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As filed with the Securities and Exchange Commission on October 4, 2016

Registration No. 333-

## SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

### Form F-1

REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

## GDS Holdings Limited

(Exact name of Registrant as specified in its charter)

<b>Cayman Islands</b> (State or Other Jurisdiction of Incorporation or Organization)	<b>7370</b> (Primary Standard Industrial Classification Code Number)	<b>Not Applicable</b> (I.R.S. Employer Identification Number)
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+86-21-2033-0303

(Address and Telephone Number of Registrant's Principal Executive Offices)

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Approximate date of commencement of proposed sale to the public:  
As soon as practicable after the effective date of this registration statement.

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

#### CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Proposed Maximum Aggregate Offering Price <sup>(3)</sup>	Amount of Registration Fee
Class A ordinary shares, par value US\$0.00005 per share <sup>(1)(2)</sup>	US\$200,000,000	US\$23,180

(1) American depositary shares, or ADSs, issuable upon deposit of the Class A ordinary shares registered hereby will be registered under a separate registration statement on Form F-6 (Registration No. 333- ). Each ADS represents Class A ordinary shares.

(2) Includes Class A ordinary shares represented by ADSs initially offered and sold outside the United States that may be resold from time to time in the United States either as part of the distribution or within 40 days after the later of the effective date of this registration statement and the date the securities are first bona fide offered to the public.

(3) Estimated solely for the purpose of computing the amount of the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended.

The Registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to such Section 8(a), may determine.

The information in this preliminary prospectus is not complete and may be changed. These securities may not be sold until the registration statement filed with the United States Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell nor does it seek an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

Subject to Completion. Dated \_\_\_\_\_, 2016.

## American Depositary Shares GDS Holdings Limited

### Representing \_\_\_\_\_ Class A Ordinary Shares

This is an initial public offering of shares of American depositary shares, or ADSs, each representing \_\_\_\_\_ Class A ordinary shares of GDS Holdings Limited, or GDS Holdings.

GDS Holdings is offering \_\_\_\_\_ ADSs to be sold in this offering.

Prior to this offering, there has been no public market for the ADSs or our shares. It is currently estimated that the initial public offering price per ADS will be between US\$ \_\_\_\_\_ and US\$ \_\_\_\_\_. We have applied to list the ADSs on the NASDAQ Global Market under the symbol "GDS."

We are an "emerging growth company" under applicable United States federal securities laws and are eligible for reduced public company reporting requirements.

See "Risk Factors" on page 16 to read about factors you should consider before buying the ADSs.

Neither the United States Securities and Exchange Commission nor any other regulatory body has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.

	Per ADS	Total
Initial public offering price	US\$ _____	US\$ _____
Underwriting discount	US\$ _____	US\$ _____
Proceeds, before expenses, to GDS Holdings	US\$ _____	US\$ _____

Upon the completion of this offering, we will pay a cumulative preference dividend to existing holders of our preferred shares. The dividend will be paid partly with the issuance of new ordinary shares and partly in cash using a portion of the proceeds from this offering. See "Prospectus Summary—The Offering—Preference Dividend" and "Dividend Policy" for more information.

To the extent that the underwriters sell more than \_\_\_\_\_ ADSs, the underwriters have the option to purchase up to an additional \_\_\_\_\_ ADSs from GDS at the initial public offering price less the underwriting discount.

The underwriters expect to deliver the ADSs against payment in New York, New York on \_\_\_\_\_, 2016.

Upon completion of this offering, our outstanding share capital will consist of Class A ordinary shares and Class B ordinary shares. Holders of Class A ordinary shares and Class B ordinary shares have the same rights except for voting rights, director nomination rights and conversion rights. With respect to (i) the election of a simple majority of our directors and (ii) any change to our articles of association that would adversely affect the rights of the holders of Class B ordinary shares, at general meetings of our shareholders, each Class A ordinary share is entitled to one vote, and each Class B ordinary share is entitled to 20 votes. With respect to any other matters at general meetings of our shareholders, each Class A ordinary share is entitled to one vote, and each Class B ordinary share is entitled to one vote. Class B ordinary shares are convertible into Class A ordinary shares. Immediately after the completion of this offering, Mr. William Wei Huang, our founder, chairman and chief executive officer, will beneficially own 100% of the Class B ordinary shares issued and outstanding. For so long as there are Class B ordinary shares outstanding, the holders of Class B ordinary shares will also have the right to nominate one less than a simple majority, or five, of the directors to our board of directors, which directors shall be subject to the voting arrangements described above. In addition, pursuant to our articles of association as we expect them to be amended and become effective upon the completion of this offering, STT GDC, one of our principal shareholders, will have the right to appoint certain directors and the Class B shareholders will have the right to nominate certain directors to our board of directors for so long as each of them holds certain percentages of our issued share capital. See "Description of Share Capital."

(in alphabetical order)

**Credit Suisse**

**J.P. Morgan**

**Citi**

**RBC Capital Markets**

**China Renaissance**

**Credit Agricole CIB**

Prospectus dated \_\_\_\_\_, 2016.



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No dealer, salesperson or other person is authorized to give any information or to represent as to anything not contained in this prospectus or in any free writing prospectus we may authorize to be delivered or made available to you. You must not rely on any unauthorized information or representations. This prospectus is an offer to sell, and we are seeking offers to buy, only the ADSs offered hereby, and only under circumstances and in jurisdictions where it is lawful to do so. The information contained in this prospectus is current only as of its date, regardless of the time of delivery of this prospectus or any sale of the ADSs.

Neither we nor the underwriters have done anything that would permit this offering or the possession or distribution of this prospectus or any filed free writing prospectus in any jurisdiction where other action for that purpose is required, other than in the United States. Persons outside the United States who come into possession of this prospectus or any free writing prospectus filed with the United States Securities and Exchange Commission, or SEC, must inform themselves about, and observe any restrictions relating to, the offering of the ADSs and the distribution of this prospectus or any filed free writing prospectus outside of the United States.

Until \_\_\_\_\_, 2016 (the 25th day after the date of this prospectus), all dealers that buy, sell or trade ADSs, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the obligation of dealers to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

## PROSPECTUS SUMMARY

*This summary highlights selected information contained in greater detail elsewhere in this prospectus. This summary may not contain all of the information that you should consider before investing in our ADSs. You should carefully read the entire prospectus, including "Risk Factors" and the financial statements, before making an investment decision.*

### Overview

We are a leading developer and operator of high-performance data centers in China. Our facilities are strategically located in China's primary economic hubs where demand for high-performance data center services is concentrated. Our data centers have large net floor area, high power capacity, density and efficiency, and multiple redundancy across all critical systems. We are carrier and cloud neutral, which enables our customers to connect to all major PRC telecommunications carriers, and to access a number of the largest PRC cloud service providers, whom we host in our facilities. We offer colocation and managed services, including a unique and innovative managed cloud value proposition. We have a 15-year track record of service delivery, successfully fulfilling the requirements of some of the largest and most demanding customers for outsourced data center services in China. Our base of over 300 customers consists predominantly of large Internet companies, financial institutions, telecommunications and IT service providers, and large domestic private sector and multinational corporations. As of June 30, 2016, we had an aggregate net floor area of 48,548 sqm in service, 90.8% of which was committed, and an aggregate net floor area of 31,794 sqm under construction. According to 451 Research, an independent research firm, we are the largest service provider in the high-performance carrier-neutral data center services market in China, with 19.7% market share as measured by area committed as of December 31, 2015.

The market for high-performance data center services in China is experiencing strong growth. According to 451 Research, the market is expected to increase from US\$1.5 billion in 2015 to US\$2.4 billion in 2018, representing a compound annual growth rate, or CAGR, of 16.6%. Over the same period, the high-performance carrier-neutral data center services market in China is expected to grow with a higher CAGR of 20.5%. Demand is driven by the confluence of several secular economic and industry trends, including: rapid growth of the Internet, e-commerce and big data; rising adoption of cloud computing and server virtualization, which requires data centers with higher power capacity, density and efficiency; increasing criticality of information technology and data in the enterprise environment which requires data centers with higher reliability; and growing reliance by enterprises on outsourcing as a solution to the increasing complexity and cost of managing mission-critical IT infrastructure. We believe that, as a result of this strong demand and the challenges of sourcing, developing and operating new facilities that meet the required standard, there is a relative scarcity of high-performance data center capacity in China. According to 451 Research, as of December 31, 2015, when comparing the ratio of square meters of colocation area in service to GDP, the U.S. had a ratio of 207 sqm per US\$1 billion in GDP, while China only had a ratio of 107.

Our portfolio of data centers and secured expansion capacity are strategically located to address this growing demand. We operate our data centers to service our customers predominantly in Shanghai, Beijing, Shenzhen, Guangzhou and Chengdu, the primary financial, commercial, industrial and communications hubs in each region of China. According to 451 Research, approximately 90% of the market in terms of revenue for high-performance data center services in China was concentrated in these markets in 2015. We have also established a presence in Hong Kong which we believe is another important market for our customers. Our data centers are located in close proximity to the corporate headquarters and key operation centers of many large enterprises, providing convenient access for our customers. Furthermore, the extensive multi-carrier telecommunications networks in these markets enable our customers to enhance the performance and lower the cost of connectivity to our facilities.

Our data centers are large-scale, highly reliable and highly efficient facilities that provide a flexible, modular and secure operating environment in which our customers can house, power and cool the

computer systems and networking equipment that support their mission-critical IT infrastructure. We install large power capacity and optimize power usage efficiency, which enables our customers to deploy their IT infrastructure more efficiently and reduce their operating and capital costs. As a result of our advanced data center design, high technical specifications and robust operating procedures, we are able to make service level commitments related to service availability and other key metrics that meet our customers' required standards.

We currently serve over 300 customers, including large Internet companies, a diverse community of approximately 140 financial institutions, telecommunications and IT service providers and large domestic private sector and multinational corporations, many of which are leaders in their respective industries. Within our customer base, we host a number of major cloud service providers, including Aliyun, the cloud computing unit of Alibaba, which is present in several of our data centers. Contracts with our large Internet customers typically have terms of three to six years, while contracts with our enterprise customers typically have terms of one to five years. We achieved an average retention rate of over 95% per annum among our Internet and financial institution customers for colocation services in our current data centers over the past two years.

As of June 30, 2016, we operated eight self-developed data centers with an aggregate net floor area of 39,781 sqm in service. We also operated capacity at approximately ten third-party data centers with an aggregate net floor area of 8,767 sqm in service, which we lease on a wholesale basis and use to provide colocation and managed services to our customers. As of the same date, we had a further five new self-developed data centers and one phase of an existing data center with an aggregate net floor area of 31,794 sqm under construction. In addition, we had an estimated aggregate developable net floor area in excess of 20,000 sqm held for future development. Our net revenue and results of operations are largely determined by the degree to which data center space is committed or pre-committed as well as its utilization. We had commitment rates of 76.3%, 87.5% and 90.8% as of December 31, 2014 and 2015 and June 30, 2016, respectively. We had utilization rates of 57.7%, 59.1% and 66.2% as of December 31, 2014 and 2015 and June 30, 2016, respectively. The difference between commitment rate and utilization rate is primarily attributable to customers who have entered into agreements but have not yet started to use revenue generating services.

Our net revenue grew from RMB468.3 million in 2014 to RMB703.6 million (US\$105.9 million) in 2015, representing an increase of 50.2%, and increased from RMB304.8 million in the six months ended June 30, 2015 to RMB447.1 million (US\$67.3 million) in the same period in 2016, representing an increase of 46.7%. Our adjusted EBITDA increased from RMB38.0 million in 2014 to RMB164.7 million (US\$24.8 million) in 2015, and increased from RMB73.8 million in the six months ended June 30, 2015 to RMB100.6 million (US\$15.1 million) in the same period in 2016. Our net loss decreased from RMB130.0 million in 2014 to RMB98.6 million (US\$14.8 million) in 2015. Our net loss increased from RMB47.3 million in the six months ended June 30, 2015 to RMB154.2 million (US\$23.2 million) in the same period in 2016. As of December 31, 2015 and June 30, 2016, our accumulated deficit was RMB582.3 million (US\$87.6 million) and RMB736.5 million (US\$110.8 million), respectively.

Since June 30, 2016, we have entered into agreements or received other confirmations from a number of customers to provide data center services, which, after all final agreements are signed, will lead to an additional area committed of approximately 14,000 sqm.

On September 30, 2016, we entered into a memorandum of understanding with a property development company for the lease of three data center shell buildings to be built-to-suit in phases on a site in the Waigaoqiao Free Trade Zone in close proximity to our existing data centers. Once the built-to-suit lease agreements are finalized, we expect these buildings to provide us with over 30,000 sqm of data center net floor area.

#### **Our Strengths**

We believe that the following strengths contribute to our success and differentiate us from our competitors:

- large-scale, high-performance data centers strategically located in China's key markets;
- first-mover with a proven track record and reputation for operational excellence;
- well-established and rapidly expanding relationships with large and fast growing customers;
- large secured expansion capacity and proven ability to source and develop additional data centers;
- unique value proposition in managed cloud services that complements our core colocation services; and
- visionary and experienced management team supported by sophisticated strategic investors.

#### **Our Strategies**

We aim to capitalize on the attractive growth opportunities in the data center services market in China. We intend to achieve our goal through the following strategies:

- expand our unique portfolio of strategically located high-performance data centers;
- pursue balanced sourcing strategy to maintain continuous competitive supply;
- increase market share by attracting new customers and leveraging customer relationships;
- capitalize on rising adoption of cloud computing in China; and
- continue to focus relentlessly on operational excellence and capital efficiency.

#### **Our Challenges**

Our business and successful execution of our strategies are subject to certain challenges, risks and uncertainties including:

- a potential slowdown in the demand for data center resources or managed services;
- our ability to manage the growth of our operations and successfully implement our expansion plan;
- our capacity to generate capital to meet our anticipated capital requirements while managing our existing indebtedness;
- the possibility that we will continue to incur net losses;
- the potential for a significant or prolonged failure in the data center facilities we operate or services we provide;
- our ability to attract new customers and retain existing customers; and
- our ability to compete effectively.

In addition, we face risks and uncertainties related to our corporate structure and regulatory environment in China, including:

- regulations on foreign investment restriction and value added telecommunications services, according to which we may have been non-compliant in the past;
- risks associated with our control over our consolidated variable interest entities, or VIEs, in China, which is based on contractual arrangements rather than equity ownership; and
- changes in the political and economic policies of the PRC government.

We also face other risks and uncertainties that may materially affect our business, financial conditions, results of operations and prospects. You should consider the risks discussed in "Risk Factors" and elsewhere in this prospectus before investing in our ADSs.

### Our Corporate Structure

We are an exempted company and were incorporated in the Cayman Islands in 2006. We own 100% of the shares in EDC Holding Limited, or EDC Holding, an exempted company also incorporated in the Cayman Islands, through which we indirectly hold 100% of the equity interests in holding companies in Hong Kong, many of which own our data centers through one or more PRC entities. We refer to these PRC companies as our data center companies. Through EDC Holding we also indirectly hold 100% of the equity interests in Shanghai Free Trade Zone GDS Management Co., Ltd., or GDS Management Company.

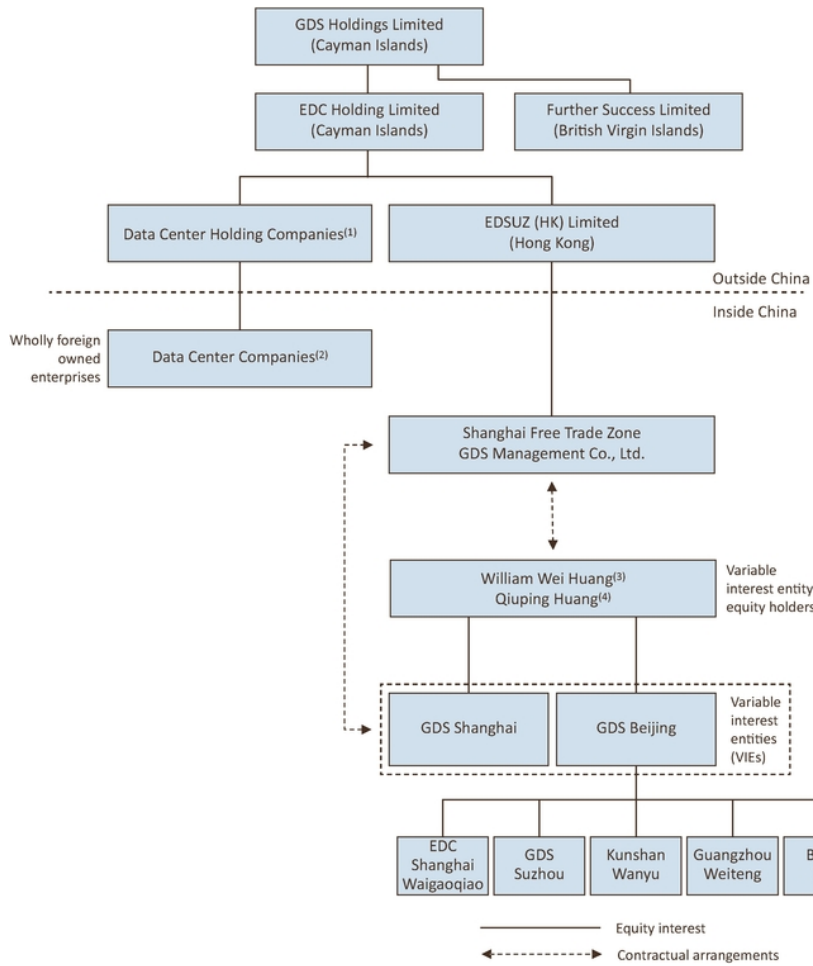
Due to PRC regulations that limit foreign equity ownership of entities providing value-added telecommunications services, or VATS, to 50%, and the inclusion of Internet data center services, or IDC services, within the scope of VATS, we conduct a substantial part of our operations in China through contractual arrangements among GDS Management Company, our data center companies, and two VIEs that hold licenses required to operate our business, Beijing Wanguo Chang'an Science & Technology Co., Ltd., or GDS Beijing, and Shanghai Shu'an Data Services Co., Ltd., or GDS Shanghai, and their shareholders. As a result of these contractual arrangements, we control GDS Shanghai, GDS Beijing and its subsidiaries, including Shanghai Waigaoqiao EDC Technology Co., Ltd., or EDC Shanghai Waigaoqiao, Global Data Solutions Co., Ltd., or GDS Suzhou, Kunshan Wanyu Data Service Co., Ltd., or Kunshan Wanyu, Guangzhou Weiteng Construction Co., Ltd., or Guangzhou Weiteng and Beijing Wanguo Yixin Science & Technology Co., Ltd., or Beijing Yixin, and have consolidated the financial information of these VIEs in our consolidated financial statements in accordance with generally accepted accounting principles in the United States, or U.S. GAAP. We, through GDS Beijing, acquired all of the equity interest in Guangzhou Weiteng in May 2016 from a third party for an aggregate purchase price of RMB129.5 million (US\$19.5 million), subject to adjustment, if any, pursuant to the terms of conditions of the equity purchase agreement.

In 2003, some of our principal shareholders, including our founder, Mr. William Wei Huang, established Global Data Solutions Limited, a Cayman Islands exempted company. In 2001, Further Success Limited, or FSL, a limited liability company established in the British Virgin Islands and currently a direct wholly owned subsidiary of GDS Holdings acquired Global Data Solutions Co., Ltd., or GDS Suzhou, which was established by third parties in 2000. In 2006, GDS Beijing and GDS Holdings were established under the laws of the PRC and Cayman Islands, respectively. In 2009, we underwent restructuring with respect to GDS Beijing, which became a consolidated VIE. In 2010, GDS Suzhou was relocated from Shenzhen to Suzhou. In 2014, GDS Shanghai, which was established in 2011, also became a consolidated VIE.

Three of our principal shareholders, STT GDC Pte Ltd, or STT GDC (a wholly owned subsidiary of Singapore Technologies Telemedia Pte Ltd, or ST Telemedia), SBCVC Holdings Limited (SBCVC), and Mr. William Wei Huang, our founder, chairman and chief executive officer, currently own or exercise voting and investment control over approximately 45.1%, 18.1% and 13.6% (including ordinary shares (i) underlying share options exercisable within 60 days beneficially owned by Mr. Huang, and (ii) underlying convertible bonds convertible within 60 days beneficially owned by STT GDC), respectively, of our outstanding ordinary shares (assuming the conversion of our preferred shares into ordinary shares), and approximately %, % and %, respectively, of our outstanding ordinary shares immediately after this offering, assuming no exercise by the underwriters of options to purchase additional ADSs, and accordingly, will exert significant influence and control over important corporate matters that require shareholder approval. See "Risk Factors—Risks Related to Our Corporate Structure—Our corporate actions are substantially controlled by our principal shareholders, including our founder, chairman and chief executive officer, William Wei Huang, who have the ability to control or exert significant influence over important corporate matters that require approval of shareholders, which may deprive you of an opportunity to receive a premium for your ADSs and materially reduce the value of your investment."

The following diagram illustrates our corporate structure as of the date of this prospectus. It omits certain entities that are immaterial to our results of operations, business and financial condition. Equity interests depicted in this diagram are held as to 100%. The relationships between each of GDS Shanghai and GDS Beijing and GDS Management Company as illustrated in this diagram are governed by contractual arrangements and do not constitute equity ownership.





- (1) Includes 13 subsidiaries and consolidated entities (aside from EDSUZ (HK) Limited, shown above) incorporated in Hong Kong, seven of which hold our PRC-incorporated data center companies, and two additional subsidiaries incorporated in BVI and Macau, but excludes dormant or immaterial entities with no material business. See the chart presented in "Our History and Corporate Structure" for details on the data center holding companies.
- (2) Includes nine additional subsidiaries and consolidated entities incorporated in China. See the chart presented in "Our History and Corporate Structure" for details on the data center companies.
- (3) Holds equity interests of 99.90% in GDS Shanghai, and of approximately 99.97% in GDS Beijing.
- (4) Holds equity interests of 0.10% in GDS Shanghai, and of approximately 0.03% in GDS Beijing.

### **Our Corporate Information**

Our principal executive offices are located at 2/F Tower 2, Youyou Century Place, 428 South Yanggao Road, Pudong, Shanghai 200127, People's Republic of China. Our telephone number at this address is +86-21-2033-0303. Our registered office in the Cayman Islands is located at the offices of Codan Trust Company (Cayman) Limited, Cricket Square, Hutchins Drive, P.O. Box 2681, Grand Cayman, KY1-1111, Cayman Islands. Our telephone number at this address is +1 (345) 949 1040. We also have four regional offices in Suzhou, Beijing, Chengdu and Shenzhen. Investors should submit any inquiries to the address and telephone number of our principal executive offices set forth above.

Our main website is [www.gds-services.com](http://www.gds-services.com), and the information contained on this website is not a part of this prospectus. Our agent for service of process in the United States is Law Debenture Corporate Service Inc. located at 400 Madison Avenue, 4th floor, New York, NY 10017.

### **Implications of Being an Emerging Growth Company**

As a company with less than US\$1.0 billion in revenue for the last fiscal year, we qualify as an "emerging growth company" pursuant to the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. An emerging growth company may take advantage of specified reduced reporting and other requirements that are otherwise applicable generally to public companies. These provisions include exemption from the auditor attestation requirement under Section 404 of the Sarbanes-Oxley Act of 2002, or Section 404, in the assessment of the emerging growth company's internal control over financial reporting. The JOBS Act also provides that an emerging growth company does not need to comply with any new or revised financial accounting standards until such date that a private company is otherwise required to comply with such new or revised accounting standards. However, we have elected to "opt out" of this provision and, as a result, we will comply with new or revised accounting standards as required when they are adopted for public companies. This decision to opt out of the extended transition period under the JOBS Act is irrevocable.

We will remain an emerging growth company until the earliest of (a) the last day of our fiscal year during which we have total annual gross revenues of at least US\$1.0 billion; (b) the last day of our fiscal year following the fifth anniversary of the completion of this offering; (c) the date on which we have, during the previous three year period, issued more than US\$1.0 billion in non-convertible debt; or (d) the date on which we are deemed to be a "large accelerated filer" under the Securities Exchange Act of 1934, as amended, or the Exchange Act, which would occur if the market value of our ADSs that are held by non-affiliates exceeds US\$700 million as of the last business day of our most recently completed second fiscal quarter. Once we cease to be an emerging growth company, we will not be entitled to the exemptions provided in the JOBS Act discussed above.

### **Conventions That Apply to This Prospectus**

Unless we indicate otherwise, references in this prospectus to:

- "ADSs" are to our American depositary shares, each of which represents Class A ordinary shares, and "ADRs" are to the American depositary receipts that evidence our ADSs;
- "area committed" are to the net floor area of data centers in service for which agreements from customers remain in effect;
- "area held for future development" are to the estimated data center net floor area that we expect to be able to develop on land, at buildings and pursuant to development or lease agreements which we have secured, but which are not under construction;
- "area in service" are to the net floor area of data centers in service for which one or more modules have been equipped and fitted out ready for utilization by customers;
- "area pre-committed" are to the net floor area of data centers under construction for which agreements from customers remain in effect;

- "area utilized" are to the net floor area of data centers in service that is also revenue generating pursuant to customer agreements in effect;
- "area under construction" are to the net floor area of data centers which are under construction and are not yet ready for service;
- "China" and the "PRC" are to the People's Republic of China, excluding, for the purposes of this prospectus only, Taiwan, the Hong Kong Special Administrative Region and the Macao Special Administrative Region;
- "commitment rate" are to the ratio of area committed to area in service;
- "ordinary shares" refers to, prior to the completion of this offering, our ordinary shares, par value US\$0.00005 per share, and, upon, and after the completion of this offering, collectively, our Class A ordinary shares and Class B ordinary shares, par value US\$0.00005 per share;
- "pre-commitment rate" are to the ratio of area pre-committed to area under construction;
- "RMB" or "Renminbi" are to the legal currency of China;
- "self-developed data centers" are to data centers that we have either purpose-built, acquired while under construction and completed, or converted from existing buildings to fit our standards;
- "sqm" are to square meters;
- "third-party data centers" are to data center net floor area that we lease on a wholesale basis from other data center providers and use to provide data center services to our customers;
- "total area committed" are to the sum of area committed and area pre-committed;
- "US\$", "U.S. dollars," or "dollars" are to the legal currency of the United States;
- "utilization rate" are to the ratio of area utilized to area in service; and
- "we," "us," "our company" and "our" are to GDS Holdings Limited and its subsidiaries and consolidated affiliated entities, as the context requires.

Unless specifically indicated otherwise or unless the context otherwise requires, all references to our ordinary shares exclude (i) Class A ordinary shares issuable upon the exercise of outstanding options with respect to our ordinary shares under our share incentive plans and (ii) assumes that the underwriters will not exercise their over-allotment option to purchase additional ADSs.

The translations from Renminbi to U.S. dollars and from U.S. dollars to Renminbi in this prospectus were made at a rate of RMB6.6459 to US\$1.00, the exchange rates set forth in the H.10 statistical release of the Federal Reserve Board on June 30, 2016. We make no representation that the Renminbi or U.S. dollar amounts referred to in this prospectus could have been or could be converted into U.S. dollars or Renminbi, as the case may be, at any particular rate or at all. On September 30, 2016, the noon buying rate for Renminbi was RMB6.6685 to US\$1.00.

**THE OFFERING**

ADSS Offered by Us	ADSS
Price per ADS	We estimate that the initial public offering price will be between US\$ and US\$ per ADS.
ADSS Outstanding Immediately After This Offering	ADSS (or ADSs if the underwriters exercise in full the over-allotment option).
Ordinary Shares Outstanding Immediately After This Offering	ordinary shares (or ordinary shares if the underwriters exercise in full the over-allotment option), comprising Class A ordinary shares and Class B ordinary shares, excluding ordinary shares issuable upon the exercise of options outstanding under our share incentive plans as of , 2016.
Over-Allotment Option	We have granted to the underwriters an option, exercisable for 30 days from the date of this prospectus, to purchase up to an aggregate of additional ADSs at the initial public offering price, less underwriting discounts and commissions, solely for the purpose of covering over-allotments.
The ADSs	<p>Each ADS represents Class A ordinary shares.</p> <p>The depositary will be the holder of the Class A ordinary shares underlying the ADSs and you will have the rights of an ADR holder as provided in the deposit agreement among us, the depositary and holders and beneficial owners of ADSs from time to time.</p> <p>You may surrender your ADSs to the depositary to withdraw the Class A ordinary shares underlying your ADSs. The depositary will charge you a fee for such an exchange.</p> <p>We may amend or terminate the deposit agreement for any reason without your consent. Any amendment that imposes or increases fees or charges or which materially prejudices any substantial existing right you have as an ADS holder will not become effective as to outstanding ADSs until 30 days after notice of the amendment is given to ADS holders. If an amendment becomes effective, you will be bound by the deposit agreement as amended if you continue to hold your ADSs.</p>

Ordinary Shares

To better understand the terms of the ADSs, you should carefully read the section in this prospectus entitled "Description of American Depositary Shares." We also encourage you to read the deposit agreement, which is an exhibit to the registration statement that includes this prospectus.

Upon completion of this offering, our outstanding share capital will consist of Class A ordinary shares and Class B ordinary shares. Holders of Class A ordinary shares and Class B ordinary shares have the same rights except for voting rights, director nomination rights and conversion rights. With respect to (i) the election of a simple majority of our directors and (ii) any change to our articles of association that would adversely affect the rights of the holders of Class B ordinary shares, at general meetings of our shareholders, each Class A ordinary share is entitled to one vote, and each Class B ordinary share is entitled to 20 votes. With respect to any other matters at general meetings of our shareholders, each Class A ordinary share is entitled to one vote, and each Class B ordinary share is entitled to one vote. Class B ordinary shares are convertible into Class A ordinary shares. Class B ordinary shares will automatically convert into Class A ordinary shares under certain circumstances. For a description of Class A ordinary shares and Class B ordinary shares, see "Description of Share Capital."

Nomination and Appointment Rights under Our Amended Articles of Association

Our articles of association as we expect them to be amended and become effective upon completion of this offering, or our amended articles of association, provide that, for so long as there are Class B ordinary shares outstanding, the holders of Class B ordinary shares, or Class B shareholders, will be entitled (i) to nominate one less than a simple majority, or five, of our directors, and (ii) to have 20 votes per share with respect to the election and removal of a simple majority, or six, of our directors.

Our amended articles of association also provide that for so long as STT GDC beneficially owns: not less than 25% of our issued and outstanding share capital, they may appoint three directors to our board of directors, including our vice-chairman; less than 25%, but not less than 15%, of our share capital, they may appoint two directors to our board of directors, including our vice-chairman; and less than 15%, but not less than 8%, of our share

capital, they may appoint one director to our board of directors, including our vice-chairman, none of which appointments will be subject to a vote by our shareholders. For so long as STT GDC has the right to appoint one or more directors to our board of directors, any change in the total number of directors on our board shall require the approval of the director or directors appointed by STT GDC.

The above rights may not be amended without the approval of the Class B shareholders or STT GDC, respectively. See "Management—Nomination, Appointment and Terms of Directors" and "Description of Share Capital."

Use of Proceeds

We estimate that we will receive net proceeds of approximately US\$            million from this offering, assuming an initial public offering price of US\$            per ADS, the mid-point of the estimated price range set forth on the cover of this prospectus, after deducting estimated underwriter discounts, commissions and estimated offering expenses payable by us. We anticipate using the net proceeds of this offering to repay certain portions of our indebtedness, to develop and acquire new data centers, to pay preference dividends to holders of our preferred shares and for general corporate purposes. See "Use of Proceeds" for more information.

Preference Dividend

Upon the completion of this offering, we will pay a cumulative preference dividend to the holders of our Series A, A\*, B, B1, B2, B4, B5 and C preferred shares. The preference dividend to be paid is calculated based upon an annual rate of 6.0% of the original purchase price from the date of the issuance of the respective preferred shares to the date of this offering. The preference dividend will be paid in either cash or Class A ordinary shares at the election of each preferred shareholder. The shareholders of Series A, A\*, B, B1, B2 preferred shares have elected to receive the dividend in cash and the shareholders of Series B4, B5 and C preferred shares have elected to receive the dividend in our Class A ordinary shares. Accordingly, we will pay an aggregate US\$            in cash and issue an aggregate            Class A ordinary shares to the holders of our preferred shares, respectively, assuming an initial public offering price of US\$            per ADS, the mid-point of the estimated price range set forth on the cover of this prospectus.

Risk Factors	See "Risk Factors" and other information included in this prospectus for a discussion of the risks relating to investing in our ADSs. You should carefully consider these risks before deciding to invest in our ADSs.
Directed ADS Program	At our request, the underwriters have reserved up to _____% of the ADSs being offered by this prospectus for sale at the initial public offering price to our directors, officers and employees. The sales will be made by _____ through a directed share program. We do not know if these persons will choose to purchase all or any portion of these reserved ADSs, but any purchases they do make will reduce the number of ADSs available to the general public. Any reserved ADSs not so purchased will be offered by the underwriters to the general public on the same terms as the other ADSs. Certain participants may be subject to the lock-up agreements as described in "Underwriting—Directed ADS Program" elsewhere in this prospectus.
Listing	We have applied to list our ADSs on the NASDAQ Global Market. Our Class A ordinary shares will not be listed on any exchange or quoted for trading on any over-the-counter trading system.
Proposed NASDAQ Trading Symbol	GDS
Depositary	JPMorgan Chase Bank, N.A.
Lock-up	We, our officers and directors, our existing shareholders and purchasers of the ADSs under the directed ADS program have agreed with the underwriters not to sell, transfer or dispose of any ADSs, ordinary shares or similar securities for a period of 180 days after the date of this prospectus, subject to certain exceptions. See "Shares Eligible for Future Sale" and "Underwriting."

The number of ordinary shares that will be outstanding immediately after this offering is \_\_\_\_\_, comprising \_\_\_\_\_ Class A ordinary shares and \_\_\_\_\_ Class B ordinary shares, which is based upon (i) 217,987,922 ordinary shares outstanding as of the date of this prospectus; (ii) the automatic conversion of preferred shares into 349,087,677 Class A ordinary shares immediately upon the completion of this offering; (iii) the issuance of \_\_\_\_\_ Class A ordinary shares immediately upon the completion of this offering in connection with the preference dividends to be paid to holders of our Series B4, B5 and C preferred shares, assuming an initial public offering price of US\$ \_\_\_\_\_ per ADS, the mid-point of the estimated price range set forth on the cover of this prospectus; and (iv) \_\_\_\_\_ Class A ordinary shares issued in connection with this offering (assuming the underwriters do not exercise their option to purchase additional ADSs), but excludes:

- 29,189,800 ordinary shares issuable upon the exercise of share options outstanding as of the date of this prospectus;
- 877,400 vested but not yet issued restricted shares; and
- 55,880,360 ordinary shares reserved for future issuance under our share incentive plans.

**SUMMARY CONSOLIDATED FINANCIAL AND OPERATING DATA**

The following consolidated statements of operations data for the years ended December 31, 2014 and 2015 and the summary consolidated balance sheet data as of December 31, 2014 and 2015 have been derived from our audited consolidated financial statements included elsewhere in this prospectus. Our consolidated financial statements are prepared and presented in accordance with U.S. GAAP. The following summary consolidated statements of operations data for the six months ended June 30, 2015 and 2016 and the summary consolidated balance sheet data as of June 30, 2016 have been derived from our unaudited condensed consolidated financial statements included elsewhere in this prospectus. The unaudited condensed consolidated financial statements have been prepared on the same basis as our audited consolidated financial statements and include all adjustments, consisting only of normal and recurring adjustments, that we consider necessary for a fair presentation of our financial position and operating result for the periods presented.

On June 30, 2014, we acquired EDC Holding from its shareholders whereby we issued shares to EDC Holding's shareholders in exchange for their shares in EDC Holding. Pursuant to the terms of the agreement, we issued 199,163,164 shares in exchange for approximately 93% of the shares in EDC Holding which we did not already own. Since the date of the acquisition, EDC Holding has been our wholly-owned subsidiary and has been consolidated with our results of operations. See note 8 of our consolidated financial statements included elsewhere in this prospectus.

Our historical results are not necessarily indicative of results to be expected for any future period. The following summary consolidated financial data for the periods and as of the dates indicated are qualified by reference to, and should be read in conjunction with, our consolidated financial statements and related



notes and the information under "Management's Discussion and Analysis of Financial Condition and Results of Operations," both of which are included elsewhere in this prospectus.

	Year Ended December 31,			Six Months Ended June 30,		
	2014	2015		2015	2016	
	RMB	RMB	US\$	RMB	RMB	US\$
	(in thousands, except share data and per share data)					
<b>Consolidated Statements of Operations Data:</b>						
Net revenue	468,337	703,636	105,875	304,794	447,135	67,280
Cost of revenue	(388,171)	(514,997)	(77,491)	(221,519)	(332,034)	(49,961)
Gross profit	80,166	188,639	28,384	83,275	115,101	17,319
Operating expenses						
Selling and marketing expenses	(40,556)	(57,588)	(8,665)	(23,494)	(34,563)	(5,201)
General and administrative expenses	(113,711)	(128,714)	(19,367)	(58,837)	(131,452)	(19,779)
Research and development expenses	(1,597)	(3,554)	(535)	(1,257)	(4,765)	(717)
Loss from operations	(75,698)	(1,217)	(183)	(313)	(55,679)	(8,378)
Other income (expenses)						
Net interest expense	(124,973)	(125,546)	(18,891)	(60,440)	(110,292)	(16,595)
Foreign currency exchange (loss) gain, net	(875)	11,107	1,671	4,456	4,101	617
Government grants	4,870	3,915	589	1,030	1,030	155
Gain on remeasurement of equity investment	62,506	—	—	—	—	—
Others, net	(412)	1,174	177	1,362	179	27
Loss before income taxes	(134,582)	(110,567)	(16,637)	(53,905)	(160,661)	(24,174)
Income tax benefits	4,583	11,983	1,803	6,641	6,464	973
Net loss	(129,999)	(98,584)	(14,834)	(47,264)	(154,197)	(23,201)
Extinguishment of redeemable preferred shares	(106,515)	—	—	—	—	—
Change in redemption value of redeemable preferred shares	(69,116)	(110,926)	(16,691)	(55,462)	(57,869)	(8,707)
Dividends on redeemable preferred shares	(3,509)	(7,127)	(1,072)	(3,564)	(3,725)	(560)
Net loss available to ordinary shareholders	(309,139)	(216,637)	(32,597)	(106,290)	(215,791)	(32,468)
Net loss per ordinary share—basic and diluted	(1.91)	(0.99)	(0.15)	(0.49)	(0.99)	(0.15)
Weighted average number of ordinary shares outstanding—basic and diluted	162,070,745	217,987,922	217,987,922	217,987,922	217,987,922	217,987,922

	As of December 31,			As of June 30,					
	2014		2015	2016		2016		2016	
	Actual RMB	Actual RMB	Actual US\$	Actual RMB	Actual US\$	Pro Forma <sup>(1)</sup> RMB	Pro Forma <sup>(1)</sup> US\$	Pro Forma as Adjusted <sup>(2)</sup> RMB	Pro Forma as Adjusted <sup>(2)</sup> US\$
(in thousands)									
<b>Consolidated Balance Sheet Data:</b>									
Cash	606,758	924,498	139,108	834,477	125,563	834,477	125,563		
Accounts receivable, net	73,366	111,013	16,704	170,149	25,602	170,149	25,602		
Total current assets	745,831	1,186,699	178,561	1,183,231	178,039	1,183,231	178,039		
Property and equipment, net	1,694,944	2,512,687	378,081	3,591,456	540,402	3,591,456	540,402		
Goodwill and intangible assets	1,350,524	1,341,599	201,869	1,442,125	216,995	1,442,125	216,995		
Total assets	3,854,074	5,128,272	771,645	6,334,066	953,079	6,334,066	953,079		
Total current liabilities	897,630	925,049	139,191	1,478,315	222,440	1,772,578	266,718		
Total liabilities	1,706,600	3,073,463	462,460	4,380,909	659,189	4,675,172	703,467		
Redeemable preferred shares	2,164,039	2,395,314	360,420	2,499,117	376,039	—	—		
Total shareholders' (deficit) equity <sup>(3)</sup>	(16,565)	(340,505)	(51,235)	(545,960)	(82,149)	1,658,894	249,612		

- (1) Reflects (i) the automatic conversion of all our outstanding preferred shares into 349,087,677 Class A ordinary shares immediately upon the completion of this offering, and (ii) the preference dividend as if the preference dividend were declared and payable on June 30, 2016 and as if a qualified IPO, as defined in our shareholder's agreement, had occurred on June 30, 2016.
- (2) Reflects (i) the automatic conversion of all our outstanding preferred shares into Class A ordinary shares immediately upon the completion of this offering, (ii) the preference dividend on our preferred shares as if the preference dividend were declared and payable on June 30, 2016 and as if a qualified IPO, as defined in our members agreement, had occurred on June 30, 2016, (iii) the issuance and sale of the Class A ordinary shares in the form of ADSs offered hereby at an assumed initial public offering price of US\$ per ADS, the mid-point of the estimated public offering price range shown on the front cover of this prospectus, after deducting underwriting discounts, commissions and estimated offering expenses payable by us and assuming no exercise of the underwriters' over-allotment option, and (iv) the repayment of approximately RMB million (US\$ million) of the outstanding indebtedness of certain of our subsidiaries using a portion of the proceeds to us from this offering.
- (3) A US\$1.00 increase (decrease) in the assumed initial public offering price of US\$ per ADS would increase (decrease) total shareholders' equity by US\$ .

### Key Financial Metrics

We monitor the following key financial metrics to help us evaluate growth trends, establish budgets, measure the effectiveness of our business strategies and assess operational efficiencies:

	Year Ended		Six Months	
	December 31,	2015	Ended June 30,	2016
<b>Other Consolidated Financial Data:</b>				
Gross margin <sup>(1)</sup>	17.1%	26.8%	27.3%	25.7%
Operating margin <sup>(2)</sup>	(16.2)%	(0.2)%	(0.1)%	(12.5)%
Net margin <sup>(3)</sup>	(27.8)%	(14.0)%	(15.5)%	(34.5)%

- (1) Gross profit as a percentage of net revenue.
- (2) Income (loss) from operations as a percentage of net revenue.
- (3) Net income (loss) as a percentage of net revenue.

**Non-GAAP Measures**

In evaluating our business, we consider and use the following non-GAAP measures as supplemental measures to review and assess our operating performance:

	Year Ended December 31,			Six Months Ended June 30,		
	2014	2015		2015	2016	
	RMB	RMB	US\$	RMB	RMB	US\$
<b>Other Consolidated Financial Data:</b>	(in thousands, except percentages)					
Adjusted EBITDA <sup>(1)</sup>	38,044	164,701	24,782	73,755	100,557	15,131
Adjusted EBITDA margin <sup>(2)</sup>	8.1%	23.4%	23.4%	24.2%	22.5%	22.5%

(1) Adjusted EBITDA is defined as net income or net loss excluding net interest expenses, incomes tax benefits, depreciation and amortization, accretion expenses for asset retirement costs, share-based compensation expenses, and gain on remeasurement of equity investment.

(2) Adjusted EBITDA margin is defined as adjusted EBITDA as a percentage of net revenue.

Our management and board of directors use adjusted EBITDA and adjusted EBITDA margin, which are non-GAAP financial measures, to evaluate our operating performance, establish budgets and develop operational goals for managing our business. In particular, we believe that the exclusion of the expenses eliminated in calculating adjusted EBITDA can provide a useful measure of our core operating performance.

We also present these non-GAAP measures because we believe these non-GAAP measures are frequently used by securities analysts, investors and other interested parties as measures of the financial performance of companies in our industry.

These non-GAAP financial measures are not defined under U.S. GAAP and are not presented in accordance with U.S. GAAP. These non-GAAP financial measures have limitations as analytical tools, and when assessing our operating performance, cash flows or our liquidity, investors should not consider them in isolation, or as a substitute for net income (loss), cash flows provided by operating activities or other consolidated statements of operation and cash flow data prepared in accordance with U.S. GAAP.

We mitigate these limitations by reconciling the non-GAAP financial measure to the most comparable U.S. GAAP performance measure, all of which should be considered when evaluating our performance.

The following table reconciles our adjusted EBITDA in the years presented to the most directly comparable financial measure calculated and presented in accordance with U.S. GAAP, which is net income or net loss:

	Year Ended December 31,			Six Months Ended June 30,		
	2014	2015		2015	2016	
	RMB	RMB	US\$	RMB	RMB	US\$
	(in thousands)					
Net loss	(129,999)	(98,584)	(14,834)	(47,264)	(154,197)	(23,201)
Net interest expenses	124,973	125,546	18,891	60,440	110,292	16,595
Income tax benefits	(4,583)	(11,983)	(1,803)	(6,641)	(6,464)	(973)
Depreciation and amortization	82,753	145,406	21,879	63,968	93,469	14,064
Accretion expenses for asset retirement costs	73	255	38	86	270	41
Share-based compensation expenses	27,333	4,061	611	3,166	57,187	8,605
Gain on remeasurement of equity investment	(62,506)	—	—	—	—	—
Adjusted EBITDA	<u>38,044</u>	<u>164,701</u>	<u>24,782</u>	<u>73,755</u>	<u>100,557</u>	<u>15,131</u>

## RISK FACTORS

You should consider carefully all of the information in this prospectus, including the risks and uncertainties described below and our consolidated financial statements and related notes, before making an investment in our ADSs. Any of the following risks and uncertainties could have a material adverse effect on our business, financial condition, results of operations and prospects. The market price of our ADSs could decline significantly as a result of any of these risks and uncertainties, and you may lose all or part of your investment.

### Risk Factors Relating to Our Business and Industry

#### ***A slowdown in the demand for data center resources or managed services could have a material adverse effect on us.***

Adverse developments in the data center market, in the industries in which our customers operate, or in demand for cloud computing could lead to a decrease in the demand for data center resources or managed services, which could have a material adverse effect on us. We face risks including:

- a decline in the technology industry, such as a decrease in the use of mobile or web-based commerce, business layoffs or downsizing, relocation of businesses, increased costs of complying with existing or new government regulations and other factors;
- a slowdown in the growth of the Internet generally as a medium for commerce and communication and the use of cloud-based platforms and services in particular;
- a downturn in the market for data center space generally, which could be caused by an oversupply of or reduced demand for space, and a downturn in cloud-based data center demand in particular; and
- the rapid development of new technologies or the adoption of new industry standards that render our or our customers' current products and services obsolete or unmarketable and, in the case of our customers, that contribute to a downturn in their businesses, increasing the likelihood of a default under their service agreements or that they become insolvent.

To the extent that any of these or other adverse conditions occurs, they are likely to impact market demand and pricing for our services.

#### ***Any inability to manage the growth of our operations could disrupt our business and reduce our profitability.***

We have experienced significant growth in recent years. Our net revenue grew from RMB468.3 million in 2014 to RMB703.6 million (US\$105.9 million) in 2015, and increased from RMB304.8 million in the six months ended June 30, 2015 to RMB447.1 million (US\$67.3 million) in the same period in 2016, respectively. We derive net revenue primarily from colocation services and, to a lesser extent, managed services. In addition, we also sell IT equipment either on a stand-alone basis or bundled in a managed service contract arrangement and provide consulting services. Our net revenues for colocation were RMB342.5 million, RMB500.9 million (US\$75.4 million) and RMB330.8 million (US\$49.8 million) in 2014, 2015 and the six months ended June 30, 2016, representing 73.1%, 71.2% and 74.0% of total net revenue over the same periods, respectively. Our net revenues for managed services and consulting services were RMB108.4 million, RMB152.7 million (US\$23.0 million) and RMB105.6 million (US\$15.9 million) in 2014, 2015 and the six months ended June 30, 2016, representing 23.2%, 21.7% and 23.6% of total net revenue over the same periods, respectively.

Our operations have also expanded in recent years through increases in the number and size of the data center facilities we operate, which we expect will continue to grow. Our rapid growth has placed, and will continue to place, significant demands on our management and our administrative, operational and financial systems. Continued expansion increases the challenges we face in:

- obtaining suitable land to build new data centers;

- establishing new operations at additional data centers and maintaining efficient use of the data center facilities we operate;
- managing a large and growing customer base with increasingly diverse requirements;
- expanding our service portfolio to cover a wider range of services, including managed cloud services;
- creating and capitalizing on economies of scale;
- obtaining additional capital to meet our future capital needs;
- recruiting, training and retaining a sufficient number of skilled technical, sales and management personnel;
- maintaining effective oversight over personnel and multiple data center locations;
- coordinating work among sites and project teams; and
- developing and improving our internal systems, particularly for managing our continually expanding business operations.

If we fail to manage the growth of our operations effectively, our businesses and prospects may be materially and adversely affected.

***If we are not successful in expanding our service offerings, we may not achieve our financial goals and our results of operations may be adversely affected.***

We have been expanding, and plan to continue to expand, the nature and scope of our service offerings, particularly into the area of cloud infrastructure and managed cloud services. The success of our expanded service offerings depends, in part, upon demand for such services by new and existing customers and our ability to meet their demand in a cost-effective manner. We may face a number of challenges expanding our service offerings, including:

- acquiring or developing the necessary expertise in IT;
- maintaining high-quality control and process execution standards;
- maintaining productivity levels and implementing necessary process improvements;
- controlling costs; and
- successfully attracting existing and new customers for new services we develop.

A failure by us to effectively manage the growth of our service portfolio could damage our reputation, cause us to lose business and adversely affect our results of operations. In addition, because managed cloud services may require significant upfront investment, we expect that continued expansion into these services will reduce our profit margins. In the event that we are unable to successfully grow our service portfolio, we could lose our competitive edge in providing our existing colocation and managed services, since significant time and resources that are devoted to such growth could have been utilized instead to improve and expand our existing colocation and managed services.

***We face risks associated with having a long selling and implementation cycle for our services that requires us to make significant capital expenditures and resource commitments prior to recognizing revenue for those services.***

We have a long selling cycle for our services, which typically requires significant investment of capital, human resources and time by both our customers and us. Constructing, developing and operating our data centers require significant capital expenditures. A customer's decision to utilize our colocation services, our managed solutions or our other services typically involves time-consuming contract negotiations regarding the service level commitments and other terms, and substantial due diligence on the part of the customer regarding the adequacy of our infrastructure and attractiveness of our resources and services. Furthermore, we may expend significant time and resources in pursuing a particular sale or customer, and we do not recognize revenue for our services until such time as the services are provided under the terms of the

applicable contract. Our efforts in pursuing a particular sale or customer may not be successful, and we may not always have sufficient capital on hand to satisfy our working capital needs between the date on which we sign an agreement with a new customer and when we first receive revenue for services delivered to the customer. If our efforts in pursuing sales and customers are unsuccessful, or our cash on hand is insufficient to cover our working capital needs over the course of our long selling cycle, our financial condition could be negatively affected.

***The data center business is capital-intensive, and our capacity to generate capital may be insufficient to meet our anticipated capital requirements.***

The costs of constructing, developing and operating data centers are substantial. Further, we may encounter development delays, excess development costs, or delays in developing space for our customers to utilize. We also may not be able to identify suitable land or facilities for new data centers or at a cost on terms acceptable to us. We are required to fund the costs of constructing, developing and operating our data centers with cash retained from operations, as well as from financings from bank and other borrowings. Moreover, the costs of constructing, developing and operating data centers have increased in recent years, and may further increase in the future, which may make it more difficult for us to expand our business and to operate our data centers profitably. There can be no assurance that our future net revenue would be sufficient to offset increases in these costs, or that our business operations will generate capital sufficient to meet our anticipated capital requirements. If we cannot generate sufficient capital to meet our anticipated capital requirements, our financial condition, business expansion and future prospects could be materially and adversely affected.

***Our substantial level of indebtedness could adversely affect our ability to raise additional capital to fund our operations, expose us to interest rate risk to the extent of our variable rate debt and prevent us from meeting our obligations under our indebtedness.***

We have substantial indebtedness. As of June 30, 2016, we had total consolidated indebtedness of RMB3,464.9 million (US\$521.4 million), including borrowings, capital lease obligations and convertible bonds. Our high level of indebtedness could, among other consequences:

- make it more difficult for us to satisfy our obligations under our indebtedness, exposing us to the risk of default, which, in turn, would negatively affect our ability to operate as a going concern;
- require us to dedicate a substantial portion of our cash flows from operations to interest and principal payments on our indebtedness, reducing the availability of our cash flows for other purposes, such as capital expenditures, acquisitions and working capital;
- limit our flexibility in planning for, or reacting to, changes in our business and the industries in which we operate;
- increase our vulnerability to general adverse economic and industry conditions;
- place us at a disadvantage compared to our competitors that have less debt;
- expose us to fluctuations in the interest rate environment because the interest rates on borrowings under our project financing agreements are variable;
- increase our cost of borrowing;
- limit our ability to borrow additional funds; and
- require us to sell assets to raise funds, if needed, for working capital, capital expenditures, acquisitions or other purposes.

As a result of covenants and restrictions, we are limited in how we conduct our business, and we may be unable to raise additional debt or equity financing to compete effectively or to take advantage of new business opportunities. Our current or future borrowings could increase the level of financial risk to us and, to the extent that the interest rates are not fixed and rise, or that borrowings are refinanced at higher rates, our available cash flow and results of operations could be adversely affected.

We have financing arrangements in place with various lenders to support specific data center construction projects. Certain of these financing arrangements are secured by our accounts receivable, property and equipment and land use rights. The terms of these financing arrangements may impose covenants and obligations on the part of both the borrowing subsidiary of ours and us as guarantor. For example, some of these agreements contain requirements to maintain a specified minimum cash balance at all times or require that the borrower's outstanding loans stay within a "borrowing range." A subsidiary of ours in the past failed to meet the borrowing range requirement and although the subsidiary obtained a waiver letter from the creditor that waived the covenant violations, we cannot provide any assurances that we will always be able to meet any covenant tests under our financing arrangements. For more information regarding covenants arising from our financing arrangements, see "Management's Discussion and Analysis of Financial Condition and Results of Operations—Contractual Obligations."

The terms of any future indebtedness we may incur could include more restrictive covenants. A breach of any of these covenants could result in a default with respect to the related indebtedness. If a default occurs, the relevant lenders could elect to declare the indebtedness, together with accrued interest and other fees, to be due and payable immediately. This, in turn, could cause our other debt, to become due and payable as a result of cross-default or acceleration provisions contained in the agreements governing such other debt. In the event that some or all of our debt is accelerated and becomes immediately due and payable, we may not have the funds to repay, or the ability to refinance, such debt.

***We may require additional capital to meet our future capital needs, which may adversely affect our financial position and result in additional shareholder dilution.***

To grow our operations, we will be required to commit a substantial amount of operating and financial resources. Our planned capital expenditures, together with our ongoing operating expenses, will cause substantial cash outflows. If we are not able to generate sufficient operating cash flows, our ability to fund our expansion plan may be limited. We may need to raise additional funds through equity or debt financings in the future in order to meet our operating and capital needs. Additional debt or equity financing may not be available when needed or, if available, may not be available on satisfactory terms. Our inability to obtain additional debt and/or equity financing or to generate sufficient cash from operations may require us to prioritize projects or curtail capital expenditures and could adversely affect our results of operations.

If we raise additional funds through further issuances of equity or equity-linked securities, our existing shareholders could suffer significant dilution in their percentage ownership of our company, and any new equity securities we issue could have rights, preferences and privileges senior to those of holders of our ordinary shares. In addition, any debt financing that we may obtain in the future could have restrictive covenants relating to our capital raising activities and other financial and operational matters, which may make it more difficult for us to obtain additional capital and to pursue business opportunities, including potential acquisitions.

***Increased power costs and limited availability of power resources may adversely affect our results of operations.***

We are a large consumer of power and costs of power account for a significant portion of our cost of revenue. We require power supply to provide many services we offer, such as powering and cooling our customers' servers and network equipment and operating critical data center plant and equipment infrastructure. Since we rely on two centralized power utility suppliers, State Grid and Southern Grid, to provide our data centers with power, our data centers could have limited or inadequate access to power.

The amount of power required by our customers may increase as they adopt new technologies, for example, for virtualization of hardware resources. As a result, the average amount of power utilized per server is increasing, which in turn increases power consumption required to cool the data center facilities. Pursuant to our colocation service contracts, we provide our customers with a committed level of power supply availability. Although we aim to improve the energy efficiency of the data center facilities that we

operate, there can be no assurance such data center facilities will be able to provide sufficient power to meet the growing needs of our customers. Our customers' demand for power may exceed the power capacity in our older data centers, which may limit our ability to fully utilize the net floor area of these data centers. We may lose customers or our customers may reduce the services purchased from us due to increased power costs, and limited availability of power resources, or we may incur costs for data center space which we cannot utilize, which would reduce our net revenue and have a material and adverse effect on our cost of revenue and results of operations.

We attempt to manage our power resources and limit exposure to system downtime due to power outages from the electric grid by having redundant power feeds from the grid and by using backup generators and battery power. However, these protections may not limit our exposure to power shortages or outages entirely. Any system downtime resulting from insufficient power resources or power outages could damage our reputation and lead us to lose current and potential customers, which would harm our financial condition and results of operations.

***We have a history of net losses and may continue to incur losses in the future.***

We incurred net losses of RMB130.0 million, RMB98.6 million (US\$14.8 million) and RMB154.2 million (US\$23.2 million) in 2014, 2015 and the six months ended June 30, 2016, respectively, and we may incur losses in the future. We expect our costs and expenses to increase as we expand our operations, primarily including costs and expenses associated with owning and leasing data center space, increasing our headcount and utility expenses. Our ability to achieve and maintain profitability depends on the continued growth and maintenance of our customer base, our ability to control our costs and expenses, the expansion of our service offerings and our ability to provide our services at the level needed to satisfy the stringent demands of our customers. In addition, our ability to achieve profitability is affected by many factors which are beyond our control, such as the overall demand for data center services in China and general economic conditions. If we cannot efficiently manage the data center facilities we operate, our financial condition and results of operations could be materially and adversely affected. We may continue to incur losses in the future due to our continued investments in leasing data center space, increased headcount and increased utility expenses.

***Any significant or prolonged failure in the data center facilities we operate or services we provide would lead to significant costs and disruptions and would reduce our net revenue, harm our business reputation and have a material adverse effect on our results of operation.***

The data center facilities we operate are subject to failure. Any significant or prolonged failure in any data center facility we operate or services that we provide, including a breakdown in critical plant, equipment or services, such as the cooling equipment, generators, backup batteries, routers, switches, or other equipment, power supplies, or network connectivity, whether or not within our control, could result in service interruptions and data losses for our customers as well as equipment damage, which could significantly disrupt the normal business operations of our customers and harm our reputation and reduce our net revenue. Any failure or downtime in one of the data center facilities that we operate could affect many of our customers. The total destruction or severe impairment of any of the data center facilities we operate could result in significant downtime of our services and catastrophic loss of customer data. Since our ability to attract and retain customers depends on our ability to provide highly reliable service, even minor interruptions in our service could harm our reputation and cause us to incur financial penalties. The services we provide are subject to failures resulting from numerous factors, including:

- power loss;
- equipment failure;
- human error or accidents;
- theft, sabotage and vandalism;
- failure by us or our suppliers to provide adequate service or maintenance to our equipment;



- network connectivity downtime and fiber cuts;
- security breaches to our infrastructure;
- improper building maintenance by us or the landlords of the buildings in which our leased facilities are located;
- physical, electronic and cyber security breaches;
- fire, earthquake, hurricane, tornado, flood and other natural disasters;
- extreme temperatures;
- water damage;
- public health emergencies; and
- terrorism.

We have in the past experienced, and may in the future experience, interruptions in service due to power outages or other technical failures or for reasons outside of our control, including a service interruption that caused system downtime to certain banking and financial institution customers and other customers. These interruptions in service, regardless of whether they result in breaches of the service level agreements we have with customers, may negatively affect our relationships with customers, including resulting in customers terminating their agreements with us or seeking damages from us or other compensatory actions. Interruptions in service may also have consequences for customers, such as banking and financial institutions, that are under the oversight of industry regulators, including the China Banking Regulatory Commission, or CBRC, and other PRC regulatory agencies. In response to such interruptions in service, industry regulators have taken, and may in the future take, various regulatory actions, including notifications or citations to our customers, over which they have oversight. Such regulatory actions with respect to our customers, including banking and financial institutions, could negatively impact our relationships with such customers, lead to audits of our services, inspections of our facilities, place restrictions or prohibitions upon the ability of such institutions to use our services, and thereby negatively affect our business operations and results of operations. We have taken and continue to take steps to improve our infrastructure to prevent service interruptions, including upgrading our electrical and mechanical infrastructure and sourcing, designing the best facilities possible and implementing rigorous operational procedures to maintenance programs to manage risk. However, we cannot assure you that such interruptions in service will not occur again in the future, or that such incidents will not result in the loss of customers and revenue, our paying compensation to customers, reputational damage to us, penalties or fines against us, and would not have a material and adverse effect on our business and results of operations. See "Regulations—Regulations Related to Information Technology Outsourcing Services Provided to Banking Financial Institutions." Service interruptions continue to be a significant risk for us and could affect our reputation, damage our relationships with customers and materially and adversely affect our business.

***Delays in the construction of new data centers or the expansion of existing data centers could involve significant risks to our business.***

In order to meet customer demand and the continued growth of our business, we need to expand existing data centers, lease new facilities or obtain suitable land to build new data centers. Expansion of existing data centers and/or construction of new data centers are currently underway, or being contemplated and such expansion and/or construction require us to carefully select and rely on the experience of one or more designers, general contractors, and subcontractors during the design and construction process. If a designer or contractor experiences financial or other problems during the design or construction process, we could experience significant delays and/or incur increased costs to complete the projects, resulting in negative impacts on our results of operations.

In addition, we need to work closely with the local power suppliers, and sometimes local governments, where our proposed data centers are located. Delays in actions that require the assistance of such third-parties, or delays in receiving required permits and approvals from such parties, may also affect the speed with which we complete data center projects or result in their not being completed at all. We have experienced such delays in receiving approvals and permits or in actions to be taken by third parties in the past and may experience them again in the future.

If we experience significant delays in the supply of power required to support the data center expansion or new construction, either during the design or construction phases, the progress of the data center expansion and/or construction could deviate from our original plans, which could cause material and negative effect to our revenue growth, profitability and results of operations.

***The occurrence of a catastrophic event or a prolonged disruption may exceed our insurance coverage by significant amounts.***

Our operations are subject to hazards and risks normally associated with the daily operations of our data center facilities. Currently, we maintain insurance policies in four categories: business interruption for lost profits, property and casualty, public liability, and commercial employee insurance. Our business interruption insurance for lost profits includes coverage for business interruptions, our property and casualty insurance includes coverage for equipment breakdowns and our commercial employee insurance includes employee group insurance and senior management medical insurance. We believe our insurance coverage adequately covers the risks of our daily business operations. However, our current insurance policies may be insufficient in the event of a prolonged or catastrophic event. The occurrence of any such event that is not entirely covered by our insurance policies may result in interruption of our operations and subject us to significant losses or liabilities and damage our reputation as a provider of business continuity services. In addition, any losses or liabilities that are not covered by our current insurance policies may have a material adverse effect on our business, financial condition and results of operations.

***We may be vulnerable to security breaches which could disrupt our operations and have a material adverse effect on our financial condition and results of operations.***

A party who is able to compromise the security measures protecting the data center facilities we operate or any of the data stored in such data center facilities could misappropriate our or our customers' proprietary information or cause interruptions or malfunctions in our operations. As we provide assurances to our customers that we provide the highest level of security, such a compromise could be particularly harmful to our brand and reputation. We may be required to expend significant capital and resources to protect against such threats or to alleviate problems caused by breaches in security. In addition, as we continue expanding our service offerings in the cloud infrastructure and managed cloud services space, we will face greater risks from potential attacks because the provision of cloud-related services will increase the flow of Internet user data through the data center facilities we operate and create broader public access to our system. As techniques used to breach security change frequently and are often not recognized until launched against a target, we may not be able to implement new security measures in a timely manner or, if and when implemented, we may not be certain whether these measures could be circumvented. Any breaches that may occur could expose us to increased risk of lawsuits, regulatory penalties, loss of existing or potential customers, harm to our reputation and increases in our security costs, which could have a material adverse effect on our financial condition and results of operations.

Security risks and deficiencies may also be identified in the course of government inspections, which could subject us to fines and other sanctions. During construction of certain of our facilities, government inspectors have cited security risks at our construction sites and subjected us and our legal representative to fines for such risks. We cannot assure you that similar fines and sanctions will not occur in the future, or that such fines and sanctions will not result in damage to our business and reputation, which could have a material and adverse effect on our results of operations.

In addition, any assertions of alleged security breaches or systems failure made against us, whether true or not, could harm our reputation, cause us to incur substantial legal fees and have a material adverse effect on our business, reputation, financial condition and results of operations.

***Our ability to provide data center services depends on the major telecommunications carriers in China providing sufficient network services to our customers in the data center facilities that we operate on commercially acceptable terms.***

Our ability to provide data center services depends on the major telecommunications carriers in China, namely China Telecom, China Unicom and China Mobile, providing sufficient network connectivity and capacity to enable our customers to transfer data to and from equipment that they locate in the data center facilities that we operate. Furthermore, given the limited competition among basic service providers in the telecommunications market in China, we depend on the dominant carrier in each location to provide such services to our customers on commercially acceptable terms. Although we believe we have maintained good relationships with China Telecom, China Unicom and China Mobile in the past, there can be no assurance that they will continue to provide the network services that our customers require on commercially acceptable terms at each of the data centers where we operate, if at all. In addition, if China Telecom, China Unicom or China Mobile increases the price of their network services, it would have a negative impact on the overall cost-effectiveness of data center services in China, which could cause our customers' demand for our services to decline and would materially and adversely affect our business and results of operations.

***Our leases for self-developed data centers or our agreements for third-party data centers could be terminated early and we may not be able to renew our existing leases and agreements on commercially acceptable terms or our rent or payment under the agreements could increase substantially in the future, which could materially and adversely affect our operations.***

Most of our data center operations are located in properties that we have entered into long-term operating leases. Such leases generally have ten to twenty year terms. In some instances, we may negotiate an option to purchase the leased premises and facilities according to the terms and conditions under the relevant lease agreements. However, upon the expiration of such leases, we may not be able to renew these leases on commercially reasonable terms, if at all. Under certain lease agreements, the lessor may terminate the agreement by giving prior notice and paying default penalties to us. However, such default penalties may not be sufficient to cover our losses. Even though the lessors for most of our data centers generally do not have the right of unilateral early termination unless they provide the required notice, the lease may nonetheless be terminated early if we are in material breach of the lease agreements. We may assert claims for compensation against the landlords if they elect to terminate a lease agreement early and without due cause. If the leases for our data centers were terminated early prior to their expiration date, notwithstanding any compensation we may receive for early termination of such leases, or if we are not able to renew such leases, we may have to incur significant cost related to relocation. In addition, we have entered into two lease agreements with parties who have not produced evidence of proper legal title of the premises, and although we may seek damages from such parties, such leases may be void and we may be forced to relocate. Two of our data centers are located in properties that are already mortgaged to third parties before the commencement of the lease. If such third parties claim their rights on the mortgaged properties in case of default or breach under the principal debt by the lessors or other relevant parties, we may not be able to protect our leasehold interest and may be ordered to vacate the affected premises. Any relocation could also affect our ability to provide continuous uninterrupted services to our customers and harm our reputation. As a result, our business and results of operations could be materially and adversely affected.

Furthermore, certain portions of our data center operations are located in third-party data centers that we lease from wholesale data center providers. Our agreements with third parties are typically three years

but may also be up to ten years. Under some of such agreements, we have the right of first refusal to renew the agreements subject to mutual agreement with the third parties. Some of such agreements allow the third parties to terminate the agreements early, subject to a notification period requirement and the payment of a pre-determined termination fee, which in some cases may not be sufficient to cover any direct and indirect losses we might incur as a result. Although historically we have successfully renewed all agreements we wanted to renew, and we do not believe that any of our agreements will be terminated early in the future, there can be no assurance that the counterparties will not terminate any of our agreements prior to its expiration date. We plan to renew our existing agreements with third parties upon expiration or migrate our operations to the data centers leased or owned by our company. However, we may not be able to renew these agreements on commercially acceptable terms, if at all, or the space in data centers that we lease or own may not be adequate for us to relocate such operations, and we may experience an increase in our payments under such agreements. Any adverse change to our ability to exert operational control over any of the data center facilities we operate could have a material adverse effect on our ability to operate these data center facilities at the standards required for us to meet our service level commitments to our customers.

***We generate significant revenue from data centers located in only a few locations and a significant disruption to any location could materially and adversely affect our operations***

We generate significant revenue from data centers located in only a few locations and a significant disruption to any single location could materially and adversely affect our operations. As of the date of this prospectus, the majority of our self-built data centers were located in close proximity to the central business districts of Shanghai, Beijing, Shenzhen, Guangzhou and Chengdu. The occurrence of a catastrophic event, or a prolonged disruption in any of these regions, could materially and adversely affect our operations.

***Our net revenue is highly dependent on a limited number of customers, and the loss of, or any significant decrease in business from, any one or more of our major customers could adversely affect our financial condition and results of operations.***

We consider our customer to be the end user of our data center services. We may enter into contracts directly with our end user customer or through an intermediate contracting party. See "Business—Our Customers." We have in the past derived, and believe that we will continue to derive, a significant portion of our net revenue from a limited number of customers. We had one end user customer that generated 26.8% of our total net revenue in 2014 and two end user customers that generated 20.1% and 10.3% of our total net revenue, respectively, in 2015, and 17.1% and 15.7% of our total net revenue in the six months ended June 30, 2016, respectively. No other end user customer accounted for 10% or more of our total net revenue during those periods. We expect our net revenue will continue to be highly dependent on a limited number of end user customers who account for a large percentage of our total area committed. As of June 30, 2016, we had two end user customers who accounted for 34.3% and 12.8%, respectively, of our total area committed. No other end user customer accounted for 10% or more of total area committed. Moreover, for several of our data centers, a limited number of end user customers accounted for substantial majority of area committed or area utilized. If there are delays in the move in where the net floor area they are committed to are not utilized as expected, or there is contract termination in relation to these customers, then our net revenue and results of operations would be materially and adversely affected.

There are a number of factors that could cause us to lose major customers. Because many of our contracts involve services that are mission-critical to our customers, any failure by us to meet a customer's expectations could result in cancellation or non-renewal of the contract. Our service agreements usually allow our customers to terminate their agreements with us before the end of the contract period under certain specified circumstances, including our failure to deliver services as required under such agreements.

and in some cases without cause as long as sufficient notice is given. In addition, our customers may decide to reduce spending on our services due to a challenging economic environment or other factors, both internal and external, relating to their business such as corporate restructuring or changing their outsourcing strategy by moving more facilities in-house or outsourcing to other service providers. Furthermore, our customers, some of who have experienced rapid changes in their business, substantial price competition and pressures on their profitability, may demand price reductions or reduce the scope of services to be provided by us, any of which could reduce our profitability. In addition, our reliance on any individual customer for a significant portion of our net revenue may give that customer a degree of pricing leverage against us when negotiating contracts and terms of services with us.

The loss of any of our major customers, or a significant decrease in the extent of the services that they outsource to us or the price at which we sell our services to them, could materially and adversely affect our financial condition and results of operations.

***If we are unable to meet our service level commitments, our reputation and results of operation could suffer.***

Most of our customer contracts provide that we maintain certain service level commitments to our customers. If we fail to meet our service level commitments, we may be contractually obligated to pay the affected customer a financial penalty, which varies by contract, and the customer may in some cases be able to terminate its contract. Although we have not had to pay any material financial penalties for failing to meet our service level commitments in the past, there is no assurance that we will be able to meet all of our service level commitments in the future and that no material financial penalties may be imposed. In addition, if such a failure were to occur, there can be no assurance that our customers will not seek other legal remedies that may be available to them, including:

- requiring us to provide free services;
- seeking damages for losses incurred; and
- cancelling or electing not to renew their contracts.

Any of these events could materially increase our expenses or reduce our net revenue, which would have a material adverse effect on our reputation and results of operations. Our failure to meet our commitments could also result in substantial customer dissatisfaction or loss. As a result of such customer loss and other potential liabilities, our net revenue and results of operations could be materially and adversely affected.

***Our customer base may decline if our customers or potential customers develop their own data centers or expand their own existing data centers.***

Some of our customers may develop their own data center facilities. Other customers with their own existing data centers may choose to expand their data center operations in the future. In the event that any of our key customers were to develop or expand their data centers, we may lose business or face pressure as to the pricing of our services. Although we believe that the trend is for companies in China to outsource their data center facilities and operations to colocation data center service providers, there can be no assurance that this trend will continue. In addition, if we fail to offer services that are cost-competitive and operationally advantageous as compared with services provided in-house by our customers, we may lose customers or fail to attract new customers. If we lose a customer, there is no assurance that we would be able to replace that customer at the same or a higher rate, or at all, and our business and results of operations would suffer.

***We may be unable to achieve high contract renewal rates.***

We seek to renew customer contracts when those contracts are due for renewal. We endeavor to provide high levels of customer service, support, and satisfaction to maintain long-term customer relationships and to secure high rates of contract renewals for our services. Nevertheless, we cannot assure you that we will be able to renew service contracts with our existing customers or re-commit space relating to expired service contracts to new customers if our current customers do not renew their contracts. In the event of a customer's termination or non-renewal of expired contracts, our ability to enter into services contracts so that new or other existing customers utilize the expired existing space in a timely manner will impact our results of operations. Our quarterly churn rate, which we define as the ratio of quarterly service revenue from contracts which terminated or expired without renewal during the quarter to the total quarterly service revenue for the preceding quarter, averaged 1.4%, 1.0% and 1.4% in 2014, 2015 and the six months ended June 30, 2016, respectively. Between June 30, 2016 and December 31, 2016 and during 2017, data center service agreements with our customers with respect to 8.1% and 17.4%, respectively of our total area committed as at June 30, 2016 will become due for renewal.

***If we do not succeed in attracting new customers for our services and/or growing revenue from existing customers, we may not achieve our revenue growth goals.***

We have been expanding our customer base to cover a range of industry verticals, particularly cloud service providers. Our ability to attract new customers, as well as our ability to grow revenue from our existing customers, depends on a number of factors, including our ability to offer high-quality services at competitive prices, the strength of our competitors and the capabilities of our marketing and sales teams to attract new customers. If we fail to attract new customers, we may not be able to grow our net revenue as quickly as we anticipate or at all.

As our customer base grows and diversifies into other industries, we may be unable to provide customers with services that meet the specific demand of such customers or their industries, or with quality customer support, which could result in customer dissatisfaction, decreased overall demand for our services and loss of expected revenue. In addition, our inability to meet customer service expectations may damage our reputation and could consequently limit our ability to retain existing customers and attract new customers, which would adversely affect our ability to generate revenue and negatively impact our results of operations.

***Customers who rely on us for the colocation of their servers, the infrastructure of their cloud systems, and management of their IT and cloud operations could potentially sue us for their lost profits or damages if there are disruptions in our services, which could impair our financial condition.***

As our services are critical to many of our customers' business operations, any significant disruption in our services could result in lost profits or other indirect or consequential damages to our customers. Although our customer contracts typically contain provisions attempting to limit our liability for breach of the agreement, including failing to meet our service level commitments, there can be no assurance that a court would enforce any contractual limitations on our liability in the event that one of our customers brings a lawsuit against us as the result of a service interruption that they may ascribe to us. The outcome of any such lawsuit would depend on the specific facts of the case and any legal and policy considerations that we may not be able to mitigate. In such cases, we could be liable for substantial damage awards. Since we do not carry liability insurance coverage, such damage awards could seriously impair our financial condition.

***Our customers operate in a limited number of industries, particularly in the Internet and financial services industries. Factors that adversely affect these industries or information technology spending in these industries may adversely affect our business.***

Our customers operate in a limited number of industries, particularly in the Internet and financial services industries. As of June 30, 2016, end user customers from the Internet and financial services industries accounted for 63.1% and 18.7% of our total area committed, respectively. Our business and growth depends on continued demand for our services from our current and potential customers in the Internet and financial services industries. Demand for our services, and technology services in general, in any particular industry could be affected by multiple factors outside of our control, including a decrease in growth or growth prospects of the industry, a slowdown or reversal of the trend to outsource information technology operations, or consolidation in the industry. In addition, serving a major customer within a particular industry may effectively preclude us from seeking or obtaining engagements with direct competitors of that customer if there is a perceived conflict of interest. Any significant decrease in demand for our services by customers in these industries, or other industries from which we derive significant net revenue in the future, may reduce the demand for our services.

***We enter into fixed-price contracts with many customers, and our failure to accurately estimate the resources and time required for the fulfillment of our obligations under these contracts could negatively affect our results of operations.***

Our data center services are generally provided on a fixed-price basis that requires us to undertake significant projections and planning related to resource utilization and costs. Although our past project experience helps to reduce the risks associated with estimating, planning and performing fixed-price contracts, we bear the risk of failing to accurately estimate our projected costs, including power costs as we may not accurately predict our customer's ultimate power usage once the contract is implemented, and failing to efficiently utilize our resources to deliver our services, and there can be no assurance that we will be able to reduce the risk of estimating, planning and performing our contracts. Any failure to accurately estimate the resources and time required for a project, or any other factors that may impact our costs, could adversely affect our profitability and results of operations.

***Our customer contract commitments are subject to reduction and potential cancellation.***

Many of our customer contracts allow for early termination, subject to payment of specified costs and penalties, which are usually less than the revenues we would expect to receive under such contracts. Our customer contract commitments could significantly decrease if any of the customer contracts is terminated either pursuant to, or in violation of, the terms of such contract. In addition, our customer contract commitments during a particular future period may be reduced for reasons outside of our customers' control, such as general current economic conditions. If our customer contract commitments are significantly reduced, our results of operations and the price of our ADSs could be materially and adversely affected.

Even if our current and future customers have entered into a binding contract with us, they may choose to terminate such contract prior to the expiration of its terms. Any penalty for early termination may not adequately compensate us for the time and resources we have expended in connection with such contract, or at all, which could have a material adverse effect on our results of operations and cash flows.

***We may not be able to compete effectively against our current and future competitors.***

We offer a broad range of data center services and, as a result, we may compete with a wide range of data center service providers for some or all of the services we offer.

We face competition from the state-owned telecommunications carriers, namely China Telecom, China Unicom and China Mobile, as well as other domestic and international carrier-neutral data center service

providers. Our current and future competitors may vary by size and service offerings and geographic presence. See "Business—Competition."

Competition is primarily centered on reputation and track record, quality and availability of data center space, quality of service, technical expertise, security, reliability, functionality, breadth and depth of services offered, geographic coverage, financial strength and price. Some of our current and future competitors may have greater brand recognition, marketing, technical and financial resources than we do. As a result, some of our competitors may be able to:

- bundle colocation services with other services or equipment they provide at reduced prices;
- develop superior products or services, gain greater market acceptance, and expand their service offerings more efficiently or rapidly;
- adapt to new or emerging technologies and changes in customer requirements more quickly;
- take advantage of acquisition and other opportunities more readily; and
- adopt more aggressive pricing policies and devote greater resources to the promotion, marketing and sales of their services.

We operate in a competitive market, and we face pricing pressure for our services. Prices for our services are affected by a variety of factors, including supply and demand conditions and pricing pressures from our competitors. Although we offer a broad range of data center services, our competitors that specialize in only one of our services offerings may have competitive advantages in that offering. With respect to all of our colocation services, our competitors may offer such services at rates below current market rates or below the rates we currently charge our customers. With respect to both our colocation and managed services offerings, our competitors may offer services in a greater variety that are more sophisticated or that are more competitively priced than the services we offer. We may be required to lower our prices to remain competitive, which may decrease our margins and adversely affect our business prospects, financial condition and results of operations.

***An oversupply of data center capacity could have a material adverse effect on us.***

A buildup of new data centers or reduced demand for data center services could result in an oversupply of data center space in China's large commercial centers. Excess data center capacity could lower the value of data center services and limit the number of economically attractive markets that are available to us for expansion, which could negatively impact our business and results of operations.

***Our failure to comply with regulations applicable to our leased data centers may materially and adversely affect our ability to use such data centers.***

Among the data centers that we lease, including those under construction, a majority of the lease agreements have not been registered or filed with relevant authorities in accordance with the applicable PRC laws and regulations. The enforcement of this legal requirement varies depending on local practices. In case of failure to register or file a lease, the parties to the unregistered lease may be ordered to make rectifications (which would involve registering such leases with the relevant authority) before being subject to penalties. The penalty ranges from RMB1,000 to RMB10,000 for each unregistered lease, at the discretion of the relevant authority. The law is not clear as to which of the parties, the lessor or the lessee, is liable for the failure to register the lease, and the lease agreements of several of our data centers provide that the lessor is responsible for processing the registration and must compensate us for losses caused by any breach of the obligation. Although we have proactively requested that the applicable lessors complete or cooperate with us to complete the registration in a timely manner, we are unable to control whether and when such lessors will do so. In the event that a fine is imposed on both the lessor and lessee, and if we are unable to recover from the lessor any fine paid by us in accordance with the terms of



the lease agreement, such fine will be borne by us. In respect to one data center in Beijing, a portion of the property has been constructed without obtaining the building ownership certificate, and the part of the lease in relation to such portion may be deemed invalid if the construction has not been duly approved by the government, in which event we would not be able to use that portion of property. In respect of some data centers, the usage of leased properties for data center purposes may be deemed to be inconsistent with the designated usage as stated under the building ownership certificates. If the owners fail to obtain the necessary consents and/or to comply with the applicable legal requirements for the change of usage of these premises, and the relevant authority or the court orders us to use the relevant leased properties for the designated usage only, we may not be able to continue to use these properties for data center purposes and we may need relocate our operation there to other suitable premises. We may also be subject to administrative penalties for lack of fire safety approvals for renovation of the leased premises, and we may be ordered to suspend operations at applicable premises if we fail to timely cure any such defect. Renovation of certain other of our data centers was carried out without obtaining construction related permits, and certain leased premises were put into use without fulfillment of construction inspection and acceptance procedures, which may cause administrative penalties to be incurred, and may cause the use of the leased premises to be deemed illegal, and we may be forced to suspend our operations as a result. See also "—Risks Related to Doing Business in the People's Republic of China—Our business operations are extensively impacted by the policies and regulations of the PRC Government. Any policy or regulatory change may cause us to incur significant compliance costs."

We cannot assure you that we will be able to relocate such operations to suitable alternative premises, and any such relocation may result in disruption to our business operations and thereby result in loss of earnings. We may also need to incur additional costs for the relocation of our operation. There is also no assurance that we will be able to effectively mitigate the possible adverse effects that may be caused by such disruption, loss or costs. Any of such disruption, loss or costs could materially and adversely affect our financial condition and results of operations.

***Our failure to maintain our relationships with various cloud service providers may adversely affect our cloud-related services, and as a result, our business, operating results and financial condition.***

Our cloud managed services involve providing services to the customers of cloud service providers. If we do not maintain good relationships with cloud service providers, our business could be negatively affected. If these cloud service providers fail to perform as required under our agreements for any reason or suffer service level interruptions or other performance issues, or if our customers are less satisfied than expected with the services provided or results obtained, we may not realize the anticipated benefits of these relationships.

Since our agreements with key cloud service providers in China are non-exclusive, these companies may decide in the future to partner with more of our competitors or they may decide to terminate their agreements with us, any of which could adversely and materially affect our business expansion plan and expected growth.

***Our data center infrastructure may become obsolete or unmarketable and we may not be able to upgrade our power, cooling, security or connectivity systems cost-effectively or at all.***

The markets for the data centers we own and operate, as well as certain of the industries in which our customers operate, are characterized by rapidly changing technology, evolving industry standards, frequent new service introductions, shifting distribution channels and changing customer demands. As a result, the infrastructure at our data centers may become obsolete or unmarketable due to demand for new processes and/or technologies, including, without limitation: (i) new processes to deliver power to, or eliminate heat from, computer systems; (ii) customer demand for additional redundancy capacity; (iii) new technology that permits higher levels of critical load and heat removal than our data centers are currently designed to provide; and (iv) an inability of the power supply to support new, updated or upgraded

technology. In addition, the systems that connect our self-developed data centers, and in particular, our third-party data centers, to the Internet and other external networks may become outdated, including with respect to latency, reliability and diversity of connectivity. When customers demand new processes or technologies, we may not be able to upgrade our data centers on a cost-effective basis, or at all, due to, among other things, increased expenses to us that cannot be passed on to customers or insufficient revenue to fund the necessary capital expenditures. The obsolescence of our power and cooling systems and/or our inability to upgrade our data centers, including associated connectivity, could reduce revenue at our data centers and could have a material adverse effect on us. Furthermore, potential future regulations that apply to industries we serve may require customers in those industries to seek specific requirements from their data centers that we are unable to provide. If such regulations were adopted, we could lose customers or be unable to attract new customers in certain industries, which could have a material adverse effect on us.

***If we are unable to adapt to evolving technologies and customer demands in a timely and cost-effective manner, our ability to sustain and grow our business may suffer.***


To be successful, we must adapt to our rapidly changing market by continually improving the performance, features and reliability of our services and modifying our business strategies accordingly, which could cause us to incur substantial costs. We may not be able to adapt to changing technologies in a timely and cost-effective manner, if at all, which would adversely impact our ability to sustain and grow our business.

In addition, new technologies have the potential to replace or provide lower cost alternatives to our services. The adoption of such new technologies could render some or all of our services obsolete or unmarketable. We cannot guarantee that we will be able to identify the emergence of all of these new service alternatives successfully, modify our services accordingly, or develop and bring new services to market in a timely and cost-effective manner to address these changes. If and when we do identify the emergence of new service alternatives and introduce new services to market, those new services may need to be made available at lower profit margins than our then-current services. Failure to provide services to compete with new technologies or the obsolescence of our services could lead us to lose current and potential customers or could cause us to incur substantial costs, which would harm our operating results and financial condition. Our introduction of new alternative services that have lower price points than our current offerings may also result in our existing customers switching to the lower cost products, which could reduce our net revenue and have a material adverse effect on our results of operation.

***We have limited ability to protect our intellectual property rights, and unauthorized parties may infringe upon or misappropriate our intellectual property.***

Our success depends in part upon our proprietary intellectual property rights, including certain methodologies, practices, tools and technical expertise we utilize in designing, developing, implementing and maintaining applications and processes used in providing our services. We rely on a combination of copyright, trademark, trade secrets and other intellectual property laws, non-disclosure agreements with our employees, customers and other relevant persons and other measures to protect our intellectual property, including our brand identity. Nevertheless, it may be possible for third parties to obtain and use our intellectual property without authorization. The unauthorized use of intellectual property is common in China and enforcement of intellectual property rights by PRC regulatory agencies is inconsistent. As a result, litigation may be necessary to enforce our intellectual property rights. Litigation could result in substantial costs and diversion of our management's attention and resources, and could disrupt our business, as well as have a material adverse effect on our financial condition and results of operations. Given the relative unpredictability of China's legal system and potential difficulties in enforcing a court judgment in China, there is no guarantee that we would be able to halt any unauthorized use of our intellectual property in China through litigation.

***We may be subject to third-party claims of intellectual property infringement.***

We derive most our revenues in China and use , our figure trademark, in a majority of our services. We have registered or are in the process of registering the figure trademark in China in several categories that cover our services areas. A third party has also registered the pure text of "GDS" as a trademark in certain IT-related services. As the services for which the third party trademark is registered are also IT-related and could be construed as similar to ours in some respects, infringement claims may be asserted against us, and we cannot assure you that a government authority or a court will hold the view that such similarity will not cause confusion in the market. In this case, if we use the pure text of GDS (which we have not registered as a trademark with respect to all services we provide) as our trademark, we may be required to explore the possibility of acquiring this trademark, or entering into an exclusive licensing agreement with the third party, which will cause us to incur additional costs. In addition, we may be unaware of intellectual property registrations or applications that purport to relate to our services, which could give rise to potential infringement claims against us. Parties making infringement claims may be able to obtain an injunction to prevent us from delivering our services or using trademark or technology containing the allegedly intellectual property. If we become liable to third parties for infringing upon their intellectual property rights, we could be required to pay a substantial damage award. We may also be subject to injunctions that require us to alter our processes or methodologies so as not to infringe upon a third party's intellectual property, which may not be technically or commercially feasible and may cause us to expend significant resources. Any claims or litigation in this area, whether we ultimately win or lose, could be time-consuming and costly, could cause the diversion of management's attention and resources away from the operations of our business and could damage our reputation.

***If our customers' proprietary intellectual property or confidential information is misappropriated or disclosed by us or our employees in violation of applicable laws and contractual agreements, we could be exposed to protracted and costly legal proceedings and lose clients.***

We and our employees are in some cases provided with access to our customers' proprietary intellectual property and confidential information, including technology, software products, business policies and plans, trade secrets and personal data. Many of our customer contracts require that we do not engage in the unauthorized use or disclosure of such intellectual property or information and that we will be required to indemnify our customers for any loss they may suffer as a result. We use security technologies and other methods to prevent employees from making unauthorized copies, or engaging in unauthorized use or unauthorized disclosure, of such intellectual property and confidential information. We also require our employees to enter into non-disclosure arrangements to limit access to and distribution of our customers' intellectual property and other confidential information as well as our own. However, the steps taken by us in this regard may not be adequate to safeguard our customers' intellectual property and confidential information. Moreover, most of our customer contracts do not include any limitation on our liability with respect to breaches of our obligation to keep the intellectual property or confidential information we receive from them confidential. In addition, we may not always be aware of intellectual property registrations or applications relating to source codes, software products or other intellectual property belonging to our customers. As a result, if our customers' proprietary rights are misappropriated by us or our employees, our customers may consider us liable for such act and seek damages and compensation from us.

Assertions of infringement of intellectual property or misappropriation of confidential information against us, if successful, could have a material adverse effect on our business, financial condition and results of operations. Protracted litigation could also result in existing or potential customers deferring or limiting their purchase or use of our services until resolution of such litigation. Even if such assertions against us are unsuccessful, they may cause us to lose existing and future business and incur reputational harm and substantial legal fees.

***We rely on third-party suppliers for key elements of our network infrastructure and software.***

We contract with third parties for the supply of hardware, such as servers and other equipment, that we use in the provision of our services to our customers and that we sell to our customers in some cases. The loss of a significant supplier could delay expansion of the data center facilities that we operate, impact our ability to sell our services and hardware and increase our costs. If we are unable to purchase the hardware or obtain a license for the software that our services depend on, our business could be significantly and adversely affected. In addition, if our suppliers are unable to provide products that meet evolving industry standards or that are unable to effectively interoperate with other products or services that we use, then we may be unable to meet all or a portion of our customer service commitments, which could materially and adversely affect our results of operations.

***We engage third-party contractors to carry out various services relating to our data center facilities, including security services.***

We engage third-party contractors to carry out various services relating to our data center facilities, including security services. We endeavor to engage third-party companies with a strong reputation and proven track record, high-performance reliability and adequate financial resources. However, any such third-party contractor may still fail to provide satisfactory security services at the level of quality required by us, resulting in inappropriate access to our facilities.

***Any difficulties in identifying and consummating future acquisitions may expose us to potential risks and have an adverse effect on our business, results of operations or financial condition.***

We may seek to make strategic acquisitions and enter into alliances to further expand our business. If we are presented with appropriate opportunities, we may acquire additional businesses, services, resources, or assets, including data centers, that are complementary to our core business. Our integration of the acquired entities or assets into our business may not be successful and may not enable us to expand into new services, customer segments or operating locations as well as we expect. This would significantly affect the expected benefits of these acquisitions. Moreover, the integration of any acquired entities or assets into our operations could require significant attention from our management. The diversion of our management's attention and any difficulties encountered in any integration process could have an adverse effect on our ability to manage our business. In addition, we may face challenges trying to integrate new operations, services and personnel with our existing operations. Our possible future acquisitions may also expose us to other potential risks, including risks associated with unforeseen or hidden liabilities, the diversion of resources from our existing businesses and technologies, our inability to generate sufficient revenue to offset the costs, expenses of acquisitions and potential loss of, or harm to, relationships with employees and customers as a result of our integration of new businesses. The occurrence of any of these events could have a material and adverse effect on our ability to manage our business, our financial condition and our results of operations.

***The uncertain economic environment may have an adverse impact on our business and financial condition.***

The uncertain economic environment could have an adverse effect on our liquidity. While we believe we have a strong customer base, if the current market conditions were to worsen, some of our customers may have difficulty paying us and we may experience increased churn in our customer base and reductions in their commitments to us. We may also be required to make allowances for doubtful accounts and our results would be negatively impacted. Our sales cycle could also be lengthened if customers reduce spending on, or delay decision-making with respect to, our services, which could adversely affect our revenue growth and our ability to recognize net revenue. We could also experience pricing pressure as a result of economic conditions if our competitors lower prices and attempt to lure away our customers with lower cost solutions. Finally, our ability to access the capital markets may be severely restricted at a time

when we would like, or need, to do so, which could have an impact on our flexibility to pursue additional expansion opportunities and maintain our desired level of revenue growth in the future.

***Our success depends on a substantial degree upon our senior management, including Mr. William Wei Huang, and key personnel, and our business operations may be negatively affected if we fail to attract and retain highly competent senior management.***

We depend to a significant degree on the continuous service of Mr. William Wei Huang, our founder, chairman and chief executive officer, and our experienced senior management team and other key personnel such as project managers and other middle management. If one or more members of our senior management team or key personnel resigns, it could disrupt our business operations and create uncertainty as we search for and integrate a replacement. If any member of our senior management leaves us to join a competitor or to form a competing company, any resulting loss of existing or potential clients to any such competitor could have a material adverse effect on our business, financial condition and results of operations. Additionally, there could be unauthorized disclosure or use of our technical knowledge, practices or procedures by such personnel. We have entered into employment agreements with our senior management and key personnel. We have also entered into confidentiality agreements with our personnel which contain nondisclosure covenants that survive indefinitely as to our trade secrets. Additionally, pursuant to these confidentiality agreements, any inventions and creations of our employees relating to the company's business that are completed within twelve months after termination of employment shall be transferred to the company without payment of consideration, and the employees shall assist the company in applying for corresponding patents or other rights. However, these employment agreements do not ensure the continued service of these senior management and key personnel, and we may not be able to enforce the confidentiality agreements we have with our personnel. In addition, we do not maintain key man life insurance for any of the senior members of our management team or our key personnel.

***Competition for employees is intense, and we may not be able to attract and retain the qualified and skilled employees needed to support our business.***

We believe our success depends on the efforts and talent of our employees, including data center design, construction management, operations, engineering, IT, risk management, and sales and marketing personnel. Our future success depends on our continued ability to attract, develop, motivate and retain qualified and skilled employees. Competition for highly skilled personnel is extremely intense. We may not be able to hire and retain these personnel at compensation levels consistent with our existing compensation and salary structure. Some of the companies with which we compete for experienced employees have greater resources than we have and may be able to offer more attractive terms of employment.

In addition, we invest significant time and expenses in training our employees, which increases their value to competitors who may seek to recruit them. If we fail to retain our employees, we could incur significant expenses in hiring and training their replacements, and the quality of our services and our ability to serve our customers could diminish, resulting in a material adverse effect to our business.

***Our operating results may fluctuate, which could make our future results difficult to predict, and may fall below investor or analyst expectations.***

Our operating results may fluctuate due to a variety of factors, including many of the risks described in this section, which are outside of our control. You should not rely on our operating results for any prior periods as an indication of our future operating performance. Fluctuations in our net revenue can lead to even greater fluctuations in our operating results. Our budgeted expense levels depend in part on our expectations of long-term future net revenue. Given relatively large fixed cost of revenue for services, other than utility costs, any substantial adjustment to our costs to account for lower than expected levels of net revenue will be difficult. Consequently, if our net revenue does not meet projected levels, our operating

performance will be negatively affected. If our net revenue or operating results do not meet or exceed the expectations of investors or securities analysts, the price of our ADSs may decline.

***Declining fixed asset valuations could result in impairment charges, the determination of which involves a significant amount of judgment on our part. Any impairment charge could have a material adverse effect on us.***

We review our fixed assets for impairment on an annual basis and whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. Indicators of impairment include, but are not limited to, a sustained significant decrease in the market price of or the cash flows expected to be derived from a property. A significant amount of judgment is involved in determining the presence of an indicator of impairment. If the total of the expected undiscounted future cash flows is less than the carrying amount of a property on our balance sheet, a loss is recognized for the difference between the fair value and carrying value of the asset. The evaluation of anticipated cash flows requires a significant amount of judgment regarding assumptions that could differ materially from actual results in future periods, including assumptions regarding future occupancy, contract rates and estimated costs to service the contracts. Any impairment charge could have a material adverse effect on us.

***Failure to commence or resume development of land that we have been granted right to use within the required timeframe may subject us to default liabilities under land use right grant contracts and cause us to lose such land use rights.***

We have two parcels of land, one in Chengdu and one in Kunshan, over which we have obtained land use rights, but which may be treated as "idle land" by the respective local government authorities. According to the relevant PRC regulations, the PRC government may impose an "idle land fee" equal to 20% of the land premium on land user if the relevant construction land has been identified as "idle land". The construction land may be identified as "idle land" under any of the following circumstances: (i) where development of and construction on the land fail to commence for more than one year from the construction commencement date prescribed in the land grant contract; or (ii) the development and construction on the land have commenced but have been suspended when the area of the developed land is less than one-third of the total area to be developed or the invested amount is less than 25% of the total amount of investment, and the suspension of development attains one year. Furthermore, the PRC government has the authority to confiscate any land without compensation if the construction does not commence within two years after the construction commencement date specified in the land grant contract, unless the delay is caused by force majeure, governmental action or preliminary work necessary for the commencement of construction.

As of the date of this prospectus, (i) we have not commenced development of one parcel of the land in Kunshan, which was to commence in December 2012; and (ii) we suspended the development of one parcel of the land in Chengdu after completion of the construction of the existing buildings thereon in November 2010 and have not resumed development of such parcel of land, and upon such suspension, the area of the developed land was less than one-third of the total land area. Therefore, the PRC government may treat such two parcels of land as idle lands, in which case we may be required to pay idle land fees or penalties, change the planned use of the land, find another parcel of land, or even be required to forfeit the land to PRC government. We may further be subject to penalties for breach of relevant land use right grant contracts and be required to pay damages.

We have not been subject to any penalties or required to forfeit any land as a result of failing to commence or resume development pursuant to the relevant land grant contract. However, we cannot assure you that we will not be subject to penalties as a result of any failure to commence development in accordance with the relevant land grant contract. If this occurs, our financial condition and results of operations could be materially and adversely affected.

***We may experience impairment of goodwill in connection with our acquisition of entities or other assets.***

We are required to perform an annual goodwill impairment test. For example, in connection with acquiring EDC Holding in June 2014, we recorded a substantial amount of goodwill in our consolidated financial statements. As of June 30, 2016, we carried RMB1,341.1 million (US\$201.8 million) of goodwill on our balance sheet. However, goodwill can become impaired. We test goodwill for impairment annually or more frequently if events or changes in circumstances indicate possible impairment, but the fair value estimates involved require a significant amount of difficult judgment and assumptions. Our actual results may differ materially from our projections, which may result in the need to recognize impairment of some or all of the goodwill we recorded.

***We are subject to China's anti-corruption laws and upon the completion of this offering, will be subject to the U.S. Foreign Corrupt Practices Act. Our failure to comply with these laws could result in penalties, which could harm our reputation and have an adverse effect on our business, results of operations and financial condition.***

We operate our business in China and are thus subject to PRC laws and regulations related to anti-corruption, which prohibit bribery to government agencies, state or government owned or controlled enterprises or entities, to government officials or officials that work for state or government owned enterprises or entities, as well as bribery to non-government entities or individuals. Upon the completion of this offering, we will also be subject to the U.S. Foreign Corrupt Practices Act, or the FCPA, which generally prohibits companies and any individuals or entities acting on their behalf from offering or making improper payments or providing benefits to foreign officials for the purpose of obtaining or keeping business, along with various other anti-corruption laws. Our existing policies prohibit any such conduct and we are in the process of implementing additional policies and procedures designed, and providing training, to ensure that we, our employees, business partners and other third parties comply with PRC anti-corruption laws and regulations, the FCPA and other anti-corruption laws to which we are subject. There is, however, no assurance that such policies or procedures will work effectively all the time or protect us against liability under the FCPA or other anti-corruption laws. There is no assurance that our employees, business partners and other third parties would always obey our policies and procedures. Further, there is discretion and interpretation in connection with the implementation of PRC anti-corruption laws. We could be held liable for actions taken by our employees, business partners and other third parties with respect to our business or any businesses that we may acquire. We operate in the data center services industry in China and generally purchase our colocation facilities and telecommunications resources from state or government-owned enterprises and sell our services domestically to customers that include state or government-owned enterprises or government ministries, departments and agencies. This puts us in frequent contact with persons who may be considered "foreign officials" under the FCPA, resulting in an elevated risk of potential FCPA violations. If we are found not to be in compliance with PRC anti-corruption laws, the FCPA and other applicable anti-corruption laws governing the conduct of business with government entities, officials or other business counterparties, we may be subject to criminal, administrative, and civil penalties and other remedial measures, which could have an adverse impact on our business, financial condition and results of operations. Any investigation of any potential violations of the FCPA or other anti-corruption laws by U.S. or foreign authorities, including Chinese authorities, could adversely impact our reputation, cause us to lose customer sales and access to colocation facilities and telecommunications resources, and lead to other adverse impacts on our business, financial condition and results of operations.

***We face risks related to natural disasters, health epidemics and other outbreaks, which could significantly disrupt our operations.***

On May 12, 2008 and April 14, 2010, severe earthquakes hit part of Sichuan province in southeastern China and part of Qinghai province in western China, respectively, resulting in significant casualties and property damage. While we did not suffer any loss or experience any significant increase in cost resulting from these earthquakes, if a similar disaster were to occur in the future that affected Shanghai, Beijing,

Shenzhen, Guangzhou, Chengdu or another city where we have data centers or are in the process of developing data centers, our operations could be materially and adversely affected due to loss of personnel and damages to property. In addition, a similar disaster affecting a larger, more developed area could also cause an increase in our costs resulting from the efforts to resurvey the affected area. Even if we are not directly affected, such a disaster could affect the operations or financial condition of our customers and suppliers, which could harm our results of operations.

In addition, our business could be materially and adversely affected by natural disasters or public health emergencies, such as the outbreak of avian influenza, severe acute respiratory syndrome, or SARS, Zika virus, Ebola virus, or another epidemic. If any of our employees is suspected of having contracted any contagious disease, we may under certain circumstances be required to quarantine such employees and the affected areas of our premises. Therefore, we may have to temporarily suspend part of or all of our operations. Furthermore, any future outbreak may restrict economic activities in affected regions, resulting in temporary closure of our offices or prevent us and our customers from traveling. Such closures could severely disrupt our business operations and adversely affect our results of operations.

***If we fail to maintain proper and effective internal controls, our ability to produce accurate financial statements on a timely basis could be impaired.***

We will be subject to the reporting requirements of the U.S. Securities Exchange Act of 1934, as amended, or the Exchange Act, the Sarbanes-Oxley Act and the rules and regulations of the NASDAQ after the completion of this offering. The Sarbanes-Oxley Act requires, among other things, that we maintain effective disclosure controls and procedures and internal controls over financial reporting. Commencing with our fiscal year ending December 31, 2017, we must perform system and process evaluation and testing of our internal controls over financial reporting to allow management to report on the effectiveness of our internal controls over financial reporting in our Form 20-F filing for that year, as required by Section 404 of the Sarbanes-Oxley Act. In addition, once we cease to be an "emerging growth company" as the term is defined in the JOBS Act, our independent registered public accounting firm must attest to and report on the effectiveness of our internal control over financial reporting. Our management may conclude that our internal control over financial reporting is not effective. Moreover, even if our management concludes that our internal control over financial reporting is effective, our independent registered public accounting firm, after conducting its own independent testing, may issue a report that is qualified if it is not satisfied with our internal controls or the level at which our controls are documented, designed, operated or reviewed, or if it interprets the relevant requirements differently from us. This will require that we incur substantial additional professional fees and internal costs to expand our accounting and finance functions and that we expend significant management efforts. Prior to this offering, we were never required to test our internal controls within a specified period, and, as a result, we may experience difficulty in meeting these reporting requirements in a timely manner. Prior to this offering, we were a private company with limited accounting personnel and other resources with which to address our internal controls and procedures. Our management has not completed an assessment of the effectiveness of our internal control over financial reporting and our independent registered public accounting firm has not conducted an audit of our internal control over financial reporting.

In addition, our internal control over financial reporting will not prevent or detect all errors and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud will be detected.

If we are not able to comply with the requirements of Section 404 of the Sarbanes-Oxley Act in a timely manner, or if we are unable to maintain proper and effective internal controls, we may not be able to produce timely and accurate financial statements. If that were to happen, the market price of our ADSs could decline and we could be subject to sanctions or investigations by the NASDAQ, SEC or other regulatory authorities.



**Compliance with rules and requirements applicable to public companies may cause us to incur increased costs, which may negatively affect our results of operations.**

As a public company, we will incur significant legal, accounting and other expenses that we did not incur as a private company. In addition, the Sarbanes-Oxley Act, as well as rules subsequently implemented by the SEC and the NASDAQ, have required changes in corporate governance practices of public companies. We expect these rules and regulations to increase our legal, accounting and financial compliance costs and to make certain corporate activities more time-consuming and costly. Complying with these rules and requirements may be especially difficult and costly for us because we may have difficulty locating sufficient personnel in China with experience and expertise relating to U.S. GAAP and U.S. public company reporting requirements, and such personnel may command higher salaries relative to what similarly experienced personnel would command in the United States. If we cannot employ sufficient personnel to ensure compliance with these rules and regulations, we may need to rely more on outside legal, accounting and financial experts, which may be expensive. In addition, we will incur additional costs associated with our public company reporting requirements. We are evaluating and monitoring developments with respect to these new rules, and we cannot predict or estimate the amount of additional costs we may incur or the timing of such costs.

**Risks Related to Our Corporate Structure**

***If the PRC government deems that the contractual arrangements in relation to GDS Shanghai or GDS Beijing do not comply with PRC regulatory restrictions on foreign investment in the relevant industries, or if these regulations or the interpretation of existing regulations change in the future, we could be subject to severe penalties or be forced to relinquish our interests in those operations.***

The PRC government regulates telecommunications-related businesses through strict business licensing requirements and other government regulations. These laws and regulations also include limitations on foreign ownership of PRC companies that engage in telecommunications-related businesses. Specifically, foreign investors are not allowed to own more than a 50% equity interest in any PRC company engaging in value-added telecommunications businesses, with certain exceptions relating to e-commerce which does not apply to us. Any such foreign investor must also have experience and a good track record in providing value-added telecommunications services overseas.

Because we are a Cayman Islands company, we are classified as a foreign enterprise under PRC laws and regulations, and our wholly owned PRC subsidiaries, GDS Management Company, Shenzhen Yungang EDC Technology Co., Ltd., Beijing Wanguo Shu'an Science & Technology Development Co., Ltd., Beijing Hengpu'an Data Technology Development Co., Ltd., Guojin Technology (Kunshan) Co., Ltd., Shanghai Yungang EDC Technology Co., Ltd., Shenzhen Pingshan New Area Global Data Science & Technology Development Co., Ltd., EDC Technology (Suzhou) Co., Ltd., EDC (Chengdu) Industry Co., Ltd. and EDC Technology (Kunshan) Co., Ltd., are foreign-invested enterprises, or FIEs. To comply with PRC laws and regulations, we conduct our business in China through contractual arrangements with our consolidated VIEs and their shareholders. These contractual arrangements provide us with effective control over our consolidated VIEs and enable us to receive substantially all of the economic benefits of our consolidated VIEs in consideration for the services provided by our wholly-owned PRC subsidiaries, and have an exclusive option to purchase all of the equity interest in our consolidated VIEs when permissible under PRC laws. For a description of these contractual arrangements, see "Our History and Corporate Structure—Variable Interest Entity Contractual Arrangements."

We believe that our corporate structure and contractual arrangements comply with the current applicable PRC laws and regulations. Our PRC legal counsel, based on its understanding of the relevant laws and regulations, is of the opinion that each of the contracts among our wholly-owned PRC subsidiaries, our consolidated VIEs and their shareholders is valid, binding and enforceable in accordance with its terms. However, as there are substantial uncertainties regarding the interpretation and application of PRC laws and regulations, including the Regulations on Mergers and Acquisitions of Domestic Enterprises by Foreign Investors, or the M&A Rules, the telecommunications circular described above and the Telecommunications

Regulations and the relevant regulatory measures concerning the telecommunications industry, there can be no assurance that the PRC government, such as MOFCOM or MIIT or other authorities that regulates providers of data center service and other participants in the telecommunications industry would agree that our corporate structure or any of the above contractual arrangements comply with PRC licensing, registration or other regulatory requirements, with existing policies or with requirements or policies that may be adopted in the future. PRC laws and regulations governing the validity of these contractual arrangements are uncertain and the relevant government authorities have broad discretion in interpreting these laws and regulations.

If our corporate and contractual structure is deemed by the Ministry of Industry and Information Technology, or the MIIT, or the Ministry of Commerce, or the MOFCOM, or other regulators having competent authority, to be illegal, either in whole or in part, we may lose control of our consolidated VIEs and have to modify such structure to comply with regulatory requirements. However, there can be no assurance that we can achieve this without material disruption to our business. Further, if our corporate and contractual structure is found to be in violation of any existing or future PRC laws or regulations, the relevant regulatory authorities would have broad discretion in dealing with such violations, including:

- revoking our business and operating licenses;
- levying fines on us;
- confiscating any of our income that they deem to be obtained through illegal operations;
- shutting down a portion or all of our networks and servers;
- discontinuing or restricting our operations in China;
- imposing conditions or requirements with which we may not be able to comply;
- requiring us to restructure our corporate and contractual structure;
- restricting or prohibiting our use of the proceeds from overseas offering to finance our PRC consolidated VIEs' business and operations; and
- taking other regulatory or enforcement actions that could be harmful to our business.

Furthermore, new PRC laws, rules and regulations may be introduced to impose additional requirements that may be applicable to our corporate structure and contractual arrangements. See "—Substantial uncertainties exist with respect to the enactment timetable, interpretation and implementation of the draft PRC Foreign Investment Law, and its enactment may materially and adversely affect our business and financial condition." Occurrence of any of these events could materially and adversely affect our business, financial condition and results of operations. In addition, if the imposition of any of these penalties or requirement to restructure our corporate structure causes us to lose the rights to direct the activities of our consolidated VIEs or our right to receive their economic benefits, we would no longer be able to consolidate in our consolidated financial statements such VIEs. However, we do not believe that such actions would result in the liquidation or dissolution of our company, our wholly-owned subsidiaries in China or our consolidated VIEs or their subsidiaries. For the years ended December 31, 2014 and 2015, our consolidated VIEs contributed 2.0% and 4.3% of our total net revenue. In the six months ended June 30, 2016, 49.8% of our total net revenue was attributed to our consolidated VIEs. Following our restructuring, we expect that, going forward, substantially all of our net revenue will be generated from our consolidated VIEs as we shift the revenue-generating aspects of our business to our consolidated VIEs in connection with the restructuring described in this prospectus. See "Our History and Corporate Structure."

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

We could face material and adverse tax consequences if the PRC tax authorities determine that our contractual arrangements with our consolidated VIEs were not made on an arm's length basis and adjust our income and expenses for PRC tax purposes by requiring a transfer pricing adjustment. A transfer pricing adjustment could adversely affect us by (i) increasing the tax liabilities of our consolidated VIEs without

reducing the tax liability of our subsidiaries, which could further result in late payment fees and other penalties to our consolidated VIEs for underpaid taxes; or (ii) limiting the ability of our consolidated VIEs to obtain or maintain preferential tax treatments and other financial incentives.

***We rely on contractual arrangements with our consolidated VIEs and their shareholders for our China operations, which may not be as effective as direct ownership in providing operational control and otherwise have a material adverse effect as to our business.***

We rely on contractual arrangements with our consolidated VIEs and their shareholders to operate our business in China. For a description of these contractual arrangements, see "Our History and Corporate Structure—Variable Interest Entity Contractual Arrangements." In 2014 and 2015, 2.0% and 4.3% of our total net revenue, respectively, were attributed to our consolidated VIEs. In the six months ended June 30, 2016, 49.8% of our total net revenue was attributed to our consolidated VIEs. We expect this proportion to increase going forward as we shift the revenue-generating aspects of our business to our consolidated VIEs in connection with the restructuring described in this prospectus. See "Our History and Corporate Structure." These contractual arrangements may not be as effective as direct ownership in providing us with control over our consolidated VIEs. If our consolidated VIEs or their shareholders fail to perform their respective obligations under these contractual arrangements, our recourse to the assets held by our consolidated VIEs is indirect and we may have to incur substantial costs and expend significant resources to enforce such arrangements in reliance on legal remedies under PRC law. These remedies may not always be effective, particularly in light of uncertainties in the PRC legal system. Furthermore, in connection with litigation, arbitration or other judicial or dispute resolution proceedings, assets under the name of any of record holder of equity interest in our consolidated VIEs, including such equity interest, may be put under court custody. As a consequence, we cannot be certain that the equity interest will be disposed pursuant to the contractual arrangement or ownership by the record holder of the equity interest.

All of these contractual arrangements are governed by PRC law and provide for the resolution of disputes through arbitration in the PRC. Accordingly, these contracts would be interpreted in accordance with PRC laws and any disputes would be resolved in accordance with PRC legal procedures. The legal environment in the PRC is not as developed as in other jurisdictions, such as the United States. As a result, uncertainties in the PRC legal system could limit our ability to enforce these contractual arrangements. In the event that we are unable to enforce these contractual arrangements, or if we suffer significant time delays or other obstacles in the process of enforcing these contractual arrangements, it would be very difficult to exert effective control over our consolidated VIEs, and our ability to conduct our business and our financial conditions and results of operation may be materially and adversely affected. See "—Risks Related to Doing Business in the People's Republic of China—There are uncertainties regarding the interpretation and enforcement of PRC laws, rules and regulations."

***The shareholders of our consolidated VIEs may have potential conflicts of interest with us, which may materially and adversely affect our business and financial condition.***

In connection with our operations in China, we rely on the shareholders of our consolidated VIEs to abide by the obligations under such contractual arrangements. In particular, GDS Shanghai is 99.90% owned by William Wei Huang, our chairman and chief executive officer, and 0.10% owned by Qiuping Huang, and GDS Beijing is approximately 99.97% owned by William Wei Huang, and approximately 0.03% owned by Qiuping Huang. The interests of William Wei Huang and Qiuping Huang in their individual capacities as the shareholders of GDS Shanghai and GDS Beijing may differ from the interests of our company as a whole, as what is in the best interests of GDS Shanghai and GDS Beijing, including matters such as whether to distribute dividends or to make other distributions to fund our offshore requirement, may not be in the best interests of our company. There can be no assurance that when conflicts of interest arise, any or all of these individuals will act in the best interests of our company or that conflicts of interest will be resolved in our favor. In addition, these individuals may breach or cause our consolidated VIEs and their subsidiaries to breach or refuse to renew the existing contractual arrangements with us.

Currently, we do not have arrangements to address potential conflicts of interest the shareholders of GDS Shanghai and GDS Beijing may encounter, on one hand, and as a beneficial owner of our company, on the other hand; provided that we could, at all times, exercise our option under the exclusive call option agreements to cause them to transfer all of their equity ownership in GDS Shanghai and GDS Beijing to a PRC entity or individual designated by us as permitted by the then applicable PRC laws. In addition, if such conflicts of interest arise, we could also, in the capacity of attorney-in-fact of the then existing shareholders of GDS Shanghai and GDS Beijing as provided under the shareholder voting rights proxy agreements, directly appoint new directors of GDS Shanghai and GDS Beijing. We rely on the shareholders of our consolidated VIEs to comply with PRC laws and regulations, which protect contracts and provide that directors and executive officers owe a duty of loyalty to our company and require them to avoid conflicts of interest and not to take advantage of their positions for personal gains, and the laws of the Cayman Islands, which provide that directors have a duty of care and a duty of loyalty to act honestly in good faith with a view to our best interests. However, the legal frameworks of China and Cayman Islands do not provide guidance on resolving conflicts in the event of a conflict with another corporate governance regime. If we cannot resolve any conflicts of interest or disputes between us and the shareholders of our consolidated VIEs, we would have to rely on legal proceedings, which could result in disruption of our business and subject us to substantial uncertainty as to the outcome of any such legal proceedings.

***Our corporate actions are substantially controlled by our principal shareholders, including our founder, chairman and chief executive officer, William Wei Huang, who have the ability to control or exert significant influence over important corporate matters that require approval of shareholders, which may deprive you of an opportunity to receive a premium for your ADSs and materially reduce the value of your investment.***

Our amended articles of association provide that Class B ordinary shares are entitled to 20 votes per share at general meetings of our shareholders with respect to the election of a simple majority of our directors. Immediately after the completion of this offering, Mr. William Wei Huang will beneficially own 100% of the Class B ordinary shares issued and outstanding, and any additional Class A ordinary shares which are acquired by the Class B shareholders will be converted into Class B ordinary shares. In addition, for so long as there are Class B ordinary shares outstanding, the Class B shareholders will be entitled (i) to nominate one less than a simple majority, or five, of our directors, and (ii) to have 20 votes per share with respect to the election and removal of a simple majority, or six, of our directors. In addition, our amended articles of association provide that STT GDC will have the right to appoint up to three directors to our board of directors for so long as they beneficially own certain percentages of our issued share capital. Such appointments will not be subject to a vote by our shareholders. See "Management—Appointment and Terms of Directors" and "Description of Share Capital."

Furthermore, three of our principal shareholders—STT GDC, SBCVC Holdings Limited (SBCVC), and William Wei Huang, our founder, chairman and chief executive officer—currently own or exercise voting and investment control over approximately 45.1%, 18.1% and 13.6% (including ordinary shares (i) underlying share options exercisable within 60 days beneficially owned by Mr. Huang, and (ii) underlying convertible bonds convertible within 60 days beneficially owned by STT GDC), respectively, of our outstanding ordinary shares (assuming the conversion of our preferred shares into Class A ordinary shares), and approximately %, % and %, respectively, of our outstanding ordinary shares immediately after this offering, assuming no exercise by the underwriters of options to purchase additional ADSs.

As a result of these appointment rights, nomination rights, dual-class ordinary share structure and ownership concentration, these shareholders have the ability to control or exert significant influence over important corporate matters, investors may be prevented from affecting important corporate matters involving our company that require approval of shareholders, including:

- the composition of our board of directors and, through it, any determinations with respect to our operations, business direction and policies, including the appointment and removal of officers;
- any determinations with respect to mergers or other business combinations;

- our disposition of substantially all of our assets; and
- any change in control.

These actions may be taken even if they are opposed by our other shareholders, including the holders of the ADSs.

Furthermore, this concentration of ownership may also discourage, delay or prevent a change in control of our company, which could have the dual effect of depriving our shareholders of an opportunity to receive a premium for their shares as part of a sale of our company and reducing the price of the ADSs. As a result of the foregoing, the value of your investment could be materially reduced.

***If the custodians or authorized users of our controlling non-tangible assets, including chops and seals, fail to fulfill their responsibilities, or misappropriate or misuse these assets, our business and operations may be materially and adversely affected.***

Under PRC law, legal documents for corporate transactions, including agreements and contracts such as the leases and sales contracts that our business relies on, are executed using the chop or seal of the signing entity or with the signature of a legal representative whose designation is registered and filed with the relevant local branch of the SAIC. We generally execute legal documents by affixing chops or seals, rather than having the designated legal representatives sign the documents.

We have three major types of chops—corporate chops, contract chops and finance chops. We use corporate chops generally for documents to be submitted to government agencies, such as applications for changing business scope, directors or company name, and for legal letters. We use contract chops for executing leases and commercial contracts. We use finance chops generally for making and collecting payments, including, but not limited to issuing invoices. Use of corporate chops and contract chops must be approved by our legal department and administrative department, and use of finance chops must be approved by our finance department. The chops of our subsidiaries and consolidated VIEs are generally held by the relevant entities so that documents can be executed locally. Although we usually utilize chops to execute contracts, the registered legal representatives of our subsidiaries and consolidated VIEs have the apparent authority to enter into contracts on behalf of such entities without chops, unless such contracts set forth otherwise.

In order to maintain the physical security of our chops, we generally have them stored in secured locations accessible only to the designated key employees of our legal, administrative or finance departments. Our designated legal representatives generally do not have access to the chops. Although we have approval procedures in place and monitor our key employees, including the designated legal representatives of our subsidiaries and consolidated VIEs, the procedures may not be sufficient to prevent all instances of abuse or negligence. There is a risk that our key employees or designated legal representatives could abuse their authority, for example, by binding our subsidiaries and consolidated VIEs with contracts against our interests, as we would be obligated to honor these contracts if the other contracting party acts in good faith in reliance on the apparent authority of our chops or signatures of our legal representatives. If any designated legal representative obtains control of the chop in an effort to obtain control over the relevant entity, we would need to have a shareholder or board resolution to designate a new legal representative and to take legal action to seek the return of the chop, apply for a new chop with the relevant authorities, or otherwise seek legal remedies for the legal representative's misconduct. If any of the designated legal representatives obtains and misuses or misappropriates our chops and seals or other controlling intangible assets for whatever reason, we could experience disruption to our normal business operations. We may have to take corporate or legal action, which could involve significant time and resources to resolve while distracting management from our operations, and our business and operations may be materially and adversely affected.

***Substantial uncertainties exist with respect to the enactment timetable, interpretation and implementation of the draft PRC Foreign Investment Law, and its enactment may materially and adversely affect our business and financial condition.***

The MOFCOM published a discussion draft of the proposed Foreign Investment Law in January 2015 aiming to, upon its enactment, replace the major existing laws and regulations governing foreign investment in China. While the MOFCOM solicited comments on this draft, substantial uncertainties exist with respect to the enactment timetable, interpretation and implementation of the proposed legislation and the extent of revision to the currently proposed draft. The draft Foreign Investment Law, if enacted as proposed, may materially impact the entire legal framework regulating foreign investments in China.

Among other things, the draft Foreign Investment Law purports to introduce the principle of "actual control" in determining whether a company is considered a foreign invested enterprise, or an FIE. The draft Foreign Investment Law specifically provides that entities established in China but "controlled" by foreign investors will be treated as FIEs, whereas an entity organized in a foreign jurisdiction, but cleared by the MOFCOM as "controlled" by PRC entities and/or citizens, would nonetheless be treated as a PRC domestic entity for investment in the "restriction category" or similar category that could appear on any such "negative list." In this connection, "control" is broadly defined in the draft law to cover any of the following summarized categories:

- holding 50% or more of the voting rights or similar rights and interests of the subject entity;
- holding less than 50% of the voting rights or similar rights and interests of the subject entity but having the power to directly or indirectly appoint or otherwise secure at least 50% of the seats on the board or other equivalent decision making bodies, or having the voting power to materially influence the board, the shareholders' meeting or other equivalent decision making bodies; or
- having the power to exert decisive influence, via contractual or trust arrangements, over the subject entity's operations, financial, staffing and technology matters.

Once an entity is determined to be an FIE, and its investment amount exceeds certain thresholds or its business operation falls within a "negative list" purported to be separately issued by the State Council in the future, market entry clearance by the MOFCOM or its local counterparts would be required.

The "variable interest entity" structure, or VIE structure, has been adopted by many PRC-based companies, including us, to obtain necessary licenses and permits in the industries that are currently subject to foreign investment restrictions in China. Under the draft Foreign Investment Law, VIEs that are controlled via contractual arrangements would also be deemed as FIEs, if they are ultimately "controlled" by foreign investors. For any companies with a VIE structure in an industry category that is in the "restriction category" or similar category that could appear on any such "negative list," the existing VIE structure may be deemed legitimate only if the ultimate controlling person(s) is/are of PRC nationality (either PRC state owned enterprises or agencies, or PRC citizens). Conversely, if the actual controlling person(s) is/are of foreign nationalities, then the VIEs will be treated as FIE, in which case, the existing VIE structures will likely be scrutinized and subject to foreign investment restrictions and approval from the MOFCOM and other supervising authorities such as MIIT. Any operation in the industry category on the "negative list" without market entry clearance may be considered as illegal.

