.***

The new PRC Foreign Investment Law was approved by the PRC National People's Congress on March 15, 2019 and became effective from January 1, 2020. The new PRC Foreign Investment Law has repealed the PRC Wholly Foreign-owned Enterprise Law, the PRC Sino-foreign Equity Joint Venture Law, and the PRC Sino-foreign Cooperative Joint Venture Law. Therefore, establishment and operation of companies in China, including FIEs, will generally follow the PRC Company Law unless specifically provided for in the new PRC Foreign Investment Law, in which case the provisions of the new PRC Foreign Investment Law will prevail. In December 2019, the Implementing Regulation of the Foreign Investment Law was promulgated by the PRC State Council and became effective from January 1, 2020.

The new PRC Foreign Investment Law does not touch upon the relevant concepts and regulatory regimes that were historically suggested for the regulation of VIE structures, and thus this regulatory topic remains unclear thereunder. Since the PRC Foreign Investment Law is new, there are substantial uncertainties exist with respect to its implementation and interpretation and it is also possible that the VIE entities will be deemed as FIEs and be subject to restrictions in the future. Such restrictions may cause interruptions to our operations and may incur additional compliance cost, which may in turn materially and adversely affect our business, financial condition, and results of operations.

***Our contractual arrangements with our consolidated affiliated Chinese entities may result in adverse tax consequences to us.***

As a result of our corporate structure and the contractual arrangements between us and our consolidated affiliated Chinese entities, we are effectively subject to the 6% PRC value-added tax, or VAT, on both revenues generated by our consolidated affiliated Chinese entities' operations in China and revenues derived from our contractual arrangements with our consolidated affiliated Chinese entities. We might be subject to adverse tax consequences if the PRC tax authorities were to determine that the contracts between us and our consolidated affiliated Chinese entities were not made on an arm's-length basis and therefore constitute favorable transfer pricing arrangements. If this occurs, the PRC tax authorities could request that our consolidated affiliated Chinese entities adjust their taxable income upward for PRC tax purposes. Such an adjustment could adversely affect us by increasing our consolidated affiliated Chinese entities' tax expenses without reducing our tax expenses, which could subject our consolidated affiliated Chinese entities to late payment fees and other penalties for underpayment of taxes, and/or result in the loss of the tax benefits available to our subsidiaries in China. The EIT Law requires every enterprise in China to submit its annual enterprise income tax return together with a report on transactions with its affiliates to the relevant tax authorities. The tax authorities may impose reasonable adjustments on taxation if they have identified any related party transactions that are inconsistent with arm's-length principles. As a result, our contractual arrangements with our consolidated affiliated Chinese entities may result in adverse tax consequences to us.

***Our subsidiaries and consolidated affiliated Chinese entities in China are subject to restrictions on paying dividends or making other payments to us, which may restrict our ability to satisfy our liquidity requirements.***

We are a holding company incorporated in the Cayman Islands. We rely on dividends from our subsidiaries in China and consulting and other fees paid to us by our consolidated affiliated Chinese entities. Under PRC laws and regulations, our subsidiaries and consolidated affiliated Chinese entities in China are required to set aside at least 10% of their respective after-tax profit each year, if any, to statutory reserve funds unless these reserve funds have reached 50% of the subsidiaries and consolidated affiliated Chinese entities' registered capital. These reserves are not distributable as cash dividends and dividends cannot be distributed until any losses from prior fiscal years have been offset. Furthermore, if our subsidiaries and consolidated affiliated Chinese entities in China incur debt on their own behalf in the future, the instruments governing the debt may restrict their ability to pay dividends or make other payments to us, which may restrict our ability to satisfy our liquidity requirements.

Pursuant to the EIT Law, its implementing rules and a circular of Taxation on Several Preferential Policies on Enterprise Income Tax issued by the PRC Ministry of Finance, or MOF, and SAT, in February 2008, the dividends declared out of the profits earned after January 1, 2008 by an FIE to its immediate offshore holding company are subject to a 10% withholding tax unless such offshore holding company's jurisdiction of incorporation has a tax treaty with China that provides for a different withholding arrangement, and certain supplementary requirements and procedures stipulated by SAT for such tax treaty are met and observed. Our subsidiaries in China are considered FIEs and are directly or indirectly held by our subsidiaries in Hong Kong. According to the currently effective tax treaty between China and Hong Kong, dividends payable by an FIE in China to a company in Hong Kong that directly holds at least 25% of the equity interests in the FIE will be subject to a withholding tax of 5%. In February 2009, SAT issued SAT Notice No. 81, pursuant to which an enterprise must be the "beneficial owner" of the relevant dividend income in order to enjoy the preferential withholding tax rates on dividend. If, however, such enterprise otherwise qualifies for such preferential withholding tax rates through any transaction or arrangement, whose main purpose is to qualify for such preferential withholding tax rates, the enterprise nevertheless cannot enjoy the preferential withholding tax rates and the competent tax authority has the power to adjust the applicable withholding tax rates if it so determines. In October 2009, SAT issued SAT Notice No. 601 to provide guidance on the criteria for determining whether an enterprise qualifies as the "beneficial owner" of the PRC sourced income for the purpose of obtaining preferential treatment under tax treaties. SAT Notice No. 601 was abolished by a SAT Notice No. 9 that took effect in April 2018, which indicated that "beneficial owner" refers to a person who has ownership and disposal rights to the income or any rights and assets arising from such income, and the tax authority has discretion to determine whether or not an enterprise is determined as a "beneficial owner." However, since the SAT Notice No. 9 is newly issued, it remains unclear how the PRC tax authorities will implement SAT Notice No. 9 in practice and to what extent they will affect the dividend withholding tax rates for dividends distributed by our PRC subsidiaries to our Hong Kong subsidiary. If the relevant tax authority determines that our Hong Kong subsidiary is a conduit company and does not qualify as the "beneficial owner" of the dividend income it receives from our PRC subsidiaries, the higher 10% withholding tax rate will apply to such dividends.

Under the EIT Law, an enterprise established outside of China with its “de facto management body” within China is considered a PRC resident enterprise and will be subject to enterprise income tax at the rate of 25% on its worldwide income. The “de facto management body” is defined as the organizational body that effectively exercises overall management and control over production and business operations, personnel, finance and accounting, and properties of the enterprise. It remains unclear how the PRC tax authorities will interpret such a broad definition. If the PRC tax authorities determine that we should be classified as a PRC resident enterprise for PRC tax purposes, our global income will be subject to income tax at a uniform rate of 25%, which may have a material adverse effect on our financial condition and results of operations. Notwithstanding the foregoing provision, the EIT Law also provides that, if a PRC resident enterprise directly invests in another PRC resident enterprise, the dividends received by the investing PRC resident enterprise from the invested PRC resident enterprise are exempted from income tax, subject to certain conditions. However, it remains unclear how the PRC tax authorities will interpret the PRC tax resident treatment of an offshore company with indirect ownership interests in PRC resident enterprises through intermediary holding companies.

Moreover, under the EIT Law, foreign ADS holders that are non-PRC resident enterprises may be subject to a 10% withholding tax upon dividends payable by a PRC entity that is considered as a PRC resident enterprise and gains realized on the sale or other disposition of ADSs or ordinary shares, if such income is considered as income derived from within China. Any such tax would reduce the returns on your investment in our ADSs.

***If we exercise the option to acquire equity ownership in our consolidated affiliated Chinese entities, such ownership transfer requires approval from or filings with PRC governmental authorities and subject to taxation, which may result in substantial costs to us.***

Pursuant to the relevant contractual arrangements, both of our PRC subsidiaries, Ctrip Travel Information and Ctrip Travel Network (or their respective designees), have their respective exclusive rights to purchase all or any part of the equity interests in the applicable consolidated affiliated Chinese entities of ours from the respective shareholders of these consolidated affiliated Chinese entities for a price that is the higher of (i) the amount of capital contribution to such consolidated affiliated Chinese entities, or the consideration paid in exchange for the equity interests in such consolidated affiliated Chinese entities, or (ii) another minimum price as permitted by the then applicable PRC laws. Such equity transfers may be subject to approvals from, or filings with, relevant PRC authorities. In addition, the relevant equity transfer prices may be subject to review and adjustment for tax determination by the relevant tax authorities. Moreover, the shareholders of our consolidated affiliated Chinese entities, under the circumstances of such equity transfers, will be subject to PRC individual income tax on the difference between the equity transfer prices and the then current registered capital of the relevant consolidated affiliated Chinese entities. The shareholders of such consolidated affiliated Chinese entities will pay, after deducting such taxes, the remaining amount to Ctrip Travel Information or Ctrip Travel Network, as appropriate, under the applicable contractual arrangements. The amount to be received by Ctrip Travel Information and Ctrip Travel Network may also be subject to enterprise income tax. Any of the aforementioned tax amounts could be substantial. Similar risk is faced by Qunar Software.

***We face uncertainty with respect to indirect transfer of equity interests in PRC resident enterprises by their non-PRC holding companies.***

We face uncertainties regarding the reporting on and consequences of previous private equity financing transactions involving the transfer and exchange of shares in our company by non-PRC resident investors. According to the Notice on Strengthening Administration of Enterprise Income Tax for Share Transfers by Non-PRC Resident Enterprises issued by SAT on December 10, 2009, or SAT Circular 698, where a non-PRC resident enterprise transfers the equity interests in a PRC resident enterprise indirectly through a disposition of equity interests in an offshore holding company (other than a purchase and sale of shares issued by a PRC resident enterprise in public securities market), or an Indirect Transfer, the non-PRC resident enterprise, as the seller, may be subject to PRC enterprise income tax of up to 10% of the gains derived from the Indirect Transfer in certain circumstances.

On February 3, 2015, SAT issued Announcement on Several Issues Concerning the Enterprise Income Tax on Indirect Property Transfers by Non-PRC Resident Enterprises, or SAT Notice No. 7, to supersede the existing tax rules in relation to the tax treatment of the Indirect Transfer, while the other provisions of SAT Circular 698 irrelevant to the Indirect Transfer remain in force. SAT Notice No. 7 introduces a new tax regime that is significantly different from that under a notice issued by SAT Circular 698. It extends SAT's tax jurisdiction to capture not only the Indirect Transfer as set forth under SAT Circular 698 but also transactions involving indirect transfer of (i) real properties in China and (ii) assets of an "establishment or place" situated in China, by a non-PRC resident enterprise through a disposition of equity interests in an offshore holding company. SAT Notice No. 7 also extends the interpretation with respect to the disposition of equity interests in an offshore holding company broadly. In addition, SAT Notice No. 7 further clarifies how to assess reasonable commercial purposes and introduces safe harbors applicable to internal group restructurings. However, it also brings challenges to both offshore transferor and transferee as they are required to make self-assessment on whether an Indirect Transfer or similar transaction should be subject to PRC tax and whether they should file or withhold any tax payment accordingly. On October 17, 2017, the SAT issued a Notice Concerning Withholding Income Tax of Non-Resident Enterprise, or SAT Notice No. 37, which abolishes SAT Circular 698 and certain provision of SAT Notice 7. SAT Notice No. 37 further reduces the burden of withholding obligator, such as revocation of contract filing requirements and tax liquidation procedures, strengthens the cooperation of tax authorities in different places, and clarifies the calculation of tax payable and mechanism of foreign exchange.

There is uncertainty as to the application of SAT Notice No. 7 and SAT Notice No. 37. In the event that non-PRC resident investors were involved in our private equity financing transactions and such transactions were determined by the competent tax authorities as lack of reasonable commercial purposes, we and our non-PRC resident investors may become at risk of being taxed under and SAT Notice No. 7 and SAT Notice No. 37 and may be required to expend costly resources to comply with and SAT Notice No. 7 and SAT Notice No. 37, or to establish a case to be tax exempt under SAT Notice No. 7 and SAT Notice No. 37, which may cause us to incur additional costs and may have a negative impact on the value of your investment in us.

The PRC tax authorities have discretion under SAT Notice No. 7 and SAT Notice No. 37 to adjust the taxable capital gains based on the difference between the fair value of the transferred equity interests and the investment cost. We may pursue acquisitions in the future that may involve complex corporate structures. If we are deemed as a non-PRC resident enterprise under the EIT Law and if the PRC tax authorities adjust the taxable income of the transactions under SAT Notice No. 7 and SAT Notice No. 37, our income tax expenses associated with such potential acquisitions will increase, which may have an adverse effect on our financial condition and results of operations.

**Risks Relating to Doing Business in China**

***Adverse changes in economic and political policies of the PRC government could have a material adverse effect on the overall economic growth of China, which could adversely affect our business.***

The majority of our business operations are conducted in mainland China. Accordingly, our results of operations, financial condition and prospects are subject to a significant degree to economic, political and legal developments in China. The Chinese economy differs from the economies of most developed countries in many respects, including with respect to the amount of government involvement, level of development, growth rate, control of foreign exchange and allocation of resources. While the Chinese economy has experienced significant growth in the past decades, that growth may not continue, as evidenced by the slowing of the growth of the Chinese economy since 2012. Any adverse changes in economic conditions in China, in the policies of the PRC government or in the laws and regulations in China could have a material adverse effect on the overall economic growth of China. Such developments could adversely affect our business and operating results, lead to reduction in demand for our services and adversely affect our competitive position. The PRC government has implemented various measures to encourage economic development and guide the allocation of resources. Some of these measures benefit the overall Chinese economy, but may also have a negative effect on us. For example, our financial condition and results of operations may be adversely affected by government control over capital investments or changes in tax regulations that are applicable to us. In addition, future measures to control the pace of economic growth may cause a decrease in the level of economic activity in China, which in turn could adversely affect our results of operations and financial condition.

***Inflation in China may disrupt our business and have an adverse effect on our financial condition and results of operations.***

The Chinese economy has experienced rapid expansion together with rising rates of inflation. Inflation may erode disposable incomes and consumer spending, which may have an adverse effect on the Chinese economy and lead to a reduction in business and leisure travel as the travel industry is highly sensitive to business and personal discretionary spending levels. This in turn could adversely impact our business, financial condition and results of operations.

***Future movements in exchange rates between U.S. dollars and Renminbi may adversely affect the value of our ADSs.***

The conversion of Renminbi into foreign currencies, including U.S. dollars, is based on rates set by the People's Bank of China. Renminbi has fluctuated against U.S. dollars, at times significantly and unpredictably. The value of Renminbi against U.S. dollars and other currencies is affected by changes in China's political and economic conditions and by China's foreign exchange policies, among other things. We cannot assure you that Renminbi will not appreciate or depreciate significantly in value against U.S. dollars in the future. It is difficult to predict how market forces or PRC or U.S. government policy may impact the exchange rate between Renminbi and U.S. dollars in the future.

The majority of our revenues and costs are denominated in Renminbi, while a portion of our financial assets and our dividend payments are denominated in U.S. dollars. Very limited hedging options are available in China to reduce our exposure to exchange rate fluctuations. To date, we have used forward contracts and currency borrowings to help hedge our exposure to foreign currency risk. Any significant revaluation of Renminbi or U.S. dollars may adversely affect our cash flows, earnings and financial position, and the value of, and any dividends payable on, our ADSs. For example, an appreciation of Renminbi against U.S. dollars would make any new Renminbi-denominated investments or expenditures more costly to us, to the extent that we need to convert U.S. dollars into Renminbi for such purposes. An appreciation of Renminbi against U.S. dollars would also result in foreign currency translation losses for financial reporting purposes when we translate our U.S. dollar-denominated financial assets into Renminbi, our reporting currency. Conversely, if we decide to convert Renminbi into U.S. dollars for the purpose of making payments for dividends on our ordinary shares or ADSs or for other business purposes, appreciation of U.S. dollars against Renminbi would have a negative effect on the U.S. dollar amount available to us.

***Restrictions on currency exchange may limit our ability to receive and use our revenues effectively.***

Because the majority of our revenues are denominated in Renminbi, any restrictions on currency exchange may limit our ability to use Renminbi-denominated revenues to fund our business activities outside China or to make dividend payments in U.S. dollars. The principal PRC regulation governing foreign currency exchange is the Regulations on Administration of Foreign Exchange, as amended, or the Forex Regulations. Under the Forex Regulations, Renminbi is freely convertible for trade- and service-related foreign exchange transactions, but not for direct investment, loan or investment in securities outside China unless prior approval of the State Administration of Foreign Exchange, or SAFE, is obtained. Although the PRC regulations now allow greater convertibility of Renminbi for current account transactions, significant restrictions remain. For example, foreign exchange transactions under our subsidiaries' capital account, including principal payments in respect of foreign currency-denominated obligations, remain subject to significant foreign exchange controls and the approval of SAFE. These limitations could affect our ability to obtain foreign exchange for capital expenditures. We cannot be certain that the PRC regulatory authorities will not impose more stringent restrictions on the convertibility of Renminbi, especially with respect to foreign exchange transactions.

***PRC regulations relating to the establishment of offshore special purpose vehicles by PRC residents and the grant of employee stock options by overseas-listed companies may subject our PRC resident shareholders to personal liability and limit our ability to inject capital into our PRC subsidiaries, limit our subsidiaries' ability to distribute profits to us, or otherwise adversely affect us.***

SAFE issued a public notice, or SAFE Circular 75, in October 2005 requiring PRC residents to register with the local SAFE branches before establishing or controlling any company outside of China for the purpose of capital financing with assets or equity interests in any onshore enterprise located in China, referred to in the notice as a "special purpose vehicle." On July 4, 2014, SAFE issued the SAFE's Notice on Relevant Issues Concerning Foreign Exchange Administration for PRC Residents to Engage in Outbound Investment and Financing and Inbound Investment via Special Purpose Vehicles, or SAFE Circular 37, which has superseded SAFE Circular 75. Under SAFE Circular 75, SAFE Circular 37 and other relevant foreign exchange regulations, PRC residents who make, or have previously made, prior to the implementation of these foreign exchange regulations, direct or indirect investments in offshore companies will be required to register those investments. In addition, any PRC resident who is a direct or indirect shareholder of an offshore company is also required to file or update the registration with the local branches of SAFE, with respect to that offshore company for any material change involving its round-trip investment, capital variation, such as an increase or decrease in capital, transfer or swap of shares, merger, division, long-term equity or debt investment or the creation of any security interest. If any PRC shareholder fails to make the required registration or update the previously filed registration, the PRC subsidiary of that offshore parent company may be prohibited from distributing their profits and the proceeds from any reduction in capital, share transfer or liquidation to their offshore parent company, and the offshore parent company may also be prohibited from injecting additional capital into its PRC subsidiary. Moreover, failure to comply with the various foreign exchange registration requirements described above could result in liability under PRC laws for evasion of applicable foreign exchange restrictions.

We have notified holders of our ordinary shares who we know are PRC residents to register with the local SAFE branches as required under the applicable foreign exchange regulations. The failure or inability of our PRC resident shareholders to comply with the registration procedures set forth therein may subject them to fines and legal sanctions and may also limit our ability to contribute additional capital into our PRC subsidiaries, limit our PRC subsidiaries' ability to distribute profits to our company or otherwise adversely affect our business.

On February 15, 2012, SAFE promulgated the Circular on Relevant Issues Concerning Foreign Exchange Administration for Domestic Individuals Participating in an Employees Share Incentive Plan of an Overseas-Listed Company (replacing the prior circular in 2007, Application Procedure of Foreign Exchange Administration for Domestic Individuals Participating in an Employee Stock Holding Plan or Stock Option Plan of an Overseas-Listed Company), or the Share Incentive Rules. Under the Share Incentive Rules, PRC resident individuals who participate in a share incentive plan of an overseas publicly listed company are required to register with SAFE and complete certain other procedures. All such participants need to retain a PRC agent through PRC subsidiaries to register with SAFE and handle foreign exchange matters such as opening accounts, transferring and settlement of the relevant proceeds. The Share Incentive Rules further require an offshore agent to be designated to handle matters in connection with the exercise of share options and sale of proceeds for the participants of share incentive plans. We and our PRC employees who have been granted stock options are subject to the Share Incentive Rules. If we or our PRC optionees fail to comply with these regulations, we or our PRC optionees may be subject to fines and legal sanctions.

***Uncertainties with respect to the PRC legal system could adversely affect us.***

We conduct our business primarily through our wholly-owned subsidiaries incorporated in China. Our subsidiaries are generally subject to laws and regulations applicable to foreign investment in China and, in particular, laws applicable to wholly foreign-owned enterprises, or WFOEs. In addition, we depend on several consolidated affiliated Chinese entities in China to honor their service agreements with us. Almost all of these agreements are governed by PRC law and disputes arising out of these agreements are expected to be decided by arbitration in China. The PRC legal system is based on written statutes. Prior court decisions may be cited for reference but have limited precedential value. Since 1979, PRC legislation and regulations have significantly enhanced the foreign investments in China. However, since the PRC legal system is still evolving, the interpretations of many laws, regulations and rules are not always uniform and enforcement of these laws, regulations and rules involve uncertainties, which may limit remedies available to us. In addition, any litigation in China may be protracted and result in substantial costs and diversion of resources and management attention. If we and our consolidated affiliated Chinese entities are found to be in violation of any existing or future PRC laws or regulations, or fail to obtain or maintain any of the required permits or approvals, the relevant PRC regulatory authorities would have broad discretion in dealing with such violations, including restructuring. See "Item 3.D. Key Information — Risk Factors — Risks Relating to Our Corporate Structure — PRC laws and regulations restrict foreign investment in the air-ticketing, travel agency and value-added telecommunications businesses, and substantial uncertainties exist with respect to the application and implementation of PRC laws and regulations." and "Item 3.D. Key Information — Risk Factors — Risks Relating to Our Corporate Structure — Our business may be significantly affected by the New Foreign Investment Law."

***Implementation of laws and regulations relating to data privacy in China could adversely affect our business.***

Certain data and services collected, provided or used by us or provided to and used by us or our users are currently subject to regulations in certain jurisdictions, including China. The PRC Constitution states that PRC laws protect the freedom and privacy of communications of citizens and prohibit infringement of such basic rights, and the PRC Contract Law prohibits contracting parties from disclosing or misusing the trade secrets of the other party. Further, companies or their employees who illegally trade or disclose customer data may face criminal charges. Although the definition and scope of “privacy” and “trade secret” remain relatively ambiguous under PRC law, growing concerns about individual privacy and the collection, distribution and use of information about individuals have led to national and local regulations that could increase our expenses.

In December 2012, the Standing Committee of the National People’s Congress enacted the Decision to Enhance the Protection of Network Information, or the Information Protection Decision, to further enhance the protection of users’ personal information in electronic form. The Information Protection Decision provides that internet information service providers must expressly inform their users of the purpose, manner and scope of the collection and use of users’ personal information by internet information service providers, publish the internet information service providers’ standards for their collection and use of users’ personal information, and collect and use users’ personal information only with the consent of the users and only within the scope of such consent. The Information Protection Decision also mandates that internet information service providers and their employees keep users’ personal information that they collect strictly confidential, and that they must take such technical and other measures as are necessary to safeguard the information against disclosure, damages and loss. Pursuant to the Order for the Protection of Telecommunication and internet User Personal Information issued in July 2013 by the PRC Ministry of Industry and Information Technology (formerly known as the Ministry of Information Industry), or MIIT, any collection and use of users’ personal information must be subject to the consent of the users, abide by the principles of legality, rationality and necessity and be within the specified purposes, methods and scopes. Compliance with current regulations and regulations that may come into effect in these areas may increase our expenses related to regulatory compliance, which could have an adverse effect on our financial condition and operating results.

***PRC regulation of loans and direct investment by offshore holding companies to PRC entities may delay or prevent us from using the proceeds from the offerings of any securities to make loans or additional capital contributions to our PRC operating subsidiaries.***

In September 2012, we completed an offering of US\$180 million in aggregate principal amount of convertible senior notes due 2017, or the 2017 Notes. In October 2013, we completed another offering of US\$800 million in aggregate principal amount of 1.25% convertible senior notes due 2018, or the 2018 Notes. In June 2015, we completed an offering of US\$700 million in aggregate principal amount of 1.00% convertible senior notes due 2020, or the 2020 Notes, and US\$400 million in aggregate principal amount of 1.99% convertible senior notes due 2025, or the 2025 Notes. In September 2016, we concurrently completed an offering of 32,775,000 ADSs at US\$45.96 per ADS (taking into account of the fully exercised over-allotment option) and an offering of US\$975 million in aggregate principal amount of 1.25% convertible senior notes due 2022 (taking into account of the fully exercised over-allotment option), or the 2022 Notes. In August 2014, May 2015, December 2015 and September 2016, we issued US\$500 million in aggregate principal amount of 1.00% convertible notes due 2019, or the 2019 Booking Notes, US\$250 million in aggregate principal amount of 1.00% convertible notes due 2020, or the 2020 Booking Notes, US\$500 million in aggregate principal amount of 2.00% convertible notes due 2025, or the 2025 Booking Notes, and US\$25 million in aggregate principal amount of 1.25% convertible notes due 2022, or the 2022 Booking Notes, respectively, to a subsidiary of Booking Holdings Inc. (formerly known as The Priceline Group Inc.), or Booking. In December 2015, we issued US\$500 million in aggregate principal amount of 2.00% convertible notes due 2025, or the 2025 Hillhouse Notes, to Gaoling Fund, L.P. and YHG Investment, L.P., or collectively Hillhouse, in addition to the aforementioned issuance to Booking. In September 2016, we closed private placements of our ordinary shares with the respective subsidiaries of Baidu and Booking at an aggregate amount of US\$100 million and US\$25 million, respectively. As an offshore holding company, our ability to make loans or additional capital contributions to our PRC operating subsidiaries is subject to PRC regulations and approvals and there are restrictions for us to make loans to our consolidated affiliated Chinese entities. These regulations and approvals may delay or prevent us from using the proceeds we received in the past or will receive in the future from the offerings of securities to make loans or additional capital contributions to our PRC operating subsidiaries and our consolidated affiliated Chinese entities, and impair our ability to fund and expand our business which may adversely affect our business, financial condition and result of operations.

For example, on March 3, 2015, SAFE promulgated a Circular on the Reforming of Administrative Methods Regarding the Foreign Exchange Capital Settlement of Foreign-Invested Companies, or SAFE Circular 19, which became effective on June 1, 2015 and replaced SAFE Circular 142. Previously, pursuant to SAFE Circular 142, the registered capital of an FIE settled in Renminbi converted from foreign currencies may only be used within the business scope approved by the applicable government authority and may not be used for equity investments in China, and the FIE may not change how it uses such capital without SAFE's approval, and may not in any case use such capital to repay Renminbi loans if they have not used the proceeds of such loans. Although SAFE Circular 19 restates certain restrictions on the use of investment capital denominated in foreign currency by FIEs, it specifies that the registered capital of an FIE whose main business is investment, denominated in foreign currency, can be converted into Renminbi at the discretion of such FIE and can be used for equity investment in China subject to the invested company's filing of a reinvestment registration with the relevant local SAFE. On June 9, 2016, SAFE issued the Circular on Reforming and Regulating the Administrative Policy of the Settlement under Capital Accounts, or SAFE Circular 16, which became effective on the same date. Although SAFE Circular 16 further extends the reform to cover foreign currency income under capital account, including capital, foreign debt and proceeds from offshore offering and listing, an FIE's foreign currency income and such income settled in Renminbi under the capital account cannot be used directly and indirectly for any purposes out of the FIE's business scope or in areas prohibited by laws and regulations. According to the Circular on Further Promoting the Facilitation of Cross-Border Trade and Investment promulgated by SAFE on October 23, 2019, or SAFE Circular 28, non-investment FIEs are allowed to use their capital for equity investment in China provided that such investment is not in violation of the Special Administrative Measures (Negative List) for Foreign Investment Access and the purposes of such investment is truthful and compliant with relevant laws and regulations. However, the interpretation and enforcement of SAFE Circular 19, SAFE Circular 16, and SAFE Circular 28 remained to be subject to uncertainty.

In light of the various requirements imposed by PRC regulations on loans to and direct investment in PRC entities by offshore holding companies, we cannot assure you that we will be able to complete the necessary government registrations or obtain the necessary government approvals on a timely basis, if at all, with respect to future loans by us to our PRC subsidiaries or with respect to future capital contributions by us to our PRC subsidiaries. If we fail to complete such registrations or obtain such approvals, our ability to use the proceeds we received from our various offerings and to capitalize or otherwise fund our PRC operations may be negatively affected, which could materially and adversely affect our liquidity and our ability to fund and expand our business.

***We have attempted to comply with the PRC regulations regarding licensing requirements by entering into a series of agreements with our consolidated affiliated Chinese entities. If the PRC laws and regulations change, our business in China may be adversely affected.***

To comply with the PRC regulations regarding licensing requirements, we have entered into a series of agreements with our consolidated affiliated Chinese entities to maintain our operational control over them and secure consulting fees and other payments from them. Although we have been advised by our PRC counsel, Commerce & Finance Law Offices, that our contractual arrangements with our consolidated affiliated Chinese entities, as described in this annual report, are valid under current PRC laws and regulations, as there is substantial uncertainty regarding the interpretation and application of PRC laws and regulations, we cannot assure you that the PRC government would agree with our counsel's position or that we will not be required to restructure our organizational structure and operations in China to comply with changing and new PRC laws and regulations. Restructuring of our operations may result in disruption of our business, diversion of management attention and the incurrence of substantial costs. See "Item 3.D. Key Information — Risk Factors — Risks Relating to Our Corporate Structure — Our business may be significantly affected by the new PRC Foreign Investment Law."



***The continued growth of the Chinese internet market depends on the development of telecommunications infrastructure.***

Although private sector internet service providers currently exist in China, almost all access to the internet is maintained through state-owned telecommunication operations under MIIT's administrative control and regulatory supervision. In addition, the national networks in China connect to the internet through government-controlled international gateways. These international gateways are the only channels through which a domestic PRC user can connect to the international internet network. We rely on this infrastructure, primarily China Telecom and China Unicom, to provide data communications capacity. Although the PRC government has announced plans to aggressively develop the national information infrastructure, we cannot assure you that this infrastructure will be developed, or that it will be sufficiently upgraded to meet the specifications of the existing or future technological advancement, such as 5G internet. In addition, we will have no access to alternative networks and services, on a timely basis if at all, in the event of any infrastructure disruption or failure. The internet infrastructure in China may not support the demands associated with continued growth in internet usage.

In addition, we have no control over the costs of the services provided by telecommunication service providers. If the prices we pay for telecommunications and internet services rise significantly, our results of operations may be materially and adversely affected. Furthermore, if internet access fees or other charges to internet users increase, some users may be prevented from accessing the mobile internet and thus cause the growth of mobile internet users to decelerate. Such deceleration may adversely affect our ability to continue to expand our user base and maintain our user experience.

***Our auditor, like other independent registered public accounting firms operating in China, is not permitted to be subject to inspection by Public Company Accounting Oversight Board, and as such, investors may be deprived of the benefits of such inspection.***

Our independent registered public accounting firm that issues the audit reports included in our annual reports filed with the SEC, as an auditor of companies that are traded publicly in the United States and a firm registered with the Public Company Accounting Oversight Board (United States), or PCAOB, is required by the laws of the United States to undergo regular inspections by PCAOB to assess its compliance with the applicable professional standards. Because our auditor is located in China, a jurisdiction where PCAOB is currently unable to conduct inspections without the approval of the PRC authorities, our auditor, like other independent registered public accounting firms operating in China, is currently not inspected by PCAOB. On December 7, 2018, SEC and PCAOB issued a joint statement highlighting continued challenges faced by the U.S. regulators in their oversight of financial statement audits of U.S.-listed companies with significant operations in China. The joint statement reflects a heightened interest in an issue that has vexed U.S. regulators in recent years. However, it remains unclear what further actions SEC and PCAOB will take to address the problem.

Inspections of other firms that PCAOB has conducted outside of China have identified deficiencies in those firms' audit procedures and quality control procedures, which may be addressed as part of the inspection process to improve future audit quality. This lack of PCAOB inspections in China prevents the PCAOB from fully evaluating audits and quality control procedures of our independent registered public accounting firm. As a result, investors in the ADSs are deprived of the benefits of such PCAOB inspections. The inability of the PCAOB to conduct inspections of auditors in China makes it more difficult to evaluate the effectiveness of our independent registered public accounting firm's audit procedures or quality control procedures as compared to auditors outside of China that are subject to PCAOB inspections, which could cause investors and potential investors in our stock to lose confidence in our audit procedures and reported financial information and the quality of our financial statements.

As part of a continued regulatory focus in the United States on access to audit and other information currently protected by national law, in particular China's, in June 2019, a bipartisan group of lawmakers introduced bills in both houses of the U.S. Congress, which if passed, would require the SEC to maintain a list of issuers for which PCAOB is not able to inspect or investigate an auditor report issued by a foreign public accounting firm. The proposed Ensuring Quality Information and Transparency for Abroad-Based Listings on our Exchanges (EQUITABLE) Act prescribes increased disclosure requirements for these issuers and, beginning in 2025, the delisting from U.S. national securities exchanges of issuers included on the SEC's list for three consecutive years. Enactment of this legislation or other efforts to increase U.S. regulatory access to audit information could cause investor uncertainty for affected issuers, including us, and the market price of our ADSs could be adversely affected. It is unclear if this proposed legislation would be enacted. Furthermore, there has been recent media reports on deliberations within the U.S. government regarding potentially limiting or restricting China-based companies from accessing U.S. capital markets. If any such deliberations were to materialize, the resulting legislation may have material and adverse impact on the stock performance of China-based issuers listed in the United States.

***Proceedings instituted by SEC against the PRC affiliates of the Big Four accounting firms, including our independent registered public accounting firm, could result in our financial statements being determined to not be in compliance with the requirements of the Securities Exchange Act of 1934, as amended.***

Starting in 2011, the PRC affiliates of the Big Four accounting firms, including our independent registered public accounting firm, were affected by a conflict between U.S. and PRC law. Specifically, for certain U.S.-listed companies operating and audited in mainland China, the SEC and the PCAOB sought to obtain from the PRC firms access to their audit work paper and other related documents. The firms were, however, advised and directed that under PRC law, they could not respond directly to the U.S. regulators on those requests, and that requests by foreign regulators for access to such papers in China had to be channeled through China Securities Regulatory Commission, or CSRC.

In December 2012, SEC brought administrative proceedings against the Big Four accounting firms, including our independent registered public accounting firm in China, alleging that they had refused to produce audit work papers and other documents related to certain other China-based companies under SEC's investigation for potential accounting fraud. On January 22, 2014, an initial administrative law decision, or Initial Decision, was issued, censuring these accounting firms and suspending four of the five firms from practicing before SEC for a period of six months. The accounting firms filed a Petition for Review of the Initial Decision to SEC. On February 6, 2015, the Big Four China-based accounting firms each agreed to a censure and to pay a fine to SEC to settle the dispute and avoid suspension of their ability to practice before SEC and audit U.S.-listed companies. The settlement required the firms to follow detailed procedures and to seek to provide SEC with access to PRC firms' audit documents via the China Securities Regulatory Commission, or CSRC. If future document productions fail to meet specified criteria, during a period of four years starting from the settlement date, the SEC retained authority to impose a variety of additional remedial measures on the firms depending on the nature of the failure.

While we cannot predict if SEC will further review the four China-based accounting firms' compliance with specified criteria or if the results of such a review would result in SEC imposing penalties such as suspensions or restarting the administrative proceedings, if the accounting firms are subject to additional remedial measures, our ability to file our financial statements in compliance with SEC requirements could be impacted. A determination that we have not timely filed financial statements in compliance with SEC requirements could ultimately lead to the delisting of our ADSs from Nasdaq or the termination of the registration of our ADSs under the Securities Exchange Act of 1934, as amended, or the Exchange Act, or both, which would substantially reduce or effectively terminate the trading of our ADSs in the United States.

**Risks Relating to Our Ordinary Shares and ADSs**

***The future sales of a substantial number of ADSs in the public market could adversely affect the price of the ADSs.***

In the future, we may sell additional ADSs to raise capital, and our existing shareholders could sell substantial amounts of the ADSs, including those issued upon the exercise of outstanding options, in the public market. We cannot predict the size of such future issuance or the effect, if any, that they may have on the market price of the ADSs. Any future sales of a substantial number of the ADSs in the public market, or the perception that such issuance and sale may occur, could adversely affect the price of the ADSs and impair our ability to raise capital through the sale of additional equity securities.

***Provisions of our convertible notes could discourage an acquisition of us by a third party.***

As of December 31, 2019, the aggregate principal amount of our outstanding convertible notes was US\$2.4 billion. Certain provisions of our convertible notes could make it more difficult or more expensive for a third party to acquire us. The indentures for these convertible notes define a "fundamental change" to include, among other things: (i) any person or group gaining control of our company; (ii) our company merging with or into another company or disposing of substantially all of its assets; (iii) any recapitalization, reclassification or change of our ordinary shares or the ADSs as a result of which these securities would be converted into, or exchanged for, stock, other securities, other property or assets; (iv) the adoption of any plan relating to the dissolution or liquidation of our company; or (v) our ADSs ceasing to be listed on a major U.S. national securities exchange in certain circumstances, subject to certain exceptions where the applicable consideration comprises U.S.-listed common equity or ADSs. Upon the occurrence of a fundamental change, holders of these notes will have the right, at their option, to require us to repurchase all of their notes or any portion of the principal amount of such notes in integral multiples of US\$1,000. In the event of a fundamental change, we may also be required to issue additional ADSs upon conversion of our convertible notes.

***As a company incorporated in the Cayman Islands, we are permitted to adopt certain home country practices in relation to corporate governance matters that differ significantly from the Nasdaq corporate governance listing standards; these practices may afford less protection to shareholders than they would enjoy if we complied fully with the Nasdaq corporate governance listing standards.***

As a Cayman Islands company listed on the Nasdaq, we are subject to the Nasdaq corporate governance listing standards. However, Nasdaq rules permit a foreign private issuer like us to follow the corporate governance practices of its home country. Certain corporate governance practices in the Cayman Islands, which is our home country, may differ significantly from the Nasdaq corporate governance listing standards. As we have chosen, or may from time to time to choose, to follow home country practice exemptions with respect to certain corporate matters such as the requirement of majority independent directors on our board of directors, our shareholders may be afforded less protection than they otherwise would under the Nasdaq corporate governance listing standards applicable to U.S. domestic issuers. See “Item 16G. Corporate Governance.”

***You may face difficulties in protecting your interests, and our ability to protect our rights through the U.S. federal courts may be limited, because we are incorporated under Cayman Islands law.***

Our corporate affairs are governed by our memorandum and articles of association and by the Companies Law (2020 Revision) of the Cayman Islands, or the Companies Law, and the common law of the Cayman Islands. The rights of our shareholders and the fiduciary duties of our directors under Cayman Islands law are not as clearly established as they would be under statutes or judicial precedents in some jurisdictions in the United States. In particular, the Cayman Islands has a less developed body of securities laws as compared to the United States. Therefore, our public shareholders may have more difficulties in protecting their interests in the face of actions by our management, directors or controlling shareholders than would shareholders of a corporation incorporated in a jurisdiction in the United States.

***Your ability to bring an action against us or against our directors and officers, or to enforce a judgment against us or them, may be limited because we are incorporated in the Cayman Islands, and because we conduct the majority of our operations in China and because the majority of our directors and officers reside outside of the United States.***

We are incorporated in the Cayman Islands, and we conduct the majority of our operations in China through our wholly-owned subsidiaries and several consolidated affiliated Chinese entities in China. Most of our directors and officers reside outside of the United States and most of the assets of those persons are located outside of the United States. As a result, it may be difficult for you to bring an action in the United States upon these persons. It may also be difficult for you to enforce in United States courts judgments obtained in United States courts based on the civil liability provisions of the United States federal securities laws against us and our officers and directors, most of whom are not residents in the United States and the substantial majority of whose assets are located outside of the United States. Even if you are successful in bringing an action of this kind, the laws of the Cayman Islands or China may render you unable to enforce a judgment against our assets or the assets of our directors and officers.

***The voting rights of holders of ADSs are limited by the terms of the deposit agreement, and you may not be able to exercise your right to direct how the ordinary shares represented by your ADSs are voted.***

As a holder of ADSs, you will not have any right to attend general meetings of our shareholders or to cast any votes directly at such meetings. You will only be able to exercise the voting rights that attach to the underlying ordinary shares represented by your ADSs indirectly by giving voting instructions to the depositary in accordance with the provisions of the deposit agreement. Under the deposit agreement, you may vote only by giving voting instructions to the depositary, as the registered holder of the underlying ordinary shares which are represented by your ADSs. Upon receipt of your voting instructions, the depositary will endeavor to vote the underlying ordinary shares in accordance with your instructions. You will not be able to directly exercise any right to vote with respect to the underlying shares unless you withdraw the shares and become the registered holder of such shares prior to the record date for the general meeting. Under our memorandum and articles of association, the minimum notice period required to be given by our company to our registered shareholders for convening a general meeting is seven days. When a general meeting is convened, you may not receive sufficient advance notice to enable you to withdraw the underlying shares represented by your ADSs and become the registered holder of such shares prior to the record date for the general meeting to allow you to attend the general meeting and to vote directly with respect to any specific matter or resolution that is to be considered and voted upon at the general meeting. In addition, under our memorandum and articles of association, for the purposes of determining those shareholders who are entitled to attend and vote at any general meeting, our directors may close our register of members and/or fix in advance a record date for such meeting, and such closure of our register of members or the setting of such a record date may prevent you from withdrawing the underlying shares which are represented by your ADSs and becoming the registered holder of such shares prior to the record date, so that you would not be able to attend the general meeting or to vote directly. Where any matter is to be put to a vote at a general meeting, the depositary will endeavor to notify you of the upcoming vote and arrange to deliver our voting materials to you. We cannot assure you that you will receive the voting materials in time to ensure that you can instruct the depositary to vote the underlying shares that are represented by your ADSs. In addition, the depositary and its agents are not responsible for failing to carry out voting instructions or for the manner of carrying out voting instructions. This means that you may not be able to exercise your right to direct the voting of the underlying shares that are represented by your ADSs and there may be nothing you can do if the shares underlying your ADSs are not voted as you requested.

Under our deposit agreement, the depositary will give us a discretionary proxy to vote the ordinary shares underlying your ADSs at shareholders' meetings if you do not vote, unless we have instructed the depositary that we do not wish a discretionary proxy to be given or any of the other situations specified under the deposit agreement takes place. The effect of this discretionary proxy is that you cannot prevent ordinary shares underlying your ADSs from being voted, absent the situations described above, and it may make it more difficult for shareholders to influence the management of our company. Holders of our ordinary shares are not subject to this discretionary proxy.

***Your right to participate in any future rights offerings may be limited, which may cause dilution to your holdings.***

We may from time to time distribute rights to our shareholders, including rights to acquire our securities. However, we cannot make rights available to you in the United States unless we register the rights and the securities to which the rights relate under the Securities Act of 1933, as amended, or the Securities Act, or an exemption from the registration requirements is available. Also, under the deposit agreement, the depositary bank will not make these rights available to you unless the distribution to ADS holders of both the rights and any related securities are either registered under the Securities Act, or exempt from registration under the Securities Act. We are under no obligation to file a registration statement with respect to any such rights or securities or to endeavor to cause such a registration statement to be declared effective. Moreover, we may not be able to establish an exemption from registration under the Securities Act. Accordingly, you may be unable to participate in our rights offerings and may experience dilution in your holdings.

***You may not receive distributions on ordinary shares or any value for them if it is illegal or impractical to make them available to you.***

The depositary has agreed to pay to you the cash dividends or other distributions it or the custodian receives on ordinary shares or other deposited securities after deducting its fees and expenses. You will receive these distributions in proportion to the number of ordinary shares your ADSs represent. However, the depositary is not responsible if it decides that it is unlawful or impractical to make a distribution available to any holders of ADSs. We have no obligation to register ADSs, ordinary shares, rights or other securities under U.S. securities laws. We also have no obligation to take any other action to permit the distribution of ADSs, ordinary shares, rights or anything else to holders of ADSs. This means that you may not receive the distribution we make on our ordinary shares or any value for them if it is illegal or impractical for us to make them available to you. These restrictions may have a material adverse effect on the value of your ADSs.

***You may be subject to limitations on transfer of your ADSs.***

Your ADSs are transferable on the books of the depository. However, the depository may close its transfer books at any time or from time to time when it deems expedient in connection with the performance of its duties. In addition, the depository may refuse to deliver, transfer or register transfers of ADSs generally when our books or the books of the depository are closed, or at any time if we or the depository thinks it advisable to do so because of any requirement of law or of any government or governmental body, or under any provision of the deposit agreement, or for any other reason.

***Provisions of our shareholder rights plan could delay or prevent an acquisition of our company, even if the acquisition would be beneficial to our shareholders.***

In November 2007, we adopted a shareholder rights plan, which was subsequently amended. Although the rights plan will not prevent a takeover, it is intended to encourage anyone seeking to acquire our company to negotiate with our board of directors prior to attempting a takeover by potentially significantly diluting an acquirer's ownership interest in our outstanding shares. The existence of the rights plan may also discourage transactions that otherwise could involve payment of a premium over prevailing market prices for the ADSs.

***There can be no assurance that we will not be classified as a passive foreign investment company, or PFIC, which may result in adverse U.S. federal income tax consequences for U.S. holders of the ADSs or ordinary shares.***

A non-U.S. corporation, such as our company, will be classified as a PFIC for U.S. federal income tax purposes for any taxable year, if either (i) 75% or more of its gross income for such year consists of certain types of "passive" income or (ii) 50% or more of the value of its assets (determined on the basis of a quarterly average) during such year produce or are held for the production of passive income. Passive income generally includes dividends, interest, royalties, rents, annuities, net gains from the sale or exchange of property producing such income, and net foreign currency gains. For this purpose, cash is categorized as a passive asset and the company's unbooked intangibles associated with active business activity are taken into account as a non-passive asset.

Based on our income and assets, and the value of our ADSs, we do not believe that we were classified as a PFIC for the taxable year ending December 31, 2019 and we do not expect to be a PFIC for the foreseeable future. Although we do not anticipate becoming a PFIC, changes in the nature of our income or assets or the value of our ADSs may cause us to become a PFIC for the current or any subsequent taxable year. Recent fluctuations in the market price of our ADSs or ordinary shares increased our risk of becoming a PFIC. The market price of the ADSs and ordinary shares may continue to fluctuate considerably; consequently, we cannot assure you of our PFIC status for any taxable year. Under circumstances where revenues from activities that produce passive income significantly increase relative to our revenues from activities that produce non-passive income, or where we determine not to expend significant amounts of cash for working capital or other purposes, our risk of becoming classified as a PFIC may substantially increase.

If we were treated as a PFIC for any taxable year during which a U.S. Holder (as defined in "Item 10.E. Additional Information — Taxation — U.S. Federal Income Tax Considerations") held our ADSs or ordinary shares, certain adverse U.S. federal income tax consequences could apply to such U.S. Holder. For a more detailed discussion of U.S. federal income tax considerations to U.S. Holders if we are or become classified as a PFIC, see "Item 10.E. Additional Information — Taxation — U.S. Federal Income Tax Considerations."

#### **ITEM 4. INFORMATION ON THE COMPANY**

##### ***A. History and Development of the Company***

We commenced our business in June 1999. In March 2000, we established an exempted company with limited liability under the Companies Law in the Cayman Islands, Ctrip.com International, Ltd. as our new holding company. In October 2019, we changed our company name to "Trip.com Group Limited." Since our inception, we have conducted the majority of our operations in China and expanded our operations overseas in 2009. As of December 31, 2019, we mainly operated our business through the following significant subsidiaries:

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- C-Travel International Limited;
- Ctrip.com (Hong Kong) Limited;
- Ctrip Computer Technology (Shanghai) Co., Ltd., or Ctrip Computer Technology;
- Ctrip Travel Information Technology (Shanghai) Co., Ltd., or Ctrip Travel Information;
- Ctrip Travel Network Technology (Shanghai) Co., Ltd., or Ctrip Travel Network;
- Wancheng (Shanghai) Travel Agency Co., Ltd., or Wancheng;
- Shanghai Hecheng International Travel Agency Co., Ltd., or Hecheng;
- Skyscanner Holdings Limited, or Skyscanner;
- Shanghai Ctrip International Travel Agency Co., Ltd. (formerly known as Shanghai Ctrip Charming International Travel Agency Co., Ltd.), or Shanghai Ctrip;
- Chengdu Ctrip International Travel Agency Co., Ltd., or Chengdu Ctrip International; and
- Chengdu Information Technology Co., Ltd., or Chengdu Information.

After our share exchange transaction with Baidu in October 2015, we obtained approximately 45% of the aggregate voting interest of Qunar. In December 2015, we issued ordinary shares represented by ADSs to certain special purpose vehicles holding shares solely for the benefit of certain Qunar employees and, as consideration, we received class B ordinary shares of Qunar and directly injected these shares to a third-party investment entity dedicated to investing in business in China. From accounting perspective, we started to consolidate Qunar's financial statements from December 31, 2015. Therefore, Qunar Cayman Islands Limited, the Cayman Islands holding company of Qunar, and its wholly-owned subsidiary, Beijing Qunar Software Technology Co., Ltd., or Qunar Software, may also be deemed as our significant subsidiary from accounting perspective, although Qunar continues to operate its businesses independently.

We also conduct part of our business in China primarily through the following significant consolidated affiliated Chinese entities and certain of their subsidiaries:

- Shanghai Ctrip Commerce Co., Ltd., or Ctrip Commerce, which holds a value-added telecommunications business license;
- Chengdu Ctrip Travel Agency Co., Ltd, or Chengdu Ctrip, which holds a domestic travel agency license; and
- Shanghai Huacheng Southwest International Travel Agency Co., Ltd. (formerly known as Shanghai Huacheng Southwest Travel Agency Co., Ltd.), or Shanghai Huacheng, which holds a domestic travel agency license.

In addition, after we started to consolidate the financial statements of Qunar from December 31, 2015, Beijing Qu Na Information Technology Co., Ltd., or Qunar Beijing, which holds the licenses, approvals and key assets such as mobile application and website that are essential to the business operations of Qunar, may be deemed as our significant consolidated affiliated Chinese entity from accounting perspective, although Qunar continues to operate its businesses independently.

From time to time, we have selectively acquired or invested in businesses that complement our existing business, and will continue to do so in the future to expand and develop our business. See "Item 4.B. Information on the Company — Business Overview — Strategic Investments and Acquisitions" for material strategic investments and acquisitions over the past two years. Other than the material acquisitions or investments disclosed under "Item 4.B. Information on the Company — Business Overview — Strategic Investments and Acquisitions" or elsewhere in this annual report on Form 20-F, no acquisitions or investments was material to our businesses or financial results at the time we made the acquisition or investment.

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We offered inducements to the holders of the 2017 Notes and the 2018 Notes for early conversion. As a result, for the years ended December 31, 2016 and 2017, approximately US\$26 million and US\$352 million aggregate principal amount of the 2017 Notes and the 2018 Notes were early converted to approximately 2.6 million and 10.8 million ADSs, respectively, at the respective initial conversion rates of the 2017 Notes and the 2018 Notes. Such early conversion also resulted in an early termination of the 2012 Purchased Call Option and the 2013 Purchased Call Option, from which we received approximately US\$12 million and US\$100 million in 2016 and 2017, respectively. In June 2017, we also entered into privately negotiated exchange transactions with a limited number of holders of the 2018 Notes to exchange approximately US\$327 million aggregate principal amount of then outstanding 2018 Notes for a combination of our ADSs and cash.

In July 2019, we entered into a facility agreement as a borrower with certain financial institutions for up to US\$2.0 billion equivalent transferable term loan facility with a greenshoe option of up to US\$500 million. The facilities have a 3-year tenor. The proceeds borrowed under such facilities may be used for our general working capital requirements, including repayment of any existing financial indebtedness.

In September 2019, we completed put right offer relating to the 2022 Notes. US\$924 million aggregate principal amount of the 2022 Notes were validly surrendered and not withdrawn prior to the expiration of the put right offer. The aggregate purchase price of these 2022 Notes was US\$924 million. Following the settlement of repurchase of these 2022 Notes, our total number of ordinary shares on a fully diluted basis reduced by 1.8 million shares.

In October 2019, we completed a secondary offering of an aggregate of 36,000,000 ADSs, which included the exercise in full by the underwriters of their option to purchase up to 4,695,648 additional ADSs to cover over-allotment, by our shareholder Baidu Holdings Limited at US\$28.00 per ADS. We did not issue or sell any ADSs in the offering or receive any proceeds from the sale of the ADSs by the selling shareholder.

In April 2020, we entered into a facility agreement as a borrower with certain financial institutions for up to US\$1.0 billion transferrable term and revolving loan facility with an incremental facility of up to US\$500 million. The facilities have a 3-year tranche and a 5-year tranche. The proceeds borrowed under the facilities may be used for our general working capital requirements, including repayment of any existing financial indebtedness.

Effective December 1, 2015, we changed our ADS to ordinary share ratio from four ADS representing one ordinary share to eight ADSs representing one ordinary share. Unless otherwise indicated, ADSs and per ADS amount in this annual report have been retroactively adjusted to reflect the changes in ratio for all periods presented.

Our principal executive offices are located at 968 Jin Zhong Road, Shanghai 200335, People's Republic of China, and our telephone number is +86 (21) 3406-4880. Our agent for service of process in the United States is CT Corporation System. Our principal website address is [www.ctrip.com](http://www.ctrip.com). The information on our websites should not be deemed to be part of this annual report. SEC also maintains a website at [www.sec.gov](http://www.sec.gov) that contains reports, proxy and information statements, and other information regarding registrants that make electronic filings with SEC using its EDGAR system.

### B. *Business Overview*

We are a leading travel service provider for accommodation reservation, transportation ticketing, packaged tours and corporate travel management. We aggregate hotel and transportation information to enable business and leisure travelers to make informed and cost-effective bookings. We help leisure travelers book tour packages and guided tours, and help corporate clients effectively manage their travel requirements. In addition, we offer a variety of other travel-related services, including but not limited to travelers' reviews, attraction tickets, travel-related financing and car services, and travel insurance and visa services to meet the various booking and travelling needs of both leisure and business travelers. Since inception in 1999, we have become one of the best-known travel brands in China capable of providing truly one-stop travel services. Our leading market position has been further strengthened since our investment in Qunar, one of the leading mobile and online commerce platforms for travel in China. Qunar has been operating independently as a travel service provider after our investment.

We pioneered the development of a reservation and fulfillment infrastructure that enables our customers to:

- choose and reserve hotel rooms in cities throughout China and abroad;
- book and purchase transportation tickets for domestic and international flights and trains;

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- choose and reserve packaged tours that include transportation and accommodations, as well as guided tours and other value-added services in some instances; and
- book and purchase other travel-related services for their leisure and business travels.

Meanwhile, Qunar continued its independent innovation of technology capabilities, leveraging its proprietary mobile applications, the complementary SaaS system and its search services, to provide more efficient and comprehensive services and accelerate its network effect.

We target our services primarily at business and leisure travelers in China who do not travel in groups, catering for their increasing needs for both domestic and international travel with an emphasis on the latter to enable us to quickly adjust to the changing market environment. These types of travelers, who are referred to in the travel industry as frequent independent travelers, or FITs, and whom we refer to as independent travelers in this annual report, form a traditionally under-served yet fast-growing segment of the China travel market, and we saw opportunities of growth from this segment's need for international travel. We present substantially all of our revenues on a net basis as the travel supplier is primarily responsible for providing the underlying travel services and we do not control the service provided by the travel supplier to the traveler. Revenues are recognized at gross amounts where we undertake substantive inventory risks by pre-purchasing inventories, the amounts which were not significant these years. We derive our accommodation reservation, transportation ticketing and packaged-tour revenues mainly through commissions from our travel suppliers, primarily based on the transaction value of the rooms, transportation tickets and packaged-tour products, respectively, booked through our services.

We believe that we are the largest consolidator of hotel accommodations in China in terms of gross merchandise volume. As of December 31, 2019, we had secured room supply relationships with approximately 1.4 million hotels in China and abroad, which covered a broad range of hotels in terms of prices and geographical locations. Through strategic cooperation arrangements with other leading online accommodation reservation service providers in recent years, we expanded our overseas hotel network by gaining access to more international hotels on these platforms through our accommodation reservation services. The quality and depth of our hotel supplier network enable us to offer our customers a wide selection of hotel accommodations. We believe our ability to offer reservations at highly rated hotels is particularly appealing to our customers. The hotel business of Qunar, which covers a wide range of hotels from upscale hotels to mass-market hotels to family-run and small boutique hotels, has begun to benefit from our hotel accommodation capabilities by accessing our high-end hotel supplies.

We believe that we are the largest consolidator of airline tickets and the top air tickets distribution agency in China in terms of gross merchandise volume of airline tickets booked and sold through us. Our airline ticket suppliers include all major PRC airlines and over 300 international airlines that operate flights originating in cities at home and abroad, and offer over 3 million flight routes, connecting over 5,000 cities in approximately 200 countries and regions. Partnering with over 1,000 third-party travel service providers, we are among the few airline ticket consolidators in China that maintain a centralized reservation system and ticket fulfillment infrastructure covering substantially all of the economically prosperous regions of China. Our customers can make flight reservations on their chosen routes through mobile platform, internet websites and customer service centers and arrange electronic payment. In addition, we provide the same levels of centralization and convenience to customers seeking to make reservations on their chosen train and bus routes. We believe that we have realized a notable innovation in our transportation ticketing services, namely, our integrated product offering of air, train, and bus tickets. The number of international airline ticket sales transactions through our platform grew significantly in 2019.

Our continuing development of an advanced and centralized system further strengthens our cross-selling strategy. When users search for any of the three transportation products on our database, our system can automatically provide the recommendations to the other two transportation modes with the same dates, origins and destinations. This capability significantly helps our customers to streamline their decision-making process in searching for the most convenient, cost-efficient transportation.



We also offer independent leisure travelers bundled packaged-tour products, including group tours, semi-group tours, customized tours, and packaged tours with different transportation arrangements, such as flights, cruises, buses, or car rental. We are the top packaged-tour operator in China in terms of online market share and most recognized brand in China's outbound travel services. We also have offline stores to provide local service support and reach out to users who are otherwise difficult to be converted to customers through online channel, especially in the lower-tier cities in China. We provide integrated transportation and accommodation services through cooperation with nearly 30,000 platform partners, and offer a variety of value-added services including transportation at destinations, as well as attraction tickets, local activities, insurance, visa services and tour guides. We offer customers one-stop services to meet their needs before, during and after their trips. We also provide high quality customer services, supplier management and customer relationship management services. Our packaged-tour products cover a variety of domestic and international destinations.

We have been building up a multifaceted ecosystem within the travel section, and offer our services to customers through an advanced transaction and service platform consisting of our multi-lingual websites, mobile platform, and our centralized, 24-hour customer service centers. We have built up an industry-leading mobile platform which enhances user experience and user engagement. We have had billions of cumulative downloads for our mobile application by the end of 2019. In addition, our 24-hour service centers, which provide responsive and high quality customer services, further differentiate us from other online travel service providers. In 2019, transactions effected through our mobile channel accounted for over 80% of our transaction orders.

We operate an open platform to further bridge the gap between travelers and travel suppliers with a diverse range of products and services. Travel suppliers ranging from airlines and third-party travel agencies to e-commerce websites offering travel products and services can list their inventories on our open platform to expand their business opportunities. We also offer high quality supplier management services and technology and financial support to enhance supplier experience and encourage supplier participation on the open platform. In addition, we offer high quality customer service to travelers for all the products and services they purchase through our open platform. We believe that our open platform helps us expand the number and types of products and services available to travelers and enhance our price competitiveness, and further build and strengthen the vibrant travel ecosystem on our open platform.

Our revenues are primarily generated from the accommodation reservation, transportation ticketing, packaged-tour services, and corporate travel. For information on revenues attributable to our different products and services, see "Item 5.A. Operating and Financial Review and Prospects — Operating Results."

### **Products and Services**

We began offering accommodation reservation and transportation ticketing in October 1999. In 2019, we derived approximately 38% of our revenues from the accommodation reservation business and 39% of our revenues from the transportation ticketing business. In addition, we offer other products and services including packaged tours, mostly bundled by us, that cover hotel, ticketing, and transportation as well as corporate travel management services. As part of our global cooperation with TripAdvisor agreed in November 2019, we have distributed and may continue to distribute selected TripAdvisor content on our major brands.

*Accommodation Reservations.* We act as an agent in substantially all of our hotel-related transactions. Most of our customers make prepayments to us, while others receive confirmed bookings first and pay hotels directly upon completion of their stays. For some of our hotel suppliers, we earn pre-negotiated fixed commissions on hotel rooms we sell. For other hotels, we have commission arrangements that we refer to as the "ratchet system," whereby our commission rate per room night is adjusted upward with the increase in the volume of room nights we sell for such hotel during such month.

We contract with hotels for rooms under two agency models, the "guaranteed allotment" model and the "on-request" model. Hotel suppliers would generally notify us in advance if they have promotional sales, so that we can lower our prices accordingly.

In addition to the agreements that we enter into with all of our hotel suppliers, we enter into a supplemental agreement with each of the hotel suppliers with which we have a guaranteed allotment arrangement. Pursuant to this agreement, a hotel guarantees us a specified number of available rooms every day, allowing us to provide instant confirmations on such rooms to our customers before notifying the hotel. The hotel is required to notify us in advance if it will not be able to make the guaranteed rooms available to our customers due to reasons beyond its control.

As of December 31, 2019, a significant number of our partnered hotels in China had guaranteed room allotments, allowing us to confirm orders instantly and reserve rooms for our users even during peak seasons. Rooms booked in hotels with which we have a guaranteed allotment arrangement currently account for a significant part of our total hotel room transaction volume. With the remaining hotel suppliers, we book rooms on an “on-request” basis, meaning our ability to secure hotel rooms for our customers is subject to room availability at the time of booking.

*Transportation Ticketing.* Transportation Ticketing revenues mainly represent revenues from reservation of air tickets, railway-tickets and other related services. We sell air tickets as an agent for all major domestic PRC airlines, such as Air China, China Eastern Airlines, and China Southern Airlines and many international airlines operating flights that originate from cities at home and abroad, such as Cathay Pacific, Singapore Airlines, American Airlines, Lufthansa, Emirates Airlines, Qantas Airways, Air France-KLM, and Delta Air Lines. We also provide other related service to our customers, such as sales of aviation and train insurance, air-ticket delivery services, online check-in, and other value-added services, such as online seat selection, express security check, and real-time flight status.

Our customers can book tickets through our mobile platform, internet websites and customer service centers and make payment electronically. The domestic airline industry, including airline ticket pricing, is regulated by CAAC.

*Packaged-Tours.* We also offer independent leisure travelers bundled packaged-tour products, including group tours, semi-group tours, customized tours and packaged tours with different transportation arrangements, such as flights, cruises, buses and car rental. We provide integrated transportation and accommodations services and offer a variety of value-added services including transportation at destinations, as well as attraction tickets, local activities, insurance, visa services and tour guides. We offer customers one-stop services to meet their needs before, during and after their trips. We also provide high quality customer services, supplier management and customer relationship management services. Our packaged-tour products cover a variety of domestic and international destinations.

*Corporate Travel.* We provide transportation ticket booking, accommodation reservation, packaged-tour services and other value-added services to our corporate clients to help them plan business travels in a cost-efficient way. In addition, we also provide our corporate clients with travel data collection and analysis, industry benchmark, cost saving analysis and travel management solutions. We have independently developed the Corporate Travel Management Systems, which is a comprehensive online platform integrating information maintenance, online booking, online authorization, online enquiry and travel report system.

*Other Businesses.* Our other businesses primarily include online advertising services and financial services.

In December 2017, we started a new partnership with Tennis Australia, the governing body for tennis in Australia, which will allow Chinese fans to purchase Australian Open tickets directly through our online platform. In addition, in January 2018, we formed a partnership with the Booking’s OpenTable, which will allow our mobile application users to book tens of thousands of restaurants across North America. Other products and services accounted for a small portion of our total revenues in 2019.

## **Seasonality**

Our business experiences fluctuations, reflecting seasonal variations in demand for travel services. See “Item 5.A. Operating and Financial Review and Prospects — Operating Results” for a discussion of seasonality in the travel industry.

## **Transaction and Service Platform**

Our customers can reach us for their travel-related needs through either our mobile platform, our multi-lingual websites or our customer service centers. In 2019, transactions executed through our mobile channel accounted for over 80% of our transaction orders. To improve the efficiency of our service platform and expand our business opportunities, we have made some technology improvements, such as enhanced international flight search capability, expanded payment methods and virtual desktop technology, which is deployed and in operation for our customer service centers.

*Mobile Platform.* Our mobile booking application and other mobile access channels provide a one-stop travel platform to our customers who search for hotels, flights, trains, car rental, tickets and other travel products, and completes bookings within minutes. Mobile applications enable our customers to make bookings more efficiently and have fueled our business growth in new direction. Our customers can also search for travel-related editorial content about destinations and travel tips through the mobile platform. Moreover, travelers can share their travel experience and micro-blogs with others through our community. We first introduced mobile applications in 2010. Since then we have upgraded mobile applications, added new functions into it on a regular basis and engaged celebrities to promote our brands and mobile platform. We have had billions of cumulative downloads for our mobile application by the end of 2019 with a significant portion of our hotel and air ticket transactions executed on it on a daily basis. Users can also enjoy similar convenient services by accessing our mobile platform via other mobile access channels, such as HTML5.

In 2013, we developed a corporate travel mobile application, which was the first of its kind in China and provides efficiency to corporate travelers. The application has extensive booking capabilities that match the personal preference of the traveler with their companies' travel policies. It also features "smart itinerary" and "travel update" functions to ensure users are informed immediately of any changes to their journey. Users of this application may also enjoy our call center support 24 hours a day, seven days a week. In 2017, we introduced mobile application for Trip.com, with which users can book hotels, air tickets and train tickets in 26 different currencies as of the date of this annual report.

*Internet Websites.* Through our internet websites, we continue improving shopping experience in hotel accommodations, flight tickets, vacation packages, train tickets, and other travel products to our customers.

We have been constantly upgrading our open platform, so that our suppliers and partners are connected to us more efficiently. We have opened up our system to international partners, search engines, e-commerce websites and affiliated websites to expand business opportunities. We have made great efforts to enhance our price competitiveness by improving the efficiency of our IT system and by working closely with major airlines, numerous air ticketing agencies and accommodation suppliers, and thousands of destination business partners through the open platform.

We maintain our main website in Chinese at [www.ctrip.com](http://www.ctrip.com) and our global website in English at [www.trip.com](http://www.trip.com). Over time, we also established localized websites outside the Greater China, specifically targeting Japan, Korea, Singapore, Indonesia, Thailand, Malaysia, Russia, Vietnam, Israel, Saudi Arabia, United Arab Emirates, United Kingdom, France, Germany, Spain, Italia, Netherlands, Poland, Greece, Turkey, Australia, New Zealand, Brazil, and United States markets.

We consolidate and organize travel-related information for our consumers, including hotel reviews, travel blogs and community forums. Destination guides and community users actively search for travel information on our websites. Our customers refer to editorial content for destination research and travel tips.

*Customer Service Centers.* We have customer service centers located in China and abroad, such as Shanghai, Nantong, Tokyo, Seoul, and Edinburgh. They operate 24 hours a day, seven days a week. Unlike some companies in the United States that outsource their customer service to third-party call centers, our customer service representatives are in-house travel specialists. All of our customer service representatives participated in a formal training program before commencing work.

### **Marketing and Brand Awareness**

Through mobile and online marketing, brand promotion, cross-marketing, and customer rewards program, we have created a strong brand that is commonly associated in China with value travel products and services and superior customer service. We will continue to use our focused marketing strategy to further enhance awareness of our brand and acquire new customers.

*Mobile Marketing.* We have worked with major internet portals and leading mobile applications in their respective sectors to advertise locally and also have worked with top smart phone manufacturers to increase the number of our app downloads and promote more activations and transactions. In addition, we are actively testing all kinds of innovative and rapid-growing mobile channels that are appealing to consumers.

*Online Marketing.* We have contracted with majority of the leading online marketing channels, such as search engines, browsers and navigation websites, to prominently feature our websites and have cooperated with online companies to promote our services, as well as conducting public relations activities. We have purchased related keywords or directory links to direct potential customers to our websites.

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*Brand Promotion.* We conduct our brand campaigns through advertising on video streaming platforms, targeted LCD displays in public space, and billboards at airport, railway station and bus station. We also work with celebrities and embed our brand and travel products into TV live shows, movies and other entertainment marketing channels. Based on our experience, we believe these are effective ways to enhance brand awareness and attract new generation of customers.

*Cross-Marketing.* We have entered into cross-marketing arrangements with major PRC domestic airlines, financial institutions, telecommunications service providers and other corporations. Our airline partners and financial institution partners recommend our products and services to members of their mileage programs or bank card holders. Customers can accumulate miles by booking air tickets through us, or earn points by paying through co-branded credit cards.

*Customer Rewards Program.* To secure our customers' loyalty and further promote our brand, we provide our customers with a customer rewards program. This program allows our customers to accumulate membership points calculated according to the services purchased by the customers. Our membership points have a fixed validity term and our customers may redeem these points for travel awards and other gifts.

### **Supplier Relationship Management**

We have cultivated and maintained good relationships with our travel suppliers since our inception. We have a team of employees dedicated to enhance our relationship with existing travel suppliers and develop relationships with prospective travel suppliers.

Furthermore, we have developed an electronic confirmation system that enables participating hotel suppliers to receive our customer's reservation information and confirm such reservation through our online interface with the hotel suppliers. We believe that the electronic confirmation system is a cost-effective and convenient way for hotels to interface with us. We have not had any material disputes with our travel suppliers with respect to the amount of commissions to which we were entitled.

### **Technology and Infrastructure**

Since our inception, we have been able to support substantial growth in our offline and online traffic and transactions with our technology and infrastructure.

We provide customer services and support through our mobile applications, websites, and telephone or e-mail, 24 hours a day, seven days a week. We maintain in-house call centers to ensure high quality of our services. Our call centers are located in both China and abroad, such as Shanghai, Nantong, Tokyo, Seoul, and Edinburgh. We have invested significantly in our call center technologies over years and provide top-notch services globally.

Both our ctrip.com and trip.com platforms are comprised of thousands of applications which are hosted in a hybrid cloud infrastructure with both private cloud and public cloud to ensure high reliability, high scalability, and high speed of access. These infrastructure and applications are monitored and supported 24 hours a day, seven days a week. The hybrid cloud infrastructure is equipped with back-up capabilities and perform real-time mirror back-up and additional back-up for off-site storage on a daily basis.

We continuously upgrade our infrastructure and applications and procure security services to protect our system against unauthorized access to data, or unauthorized alteration or destruction of data.

We believe the cutting-edge technology used throughout our quality services distinguishes us from our competitors in China. Our goal has been to build a reliable, scalable, and secure infrastructure to fully support our customer service centers, mobile and website operations and one-stop travel platform.

### **Competition**

In the hotel consolidation market, we compete primarily with domestic and foreign invested consolidators of hotel accommodations. We also compete with new online travel search and service provider platforms, including the ones operated by other major internet companies, as well as traditional travel agencies. We believe we are a leading online accommodation booking platform in China in terms of gross merchandise volume from FITs. However, as the travel business in China continues to grow, we may face competition from new players in the hotel consolidation market in China and foreign travel consolidators that may enter the China market.

In the transportation ticketing market, we compete primarily with other consolidators of air tickets with a multi-province airline ticket sales and fulfillment infrastructure in China. We also compete with new online travel search and service provider platforms, including the ones operated by other major internet companies. In the markets where we face local competition, our competitors generally conduct ticketing transactions in person, and not over the internet or through customer service centers. Many local air-ticketing agencies are primarily involved in the wholesale business and do not directly serve individual travelers, who are our targeted customers. However, as the airline ticket distribution business continues to grow in China, we believe that more companies involved in the travel services industry may develop their services that compete with our transportation ticketing business.

### **Intellectual Property**

Our intellectual property rights include trademarks and domain names associated with the name “Ctrip” and “Trip.com Group” and copyright and other rights associated with our websites, technology platform, booking software and other aspects of our business. We regard our intellectual property as a factor contributing to our success, although we are not dependent on any patents, intellectual property related contracts or licenses other than some commercial software licenses available to the general public. We rely on trademark and copyright law, trade secret protection, non-competition and confidentiality agreements with our employees to protect our intellectual property rights. We require our employees to enter into agreements to keep confidential all information relating to our customers, methods, business and trade secrets during and after their employment with us. Our employees are required to acknowledge and recognize that all inventions, trade secrets, works of authorship, developments and other processes made by them during their employment are our property.

Our major domain names are *ctrip.com*, *ctrip.com.cn*, and *trip.com*, all of which have been registered with [www.markmonitor.com](http://www.markmonitor.com), and we have full legal rights over these domain names. We conduct our business under the Ctrip brand name and logo. We have registered our major trademarks “Ctrip” and “携程” (Chinese characters for Ctrip) with the Trademark Office of the PRC National Intellectual Property Administration, with the Registrar of Trademarks in Hong Kong and also with the United States Patent and Trademark Office. In 2009, we registered the trademark “携程Ctrip” (a combination of the Chinese and English characters for Ctrip) with the Taiwan Intellectual Property Office and with Direção dos Serviços de Economia of Macau. We have also registered the trademark “Ctrip” and “携程” (Chinese characters for Ctrip) in Korea, European Union, Singapore, Switzerland, Australia, New Zealand, Japan, Turkey, Vietnam, the United Arab Emirates, Malaysia, India, South Africa, Brazil and the Kingdom of Cambodia. We have also registered the trademark “Trip.com” in European Union, Japan and the United States.

In 2016, we were awarded the “Most Valuable App” at the China App Development Forum and 2016 Most Popular App Awards Ceremony held in Beijing, China. Our customer service was recognized as the “2016 Best Call Center” at the 2016 internet + China E-Commerce Summit Forum & China Call Center Development.” We were ranked in the “China’s top 10 most innovative companies” and the “10 most innovative companies in travel” lists of 2017 by Fast Company, a major financial business magazine in the United States. In 2017, we were recognized as “the Best Online Travel Agency in China” by Travel Weekly China and the “Most Honored Company” in the *Technology, Media & internet* category by Institutional Investor in the 2017 All-Asia Executive Team Rankings. In 2018, we were recognized as the “Best Employer in Customer Contact Industry in China,” “Top 50 Global Enterprises” by Center for China and Globalization and “Top 20 Tourism Groups of China” by China Tourism Research Institute and China Tourism Association. In 2019, we were recognized as the “Global Trend Awards – Annual Responsibility Practice” by Global Times, the “Most Valuable Online Travel Agency” at the China Internet Economic Forum, the “Best Customer Reputation” by China Customer Contact Center, and the Annual Ingenuity Service by People.cn.

### **Strategic Investments and Acquisitions**

To maintain and strengthen our leading market position in China and to become a major travel service provider in the Greater China market, we constantly evaluate opportunities for strategic investments in, and acquisitions of, complementary businesses, assets and technologies and have made such investments and acquisitions from time to time. We have made the following material strategic investments and acquisitions over the past two years.

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In May 2015, we acquired approximately 38% share capital of eLong, Inc. In May 2016, eLong, Inc. completed its “going-private” transaction and merger with eLong. In December 2017, eLong announced a merger with LY.com and the merger was consummated in March 2018 and we received an equity method investment in the enlarged group.

In January 2016, we invested US\$180 million to purchase the convertible bonds of MakeMyTrip, a leading online travel company in India, which were subsequently converted to approximately 10% equity interest in MakeMyTrip. In May 2017, we further invested approximately US\$33 million in MakeMyTrip by subscribing for 916,666 of its ordinary shares. In August 2019, we completed a share exchange transaction with Naspers, a shareholder of MakeMyTrip, pursuant to which Naspers exchanged certain ordinary shares and Class B convertible ordinary shares of MakeMyTrip for 4,108,831 newly issued ordinary shares of our company with fair value of US\$1.1 billion as of the closing date. Concurrently with the share exchange, we invested in a third-party investment entity by contributing certain ordinary shares and Class B convertible ordinary shares of MakeMyTrip held by us and recorded the investment using equity method. Immediately after the closing of the transaction, Naspers owned approximately 5.6% of our then total issued and outstanding ordinary shares, and we owned certain number of ordinary shares and Class B convertible ordinary shares of MakeMyTrip, representing approximately 49% of MakeMyTrip’s then total voting power. From an accounting perspective, we recorded this investment using equity method and the total consideration for the shares we held in MakeMyTrip immediately after the closing of the transaction consisted of certain number of our newly issued ordinary shares worth of US\$1.0 billion and our previously held equity investment of US\$0.2 billion.

In May 2018, we acquired substantially all of the remaining equity interest of an offline travel agency company in which we previously held approximately 48% equity interest for the consideration of RMB198 million in cash and 1.9% non-controlling interest of one of our subsidiaries with the fair value of RMB399 million. The financial results of the acquired company have been included in our consolidated financial statements since the date we obtained control and were not significant to us for the year ended December 31, 2018.

In November 2019, we and TripAdvisor, Inc. (Nasdaq: TRIP), or TripAdvisor, agreed on a strategic partnership to expand global cooperation through various contracts. We and TripAdvisor agreed through our respective subsidiaries to form and jointly control a joint venture, where we would contribute cash and market expertise and TripAdvisor would contribute a long-term exclusive brand and content license and other assets of its China business. The joint venture is being formed as of the date of this annual report. We both would share inventories in travel categories at the joint venture level. The joint venture would operate globally as TripAdvisor China.

In November 2019, we obtained control of an online travel agency company in which we previously had held 51% equity interest with substantive participating rights being held by the non-controlling shareholder. We obtained control of the online travel agency company when the non-controlling shareholder agreed to remove these substantive participating rights. The deemed consideration was the previously held 51% equity interest, the fair value of which was RMB259 million. We also recognized a gain of RMB196 million from the re-measurement of the previously held equity interest.

### **PRC Government Regulations**

Current PRC laws and regulations impose substantial restrictions on foreign ownership of the travel agency and value-added telecommunications businesses in China. As a result, we conduct these businesses in China through contractual arrangements with our consolidated affiliated Chinese entities as well as certain independent travel agencies. Some of our directors and officers, all of whom are PRC citizens, directly or indirectly own all or most of the equity interests in our consolidated affiliated Chinese entities as of the date of this annual report.

According to our PRC counsel, Commerce & Finance Law Offices, the ownership structures, as described in this annual report, comply with all existing PRC laws, rules and regulations.

### ***Restrictions on Foreign Ownership***

*Travel Agency.* Currently, foreign investors are permitted to establish or own a travel agency upon PRC government approval, subject to considerable restrictions on its scope of business. For examples, under the Travel Agency Regulations, which became effective on May 1, 2009 as amended subsequently, foreign-invested travel agencies cannot arrange for PRC residents to travel overseas or to Hong Kong, Macau or Taiwan, unless otherwise decided by the State Council or allowed under any applicable free trade agreement executed by the PRC government or according to the Closer Economic Partnership Arrangement between mainland China and Hong Kong or Macau, or CEPA. According to the CEPAs, starting from January 1, 2013, travel agencies in which qualified Hong Kong or Macau investors hold an interest are permitted to arrange group tours for PRC residents from mainland China to Hong Kong and Macau. Moreover, on a trial basis, one qualified Sino-foreign joint venture, in which qualified Hong Kong investors hold an interest, and one qualified Sino-foreign joint venture, in which qualified Macau investors hold an interest, were permitted to arrange group tours for PRC residents to travel overseas (excluding Hong Kong, Macau and Taiwan). On August 29, 2010, the PRC National Tourism Administration, or NTA, and MOFCOM further promulgated the Interim Measures for Supervising Pilot Operation of Overseas Travel Business by Sino-Foreign Joint Venture Travel Agencies, according to which NTA may choose and approve certain qualified Sino-foreign joint venture travel agencies to operate business of arranging PRC residents travelling to overseas destinations, Hong Kong and Macau (excluding Taiwan), on a trial basis. In 2017, China (Shanghai) Pilot Free Trade Zone has implemented a pilot project that allows the wholly foreign-owned travel agencies registered in China (Shanghai) Pilot Free Trade Zone and satisfied with required conditions to operate outbound tourism business. One of our subsidiaries, Wancheng, has obtained the approval in 2017 to operate outbound tourism business from National Tourism Administration with the pilot period of three years. In 2019, the PRC State Council promulgated the Approval to the Work Plan on Fully Promoting the Comprehensive Pilot Program for Expanding the Opening-Up of the Service Industry of Beijing Municipality, which supports foreign invested travel agencies to provide outbound travel services (except for Taiwan) and allows wholly foreign-owned travel agencies to provide outbound travel services (except for Taiwan) for PRC citizens on a trial basis.

*Online Advertising.* The principal regulation governing foreign-invested advertising agencies in China are the Administrative Measures for Foreign Invested Advertising Enterprise, which was abolished due to the issuance of Foreign Investment Industrial Guidance Catalogue (2015 Revision), or the Catalogue, which came into effect on April 10, 2015. Under the Catalogue, foreign investors are allowed to own 100% of an advertising agency in China subject to certain qualification requirements. However, foreign investment in advertising agencies that provide online advertising services is still subject to restrictions of foreign investment in the value-added telecommunications business.

*Value-added Telecommunications Business License.* The principal regulations governing foreign investment in the value-added telecommunications service provision business in China include:

- Foreign Investment Industrial Guidance Catalogue;
- Telecommunications Regulations; and
- Administrative Provisions on Foreign Invested Telecommunications Enterprises.

Under these regulations, a foreign entity is prohibited from owning more than 50% of a PRC entity that provides value-added telecommunications services except for commercial e-commerce business, which allows 100% foreign investment.

In July 2006, MIIT issued the Circular on Strengthening the Administration of Foreign Investment in Value-added Telecommunication Business, which stipulates that a domestic company that holds a value-added telecommunications business license is prohibited from leasing, transferring or selling the license to foreign investors in any form, and prohibited from providing any assistance in forms of resources, sites or facilities to foreign investors that conduct value-added telecommunications business illegally in China. Furthermore, the relevant trademarks and domain names used in the value-added telecommunications business must be owned by the domestic value-added telecommunications license holders. Due to lack of further interpretation by MIIT, it remains unclear what impact the above circular will have on us or other PRC internet companies that have adopted the same or similar corporate and contractual structures as ours.

## **General Regulation of Businesses**

*Tourism Law.* On April 25, 2013, the Standing Committee of the National People's Congress issued the PRC Tourism Law, which took effect on October 1, 2013 and was amended in 2016 and 2018. The PRC Tourism Law aims to protect tourists' legal rights, regulate travel market and promote the development of travel industry, and sets forth specific requirements for the operation of travel agencies. Travel agencies are prohibited from (i) leasing, lending or illegally transferring travel agency operation licenses or otherwise disseminating untrue or inaccurate information when soliciting customers and organizing tours, (ii) conducting any false publicity to mislead customers, (iii) arranging visits to or participation in any project or activity in violation of PRC laws and regulations or social morality, (iv) organizing tours at unreasonably low price to induce or cheat tourists, or obtaining unlawful profits such as kickbacks, and (v) changing or ceasing scheduled itineraries without reasons and forcing the tourists to participate in other activities against the will of tourists. In addition, travel agencies must enter into contracts with customers for travel services; and before a tour starts, a customer may assign his personal rights and obligations in a packaged-tour contract to any third person, whom the travel agency cannot refuse without cause, as long as any fee increase will be borne by the customer and the relevant third person. Accordingly, travel agencies may be subject to civil liabilities for failing to fulfill the obligations discussed above, which include rectification, issuance of a warning, confiscation of any illegal income, imposition of a fine, an order to cease business operation, or revocation of its travel agency permit.

*Air-ticketing.* The air-ticketing business is subject to the supervision of CATA and its regional branches. In 2019, the principal regulation governing air-ticketing in China, the Air Transportation Sales Agent Qualification Accreditation Measures, was abolished and air transportation sales agencies can operate air-ticketing business without permits as was previously required. Alternatively, the Self-Discipline Measures for Air Transportation Sales Agency Business was promulgated by the CATA, which encourages self-discipline administration for air transportation sale agency business. CATA has further promulgated the Business Standards of Air Passenger Transportation Sales Agencies and the Business Standards of Air Freight Transportation Sales Agencies, which introduce general business standards applied by airlines for selecting and authorizing their air-ticketing sales agents. For example, basic requirements for passenger air transportation sales agencies are (i) having proper business license, (ii) having value-added telecommunication business license if conducting online air-ticketing sales, (iii) having suitable capital contributed for business operation, (iv) having capital guarantee or pledge in favor of airlines, (v) agencies and their principals not having poor credit records, and (vi) having sufficient, properly trained employees.

*Travel Agency.* The travel industry is subject to the supervision of Ministry of Culture and Tourism of People's Republic of China, formerly known as the NTA and local tourism administrations. The principal regulations governing travel agencies in China include:

- Travel Agency Regulations; and
- Implementing Rules of Travel Agency Regulations.

Under these regulations, a travel agency must obtain a license from NTA to conduct cross-border travel business, and a license from the provincial-level tourism administration to conduct domestic travel agency business.

*Advertising.* SAMR is responsible for regulating advertising activities in China. The principal regulations governing advertising (including online advertising) in China include:

- Advertising Law;
- Advertising Administrative Regulations; and
- Interim Measures of the Administration of Online Advertisement.

Under these regulations, any entity conducting advertising activities must file with the local branch of SAMR. The Advertising Law was amended in 2015 and 2018, which was a major overhaul of an advertising law enacted in 1994, increases the potential legal liability of providers of advertising services, and includes provisions intended to strengthen identification of false advertising and the power of regulatory authorities.

*Value-added Telecommunications Business and Online Commerce.* Our provision of travel-related content on our websites is subject to PRC laws and regulations relating to the telecommunications industry and internet, and regulated by various government authorities, including MIIT and SAMR. The principal regulations governing the telecommunications industry and internet include:

- Telecommunications Regulations;
- The Administrative Measures for Telecommunications Business Operating Licenses; and
- The internet Information Services Administrative Measures.

Under these regulations, internet content provision services are classified as value-added telecommunications businesses, and a commercial operator of such services must obtain a value-added telecommunications business license from the appropriate telecommunications authorities to conduct any commercial value-added telecommunications operations in China.



With respect to online commerce, the SAIC (currently known as SAMR) promulgated the Administrative Measures for Online Trading, which became effective on March 15, 2014 and the MOFCOM promulgated the Provisions on the Procedures for Formulating Transaction Rules of Third Party Online Retail Platforms (Trial), which became effective on April 1, 2015, to regulate the formulation, revision and enforcement of transaction rules by online retail third-party platforms. These measures impose more stringent requirements and obligations on third-party platform operators. For example, third-party platform operators are obligated to make public and file their transaction rules with MOFCOM or their respective provincial counterparts, examine and register the legal status of each third-party merchant selling products or services on their platforms and display on a prominent location on a merchant's web page the information stated in the merchant's business license or a link to its business license. Where third-party platform operators also act as online distributors, these third-party platform operators must make a clear distinction between their online direct sales and sales of third-party merchant products on their third-party platforms. Furthermore, in August 2018, the Standing Committee of the National People's Congress promulgated the E-Commerce Law, which took effect on January 1, 2019, aiming to regulate the e-commerce activities conducted within China. According to the E-Commerce Law, e-commerce operators must comply with the principles of voluntariness, equality, fairness, and good faith, abide by laws, observe business ethics, and equally participate in market competition. It further enhanced burdens of e-commerce operators to protect consumers' rights and interests, environment, intellectual property protection, cyberspace safety and personal information, and also emphasized the commitment by e-commerce operators over the quality of products and services.

### **Internet Privacy**

In recent years, PRC government authorities have legislated on the use of the internet to protect personal information from any abuse or unauthorized disclosure. For example, the internet Information Services Administrative Measures prohibits an internet information services provider from insulting or slandering a third party or infringing upon the lawful rights and interests of a third party. Internet information services providers are subject to legal liability if unauthorized disclosure results in damages or losses to users. In addition, the PRC regulations authorize the relevant telecommunications authorities to demand rectification of unauthorized disclosure by internet information services providers.

The PRC laws do not prohibit internet information services providers from collecting and analyzing person information of their users. The PRC government, however, has the power and authority to order internet information services providers to submit personal information of an internet user if such user posts any prohibited content or engages in illegal activities on the internet. Since 2012, the MIIT and the Standing Committee of the National Peoples' Congress enacted several regulations to stipulates the obligation and requirements imposed to the internet information services providers, including but not limited to which the internet information services providers may only collect user personal information necessary to provide their services and must expressly inform the users of the method, content and purpose of the collection and processing of such user personal information, and must keep strictly confidential users' personal information that they collect, and take technical and other measures as are necessary to safeguard the information against disclosure, damages and loss. Moreover, the PRC criminal laws and regulations prohibit companies and their employees from illegally trading or disclosing customer data obtained through the course of their business operations and any internet service provider that fails to comply with obligations related to internet information security administration as required by applicable laws and refuses to rectify upon order is subject to criminal penalty.

In June 2017, the PRC Cyber Security Law promulgated by the Standing Committee of the National People's Congress took effect, which is formulated to maintain the network security, safeguard the cyberspace sovereignty, national security, and public interests, protect the lawful rights and interests of citizens, legal persons, and other organizations, and requires that a network operator, which includes, among others, internet information services providers, take technical measures, and other necessary measures to safeguard the safe and stable operation of the networks, effectively respond to the network security incidents, prevent illegal and criminal activities, and maintain the integrity, confidentiality, and availability of network data. The PRC Cyber Security Law reaffirms the basic principles and requirements set forth in other existing laws and regulations on personal information protections and strengthens the obligations and requirements of internet service providers, which include but are not limited to: (i) keeping all user information collected strictly confidential and setting up a comprehensive user information protection system; (ii) abiding by the principles of legality, rationality and necessity in the collection and use of user information and disclosure of the rules, purposes, methods and scopes of collection and use of user information; and (iii) protecting users' personal information from being leaked, tampered with, destroyed, or provided to third parties. Any violation of the provisions and requirements under the PRC Cyber Security Law and other related regulations and rules may result in administrative liabilities such as warnings, fines, confiscation of illegal gains, revocation of licenses, suspension of business, and shutting down of websites, or, in severe cases, criminal liabilities.

### **Regulation of Foreign Currency Exchange and Dividend Distribution**

*Foreign Currency Exchange.* The principal regulation governing foreign currency exchange in China is the Forex Regulations. Under the Forex Regulations, Renminbi is freely convertible for trade- and service-related foreign exchange transactions, but not for direct investment, loan or securities investment outside China unless prior approval of SAFE is obtained.

Pursuant to the Forex Regulations, FIEs in China may purchase foreign currency without SAFE's approval for trade- and service-related foreign exchange transactions by providing commercial documents evidencing these transactions. They may also retain foreign exchange (subject to a cap approved by SAFE) to satisfy foreign exchange liabilities or to pay dividends. In addition, if a foreign company acquires a company in China, the acquired company will also become an FIE. However, the relevant PRC government authorities may limit or eliminate the ability of FIEs to purchase and retain foreign exchange in the future. In addition, foreign exchange transactions for direct investment, loan and securities investment outside China are still subject to limitations and require approvals from SAFE.

Under the current PRC regulations, loans, either from us or from third-party sources outside of China, incurred by our subsidiaries as FIEs in China to finance their activities cannot exceed statutory limits, which equal the difference between the respective approved total investment amount and the registered capital of such PRC subsidiaries, and must be registered with SAFE or its local branches. In the past, our subsidiaries have mainly funded their operations and cash needs from our initial capital injections and cash generated from such subsidiaries' operations. Other than these discussed above, none of the Company's PRC subsidiaries had any outstanding loans as of December 31, 2019. Based on the capital needs and cash generated from operations of our PRC subsidiaries, we do not believe that our PRC subsidiaries would need to incur substantial debts to fund their respective operations in China in the near future, and even if they need to incur debts, they could manage to obtain short-term loans from PRC banks and financial institutions, which are not subject to the statutory limits referenced above. We currently do not believe, based on the above, that the statutory debt limits on our subsidiaries in China are material to our operations in China, and we do not believe it to be reasonably likely that our PRC subsidiaries would need to incur debts exceeding their respective statutory debt limit.

On March 3, 2015, SAFE promulgated a Circular on the Reforming of Administrative Methods Regarding the Foreign Exchange Capital Settlement of Foreign-Invested Companies, or SAFE Circular 19, which became effective on June 1, 2015 and replaced SAFE Circular 142, pursuant to which the registered capital of an FIE settled in Renminbi converted from foreign currencies may only be used within the business scope approved by the applicable government authority and may not be used for equity investments in China, and the FIE may not change how it uses such capital without SAFE's approval, and may not extend the loans directly or indirectly except as permitted within business scope, may not in any case use such capital to repay Renminbi loans if they have not used the proceeds of such loans. Although SAFE Circular 19 restates certain restrictions on the use of investment capital denominated in foreign currency by FIEs, it specifies that the registered capital of an FIE, denominated in foreign currency, can be converted into Renminbi at the discretion of such FIE and can be used for equity investment in China subject to the invested company's filing of a reinvestment registration with the relevant local SAFE. On June 9, 2016, SAFE issued the Circular on Reforming and Regulating the Administrative Policy of the Settlement under Capital Accounts, or SAFE Circular 16, which became effective on the same date. Although SAFE Circular 16 further extends the reform to cover foreign currency income under capital account, including capital, foreign debt and proceeds from offshore offering and listing, an FIE's foreign currency income and such income settled in Renminbi under the capital account cannot be used directly and indirectly for any purposes out of the FIE's business scope or in areas prohibited by laws and regulations. However, the interpretation and enforcement of SAFE Circular 19 and SAFE Circular 16 remained to be subject to uncertainty, which may limit our ability to transfer the net proceeds from offerings of our securities to our PRC subsidiaries and convert the net proceeds into Renminbi and adversely affect our liquidity and our ability to fund and expand our business in China.

*Dividend Distribution.* The principal regulations governing distribution of dividends of FIEs include:

- Company Law; and
- EIT Law and its Implementation Rules.

Under these regulations, all companies in China, including FIEs, are required to set aside at least 10% of their respective after-tax profits each year, if any, to statutory reserve funds, unless such reserve funds have reached 50% of their respective registered capital. These reserve funds are not distributable as cash dividends and dividends cannot be distributed until any losses from prior fiscal years have been offset.

Under the EIT Law, dividends, interests, rent, royalties and gains on transfers of property payable by an FIE in China to its foreign investor that is a non-PRC resident enterprise will be subject to a 10% withholding tax, unless such non-PRC resident enterprise's jurisdiction of incorporation has a tax treaty with China that provides for a reduced rate of withholding tax. According to mainland China and Hong Kong Special Administrative Region Arrangement on Avoiding Double Taxation or Evasion of Taxation on Income agreed between China and Hong Kong in August 2006, dividends payable by an FIE in China to a company in Hong Kong which directly holds at least 25% of the equity interests in the FIE will be subject to a reduced withholding tax rate of 5%.

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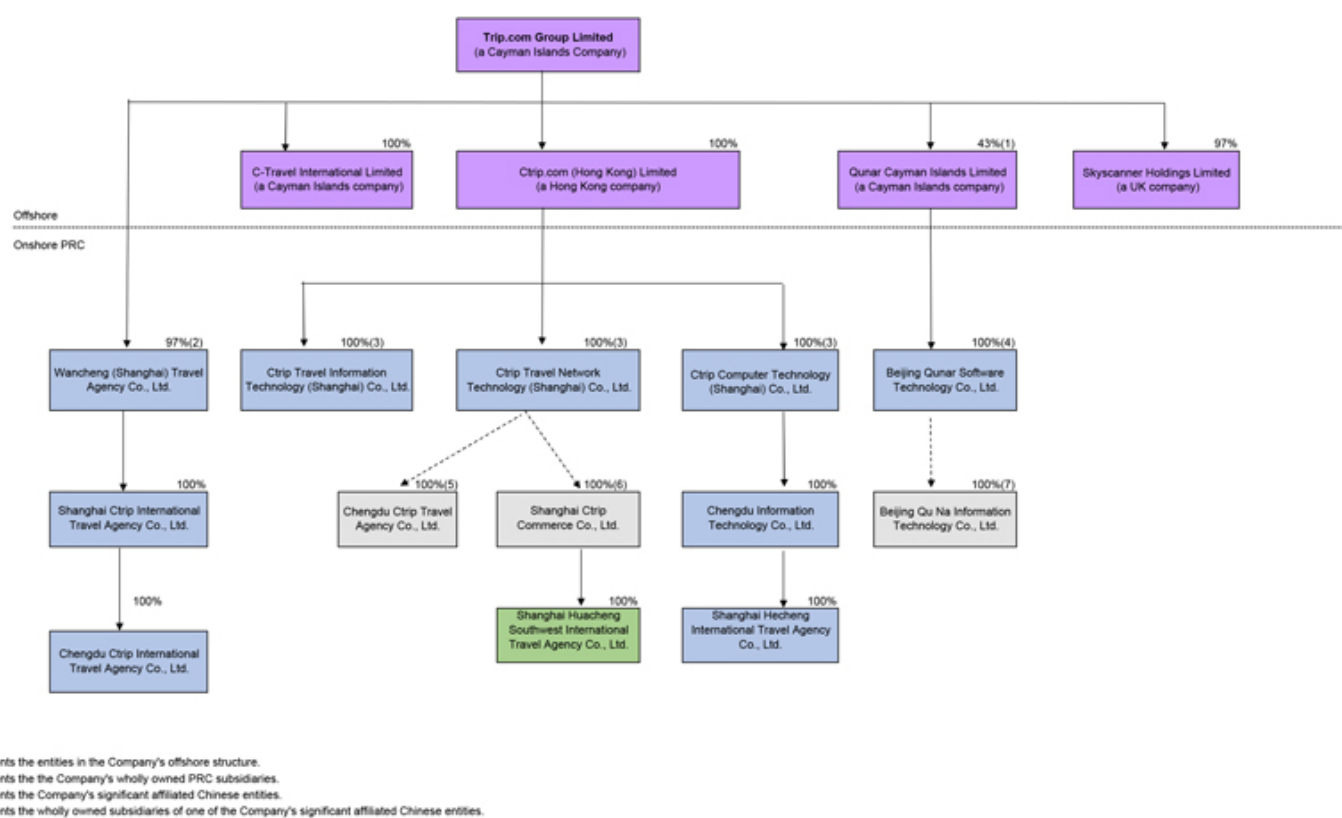
Under the EIT Law, an enterprise established outside China with its “de facto management body” within China is considered a PRC resident enterprise and will be subject to the enterprise income tax at the rate of 25% on its worldwide income. The “de facto management body” is defined as the organizational body that effectively exercises overall management and control over production and business operations, personnel, finance and accounting, and properties of the enterprise. It remains unclear how the PRC tax authorities will interpret such a broad definition. Notwithstanding the foregoing provision, the EIT Law also provides that, if a PRC resident enterprise directly invests in another PRC resident enterprise, the dividends received by the investing PRC resident enterprise from the invested PRC resident enterprise are exempted from income tax, subject to certain conditions. However, it remains unclear how the PRC tax authorities will interpret the PRC tax resident treatment of an offshore company, like us, having indirect ownership interests in PRC enterprises through intermediary holding companies.

Moreover, under the EIT Law, foreign ADS holders that is non-PRC resident enterprise may be subject to a 10% withholding tax upon dividends payable by a PRC entity and gains realized on the sale or other disposition of ADSs or ordinary shares, if such income is considered as income deriving from within China and if we are classified as a PRC resident enterprise.

*Regulation of Income Taxes and Financial Subsidies.* See “Item 5.A. Operating and Financial Review and Prospects — Operating Results — Major Factors Affecting Our Results of Operations — Income Taxes and Financial Subsidies.”

### C. Organizational Structure

The following diagram illustrates our corporate structure, including our significant subsidiaries and consolidated affiliated Chinese entities as of December 31, 2019.



#### Notes:

- (1) For further details about the indirect ownership of Qunar Cayman Islands Limited, see “Item 4.A. Information on the Company — History and Development of the Company.”
- (2) Indirectly owned through Ctrip Travel Holding, a Cayman Islands company, and its Hong Kong subsidiary, Ctrip Travel Holding (Hong Kong) Limited.
- (3) Indirectly owned through Ctrip Investment (Shanghai) Co., Ltd., a PRC company.
- (4) Indirectly owned through Queen’s Road Travel Information Limited, a Hong Kong company.

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- (5) Min Fan and Qi Shi hold 99.5% and 0.5% of the equity interest in Chengdu Ctrip Travel Agency Co., Ltd., respectively.
- (6) Tao Yang and Maohua Sun hold 89.8% and 10.2% of the equity interest in Shanghai Ctrip Commerce Co., Ltd., respectively.
- (7) Hui Cao and Hui Wang hold 60% and 40% of the equity interest in Beijing Qu Na Information Technology Co., Ltd., respectively.

We are a holding company incorporated in the Cayman Islands and rely on dividends from our subsidiaries in China and consulting and other fees paid to our subsidiaries by our consolidated affiliated Chinese entities. We conduct a majority of our business through our wholly-owned subsidiaries in China. Due to the current restrictions on foreign ownership of travel agency and value-added telecommunications businesses in China, we have conducted part of our operations in these businesses through a series of contractual arrangements between our PRC subsidiaries and our consolidated affiliated Chinese entities. Our significant consolidated affiliated Chinese entities included Ctrip Commerce, Shanghai Huacheng, Chengdu Ctrip, and Qunar Beijing as of December 31, 2019. From time to time, we amended and restated the contractual arrangements that we had entered into with our consolidated affiliated Chinese entities in order to further strengthen our ability to control these entities and receive substantially all of the economic benefits from them. We have entered into additional contractual arrangements based on substantially the same series of amended and restated forms with our other consolidated affiliated Chinese entities subsequent to our adoption of these forms, and plan to enter into substantially the same series of agreements with all of our future consolidated affiliated Chinese entities. From 2015 to 2019, we further optimized the functions of our various consolidated affiliated Chinese entities to avoid duplicative operations among these consolidated affiliated Chinese entities.

As of the date of this report, some of our directors and officers are principal record owners of our consolidated affiliated Chinese entities. Each of them has signed an irrevocable power of attorney to appoint Ctrip Travel Information, Ctrip Travel Network, and Qunar or its designated person, as attorney-in-fact to vote, by itself or any other person to be designated at its discretion, on all matters of our consolidated affiliated Chinese entities. Each power of attorney will remain effective during the existence of the applicable consolidated affiliated Chinese entity.

### *D. Property, Plants and Equipment*

Our first customer service center and principal sales, marketing and development facilities and administrative offices are located on owned premises comprising approximately 39,000 square meters in an economic development park in Shanghai, China. In 2015, our Shanghai headquarters relocated to Sky SOHO, our owned premises in Shanghai, China, comprising 100,167 square meters. Our second customer service center, which began operations in May 2010, is located in our owned premises in Nantong, China, comprising approximately 80,000 square meters. In addition to our offices in Greater China in more than 40 cities, we also have overseas offices in Japan, Korea, America, Singapore, Thailand, the United Kingdom, Australia, Malaysia, Vietnam, Cambodia, the Philippines, and Indonesia. We believe that we will be able to obtain adequate facilities, principally through the leasing of appropriate properties, to accommodate our expansion plans in the near future.

As of February 29, 2020, we owned an aggregate of approximately 327,000 square meters of premises for office space and call centers and leased an aggregate of over 10,000 square meters of premises for office space.

### **ITEM 4.A. UNRESOLVED STAFF COMMENTS**

Not applicable.

### **ITEM 5. OPERATING AND FINANCIAL REVIEW AND PROSPECTS**

The following discussion of our financial condition and results of operations is based upon and should be read in conjunction with our consolidated financial statements and their related notes included in this annual report on Form 20-F. We adopted a new accounting standard on revenue recognition issued by FASB in 2014 and effective January 1, 2018, and apply such accounting standard retrospectively to the years ended December 31, 2016 and 2017. This annual report contains forward-looking statements. See “Item 5.G. Operating and Financial Review and Prospects — Safe Harbor.” In evaluating our business, you should carefully consider the information provided under the caption “Item 3.D. Key Information — Risk Factors” in this annual report. We caution you that our businesses and financial performance are subject to substantial risks and uncertainties.

## A. Operating Results

We are a leading consolidator of hotel accommodations and airline tickets. We aggregate information on hotels and flights and enable our users to make informed and cost-effective hotel and flight bookings. We also offer packaged-tour products and other products and services.

In 2019, we derived approximately 38%, 39%, 13%, 4%, and 6% of our total revenues from our accommodation reservation, transportation ticketing, packaged tour, corporate travel, and other products and services, respectively.

In 2019, while we continued to strengthen our PRC domestic travel businesses, we further enhanced our outbound travel businesses as part of the execution of our international strategy. As of the date of this annual report, our outbound travel businesses focus primarily on outbound accommodation reservation, outbound air ticketing and outbound packaged tours. We generate our revenues primarily from the Greater China, based on the geographic location of our websites. See Notes 21 to our audited consolidated financial statements included elsewhere in this annual report for further information. Also as part of our international strategy, we consummated the acquisition transaction of the United Kingdom-based Skyscanner in December 2016 and maintained its independent management of operations as part of the Trip.com Group to complement our positioning at a global scale.

## Major Factors Affecting the Travel Industry

A variety of factors affect the travel industry in China, and hence our results of operations and financial condition, including:

*Growth in the Overall Economy and Demand for Travel Services in China.* We expect that our financial results will continue to be affected by the overall growth of the economy and demand for travel services in China and the rest of the world. According to the statistical report published on the website of PRC National Bureau of Statistics, or NBS, on February 28, 2020, China's domestic gross product, or GDP, grew from RMB91.9 trillion in 2018 to RMB99.1 trillion in 2019, representing an annual growth rate of 6.1%.

Despite that the growth rate of the Chinese economy is slowing, we anticipate that demand for travel services in China will continue to increase for the long term. According to the statistical report published on the website of NBS on February 28, 2020, China's domestic travel spending grew from RMB5,127.8 billion in 2018 to RMB5,725.1 billion in 2019, representing an annual growth rate of 11.7%. However, any adverse changes in economic conditions of China and the rest of the world, such as the current global financial crisis and economic downturn, could have a material adverse effect on the travel industry in China, which in turn would harm our business. See "Item 3.D. Key Information — Risk Factors — Our business is sensitive to global economic conditions. A severe or prolonged downturn in the global or Chinese economy may have a material and adverse effect on our business, and may materially and adversely affect our growth and profitability."

*Seasonality in the Travel Service Industry.* The travel service industry is characterized by seasonal fluctuations and accordingly our revenues may vary from quarter to quarter. To date, the revenues generated during the summer season of each year generally are higher than those generated during the winter season, mainly because the summer season coincides with the peak business and leisure travel season, while the winter season of each year includes the Chinese New Year holiday, during which our customers reduce their business activities. These seasonality trends are difficult to discern in our historical results because our revenues have grown substantially since inception. However, our future results may be affected by seasonal fluctuations in the use of our services by our customers.

*Disruptions in the Travel Industry.* Individual travelers tend to modify their travel plans based on the occurrence or recurrence of events such as:

- Actual or threatened war or terrorist activities;
- an outbreak of EVD, COVID-19, MERS, SARS, H1N1 flu, H7N9 flu, and avian flu, or any other serious contagious diseases;
- increasing prices in the hotel, transportation ticketing, or other travel-related sectors;

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- increasing occurrence of travel-related accidents;
- political unrest, civil strife, or other geopolitical uncertainty;
- natural disasters or poor weather conditions, such as hurricanes, earthquakes, or tsunamis; and
- any travel restrictions or other security procedures implemented in connection with any major events in China.

See “Item 3.D. Key Information—Risk Factors—Risks Relating to Our Business and Industry—General declines or disruptions in the travel industry may materially and adversely affect our business and results of operations.”

While the duration of the current COVID-19 pandemic and its disruption to our business and related financial impacts cannot be reasonably estimated at this time, we expect that our financial condition, results of operations, and cash flows for the first half of 2020 will be materially and adversely affected with potential continuing impacts on subsequent periods. In particular, our revenues for the first half of 2020 will be materially and adversely affected as a result of the domestic and international travel restrictions and significant incremental costs and expenses incurred to facilitate our users’ cancellations and refund requests; we may experience difficulty in collection of receivables, which may result in additional allowance for doubtful accounts and significant downward adjustments or impairment to our long-term investments and goodwill if the impacts of the COVID-19 pandemic become other than temporary. We currently expect our net revenue for the first quarter of 2020 to decrease year-over-year by approximately 45% to 50%, which reflects our preliminary view and is subject to change. We will continue to monitor and evaluate the financial impacts to our financial condition, results of operations, and cash flows for the first half of 2020 and subsequent periods. The global spread of COVID-19 pandemic in a significant number of countries around the world has resulted in, and may intensify, global economic distress, and the extent to which it may affect our financial condition, results of operations, and cash flows will depend on future developments, which are highly uncertain and cannot be predicted. See “Item 3.D. Key Information—Risk Factors—Risks Relating to Our Business and Industry—Pandemics, epidemics, or fear of spread of contagious diseases could disrupt the travel industry and our operations, which could materially and adversely affect our business, financial condition, and results of operations.”

Any future outbreak of contagious diseases or similar adverse public health developments, extreme unexpected bad weather or severe natural disasters would affect our business and operating results. Ongoing concerns regarding contagious disease or natural disasters, particularly its effect on travel, could negatively impact our China-based customers’ desire to travel. If there is a recurrence of an outbreak of certain contagious diseases or natural disasters, travel to and from affected regions could be curtailed. Public policy regarding, or governmental restrictions, on travel to and from these and other regions on account of an outbreak of any contagious disease or occurrence of natural disasters could have a material adverse effect on our business and operating results.

## Major Factors Affecting Our Results of Operations

### Revenues

*Revenues Composition and Sources of Revenue Growth.* We have experienced significant revenue growth since we commenced operations in 1999. Our total revenues grew from RMB11.5 billion in 2015 to RMB35.7 billion (US\$5.1 billion) in 2019, representing a compound annual growth rate of 32.8%.

We generate our revenues primarily from the accommodation reservation and transportation ticketing businesses. The table below sets forth the revenues from our principal lines of business as a percentage of our revenues for the periods indicated.

	Year-Ended December 31,		
	2017	2018	2019
Revenues:			
Accommodation reservation	35%	37%	38%
Transportation ticketing	45%	42%	39%
Packaged-tour	11%	12%	13%
Corporate travel	3%	3%	4%
Others	6%	6%	6%
Total revenues	100%	100%	100%

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As we generally do not take ownership of the products and services being sold and act as an agent in substantially all of our transactions, our risk of loss due to obligations for cancelled hotel and airline ticket reservations is minimal. Accordingly, we recognize revenues primarily based on commissions earned rather than transaction value.

Since current PRC laws and regulations impose substantial restrictions on foreign ownership of travel agency and value-added telecommunications businesses in China, we conduct part of our transportation ticketing and packaged-tour businesses through our consolidated affiliated Chinese entities. Historically, we generated a portion of our revenues from fees charged to these entities. See “Item 7.B. Major Shareholders and Related Party Transactions — Related Party Transactions — Arrangements with Consolidated Affiliated Chinese Entities” for a description of our relationship with these entities.

*Accommodation Reservation.* Revenues from our accommodation reservation business have been a significant source of revenues since our inception. In 2017, 2018 and 2019, revenues from our accommodation reservation business accounted for RMB9.5 billion, RMB11.6 billion and RMB13.5 billion (US\$1.9 billion) respectively, or 35%, 37%, and 38%, respectively, of our total revenues.

We generate substantially all of our accommodation reservation revenues through commissions from travel suppliers for hotel room reservations through our transaction and service platform. We recognize revenues when the reservation becomes non-cancellable which is the point considered when we complete our performance obligation in accommodation reservation services. We generally agree in advance on fixed commissions with a particular hotel, we also enter into a commission arrangement with many of our hotel suppliers that we refer to as the “ratchet system.” Under the ratchet system, our commission rate per room night is adjusted upward in line with the increase in the volume of room nights we sell for such hotels during such months.

*Transportation Ticketing.* In 2017, 2018 and 2019, revenues from our transportation ticketing business accounted for RMB12.2 billion, RMB12.9 billion, and RMB14.0 billion (US\$2.0 billion), respectively, or 45%, 42%, and 39%, respectively, of our total revenues.

We conduct our transportation ticketing business primarily through our wholly-owned subsidiaries, consolidated affiliated Chinese entities, as well as a network of independent transportation ticketing service companies. Commissions from transportation ticketing rendered are recognized after tickets are issued as this is when our performance obligation is satisfied.

*Packaged-tour.* Our packaged-tour business has grown rapidly in the past three years. In 2017, 2018 and 2019, revenues from our packaged-tour business accounted for RMB3.0 billion, RMB3.8 billion and RMB4.5 billion (US\$651 million), respectively. We bundle the packaged-tour products and receive referral fees from travel product providers for packaged-tour products and services through our transaction and service platform. Referral fees are recognized on the departure date of the tours as this is when our performance obligation is satisfied.