However, there are significant uncertainties as to how the control status of our company, our consolidated VIEs would be determined under the enacted version of the Foreign Investment Law. In addition, it is uncertain whether any of the businesses that we currently operate or plan to operate in the future through our consolidated VIEs and the businesses operated by our equity investees with a VIE structure would be on the to-be-issued "negative list" and therefore be subject to any foreign investment restrictions or prohibitions. We also face uncertainties as to whether the enacted version of the Foreign Investment Law and the final "negative list" would mandate further actions, such as MOFCOM market entry clearance, to be completed by companies with existing VIE structure and whether such clearance can be timely obtained, or at all. If we or our equity investees with a VIE structure were not considered as

ultimately controlled by PRC domestic investors under the enacted version of the Foreign Investment Law, further actions required to be taken by us or such equity investees under the enacted Foreign Investment Law may materially and adversely affect our business and financial condition.

In addition, our corporate governance practice may be materially impacted and our compliance costs could increase if we were not considered as ultimately controlled by PRC domestic investors under the Foreign Investment Law, if enacted as currently proposed. For instance, the draft Foreign Investment Law as proposed purports to impose stringent ad hoc and periodic information reporting requirements on foreign investors and the applicable FIEs. Aside from investment implementation report and investment amendment report that would be required for each investment and alteration of investment specifics, an annual report would be mandatory, and large foreign investors meeting certain criteria would be required to report on a quarterly basis. Any company found to be non-compliant with these information reporting obligations could potentially be subject to fines and/or administrative or criminal liabilities, and the persons directly responsible could be subject to criminal liabilities.

#### **Risks Related to Doing Business in the People's Republic of China**

***We may be regarded as being non-compliant with the regulations on VATS due to the lack of IDC licenses for which penalties may be assessed that may materially and adversely affect our business, financial condition, growth strategies and prospects and may require us to obtain regulatory approval for this offering.***

The laws and regulations regarding VATS licenses in the PRC are relatively new and are still evolving, and their interpretation and enforcement involve significant uncertainties. Investment activities in the PRC by foreign investors are principally governed by the *Industry Catalog Relating to Foreign Investment*, or the Catalog. The Catalog divides industries into three categories: encouraged, restricted and prohibited. Industries not include in the Catalog are permitted industries. Industries such as VATS, including IDC services, restrict foreign investment. Specifically, the *Administrative Regulations on Foreign-Invested Telecommunications Enterprises* restrict the ultimate capital contribution percentage held by foreign investor(s) in a foreign-invested VATS enterprise to 50% or less. See "Regulations—Regulation on Foreign Investment Restrictions" for additional details. Under the *Telecommunications Regulations of the People's Republic of China*, or the Telecom Regulations, telecommunications service providers are required to procure operating licenses prior to their commencement of operations.

Before 2013, the definition of the IDC services was subject to interpretation as to whether our services would fall within its scope. In addition, authorities in different localities had different interpretations. According to the Telecom Catalogue publicized in February 2003 by the Ministry of Information Industry, or MII, the predecessor of the MIIT, which took effect in April 2003, and our consultations with the MIIT, IDC services should be rendered through the connection with the Internet or other public telecommunications networks.

On May 6, 2013, the "Q&A on the Application of IDC/ISP Business", the Q&A, was published on the website of China Academy of Telecom Research, an affiliate of the MIIT. The Q&A was issued together with the draft revised Telecom Catalogue of the 2013 version, which although not an official law or regulation, reflected the evolving attitude of the MIIT towards the legal requirements as to applications for IDC licenses. A national consulting body and certain telephone numbers, the Designated Numbers, are provided in the Q&A to answer any questions arising from the application of IDC licenses. Since then, even though the definition of IDC services under the Q&A is identical to that under the Telecom Catalogue, whether a business model should be deemed to be IDC services is subject to the unified clarifications under the Q&A and replies obtained from such Designated Numbers, rather than different replies which may be obtained from different officials from MIIT or its local branches. The draft revised Telecom Catalogue did not come into effect until March 2016, when it was further revised to adapt to developments in the telecommunications industry. During such period, we closely followed legislative developments and conducted feasibility studies for restructuring our business. Based on the Q&A and our consultation with

both the Designated Numbers and MIIT officials in 2014 and 2015, IDC services which did not utilize public telecommunication networks would also require an IDC license and that IDC services could only be provided by a holder of an IDC license, or a subsidiary of such holder, with the authorization of the holder.

GDS Beijing obtained a cross-regional IDC license in November 2013, the scope of which now includes Shanghai, Suzhou, Beijing, Shenzhen, Chengdu and Guangzhou. In order to adapt to the new regulatory requirements and address pre-existing customer contracts, we converted GDS Suzhou into a domestic company wholly owned by GDS Beijing by acquiring all of the equity interests in GDS Suzhou from FSL, in order to enable GDS Suzhou to provide IDC services with the authorization of GDS Beijing, and under the auspices of an IDC license held by GDS Beijing. MIIT has approved GDS Beijing's application to expand its IDC license coverage to include GDS Suzhou and Kunshan Wanyu so that they are now authorized to provide IDC services. See "Our History and Corporate Structure—2016 Variable Interest Entity Restructuring." As part of the VIE restructuring, we have converted and changed the shareholding of EDC Shanghai Waigaoqiao in the same way as GDS Suzhou, and we will apply for the expansion of GDS Beijing's IDC license so that EDC Shanghai Waigaoqiao can also be authorized to provide IDC services. Guangzhou Weiteng is in the process of applying for its own IDC license. In addition, with regard to the other WFOEs that have not contributed substantial revenue, we are deliberating different measures to ensure that any business activity that may have to be conducted by IDC license holders will be conducted by our IDC license holders, which are our consolidated VIEs. See "Regulations—Regulations Related to Value-Added Telecommunications Business" for additional details.

However, there can be no assurance that we can complete VIE restructuring in a timely manner or that our contracts signed before the completion of the VIE restructuring with any of our WFOEs as the service provider will not be deemed as historical non-compliance. If the MIIT regards us as existing in a state of non-compliance, penalties could potentially be assessed against us. It is possible that the amount of any such penalties may be several times more than the net revenue generated from these services. Our business, financial condition, expected growth and prospects would be materially and adversely affected if such penalties were to be assessed upon us. It is also possible that the PRC government may prohibit a non-compliant entity from continuing to carry on its business, which would materially and adversely affect our results of operations, expected growth and prospects.

***GDS Shanghai may be regarded as being non-compliant with the regulations on VATS, due to operating beyond the permitted geographic scope of its IDC license.***

One of our consolidated VIEs, GDS Shanghai, obtained a regional IDC license for the Shanghai area in January 2012. Nevertheless, GDS Shanghai provided IDC services in cities outside of Shanghai, which were beyond the scope of its then-effective IDC license. GDS Shanghai upgraded its IDC license to a cross-regional license in April 2016, according to which GDS Shanghai is allowed to provide IDC services in Beijing, Shanghai, Suzhou, Shenzhen and Chengdu. However, if the MIIT regards GDS Shanghai as being historically non-compliant, penalties which could be several times more than the net revenue generated from these services, could potentially be assessed against us, and as a result, our business, financial condition, expected growth and prospects would be materially and adversely affected. It is also possible that the PRC government may prohibit a historically non-compliant entity from continuing to carry on its business, which would materially and adversely affect our results of operations, expected growth and prospects.

***One of our subsidiaries, GDS (HK) Limited, has entered into IDC service agreements with customers outside China, which may be regarded as non-compliance with the regulations on foreign investment restriction and value added telecommunications services, by providing IDC service without qualification.***

During the period from 2015 to the first half of 2016, GDS (HK) Limited, or GDS HK, which is one of our Hong Kong—incorporated subsidiaries, entered into IDC service agreements with a few customers outside China, while the actual service provider was intended to be GDS Beijing or EDC Shanghai



Waigaoqiao. These IDC service agreements may be regarded as non-compliant, because the law prohibits foreign entities providing IDC services in the PRC.

We are in the process of amending the IDC service agreements so that GDS Beijing or its subsidiary is the contracted service provider. However, we cannot assure you that our agreements as they were in effect prior to such amendment will not be found to have been non-compliant. If the MIIT regards such agreements as non-compliant, penalties could potentially be assessed against us, and as a result, our business, financial condition, expected growth and prospects would be materially and adversely affected.

***We may fail to obtain, maintain and update licenses and permits necessary to conduct our operations in the PRC, and our business may be materially and adversely affected as a result of any changes in the laws and regulations governing the VATS industry in the PRC.***

There can be no assurance that we will be able to maintain our existing licenses or permits necessary to provide our current IDC services in the PRC, renew any of them when their current term expires, or update existing licenses or obtain additional licenses necessary for our future business expansion. The failure to obtain, retain, renew or update any license or permit generally, and our IDC licenses in particular, could materially and adversely disrupt our business and future expansion plans.

For example, the revised Telecom Catalogue came into effect in March 2016 in which the definition of the IDC business also covers the Internet resources collaboration services business to reflect the developments in the telecommunications industry in China and covers cloud-based services. We will apply for the expansion of the scope in their IDC licenses to meet legislation development. However, since this is a comparatively new requirement, it is uncertain when the MIIT will commence granting companies IDC licenses with such expanded service scope. If the MIIT regards any of our companies in China as being non-compliant, penalties could be assessed against us, and our business, financial condition, expected growth and prospects would be materially and adversely affected.

In addition, if future PRC laws or regulations governing the VATS industry require that we obtain additional licenses or permits or update existing licenses in order to continue to provide our IDC services, there can be no assurance that we would be able to obtain such licenses or permits or update existing licenses in a timely fashion, or at all. If any of these situations occur, our business, financial condition and prospects would be materially and adversely affected.

***Third-party data center providers from whom we lease data center space on a wholesale basis may fail to maintain licenses and permits necessary to conduct their operations in the PRC, and our business may be materially and adversely affected.***

As of June 30, 2016, we operated an aggregate net floor area of 8,767 sqm that we lease on a wholesale basis from other data center providers, and which we refer to as our third-party data centers. There can be no assurance, that the wholesale data center providers from whom we lease will be able to maintain their existing licenses or permits necessary to provide our current IDC services in the PRC or renew any of them when their current term expires. Their failure to obtain, retain or renew any license or permit generally, and their IDC licenses in particular, could materially and adversely disrupt our business.

In addition, if future PRC laws or regulations governing the VATS industry require that the wholesale data center providers from whom we lease obtain additional licenses or permits in order to continue to provide their IDC services, there can be no assurance that they would be able to obtain such licenses or permits in a timely fashion, or at all. If any of these situations occur, our business, financial condition and prospects could be materially and adversely affected.

***Changes in the political and economic policies of the PRC government may materially and adversely affect our business, financial condition and results of operations and may result in our inability to sustain our growth and expansion strategies.***

Substantially all of our operations are conducted in the PRC and a substantial majority of our net revenue is sourced from the PRC. Accordingly, our financial condition and results of operations are affected to a significant extent by economic, political and legal developments in the PRC.

The PRC economy differs from the economies of most developed countries in many respects, including the extent of government involvement, level of development, growth rate, and control of foreign exchange and allocation of resources. Although the PRC government has implemented measures emphasizing the utilization of market forces for economic reform, the reduction of state ownership of productive assets, and the establishment of improved corporate governance in business enterprises, a substantial portion of productive assets in China is still owned by the government. In addition, the PRC government continues to play a significant role in regulating industry development by imposing industrial policies. The PRC government also exercises significant control over China's economic growth by allocating resources, controlling payment of foreign currency-denominated obligations, setting monetary policy, regulating financial services and institutions and providing preferential treatment to particular industries or companies.

While the PRC economy has experienced significant growth in the past three decades, growth has been uneven, both geographically and among various sectors of the economy. The PRC government has implemented various measures to encourage economic growth and guide the allocation of resources. Some of these measures may benefit the overall PRC economy, but may also have a negative effect on us. Our financial condition and results of operation could be materially and adversely affected by government control over capital investments or changes in tax regulations that are applicable to us. In addition, the PRC government has implemented in the past certain measures to control the pace of economic growth. These measures may cause decreased economic activity, which in turn could lead to a reduction in demand for our services and consequently have a material adverse effect on our businesses, financial condition and results of operations.

***There are uncertainties regarding the interpretation and enforcement of PRC laws, rules and regulations.***

Substantially all of our operations are conducted in the PRC, and are governed by PRC laws, rules and regulations. Our PRC subsidiaries and consolidated VIEs are subject to laws, rules and regulations applicable to foreign investment in China. The PRC legal system is a civil law system based on written statutes. Unlike the common law system, prior court decisions may be cited for reference but have limited precedential value.

In 1979, the PRC government began to promulgate a comprehensive system of laws, rules and regulations governing economic matters in general. The overall effect of legislation over the past three decades has significantly enhanced the protections afforded to various forms of foreign investment in China. However, China has not developed a fully integrated legal system, and recently enacted laws, rules and regulations may not sufficiently cover all aspects of economic activities in China or may be subject to significant degrees of interpretation by PRC regulatory agencies. In particular, because these laws, rules and regulations are relatively new, and because of the limited number of published decisions and the nonbinding nature of such decisions, and because the laws, rules and regulations often give the relevant regulator significant discretion in how to enforce them, the interpretation and enforcement of these laws, rules and regulations involve uncertainties and can be inconsistent and unpredictable. In addition, the PRC legal system is based in part on government policies and internal rules, some of which are not published on a timely basis or at all, and which may have a retroactive effect. As a result, we may not be aware of our violation of these policies and rules until after the occurrence of the violation.

Any administrative and court proceedings in China may be protracted, resulting in substantial costs and diversion of resources and management attention. Since PRC administrative and court authorities have significant discretion in interpreting and implementing statutory and contractual terms, it may be more

difficult to evaluate the outcome of administrative and court proceedings and the level of legal protection we enjoy than in more developed legal systems. These uncertainties may impede our ability to enforce the contracts we have entered into and could materially and adversely affect our business, financial condition and results of operations.

***Our business operations are extensively impacted by the policies and regulations of the PRC Government. Any policy or regulatory change may cause us to incur significant compliance costs.***

We are subject to extensive national, provincial and local governmental regulations, policies and controls. Central governmental authorities and provincial and local authorities and agencies regulate many aspects of Chinese industries, including, among others and in addition to specific industry-related regulations, the following aspects:

- construction or development of new data centers or rebuilding or expansion of existing data centers;
- banking regulations, as a result of the colocation services we provide to banks and financial institutions, including regulations governing the use of subcontractors in the management and maintenance of facilities;
- environment laws and regulations;
- security laws and regulations;
- establishment of or changes in shareholder of foreign investment enterprises;
- foreign exchange;
- taxes, duties and fees;
- customs; and
- land planning and land use rights.

The liabilities, costs, obligations and requirements associated with these laws and regulations may be material, may delay the commencement of operations at our new data centers or cause interruptions to our operations. Failure to comply with the relevant laws and regulations in our operations may result in various penalties, including, among others the suspension of our operations and thus adversely and materially affect our business, prospects, financial condition and results of operations. Additionally, there can be no assurance that the relevant government agencies will not change such laws or regulations or impose additional or more stringent laws or regulations. For example, see "Regulations—Regulations Related to Information Technology Outsourcing Services Provided to Banking Financial Institutions" for information regarding regulations of banking and financial institutions that outsource their data center services to us, and "—Regulations Related to Land Use Rights" for information regarding restrictions on the new construction or expansion of data centers within the boundaries of the Beijing municipality. Compliance with such laws or regulations may require us to incur material capital expenditures or other obligations or liabilities.

***The approval of the China Securities Regulatory Commission, or the CSRC, may be required in connection with this offering under a PRC regulation. The regulation also establishes more complex procedures for acquisitions conducted by foreign investors that could make it more difficult for us to grow through acquisitions.***

On August 8, 2006, six PRC regulatory agencies, including the MOFCOM, the State-Owned Assets Supervision and Administration Commission, or the SASAC, the State Administration of Taxation, the State Administration for Industry and Commerce, or the SAIC, the CSRC, and the SAFE, jointly adopted the Regulations on Mergers and Acquisitions of Domestic Enterprises by Foreign Investors, or the M&A Rules, which came into effect on September 8, 2006 and were amended on June 22, 2009. The M&A Rules include, among other things, provisions that purport to require that an offshore special purpose vehicle formed for the purpose of an overseas listing of securities in a PRC company obtain the approval of the

CSRC prior to the listing and trading of such special purpose vehicle's securities on an overseas stock exchange. On September 21, 2006, the CSRC published on its official website procedures regarding its approval of overseas listings by special purpose vehicles. However, substantial uncertainty remains regarding the scope and applicability of the M&A Rules to offshore special purpose vehicles.

While the application of the M&A Rules remains unclear, we believe, based on the advice of our PRC counsel, King & Wood Mallesons, that the CSRC approval is not required in the context of this offering because we did not acquire any equity interests or assets of a PRC company owned by its controlling shareholders or beneficial owners who are PRC companies or individuals, as such terms are defined under the M&A Rules. There can be no assurance that the relevant PRC government agencies, including the CSRC, would reach the same conclusion as our PRC counsel. If the CSRC or other PRC regulatory body subsequently determines that we need to obtain the CSRC's approval for this offering or if the CSRC or any other PRC government authorities promulgates any interpretation or implements rules before our listing that would require us to obtain CSRC or other governmental approvals for this offering, we may face adverse actions or sanctions by the CSRC or other PRC regulatory agencies. In any such event, these regulatory agencies may impose fines and penalties on our operations in China, limit our operating privileges in China, delay or restrict the repatriation of the proceeds from this offering into the PRC or take other actions that could have a material adverse effect on our business, financial condition, results of operations, reputation and prospects, as well as our ability to complete this offering. The CSRC or other PRC regulatory agencies may also take actions requiring us, or making it advisable for us, to halt this offering before settlement and delivery of the ADSs offered by this prospectus. Consequently, if you engage in market trading or other activities in anticipation of and prior to settlement and delivery, you do so at the risk that such settlement and delivery may not occur.

The new regulations also established additional procedures and requirements that are expected to make merger and acquisition activities in China by foreign investors more time-consuming and complex, including requirements in some instances that the MOFCOM be notified in advance of any change-of-control transaction in which a foreign investor takes control of a PRC domestic enterprise, or that the approval from the MOFCOM be obtained in circumstances where overseas companies established or controlled by PRC enterprises or residents acquire affiliated domestic companies. We may grow our business in part by acquiring other companies operating in our industry. Complying with the requirements of the new regulations to complete such transactions could be time-consuming, and any required approval processes, including approval from the MOFCOM, may delay or inhibit our ability to complete such transactions, which could affect our ability to expand our business or maintain our market share. See "Regulation—Regulations Related to M&A and Overseas Listings."

***PRC regulations relating to investments in offshore companies by PRC residents may subject our PRC-resident beneficial owners or our PRC subsidiaries to liability or penalties, limit our ability to inject capital into our PRC subsidiaries or limit our PRC subsidiaries' ability to increase their registered capital or distribute profits.***

SAFE promulgated the Circular on Relevant Issues Concerning Foreign Exchange Control on Domestic Residents' Offshore Investment and Financing and Roundtrip Investment through Special Purpose Vehicles, or SAFE Circular 37, on July 4, 2014, which replaced the former circular commonly known as "SAFE Circular 75" promulgated by SAFE on October 21, 2005. SAFE Circular 37 requires PRC residents to register with local branches of SAFE in connection with their direct establishment or indirect control of an offshore entity, for the purpose of overseas investment and financing, with such PRC residents' legally owned assets or equity interests in domestic enterprises or offshore assets or interests, referred to in SAFE Circular 37 as a "special purpose vehicle." SAFE Circular 37 further requires amendment to the registration in the event of any significant changes with respect to the special purpose vehicle, such as increase or decrease of capital contributed by PRC individuals, share transfer or exchange, merger, division or other material event. In the event that a PRC shareholder holding interests in a special purpose vehicle fails to fulfill the required SAFE registration, the PRC subsidiaries of that special purpose vehicle may be prohibited from making profit

distributions to the offshore parent and from carrying out subsequent cross-border foreign exchange activities, and the special purpose vehicle may be restricted in its ability to contribute additional capital into its PRC subsidiary. Moreover, failure to comply with the various SAFE registration requirements described above could result in liability under PRC law for evasion of foreign exchange controls. According to the Notice on Further Simplifying and Improving Policies for the Foreign Exchange Administration of Direct Investment released on February 13, 2015 by SAFE, local banks will examine and handle foreign exchange registration for overseas direct investment, including the initial foreign exchange registration and amendment registration, under SAFE Circular 37 from June 1, 2015.

Mr. William Wei Huang has completed the initial SAFE registration pursuant to SAFE Circular 75 in 2012, and is in the process of applying for amendment of such registration. We have notified substantial beneficial owners of ordinary shares who we know are PRC residents of their filing obligation. Nevertheless, we may not be aware of the identities of all of our beneficial owners who are PRC residents. We do not have control over our beneficial owners and there can be no assurance that all of our PRC-resident beneficial owners will comply with SAFE Circular 37 and subsequent implementation rules, and there is no assurance that the registration under SAFE Circular 37 and any amendment will be completed in a timely manner, or will be completed at all. The failure of our beneficial owners who are PRC residents to register or amend their foreign exchange registrations in a timely manner pursuant to SAFE Circular 37 and subsequent implementation rules, or the failure of future beneficial owners of our company who are PRC residents to comply with the registration procedures set forth in SAFE Circular 37 and subsequent implementation rules, may subject such beneficial owners or our PRC subsidiaries to fines and legal sanctions. Failure to register or comply with relevant requirements may also limit our ability to contribute additional capital to our PRC subsidiaries and limit our PRC subsidiaries' ability to distribute dividends to our company. These risks may have a material adverse effect on our business, financial condition and results of operations.

***Any failure to comply with PRC regulations regarding our employee share incentive plans may subject the PRC plan participants or us to fines and other legal or administrative sanctions.***

Pursuant to SAFE Circular 37, PRC residents who participate in share incentive plans in overseas non-publicly-listed companies due to their position as director, senior management or employees of the PRC subsidiaries of the overseas companies may submit applications to SAFE or its local branches for the foreign exchange registration with respect to offshore special purpose companies. Our directors, executive officers and other employees who are PRC residents and who have been granted options may follow SAFE Circular 37 to apply for the foreign exchange registration before our company becomes an overseas listed company. After our company becomes an overseas listed company upon completion of this offering, we and our directors, executive officers and other employees who are PRC residents and who have been granted options will be subject to the Notice on Issues Concerning the Foreign Exchange Administration for Domestic Individuals Participating in Stock Incentive Plan of Overseas Publicly Listed Company, issued by SAFE in February 2012, according to which, employees, directors, supervisors and other management members participating in any stock incentive plan of an overseas publicly listed company who are PRC residents are required to register with SAFE through a domestic qualified agent, which could be a PRC subsidiary of such overseas listed company, and complete certain other procedures. We will make efforts to comply with these requirements upon completion of our initial public offering. However, there can be no assurance that they can successfully register with SAFE in full compliance with the rules. Failure to complete the SAFE registrations may subject them to fines and legal sanctions and may also limit the ability to make payment under our share incentive plans or receive dividends or sales proceeds related thereto, or our ability to contribute additional capital into our wholly-foreign owned enterprises in China and limit our wholly-foreign owned enterprises' ability to distribute dividends to us. We also face regulatory uncertainties that could restrict our ability to adopt additional share incentive plans for our directors and employees under PRC law.

***The enforcement of the Labor Contract Law of the People's Republic of China, or the PRC Labor Contract Law, and other labor-related regulations in the PRC may increase our labor costs, impose limitations on our labor practices and adversely affect our business and our results of operations.***

On June 29, 2007, the Standing Committee of the National People's Congress of China enacted the PRC Labor Contract Law, which became effective on January 1, 2008 and was amended on December 28, 2012. The PRC Labor Contract Law introduces specific provisions related to fixed-term employment contracts, part-time employment, probation, consultation with labor unions and employee assemblies, employment without a written contract, dismissal of employees, severance, and collective bargaining, which together represent enhanced enforcement of labor laws and regulations. According to the PRC Labor Contract Law, an employer is obliged to sign an unfix-term labor contract with any employee who has worked for the employer for 10 consecutive years. Further, if an employee requests or agrees to renew a fixed-term labor contract that has already been entered into twice consecutively, the resulting contract must have an unfix-term, with certain exceptions. The employer must pay economic compensation to an employee where a labor contract is terminated or expires in accordance with the PRC Labor Contract Law, except for certain situations which are specifically regulated. In addition, the government has issued various labor-related regulations to further protect the rights of employees. According to such laws and regulations, employees are entitled to annual leave ranging from five to 15 days and are able to be compensated for any untaken annual leave days in the amount of three times their daily salary, subject to certain exceptions. In the event that we decide to change our employment or labor practices, the PRC Labor Contract Law and its implementation rules may also limit our ability to effect those changes in a manner that we believe to be cost-effective. In addition, as the interpretation and implementation of these new regulations are still evolving, our employment practices may not be at all times deemed in compliance with the new regulations. If we are subject to severe penalties or incur significant liabilities in connection with labor disputes or investigations, our business and financial conditions may be adversely affected.

***We rely to a significant extent on dividends and other distributions on equity paid by our principal operating subsidiaries to fund offshore cash and financing requirements.***

We are a holding company and rely to a significant extent on dividends and other distributions on equity paid by our principal operating subsidiaries and on remittances from the consolidated VIEs, for our offshore cash and financing requirements, including the funds necessary to pay dividends and other cash distributions to our shareholders, fund inter-company loans, service any debt we may incur outside of China and pay our expenses. When our principal operating subsidiaries or the consolidated VIEs incur additional debt, the instruments governing the debt may restrict their ability to pay dividends or make other distributions or remittances to us. Furthermore, the laws, rules and regulations applicable to our PRC subsidiaries and certain other subsidiaries permit payments of dividends only out of their retained earnings, if any, determined in accordance with applicable accounting standards and regulations.

Under PRC laws, rules and regulations, each of our subsidiaries incorporated in China is required to set aside at least 10% of its net income each year to fund certain statutory reserves until the cumulative amount of such reserves reaches 50% of its registered capital. These reserves, together with the registered capital, are not distributable as cash dividends. As a result of these laws, rules and regulations, our subsidiaries incorporated in China are restricted in their ability to transfer a portion of their respective net assets to their shareholders as dividends, loans or advances. As of December 31, 2015, the restricted assets was RMB1,323.1 million (US\$199.1 million), all of which consisted of registered capital. Our subsidiaries did not have any retained earnings available for distribution in the form of dividends as of December 31, 2015. In addition, registered share capital and capital reserve accounts are also restricted from withdrawal in the PRC, up to the amount of net assets held in each operating subsidiary.

Limitations on the ability of VIEs to make remittance to the wholly-foreign owned enterprise and on the ability of our subsidiaries to pay dividends to us could limit our ability to access cash generated by the operations of those entities, including to make investments or acquisitions that could be beneficial to our businesses, pay dividends to our shareholders or otherwise fund and conduct our business.

***We may be treated as a resident enterprise for PRC tax purposes under the PRC Enterprise Income Tax Law, and we may therefore be subject to PRC income tax on our global income.***

Under the PRC Enterprise Income Tax Law and its implementing rules, enterprises established under the laws of jurisdictions outside of China with "de facto management bodies" located in China may be considered PRC tax resident enterprises for tax purposes and may be subject to the PRC enterprise income tax at the rate of 25% on their global income. "De facto management body" refers to a managing body that exercises substantive and overall management and control over the production and business, personnel, accounting books and assets of an enterprise. The State Administration of Taxation issued the Notice Regarding the Determination of Chinese-Controlled Offshore-Incorporated Enterprises as PRC Tax Resident Enterprises on the Basis of De Facto Management Bodies, or Circular 82, on April 22, 2009. Circular 82 provides certain specific criteria for determining whether the "de facto management body" of a Chinese-controlled offshore-incorporated enterprise is located in China. Although Circular 82 only applies to offshore enterprises controlled by PRC enterprises, not those controlled by foreign enterprises or individuals, the determining criteria set forth in Circular 82 may reflect the State Administration of Taxation's general position on how the "de facto management body" test should be applied in determining the tax resident status of offshore enterprises, regardless of whether they are controlled by PRC enterprises. If we were to be considered a PRC resident enterprise, we would be subject to PRC enterprise income tax at the rate of 25% on our global income. In such case, our profitability and cash flow may be materially reduced as a result of our global income being taxed under the Enterprise Income Tax Law. We believe that none of our entities outside of China is a PRC resident enterprise for PRC tax purposes. However, the tax resident status of an enterprise is subject to determination by the PRC tax authorities and uncertainties remain with respect to the interpretation of the term "de facto management body."

***We may not be able to obtain certain benefits under the relevant tax treaty on dividends paid by our PRC subsidiary to us through our Hong Kong subsidiary.***

We are a holding company incorporated under the laws of the Cayman Islands and as such rely on dividends and other distributions on equity from our PRC subsidiary to satisfy part of our liquidity requirements. Pursuant to the PRC Enterprise Income Tax Law, a withholding tax rate of 10% currently applies to dividends paid by a PRC "resident enterprise" to a foreign enterprise investor, unless any such foreign investor's jurisdiction of incorporation has a tax treaty with China that provides for preferential tax treatment. Pursuant to the Arrangement between Mainland China and the Hong Kong Special Administrative Region for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with Respect to Taxes on Income, or the Double Tax Avoidance Arrangement, such withholding tax rate may be lowered to 5% if a Hong Kong resident enterprise owns no less than 25% of a PRC enterprise. However, the 5% withholding tax rate does not automatically apply and certain requirements must be satisfied, including without limitation that (a) the Hong Kong enterprise must be the beneficial owner of the relevant dividends; and (b) the Hong Kong enterprise must directly hold no less than 25% share ownership in the PRC enterprise during the 12 consecutive months preceding its receipt of the dividends.

***Dividends payable to our foreign investors and gains on the sale of our ADSs or Class A ordinary shares by our foreign investors may become subject to PRC tax.***

Under the Enterprise Income Tax Law and its implementation regulations issued by the State Council, a 10% PRC withholding tax is applicable to dividends payable to investors that are non-resident enterprises, which do not have an establishment or place of business in the PRC or which have such establishment or place of business but the dividends are not effectively connected with such establishment or place of business, to the extent such dividends are derived from sources within the PRC. Similarly, any gain realized on the transfer of ADSs or Class A ordinary shares by such investors is also subject to PRC tax at a current rate of 10%, subject to any reduction or exemption set forth in applicable tax treaties or under applicable tax arrangements between jurisdictions, if such gain is regarded as income derived from sources within the PRC. If we are deemed a PRC resident enterprise, dividends paid on our Class A ordinary shares or ADSs,

and any gain realized from the transfer of our Class A ordinary shares or ADSs, would be treated as income derived from sources within the PRC and would as a result be subject to PRC taxation. Furthermore, if we are deemed a PRC resident enterprise, dividends payable to individual investors who are non-PRC residents and any gain realized on the transfer of ADSs or Class A ordinary shares by such investors may be subject to PRC tax at a current rate of 20%, subject to any reduction or exemption set forth in applicable tax treaties or under applicable tax arrangements between jurisdictions. If we or any of our subsidiaries established outside China are considered a PRC resident enterprise, it is unclear whether holders of our ADSs or Class A ordinary shares would be able to claim the benefit of income tax treaties or agreements entered into between China and other countries or areas. If dividends payable to our non-PRC investors, or gains from the transfer of our ADSs or Class A ordinary shares by such investors, are deemed as income derived from sources within the PRC and thus are subject to PRC tax, the value of your investment in our ADSs or Class A ordinary shares may decline significantly.

***We and our shareholders face uncertainties with respect to indirect transfers of equity interests in PRC resident enterprises or other assets attributed to a Chinese establishment of a non-Chinese company, or immovable properties located in China owned by non-Chinese companies.***

On February 3, 2015, the State Administration of Taxation issued the Bulletin on Issues of Enterprise Income Tax on Indirect Transfers of Assets by Non-PRC Resident Enterprises, or Bulletin 7, which replaced or supplemented previous rules under the Notice on Strengthening Administration of Enterprise Income Tax for Share Transfers by Non-PRC Resident Enterprises, or Circular 698, issued by the State Administration of Taxation, on December 10, 2009. Pursuant to this Bulletin, an "indirect transfer" of assets, including equity interests in a PRC resident enterprise, by non-PRC resident enterprises may be recharacterized and treated as a direct transfer of PRC taxable assets, if such arrangement does not have a reasonable commercial purpose and was established for the purpose of avoiding payment of PRC enterprise income tax. As a result, gains derived from such indirect transfer may be subject to PRC enterprise income tax. According to Bulletin 7, "PRC taxable assets" include assets attributed to an establishment in China, immovable properties located in China, and equity investments in PRC resident enterprises, in respect of which gains from their transfer by a direct holder, being a non-PRC resident enterprise, would be subject to PRC enterprise income taxes. When determining whether there is a "reasonable commercial purpose" of the transaction arrangement, features to be taken into consideration include: whether the main value of the equity interest of the relevant offshore enterprise derives from PRC taxable assets; whether the assets of the relevant offshore enterprise mainly consists of direct or indirect investment in China or if its income mainly derives from China; whether the offshore enterprise and its subsidiaries directly or indirectly holding PRC taxable assets have real commercial nature which is evidenced by their actual function and risk exposure; the duration of existence of the business model and organizational structure; the replicability of the transaction by direct transfer of PRC taxable assets; and the tax situation of such indirect transfer and applicable tax treaties or similar arrangements. In respect of an indirect offshore transfer of assets of a PRC establishment, the resulting gain is to be included with the enterprise income tax filing of the PRC establishment or place of business being transferred, and would consequently be subject to PRC enterprise income tax at a rate of 25%. Where the underlying transfer relates to the immovable properties located in China or to equity investments in a PRC resident enterprise, which is not related to a PRC establishment or place of business of a non-resident enterprise, a PRC enterprise income tax of 10% would apply, subject to available preferential tax treatment under applicable tax treaties or similar arrangements, and the party who is obligated to make the transfer payments has the withholding obligation. Where the payor fails to withhold any or sufficient tax, the transferor shall declare and pay such tax to the tax authority by itself within the statutory time limit. Late payment of applicable tax will subject the transferor to default interest. Bulletin 7 does not apply to transactions of sale of shares by investors through a public stock exchange where such shares were acquired from a transaction through a public stock exchange.

There is uncertainty as to the application of Bulletin 7, or previous rules under Circular 698. Especially as Bulletin 7 is lately promulgated, it is not clear how it will be implemented. Bulletin 7 may be determined



by the tax authorities to be applicable to our offshore restructuring transactions or sale of our shares or those of our offshore subsidiaries where non-resident enterprises, being the transferors, were involved. For example, in the past, we acquired EDC Holding by issuing shares of GDS Holdings to its shareholders in exchange for all of the outstanding shares of EDC Holding that were not held by us then. In addition, certain of our direct and indirect shareholders transferred some or all of their equity interest in us through indirect transfers conducted by their respective overseas holding companies which held shares in us. As a result, the transferors and transferees in these transactions, including us may be subject to the tax filing and withholding or tax payment obligation, while our PRC subsidiaries may be requested to assist in the filing. Furthermore, we, our non-resident enterprises and PRC subsidiaries may be required to spend valuable resources to comply with Bulletin 7 or to establish that we and our non-resident enterprises should not be taxed under Bulletin 7, for our previous and future restructuring or disposal of shares of our offshore subsidiaries, which may have a material adverse effect on our financial condition and results of operations.

***Restrictions on currency exchange may limit our ability to utilize our net revenue effectively.***

Substantially all of our net revenue is denominated in Renminbi. The Renminbi is currently convertible under the "current account," which includes dividends, trade and service-related foreign exchange transactions, but not under the "capital account," which includes foreign direct investment and loans, including loans we may secure from our onshore subsidiaries or consolidated VIEs. Currently, certain of our PRC subsidiaries, may purchase foreign currency for settlement of "current account transactions," including payment of dividends to us, without the approval of SAFE by complying with certain procedural requirements. However, the relevant PRC governmental authorities may limit or eliminate our ability to purchase foreign currencies in the future for current account transactions. Foreign exchange transactions under the capital account remain subject to limitations and require approvals from, or registration with, SAFE and other relevant PRC governmental authorities. Since a significant amount of our future net revenue will be denominated in Renminbi, any existing and future restrictions on currency exchange may limit our ability to utilize net revenue generated in Renminbi to fund our business activities outside of the PRC or pay dividends in foreign currencies to our shareholders, including holders of our ADSs, and may limit our ability to obtain foreign currency through debt or equity financing for our subsidiaries and consolidated VIEs.

***Fluctuations in exchange rates could result in foreign currency exchange losses and could materially reduce the value of your investment.***

The value of the Renminbi against the U.S. dollar and other currencies may fluctuate and is affected by, among other things, changes in political and economic conditions and the foreign exchange policy adopted by the PRC government. On July 21, 2005, the PRC government changed its policy of pegging the value of the Renminbi to the U.S. dollar. Following the removal of the U.S. dollar peg, the Renminbi appreciated more than 20% against the U.S. dollar over the following three years. Between July 2008 and June 2010, this appreciation halted and the exchange rate between the RMB and the U.S. dollar remained within a narrow band. Since June 2010, the RMB has started to appreciate slowly against the U.S. dollar, though there have been periods when the U.S. dollar has appreciated against the RMB. On August 11, 2015, the People's Bank of China, or the PBOC, allowed the RMB to depreciate by approximately 2% against the U.S. dollar. It is difficult to predict how long such depreciation of RMB against the U.S. dollar may last and when and how the relationship between the RMB and the U.S. dollar may change again.

Substantially all of our net revenue and costs are denominated in Renminbi. We are a holding company and we rely on dividends paid by our operating subsidiaries in China for our cash needs. Any significant revaluation of the Renminbi may materially reduce any dividends payable on, our ADSs in U.S. dollars. To the extent that we need to convert U.S. dollars we receive from this offering into Renminbi for our operations, appreciation of the Renminbi against the U.S. dollar would have an adverse effect on the Renminbi amount we would receive. Conversely, if we decide to convert our Renminbi into U.S. dollars for the purpose of making payments for dividends on our Class A ordinary shares or ADSs or for other business purposes, appreciation of the U.S. dollar against the Renminbi would have a negative effect on the U.S. dollar amount.

***The audit report included in this prospectus is prepared by an auditor who is not inspected by the Public Company Accounting Oversight Board and, as such, our investors are deprived of the benefits of such inspection.***

Our independent registered public accounting firm that issues the audit report included in our prospectus filed with the U.S. Securities and Exchange Commission, as auditors of companies that are traded publicly in the United States and a firm registered with the U.S. Public Company Accounting Oversight Board, or the PCAOB, is required by the laws of the United States to undergo regular inspections by the PCAOB to assess its compliance with the laws of the United States and professional standards. Because our auditors are located in the Peoples' Republic of China, a jurisdiction where the PCAOB is currently unable to conduct inspections without the approval of the Chinese authorities, our auditors are not currently inspected by the PCAOB.

Inspections of other firms that the PCAOB has conducted outside 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 regularly evaluating our auditor's audits and its quality control procedures. As a result, investors may be deprived of the benefits of PCAOB inspections.

The inability of the PCAOB to conduct inspections of auditors in China makes it more difficult to evaluate the effectiveness of our auditor's audit procedures or quality control procedures as compared to auditors outside of China that are subject to PCAOB inspections. Investors may lose confidence in our reported financial information and procedures and the quality of our financial statements.

***If additional remedial measures are imposed on the "big four" PRC-based accounting firms, including our independent registered public accounting firm, in administrative proceedings brought by the SEC alleging such firms' failure to meet specific criteria set by the SEC with respect to requests for the production of documents, we could be unable to timely file future financial statements in compliance with the requirements of the Exchange Act.***

Starting in 2011 the Chinese affiliates of the "big four" accounting firms, including our independent registered public accounting firm, were affected by a conflict between U.S. and Chinese law. Specifically, for certain U.S. listed companies operating and audited in mainland China, the SEC and the PCAOB sought to obtain from the Chinese accounting firms access to their audit work papers and related documents. The firms were, however, advised and directed that under Chinese 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 the CSRC.

In late 2012 this impasse led the SEC to commence administrative proceedings under Rule 102(e) of its Rules of Practice and also under the Sarbanes-Oxley Act of 2002 against the Chinese accounting firms, including our independent registered public accounting firm. In January 2014, the administrative law judge reached an initial decision to impose penalties on the firms including a temporary suspension of their right to practice before the SEC. The accounting firms filed a petition for review of the initial decision. On

February 6, 2015, before a review by the commissioners of the SEC had taken place, the firms reached a settlement with the SEC. Under the settlement, the SEC accepts that future requests by the SEC for the production of documents will normally be made to the CSRC. The firms will receive matching Section 106 requests, and are required to abide by a detailed set of procedures with respect to such requests, which in substance require them to facilitate production via the CSRC. If they fail to meet specified criteria, the SEC retains authority to impose a variety of additional remedial measures on the firms depending on the nature of the failure. Remedies for any future noncompliance could include, as appropriate, an automatic six-month bar on a single firm's performance of certain audit work, commencement of a new proceeding against a firm, or in extreme cases the resumption of the current proceeding against all four firms.

In the event that the SEC restarts the administrative proceedings, depending upon the final outcome, listed companies in the United States with major PRC operations may find it difficult or impossible to retain auditors in respect of their operations in the PRC, which could result in financial statements being determined to not be in compliance with the requirements of the Exchange Act, including possible delisting. Moreover, any negative news about any such future proceedings against these audit firms may cause investor uncertainty regarding China-based, United States-listed companies and the market price of our ADSs may be adversely affected.

If our independent registered public accounting firm were denied, even temporarily, the ability to practice before the SEC and we were unable to timely find another registered public accounting firm to audit and issue an opinion on our financial statements, our financial statements could be determined not to be in compliance with the requirements of the Exchange Act. Such a determination could ultimately lead to the delay or abandonment of this offering, delisting of our Class A ordinary shares from the NASDAQ or deregistration from the SEC, or both, which would substantially reduce or effectively terminate the trading of our ADSs in the United States.

#### **Risks Related to This Offering**

***There has been no public market for our shares or ADSs prior to this offering, and you may not be able to resell our ADSs at or above the price you paid, or at all.***

Prior to this offering, there has been no public market for our shares or ADSs. We have applied to list our ADSs on the NASDAQ Global Market. Our shares will not be listed on any exchange or quoted for trading on any over-the-counter trading system. If an active trading market for our ADSs does not develop after this offering, the market price and liquidity of our ADSs will be materially and adversely affected.

Negotiations with the underwriters determined the initial public offering price for our ADSs which may bear no relationship to their market price after the initial public offering. There can be no assurance that an active trading market for our ADSs will develop or that the market price of our ADSs will not decline below the initial public offering price.

***The trading price of our ADSs may be volatile, which could result in substantial losses to you.***

The trading prices of our ADSs are likely to be volatile and could fluctuate widely due to factors beyond our control. This may happen because of broad market and industry factors, like the performance and fluctuation in the market prices or the underperformance or deteriorating financial results of other listed companies based in China. The securities of some of these companies have experienced significant volatility since their initial public offerings, including, in some cases, substantial price declines in the trading prices of their securities. The trading performances of other Chinese companies' securities after their offerings, including Internet and e-commerce companies, may affect the attitudes of investors toward Chinese companies listed in the United States, which consequently may impact the trading performance of our ADSs, regardless of our actual operating performance. In addition, any negative news or perceptions about inadequate corporate governance practices or fraudulent accounting, corporate structure or matters of other Chinese companies may also negatively affect the attitudes of investors towards Chinese

companies in general, including us, regardless of whether we have conducted any inappropriate activities. In addition, securities markets may from time to time experience significant price and volume fluctuations that are not related to our operating performance, such as the large decline in share prices in the United States, China and other jurisdictions in late 2008, early 2009, the second half of 2011 and in 2015, which may have a material and adverse effect on the trading price of our ADSs.

In addition to the above factors, the price and trading volume of our ADSs may be highly volatile due to multiple factors, including the following:

- regulatory developments affecting us or our industry, customers or suppliers;
- announcements of studies and reports relating to the quality of our service offerings or those of our competitors;
- changes in the economic performance or market valuations of other data center services companies;
- actual or anticipated fluctuations in our quarterly results of operations and changes or revisions of our expected results;
- changes in financial estimates by securities research analysts;
- conditions in the market for data center services;
- announcements by us or our competitors of new product and service offerings, acquisitions, strategic relationships, joint ventures, capital raisings or capital commitments;
- additions to or departures of our senior management;
- fluctuations of exchange rates between the RMB and the U.S. dollar;
- release or expiry of lock-up or other transfer restrictions on our outstanding shares or ADSs; and
- sales or perceived potential sales of additional Class A ordinary shares or ADSs.

***If securities or industry analysts do not publish research or publish inaccurate or unfavorable research about our business, the market price for our ADSs and trading volume could decline.***

The trading market for our ADSs will depend in part on the research and reports that securities or industry analysts publish about us or our business. If research analysts do not establish and maintain adequate research coverage or if one or more of the analysts who covers us downgrades our ADSs or publishes inaccurate or unfavorable research about our business, the market price for our ADSs would likely decline. If one or more of these analysts cease coverage of our company or fail to publish reports on us regularly, we could lose visibility in the financial markets, which, in turn, could cause the market price or trading volume for our ADSs to decline.

***Techniques employed by short sellers may drive down the market price of our ADSs.***

Short selling is the practice of selling securities that the seller does not own but rather has borrowed from a third party with the intention of buying identical securities back at a later date to return to the lender. The short seller hopes to profit from a decline in the value of the securities between the sale of the borrowed securities and the purchase of the replacement shares, as the short seller expects to pay less in that purchase than it received in the sale. As it is in the short seller's best interests for the price of the stock to decline, many short sellers publish, or arrange for the publication of, negative opinions regarding the relevant issuer and its business prospects in order to create negative market momentum and generate profits for themselves after selling a stock short. These short attacks have, in the past, led to selling of shares in the market.

Public companies that have substantially all of their operations in China have been the subject of short selling. Much of the scrutiny and negative publicity has centered on allegations of a lack of effective internal control over financial reporting resulting in financial and accounting irregularities and mistakes, inadequate corporate governance policies or a lack of adherence thereto and, in many cases, allegations of fraud. As a result, many of these companies are now conducting internal and external investigations into the allegations and, in the interim, are subject to shareholder lawsuits and/or SEC enforcement actions.

It is not clear what effect such negative publicity could have on us. If we were to become the subject of any unfavorable allegations, whether such allegations are proven to be true or untrue, we could have to expend a significant amount of resources to investigate such allegations and/or defend ourselves. While we would strongly defend against any such short seller attacks, we may be constrained in the manner in which it can proceed against the relevant short seller by principles of freedom of speech, applicable state law or issues of commercial confidentiality. Such a situation could be costly and time-consuming, and could distract our management from growing our business. Even if such allegations are ultimately proven to be groundless, allegations against us could severely impact its business operations and stockholders equity, and any investment in our ADSs could be greatly reduced or rendered worthless.

***As our initial public offering price is substantially higher than our net tangible book value per share, you will experience immediate and substantial dilution.***

If you purchase ADSs in this offering, you will pay more for your ADSs than the amount paid by existing shareholders for their ordinary shares on a per ADS basis. As a result, you will experience immediate and substantial dilution of approximately US\$ [redacted] per ADS (assuming no exercise of outstanding options to acquire Class A ordinary shares and no exercise of the underwriters' option to purchase additional ADSs), representing the difference between our pro forma as adjusted net tangible book value per ADS as of [redacted], 2016, after giving effect to this offering, and the public offering price of US\$ [redacted] per ADS. In addition, you will experience further dilution to the extent that our ordinary shares are issued upon the exercise of share options. All of the ordinary shares issuable upon the exercise of currently outstanding share options will be issued at a purchase price on a per ADS basis that is less than the public offering price per ADS in this offering. See "Dilution" for a more complete description of how the value of your investment in our ADSs will be diluted upon completion of this offering.

***Because we do not expect to pay dividends in the foreseeable future after this offering, you must rely on price appreciation of our ADSs for return on your investment.***

We currently intend to retain most, if not all, of our available funds and any future earnings after this offering to fund the development and growth of our business. As a result, other than the preference dividends to be paid to holders of our preferred shares, we do not expect to pay any cash dividends in the foreseeable future. See "Dividend Policy." Therefore, you should not rely on an investment in our ADSs as a source for any future dividend income.

Our board of directors has complete discretion as to whether to distribute dividends. Even if our board of directors decides to declare and pay dividends, the timing, amount and form of future dividends, if any, will depend on, among other things, our future results of operations and cash flow, our capital requirements and surplus, the amount of distributions, if any, received by us from our subsidiaries, our financial condition, contractual restrictions and other factors deemed relevant by our board of directors. Accordingly, the return on your investment in our ADSs will likely depend entirely upon any future price appreciation of our ADSs. There is no guarantee that our ADSs will appreciate in value after this offering or even maintain the price at which you purchased the ADSs. You may not realize a return on your investment in our ADSs and you may even lose your entire investment in our ADSs.

***Our ADSs are subject to substantial dilution upon the conversion of our convertible bonds held by certain holders.***

We have outstanding convertible bonds in the aggregate principal amount of US\$150.0 million due December 30, 2019. We may, at our option, require the original subscribers, STT GDC Pte Ltd, or STT GDC, to subscribe for an additional amount of these bonds as to US\$50.0 million, and thereafter, a subsidiary of Ping An Insurance (Group) Company of China, Ltd., or Ping An Insurance, to subscribe for an additional amount of these bonds as to US\$50.0 million, at any time until September 30, 2016. In addition, following this offering, we may require the conversion of the bonds assuming the average per-Class A-ordinary-share-equivalent closing trading price of our ADSs in any period of ten (10) consecutive trading days following this offering is at least 125% of US\$1.675262 and we exercise our right to cause STT GDC and Ping An Insurance to convert the bonds. If the bondholders elect to convert, or we cause the bondholders to convert, their bonds, up to approximately Class A ordinary shares will be issued. The conversion of the bonds would result in substantial dilution of our ADSs and Class A ordinary shares and a decline in their market price.

***Substantial future sales or perceived potential sales of our ADSs in the public market could cause the price of our ADSs to decline.***

Sales of our ADSs in the public market after this offering, or the perception that these sales could occur, could cause the market price of our ADSs to decline significantly. Upon completion of this offering, we will have ordinary shares outstanding, comprising Class A ordinary shares and Class B ordinary shares, including Class A ordinary shares represented by ADSs, assuming the underwriters do not exercise their option to purchase additional Class A ordinary shares. All ADSs representing our Class A ordinary shares sold in this offering will be freely transferable by persons other than our "affiliates" without restriction or additional registration under the U.S. Securities Act of 1933, as amended, or the Securities Act. All of the other Class A ordinary shares outstanding after this offering will be available for sale, upon the expiration of the lock-up periods described elsewhere in this prospectus beginning from the date of this prospectus (if applicable to such holder), subject to volume and other restrictions as applicable under Rules 144 and 701 under the Securities Act. Any or all of these ordinary shares may be released prior to the expiration of the applicable lock-up period at the discretion of the designated representatives. To the extent shares are released before the expiration of the applicable lock-up period and sold into the market, the market price of our ADSs could decline significantly. See "Shares Eligible for Future Sale—Lock-Up Agreements."

Certain major holders of our Class A ordinary shares after completion of this offering will have the right to cause us to register under the Securities Act the sale of their shares, subject to the applicable lock-up periods in connection with this offering. Registration of these shares under the Securities Act would result in ADSs representing these shares becoming freely tradable without restriction under the Securities Act immediately upon the effectiveness of the registration. Sales of these registered shares in the form of ADSs in the public market could cause the price of our ADSs to decline significantly.

We have adopted share incentive plans, under which we have the discretion to grant a broad range of equity-based awards to eligible participants. See "Management—Share Incentive Plans." We intend to register all ordinary shares that we may issue under these share incentive plans. Once we register these ordinary shares, they can be freely sold in the public market in the form of ADSs upon issuance, subject to volume limitations applicable to affiliates and the lock-up agreements described in the "Underwriting" section of this prospectus. If a large number of our ordinary shares or securities convertible into our ordinary shares are sold in the public market in the form of ADSs after they become eligible for sale, the sales could reduce the trading price of our ADSs and impede our ability to raise future capital. In addition, any ordinary shares that we issue under our share incentive plans would dilute the percentage ownership held by the investors who purchase ADSs in this offering.

**You, as holders of ADSs, may have fewer rights than holders of our ordinary shares and must act through the depositary to exercise those rights.**

Holders of ADSs do not have the same rights of our shareholders and may only exercise the voting rights with respect to the underlying Class A ordinary shares in accordance with the provisions of the deposit agreement. Under our amended articles of association, the minimum notice period required to convene a general meeting will be [10] days. When a general meeting is convened, you may not receive sufficient notice of a shareholders' meeting to permit you to withdraw your Class A ordinary shares to allow you to cast your vote with respect to any specific matter. In addition, the depositary and its agents may not be able to send voting instructions to you or carry out your voting instructions in a timely manner. We will make all reasonable efforts to cause the depositary to extend voting rights to you in a timely manner, but there can be no assurance that you will receive the voting materials in time to ensure that you can instruct the depositary to vote your ADSs. Furthermore, the depositary and its agents will not be responsible for any failure to carry out any instructions to vote, for the manner in which any vote is cast or for the effect of any such vote. As a result, you may not be able to exercise your right to vote and you may lack recourse if your ADSs are not voted as you requested. In addition, in your capacity as an ADS holder, you will not be able to call a shareholders' meeting.

**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 both the rights and the securities to which the rights relate under the Securities Act or an exemption from the registration requirements is available. Under the deposit agreement, the depositary will not make rights available to you unless both the rights and the underlying securities to be distributed to ADS holders 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 and we may not be able to establish a necessary 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 cash dividends if the depositary decides it is impractical to make them available to you.**

The depositary will pay cash dividends on the ADSs only to the extent that we decide to distribute dividends on our ordinary shares or other deposited securities, and we do not have any present plan to pay any cash dividends in the foreseeable future other than the preference dividends to be paid to holders of our preferred shares. See "Dividend Policy." To the extent that there is a distribution, the depositary of our ADSs has agreed to pay to you the cash dividends or other distributions it or the custodian receives on our ordinary shares or other deposited securities after deducting its fees and expenses. You will receive these distributions in proportion to the number of Class A ordinary shares your ADSs represent. However, the depositary may, at its discretion, decide that it is inequitable or impractical to make a distribution available to any holders of ADSs. For example, the depositary may determine that it is not practicable to distribute certain property through the mail, or that the value of certain distributions may be less than the cost of mailing them. In these cases, the depositary may decide not to distribute such property to you.

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

Your ADSs are transferable on the books of the depositary. However, the depositary 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 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 we or the

depository deems 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.

***Certain judgments obtained against us by our shareholders may not be enforceable.***

We are a company incorporated under the laws of the Cayman Islands. We conduct our operations outside the United States and substantially all of our assets are located outside the United States. In addition, all of our directors and executive officers and the experts named in this prospectus reside outside the United States, and most of their assets are located outside the United States. As a result, it may be difficult or impossible for you to bring an action against us or against them in the United States in the event that you believe that your rights have been infringed under the U.S. federal securities laws or otherwise. Even if you are successful in bringing an action of this kind, the laws of the Cayman Islands, the PRC or other relevant jurisdiction may render you unable to enforce a judgment against our assets or the assets of our directors and officers. For more information regarding the relevant laws of the Cayman Islands and China, see "Enforcement of Civil Liabilities."

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

We are an exempted company limited by shares incorporated under the laws of the Cayman Islands. Our corporate affairs are governed by our memorandum and articles of association, the Companies Law (2013 Revision) of the Cayman Islands and the common law of the Cayman Islands. The rights of shareholders to take action against the directors, actions by minority shareholders and the fiduciary duties of our directors to us under Cayman Islands law are to a large extent governed by the common law of the Cayman Islands. The common law of the Cayman Islands is derived in part from comparatively limited judicial precedent in the Cayman Islands as well as from the common law of England, the decisions of whose courts are of persuasive authority, but are not binding, on a court in 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 precedent in some jurisdictions in the United States. In particular, the Cayman Islands has a less developed body of securities laws than the United States. Some U.S. states, such as Delaware, have more fully developed and judicially interpreted bodies of corporate law than the Cayman Islands. In addition, Cayman Islands companies may not have standing to initiate a shareholder derivative action in a federal court of the United States.

Shareholders of Cayman Islands exempted companies like us have no general rights under Cayman Islands law to inspect corporate records or to obtain copies of lists of shareholders of these companies. Our directors will have discretion under the post-offering memorandum and articles of association we expect to adopt, to determine whether or not, and under what conditions, our corporate records may be inspected by our shareholders, but are not obliged to make them available to our shareholders. This may make it more difficult for you to obtain the information needed to establish any facts necessary for a shareholder resolution or to solicit proxies from other shareholders in connection with a proxy contest.

As a result of all of the above, our public shareholders may have more difficulty in protecting their interests in the face of actions taken by management, members of the board of directors or controlling shareholders than they would as public shareholders of a company incorporated in the United States. For a discussion of significant differences between the provisions of the Companies Law (2013 Revision) of the Cayman Islands and the laws applicable to companies incorporated in the United States and their shareholders, see "Description of Share Capital—Differences in Corporate Law."



***Our articles of association contain anti-takeover provisions that could discourage a third party from acquiring us, which could limit our shareholders' opportunity to sell their shares, including Class A ordinary shares represented by our ADSs, at a premium.***

We have adopted amended and restated articles of association to be effective upon the completion of this offering that contain provisions to limit the ability of others to acquire control of our company or cause us to engage in change-of-control transactions. These provisions could have the effect of depriving our shareholders of an opportunity to sell their shares at a premium over prevailing market prices by discouraging third parties from seeking to obtain control of our company in a tender offer or similar transaction. For example, our board of directors has the authority, without further action by our shareholders, to issue preferred shares in one or more series and to fix their designations, powers, preferences, privileges, and relative participating, optional or special rights and the qualifications, limitations or restrictions, including dividend rights, conversion rights, voting rights, terms of redemption and liquidation preferences, any or all of which may be greater than the rights associated with our ordinary shares, in the form of ADS or otherwise. Preferred shares could be issued quickly with terms calculated to delay or prevent a change in control of our company or make removal of management more difficult. If our board of directors decides to issue preferred shares, the price of our ADSs may fall and the voting and other rights of the holders of our ordinary shares and ADSs may be materially and adversely affected. In addition, our amended articles of association contain other provisions that could limit the ability of third parties to acquire control of our company or cause us to engage in a transaction resulting in a change of control, as defined in our amended articles of association, including: a provision that entitles Class B ordinary shares to 20 votes per share at general meetings of our shareholders with respect to the election of a simple majority of our directors; a provision that entitles Class B shareholders to nominate one less than a simple majority, or five, of our directors; a provision that allows one of our principal shareholders to appoint up to three directors to our board of directors for so long as they beneficially own certain percentages of our issued share capital; and a classified board with staggered terms for our directors, which will prevent the replacement of a majority of directors at one time.

These provisions could have the effect of depriving our shareholders of an opportunity to sell their shares at a premium over prevailing market prices by discouraging third parties from seeking to obtain control of our company in a tender offer or similar transaction.

***We are an emerging growth company within the meaning of the Securities Act and may take advantage of certain reduced reporting requirements.***

We are an "emerging growth company," as defined in the JOBS Act, and we may take advantage of certain exemptions from various requirements applicable to other public companies that are not emerging growth companies including, most significantly, not being required to comply with the auditor attestation requirements of Section 404 of Sarbanes-Oxley Act of 2002 for so long as we are an emerging growth company. As a result, if we elect not to comply with such auditor attestation requirements, our investors will not have access to certain information they may deem important.

The JOBS Act also provides that an emerging growth company does not need to comply with any new or revised financial accounting standards until such date that a private company is otherwise required to comply with such new or revised accounting standards. However, we have elected to "opt out" of this provision and, as a result, we will comply with new or revised accounting standards as required when they are adopted for public companies. This decision to opt out of the extended transition period under the JOBS Act is irrevocable.

***We are a foreign private issuer within the meaning of the rules under the Exchange Act, and as such we are exempt from certain provisions applicable to U.S. domestic public companies.***

Because we qualify as a foreign private issuer under the Exchange Act, we are exempt from certain provisions of the securities rules and regulations in the United States that are applicable to U.S. domestic issuers, including:

- the rules under the Exchange Act requiring the filing with the SEC of quarterly reports on Form 10-Q or current reports on Form 8-K;
- the sections of the Exchange Act regulating the solicitation of proxies, consents, or authorizations in respect of a security registered under the Exchange Act;
- the sections of the Exchange Act requiring insiders to file public reports of their stock ownership and trading activities and liability for insiders who profit from trades made in a short period of time; and
- the selective disclosure rules by issuers of material nonpublic information under Regulation FD.

We are required to file an annual report on Form 20-F within four months of the end of each fiscal year. In addition, we intend to publish our results on a quarterly basis as press releases, distributed pursuant to the rules and regulations of the NASDAQ. Press releases relating to financial results and material events will also be furnished to the SEC on Form 6-K. However, the information we are required to file with or furnish to the SEC will be less extensive and less timely compared to that required to be filed with the SEC by U.S. domestic issuers. As a result, you may not be afforded the same protections or information that would be made available to you were you investing in a U.S. domestic issuer.

***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 Global Market, we are subject to the NASDAQ corporate governance listing standards. However, NASDAQ Stock Market 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.

For instance, we are not required to:

- have a majority of the board be independent (although all of the members of the audit committee must be independent under the U.S. Securities Exchange Act of 1934, as amended, or the Exchange Act);
- have a compensation committee or a nominations or corporate governance committee consisting entirely of independent directors; or
- have regularly scheduled executive sessions with only independent directors each year.

We have relied on and intend to continue to rely on some of these exemptions. As a result, you may not be provided with the benefits of certain corporate governance requirements of the NASDAQ.

***We may become a passive foreign investment company, or PFIC, which could result in adverse United States tax consequences to United States investors.***

Based on the past and projected composition of our income and assets, and the valuation of our assets, including goodwill, we do not believe we were a PFIC for our most recent taxable year and we do

not expect to become one in the future, although there can be no assurance in this regard. The determination of whether or not we are a PFIC is made on an annual basis and will depend on the composition of our income and assets from time to time. Specifically, for any taxable year, we will be classified as a PFIC for United States federal income tax purposes if either (i) 75% or more of our gross income in that taxable year is passive income or (ii) the average percentage of our assets (which includes cash) by value in that taxable year which produce, or are held for the production of, passive income is at least 50%. The calculation of the value of our assets will be based, in part, on the quarterly market value of our ADSs, which is subject to change. See "Taxation—Material United States Federal Income Tax Considerations—Passive Foreign Investment Company."

In addition, there is uncertainty as to the treatment of our corporate structure and ownership of our consolidated VIEs for United States federal income tax purposes. For United States federal income tax purposes, we consider ourselves to own the stock of our consolidated VIEs. If it is determined, contrary to our view, that we do not own the stock of our consolidated VIEs for United States federal income tax purposes (for instance, because the relevant PRC authorities do not respect these arrangements), we may be treated as a PFIC.

If we are a PFIC for any taxable year during which you hold our ADSs or Class A ordinary shares, our PFIC status could result in adverse United States federal income tax consequences to you if you are a United States Holder, as defined under "Taxation—Material United States Federal Income Tax Considerations." For example, if we are or become a PFIC, you may become subject to increased tax liabilities under United States federal income tax laws and regulations, and will become subject to burdensome reporting requirements. See "Taxation—Material United States Federal Income Tax Considerations—Passive Foreign Investment Company." There can be no assurance that we will not be a PFIC for 2016 or any future taxable year. Simpson Thacher & Bartlett LLP, our United States counsel, does not express any opinion about our status as a PFIC in any taxable year.

***We will incur increased costs as a result of being a public company, particularly after we cease to qualify as an "emerging growth company."***

Upon completion of this offering, we will become a public company and expect to incur significant legal, accounting and other expenses that we did not incur as a private company. The Sarbanes-Oxley Act of 2002, as well as rules subsequently implemented by the SEC and the NASDAQ, impose various requirements on the corporate governance practices of public companies. As a company with less than US\$1.0 billion in net revenue for our last fiscal year, we qualify as an "emerging growth company" pursuant to the JOBS Act. An emerging growth company may take advantage of specified reduced reporting and other requirements that are otherwise applicable generally to public companies. These provisions include exemption from the auditor attestation requirement under Section 404 of the Sarbanes-Oxley Act of 2002 in the assessment of the emerging growth company's internal control over financial reporting and permission to delay adopting new or revised accounting standards until such time as those standards apply to private companies. However, we have elected to "opt out" of the provision that allow us to delay adopting new or revised accounting standards and, as a result, we will comply with new or revised accounting standards as required when they are adopted for public companies. This decision to opt out of the extended transition period under the JOBS Act is irrevocable.

We expect these rules and regulations to increase our legal and financial compliance costs and to make some corporate activities more time-consuming and costly. After we are no longer an "emerging growth company," we expect to incur significant expenses and devote substantial management effort toward ensuring compliance with the requirements of Section 404 of the Sarbanes-Oxley Act of 2002 and the other rules and regulations of the SEC. For example, as a result of becoming a public company, we will need to increase the number of independent directors and adopt policies regarding internal controls and disclosure controls and procedures. We also expect that operating as a public company will make it more difficult and more expensive for us to obtain director and officer liability insurance, and we may be

required to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. In addition, we will incur additional costs associated with our public company reporting requirements. It may also be more difficult for us to find qualified persons to serve on our board of directors or as executive officers. We are currently evaluating and monitoring developments with respect to these rules and regulations, and we cannot predict or estimate with any degree of certainty the amount of additional costs we may incur or the timing of such costs.

In the past, shareholders of a public company often brought securities class action suits against the company following periods of instability in the market price of that company's securities. If we were involved in a class action suit, it could divert a significant amount of our management's attention and other resources from our business and operations, which could harm our results of operations and require us to incur significant expenses to defend the suit. Any such class action suit, whether or not successful, could harm our reputation and restrict our ability to raise capital in the future. In addition, if a claim is successfully made against us, we may be required to pay significant damages, which could have a material adverse effect on our financial condition and results of operations.

#### SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements that involve risks and uncertainties, including statements based on our current expectations, assumptions, estimates and projections about us and our industry. The forward-looking statements are contained principally in the sections entitled "Prospectus Summary," "Risk Factors," "Use of Proceeds," "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Industry" and "Business." These statements involve known and unknown risks, uncertainties and other factors that may cause our actual results, performance or achievements to be materially different from those expressed or implied by the forward-looking statements. In some cases, these forward-looking statements can be identified by words or phrases such as "may," "will," "expect," "anticipate," "aim," "estimate," "intend," "plan," "believe," "potential," "continue," "is/are likely to" or other similar expressions. The forward-looking statements included in this prospectus relate to, among others:

- our goals and strategies;
- our expansion plans;
- our future business development, financial condition and results of operations;
- the expected growth of the data center and cloud services market;
- our expectations regarding demand for, and market acceptance of, our services;
- our expectations regarding keeping and strengthening our relationships with customers; and
- general economic and business conditions in the regions where we operate.

This prospectus also contains market data relating to the data center and cloud services industry in China, including market position, market size, and growth rates of the markets in which we participate, that are based on industry publications and reports. This prospectus contains statistical data and estimates published by 451 Research, LLC, or 451 Research, including a report which we commissioned 451 Research to prepare and for which we paid a fee. We have not independently verified the accuracy or completeness of the data contained in these industry publications and reports. The data center and cloud services industry in China may not grow at the rates projected by market data, or at all. The failure of these markets to grow at the projected rates may have a material adverse effect on our business and the market price of our ADSs. If any one or more of the assumptions underlying the market data turns out to be incorrect, actual results may differ from the projections based on these assumptions. In addition, projections, assumptions and estimates of our future performance and the future performance of the industry in which we operate is necessarily subject to a high degree of uncertainty and risk due to a variety of factors, including those described in "Risk Factors" and elsewhere in this prospectus. You should not place undue reliance on these forward-looking statements.

The forward-looking statements made in this prospectus relate only to events or information as of the date on which the statements are made in this prospectus. Except as required by law, we undertake no obligation to update any forward-looking statements to reflect events or circumstances after the date on which the statements are made or to reflect the occurrence of unanticipated events. You should read this prospectus and the documents that we have referred to in this prospectus and have filed as exhibits to the registration statement, of which this prospectus is a part, completely and with the understanding that our actual future results may be materially different from what we expect.

## USE OF PROCEEDS

We estimate that we will receive net proceeds from this offering of approximately US\$ [redacted] after deducting underwriting discounts and the estimated offering expenses payable by us and based upon an assumed initial offering price of US\$ [redacted] per ADS (the mid-point of the estimated public offering price range shown on the front cover of this prospectus). A US\$1.00 increase (decrease) in the assumed initial public offering price of US\$ [redacted] per ADS would increase (decrease) the net proceeds to us from this offering by US\$ [redacted], after deducting the estimated underwriting discounts and commissions and estimated aggregate offering expenses payable by us and assuming no change to the number of ADSs offered by us as set forth on the cover page of this prospectus.

We plan to use the net proceeds of this offering as follows:

- approximately US\$20.6 million for the repayment of a portion of our outstanding indebtedness as described below;
- approximately US\$ [redacted] million for development and acquisition of new data centers;
- approximately US\$ [redacted] million for the payment of preference dividends to holders of our preferred shares; and
- the balance of the net proceeds for general corporate purposes.

On September 17, 2015, our subsidiary Shenzhen Yungang EDC Technology Co., Ltd., entered into a term loan facility agreement with United Overseas Bank (China) Limited, Shenzhen Branch and Credit Agricole Corporate and Investment Bank (China) Limited for a principal amount of RMB430.0 million (US\$64.7 million) for the subsidiary's Shenzhen data centers SZ1 and SZ2 respectively, and an amendment agreement dated August 5, 2016 to extend an additional term loan facility with a principal loan amount of RMB100.0 million (US\$15.0 million) for financing the borrower's Shenzhen data center SZ3. The interest rate agreed under the term loan facility agreements is 1.2x or 1.3x of PBOC's base rate for loans, as applicable. The effective interest rate on the loan as of September 30, 2016 was 6.18% per annum. The maturity date of the loan is September 18, 2020. The proceeds from the loan are being used for the construction, renovation and fitting-out of, as well as equipment for, the premises of data centers SZ1, SZ2 and SZ3.

On October 28, 2015, our subsidiary Beijing Hengpu'an Data Technology Development Co., Ltd. entered into a term loan facility agreement with United Overseas Bank Limited for a principal amount of RMB120.0 million (US\$18.1 million) for financing borrower's Beijing data center (BJ1). The interest rate agreed under said term loan facility agreement is a fixed rate of 6.5625% per annum or 1.25x of PBOC's base rate (as applicable based on the tranches of facilities utilized under the agreement). The effective interest rate on the loan as of September 30, 2016 was 6.56% per annum. The maturity date of the loan is December 21, 2020. The proceeds from the loan are being used for the construction, renovation and fitting-out of, as well as equipment for, the premises of data center BJ1.

An aggregate RMB534.9 million (US\$80.5 million) was outstanding on the foregoing two loan facilities as of September 30, 2016, approximately RMB136.9 million (US\$20.6 million) of which we are required to repay upon the completion of this offering. For other details concerning these loan facilities, see "Management's Discussion and Analysis of Financial Condition and Results of Operations—Contractual Obligations—Beijing and Shenzhen Loan Facilities."

For information as to preference dividends to holders of our preferred shares, see "Dividend Policy."

The foregoing represents our intentions as of the date of this prospectus with respect of the use and allocation of the net proceeds of this offering based upon our present plans and business conditions, but our management will have significant flexibility and discretion in applying the net proceeds of the offering. The occurrence of unforeseen events or changed business conditions may result in application of the proceeds of this offering in a manner other than as described in this prospectus.

To the extent that the net proceeds we receive from this offering are not immediately applied for the above purposes, we intend to invest our net proceeds in short-term, interest bearing, debt instruments or bank deposits.

In utilizing the proceeds of this offering, we, as an offshore holding company, are permitted under PRC laws and regulations to provide funding to our PRC subsidiaries only through loans or capital contributions and to our consolidated VIEs only through loans. Subject to satisfaction of applicable government registration and approval requirements, we may extend inter-company loans to our PRC subsidiaries or make additional capital contributions to our PRC subsidiaries to fund their capital expenditures or working capital. We cannot assure you that we will be able to obtain these government registrations or approvals on a timely basis, if at all.

## DIVIDEND POLICY

Since our inception, we have not declared or paid any dividends on our shares. We do not have any present plan to pay any dividends on our Class A ordinary shares or ADSs in the foreseeable future. We intend to retain most, if not all, of our available funds and any future earnings to operate and expand our business.

Holders of our preferred shares are entitled to receive preference dividends at an annual rate of 6% per annum of the respective preferred shares issue price, out of any funds legally available for this purpose, when, as and if declared by us. The right to receive dividends on the preferred shares are cumulative, and the right to such dividends shall accrue to holders of the preferred shares notwithstanding the fact that dividends on said shares are not declared or paid in any calendar year. Upon completion of this offering, we will pay a cumulative preference dividend in the amount of US\$            million to our preferred shareholders, of which US\$            million is to be paid in cash and US\$            million is to be paid in the form of Class A ordinary shares. Upon completion of this offering, the amount to be paid in cash will be paid from the proceeds of this offering. For the amount that is to be paid in the form of Class A ordinary shares, we will issue            Class A ordinary shares to holders of our preferred shares assuming an initial public offering price of US\$            per ADS, the mid-point of the estimated public offering price range shown on the front cover of this prospectus.

Any other future determination to pay dividends will be made at the discretion of our board of directors and may be based on a number of factors, including our future operations and earnings, capital requirements and surplus, general financial condition, contractual restrictions and other factors that the board of directors may deem relevant. If we pay any dividends, we will pay our ADS holders to the same extent as holders of our Class A ordinary shares, subject to the terms of the deposit agreement, including the fees and expenses payable thereunder. See "Description of American Depositary Shares." Cash dividends on our ordinary shares, if any, will be paid in U.S. dollars.

We are an exempted company incorporated in the Cayman Islands. In order for us to distribute any dividends to our shareholders and ADS holders, we may rely on dividends distributed by our PRC subsidiaries. Certain payments from our PRC subsidiaries to us may be subject to PRC withholding income tax. In addition, regulations in the PRC currently permit payment of dividends of a PRC company only out of accumulated distributable after-tax profits as determined in accordance with its articles of association and the accounting standards and regulations in China. Each of our PRC subsidiaries is required to set aside at least 10% of its after-tax profit based on PRC accounting standards every year to a statutory common reserve fund until the aggregate amount of such reserve fund reaches 50% of the registered capital of such subsidiary. Such statutory reserves are not distributable as loans, advances or cash dividends.

**CAPITALIZATION**

The following table sets forth our capitalization as of June 30, 2016 presented on:

- an actual basis;
- a pro forma basis to reflect (i) the automatic conversion of all our outstanding preferred shares into 349,087,677 Class A ordinary shares immediately upon the completion of this offering, and (ii) the preference dividend on our preferred shares as if the preference dividend were declared and payable on June 30, 2016 and as if a qualified IPO, as defined in our members agreement, had occurred on June 30, 2016; and
- a pro forma as adjusted basis to reflect (i) the automatic conversion of all our outstanding preferred shares into Class A ordinary shares immediately upon the completion of this offering, (ii) the preference dividend on our preferred shares as if the preference dividend were declared and payable on June 30, 2016 and as if a qualified IPO, as defined in our members agreement, had occurred on June 30, 2016, (iii) the issuance and sale of the Class A ordinary shares in the form of ADSs offered hereby at an assumed initial public offering price of US\$ per ADS, the mid-point of the estimated public offering price range shown on the front cover of this prospectus, after deducting underwriting discounts, commissions and estimated offering expenses payable by us and assuming no exercise of the underwriters' over-allotment option, and (iv) the repayment of approximately RMB million (US\$ million) of the outstanding indebtedness of certain of our subsidiaries using a portion of the proceeds to us from this offering.

The pro forma and pro forma as adjusted information below is illustrative only and our capitalization following the completion of this offering is subject to adjustment based on the initial public offering price of our ADSs and other terms of this offering determined at pricing. You should read this table in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our consolidated financial statements and related notes included elsewhere in this prospectus.

	As of June 30, 2016					
	Actual		Pro Forma		Pro Forma as Adjusted	
	RMB	US\$	RMB	US\$	RMB	US\$
	(in thousands)					
Long-term borrowings, excluding current portion	825,392	124,196	825,392	124,196		
Obligations under capital leases, non-current	873,972	131,505	873,972	131,505		
Convertible bonds payable	994,243	149,602	994,243	149,602		
Redeemable preferred shares	2,499,117	376,039	—	—		
Shareholders' (deficit) equity:						
Ordinary shares	76	11	189	28		
Additional paid-in capital	302,939	45,583	2,544,709	382,899		
Accumulated other comprehensive loss	(112,525)	(16,931)	(112,525)	(16,931)		
Accumulated deficit	(736,450)	(110,812)	(773,479)	(116,384)		
Total (deficit) equity <sup>(1)</sup>	(545,960)	(82,149)	1,658,894	249,612		
<b>Total</b>	<b>4,646,764</b>	<b>699,193</b>	<b>4,352,501</b>	<b>654,915</b>		

(1) A US\$1.00 increase (decrease) in the assumed initial public offering price of US\$ per ADS would increase (decrease) total equity by US\$ .



**DILUTION**

If you invest in our ADSs, your interest will be diluted to the extent of the difference between the initial public offering price per ADS and our net tangible book value per ADS after this offering. Dilution results from the fact that the initial public offering price per Class A ordinary share is substantially in excess of the book value per ordinary share attributable to the existing shareholders for our presently outstanding ordinary shares and holders of our preferred shares which will automatically convert into our Class A ordinary shares upon the completion of this offering.

Our net tangible book value as of June 30, 2016 was approximately RMB511.0 million (US\$76.9 million), or RMB2.3443 (US\$0.3527) per ordinary share as of that date, and US\$ per ADS. Net tangible book value represents the amount of our total consolidated assets, less the amount of our intangible assets, goodwill and total consolidated liabilities. Dilution is determined by subtracting net tangible book value per ordinary share, after giving effect to (i) the automatic conversion of all of our outstanding preferred shares into Class A ordinary shares immediately upon the completion of this offering, (ii) the issuance of Class A ordinary shares immediately upon the completion of this offering in connection with the preference dividends to be paid to the holders of our preferred shares at an assumed initial public offering price of US\$ per ADS (the mid-point of the estimated initial public offering price range shown on the front cover of this prospectus), and (iii) the issuance and sale by us of shares in the form of ADSs in this offering at an assumed initial public offering price of US\$ per ADS (the mid-point of the estimated initial public offering price range shown on the front cover page of this prospectus) after deduction of the underwriting discounts and commissions and estimated offering expenses payable by us from the initial public offering price per Class A ordinary share.

Without taking into account any other changes in net tangible book value after June 30, 2016, other than to give effect to (i) the automatic conversion of all of our outstanding preferred shares into Class A ordinary shares immediately upon the completion of this offering, (ii) the issuance of Class A ordinary shares immediately upon the completion of this offering in connection with the preference dividends to be paid to the holders of our preferred shares at an assumed initial public offering price of US\$ per ADS (the mid-point of the estimated initial public offering price range shown on the front cover of this prospectus), and (iii) the issuance and sale by us of Class A ordinary shares in the form of ADSs in this offering at an assumed initial public offering price of US\$ per ADS (the mid-point of the estimated initial public offering price range shown on the front cover page of this prospectus) after deduction of the underwriting discounts and commissions and estimated offering expenses payable by us, our pro forma as adjusted net tangible book value as of June 30, 2016 would have been US\$ million, or US\$ per outstanding ordinary share and US\$ per ADS. This represents an immediate increase in net tangible book value of US\$ per ordinary share and US\$ per ADS to the existing shareholders and an immediate dilution in net tangible book value of US\$ per ordinary share and US\$ per ADS to investors purchasing ADSs in this offering.

The following table illustrates such dilution:

	Per Ordinary Share	Per ADS
Actual net tangible book value per share as of June 30, 2016	US\$ 0.3527	
Pro forma net tangible book value per share after giving effect to the automatic conversion of all of our outstanding preferred shares into Class A ordinary shares		
Pro forma as adjusted net tangible book value per share after giving effect to (i) the automatic conversion of all of our outstanding preferred shares into Class A ordinary shares, (ii) the issuance of Class A ordinary shares in connection with the preference dividends to be paid to holders of our preferred shares, and (iii) this offering		
Assumed initial public offering price		
Dilution in net tangible book value per share to new investors in the offering		

The amount of dilution in net tangible book value to new investors in this offering set forth above is determined after giving effect to (i) the automatic conversion of our outstanding preferred shares, (ii) the issuance of ordinary shares in connection with the preference dividends to be paid to holders of our preferred shares, and (iii) this offering from the public offering price per ordinary share.

A US\$1.00 increase (decrease) in the assumed public offering price of US\$ per ADS (the mid-point of the estimated initial public offering price range shown on the front cover page of this prospectus) would increase (decrease) our pro forma net tangible book value after giving effect to the offering by US\$ million, the pro forma net tangible book value per ordinary share and per ADS after giving effect to this offering by US\$ per ordinary share and US\$ per ADS and the dilution in pro forma net tangible book value per ordinary share and per ADS to new investors in this offering by US\$ per ordinary share and US\$ per ADS, assuming no change to the number of ADS offered by us as set forth on the front cover page of this prospectus, and after deducting underwriting discounts and commissions and other offering expenses.

The following table summarizes, on a pro forma basis as of June 30, 2016, the differences between existing shareholders, including holders of our preferred shares, and the new investors with respect to the number of ordinary shares (in the form of ADSs or shares) purchased from us, the total consideration paid and the average price per ordinary share and per ADS paid before deducting the underwriting discounts and commissions and estimated offering expenses. The total number of ordinary shares does not include ordinary shares underlying the ADSs issuable upon the exercise of the option to purchase additional ADSs granted to the underwriters.

	Ordinary Shares Total		Total Consideration		US\$ Average Price per Ordinary Share Equivalent	Average Price per ADS Equivalent
	Number	Percent	Amount	Percent	US\$	US\$
Existing shareholders		%	US\$	%	US\$	US\$
New investors		%	US\$	%	US\$	US\$
<b>Total</b>		%	US\$	%		

If the underwriters were to fully exercise the over-allotment option to purchase additional shares of our Class A ordinary shares from us, the percentage of shares of our ordinary shares held by existing shareholders who are directors, officers or affiliated persons would be %, and the percentage of shares of our common stock held by new investors would be %.

The pro forma information discussed above is illustrative only. Our net tangible book value following the completion of this offering is subject to adjustment based on the actual initial public offering price of our ADSs and other terms of this offering determined at pricing.

The discussion and tables above take into consideration the automatic conversions of our redeemable preferred shares upon the completion of this offering, and they do not take into consideration of (i) the conversion into Class A ordinary shares of our convertible bonds due 2019 or (ii) any outstanding share options or vested but not yet issued restricted shares. Following this offering, we may require the conversion of the convertible bonds due 2019 assuming the average per-ordinary-share-equivalent closing trading price of our ADSs in any period of ten (10) consecutive trading days following this offering is at least 125% of US\$1.675262 and we exercise our right to cause STT GDC and Ping An Insurance to convert the bonds. If the bondholders elect to convert, or we cause the bondholders to convert, their bonds (including interests accrued), at least 91,681,348 Class A ordinary shares will be issued. In addition, as of the date of this prospectus, there are also (i) 29,189,800 ordinary shares issuable upon exercise of outstanding share options at an exercise price of US\$0.7792 per share; (ii) 877,400 vested but not yet issued restricted shares; and (iii) 55,880,360 ordinary shares reserved for future issuance under our share incentive plans. To the extent that the convertible bonds due 2019 are converted after our IPO or if any of these options are exercised, there will be further dilution to new investors.

**EXCHANGE RATE INFORMATION**

Substantially all of our operations are conducted in China and substantially all of our net revenue is denominated in Renminbi. This prospectus contains translations of Renminbi amounts into U.S. dollars at specific rates solely for the convenience of the reader. Unless otherwise noted, all translations from Renminbi to U.S. dollars and from U.S. dollars to Renminbi in this prospectus were made at a rate of RMB6.6459 to US\$1.00, the exchange rate set forth in the H.10 statistical release of the Federal Reserve Board on June 30, 2016. We make no representation that the Renminbi or U.S. dollar amounts referred to in this prospectus could have been or could be converted into 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 and through restrictions on foreign trade. On September 30, 2016, the noon buying rate for Renminbi was RMB6.6685 to US\$1.00.

The following table sets forth information concerning exchange rates between the Renminbi and the U.S. dollar for the periods indicated. These rates are provided solely for your convenience and are not necessarily the exchange rates that we used in this prospectus or will use in the preparation of our periodic reports or any other information to be provided to you. For all dates and periods, the exchange rate refers to the exchange rate as set forth in the H.10 statistical release of the Federal Reserve Board.

Period	Noon Buying Rate			
	Period End	Average <sup>(1)</sup>	Low	High
		(RMB per US\$1.00)		
2011	6.2939	6.4475	6.6364	6.2939
2012	6.2301	6.2990	6.3879	6.2221
2013	6.0537	6.1412	6.2438	6.0537
2014	6.2046	6.1704	6.2591	6.0402
2015	6.4778	6.2869	6.4896	6.1870
2016				
March	6.4480	6.5027	6.5500	6.4480
April	6.4738	6.4754	6.5004	6.4571
May	6.5798	6.5259	6.5798	6.4738
June	6.6459	6.5892	6.6481	6.5590
July	6.6371	6.6771	6.7013	6.6371
August	6.6776	6.6466	6.6778	6.6239
September (through September 30, 2016)	6.6685	6.6702	6.6790	6.6600

Source: Federal Reserve Statistical Release

- (1) Annual averages are calculated using the average of the rates on the last business day of each month during the relevant year. Monthly averages are calculated using the average of the daily rates during the relevant month.

## ENFORCEMENT OF CIVIL LIABILITIES

We are incorporated under the laws of the Cayman Islands as an exempted company with limited liability. We are incorporated in the Cayman Islands because of certain benefits associated with being a Cayman Islands corporation, such as political and economic stability, an effective judicial system, a favorable tax system, the absence of foreign exchange control or currency restrictions and the availability of professional and support services. However, the Cayman Islands has a less developed body of securities laws as compared to the United States and provides protections for investors to a lesser extent. In addition, Cayman Islands companies may not have standing to sue before the federal courts of the United States.

Substantially all of our operations are conducted in China, and substantially all of our assets are located in China. In addition, most of our directors and officers are residents of jurisdictions other than the United States and all or a substantial portion of their assets are located outside the United States. As a result, it may be difficult for investors to effect service of process within the United States upon us or these persons, or to enforce against us or them judgments obtained in United States courts, including judgments predicated upon the civil liability provisions of the securities laws of the United States or any state in the United States. 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.

We have appointed Law Debenture Corporate Services Inc. as our agent to receive service of process with respect to any action brought against us in the United States District Court for the Southern District of New York under the federal securities laws of the United States or of any state in the United States or any action brought against us in the Supreme Court of the State of New York in the County of New York under the securities laws of the State of New York.

Conyers Dill & Pearman, our counsel as to Cayman Islands law, and King & Wood Mallesons, our counsel as to PRC law, have advised us that there is uncertainty as to whether the courts of the Cayman Islands or the PRC would, respectively, (1) recognize or enforce judgments of United States courts obtained against us or our directors or officers predicated upon the civil liability provisions of the securities laws of the United States or any state in the United States and (2) entertain original actions brought in the Cayman Islands or the PRC against us or our directors or officers predicated upon the securities laws of the United States or any state in the United States.

Conyers Dill & Pearman has informed us that the uncertainty with regard to Cayman Islands law relates to whether a judgment obtained from the United States courts under the civil liability provisions of the securities laws will be determined by the courts of the Cayman Islands as penal or punitive in nature. If such a determination is made, the courts of the Cayman Islands will not recognize or enforce the judgment against a Cayman company. Because the courts of the Cayman Islands have yet to rule on whether such judgments are penal or punitive in nature, it is uncertain whether they would be enforceable in the Cayman Islands. Conyers Dill & Pearman has further advised us that a final and conclusive judgment in the federal or state courts of the United States under which a sum of money is payable, other than a sum payable in respect of taxes, fines, penalties or similar charges, may be subject to enforcement proceedings as a debt in the courts of the Cayman Islands under the common law doctrine of obligation.

In addition, Conyers Dill & Pearman has advised us that there is no statutory recognition in the Cayman Islands of judgments obtained in the United States, although the Cayman Islands will generally recognize as a valid judgment, a final and conclusive judgment in personam obtained in the federal or state courts in the United States under which a sum of money is payable (other than a sum of money payable in respect of multiple damages, taxes or other charges of a like nature or in respect of a fine or other penalty) and would give a judgment based thereon provided that (i) such courts had proper jurisdiction over the parties subject to such judgment; (ii) such courts did not contravene the rules of natural justice of the Cayman Islands; (iii) such judgment was not obtained by fraud; (iv) the enforcement of the judgment would not be contrary to the public policy of the Cayman Islands; (v) no new admissible evidence relevant

to the action is submitted prior to the rendering of the judgment by the courts of the Cayman Islands; and (vi) there is due compliance with the correct procedures under the laws of the Cayman Islands.

King & Wood Mallesons has advised us that the recognition and enforcement of foreign judgments are provided for under the PRC Civil Procedure Law. PRC courts may recognize and enforce foreign judgments in accordance with the requirements of the PRC Civil Procedure Law based either on treaties between China and the country where the judgment is made or on principles of reciprocity between jurisdictions. King & Wood Mallesons has advised us further that under PRC law, a foreign judgment, which does not otherwise violate basic legal principles, state sovereignty, safety or social public interest, may be recognized and enforced by a PRC court, based either on treaties between China and the country where the judgment is made or on principles of reciprocity between jurisdictions. As there existed no treaty or other form of reciprocity between China and the United States governing the recognition and enforcement of judgments as of the date of this prospectus, including those predicated upon the liability provisions of the United States federal securities laws, there is uncertainty whether and on what basis a PRC court would enforce judgments rendered by United States courts.

## OUR HISTORY AND CORPORATE STRUCTURE

We are an exempted company and were incorporated in the Cayman Islands in 2006. We own 100% of the shares in EDC Holding, an exempted company also incorporated in the Cayman Islands, through which we indirectly hold 100% of the equity interests in holding companies in Hong Kong, many of which own our data centers through one or more data center companies. Through EDC Holding we also indirectly hold 100% of the equity interests in GDS Management Company.

Due to PRC regulations that limit foreign equity ownership of entities providing VATS at 50%, and the inclusion of IDC services within the scope of VATS, we conduct a substantial part of our operations in China through contractual arrangements among GDS Management Company, our data center companies and two VIEs that hold licenses required to operate our business, GDS Beijing and GDS Shanghai, and their shareholders. As a result of these contractual arrangements, we control GDS Shanghai, GDS Beijing and its subsidiaries, including EDC Shanghai Waigaoqiao, GDS Suzhou, Kunshan Wanyu, Guangzhou Weiteng and Beijing Yixin and have consolidated the financial information of these VIEs in our consolidated financial statements in accordance with U.S. GAAP. MITT has approved GDS Beijing's application to expand its IDC license coverage to include GDS Suzhou and Kunshan Wanyu so that they are now authorized to provide IDC services. See "—2016 Variable Interest Entity Restructuring." As part of the VIE restructuring, we have converted and changed the shareholding of EDC Shanghai Waigaoqiao in the same way as GDS Suzhou, and we will apply for the expansion of GDS Beijing's IDC license so that EDC Shanghai Waigaoqiao will also be authorized to provide IDC services. In addition, with regard to the other WFOEs that have not contributed substantial revenue, we are deliberating different measures to ensure that any business activity that may have to be conducted by IDC license holders will be conducted by our IDC license holders, which are consolidated VIEs. See "Regulations—Regulations Related to Value-Added Telecommunications Business" for additional details.

Historically, in 2014 and 2015 prior to our VIE restructuring, our consolidated VIEs, GDS Beijing and GDS Shanghai, contributed 2.0% and 4.3% of our total net revenue, and we conducted the substantial majority of our operations through GDS Suzhou when it was a WFOE under PRC law. See "—2016 Variable Interest Entity Restructuring" and "Risk Factors—Risks Related to Doing Business in the People's Republic of China—We may be regarded as existing, in a state of historical non-compliance with the regulations on foreign investment restriction and value added telecommunications services, for which penalties may be assessed that may materially and adversely affect our business, financial condition, growth strategies and prospects and may require us to obtain regulatory approval for this offering." As a result of our internal restructuring, GDS Suzhou became a domestic-owned enterprise under PRC law and an operating subsidiary of GDS Beijing. GDS Suzhou has received approval from the MITT for providing IDC services with authorization from GDS Beijing under its IDC license. As of the date of this prospectus, we conducted the substantial majority of our operations in China through GDS Suzhou. Accordingly, going forward we expect that substantially all of our net revenue will be generated through our consolidated VIEs, GDS Shanghai, GDS Beijing and its subsidiaries.

In 2003, some of our principal shareholders, including our founder, Mr. William Wei Huang, established Global Data Solutions Limited, a Cayman Islands exempted company. In 2001, FSL acquired GDS Suzhou, which was established by third parties in 2000. In 2006, GDS Beijing and GDS Holdings were established under the laws of the PRC and Cayman Islands, respectively. In 2009, we underwent restructuring with respect to GDS Beijing, which became a consolidated VIE. In 2010, GDS Suzhou was relocated from Shenzhen to Suzhou. In 2014, GDS Shanghai, which was established in 2011, also became a consolidated VIE.

### Acquisition of EDC Holding

EDC Holding was established in 2008 and is principally engaged in data center infrastructure services in the PRC. We held approximately 7% equity interests in EDC Holding on a fully diluted basis prior to the acquisition. In June 2014, in an effort to enhance our service offerings and to increase business synergy, we acquired all the equity interests in EDC Holding (preferred and ordinary shares) we did not already own by issuing 199,163,164 shares to the then-shareholders of EDC Holding.

We were identified as the accounting acquirer for the following reasons: (i) we were the entity that issued the new equity interests; (ii) a shareholder of ours held the largest minority voting interest in the combined entity; (iii) our shareholders have the ability to elect, appoint or remove a majority of the members of the governing body of the combined entity; (iv) our management dominates the management of the combined entity after the acquisition; and (v) we have a significantly larger relative size in terms of net revenue and operations than that of EDC Holding.

#### **Acquisition of Guangzhou Weiteng**

In May 2016, we, through GDS Beijing, acquired all the equity interest in Guangzhou Weiteng from a third party for an aggregate purchase price of RMB129.5 million (US\$19.5 million), subject to adjustment, if any, pursuant to the terms and conditions of the equity purchase agreement. Guangzhou Weiteng is a limited liability company organized and existing under the PRC law and operates a data center project in Guangzhou, and is in the process of applying for its own IDC license.

#### **2016 VIE Restructuring**

The laws and regulations regarding VATS licenses in the PRC, especially those in relation to IDC services, are relatively new and are still evolving, and their interpretation and enforcement involve significant uncertainties. PRC laws and regulations restrict foreign equity ownership of entities that hold VATS licenses, and such licenses have been denied to entities whose foreign equity ownership exceeds permitted thresholds.

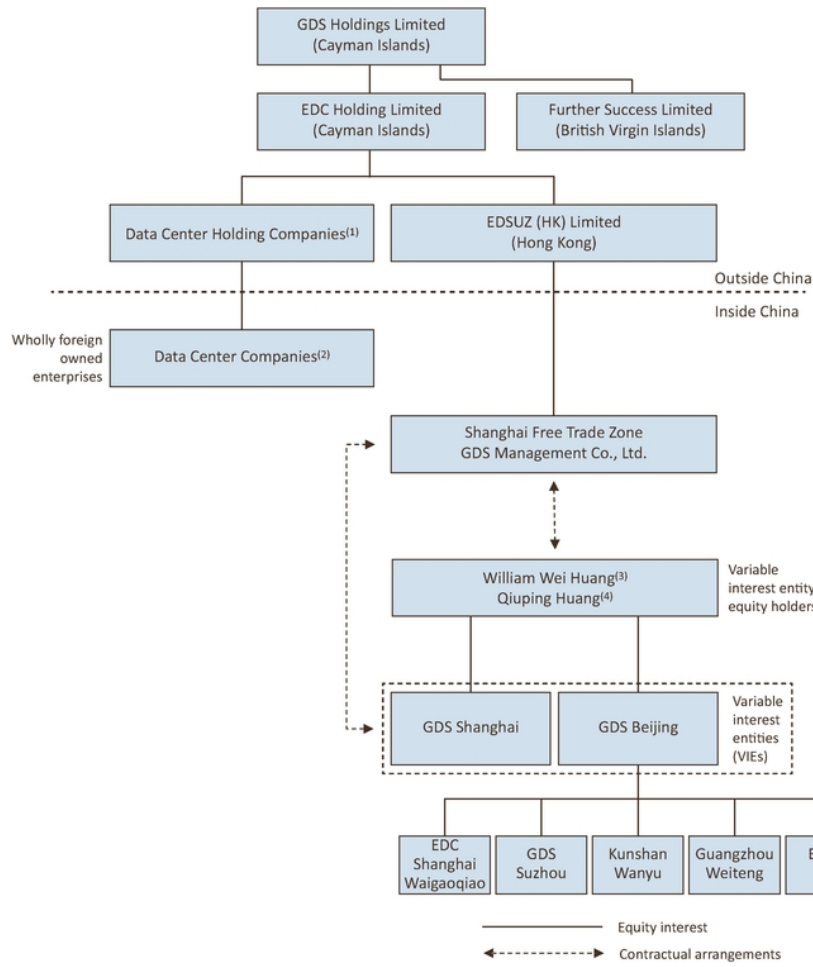
Before 2013, the definition of IDC service did not offer clear guidance as to whether our business at the time fell within its scope. Between 2010 and 2012, in order to comply with then-effective laws and administrative practice, we consulted relevant officials of local branches of the MIIT. Based on such consultations, we understood that we were not required to hold an IDC license in order for us to operate our business lawfully, and we entered into most of our customer contracts through GDS Suzhou, a WFOE, because we believed that restrictions on foreign investment in IDC services did not apply in our case.

On May 6, 2013, the Q&A was published on the website of China Academy of Telecom Research, an affiliate of the MIIT. The Q&A was issued together with the draft revised Telecom Catalogue of the 2013 version, which although not an official law or regulation, reflected the evolving attitude of the MIIT towards the legal requirements as to applications for VATS licenses, especially with regards to IDC services. A national consulting body and certain Designated Numbers are provided in the Q&A to answer any questions arising from the application of IDC licenses. Since then, even though the definition of IDC services under the Q&A is identical to that under the Telecom Catalogue, whether a business model should be deemed to be an IDC service is subject to the unified clarifications under the Q&A and replies obtained from such Designated Numbers, rather than different replies which may be obtained from different officials from the MIIT or its local branches. The draft revised Telecom Catalogue did not come into effect until March 2016, when it was further revised to adapt to developments in the telecommunications industry. During this period, we closely followed legislative developments and conducted feasibility studies for restructuring our business. Based on the Q&A and our consultation with both the Designated Numbers and MIIT officials in 2014 and 2015, most of our services would be deemed IDC services, and that such services could only be provided by a holder of an IDC license, or a subsidiary of such holder, with the authorization of the holder.

GDS Beijing obtained a cross-regional IDC license in November 2013, the scope of which now includes Shanghai, Suzhou, Beijing, Shenzhen, Chengdu and Guangzhou. In order to adapt to the new regulatory requirements and address pre-existing customer contracts, we converted GDS Suzhou into a domestic company wholly owned by GDS Beijing by way of transferring all of the equity interests in GDS Suzhou from FSL to GDS Beijing in order to enable GDS Suzhou to engage in the provision of IDC services with the authorization of GDS Beijing, and under the auspices of an IDC license held by GDS Beijing. As part of the VIE restructuring, we have converted and changed the shareholding of EDC Shanghai Waigaoqiao in the same way as GDS Suzhou, and we will apply for the expansion of GDS Beijing's IDC license so that EDC Shanghai Waigaoqiao will also be authorized to provide IDC services. In addition, with regard to the other WFOEs that have not contributed substantial revenue, we are considering measures to ensure that any services that may have to be provided by IDC license holders will be conducted by our IDC license holders, which are our consolidated VIEs. See "Regulations—Regulations Related to Value-Added Telecommunications Business" for additional details.

**Our Corporate Structure**

The following diagrams illustrate our corporate structure as of the date of this prospectus. They omit certain entities that are immaterial to our results of operations, business and financial condition. Equity interests depicted in this diagram are held as to 100%. The relationships between each of GDS Shanghai and GDS Beijing and GDS Management Company as illustrated in this diagram are governed by contractual arrangements and do not constitute equity ownership.

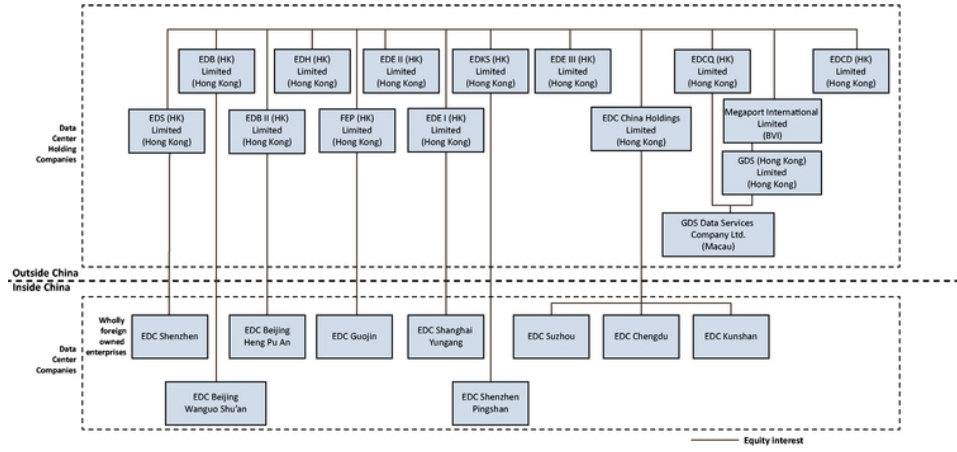


<sup>(1)</sup> Includes 13 subsidiaries and consolidated entities (aside from EDSUZ (HK) Limited, shown above) incorporated in Hong Kong, seven of which hold our PRC-incorporated data center companies, and two additional subsidiaries incorporated in BVI and Macau, but excludes dormant or immaterial entities with no material business. See the chart below for details on the data center holding companies.



- (2) Includes nine additional subsidiaries and consolidated entities incorporated in China. See the chart below for details on the data center companies.
- (3) Holds equity interests of 99.90% in GDS Shanghai, and of approximately 99.97% in GDS Beijing.
- (4) Holds equity interests of 0.10% in GDS Shanghai, and of approximately 0.03% in GDS Beijing.

Guangzhou Weiteng and EDC Shanghai Waigaoqiao operate the GZ1 and SH1 data centers, respectively. Other data centers are operated by the data center companies indicated in the diagram above, which in turn are held by data center holding companies indicated in the diagram above. The following diagram illustrates the structure of these data center holding companies and their data center companies:



The following table sets forth the full legal names of the data center holding companies and corresponding project companies:

<u>Data center holding company</u>	<u>Data center company</u>	<u>Data center</u>
EDS (HK) Limited	Shenzhen Yungang EDC Technology Co., Ltd., or EDC Shenzhen	Shenzhen data centers SZ1, SZ2 and SZ3
EDB (HK) Limited	Beijing Wanguo Shu'an Science & Technology Development Co., Ltd., or EDC Beijing Wanguo Shu'an	Site in Beijing for future development
EDB II (HK) Limited	Beijing Hengpu'an Data Technology Development Co., Ltd., or EDC Beijing Heng Pu An	Beijing data centers BJ1 and BJ2
FEP (HK) Limited	Guojin Technology (Kunshan) Co., Ltd., or EDC Guojin	Site in Kunshan for future development
EDE I (HK) Limited	Shanghai Yungang EDC Technology Co., Ltd., or EDC Shanghai Yungang	Shanghai data centers SH2, SH3 and SH4
EDKS (HK) Limited	Shenzhen Pingshan New Area Global Data Science & Technology Development Co., Ltd., or EDC Shenzhen Pingshan	Shenzhen data center SZ4
EDC China Holdings Limited	EDC Technology (Suzhou) Co., Ltd., or EDC Suzhou	—
	EDC (Chengdu) Industry Co., Ltd., or EDC Chengdu	Chengdu data center CD1
	EDC Technology (Kunshan) Co., Ltd., or EDC Kunshan	Kunshan data center KS1

## VIE Contractual Arrangements

### *Contractual Arrangements among GDS Management Company, GDS Beijing and GDS Shanghai*

Due to PRC legal restrictions on foreign ownership and investment in VATS, and IDC services in particular, we currently conduct these activities mainly through GDS Suzhou, an operating subsidiary of GDS Beijing that is now authorized by GDS Beijing to provide IDC services. Each of GDS Beijing and GDS Shanghai holds an IDC license which is required to operate our business. We effectively control GDS Beijing and GDS Shanghai through a series of contractual arrangements between these consolidated VIEs, their shareholders and GDS Management Company. These contractual arrangements allow us to:

- exercise effective control over our consolidated VIEs, namely GDS Shanghai, GDS Beijing and GDS Beijing's subsidiaries, namely EDC Shanghai Waigaoqiao, GDS Suzhou, Kunshan Wanyu, Guangzhou Weiteng and Beijing Yixin;
- receive substantially all of the economic benefits of our variable interest entities; and
- have an exclusive option to purchase all or part of the equity interests in GDS Beijing and GDS Shanghai when and to the extent permitted by PRC law.

As a result of these contractual arrangements, we are the primary beneficiary of GDS Beijing, GDS Shanghai, and their subsidiaries. We have consolidated their financial results in our consolidated financial statements in accordance with U.S. GAAP.

The following is a summary of the currently effective contractual arrangements by and among our wholly-owned subsidiary, GDS Management Company, our consolidated VIEs, GDS Beijing and GDS Shanghai, and the shareholders of each of GDS Beijing and GDS Shanghai.

*Agreements that Provide us with Effective Control over our Consolidated VIEs*

**Equity Interest Pledge Agreements.** Pursuant to the equity interest pledge agreements, each shareholder of each of GDS Beijing and GDS Shanghai has pledged all of his or her equity interest in GDS Beijing or GDS Shanghai as a continuing first priority security interest, as applicable, to respectively guarantee GDS Beijing's and its shareholders' performance of their obligations under the relevant contractual arrangement, which include the exclusive technology license and service agreement, loan agreement, exclusive call option agreement, and shareholder voting rights proxy agreement, as well as GDS Shanghai's and its shareholders' performance of their obligations under the other relevant contractual arrangement, which include the exclusive technology license and service agreement, loan agreement, exclusive call option agreement, and shareholder voting rights proxy agreement, and intellectual property rights license agreement. If GDS Beijing or GDS Shanghai or any of its shareholders breaches their contractual obligations under these agreements, GDS Management Company, as pledgee, will be entitled to certain rights regarding the pledged equity interests, including receiving proceeds from the auction or sale of all or part of the pledged equity interests of GDS Beijing and GDS Shanghai in accordance with PRC law. Each of the shareholders of GDS Beijing and GDS Shanghai agrees that, during the term of the equity interest pledge agreements, he or she will not dispose of the pledged equity interests or create or allow creation of any encumbrance on the pledged equity interests without the prior written consent of GDS Management Company. The equity interest pledge agreements remain effective until GDS Beijing and GDS Shanghai and its shareholders discharge all their obligations under the contractual arrangements. We have registered the equity pledge by both GDS Beijing and GDS Shanghai in favor of GDS Management Company with the relevant office of the Administration for Industry and Commerce in accordance with the PRC Property Rights Law.

**Shareholder Voting Rights Proxy Agreement.** Pursuant to the shareholder voting rights proxy agreements, each shareholder of GDS Beijing and GDS Shanghai has irrevocably appointed the PRC citizen(s) as designated by GDS Management Company to act as such shareholder's exclusive attorney-in-fact to exercise all shareholder rights, including, but not limited to, voting on all matters of GDS Beijing and GDS Shanghai requiring shareholder approval, and appointing directors and executive officers. GDS Management Company is also entitled to change the appointment by designating another PRC citizen(s) to act as exclusive attorney-in-fact of the shareholders of GDS Beijing and GDS Shanghai with prior notice to such shareholders. Each shareholder voting rights proxy agreement will remain in force for so long as the shareholder remains a shareholder of GDS Beijing or GDS Shanghai, as applicable.

*Agreements that Allow us to Receive Economic Benefits from our Consolidated VIEs*

**Exclusive Technology License and Service Agreements.** Under the exclusive technology license and service agreements, GDS Management Company licenses certain technology to each of GDS Beijing and GDS Shanghai and GDS Management Company has the exclusive right to provide GDS Beijing and GDS Shanghai with technical support, consulting services and other services. Without GDS Management Company's prior written consent, each of GDS Beijing and GDS Shanghai agrees not to accept the same or any similar services provided by any third party. Each of GDS Beijing and GDS Shanghai agrees to pay service fees on a yearly basis and at an amount equivalent to all of its net profits as confirmed by GDS Management Company. GDS Management Company owns the intellectual property rights arising out of its performance of these agreements. In addition, each of GDS Beijing and GDS Shanghai has granted GDS Management Company an exclusive right to purchase or to be licensed with any or all of the intellectual property rights of either GDS Beijing or GDS Shanghai at the lowest price permitted under PRC law. Unless otherwise agreed by the parties, these agreements will continue remaining effective.

**Intellectual Property Rights License Agreement.** Pursuant to an intellectual property rights license agreement between GDS Management Company and GDS Shanghai, dated April 13, 2016, GDS Shanghai has granted GDS Management Company an exclusive license to use for free any or all of the intellectual property rights owned by GDS Shanghai from time to time, and without the parties' prior written consent,

GDS Shanghai cannot take any actions, including without limitation to, transferring or licensing outside its ordinary course of business any intellectual property rights to any third parties, which may affect or undermine GDS Management Company's use of the licensed intellectual property rights from GDS Shanghai. The parties have also agreed under the agreement that GDS Management Company should own the new intellectual property rights developed by it regardless whether such development is dependent on any of the intellectual property rights owned by GDS Shanghai. This agreement can only be early terminated by prior mutual consent of the parties and need to be renewed upon GDS Management Company's unilateral request.

*Agreements that Provide Us with the Option to Purchase the Equity Interest in GDS Beijing and GDS Shanghai*

*Exclusive Call Option Agreements.* Pursuant to the exclusive call option agreements, each shareholder of GDS Beijing and GDS Shanghai has irrevocably granted GDS Management Company an exclusive option to purchase, or have its designated person or persons to purchase, at its discretion, to the extent permitted under PRC law, all or part of such shareholder's equity interests in GDS Beijing and GDS Shanghai. The purchase price should equal to the minimum price required by PRC law or such other price as may be agreed by the parties in writing. Without GDS Management Company's prior written consent, the shareholders of each of GDS Beijing and GDS Shanghai have agreed that each of GDS Beijing and GDS Shanghai shall not amend its articles of association, increase or decrease the registered capital, sell or otherwise dispose of its assets or beneficial interest, create or allow any encumbrance on its assets or other beneficial interests, provide any loans, distribute dividends to the shareholders and etc. These agreements will remain effective until all equity interests of GDS Beijing and GDS Shanghai held by their shareholders have been transferred or assigned to GDS Management Company or its designated person(s).

*Loan Agreements.* Pursuant to the loan agreements between GDS Management and the shareholders of each of GDS Beijing and GDS Shanghai, GDS Management has agreed to extend loans in an aggregate amount of RMB310.1 million to the shareholders of GDS Beijing and GDS Shanghai solely for the capitalization of GDS Beijing and GDS Shanghai. Pursuant to the loan agreements, GDS Management Company has the right to require repayment of the loans upon delivery of thirty-day's prior notice to the shareholders, and the shareholders can repay the loans by either sale of their equity interests in GDS Beijing and GDS Shanghai to GDS Management Company or its designated person(s) pursuant to their respective exclusive call option agreements, or other methods as determined by GDS Management Company pursuant to its articles of association and the applicable PRC laws and regulations.

In the opinion of King & Wood Mallesons, our PRC counsel:

- the ownership structures of GDS Management Company, GDS Shanghai and GDS Beijing, currently do not, and immediately after giving effect to this offering, will not result in any violation of the applicable PRC laws or regulations currently in effect; and
- the contractual arrangements among GDS Management Company, GDS Shanghai, GDS Beijing, and the shareholders of GDS Shanghai and GDS Beijing, are governed by PRC law, and are currently valid, binding and enforceable in accordance with the applicable PRC laws or regulations currently in effect, and do not result in any violation of the applicable PRC laws or regulations currently in effect.

However, there are substantial uncertainties regarding the interpretation and application of current and future PRC laws, regulations and rules. In particular, in January 2015, the Ministry of Commerce, or the MOC, published a discussion draft of the proposed Foreign Investment Law for public review and comments. Among other things, the draft Foreign Investment Law expands the definition of foreign investment and introduces the principle of "actual control" in determining whether a company is considered a foreign-invested enterprise, or an FIE. Under the draft Foreign Investment Law, VIEs would also be deemed as FIEs, if they are ultimately "controlled" by foreign investors, and be subject to restrictions on

foreign investments. However, the draft law has not arrived at a position on what actions will be taken with respect to the existing companies with the "variable interest entity" structure, whether or not these companies are controlled by Chinese parties. It is uncertain when the draft may be signed into law, if at all, and whether any final version would have substantial changes from the draft. Accordingly, the PRC regulatory authorities may in the future take a view that is contrary to the above opinion of our PRC counsel. If the PRC government finds that the agreements that establish the structure for providing our IDC services do not comply with PRC government restrictions on foreign investment in IDC services, we could be subject to severe penalties, including being prohibited from continuing operations.

**SELECTED CONSOLIDATED FINANCIAL AND OPERATING DATA**

The following consolidated statements of operations data for the years ended December 31, 2014 and 2015 and the selected consolidated balance sheet data as of December 31, 2014 and 2015 have been derived from our audited consolidated financial statements included elsewhere in this prospectus. Our consolidated financial statements are prepared and presented in accordance with generally accepted accounting principles in the United States, or U.S. GAAP. The following selected consolidated statement of operations data for the six months ended June 30, 2015 and 2016 and the selected consolidated balance sheet data as of June 30, 2016 have been derived from our unaudited condensed consolidated financial statements included elsewhere in this prospectus. The unaudited condensed consolidated financial statements have been prepared on the same basis as our audited consolidated financial statements and include all adjustments, consisting only of normal and recurring adjustments, that we consider necessary for a fair presentation of our financial position and operating result for the periods presented.

On June 30, 2014, we acquired EDC Holding from its shareholders whereby we issued shares to EDC Holding's shareholders in exchange for their shares in EDC Holding. Pursuant to the terms of the agreement, we issued 199,163,164 shares in exchange for approximately 93% of the shares in EDC Holding which we did not already own. Since the date of the acquisition, EDC Holding has been our wholly-owned subsidiary and has been consolidated with our results of operations. See note 8 of our consolidated financial statements included elsewhere in this prospectus.

Our historical results are not necessarily indicative of results to be expected for any future period. The following summary consolidated financial data for the periods and as of the dates indicated are qualified by reference to, and should be read in conjunction with, our consolidated financial statements and related notes and the information under "Management's Discussion and Analysis of Financial Condition and Results of Operations," both of which are included elsewhere in this prospectus.

	Year Ended December 31,			Six Months Ended June 30,		
	2014	2015		2015	2016	
	RMB	RMB	US\$	RMB	RMB	US\$
	(in thousands, except share data and per share data)					
<b>Consolidated Statements of Operations Data:</b>						
Net revenue	468,337	703,636	105,875	304,794	447,135	67,280
Cost of revenue	(388,171)	(514,997)	(77,491)	(221,519)	(332,034)	(49,961)
Gross profit	80,166	188,639	28,384	83,275	115,101	17,319
Operating expenses:						
Selling and marketing expenses	(40,556)	(57,588)	(8,665)	(23,494)	(34,563)	(5,201)
General and administrative expenses	(113,711)	(128,714)	(19,367)	(58,837)	(131,452)	(19,779)
Research and development expenses	(1,597)	(3,554)	(535)	(1,257)	(4,765)	(717)
Loss from operations	(75,698)	(1,217)	(183)	(313)	(55,679)	(8,378)
Net interest expense	(124,973)	(125,546)	(18,891)	(60,440)	(110,292)	(16,595)
Foreign currency exchange (loss) gain, net	(875)	11,107	1,671	4,456	4,101	617
Government grants	4,870	3,915	589	1,030	1,030	155
Gain on remeasurement of equity investment	62,506	—	—	—	—	—
Others, net	(412)	1,174	177	1,362	179	27
Loss before income taxes	(134,582)	(110,567)	(16,637)	(53,905)	(160,661)	(24,174)
Income tax benefits	4,583	11,983	1,803	6,641	6,464	973
Net loss	(129,999)	(98,584)	(14,834)	(47,264)	(154,197)	(23,201)
Net loss available to ordinary shareholders	(309,139)	(216,637)	(32,597)	(106,290)	(215,791)	(32,468)
Net loss per ordinary share—basic and diluted	(1.91)	(0.99)	(0.15)	(0.49)	(0.99)	(0.15)
Weighted average number of ordinary shares outstanding—basic and diluted	162,070,745	217,987,922	217,987,922	217,987,922	217,987,922	217,987,922

The following table presents a summary of our consolidated balance sheet data as of December 31, 2014 and 2015 and as of June 30, 2016.

	As of December 31,			As of June 30,	
	2014	2015		2016	
	Actual	Actual	Actual	Actual	Actual
	RMB	RMB	US\$	RMB	US\$
	(in thousands)				
<b>Consolidated Balance Sheet Data:</b>					
Cash	606,758	924,498	139,108	834,477	125,563
Accounts receivable, net	73,366	111,013	16,704	170,149	25,602
Total current assets	745,831	1,186,699	178,561	1,183,231	178,039
Property and equipment, net	1,694,944	2,512,687	378,081	3,591,456	540,402
Goodwill and intangible assets	1,350,524	1,341,599	201,869	1,442,125	216,995
Total assets	3,854,074	5,128,272	771,645	6,334,066	953,079
Short-term borrowings and current portion of long-term borrowings	426,709	428,218	64,433	699,394	105,237
Obligations under capital leases, current	39,621	48,745	7,335	71,919	10,822
Total current liabilities	897,630	925,049	139,191	1,478,315	222,440
Long-term borrowings, excluding current portion	492,123	958,264	144,189	825,392	124,196
Convertible bonds payable	—	648,515	97,581	994,243	149,602
Obligations under capital leases, non-current	246,996	424,939	63,940	873,972	131,505
Total liabilities	1,706,600	3,073,463	462,460	4,380,909	659,189
Redeemable preferred shares	2,164,039	2,395,314	360,420	2,499,117	376,039
Total shareholders' deficit	(16,565)	(340,505)	(51,235)	(545,960)	(82,149)

#### Key Financial Metrics

We monitor the following key financial metrics to help us evaluate growth trends, establish budgets, measure the effectiveness of our business strategies and assess operational efficiencies:

	Year Ended		Six Months	
	December 31,		Ended June 30,	
	2014	2015	2015	2016
<b>Other Consolidated Financial Data:</b>				
Gross margin <sup>(1)</sup>	17.1%	26.8%	27.3%	25.7%
Operating margin <sup>(2)</sup>	(16.2)%	(0.2)%	(0.1)%	(12.5)%
Net margin <sup>(3)</sup>	(27.8)%	(14.0)%	(15.5)%	(34.5)%

(1) Gross profit as a percentage of net revenue.

(2) Income (loss) from operations as a percentage of net revenue.

(3) Net income (loss) as a percentage of net revenue.

In evaluating our business, we consider and use the following measures, including certain non-GAAP measures, as supplemental measures to review and assess our operating performance:

	Year Ended December 31,			Six Months Ended June 30,		
	2014	2015		2015	2016	
	RMB	RMB	US\$	RMB	RMB	US\$
(in thousands, except percentages)						
<b>Other Consolidated Financial Data:</b>						
Adjusted EBITDA <sup>(1)</sup>	38,044	164,701	24,782	73,755	100,557	15,131
Adjusted EBITDA margin <sup>(2)</sup>	8.1%	23.4%	23.4%	24.2%	22.5%	22.5%

- (1) Adjusted EBITDA is defined as net income or net loss excluding net interest expenses, income tax benefits, depreciation and amortization, accretion expenses for asset retirement costs, share-based compensation expenses, and gain on remeasurement of equity investment.
- (2) Adjusted EBITDA margin is defined as adjusted EBITDA as a percentage of net revenue.

#### Non-GAAP Measures

Our management and board of directors use adjusted EBITDA and adjusted EBITDA margin, which are non-GAAP financial measures, to evaluate our operating performance, establish budgets and develop operational goals for managing our business. In particular, we believe that the exclusion of the expenses eliminated in calculating adjusted EBITDA can provide a useful measure of our core operating performance.

We also present these non-GAAP measures because we believe these non-GAAP measures are frequently used by securities analysts, investors and other interested parties as measures of the financial performance of companies in our industry.

These non-GAAP financial measures are not defined under U.S. GAAP and are not presented in accordance with U.S. GAAP. These non-GAAP financial measures have limitations as analytical tools, and when assessing our operating performance, cash flows or our liquidity, investors should not consider them in isolation, or as a substitute for net income (loss), cash flows provided by operating activities or other consolidated statements of operation and cash flow data prepared in accordance with U.S. GAAP.

We mitigate these limitations by reconciling the non-GAAP financial measure to the most comparable U.S. GAAP performance measure, all of which should be considered when evaluating our performance.

The following table reconciles our adjusted EBITDA in the years presented to the most directly comparable financial measure calculated and presented in accordance with U.S. GAAP, which is net income or net loss:

	Year Ended December 31,			Six Months Ended June 30,		
	2014	2015		2015	2016	
	RMB	RMB	US\$	RMB	RMB	US\$
(in thousands)						
Net loss	(129,999)	(98,584)	(14,834)	(47,264)	(154,197)	(23,201)
Net interest expenses	124,973	125,546	18,891	60,440	110,292	16,595
Income tax benefits	(4,583)	(11,983)	(1,803)	(6,641)	(6,464)	(973)
Depreciation and amortization	82,753	145,406	21,879	63,968	93,469	14,064
Accretion expenses for asset retirement costs	73	255	38	86	270	41
Share-based compensation expenses	27,333	4,061	611	3,166	57,187	8,605
Gain on remeasurement of equity investment	(62,506)	—	—	—	—	—
Adjusted EBITDA	38,044	164,701	24,782	73,755	100,557	15,131



**MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL  
CONDITION AND RESULTS OF OPERATIONS**

*You should read the following discussion and analysis of our financial position and results of operations in conjunction with the section entitled "Selected Consolidated Financial and Operating Data" and our consolidated financial statements and the related notes included elsewhere in this prospectus. This discussion contains forward-looking statements that involve risks and uncertainties. Our actual results and the timing of selected events could differ materially from those anticipated in these forward-looking statements as a result of various factors, including those set forth under "Risk Factors" and elsewhere in this prospectus.*

**Overview**

We are a leading developer and operator of high-performance data centers in China. Our facilities are strategically located in China's primary economic hubs where demand for high-performance data center services is concentrated. Our data centers have large net floor area, high power capacity, density and efficiency, and multiple redundancy across all critical systems. We are carrier and cloud neutral, which enables our customers to connect to all major PRC telecommunications carriers, and to access a number of the largest PRC cloud service providers, whom we host in our facilities. We offer colocation and managed services, including a unique and innovative managed cloud value proposition. We have a 15-year track record of service delivery, successfully fulfilling the requirements of some of the largest and most demanding customers for outsourced data center services in China. As of June 30, 2016, we had an aggregate net floor area of 48,548 sqm in service, 90.8% of which was committed, and an aggregate net floor area of 31,794 sqm under construction. According to 451 Research, we are the largest service provider in the high-performance carrier-neutral data center services market in China, with 19.7% market share as measured by area committed as of December 31, 2015.

Our portfolio of data centers and secured expansion capacity are strategically located to address this growing demand. We operate our data centers to service our customers predominantly in Shanghai, Beijing, Shenzhen, Guangzhou and Chengdu, the primary financial, commercial, industrial and communications hubs in each region of China. We have also established a presence in Hong Kong which we believe is another important market for our customers.

We currently serve over 300 customers, including large Internet companies, a diverse community of approximately 140 financial institutions, telecommunications and IT service providers and large domestic private sector and multinational corporations, many of which are leaders in their respective industries. Within our customer base, we host a number of major cloud service providers, including Aliyun, the cloud computing unit of Alibaba, which is present in several of our data centers. Contracts with our large Internet customers typically have terms of three to six years, while contracts with our enterprise customers typically have terms of one to five years. We achieved an average retention rate of over 95% per annum among our Internet and financial institution customers for colocation services in our current data centers over the past two years.