*Corporate Travel.* Corporate travel revenues primarily include commissions from transportation ticket booking, accommodation reservation and packaged-tour services rendered to corporate clients. In 2017, 2018 and 2019, revenues from our corporate travel services accounted for RMB753 million, RMB981 million and RMB1.3 billion (US\$180 million), respectively. We contract with corporate clients based on service fee model. Travel reservations are made via on-line and off-line services for transportation ticket booking, accommodation reservation and packaged-tour services. Revenue is recognized on a net basis after the services are rendered and collections are reasonably assured.

*Other Businesses.* Our other businesses primarily consist of online advertising services and financial services. In 2017, 2018 and 2019, revenues from other business accounted for RMB1.5 billion, RMB1.8 billion and RMB2.5 billion (US\$353 million), respectively. We recognize advertising revenues ratably over the fixed term of the agreement as services are provided and we recognize the interest income from the receivable related to financial services ratably over the loan period.

### ***Cost of Revenues***

Cost of revenues consists primarily of payroll compensation of customer service center personnel, credit card service fee, payments to travel suppliers, telecommunication expenses, direct cost of principal travel tour services, depreciation, rentals and related expenses incurred by our transaction and service platform which are directly attributable to the rendering of our travel related services and other businesses.

Cost of revenues accounted for 17%, 20%, and 21% of our net revenues in 2017, 2018 and 2019, respectively. We believe our relatively low ratio of cost of revenues to revenues is primarily due to competitive labor costs in China, high efficiency of our customer service system and efficiency of our enhanced website operations. The increase in percentage of cost of revenues to net revenues in 2019 was primarily due to the increase in credit card service fee, customer service related expenses and payments to travel suppliers for the service we had control.

### ***Operating Expenses***

Operating expenses consist primarily of product development expenses, sales and marketing expenses and general and administrative expenses, all of which include share-based compensation expense. In 2019, we recorded RMB1.7 billion (US\$247 million) of share-based compensation expense, compared to RMB1.8 billion and RMB1.7 billion for 2017 and 2018, respectively. Share-based compensation expense is included in the same income statement category as the cash compensation paid to the recipient of the share-based award.

Product development expenses primarily include expenses we incur to develop our travel suppliers network and expenses we incur to maintain, monitor and manage our transaction and service platform. Product development expenses accounted for 31%, 31%, and 30% of our net revenues in 2017, 2018 and 2019, respectively. The product development expenses as a percentage of net revenues in 2019 decreased primarily due to the decrease in personnel expenses of product development employees as a percentage of revenue.

Sales and marketing expenses primarily comprise payroll compensation and benefits for our sales and marketing personnel, advertising expenses, and other related marketing and promotion expenses. Our sales and marketing expenses accounted for 31%, 31%, and 26% of our net revenues in 2017, 2018 and 2019, respectively. The sales and market expenses as a percentage of net revenues in 2019 decreased primarily due to the decrease in sales and marketing related activities.

General and administrative expenses consist primarily of payroll compensation, benefits and travel expenses for our administrative staff, professional service fees, as well as administrative office expenses. Our general and administrative expenses accounted for 10%, 9%, and 9% of our net revenues in 2017, 2018 and 2019, respectively. The general and administrative expenses as a percentage of net revenues in 2019 remained consistent with that in 2018.

### ***Foreign Exchange Risk***

We are exposed to foreign exchange risk arising from various currency exposures. See “Item 11. Quantitative and Qualitative Disclosure About Market Risk.”

### ***Income Taxes and Financial Subsidies***

*Income Taxes.* Our effective income tax rate was 36%, 41%, and 19% for 2017, 2018, and 2019, respectively. The change in our effective income tax rate from 2018 to 2019 was mainly due to changes in the profitability of our subsidiaries that have different tax rates, including certain non-taxable income of the fair value gains in equity securities investments in 2019 and certain non-deductible expenses of the fair value losses in equity securities in 2018. The change in our effective income tax rate from 2017 to 2018 was mainly due to the combined impacts from change in profitability, changes in the profits of our subsidiaries with different tax rates and decrease of non-deductible share-based compensation expenses.



Pursuant to the EIT Law, companies established in China were generally subject to EIT at a statutory rate of 25%. The 25% EIT rate applies to most of our subsidiaries and consolidated affiliated Chinese entities established in China. Some of our PRC subsidiaries, Ctrip Computer Technology, Ctrip Travel Information, Ctrip Travel Network, Qunar Software, one of our consolidated affiliated Chinese entities, Qunar Beijing, Chengdu Ctrip, Chengdu Ctrip International, and Chengdu Information benefit from a preferential tax rate of 15% by either qualifying as HNTEs or qualifying under the Western Regions Catalogue under the EIT Law as follows.

- In 2017, Ctrip Computer Technology, Ctrip Travel Information, and Ctrip Travel Network reapplied for their qualification as HNTE, which were approved by the relevant government authority. Thus, these subsidiaries are entitled to a preferential EIT rate of 15% from 2017 to 2019. Qunar Software and Qunar Beijing are also entitled a preferential EIT rate of 15% from 2018 to 2020.
- In 2002, SAT started to implement preferential tax policy in China's western regions, and companies located in applicable jurisdictions covered by the Western Regions Catalogue are eligible to apply for a preferential income tax rate of 15% if their businesses fall within the "encouraged" category of the policy. Over the years since 2012, Chengdu Ctrip and Chengdu Ctrip International obtained approval from local tax authorities to apply the 15% tax rate for their annual tax filing subject to periodic renewals. After the initial effective period expired in 2014, the two entities were approved by the relevant government authority to renew this qualification, which will expire in 2020. In 2013, Chengdu Information obtained approval from local tax authorities to apply the 15% tax rate for its 2012 tax filing and for the years from 2013 to 2020.

*Financial Subsidies.* In 2017, 2018, and 2019, our subsidiaries in China received financial subsidies from the government authorities in the amount of approximately RMB264 million, RMB469 million, and RMB589 million (US\$85 million), respectively, which we recorded as other income upon cash receipt. Such financial subsidies were granted to us at the sole discretion of the government authorities. We cannot assure you that our subsidiaries will continue to receive financial subsidies in the future.

Pursuant to the China's VAT reform, from April 1, 2019 to December 31, 2021, general tax payers engaged in certain industries, including the travel and entertainment industry, are allowed to claim an additional 10% super-credit on their input VAT. This super-credit amount can be deducted from VAT payable, and any remaining amount can be transferred to the next filing period for credit.

### **Critical Accounting Policies and Estimates**

We prepare financial statements in conformity with U.S. GAAP, which requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosures of contingent assets and liabilities on the date of the balance sheet and the reported amounts of revenues and expenses during the financial reporting period. We continually evaluate these estimates and assumptions based on the most recently available information, our own historical experiences and various other assumptions that are believed to be reasonable under the circumstances, which together form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Since the use of estimates is an integral component of the financial reporting process, actual results could differ from those estimates. Some of our accounting policies require higher degrees of judgment than others in their application. We consider the policies discussed below to be critical to an understanding of our financial statements as their application places the most significant demands on management's judgment.

*Revenue Recognition.* We describe our revenue recognition policies in our consolidated financial statements. We present substantially all of our revenues on a net basis as the travel supplier is primarily responsible for providing the underlying travel services and we do not control the service provided by the travel supplier to the traveler. Revenues are recognized on a gross basis where we undertake substantive inventory risks by pre-purchasing inventories.

On January 1, 2018, we adopted new revenue guidance ASC Topic 606, “Revenue from Contracts with Customers” (“ASC 606”), using the full retrospective transition approach under which our previously issued financial statements for 2016 and 2017 were retrospectively adjusted. The new standard did not change the presentation of our revenues, which continues to be substantially reported on a net basis. However, the timing of revenue recognition for certain revenue streams is changed under the new standard. In particular, revenue for accommodation reservation services, which used to be recognized after end-users completed their stays, is now recognized when the reservation becomes non-cancellable. Revenue for packaged-tour services, which used to be recognized when packaged tours were completed, is now recognized on the departure date of the tours.

*Business Combination.* We apply ASC 805 “Business Combination,” which requires that all business combinations not involving entities or business under common control be accounted for under the acquisition method. The cost of an acquisition is measured as the aggregate of fair values at the date of exchange of assets given, liabilities incurred and equity instruments issued. The costs directly attributable to the acquisition are expensed as incurred. Identifiable assets, liabilities and contingent liabilities acquired or assumed are measured separately at their fair value as of the acquisition date, irrespective of the extent of any non-controlling interests. The excess of (i) the total of cost of acquisition, fair value of non-controlling interests and acquisition date fair value of any previously held equity interest in an acquiree over (ii) the fair value of identifiable net assets of an acquiree is recorded as goodwill. If the cost of acquisition is less than the fair value of the net assets of a subsidiary acquired, the difference is recognized directly in the consolidated statements of comprehensive income.

*Investment.* Our investments include equity method investments, equity securities without readily determinable fair values, equity securities with readily determinable fair values, held to maturity debt securities, and available-for-sale debt securities. We apply equity method in accounting for the investments in entities in which we have the ability to exercise significant influence but do not have control and the investments are in either common stock or in-substance common stock. Unrealized gains on transactions between an affiliated entity and us are eliminated to the extent of our interest in the affiliated entity; unrealized losses are also eliminated unless the transaction provides evidence of an impairment of the asset transferred. Equity securities without readily determinable fair values are measured and recorded using a measurement alternative that measures the securities at cost minus impairment, if any, plus or minus changes resulting from qualifying observable price changes. Prior to the fiscal year of 2018, these securities were accounted for using the cost method of accounting, measured at cost less other-than-temporary impairment. Equity securities with readily determinable fair values are measured and recorded at fair value on a recurring basis with changes in fair value, whether realized or unrealized, recorded through the income statement. Prior to 2018, these securities were classified as available-for-sale securities and measured and recorded at fair value with unrealized changes in fair value recorded through other comprehensive income. Debt securities that we have positive intent and ability to hold to maturity are classified as held-to-maturity debt securities and are stated at amortized cost. Debt securities that we have the intent to hold the security for an indefinite period or may sell the security in response to the changes in economic conditions are classified as available for sale and reported at fair value. Unrealized gains and losses (other than impairment losses) are reported, net of the related tax effect, in other comprehensive income (OCI). Upon sale, realized gains and losses are reported in net income. We monitor our investments for other-than-temporary impairment by considering factors including, but not limited to, current economic and market conditions, the operating performance of the companies including current earnings trends and other company-specific information. In light of the global spread of the COVID-19 pandemic and potentially prolonged decline of share prices of publicly traded companies in which we have invested, which is considered one of the indicators of impairment on our investments that are not measured at fair values, we may need to recognize significant downward adjustments or impairment to our investments if the impacts from the COVID-19 pandemic become other than temporary.

*Goodwill, Intangible Assets and Long-Lived Assets.* Goodwill represents the excess of the purchase price over the fair value of the identifiable assets and liabilities acquired as a result of our acquisitions of interests in its subsidiaries and consolidated affiliated Chinese entities. Goodwill is not amortized but is reviewed at least annually for impairment or earlier, if an indication of impairment exists. Recoverability of goodwill is evaluated using a two-step process. In the first step, the fair value of a reporting unit is compared to its carrying value. If the fair value of a reporting unit exceeds the carrying value of the net assets assigned to a reporting unit, goodwill is considered not impaired and no further testing is required. If the carrying value of the net assets assigned to a reporting unit exceeds the fair value of a reporting unit, the second step of the impairment test is performed in order to determine the implied fair value of a reporting unit's goodwill. Determining the implied fair value of goodwill requires valuation of a reporting unit's tangible and intangible assets and liabilities in a manner similar to the allocation of purchase price in a business combination. If the carrying value of a reporting unit's goodwill exceeds its implied fair value, goodwill is deemed impaired and is written down to the extent of the difference. We estimate total fair value of the reporting unit using discounted cash flow analysis, and makes assumptions regarding future revenue, gross margins, working capital levels, investments in new products, capital spending, tax, cash flows, and the terminal value of the reporting unit. Separately identifiable intangible assets that have determinable lives continue to be amortized and consist primarily of non-compete agreements, customer list, supplier relationship, technology and business relationship. We amortize intangible assets on a straight-line basis over their estimated useful lives, which is three to ten years. The estimated life of amortized intangibles is reassessed if circumstances occur that indicate the life has changed. Other intangible assets that have indefinite useful life primarily include trademark and domain names. We evaluate indefinite-lived intangible assets each reporting period to determine whether events and circumstances continue to support an indefinite useful life. If an intangible asset that is not being amortized is subsequently determined to have a finite useful life, the asset is tested for impairment. We estimate total fair value of the reporting unit using discounted cash flow analysis, and makes assumptions regarding future revenue, gross margins, working capital levels, investments in new products, capital spending, tax, cash flows, and the terminal value of the reporting unit. Long-lived assets (including intangible with definite lives) are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Reviews are performed to determine whether the carrying value of asset group is impaired, based on comparison to undiscounted expected future cash flows. If this comparison indicates that there is impairment, we recognize impairment of long-lived assets to the extent the carrying amount of such assets exceeds the fair value. For 2017, 2018, and 2019, we did not recognize any impairment charges for goodwill, intangible assets, or long-lived assets, based on the expanding and prospective business of our subsidiaries and consolidated affiliated Chinese entities. If different judgments or estimates had been utilized, material differences could have resulted in the amount and timing of the impairment charge. In light of the continuing global spread of the COVID-19 pandemic, our ADS price generally declined in the first quarter of 2020, and the amount by which the share price exceeded the carrying value of the reporting unit has become minimal. If our ADS price continues to decline and becomes lower than the carrying value of the reporting unit, it may be considered an indicator for us to perform interim goodwill impairment test and we may need to recognize impairment on goodwill or other long-lived assets if the impacts from the COVID-19 pandemic become other than temporary.

*Customer Rewards Program.* We offer a customer rewards program that allows our users to participate in a loyalty points program. The points awarded from services can be redeemed for cash or used to purchase gifts on our website and mobile platforms. The estimated incremental costs of the loyalty points program are recognized as sales and marketing expense, or as reduction of the revenue, depending on whether they can be redeemed to gifts or used as cash, and accrued for as a current liability. As members redeem awards or their entitlements expire, the accrued liability is reduced correspondingly. As of December 31, 2018 and 2019, our accrued liability for the customer rewards program were approximately RMB528 million and RMB478 million (US\$69 million), respectively, based on the estimated liabilities under the customer reward program.

*Share-Based Compensation.* We follow ASC 718 "Stock Compensation," using the modified prospective method. Under the fair value recognition provisions of ASC 718, we recognize share-based compensation net of an estimated forfeiture rate and therefore only recognize compensation cost for those shares expected to vest over the service period of the award. Under ASC 718, we applied the Black-Scholes valuation model in determining the fair value of options granted. Risk-free interest rates are based on US Treasury yield for the terms consistent with the expected life of award at the time of grant. Expected life is based on historical exercise patterns. Expected dividend yield is determined in view of our historical dividend payout rate and future business plan. We estimate expected volatility at the date of grant based on historical volatilities. We recognize compensation expense on all share-based awards on a straight-line basis over the requisite service period. Forfeiture rate is estimated based on historical forfeiture patterns and adjusted to reflect future change in circumstances and facts, if any. If actual forfeitures differ from those estimates, we may need to revise those estimates used in subsequent periods. According to ASC 718, a change in any of the terms or conditions of stock options shall be accounted for as a modification of the plan. Therefore, we calculate incremental compensation cost of a modification as the excess of the fair value of the modified option over the fair value of the original option immediately before its terms are modified, measured based on the share price and other pertinent factors at the modification date. For vested options, we would recognize incremental compensation cost in the period the modification occurs and for unvested options, we would recognize, over the remaining requisite service period, the sum of the incremental compensation cost and the remaining unrecognized compensation cost for the original award on the modification date.

*Leases.* We began to apply ASC 842, “Leases,” on January 1, 2019 on a modified retrospective basis and has elected not to recast comparative periods. We determine if an arrangement is a lease at inception. Operating leases are primarily for office and operation space and are included in ROU assets, other payables and accruals, and long-term lease liabilities on our consolidated balance sheets. ROU assets represent our right to use an underlying asset for the lease term and lease liabilities represent our obligation to make lease payments arising from the lease. The operating lease ROU assets and liabilities are recognized at lease commencement date based on the present value of lease payments over the lease term. As most of our leases do not provide an implicit rate, we use our incremental borrowing rate based on the information available at lease commencement date in determining the present value of lease payments. The operating lease ROU asset also includes any lease payments made and excludes lease incentives. Our lease terms may include options to extend or terminate the lease. Renewal options are considered within the ROU assets and lease liability when it is reasonably certain that we will exercise that option. Lease expense for lease payments is recognized on a straight-line basis over the lease term. For operating leases with a term of one year or less, we have elected to not recognize a lease liability or ROU asset on our consolidated balance sheet. Instead, we recognize the lease payments as expense on a straight-line basis over the lease term. Short-term lease costs are immaterial to our consolidated statements of operations and cash flows. We have operating lease agreements with insignificant non-lease components and have elected the practical expedient to combine and account for lease and non-lease components as a single lease component.

*Deferred Tax Valuation Allowances.* We provide a valuation allowance on our deferred tax assets to the extent we consider it to be more likely than not that we will be unable to realize all or part of such assets. Our future realization of our deferred tax assets depends on many factors, including our ability to generate taxable income within the period during which temporary differences reverse or before our tax loss carry-forwards expire, the outlook for the Chinese economy and overall outlook for our industry. We consider these factors at each balance sheet date and determine whether valuation allowances are necessary. As of December 31, 2017, 2018, and 2019, we recorded deferred tax assets of RMB462 million, RMB850 million, and RMB976 million (US\$140 million), respectively. If, however, unexpected events occur in the future that would prevent us from realizing all or a portion of our net deferred tax assets, an adjustment would result in a charge to income in the period in which such determination was made. As of December 31, 2017, 2018, and 2019, it is more likely than not that the deferred tax assets resulting from the net operating losses of certain subsidiaries will not be realized. Hence, we recorded valuation allowance against our gross deferred tax assets in order to reduce the deferred tax assets to the amount that is more likely than not to be realized. Also, we have elected to early adopt a new accounting guidance issued by the FASB to simplify the presentation of deferred income taxes on the Balance Sheet Classification. Starting December 31, 2015 and prospectively, deferred tax assets and liabilities, along with related valuation allowances are classified as noncurrent on the balance sheet.

*Allowance for doubtful accounts.* Accounts receivable are recorded at the invoiced amount and do not bear interest. We review on a periodic basis for doubtful accounts for the outstanding trade receivable balances and the receivables relating to financial services based on historical experience and information available. Additionally, we make specific bad debt provisions based on (i) our specific assessment of the collectability of all significant accounts; and (ii) any specific knowledge we have acquired that might indicate that an account is uncollectible. The facts and circumstances of each account may require us to use substantial judgment in assessing its collectability. As of December 31, 2017, 2018, and 2019, the allowance for doubtful accounts was RMB129 million, RMB156 million, and RMB256 million (US\$37 million), respectively. The increase of allowance for doubtful accounts in 2019 was primarily attributable to the prolonged aging of accounts receivables due from merchant customers and the increased allowance for financial services that developed in recent years.

## Results of Operations

The following table sets forth a summary of our consolidated statements of operations for the periods indicated both in amount and as a percentage of net revenues.

	For the Year Ended December 31 <sup>(1)</sup> ,						
	2017		2018		2019		
	RMB	%	RMB	%	RMB	US\$	
	(in millions)						
<b>Revenues:</b>							
Accommodation reservation	9,531	36	11,580	37	13,514	1,941	38
Transportation ticketing	12,221	46	12,947	42	13,952	2,004	39
Packaged-tour	2,973	11	3,772	12	4,534	651	13
Corporate travel	753	3	981	3	1,255	180	4
Others	1,515	5	1,824	6	2,461	353	6
Total revenues	26,993	101	31,104	100	35,716	5,129	100
Less: Sales tax and surcharges	(197)	(1)	(139)	(0)	(50)	(7)	(0)
Net revenues	26,796	100	30,965	100	35,666	5,122	100
Cost of revenues	(4,678)	(17)	(6,324)	(20)	(7,372)	(1,059)	(21)
Gross profit	22,118	83	24,641	80	28,294	4,063	79
<b>Operating expenses:</b>							
Product development <sup>(2)</sup>	(8,259)	(31)	(9,620)	(31)	(10,670)	(1,533)	(30)
Sales and marketing <sup>(2)</sup>	(8,294)	(31)	(9,596)	(31)	(9,295)	(1,335)	(26)
General and administrative <sup>(2)</sup>	(2,622)	(10)	(2,820)	(9)	(3,289)	(472)	(9)
Total operating expenses	(19,175)	(72)	(22,036)	(71)	(23,254)	(3,340)	(65)
Income from operations	2,943	11	2,605	9	5,040	723	14
Interest income	988	4	1,899	6	2,094	301	6
Interest expense	(1,286)	(5)	(1,508)	(5)	(1,677)	(241)	(5)
Other income/(expense)	879	3	(1,075)	(3)	3,630	521	10
Income before income tax expense and equity in loss of affiliates	3,524	13	1,921	7	9,087	1,304	25
Income tax expense	(1,285)	(5)	(793)	(3)	(1,742)	(250)	(5)
Equity in loss of affiliates	(65)	(0)	(32)	(0)	(347)	(50)	(1)
Net income	2,174	8	1,096	4	6,998	1,004	19
Net (income)/loss attributable to non-controlling interests	(19)	(0)	16	0	57	8	0
Accretion to redemption value of redeemable non-controlling interests	—	—	—	—	(44)	(6)	(0)
Net income attributable to Trip.com Group's shareholders	2,155	8	1,112	4	7,011	1,006	19

Notes:

- (1) Effective from January 1, 2018, we adopted ASC Topic 606, a new accounting standard on the recognition of revenue issued by FASB in 2014, and have applied such accounting standard retrospectively to the year ended December 31, 2017.
- (2) Share-based compensation was included in the associated operating expense categories as follows:

	For the Year Ended December 31,						
	2017		2018		2019		
	RMB	%	RMB	%	RMB	US\$	
	(in millions)						
Product development	(1,013)	(4)	(934)	(3)	(919)	(132)	(3)
Sales and marketing	(186)	(1)	(156)	(1)	(144)	(21)	(0)
General and administrative	(635)	(2)	(617)	(2)	(651)	(94)	(2)

Any discrepancies in the above table between the amounts or percentages identified as total amounts or percentages and the sum of the amounts or percentages listed therein are due to rounding.

## 2019 compared to 2018

### Revenues

Total revenues were RMB35.7 billion (US\$5.1 billion) in 2019, an increase of 15% over RMB31.1 billion in 2018. This revenues growth was primarily due to our brands' extensive reach and expansion in our product portfolio.

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*Accommodation Reservation.* Revenues from our accommodation reservation business increased by 17% to RMB13.5 billion (US\$1.9 billion) in 2019 from RMB11.6 billion in 2018, primarily due to our brands' extensive reach and provision of diversified accommodation choices to prospective customers.

*Transportation Ticketing.* Revenues from our transportation ticketing business increased by 8% to RMB14.0 billion (US\$2.0 billion) in 2019 from RMB12.9 billion in 2018, primarily due to an increase in demands for international air tickets and ground transportation tickets.

*Packaged-tour.* Packaged-tour revenues increased by 20% to RMB4.5 billion (US\$651 million) in 2019 from RMB3.8 billion in 2018, primarily due to an increase in demands for organized tours and self-guided tours and our further penetration in lower-tier cities in China.

*Corporate Travel.* Corporate travel revenues increased by 28% to RMB1.3 billion (US\$180 million) in 2019 from RMB981 million in 2018, primarily due to expansion in corporate customer base and travel product coverage.

*Other Businesses.* Revenues from other businesses increased by 35% to RMB2.5 billion (US\$353 million) in 2019 from RMB1.8 billion in 2018, primarily due to a strong growth in our advertisement services and an increase in demands for financial services.

### *Cost of Revenues*

Cost of revenues in 2019 increased by 17% to RMB7.4 billion (US\$1.1 billion) from RMB6.3 billion in 2018, primarily due to an increase in credit card service fee, customer service related expenses and payments to travel suppliers for the service we had control.

### *Operating Expenses*

Operating expenses include product development expenses, sales and marketing expenses, and general and administrative expenses.

*Product Development.* Product development expenses increased by 11% to RMB10.7 billion (US\$1.5 billion) in 2019 from RMB9.6 billion in 2018, primarily due to an increase in product development personnel related expenses.

*Sales and Marketing.* Sales and marketing expenses decreased by 3% to RMB9.3 billion (US\$1.3 billion) in 2019 from RMB9.6 billion in 2018, primarily attributable to a decrease in sales and marketing related activities. Our advertising expenses decreased from RMB6.0 billion in 2018 to RMB5.5 billion (US\$783 million) in 2019.

*General and Administrative.* General and administrative expenses increased by 17% to RMB3.3 billion (US\$472 million) in 2019 from RMB2.8 billion in 2018, primarily due to an increase in general and administrative personnel related expenses and allowance for doubtful accounts.

### *Interest Income*

Interest income increased by 10% to RMB2.1 billion (US\$301 million) in 2019 from RMB1.9 billion in 2018 due to an increase in held to maturity deposits and financial products in 2019.

### *Interest Expense*

Interest expense increased by 11% to RMB1.7 billion (US\$241 million) in 2019 from RMB1.5 billion in 2018 due to fluctuation in the principal amount of both short-term and long-term debt in 2019.

### *Other (Expense)/Income*

Other income was RMB3.6 billion (US\$521 million) in 2019 while other expense was RMB1.1 billion in 2018, primarily due to the RMB2.3 billion (US\$335 million) fair value gain of equity securities investments in 2019 and the RMB3.1 billion fair value loss of equity securities investments in 2018, largely offset by RMB1.2 billion gain on disposal of long-term investments.

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### *Income Tax Expense*

Income tax expense was RMB1.7 billion (US\$250 million) in 2019, an increase of 120% over RMB793 million in 2018, primarily due to the increase in our taxable income. Our effective income tax rate in 2019 was 19%, as compared to 41% in 2018. The change in our effective income tax rate from 2018 to 2019 was primarily due to combined impacts from change in profitability, changes in the profits of our subsidiaries with different tax rates, certain non-taxable income of the fair value changes in equity securities investments, and certain non-deductible expenses from the fair value changes in equity securities investments.

### *Equity in Loss of Affiliates*

Equity in loss of affiliates is RMB347 million (US\$50 million) in 2019, as compared with equity in loss of affiliates of RMB32 million in 2018. This is primarily attributable to the losses incurred from our equity method investments.

### **2018 compared to 2017**

#### *Revenues*

Total revenues were RMB31.1 billion in 2018, an increase of 15% over RMB27.0 billion in 2017. This revenues growth was primarily due to our brands' extensive reach and provision of diversified accommodation choices to prospective customers.

*Accommodation Reservation.* Revenues from our accommodation reservation business increased by 21% to RMB11.6 billion in 2018 from RMB9.5 billion in 2017, primarily due to our brands' extensive reach and provision of diversified accommodation choices to prospective customers.

*Transportation Ticketing.* Revenues from our transportation ticketing business increased by 6% to RMB12.9 billion in 2018 from RMB12.2 billion in 2017, primarily due to an increase in demands for ground transportation tickets.

*Packaged-tour.* Packaged-tour revenues increased by 27% to RMB3.8 billion in 2018 from RMB3.0 billion in 2017, primarily due to an increase in demands for organized tours and self-guided tours.

*Corporate Travel.* Corporate travel revenues increased by 30% to RMB981 million in 2018 from RMB753 million in 2017, primarily due to an increase in corporate travel demand resulting from various business activities.

*Other Businesses.* Revenues from other businesses increased by 20% to RMB1.8 billion in 2018 from RMB1.5 billion in 2017, primarily due to an increase in revenues from online advertising services.

#### *Cost of Revenues*

Cost of revenues in 2018 increased by 35% to RMB6.3 billion from RMB4.7 billion in 2017, primarily due to increase of credit card service fee, customer service related expenses and payments to travel suppliers for the service we had control.

#### *Operating Expenses*

Operating expenses include product development expenses, sales and marketing expenses and general and administrative expenses.

*Product Development.* Product development expenses increased by 16% to RMB9.6 billion in 2018 from RMB8.3 billion in 2017, primarily due to an increase in product development personnel related expenses.

*Sales and Marketing.* Sales and marketing expenses increased by 16% to RMB9.6 billion in 2018 from RMB8.3 billion in 2017, primarily attributable to an increase in sales and marketing related activities. Our advertising expenses increased from RMB5.1 billion in 2017 to RMB6.0 billion in 2018.

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*General and Administrative.* General and administrative expenses increased by 8% to RMB2.8 billion in 2018 from RMB2.6 billion in 2017, primarily due to an increase in general and administrative personnel related expenses.

### *Interest Income*

Interest income increased by 92% to RMB1.9 billion in 2018 from RMB988 million in 2017 due to an increase in cash, cash equivalents and short-term investments in 2018.

### *Interest Expense*

Interest expense increased by 17% to RMB1.5 billion in 2018 from RMB1.3 billion in 2017 due to an increase in short-term debt and long-term debt in 2018.

### *Other (Expense)/Income*

Other expense was RMB1.1 billion in 2018 while other income was RMB879 million in 2017, primarily due to the RMB3.1 billion fair value loss of equity securities investments and largely offset by RMB1.2 billion gain on disposal of long-term investments in 2018.

### *Income Tax Expense*

Income tax expense was RMB793 million in 2018, a decrease of 38% over RMB1.3 billion in 2017, primarily due to the decrease in our taxable income. Our effective income tax rate in 2018 was 41%, as compared to 36% in 2017. The change in our effective income tax rate from 2017 to 2018 was mainly due to the combined impacts from change in profitability, changes in the profits of our subsidiaries with different tax rates and decrease of non-deductible share-based compensation expenses.

### *Equity in Loss of Affiliates*

Equity in loss of affiliates is RMB32 million in 2018 while equity in loss of affiliates is RMB65 million in 2017. This is primarily attributable to the losses incurred from our equity method investments.

## **Inflation**

Inflation in China has not materially impacted our results of operations. According to NBS, the year-over-year percent changes in the consumer price index for December 2017, 2018, and 2019 were increases of 1.8%, 1.9%, and 4.5%, respectively. Inflation in recent years has been associated with food and other consumption items and minimum wages in China. Consumption items do not represent major direct cost items for our business. While personnel costs represent a material part of our total operating costs and expenses, inflation in minimum wages in China primarily affects certain categories of our non-managerial staff costs while increases in total personnel costs of our business remain manageable. Although we have not been materially affected by inflation in the past, we can provide no assurance that we will not be affected in the future by higher rates of inflation in China.

## **B. Liquidity and Capital Resources**

### **Liquidity**

The following table sets forth the summary of our cash flows for the periods indicated:

	For the Year Ended December 31,			
	2017	2018	2019	
	RMB	RMB	RMB	US\$
Net cash provided by operating activities	7,069	7,115	7,333	1,055
Net cash used in investing activities	(15,229)	(14,078)	(2,413)	(347)
Net cash provided/(used) by financing activities	8,020	11,926	(9,256)	(1,330)
Effect of foreign exchange rate changes on cash and cash equivalents, restricted cash	(47)	819	309	44
Net (decrease)/increase in cash and cash equivalents, restricted cash	(187)	5,782	(4,027)	(578)
Cash and cash equivalents, restricted cash, beginning of year	20,179	19,992	25,774	3,702
Cash and cash equivalents, restricted cash, end of year	19,992	25,774	21,747	3,124



Net cash provided by operating activities amounted to RMB7.3 billion (US\$1.1 billion) in 2019, which was primarily attributable to (i) our net income of RMB7.0 billion (US\$1.0 billion) in 2019; (ii) an add-back of RMB3.9 billion (US\$567 million) in non-cash expense or loss items, mainly relating to share-based compensation expenses, depreciation and amortization expenses, and amortization of ROU assets; (iii) an increase in advances from customers of RMB2.2 billion (US\$318 million), mainly due to an increase in demand for packaged-tour, transportation ticketing, and accommodation services; (iv) an increase in other payables and accruals of RMB1.2 billion (US\$168 million), mainly due to an increase in accrued operating related expenses; (v) an increase in salary and welfare payable of RMB1.1 billion (US\$164 million), mainly due to an increase in personnel related expenses; and (vi) an increase in accounts payable of RMB540 million (US\$78 million), mainly due to an increase in hotel, transportation ticketing, and packaged-tour services, as we are generally entitled to certain credit terms from our suppliers. These increases were partially offset by (i) changes in fair value for equity investments measured at fair value of RMB2.3 billion (US\$335 million); (ii) an increase in prepayments and other current assets of RMB2.2 billion (US\$322 million), mainly due to an increase in prepayment for packaged-tour, transportation ticketing, and accommodation services; (iii) an increase in accounts receivable of RMB2.0 billion (US\$293 million), mainly due to an increase of corporate travel management services, hotels, and credit card payments from our individual customers for transportation ticket booking; (iv) an increase in due from related parties of RMB1.1 billion (US\$151 million); (v) the gain on disposal and settlement of long-term investment of RMB921 million (US\$133 million).

Net cash provided by operating activities amounted to RMB7.1 billion in 2018, which was primarily attributable to (i) our net income of RMB1.1 billion in 2018; (ii) an add-back of RMB6.0 billion in non-cash expense/loss items, primarily relating to share-based compensation expenses, depreciation expenses and changes in fair value for equity investments measured at fair value; (iii) an increase in accounts payable of RMB3.7 billion, primarily due to an increase in volume of hotel, transportation ticketing and packaged-tour services, as we are generally entitled to certain credit terms from our suppliers; (iv) an increase in advances from customers of RMB1.3 billion, primarily due to an increase in demand for packaged-tour, ticketing and accommodation services; and (v) an increase in other payable and accruals of RMB914 million primarily due to the increase in accrued advertising expenses. These increases were partially offset by (i) an increase in prepayments and other current assets of RMB2.0 billion, primarily due to an increase in prepayment for packaged-tour, ticketing and accommodation services; (ii) an increase in due from related parties of RMB1.3 billion; (iii) the gain on disposal of long-term investment of RMB1.2 billion; and (iv) an increase in accounts receivable of RMB704 million, primarily due to an increase of volume of corporate travel management services and credit card payments from our individual customers for transportation ticket booking.

Net cash provided by operating activities amounted to RMB7.1 billion in 2017, which was primarily attributable to (i) our net income of RMB2.2 billion in 2017; (ii) an add-back of RMB4.3 billion in non-cash expense/loss items, mainly relating to share-based compensation expenses, impairment of investments, and depreciation expenses; (iii) an increase in other payable and accruals of RMB1.3 billion mainly due to the increase in advertising expenses; and (iv) an increase in salary and welfare payable of RMB954 million, mainly due to the increase in the number of personnel and the average payroll and the increase in accrued annual bonus. These increases were partially offset by the gain on disposal of cost method investment of RMB1.4 billion.

Under PRC laws and regulations, our subsidiaries are required to set aside at least 10% of their respective after-tax profits each year, if any, to statutory reserve funds, unless such reserve funds have reached 50% of their respective registered capital. These reserve funds are not distributable as cash dividends and dividends cannot be distributed until any losses from prior fiscal years have been offset. See “Item 3.D. Key Information — Risk Factors — Risks Relating to Our Corporate Structure — Our subsidiaries and consolidated affiliated Chinese entities in China are subject to restrictions on paying dividends or making other payments to us, which may restrict our ability to satisfy our liquidity requirements.”

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Net cash used in investing activities amounted to RMB2.4 billion (US\$347 million) in 2019, compared to net cash used in investing activities of RMB14.1 billion in 2018. This decrease in 2019 was primarily due to a decrease in short-term investments. Net cash used in investing activities amounted to RMB14.1 billion in 2018, compared to net cash used in investing activities of RMB15.2 billion in 2017. This decrease in 2018 was primarily due to a decrease in investments and acquisitions.

Net cash used by financing activities amounted to RMB9.3 billion (US\$1.3 billion) in 2019, compared to net cash provided by financing activities of RMB11.9 billion in 2018 and RMB8.0 billion in 2017. We did not make any dividend payment in 2017, 2018, and 2019. Net cash flow in financing activities in 2019 was mainly due to the cash paid for put redemption with respect to the 2022 Notes and cash redemption for the 2019 Booking Notes of RMB10.0 billion (US\$1.4 billion) in 2019.

### **Capital Resources**

As of December 31, 2019, our principal sources of liquidity have been cash generated from operating activities, borrowings from third-party lenders, as well as the proceeds we received from our public offerings of ordinary shares and our offerings of convertible senior notes. Our cash and cash equivalents consist of cash on hand and liquid investments which are unrestricted as to withdrawal or use. Our financing activities consist of issuance and sale of our shares and convertible senior notes to investors and related parties and borrowings from third-party lenders. As of the date of this annual report, we had convertible senior notes outstanding in an aggregate principal amount of US\$2.4 billion and three term loan facilities outstanding, including the one we recently entered into with certain financial institutions on April 3, 2020 for up to US\$1.0 billion transferrable term and revolving loan facility with an incremental facility of up to US\$500 million. Under these term loan facilities, as of the date of this annual report, the aggregate outstanding principal balance was US\$1.2 billion and we had US\$1.5 billion available for further draw-down, subject to NDRC filing.

Except as disclosed in this annual report, we have no outstanding bank loans or financial guarantees or similar commitments to guarantee the payment obligations of third parties. We expect that the outbreak of COVID-19 will have material and adverse impacts on our cash flow for the first quarter of 2020 with potential continuing impacts on subsequent periods. However, based on our liquidity assessment, we believe that our cash flow from operations and proceeds from our financing activities will be sufficient to meet our anticipated cash needs, including our cash needs for working capital and capital expenditures, for the foreseeable future and for at least 12 months subsequent to the filing of this annual report. We may, however, require additional cash resources due to changing business conditions or other future developments, including any investments or acquisitions we may decide to pursue. See also “Item 3.D. Key Information — Risk Factors — Risks Relating to Our Business and Industry — Pandemics, epidemics, or fear of spread of contagious diseases could disrupt the travel industry and our operations, which could materially and adversely affect our business, financial condition, and results of operations.”

As of December 31, 2019, our primary capital commitment was RMB13 million (US\$1.8 million) in connection with capital expenditures of property, equipment and software.

#### *C. Research and Development, Patents and Licenses, etc.*

Our research and development efforts consist of continuing to develop our proprietary technology as well as incorporating new technologies from third parties. We intend to continue to upgrade our proprietary booking, customer relationship management and yield management software to keep up with the continued growth in our transaction volume and the rapidly evolving technological conditions. We will also seek to continue to enhance our electronic confirmation system and promote such system with more hotel suppliers, as we believe that the electronic confirmation system is a cost-effective and convenient way for hotels to interface with us.

In addition, we have utilized and will continue to utilize the products and services of third parties to support our technology platform.

#### *D. Trend Information*

Other than as disclosed elsewhere in this annual report, we are not aware of any trends, uncertainties, demands, commitments or events for the period from January 1, 2019 to December 31, 2019 that are reasonably likely to have a material effect on our net revenues, income, profitability, liquidity or capital resources, or that caused the disclosed financial information to be not necessarily indicative of future operating results or financial conditions.

E. *Off-Balance Sheet Arrangements*

In connection with our air ticketing business, we are required by the CAAC and International Air Transport Association, or IATA, to enter into guarantee arrangements and to pay deposits. The unused deposits are repaid at the end of the guaranteed period on an annual basis. As of December 31, 2019, the total quota of the air tickets that we were entitled to issue was up to RMB1.1 billion (US\$156 million). The total amount of the deposit we paid was RMB146 million (US\$21 million).

Based on the guarantee arrangements and historical experience, the maximum amount of the future payments is approximately RMB943 million (US\$135 million) which is the guaranteed amount of the air ticket that we could issue rather than a financial guarantee. We will be liable to pay only when we issue the air tickets to our users and such payable is included in the accounts payable. Therefore, we believe the guarantee arrangements do not constitute any contractual and constructive obligation of us and has not recorded any liability beyond the amount of the tickets that have already been issued.

F. *Tabular Disclosure of Contractual Obligations*

The following sets forth our contractual obligations as of December 31, 2019:

	<u>Total</u>	<u>Less Than 1 Year</u>	<u>1-3 Years</u>	<u>3-5 Years</u>	<u>More Than 5 Years</u>
		(RMB in millions)			
Convertible senior notes with principal and interest	18,070	6,847	928	389	9,906
Term loans and other debt, with principal and interest	33,377	21,985	10,949	432	11
Operating lease obligations	1,305	426	590	189	100
Purchase obligations	13	8	4	1	—
<b>Total</b>	<b>52,765</b>	<b>29,266</b>	<b>12,471</b>	<b>1,011</b>	<b>10,017</b>

In June 2015, we issued the 2020 Notes in an aggregate principal amount of US\$700 million, which may be converted at any time prior to the close of business on the second business day immediately preceding the maturity date of July 1, 2020 based on an initial conversion rate of 9.1942 of our ADSs per US\$1,000 principal amount of notes. The conversion rate is subject to adjustment upon occurrence of certain events. The 2020 Notes bear interest at a rate of 1.00% per year, payable semiannually in arrears on January 1 and July 1 of each year, beginning on January 1, 2016.

In June 2015, we issued the 2025 Notes in an aggregate principal amount of US\$400 million, which may be converted, at each holder's option at any time prior to the close of business on the second business day immediately preceding the maturity date of July 1, 2025 based on an initial conversion rate of 9.3555 of our ADSs per US\$1,000 principal amount of notes. The conversion rate is subject to adjustment upon occurrence of certain events. The 2025 Notes bear interest at a rate of 1.99% per year, payable semiannually in arrears on January 1 and July 1 of each year, beginning on January 1, 2016.

In September 2016, we issued the 2022 Notes in an aggregate principal amount of US\$975 million, which may be converted, at each holder's option at any time prior to the close of business on the business day immediately preceding the maturity date of September 15, 2022 based on an initial conversion rate of 15.2688 of our ADSs per US\$1,000 principal amount of notes. The conversion rate is subject to adjustment upon occurrence of certain events. The 2022 Notes bear interest at a rate of 1.25% per year, payable semiannually in arrears on March 15 and September 15 of each year, beginning on March 15, 2017. In September 2019, we completed put right offer relating to the 2022 Notes. US\$924 million aggregate principal amount of the 2022 Notes were validly surrendered and not withdrawn prior to the expiration of the put right offer. The aggregate purchase price of these 2022 Notes was US\$924 million.

In May 2015, we issued the 2020 Booking Notes in an aggregate principal amount of US\$250 million to a subsidiary of Booking, which will mature on May 29, 2020, unless earlier repurchased or converted into our ADSs based on an initial conversion rate of 9.5904 of our ADSs per US\$1,000 principal amount of notes. The conversion rate is subject to adjustment upon occurrence of certain events. The 2020 Booking Notes bear interest at a rate of 1.00% per year, payable semiannually beginning on November 29, 2015.

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In December 2015, we issued the 2025 Booking Notes in an aggregate principal amount of US\$500 million to a subsidiary of Booking, which will mature on December 11, 2025, unless earlier repurchased or converted into our ADSs based on an initial conversion rate of 14.6067 of our ADSs per US\$1,000 principal amount of notes. The conversion rate is subject to adjustment upon occurrence of certain events. The 2025 Booking Notes bear interest at a rate of 2.00% per year, payable semiannually beginning on June 11, 2016.

In December 2015, we issued the 2025 Hillhouse Notes in an aggregate principal amount of US\$500 million to Hillhouse, which will mature on December 11, 2025, unless earlier repurchased or converted into our ADSs based on an initial conversion rate of 14.6067 of our ADSs per US\$1,000 principal amount of notes. The conversion rate is subject to adjustment upon occurrence of certain events. The 2025 Hillhouse Notes bear interest at a rate of 2.00% per year, payable semiannually beginning on June 11, 2016.

In September 2016, we issued the 2022 Booking Notes in an aggregate principal amount of US\$25 million to a subsidiary of Booking, which will mature on September 15, 2022, unless earlier repurchased or converted into our ADSs based on an initial conversion rate of 15.2688 of our ADSs per US\$1,000 principal amount of notes. The conversion rate is subject to adjustment upon occurrence of certain events. The 2022 Booking Notes bear interest at a rate of 1.25% per year, payable semiannually beginning on March 15, 2017.

In July 2019, we entered into a facility agreement as a borrower with certain financial institutions for up to US\$2.0 billion equivalent transferable term facility with a greenshoe option of up to US\$500 million. The facilities have a 3-year tenor. The proceeds borrowed under such facilities may be used for our general working capital requirements, including repayment of any existing financial indebtedness.

As of December 31, 2019, we obtained short-term bank borrowings of RMB21.1 billion (US\$3.0 billion) in aggregate, of which RMB6.7 billion (US\$1.0 billion) were collateralized by bank deposits of RMB2.7 billion (US\$392 million) classified as restricted cash and/or short-term investment of RMB4.7 billion (US\$678 million). The weighted average interest rate for the outstanding borrowings was approximately 3.79%.

As of December 31, 2019, we obtained long-term borrowings of RMB11.0 billion (US\$1.6 billion) in aggregate collateralized by bank deposits, properties and/or stock at one or more of our wholly-owned subsidiaries. The weighted average interest rate for the outstanding borrowings as of December 31, 2019 was approximately 3.65%.

As of December 31, 2019, our term loans and other debt also included securitization debt, represented by the revolving debt securities which are collateralized by the receivable related to financial services. The revolving debt securities have the terms ranged from two to four years with the annual interest rate from 3.85% to 6.90%. The revolving debt securities do not contain significant covenant.

While the table above indicates our contractual obligations as of December 31, 2019, the actual amounts we are eventually required to pay may be different in the event that any agreements are renegotiated, cancelled or terminated.

In April 2020, we entered into a facility agreement as a borrower with certain financial institutions for up to US\$1.0 billion transferrable term and revolving loan facility with an incremental facility of up to US\$500 million. The facilities have a 3-year tranche and a 5-year tranche. The proceeds borrowed under the facilities may be used for our general working capital requirements, including repayment of any existing financial indebtedness.

### *G. Safe Harbor*

This annual report on Form 20-F contains forward-looking statements that reflect our current expectations and views of future events. These statements are made under the “safe harbor” provisions of the U.S. Private Securities Litigation Reform Act of 1995. You can identify these forward-looking statements by terminology such as “may,” “will,” “expect,” “anticipate,” “future,” “intend,” “plan,” “believe,” “estimate,” “is/are likely to” or other similar expressions. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our financial condition, results of operations, business strategy and financial needs. These forward-looking statements include, among other things:

- our anticipated growth strategies;
- our future business development, results of operations and financial condition;
- our ability to continue to control costs and maintain profitability; and
- the expected growth in the overall economy and demand for travel services in China.

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The forward-looking statements included in this annual report on Form 20-F are subject to risks, uncertainties and assumptions about our company. Our actual results of operations may differ materially from the forward-looking statements as a result of the risk factors described under “Item 3.D. Key Information — Risk Factors,” included elsewhere in this annual report on Form 20-F, including the following risks:

- slow-down of economic growth in China and the global economic downturn may have a material and adverse effect on our business, and may materially and adversely affect our growth and profitability;
- public health crisis, such as COVID-19 outbreak, may have a material and adverse effect on our business and results of operations;
- general declines or disruptions in the travel industry may materially and adversely affect our business and results of operations;
- the trading price of our ADSs has been volatile historically and may continue to be volatile regardless of our operating performance;
- if we are unable to maintain existing relationships with travel suppliers and strategic alliances, or establish new arrangements with travel suppliers and strategic alliances similar to those we currently have, our business may suffer;
- if we fail to further increase our brand recognition, we may face difficulty in retaining existing and acquiring new business partners and customers, and our business may be harmed;
- if we do not compete successfully against new and existing competitors, we may lose our market share, and our business and results of operations may be materially and adversely affected;
- our business could suffer if we do not successfully manage current growth and potential future growth;
- our strategy to acquire or invest in complementary businesses and assets involves significant risks and uncertainty that may prevent us from achieving our objectives and harm our financial condition and results of operations;
- our quarterly results are likely to fluctuate because of seasonality in the travel industry in Greater China;
- our business may be harmed if our infrastructure and technology are damaged or otherwise fail or become obsolete;
- our business depends substantially on the continuing efforts of our key executives, and our business may be severely disrupted if we lose their services;
- inflation in China may disrupt our business and have an adverse effect on our financial condition and results of operations; and
- if the ownership structure of our consolidated affiliated Chinese entities and the contractual arrangements among us, our consolidated affiliated Chinese entities and their shareholders are found to be in violation of any PRC laws or regulations, we and/or our consolidated affiliated Chinese entities may be subject to fines and other penalties, which may adversely affect our business and results of operations.

These risks are not exhaustive. Other sections of this annual report include additional factors that could adversely impact our business and financial performance. You should read these statements in conjunction with the risk factors disclosed in Item 3.D. of this annual report, “Item 3.D. Key Information — Risk Factors,” and other risks outlined in our other filings with the Securities and Exchange Commission, or SEC. Moreover, we operate in an emerging and evolving environment. New risk factors may emerge from time to time, and it is not possible for our management to predict all risk factors, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements.

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You should not rely upon forward-looking statements as predictions of future events. We undertake no obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

### ITEM 6. DIRECTORS, SENIOR MANAGEMENT AND EMPLOYEES

#### A. Directors and Senior Management

The names of our current directors and senior management, their ages as of the date of this annual report, and the principal positions with Trip.com Group Limited held by them are as follows:

Directors and Executive Officers	Age	Position/Title
James Jianzhang Liang	50	Co-founder; Executive Chairman of the Board
Min Fan	54	Co-founder; Vice Chairman of the Board and President
Jane Jie Sun	51	Chief Executive Officer and Director
Cindy Xiaofan Wang	44	Chief Financial Officer and Executive Vice President
Neil Nanpeng Shen <sup>(1)(2)</sup>	52	Co-founder; Independent Director
Qi Ji <sup>(2)</sup>	53	Co-founder; Independent Director
Gabriel Li <sup>(1)</sup>	52	Vice Chairman of the Board, Independent Director
JP Gan <sup>(1)(2)</sup>	48	Independent Director
Robin Yanhong Li	51	Director
Dou Shen	40	Director

Notes:

- (1) Member of the Audit Committee.
- (2) Member of the Compensation Committee.

Pursuant to the currently effective articles of association of our company, our board of directors consists of nine directors, including without limitation (i) three directors appointed by our co-founders consisting of Messrs. James Jianzhang Liang, Neil Nanpeng Shen, Qi Ji, and Min Fan, subject to the approval of a majority of our independent directors; and (ii) one director who is the current chief executive officer of our company. Each of our directors will hold office until such director's successor is elected and duly qualified, or until such director's earlier death, bankruptcy, insanity, resignation or removal. There are no family relationships among any of the directors or executive officers of our company.

#### Biographical Information

*James Jianzhang Liang* is one of the co-founders and the executive chairman of our company. He has served as a member of our board of directors since our inception and has been the chairman of the board since August 2003. Mr. Liang served as our chief executive officer from 2000 to January 2006, and from March 2013 to November 2016. Under his visionary leadership, Trip.com Group (formerly known as Ctrip.com International, Ltd.) has successfully transitioned from offline to online and from online to mobile, made strategic investments in key industry players, and cultivated and invested in new business ideas. Trip.com Group is now one of the world's largest online travel agencies. Mr. Liang has won many accolades for his contributions to the Chinese travel industry, including 2019 Forbes China Multinational Business Leader, Best CEO in the internet category in the 2016 All-Asia Executive Team Rankings by Institutional Investor and 2015 China's Business Leader of the Year by Forbes. Prior to founding our company, Mr. Liang held a number of technical and managerial positions with Oracle Corporation from 1991 to 1999 in the United States and China, including the head of the ERP consulting division of Oracle China from 1997 to 1999. Mr. Liang currently serves as co-chairman of Tongcheng-eLong (SEHK: 7080), director of MakeMyTrip (Nasdaq: MMYT), and independent director of SINA (Nasdaq: SINA). Mr. Liang received his Ph.D. degree from Stanford University and his Master's and Bachelor's degrees from Georgia Institute of Technology. He also attended the "China Gifted Youth Class" in Fudan University.

*Min Fan* is one of the co-founders of our company. Mr. Fan has been a member of our board of director since October 2006 and has served as the vice chairman of our board of directors since March 2013. Mr. Fan has served as our president since February 2009. He also served as our chief executive officer from January 2006 to February 2013, as our chief operating officer from November 2004 to January 2006, and as our executive vice president from 2000 to November 2004. During his tenure as our chief executive officer, Mr. Fan was named one of the Top 10 Great Leaders Award of the Year on the 2010 APEC China SME Value List, 2008 EY Entrepreneur of the Year and 2007 Best New Economic Figure of the Year. In 2009 and 2016, Mr. Fan was elected Vice Chairman of the Board of the China Tourism Association. Prior to co-founding Trip.com Group (formerly known as Ctrip.com International, Ltd.), Mr. Fan was the chief executive officer of Shanghai Travel Service Company, a leading domestic travel agency in China, from 1997 to 2000. From 1990 to 1997, he served as the deputy general manager and in a number of other senior positions at Shanghai New Asia Hotel Management Company, which was one of the leading hotel management companies in China. Mr. Fan has served as an independent director of Leju Holdings Limited (NYSE: LEJU) since 2014. Mr. Fan obtained his Master's and Bachelor's degrees from Shanghai Jiao Tong University. He also studied at the Lausanne Hotel Management School of Switzerland in 1995.

*Jane Jie Sun* has served as the chief executive officer of our company, as well as a member of the board of directors, since November 2016. Prior to that, she was a co-president since March 2015, chief operating officer since May 2012, and chief financial officer from 2005 to 2012. Ms. Sun is well respected for her extensive experience in operating and managing online travel businesses, mergers and acquisitions, and financial reporting and operations. Ms. Sun is a member of the JPMorgan Asian Advisory Board, vice chair of the World Travel and Tourism Council, co-chair of the Development Advisory Board of University of Michigan and Shanghai Jiao Tong University Joint Institute, and a board member and Business Leaders Group Committee member of Business China established by Singapore's Founding Prime Minister Mr. Lee Kuan Yew. In 2019, Ms. Sun was awarded an Asia Society Asia Game Changer Award. Forbes named her one of the Emergent 25 Asia's Latest Star Businesswomen in 2018, and one of the Most Influential and Outstanding Businesswomen in China in 2017. She was also one of Fortune's Top 50 Most Powerful Women in Business, and one of Fast Company's Most Creative People in Business in 2017. During her tenure at Trip.com Group, she also won the Institutional Investor Awards for the Best CEO and the Best CFO. Prior to joining Trip.com Group, Ms. Sun worked as the head of the SEC and External Reporting Division of Applied Materials, Inc. since 1997. Prior to that, she worked with KPMG LLP as an audit manager in Silicon Valley, California for five years. She is a member of the American Institute of Certified Public Accountants and a State of California Certified Public Accountant. Ms. Sun received her Bachelor's degree from the business school of the University of Florida with high honors. She also obtained her LL.M. degree from Peking University Law School.

*Cindy Xiaofan Wang* has served as our chief financial officer since November 2013 and executive vice president since May 2016. Prior to that, she was our Vice President since January 2008. Ms. Wang joined us in 2001 and has held a number of managerial positions at our company. In 2017, Ms. Wang won the Best CFO Award by Institutional Investor in the 2017 All-Asia Executive Team Rankings. Prior to joining us, she served as finance manager in China eLabs, a venture capital firm, from 2000 to 2001. Previously, Ms. Wang worked with PricewaterhouseCoopers Zhong Tian CPAs Limited Company. Ms. Wang serves on the board of directors of Huazhu Group Limited (Nasdaq: HTHT) since January 2018. Ms. Wang received a Master of Business Administration from Massachusetts Institute of Technology and obtained her Bachelor's degree from Shanghai Jiao Tong University. Ms. Wang is a Certified Public Accountant (CPA).

*Neil Nanpeng Shen* is one of the co-founders of our company and has been our company's director since our inception. Mr. Shen is the founding managing partner of Sequoia Capital China. Mr. Shen served as our president from August 2003 to October 2005 and as chief financial officer from 2000 to October 2005. Mr. Shen also co-founded and served as non-executive co-chairman of Homeinns Hotel Group, a leading economy hotel chain in China, which commenced operations in July 2002. Currently, Mr. Shen also serves as a director of a number of public and private companies, including Noah Holdings Limited (NYSE: NOAH), Pinduoduo Inc. (Nasdaq: PDD), Meituan Dianping (SEHK: 03690) and China Renaissance Holdings Limited (SEHK: 01911). Mr. Shen received his Master's degree from Yale University and his Bachelor's degree from Shanghai Jiao Tong University.

*Qi Ji* is one of the co-founders of our company. He has served as our director since our inception. He was the chief executive officer and president of our company from 1999 to 2001. Mr. Ji founded Huazhu Group Limited (Nasdaq: HTHT) and has also served as the executive chairman since February 2007. In November 2019, Mr. Ji took an additional role of chief executive officer of Huazhu Group Limited. Prior to that, he co-founded Home Inns & Hotels Management Inc., or Home Inns, and served as its chief executive officer from January 2001 to January 2005. Prior to founding Trip.com Group (previously known as Ctrip.com International, Ltd.), Mr. Ji served as the chief executive officer of Shanghai Sunflower High-Tech Group, which he founded in 1997. He headed the East China Division of Beijing Zhonghua Yinghua Intelligence System Co., Ltd. from 1995 to 1997. He received both his Master's and Bachelor's degrees from Shanghai Jiao Tong University.

*Gabriel Li* has served at different times on our board of directors since 2000. Mr. Li has been vice chairman of our board since August 2003. Mr. Li is the managing partner and investment committee member of Orchid Asia Group Management Limited, a private equity firm focused on investing in Asia specifically China over the past 20+ years. Prior to Orchid Asia, Mr. Li was a managing director at the Carlyle Group in Hong Kong, overseeing Asian technology investments. From 1997 to 2000, he was at Orchid Asia's predecessor, where he made numerous investments in China and North Asia. Previously, he was a management consultant at McKinsey & Company in Hong Kong and Los Angeles. Mr. Li is also currently a director of Nirvana Asia Ltd., Qeeka Home (Cayman) Inc., and Sangfor Technologies Inc. Mr. Li graduated summa cum laude from the University of California at Berkeley, earned his Master's degree in Science from the Massachusetts Institute of Technology and his Master's degree in Business Administration from Stanford Business School.

*JP Gan* has served as our director since 2002. Mr. Gan has been a founding partner of INCE Capital Limited since 2019. From 2006 to 2019, Mr. Gan was a managing partner of Qiming Venture Partners. From 2005 to 2006, Mr. Gan was the chief financial officer of KongZhong corporation, a wireless internet company formerly listed on the Nasdaq. Prior to joining KongZhong, Mr. Gan was a director of The Carlyle Group responsible for venture capital investments in the Greater China region from 2000 to 2005. Mr. Gan worked at the investment banking division of Merrill Lynch, in Hong Kong from 1999 to 2000, and worked at Price Waterhouse in the United States from 1994 to 1997. Mr. Gan has been a director of Bilibili Inc. (Nasdaq: BILI) since 2015. Mr. Gan obtained his Masters of Business Administration from the University of Chicago Booth School of Business and his Bachelor of Business Administration from the University of Iowa.

*Robin Yanhong Li* has served as our director since 2015. He is co-founder, chairman and chief executive officer of Baidu, and oversees Baidu's overall strategy and business operations. Mr. Li has been serving as the chairman of Baidu's board of directors since Baidu's inception in January 2000 and as Baidu's chief executive officer since January 2004. Mr. Li served as Baidu's president from February 2000 to December 2003. Prior to founding Baidu, Mr. Li worked as a senior engineer for Infoseek, a pioneer in the internet search engine industry, from July 1997 to December 1999. Mr. Li was a senior consultant for IDD Information Services from May 1994 to June 1997. Mr. Li currently serves as an independent director and chairman of the compensation committee of New Oriental Education & Technology Group Inc., a NYSE-listed company that provides private educational services in China (Nasdaq: EDU). Mr. Li received a Bachelor's degree in information science from Peking University in China and a Master's degree in computer science from the State University of New York at Buffalo.

*Dou Shen* has served as our director since October 2019. Dr. Shen currently serves as an executive vice president of Baidu (Nasdaq: BIDU), overseeing Baidu's Mobile Ecosystem Group. Prior to that, Dr. Shen served in various roles at Baidu and Microsoft, and cofounded Buzzlabs. Dr. Dou Shen received his Ph.D., Master's and bachelor's degrees from Hong Kong University of Science and Technology, Tsinghua University, and North China Electric Power University respectively.

## B. Compensation

We have entered into a standard form of director agreement with each of our directors. Under these agreements, we paid cash compensation (inclusive of directors' fees) to our directors in an aggregate amount of US\$1.9 million in 2019. Directors are reimbursed for all expenses incurred in connection with each Board of Directors meeting and when carrying out their duties as directors of our company. See "Item 6.B. Directors, Senior Management and Employees — Compensation — Employees' Share Incentive Plans" for options granted to our directors in 2019.

We have entered into standard forms of employment agreements with our executive officers. Under these agreements, we paid cash compensation to our executive officers in an aggregate amount of US\$0.5 million in 2019, excluding compensation paid to Min Fan, James Jianzhang Liang and Jane Jie Sun, who also serve and receive compensation as our executive directors. These agreements provide for terms of service, salary and additional cash compensation arrangements, all of which have been reflected in the 2019 aggregate compensation amount. See "Item 6.B. Directors, Senior Management and Employees — Compensation — Employees' Share Incentive Plans" for options granted to our executive officers in 2019.



Our PRC subsidiaries are required by law to make contributions equal to certain percentages of each employee's salary for his or her pension insurance, medical insurance, housing fund, unemployment and other statutory benefits. Except for the above statutory contributions, we have not set aside or accrued any amount to provide pension, retirement or other similar benefits to our executive officers and directors.

### **Employees' Share Incentive Plans**

Our board of directors has made share-based awards under five share incentive plans, namely, the Global Share Incentive Plan, as amended and restated in July 2018 and further amended and restated in December 2019, or the Second A&R Global Plan, the 2007 Share Incentive Plan, or the 2007 Plan, the 2005 Employee's Stock Option Plan, or the 2005 Plan, the 2003 Employee's Option Plan, or the 2003 Plan, and the 2000 Employee's Stock Option Plan, or the 2000 Plan. The terms of the 2005 Plan, the 2003 Plan and the 2000 Plan are substantially similar. The purpose of the plans is to attract and retain the best available personnel for positions of substantial responsibility, to provide additional incentive to employees, officers and directors and to promote the success of our business. Our board of directors believes that our company's long-term success is dependent upon our ability to attract and retain superior individuals who, by virtue of their ability and qualifications, make important contributions to our business.

The 2007 Plan, the 2005 Plan, the 2003 Plan and the 2000 Plan have all expired. Under the Second A&R Global Plan, the maximum aggregate number of ordinary shares that may be issued pursuant to awards was 10,361,055 as of the first business day of 2020, with annual increases on January 1 of each subsequent calendar year by the number of ordinary shares representing 3% of our then total issued and outstanding share capital as of December 31 of the preceding year until the termination of the plan. Under the Second A&R Global Plan, options to purchase 6,755,143 shares and 473,453 restricted share units were issued and outstanding as of February 29, 2020.

In June 2017, our board of directors approved our Global Share Incentive Plan.

In July 2018, our compensation committee and board of directors amended and restated the Global Share Incentive Plan and approved the Amended and Restated Global Share Incentive Plan to increase the number of shares that may be issued thereunder.

In December 2019, we completed a one-time modification of share options, pursuant to which eligible employees were able to exchange every four of the share options that were granted under the 2017 Share Incentive Plan and the Amended and Restated Global Incentive Plan with exercise price exceeding US\$320 per ordinary share for one new option entitling each eligible grantee to purchase one ordinary share at the exercise price of US\$0.01 with the original vesting schedules remaining unchanged. As a result of the modification, prior options to purchase 835,849 ordinary shares were exchanged for new options to purchase 209,026 ordinary shares.

In December 2019, our board of directors approved our Second A&R Global Plan.

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The following table summarizes, as of February 29, 2020, the outstanding options and the outstanding restricted share units granted under our 2007 Plan and the Second A&R Global Plan to the individual executive officers and directors named below. The table gives effect to the modifications described above.

	Ordinary Shares Underlying Options/Restricted Share Units Granted	Exercise Price (US\$/Share)	Date of Grant	Date of Expiration
James Jianzhang Liang	2,440,200	161.96; 179.64; 237.00; 247.44; 324.96; 350.72; 209.04; 253.44	From January 9, 2014 to December 4, 2019	From January 9, 2022 to December 4, 2027
	108,000 <sup>(1)</sup>	—	From February 8, 2016 to February 9, 2018	—
Jane Jie Sun	1,050,200	70.32; 78.56; 161.96; 179.64; 237.00; 247.44; 324.96; 350.72; 209.04; 253.44	From September 18, 2012 to December 4, 2019	From September 18, 2020 to December 4, 2027
	33,000 <sup>(1)</sup>	—	From February 8, 2016 to February 9, 2018	—
Min Fan	131,867	78.56; 161.96; 179.64; 237.00; 247.44; 324.96; 350.72; 0.01; 253.44	From January 27, 2013 to December 4, 2019	From January 27, 2021 to December 4, 2027
	6,500 <sup>(1)</sup>	—	From February 8, 2016 to February 9, 2018	—
Cindy Xiaofan Wang	*	161.96; 179.64; 237.00; 247.44; 324.96; 209.04; 0.01; 253.44	From January 9, 2014 to December 4, 2019	From January 9, 2022 to December 4, 2027
	* <sup>(1)</sup>	—	February 8, 2016	—
Neil Nanpeng Shen	*	78.56; 179.64; 237.00; 247.44; 324.96; 350.72; 209.04; 253.44	From January 27, 2013 to December 4, 2019	January 27, 2021 to December 4, 2027
Qi Ji	*	179.64; 237.00; 247.44; 324.96; 350.72; 209.04; 253.44	From December 6, 2014 to December 4, 2019	From December 6, 2022 to December 4, 2027
Gabriel Li	*	78.56; 179.64; 237.00; 247.44; 324.96; 350.72; 209.04; 253.44	From January 27, 2013 to December 4, 2019	From January 27, 2021 to December 4, 2027
JP Gan	*	179.64; 237.00; 247.44; 324.96; 350.72; 209.04; 253.44	From December 6, 2014 to December 4, 2019	From December 6, 2022 to December 4, 2027

\* Aggregate number of shares represented by all grants of options and/or restricted share units to the person account for less than 1% of our total outstanding ordinary shares.

Note:

(1) Restricted share units.

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The following paragraphs summarize the terms of our 2007 Plan, which was amended and restated effective November 17, 2008.

*Plan Administration.* Our board of directors, or a committee designated by our board or directors, will administer the plan. The committee or the full board of directors, as appropriate, will determine the type or types of incentive share awards to be granted and provisions and terms and conditions of each grant and may at their absolute discretion adjust the exercise price of an option grant. The exercise price per share subject to an option may be reduced by the committee or the full board of directors, without shareholder or option holder approval. The types of incentive share awards pursuant to the 2007 Plan include, among other things, an option, a restricted share award, a share appreciation right award and a restricted share unit award.

*Award Agreements.* Options and stock purchase rights granted under our plan are evidenced by a stock option agreement or a stock purchase right agreement, as applicable, that sets forth the terms, conditions and limitations for each grant.

*Eligibility.* We may grant awards to our employees, directors and consultants or any of our related entities, which include our subsidiaries or any entities which are not subsidiaries but are consolidated in our consolidated financial statements prepared under U.S. GAAP.

*Acceleration of Options upon Corporate Transactions.* The outstanding options will terminate and accelerate upon occurrence of a change of control corporate transaction where the successor entity does not assume our outstanding options under the plan. In such event, each outstanding option will become fully vested and immediately exercisable, and the transfer restrictions on the awards will be released and the repurchase or forfeiture rights will terminate immediately before the date of the change of control transaction provided that the grantee's continuous service with us shall not be terminated before that date.

*Term of the Options.* The term of each option grant shall be stated in the stock option agreement, provided that the term shall not exceed ten years from the date of the grant, and in the case of incentive share options, five years from the date of the grant.

*Vesting Schedule.* In general, the plan administrator determines, or the incentive award agreement specifies, the vesting schedules. Currently, three types of vesting schedules were adopted for the incentive awards granted under the 2007 Plan. One of the vesting schedules is that one-third of the incentive awards vest 24 months after a specified vesting commencement date, an additional one-third vest 36 months after the specified vesting commencement date and the remaining one-third vest 48 months after the specified vesting commencement date, subject to other terms under the 2007 Plan and the incentive award agreement. Another type of vesting schedule is that one-fourth of the incentive awards vest every 12 months over a four-year vesting period starting from a specified vesting commencement date, subject to other terms under the 2007 Plan and the incentive award agreement. The last type of vesting schedule is that one-tenth of the incentive awards vest 12 months after a specified vesting commencement date, an additional three-tenth vest 24 months after the specified vesting commencement date, another three-tenth vest 36 months after the specified vesting commencement date and the remaining three-tenth vest 48 months after the specified vesting commencement date, subject to other terms under the 2007 Plan and the incentive award agreement.

*Other Equity Awards.* In addition to stock options, we may also grant to our employees, directors and consultants or any of our related entities share appreciation rights, restricted share awards, restricted share unit awards, deferred share awards, dividend equivalents and share payment awards, with such terms and conditions as our board of directors (or, if applicable, the compensation committee) may, subject to the terms of the plan, establish.

*Transfer Restrictions.* Options to purchase our ordinary shares may not be transferred in any manner by the optionee other than by will or the laws of succession and may be exercised during the lifetime of the optionee only by the optionee.

*Termination or Amendment of the Plan.* Unless terminated earlier, the plan was terminate automatically in 2017. Our board of directors has the authority to amend or terminate the plan subject to shareholder approval to the extent necessary to comply with applicable law, regulation or stock exchange rule. We must also generally obtain approval of our shareholders to (i) increase the number of shares available under the plan (other than any adjustment as described above), (ii) permit the grant of options with an exercise price that is below fair market value on the date of grant, (iii) extend the exercise period for an option beyond ten years from the date of grant, or (iv) results in a material increase in benefits or a change in eligibility requirements.

The following paragraphs summarize the principal terms of our Second A&R Global Plan.

*Plan Administration.* Our compensation committee of the board of directors, or a committee delegated by our compensation committee, will administer the plan. The committee or the full board of directors, as appropriate, will determine the type or types of incentive share awards to be granted and provisions and terms and conditions of each grant and may at their absolute discretion adjust the exercise price of an option grant. The exercise price per share subject to an option may be reduced by the committee or the full board of directors, without shareholder or option holder approval. The types of incentive share awards pursuant to the Second A&R Global Plan include, among other things, an option, a restricted share award, a share appreciation right award and a restricted share unit award.

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*Award Agreements.* Options and stock purchase rights granted under our plan are evidenced by an award agreement, that sets forth the terms, conditions and limitations for each grant.

*Eligibility.* We may grant awards to our employees, directors and consultants or any of our related entities, which include our subsidiaries or any entities which are not subsidiaries but are consolidated in our consolidated financial statements prepared under U.S. GAAP.

*Term of the Options.* The term of each option grant shall be stated in the stock option agreement, provided that the term shall not exceed ten years from the date of the grant, and in the case of incentive share options, five years from the date of the grant.

*Vesting Schedule.* In general, the plan administrator determines, or the incentive award agreement specifies, the vesting schedules. Our vesting schedule is mainly that one-tenth of the incentive awards vest 12 months after a specified vesting commencement date, an additional three-tenth vest 24 months after the specified vesting commencement date, another three-tenth vest 36 months after the specified vesting commencement date and the remaining three-tenth vest 48 months after the specified vesting commencement date, subject to other terms under the Second A&R Global Plan and the incentive award agreement.

*Other Equity Awards.* In addition to stock options, restricted share awards and restricted share unit awards, we may also grant to our employees, directors and consultants or any of our related entities share appreciation rights, deferred share awards, dividend equivalents and share payment awards, with such terms and conditions as our board of directors (or, if applicable, the compensation committee) may, subject to the terms of the plan, establish.

*Transfer Restrictions.* Awards may not be transferred in any manner by the participant other than by will or the laws of succession and may be exercised during the lifetime of the participant only by the participant.

*Termination or Amendment of the Plan.* Unless terminated earlier, the plan will terminate automatically in 2027. Our board of directors has the authority to amend or terminate the plan to the extent necessary to comply with applicable law, regulation or stock exchange rule. We must also generally obtain approval of our shareholders to (i) increase the number of shares available under the plan (other than any adjustment as described above), (ii) permits the committee to extend the exercise period for an option beyond ten years from the date of grant, or (iii) results in a change in eligibility requirements, unless we decide to follow home country practice pursuant to Rule 5615(a)(3) of the Nasdaq listing rules applicable to foreign private issuers.

### C. *Board Practices*

Our board of directors currently consists of nine directors. A director is not required to hold any shares in the company by way of qualification. Our board of directors may exercise all the powers of the company to borrow money, mortgage or charge its undertaking, property and uncalled capital, and issue debentures or other securities whenever money is borrowed or as security for any obligation of the company or of any third party. No director is entitled to any severance benefits upon termination of his directorship with us. As of the date of this annual report, four out of nine of our directors meet the “independence” definition under The Nasdaq Stock Market, Inc. Marketplace Rules, or the Nasdaq Rules. As Nasdaq Rules permit a foreign private issuer like us to follow the corporate governance practices of its home country, we chose to rely on home country practice in lieu of the requirement to have a majority of independent directors on our board under Nasdaq Rules. See “Item 16G. Corporate Governance.”

### **Committees of the Board of Directors**

*Audit Committee.* Our audit committee reports to the board regarding the appointment of our independent auditors, the scope and results of our annual audits, compliance with our accounting and financial policies and management’s procedures and policies relatively to the adequacy of our internal accounting controls.

As of the date of this annual report, our audit committee consists of Messrs. Gan, Li and Shen. All of these directors meet the audit committee independence standard under Rule 10A-3 under the Exchange Act. The independence definition under Rules 5605 of the Nasdaq Rules is met by Messrs. Gan, Li and Shen. In addition, all the members of our audit committee qualify as “audit committee financial experts” as defined in the relevant Nasdaq Rules.

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*Compensation Committee.* Our compensation committee reviews and evaluates and, if necessary, revises the compensation policies adopted by the management. Our compensation committee also determines all forms of compensation to be provided to our senior executive officers. In addition, the compensation committee reviews all annual bonuses, long-term incentive compensation, share options, employee pension and welfare benefit plans. Our chief executive officer may not be present at any committee meeting during which her compensation is deliberated.

As of the date of this annual report, our compensation committee consists of Messrs. Gan, Ji and Shen, all of whom meet the “independence” definition under the Nasdaq Rules.

### **Duties of Directors**

Under Cayman Islands law, our directors have a duty of loyalty to act honestly and in good faith in the best interests of our company. Our directors also have a duty to exercise the skill they actually possess and such care and diligence that a reasonably prudent person would exercise in comparable circumstances. In fulfilling their duty of care to us, our directors must ensure compliance with our memorandum and articles of association. Our articles of association govern the way our company is operated and the powers granted to the directors to manage the daily affairs of our company.

### **Terms of Directors and Officers**

All directors hold office until their successors have been duly elected and qualified unless such office is vacated earlier in accordance with the articles of association. A director may only be removed by the shareholders who appointed such director, except in the case of ordinary directors, who may be removed by ordinary resolutions of the shareholders. Officers are elected by and serve at the discretion of the board of directors.

### **D. Employees**

As of December 31, 2019, we and our consolidated subsidiaries and consolidated affiliated Chinese entities had approximately 44,300 employees, including approximately 4,000 in management and administration, approximately 12,900 in our customer service centers, approximately 5,700 in sales and marketing, and approximately 21,700 in product development including supplier management personnel and technical support personnel. Most of our employees are based in Shanghai, Beijing, Nantong, and Chengdu. We consider our relations with our employees to be good.

### **E. Share Ownership**

As of February 29, 2020, 74,133,718 of our ordinary shares were issued and outstanding (excluding the 4,259,642 ordinary shares that were issued to Bank of New York Mellon, the depository of our ADS program, for bulk issuance of ADSs reserved for future issuances upon the exercise or vesting of awards granted under our stock incentive plans and for our treasury ADSs, and treasury shares we own). Our shareholders are entitled to vote together as a single class on all matters submitted to shareholders vote. No shareholder has different voting rights from other shareholders. We are not aware of any arrangement that may, at a subsequent date, result in a change of control of our company.

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The following table sets forth information with respect to the beneficial ownership of our ordinary shares as of February 29, 2020 by each of our directors and executive officers and each person known to us to own beneficially more than 5% of our ordinary shares. Except as otherwise noted, the address of each person listed in the table is c/o Trip.com Group Limited, 968 Jin Zhong Road, Shanghai 200335, People's Republic of China.

	Ordinary Shares Beneficially Owned <sup>(1)</sup>	
	Number	% <sup>(2)</sup>
<b>Directors and Senior Management:</b>		
James Jianzhang Liang <sup>(3)</sup>	1,744,071	2.3%
Min Fan <sup>(4)</sup>	1,420,606	1.9%
Jane Jie Sun <sup>(5)</sup>	910,184	1.2%
Neil Nampeng Shen <sup>(6)</sup>	*	*%
Other directors and executive officers as a group, each of whom individually owns less than 0.1%	*	*%
All directors and officers as a group <sup>(7)</sup>	4,446,153	5.9%
<b>Principal Shareholders<sup>†</sup>:</b>		
Baidu Entities <sup>(8)</sup>	8,644,917.5	11.7%
Baillie Gifford & Co (Scottish Partnership) <sup>(9)</sup>	5,743,926	7.7%
MIH Internet SEA Private Limited <sup>(10)</sup>	4,108,831	5.5%
T.ROWE PRICE ASSOCIATES, INC. <sup>(11)</sup>	3,997,103	5.4%

\* Less than 1% of our total outstanding ordinary shares.

† Pursuant to the Schedule 13D/A filed by Booking Holdings Inc. and Booking Holdings Treasury Company, or the Booking Entities, with SEC on April 7, 2020, the beneficial ownership of Booking Entities in our company as of April 3, 2020 was reported to fall below 5% of our ordinary shares. Therefore, Booking Entities are not included in the table above.

### Notes:

- Beneficial ownership is determined in accordance with the SEC rules, and includes voting or investment power with respect to the securities.
- For each person and group included in this table, percentage ownership is calculated by dividing the number of shares beneficially owned by such person or group by the sum of the number of ordinary shares outstanding as of February 29, 2020, the number of ordinary shares underlying share options held by such person or group that were exercisable within 60 days after February 29, 2020, and the number of ordinary shares in the form of ADSs assuming full conversion of notes held by such person or group to ADSs at the initial conversion rate.
- Includes 784,871 ordinary shares held by Mr. Liang and 959,200 ordinary shares that were issuable upon exercise of options exercisable within 60 days after February 29, 2020 held by Mr. Liang.
- Includes 1,299,739 ordinary shares held Mr. Fan and 120,867 ordinary shares that were issuable upon exercise of options exercisable within 60 days after February 29, 2020 held by Mr. Fan.
- Includes 334,984 ordinary shares held by Ms. Sun and 575,200 ordinary shares that were issuable upon exercise of options exercisable within 60 days after February 29, 2020.
- Mr. Shen's business address is Suite 3613, 36/F, Two Pacific Place, 88 Queensway, Hong Kong.
- Includes 2,689,780 ordinary shares and 1,756,373 ordinary shares that were issuable upon exercise of options exercisable within 60 days after February 29, 2020 held by all of our current directors and executive officers, as a group.
- Includes 8,644,917.5 ordinary shares (including 991,852.5 ordinary shares represented by ADSs) beneficially owned as of October 1, 2019 by Baidu Holdings Limited, a wholly-owned subsidiary of Baidu, Inc. (collectively, "Baidu Entities"). Information regarding beneficial ownership is reported as of October 1, 2019, based on the information contained in the Schedule 13D/A filed by Baidu Entities with SEC on October 2, 2019. Please see the Schedule 13D/A filed by Baidu Entities with SEC on October 2, 2019 for information relating to Baidu Entities. The address for Baidu Holdings Limited is c/o Baidu, Inc., No. 10 Shangdi 10th Street, Haidian District, Beijing 100085, the People's Republic of China, and the address for Baidu, Inc. is No. 10 Shangdi 10th Street, Haidian District, Beijing 100085, the People's Republic of China.
- Includes 5,743,926 ordinary shares represented by ADSs held by Baillie Gifford & Co (Scottish Partnership). Information regarding beneficial ownership is reported as of December 31, 2019, based on the information contained in the Schedule 13G/A filed by Baillie Gifford & Co (Scottish Partnership) with SEC on February 3, 2020. Please see the Schedule 13G/A filed by Baillie Gifford & Co (Scottish Partnership) with SEC on February 3, 2020 for information relating to Baillie Gifford & Co (Scottish Partnership). The address for Baillie Gifford & Co (Scottish Partnership) is Calton Square, 1 Greenside Row, Edinburgh EH1 3AN, Scotland, the United Kingdom.

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- (10) Includes 4,108,831 ordinary shares held by MIH Internet SEA Private Limited. Information regarding beneficial ownership is reported as of October 1, 2019, based on the information contained in the Schedule 13D filed by MIH Internet SEA Private Limited and Nasper Limited with the SEC on October 2, 2019. Please see the Schedule 13D filed by MIH Internet SEA Private Limited and Nasper Limited with SEC on October 2, 2019 for information relating to MIH Internet SEA Private Limited and Nasper Limited. The address for MIH Internet SEA Private Limited is #13-10 Parkview Square, 600 North Bridge Road, Singapore 188778.
- (11) Includes 3,997,103 ordinary shares represented by ADS held by T.ROWE PRICE ASSOCIATES, INC. Information regarding beneficial ownership is reported as of December 31, 2019, based on the information contained in the Schedule 13G/A filed by T.ROWE PRICE ASSOCIATES, INC. with SEC on February 14, 2020. Please see the Schedule 13G/A filed by T.ROWE PRICE ASSOCIATES, INC. with SEC on February 14, 2020 for information relating to T.ROWE PRICE ASSOCIATES, INC. The address for T.ROWE PRICE ASSOCIATES, INC. is 100 E. Pratt Street, Baltimore, Maryland 21202, the United States.

Based on a review of the register of members maintained by our Cayman Islands registrar, we believe that as of February 29, 2020, 65,372,006 ordinary shares were held by two record shareholders in the United States, including 65,372,005 ordinary shares (including ordinary shares that were issued for bulk issuance of ADSs reserved for future issuances upon the exercise or vesting of awards granted under our stock incentive plans and treasury shares that were repurchased but not retired by the Company) held of record by The Bank of New York Mellon, the depositary of our ADS program. The number of beneficial owners of our ADSs in the United States is likely to be much larger than the number of record holders of our ordinary shares in the United States.

## **ITEM 7. MAJOR SHAREHOLDERS AND RELATED PARTY TRANSACTIONS**

### *A. Major Shareholders*

Please refer to “Item 6.E. Directors, Senior Management and Employees — Share Ownership.”

### *B. Related Party Transactions*

#### **Arrangements with Consolidated Affiliated Chinese Entities**

Current PRC laws and regulations impose substantial restrictions on foreign ownership of the travel agency and value-added telecommunications businesses in China. Therefore, we conduct part of our operations in our non-accommodation reservation businesses through a series of agreements between our PRC subsidiaries, our consolidated affiliated Chinese entities and/or their respective shareholders. Our consolidated affiliated Chinese entities hold the licenses and approvals for operating the travel agency, and value-added telecommunications businesses in China. We do not hold any ownership interest in our consolidated affiliated Chinese entities. In 2015, we restructured our business lines and most of the contractual arrangements that we previously entered into with our consolidated affiliated Chinese entities in order to further strengthen our ability to control these entities and receive substantially all of the economic benefits from them. Moreover, we plan to enter into the same series of agreements with all of our future consolidated affiliated Chinese entities. As of the date of this annual report, Min Fan, our vice chairman of the board and president, Tao Yang, Maohua Sun, Hui Cao, and Hui Wang, all being our officers, are the principal record owners of our consolidated affiliated Chinese entities.

As of the date of this annual report, the equity holding structures of each of our significant consolidated affiliated Chinese entities are as follows:

- Maohua Sun and Tao Yang owned 10.2% and 89.8%, respectively, of Ctrip Commerce.
- Ctrip Commerce owned 100% of Shanghai Huacheng.
- Min Fan and Qi Shi owned 99.5% and 0.5%, respectively, of Chengdu Ctrip.
- Hui Cao and Hui Wang owned 60% and 40%, respectively, of Qunar Beijing.

We believe that the terms of these agreements are no less favorable than the terms that we could obtain from disinterested third parties. The terms of the agreements with the same title between us and our respective consolidated affiliated Chinese entities are substantially similar except for the amount of the business loans to the shareholders of each entity and the amount of service fees paid by each entity. We believe that the shareholders of our consolidated affiliated Chinese entities will not receive any personal benefits from these agreements except as shareholders of our company. According to our PRC counsel, Commerce & Finance Law Offices, these agreements are valid, binding and enforceable under the current laws and regulations of China as of the date of this annual report. The principal terms of these agreements are described below.

*Powers of Attorney.* Each of the shareholders of our consolidated affiliated Chinese entities, except for Hui Cao and Hui Wang, signed an irrevocable power of attorney to appoint Ctrip Travel Network or Ctrip Travel Information, as attorney-in-fact to vote, by itself or any other person to be designated at its discretion, on all matters of the applicable consolidated affiliated Chinese entities. Each such power of attorney will remain effective as long as the applicable consolidated affiliated Chinese entity exists, and such shareholders of the applicable consolidated affiliated Chinese entities are not entitled to terminate or amend the terms of the power of attorneys without prior written consent from us.

As of the date of this annual report, each of the shareholders of Qunar Beijing, Hui Cao and Hui Wang, also signed an irrevocable power of attorney authorizing an appointee, to exercise, in a manner approved by Qunar, on such shareholder's behalf the full shareholder rights pursuant to applicable laws and Qunar Beijing's articles of association, including without limitation full voting rights and the right to sell or transfer any or all of such shareholder's equity interest in Qunar Beijing. Each such power of attorney is effective until such time as such relevant shareholder ceases to hold any equity interest in Qunar Beijing. The terms of the power of attorney with respect to Qunar Beijing are otherwise substantially similar to the terms described in the foregoing paragraph.

*Technical Consulting and Services Agreements.* Ctrip Travel Information and Ctrip Travel Network, each a wholly-owned PRC subsidiary of ours, provide our consolidated affiliated Chinese entities, except for Qunar Beijing, with technical consulting and related services and staff training and information services on an exclusive basis. We also maintain their network platforms. In consideration for our services, our consolidated affiliated Chinese entities agree to pay us service fees as calculated in such manner as determined by us from time to time based on the nature of service, which may be adjusted periodically. For 2019, our consolidated affiliated Chinese entities paid Ctrip Travel Information (after our restructuring of business lines and restatement of contractual arrangements in 2015) and Ctrip Travel Network (after our restructuring of business lines and restatement of contractual arrangements in 2015) a quarterly fee based on the number of transportation tickets sold in the quarter, at an average rate of RMB4 (US\$0.5) per ticket. Although the service fees are typically determined based on the number of transportation tickets sold, given the fact that the nominee shareholders of such consolidated affiliated Chinese entities have irrevocably appointed the employees of our subsidiaries to vote on their behalf on all matters they are entitled to vote on, we have the right to determine the level of service fees paid and therefore receive substantially all of the economic benefits of our consolidated affiliated Chinese entities in the form of service fees. The services fees paid by all of such consolidated affiliated Chinese entities as a percentage of their total net income were 68.3%, 88.5%, and 94.6% for the years ended December 31, 2017, 2018, and 2019. Ctrip Travel Information or Ctrip Travel Network, as appropriate, will exclusively own any intellectual property rights arising from the performance of this agreement. The initial term of these agreements is 10 years and may be renewed automatically in 10-year terms unless we disapprove the extension. We retain the exclusive right to terminate the agreements at any time by delivering a 30-day advance written notice to the applicable consolidated affiliate Chinese entity.

As of the date of this annual report, pursuant to the restated exclusive technical consulting and services agreement between Qunar Beijing and Qunar Software, Qunar Software provides Qunar Beijing with technical, marketing and management consulting services on an exclusive basis in exchange for service fee paid by Qunar Beijing based on a set formula defined in the agreement subject to adjustment by Qunar Software at its sole discretion. This agreement will remain in effect until terminated unilaterally by Qunar Software or mutually. The terms of this agreement are otherwise substantially similar to the terms described in the foregoing paragraph.

*Share Pledge Agreements.* The shareholders of our consolidated affiliated Chinese entities, except for Hui Cao and Hui Wang, have pledged their respective equity interests in the applicable consolidated affiliated Chinese entities as a guarantee for the performance of all the obligations under the other contractual arrangements, including payment by such consolidated affiliated Chinese entities of the technical and consulting services fees to us under the technical consulting and services agreements, repayment of the business loan under the loan agreements and performance of obligations under the exclusive option agreements, each agreement as described herein. In the event any of such consolidated affiliated Chinese entity breaches any of its obligations or any shareholder of such consolidated affiliated Chinese entities breaches his or her obligations, as the case may be, under these agreements, we are entitled to enforce the equity pledge right and sell or otherwise dispose of the pledged equity interests after the pledge is registered with the relevant local branch of SAMR, and retain the proceeds from such sale or require any of them to transfer his or her equity interest without consideration to the PRC citizen(s) designated by us. These share pledge agreements are effective until two years after the pledgor and the applicable consolidated affiliated Chinese entities no longer undertake any obligations under the above-referenced agreements.



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As of the date of this annual report, pursuant to the equity interest pledge agreement among Qunar Software, Hui Cao and Hui Wang, Hui Cao and Hui Wang have pledged their equity interests in Qunar Beijing along with all rights, titles and interests to Qunar Software as guarantee for the performance of all obligations under the relevant contractual arrangements mentioned herein. After the pledge is registered with the relevant local branch of SAMR, Qunar Software may enforce this pledge upon the occurrence of a settlement event or as required by the PRC law. The pledge, along with this agreement, will be effective upon registration with the local branch of the SAMR, and will expire when all obligations under the relevant contractual arrangements have been satisfied or when each of Hui Cao and Hui Wang completes a transfer of equity interest and ceases to hold any equity interest in Qunar Beijing. In enforcing the pledge, Qunar Software is entitled to dispose of the pledge and have priority in receiving payment from proceeds from the auction or sale of all or part of the pledge until the obligations are settled. The terms of this agreement are otherwise substantially similar to the terms described in the foregoing paragraph.

*Loan Agreements.* Under the loan agreements we entered into with the shareholders of our consolidated affiliated Chinese entities, except for Hui Cao and Hui Wang, we extended long-term business loans to these shareholders of our consolidated affiliated Chinese entities with the sole purpose of providing funds necessary for the capitalization or acquisition of such consolidated affiliated Chinese entities. These business loan amounts were injected into the applicable consolidated affiliated Chinese entities as capital and cannot be accessed for any personal uses. The loan agreements shall remain effective until the parties have fully performed their respective obligations under the agreement, and the shareholders of such consolidated affiliated Chinese entities have no right to unilaterally terminate these agreements. In the event that the PRC government lifts its substantial restrictions on foreign ownership of the travel agency or value-added telecommunications business in China, as applicable, we will exercise our exclusive option to purchase all of the outstanding equity interests of our consolidated affiliated Chinese entities, as described in the following paragraph, and the loan agreements will be cancelled in connection with such purchase. However, it is uncertain when, if at all, the PRC government will lift any or all of these restrictions.

The following table sets forth, as of the date of this report, the amount of each business loan, the date each business loan arrangement was entered into, the principal, interest, maturity date and outstanding balance of the loan, the borrower and the relevant significant consolidated affiliated Chinese entity.

Date of Loan Agreement	Borrower	Significant Consolidated Affiliated Chinese Entity	Principal		Interest	Maturity Date	Outstanding Balance	
			RMB	US\$			RMB	US\$
			(in millions)				(in millions)	
May 27, 2019	Tao Yang	Ctrip Commerce	808.2	116.1	None	May 26, 2029	808.2	116.1
April 9, 2019	Maohua Sun	Ctrip Commerce	88.7	12.7	None	December 13, 2025	88.7	12.7
December 14, 2015	Maohua Sun	Ctrip Commerce	3.1	0.4	None	December 13, 2025	3.1	0.4
March 20, 2017	Min Fan	Chengdu Ctrip	477.6	68.6	None	December 13, 2025	477.6	68.6
December 14, 2015	Min Fan	Chengdu Ctrip	19.9	2.9	None	December 13, 2025	19.9	2.9
March 20, 2017	Qi Shi	Chengdu Ctrip	2.4	0.3	None	December 13, 2025	2.4	0.3
December 14, 2015	Qi Shi	Chengdu Ctrip	0.1	0.0	None	December 13, 2025	0.1	0.0
March 23, 2016	Hui Cao	Qunar Beijing	6.6	0.9	None	Until repayment notice	6.6	0.9
March 23, 2016	Hui Wang	Qunar Beijing	4.4	0.6	None	Until repayment notice	4.4	0.6

As of the date of this annual report, pursuant to the loan agreement among Qunar Software, Hui Cao and Hui Wang, the loans extended by Qunar Software to each of Hui Cao and Hui Wang are only repayable by a transfer of such borrower's equity interest in Qunar Beijing to Qunar Software or its designated party, in proportion to the amount of the loan to be repaid. This loan agreement will continue in effect indefinitely until such time when (i) the borrowers receive a repayment notice from Qunar Software and fully repay the loans, or (ii) an event of default (as defined therein) occurs unless Qunar Software sends a notice indicating otherwise within 15 calendar days after it is aware of such event. The terms of this loan agreement is otherwise substantially similar to the terms described in the foregoing paragraphs.

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*Exclusive Option Agreements.* As consideration for our entering into the loan agreements described above, each of the shareholders of our consolidated affiliated Chinese entities, except for Hui Cao and Hui Wang, has granted us an exclusive, irrevocable option to purchase, or designate one or more person(s) at our discretion to purchase, all of their equity interests in the applicable consolidated affiliated Chinese entities at any time we desire, subject to compliance with the applicable PRC laws and regulations. We may exercise the option by issuing a written notice to the shareholder of relevant consolidated affiliated Chinese entity. The purchase price shall be equal to the contribution actually made by the shareholder for the relevant equity interest. Therefore, if we exercise these options, we may choose to cancel the outstanding loans we extended to the shareholders of such consolidated affiliated Chinese entities pursuant to the loan agreements as the loans were used solely for equity contribution purposes. The initial term of these agreements is 10 years and may be renewed automatically in 10-year terms unless we disapprove the extension. We retain the exclusive right to terminate the agreements at any time by delivering a written notice to the shareholder of applicable consolidated affiliate Chinese entity.

Hui Cao and Hui Wang also entered into an equity option agreement with Qunar, Qunar Software and Qunar Beijing. This equity option agreement contains arrangements that are similar to that as described in the foregoing paragraph. This agreement will remain effective with respect to each of Qunar Beijing's shareholders until all of the equity interest has been transferred or Qunar and Qunar Software terminates the agreement unilaterally with 30 days' prior written notice.

Our consolidated affiliated Chinese entities and their shareholders agree not to enter into any transaction that would affect the assets, obligations, rights or operations of our consolidated affiliated Chinese entities without our prior written consent. They also agree to accept our guidance with respect to day-to-day operations, financial management systems and the appointment and dismissal of key employees.

In addition, we also enter into technical consulting and services agreements with our majority or wholly-owned subsidiaries of some of the consolidated affiliated Chinese entities, such as Chengdu Ctrip International, and these subsidiaries pay us service fees based on the level of services provided. The existence of such technical consulting and services agreements provides us with the enhanced ability to transfer economic benefits of these majority or wholly-owned subsidiaries of the consolidated affiliated Chinese entities to us in exchange for the services provided, and this is in addition to our existing ability to consolidate and extract the economic benefits of these majority or wholly-owned subsidiaries of the consolidated affiliated Chinese entities. For instance, the consolidated affiliated Chinese entities may cause the economic benefits to be channeled to them in the form of dividends, which then may be further consolidated and absorbed by us through the contractual arrangements described above.

### **Share Incentive Grants**

Please refer to "Item 6.B. Directors, Senior Management and Employees — Compensation — Employees' Share Incentive Plans."

### **Employment Agreements**

See "Item 6.B. Directors, Senior Management and Employees — Compensation."

### **Commissions from Homeinns and BTG**

In December 2016, in connection with our share exchange transaction with BTG and Homeinns, we exchanged our previously held equity interest in Homeinns for 22% equity interest of BTG. BTG had entered into agreements with us to provide hotel rooms for our customers. Total commissions from BTG amounted to RMB91 million (US\$13 million) for the year ended December 31, 2019. These commissions were paid to us in our ordinary course of business on terms substantially similar to those for our unrelated hotel suppliers.

### **Commissions from Huazhu and its affiliates**

One of our hotel suppliers, Huazhu Group Limited, or Huazhu, has a director in common with our company and a director who is a family member of one of our officers. Huazhu has entered into agreements with us to provide hotel rooms for our customers. Total commissions Huazhu paid us amounted to RMB72 million (US\$10 million) for the year ended December 31, 2019. These commissions were paid to us in our ordinary course of business on terms substantially similar to those for our unrelated hotel suppliers.

### **Commissions to/from Tongcheng-eLong**

In 2018, eLong completed a merger with LY.com and the enlarged group Tongcheng-eLong supersedes eLong and LY.com to promote our hotel rooms on their platforms. Total commissions to Tongcheng-eLong paid by us amounted to RMB579 million (US\$83 million) and Tongcheng-eLong paid commissions to us amounted to RMB217 million (US\$31 million) for the year ended December 31, 2019.

### **Settlement with Skysea**

In 2019, Skysea Holding International Ltd., a company in which we owned 35% equity interest and to which we provided a shareholder loan in a principal amount of US\$80 million, or Skysea, completed its winding down of the business and we entered into the final settlement with Skysea. According to the final settlement, we collected the amount due from Skysea and settled the provision and contingent liability of RMB603 million (recognized as other income), which includes RMB236 million previously made for loan receivable and RMB367 million previously made for contingent payables.

#### *C. Interests of Experts and Counsel*

Not applicable.

## **ITEM 8. FINANCIAL INFORMATION**

#### *A. Consolidated Statements and Other Financial Information*

We have appended consolidated financial statements filed as part of this annual report.

### **Legal Proceedings**

We are not currently a party to any pending material litigation or other legal proceeding and are not aware of any pending litigation or other legal proceeding that may have a material adverse impact on our business or operations. However, we are and may continue to be subject to various legal proceedings and claims that are incidental to our ordinary course of business.

### **Dividend Policy**

During the past five years, we have not distributed dividends to our shareholders of record.

We have received dividends from our subsidiaries, which have received consulting or other fees from our consolidated affiliated Chinese entities. In accordance with current Chinese laws and regulations, our subsidiaries and affiliated entities in China are required to allocate to their statutory reserve funds at least 10% of their respective after-tax profits for the year determined in accordance with Chinese accounting standards and regulations. Each of our subsidiaries and affiliated entities in China may stop allocations to its statutory reserve funds if such reserve funds have reached 50% of their registered capital.

Our board of directors has complete discretion as to whether we will distribute dividends in the future, subject to the approval of our shareholders. Even if our board of directors determines to distribute dividends, the form, frequency and amount of our dividends will depend upon our future operations and earnings, capital requirements and surplus, general financial condition, contractual restrictions, potential tax implications and other factors as the board of directors may deem relevant. Any dividend we declare will be paid to the holders of ADSs, subject to the terms of the deposit agreement, to the same extent as holders of our ordinary shares, less the fees and expenses payable under the deposit agreement. Any dividend we declare will be distributed by the depository bank to the holders of our ADSs. Cash dividends on our ordinary shares, including those represented by the ADSs, if any, will be paid in U.S. dollars.

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### B. *Significant Changes*

Except as disclosed elsewhere in this annual report, we have not experienced any significant changes since the date of our audited consolidated financial statements included in this annual report.

## **ITEM 9. THE OFFER AND LISTING**

### A. *Offer and Listing Details.*

Our ADSs have been listed on the Nasdaq Global Market since December 2003 and the Nasdaq Global Select Market since July 2006. Our ADSs were previously traded under the symbol “CTRP” and are currently traded under the symbol “TCOM,” starting from November 5, 2019. On December 1, 2015, we effected a change of the ratio of the ADSs to ordinary shares from four ADSs representing one ordinary share to eight ADSs representing one ordinary share.

### B. *Plan of Distribution*

Not applicable.

### C. *Markets*

Our ADSs have been listed on the Nasdaq Global Market since December 2003 and on the Nasdaq Global Select Market since July 2006. Our ADSs are currently traded under the symbol “TCOM.”

### D. *Selling Shareholders*

Not applicable.

### E. *Dilution*

Not applicable.

### F. *Expenses of the Issue*

Not applicable.

## **ITEM 10. ADDITIONAL INFORMATION**

### A. *Share Capital*

Not applicable.

### B. *Memorandum and Articles of Association*

#### **Ordinary Shares**

*General.* All of our outstanding ordinary shares are fully paid and non-assessable. Our ordinary shares are issued in registered form, and are issued when entered in our register of members. Our shareholders who are nonresidents of the Cayman Islands may freely hold and vote their shares.

*Dividends.* The holders of our ordinary shares are entitled to such dividends as may be declared by our board of directors subject to the Companies Law.

*Voting Rights.* Each ordinary share is entitled to one vote on all matters upon which the ordinary shares are entitled to vote. Voting at any meeting of shareholders is by show of hands unless a poll is demanded. A poll may be demanded by the chairman of the meeting or any shareholder or shareholders collectively present in person or by proxy and holding at least ten percent in par value of the shares giving a right to attend and vote at the meeting.

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A quorum required for a meeting of shareholders consists of at least two shareholders (or, if our company has only one shareholder, that one shareholder) holding at least one-third of the outstanding voting shares in our company, present in person or by proxy. Shareholders' meetings may be convened by our board of directors on its own initiative or upon a request to the directors by shareholders holding in aggregate not less than ten percent in par value of our voting share capital. Advance notice of at least seven days is required for the convening of any of our shareholders meetings.

An ordinary resolution to be passed by the shareholders requires the affirmative vote of a simple majority of the votes attaching to the ordinary shares cast in a general meeting, while a special resolution requires the affirmative vote of no less than two-thirds of the votes attaching to the ordinary shares cast in a general meeting. A special resolution is required for matters such as a change of name or amending the memorandum and articles of association. Holders of the ordinary shares may by ordinary resolution, among other things, make changes in the amount of our authorized share capital and consolidate and divide all or any of our share capital into shares of larger amount than our existing share capital and cancel any authorized but unissued shares.

*Liquidation.* On a return of capital on winding up or otherwise (other than on conversion, redemption or purchase of shares), assets available for distribution among the holders of ordinary shares shall be distributed among the holders of our ordinary shares on a pro rata basis. If our assets available for distribution are insufficient to repay all of the paid-up capital, the assets will be distributed so that the losses are borne by our shareholders proportionately.

*Calls on Shares and Forfeiture of Shares.* Our board of directors may from time to time make calls upon shareholders for any amounts unpaid on their shares in a notice served to such shareholders at least 14 days prior to the specified time and place of payment. The shares that have been called upon and remain unpaid are subject to forfeiture.

*Redemption, Repurchase and Surrender of Shares.* We may issue shares on the terms that such shares are subject to redemption, at our option or at the option of the holders thereof on such terms and in such manner as may be determined, prior to the issue of such shares, by special resolution. Our company may also repurchase any of our shares (including redeemable shares) provided that the manner of such purchase has been authorized by an ordinary resolution of our shareholders. Under the Companies Law (2020 Revision), the redemption or repurchase of any share may be paid out of our company's profits or share premium account or out of the proceeds of a fresh issue of shares made for the purpose of such redemption or repurchase, or out of capital if our company shall, immediately following such payment, be able to pay its debts as they fall due in the ordinary course of business. In addition, under the Companies Law, no such share may be redeemed or repurchased (a) unless it is fully paid up, (b) if such redemption or repurchase would result in there being no shares outstanding, or (c) our company has commenced liquidation. In addition, our company may accept the surrender of any fully paid share for no consideration.

*Variations of Rights of Shares.* If at any time the share capital of our company is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, whether or not our company is being wound-up and except where our articles of association or the Companies Law impose any stricter quorum, voting or procedural requirements in regard to the variation of rights attached to a specific class, be varied either with the consent in writing of the holders of 75% of the issued shares of that class or with the sanction of a special resolution passed at a general meeting of the holders of the shares of that class.

## Shareholder Rights Plan

On November 23, 2007, our board of directors declared a dividend of one ordinary share purchase right, or a Right, for each of our ordinary shares outstanding at the close of business on December 3, 2007. As long as the Rights are attached to the ordinary shares, we will issue one Right (subject to adjustment) with each new ordinary share so that all such ordinary shares will have attached Rights. When exercisable, each Right will entitle the registered holder to purchase from us one ordinary share at a price of US\$700 per ordinary share, subject to adjustment. On August 7, 2014, we entered into a First Amendment and, subsequently on the same day, a Second Amendment to the Rights Agreement dated as of November 23, 2007 between the Bank of New York Mellon and us. Through these two amendments, we (i) extended the term of our rights plan for another ten years and the Rights will expire on August 6, 2024, subject to the right of our board of directors to extend the rights plan for another ten years prior to its expiration; (ii) modified the trigger threshold of the Rights to allow more flexibility. Specifically, shareholders who file or are entitled to file beneficial ownership statement on Schedule 13G pursuant to Rule 13d-1(b)(1) of the Exchange Act, typically institutional investors with no intention to acquire control of the issuer, will be able to beneficially own up to 20% of our total outstanding shares before the Rights are triggered, while all other shareholders must maintain their beneficial ownership at a level below 10% of our total outstanding shares before the Rights are triggered, among other things; and (iii) included Booking and its subsidiaries in the definition of “Exempted Person” under the then effective rights plan as long as their beneficial ownership do not exceed 10% of our total outstanding shares. On May 29, 2015, October 26, 2015, and December 23, 2015, we entered into a Third Amendment, a Fourth Amendment, and a Fifth Amendment to the Rights Agreement with the Bank of New York Mellon, respectively, for the purposes of amending the definition of “Exempted Person.” Accordingly, in so far as Booking and any of its subsidiaries are concerned in connection with the determination of Exempt Person, the term “Exempt Person” will be applied only to the extent that the number of ordinary shares beneficially owned by such Exempt Person (excluding the number of our ADSs or the ordinary shares that are beneficially owned by Booking and any of its subsidiaries due to any such entity’s ownership or conversion of that certain note issued by us pursuant to a convertible note purchase agreement dated December 9, 2015 between a subsidiary of Booking and us) at all times does not exceed fifteen percent (15%) of the ordinary shares then outstanding in the aggregate and in so far as Baidu and any of its subsidiaries are concerned in connection with the determination of Exempt Person, the term “Exempt Person” will be applied only to the extent that the number of ordinary shares beneficially owned by such Exempt Person at all times does not exceed twenty-seven percent (27%) of the ordinary shares then outstanding in the aggregate. On August 30, 2019 and November 13, 2019, we entered into a Sixth Amendment and a Seventh Amendment to the Rights Agreement with the Bank of New York Mellon, respectively, for purposes of amending the definition of “Exempted Person.” Accordingly, in connection with the share exchange transaction with Naspers, Naspers, MIH Internet SEA Private Limited, and their respective subsidiaries have been included in the definition of “Exempted Person” to the extent that the number of ordinary shares beneficially owned by such Exempt Person at all times does not exceed eleven percent (11%) of the ordinary shares then outstanding in the aggregate, and removed Booking and its subsidiaries from the definition of “Exempted Person.”

The Rights were not distributed in response to any specific effort to acquire control of our company.

## Registered Office and Objects

Our registered office in the Cayman Islands is located at the offices of Maples Corporate Services Limited, P.O. Box 309, Uglund House, Grand Cayman, KY1-1104, Cayman Islands, or at such other place as our directors may from time to time decide. The objects for which our company is established are unrestricted and we have full power and authority to carry out any object not prohibited by the Companies Law or any other law of the Cayman Islands.

## Board of Directors

Our board of directors currently consists of nine directors. Our board of directors may exercise all the powers of the company to borrow money, to mortgage or charge its undertaking, property and uncalled capital, or any part thereof, and to issue debentures, debenture stock or other securities whether outright or as security for any debt, liability or obligation of our company or of any third party. A director may vote with respect to any contract or transaction in which he or she is interested as long as he or she has made a declaration of the nature of such interest. A director is not required to hold any shares in our company by way of qualification, and there is no requirement for a director to retire at any age limit.

We have a compensation committee that assists the board in reviewing and approving the compensation structure and form of compensation of our directors and executive officers. Members of the compensation committee are not prohibited from direct involvement in determining their own compensation. Our chief executive officer may not be present at any committee meeting during which her compensation is deliberated.

For details of our board committees, see “Item 6.C. Directors, Senior Management and Employees — Board Practices — Board of Directors.”

*C. Material Contracts*

Other than in the ordinary course of business and other than the one described under this item, in “Item 4. Information on the Company” and “Item 7.B. — Major Shareholders and Related Party Transactions — Related Party Transactions” or elsewhere in this annual report, we have not entered into any material contract during the two years immediately preceding the date of this annual report: (i) a share purchase agreement dated April 26, 2019, among our company, MIH Internet SEA Private Limited and MIH B2c Holdings B.V., (ii) a facility agreement dated July 5, 2019 among our company (as borrower), Bank of Communications Co., Ltd. Hong Kong Branch, The Bank of East Asia, Limited, China Construction Bank (Asia) Corporation Limited, The HongKong and Shanghai Banking Corporation Limited, The Korea Development Bank, Bank of China Limited (as mandated lead arrangers and bookrunners), and other parties thereto, (iii) a registration rights agreement dated August 30, 2019 between our company and MIH Internet SEA Private Limited, (iv) a cooperation agreement dated August 30, 2019 among our company, MIH Internet SEA Private Limited and Myriad International Holdings B.V., (v) the sixth amendment to the rights agreement dated as of August 30, 2019 between our company and The Bank of New York, as rights agent, (vi) an underwriting agreement dated September 26, 2019 among our company, Goldman Sachs (Asia) L.L.C. and J.P. Morgan Securities LLC for the sale of 31,304,352 ADSs, (vii) the seventh amendment to the rights agreement dated as of November 13, 2019 between our company and The Bank of New York, as rights agent, and (viii) a facility agreement dated April 3, 2020 among our company (as borrower), Standard Chartered Bank (Hong Kong) Limited, Industrial and Commercial Bank of China (Macau) Limited, and China Construction Bank (Asia) Corporation Limited (as original mandated lead arrangers, bookrunners, and underwriters), and other parties thereto.

*D. Exchange Controls*

See “Item 4.B. Information on the Company — Business Overview — PRC Government Regulations — Regulations of Foreign Currency Exchange and Dividend Distribution.”

*E. Taxation*

The following summary of the material Cayman Islands, PRC and U.S. federal income tax consequences of an investment in our ADSs or ordinary shares is based upon laws and relevant interpretations thereof in effect as of the date of this annual report, all of which are subject to change. This summary does not deal with all possible tax consequences relating to an investment in our ADSs or ordinary shares, such as the tax consequences under state, local and other tax laws not addressed herein.

**Cayman Islands Taxation**

According to Maples and Calder (Hong Kong) LLP, the Cayman Islands currently levies no taxes on individuals or corporations based upon profits, income, gains or appreciation and there is no taxation in the nature of inheritance tax or estate duty. There are no other taxes likely to be material to us levied by the government of the Cayman Islands except for stamp duties which may be applicable on instruments executed in, or after execution brought within, the jurisdiction of the Cayman Islands. The Cayman Islands is not party to any double tax treaty with any country that is applicable to any payments made to or by us.

We have received an undertaking from the Clerk of the Cabinet of the Government of the Cayman Islands that, in accordance with section 6 of the Tax Concessions Law of the Cayman Islands, for a period of 20 years from December 12, 2019, no law which is enacted in the Cayman Islands imposing any tax to be levied on profits, income, gains or appreciations shall apply to us or our operations and, in addition, that no tax to be levied on profits, income, gains or appreciations or which is in the nature of estate duty or inheritance tax shall be payable (i) on or in respect of the shares, debentures or other obligations of our company or (ii) by way of the withholding in whole or in part of any relevant payment of dividend or other distribution of income or capital by our company to our members or any payment (as defined in the Tax Concessions Law).

**PRC Taxation**

If the PRC tax authorities determine that our Cayman Islands holding company is a “resident enterprise” for PRC enterprise income tax purposes, a withholding tax of 10% may be imposed on dividends that non-PRC resident enterprise holders of our ADSs receive from us and on gains realized on their sale or other disposition of ADSs, if such income is considered as income derived from within China. See “Item 3.D. Key Information — Risk factors — Risks Relating to Our Corporate Structure — Our subsidiaries and consolidated affiliated Chinese entities in China are subject to restrictions on paying dividends or making other payments to us, which may restrict our ability to satisfy our liquidity requirements.”