As of June 30, 2016, we operated eight self-developed data centers with an aggregate net floor area of 39,781 sqm in service. We also operated capacity at approximately ten third-party data centers with an aggregate net floor area of 8,767 sqm in service, which we lease on a wholesale basis and use to provide colocation and managed services to our customers. As of the same date, we had a further five new self-developed data centers and one phase of an existing data center with an aggregate net floor area of 31,794 sqm under construction. In addition, we had an estimated aggregate developable net floor area in excess of 20,000 sqm held for future development.

As part of our business strategy, we held a minority interest in EDC Holding, a data center provider, prior to June 30, 2014. On June 30, 2014, we acquired the remaining equity interest of EDC Holding and the results of operations of EDC Holding have been consolidated into our results of operations. Prior to the acquisition, EDC Holding's net revenue was primarily derived from GDS Holdings.

We derive net revenue primarily from colocation services and, to a lesser extent, managed services, which include managed hosting services and managed cloud services. We also derive some revenues from (1) consulting services that we provide in connection with our managed services where requested by customers, and (2) the sale of IT equipment that we make to colocation customers who request such equipment in connection with our colocation services.

Our net revenue grew from RMB468.3 million in 2014 to RMB703.6 million (US\$105.9 million) in 2015, representing an increase of 50.2%, and increased from RMB304.8 million in the six months ended June 30, 2015 to RMB447.1 million (US\$67.3 million) in the same period in 2016, representing an increase of 46.7%. Revenues from colocation services grew from RMB342.5 million in 2014 to RMB500.9 million (US\$75.4 million) in 2015, representing 73.1% and 71.2% of total net revenue, respectively, and grew from RMB219.7 million in the six months ending June 30, 2015 to RMB330.8 million (US\$49.8 million) in the same period in 2016, representing 72.1% and 74.0% of total net revenue, respectively. Revenue from managed services grew from RMB100.4 million in 2014 to RMB142.6 million (US\$21.5 million) in 2015, representing 21.5% and 20.3% of total net revenue, respectively, and grew from RMB67.3 million in the six months ending June 30, 2015 to RMB102.1 million (US\$15.4 million) in the same period in 2016, representing 22.0% and 22.8% of total net revenue, respectively. Revenue from consulting services grew from RMB8.0 million in 2014 to RMB 10.1 million (US\$1.5 million) in 2015, representing 1.7% and 1.4% of total net revenue, respectively, and decreased from RMB4.8 million in the six months ending June 30, 2015 to RMB3.5 million (US\$0.5 million) in the same period in 2016, representing 1.6% and 0.8% of total net revenue, respectively. Revenue from IT equipment sales grew from RMB 17.4 million in 2014 to RMB50.0 million (US\$7.5 million) in 2015, representing 3.7% and 7.1% of total net revenue, respectively, and decreased from RMB13.0 million in the six months ending June 30, 2015 to RMB10.7 million (US\$1.6 million) in the same period in June 30, 2016, representing 4.3% and 2.4% of total net revenue, respectively. Our adjusted EBITDA increased from RMB38.0 million in 2014 to RMB164.7 million (US\$24.8 million) in 2015, and increased from RMB73.8 million in the six months ended June 30, 2015 to RMB100.6 million (US\$15.1 million) in the same period in 2016. Our net loss decreased from RMB130.0 million in 2014 to RMB98.6 million (US\$14.8 million) in 2015. Our net loss increased from RMB47.3 million in the six months ended June 30, 2015 to RMB154.2 million (US\$23.2 million) in the same period in 2016. As of December 31, 2015 and June 30, 2016, our accumulated deficit was RMB582.3 million (US\$87.6 million) and RMB736.5 million (US\$110.8 million), respectively.

#### **Key Factors Affecting Our Results of Operations**

Our business and results of operations are generally affected by the development of China's data center services market. We have benefited from rapid growth in this market during recent years and any adverse changes in the data center services market in China may harm our business and results of operations. In addition, we believe that our results of operations are directly affected by the following key factors.

#### ***Ability to Source and Develop Data Centers***

Our revenue growth depends on our ability to source and develop additional data centers. As it typically takes a minimum of twelve to eighteen months to develop a data center together with racks and equipment installed, we must commit to development in advance of realizing a benefit from our investment. We endeavor to ensure continuous availability of data center capacity to satisfy customer demand by maintaining a supply of high-performance data centers in various stages of development—from identified sites, to data centers under construction to available net floor areas in existing data centers. We expand our sourcing of new data center area by (1) acquiring or leasing property which we develop for use as data center facilities, whether through constructing on greenfield sites or converting existing industrial buildings, (2) leasing existing data center capacity from third-party wholesale providers, and (3) acquiring high-performance data centers from other companies. Our ability to maintain a growing supply of data center assets directly affects our revenue growth potential.

If we are unable to identify suitable land or facilities for new data centers or to do so at an acceptable cost to us or experience delays or increased costs during the data center design and construction development process, our ability to grow our revenue and improve our results of operations would be negatively affected. Additionally, if demand slows unexpectedly or we source and develop data centers too rapidly, the resulting overcapacity would adversely affect our results of operations.

***Ability to Secure Commitments for Data Center Services from Our Customers and Minimize Move-in Periods***

Due to the lengthy time period required to build data centers and the long-term nature of these investments, if we overestimate market demand for data center resources, our utilization rates, which is the ratio of area utilized to area in service would be reduced, which would adversely affect our results of operations. Our revenue growth depends on our ability to secure commitments for our data center services. We focus on obtaining these commitments during the construction phase by entering into pre-commitment agreements with customers and endeavor to maximize total area committed. While providing flexibility to customers, we also aim to minimize move-in period so as to provide billable services and to start generating revenue. Accordingly, our results of operations are highly influenced by our ability to maintain a high utilization rate. Our total area committed increased from 20,985 sqm as of December 31, 2014 to 35,918 sqm as of December 31, 2015, and to 44,614 sqm as of June 30, 2016, while area utilized increased from 15,862 sqm to 22,365 sqm and to 32,152 sqm over the same period. Move-in periods, and minimum commitments over the move-in period, vary significantly from customer to customer. We strive to optimize our customer mix to achieve high commitment rates and utilization rates and a high proportion of long-term relationships.

***Pricing Structure and Power Costs***

Our results of operations will be affected by our ability to operate our data centers efficiently in terms of power consumption. Our data centers require significant levels of power supply to support their operations. Depending on the contract, we agree with our customer to either charge them for actual power consumed or we factor it into a fixed price. The majority of our customers select pricing for a fixed amount over the contracts' service period. Accordingly, the customer's actual power usage during the life of the contract will affect its profitability to us. Optimal configuration of customers and power usage within each data center will affect our results of operations.

***Utilization of Existing Capacity***

Our ability to maximize profitability depends on attaining high utilization of data center net floor area and power capacity. A substantial majority of our cost of revenue and operating expenses are fixed in nature. Such costs increase with each new data center and entail additional power commitment costs, depreciation from new property plant and equipment, rental costs on leased facilities, personnel costs and start-up costs. By adopting a modular development approach, we aim to optimize resource utilization and maximize capital efficiency to improve profitability.

***Cost Structure Depending on Data Center Tenure and Location***

We hold our data centers through a mix of those that we own or lease. The leases typically range from three years for third-party data centers to twenty years for self-developed data centers, all with different renewal periods. The tenure of the leases and the periods during which the amount are fixed or capped under the leases will affect our cost structure in the future. In addition, if many of our data centers continue to be located close to central business districts, where rental costs are generally higher, our cost structure will also be affected.

**Data Center Development and Financing Costs**

Our revenue growth depends on our ability to develop data centers at commercially acceptable terms. We have historically funded data center development through additional equity or debt financing. We expect to continue to fund future developments through debt financing or through the issuance of additional equity securities if necessary and when market conditions permit. Such additional financing may not be available, may not be on commercially acceptable terms or may result in an increase to our financing costs. In addition, we may encounter development delays, excess development costs, or challenges in attracting or retaining customers to use our data center services. We also may not be able to identify suitable land or facilities for new data centers or at a cost or terms acceptable to us.

**Key Performance Indicators**

Our net revenue and results of operations are largely determined by the amount of data center area in service, the degree to which data center space is committed or pre-committed as well as its utilization. Accordingly, our management uses the following key performance indicators as measures to evaluate our performance:

- **Area in service:** the net floor area of data centers in service for which one or more modules have been equipped and fitted out ready for utilization by customers.
- **Area under construction:** the net floor area of data centers which are under construction and are not yet ready for service.
- **Area committed:** the net floor area of data centers in service for which agreements from customers remain in effect.
- **Area pre-committed:** the net floor area of data centers under construction for which agreements from customers remain in effect.
- **Total area committed:** the sum of area committed and area pre-committed.
- **Commitment rate:** the ratio of area committed to area in service.
- **Pre-commitment rate:** the ratio of area pre-committed to area under construction.
- **Area utilized:** the net floor area of data centers in service that is also revenue generating pursuant to customer agreements in effect.
- **Utilization rate:** the ratio of area utilized to area in service.

The following table sets forth our key performance indicators as of December 31, 2014 and 2015 and June 30, 2016.

(Sqm, %)	As of December 31,		As of
	2014	2015	June 30, 2016
Area in service	27,512	37,869	48,548
Area under construction	10,056	35,525	31,794
Area committed	20,985	33,140	44,062
Area pre-committed <sup>(1)</sup>	0	2,778	552
Total area committed	20,985	35,918	44,614
Commitment rate	76.3%	87.5%	90.8%
Pre-commitment rate	0%	7.8%	1.7%
Area utilized	15,862	22,365	32,152
Utilization rate	57.7%	59.1%	66.2%

(1) Relates to data center area for which we have entered into a letter of intent with certain customers.

**Description of Selected Statement of Operations Items**

The following table sets forth our net revenue, cost of revenue and gross profit, both in an absolute amount and as a percentage of net revenue, for the periods indicated.

	Year Ended December 31,				Six Months Ended June 30,					
	2014		2015		2015		2016			
	RMB	% of Net Revenue	RMB	US\$	RMB	% of Net Revenue	RMB	US\$		
	(in thousands, except for percentages)									
Net revenue										
Service revenue	450,940	96.3	653,591	98,345	92.9	291,777	95.7	436,394	65,664	97.6
IT equipment sales	17,397	3.7	50,045	7,530	7.1	13,017	4.3	10,741	1,616	2.4
Total	468,337	100.0	703,636	105,875	100.0	304,794	100.0	447,135	67,280	100.0
Cost of revenue	(388,171)	(82.9)	(514,997)	(77,491)	(73.2)	(221,519)	(72.7)	(332,034)	(49,961)	(74.3)
Gross profit	80,166	17.1	188,639	28,384	26.8	83,275	27.3	115,101	17,319	25.7

**Net Revenue**

We derive net revenue primarily from colocation services and, to a lesser extent, managed services, including managed hosting services and managed cloud services. In addition, from time to time, we also sell IT equipment on a stand-alone basis or bundled in a managed hosting service contract arrangement to customers and provide consulting services. Substantially all of our service revenue is recognized on a recurring basis.

Our colocation services primarily comprise the provision of space, power and cooling to our customers for housing servers and related IT equipment. Our customers have several choices for hosting their networking, server and storage equipment. They can place the equipment in a shared or private space that can be customized to their requirements. We offer power options customized to a customer's individual power requirement. Colocation services are provided to customers for a fixed amount over the contract service period. Revenue from colocation services is recognized ratably over the term of the contractual service period.

Our managed services include managed hosting services and managed cloud services. Our managed hosting services offering comprises a broad range of value-added services, covering each layer of the data center IT value chain. Our suite of managed hosting services include technical services, network management services, data storage services, system security services, database services and server middleware services. The majority of our managed hosting services revenue is provided to customers for a fixed amount over the contract service period and billed on a monthly or quarterly basis. Revenue from managed hosting services is recognized ratably over the term of the contractual service period. Our managed cloud services deliver virtual computing and storage services to customers. We also offer solutions to assist our customers in managing their hybrid clouds.

We are subject to VAT at a rate of 6% on the IDC services we provide less any deductible VAT we have already paid or borne. We are also subject to surcharges on VAT payments in accordance with PRC law. During the periods presented, we were not subject to business tax on the services we provide.

We consider our customer to be the end user of our data center services. We may enter into contracts directly with the end user customer or through an intermediate contracting party. We have in the past derived, and believe that we will continue to derive, a significant portion of our total net revenue from a limited number of customers. We had one end user customer that generated 26.8% of our total net revenue in 2014 and two end user customers that generated 20.1% and 10.3% of our total net revenue, respectively, in 2015, and 17.1% and 15.7% of our total net revenue for the six months ended June 30, 2016, respectively. No other end user customer accounted for 10% or more of our total net revenue during the periods. We expect our total net revenue will continue to be highly dependent on a limited number of

end user customers who account for a large percentage of our total area committed. As of June 30, 2016, we had two end user customers who accounted for 34.3% and 12.8%, respectively, of our total area committed. No other end user customer accounted for 10% or more of the total area committed.

**Cost of Revenue**

Our cost of revenue consists primarily of utility costs, depreciation of property and equipment, rental costs, labor costs and others. Utility costs refer primarily to the cost of power needed to carry out our data center services. Depreciation of property and equipment primarily relates to depreciation of data center property and equipment, such as assets acquired under capital leases, leasehold improvements to data centers and other long-lived assets. Rental costs relate to the data center space we lease and use in providing services to our customers. Labor costs refer to compensation and benefit expenses for our engineering and operations personnel. These costs are largely fixed costs other than utility costs, for which there is a portion that varies proportionally to each customer's power and utility consumption and a fixed portion consisting of a monthly power commitment fee. When a new data center comes into service, we mainly incur a level of fixed utility costs that are not directly correlated with net revenue.

We expect that our cost of revenue will continue to increase as our business expands and we expect that utility costs, depreciation and amortization and rental costs will continue to comprise the largest portion of our cost of revenue. In addition, in any given period, the increase in our cost of revenue may also outpace the growth of our net revenue depending on the timing of the development of our data centers, our ability to secure customer contracts and the utilization rate of our data centers during the period. While we strive to both secure customer commitments to our data center services so that the most data center space will be utilized as possible and also to minimize the time as to when our data center area becomes operational and the customer occupies that area, these timing differences may result in fluctuation of our cost of revenue as a percentage of our net revenue between periods.

**Operating Expenses**

Our operating expenses consist of selling and marketing expenses, general and administrative expenses, and research and development expenses. The following sets forth our selling and marketing expenses, general and administrative expenses and research and development expenses, both in an absolute amount and as a percentage of net revenue, for the periods indicated.

	Year Ended December 31,					Six Months Ended June 30,				
	2014		2015			2015		2016		
	RMB	% of Net Revenue	RMB	US\$	% of Net Revenue	RMB	% of Net Revenue	RMB	US\$	% of Net Revenue
	(in thousands, except for percentages)									
Selling and marketing expenses	40,556	8.7	57,588	8,665	8.2	23,494	7.7	34,563	5,201	7.7
General and administrative expenses	113,711	24.3	128,714	19,367	18.3	58,837	19.3	131,452	19,779	29.4
Research and development expenses	1,597	0.3	3,554	535	0.5	1,257	0.4	4,765	717	1.1
Total operating expenses	155,864	33.3	189,856	28,567	27.0	83,588	27.4	170,780	25,697	38.2

**Selling and Marketing Expenses**

Our selling and marketing expenses consist primarily of compensation, including share-based compensation, and benefit expenses for our selling and marketing personnel, business development and promotion expenses and office and traveling expenses. As our business grows, we intend to increase the headcount of our selling and marketing staff and to continue to pursue aggressive branding and marketing campaigns and, as a result, our sales and marketing expenses are expected to increase.

**General and Administrative Expenses**

Our general and administrative expenses consist primarily of compensation, including share-based compensation, and benefit expenses for management and administrative personnel, start-up costs incurred prior to the operation of new data centers, depreciation and amortization, office and traveling expenses, professional fees and other fees. Depreciation relates primarily to our office equipment and facilities used by our management and staff in the administrative department. Start-up costs consist of costs incurred prior to commencement of operations of a new data center, including rental costs incurred pursuant to operating leases of buildings during the construction of leasehold improvements and other miscellaneous costs. Professional fees relate primarily to audit and legal expenses. We expect our general and administrative expenses to increase as we continue to increase our staff and office space as our business grows.

In addition, upon becoming a public company, we will incur significant legal, accounting and other expenses that we have not incurred thus far as a private company, including costs associated with public company reporting requirements. We will also incur costs in order to comply with the Sarbanes-Oxley Act of 2002 and the related rules and regulations implemented by the SEC and NASDAQ. Although we are unable to estimate these costs with any degree of certainty, we expect that such compliance, together with the growth and expansion of our business, will cause our general and administrative expenses to increase.

**Research and Development Expenses**

Research and development expenses consist primarily of compensation and benefit expenses for our research and development personnel.

**Share-Based Compensation**

The table below shows the effect of the share-based compensation expenses on our cost of revenue and operating expense line items, both in an absolute amount and as a percentage of net revenues, for the periods indicated.

	Year Ended December 31,					Six Months Ended June 30,				
	2014		2015			2015		2016		
	RMB	% of Net Revenue	RMB	US\$	% of Net Revenue	RMB	% of Net Revenue	RMB	US\$	% of Net Revenue
	(in thousands, except for percentages)									
Cost of revenue	2,851	0.6	484	73	0.1	467	0.2	1,169	176	0.3
Selling and marketing	1,957	0.4	325	49	0.0	303	0.1	5,159	776	1.2
General and administrative	22,525	4.8	3,252	489	0.5	2,396	0.8	50,859	7,653	11.4
Total share-based compensation expenses	27,333	5.8	4,061	611	0.6	3,166	1.1	57,187	8,605	12.9

We incurred higher share-based compensation expenses in 2014 as compared to 2015 which was due to the granting of vested shares in 2014. In May 2016, we granted 11,084,840 fully vested share options to employees, officers and directors for their past service, which resulted in the increase in share-based compensation expenses for the six months ended June 30, 2016, compared to the same period in 2015. In August 2016, we granted 877,400 restricted shares to directors. We expect to continue to grant share options, restricted shares and other share-based awards under our share incentive plans and incur further share-based compensation expenses in future periods.

See "—Critical Accounting Policies—Share-based Compensation" in this section for a description of what we account for the compensation cost from share-based payment transactions.

**Taxation****Cayman Islands**

We are an exempted company incorporated in the Cayman Islands and conduct substantially all of our business through our PRC subsidiaries in the PRC. Under the current laws of the Cayman Islands, we are

not subject to tax on income or capital gains. In addition, upon payment of dividends by us to our shareholders, no Cayman Islands withholding tax will be imposed.

*British Virgin Islands*

Under the current laws of BVI, we are not subject to tax on income or capital gains. In addition, upon payments of dividends by us to our shareholders, no BVI withholding tax will be imposed.

*Hong Kong*

Our subsidiaries in Hong Kong are subject to the Hong Kong Profits Tax rate of 16.5%.

*PRC*

Generally, our subsidiaries and consolidated VIEs in China are subject to enterprise income tax on their taxable income in China at a rate of 25%. The enterprise income tax is calculated based on the entity's global income as determined under PRC tax laws and accounting standards.

Dividends paid by our wholly foreign-owned subsidiaries in China to our intermediary holding companies in Hong Kong will be subject to a withholding tax rate of 10%, unless the relevant Hong Kong entity satisfies all the requirements under the Arrangement between Mainland China and the Hong Kong Special Administrative Region for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with Respect to Taxes on Income and receives approval from the relevant tax authority. If our Hong Kong subsidiary satisfies all the requirements under the tax arrangement and receives approval from the relevant tax authority, then the dividends paid to the Hong Kong subsidiary would be subject to withholding tax at the standard rate of 5%.

If our holding company in the Cayman Islands or any of our subsidiaries outside of China were deemed to be a "resident enterprise" under the PRC Enterprise Income Tax Law, it would be subject to enterprise income tax on its worldwide income at a rate of 25%. See "Risk Factors—Risks Related to Doing Business in the People's Republic of China—We may be treated as a resident enterprise for PRC tax purposes under the PRC Enterprise Income Tax Law, and we may therefore be subject to PRC income tax on our global income."

**Critical Accounting Policies**

We prepare our financial statements in conformity with U.S. GAAP, which requires us to make judgments, estimates and assumptions. We continually evaluate these estimates and assumptions based on the most recently available information, our own historical experience and various other assumptions that we believe to be reasonable under the circumstances. Since the use of estimates is an integral component of the financial reporting process, actual results could differ from our expectations as a result of changes in our estimates.

An accounting policy is considered critical if it requires an accounting estimate to be made based on assumptions about matters that are highly uncertain at the time such estimate is made, and if different accounting estimates that reasonably could have been used, or changes in the accounting estimates that are reasonably likely to occur, could materially impact the consolidated financial statements. We believe that the following accounting policies involve a higher degree of judgment and complexity in their application and require us to make significant accounting estimates. The following descriptions of critical accounting policies, judgments and estimates should be read in conjunction with our consolidated financial statements and other disclosures included in this prospectus.

**Consolidation of VIEs**

We account for entities qualifying as VIEs in accordance with Financial Accounting Standards Boards, or FASB, Accounting Standards Codification Topic 810, Consolidation, or ASC 810. Our operations are primarily conducted through our VIEs, GDS Beijing and GDS Shanghai, to comply with relevant PRC laws and regulations, which prohibit foreign investment in companies that are engaged in data center-related businesses in those regions. Individuals acting as nominee equity holders hold the legal equity interests of GDS Beijing and GDS Shanghai on our behalf. The equity holders of GDS Beijing and GDS Shanghai are William Wei Huang, our chairman and chief executive officer, and Qiuping Huang.



A series of contractual agreements, including equity interest pledge agreements, powers of attorney, exclusive technology license and services agreements, exclusive option agreements and loan agreements, collectively, the 'VIE Agreements', were entered among our company, GDS Beijing, GDS Shanghai, and the equity holders of GDS Beijing and GDS Shanghai. Through these agreements, the equity holders of GDS Beijing and GDS Shanghai have granted all their legal rights, including voting rights, dividends rights, and disposition rights, of their equity interests in GDS Beijing and GDS Shanghai to us. Accordingly, the equity holders of GDS Beijing and GDS Shanghai do not have (i) rights to make decisions about the activities of GDS Beijing and GDS Shanghai or (ii) rights to receive the expected residual returns of GDS Beijing and GDS Shanghai.

Under the terms of the VIE Agreements, we have (i) the right to receive service fees on a yearly basis at an amount equivalent to all of the net profits of GDS Beijing and GDS Shanghai under the exclusive service agreements when such services are provided; (ii) the right to receive all dividends declared by GDS Beijing and GDS Shanghai and the right to all undistributed earnings of GDS Beijing and GDS Shanghai; (iii) the right to receive the residual benefits of the GDS Beijing and GDS Shanghai through its exclusive option to acquire 100% of the equity interests in GDS Beijing and GDS Shanghai, to the extent permitted under PRC law; and (iv) the right to require the shareholders of GDS Beijing and GDS Shanghai to appoint the PRC citizen(s) as designated by us to act as such shareholder's exclusive attorney-in-fact to exercise all shareholder rights, including, but not limited to, voting on all matters of GDS Beijing and GDS Shanghai requiring shareholder approval, disposing of all or part of the shareholder's equity interest in GDS Beijing and GDS Shanghai, and appointing directors and executive officers. During the periods presented, we provided loans to GDS Beijing and GDS Shanghai to support their working capital requirements and for capitalization purposes.

In accordance with ASC 810, we have a controlling financial interest in GDS Beijing and GDS Shanghai because we have (i) the power to direct activities of GDS Beijing and GDS Shanghai that most significantly impact their economic performance; and (ii) the obligation to absorb the expected losses and the right to receive expected residual return of GDS Beijing and GDS Shanghai that could potentially be significant to GDS Beijing and GDS Shanghai.

The significant judgments used and assumptions made in our determination that we are the primary beneficiary of GDS Beijing and GDS Shanghai were the terms of the VIE Agreements and our financial support to GDS Beijing and GDS Shanghai. Accordingly, we have included the financial statements of GDS Beijing and GDS Shanghai in our consolidated financial statements.

Our PRC legal counsel, based on its understanding of the relevant laws and regulations, is of the opinion that each of the contracts among our wholly-owned PRC subsidiaries, our consolidated VIEs and their shareholders is valid, binding and enforceable in accordance with its terms. However, there are substantial uncertainties regarding the interpretation and application of PRC laws and future PRC laws and regulations. Any changes in PRC laws and regulations that affect our ability to control our PRC VIEs may preclude us from consolidating these companies in the future.

#### **Revenue Recognition**

We recognize revenue when delivery of the service or product has occurred, collection of the relevant receivable is probable, persuasive evidence of an arrangement exists and the sales price is fixed or determinable.

These criteria as they relate to each of the following major revenue generating activities are described below.

We derive revenue primarily from the delivery of (i) colocation services; (ii) managed hosting services and; (iii) managed cloud services. The remainder of our revenue is from IT equipment sales that are either

sold on a stand-alone basis or bundled in a managed hosting service contract arrangement and consulting services.

Colocation services are services where we provide space, power and cooling to customers for housing and operating their IT system equipment in our data centers. Colocation services are provided to customers for a fixed consideration amount over the contract service period, ranging from one to six years. Revenue from colocation services is recognized on a straight line basis over the term of the contract. We have determined that our performance pattern to be straight line since the customer receives value as the services are rendered continuously during the term of the contract, the earning process is straight-line, and there is no other discernible performance pattern of recognition.

Managed hosting services are services where we provide outsourced services to manage the customers' data center operations, including data migration, IT operations, security and data storage. Managed hosting services are primarily provided to financial institution customers as a business continuity and disaster recovery solution for a fixed amount over the contract service period ranging from one to six years. Revenue from managed hosting services is recognized on a straight line basis over the term of the contract. We have determined that its performance pattern to be straight line since the customer receives value as the services are rendered continuously during the term of the contract, the earning process is straight-line, and there is no other discernible performance pattern of recognition.

In certain colocation and managed hosting service contracts, we agree to charge the customer for actual power consumed. We record the chargeable power consumption as service revenue in the consolidated statements of operations.

Revenue recognized for colocation or managed hosting and cloud services delivered prior to billing is recorded within accounts receivable. We generally bill the customer in equal instalments on a monthly or quarterly basis.

Cash received in advance from customers prior to the delivery of the colocation or managed hosting and cloud services is recorded as deferred revenue.

Managed cloud services are services where we deliver virtual storage and computing services to customers. Managed cloud services are provided to customers for a fixed amount over the subscription period, ranging from one to three years. Revenue from managed cloud services is recognized ratably over the subscription period once all requirements for recognition have been met, including provisioning the service so that it is available to the customers.

The sale of IT equipment is recognized when delivery has occurred and the customer accepts the equipment and we have no performance obligation after the delivery.

In certain managed hosting service contracts, we sell and deliver IT equipment such as servers and computer terminals prior to the delivery of the services. Since the delivered item has value to the customer on a standalone basis and there is no general right of return for the equipment, the equipment is considered a separate unit of accounting. Accordingly, the contract consideration is allocated to the equipment and the managed hosting services based on their relative standalone selling prices. The consideration allocated to the delivered equipment is not contingent on the delivery of the services or meeting other specified performance conditions. That is, payment on the equipment is due upon the delivery of the equipment and is not contingent upon the delivery of the undelivered services.

Consulting services are provided to customers for a fixed consideration amount over the service period, usually less than one year. Our consulting contracts do not specify any interim milestones (other than for payment based on passage of time), or deliverables. We recognize revenue from consulting services using the proportional performance method based on the pattern of service provided to the customers.

Sales taxes collected from customers and remitted to governmental authorities are excluded from net revenue in the consolidated statements of operations.

#### **Leases**

Leases are classified at the lease inception date as either a capital lease or an operating lease. A lease is a capital lease if any of the following conditions exists: (a) ownership is transferred to the lessee by the end of the lease term, (b) there is a bargain purchase option, (c) the lease term is at least 75% of the property's estimated remaining economic life, or (d) the present value of the minimum lease payments at the beginning of the lease term is 90% or more of the fair value of the leased property to the lessor at the inception date. We record a capital lease as an asset and an obligation at an amount equal to the present value at the beginning of the lease term of minimum lease payments during the lease term.

Rental costs on operating leases are charged to expense on a straight-line basis over the lease term. Certain operating leases contain rent holidays and escalating rent. Rent holidays and escalating rent are considered in determining the straight-line rent expense to be recorded over the lease term.

Rental costs associated with building operating leases that are incurred during the construction of leasehold improvements and to otherwise ready the property for our intended use are recognized as rental expenses and are not capitalized.

#### **Goodwill**

Goodwill is an asset representing the future economic benefits arising from other assets acquired in the acquisition of EDC Holding that are not individually identified and separately recognized.

Goodwill is not amortized but is tested for impairment annually or more frequently if events or changes in circumstances indicate that it might be impaired. Goodwill is tested for impairment at the reporting unit level on an annual basis and between annual tests if an event occurs or circumstances change that would more likely than not reduce the fair value of a reporting unit below its carrying value. These events or circumstances could include a significant change in the stock prices, business climate, legal factors, operating performance indicators, competition, or sale or disposition of a significant portion of a reporting unit. Application of the goodwill impairment test requires judgment, including the identification of the reporting unit, assignment of assets and liabilities to the reporting unit, assignment of goodwill to the reporting unit, and determination of the fair value of each reporting unit. Estimating fair value is performed by utilizing various valuation techniques, with a primary technique being a discounted cash flow which requires significant judgments, including estimation of future cash flows, which is dependent on internal forecasts, estimation of the long term rate of growth for our business, estimation of the useful life over which cash flows will occur, and determination of our weighted average cost of capital.

We have the option to perform a qualitative assessment to determine whether it is more-likely-than-not that the fair value of a reporting unit is less than its carrying value prior to performing the two-step goodwill impairment test. If it is more-likely-than-not that the fair value of a reporting unit is greater than its carrying amount, the two-step goodwill impairment test is not required. If the two-step goodwill impairment test is required, first, the fair value of the reporting unit is compared with its carrying amount (including goodwill). If the fair value of the reporting unit is less than its carrying amount, an indication of goodwill impairment exists for the reporting unit and we perform step two of the impairment test (measurement). Under step two, an impairment loss is recognized for any excess of the carrying amount of the reporting unit's goodwill over the implied fair value of that goodwill. The implied fair value of goodwill is determined by allocating the fair value of the reporting unit in a manner similar to a purchase price allocation and the residual fair value after this allocation is the implied fair value of the reporting unit goodwill. Fair value of the reporting unit is determined using a discounted cash flow analysis. We perform our annual impairment review of goodwill at December 31 of each year.

### **Impairment of Long-Lived Assets**

Long-lived assets, such as property and equipment, intangible assets subject to amortization and prepaid land use rights are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. If circumstances require a long-lived asset or asset group be tested for possible impairment, we first compare undiscounted cash flows expected to be generated by that asset or asset group to its carrying amount. If the carrying amount of the long-lived asset or asset group is not recoverable on an undiscounted cash flow basis, an impairment is recognized to the extent that the carrying amount exceeds its fair value. Fair value is determined through various valuation techniques including discounted cash flow models, quoted market values and third-party independent appraisals, as considered necessary.

### **Share-based Compensation**

We adopted an equity incentive plan in July 2014, or the 2014 share incentive plan, for the granting of share options to key employees, directors and external consultants in exchange for their services. The total number of shares that may be issued under the 2014 share incentive plan is 29,240,000 ordinary shares.

We adopted a second equity incentive plan in August 2016, or the 2016 share incentive plan, for the granting of share options and other equity awards to key employees and directors in exchange for their services. The total number of shares that may be issued under the 2016 share incentive plan is 56,707,560 ordinary shares.

#### *Options to Director, Officers and Employees*

In July 2014, we granted 12,394,753 share options to employees, officers and directors at an exercise price of US\$0.7792 per option. The options have a contractual term of five to six years.

The options vest in accordance with the vesting schedules set out in the respective share option agreements as follows: (i) 63% on the date of grant,  $\frac{1}{48}$  each month thereafter; (ii) 71% on the date of grant,  $\frac{1}{48}$  each month thereafter; (iii) 75% on the date of grant,  $\frac{1}{48}$  each month thereafter; or (iv) 95% on the date of grant,  $\frac{1}{40}$  each month thereafter.

In May 2016, we granted 11,084,840 share options to employees, officers and directors. These share options were fully vested upon the date of grant for past services and had an exercise price of US\$0.7792 per option. The options have a contractual term of five years.

#### *Options to Non-employee Consultants*

In July 2014, we granted the following share options to external consultants at an exercise price of US\$0.7792 per option. The options have a contractual term of five years.

The services performed or to be performed by these external consultants include marketing, technical consultancy, manage telecommunication relationships, strategic, business, operation, and financial planning services.

- 4,158,315 share options to a group of external consultants. Such options vested immediately on the date of grant for services performed and completed by the consultants.
- 1,275,000 share options to a consultant. 75% of the options (or 956,250 options) vested immediately on the date of grant for services performed and completed while the remaining 318,750 options vest monthly thereafter in eleven equal monthly instalments for future ongoing services. As of December 31, 2014, 185,938 options remained unvested. As of December 31, 2015 and June 30, 2016, all options were vested.

- 400,000 share options to a group of external consultants for future services upon a qualified initial public offering, or QIPO.  $\frac{1}{3}$  of the options vest upon the completion of a QIPO,  $\frac{1}{3}$  vest upon the 2nd anniversary of a QIPO and  $\frac{1}{3}$  vest upon the third anniversary of a QIPO. As of December 31, 2014 and 2015 and June 30, 2016, 400,000 options remained unvested.

In January 2015, we granted 1,000,000 share options to an external consultant at an exercise price of US\$0.7792 per option. The options vest every six months in six equal instalments for future ongoing services. The options have a contractual term of five years. As of December 31, 2015 and June 30, 2016, 666,667 and 500,000 options, respectively, remained unvested.

These consulting service contracts do not contain a performance commitment. Options to non-employees are forfeitable if not vested. We determined that these non-employee options are considered indexed to our own stock and would be equity-classified.

Options that are forfeitable and vest upon the non-employee providing future services are measured at the fair value of the date the performance is completed, which generally coincides with the date on which the options vest and are no longer forfeitable. Such options are treated as unissued for accounting purposes until the future services are performed by the non-employees and received by us (that is, the options are not considered issued until they vest). During reporting periods prior to completion of performance, we measure the cost of the services based on the fair value of the share options at each reporting date using the valuation model applied in previous periods. The portion of the services that the non-employee has rendered is applied to the current measure of fair value to determine the cost to recognize. Changes in our share price from the grant date to the vesting date result in adjustments to the reported costs of services in each period until performance is completed.

A summary of the share option activities is as follows:

	<b>Number of options</b>
Options outstanding at January 1, 2014	—
Granted	17,642,130
Forfeited	(178,923)
Options outstanding at December 31, 2014	17,463,207
Granted	519,271
Forfeited	(788,944)
Options outstanding at December 31, 2015	17,193,534
Granted	11,251,507
Forfeited	(152,241)
Options outstanding at June 30, 2016	28,292,800

As of June 30, 2016, 900,000 forfeitable and unvested non-employee options were treated as unissued for accounting purposes and were not included in the table above.

We estimated the fair value of share options using the binomial option-pricing model with the assistance from an independent valuation firm. The fair value of each option grant up to May 2016 is estimated on the date of grant with the following assumptions.

Grant date:	July 2014	January 2015	May 2016
Risk-free rate of return	2.25%	2.27%	1.98%
Volatility	31.40%	29.80%	28.50%
Expected dividend yield	—	—	—
Exercise multiple	2.20	2.20	2.2
Fair value of underlying ordinary share	US\$0.88	US\$0.90	US\$1.51
Expected term	5-6 years	5 years	5 years
Discount for lack of marketability	10.00%	10.00%	9.00%
Discount rate	13.00%	11.40%	11.40%

Determining the fair value of our ordinary shares required us to make complex and subjective judgments, assumptions and estimates, which involved inherent uncertainty. Had we used different assumptions and estimates, the resulting fair value of our ordinary shares and the resulting share-based compensation expenses could have been different.

The following table sets forth the fair value of our ordinary shares estimated at different times with the assistance from an independent valuation firm.

Date	Fair Value per Ordinary Shares (US\$)	Discount for Lack of Marketability	Discount Rate	Purpose of Valuation
July 2014	0.88	10%	13.0%	Share options grant
January 2015	0.90	10%	11.4%	Share options grant
May 2016	1.51	9%	11.4%	Share options grant

In determining the fair value of our ordinary shares, we applied the income approach / discounted cash flow, or DCF, analysis based on our projected cash flow using management's best estimate as of the valuation date. The determination of the fair value of our ordinary shares requires complex and subjective judgments to be made regarding our projected financial and operating results, our unique business risks, the liquidity of our shares and our operating history and prospects at the time of valuation.

The major assumptions used in calculating the fair value of ordinary shares include:

- *Weighted average cost of capital, or WACC:* WACCs of 13.0%, 11.4% and 11.4% were used for dates as of July 2014, January 2015 and May 2016, respectively. The WACCs were determined based on a consideration of the factors including risk-free rate, comparative industry risk, equity risk premium, company size and non-systematic risk factors.
- *Comparable companies:* In deriving the WACCs, which are used as the discount rates under the income approach, ten publicly traded companies were selected for reference as our guideline companies. The guideline companies were selected based on the following criteria: (i) operate data centers or providing Internet data center services and (ii) China-based companies that are publicly listed in the United States or United States based and publicly listed companies.
- *Discount for lack of marketability, or DLOM:* DLOM was quantified by the binomial option pricing model. The farther the valuation date is from an expected liquidity event, the higher the put option value and thus the higher the implied DLOM. The lower DLOM is used for the valuation, the higher is the determined fair value of the ordinary shares. DLOM remained 10% in the period from 2014 to 2015 and decreased to 9% in the six months ended June 30, 2016.

The income approach involves applying appropriate discount rates to estimated cash flows that are based on earnings forecasts. Our net revenue growth rates, as well as major milestones that we have achieved, contributed to the increase in the fair value of our ordinary shares from July 2014 to January 2015 and further to May 2016. However, these fair values are inherently uncertain and highly subjective. The assumptions used in deriving the fair values are consistent with our business plan. These assumptions include: no material changes in the existing political, legal and economic conditions in China; our ability to retain competent management, key personnel and staff to support our ongoing operations; and no material deviation in market conditions from economic forecasts. These assumptions are inherently uncertain. The risk associated with achieving our forecasts were assessed in selecting the appropriate discount rates.

In addition to the above share option grants, in August 2016, we granted 877,400 fully vested restricted shares in lieu of cash to our directors to settle a portion of their remuneration for services provided by the directors in the past. Based on our best estimate, the fair value of the restricted shares was approximately US\$1.51 per share. Fifty percent (50%) of the restricted shares may not be sold or otherwise disposed of for one year from the grant date. We are evaluating the fair values of the restricted shares. Upon completion of the fair value analysis, we will revise these estimates although we do not expect such revisions to be materially different from the current estimates.

#### **Income Taxes**

Income taxes are accounted for under the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carry forwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. We recognize the effect of income tax positions only if those positions are more likely than not of being sustained. Recognized income tax positions are measured at the largest amount that is greater than 50% likely of being realized. Changes in recognition or measurement are reflected in the period in which the change in judgment occurs. We record interest related to unrecognized tax benefits in interest expense and penalties in general and administrative expenses.

Uncertainties exist with respect to how the current income tax law in the PRC applies to our overall operations, and more specifically, with regard to tax residency status. The Enterprise Income Tax Law includes a provision specifying that legal entities organized outside the PRC are considered residents for Chinese income tax purposes if the place of effective management or control is within the PRC. The implementation rules to the Enterprise Income Tax Law provide that non-resident legal entities are considered PRC residents if substantial and overall management and control over the manufacturing and business operations, personnel, accounting, properties, etc., occurs within the PRC. Despite the present uncertainties resulting from the limited PRC tax guidance on the issue, we do not believe that the legal entities organized outside the PRC should be treated as residents for Enterprise Income Tax Law purposes. If the PRC tax authorities subsequently determine that we and our subsidiaries registered outside the PRC are deemed resident enterprises, we and our subsidiaries registered outside the PRC will be subject to the PRC income tax at a rate of 25%.

If we were to be non-resident for PRC tax purposes, dividends paid to us from profits earned by the PRC subsidiaries after January 1, 2008 would be subject to a withholding tax. The PRC Corporate Income Tax, or CIT law, and its relevant regulations impose a withholding tax at 10%, unless reduced by a tax treaty or agreement, for dividends distributed by a PRC-resident enterprise to its non-PRC-resident corporate investor for earnings generated beginning on January 1, 2008. Undistributed earnings generated prior to January 1, 2008 are exempt from such withholding tax. We have not recognized any deferred tax liability for the undistributed earnings of the PRC-resident enterprise as of December 31, 2014 and 2015

and June 30, 2016, as we plan to permanently reinvest these earnings in the PRC. See "Risk Factors—Risks Related to Doing Business in the People's Republic of China—Dividends payable to our foreign investors and gains on the sale of our ADSs or Class A ordinary shares by our foreign investors may become subject to PRC tax" and "—We and our shareholders face uncertainties with respect to indirect transfers of equity interests in PRC resident enterprises or other assets attributed to a Chinese establishment of a non-Chinese company, or immovable properties located in China owned by non-Chinese companies."

## Results of Operations

The following table sets forth a summary of our consolidated results of operations for the years ended December 31, 2014 and 2015 and the six months ended June 30, 2015 and 2016. This information should be read together with our audited consolidated financial statements as of and for the years ended December 31, 2014 and 2015, unaudited condensed consolidated financial statements as of June 30, 2016 and for the six months ended June 30, 2015 and 2016 and related notes included elsewhere in this prospectus. The operating results in any period are not necessarily indicative of the results that may be expected for any future period.

	For the Year Ended December 31,						Six Months Ended June 30,					
	2014		2015				2015		2016			
	RMB	%	RMB	US\$	%	RMB	%	RMB	US\$	%		
(in thousands, except for percentages)												
<b>Consolidated Statements of Operations Data:</b>												
Net revenue	468,337	100.0	703,636	105,875	100.0	304,794	100.0	447,135	67,280	100.0		
Cost of revenue	(388,171)	(82.9)	(514,997)	(77,491)	(73.2)	(221,519)	(72.7)	(332,034)	(49,961)	(74.3)		
Gross profit	80,166	17.1	188,639	28,384	26.8	83,275	27.3	115,101	17,319	25.7		
Operating expenses												
Selling and marketing expenses	(40,556)	(8.7)	(57,588)	(8,665)	(8.2)	(23,494)	(7.7)	(34,563)	(5,201)	(7.7)		
General and administrative expenses	(113,711)	(24.3)	(128,714)	(19,367)	(18.3)	(58,837)	(19.3)	(131,452)	(19,779)	(29.4)		
Research and development expenses	(1,597)	(0.3)	(3,554)	(535)	(0.5)	(1,257)	(0.4)	(4,765)	(717)	(1.1)		
Loss from operations	(75,698)	(16.2)	(1,217)	(183)	(0.2)	(313)	(0.1)	(55,679)	(8,378)	(12.5)		
Other income (expenses)												
Net interest expense	(124,973)	(26.6)	(125,546)	(18,891)	(17.9)	(60,440)	(19.8)	(110,292)	(16,595)	(24.6)		
Foreign currency exchange (loss) gain, net	(875)	(0.2)	11,107	1,671	1.6	4,456	1.5	4,101	617	0.9		
Government grants	4,870	1.0	3,915	589	0.6	1,030	0.3	1,030	155	0.2		
Gain on remeasurement of equity investment	62,506	13.4	—	—	—	—	—	—	—	—		
Others, net	(412)	(0.1)	1,174	177	0.2	1,362	0.4	179	27	0.0		
Loss before income taxes	(134,582)	(28.7)	(110,567)	(16,637)	(15.7)	(53,905)	(17.7)	(160,661)	(24,174)	(36.0)		
Income tax benefits	4,583	0.9	11,983	1,803	1.7	6,641	2.2	6,464	973	1.5		
Net loss	(129,999)	(27.8)	(98,584)	(14,834)	(14.0)	(47,264)	(15.5)	(154,197)	(23,201)	(34.5)		

### Effect of Acquisition of EDC Holding Limited

On June 30, 2014, we acquired EDC Holding from its shareholders whereby we issued shares to EDC Holding's shareholders in exchange for their shares in EDC Holding. Pursuant to the terms of the agreement, we issued 199,163,164 shares in exchange for approximately 93% of the shares in EDC Holding which we did not already own. Since the date of the acquisition, EDC Holding has been our wholly-owned subsidiary and has been consolidated with our results of operations. Prior to the acquisition and for the



period from January 1, 2014 to June 30, 2014, EDC Holding had a net revenue of RMB67.3 million (including net revenue derived from GDS Holdings of RMB55.9 million), incurred operating expenses of RMB28.2 million and interest expenses of RMB29.9 million, which is not included in our results of operations for the year ended December 31, 2014. EDC Holding had a net revenue of RMB17.9 million (excluding net revenue from GDS Holdings which is eliminated upon consolidation), incurred operating expenses of RMB39.7 million and interest expenses of RMB34.1 million for the period from July 1, 2014 to December 31, 2014, which is included in our results of operations for the year ended December 31, 2014.

#### ***Effect of Acquisition of Guangzhou Weiteng***

On May 19, 2016, we, through GDS Beijing, acquired all of the equity interest in Guangzhou Weiteng from a third party for a cash consideration of RMB129.5 million (US\$19.5 million), subject to adjustment, if any, pursuant to the terms of conditions of the equity purchase agreement. Cash consideration of RMB25.9 million (US\$3.9 million) is outstanding as of June 30, 2016 which is payable on May 19, 2017. Guangzhou Weiteng is a limited liability company organized and existing under PRC law and owns a data center project in Guangzhou. At the date of acquisition, the data center had just commenced operation. After the acquisition, Guangzhou Weiteng has been consolidated with our results of operations. Guangzhou Weiteng had a net revenue of RMB6.4 million (US\$1.0 million) and a net profit of RMB0.6 million (US\$0.1 million) for the period from May 20, 2016 to June 30, 2016, which is included in our results of operations for the six months ended June 30, 2016.

#### ***Six Months Ended June 30, 2016 Compared to Six Months Ended June 30, 2015***

##### ***Net Revenue***

Our net revenue increased by 46.7% to RMB447.1 million (US\$67.3 million) in the six months ended June 30, 2016 from RMB304.8 million in the same period in 2015. This increase was due to an increase in service revenue of RMB144.6 million (US\$21.7 million), partially offset by a decrease in IT equipment sales of RMB2.3 million (US\$0.3 million). The increase in service revenue consisted of an increase in revenue from colocation services of RMB111.1 million (US\$16.7 million) and an increase in revenue from managed services of RMB34.8 million (US\$5.2 million), which was offset by a decrease in revenue from consulting services of RMB1.3 million (US\$0.2 million). These increases in service revenue were mainly due to (i) an increase in area utilized from 18,640 sqm as of June 30, 2015 to 32,152 sqm as of June 30, 2016 as customers with commitments moved into the data center area, (ii) the signing of new service contracts by customers who commenced utilizing services during the period, (iii) the commencement of operations of three new data centers in Shanghai, Beijing and Shenzhen, in the second half year of 2015 and first half year of 2016, and (iv) the addition of a new data center in Guangzhou through the acquisition of Guangzhou Weiteng.

##### ***Cost of Revenue***

Our cost of revenue increased by 49.9% to RMB332.0 million (US\$50.0 million) in the six months ended June 30, 2016 from RMB221.5 million in the same period in 2015. This increase was primarily due to an increase of 64.8% in utility costs to RMB96.4 million (US\$14.5 million) in the six months ended June 30, 2016 from RMB58.5 million in the same period in 2015, and an increase of 51.0% in depreciation and amortization costs to RMB85.8 million (US\$12.9 million) in the six months ended June 30, 2016 from RMB56.8 million in the same period in 2015. Increases in both utility costs and depreciation and amortization costs were largely a result of new data center facilities. Increase in utility costs was also due to higher power usage by Internet customers in the six months ended June 30, 2016 compared with the same period in 2015. In addition, the increase in cost of revenue was due to (i) an increase in network connectivity and bandwidth costs of RMB9.2 million (US\$1.4 million), (ii) an increase in personnel costs of RMB12.6 million (US\$1.9 million), and (iii) an increase in other maintenance and outsourcing costs of RMB11.3 million (US\$1.7 million) in connection with data centers coming into service in the second half

year of 2015 and first half year of 2016. Cost of revenue as percentage of net revenue increased slightly to 74.3% in the six months ended June 30, 2016 from 72.7% in the same period in 2015 due to the fact that the data centers that are newly in service have begun to incur fixed costs while having relatively low utilization rates.

*Operating Expenses*

Our operating expenses increased by 104.3% to RMB170.8 million (US\$25.7 million) in the six months ended June 30, 2016 from RMB83.6 million in the same period in 2015. This increase was primarily due to an increase in share-based compensation expenses of RMB53.3 million (US\$8.0 million) and an increase in personnel costs and directors' fees of RMB26.4 million (US\$4.0 million). Our operating expenses as a percentage of our net revenue increased to 38.2% in the six months ended June 30, 2016 from 27.4% in the same period in 2015.

*Selling and Marketing Expenses.* Our selling and marketing expenses increased 47.1% to RMB34.6 million (US\$5.2 million) in the six months ended June 30, 2016 from RMB23.5 million in the same period in 2015. This increase was primarily attributable to (i) an increase in share-based compensation expenses of RMB4.9 million (US\$0.7 million), (ii) an increase in personnel costs of RMB3.5 million (US\$0.5 million), related to bonuses paid and the hiring of senior sales personnel, and (iii) an increase in marketing expenses of RMB1.7 million (US\$0.3 million). Our selling and marketing expenses as a percentage of net revenue remained stable at 7.7% in the six months ended June 30, 2016 and 2015.

*General and Administrative Expenses.* Our general and administrative expenses increased by 123.4% to RMB131.5 million (US\$19.8 million) in the six months ended June 30, 2016 from RMB58.8 million in the same period in 2015. This increase was primarily a result of (i) an increase in share-based compensation expenses of RMB48.4 million (US\$7.3 million) related to the fully vested share options granted in May 2016, and, (ii) an increase in personnel costs and directors' fees of RMB19.9 million (US\$3.0 million). The increase in general and administrative expenses was partially offset by a decrease in start-up costs of RMB5.7 million (US\$0.9 million). Our general and administrative expenses as a percentage of net revenue increased to 29.4% in the six months ended June 30, 2016 from 19.3% in the same period in 2015, which was primarily due to higher share-based compensation expenses recognized in the six months ended June 30, 2016.

*Research and Development Expenses.* Our research and development expenses increased by 279.1% to RMB4.8 million (US\$0.7 million) in the six months ended June 30, 2016 from RMB1.3 million in the same period in 2015. This increase was primarily a result of increased payroll and personnel related costs as we hired additional research and development personnel. Our research and development expenses as a percentage of net revenue increased to 1.1% in the six months ended June 30, 2016 from 0.4% in the same period in 2015.

*Other Income (Expenses)*

*Net Interest Expenses.* Our net interest expenses increased by 82.5% to RMB110.3 million (US\$16.6 million) in the six months ended June 30, 2016 from RMB60.4 million in the same period in 2015. The increase was due to interest expenses arising from the convertible bonds we issued in December 2015 and January 2016 and increased balance of loans and borrowings.

*Foreign Currency Exchange Gain, Net.* Changes in currency exchange rates resulted in a gain of RMB4.1 million (US\$0.6 million) in the six months ended June 30, 2016 and a gain of RMB4.5 million in the same period in 2015.

*Government Grants.* Income from government grants was RMB1.0 million (US\$0.2 million) in each of the six months ended June 30, 2016 and 2015.

**Income Tax Benefits.** Income tax benefits was RMB6.5 million (US\$1.0 million) in the six months ended June 30, 2016 and RMB6.6 million in the same period in 2015. Our effective tax rates for the six months ended June 30, 2015 and 2016 were 12.3% and 4.0%, respectively. The difference between the effective tax rate and the statutory tax rate of 25% was primarily due to the tax effect of non-PRC entities not being subject to income tax.

**Net Loss.** As a result of the foregoing, net loss increased to RMB154.2 million (US\$23.2 million) in the six months ended June 30, 2016 from RMB47.3 million in the same period in 2015.

**Year Ended December 31, 2015 Compared to Year Ended December 31, 2014**

**Net Revenue**

Our net revenue increased by 50.2% to RMB703.6 million (US\$105.9 million) in 2015 from RMB468.3 million in 2014. This increase was due to increases in both service revenue and IT equipment sales. Service revenue increased by RMB202.7 million (US\$30.5 million), comprising an increase in revenue from colocation services of RMB158.4 million (US\$23.8 million), an increase in revenue from managed services of RMB42.2 million (US\$6.4 million) and an increase in revenue from consulting services of RMB2.1 million (US\$0.3 million). These increases were mainly due to (i) an increase in area utilized from 15,862 sqm to 22,365 sqm from December 31, 2014 to December 31, 2015 as customers with commitments physically moved into the data center area, (ii) the signing of new service contracts by customers who commenced utilizing services during the period and (iii) the commencement of operations of one of our Shanghai and one of our Beijing data center facilities that we designate as SH2 and BJ1.

IT equipment sales increased by RMB32.6 million (US\$4.9 million) because of sales of equipment to new customers in 2015.

**Cost of Revenue**

Our cost of revenue increased by 32.7% to RMB515.0 million (US\$77.5 million) in 2015 from RMB388.2 million in 2014. This increase was primarily due to an increase of 22.9% in utility costs to RMB140.0 million (US\$21.1 million) from RMB113.6 million in 2014, and an increase of 84.6% in depreciation and amortization costs to RMB131.1 million (US\$19.7 million) in 2015 from RMB71.0 million in 2014. Increases in both utility costs and depreciation and amortization costs were largely a result of increase in new data center facilities. In addition, the increase in cost of revenue was due to (1) an increase of RMB11.7 million (US\$1.8 million) for the cost of equipment sold in 2015 and (2) an increase in personnel costs of RMB15.0 million (US\$2.3 million) in connection with more data centers coming into service in 2015. Cost of revenue as percentage of net revenue decreased to 73.2% in 2015 from 82.9% in 2014. This decrease was primarily due to improved economies of scale and operating leverage arising from a higher utilization rate.

**Operating Expenses**

Our operating expenses increased by 21.8% to RMB189.9 million (US\$28.6 million) in 2015 from RMB155.9 million in 2014. This increase was primarily due to increases in selling and marketing expenses. Our operating expenses as a percentage of our net revenue decreased to 27.0% in 2015 from 33.3% in 2014.

**Selling and Marketing Expenses.** Our selling and marketing expenses increased 42.0% to RMB57.6 million (US\$8.7 million) in 2015 from RMB40.6 million in 2014. This increase was primarily attributable to increased sales and marketing costs mainly due to increased personnel costs for bonuses paid for successful sales and the hiring of two senior sales personnel. Our selling and marketing expenses as a percentage of net revenue decreased slightly to 8.2% in 2015 from 8.7% in 2014.

**General and Administrative Expenses.** Our general and administrative expenses increased by 13.2% to RMB128.7 million (US\$19.4 million) in 2015 from RMB113.7 million in 2014. This increase was primarily due to an increase in personnel costs of RMB6.6 million (US\$1.0 million), an increase in start-up costs of

RMB9.5 million (US\$1.4 million), or from RMB16.2 million in 2014 to RMB25.7 million (US\$3.9 million) in 2015, which were incurred prior to the commencement of operation of new data centers, and during the development of new data centers, as well as an increase in depreciation and amortization of office-related property and equipment, office, travel and miscellaneous expenses associated with the continued growth of our operations of RMB18.2 million (US\$2.7 million). The increase in general and administrative expenses were partially offset by a decrease of RMB19.3 million (US\$2.9 million) in share-based compensation expenses related to our 2014 share incentive plan, which was due to the grant of vested shares in 2014 in compensation for past services. Our general and administrative expenses as a percentage of net revenue decreased to 18.3% in 2015 from 24.3% in 2014, which was primarily due to higher share-based compensation expenses in 2014.

*Research and Development Expenses.* Our research and development expenses increased by 122.5% to RMB3.6 million (US\$0.5 million) in 2015 from RMB1.6 million in 2014. This increase was primarily a result of increased payroll and related personnel costs. Our research and development expenses as a percentage of net revenue increased slightly to 0.5% in 2015 from 0.3% in 2014.

*Other Income (Expenses)*

*Interest Income.* Our interest income decreased by 80.5% to RMB1.4 million (US\$0.2 million) in 2015 from RMB6.9 million in 2014. The decrease was primarily a result of a lower average cash balance in 2015 as compared with 2014.

*Interest Expenses.* Our interest expenses decreased by 3.8% to RMB126.9 million (US\$19.1 million) in 2015 from RMB131.9 million in 2014. In 2014, interest expenses included a charge of RMB34.1 million related to the debt discount of our bonds due June 10, 2015 issued to an investor. Excluding this charge, our interest expenses incurred increased from RMB97.8 million in 2014 to RMB126.9 million as a result of an increase in our bank borrowings and capital lease obligations.

*Foreign Currency Exchange (Loss) Gain, net.* Changes in currency rates resulted in a gain of RMB11.1 million (US\$1.7 million) in 2015 as compare to a loss of RMB0.9 million in 2014, primarily due to the appreciation of the U.S. dollar relative to Renminbi in 2015.

*Government Grants.* Income from government grants decreased by 19.6% to RMB3.9 million (US\$0.6 million) in 2015 from RMB4.9 million in 2014.

*Gain on Remeasurement of Equity Investment.* Gain on remeasurement of equity investment was nil in 2015 and RMB62.5 million in 2014, reflecting the gain arising from the remeasurement of our pre-acquisition equity interests in EDC Holding to fair value.

*Income Tax Benefits.* Income tax benefits increased to RMB12.0 million (US\$1.8 million) in 2015 from RMB4.6 million in 2014. This increase was primarily due to a decrease in the valuation allowance on deferred tax asset provided in 2015 compared to 2014.

*Net Loss.* As a result of the foregoing, net loss decreased to RMB98.6 million (US\$14.8 million) in 2015 from RMB130.0 million in 2014.

**Selected Unaudited Quarterly Results of Operations**

The following table presents our unaudited consolidated results of operations for the three-month periods ended on the dates indicated. You should read the following table in conjunction with our audited consolidated financial statements as of and for the years ended December 31, 2014 and 2015 and unaudited condensed consolidated financial statements as of June 30, 2016 and for the six months ended June 30, 2015 and 2016 and related notes included elsewhere in this prospectus. We have prepared the unaudited consolidated quarterly financial information on the same basis as our audited consolidated financial statements. This unaudited consolidated financial information includes all adjustments, consisting

only of normal and recurring adjustments, that we consider necessary for a fair representation of our financial position and operating results for the quarters presented.

	For the Three Months Ended,					
	March 31, 2015	June 30, 2015	September 30, 2015	December 31, 2015	March 31, 2016	June 30, 2016
	RMB	RMB	RMB	RMB	RMB	RMB
	(in thousands)					
<b>Consolidated Statements of Operations Data:</b>						
Service revenue	144,462	147,315	168,441	193,373	202,384	234,010
IT equipment sales	5,061	7,956	21,309	15,719	8,715	2,026
Net revenue	149,523	155,271	189,750	209,092	211,099	236,036
Cost of revenue	(107,854)	(113,665)	(138,911)	(154,567)	(156,896)	(175,138)
Gross profit	41,669	41,606	50,839	54,525	54,203	60,898
Operating expenses						
Selling and marketing expenses	(10,133)	(13,361)	(15,550)	(18,544)	(13,734)	(20,829)
General and administrative expenses <sup>(1)</sup>	(28,397)	(30,440)	(37,301)	(32,576)	(28,489)	(102,963)
Research and development expenses	(599)	(658)	(801)	(1,496)	(1,987)	(2,778)
Income (loss) from operations	2,540	(2,853)	(2,813)	1,909	9,993	(65,672)
Other income (expenses)						
Net interest expense	(30,516)	(29,924)	(29,620)	(35,486)	(52,963)	(57,329)
Foreign currency exchange (loss) gain, net	3,137	1,319	5,258	1,393	(1,391)	5,492
Government grants	515	515	1,182	1,703	515	515
Others, net	1,140	222	(13)	(175)	147	32
Loss before income taxes	(23,184)	(30,721)	(26,006)	(30,656)	(43,699)	(116,962)
Income tax benefits	2,954	3,687	2,861	2,481	4,921	1,543
Net loss	(20,230)	(27,034)	(23,145)	(28,175)	(38,778)	(115,419)

(1) General and administrative expenses include start-up costs incurred prior to commencement of operations of a new data center, including rental costs incurred pursuant to operating leases of buildings during the construction of leasehold improvements and other miscellaneous costs. These start-up costs amounted to RMB5.6 million, RMB6.0 million, RMB11.1 million, RMB3.0 million, RMB3.2 million and RMB2.8 million in the three months ended March 31, 2015, June 30, 2015, September 30, 2015, December 31, 2015, March 31, 2016 and June 30, 2016, respectively.

**Key Financial Metrics**

We monitor the following key financial metrics to help us evaluate growth trends, establish budgets, measure the effectiveness of our business strategies and assess operational efficiencies:

	For the Three Months Ended,					
	March 31, 2015	June 30, 2015	September 30, 2015	December 31, 2015	March 31, 2016	June 30, 2016
<b>Other Consolidated Financial Data:</b>						
Gross margin <sup>(1)</sup>	27.9%	26.8%	26.8%	26.1%	25.7%	25.8%
Operating margin <sup>(2)</sup>	1.7%	(1.8)%	(1.5)%	0.9%	4.7%	(27.8)%
Net margin <sup>(3)</sup>	(13.5)%	(17.4)%	(12.2)%	(13.5)%	(18.4)%	(48.9)%

(1) Gross profit as a percentage of net revenue.

(2) Income (loss) from operations as a percentage of net revenue.

(3) Net income (loss) as a percentage of net revenue.

We have experienced consistent growth in our quarterly net revenues for the six quarters in the period from January 1, 2015 to June 30, 2016. The growth in our quarterly net revenues was attributable to increases in net revenues from our colocation services as well as managed services. The growth in our quarterly net revenues was primarily due to the increases in colocation services with the increase in area utilized as we began generating revenue from customers with existing commitments, and the growth in the sales to our existing customers driven by increased demand for our managed services.

With the launch of new data centers located in Shanghai and Beijing during the third quarter in 2015, gross margin decreased slightly in the following quarters due to the high fixed costs with low utilization rate for those new data centers.

Other factors, however, have caused, and in the future may continue to cause, our quarterly operating results to fluctuate. For example, we recorded operating loss of RMB65.7 million (US\$9.9 million) for the three months ended June 30, 2016 primarily due to the relatively higher share-based compensation expenses recorded during this period.

We may experience fluctuations in our quarterly results of operations after this offering, for the reasons given above or other reasons, which may be significant. See "Risk Factors—Risks Related to Our Business and Industry—Our operating results may fluctuate, which could make our future results difficult to predict and could cause our operating results to fall below investor or analyst expectations."

**Non-GAAP Measures**

In evaluating our business, we consider and use the following non-GAAP measures as supplemental measures to review and assess our operating performance:

	For the Three Months Ended,					
	March 31, 2015	June 30, 2015	September 30, 2015	December 31, 2015	March 31, 2016	June 30, 2016
	RMB	RMB	RMB	RMB	RMB	RMB
	(in thousands, except for percentages)					
<b>Other Consolidated Financial Data:</b>						
Adjusted EBITDA <sup>(1)</sup>	38,958	34,797	42,684	48,262	53,350	47,207
Adjusted EBITDA margin <sup>(2)</sup>	26.1%	22.4%	22.5%	23.1%	25.3%	20.0%

(1) Adjusted EBITDA is defined as net income or net loss excluding interest expense (net of interest income), incomes taxes, depreciation and amortization, accretion of asset retirement obligations and share-based compensation expenses.

(2) Adjusted EBITDA margin is defined as adjusted EBITDA as a percentage of net revenue.

**Non-GAAP Measures**

Our management and board of directors use adjusted EBITDA and adjusted EBITDA margin, which are non-GAAP financial measures, to evaluate our operating performance, establish budgets and develop operational goals for managing our business. For more information concerning our management's use of these measures, please see "Prospectus Summary—Summary Consolidated Financial and Operating Data—Non-GAAP Measures" elsewhere in this prospectus.

The following table reconciles our adjusted EBITDA in the periods presented to the most directly comparable financial measure calculated and presented in accordance with U.S. GAAP, which is net income or net loss:

	For the Three Months Ended,					
	March 31, 2015	June 30, 2015	September 30, 2015	December 31, 2015	March 31, 2016	June 30, 2016
	RMB	RMB	RMB	RMB	RMB	RMB
	(in thousands, except for percentages)					
Net loss	(20,230)	(27,034)	(23,145)	(28,175)	(38,778)	(115,419)
Net interest expense	30,516	29,924	29,620	35,486	52,963	57,329
Income tax benefit	(2,954)	(3,687)	(2,861)	(2,481)	(4,921)	(1,543)
Depreciation and amortization	30,411	33,557	38,806	42,632	43,951	49,518
Accretion expenses for asset retirement costs	39	47	77	92	135	135
Share-based compensation expenses	1,176	1,990	187	708	—	57,187
Adjusted EBITDA	38,958	34,797	42,684	48,262	53,350	47,207
Adjusted EBITDA margin	26.1%	22.4%	22.5%	23.1%	25.3%	20.0%

#### Key Performance Indicators

Our net revenue and results of operations are largely determined by the amount of data center area in service, the degree to which data center space is committed or pre-committed as well as its utilization.

(Sqm, %)	As of March 31, 2015	As of June 30, 2015	As of September 30, 2015	As of December 31, 2015	As of March 31, 2016	As of June 30, 2016
Area in service	27,589	27,589	37,645	37,869	37,869	48,548
Area under construction	14,364	14,364	13,163	35,525	35,525	31,794
Area committed	21,942	22,599	31,794	33,140	33,629	44,062
Area pre-committed <sup>(1)</sup>	2,344	9,346	2,778	2,778	3,330	552
Total area committed	24,286	31,945	34,572	35,918	36,959	44,614
Commitment rate	79.5%	81.9%	84.5%	87.5%	88.8%	90.8%
Pre-commitment rate	16.3%	65.1%	21.1%	7.8%	9.4%	1.7%
Area utilized	16,735	18,640	21,083	22,365	23,957	32,152
Utilization rate	60.7%	67.6%	56.0%	59.1%	63.3%	66.2%

(1) Relates to data center area for which we have entered into a letter of intent with certain customers.

#### Liquidity and Capital Resources

Our primary sources of liquidity have been cash flow from short- and long-term borrowings, including borrowings from related parties, and issuance of equity securities and convertible bonds, which have historically been sufficient to meet our working capital and substantially all of our capital expenditure requirements. We have also historically financed capital expenditures through capital leases. As of June 30, 2016, we had cash of approximately RMB834.5 million (US\$125.6 million). In addition, as of June 30, 2016, we also had short-term borrowings and current portion of long-term borrowings and long-term borrowings (excluding current portion) of RMB699.4 million (US\$105.2 million) and RMB825.4 million (US\$124.2 million), respectively.

Based on our current level of operations and available cash, we believe our available cash, cash flows from operations, committed funding from the issuance of convertible bonds due 2019 will provide sufficient liquidity to fund our current obligations, projected working capital requirements, debt service requirements and capital spending requirements at least for the next 12 months. However, we may require additional

cash resources due to changing business conditions or other future developments, including any investments or acquisitions we may decide to selectively pursue. If our existing cash resources are insufficient to meet our requirements, we may seek to sell equity or equity-linked securities, debt securities or borrow from banks. We cannot assure you that financing will be available in the amounts we need or on terms acceptable to us, if at all. The sale of additional equity securities, including convertible debt securities, would result in additional dilution to our shareholders. The incurrence of indebtedness and issuance of debt securities would result in debt service obligations and could result in operating and financial covenants that restrict our operations and our ability to pay dividends to our shareholders. If we were unable to obtain additional equity or debt financing as required, our business, operations and prospects and our ability to maintain our desired level of revenue growth may suffer materially.

As a holding company with no material operations of our own, we are a corporation separate and apart from our subsidiaries and our consolidated VIEs and, therefore, provide for our own liquidity. We conduct our operations primarily through our PRC subsidiaries in China. As a result, our ability to pay dividends and to finance any debt we may incur depends upon dividends paid by our subsidiaries. If our PRC subsidiaries, or any newly formed PRC subsidiaries, incur debt on their own behalf in the future, the instruments governing their debt may restrict their ability to pay dividends to us. In addition, our PRC subsidiaries are permitted to pay dividends to us only out of their respective retained earnings, if any, as determined in accordance with PRC accounting standards and regulations. Under applicable PRC laws and regulations, our PRC subsidiaries are each required to set aside a portion of their after-tax profits each year to fund certain statutory reserves, and funds from such reserves may not be distributed to us as cash dividends except in the event of liquidation of such subsidiaries.

The PRC government imposes controls on the convertibility of the RMB into foreign currencies and, in certain cases, the remittance of currency out of China. We receive substantially all of our revenues in RMB. Under our current corporate structure, our company in the Cayman Islands may rely on dividend payments from our PRC subsidiaries to fund any of our cash and financing requirements. Under China's existing foreign exchange regulations, our PRC subsidiaries are able to make payments of current accounts, such as dividends, to their offshore holding companies, in foreign currencies, without prior approval from SAFE, by complying with certain procedural requirements. However, approval from appropriate government authorities will be required where RMB is to be converted into foreign currency and remitted out of China to pay capital expenses such as the repayment of loans denominated in foreign currencies. There is no requirement imposed on investors to complete registration or obtain approval from appropriate government authorities before they can receive dividend payments from our company in the Cayman Islands. See "Risk Factors—Risks Related to Doing Business in the People's Republic of China—Restrictions on currency exchange may limit our ability to utilize our net revenue effectively." These statutory limitations affect, and future covenant debt limitations might affect, our PRC subsidiaries' ability to pay dividends to us.

As of June 30, 2016, our cash and restricted cash were deposited in major financial institutions located in PRC, Hong Kong, and the Cayman Islands. We currently believe that such limitations will not impact our ability to meet our ongoing short-term cash obligations although we cannot assure you that such limitations will not affect our ability in the future to meet our short-term cash obligations and to distribute dividends to our shareholders. See "Risk Factors—Risks Related to Doing Business in the People's Republic of China—We rely to a significant extent on dividends and other distributions on equity paid by our principal operating subsidiaries to fund offshore cash and financing requirements" and "—Statutory Reserves."

We do not plan for our PRC subsidiaries to pay dividends in the foreseeable future and we intend for those subsidiaries to retain any future earnings for use in the operation and expansion of our business in China. Accordingly, our ability to pay dividends and finance debt will be affected by this current plan. In the future, we may take advantage of financing options available to us in connection with any dividend payments we may make or repayments of any offshore indebtedness we may incur. For example, we may fund dividend payments through offshore debt, whether unsecured or secured by the assets of our onshore consolidated entities. In order to service offshore debt, we may rely upon financing options through the



capital markets, including issuances of equity or debt securities, the proceeds of which we may use to service offshore debt.

Pursuant to the PRC Enterprise Income Tax Law, a withholding tax rate of 10% currently applies to dividends paid by a PRC "resident enterprise" to a foreign enterprise investor, unless any such foreign investor's jurisdiction of incorporation has a tax treaty with China that provides for preferential tax treatment. Accordingly, if in the future our PRC subsidiaries that are considered "resident enterprises" pay dividends to the Hong Kong subsidiary that holds such PRC subsidiary, any such dividend may be subject to a withholding tax of 10%. Such withholding tax rate may be lowered to 5% if a Hong Kong resident enterprise owns no less than 25% of a PRC enterprise. However, the 5% withholding tax rate does not automatically apply and certain requirements must be satisfied. See "Risk Factors—Risks Related to Doing Business in the People's Republic of China—We may not be able to obtain certain benefits under the relevant tax treaty on dividends paid by our PRC subsidiary to us through our Hong Kong subsidiary."

As a result of these laws, rules and regulations relating to statutory reserves, foreign exchange conversion and withholding taxes described above, our subsidiaries incorporated in China are restricted in their ability to transfer a portion of their respective net assets to their offshore holding companies as dividends, loans or advances. As of December 31, 2015, we had restricted assets of RMB1,323.1 million (US\$199.1 million), all of which consisted of registered capital. The statutory reserve of our PRC subsidiaries was nil as of December 31, 2015. Our PRC subsidiaries did not have any retained earnings available for distribution in the form of dividends as of December 31, 2015.

The following table sets forth a summary of our cash flow for the periods indicated.

	For the Year Ended December 31,			For the Six Months Ended June 30,		
	2014	2015		2015	2016	
	RMB	RMB	US\$	RMB	RMB	US\$
	(in thousands)					
Net cash provided by (used in) operating activities	27,937	(80,298)	(12,082)	(13,599)	(22,069)	(3,321)
Net cash used in investing activities	(523,749)	(731,905)	(110,129)	(274,425)	(476,918)	(71,761)
Net cash provided by (used in) financing activities	1,056,287	1,127,685	169,681	(18,300)	395,346	59,487
Effect of exchange rate changes on cash	(2,328)	2,258	340	1,457	13,620	2,050
Net increase (decrease) in cash	558,147	317,740	47,810	(304,867)	(90,021)	(13,545)
Cash at beginning of year/period	48,611	606,758	91,298	606,758	924,498	139,108
Cash at end of year/period	606,758	924,498	139,108	301,891	834,477	125,563

#### Operating Activities

Cash flow used in operating activities was RMB22.1 million (US\$3.3 million) in the six months ended June 30, 2016, primarily due to a net loss of RMB154.2 million (US\$23.2 million), adjusted for (i) depreciation and amortization of RMB93.5 million (US\$14.1 million), primarily relating to our data center property and equipment; (ii) share-based compensation expenses of RMB57.2 million (US\$8.6 million) mainly related to the share options granted in May 2016, (iii) deferred tax benefits of RMB9.6 million (US\$1.4 million), and (iv) changes in working capital. Adjustments for changes in working capital primarily consisted of (i) an increase of accounts receivable of RMB52.8 million (US\$8.0 million) due to increased sales, and (ii) an increase of VAT recoverable of RMB22.0 million (US\$3.3 million) as a result of the expansion of our business, partially offset by (i) an increase in accounts payable of RMB47.8 million (US\$7.2 million) due to increase in purchases, (ii) an increase in accrued expenses and other payables of RMB15.2 million (US\$2.3 million) due to an increase in accrued interests and other professional fees, and (iii) a decrease in prepaid expenses of RMB10.3 million (US\$1.6 million) due to receipt of services.

Cash flow used in operating activities was RMB80.3 million (US\$12.1 million) in 2015, primarily due to a net loss of RMB98.6 million (US\$14.8 million), adjusted for (i) depreciation and amortization of RMB145.4 million (US\$21.9 million), primarily relating to our data center property and equipment; (ii) deferred tax benefits of RMB10.6 million (US\$1.6 million), (iii) stock compensation expenses of RMB4.1 million (US\$0.6 million) mainly as a result of increases in personnel as our operations expanded, and (iv) changes in working capital. Adjustments for changes in working capital primarily consisted of (i) an increase of VAT recoverable of RMB41.4 million (US\$6.2 million) due to an increase in payment of VAT as a result of the expansion of our business; (ii) an increase of accounts receivable of RMB37.6 million (US\$5.7 million) due to increased sales; (iii) an increase in non-current assets of RMB22.8 million (US\$3.4 million) due to more rental deposits paid for newly rented data centers; (iv) an increase in prepaid expense of RMB15.0 million (US\$2.3 million) due to increased prepayments for utility and network expenses; and (v) an increase of other current assets of RMB12.3 million (US\$1.9 million) due to an increase of purchased IT equipment awaiting sale, partially offset by an increase in other long-term liabilities of RMB15.3 million (US\$2.3 million) due to the increase in accrued interests.

Cash flow provided by operating activities was RMB27.9 million in 2014, primarily due to a net loss of RMB130.0 million, adjusted for (i) depreciation and amortization of RMB82.8 million; (ii) gain on re-measurement of equity investment of RMB62.5 million for our previously held equity investment in EDC Holdings; (iii) amortization of debt issuance costs and debt discount of RMB33.9 million related to the debt discount of our bonds due 2015; (iv) stock compensation expenses of RMB27.3 million as a result of the grant of stock options in July 2014; (v) deferred tax benefits of RMB5.0 million; and (vi) changes in working capital. Adjustments for changes in working capital primarily consisted of a decrease in other current assets of RMB81.3 million, primarily due to the receipt of services from EDC Holdings amounting to RMB59.2 million prior to the date of our acquisition of EDC Holdings.

#### **Investing Activities**

Net cash used in investing activities was RMB476.9 million (US\$71.8 million) in the six months ended June 30, 2016, which was primarily due to payments for purchase of property and equipment of RMB317.5 million (US\$47.8 million) in the development of our data centers, payments for acquisition of Guangzhou Weiteng of RMB102.4 million (US\$15.4 million), loans to Guangzhou Weiteng before the acquisition of RMB42.0 million (US\$6.3 million) and the payment of a deposit of RMB15.0 million (US\$2.3 million) related to a potential acquisition of a data center.

Net cash used in investing activities was RMB731.9 million (US\$110.1 million) in 2015, which was primarily due to payments for purchase of property and equipment of RMB733.0 million (US\$110.3 million) in the development of our data centers, partially offset by the release of restricted cash related to purchase of property and equipment of RMB1.0 million (US\$0.2 million).

Net cash used in investing activities was RMB523.7 million in 2014 and was due primarily to payments for purchase of property and equipment of RMB248.3 million, loans of RMB307.0 million loan made to EDC Holding prior to the acquisition, payments for an acquisition made by EDC Holding of RMB13.6 million, offset by cash received from the acquisition of EDC Holding of RMB41.0 million and the release of restricted cash related to purchase of property and equipment of RMB4.1 million.

#### **Financing Activities**

Net cash provided by financing activities was RMB395.3 million (US\$59.5 million) in the six months ended June 30, 2016, which was primarily due to proceeds from short-term borrowing of RMB204.0 million (US\$30.7 million), proceeds from long-term borrowing of RMB121.6 million (US\$18.3 million) and proceeds from issuance of convertible bonds payable of RMB262.1 million (US\$39.4 million), which was partially offset by repayment of short-term borrowings of RMB147.0 million (US\$22.1 million), repayment of long-term borrowings of RMB42.8 million (US\$6.4 million), and payment under capital lease obligations of RMB2.6 million (US\$0.4 million).

Net cash provided by financing activities was RMB1,127.7 million (US\$169.7 million) in 2015, which was primarily due to proceeds from short-term borrowing of RMB333.0 million (US\$50.1 million), proceeds from long-term borrowing of RMB584.5 million (US\$87.9 million), proceeds from issuance of bonds payable of RMB649.0 million (US\$97.7 million) and proceeds from a related party loan of RMB64.9 million (US\$9.8 million), which was partially offset by repayment of short-term borrowings of RMB289.0 million (US\$43.5 million), repayment of long-term borrowings of RMB137.7 million (US\$20.7 million), payment of issuance cost of borrowing of RMB24.3 million (US\$3.7 million), repayment of bonds payable of RMB14.3 million (US\$2.2 million) and repurchase of redeemable preferred shares of RMB23.3 million (US\$3.5 million) and payment under capital lease obligations of RMB17.9 million (US\$2.7 million).

Net cash provided by financing activities was RMB1,056.3 million in 2014, which was primarily due to proceeds from short-term borrowing of RMB298.3 million, proceeds from long-term borrowing of RMB200.0 million and proceeds from bonds payable of RMB115.0 million and proceeds from the issuance of redeemable preferred shares of RMB1,521.3 million, which was partially offset by repayment of short-term borrowings of RMB357.3 million, repayment of long-term borrowings of RMB115.9 million, payments of issuance costs of redeemable preferred shares of RMB20.1 million, repurchase of ordinary shares of RMB119.7 million, repurchase of redeemable preferred shares of RMB455.4 million and payment under capital lease obligations of RMB9.1 million.

#### **Statutory Reserves**

Under applicable PRC laws and regulations, foreign-invested enterprises in China are required to provide for certain statutory reserves, namely a general reserve, an enterprise expansion fund and a staff welfare and bonus fund. Pursuant to such laws and regulations, we may pay dividends only out of our after-tax profits, if any, determined in accordance with PRC accounting standards and regulations. Further, we are required to allocate at least 10% of our after-tax profits to fund the general reserve until such reserve has reached 50% of our registered capital. In addition, we may also set aside, at our or our Board's discretion, a portion of our after-tax profits to fund the employee welfare and bonus fund. These reserves may only be used for specific purposes and are not distributable to us in the form of loans, advances, or cash dividends.

As of December 31, 2014 and 2015 and June 30, 2016, we had nil, nil and nil respectively, in our statutory reserves.

#### **Capital Expenditures**

We had capital expenditures of RMB248.3 million, RMB733.0 million (US\$110.3 million) and RMB317.5 million (US\$47.8 million) in 2014, 2015 and the six months ended June 30, 2016, respectively. Our capital expenditures were primarily for the purchase of equipment as well as land use rights and leasehold-improvement of data centers. Our capital expenditures have been primarily funded by net cash provided by financing activities. In the second half of 2016 and 2017, we expect to incur further capital expenditure in connection with the development of data centers under construction and data center resources held for future development that move into the construction phase.

**Contractual Obligations**

The following table sets forth our contractual obligations as of June 30, 2016:

	Payment due by period				
	Total	Less than 1 Year	1 - 3 Years	3 - 5 Years	More than 5 Years
	(in thousands of RMB)				
Short-term borrowings and interests <sup>(1)</sup>	400,692	400,692	—	—	—
Long-term borrowings and interests <sup>(1)</sup>	1,371,075	424,847	467,014	427,322	51,892
Convertible bonds and interests <sup>(2)</sup>	1,390,342	73,542	99,468	1,217,332	—
Capital lease obligations <sup>(3)</sup>	1,794,488	75,716	214,047	327,302	1,177,423
Operating lease commitments <sup>(3)</sup>	836,651	121,761	163,247	109,007	442,636
Lease commitment but not commenced <sup>(4)</sup>	387,900	—	32,797	35,300	319,803
Capital commitments <sup>(5)</sup>	733,262	590,327	142,935	—	—
<b>Total</b>	<b>6,914,410</b>	<b>1,686,885</b>	<b>1,119,508</b>	<b>2,116,263</b>	<b>1,991,754</b>

- (1) The interests are calculated using the effective interest rate as of June 30, 2016 for each loan.
- (2) Includes cash interest and assumes through 2019 no conversion into ordinary shares of our convertible bonds due 2019.
- (3) Represent minimum lease payments.
- (4) Lease commitment but not commenced represents the total minimum lease payments upon the completion of the construction of the property.
- (5) Capital commitments primarily consist of purchases of equipment and maintenance services.

**Long-term borrowings**

Certain of our long-term borrowings contain financial covenants. An outstanding loan of RMB7.3 million, RMB2.8 million (US\$0.4 million) and RMB0.4 million (US\$0.1 million) as of December 31, 2014 and 2015 and June 30, 2016, respectively, borrowed by a subsidiary of ours contains a financial covenant that requires the subsidiary to keep a minimum cash of RMB1.3 million (US\$0.2 million) at the bank at all times. The loan agreement also requires that both the subsidiary and we, as a guarantor, maintain minimum quarterly revenues thresholds as specified in the loan agreement. As of December 31, 2014 and 2015 and June 30, 2016, we were in compliance with such covenants.

A subsidiary of ours borrowed an outstanding entrust loan of RMB200.0 million, RMB199.8 million (US\$30.1 million) and RMB199.7 million (US\$30.0 million) as of December 31, 2014 and 2015 and June 30, 2016, respectively, through a third party bank that contains financial covenants. The covenants require that the subsidiary's outstanding loans (exclusive of this entrust loan and any other entrust loans) should be within a range of RMB130.0 million (US\$19.6 million) and RMB240.0 million (US\$36.1 million), or the borrowing range, and the total pledged assets cannot exceed RMB20.0 million (US\$3.0 million). On March 31, 2015, the subsidiary's outstanding loans exceeded RMB240.0 million (US\$36.1 million) and total pledged assets exceeded RMB20.0 million (US\$3.0 million). On June 10, 2015, the subsidiary obtained a waiver letter from the creditor that waived the covenant violations. The creditor and the subsidiary also agreed to revise the acceptable outstanding borrowings in a range of RMB130.0 million (US\$19.6 million) and RMB360.0 million (US\$54.2 million). As of December 31, 2014 and 2015 and June 30, 2016, we were in compliance with such covenants.

As of June 30, 2016, we had total working capital and project financing credit facility of RMB2,920.7 million (US\$439.5 million) from various banks, of which the unused amount was RMB1,375.4 million (US\$206.9 million). The withdrawal from the credit facility is at the discretion of the banks and is subject to the terms and conditions of each agreement.

### **Convertible Bonds**

On December 30, 2015 and January 29, 2016, we issued and sold convertible and redeemable bonds due 2019 in an initial aggregate principal amount of US\$150.0 million, which bonds were subscribed by Ping An Insurance and STT GDC, as to US\$100.0 million and US\$50.0 million, respectively. We may, at our option, require STT GDC to subscribe for an additional amount of these bonds as to US\$50.0 million, and thereafter, Ping An Insurance to subscribe for an additional amount as to US\$50.0 million, at any time until September 30, 2016. Under the terms of the bonds, Ping An Insurance is entitled to appoint one observer to attend meetings of our board of directors.

The bonds are repayable four years from the date of issue, or i.e. on December 30, 2019, and may be converted at a set conversion price of US\$1.675262 per share (subject to adjustments arising from any share consolidation, sub-division or distributions by way of shares) at any time between the date on which this offering is completed and December 30, 2019. Any share issued pursuant to the conversion of these bonds by a holder who is not our existing shareholder so converted within twelve months after the closing of this offering will be subject to a lock-up period expiring on the first anniversary of this offering's closing date. We also may mandate each of Ping An Insurance and STT GDC to convert their bonds into shares if the average per-ordinary-share-equivalent closing trading price of our ADSs in any period of ten (10) consecutive trading days following this offering is at least 125% of US\$1.675262. The bonds bear two types of interest on the principal amount, (i) interest payable in cash semi-annually at a rate of 5% per annum, and (ii) interest accruing semi-annually at a rate of 5% per annum. Such accrued interest is (i) in the case of redeemed bonds, either payable in cash on December 30, 2019 upon redemption of the bonds, or and (ii) in the case of converted bonds, capitalized and paid in shares upon conversion of the bonds. As security for the bonds, we pledged our entire equity interest in the registered capital of EDC China Holdings Limited, a limited company incorporated in Hong Kong, which is wholly owned by EDC Holding.

If Ping An Insurance and STT GDC elect to convert, or if we cause them to convert, their bonds (including interests accrued) under the conditions described above, at least 91,681,348 Class A ordinary shares will be issued.

### **Beijing and Shenzhen Loan Facilities**

On September 17, 2015, our subsidiary Shenzhen Yungang EDC Technology Co., Ltd., entered into a term loan facility agreement with United Overseas Bank (China) Limited, Shenzhen Branch and Credit Agricole Corporate and Investment Bank (China) Limited for a principal amount of RMB430.0 million (US\$64.7 million) for the subsidiary's Shenzhen data centers SZ1 and SZ2 and respectively, and an amendment agreement dated August 5, 2016 to extend an additional term loan facility with principal loan amount of RMB100.0 million (US\$15.0 million) for financing the borrower's Shenzhen data center SZ3. The interest rate agreed under the term loan facility agreements is 1.2x or 1.3x of PBOC's base rate for loans, as applicable, with a tenor of five years from respective facility utilization date, which is to be no later than September 18, 2020. The securities for the loan include, among others, guarantee from ultimate parent company of borrower, GDS Holdings Limited, corporate guarantee provided by GDS Beijing, pledge of all equity interests of the borrower, all the issued shares of EDS (HK) Limited and the receivables under the service contracts with customers with respect to our Shenzhen data centers SZ1, SZ2 and SZ3, mortgage of all movable assets of the borrower and assignment of all insurance interests over such mortgaged assets, assignment of the borrower's rights under the building lease of Shenzhen data centers SZ1, SZ2 and SZ3, among other terms. The effective interest rate on the loan as of September 30, 2016 was 6.18% per annum. The maturity date of the loan is September 18, 2020. The proceeds from the loan are being used for the construction, renovation and fitting-out of, as well as equipment for, the premises of data centers SZ1, SZ2 and SZ3.

October 28, 2015, our subsidiary Beijing Hengpu'an Data Technology Development Co., Ltd. entered into a term loan facility agreement with United Overseas Bank Limited for a principal amount of RMB120.0 million (US\$18.1 million) for financing borrower's Beijing data center (BJ1). The interest rate agreed under said term loan facility agreement is a fixed rate of 6.5625% per annum or 1.25x of PBOC's base rate (as applicable based on the tranches of facilities utilized under the agreement) with a tenor of

five years from the first utilization date of said facility (which, however, is to be no later than December 21, 2020). The securities for the loan include, among others, guarantee from ultimate parent, GDS Holdings Limited, corporate guarantee provided by GDS Beijing, pledge of all the equity interests of the borrower, all the issued shares of EDB II (HK) Limited and the receivables under the service contracts with customers under Beijing data center phase 1, BJ1, mortgage of all movable assets of the borrowers and assignment of all insurance interests over such mortgaged assets, assignment of the borrower's rights under the building lease of Beijing data center phase 1, BJ1, among other terms. The effective interest rate on the loan as of September 30, 2016 was 6.56% per annum. The maturity date of the loan is December 21, 2020. The proceeds from the loan are being used for the construction, renovation and fitting-out of, as well as equipment for, the premises of data center BJ1.

The terms of the loans of Shenzhen Yungang EDC Technology Co., Ltd. and Beijing Hengpu'an Data Technology Development Co., Ltd. limited capital expenditures that can be incurred for the construction of the data centers. Our outstanding long-term loans under the facilities amounted to RMB534.9 million (US\$80.5 million) as of September 30, 2016. The loans are required to be repaid in full prior to the maturity date in the event (i) ST Telemedia, the parent company of STT GDC, ceases to own and control, directly or indirectly, at least 40% of our equity interest prior to an initial public offering or 30% of our equity interest after an IPO, or ceases to be our single largest shareholder, (ii) we cease to own and control, directly or indirectly, 100% of the equity interest of the borrowing subsidiaries, (iii) there are changes in the shareholding structure of a principal operating subsidiary, as defined in the loan agreements or (iv) William Wei Huang, our founder, chairman and chief executive officer, ceases to own and control, directly or indirectly, at least 99.96% of the equity interest of GDS Beijing. The loan facilities include a cross-default provision which would be triggered if we fail to repay any financial indebtedness of RMB30.0 million or more when due or within any originally applicable grace period. In addition, under the terms of the loans, upon the completion of our initial public offering, we are required to repay RMB136.9 million (US\$20.6 million) of the outstanding loan principal amount based on the principal amount outstanding as at September 30, 2016.

#### **Shanghai Loan Facilities**

On September 29, 2016, our subsidiaries EDC Shanghai Waigaoqiao and EDC Shanghai Yungang jointly entered into a term loan facility agreement with Credit Agricole Corporate and Investment Bank (China) Limited Shanghai Branch, United Overseas Bank (China) Limited, Shanghai Pilot Free Trade Zone Sub-branch, DBS Bank (China) Ltd, Shanghai Branch, Shanghai HuaRui Bank Co., LTD and Australia and New Zealand Bank (China) Company Limited, Shanghai Branch, pursuant to which the banks agreed to make available to the subsidiaries (i) four term loan facilities in a total amount of RMB1,135.0 million (US\$170.8 million) and (ii) subject to the term and conditions otherwise agreed between the relevant parties, an additional facility in the amount of RMB340.0 million (US\$51.2 million) for the purpose of (i) replacing an existing term loan facility agreement entered into on June 30, 2016 between the subsidiaries, Credit Agricole Corporate and Investment Bank (China) Limited Shanghai Branch and United Overseas Bank (China) Limited, Shanghai Pilot Free Trade Zone Sub-branch, and (ii) financing the subsidiaries' Shanghai data center projects and working capital requirements. The interest rate agreed under the term loan facility agreement is 1.2x or 1.3x of PBOC's base rate for loans, as applicable, with a term of up to five years from respective facility utilization date. The securities for the loan include, among others, guarantee from ultimate parent company of borrowers, GDS Holdings Limited, pledge of all equity interests of the borrowers and the receivables under the service contracts with customers with respect to borrowers' data centers, mortgage of all movable assets of the borrowers and assignment of all insurance interests over such mortgaged assets, assignments of the borrowers' rights under the building lease of borrowers' data centers, among other terms. The loans are required to be repaid in full prior to the maturity date in the event (i) STT Communications Ltd. ceases to, directly or indirectly, own at least 50.1% of equity interests of STT GDC, (ii) STT GDC ceases to own and control, directly or indirectly, at least 40% of our equity interest prior to an initial public offering or 30% of our equity interest after an IPO, or ceases to be our single largest shareholder, (iii) we cease to, directly or indirectly, own or control 100% of our borrowing subsidiaries, (iv) there are changes in the shareholding structure of a principal operating subsidiary, as defined in the facility agreements or, (v) William Huang ceases to, directly or indirectly, own at least 99.9% of the equity interests of

GDS Beijing. In addition, the loan facilities include a cross default provision which would be triggered if we fail to repay any financial indebtedness in an aggregate amount of RMB50.0 million (US\$7.5 million) or more when due or within any originally applicable grace period. As of September 30, 2016, the outstanding loan under such term loan facility was RMB752.6 million (US\$113.2 million) with a weighted average effective interest rate of 6.17% per annum. The proceeds from the loan are being used for repayment of the loans under an existing term loan facility agreement entered into on June 30, 2016 and the construction, renovation and fitting-out of, as well as equipment for, the premises of the Shanghai data center projects and working capital purposes.

#### ***Weiteng Loan Facilities***

On September 22, 2016, our subsidiary Guangzhou Weiteng entered into a facility agreement with DBS Bank (China) Limited Shanghai Branch, pursuant to which the bank agrees to make available to the subsidiary loan facilities in the total amount of RMB220.0 million (US\$33.1 million). The interest rate agreed under the facility agreement is 1.25x or 1.35x of PBOC's base rate for loans, as applicable, with a term of up to five years from respective facility utilization date. The securities for the loan include, among others, guarantee from ultimate parent company of borrower, GDS Holdings Limited, pledge of all equity interests of the borrower and the receivables under the service contracts with customers with respect to the borrower's data center, mortgage of all movable assets of the borrower and assignment of all insurance interests over such mortgaged assets, assignments of the borrower's rights under the building lease of the borrower's data center, among other terms. The loans are required to be repaid in full prior to the maturity date in the event (i) STT Communications Ltd. ceases to, directly or indirectly, own at least 50.1% of equity interests of STT GDC, (ii) STT GDC ceases to own and control, directly or indirectly, at least 40% of our equity interests prior to an initial public offering or 30% of our equity interests after an IPO, or ceases to be our single largest shareholder, (iii) we cease to, directly or indirectly, own or control 100% of our borrowing subsidiary, (iv) there are changes in the shareholding structure of a principal operating subsidiary, as defined in the loan agreements or (v) William Huang ceases to, directly or indirectly, own at least 99.9% of the equity interests of GDS Beijing. In addition, the loan facility includes a cross default provision which would be triggered if we fail to repay any financial indebtedness in an aggregate amount of RMB50.0 million (US\$7.5 million) or more when due or within any originally applicable grace period. As of September 30, 2016, the outstanding loan under such facility was RMB71.4 million (US\$10.7 million) with an effective interest rate of 6.41% per annum. The proceeds from the loan are being used for the construction, renovation and fitting-out of, as well as equipment for, the premises of the Guangzhou data center project and working capital purposes.

#### ***Off-Balance Sheet Commitments and Arrangements***

Other than the obligations set forth in the table above, we have not entered into any financial guarantees or other commitments to guarantee the payment obligations of any third parties. We have not entered into any derivative contracts that are indexed to our shares and classified as shareholder's equity, or that are not reflected in our consolidated financial statements. Furthermore, we do not have any retained or contingent interest in assets transferred to an unconsolidated entity that serves as credit, liquidity or market risk support to such entity. Moreover, we do not have any variable interest in any unconsolidated entity that provides financing, liquidity, market risk or credit support to us or engages in leasing, hedging or research and development services with us.

#### **Quantitative and Qualitative Disclosure about Market Risk**

##### ***Interest Rate Risk***

Our exposure to interest rate risk primarily relates to interest expenses incurred in respect of bank borrowings, bonds payable and capital lease obligations and interest income generated by excess cash, which is mostly held in interest-bearing bank deposits. We have not used derivative financial instruments in our investment portfolio. Interest earning instruments and interest-bearing obligations carry a degree of interest rate risk. We have not been exposed to, nor do we anticipate being exposed to, material risks due

to changes in market interest rates. However, our future interest income and interest expenses may fluctuate due to changes in market interest rates.

**Foreign Exchange Risk**

All of our revenue and substantially all of our expenses are denominated in Renminbi. We do not believe that we currently have any significant direct foreign exchange risk and have not used any derivative financial instruments to hedge exposure to such risk. Although in general our exposure to foreign exchange risks should be limited, the value of your investment in our ADSs will be affected by the exchange rate between the U.S. dollar and the Renminbi because the value of our business is effectively denominated in Renminbi, while our ADSs will be traded in U.S. dollars.

The conversion of Renminbi into foreign currencies, including U.S. dollars, is based on rates set by the PBOC. The PRC government allowed the Renminbi to appreciate by more than 20% against the U.S. dollar between July 2005 and July 2008. Between July 2008 and June 2010, the exchange rate between the Renminbi and the U.S. dollar had been stable and traded within a narrow band. Since June 2010, the PRC government has allowed the Renminbi to appreciate slowly against the U.S. dollar, though there have been periods when the Renminbi has depreciated against the U.S. dollar. In particular, on August 11, 2015, the PBOC allowed the Renminbi to depreciate by approximately 2% against the U.S. dollar. It is difficult to predict how long the current situation may last and when and how the relationship between the Renminbi and the U.S. dollar may change again.

To the extent that we need to convert U.S. dollars into Renminbi for our operations, appreciation of the Renminbi against the U.S. dollar would have an adverse effect on the Renminbi amount we receive from the conversion. 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 the U.S. dollar against the Renminbi would have a negative effect on the U.S. dollar amounts available to us.

We estimate that we will receive net proceeds of approximately US\$            million from this offering, after deducting underwriting discounts and commissions and the estimated offering expenses payable by us and assuming no exercise by the underwriters of their over-allotment option, based on the initial offering price of US\$            per Class A ordinary share. Assuming that we convert the full amount of the net proceeds from this offering into Renminbi, a 10% appreciation or depreciation of the Renminbi against the U.S. dollar, from a rate of RMB            to US\$1.00 to a rate of RMB            to US\$1.00 or RMB            to US\$1.00, respectively, will result in a decrease or increase, respectively, of RMB            million of the net proceeds from this offering.

**Inflation**

Since our inception, inflation in China has not materially affected our results of operations. According to the National Bureau of Statistics of China, the year-over-year percent changes in the consumer price index for December 2013, December 2014 and December 2015 were increases of 2.5%, 1.5% and 1.6%, respectively. Although we have not been materially affected by inflation in the past, we may be affected if China experiences higher rates of inflation in the future.



## INDUSTRY OVERVIEW

### Introduction

A data center is a specialized facility designed to house server, storage and networking equipment which is used to deliver mission-critical business applications, data and content. Data centers are strategically located near significant power and network resources to support the computing equipment it houses. Due to the mission-critical nature of the customer equipment it houses, a data center must maintain continuous operations, monitoring and a high level of security. This continuity is achieved using redundant power infrastructure (batteries and generators), specialized cooling equipment (computer room air-conditioning units), environmental control systems and security systems. These critical infrastructure and systems components require significant investment and contribute to the high capital requirement associated with building a data center.

Data centers can be owned and operated in-house by companies or can be outsourced to third-party colocation providers. Companies may choose to own their data center infrastructure for a wide range of reasons such as regulatory considerations, IT being core competency, or an ability to achieve cost efficiency. Companies may choose to outsource their data center infrastructure to third-party colocation providers to avoid the capital cost associated with building their own facility or to gain access to higher quality infrastructure and service levels that colocation providers may offer. Colocation data centers can be designed and configured to serve a wide range of customers, with different space, power and configuration requirements within the same facility. With this flexibility, colocation providers are able to achieve economies of scale and provide customers with a more capital efficient solution than owning their own data centers. Colocation service offerings typically include core data center services such as space and power in a managed environment or may also offer additional value-added services such as remote hands, cross-connects to other tenants of the facility, and managed services such as business continuity and disaster recovery, network management services, among others.

Globally and in China, there are many drivers encouraging companies to increasingly outsource their data center requirements to third party colocation providers, including the significant capital investment required to build a data center, the costs and complexity of operating data centers, regulatory requirements, and the need for disaster recovery space, among others. Unlike in the United States, where there are numerous colocation options available, China is still a developing market where there are relatively few high-quality colocation data center facilities. In 2015, the estimated total data center area in service in China (including in-house enterprise facilities) was 7.4 million sqm. The estimated total colocation area in service reached 1.2 million sqm (16% of total data center area in service), as compared with an estimated 3.4 million sqm in the United States. China continues to be under-served in terms of data center space and in particular, high-quality colocation data centers. According to 451 Research, as of December 31, 2015, when comparing the ratio of square meters of colocation area in service to GDP, the U.S. had a ratio of 207 sqm per US\$1 billion in GDP, while China only had a ratio of 107.

### Evolution and Structure of China's Data Center Industry

Similar to the United States, the colocation data center market in China emerged when the incumbent telecommunications carriers built their own data centers to support their network businesses. In 2002, the MIIT started to encourage private investment into VATS and began allowing private companies to resell bandwidth and colocation space within telecommunications carrier data centers, launching the private colocation data center market in China. As the market developed over the following years, some of these resellers began to build their own data center facilities and expand their VATS offerings, creating a more diverse marketplace for data center services in China.

Today, colocation data centers in China can generally be classified as telecommunications carrier data centers or carrier-neutral data centers.

- **Telecommunications carrier data centers.** Since the telecommunications reform in 2008, China has had three major telecom carriers: China Telecom, China Unicom and China Mobile. Each of these carriers has a nationwide telecommunications business license and operates nationwide networks that serve as common platforms for mobile, fixed-line telephone, broadband and data services. The three telecommunications carriers were encouraged by the government policies to build data center facilities. Due to their focus on network services, these carriers' data centers often relied on their own networks for connectivity and lacked options for customers to connect to other carriers' networks.
- **Carrier-neutral data centers.** Carrier-neutral data centers offer connectivity from multiple telecommunications carriers in their facilities, providing customers the option to choose which carrier to use based on cost and/or network and application requirements. Carrier-neutral providers tend to focus on data center services and may offer more rapid response times, better data center uptime and other value-added services. As the data center industry further develops, carrier-neutral data centers are expected to grow more rapidly than carrier data centers as enterprises prioritize data center connectivity and uptime for mission-critical applications.

The Chinese government has taken multiple actions to improve the transparency and promote the healthy growth of the data center industry, including changing the regulations and guidelines regarding license requirements. Since 2010, the market has grown at an accelerated pace, particularly the high-performance carrier-neutral segment, due to the combination of the rapid increase in Internet penetration, mobile Internet, increasing enterprise outsourcing and the emergence of cloud computing, as well as several favorable government measures. These measures include the economic stimulus plan in 2009 and revised MIIT guidelines in 2009 which encouraged private investment in data centers. According to 451 Research, the colocation data center area in service in China grew from 591,482 sqm in 2010 to 1.2 million sqm in 2015 at a CAGR of 14.7%, and is expected to grow to 1.7 million sqm in 2018 at a CAGR of 13.4%. The average power density for data centers built since 2011 in China is around 1.0 kW/m<sup>2</sup>, according to 451 Research. Colocation data center market revenue in China has grown from US\$1.2 billion in 2010 to US\$3.1 billion in 2015, and is expected to reach US\$4.2 billion in 2018. In addition, in terms of revenue, carrier-neutral data centers comprised 29% of the market in China in 2015, an increase from 18% in 2010, and their market share is expected to further increase to 33% in 2018.

#### High-Performance Data Centers in China

High-performance data centers, relative to standard data centers, offer customers a higher level of power density, availability and power efficiency. According to 451 Research, high-performance data centers are designed and constructed to achieve high levels of infrastructure availability. Such design categorization is generally adopted in the Chinese market among carrier-neutral data center providers, although most data centers are not certified by a third party. The market in developed countries and regions such as the United States and Europe generally considers data centers that are at or above Tier III (as specified by the Uptime Institute, owned by the 451 Group along with 451 Research LLC) as high-performance data centers. In China, given the maturity of the market, high-performance data centers are considered to consist of data centers that are designed to local five-star and A-level standards as well as to Tier III or higher standards. Due to the growing importance of maintaining uptime for mission-critical computing equipment and applications, high-performance data centers have become more valuable to customers.

#### Growth Drivers of High-Performance Data Centers in China

- **Rising Internet penetration, e-commerce transactions, and consumption of online content.** Internet penetration continues to rise in China. The Statistical Report on Internet Development in China (January 2016) by the CNNIC (China Internet Network Information Center) notes that Internet penetration in China was 50% in 2015, increased by 2.4 percentage points from 2014, with

approximately 40 million users added in 2015, compared to the United States which has an Internet penetration rate of 88% and an estimated 5 million users added in 2015. In addition, the Cisco Visual Networking Index estimates that China's Internet traffic will grow at a CAGR of 26% from 2015 to 2020, largely driven by online video, which is particularly network intensive. This combination of user penetration and Internet traffic is driving data traffic demand for network and colocation services as data mounts and must be stored. In addition, the growth of e-commerce is driving the requirement for high-performance data centers, as any offline time causes e-commerce websites to forego sales and lose revenue opportunities, so highly available data centers are therefore preferred. The e-commerce market in China measured by gross merchandise value, or GMV, was RMB3,877 billion (US\$583 billion) in 2015, according to the National Bureau of Statistics in China, compared to US\$342 billion in the United States, according to the United States Census Bureau.

- **The growth of cloud computing.** The rapid adoption of public, private and hybrid cloud services by enterprises and government agencies in China is driving demand for high-performance data centers that can provide the reliability and availability to support high-density computing environments. The rapidly growing public cloud market in China has been predominantly served by local public cloud services providers, including Aliyun, Tencent QCloud, UCloud, Kingsoft Cloud, Baidu Cloud and Huawei Cloud, among others. These local cloud providers have generally leased data center space from third party colocation providers to house their cloud computing environments, due to license requirements, infrastructure availability and design requirements and capital deployment considerations. In addition to these local providers, international or non-Chinese cloud providers are required to work with Chinese colocation partners and cannot build or operate in-country data centers.
- **Increasing trends of enterprises toward outsource data center services.** Several recent trends have led enterprises to outsource some or all of their data center requirements to third party colocation providers. Primary drivers for this trend include the rising capital and operating costs of owning data centers, regulatory requirements around the protection and availability of data, the difficulty of finding suitable sites to build data centers, and enterprises' need to focus on their core IT operations for business-specific initiatives rather than operating data center infrastructure.
- **Increasing compliance and regulatory requirements on data security.** Enterprises in regulated industries, such as financial services, often have very specific regulatory requirements for their data and data centers. These can include specifications as to distance from other data centers for disaster recovery purposes, security at the data centers, operating procedures that must be audited, and other specific requirements around data center siting, construction and operations. High-performance data centers are able to satisfy many of these requirements and save enterprises financial and operational resources necessary to adhere to data security requirements.
- **Trend towards higher density.** Servers and other computing equipment require high levels of electricity and cooling to operate and these levels have been growing with advances in server technology and performance levels. A combination of physical size reduction and performance have allowed a larger number of servers to be housed in the same amount of space, which increases the power and cooling required for that space. In addition, virtualization technology has increased server computing performance and density, allowing greater workloads to run on each server. Cloud service providers in particular, as well as firms running data analytics programs, generally require higher than average density.

## Major Customer Verticals Driving the Growth of High-Performance Data Centers in China

Demand for high-performance data centers has been growing steadily in China, with cloud and IT services providers, financial institutions, large enterprises and public entities among the top customer verticals.

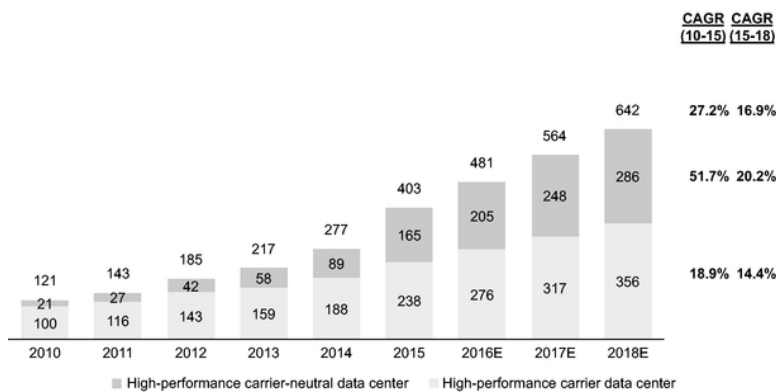
- **Cloud and IT services providers.** Similar to more developed markets, cloud and IT services providers are increasingly consuming more third-party colocation space. With the rapidly expanding Internet and mobile penetration in China, the IT and cloud industry have grown significantly in the past few years, forming the biggest, and one of the fastest growing, user group of data centers. These large companies require high availability for their systems in order to differentiate their services and improve customer satisfaction. Flexibility of deployment, time-to-market and greater efficiency are the main drivers for IT companies to use high-performance data centers.
- **Financial institutions.** Banks, securities and insurance companies are typical users of high-performance data centers globally and in China. Financial institutions are required by the government to store their IT systems and data in secured data centers, whether self-built or outsourced. Outsourced data center operators must meet stringent design and operational compliance requirements in order to host the IT systems of financial institutions. Beyond regulations, financial institutions also prefer to use high-performance data centers to ensure uptime of their systems and applications.
- **Large enterprise and public services.** Many businesses in China are transforming to become more Internet-and IT-driven. Reliable operations of IT systems and storage of data are becoming critical to firms. Large enterprises are becoming national and global and the amount of data generated by day-to-day operations can no longer be stored in one data center at headquarters. Companies with nationally or globally distributed employees and customers increasingly need to store and process data near those employees and customers, creating strong demand for more data center facilities. In addition, the e-government initiatives by Chinese government increase public sector demand for data center space.

According to 451 Research, the high-performance data center market in China began a period of high growth in 2010. The high-performance data center market in terms of area in service has been growing consistently from 183,393 sqm in 2010, of which 29% was carrier-neutral, to 504,399 sqm in 2015, of which 43% was carrier-neutral, at a CAGR of 22.4%, and is expected to further grow to 926,869 sqm in 2018, of which 47% will be carrier-neutral, at a CAGR of 22.5%. However, China's high performance data center market is still underserved, as compared to data center capacity of approximately 3.4 million sqm in terms of colocation area in service in the United States in 2015, of which the majority was high performance, according to 451 Research. Meanwhile, commitment rates increased from 66% in 2010 to 80% in 2015 and are expected to average 70% to 80% through 2018. The average price for committed area ranges from US\$900 to US\$1,200 per rack per month in 2015 and is expected to remain largely stable from 2015 to 2018.

The revenue of the high-performance data center market in China has grown from US\$446 million in 2010 to US\$1,514 million in 2015, and is expected to reach US\$2,396 million in 2018. Benefiting from the favorable trends, the high-performance data center market as a percentage of the overall outsourced data center market, in terms of revenue, increased from 36% in 2010, to 49% in 2015 and is expected to further increase to 57% in 2018.

The following chart sets forth the historical and expected market size of China's high-performance data center market in terms of committed areas for the periods indicated.

Committed area of high-performance data centers in China, by carrier and carrier-neutral  
(in thousand sqm)



In China, due to the economic difference and telecom network infrastructure difference between various geographical regions and major cities, telecommunications hubs were built in selected cities only, creating the first data center clusters. These primary economic hubs have competitive advantages as data center markets, with more transparent telecommunications markets, skilled labor and infrastructure support to operate data centers, as well as large populations of potential customers. According to 451 Research, the major Chinese data center markets are Beijing, Shanghai, Shenzhen, Guangzhou, and, to a lesser degree, Chengdu. While most major cities in China have a small data center market to fulfill local demand, the majority of the high-performance data center market is centered in these primary economic hubs. These five major markets accounted for approximately 90% of the total high-performance data center market of China in terms of revenue in 2015.

**Barriers to entry**

Data centers are difficult to develop and there are several barriers to entry for potential competitors, particularly in China, including:

- Limited supply of suitable sites and development execution complexity.** Finding suitable sites for data center development is difficult, as data centers require large amounts of power, access to network fiber, and particular types of buildings—ideally with high ceilings, strong floors and large floor plates are not always available in these strategic locations. In addition, many customers prefer facilities that are in secure locations, for example, a certain distance from highways, railroad tracks, chemical plants and other potential sources of hazards and outside of flight paths. In the key economic hubs in China, it is increasingly difficult to find suitable sites for high-performance data centers and the execution complexity proves to be challenging for many companies.
- Significant capital and technical expertise required.** Once a site is developed, a data center is complicated to operate, requiring staff with particular skills that can be difficult to find. According to surveys by 451 Research and the Uptime Institute, most of the outages of data centers are due to

human error. Therefore, operators with a strong operating track record are preferred by customers seeking high-performance facilities.

- **Stringent licensing requirements by regulations.** In China, data center service providers must obtain licenses from the MIIT and fulfill evolving requirements. Once a suitable site is identified, developers also need to obtain the necessary permits from local authorities to develop and operate the property.
- **Customer stickiness and high switching costs.** Once customer equipment is installed in a data center facility, it is difficult and expensive to move it. Therefore customer churn is generally low unless there are extensive outages or poor service. If customers need additional space, they typically seek to stay in the same data center facility or with the same provider.

## BUSINESS

### Overview

We are a leading developer and operator of high-performance data centers in China. Our facilities are strategically located in China's primary economic hubs where demand for high-performance data center services is concentrated. Our data centers have large net floor area, high power capacity, density and efficiency, and multiple redundancy across all critical systems. We are carrier and cloud neutral, which enables our customers to connect to all major PRC telecommunications carriers, and to access a number of the largest PRC cloud service providers, whom we host in our facilities. We offer colocation and managed services, including a unique and innovative managed cloud value proposition. We have a 15-year track record of service delivery, successfully fulfilling the requirements of some of the largest and most demanding customers for outsourced data center services in China. Our base of over 300 customers consists predominantly of large Internet companies, financial institutions, telecommunications and IT service providers, and large domestic private sector and multinational corporations. As of June 30, 2016, we had an aggregate net floor area of 48,548 sqm in service, 90.8% of which was committed, and an aggregate net floor area of 31,794 sqm under construction. According to 451 Research, we are the largest service provider in the high-performance carrier-neutral data center services market in China, with 19.7% market share as measured by area committed as of December 31, 2015.

The market for high-performance data center services in China is experiencing strong growth. According to 451 Research, the market is expected to increase from US\$1.5 billion in 2015 to US\$2.4 billion in 2018, representing a CAGR of 16.6%. Over the same period, the high-performance carrier-neutral data center services market in China is expected to grow with a higher CAGR of 20.5%. Demand is driven by the confluence of several secular economic and industry trends, including: rapid growth of the Internet, e-commerce and big data; rising adoption of cloud computing and server virtualization, which requires data centers with higher power capacity, density and efficiency; increasing criticality of information technology and data in the enterprise environment which requires data centers with higher reliability; and growing reliance by enterprises on outsourcing as a solution to the increasing complexity and cost of managing mission-critical IT infrastructure. We believe that, as a result of this strong demand and the challenges of sourcing, developing and operating new facilities that meet the required standard, there is a relative scarcity of high-performance data center capacity in China. According to 451 Research, as of December 31, 2015, when comparing the ratio of square meters of colocation area in service to GDP, the U.S. had a ratio of 207 sqm per US\$1 billion in GDP, while China only had a ratio of 107.

Our portfolio of data centers and secured expansion capacity are strategically located to address this growing demand. We operate our data centers to service our customers predominantly in Shanghai, Beijing, Shenzhen, Guangzhou and Chengdu, the primary financial, commercial, industrial and communications hubs in each region of China. According to 451 Research, approximately 90% of the market in terms of revenue for high-performance data center services in China was concentrated in these markets in 2015. We have also established a presence in Hong Kong which we believe is another important market for our customers. Our data centers are located in close proximity to the corporate headquarters and key operation centers of many large enterprises, providing convenient access for our customers. Furthermore, the extensive multi-carrier telecommunications networks in these markets enable our customers to enhance the performance and lower the cost of connectivity to our facilities.

Our data centers are large-scale, highly reliable and highly efficient facilities that provide a flexible, modular and secure operating environment in which our customers can house, power and cool the computer systems and networking equipment that support their mission-critical IT infrastructure. We install large power capacity and optimize power usage efficiency, which enables our customers to deploy their IT infrastructure more efficiently and reduce their operating and capital costs. As a result of our advanced data center design, high technical specifications and robust operating procedures, we are able to make service level commitments related to service availability and other key metrics that meet our customers' required standards.

We currently serve over 300 customers, including large Internet companies, a diverse community of approximately 140 financial institutions, telecommunications and IT service providers and large domestic private sector and multinational corporations, many of which are leaders in their respective industries. Within our customer base, we host a number of major cloud service providers, including Aliyun, the cloud computing unit of Alibaba, which is present in several of our data centers. Contracts with our large Internet customers typically have terms of three to six years, while contracts with our enterprise customers typically have terms of one to five years. We achieved an average retention rate of over 95% per annum among our Internet and financial institution customers for colocation services in our current data centers over the past two years.

As of June 30, 2016, we operated eight self-developed data centers with an aggregate net floor area of 39,781 sqm in service. We also operated capacity at approximately ten third-party data centers with an aggregate net floor area of 8,767 sqm in service, which we lease on a wholesale basis and use to provide colocation and managed services to our customers. As of the same date, we had a further five new self-developed data centers and one phase of an existing data center with an aggregate net floor area of 31,794 sqm under construction. In addition, we had an estimated aggregate developable net floor area in excess of 20,000 sqm held for future development. Our net revenue and results of operations are largely determined by the degree to which data center space is committed or pre-committed as well as its utilization. We had commitment rates of 76.3%, 87.5% and 90.8% as of December 31, 2014 and 2015 and June 30, 2016, respectively. We had utilization rates of 57.7%, 59.1% and 66.2% as of December 31, 2014 and 2015 and June 30, 2016, respectively. The difference between commitment rate and utilization rate is primarily attributable to customers who have entered into agreements but have not yet started to use revenue generating services.

Our net revenue grew from RMB468.3 million in 2014 to RMB703.6 million (US\$105.9 million) in 2015, representing an increase of 50.2%, and increased from RMB304.8 million in the six months ended June 30, 2015 to RMB447.1 million (US\$67.3 million) in the same period in 2016, representing an increase of 46.7%. Our adjusted EBITDA increased from RMB38.0 million in 2014 to RMB164.7 million (US\$24.8 million) in 2015, and increased from RMB73.8 million in the six months ended June 30, 2015 to RMB100.6 million (US\$15.1 million) in the same period in 2016. Our net loss decreased from RMB130.0 million in 2014 to RMB98.6 million (US\$14.8 million) in 2015. Our net loss increased from RMB47.3 million in the six months ended June 30, 2015 to RMB154.2 million (US\$23.2 million) in the same period in 2016. As of December 31, 2015 and June 30, 2016, our accumulated deficit was RMB582.3 million (US\$87.6 million) and RMB736.5 million (US\$110.8 million), respectively.

Since June 30, 2016, we have entered into agreements or received other confirmations from a number of customers to provide data center services, which, after all final agreements are signed, will lead to an additional area committed of approximately 14,000 sqm.

On September 30, 2016, we entered into a memorandum of understanding with a property development company for the lease of three data center shell buildings to be built-to-suit in phases on a site in the Waigaoqiao Free Trade Zone in close proximity to our existing data centers. Once the built-to-suit lease agreements are finalized, we expect these buildings to provide us with over 30,000 sqm of data center net floor area.

## **Our Strengths**

We believe that the following key competitive strengths differentiate us from other data center service providers in China and position us well to capitalize on the rapid growth in demand for high-performance data center services.

### ***Large-Scale, High-Performance Data Centers Strategically Located in China's Key Markets***

We plan, design and build our data centers to cater to a range of customer requirements with regards to capacity, power density and usage efficiency, redundancy, and numerous other technical specifications.



Many of our customers require: large contiguous net floor area and the ability to expand their presence at the same location; high power capacity, density, and efficiency in order to deploy their IT infrastructure in the most cost effective manner; and high service availability for their mission-critical IT infrastructure, backed up by demanding service level commitments across multiple operating parameters.

We have built our data centers to large-scale. The average net floor area of our self-developed data centers portfolio is approximately 6,000 square meters. In addition, within each market, we have, to the extent possible, strategically grouped our data centers within campuses or clusters so that we are able to provide our customers with conveniently located expansion capacity.

Our self-developed data centers in service and under construction have an average power density of approximately 2.0 kW/m<sup>2</sup>, compared with an average of around 1.0 kW/m<sup>2</sup> for data centers in China built since 2011, according to 451 Research. Our self-developed data centers are mostly designed to achieve 1.5 times power usage effectiveness, or PUE, in stabilized operation, compared with an average of 1.7 times for data centers built from 2011 to mid-2013 in China and a PUE of more than 2.0 times for some older data centers, according to the MIIT. As a result of our advanced data center design, high technical specifications and robust operating procedures, we are able to provide our customers with service level commitments related to service availability and other key metrics up to their required standards.

A large part of the demand for high-performance data center services in China is location-sensitive. Our facilities are strategically located in key markets with the greatest demand from existing and prospective customers. All of our self-developed capacity in service and under construction are located in Shanghai, Beijing, Shenzhen, Guangzhou, and Chengdu where approximately 90% of the market in terms of revenue for high-performance data center services in China was concentrated in 2015, according to 451 Research. Our remaining capacity is mostly located in Hong Kong where we have established a presence through capacity leased from third-parties. Our self-developed data centers are interconnected, which strengthens our value proposition for customers who increasingly seek a multi-market data center footprint from a single service provider.

***First-Mover with a Proven Track Record and Reputation for Operational Excellence***

We were a first-mover in the data center industry in China, having provided data center services since 2001, and have established a 15-year track record of service delivery, successfully fulfilling the requirements of some of the largest and most demanding customers for outsourced data center services in China. We have been involved in providing technically demanding data center-based IT managed services from our inception. We focused initially on providing business continuity and disaster recovery, or BCDR, solutions for financial institutions in response to new regulatory requirements. We have been and continue to be involved in advising various PRC government agencies in setting, and customers in attaining, required standards relating to outsourced data center solutions and services.

The track record and customer relationships which we established as a provider of IT managed services positioned us to expand to data center development. Over time, we have developed expertise across the full spectrum of data center design, construction, commissioning, and operation. We have also continued to expand our managed service offerings to include, more recently, unique and innovative services for managing enterprise hybrid clouds. Our processes, protocols and standards enable us to meet or exceed the demanding performance and quality levels specified in our service level agreements, or SLAs, with the most sophisticated high-end customers. We have been certified ISO9001, ISO20000 and ISO27001 for almost ten years.

***Well-Established and Rapidly Expanding Relationships with Large and Fast Growing Customers***

We focus on serving customers who require high-performance data center capacity in China's primary economic hubs, such as large Internet companies, financial institutions, telecommunications and IT service providers and large domestic private sector and multinational corporations. Our customers include some of

the largest and most demanding users of data centers in China with respect to capacity, power density and usage efficiency, service availability and SLAs, and numerous other technical specifications.

Our Internet customers include some of China's leading Internet companies. As of June 30, 2016, we had over 20,000 sqm net floor area in aggregate committed to the top three Internet companies in China and/or their affiliates across eight of our data centers, including third-party data centers. We believe that large Internet companies house in our data centers the location-sensitive, mission-critical IT infrastructure which supports some of their high growth business activities, such as e-commerce, cloud services, online financial services and online payment services.

We serve a diverse community of approximately 140 PRC and foreign financial institutions across the banking, insurance, asset management, brokerage, digital payment, and financial information verticals. We believe that our 15-year track record of serving financial institutions and deep domain knowledge of their IT operating and compliance requirements have made us the leading outsourced data center provider to the financial services sector.

We have long-standing relationships with all the major PRC telecommunications carriers who are both partners providing network services to our customers and intermediate contracting parties for the sale of colocation services to our customers. We also serve a number of foreign telecommunications and IT service providers.