## **U.S. Federal Income Tax Considerations**

The following discussion is a summary of U.S. federal income tax considerations generally applicable to the ownership and disposition of our ADSs or ordinary shares by a U.S. Holder (as defined below) that will hold our ADSs or ordinary shares as “capital assets” (generally, property held for investment). This discussion is based on the U.S. Internal Revenue Code of 1986, as amended, or the Code, U.S. Treasury regulations promulgated thereunder, or Regulations, published positions of the Internal Revenue Service, or the IRS, court decisions and other applicable authorities, all as currently in effect as of the date hereof and all of which are subject to change or differing interpretations (possibly with retroactive effect).

This discussion does not describe all of the U.S. federal income tax considerations that may be applicable to U.S. Holders in light of their particular circumstances or U.S. Holders subject to special treatment under U.S. federal income tax law, such as:

- banks, insurance companies and other financial institutions;
- tax-exempt entities;
- real estate investment trusts;
- regulated investment companies;
- dealers or traders in securities;
- certain former citizens or residents of the United States;
- persons that elect to mark their securities to market;
- persons holding our ADSs or ordinary shares as part of a “straddle,” conversion or other integrated transaction;
- persons that have a functional currency other than the U.S. dollar; and
- persons that actually or constructively own 10% or more of our equity (by vote or value).

In addition, this discussion does not address any U.S. state or local or non-U.S. tax considerations (other than the discussion below relating to certain withholding rules and the U.S.-PRC income tax treaty, or the Treaty) or any U.S. federal estate, gift, alternative minimum tax or Medicare contribution tax considerations. U.S. Holders should consult their tax advisors concerning the U.S. federal income tax considerations to them in light of their particular situation as well as any considerations arising under the laws of any other taxing jurisdiction.

For purposes of this discussion, a “U.S. Holder” is a beneficial owner of our ADSs or ordinary shares that is for U.S. federal income tax purposes:

- an individual who is a citizen or resident of the United States;
- a corporation (or other entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States, any state thereof, or the District of Columbia;
- an estate, the income of which is subject to U.S. federal income taxation regardless of its source; or



- a trust that (i) is subject to the primary supervision of a court within the United States and the control of one or more U.S. persons or (ii) has a valid election in effect under applicable Regulations to be treated as a U.S. person.

If a partnership (or other entity or arrangement treated as a partnership for U.S. federal income tax purposes) holds our ADSs or ordinary shares, the U.S. federal income tax treatment of a partner will generally depend on the status of the partner and the activities of the partnership. Partners in a partnership holding our ADSs or ordinary shares should consult their tax advisors regarding the tax considerations generally applicable to them of the ownership and disposition of our ADSs or ordinary shares.

The discussion below assumes that the representations contained in the deposit agreement are true and that the obligations in the deposit agreement and any related agreement have been and will be complied with in accordance with its terms. If a U.S. Holder holds ADSs, such holder should be treated as the beneficial holder of the underlying ordinary shares represented by those ADSs for U.S. federal income tax purposes.

### ***Distributions***

Subject to the discussion below under “— Passive Foreign Investment Company Rules,” any cash distributions (including the amount of any PRC tax withheld if we are deemed to be a PRC resident enterprise under PRC tax law) paid on our ADSs or ordinary shares out of our current or accumulated earnings and profits, as determined under U.S. federal income tax principles, will generally be includible in a U.S. Holder’s gross income as dividend income on the day actually or constructively received by such holder. Because we do not intend to determine our earnings and profits on the basis of U.S. federal income tax principles, any distribution paid will generally be treated as dividend income for U.S. federal income tax purposes. Dividends received on our ADSs or ordinary shares will not be eligible for the dividends received deduction allowed to corporations under the Code.

Individuals and other non-corporate recipients will be subject to tax at the lower capital gain tax rate applicable to “qualified dividend income,” provided that certain conditions are satisfied, including that (i) our ADSs or ordinary shares are readily tradable on an established securities market in the United States, or, in the event that we are deemed to be a PRC resident enterprise under the PRC tax law, we are eligible for the benefits of the Treaty, (ii) we are neither a PFIC nor treated as such with respect to a U.S. Holder (as discussed below) for the taxable year in which the dividend was paid and the preceding taxable year, and (iii) certain holding period requirements are met. Our ADSs, but not our ordinary shares, are listed on the Nasdaq Global Select Market so we anticipate that our ADSs should qualify as readily tradable on an established securities market in the United States, although there can be no assurances in this regard. In the event that we are deemed to be a PRC resident enterprise under PRC tax law, a U.S. Holder may be subject to PRC withholding taxes on dividends paid on our ADSs or ordinary shares. If we are deemed to be a PRC resident enterprise, we may, however, be eligible for the benefits of the Treaty. If we are eligible for such benefits, dividends we pay on our ordinary shares, regardless of whether such shares are represented by our ADSs, would be eligible for the reduced rates of taxation applicable to qualified dividend income, as discussed above.

For U.S. foreign tax credit purposes, dividends will generally be treated as income from foreign sources and will generally constitute passive category income. Depending on a U.S. Holder’s particular circumstances, such holder may be eligible, subject to a number of complex limitations, to claim a foreign tax credit in respect of any foreign withholding taxes imposed on dividends received on our ADSs or ordinary shares. If a U.S. Holder does not elect to claim a foreign tax credit for foreign tax withheld, such holder is permitted instead to claim a deduction, for U.S. federal income tax purposes, for the foreign tax withheld, but only for a year in which such holder elects to do so for all creditable foreign income taxes. The rules governing the foreign tax credit are complex. U.S. Holders should consult their tax advisors regarding the availability of the foreign tax credit under their particular circumstances.

### ***Sale or Other Taxable Dispositions***

Subject to discussion below under “— Passive Foreign Investment Company Rules,” a U.S. Holder will generally recognize capital gain or loss upon the sale or other taxable disposition of our ADSs or ordinary shares in an amount equal to the difference, if any, between the amount realized upon the disposition and such holder’s adjusted tax basis in such ADSs or ordinary shares. Any capital gain or loss will be long-term capital gain or loss if the U.S. Holder held the ADSs or ordinary shares for more than one year and will generally be U.S.-source gain or loss for U.S. foreign tax credit purposes. In the event that we are deemed to be a PRC resident enterprise under PRC tax law and gain from the disposition of the ADSs or ordinary shares is subject to tax in China, such gain may be treated as PRC-source gain for U.S. foreign tax credit purposes under the Treaty. The deductibility of a capital loss may be subject to limitations. U.S. Holders should consult their tax advisors regarding the tax considerations if a foreign tax is imposed on a disposition of our ADSs or ordinary shares, including the availability of the foreign tax credit under their particular circumstances.

### ***Passive Foreign Investment Company Rules***

A non-U.S. corporation, such as our company, will be classified as a PFIC for U.S. federal income tax purposes for any taxable year, if either (i) 75% or more of its gross income for such year consists of certain types of “passive” income or (ii) 50% or more of the value of its assets (determined on the basis of a quarterly average) during such year produce or are held for the production of passive income. Passive income generally includes dividends, interest, royalties, rents, annuities, net gains from the sale or exchange of property producing such income and net foreign currency gains. For this purpose, cash is categorized as a passive asset and the company’s unbooked intangibles associated with active business activity are taken into account as a non-passive asset. We will be treated as owning our proportionate share of the assets and earning our proportionate share of the income of any other corporation in which we own, directly or indirectly, at least 25% (by value) of the stock.

Although the law in this regard is not entirely clear, we treat our consolidated affiliated Chinese entities as being owned by us for U.S. federal income tax purposes because we control their management decisions and we are entitled to substantially all of their economic benefits and, as a result, we consolidate their results of operations in our consolidated U.S. GAAP financial statements. If it were determined, however, that we are not the owner of our consolidated affiliated Chinese entities for U.S. federal income tax purposes, we would likely be treated as a PFIC for our current taxable year and any subsequent taxable years.

Assuming we are the owner of our consolidated affiliated Chinese entities for U.S. federal income tax purposes, based on our income and assets, and the value of our ADSs, we do not believe that we were classified as a PFIC for the taxable year ending December 31, 2019 and we do not expect to be a PFIC for the foreseeable future. Although we do not anticipate becoming a PFIC, changes in the nature of our income or assets or the value of our ADSs may cause us to become a PFIC for the current or any subsequent taxable year. Recent fluctuations in the market price of our ADSs or ordinary shares increased our risk of becoming a PFIC. The market price of the ADSs and ordinary shares may continue to fluctuate considerably; consequently, we cannot assure you of our PFIC status for any taxable year. Under circumstances where revenues from activities that produce passive income significantly increase relative to our revenues from activities that produce non-passive income, or where we determine not to expend significant amounts of cash for working capital or other purposes, our risk of becoming classified as a PFIC may substantially increase.

If we are a PFIC for any taxable year during which a U.S. Holder holds our ADSs, or ordinary shares, such holder will be subject to special tax rules with respect to any “excess distribution” that such holder receives and any gain such holder realizes from a sale or other disposition (including a pledge) of our ADSs or ordinary shares, unless such holder makes a “mark-to-market” election as discussed below. Distributions a U.S. Holder receives in a taxable year that are greater than 125% of the average annual distributions such holder received during the shorter of the three preceding taxable years or such holder’s holding period for the ADSs or ordinary shares will be treated as an excess distribution. Under these special tax rules:

- the excess distribution or gain will be allocated ratably over such holder’s holding period for the ADSs or ordinary shares;
- amounts allocated to the current taxable year, and any taxable years in such holder’s holding period prior to the first taxable year in which we are classified as a PFIC, or a pre-PFIC year, will be taxable as ordinary income; and
- amounts allocated to each prior taxable year, other than a pre-PFIC year, will be subject to tax at the highest tax rate in effect applicable to such holder for that year, and such amounts will be increased by an additional tax equal to interest on the resulting tax deemed deferred with respect to such years.

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If we are a PFIC for any taxable year during which a U.S. Holder holds our ADSs or ordinary shares and any of our non-U.S. subsidiaries are also PFICs, such holder will be treated as owning a proportionate amount (by value) of the shares of each such non-U.S. subsidiary classified as a PFIC for purposes of the application of these rules.

Alternatively, a U.S. Holder of “marketable stock” (as defined below) in a PFIC may make a mark-to-market election for such stock of a PFIC to elect out of the tax treatment discussed in the two preceding paragraphs. If a U.S. Holder makes a valid mark-to-market election for the ADSs, such holder will include in income each year an amount equal to the excess, if any, of the fair market value of the ADSs as of the close of such holder’s taxable year over such holder’s adjusted basis in such ADSs. The U.S. Holder will be allowed a deduction for the excess, if any, of the adjusted basis of the ADSs over their fair market value as of the close of the taxable year. However, deductions will be allowable only to the extent of any net mark-to-market gains on the ADSs included in the U.S. Holder’s income for prior taxable years. Amounts included in the U.S. Holder’s income under a mark-to-market election, as well as gain on the actual sale or other disposition of the ADSs, will be treated as ordinary income. Ordinary loss treatment will also apply to the deductible portion of any mark-to-market loss on the ADSs, as well as to any loss realized on the actual sale or disposition of the ADSs, to the extent that the amount of such loss does not exceed the net mark-to-market gains previously included for such ADSs. A U.S. Holder’s basis in the ADSs will be adjusted to reflect any such gain or loss amounts. If a U.S. Holder makes a valid mark-to-market election, and we subsequently cease to be classified as a PFIC, such holder will not be required to take into account the mark-to-market income or loss described above during any period that we are not classified as a PFIC.

The mark-to-market election is available only for “marketable stock,” which is stock that is traded in other than de minimis quantities on at least 15 days during each calendar quarter (“regularly traded”) on a qualified exchange or other market, as defined in applicable Regulations. Our ADSs are listed on the Nasdaq Global Select Market, which is a qualified exchange for these purposes, and, consequently, assuming that the ADSs are regularly traded, it is expected that the mark-to-market election would be available to U.S. Holders of ADSs (but not our ordinary shares) if we are or become a PFIC.

Because, as a technical matter, a mark-to-market election cannot be made for any lower-tier PFICs that we may own, a U.S. Holder may continue to be subject to the PFIC rules with respect to such holder’s indirect interest in any investments held by us that are treated as an equity interest in a PFIC for U.S. federal income tax purposes.

We do not intend to provide the information necessary for U.S. Holders to make qualified electing fund elections in the event that we are classified as a PFIC.

If we are classified as a PFIC, a U.S. Holder must file an annual report with the IRS. U.S. Holders should consult their tax advisors concerning the U.S. federal income tax considerations of owning and disposing of our ADSs or ordinary shares if we are or become a PFIC, including the unavailability of a qualified electing fund election, the possibility of making a mark-to-market election and the annual PFIC filing requirements, if any.

### *F. Dividends and Paying Agents*

Not applicable.

### *G. Statement by Experts*

Not applicable.

### *H. Documents on Display*

We are subject to the periodic reporting and other informational requirements of the Exchange Act. Under the Exchange Act, we are required to file reports and other information with SEC. Specifically, we are required to file annually a Form 20-F within four months after the end of each fiscal year. Copies of reports and other information, when so filed, may be inspected without charge and may be obtained at prescribed rates at SEC’s public reference room located at Room 1580, 100F Street, NE, Washington, D.C. 20549. The public may obtain information regarding the Washington, D.C. Public Reference Room by calling the Commission at 1-800-SEC-0330. SEC also maintains a website at [www.sec.gov](http://www.sec.gov) that contains reports, proxy and information statements, and other information regarding registrants that make electronic filings with SEC using its EDGAR system. As a foreign private issuer, we are exempt from the rules under the Exchange Act prescribing the furnishing and content of quarterly reports and proxy statements, and officers, directors and principal shareholders are exempt from the reporting and short-swing profit recovery provisions contained in Section 16 of the Exchange Act.

Our consolidated financial statements have been prepared in accordance with U.S. GAAP.

We will furnish our shareholders with annual reports, which will include a review of operations and annual audited consolidated financial statements prepared in conformity with U.S. GAAP.

I. *Subsidiary Information*

Not applicable.

**ITEM 11. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

*Interest Rate Risk.* Our exposure to interest rate risk for changes in interest rates relates primarily to the interest income generated by excess cash deposited in banks, interest rates associated with the issuance of the 2020 Notes, the 2025 Notes, the 2022 Notes, the 2020 Booking Notes, the 2025 Booking Notes, the 2022 Booking Notes, the 2025 Hillhouse Notes and other bank borrowings. For information about these notes and bank borrowings, see “Item 5.F. Operating and Financial Review and Prospects — Tabular Disclosure of Contractual Obligations.” We have used interest swap contracts to hedge our exposure to interest rate risk. We have not been exposed nor do we anticipate being exposed to material risks due to changes in interest rates. Based on our cash balance as of December 31, 2019, a one basis point decrease in interest rates would result in approximately a RMB4 million (US\$0.6 million) decrease in our interest income on an annual basis. Our future interest income may fluctuate in line with changes in interest rates. However, the risk associated with fluctuating interest rates is principally confined to our interest-bearing cash deposits, and, therefore, our exposure to interest rate risk is limited.

*Foreign Exchange Risk.* We are exposed to foreign exchange risk arising from various currency exposures. Some of our expenses are denominated in foreign currencies while the majority of our revenues are denominated in Renminbi. As we hold assets dominated in U.S. dollars, including our bank deposits, any changes against our functional currencies could potentially result in a charge to our income statement and a reduction in the value of our U.S. dollar-denominated assets. We have used forward contracts and currency borrowings to hedge our exposure to foreign currency risk. For the year ended December 31, 2019, foreign exchange losses accounted for approximately -5% of our net income. As of December 31, 2019, a 1% strengthening/weakening of Renminbi against U.S. dollars would have increased/decreased our net income by 0.5%. See “Item 3.D. Key Information — Risk Factors — Risks Relating to Doing Business in China — Future movements in exchange rates between the U.S. dollars and Renminbi may adversely affect the value of our ADSs.”

*Investment Risk.* As of December 31, 2019, our equity method investments totaled US\$3.3 billion. We periodically review our investments for impairment. Unrealized gains on transactions between the affiliated entity and us are eliminated to the extent of our interest in the affiliated entity; unrealized losses are also eliminated unless the transaction provides evidence of an impairment of the asset transferred. We are unable to control these factors and an impairment charge recognized by us will impact our operating results and financial position.

In December 2016, in connection with our share exchange transaction with BTG and Homeinns, we exchanged our previously held equity interest in Homeinns for 22% equity interest of BTG and recognized a gain of RMB1.4 billion. If BTG experiences a net loss in the future, we will share its net loss proportionate to our equity interest. In May 2015, we acquired approximately 38% share capital of eLong, Inc. We subsequently participated as a member in the buying consortium in eLong, Inc. going-private transaction that was completed in May 2016. In March 2018, eLong consummated a merger with LY.com with share swap transaction. We received an equity method investment in the enlarged group with previously held equity investment and preferred shares of eLong be exchanged. For the year ended December 31, 2018, we acquired additional equity interest and after these transactions, we had 27% equity interest in the enlarged group and applied equity method for this investment.

**ITEM 12. DESCRIPTION OF SECURITIES OTHER THAN EQUITY SECURITIES**

A. *Debt Securities*

Not applicable.

B. *Warrants and Rights*

Not applicable.

C. *Other Securities*

Not applicable.

D. *American Depositary Shares*

**Fees paid by our ADS holders**

The Bank of New York Mellon, the depositary of our ADS program, collects its fees for delivery and surrender of ADSs directly from investors depositing shares or surrendering ADSs for the purpose of withdrawal or from intermediaries acting for them. The depositary collects fees for making distributions to investors by deducting those fees from the amounts distributed or by selling a portion of distributable property to pay the fees. The depositary may collect its annual fee for depositary services by deducting from cash distributions or by directly billing investors or by charging the book-entry system accounts of participants acting for them. The depositary may generally refuse to provide fee-attracting services until its fees for those services are paid.

Persons depositing or withdrawing shares must pay:

\$ 5.00 (or less) per 100 ADSs (or portion of 100 ADSs)

\$ 0.02 (or less) per ADS

A fee equivalent to the fee that would be payable if securities distributed to you had been shares and the shares had been deposited for issuance of ADSs

\$ 0.02 (or less) per ADSs per calendar year

Registration or transfer fees

Expenses of the depositary

Taxes and other governmental charges the depositary or the custodian have to pay on any ADS or share underlying an ADS, for example, stock transfer taxes, stamp duty or withholding taxes

Any charges incurred by the depositary or its agents for servicing the deposited securities

For:

Issuance of ADSs, including issuances resulting from a distribution of shares or rights or other property

Cancellation of ADSs for the purpose of withdrawal, including if the deposit agreement terminates

Any cash distribution to ADS registered holders

Distribution of securities distributed to holders of deposited securities which are distributed by the depositary to ADS registered holders

Depositary services

Transfer and registration of shares on our share register to or from the name of the depositary or its agent when you deposit or withdraw shares

Cable, telex and facsimile transmissions (when expressly provided in the deposit agreement)

Converting foreign currency to U.S. dollars

As necessary

As necessary

### **Fees and Payments from the Depositary to Us**

We expect to receive from the depositary a reimbursement of approximately US\$5 million, net of withholding tax, for our continuing annual stock exchange listing fees and our expenses incurred in connection with investor relationship programs for 2019. In addition, the depositary has agreed to reimburse us annually for our expenses incurred in connection with investor relationship programs in the future. The amount of such reimbursements is subject to certain limits.

## **PART II.**

### **ITEM 13. DEFAULTS, DIVIDEND ARREARAGES AND DELINQUENCIES**

None.

### **ITEM 14. MATERIAL MODIFICATIONS TO THE RIGHTS OF SECURITY HOLDERS AND USE OF PROCEEDS**

None.

### **ITEM 15. CONTROLS AND PROCEDURES**

#### **Disclosure Controls and Procedures**

As required by Rule 13a-15(b) under the Exchange Act, our management, including our chief executive officer, Jane Jie Sun, and our chief financial officer, Cindy Xiaofan Wang, has performed an assessment of the effectiveness of our disclosure controls and procedures, as that term is defined in Rules 13a-15(e) of the Exchange Act, as of the end of the period covered by this annual report. Based on that assessment, our management has concluded that our disclosure controls and procedures were effective as of December 31, 2019.

#### **Management's Annual Report on Internal Control over Financial Reporting**

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Securities Exchange Act of 1934, as amended. Our internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of our financial reporting and the preparation of financial statements for external purposes in accordance with U.S. GAAP and includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of our company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of consolidated financial statements in accordance with U.S. GAAP, and that receipts and expenditures of our company are being made only in accordance with authorizations of our management and directors; and (3) provide reasonable assurance regarding prevention or timely detection of the unauthorized acquisition, use or disposition of our company's assets that could have a material effect on the consolidated financial statements. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risks that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Our management conducted an assessment of the effectiveness of our company's internal control over financial reporting as of December 31, 2019 based on the framework in Internal Control — Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on this assessment, our management concluded that our internal control over financial reporting was effective as of December 31, 2019.

PricewaterhouseCoopers Zhong Tian LLP, our independent registered public accounting firm, audited the effectiveness of internal control over financial reporting as of December 31, 2019, as stated in their report.

## Attestation Report of the Registered Public Accounting Firm

PricewaterhouseCoopers Zhong Tian LLP, our independent registered public accounting firm, audited the effectiveness of internal control over financial reporting as of December 31, 2019, as stated in their report that appears on page F-2 of this annual report.

## Changes in Internal Control over Financial Reporting

As required by Rule 13a-15(d), under the Exchange Act, our management, including our chief executive officer and our chief financial officer, also conducted an assessment of our internal control over financial reporting to determine whether any changes occurred during the period covered by this report have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting. Based on that assessment, it has been determined that there has been no such change during the period covered by this annual report.

## ITEM 16A. AUDIT COMMITTEE FINANCIAL EXPERT

See “Item 6.C. Directors, Senior Management and Employees — Board Practices.”

## ITEM 16B. CODE OF ETHICS

Our board of directors has adopted a code of ethics that applies to our directors, officers, employees and agents, including certain provisions that specifically apply to our chief executive officer, chief financial officer, financial controller, vice presidents and any other persons who perform similar functions for us. We have filed our code of business conduct and ethics as an exhibit to our annual report on Form 20-F for our fiscal year 2003, and posted the code on our investor relations website at *investors.trip.com*. On March 3, 2009, our board of directors approved amendments to our code of ethics and on July 13, 2012, the code of ethics was further amended and restated by our board of directors. We have filed our amended and restated code of business conduct and ethics as an exhibit to our annual report on Form 20-F for our fiscal year 2012, and posted the amended and restated code on our investor relations website at *investors.trip.com*. On October 31, 2017, our board of directors approved our further amended and restated code of business conduct and ethics. We have filed our amended and restated code of business conduct and ethics as Exhibit 11.1 to our annual report on Form 20-F for our fiscal year 2017. You can also find the amended and restated code of business conduct and ethics on our investor relations website at *investors.trip.com*.

## ITEM 16C. PRINCIPAL ACCOUNTANT FEES AND SERVICES

The following table sets forth the aggregate fees by categories specified below in connection with certain professional services rendered by PricewaterhouseCoopers Zhong Tian LLP, our principal accountant, for the periods indicated.

	For the Year Ended December 31,		
	2018	2019	2019
	RMB	RMB	US\$
Audit Fees <sup>(1)</sup>	17,084,868	20,487,434	2,942,836
Audit Related Fees <sup>(2)</sup>	4,697,050	7,920,989	1,137,779
Tax Fees <sup>(3)</sup>	1,715,553	1,892,987	271,911
All Other Fees <sup>(4)</sup>	9,000	—	—

### Notes:

- (1) “Audit Fees” represent the aggregate fees incurred for each of the fiscal years listed for professional services rendered by our principal accountant for the interim review of quarterly financial statements and the audit of our annual financial statements and other statutory audits of our subsidiaries.
- (2) “Audit Related Fees” represent the aggregate fees incurred in each of the fiscal years listed for assurance and related services that are provided by our principal accountant that are reasonably related to the performance of the audit or review of our financial statements and are not reported under “Audit Fees.”
- (3) “Tax Fees” represent the aggregate fees incurred in each of the fiscal years listed for professional services rendered by our principal accountant for tax compliance, tax advice and tax planning.
- (4) “All Other Fees” represent the aggregate fees incurred in each of the fiscal years listed for products and services provided by our principal accountant, other than the services reported in (1), (2) and (3).

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Our audit committee pre-approves all audit and permissible non-audit services provided by the principal accountant. These services may include audit services, audit-related services and tax services, as well as, to a very limited extent, specifically designated non-audit services which, in the opinion of the audit committee, will not impair the independence of the principal accountant. The principal accountant and our management are required to report to the audit committee on the quarterly basis regarding the extent of services provided by the principal accountant in accordance with this pre-approval.

### **ITEM 16D. EXEMPTIONS FROM THE LISTING STANDARDS FOR AUDIT COMMITTEES**

None.

### **ITEM 16E. PURCHASE OF EQUITY SECURITIES BY THE ISSUER AND AFFILIATED PURCHASERS**

None.

### **ITEM 16F. CHANGE IN REGISTRANT'S CERTIFYING ACCOUNTANT**

None.

### **ITEM 16G. CORPORATE GOVERNANCE**

As a Cayman Islands company listed on Nasdaq, we are subject to the Nasdaq corporate governance listing standards. However, Nasdaq rules permit a foreign private issuer like us to follow the corporate governance practices of its home country. Certain corporate governance practices in the Cayman Islands, which is our home country, may differ significantly from the Nasdaq corporate governance listing standards. In lieu of (i) the requirements of Rule 5605(b) of the Nasdaq Rules that a majority of a Nasdaq-listed company's board of directors be independent directors as defined in Rule 5605(a)(2), and (ii) the requirements of Rule 5635(c) of the Nasdaq Rules that shareholder approval be required prior to the issuance of securities when a stock option or purchase plan is to be established or materially amended or other equity compensation arrangement made or materially amended, pursuant to which stock may be acquired by officers, directors, employees, or consultants, we intend to follow our home country practices with respect to the composition of our board of directors and approval for adoption and material amendment to our equity-based compensation plans. Our Cayman Islands counsel has provided a letter to the Nasdaq Stock Market certifying that under Cayman Islands law, we are not required to follow or comply with the requirements of the Rule 5600 series of the Nasdaq Rules (except for those rules that are required to be followed pursuant to Rule 5615(a)(3)). Nasdaq has acknowledged the receipt of this letter.

Other than the home country practices described above, we are not aware of any significant ways in which our corporate governance practices differ from those followed by U.S. domestic companies under the Nasdaq Rules.

### **ITEM 16H. MINE SAFETY DISCLOSURE**

Not applicable.

## **PART III.**

### **ITEM 17. FINANCIAL STATEMENTS**

We have elected to provide financial statements pursuant to Item 18.

### **ITEM 18. FINANCIAL STATEMENTS**

The consolidated financial statements for Trip.com Group Limited and its subsidiaries are included at the end of this annual report.



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### ITEM 19. EXHIBITS

<u>Exhibit Number</u>	<u>Document</u>
1.1	<a href="#"><u>Second Amended and Restated Memorandum and Articles of Association of the Registrant adopted by the shareholders of the Registrant on December 21, 2015 (incorporated by reference to Exhibit 99.2 to our Report of Foreign Private Issuer on Form 6-K furnished to the Securities and Exchange Commission on December 23, 2015)</u></a>
2.1	<a href="#"><u>Specimen American Depositary Receipt of the Registrant (incorporated by reference to Form 424b3 (File No. 333-233932) filed with the Securities and Exchange Commission on October 31, 2019)</u></a>
2.2*	<a href="#"><u>Specimen Stock Certificate of the Registrant</u></a>
2.3	<a href="#"><u>Rights Agreement dated as of November 23, 2007 between the Registrant and The Bank of New York, as Rights Agent (incorporated by reference to Exhibit 4.1 to our Report of Foreign Private Issuer on Form 6-K furnished to the Securities and Exchange Commission on November 23, 2007)</u></a>
2.4	<a href="#"><u>First Amendment to the Rights Agreement dated as of August 7, 2014 between the Registrant and The Bank of New York, as Rights Agent (incorporated by reference to Exhibit 4.1 to our Report of Foreign Private Issuer on Form 8-A/A furnished to the Securities and Exchange Commission on August 8, 2014)</u></a>
2.5	<a href="#"><u>Second Amendment to the Rights Agreement dated as of August 7, 2014 between the Registrant and The Bank of New York, as Rights Agent (incorporated by reference to Exhibit 4.2 to our Report of Foreign Private Issuer on Form 8-A/A furnished to the Securities and Exchange Commission on August 8, 2014)</u></a>
2.6	<a href="#"><u>Third Amendment to the Rights Agreement dated as of May 29, 2015 between the Registrant and The Bank of New York, as Rights Agent (incorporated by reference to Exhibit 4.3 to our Report of Foreign Private Issuer on Form 8-A/A furnished to the Securities and Exchange Commission on June 4, 2015)</u></a>
2.7	<a href="#"><u>Fourth Amendment to the Rights Agreement dated as of October 26, 2015 between the Registrant and The Bank of New York, as Rights Agent (incorporated by reference to Exhibit 4.3 to our Report of Foreign Private Issuer on Form 8-A/A furnished to the Securities and Exchange Commission on October 27, 2015)</u></a>
2.8	<a href="#"><u>Fifth Amendment to the Rights Agreement dated as of December 23, 2015 between the Registrant and The Bank of New York, as Rights Agent (incorporated by reference to Exhibit 4.3 to our Report of Foreign Private Issuer on Form 8-A/A furnished to the Securities and Exchange Commission on December 23, 2015)</u></a>
2.9	<a href="#"><u>Sixth Amendment to the Rights Agreement dated as of August 30, 2019 between the Registrant and The Bank of New York, as Rights Agent (incorporated by reference to Exhibit 4.1 to our Report of Foreign Private Issuer on Form 8-A/A furnished to the Securities and Exchange Commission on November 14, 2019)</u></a>
2.10	<a href="#"><u>Seventh Amendment to the Rights Agreement dated as of November 13, 2019 between the Registrant and The Bank of New York, as Rights Agent (incorporated by reference to Exhibit 4.2 to our Report of Foreign Private Issuer on Form 8-A/A furnished to the Securities and Exchange Commission on November 14, 2019)</u></a>
2.11	<a href="#"><u>Deposit Agreement dated as of December 8, 2003, as amended and restated as of August 11, 2006, and as further amended and restated as of December 3, 2007, among the Registrant, The Bank of New York as Depositary, and all Owners and Beneficial Owners from time to time of American Depositary Shares issued thereunder (incorporated by reference to Exhibit 2.4 to our Annual Report on Form 20-F (File No. 001-33853) filed with the Securities and Exchange Commission on April 29, 2008)</u></a>
2.12*	<a href="#"><u>Description of Securities</u></a>
4.1	<a href="#"><u>Form of Indemnification Agreement with the Registrant's directors and executive officers (incorporated by reference to Exhibit 10.2 to our Registration Statement on Form F-1 (File No. 333-110455) filed with the Securities and Exchange Commission on November 13, 2003)</u></a>
4.2	<a href="#"><u>Translation of Form of Labor Contract for Employees of the Registrant's subsidiaries in China (incorporated by reference to Exhibit 10.3 to our Registration Statement on Form F-1 (File No. 333-110455) filed with the Securities and Exchange Commission on November 13, 2003)</u></a>
4.3	<a href="#"><u>Employment Agreement between the Registrant and James Jianzhang Liang (incorporated by reference to Exhibit 10.4 to our Registration Statement on Form F-1 (File No. 333-110455) filed with the Securities and Exchange Commission on November 13, 2003)</u></a>
4.4	<a href="#"><u>Employment and Confidentiality Agreement between the Registrant and Jane Jie Sun (incorporated by reference to Exhibit 4.5 to our Annual Report on Form 20-F (File No. 000-50483) filed with the Securities and Exchange Commission on June 26, 2006)</u></a>
4.5	<a href="#"><u>Employment Agreement, between the Registrant and Min Fan (incorporated by reference to Exhibit 10.6 to our Registration Statement on Form F-1 (File No. 333-110455) filed with the Securities and Exchange Commission on November 13, 2003)</u></a>
4.6*	<a href="#"><u>Translation of Executed Form of Technical Consulting and Services Agreement between a wholly-owned subsidiary of the Registrant and a consolidated affiliated Chinese entity of the Registrant, as currently in effect, and a schedule of all executed technical consulting and services agreements adopting the same form in respect of a consolidated affiliated Chinese entity of the Registrant</u></a>

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- 4.7\* [Translation of Executed Form of Loan Agreement between a wholly-owned subsidiary of the Registrant and shareholders of a consolidated affiliated Chinese entity of the Registrant, as currently in effect, and a schedule of all executed loan agreements adopting the same form in respect of a consolidated affiliated Chinese entity of the Registrant](#)
- 4.8\* [Translation of Executed Form of Exclusive Call Option Agreement among a wholly-owned subsidiary of the Registrant, a consolidated affiliated Chinese entity of the Registrant and a shareholder of the consolidated affiliated Chinese entity, as currently in effect, and a schedule of all executed exclusive option agreements adopting the same form in respect of a consolidated affiliated Chinese entity of the Registrant](#)
- 4.9\* [Translation of Executed Form of Equity Pledge Agreement between a wholly-owned subsidiary of the Registrant and a shareholder of a consolidated affiliated Chinese entity of the Registrant, as currently in effect, and a schedule of all executed share pledge agreements adopting the same form in respect of a consolidated affiliated Chinese entity of the Registrant](#)
- 4.10\* [Translation of Executed Form of Power of Attorney by a shareholder of a consolidated affiliated Chinese entity of the Registrant, as currently in effect, and a schedule of all executed power of attorney adopting the same form in respect of a consolidated affiliated Chinese entity of the Registrant](#)
- 4.11 [Confidentiality and Non-Competition Agreement, effective as of September 10, 2003, between the Registrant and Qi Ji \(incorporated by reference to Exhibit 10.16 to our Registration Statement on Form F-1 \(File No. 333-110455\) filed with the Securities and Exchange Commission on November 13, 2003\)](#)
- 4.12 [Form of Director Agreement between the Registrant and its director \(incorporated by reference to Exhibit 4.20 to our Annual Report on Form 20-F filed with the Securities and Exchange Commission on May 11, 2004\)](#)
- 4.13 [Translation of State Land Use Right Assignment Contract dated February 25, 2008 between Nantong Land Resource Bureau and Ctrip Information Technology \(Nantong\) Co., Ltd. \(incorporated by reference to Exhibit 4.21 to our Annual Report on Form 20-F \(File No. 001-33853\) filed with the Securities and Exchange Commission on April 29, 2008\)](#)
- 4.14 [2007 Share Incentive Plan of the Registrant, as amended and restated as of November 17, 2008 \(incorporated by reference to Exhibit 4.21 to our Annual Report on Form 20-F \(File No. 001-33853\) filed with the Securities and Exchange Commission on May 26, 2009\)](#)
- 4.15 [Translation of State-Owned Construction Land Use Right Transfer Contract dated September 30, 2011 between Chengdu Ctrip Information Technology Co., Ltd. and Chengdu Land Resources Bureau \(incorporated by reference to Exhibit 4.30 to our Annual Report on Form 20-F \(File No. 001-33853\) filed with the Securities and Exchange Commission on March 30, 2012\)](#)
- 4.16 [Convertible Note Purchase Agreement dated May 26, 2015 between Ctrip.com International, Ltd. and Priceline Group Treasury Company B.V. for the issuance and purchase of US\\$250 million 1.00% convertible note due 2020 \(incorporated by reference to Exhibit 1 to Schedule 13D/A \(File No. 005-79455\) filed by The Priceline Group Inc. \(currently known as Booking Holdings Inc.\) with the Securities and Exchange Commission on May 29, 2015\)](#)
- 4.17 [Indenture dated June 24, 2015 constituting US\\$700 million 1.00% Convertible Senior Notes due 2020 \(incorporated by reference to Exhibit 4.43 to our Annual Report on Form 20-F \(File No. 001-33853\) filed with the Securities and Exchange Commission on April 22, 2016\)](#)
- 4.18 [Indenture dated June 24, 2015 constituting US\\$400 million 1.99% Convertible Senior Notes due 2025 \(incorporated by reference to Exhibit 4.44 to our Annual Report on Form 20-F \(File No. 001-33853\) filed with the Securities and Exchange Commission on April 22, 2016\)](#)
- 4.19 [Standstill Agreement dated as of October 26, 2015 between Baidu, Inc. and the Registrant \(incorporated by reference to Exhibit 3 to Schedule 13D \(File No. 005-79455\) filed by Baidu, Inc. with the Securities and Exchange Commission on November 4, 2015\)](#)
- 4.20 [Registration Rights Agreement dated as of October 26, 2015 between Baidu Holdings Limited and the Registrant \(incorporated by reference to Exhibit 4 to Schedule 13D \(File No. 005-79455\) filed by Baidu, Inc. with the Securities and Exchange Commission on November 4, 2015\)](#)
- 4.21 [Convertible Note Purchase Agreement dated December 9, 2015 between Ctrip.com International, Ltd. and Priceline Group Treasury Company B.V. for the issuance and purchase of US\\$500 million 2.00% convertible note due 2025 \(incorporated by reference to Exhibit 1 to Schedule 13D/A \(File No. 005-79455\) filed by The Priceline Group Inc. \(currently known as Booking Holdings Inc.\) with the Securities and Exchange Commission on December 14, 2015\)](#)
- 4.22 [Convertible Note Purchase Agreement dated December 9, 2015 among Ctrip.com International, Ltd., Gaoling Fund, L.P. and YHG Investment, L.P. for the issuance and purchase of US\\$500 million 2.00% convertible notes due 2025 \(incorporated by reference to Exhibit 4.50 to our Annual Report on Form 20-F \(File No. 001-33853\) filed with the Securities and Exchange Commission on April 22, 2016\)](#)
- 4.23 [Framework Agreement for Treatment of Qunar Employee Shares and Equity Awards dated December 9, 2015 between the Registrant and Qunar Cayman Islands Limited \(incorporated by reference to Exhibit 4.51 to our Annual Report on Form 20-F \(File No. 001-33853\) filed with the Securities and Exchange Commission on April 22, 2016\)](#)
- 4.24 [Restated Exclusive Technical Consulting and Services Agreement dated March 23, 2016 between Beijing Qu Na Information Technology Co., Ltd. and Beijing Qunar Software Technology Co., Ltd. \(incorporated by reference to Exhibit 4.52 to our Annual Report on Form 20-F \(File No. 001-33853\) filed with the Securities and Exchange Commission on April 22, 2016\)](#)
- 4.25 [Loan Agreement dated March 23, 2016 among Beijing Qunar Software Technology Co., Ltd., Hui Cao and Hui Wang \(incorporated by reference to Exhibit 4.53 to our Annual Report on Form 20-F \(File No. 001-33853\) filed with the Securities and Exchange Commission on April 22, 2016\)](#)

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4.26	<a href="#">Equity Option Agreement dated March 23, 2016 among Qunar Cayman Islands Limited, Beijing Qunar Software Technology Co., Ltd., Hui Cao, Hui Wang and Beijing Qu Na Information Technology Co., Ltd. (incorporated by reference to Exhibit 4.54 to our Annual Report on Form 20-F (File No. 001-33853) filed with the Securities and Exchange Commission on April 22, 2016)</a>
4.27	<a href="#">Equity Interest Pledge Agreement dated March 23, 2016 among Beijing Qunar Software Technology Co., Ltd., Hui Cao and Hui Wang (incorporated by reference to Exhibit 4.55 to our Annual Report on Form 20-F (File No. 001-33853) filed with the Securities and Exchange Commission on April 22, 2016)</a>
4.28	<a href="#">Power of Attorney by Hui Cao and Hui Wang dated March 23, 2016 (incorporated by reference to Exhibit 4.56 to our Annual Report on Form 20-F (File No. 001-33853) filed with the Securities and Exchange Commission on April 22, 2016)</a>
4.29	<a href="#">Indenture dated September 12, 2016 constituting US\$975 million 1.25% convertible senior notes due 2022 (incorporated by reference to Exhibit 4.47 to our Annual Report on Form 20-F (File No. 001-33853) filed with the Securities and Exchange Commission on April 13, 2017)</a>
4.30	<a href="#">English summary of €980 Million Term Loan Agreement dated June 8, 2017 among the Registrant (as borrower), Bank of China (as sole mandated lead arranger), Industrial and Commercial Bank of China, Shanghai Branch and Shanghai Pudong Development Bank, Shanghai Branch (as joint lead arrangers), Bank of China, Shanghai Branch (as agent), Bank of China, Shanghai Changning Sub-branch (as guarantee agent), and certain lenders (incorporated by reference to Exhibit 4.51 to our Annual Report on Form 20-F (File No. 001-33853) filed with the Securities and Exchange Commission on April 23, 2018)</a>
4.31	<a href="#">Share Purchase Agreement dated April 26, 2019, among the Registrant, MIH Internet SEA Private Limited and MIH B2c Holdings B.V. (incorporated by reference to Exhibit 99.1 to Amendment No. 1 to Schedule 13D (File No. 005-85619) filed by MIH Internet SEA Private Limited and Naspers Limited with the Securities and Exchange Commission on April 26, 2019).</a>
4.32*	<a href="#">Facility Agreement dated July 5, 2019 among the Registrant (as borrower), Bank of Communications Co., Ltd. Hong Kong Branch, The Bank of East Asia, Limited, China Construction Bank (Asia) Corporation Limited, The HongKong and Shanghai Banking Corporation Limited, The Korea Development Bank, Bank of China Limited (as mandated lead arrangers and bookrunners), and other parties thereto</a>
4.33	<a href="#">Registration Rights Agreement dated August 30, 2019 between the Registrant and MIH Internet SEA Private Limited (incorporated by reference to Exhibit 99.2 to Schedule 13D (File No. 005-79455) filed by MIH Internet SEA Private Limited and Naspers Limited with the Securities and Exchange Commission on September 5, 2019)</a>
4.34	<a href="#">Cooperation Agreement dated August 30, 2019 among the Registrant, MIH Internet SEA Private Limited and Myriad International Holdings B.V. (incorporated by reference to Exhibit 99.3 to Schedule 13D (File No. 005-79455) filed by MIH Internet SEA Private Limited and Naspers Limited with the Securities and Exchange Commission on September 5, 2019)</a>
4.35*	<a href="#">Second Amended and Restated Global Share Incentive Plan</a>
4.36*	<a href="#">Facility Agreement dated April 3, 2020 among the Registrant (as borrower), Standard Chartered Bank (Hong Kong) Limited, Industrial and Commercial Bank of China (Macau) Limited, and China Construction Bank (Asia) Corporation Limited (as original mandated lead arrangers, bookrunners, and underwriters), and other parties thereto</a>
8.1*	<a href="#">List of Significant Consolidated Entities of the Registrant</a>
11.1	<a href="#">Code of Business Conduct and Ethics of the Registrant, as amended and restated as of October 31, 2017 (incorporated by reference to Exhibit 11.1 to our Annual Report on Form 20-F (File No. 001-33853) filed with the Securities and Exchange Commission on April 23, 2018)</a>
12.1*	<a href="#">Chief Executive Officer Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>
12.2*	<a href="#">Chief Financial Officer Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>
13.1**	<a href="#">Chief Executive Officer Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>
13.2**	<a href="#">Chief Financial Officer Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>
15.1*	<a href="#">Consent of Maples and Calder (Hong Kong) LLP</a>
15.2*	<a href="#">Consent of Commerce &amp; Finance Law Offices</a>
15.3*	<a href="#">Consent of PricewaterhouseCoopers Zhong Tian LLP</a>
101.INS*	Inline XBRL Instance Document—this instance document does not appear on the Interactive Data File because its XBRL tags are not embedded within the Inline XBRL document
101.SCH*	Inline XBRL Taxonomy Extension Schema Document
101.CAL*	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF*	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB*	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE*	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

\* Filed with this annual report on Form 20-F.

\*\* Furnished with this annual report on Form 20-F.

**SIGNATURES**

The registrant hereby certifies that it meets all of the requirements for filing its annual report on Form 20-F and that it has duly caused and authorized the undersigned to sign this annual report on its behalf.

TRIP.COM GROUP LIMITED

By: /s/ Jane Jie Sun

Name: Jane Jie Sun

Title: Chief Executive Officer and Director

Date: April 9, 2020

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## Report of Independent Registered Public Accounting Firm

To the Board of Directors and Shareholders of Trip.com Group Limited

### ***Opinions on the Financial Statements and Internal Control over Financial Reporting***

We have audited the accompanying consolidated balance sheets of Trip.com Group Limited and its subsidiaries (the “Company”) as of December 31, 2019 and December 31, 2018, and the related consolidated statements of income and comprehensive income/(loss), of shareholders’ equity and of cash flows for each of the three years in the period ended December 31, 2019, including the related notes (collectively referred to as the “consolidated financial statements”). We also have audited the Company’s internal control over financial reporting as of December 31, 2019, based on criteria established in *Internal Control—Integrated Framework* (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2019 and 2018, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2019 in conformity with accounting principles generally accepted in the United States of America. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2019, based on criteria established in *Internal Control—Integrated Framework* (2013) issued by the COSO.

### ***Change in Accounting Principle***

As discussed in Note 2 to the consolidated financial statements, the Company changed the manner in which it accounts for leases in 2019.

### ***Basis for Opinions***

The Company’s management is responsible for these consolidated financial statements, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in Management’s Annual Report on Internal Control over Financial Reporting appearing under Item 15. Our responsibility is to express opinions on the Company’s consolidated financial statements and on the Company’s internal control over financial reporting based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud, and whether effective internal control over financial reporting was maintained in all material respects.

Our audits of the consolidated financial statements included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

### ***Definition and Limitations of Internal Control over Financial Reporting***

A company’s internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company’s internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company’s assets that could have a material effect on the financial statements.

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Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

### **Critical Audit Matters**

The critical audit matter communicated below is a matter arising from the current period audit of the consolidated financial statements that was communicated or required to be communicated to the audit committee and that (i) relates to accounts or disclosures that are material to the consolidated financial statements and (ii) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

#### *Valuation of investments classified under Level 3 in the fair value hierarchy*

As described in Note 8 to the consolidated financial statements, as of December 31, 2019 the Company had investments of RMB2,548 million classified under Level 3 in the fair value hierarchy (the “Level 3 Investments”). The fair values of the Level 3 Investments were determined by management based on an income approach utilizing various unobservable inputs which required significant judgment by management with respect to the assumptions and estimates for the revenue growth rate, weighted average cost of capital, lack of marketability discounts, expected volatility and probability in equity allocation.

The principal considerations for our determination that performing procedures relating to the valuation of the Level 3 Investments is a critical audit matter are (i) there was significant judgment by management with respect to the assumptions and estimates used in the determination of the fair values of the Level 3 Investments, which in turn led to a high degree of auditor judgment, subjectivity, and effort in designing and applying procedures relating to evaluating the reasonableness of management’s estimates and assumptions; and (ii) the audit effort involved the use of professionals with specialized skill and knowledge to assist in performing these procedures and evaluating the audit evidence obtained from these procedures.

Addressing the matter involved performing procedures and evaluating audit evidence in connection with forming our overall opinion on the consolidated financial statements. These procedures included testing the effectiveness of controls relating to management’s determination of the fair values of Level 3 investments, including controls over the development of the significant assumptions and estimates related to the fair value measurements, including the revenue growth rate, weighted average cost of capital, lack of marketability discounts, expected volatility and probability in equity allocation. These procedures also included, among others, reading the investment agreements, testing management’s process for developing the fair value measurements of the Level 3 investments, evaluating the appropriateness of the income approach, testing the completeness, accuracy and relevance of underlying data used in the model, and evaluating the significant assumptions and estimates used by management, including the revenue growth rate, weighted average cost of capital, lack of marketability discounts, expected volatility and probability in equity allocation. Evaluating management’s estimates and assumptions for the revenue growth rate involved considering the past performance of the investees’ businesses, benchmarking of peer companies as well as economic and industry forecasts. Professionals with specialized skill and knowledge were used to assist in evaluating the appropriateness of the Company’s valuation approach and the reasonableness of management’s assumptions for the weighted average cost of capital, lack of marketability discounts, expected volatility and probability in equity allocation.

/s/ PricewaterhouseCoopers Zhong Tian LLP  
Shanghai, the People’s Republic of China  
April 9, 2020

We have served as the Company’s auditor since 2003.

**TRIP.COM GROUP LIMITED**  
**CONSOLIDATED STATEMENTS OF INCOME AND COMPREHENSIVE INCOME/(LOSS)**  
**FOR THE YEARS ENDED DECEMBER 31, 2017, 2018 AND 2019**

(In millions, except for share and per share data)

	2017 RMB	2018 RMB	2019 RMB	2019 US\$
<b>Revenues:</b>				
Accommodation reservation	9,531	11,580	13,514	1,941
Transportation ticketing	12,221	12,947	13,952	2,004
Packaged-tour	2,973	3,772	4,534	651
Corporate travel	753	981	1,255	180
Others	1,515	1,824	2,461	353
<b>Total revenues</b>	<b>26,993</b>	<b>31,104</b>	<b>35,716</b>	<b>5,129</b>
Less: Sales tax and surcharges	(197)	(139)	(50)	(7)
<b>Net revenues</b>	<b>26,796</b>	<b>30,965</b>	<b>35,666</b>	<b>5,122</b>
Cost of revenues	(4,678)	(6,324)	(7,372)	(1,059)
<b>Gross profit</b>	<b>22,118</b>	<b>24,641</b>	<b>28,294</b>	<b>4,063</b>
<b>Operating expenses:</b>				
Product development	(8,259)	(9,620)	(10,670)	(1,533)
Sales and marketing	(8,294)	(9,596)	(9,295)	(1,335)
General and administrative	(2,622)	(2,820)	(3,289)	(472)
<b>Total operating expenses</b>	<b>(19,175)</b>	<b>(22,036)</b>	<b>(23,254)</b>	<b>(3,340)</b>
<b>Income from operations</b>	<b>2,943</b>	<b>2,605</b>	<b>5,040</b>	<b>723</b>
Interest income	988	1,899	2,094	301
Interest expense	(1,286)	(1,508)	(1,677)	(241)
Other income/(expense)	879	(1,075)	3,630	521
<b>Income before income tax expense and equity in loss of affiliates</b>	<b>3,524</b>	<b>1,921</b>	<b>9,087</b>	<b>1,304</b>
Income tax expense	(1,285)	(793)	(1,742)	(250)
Equity in loss of affiliates	(65)	(32)	(347)	(50)
<b>Net Income</b>	<b>2,174</b>	<b>1,096</b>	<b>6,998</b>	<b>1,004</b>
Net (income)/loss attributable to non-controlling interests	(19)	16	57	8
Accretion to redemption value of redeemable non-controlling interests	—	—	(44)	(6)
<b>Net Income attributable to Trip.com Group Limited</b>	<b>2,155</b>	<b>1,112</b>	<b>7,011</b>	<b>1,006</b>
<b>Net Income</b>	<b>2,174</b>	<b>1,096</b>	<b>6,998</b>	<b>1,004</b>
<b>Other comprehensive income/(expense):</b>				
Foreign currency translation	723	(1,072)	(289)	(40)
Unrealized securities holding gains/(losses), net of tax	4,686	(696)	266	38
Reclassification adjustment for net gain recognized on disposal of available-for-sale debt investment	(40)	—	—	—
<b>Total comprehensive income/(loss)</b>	<b>7,543</b>	<b>(672)</b>	<b>6,975</b>	<b>1,002</b>
Comprehensive (income)/loss attributable to non-controlling interests	(19)	16	13	2
<b>Comprehensive income/(loss) attributable to Trip.com Group Limited</b>	<b>7,524</b>	<b>(656)</b>	<b>6,988</b>	<b>1,004</b>
<b>Earnings per ordinary share</b>				
— Basic	32.51	16.25	98.78	14.19
— Diluted	30.75	15.67	92.02	13.22
<b>Earnings per ADS</b>				
— Basic	4.06	2.03	12.35	1.77
— Diluted	3.84	1.96	11.50	1.65
<b>Weighted average ordinary shares outstanding</b>				
— Basic shares	66,300,808	68,403,426	70,983,996	70,983,996
— Diluted shares	71,775,893	70,924,623	80,244,014	80,244,014
<b>Share-based compensation included in Operating expense above is as follows:</b>				
Product development	1,013	934	919	132
Sales and marketing	186	156	144	21
General and administrative	635	617	651	94

The accompanying notes are an integral part of these consolidated financial statements.



**TRIP.COM GROUP LIMITED**  
**CONSOLIDATED BALANCE SHEETS**  
**AS OF DECEMBER 31, 2018 AND 2019**  
(In millions, except for share and per share data)

	2018 RMB	2019 RMB	2019 US\$
<b>ASSETS</b>			
Current assets:			
Cash and cash equivalents	21,530	19,923	2,862
Restricted cash	4,244	1,824	262
Short-term investments	36,753	23,058	3,312
Accounts receivable, net	5,668	7,661	1,100
Due from related parties	1,642	2,779	399
Prepayments and other current assets	9,557	12,710	1,826
<b>Total current assets</b>	<b>79,394</b>	<b>67,955</b>	<b>9,761</b>
Long-term deposits and prepayments	768	1,000	144
Long-term loan receivable	—	21	3
Long-term receivables due from related parties	229	25	4
Land use rights	94	91	13
Property, equipment and software	5,872	6,135	881
Investments	26,874	51,278	7,366
Goodwill	58,026	58,308	8,375
Intangible assets	13,723	13,173	1,892
Right-of-use assets	—	1,207	173
Deferred tax assets	850	976	140
<b>Total assets</b>	<b>185,830</b>	<b>200,169</b>	<b>28,752</b>
<b>LIABILITIES</b>			
Current liabilities:			
Short-term debt and current portion of long-term debt	36,011	30,516	4,383
Accounts payable	11,714	12,294	1,766
Due to related parties	492	400	57
Salary and welfare payable	3,694	4,829	694
Taxes payable	1,019	1,449	208
Advances from customers	9,472	11,675	1,677
Accrued liability for customer reward program	528	478	69
Other payables and accruals	5,854	7,541	1,083
<b>Total current liabilities</b>	<b>68,784</b>	<b>69,182</b>	<b>9,937</b>
Deferred tax liabilities	3,838	3,592	516
Long-term debt	24,146	19,537	2,806
Long-term lease liability	—	749	108
Other long-term liabilities	329	264	38
<b>Total liabilities</b>	<b>97,097</b>	<b>93,324</b>	<b>13,405</b>
<b>Commitments and contingencies (Note 20)</b>			
<b>MEZZANINE EQUITY</b>			
Redeemable non-controlling interests	—	1,142	164
<b>SHAREHOLDERS' EQUITY</b>			
Share capital (US\$0.01 par value; 175,000,000 shares authorized, issued shares as of December 31, 2018 and 2019: 72,051,945 and 77,015,525; outstanding shares as of December 31, 2018 and 2019: 69,122,824 and 74,086,404)	5	6	1
Additional paid-in capital	73,876	83,614	12,010
Statutory reserves	484	635	91
Accumulated other comprehensive loss	(1,482)	(1,505)	(216)
Retained earnings	15,943	22,803	3,275
Less: Treasury stock (2,929,121 and 2,929,121 shares as of December 31, 2018 and 2019, respectively)	(2,111)	(2,111)	(303)
<b>Total Trip.com Group Limited shareholders' equity</b>	<b>86,715</b>	<b>103,442</b>	<b>14,858</b>
Non-controlling interests	2,018	2,261	325
<b>Total shareholders' equity</b>	<b>88,733</b>	<b>105,703</b>	<b>15,183</b>
<b>Total liabilities, mezzanine equity and shareholders' equity</b>	<b>185,830</b>	<b>200,169</b>	<b>28,752</b>

The accompanying notes are an integral part of these consolidated financial statements.

**TRIP.COM GROUP LIMITED**  
**CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY**  
**FOR THE YEARS ENDED DECEMBER 31, 2017, 2018 AND 2019**

(In millions, except for share and per share data)

	Ordinary shares (US\$0.01 par value)		Additional paid-in capital RMB	Statutory reserves RMB	Accumulated other comprehensive income/(loss) RMB	Retained earnings RMB	Number of Treasury stock	Treasury stock RMB	Total Trip.com Group Limited shareholders' equity RMB	Non- controlling interests RMB	Total shareholders' equity RMB
	Number of shares outstanding	Par value RMB									
Balance as of December 31, 2016	64,155,412	5	65,820	238	1,010	6,829	(3,247,307)	(2,236)	71,666	3,984	75,650
Issuance of ordinary shares for the exercise of stock options	1,639,073	—	621	—	—	—	—	—	621	—	621
Share-based compensation	—	—	1,834	—	—	—	—	—	1,834	—	1,834
Appropriations to statutory reserves	—	—	—	146	—	(146)	—	—	—	—	—
Foreign currency translation adjustments	—	—	—	—	723	—	—	—	723	—	723
Unrealized securities holding gains	—	—	—	—	4,686	—	—	—	4,686	—	4,686
Reclassification adjustment resulting from disposal of available-for-sale debt investment	—	—	—	—	(40)	—	—	—	(40)	—	(40)
Early Termination of call option	—	—	650	—	—	—	—	—	650	—	650
Issuance of ordinary shares for early Conversion of Convertible Notes	1,043,375	—	2,234	—	—	—	—	—	2,234	—	2,234
Early Termination of Convertible Notes	318,170	—	37	—	—	—	318,170	125	162	—	162
Net income	—	—	—	—	—	2,155	—	—	2,155	19	2,174
Acquisition of additional shares in subsidiaries	444,624	—	145	—	—	—	—	—	145	(2,458)	(2,313)
Business combination	—	—	—	—	—	—	—	—	—	234	234
Balance as of December 31, 2017	67,600,654	5	71,341	384	6,379	8,838	(2,929,137)	(2,111)	84,836	1,779	86,615

The accompanying notes are an integral part of these consolidated financial statements.

**TRIP.COM GROUP LIMITED**  
**CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY**  
**FOR THE YEARS ENDED DECEMBER 31, 2017, 2018 AND 2019**

(In millions, except for share and per share data)

	Ordinary shares (US\$0.01 par value)		Additional paid-in capital RMB	Statutory reserves RMB	Accumulated other comprehensive income/(loss) RMB	Retained earnings RMB	Number of Treasury stock	Treasury stock RMB	Total Trip.com Group Limited shareholders' equity RMB	Non- controlling interests RMB	Total shareholders' equity RMB
	Number of shares outstanding	Par value RMB									
Cumulative effect of adoption of new accounting standard (Note 2)	—	—	—	—	(6,093)	6,093	—	—	—	—	—
Issuance of ordinary shares for the exercise of stock options	1,522,154	—	653	—	—	—	—	—	653	—	653
Share-based compensation	—	—	1,707	—	—	—	—	—	1,707	—	1,707
Appropriations to statutory reserves	—	—	—	100	—	(100)	—	—	—	—	—
Foreign currency translation adjustments	—	—	—	—	(1,072)	—	—	—	(1,072)	—	(1,072)
Unrealized securities holding losses	—	—	—	—	(696)	—	—	—	(696)	—	(696)
Early Termination of Convertible Notes	16	—	—	—	—	—	16	—	—	—	—
Net income / (loss)	—	—	—	—	—	1,112	—	—	1,112	(16)	1,096
Issuance of additional equity stake by subsidiaries	—	—	—	—	—	—	—	—	—	394	394
Disposal of shares in subsidiaries	—	—	4	—	—	—	—	—	4	(34)	(30)
Acquisition of additional shares in subsidiaries	—	—	(224)	—	—	—	—	—	(224)	(378)	(602)
Non-controlling interest in subsidiary disposed of in Business Combination	—	—	395	—	—	—	—	—	395	4	399
Business combination	—	—	—	—	—	—	—	—	—	269	269
Balance as of December 31, 2018	<u>69,122,824</u>	<u>5</u>	<u>73,876</u>	<u>484</u>	<u>(1,482)</u>	<u>15,943</u>	<u>(2,929,121)</u>	<u>(2,111)</u>	<u>86,715</u>	<u>2,018</u>	<u>88,733</u>

The accompanying notes are an integral part of these consolidated financial statements.

**TRIP.COM GROUP LIMITED**  
**CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY**  
**FOR THE YEARS ENDED DECEMBER 31, 2017, 2018 AND 2019**

(In millions, except for share and per share data)

	Ordinary shares (US\$0.01 par value)		Additional paid-in capital RMB	Statutory reserves RMB	Accumulated other comprehensive income/(loss) RMB	Retained earnings RMB	Number of Treasury stock	Treasury stock RMB	Total Trip.com Group Limited shareholders' equity RMB	Non- controlling interests RMB	Total shareholders' equity RMB
	Number of shares outstanding	Par value RMB									
Issuance of ordinary shares for the exercise of stock options	854,749	—	467	—	—	—	—	—	467	—	467
Share-based compensation	—	—	1,680	—	—	—	—	—	1,680	34	1,714
Appropriations to statutory reserves	—	—	—	151	—	(151)	—	—	—	—	—
Foreign currency translation adjustments	—	—	—	—	(289)	—	—	—	(289)	—	(289)
Unrealized securities holding gains	—	—	—	—	266	—	—	—	266	—	266
Accretion of redeemable non-controlling interests	—	—	—	—	—	(44)	—	—	(44)	—	(44)
Net income / (loss)	—	—	—	—	—	7,055	—	—	7,055	(57)	6,998
Deconsolidation of shares in subsidiaries	—	—	—	—	—	—	—	—	—	(45)	(45)
Issuance of additional equity stake by subsidiaries	—	—	—	—	—	—	—	—	—	19	19
Disposal of shares in subsidiaries	—	—	2	—	—	—	—	—	2	—	2
Equity transaction in which a non-controlling interest in a subsidiary is exchanged for a non- controlling interest in another subsidiary	—	—	(25)	—	—	—	—	—	(25)	25	—
Business combination	—	—	—	—	—	—	—	—	—	267	267
Share issuance for the investments	4,108,831	1	7,614	—	—	—	—	—	7,615	—	7,615
Balance as of December 31, 2019	<u>74,086,404</u>	<u>6</u>	<u>83,614</u>	<u>635</u>	<u>(1,505)</u>	<u>22,803</u>	<u>(2,929,121)</u>	<u>(2,111)</u>	<u>103,442</u>	<u>2,261</u>	<u>105,703</u>

The accompanying notes are an integral part of these consolidated financial statements.

TRIP.COM GROUP LIMITED

CONSOLIDATED STATEMENTS OF CASH FLOWS  
FOR THE YEARS ENDED DECEMBER 31, 2017, 2018 AND 2019  
(In millions)

	2017 RMB	2018 RMB	2019 RMB	2019 US\$
<b>Cash flows from operating activities:</b>				
Net income	2,174	1,096	6,998	1,004
<i>Adjustments to reconcile net income to cash provided by operating activities:</i>				
Share-based compensation	1,834	1,707	1,714	247
Equity in loss of affiliates	65	32	347	50
Loss from disposal of property, equipment and software	52	41	28	4
Gain on deconsolidation of subsidiaries	—	—	(161)	(23)
Gain on disposal of long-term investment	(1,416)	(1,181)	(318)	(46)
(Gain)/loss from disposal of a subsidiary	(11)	2	11	2
Impairments of long-term investment	411	—	205	29
Provision/(settlement) of provision and contingent liability balances related to an equity method investment	967	61	(603)	(87)
Changes in fair value for equity investments measured at fair value	—	3,064	(2,334)	(335)
Gain from the re-measurement of the previously held equity interest to the fair value in the business acquisition	—	(249)	(196)	(28)
Gain on foreign currency forwards	—	—	(105)	(15)
Provision for doubtful accounts	98	69	191	27
Depreciation of property, equipment and software	490	546	656	94
Amortization of intangible assets and land use rights	393	436	440	63
Amortization of right of use assets	—	—	354	51
Deferred income tax benefits	(168)	(632)	(176)	(25)
<i>Changes in current assets and liabilities, net of assets acquired and liabilities assumed/disposed of in business combinations/dispositions, net of deconsolidations:</i>				
Increase in accounts receivable	(52)	(704)	(2,041)	(293)
Decrease/(increase) in due from related parties	259	(1,280)	(1,054)	(151)
Decrease/(increase) in prepayments and other current assets	410	(2,039)	(2,245)	(322)
Decrease/(increase) in long-term receivables	45	(41)	146	21
Increase in accounts payable	171	3,687	540	78
(Decrease)/increase in due to related parties	(359)	73	62	9
Increase in salary and welfare payable	954	220	1,143	164
(Decrease)/increase in taxes payable	(140)	42	407	58
(Decrease)/increase in advances from customers	(341)	1,333	2,211	318
Decrease in accrued liability for customer reward program	(49)	(82)	(50)	(7)
Increase in other payables and accruals	1,282	914	1,163	168
Net cash provided by operating activities	<u>7,069</u>	<u>7,115</u>	<u>7,333</u>	<u>1,055</u>
<b>Cash flows from investing activities:</b>				
Purchase of property, equipment and software	(471)	(673)	(823)	(118)
Cash paid for long-term investments	(1,541)	(4,387)	(15,834)	(2,274)
Cash paid for business combinations, net of cash acquired	(309)	1	(212)	(31)
Purchase of intangible assets	(23)	(35)	(11)	(2)
(Increase)/decrease in short-term investments	(13,936)	(8,811)	15,011	2,156
Cash received from loans to the users	441	1,022	2,553	367
Cash paid for loans to the users	(580)	(998)	(2,748)	(395)
Net change in loans to the users with terms of less than three months	(252)	(918)	(1,084)	(156)
Cash received from disposal of long-term investments	1,453	723	719	103
Cash used from deconsolidation of a subsidiary, net of cash disposed	—	—	(3)	—
Cash used from disposal of subsidiaries, net of cash received	(11)	(2)	19	3
Net cash used in investing activities	<u>(15,229)</u>	<u>(14,078)</u>	<u>(2,413)</u>	<u>(347)</u>

## TRIP.COM GROUP LIMITED

**CONSOLIDATED STATEMENTS OF CASH FLOWS (CONTINUED)**  
**FOR THE YEARS ENDED DECEMBER 31, 2017, 2018 AND 2019**  
(In millions)

	<u>2017</u> RMB	<u>2018</u> RMB	<u>2019</u> RMB	<u>2019</u> US\$
<b>Cash flows from financing activities:</b>				
Proceeds from/(repayment of) short-term bank loans, net	2,137	11,768	(3,079)	(442)
Proceeds from long-term bank loans	6,202	2,973	5,146	739
Repayment of long-term loan, including current portion	—	—	(3,147)	(452)
Proceeds from exercise of share options	732	677	467	67
Cash paid for acquisition of additional equity stake in subsidiaries	(1,759)	(1,196)	(220)	(32)
Cash paid for settlement of convertible notes	—	(3,297)	(10,048)	(1,443)
Proceeds from securitization debt	—	608	1,074	154
Cash paid for settlement of securitization debt	—	—	(608)	(87)
Cash received from non-controlling shareholders	58	393	1,159	166
Proceeds from Early Termination of Purchased Call Option	650	—	—	—
Net cash provided/(used) by financing activities	<u>8,020</u>	<u>11,926</u>	<u>(9,256)</u>	<u>(1,330)</u>
Effect of foreign exchange rate changes on cash and cash equivalents, restricted cash	(47)	819	309	44
Net (decrease)/increase in cash and cash equivalents, restricted cash	(187)	5,782	(4,027)	(578)
Cash and cash equivalents, restricted cash, beginning of year	<u>20,179</u>	<u>19,992</u>	<u>25,774</u>	<u>3,702</u>
Cash and cash equivalents, restricted cash, end of year*	<u>19,992</u>	<u>25,774</u>	<u>21,747</u>	<u>3,124</u>
<b>Supplemental disclosure of cash flow information</b>				
Cash paid during the year for income taxes	1,575	1,315	1,496	215
Cash paid for interest, net of amounts capitalized	1,218	1,444	1,637	235
<b>Supplemental schedule of non-cash investing and financing activities</b>				
Conversion of convertible senior notes	2,396	—	—	—
Non-cash consideration paid for business acquisitions, investments and non-controlling interest	(1,179)	(942)	(400)	(57)
Share issuance as the consideration for equity investment	—	—	(7,615)	(1,094)
Accruals related to purchase of property, equipment and software	(42)	(22)	(144)	(21)
Unpaid cash consideration for business acquisitions and acquisition of additional shares of subsidiary	(626)	(188)	—	—

\* As of December 31, 2017, cash and cash equivalents and restricted cash are RMB18.2 billion and RMB1.7 billion respectively.

The accompanying notes are an integral part of these consolidated financial statements.

**TRIP.COM GROUP LIMITED**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

(Amounts expressed in RENMINBI (RMB) unless otherwise stated)

**1. ORGANIZATION AND NATURE OF OPERATIONS**

The accompanying consolidated financial statements include the financial statements of Trip.com Group Limited (the “Company”, formerly known as Ctrip.com International, Ltd.), its subsidiaries, VIEs and VIEs’ subsidiaries. The Company, its subsidiaries, the consolidated VIEs and their subsidiaries are collectively referred to as the “Group”.

The Group is principally engaged in the provision of travel related services including accommodation reservation, transportation ticketing, packaged-tour, corporate travel management services, as well as, to a much lesser extent, Internet-related advertising and other related services.

**2. PRINCIPAL ACCOUNTING POLICIES**

***Basis of presentation***

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“US GAAP”).

The preparation of financial statements in conformity with US GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosures of contingent assets and liabilities at the balance sheet dates and the reported amounts of revenues and expenses during the reporting periods. Actual results could materially differ from those estimates.

### **Consolidation**

The consolidated financial statements include the financial statements of the Company, its subsidiaries, VIEs and VIEs' subsidiaries. All significant transactions and balances between the Company, its subsidiaries, VIEs and VIEs' subsidiaries have been eliminated upon consolidation.

A subsidiary is an entity in which the Company, directly or indirectly, controls more than one half of the voting power; has the power to appoint or remove the majority of the members of the board of directors; to cast a majority of votes at the meeting of the board of directors or to govern the financial and operating policies of the investee under a statute or agreement among the shareholders or equity holders.

The Company applies the guidance codified in Accounting Standard Codification 810, Consolidations ("ASC 810") on accounting for VIEs and their respective subsidiaries, which requires certain variable interest entities to be consolidated by the primary beneficiary of the entity in which it has a controlling financial interest. A VIE is an entity with one or more of the following characteristics: (a) the total equity investment at risk is not sufficient to permit the entity to finance its activities without additional financial support; (b) as a group, the holders of the equity investment at risk lack the ability to make certain decisions, the obligation to absorb expected losses or the right to receive expected residual returns, or (c) an equity investor has voting rights that are disproportionate to its economic interest and substantially all of the entity's activities are on behalf of the investor. The accompanying consolidated financial statements include the financial statements of the Company, its subsidiaries, consolidated VIEs and VIEs' subsidiaries:

The following is a summary of the Company's major VIEs and VIEs' subsidiaries:

Name of VIE and VIEs' subsidiaries	Date of establishment/acquisition
Shanghai Ctrip Commerce Co., Ltd. ("Shanghai Ctrip Commerce")	Established on July 18, 2000
Shanghai Huacheng Southwest International Travel Agency Co., Ltd. ("Shanghai Huacheng", formerly known as Shanghai Huacheng Southwest Travel Agency Co., Ltd.)	Established on March 13, 2001
Chengdu Ctrip Travel Agency Co., Ltd. ("Chengdu Ctrip")	Established on January 8, 2007
Beijing Qu Na Information Technology Company Limited ("Qunar Beijing")	Established on March 17, 2006

The Company is considered the primary beneficiary of a VIE or VIEs' subsidiary and consolidated the VIE or VIEs' subsidiary if the Company had variable interests, that will absorb the entity's expected losses, receive the entity's expected residual returns, or both.

### **Major variable interest entities and their subsidiaries**

The Company conducts a part of its operations through a series of agreements with certain VIEs and VIEs' subsidiaries as stated in above. These VIEs and VIEs' subsidiaries are used solely to facilitate the Group's participation in Internet content provision, advertising business, travel agency and air-ticketing services in the People's Republic of China ("PRC") where foreign ownership is restricted. From 2015, the Company restructured its business lines to change some of its VIEs to its wholly owned subsidiaries, which carry out the businesses that are not foreign ownerships restricted.

Shanghai Ctrip Commerce is a domestic company incorporated in Shanghai, the PRC. Shanghai Ctrip Commerce holds a value-added telecommunications business license and is primarily engaged in the provision of advertising business on the Internet website. Two senior officers of the Company collectively hold 100% of the equity interest in Shanghai Ctrip Commerce. The registered capital of Shanghai Ctrip Commerce was RMB900,000,000 as of December 31, 2019.



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Shanghai Huacheng is a domestic company incorporated in Shanghai, the PRC. Shanghai Huacheng holds a domestic travel agency license and mainly provides domestic tour services and air-ticketing services. Shanghai Ctrip Commerce holds 100% of the equity interest in Shanghai Huacheng. The registered capital of Shanghai Huacheng was RMB100,000,000 as of December 31, 2019.

Chengdu Ctrip is a domestic company incorporated in Chengdu, the PRC. Chengdu Ctrip holds a domestic travel agency license and is engaged in the provision of air-ticketing service. Two senior officers of the Company hold 100% of the equity interest in Chengdu Ctrip. The registered capital of Chengdu Ctrip was RMB500,000,000 as of December 31, 2019.

Qunar Beijing is a domestic company incorporated in Beijing, the PRC. Qunar Beijing holds various domestic and cross-border business licenses of Qunar. Two senior officers of the Company hold 100% of the equity interest in Qunar Beijing. The registered capital of Qunar Beijing was RMB11,000,000 as of December 31, 2019.

The capital injected by senior officers or senior officer's family member are funded by the Company and are recorded as long-term business loans to related parties. The Company does not have any ownership interest in these VIEs and VIEs' subsidiaries.

As of December 31, 2019, the Company has various agreements with its consolidated VIEs and VIEs' subsidiaries, including loan agreements, exclusive technical consulting and services agreements, share pledge agreements, exclusive option agreements and other operating agreements.

### ***Details of certain key agreements with the VIEs are as follows:***

***Powers of Attorney:*** Each of the shareholders of our consolidated affiliated Chinese entities, except for Hui Cao and Hui Wang, signed an irrevocable power of attorney to appoint Ctrip Travel Network or Ctrip Travel Information, as attorney-in-fact to vote, by itself or any other person to be designated at its discretion, on all matters of the applicable consolidated affiliated Chinese entities. Each such power of attorney will remain effective as long as the applicable consolidated affiliated Chinese entity exists, and such shareholders of the applicable consolidated affiliated Chinese entities are not entitled to terminate or amend the terms of the power of attorneys without prior written consent from us.

As of the date of this annual report, each of the shareholders of Qunar Beijing, Hui Cao and Hui Wang, also signed an irrevocable power of attorney authorizing an appointee, to exercise, in a manner approved by Qunar, on such shareholder's behalf the full shareholder rights pursuant to applicable laws and Qunar Beijing's articles of association, including without limitation full voting rights and the right to sell or transfer any or all of such shareholder's equity interest in Qunar Beijing. Each such power of attorney is effective until such time as such relevant shareholder ceases to hold any equity interest in Qunar Beijing. The terms of the power of attorney with respect to Qunar Beijing are otherwise substantially similar to the terms described in the foregoing paragraph.

***Technical Consulting and Services Agreements:*** Ctrip Travel Information and Ctrip Travel Network, each a wholly owned PRC subsidiary of ours, provide our consolidated affiliated Chinese entities, except for Qunar Beijing, with technical consulting and related services and staff training and information services on an exclusive basis. We also maintain their network platforms. In consideration for our services, our consolidated affiliated Chinese entities agree to pay us service fees as calculated in such manner as determined by us from time to time based on the nature of service, which may be adjusted periodically. For 2019, our consolidated affiliated Chinese entities paid Ctrip Travel Information a quarterly fee based on the number of transportation tickets sold in the quarter, at an average rate of RMB4 (US\$0.5) per ticket. Although the service fees are typically determined based on the number of transportation tickets sold, given the fact that the nominee shareholders of such consolidated affiliated Chinese entities have irrevocably appointed the employees of our subsidiaries to vote on their behalf on all matters they are entitled to vote on, we have the right to determine the level of service fees paid and therefore receive substantially all of the economic benefits of our consolidated affiliated Chinese entities in the form of service fees. Ctrip Travel Information or Ctrip Travel Network, as appropriate, will exclusively own any intellectual property rights arising from the performance of this agreement. The initial term of these agreements is 10 years and may be renewed automatically in 10-year terms unless we disapprove the extension. We retain the exclusive right to terminate the agreements at any time by delivering a 30-day advance written notice to the applicable consolidated affiliate Chinese entity.

As of the date of this annual report, pursuant to the restated exclusive technical consulting and services agreement between Qunar Beijing and Qunar Software, Qunar Software provides Qunar Beijing with technical, marketing and management consulting services on an exclusive basis in exchange for service fee paid by Qunar Beijing based on a set formula defined in the agreement subject to adjustment by Qunar Software at its sole discretion. This agreement will remain in effect until terminated unilaterally by Qunar Software or mutually. The terms of this agreement are otherwise substantially similar to the terms described in the foregoing paragraph.

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**Share Pledge Agreements:** The shareholders of our consolidated affiliated Chinese entities, except for Hui Cao and Hui Wang, have pledged their respective equity interests in the applicable consolidated affiliated Chinese entities as a guarantee for the performance of all the obligations under the other contractual arrangements, including payment by such consolidated affiliated Chinese entities of the technical and consulting services fees to us under the technical consulting and services agreements, repayment of the business loan under the loan agreements and performance of obligations under the exclusive option agreements, each agreement as described herein. In the event any of such consolidated affiliated Chinese entity breaches any of its obligations or any shareholder of such consolidated affiliated Chinese entities breaches his or her obligations, as the case may be, under these agreements, we are entitled to enforce the equity pledge right and sell or otherwise dispose of the pledged equity interests after the pledge is registered with the relevant local branch of SAMR, and retain the proceeds from such sale or require any of them to transfer his or her equity interest without consideration to the PRC citizen(s) designated by us. These share pledge agreements are effective until two years after the pledgor and the applicable consolidated affiliated Chinese entities no longer undertake any obligations under the above-referenced agreements.

As of the date of this annual report, pursuant to the equity interest pledge agreement among Qunar Software, Hui Cao and Hui Wang, Hui Cao and Hui Wang have pledged their equity interests in Qunar Beijing along with all rights, titles and interests to Qunar Software as guarantee for the performance of all obligations under the relevant contractual arrangements mentioned herein. After the pledge is registered with the relevant local branch of SAMR, Qunar Software may enforce this pledge upon the occurrence of a settlement event or as required by the PRC law. The pledge, along with this agreement, will be effective upon registration with the local branch of the SAMR, and will expire when all obligations under the relevant contractual arrangements have been satisfied or when each of Hui Cao and Hui Wang completes a transfer of equity interest and ceases to hold any equity interest in Qunar Beijing. In enforcing the pledge, Qunar Software is entitled to dispose of the pledge and have priority in receiving payment from proceeds from the auction or sale of all or part of the pledge until the obligations are settled. The terms of this agreement are otherwise substantially similar to the terms described in the foregoing paragraph.

**Loan Agreements:** Under the loan agreements we entered into with the shareholders of our consolidated affiliated Chinese entities, except for Hui Cao and Hui Wang, we extended long-term business loans to these shareholders of our consolidated affiliated Chinese entities with the sole purpose of providing funds necessary for the capitalization or acquisition of such consolidated affiliated Chinese entities. These business loan amounts were injected into the applicable consolidated affiliated Chinese entities as capital and cannot be accessed for any personal uses. The loan agreements shall remain effective until the parties have fully performed their respective obligations under the agreement, and the shareholders of such consolidated affiliated Chinese entities have no right to unilaterally terminate these agreements. In the event that the PRC government lifts its substantial restrictions on foreign ownership of the travel agency, or value-added telecommunications business in China, as applicable, we will exercise our exclusive option to purchase all of the outstanding equity interests of our consolidated affiliated Chinese entities, as described in the following paragraph, and the loan agreements will be cancelled in connection with such purchase. However, it is uncertain when, if at all, the PRC government will lift any or all of these restrictions.

As of the date of this annual report, pursuant to the loan agreement among Qunar Software, Hui Cao and Hui Wang, the loans extended by Qunar Software to each of Hui Cao and Hui Wang are only repayable by a transfer of such borrower's equity interest in Qunar Beijing to Qunar Software or its designated party, in proportion to the amount of the loan to be repaid. This loan agreement will continue in effect indefinitely until such time when (i) the borrowers receive a repayment notice from Qunar Software and fully repay the loans, or (ii) an event of default (as defined therein) occurs unless Qunar Software sends a notice indicating otherwise within 15 calendar days after it is aware of such event. The terms of this loan agreement is otherwise substantially similar to the terms described in the foregoing paragraphs.

**Exclusive Option Agreements:** As consideration for our entering into the loan agreements described above, each of the shareholders of our consolidated affiliated Chinese entities, except for Hui Cao and Hui Wang, has granted us an exclusive, irrevocable option to purchase, or designate one or more person(s) at our discretion to purchase, all of their equity interests in the applicable consolidated affiliated Chinese entities at any time we desire, subject to compliance with the applicable PRC laws and regulations. We may exercise the option by issuing a written notice to the shareholder of relevant consolidated affiliated Chinese entity. The purchase price shall be equal to the contribution actually made by the shareholder for the relevant equity interest. Therefore, if we exercise these options, we may choose to cancel the outstanding loans we extended to the shareholders of such consolidated affiliated Chinese entities pursuant to the loan agreements as the loans were used solely for equity contribution purposes. The initial term of these agreements is 10 years and may be renewed automatically in 10-year terms unless we disapprove the extension. We retain the exclusive right to terminate the agreements at any time by delivering a written notice to the shareholder of applicable consolidated affiliate Chinese entity.

Hui Cao and Hui Wang also entered into an equity option agreement with Qunar, Qunar Software and Qunar Beijing. This equity option agreement contains arrangements that are similar to that as described in the foregoing paragraph. This agreement will remain effective with respect to each of Qunar Beijing's shareholders until all of the equity interest has been transferred or Qunar and Qunar Software terminates the agreement unilaterally with 30 days' prior written notice.

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Our consolidated affiliated Chinese entities and their shareholders agree not to enter into any transaction that would affect the assets, obligations, rights or operations of our consolidated affiliated Chinese entities without our prior written consent. They also agree to accept our guidance with respect to day-to-day operations, financial management systems and the appointment and dismissal of key employees.

### ***Risks in relation to contractual arrangements between the Company's PRC subsidiaries and its affiliated Chinese entities:***

The Company has been advised by Commerce & Finance Law Offices, its PRC legal counsel, that its contractual arrangements with its consolidated VIEs as described in the Company's annual report are valid, binding and enforceable under the current laws and regulations of China. Based on such legal opinion and the management's knowledge and experience, the Company believes that its contractual arrangements with its consolidated VIEs are in compliance with current PRC laws and legally enforceable. However, there may be in the event that the affiliated Chinese entities and their respective shareholders fail to perform their contractual obligations, the Company may have to rely on the PRC legal system to enforce its rights. The PRC legal system is based on written statutes. Prior court decisions may be cited for reference but have limited precedential value. Since 1979, PRC legislation and regulations have significantly enhanced the foreign investments in China. However, since the PRC legal system is still evolving, the interpretations of many laws, regulations and rules are not always uniform and enforcement of these laws, regulations and rules involve uncertainties, which may limit remedies available to us. In addition, any litigation in China may be protracted and result in substantial costs and diversion of resources and management attention. Due to the uncertainties with respect to the PRC legal system, the PRC government authorities may ultimately take a view contrary to the opinion of its PRC legal counsel with respect to the enforceability of the contractual arrangements.

There are, however, substantial uncertainties regarding the interpretation and application of current or future PRC laws and regulations. Accordingly, the Company cannot be assured that the PRC government authorities will not ultimately take a view that is contrary to the Company's belief and the opinion of its PRC legal counsel. In March 2019, the draft Foreign Investment Law was submitted to the National People's Congress for review and was approved on March 15, 2019, which came into effect from January 1, 2020. The new Foreign Investment Law of the PRC repealed simultaneously the Wholly Foreign-owned Enterprise Law of the PRC, Sino-foreign Equity Joint Venture Law of the PRC and Sino-foreign Cooperative Joint Ventures Law of the PRC. Therefore, the general regulations for companies' set up and operation in the PRC including the foreign-invested companies shall comply with the Company Law of the PRC unless provided in the PRC Foreign Investment Laws. In December 2019, the Implementing Regulation of the Foreign Investment Law has been promulgated by the State Council which has come into force as of January 1, 2020. The Foreign Investment Law does not touch upon the relevant concepts and regulatory regimes that were historically suggested for the regulation of VIE structures, and thus this regulatory topic remains unclear under the Foreign Investment Law. Since the Foreign Investment Law is new, there are substantial uncertainties exist with respect to its implementation and interpretation and it is also possible that the VIE entities will be deemed as foreign invested enterprises and be subject to restrictions in the future. Such restrictions may cause interruptions to our operations, products and services and may incur additional compliance cost, which may in turn materially and adversely affect our business, financial condition and results of operations.

### ***Summary financial information of the Group's VIEs in the consolidated financial statements***

Pursuant to the contractual arrangements with the VIEs, the Company has the power to direct activities of the VIEs, and can have assets transferred freely out of the VIEs without any restrictions. Therefore, the Company considers that there is no asset of a consolidated VIE that can be used only to settle obligations of the VIE, except for registered capital and PRC statutory reserves of the VIEs amounting to a total of RMB2.1 billion as of December 31, 2019. As all the consolidated VIEs are incorporated as limited liability companies under the PRC Company Law, creditors of the VIEs do not have recourse to the general credit of the Company for any of the liabilities of the consolidated VIEs.

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Summary financial information of the VIEs, which represents aggregated financial information of the VIEs and their respective subsidiaries included in the accompanying consolidated financial statements, is as follows:

	As of December 31,	
	2018	2019
	RMB(in millions)	RMB(in millions)
<b>Total assets</b>	26,574	33,394
Less: Inter-company receivables	(5,228)	(8,235)
Total assets excluding inter-company	21,346	25,159
<b>Total liabilities</b>	23,405	29,594
Less: Inter-company payables	(14,117)	(18,689)
Total liabilities excluding inter-company	9,288	10,905

As of December 31, 2018 and 2019, the VIEs' assets mainly consisted of cash and cash equivalent (December 31, 2018: RMB7.2 billion, December 31, 2019: RMB6.9 billion), short-term investment (December 31, 2018: RMB4.3 billion, December 31, 2019: RMB4.0 billion), accounts receivable (December 31, 2018: RMB2.9 billion, December 31, 2019: RMB4.3 billion), prepayments and other current assets (December 31, 2018: RMB3.6 billion, December 31, 2019: RMB5.1 billion) and investments (non-current) (December 31, 2018: RMB2.3 billion, December 31, 2019: RMB3.7 billion). The inter-company receivables of RMB5.2 billion and RMB8.2 billion as of December 31, 2018 and 2019 mainly represented the receivables by a VIE to one of the Company's wholly-owned subsidiaries for treasury cash management purpose.

As of December 31, 2018 and 2019, the VIEs' liabilities mainly consisted of accounts payable (December 31, 2018: RMB3.4 billion, December 31, 2019: RMB3.7 billion), other payables and accruals (December 31, 2018: RMB1.7 billion, December 31, 2019: RMB1.7 billion), advance from customers (December 31, 2018: RMB2.3 billion, December 31, 2019: RMB3.2 billion) and short-term debt (December 31, 2018: RMB1.2 billion, December 31, 2019: RMB365 million). The inter-company payables of RMB14.1 billion and RMB18.7 billion as of December 31, 2018 and 2019 mainly represented service fees payable to the WFOEs (Ctrip Travel Information, Ctrip Travel Network, and Qunar Software each a wholly owned PRC subsidiary of ours, "WFOEs") under the technical consulting and services agreements, which are operational in nature from the VIEs and their subsidiaries' perspectives.

The following table set forth the summary of results of operations of the VIEs and their subsidiaries of the Company:

	For the year ended December 31,		
	2017	2018	2019
	RMB(in millions)	RMB(in millions)	RMB(in millions)
<b>Net revenues</b>	8,237	8,357	9,572
<b>Cost of revenues</b>	2,490	2,983	3,627
<b>Net income</b>	863	170	89

As aforementioned, the VIEs mainly conduct transportation ticketing and advertising businesses. Revenues from VIEs accounted for around 27% of the Company's total revenues in 2019.

The VIEs' net income before the deduction of the inter-company consulting fee charges were RMB2.7 billion, RMB1.5 billion and RMB1.7 billion for the years ended December 31, 2017, 2018 and 2019, respectively.

The WFOEs are the sole and exclusive provider of technical consulting and related services and information services for the VIEs. Pursuant to the Exclusive Technical Consulting and Service Agreements, the VIEs pay service fees to the WFOEs based on the VIEs' actual operating results. The WFOEs are entitled to receive substantially all of the net income and transfer a majority of the economic benefits in the form of service fees from the VIEs and VIEs' subsidiaries to the WFOEs. For remaining undistributed retained earnings, tax planning strategies are in place to support their enterprise income tax free treatment.

The amount of service fees paid by all the VIEs as a percentage of the VIEs' total net income were 68.3%, 88.5% and 94.6% for the years ended December 31, 2017, 2018 and 2019, respectively.

The following tables set forth the summary of cash flow activities of the VIEs and their subsidiaries of the Company:

	For the year ended December 31,		
	2017	2018	2019
	RMB(in millions)	RMB(in millions)	RMB(in millions)
<b>Net cash provided by/ (used in) operating activities</b>	1,232	591	(517)
<b>Net cash used in investing activities</b>	—	—	—
<b>Net cash provided by financing activities</b>	—	—	—

Currently there is no contractual arrangement that could require the Company to provide additional financial support to the consolidated VIEs. As the Company is conducting certain business in the PRC mainly through the VIEs, the Company may provide such support on a discretionary basis in the future, which could expose the Company to a loss.

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### ***Foreign currencies***

The Group's reporting currency is RMB. The Company's functional currency is US\$. The Company's operations are conducted through the subsidiaries and VIEs where the local currency is the functional currency and the financial statements of those subsidiaries are translated from their respective functional currencies into RMB.

Transactions denominated in currencies other than functional currencies are remeasured at the exchange rates quoted by the People's Bank of China (the "PBOC") and the Hong Kong Association of Banks (the "HKAB"), prevailing or averaged at the dates of the transaction for PRC and Hong Kong subsidiaries respectively. Gains and losses resulting from foreign currency transactions are included in the consolidated statements of income and comprehensive income. Monetary assets and liabilities denominated in foreign currencies are remeasured using the applicable exchange rates quoted by the PBOC and HKAB at the balance sheet dates. All such exchange gains and losses are included in the consolidated statements of income/(loss).

Assets and liabilities of the group companies are translated from their respective functional currencies to the reporting currency at the exchange rates at the balance sheet dates, equity accounts are translated at historical exchange rates and revenues and expenses are translated at the average exchange rates in effect during the reporting period. The exchange differences for the translation of group companies with non-RMB functional currency into the RMB are included in foreign currency translation adjustments, which is a separate component of shareholders' equity on the consolidated financial statements. The foreign currency translation adjustments are not subject to tax.

Translations of amounts from RMB into US\$ are solely for the convenience of the reader and were calculated at the rate of US\$1.00 = RMB6.9618 on December 31, 2019, representing the certificated exchange rate published by the Federal Reserve Board. No representation is intended to imply that the RMB amounts could have been, or could be, converted, realized or settled into US\$ at that rate on December 31, 2019, or at any other rate.

### ***Cash and cash equivalents***

Cash includes currency on hand and deposits held by financial institutions that can be added to or withdrawn without limitation. Cash equivalents represent short-term, highly liquid investments that are readily convertible to known amounts of cash and with original maturities from the date of purchase of generally three months or less.

### ***Restricted cash***

Restricted cash represents cash that cannot be withdrawn without the permission of third parties. The Group's restricted cash is substantially cash balance on deposit required by its business partners and commercial banks.

### ***Short-term investments***

Short-term investments represent i) held-to-maturity investments which are due in one year and stated at amortized cost; ii) the investments issued by commercial banks or other financial institutions with a variable interest rate indexed to the performance of underlying assets within one year, and iii) foreign currency forward contracts which are short-term. These investments are stated at fair value. Changes in the fair value are reflected in the consolidated statements of income and comprehensive income.

### ***Derivative Instruments***

Derivative instruments are carried at fair value. The fair values of the derivative financial instruments generally represent the estimated amounts expect to receive or pay upon termination of the contracts as of the reporting date.

The Group's derivative instruments primarily consisted of foreign currency forward contracts which are used to economically hedge certain foreign denominated liabilities and reduce, to the extent practicable, the potential exposure to the changes that exchange rates might have on the Group's earnings, cash flows and financial position. As the derivative instruments do not qualify for hedge accounting treatment, changes in the fair value are reflected in other income of the consolidated statements of income and comprehensive income. The Company started to enter into derivative instruments contracts in 2019. As of December 31, 2019 and for the year then ended, the balance of the derivative instruments and the total amount of fair value changes is not material.

### ***Installment credit and nonrecourse securitization debt***

The Company provides installment credit solutions to users. Such amounts are recorded at the outstanding principal amount less allowance for doubtful accounts, and include accrued interest receivable and presented in receivable related to financial services in Note 3.

Since 2018, the Company entered into asset backed securitization arrangements with third-party financial institution and set up a securitization vehicle which issued revolving debt securities to third party investors. The Company consolidated the servicer of the securitized debt since economic interests are retained in the form of subordinated interests and it acts as the servicer of securitization vehicles. The proceeds from the issuance of debt securities are reported as securitization debt. The securities are repaid as collections on the underlying collateralized assets occur and the amounts are included in "short-term debt and current portion of long-term debt" (Note 12) or "long-term debt" (Note 17) according to the contractual maturities of the debt securities.

As of December 31, 2018 and December 31, 2019, the collateralized receivable related to financial services were RMB733 million and RMB1.2 billion, respectively, and the non-collateralized receivable related to financial services were RMB818 million and RMB1.6 billion, respectively.

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As of December 31, 2018 and 2019, the total allowance for the receivable related to financial services was not material. The Company recognized the interest income from the receivable related to financial services in Revenue – Others. The interest expenses in relation to the nonrecourse securitization debt were recognized in the cost of revenue. For the years ended December 31, 2018 and 2019, the interest incomes and the interest expenses were not material.

The gross amount of the credits provided to users is presented in the investing section of the cash flow statement unless the term of the receivables is 3 month or less, in which case it is presented on a net basis by deducting the repayment from the users.

### ***Land use rights***

Land use rights represent the prepayments for usage of the parcels of land where the office buildings are located, are recorded at cost, and are amortized over their respective lease periods (usually over 40 to 50 years).

### ***Property, equipment and software***

Property, equipment and software are stated at cost less accumulated depreciation and amortization. Depreciation and amortization are computed using the straight-line method over the following estimated useful lives, taking into account any estimated residual value:

Building	30-40 years
Leasehold improvements	Lesser of the term of the lease or the estimated useful lives of the assets
Website-related equipment	3-5 years
Computer equipment	3-5 years
Furniture and fixtures	3-5 years
Software	3-5 years

The Company recognizes the disposal of Property, equipment and software in general and administrative expenses.

### ***Investments***

The Company's investments include equity method investments, equity securities without readily determinable fair values, equity securities with readily determinable fair values, held to maturity debt securities, and available-for-sale debt securities.

The Company applies equity method in accounting for its investments in entities in which the Company has the ability to exercise significant influence but does not have control and the investments are in either common stock or in-substance common stock. Unrealized gains on transactions between the Company and an affiliated entity are eliminated to the extent of the Company's interest in the affiliated entity, unrealized losses are also eliminated unless the transaction provides evidence of an impairment of the asset transferred.

Equity securities without readily determinable fair values are measured and recorded using a measurement alternative that measures the securities at cost minus impairment, if any, plus or minus changes resulting from qualifying observable price changes. Prior to fiscal 2018, these securities were accounted for using the cost method of accounting, measured at cost less other-than-temporary impairment.

Equity securities with readily determinable fair values are measured and recorded at fair value on a recurring basis with changes in fair value, whether realized or unrealized, recorded through the income statement. Prior to 2018, these securities were classified as available-for-sale securities and measured and recorded at fair value with unrealized changes in fair value recorded through other comprehensive income.

On January 1, 2018, the Company adopted financial instruments accounting standard ASU No. 2016-01, which requires equity investments to be measured at fair value with subsequent changes recognized in net income, except for those accounted for under the equity method or requiring consolidation. The standard also required the Company to reclassify the accumulated unrealized gain or loss of the equity investments measured at fair value that were previously recognized in other comprehensive income to retained earnings on the date of the adoption. Upon the adoption, the Company reclassified approximately RMB6.1 billion of accumulated other comprehensive income, reflective of the net unrealized gain for the equity securities with readily determinable fair values that existed as of January 1, 2018, into retained earnings.

Debt securities that the company has positive intent and ability to hold to maturity are classified as held to maturity debt securities and are stated at amortized cost.

Debt securities that the company has the intent to hold the security for an indefinite period or may sell the security in response to the changes in economic conditions are classified as available-for-sale debt securities and reported at fair value. Unrealized gains and losses (other than impairment losses) are reported, net of the related tax effect, in other comprehensive income (OCI). Upon sale, realized gains and losses are reported in net income.

The Company monitors its investments for other-than-temporary impairment by considering factors including, but not limited to, current economic and market conditions, the operating performance of the companies including current earnings trends and other company-specific information.

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### ***Fair value measurement of financial instruments***

Financial assets and liabilities of the Group primarily comprise of cash and cash equivalents, restricted cash, time deposits, financial products, derivative instruments, accounts receivable, due from related parties, available-for-sale debt investments, equity securities, accounts payable, due to related parties, advances from end users, short-term bank borrowings, other short-term liabilities and long-term debts. As of December 31, 2018 and 2019, except for derivative instruments, long-term debt, equity securities and available-for-sale debt investments, carrying values of these financial instruments approximated their fair values because of their generally short maturities. The Company reports derivative instruments, equity securities and available-for-sale debt investments at fair value at each balance sheet date and changes in fair value are reflected in the statements of income and comprehensive income. The Company disclosed the fair value of its long-term debts based on Level 2 inputs in Note 17.

The Company measures its financial assets and liabilities using inputs from the following three levels of the fair value hierarchy. The three levels are as follows:

Level 1 inputs are unadjusted quoted prices in active markets for identical assets that the management has the ability to access at the measurement date.

Level 2 inputs include quoted prices for similar assets in active markets, quoted prices for identical or similar assets in markets that are not active, inputs other than quoted prices that are observable for the asset (i.e., interest rates, yield curves, etc.), and inputs that are derived principally from or corroborated by observable market data by correlation or other means (market corroborated inputs).

Level 3 includes unobservable inputs that reflect the management's assumptions about the assumptions that market participants would use in pricing the asset. The management develops these inputs based on the best information available, including the own data.

### ***Business combination***

U.S. GAAP requires that all business combinations not involving entities or businesses under common control be accounted for under the acquisition method. The Group applies ASC 805, "Business combinations", the cost of an acquisition is measured as the aggregate of the fair values at the date of exchange of the assets given, liabilities incurred, and equity instruments issued. The costs directly attributable to the acquisition are expensed as incurred. Identifiable assets, liabilities and contingent liabilities acquired or assumed are measured separately at their fair value as of the acquisition date, irrespective of the extent of any non-controlling interests. The excess of the (i) the total of cost of acquisition, fair value of the non-controlling interests and acquisition date fair value of any previously held equity interest in the acquiree over (ii) the fair value of the identifiable net assets of the acquiree is recorded as goodwill. If the cost of acquisition is less than the fair value of the net assets of the subsidiary acquired, the difference is recognized directly in the consolidated statements of income and comprehensive income.

The determination and allocation of fair values to the identifiable assets acquired and liabilities assumed is based on various assumptions and valuation methodologies requiring considerable management judgment. The most significant variables in these valuations are discount rates, terminal values, the number of years on which to base the cash flow projections, as well as the assumptions and estimates used to determine the cash inflows and outflows. Management determines discount rates to be used based on the risk inherent in the related activity's current business model and industry comparisons. Terminal values are based on the expected life of products and forecasted life cycle and forecasted cash flows over that period. The Company's estimates of fair value are based upon assumptions believed to be reasonable, but which are inherently uncertain and unpredictable and, as a result, actual results may differ from estimates. Any changes to provisional amounts identified during the measurement period are recognized in the reporting period in which the adjustment amounts are determined.

### ***Acquisitions***

During the periods presented, the Company completed several transactions to acquire controlling shares to enrich its products and to expand business. The Company makes estimates and judgments in determining the fair value of the acquired assets and liabilities, based in part on independent appraisal reports as well as its experience with purchasing similar assets and liabilities in similar industries. The amount excess of the purchase price over the fair value of the identifiable assets and liabilities acquired is recorded as goodwill. The major acquisitions during the periods presented are as follows:

In November 2019, the Company obtained control of an online travel agency company in which the Company previously had held 51% equity interest with substantive participating rights being held by the non-controlling shareholder. The Company obtained control of the acquiree when the non-controlling shareholder agreed to remove these substantive participating rights. The deemed consideration was the previous held 51% equity interest with the fair value of RMB259 million. The net assets assumed based on their fair values was RMB115 million, including cash acquired with amount of RMB11 million. The fair value of non-controlling interest was measured as RMB249 million, taking into account a non-controlling discount. The goodwill recognized for the acquisition was RMB393 million which is primarily reflects the expected synergies. The Company also recognized a gain from the re-measurement of its previously held equity interest to the fair value with amount of RMB196 million and reported in other income (Note 2). Based on the Company's assessment, the financial results of the acquiree were not material to the Company and the supplement pro-forma financial information is therefore not presented.

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In May 2018, the Company consummated a step acquisition by acquiring substantially all the remaining equity interest of an offline travel agency company in which the Company previously held approximately 48% equity interest. The total purchase consideration was RMB1.1 billion which included the cash consideration of RMB198 million, the fair value of the previously held equity interest of RMB543 million and equity interest representing a 1.9% non-controlling interest of one of the Company's subsidiaries with the fair value of RMB399 million which is determined on Level 3 measures. The Company recognized a gain from the re-measurement of its previously held equity interest to the fair value with amount of RMB249 million and reported in other income (Note 2). The Company recognized the non-controlling interest of the equity interest disposed at the book value of the proportionate shares of the net assets of the subsidiary with amount of RMB4 million and the difference between the fair value of the non-controlling interest with the book value of RMB395 million recorded as additional paid-in capital.

The net liability assumed based on their fair values was RMB212 million, including cash acquired with amount of RMB482 million. The fair value of non-controlling interest amounting to RMB15 million was measured based on the purchase price, taking into account a discount reflective of the non-controlling nature of the interest. The newly identifiable intangible assets were RMB269 million which primarily consist of brand name which is amortized over 10 years on a straight-line basis. The deferred tax liability of RMB67 million as recognized in associated with the identifiable intangible assets. The goodwill recognized for the acquisition was RMB1.2 billion which is primarily made up of the expected synergies from combining operations of the acquiree and the acquirer, which do not qualify for separate recognition.

Other than the acquisitions disclosed above, none of other acquisition occurred during the periods presented was material to its businesses or financial results. Other immaterial acquisitions in 2017, 2018 and 2019 with total consideration of RMB251 million, RMB553 million and RMB17 million respectively resulted in goodwill increase of RMB291 million, RMB621 million and nil respectively, and intangible assets increase of RMB56 million, RMB118 million and nil respectively.

### ***Goodwill and other intangible assets***

Goodwill represents the excess of the purchase price over the fair value of the identifiable assets and liabilities acquired as a result of the Company's acquisitions of interests in its subsidiaries and consolidated VIEs.

Goodwill is not amortized but is reviewed at least annually for impairment or earlier, if an indication of impairment exists. Recoverability of goodwill is evaluated using a two-step process. In the first step, the fair value of a reporting unit is compared to its carrying value. If the fair value of a reporting unit exceeds the carrying value of the net assets assigned to a reporting unit, goodwill is considered not impaired and no further testing is required. If the carrying value of the net assets assigned to a reporting unit exceeds the fair value of a reporting unit, the second step of the impairment test is performed in order to determine the implied fair value of a reporting unit's goodwill. Determining the implied fair value of goodwill requires valuation of a reporting unit's tangible and intangible assets and liabilities in a manner similar to the allocation of purchase price in a business combination. If the carrying value of a reporting unit's goodwill exceeds its implied fair value, goodwill is deemed impaired and is written down to the extent of the difference. The Company estimates total fair value of the reporting unit using discounted cash flow analysis, and makes assumptions regarding future revenue, gross margins, working capital levels, investments in new products, capital spending, tax, cash flows, and the terminal value of the reporting unit.

As of December 31, 2019, there was no event or any circumstance that the Company identified, which indicated that the fair value of the Company's reporting unit was substantially lower than the respective carrying value. There was no impairment of goodwill during the years ended December 31, 2017, 2018 and 2019. Each quarter the Company reviews the events and circumstances to determine if goodwill impairment may be indicated.

Separately identifiable intangible assets that have determinable lives continue to be amortized and consist primarily of non-compete agreements, customer list, supplier relationship, technology and business relationship as of December 31, 2018 and 2019. The Company amortizes intangible assets on a straight-line basis over their estimated useful lives, which is three to ten years. The estimated life of amortized intangibles is reassessed if circumstances occur that indicate the life has changed. Other intangible assets that have indefinite useful life primarily include trademark and domain names as of December 31, 2018 and 2019. The Company evaluates indefinite-lived intangible assets each reporting period to determine whether events and circumstances continue to support an indefinite useful life. If an intangible asset that is not being amortized is subsequently determined to have a finite useful life, the asset is tested for impairment. The Company estimates total fair value of the reporting unit using discounted cash flow analysis, and makes assumptions regarding future revenue, gross margins, working capital levels, investments in new products, capital spending, tax, cash flows, and the terminal value of the reporting unit.

The Company reviews intangible assets with indefinite lives annually for impairment or earlier, if an indication of impairment exists.



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No impairment on other intangible assets was recognized for the years ended December 31, 2017, 2018 and 2019.

### ***Impairment of long-lived assets***

Long-lived assets (including intangible with definite lives) are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Reviews are performed to determine whether the carrying value of asset group is impaired, based on comparison to undiscounted expected future cash flows. If this comparison indicates that there is impairment, the Group recognizes impairment of long-lived assets to the extent the carrying amount of such assets exceeds the fair value.

### ***Accrued liability for customer reward program***

The Company's end users participate in a loyalty points program. The points awarded from services can be redeemed for cash or used to purchase gifts on the Company's website and mobile platforms.

The estimated incremental costs of the loyalty points program are recognized as sales and marketing expense, or as reduction of the revenue, depending on whether it can be redeemed to gifts or redeemed for cash, and accrued for as a current liability. As members redeem awards or their entitlements expire, the accrued liability is reduced correspondingly. As of December 31, 2018 and 2019, the Company's accrued liability for its customer reward program amounted to RMB528 million and RMB478 million, respectively, based on the estimated liabilities under the customer reward program. For the years ended December 31, 2017, the expenses recognized for the customer rewards program was approximately RMB100 million. The expenses recognized for the customer rewards program were immaterial for the years ended December 31, 2018 and 2019.

### ***Deferred revenue***

The Group has a coupon program, through which the Group provides coupons for end users who book selected hotels online through website. The end users who use the coupons receive credits in their virtual cash accounts upon check-out from the hotels and reviews for hotels submitted. The end users may redeem the amount of credits in their virtual cash account in cash or voucher for their future bookings on the Company's website and mobile platforms. The Group accounts for the estimated cost of future usage of coupons as reduction of the revenue.

### ***Revenue recognition***

On January 1, 2018, the Company adopted revenue guidance ASC Topic 606, "Revenue from Contracts with Customers" ("ASC 606"), using the full retrospective transition approach under which the Company's previously issued financial statements for 2017 were retrospectively adjusted.

The standard did not change the presentation of the Group's revenues, which continues to be substantially reported on a net basis as the travel supplier is primarily responsible for providing the underlying travel services and the Company does not control the service provided by the travel supplier to the traveler. Revenues are recognized at gross amounts for merchant business where the Group undertakes substantive inventory risks by pre-purchasing inventories. However, the timing of revenue recognition for certain revenue streams is changed under the standard.

### ***Accommodation reservation services***

The Group receives commissions from travel suppliers for hotel room reservations through the Group's transaction and service platform. Commissions from hotel reservation services rendered are recognized when the reservation becomes non-cancellable which is the point considered when the Company completes its performance obligation in accommodation reservation services which include reservation and various post-booking services. Contracts with certain travel suppliers contain incentive commissions typically subject to achieving specific performance targets. The incentive commissions are considered as variable consideration and are estimated and recognized to the extent that the Company is entitled to such incentive commissions. The Group generally receives incentive commissions from monthly arrangements with hotels based on the number of hotel room reservations where end users have completed their stay. The Group presents revenues from such transactions on a net basis in the statements of income and comprehensive income as the Group, generally, does not control the service provided by the travel supplier to the traveler and has no obligations for cancelled hotel reservations. The amount of accommodation reservation services revenues recognized at gross basis were immaterial during the years ended December 31, 2017, 2018 and 2019, respectively.

### ***Transportation ticketing services***

Transportation ticketing services revenues mainly represent revenues from tickets reservations and other related services. The Group receives commissions from travel suppliers for ticketing services through the Group's transaction and service platform under various services agreements. Commissions from ticketing services rendered are recognized after tickets are issued as this is when the Group's performance obligation is satisfied. The Group presents revenues from such transactions on a net basis in the statements of income as the Group, generally, does not control the service provided by the travel supplier to the traveler and has no obligations for cancelled airline ticket reservations. Loss due to obligations for cancelled ticket reservations is minimal in the past. The amount of transportation ticketing services revenues recognized at gross basis were immaterial during the years ended December 31, 2017, 2018 and 2019, respectively.

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### *Packaged-tour*

The Group receives referral fees from travel product providers for packaged-tour products and services through the Group's transaction and service platform. Referral fees are recognized on the departure date of the tours as this is when the Group's performance obligation is satisfied. The Group presents revenues from such transactions on a net basis in the statements of income when the Group does not control the service provided by the travel supplier to the traveler and has no obligations for cancelled packaged-tour products reservations. The amounts of packaged-tour products and services revenues recognized at gross basis were immaterial during the years ended December 31, 2017. While the Group expanded the merchant business in 2018 for packaged-tour products, the Group presents majority of its packaged-tour products and services revenues recognized on net basis for the year ended December 31, 2018 and 2019.

### *Corporate travel*

Corporate travel management revenues primarily include commissions from air ticket booking, hotel reservation and packaged-tour services rendered to corporate clients. The Group contracts with corporate clients based on service fee model. Travel reservations are made via on-line and off-line services for air tickets, hotel and package-tour. Revenue is recognized on a net basis after the services are rendered and collections are reasonably assured.

### *Other businesses*

Other businesses comprise primarily of online advertising services and financial services.

The Company receives advertising revenues, which principally represent the sale of banners or sponsorship on the website and mobile from end users. Advertising revenues are recognized ratably over the fixed term of the agreement as services are provided. The Company recognizes the interest income from the receivable related to financial services ratably over the loan period (Note 2 Installment credit and nonrecourse securitization debt).

### *Allowance for doubtful accounts*

Accounts receivable are recorded at the invoiced amount and do not bear interest. The Company reviews on a periodic basis for doubtful accounts for the outstanding trade receivable balances and the receivable related to financial services based on historical experience and information available. Additionally, we make specific bad debt provisions based on (i) our specific assessment of the collectability of all significant accounts; and (ii) any specific knowledge we have acquired that might indicate that an account is uncollectible. The facts and circumstances of each account may require us to use substantial judgment in assessing its collectability. The following table summarized the details of the Company's allowance for doubtful accounts:

	<u>2017</u>	<u>2018</u>	<u>2019</u>
	RMB (in millions)		
Balance at beginning of year	59	129	156
Provision for doubtful accounts	98	69	191
Write-offs	<u>(28)</u>	<u>(42)</u>	<u>(91)</u>
Balance at end of year	<u>129</u>	<u>156</u>	<u>256</u>

### *Cost of revenues*

Cost of revenues consists primarily of payroll compensation of customer service center personnel, credit card service fee, payments to travel suppliers, telecommunication expenses, direct cost of principal travel tour services, depreciation, rentals and related expenses incurred by the Group's transaction and service platform which are directly attributable to the rendering of the Group's travel related services and other businesses.

### *Product development*

Product development expenses include expenses incurred by the Group to develop the Group's travel supplier networks as well as to maintain, monitor and manage the Group's transaction and service platform. The Group recognizes website, software and mobile applications development costs in accordance with ASC 350-50 "Website development costs" and ASC 350-40 "Software — internal use software" respectively. The Group expenses all costs that are incurred in connection with the planning and implementation phases of development and costs that are associated with repair or maintenance of the existing websites and mobile applications or the development of software or mobile applications for internal use and websites content.