We believe that our data centers are well-suited for the hosting of cloud platforms due to their large-scale, high power capacity and density, high reliability, extensive network connectivity and strategic location in primary economic hubs. These features enable cloud service providers to deploy their IT infrastructure more efficiently, optimize their IT infrastructure and network performance, and reduce their operating and capital costs. We have succeeded in attracting a number of major cloud service providers to colocate their cloud service platforms in our data centers, including those operated by Aliyun, the cloud computing unit of Alibaba, and by certain of our other large Internet, telecommunications and IT service provider customers. We believe that this established presence in our data centers will attract other cloud service providers, as well as enterprise customers, to colocate in our data centers.

#### ***Large Secured Expansion Capacity and Proven Ability to Source and Develop Additional Data Centers***

There are inherent challenges in China to successfully sourcing and developing large-scale high-performance data centers, including zoning laws, a scarcity of appropriate and sufficiently large sites, access to adequate redundant power supply and high-quality telecommunications connectivity, and the knowledge and know-how associated with designing, building, fitting out and commissioning high-performance facilities.

We have a proven set of skills and procedures that have allowed us to source and develop the data centers we need to grow our business. We have a substantial in-house team dedicated to sourcing, feasibility analysis, technical design, costing and project management. Our team works closely with local government authorities to obtain necessary permits and approvals, with electric utilities to obtain sufficient power infrastructure and supply, and with telecommunications carriers to ensure multi-carrier connectivity to our data centers. We have extensive experience in developing greenfield purpose-built facilities to achieve a high level of performance. We also have the capability to convert existing industrial buildings into data centers without compromising on performance standards. Our diversified approach to sourcing and developing data centers gives us the necessary flexibility to ensure a strong pipeline of high-quality sites for future development.

Over the past five years, we have brought eight self-developed data centers into service with an aggregate net floor area of 39,781 sqm and achieved a 92.8% commitment rate for these facilities as of June 30, 2016. Our growth prospects and ability to service our customers are secured by a strong pipeline of expansion capacity in China's primary economic hubs. As of June 30, 2016, we had five new self-developed data centers and one phase of an existing data center with an aggregate net floor area of

31,794 sqm under construction. In addition, we had entered into leases and development agreements and secured land which could potentially be developed into data centers with an estimated aggregate developable net floor area in excess of 20,000 sqm.

***Unique Value Proposition in Managed Cloud Services that Complements Our Core Colocation Services***

The adoption of cloud computing continues to rise and has become a key element of IT strategy for enterprises globally. We believe that our data centers are well-suited for the hosting of cloud platforms. As a result, we have succeeded in attracting a number of major cloud service providers to colocate their cloud service platforms in our data centers, including those operated by Aliyun, and by certain of our other large Internet, telecommunications and IT service provider customers.

The presence in our data centers of major cloud service providers enables us to offer our enterprise customers efficient and reliable access to the high capacity cloud resources of their choosing. On a reciprocal basis, we are able to assist our cloud service provider customers to access the enterprise customers which are present in our data centers. We believe that this established presence in our data centers creates a network effect which will attract other cloud service providers, as well as additional enterprise customers, to colocate in our data centers.

Large enterprises are increasingly deploying a combination of multiple private, hosted, or public cloud services, a configuration known as hybrid cloud. We expect that hybrid clouds will become increasingly prevalent in China. While this configuration can provide enterprises with greater flexibility, scalability, security and cost efficiency, it also presents new challenges in integrating and operating multiple systems. Leveraging our long track record as a provider of IT managed services, we are developing an innovative service platform to assist our enterprise customers in the management of their hybrid clouds. Our platform, which we refer to as CloudMix, provides a robust management interface enabling enterprises to integrate and control every aspect of their hybrid cloud computing environment across their private servers and one or more public cloud service providers. We also architect cloud-based solutions tailored to the unique requirements of each customer.

We believe that the established presence in our data centers of many high-end enterprise customers and a number of the leading cloud service providers in China, together with the innovative managed cloud services which we offer, is a unique value proposition in the China market.

***Visionary and Experienced Management Team Supported by Sophisticated Strategic Investors***

Our management team consists of entrepreneurs and professionals, all of whom possess in-depth knowledge and expertise in the IT services industry. Our founder, chairman and chief executive officer, William Huang, is a visionary pioneer with 15 years of experience in China's data center industry. Our senior management team has significant experience from previous employment in leading multinational IT service providers.

We also benefit from having major shareholders who provide industry expertise, access to potential customer and supplier relationships, and solid corporate governance guidance. For example, STT GDC Pte. Ltd., or STT GDC, a wholly owned subsidiary of Singapore Technologies Telemedia Pte Ltd, or ST Telemedia, is an experienced and strategic data center player that owns a portfolio of data centers in Singapore, the United Kingdom and China, either directly or through investments in data center operating companies, such as GDS Holdings. Leveraging STT GDC's integrated data center platform, we have access to STT GDC's customer and supplier relationships. We also benefit from STT GDC's platform through knowledge sharing to enhance our technology, operational performance and customer service.

We believe that the support, relationships, industry expertise and corporate governance best practices that come from having sophisticated strategic investors provides us with competitive advantages in our industry.

## Our Strategies

We aim to capitalize on the attractive growth opportunities in the data center services market in China and strengthen our leadership position in the high-performance segment. We intend to achieve our goal by pursuing the following strategies:

### ***Expand Our Unique Portfolio of Strategically Located High-Performance Data Centers***

We will continue to expand our unique portfolio of high-performance data centers in the key markets of Shanghai, Beijing, Shenzhen, Guangzhou and Chengdu so as to address the strong growth in demand. We will continue to grow our presence in Hong Kong by relying initially on capacity at third-party data centers. Where sufficient customer demand exists and contracts can be secured in advance, we may develop data centers in other markets in China. Our approach will take into consideration prevailing demand and utilization trends in each market.

In each of our key markets, our objective is to be in a position to deliver a continuous supply of capacity aligned with the expansion requirements of our existing and prospective customers. We also intend to pursue a strategy of having capacity at two complimentary sites in each key market, so as to better satisfy the location preferences of major customer segments and to offer a dual-site configuration for those customers who require in-market redundancy. In order to enhance our overall portfolio, we intend to upgrade our inter-data center network connectivity so as to strengthen our value proposition for the increasing number of customers who seek a multi-market data center footprint from a single service provider.

We believe that the combination of continuous supply at one or more sites in all of China's key markets, consistent quality standard of facilities and operations across the entire portfolio, and high quality inter-data center connectivity will give us a sustainable competitive advantage.

### ***Pursue Balanced Sourcing Strategy to Maintain Continuous Competitive Supply***

In order to maintain a strong pipeline of expansion capacity, we will leverage our expertise and experience in identifying, sourcing and securing sites in key markets with access to adequate power supply and network connectivity. We will continue to grow our portfolio mainly through the addition of self-developed data centers, and we will use a flexible and varied approach.

Where appropriate greenfield sites can be secured, we may acquire the land and invest in the entire data center real estate ourselves. Alternatively, in order to reduce our capital intensity, we may partner with selected developers for construction of build-to-suit data center shell and core which we will then lease on a long term basis, equip and fit out. Furthermore, given the scarcity of high-quality sites, zoning and other restrictions on development, we will also lease and convert existing industrial buildings into data centers. We carefully select such buildings based on their suitability for use as data centers and have gained significant experience in undertaking conversions in a manner which satisfies our high technical standards. We may also use third-party data centers as a way to enter new markets, as we have done in Hong Kong. We believe our diversified sourcing approach will enable us to maintain a strong supply of data center capacity to meet fast growing customer demand, while ensuring the consistent high-performance level of our facilities and efficient capital allocation.

To further supplement the growth of our business, we intend to prudently pursue acquisitions, investments, alliances or partnerships to secure critical resources, supplement our existing sourcing approach and capture opportunities that are strategically complementary to our operations. We will evaluate potential acquisition opportunities in key data center markets by assessing various factors including geographic location, facility condition, cost, power supply, telecommunications network availability, and compatibility with the needs of our customers.

***Increase Market Share by Attracting New Customers and Leveraging Customer Relationships***

Our strong customer and industry relationships, combined with our data center presence in key markets in each region and direct sales force, afford us insight into the size, timing, and location of future demand. We intend to leverage this insight to increase our share of the rapidly growing market for high-performance data center services in China. We plan to execute this strategy by attracting new customers, increasing our share of spend by upselling more managed services, capturing demand for large-scale capacity from major customers, and creating a network effect around the enterprises and cloud service providers which we host. We will continue to focus relentlessly on operational excellence and superior customer service to sustain our high customer retention rate.

We will expand our customer base by focusing on new customers in fast growing segments, such as online-to-offline, mobile Internet, cloud and IT services, and healthcare, and by providing colocation services and managed services to fit their specific requirements. We will increase our upsell to existing customers by enhancing our managed service offerings, in particular our solutions for accessing cloud resource and managing enterprise hybrid clouds. We will align our resource development plan to capture a high proportion of the growing demand from existing and new customers, including those which require large-scale capacity.

***Capitalize on Rising Adoption of Cloud Computing in China***

We intend to capitalize on the growth of cloud computing in China by attracting cloud service providers as hosting customers and by further developing our managed cloud service offerings with the objective of transforming our data centers into key hubs for accessing cloud resources and hybrid cloud management solutions.

We have constructed our data centers with high power capacity, density and efficiency, and other features which support the deployment of large-scale cloud platforms. We continue to enhance our design and technical specifications for this purpose. We have already succeeded in attracting a number of the largest cloud service providers in China to colocate in our data centers. We aim to attract more cloud service providers by providing an optimal carrier and cloud neutral operating environment and by leveraging the network effect of a growing enterprise end-user and cloud service provider ecosystem. We intend to partner with and support our cloud service provider customers to access the enterprise customers which are present in our data centers. We have established such a partnership with Aliyun, the cloud computing unit of Alibaba, and are pursuing similar partnerships with other existing and prospective cloud service provider customers.

We also intend to become the preferred provider of cloud-related managed services to our enterprise customers. We believe that our track record and expertise as a provider of IT managed services positions us well to capture significant opportunities as our enterprise customers transition from private to outsourced cloud solutions. We will continue to work with our enterprise customers to facilitate this transition by providing cloud-based solutions tailored to their specific requirements. We will also continue to develop our innovative CloudMix service platform to assist our customers to integrate and control every aspect of their hybrid cloud computing environment across their private servers and one or more public cloud service providers.

***Continue to Focus Relentlessly on Operational Excellence and Capital Efficiency***

We will remain at the forefront of the data center industry in China by continuing to set benchmarks for operational excellence. We closely monitor and emphasize measurable operational excellence and remain committed to high SLA fulfillment. We will continue to maintain a high level of customer satisfaction by adopting and automating best-in-class business processes, including further improving our proprietary Data Center Operation Management Platform to provide real-time monitoring and to streamline our data center management processes. We will tailor key performance measures and incentives for our team in order to further enhance productivity and focus on the attainment of our operational goals. We also intend

to attract additional highly skilled employees across various business functions to strengthen our resource acquisition and operations management capabilities to support our business growth.

We adopt a modular approach to the construction of our data centers, fitting out and equipping each data center in phases and making available a range of customized options with regards to redundancy, power density, cooling, rack configuration and other technical specifications. This enables us to tailor our product offering to suit the requirements of individual customers, optimize resource utilization, and maximize capital efficiency. Within each market, we have, to the extent possible, strategically grouped our data centers within campuses or clusters, further allowing for capital-efficient phased expansion. We believe this expansion approach combined with our strong development experience will enable us to better manage the timing and scale of our capital expenditure obligations while reducing risk and improving our return on capital.

#### **Our Business Model and the Data Center Lifecycle**

Our core business operations entail the planning and sourcing of new data center sites, developing such sites, securing customer commitments, providing our colocation services and managed services to customers, and maintaining high levels of service and customer satisfaction to develop and maintain long-term relationships with our customers. We focus on developing and operating what we refer to as high-performance data centers. These are data centers that feature large net floor area, high power capacity, density, and efficiency, and multiple redundancy across all critical systems.

Our strong customer and industry relationships afford us insight into the size, timing, and location of future demand which is reflected in our data center resource development plan. We source new data center resources by: (1) acquiring or leasing property which we develop for use as data center facilities, whether through constructing on greenfield sites or converting existing industrial buildings; (2) leasing existing data center capacity from third-party wholesale providers; and, (3) acquiring high performance data centers from other companies. Regardless of the source of our data center resource, we ensure that the facilities meet the high-performance standards required by our target customers. After procuring greenfield sites or existing buildings for conversion, we design and, through cooperation with developers, contractors, and suppliers, build out the facility to our advanced design and high technical specifications.

We take a modular approach to developing, commissioning, equipping and fitting out of facilities, so that we can cater to a range of customer requirements with regard to redundancy, power density, cooling, rack configuration and other technical specifications. In addition, by taking a modular approach, we are able to phase our capital expenditures related to equipping and fitting out resource in accordance with proven sales demand or contractual delivery commitments to customers.

We commence marketing new data center facilities several quarters prior to completion of construction. We aim to secure pre-commitments from customers for a portion of the area under construction, typically from anchor customers who require large-scale capacity. Through securing such pre-commitments, we are able to reduce investment risk and optimize resource planning. Our contracts provide flexibility to our customers with regard to utilization and the commencement of billing. Anchor customers with large-scale commitments usually move in over 12 to 24 months, whereas enterprise customers usually move in over a period of three to six months. During the period when customers are moving into our data centers, we bill our customers for services based on a fixed amount which is the higher of actual utilization and minimum contractual customer commitments. See "—Contracts Terms and Pricing."

Once data center resource becomes billable, customers are charged a fixed price over the life of the contract for colocation services and managed services. In certain contracts, the customer are also charged for actual power consumed. Area committed is included in area utilized when we commence generating revenue from the customer under the terms of the contract.

For our in-service data centers, we aim to maintain high levels of long-term utilization. As of June 30, 2016, our commitment rate was 90.8% of aggregate net floor area in service, while our utilization rate was 66.2%. The difference between commitment rate and utilization rate reflects the contracts which were still in the process of moving into our data centers. If we secure pre-commitments from customers, particularly large-scale capacity commitments from anchor customers, we expect that our utilization rate will continue to lag our commitment rate due to the longer time taken to move in associated with these types of contracts.

Our business model provides us with high levels of revenue visibility due to the long-term nature of our customer contracts and substantial backlog. We endeavor to provide high levels of customer service, support, and satisfaction so as to maintain long-term customer relationships and high rates of contract renewals for our services. We achieved an average retention rate of over 95% per annum among our Internet and financial institution customers for colocation services in our current data centers over the past two years.

#### Our Data Centers

Our data centers are large-scale, highly reliable and highly efficient facilities that provide a flexible, modular and secure operating environment in which our customers can house, power and cool the computer systems and networking equipment that support their mission-critical IT infrastructure. We install large power capacity, together with engineering technologies to optimize power usage efficiency, enabling our customers to deploy their IT infrastructure more efficiently and reduce their operating and capital costs. Our data centers are located in close proximity to the corporate headquarters and key operations centers of many large enterprises, providing convenient access for our customers, as well as in areas where there are extensive telecommunications networks enabling our customers to enhance the performance and lower the cost of connectivity to our data centers. Our data centers are strategically located in Shanghai, Beijing, Shenzhen, Guangzhou and Chengdu, which are the primary financial, commercial, industrial and communications hubs in each region of China, and where demand is concentrated. We continue to source and secure additional data center resources in China's primary economic hubs.

The following table presents certain information relating to our data center portfolio as of June 30, 2016:

<u>(Sqm, %)</u>	<u>Area</u>	<u>Area under</u>	<u>Area held for</u>
<b>Location</b>	<b>in service</b>	<b>construction</b>	<b>development</b>
Shanghai	20,716	16,121	4,800
Shenzhen	9,936	7,946	5,268
Guangzhou	6,608	—	—
Beijing	8,875	6,177	8,970
Hong Kong	858	—	—
Chengdu	1,555	1,550	3,100
<b>Total</b>	<b>48,548</b>	<b>31,794</b>	<b>22,138</b>
<b>Type</b>			
Self-developed	39,781	31,794	22,138
Third party	8,767	—	—
<b>Total</b>	<b>48,548</b>	<b>31,794</b>	<b>22,138</b>

As of June 30, 2016, our total area committed was 44,614 sqm, of which 44,062 sqm and 552 sqm related to data centers in service and data centers under construction, respectively.

### **Self-developed Data Centers**

As of June 30, 2016, we operated eight self-developed data centers with an aggregate net floor area of 39,781 sqm in service. We also operated capacity at approximately ten third-party data centers with an aggregate net floor area of 8,767 sqm in service, which we lease on a wholesale basis and use to provide colocation and managed services to our customers. As of the same date, we had a further five new self-developed data centers and one phase of an existing data center with an aggregate net floor area of 31,794 sqm under construction. In addition, we had entered into leases and development agreements and secured land which could potentially be developed into data centers with an estimated aggregate developable net floor area in excess of 20,000 sqm.

**High-Performance Features.** Our self-developed data centers generally feature:

- **High Availability.** Our data centers are equipped with redundant delivery paths for power, cooling and other critical systems, sufficient to satisfy or exceed the Tier 3 standard as defined by the Uptime Institute. High availability data centers are suitable for housing mission-critical IT infrastructure. We operate our facilities so as to deliver the levels of service availability required by the most demanding customers.
- **High Power Density.** Our self-developed data centers in service and under construction have an average power density of approximately 2.0 kW/m<sup>2</sup>, compared with an average of around 1.0 kW/m<sup>2</sup> for data centers in China built since 2011, according to 451 Research. High power density enables customers to deploy their IT infrastructure more efficiently and to optimize their IT infrastructure performance.
- **High Power Efficiency.** Our self-developed data centers are designed to achieve high power efficiency, which is expressed coversely by a low PUE ratio. Our self-developed data centers had around 1.5 times PUE in stabilized operation, compared with an average of 1.7 times for data centers built from 2011 to mid-2013 in China and a PUE of more than 2.0 times for some older data centers, according to the MIT. High power efficiency reduces operating costs, for the benefit of our customers and ourselves.

In addition to the high-performance features described above, our data centers provide flexible fit-out, sufficient floor load bearing strength and clear slab-to-slab height to support dense deployment of IT hardware, multiple layers of physical security, early fire detection monitoring and fire suppression systems, diverse connectivity, and other amenities.

This combination of high availability, high power density, high power efficiency and other features enables us to serve the most sophisticated and demanding users of data center services who seek cost efficient solutions for their requirements, without compromise on performance across multiple operating parameters.

**Types of Data Centers.** We have a diversified and flexible approach to developing our data center portfolio. We categorize our data centers into the following two types:

- **Purpose-Built.** Purpose-built data centers are facilities which are designed and constructed specifically for use as data centers. Our purpose-built facilities comprise those that we design ourselves and for which we directly oversee the construction and fit out, as well as certain of the facilities that we lease or have acquired from third-parties. Purpose-built facilities represent approximately 55.8% by aggregate net floor area of our self-developed data centers in service and under construction as of June 30, 2016.
- **Converted.** Conversion involves repurposing existing industrial buildings for use as data centers. We undertake conversions in order to fulfill demand where time-to-market and site opportunity do not allow us to purpose-build. We carefully select such buildings based on their suitability for use as data centers. We design and construct to the same high technical specifications as our purpose-built



data centers, so as to ensure that the end-product is of a comparable standard. Converted facilities represent approximately 44.2% by aggregate net floor area of our self-developed data centers in service and under construction as of June 30, 2016.

**Data Center Tenure.** We hold our data centers either through direct ownership or lease. In China, land cannot be owned outright, but is secured through land use rights. For self-developed data centers that we own, we have rights to use the underlying land for up to 45 years, which is close to the longest permissible period, plus ownership of the buildings and other fixed assets comprising the data center. For self-developed data centers that we lease, we enter into long-term leases with the owners of the building for periods of ten to twenty years, which is the longest permitted lease period under PRC law. For third-party data centers where we lease capacity on a wholesale basis, we typically enter into leases for fixed terms of three to ten years.

**Stage of Development.** We categorize our data centers, and the corresponding net floor area, according to the following stages of development:

- **In Service.** Data centers are categorized as in service once the construction of the building is complete, critical systems have been installed, the facility has passed rigorous integrated system testing, and one or more modules have been equipped and fitted out ready for utilization by customers. Once this stage has been reached, we categorize the net floor area of the data center as area in service, including the net floor area which may require additional capex for equipping and fitting out prior to utilization by customers.
- **Under Construction.** Data centers are categorized as under construction once we have secured control of the site, obtained the necessary construction and other permits, established the design, and building and engineering works are in progress. Where we successfully secure pre-commitments from customers, we calculate pre-commitment rate based on the area under construction.
- **Held for Future Development.** Area held for future development consist of the estimated data center net floor area that we expect to be able to develop on land which we have secured, at buildings which we have constructed or leased and pursuant to development or lease agreements we have entered into, but which, in each case, are not under construction. The developable net floor area estimates are subject to a number of contingencies and uncertainties.

**Self-Developed Data Centers in Service:** The following table sets forth additional details concerning our portfolio of self-developed data centers in service as of June 30, 2016:

	Shanghai			Shenzhen		Guangzhou	Beijing	Chengdu
	KS1	SH1	SH2	SZ1	SZ2	GZ1	BJ1	CD1 (Phase 1) <sup>(3)</sup>
Date ready for service (HHYY)	2H10	2H11	2H15	2H14	1H16	1H16	2H15	1H11
Type	Purpose-built	Purpose-built	Purpose-built	Converted	Converted	Converted	Converted	Purpose-built
Tenure	Owned	Leased	Leased	Leased	Leased	Leased	Leased	Owned
Area in service	6,546	6,432	7,712	4,281	4,308	6,608	2,344	1,550
Area committed	6,519	6,028	7,168	4,268	3,446	6,608	2,344	526
Commitment rate <sup>(1)</sup>	100%	94%	93%	100%	80%	100%	100%	34%
Area utilized	5,816	4,832	3,329	4,268	1,771	3,777	1,009	214
Utilization rate <sup>(2)</sup>	89%	75%	43%	100%	41%	57%	43%	14%

(1) The ratio of area committed to area in service.

(2) The ratio of area utilized to area in service.

(3) We are developing our CD1 data center in phases. The categorization of data centers by stage of development is applied to each phase of CD1 development.

As of June 30, 2016, we had invested an aggregate RMB2,422.1 million (US\$364.5 million) in our data centers in service and expect to invest an additional RMB118.6 million (US\$17.8 million) to achieve full ramp-up in these data centers.

*Self-Developed Data Centers Under Construction.* The following data table presents certain information relating to our self-developed data centers under construction as of June 30, 2016:

	Shanghai		Shenzhen		Beijing	Chengdu
	SH3	SH4	SZ3	SZ4 (Phase 1) <sup>(2)</sup>	BJ2	CD1 (Phase 2) <sup>(2)</sup>
Estimated date ready for service (HHYY)	2H16	2H17	2H16	1H17	1H17	2H16
Type	Purpose-built	Purpose-built	Converted	Converted	Converted	Purpose-built
Tenure	Leased	Leased	Leased	Leased	Leased	Owned
Area under construction	7,911	8,210	2,678	5,268	6,177	1,550
Area pre-committed	0	0	552	0	0	0
Pre-commitment rate <sup>(1)</sup>	0%	0%	21%	0%	0%	0%

(1) The ratio of area pre-committed divided by the area under construction.

(2) We are developing our SZ4 and CD1 data centers in phases. The categorization of data centers by stage of development is applied to each phase of SZ4 and CD1 development.

As of June 30, 2016, we had invested RMB145.8 million (US\$21.9 million) in our data centers under construction and expect to invest an additional RMB1,887.6 million (US\$284.0 million) to complete construction and ramp-up in these data centers.

*Self-Developed Data Center Resources Held for Future Development.* We have also secured data center resources that we classify as held for future development. We have entered into leases and development agreements or secured land which could potentially be developed into data centers with an estimated aggregate developable net floor area in excess of 20,000 sqm. We are developing SZ4 and CD1 data centers in phases. The categorization of data centers by stage of development is applied to each phase of SZ4 and CD1 development. Self-developed data center resources held for future development include: (1) SZ4 (Phase 2), a building in Shenzhen which we have leased and which we are developing in two phases; (2) a site in Beijing for a purpose-built facility that is subject to the local power bureau relocating overhead power supply lines which affect the use of the site; (3) a site in Kunshan for which we have secured land use rights; and (4) CD1 (Phase 3), a building in Chengdu which we own and which we are developing in three phases.

In April 2016, we entered into a memorandum of understanding with a third party in respect of a potential acquisition of a data center and paid a deposit of RMB15.0 million (US\$2.3 million) to the third party. The final purchase price and other major terms of the acquisition have not yet been agreed, as negotiations are at an early stage and due diligence has not been completed. If the acquisition is not consummated within 12 months of the date of the memorandum of understanding, RMB5.0 million (US\$0.8 million) of the deposit amount will be refunded to us and the remainder will be forfeited.

### Third-party data centers

In addition to operating and providing services in our self-developed data centers, we also provide data center services with respect to net floor area that we lease from third-party data center providers on a wholesale basis and use to provide colocation and managed services to our customers. As of June 30, 2016, we operated capacity at approximately ten third-party data centers with an aggregate net floor area of 8,767 sqm in service.

The third-party data centers where we lease capacity on a wholesale basis were not purpose-built or converted according to our design and technical specification. However, on a selective basis, we may carry

out improvement work at third-party data centers in order to attain the performance levels required to serve our customers. In particular, one of our third-party data centers is a facility in which we leased increasing amounts of space over time, so that we now lease the entire data center. As we accumulated leased data center space in the data center over time, and we never conducted any comprehensive conversion or repurposing of the facility, we continue to categorize that data center as a third-party data center.

#### ***Lease Agreements Relating to Our Data Centers***

We enter into leases in connection with our self-developed data centers. In addition, certain third-party data centers in which we lease capacity on a wholesale basis are subject to property lease agreements. Under relevant PRC laws and regulations, lease agreements are required to be registered or filed with the relevant housing authorities. Among the data centers that we lease, including those under construction, a majority of the lease agreements have not been filed with relevant authorities in accordance with the applicable PRC laws and regulations. The failure to register or file the lease will not affect the legal validity of the lease agreements but may subject us to fines. In order to address the situations where the relevant leases have not been registered by the lessors, we have communicated with the relevant lessors with regard to completing the registration of the relevant lease agreements to the extent practicable. However, there is no guarantee that the lessors will respond to our requests or take remedial action with regard to the lack of registration and filing, and we, or the third-party lessors, may be liable if timely rectifications are not made. A portion of any such losses will be recoverable from the lessors according to the terms of certain of the lease agreements. See "Risk Factors—Risk Factors Relating to Our Business and Industry—Our failure to comply with regulations applicable to our leased data centers may materially and adversely affect our ability to use such data centers."

#### **Our Services**

We offer a broad range of services including colocation services and managed services, which includes managed hosting services and managed cloud services. We also provide certain other services, including consulting services.

#### ***Colocation Services***

We offer our customers a highly secure, reliable and fault-tolerant environment in which to house their servers and related IT equipment. Our core colocation services primarily comprise the provision of critical facilities space, customer-available power, racks and cooling. Our customers have several choices for hosting their servers, networking and storage equipment. They can place their equipment in a shared or private space that can be customized to their requirements. We offer a variety of power options to suit individual customer requirements, including high power density racks. In some instances, colocation customers will request that we provide IT equipment for their use in our data centers. In such cases, we will sell such IT equipment to the colocation customer.

#### ***Managed Services***

***Managed Hosting Services.*** Our managed hosting services comprise a broad range of value-added services, covering each layer of the data center IT value chain. Our suite of managed hosting services includes business continuity and disaster recovery, or BCDR, solutions, network management services, data storage services, system security services, operating system services, database services and server middleware services. Our managed hosting services are tailored to meet the specific objectives of individual customers. We help our customers reduce their costs, re-engineer existing processes, improve the quality of service delivery and realize a better return on their investment.

Our network management services help our customers to design and maintain their private network systems. Our data storage services provide storage architecture design and customization for specific requirements. Our system security services include identity and access control, firewall management, intrusion protection and vulnerability protection services. Our operating system services provide pro-active administration, management, monitoring and reporting across a wide range of operating systems. Our database services provide database customization and performance tuning operation, administration and monitoring services across a range of database platforms. Our server middleware services provide customization and performance tuning services across a range of platforms. We also offer consulting services for customers who request additional know-how and guidance relating to disaster recovery and other aspects of our managed hosting services. Our managed hosting services are provided on a continuous basis over the term of the contract.

**Managed Cloud Services.** The adoption of cloud computing continues to rise and has become a key element of IT strategy for enterprises globally. We believe that our data centers are well-suited for the hosting of cloud platforms. As a result, we have succeeded in attracting a number of major cloud service providers to colocate their cloud service platforms in our data centers, including those operated by Aliyun, the cloud computing unit of Alibaba, and by certain of our other large Internet, telecommunications and IT service provider customers.

The presence in our data centers of major cloud service providers enables us to offer our enterprise customers efficient and reliable access to the high capacity cloud resources of their choosing. On a reciprocal basis, we are able to assist our cloud service provider customers to access the enterprise customers which are present in our data centers. We believe that this established presence in our data centers creates a network effect which will attract other cloud service providers, as well as additional enterprise customers, to colocate in our data centers.

Large enterprises are increasingly deploying a combination of multiple private, hosted, or public cloud services, a configuration known as hybrid cloud. We expect that hybrid clouds will become increasingly prevalent in China. While this configuration can provide enterprises with greater flexibility, scalability, security and cost efficiency, it also presents new challenges in integrating and operating multiple systems. Leveraging our long track record as a provider of IT managed services, we are developing an innovative service platform to assist our enterprise customers in the management of their hybrid clouds. Our platform, which we refer to as CloudMix, provides a robust management interface enabling enterprises to integrate and control every aspect of their hybrid cloud computing environment across their private servers and one or more public cloud service providers. We also architect cloud-based solutions tailored to the unique requirements of each customer. In addition, as part of our managed cloud services we also offer consulting services for customers who request additional know-how and assistance concerning the implementation of cloud-based solutions, such as migration from physical to cloud-based hosting.

#### **Data Center Sourcing and Development**

We believe that the size, location, and quality of our facilities are key to maintaining our competitiveness. We apply the same rigor to the process of sourcing, design and construction as we do to our operations. We have a substantial in-house team dedicated to sourcing, feasibility analysis, technical design, costing and project management. The process is comprised of the following steps:

- **Planning and Sourcing.** Our strong customer and industry relationships, combined with our data center presence in key markets in each region and direct sales force, afford us insight into the size, timing, and location of future demand. We incorporate this insight into a multi-year resource plan for each of the key markets. Our in-house team begins sourcing potential sites up to three or more years in advance of planned delivery. We seek to secure sites both in close proximity to central business districts or to areas where there is a concentration of enterprise operations centers so as to satisfy the location preferences of our target customer segments. We consider both greenfield

sites when available, and also existing industrial buildings suitable for conversion. We require security of tenure for a minimum of ten years. Our team works closely with local government authorities to obtain necessary permits and approvals, with electric utilities to obtain sufficient power infrastructure and supply, and with telecommunications carriers to ensure multi-carrier connectivity to our data centers. We generally seek to secure sites that can support a net floor area of at least 5,000 square meters per data center building and sufficient power capacity to fulfill the requirements of the customer segments which we expect to serve in the facility.

- *Design and Construction.* We undertake the technical design, specification and costing in-house as we believe that these are important to ensuring the data center meets our strategic requirements. This also enables us to achieve a level of design standardization. We continuously study new engineering and technologies to maintain an advanced design. Our in-house team also takes responsibility for construction project management, which includes scheduling, vendor selection, procurement, budget control and cost analysis, and quality supervision and assurance. We believe that these elements are important to ensuring the project is completed on time, within budget and to the required quality standard.
- *Commissioning and Fit Out.* After the shell and core of a building are completed, we work with our contractors and suppliers to make the data center ready for service, or RFS. This involves: (1) obtaining necessary operating permits and approvals; (2) equipping and fitting out the critical facilities area for utilization by customers; and, (3) pre-operational testing, also referred to as commissioning, to ensure that the facility is fully functioning and capable of providing the required service levels. We have a team dedicated to testing and commissioning before operations commence.

## Operations

We have separate teams for data center operations and service delivery. Our data center operations team is responsible for directing, coordinating and monitoring the daily operation of our data center facilities. Our service delivery team is responsible for delivery of the services which we provide to customers on a 24/7 basis. Our teams are deployed in regional operations centers, as well as on site, in order to provide two layers of management and support.

We undertake in-house all technical functions which impact data center performance, including floor planning, equipment lifecycle management, optimizing data center efficiency, surveillance of the critical facilities environment and network performance, incident response management and rectification. We also undertake in-house all activities which have a direct bearing on customers, including support for set up of customer IT equipment, remote hands services, outsourced IT operations, incident and compliance reporting, and response to customer requests.

We have developed a proprietary Data Center Operation Management Platform which provides real-time information on many aspects of data center operating performance and enables us to streamline our data center management processes. We also have developed robust operating procedures, protocols and standards which enable us to meet or exceed the performance and quality levels specified in our service level agreements, or SLAs, with the most sophisticated customers. We have been certified ISO9001, ISO20000 and ISO27001 for almost 10 years. We believe that our standard of data center operations, which reflects our history and culture as an IT service provider, set us apart from many data center service providers in China.

## Our Customers

We consider our customer to be the end user of our data center services. We may enter into contracts directly with our end user customer or through an intermediate contracting party. We have long-standing relationships with all the major PRC telecommunications carriers who are both partners providing network

services to our customers as well as intermediate contracting parties for the sale of colocation services to our customers. Because we negotiate with, maintain and support each of the end users of our services, even where the actual data center contract is made with the telecommunications carrier, we consider the end user to be our end customer. The end user customer generally has separate decision-making authority and a services procurement budget that is distinct from that of the telecommunications carriers with whom we contract.

We currently serve over 300 customers, including large Internet companies, a diverse community of approximately 140 PRC and foreign financial institutions as well as telecommunications and IT service providers and large domestic private sector and multinational corporations, many of which are leaders in their respective industry verticals. Within our customer base, we host a number of major cloud service providers, including Aliyun, the cloud computing unit of Alibaba, which is present in several of our data centers.

Our Internet and financial institution end user customers accounted for 63.1% and 18.7% of our total area committed as of June 30, 2016. Our two largest end user customers accounted for 34.3% and 12.8%, respectively, of our total area committed as of June 30, 2016. No other end user customer accounted for 10% or more of our total area committed as of that date.

We endeavor to establish strategic relationships with key customers, particularly large Internet companies and cloud service providers who have large data center capacity requirements and who can help enhance the value of our data center ecosystem.

#### **Contract Terms and Pricing**

Pricing in our contracts is for a fixed amount which usually includes a stated amount of space, power commitment and other bundled services. Power commitment means the right to use a stated amount of power. Pricing is generally flat over the contract term but subject to adjustments when power tariffs change. Where power tariffs change, we adjust the pricing to reflect the change in power cost going forward. For some customers, we charge for actual power consumed.

A substantial majority of our customer contracts are multi-year contracts. Contracts for our large Internet customers typically have terms of three to six years, while contracts with our enterprise customers are for between one to five years. Our typical service contract provides a notice period of one to six months for early termination, and in certain cases, we are entitled to a substantial amount of early termination damages equivalent to up to 12 months' service fee, in addition to payment for our services already provided before such early termination.

#### **Sales and Marketing**


*Sales.* Our sales activities are mainly conducted through our direct sales force. We organize our direct sales force into four geographic regions, Northern China, Southern China, Eastern China and Western China. We incentivize our sales force to meet their annual targets through performance-based bonuses. For new customers, our sales cycle typically begins with creating a sales plan for a particular region or industry and then identifying new customers in these regions or industries. We also receive referrals from our vendors and other relationships, and often our reputation attracts customers to our services without any directed sales efforts. For our existing customers, our sales team focuses on identifying upsell opportunities.

Many of our customer contracts are won through a competitive bidding process. For new customers, the bidding process begins with evaluation of the potential customer's requirements. We formulate a service proposal based on these requirements. Our team representing multiple departments prepares a proposal to meet the required service scope and level. We negotiate the contract and service details.

*Marketing.* To support our sales effort and to actively promote our brand, we conduct wide-ranging marketing programs. Our marketing strategies include active public relations and ongoing customer

communications programs. We participate in a variety of IT industry and financial services industry conferences and workshops to raise awareness about the value of data center services. We also build our brand recognition by participating in industry and government workshops and industry standard-setting bodies, such as the China National Institute of Standardization Committee on Disaster Recovery for Information Systems.

### Technology and Intellectual Property

We rely on a combination of copyright, trademark, trade secrets and other intellectual property laws, nondisclosure agreements and other measures to protect our intellectual property, such as our proprietary storage and management system, for which we have registered a copyright. We also promote protection through contractual prohibitions, such as requiring our employees to enter into confidentiality and non-compete agreements which are applicable to selected employees. We derive most our revenues in China and use , our figure trademark, in a majority of our services. We have registered or are in the process of registering the figure trademark in China in several categories that cover our service areas. A third party has also registered the pure text of "GDS" as a trademark in certain IT-related services. It is our belief, based on our industrial experience, that our business is different from the services for which the third party registered its trademark. Nevertheless, since the services for which the third party trademark is registered are also IT-related and could be deemed as similar to ours to some extent, we cannot assure you that a government authority or court will hold the same view with us that such similarity will not cause confusion in the market. In such a case, if we are to use the pure text of GDS as our trademark, we may be required to explore the possibility of acquiring this trademark, or entering into an exclusive licensing agreement with the third party, which will cause us to incur additional cost. See "Risk Factors—Risk Factors Relating to Our Business and Industry—We may be subject to third-party claims of intellectual property infringement."

### Competition

We offer a broad range of data center services and, as a result, we may compete with a wide range of data center service providers for some or all of the services we offer.

We face competition from the state-owned telecommunications carriers, namely China Telecom, China Unicom and China Mobile. As of December 31, 2015, these carriers had a 59% share in aggregate of the high performance data center services market in China based on area committed according to 451 Research. One of the main purposes for which these carriers develop data centers is in order to facilitate the sale of related telecommunications services. In locations outside of the key economic hubs, these three carriers may sometimes be the only available provider of data center services. We distinguish ourselves from these carriers because we are carrier-neutral, enabling our customers to connect within our facilities with all three carriers based on their cost and/or network and application requirements. We compete on the basis of our data center quality, operating track record and differentiated managed and cloud service capabilities. Although we compete with carriers for colocation customers, our customers also rely on the connectivity that carriers provide. We believe that we also have a mutually beneficial relationship with these carriers since our data center services often help carriers attract more customers for their telecommunications services.

We also compete with other carrier-neutral data center service providers, including:

- *Domestic carrier neutral data center service providers.* We compete with domestic carrier-neutral data center service providers with a presence in some or all of our markets, such as Sinnet, Dr. Peng and 21Vianet. We believe that we are well positioned in terms of our operational track record and our ability to: deliver high-performance data center services in all key markets; maintain consistently high facility and service quality; continue capacity expansion in all key markets to accommodate

growing demand; and provide differentiated managed service offerings with a unique value proposition.

- *International carrier neutral data center service providers.* We compete to a lesser extent with foreign carrier-neutral data center service providers such as Equinix, KDDI and NTTCom, each of which has a presence in Shanghai and/or Beijing and primarily serve their international customers. We believe that we distinguish ourselves by our larger capacity and more extensive market presence across the key economics hubs in China, deep operating knowledge and long track record in the China market, and long-term relationships with the telecommunications carriers.

#### Employees and Training

We had 461, 617 and 605 employees as of December 31, 2014 and 2015 and June 30, 2016, respectively. The following table sets forth the number of our employees by function as of June 30, 2016:

	Number of Employees	% of Total
Colocation services	318	52.5%
Managed services	119	19.7%
Sales and marketing	67	11.1%
Management, finance and administration	101	16.7%
Total	<u>605</u>	<u>100.0%</u>

To maintain the highest level of service, employee training and certification is essential to ensure that our employees meet and exceed industry requirements. Many of our engineering employees have received training and certifications from globally-recognized IT service organizations, such as IBM AS/400 certifications.

We pay most of our employees a base salary and performance-based bonuses and provide welfare and other benefits required by law. In addition, we plan to provide some of our employees with stock option to align their interests more closely with our shareholders. We believe that our compensation and benefits packages are competitive within our industry. We have not had any labor disputes that materially interfered with our operations and we believe that our employee relations are good.

We also outsource certain operations, primarily on-site security, to reputable third-party service providers. As of June 30, 2016, we used the services of approximately 220 such personnel.

#### Facilities

Our headquarters are located at 2/F, Tower 2, Youyou Century Place, 428 South Yanggao Road, Pudong, Shanghai 200127, People's Republic of China. We have additional offices in Beijing, Suzhou, Shenzhen and Chengdu.

Our offices are located on leased premises totaling approximately 2,900 sqm across China. We lease our office premises from unrelated third parties.

#### Insurance

We have in place insurance coverage up to a level which we consider to be reasonable and which covers the type of risks usually insured by companies on the same or similar types of business as ours in China. Our insurance broadly falls under the following four categories: business interruption for lost profits, property and casualty, public liability, and commercial employee insurance.

#### Legal Proceedings

We may become subject to legal proceedings, investigations and claims incidental to the conduct of our business from time to time. We are not currently a party to, nor are we aware of, any legal proceeding, investigation or claim which, in the opinion of our management, is likely to have a material adverse effect on our business, financial condition or results of operation.



## REGULATIONS

This section sets forth a summary of the material laws and regulations or requirements that affect our business activities in China or the rights of our shareholders to receive dividends and other distributions from us.

Our Internet data center businesses are classified as value-added telecommunication businesses by the PRC government. Current PRC laws, rules and regulations restrict foreign ownership in value-added telecommunication services. As a result, we operate our Internet data center businesses through our consolidated VIEs, each of which is owned by PRC citizens and certain of which hold the licenses associated with these businesses. As the development of the Internet and telecommunications industry in China is still evolving, new laws and regulations may be adopted from time to time that will require us to obtain additional licenses and permits in addition to those that we currently have, and to address new issues that arise from time to time. As a result, substantial uncertainties exist regarding the interpretation and implementation of current and future Chinese laws and regulations applicable to the data center services industry. See "Risk Factors—Risk Relating to Doing Business in the People's Republic of China."

### Regulation on Foreign Investment Restrictions

Investment activities in the PRC by foreign investors are principally governed by the Industry Catalog Relating to Foreign Investment, or the Catalog, which was promulgated and is amended from time to time by the Ministry of Commerce and the National Development and Reform Commission. The Catalog divides industries into three categories: encouraged, restricted and prohibited. Industries not listed in the Catalog are generally deemed as constituting a fourth "permitted" category and open to foreign investment unless specifically restricted by other PRC regulations. Industries such as value-added telecommunication services, including Internet data center services, are restricted to foreign investment.

According to the *Administrative Regulations on Foreign-Invested Telecommunications Enterprises* issued by the PRC State Council on December 11, 2001 and amended on September 10, 2008 and February 6, 2016 respectively, foreign-invested value-added telecommunications enterprises must be in the form of a Sino-foreign equity joint venture. The regulations restrict the ultimate capital contribution percentage held by foreign investor(s) in a foreign-invested value-added telecommunications enterprise to 50% or less and require the primary foreign investor in a foreign invested value-added telecommunications enterprise to have a good track record and operational experience in the VATS industry.

In July 2006, the MIIT issued the *Circular of the Ministry of Information Industry on Strengthening the Administration of Foreign Investment in Value-added Telecommunications Business*, or the MIIT Circular, according to which, a foreign investor in the telecommunications service industry of China must establish a foreign invested enterprise and apply for a telecommunications businesses operation license. The MIIT Circular further requires that: (i) PRC domestic telecommunications business enterprises must not, through any form, lease, transfer or sell a telecommunications businesses operation license to a foreign investor, or provide resources, offices and working places, facilities or other assistance to support the illegal telecommunications services operations of a foreign investor; (ii) value-added telecommunications business enterprises or their shareholders must directly own the domain names and trademarks used by such enterprises in their daily operations; (iii) each value-added telecommunications business enterprise must have the necessary facilities for its approved business operations and to maintain such facilities in the regions covered by its license; and (iv) all VATS providers are required to maintain network and Internet security in accordance with the standards set forth in relevant PRC regulations. If a license holder fails to comply with the requirements in the MIIT Circular and cure such non-compliance, the MIIT or its local counterparts have the discretion to take measures against such license holder, including revoking its value-added telecommunications business operation license.

In light of the above restrictions and requirements, we conduct our value-added telecommunications businesses through our consolidated VIEs.

## Regulations Related to Value-Added Telecommunications Business

Among all of the applicable laws and regulations, the *Telecommunications Regulations of the People's Republic of China*, or the Telecom Regulations, promulgated by the PRC State Council in September 2000 and amended on July 29, 2014 and February 6, 2016 respectively, is the primary governing law, and sets out the general framework for the provision of telecommunications services by domestic PRC companies. Under the Telecom Regulations, telecommunications service providers are required to procure operating licenses prior to their commencement of operations. The Telecom Regulations distinguish "basic telecommunications services" from "VATS." VATS are defined as telecommunications and information services provided through public networks.

The Telecom Catalogue, was issued as an attachment to the Telecom Regulations to categorize telecommunications services as either basic or value-added. In February 2003 and December 2015, the Catalogue was updated respectively, categorizing online data and transaction processing, on-demand voice and image communications, domestic Internet virtual private networks, Internet data centers, message storage and forwarding (including voice mailbox, e-mail and online fax services), call centers, Internet access and online information and data search and etc. as VATS. The "internet data center" business is categorized as a value-added telecommunications business and is defined under the Telecom Catalogue as a business that (i) uses relevant infrastructure facilities in order to render outsourcing services for housing, maintenance, system configuration and management services for clients' Internet or other network related equipment such as servers, (ii) provides the leasing of equipment, such as database systems or servers, and the storage space housing the equipment and (iii) provides lease agency services of connectivity lines and bandwidth of infrastructure facilities and other application services. Also, Internet resources collaboration services business is incorporated into the definition of internet data center business under the 2015 Telecom Catalogue (which took effect from March 1, 2016), and defined as "the data storage, Internet application development environment, Internet application deployment and running management and other services provided for users through Internet or other networks in the manners of access at any time and on demand, expansion at any time and coordination and sharing, by using the equipment and resources built on database centers".

On March 1, 2009, the MIIT promulgated the *Administrative Measures for Telecommunications Business Operating License*, or the Telecom License Measures, which took effect on April 10, 2009. The Telecom License Measures set forth the types of licenses required to provide telecommunications services in China and the procedures and requirements for obtaining such licenses. With respect to licenses for value-added telecommunications businesses, the Telecom License Measures distinguish between licenses for business conducted in a single province, which are issued by the provincial-level counterparts of the MIIT and licenses for cross-regional businesses, which are issued by the MIIT. The licenses for foreign invested telecommunications business operators need to be applied with MIIT. An approved telecommunications services operator must conduct its business in accordance with the specifications stated on its telecommunications business operating license. Pursuant to the Telecom License Measures, cross-regional VATS licenses shall be approved and issued by the MIIT with five-year terms.

On December 1, 2012, the MIIT issued the *Circular of the Ministry of Industry and Information Technology of the People's Republic of China on Further Standardizing the Market Access-related Work for Businesses Concerning Internet Data Centers and Internet Service Providers* which clarifies the application requirements and verification procedures for the licensing of IDC and internet service provider, or ISP, businesses and states that entities intending to engage in the IDC or ISP business could apply for a license since December 1, 2012.

On May 6, 2013, the Q&A was published on the website of China Academy of Telecom Research. The Q&A, although not an official law or regulation, is deemed by the market as a guideline in practice which reflected the attitude of MIIT as to the application for VATS licenses, especially as to IDC services.

To comply with the above restrictions and requirements, GDS Beijing has obtained cross-regional value added telecommunications license which permits it to provide data center services across six cities in China: Beijing, Chengdu, Shanghai, Shenzhen, Suzhou and Guangzhou, and GDS Shanghai has obtained cross-regional telecommunications license which permits it to provide data center services across five cities in China: Beijing, Chengdu, Shanghai, Shenzhen and Suzhou.

#### **Regulations Related to Information Technology Outsourcing Services Provided to Banking Financial Institutions**

On June 4, 2010, China Banking Regulatory Commission, or the CBRC, issued the *Guidelines on the Management of Outsourcing Risks of Banking Financial Institutions*, or the Guidelines, which requires that the banking financial institutions should manage risks in relation to outsourcing services, and thus, outsourcing services providers should meet the relevant standards and requirements with respect to their technical strength, service capacity, emergency response capacity, familiarity to the banking industry and etc., to pass the due diligence investigations conducted by the banking financial institutions pursuant to the Guidelines, and should also make commitments as to fulfilling reporting, cooperating, or other obligations as may be required by the banking financial institutions under the Guidelines.

On February 16, 2013, the CBRC issued the *Circular of the China Banking Regulatory Commission on Printing and Distributing the Guidelines for the Regulation of Information Technology Outsourcing Risks of Banking Financial Institutions*, or Circular 5. According to Circular 5, the CBRC is responsible for supervising banking financial institutions in their access management of information technology outsourcing service providers, organizing relevant banking financial institutions to establish service management records for such service providers, and conducting risk assessment and rating of them. For the outsourcing services providers, including those that are engaged in providing outsourcing services of system operation and maintenance, such as outsourcing of operation and maintenance of data centers, disaster recovery centers, machine room ancillary facilities, and etc., a banking financial institution shall submit a report to the CBRC or the local CBRC office 20 business days before entering into an outsourcing contract, and the CBRC or the local CBRC office may take measures, such as risk alert, interview or regulatory inquiry, for outsourcing risks of the banking financial institution. Outsourcing service providers may not subcontract material services to others. In certain circumstances, including, among others, where the outsourcing service provider (i) commits a serious violation of applicable PRC laws, regulations or regulatory policies, (ii) fails to make rectification within prescribed time period for identified defects or insufficiency in service, (iii) engages in repeated occurrences of service interruption of important information systems or data destruction, loss or divulgence due to such service provider's negligence in management, (iv) provides low quality services which causes losses to multiple banking financial institutions, and fails to make rectification after being warned repeatedly, or (v) there is an occurrence of other severe information technology risk incident as determined by the CBRC, the CBRC may prohibit the banking financial institutions from engaging the services of such outsourcing service provider for a period of at least two years, and such prohibition period may be extended if such outsourcing service provider has not made rectification within two years.

In addition, the CBRC promulgated the *Notice of the General Office of China Banking Regulatory Commission on Strengthening the Management of Risks Involved in the Offsite and Centralized Information Technology Outsourcing of Banking Financial Institutions* on July 1, 2014, and the *Circular of the General Office of the China Banking Regulatory Commission on Performing Supervision over and Evaluation on Offsite and Centralized Information Technology Outsourcing of Banking Financial Institutions* on December 2, 2014. Pursuant to these regulations, in order to further administrate and supervise the offsite and centralized information technology outsourcing provided by the outsourcing services providers to the banking financial institutions, the CBRC requires the contracts between the outsourcing services providers and the banking financial institutions specify, among other things, that outsourcing services providers should comply with the laws and regulations and other regulatory requirements, and accept the supervision and review as conducted by the CBRC. Outsourcing service providers can voluntarily apply to CBRC to

incorporate their services into the supervision and evaluation scope of CBRC and such service providers, if they pass the inspection of CBRC, may have priority in being selected to provide outsourcing services to banking financial institutions. However, failure to comply with these regulatory requirements and other incidents, including, among others, (i) violation of applicable PRC laws, regulations or regulatory policies, (ii) failure to make rectification within the prescribed time period for identified defects or insufficiency in services, (iii) repeated occurrences of service interruption of important information systems or data destruction, loss or divulgence due to the service provider's negligence in management, (iv) low quality services which cause losses to multiple banking financial institutions, or breaches of undertakings or obligations pertinent to such application to CBRC, and failure to make rectification after repeated warning, or (v) complaints from three or more banking financial institutions about negligence in management or low service quality, would cause such outsourcing services providers to be disqualified for incorporating their services into the supervision and evaluation scope of CBRC, and CBRC will not accept their applications for incorporating their outsourcing services into its supervision and evaluation scope within five years. Banking financial institutions are required to gradually terminate their cooperation with any such disqualified service providers.

#### **Regulations Related to Land Use Rights and Construction**

On June 11, 2003, the Ministry of Land and Resources, or the MLR promulgated the *Regulation on Grant of State-owned Land Use Rights by Agreement*, which became effective on August 1, 2003. According to such regulation, the land use rights (excluding land use rights used for business purposes, such as commercial, tourism, entertainment and commodity residential properties) may be granted by way of agreement. The local land bureau and the intended user will negotiate the land premium which shall not be lower than the minimum price approved by the relevant government and enter into the grant contract. Upon signing of the contract for the grant of land use rights, the grantee is required to pay the land premium pursuant to the terms of the contract and the contract is then submitted to the relevant local land bureau for the issue of the land use right certificate. Upon expiration of the term of grant, the grantee may apply for renewal of the term. Upon approval by the relevant local land bureau, a new contract shall be entered into to renew the grant, and a grant premium shall be paid.

If two or more entities are interested in the land use rights proposed to be granted, such land use rights shall be granted by way of tender, auction or putting up for bidding. Furthermore, according to the *Rules Regarding the Grant of State-owned Land Use Rights by Way of Tender, Auction and Listing-for-Sale*, or the Land Use Grant Rules, which are effective from July 1, 2002, land use rights for properties for commercial use, tourism, entertainment and commodity residential purposes can only be granted through tender, auction and listing-for-sale.

After land use rights relating to a particular area of land have been granted by the State, unless any restriction is imposed, the party to whom such land use rights are granted may transfer (for a term not exceeding the term which has been granted by the State), lease or mortgage such land use rights on the conditions provided by laws and regulations. Upon a transfer of land use rights, all rights and obligations contained in the contract pursuant to which the land use rights were originally granted by the State are assigned from the transferor to the transferee.

According to the *Land Registration Regulations* promulgated by the State Land Administration Bureau, the predecessor of the MLR, on December 28, 1995 and implemented on February 1, 1996, the Land Registration Measures promulgated by MLR on December 30, 2007 and effective on February 1, 2008, all land use rights which are duly registered are protected by the law, and the land registration is achieved by the issue of a land use right certificate by the relevant authority to the land user.

Under the *Administration Law of Urban Real Property of the People's Republic of China*, which was issued by the Standing Committee of the National People's Congress on August 30, 2007 and amended on August 27, 2009, the land must be developed in line with the purposes of the land and the deadline for

commencement of construction as stipulated in the grant contract. Where construction does not commence within one year of commencement of construction as stipulated in the grant contract, an idle land fee may be charged at a rate of not more than 20% of the fee for the grant of land use rights. Where construction does not commence within two years, land use rights may be forfeited without compensation, except where the commencement of construction is delayed due to force majeure, an act of the government or relevant government departments, or preliminary work necessary for the commencement of construction.

On July 21, 2014, General Office of the People's Government of Beijing Municipality, or the GOPGB, issued the *Beijing Municipality's Catalogue for the Prohibition and Restriction of Newly Increased Industries (2014 Edition)*, or the 2014 Catalogue, according to which new construction or expansion of data centers is prohibited within Beijing's municipal boundaries, except for cloud computing data centers with PUE lower than 1.5.

On August 17, 2015, the GOPGB issued the *Beijing Municipality's Catalogue for the Prohibition and Restriction of Newly Increased Industries (2015 Edition)*, or the 2015 Catalogue, which is a revised edition of the 2014 Catalogue and provides comparatively stricter prohibition on the new construction or expansion of data centers. According to the 2015 Catalogue, new construction or expansion of data centers remains prohibited within Beijing's municipal boundaries, except for cloud computing data centers with PUE lower than 1.5. In addition, within the boundaries of Beijing's Dongcheng District, Xicheng District, Chaoyang District, Haidian District, Fengtai District and Shijingshan District, new construction or expansion of cloud computing data centers with PUE lower than 1.5 is also prohibited.

#### **Regulations Related to Leases**

According to the *Contract Law of the People's Republic of China* promulgated by the National People's Congress on March 15, 1999 and effective from October 1, 1999, the lease agreement shall be in writing if its term is over six months, and the term of any lease agreement shall not exceed twenty years. During the lease term, any change of ownership to the leased property does not affect the validity of the lease contract. The tenant may sub-let the leased property if it is agreed by the landlord and the lease agreement between the landlord and the tenant is still valid and binding. When the landlord is to sell a leased housing under a lease agreement, it shall give the tenant a reasonable advance notice before the sale, and the tenant has the priority to buy such leased housing on equal conditions. The tenant must pay rent on time in accordance with the lease contract. In the event of default of rental payment without reasonable cause, the landlord may ask the tenant to pay within a reasonable period of time, failing which the landlord may terminate the lease. The landlord has the right to terminate the lease agreement if the tenant sub-lets the property without consent from the landlord, or causes loss to the leased properties resulting from its using the property not in compliance with the usage as stipulated in the lease agreement, or defaults in rental payment after the reasonable period as required by the landlord, or other circumstances occurs allowing the landlord terminate the lease agreement under relevant PRC laws and regulations, or otherwise, if the landlord wishes to terminate the lease before its expiry date, prior consent shall be obtained from the tenants.

On December 1, 2010, Ministry of Housing and Urban-Rural Development promulgated the *Administrative Measures for Leasing of Commodity Housing*, which became effective on February 1, 2011. According to the *Administrative Measures for Leasing of Commodity Housing*, the landlords and tenants are required to enter into lease contracts which must contain specified provisions, and the lease contract should be registered with the relevant construction or property authorities at municipal or county level within 30 days after its conclusion. If the lease contract is extended or terminated or if there is any change to the registered items, the landlord and the tenant are required to effect alteration registration, extension of registration or deregistration with the relevant construction or property authorities within 30 days after the occurrence of the extension, termination or alteration.

## Regulations Related to Intellectual Property Rights

The State Council and the National Copyright Administration, or the NCAC, have promulgated various rules and regulations relating to the protection of software in China. Under these rules and regulations, software owners, licensees and transferees may register their rights in software with the NCAC or its local branches and obtain software copyright registration certificates. Although such registration is not mandatory under PRC law, software owners, licensees and transferees are encouraged to go through the registration process to enjoy the better protections afforded to registered software rights.

On March 1, 2009, the MIIT promulgated the *Administrative Measures on Software Products*, or the Software Measures, which replaced the original *Administrative Measures on Software Measures* promulgated by MIIT in October 2000, to regulate software products and promote the development of the software industry in China. Pursuant to the Software Measures, software products which are developed in China and registered with the local provincial government authorities in charge of the information industry and filed with MIIT may enjoy the relevant encouragement policies. Software developers or producers may sell or license their registered software products independently or through agents. Upon registration, the software products will be granted registration certificates. Each registration certificate is valid for five years and may be renewed upon expiration.

The *PRC Trademark Law*, adopted in 1982 and revised in 1993, 2001 and 2013 respectively, with its implementation rules adopted in 2002 and revised in 2014, protects registered trademarks. The PRC Trademark Office of the State Administration for Industry and Commerce, or the SAIC, handles trademark registrations and grants a protection term of ten years to registered trademarks.

The MIIT amended its *Administrative Measures on China Internet Domain Names* in 2004. According to these measures, the MIIT is in charge of the overall administration of domain names in China. The registration of domain names in PRC is on a "first-apply-first-registration" basis. A domain name applicant will become the domain name holder upon the completion of the application procedure.

## Regulations Related to Employment

On June 29, 2007, the Standing Committee of the National People's Congress, or SCNPC, adopted the *Labor Contract Law*, or LCL, which became effective as of January 1, 2008 and was revised in 2012. The LCL requires employers to enter into written contracts with their employees, restricts the use of temporary workers and aims to give employees long-term job security.

Pursuant to the LCL, employment contracts lawfully concluded prior to the implementation of the LCL and continuing as of the date of its implementation will continue to be performed. Where an employment relationship was established prior to the implementation of the LCL but no written employment contract was concluded, a contract must be concluded within one month after the LCL's implementation.

According to the *Social Insurance Law* promulgated by SCNPC and effective from July 1, 2011, the *Regulation of Insurance for Work-Related Injury*, the *Provisional Measures on Insurance for Maternity of Employees*, *Regulation of Unemployment Insurance*, the *Decision of the State Council on Setting Up Basic Medical Insurance System for Staff Members and Workers in Cities and Towns*, the *Interim Regulation on the Collection and Payment of Social Insurance Premiums and the Interim Provisions on Registration of Social Insurance*, an employer is required to contribute the social insurance for its employees in the PRC, including the basic pension insurance, basic medical insurance, unemployment insurance, maternity insurance and injury insurance.

Under the *Regulations on the Administration of Housing Funds*, promulgated by the State Council on April 3, 1999 and as amended on March 24, 2002, an employer is required to make contributions to a housing fund for its employees.

## Regulations Related to Foreign Currency Exchange and Dividend Distribution

### Foreign Currency Exchange

The principal regulations governing foreign currency exchange in China are the *Foreign Exchange Administration Regulations*, as amended in August 2008. Under this regulation, the Renminbi is freely convertible for current account items, including the trade and service-related foreign exchange transactions and other current exchange transactions, but not for capital account items, such as direct investments, loans, repatriation of investments and investments in securities, unless the prior approval of the SAFE is obtained and prior registration with the SAFE is made.

Pursuant to the *Administration Rules of the Settlement, Sale and Payment of Foreign Exchange* promulgated on June 20, 1996 by the People's Bank of China, foreign-invested enterprises in China may purchase or remit foreign currency for settlement of current account transactions without the approval of the SAFE. Foreign currency transactions under the capital account are still subject to limitations and require approvals from, or registration with, the SAFE and other relevant PRC governmental authorities.

In addition, the *Notice of the General Affairs Department of SAFE on The Relevant Operation Issues Concerning the Improvement of the Administration of Payment and Settlement of Foreign Currency Capital of Foreign-invested Enterprises*, or Circular 142, which was promulgated on August 29, 2008 by SAFE, regulates the conversion by foreign-invested enterprises of foreign currency into Renminbi by restricting how the converted Renminbi may be used. Circular 142 requires that Renminbi converted from the foreign currency-denominated capital of a foreign-invested enterprise may only be used for purposes within the business scope approved by the relevant government authority and may not be used to make equity investments in PRC, unless specifically provided otherwise. The SAFE further strengthened its oversight over the flow and use of Renminbi funds converted from the foreign currency-denominated capital of a foreign-invested enterprise. The use of such Renminbi may not be changed without approval from the SAFE, and may not be used to repay Renminbi loans if the proceeds of such loans have not yet been used. Any violation of Circular 142 may result in severe penalties, including substantial fines.

In November 2012, SAFE promulgated the *Circular of Further Improving and Adjusting Foreign Exchange Administration Policies on Foreign Direct Investment*, which substantially amends and simplifies the current foreign exchange procedure. Pursuant to this circular, the opening of various special purpose foreign exchange accounts, such as pre-establishment expenses accounts, foreign exchange capital accounts and guarantee accounts, the reinvestment of Renminbi proceeds by foreign investors in the PRC, and remittance of foreign exchange profits and dividends by a foreign-invested enterprise to its foreign shareholders no longer require the approval or verification of SAFE, and multiple capital accounts for the same entity may be opened in different provinces, which was not possible previously. In addition, SAFE promulgated the *Circular on Printing and Distributing the Provisions on Foreign Exchange Administration over Domestic Direct Investment by Foreign Investors and the Supporting Documents* in May 2013, which specifies that the administration by SAFE or its local branches over direct investment by foreign investors in the PRC shall be conducted by way of registration and banks shall process foreign exchange business relating to the direct investment in the PRC based on the registration information provided by SAFE and its branches.

In July 2014, SAFE decided to further reform the foreign exchange administration system in order to satisfy and facilitate the business and capital operations of foreign invested enterprises, and issued the *Circular on the Relevant Issues Concerning the Launch of Reforming Trial of the Administration Model of the Settlement of Foreign Currency Capital of Foreign-Invested Enterprises in Certain Areas*, or Circular 36, on August 4, 2014. This circular suspends the application of Circular 142 in certain areas and allows a foreign-invested enterprise registered in such areas to use the Renminbi capital converted from foreign currency registered capital for equity investments within the PRC.

On March 30, 2015, SAFE released the *Notice on the Reform of the Management Method for the Settlement of Foreign Exchange Capital of Foreign-invested Enterprises*, or Circular 19, which has made certain adjustments to some regulatory requirements on the settlement of foreign exchange capital of foreign-invested enterprises, lifted some foreign exchange restrictions under Circular 142, and annulled Circular 142 and Circular 36. However, Circular 19 continues to, prohibit foreign-invested enterprises from, among other things, using Renminbi fund converted from its foreign exchange capitals for expenditure beyond its business scope, providing entrusted loans or repaying loans between non-financial enterprises.

On June 19, 2016, SAFE issued the Circular of the State Administration of Foreign Exchange on Reforming and Regulating Policies on the Control over Foreign Exchange Settlement of Capital Accounts, or Circular 16, which took effect on the same day. Compared to Circular 19, Circular 16 not only provides that, in addition to foreign exchange capital, foreign debt funds and proceeds remitted from foreign listings should also be subject to the discretionary foreign exchange settlement, but also lifted the restriction, that foreign exchange capital under the capital accounts and the corresponding Renminbi capital obtained from foreign exchange settlement should not be used for repaying the inter-enterprise borrowings (including advances by the third party) or repaying the bank loans in Renminbi that have been sub-lent to the third party.

#### **Circular 37**

On July 4, 2014, SAFE promulgated the *Circular on Relevant Issues Concerning Foreign Exchange Control on Domestic Residents' Offshore Investment and Financing and Roundtrip Investment through Special Purpose Vehicles*, or Circular 37, which replaced the former circular commonly known as Circular 75 promulgated by SAFE on October 21, 2005. Circular 37 requires PRC residents to register with local branches of SAFE in connection with their direct establishment or indirect control of an offshore entity, for the purpose of overseas investment and financing, with such PRC residents' legally owned assets or equity interests in domestic enterprises or offshore assets or interests, referred to in Circular 37 as a "special purpose vehicle." Circular 37 further requires amendment to the registration in the event of any significant changes with respect to the special purpose vehicle, such as increase or decrease of capital contributed by PRC individuals, share transfer or exchange, merger, division or other material event. In the event that a PRC shareholder holding interests in a special purpose vehicle fails to fulfill the required SAFE registration, the PRC subsidiaries of that special purpose vehicle may be prohibited from making profit distributions to the offshore parent and from carrying out subsequent cross-border foreign exchange activities, and the special purpose vehicle may be restricted in its ability to contribute additional capital into its PRC subsidiary. Furthermore, failure to comply with the various SAFE registration requirements described above could result in liability under PRC law for evasion of foreign exchange controls.

On February 13, 2015, SAFE released the *Notice on Further Simplifying and Improving Policies for the Foreign Exchange Administration of Direct Investment*, or Circular 13, which has amended Circular 37 by requiring PRC residents or entities to register with qualified banks rather than SAFE or its local branch in connection with their establishment or control of an offshore entity established for the purpose of overseas investment or financing.

#### **Share Option Rules**

Under the *Administration Measures on Individual Foreign Exchange Control* issued by the PBOC on December 25, 2006, all foreign exchange matters involved in employee share ownership plans and share option plans in which PRC citizens participate require approval from SAFE or its authorized branch. Pursuant to Circular 37, PRC residents who participate in share incentive plans in overseas non-publicly-listed companies may submit applications to SAFE or its local branches for the foreign exchange registration with respect to offshore special purpose companies. In addition, under the *Notices on Issues concerning the Foreign Exchange Administration for Domestic Individuals Participating in Share Incentive Plans of Overseas Publicly-Listed Companies* issued by SAFE on February 15, 2012, or the Share Option Rules, PRC residents



who are granted shares or share options by companies listed on overseas stock exchanges under share incentive plans are required to (i) register with SAFE or its local branches, (ii) retain a qualified PRC agent, which may be a PRC subsidiary of the overseas listed company or another qualified institution selected by the PRC subsidiary, to conduct the SAFE registration and other procedures with respect to the share incentive plans on behalf of the participants, and (iii) retain an overseas institution to handle matters in connection with their exercise of share options, purchase and sale of shares or interests and funds transfers.

#### **Dividend Distribution**

The principal regulations governing distribution of dividends of foreign holding companies include the *Foreign Investment Enterprise Law*, issued in 1986 and amended in 2000, and the *Implementation Rules under the Foreign Investment Enterprise Law*, issued in 1990 and amended in 2001 and 2014 respectively. Under these regulations, foreign investment enterprises in the PRC may pay dividends only out of their accumulated profits, if any, determined in accordance with PRC accounting standards and regulations. In addition, foreign investment enterprises in the PRC are required to allocate at least 10% of their respective accumulated profits each year, if any, to fund certain reserve funds unless these reserves have reached 50% of the registered capital of the enterprises. These reserves are not distributable as cash dividends. A PRC company is not permitted to distribute any profits until any losses from prior fiscal years have been offset. Profits retained from prior fiscal years may be distributed together with distributable profits from the current fiscal year.

#### **Regulations Related to Taxation**

##### **Enterprise Income Tax**

Prior to January 1, 2008, entities established in the PRC were generally subject to a 30% national and 3% local enterprise income tax rate. Various preferential tax treatments promulgated by PRC tax authorities were available to foreign-invested enterprises.

In March 2007, the National People's Congress enacted the Enterprise Income Tax Law, and in December 2007, the State Council promulgated the *Implementing Rules of the Enterprise Income Tax Law*, or the *Implementing Rules*, both of which became effective on January 1, 2008. The Enterprise Income Tax Law (i) reduces the top rate of enterprise income tax from 33% to a uniform 25% rate applicable to both foreign-invested enterprises and domestic enterprises and eliminates many of the preferential tax policies afforded to foreign investors, (ii) permits companies to continue to enjoy their existing tax incentives, subject to certain transitional phase-out rules and (iii) introduces new tax incentives, subject to various qualification criteria.

The Enterprise Income Tax Law also provides that enterprises organized under the laws of jurisdictions outside China with their "de facto management bodies" located within China may be considered PRC resident enterprises and therefore be subject to PRC enterprise income tax at the rate of 25% on their worldwide income. The *Implementing Rules* further define the term "de facto management body" as the management body that exercises substantial and overall management and control over the production and operations, personnel, accounts and properties of an enterprise. If an enterprise organized under the laws of jurisdiction outside China is considered a PRC resident enterprise for PRC enterprise income tax purposes, a number of unfavorable PRC tax consequences could follow. First, it would be subject to the PRC enterprise income tax at the rate of 25% on its worldwide income. Second, a 10% withholding tax would be imposed on dividends it pays to its non-PRC enterprise shareholders and with respect to gains derived by its non-PRC enterprise shareholders from transfer of its shares.

Prior to January 1, 2008, dividends derived by foreign enterprises from business operations in China were exempted from PRC enterprise income tax. However, such exemption was revoked by the Enterprise Income Tax Law and dividends generated after January 1, 2008 and payable by a foreign-invested enterprise

in China to its foreign enterprise investors are subject to a 10% withholding tax, unless any such foreign investor's jurisdiction of incorporation has a tax treaty with China that provides for a preferential withholding arrangement. Pursuant to the *Notice of the State Administration of Taxation on Negotiated Reduction of Dividends and Interest Rates*, which was issued on January 29, 2008 and supplemented and revised on February 29, 2008, and the *Arrangement between Mainland China and the Hong Kong Special Administrative Region for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with Respect to Taxes on Income*, which became effective on December 8, 2006 and applies to income derived in any year of assessment commencing on or after April 1, 2007 in Hong Kong and in any year commencing on or after January 1, 2007 in the PRC, such withholding tax rate may be lowered to 5% if a Hong Kong enterprise is deemed the beneficial owner of any dividend paid by a PRC subsidiary by PRC tax authorities and holds at least 25% of the equity interest in that particular PRC subsidiary at all times within the 12-month period immediately before distribution of the dividends. Furthermore, the State Administration of Taxation promulgated the *Notice on the Interpretation and Recognition of Beneficial Owners in Tax Treaties* in October 2009, which stipulates that non-resident enterprises that cannot provide valid supporting documents as "beneficial owners" may not be approved to enjoy tax treaty benefits. Specifically, it expressly excludes an agent or a "conduit company" from being considered as a "beneficial owner" and a "beneficial owner" analysis shall be conducted on a case-by-case basis following the "substance-over-the-form" principle.

#### **Value-Added Tax and Business Tax**

Pursuant to applicable PRC tax regulations, any entity or individual conducting business in the service industry is generally required to pay a business tax at the rate of 5% on the revenues generated from providing such services. However, if the services provided are related to technology development and transfer, such business tax may be exempted subject to approval by the relevant tax authorities. Whereas, pursuant to the *Provisional Regulations on Value-Added Tax* of the PRC and its implementation regulations, unless otherwise specified by relevant laws and regulations, any entity or individual engaged in the sales of goods, provision of processing, repairs and replacement services and importation of goods into China is generally required to pay a value-added tax, or VAT, for revenues generated from sales of products, while qualified input VAT paid on taxable purchase can be offset against such output VAT.

In November 2011, the Ministry of Finance and the State Administration of Taxation promulgated the *Pilot Plan for Imposition of Value-Added Tax to Replace Business Tax*. In March 2016, the Ministry of Finance and the State Administration of Taxation further promulgated the *Notice on Fully Promoting the Pilot Plan for Replacing Business Tax by Value-Added Tax*, which became effective on May 1, 2016. Pursuant to the pilot plan and relevant notices, VAT is generally imposed in the modern service industries, including the VATS, on a nationwide basis. VAT of a rate of 6% applies to revenue derived from the provision of some modern services. Unlike business tax, a taxpayer is allowed to offset the qualified input VAT paid on taxable purchases against the output VAT chargeable on the modern services provided.

#### **Regulations Related to M&A and Overseas Listings**

On August 8, 2006, six PRC regulatory agencies, including the Ministry of Commerce, the State-owned Assets Supervision and Administration Commission, the SAT, the SAIC, the China Securities Regulatory Commission, or CSRC, and the SAFE, jointly issued the *Regulations on Mergers and Acquisitions of Domestic Enterprises by Foreign Investors*, or the M&A Rules, which became effective on September 8, 2006 and was amended on June 22, 2009. The M&A Rules, among other things, require that (i) PRC entities or individuals obtain MOFCOM approval before they establish or control a special purpose vehicle, or SPV, overseas, provided that they intend to use the SPV to acquire their equity interests in a PRC company at the consideration of newly issued share of the SPV, or Share Swap, and list their equity interests in the PRC company overseas by listing the SPV in an overseas market; (ii) the SPV obtains MOFCOM's approval before it acquires the equity interests held by the PRC entities or PRC individual in the PRC company by Share Swap; and (iii) the SPV obtains CSRC approval before it lists overseas.

## MANAGEMENT

## Directors and Executive Officers

The following table sets forth certain information relating to our directors and executive officers upon closing of this offering.

Name	Age	Position/Title
William Wei Huang	48	Chairman and chief executive officer
Daniel Newman	55	Chief financial officer
Sio Tat Hiang	69	Vice-chairman
Erik Ho Ping Siao	65	Director
Peter Ping Hua	53	Director
Hua Chen	50	Director
Satoshi Okada	57	Director
Bruno Lopez	51	Director
Lee Choong Kwong	59	Director
Lim Ah Doo	66	Director
Xu Wei	44	Senior vice president, sales
Yilin Chen	45	Senior vice president, hosting service
Liang Chen	41	Senior vice president, strategy
Yan Liang	41	Senior vice president, operation and delivery

**Mr. William Wei Huang** is our founder, chairman of our board of directors and, since 2002, has served as our chief executive officer. Since 2004, Mr. Huang has also served as a director of Haitong-Fortis Private Equity Fund Management Co., Ltd., a domestic private equity fund management company in China. Prior to founding our company, he served as a senior vice president of Shanghai Meining Computer Software Co., Ltd., which operates StockStar.com, a website primarily providing finance and securities related information and services in China, as a vice president of Ego Electronic Commerce Co., Ltd., and as general manager of Shanghai Huayang Computer Co., Ltd.

**Mr. Daniel Newman** has served as the chief financial officer of GDS since September 2011. Prior to joining us in this capacity, Mr. Newman acted as an advisor to GDS from 2009 to 2011. From 2008 to 2009, Mr. Newman served as a managing director at Bank of America Merrill Lynch with responsibility for investment banking clients in the telecom, media, and technology sectors in Asia. From 2005 to 2007, Mr. Newman acted as an advisor in the chairman's office of Reliance Communications in Mumbai, India. From 2001 to 2005, Mr. Newman served as a managing director at Deutsche Bank with responsibility for investment banking clients in the telecom and media sectors in Asia. Mr. Newman previously worked as an investment banker at Salomon Brothers (and its successors) from 1997 to 2001 and at S.G. Warburg (and its successors) from 1983 to 1997 in London and Hong Kong. Mr. Newman received his bachelor's degree in history from Bristol University in the UK in 1983.

**Mr. Sio Tat Hiang** is vice-chairman of the board of directors of our company and has been a director since 2014. Mr. Sio is the Executive Director of ST Telemedia. In this role, he provides strategic direction and overall leadership of ST Telemedia. Under his guidance, ST Telemedia has redefined and broadened its business focus into strategic areas that better position ST Telemedia's portfolio for continued growth and long-term success in the digital economy. Mr. Sio currently also sits on the Board of Asia Mobile Holdings Pte. Ltd., StarHub Ltd, TeleChoice International Limited and U Mobile Sdn Bhd. Prior to ST Telemedia, Mr. Sio served as Vice President of Corporate Finance at Singapore Technologies Pte. Ltd., or ST, where he oversaw ST's treasury and investment management functions. His role was later expanded to include Director of Strategic Investment and Group Treasurer. He graduated with a bachelor's degree in business

administration with honors from the National University of Singapore and attended the London Business School Senior Management Programme.

**Mr. Erik Ho Ping Siao** has been a director of our company since 2007. Between 2002 and 2007, Mr. Siao worked as an investment consultant. For more than ten years prior to 2002, Mr. Siao served as the senior vice president and director of China Operation at Ecoban Finance Limited in New York, which was a member of SK Group of South Korea. Prior to 1987, Mr. Siao served as the vice president of ContiTrade Services Corp. in New York (also known as Merban Corp.), which was a member of Continental Grain Company. Mr. Siao received a master's degree in international management with distinction from The American Graduate School of International Management, also known as Thunderbird, in 1982.

**Dr. Peter Ping Hua** has been a director of our company since 2007. Dr. Hua is currently a managing partner of SBCVC. Starting from 2000, he has led the investment into many high-tech companies in IT, healthcare, and cleaner technologies sectors, including Dian Diagnostics, BGI, Edan, Navinfo, Shenwu, Longxin, GDS Holdings and PPTV. Prior to joining SBCVC, he was with McKinsey & Company and Siemens (USA). Dr. Hua holds a bachelor's degree from Shanghai Jiao Tong University, a MBA from the Kellogg School of Management, Northwestern University, and a Ph.D. from the University of Wisconsin.

**Ms. Hua Chen** has been a director of our company since May 2016. Ms. Chen has been the chief financial officer and operating partner of SBCVC since 2010. Ms. Chen currently serves as a director at various entities, including serving as an independent director of Technovator International Limited, director of Xi'An Kanghong New Material Technology Co. Ltd., director of Zhangjiagang Glory Biomaterial Co., Ltd., director of Zhangjiagang Meijingrong Chemical Co., Ltd., and director of Tianjin Century Dragon Pharmaceutical Co., Ltd. Prior to join SBCVC, Ms. Chen was a director and chief financial officer in the asset management division of Credit Suisse. She was a Tax Consulting Manager of Arthur Andersen LLP and Ernst & Young LLP. Ms. Chen holds bachelor's degrees in accounting and finance from New York University Stern Business School, and a master's degree in taxation from Fordham University. Ms. Chen is a certified public accountant in the United States.

**Mr. Satoshi Okada** has been a director of our company since 2014. Mr. Okada previously served as executive vice president of SOFTBANK Group's e-commerce business planning in Japan since April 2000. Prior to that, he held various management positions within the SOFTBANK Group. He also previously held directorship in Ariba Japan and Deecorp Limited, companies engaging in the businesses of technology and software, respectively. Mr Okada also represented SoftBank as a director on the board of Alibaba.com while it was a public company in Hong Kong. Before joining the SOFTBANK Group, Mr. Okada was chief executive officer and president of NetIQ KK, the Japanese subsidiary of NetIQ Corporation, a provider of e-business infrastructure management software. Mr. Okada is also renowned in the storage management industry for his success in establishing Cheyenne Software KK and Computer Associates Japan as industry leaders in the Japanese market.

**Mr. Bruno Lopez** has been a director of our company since 2014. Mr. Lopez is the chief executive officer and executive director of ST Telemedia's data center business—STT Global Data Centres. Over the past two years, Mr. Lopez has led ST Telemedia in its strategy to build a portfolio of integrated data centers across a global platform in Singapore, UK and also in China through GDS Holdings. Prior to joining ST Telemedia, Mr. Lopez held several senior operational and management positions in the telecommunications arm of Singapore-listed conglomerate, Keppel T&T from 1995 to April 2014. In his last position in Keppel T&T, as the executive director and chief executive officer of Keppel Data Centres, Mr. Lopez was responsible for developing Keppel's data center business in Asia and Europe across key first tier cities servicing some of the largest blue chip customers. In 2010, Mr. Lopez set up Securus Data Property Fund, a data centre-specific investment fund focused on the acquisition of high quality data center assets in Asia-Pacific and Europe. Prior to his departure from Keppel T&T, Mr. Lopez also played a key role in preparing the business of Keppel Data Centres for a REIT listing on the Singapore Exchange after establishing a data center

development platform for future growth. He holds a bachelor's degree with honors from the National University of Singapore and a master's degree in human resource from Rutgers University.

**Mr. Lee Choong Kwong** has been a director of our company since 2014. Mr. Lee is ST Telemedia's executive vice president for China. He is responsible for China investments and business development. Mr. Lee brings with him more than 15 years of China business experience. He played a key role in ST Telemedia's investments in the Chinese market with China Unicom and China Huaneng. Prior to joining ST Telemedia, Mr. Lee led ST Electronics & Engineering's research and development team, and held various senior managerial positions in project management and operations with ST Ventures. Mr. Lee holds a bachelor's degree in electrical and electronic engineering from the National University of Singapore, and a UCLA-NUS Executive MBA.

**Mr. Lim Ah Doo** has been a director of our company since 2014. Mr. Lim is currently the chairman and independent non-executive director of Singapore Technologies Marine Ltd, as well as an independent non-executive director of ARA-CWT Trust Management (Cache) Limited, GP Industries Limited, SM Investments Corporation, Sembcorp Marine Ltd, U Mobile Sdn Bhd, Bracell Limited (formerly known as Sateri Holdings Limited), Singapore Technologies Engineering Ltd and STT GDC. He also chairs the audit committees of ARA-CWT Trust Management (Cache), GP Industries and U Mobile, and is also a member of the audit committee of Singapore Technologies Engineering, Sembcorp Marine and SM Investments Corporation. He is also a member of the Ethics Sub-Committee, Public Accountants Oversight Committee, Singapore. During his 18-year distinguished banking career in Morgan Grenfell, Mr. Lim held several key positions including chairing Morgan Grenfell (Asia). He also chaired the Singapore Investment Banking Association in 1994. From 2003 to 2008, he was president and then vice chairman of the RGM group, a leading global resource-based group. Mr. Lim holds a bachelor's degree in engineering with honors from the Queen Mary College, University of London, and a MBA from the Cranfield School of Management.

**Mr. Xu Wei** joined GDS in 2013 as our senior vice president of sales, and is responsible for sales operations and management. Prior to joining us, Mr. Wei was a general manager of Beijing VPro Intellectual Technology Limited Company from 2011 to 2013, with responsibility for mobile value-added business promotions and software development. From 2005 to 2010, Mr. Wei served as a general manager of Shenzhen VPro Technology Limited Company, with responsibility for operations and software development and integration. From 1998 to 2005, Mr. Wei held various roles at Zhong Lian Group, including technical director, business development manager and division general manager, engaged in sales and management of core systems. From 1996 to 1998, Mr. Wei served as an engineer at Beijing Electronic Office, with responsibility for network-building and management. Mr. Wei received a bachelor's degree in physics from Shandong University.

**Ms. Yilin Chen** joined GDS in 2008 and now serves as our senior vice president for our hosting service business unit. Prior to joining us, Ms. Chen held various roles in consulting, business planning and analysis, product and operations. Ms. Chen worked at HP China for 12 years, holding leadership roles related to IT solutions and service, outsourcing, business development and management. From 1992 to 1995, Ms. Chen worked at the East China Institute of Computer and Science. She graduated from Shanghai Science and Technology University with a bachelor's degree in computer science.

**Ms. Liang Chen** joined us in 2015 with responsibility for product strategy management and the delivery of data center projects, design and construction. Prior to joining us, Ms. Chen worked with IBM Global Technology Service for 14 years. Ms. Chen held several leadership roles in IBM, including manager of IBM's China data center solution design team, general manager of IBM's data center consulting and design department and service product line manager of IBM's Greater China data center department. Prior to joining IBM, Ms. Chen spent seven years at the East China Architectural Design and Research Institute. Ms. Chen holds a bachelor's degree in electrical and electronic engineering from Shanghai University and a master's degree in electrical and electronic engineering from Tongji University.

**Ms. Yan Liang** has served as our senior vice president of operation and delivery since 2010 with responsibility for establishing the operation governance system and management platform for data centers. Ms. Liang currently also serves on China Data Center Committee as vice chairman with responsibility for contributing to white papers for the operation and maintenance management technology of data centers and promoting maintenance and operation in data center industry. Prior to joining us, Ms. Liang served as a director of operations and business development with COSCO's global data center business where she had responsibility for information system centralization, construction of large data centers, establishment and promotion of ITIL operation management systems and global disaster recovery. Prior to COSCO, Ms. Liang was a distinguished lecturer at HP Management School. Ms. Liang received a bachelor's degree from Shanghai Tie Dao University and a MBA from Fudan University.

#### **Duties of Directors**

Under Cayman Islands law, our directors have a fiduciary duty to act honestly in good faith with a view to our best interests. Our directors also have a duty to exercise the care, diligence and skill 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 Amended and Restated Memorandum and Articles of Association. A shareholder has the right to seek damages if a duty owed by our directors is breached.

The functions and powers of our board of directors include, among others:

- conducting and managing the business of our company;
- representing our company in contracts and deals;
- appointing attorneys for our company;
- select senior management such as managing directors and executive directors;
- providing employee benefits and pension;
- managing our company's finance and bank accounts;
- exercising the borrowing powers of our company and mortgaging the property of our company; and
- exercising any other powers conferred by the shareholders meetings or under our Amended and Restated Memorandum and Articles of Association.

#### **Appointment, Nomination and Terms of Directors**

Pursuant to our amended articles of association, our board of directors will be classified into three classes of directors designated as Class I, Class II and Class III, each generally serving a three-year term unless earlier removed and except as described below. Upon completion of this offering, the Class I directors will initially consist of \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_; the Class II directors will initially consist of \_\_\_\_\_ and \_\_\_\_\_; and the Class III directors will initially consist of \_\_\_\_\_ and \_\_\_\_\_. Class I directors will initially retire from office by rotation and be up for re-election one year after the completion of this offering. Class II directors will initially retire from office by rotation and be up for re-election two years after the completion of this offering. Class III directors will initially retire from office by rotation and be up for re-election three years after the completion of this offering.

Upon the completion of this offering, our board will consist of eleven (11) directors. Unless otherwise determined by us in a general meeting, our board will consist of not less than two (2) directors. There is no maximum number of directors unless otherwise determined by our shareholders in a general meeting, provided, however, that so long as STT GDC has the right to appoint one or more directors to our board of directors, any change in the total number of directors on our board shall require the prior approval of the director or directors appointed by STT GDC.

Our amended articles of association provide that for so long as STT GDC beneficially owns: not less than 25% of our issued and outstanding share capital, they may appoint three directors to our board of directors, including our vice-chairman; less than 25%, but not less than 15%, of our issued and outstanding share capital, they may appoint two directors to our board of directors, including our vice-chairman; and less than 15%, but not less than 8%, of our issued and outstanding share capital, they may appoint one director to our board of directors, including our vice-chairman, none of which appointments will be subject to a vote by our shareholders. In addition, the above rights of STT GDC may not be amended without the approval of STT GDC. Where STT GDC beneficially owns: less than 25%, but 15% or more, of our issued and outstanding share capital, then of the directors appointed by STT GDC, only two may remain in office, and the other director, who shall be determined by STT, or failing which shall be the director whose term is due to expire soonest, shall retire at the expiry of his/her term; less than 15%, but 8% or more, of our issued and outstanding share capital, then of the directors appointed by STT GDC, only one may remain in office, and the other directors, who shall be determined by STT, or failing which shall be the directors whose terms are due to expire soonest, shall retire at the expiry of their respective terms; less than 8% of our issued and outstanding share capital, then the directors appointed by STT GDC may not remain in office and all shall retire at the expiry of their respective terms. Any director appointed by STT GDC who retires pursuant to the foregoing sentence may, in the sole discretion of our nominating and corporate governance committee, be re-nominated and subject to re-election at the next general meeting of our shareholders.

Our amended articles of association further provide that for so long as there are Class B ordinary shares outstanding, of the simple majority of directors (six) with respect to which Class B ordinary shares will be entitled to 20 votes per share: (i) the Class B shareholders shall nominate all but one (five) of such directors; and (ii) the nominating and corporate governance committee shall nominate one director, which one shall satisfy the requirements for an "independent director" within the meaning of the NASDAQ Stock Market Rules including the requirements for audit committee independence. As of and after such time as there cease to be any Class B ordinary shares outstanding, all of the directors nominated by Class B shareholders shall retire from office at the expiry of their respective terms, and, if re-nominated, be subject to re-election at a subsequent general meeting of shareholders. Prior to such time, if any of the directors nominated by or subject to election by Class B shareholders at 20 votes per share (i) is not elected or (ii) ceases to be a director, then the Class B shareholders may appoint an interim replacement for each such director. Any person so appointed shall hold office until the next general meeting of our shareholders and be subject to re-nomination and re-election at such meeting.

Subject to the abovementioned appointment rights, we may nominate, and shareholders may by ordinary resolution elect (with Class A ordinary shares and Class B ordinary shares each being entitled to one vote per share), any person to be a director to fill a casual vacancy on our board.

#### **Board Committees**

Our board of directors has established an audit committee, a compensation committee, a nominating and corporate governance committee and an executive committee. As a foreign private issuer, we are permitted to follow home country corporate governance practices under NASDAQ Stock Market Rules.

#### **Audit Committee**

Our audit committee will initially consist of \_\_\_\_\_ and \_\_\_\_\_ will be the chairman of our audit committee, and \_\_\_\_\_ satisfy the criteria of an audit committee financial expert as set forth under the applicable rules of the SEC, and satisfy the requirements for an "independent director" within the meaning of NASDAQ Stock Market Rules and will meet the criteria for independence set forth in Rule 10A-3 of the United States Securities Exchange Act of 1934, as amended, or the Exchange Act. Our audit committee will consist solely of independent directors.

The audit committee oversees our accounting and financial reporting processes and the audits of our financial statements. Our audit committee is responsible for, among other things:

- selecting the independent auditor;
- pre-approving auditing and non-auditing services permitted to be performed by the independent auditor;
- annually reviewing the independent auditor's report describing the auditing firm's internal quality control procedures, any material issues raised by the most recent internal quality control review, or peer review, of the independent auditors and all relationships between the independent auditor and our company;
- setting clear hiring policies for employees and former employees of the independent auditors;
- reviewing with the independent auditor any audit problems or difficulties and management's response;
- reviewing and, if material, approving all related party transactions on an ongoing basis, including transactions with EDC Holding or any of its subsidiaries;
- reviewing and discussing the annual audited financial statements with management and the independent auditor;
- reviewing and discussing with management and the independent auditors major issues regarding accounting principles and financial statement presentations;
- reviewing reports prepared by management or the independent auditors relating to significant financial reporting issues and judgments;
- discussing earnings press releases with management, as well as financial information and earnings guidance provided to analysts and rating agencies;
- reviewing with management and the independent auditors the effect of regulatory and accounting initiatives, as well as off-balance sheet structures, on our financial statements;
- discussing policies with respect to risk assessment and risk management with management, internal auditors and the independent auditor;
- timely reviewing reports from the independent auditor regarding all critical accounting policies and practices to be used by our company, all alternative treatments of financial information within U.S. GAAP that have been discussed with management and all other material written communications between the independent auditor and management;
- establishing procedures for the receipt, retention and treatment of complaints received from our employees regarding accounting, internal accounting controls or auditing matters and the confidential, anonymous submission by our employees of concerns regarding questionable accounting or auditing matters;
- annually reviewing and reassessing the adequacy of our audit committee charter;
- such other matters that are specifically delegated to our audit committee by our board of directors from time to time;
- meeting separately, periodically, with management, internal auditors and the independent auditor; and
- reporting regularly to the full board of directors.



**Compensation Committee**

Our compensation committee will initially consist of \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ is the chairman of our compensation committee. \_\_\_\_\_ satisfies the requirements for an "independent director" within the meaning of NASDAQ Stock Market Rules. \_\_\_\_\_ will serve as an observer on our compensation committee.

Our compensation committee is responsible for, among other things:

- reviewing, evaluating and, if necessary, revising our overall compensation policies;
- reviewing and evaluating the performance of our directors and senior officers and determining the compensation of our senior officers;
- reviewing and approving our senior officers' employment agreements with us;
- setting performance targets for our senior officers with respect to our incentive—compensation plan and equity-based compensation plans;
- administering our equity-based compensation plans in accordance with the terms thereof; and

such other matters that are specifically delegated to the remuneration committee by our board of directors from time to time.

**Nominating and Corporate Governance Committee**

Our nominating and corporate governance committee will initially consist of \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ is the chairman of our nominating and corporate governance committee.

The nominating and corporate governance committee is generally responsible for reviewing, evaluating and, if necessary, revising our corporate governance guidelines, reviewing and evaluating any instance of deviation from our corporate governance guidelines, as well as issuing and reviewing nominations of persons to be appointed as certain of our directors as described herein and of our officers. The nominating and corporate governance committee shall have the right to nominate three directors, all of whom shall satisfy the requirements for an "independent director" within the meaning of the NASDAQ Stock Market Rules including the requirements for audit committee independence. If any of the directors nominated by the nominating and corporate governance committee (i) is not elected or (ii) ceases to be a director, then the nominating and corporate governance committee or the Class B holders, as applicable, may appoint an interim replacement for such director. Any person so appointed shall hold office until the next general meeting of our shareholders. These three directors shall be subject to election at general meetings of shareholders as described under "—Appointment, Nomination and Terms of Directors" and "Description of Share Capital—Ordinary Shares—Voting Rights".

**Executive Committee**

Our executive committee will initially consist of \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ is the chairman of our executive committee. \_\_\_\_\_ satisfies the requirements for an "independent director" within the meaning of NASDAQ Stock Market Rules.

The executive committee functions primarily as an advisory body to our board of directors to oversee the business of our group companies. The executive committee shall also provide consultation and recommendations to our board of directors on operating and strategic matters for any of our group companies, acting within authorities delegated to it by our board of directors. In addition, the executive committee shall have such other authority as may be delegated to it by our board of directors from time to time.

time. Our executive committee is responsible for, among other things, advising, providing consultation and recommendations to our board of directors on:

- operational performance of any of our group companies;
- appropriate strategies for any of our group companies;
- strategic business and financing plans and annual budget of any of the group companies;
- acquisitions, dispositions, investments and other potential growth and expansion opportunities for any of our group companies;
- capital structure and financing strategy of our group companies, including any debt, equity or equity-linked financing transactions, as well as any issuance, repurchase, conversion or redemption of any equity interests or debt of any of our group companies;
- any material litigation or other legal or administrative proceedings to which any of our group companies is a party;
- entry into any material contracts exceeding the approval authority of our chief executive officer or its equivalent, the chief financial officer, and all the other senior officers of any of our group companies reporting directly to the chief executive officer;
- entry into or agreeing to any transaction between any of our group companies and any shareholder, director, officer or affiliate of us or of any affiliate thereof;
- the approval of the incurrence of debt above certain thresholds;
- reporting regularly to our board of directors; and
- any other responsibilities as are delegated to the executive committee by our board of directors from time to time.

#### **Corporate Governance**

Our board of directors has adopted a code of ethics, which is applicable to our senior executive and financial officers. In addition, our board of directors has adopted a code of conduct, which is applicable to all of our directors, officers and employees. We will make our code of ethics and our code of conduct publicly available on our web site.

In addition, our board of directors has adopted a set of corporate governance guidelines. The guidelines reflect certain guiding principles with respect to our board's structure, procedures and committees. The guidelines are not intended to change or interpret any law, or our amended and restated memorandum and articles of association.

#### **Remuneration and Borrowing**

The directors may determine remuneration to be paid to the directors. The compensation committee will assist the directors in reviewing and approving the compensation structure for the directors. The directors may exercise all the powers of our company to borrow money, mortgage or charge its undertaking, property and uncalled capital and issue debentures or other securities whether outright or as security for any debt obligations of our company or of any third party.

#### **Qualification**

There is no requirement for our directors to own any shares in our company in order for them to qualify as a director.

## **Employment Agreements**

We have entered into employment agreements with each of our executive officers. We may terminate their employment for cause at any time without remuneration for certain acts, such as a material breach of our company's employment principles, policies or rules, a material failure to perform his or her duties or misappropriation or embezzlement or a criminal conviction. We may also terminate any executive officer's employment without cause or due to a change of control event involving our company by giving written notice. In such cases, an executive officer is entitled to severance payments and benefits. An executive officer may terminate his or her employment at any time by giving written notice, in which case the executive officer will not be entitled to any severance payments or benefits.

Our executive officers have also agreed not to engage in any activities that compete with us or to directly or indirectly solicit the services of any of our employees, for a certain period after the termination of employment. Each executive officer has agreed to hold in strict confidence any trade secrets of our company, including technical secrets, marketing information, management information, legal information, third-party business secrets and other kinds of confidential information. Each executive officer also agrees to perform his or her confidentiality obligation and protect our company's trade secrets in a way consistent with the policies, rules and practices of our company. Breach of the above confidentiality obligations would be deemed as material breach of our company's employment policies and we are entitled to seek legal remedies.

## **Compensation of Directors and Executive Officers**

In 2015, we and our subsidiaries paid aggregate cash compensation of approximately US\$1,842,349 to our directors and executive officers as a group. We did not pay any other cash compensation or benefits in kind to our directors and executive officers. We set aside an aggregate of US\$69,318 for pensions, retirement or other benefits for our directors and executive officers in 2015.

For information regarding options granted to our directors and executive officers, see "—Share Incentive Plans."

## **Share Incentive Plans**

### ***2014 Share Incentive Plan***

Our equity incentive plan adopted in 2014, the 2014 share incentive plan, provides for the grant of options, share appreciation rights or other share-based awards, which we refer to collectively as equity awards. Up to 29,240,000 ordinary shares upon exercise of equity awards may be granted under the 2014 share incentive plan. We believe that the plan will aid us in recruiting, retaining and motivating key employees, directors and consultants of outstanding ability through the granting of equity awards.

#### *Administration*

The 2014 share incentive plan is administered by our board of directors (only with respect to options to be granted on the date of the completion of this offering), the remuneration committee, or any subcommittee thereof to whom the board or the remuneration committee shall delegate the authority to grant or amend equity awards. The plan administrator is authorized to interpret the plan, to establish, amend and rescind any rules and regulations relating to the plan, and to make any other determinations that it deems necessary or desirable for the administration of the plan, as well as determine the provisions, terms and conditions of each award consistent with the provisions of the plan.

#### *Change in Control*

In the event of a change in control, any outstanding awards that are unexercisable or otherwise unvested or subject to lapse restrictions, as determined by the plan administrator, will automatically be

deemed exercisable or otherwise vested or no longer subject to lapse restrictions, as the case may be, immediately prior to such change in control. The plan administrator may also, in its sole discretion, decide to cancel such awards for fair value, provide for the issuance of substitute awards that will substantially preserve the otherwise applicable terms of any affected awards previously granted or provide that affected options will be exercisable for a period of at least 15 days prior to the change in control but not thereafter. A "change in control" under the 2014 share incentive plan is defined as (1) the sale of all or substantially all of our assets, (2) any person or group (other than certain permitted holders) becomes the beneficial owner of more than 50% of the total voting power of our voting stock or (3) a majority of our board of directors cease to be continuing directors during any period of two consecutive years.

**Term**

Unless terminated earlier, the 2014 share incentive plan will continue in effect for a term of five years from the date of its adoption.

**Vesting Schedule**

In general, the plan administrator determines, or the award agreement specifies, the vesting schedule.

**Amendment and Termination of Plan**

Our board of directors may at any time amend, alter or discontinue the 2014 share incentive plan, subject to certain exceptions.

**Granted Options**

The total number of shares that may be issued under the 2014 share incentive plan is 29,240,000. As of the date of this prospectus, options to purchase 29,189,800 ordinary shares had been granted out of which 28,289,800 share options were fully vested and outstanding, and 900,000 share options were not vested.

The table below summarizes, as of the date of this prospectus, the options we have granted to our directors and executive officers.

Name	Position	Number of Securities underlying unexercised options exercisable <sup>(1)</sup>	Option Exercise Price	Grant Date	Option Expiration Date
William Wei Huang	Chairman and chief executive officer	4,186,253	US\$ 0.7792	July 1, 2014	July 1, 2019
		7,114,840	US\$ 0.7792	May 1, 2016	May 1, 2021
Daniel Newman	Chief financial officer	*	US\$ 0.7792	July 1, 2014	July 1, 2020
Satoshi Okada	Director	*	US\$ 0.7792	July 1, 2014	July 1, 2019
Xu Wei	Senior vice president, sales	*	US\$ 0.7792	May 1, 2016	May 1, 2021
Yilin Chen	Senior vice president, hosting service	*	US\$ 0.7792	July 1, 2014	July 1, 2019
Yan Liang	Senior vice president, operation and delivery	*	US\$ 0.7792	July 1, 2014	July 1, 2019
			US\$ 0.7792	May 1, 2016	May 1, 2021

\* Less than 1% of our outstanding shares assuming conversion of all convertible redeemable preferred shares into Class A ordinary shares.

(1) Note: Fully vested.

As of the date of this prospectus, individuals other than our directors and executive officers as a group hold options to purchase a total of 12,551,707 ordinary shares of our company, with an exercise price of US\$0.7792 per ordinary share.

#### **2016 Share Incentive Plan**

Our second equity incentive plan adopted in 2016, or the 2016 share incentive plan, provides for the grant of share options, share appreciation rights, restricted share units, restricted shares or other share-based awards, which we refer to collectively as equity awards. Up to 56,707,560 ordinary shares may be granted pursuant to equity awards under the 2016 share incentive plan. We believe that the 2016 share incentive plan will aid us in recruiting, retaining and motivating key employees and directors of outstanding ability through the granting of equity awards.

#### **Administration**

The 2016 share incentive plan is administered by our board of directors (only with respect to equity awards to be granted on the date of the completion of this offering), the remuneration committee, or any subcommittee thereof to whom the board or the remuneration committee shall delegate the authority to grant or amend equity awards. The plan administrator is authorized to interpret the plan, to establish, amend and rescind any rules and regulations relating to the plan, and to make any other determinations that it deems necessary or desirable for the administration of the plan, as well as determine the provisions, terms and conditions of each award consistent with the provisions of the plan.

#### **Change in Control**

In the event of a change in control (as defined below), if determined by the plan administrator in an award agreement or otherwise, any outstanding equity awards that are unexercisable or otherwise unvested or subject to lapse restrictions, will automatically be deemed exercisable or otherwise vested or no longer subject to lapse restrictions, as the case may be, immediately prior to such change in control. The plan administrator may also, in its sole discretion, decide to cancel such equity awards for fair value, provide for the issuance of substitute awards that will substantially preserve the otherwise applicable terms of any affected awards previously granted or provide that affected share options or share appreciation rights will be exercisable for a period of at least 15 days prior to the change in control and terminated upon the change in control if not previously exercised. A "change in control" under the 2016 share incentive plan is generally defined as (1) the sale of all or substantially all of our assets to any person or group (other than certain permitted holders), unless the primary purpose of the sale is to create a holding entity for us that will be directly or indirectly owned in substantially the same proportions by the same persons that held our shares immediately prior to the consummation of such sale, or (2) one or more related transactions whereby any person or group (other than certain permitted holders) becomes the beneficial owner of more than 50% of the total voting power of our voting shares and controls the composition of a majority of our board of directors, unless the primary purpose of such transaction or transactions, as applicable, is to create a holding entity for us that will be directly or indirectly owned in substantially the same proportions by the same persons that held our shares immediately prior to the consummation of such transaction.

#### **Term**

Unless terminated earlier, the 2016 share incentive plan will continue in effect for a term of ten years from the date of its adoption.

*Award Agreements*

Generally, equity awards granted under the 2016 share incentive plan are evidenced by an award agreement providing for the number of ordinary shares subject to the award, and the terms and conditions of the award, which must be consistent with the 2016 share incentive plan.

*Vesting Schedule*

The plan administrator determines the vesting schedule of each equity award granted under the 2016 share incentive plan, which vesting schedule will be set forth in the award agreement for such equity award.

*Amendment and Termination of Plan*

Our board of directors may at any time amend, alter or discontinue the 2016 share incentive plan, subject to certain exceptions.

*Granted Restricted Shares*

The total number of shares that may be issued under the 2016 share incentive plan is 56,707,560. In August 2016, we granted 877,400 restricted shares to directors pursuant to equity awards under the 2016 share incentive plan. These restricted shares were fully vested upon the date of grant in lieu of cash to our directors to settle a portion of their remuneration for services provided by the directors in the past.

**PRINCIPAL SHAREHOLDERS**

The following table sets forth information as of the date of this prospectus with respect to the beneficial ownership of our ordinary shares by:

- each of our directors and executive officers; and
- each person known to us to own beneficially 5.0% or more of our ordinary shares.

Beneficial ownership is determined in accordance with the rules of the SEC and includes voting or investment power with respect to, or the power to receive the economic benefit of ownership of, the securities. In computing the number of shares beneficially owned by a person and the percentage ownership of that person, we have included shares that the person has the right to acquire within 60 days, including through the exercise of any option or other right or the conversion of any other security.

The total number of ordinary shares outstanding as of the date of this prospectus is 567,075,599, assuming conversion of all convertible redeemable preferred shares into ordinary shares.

The total number of ordinary shares outstanding after completion of this offering will be \_\_\_\_\_, comprising \_\_\_\_\_ Class A ordinary shares and \_\_\_\_\_ Class B ordinary shares, which is based upon (i) 217,987,922 ordinary shares outstanding as of the date of this prospectus; (ii) the automatic conversion of preferred shares into 349,087,677 Class A ordinary shares immediately upon the completion of this offering; (iii) the issuance of \_\_\_\_\_ Class A ordinary shares immediately upon the completion of this offering in connection with the preference dividends to be paid to holders of our preferred shares, assuming an initial offering price of US\$ \_\_\_\_\_ per ADS, the mid-point of the estimated price range set forth on the cover of this prospectus; and (iv) \_\_\_\_\_ Class A ordinary shares issued in connection with this offering, but excludes ordinary shares issuable upon the exercise of outstanding share options, vested but not yet issued restricted shares and ordinary shares reserved for future issuance under our share incentive plans. The underwriters may choose to exercise the over-allotment option in full, in part or not at all.

	Ordinary Shares Beneficially Owned Prior to This Offering		Ordinary Shares Beneficially Owned After This Offering				% of Aggregate Voting Power with Class A and Class B Ordinary Shares Voting on a 1:20 Basis***	% of Aggregate Voting Power with Class A and Class B Ordinary Shares Voting on a 1:1 Basis
			Class A		Class B			
	Number	Percent	Number	Percent	Number	Percent		
<b>Directors and Executive Officers**:</b>								
William Wei Huang <sup>(1)</sup>	78,891,429	13.6%						
Daniel Newman <sup>(2)</sup>	9,072,000	1.6%						
Sio Tat Hiang	*	*						
Erik Ho Ping Siao	*	*						
Peter Ping Hua	*	*						
Hua Chen	*	*						
Satoshi Okada	*	*						
Bruno Lopez	*	*						
Lee Choong Kwong	*	*						
Lim Ah Doo	*	*						
Xu Wei	*	*						
Yilin Chen	*	*						
Liang Chen	—	—						
Yan Liang	*	*						
Directors and Executive Officers as a Group <sup>(3)</sup>	92,943,476	15.9%						

	Ordinary Shares Beneficially Owned After This Offering							
	Ordinary Shares Beneficially Owned Prior to This Offering		Class A		Class B		% of Aggregate Voting Power with Class A and Class B Ordinary Shares Voting on a 1:20 Basis***	% of Aggregate Voting Power with Class A and Class B Ordinary Shares Voting on a 1:1 Basis
	Number	Percent	Number	Percent	Number	Percent		
<b>Principal Shareholders:</b>								
STT GDC <sup>(4)</sup>	269,387,914	45.1%						
SBCVC Holdings Limited (SBCVC) <sup>(5)</sup>	102,770,490	18.1%						
Global Data Solutions Limited <sup>(6)</sup>	87,951,565	15.5%						
Ping An Insurance <sup>(7)</sup>	61,972,064	9.9%						
EDC Group Limited <sup>(8)</sup>	42,975,884	7.6%						

\* Beneficially owns less than 1% of our outstanding shares.

\*\* The business address for our directors and executive officers is at 2/F, Tower 2, Youyou Century Place, 428 South Yanggao Road, Pudong, Shanghai 200127, People's Republic of China.

\*\*\* For each person or group included in this column, the percentage of total voting power represents voting power based on all ordinary shares beneficially owned by such person or group, with respect to (i) the election of a simple majority of our directors and (ii) any change to our amended articles of association that would adversely affect the rights of the holders of Class B ordinary shares, at general meetings of our shareholders, where each Class A ordinary share is entitled to one vote per share, and each Class B ordinary share is entitled to 20 votes per share. With respect to any other matters at general meetings of our shareholders, each Class A ordinary share is entitled to one vote, and each Class B ordinary share is entitled to one vote, voting together as a combined class, and accordingly, percentages of total voting power on such matters correspond to the percentages in the adjacent column, "% of Aggregate Voting Power with Class A and Class B Ordinary Shares Voting on a 1:1 Basis". Class B ordinary shares are convertible into Class A ordinary shares. See "Description of Share Capital."

- (1) Represents (i) 3,286,144 of the ordinary shares held by Solution Leisure Investment Limited, a limited liability company established in the British Virgin Islands, (ii) 42,975,884 of the ordinary shares held by EDC Group Limited, a limited liability company established in the British Virgin Islands, (iii) 21,328,308 of the ordinary shares held by GDS Enterprises Limited, a limited liability company established in the British Virgin Islands, and (iv) 11,301,093 of ordinary shares underlying share options exercisable within 60 days after the date of this prospectus held by Treasure Luck Investment Corporation, a limited liability company established in the British Virgin Islands. Solution Leisure Investment Limited is indirectly wholly owned by a trust of which Mr. Huang's family is the beneficiary. Each of EDC Group Limited and Treasure Luck Investment Corporation is wholly owned by Solution Leisure Investment Limited. GDS Enterprises Limited is indirectly wholly owned by a trust of which Mr. Huang's family is a beneficiary. EDC Group Limited is further described in footnote 8 below.
- (2) Represents (i) 6,000,000 of the ordinary shares held by Ofira Capital Limited, a limited liability company established in the British Virgin Islands, and (ii) 3,072,000 of ordinary shares underlying share options exercisable within 60 days after the date of this prospectus held by Mr. Newman. Mr. Newman is the sole beneficial owner of Ofira Capital Limited.
- (3) Represents ordinary shares beneficially held by all of our directors and executive officers as a group and ordinary shares issuable upon exercise of options within 60 days after the date of this prospectus held by all of our directors and executive officers as a group.
- (4) Represents (i) 238,526,241 ordinary shares upon conversion of 238,526,241 Series C preferred shares, (ii) convertible bonds issued on January 29, 2016 in a principal amount of US\$50.0 million up to 100% of which (in multiples of US\$10.0 million), together with interest accrued as of September 30, 2016 at a simple rate of five per cent (5%) per annum calculated daily on a 180/360 day basis, are convertible into 30,861,673 ordinary shares at a set conversion price of US\$1.675262 per share (subject to adjustments arising from any share consolidation, sub-division or distributions by way of shares) at any time between the date on which this offering is completed and December 30, 2019, and (iii) Class A ordinary shares that will be issued in connection with the preference dividend to be paid by the company and which the holders of the series C preferred shares have elected to receive in the form of shares, assuming an initial public offering price of US\$ per ADS, the mid-point of the estimated price range set forth on the cover of this prospectus, that are beneficially owned by STT GDC, a limited liability company established in Singapore and wholly owned subsidiary of ST Telemedia. The registered address of STT GDC is 1 Temasek Avenue, #33-01, Millenia Tower, Singapore 039192.
- (5) Represents 21,844,099 ordinary shares upon conversion of 21,844,099 Series A preferred shares held by SBCVC Fund II, L.P., 6,916,645 ordinary shares upon conversion of 6,916,645 Series A\* preferred shares held by SBCVC Company Limited,



2,576,483 ordinary shares upon conversion of 2,576,483 Series B preferred shares held by SBCVC Fund II-Annex, L.P., 5,763,871 ordinary shares upon conversion of 5,763,871 Series B1 preferred shares held by SBCVC Company Limited, 5,763,871 ordinary shares upon conversion of 5,763,871 Series B1 preferred shares held by SBCVC Venture Capital, 10,435,639 ordinary shares upon conversion of 10,435,639 Series B2 preferred shares held by SBCVC Company Limited, 14,076,620 ordinary shares upon conversion of 14,076,620 Series B4 preferred shares held by SBCVC Fund III L.P., 35,393,262 ordinary shares upon conversion of 35,393,262 Series B5 preferred shares held by SBCVC Fund III L.P. and represents Class A ordinary shares that will be issued in connection with the preference dividend to be paid by the company and which the holders of the series B4 and B5 preferred shares have elected to receive in the form of shares, assuming an initial public offering price of US\$ per ADS, the mid-point of the estimated price range set forth on the cover of this prospectus. We collectively refer to SBCVC Fund II, L.P., SBCVC Company Limited, SBCVC Fund II-Annex, L.P., SBCVC Venture Capital and SBCVC Fund III L.P. as SBCVC Holdings Limited (SBCVC). The registered address of SBCVC is OMC Chambers, Wickham Cay 1, Road Town, Tortola, British Virgin Islands.

- (6) Global Data Solutions Limited is a limited liability company established in the Cayman Islands and is owned by its respective shareholders. Voting and investment power of the shares held by Global Data Solutions Limited is exercised by its board of directors, which consists of William Wei Huang, Alan Song, Erik Ho Ping Siao, Qihang Chen and Xu Zhang. The registered address of Global Data Solutions Limited is Cricket Square, Hutchins Drive, P.O. Box 2681GT, George Town, Grand Cayman KY1-1111.
- (7) Represents convertible bonds issued on December 30, 2015 in a principal amount of US\$100.0 million up to 100% of which (in multiples of US\$10.0 million), together with interest accrued as of September 30, 2016 at a simple rate of five per cent (5%) per annum calculated daily on a 180/360 day basis, are convertible into 61,972,064 ordinary shares at a set conversion price of US\$1.675262 per share (subject to adjustments arising from any share consolidation, sub-division or distributions by way of shares) at any time between the date on which this offering is completed and December 30, 2019, that are beneficially owned by Perfect Success Limited, a company incorporated under the laws of the Cayman Islands, which is indirectly owned by Ping An Insurance, a company listed on the Hong Kong Stock Exchange and the Shanghai Stock Exchange. The registered address of Ping An Insurance is 15th, 16th, 17th and 18th Floors, Galaxy Development Center, Fuhua No. 3 Road, Futian District, Shenzhen, Guang Dong, China.
- (8) EDC Group Limited is a limited liability company established in the British Virgin Islands wholly owned by Solution Leisure Investment Limited, a limited liability company established in the British Virgin Islands which is indirectly wholly owned by a trust of which the family of Mr. William Wei Huang, our chairman and chief executive officer, is the beneficiary. The registered address of EDC Group Limited is OMC Chambers, Wickham Cay 1, Road Town, Tortola, British Virgin Islands.

As of the date of this prospectus, none of our outstanding ordinary shares or preferred shares are held by record holders in the United States. Except as stated in the footnotes to the table above, we are not aware of any of our shareholders being affiliated with a registered broker-dealer or being in the business of underwriting securities.

None of our existing shareholders has voting rights that will differ from the voting rights of other shareholders after the completion of this offering. We are not aware of any arrangement that may, at a subsequent date, result in a change of control of our company.

We have outstanding convertible bonds in the aggregate principal amount of US\$150.0 million due December 30, 2019. We may, at our option, require the original subscribers, STT GDC to subscribe for an additional amount of these bonds as to US\$50.0 million, and thereafter, Ping An Insurance to subscribe for an additional amount as to US\$50.0 million, at any time until September 30, 2016. In addition, following this offering, we may require the conversion of the bonds assuming the average per-Class-A-ordinary-share-equivalent closing trading price of our ADSs in any period of ten (10) consecutive trading days following this offering is at least 125% of US\$1.675262 and we exercise our right to cause STT GDC and Ping An Insurance to convert the bonds. If the bondholders elect to convert, or we cause the bondholders to convert, their bonds (including interests accrued), at least 91,681,348 Class A ordinary shares will be issued. The conversion of the bonds would result in substantial dilution of our ADSs and Class A ordinary shares and a decline in their market price. There can be no certainty as to whether the bondholders will elect to convert, or if we will be entitled to cause the bondholders to convert, their bonds at the time of or after the completion of this offering.

#### Historical Changes in Our Shareholding

See "Description of Share Capital—History of Securities Issuances" for historical changes in our shareholding.

## RELATED PARTY TRANSACTIONS

### Transactions with Certain Directors, Shareholders, Affiliates and Key Management Personnel

In December 2013, we made a prepayment of RMB320.0 million to EDC Holding under a service agreement where we were a customer of EDC Holding. The prepayment covered a two-year service period from 2014 to 2015. During the six-month period ended June 30, 2014, EDC Holding provided services to us amounting to RMB55.9 million.

During the six-month period ended June 30, 2014, the Company provided loans to EDC Holding amounting to RMB307.0 million. Interest income on the loans amounted to RMB4.3 million.

In January 2013, EDC Holding provided a loan of US\$8.0 million to the Company. During the six-month period ended June 30, 2014, interest expenses on the loan amounted to RMB0.2 million.

At the acquisition date, such balances were effectively settled and eliminated upon consolidation.

Short-term loans of RMB259.0 million, RMB247.0 million (US\$37.2 million) and RMB264.0 million (US\$39.7 million) as of December 31, 2014 and 2015 and June 30, 2016 were guaranteed by Mr. William Wei Huang.

Long-term loans of RMB15.0 million, RMB195.0 million (US\$29.3 million) and RMB194.0 million (US\$29.2 million) as of December 31, 2014 and 2015 and June 30, 2016 were guaranteed by Mr. William Wei Huang.

### Transactions with Our Shareholders

In August 2014, we repurchased 13,905,901 Series A preferred shares, 4,403,119 Series A\* preferred shares, 1,640,183 Series B preferred shares, 7,338,532 Series B1 preferred shares, 6,643,303 Series B2 preferred shares and 8,961,143 Series B4 preferred shares at US\$1.0365 per share, for a cash consideration of US\$44.5 million, from SBCVC Company Limited, SBCVC Fund II-Annex, L.P., SBCVC Venture Capital, SBCVC Fund II, L.P., and SBCVC Fund III, L.P. As of December 31, 2014, outstanding consideration payable to certain of these SBCVC entities amounted to RMB23.3 million (US\$3.5 million), which was fully settled in 2015.

During the year ended December 31, 2015, we borrowed a loan of US\$10.0 million from STT GDC. The interest expenses on the loan amounted to US\$0.4 million. As of December 31, 2015, the amount due to STT GDC comprised an outstanding short-term loan balance of US\$10.0 million and accrued loan interest of US\$0.4 million.

On January 29, 2016, we received the second tranche of US\$50.0 million from STT GDC to subscribe for convertible and redeemable bonds due 2019, of which US\$10.5 million was used to settle the outstanding short-term loan of US\$10.0 million and related interest payable of US\$0.5 million.

### Contractual Arrangements with Our Consolidated VIEs and their Shareholders

See "Our History and Corporate Structure—Variable Interest Entity Contractual Arrangements."

### Private Placement

See "Description of Share Capital—History of Securities Issuances."

### Members (Shareholders) Agreements

See "Description of Share Capital—Members (Shareholders) Agreement and Voting Agreement."

### Employment Agreements

See "Management—Qualification—Employment Agreements."

### Share Options

See "Management—Share Incentive Plans."

## DESCRIPTION OF SHARE CAPITAL

We are a Cayman Islands exempted company with limited liability and our affairs are governed by our memorandum and articles of association, the Companies Law (2013 Revision), as amended, of the Cayman Islands, which is referred to as the Companies Law below, and the common law of the Cayman Islands.

As of the date of this prospectus, our authorized share capital was US\$51,310 divided into 675,636,564 ordinary shares of nominal or par value of US\$0.00005 each, 29,635,045 Series A preferred shares of nominal or par value of US\$0.00005 each, 6,916,645 Series A\* preferred shares of nominal or par value of US\$0.00005 each, 2,576,483 Series B preferred shares of nominal or par value of US\$0.00005 each, 11,527,742 Series B1 preferred shares of nominal or par value of US\$0.00005 each, 10,435,639 Series B2 preferred shares of nominal or par value of US\$0.00005 each, 14,076,620 Series B4 preferred shares of nominal or par value of US\$0.00005 each, 35,395,262 Series B5 preferred shares of nominal or par value of US\$0.00005 each, and 240,000,000 Series C preferred shares of a nominal or par value of US\$0.00005 each. As of the date of this prospectus, there were 217,987,922 ordinary shares and 349,087,677 preferred shares issued and outstanding in accordance with our register of members. Upon the completion of this offering, we will have ordinary shares issued and outstanding (or ordinary shares if the underwriters exercise in full the over-allotment option), comprising Class A ordinary shares and Class B ordinary shares, which is based upon (i) 217,987,922 ordinary shares outstanding as of the date of this prospectus; (ii) the automatic conversion of preferred shares into 349,087,677 Class A ordinary shares immediately upon the completion of this offering; (iii) the issuance of Class A ordinary shares immediately upon the completion of this offering in connection with the preference dividends to be paid to holders of our preferred shares; and (iv) Class A ordinary shares issued in connection with this offering (or Class A ordinary shares if the underwriters exercise in full the over-allotment option), but excluding ordinary shares issuable upon the exercise of outstanding options under our share incentive plans vested but not yet issued restricted shares and ordinary shares reserved for future issuance under our share incentive plans. All of our ordinary shares issued and outstanding prior to the completion of the offering are and will be fully paid, and all of our shares to be issued in the offering will be issued as fully paid. Our authorized share capital post-offering will be US\$ divided into ordinary shares, comprising Class A ordinary shares and Class B ordinary shares, with a par value of US\$0.00005 each.

Our memorandum and articles of association will become effective upon completion of this offering. The following are summaries of material provisions of our memorandum and articles of association and the Companies Law insofar as they relate to the material terms of our ordinary shares.

### Ordinary Shares

#### General

All of our outstanding ordinary shares are fully paid and non-assessable. Certificates representing the ordinary shares are issued in registered form. Our shareholders who are non-residents of the Cayman Islands may freely hold and vote their ordinary 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 and to the articles of association.

#### Voting Rights

Our share capital is currently divided into two classes of shares, namely, ordinary shares and preferred shares. Upon completion of this offering, our outstanding share capital will consist of Class A ordinary shares, Class B ordinary shares and preferred shares. Class A ordinary shares and Class B ordinary shares carry equal rights, generally rank *pari passu* with one another and are entitled to one vote per share at general meetings of shareholders, except for only the following matters at general meetings of

shareholders, with respect to which Class B ordinary shares are entitled to 20 votes per share: (i) the election of a simple majority, or six, of our directors; and (ii) any change to our articles of association that would adversely affect the rights of Class B shareholders. With respect to any other matters at general meetings of our shareholders, each Class A ordinary share is entitled to one vote, and each Class B ordinary share is entitled to one vote. Class B ordinary shares are convertible into Class A ordinary shares, and will automatically convert into Class A ordinary shares under certain circumstances. Any Class A ordinary shares which Class B shareholders acquire will be converted into Class B ordinary shares. See "Description of Share Capital—Ordinary Shares—Conversion."