### *Sales and marketing*

Sales and marketing expenses consist primarily of costs of payroll and related compensation for the Company's sales and marketing personnel, advertising expenses, and other related marketing and promotion expenses. Advertising expenses, amounting to approximately RMB5.1 billion, RMB6.0 billion and RMB5.5 billion for the years ended December 31, 2017, 2018 and 2019 respectively, are charged to the statements of income as incurred.

### ***Share-based compensation***

Under ASC 718, the Company applied the Black-Scholes valuation model in determining the fair value of options granted. Risk-free interest rates are based on US Treasury yield for the terms consistent with the expected life of award at the time of grant. Expected life is based on historical exercise patterns. Expected dividend yield is determined in view of the Company's historical dividend payout rate and future business plan. The Company estimates expected volatility at the date of grant based on historical volatilities. The Company recognizes compensation expense on all share-based awards on a straight-line basis over the requisite service period. Forfeiture rate is estimated based on historical forfeiture patterns and adjusted to reflect future change in circumstances and facts, if any. If actual forfeitures differ from those estimates, the Company may need to revise those estimates used in subsequent periods.

According to ASC 718, a change in any of the terms or conditions of stock options shall be accounted for as a modification of the plan. Therefore, the Company calculates incremental compensation cost of a modification as the excess of the fair value of the modified option over the fair value of the original option immediately before its terms are modified, measured based on the share price and other pertinent factors at the modification date. For vested options, the Company would recognize incremental compensation cost in the period the modification occurs and for unvested options, the Company would recognize, over the remaining requisite service period, the sum of the incremental compensation cost and the remaining unrecognized compensation cost for the original award on the modification date.

According to ASC 718, the Company classifies options or similar instruments as liabilities if the entity can be required under any circumstances to settle the option or similar instrument by transferring cash or other assets and such cash settlement is probable. The percentage of the fair value that is accrued as compensation cost at the end of each period shall equal the percentage of the requisite service that has been rendered at that date. Changes in fair value of the liability classified award that occur during the requisite service period shall be recognized as compensation cost over that period. Changes in fair value that occur after the end of the requisite service period are compensation cost of the period in which the changes occur. Any difference between the amount for which a liability award is settled and its fair value at the settlement date as estimated is an adjustment of compensation cost in the period of settlement.

#### ***Share incentive plans***

In October, 2007, the Company adopted a 2007 Share Incentive Plan ("2007 Incentive Plan"). As of December 31, 2018 and 2019, 3,400,231 and 2,438,190 options and 569,497 and 429,354 RSUs were outstanding under the 2007 Incentive Plan.

In June, 2017, the Company adopted a Global Share Incentive Plan ("Global Incentive Plan"). The Company granted 3,286,756 and 1,690,090 new share options and 87,465 and 18,750 new RSUs to employees with 4 year requisite service period for year ended December 31, 2018 and 2019, respectively. As of December 31, 2018 and 2019, 3,308,777 and 4,357,922 options and 67,709 and 71,742 RSUs were outstanding under the Global Incentive Plan.

In December, 2019, the Company completed a one-time modification of share options (the "Modification"), pursuant to which eligible employees were able to exchange every four of the share options that were granted under the 2017 Incentive Plan and the Global Incentive Plan, with the exercise price exceeding US\$320 per ordinary share, for one new option entitling each eligible grantee to purchase one ordinary share at the exercise price of US\$0.01 with the original vesting schedules remaining unchanged. As a result of the Modification, 835,849 options were exchanged for 209,026 new options. The incremental compensation cost of the Modification was immaterial.

Qunar previously adopted the 2007 Qunar Share Incentive Plan and 2015 Qunar Share Incentive Plan. Immediately prior to the closing of its going private transaction in February 2017, each outstanding vested option granted under the 2007 Qunar Share Incentive Plan and the 2015 Qunar Share Incentive Plan was exchanged for a number of Ctrip ADSs based on a ratio that ensures equivalent economic value, against the payment by the holder of the vested Qunar options of the full amount of exercise price payable; and each outstanding unvested Qunar option granted under the 2007 Qunar Share Incentive Plan and the 2015 Qunar Share Incentive Plan was exchanged for an option of Ctrip to purchase ordinary shares of Ctrip based on a ratio that ensures equivalent economic value with its remaining vesting period unchanged ("Exchange of Qunar Share Incentive Plans").

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The following table summarized the Company's share option activity under all the option plans, which has reflected the effect of the Exchange of Qunar Share Incentive Plans (in US\$, except shares):

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (Years)	Aggregate Intrinsic Value (in millions)
Outstanding at December 31, 2016	5,532,515	157.82	4.54	900
Granted (including grants in exchange for Qunar options )	631,166	43.03		
Exercised	(1,353,697)	68.95		
Forfeited	(99,226)	133.92		
Outstanding at December 31, 2017	4,710,758	168.80	4.72	867
Granted	3,286,756	204.65		
Exercised	(1,050,382)	92.58		
Forfeited	(238,124)	171.61		
Outstanding at December 31, 2018	6,709,008	198.19	5.62	366
Granted	1,690,090	158.95		
Exercised	(735,416)	91.14		
Forfeited	(240,747)	167.40		
Modified	(835,849)	338.91		
Converted from modification	209,026	0.01		
Outstanding at December 31, 2019	6,796,112	177.71	5.63	679
Vested and expect to vest at December 31, 2019	6,453,834	177.98	5.56	643
Exercisable at December 31, 2019	2,517,635	186.23	3.30	229

The Company's current practice is to issue new shares to satisfy share option exercises.

The expected-to-vest options are the result of applying the pre-vesting forfeiture rate assumptions of 8% to total unvested options.

The aggregate intrinsic value in the table above represents the total intrinsic value (the aggregate difference between the Company's closing stock price of US\$268.32 (US\$33.54 per ADS) as of December 31, 2019 and the exercise price for in-the-money options) that would have been received by the option holders if all in-the-money options had been exercised on December 31, 2019.

The total intrinsic value of options exercised during the years ended December 31, 2017, 2018 and 2019 were US\$522 million US\$356 million and US\$162 million, respectively.

The weighted average fair value of options granted during the years ended December 31, 2017, 2018 and 2019 was US\$376.78, US\$150.38 and US\$155.76 per share, respectively.

As of December 31, 2019, there was US\$576 million of total unrecognized compensation cost, net of estimated forfeitures, related to unvested share options which are expected to be recognized over a weighted average period of 2.5 year. Total unrecognized compensation cost may be adjusted for future changes in estimated forfeitures. Total cash received from the exercise of share options amounted to RMB732 million, RMB677 million and RMB467 million for the year ended December 31, 2017, 2018 and 2019, respectively. The transfer agent was engaged by the Company to collect the exercise proceeds and remitted on regular basis and these amounts were included in "prepayments and other current assets".

The Company calculated the estimated fair value of share options on the date of grant using the Black-Scholes pricing model with the following assumptions for the years ended December 31, 2017, 2018 and 2019:

	2017	2018	2019
Risk-free interest rate	1.73%-1.94%	2.52%-3.09%	1.40%-2.44%
Expected life (years)	5.0	5.0	5.0
Expected dividend yield	0%	0%	0%
Volatility	46%-48%	42%-44%	42%-43%
Fair value of options at grant date per share	from US\$142.29 to US\$430.87	from US\$88.51 to US\$350.71	from US\$90.96 to US\$259.03

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The following table summarized the Company's RSUs activities under all incentive plans (in US\$, except shares):

	<u>Number of Shares</u>	<u>Weighted average grant date fair value(US\$)</u>
Restricted shares		
Unvested at December 31, 2016	1,462,239	263.28
Granted	15,664	323.92
Vested	(285,375)	191.21
Forfeited	(96,806)	274.71
Unvested at December 31, 2017	1,095,722	281.91
Granted	87,465	331.69
Vested	(471,773)	261.48
Forfeited	(74,208)	294.08
Unvested at December 31, 2018	637,206	302.45
Granted	18,750	298.64
Vested	(119,334)	295.11
Forfeited	(35,526)	309.72
Unvested at December 31, 2019	501,096	303.54

As of December 31, 2019, there was US\$32 million unrecognized compensation cost, net of estimated forfeitures, related to unvested restricted shares, which are to be recognized over a weighted average vesting period of 0.2 years. Total unrecognized compensation cost may be adjusted for future changes in estimated forfeitures. The Company determined the fair value of RSUs based on its stock price on the date of grant.

### **Leases**

The Company applied ASC 842, Leases, on January 1, 2019 on a modified retrospective basis and has elected not to recast comparative periods. The Company determines if an arrangement is a lease at inception. Operating leases are primarily for office and operation space and are included in right-of-use ("ROU") assets, other payables and accruals and long-term lease liabilities on its consolidated balance sheets. ROU assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent its obligation to make lease payments arising from the lease. The operating lease ROU assets and liabilities are recognized at lease commencement date based on the present value of lease payments over the lease term. As most of the Company's leases do not provide an implicit rate, the Company uses its incremental borrowing rate based on the information available at lease commencement date in determining the present value of lease payments. The operating lease ROU asset also includes any lease payments made and excludes lease incentives. The Company's lease terms may include options to extend or terminate the lease. Renewal options are considered within the ROU assets and lease liability when it is reasonably certain that the Company will exercise that option. Lease expense for lease payments is recognized on a straight-line basis over the lease term.

For operating leases with a term of one year or less, the Company has elected to not recognize a lease liability or ROU asset on its consolidated balance sheet. Instead, it recognizes the lease payments as expense on a straight-line basis over the lease term. Short-term lease costs are immaterial to its consolidated statements of operations and cash flows. The Company has operating lease agreements with insignificant non-lease components and have elected the practical expedient to combine and account for lease and non-lease components as a single lease component.

Upon the adoption of the new lease standard, on January 1, 2019, the Company recognized operating lease assets of RMB1.0 billion and total operating lease liabilities of RMB980 million (including a current liability of RMB322 million) in the consolidated balance. There was no impact to retained earnings at adoption.

### **Taxation**

Current income taxes are provided on the basis of net income for financial reporting purposes, adjusted for income and expense items which are not assessable or deductible for income tax purposes, in accordance with the regulations of the relevant tax jurisdictions. Deferred income taxes are provided using the balance sheet liability method. Under this method, deferred income taxes are recognized for the tax consequences of significant temporary differences by applying enacted statutory rates applicable to future years to differences between the financial statement carrying amounts and the tax bases of existing assets and liabilities. The tax base of an asset or liability is the amount attributed to that asset or liability for tax purposes. The effect on deferred taxes of a change in tax rates is recognized in income in the period enacted. A valuation allowance is provided to reduce the amount of deferred tax assets if it is considered unlikely that some portion of, or all of, the deferred tax assets will not be realized.

The Company applies ASC 740, "Income Taxes". It clarifies the accounting for uncertainty in income taxes recognized in the Company's consolidated financial statements and prescribes a more likely than not threshold for financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. It also provides guidance on derecognition of income tax assets and liabilities, classification of current and deferred income tax assets and liabilities, accounting for interest and penalties associated with tax positions, accounting for income taxes in interim periods, and income tax disclosures.

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### **Other income/(expense)**

Other income/(expense) consists of financial subsidies, investment income and foreign exchange gains/(losses). Financial subsidies are recognized as other income when received. Components of other income for the years ended December 31, 2017, 2018 and 2019 were as follows:

	<u>2017</u>	<u>2018</u>	<u>2019</u>
	<b>RMB (in millions)</b>		
Fair value changes of equity securities investments	—	(3,064)	2,334
(Provision)/settlement of provision and contingent liability balances related to an equity method investment (Note 13)	(967)	(61)	603
Subsidy income	264	469	589
Gain on disposal of long-term investments (Note 7)	1,416	1,181	318
Gain from the re-measurement of the previously held equity interest to the fair value in the business acquisition (Note 2)	—	249	196
Impairments of long-term investments	(411)	—	(205)
Foreign exchange gains/(losses)	469	(17)	(378)
Others	108	168	173
<b>Total</b>	<u>879</u>	<u>(1,075)</u>	<u>3,630</u>

### **Statutory reserves**

The Company's PRC subsidiaries and the VIEs are required to allocate at least 10% of their after-tax profit to the general reserve in accordance with the PRC accounting standards and regulations. The allocation to the general reserve will cease if such reserve has reached to 50% of the registered capital of respective company. Appropriations to discretionary surplus reserve are at the discretion of the board of directors of the VIEs. These reserves can only be used for specific purposes and are not transferable to the Company in form of loans, advances, or cash dividends. There is no such regulation of providing statutory reserve in Hong Kong.

### **Dividends**

Dividends are recognized when declared.

PRC regulations currently permit payment of dividends only out of accumulated profits as determined in accordance with PRC accounting standards and regulations. The Company's PRC subsidiaries can only distribute dividends after they have met the PRC requirements for appropriation to statutory reserves. Additionally, as the Company does not have any direct ownership in the VIEs, the VIEs cannot directly distribute dividends to the Company. The PRC government imposes control over its foreign currency reserves in part through direct regulation of the conversion of RMB into foreign exchange and through restrictions on foreign trade. As the majority of our revenues are in RMB, any restrictions on currency exchange may limit our ability to use revenue generated in RMB to fund our business activities outside China or to make dividend payments in U.S. dollars. However, the Company believes the restrictions on currency exchange imposed by the PRC foreign exchange regulations and enforced by SAFE do not automatically constitute the "restrictions" under Rule 4-08(e)(3) under Regulation S-X, because such restrictions in substance do not prohibit the Company's subsidiaries or VIEs from transferring net assets to the Company in the combined forms of loans, advances and cash dividends without the consent of SAFE, provided that certain procedural formalities should be complied with. As of December 31, 2019, the restricted net assets of the Company's PRC subsidiaries and VIEs not distributable in the form of dividends to the parent as a result of the aforesaid PRC regulations and other restrictions were RMB7 billion.

As a result of the aforementioned PRC regulation and the Company's organizational structure, accumulated profits of the subsidiaries in PRC distributable in the form of dividends to the parent as of December 31, 2017, 2018 and 2019 were RMB12 billion, RMB16 billion and RMB22 billion, respectively. The Company's PRC subsidiaries and VIEs are able to enter into royalty and trademark license agreements or certain other contractual arrangements at the sole discretion of the Company, for which the compensatory element of the arrangement is deducted from the accumulated profits.

Effective January 1, 2008, current CIT Law imposes a 10% withholding income tax for dividends distributed by foreign invested enterprises to their immediate holding companies outside mainland China. A lower withholding tax rate will be applied if there is a tax treaty arrangement between mainland China and the jurisdiction of the foreign holding company. Distributions to holding companies in Hong Kong that satisfy certain requirements specified by PRC tax authorities, for example, will be subject to a 5% withholding tax rate. Furthermore, pursuant to the applicable circular and interpretations of the current EIT Law, dividends from earnings created prior to 2008 but distributed after 2008 are not subject to withholding income tax.

### ***Earnings/(loss) per share***

In accordance with “*Computation of Earnings Per Share*”, basic earnings per share is computed by dividing net income attributable to common shareholders by the weighted average number of common shares outstanding during the year. Diluted earnings per share is calculated by dividing net income attributable to common shareholders as adjusted for the effect of dilutive ordinary equivalent shares, if any, by the weighted average number of ordinary and dilutive ordinary equivalent shares outstanding during the year. Dilutive ordinary equivalent shares consist of ordinary shares issuable upon the exercise of outstanding share options (using the treasury stock method). Vested but unexercised stock options with exercise prices that represent little or no consideration are included in the weighted average shares outstanding in the basic earnings per share calculation.

If the number of common shares outstanding increases as a result of a stock dividend or stock split or decreases as a result of a reverse stock split, the computations of basic and diluted EPS shall be adjusted retroactively for all periods presented to reflect that change in capital structure. If changes in common stock resulting from stock dividends, stock splits, or reverse stock splits occur after the close of the period but before the financial statements are issued or are available to be issued, the per-share computations for those and any prior-period financial statements presented shall be based on the new number of shares.

Effective December 1, 2015, the ratio of the Company’s American depository shares (“ADSs”) to ordinary shares is eight (8) ADSs representing one (1) ordinary share.

### ***Treasury stock***

The share-repurchase programs do not require the Company to acquire a specific number of shares and may be suspended or discontinued at any time.

### ***Segment reporting***

The Company operates and manages its business as a single segment. Resources are allocated and performance is assessed by the CEO, whom is determined to be the Chief Operating Decision Maker (CODM). Since the Company operates in one reportable segment, all financial segment and product information required by this statement can be found in the consolidated financial statements.

The Company primarily generates its revenues from the Greater China Area, for geographical information, please refer to Note 21.

### ***Recent Accounting Pronouncements***

In June 2016, the FASB issued ASU 2016-13, Financial Instruments — Credit Losses (Topic 326), Measurement of Credit Losses on Financial Statements. This ASU update on the measurement of credit losses for certain financial assets measured at amortized cost and available-for-sale debt securities. For financial assets measured at amortized cost, this update requires an entity to (1) estimate its lifetime expected credit losses upon recognition of the financial assets and establish an allowance to present the net amount expected to be collected, (2) recognize this allowance and changes in the allowance during subsequent periods through net income and (3) consider relevant information about past events, current conditions and reasonable and supportable forecasts in assessing the lifetime expected credit losses. For available-for-sale debt securities, this update made several targeted amendments to the existing other-than-temporary impairment model, including (1) requiring disclosure of the allowance for credit losses, (2) allowing reversals of the previously recognized credit losses until the entity has the intent to sell, is more-likely-than-not required to sell the securities or the maturity of the securities, (3) limiting impairment to the difference between the amortized cost basis and fair value and (4) not allowing entities to consider the length of time that fair value has been less than amortized cost as a factor in evaluating whether a credit loss exists. The Company adopted this update in the first quarter of 2020 and applied this update on a modified retrospective basis. The adoption did not have a material impact to the Company’s Consolidated Financial Statements.

In January 2017, the FASB issued ASU 2017-04: Intangibles — Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment. To simplify the subsequent measurement of goodwill, the Board eliminated Step 2 from the goodwill impairment test. Under the amendments in this Update, an entity should perform its annual, or interim, goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount. An entity should recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit’s fair value; however, the loss recognized should not exceed the total amount of goodwill allocated to that reporting unit. An entity should apply the amendments in this Update on a prospective basis. An entity is required to disclose the nature of and reason for the change in accounting principle upon transition. A public business entity that is a U.S. Securities and Exchange Commission (SEC) filer should adopt the amendments in this Update for its annual or any interim goodwill impairment tests in fiscal years beginning after December 15, 2019. Early adoption is permitted for interim or annual goodwill impairment tests performed on testing dates after January 1, 2017. It is more likely that, by adopting simplified measurement which eliminates the Step 2 from goodwill impairment test, an entity with the triggering event for goodwill impairment will recognize more goodwill impairment than it would do under the old model. The Group is currently assessing the impact of the adoption of this accounting standard, taking into considerations the COVID-19 outbreak which has been adversely affecting the Company’s business in the subsequent period in 2020.

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In August 2018, the FASB issued ASU 2018-13, “Fair Value Measurement (Topic 820): Disclosure Framework — Changes to the Disclosure Requirements for Fair Value Measurement,” which eliminates, adds and modifies certain disclosure requirements for fair value measurements as part of the FASB’s disclosure framework project. The new guidance is effective for the fiscal years and interim reporting periods within those fiscal years, beginning after December 15, 2019. Early adoption is permitted for the adoption of either the entire ASU or only the provisions that eliminate or modify the requirements. The Company is evaluating the effects, if any, of the adoption of this guidance on the fair value disclosure in the consolidated financial statements.

In April 2019, the FASB issued ASU 2019-04 “Codification Improvements to Topic 326, Financial Instruments — Credit Losses, Topic 815, Derivatives and Hedging, and Topic 825, Financial Instruments.” Apart from the amendments to ASU 2016-13 mentioned above, the ASU also included subsequent amendments to ASU 2016-01, which the Company adopted in January 2018 (Note 2). For entities that have not yet adopted ASU 2017-12, the effective date is the same as ASU 2017-12. ASU 2017-12 is effective for fiscal years beginning after December 15, 2018, and interim periods within those fiscal years. For entities that have adopted ASU 2017-12, the effective date is as of the beginning of the first annual reporting period beginning after issuance of this Update. The Company is evaluating the effects, if any, of the adoption of these guidance on the Company’s financial position, results of operations and cash flows.

In December 2019, the FASB issued ASU 2019-12 - Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes. This ASU provides an exception to the general methodology for calculating income taxes in an interim period when a year-to-date loss exceeds the anticipated loss for the year. This update also (1) requires an entity to recognize a franchise tax (or similar tax) that is partially based on income as an income-based tax and account for any incremental amount incurred as a non-income-based tax, (2) requires an entity to evaluate when a step-up in the tax basis of goodwill should be considered part of the business combination in which goodwill was originally recognized for accounting purposes and when it should be considered a separate transaction, and (3) requires that an entity reflect the effect of an enacted change in tax laws or rates in the annual effective tax rate computation in the interim period that includes the enactment date. The standard is effective for the Company for fiscal years beginning after December 15, 2020, with early adoption permitted. The Company is currently evaluating the impact.

### ***Certain risks and concentration***

Financial instruments that potentially subject the Company to significant concentrations of credit risk consist primarily of cash and cash equivalents, restricted cash, short-term investment, accounts receivable, amounts due from related parties, prepayments and other current assets. As of December 31, 2017, 2018 and 2019, substantially all of the Company’s cash and cash equivalents, restricted cash and short-term investment were held in major financial institutions located in the PRC and in Hong Kong, which management considers to be of high credit quality based on their credit ratings. Accounts receivable are generally unsecured and denominated in RMB, and are derived from revenues earned from operations arising primarily in the PRC.

No individual customer accounted for more than 10% of net revenues for the years ended December 31, 2017, 2018 and 2019. No individual customer accounted for more than 10% of accounts receivable as of December 31, 2018 and 2019.

### **3. PREPAYMENTS AND OTHER CURRENT ASSETS**

Components of prepayments and other current assets as of December 31, 2018 and 2019 were as follows:

	<u>2018</u>	<u>2019</u>
	<u>RMB (in millions)</u>	
Prepayments and other deposits	6,877	8,395
Receivable related to financial services (Note 2)	1,551	2,777
Prepaid expenses	401	406
Receivables from financial institution	151	200
Others	577	932
Total	<u>9,557</u>	<u>12,710</u>

### **4. LONG-TERM DEPOSITS AND PREPAYMENTS**

The Group’s subsidiaries and VIEs are required to pay certain amounts of deposit to airline companies and hotel suppliers. The subsidiaries and VIEs are also required to pay deposit to local travel bureau as pledge for insurance of traveler’s safety.

Components of long-term deposits and prepayments as of December 31, 2018 and 2019 were as follows:

	<u>2018</u>	<u>2019</u>
	<u>RMB (in millions)</u>	
Prepayments for purchase of long lived assets	127	517
Deposits paid to airline suppliers	243	209
Deposits paid to advertising suppliers	164	88
Deposits paid to hotel suppliers	70	36
Others	164	150
Total	<u>768</u>	<u>1,000</u>



## 5. LAND USE RIGHTS

Land use rights are amortized under straight-line method through the respective period of land rights, which are from 40-50 years. Amortization expense for the years ended December 31, 2017, 2018 and 2019 was approximately RMB3 million, RMB3 million and RMB3 million, respectively. As of December 31, 2018 and 2019, the net book value was RMB94 million and RMB91 million respectively.

## 6. PROPERTY, EQUIPMENT AND SOFTWARE

Property, equipment and software and its related accumulated depreciation and amortization as of December 31, 2018 and 2019 were as follows:

	<u>2018</u>	<u>2019</u>
	<u>RMB (in millions)</u>	
Buildings	5,418	5,423
Computer equipment	1,145	1,217
Website-related equipment	771	1,187
Furniture and fixtures	292	383
Software	215	313
Leasehold improvements	146	188
Construction in progress	9	11
Less: accumulated depreciation and amortization	<u>(2,124)</u>	<u>(2,587)</u>
Total net book value	<u>5,872</u>	<u>6,135</u>

Depreciation expense for the years ended December 31, 2017, 2018 and 2019 was RMB490 million, RMB546 million and RMB656 million, respectively.

## 7. INVESTMENTS

The Company's long-term investments are consisted of the follows:

	<u>2018</u>	<u>2019</u>
	<u>RMB (in millions)</u>	
Debt investments	5,107	17,604
Equity investments	21,767	33,674
	<u>26,874</u>	<u>51,278</u>

### Debt investments

#### *Held to maturity debt securities*

Held to maturity investments were time deposits and financial products in commercial banks with maturities of more than one year with the carrying amount of RMB2.4 billion and RMB1.1 billion as of December 31, 2018 and 2019 respectively. As of December 31, 2018 and 2019, the weighted average maturities periods are 1.5 years and 1.5 years, respectively.

#### *Available-for-sale debt investments*

The following table summarizes the Company's available-for-sale debt investments as of December 31, 2019 (RMB in millions):

	Cost, after adjusted with other-than-temporary impairment	Gross Unrealized Gains, including forex adjustment	Gross Unrealized Losses, including forex adjustment	Fair Value
Available-for-sale debt investments	2,693	257	(402)	2,548

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The following table summarizes the Company's available-for-sale debt investments as of December 31, 2018 (RMB in millions):

	Cost, after adjusted with other-than-temporary impairment	Gross Unrealized Gains, including forex adjustment	Gross Unrealized Losses, including forex adjustment	Fair Value
Available-for-sale debt investments	2,633	236	(152)	2,717

For the years ended December 31, 2017, 2018 and 2019, the unrealized securities holding gain, net of tax of RMB305 million, RMB(16) million and RMB5 million, respectively, was reported in other comprehensive income.

## Equity investments

### Equity securities with readily determinable fair values

The following table summarizes the Company's equity securities with readily determinable fair values as of December 31, 2019 (RMB in millions):

	Cost, after adjusted with other-than-temporary impairment	Gross Unrealized Gains, including forex adjustment	Gross Unrealized Losses, including forex adjustment	Fair Value
Equity securities with readily determinable fair values	4,406	6,052	(421)	10,037

The following table summarizes the Company's equity securities with readily determinable fair values as of December 31, 2018 (RMB in millions):

	Cost, after adjusted with other-than-temporary impairment	Gross Unrealized Gains, including forex adjustment	Gross Unrealized Losses, including forex adjustment	Fair Value
Equity securities with readily determinable fair values	5,520	4,320	(845)	8,995

### Equity securities without readily determinable fair values

Equity securities without readily determinable fair values and over which the Company has neither significant influence nor control through investments in common stock or in-substance common stock, are measured and recorded using a measurement alternative that measures the securities at cost minus impairment, if any, plus or minus changes resulting from qualifying observable price changes. The carrying value of equity securities without readily determinable fair values was RMB584 million and RMB596 million as of December 31, 2018 and 2019 respectively. There is no fair value changes related to these investments for the years ended December 31, 2018 and 2019. None of the investments individually is considered as material to the Group's financial position.

In 2017, 2018 and 2019, the Company disposed certain equity securities without readily determinable fair values for total consideration of RMB1.4 billion, RMB261 million and RMB0 million, respectively, which results a gain of RMB1.4 billion, RMB122 million, and a loss of RMB1 million as reported in other income, respectively. In 2018, the Company also paid certain equity securities without readily determinable fair values with amount of RMB294 million for business acquisition.

In 2017, 2018 and 2019, the Company made investments in equity investments without readily determinable fair values with amount of RMB0.2 billion, RMB92 million and RMB89 million, respectively.

### Equity method investments

In December 2016, in connection of share exchange transaction with BTG and Homeinns, the Company exchanged its previously held equity interest in Homeinns for 22% equity interest of BTG. The Company applied equity method to account for the investment in BTG on one quarter lag basis. As of December 31, 2018 and 2019, the carrying value of its investment in BTG were RMB2.7 billion and RMB2.8 billion respectively, the change of which primarily relates to the equity income recognized.

Tujia used to be a subsidiary of the Company. In 2015, after a private placement of Tujia, the Company lost the control in Tujia. In 2017, Tujia completed a restructure and its offline business was assumed by a newly established company and the Company converted part of its preferred shares investment in Tujia to common shares of Tujia and the newly established company. The Company applies equity method for its common shares investments on Tujia and the newly established company on one quarter lag basis. The preferred shares investment in Tujia was continued to be accounted for as available-for-sale debt security. The Company concluded it does not have control over Tujia whilst it has majority ownership of Tujia since the Company does not have control of the board of directors of Tujia, which makes all the significant decisions of Tujia. As of December 31, 2018 and 2019, fair value of the preferred shares were RMB1.6 billion and RMB1.5 billion respectively. As of December 31, 2018 and 2019, the carrying value of the equity method investments were RMB1.2 billion and RMB1.0 billion respectively, the change of which primarily relates to the equity loss recognized.

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In May 2015, the Company acquired approximately 38% share capital of eLong, Inc. (“eLong”) and applied equity method on one quarter lag basis. In May 2016, eLong completed its “going-private” transaction and merger with E-dragon Holdings Limited (“E-dragon”) (“Reorganization”). After the Reorganization, the Company applies equity method for its ordinary shares investment in E-dragon’s on one quarter lag basis and the preferred shares of E-dragon are classified as available-for-sale debt security. In March 2018, E-dragon consummated a merger with LY.com with share swap transaction. The Company received an equity method investment in the enlarged group with previously held equity investment and preferred shares of E-dragon be exchanged. The Company recognized the gain of RMB847 million as reported in other income on receipts the shares in the enlarged group in 2018, and recognized the gain of RMB267 million as reported in other income when certain accrued tax related indemnification liability for the other shareholders of LY.com was reversed based on the final settlement in 2019. For the year ended December 31, 2018, the Company acquired additional equity interest with total consideration of RMB1.4 billion. After these transactions, the Company has 27% equity interest in the enlarged group and applied equity method for this investment. As of December 31, 2018 and 2019, the carrying value of its equity investment was RMB5.3 billion and RMB5.5 billion respectively, the change of which primarily relates to the equity income recognized.

The Company used to hold approximately 10% equity interest in MakeMyTrip and accounted for the investment as equity securities with readily determinable fair values. In August 2019, the Company consummated a share exchange transaction with Naspers Limited (“Naspers”), a shareholder of MakeMyTrip, pursuant to which Naspers exchanged certain ordinary shares and Class B convertible ordinary shares of MakeMyTrip for the Company’s newly issued 4,108,831 ordinary shares. Concurrent with the share exchange, the Company made the investment in a third-party investment entity by contributing certain ordinary shares and class B shares of MakeMyTrip held by the Company and recorded the investment using equity method. After these transactions, the Company owns ordinary shares and class B shares of MakeMyTrip, representing approximately 49% of MakeMyTrip’s total voting power with the total consideration of approximately US\$1.2 billion (RMB8.7 billion), which included US\$1.0 billion (RMB6.9 billion) newly issued ordinary shares of the Company and US\$0.2 billion (RMB1.8 billion) of its previously held equity investment. The Company applied equity method to account for the investment in MakeMyTrip on one quarter lag basis. As of December 31, 2019, the carrying value of its investment was RMB8.5 billion.

The Company made some investments in several third party investment funds and accounted for the investments under equity methods on one quarter lag basis. As of December 31, 2018 and 2019, the carrying value of these investments were RMB1.2 billion and RMB2.5 billion respectively.

As of December 31, 2018 and 2019, the carrying value of the rest equity method investments were RMB1.8 billion and RMB2.8 billion, respectively.

The Company summarizes the condensed financial information of the Company’s equity investments as a group below in accordance with Rule 4-08 of Regulation S-X (RMB in millions).

	<u>2017</u>	<u>2018</u>	<u>2019</u>
	<u>Equity investments</u>	<u>Equity investments</u>	<u>Equity investments</u>
<b>Operating data:</b>			
Revenue	14,243	17,429	28,423
Gross profit	8,145	11,513	17,608
Income from operations	80	294	2,590
Net (loss)/income	(223)	990	970
Net loss attributable to equity method investments companies	(79)	(81)	(440)
Add: Equity dilution impact	14	7	93
Add: Gain from disposal of equity method investments	—	42	—
Equity in (loss)/income of affiliates	<u>(65)</u>	<u>(32)</u>	<u>(347)</u>
<b>Balance sheet data:</b>			
Current assets	9,836	26,612	41,940
Long-term assets	16,553	37,435	45,968
Current liabilities	8,061	20,404	31,769
Long-term liabilities	6,191	12,011	10,677
Non-controlling interests	324	232	342

For the years ended December 31, 2017, 2018 and 2019, the total cash paid for equity method investments was RMB0.2 billion, RMB1.7 billion and RMB1.4 billion, respectively.

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### Impairments

The Company performs impairment assessment of its investments by considering factors including, but not limited to, current economic and market conditions as well as the operating performance of the investees. Impairment charges in connection with the equity securities with readily determinable fair value before the adoption of new financial instrument accounting standard of RMB116 million was recorded for the years ended December 31, 2017. Impairment charges in connection with the available-for-sale debt investment of RMB156 million, nil and RMB150 million were recorded for the years ended December 31, 2017, 2018 and 2019, respectively. Impairment charges in connection with the equity securities without readily determinable fair value of RMB139 million, nil and RMB55 million were recorded for the years ended December 31, 2017, 2018 and 2019, respectively. Impairment charges in connection with the equity method investments of RMB64 million, RMB61 million and nil were recorded for the years ended December 31, 2017, 2018 and 2019, respectively. The impairment was recorded in “Other income/ (expense)” (Note 2).

### 8. FAIR VALUE MEASUREMENT

In accordance with ASC 820-10, the Company measures financial products, time deposits, derivative instruments, available-for-sale debt investments and equity securities with readily determinable fair value at fair value on a recurring basis. Equity securities classified within Level 1 are valued using quoted market prices that currently available on a securities exchange registered with the Securities and Exchange Commission (SEC) and Shanghai Stock Exchange (SSE). Financial products, time deposits and derivative instruments classified within Level 2 are valued using directly or indirectly observable inputs in the market place. The available-for-sale debt investments classified within Level 3 are valued based on a model utilizing unobservable inputs which require significant management judgment and estimation.

The equity securities without readily determinable fair value, equity method investments and certain non-financial assets are recorded at fair value only if an impairment or observable price adjustment is recognized in the current period. If an impairment or observable price adjustment is recognized on the equity securities during the period, the Company classify these assets as Level 3 within the fair value hierarchy based on the nature of the fair value inputs.

Assets measured at fair value on a recurring basis are summarized below (in millions):

	Fair Value Measurement at December 31, 2019 Using				
	Level 1	Level 2	Level 3	Fair Value at December 31, 2019	
	RMB	RMB	RMB	RMB	US\$
<b>Assets</b>					
Financial products	—	25,679	—	25,679	3,689
Time deposits (with the maturity of more than three months)	—	12,319	—	12,319	1,769
Derivative:					
Foreign currency forward contacts (with the maturity of less than one year)	—	116	—	116	17
Equity securities	10,037	—	—	10,037	1,442
Available-for-sale debt investments	—	—	2,548	2,548	366
<b>Total Assets</b>	<b>10,037</b>	<b>38,114</b>	<b>2,548</b>	<b>50,699</b>	<b>7,283</b>
<b>Liabilities</b>					
Derivative:					
Foreign currency forward contacts (with the maturity of more than one year)	—	9	—	9	1
<b>Total Liabilities</b>	<b>—</b>	<b>9</b>	<b>—</b>	<b>9</b>	<b>1</b>

	Fair Value Measurement at December 31, 2018 Using				
	Level 1	Level 2	Level 3	Fair Value at December 31, 2018	
	RMB	RMB	RMB	RMB	US\$
Financial products	—	33,185	—	33,185	4,827
Time deposits (with the maturity of more than three months)	—	5,958	—	5,958	866
Equity securities	8,995	—	—	8,995	1,308
Available-for-sale debt investments	—	—	2,717	2,717	395
<b>Total</b>	<b>8,995</b>	<b>39,143</b>	<b>2,717</b>	<b>50,855</b>	<b>7,396</b>

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The roll forward of major Level 3 investments are as following:

	<b>Total</b>
	<b>RMB(in millions)</b>
Fair value of Level 3 investments as at December 31, 2017	5,708
Transfer into Level 3	69
New addition	150
Disposal of investments	(2,655)
Effect of exchange rate change	121
The change in fair value of the investments	(676)
Fair value of Level 3 investments as at December 31, 2018	<u>2,717</u>
Transfer into Level 3	55
New addition	153
Disposal of investments	(93)
Effect of exchange rate change	25
Other than temporary impairment	(205)
The change in fair value of the investments	(104)
Fair value of Level 3 investments as at December 31, 2019	<u>2,548</u>

Management determined the fair value of these Level 3 investments based on income approach using various unobservable inputs. The determination of the fair value required significant judgement by management with respect to the assumptions and estimates for the revenue growth rate, weighted average cost of capital, lack of marketability discounts, expected volatility and probability in equity allocation. The significant unobservable inputs adopted in the valuation as of December 31, 2019 are as following:

Unobservable Input	
Revenue growth rate	3%~85%
Weighted average cost of capital	15%~16%
Lack of marketability discount	10%~15%
Expected volatility	38%~46%
Probability	Liquidation scenario: 35%~70% Redemption scenario: 30% IPO scenario: 30%~35%

## 9. GOODWILL

Goodwill, which is not tax deductible, represents the synergy effects of the business combinations. The changes in the carrying amount of goodwill for the years ended December 31, 2018 and 2019 were as follows:

	<u>2018</u>	<u>2019</u>
	<u>RMB (in millions)</u>	<u>RMB (in millions)</u>
Balance at beginning of year	56,246	58,026
Acquisition	1,786	393
Disposals and immaterial others	(6)	(111)
Balance at end of year	<u>58,026</u>	<u>58,308</u>

Goodwill resulting from the business combinations completed in the years ended December 31, 2019 has been allocated to the single reporting unit of the Group. For the years ended December 31, 2017, 2018 and 2019, the Company did not have goodwill impairment. As of December 31, 2019, there had not been any accumulated goodwill impairment provided.

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**10. INTANGIBLE ASSETS**

Intangible assets as of December 31, 2018 and 2019 were as follows:

	<u>2018</u>	<u>2019</u>
	<u>RMB (in millions)</u>	
Intangible asset		
Intangible assets to be amortized		
Business Relationship (Representing the relationship with the travel service providers and other business partners)	1,858	1,844
Technology	751	633
Others	518	518
Intangible assets not subject to amortization		
Trade mark	11,613	11,613
Others	163	159
	<u>14,903</u>	<u>14,767</u>
Less: accumulated amortization		
Intangible assets to be amortized		
Business Relationship	(671)	(923)
Technology	(353)	(450)
Others	(156)	(221)
	<u>(1,180)</u>	<u>(1,594)</u>
Net book value		
Intangible assets to be amortized		
Business Relationship	1,187	921
Technology	398	183
Others	362	297
Intangible assets not subject to amortization		
Trade mark	11,613	11,613
Others	163	159
	<u>13,723</u>	<u>13,173</u>

Finite-lived intangible assets are tested for impairment if impairment indicators arise. The Company amortizes its finite-lived intangible assets using the straight-line method:

Business Relationship	5-10 years
Technology	5-10 years
Others	3-10 years

Amortization expense for the years ended December 31, 2017, 2018 and 2019 was approximately RMB391 million, RMB433 million and RMB437 million respectively.

The annual estimated amortization expense for intangible assets subject to amortization for the five succeeding years is as follows:

	<u>Amortization</u>
	<u>RMB (in millions)</u>
2020	418
2021	255
2022	217
2023	163
2024	158
	<u>1,211</u>

**11. LEASES**

The Company has operating leases primarily for office and operation space. The Company's operating lease arrangements have remaining lease terms of one year to ten years.

Operating lease costs were RMB405 million for the year ended December 31, 2019.

Supplemental cash flow information related to leases were as follows:

	<u>2019</u>
	<u>RMB</u>
	<u>(in millions)</u>
Cash paid for amounts included in the measurement of lease liabilities	403
Right-of-use assets obtained in exchange for operating lease liabilities	497

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Supplemental consolidated balance sheet information related to leases were as follows:

	<u>As of December 31, 2019</u> <u>RMB (in millions)</u>
<b>Right-of-use assets</b>	1,207
Current lease liabilities included within Other payables and accruals	438
Long-term lease liabilities	749
<b>Total lease liabilities</b>	<u>1,187</u>
Weighted average remaining lease term	4 years
Weighted average discount rate	4.2%

Maturities of lease liabilities are as follows:

	<u>As of December 31, 2019</u> <u>RMB (in millions)</u>
2020	426
2021	351
2022	239
2023	141
2024	48
Thereafter	100
Total operating lease payments	1,305
Less: imputed interest	(118)
Total	<u>1,187</u>

As of December 31, 2019, the operating lease arrangements of the Company, primarily for offices premises, that have not yet commenced is immaterial. For the year ended December 31, 2019, the variable lease costs, short-term lease costs and sub-lease income are immaterial.

At December 31, 2018, minimum lease payments for operating leases under the previous lease standard (“ASC 840”) were as follows (in millions):

	<u>As of December 31, 2018</u> <u>RMB (in millions)</u>
2019	335
2020	225
2021	154
2022	96
2023	73
Thereafter	114
Total minimum lease payments	<u>997</u>

For the years ended December 31, 2017 and 2018, the Company recognized lease expense of RMB445 million and RMB502 million, respectively, under ASC 840.

**12. SHORT-TERM DEBT AND CURRENT PORTION OF LONG-TERM DEBT**

	<u>2018</u>	<u>2019</u>
	<u>RMB (in millions)</u>	
Short-term bank borrowings and current portion of long-term loan	25,090	21,118
Securitization debt	608	—
2020 Notes (Note 17)	—	4,873
2022 Notes (Note 17)	6,703	—
2025 Notes (Note 17)	—	2,785
2019 Booking Notes (Note 17)	3,438	—
2020 Booking Notes (Note 17)	—	1,740
2022 Booking Notes (Note 17)	172	—
Total	<u>36,011</u>	<u>30,516</u>

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As of December 31, 2019, the Company obtained short-term bank borrowings of RMB21.1 billion (US\$3.0 billion) in aggregate, of which RMB6.7 billion (US\$1.0 billion) were collateralized by bank deposits of RMB2.7 billion (US\$392 million) classified as restricted cash and/or short-term investment of RMB4.7 billion (US\$678 million). The weighted average interest rate for the outstanding borrowings was approximately 3.79%.

The short-term borrowings contain covenants including, among others, limitation on liens, consolidation, merger and sale of the Company's assets. The Company is in compliance with all of the loan covenants as of December 31, 2018 and 2019.

As of December 31, 2019, RMB4.9 billion of 2020 Notes and RMB1.7 billion of 2020 Booking Notes are classified as short-term debt to present that the Notes may be redeemed or mature within one year. As of December 31, 2019, RMB2.8 billion of 2025 Notes are reclassified as short-term debt because the 2025 Notes holders had a non-contingent option to require the Company to repurchase for cash all or any portion of their 2025 Notes on July 1, 2020.

### 13. RELATED PARTY TRANSACTIONS AND BALANCES

During the years ended December 31, 2017, 2018 and 2019 significant related party transactions were as follows:

	<u>2017</u>	<u>2018</u>	<u>2019</u>
	<u>RMB(in millions)</u>		
Commissions from Tongcheng-eLong (a)	—	190	217
Commissions from eLong (a)	573	63	—
Commissions from Huazhu (a)	77	61	72
Commissions from BTG (a)	63	93	91
Commissions to Tongcheng-eLong (b)	—	516	579
Commissions to eLong (b)	244	66	—
Commissions to Baidu (b)	80	67	—
Commissions to LY.com (b)	70	6	—

- (a) BTG, Huazhu and eLong, have entered into agreements with the Company, respectively, to provide hotel rooms for our end users. In 2018, eLong completed a merger with LY.com and the enlarged group Tongcheng-eLong supersedes eLong to provide hotel rooms for our end users. The transactions above represent the commissions earned from these related parties.
- (b) The Company entered into agreements with eLong, LY.com and Baidu, upon which these related parties promote the Company's hotel rooms on their platforms. In 2018, eLong completed a merger with LY.com and the enlarged group Tongcheng-eLong supersedes eLong and LY.com to promote the Company's hotel rooms on their platforms. The transactions above represent the service commissions and Baidu Map business cooperation commission paid to these related parties.

As of December 31, 2018 and 2019, significant balances with related parties were as follows:

	<u>2018</u>	<u>2019</u>
	<u>RMB( in millions)</u>	
Due from related parties, current:		
Due from Tongcheng-eLong	1,278	2,149
Due from others	364	630
	<u>1,642</u>	<u>2,779</u>
Due from related parties, non-current:		
Due from Skysea (a)	207	—
Due from others	22	25
	<u>229</u>	<u>25</u>
Due to related parties, current:		
Due to Tongcheng-eLong	263	181
Due to others	229	219
	<u>492</u>	<u>400</u>



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- (a) In 2017, based on the impairment assessment by considering the operating results, market condition and business updates, a provision of RMB536 million for the loan and receivable balance due from Skysea was provided and a liability of RMB367 million for the contingent payable was recorded in “Other payables and accruals” which reflected the then best estimates of the liability to be assumed by the Company and offset by the proceeds from the net realisable value of Skysea in the event of winding down of its business. In 2019, Skysea completed its winding down of the business and the Company entered into the final settlement with Skysea. According to the final settlement, the Company collected the amount due from Skysea and settled the provision and contingent liability of RMB603 million (recognized as other income), which includes RMB236 million previously made for loan receivable and RMB367 million previously made for contingent payables.

## **14. EMPLOYEE BENEFITS**

The Group’s employee benefit primarily related to the full-time employees of the PRC subsidiaries and the VIEs, including medical care, welfare subsidies, housing fund, unemployment insurance and pension benefits. The PRC subsidiaries and VIEs are required to accrue for these benefits based on certain percentages of the employees’ salaries in accordance with the relevant PRC regulations and make contributions to the state-sponsored pension and medical plans out of the amounts accrued for medical and pension benefits. The PRC government is responsible for the medical benefits and ultimate pension liability to these employees. The total expenses recorded for such employee benefits amounted to RMB1.6 billion, RMB1.7 billion and RMB2.0 billion for the years ended December 31, 2017, 2018 and 2019 respectively.

## **15. TAXATION**

### *Cayman Islands*

Under the current laws of Cayman Islands, the Company is not subject to tax on income or capital gain. In addition, upon payments of dividends by the Company to its shareholders, no Cayman Islands withholding tax will be imposed.

### *Hong Kong*

The Company’s subsidiaries incorporated in Hong Kong are subject to Hong Kong Profits Tax (“CIT”) on the taxable income as reported in their respective statutory financial statements adjusted in accordance with relevant Hong Kong tax laws. The applicable tax rate is 16.5% in Hong Kong.

### *The PRC*

The Company’s subsidiaries and VIEs registered in the PRC are subject to PRC Corporate Income Tax (“CIT”) on the taxable income as reported in their respective statutory financial statements adjusted in accordance with relevant PRC income tax laws.

The PRC CIT laws apply a general enterprise income tax rate of 25% to both foreign-invested enterprises and domestic enterprises. Preferential tax treatments are granted to enterprises, which conduct business in certain encouraged sectors and to enterprises otherwise classified as a High and New Technology Enterprise (“HNTE”). In 2017, Ctrip Computer Technology, Ctrip Travel Information and Ctrip Travel Network reapplied for their qualification as HNTE, which were approved by the relevant government authority. Thus, these subsidiaries are entitled to a preferential EIT rate of 15% from 2017 to 2019. Qunar Software and Qunar Beijing are also entitled a preferential EIT rate of 15% from 2018 to 2020.

In 2002, the State Taxation Administration (“SAT”) started to implement preferential tax policy in China’s western regions, and companies located in applicable jurisdictions covered by the Western Regions Catalogue are eligible to apply for a preferential income tax rate of 15% if their businesses fall within the “encouraged” category of the policy. Over the years since 2012, Chengdu Ctrip and Chengdu Ctrip International obtained approval from local tax authorities to apply the 15% tax rate for their annual tax filing subject to periodic renewals. After the initial effective period expired in 2014, the two entities were approved by the relevant government authority to renew this qualification, which will expire in 2020. In 2013, Chengdu Information obtained approval from local tax authorities to apply the 15% tax rate for its 2012 tax filing and for the years from 2013 to 2020.

Pursuant to the PRC CIT Law, all foreign invested enterprises in the PRC are subject to the withholding tax for their earnings generated after January 1, 2008. The Company expects to indefinitely reinvest undistributed earnings generated after January 1, 2008 in the onshore PRC entities. As a result, no deferred tax liability was provided on the outside basis difference from undistributed earnings after January 1, 2008.

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### Income/(loss) from domestic and foreign components before income tax expenses

	2017	2018	2019
	RMB (in millions)		
Domestic	5,852	4,663	8,983
Foreign	(2,328)	(2,742)	104
Total	<u>3,524</u>	<u>1,921</u>	<u>9,087</u>

The income/(loss) from foreign components mainly includes the gain/(loss) from the equity securities investments measured at fair value, share based compensation charge, foreign exchange gain/(loss) and interest income/(loss) incurred in its overseas companies.

### Composition of income tax expense

The current and deferred portion of income tax expense included in the consolidated statements of income for the years ended December 31, 2017, 2018 and 2019 were as follows:

	2017	2018	2019
	RMB (in millions)		
Current income tax expense	1,453	1,425	1,918
Deferred tax benefit	(168)	(632)	(176)
Income tax expense	<u>1,285</u>	<u>793</u>	<u>1,742</u>

Income tax expense was RMB1.7 billion (US\$250 million) in the year ended December 31, 2019, increase from RMB793 million in the year ended 2018. The effective income tax rate in year ended December 31, 2019 was 19%, as compared to 41% in the year ended 2018, mainly due to the change in profitability of the Group and changes in the profits of the Company's subsidiaries with different tax rates.

### Reconciliation of the differences between statutory tax rate and the effective tax rate

The reconciliation between the statutory CIT rate and the Group's effective tax rate for the years ended December 31, 2017, 2018 and 2019 were as follows:

	2017	2018	2019
Statutory CIT rate	25%	25%	25%
Tax differential from statutory rate applicable to subsidiaries with preferential tax rates	6%	(23%)	(9%)
Non-deductible expenses and non-taxable income incurred	3%	37%	1%
Change in valuation allowance	2%	2%	2%
Effective CIT rate	<u>36%</u>	<u>41%</u>	<u>19%</u>

The change in the Group's effective tax rates from year over year is primarily attributable to the tax differential from certain subsidiaries with preferential tax rates, the non-deductible expenses and tax effects from investing activities.

The non-deductible expenses are primarily attributable to the share-based compensation charge of RMB1.8 billion, RMB1.7 billion and RMB1.7 billion for the years ended December 31, 2017, 2018 and 2019, respectively, and the losses from the equity securities investments measured at fair value change of RMB3.1 billion for the year ended December 31, 2018. For the years ended December 31, 2017, 2018 and 2019, such non-deductible expense increased the effective tax rate of 13%, 41% and 5%, respectively, by using enacted tax rate of 25%. The non-taxable income are primarily attributable to the gains from the equity securities investments measured at fair value change of RMB2.3 billion for the year ended December 2019. For the year ended December 31, 2019, such non-taxable income decreased the effective tax rate of 5% by using enacted tax rate of 25%. In 2017, the remaining impact from the non-taxable income come from the other income incurred by the Company which is also not subject to income tax.

The provisions for income taxes for the years ended December 31, 2017, 2018 and 2019 differ from the amounts computed by applying the CIT primarily due to preferential tax rate enjoyed by certain subsidiaries and VIEs of the Company. The following table sets forth the effect of preferential tax on China operations:

	2017	2018	2019
	RMB (in millions, except per share data)		
Tax holiday effect	345	520	762
Basic net income per ADS effect	0.65	0.95	1.34
Diluted net income per ADS effect	0.60	0.92	1.19

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For the years ended December 31, 2017, 2018 and 2019, the impacts on effective tax rates from the Company's major subsidiaries with preferential tax rates are as follows:

		Impact on the effective tax rates		
		2017	2018	2019
Ctrip Computer Technology	15%	(1.6%)	(5.5%)	(2.4%)
Ctrip Travel Information	15%	(1.6%)	(4.0%)	(1.0%)
Ctrip Travel Network	15%	(1.6%)	(5.7%)	(1.9%)
Chengdu Information	15%	(2.1%)	(3.2%)	(0.8%)
The Company and its subsidiaries in Hong Kong and Cayman	16.5%, 0%	15.4%	1.7%	(0.9%)
Qunar and subsidiaries	15%	(1.0%)	(5.0%)	(1.5%)
Others	15%	(1.1%)	(1.3%)	(0.5%)
Total		<u>6.4%</u>	<u>(23.0%)</u>	<u>(9.0%)</u>

### Significant components of deferred tax assets and liabilities:

	2018	2019
	RMB (in millions)	
Accrued expenses	532	673
Loss carry forward	191	372
Accrued liability for customer reward related programs	57	68
Accrued staff salary	65	138
Others	243	207
Subtotal	1,088	1,458
Less: Valuation allowance of deferred tax assets	(238)	(482)
Total deferred tax assets	<u>850</u>	<u>976</u>
Deferred tax liabilities:		
Recognition of intangible assets arise from business combinations and unrealized holding gain	(3,838)	(3,592)
Net deferred tax liabilities	<u>(2,988)</u>	<u>(2,616)</u>

### Movement of valuation allowances:

	2017	2018	2019
	RMB (in millions)		
Balance at beginning of year	150	197	238
Current year additions	47	41	244
Balance at end of year	<u>197</u>	<u>238</u>	<u>482</u>

As of December 31, 2018 and 2019, valuation allowance of RMB238 million and RMB482 million was mainly provided for operating loss that could be carried forwards related to certain subsidiary based on then assessment where it is more likely than not that such deferred tax assets will not be realized. The increase of the valuation allowance for the year ended December 31, 2019 was mainly the provision for year of 2019 operating losses incurred by certain subsidiaries. If events were to occur in the future that would allow the Company to realize more of its deferred tax assets than the presently recorded net amount, an adjustment would be made to the deferred tax assets that would increase income for the period when those events occurred.

As of December 31, 2019, the Group had net operating tax loss carry forwards amounted to RMB1.7 billion which will expire from 2020 to 2024 if not used.

As of December 31, 2018 and 2019, the unrecognized tax benefit and accrual is nil.

Qunar, one of the Company's subsidiaries acts as an agent for its air travel facilitating services including aviation insurance policies (the "Aviation Insurance Arrangements"), presents revenues from such transactions on a net basis. Under the current PRC CIT Laws and regulations, Qunar's existing business arrangement more likely than not will subject Qunar to income taxes on a gross basis for the Aviation Insurance Arrangements. The difference between the net revenue and the gross revenue is considered as deemed revenue for additional income taxes. The associated income tax expense is calculated by applying the applicable tax rate to the deemed revenue amount and includes the late payment interest based on the applicable tax rules. Such liabilities primarily represent the tax provision made with respect to the deemed revenue from these transactions. It is possible that the amount accrued will change in the next 12 months, however, an estimate of the range of the possible change cannot be made at this time.

[Table of Contents](#)**16. OTHER PAYABLES AND ACCRUALS**

Components of other payables and accruals as of December 31, 2018 and 2019 were as follows:

	<u>2018</u>	<u>2019</u>
	<u>RMB (in millions)</u>	
Accrued operating expenses	3,735	5,413
Deposits received from travel suppliers and packaged-tour users	836	1,044
Payable related to acquisition and investments	226	76
Accruals for property and equipment	22	144
Provision related to an equity method investment (Note 13)	367	—
Others	668	864
Total	<u>5,854</u>	<u>7,541</u>

**17. LONG-TERM DEBT**

	<u>2018</u>	<u>2019</u>
	<u>RMB (in millions)</u>	
2020 Notes	4,813	—
2025 Notes	2,750	—
2022 Notes	—	353
2020 Booking Notes	1,719	—
2025 Booking and Hillhouse Notes	6,876	6,962
2022 Booking Notes	—	174
Long-term loan	8,035	10,981
Securitization debt	—	1,074
Less: Debt issuance cost	(47)	(7)
Total	<u>24,146</u>	<u>19,537</u>

As of December 31, 2019, the fair value of the Company's long-term debt, based on Level 2 inputs, was RMB19.5 billion.

***Description of 2020 Convertible Senior Notes***

On June 18, 2015, the Company issued US\$700 million of 1.00% Convertible Senior Notes due 2020 (the "2020 Notes"). The 2020 Notes may be converted at an initial conversion rate of 9.1942 ADSs per US\$1,000 principal amount of the 2020 Notes (which represents an initial conversion price of US\$108.76 per ADS) at any time prior to the close of business on the second business day immediately preceding the maturity date of July 1, 2020. Debt issuance costs were US\$11.3 million and are being amortized to interest expense to the put date of the 2020 Notes (July 1, 2018).

Absent a fundamental change (as defined in the indenture for the 2020 Notes), each holder of the 2020 Notes has a right at such holder's option to require the Company to repurchase for cash all or any portion of such holder's 2020 Notes on July 1, 2018. The Company believes that the likelihood of occurrence of events considered a fundamental change is remote. The 2020 Notes are not redeemable prior to the maturity date of July 1, 2020.

Concurrently with the issuance of the 2020 Notes, the Company purchased a call option ("2015 Purchased Call Option") and sold warrants ("2015 Sold Warrants") where the counterparty agreed to sell to the Company up to approximately 6.4 million of the Company's ADSs upon the Company's exercise of the 2015 Purchased Call Option and the Company received US\$84.4 million from the same counterparty for the sale of warrants to purchase up to approximately 6.4 million of the Company's ADSs.

***Description of 2025 Convertible Senior Notes***

On June 18, 2015, the Company issued US\$400 million of 1.99% Convertible Senior Notes due 2025 (the "2025 Notes"). The 2025 Notes may be converted, at an initial conversion rate of 9.3555 ADSs per US\$1,000 principal amount of the 2025 Notes (which represents an initial conversion price of US\$106.89 per ADS), at each holder's option at any time prior to the close of business on the second business day immediately preceding the maturity date of July 1, 2025. Debt issuance costs were US\$6.8 million and are being amortized to interest expense to the put date of the 2025 Notes (July 1, 2020).

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Absent a fundamental change (as defined in the indenture for the 2025 Notes), each holder of the 2025 Notes has a right at such holder's option to require the Company to repurchase for cash all or any portion of such holder's 2025 Notes on July 1, 2020, as a result the 2025 Notes were reclassified from long-term to short-term as of December 31, 2019. If the holders do not redeem on July 1, 2020, the holders will lose such right, as a result the 2025 Notes will not be due until 2025, and it will be reclassified to long-term after July 1, 2020. If a fundamental change (as defined in the indenture for the 2025 Notes) occurs at any time, each holder has a right at such holder's option to require the Company to repurchase for cash all or any portion of such holder's 2025 Notes on the date notified in writing by the Company in accordance with the indenture for the 2025 Notes. The Company believes that the likelihood of occurrence of events considered a fundamental change is remote. The 2025 Notes are generally not redeemable prior to the maturity date of July 1, 2025, except that the Company may, at its option, redeem all but not part of the 2025 Notes in accordance with the indenture for the 2025 Notes if the Company has or will become obligated to pay holders additional amount due to certain changes in tax law of the relevant jurisdiction.

### ***Description of 2022 Convertible Senior Notes***

On September 12, 2016 and September 19, 2016, the Company issued US\$975 million of 1.25% Convertible Senior Notes due 2022 (the "2022 Notes"). The 2022 Notes may be converted, at an initial conversion rate of 15.2688 ADSs per US\$1,000 principal amount of the 2022 Notes (which represents an initial conversion price of US\$65.49 per ADS) at each holder's option at any time prior to the close of business on the business day immediately preceding the maturity date of September 15, 2022. Debt issuance costs were US\$19 million and are being amortized to interest expense to the put date of the 2022 Notes (September 15, 2019).

Absent a fundamental change (as defined in the indenture for the 2022 Notes), each holder of the 2022 Notes has a right at such holder's option to require the Company to repurchase for cash all or any portion of such holder's 2022 Notes on September 15, 2019, as a result the 2022 Notes were reclassified from long-term to short-term as of December 31, 2018. If a fundamental change (as defined in the indenture for the 2022 Notes) occurs at any time, each holder has a right at such holder's option to require the Company to repurchase for cash all or any portion of such holder's 2022 Notes on the date notified in writing by the Company in accordance with the indenture for the 2022 Notes. The Company believes that the likelihood of occurrence of events considered a fundamental change is remote. The 2022 Notes are generally not redeemable prior to the maturity date of September 15, 2022, except that the Company may, at its option, redeem all but not part of the 2022 Notes in accordance with the indenture for the 2022 Notes if the Company has or will become obligated to pay holders additional amount due to certain changes in tax law of the relevant jurisdiction.

In August 2019, the Company notified holders of the 2022 Notes of their rights under the relating indenture to require the Company to purchase all of or portion of such notes on September 15, 2019, which we refer to as the Put Right. In September 2019, as a result of exercise of aforementioned early redemption right, the Company redeemed US\$924 million (RMB6.6 billion) aggregate principal amount of the 2022 Notes as requested by the holders. The remaining RMB353 million were reclassified as long-term debt as of December 31, 2019 as it may not be redeemed or mature within one year.

The Company assessed the 2020 Notes, 2025 Notes and 2022 Notes (collectively as "Notes"), the 2015 Purchased Call Option (the "Purchased Call Options") and the 2015 Sold Warrants (the "Sold Warrants") under ASC 815 and concluded that:

- The Notes, the Purchased Call Options and the Sold Warrants (1) do not entail the same risks; and (2) have a valid business purpose and economic need for structuring the transactions separately. Therefore, the offering of the Notes, the Purchased Call Options and Sold Warrants transactions should be accounted separately;
- The repurchase option is considered clearly and closely related to its debt host and does not meet the requirement for bifurcation;
- Since the conversion option is considered indexed to the Company's own stock, bifurcation of conversion option from the Notes is not required as the scope exception prescribed in ASC 815-10-15-74 is met;
- There was no BCF attribute to the Notes as the set conversion prices for the Notes were greater than the respective fair values of the ordinary share price at date of issuances;

Therefore, the Company has accounted for the respective Notes as a single instruments as a long-term debt. The debt issuance cost was recorded as reduction to the long-term debts and are amortised as interest expenses using the effective interest method. The value of the Notes are measured by the cash received. The Purchased Call Options and Sold Warrants are accounted for within stockholders' equity.

### ***Description of Booking and Hillhouse Notes***

On August 7, 2014, the Company issued Convertible Senior Note (the "2019 Booking Note") at an aggregate principal amount of US\$500 million to an indirect subsidiary of the Booking Group. The Booking 2019 Note was due on August 7, 2019 and bears interest of 1% per annum, which will be paid semi-annually beginning on February 7, 2015. The Booking 2019 Note was convertible into the Company's ADSs with an initial conversion price of approximately US\$81.36 per ADS. In 2019, the 2019 Booking Notes with principal amount of US\$500 million (RMB3.4 billion) have all been redeemed for cash.

On May 26, 2015, the Company issued Convertible Senior Note (the "2020 Booking Note") at an aggregate principal amount of US\$250 million to an indirect subsidiary of the Booking Group. The Booking 2020 Note is due on May 29, 2020 and bears interest of 1% per annum, which will be paid semi-annually beginning on November 29, 2016. The Booking 2020 Note will be convertible into the Company's ADSs with an initial conversion price of approximately US\$104.27 per ADS.

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On December 10, 2015, the Company issued Convertible Senior Notes at an aggregate principal amount of US\$1 billion to an indirect subsidiary of the Booking Group and two affiliates of Hillhouse (the “2025 Booking and Hillhouse Notes”). The 2025 Booking and Hillhouse Notes are due on December 11, 2025 and bear interest of 2% per annum, which will be paid semi-annually beginning on June 11, 2016. The 2025 Booking and Hillhouse Notes will be convertible into the Company’s ADSs with an initial conversion price of approximately US\$68.46 per ADS.

On September 12, 2016, the Company issued US\$25 million Convertible Senior Note to an indirect subsidiary of the Booking Group (the “2022 Booking Note”). The 2022 Booking Note is due on September 15, 2022 and bears interest of 1.25% per annum, which will be paid semi-annually beginning on March 15, 2017. The 2022 Booking Note will be convertible into the Company’s ADSs with an initial conversion price of approximately US\$65.49 per ADS.

The Company has accounted for the above notes as a single instrument. The value of the above notes is measured by the cash received. The Company recorded the interest expenses according to its annual interest rate. There was no BCF attribute to the above notes as the set conversion price for the above notes was greater than the fair value of the ADS price at date of issuance.

### **Long-term Loans from Commercial Banks**

As of December 31, 2018 and 2019, the Company obtained long-term borrowings of RMB8.0 billion and RMB11.0 billion in aggregate collateralized by bank deposits, properties and/or stock at one or more of its wholly-owned subsidiaries. The weighted average interest rate for the outstanding borrowings as of December 31, 2018 and 2019 was approximately 3.99% and 3.65%.

### **Securitization Debt**

As of December 31, 2019, securitization debt represents the revolving debt securities which are collateralized by the receivable related to financial services. The revolving debt securities have the terms ranged from two year to four year with the annual interest rate from 3.85% to 6.90%. The revolving debt securities do not contain significant covenant.

## **18. REDEEMABLE NON-CONTROLLING INTERESTS**

One of the Company’s subsidiaries issued redeemable preferred shares amounting to RMB1.1 billion to certain third party investors in 2019. The preferred shares are redeemable at holder’s option if the subsidiary fails to complete a qualified IPO in a pre-agreed period of time since its issuance with a redemption price measured by 10% interest per year. The preferred shares are therefore accounted for as redeemable non-controlling interests in mezzanine equity and are accreted to the redemption value over the period starting from the issuance date.

For the year ended December 31, 2019, the Company recognized accretion of RMB44 million to the respective redemption value of the preferred share over the period starting from issuance date with a corresponding reduction to the retained earnings.

## **19. EARNINGS PER SHARE**

Basic earnings per share and diluted earnings per share were calculated as follows:

	2017	2018	2019
	RMB (in millions, except for share and per share data)		
<b>Numerator:</b>			
Net income attributable to Trip’s shareholders	2,155	1,112	7,011
Eliminate the dilutive effect of interest expense of convertible notes	52	—	373
Numerator for diluted earnings per share	<u>2,207</u>	<u>1,112</u>	<u>7,384</u>
<b>Denominator:</b>			
Denominator for basic earnings per ordinary share - weighted average ordinary shares outstanding	66,300,808	68,403,426	70,983,996
Dilutive effect of share options	2,978,969	2,521,197	1,976,959
Dilutive effect of convertible notes	2,345,083	—	7,283,059
Dilutive effect of convertible notes sold warrants	151,033	—	—
Denominator for diluted earnings per ordinary share	<u>71,775,893</u>	<u>70,924,623</u>	<u>80,244,014</u>
Basic earnings per ordinary share	<u>32.51</u>	<u>16.25</u>	<u>98.78</u>
Diluted earnings per ordinary share	<u>30.75</u>	<u>15.67</u>	<u>92.02</u>
Basic earnings per ADS	<u>4.06</u>	<u>2.03</u>	<u>12.35</u>
Diluted earnings per ADS	<u>3.84</u>	<u>1.96</u>	<u>11.50</u>

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All the convertible senior notes were included in the computation of diluted EPS in 2019. All the convertible senior notes had anti-dilutive impact and were excluded in the computation of diluted EPS in 2018. The 2018, 2020, 2025 and 2022 Notes, the 2025 Booking and Hillhouse Notes and 2022 Booking Notes were not included in the computation of diluted EPS in 2017 because the inclusion of such instrument would be anti-dilutive.

For the years ended December 31, 2017, 2018 and 2019, the Company had securities which could potentially dilute basic earnings per share in the future, which were excluded from the computation of diluted earnings/(loss) per share as their effects would have been anti-dilutive. Such weighted average numbers of ordinary shares outstanding are as following:

	2017	2018	2019
Convertible Notes	8,281,479	9,604,548	—
Outstanding weighted average stock options	99,695	2,521,197	1,976,959
	<u>8,381,174</u>	<u>12,125,745</u>	<u>1,976,959</u>

## 20. COMMITMENTS AND CONTINGENCIES

### Capital commitments

As of December 31, 2019, the Company had outstanding capital commitments totaling RMB13 million, which consisted of capital expenditures of property, equipment and software.

### Deposit under guarantee arrangement

In connection with its air ticketing business, the Group is required by an affiliate of Civil Aviation Administration of China (“CAAC”) and International Air Transport Association (“IATA”) to enter into guarantee arrangements and to pay deposits. The unused deposits are repaid at the end of the guaranteed period on an annual basis. As of December 31, 2019, the total quota of the air tickets that the Company was entitled to issue was up to RMB1.1 billion. The total amount of the deposit the Company paid was RMB146 million.

Based on the guarantee arrangements and historical experience, the maximum amount of the future payments of Company is approximately RMB943 million which is the guaranteed amount of the air ticket that the Company could issue rather than a financial guarantee. The Company will be liable to pay only when it issues the air tickets to its users and such payable is included in the accounts payable. Therefore, the Company believes the guarantee arrangements do not constitute any contractual and constructive obligation of the Company and has not recorded any liability beyond the amount of the tickets that have already been issued.

### Contingencies

The Company is not currently a party to any pending material litigation or other legal proceeding or claims.

The Company is incorporated in Cayman Islands and is considered as a foreign entity under PRC laws. Due to the restrictions on foreign ownership of the air-ticketing, travel agency, advertising and internet content provision businesses, the Company conducts these businesses partly through various VIEs. These VIEs hold the licenses and approvals that are essential for the Company’s business operations. In the opinion of the Company’s PRC legal counsel, the current ownership structures and the contractual arrangements with these VIEs and their shareholders as well as the operations of these VIEs are in compliance with all existing PRC laws, rules and regulations. However, there may be changes and other developments in PRC laws and regulations. Accordingly, the Company cannot be assured that PRC government authorities will not take a view in the future contrary to the opinion of the Company’s PRC legal counsel. If the current ownership structures of the Company and its contractual arrangements with VIEs were found to be in violation of any existing or future PRC laws or regulations, the Company may be required to restructure its ownership structure and operations in China to comply with changing and new Chinese laws and regulations.

## 21. GEOGRAPHIC INFORMATION

The following table presents revenue by geography area, the Greater China and all other countries, based on the geography location of its websites for the year ended December 31, 2017, 2018 and 2019. No revenue result from an individual country other than the Greater China accounted for more than 10% of revenue for the presented years.

	2017	2018	2019
	RMB (in millions)		
<b>Total Revenue</b>			
The Greater China	24,678	28,064	31,256
Others	2,315	3,040	4,460
	<u>26,993</u>	<u>31,104</u>	<u>35,716</u>

## 22. SUBSEQUENT EVENTS

In April 2020, the Company, as borrower, has entered into a facility agreement with certain financial institutions, for up to US\$1.0 billion transferrable term and revolving loan facility with an incremental facility of up to US\$500 million. The Facilities have a 3-year tranche and a 5-year tranche. The proceeds borrowed under the Facilities may be used for the general working capital requirements, including repayment of any existing financial indebtedness.

As a result of the COVID-19 outbreak in the first quarter of 2020, the Company's businesses, results of operation, financial positions and cash flows are materially and adversely affected in the first quarter of 2020 with potential continuing impacts on subsequent periods, including but not limited to the material adverse impact on the Group's revenues as result of the travel restrictions as well as significant incremental costs and expenses incurred when facilitating its end users in their cancellations and refund requests. The impacts of COVID-19 may also include slower collection of receivables and additional allowance for doubtful accounts and significant downward adjustments or impairment to the Group's long-term investments and goodwill if the impacts become other than temporary. Because of the significant uncertainties surrounding the COVID-19 which is still evolving, the extent of the business disruption, including the duration and the related financial impact on subsequent periods cannot be reasonably estimated at this time.



**Trip.com Group Limited—Ordinary Shares**

(Incorporated under the laws of the Cayman Islands)

Certificate No.  
[cert no.]

Ordinary Shares  
[no. of shares]

US\$1,750,000 Share Capital divided into  
175,000,000 Ordinary Shares of US\$0.01 par value each

THIS IS TO CERTIFY THAT

[name of shareholder]

is the registered holder of

[no. of shares]

Ordinary Shares in the above-named Company subject to the Memorandum and articles of association thereof.

EXECUTED for and on behalf of the said Company on 20\_\_\_\_

DIRECTOR

\_\_\_\_\_

**Description of Rights of Securities  
Registered under Section 12 of the Securities Exchange Act of 1934 (the “Exchange Act”)**

American Depositary Shares (“ADSs”), each representing 0.125 ordinary shares of Trip.com Group Limited (the “we,” “our,” “our company,” or “us”), are listed and traded on the Nasdaq Global Select Market and, in connection with this listing (but not for trading), the ordinary shares are registered under Section 12(b) of the Exchange Act. This exhibit contains a description of the rights of (i) the holders of ordinary shares and (ii) the holders of ADSs. Ordinary shares underlying the ADSs are held by Bank of New York Mellon, as depositary, and holders of ADSs will not be treated as holders of the ordinary shares.

**Description of Ordinary Shares**

The following is a summary of material provisions of our currently effective second amended and restated memorandum and articles of association (the “Memorandum and Articles of Association”), as well as the Companies Law (2020 Revision) of the Cayman Islands (the “Companies Law”) insofar as they relate to the material terms of our ordinary shares. Notwithstanding this, because it is a summary, it may not contain all the information that you may otherwise deem important. For more complete information, you should read the entire Memorandum and Articles of Association, which has been filed with the SEC as an exhibit to our Report of Foreign Private Issuer on Form 6-K furnished to the Securities and Exchange Commission on December 23, 2015.

***Type and Class of Securities (Item 9.A.5 of Form 20-F)***

Each ordinary share has US\$0.01 par value. The number ordinary shares that have been issued as of the last day of the fiscal year ended December 31, 2019 is provided on the cover of the annual report on Form 20-F filed on April 9, 2020 (the “2019 Form 20-F”). Our ordinary shares may be held in either certificated or uncertificated form.

***Preemptive Rights (Item 9.A.3 of Form 20-F)***

Our shareholders do not have preemptive rights.

***Limitations or Qualifications (Item 9.A.6 of Form 20-F)***

Not applicable.

***Rights of Other Types of Securities (Item 9.A.7 of Form 20-F)***

Not applicable.

***Rights of Ordinary Shares (Item 10.B.3 of Form 20-F)***

*Ordinary Shares*

*General.* All of our issued and outstanding ordinary shares are fully paid and non-assessable. Our ordinary shares are issued in registered form, and are issued when entered in our register of members. Our shareholders who are nonresidents of the Cayman Islands may freely hold and vote their shares.

*Dividends.* The holders of our ordinary shares are entitled to such dividends as may be declared by our board of directors. Our Memorandum and Articles of Association provide that dividends may be declared and paid out of our profits, realized or unrealized, or from any reserve set aside from profits which our board of directors determine is no longer needed. Under the laws of the Cayman Islands, our company may pay a dividend out of either profit or share premium account, provided that in no circumstances may a dividend be paid if this would result in our company being unable to pay its debts as they fall due in the ordinary course of business.

*Voting Rights.* Each ordinary share is entitled to one vote on all matters upon which the ordinary shares are entitled to vote. Voting at any meeting of shareholders is by show of hands unless a poll is demanded. A poll may be demanded by the chairman of the meeting or any shareholder or shareholders collectively present in person or by proxy and holding at least ten percent in par value of the shares giving a right to attend and vote at the meeting.

A quorum required for a meeting of shareholders consists of at least two shareholders (or, if our company has only one shareholder, that one shareholder) holding at least one-third of the outstanding voting shares in our company, present in person or by proxy. Shareholders' meetings may be convened by our board of directors on its own initiative or upon a requisition of shareholders holding in aggregate not less than ten percent in par value of our voting share capital. Advance notice of at least seven days is required for the convening of any of our shareholders meetings.

An ordinary resolution to be passed by the shareholders requires the affirmative vote of a simple majority of the votes attaching to the ordinary shares cast in a general meeting, while a special resolution requires the affirmative vote of no less than two-thirds of the votes attaching to the ordinary shares cast in a general meeting. A special resolution is required for matters such as a change of name or amending the memorandum and articles of association. Holders of the ordinary shares may by ordinary resolution, among other things, make changes in the amount of our authorized share capital and consolidate and divide all or any of our share capital into shares of larger amount than our existing share capital and cancel any authorized but unissued shares.

*Liquidation.* On a return of capital on winding up or otherwise (other than on conversion, redemption or purchase of shares), assets available for distribution among the holders of ordinary shares shall be distributed among the holders of our ordinary shares on a pro rata basis. If our assets available for distribution are insufficient to repay all of the paid-up capital, the assets will be distributed so that the losses are borne by our shareholders proportionately.

*Calls on Shares and Forfeiture of Shares.* Our board of directors may from time to time make calls upon shareholders for any amounts unpaid on their shares in a notice served to such shareholders at least 14 days prior to the specified time and place of payment. The shares that have been called upon and remain unpaid are subject to forfeiture.

*Redemption, Repurchase and Surrender of Shares.* We may issue shares on the terms that such shares are subject to redemption, at our option or at the option of the holders thereof on such terms and in such manner as may be determined, prior to the issue of such shares, by special resolution. Our company may also repurchase any of our shares (including redeemable shares) provided that the manner of such purchase has been authorized by an ordinary resolution of our shareholders. Under the Companies Law, the redemption or repurchase of any share may be paid out of our company's profits or share premium account or out of the proceeds of a fresh issue of shares made for the purpose of such redemption or repurchase, or out of capital if our company shall, immediately following such payment, be able to pay its debts as they fall due in the ordinary course of business. In addition, under the Companies Law, no such share may be redeemed or repurchased (a) unless it is fully paid up, (b) if such redemption or repurchase would result in there being no shares outstanding, or (c) our company has commenced liquidation. In addition, our company may accept the surrender of any fully paid share for no consideration.

On November 23, 2007, our board of directors declared a dividend of one ordinary share purchase right, or a Right, for each of our ordinary shares outstanding at the close of business on December 3, 2007. As long as the Rights are attached to the ordinary shares, we will issue one Right (subject to adjustment) with each new ordinary share so that all such ordinary shares will have attached Rights. When exercisable, each Right will entitle the registered holder to purchase from us one ordinary share at a price of US\$700 per ordinary share, subject to adjustment. On August 7, 2014, we entered into a First Amendment and, subsequently on the same day, a Second Amendment to the Rights Agreement dated as of November 23, 2007 between the Bank of New York Mellon and us. Through these two amendments, we (i) extended the term of our rights plan for another ten years and the Rights will expire on August 6, 2024, subject to the right of our board of directors to extend the rights plan for another ten years prior to its expiration; (ii) modified the trigger threshold of the Rights to allow more flexibility. Specifically, shareholders who file or are entitled to file beneficial ownership statement on Schedule 13G pursuant to Rule 13d-1(b)(1) of the Exchange Act, typically institutional investors with no intention to acquire control of the issuer, will be able to beneficially own up to 20% of our total outstanding shares before the Rights are triggered, while all other shareholders must maintain their beneficial ownership at a level below 10% of our total outstanding shares before the Rights are triggered, among other things; and (iii) included Booking and its subsidiaries in the definition of “Exempted Person” under the then effective rights plan as long as their beneficial ownership do not exceed 10% of our total outstanding shares. On May 29, 2015, October 26, 2015, and December 23, 2015, we entered into a Third Amendment, a Fourth Amendment, and a Fifth Amendment to the Rights Agreement with the Bank of New York Mellon, respectively, for the purposes of amending the definition of “Exempted Person.” Accordingly, in so far as Booking and any of its subsidiaries are concerned in connection with the determination of Exempt Person, the term “Exempt Person” will be applied only to the extent that the number of ordinary shares beneficially owned by such Exempt Person (excluding the number of our ADSs or the ordinary shares that are beneficially owned by Booking and any of its subsidiaries due to any such entity’s ownership or conversion of that certain note issued by us pursuant to a convertible note purchase agreement dated December 9, 2015 between a subsidiary of Booking and us) at all times does not exceed fifteen percent (15%) of the ordinary shares then outstanding in the aggregate and in so far as Baidu and any of its subsidiaries are concerned in connection with the determination of Exempt Person, the term “Exempt Person” will be applied only to the extent that the number of ordinary shares beneficially owned by such Exempt Person at all times does not exceed twenty-seven percent (27%) of the ordinary shares then outstanding in the aggregate. On August 30, 2019 and November 13, 2019, we entered into a Sixth Amendment and a Seventh Amendment to the Rights Agreement with the Bank of New York Mellon, respectively, for purposes of amending the definition of “Exempted Person.” Accordingly, in connection with the share exchange transaction with Naspers, Naspers, MIH Internet SEA Private Limited, and their respective subsidiaries have been included in the definition of “Exempted Person” to the extent that the number of ordinary shares beneficially owned by such Exempt Person at all times does not exceed eleven percent (11%) of the ordinary shares then outstanding in the aggregate, and removed Booking and its subsidiaries from the definition of “Exempted Person.”

***Requirements to Change the Rights of Holders of Ordinary Shares (Item 10.B.4 of Form 20-F)***

*Variations of Rights of Shares.* If at any time the share capital of our company is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, whether or not our company is being wound-up and except where our articles of association or the Companies Law impose any stricter quorum, voting or procedural requirements in regard to the variation of rights attached to a specific class, be varied either with the consent in writing of the holders of 75% of the issued shares of that class or with the sanction of a special resolution passed at a general meeting of the holders of the shares of that class.

***Limitations on the Rights to Own Ordinary Shares (Item 10.B.6 of Form 20-F)***

There are no limitations under the laws of the Cayman Islands or under the Memorandum and Articles of Association that limit the right of non-resident or foreign owners to hold or vote ordinary shares, other than anti-takeover provisions contained in the Memorandum and Articles of Association to limit the ability of others to acquire control of our company or cause our company to engage in change-of-control transactions.

***Provisions Affecting Any Change of Control (Item 10.B.7 of Form 20-F)***

*Anti-Takeover Provisions in the Memorandum and Articles of Association.* Some provisions of our current memorandum and articles of association may discourage, delay or prevent a change in control of our company or management that shareholders may consider favorable, including provisions that authorize our board of directors to issue preferred shares in one or more series and to designate the price, rights, preferences, privileges and restrictions of such preferred shares without any further vote or action by our shareholders.

However, under Cayman Islands law, our directors may only exercise the rights and powers granted to them under our memorandum and articles of association, as amended and restated from time to time, for a proper purpose and for what they believe in good faith to be in the best interests of our company.

***Ownership Threshold (Item 10.B.8 of Form 20-F)***

There are no provisions under Cayman Islands law applicable to our company, or under the Memorandum and Articles of Association, that require our company to disclose shareholder ownership above any particular ownership threshold.

***Differences Between the Law of Different Jurisdictions (Item 10.B.9 of Form 20-F)***

The Companies Law is derived, to a large extent, from the older Companies Acts of England but does not follow recent English statutory enactments, and accordingly there are significant differences between the Companies Law and the current Companies Act of England. In addition, the Companies Law differs from laws applicable to United States corporations and their shareholders. Set forth below is a summary of certain significant differences between the provisions of the Companies Law applicable to us and the comparable provisions of the laws applicable to companies incorporated in the United States and their shareholders.

*Mergers and Similar Arrangements.* The Companies Law permits mergers and consolidations between Cayman Islands companies and between Cayman Islands companies and non-Cayman Islands companies. For these purposes, (a) “merger” means the merging of two or more constituent companies and the vesting of their undertaking, property and liabilities in one of such companies as the surviving company and (b) a “consolidation” means the combination of two or more constituent companies into a consolidated company and the vesting of the undertaking, property and liabilities of such companies to the consolidated company. In order to effect such a merger or consolidation, the directors of each constituent company must approve a written plan of merger or consolidation, which must then be authorized by (a) a special resolution of the shareholders of each constituent company, and (b) such other authorization, if any, as may be specified in such constituent company’s articles of association. The written plan of merger or consolidation must be filed with the Registrar of Companies together with a declaration as to the solvency of the consolidated or surviving company, a declaration as to the assets and liabilities of each constituent company and an undertaking that a copy of the certificate of merger or consolidation will be given to the members and creditors of each constituent company and that notification of the merger or consolidation will be published in the Cayman Islands Gazette. Dissenting shareholders have the right to be paid the fair value of their shares (which, if not agreed between the parties, will be determined by the Cayman Islands court) if they follow the required procedures set out in the Companies Law, subject to certain exceptions. The exercise of dissenter rights will preclude the exercise by the dissenting shareholder of any other rights to which he or she might otherwise be entitled by virtue of holding shares, save for the right to seek relief on the grounds that the merger or consolidation is void or unlawful. Court approval is not required for a merger or consolidation which is effected in compliance with these statutory procedures.

A merger between a Cayman parent company and its Cayman subsidiary or subsidiaries does not require authorization by a resolution of shareholders of that Cayman subsidiary if a copy of the plan of merger is given to every member of that Cayman subsidiary to be merged unless that member agrees otherwise. For this purpose a company is a “parent” of a subsidiary of it holds issued shares that together represent at least ninety percent (90%) of the votes at a general meeting of the subsidiary.

The consent of each holder of a fixed or floating security interest over a constituent company is required unless this requirement is waived by a court in the Cayman Islands.

Separate from the statutory provisions relating to mergers and consolidations, the Companies Law also contains, there are statutory provisions that facilitate the reconstruction and amalgamation of companies by way of schemes of arrangement, provided that the arrangement is approved by a majority in number of each class of shareholders or creditors with whom the arrangement is to be made, and who must in addition represent three-fourths in value of each such class of shareholders or creditors, as the case may be, that are present and voting either in person or by proxy at a meeting, or meetings, convened for that purpose. The convening of the meetings and subsequently the arrangement must be sanctioned by the Grand Court of the Cayman Islands. While a dissenting shareholder has the right to express to the court the view that the transaction ought not to be approved, the Grand Court of the Cayman Islands can be expected to approve the arrangement if it determines that:

- the statutory provisions as to the required majority vote have been met;
- the shareholders have been fairly represented at the meeting in question and the statutory majority are acting bona fide without coercion of the minority to promote interests adverse to those of the class;
- the arrangement is such that may be reasonably approved by an intelligent and honest man of that class acting in respect of his interest; and
- the arrangement is not one that would more properly be sanctioned under some other provision of the Companies Law.

The Companies Law also contains a statutory power of compulsory acquisition which may facilitate the “squeeze out” of dissentient minority shareholder upon a tender offer. When a tender offer is made and accepted by holders of 90% of the shares affected within four months, the offeror may, within a two-month period commencing on the expiration of such four month period, require the holders of the remaining shares to transfer such shares to the offeror on the terms of the offer. An objection can be made to the Grand Court of the Cayman Islands but this is unlikely to succeed in the case of an offer which has been so approved unless there is evidence of fraud, bad faith or collusion.

If an arrangement and reconstruction by way of scheme of arrangement is thus approved and sanctioned, or if a tender offer is made and accepted, in accordance with the foregoing statutory procedures, a dissenting shareholder would have no rights comparable to appraisal rights, save that objectors to a takeover offer may apply to the Grand Court of the Cayman Islands for various orders that the Grand Court of the Cayman Islands has a broad discretion to make, which would otherwise ordinarily be available to dissenting shareholders of Delaware corporations, providing rights to receive payment in cash for the judicially determined value of the shares.

*Shareholders' Suits.* In principle, we will normally be the proper plaintiff to sue for a wrong done to us as a company, and as a general rule, a derivative action may ordinarily not be brought by a minority shareholder. However, based on English authority, which would in all likelihood be of persuasive authority in the Cayman Islands, the Cayman Islands courts can be expected (and have had occasion) to follow and apply the common law principles (namely the rule in *Foss v. Harbottle* and the exceptions thereto) so that a minority shareholder may be permitted to commence a class action against, or derivative actions in the name of, our company to challenge:

- an act which is ultra vires or illegal and is therefore incapable of ratification by the shareholders,

- act which constitutes a fraud against the minority where the wrongdoers are themselves in control of the company, and
- an act which requires a resolution with a qualified (or special) majority (i.e. more than a simple majority) which has not been obtained.

*Indemnification of Directors and Executive Officers and Limitation of Liability.* Cayman Islands law does not limit the extent to which a company's memorandum and articles of association may provide for indemnification of officers and directors, except to the extent any such provision may be held by the Cayman Islands courts to be contrary to public policy, such as to provide indemnification against civil fraud or the consequences of committing a crime. Our Memorandum and Articles of Association require us to indemnify our officers and directors for losses, damages or liabilities incurred or sustained in the execution or discharge of his duties, powers, authorities or discretions as such unless such losses, damages or liabilities arise from dishonesty, wilful default or fraud of such directors or officers. This standard of conduct is generally the same as permitted under the Delaware General Corporation Law for a Delaware corporation.

In addition, we have entered into indemnification agreements with our directors and executive officers that provide such persons with additional indemnification beyond that provided in our Memorandum and Articles of Association.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to our directors, officers or persons controlling us under the foregoing provisions, we have been informed that in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

*Directors' Fiduciary Duties.* Under Delaware corporate law, a director of a Delaware corporation has a fiduciary duty to the corporation and its shareholders. This duty has two components: the duty of care and the duty of loyalty. The duty of care requires that a director act in good faith, with the care that an ordinarily prudent person would exercise under similar circumstances. Under this duty, a director must inform himself of, and disclose to shareholders, all material information reasonably available regarding a significant transaction. The duty of loyalty requires that a director acts in a manner he reasonably believes to be in the best interests of the corporation. He must not use his corporate position for personal gain or advantage. This duty prohibits self-dealing by a director and mandates that the best interest of the corporation and its shareholders take precedence over any interest possessed by a director, officer or controlling shareholder and not shared by the shareholders generally. In general, actions of a director are presumed to have been made on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the corporation. However, this presumption may be rebutted by evidence of a breach of one of the fiduciary duties. Should such evidence be presented concerning a transaction by a director, the director must prove the procedural fairness of the transaction, and that the transaction was of fair value to the corporation.



As a matter of Cayman Islands law, a director of a Cayman Islands company is in the position of a fiduciary with respect to the company and therefore it is considered that he owes the following duties to the company—a duty to act in good faith in the best interests of the company, a duty not to make a personal profit based on his position as director (unless the company permits him to do so), a duty not to put himself in a position where the interests of the company conflict with his personal interest or his duty to a third party and a duty to exercise powers for the purpose for which such powers were intended. A director of a Cayman Islands company owes to the company a duty to act with skill and care. It was previously considered that a director need not exhibit in the performance of his duties a greater degree of skill than may reasonably be expected from a person of his knowledge and experience. However, English and Commonwealth courts have moved towards an objective standard with regard to the required skill and care and these authorities are likely to be followed in the Cayman Islands.

*Shareholder Action by Written Consent.* Under the Delaware General Corporation Law, a corporation may eliminate the right of shareholders to act by written consent by amendment to its certificate of incorporation. Cayman Islands law and our Memorandum and Articles of Association provide that shareholders may approve corporate matters by way of a unanimous written resolution signed by or on behalf of each shareholder who would have been entitled to vote on such matter at a general meeting without a meeting being held.

*Shareholder Proposals.* Under the Delaware General Corporation Law, a shareholder has the right to put any proposal before the annual meeting of shareholders, provided it complies with the notice provisions in the governing documents. A special meeting may be called by the board of directors or any other person authorized to do so in the governing documents, but shareholders may be precluded from calling special meetings.

Cayman Islands law provides shareholders with only limited rights to requisition a general meeting, and does not provide shareholders with any right to put any proposal before a general meeting. However, these rights may be provided in a company's articles of association. Our Memorandum and Articles of Association allow our shareholders holding not less than ten per cent. in par value of the capital of the Company attaching to the issued and outstanding shares of our company entitled to vote at general meetings to requisition a shareholder's meeting, in which case our directors shall convene an extraordinary general meeting. Other than this right to requisition a shareholders' meeting, our Articles of Association do not provide our shareholders other right to put proposal before annual general meetings or extraordinary general meetings not called by such shareholders. As an exempted Cayman Islands company, we are not obliged by law to call shareholders' annual general meetings.

*Cumulative Voting.* Under the Delaware General Corporation Law, cumulative voting for elections of directors is not permitted unless the corporation's certificate of incorporation specifically provides for it. Cumulative voting potentially facilitates the representation of minority shareholders on a board of directors since it permits the minority shareholder to cast all the votes to which the shareholder is entitled on a single director, which increases the shareholder's voting power with respect to electing such director. There are no prohibitions in relation to cumulative voting under the laws of the Cayman Islands but our Memorandum and Articles of Association do not provide for cumulative voting. As a result, our shareholders are not afforded any less protections or rights on this issue than shareholders of a Delaware corporation.

*Removal of Directors.* Under the Delaware General Corporation Law, a director of a corporation with a classified board may be removed only for cause with the approval of a majority of the outstanding shares entitled to vote, unless the certificate of incorporation provides otherwise. Under our Memorandum and Articles of Association, directors may be removed with or without cause, by an ordinary resolution of our shareholders. A director's office shall be vacated if the director (i) gives notice to the Company that he resigns the office of director, (ii) if he absents himself (without being represented by proxy or an alternate director appointed by him) from three consecutive meetings of the board of directors without special leave of absence from the directors, and they pass a resolution that he has by reason of such absence vacated office, (iii) if he dies, becomes bankrupt or makes any arrangement or composition with his creditors generally, or (iv) if he is found to be or becomes of unsound mind. Subject to the foregoing sentence, each director shall hold office until the expiration of his term and until his successor shall have been elected and qualified in accordance with the Memorandum and Articles of Association.

*Transactions with Interested Shareholders.* The Delaware General Corporation Law contains a business combination statute applicable to Delaware corporations whereby, unless the corporation has specifically elected not to be governed by such statute by amendment to its certificate of incorporation, it is prohibited from engaging in certain business combinations with an "interested shareholder" for three years following the date that such person becomes an interested shareholder. An interested shareholder generally is a person or a group who or which owns or owned 15% or more of the target's outstanding voting share within the past three years. This has the effect of limiting the ability of a potential acquirer to make a two-tiered bid for the target in which all shareholders would not be treated equally. The statute does not apply if, among other things, prior to the date on which such shareholder becomes an interested shareholder, the board of directors approves either the business combination or the transaction which resulted in the person becoming an interested shareholder. This encourages any potential acquirer of a Delaware corporation to negotiate the terms of any acquisition transaction with the target's board of directors.

Cayman Islands law has no comparable statute. As a result, we cannot avail ourselves of the types of protections afforded by the Delaware business combination statute. However, although Cayman Islands law does not regulate transactions between a company and its significant shareholders, the directors of the Company are required to comply with the fiduciary duties which they owe to the Company under Cayman Islands law, including the duty to ensure that, in their opinion, any such transactions are bona fide in the best interests of the Company and are entered into for a proper purpose and not with the effect of constituting a fraud on the minority shareholders.

*Dissolution; Winding up.* Under the Delaware General Corporation Law, unless the board of directors approves the proposal to dissolve, dissolution must be approved by shareholders holding 100% of the total voting power of the corporation. Only if the dissolution is initiated by the board of directors may it be approved by a simple majority of the corporation's outstanding shares. Delaware law allows a Delaware corporation to include in its certificate of incorporation a supermajority voting requirement in connection with dissolutions initiated by the board.

Under Cayman Islands law, a company may be wound up by either an order of the courts of the Cayman Islands or by a special resolution of its members or, if the company is unable to pay its debts as they fall due, by an ordinary resolution of its members. The court has authority to order winding up in a number of specified circumstances including where it is, in the opinion of the court, just and equitable to do so.

*Variation of Rights of Shares.* Under the Delaware General Corporation Law, a corporation may vary the rights of a class of shares with the approval of a majority of the outstanding shares of such class, unless the certificate of incorporation provides otherwise. Under Cayman Islands law and our Articles of Association, if our share capital is divided into more than one class of shares, we may vary the rights attached to any class with the written consent of holders of 75% of the issued shares of that class or with the sanction of a special resolution passed at a general meeting of the holders of the shares of that class.

*Amendment of Governing Documents.* Under the Delaware General Corporation Law, a corporation's governing documents may be amended with the approval of a majority of the outstanding shares entitled to vote, unless the certificate of incorporation provides otherwise. Under the Companies Law, our Memorandum and Articles of Association may only be amended by a special resolution of our shareholders.

*Rights of Non-resident or Foreign Shareholders.* There are no limitations imposed by our Memorandum and Articles of Association on the rights of non-resident or foreign shareholders to hold or exercise voting rights on our shares.

***Changes in Capital (Item 10.B.10 of Form 20-F)***

Our shareholders may from time to time by ordinary resolution:

- increase the share capital by such sum as the resolutions shall prescribe and with such rights, priorities and privileges annexed thereto, as our company in general meeting may determine;
- consolidate and divide all or any of our share capital into shares of a larger amount than our existing shares;
- by subdivision of our existing shares or any of them divide the whole or any part of its share capital into shares of smaller amount that is fixed by the Memorandum of Association or into shares without par value; or
- cancel any shares that at the date of the passing of the resolution have not been taken or agreed to be taken by any person.

Our shareholders may by special resolution, subject to confirmation by the Grand Court of the Cayman Islands on an application by our company for an order confirming such reduction, reduce our share capital or any capital redemption reserve in any manner permitted by law.

***Debt Securities (Item 12.A of Form 20-F)***

Not applicable.

**Warrants and Rights (Item 12.B of Form 20-F)**

Not applicable.

**Other Securities (Item 12.C of Form 20-F)**

Not applicable.

**Description of American Depositary Shares (Items 12.D.1 and 12.D.2 of Form 20-F)**

The Bank of New York Mellon is acting as the depository for the ADSs. The depository's corporate trust office is at 101 Barclay Street, New York, New York 10286. Each ADS represents 0.125 of an ordinary share (or a right to receive 0.125 of an ordinary share). The ADSs will also any represent other securities, cash or other property that may be held by the depository. The depository appointed the Hong Kong office of The Hongkong and Shanghai Banking Corporation Limited as the custodian to safe keep the securities on deposit.

You may hold ADSs either (A) directly (i) by having an American Depositary Receipt, also referred to as an ADR, which is a certificate evidencing a specific number of ADSs, registered in your name, or (ii) by having uncertificated ADSs registered in your name, or (B) indirectly by holding a security entitlement in ADSs through your broker or other financial institution that is a direct or indirect participant in The Depository Trust Company, also called DTC. If you hold ADSs directly, you are a registered ADS holder, also referred to as an ADS holder. This description assumes you are an ADS holder. If you hold the ADSs indirectly, you must rely on the procedures of your broker or other financial institution to assert the rights of ADS holders described in this section. You should consult with your broker or financial institution to find out what those procedures are.

Registered holders of uncertificated ADSs will receive statements from the depository confirming their holdings.

As an ADS holder, we will not treat you as one of our shareholders and you will not have shareholder rights. The depository will be the holder of the ordinary shares underlying your ADSs. However, as a holder of ADSs, you will have ADS holder rights. A deposit agreement among us, the depository and you, as an ADS holder and the beneficial owners of ADSs set out ADS holder rights as well as the rights and obligations of the depository. New York law governs the deposit agreement and the ADSs.

We are providing ADS holders with this summary of the deposit agreement. As an ADS holder, you should read this summary together with the deposit agreement and the form of ADR. A copy of the deposit agreement is on file with the SEC as Exhibit 2.11 of our 2019 Form 20-F. You may obtain a copy of the deposit agreement from the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. You can also inspect a copy of the deposit agreement at the corporate trust office of the depository, currently located at 101 Barclay Street, New York, New York 10286, and at the principal offices of the custodian under the deposit agreement, currently located at 1 Queen's Road, Central, Hong Kong. We urge you to review the deposit agreement in its entirety as well as the form of ADR attached to the deposit agreement.

The depositary has agreed to pay to you, as an ADS holder, the cash dividends or other distributions it or the custodian receives on ordinary shares or other deposited securities after deducting its fees and expenses. You will receive these distributions in proportion to the number of ordinary shares your ADSs represent.

- *Cash.* The depositary will convert any cash dividend or other cash distribution we pay on the ordinary shares into U.S. dollars, if it can do so on a reasonable basis and can transfer the U.S. dollars to the United States. If that is not possible or if any approval from any government is needed and cannot be obtained without excessively burdensome or otherwise unreasonable efforts, or there are foreign exchange controls in place that prohibit such transfer, the deposit agreement allows The depositary to distribute RMB only to those ADS holders to whom it is possible to do so. It will hold RMB it cannot convert for the account of the ADS holders who have not been paid. It will not invest RMB and it will not be liable for interest.

Before making a distribution, any withholding taxes that must be paid will be deducted. The depositary will distribute only whole U.S. dollars and cents and will round fractional cents to the nearest whole cent. If the exchange rates fluctuate during a time when The depositary cannot convert RMB, you may lose some or all of the value of the distribution.

- *Shares.* The depositary may distribute additional ADSs representing any ordinary shares we may distribute as a dividend or free distribution. The depositary will only distribute whole ADSs. It will sell ordinary shares which would require it to issue a fractional ADS and distribute the net proceeds in the same way as it does with cash. If the depositary does not distribute additional ADSs, each ADS will also represent the new ordinary shares.
- *Rights to purchase additional shares.* If we offer holders of our ordinary shares any rights to subscribe for additional ordinary shares or any other rights, the depositary may make these rights available to you. We must first instruct the depositary to do so and furnish it with satisfactory evidence that it is legal to do so. If we do not furnish this evidence and/or give these instructions, and the depositary decides it is practical to sell the rights, the depositary will sell the rights and distribute the proceeds, in the same way as it does with cash. The depositary may allow rights that are not distributed or sold to lapse. In that case, you will receive no value for them.

If the depositary makes rights available to you, it will exercise the rights and purchase the ordinary shares on your behalf. The depositary will then deposit the ordinary shares and deliver the ADSs to you. It will only exercise rights if you pay it the exercise price and any other charges the rights require you to pay.

U.S. securities laws may restrict the sale, deposit, cancellation and transfer of the ADSs issued after exercise of rights. Under the deposit agreement, the depository will not distribute rights to holders of ADSs unless the distribution and sale of rights and the securities to which these rights relate are either exempt from registration under the Securities Act with respect to all holders of ADSs, or are registered under the provisions of the Securities Act. We can give no assurance that we can establish an exemption from registration under the Securities Act and we are under no obligation to file a registration statement with respect to these rights or underlying securities or to endeavor to have a registration statement declared effective. In this case, the depository may deliver the ADSs under a separate restricted deposit agreement which will contain the same provisions as the deposit agreement, except for changes needed to put the restrictions in place.

- *Other distributions.* The depository will send to you anything else we distribute on deposited securities by means it thinks are legal, fair and practical. If it cannot make the distribution in that way, the depository has a choice. It may decide to sell what we distributed and distribute the net proceeds in the same way as it does with cash or it may decide to hold what we distributed, in which case ADSs will also represent the newly distributed property.

The depository is not responsible if it decides that it is unlawful or impractical to make a distribution available to any ADS holders. We have no obligation to register ADSs, ordinary shares, rights or other securities under the Securities Act. We also have no obligation to take any other action to permit the distribution of ADSs, ordinary shares, rights or anything else to ADS holders. This means that you may not receive the distribution we make on our ordinary shares or any value for them if it is illegal or impractical for us to make them available to you.

#### *Deposit, withdrawal and cancellation*

The depository will deliver ADSs if you or your broker deposits ordinary shares. Upon payment of its fees and expenses and of any taxes or charges, such as stamp taxes or stock transfer taxes or fees, The depository will register the appropriate number of ADSs in the names you request and will deliver the ADSs at its corporate trust office to the persons you request.

As an ADS holder, you may turn in your ADSs at the depository's office. Upon payment of its fees and expenses and of any taxes or charges, such as stamp taxes or stock transfer taxes or fees, the depository will deliver the underlying ordinary shares to an account designated by you or at the office of the custodian. Or, at your request, risk and expense, the depository will deliver the deposited securities at its corporate trust office, if feasible.

#### *Voting rights*

As an ADS holder, you may instruct the depository to vote the ordinary shares underlying your ADSs. Otherwise, you will not be able to exercise your right to vote unless you withdraw the ordinary shares and become registered as a shareholder of our company. However, you may not know about the meeting enough in advance to withdraw the ordinary shares.

If we ask for your instructions, the depositary will notify you of the upcoming vote and arrange to deliver our voting materials to you. The materials will:

- describe the matters to be voted on; and
- explain how you may instruct the depositary to vote the ordinary shares or other deposited securities underlying your ADSs as you direct. For instructions to be valid, the depositary must receive them on or before the date specified. the depositary will try, in compliance with Cayman Islands law and the provisions of our memorandum and articles of association, to vote or to have its agents vote the ordinary shares or other deposited securities as you instruct or as described below.

We cannot assure you that you will receive the voting materials in time to ensure that you can instruct the depositary to vote the ordinary shares underlying your ADSs. In addition, the depositary and its agents are not responsible for failing to carry out voting instructions or for the manner of carrying out voting instructions. This means that you may not be able to exercise your right to vote and there may be nothing you can do if the ordinary shares underlying your ADSs are not voted as you requested.

If the depositary does not receive voting instructions from you by the specified date, it will consider you to have authorized and directed it to give a discretionary proxy to a person designated by us to vote the number of deposited securities represented by your ADSs. The depositary will give a discretionary proxy to such person in those circumstances to vote on all questions to be voted upon unless we notify the depositary that:

- we do not wish to receive a discretionary proxy;
- there is substantial shareholder opposition to the particular question; or
- the particular question would have a material and adverse impact on our shareholders.

#### *Notices and reports*

The depositary will make available for inspection by registered holders at its Corporate Trust Office any reports and communications, including any proxy soliciting material, received from our company, which are both (a) received by the depositary as the holder of the deposited securities, and (b) made generally available to the holders of such deposited securities by our company. The depositary will also, upon our written request, send to the registered holders copies of such reports when furnished by our company pursuant to the deposit agreement. Any such reports and communications, including any proxy soliciting material, furnished to the depositary by our company will be furnished in English.

**Persons depositing or withdrawing shares**

**must pay:**

US\$5.00 (or less) per 100 ADSs (or portion thereof)

US\$0.02 (or less) per ADS

A fee equivalent to the fee that would be payable if securities distributed to you had been shares and the shares had been deposited for issuance of ADSs

US\$0.02(or less) per ADSs per calendar year

Registration or transfer fees

Expenses of the depositary

Taxes and other governmental charges the depositary or the custodian have to pay on any ADS or share underlying an ADS, for example, stock transfer taxes, stamp duty or withholding taxes

Any charges incurred by the depositary or its agents for servicing the deposited securities

**For:**

- Issuance of ADSs, including issuances resulting from a distribution of shares or rights or other property

- Cancellation of ADSs for the purpose of withdrawal, including if the deposit agreement terminates

- Any cash distribution to ADS holders

- Distribution of securities distributed to holders of deposited securities which are distributed by the depositary to ADS holders

- Depositary services

- Transfer and registration of shares on our share register to or from the name of the depositary or its agent when you deposit or withdraw shares

- Converting foreign currency to U.S. dollars

- Cable, telex and facsimile transmissions (when expressly provided in the deposit agreement)

- As necessary

- As necessary

The depositary collects its fees for delivery and surrender of ADSs directly from investors depositing shares or surrendering ADSs for the purpose of withdrawal or from intermediaries acting for them. The depositary collects fees for making distributions to investors by deducting those fees from the amounts distributed or by selling a portion of distributable property to pay the fees. The depositary may collect its annual fee for depositary services by deduction from cash distributions or by directly billing investors or by charging the book-entry system accounts of participants acting for them. The depositary may generally refuse to provide fee-attracting services until its fees for those services are paid.



From time to time, the depositary may make payments to us to reimburse and / or share revenue from the fees collected from ADS holders, or waive fees and expenses for services provided, generally relating to costs and expenses arising out of establishment and maintenance of the ADS program. In performing its duties under the deposit agreement, the depositary may use brokers, dealers or other service providers that are affiliates of the depositary and that may earn or share fees or commissions.

The depositary may convert currency itself or through any of its affiliates and, in those cases, acts as principal for its own account and not as agent, advisor, broker or fiduciary on behalf of any other person and earns revenue, including, without limitation, transaction spreads that it will retain for its own account. The revenue is based on, among other things, the difference between the exchange rate assigned to the currency conversion made under the deposit agreement and the rate that the depositary or its affiliate receives when buying or selling foreign currency for its own account. The depositary makes no representation that the exchange rate used or obtained in any currency conversion under the deposit agreement will be the most favorable rate that could be obtained at the time or that the method by which that rate will be determined will be the most favorable to ADS holders, subject to the depositary's obligations under the deposit agreement. The methodology used to determine exchange rates used in currency conversions is available upon request.

#### *Payment of taxes*

As an ADS holder, you will be responsible for any taxes or other governmental charges payable on your ADSs or on the deposited securities underlying your ADSs. The depositary may refuse to transfer your ADSs or allow you to withdraw the deposited securities underlying your ADSs until such taxes or other charges are paid. It may apply payments owed to you or sell deposited securities underlying your ADSs to pay any taxes owed and you will remain liable for any deficiency. If it sells deposited securities, it will, if appropriate, reduce the number of ADSs to reflect the sale and pay to you any proceeds, or send to you any property remaining after it has paid the taxes.

#### *Reclassifications, recapitalizations and mergers*

##### **If we:**

- Changes the nominal or par value of our shares
- Reclassify, split up or consolidate any of the deposited securities
- Recapitalize, reorganize, merge, liquidate, sell all or substantially all of our assets, or take any similar action

##### **Then:**

The cash, shares or other securities received by the depositary will become deposited securities. Each ADS will automatically represent its equal share of the new deposited securities.

The depositary may, and will if we ask it to, deliver new ADSs or ask you to surrender your outstanding ADRs in exchange for new ADRs identifying the new deposited securities.

## *Amendment and termination*

We may agree with the depositary to amend the deposit agreement and the ADRs without your consent for any reason. If the amendment will cause any of the following results, the amendment will become effective as to outstanding ADSs 30 days after the depositary notifies ADS holders of the amendment:

- adds or increases fees or charges, except for:
  - taxes and other governmental charges;
  - registration fees;
  - cable, telex or facsimile transmission costs;
  - delivery costs or other such expenses; or
  - prejudices any important right of ADS holders.

At the time an amendment becomes effective, you are considered, by continuing to hold your ADSs, to agree to the amendment and to be bound by the ADRs and the deposit agreement as amended.

The depositary will terminate the deposit agreement if we ask it to do so. In such case, the depositary must notify you at least 90 days before termination. The depositary may also terminate the deposit agreement if the depositary has told us that it would like to resign and we have not appointed a new depositary bank within 90 days.

After termination, the depositary and its agents will be required to do only the following under the deposit agreement:

- collect distributions on the deposited securities;
- sell rights and other property; and

One year after termination, the depositary may sell any remaining deposited securities. After that, the depositary will hold the proceeds of the sale, as well as any other cash it is holding under the deposit agreement for the pro rata benefit of the ADS holders that have not surrendered their ADSs. It will not invest the money and will have no liability for interest. The depositary's only obligations will be an indemnification obligation and an obligation to account for the proceeds of the sale and other cash. After termination, our only obligations will be an indemnification obligation and our obligation to pay specified amounts to the depositary.

### *Limitations on obligations and liability*

The deposit agreement expressly limits our obligations and the obligations of the depositary, and it limits our liability and the liability of the depositary. We and the depositary:

- are only obligated to take the actions specifically provided for in the deposit agreement without negligence or bad faith;
- are not liable if either is prevented or delayed by law or circumstances beyond their control from performing our obligations under the deposit agreement;
- are not liable if either exercises discretion permitted under the deposit agreement;
- have no obligation to become involved in a lawsuit or other proceeding related to the ADRs or the deposit agreement on your behalf or on behalf of any other party; and
- may rely upon any documents they believe in good faith to be genuine and to have been signed or presented by the proper party.

In the deposit agreement, we and the depositary have agreed to indemnify each other under designated circumstances.

### *Requirements for depositary actions*

The ADSs are transferable on the books of the depositary, provided that the depositary may close the transfer books at any time or from time to time when it deems expedient in connection with the performance of its duties. Before the depositary will deliver the underlying ordinary shares to an account designated by you or register transfer of ADS, make a distribution on ADSs, or process a withdrawal of shares, the depositary may require:

- payment of stock transfer or other taxes or other governmental charges and transfer or registration fees charged by third parties for the transfer of any shares or other deposited securities;
- production of satisfactory proof of the identity and genuineness of any signature or other information it deems necessary; and
- compliance with regulations it may establish, from time to time, consistent with the deposit agreement, including presentation of transfer documents.

The depositary may refuse to deliver, transfer or register transfers of ADSs generally when our books or the books of the depositary are closed, or at any time if the depositary or we think it advisable to do so.

### *Your right to receive the ordinary shares underlying your ADSs*

You have the right to surrender your ADSs and withdraw the underlying ordinary shares at any time except:

- when temporary delays arise because: (1) the depositary or we have closed its or our transfer books; (2) the transfer of ordinary shares is blocked to permit voting at a shareholders' meeting or (3) we are paying a dividend on the ordinary shares;

- when you owe money to pay fees, taxes and similar charges; or
- when it is necessary to prohibit withdrawals in order to comply with any laws or governmental regulations that apply to ADSs or to the withdrawal of ordinary shares or other deposited securities.

The right of withdrawal may not be limited by any other provision of the deposit agreement.

#### *Inspection of register of holders of ADSs*

You have a right to inspect the register of holders of ADSs, but not for the purpose of contacting those holders about a matter unrelated to our business or the ADSs.

#### *Direct Registration System*

In the deposit agreement, all parties to the deposit agreement acknowledge that the Direct Registration System, also referred to as DRS, and Profile Modification System, also referred to as Profile, will apply to the ADSs. DRS is a system administered by DTC that facilitates interchange between registered holding of uncertificated ADSs and holding of security entitlements in ADSs through DTC and a DTC participant. Profile is feature of DRSs that allows a DTC participant, claiming to act on behalf of a registered holder of uncertificated ADSs, to direct the depository to register a transfer of those ADSs to DTC or its nominee and to deliver those ADSs to the DTC account of that DTC participant without receipt by the depository of prior authorization from the ADS holder to register that transfer.

In connection with and in accordance with the arrangements and procedures relating to DRS/ Profile, the parties to the deposit agreement understand that the depository will not determine whether the DTC participant that is claiming to be acting on behalf of an ADS holder in requesting registration of transfer and delivery as described in the paragraph above has the actual authority to act on behalf of the ADS holder (notwithstanding any requirements under the Uniform Commercial Code). In the deposit agreement, the parties agree that the depository's reliance on and compliance with instructions received by the depository through the DRS/Profile system and in accordance with the deposit agreement will not constitute negligence or bad faith on the part of the depository.

**TECHNICAL CONSULTING AND SERVICES AGREEMENT**

This Technical Consulting and Services Agreement (this “**Agreement**”) is entered into in Shanghai, the People’s Republic of China (“**PRC**”) as of \_\_\_\_\_ by and between the following parties:

- (1) **Party A:** \_\_\_\_\_  
 Address: \_\_\_\_\_; and
- (2) **Party B:** \_\_\_\_\_  
 Address: \_\_\_\_\_

**WHEREAS**

- (1) Party A is a wholly foreign owned enterprise duly incorporated and validly existing under the PRC laws, having the relevant resources to provide Party B with the technical consulting and services.
- (2) Party B is a limited liability company duly incorporated and validly existing under the PRC laws.
- (3) Party B intends to entrust Party A, and Party A agrees to accept Party B’s entrustment, to provide exclusive technical consulting and related services to Party B by utilizing Party A’s strengths in human resources, technology and information during the term of this Agreement. Party B agrees to only accept such technical consulting and services provided by Party A.

**NOW, THEREFORE**, Upon mutual consultation, the Parties hereby agree as follows:

**1. Exclusive Consulting and Service; Sole and Exclusive Rights and Interests**

- 1.1 During the term of this Agreement, Party A agrees to provide Party B with relevant technical consulting and services (see details in Exhibit 1 attached hereto) as Party B’s exclusive consulting and services provider subject to the terms and conditions hereof.
- 1.2 During the term of this Agreement, Party B agrees to hereby irrevocably appoint and designate Party A as its exclusive technical consulting and services provider and agrees to accept the technical consulting and services provided by Party A. Party B further agrees that during the term hereof, it will not accept from any third party, directly or indirectly, any other technical consulting and services the same as or similar to those provided hereunder, nor will Party B enter into any similar service agreement with any third party, unless otherwise agreed by Party A in writing in advance.
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- 1.3 Party A shall enjoy sole and exclusive rights and interests in any and all rights, ownership, interests and intellectual property rights arising from the performance of this Agreement, including but not limited to copyrights, patent rights, technical know-how, trade secrets, etc., whether developed by Party A or Party B based on Party A's intellectual property rights. Unless otherwise expressly provided herein, Party B shall have no rights to each of the foregoing.
- 1.4 Party A has the right to designate and appoint, at its sole discretion, any of its Affiliates to provide any service set forth herein without obtaining any form of consents or confirmations from Party B. The "Affiliates" referred to in this paragraph shall include, without limitation,
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## **2. Calculation and Payment of the Consulting and Service Fee**

- 2.1 The Parties agree that the consulting and service fees (hereinafter referred to as the "**Service Fees**") hereunder shall be determined based upon the services rendered by Party A as entrusted, and Party A may, at its sole reasonable discretion, decide the amount and payment method of the Service Fees payable by Party B. The calculation and payment method of the Service Fees are set out in Exhibit 2 attached hereto.
- 2.2 If at any time throughout the existence of this Agreement, Party A decides, at its own reasonable judgment, to adjust the calculation and payment method of the Service Fees for any reason whatsoever, it has the right to notify Party B of such adjustment with a five (5) days' prior written notice without any need to obtain Party B's consent.

## **3. Representations and Warranties**

- 3.1 Party A hereby represents and warrants that:

- (1) it is a wholly foreign-owned enterprise duly incorporated and validly existing under the laws of the PRC;
- (2) it executes and performs this Agreement within the scope of its corporate power and business; it has obtained necessary corporate action and appropriate authorization and necessary consent and approvals from third parties and government agency, and its execution and performance of this Agreement will not constitute a breach of any restrictions by laws or contracts by which it is bound or affected; and
- (3) This Agreement, once executed, constitutes its lawful, effective and binding obligation, which may be enforced pursuant to the terms hereof.

- 3.2 Party B hereby represents and warrants that:

- (1) it is a limited liability company duly incorporated and validly existing under the laws of the PRC;
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- (2) it executes and performs this Agreement within the scope of its corporate power and business; it has obtained necessary corporate action and appropriate authorization and necessary consent and approvals from third parties and government agency, and its execution and performance of this Agreement will not constitute a breach of any restrictions by laws or contracts by which it is bound or affected; and
- (3) This Agreement, once executed, constitutes its lawful, effective and binding obligation, which may be enforced pursuant to the terms hereof.

#### **4. Confidentiality**

- 4.1 Both Parties acknowledge and confirm that any oral or written materials exchanged by and between the Parties in connection with this Agreement are confidential (the “**Confidential Information**”). Both Parties shall keep secret of all Confidential Information and not disclose, offer or transfer any such documents to any third party without prior written consent from the other Party, except for such information: (a) as are known or will be known by the public (except by disclosure of the receiving party without authorization); (b) as are required to be disclosed in accordance with applicable laws or stock exchange rules or regulations; or (c) as are required to be disclosed by any Party to its legal counsel or financial consultant for the purpose of the transaction of this Agreement, provided that such legal counsel or financial consultant shall also be subject to the confidentiality obligation similar to that stated hereof. Any disclosure by employees or agencies employed by any Party shall be deemed the disclosure of such Party and such Party shall assume the liabilities for its breach of contract pursuant to this Agreement.
- 4.2 Party B further agrees to try its best to take various reasonable measures to keep secret of Party A’s Confidential Information that it may be aware of or have access to due to its acceptance of Party A’s exclusive technical consulting and services. Upon termination of this Agreement, Party B shall, upon Party A’s request, either return to Party A or destroy by itself all the documents, materials or software containing the Confidential Information and shall delete any such Confidential Information from all the relevant memory devices and cease to use such Confidential Information.
- 4.3 Both Parties agree that this Article 4 shall survive even if this Agreement is amended, cancelled, terminated or held impractical.

#### **5. Party A’s Financial Support**

To ensure that the cash flow requirements with regard to the business operations of Party B are met and/or to set off loss accrued during such operations, Party A agrees that it shall, to the extent permitted under PRC law, either by itself or through its designated party, provide financial support to Party B, including without limitation, in the form of entrusted bank loans.

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## 6. Compensation Liability for Breach of Contract

- 6.1 If either party (“**Defaulting Party**”) breaches any provision of this Agreement, which causes damage to the other Party (“**Non-defaulting Party**”), the Non-defaulting Party may notify the Defaulting Party in writing and request it to immediately rectify and correct such breach of contract; if the Defaulting Party fails to take any action satisfactory to the Non-defaulting Party to rectify and correct such breach within fifteen (15) working days upon the issuance of the written notice by the Non-defaulting Party, the Non-defaulting Party may promptly take actions provided in this Agreement or take other remedies in accordance with laws.
- 6.2 Party B further agrees to indemnify and hold Party A harmless from any losses, damage, obligations and expenses incurred or arising from the contents of the technical consulting and services that Party B requires Party A to provide, or resulting from any litigations, claims or other requests filed against Party A.
- 6.3 Both Parties agree that this Article 6 shall survive even if this Agreement is amended, cancelled, terminated or held impractical.

## 7. Effectiveness and Term

- 7.1 This Agreement shall be executed and take effect as of the date first written above. The term of this Agreement is ten (10) years unless early termination occurs in accordance with relevant provisions herein.
- 7.2 This Agreement may be automatically extended for another ten (10) years upon its expiry, and may be extended for unlimited number of times thereafter, unless Party A notifies Party B in writing of its disagreement with the extension. Party B may not veto the extension of the term of this Agreement.

## 8. Termination

- 8.1 Termination. This Agreement shall remain valid, unless Party A disapproves the extension of the term hereof pursuant to Article 7.2 above or this Agreement is early terminated pursuant to Article 8.2 below.
- 8.2 Early Termination.
- (1) During the term hereof, in no event shall Party B terminate this Agreement earlier, unless Party A commits gross negligence, fraud or other illegal action, or goes bankrupt. Notwithstanding the foregoing, Party A shall have the right to terminate this Agreement at any time by issuing a thirty (30) days’ prior written notice to Party B.
  - (2) During the term hereof, if Party B breaches this Agreement, Party A may terminate this Agreement by serving a written notice to Party B if Party B fails to correct its breach within fifteen (15) days upon its receipt of the written notice from Party A specifying the breach.
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- (3) If during the term provided in Article 7.1 and 7.2 above, the operating term of either Party (including any extension thereof) expires or is otherwise terminated, this Agreement shall terminate upon the termination of such Party, unless such Party has transferred its rights and obligations hereunder according to Article 11 hereof.
- 8.3 Survival. After the termination of this Agreement, the respective rights and obligations of the Parties under Articles 4, 6 and 14 shall nonetheless remain valid.

## **9. Force Majeure**

- 9.1 An “Force Majeure Event” shall mean any event beyond the reasonable anticipation and control of a Party so affected, which are unavoidable even if the affected Party takes a reasonable care, including but not limited to governmental acts, Act of God, fires, explosion, storms, floods, earthquakes, tides, lightning or wars. However, any shortage of credits, funds or financing shall not be deemed as the events beyond reasonable control of the affected Party. The affected Party shall forthwith inform the other Party of the details concerning the exemption of liabilities and the steps that need to be taken to complete discharging such liabilities.
- 9.2 In the event that the performance of this Agreement is delayed or interrupted due to the said Force Majeure Event, the affected Party shall be excused from any liability hereunder to the extent of the delayed or interrupted performance, provided, however, that the affected Party shall take appropriate measures to minimize or eliminate the adverse impacts therefrom and strive to resume the performance of this Agreement so delayed or interrupted. The Parties agree to use their best efforts to continue the performance of this Agreement once the said Force Majeure Event disappears.

## **10. Notices**

Notices or other communications required to be given by any Party pursuant to this Agreement shall be written in Chinese or English and delivered personally or sent by registered mail, postage prepaid mail, express delivery or facsimile transmission to the addresses of the other Parties set forth below, or to other designated addresses notified by such other Parties to such Party from time to time, or the addresses of other persons designated by such Party. A notice is deemed to be duly served: (a) if delivered personally, upon the delivery; (b) if sent by mail, on the tenth (10th) day after the date when the air registered mail with postage prepaid has been sent out (as is shown on the postmark), or the fourth (4th) day after delivered to the courier service agency; and (c) if sent by facsimile transmission, upon the receipt time as is shown on the transmission confirmation of relevant documents.

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If to **Party A:** \_\_\_\_\_

Attn: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: (\_\_\_\_\_) \_\_\_\_\_

Fax: (\_\_\_\_\_) \_\_\_\_\_

If to **Party B:** \_\_\_\_\_

Address: \_\_\_\_\_

Phone: (\_\_\_\_\_) \_\_\_\_\_

Fax: (\_\_\_\_\_) \_\_\_\_\_

## **11. Assignment**

- 11.1 Party B shall not assign its rights and obligations under this Agreement to any third party without prior written consent from Party A.
- 11.2 Party B hereby agrees that Party A may assign its rights and obligations under this Agreement as Party A may decide at its sole discretion, and such assignment shall only be subject to a written notice sent to Party B, without subject to its consent. When and as requested by Party A, Party B shall execute with the assignee a supplementary agreement or an agreement substantially the same as this Agreement.

## **12. Entire Agreement and Severability**

- 12.1 The Parties confirm that this Agreement shall, upon its effectiveness, constitute the entire agreement and common understanding of the Parties with respect to the contents herein and fully supersede all prior verbal and/or written agreements and understandings between the Parties with respect to the contents herein.
- 12.2 If any one or more provisions of this Agreement is identified or judged by a court of competent jurisdiction or arbitration authority as void, invalid or unenforceable in any respect according to any laws or regulations, the validity, legality and enforceability of the other provisions hereof shall not be affected or impaired in any way. The Parties shall cease performing such void, invalid or unenforceable provisions and revise those void, invalid or unenforceable provisions only to the extent closest to the original intention thereof to recover its validity or enforceability for such specific facts and circumstances.

## **13. Amendment and Supplement to Agreement**

Any amendment and supplement to this Agreement shall be made in writing by the Parties. Any agreements on such amendment and supplement duly executed by both Parties shall be deemed as a part of this Agreement and shall have the same legal effect as this Agreement.

## **14. Governing Law and Dispute Resolution**

- 14.1 The formation, validity, interpretation, performance and termination of this Agreement and the amendment hereto as well as the resolution of any disputes arising hereunder shall be governed by the PRC laws.
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- 14.2 Any disputes arising from the interpretation and performance of this Agreement shall first be resolved through friendly consultation among the Parties. In case no settlement can be reached through consultation within thirty (30) days after the request for consultation is made by any Party with a written notice, any Party can submit such disputes to Shanghai International Economic and Trade Arbitration Commission for arbitration in accordance with its then effective rules. The arbitration shall take place in Shanghai. The arbitration proceedings shall be conducted in Chinese. The arbitration award shall be final and binding upon both Parties.
- 14.3 If any dispute arises from the interpretation and performance of this Agreement or any dispute is under arbitration, the Parties shall continue to perform their respective rights and obligations hereunder other than those in dispute.

## 15. Miscellaneous

- 15.1 The headings contained in this Agreement are for the convenience of reference only and shall not be used to interpret, explain or otherwise affect the meaning of the provisions of this Agreement.
- 15.2 The Parties agree to promptly execute such documents, or take such further actions, as are reasonably necessary or beneficial for performing the provisions or achieving the purposes hereof.
- 15.3 Any Party's failure to exercise the rights under this Agreement in time shall not be deemed as its waiver of such rights and would not affect its future exercise of such rights.
- 15.4 Any obligations that are incurred or become due arising from this Agreement by the expiry or early termination of this Agreement shall survive the expiry or termination of this Agreement.
- 15.5 The exhibits attached hereto shall constitute a component of this Agreement and shall be equally binding as this Agreement.
- 15.6 This Agreement is written in Chinese and executed with two (2) originals with the same legal effect.

IN WITNESS WHEREOF, this Agreement has been duly executed by the Parties or their respective authorized representatives on the date first above written.

*[The remainder of this page is intentionally left blank]*

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**Party A:** \_\_\_\_\_

Signature: \_\_\_\_\_

Authorized representative: \_\_\_\_\_  
(stamp)

**Party B:** \_\_\_\_\_

Signature: \_\_\_\_\_

Authorized representative: \_\_\_\_\_  
(stamp)

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**Exhibit 1: List of Technical Consulting and Services**

Subject to the terms and conditions of this Agreement, the Parties hereby agree and confirm that Party A will provide the following technical consulting and services to Party B:

- (1) webpage design and content creation for all of the existing and future websites of Party B (including without limitation www.ctrip.com);
  - (2) research and development of the relevant technology required in connection with Party B's business operations, including development, design and production of database software for information storage, customer interface software and other related technologies as well as granting license of such technology to Party B;
  - (3) technology application and implementation for Party B's business operations, including without limitation master design, installation, commissioning and trial operation of technical systems;
  - (4) routine maintenance, monitor, commissioning and trouble shooting for Party B's computer network equipment necessary for its business operations, including prompt input of user information to database, or prompt update of database and regular update of customer interface, as well as other related technical services;
  - (5) consulting services for procurement of equipment, software and hardware systems necessary for business operations by Party B, including without limitation consulting and advising on selection, installation and commissioning of tool software, application software and technical platform, as well as the selection, type and function of complementary hardware facilities and equipment;
  - (6) pre-work and on-work training and technical support and assistance for Party B's employees, including without limitation providing appropriate raining for Party B and its employees on customer services or technologies, sharing knowledge and experience in installation and operation of systems and equipment, assisting to resolve any problem in connection with system and equipment installation and operation, consulting and advising on operation of any other web edition platform and software, and assisting to collect and compile information and contents;
  - (7) technical consulting and response to enquiries raised by Party B relating to network equipment, technical products and software;
  - (8) a certain level of staff support at Party B's request, including without limitation temporarily sending and seconding relevant staff; and
  - (9) any other services required by Party B for business operations.
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**Exhibit 2: Calculation and Payment of Services Fee**

Subject to the terms and conditions of this Agreement, the Parties hereby agree and confirm that the amount of the Service Fees shall be calculated and paid in the following way:

1. The Service Fees hereunder shall be calculated on the basis of Party B's revenue and its relevant operating cost, selling cost, management cost and such other costs, and may be charged:
    - (1) at a percentage of Party B's revenue;
    - (2) at a fixed amount for the service items completed for Party B;
    - (3) at a fixed amount of loyalty fee for specific software and patents; and/or
    - (4) in such other manner as decided by Party A from time to time based on the nature of the service.
  2. Party A shall send to Party B a written confirmation about the Service Fees, and the amount of the Service Fees shall be determined after taking into account:
    - (1) difficulty of the technology and complexity of the services provided by Party A;
    - (2) time required by Party A's employees to provide the services; and
    - (3) contents and commercial value of the services, software or consulting provided by Party A; and/or
    - (4) the benchmark price of the similar services on the market.
  3. Party A shall calculate the Service Fees and issue the corresponding invoices to Party B on a fixed period of time basis (monthly, quarterly and such other period as determined by Party A). Party B shall pay the Service Fees to the bank account designated by Party A.
  4. The Service Fees payable by Party B to Party A shall be subject to the payment notice sent by Party A to Party B.
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### Schedule A

The following schedule sets forth other major similar agreements the registrant entered into with each of its consolidated affiliated Chinese entities. Other than the information set forth below, there is no material difference between such other agreements and this exhibit.

<u>VIE</u>	<u>Executing Parties</u>	<u>Execution Date</u>
Shanghai Ctrip Commerce Co., Ltd.	Party A: Ctrip Travel Network Technology (Shanghai) Co., Ltd. Party B: Shanghai Ctrip Commerce Co., Ltd.	December 14, 2015
Shanghai Huacheng Southwest International Travel Agency Co., Ltd.*	Party A: Ctrip Travel Network Technology (Shanghai) Co., Ltd. Party B: Shanghai Huacheng Southwest International Travel Agency Co., Ltd.	December 14, 2015
Chengdu Ctrip Travel Agency Co., Ltd.	Party A: Ctrip Travel Network Technology (Shanghai) Co., Ltd. Party B: Chengdu Ctrip Travel Agency Co., Ltd.	December 14, 2015

\* Shanghai Huacheng Southwest International Travel Agency Co., Ltd. is the wholly-owned subsidiary of Shanghai Ctrip Commerce Co., Ltd, a consolidated affiliated Chinese entity of Trip.com Group Limited.

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## LOAN AGREEMENT

This Loan Agreement (this “**Agreement**”) is entered into in Shanghai, the People’s Republic of China (“**PRC**”) as of \_\_\_\_\_ by and between the following parties:

- (1) **Party A:** \_\_\_\_\_  
Address: \_\_\_\_\_; and
- (2) **Party B:** \_\_\_\_\_  
Sex: \_\_\_\_\_  
PRC Identification Card No.: \_\_\_\_\_  
Address: \_\_\_\_\_;

(In this Agreement, Party A and Party B are hereinafter collectively referred to as the “**Parties**” and individually, as a “**Party.**”)

### WHEREAS

- (1) Party A is a wholly foreign owned enterprise duly incorporated and validly existing under the PRC laws, and Party B is a PRC citizen.
- (2) Party B holds \_\_\_\_\_% equity interest in \_\_\_\_\_ (“**Ctrip Commerce**”), and needs to obtain financial support from Party A to contribute such equity interest; meanwhile, Party A is willing to provide capitals to Party B in the form of a loan for Party B’s capital contribution to Ctrip Commerce.

**NOW, THEREFORE,** Upon mutual consultation, the Parties hereby agree as follows:

### 1. Loan

- 1.1 Subject to the terms and conditions of this Agreement, Party A agrees to provide Party B with a long-term loan at an aggregate amount of RMB\_\_\_\_\_ (¥\_\_\_\_\_) (the “**Loan**”).
- 1.2 Party A confirms to have received the Loan and Party B shall ensure the Loan to be used for contribution of Ctrip Commerce’s registered capital.
- 1.3 The Parties agree and confirm that any increase of the registered capital of Ctrip Commerce subscribed by Party B in the future shall be funded by a loan from Party A, and with respect to such increase of the registered capital, the Parties agree to enter into a supplementary agreement based on this Agreement. Party B shall not pay such subscribed increase of registered capital with its own funds or through a loan from a third party other than Party A, except with the written consent from Party A.
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1.4 The Parties agree and confirm that unless otherwise provided herein, the Loan hereunder shall be interest free, which is to say, Party B does not need to pay any interest to Party A with respect to the Loan hereunder.

## 2. Use of Loan

- 2.1 Party B agrees to accept the Loan provided by Party A, and hereby agrees and undertakes that the Loan has been used in its entirety to pay Party B's subscription to the registered capital of Ctrip Commerce for its formation or to subscribe to the increase (if any) of the registered capital of Ctrip Commerce. Party B shall use the Loan solely for the foregoing purpose, and shall not use the Loan for any purposes other than that agreed herein unless Party A's prior written consent has been obtained. Furthermore, Party B shall not transfer or pledge its equity interest or other rights in Ctrip Commerce to any third party, or otherwise dispose of its equity interest in Ctrip Commerce, including creating any encumbrances thereupon, except for the benefit of Party A and/or its designated person (including legal or natural, the "**Party A's Designated Person**") as requested by Party A.
- 2.2 Party B hereby agrees and confirms that it will not withdraw and take out its contribution to Ctrip Commerce throughout the operating term of Ctrip Commerce.

## 3. Term of Loan

- 3.1 The term of the Loan hereunder shall commence from the date when Party B actually receives the Loan to the tenth (10<sup>th</sup>) anniversary of the date hereof (the "**Term of Loan**").
- 3.2 The Term of Loan will be automatically extended for another ten (10) years upon the expiry of the first ten-year term, and so forth thereafter for unlimited number of times, unless Party A sends a prior written notice to disapprove the extension of Term of Loan. Once Party A sends such notice, the Loan shall become mature at the end of the term, and Party B shall perform its repayment obligation in the manner stipulated in Article 4 below within thirty (30) days upon the maturity of the Loan. Party B has no right to decide on the extension of the term, nor may it repay the Loan before scheduled.
- 3.3 During the term or any extended term of the Loan, the Loan will become immediately due and payable by Party B (or its inheritors, successors or assigns) in the manner stipulated in Article 4 hereof if:
- (1) Party B dies or becomes a person incapacitated or with limited capacity for civil acts;
  - (2) Party B ceases to hold the position of director or senior officer of Party A or any of its affiliates, or leaves, or is dismissed by, Party A or any of its affiliates;
  - (3) Party B commits or is involved in a crime;
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- (4) any third-party claims RMB five hundred thousand (¥500,000) against Party B;
  - (5) any of the representations or warranties made by Party B hereunder is proved to be untrue at the time it is made, or inaccurate in any material respect; or Party B breaches any of its obligations under this Agreement or any other agreement entered into with Party A, including without limitation the Equity Pledge Agreement (as defined below) and Exclusive Call Option Agreement (as defined below);
  - (6) Party A exercises the exclusive call option under the Exclusive Call Option Agreement defined in Article 5.2 below;
  - (7) this Agreement, the Equity Pledge Agreement, or the Exclusive Call Option Agreement is terminated or held invalid by any court for any reason whatsoever; or
  - (8) Party A, at its sole discretion, sends a written notice to Party B at any time, requesting Party B to repay the Loan earlier than scheduled.

#### **4. Repayment of Loan**

- 4.1 Party A and Party B hereby mutually agree and confirm that the Loan shall be repaid in the following manner only: to the extent permitted by applicable laws, Party B will transfer all or part of its equity interest in Ctrip Commerce to Party A or Party A's Designated Person as requested by Party A in writing.
  - 4.2 Party A and Party B hereby mutually agree and confirm that any and all proceeds from Party B's transfer of its equity interest in Ctrip Commerce shall be entirely used for repayment of the principal of the Loan and as the consideration for the grant of the Loan by Party A to Party B; the principal of the Loan and such consideration shall be fully paid in the manner designated by Party A.
  - 4.3 Party A and Party B hereby mutually agree and confirm that, to the extent permitted by the applicable laws, Party A has the right but no obligation to purchase, or have Party A's Designated Person purchase at any time, all or part of the equity interest held by Party B in Ctrip Commerce at any price confirmed by Party A.
  - 4.4 Party A and Party B hereby mutually agree and confirm that, Party B shall be deemed to have fulfilled its repayment obligations hereunder only after both of the following conditions have been satisfied:
    - (1) Party B shall have transferred all of its equity interests in Ctrip Commerce to Party A and/or Party A's Designated Person as requested by Party A; and
    - (2) Party B has repaid to Party A the entire transfer proceeds for repayment of the principal of the Loan and as consideration for the grant of the Loan by Party A to Party B hereunder.
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4.5 If Ctrip Commerce goes bankrupt, is dissolved or is duly ordered for closure during the term of the Loan hereunder, Party B shall liquidate Ctrip Commerce according to laws and transfer all of the proceeds or remaining property from such liquidation to Party A for repayment of the principal of the Loan and as consideration for the grant of Loan by Party A to Party B hereunder.

4.6 Interest of Loan

- (1) The Loan will be deemed as a zero interest loan if the price to transfer the equity interests in Ctrip Commerce to Party A or Party A's Designated Person by Party B is equal to or less than the principal of the Loan;
- (2) On the other hand, if the equity interest transfer price exceeds the principal of the Loan hereunder, the exceeding amount shall, to the extent permitted by applicable law, be deemed as the consideration for the grant of Loan by Party A to Party B hereunder, and shall be reimbursed to Party A by Party B together with the principal of the Loan. Such consideration shall include, without limitation, highest interest possible accrued on the Loan during the term of the Loan to the extent permitted by applicable law, cost of capital occupation, and all taxes, fees and expenses incurred by the parties (including transferor and transferee) over the course of equity transfer by Party B to Party A or Party A's Designated Person under this Agreement.

**5. Conditions Precedent to the Loan**

The conditions for Party A to provide the Loan to Party B are set out below:

- 5.1 Party A and Party B having duly entered into an Equity Pledge Agreement (the "**Equity Pledge Agreement**"), pursuant to which Party B agrees to pledge all its equity interest in Ctrip Commerce to Party A;
  - 5.2 Party A, Party B and Ctrip Commerce having duly entered into an Exclusive Call Option Agreement (the "**Exclusive Call Option Agreement**"), pursuant to which Party B will grant an irrevocable and exclusive call option for Party A to purchase all of Party B's equity interest in Ctrip Commerce;
  - 5.3 each of the representations and warranties made by Party B under Article 6.2 below being true, complete, correct and not misleading, and will be true, complete, correct and not misleading as of the day when the Loan is received; and
  - 5.4 Party B not breaching any of its covenants made in Article 7 below, and no events having occurred or being anticipated to occur that may affect Party B's performance of its obligations hereunder.
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## 6. Representations and Warranties

- 6.1 From the date of this Agreement or the date of receiving the Loan (whichever is the earliest) until the termination hereof, Party A represents and warrants to Party B that:
- (1) it is a wholly foreign-owned company duly incorporated and validly existing under the laws of the PRC;
  - (2) it has the power and receives all approvals and authorities necessary and appropriate to execute and perform this Agreement. Its execution and performance of this Agreement are in compliance with its business scope, its articles of association or other organizational documents;
  - (3) neither the execution nor the performance of this Agreement by Party A is in breach of any law, regulation, government approval, authorization, notice or any other government document by which it is bound or affected, or any agreement between it and any third party or any covenant issued to any third party; and
  - (4) this Agreement, once executed, constitutes a legal, valid and enforceable obligation upon Party A.
- 6.2 From the date of this Agreement until the termination hereof, Party B represents and warrants to Party B that:
- (1) neither the execution nor the performance of this Agreement by Party B is in breach of any law, regulation, government approval, authorization, notice or any other government document by which it is bound or affected, or any agreement between it and any third party or any covenant issued to any third party;
  - (2) this Agreement, once executed, constitutes a legal, valid and enforceable obligation upon Party A;
  - (3) it will duly pay up the full contribution with respect to its equity interest in Ctrip Commerce according to law, and has not withdrawn or taken out any of its contributions to Ctrip Commerce;
  - (4) except for those provided under the Equity Pledge Agreement and Exclusive Call Option Agreement, it creates no mortgage, pledge or any other encumbrance (including security interest) upon its equity interest in Ctrip Commerce, provides no offer to any third party to transfer such equity interest, makes no covenant regarding any offer to purchase such equity interest from any third party, or enters into any agreement with any third party to transfer such equity interest;
  - (5) there is no existing or potential dispute, suit, arbitration, administrative proceeding or any other legal proceeding relating to Party B and/or its equity interest in Ctrip Commerce; and
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- (6) Ctrip Commerce has completed all government approvals, authorizations, licenses, registrations and filings necessary to conduct its businesses included in its business scope and own its assets.

## **7. Covenants by Party B**

7.1 Party B covenants in its capacity of shareholder of Ctrip Commerce that during the Term of Loan it will cause Ctrip Commerce:

- (1) not to, in any form whatsoever, supplement, amend or modify its articles of association or organizational documents, or increase or decrease its registered capital, or change its shareholding structure without prior written consent from Party A;
  - (2) to maintain its existence, prudently and effectively operate its businesses and deal with its affairs in line with fair financial and business standards and customs;
  - (3) not to make any act and/or omission that may materially affect Ctrip Commerce's assets, business and liabilities without prior written consent from Party A; at any time as of the date hereof, not to sell, transfer, pledge or otherwise dispose of any legal or beneficial interest in any of Ctrip Commerce's assets, businesses or revenues, or allow creation of any other form of encumbrances thereon without prior written consent from Party A;
  - (4) not to incur, inherit, guarantee or allow the existence of any debt without prior written consent from Party A, except for (i) any debt arising from ordinary or day-to-day business rather than from borrowing; and (ii) any debt which has been disclosed to and has obtained the written consent from Party A;
  - (5) to always carry out all activities in the ordinary course of business to maintain the value of its assets, and not to make any act and/or omission that may adversely affect its results and asset value;
  - (6) not to enter into any material contract without prior written consent from Party A, other than those executed in the ordinary course of business (for purpose of this paragraph, any contract with a contact value exceeding RMB fifty thousand (50,000) shall be deemed as a material contract)
  - (7) not to provide any loan or guarantee to any person without prior written consent from Party A;
  - (8) to provide any and all information regarding its operations and financial conditions at the request from Party A;
  - (9) to purchase and always maintain requisite insurance policies from an insurer acceptable to Party A, the amount and type of which shall be the same as or equivalent to those maintained by the companies having similar operations, properties or assets in the same region;
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- (10) not to combine, merge with, be acquired by, acquire or invest in any person without prior written consent from Party A;
  - (11) to immediately notify Party A of any actual or potential occurrence of any litigation, arbitration or administrative proceeding regarding its assets, business and revenue;
  - (12) to execute all documents, conduct all actions, and make all claims or defenses necessary or appropriate to maintain its ownership of all of its assets;
  - (13) not to distribute any form of dividends to any shareholder of Ctrip Commerce without the prior written consent from Party A, but to immediately distribute all distributable profits to the shareholders of Ctrip Commerce upon Party A's request; and
  - (14) to strictly comply with the provisions of the Exclusive Call Option Agreement, and not to make any act and/or omission which may affect its validity and enforceability.

7.2 Party B covenants during the Term of Loan:

- (1) not to sell, transfer, pledge or otherwise dispose of any legal or beneficial interest in Party B's equity interest, or allow creation of any other encumbrances (including security interest) thereon without prior written consent from Party A, except for those provided under the Equity Pledge Agreement and Exclusive Call Option Agreement;
  - (2) to cause the shareholders' meeting of Ctrip Commerce not to approve any sale, transfer, pledge or otherwise disposal of any legal or beneficial interest in Party B's equity, or allow creation of any other security interests thereupon without prior written consent from Party A, except to Party A or Party A's Designated Person;
  - (3) not to vote for, support or execute any resolution at shareholders' meetings of Ctrip Commerce to approve Ctrip Commerce's merger or association with, acquisition by, acquisition of or investment in any person without prior written consent from Party A;
  - (4) to immediately notify Party A of any actual or potential occurrence of litigation, arbitration or administrative proceeding regarding its equity interest in Ctrip Commerce;
  - (5) to execute all documents, conduct all actions, and make all claims or defenses necessary or appropriate to maintain its ownership of its equity interest in Ctrip Commerce;
  - (6) not to make any act and/or omission which may materially affect any asset, business or liability of Ctrip Commerce without prior written consent from Party A;
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- (7) to accept and appoint the persons designated by Party A as directors, general manager and other senior management of Ctrip Commerce upon Party A's request, and actively assist Party A in dealing with all matters in connection with the appointment of such persons, including but not limited to execution of necessary documents, and assist the registration of the appointment of such senior management at the AIC;
- (8) to the extent permitted under the PRC laws and at the request of Party A at any time, to transfer unconditionally and immediately all or part of its equity interests in Ctrip Commerce to Party A or Party A's Designated Person, and waive its right of first refusal on the equity interests transferred by other shareholders of Ctrip Commerce to Party A or Party A's Designated Person; to actively assist all the matters in connection with the equity transfer, including but not limited to execution of necessary documents, and assist the registration of the equity transfer at the AIC;
- (9) if Party A purchases Party B's equity interest in Ctrip Commerce pursuant to the Exclusive Call Option Agreement, to use the price of such purchase to repay the Loan to Party A as agreed in this Agreement;
- (10) to strictly comply with the provisions of this Agreement, the Equity Pledge Agreement and the Exclusive Call Option Agreement, diligently perform its obligations under each of such agreements, without making any act and/or omission which suffices to affect the validity and enforceability of each of such agreements; and
- (11) to agree and undertake to sign an irrevocable power of attorney authorizing Party A or Party A's Designated Person to exercise on its behalf all of its rights as shareholder of Ctrip Commerce.

## **8. Effectiveness and Termination**

- 8.1 This Agreement shall become effective as of the date of its execution. The Parties hereby agree and confirm that the effect of the terms and conditions of this Agreement shall retrospect to the day when Party B receives the Loan.
- 8.2 This Agreement shall remain valid until the Parties have performed their respective obligations under this Agreement.
- 8.3 In no event shall Party B be entitled to unilaterally terminate or cancel this Agreement.

## **9. Liabilities for Breach of Contract**

- 9.1 If any party ("**Defaulting Party**") breaches any provision of this Agreement, which causes damage to the other party ("**Non- defaulting Party**"), the Non-defaulting Party could notify the Defaulting Party in writing and request it to rectify and correct such breach of contract; if the Defaulting Party fails to take any action satisfactory to the Non-defaulting Party to rectify and correct such breach within fifteen (15) working days upon the issuance of the written notice by the Non-defaulting Party, the Non-defaulting Party may immediately take the actions pursuant to this Agreement or take other remedies in accordance with laws.
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9.2 If Party B fails to repay the Loan within the period and in the manner stipulated under this Agreement, it will be liable for a penalty interest accrued upon the amount outstanding and payable at a daily interest rate of 0.01% for each overdue day until the Loan as well as any penalty interest and any other amount accrued thereupon are fully repaid by Party B as required herein.

**10. Notices**

Notices or other communications required to be given by any Party pursuant to this Agreement shall be written in Chinese or English and delivered personally or sent by registered mail, postage prepaid mail, express delivery or facsimile transmission to the addresses of the other Parties set forth below, or to other designated addresses notified by such other Parties to such Party from time to time, or the addresses of other persons designated by such Party. A notice is deemed to be duly served: (a) if delivered personally, upon the delivery; (b) if sent by mail, on the tenth (10th) day after the date when the air registered mail with postage prepaid has been sent out (as is shown on the postmark), or the fourth (4th) day after delivered to the courier service agency; and (c) if sent by facsimile transmission, upon the receipt time as is shown on the transmission confirmation of relevant documents.

If to **Party A:** \_\_\_\_\_  
Attn: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: (\_\_\_\_\_) \_\_\_\_\_  
Fax: (\_\_\_\_\_) \_\_\_\_\_

If to **Party B:** \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: (\_\_\_\_\_) \_\_\_\_\_  
Fax: (\_\_\_\_\_) \_\_\_\_\_

**11. Confidentiality**

All Parties acknowledge and confirm that any oral or written materials exchanged by and between the Parties in connection with this Agreement are confidential. All Parties shall keep secret of all such documents and not disclose any such documents to any third party without prior written consent from other Parties, except for such information: (a) as are known or will be known by the public (except by disclosure of the receiving party without authorization); (b) as are required to be disclosed in accordance with applicable laws or stock exchange rules or regulations; or (c) as are required to be disclosed by any Party to its legal counsel or financial consultant for the purpose of the transaction of this Agreement, provided that such legal counsel or financial consultant shall also be subject to the confidentiality obligation similar to that stated hereof. Any disclosure by employees or agencies employed by any Party shall be deemed the disclosure of such Party and such Party shall assume the liabilities for its breach of contract pursuant to this Agreement. This Article shall survive even if this Agreement is judged as void, cancelled, terminated or impractical for any reason whatsoever.

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## **12. Governing Law and Dispute Resolution**

- 12.1 The formation, validity, interpretation, performance and termination of this Agreement and the amendment hereto as well as the resolution of any disputes arising hereunder shall be governed by the PRC laws.
- 12.2 Any disputes arising from the interpretation and performance of this Agreement shall first be resolved through friendly consultation among the Parties. In case no settlement can be reached through consultation within thirty (30) days after the request for consultation is made by any Party with a written notice, any Party can submit such disputes to Shanghai International Economic and Trade Arbitration Commission for arbitration in accordance with its then effective rules. The arbitration shall take place in Shanghai. The arbitration proceedings shall be conducted in Chinese. The arbitration award shall be final and binding upon both Parties.
- 12.3 If any dispute arises from the interpretation and performance of this Agreement or any dispute is under arbitration, the Parties shall continue to perform their respective rights and obligations hereunder other than those in dispute.

## **13. Miscellaneous**

- 13.1 The headings contained in this Agreement are for the convenience of reference only and shall not be used to interpret, explain or otherwise affect the meaning of the provisions of this Agreement.
  - 13.2 The Parties agree to promptly execute such documents, or take such further actions, as are reasonably necessary or beneficial for performing the provisions or achieving the purposes hereof.
  - 13.3 The Parties confirm that this Agreement shall, upon its effectiveness, constitute the entire agreement and common understanding of the Parties with respect to the contents herein and fully supersede all prior verbal and/or written agreements and understandings between the Parties with respect to the contents herein.
  - 13.4 If any one or more provisions of this Agreement is identified or judged by a court of competent jurisdiction or arbitration authority as void, invalid or unenforceable in any respect according to any laws or regulations, the validity, legality and enforceability of the other provisions hereof shall not be affected or impaired in any way. The Parties shall cease performing such void, invalid or unenforceable provisions and revise those void, invalid or unenforceable provisions only to the extent closest to the original intention thereof to recover its validity or enforceability for such specific facts and circumstances.
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- 13.5 Party B hereby agrees and confirms that, (i) if Party B dies or loses or be limited from his/her full capacity for civil conducts, his/her rights and obligations hereunder will be immediately transferred to and succeeded by Party A's Designated Person, or Party A is allowed to exercise all rights, including but not limited to have the equity interests of Ctrip Commerce held by Party B transferred to Party A's Designated Person; (ii) Party A may assign its rights and obligations under this Agreement to Party A's Designated Person as Party A may decide at its sole discretion, and such assignment to Party B's successor and guardian shall only be subject to a written notice sent to Party B at the time of transfer, without subject to its consent. When and as requested by Party A, Party B shall execute with the assignee a supplementary agreement or an agreement substantially the same as this Agreement.
- 13.6 This Agreement shall be effective and binding upon the Parties hereto and their respective inheritors, successors and assigns. Party B may not assign any of its rights, interests or obligations under this Agreement to any third party without prior written consent from Party A.
- 13.7 Any Party's failure to exercise the rights under this Agreement in time shall not be deemed as its waiver of such rights and would not affect its future exercise of such rights.
- 13.8 Any matters excluded in this Agreement shall be negotiated by the Parties. Any amendment and supplement to this Agreement and its exhibits shall be made by the Parties in writing. The amendment and/or supplement duly executed by each Party with respect to this Agreement shall be indispensable part of this Agreement and have the same legal effect as this Agreement.
- 13.9 This Agreement is made in two (2) originals with each Party holding one (1) original. Each original has the same effect.

IN WITNESS WHEREOF, this Agreement has been duly executed by the Parties or their respective authorized representatives on the date first above written.

*[The remainder of this page is intentionally left blank]*

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**Party A:** \_\_\_\_\_

Signature: \_\_\_\_\_

Authorized representative: \_\_\_\_\_  
(stamp)

**Party B:** \_\_\_\_\_

Signature: \_\_\_\_\_

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### Schedule A

The following schedule sets forth other major similar agreements the registrant entered into with each of its consolidated affiliated Chinese entities. Other than the information set forth below, there is no material difference between such other agreements and this exhibit.

<u>VIE</u>	<u>Executing Parties</u>	<u>Execution Date</u>	<u>Amount</u>
Shanghai Ctrip Commerce Co., Ltd.	Party A (Lender): Ctrip Travel Network Technology (Shanghai) Co., Ltd. Party B (Borrower): Maohua Sun	December 14, 2015 (as amended on April 9, 2019)	RMB91.8 million
	Party A (Lender): Ctrip Travel Network Technology (Shanghai) Co., Ltd. Party B (Borrower): Tao Yang	May 27, 2019	RMB808.2 million
Chengdu Ctrip Travel Agency Co., Ltd.	Party A (Lender): Ctrip Travel Network Technology (Shanghai) Co., Ltd. Party B (Borrower): Fan Min	December 14, 2015	RMB497.5 million
	Party A (Lender): Ctrip Travel Network Technology (Shanghai) Co., Ltd. Party B (Borrower): Shi Qi	December 14, 2015	RMB2.5 million

**EXCLUSIVE CALL OPTION AGREEMENT**

This Exclusive Call Option Agreement (this “**Agreement**”) is entered into in Shanghai, the People’s Republic of China (“**PRC**”) as of \_\_\_\_\_ by and among the following parties:

- (1) **Party A:** \_\_\_\_\_  
Address: \_\_\_\_\_
- (2) **Party B:** \_\_\_\_\_  
Sex: \_\_\_\_\_  
PRC Identification Card No.: \_\_\_\_\_  
Address: \_\_\_\_\_; and
- (3) **Party C:** \_\_\_\_\_  
Address: \_\_\_\_\_

(In this Agreement, Party A, Party B and Party C are hereinafter collectively referred to as the “**Parties**” and individually, as a “**Party.**”)

**WHEREAS**

- (1) Party A is a wholly foreign owned enterprise duly incorporated and validly existing under the PRC laws.
- (2) Party C is a limited liability company duly incorporated and validly existing under the PRC laws, and Party B is the registered shareholder of Party C duly holding \_\_\_% of its equity interests.
- (3) Party A and Party B entered into a Loan Agreement as of \_\_\_\_\_ (the “**Loan Agreement**”).
- (4) Party B agrees to grant Party A through this Agreement with, and Party A agrees to accept, an exclusive call option to purchase all or part of the equity interests held by Party B in Party C.
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NOW, THEREFORE, Upon mutual consultation, the Parties hereby agree as follows:

## 1. Exclusive Call Option

### 1.1 Grant of Right

Party B hereby exclusively and irrevocably grants Party A an exclusive call option (the “**Call Option**”), which permits Party A to purchase or designate one or several person(s) (“**Party A’s Designated Person**”) to purchase all or part of the equity interests held by Party B in Party C (the “**Target Equity**”) at any time from Party B at the price specified in Article 1.3 of this Agreement in accordance with the procedure determined by Party A at its own discretion and to the extent permitted by the PRC laws. Party A shall have the right to decide any Party A’s Designated Person to be the transferee of and acquire all or part of the Target Equity; Party B shall not refuse, and shall assign and transfer the Target Equity to such Party A’s Designated Person as requested by Party A. No third party other than Party A and Party A’s Designated Person may be entitled to the Call Option. Party C hereby agrees with Party B’s grant of the Call Option to Party A. The “person” set forth in this paragraph and this Agreement means any individual, corporation, joint venture, partnership, enterprise, trust or other non-corporation organization.

### 1.2 Exercise Procedure

Subject to the PRC laws and regulations, Party A may exercise the Call Option pursuant to Article 1.1 hereinabove by issuing a written notice (the “**Purchase Notice**”) to Party B specifying the specific percentage of equity interest to be purchased from Party B (the “**Purchased Equity Interest**”) and the manner of purchase. Party A may exercise the Call Option for unlimited number of times. Within seven (7) working days upon the receipt of the Purchase Notice by Party B, Party B shall enter into an equity transfer agreement with Party A and/or its Designated Person in the form attached hereto or any other form accepted by Party A to ensure the Purchased Equity Interest can be transferred to Party A and/or Party A’s Designated Person as soon as practicable and shall take any necessary action to ensure the prompt completion of the corresponding change formalities at relevant Administration for Industry and Commerce.

### 1.3 Purchase Price

The Parties agree that the purchase price of the Purchased Equity Interest (“**Purchase Price**”) shall be equal to the contribution actually made by Party B for the Purchased Equity Interest, unless the applicable PRC laws and regulations at the time of Party A’s exercise of the Call Option require valuation of the Purchased Equity Interest or otherwise impose restriction on the Purchase Price. If the lowest price permissible under the applicable laws is higher than the contribution actually made or paid by Party B for the Purchased Equity Interest, the amount exceeded shall be repaid to Party A by Party B according to the Loan Agreement.

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#### 1.4 Transfer of the Purchased Equity Interest

Each time the Call Option is exercised:

(a) Party B shall cause Party C to convene a shareholders' meeting in time. At the meeting, a resolution shall be adopted to approve Party B's transfer of equity interest to Party A and/or Party A's Designated Person, and Party B shall sign a confirmation letter to waive its first right of refusal on the equity interest transferred by Party C's other shareholder(s) to Party A and/or Party A's Designated Person;

(b) Party B shall, pursuant to the terms and conditions of this Agreement and the Purchase Notice in respect of the Purchased Equity Interest, enter into an equity transfer agreement with Party A and/or Party A's Designated Person for each transfer in the form attached hereto as Exhibit 1 or any other form accepted by Party A;

(c) The related Parties shall execute all other requisite contracts, agreements or documents, obtain all requisite governmental approvals and consents, and conduct all necessary actions, to transfer the ownership of the Purchased Equity Interest to Party A and/or Party A's Designated Person without any security interest or other Encumbrances, and have Party A and/or Party A's Designated Person be registered as the registered owner of the Purchased Equity Interest at Administration for Industry and Commerce. For purposes of this paragraph and this Agreement, "**Encumbrances**" mentioned herein include guarantees, mortgages, pledges, third-party rights or interests, any call option, right of purchase, right of first refusal, right of set-off, ownership detainment or other security arrangements, but for purpose of clarification, shall not include any security interest or encumbrances arising under this Agreement and the Equity Pledge Agreement. The Equity Pledge Agreement mentioned in this paragraph and this Agreement shall mean the Equity Pledge Agreement entered into by and between Party A and Party B as of the date hereof, pursuant to which Party B shall pledge to Party A all its equity interest in Party C to guarantee the performance by Party B and Party C of their obligations under this Agreement, the Loan Agreement and the Technical Consulting and Services Agreement, each entered into by and among the Parties.

(d) Party B and Party C shall unconditionally use its best efforts to assist Party A and Party A's Designated Person in obtaining all governmental approvals, permits, registrations, filings and completing all formalities necessary for acquiring the Purchased Equity Interest.

#### 1.5 Payment

Given that it is stipulated in the Loan Agreement that Party B shall use the entire proceeds from the transfer of its equity interest in Party C for repayment of the principal of the loan under the Loan Agreement and as the consideration for Party A's grant of loan under the Loan Agreement, Party A or Party A's Designated Person does not need to pay Purchase Price to Party B when exercising its Call Option.

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## 2. Covenants relating to the Equity Interest

### 2.1 Covenants relating to Party C

Party B and Party C hereby covenants:

- (a) not to, in any form whatsoever, supplement, modify or amend the articles of association or organizational documents of Party C, increase or decrease the registered capital of Party C, or change its shareholding structure without prior written consent from Party A;
  - (b) to maintain the due existence of Party C, and prudently and efficiently operate and handle its business in line with fair finance and business standards and customs;
  - (c) not to make any act and/or omission that may adversely affect Party C's assets, business and liabilities without prior written consent from Party A; at any time as of the date hereof, not to sell, transfer, pledge or otherwise dispose of any legal or beneficial interests in any of Party C's assets, businesses or revenues, nor allow creation of other Encumbrances thereupon, including any security interests without prior written consent from Party A;
  - (d) not to incur, inherit, guarantee or allow the existence of any debt without prior written consent from Party A, except for (i) any debt arising from ordinary or day-to-day business rather than from borrowing; and (ii) any debt which has been disclosed to and has obtained the written consent from Party A;
  - (e) to always carry out all activities in the ordinary course of business to maintain the value of Party C's assets, and not to make any act and/or omission that may adversely affect Party C's results and asset value;
  - (f) not to enter into any material contract without prior written consent from Party A, other than those executed in the ordinary course of business (for purpose of this paragraph, any contract with a contract value exceeding RMB fifty thousand (50,000) shall be deemed as a material contract);
  - (g) not to provide any loan or guarantee to any person without prior written consent from Party A;
  - (h) to provide Party A with information about Party C's operations and financial conditions at the request from Party A;
  - (i) to purchase and always maintain requisite insurance policies from an insurer acceptable to Party A, the amount and type of which shall be the same as or equivalent to those maintained by the companies having similar operations, properties or assets in the same region as Party C;
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- (j) not to combine, merge with, be acquired by, acquire or invest in any person without prior written consent from Party A;
- (k) to immediately notify Party A of any actual or potential occurrence of any litigation, arbitration or administrative proceeding related to Party C's assets, business and revenue;
- (l) to execute all documents, conduct all actions, and make all claims or defenses necessary or appropriate to maintain Party C's ownership of all its assets; and
- (m) not to distribute any form of dividends to any shareholder of Party C without prior written consent from Party A, but to immediately distribute all distributable profits to the shareholders of Party C upon Party A's request.

## 2.2 Covenants relating to Party B

Party B hereby covenants:

- (a) at any time as of the date hereof, not to sell, transfer, pledge or otherwise dispose of any legal or beneficial interests in any equity interest, nor to allow creation of other Encumbrances thereupon without prior written consent from Party A, except for the pledge created on the equity interest held by Party B in Party C pursuant to the Equity Pledge Agreement;
  - (b) cause Party C's shareholders' meeting not to approve the sale, transfer, pledge or other disposal of any legal or beneficial interests in any equity interest, or allow creation of other Encumbrances thereupon without prior written consent from Party A, except to Party A and/or Party A's Designated Person; cause Party C's shareholders' meeting to vote for the transfer of the Purchased Equity Interest contemplated herein.
  - (c) not to vote for, support or execute any shareholders' resolution at Party C's shareholders' meeting to approve Party C's merger or combination with, acquisition by, acquisition of or investment in any person without prior written consent from Party A;
  - (d) to immediately notify Party A of any actual or potential occurrence of any litigation, arbitration or administrative proceeding related to the equity interests held by Party B in Party C;
  - (e) to execute all documents, conduct all actions, and make all claims or defenses necessary and appropriate to maintain Party B's ownership of the equity interest in Party C;
  - (f) not to make any act and/or omission that may adversely affect Party C's assets, business and liabilities without prior written consent from Party A;
-

(g) to accept and appoint the persons designated by Party A as Party C's directors, general manager and other senior management upon Party A's request, and actively assist Party A in dealing with all matters in connection with the appointment of such persons, including but not limited to execution of necessary documents, and assist the registration of the appointment of such senior management at the Administration for Industry and Commerce;

(h) to the extent permitted by PRC laws and upon Party A's request at any time, to unconditionally and immediately transfer all or part of the equity interest held by Party B in Party C to Party A and/or Party A's Designated Person at any time, and to waive its first right of refusal on the equity interest transferred by Party C's other shareholders to Party A and/or Party A's Designated Person; to actively assist all the matters in connection with the equity transfer, including but not limited to execution of necessary documents, and assist the registration of the equity transfer at the Administration for Industry and Commerce;

(i) to strictly comply with the provisions of this Agreement and other agreements jointly or severally executed by Party C and Party A, and to duly perform all obligations under such agreements, without making any act or omission that suffices to affect the validity and enforceability of these agreements; and

(j) to agree and undertake to execute an irrevocable power of attorney authorizing Party A or Party A's Designated Person to exercise on its behalf all of its rights as shareholder of Party C.

### 3. Representations and Warranties

Party B hereby represents and warrants to Party A as of the date of this Agreement and each date of transfer that:

(a) it has requisite capacity and authority to execute this Agreement and any equity transfer agreement to which it is a party and which is entered into for each transfer of Purchased Equity Interest hereunder (each a "**Transfer Agreement**"), and to perform its obligations hereunder and thereunder; this Agreement and each Transfer Agreement to which it is a party, once executed, will constitute its legal, valid and binding obligation, which is enforceable against it according the specific terms hereof and thereof;

(b) Neither the execution of this Agreement or any Transfer Agreement nor the performance of its obligations hereunder and thereunder by Party B will (i) violate any relevant PRC laws, (ii) conflict with the articles of association or other organizational documents of Party C; (iii) cause any violation of, or constitute any breach under, any contracts or instruments to which it is a party or by which it is bound; (iv) lead to any violation of any restrictions in connection with the grant and/or continued effectiveness of any licenses or permits issued to it; or (v) lead to the suspension or revocation of, or imposition of additional conditions to, any licenses or permits issued to it;

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(c) Party C has good and merchantable title to all of its assets, on which Party C has, or will place, no Encumbrances of any form whatsoever, including security interest, unless Party A's written consent has been obtained;

(d) Party C has no outstanding debts, except for those (i) incurred in the ordinary course of business; and (ii) already disclosed to Party A for which Party A's written consent has been obtained;

(e) there are no ongoing, pending or threatened litigations, arbitrations or administrative proceedings in connection with the Target Equity, Party C's assets and Party C; and

(f) Party B has good and merchantable title to the equity interest held by it in Party C, on which Party B has, or will place, no Encumbrances of any form whatsoever, except for the pledge created under the Equity Pledge Agreement.

#### **4. Breach of Contract**

If any Party ("**Defaulting Party**") breaches any provision of this Agreement, which causes damage to any of the other Parties ("**Non-defaulting Party**"), the Non-defaulting Party may notify the Defaulting Party in writing and request it to immediately rectify and correct such breach; if the Defaulting Party fails to take any action satisfactory to the Non-defaulting Party to rectify and correct its breach within fifteen (15) days upon the issuance of such written notice by the Non-defaulting Party, the Non-defaulting Party may immediately take the actions provided in this Agreement or take other remedies according to the laws.

#### **5. Effectiveness and Term**

5.1 This Agreement shall come into effectiveness as of the date of its execution. The Parties hereby agree and confirm that the effect of the terms and conditions of this Agreement shall retrospect to the day when Party B becomes a shareholder of Party C.

5.2 The term of this Agreement is ten (10) years unless this Agreement is terminated pursuant to relevant provisions herein.

5.3 This Agreement may be automatically extended for another ten (10) years upon its expiry, and may be extended for unlimited number of times thereafter, unless Party A notifies Party B and Party C in writing of its disagreement with the extension. Neither Party B nor Party C may veto the extension of the term of this Agreement.

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## **6. Termination**

- 6.1 This Agreement shall remain valid unless Party A disagrees with the extension of the term hereof pursuant to Article 5.3 hereinabove.
- 6.2 At any time during the term of this Agreement and any extended term hereof, Party A may, at its own judgment and discretion, unconditionally terminate this Agreement by issuing a written notice to Party B without assuming any liability. Neither Party B nor Party C is entitled to the right of unilateral termination of this Agreement.

## **7. Governing Law and Dispute Resolution**

- 7.1 The formation, validity, interpretation, performance and termination of this Agreement and the amendment hereto as well as the resolution of any disputes arising hereunder shall be governed by the PRC laws.
- 7.2 Any disputes arising from the interpretation and performance of this Agreement shall first be resolved through friendly consultation among the Parties. In case no settlement can be reached through consultation within thirty (30) days after the request for consultation is made by any Party with a written notice, any Party can submit such disputes to Shanghai International Economic and Trade Arbitration Commission for arbitration in accordance with its then effective rules. The arbitration shall take place in Shanghai. The arbitration proceedings shall be conducted in Chinese. The arbitration award shall be final and binding upon all the Parties.
- 7.3 If any dispute arises from the interpretation and performance of this Agreement or any dispute is under arbitration, the Parties shall continue to perform their respective rights and obligations hereunder other than those in dispute.

## **8. Taxes and Expenses**

Party B shall bear any and all taxes, costs and expenses incurred by or imposed on the Parties under the PRC laws arising from the preparation and execution of this Agreement and each Transfer Agreement and the consummation of the transaction contemplated hereunder and thereunder, unless Party A agrees to bear all or part of such taxes, costs and expenses.

## **9. Notices**

Notices or other communications required to be given by any Party pursuant to this Agreement shall be written in Chinese or English and delivered personally or sent by registered mail, postage prepaid mail, express delivery or facsimile transmission to the addresses of the other Parties set forth below, or to other designated addresses notified by such other Parties to such Party from time to time, or the addresses of other persons designated by such Party. A notice is deemed to be duly served: (a) if delivered personally, upon the delivery; (b) if sent by mail, on the tenth (10th) day after the date when the air registered mail with postage prepaid has been sent out (as is shown on the postmark), or the fourth (4th) day after delivered to the courier service agency; and (c) if sent by facsimile transmission, upon the receipt time as is shown on the transmission confirmation of relevant documents.

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If to **Party A:** \_\_\_\_\_

Attn: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_

Fax: (\_\_\_\_) \_\_\_\_\_

If to **Party B:** \_\_\_\_\_

Address: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_

Fax: (\_\_\_\_) \_\_\_\_\_

If to **Party C:** \_\_\_\_\_

Address: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_

Fax: (\_\_\_\_) \_\_\_\_\_

## 10. Confidentiality

All Parties acknowledge and confirm that any oral or written materials exchanged by and between the Parties in connection with this Agreement are confidential. All Parties shall keep secret of all such documents and not disclose any such documents to any third party without prior written consent from other Parties, except for such information: (a) as are known or will be known by the public (except by disclosure of the receiving party without authorization); (b) as are required to be disclosed in accordance with applicable laws or stock exchange rules or regulations; or (c) as are required to be disclosed by any Party to its legal counsel or financial consultant for the purpose of the transaction of this Agreement, provided that such legal counsel or financial consultant shall also be subject to the confidentiality obligation similar to that stated hereof. Any disclosure by employees or agencies employed by any Party shall be deemed the disclosure of such Party and such Party shall assume the liabilities for its breach of contract pursuant to this Agreement. This Article shall survive even if this Agreement is judged as void, cancelled, terminated or impractical for any reason whatsoever.

## 11. Further Warranties

The Parties agree to promptly execute such documents or take such further actions as are reasonably necessary or beneficial for performing the provisions or achieving the purposes hereof.

## 12. Miscellaneous

### 12.1 Amendments, Modifications and Supplements

Any matters excluded in this Agreement shall be negotiated by the Parties. Any amendment and supplement to this Agreement and its exhibits shall be made by the Parties in writing. The amendment and supplement duly executed by each Party with respect to this Agreement and its exhibits are part of this Agreement and shall have the same legal effect as this Agreement.

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## 12.2 Compliance with Laws and Regulations

Each of the Parties shall comply with, and shall ensure that its operations fully comply with all existing and publicly available laws and regulations of the PRC.

## 12.3 Entire Agreement

The Parties confirm that this Agreement shall, upon its effectiveness, constitute the entire agreement and common understanding of the Parties with respect to the contents herein and fully supersede all prior verbal and/or written agreements and understandings between the Parties with respect to the contents herein. The exhibits attached hereto shall constitute a component of this Agreement and shall be equally binding as this Agreement.

## 12.4 Headings

The headings contained in this Agreement are for the convenience of reference only and shall not be used to interpret, explain or otherwise affect the meaning of the provisions of this Agreement.

## 12.5 Severability

If any one or more provisions of this Agreement is identified or judged by a court of competent jurisdiction or arbitration authority as void, invalid or unenforceable in any respect according to any laws or regulations, the validity, legality and enforceability of the other provisions hereof shall not be affected or impaired in any way. The Parties shall cease performing such void, invalid or unenforceable provisions and revise those void, invalid or unenforceable provisions only to the extent closest to the original intention thereof to recover its validity or enforceability for such specific facts and circumstances.

## 12.6 Assignment

- (1) Neither Party B or Party C may assign any of their respective rights or obligations under this Agreement to any third party without prior written consent from Party A. Party B and Party C hereby agree that Party A may assign its rights and obligations under this Agreement as Party A may decide at its sole discretion, and such assignment shall only be subject to a written notice sent to Party B and Party C, without subject to their consent. When and as requested by Party A, Party B and Party C shall execute with the assignee a supplementary agreement or an agreement substantially the same as this Agreement.
  - (2) Party B hereby agrees and confirms that (i) if Party B has died or lost or been limited from his/her full capacity for civil conducts, his/her rights and obligations hereunder will be immediately transferred to and succeeded by Party A's Designated Person, or to Party A for its disposal at its sole discretion, including but not limited to the cases under which Party A or Party A's Designated Person will be transferred and thus acquire the equity interest held by Party B in Party C; and (ii) Party A can transfer its rights and obligations hereunder to its designated person as needed at any time by only providing a written notice to Party B's successor or guardian and no consent from Party B's successor or guardian is required. Upon the request of Party A, Party B's successor shall execute with Party A a supplement or an agreement substantially the same as this Agreement.
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12.7 Successors

This Agreement shall be effective and binding upon all the Parties hereto and their respective inheritors, successors and assigns.

12.8 Survival

Any obligations that are incurred or become due arising from this Agreement by the expiry or early termination of this Agreement shall survive the expiry or termination of this Agreement.

12.9 Waiver

Any Party's failure to exercise the rights under this Agreement in time shall not be deemed as its waiver of such rights and would not affect its future exercise of such rights.

12.10 Counterparts

This Agreement is executed with three (3) originals, with one Party holding one (1) original; each counterpart shall be equally binding.

IN WITNESS WHEREOF, this Agreement has been duly executed by the Parties or their respective authorized representatives on the date first above written.

*[The remainder of this page is intentionally left blank]*

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**Party A:** \_\_\_\_\_

Signature: \_\_\_\_\_  
Authorized representative: \_\_\_\_\_  
(stamp)

**Party B:** \_\_\_\_\_

Signature: \_\_\_\_\_

**Party C:** \_\_\_\_\_

Signature: \_\_\_\_\_  
Authorized representative: \_\_\_\_\_  
(stamp)

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**Equity Transfer Agreement**

This Equity Transfer Agreement (“**Agreement**”) is entered into in \_\_\_\_\_, the People’s Republic of China (“PRC”) by and between:

Transferor: \_\_\_\_\_

Transferee: \_\_\_\_\_

NOW, the Parties agree as follows concerning the equity interest transfer:

1. The Transferor agrees to transfer to the Transferee \_\_\_\_% of equity interest of \_\_\_\_\_ held by the Transferor, and the Transferee agrees to accept the said equity interest.
2. After the closing of equity interest transfer, the Transferor shall not have any rights and obligations as a shareholder with regard to the transferred shares, and the Transferee shall have such rights and obligations as shareholder of \_\_\_\_\_.
3. Any matter not covered by this Agreement may be determined by the Parties by way of signing supplementary agreements.
4. This Agreement shall be effective from the date of execution by the Parties.
5. This Agreement is executed in four (4) originals, with each party holding one (1) original. The remaining originals are made for the purpose of going through change registration at the Administration for Industry and Commerce.

Transferor

Transferee

Signature: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Date:

Date:

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**Schedule A**

The following schedule sets forth other major similar agreements the registrant entered into with each of its consolidated affiliated Chinese entities. Other than the information set forth below, there is no material difference between such other agreements and this exhibit.

<b>VIE</b>	<b>Executing Parties</b>	<b>Execution Date</b>
Shanghai Ctrip Commerce Co., Ltd.	Party A: Ctrip Travel Network Technology (Shanghai) Co., Ltd.	December 14, 2015 (as amended on April 9, 2019)
	Party B: Maohua Sun	
	Party C: Shanghai Ctrip Commerce Co., Ltd.	May 27, 2019
	Party A: Ctrip Travel Network Technology (Shanghai) Co., Ltd.	
Chengdu Ctrip Travel Agency Co., Ltd.	Party B: Tao Yang	December 14, 2015
	Party C: Shanghai Ctrip Commerce Co., Ltd.	
	Party A: Ctrip Travel Network Technology (Shanghai) Co., Ltd.	December 14, 2015
	Party B: Fan Min	
Party C: Chengdu Ctrip Travel Agency Co., Ltd.		
	Party A: Ctrip Travel Network Technology (Shanghai) Co., Ltd.	
	Party B: Shi Qi	
	Party C: Chengdu Ctrip Travel Agency Co., Ltd.	

## EQUITY PLEDGE AGREEMENT

This Equity Pledge Agreement (this “**Agreement**”) is entered into in Shanghai, the People’s Republic of China (“**PRC**”) as of \_\_\_\_\_ by and between the following parties:

- (1) **Pledgee:** \_\_\_\_\_  
Address: \_\_\_\_\_; and
- (2) **Pledgor:** \_\_\_\_\_  
PRC Identification Card No.: \_\_\_\_\_  
Address: \_\_\_\_\_;

(In this Agreement, Pledgee and Pledgor are hereinafter collectively referred to as the “**Parties**” and individually, as a “**Party**.”)

## WHEREAS

- (1) The Pledgor is a PRC citizen, who owns \_\_\_\_\_% of the equity interests in \_\_\_\_\_ (“**Ctrip Commerce**”) for an amount of contribution of RMB\_\_\_\_\_.
- (2) Ctrip Commerce is a limited liability company duly incorporated and validly existing under the PRC laws.
- (3) The Pledgee is a wholly foreign owned enterprise duly incorporated and validly existing under the PRC laws.
- (4) The Pledgee and Ctrip Commerce entered a Technical Consulting and Services Agreement as of \_\_\_\_\_ (the “**Services Agreement**”).
- (5) The Pledgee and the Pledgor entered into a Loan Agreement as of \_\_\_\_\_ (the “**Loan Agreement**”).
- (6) The Pledgee, the Pledgor and Ctrip Commerce entered into an Exclusive Call Option Agreement as of \_\_\_\_\_ (the “**Exclusive Call Option Agreement**,” together with the Services Agreement and the Loan Agreement, the “**Principal Agreements**”).
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- (7) In order to secure the performance of the obligations (including without limitation, the normal payment of consulting and service fees and the Pledgor's repayment obligation) under the Principal Agreements by the Pledgor and Ctrip Commerce, the Pledgor is willing to unconditionally and irrevocably pledge all its \_\_\_\_\_% equity interest held in Ctrip Commerce to the Pledgee as a security.

**NOW, THEREFORE**, in order to perform the terms and provisions of the Principal Agreements, the Pledgor and the Pledgee hereby agree as follows upon mutual consultation:

**1. Pledge**

- 1.1 The Pledgor agrees to pledge all its \_\_\_\_\_% equity interest in Ctrip Commerce to the Pledgee as a security on the performance of all the obligations under the Principal Agreements by the Pledgor and Ctrip Commerce as well as on the entire compensation liability arising from the invalidity, cancellation or early termination of the Principal Agreements.
- 1.2 Pledge Right hereunder refers to the rights owned by the Pledgee, who shall be entitled to a priority to be compensated by the proceeds from conversion into money, auction or sale of the equity interest pledged by the Pledgor to the Pledgee.
- 1.3 The equity interest pledged hereunder is the \_\_\_\_\_% equity interest held by the Pledgor in Ctrip Commerce (the "**Pledged Equity**") and all the rights and interests associated therewith. The details of the Pledged Equity are listed as follows:

Pledgee: \_\_\_\_\_

Pledgor: \_\_\_\_\_

Company where the Pledged Equity is in: \_\_\_\_\_

Contribution corresponding to the Pledged Equity: RMB\_\_\_\_\_

**2. Scope of Pledge**

- 2.1 The pledge under this Agreement include the performance of all the obligations under the Principal Agreements by the Pledgor and Ctrip Commerce as well as on the entire compensation liability arising from the invalidity, cancellation or early termination of the Principal Agreements, including, without limitation, all amounts payable, outstanding debts, obligations and liabilities under the Principal Agreements, any fees and expenses incurred by the Pledgee for exercising its rights and the Pledge Right and the performance of the Principal Agreements. For the avoidance of doubt, the scope of the Pledge shall not be limited by the amount of the capital contribution made by the shareholders of Ctrip Commerce.
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2.2 The effect of the security under this Agreement shall not be affected due to any amendment or modification to the Principal Agreements, and the security hereunder shall remain valid on the obligations of the Pledgor and Ctrip Commerce under any Principal Agreements so amended or modified. If any of the Principal Agreements becomes invalid or is canceled or terminated for any reason whatsoever, the Pledgee has the right to immediately exercise the Pledge Right pursuant to Article 8 of this Agreement.

### **3. Creation and Term of Pledge**

- 3.1 The pledge under this Agreement shall be registered at Ctrip Commerce's shareholder register upon the date hereof.
- 3.2 The Pledge Right hereunder shall be created as of the date when the equity pledge is registered at the competent administration for industry and commerce (AIC) of Ctrip Commerce.
- 3.3 The term of the Pledge Right hereunder shall commence from its creation until the second (2<sup>nd</sup>) anniversary of the date when all obligations under the Principal Agreements have been completed.
- 3.4 With the prior consent of the Pledgee, the Pledgor may increase its capital contribution to Ctrip Commerce, or transfer or acquire the equity interests in Ctrip Commerce; provided, however, that any such capital contribution by the Pledgor to Ctrip Commerce, or any such shareholding change of the Pledgor shall be subject to this Agreement. Ctrip Commerce shall immediately amend its shareholder register and file the change registration with respect to the equity interest and equity pledge to the AIC within fifteen (15) working days upon the date when such change occurs.
- 3.5 Within the pledge term, if the Pledgor or Ctrip Commerce fails to perform any of the obligations under or arising from the Principal Agreements, the Pledgee has the right to exercise the Pledge Right in accordance with Article 8 of this Agreement.

### **4. Custody of Pledge Certificate**

- 4.1 The Pledgor shall deliver to the custody of the Pledgee the certificate of its capital contribution to Ctrip Commerce and the shareholder register of Ctrip Commerce within one (1) week after the pledge is recorded at Ctrip Commerce's shareholder register as required in Article 3; the Pledgee shall have the duty to well keep the pledge documents so received.
- 4.2 If the pledge hereunder is released pursuant to this Agreement, the Pledgee shall return the pledge registration certificate to the Pledgor within five (5) working days after the pledge is released, and provide necessary assistance to the Pledgor over the course of pledge release registration formalities.
- 4.3 The Pledgee shall have the right to collect all interests or beneficial rights, including dividends, accrued on the Pledged Equity.
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## **5. Pledgor's Representations and Warranties**

- 5.1 The Pledgor is the sole legal owner of the Pledged Equity.
- 5.2 There should be no intervention from any other party at any time when the Pledgee exercises its rights as pledgee pursuant to this Agreement.
- 5.3 The Pledgee shall have the right to exercise or transfer the Pledge Right in any manners provided herein.
- 5.4 The Pledgor does not set up any other pledge or other encumbrances on the equity interest except those set up for the benefit of the Pledgee.
- 5.5 The pledgee shall ensure that Ctrip Commerce's shareholders' meeting has adopted a resolution to approve the pledge under this Agreement.
- 5.6 This Agreement, once effective, constitutes a lawful, effective and binding obligation for the Pledgor.
- 5.7 The pledge created by the Pledgor on the Pledged Equity pursuant to this Agreement will not violate the relevant stipulations of the laws, regulations of the State and government policies, nor will it violate any contracts or agreements entered into by and between the Pledgor and any third party, or any commitments made by the Pledgor to any third party.
- 5.8 All documents and materials in relation to this Agreement provided by the Pledgor to the Pledgee are true, accurate and complete.

## **6. Pledgor's Commitments**

- 6.1 Throughout the existence of this Agreement, the Pledgor commits to and for the benefit of the Pledgee that the Pledgor will:
    - (1) ensure that the Pledge Right hereunder is registered at the competent AIC;
    - (2) not transfer or assign the Pledged Equity, or create or allow to exist any encumbrance (including pledge) which may affect the rights and benefits of the Pledgee without prior written consent of the Pledgee;
    - (3) comply with and implement all the relevant laws and regulations with respect to the pledge of rights; present to the Pledgee the notices, orders or suggestions issued or formulated by the competent authority with respect to the Pledge within five (5) days upon receiving such notices, orders or suggestions, and act as required by such notices, orders or suggestions, or raise objection or statement to any of the foregoing at the reasonable request of or upon the consent of the Pledgee; and
    - (4) promptly notify the Pledgee of any events or notices received which may affect the Pledgor's rights in all or any part of the Pledged Equity, and any events or notices received which may change or affect any of the Pledgor's warranties and obligations under this Agreement.
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- 6.2 The Pledgor agrees that the Pledgee's acquisition of the Pledge Right and exercise of its right to the pledge pursuant to this Agreement shall not be suspended or impaired by the Pledgor or any of its inheritors, successors, assigns, or any person authorized by the Pledgor or any such other person by way of any legal proceedings.
- 6.3 The Pledgor undertakes to the Pledgee that in order to protect or perfect the security hereunder for the creditors' rights and obligations under the Principal Agreements, the Pledgor will (i) execute in good faith and cause other pledge-concerned parties to execute all title certificates and covenants, and/or act and cause other pledge-concerned parties to act as required by the Pledgee, (ii) facilitate the Pledgee to exercise the rights and authority empowered on the Pledgee by this Agreement, (iii) execute all documents in relation to the equity change (if applicable and necessary) with the Pledgee or its designated person (whether natural or legal), and (iv) provide the Pledgee with such pledge-related notices, orders and decisions as is considered necessary by the Pledgee within a reasonable period of time.
- 6.4 The Pledgor undertakes to the Pledgee to comply with and perform, for the benefit of the Pledgee, all the warranties, commitments, covenants, representations, conditions and obligations under this Agreement and the Principal Agreements. The Pledgor shall indemnify the Pledgee for all the losses suffered by the Pledgee resulting from the Pledgor's inability to comply with or failure to perform or fully perform such warranties, commitments, covenants, representations, conditions and obligations under this Agreement and the Principal Agreements.

## **7. Events of Default**

7.1 Any of the following events shall be regarded as an event of default:

- (1) Any of the representations or warranties made by the Pledgor under Articles 5 hereof is materially misleading or wrong, and/or the Pledgor breaches any of the warranties contained in Article 5 hereof;
  - (2) The Pledgor breaches any of the commitments contained in Article 6 hereof;
  - (3) The Pledgor or Ctrip Commerce breaches any provision under this Agreement or the Principal Agreements, or fails to perform its obligations hereunder or thereunder;
  - (4) Any provision or obligation of the Pledgor or Ctrip Commerce under this Agreement or the Principal Agreements is deemed as illegal, invalid, void or unenforceable;
  - (5) The Pledgor waives or transfers the Pledged Equity, or creates any encumbrances thereupon, without written consent from the Pledgee;
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- (6) Any of the Pledgor's external loans, guarantees, warranties, indemnities, covenants or other repayment liabilities (i) is required to be repaid or performed prior to the scheduled date due to a breach; or (ii) is due but unable to be repaid or performed as scheduled and thereby cause the Pledgee to believe that the Pledgor's capability to perform the obligations hereunder or under the Principle Agreements has been affected;
  - (7) The Pledgor is incapable of repaying the general obligation or other liabilities;
  - (8) The promulgation of relevant laws renders, or any applicable law deems any provision under this Agreement or the Principle Agreements as illegal, or deprives the Pledgor of its capability to continue to perform its obligations under this Agreement or the Principle Agreements;
  - (9) Any government consents, permits, approvals or authorizations, based on which this Agreement or the Principle Agreements is deemed enforceable, legitimate and valid, are revoked, terminated, invalidated or materially revised;
  - (10) The property of the Pledgor suffers adverse change, which causes the Pledgee to believe that the capability of the Pledgor to perform the obligations hereunder or under the Principle Agreements has been affected;
  - (11) The Pledgor breaches this Agreement or the Principle Agreements by an act and/or omission in violation of the provisions of this Agreement; or
  - (12) Other circumstances under which the Pledgee may not dispose of its Pledge Right under relevant laws.
- 7.2 The Pledgor shall immediately notify the Pledgee in writing once it is aware or discovers that any of the events mentioned in Article 7.1 hereinabove or any event that may result in any of such events has occurred.
- 7.3 Unless any of the events of default listed in Article 7.1 hereinabove has been fully resolved to the Pledgee's satisfaction, the Pledgee may, at the occurrence of such event of default or any time thereafter, send a written notice of default to the Pledgor, requiring the Pledgor or Ctrip Commerce to immediately perform its obligations under the Principal Agreements or requiring its exercise of the Pledge Right pursuant to Article 8 hereof.

## **8. Exercise of the Pledge Right**

- 8.1 The Pledgor shall not transfer or assign the Pledged Equity without written approval from the Pledgee until all the obligations under the Principal Agreements have been fully performed.
  - 8.2 In case an event of default listed in Article 7 does occur, the Pledgee shall give a notice of default to the Pledgor when exercising its Pledge Right.
  - 8.3 Subject to Article 7.3, the Pledgee may dispose of the Pledge Right either at the same time when the notice of default is sent pursuant to Article 7.3 or at any time thereafter.
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- 8.4 The Pledgee has the right to convert the value of all or part of the Pledged Equity hereunder into money in compliance with legal procedures, or has the priority to be compensated by the proceeds generated from auction or sale of such equity interests, until the obligations under the Principal Agreement have been fully performed. If the Pledgee decides to exercise the Pledge Right, the Pledgor undertakes to transfer all its shareholder rights to the Pledgee for its exercise.
- 8.5 The Pledgor shall not hinder the Pledgee from exercising the Pledge Right in accordance with this Agreement and shall instead give necessary and positive assistance so that the Pledgee can realize its Pledge Right.

## **9. Assignment**

- 9.1 The Pledgor shall not donate or transfer its rights and obligations hereunder without prior consent from the Pledgee. The Pledgor agrees that if he/she dies or loses his/her full capacity for civil acts, his/her rights and obligations hereunder will be immediately transferred to and succeeded by the Pledgee's designated person, or the Pledged Equity will be transferred to the Pledgee for its disposal at its sole discretion, including but not limited to the cases under which the Pledgee or its designated person will be transferred and thus acquire the Pledged Equity.
- 9.2 The Pledgee may transfer or assign any or all of its rights and obligations under the Principal Agreements to any person (whether natural or legal) designated by it at any time to the extent permissible by the laws. In this case, the assignee shall enjoy the rights and undertake the obligations of the Pledgee hereunder as if the assignee itself were a party hereto. When the Pledgee transfers or assigns its rights and obligations under the Principal Agreements, the Pledgor shall, at the request of the Pledgee, execute all relevant agreements and/or documents with respect to such transfer or assignment.
- 9.3 After the pledge is changed due to the abovementioned transfer or assignment, the new parties to the pledge shall execute a new equity pledge agreement, which shall be substantially consistent with this Agreement.
- 9.4 This Agreement shall be effective and binding upon both Parties and their respective successors, inheritors and assigns.

## **10. Effectiveness and Termination of the Agreement**

- 10.1 This Agreement shall come into effectiveness as of the date of its execution. The Parties hereby agree and confirm that the effect of the terms and conditions of this Agreement shall retrospect to the day when the Pledgor became a shareholder of Ctrip Commerce.
- 10.2 The Parties further confirm that the effectiveness and validity of this Agreement shall not be affected regardless of whether or not the pledge hereunder is registered at the competent AIC.
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- 10.3 This Agreement shall expire two (2) years after the Pledgor and Ctrip Commerce no longer undertake any obligations under or arising from the Principal Agreements, and in this case, the Pledgee shall cancel or terminate this Agreement as soon as reasonably practicable.
- 10.4 The release of pledge shall also be recorded accordingly at the shareholder register of Ctrip Commerce, and the deregistration of the pledge shall be completed at the competent AIC of Ctrip Commerce according to the relevant laws.

#### **11. Formality Fees and Other Expenses**

- 11.1 The Parties agree and confirm that the Pledgor shall bear any and all costs and actual expenses in relation to this Agreement, including without limitation any and all legal costs, production costs, stamp tax and any other taxes, costs and expenses arising from the performance of this Agreement by the Parties. If the Pledgee is required to pay the relevant taxes and expenses by the law, the Pledgor shall reimburse to the Pledgee in full the taxes and fees that have been paid by the Pledgee, unless the Pledgee agrees to bear all or part of such taxes and fees.
- 11.2 If the Pledgor fails to pay any taxes or expenses payable by it hereunder, or the Pledgee is otherwise rendered to take any approaches or actions to recover the amounts payable by the Pledgor, the Pledgor shall bear all costs arising therefrom, including without limitation, all kinds of taxes, fees, formality fees, administration fees, litigation costs, attorney fees and various insurance costs, etc. arising from the disposal of the Pledge Right.

#### **12. Force Majeure**

- 12.1 An "Force Majeure Event" shall mean any event beyond the reasonable anticipation and control of a Party so affected, which are unavoidable even if the affected Party takes a reasonable care, including but not limited to governmental acts, Act of God, fires, explosion, storms, floods, earthquakes, tides, lightning or wars. However, any shortage of credits, funds or financing shall not be deemed as the events beyond reasonable control of the affected Party. The affected Party shall forthwith inform the other Party of the details concerning the exemption of liabilities and the steps that need to be taken to complete discharging such liabilities.
- 12.2 In the event that the performance of this Agreement is delayed or interrupted due to the said Force Majeure Event, the affected Party shall be excused from any liability hereunder to the extent of the delayed or interrupted performance, provided, however, that the affected Party shall take appropriate measures to minimize or eliminate the adverse impacts therefrom and strive to resume the performance of this Agreement so delayed or interrupted. The Parties agree to use their best efforts to continue the performance of this Agreement once the said Force Majeure Event disappears.
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**13. Governing Law and Dispute Resolution**

- 13.1 The formation, validity, interpretation, performance and termination of this Agreement and the disputes resolution under this Agreement shall be governed by the PRC laws.
- 13.2 Any disputes arising from the interpretation and performance of this Agreement shall first be resolved through friendly consultation among the Parties. In case no settlement can be reached through consultation within thirty (30) days after the request for consultation is made by any Party with a written notice, any Party can submit such disputes to Shanghai International Economic and Trade Arbitration Commission for arbitration in accordance with its then effective rules. The arbitration shall take place in Shanghai. The arbitration proceedings shall be conducted in Chinese. The arbitration award shall be final and binding upon both Parties.
- 13.3 If any dispute arises from the interpretation and performance of this Agreement or any dispute is under arbitration, the Parties shall continue to perform their respective rights and obligations hereunder other than those in dispute.

**14. Notices**

Notices or other communications required to be given by any Party pursuant to this Agreement shall be written in Chinese or English and delivered personally or sent by registered mail, postage prepaid mail, express delivery or facsimile transmission to the addresses of the other Parties set forth below, or to other designated addresses notified by such other Parties to such Party from time to time, or the addresses of other persons designated by such Party. A notice is deemed to be duly served: (a) if delivered personally, upon the delivery; (b) if sent by mail, on the tenth (10th) day after the date when the air registered mail with postage prepaid has been sent out (as is shown on the postmark), or the fourth (4th) day after delivered to the courier service agency; and (c) if sent by facsimile transmission, upon the receipt time as is shown on the transmission confirmation of relevant documents.

If to **Party A:** \_\_\_\_\_  
Attn: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: (\_\_\_\_\_) \_\_\_\_\_  
Fax: (\_\_\_\_\_) \_\_\_\_\_

If to **Party B:** \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: (\_\_\_\_\_) \_\_\_\_\_  
Fax: (\_\_\_\_\_) \_\_\_\_\_

**15. Miscellaneous**

- 15.1 The headings contained in this Agreement are for the convenience of reference only and shall not be used to interpret, explain or otherwise affect the meaning of the provisions of this Agreement.
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- 15.2 The Parties agree to promptly execute such documents, or take such further actions, as are reasonably necessary or beneficial for performing the provisions or achieving the purposes hereof.
- 15.3 The Parties confirm that this Agreement shall, upon its effectiveness, constitute the entire agreement and common understanding of the Parties with respect to the contents herein and fully supersede all prior verbal and/or written agreements and understandings between the Parties with respect to the contents herein.
- 15.4 If any one or more provisions of this Agreement is identified or judged by a court of competent jurisdiction or arbitration authority as void, invalid or unenforceable in any respect according to any laws or regulations, the validity, legality and enforceability of the other provisions hereof shall not be affected or impaired in any way. The Parties shall cease performing such void, invalid or unenforceable provisions and revise those void, invalid or unenforceable provisions only to the extent closest to the original intention thereof to recover its validity or enforceability for such specific facts and circumstances.
- 15.5 Any Party's failure to exercise the rights under this Agreement in time shall not be deemed as its waiver of such rights and would not affect its future exercise of such rights.
- 15.6 Any obligations that are incurred or become due arising from this Agreement by the expiry or early termination of this Agreement shall survive the expiry or termination of this Agreement.
- 15.7 Any matters excluded in this Agreement shall be negotiated by the Parties. Any amendment and supplement to this Agreement and its exhibits shall be made by the Parties in writing. The amendment and supplement duly executed by each Party with respect to this Agreement and its exhibits are indispensable part of this Agreement and shall have the same legal effect as this Agreement.
- 15.8 Should the pledge registration authority require this Agreement to be re-signed or amended with respect to the pledge of the equity interest, the Parties shall use their respective best efforts to guarantee the validity and enforceability of this Agreement in good faith. Such re-signed or amended agreement shall be only used for the purposes of registration and filing at AIC and will not amend or supersede this Agreement. In case of any conflicts between such agreement and this Agreement, this Agreement shall prevail.
- 15.9 This Agreement is written in Chinese and executed with three (3) originals with the same legal effect.

IN WITNESS WHEREOF, this Agreement has been duly executed by the Parties or their respective authorized representatives on the date first above written.

*[The remainder of this page is intentionally left blank]*

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**Pledgee:** \_\_\_\_\_

Signature: \_\_\_\_\_

Authorized representative: \_\_\_\_\_  
(stamp)

**Pledgor:** \_\_\_\_\_

Signature: \_\_\_\_\_

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**Schedule A**

The following schedule sets forth other major similar agreements the registrant entered into with each of its consolidated affiliated Chinese entities. Other than the information set forth below, there is no material difference between such other agreements and this exhibit.

<b>VIE</b>	<b>Parties to the Pledge</b>	<b>Execution Date</b>
Shanghai Ctrip Commerce Co., Ltd.	Pledgee: Ctrip Travel Network Technology (Shanghai) Co., Ltd. Pledgor: Maohua Sun Pledgee: Ctrip Travel Network Technology (Shanghai) Co., Ltd. Pledgor: Tao Yang	December 14, 2015 (as amended on April 9, 2019) May 27, 2019
Chengdu Ctrip Travel Agency Co., Ltd.	Pledgee: Ctrip Travel Network Technology (Shanghai) Co., Ltd. Pledgor: Fan Min Pledgee: Ctrip Travel Network Technology (Shanghai) Co., Ltd. Pledgor: Shi Qi	December 14, 2015 December 14, 2015

## POWER OF ATTORNEY

I, \_\_\_\_\_, citizen of the People's Republic of China (the "**PRC**"), PRC Identification Card No: \_\_\_\_\_ (the "**Authorizer**"), issue this Power of Attorney ("**POA**") on \_\_\_\_\_. This POA shall take effect as of the date of execution.

**WHEREAS:**

- (1) the Authorizer holds \_\_\_\_% equity interest in \_\_\_\_\_ (the "**Company**");
- (2) the Authorizer, \_\_\_\_\_ (the "**WFOE**") and the Company have entered into a series of contractual arrangements, including the Loan Agreement, the Exclusive Call Option Agreement, the Equity Pledge Agreement and the Exclusive Technical Consulting and Services Agreement; and
- (3) in order to guarantee the normal and continuous operations of the Company and the performance of the obligations under the abovementioned agreements by the Company and the Authorizer, the WFOE has requested the Authorizer to appoint the WFOE as its attorney-in-fact, with full power of substitution, to exercise any and all of the rights in respect of Authorizer's equity interests in the Company and the Authorizer has agreed to make such appointment.

In consideration of the above, the Authorizer hereby irrevocably nominates, appoints and constitutes the WFOE or its designated person as its attorney-in-fact ("**Attorney-in-Fact**," including legal and natural person) to exercise on the Authorizer's behalf any and all rights that the Authorizer has in respect of his/her equity interests in the Company conferred by relevant laws and regulations and the articles of association of the Company, including without limitation, the following rights (collectively, "**Shareholder Rights**"):

- (a) to propose, call and attend the shareholders' meetings of the Company;
- (b) to receive any notices about the holding of shareholders' meetings and relevant procedures;
- (c) to execute and deliver any and all written resolutions as a shareholder in the name and on behalf of the Authorizer;
- (d) to vote by itself or by proxy on any matters discussed on shareholders' meetings, including without limitation, the sale, transfer, mortgage, pledge or disposal of any or all of the assets of the Company;
- (e) to sell, transfer, pledge or otherwise dispose of any or all of the equity interests held by the Authorizer in the Company;

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- (f) to nominate, elect, designate, appoint or remove the directors, general manager, finance controller and other senior officers of the Company;
  - (g) to oversee the economic performance of the Company, to approve annual budgets of the Company or declare dividends, and to have full access to the financial information of the Company at any time;
  - (h) to file any shareholder lawsuits or take other legal actions against the Company's directors or senior management members when such directors or members are acting to the detriment of the interest of the Company or its shareholder(s); and
  - (i) any other rights conferred on the shareholder by the articles of association of the Company or relevant laws and regulations.

The Authorizer further agrees and undertakes that:

- (a) the Authorizer hereby authorizes the Attorney-in-Fact to exercise the Shareholder Rights at its sole discretion without any need to obtain any oral or written instructions from the Authorizer; and, without the WFOE's prior written consent, the Authorizer shall not exercise any of the Shareholder Rights;
- (b) the WFOE has the right to appoint, at its sole discretion, a substitute or substitutes to perform any or all of its rights of the Attorney-in-Fact under this POA, and to revoke the appointment of such substitute or substitutes at its sole discretion;
- (c) if the Authorizer's equity interest in the Company increases, whether by equity interest transfer or increase of the Company's registered capital, any such additional equity interests acquired by the Authorizer through equity transfer or the equity interests corresponding to the increased part of the registered capital shall be automatically subject to this POA and the Attorney-in-Fact shall have the right to exercise the Shareholder Rights with respect to such additional equity interests on behalf of the Authorizer; if any person acquires the Company's equity interests, whether by voluntary transfer, judicial sale, foreclosure sale or otherwise, any such equity interest in the Company so transferred remains subject to this POA and the Attorney-in-Fact shall continue to have the right to exercise the Shareholder Rights with respect to such equity interest in the Company so transferred.
- (d) for the avoidance of any doubt, if any equity transfer is contemplated under the Loan Agreement, the Exclusive Call Option Agreement and the Equity Pledge Agreement (including any and all subsequent amendments and supplements thereto) entered into by the Authorizer for the benefits of the WFOE or any of its affiliates, the Attorney-in-Fact shall, on behalf of the Authorizer, have the right to sign the equity transfer agreement and other relevant agreements and to perform all the shareholders' obligations under the Loan Agreement, the Exclusive Call Option Agreement and the Equity Pledge Agreement. If required by the WFOE, the Authorizer shall sign any documents and fix the common chops and/or seals thereupon and the Authorizer shall take any other action as necessary for purposes of consummation of the aforesaid equity transfer. The Authorizer shall ensure that such equity transfer be consummated and cause any transferee to sign a power of attorney with the WFOE substantially the same as this POA; and



- (e) WFOE may, at its sole discretion, request the Authorizer at any time with a written notice to execute a new power of attorney substantially the same as this POA, authorizing the person designated by the WFOE as the Attorney-in-Fact to exercise any and all rights to which the Authorizer is entitled by relevant laws and regulations and the Company's articles of association with respect to the equity interest held by the Authorizer in the Company.

This POA shall be duly executed by the Authorizer. This POA shall become effective as of the date of execution specified herein, and shall remain effective as long as the Company exists. The Authorizer does not have rights to terminate or amend this POA or revoke the appointment of the Attorney-in-Fact without prior written consent from the WFOE. This POA shall be equally binding upon the respective inheritors, successors and assigns of the Parties.

*[The remainder of this page is intentionally left blank.]*

Authorizer:

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

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**Schedule A**

The following schedule sets forth other major similar agreements the registrant entered into with each of its consolidated affiliated Chinese entities. Other than the information set forth below, there is no material difference between such other agreements and this exhibit.

<u>VIE</u>	<u>Executing Parties</u>	<u>Execution Date</u>
Shanghai Ctrip Commerce Co., Ltd.	Maohua Sun Tao Yang	December 14, 2015 May 27, 2019
Chengdu Ctrip Travel Agency Co., Ltd.	Fan Min Shi Qi	December 14, 2015 December 14, 2015

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EXECUTION VERSION

**FACILITY AGREEMENT**

**5 JULY 2019**

**CTRIP.COM INTERNATIONAL, LTD.**  
**as Borrower**

**BANK OF COMMUNICATIONS CO., LTD. HONG KONG BRANCH, THE BANK OF EAST ASIA, LIMITED (有限公司), CHINA CONSTRUCTION BANK (ASIA) CORPORATION LIMITED, THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED, THE KOREA DEVELOPMENT BANK and BANK OF CHINA LIMITED**  
**as Mandated Lead Arrangers and Bookrunners**

**THE FINANCIAL INSTITUTIONS LISTED IN SCHEDULE 1 HERETO**  
**as Original Lenders**

**and**

**THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED**  
**as Agent**

**for**

**UP TO USD2,000,000,000 EQUIVALENT TRANSFERABLE TERM LOAN FACILITY**  
**WITH AN INCREMENTAL FACILITY OF UP TO USD500,000,000**

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THIS AGREEMENT is dated 5 July 2019 and made

**BETWEEN:**

- (1) **CTRIP.COM INTERNATIONAL, LTD.**, an exempted company incorporated under the laws of the Cayman Islands with registration number 97668 and its registered office at Uglan House, South Church Street, George Town, Grand Cayman, KY1-1104, Cayman Islands and listed on The Nasdaq Stock Market (Stock Code CTRP) (the **Borrower**);
- (2) **BANK OF COMMUNICATIONS CO., LTD. HONG KONG BRANCH, THE BANK OF EAST ASIA, LIMITED (香港銀行), CHINA CONSTRUCTION BANK (ASIA) CORPORATION LIMITED, THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED, THE KOREA DEVELOPMENT BANK and BANK OF CHINA LIMITED** as mandated lead arrangers and bookrunners (in this capacity, whether acting individually or together, the **Mandated Lead Arrangers and Bookrunners**);
- (3) **THE FINANCIAL INSTITUTIONS** listed in Schedule 1 (Original Lenders) as lenders (the **Original Lenders**); and
- (4) **THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED** as agent of the Finance Parties (other than itself) (the **Agent**).

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Agreement:

**Administrative Party** means each of the Agent and the Mandated Lead Arrangers and Bookrunners.

**Affiliate** means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

**Anti-Bribery and Corruption Laws** means all laws, rules, and regulations issued, administered or enforced by the United States of America, the United Kingdom, the European Union or any of its member states, or any other country or governmental agency, which are applicable to the Borrower or any other member of the Group from time to time concerning or relating to bribery or corruption, including:

- (a) the United States Foreign Corrupt Practices Act 1977; and
- (b) the United Kingdom Bribery Act 2010.

**APLMA** means the Asia Pacific Loan Market Association Limited.

**Assignment Agreement** means an agreement substantially in the form set out in Schedule 5 (Form of Assignment Agreement) or any other form agreed between the relevant assignor, assignee and the Agent.

**Authorisation** means:

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

**Availability Period** means:

- (a) in relation to the Original Tranche A Facility and the Original Tranche B Facility, the period from and including the date of this Agreement to and including the date falling six Months from the date of this Agreement;
- (b) in relation to the Subsequent Tranche A Facility and the Subsequent Tranche B Facility, the period from and including the Subsequent Facility Effective Date to and including the date falling six Months from the date of this Agreement; and
- (c) in relation to the Incremental Tranche A Facility and the Incremental Tranche B Facility, the period from and including the Incremental Facility Establishment Date to and including the date falling six Months from the Incremental Facility Establishment Date.

**Available Commitment** means, in relation to a Facility, a Lender's Commitment *minus*:

- (a) the amount of its participation in any outstanding Loans under that Facility; and
- (b) in relation to any proposed Utilisation, the amount of its participation in any Loans that are due to be made under that Facility on or before the proposed Utilisation Date.

**Available Facility** means, in relation to a Facility, the aggregate for the time being of each Lender's Available Commitment in respect of that Facility.

**Bail-In Action** means the exercise of any Write-down and Conversion Powers.

**Bail-In Legislation** means in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time.

**Break Costs** means the amount (if any) by which:

- (a) the interest (excluding Margin) which a Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:

- (b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.



**Business Day** means a day (other than a Saturday or Sunday) on which banks are open for general business in Hong Kong, New York and:

- (a) (in relation to LIBOR fixing) London;
- (b) (in relation to EURIBOR fixing) which is also a TARGET Day; and
- (c) (in relation to a day on which a payment is to be made by a Finance Party under any Finance Document) Beijing.

**Code** means the US Internal Revenue Code of 1986.

**Co-founders** means:

- (a) James Jianzhang Liang;
- (b) Min Fan;
- (c) Neil Nanpeng Shen; and
- (d) Qi Ji.

**Commitment** means an Original Commitment, a Subsequent Commitment or an Incremental Commitment.

**Compliance Certificate** means a certificate delivered pursuant to Clause 18.2 (Compliance Certificate) substantially in the form set out in Schedule 6 (Form of Compliance Certificate).

**Confidential Information** means all information relating to the Borrower, the Group, the Finance Documents or a Facility of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party or which is received by a Finance Party in relation to, or for the purpose of becoming a Finance Party under, the Finance Documents or the Facilities from either:

- (a) any member of the Group or any of its advisers; or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any member of the Group or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes:

- (i) information that:
  - (A) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 33 (Confidential Information);
  - (B) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
  - (C) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraph (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Group and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; and

(ii) any Funding Rate or Reference Bank Quotation.

**Confidentiality Undertaking** means a confidentiality undertaking substantially in a recommended form of the APLMA or in any other form agreed between the Borrower and the Agent.

**Consolidated Total Assets** has the meaning given to that term in Clause 19.1 (Financial definitions).

**Default** means an Event of Default or any event or circumstance specified in Clause 21 (Events of Default) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

**Disruption Event** means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with a Facility (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; and
- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:
  - (i) from performing its payment obligations under the Finance Documents; or
  - (ii) from communicating with other Parties in accordance with the terms of the Finance Documents,and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted.

**EEA Member Country** means any member state of the European Union, Iceland, Liechtenstein and Norway.

**Environmental Claim** means any claim, proceeding or investigation by any person in respect of any Environmental Law.

**Environmental Law** means any applicable law in any jurisdiction in which any member of the Group conducts business which relates to the pollution or protection of the environment or harm to or the protection of human health or the health of animals or plants.

**Environmental Permits** means any Authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of any member of the Group conducted on or from the properties owned or used by the relevant member of the Group.

**EU Bail-In Legislation Schedule** means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

**EUR Amount** of an Original Tranche B Loan, a Subsequent Tranche B Loan or an Incremental Tranche B Loan (or, in each case, any part thereof) on a day means an amount in euro equivalent to an amount in US Dollars converted at the Agent's spot rate of exchange (or, if the Agent does not have an available spot rate of exchange, any publicly available spot rate of exchange selected by the Agent (acting reasonably)) for the purchase of the specified currency with that other currency at or about 11am on the relevant date.

**EURIBOR** means, in relation to any Original Tranche B Loan, Subsequent Tranche B Loan or an Incremental Tranche B Loan:

- (a) the applicable Screen Rate as of the Specified Time for euro for a period equal to the Interest Period of that Loan; or
- (b) as otherwise determined pursuant to Clause 10.1 (Unavailability of Screen Rate),

and if, in either case, that rate is less than zero, EURIBOR will be deemed to be zero.

**euro** and **EUR** mean the single currency of the Participating Member States.

**Event of Default** means any event or circumstance specified as such in Clause 21 (Events of Default).

**Existing BOC Facility** means the EUR980,000,000 term loan agreement dated 8 June 2017 and entered into between, amongst others, the Borrower as borrower, Bank of China as sole mandated lead arranger, Industrial and Commercial Bank of China, Shanghai Branch and Shanghai Pudong Development Bank, Shanghai Branch as joint lead arrangers, Bank of China, Shanghai Branch as agent, Bank of China, Shanghai Changning Sub-branch as guarantee agent.

**Facility** means an Original Facility, a Subsequent Facility or an Incremental Facility.

**Facility Office** means the office or offices notified by a Lender to the Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement.

**FATCA** means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraph (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

**FATCA Application Date** means:

- (a) in relation to a "withholdable payment" described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014; or

- (b) in relation to a “passthru payment” described in section 1471(d)(7) of the Code not falling within paragraph (a) above, the first date from which such payment may become subject to a deduction or withholding required by FATCA.

**FATCA Deduction** means a deduction or withholding from a payment under a Finance Document required by FATCA.

**FATCA Exempt Party** means a Party that is entitled to receive payments free from any FATCA Deduction.

**Fee Letter** means any letter or letters referring to this Agreement between one or more Administrative Parties and the Borrower setting out any of the fees referred to in Clause 11 (Fees).

**Final Repayment Date** means the date falling 36 Months from the date of this Agreement.

**Finance Document** means:

- (a) this Agreement;
- (b) any Fee Letter;
- (c) any Utilisation Request;
- (d) an Incremental Facility Notice; and
- (e) any other document designated as such by the Agent and the Borrower.

**Finance Party** means the Agent, a Mandated Lead Arranger and Bookrunner or a Lender.

**Financial Indebtedness** means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a finance or capital lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);

- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (i) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above.

**Funding Rate** means any individual rate notified by a Lender to the Agent pursuant to paragraph (a)(ii) of Clause 10.4 (Cost of funds).

**GAAP** means generally accepted accounting principles in the US, including IFRS.

**Governmental Agency** means any government or any governmental agency, semi-governmental or judicial entity or authority (including any stock exchange or any self-regulatory organisation established under statute).

**Group** means the Borrower and its Subsidiaries from time to time.

**Group Structure Chart** means the structure chart disclosed in Form 20-F submitted by or on behalf of the Borrower to the US Securities and Exchange Commission for the year 2018, and which is to be delivered under Clause 4.1 (Initial conditions precedent).

**Holding Company** means, in relation to a person, any other person in respect of which it is a Subsidiary.

**IFRS** means international accounting standards within the meaning of the IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

**Incremental Commitment** means an Incremental Tranche A Commitment or an Incremental Tranche B Commitment.

**Incremental Facility** means the Incremental Tranche A Facility or the Incremental Tranche B Facility.

**Incremental Facility Establishment Date** means the later of:

- (a) the proposed Incremental Facility Establishment Date specified in the Incremental Facility Notice; and
- (b) the date on which the Agent executes the Incremental Facility Notice.

**Incremental Facility Notice** means a notice substantially in the form set out in Schedule 8 (Form of Incremental Facility Notice).

**Incremental Loan** means an Incremental Tranche A Loan or an Incremental Tranche B Loan.

**Incremental Tranche A Commitment** means:

- (a) in relation to an Initial Incremental Tranche A Lender, the amount set out opposite its name under the heading **Incremental Tranche A Commitment** in the Incremental Facility Notice and the amount of any other Incremental Tranche A Commitment it acquires under this Agreement; and
- (b) in relation to any other Lender, the amount of any Incremental Tranche A Commitment it acquires under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

**Incremental Tranche A Facility** means a US Dollar denominated term loan facility that may be established and made available under this Agreement as described under Clause 2.5 (Incremental Facilities).

**Incremental Tranche A Lender** means:

- (a) an Initial Incremental Tranche A Lender; or
- (b) any person which becomes a Lender under the Incremental Tranche A Facility in accordance with Clause 22 (Changes to the Lenders), which in each case has not ceased to be a Party as such in accordance with the terms of this Agreement.

**Incremental Tranche A Loan** means a loan made or to be made under the Incremental Tranche A Facility or the principal amount outstanding for the time being of that loan.

**Incremental Tranche A Total Commitments** means the aggregate of Incremental Tranche A Commitments.

**Incremental Tranche B Commitment** means:

- (a) in relation to an Initial Incremental Tranche B Lender, the amount set out opposite its name under the heading **Incremental Tranche B Commitment** in the Incremental Facility Notice and the amount of any other Incremental Tranche B Commitment it acquires under this Agreement; and
- (b) in relation to any other Lender, the amount of any Incremental Tranche B Commitment it acquires under this Agreement, to the extent not cancelled, transferred or reduced under this Agreement.

**Incremental Tranche B Facility** means a euro denominated term loan facility made available under this Agreement as described under Clause 2.5 (Incremental Facilities).

**Incremental Tranche B Lender** means:

- (a) an Initial Incremental Tranche B Lender; or
- (b) any person which becomes a Lender under the Incremental Tranche B Facility in accordance with Clause 22 (Changes to the Lenders), which in each case has not ceased to be a Party as such in accordance with the terms of this Agreement.

**Incremental Tranche B Loan** means a loan made or to be made under the Incremental Tranche B Facility or the principal amount outstanding for the time being of that loan.

**Incremental Tranche B Total Commitments** means the aggregate of Incremental Tranche B Commitments.

**Indirect Tax** means any goods and services tax, consumption tax, value added tax or any tax of a similar nature.

**Information Memorandum** means the document in the form approved by the Borrower concerning the Group which, at the Borrower's request and on its behalf, was prepared in relation to this transaction and distributed by the Mandated Lead Arrangers and Bookrunners to selected financial institutions before the date of this Agreement.

**Initial Incremental Lender** means an Initial Incremental Tranche A Lender or an Initial Incremental Tranche B Lender.

**Initial Incremental Tranche A Lender** means each of the lenders and other financial institutions listed in the Incremental Facility Notice as Initial Incremental Tranche A Lenders.

**Initial Incremental Tranche B Lender** means each of the lenders and other financial institutions listed in the Incremental Facility Notice as Initial Incremental Tranche B Lenders.

**Interest Payment Date** means the date on which an interest payment is due and payable by the Borrower under Clause 8.2 (Payment of interest).

**Interest Period** means, in relation to a Loan, each period determined in accordance with Clause 9 (Interest Periods) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 8.3 (Default interest).

**Interpolated Screen Rate** means, in relation to any Loan, the rate (rounded upwards to four (4) decimal places) which results from interpolating on a linear basis between:

- (a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of that Loan; and
- (b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of that Loan,

each as of the Specified Time for the currency of that Loan.

**Lender** means an Original Tranche A Lender, an Original Tranche B Lender, a Subsequent Tranche A Lender, a Subsequent Tranche B Lender, an Incremental Tranche A Lender or an Incremental Tranche B Lender.

**LIBOR** means in relation to any Original Tranche A Loan, Subsequent Tranche A Loan or Incremental Tranche A Loan:

- (a) the applicable Screen Rate as of the Specified Time for the currency of that Loan for a period equal to the Interest Period of that Loan;
- (b) as otherwise determined pursuant to Clause 10.1 (Unavailability of Screen Rate),

and if, in either case, that rate is less than zero, LIBOR will be deemed to be zero.

**Loan** means an Original Loan, a Subsequent Loan or an Incremental Loan.

**London Business Day** means a day (other than a Saturday or Sunday) on which commercial banks are open for general business, including dealings in interbank deposits in London.

**Majority Lenders** means at any time, a Lender or Lenders:

- (a) whose participation in the outstanding Loans and whose Available Commitments then aggregate 66<sup>2</sup>/<sub>3</sub> per cent. or more of the aggregate of all the outstanding Loans and the Available Commitments of all the Lenders;
- (b) if there is no Loan then outstanding, whose Commitments then aggregate 66<sup>2</sup>/<sub>3</sub> per cent. or more of the Total Commitments; or
- (c) if there is no Loan then outstanding and the Total Commitments have been reduced to zero, whose Commitments aggregated 66<sup>2</sup>/<sub>3</sub> per cent. or more of the Total Commitments immediately before the reduction.

**Margin** means 1.35 per cent. per annum.

**Material Adverse Effect** means a material adverse effect on:

- (a) the business, operations, property or financial condition of the Group taken as a whole;
- (b) the ability of the Borrower to perform its obligations under the Finance Documents; or
- (c) the validity or enforceability of, or the rights or remedies of any Finance Party under, the Finance Documents.

**Month** means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
- (c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will only apply to the last Month of any period.

**NDRC** means National Development and Reform Commission of the PRC (国家发展和改革委员会) or its competent local branch or any other authority succeeding to its functions.

**NDRC Circular 2044** means the Circular on Promoting the Reform of the Filing and Registration Regime for Issuance of Foreign Debt by Corporate Entities (Fa Gai Wai Zi [2015] No 2044) (《关于推进企业境外债务融资便利化的通知》(发改财金[2015]2044号)) issued by NDRC on 14 September 2015 and its (and its current and subsequent) implementation rules and interpretations.

**New Lender** has the meaning given to that term in Clause 22 (Changes to the Lenders).

**Original Commitment** means an Original Tranche A Commitment or an Original Tranche B Commitment.



**Original Facility** means the Original Tranche A Facility or the Original Tranche B Facility.

**Original Financial Statements** means the audited consolidated financial statements of the Borrower for the financial year ended 31 December 2018.

**Original Loan** means an Original Tranche A Loan or an Original Tranche B Loan.

**Original Tranche A Commitment** means:

- (a) in relation to an Original Tranche A Lender as at the date of this Agreement, the amount set out opposite its name in Schedule 1 (Original Lenders) under the heading **Original Tranche A Commitments** and the amount of any other Original Tranche A Commitment it acquires under this Agreement; and
- (b) in relation to any other Lender, the amount of any Original Tranche A Commitment it acquires under this Agreement, to the extent not cancelled, reduced or transferred by it under this Agreement.

**Original Tranche A Facility** means a US Dollar denominated term loan facility made available under this Agreement as described under Clause 2.1 (Original Tranche A Facility).

**Original Tranche A Lender** means:

- (a) an Original Lender which holds any Original Tranche A Commitment as at the date of this Agreement; or
- (b) any person which becomes a Lender under the Original Tranche A Facility in accordance with Clause 22 (Changes to the Lenders), which in each case has not ceased to be a Party as such in accordance with the terms of this Agreement.

**Original Tranche A Loan** means the principal amount of each borrowing under the Original Tranche A Facility under this Agreement or the principal amount outstanding for the time being of that borrowing.

**Original Tranche A Total Commitments** means the aggregate of Original Tranche A Commitments, being US\$1,500,000,000 on the date of this Agreement.

**Original Tranche B Commitment** means:

- (a) for an Original Tranche B Lender as at the date of this Agreement, the amount set out opposite its name in Schedule 1 (Original Lenders) under the heading **Original Tranche B Commitments** and the amount of any other Original Tranche B Commitment it acquires; and
- (b) in relation to any other Lender, the amount of any Original Tranche B Commitment it acquires under this Agreement, to the extent not cancelled, transferred or reduced under this Agreement.

**Original Tranche B Facility** means a euro denominated term loan facility made available under this Agreement as described under Clause 2.2 (Original Tranche B Facility).