Voting at any meeting of shareholders is by way of a poll, unless the chairman allows a vote by show of hands on a resolution which relates purely to a procedural or administrative matter. Procedural and administrative matters are those that are not on the agenda of the general meeting and relate to the chairman's duties to maintain the orderly conduct of the meeting or allow the business of the meeting to be properly and effectively dealt with, while affording all shareholders a reasonable opportunity to express their views.

Pursuant to our amended articles of association the following matters will be subject to ordinary resolution of the shareholders, with Class A ordinary shares and Class B ordinary shares each being entitled to one vote per share: (i) the election of two independent directors nominated by our nominating and corporate governance committee; (ii) any allotment or issuance of any of our shares or securities (in any 12-month period, whether in a single transaction or a series of transactions) equal to 10% or more of our share capital, or 10% or more of our voting power, prior to such allotment or issuance (without regard to any exemption from shareholder approval available under the NASDAQ Stock Market Rules); and (iii) any disposition of all, or 10% or more, of our undertakings or assets, as defined in our amended articles of association.

Subject to the abovementioned matters at general meetings of shareholders with respect to which Class B ordinary shares are entitled to 20 votes per share, an ordinary resolution to be passed by the shareholders requires the affirmative vote of a simple majority of votes attached to the ordinary shares cast in a general meeting, while a special resolution requires the affirmative vote of no less than 75% of votes cast attached to the ordinary shares. A special resolution will be required for important matters such as a change of name or making changes to our memorandum and articles of association.

#### **Conversion**

Class B ordinary shares are convertible into Class A ordinary shares. All Class B ordinary shares are subject to automatic conversion into Class A ordinary shares on the same business day as the first to occur of the following: (i) Mr. William Wei Huang, our founder, chairman and chief executive officer, collectively ceasing to have beneficial ownership (as such term is interpreted pursuant to applicable U.S. securities laws and rules, regulations and forms promulgated thereunder by the SEC), in aggregate, of not less than five per cent (5%) of our issued and outstanding share capital on an as-converted basis; (ii) the Foreign Investment Law in the form implemented does not require that our VIE entities as it relates to VIE entities be owned or controlled by PRC nationals or entities; (iii) the PRC law no longer requires the conduct of the businesses carried out, or contemplated to be carried out, by us in the PRC, be owned or controlled by PRC nationals or entities; (iv) the promulgation of the Foreign Investment Law as it relates to VIE entities is abandoned by the relevant authorities in the PRC; or (v) the relevant authorities in the PRC approve our VIE structure without the need for our VIE entities to be controlled by PRC nationals or entities; provided, however, that the Class B ordinary shares shall not be automatically converted upon ceasing to constitute five per cent (5%) of our issued and outstanding share capital on an as-converted basis if 75% of the board of directors resolve that such automatic conversion shall, in their opinion, result in our failing to comply with any applicable foreign ownership restrictions under PRC law. Class B shareholders may elect to convert any or all of their Class B ordinary shares into Class A ordinary shares. Each Class B ordinary share is generally convertible into one Class A ordinary share, or at a conversion rate of 1:1. However, if and when the nominal amount of one Class A ordinary share changes by reason of consolidation or sub-division, the

applicable conversion rate of Class B ordinary shares into Class A ordinary shares shall equal the quotient of the revised nominal amount, divided by the former nominal amount, of one Class A ordinary share.

#### **Transfer of Ordinary Shares**

Subject to the restrictions contained in our articles of association, as applicable, any of our shareholders may transfer all or any of his or her ordinary shares by an instrument of transfer in the usual or common form or any other form approved by our board of directors. Class B ordinary shares may not be assigned or transferred in whole or in part by a holder or such holder's affiliate. Class B ordinary shares must be converted into Class A ordinary shares prior to any such assignment or transfer.

Our board of directors may, in its absolute discretion, decline to register any transfer of any ordinary share. Our board of directors may also decline to register any transfer of any ordinary share unless:

- the instrument of transfer is lodged with us, accompanied by the certificate for the ordinary shares to which it relates and such other evidence as our board of directors may reasonably require to show the right of the transferor to make the transfer;
- the instrument of transfer is in respect of only one class of ordinary shares;
- the instrument of transfer is properly stamped, if required;
- the ordinary shares transferred are fully paid and free of any lien in favor of us; and
- any fee related to the transfer has been paid to us; and
- the transfer is not to more than four joint holders.

If our directors refuse to register a transfer they shall, within three months after the date on which the instrument of transfer was lodged, send to each of the transferor and the transferee notice of such refusal.

#### **Liquidation**

On a return of capital on winding up or otherwise (other than on conversion, redemption or purchase of ordinary shares), assets available for distribution among the holders of ordinary shares shall be distributed among the holders of the 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 Ordinary Shares and Forfeiture of Ordinary Shares**

Our board of directors may from time to time make calls upon shareholders for any amounts unpaid on their ordinary shares. The ordinary shares that have been called upon and remain unpaid are subject to forfeiture.

#### **Redemption of Ordinary Shares**

Subject to the provisions of the Companies Law and other applicable law, we may issue shares on terms that are subject to redemption, at our option or at the option of the holders, on such terms and in such manner, including out of capital, as may be determined by the board of directors.

#### **Variations of Rights of Shares**

If at any time, our share capital is divided into different classes of shares, all or any of the special rights attached to any class of shares may, subject to the provisions of the Companies Law, be varied with the sanction of a special resolution passed at a general meeting of the holders of the shares of that class. Consequently, the rights of any class of shares cannot be detrimentally altered without a majority of two-thirds of the vote of all of the shares in that class. The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the

terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking *pari passu* with such existing class of shares.

#### **General Meetings of Shareholders**

Shareholders' meetings may be convened by a majority of our board of directors or our chairman. Advance notice of at least ten clear days is required for the convening of our annual general shareholders' meeting and any other general meeting of our shareholders. A quorum required for a meeting of shareholders consists of at least two shareholders present or by proxy, representing not less than one-third in nominal value of the total issued voting shares in our company.

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 that will be in effect upon the completion of this offering will allow our Class A shareholders (excluding STT GDC and its controlled affiliates) holding shares representing in aggregate not less than one-third of the issued and outstanding Class A ordinary shares of our company (calculated excluding Class A ordinary shares beneficially owned by STT GDC or its controlled affiliates), to requisition an extraordinary general meeting of our shareholders, in which case our directors are obliged to call such meeting and to put the resolutions so requisitioned to a vote at such meeting; however, our memorandum and articles of association that will be in effect upon the completion of this offering will not provide our shareholders with any right to put any proposals before annual general meetings or extraordinary general meetings not called by such shareholders. When STT GDC no longer has any director appointment right as described herein, STT GDC will be eligible for the same right to requisition a shareholder meeting described above on the same terms as other Class A ordinary shareholders, where the one-third of the Class A ordinary shares will then be calculated based upon all Class A ordinary shares issued and outstanding. STT GDC and the Class B shareholders also have the right to requisition a general meeting insofar as is necessary to exercise and protect their respective nomination and appointment rights.

#### **Inspection of Books and Records**

Holders of our ordinary shares will have no general right under Cayman Islands law to inspect or obtain copies of our list of shareholders or our corporate records. However, we will in our articles provide our shareholders with the right to inspect our list of shareholders and to receive annual audited financial statements. See "Where You Can Find More Information."

#### **Changes in Capital**

We may from time to time by ordinary resolution:

- increase the share capital by such sum, to be divided into shares of such classes and amount, as the resolution shall prescribe;
- consolidate and divide all or any of our share capital into shares of a larger amount than our existing shares;
- sub-divide our existing shares, or any of them into shares of a smaller amount; or
- cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person and diminish the amount of our share capital by the amount of the shares so cancelled.

We may by special resolution reduce our share capital or any capital redemption reserve in any manner permitted by law.

## Certain Enumerated Rights under Our Amended Articles of Association

### **Appointment Rights**

Our amended articles of association provide that for so long as STT GDC beneficially owns: not less than 25% of our issued and outstanding share capital, they may appoint three directors to our board of directors, including our vice-chairman; less than 25%, but not less than 15%, of our issued and outstanding share capital, they may appoint two directors to our board of directors, including our vice-chairman; and less than 15%, but not less than 8%, of our issued and outstanding share capital, they may appoint one director to our board of directors, including our vice-chairman, none of which appointments will be subject to a vote by our shareholders. Our amended articles of association also provide that for so long as STT GDC has the right to appoint one or more directors to our board of directors, any change in the total number of directors on our board shall require the approval of the director or directors appointed by STT GDC. The above rights of STT GDC may not be amended without the approval of STT GDC.

Our amended articles of association further provide that for so long as there are Class B ordinary shares outstanding, if any of the directors nominated by or subject to election by Class B shareholders at 20 votes per share (i) is not elected or (ii) ceases to be a director, then the Class B shareholders may appoint an interim replacement for each such director. As of and after such time as there cease to be any Class B ordinary shares outstanding, and for so long as Mr. William Wei Huang beneficially owns not less than 2% of our then issued share capital, Mr. William Wei Huang may appoint one director (which is intended to be Mr. William Wei Huang) to our board of directors. Such appointments will not be subject to a vote by our shareholders. Any person so appointed shall hold office until the next general meeting of our shareholders and be subject to re-nomination and re-election at such meeting.

### **Nomination Rights**

Our amended articles of association also provide that for so long as there are Class B ordinary shares outstanding, the Class B shareholders shall have the right to nominate one less than a simple majority (five) of our directors, all of whom will be subject to a vote at general meetings of our shareholders and with respect to whom Class B ordinary shares will be entitled to 20 votes per share. If any of the directors nominated by or subject to election by the Class B shareholders at 20 votes per share (i) is not elected or (ii) ceases to be a director, then Mr. Huang may appoint another person to serve in the stead of such director. Any person so appointed shall hold office until the next general meeting of our shareholders and be subject to re-nomination and re-election at such meeting.

### **Exempted Company**

We are an exempted company with limited liability under the Companies Law of the Cayman Islands. The Companies Law in the Cayman Islands distinguishes between ordinary resident companies and exempted companies. Any company that is registered in the Cayman Islands but conducts business mainly outside of the Cayman Islands may apply to be registered as an exempted company. The requirements for an exempted company are essentially the same as for an ordinary company except for the exemptions and privileges listed below:

- an exempted company does not have to file an annual return of its shareholders with the Registrar of Companies;
- an exempted company's register of members is not open to inspection;
- an exempted company does not have to hold an annual general meeting;
- an exempted company may issue no par value, negotiable or bearer shares;
- an exempted company may obtain an undertaking against the imposition of any future taxation (such undertakings are usually given for 20 years in the first instance);
- an exempted company may register by way of continuation in another jurisdiction and be deregistered in the Cayman Islands;

- an exempted company may register as a limited duration company; and
- an exempted company may register as a segregated portfolio company.

"Limited liability" means that the liability of each shareholder is limited to the amount unpaid by the shareholder on the shares of the company. Upon the closing of this offering, we will be subject to reporting and other informational requirements of the Exchange Act, as applicable to foreign private issuers. We currently intend to comply with the NASDAQ Stock Market Rules in lieu of following home country practice after the closing of this offering. The NASDAQ Stock Market Rules require that every company listed on the NASDAQ hold an annual general meeting of shareholders. In addition, our articles of association allow directors to call special meeting of shareholders pursuant to the procedures set forth in our articles.

#### **Differences in Corporate Law**

The Companies Law is modeled after that of England and Wales but does not follow recent statutory enactments in England. In addition, the Companies Law differs from laws applicable to United States corporations and their shareholders. Set forth below is a summary of the significant differences between the provisions of the Companies Law applicable to us and the laws applicable to companies incorporated in the State of Delaware.

#### **Mergers and Similar Arrangements**

A merger of two or more constituent companies under Cayman Islands law requires a plan of merger or consolidation to be approved by the directors of each constituent company and authorization by a special resolution of the members of each constituent company.

A merger between a Cayman parent company and its Cayman subsidiary or subsidiaries does not require authorization by a resolution of shareholders. For this purpose a subsidiary is a company of which at least ninety percent (90%) of the issued shares entitled to vote are owned by the parent company.

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.

Save in certain circumstances, a dissenting shareholder of a Cayman constituent company is entitled to payment of the fair value of his shares upon dissenting to a merger or consolidation. The exercise of appraisal rights will preclude the exercise of any other rights save for the right to seek relief on the grounds that the merger or consolidation is void or unlawful.

In addition, there are statutory provisions that facilitate the reconstruction and amalgamation of companies, provided that the arrangement is approved by a majority in number of each class of shareholders and creditors (representing 75% by value) 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 court 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.

When a take over offer is made and accepted by holders of 90% of the shares 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 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 is thus approved, the dissenting shareholder would have no rights comparable to appraisal rights, 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 and as a general rule a derivative action may not be brought by a minority shareholder. However, based on English authorities, which would in all likelihood be of persuasive authority in the Cayman Islands, there are exceptions to the foregoing principle, including when:

- a company acts or proposes to act illegally or ultra vires;
- the act complained of, although not ultra vires, could only be effected duly if authorized by more than a simple majority vote that has not been obtained; and
- those who control the company are perpetrating a "fraud on the minority."

#### **Indemnification of Directors and Executive Officers and Limitation of Liability**

Cayman Islands law does not limit the extent to which a company's 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 permit indemnification of officers and directors for losses, damages, costs and expenses incurred in their capacities as such unless such losses or damages arise from dishonesty or fraud which may attach to 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 intend to enter into indemnification agreements with our directors and senior executive officers that will 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.

#### **Anti-Takeover Provisions in the Memorandum and Articles of Association**

Some provisions of our amended 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 what they believe in good faith to be in the best interests of our company.

### **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 act in a manner he or she reasonably believes to be in the best interests of the corporation. He or she must not use his or her 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, a 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 *bona fide* in the best interests of the company, a duty not to make a profit based on his or her position as director (unless the company permits him to do so) and a duty not to put himself in a position where the interests of the company conflict with his or her personal interest or his or her duty to a third party. 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 or her duties a greater degree of skill than may reasonably be expected from a person of his or her 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 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.

Neither Cayman Islands law nor our articles of association allow our shareholders to requisition a shareholders' meeting. As an exempted Cayman Islands company, we are not obliged by law to call shareholders' annual general meetings. However, our articles of association require us to call such meetings every year.

### **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. As permitted under Cayman Islands law, our 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 articles of association, directors may be removed by ordinary resolution.

#### **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 stock 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, it does provide that such transactions must be entered into *bona fide* in the best interests of the company and for a proper corporate 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.

Under the Companies Law of the Cayman Islands and our articles of association, our company may be dissolved, liquidated or wound up by the vote of holders of two-thirds of our shares voting at a meeting or the unanimous written resolution of all shareholders.

#### **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 only 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. As permitted by Cayman Islands law, our memorandum and articles of association may only be amended by special resolution or the unanimous written resolution of all 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. In addition, there are no provisions in our memorandum and articles of association governing the ownership threshold above which shareholder ownership must be disclosed.

#### **Directors' Power to Issue Shares**

Subject to applicable law, our board of directors is empowered to issue or allot shares or grant options and warrants with or without preferred, deferred, qualified or other special rights or restrictions.

#### **History of Securities Issuances**

The following is a summary of our securities issuances since our inception.

#### **Ordinary Shares**

On December 1, 2006, we issued one share to Codan Trust Company (Cayman) Limited, and such share was transferred to Alan Song on the same day. On December 19, 2006, we issued a total of 110,000,000 ordinary shares, with nominal or par value of US\$0.00005, to Global Data Solutions Limited.

On June 30, 2014, we issued 88,352,558 ordinary shares to Brilliant Wise Holdings Limited as part of consideration to acquire EDC Holding.

#### **Preferred Shares**

**Series A Preferred Shares.** On January 31, 2007, we issued 63,250,000 Series A preferred shares for an aggregate purchase price of US\$23,000,000, or at US\$0.363636 per share to certain investors, including to SBCVC Fund II, L.P. and International Finance Corporation.

**Series B Preferred Shares.** On March 18, 2011, we issued 11,550,000 Series B preferred shares for an aggregated purchase price of US\$9,000,000, or at US\$0.77922 per share to certain investors, including SBCVC Fund II-Annex, L.P. and International Finance Corporation.

**Series A\*, B1, B2, B3 and B4 Preferred Shares.** In connection with our acquisition of EDC Holding, we altered our authorized share capital from comprising ordinary shares, Series A and Series B preferred shares, to comprising ordinary shares, Series A, Series B, Series A\*, Series B1, Series B2, Series B3 and Series B4 preferred shares. Accordingly, Series A\*, Series B1, Series B2, Series B3 and Series B4 preferred shares were newly added to our previously authorized share capital.

On June 30, 2014, we acquired EDC Holding from its shareholders whereby we issued shares to EDC Holding's shareholders in exchange for their shares in EDC Holding. Pursuant to the terms of the agreement, we issued 199,163,164 shares in exchange for approximately 93% of the shares in EDC Holding

which we did not already own. Accordingly, we issued 88,352,558 ordinary shares to Brilliant Wise Holdings Limited, 11,319,764 Series A\* preferred shares to SBCVC Company Limited, 2,829,941 Series A\* preferred shares to International Finance Corporation, 9,433,137 Series B1 preferred shares to SBCVC Company Limited, 9,433,137 Series B1 preferred shares to SBCVC Venture Capital, 15,093,019 Series B1 preferred shares to International Finance Corporation, 8,539,471 Series B2 preferred shares to International Finance Corporation, 17,078,942 Series B2 preferred shares to SBCVC Company Limited, 14,045,432 Series B3 preferred shares to International Finance Corporation, and 23,037,763 Series B4 preferred shares to SBCVC Fund III L.P.

*Series B5 and Series C Preferred Shares.* In connection with our issuance of Series C preferred shares, we altered our authorized share capital from comprising ordinary shares, Series A, Series B, Series A\*, Series B1, Series B2, Series B3 and Series B4 preferred shares, to comprising ordinary shares, Series A, Series B, Series A\*, Series B1, Series B2, Series B3, Series B4, Series B5 and Series C preferred shares. Accordingly, Series B5 and Series C preferred shares were newly added to our previously authorized share capital.

On August 13, 2014, SBCVC Fund III L.P. purchased 18,698,485 of our Series A, Series A\* and Series B3 preferred shares from certain of our investors, all of which preferred shares were redesignated as Series B5 preferred shares.

On August 13, 2014, we repurchased 93,811,462 shares from certain of our investors, which include 18,762,292 ordinary shares, 23,533,064 Series A preferred shares, 5,503,899 Series A\* preferred shares, 8,413,412 Series B preferred shares, 13,209,358 Series B1 preferred shares, 9,964,954 Series B2 preferred shares, 5,463,340 Series B3 preferred shares and 8,961,143 Series B4 preferred shares for a total consideration of US\$97,237,644.

On August 13, 2014, we issued 238,526,241 Series C preferred shares for an aggregate purchase price of US\$247,237,696, or at US\$1.036522 per share to STT GDC.

On December 22, 2014, International Finance Corporation transferred and sold its equity interests in GDS Holdings Limited in the form of 1,310,083 Series A, 560,105 Series B, 9,222,193 Series B1, 5,217,820 Series B2 and 384,576 Series B3 preferred shares to SBCVC Fund III, L.P. All of the preferred shares so transferred were reclassified and re-designated as 16,694,777 Series B5 preferred shares.

In connection with and subsequent to the issuance of Series C preferred shares, holders of our preferred shares entered into voting agreements and agreements regarding rights of first refusal and co-sale rights. These voting agreements and the rights of first refusal and co-sale rights will terminate upon the closing of this offering.

Prior to the closing of this offering, holders of each series of preferred shares may elect to convert part or all of the preferred shares held by them into our ordinary shares at a 1:1 share conversion ratio. Each preferred share not so converted will automatically convert into our ordinary shares at the 1:1 share conversion ratio immediately prior to the closing of this offering. All preferred shares converted into ordinary shares will be subject to a lock-up period of 180 days after the date of this prospectus.

#### **Note Financing**

On December 11, 2012, we issued and sold an aggregate principal amount of US\$10.5 million bonds due 2014, par value US\$10,000 per note, in a private placement to Best Million Group Limited. The bonds due 2014 had a maturity date of June 10, 2014 and carried interest at 10% per annum. Upon maturity, the carrying amount of the bonds due 2014 was US\$10.5 million and we repaid a portion of the bonds due 2014 amounting to US\$0.7 million. On June 11, 2014, we issued and sold to the same investor in an aggregate principal amount of US\$30.2 million bonds due 2015 of which a portion was to settle the remaining unpaid portion of the bonds due 2014 of US\$9.8 million and unpaid interest payable on the bonds due 2014 of US\$1.6 million.

Prior to June 10, 2015, the holder of bonds due 2015 had the right to exchange the bonds into our ordinary shares in the event of a QIPO or private placement. The price used to determine the number of ordinary shares issued in exchange for the bonds is equal to 70% of the QIPO price or 70% of the share issuance price of the private placement.

In August 2014, we conducted a private placement of 238,526,241 Series C redeemable preferred shares, or Series C preferred shares. Upon the issuance of Series C preferred shares, the holder of the bonds due 2015 exchanged outstanding principal amount of the bonds due 2015 of US\$27.9 million for 38,397,655 ordinary shares. The number of ordinary shares issued was based on US\$0.72557, or 70% of the issuance price of Series C preferred shares of US\$1.036522. The holder waived its right to exchange the remaining bonds due 2015 of US\$2.3 million for ordinary shares of the Company.

On June 10, 2015, we fully redeemed the remaining bonds due 2015 of US\$2.3 million upon maturity.

#### **Convertible Bonds**

On December 30, 2015 and January 29, 2016, we issued and sold convertible and redeemable bonds due 2019 in aggregate principal amount of US\$150.0 million, which bonds were subscribed by Ping An Insurance and STT GDC as to US\$100.0 million and US\$50.0 million, respectively. We may, at our option, require STT GDC to subscribe for an additional amount of these bonds as to US\$50.0 million, and thereafter, Ping An Insurance to subscribe for an additional amount of these bonds as to US\$50.0 million, at any time within the nine month period following the date of issue, or until September 30, 2016. Under the terms of the bonds, Ping An Insurance is entitled to appoint one observer to attend meetings of our board of directors.

The bonds are repayable four years from the date of issue, i.e. on December 30, 2019, and may be converted at a set conversion price of US\$1.675262 per share (subject to adjustments arising from any share consolidation, sub-division or distributions by way of shares) at any time between the date on which this offering is completed and December 30, 2019. Any share issued pursuant to the conversion of these bonds by a holder who is not our existing shareholder within twelve months after the closing of this offering will be subject to a lock-up period expiring on the first anniversary of this offering's closing date. We also may mandate each of Ping An Insurance and STT GDC to convert their bonds into shares if the average per-ordinary-share-equivalent closing trading price of our ADSs in any period of ten (10) consecutive trading days following the offering is at least 125% of US\$1.675262.

The bonds bear two types of interest on the principal amount, (i) interest payable in cash semi-annually at a rate of 5% per annum, and (ii) interest accruing semi-annually at a rate of 5% per annum. Such accrued interest is (i) in the case of cash redemption, payable in cash on December 30, 2019, and (ii) in the case of conversion, capitalized and paid in shares upon conversion of the bonds.

We plan to use the proceeds of the bonds for data center development, repayment of indebtedness, and to fund our working capital. As security for the bonds, we pledged our entire equity interest in the registered capital of EDC China Holdings Limited, a limited company incorporated in Hong Kong, which is wholly owned by EDC Holding.

#### **Share Options and Restricted Shares**

We adopted our 2014 share incentive plan in July 2014. In July 2014, we granted 12,394,753 share options to employees, officers and directors and 5,834,200 share options to external consultants. In January 2015, we granted 1,000,000 share options to an external consultant. In May 2016, we granted 11,084,840 share options to employees, officers and directors.

We adopted our 2016 share incentive plan in August 2016. In August 2016, we granted 877,400 fully vested restricted shares in lieu of cash to our directors to settle a portion of their remuneration for services provided by the directors in the past.

For additional information, see "Management's Discussion and Analysis of Financial Condition and Results of Operations—Critical Accounting Policies—Share-based Compensation" and "Management—Share Incentive Plans."

#### **Members (Shareholders) Agreement and Voting Agreement**

Pursuant to our amended members agreement entered into on May 19, 2016, we granted the holders of our registrable securities certain preferential rights, including registration rights, information and inspection rights, drag-along rights and pre-emptive rights. The amended members agreement also provides that our board of directors consists of nine directors, including (i) four directors appointed by STT GDC, (ii) two directors appointed by holders of 75% of our then outstanding preferred shares other than the Series C preferred shares, such holders voting together as a separate class on an as-converted basis, and (iii) three directors appointed by holders of a majority of our then outstanding ordinary shares, such holders voting as a separate class. The board composition arrangements under the amended members agreement will terminate immediately prior to the effectiveness of this registration statement. In addition, pursuant to our amended voting agreement entered into on May 19, 2016, the holders of our registrable securities have agreed to exercise voting rights so as to maintain the composition of the board of directors as set forth in the amended members agreement and described above. The amended voting agreement will terminate on the date of the closing of this offering.

The drag-along rights will terminate effective upon the closing of this offering. The pre-emptive rights will terminate immediately prior to the closing of this offering. The information and inspection rights will terminate when our principal shareholders fall below certain shareholding percentages.

##### *Registration Rights*

Pursuant to our amended members agreement, we have also granted certain registration rights to holders of our registrable securities, which include our preferred shares and ordinary shares converted from preferred shares, for a period of up to five years from the closing of the offering. Set forth below is a description of the registration rights under the amended members agreement.

##### *Demand Registration Rights*

Under the terms of the amended members agreement dated May 19, 2016, among us and our existing shareholders, certain holders of our registrable securities, at any time from after the earlier of (i) six months after this offering and (ii) three years after August 13, 2014, until the date that is five years after the closing of this offering, have the right to demand that we file a registration statement under the Securities Act covering the registration of all or part of their registrable securities. We, however, are not obligated to effect a demand registration if, among other things, we have already effected two demand registrations. We have the right to defer filing of a registration statement for up to 90 days if our board of directors determine in good faith that filing of a registration will be materially detrimental to us, but we cannot exercise the deferral right more than once in any twelve-month period.

##### *Piggyback Registration Rights*

If we propose to file a registration statement in connection with a public offering of securities of our company other than relating to an employee incentive plan, corporate reorganization, demand registration or Form S-3/F-3 registration then we must offer each holder of the registrable securities the opportunity to include their shares in the registration statement. Such requests for registrations are not counted as demand registrations.

##### *Form S-3/F-3 Registration Rights*

When eligible for use of form S-3/F-3, holders of our registrable securities then outstanding may request in writing that we effect a registration on Form S-3/F-3 so long, among other things, the gross

proceeds of the securities to be sold under the registration statement exceeds US\$1 million. We, however, are not obligated to effect a registration on Form S-3/F-3 if, among other things, we have already effected a registration within any six-month period preceding the date of the registration request. We have the right to defer filing of a registration statement for up to 90 days if our board of directors determine in good faith that filing of a registration will be materially detrimental to us, but we cannot exercise the deferral right more than once in any twelve-month period.

Registration pursuant to Form S-3/F-3 registration rights is not deemed to be a demand registration, and there is no limit on the number of times the holders may exercise their Form S-3/F-3 registration rights.

#### *Expenses of Registration*

We will pay all expenses incurred by us relating to any demand, piggyback or Form S-3/F-3 registration, except that the requesting holders shall bear the expense of any underwriting discounts and selling commissions relating to the offering of their securities. We will not be required to pay for any expenses of any registration proceeding begun pursuant to demand registration rights, unless subject to certain exception, if the registration request is subsequently withdrawn at the request of a majority of the holders of the registrable securities to be registered.

#### **Differences in Corporate Law**

The Companies Law is modeled after that of England and Wales but does not follow recent statutory enactments in England. In addition, the Companies Law differs from laws applicable to United States corporations and their shareholders. Set forth below is a summary of the significant differences between the provisions of the Companies Law applicable to us and the laws applicable to companies incorporated in the State of Delaware.

#### ***Mergers and Similar Arrangements***

A merger of two or more constituent companies under Cayman Islands law requires a plan of merger or consolidation to be approved by the directors of each constituent company and authorization by a special resolution of the members of each constituent company.

A merger between a Cayman parent company and its Cayman subsidiary or subsidiaries does not require authorization by a resolution of shareholders. For this purpose a subsidiary is a company of which at least ninety percent (90%) of the issued shares entitled to vote are owned by the parent company.

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.

Save in certain circumstances, a dissenting shareholder of a Cayman constituent company is entitled to payment of the fair value of his or her shares upon dissenting to a merger or consolidation. The exercise of appraisal rights will preclude the exercise of any other rights save for the right to seek relief on the grounds that the merger or consolidation is void or unlawful.

In addition, there are statutory provisions that facilitate the reconstruction and amalgamation of companies, provided that the arrangement is approved by a majority in number of each class of shareholders and creditors (representing 75% by value) 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 court 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.

When a takeover offer is made and accepted by holders of 90% of the shares within four months, the offer or 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 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 is thus approved, the dissenting shareholder would have no rights comparable to appraisal rights, 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 and as a general rule a derivative action may not be brought by a minority shareholder. However, based on English authorities, which would in all likelihood be of persuasive authority in the Cayman Islands, there are exceptions to the foregoing principle, including when:

- a company acts or proposes to act illegally or *ultra vires*;
- the act complained of, although not *ultra vires*, could only be effected duly if authorized by more than a simple majority vote that has not been obtained; and
- those who control the company are perpetrating a "fraud on the minority."

#### **Indemnification of Directors and Executive Officers and Limitation of Liability**

Cayman Islands law does not limit the extent to which a company's 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 permit indemnification of officers and directors for losses, damages, costs and expenses incurred in their capacities as such unless such losses or damages arise from dishonesty or fraud which may attach to 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 intend to enter into indemnification agreements with our directors and senior executive officers that will 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.

***Anti-Takeover Provisions in the Memorandum and Articles of Association***

Some provisions of our 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 what they believe in good faith to be in the best interests of our company.

***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 act in a manner he or she reasonably believes to be in the best interests of the corporation. He or she must not use his or her 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, a 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 bona fide in the best interests of the company, a duty not to make a profit based on his or her position as director (unless the company permits him to do so) and a duty not to put himself in a position where the interests of the company conflict with his or her personal interest or his or her duty to a third party. 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 or her duties a greater degree of skill than may reasonably be expected from a person of his or her 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 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. The Delaware General Corporation Law does not provide shareholders an express right to put

any proposal before the annual meeting of shareholders, but in keeping with common law, Delaware corporations generally afford shareholders an opportunity to make proposals and nominations provided that they comply with the notice provisions in the certificate of incorporation or bylaws. 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.

Neither Cayman Islands law nor our articles of association allow our shareholders to requisition a shareholders' meeting. As an exempted Cayman Islands company, we are not obliged by law to call shareholders' annual general meetings. However, our articles of association require us to call such meetings every year.

#### ***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. As permitted under Cayman Islands law, our 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 articles of association, directors may be removed by ordinary resolution.

#### ***Transactions with Interested Shareholders***

The Delaware General Corporation Law contains a business combination statute applicable to Delaware public corporations whereby, unless the corporation has specifically elected not to be governed by such statute by amendment to its certificate of incorporation or bylaws that is approved by its shareholders, 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 stock or who or which is an affiliate or associate of the corporation and owned 15% or more of the corporation's outstanding voting stock 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, it does provide that such transactions must be entered into bona fide in the best interests of the company and for a proper corporate 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.

Under the Companies Law of the Cayman Islands and our articles of association, our company may be dissolved, liquidated or wound up by the vote of holders of two-thirds of our shares voting at a meeting or the unanimous written resolution of all shareholders.

***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 only 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 certificate of incorporation may be amended only if adopted and declared advisable by the board of directors and approved by a majority of the outstanding shares entitled to vote, and the bylaws may be amended with the approval of a majority of the outstanding shares entitled to vote and may, if so provided in the certificate of incorporation, also be amended by the board of directors. As permitted by Cayman Islands law, our memorandum and articles of association may only be amended by special resolution or the unanimous written resolution of all 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. In addition, there are no provisions in our memorandum and articles of association governing the ownership threshold above which shareholder ownership must be disclosed.

***Directors' Power to Issue Shares***

Subject to applicable law, our board of directors is empowered to issue or allot shares or grant options and warrants with or without preferred, deferred, qualified or other special rights or restrictions.

***Inspection of Books and Records***

Holders of our ordinary shares will have no general right under Cayman Islands law to inspect or obtain copies of our list of shareholders or our corporate records. However, we will provide our shareholders with annual audited financial statements. See "Where You Can Find More Information."

## DESCRIPTION OF AMERICAN DEPOSITARY SHARES

### American Depositary Receipts

JPMorgan Chase Bank, N.A., as depositary will issue the ADSs which you will be entitled to receive in this offering. Each ADS will represent an ownership interest a designated number of Class A ordinary shares which we will deposit with the custodian, as agent of the depositary, under the deposit agreement among ourselves, the depositary and yourself as an ADR holder. In the future, each ADS will also represent any securities, cash or other property deposited with the depositary but which they have not distributed directly to you. Unless certificated ADRs are specifically requested by you, all ADSs will be issued on the books of our depositary in book-entry form and periodic statements will be mailed to you which reflect your ownership interest in such ADSs. In our description, references to American depositary receipts or ADRs shall include the statements you will receive which reflect your ownership of ADSs.

The depositary's office is located at 4 New York Plaza, Floor 12, New York, NY, 10004.

You may hold ADSs either directly or indirectly through your broker or other financial institution. If you hold ADSs directly, by having an ADS registered in your name on the books of the depositary, you are an ADR holder. This description assumes you hold your ADSs directly. If you hold the ADSs through your broker or financial institution nominee, you must rely on the procedures of such broker or financial institution to assert the rights of an ADR holder described in this section. You should consult with your broker or financial institution to find out what those procedures are.

As an ADR holder, we will not treat you as a shareholder of ours and you will not have any shareholder rights. Cayman Island law governs shareholder rights. Because the depositary or its nominee will be the shareholder of record for the Class A ordinary shares represented by all outstanding ADSs, shareholder rights rest with such record holder. Your rights are those of an ADR holder. Such rights derive from the terms of the deposit agreement to be entered into among us, the depositary and all registered holders from time to time of ADSs issued under the deposit agreement. The obligations of the depositary and its agents are also set out in the deposit agreement. Because the depositary or its nominee will actually be the registered owner of the Class A ordinary shares, you must rely on it to exercise the rights of a shareholder on your behalf. The deposit agreement and the ADSs are governed by New York law. Under the deposit agreement, as an ADR holder, you agree that any legal suit, action or proceeding against or involving us or the depositary, arising out of or based upon the deposit agreement, the ADSs or the transactions contemplated thereby, may only be instituted in a state or federal court in New York, New York, and you irrevocably waive any objection which you may have to the laying of venue of any such proceeding and irrevocably submit to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

The following is a summary of what we believe to be the material terms of the deposit agreement. 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 deposit agreement and the form of ADR which contains the terms of your ADSs. You can read a copy of the deposit agreement which is filed as an exhibit to the registration statement of which this prospectus forms a part. You may also obtain a copy of the deposit agreement at the SEC's Public Reference Room which is located at 100 F Street, NE, Washington, DC 20549. You may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-732-0330. You may also find the registration statement and the attached deposit agreement on the SEC's website at <http://www.sec.gov>.

### Share Dividends and Other Distributions

#### *How will I receive dividends and other distributions on the Class A ordinary shares underlying my ADSs?*

We may make various types of distributions with respect to our securities. The depositary has agreed that, to the extent practicable, it will pay to you the cash dividends or other distributions it or the custodian receives on shares or other deposited securities, after converting any cash received into U.S.

dollars (if it determines such conversion may be made on a reasonable basis) and, in all cases, making any necessary deductions provided for in the deposit agreement. The depositary may utilize a division, branch or affiliate of JPMorgan Chase Bank, N.A. to direct, manage and/or execute any public and/or private sale of securities under the deposit agreement. Such division, branch and/or affiliate may charge the depositary a fee in connection with such sales, which fee is considered an expense of the depositary. You will receive these distributions in proportion to the number of underlying securities that your ADSs represent.

Except as stated below, the depositary will deliver such distributions to ADR holders in proportion to their interests in the following manner:

- **Cash.** The depositary will distribute any U.S. dollars available to it resulting from a cash dividend or other cash distribution or the net proceeds of sales of any other distribution or portion thereof (to the extent applicable), on an averaged or other practicable basis, subject to (i) appropriate adjustments for taxes withheld, (ii) such distribution being impermissible or impracticable with respect to certain registered ADR holders, and (iii) deduction of the depositary's and/or its agents' expenses in (1) converting any foreign currency to U.S. dollars to the extent that it determines that such conversion may be made on a reasonable basis, (2) transferring foreign currency or U.S. dollars to the United States by such means as the depositary may determine to the extent that it determines that such transfer may be made on a reasonable basis, (3) obtaining any approval or license of any governmental authority required for such conversion or transfer, which is obtainable at a reasonable cost and within a reasonable time and (4) making any sale by public or private means in any commercially reasonable manner. *If exchange rates fluctuate during a time when the depositary cannot convert a foreign currency, you may lose some or all of the value of the distribution.*
- **Shares.** In the case of a distribution in shares, the depositary will issue additional ADRs to evidence the number of ADSs representing such Class A ordinary shares. Only whole ADSs will be issued. Any shares which would result in fractional ADSs will be sold and the net proceeds will be distributed in the same manner as cash to the ADR holders entitled thereto.
- **Rights to receive additional shares.** In the case of a distribution of rights to subscribe for additional shares or other rights, if we timely provide evidence satisfactory to the depositary that it may lawfully distribute such rights, the depositary will distribute warrants or other instruments in the discretion of the depositary representing such rights. However, if we do not timely furnish such evidence, the depositary may:
  - (i) sell such rights if practicable and distribute the net proceeds in the same manner as cash to the ADR holders entitled thereto; or
  - (ii) if it is not practicable to sell such rights by reason of the non-transferability of the rights, limited markets therefor, their short duration or otherwise, do nothing and allow such rights to lapse, in which case ADR holders will receive nothing and the rights may lapse.
- **Other Distributions.** In the case of a distribution of securities or property other than those described above, the depositary may either (i) distribute such securities or property in any manner it deems equitable and practicable or (ii) to the extent the depositary deems distribution of such securities or property not to be equitable and practicable, sell such securities or property and distribute any net proceeds in the same way it distributes cash.

If the depositary determines in its discretion that any distribution described above is not practicable with respect to any specific registered ADR holder, the depositary may choose any method of distribution that it deems practicable for such ADR holder, including the distribution of foreign currency, securities or property, or it may retain such items, without paying interest on or investing them, on behalf of the ADR holder as deposited securities, in which case the ADSs will also represent the retained items.

Any U.S. dollars will be distributed by checks drawn on a bank in the United States for whole dollars and cents. Fractional cents will be withheld without liability and dealt with by the depositary in accordance with its then current practices.

*The depositary is not responsible if it fails to determine that any distribution or action is lawful or reasonably practicable.*

*There can be no assurance that the depositary will be able to convert any currency at a specified exchange rate or sell any property, rights, shares or other securities at a specified price, nor that any of such transactions can be completed within a specified time period. All purchases and sales of securities will be handled by the Depositary in accordance with its then current policies, which are currently set forth in the "Depositary Receipt Sale and Purchase of Security" section of <https://www.adr.com/Investors/FindOutAboutDRs>, the location and contents of which the Depositary shall be solely responsible for.*

## **Deposit, Withdrawal and Cancellation**

### ***How does the depositary issue ADSs?***

The depositary will issue ADSs if you or your broker deposit Class A ordinary shares or evidence of rights to receive Class A ordinary shares with the custodian and pay the fees and expenses owing to the depositary in connection with such issuance. In the case of the ADSs to be issued under this prospectus, we will arrange with the underwriters named herein to deposit such Class A ordinary shares.

Class A ordinary shares deposited in the future with the custodian must be accompanied by certain delivery documentation and shall, at the time of such deposit, be registered in the name of JPMorgan Chase Bank, N.A., as depositary for the benefit of holders of ADRs or in such other name as the depositary shall direct.

The custodian will hold all deposited shares (including those being deposited by or on our behalf in connection with the offering to which this prospectus relates) for the account and to the order of the depositary. ADR holders thus have no direct ownership interest in the Class A ordinary shares and only have such rights as are contained in the deposit agreement. The custodian will also hold any additional securities, property and cash received on or in substitution for the deposited Class A ordinary shares. The deposited Class A ordinary shares and any such additional items are referred to as "deposited securities".

Upon each deposit of Class A ordinary shares, receipt of related delivery documentation and compliance with the other provisions of the deposit agreement, including the payment of the fees and charges of the depositary and any taxes or other fees or charges owing, the depositary will issue an ADR or ADRs in the name or upon the order of the person entitled thereto evidencing the number of ADSs to which such person is entitled. All of the ADSs issued will, unless specifically requested to the contrary, be part of the depositary's direct registration system, and a registered holder will receive periodic statements from the depositary which will show the number of ADSs registered in such holder's name. An ADR holder can request that the ADSs not be held through the depositary's direct registration system and that a certificated ADR be issued.

### ***How do ADR holders cancel an ADS and obtain deposited securities?***

When you turn in your ADR certificate at the depositary's office, or when you provide proper instructions and documentation in the case of direct registration ADSs, the depositary will, upon payment of certain applicable fees, charges and taxes, deliver the underlying Class A ordinary shares to you or upon your written order. Delivery of deposited securities in certificated form will be made at the custodian's office. At your risk, expense and request, the depositary may deliver deposited securities at such other place as you may request.

The depositary may only restrict the withdrawal of deposited securities in connection with:

- temporary delays caused by closing our transfer books or those of the depositary or the deposit of Class A ordinary shares in connection with voting at a shareholders' meeting, or the payment of dividends;
- the payment of fees, taxes and similar charges; or
- compliance with any U.S. or foreign laws or governmental regulations relating to the ADRs or to the withdrawal of deposited securities.

This right of withdrawal may not be limited by any other provision of the deposit agreement.

#### **Record Dates**

The depositary may, after consultation with us if practicable, fix record dates (which, to the extent applicable, shall be as near as practicable to any corresponding record dates set by us) for the determination of the registered ADR holders who will be entitled (or obligated, as the case may be):

- to receive any distribution on or in respect of deposited securities,
- to give instructions for the exercise of voting rights at a meeting of holders of shares, or
- to pay the fee assessed by the depositary for administration of the ADR program and for any expenses as provided for in the ADR,
- to receive any notice or to act in respect of other matters

all subject to the provisions of the deposit agreement.

#### **Voting Rights**

##### ***How do I vote?***

If you are an ADR holder and the depositary asks you to provide it with voting instructions, you may instruct the depositary how to exercise the voting rights for the Class A ordinary shares which underlie your ADSs. Subject to the next sentence, as soon as practicable after receipt from us of notice of any meeting at which the holders of shares are entitled to vote, or of our solicitation of consents or proxies from holders of shares, the depositary shall fix the ADS record date in accordance with the provisions of the deposit agreement in respect of such meeting or solicitation of consent or proxy. The depositary shall, if we request in writing in a timely manner (the depositary having no obligation to take any further action if our request shall not have been received by the depositary at least 30 days prior to the date of such vote or meeting) and at our expense and provided no legal prohibitions exist, distribute to the registered ADR holders a notice stating such information as is contained in the voting materials received by the depositary and describing how you may instruct the depositary to exercise the voting rights for the Class A ordinary shares which underlie your ADSs, including instructions for giving a discretionary proxy to a person designated by us. For instructions to be valid, the depositary must receive them in the manner and on or before the date specified. The depositary will try, as far as is practical, subject to the provisions of and governing the underlying Class A ordinary shares or other deposited securities, to vote or to have its agents vote the Class A ordinary shares or other deposited securities as you instruct. The depositary will only vote or attempt to vote as you instruct. Holders are strongly encouraged to forward their voting instructions to the depositary as soon as possible. Voting instructions will not be deemed to be received until such time as the ADR department responsible for proxies and voting has received such instructions notwithstanding that such instructions may have been physically received by the depositary prior to such time. The depositary will not itself exercise any voting discretion. Furthermore, neither the depositary nor its agents are responsible for any failure to carry out any voting instructions, for the manner in which any vote is cast or for the effect of any vote. Notwithstanding anything contained in the deposit agreement or any ADR, the depositary may, to the extent not prohibited by law or regulations, or by the requirements of the stock



exchange on which the ADSs are listed, in lieu of distribution of the materials provided to the depositary in connection with any meeting of, or solicitation of consents or proxies from, holders of deposited securities, distribute to the registered holders of ADRs a notice that provides such holders with, or otherwise publicizes to such holders, instructions on how to retrieve such materials or receive such materials upon request (*i.e.*, by reference to a website containing the materials for retrieval or a contact for requesting copies of the materials).

We have advised the depositary that under the Cayman Islands law and our constituent documents, each as in effect as of the date of the deposit agreement, voting at any meeting of shareholders is by show of hands unless a poll is (before or on the declaration of the results of the show of hands) demanded. In the event that voting on any resolution or matter is conducted on a show of hands basis in accordance with our constituent documents, the depositary will refrain from voting and the voting instructions received by the depositary from holders shall lapse. The depositary will not demand a poll or join in demanding a poll, whether or not requested to do so by holders of ADSs. There is no guarantee that you will receive voting materials in time to instruct the depositary to vote and it is possible that you, or persons who hold their ADSs through brokers, dealers or other third parties, will not have the opportunity to exercise a right to vote.

#### **Reports and Other Communications**

##### ***Will ADR holders be able to view our reports?***

The depositary will make available for inspection by ADR holders at the offices of the depositary and the custodian the deposit agreement, the provisions of or governing deposited securities, and any written communications from us which are both received by the custodian or its nominee as a holder of deposited securities and made generally available to the holders of deposited securities.

Additionally, if we make any written communications generally available to holders of our Class A ordinary shares, and we furnish copies thereof (or English translations or summaries) to the depositary, it will distribute the same to registered ADR holders.

#### **Fees and Expenses**

##### ***What fees and expenses will I be responsible for paying?***

The depositary may charge each person to whom ADSs are issued, including, without limitation, issuances against deposits of Class A ordinary shares, issuances in respect of share distributions, rights and other distributions, issuances pursuant to a stock dividend or stock split declared by us or issuances pursuant to a merger, exchange of securities or any other transaction or event affecting the ADSs or deposited securities, and each person surrendering ADSs for withdrawal of deposited securities or whose ADRs are cancelled or reduced for any other reason, \$5.00 for each 100 ADSs (or any portion thereof) issued, delivered, reduced, cancelled or surrendered, as the case may be. The depositary may sell (by public or private sale) sufficient securities and property received in respect of a share distribution, rights and/or other distribution prior to such deposit to pay such charge.

The following additional charges shall be incurred by the ADR holders, by any party depositing or withdrawing Class A ordinary shares or by any party surrendering ADSs and/or to whom ADSs are issued (including, without limitation, issuance pursuant to a stock dividend or stock split declared by us or an exchange of stock regarding the ADSs or the deposited securities or a distribution of ADSs), whichever is applicable:

- a fee of U.S.\$1.50 per ADR or ADRs for transfers of certificated or direct registration ADRs;
- a fee of up to U.S.\$0.05 per ADS for any cash distribution made pursuant to the deposit agreement;
- an aggregate fee of up to U.S.\$0.05 per ADS per calendar year (or portion thereof) for services performed by the depositary in administering the ADRs (which fee may be charged on a periodic basis during each calendar year and shall be assessed against holders of ADRs as of the record date or record dates set by the depositary during each calendar year and shall be payable in the manner described in the next succeeding provision);

- a fee for the reimbursement of such fees, charges and expenses as are incurred by the depositary and/or any of its agents (including, without limitation, the custodian and expenses incurred on behalf of holders in connection with compliance with foreign exchange control regulations or any law or regulation relating to foreign investment) in connection with the servicing of the Class A ordinary shares or other deposited securities, the sale of securities (including, without limitation, deposited securities), the delivery of deposited securities or otherwise in connection with the depositary's or its custodian's compliance with applicable law, rule or regulation (which fees and charges shall be assessed on a proportionate basis against holders as of the record date or dates set by the depositary and shall be payable at the sole discretion of the depositary by billing such holders or by deducting such charge from one or more cash dividends or other cash distributions);
- a fee for the distribution of securities (or the sale of securities in connection with a distribution), such fee being in an amount equal to the \$0.05 per ADS issuance fee for the execution and delivery of ADSs which would have been charged as a result of the deposit of such securities (treating all such securities as if they were shares) but which securities or the net cash proceeds from the sale thereof are instead distributed by the depositary to those holders entitled thereto;
- stock transfer or other taxes and other governmental charges;
- cable, telex and facsimile transmission and delivery charges incurred at your request in connection with the deposit or delivery of Class A ordinary shares, ADRs or deposited securities;
- transfer or registration fees for the registration of transfer of deposited securities on any applicable register in connection with the deposit or withdrawal of deposited securities;
- in connection with the conversion of foreign currency into U.S. dollars, JPMorgan Chase Bank, N.A. ("JPMorgan") shall deduct out of such foreign currency the fees, expenses and other charges charged by it and/or its agent (which may be a division, branch or affiliate) so appointed in connection with such conversion; and
- fees of any division, branch or affiliate of the depositary utilized by the depositary to direct, manage and/or execute any public and/or private sale of securities under the deposit agreement.

JPMorgan and/or its agent may act as principal for such conversion of foreign currency. For further details see <https://www.adr.com>.

We will pay all other charges and expenses of the depositary and any agent of the depositary (except the custodian) pursuant to agreements from time to time between us and the depositary. The charges described above may be amended from time to time by agreement between us and the depositary.

The depositary may make available to us a set amount or a portion of the depositary fees charged in respect of the ADR program or otherwise upon such terms and conditions as we and the depositary may agree from time to time. The depositary collects its fees for issuance and cancellation of ADSs directly from investors depositing Class A ordinary 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 will generally set off the amounts owing from distributions made to holders of ADSs. If, however, no distribution exists and payment owing is not timely received by the depositary, the depositary may refuse to provide any further services to holders that have not paid those fees and expenses owing until such fees and expenses have been paid. At the discretion of the depositary, all fees and charges owing under the deposit agreement are due in advance and/or when declared owing by the depositary.

## Payment of Taxes

If any taxes or other governmental charges (including any penalties and/or interest) shall become payable by or on behalf of the custodian or the depository with respect to any ADR, any deposited securities represented by the ADSs evidenced thereby or any distribution thereon, including, without limitation, any Chinese Enterprise Income Tax owing if the Circular Guoshuifa [2009] No. 82 issued by the Chinese State Administration of Taxation (SAT) or any other circular, edict, order or ruling, as issued and as from time to time amended, is applied or otherwise, such tax or other governmental charge shall be paid by the holder thereof to the depository and by holding or having held an ADR the holder and all prior holders thereof, jointly and severally, agree to indemnify, defend and save harmless each of the depository and its agents in respect thereof. If an ADR holder owes any tax or other governmental charge, the depository may (i) deduct the amount thereof from any cash distributions, or (ii) sell deposited securities (by public or private sale) and deduct the amount owing from the net proceeds of such sale. In either case the ADR holder remains liable for any shortfall. If any tax or governmental charge is unpaid, the depository may also refuse to effect any registration, registration of transfer, split-up or combination of deposited securities or withdrawal of deposited securities until such payment is made. If any tax or governmental charge is required to be withheld on any cash distribution, the depository may deduct the amount required to be withheld from any cash distribution or, in the case of a non-cash distribution, sell the distributed property or securities (by public or private sale) in such amounts and in such manner as the depository deems necessary and practicable to pay such taxes and distribute any remaining net proceeds or the balance of any such property after deduction of such taxes to the ADR holders entitled thereto.

By holding an ADR or an interest therein, you will be agreeing to indemnify us, the depository, its custodian and any of our or their respective officers, directors, employees, agents and affiliates against, and hold each of them harmless from, any claims by any governmental authority with respect to taxes, additions to tax, penalties or interest arising out of any refund of taxes, reduced rate of withholding at source or other tax benefit obtained.

## Reclassifications, Recapitalizations and Mergers

If we take certain actions that affect the deposited securities, including (i) any change in par value, split-up, consolidation, cancellation or other reclassification of deposited securities or (ii) any distributions of shares or other property not made to holders of ADRs or (iii) any recapitalization, reorganization, merger, consolidation, liquidation, receivership, bankruptcy or sale of all or substantially all of our assets, then the depository may choose to, and shall if reasonably requested by us:

- (1) amend the form of ADR;
- (2) distribute additional or amended ADRs;
- (3) distribute cash, securities or other property it has received in connection with such actions;
- (4) sell any securities or property received and distribute the proceeds as cash; or
- (5) none of the above.

If the depository does not choose any of the above options, any of the cash, securities or other property it receives will constitute part of the deposited securities and each ADS will then represent a proportionate interest in such property.

## Amendment and Termination

### *How may the deposit agreement be amended?*

We may agree with the depository to amend the deposit agreement and the ADSs without your consent for any reason. ADR holders must be given at least 30 days notice of any amendment that imposes

or increases any fees or charges (other than stock transfer or other taxes and other governmental charges, transfer or registration fees, SWIFT, cable, telex or facsimile transmission costs, delivery costs or other such expenses), or otherwise prejudices any substantial existing right of ADR holders. Such notice need not describe in detail the specific amendments effectuated thereby, but must identify to ADR holders a means to access the text of such amendment. If an ADR holder continues to hold an ADR or ADRs after being so notified, such ADR holder is deemed to agree to such amendment and to be bound by the deposit agreement as so amended. Notwithstanding the foregoing, if any governmental body or regulatory body should adopt new laws, rules or regulations which would require amendment or supplement of the deposit agreement or the form of ADR to ensure compliance therewith, we and the depositary may amend or supplement the deposit agreement and the ADR at any time in accordance with such changed laws, rules or regulations, which amendment or supplement may take effect before a notice is given or within any other period of time as required for compliance. No amendment, however, will impair your right to surrender your ADSs and receive the underlying securities, except in order to comply with mandatory provisions of applicable law.

***How may the deposit agreement be terminated?***

The depositary may, and shall at our written direction, terminate the deposit agreement and the ADRs by mailing notice of such termination to the registered holders of ADRs at least 30 days prior to the date fixed in such notice for such termination; provided, however, if the depositary shall have (i) resigned as depositary under the deposit agreement, notice of such termination by the depositary shall not be provided to registered holders unless a successor depositary shall not be operating under the deposit agreement within 60 days of the date of such resignation, and (ii) been removed as depositary under the deposit agreement, notice of such termination by the depositary shall not be provided to registered holders of ADRs unless a successor depositary shall not be operating under the deposit agreement on the 120<sup>th</sup> day after our notice of removal was first provided to the depositary. After the date so fixed for termination, (a) all direct registration ADRs shall cease to be eligible for the direct registration system and shall be considered ADRs issued on the ADR register maintained by the depositary and (b) the depositary shall use its reasonable efforts to ensure that the ADSs cease to be DTC eligible so that neither DTC nor any of its nominees shall thereafter be a registered holder of ADRs. At such time as the ADSs cease to be DTC eligible and/or neither DTC nor any of its nominees is a registered holder of ADRs, the depositary shall (a) instruct its custodian to deliver all Class A ordinary shares to us along with a general stock power that refers to the names set forth on the ADR register maintained by the depositary and (b) provide us with a copy of the ADR register maintained by the depositary. Upon receipt of such Class A ordinary shares and the ADR register maintained by the depositary, we have agreed to use our best efforts to issue to each registered holder a Share certificate representing the Shares represented by the ADSs reflected on the ADR register maintained by the depositary in such registered holder's name and to deliver such Share certificate to the registered holder at the address set forth on the ADR register maintained by the depositary. After providing such instruction to the custodian and delivering a copy of the ADR register to us, the depositary and its agents will perform no further acts under the deposit agreement or the ADRs and shall cease to have any obligations under the deposit agreement and/or the ADRs.

**Limitations on Obligations and Liability to ADR holders**

***Limits on our obligations and the obligations of the depositary; limits on liability to ADR holders and holders of ADSs***

Prior to the issue, registration, registration of transfer, split-up, combination, or cancellation of any ADRs, or the delivery of any distribution in respect thereof, and from time to time in the case of the production of proofs as described below, we or the depositary or its custodian may require:

- payment with respect thereto of (i) any stock transfer or other tax or other governmental charge, (ii) any stock transfer or registration fees in effect for the registration of transfers of Class A ordinary

shares or other deposited securities upon any applicable register and (iii) any applicable fees and expenses described in the deposit agreement;

- the production of proof satisfactory to it of (i) the identity of any signatory and genuineness of any signature and (ii) such other information, including without limitation, information as to citizenship, residence, exchange control approval, beneficial ownership of any securities, compliance with applicable law, regulations, provisions of or governing deposited securities and terms of the deposit agreement and the ADRs, as it may deem necessary or proper; and
- compliance with such regulations as the depositary may establish consistent with the deposit agreement.

The issuance of ADRs, the acceptance of deposits of Class A ordinary shares, the registration, registration of transfer, split-up or combination of ADRs or the withdrawal of Class A ordinary shares, may be suspended, generally or in particular instances, when the ADR register or any register for deposited securities is closed or when any such action is deemed advisable by the depositary; provided that the ability to withdraw Class A ordinary shares may only be limited under the following circumstances: (i) temporary delays caused by closing transfer books of the depositary or our transfer books or the deposit of Class A ordinary shares in connection with voting at a shareholders' meeting, or the payment of dividends, (ii) the payment of fees, taxes, and similar charges, and (iii) compliance with any laws or governmental regulations relating to ADRs or to the withdrawal of deposited securities.

The deposit agreement expressly limits the obligations and liability of the depositary, ourselves and our respective agents, provided, however, that no disclaimer of liability under the Securities Act of 1933 is intended by any of the limitations of liabilities provisions of the deposit agreement. In the deposit agreement it provides that neither we nor the depositary nor any such agent will be liable if:

- any present or future law, rule, regulation, fiat, order or decree of the United States, the Cayman Islands, the People's Republic of China (including the Hong Kong Special Administrative Region, the People's Republic of China) or any other country or jurisdiction, or of any governmental or regulatory authority or securities exchange or market or automated quotation system, the provisions of or governing any deposited securities, any present or future provision of our charter, any act of God, war, terrorism, nationalization, expropriation, currency restrictions, work stoppage, strike, civil unrest, revolutions, rebellions, explosions, computer failure or circumstance beyond our, the depositary's or our respective agents' direct and immediate control shall prevent or delay, or shall cause any of them to be subject to any civil or criminal penalty in connection with, any act which the deposit agreement or the ADRs provide shall be done or performed by us, the depositary or our respective agents (including, without limitation, voting);
- it exercises or fails to exercise discretion under the deposit agreement or the ADRs including, without limitation, any failure to determine that any distribution or action may be lawful or reasonably practicable;
- it performs its obligations under the deposit agreement and ADRs without gross negligence or willful misconduct;
- it takes any action or refrains from taking any action in reliance upon the advice of or information from legal counsel, accountants, any person presenting Class A ordinary shares for deposit, any registered holder of ADRs, or any other person believed by it to be competent to give such advice or information; or
- it relies upon any written notice, request, direction, instruction or document believed by it to be genuine and to have been signed, presented or given by the proper party or parties.

Neither the depositary nor its agents have any obligation to appear in, prosecute or defend any action, suit or other proceeding in respect of any deposited securities or the ADRs. We and our agents shall only

be obligated to appear in, prosecute or defend any action, suit or other proceeding in respect of any deposited securities or the ADRs, which in our opinion may involve us in expense or liability, if indemnity satisfactory to us against all expense (including fees and disbursements of counsel) and liability is furnished as often as may be required. The depositary and its agents may fully respond to any and all demands or requests for information maintained by or on its behalf in connection with the deposit agreement, any registered holder or holders of ADRs, any ADRs or otherwise related to the deposit agreement or ADRs to the extent such information is requested or required by or pursuant to any lawful authority, including without limitation laws, rules, regulations, administrative or judicial process, banking, securities or other regulators. The depositary shall not be liable for the acts or omissions made by, or the insolvency of, any securities depository, clearing agency or settlement system. Furthermore, the depositary shall not be responsible for, and shall incur no liability in connection with or arising from, the insolvency of any custodian that is not a branch or affiliate of JPMorgan Chase Bank, N.A. Notwithstanding anything to the contrary contained in the deposit agreement or any ADRs, the depositary shall not be responsible for, and shall incur no liability in connection with or arising from, any act or omission to act on the part of the custodian except to the extent that the custodian has (i) committed fraud or willful misconduct in the provision of custodial services to the depositary or (ii) failed to use reasonable care in the provision of custodial services to the depositary as determined in accordance with the standards prevailing in the jurisdiction in which the custodian is located. The depositary and the custodian(s) may use third party delivery services and providers of information regarding matters such as pricing, proxy voting, corporate actions, class action litigation and other services in connection with the ADRs and the deposit agreement, and use local agents to provide extraordinary services such as attendance at annual meetings of issuers of securities. Although the depositary and the custodian will use reasonable care (and cause their agents to use reasonable care) in the selection and retention of such third party providers and local agents, they will not be responsible for any errors or omissions made by them in providing the relevant information or services. The depositary shall not have any liability for the price received in connection with any sale of securities, the timing thereof or any delay in action or omission to act nor shall it be responsible for any error or delay in action, omission to act, default or negligence on the part of the party so retained in connection with any such sale or proposed sale.

The depositary has no obligation to inform ADR holders or other holders of an interest in any ADSs about the requirements of Cayman Islands or People's Republic of China law, rules or regulations or any changes therein or thereto.

Additionally, none of us, the depositary or the custodian shall be liable for the failure by any registered holder of ADRs or beneficial owner therein to obtain the benefits of credits on the basis of non-U.S. tax paid against such holder's or beneficial owner's income tax liability. Neither we nor the depositary shall incur any liability for any tax consequences that may be incurred by registered holders or beneficial owners on account of their ownership of ADRs or ADSs.

Neither the depositary nor its agents will be responsible for any failure to carry out any instructions to vote any of the deposited securities, for the manner in which any such vote is cast or for the effect of any such vote. The depositary may rely upon instructions from us or our counsel in respect of any approval or license required for any currency conversion, transfer or distribution. The depositary shall not incur any liability for the content of any information submitted to it by us or on our behalf for distribution to ADR holders or for any inaccuracy of any translation thereof, for any investment risk associated with acquiring an interest in the deposited securities, for the validity or worth of the deposited securities, for the credit-worthiness of any third party, for allowing any rights to lapse upon the terms of the deposit agreement or for the failure or timeliness of any notice from us. The depositary shall not be liable for any acts or omissions made by a successor depositary whether in connection with a previous act or omission of the depositary or in connection with any matter arising wholly after the removal or resignation of the depositary. Neither the depositary nor any of its agents shall be liable to registered holders or beneficial owners of interests in ADSs for any indirect, special, punitive or consequential damages (including, without

limitation, legal fees and expenses) or lost profits, in each case of any form incurred by any person or entity, whether or not foreseeable and regardless of the type of action in which such a claim may be brought.

In the deposit agreement each party thereto (including, for avoidance of doubt, each holder and beneficial owner and/or holder of interests in ADRs) irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in any suit, action or proceeding against the depositary and/or us directly or indirectly arising out of or relating to the Class A ordinary shares or other deposited securities, the ADSs or the ADRs, the deposit agreement or any transaction contemplated therein, or the breach thereof (whether based on contract, tort, common law or any other theory).

The depositary and its agents may own and deal in any class of securities of our company and our affiliates and in ADRs.

#### **Disclosure of Interest in ADSs**

To the extent that the provisions of or governing any deposited securities may require disclosure of or impose limits on beneficial or other ownership of deposited securities, other shares and other securities and may provide for blocking transfer, voting or other rights to enforce such disclosure or limits, you agree to comply with all such disclosure requirements and ownership limitations and to comply with any reasonable instructions we may provide in respect thereof. We reserve the right to instruct you to deliver your ADSs for cancellation and withdrawal of the deposited securities so as to permit us to deal with you directly as a holder of shares and, by holding an ADS or an interest therein, you will be agreeing to comply with such instructions.

#### **Books of Depositary**

The depositary or its agent will maintain a register for the registration, registration of transfer, combination and split-up of ADRs, which register shall include the depositary's direct registration system. Registered holders of ADRs may inspect such records at the depositary's office at all reasonable times, but solely for the purpose of communicating with other holders in the interest of the business of our company or a matter relating to the deposit agreement. Such register may be closed at any time or from time to time, when deemed expedient by the depositary.

The depositary will maintain facilities for the delivery and receipt of ADRs.

#### **Pre-release of ADSs**

In its capacity as depositary, the depositary shall not lend shares or ADSs; provided, however, that the depositary may (i) issue ADSs prior to the receipt of Class A ordinary shares and (ii) deliver Class A ordinary shares prior to the receipt of ADSs for withdrawal of deposited securities, including ADSs which were issued under (i) above but for which shares may not have been received (each such transaction a "pre-release"). The depositary may receive ADSs in lieu of Class A ordinary shares under (i) above (which ADSs will promptly be canceled by the depositary upon receipt by the depositary) and receive Class A ordinary shares in lieu of ADSs under (ii) above. Each such pre-release will be subject to a written agreement whereby the person or entity (the "applicant") to whom ADSs or Class A ordinary shares are to be delivered (a) represents that at the time of the pre-release the applicant or its customer owns the Class A ordinary shares or ADSs that are to be delivered by the applicant under such pre-release, (b) agrees to indicate the depositary as owner of such Class A ordinary shares or ADSs in its records and to hold such Class A ordinary shares or ADSs in trust for the depositary until such Class A ordinary shares or ADSs are delivered to the depositary or the custodian, (c) unconditionally guarantees to deliver to the depositary or the custodian, as applicable, such Class A ordinary shares or ADSs, and (d) agrees to any additional restrictions or requirements that the depositary deems appropriate. Each such pre-release will be at all times fully collateralized with cash, U.S. government securities or such other collateral as the depositary deems

appropriate, terminable by the depositary on not more than five (5) business days' notice and subject to such further indemnities and credit regulations as the depositary deems appropriate. The depositary will normally limit the number of ADSs and Class A ordinary shares involved in such pre-release at any one time to thirty percent (30%) of the ADSs outstanding (without giving effect to ADSs outstanding under (i) above), provided, however, that the depositary reserves the right to change or disregard such limit from time to time as it deems appropriate. The depositary may also set limits with respect to the number of ADSs and Class A ordinary shares involved in pre-release with any one person on a case-by-case basis as it deems appropriate. The depositary may retain for its own account any compensation received by it in conjunction with the foregoing. Collateral provided in connection with pre-release transactions, but not the earnings thereon, shall be held for the benefit of the ADR holders (other than the applicant).

#### **Appointment**

In the deposit agreement, each registered holder of ADRs and each person holding an interest in ADSs, upon acceptance of any ADSs (or any interest therein) issued in accordance with the terms and conditions of the deposit agreement will be deemed for all purposes to:

- be a party to and bound by the terms of the deposit agreement and the applicable ADR or ADRs, and
- appoint the depositary its attorney-in-fact, with full power to delegate, to act on its behalf and to take any and all actions contemplated in the deposit agreement and the applicable ADR or ADRs, to adopt any and all procedures necessary to comply with applicable laws and to take such action as the depositary in its sole discretion may deem necessary or appropriate to carry out the purposes of the deposit agreement and the applicable ADR and ADRs, the taking of such actions to be the conclusive determinant of the necessity and appropriateness thereof.

#### **Governing Law**

The deposit agreement and the ADRs shall be governed by and construed in accordance with the laws of the State of New York. In the deposit agreement, we have submitted to the jurisdiction of the courts of the State of New York and appointed an agent for service of process on our behalf. Notwithstanding the foregoing, (i) any action based on the deposit agreement or the transactions contemplated thereby may be instituted by the depositary in any competent court in the Cayman Islands, Hong Kong, the People's Republic of China and/or the United States, (ii) the depositary may, in its sole discretion, elect to institute any action, controversy, claim or dispute directly or indirectly based on, arising out of or relating to the deposit agreement or the ADRs or the transactions contemplated thereby, including without limitation any question regarding its or their existence, validity, interpretation, performance or termination, against any other party or parties to the deposit agreement (including, without limitation, against ADR holders and owners of interests in ADSs), by having the matter referred to and finally resolved by an arbitration conducted under the terms described below, and (iii) the depositary may in its sole discretion require that any action, controversy, claim, dispute, legal suit or proceeding brought against the depositary by any party or parties to the deposit agreement (including, without limitation, by ADR holders and owners of interests in ADSs) shall be referred to and finally settled by an arbitration conducted under the terms described below. Any such arbitration shall be conducted in the English language either in New York, New York in accordance with the Commercial Arbitration Rules of the American Arbitration Association or in Hong Kong following the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL).

By holding an ADS or an interest therein, registered holders of ADRs and owners of ADSs each irrevocably agree that any legal suit, action or proceeding against or involving us or the depositary, arising out of or based upon the deposit agreement, the ADSs or the transactions contemplated thereby, may only be instituted in a state or federal court in New York, New York, and each irrevocably waives any objection which it may have to the laying of venue of any such proceeding, and irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.



## SHARES ELIGIBLE FOR FUTURE SALE

Upon closing of this offering, we will have ADSs outstanding representing approximately % of our ordinary shares (or ADS outstanding representing approximately % of our ordinary shares if the underwriters exercise in full the over-allotment option). In addition, options to purchase an aggregate of approximately Class A ordinary shares will be outstanding as of the closing of this offering. Of these options, will have vested at or prior to the closing of this offering and approximately will vest over the next years. As of the closing of this offering, we also have 877,400 vested but not yet issued restricted shares. Furthermore, we have outstanding convertible bonds in the aggregate principal amount of US\$150.0 million due December 30, 2019. We may, at our option, require the original subscribers, STT GDC to subscribe for an additional amount of these bonds as to US\$50.0 million, and thereafter, Ping An Insurance to subscribe for an additional amount of these bonds as to US\$50.0 million, at any time until September 30, 2016. In addition, following this offering, we may require the conversion of the bonds assuming the average per-Class-A-ordinary-share-equivalent closing trading price of our ADSs in any period of ten (10) consecutive trading days following this offering is at least 125% of US\$1.675262 and we exercise our right to cause STT GDC and Ping An Insurance to convert the bonds. If the bondholders elect to convert, or we cause the bondholders to convert, their bonds, up to approximately Class A ordinary shares will be issued. The conversion of the bonds would result in substantial dilution of our ADSs and Class A ordinary shares and a decline in their market price. There can be no certainty as to whether the bondholders will elect to convert, or if we will be entitled to cause the bondholders to convert, their bonds at the time of or after the completion of this offering. The holders of the convertible bonds have agreed with us that they shall not, without our prior written approval, sell, transfer or dispose of any of the convertible bonds. In addition, any share issued upon conversion of the convertible bonds by a holder who is not our existing shareholder, so converted within the 12 months following the completion of this offering will be subject to a lock-up period expiring on the first anniversary of the closing of this offering.

All of the ADSs sold in this offering and the Class A ordinary shares they represent will be freely transferable by persons other than our "affiliates" without restriction or further registration under the Securities Act. Rule 144 of the Securities Act defines an "affiliate" of a company as a person that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, our company. All outstanding ordinary shares prior to this offering are "restricted securities" as that term is defined in Rule 144 because they were issued in a transaction or series of transactions not involving a public offering. Restricted securities, in the form of ADSs or otherwise, may be sold only if they are the subject of an effective registration statement under the Securities Act or if they are sold pursuant to an exemption from the registration requirement of the Securities Act such as those provided for in Rules 144 or 701 promulgated under the Securities Act, which rules are summarized below. Restricted ordinary shares may also be sold outside of the United States to non-U.S. persons in accordance with Rule 904 of Regulation S under the Act. This prospectus may not be used in connection with any resale of our ADSs acquired in this offering by our affiliates.

Pursuant to Rule 144, ordinary shares will be eligible for sale at various times after the date of this prospectus, subject to the lock-up agreements.

Sales of substantial amounts of our ADSs in the public market could adversely affect prevailing market prices of our ADSs. Prior to this offering, there has been no public market for our Class A ordinary shares or ADSs, and while our application has been made to list our ADSs on the NASDAQ, we cannot assure you that a regular trading market will develop in the ADSs. We do not expect that a trading market will develop for our ordinary shares not represented by ADSs.

### **[Lock-up Agreements**

We, our directors, executive officers, our existing shareholders, and purchasers of ADSs under the directed ADS program have agreed, subject to some exceptions, not to sell, transfer or dispose of, directly or indirectly, any of our ordinary shares, in the form of ADSs or otherwise, or any securities convertible into

or exchangeable or exercisable for our ordinary shares, in the form of ADSs or otherwise, for a period of 180 days after the date this prospectus becomes effective. After the expiration of the 180-day period, the Class A ordinary shares or ADSs held by our directors, executive officers or existing shareholders may be sold subject to the restrictions under Rule 144 under the Securities Act or by means of registered public offerings.]

#### **Rule 144**

In general, under Rule 144 as currently in effect, a person who has beneficially owned our restricted securities for at least six months is entitled to sell the restricted securities without registration under the Securities Act, subject to certain restrictions. Persons who are our affiliates (including persons beneficially owning 10% or more of our outstanding shares) may sell within any three-month period a number of restricted securities that does not exceed the greater of the following:

- 1% of the number of our ordinary shares then outstanding, in the form of ADSs or otherwise, which will equal approximately ordinary shares immediately after this offering; and
- the average weekly trading volume of our ADSs on the NASDAQ during the four calendar weeks preceding the date on which notice of the sale is filed with the SEC.

Such sales are also subject to manner-of-sale provisions, notice requirements and the availability of current public information about us. The manner-of-sale provisions require the securities to be sold either in "brokers' transactions" as such term is defined under the Securities Act, through transactions directly with a market maker as such term is defined under the Exchange Act or through a riskless principal transaction as described in Rule 144. In addition, the manner-of-sale provisions require the person selling the securities not to solicit or arrange for the solicitation of orders to buy the securities in anticipation of or in connection with such transaction or make any payment in connection with the offer or sale of the securities to any person other than the broker or dealer who executes the order to sell the securities. If the amount of securities to be sold in reliance upon Rule 144 during any period of three months exceeds 5,000 shares or other units or has an aggregate sale price in excess of US\$50,000, three copies of a notice on Form 144 should be filed with the SEC. If such securities are admitted to trading on any national securities exchange, one copy of such notice also must be transmitted to the principal exchange on which such securities are admitted. The Form 144 should be signed by the person for whose account the securities are to be sold and should be transmitted for filing concurrently with either the placing with a broker of an order to execute a sale of securities or the execution directly with a market maker of such a sale.

Persons who are not our affiliates and have beneficially owned our restricted securities for more than six months but not more than one year may sell the restricted securities without registration under the Securities Act subject to the availability of current public information about us. Persons who are not our affiliates and have beneficially owned our restricted securities for more than one year may freely sell the restricted securities without registration under the Securities Act.

#### **Rule 701**

Beginning 90 days after the date of this prospectus, persons other than affiliates who purchased ordinary shares under a written compensatory plan or contract may be entitled to sell such shares in the United States in reliance on Rule 701 under the Securities Act, or Rule 701. Rule 701 permits affiliates to sell their Rule 701 shares under Rule 144 without complying with the holding period requirements of Rule 144. Rule 701 further provides that non-affiliates may sell these shares in reliance on Rule 144 subject only to its manner-of-sale requirements. However, the Rule 701 shares would remain subject to lock-up arrangements and would only become eligible for sale when the lock-up period expires.

**Registration Rights**

Upon closing of this offering, the holders of \_\_\_\_\_ of our Class A ordinary shares or their transferees (or the holders of our Class A ordinary shares or their transferees if the underwriters exercise in full the over-allotment option) will be entitled to request that we register their ordinary shares under the Securities Act, following the expiration of the lock-up agreements described above. See "Description of Share Capital—Members (Shareholders) Agreement and Voting Agreement—Registration Rights."

## TAXATION

The following is a general summary of the material Cayman Islands, People's Republic of China and United States federal income tax consequences relevant to an investment in our ADSs and Class A ordinary shares. To the extent that the discussion below relates to matters of Cayman Islands tax law, it is the opinion of Conyers Dill & Pearman, our Cayman Islands counsel. To the extent that the discussion below relates to matters of PRC tax law, it is the opinion of King & Wood Mallesons, our PRC counsel. To the extent that the discussion below relates to matters of United States federal income tax law, it is the opinion of Simpson Thacher & Bartlett LLP, our United States counsel. The discussion is not intended to be, nor should it be construed as, legal or tax advice to any particular prospective purchaser. The discussion is based on laws and relevant interpretations thereof in effect as of the date of this prospectus, all of which are subject to change or different interpretations, possibly with retroactive effect. The discussion does not address U.S. state or local tax laws, or tax laws of jurisdictions other than the Cayman Islands, the People's Republic of China and the United States. You should consult your own tax advisors with respect to the consequences of acquisition, ownership and disposition of our ADSs and Class A ordinary shares.

### Cayman Islands Taxation

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 or withholding tax applicable to us or to any holder of our ADSs and ordinary shares. 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. No stamp duty is payable in the Cayman Islands on transfers of shares of Cayman Islands companies except those which hold interests in land in the Cayman Islands. The Cayman Islands is a party to a double tax treaty entered with the United Kingdom in 2010 but is otherwise not party to any double tax treaties. There are no exchange control regulations or currency restrictions in the Cayman Islands.

Pursuant to Section 6 of the Tax Concessions Law (1999 Revision) of the Cayman Islands, we have obtained an undertaking from the Governor-in-Council:

- (1) that no law which is enacted in the Cayman Islands imposing any tax to be levied on profits or income or gains or appreciation shall apply to us or our operations; and
- (2) that the aforesaid tax or any tax in the nature of estate duty or inheritance tax shall not be payable on our shares, debentures or other obligations.

The undertaking for us is for a period of twenty years from June 8, 2004.

### People's Republic of China Taxation

In March 2007, the National People's Congress of China enacted the Enterprise Income Tax Law, which became effective on January 1, 2008. The Enterprise Income Tax Law provides that enterprises organized under the laws of jurisdictions outside China with their "de facto management bodies" located within China may be considered PRC resident enterprises and therefore subject to PRC enterprise income tax at the rate of 25% on their worldwide income. The Implementing Rules of the Enterprise Income Tax Law further defines the term "de facto management body" as the management body that exercises substantial and overall management and control over the business, personnel, accounts and properties of an enterprise. While we do not currently consider our company or any of our overseas subsidiaries to be a PRC resident enterprise, there is a risk that the PRC tax authorities may deem our company or any of our overseas subsidiaries as a PRC resident enterprise since a substantial majority of the members of our management team as well as the management team of some of our overseas subsidiaries are located in China, in which case we or the overseas subsidiaries, as the case may be, would be subject to the PRC enterprise income tax at the rate of 25% on worldwide income. If the PRC tax authorities determine that our Cayman Islands

holding company is a "resident enterprise" for PRC enterprise income tax purposes, a number of unfavorable PRC tax consequences could follow. One example is a 10% withholding tax would be imposed on dividends we pay to our non-PRC enterprise shareholders and with respect to gains derived by our non-PRC enterprise shareholders from transferring our shares or ADSs. It is unclear whether, if we are considered a PRC resident enterprise, holders of our shares or ADSs would be able to claim the benefit of income tax treaties or agreements entered into between China and other countries or areas.

#### **Material United States Federal Income Tax Considerations**

The following summary describes the material United States federal income tax consequences of the purchase, ownership and disposition of our ADSs and ordinary shares as of the date hereof. This summary is only applicable to ADSs and ordinary shares held as capital assets by a United States Holder (as defined below).

As used herein, the term "United States Holder" means a beneficial owner of our ADSs or ordinary shares that is for United States federal income tax purposes:

- an individual citizen or resident of the United States;
- a corporation (or other entity treated as a corporation for United States 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 United States federal income taxation regardless of its source; or
- a trust if it (1) is subject to the primary supervision of a court within the United States and one or more United States persons have the authority to control all substantial decisions of the trust or (2) has a valid election in effect under applicable United States Treasury regulations to be treated as a United States person.

The discussion below is based upon the provisions of the Internal Revenue Code of 1986, as amended, or the Code, and regulations, rulings and judicial decisions thereunder as of the date hereof, and such authorities may be replaced, revoked or modified so as to result in United States federal income tax consequences different from those discussed below. In addition, this summary is based, in part, upon representations made by the depository to us and assumes that the deposit agreement, and all other related agreements, will be performed in accordance with their terms.

This summary does not represent a detailed description of the United States federal income tax consequences applicable to you if you are subject to special treatment under the United States federal income tax laws, including if you are:

- a dealer in securities or currencies;
- a financial institution;
- a regulated investment company;
- a real estate investment trust;
- an insurance company;
- a tax-exempt organization;
- a person holding our ADSs or ordinary shares as part of a hedging, integrated or conversion transaction, a constructive sale or a straddle;
- a trader in securities that has elected the mark-to-market method of accounting for your securities;

- a person liable for alternative minimum tax;
- a person who owns or is deemed to own 10% or more of our voting stock;
- a partnership or other pass-through entity for United States federal income tax purposes; or
- a person whose "functional currency" is not the United States dollar.

If a partnership (or other entity treated as a partnership for United States federal income tax purposes) holds our ADSs or ordinary shares, the tax treatment of a partner will generally depend upon the status of the partner and the activities of the partnership. If you are a partner of a partnership holding our ADSs or ordinary shares, you should consult your tax advisors.

**This summary does not contain a detailed description of all the United States federal income tax consequences to you in light of your particular circumstances and does not address the Medicare tax on net investment income or the effects of any state, local or non-United States tax laws. If you are considering the purchase, ownership or disposition of our ADSs or ordinary shares, you should consult your own tax advisors concerning the United States federal income tax consequences to you in light of your particular situation as well as any consequences arising under the laws of any other taxing jurisdiction.**

#### **ADSs**

If you hold ADSs, for United States federal income tax purposes, you generally will be treated as the owner of the underlying ordinary shares that are represented by such ADSs. Accordingly, deposits or withdrawals of ordinary shares for ADSs will not be subject to United States federal income tax.

#### **Taxation of Dividends**

Subject to the discussion under "—Passive Foreign Investment Company" below, the gross amount of any distributions on the ADSs or ordinary shares (including any amounts withheld to reflect PRC withholding taxes) will be taxable as dividends, to the extent paid out of our current or accumulated earnings and profits, as determined under United States federal income tax principles. Such income (including withheld taxes) will be includable in your gross income as ordinary income on the day actually or constructively received by you, in the case of the ordinary shares, or by the depository, in the case of ADSs. Such dividends will not be eligible for the dividends received deduction allowed to corporations under the Code.

With respect to non-corporate United States Holders, certain dividends received from a qualified foreign corporation may be subject to reduced rates of taxation. A foreign corporation is treated as a qualified foreign corporation with respect to dividends received from that corporation on ordinary shares (or ADSs backed by such shares) that are readily tradable on an established securities market in the United States. We have applied to list the ADSs on the NASDAQ. Provided that the listing is approved, United States Treasury Department guidance indicates that our ADSs will be readily tradable on an established securities market in the United States. Thus, subject to the discussion under "—Passive Foreign Investment Company" below, we believe that dividends we pay on our ADSs will meet the conditions required for the reduced tax rate. Since we do not expect that our ordinary shares will be listed on an established securities market, we do not believe that dividends that we pay on our ordinary shares that are not represented by ADSs will meet the conditions required for these reduced tax rates. There also can be no assurance that our ADSs will continue to be readily tradable on an established securities market in later years. Consequently, there can be no assurance that our ADSs will continue to be afforded the reduced tax rates. A qualified foreign corporation also includes a foreign corporation that is eligible for the benefits of certain income tax treaties with the United States. In the event that we are deemed to be a PRC resident enterprise under the PRC tax law (see "Taxation—People's Republic of China Taxation" above), we may be eligible for the benefits of the income tax treaty between the United States and the PRC, or the Treaty. In

that case, dividends we pay on our ordinary shares would be eligible for the reduced rates of taxation whether or not the shares are readily tradable on an established securities market in the United States, and whether or not the shares are represented by ADSs. Non-corporate United States Holders that do not meet a minimum holding period requirement during which they are not protected from the risk of loss or that elect to treat the dividend income as "investment income" pursuant to Section 163(d)(4) of the Code will not be eligible for the reduced rates of taxation regardless of our status as a qualified foreign corporation. In addition, the rate reduction will not apply to dividends if the recipient of a dividend is obligated to make related payments with respect to positions in substantially similar or related property. This disallowance applies even if the minimum holding period has been met. You should consult your own tax advisors regarding the application of these rules given your particular circumstances.

Non-corporate United States Holders will not be eligible for reduced rates of taxation on any dividends received from us if we are a passive foreign investment company, or PFIC, in the taxable year in which such dividends are paid or in the preceding taxable year (see "—Passive Foreign Investment Company" below).

In the event that we are deemed to be a PRC resident enterprise under the PRC tax law, you may be subject to PRC withholding taxes on dividends paid to you with respect to the ADSs or ordinary shares. See "Taxation—People's Republic of China Taxation." In that case, subject to certain conditions and limitations (including a minimum holding period requirement), PRC withholding taxes on dividends may be treated as foreign taxes eligible for credit against your United States federal income tax liability. For purposes of calculating the foreign tax credit, dividends paid on the ADSs or ordinary shares will be treated as foreign-source income and will generally constitute passive category income. The rules governing the foreign tax credit are complex. You are urged to consult your tax advisor regarding the availability of the foreign tax credit under your particular circumstances.

To the extent that the amount of any distribution exceeds our current and accumulated earnings and profits, as determined under United States federal income tax principles, the distribution ordinarily would be treated, first, as a tax-free return of capital, causing a reduction in the adjusted basis of the ADSs or ordinary shares (thereby increasing the amount of gain, or decreasing the amount of loss, to be recognized by you on a subsequent disposition of the ADSs or ordinary shares), and, second, the balance in excess of adjusted basis ordinarily would be taxed as capital gain recognized on a sale or exchange. However, we do not expect to determine our earnings and profits in accordance with United States federal income tax principles. Therefore, you should expect that distributions will generally be reported to the Internal Revenue Service, or IRS, and taxed to you as dividends (as discussed above), even if they might ordinarily be treated as a tax-free return of capital or as capital gain.

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

Based on the past and projected composition of our income and assets, and the valuation of our assets, including goodwill, we do not believe we were a PFIC for our taxable year ended December 31, 2015 and we do not expect to be a PFIC for our taxable year ending December 31, 2016 or in future taxable years, although there can be no assurance in this regard, since the determination of our PFIC status cannot be made until the end of a taxable year and depends significantly on the composition of our assets and income throughout the year.

In general, we will be a PFIC for any taxable year in which:

- at least 75% of our gross income is passive income, or
- at least 50% of the value (based on a quarterly average) of our assets is attributable to assets that produce or are held for the production of passive income.

For this purpose, passive income generally includes dividends, interest, royalties and rents (other than royalties and rents derived in the active conduct of a trade or business and not derived from a related person), as well as gains from the sale of assets (such as stock) that produce passive income, foreign

currency gains, and certain other categories of income. If we own at least 25% (by value) of the stock of another corporation, we will be treated, for purposes of determining whether we are a PFIC, as owning our proportionate share of the other corporation's assets and receiving our proportionate share of the other corporation's income. However, it is not entirely clear how the contractual arrangements between us and our consolidated VIEs will be treated for purposes of the PFIC rules. For United States federal income tax purposes, we consider ourselves to own the stock of our consolidated VIEs. If it is determined, contrary to our view, that we do not own the stock of our consolidated VIEs for United States federal income tax purposes (for instance, because the relevant PRC authorities do not respect these arrangements), that would alter the composition of our income and assets for purposes of testing our PFIC status, and may cause us to be treated as a PFIC.

The determination of whether we are a PFIC is made annually. Accordingly, it is possible that we may become a PFIC in the current or any future taxable year due to changes in our asset or income composition. The calculation of the value of our assets will be based, in part, on the quarterly market value of our ADSs, which is subject to change. The composition of our income and our assets will also be affected by how, and how quickly, we spend the cash raised in this offering. If the cash is not deployed for active purposes, our risk of becoming a PFIC may increase.

If we are a PFIC for any taxable year during which you hold our ADSs or ordinary shares and you do not make a timely mark-to-market election, as described below, you will be subject to special—and generally very unfavourable—tax rules with respect to any "excess distribution" received and any gain realized from a sale or other disposition, including a pledge, of ADSs or ordinary shares. Distributions received in a taxable year that are greater than 125% of the average annual distributions received during the shorter of the three preceding taxable years or your holding period for the ADSs or ordinary shares will be treated as excess distributions. Under these special tax rules:

- the excess distribution or gain will be allocated ratably over your holding period for the ADSs or ordinary shares,
- the amount allocated to the current taxable year, and any taxable year prior to the first taxable year in which we were a PFIC, will be treated as ordinary income, and
- the amount allocated to each other year will be subject to tax at the highest tax rate in effect for that year and the interest charge generally applicable to underpayments of tax will be imposed on the resulting tax attributable to each such year.

Although the determination of whether we are a PFIC is made annually, if we are a PFIC for any taxable year in which you hold our ADSs or ordinary shares, you will generally be subject to the special tax rules described above for that year and for each subsequent year in which you hold the ADSs or ordinary shares (even if we do not qualify as a PFIC in any subsequent years). However, if we cease to be a PFIC, you can avoid the continuing impact of the PFIC rules by making a special election to recognize gain as if your ADSs or ordinary shares had been sold on the last day of the last taxable year during which we were a PFIC. You are urged to consult your own tax advisor about this election.

In certain circumstances, in lieu of being subject to the special tax rules discussed above, you may make a mark-to-market election with respect to your ADSs or ordinary shares provided such ADSs or ordinary shares are treated as "marketable stock." The ADSs or ordinary shares generally will be treated as marketable stock if the ADSs or ordinary shares are "regularly traded" on a "qualified exchange or other market" (within the meaning of the applicable Treasury regulations). Under current law, the mark-to-market election may be available to holders of ADSs if the ADSs are listed on the NASDAQ, which constitutes a qualified exchange, although there can be no assurance that the ADSs will be "regularly traded" for purposes of the mark-to-market election. It should also be noted that it is intended that only the ADSs and not the ordinary shares will be listed on the NASDAQ. Consequently, if you are a holder of ordinary shares that are not represented by ADSs, you generally will not be eligible to make a mark-to-market election.



If you make an effective mark-to-market election, for each taxable year that we are a PFIC, you will include as ordinary income the excess of the fair market value of your ADSs at the end of the year over your adjusted basis in the ADSs. You will be entitled to deduct as an ordinary loss in each such year the excess of your adjusted basis in the ADSs over their fair market value at the end of the year, but only to the extent of the net amount previously included in income as a result of the mark-to-market election. If you make an effective mark-to-market election, any gain you recognize upon the sale or other disposition of your ADSs in a year that we are a PFIC will be treated as ordinary income and any loss will be treated as ordinary loss, but only to the extent of the net amount previously included in income as a result of the mark-to-market election.

Your adjusted basis in the ADSs will be increased by the amount of any income inclusion and decreased by the amount of any deductions under the mark-to-market rules. If you make a mark-to-market election it will be effective for the taxable year for which the election is made and all subsequent taxable years unless the ADSs are no longer regularly traded on a qualified exchange or other market, or the IRS consents to the revocation of the election. You are urged to consult your tax advisor about the availability of the mark-to-market election, and whether making the election would be advisable in your particular circumstances.

A different election, known as the "qualified electing fund" or "QEF" election is generally available to holders of PFIC stock, but requires that the corporation provide the holders with a "PFIC Annual Information Statement" containing certain information necessary for the election, including the holder's pro rata share of the corporation's earnings and profits and net capital gains for each taxable year, computed according to United States federal income tax principles. We do not intend, however, to determine our earnings and profits or net capital gain under United States federal income tax principles, nor do we intend to provide United States Holders with a PFIC Annual Information Statement. Therefore, you should not expect to be eligible to make this election.

If we are a PFIC for any taxable year during which you hold our ADSs or ordinary shares and any of our non-United States subsidiaries is also a PFIC, you will be treated as owning a proportionate amount (by value) of the shares of the lower-tier PFIC for purposes of the application of these rules. You are urged to consult your tax advisors about the application of the PFIC rules to any of our subsidiaries.

You will generally be required to file IRS Form 8621 if you hold our ADSs or ordinary shares in any year in which we are classified as a PFIC. You are urged to consult your tax advisors concerning the United States federal income tax consequences of holding ADSs or ordinary shares if we are considered a PFIC in any taxable year.

#### **Taxation of Capital Gains**

For United States federal income tax purposes, you will recognize taxable gain or loss on any sale or exchange of ADSs or ordinary shares in an amount equal to the difference between the amount realized for the ADSs or ordinary shares and your adjusted basis in the ADSs or ordinary shares. Subject to the discussion under "—Passive Foreign Investment Company" above, such gain or loss will generally be capital gain or loss and will generally be long-term capital gain or loss if you have held the ADSs or ordinary shares for more than one year. Long-term capital gains of non-corporate United States Holders (including individuals) are eligible for reduced rates of taxation. The deductibility of capital losses is subject to limitations. Any gain or loss recognized by you will generally be treated as United States source gain or loss. However, if we are treated as a PRC resident enterprise for PRC tax purposes and PRC tax is imposed on any gain, and if you are eligible for the benefits of the Treaty, you may elect to treat such gain as PRC source gain. If you are not eligible for the benefits of the Treaty or you fail to make the election to treat any gain as PRC source, then you may not be able to use the foreign tax credit arising from any PRC tax imposed on the disposition of our ADSs or ordinary shares unless such credit can be applied (subject to applicable limitations) against United States federal income tax due on other income derived from foreign

sources in the same income category (generally, the passive category). You are urged to consult your tax advisors regarding the tax consequences if any PRC tax is imposed on gain on a disposition of our ordinary shares or ADSs, including the availability of the foreign tax credit and the election to treat any gain as PRC source, under your particular circumstances.

***Information Reporting and Backup Withholding***

In general, information reporting will apply to dividends in respect of our ADSs or ordinary shares and the proceeds from the sale, exchange or other disposition of our ADSs or ordinary shares that are paid to you within the United States (and in certain cases, outside the United States), unless you are an exempt recipient such as a corporation. A backup withholding tax may apply to such payments if you fail to provide a taxpayer identification number or certification of other exempt status or fail to report in full dividend and interest income.

Backup withholding is not an additional tax and any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against your United States federal income tax liability provided the required information is furnished to the IRS in a timely manner.

Certain United States Holders are required to report information relating to our ADSs or ordinary shares by attaching a complete Form 8938, Statement of Specified Foreign Financial Assets, with their tax returns for each year in which they hold ADSs or ordinary shares. Significant penalties can apply if you are required to file this form and you fail to do so. You are urged to consult your own tax advisor regarding this and other information reporting requirements relating to your ownership of the ADSs or ordinary shares.

## UNDERWRITING

We are offering the ADSs described in this prospectus through a number of underwriters. Credit Suisse Securities (USA) LLC, J.P. Morgan Securities LLC, Citigroup Global Markets Inc., RBC Capital Markets, LLC and China Renaissance Securities (Hong Kong) Limited are acting as joint book-running managers of the offering and as representatives of the underwriters. We have entered into an underwriting agreement with the underwriters. Subject to the terms and conditions of the underwriting agreement, we have agreed to sell to the underwriters, and each underwriter has severally agreed to purchase, at the public offering price less the underwriting discounts and commissions set forth on the cover page of this prospectus, the number of ADSs listed next to its name in the following table:

<u>Name</u>	<u>Number of ADSs</u>
Credit Suisse Securities (USA) LLC	
J.P. Morgan Securities LLC	
Citigroup Global Markets Inc.	
RBC Capital Markets, LLC	
China Renaissance Securities (Hong Kong) Limited	
Credit Agricole Securities (USA) Inc.	
<b>Total</b>	

The underwriters are committed to purchase all the ADSs offered by us if they purchase any ADSs. The underwriting agreement also provides that if an underwriter defaults, the purchase commitments of non-defaulting underwriters may also be increased or the offering may be terminated.

The underwriters propose to offer the ADSs directly to the public at the initial public offering price set forth on the cover page of this prospectus and to certain dealers at that price less a concession not in excess of US\$ \_\_\_\_\_ per ADS. Any such dealers may resell ADSs to certain other brokers or dealers at a discount of up to US\$ \_\_\_\_\_ per ADS from the initial public offering price. After the initial offering of the ADSs to the public, the offering price and other selling terms may be changed by the underwriters.

Sales of ADSs made inside and outside of the United States may be made by affiliates of the underwriters. Any offers or sales of the ADSs in the United States will be conducted by registered broker-dealers in the United States. China Renaissance Securities (Hong Kong) Limited will offer ADSs in the United States through its SEC-registered broker-dealer affiliate in the United States, China Renaissance Securities (US) Inc..

The address of Credit Suisse Securities (USA) LLC is Eleven Madison Avenue, New York, New York 10010, United States of America. The address of J.P. Morgan Securities LLC is 383 Madison Avenue, New York, New York 10179, United States of America. The address of Citigroup Global Markets Inc. is 388 Greenwich Street, New York, New York 10013, United States of America. The address of RBC Capital Markets, LLC is 200 Vesey Street, 8th Floor, New York, New York 10281, United States of America. The address of China Renaissance Securities (Hong Kong) Limited is Units 8107-08, Level 81, International Commerce Centre 1 Austin Road West, Kowloon, Hong Kong.

### Option to Purchase Additional ADSs

The underwriters have an option to buy up to \_\_\_\_\_ additional ADSs from us. The underwriters have 30 days from the date of this prospectus to exercise this option to purchase additional ADSs. If any ADSs are purchased with this option to purchase additional ADSs, the underwriters will purchase ADSs in approximately the same proportion as shown in the table above. If any additional ADSs are purchased, the underwriters will offer the additional ADSs on the same terms as those on which the ADSs are being offered.

**Commissions and Expenses**

The underwriting fee is equal to the public offering price per ADS less the amount paid by the underwriters to us per ADS. The underwriting fee is US\$ \_\_\_\_\_ per ADS. The following table shows the per ADS and total underwriting discounts and commissions to be paid to the underwriters assuming both no exercise and full exercise of the underwriters' option to purchase additional ADSs.

Per ADS	Without exercise of option to purchase additional ADSs	With full exercise of option to purchase additional ADSs
Total	US\$ US\$	US\$ US\$

We estimate that the total expenses of this offering, including registration, filing and listing fees, printing fees and legal and accounting expenses, but excluding the underwriting discounts and commissions, will be approximately US\$ \_\_\_\_\_.

**Electronic Distribution**

A prospectus in electronic format may be made available on the web sites maintained by one or more underwriters, or selling group members, if any, participating in the offering. The underwriters may agree to allocate a number of ADSs to underwriters and selling group members for sale to their online brokerage account holders. Internet distributions will be allocated by the representatives to underwriters and selling group members that may make Internet distributions on the same basis as other allocations.

**Lock-Up Agreements**

[We have agreed that we will not (i) offer, pledge, announce the intention to sell, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise dispose of, directly or indirectly, or file with the Securities and Exchange Commission a registration statement under the Securities Act relating to, any of our ordinary shares or the ADSs, or securities convertible into or exchangeable or exercisable for any of our ordinary shares or the ADSs, or publicly disclose the intention to make any offer, sale, pledge, disposition or filing, or (ii) enter into any swap or other arrangement that transfers all or a portion of the economic consequences associated with the ownership of any of our ordinary shares or the ADSs or any such other securities (regardless of whether any of these transactions are to be settled by the delivery of ordinary shares, ADSs or such other securities, in cash or otherwise), in each case without the prior written consent of the representatives on behalf of the underwriters for a period of \_\_\_\_\_ days after the date of this prospectus, other than the ADSs to be sold hereunder and any ADSs issued upon the exercise of options granted under our existing management incentive plans.]

[Our directors and executive officers, and our existing shareholders have entered into lock-up agreements with the underwriters prior to the commencement of this offering pursuant to which each of these persons or entities, with limited exceptions, for a period of \_\_\_\_\_ days after the date of this prospectus, may not, without the prior written consent of the representatives on behalf of the underwriters, (1) offer, pledge, announce the intention to sell, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, or otherwise transfer or dispose of, directly or indirectly, any of our ordinary shares or the ADSs, or any securities convertible into or exercisable or exchangeable for our ordinary shares or the ADSs (including, without limitation, ordinary shares or ADSs or such other securities which may be deemed to be beneficially owned by such directors, executive officers, managers and members in accordance with the rules and regulations of the SEC and securities which may be issued upon exercise of an option or warrant) or (2) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of our ordinary shares or the ADSs, or such other securities, whether any such

transaction described in clause (1) or (2) above is to be settled by delivery of ordinary shares or ADSs or such other securities, in cash or otherwise, or (3) make any demand for or exercise any right with respect to the registration of any of our ordinary shares or the ADSs, or any security convertible into or exercisable or exchangeable for our ordinary shares or the ADSs.]

#### Relationships

[Certain of the underwriters and their affiliates have provided in the past to us and our affiliates and may provide from time to time in the future certain commercial banking, financial advisory, investment banking and other services for us and such affiliates in the ordinary course of their business, for which they have received and may continue to receive customary fees and commissions. In addition, from time to time, certain of the underwriters and their affiliates may effect transactions for their own account or the account of customers, and hold on behalf of themselves or their customers, long or short positions in our debt or equity securities or loans, and may do so in the future.]

#### Directed ADS Program

At our request, the underwriters have reserved up to \_\_\_\_\_ % of the ADSs being offered by this prospectus for sale at the initial public offering price to our directors, officers and employees. The sales will be made by \_\_\_\_\_ through a directed ADS program. We do not know if these persons will choose to purchase all or any portion of these reserved ADSs, but any purchases they do make will reduce the number of ADSs available to the general public. Any reserved ADSs not so purchased will be offered by the underwriters to the general public on the same terms as the other ADSs. Participants in the directed ADS program who purchase more than US\$ \_\_\_\_\_ of ADSs shall be subject to a 180-day lock-up with respect to any ADSs sold to them pursuant to that program. This lock-up will have similar restrictions and an identical extension provision to the lock-up agreements described above. Any shares sold in the directed ADS program to our directors or executive officers shall be subject to the lock-up agreements described in "—Lock-up Agreements" above. We have agreed to indemnify \_\_\_\_\_ for against certain liabilities and expenses, including liabilities under the Securities Act, in connection with the sales of directed ADSs.

#### Indemnification

We have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act of 1933.

#### NASDAQ Listing

We have applied to list our ADSs on the NASDAQ under the symbol "GDS."

#### Stabilization, Short Positions and Penalty Bids

In connection with this offering, the underwriters may engage in stabilizing transactions, which involves making bids for, purchasing and selling ADSs in the open market for the purpose of preventing or retarding a decline in the market price of the ADSs while this offering is in progress. These stabilizing transactions may include making short sales of ADSs, which involves the sale by the underwriters of a greater number of ADSs than they are required to purchase in this offering, and purchasing ADSs on the open market to cover positions created by short sales. Short sales may be "covered" shorts, which are short positions in an amount not greater than the underwriters' option to purchase additional ADSs referred to above, or may be "naked" shorts, which are short positions in excess of that amount. The underwriters may close out any covered short position either by exercising their option to purchase additional ADSs, in whole or in part, or by purchasing ADSs in the open market. In making this determination, the underwriters will consider, among other things, the price of ADSs available for purchase in the open market compared to the price at which the underwriters may purchase ADSs through the option to purchase additional ADSs. A naked short position is more likely to be created if the underwriters are concerned that there may be downward

pressure on the price of the ADSs in the open market that could adversely affect investors who purchase in this offering. To the extent that the underwriters create a naked short position, they will purchase ADSs in the open market to cover the position.

The underwriters have advised us that, pursuant to Regulation M of the Securities Act of 1933, they may also engage in other activities that stabilize, maintain or otherwise affect the price of the ADSs, including the imposition of penalty bids. This means that if the representatives of the underwriters purchase ADSs in the open market in stabilizing transactions or to cover short sales, the representatives can require the underwriters that sold those ADSs as part of this offering to repay the underwriting discount received by them.

These activities may have the effect of raising or maintaining the market price of the ADSs or preventing or retarding a decline in the market price of the ADSs, and, as a result, the price of the ADSs may be higher than the price that otherwise might exist in the open market. If the underwriters commence these activities, they may discontinue them at any time. The underwriters may carry out these transactions on the NASDAQ, in the over-the-counter market or otherwise.

#### **Pricing of the Offering**

Prior to this offering, there has been no public market for our Class A ordinary shares or ADSs. The initial public offering price will be determined by negotiations between us and the representatives of the underwriters. In determining the initial public offering price, we and the representatives of the underwriters expect to consider a number of factors including:

- the information set forth in this prospectus and otherwise available to the representatives;
- our prospects and the history and prospects for the industry in which we compete;
- an assessment of our management;
- our prospects for future earnings;
- the general condition of the securities markets at the time of this offering;
- the recent market prices of, and demand for, publicly traded common stock or ADSs of generally comparable companies; and
- other factors deemed relevant by the underwriters and us.

Neither we nor the underwriters can assure investors that an active trading market will develop for our ADSs, or that the ADSs will trade in the public market at or above the initial public offering price.

#### **Selling Restrictions**

Other than in the United States, no action has been taken by us or the underwriters that would permit a public offering of the securities offered by this prospectus in any jurisdiction where action for that purpose is required. The securities offered by this prospectus may not be offered or sold, directly or indirectly, nor may this prospectus or any other offering material or advertisements in connection with the offer and sale of any such securities be distributed or published in any jurisdiction, except under circumstances that will result in compliance with the applicable rules and regulations of that jurisdiction. Persons into whose possession this prospectus comes are advised to inform themselves about and to observe any restrictions relating to the offering and the distribution of this prospectus. This prospectus does not constitute an offer to sell or a solicitation of an offer to buy any securities offered by this prospectus in any jurisdiction in which such an offer or a solicitation is unlawful.

**Canada.** The ADSs may be sold only to purchasers purchasing, or deemed to be purchasing, as principal that are accredited investors, as defined in National Instrument 45-106 *Prospectus Exemptions* or subsection 73.3(1) of the *Securities Act* (Ontario), and are permitted clients, as defined in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*. Any resale of

the ADSs must be made in accordance with an exemption from, or in a transaction not subject to, the prospectus requirements of applicable securities laws.

Securities legislation in certain provinces or territories of Canada may provide a purchaser with remedies for rescission or damages if this prospectus (including any amendment thereto) contains a misrepresentation, provided that the remedies for rescission or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser's province or territory. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser's province or territory for particulars of these rights or consult with a legal advisor.

Pursuant to section 3A.3 (or, in the case of securities issued or guaranteed by the government of a non-Canadian jurisdiction, section 3A.4) of National Instrument 33-105 Underwriting Conflicts (NI 33-105), the underwriters are not required to comply with the disclosure requirements of NI 33-105 regarding underwriter conflicts of interest in connection with this offering.

**European Economic Area.** In relation to each Member State of the European Economic Area (each, a "Relevant Member State"), no offer of ADSs may be made to the public in that Relevant Member State other than:

- A. to any legal entity which is a qualified investor as defined in the Prospectus Directive;
  - B. to fewer than 100 or, if the Relevant Member State has implemented the relevant provision of the 2010 PD Amending Directive, 150, natural or legal persons (other than qualified investors as defined in the Prospectus Directive), as permitted under the Prospectus Directive, subject to obtaining the prior consent of the representatives; or
  - C. in any other circumstances falling within Article 3(2) of the Prospectus Directive,
- provided that no such offer of ADSs shall require the Company or the representatives to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive.

Each person in a Relevant Member State who initially acquires any ADSs or to whom any offer is made will be deemed to have represented, acknowledged and agreed that it is a "qualified investor" within the meaning of the law in that Relevant Member State implementing Article 2(1)(e) of the Prospectus Directive. In the case of any ADSs being offered to a financial intermediary as that term is used in Article 3(2) of the Prospectus Directive, each such financial intermediary will be deemed to have represented, acknowledged and agreed that the ADSs acquired by it in the offer have not been acquired on a non-discretionary basis on behalf of, nor have they been acquired with a view to their offer or resale to, persons in circumstances which may give rise to an offer of any ADSs to the public other than their offer or resale in a Relevant Member State to qualified investors as so defined or in circumstances in which the prior consent of the representatives has been obtained to each such proposed offer or resale.

The Company, the representatives and their affiliates will rely upon the truth and accuracy of the foregoing representations, acknowledgements and agreements.

This prospectus has been prepared on the basis that any offer of ADSs in any Relevant Member State will be made pursuant to an exemption under the Prospectus Directive from the requirement to publish a prospectus for offers of ADSs. Accordingly any person making or intending to make an offer in that Relevant Member State of ADSs which are the subject of the offering contemplated in this prospectus may only do so in circumstances in which no obligation arises for the Company or any of the underwriters to publish a prospectus pursuant to Article 3 of the Prospectus Directive in relation to such offer. Neither the Company nor the underwriters have authorized, nor do they authorize, the making of any offer of ADSs in circumstances in which an obligation arises for the Company or the underwriters to publish a prospectus for such offer.

For the purpose of the above provisions, the expression "an offer to the public" in relation to any ADSs in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the ADSs to be offered so as to enable an investor to decide to purchase or subscribe the ADSs, as the same may be varied in the Relevant Member State by any measure implementing the Prospectus Directive in the Relevant Member State and the expression "Prospectus Directive" means Directive 2003/71/EC (including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member States) and includes any relevant implementing measure in the Relevant Member State and the expression "2010 PD Amending Directive" means Directive 2010/73/EU.

**Hong Kong.** The ADSs have not been offered or sold and will not be offered or sold in Hong Kong, by means of any document, other than (a) to "professional investors" as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong and any rules made under that Ordinance; or (b) in other circumstances which do not result in the document being a "prospectus" as defined in the Companies Ordinance (Cap. 32) of Hong Kong or which do not constitute an offer to the public within the meaning of that Ordinance. No advertisement, invitation or document relating to the ADSs has been or may be issued or has been or may be in the possession of any person for the purposes of issue, whether in Hong Kong or elsewhere, which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to ADSs which are or are intended to be disposed of only to persons outside Hong Kong or only to "professional investors" as defined in the Securities and Futures Ordinance and any rules made under that Ordinance.

**People's Republic of China.** This prospectus does not constitute a public offer of the ADSs, whether by sale or subscription, in the PRC. The ADSs are not being offered or sold directly or indirectly in the PRC to or for the benefit of, legal or natural persons of the PRC.

Further, no legal or natural persons of the PRC may directly or indirectly purchase any of the ADSs or any beneficial interest therein without obtaining all prior PRC governmental approvals that are required, whether statutorily or otherwise. Persons who come into possession of this document are required by the issuer and its representatives to observe these restrictions.

**Singapore.** This prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of ADSs may not be circulated or distributed, nor may the ADSs be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the Securities and Futures Act, Chapter 289 of Singapore (the "SFA"), (ii) to a relevant person pursuant to Section 275(1), or any person pursuant to Section 275(1A), and in accordance with the conditions specified in Section 275, of the SFA, or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the ADSs are subscribed or purchased under Section 275 of the SFA by a relevant person which is:

- (a) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or
- (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,



securities (as defined in Section 239(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the ADSs pursuant to an offer made under Section 275 of the SFA except:

- (a) to an institutional investor or to a relevant person defined in Section 275(2) of the SFA, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA;
- (b) where no consideration is or will be given for the transfer;
- (c) where the transfer is by operation of law;
- (d) as specified in Section 276(7) of the SFA; or
- (e) as specified in Regulation 32 of the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005 of Singapore.

**United Kingdom.** This document is being distributed only to, and is directed only at, and any offer subsequently made may only be directed at persons who are "qualified investors" (as defined in the Prospectus Directive) (i) who have professional experience in matters relating to investments falling within Article 19 (5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, as amended (the "Order") and/or (ii) who are high net worth companies (or persons to whom it may otherwise be lawfully communicated) falling within Article 49(2)(a) to (d) of the Order (all such persons together being referred to as "relevant persons").

Any person in the United Kingdom that is not a relevant person should not act or rely on the information included in this document or use it as basis for taking any action. In the United Kingdom, any investment or investment activity that this document relates to may be made or taken exclusively by relevant persons. Any person in the United Kingdom that is not a relevant person should not act or rely on this document or any of its contents.

**EXPENSES RELATED TO THIS OFFERING**

Set forth below is an itemization of the total expenses, excluding underwriting discounts and commissions, which are expected to be incurred in connection with the offer and sale of the ADSs by us. With the exception of the SEC registration fee and the Financial Industry Regulatory Authority filing fee, all amounts are estimates.

SEC registration fee	US\$
NASDAQ Global Market entry and listing fee	
Financial Industry Regulatory Authority filing fee	
Printing and engraving expenses	
Legal fees and expenses	
Accounting fees and expenses	
Miscellaneous	
<b>Total</b>	<u>US\$</u>

These expenses will be borne by us, except for underwriting discounts and commissions, which will be borne by us in proportion to the numbers of ADSs sold in the offering by us, respectively.

#### LEGAL MATTERS

We are being represented by Simpson Thacher & Bartlett LLP with respect to certain legal matters of United States federal securities and New York state law. Certain legal matters of United States federal securities and New York state law in connection with this offering will be passed upon for the underwriters by Fenwick & West LLP. The validity of the Class A ordinary shares represented by the ADSs offered in this offering and legal matters as to Cayman Islands law will be passed upon for us by Conyers Dill & Pearman. Certain legal matters as to PRC law will be passed upon for us by King & Wood Mallesons and for the underwriters by Fangda Partners. Simpson Thacher & Bartlett LLP and Conyers Dill & Pearman may rely upon King & Wood Mallesons with respect to matters governed by PRC law. Fenwick & West LLP may rely upon Fangda Partners with respect to matters governed by PRC law.

#### EXPERTS

The consolidated financial statements of GDS Holdings Limited as of December 31, 2014 and 2015 and for the years then ended have been included herein and in the registration statement, in reliance upon the report of KPMG Huazhen LLP, an independent registered public accounting firm, appearing elsewhere herein, and upon the authority of said firm as experts in accounting and auditing.

The consolidated statement of comprehensive loss and consolidated statement of cash flows of EDC Holding Limited for the six-month period ended June 30, 2014 have been included herein and in the registration statement, in reliance upon the report of KPMG Huazhen LLP, an independent registered public accounting firm, appearing elsewhere herein, and upon the authority of said firm as experts in accounting and auditing.

The office of KPMG Huazhen LLP is located at 50th Floor, Plaza 66, 1266 Nanjing West Road, Shanghai, People's Republic of China.

#### WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form F-1, including relevant exhibits and schedules under the Securities Act with respect to underlying Class A ordinary shares represented by the ADSs, to be sold in this offering. A related registration statement on F-6 will be filed with the SEC to register the ADSs. This prospectus, which constitutes a part of the registration statement, does not contain all of the information contained in the registration statement. You should read the registration statement and its exhibits and schedules for further information with respect to us and our ADSs.

Immediately upon closing of this offering, we will become subject to periodic reporting and other informational requirements of the Exchange Act as applicable to foreign private issuers. Accordingly, we will be required to file reports, including annual reports on Form 20-F, and other information with the SEC. All information filed with the SEC can be inspected and copied at the public reference facilities maintained by the SEC at 100 F Street, N.E., Washington, D.C. 20549. You can request copies of these documents upon payment of a duplicating fee, by writing to the SEC. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the public reference rooms. Additional information may also be obtained over the Internet at the SEC's web site at [www.sec.gov](http://www.sec.gov).

As a foreign private issuer, we are exempt under the Exchange Act from, among other things, the rules prescribing the furnishing and content of proxy statements, and our executive officers, directors and principal shareholders are exempt from the reporting and short-swing profit recovery provisions contained in Section 16 of the Exchange Act. In addition, we will not be required under the Exchange Act to file periodic reports and financial statements with the SEC as frequently or as promptly as U.S. companies whose securities are registered under the Exchange Act. However, we intend to furnish the depositary with our annual reports, which will include a review of operations and annual audited consolidated combined financial statements prepared in conformity with U.S. GAAP, and all notices of shareholders' meeting and other reports and communications that are made generally available to our shareholders. The depositary will make such notices, reports and communications available to holders of ADSs and will mail to all record holders of ADSs the information contained in any notice of a shareholders' meeting received by the depositary from us.

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

**The Board of Directors and Shareholders  
GDS Holdings Limited:**

We have audited the accompanying consolidated balance sheets of GDS Holdings Limited and subsidiaries (the "Company") as of December 31, 2014 and 2015, and the related consolidated statements of operations, comprehensive loss, changes in shareholders' deficit, and cash flows for the years then ended. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of GDS Holdings Limited and subsidiaries as of December 31, 2014 and 2015, and the results of their operations and their cash flows for the years then ended, in conformity with U.S. generally accepted accounting principles.

/s/ KPMG Huazhen LLP

Shanghai, China  
May 20, 2016

**GDS HOLDINGS LIMITED AND SUBSIDIARIES**
**Consolidated Balance Sheets**
**(In thousands, except share data and per share data, or otherwise noted)**

	Note	As at December 31	
		2014	2015
<b>Assets</b>			
<b>Current assets</b>			
Cash			
(including cash of VIEs of RMB4,857 and RMB12,032 as of December 31, 2014 and 2015, respectively)		606,758	924,498
Restricted cash		3,947	6,425
Accounts receivable, net of allowance for doubtful accounts (including accounts receivables of VIEs of RMB506 and RMB3,847, net of allowance for doubtful accounts as of December 31, 2014 and 2015, respectively)	3	73,366	111,013
Value-added-tax ("VAT") recoverable (including VAT recoverable of VIEs of RMB508 and RMB1,389 as of December 31, 2014 and 2015, respectively)		18,249	59,680
Prepaid expenses (including prepaid expenses of VIEs of RMB2 and RMB5,173 as of December 31, 2014 and 2015, respectively)		36,378	51,395
Other current assets (including other current asset of VIEs of RMB10 and RMB234 as of December 31, 2014 and 2015, respectively)	4	7,133	33,688
<b>Total current assets</b>		<b>745,831</b>	<b>1,186,699</b>
<b>Property and equipment, net</b>			
(including property and equipment, net of VIEs of RMB654 and RMB5,830 as of December 31, 2014 and 2015, respectively)	5	1,694,944	2,512,687
<b>Intangible assets, net</b>	6	<b>55,860</b>	<b>46,935</b>
Prepaid land use rights, net	7	28,025	27,408
Goodwill	8	1,294,664	1,294,664
Deferred tax assets	18	—	2,363
Other non-current assets		34,750	57,516
<b>Total assets</b>		<b>3,854,074</b>	<b>5,128,272</b>
<b>Liabilities, Redeemable Preferred Shares and Shareholders' Deficit</b>			
<b>Current liabilities</b>			
Short-term borrowings and current portion of long-term borrowings	9	426,709	428,218
Bonds payable	10	14,340	—
Accounts payable (including accounts payable of VIEs of RMB264 and RMB4,151 as of December 31, 2014 and 2015, respectively)		231,814	215,658
Accrued expenses and other payables (including accrued expenses and other payables of VIEs of RMB760 and RMB1,802 as of December 31, 2014 and 2015, respectively)	11	118,545	118,316
Due to related parties	24	23,300	67,604
Deferred revenue (including deferred revenue of VIEs of RMB717 and RMB8,992 as of December 31, 2014 and 2015, respectively)		43,301	46,508
Obligations under capital leases, current	12	39,621	48,745
<b>Total current liabilities</b>		<b>897,630</b>	<b>925,049</b>
Long-term borrowings, excluding current portion	9	492,123	958,264
Convertible bonds payable	10	—	648,515
Obligations under capital leases, non-current	12	246,996	424,939
Deferred tax liabilities	18	40,724	37,691
Other long-term liabilities		29,127	79,005
<b>Total liabilities</b>		<b>1,706,600</b>	<b>3,073,463</b>
Redeemable preferred shares (US\$0.00005 par value; 350,563,436 shares authorized; 349,087,677 shares issued and outstanding with aggregate redemption amount of RMB2,029,766 and RMB2,277,059, as of December 31, 2014 and 2015, respectively)	13	2,164,039	2,395,314
<b>Shareholders' deficit</b>			
Ordinary shares (US\$0.00005 par value; 675,636,564 shares authorized; 217,987,922 shares issued and outstanding as of December 31, 2014 and 2015, respectively)	15	76	76
Additional paid-in capital		410,486	303,621
Accumulated other comprehensive income (loss)		56,542	(61,949)
Accumulated deficit	19	(483,669)	(582,253)
<b>Total shareholders' deficit</b>		<b>(16,565)</b>	<b>(340,505)</b>
Commitments and contingencies	23		
<b>Total liabilities, redeemable preferred shares and shareholders' deficit</b>		<b>3,854,074</b>	<b>5,128,272</b>

See accompanying notes to consolidated financial statements.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Consolidated Statements of Operations

(In thousands, except share data and per share data, or otherwise noted)

	Note	Years ended December 31,	
		2014	2015
Net revenue	17	468,337	703,636
Cost of revenue		(388,171)	(514,997)
Gross profit		80,166	188,639
Operating expenses			
Selling and marketing expenses		(40,556)	(57,588)
General and administrative expenses		(113,711)	(128,714)
Research and development expenses		(1,597)	(3,554)
Loss from operations		(75,698)	(1,217)
Other income (expenses):			
Interest income		6,935	1,355
Interest expenses		(131,908)	(126,901)
Foreign currency exchange (loss) gain, net		(875)	11,107
Government grants		4,870	3,915
Gain on remeasurement of equity investment	8	62,506	—
Others, net		(412)	1,174
Loss before income taxes		(134,582)	(110,567)
Income tax benefits	18	4,583	11,983
Net loss		(129,999)	(98,584)
Net loss		(129,999)	(98,584)
Extinguishment of redeemable preferred shares	13	(106,515)	—
Change in redemption value of redeemable preferred shares	13	(69,116)	(110,926)
Dividends on redeemable preferred shares	20	(3,509)	(7,127)
Net loss available to ordinary shareholders		(309,139)	(216,637)
Loss per ordinary share			
Basic and diluted	20	(1.91)	(0.99)
Weighted average number of ordinary share outstanding			
Basic and diluted	20	162,070,745	217,987,922

See accompanying notes to consolidated financial statements.



**GDS HOLDINGS LIMITED AND SUBSIDIARIES**  
**Consolidated Statements of Comprehensive Loss**  
**(In thousands, except share data and per share data, or otherwise noted)**

	Years ended December 31,	
	2014	2015
Net loss	(129,999)	(98,584)
Other comprehensive income (loss):		
Foreign currency translation adjustments, net of nil tax	4,114	(118,491)
Comprehensive loss	<u>(125,885)</u>	<u>(217,075)</u>

See accompanying notes to consolidated financial statements.