**Original Tranche B Lender** means:

- (a) an Original Lender which holds any Original Tranche B Commitment as at the date of this Agreement; or
- (b) any person which becomes a Lender under the Original Tranche B Facility in accordance with Clause 22 (Changes to the Lenders), which in each case has not ceased to be a Party as such in accordance with the terms of this Agreement.

**Original Tranche B Loan** means the principal amount of each borrowing under the Original Tranche B Facility under this Agreement or the principal amount outstanding for the time being of that borrowing.

**Original Tranche B Total Commitments** means the aggregate of Original Tranche B Commitments, being EURO on the date of this Agreement.

**Participating Member State** means any member state of the European Union that has the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

**Party** means a party to this Agreement.

**PRC** means the People's Republic of China, but excluding Hong Kong, the Macau Special Administrative Region and Taiwan.

**Pro Rata Share** means, subject to Clause 2.6 (Currency equivalents), at any time:

- (a) for the purpose of determining a Lender's participation in a Utilisation, the proportion which its Available Commitment then bears to the Available Facility of a Facility; and
- (b) for any other purpose:
  - (i) the proportion which a Lender's participation in the Loans then bears to all the Loans;
  - (ii) if there is no Loan then outstanding, the proportion which its Commitment then bears to the Total Commitments;
  - (iii) if there is no Loan then outstanding and the Total Commitments have been reduced to zero, the proportion which its Commitment bore to the Total Commitments immediately before the reduction; and
  - (iv) when the term is used in relation to a Facility, the above proportions, but applied only to the Utilisations and Commitments in respect of that Facility.

**Quotation Day** means:

- (a) in relation to any period for which an interest rate is to be determined, two London Business Days before the first day of that period (or, in the case of an Original Tranche B Loan, a Subsequent Tranche B Loan or an Incremental Tranche B Loan, two TARGET Days before the first day of that period) unless market practice differs in the Relevant Market, in which case the Quotation Day will be determined by the Agent in accordance with market practice in the Relevant Market (and if quotations would normally be given on more than one day, the Quotation Day will be the last of those days); and

- (b) in relation to any Interest Period the duration of which is selected by the Agent pursuant to Clause 8.3 (Default interest), such date as may be determined by the Agent (acting reasonably).

**Reference Bank Quotation** means any quotation supplied to the Agent by a Reference Bank.

**Reference Bank Rate** means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request by the Reference Banks:

- (a) (in relation to EURIBOR) as the rate at which the relevant Reference Bank believes one prime bank is quoting to another prime bank for interbank term deposits in euro within the Participating Member States for that period,
- (b) (in relation to LIBOR) as the rate at which the relevant Reference Bank could borrow funds in the London interbank market in the relevant currency for the relevant period, were it to do so by asking for and then accepting interbank offers for deposits in reasonable market size in that currency and for that period,

or, in each case, if different, as the rate (if any and applied to the relevant Reference Bank and the relevant currency and period) which contributors to the Screen Rate are asked to submit to the relevant administrator.

**Reference Banks** means a minimum of three Lenders which may be appointed by the Agent in consultation with the Borrower.

**Related Fund**, in relation to a fund (the **first fund**), means a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund.

**Relevant Market** means:

- (a) (in relation to US Dollars) the London interbank market; and
- (b) (in relation to euro) the European interbank market.

**Relevant Proportion** means, at any time in respect of a Loan requested by the Borrower, or a Commitment cancelled by the Borrower, or any prepayment of a Loan (or any part of it); the proportion of (a) the amount of such Loan or Commitment (as applicable) under a Facility, to (b) (in respect of the request or cancellation of a Loan) the Available Commitment under that Facility immediately prior to the making of such Loan or cancellation of such Commitment (as the case may be) or (in respect of the prepayment of a Loan (or any part of it)) the aggregate amount of the Loans outstanding under the Facility of that Loan immediately prior to the prepayment of such Loan (or any part of it).

**Repeating Representations** means each of the representations set out in Clause 17 (Representations) (other than Clause 17.7 (Deduction of Tax), Clause 17.8 (No filing or stamp taxes), paragraph (c) of Clause 17.11 (Financial statements), Clause 17.19 (Group Structure Chart) and Clause 17.20 (Existing BOC Facility)).

**Representative** means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

**Resolution Authority** means any body which has the authority to exercise any Write-down and Conversion Powers.

**RMB** means the lawful currency of PRC from time to time.

**Sanctions** means the sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by any of the Sanctions Authorities.

**Sanctions Authorities** means:

- (a) the United States of America;
- (b) the United Nations;
- (c) the European Union;
- (d) the United Kingdom;
- (e) Hong Kong;
- (f) the Commonwealth of Australia; and
- (g) the respective Governmental Agencies of any of the foregoing, including without limitation, OFAC, the US Department of State, the United Nations Security Council, Her Majesty's Treasury, the Department of Foreign Affairs and Trade of Australia and the Hong Kong Monetary Authority.

**Screen Rate** means:

- (a) in relation to EURIBOR, the euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) for the relevant period displayed (before any correction, recalculation or republication by the administrator) on page EURIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate); and
- (b) in relation to LIBOR, the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the relevant currency and period displayed (before any correction, recalculation or republication by the administrator) on page LIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate),

or, in each case, on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page or service ceases to be available, the Agent may specify another page or service displaying the relevant rate after consultation with the Borrower.

**Security** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**Selection Notice** means a notice substantially in the form set out in Part 2 of Schedule 3 (Requests) given in accordance with Clause 9 (Interest Periods).

**Significant Subsidiary** shall have the meaning ascribed thereto under Rule 1-02(w) of Regulation S-X (17 CFR § 210-02(w)) of the United States Securities Act of 1933, provided that for the purposes of Clause 21.6 (Insolvency) and Clause 21.7 (Insolvency proceedings), all references to “10 percent” in such definition shall be replaced by “5 percent”.

**Specified Time** means a day or time determined in accordance with Schedule 7 (Timetables).

**Subsidiary** means with respect to any person, each other person in which the first person:

- (a) owns or controls, directly or indirectly, share capital or other equity interests representing more than 50 per cent. of the outstanding voting stock or other equity interests;
- (b) holds the rights to more than 50 per cent. of the economic interest of such other person, including any interest held through any VIE or other contractual arrangements; or
- (c) has a relationship such that the financial statements of the other person are consolidated into the financial statements of the first person under applicable accounting conventions.

**Subsequent Commitment** means a Subsequent Tranche A Commitment or a Subsequent Tranche B Commitment.

**Subsequent Facility** means the Subsequent Tranche A Facility or the Subsequent Tranche B Facility.

**Subsequent Facility Effective Date** means the date on which the Agent gives the notification referred to in paragraph (c) of Clause 4.1 (Initial conditions precedent).

**Subsequent Loan** means a Subsequent Tranche A Loan or a Subsequent Tranche B Loan.

**Subsequent Tranche A Commitment** means:

- (a) in relation to a Subsequent Tranche A Lender as at the date of this Agreement, the amount set out opposite its name in Schedule 1 (Original Lenders) under the heading **Subsequent Tranche A Commitments** and the amount of any other Subsequent Tranche A Commitment it acquires under this Agreement; and

- (b) in relation to any other Lender, the amount of any Subsequent Tranche A Commitment it acquires under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

**Subsequent Tranche A Facility** means a US Dollar denominated term loan facility made available under this Agreement as described under Clause 2.3 (Subsequent Tranche A Facility).

**Subsequent Tranche A Lender** means:

- (a) an Original Lender which holds any Subsequent Tranche A Commitment as at the date of this Agreement; or
- (b) any person which becomes a Lender under the Subsequent Tranche A Facility in accordance with Clause 22 (Changes to the Lenders),

which in each case has not ceased to be a Party as such in accordance with the terms of this Agreement.

**Subsequent Tranche A Loan** means the principal amount of each borrowing under the Subsequent Tranche A Facility under this Agreement or the principal amount outstanding for the time being of that borrowing.

**Subsequent Tranche A Total Commitments** means the aggregate of Subsequent Tranche A Commitments, being US\$500,000,000 on the date of this Agreement.

**Subsequent Tranche B Commitment** means:

- (a) in relation to a Subsequent Tranche B Lender as at the date of this Agreement, the amount set out opposite its name in Schedule 1 (Original Lenders) under the heading **Subsequent Tranche B Commitments** and the amount of any other Subsequent Tranche B Commitment it acquires; and
- (b) in relation to any other Lender, the amount of any Subsequent Tranche B Commitment it acquires under this Agreement, to the extent not cancelled, transferred or reduced under this Agreement.

**Subsequent Tranche B Facility** means a euro denominated term loan facility made available under this Agreement as described under Clause 2.4 (Subsequent Tranche B Facility).

**Subsequent Tranche B Lender** means:

- (a) an Original Lender which holds any Subsequent Tranche B Commitment as at the date of this Agreement; or
- (b) any person which becomes a Lender under the Subsequent Tranche B Facility in accordance with Clause 22 (Changes to the Lenders), which in each case has not ceased to be a Party as such in accordance with the terms of this Agreement.

**Subsequent Tranche B Loan** means the principal amount of each borrowing under the Subsequent Tranche B Facility under this Agreement or the principal amount outstanding for the time being of that borrowing

**Subsequent Tranche B Total Commitments** means the aggregate of Subsequent Tranche B Commitments, being EURO on the date of this Agreement.

**TARGET2** means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007.

**TARGET Day** means any day on which TARGET2 is open for the settlement of payments in euro.

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

**Tax Deduction** means a deduction or withholding for or on account of Tax from a payment under a Finance Document, other than a FATCA Deduction.

**Third Parties Ordinance** means the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong).

**Total Commitments** means at any time the aggregate of the Total Original Commitments, the Total Subsequent Commitments and the Total Incremental Commitments.

**Total Incremental Commitments** means the aggregate of the Incremental Commitments, being the aggregate of the Incremental Tranche A Total Commitments and the Incremental Tranche B Total Commitments from time to time.

**Total Original Commitments** means the aggregate of the Original Commitments, being the aggregate of the Original Tranche A Total Commitments and the Original Tranche B Total Commitments from time to time.

**Total Subsequent Commitments** means the aggregate of the Subsequent Commitments, being the aggregate of the Subsequent Tranche A Total Commitments and the Subsequent Tranche B Total Commitments from time to time.

**Tranche A Loan** means an Original Tranche A Loan, a Subsequent Tranche A Loan or an Incremental Tranche A Loan.

**Tranche B Loan** means an Original Tranche B Loan, a Subsequent Tranche B Loan or an Incremental Tranche B Loan.

**Transfer Certificate** means a certificate substantially in the form set out in Schedule 4 (Form of Transfer Certificate) or any other form agreed between the Agent and the Borrower.

**Transfer Date** means, in relation to an assignment or a transfer, the later of:

- (a) the proposed Transfer Date specified in the relevant Assignment Agreement or Transfer Certificate; and
- (b) the date on which the Agent executes the relevant Assignment Agreement or Transfer Certificate.

**Unpaid Sum** means any sum due and payable but unpaid by the Borrower under the Finance Documents.

**US** means the United States of America.

**US Dollar, US\$ or USD** means the lawful currency of the US from time to time.

**US Dollar Amount** of an Incremental Tranche B Loan or part of an Incremental Tranche B Loan on a day means an amount in US Dollars equivalent to an amount in euro converted at the Agent's spot rate of exchange at 11:00 am.

**US Tax Obligor** means:

- (a) the Borrower, if it is resident for tax purposes in the US; or
- (b) the Borrower some or all of whose payments under the Finance Documents are from sources within the US for US federal income tax purposes.

**Utilisation** means a utilisation of a Facility.

**Utilisation Date** means the date of a Utilisation, being the date on which the relevant Loan is to be made.

**Utilisation Request** means a notice substantially in the form set out in Part 1 of Schedule 3 (Requests).

**VIE** means any arrangement where any person that is established in the PRC and in respect of which the Borrower does not, directly or indirectly, hold or own a majority of its issued shares or equity interests (and/or any or all of the shareholder(s) of such person) enters into contractual arrangements with any member of the Group which enable such member of the Group to exercise effective control over such person or consolidate the financial condition or results of operation of such person in accordance with GAAP for the purposes of the consolidated financial statements of the Group.

**WFOE** means a wholly foreign owned enterprise incorporated in the PRC.

**Write-down and Conversion Powers** means, in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule.

## 1.2 Construction

- (a) Unless a contrary indication appears, any reference in this Agreement to:
- (i) any **Administrative Party**, the **Agent**, any **Mandated Lead Arranger and Bookrunner**, any **Finance Party**, any **Lender** or any **Party** shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents;
  - (ii) **assets** includes present and future properties, revenues and rights of every description;
  - (iii) a **Finance Document** or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
  - (iv) **including** shall be construed as “including without limitation” (and cognate expressions shall be construed similarly);
  - (v) a **group of Lenders** includes all the Lenders;
  - (vi) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
  - (vii) a Lender’s **participation** in a Loan or Unpaid Sum includes an amount (in the currency of such Loan or Unpaid Sum) representing the fraction or portion (attributable to such Lender by virtue of the provisions of this Agreement) of the total amount of such Loan or Unpaid Sum and the Lender’s rights under this Agreement in respect thereof;
  - (viii) a **person** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
  - (ix) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
  - (x) a provision of law is a reference to that provision as amended or re-enacted; and



- (xi) a time of day is a reference to Hong Kong time.
- (b) The determination of the extent to which a rate is **for a period equal in length** to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement.
- (c) Section, Clause and Schedule headings are for ease of reference only.
- (d) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
- (e) A Default (other than an Event of Default) is **continuing** if it has not been remedied or waived and an Event of Default is **continuing** if it has not been waived.
- (f) Where this Agreement specifies an amount in a given currency (the **specified currency**) or **its equivalent**, the **equivalent** is a reference to the amount of any other currency which, when converted into the specified currency utilising the Agent's spot rate of exchange (or, if the Agent does not have an available spot rate of exchange, any publicly available spot rate of exchange selected by the Agent (acting reasonably)) for the purchase of the specified currency with that other currency at or about 11am on the relevant date, is equal to the relevant amount in the specified currency.

### 1.3 Third party rights

- (a) Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Third Parties Ordinance to enforce or to enjoy the benefit of any term of this Agreement.
- (b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

### 1.4 Contractual recognition of bail-in

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including:
  - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
  - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
  - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

## **2. THE FACILITIES**

### **2.1 Original Tranche A Facility**

Subject to the terms of this Agreement, the Original Tranche A Lenders make available to the Borrower a US Dollar term loan facility in an aggregate amount equal to the Original Tranche A Total Commitments.

### **2.2 Original Tranche B Facility**

Subject to the terms of this Agreement, the Original Tranche B Lenders make available to the Borrower a euro term loan facility in an aggregate amount equal to the Original Tranche B Total Commitments.

### **2.3 Subsequent Tranche A Facility**

Subject to the terms of this Agreement, the Subsequent Tranche A Lenders make available to the Borrower a US Dollar term loan facility in an aggregate amount equal to the Subsequent Tranche A Total Commitments.

### **2.4 Subsequent Tranche B Facility**

Subject to the terms of this Agreement, the Subsequent Tranche B Lenders make available to the Borrower a euro term loan facility in an aggregate amount equal to the Subsequent Tranche B Total Commitments.

### **2.5 Incremental Facilities**

- (a) Subject to the terms of this Agreement, one Incremental Tranche A Facility and one Incremental Tranche B Facility may be established and made available to the Borrower.
- (b) The Borrower and each Initial Incremental Lender may request the establishment of the Incremental Tranche A Facility and the Incremental Tranche B Facility by the Borrower delivering to the Agent a duly completed Incremental Facility Notice not later than ten Business Days prior to the proposed Incremental Facility Establishment Date specified in that Incremental Facility Notice (or by such later date as the Agent may agree).
- (c) Only one Incremental Facility Notice may be delivered by the Borrower.
- (d) The Borrower may not deliver an Incremental Facility Notice in respect of the Incremental Facilities unless the Agent has received evidence that the filing and registration requirement of the Incremental Facilities with the NDRC in accordance with NDRC Circular 2044 and any implementation rule or regulation in connection with the NDRC Circular has been duly completed. The Agent shall notify the Borrower and the Lenders promptly upon receiving such documents and other evidence.
- (e) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification in paragraph (d) above, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.
- (f) The Incremental Facility Establishment Date must occur on or prior to the date which falls five Months after the date of this Agreement.

- (g) An Incremental Facility Notice is irrevocable and will not be regarded as having been duly completed unless the aggregate of the proposed Incremental Tranche A Total Commitments and the US Dollar Amount as at the date of the Incremental Facility Notice of the proposed Incremental Tranche B Total Commitments does not exceed US\$500,000,000.
- (h) Only one Incremental Tranche A Facility and one Incremental Tranche B Facility may be requested in the Incremental Facility Notice.
- (i) The establishment of the Incremental Tranche A Facility and the Incremental Tranche B Facility will only be effected in accordance with paragraphs (j), (k) and (l) below if, on the date of the Incremental Facility Notice and on the Incremental Facility Establishment Date:
  - (i) no Default is continuing or would result from the establishment of the proposed Incremental Facilities; and
  - (ii) the Repeating Representations are correct in all material respects.
- (j) If the conditions set out in this Agreement have been met, the establishment of the Incremental Facilities will be effected in accordance with paragraph (l) below when the Agent executes an otherwise duly completed Incremental Facility Notice. The Agent shall, subject to paragraph (k) below, as soon as reasonably practicable after receipt by it of a duly completed Incremental Facility Notice appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Incremental Facility Notice.
- (k) The Agent shall only be obliged to execute an Incremental Facility Notice delivered to it by the Borrower once it is satisfied it has complied with all necessary “know your customer” checks or other similar checks required under any applicable law or regulation in connection with the establishment of the Incremental Facilities.
- (l) On the Incremental Facility Establishment Date:
  - (i) subject to the terms of this Agreement:
    - (A) the Initial Incremental Tranche A Lenders make available to the Borrower a term loan facility in an aggregate amount equal to the Incremental Tranche A Total Commitments specified in the Incremental Facility Notice; and
    - (B) the Initial Incremental Tranche B Lenders make available to the Borrower a term loan facility in an aggregate amount equal to the Incremental Tranche B Total Commitments specified in the Incremental Facility Notice;
  - (ii) each Initial Incremental Lender shall assume all the obligations of a Lender corresponding to the relevant Incremental Commitment (the **Assumed Incremental Commitment**) specified opposite its name in the Incremental Facility Notice as if it was an Original Lender with respect to that Incremental Commitment;
  - (iii) the Borrower and each Initial Incremental Lender shall assume obligations towards one another and/or acquire rights against one another as the Borrower and that Initial Incremental Lender would have assumed and/or acquired had that Initial Incremental Lender been an Original Lender with respect to the Assumed Incremental Commitment;
  - (iv) each Initial Incremental Lender and each of the other Finance Parties shall assume obligations towards one another and acquire rights against one another as that Initial Incremental Lender and those Finance Parties would have assumed and/or acquired had the Initial Incremental Lender been an Original Lender with respect to the Assumed Incremental Commitment; and

- (v) each Initial Incremental Lender shall become a Party as a **Lender**.
- (m) The Agent shall, as soon as reasonably practicable after the establishment of the Incremental Facilities, notify the Borrower and the Lenders of that establishment and the Incremental Facility Establishment Date of the Incremental Facilities.
- (n) Each Initial Incremental Lender, by executing the Incremental Facility Notice, confirms for the avoidance of doubt, that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the establishment of the Incremental Facilities requested in that Incremental Facility Notice became effective.
- (o) Clause 22.4 (Limitation of responsibility of Existing Lenders) shall apply *mutatis mutandis* in this Clause 2.5 in relation to any Initial Incremental Lender as if references in Clause 22.4 to:
  - (i) an **Existing Lender** were references to all the Lenders immediately prior to the Incremental Facility Establishment Date;
  - (ii) the **New Lender** were references to an Initial Incremental Lender; and
  - (iii) a **re-transfer** and **re-assignment** were references respectively to a transfer and assignment.

## 2.6 Currency equivalents

The equivalent in euros of an Original Tranche B Loan, a Subsequent Tranche B Loan or an Incremental Tranche B Loan (or, in each case, any part thereof) for the purposes of calculating:

- (a) the share of an Original Tranche B Lender, a Subsequent Tranche B Lender or an Incremental Tranche B Lender (as applicable) in the Loans outstanding;
- (b) the undrawn Commitments of an Original Tranche B Lender, a Subsequent Tranche B Lender or an Incremental Tranche B Lender (as applicable) in relation to the Total Commitments; or
- (c) the proportion of the Original Tranche B Commitment of an Original Tranche B Lender, the Subsequent Tranche B Commitment of a Subsequent Tranche B Lender or the Incremental Tranche B Commitment of an Incremental Tranche B Lender (as applicable) bears to the Total Commitments,

as referred to in the definitions of **Majority Lenders** and **Pro Rata Share**, is its EUR Amount.

## 2.7 Finance Parties' rights and obligations

- (a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.
- (b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from the Borrower is a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with paragraph (c) below. The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any part of a Loan or any other amount owed by the Borrower which relates to a Finance Party's participation in a Facility or its role under a Finance Document (including any such amount payable to the Agent on its behalf) is a debt owing to that Finance Party by the Borrower.

- (c) A Finance Party may, except as specifically provided in the Finance Documents, separately enforce its rights under or in connection with the Finance Documents.

### **3. PURPOSE**

#### **3.1 Purpose**

The Borrower shall apply all amounts borrowed by it under the Facilities towards the general working capital requirements of the Group. For the avoidance of doubt, the Borrower may apply amounts borrowed by it under the Facilities to the repayment or prepayment of any existing Financial Indebtedness owing by any member of the Group.

#### **3.2 Monitoring**

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

### **4. CONDITIONS OF UTILISATION**

#### **4.1 Initial conditions precedent**

- (a) The Borrower may not deliver a Utilisation Request in respect of any Facility unless the Agent has received all of the documents listed in and appearing to comply with the requirements of Schedule 2 (Conditions Precedent). The Agent shall notify the Borrower and the Lenders promptly upon receiving such documents and other evidence.
- (b) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (a) above, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.
- (c) The Borrower may not deliver a Utilisation Request in respect of a Subsequent Facility unless the Agent has received evidence that the filing and registration requirement of the Subsequent Facility with the NDRC in accordance with NDRC Circular 2044 and any implementation rule or regulation in connection with the NDRC Circular has been duly completed. The Agent shall notify the Borrower and the Lenders promptly upon receiving such documents and other evidence.
- (d) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification in paragraph (c) above, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.
- (e) No Utilisation Request in respect of an Incremental Facility may be given unless the Agent is satisfied that all the requirements set out in the Incremental Facility Notice appears to have been complied with. The Agent must notify the Borrower and the Lenders promptly on being so satisfied.
- (f) Except to the extent that the Majority Lenders notify the Agent to the contrary before the Agent gives the notification described in paragraph (e) above, each Lender authorises (but does not require) the Agent to give that notification. The Agent will not be liable for any cost, loss or liability whatsoever any person incurs as a result of the Agent giving any such notification.

#### **4.2 Further conditions precedent**

The Lenders will only be obliged to comply with Clause 5.4 (Lenders' participation) if on the date of the Utilisation Request and on the proposed Utilisation Date:

- (a) no Default is continuing or would result from the proposed Loan; and
- (b) the Repeating Representations to be made by the Borrower are true in all material respects.

#### **4.3 Maximum number of Utilisation Requests**

The Borrower may not deliver more than:

- (a) ten Utilisation Requests in respect of the Original Tranche A Facility;
- (b) ten Utilisation Requests in respect of the Original Tranche B Facility;
- (c) five Utilisation Requests in respect of the Subsequent Tranche A Facility;
- (d) five Utilisation Requests in respect of the Subsequent Tranche B Facility;
- (e) five Utilisation Requests in respect of the Incremental Tranche A Facility; and
- (f) five Utilisation Requests in respect of the Incremental Tranche B Facility.

### **5. UTILISATION**

#### **5.1 Delivery of a Utilisation Request**

The Borrower may borrow a Loan by delivery to the Agent of a duly completed Utilisation Request not later than the Specified Time.

#### **5.2 Completion of a Utilisation Request**

- (a) Subject to the provisions of Clause 4.1 (Initial conditions precedent), a Utilisation Request for a Loan is irrevocable and will not be regarded as having been duly completed unless:
  - (i) it identifies the Facility under which the Loan is to be made;
  - (ii) the proposed Utilisation Date is a Business Day within the Availability Period;
  - (iii) the currency and amount of the Loan comply with Clause 5.3 (Currency and amount); and
  - (iv) the proposed first Interest Period complies with Clause 9 (Interest Periods).
- (b) Only one Loan may be requested in each Utilisation Request.

#### **5.3 Currency and amount**

- (a) The currency specified in a Utilisation Request for:
  - (i) a Tranche A Loan must be US Dollars; and

- (ii) a Tranche B Loan must be euro.
- (b) The amount of the proposed Tranche A Loan must be a minimum of US\$20,000,000 and an integral multiple of US\$10,000,000 or, if less, the Available Facility.
- (c) The amount of the proposed Tranche B Loan must be in a minimum of EUR5,000,000 and an integral multiple of EUR1,000,000 or, if less, the Available Facility.

#### **5.4 Lenders' participation**

- (a) If the conditions set out in this Agreement have been met, each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office to the Agent.
- (b) The amount of each Lender's participation in each Loan will be its Pro Rata Share immediately prior to making the Loan.
- (c) No Lender is obliged to participate in a Loan if, as a result:
  - (i) its participation in the Loans would exceed its Commitment; or
  - (ii) the Loans would exceed the Total Commitments.
- (d) Upon a Lender having made available its share in a respect Loan to the Agent for the Borrower through its Facility Office on a Utilisation Date under this Clause, that Lender's Original Commitment, Subsequent Commitment or Incremental Commitment (as the case may be) will be reduced by an amount equal to the amount of the requested Loan that that Lender has made available pursuant to this Clause.
- (e) The Agent shall notify each Lender of the details of each proposed Loan and the amount of its participation in that Loan by the Specified Time.

#### **5.5 Cancellation of Available Facility**

- (a) The Commitments which, at that time, are unutilised shall be immediately cancelled at 5pm on the last day of the Availability Period.

### **6. REPAYMENT**

#### **6.1 Repayment of Loans**

The Borrower must repay all outstanding Loans in full on the Final Repayment Date.

#### **6.2 Reborrowing**

The Borrower may not reborrow any part of a Facility which is repaid.

### **7. PREPAYMENT AND CANCELLATION**

#### **7.1 Illegality**

If, at any time, it is or will become unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in any Loan or it is or will become unlawful for any Affiliate of a Lender for that Lender to do so:

- (a) that Lender shall promptly notify the Agent upon becoming aware of that event;

- (b) upon the Agent notifying the Borrower, that Lender will not be obliged to fund a Utilisation and the Available Commitment of that Lender will be immediately cancelled; and
- (c) to the extent that the Lender's participation has not been transferred pursuant to paragraph (d) of Clause 7.5 (Right of prepayment and cancellation in relation to a single Lender), the Borrower shall repay that Lender's participation in the Loans on the last day of the Interest Period for each Loan occurring after the Agent has notified the Borrower or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law) and that Lender's corresponding Commitment shall be cancelled in the amount of the participation repaid.

## **7.2 Change of control**

If the Co-founders, together with the persons identified as directors by any of the Co-founders in the list most recently delivered by the Borrower to the Agent pursuant to Clause 4.1 (Initial conditions precedent) or Clause 18.2 (Compliance Certificate) (as the case may be), cease to make up more than 50 per cent. of the board of directors of the Borrower:

- (a) the Borrower shall promptly notify the Agent upon becoming aware of that event;
- (b) with immediate effect, no Lender shall be obliged to fund a Utilisation; and
- (c) the Agent shall, by not less than ten Business Days' notice to the Borrower, cancel the Total Commitments and declare all outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents immediately due and payable, whereupon the Total Commitments will be cancelled and all such outstanding Loans and amounts will become immediately due and payable.

## **7.3 Voluntary cancellation**

- (a) The Borrower may, if it gives the Agent not less than ten days' (or such shorter period as the Majority Lenders may agree) prior written notice, cancel the whole or any part of the Available Facility in respect of an Original Facility.
- (b) Any partial cancellation of an Original Tranche A Commitment under this Clause must be in a minimum of US\$5,000,000 and an integral multiple of US\$5,000,000.
- (c) Any partial cancellation of an Original Tranche B Commitment under this Clause must be in a minimum of EUR5,000,000 and an integral multiple of EUR1,000,000.
- (d) Any cancellation under this Clause of an Original Commitment (or any part of it) must be made together with the cancellation of a corresponding Subsequent Commitment and Incremental Commitment of the same currency in an amount which would result in the Relevant Proportion in respect of the relevant cancelled Subsequent Commitment and Incremental Commitment of the same currency being equal to the Relevant Proportion of the cancelled Original Commitment.
- (e) Any cancellation in part under this Clause 7.3 shall reduce the Commitments of the Lenders rateably.

## **7.4 Voluntary prepayment of Loans**

- (a) The Borrower may, if it gives the Agent not less than ten days' (or such shorter period as the Majority Lenders may agree) prior written notice, prepay on the last day of an Interest Period applicable thereto the whole or any part of an Original Loan.



- (b) The prepayment of part of each Original Tranche A Loan must be in a minimum amount of US\$5,000,000 and an integral multiple of US\$5,000,000.
- (c) The prepayment of part of each Original Tranche B Loan must be in a minimum amount of EUR5,000,000 and an integral multiple of EUR1,000,000.
- (d) Any prepayment under this Clause of an Original Loan (or any part of it) must be made together with the prepayment of a corresponding Subsequent Loan and Incremental Loan of the same currency in an amount which would result in the Relevant Proportion in respect of the relevant Subsequent Loan and Incremental Loan being equal to the Relevant Proportion of the prepaid Original Loan.

#### **7.5 Right of prepayment and cancellation in relation to a single Lender**

- (a) If any Lender claims indemnification from the Borrower under Clause 13.1 (Increased costs), the Borrower may, whilst the circumstance giving rise to the requirement for that indemnification continues, give the Agent notice of cancellation of the Commitment of that Lender and its intention to procure the prepayment of that Lender's participation in the Loans or give the Agent notice of its intention to replace that Lender in accordance with paragraph (d) below.
- (b) On receipt of a notice of cancellation referred to in paragraph (a) above, the Commitment of that Lender shall immediately be reduced to zero.
- (c) On the last day of each Interest Period which ends after the Borrower has given notice of cancellation under paragraph (a) above (or, if earlier, the date specified by the Borrower in that notice), the Borrower shall prepay that Lender's participation in that Loan.
- (d) If:
  - (i) any of the circumstances set out in paragraph (a) above apply to a Lender; or
  - (ii) the Borrower becomes obliged to pay any amount in accordance with Clause 7.1 (Illegality) to any Lender,the Borrower may, on ten Business Days' prior written notice to the Agent and that Lender, replace that Lender by requiring that Lender to (and, to the extent permitted by law, that Lender shall) transfer pursuant to Clause 22 (Changes to the Lenders) all (and not part only) of its rights and obligations under the Finance Documents to a Lender or other bank, financial institution, trust, fund or other entity selected by the Borrower which confirms its willingness to assume and does assume all the obligations of the transferring Lender in accordance with Clause 22 (Changes to the Lenders) for a purchase price in cash payable at the time of the transfer in an amount equal to the outstanding principal amount of such Lender's participation in the outstanding Loans and all accrued interest, Break Costs and other amounts payable in relation thereto under the Finance Documents.
- (e) The replacement of a Lender pursuant to paragraph (d) above shall be subject to the following conditions:
  - (i) the Borrower shall have no right to replace the Agent;
  - (ii) neither the Agent nor any Lender shall have any obligation to find a replacement Lender;
  - (iii) in no event shall the Lender replaced under paragraph (d) above be required to pay or surrender any of the fees received by such Lender pursuant to the Finance Documents; and

- (iv) no Lender shall be obliged to execute a Transfer Certificate unless it is satisfied that it has completed all “know your customer” and other similar procedures that it is required (or deems desirable) to conduct in relation to the transfer to such replacement Lender.
- (f) A Lender shall perform the procedures described in paragraph (e)(iv) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (d) above and shall notify the Agent and the Borrower when it is satisfied that it has completed those checks.

## **7.6 Restrictions**

- (a) Any notice of cancellation or prepayment given by any Party under this Clause 7 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
- (b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs, without premium or penalty.
- (c) The Borrower may not reborrow any part of a Facility which is prepaid.
- (d) The Borrower shall not repay or prepay all or any part of the Loans or cancel all or any part of the Commitment except at the times and in the manner expressly provided for in this Agreement.
- (e) No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.
- (f) If the Agent receives a notice under this Clause 7 it shall promptly forward a copy of that notice to either the Borrower or the affected Lender, as appropriate.
- (g) If all or part of any Lender’s participation in a Loan is repaid or prepaid an amount of that Lender’s Commitment (equal to the amount of the participation which is repaid or prepaid) will be deemed to be cancelled on the date of repayment or prepayment.

## **7.7 Application of prepayments**

Any prepayment of a Loan pursuant to Clause 7.2 (Change of control) or Clause 7.4 (Voluntary prepayment of Loans) shall be applied pro rata to each Lender’s participation in that Loan.

## **8. INTEREST**

### **8.1 Calculation of interest**

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

- (a) Margin; and
- (b) (i) (in the case of any Tranche A Loan), LIBOR; and  
(ii) (in the case of any Tranche B Loan), EURIBOR.

## **8.2 Payment of interest**

The Borrower shall pay accrued interest on each Loan on the last day of each Interest Period (and, if the Interest Period is longer than six Months, on the dates falling at six-monthly intervals after the first day of the Interest Period).

## **8.3 Default interest**

- (a) If the Borrower fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the Unpaid Sum from the due date to the date of actual payment (both before and after judgment) at a rate which is, subject to paragraph (b) below, two per cent. per annum higher than the rate which would have been payable if the Unpaid Sum had, during the period of non-payment, constituted a Loan in the currency of the Unpaid Sum for successive Interest Periods, each of a duration selected by the Agent (acting reasonably). Any interest accruing under this Clause 8.3 shall be immediately payable by the Borrower on demand by the Agent.
- (b) If any Unpaid Sum consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:
  - (i) the first Interest Period for that Unpaid Sum shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and
  - (ii) the rate of interest applying to the Unpaid Sum during that first Interest Period shall be two per cent. per annum higher than the rate which would have applied if the Unpaid Sum had not become due.
- (c) Default interest (if unpaid) arising on an Unpaid Sum will be compounded with the Unpaid Sum at the end of each Interest Period applicable to that Unpaid Sum but will remain immediately due and payable.

## **8.4 Notification of rates of interest**

- (a) The Agent shall promptly notify the Lenders and the Borrower of the determination of a rate of interest under this Agreement.
- (b) The Agent shall promptly notify the Borrower of each Funding Rate relating to a Loan.

## **9. INTEREST PERIODS**

### **9.1 Selection of Interest Periods**

- (a) The Borrower may select an Interest Period for a Loan in the applicable Utilisation Request or (if the Loan has already been borrowed) in a Selection Notice.
- (b) Each Selection Notice for a Loan is irrevocable and must be delivered to the Agent by the Borrower not later than the Specified Time.
- (c) If the Borrower fails to deliver a Selection Notice to the Agent in accordance with paragraph (b) above, the relevant Interest Period will be three Months.
- (d) Subject to this Clause 9, the Borrower may select an Interest Period of one, three or six Months or any other period agreed between the Borrower, the Agent and all the Lenders. In addition, the Borrower may select an Interest Period of any other duration not exceeding six Months, if necessary to ensure subsequent Loans have an Interest Period ending on an existing Interest Payment Date.

- (e) An Interest Period for a Loan shall not extend beyond the Final Repayment Date.
- (f) Each Interest Period for a Loan shall start on the Utilisation Date or (if a Loan has already been made) on the last day of the preceding Interest Period of such Loan.

## 9.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

## 9.3 Consolidation of Loans

If two or more Interest Periods:

- (a) relate to Loans in the same currency or under the same Facility; and
- (b) end on the same date,

those Loans will, unless the Borrower specifies to the contrary in the Selection Notice for the next Interest Period, be consolidated into, and treated as, a single Loan on the last day of the Interest Period.

## 10. CHANGES TO THE CALCULATION OF INTEREST

### 10.1 Unavailability of Screen Rate

- (a) *Interpolated Screen Rate*: If no Screen Rate is available for EURIBOR or LIBOR for the Interest Period of a Loan, the applicable EURIBOR or LIBOR shall be the Interpolated Screen Rate for a period equal in length to the Interest Period of that Loan.
- (b) *Reference Bank Rate*: If no Screen Rate is available for EURIBOR or LIBOR for:
  - (i) the currency of a Loan; or
  - (ii) the Interest Period of a Loan and it is not possible to calculate the Interpolated Screen Rate,the applicable EURIBOR or LIBOR shall be the Reference Bank Rate as of the Specified Time for the currency of that Loan and for a period equal in length to the Interest Period of that Loan.
- (c) *Cost of funds*: If paragraph (b) above applies but no Reference Bank Rate is available for the relevant currency or Interest Period there shall be no EURIBOR or LIBOR for that Loan and Clause 10.4 (Cost of funds) shall apply to that Loan for that Interest Period.

### 10.2 Calculation of Reference Bank Rate

- (a) Subject to paragraph (b) below, if EURIBOR or LIBOR is to be determined on the basis of a Reference Bank Rate but a Reference Bank does not supply a quotation by the Specified Time, the Reference Bank Rate shall be calculated on the basis of the quotations of the remaining Reference Banks.
- (b) If at or about the Specified Time referred to in paragraph (a) above, none or only one of the Reference Banks supplies a quotation, there shall be no Reference Bank Rate for the relevant Interest Period.

### **10.3 Market disruption**

If before 5pm in Hong Kong on the Business Day immediately following the Quotation Day in respect of the relevant Interest Period the Agent receives notifications from a Lender or Lenders (whose participations in a Loan exceed 35 per cent. of that Loan) that the cost to it of funding its participation in that Loan from whatever source it may reasonably select would be in excess of EURIBOR or LIBOR (as applicable) then Clause 10.4 (Cost of funds) shall apply to that Loan for the relevant Interest Period.

### **10.4 Cost of funds**

- (a) If this Clause 10.4 applies, the rate of interest on each Lender's share of the relevant Loan for the relevant Interest Period shall be the percentage rate per annum which is the sum of:
  - (i) the Margin; and
  - (ii) the rate notified to the Agent by that Lender as soon as practicable and in any event before the date on which interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to the relevant Lender of funding its participation in that Loan from whatever source it may reasonably select.
- (b) If this Clause 10.4 applies and the Agent or the Borrower so requires, the Agent and the Borrower shall enter into negotiations (for a period of not more than 30 days) with a view to agreeing a substitute basis for determining the rate of interest and/or cost of funding for the affected Loan. For the avoidance of doubt, in the event that no substitute basis is agreed at the end of the 30-day period, the rate of interest will continue to be determined in accordance with Clause 10.3 (Market disruption) and paragraph (a) above.
- (c) Any alternative basis agreed pursuant to paragraph (b) above shall, with the prior consent of all the Lenders and the Borrower, be binding on all Parties.

### **10.5 Notification to Borrower**

If Clause 10.4 (Cost of funds) applies the Agent shall, as soon as is practicable, notify the Borrower.

### **10.6 Break Costs**

- (a) The Borrower shall, within three Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by the Borrower on a day other than the last day of an Interest Period for that Loan or Unpaid Sum.
- (b) Each Lender shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

### **11. FEES**

The Borrower shall pay to the Agent (for the account of the persons specified in the relevant Fee Letter) an arrangement fee in the amount and at the times agreed in a Fee Letter.

## **12. FATCA**

### **12.1 FATCA information**

- (a) Subject to paragraph (c) below, each Party shall, within ten Business Days of a reasonable request by another Party:
  - (i) confirm to that other Party whether it is:
    - (A) a FATCA Exempt Party; or
    - (B) not a FATCA Exempt Party;
  - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
  - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party as soon as reasonably practicable.
- (c) Paragraph (a) above shall not oblige any Finance Party to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
  - (i) any law or regulation;
  - (ii) any fiduciary duty; or
  - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (a)(ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

### **12.2 FATCA Deduction**

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall as soon as reasonably practicable, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Borrower and the Agent and the Agent shall notify the other Finance Parties.

## **13. INCREASED COSTS**

### **13.1 Increased costs**

- (a) Subject to Clause 13.3 (Exceptions) the Borrower shall, within three Business Days of a demand by the Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation or (ii) compliance with any law or regulation made after the date of this Agreement. The terms "law" and "regulation" in this paragraph (a) shall include any law or regulation concerning capital adequacy, prudential limits, liquidity, reserve assets or Tax.

(b) In this Agreement,

**Increased Costs** means:

- (i) a reduction in the rate of return from a Facility or on a Finance Party's (or its Affiliate's) overall capital (including as a result of any reduction in the rate of return on capital brought about by more capital being required to be allocated by such Finance Party);
- (ii) an additional or increased cost; or
- (iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to the undertaking, funding or performance by such Finance Party of any of its obligations under any Finance Document or any participation of such Finance Party in any Loan or Unpaid Sum.

**Basel III** means:

- (i) the agreements on capital requirements, a leverage ratio and liquidity standards contained in "Basel III: A global regulatory framework for more resilient banks and banking systems", "Basel III: International framework for liquidity risk measurement, standards and monitoring" and "Guidance for national authorities operating the countercyclical capital buffer" published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;
- (ii) the rules for global systemically important banks contained in "Global systemically important banks: assessment methodology and the additional loss absorbency requirement – Rules text" published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated; and
- (iii) any further guidance or standards published by the Basel Committee on Banking Supervision relating to "Basel III".

**13.2 Increased cost claims**

- (a) A Finance Party (other than the Agent) intending to make a claim pursuant to Clause 13.1 (Increased costs) shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Borrower.
- (b) Each Finance Party (other than the Agent) shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.

**13.3 Exceptions**

Clause 13.1 (Increased costs) does not apply to the extent any Increased Cost is:

- (a) attributable to a Tax Deduction required by law to be made by the Borrower;
- (b) attributable to a FATCA Deduction required to be made by a Party;

- (c) attributable to any payment which a Finance Party is required to make of or on account of Tax on or in relation to any sum received or receivable under the Finance Documents;
- (d) attributable to any stamp duty, registration or similar taxes or any Indirect Tax;
- (e) attributable to compliance by the relevant Finance Party or its Affiliates with the reserve requirement ratio or any similar measures imposed by the People's Bank of China;
- (f) attributable to any penalty having been imposed by the relevant central bank or monetary or fiscal authority upon the Finance Party (or any Affiliate of it) by virtue of its having exceeded any country or sector borrowing limits or breached any directives imposed upon it;
- (g) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation; or
- (h) attributable to the implementation or application or compliance with Basel III or any other law or regulation which implements Basel III (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates or otherwise).

## **14. MITIGATION BY THE LENDERS**

### **14.1 Mitigation**

- (a) Each Finance Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 7.1 (Illegality), Clause 12 (FATCA) or Clause 13 (Increased Costs), including:
  - (i) providing such information as the Borrower may reasonably request in order to permit the Borrower to determine its entitlement to claim any exemption or other relief (whether pursuant to a double taxation treaty or otherwise) from any obligation to make a Tax Deduction; and
  - (ii) in relation to any circumstances which arise following the date of this Agreement, transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.
- (b) Paragraph (a) above does not in any way limit the obligations of the Borrower under the Finance Documents.

### **14.2 Limitation of liability**

- (a) The Borrower shall promptly indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 14.1 (Mitigation).
- (b) A Finance Party is not obliged to take any steps under Clause 14.1 (Mitigation) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

### **14.3 Conduct of business by the Finance Parties**

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;



- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

## 15. OTHER INDEMNITIES

### 15.1 Currency indemnity

- (a) If any sum due from the Borrower under the Finance Documents (a **Sum**), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the **First Currency**) in which that Sum is payable into another currency (the **Second Currency**) for the purpose of:
  - (i) making or filing a claim or proof against the Borrower; or
  - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,the Borrower shall as an independent obligation, within three Business Days of demand, indemnify each Finance Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.
- (b) The Borrower waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

### 15.2 Other indemnities

The Borrower shall, within three Business Days of demand, indemnify each Finance Party against any cost, loss or liability incurred by that Finance Party as a result of:

- (a) the occurrence of any Event of Default;
- (b) the Information Memorandum or any other information produced or approved by the Borrower being or being alleged to be misleading and/or deceptive in any respect;
- (c) any enquiry from, investigation by, subpoena (or similar order) from or litigation in, in each case, any court or governmental agency with competent jurisdiction with respect to the Borrower or with respect to the transactions financed under this Agreement;
- (d) a failure by the Borrower to pay any amount due under a Finance Document on its due date or in the relevant currency, including any cost, loss or liability arising as a result of Clause 25 (Sharing among the Finance Parties);
- (e) funding, or making arrangements to fund, its participation in a Loan requested by the Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or
- (f) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower.

### **15.3 Indemnity to the Agent**

- (a) The Borrower shall promptly indemnify the Agent against any cost, loss or liability incurred by the Agent (acting reasonably) as a result of:
- (i) investigating any event which it reasonably believes is a Default;
  - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;  
or
  - (iii) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement.
- (b) The indemnity given by the Borrower under or in connection with this Agreement is a continuing obligation, independent of the Borrower's other obligations under or in connection with this Agreement or any other Finance Document and survives after this Agreement is terminated. It is not necessary for a person to pay any amount or incur any expense before enforcing an indemnity under or in connection with this Agreement or any other Finance Document.

## **16. COSTS AND EXPENSES**

### **16.1 Enforcement costs**

The Borrower shall, within three Business Days of demand, pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by that Finance Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document.

## **17. REPRESENTATIONS**

The Borrower makes the representations and warranties set out in this Clause 17 to each Finance Party on the date of this Agreement.

### **17.1 Status**

- (a) It is a corporation, duly incorporated, validly existing and in good standing under the law of its jurisdiction of incorporation.
- (b) It and each other member of the Group has the power to own its assets and carry on its business as it is being conducted.
- (c) It is acting as principal for its own account and not as agent or trustee in any capacity on behalf of any party in relation to the Finance Documents.
- (d) It is not a US Tax Obligor.

### **17.2 Binding obligations**

The obligations expressed to be assumed by it in each Finance Document are, subject to any general principles of law limiting its obligations which are specifically referred to in any legal opinion delivered in accordance with Clause 4 (Conditions of Utilisation), legal, valid, binding and enforceable obligations.

### **17.3 Non-conflict with other obligations**

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its or any other member of the Group's constitutional documents; or
- (c) any agreement or instrument binding upon it or any other member of the Group or any of its or any other member of the Group's assets.

### **17.4 Power and authority**

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents.

### **17.5 Validity and admissibility in evidence**

All Authorisations required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party;
- (b) to make the Finance Documents to which it is a party admissible in evidence in its jurisdiction of incorporation; and
- (c) for it and each other member of the Group to carry on their business, and which are material,

have been obtained or effected and are in full force and effect.

### **17.6 Governing law and enforcement**

- (a) The choice of Hong Kong law as the governing law of the Finance Documents will be recognised and enforced in its jurisdiction of incorporation.
- (b) Any judgment obtained in Hong Kong in relation to a Finance Document will be recognised and enforced in its jurisdiction of incorporation.

### **17.7 Deduction of Tax**

It is not required under the law applicable where it is incorporated or resident or at the address specified in this Agreement to make any Tax Deduction from any payment it may make under any Finance Document.

### **17.8 No filing or stamp taxes**

Under the law of its jurisdiction of incorporation it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents except that stamp duty will be payable in the Cayman Islands in respect of any Finance Document that is executed in the Cayman Islands, brought into the Cayman Islands or produced before a court of the Cayman Islands.

### **17.9 No default**

- (a) No Event of Default is continuing or might reasonably be expected to result from the making of any Utilisation.
- (b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or any other member of the Group or to which its (or any of other member of the Group's) assets are subject which might have a Material Adverse Effect.

### **17.10 No misleading information**

- (a) Any factual information contained in or provided by any member of the Group for the purposes of the Information Memorandum was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.
- (b) Any financial projections contained in the Information Memorandum have been prepared on the basis of recent historical information and on the basis of reasonable assumptions.
- (c) Nothing has occurred or been omitted from the Information Memorandum and no information has been given or withheld that results in the information contained in the Information Memorandum being untrue or misleading in any material respect.
- (d) All information (other than the Information Memorandum) supplied by any member of the Group was true, complete and accurate in all material respects as at the date it was given and was not misleading in any respect.

### **17.11 Financial statements**

- (a) Its financial statements most recently supplied to the Agent (which, at the date of this Agreement, are its Original Financial Statements) were prepared in accordance with GAAP consistently applied save to the extent expressly disclosed in such financial statements.
- (b) Its financial statements most recently supplied to the Agent (which, at the date of this Agreement, are its Original Financial Statements) give a true and fair view of (if audited) or fairly represent (if unaudited) its consolidated financial condition and operations for the period to which they relate, save to the extent expressly disclosed in such financial statements.
- (c) There has been no material adverse change in the business or consolidated financial condition of the Group since 31 December 2018.

### **17.12 Pari passu ranking**

Its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all of its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

### **17.13 No proceedings**

- (a) No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect has or have (to the best of its knowledge and belief) been started or threatened against it or any other member of the Group.

- (b) No judgment or order of a court, arbitral body or agency which might reasonably be expected to have a Material Adverse Effect has (to the best of its knowledge and belief) been made against it or any other member of the Group.

#### **17.14 Environmental Laws**

- (a) It and each other member of the Group is in compliance with Clause 20.8 (Environmental compliance) and no circumstances have occurred which would prevent such compliance.
- (b) No Environmental Claim has been started or threatened against any member of the Group which would reasonably be expected to have a Material Adverse Effect.

#### **17.15 Authorised signatures**

Any person specified as its authorised signatory under Schedule 2 (Conditions Precedent) or paragraph (e) of Clause 18.4 (Information: miscellaneous) is authorised to sign Utilisation Requests and other notices on its behalf.

#### **17.16 Sanctions**

Neither the Borrower, any of its Subsidiaries, any director or officer, or any employee, agent, or Affiliate, of the Borrower or any of its Subsidiaries is a person that is, or is owned or controlled by persons that are:

- (a) the target of any Sanctions; or
- (b) located, organised or resident in a country or territory that is, or whose government is, the target of Sanctions, including, without limitation, the Crimea region, Cuba, Iran, North Korea, Sudan and Syria.

#### **17.17 Anti-bribery and Corruption Law**

None of the Borrower, nor to the knowledge of the Borrower, any director, officer, agent, employee, Affiliate or other person acting on behalf of the Borrower or any of its Subsidiaries is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of any applicable Anti-Bribery and Corruption Laws. Furthermore, the Borrower and, to the knowledge of the Borrower, its Affiliates have conducted their businesses in compliance with Anti-Bribery and Corruption Laws and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance with Anti-Bribery and Corruption Laws.

#### **17.18 Anti-money laundering**

The operations of the Borrower, each of its Subsidiaries and its and their Affiliates (each such person, a **Relevant Person**) are and have been conducted at all times in material compliance with applicable financial recordkeeping and reporting requirements and the money laundering statutes and the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency having jurisdiction over any Relevant Person (collectively, the **Money Laundering Laws**) and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving any Relevant Person or any of their respective directors, officers, agents or employees with respect to the Money Laundering Laws is pending or, to the best knowledge of the Borrower, threatened.

### **17.19 Group Structure Chart**

The Group Structure Chart delivered to the Agent pursuant to Clause 4.1 (Initial conditions precedent) is true, complete and accurate in all material respects and shows the Borrower and each of its Significant Subsidiaries, including its current name and jurisdiction of incorporation as at the date of this Agreement.

### **17.20 Existing BOC Facility**

Save to the extent expressly waived under the waiver letter in respect of the Existing BOC Facility delivered pursuant to Clause 4.1 (Initial conditions precedent), the Borrower has no obligation to prepay the Existing BOC Facility as a result of the entry by the Borrower into the Finance Documents and the transactions completed hereunder.

### **17.21 Repetition**

The Repeating Representations are deemed to be made by the Borrower by reference to the facts and circumstances then existing on:

- (a) the date of each Utilisation Request and the first day of each Interest Period;
- (b) the Subsequent Facility Effective Date; and
- (c) the date of the Incremental Facility Notice and the Incremental Facility Establishment Date.

## **18. INFORMATION UNDERTAKINGS**

The undertakings in this Clause 18 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

### **18.1 Financial statements**

The Borrower shall supply to the Agent in sufficient copies for all the Lenders:

- (a) as soon as the same become available, but in any event within 180 days after the end of each of its financial years, its audited consolidated financial statements for that financial year; and
- (b) as soon as the same become available, but in any event within 120 days after the end of each quarter of each of its financial years, its consolidated financial statements for that financial quarter.

The Borrower may satisfy its obligation to deliver such financial statements by providing a link to a website where the same are publicly available, provided that the Agent is able to open the link and download a copy of such financial statements.

### **18.2 Compliance Certificate**

- (a) The Borrower shall supply to the Agent, with each set of financial statements delivered pursuant to paragraph (a) or (b) of Clause 18.1 (Financial statements) which relate to a period ending on the last day of a Relevant Period (as defined in Clause 19.1 (Financial definitions)), a Compliance Certificate setting out (in reasonable detail) computations as to compliance with Clause 19 (Financial Covenants) as at the date as at which those financial statements were drawn up.
- (b) Each Compliance Certificate delivered pursuant to paragraph (a) above shall be signed by one director or the Chief Financial Officer of the Borrower.

### **18.3 Requirements as to financial statements**

- (a) Each set of financial statements delivered by the Borrower pursuant to Clause 18.1 (Financial statements) shall be certified by a director of the Borrower as giving a true and fair view of (in the case of any such financial statements which are audited) or fairly representing (in the case of any such financial statements which are unaudited) its financial condition as at the date as at which those financial statements were drawn up.
- (b) The Borrower shall procure that each set of financial statements delivered pursuant to Clause 18.1 (Financial statements) is prepared using GAAP, accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements unless, in relation to any set of financial statements, it notifies the Agent that there has been a change in GAAP, the accounting practices or reference periods and its auditors deliver to the Agent:
  - (i) a description of any change necessary for those financial statements to reflect the GAAP, accounting practices and reference periods upon which the Original Financial Statements were prepared; and
  - (ii) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Lenders to determine whether Clause 19 (Financial Covenants) has been complied with and make an accurate comparison between the financial position indicated in those financial statements and the Original Financial Statements.

Any reference in this Agreement to those financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Original Financial Statements were prepared.

### **18.4 Information: miscellaneous**

The Borrower shall supply to the Agent (in sufficient copies for all the Finance Parties, if the Agent so requests):

- (a) all documents dispatched by the Borrower to its shareholders (or any class of them) or its creditors generally at the same time as they are despatched;
- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any member of the Group, and which might, if adversely determined, have a Material Adverse Effect;
- (c) promptly upon becoming aware of them, the details of any judgment or order of a court, arbitral body or agency which is made against any member of the Group, and which might have a Material Adverse Effect;
- (d) promptly, such further information regarding the financial condition, business and operations of any member of the Group as any Finance Party (through the Agent) may reasonably request; and
- (e) promptly, notice of any change in authorised signatories of the Borrower signed by a director or company secretary accompanied by specimen signatures of any new authorised signatories.

### 18.5 Notification of default

- (a) The Borrower shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.
- (b) Promptly upon a request by the Agent, the Borrower shall supply to the Agent a certificate signed by two of its directors or senior officers on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

### 18.6 Section 83 Banking Ordinance

The Borrower shall supply to the Agent, immediately, notice in writing if, to the best of its knowledge, it is or becomes in any way related or connected to any Lender or HSBC Holdings plc, its subsidiaries, related bodies corporate, associated entities and undertakings and any of their branches within the meaning of Section 83 of the Banking Ordinance (Cap. 155) and regulations in respect thereof in Hong Kong and, in the absence of such notice, the Agent may assume that the Borrower is not so related or connected.

### 18.7 Use of websites

- (a) The Borrower may satisfy its obligation under this Agreement to deliver any information in relation to those Lenders (the **Website Lenders**) who accept this method of communication by posting this information onto an electronic website designated by the Borrower and the Agent (the **Designated Website**) if:

- (i) the Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;
- (ii) both the Borrower and the Agent are aware of the address of and any relevant password specifications for the Designated Website; and
- (iii) the information is in a format previously agreed between the Borrower and the Agent.

If any Lender (a **Paper Form Lender**) does not agree to the delivery of information electronically then the Agent shall notify the Borrower accordingly and the Borrower shall supply the information to the Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event the Borrower shall supply the Agent with at least one copy in paper form of any information required to be provided by it.

- (b) The Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Borrower and the Agent.
- (c) The Borrower shall promptly upon becoming aware of its occurrence notify the Agent if:
  - (i) the Designated Website cannot be accessed due to technical failure;
  - (ii) the password specifications for the Designated Website change;
  - (iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;
  - (iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or



- (v) the Borrower becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

If the Borrower notifies the Agent under paragraph (c)(i) or paragraph (c)(v) above, all information to be provided by the Borrower under this Agreement after the date of that notice shall be supplied in paper form unless and until the Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

- (d) Any Website Lender may request, through the Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Borrower shall comply with any such request within ten Business Days.

#### **18.8 “Know your customer” checks**

- (a) The Borrower shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender (including for any Lender on behalf of any prospective new Lender)) in order for the Agent, such Lender or any prospective new Lender to conduct all “know your customer” and other similar procedures that it is required (or deems desirable) to conduct.
- (b) Each Lender shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself) in order for the Agent to conduct all “know your customer” and other similar procedures that it is required (or deems desirable) to conduct.

### **19. FINANCIAL COVENANTS**

The undertakings in this Clause 19 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

#### **19.1 Financial definitions**

In this Clause 19:

**Consolidated Cash** means, at any time, the aggregate of:

- (a) such cash and cash equivalents which have been treated as “cash and cash equivalents” in the latest published consolidated balance sheet of the Borrower; and
- (b) such bank deposits which have been treated as “restricted bank deposits” in the latest published consolidated balance sheet of the Borrower.

**Consolidated EBITDA** means, for any Relevant Period, the consolidated operating profits of the Borrower for that Relevant Period before taxation:

- (a) before deducting any Consolidated Finance Charges;
- (b) before deducting any amount attributable to amortisation of goodwill or depreciation of tangible assets;
- (c) before taking into account any items treated as exceptional or extraordinary items; and

- (d) before taking into account any share-based compensation to the extent included in the related operating expense categories in accordance with the applicable accounting principles, in each case, to the extent added, deducted or taken into account, as the case may be, for the purposes of determining the profits of the Borrower on a consolidated basis from ordinary activities before taxation.

**Consolidated Finance Charges** means, for any Relevant Period, the aggregate amount of interest, commission, fees, discounts, prepayment penalties or premiums and other finance payments in respect of Consolidated Total Borrowings whether accrued, paid or payable and whether or not capitalised by any member of the Group in respect of that Relevant Period:

- (a) excluding any such obligations owed to any other member of the Group;
- (b) including the interest element of leasing and hire purchase payments;
- (c) including any amounts paid, payable or accrued by any member of the Group to counterparties under any interest rate hedging instrument; and
- (d) deducting any amounts paid, payable or accrued by counterparties to any member of the Group under any interest rate hedging instrument.

**Consolidated Total Assets** means, at any time, the aggregate of:

- (a) the amount of those assets of the Borrower on a consolidated basis which have been treated as “total non-current assets” in the latest published consolidated balance sheet of the Borrower; and
- (b) the amount of those assets of the Borrower on a consolidated basis which have been treated as “total current assets” in the latest published consolidated balance sheet of the Borrower.

**Consolidated Total Borrowings** means, at any time, the aggregate outstanding principal, capital or nominal amount and any fixed or minimum premium payable on prepayment or redemption of any indebtedness for or in respect of Financial Indebtedness (other than in respect of paragraph (g) of that definition) of the Borrower on a consolidated basis.

**Consolidated Total Liabilities** means, at any time, the aggregate of the total liabilities of the Borrower on a consolidated basis in the latest published consolidated balance sheet of the Borrower.

**Consolidated Total Net Borrowings** means at any time Consolidated Total Borrowings less Consolidated Cash and short-term investments.

**Relevant Period** means each period of 12 months ending on the last day of the Borrower’s financial year and each period of 12 months ending on the last day of the first half of the Borrower’s financial year.

## 19.2 Financial condition

The Borrower shall ensure that:

- (a) Consolidated Total Assets shall be maintained at all times at a minimum of RMB100,000,000,000;
- (b) Consolidated Total Liabilities shall at all times not exceed 80 per cent. of its Consolidated Total Assets;
- (c) Consolidated Total Net Borrowings in respect of any Relevant Period shall not be more than 5 times the Consolidated EBITDA for that Relevant Period; and

- (d) Consolidated EBITDA in respect of any Relevant Period shall not be less than 3 times the Consolidated Finance Charges for that Relevant Period.

### 19.3 Financial testing

The financial covenants set out in Clause 19.2 (Financial condition) shall be tested half-yearly by reference to the financial statements submitted by the Borrower under Clause 18.1 (Financial statements):

- (a) (in respect of any testing to be conducted at the end of the financial half-year of the Borrower) the financial statements delivered pursuant to paragraph (b) of Clause 18.1 (Financial statements); and
- (b) (in respect of any testing to be conducted at the end of the financial year of the Borrower) the financial statements delivered pursuant to paragraph (a) of Clause 18.1 (Financial statements),

and, in each case, the Compliance Certificate delivered pursuant to Clause 18.2 (Compliance Certificate) in respect of the Relevant Period.

## 20. GENERAL UNDERTAKINGS

The undertakings in this Clause 20 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

### 20.1 Authorisations

The Borrower shall promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Agent of,

any Authorisation required to enable it to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document.

### 20.2 Compliance with laws

The Borrower shall comply in all respects with all laws to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under the Finance Documents.

### 20.3 Pari passu ranking

The Borrower shall ensure that its payment obligations under the Finance Documents will constitute its direct, unconditional, unsecured and unsubordinated obligations and will rank and continue to rank at least *pari passu* with the claims of all of its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

### 20.4 Negative pledge

In this Clause 20.4, **Quasi-Security** means an arrangement or transaction described in paragraph (b) below.

- (a) The Borrower shall not (and the Borrower shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets, or over any shares or any other form of equity and economic interests in, or assets of, any other member of the Group.
- (b) The Borrower shall not (and the Borrower shall ensure that no other member of the Group will):
  - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by the Borrower or any other member of the Group;
  - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
  - (iii) enter into or permit to subsist any title retention arrangement;
  - (iv) enter into or permit to subsist any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
  - (v) enter into or permit to subsist any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

- (c) Paragraphs (a) and (b) above do not apply to:
  - (i) any Security or Quasi-Security over or affecting any asset, shares or any other form of equity and economic interests of any member of the Group existing as at the date of this Agreement except to the extent the principal amount secured by that Security or Quasi-Security exceeds the amount outstanding as at the date of this Agreement;
  - (ii) any Security or Quasi-Security created over the assets of the Borrower or the shares or any other form of equity and economic interests in, or assets of, any other member of the Group, which is extended equally and rateably to the Finance Parties to the satisfaction of the Agent (acting on the instructions of the Majority Lenders);
  - (iii) any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
  - (iv) any lien arising by operation of law and in the ordinary course of trading **provided that** the debt which is secured thereby is paid when due or contested in good faith by appropriate proceedings and properly provisioned;
  - (v) any Security or Quasi-Security over or affecting any asset of a member of the Group created in connection with any financing provided by, amongst others, Bank of China (Shanghai) for the purpose of refinancing the acquisition of Skyscanner Holdings Limited by the relevant member of the Group;
  - (vi) any Security or Quasi-Security created pursuant to any Finance Document;
  - (vii) any Security or Quasi-Security arising in the ordinary course of trading of the Group and not arising as a result of any default or omission by any member of the Group;

- (viii) any Security or Quasi-Security over any assets existing as at the date of this Agreement securing indebtedness the principal amount of which (when aggregated with the principal amount of any other indebtedness which has the benefit of Security or Quasi-Security given by any member of the Group other than any permitted under paragraphs (i) to (vii) above) does not exceed an amount equal to 7.5 per cent. of Consolidated Total Assets set out in the most recent Compliance Certificate delivered pursuant to Clause 18.2 (Compliance Certificate) or, if a Compliance Certificate has not yet been delivered thereunder, in the Original Financial Statements;
- (ix) any Security or Quasi-Security over assets acquired after the date of this Agreement securing indebtedness the principal amount of which (when aggregated with the principal amount of any other indebtedness which has the benefit of Security or Quasi-Security given by any member of the Group other than any permitted under paragraphs (i) to (vii) above) does not exceed the lower of:
  - (A) an amount equal to 10 per cent. of Consolidated Total Assets set out in the most recent Compliance Certificate delivered pursuant to Clause 18.2 (Compliance Certificate) or, if a Compliance Certificate has not yet been delivered thereunder, in the Original Financial Statements; and
  - (B) RMB16,000,000,000 (or its equivalent in another currency or currencies); or
- (x) any Security or Quasi-Security created over the assets of the Borrower or over the shares or any other form of equity interests in, or assets of any other member of the Group with the prior written consent of the Agent (acting on the instructions of the Majority Lenders).

## 20.5 Disposals

- (a) The Borrower shall not (and the Borrower shall ensure that no other member of the Group will), enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset or revenues, or enter into any agreement or arrangement to sell, lease, transfer or otherwise dispose of any assets or revenues.
- (b) Paragraph (a) above does not apply to any sale, lease, transfer or other disposal, or the entry into any agreement or arrangement in respect of a sale, lease, transfer or other disposal:
  - (i) made in the ordinary course of trading of the disposing entity at arm's length and on normal commercial terms;
  - (ii) of assets in exchange for other assets comparable or superior as to type, value and quality and for a similar purpose (other than an exchange of a non-cash asset for cash);
  - (iii) of assets by one member of the Group (other than the Borrower) to any other member of the Group;
  - (iv) of assets by the Borrower to any other member of the Group (the **Transferee**) on arm's length terms **provided that** that the Transferee will remain a member of the Group after that sale, lease, transfer or disposal; or

- (v) made on normal commercial terms where the higher of the market value or consideration receivable (when aggregated with the higher of the market value or consideration receivable for any other sale, lease, transfer or other disposal by members of the Group, other than any permitted under paragraphs (i) to (iv) above) does not exceed 10 per cent. of the Consolidated Total Assets set out in the most recent Compliance Certificate delivered pursuant to Clause 18.2 (Compliance Certificate) or, if a Compliance Certificate has not yet been delivered thereunder, in the Original Financial Statements.

## 20.6 Mergers

The Borrower shall not (and the Borrower shall ensure that no other member of the Group will) enter into any amalgamation, demerger, merger or corporate reconstruction (each a **Merger**) except:

- (a) mergers between Subsidiaries of the Borrower, which, in the opinion of the Lenders, will not impair the ability of the Borrower to fulfil its obligations under the Finance Documents; or
- (b) mergers conducted in the ordinary course of the Group's day-to-day business, provided in each case that:
  - (i) such Merger is in respect of assets or businesses in the same nature and of the same scope as the Group's business as conducted on the date of this Agreement;
  - (ii) the member of the Group involved in the Merger is the surviving entity; and
  - (iii) there is no Material Adverse Effect at the time or, or arising out of, such Merger.

## 20.7 Change of business

The Borrower shall procure that no substantial change is made to the general nature of the business of the Borrower or the Group from that carried on at the date of this Agreement save to the extent the Group is permitted to acquire unrelated businesses pursuant to Clause 20.10 (Acquisitions).

## 20.8 Environmental compliance

The Borrower shall (and the Borrower shall ensure that each member of the Group will) comply in all material respects with all Environmental Law, obtain and maintain any Environmental Permits and take all reasonable steps in anticipation of known or expected future changes to or obligations under Environmental Law or any Environmental Permits save where such non-compliance could not reasonably be expected to have a Material Adverse Effect.

## 20.9 Environmental Claims

The Borrower shall inform the Agent in writing as soon as reasonably practicable upon becoming aware of:

- (a) any Environmental Claim which has been commenced or (to the best of the Borrower's knowledge and belief) is threatened against any member of the Group; or
- (b) any facts or circumstances which will or might reasonably be expected to result in any Environmental Claim being commenced or threatened against any member of the Group,

in each case where such Environmental Claim might reasonably be expected, if determined against that member of the Group, to have a Material Adverse Effect.

#### **20.10 Acquisitions**

- (a) The Borrower shall not (and shall procure that no member of the Group will) acquire any company, business, assets or undertaking or make any investment.
- (b) Paragraph (a) above does not apply to an acquisition or investment:
  - (i) (A) which is in respect of assets or businesses in the same nature and of the same scope as the Group's business as conducted on the date of this Agreement; and
  - (B) where there is no Material Adverse Effect at the time or, or arising out of, such acquisition or investment; or
  - (ii) the value of which acquisition or investment (when aggregated with the value of all other acquisitions and investments permitted under this paragraph (ii) and made in the same financial year) does not exceed an amount equal to 7.5 per cent. of the Consolidated Total Assets set out in the most recent Compliance Certificate delivered pursuant to Clause 18.2 (Compliance Certificate) or, if a Compliance Certificate has not yet been delivered thereunder, in the Original Financial Statements,

**provided that**, in each case, such acquisition or investment does not result in a breach of any Authorisation or of any other provision of this Agreement.

#### **20.11 Loans and guarantees**

- (a) The Borrower shall not (and shall ensure that no other member of the Group will) make or allow to subsist any loans, grant any credit (save in the ordinary course of business) or give or allow to remain outstanding any guarantee or indemnity (except as required under any of the Finance Documents) to or for the benefit of any person other than a member of the Group or otherwise voluntarily assume any liability, whether actual or contingent, in respect of any obligation of any person.
- (b) Paragraph (a) above does not apply to any loans made or credit granted or guarantee or indemnity outstanding, so long as the aggregate principal amount of any such loans made or credit granted or in respect of which the guarantee or indemnity is given does not exceed an amount equal to 5.0 per cent. of the Consolidated Total Assets set out in the most recent Compliance Certificate delivered pursuant to Clause 18.2 (Compliance Certificate) or, if a Compliance Certificate has not yet been delivered thereunder, in the Original Financial Statements.

#### **20.12 Financial Indebtedness**

- (a) The Borrower shall not (and shall ensure that no other member of the Group will) incur or permit to remain outstanding any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to:
  - (i) any Financial Indebtedness incurred pursuant to any Finance Documents; and
  - (ii) any Financial Indebtedness incurred by a member of the Group provided that following the incurrence of such Financial Indebtedness, the Borrower will remain in compliance with the obligations under Clause 19 (Financial Covenants).

### **20.13 Use of Proceeds**

- (a) The Borrower will not, directly or indirectly, use the proceeds of the Loans, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other person:
  - (i) to fund any activities or business of or with any person, or in any country or territory, that, at the time of such funding, is, or whose government is, the target of Sanctions; or
  - (ii) in any other manner that would result in a violation of Sanctions by any person (including any person participating in the Loans, whether as underwriter, advisor, investor or otherwise).
- (b) No part of the proceeds of the Loans will be used, directly or indirectly, for any payments that could constitute a violation of any applicable Anti-Bribery and Corruption Laws.

### **20.14 Application of FATCA**

The Borrower shall ensure that it does not become a US Tax Obligor.

### **20.15 Further assurances**

If the Finance Parties (acting through the Agent) consider this to be required, the Borrower shall immediately, at its own cost and expense take whatever actions (including without limitation, executing any documents, obtaining any approval and completing any registration, filing or recording) that any such Finance Party considers necessary in order to ensure that all and any legal and regulatory requirement applicable to the transactions contemplated under the Finance Documents are duly complied with, without prejudice to the Borrower's other representations and warranties or covenants relating to its compliance with laws and regulations in the Finance Documents.

## **21. EVENTS OF DEFAULT**

Each of the events or circumstances set out in the following subclauses of this Clause 21 (other than Clause 21.14 (Acceleration)) is an Event of Default.

### **21.1 Non-payment**

The Borrower does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless:

- (a) its failure to pay is caused by:
  - (i) administrative or technical error; or
  - (ii) a Disruption Event; and
- (b) payment is made within three Business Days of its due date.

### **21.2 Financial covenants**

Any requirement of Clause 19 (Financial Covenants) is not satisfied.



### **21.3 Other obligations**

- (a) The Borrower does not comply with any provision of the Finance Documents (other than those referred to in Clause 21.1 (Non-payment) and Clause 21.2 (Financial covenants)).
- (b) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within ten Business Days of the earlier of (A) the Agent giving notice to the Borrower; and (B) the Borrower becoming aware of the failure to comply.

### **21.4 Misrepresentation**

Any representation or statement made or deemed to be made by the Borrower in the Finance Documents or any other document delivered by or on behalf of the Borrower under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made, unless the circumstances giving rise to the misrepresentation or misstatement:

- (a) are capable of remedy; and
- (b) are remedied within ten Business Days of the earlier of (A) the Agent giving notice of the misrepresentation or misstatement to the Borrower; and (B) the Borrower becoming aware of the misrepresentation or misstatement.

### **21.5 Cross default**

- (a) Any Financial Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period.
- (b) Any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- (c) Any commitment for any Financial Indebtedness of any member of the Group is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described).
- (d) Any creditor of any member of the Group becomes entitled to declare any Financial Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).
- (e) No Event of Default will occur under this Clause 21.5 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (a) to (d) above is less than US\$100,000,000 (or its equivalent in any other currency or currencies).

### **21.6 Insolvency**

- (a) The Borrower or any Significant Subsidiary of the Borrower is or is presumed or deemed to be unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding any Finance Party in its capacity as such) with a view to rescheduling any of its indebtedness.
- (b) The value of the assets of the Borrower or any Significant Subsidiary of the Borrower is less than its liabilities (taking into account contingent and prospective liabilities).

- (c) A moratorium is declared in respect of any indebtedness of the Borrower or any Significant Subsidiary of the Borrower.

#### **21.7 Insolvency proceedings**

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (a) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration, provisional supervision or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Borrower or any Significant Subsidiary of the Borrower other than a solvent liquidation or reorganisation of any member of the Group which is not the Borrower;
  - (b) a composition or arrangement with any creditor of the Borrower or any Significant Subsidiary of the Borrower, or an assignment for the benefit of creditors generally of the Borrower or any Significant Subsidiary of the Borrower or a class of such creditors;
  - (c) the appointment of a liquidator (other than in respect of a solvent liquidation of a member of the Group which is not the Borrower), receiver, administrator, administrative receiver, compulsory manager, provisional supervisor or other similar officer in respect of the Borrower or any Significant Subsidiary of the Borrower or any of its assets; or
  - (d) enforcement of any Security over any assets of the Borrower or any Significant Subsidiary of the Borrower,
- or any analogous procedure or step is taken in any jurisdiction.

Paragraph (a) above shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 14 days of commencement.

#### **21.8 Creditors' process**

Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of a member of the Group which has or is reasonably likely to have a Material Adverse Effect

#### **21.9 Unlawfulness**

It is or becomes unlawful for the Borrower to perform any of its obligations under the Finance Documents.

#### **21.10 Repudiation**

The Borrower repudiates a Finance Document or evidences an intention to repudiate a Finance Document.

#### **21.11 Cessation of business**

The Borrower suspends or ceases to carry on all or a material part of its business or of the business of the Group taken as a whole.

#### **21.12 Material adverse change**

Any event or circumstance (including disruption or continuation of such circumstance) has or is reasonably likely to have a Material Adverse Effect.

### 21.13 Cessation or suspension of listing

The American depositary shares (**ADSs**) representing ordinary shares of the Borrower cease to be listed or traded on The Nasdaq Stock Market or the trading of these ADSs on The Nasdaq Stock Market is suspended for more than ten consecutive days (or part of any such days) on which trading is carried out on The Nasdaq Stock Market generally other than as a result of purely technological reasons affecting The Nasdaq Stock Market's operations.

### 21.14 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing the Agent may, and shall if so directed by the Majority Lenders, by notice to the Borrower:

- (a) without prejudice to the participations of any Lender in any Loans then outstanding:
  - (i) cancel the Commitments (and reduce them to zero), whereupon they shall immediately be cancelled (and reduced to zero); or
  - (ii) cancel any part of any Commitment (and reduce such Commitment accordingly), whereupon the relevant part shall immediately be cancelled (and the relevant Commitment shall be immediately reduced accordingly); and/or
- (b) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or
- (c) declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders.

## 22. CHANGES TO THE LENDERS

### 22.1 Assignments and transfers by the Lenders

Subject to this Clause 22, a Lender (the **Existing Lender**) may:

- (a) assign any of its rights; or
- (b) transfer by novation any of its rights and obligations,

under the Finance Documents to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the **New Lender**).

### 22.2 Conditions of assignment or transfer

- (a) The consent of the Borrower is not required for any assignment or transfer by a Lender pursuant to this Clause 22.
- (b) A transfer will be effective only if the procedure set out in Clause 22.5 (Procedure for transfer) is complied with.

- (c) An assignment will be effective on:
- (i) receipt by the Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Agent) that the New Lender will, in relation to the assigned rights, assume obligations to the other Parties equivalent to those it would have been under if it had been an Original Lender; and
  - (ii) performance by the Agent of any “know your customer” checks or other similar checks required under any applicable law or regulation in relation to such assignment to a New Lender, the completion of which the Agent must notify to the Existing Lender and the New Lender promptly,

and only if the procedure and conditions set out in Clause 22.6 (Procedure for assignment) are complied with.

- (d) If:
- (i) a Lender assigns or transfers any of its rights or obligations under the Finance Documents; and
  - (ii) as a result of circumstances existing at the date the assignment or transfer occurs, the Borrower would be obliged to make a payment to the New Lender under Clause 13 (Increased Costs),

then the New Lender is only entitled to receive payment under that Clause to the same extent as the Existing Lender would have been if the assignment or transfer had not occurred.

### **22.3 Assignment or transfer fee**

The New Lender shall, on the date falling five Business Days prior to the date upon which an assignment or transfer takes effect, pay to the Agent (for its own account) a fee of US\$3,500.

### **22.4 Limitation of responsibility of Existing Lenders**

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:
- (i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;
  - (ii) the financial condition of the Borrower;
  - (iii) the performance and observance by the Borrower of its obligations under the Finance Documents or any other documents; or
  - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document, and any representations or warranties implied by law are excluded.
- (b) Each New Lender confirms to the Existing Lender and the other Finance Parties that it:
- (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of the Borrower and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Finance Document; and

- (ii) will continue to make its own independent appraisal of the creditworthiness of the Borrower and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.
- (c) Nothing in any Finance Document obliges an Existing Lender to:
  - (i) accept a re-transfer or re-assignment from a New Lender of any of the rights and obligations assigned or transferred under this Clause 22; or
  - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by the Borrower of its obligations under the Finance Documents or otherwise.

## 22.5 Procedure for transfer

- (a) Subject to the conditions set out in Clause 22.2 (Conditions of assignment or transfer), a transfer is effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.
- (b) The Agent shall not be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender unless it is satisfied that it has completed all “know your customer” and other similar procedures that it is required (or deems desirable) to conduct in relation to the transfer to such New Lender.
- (c) On the Transfer Date:
  - (i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents each of the Borrower and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents shall be cancelled (being the **Discharged Rights and Obligations**);
  - (ii) each of the Borrower and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as the Borrower and the New Lender have assumed and/or acquired the same in place of the Borrower and the Existing Lender;
  - (iii) each Administrative Party, the New Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and to that extent each Administrative Party and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and
  - (iv) the New Lender shall become a Party as a “Lender”.
- (d) The procedure set out in this Clause 22.5 shall not apply to any right or obligation under any Finance Document (other than this Agreement) if and to the extent its terms, or any laws or regulations applicable thereto, provide for or require a different means of transfer of such right or obligation or prohibit or restrict any transfer of such right or obligation, unless such prohibition or restriction shall not be applicable to the relevant transfer or each condition of any applicable restriction shall have been satisfied.

## 22.6 Procedure for assignment

- (a) Subject to the conditions set out in Clause 22.2 (Conditions of assignment or transfer), an assignment may be effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.
- (b) The Agent shall not be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender unless it is satisfied that it has completed all “know your customer” and other similar procedures that it is required (or deems desirable) to conduct in relation to the assignment to such New Lender.
- (c) On the Transfer Date:
  - (i) the Existing Lender will assign absolutely to the New Lender the rights under the Finance Documents expressed to be the subject of the assignment in the Assignment Agreement;
  - (ii) the Existing Lender will be released by the Borrower and the other Finance Parties from the obligations owed by it (the **Relevant Obligations**) and expressed to be the subject of the release in the Assignment Agreement;
  - (iii) the New Lender shall become a Party as a “Lender” and will be bound by obligations equivalent to the Relevant Obligations;
  - (iv) if the assignment relates only to part of the Existing Lender’s participation in the outstanding Loans that part will be separated from the Existing Lender’s participation in the outstanding Loans, made an independent debt and assigned to the New Lender as a whole debt; and
  - (v) the Agent’s execution of the Assignment Agreement as agent for the Borrower will constitute notice to the Borrower of the assignment.
- (d) Lenders may utilise procedures other than those set out in this Clause 22.6 to assign their rights under the Finance Documents (but not, without the consent of the Borrower or unless in accordance with Clause 22.5 (Procedure for transfer), to obtain a release by the Borrower from the obligations owed to the Borrower by the Lenders nor the assumption of equivalent obligations by a New Lender) **provided that** they comply with the conditions set out in Clause 22.2 (Conditions of assignment or transfer).
- (e) The procedure set out in this Clause 22.6 shall not apply to any right or obligation under any Finance Document (other than this Agreement) if and to the extent its terms, or any laws or regulations applicable thereto, provide for or require a different means of assignment of such right or release or assumption of such obligation or prohibit or restrict any assignment of such right or release or assumption of such obligation, unless such prohibition or restriction shall not be applicable to the relevant assignment, release or assumption or each condition of any applicable restriction shall have been satisfied.

## **22.7 Copy of Transfer Certificate or Assignment Agreement to Borrower**

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or an Assignment Agreement, send to the Borrower a copy of that Transfer Certificate or Assignment Agreement.

## **22.8 Existing consents and waivers**

A New Lender shall be bound by any consent, waiver, election or decision given or made by the relevant Existing Lender under or pursuant to any Finance Document prior to the coming into effect of the relevant assignment or transfer to such New Lender.

## **22.9 Exclusion of Agent's liability**

In relation to any assignment or transfer pursuant to this Clause 22, each Party acknowledges and agrees that the Agent shall not be obliged to enquire as to the accuracy of any representation or warranty made by a New Lender in respect of its eligibility as a Lender.

## **22.10 Universal Succession (Assignments and Transfers)**

If a Lender is to be merged with any other person by universal succession, such Lender shall, at its own cost within 45 days of that merger provide to the Agent:

- (a) an original or certified true copy of a legal opinion issued by a qualified legal counsel practising law in its jurisdiction of incorporation confirming that all such Lender's assets, rights and obligations generally have been duly vested in the succeeding entity who has succeeded to all relationships as if those assets, rights and obligations had been originally acquired, incurred or entered into by the succeeding entity; and
- (b) an original or certified true copy of a written confirmation by either the Lender's legal counsel or such other legal counsel acceptable to the Agent and for the benefit of the Agent (in its capacity as agent of the Lenders) that the laws of Hong Kong and of the jurisdiction in which the Facility Office of such Lender is located recognise such merger by universal succession under the relevant foreign laws,

whereupon a transfer and novations of all such Lender's assets, rights and obligations to its succeeding entity shall have been, or be deemed to have been, duly effected as at the date of the said merger.

If such Lender, in a universal succession, does not comply with the requirements under this Clause 22.10, the Agent has the right to decline to recognise the succeeding entity and demand such Lender and the succeeding entity to either sign and deliver a Transfer Certificate to the Agent evidencing the disposal of all rights and obligations of such Lender to that succeeding entity, or provide or enter into such documents, or make such arrangements acceptable to the Agent (acting on the advice of the Lender's legal counsel (any legal costs so incurred shall be borne by the relevant Lender)) in order to establish that all rights and obligations of the relevant Lender under this Agreement have been transferred to and assumed by the succeeding entity.

## **22.11 Security over Lenders' rights**

In addition to the other rights provided to Lenders under this Clause 22, each Lender may without consulting with or obtaining consent from the Borrower, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including:

- (a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and

- (b) any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment or Security shall:

- (i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security for the Lender as a party to any of the Finance Documents; or
- (ii) require any payments to be made by the Borrower other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the relevant Lender under the Finance Documents.

## **23. CHANGES TO THE BORROWER**

### **23.1 Assignments and transfers by Borrower**

The Borrower may not assign any of its rights or transfer any of its rights or obligations under the Finance Documents, except with the prior written consent of all the Lenders.

## **24. ROLE OF THE ADMINISTRATIVE PARTIES AND THE REFERENCE BANKS**

### **24.1 Appointment of the Agent**

- (a) Each Finance Party (other than the Agent) appoints the Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each Finance Party (other than the Agent) authorises the Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

### **24.2 Instructions**

- (a) The Agent shall:
  - (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by:
    - (A) all Lenders if the relevant Finance Document stipulates the matter is an all-Lender decision; and
    - (B) in all other cases, the Majority Lenders; and
  - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above.
- (b) The Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Lender or group of Lenders, from that Lender or group of Lenders) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion. The Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested.



- (c) Save in the case of decisions stipulated to be a matter for any other Lender or group of Lenders under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.
- (d) The Agent may refrain from acting in accordance with any instructions of any Lender or group of Lenders until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions.
- (e) In the absence of instructions, the Agent may act (or refrain from acting) as it considers in its discretion to be appropriate.
- (f) The Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.

#### **24.3 Duties of the Agent**

- (a) The Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (b) Subject to paragraph (c) below, the Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Agent for that Party by any other Party.
- (c) Without prejudice to Clause 22.7 (Copy of Transfer Certificate or Assignment Agreement to Borrower), paragraph (b) above shall not apply to any Transfer Certificate or any Assignment Agreement.
- (d) Except where a Finance Document specifically provides otherwise, the Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (e) If the Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
- (f) If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than to any Administrative Party) under this Agreement, it shall promptly notify the other Finance Parties.
- (g) The Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

#### **24.4 Role of the Mandated Lead Arrangers and Bookrunners**

Except as specifically provided in the Finance Documents, no Mandated Lead Arranger and Bookrunner has obligations of any kind to any other Party under or in connection with any Finance Document.

#### **24.5 No fiduciary duties**

- (a) Nothing in any Finance Document constitutes any Administrative Party as a trustee or fiduciary of any other person.
- (b) No Administrative Party shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

#### **24.6 Regulatory position**

Nothing in this Agreement shall require the Agent to carry on an activity of the kind specified by any provision of Part 1 of Schedule 5 of the Securities and Futures Ordinance (Cap. 571) of the laws of Hong Kong, or to lend money to the Borrower in its capacity as the Agent.

#### **24.7 Money held as banker**

The Agent shall be entitled to deal with money paid to it by any person for the purposes of this Agreement in the same manner as other money paid to a banker by its customers except that it shall not be liable to account to any person for any interest or other amounts in respect of the money.

#### **24.8 Business with the Group**

Any Administrative Party may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

#### **24.9 Abatement of fees**

The fees, commissions and expenses payable to the Agent for services rendered and the performances of its obligations under this Agreement shall not be abated by any remuneration or other amounts or profits receivable by the Agent (or by any of its associates) in connection with any transaction effected by the Agent with or for the Lenders or the Borrower.

#### **24.10 Rights and discretions of the Agent**

- (a) The Agent may:
  - (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
  - (ii) assume that:
    - (A) any instructions received by it from the Majority Lenders, any Lender or any group of Lenders are duly given in accordance with the terms of the Finance Documents; and
    - (B) unless it has received notice of revocation, those instructions have not been revoked; and
  - (iii) rely on a certificate from any person:
    - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
    - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,

as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.

- (b) The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
  - (i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 21.1 (Non-payment)); and
  - (ii) any right, power, authority or discretion vested in any Party or any group of Lenders has not been exercised.
- (c) The Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Agent (and so separate from any lawyers instructed by the Lenders) if the Agent in its reasonable opinion deems this to be necessary.
- (e) The Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (f) The Agent may act in relation to the Finance Documents through its officers, employees and agents.
- (g) Unless a Finance Document expressly provides otherwise the Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.
- (h) Notwithstanding any other provision of any Finance Document to the contrary, no Administrative Party is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (i) Notwithstanding any provision of any Finance Document to the contrary, the Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

#### **24.11 Responsibility for documentation**

No Administrative Party is responsible or liable for:

- (a) the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by any Administrative Party, the Borrower or any other person given in or in connection with any Finance Document or the Information Memorandum or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; or
- (c) any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

#### **24.12 No duty to monitor**

The Agent shall not be bound to enquire:

- (a) whether or not any Default has occurred;
- (b) as to the performance, default or any breach by any Party of its obligations under any Finance Document; or
- (c) whether any other event specified in any Finance Document has occurred.

#### **24.13 Exclusion of liability**

- (a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Agent), the Agent will not be liable for:
  - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct;
  - (ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document, other than by reason of its gross negligence or wilful misconduct; or
  - (iii) without prejudice to the generality of paragraphs (i) and (ii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including for negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) arising as a result of:
    - (A) any act, event or circumstance not reasonably within its control; or
    - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,including (in each case) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.
- (b) No Party (other than the Agent) may take any proceedings against any officer, employee or agent of the Agent in respect of any claim it might have against the Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of the Agent may rely on this Clause 24 subject to Clause 1.3 (Third party rights) and the provisions of the Third Parties Ordinance.

- (c) The Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Agent if the Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.
- (d) Nothing in this Agreement shall oblige any Administrative Party to conduct:
  - (i) any “know your customer” or other procedures in relation to any person; or
  - (ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Lender or for any Affiliate of any Lender,on behalf of any Lender and each Lender confirms to each Administrative Party that it is solely responsible for any such procedures or check it is required to conduct and that it shall not rely on any statement in relation to such procedures or check made by any Administrative Party.
- (e) Without prejudice to any provision of any Finance Document excluding or limiting the Agent’s liability, any liability of the Agent arising under or in connection with any Finance Document shall be limited to the amount of actual loss which has been suffered (as determined by reference to the date of default of the Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Agent at any time which increase the amount of that loss. In no event shall the Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Agent has been advised of the possibility of such loss or damages.
- (f) The provisions of this Clause 24.13 shall survive the termination or expiry of this Agreement or the resignation or removal of the Agent.

**24.14 Lenders’ indemnity to the Agent**

- (a) Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Agent, within three Business Days of demand, against any cost, loss or liability (including for negligence or any other category of liability whatsoever) incurred by the Agent (otherwise than by reason of the Agent’s gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 26.10 (Disruption to payment systems etc.), notwithstanding the Agent’s negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) in acting as Agent under the Finance Documents (unless the Agent has been reimbursed by the Borrower pursuant to a Finance Document).
- (b) The indemnity given by each of the Lenders under or in connection with this Agreement is a continuing obligation, independent of each of the Lenders’ other obligations under or in connection with this Agreement or any other Finance Document and survives after this Agreement is terminated. It is not necessary for a person to pay any amount or incur any expense before enforcing an indemnity under or in connection with this Agreement or any other Finance Document.

#### **24.15 Resignation of the Agent**

- (a) The Agent may resign and appoint one of its Affiliates as successor by giving notice to the Lenders and the Borrower.
- (b) Alternatively, the Agent may resign by giving 30 days' notice to the Lenders and the Borrower, in which case the Majority Lenders (after consultation with the Borrower) may appoint a successor Agent.
- (c) If the Majority Lenders have not appointed a successor Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the retiring Agent (after consultation with the Borrower) may appoint a successor Agent.
- (d) The retiring Agent shall make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
- (e) The Agent's resignation notice shall only take effect upon the appointment of a successor.
- (f) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (d) above) but shall remain entitled to the benefit of Clause 15.3 (Indemnity to the Agent) and this Clause 24 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations among themselves as they would have had if such successor had been an original Party.
- (g) After consultation with the Borrower, the Majority Lenders may, by notice to the Agent, require it to resign in accordance with paragraph (b) above. In this event, the Agent shall resign in accordance with paragraph (b) above.
- (h) The Agent may resign in accordance with paragraph (b) above if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Agent under the Finance Documents:
  - (i) the Agent fails to respond to a request under Clause 12.1 (FATCA information) and the Borrower or a Lender reasonably believes that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
  - (ii) the information supplied by the Agent pursuant to Clause 12.1 (FATCA information) indicates that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
  - (iii) the Agent notifies the Borrower and the Lenders that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date,and (in each case) the Borrower or a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Agent were a FATCA Exempt Party, and the Borrower or that Lender, by notice to the Agent, requires it to resign.

#### **24.16 Confidentiality**

- (a) In acting as agent for the Finance Parties, the Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.

- (b) If information is received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent shall not be deemed to have notice of it.
- (c) The Agent shall not be obliged to disclose to any Finance Party any information supplied to it by the Borrower or any Affiliates of the Borrower on a confidential basis and for the purpose of evaluating whether any waiver or amendment is or may be required or desirable in relation to any Finance Document.

#### **24.17 Relationship with the Lenders**

- (a) The Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:
  - (i) entitled to or liable for any payment due under any Finance Document on that day; and
  - (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,unless it has received not less than five Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.
- (b) Any Lender may by notice to the Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under Clause 28.4 (Electronic communication)) electronic mail address and/or any other information required to enable the transmission of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, fax number, electronic mail address (or such other information), department and officer by that Lender for the purposes of Clause 28.2 (Addresses) and paragraph (a)(ii) of Clause 28.4 (Electronic communication) and the Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.

#### **24.18 Credit appraisal by the Lenders**

Without affecting the responsibility of the Borrower for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to each Administrative Party that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (c) whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and

- (d) the adequacy, accuracy and/or completeness of the Information Memorandum and any other information provided by the Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document.

#### **24.19 Agent's management time**

Any amount payable to the Agent under Clause 15.3 (Indemnity to the Agent), Clause 16 (Costs and Expenses) and Clause 24.14 (Lenders' indemnity to the Agent) shall include the cost of utilising the Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Agent may notify to the Borrower and the Lenders, and is in addition to any fee paid or payable to the Agent under Clause 11 (Fees).

#### **24.20 Deduction from amounts payable by the Agent**

If any Party owes an amount to the Agent under the Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

#### **24.21 Role of Reference Banks**

- (a) No Reference Bank is under any obligation to provide a quotation or any other information to the Agent.
- (b) No Reference Bank will be liable for any action taken by it under or in connection with any Finance Document, or for any Reference Bank Quotation, unless directly caused by its gross negligence or wilful misconduct.
- (c) No Party (other than the relevant Reference Bank) may take any proceedings against any officer, employee or agent of any Reference Bank in respect of any claim it might have against that Reference Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, or to any Reference Bank Quotation, and any officer, employee or agent of each Reference Bank may rely on this Clause 24.21 subject to Clause 1.3 (Third party rights) and the provisions of the Third Parties Ordinance.

#### **24.22 Third party Reference Banks**

A Reference Bank which is not a Party may rely on Clause 24.21 (Role of Reference Banks), Clause 32.3 (Other exceptions) and Clause 34 (Confidentiality of Funding Rates and Reference Bank Quotations) subject to Clause 1.3 (Third party rights) and the provisions of the Third Parties Ordinance.

### **25. SHARING AMONG THE FINANCE PARTIES**

#### **25.1 Payments to Finance Parties**

If a Finance Party (a **Recovering Finance Party**) receives or recovers (whether by set-off or otherwise) any amount from the Borrower other than in accordance with Clause 26 (Payment Mechanics) (a **Recovered Amount**) and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery to the Agent;



- (b) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 26 (Payment Mechanics), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (the **Sharing Payment**) equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 26.5 (Partial payments).

#### 25.2 Redistribution of payments

The Agent shall treat the Sharing Payment as if it had been paid by the Borrower and distribute it between the Finance Parties (other than the Recovering Finance Party) (the **Sharing Finance Parties**) in accordance with Clause 26.5 (Partial payments) towards the obligations of the Borrower to the Sharing Finance Parties.

#### 25.3 Recovering Finance Party's rights

- (a) On a distribution by the Agent under Clause 25.2 (Redistribution of payments) of a payment received by a Recovering Finance Party from the Borrower, as between the Borrower and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by the Borrower.
- (b) If and to the extent that the Recovering Finance Party is not able to rely on its rights under paragraph (a) above, the Borrower shall be liable to the Recovering Finance Party for a debt equal to the Sharing Payment which is immediately due and payable.

#### 25.4 Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Sharing Finance Party shall, upon request of the Agent, pay to the Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the **Redistributed Amount**); and
- (b) at the time of the request by the Agent under paragraph (a) above, the Sharing Finance Party will be subrogated to the rights of the Recovering Finance Party in respect of the relevant Redistributed Amount; and
- (c) if and to the extent that the Sharing Finance Party is not able to rely on its rights under paragraph (b) above as between the Borrower and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by the Borrower.

## 25.5 Exceptions

- (a) This Clause 25 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause 25 have a valid and enforceable claim against the Borrower.
- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
  - (i) it notified that other Finance Party of the legal or arbitration proceedings; and
  - (ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

## 26. PAYMENT MECHANICS

### 26.1 Payments to the Agent

- (a) On each date on which a Party is required to make a payment under a Finance Document, that Party shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency and with such bank as the Agent, in each case, specifies.

### 26.2 Distributions by the Agent

- (a) Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 26.3 (Distributions to the Borrower) and Clause 26.4 (Clawback and pre-funding) be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Agent by not less than five Business Days' notice with a bank specified by that Party in the principal financial centre of the country of that currency.
- (b) The Agent shall distribute payments received by it in relation to all or any part of a Loan to the Lender indicated in the records of the Agent as being so entitled on that date **provided that** the Agent is authorised to distribute payments to be made on the date on which any transfer becomes effective pursuant to Clause 22 (Changes to the Lenders) to the Lender so entitled immediately before such transfer took place regardless of the period to which such sums relate.

### 26.3 Distributions to the Borrower

The Agent may (with the consent of the Borrower or in accordance with Clause 27 (Set-off)) apply any amount received by it for the Borrower in or towards payment (on the date and in the currency and funds of receipt) of any amount due from the Borrower under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

#### 26.4 Clawback and pre-funding

- (a) Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) Unless paragraph (c) below applies, if the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.
- (c) If the Agent has notified the Lenders that it is willing to make available amounts for the account of the Borrower before receiving funds from the Lenders then if and to the extent that the Agent does so but it proves to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to the Borrower:
  - (i) the Agent shall notify the Borrower of that Lender's identity and the Borrower shall on demand refund it to the Agent; and
  - (ii) the Lender by whom those funds should have been made available or, if that Lender fails to do so, the Borrower shall on demand pay to the Agent the amount (as certified by the Agent) which will indemnify the Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.

#### 26.5 Partial payments

- (a) If the Agent receives a payment that is insufficient to discharge all the amounts then due and payable by the Borrower under the Finance Documents, the Agent shall apply that payment towards the obligations of the Borrower under the Finance Documents in the following order:
  - (i) **first**, in or towards payment pro rata of any unpaid amount owing to any Administrative Party under the Finance Documents;
  - (ii) **secondly**, in or towards payment pro rata of any accrued interest, fee (other than as provided in paragraph (i) above) or commission due but unpaid under the Finance Documents;
  - (iii) **thirdly**, in or towards payment pro rata of any principal due but unpaid under this Agreement; and
  - (iv) **fourthly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.
- (b) The Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (a)(iv) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by the Borrower.

#### 26.6 No set-off by Borrower

All payments to be made by the Borrower under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

#### **26.7 Business Days**

- (a) Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement, interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

#### **26.8 Currency of account**

- (a) A repayment of a Loan or Unpaid Sum or party of a Loan or Unpaid Sum will be made in the currency in which that Loan or Unpaid Sum is denominated under this Agreement on its due date.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

#### **26.9 Change of currency**

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
  - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Borrower); and
  - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Market and otherwise to reflect the change in currency.

#### **26.10 Disruption to payment systems etc.**

If either the Agent determines (in its discretion) that a Disruption Event has occurred or the Agent is notified by the Borrower that a Disruption Event has occurred:

- (a) the Agent may, and shall if requested to do so by the Borrower, consult with the Borrower with a view to agreeing with the Borrower such changes to the operation or administration of the Facilities as the Agent may deem necessary in the circumstances;
- (b) the Agent shall not be obliged to consult with the Borrower in relation to any changes mentioned in paragraph (a) above if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) the Agent may consult with the Finance Parties in relation to any changes mentioned in paragraph (a) above but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;

- (d) any such changes agreed upon by the Agent and the Borrower shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 32 (Amendments and Waivers);
- (e) the Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 26.10; and
- (f) the Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

## **27. SET-OFF**

A Finance Party may set off any matured obligation due from the Borrower under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to the Borrower, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

## **28. NOTICES**

### **28.1 Communications in writing**

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

### **28.2 Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

- (a) in the case of the Borrower, that identified with its name below;
- (b) in the case of each Lender, that notified in writing to the Agent on or prior to the date on which it becomes a Party; and
- (c) in the case of the Agent, that identified with its name below,

or any substitute address, fax number or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days' notice.

### **28.3 Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will be effective:
  - (i) if by way of fax, only when received in legible form; or

- (ii) if by way of letter, only when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address;

and, if a particular department or officer is specified as part of its address details provided under Clause 28.2 (Addresses), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Agent will be effective only when actually received by the Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's signature below (or any substitute department or officer as the Agent shall specify for this purpose).
- (c) All notices from or to the Borrower shall be sent through the Agent.
- (d) Any communication or document which becomes effective, in accordance with paragraphs (a) to (c) above, after 5p.m. in the place of receipt shall be deemed only to become effective on the following day.

#### **28.4 Electronic communication**

- (a) Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including by way of posting to a secure website) if those two Parties:
  - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
  - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any such electronic communication as specified in paragraph (a) above to be made between the Borrower and a Finance Party may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication.
- (c) Any such electronic communication as specified in paragraph (a) above made between any two Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Party to the Agent only if it is addressed in such a manner as the Agent shall specify for this purpose.
- (d) Any electronic communication which becomes effective, in accordance with paragraph (c) above, after 5 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- (e) Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 28.4.

#### **28.5 English language**

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
  - (i) in English; or

- (ii) if not in English, and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

## **29. CALCULATIONS AND CERTIFICATES**

### **29.1 Accounts**

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

### **29.2 Certificates and determinations**

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

### **29.3 Day count convention**

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the Relevant Market differs, in accordance with that market practice.

## **30. PARTIAL INVALIDITY**

If, at any time, any provision of a Finance Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

## **31. REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under a Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any of the Finance Documents. No election to affirm any Finance Document on the part of any Finance Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law and may be waived only in writing and specifically.

## **32. AMENDMENTS AND WAIVERS**

### **32.1 Required consents**

- (a) Subject to Clause 32.2 (All-Lender matters) and Clause 32.3 (Other exceptions), any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Borrower and any such amendment or waiver will be binding on all Parties.
- (b) The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 32.

### 32.2 All-Lender matters

An amendment or waiver of any term of any Finance Document that has the effect of changing or which relates to:

- (a) the definition of **Majority Lenders** in Clause 1.1 (Definitions);
- (b) the receipt of the documents and other evidence specified in Clause 4.1 (Initial conditions precedent);
- (c) an extension to the date of payment of any amount under the Finance Documents;
- (d) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;
- (e) a change in currency of payment of any amount under the Finance Documents;
- (f) an increase in any Commitment, an extension of the Availability Period or any requirement that a cancellation of Commitments reduces the Commitments of the Lenders rateably under the relevant Facility;
- (g) any provision which expressly requires the consent of all the Lenders; or
- (h) Clause 2.7 (Finance Parties' rights and obligations), Clause 5.1 (Delivery of a Utilisation Request), Clause 7.1 (Illegality), Clause 7.2 (Change of control), Clause 7.7 (Application of prepayments), Clause 22 (Changes to the Lenders), Clause 23 (Changes to the Borrower), Clause 25 (Sharing among the Finance Parties), this Clause 32, Clause 36 (Governing Law), or Clause 37.1 (Jurisdiction of Hong Kong courts),

shall not be made without the prior consent of all the Lenders.

### 32.3 Other exceptions

An amendment or waiver which relates to the rights or obligations of an Administrative Party or a Reference Bank (each in their capacity as such) may not be effected without the consent of that Administrative Party or that Reference Bank, as the case may be.

### 32.4 Replacement of Screen Rate

- (a) Subject to Clause 32.3 (Other exceptions), if the Screen Rate is not available for US Dollars or euro, any amendment or waiver which relates to providing for another benchmark rate to apply in relation to US Dollars or euro (as the case may be) in place of that Screen Rate (or which relates to aligning any provision of a Finance Document to the use of that other benchmark rate) may be made with the consent of the Majority Lenders and the Borrower.
- (b) If any Lender fails to respond to a request for an amendment or waiver described in paragraph (a) above within ten Business Days (unless the Borrower and the Agent agree to a longer time period in relation to any request) of that request being made:
  - (i) its Commitment shall not be included for the purpose of calculating the Total Commitments when ascertaining whether any relevant percentage of Total Commitments has been obtained to approve that request; and
  - (ii) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.



### **32.5 Excluded Commitments**

If any Lender fails to respond to a request for a consent, waiver, amendment of or in relation to any term of any Finance Document (other than a consent, waiver, amendment referred to in paragraphs (c), (d) or (f) of Clause 32.2 (All-Lender matters) or any other vote of Lenders under the terms of this Agreement within 15 Business Days of that request being made, unless the Borrower and the Agent agree to a longer time period in relation to such request:

- (a) its Commitment shall not be included for the purpose of calculating the Total Commitments under the relevant Facility when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Total Commitments has been obtained to approve that request; and
- (b) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

## **33. CONFIDENTIAL INFORMATION**

### **33.1 Confidentiality**

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 33.2 (Disclosure of Confidential Information) and Clause 33.3 (Disclosure to numbering service providers), and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

### **33.2 Disclosure of Confidential Information**

Any Finance Party may disclose:

- (a) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, service providers, partners, insurance providers and Representatives, head office and branch offices such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
  - (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Agent and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
  - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or the Borrower and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;

- (iii) appointed by any Finance Party or by a person to whom paragraph (i) or (ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including any person appointed under paragraph (b) of Clause 24.17 (Relationship with the Lenders));
- (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (i) or (ii) above;
- (v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
- (vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
- (vii) to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 22.11 (Security over Lenders' rights);
- (viii) who is a Party; or
- (ix) with the consent of the Borrower;

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

- (A) in relation to paragraphs (i), (ii) and (iii) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
  - (B) in relation to paragraph (iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information; or
  - (C) in relation to paragraphs (v), (vi) and (vii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Finance Party or by a person to whom paragraph (b)(i) or (b)(ii) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrower and the relevant Finance Party; and

- (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Borrower if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.

### 33.3 Disclosure to numbering service providers

- (a) Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, the Facilities and/or the Borrower the following information:
  - (i) name of the Borrower;
  - (ii) country of domicile of the Borrower;
  - (iii) place of incorporation of the Borrower;
  - (iv) date of this Agreement;
  - (v) Clause 36 (Governing Law);
  - (vi) the names of the Agent and the Mandated Lead Arrangers and Bookrunners;
  - (vii) date of each amendment and restatement of this Agreement;
  - (viii) amounts of, and names of, the Facilities (and any tranches);
  - (ix) amount of Total Commitments;
  - (x) currency of the Facilities
  - (xi) type of Facilities;
  - (xii) ranking of Facilities;
  - (xiii) Final Repayment Date for Facilities;
  - (xiv) changes to any of the information previously supplied pursuant to paragraphs (i) to (xiii) above; and
  - (xv) such other information agreed between such Finance Party and the Borrower,to enable such numbering service provider to provide its usual syndicated loan numbering identification services.
- (b) The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facilities and/or the Borrower by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.

- (c) The Borrower represents that none of the information set out in paragraphs (a)(i) to (a)(xv) above is, nor will at any time be, unpublished price-sensitive information.
- (d) The Agent shall notify the Borrower and the other Finance Parties of:
  - (i) the name of any numbering service provider appointed by the Agent in respect of this Agreement, the Facilities and/or the Borrower; and
  - (ii) the number or, as the case may be, numbers assigned to this Agreement, the Facilities and/or the Borrower by such numbering service provider.

#### **33.4 Data privacy**

The Agent may collect, use and disclose personal data about the Borrower and other Finance Parties (if it is an individual) or individuals associated with the Borrower and/or Finance Parties (whether or not it is an individual), so that the Agent can carry out its obligations to the Borrower and/or, as the case may be, Finance Party and for other related purposes, including auditing, monitoring and analysis of its business, fraud and crime prevention, money laundering, legal and regulatory compliance, and the marketing by the Agent or members of HSBC Holdings PLC together with its subsidiary undertakings from time to time of other services. The Agent may also transfer the personal data to any country (including countries outside where the Agent provides the services to be provided under the terms of this Agreement where there may be less stringent data protection laws) to process information on the Agent's behalf. Where it is processed, the personal data will be protected by security measures and a degree of care to which all members of the HSBC Group and their staff are subject and will only be used in accordance with the Borrower's and/or as the case may be, the Finance Party's instructions. In this Clause 33.4, the **HSBC Group** means HSBC Holdings plc together with its subsidiary undertakings from time to time.

#### **33.5 Entire agreement**

This Clause 33 constitutes the entire agreement between the Parties in relation to the obligations of the Finance Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

#### **33.6 Inside information**

Each of the Finance Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Finance Parties undertakes not to use any Confidential Information for any unlawful purpose.

#### **33.7 Notification of disclosure**

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Borrower:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(v) of Clause 33.2 (Disclosure of Confidential Information) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 33.

### **33.8 Continuing obligations**

The obligations in this Clause 33 are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of 12 months from the earlier of:

- (a) the date on which all amounts payable by the Borrower under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Finance Party otherwise ceases to be a Finance Party.

## **34. CONFIDENTIALITY OF FUNDING RATES AND REFERENCE BANK QUOTATIONS**

### **34.1 Confidentiality and disclosure**

- (a) The Agent and the Borrower agree to keep each Funding Rate (and, in the case of the Agent, each Reference Bank Quotation) confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b), (c) and (d) below.
- (b) The Agent may disclose:
  - (i) any Funding Rate (but not, for the avoidance of doubt, any Reference Bank Quotation) to the Borrower pursuant to Clause 8.4 (Notification of rates of interest); and
  - (ii) any Funding Rate or any Reference Bank Quotation to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Agent and the relevant Lender or Reference Bank, as the case may be.
- (c) The Agent may disclose any Funding Rate or any Reference Bank Quotation, and the Borrower may disclose any Funding Rate, to:
  - (i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives if any person to whom that Funding Rate or Reference Bank Quotation is to be given pursuant to this paragraph (i) is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or Reference Bank Quotation or is otherwise bound by requirements of confidentiality in relation to it;
  - (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances;

- (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances; and
  - (iv) any person with the consent of the relevant Lender or Reference Bank, as the case may be.
- (d) The Agent's obligations in this Clause 34 relating to Reference Bank Quotations are without prejudice to its obligations to make notifications under Clause 8.4 (Notification of rates of interest) **provided that** (other than pursuant to paragraph (b)(i) above) the Agent shall not include the details of any individual Reference Bank Quotation as part of any such notification.

### **34.2 Related obligations**

- (a) The Agent and the Borrower acknowledge that each Funding Rate (and, in the case of the Agent, each Reference Bank Quotation) is or may be price-sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Agent and the Borrower undertake not to use any Funding Rate or, in the case of the Agent, any Reference Bank Quotation for any unlawful purpose.
- (b) The Agent and the Borrower agree (to the extent permitted by law and regulation) to inform the relevant Lender or Reference Bank, as the case may be:
  - (i) of the circumstances of any disclosure made pursuant to paragraph (c)(ii) of Clause 34.1 (Confidentiality and disclosure) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
  - (ii) upon becoming aware that any information has been disclosed in breach of this Clause 34.

### **34.3 No Event of Default**

No Event of Default will occur under Clause 21.3 (Other obligations) by reason only of the Borrower's failure to comply with this Clause 34.

### **35. COUNTERPARTS**

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

### **36. GOVERNING LAW**

This Agreement is governed by the laws of Hong Kong.

### **37. ENFORCEMENT**

#### **37.1 Jurisdiction of Hong Kong courts**

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

- (b) The Parties agree that the courts of Hong Kong are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 37.1 is for the benefit of the Finance Parties only. As a result, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

### **37.2 Service of process**

Without prejudice to any other mode of service allowed under any relevant law, the Borrower:

- (a) irrevocably appoints Ctrip.com (Hong Kong) Limited as its agent for service of process in relation to any proceedings before the Hong Kong courts in connection with any Finance Document; and
- (b) agrees that failure by a process agent to notify the Borrower of the process will not invalidate the proceedings concerned.

The Borrower expressly agrees and consents to the provisions of this Clause 37.2.

### **37.3 Waiver of immunities**

The Borrower irrevocably waives, to the extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from:

- (a) suit;
- (b) jurisdiction of any court;
- (c) relief by way of injunction or order for specific performance or recovery of property;
- (d) attachment of its assets (whether before or after judgment); and
- (e) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any proceedings in the courts of any jurisdiction (and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any immunity in any such proceedings).