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Consolidated Statements of Changes in Shareholders' Deficit

(In thousands, except share data and per share data, or otherwise noted)

	Note	Ordinary Shares		Additional paid-in capital	Accumulated other comprehensive (loss) income	Accumulated deficit	Total deficit
		Number	Amount				
<b>Balance at January 1, 2014</b>	15	110,000,001	43	—	52,428	(353,670)	(301,199)
Loss for the year		—	—	—	—	(129,999)	(129,999)
Other comprehensive income		—	—	—	4,114	—	4,114
Total comprehensive loss		—	—	—	4,114	(129,999)	(125,885)
Acquisition of EDC Holding	8, 15	88,352,558	27	472,918	—	—	472,945
Issuance of shares in exchange for bonds payable	10, 15	38,397,655	12	205,524	—	—	205,536
Repurchase of ordinary shares	15	(18,762,292)	(6)	(119,658)	—	—	(119,664)
Extinguishment of redeemable preferred shares upon repurchase	13	—	—	(76,900)	—	—	(76,900)
Extinguishment of redeemable preferred shares upon exchange	13	—	—	(29,615)	—	—	(29,615)
Change in redemption value of redeemable preferred shares	13	—	—	(69,116)	—	—	(69,116)
Share-based compensation	16	—	—	27,333	—	—	27,333
		107,987,921	33	410,486	—	—	410,519
<b>Balance at December 31, 2014 and January 1, 2015</b>		<b>217,987,922</b>	<b>76</b>	<b>410,486</b>	<b>56,542</b>	<b>(483,669)</b>	<b>(16,565)</b>
Loss for the year		—	—	—	—	(98,584)	(98,584)
Other comprehensive loss		—	—	—	(118,491)	—	(118,491)
Total comprehensive loss		—	—	—	(118,491)	(98,584)	(217,075)
Change in redemption value of redeemable preferred shares	13	—	—	(110,926)	—	—	(110,926)
Share-based compensation	16	—	—	4,061	—	—	4,061
<b>Balance at December 31, 2015</b>		<b>217,987,922</b>	<b>76</b>	<b>303,621</b>	<b>(61,949)</b>	<b>(582,253)</b>	<b>(340,505)</b>

See accompanying notes to consolidated financial statements.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Consolidated Statements of Cash Flows

(In thousands, except share data and per share data, or otherwise noted)

	Note	Years ended December 31,	
		2014	2015
<b>Cash flows from operating activities:</b>			
Net loss		(129,999)	(98,584)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:			
Amortization of debt issuance cost and debt discount		33,874	—
Depreciation and amortization		82,753	145,406
Net gain on disposal of property and equipment		(37)	—
Share-based compensation expense		27,333	4,061
Gain on remeasurement of equity investment		(62,506)	—
Allowance for doubtful accounts		2,156	—
Deferred tax benefit		(5,024)	(10,589)
<b>Changes in operating assets and liabilities, net of effect of acquisitions:</b>			
Increase of accounts receivable		(11,851)	(37,647)
Increase of VAT recoverable		(16,197)	(41,431)
Increase of prepaid expenses		(3,499)	(15,017)
Increase of restricted cash		—	(6,425)
Decrease (increase) of other current assets		81,334	(12,287)
Decrease (increase) of other non-current assets		4,105	(22,766)
Decrease of accounts payable		(6,760)	(5,150)
(Decrease) increase of due to related parties		(3,086)	2,668
Increase of deferred revenue		10,675	3,207
Increase (decrease) of accrued expenses and other payables		18,293	(1,071)
Increase of other long-term liabilities		6,373	15,327
<b>Net cash provided by (used in) operating activities</b>		<b>27,937</b>	<b>(80,298)</b>
<b>Cash flows from investing activities:</b>			
Payments for purchase of property and equipment		(248,349)	(732,979)
Loans made to a related party	24(a)	(307,048)	—
Cash acquired from the acquisition of EDC Holding	8	40,999	—
Cash paid for an acquisition made by EDC Holding		(13,592)	—
Proceeds from sale of property and equipment		163	52
Release of restricted cash related to purchase of property and equipment		4,078	1,022
<b>Net cash used in investing activities</b>		<b>(523,749)</b>	<b>(731,905)</b>

See accompanying notes to consolidated financial statements.

**GDS HOLDINGS LIMITED AND SUBSIDIARIES**
**Consolidated Statements of Cash Flows (Continued)**

(In thousands, except share data and per share data, or otherwise noted)

	Note	Years ended December 31,	
		2014	2015
<b>Cash flows from financing activities:</b>			
Proceeds from short-term borrowings		298,307	333,000
Proceeds from long-term borrowings		200,000	584,457
Repayment of short-term borrowings		(357,307)	(289,000)
Repayment of long-term borrowings		(115,936)	(137,709)
Payment of issuance cost of borrowings		—	(24,310)
Proceeds from issuance of convertible bonds payable	10	—	648,950
Proceeds from issuance of bonds payable	10	114,950	—
Repayment of bonds payable	10	(4,081)	(14,330)
Proceeds from a related party loan	24(a)	—	64,936
Proceeds from issuance of Series C redeemable preferred shares	13	1,521,295	—
Payment of issuance costs of Series C redeemable preferred shares	13	(20,128)	—
Repurchase of ordinary shares	15	(119,664)	—
Repurchase of redeemable preferred shares	13	(455,366)	(23,300)
Payment under capital lease obligations		(9,057)	(17,934)
Restricted cash released upon repayment of borrowings		3,274	2,925
<b>Net cash provided by financing activities</b>		<b>1,056,287</b>	<b>1,127,685</b>
Effect of exchange rate changes on cash		(2,328)	2,258
<b>Net increase in cash</b>		<b>558,147</b>	<b>317,740</b>
Cash at beginning of year		48,611	606,758
Cash at end of year		<u>606,758</u>	<u>924,498</u>
<b>Supplemental disclosures of cash flow information</b>			
Interest paid		55,149	81,216
Income tax paid		443	853
<b>Supplemental disclosures of non-cash investing and financing activities</b>			
Payables for purchase of property and equipment		73,709	20,402
Purchase of property and equipment through capital leases		—	205,000
Issuance of ordinary shares in exchange of bonds payable	10	205,536	—
Issuance of ordinary and preferred shares for the acquisition of EDC Holding	8	1,184,242	—

See accompanying notes to consolidated financial statements.

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(In thousands, except share data and per share data, or otherwise noted)

1. DESCRIPTION OF BUSINESS, ORGANIZATION AND BASIS OF PRESENTATION

(a) *Description of business*

GDS Holdings Limited (the "Parent" or "GDS Holdings") was incorporated in the Cayman Islands on December 1, 2006. GDS Holdings and its consolidated subsidiaries and consolidated variable interest entities (collectively referred to as "the Company") are principally engaged in providing colocation, managed hosting and managed cloud services in the People's Republic of China (the "PRC"). The Company operates its data centers in Hong Kong Special Administrative Region, Shanghai Municipality, Beijing Municipality, Jiangsu Province, Guangdong Province and Sichuan Province of the PRC and serves customers that primarily operate in the internet and banking industries. During the periods presented, the Company's operations are primarily conducted through a wholly owned subsidiary, Global Data Solutions Co., Ltd. ("GDS Suzhou").

On June 30, 2014, the Company acquired EDC Holding Limited and its subsidiaries ("EDC Holding"), a limited liability holding company incorporated in the Cayman Islands. EDC Holding primarily provides colocation services in the PRC. See note 8.

(b) *Basis of presentation*

The accompanying consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles ("US GAAP").

The consolidated financial statements are presented in Renminbi ("RMB"), rounded to the nearest thousand.

The accompanying consolidated financial statements contemplate the realization of assets and the satisfaction of liabilities in the normal course of business. The realization of assets and the satisfaction of liabilities in the normal course of business are dependent on, among other things, the Company's ability to operate profitably, to generate cash flows from operations, and to pursue financing arrangements, including obtaining new bank borrowings or renewing its existing bank borrowings.

Historically, the Company relied on external bank and third party loans and issuances of preferred shares and convertible bonds to fund its working capital and capital expenditure requirements and to meet its obligations and commitments when they become due.

The Company has carried out a review of its cash flow forecast for the twelve months ending December 31, 2016. Based on such forecast, management believes that adequate sources of liquidity exist to fund the Company's working capital and capital expenditures requirements, and to meet its short-term debt obligations and other liabilities and commitments as they become due. In preparing the cash flow forecast, management has considered historical cash requirements, working capital and capital expenditures plans, estimated cash flows provided by operations, existing cash on hand and available credit facilities, as well as other key factors, including its ability to renew its short-term bank borrowings during 2016 and to obtain external financing. Management believes the assumptions used in the cash forecast are reasonable.

On December 30, 2015, the Company entered into a subscription agreement with two investors for the issuance of Convertible Bonds due 2019 in an aggregate principal amount of US\$250,000 in four tranches. On December 30, 2015 and January 29, 2016, the Company issued the first tranche of US\$100,000 (RMB648,950) and the second tranche of US\$50,000 (RMB324,475), respectively. A portion

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

1. DESCRIPTION OF BUSINESS, ORGANIZATION AND BASIS OF PRESENTATION (Continued)

of the second tranche was used to settle an outstanding loan of US\$10,000(RMB64,936). The subscription for the remaining third and fourth tranches of the Convertible Bonds due 2019 in an aggregate principal amount of US\$100,000 (RMB648,950) expires on September 30, 2016.

From January 1, 2016 to May 20, 2016, the Company repaid its bank borrowings that matured during this period in the aggregate amount of RMB159,024 and obtained new bank borrowings of RMB184,275.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) *Principles of Consolidation*

The accompanying consolidated financial statements include the financial statements of GDS Holdings Limited, its subsidiaries and consolidated variable interest entities ("VIEs") for which the Company is the primary beneficiary. The VIEs are Beijing Wanguo Chang'an Science and Technology Co., Ltd., ("GDS Beijing") and Shanghai Shu'an Data Services Co., Ltd., ("GDS Shanghai").

In certain regions of the PRC, the Company's operations are conducted through VIEs to comply with the PRC laws and regulations, which prohibit foreign investments in companies that are engaged in data center related business in those regions. Individuals acting as nominee equity holders hold the legal equity interests of the VIEs on behalf of the Company. The equity holders of the VIEs are the CEO of the Company and his relative.

A series of contractual agreements, including equity interest pledge agreements, powers of attorney, exclusive technology license and services agreements, exclusive option agreements and loan agreements (collectively, the "VIE Agreements") were entered among GDS Suzhou, the VIEs, and the equity holders of the VIEs. Through these agreements, the equity holders have granted all their legal rights, including voting rights, dividends rights, and disposition rights, of their equity interests in the VIEs to the Company. Accordingly, the equity holders of the VIEs do not have (i) rights to make decisions about the activities of the VIEs and (ii) rights to receive the expected residual returns of the VIEs.

Under the terms of the VIE Agreements, the Company has (i) the right to receive service fees on a yearly basis at an amount equivalent to all of the net profits of the VIEs under the exclusive service agreements when such services are provided; (ii) the right to receive all dividends declared by the VIEs and the right to all undistributed earnings of the VIEs; (iii) the right to receive the residual benefits of the VIEs through its exclusive option to acquire 100% of the equity interests in the VIEs, to the extent permitted under PRC law; and (iv) the right to require each of the shareholder of the VIEs to appoint the PRC citizen(s) as designated by GDS Suzhou to act as such shareholder's exclusive attorney-in-fact to exercise all shareholder rights, including, but not limited to, voting on all matters of the VIEs requiring shareholder approval, disposing of all or part of the shareholder's equity interest in the VIEs, and appointing directors and executive officers. During the periods presented, the Company provided loans to the VIEs to support their working capital requirements and for capitalization purposes.

In accordance with ASC 810-10-25-38A, the Company has a controlling financial interest in the VIEs because the Company has (i) the power to direct activities of the VIEs that most significantly impact the economic performance of the VIEs; and (ii) the obligation to absorb the expected losses and the

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

right to receive expected residual return of the VIEs that could potentially be significant to the VIEs. The terms of the VIE Agreements and the Company's financial support to the VIEs were considered in determining that the Company is the primary beneficiary of the VIEs. Accordingly, the financial statements of the VIEs are consolidated in the Company's consolidated financial statements.

Under the terms of the VIE Agreements, the VIEs' equity holders have no rights to the net assets nor have the obligations to fund the deficit, and such rights and obligations have been vested to the Company. All of the equity (net assets) or deficits (net liabilities) and net income (loss) of the VIEs are attributed to the Company.

The Company has been advised by its PRC legal counsel that each of the VIE agreements is valid, binding and enforceable in accordance with its terms and applicable PRC laws and the ownership structure of the VIEs does not violate applicable PRC Laws. However, there are substantial uncertainties regarding the interpretation and application of PRC laws and future PRC laws and regulations. There can be no assurance that the PRC authorities will take a view that is not contrary to or otherwise different. If the current ownership structure of the Company and the VIE Agreements are determined to be in violation of any existing or future PRC laws and regulations, the PRC government could:

- Levy fines on the Company or confiscate income of the Company;
- Revoke or suspend the VIEs' business or operating licenses;
- Discontinue or place restrictions or onerous conditions on VIE's operations;
- Require the Company to discontinue their operations in the PRC;
- Require the Company to undergo a costly and disruptive restructuring;
- Take other regulatory or enforcement actions that could be harmful to the Company's business.

The imposition of any of these government actions could result in the termination of the VIE agreements, which would result in the Company losing the (i) ability to direct the activities of the VIEs and (ii) rights to receive substantially all the economic benefits and residual returns from the VIEs and thus result in the deconsolidation of the VIEs in the Company's consolidated financial statements.

The assets and liabilities of the VIEs are presented parenthetically on the face of the consolidated balance sheets. The operating, investing and financing cash flows of the VIEs were insignificant during the years ended December 31, 2014 and 2015. Net revenue and net loss of the VIEs that were included in the Company's consolidated financial statements for the years ended December 31, 2014 and 2015 are as follows:

	Years ended December 31,	
	2014	2015
Net revenue	9,244	30,598
Net loss	4,779	5,327

The creditors of the VIEs do not have recourse to the general credit of the Company or its consolidated subsidiaries.

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

In order to adapt to the new regulatory requirements in China, the Company completed an internal restructuring in respect of GDS Suzhou on April 13, 2016 whereby GDS Suzhou was converted into a PRC domestic company that is wholly owned by GDS Beijing. See Note 26(b) for a further discussion of the restructuring and the VIE Agreements currently in effect.

(b) *Use of estimates*

The preparation of consolidated financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Significant items subject to such estimates and assumptions include, but are not limited to, the useful lives of long-lived assets, the fair values of assets acquired and liabilities assumed and the consideration transferred in a business combination, the fair value of the reporting unit for the goodwill impairment test, the allowance for doubtful accounts receivable, the realization of deferred income tax assets, the fair value of share-based compensation awards, the recoverability of long-lived assets and the fair value of the asset retirement obligation. Changes in facts and circumstances may result in revised estimates. Actual results could differ from those estimates, and as such, differences may be material to the consolidated financial statements.

(c) *Cash and cash equivalents*

The Company considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents. The Company does not have any cash equivalents as of December 31, 2014 and 2015.

(d) *Restricted cash*

Restricted cash represents amounts held by banks, which are not available for the Company's use, as security for issuance of commercial acceptance notes relating to purchase of property and equipment, letters of guarantee or bank borrowings and the related interest. Upon maturity of the commercial acceptance notes, letters of guarantee and repayment of bank borrowings, the deposits are released by the bank and available for general use by the Company. Restricted cash is reported within cash flows from operating, investing or financing activities in the consolidated statements of cash flows with reference to the purpose of the restriction.

(e) *Fair value of financial instruments*

The Company utilizes valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible. The Company determines fair value based on assumptions that market participants would use in pricing an asset or liability in the principal or most advantageous market. When considering market participant assumptions in fair value measurements,



## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

the following fair value hierarchy distinguishes between observable and unobservable inputs, which are categorized in one of the following levels (see note 14 to the consolidated financial statements):

- Level 1 Inputs: Unadjusted quoted prices in active markets for identical assets or liabilities accessible to the reporting entity at the measurement date.
- Level 2 Inputs: Other than quoted prices included in Level 1 inputs that are observable for the asset or liability, either directly or indirectly, for substantially the full term of the asset or liability.
- Level 3 Inputs: Unobservable inputs for the asset or liability used to measure fair value to the extent that observable inputs are not available, thereby allowing for situations in which there is little, if any, market activity for the asset or liability at the measurement date.

**(f) Accounts receivable**

Accounts receivable are recorded at the invoiced amount and do not bear interest. Amounts collected on trade accounts receivable are included in net cash provided by operating activities in the consolidated statements of cash flows. The Company maintains an allowance for doubtful accounts for estimated losses inherent in its accounts receivable portfolio. In establishing the required allowance, management considers historical losses adjusted to take into account current market conditions and customers' financial condition, the amount of receivables in dispute, the accounts receivables aging, and the customers' repayment patterns. The Company reviews its allowance for doubtful accounts on a customer-by-customer basis. Account balances are charged off against the allowance after all means of collection have been exhausted and the potential for recovery is considered remote. The Company does not have any off-balance-sheet credit exposure related to its customers.

**(g) Property and equipment**

Property and equipment are carried at cost less accumulated depreciation and any recorded impairment. Property and equipment acquired under capital leases are initially recorded at the present value of minimum lease payments.

Gains or losses arising from the disposal of an item of property and equipment are determined based on the difference between the net disposal proceeds and the carrying amount of the item and are recognized in profit or loss on the date of disposal.

The estimated useful lives are presented below.

Buildings	20 - 30 years
Data center equipment	
—Machinery	10 - 20 years
—Other equipment	3 - 5 years
Leasehold improvement	Shorter of the lease term and the estimated useful lives of the assets
Furniture and office equipment	3 - 5 years
Vehicles	5 years

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Construction in progress primarily consists of the cost of data center buildings and the related construction expenditures that are required to prepare the data center buildings for their intended use.

No depreciation is provided in respect of construction in progress until it is substantially completed and ready for its intended use. Once a data center building is ready for its intended use and becomes operational, construction in progress is allocated to the property and equipment categories and is depreciated over the estimated useful life of the underlying assets.

Depreciation on property and equipment is calculated on the straight-line method over the estimated useful lives of the assets. For assets acquired under a capital lease, the assets are amortized in a manner consistent with the Company's normal depreciation policy for owned assets if the lease transfers ownership to the Company by the end of the lease term or contains a bargain-purchase-option. Otherwise, assets acquired under a capital lease are amortized over the lease term.

(h) **Long-lived assets held for sale**

Long-lived assets are classified as held-for-sale if: (1) the Company has committed to a plan to sell the assets that are available for sale in its present condition, including initiating actions to complete the sale that is probable to qualify for as a completed sale within one year; (2) it is unlikely that significant changes to the plan will be made or the plan will be withdrawn; (3) the assets are being marketed for sale at a price that is reasonable in related to its current value. Long-lived assets held for sale are recorded at the lower of carrying value and fair value less cost to sell. A loss shall be recognized for any initial or subsequent write-down to fair-value less cost to sell. Long-lived assets held for sale are not depreciated while classified as held for sale.

In August 2014, the Company entered into an agreement with a customer for the development, construction and sale of an ancillary property and the related land right. As of December 31, 2015, all the conditions precedent to the sale of the property have not been performed, and therefore no revenue or income was recognized during the periods presented. The cost of the property held for sale of RMB9,075 is recorded in other current assets (note 4).

(i) **Leases**

Leases are classified at the lease inception date as either a capital lease or an operating lease. A lease is a capital lease if any of the following conditions exists: a) ownership is transferred to the lessee by the end of the lease term, b) there is a bargain purchase option, c) the lease term is at least 75% of the property's estimated remaining economic life, or d) the present value of the minimum lease payments at the beginning of the lease term is 90% or more of the fair value of the leased property to the lessor at the inception date. The Company records a capital lease as an asset and an obligation at an amount equal to the present value at the beginning of the lease term of minimum lease payments during the lease term. As of December 31, 2014 and 2015, assets under capital leases represent data center buildings and data center equipment.

Rental costs on operating leases are charged to expense on a straight-line basis over the lease term. Certain operating leases contain rent holidays and escalating rent. Rent holidays and escalating rent are considered in determining the straight-line rent expense to be recorded over the lease term.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

Rental costs associated with building operating leases that are incurred during the construction of leasehold improvements and to otherwise ready the property for the Company's intended use are recognized as rental expenses and are not capitalized.

**(j) Asset retirement costs**

The Company's asset retirement obligations are primarily related to its data center buildings, of which the majority are leased under long-term arrangements, and, in certain cases, are required to be returned to the landlords in their original condition.

The fair value of a liability for an asset retirement obligation is recognized in the period in which it is incurred. The corresponding asset retirement costs are capitalized as part of the cost of leasehold improvements and are depreciated over the shorter of the asset or the term of the lease subsequent to the initial measurement. The Company accretes the liability in relation to the asset retirement obligations over time and the accretion expense is recorded in cost of revenue.

Asset retirement obligations are recorded in other long-term liabilities. The following table summarizes the activity of the asset retirement obligation liability:

Asset retirement obligations as of January 1, 2014	—
Additions	2,148
Accretion expense	73
Asset retirement obligations as of December 31, 2014	2,221
Additions	3,299
Accretion expense	255
Asset retirement obligations as of December 31, 2015	5,775

**(k) Intangible assets**

Intangible assets acquired in the acquisition of EDC Holding comprised of customer relationships and favorable leases.

The weighted-average amortization period by major intangible asset class is as follows:

Customer relationships	5-6 years
Favorable lease	20 years

Customer relationships represent the orders, backlog and customer lists, which arise from contractual rights or through means other than contracts. Customer relationships are amortized using a straight-line method, as the pattern in which the economic benefits of the intangible assets are consumed or used up cannot be reliably determined.

Favorable lease is recognized as an intangible asset if the terms of the acquiree's operating lease are favorable relative to market terms. Favorable lease is amortized on a straight-line method over the lease term.

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

(l) **Prepaid land use rights**

The land use rights represent the amounts paid and relevant costs incurred for the rights to use land in the PRC and are carried at cost less accumulated amortization. Amortization is provided on a straight-line basis over the term of the land use right of 50 years.

(m) **Goodwill**

Goodwill is an asset representing the future economic benefits arising from other assets acquired in the acquisition of EDC Holding that are not individually identified and separately recognized.

Goodwill is not amortized but is tested for impairment annually or more frequently if events or changes in circumstances indicate that it might be impaired. Goodwill is tested for impairment at the reporting unit level on an annual basis and between annual tests if an event occurs or circumstances change that would more likely than not reduce the fair value of a reporting unit below its carrying value. These events or circumstances could include a significant change in the stock prices, business climate, legal factors, operating performance indicators, competition, or sale or disposition of a significant portion of a reporting unit. Application of the goodwill impairment test requires judgment, including the identification of the reporting unit, assignment of assets and liabilities to the reporting unit, assignment of goodwill to the reporting unit, and determination of the fair value of each reporting unit. Estimating fair value is performed by utilizing various valuation techniques, with a primary technique being a discounted cash flow which requires significant judgments, including estimation of future cash flows, which is dependent on internal forecasts, estimation of the long term rate of growth for the Company's business, estimation of the useful life over which cash flows will occur, and determination of the Company's weighted average cost of capital.

The Company has the option to perform a qualitative assessment to determine whether it is more-likely-than-not that the fair value of a reporting unit is less than its carrying value prior to performing the two-step goodwill impairment test. If it is more-likely-than-not that the fair value of a reporting unit is greater than its carrying amount, the two-step goodwill impairment test is not required. If the two-step goodwill impairment test is required, first, the fair value of the reporting unit is compared with its carrying amount (including goodwill). If the fair value of the reporting unit is less than its carrying amount, an indication of goodwill impairment exists for the reporting unit and the Company performs step two of the impairment test (measurement). Under step two, an impairment loss is recognized for any excess of the carrying amount of the reporting unit's goodwill over the implied fair value of that goodwill. The implied fair value of goodwill is determined by allocating the fair value of the reporting unit in a manner similar to a purchase price allocation and the residual fair value after this allocation is the implied fair value of the reporting unit goodwill. Fair value of the reporting unit is determined using a discounted cash flow analysis. The Company performs its annual impairment review of goodwill at December 31 of each year. No impairment losses were recorded for goodwill for the years ended December 31, 2014 and 2015.

(n) **Impairment of long-lived assets**

Long-lived assets, such as property and equipment, intangible assets subject to amortization and prepaid land use rights are reviewed for impairment whenever events or changes in circumstances

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

indicate that the carrying amount of an asset may not be recoverable. If circumstances require a long-lived asset or asset group be tested for possible impairment, the Company first compares undiscounted cash flows expected to be generated by that asset or asset group to its carrying amount. If the carrying amount of the long-lived asset or asset group is not recoverable on an undiscounted cash flow basis, an impairment is recognized to the extent that the carrying amount exceeds its fair value. Fair value is determined through various valuation techniques including discounted cash flow models, quoted market values and third-party independent appraisals, as considered necessary. No impairment losses were recorded for long-lived assets for the years ended December 31, 2014 and 2015.

**(o) Other non-current assets**

Other non-current assets primarily represent the deposits for leases, amounting to RMB34,750 and RMB46,423 as of December 31, 2014 and 2015, respectively, which are expected to be refunded after one year of the balance sheet date at the end of the lease term. Deposits for leases, which are expected to be refunded within one year of the balance sheet date, are recorded in other current assets.

**(p) Derivative financial instruments**

Derivative financial instruments are recognized initially at fair value. At the end of each reporting period, the fair value is remeasured. The gain or loss on remeasurement to fair value is recognized immediately in profit or loss.

**(q) Commitment and contingencies**

Liabilities for loss contingencies arising from claims, assessments, litigation, fines, and penalties and other sources are recorded when it is probable that a liability has been incurred and the amount can be reasonably estimated. Legal costs incurred in connection with loss contingencies are expensed as incurred.

**(r) Revenue recognition**

The Company recognizes revenue when delivery of the service or product has occurred, collection of the relevant receivable is probable, persuasive evidence of an arrangement exists and the sales price is fixed or determinable.

These criteria as they relate to each of the following major revenue generating activities are described below.

The Company derives revenue primarily from the delivery of (i) colocation services; (ii) managed hosting services and; (iii) managed cloud services. The remainder of the Company's revenue is from IT equipment sales that are either sold on a stand-alone basis or bundled in a managed hosting service contract arrangement and consulting services.

Colocation services are services where the Company provides space, power and cooling to customers for housing and operating their IT system equipment in the Company's data centers. Colocation

**GDS HOLDINGS LIMITED AND SUBSIDIARIES**

**Notes to Consolidated Financial Statements (Continued)**

**(In thousands, except share data and per share data, or otherwise noted)**

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

services are provided to customers for a fixed amount over the contract service period, ranging from 1 to 6 years. Revenues from colocation services are recognized on a straight line basis over the term of the contract. The Company has determined that its performance pattern to be straight line since the customer receives value as the services are rendered continuously during the term of the contract, the earning process is straight-line, and there is no other discernible performance pattern of recognition.

Managed hosting services are services where the Company provides outsourced services to manage the customers' data center operations, including data migration, IT operations, security and data storage. Managed hosting services are primarily provided to financial institution customers as a business continuity and disaster recovery solution. Managed hosting services are provided to customers for a fixed amount over the contract service period ranging from 1 to 6 years. Revenues from managed hosting services are recognized on a straight line basis over the term of the contract. The Company has determined that its performance pattern to be straight line since the customer receives value as the services are rendered continuously during the term of the contract, the earning process is straight-line, and there is no other discernible performance pattern of recognition.

In certain colocation and managed hosting service contracts, the Company agrees with the customers that the Company will charge the customers for the actual power consumption. The Company records the chargeable power consumption as service revenue in the consolidated statements of operations.

Revenue recognized for colocation or managed hosting and cloud services delivered prior to billing is recorded within accounts receivable. The Company generally bills the customer in equal instalments on a monthly or quarterly basis.

Cash received in advance from customers prior to the delivery of the colocation or managed hosting and cloud services is recorded as deferred revenue.

Managed cloud services are services where the Company delivers virtual storage and computing services to customers. Managed cloud services are provided to customers for a fixed amount over the subscription period, ranging from 1 to 3 years. Revenues from managed cloud services are recognized ratably over the subscription period once all requirements for recognition have been met, including provisioning the service so that it is available to the customers.

The sale of IT equipment is recognized when delivery has occurred and the customer accepts the equipment and the Company has no performance obligation after the delivery.

In certain managed hosting service contracts, the Company sells and delivers IT equipment such as servers and computer terminals prior to the delivery of the services. Since the delivered item has value to the customer on a standalone basis and there is no general right of return for the equipment, the equipment is considered a separate unit of accounting. Accordingly, the contract consideration is allocated to the equipment and the managed hosting services based on their relative standalone selling prices. The consideration allocated to the delivered equipment is not contingent on the delivery of the services or meeting other specified performance conditions. That is, payment on the equipment is due upon the delivery of the equipment and is not contingent upon the delivery of the undelivered services.

Consulting services are provided to customers for a fixed amount over the service period, usually less than one year. The Company's consulting contracts do not specify any interim milestones, (other than

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

for payment based on passage of time), or deliverables. The Company recognizes revenues from consulting services using the proportional performance method based on the pattern of service provided to the customers.

Sales taxes collected from customers and remitted to governmental authorities are excluded from revenues in the consolidated statements of operations.

(s) **Cost of revenues**

Cost of revenues consists primarily of utility costs, depreciation of property and equipment, rental costs, labor costs and other costs directly attributable to the provision of the service revenue.

(t) **Research and development and advertising costs**

Research and development and advertising costs are expensed as incurred. Research and development costs amounted to RMB1,597 and RMB3,554 in 2014 and 2015, respectively. Research and development costs consist primarily of payroll and related personnel costs for developing or significantly improving the Company's services and products.

Advertising costs amounted to RMB2,363 and RMB4,128 in 2014 and 2015, respectively.

(u) **Start-up costs**

Pre-operating or start-up costs incurred prior to operating a new data center are expensed as incurred and consist primarily of rental costs of operating leases of buildings during the construction of leasehold improvements and other miscellaneous costs incurred prior to the operation of the data centers. Start-up costs amounted to RMB16,217 and RMB25,659 and were recorded in general and administrative expenses in 2014 and 2015, respectively.

(v) **Government grants**

Government grants are recognized when received and when all the conditions for their receipt have been met. Subsidies that compensate the Company for expenses incurred are recognized as a reduction of expenses in the consolidated statements of operations. Subsidies that are not associated with expenses are recognized as other income.

Subsidies for the acquisition of property and equipment are recorded as a liability until earned and then depreciated over the useful life of the related assets as a reduction of the depreciation charges. Subsidies for obtaining the rights to use land are recorded as a liability until earned and then amortized over the land use right period as a reduction of the amortization charges of the related land use rights. In 2010 and 2011, the Company received government subsidies that required the Company to operate in a particular area for a certain period. The Company recorded the subsidies in other long-term liabilities when the subsidies were received and subsequently recognized as government subsidy income ratably over the period the Company is required to operate in the area.

As of December 31, 2014 and 2015, deferred government grants of RMB18,466 and RMB16,268 are recorded in other long-term liabilities in the consolidated balance sheets.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

(w) **Capitalized interest**

A reconciliation of total interest costs to "Interest expenses" as reported in the consolidated statements of operations for 2014 and 2015 is as follows:

	Years ended December 31,	
	2014	2015
Total interest costs	136,458	138,260
Less: interest costs capitalized	(4,550)	(11,359)
Interest expenses	131,908	126,901

Interest costs that are directly attributable to the construction of an asset which necessarily takes a substantial period of time to get ready for its intended use or sale are capitalized as part of the cost of that asset. The capitalization of interest costs as part of the cost of a qualifying asset commences when expenditure for the asset is being incurred, interest costs are being incurred and activities that are necessary to prepare the asset for its intended use or sale are in progress. Capitalization of interest costs is ceased when the asset is substantially complete and ready for its intended use.

(x) **Debt issuance costs**

Debt issuance costs are capitalized and are amortized over the life of the related loans based on the effective interest method. Such amortization is included as a component of interest expense.

The Company early adopted Accounting Standards Update 2015-03, Interest—Imputation of Interest ("ASU 2015-03"), during the year ended December 31, 2015. In accordance with ASU 2015-03, debt issuance costs of nil and RMB23,908 are presented as a reduction of debt as of December 31, 2014 and 2015, respectively.

(y) **Income tax**

Income taxes are accounted for under the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carry forwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. The Company recognizes the effect of income tax positions only if those positions are more likely than not of being sustained. Recognized income tax positions are measured at the largest amount that is greater than 50% likely of being realized. Changes in recognition or measurement are reflected in the period in which the change in judgment occurs. The Company records interest related to unrecognized tax benefits in interest expense and penalties in general and administrative expenses.



GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

(z) *Share-based compensation*

The Company accounts for the compensation cost from share-based payment transactions with employees based on the grant-date fair value of the equity instrument issued. The grant-date fair value of the award is recognized as compensation expense, net of estimated forfeitures, over the period during which an employee is required to provide service in exchange for the award, which is generally the vesting period. When no future services are required to be performed by the employee in exchange for an award of equity instruments, and if such award does not contain a performance or market condition, the cost of the award is expensed on the grant date. The Company recognizes compensation cost for an award with only service conditions that has a graded vesting schedule on a straight-line basis over the requisite service period for the entire award, provided that the cumulative amount of compensation cost recognized at any date at least equals the portion of the grant-date value of such award that is vested at that date.

Share-based payment transactions with nonemployees in which goods or services are received in exchange for equity instruments are accounted for based on the fair value of the consideration received or the fair value of the equity instrument issued, whichever is more reliably measurable. The measurement date of the fair value of the equity instrument issued is the earlier of either the date on which the counterparty's performance is complete or the date at which a commitment for performance by the counterparty to earn the equity instrument is reached.

(aa) *Employee benefits*

Pursuant to relevant PRC regulations, the Company is required to make contributions to various defined contribution plans organized by municipal and provincial PRC governments. The contributions are made for each PRC employee at rates ranging from 28% to 49% on a standard salary base as determined by local social security bureau. Contributions to the defined contribution plans are charged to the consolidated statements of operations when the related service is provided.

(bb) *Foreign currency translation and foreign currency risks*

The functional currency of GDS Holdings is the USD, whereas the functional currency of its PRC subsidiaries and consolidated VIEs is the RMB.

Foreign currency transactions during the period are translated at the foreign exchange rates ruling at the transaction dates. Monetary assets and liabilities denominated in foreign currencies are translated at the foreign exchange rates ruling at the end of the reporting period. Exchange gains and losses are recognized in profit or loss and are reported in foreign currency exchange (loss) gain on a net basis.

The results of foreign operations are translated into RMB at the exchange rates approximating the foreign exchange rates ruling at the dates of the transactions. Assets and liabilities are translated at the exchange rates at the balance sheet date, equity accounts are translated at historical exchange rates and revenues, expenses, gains and losses are translated using the average rate for the year. Translation adjustments are reported in other comprehensive income and accumulated in the translation adjustment component of equity until the sale or liquidation of the foreign entity.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

The RMB is not a freely convertible currency. The PRC State Administration for Foreign Exchange, under the authority of the PRC government, controls the conversion of RMB to foreign currencies. The value of the RMB is subject to changes of central government policies and international economic and political developments affecting supply and demand in the China foreign exchange trading system market. The Company's cash and restricted cash denominated in RMB amounted to RMB89,849 and RMB200,004 as of December 31, 2014 and 2015, respectively. As of December 31, 2015, the Company's cash and restricted cash were deposited in major financial institutions located in PRC, Hong Kong, and Cayman Island financial institutions, and were denominated in the following currencies:

	RMB	USD	HKD	JPY	EUR
In PRC	199,268	110,890	—	—	—
In Hong Kong	736	747	4,859	2,056	22
In Cayman Island	—	256	—	—	—
Total in original currency	200,004	111,893	4,859	2,056	22
RMB equivalent	200,004	726,582	4,071	111	155

**(cc) Concentration of credit risk**

Financial instruments that potentially expose the Company to concentrations of credit risk consist principally of cash and cash equivalent, restricted cash, and accounts receivable. The Company's investment policy requires cash and cash equivalents and restricted cash to be placed with high-quality financial institutions and to limit the amount of credit risk from any one issuer. The Company regularly evaluates the credit standing of the counterparties or financial institutions.

The Company conducts credit evaluations on its customers prior to delivery of goods or services. The assessment of customer creditworthiness is primarily based on historical collection records, research of publicly available information and customer on-site visits by senior management. Based on this analysis, the Company determines what credit terms, if any, to offer to each customer individually. If the assessment indicates a likelihood of collection risk, the Company will not deliver the services or sell the products to the customer or require the customer to pay cash, post letters of credit to secure payment or to make significant down payments. Historically, credit losses on accounts receivable have been insignificant.

**(dd) Earnings (loss) per share**

Basic earnings (loss) per ordinary share is computed by dividing net income (loss) attributable to the Company's ordinary shareholders by the weighted average number of ordinary shares outstanding during the year using the two-class method. Under the two-class method, net income (loss) attributable to the Company's ordinary shareholders is allocated between ordinary shares and other participating securities based on participating rights in undistributed earnings. The Company's preferred shares (note 13) are participating securities since the holders of these securities participate in dividends on the same basis as ordinary shareholders. These participating securities are not included in

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

the computation of basic loss per ordinary share in periods when the Company reports net loss, because these participating security holders have no obligation to share in the losses of the Company.

Diluted earnings (loss) per share is calculated by dividing net income (loss) attributable to the Company's ordinary shareholders as adjusted for the effect of dilutive ordinary share equivalents, if any, by the weighted average number of ordinary and dilutive ordinary share equivalents outstanding during the year. Ordinary share equivalents include the ordinary shares issuable upon the exercise of the outstanding share options (using the treasury stock method) and conversion of redeemable preferred shares and convertible bonds (using the as-if-converted method). Potential dilutive securities are not included in the calculation of diluted earnings (loss) per share if the impact is anti-dilutive.

**(ee) Recently Issued Accounting Standards**

In May 2014, the Financial Accounting Standards Board ("FASB") issued ASU 2014-09, Revenue from Contracts with Customers ("ASU 2014-09"). This ASU requires companies to recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which companies expect to be entitled in exchange for those goods or services. This ASU will replace most existing revenue recognition guidance in GAAP when it becomes effective. This ASU was originally effective for fiscal years and interim periods beginning after December 15, 2016. In August 2015, the FASB issued ASU 2015-14, Revenue from Contracts with Customers ("ASU 2015-14"), which amends ASU 2014-09 and defers its effective date to fiscal years and interim reporting periods beginning after December 15, 2017. ASU 2015-14 permits earlier application only as of annual reporting periods beginning after December 15, 2016, including interim reporting periods within that reporting period. The Company is currently evaluating the impact that the adoption of these standards will have on its consolidated financial statements.

In August 2014, the FASB issued ASU 2014-15, Disclosure of Uncertainties about an Entity's Ability to Continue as a Going Concern ("ASU 2014-15"), to provide guidance on management's responsibility in evaluating whether there is substantial doubt about a company's ability to continue as a going concern and to provide related footnote disclosures. ASU 2014-15 is effective for annual periods ending after December 15, 2016, and interim periods within annual periods beginning after December 15, 2016, with early adoption permitted. The Company is currently evaluating the impact that the adoption of this standard will have on its consolidated financial statements.

In April 2015, the FASB issued ASU 2015-03, Interest—Imputation of Interest ("ASU 2015-03"), to simplify the presentation of debt issuance costs. The ASU requires debt issuance costs to be presented in the balance sheet as a direct deduction from the carrying amount of the debt liability, consistent with debt discounts or premiums. The recognition and measurement guidance for debt issuance costs is not affected by this ASU. This ASU is effective for financial statements issued for fiscal years beginning after December 15, 2015, and interim periods within fiscal years beginning after December 15, 2016, with early adoption permitted. The Company early adopted ASU 2015-03. See note 2(x).

In November 2015, the FASB issued ASU 2015-17, Balance Sheet Classification of Deferred Taxes ("ASU 2015-17"), to simplify the presentation of deferred income taxes by eliminating the requirement to separate deferred tax assets and liabilities into current and noncurrent amounts. ASU 2015-17

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

requires that all deferred tax assets and liabilities, along with any related valuation allowance, be classified as noncurrent and is effective for financial statements issued for fiscal years beginning after December 15, 2016, and interim periods within those fiscal years. Earlier application is permitted as of the beginning of an interim or annual reporting period. The Company is currently evaluating the impact that the adoption of this standard will have on its consolidated financial statements.

In February 2016, the FASB issued Accounting Standards Update ("ASU") 2016-02, Leases (Topic 842) ("ASU 2016-02"). Under the new guidance, lessees will be required to recognize the following for all leases (with the exception of short-term leases) at the commencement date: (1) a lease liability, which is a lessee's obligation to make lease payments arising from a lease, measured on a discounted basis; and (2) a right-of-use asset, which is an asset that represents the lessee's right to use, or control the use of, a specified asset for the lease term. Under the new guidance, lessor accounting is largely unchanged. Certain targeted improvements were made to align, where necessary, lessor accounting with the lessee accounting model and Topic 606, Revenue from Contracts with Customers. The new lease guidance simplified the accounting for sale and leaseback transactions primarily because lessees must recognize lease assets and lease liabilities. Lessees (for capital and operating leases) and lessors (for sales-type, direct financing, and operating leases) must apply a modified retrospective transition approach for leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements. The modified retrospective approach would not require any transition accounting for leases that expired before the earliest comparative period presented. Lessees and lessors may not apply a full retrospective transition approach. ASU 2016-02 is effective for public companies for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years, with early adoption permitted. The Company is currently evaluating the impact that the adoption of this standard will have on its consolidated financial statements.

**3. ACCOUNTS RECEIVABLES, NET**

Accounts receivables, net consisted of the following:

	As at December 31	
	2014	2015
Accounts receivables	75,522	113,169
Less: allowance for doubtful accounts	(2,156)	(2,156)
Accounts receivables, net	73,366	111,013

The Company generally invoices its customers on a monthly or quarterly basis in accordance with the contract terms. Due to the timing difference between the billing and revenue recognition, accounts receivables included an unbilled portion of RMB8,019 and RMB46,275 as of December 31, 2014 and 2015, respectively.

Accounts receivables of RMB43,937 and RMB42,511 was pledged as security for bank loans (see note 9) as of December 31, 2014 and 2015, respectively.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 3. ACCOUNTS RECEIVABLES, NET (Continued)

An allowance for doubtful accounts is provided based on the Company's best estimate of the amount of probable credit losses in the Company's existing accounts receivable. The Company assesses the collectability of accounts receivable by analyzing specific customer accounts that have known or potential doubt as to collectability. The following table presents the movement of the allowance for doubtful accounts:

	Year ended December 31,	
	2014	2015
Balance at the beginning of the year	—	2,156
Allowance made during the year	2,156	—
Balance at the end of the year	2,156	2,156

During the year ended December 31, 2014, the Company made an allowance for doubtful accounts on a receivable from a customer of RMB2,156. Management believes all other accounts receivable as of December 31, 2014 and 2015 are expected to be collected in full.

## 4. OTHER CURRENT ASSETS

Other current assets consisted of the following:

	As at December 31	
	2014	2015
Rental and other deposits	6,027	9,456
Deferred tax assets, current (note 18)	—	5,193
Assets held for sale	—	18,531
Others	1,106	508
	7,133	33,688

Assets held for sale included property held for sale of RMB9,075 and IT equipment awaiting for sale of RMB9,456, for which the Company has entered into sale contracts with the customer.

Others mainly represented miscellaneous receivables due from employees.

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

5. PROPERTY AND EQUIPMENT, NET

Property and equipment consisted of the following:

	As at December 31	
	2014	2015
At cost:		
Buildings	1,049,376	1,049,376
Data center equipment	680,633	891,089
Leasehold improvement	220,175	554,450
Furniture and office equipment	26,072	32,001
Vehicles	2,403	2,728
	1,978,659	2,529,644
Less: Accumulated depreciation	(374,117)	(421,475)
	1,604,542	2,108,169
Construction in progress	90,402	404,518
Property and equipment, net	1,694,944	2,512,687

(1) The carrying amounts of the Company's property and equipment acquired under capital leases at respective balance sheet dates were as follows:

	As at December 31	
	2014	2015
At cost:		
Buildings	422,874	627,874
Data center equipment	12,718	12,718
	435,592	640,592
Less: Accumulated depreciation	(11,642)	(32,061)
	423,950	608,531

(2) Depreciation of property and equipment (including assets acquired under capital leases) was RMB77,946 and RMB135,864 for the years ended December 31, 2014 and 2015, respectively, and included in the following captions:

	As at December 31	
	2014	2015
Cost of revenue	71,024	131,097
General and administrative expenses	6,922	4,767
	77,946	135,864

(3) Property and equipment with net a book value of RMB162,686 and RMB579,524 was pledged as security for bank loans (see note 9) as of December 31, 2014 and 2015, respectively.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 5. PROPERTY AND EQUIPMENT, NET (Continued)

- (4) As of December 31, 2014 and 2015, payables for purchase of property and equipment that are contractually due beyond one year of RMB nil and RMB31,152 are recorded in other long-term liabilities in the consolidated balance sheets.

## 6. INTANGIBLE ASSETS

Intangible assets consisted of the following:

	Note	As at December 31	
		2014	2015
Customer relationships	8	44,822	44,822
Favorable lease	8	15,500	15,500
		60,322	60,322
Less: accumulated amortization		(4,462)	(13,387)
Intangible assets, net		55,860	46,935

The Company's customer relationships and favorable lease were acquired in the acquisition of EDC Holding (note 8).

Amortization of intangible assets was RMB4,462 and RMB8,925 for the years ended December 31, 2014 and 2015, respectively.

Estimated future amortization expense related to these intangible assets is as follows:

Fiscal year ending December 31,	
2016	8,925
2017	8,925
2018	8,925
2019	8,925
2020	775
Thereafter	10,460
Total	46,935

## 7. PREPAID LAND USE RIGHTS

Prepaid land use rights consisted of the following:

	As at December 31	
	2014	2015
Prepaid land use rights	28,370	28,370
Less: Accumulated amortization	(345)	(962)
Prepaid land use rights, net	28,025	27,408

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 7. PREPAID LAND USE RIGHTS (Continued)

Amortization of prepaid land use rights was RMB345 and RMB617 for the years ended December 31, 2014 and 2015, respectively.

Prepaid land use rights with a net book value of RMB21,461 and RMB20,983 were pledged as security for bank loans (see note 9) as of December 2014 and 2015, respectively.

## 8. GOODWILL

The movement of goodwill is set out as below:

	As at December 31	
	2014	2015
Balance at the beginning of the year	—	1,294,664
Addition during the year	1,294,664	—
Balance at end of year	1,294,664	1,294,664

Goodwill represents the excess of the purchase price over the fair value of the net tangible and intangible assets acquired in the acquisition of EDC Holding in June 2014. The goodwill is not deductible for tax purposes. Goodwill is assigned to the design, build-out and operation of data centers reporting unit.

**EDC Holding Acquisition**

Prior to the acquisition, the Company held a 7% non-controlling equity interest in EDC Holding which was accounted for under the cost method. EDC Holding is principally engaged in providing colocation services in the PRC.

On June 30, 2014, in an effort to enhance its service offering and to increase business synergy, the Company acquired all the equity interests in EDC Holding (preferred and ordinary shares) it did not already own, for a consideration comprising 88,352,558 ordinary shares and 110,810,606 redeemable preferred shares of the Company, consisting of 14,149,705 Series A\* redeemable preferred shares ("Series A\* Shares"), 33,959,293 Series B1 redeemable preferred shares ("Series B1 Shares"), 25,618,413 Series B2 redeemable preferred shares ("Series B2 Shares"), 14,045,432 Series B3 redeemable preferred shares ("Series B3 Shares") and 23,037,763 Series B4 redeemable preferred shares ("Series B4 Shares"). The fair value of the consideration was determined by management with the assistance of a third party appraiser and was considered more reliably measured than the acquisition-date fair value of the acquiree's equity interests.

Prior to the acquisition, the Company and EDC Holding had certain shareholders who held preferred shares in both companies with different ownership interests. None of these shareholders or any other ordinary or preferred shareholders individually or as a group acting in concert held more than 50% of the voting interest of each entity. The Company accounted for the business combination by applying the acquisition method of accounting. The Company completed the acquisition of EDC Holding on June 30, 2014, the date on which the consideration was transferred, and control was obtained to govern the financial and operating policies of EDC Holding and obtain benefits from its activities.



**GDS HOLDINGS LIMITED AND SUBSIDIARIES****Notes to Consolidated Financial Statements (Continued)****(In thousands, except share data and per share data, or otherwise noted)****8. GOODWILL (Continued)**

The Company was identified as the accounting acquirer for the following reasons: (i) the Company was the entity that issued the new equity interests; (ii) a shareholder of the Company held the largest minority voting interest in the combined entity; (iii) the Company's shareholders have the ability to elect or appoint or to remove a majority of the members of the governing body of the combined entity; (iv) the Company's management dominates the management of the combined entity after the acquisition; and (v) the Company has a significantly larger relative size in terms of revenue and operations than that of EDC Holding.

Total fair value of consideration transferred at acquisition date was as follows:

Fair value of ordinary shares issued	472,945
Fair value of redeemable preferred shares issued	711,297
Total fair value of total consideration transferred	<u>1,184,242</u>

The fair value of the ordinary shares issued was US\$0.87 per share and the fair values of the various series of preferred shares issued ranged from US\$0.93 to US\$1.13 per share or on average approximately US\$1.04 per share. Each series of preferred shares issued had different terms; in particular, the redemption amount of each series of preferred shares was different.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 8. GOODWILL (Continued)

The identifiable assets acquired and liabilities assumed in the business combination were recorded at their fair value on the acquisition date and consisted of the following major items.

	<u>Note</u>	
Fair value of consideration transferred		1,184,242
Fair value of non-controlling equity interest previously held by the Company	(i)	62,506
Sub-total		<u>1,246,748</u>
Effective settlement of pre-existing relationships	(ii)	<u>549,521</u>
Recognized amounts of identifiable assets acquired and liabilities assumed		
Cash		(40,999)
Property and equipment	(iii)	(1,535,246)
Identifiable intangible assets	(iv)	(60,322)
Other assets		(96,508)
Short-term borrowings and current portion of long-term borrowings		178,638
Accounts payable		290,326
Obligations under capital leases, current		35,234
Long-term borrowings, excluding current portion		342,130
Deferred tax liabilities		45,748
Obligations under capital leases, non-current		250,318
Other liabilities		89,076
Total identifiable net assets		<u>(501,605)</u>
Goodwill		<u>1,294,664</u>

Note (i): The gain of RMB62,506 arising from the re-measurement of the existing carrying value of investment in EDC Holding to fair value was recognized in the consolidated statement of operations. The fair value of the previous held non-controlling equity interest was determined by management with the assistance of a third party appraiser.

Note (ii): Prior to the business combination, the Company had the following pre-existing relationships with EDC Holding: (1) a prepayment due from EDC Holding of RMB254,633 for future services under a service contract with EDC Holding; (2) outstanding loans of RMB344,110 due from EDC Holding; and (3) a loan of US\$8,000 (RMB49,222) issued from EDC Holding to the Company in January 2013. No gain or loss was recognized from the effective settlement of such pre-existing relationship between the Company and EDC Holding. At the acquisition date, the amount due from EDC Holding of RMB598,743 and the amount due to EDC Holding of RMB49,222 are eliminated upon consolidation.

Note (iii): Property and equipment acquired included data center buildings of RMB624,090, properties acquired under capital lease of RMB422,874, data center equipment of RMB299,801, leasehold improvement of RMB2,694, furniture and office equipment of RMB958, vehicles of RMB749 and construction in progress of RMB184,080.

Note (iv): Identifiable intangible assets acquired consisted of customer relationships of RMB44,822 with an estimated useful life of 5 to 6 years and favorable lease of RMB15,500 with estimated useful life of 20 years.

The amounts of net revenue and net loss of EDC Holding included in the Company's consolidated statements of operations from the acquisition date to December 31, 2014 amounted to RMB17,880 and RMB99,949, respectively.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 9. LOANS AND BORROWINGS

The Company's borrowings consisted of the following:

	As at December 31	
	2014	2015
Short-term borrowings	289,000	333,000
Current portion of long-term borrowings	137,709	95,218
Sub-total	426,709	428,218
Long-term borrowings, excluding current portion	492,123	958,264
Total loans and borrowings	918,832	1,386,482

**Short-term borrowings**

The Company's short-term borrowings consisted of the following:

	As at December 31	
	2014	2015
Unsecured short-term loans and borrowings	—	60,000
Secured short-term loans and borrowings	(i) 289,000	273,000
	289,000	333,000

(i) Short-term borrowings were secured by the following assets:

	Note	As at December 31	
		2014	2015
Accounts receivable	3	36,576	20,221
Property and equipment, net	5	—	144,540
Prepaid land use rights, net	7	—	14,602
		36,576	179,363

(ii) The weighted average interest rates of short-term borrowings were 6.98% and 6.55% per annum for the years ended December 31, 2014 and 2015, respectively.

(iii) Short-term loans of RMB259,000 and RMB247,000 as of December 31, 2014 and 2015, were guaranteed by William Wei Huang, Director and CEO of the Company, respectively.

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

9. LOANS AND BORROWINGS (Continued)

Long-term borrowings

The Company's long-term borrowings consisted of the following:

	As at December 31	
	2014	2015
Unsecured long-term loans and borrowings	7,269	2,844
Secured long-term loans and borrowings	622,563	1,050,638
	<u>629,832</u>	<u>1,053,482</u>

- (i) The weighted average interest rates of long-term borrowings were 10.2% and 8.73% per annum for the years ended December 31, 2014 and 2015, respectively.
- (ii) As of December 31, 2014 and 2015, accrued interest of RMB8,440 and RMB25,554 payable on maturity of the long-term borrowings was recorded in other long-term liabilities in the consolidated balance sheets.
- (iii) Long-term loans and borrowings were secured by the following assets:

	Note	As at December 31	
		2014	2015
Accounts receivable	3	7,361	22,290
Property and equipment, net	5	162,686	434,984
Prepaid land use rights, net	7	21,461	6,381
		<u>191,508</u>	<u>463,655</u>

- (iv) Long-term loans of RMB15,000 and RMB194,955 as of December 31, 2014 and 2015 were guaranteed by William Wei Huang, respectively.
- (v) The aggregate maturities of the above long-term loans and borrowings for each of the five years and thereafter subsequent to December 31, 2015 are as follows:

Fiscal year ending December 31,	Long-term loans and borrowings
2016	95,218
2017	334,191
2018	155,645
2019	174,433
2020	229,595
Thereafter	64,400
Total	<u>1,053,482</u>

As of December 31, 2015, the particulars of the total secured long-term loans and borrowings of RMB1,050,638, were as follows:

- i) In 2009, a subsidiary of the Company entered into a thirteen-year entrusted credit facility for a principal amount of RMB322,000 with the local government through a third party bank. As of December 31, 2015, the outstanding loan under such credit facility was RMB225,400 and the effective interest rate of the loan was 4.9% per annum. The facility was secured by prepaid land use right with a carrying amount of RMB6,381 as of December 31, 2015.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 9. LOANS AND BORROWINGS (Continued)

- ii) In 2014, a subsidiary of the Company entered into an entrusted credit facility of RMB200,000 with a third party lender through a third party bank. As of December 31, 2015, the outstanding loan under such credit facility was RMB199,800 and the interest rate of the loan was 18% per annum. The facility was secured by accounts receivables with a carrying amount of RMB22,290 as of December 31, 2015. The loan contains financial covenants, which require that the subsidiary's outstanding loans (exclusive of this entrusted loan and any other entrusted loans) should be within a range of RMB130,000 and RMB240,000 (the "borrowing range") and the total pledged assets cannot exceed RMB20,000. On March 31, 2015, the subsidiary's outstanding loans exceeded RMB240,000 and total pledged assets exceeded RMB20,000. On June 10, 2015, the subsidiary obtained a waiver letter from the creditor that waived the covenant violations. The creditor and the subsidiary also agreed to revise the acceptable outstanding borrowings in a range of RMB130,000 and RMB360,000 and removed the restriction on the pledged assets. As of December 31, 2015, the Company was in compliance with such covenants.
- iii) In 2015, a subsidiary of the Company entered into a six-year credit facility with a third party bank amounting to RMB290,000. As of December 31, 2015, the outstanding loan under such credit facility was RMB180,455 and the effective interest rate of the loan was 5.94% per annum. The facility was guaranteed by William Wei Huang, Director and CEO of the Company and secured by property and equipment with carrying amount value of RMB154,178 as of December 31, 2015.
- iv) In 2015, two subsidiaries of the Company entered into loan facilities with third party banks amounting to RMB550,000, of which RMB403,580 was initially drawn down. As of December 31, 2015, the outstanding loans under such credit facilities were RMB380,483 (net of debt issuance costs) and the effective interest rate of the loans was 6.56%-6.83% per annum. The facilities are secured by property and equipment with a carrying amount of RMB142,386 as of December 31, 2015. The loans contain a limit on the amount of capital expenditures to be incurred for the construction of the data centers and mature in 2020. The loans are required to be repaid in full prior to the maturity date in the event 1) Singapore Technologies Telemedia Limited of Singapore, the parent company of STT GDC Pte. Ltd. (a principal shareholder of the Company), ceases to own and control, directly or indirectly, at least 40% of the equity interest in the Company prior to an initial public offering (IPO) or 30% of the equity interest in the Company after an IPO, or ceases to be the single largest shareholder of the Company, 2) the Company ceases to own and control, directly or indirectly, 100% of the borrowing subsidiaries, or 3) there are changes in the shareholding structure of a principal operating subsidiary, as defined in the agreements. In addition, under the terms of the loans, upon the completion of the Company's IPO, the Company is required to repay early RMB100,000 of the outstanding loan principal amount to the bank based on the principal amount outstanding as of December 31, 2015. The loan facilities include a cross default provision which would be triggered if the Company fails to repay any financial indebtedness of RMB30,000 or more when due or within any originally applicable grace period. As of December 31, 2015, the Company was in compliance with the above covenants.
- v) As of December 31, 2015, there were two secured long-term loans and borrowings outstanding in the aggregate amount of RMB64,500 (RMB14,500 and RMB50,000). The loans mature in 2017, are secured by property and equipment with carrying amount of RMB138,420 as of December 31, 2015 and do not contain any financial covenants. In addition, the RMB14,500 loan is guaranteed by William Wei Huang, Director and CEO of the Company. The effective interest rates of the RMB14,500 loan and RMB50,000 loan were 5.39% and 6.46% per annum, respectively.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**9. LOANS AND BORROWINGS (Continued)**

As of December 31, 2015, the particulars of unsecured long-term loans and borrowings are as follows:

- i) In 2014, a subsidiary of the Company entered into a two-year credit facility with a third party bank amounting to US\$5,000. As of December 31, 2015, the outstanding loan under such credit facility was RMB2,844 (US\$438) and the effective interest rate of the loan was 5.38% per annum, which was based on three-month LIBOR+4.75%. This loan contains a financial covenant that requires the subsidiary to keep a minimum cash liquidity of US\$200 (RMB1,298) at the bank at all times. The loan agreement also requires that both the subsidiary and the Company as a guarantor, maintain minimum quarterly revenues thresholds as specified in the loan agreement. As of December 31, 2015, the Company was in compliance with such covenants.

As of December 31, 2015, the Company has total working capital and project financing credit facilities of RMB1,628,544 from various banks, of which the unused amount was RMB278,965. As of December 31, 2015, the Company drew down RMB1,349,579, of which RMB273,000 was recorded in short-term loans and borrowing and RMB1,053,482 (net of debt issuance costs of RMB23,097) was recorded in long-term loans and borrowing, respectively. Draw downs from the credit facility are subject to the approval of the banks and are subject to the terms and conditions of each agreement.

**10. BONDS PAYABLE/CONVERTIBLE BONDS PAYABLE*****Bonds due June 10, 2014 issued by a subsidiary ("Bonds due 2014")***

On December 11, 2012, the Company issued Bonds due 2014 to an investor in an aggregate principal amount of US\$10,509 (RMB66,125). The Bonds due 2014 had a maturity date of June 10, 2014 and carried interest at 10% per annum. Upon maturity, the carrying amount of the Bonds due 2014 was US\$10,509 (RMB64,541) and the Company repaid a portion of the Bonds due 2014 amounting to US\$664 (RMB4,081). On June 11, 2014, the Company issued Bonds due 2015 to the same investor in an aggregate principal amount of US\$30,203 (RMB185,770) of which a portion was to settle the remaining unpaid portion of the Bonds due 2014 of US\$9,845 (RMB60,460) and unpaid interest payable on the Bonds due 2014 of RMB10,360.

***Bonds due June 10, 2015 issued by the Company ("Bonds due 2015")***

The key terms of the Bonds due 2015 are summarized as follows:

***Denomination***

- Denomination—US\$10 each

***Maturity date***

- Maturity date—June 10, 2015

***Interest rate and interest repayment***

- Interest rate is at 10% per annum compounded annually.

***Redemption and price***

- The Company shall redeem the unpaid principal together with the interest accrued of the Bonds due 2015 on the Maturity Date.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**10. BONDS PAYABLE/CONVERTIBLE BONDS PAYABLE (Continued)***Exchange feature of the Bonds due 2015*

Prior to the Maturity Date, the holder of Bonds due 2015 has the right to exchange the bonds into the Company's ordinary shares in the event of a qualifying initial public offering ("QIPO") or private placement. The exchange feature permits the holder to receive a variable number of ordinary shares with an aggregate fair value that is based on a fixed monetary amount (the principal amount of the Bonds due 2015 that is being exchanged). The price used to determine the number of ordinary shares issued in exchange for the bonds is equal to 70% of the QIPO price or 70% of the share issuance price of the private placement. The Company separated this contingent redemption exchange feature (or embedded put option) from the principal amount of the Bonds due 2015 at the issuance date. The fair value of the embedded put option was US\$5,547 (RMB34,105). The recorded discount resulting from the allocation of the proceeds of the Bonds due 2015 to this embedded put option was recognized as interest expense. As of December 31, 2015, there was no outstanding embedded derivative due to the holder's exercise of the right to exchange a portion of the Bonds due 2015 following the completion of Series C shares in August 2014 and the holder waiving the right to exchange the remaining portion for ordinary shares described below. Total interest expense related to the debt discount amounted to RMB34,105 for the year ended December 31, 2014.

In August 2014, the Company conducted a private placement of 238,526,241 Series C redeemable preferred shares ("Series C Shares") (see note 13). Upon the issuance of Series C Shares, the holder of the Bonds due 2015 exchanged outstanding principal amount of the Bonds due 2015 of US\$27,860 (RMB171,431) for 38,397,655 ordinary shares. The number of ordinary shares issued was based on US\$0.72557, or 70% of the issuance price of Series C Shares of US\$1.036522. The difference between the fair value of the ordinary shares and the principal amount of the bonds was RMB34,105, which was charged against the embedded put option described above. The holder waived its right to exchange the remaining Bonds due 2015 of US\$2,343 (RMB14,330) for ordinary shares of the Company.

On June 10, 2015, the Company fully redeemed the remaining Bonds due 2015 of US\$2,343 (RMB14,330) upon maturity.

***Convertible Bonds due December 30, 2019 issued by the Company ("Convertible Bonds due 2019")***

On December 30, 2015, the Company entered into a subscription agreement with two investors (referred to as "PA investor" and STT GDC Pte. Ltd or "STT GDC") for Convertible Bonds due 2019 in an aggregate principal amount of US\$250,000 in four tranches. On December 30, 2015 and January 29, 2016, the Company received the first tranche of US\$100,000 (RMB648,950) from PA investor and the second tranche of US\$50,000 (RMB324,475) from STT GDC, respectively. The subscription for the remaining third and fourth tranches of the Convertible Bonds due 2019 in the aggregate principal amount of US\$100,000 (RMB648,950) expires on September 30, 2016.

Convertible Bonds due 2019 bears an interest rate of 10% per annum and matures on December 30, 2019 ("Maturity Date"). The Company shall redeem the unpaid principal together with the interest accrued of the Convertible Bonds due 2019 on the December 30, 2019. The Company pledged 100% of the equity interests in a subsidiary to the investors.

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

10. BONDS PAYABLE/CONVERTIBLE BONDS PAYABLE (Continued)

The key terms of the Convertible Bonds due 2019 are summarized as follows:

*Conversion of the Convertible Bonds due 2019*

If the Company completes a QIPO, the bond holder, at any time between the date of completion of such QIPO (the "QIPO Completion Date") and the Maturity Date (the "Conversion Period"), have the right to convert up to 100% of the principal amount of the bond (in multiples of US\$10,000), together with the accrued interest thereon, into ordinary shares of the Company. The conversion price shall be US\$1.675262 subject to adjustments for situations such as share dividend, share split, consolidation, recapitalization, exchange or substitution of ordinary shares at any time or from time to time. The Company determined that there was no embedded beneficial conversion feature ("BCF") attributable to Convertible Bonds due 2019 at the commitment date because the initial conversion price of Convertible Bonds due 2019 was greater than the estimated fair value of the Company's ordinary shares as of December 30, 2015. The estimated fair value of the underlying ordinary shares on December 30, 2015 was determined by management with the assistance of an independent valuation firm. The valuation used an income approach, which requires the estimation of future cash flows and the application of an appropriate discount rate with reference to comparable listed companies engaged in a similar industry to convert such future cash flows to a single present value.

The Company also determined that the embedded conversion option did not require it to be separated as an embedded derivative because a separate instrument with the same terms as the embedded derivative would not be a derivative instrument.

If the Company completes a QIPO and the closing price of its shares is at or above 125% of the conversion price (i.e. 25% premium to the conversion price) for a period of at least ten consecutive trading days, the Company may, at its unilateral option, notify the bondholder that the bond then outstanding will be mandatorily converted at the end of the notice period in accordance with the terms and conditions of the bond.

*Redemption on maturity:*

Unless previously converted or purchased and cancelled in the circumstances, the bond will be redeemed on December 30, 2019 at its principal amount, plus accrued interest thereon.



GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

11. ACCRUED EXPENSES AND OTHER PAYABLES

Accrued expenses and other payables consisted of the following:

	As at December 31	
	2014	2015
Accrued rental expenses	14,767	12,951
Accrued utility expenses	3,754	8,548
Accrued payroll and welfare benefits	18,707	27,062
Accrued interest expenses	31,090	23,722
Accrued professional service fees	14,489	8,352
Other taxes payables	12,132	14,296
Income tax payable (note 18)	95	8,955
Other payables	23,511	14,430
	<u>118,545</u>	<u>118,316</u>

Other payables represent amounts due to service providers for various services received by the Company.

12. LEASE

*Capital leases*

The Company's capital lease obligations are summarized as follows:

	2014		2015	
	Present value of the minimum lease payments	Total minimum lease payments	Present value of the minimum lease payments	Total minimum lease payments
Within 1 year	39,621	41,985	48,745	51,591
After 1 year but within 2 years	33,351	38,857	52,034	60,019
After 2 years but within 3 years	30,703	39,221	51,693	64,938
After 3 years but within 4 years	29,242	40,846	50,456	69,089
After 4 years but within 5 years	27,949	42,700	108,637	172,079
After 5 years	125,751	288,556	162,119	395,251
	<u>246,996</u>	<u>450,180</u>	<u>424,939</u>	<u>761,376</u>
	<u>286,617</u>	<u>492,165</u>	<u>473,684</u>	<u>812,967</u>
Less: total future interest expenses		(205,548)		(339,283)
Present value of lease obligations		<u>286,617</u>		<u>473,684</u>
Including:				
Current portion		<u>39,621</u>		<u>48,745</u>
Non-current portion		<u>246,996</u>		<u>424,939</u>

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**12. LEASE (Continued)**

The Company's capital leases expire at various dates ranging from 2020 to 2032. The weighted average effective interest rate of the Company's capital leases was 9.71% and 8.63% as of December 31, 2014 and 2015, respectively.

During the year ended December 31, 2014, the capital lease obligations arose from the acquisition of EDC Holding. The Company recognized the capital lease obligations assumed in the business combination at the acquisition-date fair value. During the year ended December 31, 2015, the Company entered into the following capital lease arrangements:

*Shenzhen 2 Lease and Shenzhen 3 Lease*

In March 2015 and July 2015, the Company entered into two lease agreements to lease two existing buildings in Shenzhen, China from a third party lessor (the "Shenzhen 2 Lease" and the "Shenzhen 3 Lease"). The Shenzhen 2 Lease has a lease term of 10 years from June 2015 to May 2025 and the Shenzhen 3 Lease has a lease term of 15 years from November 2015 to October 2030. The Company determined that both leases were capital leases as the present value of the minimum lease payments of each of the leases exceeded 90% of the respective fair value of the leased property at the inception of the lease.

Accordingly, on the respective lease commencement date, the Company recorded capital lease assets and capital lease obligations at an amount equal to the present value of the minimum lease payments in the aggregate amount of RMB205,000.

*Shenzhen 4 Lease*

In October 2015, the Company entered into a lease agreement to lease an existing building in Shenzhen, China from a third party lessor (the "Shenzhen 4 Lease"). The Shenzhen 4 Lease has a lease term of 20 years commencing from January 2016. At the inception of the lease, Company determined that Shenzhen 4 Lease is a capital lease as the present value of the minimum lease payments exceeded 90% of the fair value of the leased property. In January 2016, the Company took possession of or controlled the physical use of the building from the lessor. Accordingly, in January 2016, the Company records a capital lease asset and a capital lease obligation at an amount equal to the present value at the beginning of the lease term of minimum lease payments during the lease term (or RMB138,721) on the lease commencement date.

**Build-to-suit leases**

The Company entered into the following build-to-suit leases during the year December 31, 2015:

In January and February 2015, the Company entered into two lease agreements with a third party developer-lessor for the development, construction and the lease (build-to-suit lease) of two brand new buildings (the "Shanghai 3 Lease" and "Shanghai 4 Lease") in Shanghai, China. The Company paid a deposit for each of the two leases to the developer-lessor. Both the Shanghai 3 Lease and Shanghai 4 Lease have a lease term of 20 years commencing upon the delivery of the completed building to the Company. The two buildings will be constructed based on the Company's specifications and will not include any interior elements, such as electrical wiring, interior walls, ventilation and air conditioning systems, flooring or normal tenant improvements. That is, the developer-lessor will hand

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**12. LEASE (Continued)**

over two cold-shell buildings to the Company upon completion of construction. Upon the delivery of the cold-shell buildings, the Company will convert the two buildings into data centers. No rent is paid by the Company during the construction of the two buildings. All project hard costs are to be paid by the developer-lessor, including site preparation and construction costs. In the event of termination of the lease agreements during the lease term, the Company is obligated to pay 15% of the total minimum lease payments. In addition, if the Company terminates the agreements before the construction of the buildings are completed, the Company is obligated to reimburse the developer-lessor for costs incurred during the construction period, including but not limited to project application costs, project design fees, ground preparation and leveling costs.

In accordance with ASC 840-40-55, the Company has determined that it is the owner of the two buildings during the construction period as it has substantially all of the construction period risks based on the maximum guarantee test (without considering probability that the Company having to make the payments). That is, the Company could be required, under any circumstances, to pay more than 90% of the total project costs incurred to date as of any point of time during the construction period. Since the Company is the owner of the two projects for financial reporting purposes, the Company records an asset for the estimated incurred construction costs of the project and a liability for those costs funded by the lessor-developer at the end of each reporting period. The developer-lessor received the onsite construction permit in December 2015 to commence construction. Total costs incurred as of December 31, 2015 was immaterial based on the limited ground preparation costs incurred by the developer-lessor and did not exceed the deposit amount paid to the lessor-developer.

**Operating leases**

The Company leases data centers, offices and other equipment that are classified as operating leases. The majority of the Company's operating leases expire at various dates through 2035.

Future minimum operating lease payments as of December 31, 2015 are summarized as follow:

Fiscal year ending December 31,	
2016	111,389
2017	93,450
2018	73,226
2019	62,273
2020	54,027
Thereafter	481,454
Total	<u>875,819</u>

Rental expenses were approximately RMB110,117 and RMB131,875 for the years ended December 31, 2014 and 2015, respectively. The Company did not sublease any of its operating leases for the periods presented.

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

13. REDEEMABLE PREFERRED SHARES

The movement of the redeemable preferred shares is set out as below:

	Series A		Series A*		Series B		Series B1		Series B2		Series B3		Series B4		Series B5		Series C		Total	
	Shares	RMB'000	Shares	RMB'000	Shares	RMB'000	Shares	RMB'000	Shares	RMB'000	Shares	RMB'000	Shares	RMB'000	Shares	RMB'000	Shares	RMB'000	Shares	RMB'000
Balance at January 1, 2014	63,250,000	198,434	—	—	11,550,000	64,056	—	—	—	—	—	—	—	—	—	—	—	—	74,800,000	262,490
Issuance of redeemable preferred shares																				
— in relation to business combination																				
— third party investor	—	—	14,149,705	80,965	—	—	33,959,293	236,108	25,618,413	165,506	14,045,432	85,554	23,037,763	143,164	—	—	—	—	110,810,606	711,297
Extinction of redeemable preferred shares upon repurchase	(23,533,064)	(76,473)	(5,503,899)	(31,497)	(8,413,412)	(48,593)	(13,209,358)	(91,847)	(9,964,954)	(64,383)	(5,463,340)	(33,281)	(8,961,143)	(55,692)	—	—	—	—	(75,049,170)	(401,766)
Extinction of redeemable preferred shares upon exchange	(10,081,891)	(32,803)	(1,729,161)	(9,896)	(560,105)	(3,276)	(9,222,193)	(63,800)	(5,217,820)	(33,540)	(8,582,092)	(52,268)	—	—	35,393,262	225,198	—	—	—	29,615
Changes in redemption value	—	6,824	—	—	—	2,393	—	—	—	—	—	—	—	—	5,210	—	—	54,689	—	69,116
Foreign exchange impact	—	1,292	—	3	—	500	—	(313)	—	(164)	—	(5)	—	5	(725)	—	(8,473)	—	—	(7,880)
Balance at December 31, 2014 and January 1, 2015	29,635,045	97,274	6,916,645	39,575	2,576,483	15,080	11,527,742	80,148	10,435,639	67,419	—	—	14,076,620	87,477	35,393,262	229,683	238,526,241	1,547,383	349,087,677	2,164,039
Changes in redemption value	—	4,029	—	—	—	754	—	—	—	—	—	—	—	—	13,715	—	—	92,428	—	110,926
Foreign exchange impact	—	6,125	—	—	—	955	—	—	—	—	—	—	—	—	14,640	—	98,629	—	—	120,349
Balance at December 31, 2015	29,635,045	107,428	6,916,645	39,575	2,576,483	16,789	11,527,742	80,148	10,435,639	67,419	—	—	14,076,620	87,477	35,393,262	258,038	238,526,241	1,738,440	349,087,677	2,395,314

The Series A, Series B Shares, Series A\* Shares, Series B1 Shares, Series B2 Shares, Series B3 Shares, Series B4 Shares, Series B5 Shares and Series C Shares are collectively referred to as the "preferred shares". The preferred shares are denominated in US\$, which is the functional currency of the issuer, GDS Holdings.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 13. REDEEMABLE PREFERRED SHARES (Continued)

A summary of the authorized, issued and outstanding preferred shares as of December 31, 2015 is as follows:

Series	Shares authorized	Shares issued and outstanding	Carrying amount	Redemption value
Series A	29,635,045	29,635,045	107,428	107,428
Series A*	6,916,645	6,916,645	39,575	6,731
Series B	2,576,483	2,576,483	16,789	16,789
Series B1	11,527,742	11,527,742	80,148	54,653
Series B2	10,435,639	10,435,639	67,419	47,484
Series B4	14,076,620	14,076,620	87,477	47,496
Series B5	35,395,262	35,393,262	258,038	258,038
Series C	240,000,000	238,526,241	1,738,440	1,738,440
Total	350,563,436	349,087,677	2,395,314	2,277,059

In January 2007, the Company issued 53,625,000 Series A redeemable preferred shares ("Series A Shares") to a group of investors unrelated to the Company at US\$0.3636 (RMB2.8279) per share. Concurrent with the issuance, a holder of bonds payable converted bonds payable of US\$3,500 (RMB27,222) into 9,625,000 Series A Shares.

In March 2011, the Company issued 11,550,000 Series B redeemable preferred shares ("Series B Shares") to a group of investors unrelated to the Company at US\$0.7792 (RMB5.1087) per share.

In June 2014, the Company issued 88,352,558 ordinary shares, 14,149,705 Series A\* Shares, 33,959,293 Series B1 Shares, 25,618,413 Series B2 Shares, 14,045,432 Series B3 Shares and 23,037,763 Series B4 Shares in connection with the acquisition of EDC Holding (see note 8). Series B1, B2, B3, B4 Shares are collectively referred to as Series B\* Shares.

On August 13, 2014, the Company issued 238,526,241 Series C redeemable preferred shares ("Series C Shares") to an investor unrelated to the Company at US\$1.0365 (RMB6.3779) per share, for cash consideration of US\$247,238 (RMB1,521,295). The Company incurred issuance costs of US\$3,271 (RMB20,128), which were recorded as a reduction in the carrying amount of the redeemable preferred shares.

As of December 31, 2014 and 2015, the Company concluded that it was probable that the redeemable preferred shares will become redeemable. The Company has elected to recognize changes in the redemption value immediately as they occur and adjust the carrying amount of the redeemable preferred shares to equal the redemption value at the end of each reporting period. Increases in the carrying amount of the redeemable preferred shares are recorded by charges against retained earnings or, in the absence of retained earnings, by charges against paid-in capital. Reductions in the carrying amount of the redeemable preferred shares are recognized only to the extent that increases to the initial carrying amount of the redeemable preferred shares were previously recorded. The resulting increases or decreases in the carrying amount of redeemable preferred shares increases or decreases net loss available to ordinary shareholders in the calculation of earnings per share. The change in

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**13. REDEEMABLE PREFERRED SHARES (Continued)**

redemption value of the redeemable preferred shares was RMB69,116 and RMB110,926, for the years ended December 31, 2014 and 2015, respectively.

***Extinguishment of preferred shares***

In connection with the issuance of Series C Shares, on August 13, 2014, the Company repurchased 23,533,064 Series A Shares, 5,503,899 Series A\* Shares, 8,413,412 Series B Shares, 13,209,358 Series B1 Shares, 9,964,954 Series B2 Shares, 5,463,340 Series B3 Shares and 8,961,143 Series B4 Shares at US\$1.0365 (RMB6.3779) per share, for cash consideration of US\$77,788 (RMB478,666), of which RMB455,366 was paid in 2014 and the remaining RMB23,300 was paid in 2015. The Company made the offer for the repurchase to all existing preferred shareholders on that date. The reason for the repurchase of these various series of preferred shares and the ordinary shares (see note 15) was so that the Series C shareholder would hold no less than 40% of the Company's issued share capital on a fully diluted basis.

In accordance with ASC 260-10-S99, the difference between the cash consideration transferred to the holders of the preferred shares and the carrying amount of the preferred shares (net of issuance costs) is added to net loss to arrive at loss available to ordinary shareholders in the calculation of loss per share. The Company recorded the difference of US\$12,497 (RMB76,900) between the repurchase price of US\$77,790 (RMB478,666) and the carrying amount of such preferred shares of US\$65,293 (RMB401,766) against additional paid-in capital, in the absence of retained earnings.

On August 13, 2014 and December 22, 2014, the Company exchanged a total of 35,393,262 preferred shares, comprising of 10,081,891 Series A Shares, 1,729,161 Series A\* Shares, 560,105 Series B Shares and 23,022,105 Series B\* Shares (collectively, the "Exchanged Shares") by re-designating those shares into 35,393,262 newly issued Series B5 redeemable preferred shares ("Series B5 Shares") to facilitate the sale of the Exchanged Shares held by certain selling preferred shareholders. Concurrently, the holders sold the 35,393,262 Series B5 Shares to one investor (B5 Holder), at the purchase price of US\$1.0365 (RMB6.3779) per share for a total cash consideration of US\$36,685 (RMB225,198). The terms of the B5 Shares were identical to the terms of the Series C Shares.

The exchange, in substance, is the same as a repurchase of the Exchanged Shares from the selling preferred shareholders and a concurrent issuance of Series B5 Shares to the B5 Holder. Accordingly, the Company accounted for the exchange or re-designation of the Exchanged Shares for Series B5 Shares as an extinguishment. The difference of US\$4,812 (RMB29,615) between the fair value of the Series B5 Shares of US\$36,685 (RMB225,198) and the carrying amount of the Exchanged Shares of US\$31,873 (RMB195,583) was recorded against additional paid-in capital, in the absence of retained earnings. In accordance with ASC 260-10-S99, the difference was added to net loss to arrive at loss available to ordinary shareholders in the calculation of loss per share.

***Modification of preferred shares***

In connection with the issuance of Series C Shares on August 13, 2014, the Company and the holders of the remaining Series A, A\*, B, B1, B2, B3 and B4 Shares (after the above extinguishment) agreed to modify the terms of their respective preferred shares. The redemption date of these Series A, A\*, B, B1, B2, B3 and B4 Shares was extended to the same redemption date as Series C Shares. The holders

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**13. REDEEMABLE PREFERRED SHARES (Continued)**

also agreed to modify the redemption price by reducing the annual rate of return of their respective preferred shares.

The Company determines whether an amendment or modification to the terms of its redeemable convertible preferred shares represents an extinguishment based on a fair value approach. If the fair value of the preferred shares immediately before and after the amendment is significantly different (by more than 10%), the amendment or modification represents an extinguishment. The Company has determined that the amendment to the terms of the preferred shares did not represent an extinguishment, and therefore modification accounting was applied by analogy to the modification guidance contained in ASC 718-20, Compensation—Stock Compensation. Based on a comparison of the fair value of the preferred shares after the amendment to the fair value of the preferred shares immediately before the amendment, the additional fair value change was immaterial. The fair value of the preferred shares before and after the amendment or modification was determined by management with the assistance of a third party valuation firm.

**Terms of the preferred shares**

Key terms of the preferred shares are summarized as follows:

*Dividends*

Holders of the preferred shares are entitled to receive preference dividends at an annual rate of 6% per annum of the respective preferred shares issue price, out of any funds legally available for this purpose, when, as and if declared by the Board of Directors of GDS Holdings. Payment of dividends to certain series of preferred shares is in preference and priority to any declaration or payment of any distribution on other series of preferred shares, details of which are set out in the Company's Memorandum of Association. The right to receive dividends on the preferred shares shall be cumulative, and the right to such dividends shall accrue to holders of the preferred shares notwithstanding the fact that dividends on said shares are not declared or paid in any calendar year.

*Conversion*

The holders of preferred shares have the right to convert all or any portion of their holdings into ordinary shares of GDS Holdings at any time. Each preferred share is convertible into one ordinary share, subject to adjustment such as share dividend, share split, consolidation, and recapitalization.

In addition, each preferred share shall (a) automatically be converted into ordinary share at then-effective conversion price immediately prior to the closing of a QIPO, or (b) be converted in to ordinary share at then-effective conversion price with the vote or written consent of the holders of at least 85% of the then outstanding Series A Shares, Series A\* Shares, Series B Shares, Series B1 Shares, Series B2 Shares, Series B4 Shares and Series B5 Shares (voting together as a separate class) and the holders of at least 75% of the then outstanding Series C Shares, in each case on an as converted basis.

For the purposes of conversion of preferred shares, QIPO refers to a firm commitment underwritten IPO on an internationally recognized securities exchange (i) with gross cash proceeds to the Company of at least US\$100,000, (ii) at an issue price per share being not less than twenty-five percent (25%)

**GDS HOLDINGS LIMITED AND SUBSIDIARIES**

**Notes to Consolidated Financial Statements (Continued)**

**(In thousands, except share data and per share data, or otherwise noted)**

**13. REDEEMABLE PREFERRED SHARES (Continued)**

above US\$1.0365, as adjusted for any recapitalization from time to time, and (iii) resulting in a free float of not less than twenty percent (20%) of the Company's share capital.

The Company evaluated the embedded conversion option in the convertible preferred shares to determine if the embedded conversion option require bifurcation and accounted for as a derivative. The Company concluded the embedded conversion option did not require it to be bifurcated pursuant to ASC 815. The Company also determined that there was no beneficial conversion feature ("BCF") attributable to the convertible preferred shares because the initial conversion price was higher than the fair value of the Company's ordinary shares. The fair value of the Company's ordinary shares on the commitment date was estimated by management with the assistance of an independent valuation firm. The Company also determined there was no other embedded derivative to be separated from the convertible preferred share.

*Voting rights*

The holders of the preferred shares have voting rights equivalent to the ordinary shareholders on an "if converted" basis.

*Liquidation preference*

In the event of any liquidation, dissolution or winding up of the affairs of the Company, whether voluntary or involuntary, the holders of preferred shares shall be entitled to be paid out of the assets of the Company available for distributions a liquidation preference in the amount per preferred share equal to the redemption amount plus all accrued or declared but unpaid dividends.

Payment of liquidation preference on certain series of preferred shares is prior and in preference to any payment on other series of preferred shares, and the liquidation preference in order of priority is Series C, Series B5, Series B\*, Series B, Series A\*, and Series A, details of which are set out in the Company's Memorandum of Association.

*Redemption*

Subject to other redemption requirements set out in the Company's Memorandum of Association, on or after the 4th anniversary of the original issue date of Series C Shares, the holders of preferred shares may, at the election of the holders of at least 75% of each series of outstanding preferred shares voting together as a separate class on an as converted basis, to the extent permitted by applicable laws, redeem all or any portion of the then outstanding preferred shares at a redemption price equal to the redemption amount, plus an amount equal to all accrued or declared but unpaid dividends thereon, including the 6% cumulative preference dividends whether declared or not.

The redemption amount, shall mean, with respect to the Series A Shares, US\$0.363636 per share; with respect to the Series B Shares, US\$0.77922 per share, with respect to the Series A\* Shares, US\$0.1060 per share; with respect to the Series B1 Shares, US\$0.5300 per share; with respect to the Series B2 Shares, US\$0.5855 per share; with respect to the Series B4 Shares, US\$0.4340 per share; with respect to the Series B5 Shares, US\$1.036522 per share; and with respect to the Series C Shares, US\$1.036522 per share.



**GDS HOLDINGS LIMITED AND SUBSIDIARIES**

**Notes to Consolidated Financial Statements (Continued)**

**(In thousands, except share data and per share data, or otherwise noted)**

**14. FAIR VALUE MEASUREMENT**

As of December 31, 2014 and 2015, there was no asset or liability that was measured at fair value on a recurring basis in periods subsequent to their initial recognition.

Following is a description of the valuation techniques that the Company uses to measure fair value of financial assets and financial liabilities:

- Short-term financial instruments (restricted cash, accounts receivable and payable, short-term borrowings, and accrued expenses and other payables)—cost approximates fair value because of the short maturity period.
- Long-term borrowings—fair value is based on the amount of future cash flows associated with each debt instrument discounted at the Company's current borrowing rate for similar debt instruments of comparable terms. The carrying values of the long-term borrowings approximate their fair values as all the long-term debt carry variable interest rates which approximate rates currently offered by the Company's bankers for similar debt instruments of comparable maturities.
- Convertible bonds payable—the estimated fair value approximated the carrying value of RMB648,515 as of December 31, 2015. The fair value was measured based on the best information available in the circumstances, including expected cash flows and appropriately risk-adjusted discount rates.

**15. ORDINARY SHARES**

Upon incorporation in 2006, the Company issued 110,000,001 ordinary shares with a par value of US\$0.00005 (RMB0.000404) each.

In June 2014, the Company issued 88,352,558 ordinary shares with a fair value of RMB472,945 to the shareholders of EDC Holding as part of the consideration to acquire EDC Holding (see note 8).

In August 2014, the holder of the Bonds due 2015 exchanged principal amount of US\$27,860 (RMB171,431) for 38,397,655 ordinary shares (see note 10).

In connection with the issuance of Series C Shares, on August 13, 2014, the Company repurchased 18,762,292 ordinary shares from certain shareholders at US\$1.0365 (RMB6.3779) per share, for a total consideration of US\$19,448 (RMB119,664). Upon the repurchase, the Company cancelled such shares. The reason for the repurchase of the various series of preferred shares (see note 13) and these ordinary shares was so that the Series C shareholder would hold no less than 40% of the Company's issued share capital on a fully diluted basis.

**16. SHARE-BASED COMPENSATION**

The Company adopted the 2014 Equity Incentive Plan ("Plan") in July 2014 for the granting of share options to key employees, directors and external consultants in exchange for their services. The total number of shares, which may be issued under the Plan, is 29,240,000 shares.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 16. SHARE-BASED COMPENSATION (Continued)

*Options to director, officers and employees*

In July 2014, the Company granted 12,394,753 share options to employees, officers and directors at an exercise price of US\$0.7792 (RMB4.7943) per option. The options have a contractual term of five to six years.

The options vest in accordance with the vesting schedules set out in the respective share option agreements as follows: (1) 63% on the date of grant,  $\frac{1}{48}$  each month thereafter; (2) 71% on the date of grant,  $\frac{1}{48}$  each month thereafter; (3) 75% on the date of grant,  $\frac{1}{48}$  each month thereafter; or (4) 95% on the date of grant,  $\frac{1}{40}$  each month thereafter.

*Options to non-employee consultants*

In July 2014, the Company granted the following share options to external consultants at an exercise price of US\$0.7792 (RMB4.8) per option. The options have a contractual term of five years.

The services performed or to be performed by these external consultants include marketing, technical consultancy, manage telecommunication relationships, strategic, business, operation, and financial planning services.

- 4,158,315 share options to a group of external consultants. Such options vested immediately on the date of grant for services performed and completed by the consultants.
- 1,275,000 share options to a consultant. 75% of the options (or 956,250 options) vested immediately on the date of grant for services performed and completed while the remaining 318,750 options vest monthly thereafter in eleven equal monthly instalments for future ongoing services. As of December 31, 2014, 185,938 options remained unvested. As of December 31, 2015, all options were vested.
- 400,000 share options to a group of external consultants for further services upon a QIPO.  $\frac{1}{3}$  of the options vest upon the completion of a QIPO,  $\frac{1}{3}$  vest upon the 2nd anniversary of a QIPO and  $\frac{1}{3}$  vest upon the 3rd anniversary of a QIPO. As of December 31, 2014 and 2015, 400,000 options remained unvested.

In January 2015, the Company granted 1,000,000 share options to an external consultant at an exercise price of US\$0.7792 (RMB4.8) per option. The options vest every six months in six equal instalments for future ongoing services. The options have a contractual term of five years. As of December 31, 2015, 666,667 options remained unvested.

These consulting service contracts do not contain a performance commitment. Options to non-employees are forfeitable if not vested. The Company determined that these non-employee options are considered indexed to its own stock and would be equity-classified.

The Company measures the fair value of stock options issued in exchange for services on the date when counterparty completes the performance and recognizes the related share-based compensation expenses. The Company recognized share-based compensation expenses of RMB10,060 and RMB2,019 relating to options issued to non-employee for the years ended December 31, 2014 and 2015, respectively.

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

16. SHARE-BASED COMPENSATION (Continued)

Options that are forfeitable and vest upon the non-employee providing future service is measured at the fair value of the date the performance is completed, which generally coincides with the date on which the options vest and are no longer forfeitable. In accordance with ASC 505-50-S99-1, such options are treated as unissued for accounting purposes until the future services are performed by the non-employees and received by the Company (that is, the options are not considered issued until they vest). During reporting periods prior to completion of performance, the Company measures the cost of the services based on the fair value of the share options at each reporting date using the valuation model applied in previous periods. The portion of the services that the non-employee has rendered is applied to the current measure of fair value to determine the cost to recognize. Changes in the Company's share price from the grant date to the vesting date result in adjustments to the reported costs of services in each period until performance is completed.

A summary of the share option activities is as follows:

	Number of options	Weighted average exercise price (RMB)	Weighted average grant-date fair value per option (RMB)
Options outstanding at January 1, 2014	—	—	—
Granted	17,642,130	4.8	1.9
Forfeited	(178,923)	4.8	1.9
Options outstanding at December 31, 2014	17,463,207	4.8	1.9
Granted	519,271	4.8	1.9
Forfeited	(788,944)	4.8	1.9
Options outstanding at December 31, 2015	<u>17,193,534</u>	4.8	1.9
Options vested and expect to vest at December 31, 2015	<u>17,193,534</u>	4.8	1.9

As of December 31, 2014 and 2015, 585,938 and 1,066,667 forfeitable and unvested non-employee options, respectively, were treated as unissued for accounting purposes and were not included in the table above.

A summary of share-based compensation expenses for the years ended December 31, 2014 and 2015 is as follows:

	Year ended December 31,	
	2014	2015
Costs of revenue	2,851	484
General and administrative expenses	22,525	3,252
Selling and marketing expenses	1,957	325
Total share based compensation expenses	<u>27,333</u>	<u>4,061</u>

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 16. SHARE-BASED COMPENSATION (Continued)

The following table summarizes information with respect to stock options outstanding and stock options exercisable as of December 31, 2015:

	Number of shares	Weighted average remaining contractual life (years)	Weighted average exercise price (RMB)
Options outstanding and exercisable	17,193,534	3.7	4.8

As of December 31, 2015, there was no unvested employee stock options.

The fair value of the options granted is estimated on the dates of grant using the binomial option pricing model with the following assumptions used.

Grant date:	July 2014	January 2015
Risk-free rate of return	2.25%	2.27%
Volatility	31.40%	29.80%
Expected dividend yield	—	—
Exercise multiple	2.20	2.20
Fair value of underlying ordinary share	US\$0.88 (RMB5.35)	US\$0.90 (RMB 5.5)
Expected term	5-6 years	5 years

## (1) Volatility

The volatility of the underlying ordinary shares during the lives of the options was estimated based on the historical stock price volatility of comparable listed companies over a period comparable to the expected term of the options.

## (2) Risk-free interest rate

Risk-free interest rate was estimated based on the yield to maturity of China international government bonds with a maturity period close to the expected term of the options.

## (3) Dividend yield

The dividend yield was estimated by the Company based on its expected dividend policy over the expected term of the options.

## (4) Exercise multiple

Exercise multiple represents the value of the underlying share as a multiple of exercise price of the option, which, if achieved, results in exercise of the option.

**GDS HOLDINGS LIMITED AND SUBSIDIARIES****Notes to Consolidated Financial Statements (Continued)****(In thousands, except share data and per share data, or otherwise noted)****16. SHARE-BASED COMPENSATION (Continued)**

- (5) Fair value of underlying ordinary shares

The estimated fair value of the ordinary shares underlying the options as of the respective grant dates was determined based on a retrospective valuation with the assistance of a third party appraiser.

**17. NET REVENUE**

Net revenue is consisted of the following:

	Years ended December 31,	
	2014	2015
Service revenue	450,940	653,591
IT equipment sales	17,397	50,045
	<u>468,337</u>	<u>703,636</u>

**18. INCOME TAX**

Pursuant to the rules and regulations of the Cayman Islands, GDS Holdings is not subject to any income tax in the Cayman Islands.

The Company's PRC entities are subject to the PRC Corporate Income Tax ("CIT") rate of 25%.

The Company's Hong Kong entity is subject to the Hong Kong Profits Tax rate of 16.5%.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 18. INCOME TAX (Continued)

The operating results before income tax and the provision for income taxes by tax jurisdictions for the years ended December 31, 2014 and 2015 are as follows:

	Years ended December 31,	
	2014	2015
Loss before income taxes:		
PRC	112,572	94,190
Other jurisdictions	22,010	16,377
Total loss before income taxes	134,582	110,567
Current tax expenses:		
PRC	436	(1,650)
Other jurisdictions	5	256
Total current tax expenses(benefits)	441	(1,394)
Deferred tax benefits:		
PRC	(4,877)	(10,589)
Other jurisdictions	(147)	—
Total deferred tax benefits	(5,024)	(10,589)
Total income taxes benefits	(4,583)	(11,983)

The actual income tax expense reported in the consolidated statements of operations differs from the amount computed by applying the PRC statutory income tax rate to loss before income taxes due to the following:

	Years ended December 31,	
	2014	2015
PRC enterprise income tax rate	25.0%	25.0%
Non-PRC entities not subject to income tax	(1.8%)	(3.8%)
Tax differential for entities in non-PRC jurisdiction	(0.8%)	0.0%
Tax effect of permanent differences	(0.4%)	(0.6%)
Change in valuation allowance	(18.4%)	(9.4%)
Return to provision adjustment	(0.2%)	(0.4%)
	3.4%	10.8%

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

18. INCOME TAX (Continued)

The components of deferred tax assets and liabilities are as follows:

	As at December 31	
	2014	2015
Deferred tax assets:		
Bad debt provision	539	539
Government subsidy	4,621	4,067
Accrued expenses	12,480	8,732
Asset retirement obligation	555	1,444
Net operating loss carry forwards	123,599	135,878
<b>Total gross deferred tax assets</b>	<b>141,794</b>	<b>150,660</b>
Valuation allowance on deferred tax assets	(116,403)	(118,952)
<b>Deferred tax assets, net of valuation allowance</b>	<b>25,391</b>	<b>31,708</b>
Deferred tax liabilities:		
Property and equipment	(38,885)	(37,982)
Intangible assets	(13,585)	(11,430)
Prepaid land use rights	(1,814)	(1,774)
Obligation under capital lease	(11,831)	(10,657)
<b>Total deferred tax liabilities</b>	<b>(66,115)</b>	<b>(61,843)</b>
<b>Net deferred tax liabilities</b>	<b>(40,724)</b>	<b>(30,135)</b>
Analysis as:		
Current deferred tax assets (note 4)	—	5,193
Non-current deferred tax assets	—	2,363
Non-current deferred tax liabilities	(40,724)	(37,691)
<b>Net deferred tax liabilities</b>	<b>(40,724)</b>	<b>(30,135)</b>

The following table presents the movement of the valuation allowance for the deferred tax assets:

	Years ended December 31,	
	2014	2015
Balance at the beginning of the year	117,065	116,403
(Decrease) increase during the year	(662)	2,549
<b>Balance at the end of the year</b>	<b>116,403</b>	<b>118,952</b>

Management believes it is more likely than not that the deferred tax asset, net of the valuation allowance as of December 31, 2015, will be realized. However, the amount of the deferred tax assets considered realizable could be reduced in the near term if estimates of future taxable income during the carry forward period are reduced. As of December 31, 2015, the valuation allowance of RMB118,952 was related to the deferred income tax asset of certain subsidiaries of the Company. These entities were in a cumulative loss position, which is a significant negative indicator to overcome

**GDS HOLDINGS LIMITED AND SUBSIDIARIES****Notes to Consolidated Financial Statements (Continued)****(In thousands, except share data and per share data, or otherwise noted)****18. INCOME TAX (Continued)**

that sufficient income will be generated over the periods in which the deferred income tax assets are deductible or utilized. The ultimate realization of deferred income tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible or utilized. Management considers the scheduled reversal of deferred income tax liabilities, projected future taxable income and tax planning strategies in making this assessment.

During the year ended December 31, 2015, certain net operating losses carry forwards expired. A full valuation allowance was provided against these net operating losses carry forwards as of the end of December 31, 2014. The net operating losses carry forwards of the Company's PRC subsidiaries amounted to RMB514,385 as of December 31, 2015, of which RMB37,660, RMB65,191, RMB224,920, RMB73,416 and RMB113,198 will expire if unused by December 31, 2016, 2017, 2018, 2019 and 2020, respectively.

Uncertainties exist with respect to how the current income tax law in the PRC applies to the Company's overall operations, and more specifically, with regard to tax residency status. The 2008 EIT Law includes a provision specifying that legal entities organized outside the PRC are considered residents for Chinese income tax purposes if the place of effective management or control is within the PRC. The implementation rules to the Enterprise Income Tax Law, or EIT Law, provide that non-resident legal entities are considered PRC residents if substantial and overall management and control over the manufacturing and business operations, personnel, accounting, properties, etc., occurs within the PRC. Despite the present uncertainties resulting from the limited PRC tax guidance on the issue, the Company does not believe that the legal entities organized outside the PRC should be treated as residents for EIT Law purposes. If the PRC tax authorities subsequently determine that the Company and its subsidiaries registered outside the PRC are deemed resident enterprises, the Company and its subsidiaries registered outside the PRC will be subject to the PRC income tax at a rate of 25%.

If the Company were to be non-resident for PRC tax purposes, dividends paid to it from profits earned by the PRC subsidiaries after January 1, 2008 would be subject to a withholding tax. The CIT law and its relevant regulations impose a withholding tax at 10%, unless reduced by a tax treaty or agreement, for dividends distributed by a PRC-resident enterprise to its non-PRC-resident corporate investor for earnings generated beginning on January 1, 2008. Undistributed earnings generated prior to January 1, 2008 are exempt from such withholding tax. The Company has not recognized any deferred tax liability for the undistributed earnings of the PRC-resident enterprise as of December 31, 2014 and 2015, as the Company plans to permanently reinvest these earnings in the PRC. Each of the PRC subsidiaries does not have a plan to pay dividends in the foreseeable future and intends to retain any future earnings for use in the operation and expansion of its business in the PRC.

**19. DISTRIBUTION OF PROFIT**

Pursuant to the laws and regulations of the PRC, the Company's PRC entities are required to allocate at least 10% of their after tax profits, after making good of accumulated losses as reported in their PRC statutory financial statements, to the general reserve fund and have the right to discontinue allocations to the general reserve fund if the balance of such reserve has reached 50% of their registered capital. The general reserves are not available for distribution to the shareholders (except in liquidation) and may not be transferred in the form of loans, advances, or cash dividend.



## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 19. DISTRIBUTION OF PROFIT (Continued)

These PRC entities are restricted in their ability to transfer the registered capital and general reserve fund to GDS Holdings in the form of dividends, loans or advances. The restricted portion amounted to RMB1,012,478 and RMB1,323,122 as of December 31, 2014 and 2015, respectively, including non-distributable general reserve fund of nil as of December 31, 2014 and 2015. The parent company financial information of GDS Holdings is disclosed in note 25.

## 20. LOSS PER SHARE

The computation of basic and diluted loss per share is as follows:

	Years ended December 31,	
	2014	2015
Net loss	129,999	98,584
Extinguishment of redeemable preferred shares upon repurchase and exchange	106,515	—
Change in redemption value of redeemable preferred shares	69,116	110,926
Dividends on redeemable preferred shares (i)	3,509	7,127
Net loss available to ordinary shareholders	309,139	216,637
Weighted average number of ordinary shares outstanding Basic and diluted	162,070,745	217,987,922
Basic and diluted loss per share	1.91	0.99

Note (i): Represents undeclared dividends on redeemable preferred shares that are cumulative and not included in the carrying amount of the redeemable preferred shares.

For the years ended December 31, 2014 and 2015, the following securities were excluded from the computation of diluted loss per share as inclusion would have been anti-dilutive.

	Years ended December 31,	
	2014	2015
Share options	17,463,207	17,193,534
Convertible bonds payable	—	59,692,156
Redeemable preferred shares	349,087,677	349,087,677
Total	366,550,884	425,973,367

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**21. SEGMENT INFORMATION**

The Company has one operating segment, which is the design, build-out and operation of data centers. The Company's chief operating decision maker is the chief executive officer of the Company who reviews the Company's consolidated results of operations in assessing performance of and making decisions about allocations to this segment. Accordingly, no reportable segment information is presented.

Substantially all of the Company's operations and assets are in the PRC. Consequently, no geographic information is presented.

**22. MAJOR CUSTOMERS**

The Company had one customer, which generated over 10% of the Company's total revenues during the years ended December 31, 2014 and 2015. Revenues generated from this customer amounted to approximately RMB125,687 and RMB141,711 in 2014 and 2015, respectively.

**23. COMMITMENTS****(a) Capital commitments**

Capital commitments outstanding at December 31, 2014 and 2015 not provided for in the financial statements were as follows:

	As at December 31	
	2014	2015
Contracted for	144,059	272,958

**(b) Lease commitments**

The Company's lease commitments are disclosed in note 12. In respect of Shenzhen 4 Lease, Shanghai 3 Lease and Shanghai 4 Lease, upon the commencement of the leases in 2016 or upon the completion of the construction of the properties, the total minimum lease payments are RMB1,189,954. The total annual lease payment to be paid, in each of the next five years is RMB8,565, RMB27,919, RMB46,982, RMB50,541 and RMB55,647, respectively.

**24. RELATED PARTY TRANSACTION AND BALANCES**

In addition to the related party information disclosed elsewhere in the consolidated financial statements, the Company entered into the following material related party transactions.

Name of party	Relationship
William Wei Huang (Mr. Huang)	Director and CEO of the Company
STT GDC Pte. Ltd.	Principal preferred shareholder of the Company
SBCVC Holdings Limited (SBCVC)	Principal preferred shareholder of the Company
EDC Holding	SBCVC was a common principal preferred shareholder of both GDS Holdings and EDC Holding prior to the acquisition

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

24. RELATED PARTY TRANSACTION AND BALANCES (Continued)

(a) Major transactions with related parties

		Years ended December 31,	
		2014	2015
Service fees charged by EDC Holding	24(b)(i)	55,869	—
Loans made to EDC Holding	24(b)(i)	307,048	—
Interest income	24(b)(i)	4,296	—
Repurchase of redeemable preferred shares	24(b)(ii)	273,562	—
Loan from a related party	24(b)(iii)	—	64,936
Interest expenses	24(b)(i) 24(b)(iii)	244	2,579

(b) Balances with related parties

Amount due to:	Note	As at December 31	
		2014	2015
SBCVC	ii	23,300	—
STT GDC Pte. Ltd.	iii	—	67,604
		23,300	67,604

(i) Subsequent to the acquisition of EDC Holding by the Company on June 30, 2014, balances and transactions between the Company and EDC Holding are eliminated upon consolidation in the Company's consolidated financial statements as of and for the years ended December 31, 2014 and 2015. Prior to the acquisition, the Company entered into the following transactions with EDC Holding.

In December 2013, the Company made a prepayment of RMB320,000 to EDC Holding under a service agreement where it was a customer of EDC Holding. The prepayment covered a two-year service period from 2014 to 2015. During the six-month period ended June 30, 2014, EDC Holding provided services to the Company amounting to RMB55,869.

During the six-month period ended June 30, 2014, the Company provided loans to EDC Holding amounting to RMB307,048. Interest income on the loans amounted to RMB4,296.

In January 2013, EDC Holding provided a loan of US\$8,000 (RMB49,222) to the Company. During the six-month period ended June 30, 2014, interest expenses on the loan amounted to RMB244.

(ii) In August 2014, the Company repurchased 13,905,901 Series A Shares, 4,403,119 Series A\* Shares, 1,640,183 Series B Shares, 7,338,532 Series B1 Shares, 6,643,303 Series B2 Shares and 8,961,143 Series B4 Shares from SBCVC at US\$1.0365 (RMB6.3779) per share, for a cash consideration of US\$44,458 (RMB273,562). As of December 31, 2014, outstanding consideration payable to SBCVC amounted to RMB23,300, which was fully settled in 2015.

(iii) During the year ended December 31, 2015, the Company borrowed a loan of US\$10,000 (RMB64,936) from STT GDC Pte. Ltd., a principal shareholder of the Company. The interest expenses on the loan amounted to US\$397 (RMB2,579).

As of December 31, 2015, the amount due to STT GDC Pte. Ltd. comprised US\$10,000 (RMB64,936) short-term loan and accrued loan interest of US\$397 (RMB2,668). On January 29, 2016, the Company received the second tranche of US\$50,000 (RMB324,475) from STT GDC Pte. Ltd for subscription of Convertible Bonds due 2019, of which US\$10,000 (RMB64,936) was used to settle the outstanding short-term loan of US\$10,000 (RMB64,936).

**GDS HOLDINGS LIMITED AND SUBSIDIARIES**
**Notes to Consolidated Financial Statements (Continued)**
**(In thousands, except share data and per share data, or otherwise noted)**
**25. PARENT ONLY FINANCIAL INFORMATION**

The following condensed parent company financial information of GDS Holdings has been prepared using the same accounting policies as set out in the accompanying consolidated financial statements except that the equity method has been used to account for investments in its subsidiaries. As of December 31, 2015, there were no material contingencies, significant provisions of long-term obligations, mandatory dividend or redemption requirements of redeemable stocks or guarantees of GDS Holdings, except for those, which have been separately disclosed in the consolidated financial statements.

**Condensed Balance Sheets**

	As at December 31	
	2014	2015
<b>Assets</b>		
Current assets		
Cash	8,101	643,926
<b>Total current assets</b>	<b>8,101</b>	<b>643,926</b>
Investment and loans to subsidiaries	2,187,660	2,152,027
<b>Total assets</b>	<b>2,195,761</b>	<b>2,795,953</b>
<b>Liabilities and Shareholders' Deficit</b>		
Current liabilities		
Accrued expenses and other payables	1,948	3,782
Due to subsidiaries	8,699	20,890
Due to a related party	23,300	67,604
Bonds payable	14,340	—
<b>Total current liabilities</b>	<b>48,287</b>	<b>92,276</b>
Convertible bonds payable	—	648,515
Other long-term liabilities	—	353
<b>Total liabilities</b>	<b>48,287</b>	<b>741,144</b>
Redeemable preferred shares (US\$0.00005 par value; 350,561,436 shares authorized; 349,087,677 shares issued and outstanding and aggregate redemption amount of RMB2,029,766 and RMB2,277,059 as of December 31, 2014 and 2015, respectively)	2,164,039	2,395,314
Shareholders' deficit		
Ordinary shares (US\$0.00005 par value; 675,636,564 shares authorized; 217,987,922 shares issued and outstanding as of December 31, 2014 and 2015, respectively)	76	76
Additional paid-in capital	410,486	303,621
Accumulated other comprehensive income (loss)	56,542	(61,949)
Accumulated deficit	(483,669)	(582,253)
<b>Total shareholders' deficit</b>	<b>(16,565)</b>	<b>(340,505)</b>
Commitments and contingencies		
<b>Total liabilities, redeemable preferred shares and shareholders' deficit</b>	<b>2,195,761</b>	<b>2,795,953</b>

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 25. PARENT ONLY FINANCIAL INFORMATION (Continued)

## Condensed Statements of Operations

	Years ended December 31,	
	2014	2015
Net revenue	—	—
Cost of revenue	—	—
Gross profit	—	—
Operating expenses		
Selling and marketing expenses	(2,387)	(1,566)
General and administrative expenses	(32,166)	(14,665)
Loss from operations	(34,553)	(16,231)
Other income (expenses):		
Interest income	80	—
Interest expenses	(35,192)	(3,297)
Gain on remeasurement of equity investment	62,506	—
Equity in loss of subsidiaries	(122,742)	(79,056)
Others, net	(98)	—
Loss before income taxes	(129,999)	(98,584)
Income tax expenses	—	—
Net loss	(129,999)	(98,584)

## Condensed Statements of Comprehensive Loss

	Years ended December 31,	
	2014	2015
Net loss	(129,999)	(98,584)
Other comprehensive income (loss):		
Foreign currency translation adjustments, net of nil tax	4,114	(118,491)
Comprehensive loss	(125,885)	(217,075)

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 25. PARENT ONLY FINANCIAL INFORMATION (Continued)

## Condensed Statements of Cash Flows

	Years ended December 31,	
	2014	2015
<b>Operating activities:</b>		
Net cash used in operating activities	(6,609)	(4,895)
<b>Investing activities:</b>		
Investment in a subsidiary	(92,300)	—
Increase of due from subsidiaries	(925,539)	(93,101)
Net cash used in investing activities	(1,017,839)	(93,101)
<b>Financing activities:</b>		
Proceeds from issuance of convertible bonds payable	—	648,950
Proceeds from issuance of bonds payable	114,950	—
Repayment of bonds payable	(4,081)	(14,330)
Loan received from a related party	—	64,936
Proceeds from issuance of Series C redeemable preferred shares	1,521,295	—
Payment of issuance costs for Series C redeemable preferred shares	(20,128)	—
Repurchase of ordinary shares	(119,664)	—
Repurchase of redeemable preferred shares	(455,366)	(23,300)
Net cash provided by financing activities	1,037,006	676,256
Effect of exchange rate changes on cash	(4,459)	57,565
<b>Net increase in cash</b>	<b>8,099</b>	<b>635,825</b>
Cash at beginning of year	<u>2</u>	<u>8,101</u>
Cash at end of year	<u>8,101</u>	<u>643,926</u>
<b>Supplemental disclosures of cash flow information</b>		
Interest paid	1,317	3,463
<b>Supplemental disclosures of non-cash investing and financing activities</b>		
Issuance of ordinary shares in exchange of bonds payable	205,536	—
Issuance of ordinary and preferred shares for the acquisition of EDC Holding	1,184,242	—

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

26. SUBSEQUENT EVENTS

(a) *Receipt of proceeds from the second tranche of Convertible Bonds due 2019*

On January 29, 2016, the Company received the second tranche of US\$50,000 (RMB324,475) from STT GDC Pte. Ltd. for subscription of Convertible Bonds due 2019, of which US\$10,000 (RMB64,936) was used to settle an outstanding short-term loan due to STT GDC Pte. Ltd.

(b) *2016 Internal Restructuring*

During the periods presented, the Company primarily conducted its operations through GDS Suzhou.

In order to adapt to the new regulatory requirements in China, the Company completed an internal restructuring in respect of GDS Suzhou on April 13, 2016 (the "2016 Variable Interest Entity Restructuring") whereby GDS Suzhou was converted into a PRC domestic company that is wholly owned GDS Beijing. The conversion of GDS Suzhou into a PRC domestic company was accomplished by way of transferring all of the equity interests in GDS Suzhou to GDS Beijing. In connection with the internal restructuring, the VIE Agreements between GDS Beijing and GDS Suzhou were terminated and concurrently, new contractual arrangements were entered into between GDS Beijing and GDS Management Company, a newly-established subsidiary of the Company. The terms of the new contractual arrangements between GDS Beijing and GDS Management Company are identical to the terms of the VIE Agreements between GDS Beijing and GDS Suzhou. The 2016 Variable Interest Entity Restructuring in respect of GDS Suzhou was completed on April 13, 2016. The Company continues to be the primary beneficiary of the VIEs following the completion of the internal restructuring.

Since the entities involved in the 2016 Variable Interest Entity Restructuring are all under common control and the Company is the primary beneficiary of GDS Beijing at the time of transfer, the net assets of GDS Suzhou transferred to GDS Beijing is recorded at the same amounts at which the assets and liabilities would have been measured if they had not been transferred. That is, no gain or loss is recognized because of such transfer.

The following is a summary of the contractual arrangements entered among the GDS Management Company, the VIEs, and the shareholders of the VIEs.

*Equity Interest Pledge Agreements.* Pursuant to the equity interest pledge agreements, each shareholder of the VIEs has pledged all of his or her equity interest in the VIEs as a continuing first priority security interest, as applicable, to respectively guarantee the VIEs and their shareholders' performance of their obligations under the relevant contractual arrangement, which include the exclusive technology license and service agreement, loan agreement, exclusive call option agreement, and shareholder voting rights proxy agreement. If the VIEs or any of their shareholders breach their contractual obligations under these agreements, GDS Management Company, as pledgee, will be entitled to certain rights regarding the pledged equity interests, including receiving proceeds from the auction or sale of all or part of the pledged equity interests of the VIEs in accordance with PRC law. Each of the shareholders of the VIEs agrees that, during the term of the equity interest pledge agreements, he or she will not dispose of the pledged equity interests or create or allow creation of any encumbrance on the pledged equity interests without the prior written consent of GDS Management Company. The equity interest pledge agreements remain effective until the VIEs and their shareholders discharge all their obligations under the contractual arrangements.

*Shareholder Voting Rights Proxy Agreement.* Pursuant to the shareholder voting rights proxy agreements, each shareholder of the VIEs has irrevocably appointed the PRC citizen(s) as designated by

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**26. SUBSEQUENT EVENTS (Continued)**

GDS Management Company to act as such shareholder's exclusive attorney-in-fact to exercise all shareholder rights, including, but not limited to, voting on all matters of the VIEs requiring shareholder approval, disposing of all or part of the shareholder's equity interest in the VIEs, and appointing directors and executive officers. GDS Management Company is also entitled to change the appointment by designating another PRC citizen(s) to act as exclusive attorney-in-fact of the shareholders of the VIEs with prior notice to such shareholders. Each shareholder voting rights proxy agreement will remain in force for so long as the shareholder remains a shareholder of the VIE.

*Exclusive Technology License and Service Agreements.* Under the exclusive technology license and service agreements, GDS Management Company licenses certain technology to the VIEs and GDS Management Company has the exclusive right to provide the VIEs with technical support, consulting services and other services. Without GDS Management Company's prior written consent, the VIEs agree not to accept the same or any similar services provided by any third party. The VIEs agree to pay service fees on a yearly basis and at an amount equivalent to all of its net profits as confirmed by GDS Management Company. GDS Management Company owns the intellectual property rights arising out of its performance of these agreements. In addition, the VIEs have granted GDS Management Company an exclusive right to purchase or to be licensed with any or all of the intellectual property rights of the VIEs at the lowest price permitted under PRC law. Unless otherwise agreed by the parties, these agreements will continue to remain effective at all times.

*Intellectual Property Rights License Agreement.* Pursuant to an intellectual property rights license agreement between GDS Management Company and GDS Shanghai, GDS Shanghai has granted GDS Management Company an exclusive license to use for free any or all of the intellectual property rights owned by GDS Shanghai from time to time, and without the parties' prior written consent, GDS Shanghai cannot take any actions, including without limitation to, transferring or licensing outside its ordinary course of business any intellectual property rights to any third parties, which may affect or undermine GDS Management Company's use of the licensed intellectual property rights from GDS Shanghai. The parties have also agreed under the agreement that GDS Management Company should own the new intellectual property rights developed by it regardless whether such development is dependent on any of the intellectual property rights owned by GDS Shanghai. This agreement can only be early terminated by prior mutual consent of the parties and need to be renewed upon GDS Management Company's unilateral request.

*Exclusive Call Option Agreements.* Pursuant to the exclusive call option agreements, the shareholders of the VIEs have irrevocably granted GDS Management Company an exclusive option to purchase, or have its designated person or persons to purchase, at its discretion, to the extent permitted under PRC law, all or part of such shareholders' equity interests in the VIEs. The purchase price should equal to the minimum price required by PRC law or such other price as may be agreed by the parties in writing. Without GDS Management Company's prior written consent, the shareholders of the VIEs have agreed that the VIEs shall not amend the articles of association, increase or decrease the registered capital, sell or otherwise dispose of their assets or beneficial interest, create or allow any encumbrance on their assets or other beneficial interests, provide any loans, or distribute dividends to the shareholders. These agreements will remain effective until all equity interests of the VIEs have been transferred or assigned to GDS Management Company or its designated person(s).



## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**26. SUBSEQUENT EVENTS (Continued)**

*Loan Agreements.* Pursuant to the loan agreements between GDS Management and the shareholders of the VIEs, GDS Management agrees to extend loans in an aggregate amount of RMB310,100 to the shareholders of the VIEs solely for their capitalization or equity contribution into the VIEs. Pursuant to the loan agreements, GDS Management Company has the right to require repayment of the loans upon delivery of thirty-day's prior notice to the shareholders, and the shareholders can repay the loans by either sale of their equity interests in the VIEs to GDS Management Company or its designated person(s) pursuant to their respective exclusive option agreements, or other methods as determined by GDS Management Company pursuant to its articles of association and the applicable PRC laws and regulations.

Under the terms of the VIE Agreements, the Company has (i) the right to receive service fees on a yearly basis at an amount equivalent to all of the net profits of the VIEs under the exclusive technology license and services agreements when such services are provided; (ii) the right to receive all dividends declared by the VIEs and the right to all undistributed earnings of the VIEs; (iii) the right to receive the residual benefits of the VIEs through its exclusive option to acquire 100% of the equity interests in the VIEs, to the extent permitted under PRC law; and (iv) the right to require each of the shareholder of the VIEs to appoint the PRC citizen(s) as designated by GDS Management Company to act as such shareholder's exclusive attorney-in-fact to exercise all shareholder rights, including, but not limited to, voting on all matters of the VIEs requiring shareholder approval, disposing of all or part of the shareholder's equity interest in the VIEs, and appointing directors and executive officers.

**(c) Acquisition of WTENG**

On May 19, 2016, the Company, through GDS Beijing, acquired all of the equity interests in Guangzhou Weiteng Construction Co., Ltd. ("WTENG") from a third party for an aggregate purchase price of RMB129,500, subject to adjustment, if any, pursuant to the terms and conditions of the equity purchase agreement. WTENG is a limited liability company organized and existing under the PRC law and owns a data center project in Guangzhou. At the date of acquisition, the data center has just commenced its operations. After the acquisition, WTENG became a wholly-owned subsidiary of the Company. The initial accounting for this acquisition is incomplete as the acquisition was completed at a date that was just prior to the issuance of the consolidated financial statements. Management does not believe this acquisition is significant as measured by the assets or pre-tax earnings (loss) of the acquiree as a percentage of the Company's consolidated assets or pre-tax earnings (loss), respectively.

**(d) Share options grant**

On May 1, 2016, the Company granted 11,084,840 share options to employees, officers and directors. These share options were fully vested upon the date of grant for past services and had an exercise price of US\$0.7792 (RMB 5.0328) per option. The options have a contractual term of five years. The Company is evaluating the fair values of its ordinary share and the share options. Based on the Company's best estimate, the estimated fair value of its ordinary share on the date of the grant was approximately US\$1.6 (RMB10.3342) per share and total share-based compensation expenses to be recognized is approximately RMB62,000. Upon completion of the fair value analysis, management will revise these estimates and such revisions are not expected to be materially different from these current estimates.

Management has considered subsequent events through May 20, 2016, which was the date these consolidated financial statements were issued.

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Unaudited Condensed Consolidated Balance Sheets

(In thousands, except share data and per share data, or otherwise noted)

	Note	As at	
		December 31, 2015	June 30, 2016
<b>Assets</b>			
<b>Current assets</b>			
Cash (including cash of VIEs of RMB12,032 and RMB60,680 as of December 31, 2015 and June 30, 2016, respectively)		924,498	834,477
Restricted cash		6,425	8,485
Accounts receivable, net of allowance for doubtful accounts (including accounts receivables, net of allowance for doubtful accounts of VIEs of RMB3,847 and RMB 108,593 as of December 31, 2015 and June 30, 2016, respectively)		111,013	170,149
Value-added-tax ("VAT") recoverable (including VAT recoverable of VIEs of RMB1,389 and RMB 19,044 as of December 31, 2015 and June 30, 2016, respectively)		59,680	99,256
Prepaid expenses (including prepaid expenses of VIEs of RMB5,173 and RMB 24,699 as of December 31, 2015 and June 30, 2016, respectively)		51,395	41,056
Other current assets (including other current asset of VIEs of RMB234 and RMB10,516 as of December 31, 2015 and June 30, 2016, respectively)		33,688	29,808
<b>Total current assets</b>		<b>1,186,699</b>	<b>1,183,231</b>
<b>Property and equipment, net</b>			
(including property and equipment, net of VIEs of RMB5,830 and RMB 356,285 as of December 31, 2015 and June 30, 2016, respectively)	3	2,512,687	3,591,456
<b>Intangible assets, net (including intangible assets, net of VIEs of RMB nil and RMB58,565 as of December 31, 2015 and June 30, 2016, respectively)</b>	4	46,935	101,038
Prepaid land use rights, net		27,408	27,100
Goodwill (including goodwill of VIEs of RMB nil and RMB46,423 as of December 31, 2015 and June 30, 2016, respectively)	5	1,294,664	1,341,087
Deferred tax assets (including deferred tax assets of VIEs of RMB nil and RMB 10,604 as of December 31, 2015 and June 30, 2016, respectively)		2,363	10,604
Other non-current assets (including other non-current assets of VIEs of RMB nil and RMB8,233 as of December 31, 2015 and June 30, 2016, respectively)	6	57,516	79,550
<b>Total assets</b>		<b>5,128,272</b>	<b>6,334,066</b>
<b>Liabilities, Redeemable Preferred Shares and Shareholders' Deficit</b>			
<b>Current liabilities</b>			
Short-term borrowings and current portion of long-term borrowings (including short-term borrowings and current portion of long-term borrowings of VIEs of RMB nil and RMB463,700 as of December 31, 2015 and June 30, 2016, respectively)	8	428,218	699,394
Accounts payable (including accounts payable of VIEs of RMB 4,151 and RMB182,652 as of December 31, 2015 and June 30, 2016, respectively)		215,658	459,996
Accrued expenses and other payables (including accrued expenses and other payables of VIEs of RMB 1,802 and RMB 110,704 as of December 31, 2015 and June 30, 2016 respectively)		118,316	201,998
Due to a related party		67,604	—
Deferred revenue (including deferred revenue of VIEs of RMB 8,992 and RMB36,120 as of December 31, 2015 and June 30, 2016, respectively)		46,508	45,008
Obligations under capital leases, current (including obligations under capital leases, current of VIEs of RMB nil and RMB12,494 as of December 31, 2015 and June 30, 2016, respectively)	9	48,745	71,919
<b>Total current liabilities</b>		<b>925,049</b>	<b>1,478,315</b>
Long-term borrowings, excluding current portion	8	958,264	825,392
Convertible bonds payable	10	648,515	994,243
Obligations under capital leases, non-current (including obligations under capital leases, non-current of VIEs of RMB nil and RMB68,266 as of December 31, 2015 and June 30, 2016, respectively)	9	424,939	873,972
Deferred tax liabilities (including deferred tax liabilities of VIEs of RMB nil and RMB21,142 as of December 31, 2015 and June 30, 2016, respectively)		37,691	57,138
Other long-term liabilities (including other long-term liabilities of VIEs of RMB nil and RMB9,420 as of December 31, 2015 and June 30, 2016, respectively)	11	79,005	151,849
<b>Total liabilities</b>		<b>3,073,463</b>	<b>4,380,909</b>
<b>Redeemable preferred shares</b>			
(US\$0.00005 par value; 350,563,436 shares authorized; 349,087,677 shares issued and outstanding with aggregate redemption amount of RMB2,277,059 and RMB2,387,936, as of December 31, 2015 and June 30, 2016, respectively)	12	2,395,314	2,499,117
<b>Shareholders' deficit</b>			
Ordinary shares (US\$0.00005 par value; 675,636,564 shares authorized; 217,987,922 shares issued and outstanding as of December 31, 2015 and June 30, 2016, respectively)		76	76
Additional paid-in capital		303,621	302,939
Accumulated other comprehensive loss		(61,949)	(112,525)
Accumulated deficit		(582,253)	(736,450)
<b>Total shareholders' deficit</b>		<b>(340,505)</b>	<b>(545,960)</b>
<b>Commitments and contingencies</b>			
<b>Total liabilities, redeemable preferred shares and shareholders' deficit</b>		<b>5,128,272</b>	<b>6,334,066</b>

See accompanying notes to unaudited condensed consolidated financial statements.