**THIS AGREEMENT** has been entered into on the date stated at the beginning of this Agreement.

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**SIGNATORIES**

**Borrower**

**CTRIP.COM INTERNATIONAL, LTD.**

By: /s/ Authorized Signatory



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**Mandated Lead Arranger and Bookrunner**

**BANK OF COMMUNICATIONS CO., LTD. HONG  
KONG BRANCH**

By: /s/ Authorized Signatories

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**Mandated Lead Arranger and Bookrunner**

**THE BANK OF EAST ASIA, LIMITED (□□□□□□□□)**

By: /s/ Authorized Signatories

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**Mandated Lead Arranger and Bookrunner**

**CHINA CONSTRUCTION BANK (ASIA)  
CORPORATION LIMITED**

By: /s/ Authorized Signatories

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**Mandated Lead Arranger and Bookrunner**

**THE HONGKONG AND SHANGHAI BANKING  
CORPORATION LIMITED**

By: /s/ Authorized Signatory

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**Mandated Lead Arranger and Bookrunner**

**THE KOREA DEVELOPMENT BANK**

By: /s/ Authorized Signatory

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**Mandated Lead Arranger and Bookrunner**

**BANK OF CHINA LIMITED**

By: /s/ Authorized Signatory

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**Original Lender**

**THE EXPORT-IMPORT BANK OF CHINA,  
SHANGHAI BRANCH**

By: /s/ Authorized Signatory

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**Original Lender**

**CHINA EVERBRIGHT BANK SHANGHAI BRANCH**

By: /s/ Authorized Signatory



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**Original Lender**

**CHINA ZHESHANG BANK CO., LTD. SHANGHAI  
BRANCH**

By: /s/ Authorized Signatory

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**Original Lender**

**BANK OF CHINA (HONG KONG) LIMITED**

By: /s/ Authorized Signatory

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**Original Lender**

**BANK OF CHINA LIMITED SHANGHAI  
CHANGNING SUB-BRANCH**

By: /s/ Authorized Signatory

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**Original Lender**

**CHINA DEVELOPMENT BANK HONG KONG  
BRANCH**

By: /s/ Authorized Signatory

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**Original Lender**

**CHINA MINSHENG BANKING CORP., LTD.  
SHANGHAI BRANCH**

By: /s/ Authorized Signatory

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**Original Lender**

**THE BANK OF EAST ASIA, LIMITED (□□□□□□□□)**

By: /s/ Authorized Signatories

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**Original Lender**

**CHINA CONSTRUCTION BANK (ASIA)  
CORPORATION LIMITED**

By: /s/ Authorized Signatories

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**Original Lender**

**CHINA MERCHANTS BANK SHANGHAI BRANCH**

By: /s/ Authorized Signatory



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**Original Lender**

**THE HONGKONG AND SHANGHAI BANKING  
CORPORATION LIMITED**

By: /s/ Authorized Signatories

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**Original Lender**

**AGRICULTURAL BANK OF CHINA SHANGHAI  
BRANCH CHANGNING SUB-BRANCH**

By: /s/ Authorized Signatory

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**Original Lender**

**INDUSTRIAL BANK CO., LTD. SHANGHAI TIAN  
SHAN SUB-BRANCH**

By: /s/ Authorized Signatory

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**Original Lender**

**CHINA EVERBRIGHT BANK CO., LTD., HONG  
KONG BRANCH**

By: /s/ Authorized Signatories

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**Original Lender**

**CHIYU BANKING CORPORATION LIMITED**

By: /s/ Authorized Signatories

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**Original Lender**

**CMB WING LUNG BANK LIMITED**

By: /s/ Authorized Signatories

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**Original Lender**

**INDUSTRIAL AND COMMERCIAL BANK OF  
CHINA (ASIA) LIMITED**

By: /s/ Authorized Signatories

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**Original Lender**

**SHANGHAI PUDONG DEVELOPMENT BANK CO.,  
LTD.**

By: /s/ Authorized Signatories



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**Original Lender**

**BANK OF COMMUNICATIONS CO., LTD. HONG  
KONG BRANCH**

By: /s/ Authorized Signatories

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**Original Lender**

**BANK OF COMMUNICATIONS CO., LTD. SHANGHAI MUNICIPAL BRANCH CHANGNING SUB-BRANCH**

By: /s/ Authorized Signatory

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**Original Lender**

**KDB ASIA LIMITED**

By: /s/ Authorized Signatory

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**Original Lender**

**THE KOREA DEVELOPMENT BANK**

By: /s/ Authorized Signatory

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**Original Lender**

**CHONG HING BANK LIMITED**

By: /s/ Authorized Signatories

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**Original Lender**

**AUSTRALIA AND NEW ZEALAND BANKING  
GROUP LIMITED**

By: /s/ Authorized Signatories

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**Original Lender**

**THE KOREA DEVELOPMENT BANK, SHANGHAI  
BRANCH**

By: /s/ Authorized Signatory

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**Agent**

**THE HONGKONG AND SHANGHAI BANKING  
CORPORATION LIMITED**

By: /s/ Authorized Signatory



**TRIP.COM GROUP LIMITED**  
**SECOND AMENDED AND RESTATED GLOBAL SHARE INCENTIVE PLAN**

**ARTICLE I**  
**PURPOSE**

The purpose of this Second Amended and Restated Global Share Incentive Plan (the “Plan”) is to promote the success and enhance the value of Trip.com Group Limited, an exempted company formed under the laws of the Cayman Islands (the “Company”) by linking the personal interests of the members of the Board, Employees, and Consultants to those of the shareholders of the Company and by providing such individuals with an incentive for outstanding performance to generate superior returns to the shareholders of the Company. The Plan is further intended to provide flexibility to the Company in its ability to motivate, attract, and retain the services of members of the Board, Employees, and Consultants upon whose judgment, interest, and special effort the successful conduct of the Company’s operation is largely dependent. The Plan amends and restates the previously adopted Global Share Incentive Plan of the Company, as amended and restated in July 2018, in its entirety and assumes all awards granted under the Amended and Restated Global Share Incentive Plan.

**ARTICLE II**  
**DEFINITIONS AND CONSTRUCTION**

Wherever the following terms are used in the Plan they shall have the meanings specified below, unless the context clearly indicates otherwise. The singular pronoun shall include the plural where the context so indicates.

2.1 “2007 Share Incentive Plan” means the 2007 Share Incentive Plan, as amended and restated as of November 17, 2008, of the Company.

2.2 “Applicable Laws” means the legal requirements relating to the Plan and the Awards under applicable provisions of the corporate and securities laws of the Cayman Islands, the Code, the PRC tax laws, rules, regulations and government orders, the rules of any applicable Share exchange or national market system, and the laws and the rules of any jurisdiction applicable to Awards granted to residents therein.

2.3 “Applicable Accounting Standards” shall mean Generally Accepted Accounting Principles in the United States, International Financial Reporting Standards or such other accounting principles or standards as may apply to the Company’s financial statements under United States federal securities laws from time to time.

2.4 “Award” means an Option, a Restricted Share award, a Restricted Share Unit award, a Share Appreciation Right award, a Dividend Equivalents award, a Share Payment award, or a Deferred Share award, granted to a Participant pursuant to the Plan or any other types of award as designed and approved from time to time by the Committee or the Board, as the case may be, pursuant to Article XII of the Plan in compliance with Applicable Laws.

2.5 “Award Agreement” means any written agreement, contract, or other instrument or document evidencing an Award, including through electronic medium.

2.6 “Board” means the Board of Directors of the Company.

2.7 “Board Adoption Date” shall have the meaning set forth in Section 13.1.

2.8 “Change in Control” means a change in ownership or control of the Company effected through either of the following transactions:

(a) the direct or indirect acquisition by any person or related group of persons (other than an acquisition from or by the Company or by a Company-sponsored employee benefit plan or by a person that directly or indirectly controls, is controlled by, or is under common control with, the Company) of beneficial ownership (within the meaning of Rule 13d-3 of the Exchange Act) of securities possessing more than fifty percent (50%) of the total combined voting power of the Company’s outstanding securities pursuant to a tender or exchange offer made directly to the Company’s shareholders which a majority of the Incumbent Board (as defined below) who are not affiliates or associates of the offeror under Rule 12b-2 promulgated under the Exchange Act do not recommend such shareholders accept, or

(b) the individuals who, as of the Effective Date, are members of the Board (the “Incumbent Board”), cease for any reason to constitute at least fifty percent (50%) of the Board; provided that if the election, or nomination for election by the Company’s shareholders, of any new member of the Board is approved by a vote of at least fifty percent (50%) of the Incumbent Board, such new member of the Board shall be considered as a member of the Incumbent Board.

2.9 “Cause” with respect to a Participant means (unless otherwise expressly provided in the applicable Award Agreement, or another applicable contract with the Participant that defines such term for purposes of determining the effect that a “for cause” termination has on the Participant’s Awards) a termination of employment or service based upon a finding by the Service Recipient, acting in good faith and based on its reasonable belief at the time, that the Participant:

(a) has been negligent in the discharge of his or her duties to the Service Recipient, has refused to perform stated or assigned duties or is incompetent in or (other than by reason of a disability or analogous condition) incapable of performing those duties;

(b) has been dishonest or committed or engaged in an act of theft, embezzlement or fraud, a breach of confidentiality, an unauthorized disclosure or use of inside information, customer lists, trade secrets or other confidential information, or physical and emotional harm to any person;

(c) has breached a fiduciary duty, or willfully and materially violated any other duty, law, rule, regulation or policy of the Service Recipient; or has been convicted of, or plead guilty or nolo contendere to, a felony or misdemeanor (other than minor traffic violations or similar offenses);

(d) has materially breached any of the provisions of any agreement with the Service Recipient;

(e) has engaged in unfair competition with, or otherwise acted intentionally in a manner injurious to the reputation, business or assets of, the Service Recipient; or

(f) has improperly induced a vendor or customer to break or terminate any contract with the Service Recipient or induced a principal for whom the Service Recipient acts as agent to terminate such agency relationship.

A termination for Cause shall be deemed to occur (subject to reinstatement upon a contrary final determination by the Committee) on the date on which the Service Recipient first delivers written notice to the Participant of a finding of termination for Cause.

2.10 “Code” means the Internal Revenue Code of 1986 of the United States, as amended.

2.11 “Committee” means the committee of the Board described in Article XII.

2.12 “Consultant” means any consultant or adviser if: (a) the consultant or adviser renders bona fide services to a Service Recipient; (b) the services rendered by the consultant or adviser are not in connection with the offer or sale of securities in a capital-raising transaction and do not directly or indirectly promote or maintain a market for the Company’s securities; and (c) the consultant or adviser is a natural person who has contracted directly with the Service Recipient to render such services.

2.13 “Corporate Transaction” means any of the following transactions, provided, however, that the Committee shall determine under (d) and (e) whether multiple transactions are related, and its determination shall be final, binding and conclusive:

(a) an amalgamation, arrangement or consolidation (i) in which the Company is not the surviving entity, except for a transaction the principal purpose of which is to change the jurisdiction in which the Company is incorporated or (ii) following which the holders of the voting securities of the Company do not continue to hold more than 50% of the combined voting power of the voting securities of the surviving entity;

(b) the sale, transfer or other disposition of all or substantially all of the assets of the Company;

(c) the complete liquidation or dissolution of the Company;

(d) any reverse takeover or series of related transactions culminating in a reverse takeover (including, but not limited to, a tender offer followed by a reverse takeover) in which the Company is the surviving entity but (A) the Ordinary Shares outstanding immediately prior to such takeover are converted or exchanged by virtue of the takeover into other property, whether in the form of securities, cash or otherwise, or (B) in which securities possessing more than fifty percent (50%) of the total combined voting power of the Company’s outstanding securities are transferred to a person or persons different from those who held such securities immediately prior to such takeover or the initial transaction culminating in such takeover, but excluding any such transaction or series of related transactions that the Committee determines shall not be a Corporate Transaction; or

(e) acquisition in a single or series of related transactions by any person or related group of persons (other than the Company or by a Company-sponsored employee benefit plan) of beneficial ownership (within the meaning of Rule 13d-3 of the Exchange Act) of securities possessing more than fifty percent (50%) of the total combined voting power of the Company’s outstanding securities but excluding any such transaction or series of related transactions that the Committee determines shall not be a Corporate Transaction.

2.14 “Deferred Share” means a right to receive a specified number of Shares during specified time periods pursuant to Section 9.3.

2.15 “Disability” means that the Participant qualifies to receive long-term disability payments under the Service Recipient’s long-term disability insurance program, as it may be amended from time to time, to which the Participant provides services regardless of whether the Participant is covered by such policy. If the Service Recipient to which the Participant provides service does not have a long-term disability plan in place, “Disability” means that a Participant is unable to carry out the responsibilities and functions of the position held by the Participant by reason of any medically determinable physical or mental impairment for a period of not less than ninety (90) consecutive days. A Participant will not be considered to have incurred a Disability unless he or she furnishes proof of such impairment sufficient to satisfy the Committee in its discretion.

2.16 “Dividend Equivalents” means a right granted to a Participant pursuant to Section 9.1 to receive the equivalent value (in cash or Share) of dividends paid on Share.

2.17 “Effective Date” shall have the meaning set forth in Section 13.1.

2.18 “Employee” means any person, including an officer or member of the Board of the Company, any Parent, Subsidiary or Related Entity of the Company, who is in the employment of a Service Recipient, subject to the control and direction of the Service Recipient as to both the work to be performed and the manner and method of performance. The payment of a director’s fee by a Service Recipient shall not be sufficient to constitute “employment” by the Service Recipient.

2.19 “Exchange Act” means the Securities Exchange Act of 1934 of the United States, as amended.

2.20 “Fair Market Value” means, as of any date, the value of Shares determined as follows:

(a) If the Shares are listed on one or more established stock exchanges or national market systems, including without limitation, The Nasdaq Global Select Market, The Nasdaq Global Market and Nasdaq Capital Market of The Nasdaq Stock Market, its Fair Market Value shall be the closing sales price for such shares (or the closing bid, if no sales were reported) as quoted on the principal exchange or system on which the Shares are listed (as determined by the Committee) on the date of determination (or, if no closing sales price or closing bid was reported on that date, as applicable, on the last trading date such closing sales price or closing bid was reported), as reported on the website maintained by such exchange or market system or such other source as the Committee deems reliable;

(b) If the Shares are regularly quoted on an automated quotation system (including the OTC Bulletin Board) or by a recognized securities dealer, its Fair Market Value shall be the closing sales price for such shares as quoted on such system or by such securities dealer on the date of determination, but if selling prices are not reported, the Fair Market Value of a Share shall be the mean between the high bid and low asked prices for the Shares on the date of determination (or, if no such prices were reported on that date, on the last date such prices were reported), as reported in The Wall Street Journal or such other source as the Committee deems reliable; or

(c) In the absence of an established market for the Shares of the type described in (a) and (b) above, the Fair Market Value thereof shall be determined by the Committee in good faith by reference to (i) the placing price of the latest private placement of the Shares and the development of the Company's business operations and the general economic and market conditions since such latest private placement, (ii) other third party transactions involving the Shares and the development of the Company's business operation and the general economic and market conditions since such transaction, (iii) an independent valuation of the Shares, or (iv) such other methodologies or information as the Committee determines to be indicative of Fair Market Value and relevant.

2.21 "Incentive Share Option" means an Option that is intended to meet the requirements of Section 422 of the Code or any successor provision thereto.

2.22 "Independent Director" means (i) if the Shares or other securities representing the Shares are not listed on a stock exchange, a member of the Board who is a Non-Employee Director; and (ii) if the Shares or other securities representing the Shares are listed on one or more stock exchanges, a member of the Board who meets the independence standards under the applicable corporate governance rules of the stock exchange(s).

2.23 "Non-Employee Director" means a member of the Board who qualifies as a "Non-Employee Director" as defined in Rule 16b-3(b)(3) of the Exchange Act, or any successor definition adopted by the Board.

2.24 "Non-Qualified Share Option" means an Option that is not intended to be an Incentive Share Option.

2.25 "Option" means a right granted to a Participant pursuant to Article V of the Plan to purchase a specified number of Shares at a specified price during specified time periods. An Option may be either an Incentive Share Option or a Non-Qualified Share Option.

2.26 "Original Effective Date" means the earlier of (1) June 16, 2017, when the Company's 2007 Share Incentive Plan expired; or (2) when the incentive share pool as stated under Section 3.1(a) of the 2007 Share Incentive Plan has been fully utilized and all incentive shares have been granted to eligible grantees.

2.27 "Participant" means a person who, as a member of the Board, Consultant or Employee, has been granted an Award pursuant to the Plan.

2.28 "Parent" means a parent corporation under Section 424(e) of the Code.

2.29 "Plan" means this Amended and Restated Global Share Incentive Plan, as amended from time to time.

2.30 "PRC" means the People's Republic of China.

2.31 "Related Entity" means any business, corporation, partnership, limited liability company or other entity which is not a Subsidiary but is consolidated in the Company's consolidated financial statements prepared under the United States generally accepted accounting principles.

2.32 "Restricted Share" means a Share awarded to a Participant pursuant to Article VI that is subject to certain restrictions and may be subject to risk of forfeiture.

2.33 "Restricted Share Unit" means an Award granted pursuant to Article VII.

2.34 “Securities Act” means the Securities Act of 1933 of the United States, as amended.

2.35 “Service Recipient” means the Company, any Parent or Subsidiary of the Company and any Related Entity to which a Participant provides services as an Employee, Consultant or as a Director.

2.36 “Share” means the ordinary share of the Company, par value US\$0.01 per share, and such other securities of the Company that may be substituted for Shares pursuant to Article XI.

2.37 “Share Appreciation Right” or “SAR” means a right granted pursuant to Article VIII to receive a payment equal to the excess of the Fair Market Value of a specified number of Shares on the date the SAR is exercised over the Fair Market Value on the date the SAR was granted as set forth in the applicable Award Agreement.

2.38 “Share Payment” means (a) a payment in the form of Shares, or (b) an option or other right to purchase Shares, as part of any bonus, deferred compensation or other arrangement, made in lieu of all or any portion of the compensation, granted pursuant to Section 9.2.

2.39 “Subsidiary” means any corporation or other entity of which a majority of the outstanding voting shares or voting power is beneficially owned directly or indirectly by the Company, or an affiliated entity that the Company controls through contractual arrangements and consolidates the financial results according to the Applicable Accounting Standards.

2.40 “Trading Date” means the closing of the first sale to the general public of the Shares pursuant to a registration statement filed with and declared effective by the U.S. Securities and Exchange Commission under the Securities Act.

### **ARTICLE III** **SHARES SUBJECT TO THE PLAN**

#### 3.1 Number of Shares.

(a) Subject to the provisions of Article XI and Section 3.1(b), the maximum aggregate number of Shares which may be issued pursuant to all Awards (including Incentive Share Options) is (i) 4,036,760 and (ii) an automatic increase on January 1 of each year commencing with the first January 1 after the Original Effective Date and ending on the tenth anniversary of the Original Effective Date equal to the least of (A) that number of Shares representing 3% of the then total issued and outstanding share capital of the Company as of December 31 of the preceding year or (B) such lesser number as the Board shall determine.

(b) To the extent that an Award terminates, expires, or lapses for any reason, any Shares subject to the Award shall again be available for the grant of an Award pursuant to the Plan. To the extent permitted by Applicable Law or any exchange rule, Shares issued in assumption of, or in substitution for, any outstanding awards of any entity acquired in any form or combination by the Company or any Parent or Subsidiary of the Company shall not be counted against Shares available for grant pursuant to the Plan. Shares delivered by the Participant or withheld by the Company upon the exercise of any Award under the Plan, in payment of the exercise price thereof or tax withholding thereon, may again be optioned, granted or awarded hereunder, subject to the limitations of Section 3.1(a). If any Restricted Shares are forfeited by the Participant or repurchased by the Company, such Shares may again be optioned, granted or awarded hereunder, subject to the limitations of Section 3.1(a). Notwithstanding the provisions of this Section 3.1(b), no Shares may again be optioned, granted or awarded if such action would cause an Incentive Share Option to fail to qualify as an incentive share option under Section 422 of the Code.

3.2 Shares Distributed. Any Shares distributed pursuant to an Award may consist, in whole or in part, of authorized and unissued Shares, treasury shares or Shares purchased on the open market. Additionally, at the discretion of the Committee, American Depositary Shares in an amount equal to the number of Shares which otherwise would be distributed pursuant to an Award may be distributed in lieu of Shares in settlement of any Award. If the number of Shares represented by an American Depositary Share is other than on a one-to-one basis, the limitations of Section 3.1 shall be adjusted to reflect the distribution of American Depositary Shares in lieu of Shares.

#### **ARTICLE IV** **ELIGIBILITY AND PARTICIPATION**

4.1 Eligibility. Persons eligible to participate in this Plan include Employees, Consultants, and all members of the Board, as determined by the Committee.

4.2 Participation. Subject to the provisions of the Plan, the Committee may, from time to time, select from among all eligible individuals, those to whom Awards shall be granted and shall determine the nature and amount of each Award. No individual shall have any right to be granted an Award pursuant to this Plan.

4.3 Jurisdictions. In order to assure the viability of Awards granted to Participants employed in various jurisdictions, the Committee may provide for such special terms as it may consider necessary or appropriate to accommodate differences in local law, tax policy, or custom applicable in the jurisdiction in which the Participant resides or is employed. Moreover, the Committee may approve such supplements to, or amendments, restatements, or alternative versions of, the Plan as it may consider necessary or appropriate for such purposes without thereby affecting the terms of the Plan as in effect for any other purpose; provided, however, that no such supplements, amendments, restatements, or alternative versions shall increase the share limitations contained in Section 3.1 of the Plan. Notwithstanding the foregoing, the Committee may not take any actions hereunder, and no Awards shall be granted, that would violate any Applicable Laws.

#### **ARTICLE V** **OPTIONS**

5.1 General. The Committee is authorized to grant Options to Participants on the following terms and conditions:

(a) Exercise Price. The exercise price per Share subject to an Option shall be determined by the Committee and set forth in the Award Agreement which may be a fixed or variable price related to the Fair Market Value of the Shares. The exercise price per Share subject to an Option may be adjusted in the absolute discretion of the Committee, the determination of which shall be final, binding and conclusive. For the avoidance of doubt, to the extent not prohibited by Applicable Law or any exchange rule, a re-pricing of Options mentioned in the preceding sentence shall be effective without the approval of the Company's shareholders or the approval of the Participants. Notwithstanding the foregoing, the exercise price per Share subject to an Option shall not be increased without the approval of the Participants.

(b) Time and Conditions of Exercise. The Committee shall determine the time or times at which an Option may be exercised in whole or in part, including exercise prior to vesting; *provided* that the term of any Option granted under the Plan shall not exceed ten years, except as provided in Section 10.2. The Committee shall also determine any conditions, if any, that must be satisfied before all or part of an Option may be exercised.

(c) Payment. The Committee shall determine the methods by which the exercise price of an Option may be paid, the form of payment, including, without limitation (i) to the extent permissible under the Applicable Laws, cash or check denominated in U.S. Dollars, (ii) cash or check in Chinese Renminbi, (iii) cash or check denominated in any other local currency as approved by the Committee, (iv) the delivery to the Company of Shares held for such period of time as may be required by the Committee in order to avoid adverse financial accounting consequences and having a Fair Market Value on the date of delivery equal to the aggregate exercise price of the Option or exercised portion thereof, (v) after the Trading Date the delivery of a notice that the Participant has placed a market sell order with a broker with respect to Shares then issuable upon exercise of the Option, and that the broker has been directed to pay a sufficient portion of the net proceeds of the sale to the Company in satisfaction of the Option exercise price; *provided* that payment of such proceeds is then made to the Company upon settlement of such sale, (vi) other property acceptable to the Committee with a Fair Market Value equal to the exercise price, or (vii) any combination of the foregoing. Notwithstanding any other provision of the Plan to the contrary, no Participant who is a member of the Board or an “executive officer” of the Company within the meaning of Section 13(k) of the Exchange Act shall be permitted to pay the exercise price of an Option in any method which would violate Section 13(k) of the Exchange Act.

(d) Evidence of Grant. All Options shall be evidenced by an Award Agreement between the Company and the Participant. The Award Agreement shall include such additional provisions as may be specified by the Committee.

(e) Effects of Termination of Employment or Service on Options. Termination of employment or service shall have the following effects on Options granted to the Participants unless otherwise provided in the Award Agreement:

(i) Dismissal for Cause. Unless otherwise provided in the Award Agreement, if a Participant’s employment by or service to the Service Recipient is terminated by the Service Recipient for Cause, the Participant’s Options will terminate upon such termination, whether or not the Option is then vested and/or exercisable;

(ii) Death or Disability. Unless otherwise provided in the Award Agreement, if a Participant’s employment by or service to the Service Recipient terminates as a result of the Participant’s death or Disability:

(1) the Participant (or his or her legal representative or beneficiary, in the case of the Participant’s Disability or death, respectively), will have until the date that is one year after the Participant’s termination of employment or service to exercise the Participant’s Options (or portion thereof) to the extent that such Options were vested and exercisable on the date of the Participant’s termination of employment or service on account of death or Disability;



(2) the Options, to the extent not vested and exercisable on the date of the Participant's termination of employment or service, shall terminate upon the Participant's termination of employment or service on account of death or Disability; and

(3) the Options, to the extent exercisable for the one-year period following the Participant's termination of employment or service and not exercised during such period, shall terminate at the close of business on the last day of the one-year period.

(iii) Other Terminations of Employment or Service. Unless otherwise provided in the Award Agreement, if a Participant's employment by or service to the Service Recipient terminates for any reason other than a termination by the Service Recipient for Cause or because of the Participant's death or Disability:

(1) the Participant will have until the date that is three months after the Participant's termination of employment or service to exercise his or her Options (or portion thereof) to the extent that such Options were vested and exercisable on the date of the Participant's termination of employment or service;

(2) the Options, to the extent not vested and exercisable on the date of the Participant's termination of employment or service, shall terminate upon the Participant's termination of employment or service; and

(3) the Options, to the extent exercisable for the three-month period following the Participant's termination of employment or service and not exercised during such period, shall terminate at the close of business on the last day of the three-month period.

5.2 Incentive Share Options. Incentive Share Options shall be granted only to Employees of the Company, a Parent or Subsidiary of the Company. Incentive Share Options may not be granted to Employees of a Related Entity or to Independent Directors or Consultants. The terms of any Incentive Share Options granted pursuant to the Plan, in addition to the requirements of Section 5.1, must comply with the following additional provisions of this Section 5.2:

(a) Expiration of Option. An Incentive Share Option may not be exercised to any extent by anyone after the first to occur of the following events:

- (i) Five years from the date it is granted, unless an earlier time is set in the Award Agreement;
- (ii) Three months after the Participant's termination of employment as an Employee; and

(iii) One year after the date of the Participant's termination of employment or service on account of Disability or death. Upon the Participant's Disability or death, any Incentive Share Options exercisable at the Participant's Disability or death may be exercised by the Participant's legal representative or representatives, by the person or persons entitled to do so pursuant to the Participant's last will and testament, or, if the Participant fails to make testamentary disposition of such Incentive Share Option or dies intestate, by the person or persons entitled to receive the Incentive Share Option pursuant to the applicable laws of descent and distribution.

(b) Individual Dollar Limitation. The aggregate Fair Market Value (determined as of the time the Option is granted) of all Shares with respect to which Incentive Share Options are first exercisable by a Participant in any calendar year may not exceed US\$100,000 or such other limitation as imposed by Section 422(d) of the Code, or any successor provision. To the extent that Incentive Share Options are first exercisable by a Participant in excess of such limitation, the excess shall be considered Non-Qualified Share Options.

(c) Exercise Price. The exercise price of an Incentive Share Option shall be equal to the Fair Market Value on the date of grant. However, the exercise price of any Incentive Share Option granted to any individual who, at the date of grant, owns Shares possessing more than ten percent of the total combined voting power of all classes of shares of the Company may not be less than 110% of Fair Market Value on the date of grant and such Option may not be exercisable for more than five years from the date of grant.

(d) Transfer Restriction. The Participant shall give the Company prompt notice of any disposition of Shares acquired by exercise of an Incentive Share Option within (i) two years from the date of grant of such Incentive Share Option or (ii) one year after the transfer of such Shares to the Participant.

(e) Expiration of Incentive Share Options. No Award of an Incentive Share Option may be made pursuant to this Plan after the tenth anniversary of the Effective Date.

(f) Right to Exercise. During a Participant's lifetime, an Incentive Share Option may be exercised only by the Participant.

5.3 Substitution of Share Appreciation Rights. The Committee may provide in the Award Agreement evidencing the grant of an Option that the Committee, in its sole discretion, shall have to right to substitute a Share Appreciation Right for such Option at any time prior to or upon exercise of such Option, provided that such Share Appreciation Right shall be exercisable for the same number of shares of Share as such substituted Option would have been exercisable for.

## **ARTICLE VI**

### **RESTRICTED SHARES**

6.1 Grant of Restricted Shares. The Committee is authorized to make Awards of Restricted Shares to any Participant selected by the Committee in such amounts and subject to such terms and conditions as determined by the Committee. All Awards of Restricted Shares shall be evidenced by an Award Agreement.

6.2 Issuance and Restrictions. Restricted Shares shall be subject to such restrictions on transferability and other restrictions as the Committee may impose (including, without limitation, limitations on the right to vote Restricted Shares or the right to receive dividends on the Restricted Share). These restrictions may lapse separately or in combination at such times, pursuant to such circumstances, in such installments, or otherwise, as the Committee determines at the time of the grant of the Award or thereafter.

6.3 Forfeiture. Except as otherwise determined by the Committee at the time of the grant of the Award or thereafter, upon termination of employment or service during the applicable restriction period, Restricted Shares that are at that time subject to restrictions shall be forfeited; provided, however, that the Committee may (a) provide in any Restricted Share Award Agreement that restrictions or forfeiture conditions relating to Restricted Shares will be waived in whole or in part in the event of terminations resulting from specified causes, and (b) in other cases waive in whole or in part restrictions or forfeiture conditions relating to Restricted Shares.

6.4 Certificates for Restricted Shares. Restricted Shares granted pursuant to the Plan may be evidenced in such manner as the Committee shall determine. If certificates representing Restricted Shares are registered in the name of the Participant, certificates must bear an appropriate legend referring to the terms, conditions, and restrictions applicable to such Restricted Shares, and the Company may, at its discretion, retain physical possession of the certificate until such time as all applicable restrictions lapse.

## **ARTICLE VII RESTRICTED SHARE UNITS**

7.1 Grant of Restricted Share Units. The Committee, at any time and from time to time, may grant Restricted Share Units to Participants as the Committee, in its sole discretion, shall determine. The Committee, in its sole discretion, shall determine the number of Restricted Share Units to be granted to each Participant.

7.2 Restricted Share Units Award Agreement. Each Award of Restricted Share Units shall be evidenced by an Award Agreement that shall specify any vesting conditions, the number of Restricted Share Units granted, and such other terms and conditions as the Committee, in its sole discretion, shall determine.

7.3 Performance Objectives and Other Terms. The Committee, in its discretion, may set performance objectives or other vesting criteria which, depending on the extent to which they are met, will determine the number or value of Restricted Share Units that will be paid out to the Participants.

7.4 Form and Timing of Payment of Restricted Share Units. At the time of grant, the Committee shall specify the date or dates on which the Restricted Share Units shall become fully vested and nonforfeitable. Upon vesting, the Committee, in its sole discretion, may pay Restricted Share Units in the form of cash, in Shares or in a combination thereof.

7.5 Forfeiture/Repurchase. Except as otherwise determined by the Committee at the time of the grant of the Award or thereafter, upon termination of employment or service during the applicable restriction period, Restricted Share Units that are at that time unvested shall be forfeited or repurchased in accordance with the Award Agreement; *provided, however*, the Committee may (a) provide in any Restricted Share Unit Award Agreement that restrictions or forfeiture and repurchase conditions relating to Restricted Share Units will be waived in whole or in part in the event of terminations resulting from specified causes, and (b) in other cases waive in whole or in part restrictions or forfeiture and repurchase conditions relating to Restricted Share Units.

**ARTICLE VIII**  
**SHARE APPRECIATION RIGHTS**

8.1 Grant of Share Appreciation Rights.

(a) A Share Appreciation Right may be granted to any Participant selected by the Committee. A Share Appreciation Right shall be subject to such terms and conditions not inconsistent with the Plan as the Committee shall impose and shall be evidenced by an Award Agreement.

(b) A Share Appreciation Right shall entitle the Participant (or other person entitled to exercise the Share Appreciation Right pursuant to the Plan) to exercise all or a specified portion of the Share Appreciation Right (to the extent then exercisable pursuant to its terms) and to receive from the Company an amount determined by multiplying the difference obtained by subtracting the exercise price per share of the Share Appreciation Right from the Fair Market Value of a Share on the date of exercise of the Share Appreciation Right by the number of Shares with respect to which the Share Appreciation Right shall have been exercised, subject to any limitations the Committee may impose.

8.2 Payment and Limitations on Exercise.

(a) Payment of the amounts determined under Section 8.1(b) above shall be in cash, in Shares (based on its Fair Market Value as of the date the Share Appreciation Right is exercised) or a combination of both, as determined by the Committee in the Award Agreement.

(b) To the extent payment for a Share Appreciation Right is to be made in cash the Award Agreements shall to the extent necessary to comply with the requirements to Section 409A of the Code, specify the date of payment which may be different than the date of exercise of the Share Appreciation right. If the date of payment for a Share Appreciation Right is later than the date of exercise, the Award Agreement may specify that the Participant be entitled to earnings on such amount until paid.

(c) To the extent any payment under Section 8.1(b) is effected in Shares it shall be made subject to satisfaction of all provisions of Article V above pertaining to Options.

**ARTICLE IX**  
**OTHER TYPES OF AWARDS**

9.1 Dividend Equivalents. Any Participant selected by the Committee may be granted Dividend Equivalents based on the dividends declared on the Shares that are subject to any Award, to be credited as of dividend payment dates, during the period between the date the Award is granted and the date the Award is exercised, vests or expires, as determined by the Committee. Such Dividend Equivalents shall be converted to cash or additional Shares by such formula and at such time and subject to such limitations as may be determined by the Committee.

9.2 Share Payments. Any Participant selected by the Committee may receive Share Payments in the manner determined from time to time by the Committee; provided, that unless otherwise determined by the Committee such Share Payments shall be made in lieu of base salary, bonus, or other cash compensation otherwise payable to such Participant. The number of shares shall be determined by the Committee and may be based upon the Performance Criteria or other specific criteria determined appropriate by the Committee, determined on the date such Share Payment is made or on any date thereafter.

9.3 Deferred Shares. Any Participant selected by the Committee may be granted an award of Deferred Shares in the manner determined from time to time by the Committee. The number of shares of Deferred Shares shall be determined by the Committee and may be linked to such specific criteria determined to be appropriate by the Committee, in each case on a specified date or dates or over any period or periods determined by the Committee. Shares underlying a Deferred Share award will not be issued until the Deferred Share award has vested, pursuant to a vesting schedule or criteria set by the Committee. Unless otherwise provided by the Committee, a Participant awarded Deferred Shares shall have no rights as a Company shareholder with respect to such Deferred Shares until such time as the Deferred Share Award has vested and the Shares underlying the Deferred Share Award has been issued.

9.4 Term. Except as otherwise provided herein, the term of any Award of Dividend Equivalents, Share Payments or Deferred Share shall be set by the Committee in its discretion.

9.5 Exercise or Purchase Price. The Committee may establish the exercise or purchase price, if any, of any Award of Deferred Share, Share Payments or Restricted Share Units; provided, however, that such price shall not be less than the par value of a Share, unless otherwise permitted by Applicable Law.

9.6 Exercise Upon Termination of Employment or Service. An Award of Dividend Equivalents, Deferred Share, Share Payments, and Restricted Share Units shall only be exercisable or payable while the Participant is an Employee, Consultant or a member of the Board, as applicable; provided, however, that the Committee in its sole and absolute discretion may provide that an Award of Dividend Equivalents, Share Payments, Deferred Share, or Restricted Share Units may be exercised or paid subsequent to a termination of employment or service, as applicable, or following a Change of Control of the Company, or because of the Participant's retirement, death or Disability, or otherwise.

9.7 Form of Payment. Payments with respect to any Awards granted under this Article IX shall be made in cash, in Shares or a combination of both, as determined by the Committee.

9.8 Award Agreement. All Awards under this Article IX shall be subject to such additional terms and conditions as determined by the Committee and shall be evidenced by an Award Agreement.

## **ARTICLE X**

### **PROVISIONS APPLICABLE TO AWARDS**

10.1 Stand-Alone and Tandem Awards. Awards granted pursuant to the Plan may, in the discretion of the Committee, be granted either alone, in addition to, or in tandem with, any other Award granted pursuant to the Plan. Awards granted in addition to or in tandem with other Awards may be granted either at the same time as or at a different time from the grant of such other Awards.

10.2 Award Agreement. Awards under the Plan shall be evidenced by Award Agreements that set forth the terms, conditions and limitations for each Award which may include the term of an Award, the provisions applicable in the event the Participant's employment or service terminates, and the Company's authority to unilaterally or bilaterally amend, modify, suspend, cancel or rescind an Award.

10.3 Limits on Transfer. No right or interest of a Participant in any Award may be pledged, encumbered, or hypothecated to or in favor of any party other than the Company or a Subsidiary, or shall be subject to any lien, obligation, or liability of such Participant to any other party other than the Company or a Subsidiary. Except as otherwise provided by the Committee, no Award shall be assigned, transferred, or otherwise disposed of by a Participant other than by will or the laws of descent and distribution. The Committee by express provision in the Award or an amendment thereto may permit an Award (other than an Incentive Share Option) to be transferred to, exercised by and paid to certain persons or entities related to the Participant, including but not limited to members of the Participant's family, charitable institutions, or trusts or other entities whose beneficiaries or beneficial owners are members of the Participant's family and/or charitable institutions, or to such other persons or entities as may be expressly approved by the Committee, pursuant to such conditions and procedures as the Committee may establish. Any permitted transfer shall be subject to the condition that the Committee receive evidence satisfactory to it that the transfer is being made for estate and/or tax planning purposes (or to a "blind trust" in connection with the Participant's termination of employment or service with the Company or a Subsidiary to assume a position with a governmental, charitable, educational or similar non-profit institution) and on a basis consistent with the Company's lawful issue of securities.

10.4 Beneficiaries. Notwithstanding Section 10.3, a Participant may, in the manner determined by the Committee, designate a beneficiary to exercise the rights of the Participant and to receive any distribution with respect to any Award upon the Participant's death. A beneficiary, legal guardian, legal representative, or other person claiming any rights pursuant to the Plan is subject to all terms and conditions of the Plan and any Award Agreement applicable to the Participant, except to the extent the Plan and Award Agreement otherwise provide, and to any additional restrictions deemed necessary or appropriate by the Committee. If the Participant is married and resides in a community property state, a designation of a person other than the Participant's spouse as his or her beneficiary with respect to more than 50% of the Participant's interest in the Award shall not be effective without the prior written consent of the Participant's spouse. If no beneficiary has been designated or survives the Participant, payment shall be made to the person entitled thereto pursuant to the Participant's will or the laws of descent and distribution. Subject to the foregoing, a beneficiary designation may be changed or revoked by a Participant at any time provided the change or revocation is filed with the Committee.

10.5 Share Certificates.

(a) Notwithstanding anything herein to the contrary, the Company shall not be required to issue or deliver any certificates evidencing the Shares pursuant to the exercise of any Award, unless and until the Board has determined, with advice of counsel, that the issuance and delivery of such certificates is in compliance with all Applicable Laws, regulations of governmental authorities and, if applicable, the requirements of any exchange on which the Shares are listed or traded. All Share certificates delivered pursuant to the Plan are subject to any stop-transfer orders and other restrictions as the Committee deems necessary or advisable to comply with federal, state, or foreign jurisdiction, securities or other laws, rules and regulations and the rules of any national securities exchange or automated quotation system on which the Shares are listed, quoted, or traded. The Committee may place legends on any Share certificate to reference restrictions applicable to the Share. In addition to the terms and conditions provided herein, the Board may require that a Participant make such reasonable covenants, agreements, and representations as the Board, in its discretion, deems advisable in order to comply with any such laws, regulations, or requirements. The Committee shall have the right to require any Participant to comply with any timing or other restrictions with respect to the settlement or exercise of any Award, including a window-period limitation, as may be imposed in the discretion of the Committee.

(b) Notwithstanding any other provision of the Plan, unless otherwise determined by the Committee or required by Applicable Laws, the Company shall not deliver to any Participant certificates evidencing Shares issued in connection with any Award and instead such Shares shall be recorded on the books of the Company or, as applicable, its transfer agent or share plan administrator.

10.6 Paperless Administration. Subject to Applicable Laws, the Committee may make Awards, provide applicable disclosure and procedures for exercise of Awards by an internet website or interactive voice response system for the paperless administration of Awards.

10.7 Foreign Currency. A Participant may be required to provide evidence that any currency used to pay the exercise price of any Award was acquired and taken out of the jurisdiction in which the Participant resides in accordance with Applicable Laws, including foreign exchange control laws and regulations. In the event the exercise price for an Award is paid in Chinese Renminbi or other foreign currency, as permitted by the Committee, the amount payable will be determined by conversion from U.S. dollars at the official rate promulgated by the People's Bank of China for Chinese Renminbi, or for jurisdictions other than the PRC, the exchange rate as selected by the Committee on the date of exercise.

## **ARTICLE XI**

### **CHANGES IN CAPITAL STRUCTURE**

11.1 Adjustments. In the event of any dividend, share split, combination or exchange of Shares, amalgamation, arrangement or consolidation, spin-off, recapitalization or other distribution (other than normal cash dividends) of Company assets to its shareholders, or any other change affecting the Shares or the share price of a Share, the Committee shall make such proportionate adjustments, if any, as deemed appropriate or necessary by the Committee to reflect such change with respect to (a) the aggregate number and type of shares that may be issued under the Plan (including, but not limited to, adjustments of the limitations in Section 3.1); (b) the terms and conditions of any outstanding Awards (including, without limitation, any applicable performance targets or criteria with respect thereto); and (c) the grant or exercise price per share for any outstanding Awards under the Plan.

11.2 Change of Control. Except as may otherwise be provided in any Award Agreement or any other written agreement entered into by and between the Company and a Participant, upon, or in anticipation of, a Change of Control, the Committee may in its sole discretion provide for (i) any and all Awards outstanding hereunder to terminate at a specific time in the future and shall give each Participant the right to exercise such Awards during a period of time as the Committee shall determine, (ii) either the purchase of any Award for an amount of cash equal to the amount that could have been attained upon the exercise of such Award or realization of the Participant's rights had such Award been currently exercisable or payable or fully vested (and, for the avoidance of doubt, if as of such date the Committee determines in good faith that no amount would have been attained upon the exercise of such Award or realization of the Participant's rights, then such Award may be terminated by the Company without payment), (iii) the replacement of such Award with other rights or property selected by the Committee in its sole discretion the assumption of or substitution of such Award by the successor or surviving corporation, or a parent or subsidiary thereof, with appropriate adjustments as to the number and kind of Shares and prices, or (iv) provide for payment of Awards in cash based on the value of Shares on the date of the Change of Control plus reasonable interest on the Award through the date as determined by the Committee such Award would otherwise be vested or have been paid in accordance with its original terms, if necessary to comply with Section 409A of the Code.

11.3 Outstanding Awards — Corporate Transactions. Except as may otherwise be provided in any Award Agreement or any other written agreement entered into by and between the Company and a Participant, if the Committee anticipates the occurrence, or upon the occurrence, of a Corporate Transaction, the Committee may, in its sole discretion, provide for (i) any and all Awards outstanding hereunder to terminate at a specific time in the future and shall give each Participant the right to exercise the vested portion of such Awards during a period of time as the Committee shall determine, or (ii) the purchase of any Award for an amount of cash equal to the amount that could have been attained upon the exercise of such Award (and, for the avoidance of doubt, if as of such date the Committee determines in good faith that no amount would have been attained upon the exercise of such Award, then such Award may be terminated by the Company without payment), or (iii) the replacement of such Award with other rights or property selected by the Committee in its sole discretion or the assumption of or substitution of such Award by the successor or surviving corporation, or a Parent or Subsidiary thereof, with appropriate adjustments as to the number and kind of Shares and prices, or (iv) payment of such Award in cash based on the value of Shares on the date of the Corporate Transaction plus reasonable interest on the Award through the date when such Award would otherwise be vested or have been paid in accordance with its original terms, if necessary to comply with Section 409A of the Code.

11.4 Outstanding Awards — Other Changes. In the event of any other change in the capitalization of the Company or corporate change other than those specifically referred to in this Article XI, the Committee may, in its absolute discretion, make such adjustments in the number and class of shares subject to Awards outstanding on the date on which such change occurs and in the per share grant or exercise price of each Award as the Committee may consider appropriate to prevent dilution or enlargement of rights.

11.5 No Other Rights. Except as expressly provided in the Plan, no Participant shall have any rights by reason of any subdivision or consolidation of Shares of any class, the payment of any dividend, any increase or decrease in the number of shares of any class or any dissolution, liquidation, merger, or consolidation of the Company or any other corporation. Except as expressly provided in the Plan or pursuant to action of the Committee under the Plan, no issuance by the Company of shares of any class, or securities convertible into shares of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number of shares subject to an Award or the grant or exercise price of any Award.

## **ARTICLE XII** **ADMINISTRATION**

12.1 Committee. The Plan shall be administered by the Compensation Committee of the Board; provided, however that the Compensation Committee may delegate to a committee the authority to grant or amend Awards to Participants other than Independent Directors and executive officers of the Company (such committee being the “Committee”). The Committee shall consist of two or more individuals who are officers and/or directors of the Company. Reference to the Committee shall refer to the Board if the Compensation Committee ceases to exist and the Board does not appoint a successor Committee. Notwithstanding the foregoing, the full Board, acting by majority of its members in office shall conduct the general administration of the Plan if required by Applicable Laws, and with respect to Awards granted to Independent Directors and executive officers of the Company and for purposes of such Awards the term “Committee” as used in the Plan shall be deemed to refer to the Board.

12.2 Action by the Committee. A majority of the Committee shall constitute a quorum. The acts of a majority of the members present at any meeting at which a quorum is present, and acts approved in writing by a majority of the Committee in lieu of a meeting, shall be deemed the acts of the Committee. Each member of the Committee is entitled to, in good faith, rely or act upon any report or other information furnished to that member by any officer or other employee of the Company or any Subsidiary, the Company’s independent certified public accountants, or any executive compensation consultant or other professional retained by the Company to assist in the administration of the Plan.

12.3 Authority of Committee. Subject to any specific designation in the Plan, the Committee has the exclusive power, authority and discretion to:



- (a) Designate Participants to receive Awards;
- (b) Determine the type or types of Awards to be granted to each Participant;
- (c) Determine the number of Awards to be granted and the number of Shares to which an Award will relate;
- (d) Determine the terms and conditions of any Award granted pursuant to the Plan, including, but not limited to, the exercise price, grant price, or purchase price, any restrictions or limitations on the Award, any schedule for lapse of forfeiture restrictions or restrictions on the exercisability of an Award, and accelerations or waivers thereof, any provisions related to non-competition and recapture of gain on an Award, based in each case on such considerations as the Committee in its sole discretion determines;
- (e) Determine whether, to what extent, and pursuant to what circumstances an Award may be settled in, or the exercise price of an Award may be paid in, cash, Shares, other Awards, or other property, or an Award may be canceled, forfeited, or surrendered;
- (f) Prescribe the form of each Award Agreement, which need not be identical for each Participant;
- (g) Decide all other matters that must be determined in connection with an Award;
- (h) Establish, adopt, or revise any rules and regulations as it may deem necessary or advisable to administer the Plan;
- (i) Interpret the terms of, and any matter arising pursuant to, the Plan or any Award Agreement;
- (j) Reduce the exercise price per Share subject to an Option; and
- (k) Make all other decisions and determinations that may be required pursuant to the Plan or as the Committee deems necessary or advisable to administer the Plan, including design and adopt from time to time new types of Awards that are in compliance with Applicable Laws.

12.4 **Decisions Binding.** The Committee's interpretation of the Plan, any Awards granted pursuant to the Plan, any Award Agreement and all decisions and determinations by the Committee with respect to the Plan are final, binding, and conclusive on all parties.

### **ARTICLE XIII** **EFFECTIVE AND EXPIRATION DATE**

13.1 **Effective Date.** If, within twelve (12) months of the date on which the Board adopts the Plan (the "Board Adoption Date"), the Plan is approved by the shareholders of the Company or, alternatively, if the Company has sought and effected a home country practice exemption from shareholder approval pursuant to Rule 5615(a)(3) of the Nasdaq listing rules applicable to foreign private issuers, this Plan shall become effective as of the date of such shareholder approval or effectiveness of such home country practice exemption, as applicable (the "Effective Date"). The Plan will be deemed to be approved by the shareholders if it receives the affirmative vote of the holders of a majority of the share capital of the Company present or represented and entitled to vote at a meeting duly held in accordance with the applicable provisions of the Company's Memorandum of Association and Articles of Association.

13.2 Replacement of Original Plan. The Plan shall replace the previously adopted Amended and Restated Global Share Incentive Plan in its entirety. The Awards granted and outstanding under the Amended and Restated Global Share Incentive Plan and the evidencing original Award Agreements shall remain effective and binding under the Plan, subject to any amendment and modification to the original Award Agreements that the Committee, in its sole discretion, shall determine.

13.3 Expiration Date. The Plan will expire on, and no Award may be granted pursuant to the Plan after, the tenth anniversary of the Original Effective Date. Any Awards that are outstanding on the tenth anniversary of the Original Effective Date shall remain in force according to the terms of the Plan and the applicable Award Agreement.

#### **ARTICLE XIV AMENDMENT, MODIFICATION, AND TERMINATION**

14.1 Amendment, Modification, and Termination. With the approval of the Board, at any time and from time to time, the Committee may terminate, amend or modify the Plan; provided, however, that to the extent necessary and desirable to comply with any applicable law, regulation, or stock exchange rule, unless the Company decides to follow home country practice pursuant to Rule 5615(a)(3) of the Nasdaq listing rules applicable to foreign private issuers, the Company shall obtain shareholder approval of any Plan amendment in such a manner and to such a degree as required, including any amendment to the Plan that (i) increases the number of Shares available under the Plan (other than any adjustment as provided by Article XI), (ii) permits the Committee to extend the exercise period for an Option beyond ten years from the date of grant, or (iii) results in a change in eligibility requirements.

14.2 Awards Previously Granted. Except with respect to amendments made pursuant to Section 14.1, no termination, amendment, or modification of the Plan shall adversely affect in any material way any Award previously granted pursuant to the Plan without the prior written consent of the Participant.

#### **ARTICLE XV GENERAL PROVISIONS**

15.1 No Rights to Awards. No Participant, employee, or other person shall have any claim to be granted any Award pursuant to the Plan, and neither the Company nor the Committee is obligated to treat Participants, employees, and other persons uniformly.

15.2 No Shareholders Rights. No Award gives the Participant any of the rights of a Shareholder of the Company unless and until Shares are in fact issued to such person in connection with such Award.

15.3 Taxes. No Shares shall be delivered under the Plan to any Participant until such Participant has made arrangements acceptable to the Committee for the satisfaction of any income and employment tax withholding obligations under Applicable Laws, including without limitation the PRC tax laws, rules, regulations and government orders or the U.S. Federal, state or local tax laws, as applicable. The Company or any Subsidiary shall have the authority and the right to deduct or withhold, or require a Participant to remit to the Company, an amount sufficient to satisfy federal, state, local and foreign taxes (including the Participant's payroll tax obligations) required by law to be withheld with respect to any taxable event concerning a Participant arising as a result of this Plan. The Committee may in its discretion and in satisfaction of the foregoing requirement allow a Participant to elect to have the Company withhold Shares otherwise issuable under an Award (or allow the return of Shares) having a Fair Market Value equal to the sums required to be withheld. Notwithstanding any other provision of the Plan, the number of Shares which may be withheld with respect to the issuance, vesting, exercise or payment of any Award (or which may be repurchased from the Participant of such Award after such Shares were acquired by the Participant from the Company) in order to satisfy the Participant's federal, state, local and foreign income and payroll tax liabilities with respect to the issuance, vesting, exercise or payment of the Award shall, unless specifically approved by the Committee, be limited to the number of Shares which have a Fair Market Value on the date of withholding or repurchase equal to the aggregate amount of such liabilities based on the minimum statutory withholding rates for federal, state, local and foreign income tax and payroll tax purposes that are applicable to such supplemental taxable income.

15.4 No Right to Employment or Services. Nothing in the Plan or any Award Agreement shall interfere with or limit in any way the right of the Service Recipient to terminate any Participant's employment or services at any time, nor confer upon any Participant any right to continue in the employment or service of any Service Recipient.

15.5 Unfunded Status of Awards. The Plan is intended to be an "unfunded" plan for incentive compensation. With respect to any payments not yet made to a Participant pursuant to an Award, nothing contained in the Plan or any Award Agreement shall give the Participant any rights that are greater than those of a general creditor of the Company or any Subsidiary.

15.6 Indemnification. To the extent allowable pursuant to Applicable Laws, each member of the Committee or of the Board shall be indemnified and held harmless by the Company from any loss, cost, liability, or expense that may be imposed upon or reasonably incurred by such member in connection with or resulting from any claim, action, suit, or proceeding to which he or she may be a party or in which he or she may be involved by reason of any action or failure to act pursuant to the Plan and against and from any and all amounts paid by him or her in satisfaction of judgment in such action, suit, or proceeding against him or her; provided he or she gives the Company an opportunity, at its own expense, to handle and defend the same before he or she undertakes to handle and defend it on his or her own behalf. The foregoing right of indemnification shall not be exclusive of any other rights of indemnification to which such persons may be entitled pursuant to the Company's Memorandum of Association and Articles of Association, as a matter of law, or otherwise, or any power that the Company may have to indemnify them or hold them harmless.

15.7 Relationship to other Benefits. No payment pursuant to the Plan shall be taken into account in determining any benefits pursuant to any pension, retirement, savings, profit sharing, group insurance, welfare or other benefit plan of the Company or any Subsidiary except to the extent otherwise expressly provided in writing in such other plan or an agreement thereunder.

15.8 Expenses. The expenses of administering the Plan shall be borne by the Company and its Subsidiaries.

15.9 Titles and Headings. The titles and headings of the Sections in the Plan are for convenience of reference only and, in the event of any conflict, the text of the Plan, rather than such titles or headings, shall control.

15.10 Fractional Shares. If an exercise of any Award shall result in the creation of a fractional Share under the Award, the Committee may determine, in its discretion, whether (i) such fractional Share shall be issued, or (ii) cash (in the amount equal to the product of such fraction multiplied by the Fair Market Value of a Share on the date the fractional Share otherwise would have been issued) shall be given in lieu of such fractional Share, or (iii) such fractional Share shall be eliminated by rounding up or down as appropriate.

15.11 Limitations Applicable to Section 16 Persons. Notwithstanding any other provision of the Plan, the Plan, and any Award granted or awarded to any Participant who is then subject to Section 16 of the Exchange Act, shall be subject to any additional limitations set forth in any applicable exemptive rule under Section 16 of the Exchange Act (including any amendment to Rule 16b-3 of the Exchange Act) that are requirements for the application of such exemptive rule. To the extent permitted by the Applicable Laws, the Plan and Awards granted or awarded hereunder shall be deemed amended to the extent necessary to conform to such applicable exemptive rule.

15.12 Government and Other Regulations. The obligation of the Company to make payment of awards in Shares or otherwise shall be subject to all Applicable Laws, rules, and regulations, and to such approvals by government agencies as may be required. The Company shall be under no obligation to register any of the Shares paid pursuant to the Plan under the Securities Act or any other similar law in any applicable jurisdiction. If the Shares paid pursuant to the Plan may in certain circumstances be exempt from registration pursuant to the Securities Act or other Applicable Laws the Company may restrict the transfer of such shares in such manner as it deems advisable to ensure the availability of any such exemption.

15.13 Governing Law. The Plan and all Award Agreements shall be construed in accordance with and governed by the laws of the Cayman Islands.

15.14 Section 409A. To the extent that the Committee determines that any Award granted under the Plan is or may become subject to Section 409A of the Code, the Award Agreement evidencing such Award shall incorporate the terms and conditions required by Section 409A of the Code. To the extent applicable, the Plan and the Award Agreements shall be interpreted in accordance with Section 409A of the Code and the U.S. Department of Treasury regulations and other interpretative guidance issued thereunder, including without limitation any such regulation or other guidance that may be issued after the Effective Date. If an amount payable under an Award as a result of the Participant's termination of employment (other than due to death) occurring while the Participant is a "specified employee" under Section 409A of the Code constitutes a deferral of compensation subject to Section 409A of the Code, then payment of such amount shall not occur until six months and one day after the date of the Participant's termination of employment, except as permitted under Section 409A of the Code. If the Award includes a "series of installment payments" (within the meaning of Section 1.409A-2(b)(2)(iii) of the U.S. Department of Treasury guidance), the Participant's right to the series of installment payments shall be treated as a right to a series of separate payments and not as a right to a single payment, and if the Award includes "dividend equivalents" (within the meaning of Section 1.409A-3(e) of the U.S. Department of Treasury guidance), the Participant's right to the dividend equivalents shall be treated separately from the right to other amounts under the Award. Notwithstanding any provision of the Plan to the contrary, in the event that following the Effective Date the Committee determines that any Award may be subject to Section 409A of the Code and related Department of Treasury guidance (including such Department of Treasury guidance as may be issued after the Effective Date), the Committee may adopt such amendments to the Plan and the applicable Award agreement or adopt other policies and procedures (including amendments, policies and procedures with retroactive effect), or take any other actions, that the Committee determines is necessary or appropriate to (a) exempt the Award from Section 409A of the Code and /or preserve the intended tax treatment of the benefits provided with respect to the Award, or (b) comply with the requirements of Section 409A of the Code and related U.S. Department of Treasury guidance.

15.15 Appendices. The Committee may approve such supplements, amendments or appendices to the Plan as it may consider necessary or appropriate for purposes of compliance with applicable laws or otherwise and such supplements, amendments or appendices shall be considered a part of the Plan; provided, however, that no such supplements shall increase the share limitations contained in Section 3.1 of the Plan.

\* \* \* \* \*

EXECUTION VERSION

**FACILITY AGREEMENT**

**3 APRIL 2020**

**TRIP.COM GROUP LIMITED**  
as Parent

**STANDARD CHARTERED BANK (HONG KONG) LIMITED**  
**INDUSTRIAL AND COMMERCIAL BANK OF CHINA (MACAU) LIMITED**  
**CHINA CONSTRUCTION BANK (ASIA) CORPORATION LIMITED**  
as Original Mandated Lead Arranger, Bookrunner and Underwriter

**BANK OF COMMUNICATIONS CO., LTD. HONG KONG BRANCH**  
as Original Mandated Lead Arranger and Bookrunner

**BANK OF COMMUNICATIONS CO., LTD. SHANGHAI MUNICIPAL BRANCH CHANGNING**  
**SUB-BRANCH**  
as Original Mandated Lead Arranger

**THE FINANCIAL INSTITUTIONS LISTED IN SCHEDULE 1**  
as Original Lenders

and

**STANDARD CHARTERED BANK (HONG KONG) LIMITED**  
as Agent

for

**UP TO USD1,000,000,000 TRANSFERABLE TERM AND REVOLVING LOAN FACILITY**  
**WITH AN INCREMENTAL FACILITY OF UP TO USD500,000,000**

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THIS AGREEMENT is dated 3 April 2020 and made

**BETWEEN:**

- (1) **TRIP.COM GROUP LIMITED**, an exempted company incorporated under the laws of the Cayman Islands with registration number 97668 and its registered office at Ugland House, South Church Street, George Town, Grand Cayman, KY1-1104, Cayman Islands and listed on The Nasdaq Stock Market (Stock Code TCOM) (the **Parent**);
- (2) **STANDARD CHARTERED BANK (HONG KONG) LIMITED, INDUSTRIAL AND COMMERCIAL BANK OF CHINA (MACAU) LIMITED** and **CHINA CONSTRUCTION BANK (ASIA) CORPORATION LIMITED** as mandated lead arrangers, bookrunners and underwriters (in this capacity, whether acting individually or together, the **Original Mandated Lead Arrangers, Bookrunners and Underwriters** or **Original MLABUs**);
- (3) **BANK OF COMMUNICATIONS CO., LTD. HONG KONG BRANCH (A JOINT STOCK COMPANY INCORPORATED IN THE PEOPLE'S REPUBLIC OF CHINA WITH LIMITED LIABILITY)** as mandated lead arranger and bookrunner (in this capacity, the **Original Mandated Lead Arranger and Bookrunner** or **Original MLAB**);
- (4) **BANK OF COMMUNICATIONS CO., LTD. SHANGHAI MUNICIPAL BRANCH CHANGNING SUB-BRANCH** as mandated lead arranger (in this capacity, the **Original Mandated Lead Arranger** or **Original MLA**);
- (5) **THE FINANCIAL INSTITUTIONS** listed in Schedule 1 (Original Lenders) as lenders (the **Original Lenders**); and
- (6) **STANDARD CHARTERED BANK (HONG KONG) LIMITED** of 32/F, 4-4A Des Voeux Road, Central, Hong Kong, as agent of the Finance Parties (other than itself) (the **Agent**).

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Agreement:

**Accession Letter** means a letter substantially in the form set out in Schedule 9 (Form of Accession Letter).

**Additional Borrower** means a company which becomes an Additional Borrower in accordance with Clause 23 (Changes to the Borrower).

**Administrative Party** means each of the Agent and the MLABUs, the MLABs, the Mandated Lead Arrangers, the Lead Arrangers and the Arrangers.

**Affiliate** means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

**APLMA** means the Asia Pacific Loan Market Association Limited.

**Arranger** means any financial institution which enters into a Syndication Agreement as an arranger.

**Article 55 BRRD** means Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

**Assignment Agreement** means an agreement substantially in the form set out in Schedule 5 (Form of Assignment Agreement) or any other form agreed between the relevant assignor, assignee and the Agent.

**Authorisation** means:

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

**Availability Period** means:

- (a) in relation to the Original Tranche A Facility and the Original Tranche C Facility, the period from and including the date of this Agreement to and including the date falling six Months from the date of this Agreement;
- (b) in relation to the Original Tranche B Facility, the period from and including the date of this Agreement to and including the date falling one Month prior to the Final Repayment Date in relation to the Original Tranche B Facility; and
- (c) in relation to the Incremental Tranche A Facility, the period from and including the Incremental Facility Establishment Date to and including the date falling six Months from the Incremental Facility Establishment Date.

**Available Commitment** means, in relation to a Facility, a Lender's Commitment under that Facility *minus*:

- (a) the amount of its participation in any outstanding Loans under that Facility; and
- (b) in relation to any proposed Utilisation, the amount of its participation in any Loans that are due to be made under that Facility on or before the proposed Utilisation Date,

other than, in relation to any proposed Utilisation under the Original Tranche B Facility only, that Lender's participation in any Original Tranche B Loans that are due to be repaid or prepaid on or before the proposed Utilisation Date.

**Available Facility** means, in relation to a Facility, the aggregate for the time being of each Lender's Available Commitment in respect of that Facility.

**Bail-In Action** means the exercise of any Write-down and Conversion Powers.

**Bail-In Legislation** means in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 BRRD, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time.

**Borrower** means the Parent or an Additional Borrower unless it has ceased to be a Borrower in accordance with Clause 23 (Changes to the Borrower).

**Borrowers' Agent** means the Parent, appointed to act on behalf of each Borrower in relation to the Finance Documents pursuant to Clause 2.6 (Borrowers' Agent).

**Break Costs** means the amount (if any) by which:

- (a) the interest (excluding Margin) which a Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:

- (b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

**Business Day** means a day (other than a Saturday or Sunday) on which banks are open for general business in Hong Kong, the PRC, and:

- (a) (in relation to LIBOR fixing) London; and
- (b) (in relation to any payment or purchase of USD) New York.

**Code** means the US Internal Revenue Code of 1986.

**Co-founders** means:

- (a) James Jianzhang Liang;
- (b) Min Fan;
- (c) Neil Nanpeng Shen; and
- (d) Qi Ji.

**Commitment** means an Original Commitment or the Incremental Tranche A Commitment.

**Compliance Certificate** means a certificate delivered pursuant to Clause 18.2 (Compliance Certificate) substantially in the form set out in Schedule 6 (Form of Compliance Certificate).

**Confidential Information** means all information relating to the Parent, the Group, the Finance Documents or a Facility of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party or which is received by a Finance Party in relation to, or for the purpose of becoming a Finance Party under, the Finance Documents or the Facilities from either:

- (a) any member of the Group or any of its advisers; or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any member of the Group or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes:

- (i) information that:
  - (A) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 33 (Confidential Information);
  - (B) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
  - (C) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraph (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Group and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; and
- (ii) any Funding Rate or Reference Bank Quotation.

**Confidentiality Undertaking** means a confidentiality undertaking substantially in a recommended form of the APLMA or in any other form agreed between the Parent and the Agent.

**Consolidated Total Assets** has the meaning given to that term in Clause 19.1 (Financial definitions).

**Default** means an Event of Default or any event or circumstance specified in Clause 21 (Events of Default) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

**Disruption Event** means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with a Facility (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; and
- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:
  - (i) from performing its payment obligations under the Finance Documents; or
  - (ii) from communicating with other Parties in accordance with the terms of the Finance Documents,and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted.

**EEA Member Country** means any member state of the European Union, Iceland, Liechtenstein and Norway.

**Environmental Claim** means any claim, proceeding or investigation by any person in respect of any Environmental Law.

**Environmental Law** means any applicable law in any jurisdiction in which any member of the Group conducts business which relates to the pollution or protection of the environment or harm to or the protection of human health or the health of animals or plants.

**Environmental Permits** means any Authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of any member of the Group conducted on or from the properties owned or used by the relevant member of the Group.

**EU Bail-In Legislation Schedule** means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

**Event of Default** means any event or circumstance specified as such in Clause 21 (Events of Default).

**Existing BOC Facility** means the EUR980,000,000 term loan agreement dated 8 June 2017 and entered into between, amongst others, the Parent as borrower, Bank of China as sole mandated lead arranger, Industrial and Commercial Bank of China, Shanghai Branch and Shanghai Pudong Development Bank, Shanghai Branch as joint lead arrangers, Bank of China, Shanghai Branch as agent, Bank of China, Shanghai Changning Sub-branch as guarantee agent.

**Existing Original Tranche B Loan** means an Original Tranche B Loan that is intended to be subject to a rollover on the applicable Rollover Date.

**Facility** means an Original Facility or the Incremental Tranche A Facility.

**Facility Office** means the office or offices notified by a Lender to the Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement.

**FATCA** means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraph (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

**FATCA Application Date** means:

- (a) in relation to a "withholdable payment" described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014; or
- (b) in relation to a "passthru payment" described in section 1471(d)(7) of the Code not falling within paragraph (a) above, the first date from which such payment may become subject to a deduction or withholding required by FATCA.

**FATCA Deduction** means a deduction or withholding from a payment under a Finance Document required by FATCA.

**FATCA Exempt Party** means a Party that is entitled to receive payments free from any FATCA Deduction.

**Fee Letter** means any letter or letters referring to this Agreement between one or more Administrative Parties and the Parent setting out any of the fees referred to in Clause 11 (Fees), or any other document designated as such by Standard Chartered Bank (Hong Kong) Limited (in its capacity as Original MLABU) and the Parent.

**Final Repayment Date** means:

- (a) in relation to each Facility other than the Original Tranche C Facility, the date falling 36 Months from the First Utilisation Date; and
- (b) in relation to the Original Tranche C Facility, the date falling 60 Months from the first Utilisation Date under the Original Tranche C Facility.

**Finance Document** means:

- (a) this Agreement;
- (b) any Syndication Agreement;
- (c) any Accession Letter;
- (d) any Fee Letter;
- (e) any Resignation Letter;
- (f) any Utilisation Request;
- (g) the Incremental Facility Notice; and
- (h) any other document designated as such by the Agent and the Parent.

**Finance Party** means an Administrative Party or a Lender.

**Financial Indebtedness** means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a finance or capital lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;

- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (i) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above.

**First Utilisation Date** means the first Utilisation Date under the Original Tranche A Facility.

**Foreign Public Official** means an individual who:

- (a) holds a legislative, administrative or judicial position of any kind, whether appointed or elected, of a country or territory outside the United Kingdom (or any subdivision of such a country or territory);
- (b) exercises a public function:
  - (i) for or on behalf of a country or territory outside the United Kingdom (or any subdivision of such a country or territory); or
  - (ii) for any public agency or public enterprise of that country or territory (or subdivision); or
- (c) is an official or agent of a public international organisation.

**Funding Rate** means any individual rate notified by a Lender to the Agent pursuant to paragraph (a)(ii) of Clause 10.4 (Cost of funds).

**GAAP** means generally accepted accounting principles in the US, including IFRS.

**Governmental Agency** means any government or any governmental agency, semi-governmental or judicial entity or authority (including any stock exchange or any self-regulatory organisation established under statute).

**Group** means the Parent and its Subsidiaries from time to time.

**Group Structure Chart** means:

- (a) the structure chart disclosed in Form 20-F submitted by or on behalf of the Parent to the US Securities and Exchange Commission for the year 2018, and which is to be delivered under Clause 4.1 (Initial conditions precedent); or
- (b) such updated structure chart disclosed in Form 20-F submitted by or on behalf of the Parent to the US Securities and Exchange Commission for subsequent years and which is supplied to the Agent under paragraph (f) of Clause 18.4 (Information: miscellaneous).

**Holding Company** means, in relation to a person, any other person in respect of which it is a Subsidiary.

**IFRS** means international accounting standards within the meaning of the IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

**Incremental Facility Establishment Date** means the later of:

- (a) the proposed Incremental Facility Establishment Date specified in the Incremental Facility Notice; and
- (b) the date on which the Agent executes the Incremental Facility Notice.

**Incremental Facility Notice** means a notice substantially in the form set out in Schedule 8 (Form of Incremental Facility Notice).

**Incremental Rollover Loan** means the amount of a Rollover Loan which exceeds the amount of the Existing Original Tranche B Loan which is subject of the corresponding rollover.

**Incremental Tranche A Commitment** means:

- (a) in relation to an Initial Incremental Tranche A Lender, the amount set out opposite its name under the heading **Incremental Tranche A Commitment** in the Incremental Facility Notice relating to the Incremental Tranche A Facility and the amount of any other Incremental Tranche A Commitment it acquires or assumes under this Agreement; and
- (b) in relation to any other Lender, the amount of any Incremental Tranche A Commitment it acquires or assumes under this Agreement, to the extent not cancelled, reduced or transferred by it under this Agreement.

**Incremental Tranche A Facility** means a US Dollar denominated term loan facility that may be established and made available under this Agreement as described under Clause 2.4 (Incremental Tranche A Facility).

**Incremental Tranche A Lender** means:

- (a) an Initial Incremental Tranche A Lender; or
- (b) any person which becomes a Lender under the Incremental Tranche A Facility in accordance with Clause 22 (Changes to the Lenders), which in each case has not ceased to be a Party as such in accordance with the terms of this Agreement.

**Incremental Tranche A Loan** means a loan made or to be made under the Incremental Tranche A Facility or the principal amount outstanding for the time being of that loan.

**Incremental Tranche A Total Commitments** means the aggregate of Incremental Tranche A Commitments.

**Indirect Tax** means any goods and services tax, consumption tax, value added tax or any tax of a similar nature.

**Information Memorandum** means the document in the form approved by the Parent concerning the Group which, at the Parent's request and on its behalf, was prepared in relation to this transaction and distributed by the Original MLABUs to selected financial institutions before the date of this Agreement.



**Initial Incremental Tranche A Lender** means each of the lenders and other financial institutions listed in the Incremental Facility Notice relating to the Incremental Tranche A Facility as Initial Incremental Tranche A Lenders.

**Interest Payment Date** means the date on which an interest payment is due and payable by a Borrower under Clause 8.2 (Payment of interest).

**Interest Period** means, in relation to a Loan, each period determined in accordance with Clause 9 (Interest Periods) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 8.3 (Default interest).

**Interpolated Screen Rate** means, in relation to any Loan, the rate (rounded upwards to four decimal places) which results from interpolating on a linear basis between:

- (a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of that Loan; and
- (b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of that Loan,

each as of the Specified Time for US Dollars.

**Lead Arranger** means any financial institution which enters into a Syndication Agreement as a lead arranger.

**Lender** means an Original Tranche A Lender, an Original Tranche B Lender, an Original Tranche C Lender or an Incremental Tranche A Lender.

**LIBOR** means in relation to any Loan:

- (a) the applicable Screen Rate as of the Specified Time for US Dollars for a period equal to the Interest Period of that Loan;
- (b) as otherwise determined pursuant to Clause 10.1 (Unavailability of Screen Rate),

and if, in either case, that rate is less than zero, LIBOR will be deemed to be zero.

**Loan** means an Original Loan or an Incremental Tranche A Loan.

**London Business Day** means a day (other than a Saturday or Sunday) on which commercial banks are open for general business, including dealings in interbank deposits in London.

**Majority Lenders** means at any time, a Lender or Lenders:

- (a) whose Commitments then aggregate  $66\frac{2}{3}$  per cent. or more of the Total Commitments; or
- (b) if the Total Commitments have been reduced to zero, whose Commitments aggregated  $66\frac{2}{3}$  per cent. or more of the Total Commitments immediately before the reduction.

**Mandated Lead Arranger** means the Original MLA or any financial institution which enters into a Syndication Agreement as a mandated lead arranger.

**Margin** means:

- (a) in relation to the Original Tranche A Facility and Original Tranche B Facility, 1.15 per cent. per annum;
- (b) in relation to the Original Tranche C Facility, 1.25 per cent. per annum; and
- (c) in relation to the Incremental Tranche A Facility, 1.15 per cent. per annum.

**Material Adverse Effect** means a material adverse effect on:

- (a) the business, operations, property or financial condition of the Group taken as a whole;
- (b) the ability of any Borrower to perform its obligations under the Finance Documents; or
- (c) the validity or enforceability of, or the rights or remedies of any Finance Party under, the Finance Documents.

**MLAB** means the Original MLAB or any financial institution which enters into a Syndication Agreement as a mandated lead arranger and bookrunner.

**MLABU** means each Original MLABU or any financial institution which enters into a Syndication Agreement as a mandated lead arranger, bookrunner and underwriter.

**Month** means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
- (c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will only apply to the last Month of any period.

**NDRC** means National Development and Reform Commission of the PRC (国家发展和改革委员会) or its competent local branch or any other authority succeeding to its functions.

**NDRC Circular 2044** means the Circular on Promoting the Reform of the Filing and Registration Regime for Issuance of Foreign Debt by Corporate Entities (Fa Gai Wai Zi [2015] No 2044) (《关于推进企业境外债务融资便利化改革的通知》(发改财金[2015]2044号)) issued by NDRC on 14 September 2015 and its (and its current and subsequent) implementation rules and interpretations.

**New Lender** has the meaning given to that term in Clause 22 (Changes to the Lenders).

**Original Commitment** means an Original Tranche A Commitment, an Original Tranche B Commitment or an Original Tranche C Commitment.

**Original Facility** means the Original Tranche A Facility, the Original Tranche B Facility or the Original Tranche C Facility.

**Original Financial Statements** means:

- (a) in respect of the Parent, its audited consolidated financial statements for the financial year ended 31 December 2018; and
- (b) in respect of an Additional Borrower, its financial statements delivered pursuant to paragraph 8 of Part 2 of Schedule 2 (Conditions Precedent).

**Original Loan** means an Original Tranche A Loan, an Original Tranche B Loan or an Original Tranche C Loan.

**Original Tranche A Commitment** means:

- (a) in relation to an Original Tranche A Lender as at the date of this Agreement, the amount set out opposite its name in Schedule 1 (Original Lenders) under the heading **Original Tranche A Commitments** and the amount of any other Original Tranche A Commitment it acquires under this Agreement; and
- (b) in relation to any other Lender, the amount of any Original Tranche A Commitment it acquires under this Agreement, to the extent not cancelled, reduced or transferred by it under this Agreement.

**Original Tranche A Facility** means a US Dollar denominated term loan facility made available under this Agreement as described under Clause 2.1 (Original Tranche A Facility).

**Original Tranche A Lender** means:

- (a) an Original Lender which holds any Original Tranche A Commitment as at the date of this Agreement; or
- (b) any person which becomes a Lender under the Original Tranche A Facility in accordance with Clause 22 (Changes to the Lenders), which in each case has not ceased to be a Party as such in accordance with the terms of this Agreement.

**Original Tranche A Loan** means the principal amount of each borrowing under the Original Tranche A Facility under this Agreement or the principal amount outstanding for the time being of that borrowing.

**Original Tranche A Total Commitments** means the aggregate of Original Tranche A Commitments, being US\$333,333,333 on the date of this Agreement.

**Original Tranche B Commitment** means:

- (a) for an Original Tranche B Lender as at the date of this Agreement, the amount set out opposite its name in Schedule 1 (Original Lenders) under the heading **Original Tranche B Commitments** and the amount of any other Original Tranche B Commitment it acquires; and

(b) in relation to any other Lender, the amount of any Original Tranche B Commitment it acquires under this Agreement, to the extent not cancelled, transferred or reduced under this Agreement.

**Original Tranche B Facility** means a US Dollar denominated revolving loan facility made available under this Agreement as described under Clause 2.2 (Original Tranche B Facility).

**Original Tranche B Lender** means:

- (a) an Original Lender which holds any Original Tranche B Commitment as at the date of this Agreement; or
- (b) any person which becomes a Lender under the Original Tranche B Facility in accordance with Clause 22 (Changes to the Lenders), which in each case has not ceased to be a Party as such in accordance with the terms of this Agreement.

**Original Tranche B Loan** means the principal amount of each borrowing under the Original Tranche B Facility under this Agreement or the principal amount outstanding for the time being of that borrowing.

**Original Tranche B Total Commitments** means the aggregate of Original Tranche B Commitments, being US\$250,000,000 on the date of this Agreement.

**Original Tranche C Commitment** means:

- (a) in relation to an Original Tranche C Lender as at the date of this Agreement, the amount set out opposite its name in Schedule 1 (Original Lenders) under the heading **Original Tranche C Commitments** and the amount of any other Original Tranche C Commitment it acquires under this Agreement; and
- (b) in relation to any other Lender, the amount of any Original Tranche C Commitment it acquires under this Agreement, to the extent not cancelled, reduced or transferred by it under this Agreement.

**Original Tranche C Facility** means a US Dollar denominated term loan facility made available under this Agreement as described under Clause 2.3 (Original Tranche C Facility).

**Original Tranche C Lender** means:

- (a) an Original Lender which holds any Original Tranche C Commitment as at the date of this Agreement; or
- (b) any person which becomes a Lender under the Original Tranche C Facility in accordance with Clause 22 (Changes to the Lenders), which in each case has not ceased to be a Party as such in accordance with the terms of this Agreement.

**Original Tranche C Loan** means the principal amount of each borrowing under the Original Tranche C Facility under this Agreement or the principal amount outstanding for the time being of that borrowing.

**Original Tranche C Total Commitments** means the aggregate of Original Tranche C Commitments, being US\$416,666,667 on the date of this Agreement.

**Party** means a party to this Agreement.

**PRC** means the People's Republic of China, but excluding Hong Kong, the Macau Special Administrative Region and Taiwan.

**Pro Rata Share** means, at any time:

- (a) for the purpose of determining a Lender's participation in a Utilisation, the proportion which its Available Commitment then bears to the Available Facility of a Facility; and
- (b) for any other purpose:
  - (i) the proportion which a Lender's participation in the Loans then bears to all the Loans;
  - (ii) if there is no Loan then outstanding, the proportion which its Commitment then bears to the Total Commitments;
  - (iii) if there is no Loan then outstanding and the Total Commitments have been reduced to zero, the proportion which its Commitment bore to the Total Commitments immediately before the reduction; and
  - (iv) when the term is used in relation to a Facility, the above proportions, but applied only to the Utilisations and Commitments in respect of that Facility.

**Quotation Day** means:

- (a) in relation to any period for which an interest rate is to be determined, two London Business Days before the first day of that period unless market practice differs in the Relevant Market, in which case the Quotation Day will be determined by the Agent in accordance with market practice in the Relevant Market (and if quotations would normally be given on more than one day, the Quotation Day will be the last of those days); and
- (b) in relation to any Interest Period the duration of which is selected by the Agent pursuant to Clause 8.3 (Default interest), such date as may be determined by the Agent (acting reasonably).

**Reference Bank Quotation** means any quotation supplied to the Agent by a Reference Bank.

**Reference Bank Rate** means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request by the Reference Banks, in relation to LIBOR as either:

- (a) if:
  - (i) the Reference Bank is a contributor to the applicable Screen Rate; and
  - (ii) it consists of a single figure,the rate (applied to the relevant Reference Bank and the relevant currency and period) which contributors to the applicable Screen Rate are asked to submit to the relevant administrator; or

- (b) in any other case, the rate at which the relevant Reference Bank could fund itself in the relevant currency for the relevant period with reference to the unsecured wholesale funding market.

**Reference Banks** means a minimum of three Lenders or other financial institutions which may be appointed by the Agent in consultation with the Parent.

**Related Fund**, in relation to a fund (the **first fund**), means a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund.

**Relevant Market** means the London interbank market.

**Relevant Nominating Body** means any applicable central bank, regulator or other supervisory authority or a group of them, or any working group or committee sponsored or chaired by, or constituted at the request of, any of them or the Financial Stability Board.

**Relevant Proportion** means, at any time in respect of a Loan requested by a Borrower, or a Commitment cancelled by a Borrower, or any prepayment of a Loan (or any part of it); the proportion of (a) the amount of such Loan or Commitment (as applicable) under a Facility, to (b) (in respect of the request or cancellation of a Loan) the Available Commitment under that Facility immediately prior to the making of such Loan or cancellation of such Commitment (as the case may be) or (in respect of the prepayment of a Loan (or any part of it)) the aggregate amount of the Loans outstanding under the Facility of that Loan immediately prior to the prepayment of such Loan (or any part of it).

**Repayment Date** means each date specified as such in Clause 6.3 (Repayment of Original Tranche C Loans).

**Repayment Instalment** means each scheduled instalment for repayment of the Original Tranche C Loans specified under Clause 6.3 (Repayment of Original Tranche C Loans).

**Repeating Representations** means each of the representations set out in Clause 17 (Representations) (other than Clause 17.7 (Deduction of Tax), Clause 17.8 (No filing or stamp taxes), paragraph (c) of Clause 17.11 (Financial statements), Clause 17.19 (Group Structure Chart) and Clause 17.20 (Existing BOC Facility)).

**Replacement Benchmark** means a benchmark rate which is:

- (a) formally designated, nominated or recommended as the replacement for a Screen Rate by:
- (i) the administrator of that Screen Rate (provided that the market or economic reality that such benchmark rate measures is the same as that measured by that Screen Rate); or
  - (ii) any Relevant Nominating Body,

and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the "Replacement Benchmark" will be the replacement under paragraph (ii) above;

- (b) in the opinion of the Majority Lenders and the Parent, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to that Screen Rate; or
- (c) in the opinion of the Majority Lenders and the Parent, an appropriate successor to a Screen Rate.

**Representative** means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

**Resignation Letter** means a letter substantially in the form set out in Schedule 10 (Form of Resignation Letter).

**Resolution Authority** means any body which has the authority to exercise any Write-down and Conversion Powers.

**Restricted Party** means a person that is:

- (a) listed on, or owned or controlled by a person listed on, or acting on behalf of a person listed on, any Sanctions List;
- (b) located in, incorporated under the laws of, or owned or (directly or indirectly) controlled by, or acting on behalf of, a person located in or organised under the laws of a Sanctioned Country; or
- (c) otherwise a target of Sanctions (**target of Sanctions** signifying a person with whom a US person or other national of a Sanctions Authority would be prohibited or restricted by law from engaging in trade, business or other activities).

**RMB** means the lawful currency of PRC from time to time.

**Rollover Date** means, in respect of an Original Tranche B Loan, the last day of the Interest Period of that Original Tranche B Loan.

**Rollover Loan** means an Original Tranche B Loan:

- (a) which continues to be outstanding until the last day of such Interest Period as set out in the relevant Rollover Request; and
- (b) the amount of which remains the same, or is increased or reduced, as the case may be, on the relevant Rollover Date specified in such Rollover Request,

in each case by operation of a rollover requested by a Borrower pursuant to paragraph (b) of Clause 6.2 (Repayment of Original Tranche B Loans).

**Rollover Request** means a notice substantially in the form set out in Part 3 of Schedule 3 (Requests).

**Sanctions** means the economic sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by:

- (a) the United States government;
- (b) the United Nations;

- (c) the European Union;
- (d) the United Kingdom;
- (e) Hong Kong; or
- (e) the respective governmental institutions and agencies of any of the foregoing, including, without limitation, the Office of Foreign Assets Control of the US Department of Treasury (“**OFAC**”), the United States Department of State, and Her Majesty’s Treasury (“**HMT**”) (together the “**Sanctions Authorities**”).

**Sanctioned Country** means, at any time, a country or territory which is the subject or target of any Sanctions.

**Sanctions List** means the “Specially Designated Nationals and Blocked Persons” list maintained by OFAC, the Consolidated List of Financial Sanctions Targets and the Investment Ban List maintained by HMT, or any similar list maintained by, or public announcement of Sanctions designation made by, any of the Sanctions Authorities.

**Screen Rate** means the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the relevant currency and period displayed (before any correction, recalculation or republication by the administrator) on page LIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page or service ceases to be available, the Agent may specify another page or service displaying the relevant rate after consultation with the Parent.

**Screen Rate Replacement Event** means, in relation to a Screen Rate:

- (a) the methodology, formula or other means of determining that Screen Rate has, in the opinion of the Majority Lenders and the Parent, materially changed;
- (b) (i)
  - (A) the administrator of that Screen Rate or its supervisor publicly announces that such administrator is insolvent; or
  - (B) information is published in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of that Screen Rate is insolvent,provided that, in each case, at that time, there is no successor administrator to continue to provide that Screen Rate;
- (ii) the administrator of that Screen Rate publicly announces that it has ceased or will cease, to provide that Screen Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide that Screen Rate;
- (iii) the supervisor of the administrator of that Screen Rate publicly announces that such Screen Rate has been or will be permanently or indefinitely discontinued; or



- (iv) the administrator of that Screen Rate or its supervisor announces that that Screen Rate may no longer be used; or
- (c) in the opinion of the Majority Lenders and the Parent, that Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

**Security** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**Selection Notice** means a notice substantially in the form set out in Part 2 of Schedule 3 (Requests) given in accordance with Clause 9 (Interest Periods) in relation to the Original Tranche A Facility, the Original Tranche C Facility or the Incremental Tranche A Facility.

**Significant Subsidiary** shall have the meaning ascribed thereto under Rule 1-02(w) of Regulation S-X (17 CFR § 210-02(w)) of the United States Securities Act of 1933, provided that for the purposes of Clause 21.6 (Insolvency) and Clause 21.7 (Insolvency proceedings), all references to “10 percent” in such definition shall be replaced by “5 percent”.

**Specified Time** means a day or time determined in accordance with Schedule 7 (Timetables).

**Subsidiary** means with respect to any person, each other person in which the first person:

- (a) owns or controls, directly or indirectly, share capital or other equity interests representing more than 50 per cent. of the outstanding voting stock or other equity interests;
- (b) holds the rights to more than 50 per cent. of the economic interest of such other person, including any interest held through any VIE or other contractual arrangements; or
- (c) has a relationship such that the financial statements of the other person are consolidated into the financial statements of the first person under applicable accounting conventions.

**Syndication Agreement** has the meaning given to it in Clause 22.4 (Master assignment or transfer).

**Syndication Date** means any date on which the Original MLABUs confirm that the primary syndication of the Facilities has been completed pursuant to a Syndication Agreement.

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

**Tax Deduction** means a deduction or withholding for or on account of Tax from a payment under a Finance Document, other than a FATCA Deduction.

**Third Parties Ordinance** means the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong).

**Total Commitments** means at any time the aggregate of the Total Original Commitments and the Incremental Tranche A Total Commitments.

**Total Original Commitments** means the aggregate of the Original Commitments, being the aggregate of the Original Tranche A Total Commitments, the Original Tranche B Total Commitments and the Original Tranche C Total Commitments from time to time.

**Tranche A Loan** means an Original Tranche A Loan or an Incremental Tranche A Loan.

**Transfer Certificate** means a certificate substantially in the form set out in Schedule 4 (Form of Transfer Certificate) or any other form agreed between the Agent and the Parent.

**Transfer Date** means, in relation to an assignment or a transfer, the later of:

- (a) the proposed Transfer Date specified in the relevant Assignment Agreement or Transfer Certificate; and
- (b) the date on which the Agent executes the relevant Assignment Agreement or Transfer Certificate.

**UK Bail-In Legislation** means (to the extent that the United Kingdom is not an EEA Member Country which has implemented, or implements, Article 55 BRRD) Part I of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).

**Unpaid Sum** means any sum due and payable but unpaid by a Borrower under the Finance Documents.

**US** means the United States of America.

**US Dollar, US\$ or USD** means the lawful currency of the US from time to time.

**US Tax Obligor** means:

- (a) a Borrower which is resident for tax purposes in the US; or
- (b) a Borrower some or all of whose payments under the Finance Documents are from sources within the US for US federal income tax purposes.

**Utilisation** means a utilisation of a Facility.

**Utilisation Date** means the date of a Utilisation, being the date on which the relevant Loan is to be made.

**Utilisation Request** means, in respect of a Loan (other than an Incremental Rollover Loan), a notice substantially in the form set out in Part 1 of Schedule 3 (Requests) and in respect of an Incremental Rollover Loan, a Rollover Request.

**VIE** means any arrangement where any person that is established in the PRC and in respect of which the Parent does not, directly or indirectly, hold or own a majority of its issued shares or equity interests (and/or any or all of the shareholder(s) of such person) enters into contractual arrangements with any member of the Group which enable such member of the Group to exercise effective control over such person or consolidate the financial condition or results of operation of such person in accordance with GAAP for the purposes of the consolidated financial statements of the Group.

**WFOE** means a wholly foreign owned enterprise incorporated in the PRC.

**Write-down and Conversion Powers** means:

- (a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule; and
- (b) in relation to any UK Bail-In Legislation:
  - (i) any powers under that UK Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that UK Bail-In Legislation that are related to or ancillary to any of those powers; and
  - (ii) any similar or analogous powers under that UK Bail-In Legislation.

**1.2 Construction**

- (a) Unless a contrary indication appears, any reference in this Agreement to:
  - (i) any **Administrative Party**, the **Agent**, any **MLABU**, any **MLAB**, any **Mandated Lead Arranger**, any **Lead Arranger**, any **Arranger**, any **Finance Party**, any **Lender** or any **Party** shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents;
  - (ii) **assets** includes present and future properties, revenues and rights of every description;
  - (iii) a **Finance Document** or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
  - (iv) **including** shall be construed as “including without limitation” (and cognate expressions shall be construed similarly);
  - (v) a **group of Lenders** includes all the Lenders;
  - (vi) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
  - (vii) a Lender’s **participation** in a Loan or Unpaid Sum includes an amount (in the currency of such Loan or Unpaid Sum) representing the fraction or portion (attributable to such Lender by virtue of the provisions of this Agreement) of the total amount of such Loan or Unpaid Sum and the Lender’s rights under this Agreement in respect thereof;
  - (viii) a **person** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
  - (ix) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;

- (x) a provision of law is a reference to that provision as amended or re-enacted; and
- (xi) a time of day is a reference to Hong Kong time.
- (b) The determination of the extent to which a rate is **for a period equal in length** to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement.
- (c) Section, Clause and Schedule headings are for ease of reference only.
- (d) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
- (e) A Default (other than an Event of Default) is **continuing** if it has not been remedied or waived and an Event of Default is **continuing** if it has not been waived.
- (f) Where this Agreement specifies an amount in a given currency (the **specified currency**) or **its equivalent**, the **equivalent** is a reference to the amount of any other currency which, when converted into the specified currency utilising the Agent's spot rate of exchange (or, if the Agent does not have an available spot rate of exchange, any publicly available spot rate of exchange selected by the Agent (acting reasonably)) for the purchase of the specified currency with that other currency at or about 11am on the relevant date, is equal to the relevant amount in the specified currency.

### 1.3 Third party rights

- (a) Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Third Parties Ordinance to enforce or to enjoy the benefit of any term of this Agreement.
- (b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

### 1.4 Contractual recognition of bail-in

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including:
  - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
  - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
  - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

## **2. THE FACILITIES**

### **2.1 Original Tranche A Facility**

Subject to the terms of this Agreement, the Original Tranche A Lenders make available to the Borrowers a US Dollar term loan facility in an aggregate amount equal to the Original Tranche A Total Commitments.

### **2.2 Original Tranche B Facility**

Subject to the terms of this Agreement, the Original Tranche B Lenders make available to the Borrowers a US Dollar revolving loan facility in an aggregate amount equal to the Original Tranche B Total Commitments.

### **2.3 Original Tranche C Facility**

Subject to the terms of this Agreement, the Original Tranche C Lenders make available to the Borrowers a US Dollar term loan facility in an aggregate amount equal to the Original Tranche C Total Commitments.

### **2.4 Incremental Tranche A Facility**

- (a) Subject to the terms of this Agreement, one Incremental Tranche A Facility may be established and made available to the Borrowers.
- (b) The Parent and each Initial Incremental Tranche A Lender may request the establishment of the Incremental Tranche A Facility by the Parent delivering to the Agent a duly completed Incremental Facility Notice not later than ten Business Days prior to the proposed Incremental Facility Establishment Date specified in the Incremental Facility Notice (or by such later date as the Agent may agree).
- (c) Only one Incremental Facility Notice may be delivered by the Parent.
- (d) The Parent may not deliver the Incremental Facility Notice in respect of the Incremental Tranche A Facility unless the Agent has received evidence that the filing and registration requirement of the Incremental Tranche A Facility with the NDRC in accordance with NDRC Circular 2044 and any implementation rule or regulation in connection with the NDRC Circular has been duly completed. The Agent shall notify the Parent, the Lenders and the Original MLABUs promptly upon receiving such documents and other evidence.
- (e) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification in paragraph (d) above, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.
- (f) The Incremental Facility Notice is irrevocable and will not be regarded as having been duly completed unless the proposed Incremental Tranche A Total Commitments does not exceed US\$500,000,000 (or such other amount to be agreed between Standard Chartered Bank (Hong Kong) Limited, in its capacity as Original MLABU and the Parent).
- (g) Only one Incremental Tranche A Facility may be requested in the Incremental Facility Notice.

- (h) The establishment of the Incremental Tranche A Facility will only be effected in accordance with paragraphs (i), (j) and (k) below if, on the date of the Incremental Facility Notice and on the Incremental Facility Establishment Date:
- (i) no Default is continuing or would result from the establishment of the proposed Incremental Tranche A Facility; and
  - (ii) the Repeating Representations are correct in all material respects.
- (i) If the conditions set out in this Agreement have been met, the establishment of the Incremental Tranche A Facility will be effected in accordance with paragraph (k) below when the Agent executes an otherwise duly completed Incremental Facility Notice. The Agent shall, subject to paragraph (j) below, as soon as reasonably practicable after receipt by it of a duly completed Incremental Facility Notice appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute the Incremental Facility Notice.
- (j) The Agent shall only be obliged to execute the Incremental Facility Notice delivered to it by the Parent once it is satisfied it has complied with all necessary “know your customer” checks or other similar checks required under any applicable law or regulation in connection with the establishment of the Incremental Tranche A Facility.
- (k) On the Incremental Facility Establishment Date:
- (i) subject to the terms of this Agreement, the Initial Incremental Tranche A Lenders make available to the Borrowers a term loan facility in an aggregate amount equal to the Incremental Tranche A Total Commitments specified in the Incremental Facility Notice relating to the Incremental Tranche A Facility;
  - (ii) the Incremental Tranche A Total Commitments will be assumed by each relevant Initial Incremental Tranche A Lender (each of which satisfies the criteria applicable to a New Lender under Clause 22.1 (Assignments and transfers by the Lenders) and is not a Borrower or an Affiliate of a Borrower);
  - (iii) each Initial Incremental Tranche A Lender shall assume all the obligations of a Lender corresponding to the Incremental Tranche A Commitment (the **Assumed Incremental Commitment**) specified opposite its name in the Incremental Facility Notice as if it was an Original Lender with respect to the Incremental Tranche A Commitment;
  - (iv) the Borrowers and each Initial Incremental Tranche A Lender shall assume obligations towards one another and/or acquire rights against one another as the Borrowers and that Initial Incremental Tranche A Lender would have assumed and/or acquired had that Initial Incremental Tranche A Lender been an Original Lender with respect to the Assumed Incremental Commitment;
  - (v) each Initial Incremental Tranche A Lender and each of the other Finance Parties shall assume obligations towards one another and acquire rights against one another as that Initial Incremental Tranche A Lender and those Finance Parties would have assumed and/or acquired had the Initial Incremental Tranche A Lender been an Original Lender with respect to the Assumed Incremental Commitment; and
  - (vi) each Initial Incremental Tranche A Lender shall become a Party as a **Lender**.

- (l) The Agent shall, as soon as reasonably practicable after the establishment of the Incremental Tranche A Facility, notify the Parent, the Lenders and the Original MLABUs of the establishment and the Incremental Facility Establishment Date.
- (m) Each Initial Incremental Tranche A Lender, by executing the Incremental Facility Notice, confirms for the avoidance of doubt, that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the establishment of the Incremental Tranche A Facility requested in the Incremental Facility Notice became effective.
- (n) Clause 22.5 (Limitation of responsibility of Existing Lenders) shall apply *mutatis mutandis* in this Clause 2.4 in relation to any Initial Incremental Tranche A Lender as if references in Clause 22.5 to:
  - (i) an **Existing Lender** were references to all the Lenders immediately prior to the Incremental Facility Establishment Date;
  - (ii) the **New Lender** were references to an Initial Incremental Tranche A Lender; and
  - (iii) a **re-transfer** and **re-assignment** were references respectively to a transfer and assignment.

## 2.5 Finance Parties' rights and obligations

- (a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.
- (b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from a Borrower is a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with paragraph (c) below. The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any part of a Loan or any other amount owed by a Borrower which relates to a Finance Party's participation in a Facility or its role under a Finance Document (including any such amount payable to the Agent on its behalf) is a debt owing to that Finance Party by that Borrower.
- (c) A Finance Party may, except as specifically provided in the Finance Documents, separately enforce its rights under or in connection with the Finance Documents.

## 2.6 Borrowers' Agent

- (a) Each Borrower (other than the Parent) by its execution of this Agreement or an Accession Letter irrevocably appoints the Parent to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:
  - (i) the Parent on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give all notices and instructions (including Utilisation Requests), to execute on its behalf any Accession Letter, to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by any Borrower notwithstanding that they may affect the relevant Borrower, without further reference to or the consent of that Borrower; and

- (ii) each Finance Party to give any notice, demand or other communication to that Borrower pursuant to the Finance Documents to the Parent, and in each case each Borrower shall be bound as though that Borrower itself had given the notices and instructions (including any Utilisation Requests) or executed or made the agreements or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.
- (b) Every act, omission, agreement, undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication given or made by the Borrowers' Agent or given to the Borrowers' Agent under any Finance Document on behalf of another Borrower or in connection with any Finance Document (whether or not known to any other Borrower and whether occurring before or after such other Borrower became a Borrower under any Finance Document) shall be binding for all purposes on that Borrower as if that Borrower had expressly made, given or concurred with it. In the event of any conflict between any notices or other communications of the Borrowers' Agent and any other Borrower, those of the Borrowers' Agent shall prevail.

## **2.7 Joint and several liability**

Notwithstanding that the proceeds of a Loan may be made available to one Borrower only, each Borrower irrevocably and unconditionally agrees that it will be jointly and severally liable as co-borrower and principal obligor for the full amount of all Utilisations, together with all other amounts owing under or in connection with the Finance Documents.

## **3. PURPOSE**

### **3.1 Purpose**

Each Borrower shall apply all amounts borrowed by it under the Facilities towards the general working capital requirements of the Group. For the avoidance of doubt, each Borrower may apply amounts borrowed by it under the Facilities to the repayment or prepayment of any existing Financial Indebtedness owing by any member of the Group and payment of associated fees and expenses.

### **3.2 Monitoring**

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

## **4. CONDITIONS OF UTILISATION**

### **4.1 Initial conditions precedent**

- (a) No Borrower may deliver a Utilisation Request in respect of any Facility unless the Agent has received all of the documents listed in and appearing to comply with the requirements of Part 1 of Schedule 2 (Conditions Precedent). The Agent shall notify the Parent and the Lenders promptly upon receiving such documents and other evidence.
- (b) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (a) above, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.



- (c) No Utilisation Request in respect of:
  - (i) the Incremental Tranche A Facility may be given unless the Agent is satisfied that all the requirements set out in the Incremental Facility Notice appears to have been complied with; and
  - (ii) the Incremental Tranche A Facility may be given unless the aggregate Available Commitments in relation to the Original Tranche A Facility have been reduced to zero.

The Agent must notify the Parent and the Lenders promptly on being so satisfied.

- (d) Except to the extent that the Majority Lenders notify the Agent to the contrary before the Agent gives the notification described in paragraph (c) above, each Lender authorises (but does not require) the Agent to give that notification. The Agent will not be liable for any cost, loss or liability whatsoever any person incurs as a result of the Agent giving any such notification.

#### **4.2 Further conditions precedent**

The Lenders will only be obliged to comply with Clause 5.4 (Lenders' participation) if on the date of the Utilisation Request and on the proposed Utilisation Date:

- (a) in the case of a Rollover Loan, no Event of Default is continuing or would result from the proposed Loan and, in the case of any other Loan, no Default is continuing or would result from the proposed Loan; and
- (b) the Repeating Representations to be made by each Borrower are true in all material respects.

#### **4.3 Maximum number of Utilisation Requests**

- (a) No Borrower may deliver more than:
  - (i) ten Utilisation Requests in respect of the Original Tranche A Facility;
  - (ii) ten Utilisation Requests in respect of the Original Tranche C Facility; and
  - (iii) five Utilisation Requests in respect of the Incremental Tranche A Facility.
- (b) No Borrower may deliver a Utilisation Request in respect of the Original Tranche B Facility if, as a result of the proposed Utilisation, more than 20 Original Tranche B Loans will be outstanding.

### **5. UTILISATION**

#### **5.1 Delivery of a Utilisation Request**

A Borrower may borrow a Loan by delivery to the Agent of a duly completed Utilisation Request by way of electronic mail to (or any e-mail address to be designated by the Agent) not later than the Specified Time.

#### **5.2 Completion of a Utilisation Request**

- (a) Subject to the provisions of Clause 4.1 (Initial conditions precedent), a Utilisation Request for a Loan is irrevocable and will not be regarded as having been duly completed unless:
  - (i) it identifies the Facility under which the Loan is to be made;
  - (ii) the proposed Utilisation Date:
    - (A) is a Business Day within the Availability Period applicable to that Facility; and,

- (B) (if the proposed Loan is an Original Tranche B Loan) falls on or after the First Utilisation Date;
  - (iii) the proposed Utilisation Date is not a Syndication Date;
  - (iv) the currency and amount of the Loan comply with Clause 5.3 (Currency and amount); and
  - (v) the proposed first Interest Period complies with Clause 9 (Interest Periods).
- (b) Only one Loan may be requested in each Utilisation Request.

### **5.3 Currency and amount**

- (a) The currency specified in a Utilisation Request must be US Dollars.
- (b) The amount of a proposed Loan must be a minimum of US\$20,000,000 and an integral multiple of US\$10,000,000 or, if less, the applicable Available Facility.

### **5.4 Lenders' participation**

- (a) If the conditions set out in this Agreement have been met, and subject to Clause 6.2 (Repayment of Original Tranche B Loans) each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office to the Agent.
- (b) The amount of each Lender's participation in each Loan will be its Pro Rata Share immediately prior to making the Loan.
- (c) No Lender is obliged to participate in a Loan if, as a result:
  - (i) its participation in the Loans would exceed its Commitment; or
  - (ii) the Loans would exceed the Total Commitments.
- (d) Upon a Lender having made available its share in a respect Loan to the Agent for a Borrower through its Facility Office on a Utilisation Date under this Clause, that Lender's Original Commitment or Incremental Tranche A Commitment (as the case may be) will be reduced by an amount equal to the amount of the requested Loan that that Lender has made available pursuant to this Clause.
- (e) The Agent shall notify each Lender of the details of each proposed Loan and the amount of its participation in that Loan by the Specified Time.

### **5.5 Cancellation of Available Facility**

The Commitments in relation to a Facility which, at that time, are unutilised shall be immediately cancelled at 5pm on the last day of the Availability Period applicable to that Facility.

## **6. REPAYMENT**

### **6.1 Repayment of all Loans**

The Borrowers must repay all outstanding Loans under a Facility in full on the Final Repayment Date in relation to that Facility.

## **6.2 Repayment of Original Tranche B Loans**

- (a) Subject to paragraph (b) below, each Borrower which has drawn an Original Tranche B Loan shall repay that Loan on the last day of its Interest Period.
- (b) Each Borrower may request to rollover an Original Tranche B Loan on the relevant Rollover Date by delivery to the Agent of a duly completed Rollover Request by way of electronic mail to (or any e-mail address to be designated by the Agent) not later than the Specified Time.
- (c) No Borrower may deliver a Rollover Request unless the conditions under Clause 4.1 (Initial conditions precedent) in respect of any Utilisation Request have been met.
- (d) A Rollover Request for an Original Tranche B Loan is irrevocable and will not be regarded as having been duly completed unless:
  - (i) the proposed Rollover Date:
    - (A) is a Business Day within the Availability Period applicable to the Original Tranche B Facility; and
    - (B) falls after the First Utilisation Date;
  - (ii) the proposed Rollover Date is the last day of the Interest Period of the corresponding Existing Original Tranche B Loan;
  - (iii) the proposed Rollover Date is not a Syndication Date; and
  - (iv) the currency and amount of the Original Tranche B Loan comply with Clause 5.3 (Currency and amount).
- (e) The Lenders will only be obliged to rollover a Rollover Loan, if on the date of the Rollover Request and on the proposed Rollover Date:
  - (i) no Event of Default is continuing or would result from the proposed Loan; and
  - (ii) the Repeating Representations to be made by each Borrower are true in all material respects.
- (f) An Incremental Rollover Loan is an Original Tranche B Loan.
- (g) Subject to the conditions set out in this Clause 6.2 and, if relevant, Clause 4 (Conditions of Utilisation) having been met:
  - (i) the portion of the Existing Original Tranche B Loan which is requested by the Borrower to continue to be outstanding until the last day of the Interest Period set out in the Rollover Request, shall continue to be outstanding until such date; and
  - (ii) each Lender shall make its participation in any Incremental Rollover Loan available by the applicable Rollover Date through its Facility Office to the Agent.
- (h) Any portion of the Existing Original Tranche B Loan which is not requested by the relevant Borrower to continue to be outstanding after the applicable Rollover Date shall be repaid by that Borrower on that Rollover Date.
- (i) Only one Original Tranche B Loan may be requested to be rolled over in each Rollover Request.

- (j) Any partial repayment of an Existing Original Tranche B Loan pursuant to this Clause 6.2 on a Rollover Date shall be applied to each Original Tranche B Lender's participation in that Existing Original Tranche B Loan.

### 6.3 Repayment of Original Tranche C Loans

The Borrowers shall repay the Original Tranche C Loans by the following instalments:

<b>Repayment Date</b>	<b>Repayment Instalment (expressed as a percentage of the aggregate amount of the Original Tranche C Loans outstanding as at close of business on the last day of the Availability Period applicable to the Original Tranche C Facility)</b>
The date falling 36 Months after the First Utilisation Date	15 per cent.
The date falling 42 Months after the First Utilisation Date	15 per cent.
The date falling 48 Months after the First Utilisation Date	15 per cent.
The date falling 54 Months after the First Utilisation Date	15 per cent.
Final Repayment Date in relation to the Original Tranche C Facility	40 per cent.

### 6.4 Reborrowing

No Borrower may reborrow any part of the Original Tranche A Facility, the Original Tranche C Facility or the Incremental Tranche A Facility which is repaid.

## 7. PREPAYMENT AND CANCELLATION

### 7.1 Illegality

If, at any time, it is or will become unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in any Loan or it is or will become unlawful for any Affiliate of a Lender for that Lender to do so:

- (a) that Lender shall promptly notify the Agent upon becoming aware of that event;
- (b) upon the Agent notifying the Parent, that Lender will not be obliged to fund a Utilisation and the Available Commitment of that Lender will be immediately cancelled; and
- (c) to the extent that the Lender's participation has not been transferred pursuant to paragraph (d) of Clause 7.7 (Right of prepayment and cancellation in relation to a single Lender), each Borrower shall repay that Lender's participation in the Loans made to that Borrower on the last day of the Interest Period for each Loan occurring after the Agent has notified the Parent or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law) and that Lender's corresponding Commitment shall be cancelled in the amount of the participation repaid.

## 7.2 Change of control

If:

- (a) the Co-founders, together with the persons identified as directors by any of the Co-founders in the list most recently delivered by the Parent to the Agent pursuant to Clause 4.1 (Initial conditions precedent) or Clause 18.2 (Compliance Certificate) (as the case may be), cease to make up more than 50 per cent. of the board of directors of the Parent; or
- (b) the Parent ceases to hold directly or indirectly more than 51 per cent. of the shares of any Additional Borrower, or ceases to control any Additional Borrower,

then:

- (i) the Parent shall promptly notify the Agent upon becoming aware of that event;
- (ii) with immediate effect, no Lender shall be obliged to fund a Utilisation (except for a Rollover Loan); and
- (iii) if a Lender so requires and notifies the Agent within five days of the Parent notifying the Agent of the event, the Agent shall, by not less than ten Business Days' notice to the Parent, cancel the Commitment of that Lender and declare the participation of that Lender in all outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents in relation to that Lender's participation(s) immediately due and payable, whereupon the Commitment of that Lender will be cancelled and all such outstanding Loans and amounts will become immediately due and payable.

For the purpose of this Clause 7.2, "**control**" of any Additional Borrower means:

- (a) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
  - (i) cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of that Additional Borrower;
  - (ii) appoint or remove all, or the majority, of the directors or other equivalent officers of that Additional Borrower; or
  - (iii) give directions with respect to the operating and financial policies of that Additional Borrower with which the directors or other equivalent officers of that Additional Borrower are obliged to comply; or
- (b) the holding beneficially of more than 50 per cent. of the issued share capital of that Additional Borrower (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

### 7.3 Cessation or suspension of listing

If:

- (a) the American depositary shares (**ADSs**) representing ordinary shares of the Parent cease to be listed or traded on The Nasdaq Stock Market; or
- (b) the trading of these ADSs on The Nasdaq Stock Market is suspended for more than ten consecutive days (or part of any such days) on which trading is carried out on The Nasdaq Stock Market generally other than as a result of purely technological reasons affecting The Nasdaq Stock Market's operations,

then:

- (i) the Parent shall promptly notify the Agent upon becoming aware of that event;
- (ii) with immediate effect, no Lender shall be obliged to fund a Utilisation (except for a Rollover Loan); and
- (iii) if a Lender so requires and notifies the Agent within five days of the Parent notifying the Agent of the event, the Agent shall, by not less than ten Business Days' notice to the Parent, cancel the Commitment of that Lender and declare the participation of that Lender in all outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents in relation to that Lender's participation(s) immediately due and payable, whereupon the Commitment of that Lender will be cancelled and all such outstanding Loans and amounts will become immediately due and payable.

### 7.4 Banking (Exposure Limits) Rules

(a) If, at any time, the Exposure Limits Event occurs:

- (i) the relevant Borrower (or the Parent on behalf that Borrower) shall promptly notify the Agent upon becoming aware of that event;
- (ii) (A) upon the Agent notifying the Parent that an Exposure Limits Event has occurred, or that Borrower has become aware of an Exposure Limits Event but has failed to notify the Agent, and (B) if as a result of such Exposure Limits Event, funding its participation in a Utilisation would result in the failure of the Relevant Lender (as defined in paragraph (b) below) to comply with the Exposure Limits Rules, such Relevant Lender will not be obliged to fund a Utilisation; and
- (iii) if, as a result of the Exposure Limits Event, maintaining its participation in the outstanding Loans would result in the failure of the Relevant Lender to comply with the Exposure Limits Rules, such Relevant Lender may require its participation in all outstanding Loans to be prepaid by written notification to the Agent within five days of the Parent or any other Borrower (as the case may be) notifying the Agent of the Exposure Limits Event, or the Agent notifying the Parent under sub-paragraph (ii) above, whichever is earlier, in which case the Agent shall, by not less than ten Business Days' notice to the Parent, cancel the Commitment of that Relevant Lender and declare the participation of that Relevant Lender in all outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents in relation to that Relevant Lender's participation(s) immediately due and payable, whereupon the Commitment of that Relevant Lender will be cancelled and all such outstanding Loans and amounts will become immediately due and payable.

- (b) For the purpose of this Clause 7.4:

**Exposure Limits Event** means, at any time, any Borrower is or becomes in any way related or connected to any Lender (such Lender, a **Relevant Lender**), its subsidiaries, related bodies corporate, associated entities and undertakings and any of their branches within the meaning of the Exposure Limits Rules; and

**Exposure Limits Rules** means Banking (Exposure Limits) Rules (Cap. 155S of the Laws of Hong Kong).

#### 7.5 Voluntary cancellation

- (a) The Parent may, if it gives the Agent not less than ten Business Days' (or such shorter period as the Majority Lenders may agree) prior written notice, cancel the whole or any part of the Available Facility in respect of an Original Facility.
- (b) Any partial cancellation of an Original Commitment under this Clause must be in a minimum of US\$5,000,000 and an integral multiple of US\$5,000,000.
- (c) Any cancellation under this Clause 7.5 of an Original Tranche A Commitment (or any part of it) must be made together with the cancellation of the Incremental Tranche A Commitment in an amount which would result in the Relevant Proportion in respect of the relevant cancelled Incremental Tranche A Commitment being equal to the Relevant Proportion of the cancelled Original Tranche A Commitment.
- (d) Any cancellation in part under this Clause 7.5 shall reduce the Commitments of the Lenders rateably.
- (e) A Commitment (or any part of it) shall only be cancelled if each other Commitment is:
- (i) cancelled at the same time; and
  - (ii) cancelled in amounts which reduce each Commitment by the same Relevant Proportion.
- (f) If, at any time prior to the First Utilisation Date, the Original Tranche A Commitment is cancelled in full in accordance with this Clause, the Original Tranche B Commitment shall be deemed to be automatically cancelled in full.

#### 7.6 Voluntary prepayment of Loans

- (a) A Borrower to which a Loan has been made may, if it gives the Agent not less than ten Business Days' (or such shorter period as the Majority Lenders may agree) prior written notice, prepay the whole or any part of an Original Loan.
- (b) The prepayment of part of each Original Loan must be in a minimum amount of US\$5,000,000 and an integral multiple of US\$5,000,000.
- (c) Any prepayment under this Clause of an Original Tranche A Loan (or any part of it) must be made together with the prepayment of an Incremental Tranche A Loan in an amount which would result in the Relevant Proportion in respect of the Incremental Tranche A Loan being equal to the Relevant Proportion of the prepaid Original Tranche A Loan.
- (d) A Tranche A Loan or an Original Tranche C Loan may only be prepaid under this Clause 7.6 on a day which falls:
- (i) on the last day of an Interest Period applicable to it; and

- (ii) after the last day of the applicable Availability Period (or, if earlier, the day on which the applicable Available Facility is zero).
- (e) A Tranche A Loan or an Original Tranche C Loan shall only be prepaid if:
  - (i) each Tranche A Loan and each Original Tranche C Loan are:
    - (A) prepaid at the same time; and
    - (B) prepaid in amounts which reduce each Tranche A Loan and each Original Tranche C Loan, by the same Relevant Proportion; and
  - (ii) the Original Tranche B Commitment is cancelled in amounts which reduce the Original Tranche B Commitment by the same Relevant Proportion.

**7.7 Right of prepayment and cancellation in relation to a single Lender**

- (a) If any Lender claims indemnification from a Borrower under Clause 13.1 (Increased costs), the Parent may, whilst the circumstance giving rise to the requirement for that indemnification continues, give the Agent notice of cancellation of the Commitment(s) of that Lender and its intention to procure the prepayment of that Lender's participation in the Loans or give the Agent notice of its intention to replace that Lender in accordance with paragraph (d) below.
- (b) On receipt of a notice of cancellation referred to in paragraph (a) above, the Commitment(s) of that Lender shall immediately be reduced to zero.
- (c) On the last day of each Interest Period which ends after the Parent has given notice of cancellation under paragraph (a) above (or, if earlier, the date specified by the Parent in that notice), each Borrower to which a Loan is outstanding shall prepay that Lender's participation in that Loan.
- (d) If:
  - (i) any of the circumstances set out in paragraph (a) above apply to a Lender; or
  - (ii) a Borrower becomes obliged to pay any amount in accordance with Clause 7.1 (Illegality) to any Lender,the Parent may, on ten Business Days' prior written notice to the Agent and that Lender, replace that Lender by requiring that Lender to (and, to the extent permitted by law, that Lender shall) transfer pursuant to Clause 22 (Changes to the Lenders) all (and not part only) of its rights and obligations under the Finance Documents to a Lender or other bank, financial institution, trust, fund or other entity selected by the Parent which confirms its willingness to assume and does assume all the obligations of the transferring Lender in accordance with Clause 22 (Changes to the Lenders) for a purchase price in cash payable at the time of the transfer in an amount equal to the outstanding principal amount of such Lender's participation in the outstanding Loans and all accrued interest, Break Costs and other amounts payable in relation thereto under the Finance Documents.
- (e) The replacement of a Lender pursuant to paragraph (d) above shall be subject to the following conditions:
  - (i) the Parent shall have no right to replace the Agent;
  - (ii) neither the Agent nor any Lender shall have any obligation to find a replacement Lender;



- (iii) in no event shall the Lender replaced under paragraph (d) above be required to pay or surrender any of the fees received by such Lender pursuant to the Finance Documents; and
  - (iv) no Lender shall be obliged to execute a Transfer Certificate unless it is satisfied that it has completed all “know your customer” and other similar procedures that it is required (or deems desirable) to conduct in relation to the transfer to such replacement Lender.
- (f) A Lender shall perform the procedures described in paragraph (e)(iv) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (d) above and shall notify the Agent and the Parent when it is satisfied that it has completed those checks.

## **7.8 Restrictions**

- (a) Any notice of cancellation or prepayment given by any Party under this Clause 7 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
- (b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs, without premium or penalty.
- (c) No Borrower may reborrow any part of the Original Tranche A Facility, the Original Tranche C Facility or the Incremental Tranche A Facility which is prepaid.
- (d) Unless a contrary indication appears in this Agreement, any part of the Original Tranche B Facility which is repaid or prepaid may be reborrowed in accordance with the terms of this Agreement.
- (e) No Borrower shall repay or prepay all or any part of the Loans or cancel all or any part of the Commitment except at the times and in the manner expressly provided for in this Agreement.
- (f) No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.
- (g) If the Agent receives a notice under this Clause 7 it shall promptly forward a copy of that notice to either the Parent or the affected Lender, as appropriate.
- (h) If all or part of any Lender’s participation in a Loan under a Facility is repaid or prepaid and is not available for redrawing, an amount of that Lender’s Commitment (equal to the amount of the participation which is repaid or prepaid) in respect of that Facility will be deemed to be cancelled on the date of repayment or prepayment.
- (i) If:
  - (i) the whole or any part of any Available Commitment under the Original Tranche C Facility is cancelled under this Clause 7, then the amount of the Repayment Instalment under the Original Tranche C Facility for each Repayment Date falling after the cancellation will reduce pro rata by the amount cancelled; and
  - (ii) any whole or part of any Utilisation under the Original Tranche C Facility is repaid or prepaid in accordance with this Clause 7, then the amount of Repayment Instalment under the Original Tranche C Facility for each Repayment Date falling after the repayment or prepayment will reduce pro rata by the amount repaid or prepaid.

## **7.9 Application of prepayments**

Any prepayment of a Loan pursuant to Clause 7.6 (Voluntary prepayment of Loans) shall be applied pro rata to each Lender's participation in that Loan.

## **8. INTEREST**

### **8.1 Calculation of interest**

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

- (a) Margin; and
- (b) LIBOR.

### **8.2 Payment of interest**

Each Borrower to which a Loan has been made shall pay accrued interest on that Loan on the last day of each Interest Period (and, if the Interest Period is longer than six Months, on the dates falling at six-monthly intervals after the first day of the Interest Period).

### **8.3 Default interest**

- (a) If a Borrower fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the Unpaid Sum from the due date to the date of actual payment (both before and after judgment) at a rate which is, subject to paragraph (b) below, two per cent. per annum higher than the rate which would have been payable if the Unpaid Sum had, during the period of non-payment, constituted a Loan in the currency of the Unpaid Sum for successive Interest Periods, each of a duration selected by the Agent (acting reasonably). Any interest accruing under this Clause 8.3 shall be immediately payable by the relevant Borrower on demand by the Agent.
- (b) If any Unpaid Sum consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:
  - (i) the first Interest Period for that Unpaid Sum shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and
  - (ii) the rate of interest applying to the Unpaid Sum during that first Interest Period shall be two per cent. per annum higher than the rate which would have applied if the Unpaid Sum had not become due.
- (c) Default interest (if unpaid) arising on an Unpaid Sum will be compounded with the Unpaid Sum at the end of each Interest Period applicable to that Unpaid Sum but will remain immediately due and payable.

### **8.4 Notification of rates of interest**

- (a) The Agent shall promptly notify the relevant Lenders and the relevant Borrower (or the Parent on its behalf) of the determination of a rate of interest under this Agreement.
- (b) The Agent shall promptly notify the relevant Borrower of each Funding Rate relating to a Loan.

## **9. INTEREST PERIODS**

### **9.1 Selection of Interest Periods**

- (a) Subject to paragraph (f) below, a Borrower (or the Parent on its behalf) may select an Interest Period for a Loan in the applicable Utilisation Request or (if the Loan is a Tranche A Loan or an Original Tranche C Loan which has already been borrowed) in a Selection Notice.
- (b) Each Selection Notice for a Tranche A Loan or an Original Tranche C Loan is irrevocable and must be delivered to the Agent by the relevant Borrower to which that Loan was made (or the Parent on behalf that Borrower) not later than the Specified Time.
- (c) If a Borrower (or the Parent on its behalf) fails to deliver a Selection Notice to the Agent in accordance with paragraph (b) above, the relevant Interest Period will be three Months.
- (d) Subject to this Clause 9, a Borrower (or the Parent) may select an Interest Period of one, three or six Months or any other period agreed between the Parent, the Agent and all the Lenders. In addition, a Borrower (or the Parent on its behalf) may select an Interest Period of:
  - (i) any other duration not exceeding six Months, if necessary to ensure subsequent Loans have an Interest Period ending on an existing Interest Payment Date; and
  - (ii) (in relation to the Original Tranche C Facility) a period of less than one Month, if necessary to ensure that there are sufficient Original Tranche C Loans (with an aggregate amount equal to or greater than the Repayment Instalment) which have an Interest Period ending on a Repayment Date for the Borrowers to make the Repayment Instalment due on that date.
- (e) An Interest Period for a Loan shall not extend beyond the Final Repayment Date applicable to its Facility.
- (f) The first Interest Period for a Tranche A Loan or an Original Tranche C Loan shall start on the Utilisation Date or (if a Loan under the same Facility has already been made) on the last day of the preceding Interest Period of such Loan, and each subsequent Interest Period will start on the last day of the preceding Interest Period.
- (g) The first Interest Period for a Tranche A Loan or an Original Tranche C Loan (other than the first Loan) shall, unless the relevant Borrower (or the Parent on its behalf) specifies to the contrary in the relevant Utilisation Request, end on the last day of the current Interest Period of an existing Tranche A Loan or an Original Tranche C Loan (as the case may be).
- (h) An Original Tranche B Loan has one Interest Period only which shall start on the Utilisation Date or, if relevant, the Rollover Date, of that Original Tranche B Loan.
- (i) Prior to the Syndication Date, each Interest Period shall be one Month or such other period as the Agent and the Parent may agree and any Interest Period which would otherwise end during the Month preceding or extend beyond the Syndication Date shall end on the Syndication Date.

### **9.2 Non-Business Days**

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

### 9.3 Consolidation of Loans

If two or more Interest Periods:

- (a) relate to Loans (other than Original Tranche B Loans) under the same Facility; and
- (b) end on the same date,

those Loans will, unless that Borrower (or the Parent on its behalf) specifies to the contrary in the Selection Notice for the next Interest Period, be consolidated into, and treated as, a single Loan under that Facility on the last day of the Interest Period.

## 10. CHANGES TO THE CALCULATION OF INTEREST

### 10.1 Unavailability of Screen Rate

- (a) *Interpolated Screen Rate*: If no Screen Rate is available for LIBOR for the Interest Period of a Loan, the applicable LIBOR shall be the Interpolated Screen Rate for a period equal in length to the Interest Period of that Loan.
- (b) *Reference Bank Rate*: If no Screen Rate is available for LIBOR for:
  - (i) US Dollars; or
  - (ii) the Interest Period of a Loan and it is not possible to calculate the Interpolated Screen Rate,the applicable LIBOR shall be the Reference Bank Rate as of the Specified Time for US Dollars and for a period equal in length to the Interest Period of that Loan.
- (c) *Cost of funds*: If paragraph (b) above applies but no Reference Bank Rate is available for the US Dollars or Interest Period there shall be no LIBOR for that Loan and Clause 10.4 (Cost of funds) shall apply to that Loan for that Interest Period.

### 10.2 Calculation of Reference Bank Rate

- (a) Subject to paragraph (b) below, if LIBOR is to be determined on the basis of a Reference Bank Rate but a Reference Bank does not supply a quotation by the Specified Time, the Reference Bank Rate shall be calculated on the basis of the quotations of the remaining Reference Banks.
- (b) If at or about the Specified Time referred to in paragraph (a) above, none or only one of the Reference Banks supplies a quotation, there shall be no Reference Bank Rate for the relevant Interest Period.

### 10.3 Market disruption

If before 5pm in Hong Kong on the Business Day immediately following the Quotation Day in respect of the relevant Interest Period the Agent receives notifications from a Lender or Lenders (whose participations in a Loan exceed 35 per cent. of that Loan) that the cost to it of funding its participation in that Loan from whatever source it may reasonably select would be in excess of LIBOR then Clause 10.4 (Cost of funds) shall apply to that Loan for the relevant Interest Period.

### 10.4 Cost of funds

- (a) If this Clause 10.4 applies, the rate of interest on each Lender's share of the relevant Loan for the relevant Interest Period shall be the percentage rate per annum which is the sum of:
  - (i) the Margin; and

- (ii) the rate notified to the Agent by that Lender as soon as practicable and in any event before the date on which interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to the relevant Lender of funding its participation in that Loan from whatever source it may reasonably select.
- (b) If this Clause 10.4 applies and the Agent or the Parent so requires, the Agent and the Parent shall enter into negotiations (for a period of not more than 30 days) with a view to agreeing a substitute basis for determining the rate of interest and/or cost of funding for the affected Loan. For the avoidance of doubt, in the event that no substitute basis is agreed at the end of the 30-day period, the rate of interest will continue to be determined in accordance with Clause 10.3 (Market disruption) and paragraph (a) above.
- (c) Any alternative basis agreed pursuant to paragraph (b) above shall, with the prior consent of all the Lenders and the Parent, be binding on all Parties.

#### **10.5 Notification to Parent**

If Clause 10.4 (Cost of funds) applies the Agent shall, as soon as is practicable, notify the Parent.

#### **10.6 Break Costs**

- (a) Each Borrower shall, within three Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by that Borrower on a day other than the last day of an Interest Period for that Loan or Unpaid Sum.
- (b) Each Lender shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

### **11. FEES**

#### **11.1 Commitment fee**

- (a) The Parent shall pay to the Agent (for the account of each Lender) a fee in US Dollars computed and accruing on a daily basis at the rate of 0.20 per cent. per annum on the undrawn and uncanceled amount of each Lender's Commitment under the Original Tranche B Facility for the period from (and including) the First Utilisation Date to (and including) the last day of the Availability Period applicable to the Original Tranche B Facility, at 5 p.m. (in Hong Kong) on each day of the relevant period (or, if any such day shall not be a Business Day, at 5 p.m. on the immediately preceding Business Day).
- (b) The accrued commitment fee is payable:
  - (i) on the last day of each successive period of three Months which ends during the relevant Availability Period;
  - (ii) on the last day of the relevant Availability Period; and
  - (iii) if a Lender's Commitment is reduced to zero before the last day of the relevant Availability Period, on the day on which such reduction to zero becomes effective.

## **11.2 Arrangement fee**

The Parent shall pay to Standard Chartered Bank (Hong Kong) Limited (in its capacity as Original MLABU and for the account of the persons specified in the relevant Fee Letter) an arrangement fee in the amount and at the times agreed in a Fee Letter.

## **11.3 Agency fee**

The Parent shall pay to the Agent (for its own account) an agency fee in the amount and at the times agreed in a Fee Letter.

## **12. FATCA**

### **12.1 FATCA information**

- (a) Subject to paragraph (c) below, each Party shall, within ten Business Days of a reasonable request by another Party:
- (i) confirm to that other Party whether it is:
    - (A) a FATCA Exempt Party; or
    - (B) not a FATCA Exempt Party;
  - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
  - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
- (c) Paragraph (a) above shall not oblige any Finance Party to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
- (i) any law or regulation;
  - (ii) any fiduciary duty; or
  - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (a)(ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

- (e) If any Borrower is a US Tax Obligor or the Agent reasonably believes that its obligations under FATCA or any other applicable law or regulation require it, each Lender shall, within ten Business Days of:
  - (i) where the Parent is a US Tax Obligor and the relevant Lender is an Original Lender, the date of this Agreement;
  - (ii) where that Borrower is a US Tax Obligor on a date on which any other Lender becomes a Party as a Lender, that date;
  - (iii) the date a new US Tax Obligor accedes as a Borrower; or
  - (iv) where that Borrower is not a US Tax Obligor, the date of a request from the Agent, supply to the Agent:
    - (A) a withholding certificate on Form W-8, Form W-9 or any other relevant form; or
    - (B) any withholding statement or other document, authorisation or waiver as the Agent may require to certify or establish the status of such Lender under FATCA or that other law or regulation.
- (f) The Agent shall provide any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) above to that Borrower.
- (g) If any withholding certificate, withholding statement, document, authorisation or waiver provided to the Agent by a Lender pursuant to paragraph (e) above is or becomes materially inaccurate or incomplete, that Lender shall promptly update it and provide such updated withholding certificate, withholding statement, document, authorisation or waiver to the Agent unless it is unlawful for the Lender to do so (in which case the Lender shall promptly notify the Agent). The Agent shall provide any such updated withholding certificate, withholding statement, document, authorisation or waiver to the Borrowers.
- (h) The Agent may rely on any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) or (g) above without further verification. The Agent shall not be liable for any action taken by it under or in connection with paragraph (e), (f) or (g) above.
- (i) Without prejudice to any other term of this Agreement, if a Lender fails to supply any withholding certificate, withholding statement, document, authorisation, waiver or information in accordance with paragraph (e) above, or any withholding certificate, withholding statement, document, authorisation, waiver or information provided by a Lender to the Agent is or becomes materially inaccurate or incomplete, then such Lender shall indemnify the Agent, within three Business Days of demand, against any cost, loss, Tax or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent (including any related interest and penalties) in acting as Agent under the Finance Documents as a result of such failure.

## **12.2 FATCA Deduction**

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.

- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), and in any case at least three Business Days prior to making a FATCA Deduction, notify the Party to whom it is making the payment and, on or prior to the day on which it notifies that Party, shall also notify the Parent, the Agent and the other Finance Parties.

### 13. INCREASED COSTS

#### 13.1 Increased costs

- (a) Subject to Clause 13.3 (Exceptions) the Parent shall, within three Business Days of a demand by the Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation or (ii) compliance with any law or regulation made after the date of this Agreement. The terms “law” and “regulation” in this paragraph (a) shall include any law or regulation concerning capital adequacy, prudential limits, liquidity, reserve assets or Tax.
- (b) In this Agreement,

**Increased Costs** means:

- (i) a reduction in the rate of return from a Facility or on a Finance Party’s (or its Affiliate’s) overall capital (including as a result of any reduction in the rate of return on capital brought about by more capital being required to be allocated by such Finance Party);
- (ii) an additional or increased cost; or
- (iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to the undertaking, funding or performance by such Finance Party of any of its obligations under any Finance Document or any participation of such Finance Party in any Loan or Unpaid Sum.

**Basel III** means:

- (i) the agreements on capital requirements, a leverage ratio and liquidity standards contained in “Basel III: A global regulatory framework for more resilient banks and banking systems”, “Basel III: International framework for liquidity risk measurement, standards and monitoring” and “Guidance for national authorities operating the countercyclical capital buffer” published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;
- (ii) the rules for global systemically important banks contained in “Global systemically important banks: assessment methodology and the additional loss absorbency requirement – Rules text” published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated; and
- (iii) any further guidance or standards published by the Basel Committee on Banking Supervision relating to “Basel III”.



### **13.2 Increased cost claims**

- (a) A Finance Party (other than the Agent) intending to make a claim pursuant to Clause 13.1 (Increased costs) shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Parent.
- (b) Each Finance Party (other than the Agent) shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.

### **13.3 Exceptions**

Clause 13.1 (Increased costs) does not apply to the extent any Increased Cost is:

- (a) attributable to a Tax Deduction required by law to be made by the Borrower;
- (b) attributable to a FATCA Deduction required to be made by a Party;
- (c) attributable to any payment which a Finance Party is required to make of or on account of Tax on or in relation to any sum received or receivable under the Finance Documents;
- (d) attributable to any stamp duty, registration or similar taxes or any Indirect Tax;
- (e) attributable to compliance by the relevant Finance Party or its Affiliates with the reserve requirement ratio or any similar measures imposed by the People's Bank of China;
- (f) attributable to any penalty having been imposed by the relevant central bank or monetary or fiscal authority upon the Finance Party (or any Affiliate of it) by virtue of its having exceeded any country or sector borrowing limits or breached any directives imposed upon it;
- (g) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation; or
- (h) attributable to the implementation or application or compliance with Basel III or any other law or regulation which implements Basel III (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates or otherwise).

## **14. MITIGATION BY THE LENDERS**

### **14.1 Mitigation**

- (a) Each Finance Party shall, in consultation with the Parent, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 7.1 (Illegality), Clause 12 (FATCA) or Clause 13 (Increased Costs), including:
  - (i) providing such information as the Parent may reasonably request in order to permit the Parent to determine its entitlement to claim any exemption or other relief (whether pursuant to a double taxation treaty or otherwise) from any obligation to make a Tax Deduction; and
  - (ii) in relation to any circumstances which arise following the date of this Agreement, transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

- (b) Paragraph (a) above does not in any way limit the obligations of any Borrower under the Finance Documents.

#### **14.2 Limitation of liability**

- (a) The Parent shall promptly indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 14.1 (Mitigation).
- (b) A Finance Party is not obliged to take any steps under Clause 14.1 (Mitigation) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

#### **14.3 Conduct of business by the Finance Parties**

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

### **15. OTHER INDEMNITIES**

#### **15.1 Currency indemnity**

- (a) If any sum due from a Borrower under the Finance Documents (a **Sum**), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the **First Currency**) in which that Sum is payable into another currency (the **Second Currency**) for the purpose of:

- (i) making or filing a claim or proof against the Borrower; or
- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Borrower shall as an independent obligation, within three Business Days of demand, indemnify each Finance Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

- (b) Each Borrower waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

#### **15.2 Other indemnities**

The Parent shall (or shall procure that a Borrower will), within three Business Days of demand, indemnify each Finance Party against any cost, loss or liability incurred by that Finance Party as a result of:

- (a) the occurrence of any Event of Default;

- (b) the Information Memorandum or any other information produced or approved by the Parent being or being alleged to be misleading and/or deceptive in any respect;
- (c) any enquiry from, investigation by, subpoena (or similar order) from or litigation in, in each case, any court or governmental agency with competent jurisdiction with respect to any Borrower or with respect to the transactions financed under this Agreement;
- (d) a failure by any Borrower to pay any amount due under a Finance Document on its due date or in the relevant currency, including any cost, loss or liability arising as a result of Clause 25 (Sharing among the Finance Parties);
- (e) funding, or making arrangements to fund, its participation in a Loan requested by a Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or
- (f) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by a Borrower or the Parent.

### **15.3 Indemnity to the Agent**

- (a) The Parent shall promptly indemnify the Agent against any cost, loss or liability incurred by the Agent (acting reasonably) as a result of:
  - (i) investigating any event which it reasonably believes is a Default;
  - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
  - (iii) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement.
- (b) The indemnity given by the Parent under or in connection with this Agreement is a continuing obligation, independent of the Parent's other obligations under or in connection with this Agreement or any other Finance Document and survives after this Agreement is terminated. It is not necessary for a person to pay any amount or incur any expense before enforcing an indemnity under or in connection with this Agreement or any other Finance Document.

## **16. COSTS AND EXPENSES**

### **16.1 Enforcement costs**

The Parent shall, within three Business Days of demand, pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by that Finance Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document.

### **16.2 Amendment costs**

If:

- (a) a Borrower requests an amendment, waiver or consent;
- (b) an amendment is required or expressly contemplated under a Finance Document; or

(c) any amendment or waiver is contemplated or agreed pursuant to Clause 32.4 (Replacement of Screen Rate), the Borrowers shall, within three Business Days of demand, reimburse each of the Agent for the amount of all costs and expenses (including legal fees in such amounts agreed by the Parent) reasonably incurred by the in responding to, evaluating, negotiating, complying with or implementing that request or requirement or actual or contemplated agreement.

## **17. REPRESENTATIONS**

Each Borrower makes the representations and warranties set out in this Clause 17 to each Finance Party on the date of this Agreement.

### **17.1 Status**

- (a) It is a corporation, duly incorporated, validly existing and in good standing under the law of its jurisdiction of incorporation.
- (b) It and each other member of the Group has the power to own its assets and carry on its business as it is being conducted.
- (c) It is acting as principal for its own account and not as agent or trustee in any capacity on behalf of any party in relation to the Finance Documents.
- (d) It is not a US Tax Obligor.

### **17.2 Binding obligations**

The obligations expressed to be assumed by it in each Finance Document are, subject to any general principles of law limiting its obligations which are specifically referred to in any legal opinion delivered in accordance with Clause 4 (Conditions of Utilisation) or Clause 23 (Changes to the Borrower), legal, valid, binding and enforceable obligations.

### **17.3 Non-conflict with other obligations**

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its or any other member of the Group's constitutional documents; or
- (c) any agreement or instrument binding upon it or any other member of the Group or any of its or any other member of the Group's assets.

### **17.4 Power and authority**

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents.

### **17.5 Validity and admissibility in evidence**

All Authorisations required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party;

- (b) to make the Finance Documents to which it is a party admissible in evidence in its jurisdiction of incorporation; and
- (c) for it and each other member of the Group to carry on their business, and which are material, have been obtained or effected and are in full force and effect.

#### **17.6 Governing law and enforcement**

- (a) The choice of Hong Kong law as the governing law of the Finance Documents will be recognised and enforced in its jurisdiction of incorporation.
- (b) Any judgment obtained in Hong Kong in relation to a Finance Document will be recognised and enforced in its jurisdiction of incorporation.

#### **17.7 Deduction of Tax**

It is not required under the law applicable where it is incorporated or resident or at the address specified in this Agreement to make any Tax Deduction from any payment it may make under any Finance Document.

#### **17.8 No filing or stamp taxes**

Under the law of its jurisdiction of incorporation it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents except that stamp duty will be payable in the Cayman Islands in respect of any Finance Document that is executed in the Cayman Islands, brought into the Cayman Islands or produced before a court of the Cayman Islands.

#### **17.9 No default**

- (a) No Event of Default is continuing or might reasonably be expected to result from the making of any Utilisation.
- (b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or any other member of the Group or to which its (or any of other member of the Group's) assets are subject which might have a Material Adverse Effect.

#### **17.10 No misleading information**

- (a) Any factual information contained in or provided by any member of the Group for the purposes of the Information Memorandum was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.
- (b) Any financial projections contained in the Information Memorandum have been prepared on the basis of recent historical information and on the basis of reasonable assumptions.
- (c) Nothing has occurred or been omitted from the Information Memorandum and no information has been given or withheld that results in the information contained in the Information Memorandum being untrue or misleading in any material respect.

- (d) All information (other than the Information Memorandum) supplied by any member of the Group was true, complete and accurate in all material respects as at the date it was given and was not misleading in any respect.

#### **17.11 Financial statements**

- (a) Its financial statements most recently supplied to the Agent (which, at the date of this Agreement in the case of the Parent, are its Original Financial Statements) were prepared in accordance with GAAP consistently applied save to the extent expressly disclosed in such financial statements.
- (b) Its financial statements most recently supplied to the Agent (which, at the date of this Agreement in the case of the Parent, are its Original Financial Statements) give a true and fair view of (if audited) or fairly represent (if unaudited) its financial condition and operations (consolidated in the case of the Parent) for the period to which they relate, save to the extent expressly disclosed in such financial statements.
- (c) There has been no material adverse change in its business or financial condition (or the business or consolidated financial condition of the Group, the case of the Parent) since 31 December 2018.

#### **17.12 Pari passu ranking**

Its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all of its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

#### **17.13 No proceedings**

- (a) No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect has or have (to the best of its knowledge and belief) been started or threatened against it or any other member of the Group.
- (b) No judgment or order of a court, arbitral body or agency which might reasonably be expected to have a Material Adverse Effect has (to the best of its knowledge and belief) been made against it or any other member of the Group.

#### **17.14 Environmental Laws**

- (a) It and each other member of the Group is in compliance with Clause 20.8 (Environmental compliance) and no circumstances have occurred which would prevent such compliance.
- (b) No Environmental Claim has been started or threatened against any member of the Group which would reasonably be expected to have a Material Adverse Effect.

#### **17.15 Authorised signatures**

Any person specified as its authorised signatory under Part 1 of Schedule 2 (Conditions Precedent) or paragraph (e) of Clause 18.4 (Information: miscellaneous) is authorised to sign Utilisation Requests and other notices on its behalf.

#### 17.16 Sanctions

None of the Borrowers nor any of their Subsidiaries or joint ventures, nor any of their respective directors, officers or employees nor, to the knowledge of the Borrowers, any persons acting on any of their behalf:

- (a) is a Restricted Party; or
- (b) has received notice of or is aware of any claim, action, suit, proceeding or investigation against it with respect to Sanctions by any Sanctions Authority.

#### 17.17 Anti-bribery and Corruption Law

- (a) Each Borrower and, to the knowledge of the Borrowers, each other member of the Group has conducted its businesses in compliance with applicable anti-corruption laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.
- (b) None of the Borrowers nor, to the knowledge of the Borrowers, any other member of the Group, any of their Subsidiaries or its directors, officers, agents or representatives, have, for the purpose of gaining or maintaining unlawful or improper benefits for the Group, directly or indirectly:
  - (i) violated applicable anti-corruption laws or made, undertaken, offered to make, promised to make or authorized the payment or giving of a prohibited payment;
  - (ii) used funds or other assets, or made any promise or undertaking in such regard, for the establishment or maintenance of a secret or unrecorded fund; or
  - (iii) made any false or fictitious entries in any books or records of any member of the Group relating to any prohibited payment.

#### 17.18 Anti-money laundering

The operations of each Borrower, each of its Subsidiaries and its and their Affiliates (each such person, a **Relevant Person**) are and have been conducted at all times in material compliance with applicable financial recordkeeping and reporting requirements and the money laundering statutes and the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency having jurisdiction over any Relevant Person (collectively, the **Money Laundering Laws**) and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving any Relevant Person or any of their respective directors, officers, agents or employees with respect to the Money Laundering Laws is pending or, to the best knowledge of each Borrower, threatened.

#### 17.19 Group Structure Chart

The Group Structure Chart delivered to the Agent pursuant to Clause 4.1 (Initial conditions precedent) or, if applicable, paragraph (f) of Clause 18.4 (Information: miscellaneous) is true, complete and accurate in all material respects and shows the Parent and each of its Significant Subsidiaries, including its current name and jurisdiction of incorporation as at the date of this Agreement or (in the case of a Group Structure Chart delivered pursuant to paragraph (f) of Clause 18.4 (Information: miscellaneous)) the date on which such Group Structure Chart is delivered to the Agent.

## **17.20 Existing BOC Facility**

Save to the extent expressly waived under the waiver letter in respect of the Existing BOC Facility delivered pursuant to Clause 4.1 (Initial conditions precedent), the Parent has no obligation to prepay the Existing BOC Facility as a result of the entry by the Parent into the Finance Documents and the transactions completed hereunder.

## **17.21 Repetition**

- (a) The Repeating Representations are deemed to be made by each Borrower by reference to the facts and circumstances then existing on:
  - (i) the date of each Utilisation Request and the first day of each Interest Period;
  - (ii) the date of the Incremental Facility Notice and the Incremental Facility Establishment Date; and
  - (iii) in the case of an Additional Borrower, the day on which the company becomes (or it is proposed that the company becomes) an Additional Borrower.
- (b) The representation set out in Clause 17.19 (Group Structure Chart) is deemed to be made on each date on which a Group Structure Chart is delivered pursuant to paragraph (f) of Clause 18.4 (Information: miscellaneous) and by reference to the Group Structure Chart then delivered.
- (c) Each of the representations set out in Clauses 17.9 (No default), 17.10 (No misleading information), 17.11(a) and (b) (Financial statements) and 17.19 (Group Structure Chart) are deemed to be made by each Borrower by reference to the facts and circumstances then existing on each Syndication Date.

## **18. INFORMATION UNDERTAKINGS**

The undertakings in this Clause 18 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

### **18.1 Financial statements**

Each Borrower shall supply to the Agent in sufficient copies for all the Lenders:

- (a) as soon as the same become available, but in any event within 180 days after the end of each of the Parent's financial years, the audited consolidated financial statements of the Parent for that financial year;
- (b) as soon as the same become available, but in any event within 120 days after the end of each quarter of each of its Parent's financial years, the consolidated financial statements of the Parent for that financial quarter;
- (c) as soon as the same become available, but in any event within 180 days after the end of each of an Additional Borrower's financial years, the audited non-consolidated financial statements of that Additional Borrower for that financial year; and
- (d) if supplied or to be supplied to any other creditor of an Additional Borrower or if made publicly available, as soon as the same is so supplied or made publicly available, but in any event within 120 days after the end of each half-year and/or quarter of each of an Additional Borrower's financial years, the unaudited non-consolidated financial statements of that Additional Borrower for that financial half-year and/or quarter.



A Borrower may satisfy its obligation to deliver such financial statements by providing a link to a website where the same are publicly available, provided that the Agent is able to open the link and download a copy of such financial statements.

## **18.2 Compliance Certificate**

- (a) The Parent shall supply to the Agent, with each set of financial statements delivered pursuant to paragraph (a) or (b) of Clause 18.1 (Financial statements) which relate to a period ending on the last day of a Relevant Period (as defined in Clause 19.1 (Financial definitions)), a Compliance Certificate setting out (in reasonable detail) computations as to compliance with Clause 19 (Financial Covenants) as at the date as at which those financial statements were drawn up.
- (b) Each Compliance Certificate delivered pursuant to paragraph (a) above shall be signed by one director of the Parent.

## **18.3 Requirements as to financial statements**

- (a) Each set of financial statements delivered by a Borrower pursuant to:
  - (i) Clause 18.1 (Financial statements) shall be certified by a director of the relevant Borrower as giving a true and fair view of (in the case of any such financial statements which are audited) or fairly representing (in the case of any such financial statements which are unaudited) its financial condition as at the date as at which those financial statements were drawn up; and
  - (ii) paragraph (a) and (c) of Clause 18.1 (Financial statements) shall be accompanied with an unqualified audit opinion.
- (b) Each Borrower shall procure that each set of financial statements delivered pursuant to Clause 18.1 (Financial statements) is prepared using GAAP, accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements unless, in relation to any set of financial statements, it notifies the Agent that there has been a change in GAAP, the accounting practices or reference periods and its auditors deliver to the Agent:
  - (i) a description of any change necessary for those financial statements to reflect the GAAP, accounting practices and reference periods upon which the Original Financial Statements were prepared; and
  - (ii) in respect of paragraphs (a) and (b) of Clause 18.1 (Financial statements) only, sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Lenders to determine whether Clause 19 (Financial Covenants) has been complied with and make an accurate comparison between the financial position indicated in those financial statements and the Original Financial Statements.

Any reference in this Agreement to those financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Original Financial Statements were prepared.

## **18.4 Information: miscellaneous**

The Parent shall supply to the Agent (in sufficient copies for all the Finance Parties, if the Agent so requests):

- (a) all documents dispatched by any Borrower to its shareholders (or any class of them) or its creditors generally at the same time as they are dispatched, where the matters to which such documents relate might have a Material Adverse Effect;

- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any member of the Group, and which might, if adversely determined, have a Material Adverse Effect;
- (c) promptly upon becoming aware of them, the details of any judgment or order of a court, arbitral body or agency which is made against any member of the Group, and which might have a Material Adverse Effect;
- (d) promptly, such further information regarding the financial condition, business and operations of any member of the Group as any Finance Party (through the Agent) may reasonably request;
- (e) promptly, notice of any change in authorised signatories of the Parent signed by a director or company secretary accompanied by specimen signatures of any new authorised signatories; and
- (f) promptly, any changes to the Group Structure Chart (and the Parent may satisfy its obligation under this paragraph (f) by providing a link to a website where the latest Group Structure Chart is publicly available, provided that the Agent is able to open the link and download a copy of the latest Group Structure Chart).

#### **18.5 Notification of default**

- (a) The Parent shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.
- (b) Promptly upon a request by the Agent, the Parent shall supply to the Agent a certificate signed by two of its directors or senior officers on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

#### **18.6 Use of websites**

- (a) The Parent may satisfy its obligation under this Agreement to deliver any information in relation to those Lenders (the **Website Lenders**) who accept this method of communication by posting this information onto an electronic website designated by the Parent and the Agent (the **Designated Website**) if:
  - (i) the Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;
  - (ii) both the Parent and the Agent are aware of the address of and any relevant password specifications for the Designated Website; and
  - (iii) the information is in a format previously agreed between the Parent and the Agent.

If any Lender (a **Paper Form Lender**) does not agree to the delivery of information electronically then the Agent shall notify the Parent accordingly and the Parent shall supply the information to the Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event the Parent shall supply the Agent with at least one copy in paper form of any information required to be provided by it.

- (b) The Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Parent and the Agent.
- (c) The Parent shall promptly upon becoming aware of its occurrence notify the Agent if:
  - (i) the Designated Website cannot be accessed due to technical failure;
  - (ii) the password specifications for the Designated Website change;
  - (iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;
  - (iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or
  - (v) the Parent becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

If the Parent notifies the Agent under paragraph (c)(i) or paragraph (c)(v) above, all information to be provided by the Parent under this Agreement after the date of that notice shall be supplied in paper form unless and until the Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

- (d) Any Website Lender may request, through the Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Parent shall comply with any such request within ten Business Days.

#### **18.7 “Know your customer” checks**

- (a) Each Borrower shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender (including for any Lender on behalf of any prospective new Lender)) in order for the Agent, such Lender or any prospective new Lender to conduct all “know your customer” and other similar procedures that it is required (or deems desirable) to conduct.
- (b) Each Lender shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself) in order for the Agent to conduct all “know your customer” and other similar procedures that it is required (or deems desirable) to conduct.
- (c) The Parent shall, by not less than ten Business Days’ prior written notice to the Agent, notify the Agent (which shall promptly notify the Lenders) of its intention to request that one of its Subsidiaries becomes an Additional Borrower pursuant to Clause 23 (Changes to the Borrower).
- (d) Following the giving of any notice pursuant to paragraph (c) above, if the accession of such Additional Borrower obliges the Agent or any Lender to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, the Parent shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective new Lender) in order for the Agent or such Lender or any prospective new Lender to carry out and be satisfied it has complied with all “know your customer” and other similar checks that it is required (or deems desirable) to conduct pursuant to the accession of such Subsidiary to this Agreement as an Additional Borrower.

## 19. FINANCIAL COVENANTS

The undertakings in this Clause 19 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

### 19.1 Financial definitions

In this Clause 19:

**Consolidated Cash** means, at any time, the aggregate of:

- (a) such cash and cash equivalents which have been treated as “cash and cash equivalents” in the latest published consolidated balance sheet of the Parent; and
- (b) such bank deposits which have been treated as “restricted bank deposits” in the latest published consolidated balance sheet of the Parent.

**Consolidated EBITDA** means, for any Relevant Period, the consolidated operating profits of the Parent for that Relevant Period before taxation:

- (a) before deducting any Consolidated Finance Charges;
- (b) before deducting any amount attributable to amortisation of goodwill or depreciation of tangible assets;
- (c) before taking into account any items treated as exceptional or extraordinary items; and
- (d) before taking into account any share-based compensation to the extent included in the related operating expense categories in accordance with the applicable accounting principles,

in each case, to the extent added, deducted or taken into account, as the case may be, for the purposes of determining the profits of the Parent on a consolidated basis from ordinary activities before taxation.

**Consolidated Finance Charges** means, for any Relevant Period, the aggregate amount of interest, commission, fees, discounts, prepayment penalties or premiums and other finance payments in respect of Consolidated Total Borrowings whether accrued, paid or payable and whether or not capitalised by any member of the Group in respect of that Relevant Period:

- (a) excluding any such obligations owed to any other member of the Group;
- (b) including the interest element of leasing and hire purchase payments;
- (c) including any amounts paid, payable or accrued by any member of the Group to counterparties under any interest rate hedging instrument; and
- (d) deducting any amounts paid, payable or accrued by counterparties to any member of the Group under any interest rate hedging instrument.

**Consolidated Total Assets** means, at any time, the aggregate of:

- (a) the amount of those assets of the Parent on a consolidated basis which have been treated as “total non-current assets” in the latest published consolidated balance sheet of the Parent; and
- (b) the amount of those assets of the Parent on a consolidated basis which have been treated as “total current assets” in the latest published consolidated balance sheet of the Parent.

**Consolidated Total Borrowings** means, at any time, the aggregate outstanding principal, capital or nominal amount and any fixed or minimum premium payable on prepayment or redemption of any indebtedness for or in respect of Financial Indebtedness (other than in respect of paragraph (g) of that definition) of the Parent on a consolidated basis.

**Consolidated Total Liabilities** means, at any time, the aggregate of the total liabilities of the Parent on a consolidated basis in the latest published consolidated balance sheet of the Parent.

**Consolidated Total Net Borrowings** means at any time Consolidated Total Borrowings less Consolidated Cash and short-term investments.

**Relevant Period** means each period of 12 months ending on the last day of the Parent’s financial year and each period of 12 months ending on the last day of the first half of the Parent’s financial year.

## 19.2 Financial condition

The Parent shall ensure that:

- (a) Consolidated Total Assets shall be maintained at all times at a minimum of RMB100,000,000,000;
- (b) Consolidated Total Liabilities shall at all times not exceed 80 per cent. of its Consolidated Total Assets;
- (c) Consolidated Total Net Borrowings in respect of any Relevant Period shall not be more than five times the Consolidated EBITDA for that Relevant Period; and
- (d) Consolidated EBITDA in respect of any Relevant Period shall not be less than three times the Consolidated Finance Charges for that Relevant Period.

## 19.3 Financial testing

The financial covenants set out in Clause 19.2 (Financial condition) shall be tested half-yearly by reference to the financial statements submitted by the Parent under Clause 18.1 (Financial statements):

- (a) (in respect of any testing to be conducted at the end of the financial half-year of the Parent) the financial statements delivered pursuant to paragraph (b) of Clause 18.1 (Financial statements); and
- (b) (in respect of any testing to be conducted at the end of the financial year of the Parent) the financial statements delivered pursuant to paragraph (a) of Clause 18.1 (Financial statements), and, in each case, the Compliance Certificate delivered pursuant to Clause 18.2 (Compliance Certificate) in respect of the Relevant Period.

## 20. GENERAL UNDERTAKINGS

The undertakings in this Clause 20 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

### 20.1 Authorisations

Each Borrower shall promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Agent of,

any Authorisation required to enable it to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document.

### 20.2 Compliance with laws

Each Borrower shall comply in all respects with all laws to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under the Finance Documents.

### 20.3 *Pari passu* ranking

Each Borrower shall ensure that its payment obligations under the Finance Documents will constitute its direct, unconditional, unsecured and unsubordinated obligations and will rank and continue to rank at least *pari passu* with the claims of all of its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

### 20.4 Negative pledge

In this Clause 20.4, **Quasi-Security** means an arrangement or transaction described in paragraph (b) below.

- (a) No Borrower shall (and each Borrower shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets, or over any shares or any other form of equity and economic interests in, or assets of, any other member of the Group.
- (b) No Borrower shall (and each Borrower shall ensure that no other member of the Group will):
  - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by a Borrower or any other member of the Group;
  - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
  - (iii) enter into or permit to subsist any title retention arrangement;
  - (iv) enter into or permit to subsist any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or

- (v) enter into or permit to subsist any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

(c) Paragraphs (a) and (b) above do not apply to:

- (i) any Security or Quasi-Security over or affecting any asset, shares or any other form of equity and economic interests of any member of the Group existing as at the date of this Agreement except to the extent the principal amount secured by that Security or Quasi-Security exceeds the amount outstanding as at the date of this Agreement;
- (ii) any Security or Quasi-Security created over the assets of a Borrower or the shares or any other form of equity and economic interests in, or assets of, any other member of the Group, which is extended equally and rateably to the Finance Parties to the satisfaction of the Agent (acting on the instructions of the Majority Lenders);
- (iii) any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
- (iv) any lien arising by operation of law and in the ordinary course of trading **provided that** the debt which is secured thereby is paid when due or contested in good faith by appropriate proceedings and properly provisioned;
- (v) any Security or Quasi-Security over or affecting any asset of a member of the Group created in connection with any financing provided by, amongst others, Bank of China (Shanghai) for the purpose of refinancing the acquisition of Skyscanner Holdings Limited by the relevant member of the Group;
- (vi) any Security or Quasi-Security created pursuant to any Finance Document;
- (vii) any Security or Quasi-Security arising in the ordinary course of trading of the Group and not arising as a result of any default or omission by any member of the Group;
- (viii) any Security or Quasi-Security over assets acquired after the date of this Agreement securing indebtedness the principal amount of which (when aggregated with the principal amount of any other indebtedness which has the benefit of Security or Quasi-Security given by any member of the Group other than any permitted under paragraphs (i) to (vii) above) does not exceed the lower of:
  - (A) an amount equal to 10 per cent. of Consolidated Total Assets set out in the most recent Compliance Certificate delivered pursuant to Clause 18.2 (Compliance Certificate) or, if a Compliance Certificate has not yet been delivered thereunder, in the Original Financial Statements; and
  - (B) RMB16,000,000,000 (or its equivalent in another currency or currencies);
- (ix) any Security or Quasi-Security over any assets existing as at the date of this Agreement securing indebtedness the principal amount of which (when aggregated with the principal amount of any other indebtedness which has the benefit of Security or Quasi-Security given by any member of the Group other than any permitted under paragraphs (i) to (viii)) does not exceed an amount equal to 7.5 per cent. of Consolidated Total Assets set out in the most recent Compliance Certificate delivered pursuant to Clause 18.2 (Compliance Certificate) or, if a Compliance Certificate has not yet been delivered thereunder, in the Original Financial Statements; or

- (x) any Security or Quasi-Security created over the assets of any Borrower or over the shares or any other form of equity interests in, or assets of any other member of the Group with the prior written consent of the Agent (acting on the instructions of the Majority Lenders).

## 20.5 Disposals

- (a) No Borrower shall (and the Parent shall ensure that no other member of the Group will), enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset or revenues, or enter into any agreement or arrangement to sell, lease, transfer or otherwise dispose of any assets or revenues.
- (b) Paragraph (a) above does not apply to any sale, lease, transfer or other disposal, or the entry into any agreement or arrangement in respect of a sale, lease, transfer or other disposal:
  - (i) made in the ordinary course of trading of the disposing entity at arm's length and on normal commercial terms;
  - (ii) of assets in exchange for other assets comparable or superior as to type, value and quality and for a similar purpose (other than an exchange of a non-cash asset for cash);
  - (iii) of assets:
    - (A) by any Borrower to any other Borrower; or
    - (B) by one member of the Group (other than a Borrower) to any other member of the Group (other than a Borrower);
  - (iv) of assets by any Borrower to any other member of the Group which is not a Borrower (the **Transferee**) on arm's length terms **provided that** that the Transferee will remain a member of the Group after that sale, lease, transfer or disposal; or
  - (v) made on normal commercial terms where the higher of the market value or consideration receivable (when aggregated with the higher of the market value or consideration receivable for any other sale, lease, transfer or other disposal by members of the Group, other than any permitted under paragraphs (i) to (iv) above) does not exceed 10 per cent. of the Consolidated Total Assets set out in the most recent Compliance Certificate delivered pursuant to Clause 18.2 (Compliance Certificate) or, if a Compliance Certificate has not yet been delivered thereunder, in the Original Financial Statements.

## 20.6 Mergers

No Borrower shall (and the Parent shall ensure that no other member of the Group will) enter into any amalgamation, demerger, merger or corporate reconstruction (each a **Merger**) except:

- (a) mergers between any Borrowers;
- (b) mergers between a Borrower and another member of the Group (which is not a Borrower), provided that the resulting or surviving entity is such Borrower and in the opinion of the Agent (acting on the instructions of all Lenders), the Merger will not impair the ability of any Borrower to fulfil its obligations under the Finance Documents;



(c) mergers between members of the Group (other than a Borrower) which, in the opinion of the Agent (acting on the instructions of the Majority Lenders), will not impair the ability of any Borrower to fulfil its obligations under the Finance Documents; or

(d) mergers conducted in the ordinary course of the Group's day-to-day business,

provided in each case that:

- (i) such Merger is in respect of assets or businesses in the same nature and of the same scope as the Group's business as conducted on the date of this Agreement;
- (ii) the member of the Group involved in the Merger is the surviving entity; and
- (iii) there is no Material Adverse Effect at the time or, or arising out of, such Merger.

#### **20.7 Change of business**

Each Borrower shall procure that no substantial change is made to the general nature of the business of each Borrower or the Group from that carried on at the date of this Agreement save to the extent the Group is permitted to acquire unrelated businesses pursuant to Clause 20.10 (Acquisitions).

#### **20.8 Environmental compliance**

Each Borrower shall (and the Parent shall ensure that each member of the Group will) comply in all material respects with all Environmental Law, obtain and maintain any Environmental Permits and take all reasonable steps in anticipation of known or expected future changes to or obligations under Environmental Law or any Environmental Permits save where such non-compliance could not reasonably be expected to have a Material Adverse Effect.

#### **20.9 Environmental Claims**

Each Borrower shall inform the Agent in writing as soon as reasonably practicable upon becoming aware of:

- (a) any Environmental Claim which has been commenced or (to the best of such Borrower's knowledge and belief) is threatened against any member of the Group; or
- (b) any facts or circumstances which will or might reasonably be expected to result in any Environmental Claim being commenced or threatened against any member of the Group,

in each case where such Environmental Claim might reasonably be expected, if determined against that member of the Group, to have a Material Adverse Effect.

#### **20.10 Acquisitions**

- (a) No Borrower shall (and the Parent shall procure that no member of the Group will) acquire any company, business, assets or undertaking or make any investment.
- (b) Paragraph (a) above does not apply to an acquisition or investment:
  - (i) (A) which is in respect of assets or businesses in the same nature and of the same scope as the Group's business as conducted on the date of this Agreement; and

- (B) where there is no Material Adverse Effect at the time or, or arising out of, such acquisition or investment; or
- (ii) the value of which acquisition or investment (when aggregated with the value of all other acquisitions and investments permitted under this paragraph (ii) and made in the same financial year) does not exceed an amount equal to 7.5 per cent. of the Consolidated Total Assets set out in the most recent Compliance Certificate delivered pursuant to Clause 18.2 (Compliance Certificate) or, if a Compliance Certificate has not yet been delivered thereunder, in the Original Financial Statements,

**provided that**, in each case, such acquisition or investment does not result in a breach of any Authorisation or of any other provision of this Agreement.

#### **20.11 Loans and guarantees**

- (a) No Borrower shall (and the Parent shall ensure that no other member of the Group will) make or allow to subsist any loans, grant any credit (save in the ordinary course of business) or give or allow to remain outstanding any guarantee or indemnity (except as required under any of the Finance Documents) to or for the benefit of any person other than a member of the Group or otherwise voluntarily assume any liability, whether actual or contingent, in respect of any obligation of any person.
- (b) Paragraph (a) above does not apply to any loans made or credit granted or guarantee or indemnity outstanding, so long as the aggregate principal amount of any such loans made or credit granted or in respect of which the guarantee or indemnity is given does not exceed an amount equal to 5.0 per cent. of the Consolidated Total Assets set out in the most recent Compliance Certificate delivered pursuant to Clause 18.2 (Compliance Certificate) or, if a Compliance Certificate has not yet been delivered thereunder, in the Original Financial Statements.

#### **20.12 Financial Indebtedness**

- (a) No Borrower shall (and the Parent shall ensure that no other member of the Group will) incur or permit to remain outstanding any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to:
  - (i) any Financial Indebtedness incurred pursuant to any Finance Documents; and
  - (ii) any Financial Indebtedness incurred by a member of the Group provided that following the incurrence of such Financial Indebtedness, each Borrower will remain in compliance with the obligations under Clause 19 (Financial Covenants).

#### **20.13 Use of Proceeds**

No Borrower shall, nor shall any Borrower permit or authorise any other person to, directly or indirectly, use, lend, make payments of, contribute or otherwise make available, all or any part of the proceeds of any Loan or other transaction(s) contemplated by this Agreement to fund any trade, business or other activities:

- (a) involving or for the benefit of any Restricted Party, or
- (b) in any other manner that would reasonably be expected to result in any Borrower or any Lender being in breach of any Sanctions (if and to the extent applicable to either of them) or becoming a Restricted Party.

#### **20.14 Anti-corruption Laws**

- (a) No Borrower shall directly or indirectly use the proceeds of any Facility for any purpose which would breach the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.
- (b) Each Borrower shall:
  - (i) conduct its businesses in compliance with applicable anti-corruption laws; and
  - (ii) maintain policies and procedures designed to promote and achieve compliance with such laws.
- (c) No Borrower will, directly or indirectly, authorize, offer, promise, or make payments of anything of value, including but not limited to cash, cheques, wire transfers, tangible and intangible gifts, favors, services, and those entertainment and travel expenses that go beyond what is reasonable and customary and of modest value to:
  - (i) an executive, official, employee or agent of a governmental department, agency or instrumentality;
  - (ii) a director, officer, employee or agent of a wholly or partially government-owned or controlled company or business;
  - (iii) a political party or official thereof, or candidate for political office;
  - (iv) a Foreign Public Official; or
  - (v) any other person; while knowing or having a reasonable belief that all or some portion will be used for the purpose of:
    - (A) influencing any act, decision or failure to act by any such person in his or her official capacity;
    - (B) inducing any such person to use his or her influence with a government or instrumentality to affect any act or decision of such government or entity; or
    - (C) securing an unlawful advantage; in order to obtain, retain or direct business.

#### **20.15 Application of FATCA**

Each Borrower shall ensure that it does not become a US Tax Obligor.

#### **20.16 Further assurances**

If the Finance Parties (acting through the Agent) consider this to be required, each Borrower shall immediately, at its own cost and expense take whatever actions (including without limitation, executing any documents, obtaining any approval and completing any registration, filing or recording) that any such Finance Party considers necessary in order to ensure that all and any legal and regulatory requirement applicable to the transactions contemplated under the Finance Documents are duly complied with, without prejudice to each Borrower's other representations and warranties or covenants relating to its compliance with laws and regulations in the Finance Documents.

## **20.17 Insurance**

The Group (as a whole) shall maintain insurances on and in relation to the business and assets of the Group (as a whole) against those risks and to the extent as is required by applicable laws.

## **21. EVENTS OF DEFAULT**

Each of the events or circumstances set out in the following subclauses of this Clause 21 (other than Clause 21.13 (Acceleration)) is an Event of Default.

### **21.1 Non-payment**

A Borrower does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless:

- (a) its failure to pay is caused by:
  - (i) administrative or technical error; or
  - (ii) a Disruption Event; and
- (b) payment is made within three Business Days of its due date.

### **21.2 Financial covenants**

Any requirement of Clause 19 (Financial Covenants) is not satisfied.

### **21.3 Other obligations**

- (a) A Borrower does not comply with any provision of the Finance Documents (other than those referred to in Clause 21.1 (Non-payment) and Clause 21.2 (Financial covenants)).
- (b) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within ten Business Days of the earlier of (A) the Agent giving notice to the Parent; and (B) any Borrower becoming aware of the failure to comply.

### **21.4 Misrepresentation**

Any representation or statement made or deemed to be made by a Borrower in the Finance Documents or any other document delivered by or on behalf of any Borrower under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made, unless the circumstances giving rise to the misrepresentation or misstatement:

- (a) are capable of remedy; and
- (b) are remedied within ten Business Days of the earlier of (A) the Agent giving notice of the misrepresentation or misstatement to the Parent; and (B) any Borrower becoming aware of the misrepresentation or misstatement.

### **21.5 Cross default**

- (a) Any Financial Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period.

- (b) Any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- (c) Any commitment for any Financial Indebtedness of any member of the Group is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described).
- (d) Any creditor of any member of the Group becomes entitled to declare any Financial Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).
- (e) No Event of Default will occur under this Clause 21.5 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (a) to (d) above is less than US\$100,000,000 (or its equivalent in any other currency or currencies).

#### **21.6 Insolvency**

- (a) A Borrower or any Significant Subsidiary of any Borrower is or is presumed or deemed to be unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding any Finance Party in its capacity as such) with a view to rescheduling any of its indebtedness.
- (b) The value of the assets of a Borrower or any Significant Subsidiary of any Borrower is less than its liabilities (taking into account contingent and prospective liabilities).
- (c) A moratorium is declared in respect of any indebtedness of a Borrower or any Significant Subsidiary of any Borrower.

#### **21.7 Insolvency proceedings**

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (a) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration, provisional supervision or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of a Borrower or any Significant Subsidiary of any Borrower other than a solvent liquidation or reorganisation of any member of the Group which is not a Borrower;
  - (b) a composition or arrangement with any creditor of a Borrower or any Significant Subsidiary of any Borrower, or an assignment for the benefit of creditors generally of a Borrower or any Significant Subsidiary of any Borrower or a class of such creditors;
  - (c) the appointment of a liquidator (other than in respect of a solvent liquidation of a member of the Group which is not a Borrower), receiver, administrator, administrative receiver, compulsory manager, provisional supervisor or other similar officer in respect of a Borrower or any Significant Subsidiary of any Borrower or any of its assets; or
  - (d) enforcement of any Security over any assets of a Borrower or any Significant Subsidiary of any Borrower,
- or any analogous procedure or step is taken in any jurisdiction.

Paragraph (a) above shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 14 days of commencement.

## **21.8 Creditors' process**

Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of a member of the Group which has or is reasonably likely to have a Material Adverse Effect

## **21.9 Unlawfulness**

It is or becomes unlawful for a Borrower to perform any of its obligations under the Finance Documents.

## **21.10 Repudiation**

A Borrower repudiates a Finance Document or evidences an intention to repudiate a Finance Document.

## **21.11 Cessation of business**

A Borrower suspends or ceases to carry on all or a material part of its business or of the business of the Group taken as a whole.

## **21.12 Material adverse change**

Any event or circumstance (including disruption or continuation of such circumstance) has or is reasonably likely to have a Material Adverse Effect.

## **21.13 Acceleration**

On and at any time after the occurrence of an Event of Default which is continuing the Agent may, and shall if so directed by the Majority Lenders, by notice to the Parent:

- (a) without prejudice to the participations of any Lender in any Loans then outstanding:
  - (i) cancel the Commitments (and reduce them to zero), whereupon they shall immediately be cancelled (and reduced to zero); or
  - (ii) cancel any part of any Commitment (and reduce such Commitment accordingly), whereupon the relevant part shall immediately be cancelled (and the relevant Commitment shall be immediately reduced accordingly); and/or
- (b) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or
- (c) declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders.

## **22. CHANGES TO THE LENDERS**

### **22.1 Assignments and transfers by the Lenders**

Subject to this Clause 22, a Lender (the **Existing Lender**) may:

- (a) assign any of its rights; or

(b) transfer by novation any of its rights and obligations,

under the Finance Documents to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the **New Lender**).

## 22.2 Conditions of assignment or transfer

(a) The consent of the Parent is not required for any assignment or transfer by a Lender pursuant to this Clause 22.

(b) A transfer will be effective only if the procedure set out in Clause 22.6 (Procedure for transfer) is complied with.

(c) An assignment will be effective on:

- (i) receipt by the Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Agent) that the New Lender will, in relation to the assigned rights, assume obligations to the other Parties equivalent to those it would have been under if it had been an Original Lender; and
- (ii) performance by the Agent of any “know your customer” checks or other similar checks required under any applicable law or regulation in relation to such assignment to a New Lender, the completion of which the Agent must notify to the Existing Lender and the New Lender promptly,

and only if the procedure and conditions set out in Clause 22.7 (Procedure for assignment) are complied with.

(d) If:

(i) a Lender assigns or transfers any of its rights or obligations under the Finance Documents; and

(ii) as a result of circumstances existing at the date the assignment or transfer occurs, a Borrower would be obliged to make a payment to the New Lender under Clause 13 (Increased Costs),

then, subject to paragraph (e) below, the relevant New Lender is only entitled to receive payment under that Clause to the same extent as the Existing Lender would have been if the assignment or transfer had not occurred.

(e) Paragraph (d) above does not apply to a Lender’s assignment or transfer of its rights and obligations under the Finance Documents pursuant to a Syndication Agreement.

## 22.3 Assignment or transfer fee

(a) The New Lender shall, on the date falling five Business Days prior to the date upon which an assignment or transfer takes effect, pay to the Agent (for its own account) a fee of US\$3,000.

(b) Paragraph (a) above does not apply to any assignment or transfer under a Syndication Agreement.

## 22.4 Master assignment or transfer

Without prejudice to the procedure set out in Clause 22.6 (Procedure for transfer) or Clause 22.7 (Procedure for assignment) below, a transfer or assignment may be effected by way of a syndication agreement to be entered into between, among others, the Existing Lenders, the New Lenders and the Agent which sets out the rights and obligations under the Finance Documents to be assigned or transferred, and which appoints MLABU, MLAB, Mandated Lead Arranger, Lead Arranger or Arranger roles to certain New Lenders, in lieu of a Transfer Certificate or an Assignment Agreement (a **Syndication Agreement**).

## 22.5 Limitation of responsibility of Existing Lenders

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:
- (i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;
  - (ii) the financial condition of any Borrower;
  - (iii) the performance and observance by any Borrower of its obligations under the Finance Documents or any other documents; or
  - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document, and any representations or warranties implied by law are excluded.
- (b) Each New Lender confirms to the Existing Lender and the other Finance Parties that it:
- (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Borrower and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Finance Document; and
  - (ii) will continue to make its own independent appraisal of the creditworthiness of each Borrower and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.
- (c) Nothing in any Finance Document obliges an Existing Lender to:
- (i) accept a re-transfer or re-assignment from a New Lender of any of the rights and obligations assigned or transferred under this Clause 22; or
  - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Borrower of its obligations under the Finance Documents or otherwise.

## 22.6 Procedure for transfer

- (a) Subject to the conditions set out in Clause 22.2 (Conditions of assignment or transfer), a transfer is effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender by not later than five Business Days prior to the proposed transfer effective date. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.



- (b) The Agent shall not be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender unless it is satisfied that it has completed all “know your customer” and other similar procedures that it is required (or deems desirable) to conduct in relation to the transfer to such New Lender.
- (c) On the Transfer Date:
  - (i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents each of the Borrowers and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents shall be cancelled (being the **Discharged Rights and Obligations**);
  - (ii) each of the Borrowers and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Borrower and the New Lender have assumed and/or acquired the same in place of that Borrower and the Existing Lender;
  - (iii) each Administrative Party, the New Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and to that extent each Administrative Party and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and
  - (iv) the New Lender shall become a Party as a “Lender”.
- (d) The procedure set out in this Clause 22.6 shall not apply to any right or obligation under any Finance Document (other than this Agreement) if and to the extent its terms, or any laws or regulations applicable thereto, provide for or require a different means of transfer of such right or obligation or prohibit or restrict any transfer of such right or obligation, unless such prohibition or restriction shall not be applicable to the relevant transfer or each condition of any applicable restriction shall have been satisfied.

#### 22.7 Procedure for assignment

- (a) Subject to the conditions set out in Clause 22.2 (Conditions of assignment or transfer), an assignment may be effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender by not later than five Business Days prior to the proposed transfer effective date. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.
- (b) The Agent shall not be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender unless it is satisfied that it has completed all “know your customer” and other similar procedures that it is required (or deems desirable) to conduct in relation to the assignment to such New Lender.

- (c) On the Transfer Date:
- (i) the Existing Lender will assign absolutely to the New Lender the rights under the Finance Documents expressed to be the subject of the assignment in the Assignment Agreement;
  - (ii) the Existing Lender will be released by the Borrowers and the other Finance Parties from the obligations owed by it (the **Relevant Obligations**) and expressed to be the subject of the release in the Assignment Agreement;
  - (iii) the New Lender shall become a Party as a “Lender” and will be bound by obligations equivalent to the Relevant Obligations;
  - (iv) if the assignment relates only to part of the Existing Lender’s participation in the outstanding Loans that part will be separated from the Existing Lender’s participation in the outstanding Loans, made an independent debt and assigned to the New Lender as a whole debt; and
  - (v) the Agent’s execution of the Assignment Agreement as agent for the Borrowers will constitute notice to the Borrowers of the assignment.
- (d) Lenders may utilise procedures other than those set out in this Clause 22.7 to assign their rights under the Finance Documents (but not, without the consent of the relevant Borrower or unless in accordance with Clause 22.6 (Procedure for transfer), to obtain a release by that Borrower from the obligations owed to that Borrower by the Lenders nor the assumption of equivalent obligations by a New Lender) **provided that** they comply with the conditions set out in Clause 22.2 (Conditions of assignment or transfer).
- (e) The procedure set out in this Clause 22.7 shall not apply to any right or obligation under any Finance Document (other than this Agreement) if and to the extent its terms, or any laws or regulations applicable thereto, provide for or require a different means of assignment of such right or release or assumption of such obligation or prohibit or restrict any assignment of such right or release or assumption of such obligation, unless such prohibition or restriction shall not be applicable to the relevant assignment, release or assumption or each condition of any applicable restriction shall have been satisfied.

#### **22.8 Copy of Transfer Certificate or Assignment Agreement to Parent**

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or an Assignment Agreement, send to the Parent a copy of that Transfer Certificate or Assignment Agreement.

#### **22.9 Existing consents and waivers**

A New Lender shall be bound by any consent, waiver, election or decision given or made by the relevant Existing Lender under or pursuant to any Finance Document prior to the coming into effect of the relevant assignment or transfer to such New Lender.

#### **22.10 Exclusion of Agent’s liability**

In relation to any assignment or transfer pursuant to this Clause 22, each Party acknowledges and agrees that the Agent shall not be obliged to enquire as to the accuracy of any representation or warranty made by a New Lender in respect of its eligibility as a Lender.

## 22.11 Universal Succession (Assignments and Transfers)

If a Lender is to be merged with any other person by universal succession, such Lender shall, at its own cost within 45 days of that merger provide to the Agent:

- (a) an original or certified true copy of a legal opinion issued by a qualified legal counsel practising law in its jurisdiction of incorporation confirming that all such Lender's assets, rights and obligations generally have been duly vested in the succeeding entity who has succeeded to all relationships as if those assets, rights and obligations had been originally acquired, incurred or entered into by the succeeding entity; and
- (b) an original or certified true copy of a written confirmation by either the Lender's legal counsel or such other legal counsel acceptable to the Agent and for the benefit of the Agent (in its capacity as agent of the Lenders) that the laws of Hong Kong and of the jurisdiction in which the Facility Office of such Lender is located recognise such merger by universal succession under the relevant foreign laws,

whereupon a transfer and novations of all such Lender's assets, rights and obligations to its succeeding entity shall have been, or be deemed to have been, duly effected as at the date of the said merger.

If such Lender, in a universal succession, does not comply with the requirements under this Clause 22.11, the Agent has the right to decline to recognise the succeeding entity and demand such Lender and the succeeding entity to either sign and deliver a Transfer Certificate to the Agent evidencing the disposal of all rights and obligations of such Lender to that succeeding entity, or provide or enter into such documents, or make such arrangements acceptable to the Agent (acting on the advice of the Lender's legal counsel (any legal costs so incurred shall be borne by the relevant Lender)) in order to establish that all rights and obligations of the relevant Lender under this Agreement have been transferred to and assumed by the succeeding entity.

## 22.12 Security over Lenders' rights

In addition to the other rights provided to Lenders under this Clause 22, each Lender may without consulting with or obtaining consent from any Borrower, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including:

- (a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and
- (b) any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment or Security shall:

- (i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security for the Lender as a party to any of the Finance Documents; or
- (ii) require any payments to be made by any Borrower other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the relevant Lender under the Finance Documents.

## **23. CHANGES TO THE BORROWERS**

### **23.1 Assignments and transfers by Borrower**

No Borrower may assign any of its rights or transfer any of its rights or obligations under the Finance Documents, except with the prior written consent of all the Lenders.

### **23.2 Additional Borrowers**

- (a) Subject to compliance with the provisions of paragraphs (c) and (d) of Clause 18.7 (“Know your customer” checks), the Parent may request that any of its wholly-owned Subsidiaries becomes an Additional Borrower. That Subsidiary shall become an Additional Borrower if:
- (i) all the Lenders approve the addition of that Subsidiary;
  - (ii) the Parent delivers to the Agent a duly completed and executed Accession Letter;
  - (iii) the Parent confirms that no Default is continuing or would occur as a result of that Subsidiary becoming an Additional Borrower; and
  - (iv) the Agent has received all of the documents listed in and appearing to comply with the requirements of Part 2 of Schedule 2 (Conditions Precedent), in relation to that Additional Borrower. The Agent shall notify the Parent and the Lenders promptly upon receiving such documents and other evidence.
- (b) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (b) above, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

### **23.3 Resignation of a Borrower**

- (a) The Parent may request that a Borrower (other than the Parent) ceases to be a Borrower by delivering to the Agent a Resignation Letter.
- (b) The Agent shall accept a Resignation Letter and notify the Parent and the Lenders of its acceptance if:
- (i) no Default is continuing or would result from the acceptance of the Resignation Letter (and the Parent has confirmed this is the case); and
  - (ii) the relevant Borrower is under no actual or contingent obligations as a Borrower under any Finance Documents,
- whereupon that company shall cease to be a Borrower and shall have no further rights or obligations under the Finance Documents.

### **23.4 Repetition of Representations**

Delivery of an Accession Letter constitutes confirmation by the relevant Subsidiary that the Repeating Representations are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

## **24. ROLE OF THE ADMINISTRATIVE PARTIES AND THE REFERENCE BANKS**

### **24.1 Appointment of the Agent**

- (a) Each Finance Party (other than the Agent) appoints the Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each Finance Party (other than the Agent) authorises the Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

### **24.2 Instructions**

- (a) The Agent shall:
  - (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by:
    - (A) all Lenders if the relevant Finance Document stipulates the matter is an all-Lender decision; and
    - (B) in all other cases, the Majority Lenders; and
  - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above.
- (b) The Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Lender or group of Lenders, from that Lender or group of Lenders) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion. The Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested.
- (c) Save in the case of decisions stipulated to be a matter for any other Lender or group of Lenders under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.
- (d) The Agent may refrain from acting in accordance with any instructions of any Lender or group of Lenders until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions.
- (e) In the absence of instructions, the Agent may act (or refrain from acting) as it considers in its discretion to be appropriate.
- (f) The Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.

- (g) The Agent shall act on the instructions of a Lender provided in connection with any split of its Commitment under Clause 32.6 (Split voting) and shall not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with such instructions.

### **24.3 Duties of the Agent**

- (a) The Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (b) Subject to paragraph (c) below, the Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Agent for that Party by any other Party.
- (c) Without prejudice to Clause 22.8 (Copy of Transfer Certificate or Assignment Agreement to Parent), paragraph (b) above shall not apply to any Transfer Certificate or any Assignment Agreement.
- (d) Except where a Finance Document specifically provides otherwise, the Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (e) If the Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
- (f) If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than to any Administrative Party) under this Agreement, it shall promptly notify the other Finance Parties.
- (g) The Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

### **24.4 Role of the MLABUs, the MLABs, the Mandated Lead Arrangers, the Lead Arrangers and the Arrangers**

Except as specifically provided in the Finance Documents, the MLABUs, the MLABs, the Mandated Lead Arrangers, the Lead Arrangers and the Arrangers has no obligations of any kind to any other Party under or in connection with any Finance Document.

### **24.5 No fiduciary duties**

- (a) Nothing in any Finance Document constitutes any Administrative Party as a trustee or fiduciary of any other person.
- (b) No Administrative Party shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

### **24.6 Regulatory position**

Nothing in this Agreement shall require the Agent to carry on an activity of the kind specified by any provision of Part 1 of Schedule 5 of the Securities and Futures Ordinance (Cap. 571) of the laws of Hong Kong, or to lend money to any Borrower in its capacity as the Agent.

### **24.7 Money held as banker**

The Agent shall be entitled to deal with money paid to it by any person for the purposes of this Agreement in the same manner as other money paid to a banker by its customers except that it shall not be liable to account to any person for any interest or other amounts in respect of the money.

#### **24.8 Business with the Group**

Any Administrative Party may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

#### **24.9 Abatement of fees**

The fees, commissions and expenses payable to the Agent for services rendered and the performances of its obligations under this Agreement shall not be abated by any remuneration or other amounts or profits receivable by the Agent (or by any of its associates) in connection with any transaction effected by the Agent with or for the Lenders or the Borrowers.

#### **24.10 Rights and discretions of the Agent**

- (a) The Agent may:
- (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised and shall have no duty to verify any signature on any document;
  - (ii) assume that:
    - (A) any instructions received by it from the Majority Lenders, any Lender or any group of Lenders are duly given in accordance with the terms of the Finance Documents; and
    - (B) unless it has received notice of revocation, those instructions have not been revoked; and
  - (iii) rely on a certificate from any person:
    - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
    - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.
- (b) The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
- (i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 21.1 (Non-payment)); and
  - (ii) any right, power, authority or discretion vested in any Party or any group of Lenders has not been exercised.
- (c) The Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.

- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Agent (and so separate from any lawyers instructed by the Lenders) if the Agent in its reasonable opinion deems this to be necessary.
- (e) The Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (f) The Agent may act in relation to the Finance Documents through its officers, employees and agents.
- (g) Unless a Finance Document expressly provides otherwise the Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.
- (h) Notwithstanding any other provision of any Finance Document to the contrary, no Administrative Party is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (i) Notwithstanding any provision of any Finance Document to the contrary, the Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

#### **24.11 Responsibility for documentation**

No Administrative Party is responsible or liable for:

- (a) the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by any Administrative Party, any Borrower or any other person given in or in connection with any Finance Document or the Information Memorandum or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; or
- (c) any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

#### **24.12 No duty to monitor**

The Agent shall not be bound to enquire:

- (a) whether or not any Default has occurred;
- (b) as to the performance, default or any breach by any Party of its obligations under any Finance Document; or
- (c) whether any other event specified in any Finance Document has occurred.



### 24.13 Exclusion of liability

- (a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Agent), the Agent will not be liable for:
- (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct;
  - (ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document, other than by reason of its gross negligence or wilful misconduct; or
  - (iii) without prejudice to the generality of paragraphs (i) and (ii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including for negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) arising as a result of:
    - (A) any act, event or circumstance not reasonably within its control; or
    - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,  
including (in each case) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.
- (b) No Party (other than the Agent) may take any proceedings against any officer, employee or agent of the Agent in respect of any claim it might have against the Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of the Agent may rely on this Clause 24 subject to Clause 1.3 (Third party rights) and the provisions of the Third Parties Ordinance.
- (c) The Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Agent if the Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.
- (d) Nothing in this Agreement shall oblige any Administrative Party to conduct:
- (i) any “know your customer” or other procedures in relation to any person; or
  - (ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Lender or for any Affiliate of any Lender,

on behalf of any Lender and each Lender confirms to each Administrative Party that it is solely responsible for any such procedures or check it is required to conduct and that it shall not rely on any statement in relation to such procedures or check made by any Administrative Party.

- (e) Without prejudice to any provision of any Finance Document excluding or limiting the Agent's liability, any liability of the Agent arising under or in connection with any Finance Document shall be limited to the amount of actual loss which has been suffered (as determined by reference to the date of default of the Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Agent at any time which increase the amount of that loss. In no event shall the Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Agent has been advised of the possibility of such loss or damages.
- (f) The provisions of this Clause 24.13 shall survive the termination or expiry of this Agreement or the resignation or removal of the Agent.

#### **24.14 Lenders' indemnity to the Agent**

- (a) Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Agent, within three Business Days of demand, against any cost, loss or liability (including for negligence, in relation to any FATCA-related liability or any other category of liability whatsoever) incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 26.10 (Disruption to payment systems etc.), notwithstanding the Agent's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) in acting as Agent under the Finance Documents (unless the Agent has been reimbursed by the Parent pursuant to a Finance Document).
- (b) The indemnity given by each of the Lenders under or in connection with this Agreement is a continuing obligation, independent of each of the Lenders' other obligations under or in connection with this Agreement or any other Finance Document and survives after this Agreement is terminated. It is not necessary for a person to pay any amount or incur any expense before enforcing an indemnity under or in connection with this Agreement or any other Finance Document.

#### **24.15 Resignation of the Agent**

- (a) The Agent may resign and appoint one of its Affiliates as successor by giving notice to the Lenders and the Parent. If the Agent is removed by the Majority Lenders, it shall be at the cost of the Lenders.
- (b) Alternatively, the Agent may resign by giving 30 days' notice to the Lenders and the Parent, in which case the Majority Lenders (after consultation with the Borrower) may appoint a successor Agent.
- (c) If the Majority Lenders have not appointed a successor Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the retiring Agent (after consultation with the Borrower) may appoint a successor Agent.
- (d) The retiring Agent shall make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
- (e) The Agent's resignation notice shall only take effect upon the appointment of a successor.

- (f) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (d) above) but shall remain entitled to the benefit of Clause 15.3 (Indemnity to the Agent) and this Clause 24 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations among themselves as they would have had if such successor had been an original Party.
- (g) After consultation with the Parent, the Majority Lenders may, by notice to the Agent, require it to resign in accordance with paragraph (b) above. In this event, the Agent shall resign in accordance with paragraph (b) above.
- (h) The Agent may resign in accordance with paragraph (b) above if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Agent under the Finance Documents:
  - (i) the Agent fails to respond to a request under Clause 12.1 (FATCA information) and the Parent or a Lender reasonably believes that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
  - (ii) the information supplied by the Agent pursuant to Clause 12.1 (FATCA information) indicates that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
  - (iii) the Agent notifies the Parent and the Lenders that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date,and (in each case) the Parent or a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Agent were a FATCA Exempt Party, and the Parent or that Lender, by notice to the Agent, requires it to resign.

#### **24.16 Confidentiality**

- (a) In acting as agent for the Finance Parties, the Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent shall not be deemed to have notice of it.
- (c) The Agent shall not be obliged to disclose to any Finance Party any information supplied to it by the Parent or any Affiliates of the Parent on a confidential basis and for the purpose of evaluating whether any waiver or amendment is or may be required or desirable in relation to any Finance Document.

#### **24.17 Relationship with the Lenders**

- (a) The Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:
  - (i) entitled to or liable for any payment due under any Finance Document on that day; and
  - (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day, unless it has received not less than five Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

- (b) Any Lender may by notice to the Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under Clause 28 (Notices)) electronic mail address and/or any other information required to enable the transmission of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, fax number, electronic mail address (or such other information), department and officer by that Lender for the purposes of Clause 28 (Notices) and the Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.

#### **24.18 Credit appraisal by the Lenders**

Without affecting the responsibility of any Borrower for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to each Administrative Party that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (c) whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (d) the adequacy, accuracy and/or completeness of the Information Memorandum and any other information provided by the Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document.

#### **24.19 Agent's management time**

Any amount payable to the Agent under Clause 15.3 (Indemnity to the Agent), Clause 16 (Costs and Expenses) and Clause 24.14 (Lenders' indemnity to the Agent) shall include the cost of utilising the Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Agent may notify to the Parent and the Lenders, and is in addition to any fee paid or payable to the Agent under Clause 11 (Fees).

#### **24.20 Deduction from amounts payable by the Agent**

If any Party owes an amount to the Agent under the Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

#### 24.21 Role of Reference Banks

- (a) No Reference Bank is under any obligation to provide a quotation or any other information to the Agent.
- (b) No Reference Bank will be liable for any action taken by it under or in connection with any Finance Document, or for any Reference Bank Quotation, unless directly caused by its gross negligence or wilful misconduct.
- (c) No Party (other than the relevant Reference Bank) may take any proceedings against any officer, employee or agent of any Reference Bank in respect of any claim it might have against that Reference Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, or to any Reference Bank Quotation, and any officer, employee or agent of each Reference Bank may rely on this Clause 24.21 subject to Clause 1.3 (Third party rights) and the provisions of the Third Parties Ordinance.

#### 24.22 Third party Reference Banks

A Reference Bank which is not a Party may rely on Clause 24.21 (Role of Reference Banks), Clause 32.3 (Other exceptions) and Clause 34 (Confidentiality of Funding Rates and Reference Bank Quotations) subject to Clause 1.3 (Third party rights) and the provisions of the Third Parties Ordinance.

### 25. SHARING AMONG THE FINANCE PARTIES

#### 25.1 Payments to Finance Parties

If a Finance Party (a **Recovering Finance Party**) receives or recovers (whether by set-off or otherwise) any amount from a Borrower other than in accordance with Clause 26 (Payment Mechanics) (a **Recovered Amount**) and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery to the Agent;
- (b) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 26 (Payment Mechanics), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (the **Sharing Payment**) equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 26.5 (Partial payments).

#### 25.2 Redistribution of payments

The Agent shall treat the Sharing Payment as if it had been paid by the relevant Borrower and distribute it between the Finance Parties (other than the Recovering Finance Party) (the **Sharing Finance Parties**) in accordance with Clause 26.5 (Partial payments) towards the obligations of that Borrower to the Sharing Finance Parties.

### 25.3 Recovering Finance Party's rights

- (a) On a distribution by the Agent under Clause 25.2 (Redistribution of payments) of a payment received by a Recovering Finance Party from a Borrower, as between the relevant Borrower and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by that Borrower.
- (b) If and to the extent that the Recovering Finance Party is not able to rely on its rights under paragraph (a) above, the relevant Borrower shall be liable to the Recovering Finance Party for a debt equal to the Sharing Payment which is immediately due and payable.

### 25.4 Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Sharing Finance Party shall, upon request of the Agent, pay to the Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the **Redistributed Amount**); and
- (b) at the time of the request by the Agent under paragraph (a) above, the Sharing Finance Party will be subrogated to the rights of the Recovering Finance Party in respect of the relevant Redistributed Amount; and
- (c) if and to the extent that the Sharing Finance Party is not able to rely on its rights under paragraph (b) above as between the relevant Borrower and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Borrower.

### 25.5 Exceptions

- (a) This Clause 25 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause 25 have a valid and enforceable claim against the relevant Borrower.
- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
  - (i) it notified that other Finance Party of the legal or arbitration proceedings; and
  - (ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

## **26. PAYMENT MECHANICS**

### **26.1 Payments to the Agent**

- (a) On each date on which a Party is required to make a payment under a Finance Document, that Party shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency and with such bank as the Agent, in each case, specifies.

### **26.2 Distributions by the Agent**

- (a) Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 26.3 (Distributions to a Borrower) and Clause 26.4 (Clawback and pre-funding) be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Agent by not less than five Business Days' notice with a bank specified by that Party in the principal financial centre of the country of that currency.
- (b) The Agent shall distribute payments received by it in relation to all or any part of a Loan to the Lender indicated in the records of the Agent as being so entitled on that date **provided that** the Agent is authorised to distribute payments to be made on the date on which any transfer becomes effective pursuant to Clause 22 (Changes to the Lenders) to the Lender so entitled immediately before such transfer took place regardless of the period to which such sums relate.

### **26.3 Distributions to a Borrower**

The Agent may (with the consent of the relevant Borrower or in accordance with Clause 27 (Set-off)) apply any amount received by it for that Borrower in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Borrower under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

### **26.4 Clawback and pre-funding**

- (a) Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) Unless paragraph (c) below applies, if the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.
- (c) If the Agent has notified the Lenders that it is willing to make available amounts for the account of a Borrower before receiving funds from the Lenders then if and to the extent that the Agent does so but it proves to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to the Borrower:
  - (i) the Agent shall notify the Parent of that Lender's identity and the Borrower to whom that sum was made available shall on demand refund it to the Agent; and

- (ii) the Lender by whom those funds should have been made available or, if that Lender fails to do so, the Borrower to whom that sum was made available shall on demand pay to the Agent the amount (as certified by the Agent) which will indemnify the Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.

#### **26.5 Partial payments**

- (a) If the Agent receives a payment that is insufficient to discharge all the amounts then due and payable by a Borrower under the Finance Documents, the Agent shall apply that payment towards the obligations of that Borrower under the Finance Documents in the following order:
  - (i) **first**, in or towards payment pro rata of any unpaid amount owing to any Administrative Party under the Finance Documents;
  - (ii) **secondly**, in or towards payment pro rata of any accrued interest, fee (other than as provided in paragraph (i) above) or commission due but unpaid under the Finance Documents;
  - (iii) **thirdly**, in or towards payment pro rata of any principal due but unpaid under this Agreement; and
  - (iv) **fourthly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.
- (b) The Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (a)(iv) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by a Borrower.

#### **26.6 No set-off by Borrower**

All payments to be made by a Borrower under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

#### **26.7 Business Days**

- (a) Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement, interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

#### **26.8 Currency of account**

- (a) A repayment of a Loan or Unpaid Sum or part of a Loan or Unpaid Sum will be made in the currency in which that Loan or Unpaid Sum is denominated under this Agreement on its due date.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.



## **26.9 Change of currency**

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
- (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Borrower); and
  - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Market and otherwise to reflect the change in currency.

## **26.10 Disruption to payment systems etc.**

If either the Agent determines (in its discretion) that a Disruption Event has occurred or the Agent is notified by the Parent that a Disruption Event has occurred:

- (a) the Agent may, and shall if requested to do so by the Parent, consult with the Parent with a view to agreeing with the Parent such changes to the operation or administration of the Facilities as the Agent may deem necessary in the circumstances;
- (b) the Agent shall not be obliged to consult with the Parent in relation to any changes mentioned in paragraph (a) above if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) the Agent may consult with the Finance Parties in relation to any changes mentioned in paragraph (a) above but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;
- (d) any such changes agreed upon by the Agent and the Parent shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 32 (Amendments and Waivers);
- (e) the Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 26.10; and
- (f) the Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

## **27. SET-OFF**

A Finance Party may set off any matured obligation due from a Borrower under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Borrower, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

## **28. NOTICES**

### **28.1 Communications in writing**

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by electronic mail ("email") (including scanned copies of executed documents and other attachments), fax or letter.

### **28.2 Addresses**

The email address, address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

- (a) in the case of the Parent, that identified with its name below;
- (b) in the case of each Lender or any Additional Borrower, that notified in writing to the Agent on or prior to the date on which it becomes a Party; and
- (c) in the case of the Agent, that identified with its name below,

or any substitute email address, address, fax number or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days' notice.

### **28.3 Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will be effective:
  - (i) if by way of email, only when received in legible form by at least one of the relevant email addresses of the person(s) to whom the communication is made;
  - (ii) if by way of posting by any Party on a Deal Site, on the earlier of (A) one Business Day after such communication is posted on the Deal Site and (B) receipt by the Agent of acknowledgement from the Deal Site that such communication has been posted
  - (iii) if by way of fax, only when received in legible form; or
  - (iv) if by way of letter, only when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address;

and, if a particular department or officer is specified as part of its address details provided under Clause 28.2 (Addresses), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Agent will be effective only when actually received by the Agent and then only if it is sent to the correct email address(es) or, in the case of a fax or a letter, expressly marked for the attention of the department or officer identified with the Agent's signature below (or any substitute department or officer as the Agent shall specify for this purpose).

- (c) All notices from or to a Borrower shall be sent through the Agent.
- (d) Any communication or document made or delivered to the Parent in accordance with this Clause will be deemed to have been made or delivered to each of the Borrowers.
- (e) Any communication or document which becomes effective, in accordance with paragraphs (a) to (d) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

#### **28.4 Use of Deal Site by the Agent**

- (a) The Agent may elect that:
  - (i) any Borrower may satisfy its obligations under this Agreement to deliver any information to the Agent;
  - (ii) any Lender may satisfy its obligations under this Agreement to deliver any information to the Agent; and/or
  - (iii) the Agent may satisfy its obligations under this Agreement to deliver any information to any Borrower or any Lender, by posting such information on an electronic website designated by the Agent for such purpose (the **Deal Site**) by notifying each such affected Borrower and Lender of its intention that such Deal Site be used for such purpose (whereupon each such Borrower or Lender or the Agent may so satisfy such obligations).
- (b) Any costs and expenses incurred by the Agent in relation to the Deal Site shall be for the account of the Parent. If applicable, each Borrower consents to the use of its logo on the Deal Site.
- (c) The Agent shall, at its discretion or upon request of the relevant Party, disclose the website (or other electronic) address of and any relevant password specifications for the Deal Site (**Access Information**) to one or more officers, directors, employees or other representatives (**Representatives**) of each Party that the Agent has elected to deliver information to or receive information from through the Deal Site.
- (d) Each Party using the Deal Site agrees to:
  - (i) keep all Access Information confidential and not to disclose it to anyone, other than such of its Representatives as it has requested the Agent to provide Access Information to; and
  - (ii) ensure that all persons to whom they give access can properly receive the information available on the Deal Site, including (in the case of a Lender) under Clause 33.2 (Disclosure of Confidential Information).
- (e) If the Deal Site is not available for any reason, promptly following this being brought to its attention, the Agent shall provide communications to the affected Parties by another means as contemplated by this Clause 28. A Party will notify the Agent promptly if it is (despite being in receipt of the relevant Access Information) unable to access or use the Deal Site or if it becomes aware that the Deal Site is or has been infected by an electronic virus or similar software.

- (f) Each of the Parties agrees that:
  - (i) the Agent shall not be liable for any cost, loss or liability incurred by any Party as a result of its access or use of the Deal Site or its inability to access or use the Deal Site; and
  - (ii) the Agent is under no obligation to monitor access to or the availability of the Deal Site.
- (g) The Agent may terminate a Deal Site at any time. If such termination occurs whilst amounts remain outstanding under the Facilities the Agent shall (unless such termination arises as a result of technical failure of the Deal Site (including as a result of infection by an electronic virus or similar software) or as a result of a concern as to the security and confidentiality of the Deal Site), if reasonably practicable, give not less than one day's prior notice to each affected Party of such termination.

#### **28.5 English language**

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
  - (i) in English; or
  - (ii) if not in English, and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

### **29. CALCULATIONS AND CERTIFICATES**

#### **29.1 Accounts**

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

#### **29.2 Certificates and determinations**

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

#### **29.3 Day count convention**

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the Relevant Market differs, in accordance with that market practice.

### **30. PARTIAL INVALIDITY**

If, at any time, any provision of a Finance Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

### 31. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under a Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any of the Finance Documents. No election to affirm any Finance Document on the part of any Finance Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law and may be waived only in writing and specifically.

### 32. AMENDMENTS AND WAIVERS

#### 32.1 Required consents

- (a) Subject to Clause 32.2 (All-Lender matters) and Clause 32.3 (Other exceptions), any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Borrowers' Agent (in accordance with Clause 2.6 (Borrowers' Agent) and paragraph (c) below) and any such amendment or waiver will be binding on all Parties.
- (b) The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 32.
- (c) Without prejudice to the other provisions of this Agreement, each Borrower agrees to any such amendment or waiver permitted by this Clause 32 which is agreed to by the Borrowers' Agent. This includes any amendment or waiver which would, but for this paragraph (c), require the consent of all of the Borrowers.

#### 32.2 All-Lender matters

An amendment or waiver of any term of any Finance Document that has the effect of changing or which relates to:

- (a) the definition of **Majority Lenders** in Clause 1.1 (Definitions);
- (b) the receipt of the documents and other evidence specified in Clause 4.1 (Initial conditions precedent);
- (c) subject to paragraph (b)(i) of Clause 32.3 (Other exceptions), an extension to the date of payment of any amount under the Finance Documents;
- (d) advancing the date of payment of all or any part of any Loan;
- (e) paragraph (e) of Clause 7.4 (Voluntary cancellation);
- (f) paragraph (e) of Clause 7.6 (Voluntary prepayment of Loans);
- (g) subject to paragraph (b)(ii) of Clause 32.3 (Other exceptions), a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;
- (h) a change in currency of payment of any amount under the Finance Documents;
- (i) an increase in any Commitment, an extension of any Availability Period or any requirement that a cancellation of Commitments reduces the Commitments of the Lenders rateably under the relevant Facility;

- (j) a change to the Borrowers other than in accordance with Clause 23 (Changes to the Borrower);
- (k) any provision which expressly requires the consent of all the Lenders; or
- (l) Clause 2.5 (Finance Parties' rights and obligations), Clause 5.1 (Delivery of a Utilisation Request), Clause 7.1 (Illegality), Clause 7.2 (Change of control), Clause 7.9 (Application of prepayments), Clause 22 (Changes to the Lenders), Clause 23 (Changes to the Borrower), Clause 25 (Sharing among the Finance Parties), this Clause 32, Clause 36 (Governing Law), or Clause 37.1 (Jurisdiction of Hong Kong courts),

shall not be made without the prior consent of all the Lenders.

### 32.3 Other exceptions

- (a) An amendment or waiver which relates to the rights or obligations of an Administrative Party or a Reference Bank (each in their capacity as such) may not be effected without the consent of that Administrative Party or that Reference Bank, as the case may be.
- (b) Any amendment or waiver of any term of any Finance Document that has the effect of changing or which relates to:
  - (i) an extension to the date of payment of any amount (including principal and interest) under the Finance Documents in respect of a Utilisation or a Facility; or
  - (ii) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable in respect of a Utilisation or a Facility,

may only be made in accordance with this Clause 32 with the prior consent of all the Lenders under that Utilisation or Facility (and, for the avoidance of doubt, shall not require the consent of Lenders under any other Utilisation or Facility).

- (c) Any amendment or waiver of any term of any Finance Document that has the effect of changing or which relates to:
  - (i) any changes to the date of payment of any amount under the Finance Documents in respect of a Utilisation or a Facility, other than those contemplated under paragraph (b)(i) above and paragraph (d) of Clause 32.2; or
  - (ii) any changes to the Margin or the amount of any payment of principal, interest, fees or commission payable in respect of a Utilisation or a Facility, other than those contemplated under paragraph (b)(ii) above,

may be made in accordance with this Clause 32 with the prior consent of the Tranche-specific Majority Lenders.

For the purposes of this paragraph (c), the term **Tranche-specific Majority Lenders** means, in relation to a Facility or a Utilisation in respect of a Facility, at any time, a Lender or Lenders:

- (a) whose Commitments then aggregate  $66\frac{2}{3}$  per cent. or more of the Total Commitments under that Facility; or

- (b) if the Total Commitments under that Facility have been reduced to zero, whose Commitments aggregated  $66\frac{2}{3}$  per cent. or more of those Total Commitments immediately before the reduction.

#### **32.4 Replacement of Screen Rate**

- (a) Subject to Clause 32.3 (Other exceptions), if a Screen Rate Replacement Event has occurred in relation to any Screen Rate for a currency which can be selected for a Loan, any amendment or waiver which relates to:
    - (i) providing for the use of a Replacement Benchmark in relation to that currency in place of (or in addition to) that Screen Rate; and
    - (ii)
      - (A) aligning any provision of any Finance Document to the use of that Replacement Benchmark;
      - (B) enabling that Replacement Benchmark to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable that Replacement Benchmark to be used for the purposes of this Agreement);
      - (C) implementing market conventions applicable to that Replacement Benchmark;
      - (D) providing for appropriate fallback (and market disruption) provisions for that Replacement Benchmark; or
      - (E) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),
- may be made with the consent of the Agent (acting on the instructions of the Majority Lenders) and the Parent.

#### **32.5 Excluded Commitments**

If any Lender fails to respond to a request for a consent, waiver, amendment of or in relation to any term of any Finance Document (other than a consent, waiver, amendment referred to in paragraphs (c), (d) or (i) of Clause 32.2 (All-Lender matters) or Clause 32.4 (Replacement of Screen Rate)) or any other vote of Lenders, in each case in respect of any portion of its Commitment under the terms of this Agreement within 15 Business Days of that request being made, unless the Parent and the Agent agree to a longer time period in relation to such request:

- (a) the portion of its Commitment(s) in respect of which it failed to respond shall not be included for the purpose of calculating the Total Commitments under the relevant Facility when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Total Commitments has been obtained to approve that request; and

- (b) its status as a Lender in respect of the portion of its Commitment(s) in respect of which it failed to respond shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

### 32.6 Split voting

- (a) For the purposes of responding (or failing to respond) to a request for a consent, waiver, amendment of or in relation to any term of any Finance Document or any other vote of the Lenders under the terms of this Agreement, a Lender may split its Commitment into any number of portions and may respond (or fail to respond) or otherwise exercise its rights in respect of each such individual portion on a several basis.
- (b) If a Lender exercises its rights under paragraph (a) above in respect of any part of its Commitment, such Lender shall notify the Agent of the portions into which it has split its Commitment.

## 33. CONFIDENTIAL INFORMATION

### 33.1 Confidentiality

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 33.2 (Disclosure of Confidential Information) and Clause 33.3 (Disclosure to numbering service providers), and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

### 33.2 Disclosure of Confidential Information

Any Finance Party may disclose:

- (a) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, partners, insurers, insurance brokers, service providers and Representatives, head office and branch offices (together with such Finance Party, the **Permitted Parties**) such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
  - (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Agent and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
  - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Borrowers and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;



- (iii) appointed by any Finance Party or by a person to whom paragraph (i) or (ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including any person appointed under paragraph (b) of Clause 24.17 (Relationship with the Lenders));
- (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (i) or (ii) above;
- (v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
- (vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
- (vii) to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 22.12 (Security over Lenders' rights);
- (viii) who is a Party; or
- (ix) with the consent of the Parent;

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

- (A) in relation to paragraphs (i), (ii) and (iii) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
  - (B) in relation to paragraph (iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information; or
  - (C) in relation to paragraphs (v), (vi) and (vii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Finance Party or by a person to whom paragraph (b)(i) or (b)(ii) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Parent and the relevant Finance Party;

- (d) to any rating agency (including its professional advisers and brokers) of a Permitted Party such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Borrowers if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information; and
- (e) to any direct or indirect provider of credit protection to any Permitted Party (or its brokers).

### **33.3 Disclosure to numbering service providers**

- (a) Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, the Facilities and/or one or more Borrowers the following information:
  - (i) names of the Borrowers;
  - (ii) country of domicile of Borrowers;
  - (iii) place of incorporation of Borrowers;
  - (iv) date of this Agreement;
  - (v) Clause 36 (Governing Law);
  - (vi) the names of the Agent, any MLABU, any MLAB and any Mandated Lead Arranger ;
  - (vii) date of each amendment and restatement of this Agreement;
  - (viii) amounts of, and names of, the Facilities (and any tranches);
  - (ix) amount of Total Commitments;
  - (x) currency of the Facilities
  - (xi) type of Facilities;
  - (xii) ranking of Facilities;
  - (xiii) Final Repayment Date for Facilities;
  - (xiv) changes to any of the information previously supplied pursuant to paragraphs (i) to (xiii) above; and
  - (xv) such other information agreed between such Finance Party and the Parent,to enable such numbering service provider to provide its usual syndicated loan numbering identification services.
- (b) The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facilities and/or one or more Borrowers by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.

- (c) Each Borrower represents that none of the information set out in paragraphs (a)(i) to (a)(xv) above is, nor will at any time be, unpublished price-sensitive information.
- (d) The Agent shall notify the Parent and the other Finance Parties of:
  - (i) the name of any numbering service provider appointed by the Agent in respect of this Agreement, the Facilities and/or the Borrower; and
  - (ii) the number or, as the case may be, numbers assigned to this Agreement, the Facilities and/or one or more Borrowers by such numbering service provider.

#### **33.4 Entire agreement**

This Clause 33 constitutes the entire agreement between the Parties in relation to the obligations of the Finance Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

#### **33.5 Inside information**

Each of the Finance Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Finance Parties undertakes not to use any Confidential Information for any unlawful purpose.

#### **33.6 Notification of disclosure**

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Parent:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(v) of Clause 33.2 (Disclosure of Confidential Information) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 33.

#### **33.7 Continuing obligations**

The obligations in this Clause 33 are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of 12 months from the earlier of:

- (a) the date on which all amounts payable by the Borrowers under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Finance Party otherwise ceases to be a Finance Party.

## 34. CONFIDENTIALITY OF FUNDING RATES AND REFERENCE BANK QUOTATIONS

### 34.1 Confidentiality and disclosure

- (a) The Agent and each Borrower agree to keep each Funding Rate (and, in the case of the Agent, each Reference Bank Quotation) confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b), (c) and (d) below.
- (b) The Agent may disclose:
- (i) any Funding Rate (but not, for the avoidance of doubt, any Reference Bank Quotation) to the relevant Borrower pursuant to Clause 8.4 (Notification of rates of interest); and
  - (ii) any Funding Rate or any Reference Bank Quotation to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Agent and the relevant Lender or Reference Bank, as the case may be.
- (c) The Agent may disclose any Funding Rate or any Reference Bank Quotation, and each Borrower may disclose any Funding Rate, to:
- (i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives if any person to whom that Funding Rate or Reference Bank Quotation is to be given pursuant to this paragraph (i) is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or Reference Bank Quotation or is otherwise bound by requirements of confidentiality in relation to it;
  - (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the Borrowers, as the case may be, it is not practicable to do so in the circumstances;
  - (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the Borrowers, as the case may be, it is not practicable to do so in the circumstances; and
  - (iv) any person with the consent of the relevant Lender or Reference Bank, as the case may be.
- (d) The Agent's obligations in this Clause 34 relating to Reference Bank Quotations are without prejudice to its obligations to make notifications under Clause 8.4 (Notification of rates of interest) **provided that** (other than pursuant to paragraph (b)(i) above) the Agent shall not include the details of any individual Reference Bank Quotation as part of any such notification.

### **34.2 Related obligations**

- (a) The Agent and each Borrower acknowledge that each Funding Rate (and, in the case of the Agent, each Reference Bank Quotation) is or may be price-sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Agent and each Borrower undertake not to use any Funding Rate or, in the case of the Agent, any Reference Bank Quotation for any unlawful purpose.
- (b) The Agent and each Borrower agree (to the extent permitted by law and regulation) to inform the relevant Lender or Reference Bank, as the case may be:
  - (i) of the circumstances of any disclosure made pursuant to paragraph (c)(ii) of Clause 34.1 (Confidentiality and disclosure) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
  - (ii) upon becoming aware that any information has been disclosed in breach of this Clause 34.

### **34.3 No Event of Default**

No Event of Default will occur under Clause 21.3 (Other obligations) by reason only of a Borrower's failure to comply with this Clause 34.

### **35. COUNTERPARTS**

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

### **36. GOVERNING LAW**

This Agreement is governed by the laws of Hong Kong.

### **37. ENFORCEMENT**

#### **37.1 Jurisdiction of Hong Kong courts**

- (a) The courts of Hong Kong have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including any dispute regarding the existence, validity or termination of this Agreement) (a **Dispute**).
- (b) The Parties agree that the courts of Hong Kong are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 37.1 is for the benefit of the Finance Parties only. As a result, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

### 37.2 Service of process

Without prejudice to any other mode of service allowed under any relevant law, each Borrower (other than a Borrower incorporated in Hong Kong):

- (a) irrevocably appoints Ctrip.com (Hong Kong) Limited ( ) as its agent for service of process in relation to any proceedings before the Hong Kong courts in connection with any Finance Document; and
- (b) agrees that failure by a process agent to notify the relevant Borrower of the process will not invalidate the proceedings concerned.

Each Borrower expressly agrees and consents to the provisions of this Clause 37.2.

### 37.3 Waiver of immunities

Each Borrower irrevocably waives, to the extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from:

- (a) suit;
- (b) jurisdiction of any court;
- (c) relief by way of injunction or order for specific performance or recovery of property;
- (d) attachment of its assets (whether before or after judgment); and
- (e) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any proceedings in the courts of any jurisdiction (and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any immunity in any such proceedings).

**THIS AGREEMENT** has been entered into on the date stated at the beginning of this Agreement.

Parent

TRIP.COM GROUP LIMITED

By: /s/ Authorized Signatory

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**Original Mandated Lead Arranger, Bookrunner and Underwriter**

**STANDARD CHARTERED BANK (HONG KONG) LIMITED**

By: /s/ Authorized Signatory

**Original Lender**

**STANDARD CHARTERED BANK (HONG KONG) LIMITED**

By: /s/ Authorized Signatory



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**Original Mandated Lead Arranger, Bookrunner and Underwriter**

**INDUSTRIAL AND COMMERCIAL BANK OF CHINA (MACAU) LIMITED**

By: /s/ Authorized Signatory

**Original Lender**

**INDUSTRIAL AND COMMERCIAL BANK OF CHINA (MACAU) LIMITED**

By: /s/ Authorized Signatory

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**Original Mandated Lead Arranger, Bookrunner and Underwriter**

**CHINA CONSTRUCTION BANK (ASIA)  
CORPORATION LIMITED**

By: /s/ Authorized Signatory

**Original Lender**

**CHINA CONSTRUCTION BANK (ASIA)  
CORPORATION LIMITED**

By: /s/ Authorized Signatory

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**Original Mandated Lead Arranger and Bookrunner**

**BANK OF COMMUNICATIONS CO., LTD.  
HONG KONG BRANCH**

By: /s/ Authorized Signatories

**Original Lender**

**BANK OF COMMUNICATIONS CO., LTD.  
HONG KONG BRANCH**

By: /s/ Authorized Signatories

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**Original Mandated Lead Arranger**

**BANK OF COMMUNICATIONS CO., LTD.  
SHANGHAI MUNICIPAL BRANCH CHANGNING  
SUB-BRANCH**

By: /s/ Authorized Signatory

**Original Lender**

**BANK OF COMMUNICATIONS CO., LTD.  
SHANGHAI MUNICIPAL BRANCH CHANGNING  
SUB-BRANCH**

By: /s/ Authorized Signatory

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**Agent**

**STANDARD CHARTERED BANK (HONG KONG)  
LIMITED**

By: /s/ Authorized Signatory

**Trip.com Group Limited****List of Significant Consolidated Entities****Significant Subsidiaries\***

C-Travel International Limited, a Cayman Islands company  
Ctrip.com (Hong Kong) Limited, a Hong Kong company  
Ctrip Computer Technology (Shanghai) Co., Ltd., a PRC company  
Ctrip Travel Information Technology (Shanghai) Co., Ltd., a PRC company  
Ctrip Travel Network Technology (Shanghai) Co., Ltd., a PRC company  
Wancheng (Shanghai) Travel Agency Co., Ltd., a PRC company  
Shanghai Hecheng International Travel Agency Co., Ltd., a PRC company  
Skyscanner Holdings Limited, a UK company  
Shanghai Ctrip International Travel Agency Co., Ltd., a PRC company  
Chengdu Ctrip International Travel Service Co., Ltd., a PRC company  
Chengdu Information Technology Co., Ltd., a PRC company  
Qunar Cayman Islands Limited, a Cayman Islands company  
Beijing Qunar Software Technology Co., Ltd., a PRC company

**Significant Consolidated Affiliated Chinese Entities\***

Shanghai Ctrip Commerce Co., Ltd., a PRC company  
Shanghai Huacheng Southwest International Travel Agency Co., Ltd., a PRC company  
Chengdu Ctrip Travel Agency Co., Ltd., a PRC company  
Beijing Qu Na Information Technology Co., Ltd., a PRC company

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\*Other consolidated entities of Trip.com Group Limited have been omitted from this list since, considered in the aggregate as a single entity, they would not constitute a significant subsidiary.

**Certification by the Chief Executive Officer  
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Jane Jie Sun, certify that:

1. I have reviewed this annual report on Form 20-F of Trip.com Group Limited. (the "Company");
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in this report;
4. The Company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Company and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the Company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the Company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting; and
5. The Company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company's auditors and the audit committee of the Company's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting.

Date: April 9, 2020

By: /s/ Jane Jie Sun

Name: Jane Jie Sun

Title: Chief Executive Officer

**Certification by the Chief Financial Officer  
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Cindy Xiaofan Wang, certify that:

1. I have reviewed this annual report on Form 20-F of Trip.com Group Limited (the “Company”);
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in this report;
4. The Company’s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Company and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the Company’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the Company’s internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the Company’s internal control over financial reporting; and
5. The Company’s other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company’s auditors and the audit committee of the Company’s board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company’s ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Company’s internal control over financial reporting.

Date: April 9, 2020

By: /s/ Cindy Xiaofan Wang

Name: Cindy Xiaofan Wang

Title: Chief Financial Officer



**Certification by the Chief Executive Officer  
Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the Annual Report of Trip.com Group Limited (the "Company") on Form 20-F for the year ended December 31, 2019 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Jane Jie Sun, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: April 9, 2020

By: /s/ Jane Jie Sun

Name: Jane Jie Sun

Title: Chief Executive Officer

**Certification by the Chief Financial Officer  
Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the Annual Report of Trip.com Group Limited (the "Company") on Form 20-F for the year ended December 31, 2019 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Cindy Xiaofan Wang, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: April 9, 2020

By: /s/ Cindy Xiaofan Wang

Name: Cindy Xiaofan Wang

Title: Chief Financial Officer

Our ref           KKZ/302248-000002/16449551v2  
Direct tel       +852 3690 7432  
Email           Karen.ZhangPallaras@maples.com

Trip.com Group Limited  
968 Jin Zhong Road  
Shanghai 200335  
People's Republic of China

9 April 2020

**Dear Sir and/or Madam**

Trip.com Group Limited (the "Company")

We consent to the reference to our firm under the heading "Taxation" in the Company's Annual Report on Form 20-F for the year ended December 31, 2019, which will be filed with the Securities and Exchange Commission in the month of April 2020 and further consent to the incorporation by reference of the summary of our opinion under this heading into the Company's registration statement on Form S-8 (No. 333-116567, No. 333-136264, No. 333-146761, No. 333-218899 and No. 333-230297) that were filed on June 17, 2004, August 3, 2006, October 17, 2007, June 22, 2017 and March 15, 2019, respectively, and into the Company's registration statement on Form F-3 (No. 333-233938) that was filed on September 25, 2019.

Yours faithfully

/s/ Maples and Calder (Hong Kong) LLP  
Maples and Calder (Hong Kong) LLP

通商律師事務所

COMMERCE & FINANCE LAW OFFICES

北京市中關村大街12號1201室 60100022

6/F, NCI Tower, A12 Jianguomenwai Avenue, Beijing 100022, China

☎ Tel: +86 10 6569 3399 ☎ Fax: +86 10 6569 3838

✉ Email: beijing@tongshang.com 🌐 Web: www.tongshang.com

April 9, 2020

**Trip.com Group Limited**

968 Jin Zhong Road

Shanghai 200335

People's Republic of China

Dear Sirs,

We consent to the reference to our firm under the headings “Key Information — Risk Factors,” “Information on the Company — Business Overview — PRC Government Regulations,” “Major Shareholders and Related Party Transactions — Related Party Transactions” and “Financial Statements — Notes to the Consolidated Financial Statements” in Trip.com Group Limited’s Annual Report on Form 20-F for the year ended December 31, 2019, which will be filed with the Securities and Exchange Commission in the month of April 2020, and further consent to the incorporation by reference of the summaries of our opinions under these captions into Trip.com Group Limited’s Registration Statements on Form S-8 (No. 333-116567, No. 333-136264, No. 333-146761, No. 333-218899 and No. 333-230297) that were filed on June 17, 2004, August 3, 2006, October 17, 2007 and June 22, 2017 and March 15, 2019, respectively, and Trip.com Group Limited’s Registration Statement on Form F-3 (No. 333-233938) that was filed on September 25, 2019.

Yours faithfully,

/s/ Commerce & Finance Law Offices

Commerce & Finance Law Offices

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We hereby consent to the incorporation by reference in the Registration Statements on Form S-8 (No. 333-116567, No. 333-136264, No. 333-146761, No. 333-218899, No. 333-230297) and in the Registration Statement on Form F-3 (No. 333-233938) of Trip.com Group Limited of our report dated April 9, 2020 relating to the financial statements and the effectiveness of internal control over financial reporting, which appears in this Annual Report on Form 20-F.

/s/ PricewaterhouseCoopers Zhong Tian LLP

PricewaterhouseCoopers Zhong Tian LLP

Shanghai, People's Republic of China

April 9, 2020