**GDS HOLDINGS LIMITED AND SUBSIDIARIES**  
**Unaudited Condensed Consolidated Statements of Operations**  
(In thousands, except share data and per share data, or otherwise noted)

	Note	Six-month periods ended	
		June 30,	
		2015	2016
Net revenue	14	304,794	447,135
Cost of revenue		(221,519)	(332,034)
Gross profit		83,275	115,101
Operating expenses			
Selling and marketing expenses		(23,494)	(34,563)
General and administrative expenses		(58,837)	(131,452)
Research and development expenses		(1,257)	(4,765)
Loss from operations		(313)	(55,679)
Other income (expenses):			
Interest income		870	1,192
Interest expenses	3	(61,310)	(111,484)
Foreign currency exchange gain, net		4,456	4,101
Government grants		1,030	1,030
Others, net		1,362	179
Loss before income taxes		(53,905)	(160,661)
Income tax benefits	7	6,641	6,464
Net loss		(47,264)	(154,197)
Net loss		(47,264)	(154,197)
Change in redemption value of redeemable preferred shares	12	(55,462)	(57,869)
Dividends on cumulative preferred shares	16	(3,564)	(3,725)
Net loss available to ordinary shareholders		(106,290)	(215,791)
Loss per ordinary share			
Basic and diluted	16	(0.49)	(0.99)
Weighted average number of ordinary share outstanding			
Basic and diluted	16	217,987,922	217,987,922

See accompanying notes to unaudited condensed consolidated financial statements.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Unaudited Condensed Consolidated Statements of Comprehensive Loss

(In thousands, except share data and per share data, or otherwise noted)

	Six-month periods ended June 30,	
	2015	2016
Net loss	(47,264)	(154,197)
Other comprehensive income (loss)		
Foreign currency translation adjustments, net of nil tax	2,836	(50,576)
Comprehensive loss	(44,428)	(204,773)

See accompanying notes to unaudited condensed consolidated financial statements.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Unaudited Condensed Consolidated Statement of Changes in Shareholders' Deficit

(In thousands, except share data and per share data, or otherwise noted)

	Note	Ordinary Shares		Additional paid-in capital	Accumulated other comprehensive loss	Accumulated deficit	Total deficit
		Number	Amount				
<b>Balance at January 1, 2016</b>		<b>217,987,922</b>	<b>76</b>	<b>303,621</b>	<b>(61,949)</b>	<b>(582,253)</b>	<b>(340,505)</b>
Loss for the period		—	—	—	—	(154,197)	(154,197)
Other comprehensive loss		—	—	—	(50,576)	—	(50,576)
Total comprehensive loss		—	—	—	(50,576)	(154,197)	(204,773)
Change in redemption value of redeemable preferred shares	12	—	—	(57,869)	—	—	(57,869)
Share-based compensation	13	—	—	57,187	—	—	57,187
<b>Balance at June 30, 2016</b>		<b>217,987,922</b>	<b>76</b>	<b>302,939</b>	<b>(112,525)</b>	<b>(736,450)</b>	<b>(545,960)</b>

See accompanying notes to unaudited condensed consolidated financial statements.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Unaudited Condensed Consolidated Statements of Cash Flows

(In thousands, except share data and per share data, or otherwise noted)

	Six-month periods ended June 30,	
	2015	2016
<b>Cash flows from operating activities:</b>		
Net loss	(47,264)	(154,197)
Amortization of debt issuance cost and debt discount	—	422
Depreciation and amortization	63,968	93,469
Share-based compensation expense	3,166	57,187
Deferred tax benefit	(9,896)	(9,577)
<b>Changes in operating assets and liabilities, net of effect of an acquisition:</b>		
Increase of accounts receivable	(4,848)	(52,837)
Increase of VAT recoverable	(13,921)	(22,024)
Decrease of prepaid expenses	1,412	10,339
Increase of restricted cash	—	(2,060)
(Increase) decrease of other current assets	(2,906)	3,644
Increase of other non-current assets	(2,954)	(5,644)
Increase of accounts payable	12,343	47,832
Decrease of due to a related party	(89)	(2,668)
Decrease of deferred revenue	(1,672)	(1,500)
(Decrease) increase of accrued expenses and other payables	(19,137)	15,173
Increase of other long-term liabilities	8,199	372
<b>Net cash used in operating activities</b>	<b>(13,599)</b>	<b>(22,069)</b>

See accompanying notes to unaudited condensed consolidated financial statements.

**GDS HOLDINGS LIMITED AND SUBSIDIARIES**
**Unaudited Condensed Consolidated Statements of Cash Flows (Continued)**

(In thousands, except share data and per share data, or otherwise noted)

	Note	Six-month periods ended June 30	
		2015	2016
<b>Cash flows from investing activities</b>			
Payments for purchase of property and equipment		(274,425)	(317,555)
Loans made to WTENG prior to acquisition	5	—	(42,000)
Cash paid for the acquisition of WTENG, less cash acquired of RMB1,237	5	—	(102,363)
Deposit paid for a potential acquisition	6	—	(15,000)
<b>Net cash used in investing activities</b>		<b>(274,425)</b>	<b>(476,918)</b>
<b>Cash flows from financing activities:</b>			
Proceeds from short-term borrowings		62,000	204,000
Proceeds from long-term borrowings		—	121,605
Repayment of short-term borrowings		(42,000)	(147,000)
Repayment of long-term borrowings		(12,642)	(42,815)
Proceeds from issuance of convertible bonds payable	10	—	262,106
Repayment of bonds payable		(14,330)	—
Payment under capital lease obligations		(9,530)	(2,550)
Increase of restricted cash related to borrowings		(1,798)	—
<b>Net cash (used in) provided by financing activities</b>		<b>(18,300)</b>	<b>395,346</b>
Effect of exchange rate changes on cash		1,457	13,620
<b>Net decrease in cash</b>		<b>(304,867)</b>	<b>(90,021)</b>
Cash at beginning of period		606,758	924,498
Cash at end of period		<u>301,891</u>	<u>834,477</u>
<b>Supplemental disclosures of cash flow information</b>			
Interest paid		26,267	47,412
Income tax paid		596	5,645
<b>Supplemental disclosures of non-cash investing and financing activities</b>			
Payables for purchase of property and equipment		168,693	65,392
Purchase of property and equipment through capital leases		—	394,078
Consideration payable for the acquisition of WTENG		—	25,900

See accompanying notes to unaudited condensed consolidated financial statements.

**GDS HOLDINGS LIMITED AND SUBSIDIARIES**

**Notes to Unaudited Condensed Consolidated Financial Statements**

**(In thousands, except share data and per share data, or otherwise noted)**

**1 BASIS OF PRESENTATION**

The accompanying condensed consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles ("U.S. GAAP"). Certain information and footnote disclosures normally included in financial statements prepared in accordance with U.S. GAAP have been condensed or omitted as permitted by rules and regulations of the United States Securities and Exchange Commission ("SEC"). The condensed consolidated balance sheet as of December 31, 2015 was derived from the audited consolidated financial statements of GDS Holdings Limited ("GDS Holdings") and its subsidiaries (collectively, "the Company"). The accompanying unaudited condensed consolidated financial statements should be read in conjunction with the consolidated balance sheet of the Company as of December 31, 2015 and the related consolidated statements of operations, comprehensive loss, changes in shareholders' deficit and cash flow for the year then ended and the related notes to the consolidated financial statements, included elsewhere herein.

In the opinion of management, all adjustments (which include normal recurring adjustments) necessary to present a fair statement of the financial position as of June 30, 2016, and the results of operations and cash flows for the six-month periods ended June 30, 2015 and 2016, have been made.

The preparation of condensed consolidated financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the condensed consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Significant items subject to such estimates and assumptions include, but are not limited to, the useful lives of long-lived assets, the allowance for doubtful accounts receivable, the realization of deferred income tax assets, the fair value of share-based compensation awards, the recoverability of long-lived assets and the fair value of the asset retirement obligation. Changes in facts and circumstances may result in revised estimates. Actual results could differ from those estimates, and as such, differences may be material to the condensed consolidated financial statements.

The accompanying condensed consolidated financial statements contemplate the realization of assets and the satisfaction of liabilities in the normal course of business. The realization of assets and the satisfaction of liabilities in the normal course of business are dependent on, among other things, the Company's ability to operate profitably, to generate cash flows from operations, and to pursue financing arrangements, including obtaining new bank borrowings or renewing its existing bank borrowings.

Historically, the Company relied on external bank and third party loans and issuances of preferred shares and convertible bonds to fund its working capital and capital expenditure requirements and to meet its obligations and commitments when they become due.

The Company has carried out a review of its cash flow forecast for the twelve months ending June 30, 2017. Based on such forecast, management believes that adequate sources of liquidity exist to fund the Company's working capital and capital expenditures requirements, and to meet its short-term debt obligations and other liabilities and commitments as they become due. In preparing the cash flow forecast, management has considered historical cash requirements, working capital and capital expenditures plans, estimated cash flows provided by operations, existing cash on hand and available credit facilities, as well as other key factors, including its ability to renew its short-term bank



GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**1 BASIS OF PRESENTATION (Continued)**

borrowings during the twelve months ending June 30, 2017. Management believes the assumptions used in the cash forecast are reasonable.

**2 PRINCIPLES OF CONSOLIDATION**

The accompanying condensed consolidated financial statements include the financial statements of GDS Holdings Limited, its subsidiaries and consolidated variable interest entities ("VIEs") for which the Company is the primary beneficiary.

In certain regions of the PRC, the Company's operations are conducted through VIEs to comply with the PRC laws and regulations, which prohibit foreign investments in companies that are engaged in data center related business in those regions. Individuals acting as nominee equity holders hold the legal equity interests of the VIEs on behalf of the Company. The equity holders of the VIEs are the CEO of the Company and his relative.

Prior to the internal restructuring of GDS Suzhou on April 13, 2016 (the "2016 Variable Interest Entity Restructuring"), the Company primarily conducted its operations through Global Data Solutions Co., Ltd. ("GDS Suzhou"), a wholly owned subsidiary. In order to adapt to the new regulatory requirements in China, the Company completed the 2016 Variable Interest Entity Restructuring in respect of GDS Suzhou whereby GDS Suzhou was converted into a PRC domestic company that is wholly owned by Beijing Wanguo Chang'an Science and Technology Co., Ltd. ("GDS Beijing"). Prior to the internal restructuring, GDS Beijing was a VIE of GDS Suzhou through a series of contractual agreements, including the equity interest pledge agreements, shareholder voting rights proxy agreement, exclusive technology license and service agreements, exclusive call option agreements and loan agreements (collectively, the "VIE Agreements"). The conversion of GDS Suzhou into a PRC domestic company was accomplished by way of transferring all of the equity interests in GDS Suzhou to GDS Beijing. In connection with the internal restructuring, the VIE Agreements between GDS Beijing and GDS Suzhou were terminated and concurrently, new contractual VIE Agreements were entered into between GDS Beijing and GDS Management Company, a newly-established subsidiary of the Company. The terms of the new contractual arrangements between GDS Beijing and GDS Management Company are identical to the terms of the VIE Agreements between GDS Beijing and GDS Suzhou. The 2016 Variable Interest Entity Restructuring in respect of GDS Suzhou was completed on April 13, 2016. The Company continues to be the primary beneficiary of the VIEs following the completion of the internal restructuring.

Since the entities involved in the 2016 Variable Interest Entity Restructuring are all under common control and the Company is the primary beneficiary of GDS Beijing at the time of transfer, the net assets of GDS Suzhou transferred to GDS Beijing is recorded at the same amounts at which the assets and liabilities would have been measured if they had not been transferred. That is, no gain or loss is recognized because of such transfer.

The following is a summary of the contractual VIE Agreements entered among GDS Management Company, the VIEs, and the shareholders of the VIEs.

*Equity Interest Pledge Agreements.* Pursuant to the equity interest pledge agreements, each shareholder of the VIEs has pledged all of his or her equity interest in the VIEs as a continuing first priority security interest, as applicable, to respectively guarantee the VIEs and their shareholders.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 2 PRINCIPLES OF CONSOLIDATION (Continued)

performance of their obligations under the relevant contractual arrangement, which include the exclusive technology license and service agreement, loan agreement, exclusive call option agreement, and shareholder voting rights proxy agreement. If the VIEs or any of their shareholders breach their contractual obligations under these agreements, GDS Management Company, as pledgee, will be entitled to certain rights regarding the pledged equity interests, including receiving proceeds from the auction or sale of all or part of the pledged equity interests of the VIEs in accordance with PRC law. Each of the shareholders of the VIEs agrees that, during the term of the equity interest pledge agreements, he or she will not dispose of the pledged equity interests or create or allow creation of any encumbrance on the pledged equity interests without the prior written consent of GDS Management Company. The equity interest pledge agreements remain effective until the VIEs and their shareholders discharge all their obligations under the contractual arrangements.

*Shareholder Voting Rights Proxy Agreement.* Pursuant to the shareholder voting rights proxy agreements, each shareholder of the VIEs has irrevocably appointed the PRC citizen(s) as designated by GDS Management Company to act as such shareholder's exclusive attorney-in-fact to exercise all shareholder rights, including, but not limited to, voting on all matters of the VIEs requiring shareholder approval, disposing of all or part of the shareholder's equity interest in the VIEs, and appointing directors and executive officers. GDS Management Company is also entitled to change the appointment by designating another PRC citizen(s) to act as exclusive attorney-in-fact of the shareholders of the VIEs with prior notice to such shareholders. Each shareholder voting rights proxy agreement will remain in force for so long as the shareholder remains a shareholder of the VIE.

*Exclusive Technology License and Service Agreements.* Under the exclusive technology license and service agreements, GDS Management Company licenses certain technology to the VIEs and GDS Management Company has the exclusive right to provide the VIEs with technical support, consulting services and other services. Without GDS Management Company's prior written consent, the VIEs agree not to accept the same or any similar services provided by any third party. The VIEs agree to pay service fees on a yearly basis and at an amount equivalent to all of its net profits as confirmed by GDS Management Company. GDS Management Company owns the intellectual property rights arising out of its performance of these agreements. In addition, the VIEs have granted GDS Management Company an exclusive right to purchase or to be licensed with any or all of the intellectual property rights of the VIEs at the lowest price permitted under PRC law. Unless otherwise agreed by the parties, these agreements will continue to remain effective at all times.

*Intellectual Property Rights License Agreement.* Pursuant to an intellectual property rights license agreement between GDS Management Company and GDS Shanghai, GDS Shanghai has granted GDS Management Company an exclusive license to use for free any or all of the intellectual property rights owned by GDS Shanghai from time to time, and without the parties' prior written consent, GDS Shanghai cannot take any actions, including without limitation to, transferring or licensing outside its ordinary course of business any intellectual property rights to any third parties, which may affect or undermine GDS Management Company's use of the licensed intellectual property rights from GDS Shanghai. The parties have also agreed under the agreement that GDS Management Company should own the new intellectual property rights developed by it regardless whether such development is dependent on any of the intellectual property rights owned by GDS Shanghai. This agreement can only

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

2 PRINCIPLES OF CONSOLIDATION (Continued)

be early terminated by prior mutual consent of the parties and need to be renewed upon GDS Management Company's unilateral request.

*Exclusive Call Option Agreements.* Pursuant to the exclusive call option agreements, the shareholders of the VIEs have irrevocably granted GDS Management Company an exclusive option to purchase, or have its designated person or persons to purchase, at its discretion, to the extent permitted under PRC law, all or part of such shareholders' equity interests in the VIEs. The purchase price should equal to the minimum price required by PRC law or such other price as may be agreed by the parties in writing. Without GDS Management Company's prior written consent, the shareholders of the VIEs have agreed that the VIEs shall not amend the articles of association, increase or decrease the registered capital, sell or otherwise dispose of their assets or beneficial interest, create or allow any encumbrance on their assets or other beneficial interests, provide any loans, or distribute dividends to the shareholders. These agreements will remain effective until all equity interests of the VIEs have been transferred or assigned to GDS Management Company or its designated person(s).

*Loan Agreements.* Pursuant to the loan agreements between GDS Management and the shareholders of the VIEs, GDS Management agrees to extend loans in an aggregate amount of RMB310,100 to the shareholders of the VIEs solely for their capitalization or equity contribution into the VIEs. Pursuant to the loan agreements, GDS Management Company has the right to require repayment of the loans upon delivery of thirty-day's prior notice to the shareholders, and the shareholders can repay the loans by either sale of their equity interests in the VIEs to GDS Management Company or its designated person(s) pursuant to their respective exclusive option agreements, or other methods as determined by GDS Management Company pursuant to its articles of association and the applicable PRC laws and regulations.

Under the terms of the VIE Agreements, the Company has (i) the right to receive service fees on a yearly basis at an amount equivalent to all of the net profits of the VIEs under the exclusive technology license and services agreements when such services are provided; (ii) the right to receive all dividends declared by the VIEs and the right to all undistributed earnings of the VIEs; (iii) the right to receive the residual benefits of the VIEs through its exclusive option to acquire 100% of the equity interests in the VIEs, to the extent permitted under PRC law; and (iv) the right to require each of the shareholder of the VIEs to appoint the PRC citizen(s) as designated by GDS Management Company to act as such shareholder's exclusive attorney-in-fact to exercise all shareholder rights, including, but not limited to, voting on all matters of the VIEs requiring shareholder approval, disposing of all or part of the shareholder's equity interest in the VIEs, and appointing directors and executive officers.

In accordance with ASC 810-10-25-38A, the Company has a controlling financial interest in the VIEs because the Company has (i) the power to direct activities of the VIEs that most significantly impact the economic performance of the VIEs; and (ii) the obligation to absorb the expected losses and the right to receive expected residual return of the VIEs that could potentially be significant to the VIEs. The terms of the VIE Agreements and the Company's financial support to the VIEs were considered in determining that the Company is the primary beneficiary of the VIEs. Accordingly, the financial statements of the VIEs are consolidated in the Company's condensed consolidated financial statements.

Under the terms of the VIE Agreements, the VIEs' equity holders have no rights to the net assets nor have the obligations to fund the deficit, and such rights and obligations have been vested to the

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 2 PRINCIPLES OF CONSOLIDATION (Continued)

Company. All of the equity (net assets) or deficits (net liabilities) and net income (loss) of the VIEs are attributed to the Company.

The Company has been advised by its PRC legal counsel that each of the VIE agreements is valid, binding and enforceable in accordance with its terms and applicable PRC laws and the ownership structure of the VIEs does not violate applicable PRC Laws. However, there are substantial uncertainties regarding the interpretation and application of PRC laws and future PRC laws and regulations. There can be no assurance that the PRC authorities will take a view that is not contrary to or otherwise different. If the current ownership structure of the Company and the VIE Agreements are determined to be in violation of any existing or future PRC laws and regulations, the PRC government could:

- Levy fines on the Company or confiscate income of the Company;
- Revoke or suspend the VIEs' business or operating licenses;
- Discontinue or place restrictions or onerous conditions on VIE's operations;
- Require the Company to discontinue their operations in the PRC;
- Require the Company to undergo a costly and disruptive restructuring;
- Take other regulatory or enforcement actions that could be harmful to the Company's business.

The imposition of any of these government actions could result in the termination of the VIE agreements, which would result in the Company losing the (i) ability to direct the activities of the VIEs and (ii) rights to receive substantially all the economic benefits and residual returns from the VIEs and thus result in the deconsolidation of the VIEs in the Company's condensed consolidated financial statements.

The assets and liabilities of the VIEs are presented parenthetically on the face of the condensed consolidated balance sheets. Net revenue, net income, operating, investing and financing cash flows of the VIEs that were included in the Company's condensed consolidated financial statements for the six-month periods ended June 30, 2015 and 2016 are as follows:

	Six-month periods ended June 30,	
	2015	2016
Net revenue	6,634	222,567
Net income	1,489	10,570
Net cash generated from operating activities	3,066	69,705
Net cash used in investing activities	(1,000)	(48,042)
Net cash generated from financing activities	—	26,985

The unrecognized revenue producing assets that are held by the VIEs comprise of internally developed software, intellectual property and trademarks which were not recorded on the Company's condensed consolidated balance sheets as they do not meet all the capitalization criteria.

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

3 PROPERTY AND EQUIPMENT, NET

Property and equipment consisted of the following:

	As at December 31, 2015	As at June 30, 2016
At cost:		
Buildings	1,049,376	1,263,884
Data center equipment	891,089	1,083,391
Leasehold improvement	554,450	901,983
Furniture and office equipment	32,001	27,821
Vehicles	2,728	2,740
	<u>2,529,644</u>	<u>3,279,819</u>
Less: Accumulated depreciation	(421,475)	(487,224)
	<u>2,108,169</u>	<u>2,792,595</u>
Construction in progress	404,518	798,861
Property and equipment, net	<u>2,512,687</u>	<u>3,591,456</u>

The carrying amounts of the Company's property and equipment acquired under capital leases at the respective balance sheet dates were as follows:

	As at December 31, 2015	As at June 30, 2016
At cost:		
Buildings	627,874	1,111,080
Data center equipment	12,718	26,375
	<u>640,592</u>	<u>1,137,455</u>
Less: Accumulated depreciation	(32,061)	(44,465)
	<u>608,531</u>	<u>1,092,990</u>

- (1) Depreciation of property and equipment (including assets acquired under capital leases) was RMB 59,198 and RMB 87,764 for the six-month periods ended June 30, 2015 and 2016, respectively, and included in the following captions:

	Six-month periods ended June 30,	
	2015	2016
Cost of revenue	52,065	80,120
General and administrative expenses	7,003	7,453
Research and development expenses	130	191
	<u>59,198</u>	<u>87,764</u>

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**3 PROPERTY AND EQUIPMENT, NET (Continued)**

- (2) Interest that are directly attributable to the construction of an asset are capitalized as part of the cost of the asset. A reconciliation of total interest costs to "Interest expenses" as reported in the condensed consolidated statements of operations is as follows:

	Six-month periods ended June 30,	
	2015	2016
Total interest costs	61,977	142,808
Less: interest costs capitalized	(667)	(31,324)
Interest expenses	61,310	111,484

**4 INTANGIBLE ASSETS, NET**

Intangible assets consisted of the following:

	As at December 31, 2015	As at June 30, 2016
	Customer relationships	44,822
Favorable lease	15,500	15,500
	60,322	119,822
Less: accumulated amortization	(13,387)	(18,784)
Intangible assets, net	46,935	101,038

Amortization of intangible assets was RMB 4,462 and RMB 5,397 for the six-month periods ended June 30, 2015 and 2016, respectively.

**5 BUSINESS COMBINATION**

On May 19, 2016, the Company acquired all of the equity interests in Guangzhou Weiteng Construction Co., Ltd. ("WTENG") from a third party for cash consideration of RMB129,500, of which RMB 25,900 is outstanding as of June 30, 2016 and payable on May 19, 2017. WTENG is a limited liability company organized and existing under the PRC law and owns a data center project in Guangzhou. At the date of acquisition, the data center has just commenced its operations.

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

5 BUSINESS COMBINATION (Continued)

The identifiable assets acquired and liabilities assumed in the business combination were recorded at their fair value on the acquisition date and consisted of the following major items.

	<u>Note</u>	
Fair value of consideration		129,500
Effective settlement of pre-existing relationships upon consolidation	(i)	43,161
Recognized amounts of identifiable assets acquired and liabilities assumed		
Cash		1,237
Property and equipment	(ii)	281,437
Identifiable intangible assets	(iii)	59,500
Other assets		25,363
Accounts payable		(131,114)
Obligations under capital leases, current		(12,097)
Obligations under capital leases, non-current		(68,584)
Deferred tax liabilities		(21,143)
Other liabilities		(8,361)
Total identifiable net assets		126,238
Goodwill	(iv)	46,423

Note (i): Prior to the acquisition of WTENG, in February and May 2016, the Company lent short-term loans of RMB42,000 to WTENG. The loans bear an interest rate of 10% per annum and mature in September 2016. No gain or loss was recognized from the effective settlement of such pre-existing relationship between the Company and WTENG. At the acquisition date, the amount due from WTENG of RMB 43,161, including interest receivable of RMB1,161, is eliminated upon consolidation.

Note (ii): Property and equipment acquired included properties and equipment acquired under capital lease of RMB102,785, data center equipment of RMB19,895, leasehold improvement of RMB132,462 and construction in progress of RMB26,295.

Note (iii): Identifiable intangible assets acquired consisted of customer relationships of RMB59,500 with an estimated useful life of 7 to 8 years.

Note (iv): Goodwill represents the excess of the purchase price over the fair value of the net tangible and intangible assets acquired in the acquisition of WTENG. Goodwill is assigned to the design, build-out and operation of data centers reporting unit. The goodwill is not deductible for tax purposes.

The amounts of net revenue and net income of WTENG included in the Company's condensed consolidated statements of operations from the acquisition date to June 30, 2016 amounted to RMB6,400 and RMB613, respectively.

Supplemental pro forma financial information as if the acquisition had occurred as of the earliest date presented has not been provided as the WTENG acquisition is not material to the Company's results of operations.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**6 OTHER NON-CURRENT ASSETS**

In April 2016, the Company entered into a memorandum of understanding with a third party in respect of a potential acquisition of a data center and paid a deposit of RMB15,000 to the third party. The final purchase price and other major terms of the acquisition have not yet been agreed, as negotiations are at an early stage and due diligence has not been completed. If the acquisition is not consummated within 12 months of the date of the memorandum of understanding, RMB5,000 of the deposit amount will be refunded to the Company and the remainder will be forfeited.

**7 INCOME TAX**

The income tax benefits for the six-month periods ended June 30, 2015 and 2016 were RMB 6,641 and RMB 6,464, respectively. The Company's effective tax rates for the six-month periods ended June 30, 2015 and 2016 were 12.3% and 4.0%, respectively.

The actual income tax expense reported in the condensed consolidated statements of operations differs from the amount computed by applying the PRC statutory income tax rate to loss before income taxes, which is primarily due to the tax effect of non-PRC entities not being subject to income tax. Pursuant to the rules and regulations of the Cayman Islands, GDS Holdings and its subsidiaries incorporated in the Cayman Islands are not subject to any income tax.

**8 LOANS AND BORROWINGS**

The Company's borrowings consisted of the following:

	As at December 31, 2015	As at June 30, 2016
Short-term borrowings	333,000	390,000
Current portion of long-term borrowings	95,218	309,394
Sub-total	428,218	699,394
Long-term borrowings, excluding current portion	958,264	825,392
Total loans and borrowings	1,386,482	1,524,786



GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

8 LOANS AND BORROWINGS (Continued)

**Short-term borrowings**

The Company's short-term borrowings consisted of the following:

	As at December 31, 2015	As at June 30, 2016
Unsecured short-term loans and borrowings	60,000	
Secured short-term loans and borrowings	273,000	390,000
	<u>333,000</u>	<u>390,000</u>

(i) Short-term borrowings were secured by the following assets:

	As at December 31, 2015	As at June 30, 2016
Accounts receivable	20,221	15,885
Property and equipment, net	144,540	239,504
Prepaid land use rights, net	14,602	14,436
	<u>179,363</u>	<u>269,825</u>

(ii) The weighted average interest rates of short-term borrowings were 6.91% and 5.70% per annum for the six-month periods ended June 30, 2015 and 2016, respectively.

(iii) Short-term loans of RMB 247,000 and RMB 264,000 as of December 31, 2015 and June 30, 2016, respectively, are guaranteed by William Wei Huang, a director and CEO of the Company.

**Long-term borrowings**

The Company's long-term borrowings consisted of the following:

	As at December 31, 2015	As at June 30, 2016
Unsecured long-term loans and borrowings	2,844	414
Secured long-term loans and borrowings	1,050,638	1,134,372
	<u>1,053,482</u>	<u>1,134,786</u>

(i) The weighted average interest rates of long-term borrowings were 9.93% and 8.48% per annum for the six-month periods ended June 30, 2015 and 2016, respectively.

(ii) Long-term borrowings were secured by the following assets:

	As at December 31, 2015	As at June 30, 2016
Accounts receivable	22,290	89,101
Property and equipment, net	434,934	434,418
Prepaid land use rights, net	6,381	6,308
	<u>463,605</u>	<u>529,827</u>

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 8 LOANS AND BORROWINGS (Continued)

- (iii) Long-term loans of RMB 194,955 and RMB 193,955 as of December 31, 2015 and June 30, 2016 are guaranteed by William Wei Huang.
- (iv) The aggregate maturities of the above long-term borrowings for each for the five years and thereafter subsequent to June 30, 2016 are as follows:

	Long-term borrowings
Twelve-months ending June 30,	
2017	309,394
2018	175,959
2019	202,950
2020	223,583
2021	172,791
Thereafter	50,109
	<u>1,134,786</u>

As of June 30, 2016, the particulars of the total secured long-term loans and borrowings of RMB1,134,372, were as follows:

- i) In 2009, a subsidiary of the Company entered into a thirteen-year entrusted credit facility for a principal amount of RMB322,000 with the local government through a third party bank. As of June 30, 2016, the outstanding loan under such credit facility was RMB211,109, and the effective interest rate of the loan was 4.9% per annum. The facility was secured by prepaid land use right with a carrying amount of RMB6,308 as of June 30, 2016.
- ii) In 2014, a subsidiary of the Company entered into an entrusted credit facility of RMB200,000 with a third party lender through a third party bank. As of June 30, 2016, the outstanding loan under such credit facility was RMB199,700, and the interest rate of the loan was 18% per annum. The facility was secured by accounts receivables with a carrying amount of RMB17,030 as of June 30, 2016. The loan contains financial covenants, which require that the subsidiary's outstanding loans (exclusive of this entrusted loan and any other entrusted loans) should be within a range of RMB130,000 and RMB240,000 (the "borrowing range") and the total pledged assets not exceeding RMB20,000. On March 31, 2015, the subsidiary's outstanding loans exceeded RMB240,000 and total pledged assets exceeded RMB20,000. On June 10, 2015, the subsidiary obtained a waiver letter from the creditor that waived the covenant violations. The creditor and the subsidiary also agreed to revise the acceptable outstanding borrowings in a range of RMB130,000 and RMB360,000 and removed the restriction on the pledged assets. As of June 30, 2016, the Company was in compliance with such covenants.
- iii) In 2015, a subsidiary of the Company entered into a six-year credit facility with a third party bank amounting to RMB290,000. As of June 30, 2016, the outstanding loan under such credit facility was RMB180,455, and the effective interest rate of the loan was 5.94% per annum. The facility is guaranteed by William Wei Huang, a director and CEO of the Company and secured by property and equipment with carrying amount value of RMB143,055 as of June 30, 2016.
- iv) In 2015 and 2016, two subsidiaries of the Company entered into loan facilities with third party banks in the aggregate amount of RMB650,000. As of June 30, 2016, the outstanding loans under such credit facilities were RMB504,608 (net of debt issuance costs), and the effective interest rate

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**8 LOANS AND BORROWINGS (Continued)**

of the loans was 6.18%- 6.56% per annum. The outstanding loans under such credit facilities are secured by accounts receivables and property and equipment with a carrying amount of RMB72,071 and RMB155,543 as of June 30, 2016, respectively. The outstanding loans contain a limit on the amount of capital expenditures to be incurred for the construction of the data centers and mature in 2020. The outstanding loans are required to be repaid in full prior to the maturity date in the event 1) Singapore Technologies Telemedia Limited of Singapore, the parent company of STT GDC Pte. Ltd. (a principal shareholder of the Company), ceases to own and control, directly or indirectly, at least 40% of the equity interest in the Company prior to an initial public offering (IPO) or 30% of the equity interest in the Company after an IPO, or ceases to be the single largest shareholder of the Company, (2) the Company ceases to own and control, directly or indirectly, 100% of the equity interest of the borrowing subsidiaries, (3) there are changes in the shareholding structure of a principal operating subsidiary, as defined in the loan agreements or (4) William Wei Huang, the founder, chairman and chief executive officer of the Company, ceases to own and control, directly or indirectly, at least 99.96% of the equity interest of GDS Beijing. In addition, under the terms of the loans, upon the completion of the Company's IPO, the Company is required to repay RMB127,185 of the outstanding loan principal amount based on the principal amount outstanding as of June 30, 2016. The loan facilities include a cross-default provision which would be triggered if the Company fails to repay any financial indebtedness of RMB30,000 or more when due or within any originally applicable grace period. As of June 30, 2016, the Company was in compliance with these covenants.

- v) As of June 30, 2016, there were two secured long-term loans and borrowings outstanding in the aggregate amount of RMB38,500 (RMB13,500 and RMB25,000). The loans mature in 2017, are secured by property and equipment with carrying amount of RMB135,820 as of June 30, 2016, and do not contain any financial covenants. In addition, the RMB13,500 loan is guaranteed by William Wei Huang, a director and CEO of the Company. The effective interest rates of the RMB13,500 loan and RMB25,000 loan were 5.39% and 5.15% per annum, respectively.

In June 2016, two subsidiaries of the Company entered into loan facilities with third party banks in the aggregate amount of RMB1,135,000. As of June 30, 2016, the Company has not drawn down any amount under such loan facilities. The loan facilities are required to be repaid in full prior to the maturity date in the event (1) STT Communications Ltd. ceases to, directly or indirectly, own at least 50.1% of equity interests of STT GDC Pte. Ltd., (2) STT GDC Pte. Ltd. ceases to own and control, directly or indirectly, at least 40% of the equity interest in the Company prior to an IPO or 30% of the equity interest in the Company after an IPO, or ceases to be the single largest shareholder of the Company, (3) the Company ceases to, directly or indirectly, own or control 100% of the borrowing subsidiaries, (4) there are changes in the shareholding structure of a principal operating subsidiary, as defined in the loan agreements or, (5) William Wei Huang ceases to, directly or indirectly, own at least 99.9% of the equity interests of GDS Beijing. In addition, the loan facilities include a cross default provision which would be triggered if the Company fails to repay any financial indebtedness in an aggregate amount of RMB50,000 or more when due or within any originally applicable grace period.

As of June 30, 2016, the Company has total working capital and project financing credit facilities of RMB2,920,723 from various banks, of which the unused amount was RMB1,375,359. As of June 30, 2016, the Company drew down RMB1,545,364, of which RMB390,000 was recorded in short-term

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 8 LOANS AND BORROWINGS (Continued)

loans and borrowing and RMB1,134,786 (net of debt issuance costs of RMB20,578) was recorded in long-term loans and borrowing, respectively. Draw downs from the credit facility are subject to the approval of the banks and are subject to the terms and conditions of each agreement.

## 9 LEASE

*Capital leases*

The Company's capital lease obligations are summarized as follows:

	December 31, 2015		June 30, 2016	
	Present value of minimum lease payments	Total minimum lease payments	Present value of minimum lease payments	Total minimum lease payments
Within 1 year	48,745	51,591	71,919	75,716
After 1 year but within 2 years	52,034	60,019	92,083	104,755
After 2 years but within 3 years	51,693	64,938	88,131	109,292
After 3 years but within 4 years	50,456	69,089	86,387	115,817
After 4 years but within 5 years	108,637	172,079	140,609	211,485
After 5 years	162,119	395,251	466,762	1,177,423
	424,939	761,376	873,972	1,718,772
	473,684	812,967	945,891	1,794,488
Less: total future interest expenses		(339,283)		(848,597)
Present value of lease obligations		473,684		945,891
Including:				
Current portion		48,745		71,919
Non-current portion		424,939		873,972

The Company's capital leases expire at various dates ranging from 2020 to 2035. The weighted average effective interest rate of the Company's capital leases was 9.04% and 8.14% for the six-month periods ended June 30, 2015 and 2016, respectively.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 9 LEASE (Continued)

*Operating leases*

The Company leases data centers, offices and other equipment that are classified as operating leases. The majority of the Company's operating leases expire at various dates through 2035.

Future minimum operating lease payments as of June 30, 2016 are summarized as follows:

Twelve-months ending June 30,	
2017	121,761
2018	88,287
2019	74,960
2020	66,406
2021	42,601
Thereafter	442,636
Total	836,651

Rental expenses were approximately RMB62,518 and RMB62,854 for the six-month periods ended June 30, 2015 and 2016, respectively. The Company did not sublease any of its operating leases for the six-month periods presented.

## 10 CONVERTIBLE BONDS PAYABLE

On December 30, 2015, the Company entered into a subscription agreement with two investors (referred to as "PA investor" and STT GDC Pte. Ltd or "STT GDC") for Convertible Bonds due 2019 in an aggregate principal amount of US\$250,000 for cash in four tranches. On December 30, 2015 and January 29, 2016, the Company received the first tranche of US\$100,000 (RMB 648,950) from PA investor and the second tranche of US\$50,000 (RMB327,580) from STT GDC, respectively. US\$10,475 (RMB68,653) of the second tranche was used to settle an outstanding short-term loan of US\$10,000 (RMB65,474) and related interest payable of US\$475 (RMB3,179) to STT GDC.

## 11 Other long-term liabilities

Other long-term liabilities consisted of the following:

	As at December 31, 2015	As at June 30, 2016
Payables for purchase of property and equipment	31,152	103,615
Accrued interests	25,810	23,808
Deferred government grants	16,268	15,237
Others	5,775	9,189
Total	79,005	151,849

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**12 REDEEMABLE PREFERRED SHARES**

There was no new issuance or extinguishment of redeemable preferred shares during the six-month period ended June 30, 2016.

A summary of the authorized, issued and outstanding preferred shares as of June 30, 2016 is as follows:

Series	Shares authorized	Shares issued and outstanding	Carrying amount	Redemption value
Series A	29,635,045	29,635,045	111,841	111,841
Series A*	6,916,645	6,916,645	39,575	7,018
Series B	2,576,483	2,576,483	17,543	17,543
Series B1	11,527,742	11,527,742	80,148	57,016
Series B2	10,435,639	10,435,639	67,419	49,696
Series B4	14,076,620	14,076,620	87,477	49,708
Series B5	35,395,262	35,393,262	270,785	270,785
Series C	240,000,000	238,526,241	1,824,329	1,824,329
Total	350,563,436	349,087,677	2,499,117	2,387,936

The changes in the redemption value of the redeemable preferred shares were RMB55,462 and RMB57,869, for the six-month periods ended June 30, 2015 and 2016, respectively.

**13 SHARE-BASED COMPENSATION**

The Company adopted the 2014 Equity Incentive Plan ("the 2014 Plan") in July 2014 for the granting of share options to key employees, directors and external consultants in exchange for their services. The total number of shares, which may be issued under the 2014 Plan, is 29,240,000 shares.

In January 2015, the Company granted 1,000,000 share options to an external consultant at an exercise price of US\$0.7792 (RMB4.8) per option. The options vest every six months in six equal instalments for future ongoing services. The options have a contractual term of five years. During the six-month period ended June 30, 2016, 166,667 share options vested.

On May 1, 2016, the Company granted 11,084,840 share options to employees, officers and directors. These share options were fully vested upon the date of grant for past services and have an exercise price of US\$0.7792 (RMB 5.0328) per option. The options have a contractual term of five years. The Company recognized share-based compensation expenses of RMB56,340 related to the fully vested shares on the grant date.

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

13 SHARE-BASED COMPENSATION (Continued)

A summary of the option activity is as follows:

	Number of options	Weighted average exercise price (RMB)	Weighted average grant-date fair value per option (RMB)
Options outstanding at January 1, 2016	17,193,534	4.8	1.9
Granted	11,251,507	5.2	4.9
Forfeited	(152,241)	4.8	1.9
Options outstanding at June 30, 2016	<u>28,292,800</u>	5.2	3.2
Options vested and expect to vest at June 30, 2016	<u>28,292,800</u>	5.2	3.2

As of December 31, 2015 and June 30, 2016, 1,066,667 and 900,000 forfeitable and unvested non-employee options, respectively, were treated as unissued for accounting purposes. As of June 30, 2016, there were no unvested employee stock options.

A summary of share-based compensation expenses for the six-month periods ended June 30, 2015 and 2016 is as follows:

	Six-month period ended June 30,	
	2015	2016
Costs of revenue	467	1,169
Selling and marketing expenses	303	5,159
General and administrative expenses	<u>2,396</u>	<u>50,859</u>
Total share-based compensation expenses	<u>3,166</u>	<u>57,187</u>

The fair value of the options granted is estimated on the date of grant using the binomial option pricing model with the following assumptions used.

Grant date:	May 2016
Risk-free rate of return	1.98%
Volatility	28.50%
Expected dividend yield	—
Exercise multiple	2.20
Fair value of underlying ordinary share	US\$1.51 (RMB 9.8)
Expected term	5 years

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**13 SHARE-BASED COMPENSATION (Continued)**

## (1) Volatility

The volatility of the underlying ordinary shares during the lives of the options was estimated based on the historical stock price volatility of comparable listed companies over a period comparable to the expected term of the options.

## (2) Risk-free interest rate

Risk-free interest rate was estimated based on the yield to maturity of China international government bonds with a maturity period close to the expected term of the options.

## (3) Dividend yield

The dividend yield was estimated by the Company based on its expected dividend policy over the expected term of the options.

## (4) Exercise multiple

Exercise multiple represents the value of the underlying share as a multiple of exercise price of the option, which, if achieved, results in exercise of the option.

## (5) Fair value of underlying ordinary shares

The estimated fair value of the ordinary shares underlying the options as of the respective grant dates was determined based on a retrospective valuation with the assistance of a third party appraiser.

**14 REVENUE**

Net revenue consisted of the following:

	Six-month periods ended June 30,	
	2015	2016
Service revenue	291,777	436,394
Equipment sales	13,017	10,741
	<u>304,794</u>	<u>447,135</u>

During the six-month period ended June 30, 2015, the Company had one customer, which generated over 10% of the Company's total revenues or RMB68,062. During the six-month period ended June 30, 2016, the Company had three customers, which generated over 10% of the Company's total revenues or RMB76,253, RMB58,329 and RMB45,671, respectively.



## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 15 START-UP COSTS

Pre-operating or start-up costs incurred prior to operating a new data center are expensed as incurred and consist primarily of rental costs of operating leases of buildings during the construction of leasehold improvements and other miscellaneous costs incurred prior to the operation of the data centers. Start-up costs amounted to RMB11,643 and RMB5,974 and were recorded in general and administrative expenses during the six-month periods ended 30 June, 2015 and 2016, respectively.

## 16 LOSS PER ORDINARY SHARE

The computation of basic and diluted loss per share is as follows:

	Six-month periods ended June 30,	
	2015	2016
Net loss	47,264	154,197
Change in redemption value of redeemable preferred shares	55,462	57,869
Cumulative dividend on preferred shares (i)	3,564	3,725
Net loss available to ordinary shareholders	106,290	215,791
Weighted average number of ordinary shares outstanding-basic and diluted	217,987,922	217,987,922
Loss per ordinary share—basic and diluted	(0.49)	(0.99)

Note (i): Represents undeclared dividends on redeemable preferred shares that are cumulative and not included in the carrying amount of the redeemable preferred shares.

The following securities were excluded from the computation of diluted loss per share as inclusion would have been anti-dilutive.

	Six-month periods ended June 30,	
	2015	2016
Share options	17,026,867	28,292,800
Convertible bonds payable	—	91,681,348
Redeemable preferred shares	349,087,677	349,087,677
Total	366,114,544	469,061,825

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 17 COMMITMENTS

Capital commitments outstanding at December 31, 2015 and June 30, 2016 not provided for in the financial statements were as follows:

	As at December 31, 2015	As at June 30, 2016
Contracted for	272,958	733,262

## 18 RELATED PARTY TRANSACTIONS

On January 29, 2016, STT GDC subscribed the second tranche of Convertible Bonds due 2019 amounting to US\$50,000 (RMB327,580), of which US\$10,475 (RMB68,653) was used to repay an equal amount of the outstanding short-term loan and related interest payable. The interest expenses on the loan amounted to US\$78 (RMB 511) during the six-month period ended June 30, 2016.

## 19 SUBSEQUENT EVENTS

## (a) Restructuring of EDC Shanghai Waigaoqiao

Prior to August 9, 2016, Shanghai Waigaoqiao EDC Technology Co, Ltd., or EDC Shanghai Waigaoqiao, was a wholly owned subsidiary of the Company. In order to adapt to the new regulatory requirements in China, on August 9, 2016, the Company converted EDC Shanghai Waigaoqiao into a PRC domestic company by way of transferring all of the equity interests in EDC Shanghai Waigaoqiao to GDS Beijing. Since the entities involved in the transfer are all under common control and the Company is the primary beneficiary of GDS Beijing at the time of transfer, the net assets of EDC Shanghai Waigaoqiao transferred to GDS Beijing is recorded at the same amounts at which the assets and liabilities would have been measured if they had not been transferred. That is, no gain or loss is recognized because of the transfer.

## (b) 2016 Equity Incentive Plan

The Company adopted the 2016 Equity Incentive Plan ("the 2016 Plan") in August 2016 for the granting of share options, stock appreciation rights and other stock-based award (collectively referred to as the "Awards") to key employees and directors. The maximum aggregate number of shares, which may be subject to Awards under the Plan, is 56,707,560.

In August 2016, the Company granted 877,400 fully vested restricted shares in lieu of cash to its directors to settle a portion of their remuneration for services provided by the directors in the past. Based on the Company's best estimate, the fair value of the restricted shares was approximately US\$1.51 (RMB9.8) per share. Fifty percent (50%) of the restricted shares may not be sold or otherwise disposed of for one year from the grant date. The Company is evaluating the fair values of the restricted shares. Upon completion of the fair value analysis, management will revise these estimates and such revisions are not expected to be materially different from these current estimates.

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

## 19 SUBSEQUENT EVENTS (Continued)

(c) *Preference Dividend*

On September 29, 2016, the Board of Directors of the Company declared and approved the payment of the cumulative preference dividend on the Company's preferred shares. The entitlement to, and payment of the dividend is conditional on the completion of the Qualified IPO. The amount of the preference dividend to be paid is calculated based on the annual rate of 6% from the date of the issuance of the respective preferred shares to the date of the Qualified IPO. The preference dividend is to be paid in either cash or ordinary shares of the Company as elected by each preferred shareholder. The number of ordinary shares to be issued to pay the preference dividends is determined based on the initial public offering price of the Company's ordinary shares and the dividend amount elected by the preferred shareholder to be paid in ordinary shares. The shareholders of Series A, A\*, B, B1, B2 redeemable preferred shares have elected to receive the dividend in cash upon the completion of the Qualified IPO, and the shareholders of Series B4, B5 and C redeemable preferred shares have elected to receive the dividend in ordinary shares of the Company upon the completion of the Qualified IPO.

d) *New Loan Facilities*

In September 2016, a subsidiary of the Company entered into a facility agreement with a third party bank for a total amount of RMB220,000. The securities for the loan include, among others, the subsidiary's accounts receivables and property and equipment. The loans are required to be repaid in full prior to the maturity date in the event (i) STT Communications Ltd. ceases to, directly or indirectly, own at least 50.1% of equity interests of STT GDC, (ii) STT GDC ceases to own and control, directly or indirectly, at least 40% of the equity interests in the Company prior to an IPO or 30% of the equity interests in the Company after an IPO, or ceases to be the single largest shareholder of the Company, (iii) the Company ceases to, directly or indirectly, own or control 100% of the borrowing subsidiary, (iv) there are changes in the shareholding structure of a principal operating subsidiary, as defined in the loan agreement or (v) William Huang ceases to, directly or indirectly, own at least 99.9% of the equity interests of GDS Beijing. In addition, the loan facility includes a cross default provision which would be triggered if the Company fails to repay any financial indebtedness in an aggregate amount of RMB50,000 or more when due or within any originally applicable grace period. As of September 30, 2016, the outstanding loan under such facility was RMB71,384 with an effective interest rate of 6.41% per annum.

In September 2016, two subsidiaries of the Company entered into loan facilities with third party banks in a total amount of RMB1,135,000, for the purpose of (i) replacing an existing term loan facility agreement entered into in June 2016, and (ii) financing the subsidiaries' data center projects and working capital requirements. The securities for the loan include, among others, the subsidiaries' accounts receivables and property and equipment. The loans are required to be repaid in full prior to the maturity date in the event (i) STT Communications Ltd. ceases to, directly or indirectly, own at least 50.1% of equity interests of STT GDC, (ii) STT GDC ceases to own and control, directly or indirectly, at least 40% of the equity interests in the Company prior to an IPO or 30% of the equity interests in the Company after an IPO, or ceases to be the single largest shareholder of the Company, (iii) the Company ceases to, directly or indirectly, own or control 100% of the borrowing subsidiary, (iv) there are changes in the shareholding structure of a principal operating subsidiary, as defined in

## GDS HOLDINGS LIMITED AND SUBSIDIARIES

## Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

**19 SUBSEQUENT EVENTS (Continued)**

the loan agreement or (v) William Huang ceases to, directly or indirectly, own at least 99.9% of the equity interests of GDS Beijing. In addition, the loan facility includes a cross default provision which would be triggered if the Company fails to repay any financial indebtedness in an aggregate amount of RMB50,000 or more when due or within any originally applicable grace period. As of September 30, 2016, the outstanding loan under such facility was RMB752,583 with a weighted average effective interest rate of 6.17% per annum.

Management has considered subsequent events through October 4, 2016, which was the date these condensed consolidated financial statements were issued.

**20 PRO FORMA INFORMATION (UNAUDITED)**

Each Series A, A\*, B, B1, B2, B4, B5 and C redeemable preferred share is automatically converted into one ordinary share upon the consummation of a Qualified IPO.

On September 29, 2016, the Board of Directors of the Company declared and approved the payment of the cumulative preference dividend on the Company's preferred shares. The amount of the preference dividend to be paid is calculated based on the annual rate of 6% from the date of the issuance of the respective preferred shares to the date of the Qualified IPO. The preference dividend is to be paid in either cash or ordinary shares of the Company as elected by each preferred shareholder. The number of ordinary shares to be issued to pay the preference dividends is determined based on the initial public offering price of the Company's ordinary shares and the dividend amount elected by the preferred shareholder to be paid in ordinary shares. The shareholders of Series A, A\*, B, B1, B2 redeemable preferred shares have elected to receive the dividend in cash upon the completion of the Qualified IPO, and the shareholders of Series B4, B5 and C redeemable preferred shares have elected to receive the dividend in ordinary shares of the Company upon the completion of the Qualified IPO.

The unaudited pro forma information has been computed, assuming 1) the conversion of the redeemable preferred shares into ordinary shares occurred on June 30, 2016 (excluding effects of offering proceeds) and 2) the preference dividend on the preferred shares were declared and payable on June 30, 2016 and as if the Qualified IPO occurred on June 30, 2016.

	As at June 30, 2016	
	Actual	Pro forma
Total liabilities	4,380,909	4,675,172
Redeemable preferred shares	2,499,117	—
Shareholders' (deficit) equity		
Ordinary shares	76	189
Additional paid-in capital	302,939	2,544,709
Accumulated other comprehensive loss	(112,525)	(112,525)
Accumulated deficit	(736,450)	(773,479)
Total shareholders' (deficit) equity	(545,960)	1,658,894

On a pro forma basis, upon conversion, the carrying amounts of the Series A, A\*, B, B1, B2, B4, B5 and C redeemable preferred shares as of June 30, 2016 are classified in shareholders' equity under

GDS HOLDINGS LIMITED AND SUBSIDIARIES

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(In thousands, except share data and per share data, or otherwise noted)

20 PRO FORMA INFORMATION (UNAUDITED) (Continued)

ordinary shares (for the par value) and additional paid-in capital (for the excess of the carrying value of the redeemable preferred shares over the par value). In addition, on a pro forma basis, the accumulated deficit and the carrying value of the redeemable preferred shares (prior to the automatic conversion into ordinary shares) were adjusted to reflect the preference dividends as if the preference dividends were declared and payable on June 30, 2016 and as if the Qualified IPO occurred on June 30, 2016.

Pro forma loss per share is not presented because the effect of (i) the conversion of the outstanding redeemable preferred shares into ordinary shares using a conversion ratio of one-to-one, (ii) the number of ordinary shares that will be issued to pay the dividend, and (iii) the number of ordinary shares whose proceeds will be used to pay the cash portion of the dividend is not material to the historical loss per share for the six-month period ended June 30, 2016 and year ended December 31, 2015. The pro forma effect of including the number of ordinary shares (i) for the automatic conversion of the outstanding redeemable preferred shares, (ii) to pay the preference dividend in ordinary shares, and (iii) whose proceeds will to be used to pay the cash portion of the preference dividend would not have resulted in a pro forma net loss per share greater than the actual basic net loss per share for the six-month period ended June 30, 2016 and the year ended December 31, 2015.

INDEPENDENT AUDITORS' REPORT

The Board of Directors  
EDC Holding Limited:

**Report on the Financial Statements**

We have audited the accompanying consolidated statement of comprehensive loss and the consolidated statement of cash flows of EDC Holding Limited and subsidiaries for the six-month period ended June 30, 2014, and the related notes (the consolidated financial statements).

**Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with U.S. generally accepted accounting principles; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the consolidated financial statements that are free from material misstatement, whether due to fraud or error.

**Auditors' Responsibility**

Our responsibility is to express an opinion on these consolidated financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

**Opinion**

In our opinion, the consolidated financial statements referred to above presents fairly, in all material respects, the results of the operations and the cash flows of EDC Holding Limited and subsidiaries for the six-month period ended June 30, 2014 in accordance with U.S. generally accepted accounting principles.

/s/ KPMG Huazhen LLP

Shanghai, China  
May 20, 2016

**EDC HOLDING LIMITED AND SUBSIDIARIES**  
**Consolidated Statement of Comprehensive Loss**  
**(In thousands)**

	Note	Six-month period ended June 30, 2014
Net revenue (including net revenue from related parties of RMB60,723)	4	67,257
Cost of revenue		(75,746)
Gross loss		(8,489)
Operating expenses		
Selling and marketing expenses		(4,112)
General and administrative expenses		(24,134)
Loss from operations		(36,735)
Other income (expenses):		
Interest income		924
Interest expenses		(29,940)
Foreign currency exchange gain, net		192
Government grants		1,630
Gain on remeasurement of equity investment	3	5,568
Loss before income taxes		(58,361)
Income tax expenses	5	—
Net loss		(58,361)
Other comprehensive loss:		
Foreign currency translation adjustments, net of nil tax		(2,648)
Comprehensive loss		(61,009)

See accompanying notes to consolidated financial statements.

## EDC HOLDING LIMITED AND SUBSIDIARIES

## Consolidated Statement of Cash Flows

(In thousands)

	Six-month period ended June 30, 2014
<b>Cash flows from operating activities:</b>	
Net loss	(58,361)
Adjustments to reconcile net loss to net cash used in operating activities:	
Depreciation and amortization	35,212
Net gain on disposal of property and equipment	(1,109)
Gain on remeasurement of equity investment	(5,568)
<b>Changes in operating assets and liabilities, net of effect of an acquisition:</b>	
Decrease of accounts receivable	192
Increase of due from related parties	(6,360)
Decrease of value added tax recoverable	109
Increase of prepaid expenses	(140)
Decrease of other current assets	13,394
Increase of other non-current assets	(755)
Decrease of accounts payable	(8,767)
Decrease of due to related parties	(65,367)
Increase of deferred revenue	581
Increase of accrued expenses and other payables	19,841
Decrease of other long-term liabilities	(97)
<b>Net cash used in operating activities</b>	<b>(77,195)</b>

See accompanying notes to consolidated financial statements.



**EDC HOLDING LIMITED AND SUBSIDIARIES**  
**Consolidated Statement of Cash Flows (Continued)**  
**(In thousands)**

	<b>Six-month period ended June 30, 2014</b>
<b>Cash flows from investing activities:</b>	
Payments for purchase of property and equipment	(157,453)
Cash acquired from the acquisition of MPI	3,677
Proceeds from sale of property and equipment	8,128
<b>Net cash used in investing activities</b>	<b>(145,648)</b>
<b>Cash flows from financing activities:</b>	
Proceeds from short-term borrowings	30,000
Repayment of short-term borrowings	(8,000)
Repayment of long-term borrowings	(43,682)
Proceeds from loans from a related party	307,048
Repayment of loan from a related party	(24,388)
Payment under capital lease obligations	(11,398)
<b>Net cash provided by financing activities</b>	<b>249,580</b>
Effect of exchange rate changes on cash	1,578
<b>Net increase in cash</b>	<b>28,315</b>
Cash at beginning of period	12,684
Cash at end of period	40,999
<b>Supplemental disclosures of cash flow information</b>	
Interest paid	19,867
Income tax paid	—
<b>Supplemental disclosures of non-cash investing activities</b>	
Payables for purchase of property and equipment	117,258
Consideration payable for the acquisition of MPI	13,592

See accompanying notes to consolidated financial statements.

**EDC HOLDING LIMITED AND SUBSIDIARIES**

**Notes to Consolidated Financial Statements**

(In thousands)

**1. DESCRIPTION OF BUSINESS, ORGANIZATION AND BASIS OF PRESENTATION**

**(a) Description of business**

EDC Holding Limited ("EDC Holding") was incorporated in the Cayman Islands on August 21, 2008. EDC Holding and its consolidated subsidiaries (collectively referred to as "the Company") are principally engaged in providing colocation services in the People's Republic of China (the "PRC"). During the six-month period ended June 30, 2014, the Company's total revenue was primarily from related parties (see note 8).

On June 30, 2014, GDS Holdings Limited ("GDS Holdings") issued its equity interests to acquire all the ordinary and preferred equity interests in the Company from the shareholders of the Company. On that date, GDS Holdings obtained control to govern the financial and operational policies of the Company and obtain benefits from the activities of the Company.

**(b) Basis of presentation**

The accompanying consolidated statement of comprehensive loss and consolidated statement of cash flows for the six-month period ended June 30, 2014 have been prepared in accordance with U.S. generally accepted accounting principles ("US GAAP"). The accompanying consolidated financial statements is not a full set of financial statements, as a consolidated balance sheet and a consolidated statement of changes in equity, and the related notes are not presented.

The Company has prepared the accompanying consolidated financial statements to fulfil the rules and requirements of S-X Rule 3-05 of the Securities and Exchange Commission ("SEC") in connection with GDS Holdings' filing of its initial registration statement with the SEC. Pursuant to S-X Rule 3-05, the period of time in which the results of operations of the Company are included in GDS Holdings' audited statements of operations may be applied to reduce the number of periods for which pre-acquisition statements of operations of the Company are required. Upon the acquisition of the Company by GDS Holdings, the results of operations of the Company are included in GDS Holdings' audited consolidated financial statements for the two-year period ended December 31, 2015, which are included elsewhere herein.

The consolidated financial statements are presented in Renminbi ("RMB"), rounded to the nearest thousand.

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**(a) Principles of Consolidation**

The accompanying consolidated financial statements include the financial statements of EDC Holding Limited and its subsidiaries. All significant intercompany balances and transactions are eliminated in consolidation. As of January 1, 2014 and the six-month period ended, the Company had no involvement nor held any variable interest in a variable interest entity.

**(b) Use of estimates**

The preparation of consolidated financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date

## EDC HOLDING LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands)

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Significant items subject to such estimates and assumptions include, but are not limited to, the useful lives of long-lived assets, the fair values of assets acquired and liabilities assumed in a business combination, the allowance for doubtful accounts receivable, the realization of deferred income tax assets, the recoverability of long-lived assets and the fair value of the asset retirement obligation. Changes in facts and circumstances may result in revised estimates. Actual results could differ from those estimates, and as such, differences may be material to the consolidated financial statements.

**(c) Cash and cash equivalent**

The Company considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents. The Company does not have any cash equivalents as of June 30, 2014.

**(d) Restricted cash**

Restricted cash represents amounts held by banks, which are not available for the Company's use, as security for issuance of commercial acceptance notes relating to purchase of property and equipment, letters of guarantee or bank borrowings. Upon maturity of the commercial acceptance notes, letters of guarantee and repayment of bank borrowings, the deposits are released by the bank and become available for general use by the Company. Restricted cash is reported within cash flows from operating, investing or financing activities in the consolidated statement of cash flows with reference to the purpose of the restriction.

**(e) Fair value of financial instruments**

The Company utilizes valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible. The Company determines fair value based on assumptions that market participants would use in pricing an asset or liability in the principal or most advantageous market. When considering market participant assumptions in fair value measurements, the following fair value hierarchy distinguishes between observable and unobservable inputs, which are categorized in one of the following levels:

- Level 1 Inputs: Unadjusted quoted prices in active markets for identical assets or liabilities accessible to the reporting entity at the measurement date.
- Level 2 Inputs: Other than quoted prices included in Level 1 inputs that are observable for the asset or liability, either directly or indirectly, for substantially the full term of the asset or liability.
- Level 3 Inputs: Unobservable inputs for the asset or liability used to measure fair value to the extent that observable inputs are not available, thereby allowing for situations in which there is little, if any, market activity for the asset or liability at measurement date.

As of and during the six-month period, the Company had no financial asset and financial liability that was recognized at fair value on a recurring basis. The Company's non-financial assets, which include long-lived assets, intangible assets, and property and equipment are reported at carrying value and are not required to be measured at fair value on a recurring basis. When an impairment has occurred, such assets are written down to their estimated fair value.

## EDC HOLDING LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands)

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

(f) **Accounts receivable**

Accounts receivable are recorded at the invoiced amount and do not bear interest. Amounts collected on trade accounts receivable are included in net cash provided by operating activities in the consolidated statement of cash flows. The Company maintains an allowance for doubtful accounts for estimated losses inherent in its accounts receivable portfolio. In establishing the required allowance, management considers historical losses adjusted to take into account current market conditions and customers' financial condition, the amount of receivables in dispute, and the current receivables aging and current payment patterns. The Company reviews its allowance for doubtful accounts on a customer-by-customer basis. Account balances are charged off against the allowance after all means of collection have been exhausted and the potential for recovery is considered remote. The Company does not have any off-balance-sheet credit exposure related to its customers.

No allowance for doubtful accounts was recorded for the six-month period ended June 30, 2014. Management believes all accounts receivable as of June 30, 2014 are expected to be collected in full.

(g) **Property and equipment**

Property and equipment are stated at cost less accumulated depreciation and any recorded impairment. Property and equipment under capital leases are stated at the present value of minimum lease payments.

Gains or losses arising from the disposal of an item of property and equipment are determined based on the difference between the net disposal proceeds and the carrying amount of the item and are recognized in profit or loss on the date of disposal.

The estimated useful lives are presented below.

Buildings	20 - 30 years
Data center equipment	
—Machinery	10 - 20 years
—Other equipment	3 - 5 years
Leasehold improvement	Shorter of the lease term and the estimated useful lives of the assets
Furniture and office equipment	3 - 5 years
Vehicles	5 years

Construction in progress includes the cost of buildings and the related construction expenditures that are required to prepare the buildings for their intended use.

No depreciation is provided in respect of construction in progress until it is substantially completed and ready for its intended use. Once a building is ready for its intended use and becomes operational, construction in progress is allocated to the property and equipment categories and is depreciated over the estimated useful life of the underlying assets.

Depreciation on property and equipment is calculated on the straight-line method over the estimated useful lives of the assets. For assets acquired under a capital lease, the assets are amortized in a manner consistent with the Company's normal depreciation policy for owned assets if the lease

## EDC HOLDING LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands)

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

transfers ownership to the Company by the end of the lease term or contains a bargain-purchase-option. Otherwise, assets acquired under a capital lease are amortized over the lease term.

Depreciation of property and equipment (including assets acquired under capital leases) was RMB34,984 for the six-month period ended June 30, 2014, and included in the following captions:

	Six-month period ended June 30, 2014
Cost of revenue	34,654
General and administrative expenses	330
	<u>34,984</u>

**(h) Leases**

Leases are classified at the inception date as either a capital lease or an operating lease. A lease is a capital lease if any of the following conditions exists: a) ownership is transferred to the lessee by the end of the lease term, b) there is a bargain purchase option, c) the lease term is at least 75% of the property's estimated remaining economic life, or d) the present value of the minimum lease payments at the beginning of the lease term is 90% or more of the fair value of the leased property to the lessor at the inception date. The Company records a capital lease as an asset and an obligation at an amount equal to the present value at the beginning of the lease term of minimum lease payments during the lease term. The Company's capital lease assets primarily consist of buildings.

The weighted average effective interest rate of the Company's capital leases was 7.17% as of June 30, 2014.

Rental costs on operating leases is charged to expense on a straight-line basis over the lease term. Certain operating leases contain rent holidays and escalating rent. Rent holidays and escalating rent are considered in determining the straight-line rent expense to be recorded over the lease term.

Rental costs associated with building operating leases that are incurred during the construction of leasehold improvements and to otherwise ready the property for the Company's intended use are recognized as rental expenses and are not capitalized.

Rental expenses were RMB7,250 for the six-month period ended June 30, 2014. The Company did not sublease any of its operating leases for the period presented.

**(i) Asset retirement costs**

The Company's asset retirement obligations are primarily related to its buildings, of which the majority are leased under long-term arrangements, and, in certain cases, are required to be returned to the landlords in their original condition.

The fair value of a liability for an asset retirement obligation is recognized in the period in which it is incurred. The corresponding asset retirement costs are capitalized as part of the cost of leasehold improvements and are depreciated over the shorter of the asset or the term of the lease. Subsequent to the initial measurement, the Company accretes the liability in relation to the asset retirement

EDC HOLDING LIMITED AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

(In thousands)

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

obligations over time and the accretion expense is recorded in cost of revenue. During the six-month period ended June 30, 2014, the Company recorded accretion expenses of RMB73.

(j) **Intangible assets**

The intangible asset acquired in the acquisition of Megaport International Limited ("MPI") was customer relationship.

The weighted-average amortization period of the customer relationship ranged from 5 to 6 years.

Customer relationship represents the orders, backlog and customer lists, which arise from contractual rights or through means other than contracts. Customer relationship is amortized using a straight-line method as the pattern in which the economic benefits of the intangible assets are consumed or used up cannot be reliably determined.

The amortization expense of intangible assets was immaterial for the six-month period ended June 30, 2014 as the acquisition of MPI was completed in June 2014.

(k) **Prepaid land use rights**

The land use rights represent the amounts paid and relevant costs incurred for the rights to use land in the PRC and are carried at cost less accumulated amortization. Amortization is provided on a straight-line basis over the term of the land use right of 50 years.

Amortization of prepaid land use rights was RMB228 for the six-month period ended June 30, 2014.

(l) **Goodwill**

Goodwill is an asset representing the future economic benefits arising from other assets acquired in the acquisition of MPI that are not individually identified and separately recognized.

Goodwill is not amortized but is tested for impairment annually on December 31 or more frequently if events or changes in circumstances indicate that it might be impaired. Goodwill is tested for impairment at the reporting unit level on an annual basis and between annual tests if an event occurs or circumstances change that would more likely than not reduce the fair value of a reporting unit below its carrying value. These events or circumstances could include a significant change in the stock prices, business climate, legal factors, operating performance indicators, competition, or sale or disposition of a significant portion of a reporting unit. Application of the goodwill impairment test requires judgment, including the identification of the reporting unit, assignment of assets and liabilities to the reporting unit, assignment of goodwill to the reporting unit, and determination of the fair value of each reporting unit. Estimating fair value is performed by utilizing various valuation techniques, with a primary technique being a discounted cash flow which requires significant judgments, including estimation of future cash flows, which is dependent on internal forecasts, estimation of the long term rate of growth for the Company's business, estimation of the useful life over which cash flows will occur, and determination of the Company's weighted average cost of capital.

The Company has the option to perform a qualitative assessment to determine whether it is more-likely-than not that the fair value of a reporting unit is less than its carrying value prior to

**EDC HOLDING LIMITED AND SUBSIDIARIES**  
**Notes to Consolidated Financial Statements (Continued)**

(In thousands)

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

performing the two-step goodwill impairment test. If it is more-likely-than-not that the fair value of a reporting unit is greater than its carrying amount, the two-step goodwill impairment test is not required. If the two-step goodwill impairment test is required, first, the fair value of the reporting unit is compared with its carrying amount (including goodwill). If the fair value of the reporting unit is less than its carrying amount, an indication of goodwill impairment exists for the reporting unit and the entity must perform step two of the impairment test (measurement). Under step two, an impairment loss is recognized for any excess of the carrying amount of the reporting unit's goodwill over the implied fair value of that goodwill. The implied fair value of goodwill is determined by allocating the fair value of the reporting unit in a manner similar to a purchase price allocation and the residual fair value after this allocation is the implied fair value of the reporting unit goodwill. Fair value of the reporting unit is determined using a discounted cash flow analysis. If the fair value of the reporting unit exceeds its carrying amount, step two does not need to be performed. No impairment of goodwill was recognized for the six-month period ended June 30, 2014.

**(m) Impairment of long-lived assets**

Long-lived assets, such as property and equipment, intangible assets subject to amortization and prepaid land use rights are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. If circumstances require a long-lived asset or asset group be tested for possible impairment, the Company first compares undiscounted cash flows expected to be generated by that asset or asset group to its carrying amount. If the carrying amount of the long-lived asset or asset group is not recoverable on an undiscounted cash flow basis, an impairment is recognized to the extent that the carrying amount exceeds its fair value. Fair value is determined through various valuation techniques including discounted cash flow models, quoted market values and third-party independent appraisals, as considered necessary. No impairment losses were recorded for long-lived assets for the six-month period ended June 30, 2014.

**(n) Interest-bearing borrowings**

The weighted average interest rates of short-term borrowings and long-term borrowings were 6.00% and 6.77% per annum for the six-month period ended June 30, 2014, respectively.

**(o) Commitment and contingencies**

Liabilities for loss contingencies arising from claims, assessments, litigation, fines, and penalties and other sources are recorded when it is probable that a liability has been incurred and the amount can be reasonably estimated. Legal costs incurred in connection with loss contingencies are expensed as incurred.

**(p) Revenue recognition**

The Company recognizes revenue from colocation services when services have been rendered, collection of the relevant receivable is probable, persuasive evidence of an arrangement exists and the sales price is fixed or determinable. During the six-month period ended June 30, 2014, the Company's revenues were from the provision of colocation services.

EDC HOLDING LIMITED AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

(In thousands)

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Colocation services are services where the Company provides space, power and cooling to customers for housing and operating their IT system equipment in the Company's service centers. Colocation services are provided to customers for a fixed amount over the contract period, ranging from 1 to 5 years. The Company bills the customers monthly in equal instalments.

Revenues from colocation services are recognized on a proportional performance basis over the term of the contract. The Company has determined that its performance pattern to be straight line since the customer receives value as the services are rendered continuously during the term of the contract, the earning process is straight-line, and there is no other discernible performance pattern of recognition.

Cash received in advance from customers prior to delivery of the colocation services is initially recorded as deferred revenue.

Value-added taxes collected from customers and remitted to governmental authorities are excluded from revenues in the consolidated statement of comprehensive loss.

(q) **Cost of revenues**

Cost of revenues consists primarily of utility costs, depreciation of property and equipment, rental costs, labor costs and other costs directly attributable to the provision of the service revenue.

(r) **Start-up costs**

Pre-operating or start-up costs incurred prior to operations of a service center are expensed as incurred and consist primarily of rental costs of operating leases of buildings during the construction of leasehold improvements and other miscellaneous costs incurred prior to the operation of the service centers. For the six-month period ended June 30, 2014, start-up costs amounting to RMB4,926 was included in general and administrative expenses.

(s) **Government grants**

Government grants are recognized when received and when all the conditions for their receipt have been met. Subsidies that compensate the Company for expenses incurred are recognized as a reduction of expenses in the consolidated statement of comprehensive loss. Subsidies that are not associated with expenses are recognized as other income. Subsidies for obtaining the rights to use land are recorded as a liability and then amortized over the land use right period as a reduction of the amortization charges of the related land use rights.

(t) **Capitalized interest**

Interest costs that are directly attributable to the construction of an asset which necessarily takes a substantial period of time to get ready for its intended use or sale are capitalized as part of the cost of that asset. The capitalization of interest costs as part of the cost of a qualifying asset commences when expenditure for the asset is being incurred, interest costs are being incurred and activities that are necessary to prepare the asset for its intended use or sale are in progress. Capitalization of



## EDC HOLDING LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands)

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

interest costs is ceased when the asset is substantially complete and ready for its intended use. No interest was capitalized for the six-month period ended June 30, 2014.

**(u) Income tax**

Income taxes are accounted for under the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carry forwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. The Company recognizes the effect of income tax positions only if those positions are more likely than not of being sustained. Recognized income tax positions are measured at the largest amount that is greater than 50% likely of being realized. Changes in recognition or measurement are reflected in the period in which the change in judgment occurs. The Company records interest related to unrecognized tax benefits in interest expense and penalties in general and administrative expenses.

**(v) Employee benefits**

Pursuant to relevant PRC regulations, the Company is required to make contributions to various defined contribution plans organized by municipal and provincial PRC governments. The contributions are made for each PRC employee at rates ranging from 31.4% to 49% on a standard salary base as determined by the local social security bureau. Contributions to the defined contribution plans are charged to the consolidated statement of comprehensive loss when the related service is provided.

**(w) Foreign currency translation and foreign currency risks**

The functional currency of EDC Holding is the USD, whereas the functional currency of its PRC subsidiaries is the RMB.

Foreign currency transactions during the period are translated at the foreign exchange rates ruling at the transaction dates. Monetary assets and liabilities denominated in foreign currencies are translated at the foreign exchange rates ruling at the end of the reporting period. Exchange gains and losses are recognized in profit or loss and are reported in foreign currency exchange (loss) gain on a net basis.

The results of foreign operations are translated into RMB at the exchange rates approximating the foreign exchange rates ruling at the dates of the transactions. Assets and liabilities are translated at the exchange rates at the balance sheet date, equity accounts are translated at historical exchange rates and revenues, expenses, gains and losses are translated using the average rate for the years. The resulting foreign currency translation adjustments are reported in other comprehensive income in the statement of comprehensive loss and accumulated in the translation adjustment component of equity until the sale of the foreign entity. During the six-month period ended June 30, 2014, there was no sale or liquidation of foreign entities, and therefore there was no reclassification adjustment during the period.

## EDC HOLDING LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands)

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)****(x) Concentration of credit risk**

Financial instruments that potentially expose the Company to concentrations of credit risk consist principally of cash and cash equivalent, restricted cash, and accounts receivable. The Company's investment policy requires cash and cash equivalents to be placed with high-quality financial institutions and to limit the amount of credit risk from any one issuer. The Company regularly evaluates the credit standing of the counterparties or financial institutions.

The Company conducts credit evaluations on its customers prior to delivery of services. The assessment of customer creditworthiness is primarily based on historical collection records, research of publicly available information and customer on-site visits by senior management. Based on this analysis, the Company determines what credit terms, if any, to offer to each customer individually. If the assessment indicates a likelihood of collection risk, the Company will not render services to the customer or require the customer to pay cash, post letters of credit to secure payment or to make significant down payments. Historically, no credit losses on accounts receivable were incurred.

**(y) Recently Issued Accounting Standards**

In May 2014, the Financial Accounting Standards Board ("FASB") issued ASU 2014-09, Revenue from Contracts with Customers ("ASU 2014-09"). This ASU requires companies to recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which companies expect to be entitled in exchange for those goods or services. This ASU will replace most existing revenue recognition guidance in GAAP when it becomes effective. This ASU was originally effective for fiscal years and interim periods beginning after December 15, 2016. In August 2015, the FASB issued ASU 2015-14, Revenue from Contracts with Customers ("ASU 2015-14"), which amends ASU 2014-09 and defers its effective date to fiscal years and interim reporting periods beginning after December 15, 2017. ASU 2015-14 permits earlier application only as of annual reporting periods beginning after December 15, 2016, including interim reporting periods within that reporting period. The Company is currently evaluating the impact that the adoption of these standards will have on its consolidated financial statements.

In February 2016, the FASB issued Accounting Standards Update ("ASU") 2016-02, Leases (Topic 842) ("ASU 2016-02"). Under the new guidance, lessees will be required to recognize the following for all leases (with the exception of short-term leases) at the commencement date: (1) a lease liability, which is a lessee's obligation to make lease payments arising from a lease, measured on a discounted basis; and (2) a right-of-use asset, which is an asset that represents the lessee's right to use, or control the use of, a specified asset for the lease term. Under the new guidance, lessor accounting is largely unchanged. Certain targeted improvements were made to align, where necessary, lessor accounting with the lessee accounting model and Topic 606, Revenue from Contracts with Customers. The new lease guidance simplified the accounting for sale and leaseback transactions primarily because lessees must recognize lease assets and lease liabilities. Lessees (for capital and operating leases) and lessors (for sales-type, direct financing, and operating leases) must apply a modified retrospective transition approach for leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements. The modified retrospective approach would not require any transition accounting for leases that expired before the earliest comparative period presented. Lessees and lessors may not apply a full retrospective transition approach. ASU 2016-02 is effective for public

## EDC HOLDING LIMITED AND SUBSIDIARIES

## Notes to Consolidated Financial Statements (Continued)

(In thousands)

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

companies for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years, with early adoption permitted. The Company is currently evaluating the impact that the adoption of this standard will have on its consolidated financial statements.

**3. BUSINESS COMBINATION**

In June 2014, immediately before the consummation of the acquisition of the Company by GDS Holdings, the Company acquired MPI. MPI is engaged in the provision of colocation services in Hong Kong. Prior to the acquisition, the Company held non-controlling equity interests in MPI. In June 2014, the Company acquired the remaining equity interests in MPI it did not already own for a cash consideration payable of US\$2,209 (RMB13,592). In August 2014, the cash consideration payable to the selling shareholders of MPI was repaid. The Company recognized a gain from the re-measurement of its previously held non-controlling equity interests in the amount of RMB5,568. The fair value of the previous held non-controlling equity interest was determined by management with the assistance of a third party appraiser. The assets acquired of RMB15,699 consisted primarily of cash of RMB3,677, intangible assets of RMB4,922 and other assets of RMB7,100. Liabilities assumed of RMB6,699 consisted primarily of accrued expenses and other payable of RMB2,658 and other liabilities of RMB4,041. A goodwill of RMB27,679 was recognized on the acquisition date and was not tax deductible. At the acquisition date, the Company had an amount due from MPI of RMB18,591 for services it provided to MPI and for expenses it paid on behalf of MPI. The Company also had an amount due to MPI of RMB1,072. No gain or loss was recognized for the effective settlement of such pre-existing balances between the Company and MPI. Acquisition-related costs were immaterial and were recorded in general and administrative expenses.

The following unaudited supplemental pro forma information presents the net revenues and net loss of the combined entity as if the business combination had occurred on January 1, 2014. In determining these amounts, management has assumed that the fair value adjustments that arose on the acquisition date would remain the same as if the acquisition had occurred on January 1, 2014.

	Pro forma six-month period ended June 30, 2014 (Unaudited)
Net revenue	71,557
Net loss	68,204

**4. NET REVENUE**

Net revenue consisted of the following:

	Six-month period ended June 30, 2014
Colocation services	67,257

**EDC HOLDING LIMITED AND SUBSIDIARIES**  
**Notes to Consolidated Financial Statements (Continued)**

(In thousands)

**5. INCOME TAX**

Pursuant to the rules and regulations of the Cayman Islands, EDC Holding is not subject to any income or withholding tax in the Cayman Islands.

The PRC subsidiaries are subject to the PRC Corporate Income Tax ("CIT") rate of 25%. The CIT law and its relevant regulations impose a withholding tax at 10%, unless reduced by a tax treaty or agreement, for dividends distributed by a PRC-resident enterprise to its non-PRC-resident corporate investor for earnings generated beginning on January 1, 2008. Undistributed earnings generated prior to January 1, 2008 are exempt from such withholding tax.

No provision for Hong Kong Profits Tax was made for the subsidiaries located in Hong Kong as the subsidiaries did not have assessable profits subject to Hong Kong Profits Tax for the six-month period ended June 30, 2014. The payments of dividends by Hong Kong companies are not subject to any Hong Kong withholding tax.

The operating results before income tax and the provision for income taxes by tax jurisdictions for the six-month period ended June 30, 2014 are as follows:

	Six-month period ended June 30, 2014
Loss (income) before income taxes:	
PRC	62,135
Other jurisdictions	(3,774)
Total loss before income taxes	<u>58,361</u>
Current tax expenses:	
PRC	—
Other jurisdictions	—
Total current tax expenses	—
Deferred tax expenses:	
PRC	—
Other jurisdictions	—
Total deferred tax expenses	—
Total income taxes expenses	<u>—</u>

The actual income tax expense reported in the consolidated statement of comprehensive loss for the six-month period ended June 30, 2014 differs from the amount computed by applying the PRC statutory income tax rate to loss before income taxes due to the following:

	Six-month period ended June 30, 2014
PRC enterprise income tax rate	25.0%
Tax differential for entities in non-PRC jurisdiction	1.6%
Change in valuation allowance	(26.6%)
	<u>0.0%</u>

**EDC HOLDING LIMITED AND SUBSIDIARIES**  
**Notes to Consolidated Financial Statements (Continued)**

(In thousands)

**5. INCOME TAX (Continued)**

During the six-month period ended June 30, 2014, the Company recorded additional valuation allowance of RMB11,832, primarily related to the deferred tax assets for temporary differences and net operating losses of certain subsidiaries in PRC and Hong Kong. As of June 30, 2014, these entities were in a cumulative loss position, which is a significant negative indicator to overcome that sufficient income will be generated over the periods in which the deferred income tax assets are deductible or utilized. Management considers projected future taxable income and tax planning strategies in making this assessment.

**6. MAJOR CUSTOMERS**

GDS Holdings is a major customer of the Company. Revenue from GDS Holdings was RMB55,869 or 83% of the Company's total revenue during the six-month period ended June 30, 2014.

**7. COMMITMENTS**

**(a) Operating leases commitments**

The Company leases buildings, offices and other equipment that are classified as operating leases. The majority of the Company's operating leases expire at various dates though 2019.

Future minimum operating lease payments as of June 30, 2014 are summarized as follow:

Year ending June 30,	
2015	37,285
2016	33,937
2017	33,419
2018	32,189
2019	23,384
Thereafter	352,687
Total	<u>512,901</u>

**EDC HOLDING LIMITED AND SUBSIDIARIES**  
**Notes to Consolidated Financial Statements (Continued)**

(In thousands)

**7. COMMITMENTS (Continued)**

**(b) Capital leases commitments**

The Company's capital lease obligations as of June 30, 2014 are summarized as follows:

	<u>Total minimum lease payments</u>
Within 1 year	36,678
After 1 year but within 2 years	36,678
After 2 years but within 3 years	37,366
After 3 years but within 4 years	40,846
After 4 years but within 5 years	40,846
After 5 years	313,845
Sub-total	<u>506,259</u>
Less: total future interest expenses	(171,365)
Present value of lease obligations	<u>334,894</u>

**8. RELATED PARTY TRANSACTIONS**

In addition to the related party information disclosed elsewhere in the consolidated financial statements, the Company entered into the following related party transactions.

<u>Name of party</u>	<u>Relationship</u>
SBCVC Holdings Limited (SBCVC)	Principal preferred shareholder of the Company
GDS Holdings	SBCVC was a common principal preferred shareholder of both GDS Holdings and EDC Holding prior to the acquisition
MPI	SBCVC was a common principal preferred shareholder of both EDC Holding and MPI prior to the acquisition

**EDC HOLDING LIMITED AND SUBSIDIARIES**  
**Notes to Consolidated Financial Statements (Continued)**

(In thousands)

**8. RELATED PARTY TRANSACTIONS (Continued)**

**(a) Major transactions with related parties**

		Six-month period ended June 30, 2014
Services provided to MPI	(i)	4,854
Expenses paid by the Company on behalf of MPI	(i)	1,506
Services provided to GDS Holdings	(ii)	55,869
Loans from GDS Holdings	(iii)	307,048
Interest expenses	(iii)	4,296
Interest income	(iv)	244
Repayment of a loan from SBCVC	(v)	24,388

- (i) During the six-month period ended June 30, 2014, the Company provided services to MPI amounting to RMB4,854 and paid miscellaneous expenses of RMB1,506 on behalf of MPI.
- (ii) In December 2013, the Company received a payment in advance of RMB320,000 from GDS Holdings under a colocation service agreement. The prepayment covered a two-year service period from 2014 to 2015. During the six-month period ended June 30, 2014, the Company provided services to GDS Holdings amounting to RMB55,869, which was recognized as revenue.
- (iii) During the six-month period ended June 30, 2014, the Company received loans from GDS Holdings amounting to RMB307,048. Interest expense on the loans amounted to RMB4,296.
- (iv) Prior to January 1, 2014, the Company advanced a loan of US\$8,000 (RMB49,222) to GDS Holdings. During the six-month period ended June 30, 2014, interest income on the loan amounted to RMB244.
- (v) Prior to January 1, 2014, the Company received a loan from SBCVC amounting to US\$4,000 (RMB24,388). During the six-month period ended June 30, 2014, interest expense on the loan was RMB1,020. The Company fully repaid the principal and the interest of the loan during the six-month period ended June 30, 2014.

**9. SUBSEQUENT EVENTS**

Management has considered subsequent events through May 20, 2016, which was the date these consolidated financial statements were issued.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

**Item 6. Indemnification of Directors and Officers**

Cayman Islands law does not limit the extent to which a company's articles of association may provide indemnification of officers and directors, except to the extent any such provision may be held by the Cayman Islands courts to be contrary to the public interest, such as providing indemnification against civil fraud or the consequences of committing a crime. The registrant's articles of association provide that each officer or director of the registrant shall be indemnified out of the assets of the registrant against any liability incurred by him or her in defending any proceedings, whether civil or criminal, in which judgment is given in his or her favor, or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his or her part, or in which he or she is acquitted or in connection with any application in which relief is granted to him or her by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the registrant.

Under the form of indemnification agreements to be filed as Exhibit 10.14 to this registration statement, we will agree to indemnify our directors and executive officers against certain liabilities and expenses incurred by such persons in connection with claims made by reason of their being such a director or executive officer.

The form of underwriting agreement to be filed as Exhibit 1.1 to this registration statement will also provide for indemnification of us and our officers and directors.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to 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.

**Item 7. Recent Sales of Unregistered Securities**

During the past three years, we have issued and sold the securities described below without registering the securities under the Securities Act. None of these transactions involved any underwriters' underwriting discounts or commissions, or any public offering. We believe that each of the following issuances was exempt from registration under the Securities Act in reliance on Regulation S or Rule 701 under the Securities Act or pursuant to Section 4(2) of the Securities Act regarding transactions not involving a public offering.

**Ordinary Shares**

On December 1, 2006, we issued one share to Codan Trust Company (Cayman) Limited, and such share was transferred to Alan Song on the same day. On December 19, 2006, we issued a total of 110,000,000 ordinary shares, with nominal or par value of US\$0.00005, to Global Data Solutions Limited.

On June 30, 2014, we issued 88,352,558 ordinary shares to Brilliant Wise Holdings Limited as part of consideration to acquire EDC Holding.

**Preferred Shares**

*Series A Preferred Shares.* On January 31, 2007, we issued 63,250,000 Series A preferred shares for an aggregate purchase price of US\$23,000,000, or at US\$0.363636 per share to certain investors, including to SBCVC Fund II, L.P. and International Finance Corporation.



*Series B Preferred Shares.* On March 18, 2011, we issued 11,550,000 Series B preferred shares for an aggregated purchase price of US\$9,000,000, or at US\$0.77922 per share to certain investors, including SBCVC Fund II-Annex, L.P. and International Finance Corporation.

*Series A\*, B1, B2, B3 and B4 Preferred Shares.* In connection with our acquisition of EDC Holding, we altered our authorized share capital from comprising ordinary shares, Series A and Series B preferred shares, to comprising ordinary shares, Series A, Series B, Series A\*, Series B1, Series B2, Series B3 and Series B4 preferred shares. Accordingly, Series A\*, Series B1, Series B2, Series B3 and Series B4 preferred shares were newly added to our previously authorized share capital.

On June 30, 2014, we acquired EDC Holding from its shareholders whereby we issued shares to EDC Holding's shareholders in exchange for their shares in EDC Holding. Pursuant to the terms of the agreement, we issued 199,163,164 shares in exchange for approximately 93% of the shares in EDC Holding which we did not already own. Accordingly, we issued 88,352,558 ordinary shares to Brilliant Wise Holdings Limited, 11,319,764 Series A\* preferred shares to SBCVC Company Limited, 2,829,941 Series A\* preferred shares to International Finance Corporation, 9,433,137 Series B1 preferred shares to SBCVC Company Limited, 9,433,137 Series B1 preferred shares to SBCVC Venture Capital, 15,093,019 Series B1 preferred shares to International Finance Corporation, 8,539,471 Series B2 preferred shares to International Finance Corporation, 17,078,942 Series B2 preferred shares to SBCVC Company Limited, 14,045,432 Series B3 preferred shares to International Finance Corporation, and 23,037,763 Series B4 preferred shares to SBCVC Fund III L.P.

*Series B5 and Series C Preferred Shares.* In connection with our issuance of Series C preferred shares, we altered our authorized share capital from comprising ordinary shares, Series A, Series B, Series A\*, Series B1, Series B2, Series B3 and Series B4 preferred shares, to comprising ordinary shares, Series A, Series B, Series A\*, Series B1, Series B2, Series B3, Series B4, Series B5 and Series C preferred shares. Accordingly, Series B5 and Series C preferred shares were newly added to our previously authorized share capital.

On August 13, 2014, SBCVC Fund III L.P. purchased 18,698,485 of our Series A, Series A\* and Series B3 preferred shares from certain of our investors, all of which preferred shares were redesignated as Series B5 preferred shares.

On August 13, 2014, we repurchased 93,811,462 shares from certain of our investors, which include 18,762,292 ordinary shares, 23,533,064 Series A preferred shares, 5,503,899 Series A\* preferred shares, 8,413,412 Series B preferred shares, 13,209,358 Series B1 preferred shares, 9,964,954 Series B2 preferred shares, 5,463,340 Series B3 preferred shares and 8,961,143 Series B4 preferred shares for a total consideration of US\$97,237,644.

On August 13, 2014, we issued 238,526,241 Series C preferred shares for an aggregate purchase price of US\$247,237,696, or at US\$1.036522 per share to STT GDC.

On December 22, 2014, International Finance Corporation transferred and sold its equity interests in GDS Holdings Limited in the form of 1,310,083 Series A, 560,105 Series B, 9,222,193 Series B1, 5,217,820 Series B2 and 384,576 Series B3 preferred shares to SBCVC Fund III, L.P. All of the preferred shares so transferred were reclassified and re-designated as 16,694,777 Series B5 preferred shares.

In connection with and subsequent to the issuance of Series C preferred shares, holders of our preferred shares entered into voting agreements and agreements regarding rights of first refusal and co-sale rights. These voting agreements and the rights of first refusal and co-sale rights will terminate upon the closing of this offering.

Prior to the closing of this offering, holders of each series of preferred shares may elect to convert part or all of the preferred shares held by them into our ordinary shares at a 1:1 share conversion ratio. Each preferred share not so converted will automatically convert into our ordinary shares at the 1:1 share

conversion ratio immediately prior to the closing of this offering. All preferred shares converted into ordinary shares within twelve months after the closing of this offering will be subject to a lock-up period expiring on the first anniversary of this offering's closing date.

**Note Financing**

On December 11, 2012, we issued and sold an aggregate principal amount of US\$10.5 million bonds due 2014, par value US\$10,000 per note, in a private placement to Best Million Group Limited. The bonds due 2014 had a maturity date of June 10, 2014 and carried interest at 10% per annum. Upon maturity, the carrying amount of the bonds due 2014 was US\$10.5 million and we repaid a portion of the bonds due 2014 amounting to US\$0.7 million. On June 11, 2014, we issued and sold to the same investor in an aggregate principal amount of US\$30.2 million bonds due 2015 of which a portion was to settle the remaining unpaid portion of the bonds due 2014 of US\$9.8 million and unpaid interest payable on the bonds due 2014 of US\$1.7 million.

Prior to June 10, 2015, the holder of bonds due 2015 had the right to exchange the bonds into our ordinary shares in the event of a QIPO or private placement. The price used to determine the number of ordinary shares issued in exchange for the bonds is equal to 70% of the QIPO price or 70% of the share issuance price of the private placement.

In August 2014, we conducted a private placement of 238,526,241 Series C redeemable preferred shares, or Series C preferred shares. Upon the issuance of Series C preferred shares, the holder of the bonds due 2015 exchanged outstanding principal amount of the bonds due 2015 of US\$27.9 million for 38,397,655 ordinary shares. The number of ordinary shares issued was based on US\$0.72557, or 70% of the issuance price of Series C preferred shares of US\$1.036522. The holder waived its right to exchange the remaining bonds due 2015 of US\$2.3 million for ordinary shares of the Company.

On June 10, 2015, we fully redeemed the remaining bonds due 2015 of US\$2.3 million upon maturity.

**Convertible Bonds**

On December 30, 2015 and January 29, 2016, we issued and sold convertible and redeemable bonds due 2019 in aggregate principal amount of US\$150.0 million, which bonds were subscribed by Ping An Insurance and STT GDC as to US\$100.0 million and US\$50.0 million, respectively. We may, at our option, require STT GDC to subscribe for an additional amount of these bonds as to US\$50.0 million, and thereafter, Ping An Insurance to subscribe for an additional amount of these bonds as to US\$50.0 million at any time within the nine month period following the date of issue, or until September 30, 2016. Under the terms of the bonds, Ping An Insurance is entitled to appoint one observer to attend meetings of our board of directors.

The bonds are repayable four years from the date of issue, i.e. on December 30, 2019, and may be converted at a set conversion price of US\$1.675262 per share (subject to adjustments arising from any share consolidation, sub-division or distributions by way of shares) at any time between the date on which this offering is completed and December 30, 2019. Any share issued pursuant to the conversion of these bonds by a holder who is not our existing shareholder within twelve months after the closing of this offering will be subject to a lock-up period expiring on the first anniversary of this offering's closing date. We also may mandate each of Ping An Insurance and STT GDC to convert their bonds into shares if the average per-ordinary-share-equivalent closing trading price of our ADSs in any period of ten (10) consecutive trading days following this offering is at least 125% of US\$1.675262.

The bonds bear two components of interest on the principal amount, (i) interest payable in cash semi-annually at a rate of 5% per annum, and (ii) interest accruing semi-annually at a rate of 5% per annum. Such accrued interest is (i) in the case of cash redemption, payable in cash on December 30, 2019, and (ii) in the case of conversion, capitalized and paid in shares upon conversion of the bonds.

We plan to use the proceeds of the bonds for data center development, repayment of indebtedness, and to fund our working capital. As security for the bonds, EDC Holding pledged its entire equity interest in the registered capital of EDC China Holdings Limited, a limited company incorporated in Hong Kong, which is wholly owned by EDC Holding.

**Share Options and Restricted Shares**

We adopted our 2014 share incentive plan in July 2014. In July 2014, we granted 12,394,753 share options to employees, officers and directors and 5,834,200 share options to external consultants. In January 2015, we granted 1,000,000 share options to an external consultant. In May 2016, we granted 11,084,840 share options to employees, officers and directors.

We adopted our 2016 share incentive plan in August 2016. In August 2016, we granted 877,400 fully vested restricted shares in lieu of cash to our directors to settle a portion of their remuneration for services provided by the directors in the past.

**Item 8. Exhibits and Financial Statement Schedules**

**(a) Exhibits**

See Exhibit Index beginning on page II-8 of this Registration Statement.

**(b) Financial Statement Schedules.**

All supplement schedules are omitted because of the absence of conditions under which they are required or because the information is shown in the financial statements or notes thereto.

**Item 9. Undertakings**

The undersigned registrant hereby undertakes to provide to the underwriter at the closing specified in the underwriting agreements, certificates in such denominations and registered in such names as required by the underwriter to permit prompt delivery to each purchaser. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant under the provisions described in Item 6, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes that:

- (1) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant under Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.
- (2) For the purpose of determining any liability under the Securities Act, each posteffective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form F-1 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in Hong Kong on October 4, 2016.

**GDS HOLDINGS LIMITED**By: /s/ William Wei Huang

Name: William Wei Huang  
 Title: *Chairman and Chief Executive Officer*

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below does hereby constitute and appoint William Wei Huang and Daniel Newman, and each of them singly, as his or her true and lawful attorneys-in-fact and agents, each with full power of substitution and re-substitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement and sign any registration statement for the same offering covered by this Registration Statement that is to be effective upon filing pursuant to Rule 462(b) promulgated under the Securities Act of 1933, as amended, and all post-effective amendments thereto and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, may lawfully do or cause to be done by virtue hereof. Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Capacity</u>	<u>Date</u>
<u>/s/ William Wei Huang</u> William Wei Huang	Chairman, Chief Executive Officer (principal executive officer)	October 4, 2016
<u>/s/ Daniel Newman</u> Daniel Newman	Chief Financial Officer (principal financial and accounting officer)	October 4, 2016
<u>/s/ Sio Tat Hiang</u> Sio Tat Hiang	Vice-chairman	October 4, 2016
<u>/s/ Erik Ho Ping Siao</u> Erik Ho Ping Siao	Director	October 4, 2016

<u>Signature</u>	<u>Capacity</u>	<u>Date</u>
<hr/> <i>/s/ Peter Ping Hua</i> Peter Ping Hua	Director	October 4, 2016
<hr/> <i>/s/ Hua Chen</i> Hua Chen	Director	October 4, 2016
<hr/> <i>/s/ Satoshi Okada</i> Satoshi Okada	Director	October 4, 2016
<hr/> <i>/s/ Bruno Lopez</i> Bruno Lopez	Director	October 4, 2016
<hr/> <i>/s/ Lee Choong Kwong</i> Lee Choong Kwong	Director	October 4, 2016
<hr/> <i>/s/ Lim Ah Doo</i> Lim Ah Doo	Director	October 4, 2016

**SIGNATURE OF AUTHORIZED REPRESENTATIVE IN THE UNITED STATES**

Pursuant to the Securities Act of 1933, as amended, the undersigned, the duly authorized representative in the United States of GDS Holdings Limited has signed this registration statement or amendment thereto in New York, New York on October 4, 2016.

By: */s/* Giselle Manon

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Name: Giselle Manon  
Title: Service of Process Officer  
Law Debenture Corporate Services Inc.

## EXHIBIT INDEX

Exhibit No.	Description of Exhibit
1.1*	Form of Underwriting Agreement
3.1	Seventh Amended and Restated Memorandum and Articles of Association of the Registrant, adopted by special resolution on May 19, 2016, and effective on May 19, 2016
3.2*	Form of Amended and Restated Memorandum and Articles of Association of the Registrant
4.1*	Specimen of Ordinary Share Certificate
4.2**	Form of Deposit Agreement between the Registrant and _____, as depository
4.3**	Form of American Depositary Receipt evidencing American Depositary Shares (included in Exhibit 4.2)
4.4	Amendment Agreement Dated August 5, 2016 Between Shenzhen Yungang EDC Technology Co., Ltd. as Borrower, and GDS Holdings Limited as Ultimate Parent, and Beijing Wanguo Changan Technology Co., Ltd. as Guarantor, arranged by Credit Agricole Corporate and Investment Bank (China) Limited, United Overseas Bank (China) Limited Shenzhen Branch as Mandated Lead Arrangers with United Overseas Bank (China) Limited Shenzhen Branch acting as Facility Agent and Security Agent and United Overseas Bank (China) Limited Shenzhen Branch acting as Account Bank, relating to a RMB 430,000,000 Term Loan Facility Agreement dated September 17, 2015
4.5	Sixth Amended and Restated Members Agreement, dated May 19, 2016
4.6	Sixth Amended and Restated Voting Agreement, dated May 19, 2016
4.7	Sixth Amended and Restated Right of First Refusal And Co-sale Agreement, dated May 19, 2016
4.8	Agreement Dated June 30, 2016 Between Shanghai Waigaoqiao EDC Technology Co., Ltd. and Shanghai Yungang EDC Technology Co. Ltd. as Borrowers and GDS Holdings Limited as Ultimate Parent, arranged by Credit Agricole Corporate and Investment Bank (China) Limited, United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch as Mandated Lead Arrangers with United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch acting as Facility Agent and Security Agent and United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch acting as Account Bank, and Credit Agricole Corporate and Investment Bank (China) Limited and United Overseas Bank Limited acting as Coordinating Banks relating to Term Loan Facilities
4.9	Agreement Dated September 29, 2016 Between Shanghai Waigaoqiao EDC Technology Co., Ltd. and Shanghai Yungang EDC Technology Co. Ltd. as Borrowers and GDS Holdings Limited as Ultimate Parent, arranged by Credit Agricole Corporate and Investment Bank, United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch, DBS Bank (China) Ltd, Shanghai Branch, Shanghai HuaRui Bank Co., Ltd. and Australia and New Zealand Bank (China) Company Limited, Shanghai Branch as Mandated Lead Arrangers with United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch acting as Facility Agent and Security Agent and United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch acting as Account Bank, and Credit Agricole Corporate and Investment Bank and United Overseas Bank Limited acting as Coordinating Banks relating to Term Loan Facilities
5.1	Form of Opinion of Conyers Dill & Pearman regarding the validity of the ordinary shares being registered
8.1	Opinion of Simpson Thacher & Bartlett LLP regarding certain United States federal tax matters
8.2	Form of Opinion of Conyers Dill & Pearman regarding certain Cayman Islands tax matters

<b>Exhibit No.</b>	<b>Description of Exhibit</b>
8.3	Form of Opinion of King & Wood Mallesons regarding certain PRC tax matters
10.1	Share Swap Agreement among the Registrant, EDC Holding and the shareholders of EDC Holding, dated June 12, 2014
10.2	Subscription Agreement for up to US\$250,000,000 10% Convertible and Redeemable Bond due 2019 convertible into shares in GDS Holdings, among GDS Holdings, Perfect Success Limited and STT GDC Pte. Ltd., dated December 30 2015
10.3	Equity Interest Pledge Agreement concerning GDS Beijing, among William Wei Huang, Qiuping Huang and GDS Management Company, dated April 13, 2015 (English Translation)
10.4	Shareholder Voting Rights Proxy Agreement concerning GDS Beijing, among GDS Management Company, GDS Beijing, William Wei Huang and Qiuping Huang, dated April 13, 2016 (English Translation)
10.5	Exclusive Call Option Agreement concerning GDS Beijing, among William Wei Huang, Qiuping Huang and GDS Management Company, dated April 13, 2016 (English Translation)
10.6	Loan Agreement between William Wei Huang, Qiuping Huang and GDS Management Company, dated April 13, 2016 (English Translation)
10.7	Exclusive Technology License and Service Agreement between GDS Beijing and GDS Management Company, dated April 13, 2016 (English Translation)
10.8	Equity Interest Pledge Agreement concerning GDS Shanghai, among William Wei Huang, Qiuping Huang and GDS Management Company, dated April 13, 2016 (English Translation)
10.9	Shareholder Voting Rights Proxy Agreement concerning GDS Shanghai, among GDS Management Company, GDS Shanghai, William Wei Huang and Qiuping Huang, dated April 13, 2016 (English Translation)
10.10	Intellectual Property Rights License Agreement between GDS Shanghai and GDS Management Company, dated April 13, 2016 (English Translation)
10.11	Exclusive Call Option Agreement concerning GDS Shanghai, among William Wei Huang, Qiuping Huang, GDS Shanghai and GDS Management Company, dated April 13, 2016 (English Translation)
10.12	Exclusive Technology License and Service Agreement between GDS Shanghai and GDS Management Company, dated April 13, 2016 (English Translation)
10.13	Loan Agreement among William Wei Huang, Qiuping Huang and GDS Management Company, dated April 13, 2016 (English Translation)
10.14	Form of Indemnification Agreement between the Registrant and its directors and executive officers
10.15	Forms of Employment Agreements between the Registrant and its executive officers
10.16	GDS Holdings Limited 2014 Equity Incentive Plan
10.17	Data Center Outsourcing Service Agreement (English Translation)
10.18††	Premises and Warehouse Lease Agreement dated December 26, 2008 (English Translation)
10.19††	Premises and Warehouse Lease Agreement dated April 15, 2011 (English Translation)
10.20††	Premise Lease Agreement dated July 16, 2012 (English Translation)
10.21††	Premise Lease Agreement dated March 9, 2015 (English Translation)
10.22††	Premise Lease Agreement dated July 6, 2015 (English Translation)



Exhibit No.	Description of Exhibit†
10.23††	Tenement Lease Agreement dated April 1, 2015 (English Translation)
10.24††	Premise Lease Agreement dated November 27, 2013 (English Translation)
10.25††	Premise Lease Agreement dated August 1, 2015 (English Translation)
10.26	GDS Holdings Limited 2016 Equity Incentive Plan
21.1	Subsidiaries of Registrant
23.1	Consent of KPMG as to the financial information of GDS Holdings Limited
23.2	Consent of KPMG as to the financial information of EDC Holding Limited
23.3	Consent of Conyers Dill & Pearman (included in Exhibit 5.1 and Exhibit 8.2)
23.4	Consent of Simpson Thacher & Bartlett LLP (included in Exhibit 8.1)
23.5	Consent of King & Wood Mallesons (included in Exhibit 8.3)
23.6	Consent of 451 Research
24.1*	Powers of Attorney (included on the signature page in Part II of this Registration Statement)
99.1*	Code of Business Conduct and Ethics of the Registrant

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\* To be filed by amendment.

\*\* Incorporated by reference to the Registration Statement on Form F-6 to be filed with the Securities and Exchange Commission with respect to American depository shares representing our ordinary shares.

† As permitted by Item 601(b)(4)(iii)(A) of Regulation S-K, the Company has not filed with this registration statement certain instruments defining the rights of holders of long-term debt of the Company and its subsidiaries because the total amount of securities authorized under any such instruments does not exceed 10% of the total assets of the Company and its subsidiaries on a consolidated basis. The Company agrees to furnish a copy of any such agreement to the Commission upon request.

†† Confidential treatment has been requested for portions of this document.



THE COMPANIES LAW (2013 REVISION)  
OF THE CAYMAN ISLANDS  
COMPANY LIMITED BY SHARES

**SEVENTH AMENDED AND RESTATED MEMORANDUM OF ASSOCIATION  
OF  
GDS HOLDINGS LIMITED**

(Adopted by Special Resolution on May 19, 2016, and effective on May 19, 2016)

1. The name of the Company is GDS Holdings Limited.
2. The registered office of the Company shall be at the offices of Codan Trust Company (Cayman) Limited, Cricket Square, Hutchins Drive, P.O. Box 2681, Grand Cayman KY1-1111, Cayman Islands, or at such other place as the Directors may from time to time decide.
3. The objects for which the Company is established are unrestricted and the Company shall have full power and authority to carry out any object not prohibited by the Companies Law (2013 Revision) or as the same may be revised from time to time, or any other law of the Cayman Islands.
4. The liability of each Member is limited to the amount from time to time unpaid on such Member's shares.
5. The share capital of the Company is US\$51,310 divided into 675,636,564 Ordinary Shares of nominal or par value of US\$0.00005 each, 29,635,045 Series A Shares of nominal or par value of US\$0.00005 each, 6,916,645 Series A\* Shares of nominal or par value of US\$0.00005 each, 2,576,483 Series B Shares of nominal or par value of US\$0.00005 each, 11,527,742 Series B1 Shares of nominal or par value of US\$0.00005 each, 10,435,639 Series B2 Shares of nominal or par value of US\$0.00005 each, 14,076,620 Series B4 Shares of nominal or par value of US\$0.00005 each, 35,395,262 Series B5 Shares of nominal or par value of US\$0.00005 each, and 240,000,000 Series C Shares of a nominal or par value of US\$0.00005 each.
6. The Company has power to register by way of continuation as a body corporate limited by shares under the laws of any jurisdiction outside the Cayman Islands and to be deregistered in the Cayman Islands.

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7. Capitalized terms that are not defined in this Seventh Amended and Restated Memorandum of Association shall bear the same meaning as those given in the Seventh Amended and Restated Articles of Association of the Company.

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THE COMPANIES LAW (2013 REVISION)  
OF THE CAYMAN ISLANDS  
COMPANY LIMITED BY SHARES

**SEVENTH AMENDED AND RESTATED ARTICLES OF ASSOCIATION  
OF  
GDS HOLDINGS LIMITED**

(Adopted by Special Resolution on May 19, 2016, and effective on May 19, 2016)

1. In these Articles, Table A in the First Schedule to the Statute does not apply and, unless there is something in the subject or context inconsistent therewith:

**“Additional Ordinary Shares”**

shall mean all Ordinary Shares issued (or deemed to be issued or issuable pursuant to Article 26) by the Company after the Original Issue Date, other than Ordinary Shares (or Options or Convertible Securities) issued or issuable (or deemed to be issued or issuable pursuant to Article 26):

- (i) upon conversion of Preferred Shares;
- (ii) in the aggregate up to 29,240,000 Ordinary Shares upon exercise or conversion of Options or Convertible Securities issued from time to time, as approved by the Board of Directors, to employees, officers, directors or consultants of the Group Companies pursuant to option plans, restricted stock plans or other arrangements, each such plan, arrangement or issuance (as applicable) having been approved pursuant to Article 81;
- (iii) as a dividend or distribution on Preferred Shares;
- (iv) pursuant to Recapitalization subject to Article 29;
- (v) pursuant to any acquisition of the Company or of another entity by the Company by merger, purchase of substantially all of the assets, reorganization or similar transaction, approved by the Board of

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Directors, including all Preferred Share Directors;

- (vi) pursuant to transactions with financial institutions or lessors in connection with loans, credit arrangements, equipment financings or similar transactions approved by the Board of Directors, including all Preferred Share Directors;
- (vii) in a registered public offering under the Securities Act or pursuant to the securities laws applicable to an offering of securities in another jurisdiction pursuant to which such securities will be listed on an internationally recognized securities exchange which has been approved by the Board of Directors, including all Preferred Share Directors; and
- (viii) pursuant to other transactions expressly excluded from the definition of “Additional Ordinary Shares” by approval of holders of at least seventy-five percent (75%) of the then outstanding Preferred Shares, voting as a separate class on an as-converted basis.

**“Affiliate”**

shall mean, in respect of a Person, any other Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person, and (i) in the case of a natural person, shall include, without limitation, such Person's spouse, parents, children, siblings, mother-in-law and father-in-law and brothers and sisters-in-law, (ii) in the case of a Preferred Shareholder, shall include (A) any Person who holds shares as a nominee for such Preferred Shareholder, (B) any shareholder of such Preferred Shareholder, (C) any Person which has a direct and indirect interest in such Preferred Shareholder (including, if applicable, any general partner or limited partner) or any fund manager thereof; (D) any Person that directly or

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indirectly controls, is controlled by, under common control with, or is managed by such Preferred Shareholder or its fund manager, (E) the relatives of any individual referred to in (B) above, and (F) any trust controlled by or held for the benefit of such individuals. For the purpose of this definition, “control” (and correlative terms) shall mean the direct or indirect power, whether by contract, equity ownership or otherwise, to direct the

policies or management of a Person; provided that the direct or indirect ownership of twenty-five percent (25%) or more of the voting power of a Person is deemed to constitute control of that Person.

“Annual Budget”	shall mean the annual budget of the Company or any Subsidiary.
“Articles”	shall mean these Seventh Amended and Restated Articles of Association of the Company, as originally framed or as from time to time amended in accordance with these Articles and the Statute.
“as converted basis”	shall have the meaning given in Article 51(a).
“Auditors”	shall mean the Persons for the time being performing the duties of auditors of the Company.
“Board” or “Board of Directors”	shall mean the board of directors of the Company.
“Business Day”	shall mean a day (other than a Saturday or Sunday) on which banks are open for business in the State of New York in the United States of America, Beijing in the PRC, Hong Kong and Singapore.
“Cash Threshold”	shall have the meaning given in Article 103(a) hereof.
“CEO”	shall mean the chief executive officer of the Company.
“Closing”	shall have the meaning given in the Members

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	Agreement.
“Company”	shall mean GDS Holdings Limited.
“Company Redemption Notice”	shall have the meaning given in Article 102(e) hereof.
“Conversion Date”	shall mean the date specified in any notice served by a Preferred Shareholder electing to convert such shares or the date on which automatic conversion is to occur in accordance with Article 22.
“Conversion Price”	shall have the meaning given in Article 20 and as adjusted pursuant to these Articles.
“Convertible Securities”	shall mean any shares or other securities convertible into or exchangeable for Ordinary Shares or for other Convertible Securities.
“Deemed Winding Up Event”	shall have the meaning given in Article 125 hereof.
“Directors”	shall mean the directors for the time being of the Company.
“Distribution”	shall mean the transfer of cash or other property without consideration whether by way of dividend or otherwise, other than (A) dividends in specie on Ordinary Shares payable in Ordinary Shares, or (B) the purchase or redemption of shares of the Company for cash or property in connection with: (i) repurchases by the Company at the original issue price of Ordinary Shares issued to employees, officers, directors or consultants of Group Companies upon termination of their employment or services pursuant to agreements providing for the right of said repurchase, (ii) repurchases by the Company of Ordinary Shares issued to employees, officers, directors or consultants of the Group Companies pursuant to rights of first refusal contained in agreements

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	providing for such right, and (iii) any other repurchase or redemption of Shares of the Company approved by the holders of the Ordinary Shares and Preferred Shares, voting together as a single class on an as-converted basis, or effected as part of the conversion or redemption of Preferred Shares pursuant to Article 19 or Articles 102 and 103, respectively.
“Dividend Rate”	shall mean for each Preferred Share, an annual rate of six percent (6%) of the Original Purchase Price, as applicable (subject to adjustment for Recapitalization).
“Dollars” or “US\$”	shall mean the dollar currency of the United States of America and references to cents or ¢ should be construed accordingly.
“EDC Group”	shall mean EDC Group Limited, a company incorporated and existing under the laws of the British Virgin Islands.
“Electronic Record”	shall have the meaning given in the Electronic Transactions Law of the Cayman Islands (2003 Revision).
“Equity Securities”	shall mean the Ordinary Shares or the Preferred Shares, or any securities convertible into, exchangeable for or exercisable for the Ordinary Shares now or hereafter held, directly or indirectly, by any Person.
“Everbright”	shall mean Seabright SOF (I) Paper Limited and Forebright Management Limited.
“Executive Committee”	shall have the meaning given in Article 82(f) hereof.
“Executive Committee Members”	shall have the meaning given in Article 82(f) hereof.
“Existing Preferred Share Director”	shall have the meaning given in Article 93(a)

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	hereof.
“Existing Preferred Shareholders”	shall mean all the holders of the then outstanding Existing Preferred Shares from time to time; and “ <i>Existing Preferred Shareholder</i> ” shall mean any of them.
“Existing Preferred Shares”	shall mean Series A Shares, Series A* Shares, Series B Shares, Series B1 Shares, Series B2 Shares, Series B4 Shares, and Series B5 Shares of the Company, issued and outstanding immediately following the Closing.
“GDS Enterprises”	shall mean GDS Enterprises Limited, a company incorporated and existing under the laws of the British Virgin Islands.
“Group Companies”	shall mean all of the Company and its Subsidiaries, each as set forth in <u>Exhibit D</u> of the Members Agreement, and a “ <b>Group Company</b> ” means any of them.
“Holder Participation Election”	shall have the meaning given in Article 103(c).
“Holder Redemption Date”	shall have the meaning given in Article 103(a) hereof.
“Holder Redemption Deadline”	shall have the meaning given in Article 103(c).

“Holder Redemption Election”	shall have the meaning given in Article 103(a) hereof.
“Holder Redemption Notice”	shall have the meaning given in Article 103(b) hereof.
“Interested Director”	shall have the meaning given in Article 74 hereof.
“Interested Director Transaction”	shall have the meaning given in Article 74 hereof.
“IPO”	shall mean the Company’s first public offering of any of its securities to the general public pursuant to (i) a registration statement filed under the Securities Act, or (ii) the securities laws applicable to an offering of securities in another

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	jurisdiction pursuant to which such securities will be listed.
“Key Founders”	shall have the meaning given to it in the Members Agreement.
“Key Subsidiary Group”	shall mean the Company’s Subsidiaries that, together, constitute all or substantially all of the Group Companies’ (taken as a whole) assets or generate all or substantially all of the Company’s profits or revenues (for the avoidance of doubt, Global Data Solutions Co., Ltd. (全球数据解决方案有限公司), a company incorporated and existing under the laws of PRC which is indirectly wholly owned by the Company, shall be deemed as (or part of) the Key Subsidiary Group).
“Liquidation Preference”	shall have the meaning given in Article 124 (h) hereof.
“Member”	shall have the meaning ascribed thereto in the Statute.
“Members Agreement”	shall mean the Sixth Amended and Restated Members Agreement dated May 19, 2016 by and between the Company, the Key Founders, the Preferred Shareholders and the Other Shareholders (as amended and restated from time to time).
“Memorandum”	shall mean the Seventh Amended and Restated Memorandum of Association of the Company, as originally framed or as from time to time amended in accordance with these Articles and the Statute.
“Ofira Capital”	shall mean Ofira Capital Limited, a company incorporated and existing under the laws of the British Virgin Islands.
“Options”	shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Ordinary Shares or Convertible Securities.

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“Ordinary Resolution”	shall mean (i) a resolution passed by a simple majority of the Members as, being entitled to do so, vote in person or, where proxies are allowed, by proxy, or, in the case of corporations, by their duly authorized representatives at a general meeting, or (ii) a resolution approved in writing by all of the Members entitled to vote at a general meeting of the Company, and the effective date of the resolution so adopted shall be the date on which the instrument or the last of such instruments, if more than one, is executed. In computing the majority, regard shall be had to the number of votes to which each Member is entitled by these Articles.
“Ordinary Share Director(s)”	shall have the meaning given in Article 93(a) hereof.
“Ordinary Shares”	shall mean shares in the capital of the Company of US\$0.00005 nominal or par value designated as Ordinary Shares and having the rights provided for in these Articles.
“Original Issue Date”	shall mean (i) with respect to the Series A Shares, Series B Shares, and the Series C Shares, the respective dates on which the Series A Shares, the Series B Shares and the Series C Shares were issued; (ii) with respect to the Series A* Shares, February 11, 2009 (for the purpose of these Articles only); (iii) with respect to the Series B1 Shares, September 18, 2009; (iv) with respect to the Series B2 Shares, September 21, 2012 (v) with respect to the Series B4 Shares, September 18, 2012; (vi) with respect to the Series B5 Shares, is August 13, 2014; and (vii) with respect to the Series C Shares, is August 13, 2014.
“Original Purchase Price”	shall mean, with respect to the Series A Shares, US\$0.363636 per share; with respect to the Series B Shares, US\$0.77922 per share, with respect to the Series A* Shares, US\$0.1060 per share; with respect to the Series B1 Shares, US\$0.5300 per

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	share; with respect to the Series B2 Shares, US\$0.5855 per share; with respect to the Series B4 Shares, US\$0.4340 per share; with respect to the Series B5 Shares, US\$1.036522 per share; and with respect to the Series C Shares, US\$1.036522 per share.
“Other Shareholders”	shall mean Best Million Group Limited, a company incorporated and existing under the laws of the British Virgin Islands with registered number 1634472, Fortune Million International Corporation, a company incorporated and existing under the laws of the British Virgin Islands with registered number 1910205 and Linmax Asia Limited, a company incorporated and existing under the laws of British Vergin Islands with registered number 1903042, and an “Other Shareholder” means any of them.
“Person”	shall mean an individual, corporation, partnership, limited liability company, association, trust, unincorporated organization, or other entity.
“PRC”	shall mean the People’s Republic of China.
“Preferred Share Director(s)”	shall have the meaning given in Article 93(a).
“Preferred Shares”	shall mean, collectively, Series A Shares, Series B Shares, Series A* Shares, Series B1 Shares, Series B2 Shares, Series B4 Shares, Series B5 Shares, and Series C Shares of the Company.
“Preferred Shareholder”	shall mean a holder of any then outstanding Preferred Shares from time to time.
“Prohibited Transferee”	shall mean any of 21ViaNet Group, Inc., Dr. Peng Telecom and Media Group Corporation (二十一世纪网络集团), a joint stock company incorporated and listed in the PRC, Equinix, Inc., KDDI CORPORATION, NTT Communications, SingTel Group, PCCW Limited, KT Corporation, SK TELECOM, Philippine Long Distance Telephone Company, Telkom Indonesia, Axiata Group Berhad, and

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	Telekom Malaysia Berhad.
“Qualified IPO”	shall mean a firm commitment underwritten IPO on an internationally recognized securities exchange (i) with

gross cash proceeds to the Company of at least US\$100 million, (ii) at an issue price per share being not less than twenty-five percent (25%) above US\$1.036522, as adjusted for any Recapitalization from time to time, and (iii) resulting in a free float of not less than twenty percent (20%) of the Company's share capital.

<b>“Recapitalization”</b>	shall mean any share split, share dividend, share combination or consolidation, recapitalization, reclassification or other similar event in relation to the Shares of the Company.
<b>“Redemption Date”</b>	shall have the meaning given in Article 102(c) hereof.
<b>“Redemption Deadline”</b>	shall have the meaning given in Article 102(f) hereof.
<b>“Redemption Election”</b>	shall have the meaning given in Article 102(c) hereof.
<b>“Redemption Price”</b>	shall have the meaning given in Article 102(d) hereof.
<b>“Right Holder”</b>	shall mean the Person, who or which is entitled to exercise the Right of First Refusal, the Right of First Offer or the Right of Co-Sale, as the case may be.
<b>“Right of Co-Sale”</b>	shall mean the right of co-sale provided in Article 14 of these Articles.
<b>“Right of First Offer”</b>	shall mean the right of first offer provided in Article 13 of these Articles.
<b>“Right of First Refusal”</b>	shall mean the right of first refusal provided in

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Article 11 of these Articles.

<b>“ROFR &amp; Co-Sale Agreement”</b>	shall mean the Sixth Amended and Restated Right of First Refusal and Co-Sale Agreement entered into between the Existing Preferred Shareholders, the Series C Shareholder, the Company and other parties on May 19, 2016 (as amended and restated from time to time).
<b>“Sale Transaction”</b>	shall mean (i) any reorganization, consolidation, merger, sale or transfer of the Company's outstanding Shares or similar transaction (other than any sale of stock by the Company for capital raising purposes) in which Members of the Company immediately prior to such reorganization, merger or consolidation, sale or transfer of Shares or similar transaction in aggregate do not (by virtue of their ownership of securities of the Company immediately prior to such transaction) beneficially own Shares possessing a majority of the voting power of the surviving company or companies immediately following such transaction; (ii) any reorganization, consolidation, merger, sale or transfer of the Company's outstanding shares or similar transaction (other than any sale of stock by the Company for capital raising purposes) in which any Member of the Company immediately prior to such reorganization, merger or consolidation, sale or transfer of shares or similar transaction (by virtue of his/its ownership of securities of the Company immediately prior to such transaction) beneficially owns shares, directly or indirectly, possessing a majority of the voting power of the surviving company or companies immediately following such transaction; (iii) a sale, lease, conveyance or other disposition of all or substantially all of the assets of the Company or the Group Companies (taken as a whole) or the Key Subsidiary Group; (iv) the exclusive licensing of all or substantially all of the intellectual property of the Group Companies

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(taken as a whole) used in generating all or substantially all of the Group Companies' profits or revenues; or (v) any reorganization, consolidation, merger, sale or transfer of the Key Subsidiary Group's outstanding shares or similar transaction in which the Company does not (by virtue of its direct or indirect ownership of securities of the Key Subsidiary Group immediately prior to such transaction) beneficially own shares possessing a majority of the voting power of the surviving company or companies immediately following such transaction .

<b>“SBCVC”</b>	shall mean any or all of SBCVC Fund II, L.P., SBCVC Venture Capital (□□□□□□□□□□), SBCVC Fund III L.P., SBCVC Fund II-Annex, L.P., and SBCVC Company Limited.
<b>“SBGD”</b>	shall mean SBGD Investment Limited, a company incorporated and existing under the laws of the British Virgin Islands.
<b>“Seal”</b>	shall mean the common seal of the Company and includes every duplicate seal.
<b>“Secretary”</b>	shall include an Assistant Secretary and any Person appointed by the Board of Directors to perform the duties of Secretary of the Company.
<b>“Securities Act”</b>	shall mean the United States Securities Act of 1933, as amended.
<b>“Selling GDS Upstream Shareholder”</b>	shall mean one out of Excel Prayer and Solution Leisure, all of which are shareholders of Global Data Solutions Limited.
<b>“Senior Management Personnel”</b>	shall mean the CEO or its equivalent, the chief financial officer, and all the other senior officers of any Group Company reporting directly to the CEO.
<b>“Series A Liquidation Preference”</b>	shall have the meaning given in Article 124(k) hereof.

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<b>“Series A Shares”</b>	shall mean Shares in the capital of the Company of US\$0.00005 nominal or par value designated as Series A Preferred Shares and having the rights provided for in these Articles.
<b>“Series A* Liquidation Preference”</b>	shall have the meaning given in Article 124(i) hereof.
<b>“Series A* Shares”</b>	shall mean Shares in the capital of the Company of US\$0.00005 nominal or par value designated as Series A* Preferred Shares and having the rights provided for in these Articles.
<b>“Series B Liquidation Preference”</b>	shall have the meaning given in Article 124(g) hereof.
<b>“Series B* Liquidation Preference”</b>	shall have the meaning given in Article 124(e) hereof.
<b>“Series B Shares”</b>	shall mean Shares in the capital of the Company of US\$0.00005 nominal or par value designated as Series B Preferred Shares and having the rights provided for in these Articles.
<b>“Series B* Shares”</b>	shall mean, collectively, Series B1 Shares, Series B2 Shares and Series B4 Shares.
<b>“Series B1 Shares”</b>	shall mean Shares in the capital of the Company of US\$0.00005 nominal or par value designated as Series B1 Preferred Shares, and having the rights provided for in these Articles.
<b>“Series B2 Shares”</b>	shall mean Shares in the capital of the Company of US\$0.00005 nominal or par value designated as Series B2 Preferred Shares, and having the rights provided for in these Articles.

“Series B4 Shares” shall mean Shares in the capital of the Company of US\$0.00005 nominal or par value designated as Series B4 Preferred Shares, and having the rights provided for in these Articles.

“Series B5 Liquidation Preference” shall have the meaning given in Article 124(c)

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hereof.

“Series B5 Shares” shall mean Shares in the capital of the Company of US\$0.00005 nominal or par value designated as Series B5 Preferred Shares, and having the rights provided for in these Articles.

“Series C Liquidation Preference” shall have the meaning given in Article 124(a) hereof.

“Series C Directors” shall have the meaning given in Article 93(a) hereof.

“Series C Shares” shall mean shares in the capital of the Company of US\$0.00005 nominal or par value designated as Series C Preferred Shares and having the rights provided for in these Articles.

“Series C Shareholder” shall mean the holder(s) of the Series C Shares of the Company.

“Shares” shall be construed as a reference to Shares of each class of Shares of the Company from time to time in issue and includes fractions of Shares (except as otherwise provided herein), and each, a Share.

“Share Swap Agreement” shall mean the Share Swap Agreement dated on 12 June, 2014, entered into by the Company, EDC Holding Limited, Brilliant Wise Holdings Limited, and certain other entities.

“Special Resolution” shall mean (i) a resolution passed by at least two-thirds (2/3) of the Members as, being entitled to do so, vote in person or, where proxies are allowed, by proxy, or, in the case of corporations, by their duly authorized representatives, at a general meeting of which notice specifying the intention to propose the resolution as a Special Resolution has been duly given, or (ii) a resolution approved in writing by all of the Members entitled to vote at a general meeting of the Company, and the effective date of the resolution so adopted

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shall be the date on which the instrument or the last of such instruments, if more than one, is executed. In computing such two-thirds (2/3) requirement, regard shall be had to the number of votes to which each Member is entitled by these Articles.

“Star Preferred Shares” shall have the meaning given in Article 102(f) hereof.

“Statute” shall mean the Companies Law of the Cayman Islands, as amended, and every statutory modification or re-enactment thereof for the time being in force.

“STTC” shall mean STT Communications Ltd., a company incorporated with limited liability in Singapore

“Subscription and Purchase Agreement” shall mean the Series C Preferred Shares Subscription and Purchase Agreement entered into by and between the Company, Further Success Limited, Global Data Solutions LTD., Global Data Solutions (Beijing) Co., Ltd., SBCVC, STTC and certain other persons and entities dated July 29, 2014, as amended from time to time.

“Subsidiary” shall mean, with respect to any entity, a corporation, partnership, trust or other entity of which such entity directly or indirectly owns at the time shares or other equity interest representing a majority of the voting power of such corporation, partnership, trust or other entity.

“Transfer” shall mean and include any sale, assignment, creation of any encumbrance, hypothecation, pledge, option, conveyance in trust, gift, transfer by bequest, devise or descent, or other agreement, transfer or disposition of any kind, whether voluntary or by operation of law, directly or indirectly, or entering into any agreement or arrangement (a) to effectively pass or transfer the voting rights attached to any interests in the

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capital of the Company, or (b) to effectively pass or transfer the economic interest derived from any interests in the capital of the Company, including but not limited to transfers to receivers, levying creditors, trustees or receivers in bankruptcy proceedings or general assignees for the benefit of creditors, except for the following:

- (i) any creation of a bona fide encumbrance of the Equity Securities held by a Seller as security granted to the lender, made pursuant to a bona fide loan transaction, if the beneficiary of such encumbrance executes a counterpart copy of the ROFR & Co-Sale Agreement or a Deed of Adherence (as defined in the ROFR & Co-Sale Agreement) and becomes bound thereby as was the Seller, in the event and to the extent that such beneficiary of such encumbrance ever acquires ownership of such shares;
- (ii) any Transfer of Equity Securities by a Seller, if a Seller is a natural person, to a Seller’s spouse, parents, children and siblings or trusts for the benefit of any of the foregoing individuals, or transfers of Shares by the Seller by devise or descent; provided, that, in all cases, the transferee or other recipient executes a counterpart copy of the ROFR & Co-Sale Agreement or a Deed of Adherence (as defined in the ROFR & Co-Sale Agreement) and becomes bound thereby as was the Seller;
- (iii) any Transfer of Equity Securities by a Seller, if a Seller is an entity, to any Person that directly or indirectly controls, is controlled by, under common control with, or is managed by such Person or its fund manager, and where a Seller is an Existing Preferred Shareholder, any general partner or limited partner which has a direct or

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indirect interest in such Preferred Shareholder; provided that, for the purpose of limb (iii) of this definition of “*Transfer*”, the direct or indirect ownership of fifty percent (50%) or more of the voting power of a Person is deemed to constitute control of that Person; provided, further, that, in all cases, the transferee or other recipient executes a counterpart copy of the ROFR & Co-Sale Agreement or a Deed of Adherence (as defined in the ROFR & Co-Sale Agreement) and becomes bound thereby as was the Seller; and

- (iv) any Transfers of Equity Securities in a registered public offering pursuant to (a) registration under the Securities Act, or (b) the securities laws applicable to an offering of securities in a jurisdiction other than the United States.

“written” and “in writing” shall include all modes of representing or reproducing words in visible form, including in the form of an Electronic Record.

Words importing the singular number include the plural number and vice versa.

Words importing the masculine gender include the feminine gender.

Words importing persons include corporations.

In these Articles, Section 8 of the Electronic Transactions Law (2003 Revision) shall not apply.

#### **COMMENCEMENT OF BUSINESS**

2. The business of the Company may be commenced as soon after incorporation as the Board of Directors shall see fit, notwithstanding that only part of the Shares may have been allotted.

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3. The Board of Directors may pay, out of the capital or any other monies of the Company, all expenses incurred in or about the formation and establishment of the Company including the expenses of registration.

#### **CERTIFICATE FOR SHARES**

4. A Member shall only be entitled to a share certificate if the Board of Directors resolves that share certificates shall be issued. Certificates representing shares of the Company, if any, shall be in such form as shall be determined by the Board of Directors. Share certificates shall be signed by one or more Directors or other Person(s) authorized by the Board of Directors. All certificates for Shares shall be consecutively numbered or otherwise identified and shall specify the shares to which they relate. The name and address of the Person to whom the shares represented thereby are issued, with the number of shares and date of issue, shall be entered in the register of Members of the Company. All certificates surrendered to the Company for transfer shall be canceled and no new certificate shall be issued until the former certificate for a like number of shares shall have been surrendered and canceled. The Board of Directors may authorize certificates to be issued with the Seal and authorized signature(s) affixed by some method or system of mechanical process.

5. Notwithstanding Article 4 of these Articles, if a share certificate be defaced, lost, stolen or destroyed, it may be renewed on such terms as the Board of Directors may prescribe as to evidence, indemnity (including, without limitation, a requirement the owner of the defaced, lost, stolen or destroyed certificate or such owner's legal representative give the Company a bond (or other adequate security) sufficient to indemnify it against any claim that may be made against it (including any expense or liability) on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate) and the payment of the expenses incurred by the Company in investigating any such evidence or in issuing such new certificate.

#### **ISSUE OF SHARES**

6. (a) [Intentionally omitted.]
- (b) The powers, preferences and rights, and the qualifications, limitations or restrictions thereof in respect to the Ordinary Shares, Series A Shares, Series B Shares, Series A\* Shares, Series B1 Shares, Series B2 Shares, Series B4 Shares, Series B5 Shares, and Series C Shares shall be subject to Article 81 and as herein provided.

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- (c) Subject as herein provided (including Article 81), all Shares of the Company for the time being unallotted and unissued shall be under the control of the Board of Directors who may allot, issue or grant Options over or otherwise dispose of Shares of the Company on such terms as they think proper, provided that the Preferred Shares may only be issued (i) with the rights and restrictions of the Preferred Shares as set forth in these Articles and (ii) with the approval of the Board of Directors, including all Preferred Share Directors. All Shares shall be issued fully paid.

7. Pre-emptive Right

- (a) **Pre-emptive Right.**

Subject to the terms and conditions specified in this Article 7(a), the Company hereby grants to each Preferred Shareholder a pre-emptive right to subscribe for its Pro Rata Share (as hereinafter defined) (in whole or in part) with respect to future issuances by the Company of New Securities (as hereinafter defined). For the purpose of this Article 7(a), a Preferred Shareholder's "**Pro Rata Share**" shall mean that number of New Securities (as defined below) that equals the total number of such New Securities to be issued by the Company, multiplied by a fraction, the numerator of which is (i) the number of Ordinary Shares (assuming conversion of all securities that are outstanding that are convertible into Ordinary Shares) held by such Preferred Shareholder and the denominator of which is (ii) the total number of Ordinary Shares (assuming conversion of all securities that are outstanding that are convertible into Ordinary Shares) of the Company, outstanding immediately prior to the issuance of New Securities giving rise to the pre-emptive right.

Subject to Article 7(a)(d), each time the Company proposes to offer any shares of, or securities convertible into or exercisable for any shares of, any class of its shares ("**New Securities**"), the Company shall first make an offering of such New Securities to each Preferred Shareholder in accordance with the following provisions:

- (i) The Company shall deliver a written notice ("**Notice**") pursuant to Section 7.7 of the Members Agreement to each of the Preferred Shareholders stating (i) its bona fide intention to offer such New Securities, (ii) the number of such New Securities to be offered, and (iii) the price and a summary of the terms, if any, upon which it proposes to offer such New Securities.

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- (ii) By written notification received by the Company within fifteen (15) Business Days after delivery of the Notice (the "**Refusal Period**"), each Preferred Shareholder may elect to purchase or obtain, at the price and on the terms specified in the Notice, up to its Pro Rata Share of such New Securities.

- (iii) In the event that any Preferred Shareholder elects not to purchase its full Pro Rata Share of the New Securities available to it pursuant to Article 7(a)(a.) above within the Refusal Period, then the Company shall promptly give written notice (the "**Overallocation Notice**") to each of the Preferred Shareholders that has elected to purchase its full Pro Rata Share (the "**Fully Participating Preferred Shareholders**"), which notice shall set forth the number of New Securities not purchased by the other Preferred Shareholders (such shares, the "**Overallocation New Securities**"), and shall offer the Fully Participating Preferred Shareholders the right to purchase its Pro Rata Share of the Overallocation New Securities. By written notification received by the Company within five (5) Business Days after delivery of the Overallocation Notice, each Fully Participating Preferred Shareholder may elect to purchase or obtain at the price and terms specified in the Notice, up to its Pro Rata Share of the Overallocation New Securities. For the purpose of this Article 7(a)(b.), each Fully Participating Preferred Shareholder's Pro Rata Share shall be the number of Overallocation New Securities multiplied by a fraction, the numerator of which shall be the number of Ordinary Shares (assuming conversion of all securities that are outstanding that are convertible into Ordinary Shares) held by such Fully Participating Preferred Shareholder on the date of the Notice and the denominator of which shall be the total number of Ordinary Shares (assuming conversion of all securities that are outstanding that are convertible into Ordinary Shares) held by all Fully Participating Preferred Shareholders on the date of the Notice.

- a. In the event that not all New Securities specified in the Notice are acquired by the Preferred Shareholders pursuant to Article 7(a)(b.) hereof, the Company may, during the ninety (90) day period following the expiration of the period provided in Article 7(a)(b.) hereof, offer the remaining unsubscribed portion of such New Securities to any Person(s) approved by holders representing at least eighty-five percent (85%) of the Existing Preferred Shares (voting together as a separate class) and holders representing at least seventy-five percent (75%) of the Series C Shares, at a price not less than, and upon terms no more favorable than those specified in the Notice to such Person(s). If the Company does not enter into an

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agreement for the sale of the New Securities within such period, or if such agreement is not consummated within sixty (60) days of the execution thereof, the right provided hereunder shall be deemed to be revived and such New Securities shall not be offered unless first reoffered to the Preferred Shareholders in accordance herewith.

- b. Notwithstanding the foregoing, New Securities does not include Ordinary Shares, Options or other Convertible Securities issued or issuable (or deemed to be issued or issuable pursuant to Article 26 of these Articles):

- (i) upon conversion of Preferred Shares;
- (ii) in the aggregate up to 29,240,000 Ordinary Shares upon exercise or conversion of Options or Convertible Securities issued from time to time, as approved by the Board, to employees, officers, directors or consultants of the Group Companies pursuant to option plans, restricted stock plans or other arrangements, each such plan, arrangement or issuance (as applicable) having been approved pursuant to Article 81 of these Articles;
- (iii) as a dividend or distribution on Preferred Shares;
- (iv) pursuant to Recapitalization subject to Article 29 of these Articles;
- (v) pursuant to any acquisition of the Company or of another entity by the Company by merger, purchase of substantially all of the assets, reorganization or similar transaction, approved by the Board, including all the Preferred Share Directors;



- (vi) pursuant to transactions with financial institutions or lessors in connection with loans, credit arrangements, equipment financings or similar transactions approved by the Board, including all the Preferred Share Directors;
- (vii) in a registered public offering under the Securities Act or pursuant to the securities laws applicable to an offering of securities in another jurisdiction pursuant to which such securities will be listed on an internationally recognized securities exchange which has been approved by the Board, including all the Preferred Share Directors; and
- (viii) pursuant to other transactions expressly excluded from the definition of "New Securities" by approval of at least seventy-five percent (75%) of the

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then outstanding Preferred Shares, voting as a separate class on an as-converted basis.

(b) Termination of Right.

The pre-emptive right granted under Article 7(a) shall expire immediately prior to the first to occur of the following: (i) the closing of the Qualified IPO, and (ii) the effectiveness of a Sale Transaction.

**REGISTER OF MEMBERS**

8. The Company shall maintain a register of its Members and every Person whose name is entered as a Member in the register of Members shall be entitled without payment to receive within two (2) months after allotment or lodgment of transfer (or within such other period as the conditions of issue shall provide) one certificate for all his Shares or several certificates each for one or more of his Shares upon payment of fifty cents (US\$0.50) for every certificate after the first or such less sum as the Board of Directors shall from time to time determine, *provided* that in respect of a Share or Shares held jointly by several Persons, the Company shall not be bound to issue more than one certificate and delivery of a certificate for a Share to one of the several joint holders shall be sufficient delivery to all such holders.

**TRANSFER OF SHARES**

9. The instrument of transfer of any Shares shall be in writing and shall be executed by or on behalf of the transferor and the transferor shall be deemed to remain the holder of a Share until the name of the transferee is entered in the register of Members in respect thereof.
10. The Board of Directors shall register any Transfer of Shares that is made in accordance with these Articles, and shall decline to register any purported Transfer of Shares that is not made in accordance with these Articles.
11. Restrictions on Transfer

(a) Moratorium Period.

For a period of six (6) months from the Original Issue Date for the Series C Shares (the "**Moratorium Period**"), each of the Key Founders, the Existing Preferred Shareholders and the Other Shareholders shall not, without the prior

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written consent of the Series C Shareholder, Transfer any of their respective Equity Securities. William Wei Huang (黄伟伟) further agrees that he shall not, without the prior written consent of the Series C Shareholder, Transfer any of his interests for a further period of twelve (12) months commencing from the end of the Moratorium Period, which would result in his beneficial interests in the share capital of the Company becoming less than 15.17% following any such Transfer.

(b) Prohibited Transferee.

No shareholder of the Company is permitted to Transfer any interest it may hold, directly or indirectly, in the share capital of the Company, or in the capital of any of Global Data Solutions Limited, SBGD, EDC Group, GDS Enterprises, Ofira Capital, Excel Prayer, Solution Leisure or Topperfect Investment Limited, to any of the Prohibited Transferees or its consolidated subsidiary, unless with the prior consent of holders collectively holding at least seventy-five percent (75%) of all the Ordinary Shares and Preferred Shares then outstanding (voting together on an as-converted basis).

(c) Key Founders' or Other Shareholders' Transfer.

Subject to Articles 11(a) and 11(b), before a Key Founder or an Other Shareholder may Transfer any Equity Securities, the Preferred Shareholders shall have a Right of First Refusal (as defined below) to purchase the Equity Securities which such selling Key Founder or selling Other Shareholder (as the case may be) desires to Transfer on the terms and conditions set forth herein. In connection with any proposed Transfer by any Key Founder or any Other Shareholder (as the case may be) of any Equity Securities, each Preferred Shareholder shall have a Right of Co-Sale (as defined below) if such Preferred Shareholder has not exercised its Right of First Refusal with respect to the Offered Shares (as defined below) pursuant to Article 12 below, to sell certain Equity Securities to an Approved Third Party Purchaser (as defined below) on the terms and conditions set forth herein.

(d) Existing Preferred Shareholders' Transfer.

Subject to Articles 11(a) and 11(b), before an Existing Preferred Shareholder may Transfer any Equity Securities, the Series C Shareholder shall have a Right of First Offer (as defined below) to purchase all (but not less than all) the Equity Securities which such Existing Preferred Shareholder desires to Transfer, on the terms and conditions set forth herein. Before an Existing Preferred Shareholder may Transfer all (but not less than all) the Equity Securities, the Series C

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Shareholder shall have a Right of Co-Sale if it has not exercised its Right of First Offer with respect to the Transferred Shares (as defined below) pursuant to Article 13 below, to sell certain Equity Securities to an Approved Third Party Purchaser, on the terms and conditions set forth herein.

(e) Series C Shareholder's Transfer.

Subject to Article 11(b), before the Series C Shareholder may Transfer any Equity Securities, the Existing Preferred Shareholders shall have a Right of First Offer to purchase all (but not less than all) the Equity Securities which the Series C Shareholder desires to Transfer, on the terms and conditions set forth herein, and to the extent the Right of First Offer to purchase all (but not less than all) the Equity Securities is not accepted by the Existing Preferred Shareholders, the Key Founders shall have the Right of First Offer to purchase the Equity Securities which the Series C Shareholder desires to Transfer, on terms and conditions set forth herein. Before the Series C Shareholder may Transfer any Equity Securities, any of the Existing Preferred Shareholders and any of the Key Founders, who has not exercised its Right of First Offer with respect to the Transferred Shares pursuant to Article 13 below, shall have a Right of Co-Sale as to the Equity Securities which the selling Series C Shareholder desires to Transfer, on the terms and conditions set forth herein.

(f) Effectiveness of Transfer.

Any Transfer of any Equity Securities to any Person (who is not already a Member) shall not be completed until such Person has agreed to be bound by and has complied with the terms and conditions of the ROFR and Co-Sale Agreement to which the seller is subject (it being understood that any such Person shall duly execute and deliver a deed of adherence in the form set out in the ROFR and Co-Sale Agreement, confirming to the Company and the other shareholders of the Company that it shall be bound by the ROFR and Co-Sale Agreement as was the seller).

12. Right of First Refusal

(a) Notice of Proposed Transfer by a Key Founder or an Other Shareholder.

If any Key Founder or any Other Shareholder (as the case may be) proposes to Transfer any of its Equity Securities to any Person (a "**Proposed Transferee**") save for a transfer pursuant to Article 14 below, such Key Founder or Other Shareholder (as the case may be) shall deliver to the Company and each of the

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Preferred Shareholders a written notice (the "**RFR Notice**") stating: (i) the Key Founder's or the Other Shareholder's (as the case may be) bona fide intention to Transfer such Equity Securities (the "**Offered Shares**"); (ii) the name, address and phone number of the Proposed Transferee; (iii) the maximum aggregate number of Offered Shares to be Transferred; (iv) the bona fide cash price or other consideration for which the Key Founder or the Other Shareholder (as the case may be) proposes to Transfer the Offered Shares (the "**Offered Price**"); (v) each Preferred Shareholder's right to exercise either its Right of First Refusal or its Right of Co-Sale (but not both rights) with respect to the Offered Shares; (vi) each Preferred Shareholder's pro rata share of the Offered Shares (as determined in accordance with Article 12(b) (i)); and (vii) a deadline, consistent with the terms of the ROFR & Co-Sale Agreement, within which the Preferred Shareholders may exercise such rights. Such RFR Notice shall constitute an offer by the selling Key Founder or the selling Other Shareholder (as the case may be) to each of the Preferred Shareholders to sell to it the total number of the Offered Shares. The selling Key Founder or the selling Other

Shareholder (as the case may be) shall use its best efforts to ensure that the Proposed Transferee (if not an existing shareholder of the Company) is a Person of good reputation acceptable to the Preferred Shareholders.

(b) Exercise of the Right of First Refusal by the Preferred Shareholders in a Key Founder's or an Other Shareholder's Transfer.

- (i) Subject to the terms of this Article 12, each of the Preferred Shareholders shall have the Right of First Refusal to purchase all or any part of the Offered Shares of the selling Key Founder or the selling Other Shareholder (as the case may be); provided that each Preferred Shareholder so electing gives a written notice of the exercise of such right to the selling Key Founder or the selling Other Shareholder within thirty (30) days after the date on which the RFR Notice is received by such Preferred Shareholder (the "**Refusal Period**"). Each Preferred Shareholder who has given written notice of its election to exercise of such right within the Refusal Period shall have the right to purchase its pro rata share of the Offered Shares. For the purpose of this Article 12(b)(i), each Preferred Shareholder's pro rata share of the Offered Shares shall be the aggregate number of Offered Shares multiplied by a fraction, the numerator of which shall be the number of Ordinary Shares (assuming conversion of all securities then outstanding that are convertible into Ordinary Shares) owned by such Preferred Shareholder on the date of the RFR Notice and the denominator of which shall be the number of

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Ordinary Shares (assuming conversion of all securities then outstanding that are convertible into Ordinary Shares) held by all Preferred Shareholders on the date of the RFR Notice.

- (ii) In the event that any Preferred Shareholder has not elected to purchase its full pro rata share of the Offered Shares available to it pursuant to its rights under Article 12(b)(i) above within the Refusal Period, then the selling Key Founder or the selling Other Shareholder (as the case may be) shall promptly (and in any case no later than three (3) days after the Refusal Period) give a written notice (the "**Overallotment Notice**") to the Company and each Preferred Shareholder that has elected to purchase its full pro rata share of the Offered Shares (the "**Fully Participating Preferred Shareholders**"), which notice shall set forth the number of Offered Shares that have not been elected for purchase by the other Preferred Shareholders (such shares, the "**Overallotment Shares**"), and shall offer the Fully Participating Preferred Shareholders the right to purchase its pro rata share of the Overallotment Shares as set forth in the Overallotment Notice. Each Fully Participating Preferred Shareholder shall have ten (10) days after receipt of the Overallotment Notice (the "**Overallotment Refusal Period**") to deliver a written notice to the selling Key Founder or the selling Other Shareholder (as the case may be) of its election to purchase up to its pro rata share of the Overallotment Shares on the same terms and conditions as set forth in the RFR Notice. For the purpose of this Article 12(b)(ii), each Fully Participating Preferred Shareholder's pro rata share of the Overallotment Shares shall be the aggregate number of the Overallotment Shares multiplied by a fraction, the numerator of which shall be the number of Ordinary Shares (assuming conversion of all securities then outstanding that are convertible into Ordinary Shares) owned by such Fully Participating Preferred Shareholder on the date of the RFR Notice and the denominator of which shall be the total number of Ordinary Shares (assuming conversion of all securities then outstanding that are convertible into Ordinary Shares) owned by all Fully Participating Preferred Shareholders on the date of the RFR Notice.

(c) Exercise by the Company.

Within five (5) days after the expiration of the Overallotment Refusal Period, the selling Key Founder or the selling Other Shareholder (as the case may be) proposing to Transfer the Offered Shares will give written notices to the Company and each Preferred Shareholder (the "**Confirmation Notice**") specifying the

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number of Offered Shares that have been elected for purchase by the Preferred Shareholders exercising their Rights of First Refusal pursuant to Article 12(b) above and the number of Offered Shares, if any, that remains available for Transfer (the "**Remaining Shares**"). The Company shall have the right to purchase, and subsequently cancel in accordance with the laws of the Cayman Islands all or any part of the Remaining Shares if the Company gives written notice of the exercise of such right to the selling Key Founder or the selling Other Shareholder (as the case may be) proposing to Transfer the Offered Shares within ten (10) days of delivery of the Confirmation Notice to the Company and each of the Preferred Shareholders.

(d) Purchase Price.

The purchase price for the Offered Shares to be purchased by the Company or by a Preferred Shareholder exercising its Right of First Refusal under the ROFR & Co-

Sale Agreement and these Articles will be the Offered Price and will be payable as set forth in Article 12(e) hereof. If the Offered Price includes consideration other than cash, the cash equivalent value of the non-cash consideration will be determined by the Board of Directors of the Company (including affirmative votes of all Preferred Share Directors) in good faith, and such determination will be binding upon the Company, each Preferred Shareholder (if applicable), and the selling Key Founder, absent fraud or error.

(e) Payment.

Payment of the Offered Price for the Offered Shares elected for purchase by the Company or by a Preferred Shareholder exercising its Right of First Refusal pursuant to this Article 12 shall be made within ninety (90) days after the date of the Confirmation Notice ("**Transfer Period**"). Payment of the Offered Price shall be made, at the option of the exercising Preferred Shareholder, as applicable, (i) in cash (or by check), (ii) by cancellation of all or a portion of any outstanding indebtedness of the selling Key Founder to such Preferred Shareholder or to the Company, as the case may be, or (iii) by any combination of the foregoing. Following the payment by the Company for the Offered Shares purchased by the Company, such Offered Shares shall be cancelled.

(f) Key Founders' and the Other Shareholders' Right to Transfer.

If the Company and each Preferred Shareholder have not elected to purchase all or any portion of the Offered Shares pursuant to this Article 12, then the selling Key

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Founder or the selling Other Shareholder (as the case may be) may Transfer such portion of the Offered Shares that the Company and the Preferred Shareholders have not elected to purchase (the "**Co-Sale Eligible Shares**") to the Proposed Transferee named in the RFR Notice, at the Offered Price; provided that any such Transfer by the selling Key Founder or the selling Other Shareholder (as the case may be) of the Co-Sale Eligible Shares shall still be subject to the Preferred Shareholders' Right of Co-Sale provided in Article 14 below of and provided further that the Proposed Transferee shall have executed a counterpart to the ROFR & Co-Sale Agreement or a deed of adherence in the form set out in the ROFR & Co-Sale Agreement, confirming that it shall be bound by the ROFR & Co-Sale Agreement.

(g) Completion in the event that the Right of First Refusal is exercised.

Any Transfer of the Offered Shares pursuant to this Article 12 shall be completed (the "**RFR Completion**") on the date set for the RFR Completion (the "**RFR Completion Date**"), subject to fulfillment of each condition set out in Article 12(g)(i) or waiver in whole or in part by each of the Preferred Shareholders exercising their Rights of First Refusal pursuant to this Article 12 or the Company (as the case may be), when the matters set out in Articles 12(g)(i)(1) and 12(g)(i)(2) shall take place, provided that none of the selling Key Founder or the selling Other Shareholder (as the case may be), the Preferred Shareholders exercising their Rights of First Refusal pursuant to Article 12, or the Company, shall be obliged to perform their relevant obligations under Articles 12(g)(i) and 12(b)(ii) if each of the others does not simultaneously perform (or has not already performed) its relevant obligations thereunder.

(i) Exercise by Preferred Shareholder(s).

- (1) Not less than ten (10) days prior to the RFR Completion Date, the selling Key Founder or the selling Other Shareholder (as the case may be) shall deliver to each Preferred Shareholder exercising its Right of First Refusal the following documents in a form previously approved by, or on behalf of, each such Preferred Shareholder exercising its Right of First Refusal pursuant to this Article 12(b):
- a. draft instruments of transfer in relation to the Transfer of the relevant number of Offered Shares that have been elected for purchase by each Preferred Shareholder exercising its Right of

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First Refusal by the registered holders of those Offered Shares in favor of each such Preferred Shareholder;

- b. copies of the existing share certificates representing the Offered Shares that have been elected for purchase by each Preferred Shareholder exercising its Right of First Refusal pursuant to this Article 12 and draft copies of the new share certificate in the name of the relevant Preferred Shareholder in respect of such number of Offered Shares that such Preferred Shareholder has elected to purchase pursuant to this Article 12; and
- c. a certified true copy of the resolutions of a properly convened board meeting of the Company at which the Board of Directors approves:
- (A) the Transfers of the Offered Shares that have been elected for purchase by each Preferred Shareholder pursuant to this Article 12 from the selling Key Founder or the selling Other Shareholder (as the case may be) to each of such Preferred Shareholders or their specified nominees;
- (B) the cancellation of the existing share certificates representing the Offered Shares that have been elected for purchase by each Preferred Shareholder pursuant to this Article 12 and the issue of new share certificates in the name of the relevant Preferred Shareholders (or their nominees) in respect of such number of Offered Shares that have been elected for purchase by each such Preferred Shareholder pursuant to this Article 12 and, if the sale is in respect of only part of such Key Founder's or the selling Other Shareholder's (as the case may be) holding of Shares, new share certificates in the name of the selling Key Founder for the balance of the Shares retained by it; and

(C) the amendment of the register of members of the Company, to reflect such Transfer.

(2) At the RFR Completion, the selling Key Founder or the selling Other Shareholder (as the case may be) shall deliver the following

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documents in a form previously approved by, or on behalf of, each Preferred Shareholder exercising its Right of First Refusal:

- a. undated and executed instruments of transfer in relation to the transfer of the relevant Offered Shares by the registered holders of those Shares in favor of such Preferred Shareholder (or any other Person that such Preferred Shareholder nominates for the purpose (in such case, such nominee shall execute a counterpart to the ROFR & Co-Sale Agreement or a deed of adherence in the form set out in the ROFR & Co-Sale Agreement confirming that it shall be bound by the ROFR & Co-Sale Agreement as was the Preferred Shareholder)); and
- b. a new share certificate representing the relevant number of Offered Shares that have been elected for purchase by each Preferred Shareholder pursuant to this Article 12.

(3) At the RFR Completion and against the full compliance by the selling Key Founder or the selling Other Shareholder (as the case may be) of its obligations under Articles 12(g)(i)(1) and 12(g)(i)(2), each Preferred Shareholder exercising its Right of First Refusal shall pay to the selling Key Founder or the selling Other Shareholder (as the case may be), or as it may direct, the consideration for the Offered Shares to be acquired by such Preferred Shareholder.

(ii) Exercise by the Company.

(1) Not less than ten (10) days prior to the RFR Completion Date, the selling Key Founder or the selling Other Shareholder (as the case may be) shall deliver to the Company the following documents in a form previously approved by, or on behalf of, the Company:

- a. draft instruments of transfer in relation to the Transfer of the relevant number of Offered Shares that have been elected for purchase by the Company by the registered holders of those Offered Shares in favor of the Company;
- b. copies of the existing share certificates representing the Offered Shares that have been elected for purchase by the Company; and

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c. a certified true copy of the resolutions of a properly convened board meeting of the Company at which the Board of Directors approves:

- (A) the Transfers of the Offered Shares that have been elected for purchase by the Company pursuant to this Article 12 from the selling Key Founder or the selling Other Shareholder (as the case may be) to each of such the Company;
- (B) the cancellation of the existing share certificates representing the Offered Shares that have been elected for purchase by the Company pursuant to this Article 12; and
- (C) the amendment of the register of members of the Company, to reflect such Transfer and the cancellation of the Offered Shares that have been elected for purchase by the Company pursuant to this Article 12.

(2) At the RFR Completion, the selling Key Founder or the selling Other Shareholder (as the case may be) shall deliver the following documents in a form previously approved by, or on behalf of the Company undated and executed instruments of transfer in relation to the transfer of the relevant Offered Shares by the registered holders of those Shares in favor of the Company.

(3) At the RFR Completion and against the full compliance by the selling Key Founder or the selling Other Shareholder (as the case may be) of its obligations under Articles 12(g)(i) and 12(g)(ii), the Company shall pay to the selling Key Founder, or as it may direct, the consideration for the Offered Shares to be acquired the Company. Following such payment, such Offered Shares shall be cancelled.

(h) Selling Key Founder and Selling Other Shareholder's Representations and Warranties.

The Preferred Shareholders exercising their Right of First Refusal shall receive from the selling Key Founder or the selling Other Shareholder (as the case may be) the following representations and warranties as at the date of the RFR Notice and the date of the RFR Completion:

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a. Selling Key Founder's or the Selling Other Shareholder's right to sell the Offered Shares.

The selling Key Founder or the selling Other Shareholder (as the case may be) is the sole legal and beneficial owner of the Offered Shares it desires to Transfer and has the right to Transfer the full legal and beneficial interest in those Offered Shares to the Preferred Shareholder without any consent of any third Person.

b. No encumbrance over the Offered Shares.

The Offered Shares are not subject to any encumbrance and there are no arrangements or obligations that could result in the creation of an encumbrance affecting any of the Offered Shares.

c. No other rights over share capital of the Company.

Save for the provisions of the ROFR & Co-Sale Agreement and subject to these Articles, in regards to rights over share capital of the Company:

- (1) no Person has or claims to have (A) the right (actual or contingent) to require the allotment, issue, transfer, conversion or redemption of any Share or loan capital of the Company or of any other securities giving rise to a right over the share capital of the Company; or (B) any other right relating to any of the Shares in the capital of the Company, or relating to any of the rights attaching to those Shares, and
- (2) there is no arrangement or obligation to create any right of the kind mentioned in Article 12(h)(c)(1).

d. Organization, good standing and qualification.

The selling Key Founder (except William Wei Huang (□□)) or the selling Other Shareholder (as the case may be) is a company duly incorporated, validly existing and in good standing under the respective laws of jurisdictions in which it is incorporated, and is qualified and is duly authorized to conduct business in the jurisdictions where it is operating its business.

e. Due authorization.

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The selling Key Founder or the selling Other Shareholder (as the case may be) and its directors (if applicable) have all the necessary powers and authorities under its memorandum and articles of association or otherwise to execute, complete and perform the Transfer.

13. Right of First Offer

(a) Existing Preferred Shareholders' Transfer.

a. General.

As stated in Article 11(d), in the event that any Existing Preferred Shareholder proposes to Transfer all or any of the Equity Securities then held by it save for a transfer pursuant to Article 14, such Existing Preferred Shareholder shall comply with the provisions of this Article 13(a) to provide a Right of First Offer to the Series C Shareholder, and the exercise of such right shall also comply with provisions in Article 13(c).

b. Exercise of the Right of First Offer by the Series C Shareholder.

(1) If any selling Existing Preferred (the "Transferring Shareholder") proposes to Transfer all or any portion of its Equity Securities in the Company, it shall first give a written notice thereof (the "RFO Notice") to the Series C Shareholder stating: (A) the Transferring Shareholder's bona fide intention to Transfer such Equity Securities (the "Transfer Shares"); (ii) the maximum aggregate number of

Transfer Shares to be Transferred; (iii) the bona fide cash price for which the selling Existing Preferred Shareholder intends to Transfer the Transfer Shares (the “*Transfer Price*”); and (iv) Series C Shareholder’s right to exercise either its Right of First Offer or its Right of Co-Sale (but not both rights). Such RFO Notice shall constitute an offer by such Transferring Shareholder to sell the Transfer Shares to the Series C Shareholder on the terms of the RFO Notice;

- (2) As stated in Article 11(d) and subject to the terms of this Article 13, the Series C Shareholder shall have the Right of First Offer to acquire all (but not less than all) the Transfer Shares offered by the selling Existing Preferred Shareholder in the RFO Notice. Within thirty (30) days from the date of receipt of the RFO Notice by the Series C Shareholder (the “*Existing Preferred Transfer Offering Period*”), the Series C Shareholder has the right to exercise the Right of First Offer to acquire all (but not less than all) the Transfer Shares by delivering a written notice (the “*Offer*

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*Notice*”) to the Transferring Shareholder stating that it is willing to acquire such Transfer Shares on the terms and conditions as set forth in the RFO Notice.

- (3) If the Series C Shareholder either rejects or fails to fully accept the Right of First Offer to acquire all (but not less than all) the Transfer Shares as set out in Article 13(a)(b)(2) above within thirty (30) days from the date of receipt of the RFO Notice by the Series C Shareholder, then the Transferring Shareholder shall be free to enter into a binding agreement to Transfer all (but not less than all) the Transfer Shares to a purchaser and to consummate such Transfer within ninety (90) days commencing from the date of rejection of the Right of First Offer to acquire all or part of the Transfer Shares as set out in Article 13(a)(b)(2) above by the Series C Shareholder or the last day of the Existing Preferred Transfer Offering Period, whichever is earlier, on no less favorable terms than those offered by the Transferring Shareholder to the Series C Shareholder in the RFO Notice, provided that any such Transfer shall still be subject to the relevant Right Holder’s Right of Co-Sale provided in Article 14 hereof and the provisions in Article 11(b) hereof. If the Transferring Shareholder does not enter into such an agreement and consummate the Transfer to a purchaser within such 90-day period, any subsequent proposed Transfer by it of any Equity Securities (including some or all of the Transfer Shares) shall again be subject to the provisions of this Article 13(a).

(b) Series C Shareholder’s Transfer

a. General.

As stated in Article 11(e), in the event the Series C Shareholder proposes to Transfer all or any of the Equity Securities then held by it save for a Transfer pursuant to Article 14, the selling Series C Shareholder shall be subject to the Existing Preferred Shareholders’ Right of First Offer and the Key Shareholders’ Right of First Offer in accordance with the provisions of this Article 13(b), and the exercise of such right shall also comply with provisions in Article 13(c).

b. Exercise of the Right of First Offer by the Existing Preferred Shareholders and the Key Shareholders.

- (1) If the selling Series C Shareholder proposes to Transfer all or any portion of its Equity Securities in the Company, it shall first give a written notice

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thereof (the “*RFO Notice*”) to each of the Company, the Existing Preferred Shareholders and the Key Shareholders stating: (A) the selling Series C Shareholder’s bona fide intention to Transfer such Equity Securities (the “*Transfer Shares*”); (B) the maximum aggregate number of Transfer Shares to be Transferred; (C) the bona fide cash price for which the selling Series C Shareholder intends to Transfer the Transfer Shares (the “*Transfer Price*”); and (D) each Existing Preferred Shareholder’s and Key Shareholder’s right to exercise either its Right of First Offer or its Right of Co-Sale (but not both rights). Such RFO Notice shall constitute an offer by the Series C Shareholder to sell the Transfer Shares to the Existing Preferred Shareholders and the Key Shareholders on the terms of the RFO Notice.

- (2) As stated in Article 11(d) and subject to the terms of this Article 13, the Existing Preferred Shareholders shall have the Right of First Offer to purchase all (but not less than all) the Transfer Shares of the Series C Shareholder. Within fifteen (15) days from the date of receipt by the Company of the RFO Notice (the “*Existing Preferred RFO Offering Period*”), the Existing Preferred Shareholders may exercise the Right of First Offer (as a group) to acquire all (but not less than all) the Transfer Shares by duly delivering one (and only one) written notice (“*Existing Preferred RFO Notice*”) to the selling Series C Shareholder stating the identity of the Existing Preferred Shareholder(s) who have accepted the Right of First Offer to acquire all (but not less than all) the Transfer Shares pursuant to this Article 13(b)(b.) and the specific number of Transfer Shares to be acquired by each of such accepting Existing Preferred Shareholder(s) on the terms and conditions as set forth herein. Each of the Existing Preferred Shareholders hereby irrevocably acknowledges and agrees that, if the selling Series C Shareholder receives more than one Existing Preferred RFO Notice during the Existing Preferred RFO Offering Period, then all of the Existing Preferred RFO Notices received by the selling Series C Shareholder shall be deemed as void and invalid, and the Existing Preferred Shareholders shall be deemed to have rejected their Right of First Offer with respect to the Transfer Shares.
- (3) Upon the expiry of the above Existing Preferred RFO Offering Period, if the selling Series C Shareholder has not received any Existing Preferred RFO Notice or has received more than one Existing Preferred RFO Notice, or has received one or more notice(s) from all of the Existing Preferred Shareholders which state(s) that the Existing Preferred Shareholders have not accepted the Right of First Offer to acquire all (but not less than all) the Transfer Shares or the Existing Preferred Shareholders have rejected or

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failed to accept the Right of First Offer to acquire all (but not less than all) the Transfer Shares, each of the Existing Preferred Shareholders shall be deemed to have waived its Right of First Offer to acquire all (but not less than all) the Transfer Shares pursuant to this Article 13(b)(b.) and the Company shall immediately notify each of the Key Shareholders of their right to exercise their Right of First Offer to acquire all (but not less than all) the Transfer Shares pursuant to this Article 13(b)(b.). Each of the Key Shareholders hereby appoints the Company as its authorised representative for the purpose of the exercise of its Right of First Offer pursuant to this Article 13(b)(b.) and agrees to be bound by the actions or omissions of the Company pursuant to this Article 13(b)(b.). Within a further fifteen (15) days from the end of the Existing Preferred RFO Offering Period (the “*Key Shareholders RFO Offering Period*”), each Key Shareholder may exercise the Right of First Offer to acquire all (but not less than all) such Transfer Shares and the Company (acting as the authorised representative of the Key Shareholders) shall (on behalf of each of the Key Shareholders) deliver a written notice (“*Key Shareholders RFO Notice*”) to the selling Series C Shareholder stating that either (i) all the Key Shareholders have rejected or failed to accept the Right of First Offer to acquire all (but not less than all) the Transfer Shares pursuant to this Article 13(b)(b.); or (ii) the identity of the Key Shareholder(s) who have accepted the Right of First Offer to acquire all (but not less than all) of the Transfer Shares pursuant to this Article 13(b)(b.) and to the extent that more than one Key Shareholder has accepted the Right of First Offer to acquire all (but not less than all) of the Transfer Shares pursuant to this Article 13(b)(b.), the number of Transfer Shares to be acquired by each of such accepting Key Shareholders on the terms and conditions as set forth herein.

- (4) If the Existing Preferred Shareholders or the Key Shareholders (as the case maybe) have either rejected or failed to fully accept the Right of First Offer to acquire all (but not less than all) the Transfer Shares pursuant to this Article 13(b)(b.) as set out above, then the selling Series C Shareholder shall be free to enter into a binding agreement to Transfer all of the Transfer Shares to a purchaser within ninety (90) days commencing from the date of the rejection of the Right of First Offer to acquire all (but not less than all) of the Transfer Shares pursuant to this Article 13(b)(b.) by the Existing Preferred Shareholders or the Key Shareholders or the last day of the Key Shareholders RFO Offering Period, whichever is earlier, on no less favorable terms than those offered by the selling Series C Shareholder to the Existing Preferred Shareholders and the Key Shareholders (as the case

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maybe) in the RFO Notice, provided that any such Transfer shall still be subject to the relevant Right Holder’s Right of Co-Sale provided in Article 14 hereof and to the provisions of Article 11(b) hereof. If the selling Series C Shareholder does not enter into such an agreement or consummate the Transfer to a purchaser within such 90-day period, any subsequent proposed Transfer by it of some or all of the Transfer Shares shall again be subject to the provisions of this Article 13(b)(b.).

c. Transfer as a Whole.

- (1) The Existing Preferred Shareholders agree that they shall only exercise their Right of First Offer pursuant to Article 13(b)(b.) by purchasing the Transfer Shares in whole but not in part, and if more than one Existing Preferred Shareholder exercises their Right of First Offer, then such Existing Preferred Shareholders shall have first agreed amongst themselves whether to acquire the Transfer Shares on a pro rata basis among all the Existing Preferred Shareholders who have exercised their respective Right of First Offer or on some other basis. Notwithstanding any provisions of these Articles, the parties hereto agree that, the Existing Preferred RFO Notice that is delivered by the Existing Preferred Shareholders or any failure by the Existing Preferred Shareholders to deliver the Existing Preferred RFO Notice in accordance with Article 13(b)(b)(2) shall be deemed to be final and binding upon each Existing Preferred Shareholder.
- (2) The Key Shareholders agree, to the extent that the Existing Preferred Shareholders do not fully exercise their Right of First Offer pursuant to Article 13(b)(b.) by purchasing the Transfer Shares in whole but not in part, the Key Shareholders shall only exercise their Right of First Offer pursuant to Article 13(b)(b.) by purchasing Transfer Shares in whole but not in part, and if more than one Key Shareholder exercise their Right of First Offer pursuant to Article 13(b)(b.), then such Key Shareholders shall have first agreed amongst themselves whether to acquire the Transfer Shares on a pro rata basis among all the Key Shareholders who exercised their respective Right of First Offer or on some other basis. Notwithstanding any provisions of these Articles, the parties hereto agree that, the Key Shareholders RFO Notice that is delivered by the Company or any failure by the Company to deliver the Existing Preferred RFO Notice in accordance with Article 13(b)(b)(3) shall be deemed to be final and binding upon each Key Shareholder.

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- (3) For the avoidance of doubt, the parties agree that the selling Series C Shareholder (i) shall be entitled to treat any Existing Preferred RFO Notice and any Key Shareholder RFO Notice that is received by the selling Series C Shareholder as final and binding on all the Existing Preferred Shareholders and all the Key Shareholders (as the case maybe); and (ii) shall not be required to confirm or verify

(c) General Procedures of the Exercise of the Right of First Offer in Both Existing Preferred Shareholders' Transfer and Series C Shareholder's Transfer.

a. Purchase Price.

The purchase price for the Transfer Shares to be purchased by the Series C Shareholder, an Existing Preferred Shareholder or by a Key Shareholder exercising its respective Right of First Offer under these Articles will be the Transfer Price and will be payable as set forth in Article 13(c)(b.) hereof.

b. Payment.

Payment of the purchase price for the Transfer Shares purchased by a Series C Shareholder, an Existing Preferred Shareholder or by a Key Shareholder who has elected to purchase the Transfer Shares pursuant to this Article 13 shall be made within fifteen (15) days after the expiry of the relevant Offering Period. Payment of the Transfer Price shall be made in cash.

c. Completion in the event that Right of First Offer is exercised.

Any Transfer of the Transfer Shares pursuant to Article 13 shall be completed (the "**RFO Completion**") on the date set for the RFO Completion (the "**RFO Completion Date**"), subject to fulfillment of each condition set out in Article 13(c)(c)(1) or waiver in whole or in part by the relevant Rights Holder exercising its Right of First Refusal pursuant to this Article 13, when the matters set out in Article 13(c)(c)(2) and Article 13(c)(c)(3) shall take place, provided that none of the selling Series C Shareholder, the selling Existing Preferred Shareholder and the relevant Right Holder respectively shall be obliged to perform their relevant obligations under Article 13(c)(c)(2) and Article 13(c)(c)(3) if each of the others

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does not simultaneously perform (or has not already performed) its relevant obligations thereunder.

(1) Not less than ten (10) days prior to the Completion Date, the selling Series C Shareholder or the selling Existing Preferred Shareholder (as the case may be) shall deliver the following documents in a form previously approved by, or on behalf of, each relevant Right Holder exercising its Right of First Offer:

- (A) draft instruments of transfer in relation to the Transfer of the relevant number of Transfer Shares that have been elected for purchase by the relevant Right Holder pursuant to this Article 13 by the registered holders of those Transfer Shares in favor of each of such relevant Right Holder(s) (or any other Person such Right Holder nominates for the purpose);
- (B) copies of the existing share certificates representing the Transfer Shares and draft copies of the new share certificate(s) in the name of the relevant Right Holder(s) in respect of such number of Transfer Shares that such Right Holder has elected to purchase pursuant to this Article 13; and
- (C) a certified true copy of the resolutions of a properly convened board meeting of the Company at which the Board of Directors approves:
  - (x) the Transfers of the Transfer Shares that have been elected for purchase by the relevant Right Holder pursuant to this Article 13 from the selling Series C Shareholder or the selling Existing Preferred Shareholder to their respective Right Holders exercising Rights of First Offer or their specified nominees;
  - (y) the cancellation of the existing share certificates representing the Transfer Shares that have been elected for purchase by the relevant Right Holder pursuant to this Article 13 and the issue of new share certificates in the name of the relevant Right Holders exercising the Right of First Offer (or their nominees); and
  - (z) the amendment of the register of members of the Company, to reflect such Transfer.

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(2) At the RFO Completion, the selling Series C Shareholder or the selling Existing Preferred Shareholder (as the case may be) shall deliver the following documents in a form previously approved by, or on behalf of, each relevant Right Holder exercising its Right of First Offer:

- (A) undated and executed instruments of transfer in relation to the transfer of the Transfer Shares that have been elected for purchase by the relevant Right Holder pursuant to this Article 13 by the registered holders of those Shares in favor of the relevant Right Holder exercising the Right of First Offer (or any other Person that such Right Holder nominates for the purpose (in such case, such nominee shall execute a counterpart to the ROFO & Co-Sale Agreement confirming that it shall be bound by the ROFO & Co-Sale Agreement)); and
- (B) the new share certificates representing the relevant number of Transfer Shares that have been elected for purchase by the relevant Right Holder pursuant to this Article 13.

(3) At the RFO Completion and against the full compliance by the selling Series C Shareholder or the selling Existing Preferred Shareholder (as the case may be), each relevant Right Holder exercising the Right of First Offer pursuant to this Article 13 shall pay to the selling Series C Shareholder or the selling Existing Preferred Shareholder (as the case may be), or as it may direct, the consideration for the Transfer Shares to be acquired by such relevant Right Holder.

(4) Representations and Warranties.

The selling Series C Shareholder or any of the selling Existing Preferred Shareholder (as the case may be) shall not make (or be required to make) any representation or warranty to their respective relevant Right Holder in connection with the exercise of the Right of First Offer, other than those on good title to the Transfer Shares, absence of liens with respect to the Transfer Shares and customary representations and warranties concerning the Transferring Shareholder's power and authority to undertake the proposed Transfer.

d. The provisions of this Article 13 shall not apply to the extent that the Transferred Shares are being Transferred as a result of the exercise of the rights of any party under Article 14.

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14. Right of Co-Sale

(a) Key Founder's and Other Shareholder's Transfer.

(i) Initial Exercise by the Preferred Shareholders.

To the extent that any Preferred Shareholder has not exercised its Right of First Refusal with respect to the Offered Shares pursuant to Article 12 hereof, then each Preferred Shareholder who has not exercised its right in Article 12(b)(a) "**Co-Sale Shareholder**") shall have the right to participate in such sale of the Co-Sale Eligible Shares pursuant to Article 12(f) on the same terms and conditions as specified in the RFR Notice subject to the terms of this Article 14 by notifying the selling Key Founder or selling Other Shareholder (as the case may be) in writing within seventeen (17) days after delivery of the Confirmation Notice to such Co-Sale Shareholder (the "**Co-Sale Period**"). Each Co-Sale Shareholder who delivers a notice pursuant to the preceding sentence (a "**Participating Co-Sale Shareholder**") may sell, pursuant to the Participating Co-Sale Shareholder's Right of Co-Sale, up to that number of shares held by such Participating Co-Sale Shareholder which equals, the product of the Co-Sale Eligible Shares multiplied by such Participating Co-Sale Shareholder's Pro-Rata Share. The Participating Co-Sale Shareholder shall indicate the number of shares (on an as converted basis) it then holds that it wishes to sell pursuant to this Article 14(a) (the "**Participating Co-Sale Shareholder Shares**"). The sale of the Participating Co-Sale Shareholder Shares shall occur simultaneously with the sale of the Co-Sale Eligible Shares and within ninety (90) days after the end of the Co-Sale Period. The selling Key Founder or selling Other Shareholder (as the case may be) shall ensure that the Participating Co-Sale Shareholder Shares are included in the relevant Transfer to the Approved Third Party Purchaser. If the Approved Third Party Purchaser fails to purchase all the Participating Co-Sale Shares, then the relevant Transfer of Co-Sale Eligible Shares shall not be completed. This Right of Co-Sale shall not apply with respect to the Offered Shares sold or to be sold to the Company or Preferred Shareholders under their Right of First Refusal.

(ii) Consummation of Co-Sale.

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A Participating Co-Sale Shareholder which has exercised the Right of Co-Sale shall deliver to the selling Key Founder or selling Other Shareholder (as the case may be) at or before the RFR Completion, one or more instruments of transfer together with the applicable share certificates, representing a number of shares not to exceed the number of shares to which the Participating Co-Sale Shareholder is entitled in Article 14(a), representing such shares to be Transferred by the selling Key Founder or selling Other Shareholder (as the case may be) on behalf of the Participating Co-Sale Shareholder. If the Participating Co-Sale Shareholder does not hold a certificate in that series, class or type of shares representing the number of securities owned and to be sold by such Participating Co-Sale Shareholder pursuant to this Article 14, then the Company shall, in accordance with the conversion provision and other relevant provisions of the Company's Memorandum of Association and Articles of Association then in effect, promptly issue a certificate representing the proper series, class, type and number of shares to be sold pursuant to this Right of Co-Sale. At the RFR Completion, such certificates and instruments of transfer will be delivered to the Approved Third Party Purchaser as set forth in the RFR Notice in consummation of the Transfer of the shares pursuant to the terms and conditions specified in the RFR Notice, and the selling Key Founder or selling Other Shareholder (as the case may be) will remit, or will cause to be remitted, to each Participating Co-Sale Shareholder that portion of the proceeds of the Transfer to which each Participating Co-Sale Shareholder is entitled by reason of each Participating Co-Sale Shareholder's participation in such Transfer

pursuant to the Right of Co-Sale. Following the RFR Completion, the Company shall deliver a certificate for the remaining balance of the securities held by the Participating Co-Sale Shareholder, if any, to such Participating Co-Sale Shareholder.

- (iii) Participating Co-Sale Shareholders who exercise the Right of Co-Sale shall not be required to give representations and warranties other than those on good title of the shares to be Transferred by the selling Key Founder or selling Other Shareholder (as the case may be) on behalf of the Participating Co-Sale Shareholder.

(b) Existing Preferred Shareholders' Transfer.

In the event that any of the Existing Preferred Shareholder (other than SBCVC) proposes to Transfer any of the Equity Securities held by it, to the extent that the

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Series C Shareholder has not exercised its Right of First Offer with respect to the Transfer Shares pursuant to Article 13 above, then the Series C Shareholder shall be entitled to exercise the Right of Co-Sale, provided that the exercise of such right shall comply with, *mutatis mutandis*, the procedures as set out in Article 14(a)(for the avoidance of doubt, references to "RFR Completion" shall be deemed to be "RFO Completion"). The relevant Existing Preferred Shareholder shall ensure that the Participating Co-Sale Shares are included in the relevant Transfer to the Approved Third Party Purchaser. If the Approved Third Party Purchaser fails to purchase all the Participating Co-Sale Shares, then the relevant Transfer of Co-Sale Eligible Shares shall not be completed. Notwithstanding anything to the contrary in these Articles, the disposition of any Existing Preferred Shares by SBCVC shall not be subject to the Right of Co-Sale as set forth in these Articles.

(c) Series C Shareholder's Transfer.

In the event that the Series C Shareholder proposes to Transfer any of the Equity Securities then held by it, to the extent that the Existing Preferred Shareholders or the Key Founders have not exercised their Rights of First Offer with respect to the Transfer Shares pursuant to Article 13 hereof, each Existing Preferred Shareholder (other than SBCVC) and each Key Founder shall be entitled to exercise the Right of Co-Sale owned by them, provided that the exercise of such right shall comply with, *mutatis mutandis*, the procedures as set out in Article 14(a)(for the avoidance of doubt, references to "RFR Completion" shall be deemed to be "RFO Completion"). There is no priority in exercising the Right of Co-Sale between the Key Founders and the Existing Preferred Shareholders (other than SBCVC), and the Series C Shareholder shall ensure that the relevant Participating Co-Sale Shares held by the Key Founders and the Existing Preferred Shareholders (other than SBCVC) are included in the relevant Transfer to the Approved Third Party Purchaser. If the Approved Third Party Purchaser fails to purchase all the Participating Co-Sale Shares, then the relevant Transfer of Co-Sale Eligible Shares shall not be completed.

15. Upstream Transfer

- (a) William Wei Huang (□□) agrees and shall ensure that any proposed Transfer of an indirect beneficial interest in the capital of the Company shall be deemed to be a Transfer of Shares in the Company and shall be subject to the Series C Shareholder's Right of First Refusal under Article 12 hereto. William Wei Huang (□□) may only Transfer his interests in the capital of EDC Group and GDS

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Enterprises, to an Approved Third Party Purchaser provided that (i) EDC Group or GDS Enterprises has first offered to the Series C Shareholder such number of Shares in the capital of the Company calculated by multiplying (x) the percentage of shares of EDC Group or GDS Enterprises that is proposed to be sold by William Wei Huang (□□) to a purchaser; by (y) the total number of Shares held by EDC Group or GDS Enterprises in the Company at the time of such offer, on no less favourable terms than those offered by such purchaser to William Wei Huang (□□) and (ii) the Series C Shareholder has either rejected or failed to accept such offer.

- (b) William Wei Huang (□□) agrees and shall ensure that any proposed Transfer of an indirect beneficial interest in the capital of the Company shall be deemed to be a Transfer of Shares in the Company and shall be subject to the Series C Shareholder's Right of First Refusal under Article 12 hereto. William Wei Huang (□□) may only transfer his interests in the capital of Excel Prayer and/or Solution Leisure, to a purchaser provided that (i) Global Data Solutions Limited has first offered to the Series C Shareholder such number of shares in the capital of the Company calculated by multiplying (x) the percentage of shares of Excel Prayer and/or Solution Leisure (as the case may be) that is proposed to be sold by William Wei Huang (□□) to the Approved Third Party Purchaser; by (y) the percentage of shares of Global Data Solutions Limited that is held by Excel Prayer and/or Solution Leisure (as the case may be) at the time of such offer; by (z) the total number of Shares held by Global Data Solutions Limited in the Company at the time of such offer, on no less favourable terms than those offered by such Approved Third Party Purchaser to William Wei Huang (□□) and (ii) the Series C Shareholder has either rejected or failed to accept such offer.

- (c) The Upstream transfer restrictions set forth in Article 15(a) to (b) above, shall be carried out *mutatis mutandis*, in accordance with the procedures as set out in Articles 12 and 14.

16. Prohibited Transfer

- (a) Any Transfer in violation of Articles 11 to 14 or this Article 16(a) (a "Prohibited Transfer") shall be null and void and shall not confer on any transferee any rights whatsoever.
- (b) No Transfer of Shares referred to in Article 16(a) shall in any event be registered or become effective unless the Approved Third Party Purchaser shall first have

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executed a counterpart to the ROFR & Co-Sale Agreement confirming that it shall be bound by the ROFR & Co-Sale Agreement as was the selling Member.

17. Drag-along Right

- (a) Subject to the provisions of these Articles and prior to the closing of a Qualified IPO, if (i) any Preferred Shareholders (the "Selling Member") receives a bona fide offer from and agrees to the terms for the sale of all of its shares with a third party buyer which is not an Affiliate of the Selling Member (the "Buyer") (the "Drag-Along Sale"), and (ii) holders representing not less than eighty-five percent (85%) of the then outstanding Existing Preferred Shares (voting together as a separate class) and holders representing not less than seventy-five percent (75%) of the then outstanding Series C Shares and the holders of at least fifty percent (50%) of the then outstanding Ordinary Shares, vote in favor of, or consent in writing to, or otherwise agree in writing to sell or transfer all of their Shares in the Drag-Along Sale, then the Selling Member may require all other Members to participate in the proposed Drag-Along Sale in accordance with and subject to the conditions set forth in this Article 17. However, the Series C Shareholder shall be exempted from being required to participate in the proposed Drag-Along Sale and for the avoidance of doubt, the Series C Shareholder shall not be a Dragged Member. Notwithstanding the foregoing, if such Series C Shareholder votes for the Drag-Along Sale, the Series C Shareholder voting for the Drag-Along sale shall be deemed to have forfeited rights not to be a Dragged Member for this particular Drag-along Sale.
- (b) The Selling Member may, following execution of a binding agreement with the Buyer (whether conditional or unconditional) for the Drag-Along Sale (directly or indirectly) of the Shares (the "Sale Agreement"), by serving a notice in writing (a "Drag Notice") on each of the other Members who are subject to or have agreed to participate in the Drag-Along Sale and who is not a party to the Sale Agreement (each a "Dragged Member"), require each Dragged Member to transfer all of its Shares (the "Dragged Shares") to the Buyer at the price set out in Article (c) below on the date indicated in the Drag Notice as being the date of completion of the Sale Agreement (the "Drag Completion Date"), being not less than thirty (30) days after the date of the Drag Notice, and on the terms and subject to the conditions set out in this Article 17. If the Drag-Along Sale contemplated in the Sale Agreement does not complete, the Drag Notice shall lapse.
- (c) The price for each Dragged Share shall:

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- (i) be equal to the higher of (A) two point five (2.5) times of the highest Original Purchase Price and (B) the highest consideration offered for each Share in the Company in the Sale Agreement;
  - (ii) be in the same form as that offered for each Share in the Company in the Sale Agreement; and
  - (iii) be paid at the same time as the consideration is payable under the Sale Agreement (or, if later, on the Drag Completion Date) and shall be subject to the same payment terms.
- (d) For the avoidance of doubt, the Preferred Shareholders' rights under this Article 17 to transfer the Dragged Shares shall apply regardless of whether the Dragged Shares are of the same class or type of Shares of the Company which the Selling Member proposes to sell.
  - (e) Any sale made by a Dragged Member shall be made on substantially the same terms and conditions as described in the Sale Agreement. However, the Dragged Members shall not be required to make any representation or warranty to the Buyer, other than as to good title to any Dragged Shares, absence of liens with respect to such Dragged Shares, the Dragged Member's power and authority to undertake the proposed sale, and the validity and enforceability of the Dragged Member's obligations in connection with it.
  - (f) Each Dragged Member's indemnification obligations, if any, in connection with the Drag-Along Sale shall only apply with respect to a breach of their own respective representations and warranties and shall be limited (A) to a period of twelve (12) months after consummation of the Drag-Along Sale and (B) to the net sale proceeds received by such Dragged Member in the Drag-Along Sale. The Selling Member shall use its best efforts to ensure that the Buyer in the Drag-Along Sale is a Person of good reputation acceptable to the Preferred Shareholders.

Any duly appointed attorney of any Dragged Member, including any director of the Company, may act on such Dragged Member's behalf to fulfill its obligations hereunder on any Drag-Along Sale where any such Dragged Member refused to act.

18. Subject to Article 81, if at any time the Share capital of the 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 the Company is being wound-up, be varied with the consent in writing of, or with the sanction of a resolution passed at a general meeting by, the holders of a majority of the then outstanding Shares of that class, voting as a separate class. The provisions of these Articles relating to general meetings shall apply to every such general meeting of the holders of one class of Shares except that the necessary quorum shall be one Person holding or representing by proxy at least a majority of the issued Shares of that class. The rights conferred upon the holders of the Shares of any class issued with preferred or other rights shall not be deemed to be varied by the creation or issue of further Shares ranking *pari passu* therewith.

**CONVERSION OF PREFERRED SHARES**

19. Each Preferred Shareholder shall be entitled to convert any or all of its Preferred Shares, at any time, without the payment of any additional consideration, into such number of fully paid Ordinary Shares as is determined by dividing the Original Purchase Price, as the case may be, by the Conversion Price, in effect at the time of conversion. Any conversion of Preferred Shares made pursuant to these Articles shall be effected by the repurchase of the relevant number of Preferred Shares and the issuance of an appropriate number of Ordinary Shares.
20. The price at which each Ordinary Share shall be issued upon conversion of Preferred Shares without the payment of any additional consideration by the holders thereof (the "**Conversion Price**") shall initially be the Original Purchase Price, as applicable. The Conversion Price for Preferred Shares shall be subject to adjustment, in order to adjust the number of Ordinary Shares into which the Preferred Shares is convertible, as hereinafter provided.
21. Upon conversion, any accrued or declared but unpaid dividends on the Preferred Shares shall be paid.
22. Each Preferred Share shall (a) be automatically converted into Ordinary Shares at the then-effective Conversion Price immediately prior to the closing of a Qualified IPO, or (b) be converted into Ordinary Shares at the then-effective Conversion Price with the vote or written consent of the holders of at least eighty-five percent (85%) of the then outstanding Existing Preferred Shares (voting together as a separate class) and the holders of at least seventy-five percent (75%) of the then outstanding Series C Shares, in each case on an as converted basis.

23. No fractional Ordinary Shares shall be issued upon conversion of any Preferred Shares. In lieu of any fractional Shares to which the holder would otherwise be entitled, the Company shall pay cash equal to such fraction multiplied by the then fair value of an Ordinary Share as determined by the Board of Directors. For such purpose, all Preferred Shares held by each Preferred Shareholder in the same class shall be aggregated, and any resulting fractional Ordinary Share shall be paid in cash.
24. The right to convert shall be exercisable by the Preferred Shareholder surrendering the certificate or certificates therefor at the registered office of the Company or the office of any transfer agent for the Preferred Shares together with a written notice that such holder elects to convert a specified number of Preferred Shares on a specified date. In the event of an automatic conversion pursuant to Article 22, all outstanding Preferred Shares shall be converted automatically without any further action by the holders thereof and whether or not the certificates representing such shares are surrendered to the Company or its transfer agent in respect of such Preferred Shares. The Company will give notice of the automatic conversion to the holders of Preferred Shares within twenty (20) Business Days of the Conversion Date. The Company will not issue certificates in respect of any Ordinary Shares into which Preferred Shares have been converted upon automatic conversion unless the certificates in respect of the Preferred Shares so converted are either delivered to the registered office of the Company or to the office of its transfer agent in respect of such Preferred Shares or the holder notifies the Company or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Company to indemnify the Company from any loss incurred by it in connection with such certificates. The Company shall, as soon as practicable following delivery of the certificates representing Preferred Shares or an indemnity as aforesaid, in the case of an automatic conversion, or as soon as practicable following the Conversion Date in respect of any conversion at the option of the holders, issue and deliver to such holder, a certificate or certificates for the number of Ordinary Shares to which such holder shall be entitled as aforesaid, together with a check, if applicable, payable to the holder in the amount of any cash amount payable as the result of any fractional Share resulting from the conversion of Preferred Shares into Ordinary Shares.

**ADJUSTMENTS TO CONVERSION PRICES**

25. In accordance with the provisions set forth in Article 26, the Conversion Price of the Preferred Shares shall be adjusted in respect of the issuance of Additional Ordinary Shares if the consideration per share for an Additional Ordinary Share issued or, pursuant to Article 26 hereof, deemed to be issued by the Company is less than the Conversion

Price in effect on the date of, and immediately prior to such issue, for such Preferred Shares.

26. In the event the Company at any time or from time to time after the Original Issue Date shall issue any Options or Convertible Securities that are exercisable for or convertible into, directly or indirectly, Additional Ordinary Shares, then the maximum number of Additional Ordinary Shares (as set forth in the instrument relating thereto, without regard to any provisions contained therein for a subsequent adjustment of such number) directly or indirectly issuable upon the exercise of such Options or, in the case of Convertible Securities, the conversion or exchange of such Convertible Securities or, in the case of Options for Convertible Securities, the exercise of such Options and conversion or exchange of the underlying Convertible Securities, shall be deemed to be Additional Ordinary Shares issued as of the time of such issue, *provided that* Additional Ordinary Shares shall not be deemed to have been issued unless the consideration per share (determined pursuant to Article 28) of such Additional Ordinary Shares would be less than the Conversion Price of the Preferred Shares in effect on the date of and immediately prior to such issue, or such record date, as the case may be, and *provided further* that in any such case in which Additional Ordinary Shares are deemed to be issued:
- (a) no adjustment in the Conversion Price of Preferred Shares shall be made upon the subsequent issue of Ordinary Shares upon the exercise of such Options or the conversion or exchange of such Convertible Securities;
- (b) if such Options or Convertible Securities by their terms provide, with the passage of time or otherwise, for any change in the consideration payable to the Company, or in the number of Ordinary Shares issuable upon the exercise, conversion or exchange thereof (other than a change pursuant to the anti-dilution provisions of such Options or Convertible Securities such as this Article 26), then the Conversion Price of the Preferred Shares computed upon the original issue thereof (or upon the occurrence of a record date with respect thereto), and any subsequent adjustments based thereon, shall be recomputed to reflect such change as if such change had been in effect as of the original issue thereof (or upon the occurrence of the record date with respect thereto);
- (c) no readjustment pursuant to clause (b) above shall have the effect of increasing the Conversion Price of the Preferred Shares to an amount above the Conversion Price that would have resulted from the issuance or deemed issuance in question had such issuance or deemed issuance originally been for such changed amount of consideration or number of Ordinary Shares; and

- (d) upon the expiration of any such Options or any rights of conversion or exchange under such Convertible Securities which shall not have been exercised, the Conversion Price of the Preferred Shares computed upon the original issue thereof and any subsequent adjustments based thereon shall, upon such expiration, be recomputed as if:
- (i) in the case of Convertible Securities or Options for Ordinary Shares, the only Additional Ordinary Shares issued were the Ordinary Shares, if any, actually issued upon the exercise of such Options or the conversion or exchange of such Convertible Securities and the consideration received therefor was the consideration actually received by the Company for the issue of such exercised Options plus the consideration actually received by the Company upon such exercise or for the issue of all such Convertible Securities which were actually converted or exchanged, plus the additional consideration, if any, actually received by the Company upon such conversion or exchange, and
- (ii) in the case of Options for Convertible Securities, only the Convertible Securities, if any, actually issued upon the exercise thereof were issued at the time of issue of such Options, and the consideration received by the Company for the Additional Ordinary Shares deemed to have been then issued was the consideration actually received by the Company for the issue of such exercised Options, plus the consideration deemed to have been received by the Company (determined pursuant to Article 28 hereof) upon the issue of the Convertible Securities with respect to which such Options were actually exercised.

Notwithstanding the foregoing, the issuance of Series A\* Shares, Series B1 Shares, Series B2 Shares, and Series B4 Shares pursuant to the Share Swap Agreement and relevant resolutions is for an inter-group restructuring purpose, and shall not give rise or be subject to any adjustment of the Conversion Price as set out herein.

27. In the event the Company shall issue Additional Ordinary Shares (including Additional Ordinary Shares deemed to be issued pursuant to Article 26 hereof) without consideration (to the extent permitted under Cayman law) or for a consideration per share less than the Conversion Price of the Preferred Shares in effect on the date of and immediately prior to such issue, then, the Conversion Price of the Preferred Shares shall be reduced, concurrently with such issue, to a price equal to the consideration per share received by

the Company for such Additional Ordinary Shares so issued. Notwithstanding the foregoing, the Conversion Price of the Preferred Shares shall not be reduced at such time if the amount of such reduction would be less than US\$0.01, but any such amount shall be carried forward, and a reduction will be made with respect to such amount at the time of, and together with, any subsequent reduction which, together with such amount

and any other amounts so carried forward, equal US\$0.01 or more in the aggregate.

28. The consideration received by the Company for the issue or deemed issuance of any Additional Ordinary Shares shall be computed as follows:

- (a) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Company before deducting any discounts, commissions or other expenses allowed, paid or incurred by the Company for any underwriting or otherwise in connection with such issuance and excluding amounts paid or payable for accrued interest or accrued dividends;
- (b) insofar as it consists of property other than cash, be computed at the fair value thereof at the time of such issue, as determined in good faith by the Board of Directors, including all Preferred Share Directors; and
- (c) in the event Additional Ordinary Shares are issued together with other Shares or securities or other assets of the Company for consideration, which covers both, be the proportion of such consideration so received, computed as provided in clauses (a) and (b) above, as determined in good faith by the Board of Directors, including all Preferred Share Directors.
- (d) The consideration per share received by the Company for Additional Ordinary Shares deemed to have been issued pursuant to Article 26 hereof, relating to Options and Convertible Securities, shall be determined by dividing
  - (i) the total amount, if any, received or receivable by the Company as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Company upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities by

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- (ii) the maximum number of Ordinary Shares (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) directly or indirectly issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

29. The Conversion Price in effect from time to time for the Preferred Shares shall be subject to adjustment in certain cases, and the other adjustments provided for in paragraphs (d), (e) and (f) shall also be effected, as follows:

- (a) In the event the Company at any time or from time to time after the Original Issue Date shall declare or pay any dividend or make any other distribution on the Ordinary Shares payable in Ordinary Shares or effect a subdivision of the outstanding Ordinary Shares (by share split, reclassification or otherwise than by payment of an in species dividend in Ordinary Shares), the Conversion Price for the Preferred Shares then in effect shall, concurrently with the payment of such dividend or distribution or the effectiveness of such subdivision, as the case may be, be proportionately decreased.
- (b) In the event the outstanding Ordinary Shares shall be combined or consolidated, by reclassification or otherwise, into a lesser number of Ordinary Shares, the Conversion Price for the Preferred Shares then in effect shall, concurrently with the effectiveness of such combination or consolidation, be proportionately increased.
- (c) In the event the Company, at any time or from time to time, makes or fixes a record date for the determination of holders of Ordinary Shares entitled to receive any distribution payable in securities of the Company other than Ordinary Shares and other than as otherwise adjusted in this Article 29, then and in each such event, provision shall be made so that the holders of the Preferred Shares shall receive upon conversion thereof, in addition to the number of Ordinary Shares receivable thereupon, the amount of securities of the Company which they would have received had the Preferred Shares been converted into Ordinary Shares on the date of such event and had the holder thereafter, during the period from the date of such event to and including the date of conversion, retained such securities receivable by them as aforesaid during such period, subject to all other adjustments called for during such period under this Article 29 with respect to the rights of the holders of such Preferred Shares.

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- (d) If the Ordinary Shares issuable upon conversion of the Preferred Shares shall be changed into the same or a different number of shares of any other class or classes of Shares, whether by Recapitalization, exchange, substitution, reclassification, or otherwise (other than a subdivision or combination of shares provided for above), then in any such event each Preferred Shareholder shall have the right thereafter to receive upon conversion of the Preferred Shares held by them, in lieu of the number of Ordinary Shares which the holders would otherwise have been entitled to receive, the number and type of Shares to which a holder of the Ordinary Shares deliverable upon conversion of all such Preferred Shares immediately prior to such event would have been entitled to receive upon such event.
- (e) If at any time or from time to time there shall be a Recapitalization, exchange or substitution of the Ordinary Shares (other than a subdivision, combination, Recapitalization or exchange of Shares provided for elsewhere in this Article 29) or a merger or consolidation of the Company with or into another corporation or entity, or the sale of all or substantially all of this Company's properties and assets to any other Person, in each case other than a Deemed Winding-Up Event, then as a part of such reorganization, merger, consolidation or sale, provision shall be made so that the holders of the Preferred Shares shall thereafter be entitled to receive upon conversion of the Preferred Shares held by them, the number of Shares or other securities or property of the Company, or of the successor company resulting from such reorganization, merger, consolidation or sale, to which a holder of Ordinary Shares deliverable upon conversion would have been entitled to upon such capital reorganization, merger, consolidation or sale. In any such case, appropriate adjustment shall be made in the application of the provisions of this Article 29 so that this Article 29 shall be applicable after that event as nearly equivalent as may be practicable.
- (f) In the event the outstanding Preferred Shares shall be subdivided (by stock split, by payment of a stock dividend or otherwise) into a greater number of Preferred Shares, the Dividend Rate, the Original Purchase Price, as applicable, and the Liquidation Preference of the Preferred Shares in effect immediately prior to such subdivision shall, concurrently with the effectiveness of such subdivision, be proportionately decreased. In the event the outstanding Preferred Shares shall be combined (by reclassification or otherwise) into a lesser number of Preferred Shares, the Dividend Rate, the Original Purchase Price, as applicable, and the Liquidation Preference of the Preferred Shares in effect immediately prior to such combination shall, concurrently with the effectiveness of such combination, be proportionately increased.

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- (g) Notwithstanding anything herein to the contrary, any downward adjustment of the Conversion Price of the Preferred Shares may be waived, either prospectively or retroactively and either generally or in a particular instance, by the consent or vote of the holders of at least eighty-five percent (85%) of the then outstanding Existing Preferred Shares in respect of the Conversion Price of the Existing Preferred Shares (voting together as a separate class) and the holders of at least seventy-five percent (75%) of the then outstanding Series C Shares in respect of the Conversion Price of the Series C Shares, each on an as converted basis. Any such waiver shall bind all future holders of such Shares.

30. [Intentionally omitted.]

31. Upon the occurrence of each adjustment or readjustment of the Conversion Price pursuant to Articles 25 to 29, the Company at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each Preferred Shareholder a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Company shall, upon the written request at any time of any Preferred Shareholder furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the Conversion Price at the time in effect, and (iii) the number of Ordinary Shares and the amount, if any, of other property which at the time would be received upon the conversion of Preferred Shares.

#### **NONRECOGNITION OF TRUSTS**

32. No Person shall be recognized by the Company as holding any Share upon any trust, and the Company shall not be bound by or be compelled in any way to recognize (even when having notice thereof), any equitable, contingent, future or partial interest in any Share, or any interest in any fractional part of a Share, or (except only as is otherwise provided by these Articles or the Statute) any other rights in respect of any Share, except an absolute right to the entirety thereof in the registered holder.

#### **REGISTRATION OF EMPOWERING INSTRUMENTS**

33. The Company shall be entitled to charge a fee not exceeding one dollar (US\$1.00) on the registration of every probate, letters of administration, certificate of death or marriage, power of attorney or other instrument.

#### **TRANSMISSION OF SHARES**

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34. In case of the death of a Member, the survivor or survivors where the deceased was a joint holder, and the legal personal representatives of the deceased where he/she was a sole holder, shall be the only Persons recognized by the Company as having any title to his interest in the shares, but nothing herein contained shall release the estate of any such deceased holder from any liability in respect of any shares which had been held by him/her solely or jointly with other Persons.

35. Any Person becoming entitled to a share in consequence of the death or bankruptcy or liquidation or dissolution of a Member (or in any other way than by transfer) may, upon such evidence being produced as may from time to time be required by the Board of Directors and subject as hereinafter provided, elect either to be registered himself/herself as holder of the share or to make such transfer of the share to such other Person nominated by him/her as the deceased or bankrupt Person could have made and to have such Person registered as the transferee thereof, but the Board of Directors shall, in either case, have the same right to decline or suspend registration as the Board of Directors would have had in the case of a transfer of the share by that Member before his/her death or bankruptcy as the case may be. If the Person so becoming entitled shall elect to be registered himself/herself as holder, he/she shall deliver or send to the Company a notice in writing signed by him/her stating that he/she so elects.



36. A Person becoming entitled to a share by reason of the death or bankruptcy or liquidation or dissolution of the holder (or in any other case than by transfer) shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a Member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the Company; *provided, however*, that the Board of Directors may at any time give notice requiring any such Person to elect either to be registered himself or to transfer the share and, if the notice is not complied with within ninety (90) days, the Board of Directors may thereafter withhold payment of all dividends, bonuses or other monies payable in respect of the share until the requirements of the notice have been complied with.

37. [Intentionally omitted].

38. [Intentionally omitted].

#### GENERAL MEETINGS OF MEMBERS

39. The Company shall within one (1) year of its incorporation and in each year of its existence thereafter hold a general meeting as its annual general meeting and shall specify the meeting as such in the notices calling it. The annual general meeting shall be

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held at such time and place as the Board of Directors shall determine and the meeting may be held by telephone, video-conferencing or other electronic means provided that all participants can hear and be heard and are present from the commencement to the close of the meeting. At these meetings, the report of the Board of Directors, if any, shall be presented.

40. The Board of Directors may, whenever it thinks fit, and it shall on the requisition of the CEO or the Chairman of the Board, or Members of the Company holding at the date of the deposit of the requisition shares entitled to cast not less than twenty-five percent (25%) of the votes (on an as-converted basis) of all the Members of the Company, proceed to convene a general meeting of the Company.

(a) The requisition must state the objects of the meeting and must be signed by the requisitionists and deposited at the registered office of the Company, and may consist of several documents in like form, each signed by one or more requisitionists.

(b) If the Board of Directors does not within twenty (20) days from the date of the deposit of the requisition, duly proceed to convene a general meeting, any of the above-mentioned requisitionists may convene a general meeting, but any meeting so convened shall not be held after the expiration of three (3) months after the expiration of the said twenty (20) days.

(c) A general meeting convened as aforesaid by requisitionists shall be convened in the same manner as nearly as possible as that in which general meetings are to be convened by Board of Directors.

#### NOTICE OF GENERAL MEETINGS OF MEMBERS

41. At least fifteen (15) Business Days' notice (but not more than sixty (60) days' notice) shall be given of an annual general meeting or any other general meeting. Every notice shall be exclusive of the day on which it is given or deemed to be given, and of the day for which it is given, and shall specify the place, the day and the hour of the meeting and the general nature of the business and shall be given in the manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company; *provided* that a general meeting of the Company shall, whether or not the notice specified in this Article has been given, be deemed to have been duly convened if it is so agreed either before or after the meeting by holders of not less than a majority of the Shares (on an as converted basis) (it being specified that such majority shall include the Members collectively

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holding at least a majority of the Existing Preferred Shares and the Members collectively holding at least a majority of the Series C Shares, in each case as a separate class and on an as converted basis). The signing of a written waiver of notice or a consent to the holding of the meeting or an approval of the minutes thereof, or attendance at the meeting except where the relevant Member indicates to the contrary, shall constitute the agreement of a Member for the purpose of the preceding sentence. All such waivers, consents and approvals shall be filed with the corporate records of the Company or referred to in the minutes of the meeting. Attendance by a Member at a meeting, in person or by proxy, shall also constitute a waiver of notice, except when that Person objects at the beginning of the meeting to the transaction of any business on the basis that the meeting is not lawfully called or convened.

#### PROCEEDINGS AT GENERAL MEETINGS OF MEMBERS

42. No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business; the quorum shall be such Members, present in person or by proxy, collectively holding not less than a majority of the Shares (in respect of any Preferred Shares, on an as converted basis) (it being specified that such majority for the purpose of constituting a quorum shall include the Members collectively holding at least a majority of the Existing Preferred Shares and the Members collectively holding at least a majority of the Series C Shares, in each case on an as converted basis).

43. A resolution (including a Special Resolution) in writing (in one or more counterparts), signed by all Members for the time being entitled to receive notice of and to attend and vote at general meetings (or being corporations by their duly authorized representatives) shall be as valid and effective as if the same had been passed at a general meeting of the Company duly convened and held.

44. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved and if in any other case it shall stand adjourned to the same day in the next week at the same time and place, or to such other time or such other place as the Board of Directors may determine.

45. The Chairman, if any, of the Board of Directors shall preside as Chairman at every general meeting of the Company, or if there is no such Chairman, or if he shall not be present within fifteen (15) minutes after the time appointed for the holding of the meeting, or is unwilling to act, the Board of Directors present shall elect one of their number to be Chairman of the meeting.

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46. If at any general meeting no Director is willing to act as Chairman or if no Director is present within fifteen (15) minutes after the time appointed for holding the meeting, the Members present shall choose one of them to be Chairman of the meeting.

47. The Chairman of the meeting may, with the consent of any general meeting duly constituted hereunder, and shall if so directed by the holders, present in person or by proxy, of a majority of both the Ordinary Shares and the Preferred Shares (each on an as converted basis) held by Members present at that meeting in person or by proxy, adjourn the meeting from time to time and from place to place. When a general meeting is adjourned for more than forty-five (45) days or a new record date is fixed for the adjourned meeting, notice of the adjourned meeting shall be given as in the case of an original meeting; save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned general meeting.

48. At any general meeting, a resolution put to the vote of the meeting shall be decided by a poll conducted by the Chairman of the meeting. In the case of an equality of votes, the Chairman of the general meeting at which the poll is demanded shall not be entitled to a second or casting vote.

49. A vote by show of hands in lieu of a poll shall not be permitted.

50. A poll shall be taken in such manner as the Chairman of the meeting directs and the result of the poll shall be deemed to be the resolution of the general meeting at which the poll was taken. A poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the Chairman of the meeting directs and any business other than that upon which a poll has been demanded or is contingent thereon may be proceeded with pending the taking of the poll.

#### VOTES OF MEMBERS

51. (a) Subject to any rights or restrictions for the time being attached to any series, class or classes of shares, including without limitation those set forth in Article 81, on a poll, every Member present in person or by proxy shall be entitled to one vote in respect of each Ordinary Share held by him, and, in the case of each Preferred Share held by him, to that many votes to which he would be entitled on an "as converted basis", which for the purpose of these Articles means the number of votes to which he would be entitled if he converted such Preferred Share at the then-effective Conversion Price on the record date in respect of the meeting at which the poll is taken, or, if no record date is established, the date the poll was taken.

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(b) Where these Articles provide that approval is required of, or confer a power on a percentage of, the then issued Preferred Shares, each Preferred Shareholder shall be entitled to exercise the number of votes attaching to the Preferred Shares on an as converted basis and the number of votes attaching to Ordinary Shares held by it as a result of the exercise of rights to convert to Ordinary Shares attaching to the Preferred Shares.

52. Other than as otherwise provided in these Articles or required by law, the holders of Ordinary Shares, Series A Shares, Series B Shares, Series A\* Shares, Series B1 Shares, Series B2 Shares, Series B4 Shares, Series B5 Shares, and Series C Shares shall vote together and not as separate classes and there shall be no series voting of the Preferred Shares.

53. In the case of joint holders of record, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose, seniority shall be determined by the order in which the names stand in the register of Members.

54. A Member of unsound mind, or in respect of whom an order has been made by any court, having jurisdiction in lunacy, may vote on a poll by his committee, receiver, curator bonis, or other Person in the nature of a committee, receiver or curator bonis appointed by that court, and any such committee, receiver, curator bonis or other Persons may vote by proxy.
55. No Member shall be entitled to vote at any general meeting unless he is registered as a shareholder of the Company on the record date for such meeting, nor unless all calls or other sums presently payable by him in respect of shares in the Company have been paid.
56. No objection shall be raised to the qualification of any voter, except at the general meeting or adjourned general meeting at which the vote objected to is given or tendered and every vote not disallowed at such general meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the Chairman of the general meeting whose decision shall be final and conclusive.
57. On a poll, votes may be given either personally or by proxy.
58. The provisions of these Articles relating to general meetings shall apply to every such general meeting of the holders of one class or series of shares except that the necessary quorum shall be one Person holding or representing by proxy at least a majority of the

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issued shares of the class or series and that any holder of shares of the class or series present in person or by proxy may demand a poll.

#### **RECORD DATES**

59. For purposes of determining the Members entitled to notice of any meeting or to vote thereat or entitled to give written consent without a meeting, the Board of Directors may fix, in advance, a record date, which shall not be more than sixty (60) days nor less than five (5) days before the date of any such meeting, nor more than sixty (60) days before any such action without a meeting, and in such event only Members of record on the date so fixed are entitled to notice and to vote or to give consents, as the case may be, notwithstanding the registration of any transfer of any shares.
60. If the Board of Directors does not so fix a record date:
- (a) the record date for determining Members entitled to notice of or to vote at any general meeting shall be at the close of business on the Business Day immediately preceding the day on which notice is given or, if notice is waived, at the close of business on the Business Day immediately preceding the day on which the meeting is held; and
- (b) the record date for determining members entitled to give written consent without a meeting, (i) when no prior action by the Board of Directors is required, shall be the day on which the first written consent is given, or (ii) when prior action by the Board of Directors is required, shall be at the close of business on the day on which the Board of Directors adopts the resolution relating to that action, or the sixtieth (60th) day before the date of such other action, whichever is later.
61. For the purposes of determining the Members entitled to receive payment of any dividend or other distribution or allotment of any rights or the Members entitled to exercise any rights in respect of any other lawful action (other than as provided above), the Board of Directors may fix, in advance, a record date, which shall not be more than sixty (60) days before any such action. In that case, only Members of record at the close of business on the date so fixed are entitled to receive the dividend, distribution or allotment of rights, or to exercise such rights, as the case may be, notwithstanding any transfer of any shares on the books of the Company after the record date so fixed. If the Board of Directors does not so fix a record date, then the record date for determining Members for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the applicable resolution or the sixtieth (60th) day before the date of that action, whichever is later.

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#### **PROXIES**

62. The instrument appointing a proxy shall be in writing and shall be executed under the hand of the appointer or of his attorney duly authorized in writing or, if the appointer is a corporation, partnership or limited liability company, under the hand of an officer or attorney duly authorized in that behalf. A proxy need not be a Member of the Company.
63. The instrument appointing a proxy shall be deposited at the registered office of the Company or at such other place as is specified for that purpose in the notice convening the meeting no later than the time for holding the meeting, or adjourned meeting, *provided* that the Chairman of the meeting may at his discretion direct that an instrument of proxy shall be deemed to have been duly deposited upon receipt of telex, cable or telecopy confirmation from the appointer that the instrument of proxy duly signed is in the course of transmission to the Company.
64. The instrument appointing a proxy may be in any usual or common form and may be expressed to be for a particular meeting or any adjournment thereof or generally until revoked. An instrument appointing a proxy shall be deemed to include the power to demand or join or concur in demanding a poll. A validly executed proxy which does not state that it is irrevocable shall continue in full force and effect unless the Person who executed the proxy revokes it prior to the time of voting by delivering a notice in writing to the Company stating that the proxy is revoked or by executing a subsequent proxy and presenting it to the meeting or by voting in person at the meeting; *provided, however*, that no proxy shall be valid after the expiration of eleven (11) months from the date of the proxy, unless otherwise provided in the proxy.
65. Any corporation, partnership or limited liability company which is a Member of record of the Company may in accordance with its charter documents or in the absence of such provision by resolution of its directors or other governing body, authorize such Person as it thinks fit to act as its representative at any meeting of the Company or of any class of Members of the Company, and the Persons so authorized shall be entitled to exercise the same powers on behalf of the corporation, partnership or limited liability company which he represents as the corporation, partnership or limited liability company could exercise if it were an individual Member of record of the Company.
66. Shares in the Company which are beneficially owned by the Company shall not be voted, directly or indirectly, at any meeting and shall not be counted in determining the total number of outstanding shares at any given time.

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#### **INSPECTORS OF ELECTION**

67. Before any meeting of the Members, the Board of Directors may appoint an inspector or inspectors of election to act at the meeting or its adjournment. If no inspector of election is so appointed, then the chairman of the meeting may, and on the request of any Member or a Member's proxy, shall appoint an inspector or inspectors of election to act at the meeting. The number of inspectors shall be either one or three. If inspectors are appointed at a meeting pursuant to the request of one or more Members or proxies, then the holders of a majority of shares or their proxies present at the meeting shall determine whether one or three inspectors are to be appointed. If any Person appointed as inspector fails to appear or fails or refuses to act, then the chairman of the meeting may, and upon the request of any Member or a Member proxy, shall, appoint a Person to fill that vacancy.

Such inspectors shall:

- (a) determine the number of shares outstanding and the voting power of each, the number of shares represented at the meeting, the existence of a quorum, and the authenticity, validity and effect of proxies;
- (b) receive votes, ballot or consents;
- (c) hear and determine all challenges and questions in any way arising in connection with the right to vote;
- (d) count and tabulate all votes or consents;
- (e) determine when the polls shall close;
- (f) determine the result; and
- (g) do any other acts that may be proper to conduct the election or vote with fairness to all Members.

#### **DIRECTORS; ALTERNATE DIRECTORS; PROXIES**

68. There shall be a Board of Directors consisting of nine (9) Directors (exclusive of alternate Directors); *provided, however*, that the Company may, from time to time, by Ordinary Resolution and subject to votes required under Article 81, increase or reduce the number of Directors.

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69. (a) Any Preferred Share Director (other than an alternate Director) may by writing appoint any other Director, or any other Person willing to act, to be an alternate Director and by writing may remove from office an alternate Director so appointed by him.

- (i) An alternate Director shall be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of which his appointer is a member, and to vote at every such meeting if the Director appointing him is not personally present, and generally to perform all the functions of his appointer as a Director in his absence.
  - (ii) An alternate Director shall cease to be an alternate Director if his appointer ceases to be a Director.
  - (iii) Any appointment or removal of an alternate Director shall be by notice to the Company signed by the Director making or revoking the appointment or in any other manner approved by the Directors.
  - (iv) An alternate Director shall be deemed for all purposes to be a Director and shall alone be responsible for his own acts and defaults and shall not be deemed to be the agent of the Director appointing him.
- (b) A Director (but not an alternate Director) may be represented at any meetings of the Board of Directors by a proxy appointed by him in which event the presence or vote of the proxy shall for all purposes be deemed to be that of the Director. The provisions of Articles 62-66 shall *mutatis mutandis* apply to the appointment of proxies by Directors.
70. The remuneration to be paid to the Directors (or alternate Directors) shall be such remuneration as the Board of Directors shall determine. Such remuneration shall be deemed to accrue from day to day. The Board of Directors may by resolution award special remuneration to any Director (or alternate Director) of the Company undertaking any special work or services for, or undertaking any special mission on behalf of, the Company other than his ordinary routine work as a Director (or alternate Director). Any fees paid to a Director (or alternate Director) who is also counsel or solicitor to the Company, or otherwise serves it in a professional capacity, shall be in addition to his remuneration as a Director (or alternate Director). The Directors (or alternate Directors) shall also be paid all traveling, hotel, and other expenses properly incurred by them in connection with their attendance at meetings of Directors or committees of Directors or general meetings or separate meetings of the holders of any class of shares or of debentures of the Company or otherwise in connection with the discharge of their duties.

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71. Subject to an affirmative resolution by the Board of Directors, a Director or alternate Director may hold any other office or place of profit under the Company (other than the office of Auditor) in conjunction with his office of Director or alternate Director for such period and on such terms as to remuneration and otherwise as the Board of Directors may determine.
72. A Director or alternate Director may act by himself or his firm in a professional capacity for the Company and he or his firm shall be entitled to remuneration for professional services as if he were not a Director or alternate Director.
73. A Director or alternate Director of the Company may be or become a director or other officer of or otherwise interested in any company promoted by the Company, or in which the Company may be interested as shareholder or otherwise, and no such Director or alternate Director shall be accountable to the Company for any remuneration or other benefits received by him as a director or officer of, or from his interest in, such other company.
74. No Person shall be disqualified from the office of Director or alternate Director or prevented by such office from contracting with the Company, either as vendor, purchaser or otherwise, nor shall any such contract or any contract or transaction entered into by or on behalf of the Company in which any Director or alternate Director shall be in any way interested be or be liable to be avoided, nor shall any Director or alternate Director so contracting or being so interested be liable to account to the Company for any profit realized by any such contract or transaction by reason of such Director or alternate Director holding office or of the fiduciary relation thereby established. If a Director or alternate Director is interested (an "**Interested Director**") in any contract or transaction with the Company or any of the Group Companies (an "**Interested Director Transaction**"), the nature of the interest of the Interested Director in any such Interested Director Transaction shall be disclosed by the Interested Director at or prior to its consideration by the Board of Directors and, except for purposes of approval of a resolution in writing pursuant to Article 92, such Interested Director shall abstain from a vote relating to approval (or disapproval) of the Interested Director Transaction. Notwithstanding any provision in these Articles or the Statute to the contrary, Interested Director Transactions must be approved only by a majority vote of the Directors or alternate Directors who are not interested in the contract or transaction and present at a duly convened meeting of the Board of Directors, and the Interested Director's vote shall not be required or counted for purposes of determining whether the requisite approval of the Board of Directors or Preferred Share Directors has been obtained at such meeting. In the event that any of the Existing Preferred Directors is an Interested Director and must abstain from a vote relating to the Interested Director Transaction, one of the remaining Existing Preferred Share Directors who is not an Interested Director shall be entitled to two (2) votes. In the event any Series C Director is an Interested Director and

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must abstain from a vote relating to the Interested Director Transaction, then one of the remaining Series C Directors who is not an Interested Director shall be entitled to two (2) votes. In the event that all of the Series C Directors are Interested Directors, then all of the Series C Directors shall abstain from a vote relating to the Interested Director Transaction.

75. A general notice that a Director or alternate Director is a shareholder of any specified firm or company and is to be regarded as interested in any transaction with such firm or company shall be sufficient disclosure under Article 74 and, after such general notice, it shall not be necessary to give special notice relating to any particular transaction.

#### **POWERS AND DUTIES OF DIRECTORS**

76. Subject to the provisions of the Statute, the Memorandum and these Articles (including, without limitation, Article 81) and to any directions given by Special Resolution, the business of the Company shall be managed by the Board of Directors who may exercise all the powers of the Company; *provided, however*, that no regulations made by the Company in general meeting shall invalidate any prior act of the Board of Directors which would have been valid if that regulation had not been made.
77. The Board of Directors may from time to time and at any time by powers of attorney appoint any company, firm, Person or body of Persons, whether nominated directly or indirectly by the Board of Directors, to be the attorney or attorneys of the Company for such purpose and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board of Directors under these Articles) and for such period and subject to such conditions as the Board of Directors may think fit, and any such powers of attorney may contain such provisions for the protection and convenience of Persons dealing with any such attorneys as the Board of Directors may think fit and may also authorize any such attorney to delegate all or any of the powers, authorities and discretions vested in him.
78. The Board of Directors shall cause minutes to be made in books provided for the purpose:
- (a) of all appointments of officers made by the Board of Directors;
  - (b) of the names of the Directors (including alternate Directors and Directors represented thereat by proxy) present at each meeting of the Board of Directors and of any committee of the Board of Directors; or
  - (c) of all resolutions and proceedings at all meetings of the Company and of the Board of Directors and of committees of the Board of Directors.

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79. Subject to the provisions of Article 81 and a resolution approved from time to time by the Board of Directors, including all Preferred Share Directors, the Board of Directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking, property and uncalled capital or any part thereof and to issue debentures, debenture stock and other securities, whether outright or as security for any debt, liability or obligation of the Company or of any third party. All checks, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for monies paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed as the case may be in such manner as the Board of Directors, including all Preferred Share Directors, shall approve from time to time by resolution.
80. [Intentionally omitted.]

#### **PROTECTIVE PROVISIONS**

81. (a) Notwithstanding anything to the contrary in these Articles or the Memorandum, (i) for so long as at least twenty-five percent (25%) of the Existing Preferred Shares in the capital of Company issued on the Original Issue Date (as adjusted for Recapitalization) remain issued and outstanding, subject to the prior written consent of holders collectively holding at least seventy-five percent (75%) of the then outstanding Existing Preferred Shares voting together as a separate class and on an as converted basis; or (ii) for so long as at least twenty-five percent (25%) of the then outstanding Series C Shares in the capital of the Company issued on the relevant Original Issue Date (as adjusted for Recapitalization) remain issued and outstanding, subject to the prior written consent of the holder(s) collectively holding at least seventy-five percent (75%) of the then outstanding Series C Shares, together with all other securities that such holder(s) may hold in the capital of the Company from time to time (on an as converted basis), voting as a separate class and on an as converted basis; then the Company shall not take, approve, authorize, ratify, agree, commit to engage or otherwise effect or consummate any of the following actions:
- (i) amend, alter or change the rights, preferences, privileges or power of, or the restrictions that provide for the benefit of, the Preferred Shares;
  - (ii) authorize, create or issue (by reclassification or otherwise) any class or series of Shares or securities or Options convertible into any class or series of Shares;

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- (iii) reclassify any outstanding Shares into shares having preferences or priority as to dividends or assets senior to or on a parity with the preference of the Preferred Shares;

- (iv) amend, waive, alter or repeal any provision of the Memorandum or these Articles, or other constituent documents of any of the Group Companies, including, without limitation, by operation of law, merger, de-merger, amalgamation, consolidation, reorganization or similar transaction;
- (v) increase, decrease or otherwise change (A) the authorized share capital of any of the Group Companies (including any issue of any securities, or grant of any options or rights, in each case convertible into the equity interest in any of the Group Companies) or (B) the authorized number of Preferred Shares;
- (vi) authorize, enter into or agree to any Sale Transaction (or similar transactions with respect to any other Group Company), or any such transaction similar to a Sale Transaction, liquidation, dissolution or reorganization with respect to any of the Group Companies or joint venture of the Company; any merger or consolidation of the Company or any Subsidiary with one or more other corporations in which the Members (prior to such transaction) of the Company or such Subsidiary, immediately after such merger or consolidation, hold shares representing less than a majority of the voting power of the outstanding shares of the surviving corporation;
- (vii) cause or permit the redemption, repurchase or other acquisition, directly or indirectly, by or through any of the Group Companies or otherwise, of Ordinary Shares, other than (A) repurchases or redemptions of Ordinary Shares issued to or held by employees, officers, directors or consultants of the Group Companies upon termination of their services pursuant to agreements providing for the right of said repurchase or redemption, (B) repurchases or redemptions of Ordinary Shares issued to or held by employees, officers, directors, or consultants of the Group Companies pursuant to rights of first refusal contained in agreements providing for such right, and (C) redemptions of Preferred Shares pursuant to these Articles;
- (viii) authorize, enter into or agree to sell, transfer or dispose of any of the Company's interests in any of the Group Companies or the Company's joint ventures or the exclusive licensing of all or substantial all of

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intellectual property of any of the Group Companies or the Company's joint ventures;

- (ix) liquidation or dissolution of any of the Group Companies;
- (x) except as otherwise explicitly provided for in these Articles (including the dividend payment upon a Qualified IPO in accordance with Article 104(h) below), authorize, declare or pay any dividend (other than solely in Ordinary Shares) to holders of the Ordinary Shares or Preferred Shares, whether payable in cash or otherwise, or approve any profit distribution plan/policy of the Company;
- (xi) incur, refinance, or repay any indebtedness or undertake any action to or accelerate any repayment of any indebtedness, which (a) is in excess of US\$1,000,000 individually, or which in aggregate, on a consolidated basis, exceeds US\$2,000,000, or (b) is not included in the Company's Annual Budget;
- (xii) adopt the annual business plan and Annual Budget of any of the Group Companies;
- (xiii) authorize, approve or make any (A) material change in any of the Group Companies' business plan or budget, or (B) any change in the nature of the business of any of the Group Companies;
- (xiv) form or reorganize any Subsidiary or joint venture of the Company;
- (xv) adopt, amend or terminate any stock option plan or other equity incentive plan or arrangement, or authorize, or increase the authorized number of, Shares, Options or Convertible Securities issuable thereunder of the Company or any other Group Companies;
- (xvi) increase or decrease the authorized size of the Board of Directors or the classes or series entitled to elect them, or effect any change to the other Group Companies' board composition;
- (xvii) authorize, enter into or agree to any transaction or a series of transactions within a period of (twelve) 12 months in the aggregate exceeding US\$250,000 between any Group Company and any Member of the

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Company, director, officer or Affiliate of the Company or any Affiliate thereof;

- (xviii) engage or change the Company's Auditors, or amend, alter or change the fiscal year of any of the Group Companies;
- (xix) authorize or approve any public offering of the Company or of any other Group Companies other than a Qualified IPO;
- (xx) authorize or approve any delisting of the Company or of any other Group Company;
- (xxi) hire or remove the Senior Management Personnel of any Group Company;
- (xxii) authorize, approve or make any new investment or acquisition of a new business or asset by any of the Group Companies in any transaction or a series of transactions of above an aggregate of US\$3,000,000 in any financial year;
- (xxiii) authorize, enter into or agree to any transaction or a series of transactions relating to a sale or disposition of all or substantially all of any of the Group Companies' assets or undertaking, a sale of any of the Company's interest in any of the Group Companies or joint venture or exclusive licensing of all or substantially all of the Company's or any of the Group Companies' intellectual property. The term "substantially" means, in this Article 81(a)(xxiii) in respect to the relevant asset or undertaking, where the consideration payable for such asset or undertaking exceeds an aggregate of US\$5,000,000 in any financial year;
- (xxiv) authorize, approve or take any action to allow EDC Group or GDS Enterprises to transfer any direct or indirect interest in the Company at any time prior to a Qualified IPO, other than pursuant to the right of first offer interest in the capital of the Company as set out in the ROFR & Co-Sale Agreement;
- (xxv) authorize, enter into or agree to any contract to be entered into or activities to be undertaken by the Company or any other Group Company in connection with the build-out of any data centers, including, without limitation, the data centers located in Beijing, Shenzhen, Chengdu,

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Kunshan and Shanghai, other than as agreed in the Company's annual budget;

- (xxvi) incur any capital expenditure or enter into any capital commitment by any of the Group Companies in any transaction or a series of transactions in excess of an aggregate of US\$ 3,000,000 in any financial year, other than as agreed in the Company's annual budget;
- (xxvii) create any security over assets of any of the Group Companies in excess of US\$3,000,000 (in the aggregate) in value;
- (xxviii) approve the internal management organizational structure and basic management system of any of the Group Companies or the establishment of any new board committee of any of the Group Companies;
- (xxix) initiate, defend or settle any material litigation or arbitration proceedings (other than in relation to the collection of debts arising in the ordinary course of business) by any of the Group Companies where the disputed amount exceeds US\$3,000,000; and
- (xxx) enter into (a) any agreement not on bona fide arm's length terms, or (b) any management or services agreement.

For the avoidance of doubt, this Article 81(a) shall not apply to (X) the consummation of a Qualified IPO, and (Y) any action of any Group Company as required by or in connection with its claim(s) for the Indemnifiable Losses (as defined in the Subscription and Purchase Agreement) against any relevant Existing Preferred Shareholder pursuant to Section 15(b)(i) of the Subscription and Purchase Agreement.

- (b) Notwithstanding anything to the contrary in these Articles or the Memorandum, for so long as (i) at least twenty-five percent (25%) of the Existing Preferred Shares (as adjusted for Recapitalization) issued on the relevant Original Issue Date remain outstanding, unless the Board of Directors otherwise approves by affirmative resolution (including the affirmative votes of all the Existing Preferred Share Directors); or (ii) at least twenty-five percent (25%) of the Series C Shares issued on the relevant Original Issue Date (as adjusted for Recapitalization) remain issued and outstanding, unless the Board of Directors otherwise approves by resolution (including the affirmative votes of all the Series C Directors); then the Company shall not, in its capacity as direct or indirect shareholder of any

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Subsidiary, take, approve, authorize, ratify, agree, commit to engage or otherwise effect any of the actions listed above in Article 81(a).

- (c) Notwithstanding anything to the contrary in these Articles or the Memorandum, for so long as any Preferred Shares remain outstanding, the Board of Directors shall not, without first obtaining the consent of holders of at least eighty-five percent (85%) of each of the Existing Preferred Shares and the Series C Shares then outstanding, each voting as a separate class on an as converted basis, authorize the issuance of any Shares if, upon the issuance of such Shares, there would be an insufficient number of authorized but unissued Ordinary Shares available for issuance upon conversion of the Preferred Shares and, if applicable, Shares, at the respective conversion rates then in effect.

#### MANAGEMENT AND COMMITTEES OF THE BOARD OF DIRECTORS

82. Except as specifically required pursuant to these Articles, the Board of Directors may from time to time provide for the management of the affairs of the Company in such manner as it shall think fit and the provisions contained in paragraphs (a) through (d) of this Article 82 shall be without prejudice to the general powers conferred by this paragraph.
- (a) Save as otherwise explicitly permitted herein, subject to approval by the Board of Directors, including all Preferred Share Directors, the Board of Directors from time to time and at any time may establish any committees, local boards or agencies for managing any of the affairs of the Company and may appoint any Persons to be members of such committees or local boards or any managers or agents and may fix their remuneration, including but not limited to the Audit Committee, the Remuneration Committee, and the Executive Committee (each as defined below). At least one (1) Preferred Share Director shall be appointed to each committee of the Board of Directors.
- (b) Upon approval by the Board of Directors, including all Preferred Share Directors, the Board of Directors from time to time and at any time may delegate to any such committee, local board, manager or agent any of the powers, authorities and discretions for the time being vested in the Board of Directors and may authorize the members for the time being of any such local board, or any of them, to fill up any vacancies therein and to act notwithstanding vacancies and any such appointment or delegation may be made on such terms and subject to such conditions as the Board of Directors may think fit and the Board of Directors may at any time remove any Person so appointed and may annul or vary any such

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delegation, but no Person dealing in good faith and without notice of any such annulment or variation shall be affected thereby.

- (c) Upon approval by the Board of Directors, including all Preferred Share Directors, any such delegates as aforesaid may be authorized by the Board of Directors to subdelegate all or any of the powers, authorities, and discretions for the time being vested in them.
- (d) The audit committee (the “**Audit Committee**”) shall be vested with oversight functions for financial and accounting matters of the Group Companies, including, but not limited to, preparation of budgets, performance and oversight of internal auditing. The Audit Committee shall consist of five (5) members, three (3) of which are Preferred Share Directors, including two (2) Series C Directors and one (1) Existing Preferred Share Director. A Series C Director in the Audit Committee shall serve as the chairman thereof who shall not have a casting vote. The remaining two (2) members of the Audit Committee shall be the Ordinary Share Directors. All decisions of the Audit Committee must be approved by a majority of the members of the Audit Committee, including at least one (1) Series C Director and one (1) Existing Preferred Share Director.
- (e) The remuneration committee (the “**Remuneration Committee**”) shall be vested with oversight functions for remuneration matters of the Group Companies, including but not limited to, establishment and approval of the compensation plan for employees and Senior Management Personnel and non-executive directors of the Group Companies and administration of the Group Companies’ equity incentive plans. The Remuneration Committee shall consist of five (5) members, three (3) of which are Preferred Share Directors, including two (2) Series C Directors and one (1) Existing Preferred Share Director. A Series C Director in the Remuneration Committee shall serve as the chairman thereof who shall not have a casting vote. The remaining two (2) members of the Remuneration Committee shall be the Ordinary Share Directors. All decisions of the Remuneration Committee must be approved by a majority of the members of the Remuneration Committee, including at least one (1) Series C Director and one (1) Existing Preferred Share Director.
- (f) The executive committee (the “**Executive Committee**”) shall function primarily as an advisory body to the Board and provide consultation and recommendations to the Board on operating and strategic matters for any of the Group Companies, including the matters set forth as follows:

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- (i) operational performance of any of the Group Companies (against budgets, strategic business plans and contractual obligations e.g., debt covenants);
- (ii) appropriate strategies for any of the Group Companies;
- (iii) strategic business and financing plan(s) and annual budget of any of the Group Companies (including but not limited to any changes to the same);
- (iv) acquisitions, dispositions, investments and other potential growth and expansion opportunities (including but not limited to the identification, evaluation of new sites and new building opportunities) for any of the Group Companies;
- (v) capital structure and financing strategy of the Group Companies, including but not limited to any debt, equity or equity-linked financing transactions, as well as any issuance, repurchase, conversion or redemption of any equity interests or debt of any of the Group Companies;
- (vi) any material litigation or other legal or administrative proceedings to which any of the Group Companies is a party;
- (vii) entry into any material contracts exceeding the approval authority of the Senior Management Personnel;
- (viii) enter into or agree to any transaction between any Group Company and any Member, director, officer or Affiliate of the Company or of any Affiliate thereof; and
- (ix) any other responsibilities as are delegated to the Executive Committee by the Board from time to time.

For efficiency, the Board may delegate certain decision making authority to the Executive Committee (including but not limited to approving capital and operational expenditure and changes to any strategic or business plan(s)) within appropriate perimeters approved by the Board. To the extent that the Executive Committee is delegated such authority from the Board, the Executive Committee shall function as an executive body of the Board in respect of the matters so delegated.

The Executive Committee shall comprise of five (5) members (who may or may not be members of the Board) (the “**Executive Committee Members**”), of whom two (2) Executive Committee Members shall be nominated by the Series C

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Shareholder, one (1) Executive Committee member shall be nominated by the Existing Preferred Shareholders (approved by the holders of at least fifty percent (50%) of the then outstanding Existing Preferred Shares, voting as a separate class). The remaining two (2) Executive Committee Members shall comprise the CEO and such other person as nominated by the CEO or the Ordinary Shareholders (voting as a separate class). The Chairman of the Executive Committee shall be the CEO of the Company and the deputy Chairman of the Executive Committee shall be one of the two Executive Committee Members nominated by the Series C Shareholder. Neither the Chairman nor the deputy Chairman of the Executive Committee shall have a casting vote. All recommendations or decisions (as the case may be) of the Executive Committee must be approved by a majority of the Executive Committee Members, including at least one (1) Executive Committee Member nominated by the Series C Shareholder and one (1) Executive Committee Member nominated by the Existing Preferred Shareholders (approved by the holders of at least fifty percent (50%) of the then outstanding Existing Preferred Shares, voting as a separate class).

#### PROCEEDINGS OF BOARD OF DIRECTORS

83. (a) Except as otherwise provided by these Articles, the Board of Directors shall meet together for the dispatch of business, convening, adjourning and otherwise regulating its meetings as it thinks fit. Except as otherwise provided by these Articles, questions arising at any meeting shall be decided, resolutions shall be adopted and other action shall be taken only upon the affirmative vote of a majority of the Directors present at a meeting at which there is a quorum. A Director who is also an alternate Director shall be entitled, in the absence of his appointer, to a separate vote on behalf of his appointer in addition to his own vote.
- (b) Where these Articles provide that the approval or attendance of one of the Preferred Share Directors is required, no such approval or attendance will be required if at the time such approval is to be given or attendance is required, no Preferred Share Director then holds office as a Director.
- (c) Where these Articles provide that the approval or attendance of two (2) Preferred Share Directors is required but only one (1) Preferred Share Director then holds office, the approval or attendance of that Preferred Share Director shall suffice.
84. The CEO, any two Directors (including alternate Directors) or, for so long as at least twenty-five percent (25%) of the Preferred Shares immediately post-Closing (as adjusted for Recapitalization) remain issued and outstanding, the holders of at least twenty-five

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percent (25%) of the then outstanding Preferred Shares, may at any time summon a meeting of the Board of Directors by at least two (2) days' notice in writing to every Director (including alternate Directors). Such notice shall set forth the general nature of the business to be considered. If such notice is given in person, by cable, electronic mail, telex or telecopy, the same shall be deemed to have been given on the day it is delivered to the Directors (including alternate Directors) or transmitting organization, as the case may be.

85. Notice of a meeting need not be given to any Director or alternate Director (i) who signs a waiver of notice or a consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or (ii) who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such Director or alternate Director. All such waivers, consents, and approvals shall be filed with the corporate records or made part of the minutes of the meeting. A waiver of notice need not specify the purpose of any regular or special meeting of the Board of Directors.
86. The quorum necessary for the transaction of the business of the Board of Directors shall be a majority of the Directors, including at least one (1) Director nominated by SBCVC as long as SBCVC is entitled to nominate a Director and one (1) Series C Director as long as the Series C Shareholder is entitled to nominate a Director. Interested Directors may be counted for purposes of determining whether quorum exists to transact business of the Board of Directors. Subject to these Articles, a meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of Directors or alternate Directors, if any action taken is approved by at least a majority of the required quorum for that meeting. For the purpose of this Article 86, a proxy appointed by a Director or an alternate Director shall be counted in a quorum at a meeting at which the Director appointing him is not present.
87. A majority of the Board of Directors present, whether or not constituting a quorum (provided there was a quorum when the meeting started) may adjourn any meeting to another time and place. Notice of the time and place of holding an adjourned meeting need not be given unless the meeting is adjourned for more than twenty-four (24) hours. If the meeting is adjourned for more than twenty-four (24) hours, then notice of the time and place of the adjourned meeting shall be given before the adjourned meeting takes place, in the manner specified in Article 77 to all the Directors and alternate Directors.
88. The Directors may elect a Chairman of the Board of Directors and determine the period for which he is to hold office; but if no such Chairman is elected, or if at any meeting the Chairman is not present within thirty minutes after the time appointed for holding the

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meeting, the Directors present may choose one of their number to be Chairman of the meeting.

89. Subject to Articles 82(d) to (f) above and approval by the Board of Directors, including all Preferred Share Directors, the Board of Directors may delegate any of its powers to committees consisting of such member or members of the Board of Directors as it thinks fit *provided* that at least one (1) Existing Preferred Share Director and one (1) Series C Director are appointed to each such committee; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Board of Directors.
90. Except for the committees as referred to in Articles 82(d) to (f) above, a committee may meet and adjourn as it thinks proper. Except as otherwise provided in these Articles, questions arising at any meeting shall be determined by the affirmative vote of a majority of the members present, including at least one (1) Existing Preferred Share Director and one (1) Series C Director.
91. All acts done by any meeting of the Board of Directors or of a committee of the Board of Directors (including any Person acting as an alternate Director) shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any Director or alternate Director, or that any Director or alternate Director was disqualified, be as valid as if every such Person had been duly appointed and qualified to be a Director or alternate Director as the case may be.
92. Directors may participate in a meeting of the Board of Directors or of any committee thereof by means of conference telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other and participation in a meeting pursuant to this provision shall constitute presence in person at such meeting. A resolution in writing (in one or more counterparts), signed by all the Directors for the time being or all the members of a committee of the Board of Directors shall be as valid and effectual as if it had been passed at a meeting of the Board of Directors or committee, as the case may be, duly convened and held. An alternate Director shall be entitled to sign such a resolution on behalf of his appointer.

#### APPOINTMENT AND REMOVAL OF DIRECTORS

93. (a) At Closing, the Board of Directors shall consist of nine (9) Directors. Holders of seventy-five percent (75%) of the then outstanding Existing Preferred Shares, voting together as a separate class on an as converted basis, may appoint two (2) Directors (each as the "Existing Preferred Share Director"), and may in like manner remove with or

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without cause any Existing Preferred Share Director so appointed and may in like manner appoint another Person in his stead. The Series C Shareholder may appoint four (4) Directors (the "Series C Directors", together with the Existing Preferred Share Directors, the "Preferred Share Directors") and may in like manner remove with or without cause any Series C Director so appointed and may in like manner appoint another Person in his stead. The holders of a majority of the then outstanding Ordinary Shares, voting as a separate class, may appoint three (3) Directors (the "Ordinary Share Directors") and may in like manner remove with or without cause any Ordinary Share Director so appointed and may in like manner appoint another Person in his stead.

(b) In the event of any subsequent transfers of Shares among the holders of the Ordinary Shares, the Existing Preferred Shareholders and the Series C Shareholder in compliance with these Articles, the composition and size of the Board of Directors shall be determined as follows:

- (i) the holders of a majority of the then outstanding Ordinary Shares, voting as a separate class, shall be entitled to appoint one (1) Director for every ten percent (10%) of the issued share capital of the Company plus one Share held by holders of Ordinary Shares at such time, and may in like manner remove with or without cause any Ordinary Share Director so appointed and may in like manner appoint another Person in his stead;
- (ii) the holders of seventy-five percent (75%) of the then outstanding Existing Preferred Shares, voting together as a separate class on an as-converted basis, shall be entitled to appoint one (1) Director for every ten percent (10%) of the issued share capital of the Company plus one Share held by holders of the Existing Preferred Shares on an as-converted basis at such time, held by the holders of Existing Preferred Shares from time to time and may in like manner remove with or without cause any Existing Preferred Director so appointed and may in like manner appoint another Person in his stead;
- (iii) the holders of a majority of the then outstanding Series C Shares shall be entitled to appoint one (1) Director for every ten percent (10%) of the issued share capital of the Company plus one Share held by holders of the Series C Shares on an as converted basis at such time and may in like manner remove with or without cause any Series C Director so appointed and may in like manner appoint another Person in his stead;

provided, however, that there shall be no adjustment to the composition of the Board until and unless any of (A) the holders of a majority of the then outstanding Ordinary Shares,

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(B) the holders of seventy-five percent (75%) of the then outstanding Existing Preferred Shares, or (C) the holders of a majority of the then outstanding Series C Shares are entitled pursuant to the foregoing paragraph (i), (ii) or (iii) respectively to appoint a higher number of Directors than its Director appointment rights set out in the first paragraph of this Article 91.

#### DIRECTOR RESIGNATION, REMOVALS AND VACANCIES

94. Any Director may resign effective on giving written notice to the Board of Directors, unless the notice specifies a later time for that resignation to become effective. Subject to Article 95 hereof, if the resignation of a Director is effective at a future time, the Members or the Board of Directors may elect a successor to take office when the resignation becomes effective.
95. Vacancies in the Board of Directors shall be filled by the vote of the holders of that class or series of Shares originally entitled to elect the Director whose absence or resignation created such vacancy.
96. A vacancy or vacancies in the Board of Directors shall be deemed to exist (i) in the event of the death, resignation or removal of any Director, (ii) if the Board of Directors by resolution declares vacant the office of a Director who has been declared of unsound mind by an order of court or convicted of a criminal offense punishable by imprisonment, (iii) if the authorized number of Directors is increased, or (iv) if the Members fail, at any meeting of Members at which any Director or Directors are elected, to elect the number of Directors to be elected at that meeting. Upon any vacancy arising as a result of paragraph (i) or (ii) above, the Director concerned shall cease to be a Director.
97. The Board of Directors shall have power by vote of a majority of the remaining Directors (which Directors shall form a quorum for this purpose only, provided such remaining Directors shall include at least one (1) Director nominated by SBCVC and at least one (1) Series C Director), as long as SBCVC and the Series C Shareholder are entitled to nominate a Director respectively, from time to time to appoint any Person to be a Director at any time to fill any vacancy or vacancies not filled by the Members in accordance with Article 95. Each Director so elected shall hold office until the next annual general meeting of the Members or until a successor has been elected and qualified.
98. [Intentionally omitted.]

#### SEAL

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99. (a) The Seal shall only be used by the authority of the Board of Directors or of a committee of the Board of Directors authorized by the Board of Directors in that behalf and every instrument to which the Seal has been affixed shall be signed by one Person who shall be either a Director or the Secretary or some Person appointed by the Board of Directors for the purpose.

- (b) The Company may have for use in any place or places outside the Cayman Islands, a duplicate Seal or Seals each of which shall be a facsimile of the Common Seal of the Company and, if the Board of Directors so determines, with the addition on its face of the name of every place where it is to be used.
- (c) A Director, Secretary or other officer or representative or attorney may without further authority of the Board of Directors affix the Seal of the Company over his signature alone to any document of the Company required to be authenticated by him under Seal or to be filed with the Registrar of Companies in the Cayman Islands or elsewhere wheresoever.

#### OFFICERS

100. Subject to Article 81, the Company may have several executive officers, including a CEO, a Chief Operating Officer, a Secretary and one or more other officers with independent policy-making authority, each of whom shall be appointed by the Board of Directors. The Board of Directors or the CEO may also from time to time appoint such other officers as it or he considers necessary, all for such terms, at such remuneration and to perform such duties, and subject to such provisions as to disqualification and removal as the Board of Directors and/or the CEO from time to time prescribe.

#### REDEMPTION AND REPURCHASE

101. (a) Subject to the provisions of the Statute, the Memorandum and these Articles, Shares may be issued on the terms that they are, or at the option of the Company or the holder are, to be redeemed on such terms and in such manner as the Company, before the issue of the Shares, may by Special Resolution determine.
- (b) Subject to the provisions of the Statute, the Memorandum and these Articles, the Company is authorized to effect (i) repurchases of Ordinary Shares issued to or held by employees, officers, directors, consultants or other service providers of the Group Companies upon termination of their services pursuant to agreements providing for the right of said repurchase, at a price equal to or less than the original issue price of such Shares, and (ii) repurchases of Ordinary Shares issued to or held by employees, officers, directors, or consultants of the Group Companies pursuant to rights of first refusal contained in agreements providing

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for such rights, at a price no greater than the price at which a third party has offered to purchase such Shares. In addition to the foregoing, subject to the provisions of the Statute and these Articles (including Article 81), the Company may purchase its own Shares (including any redeemable Shares) *provided* that the Members shall have approved the manner of purchase by Ordinary Resolution.

#### REDEMPTION OF PREFERRED SHARES

102. (a) Subject to the consent of the Preferred Shareholders as required under Article 81, holders of Existing Preferred Shares, and the Series C Shareholder to the extent permitted by applicable laws, on or after the fourth (4<sup>th</sup>) anniversary of the Original Issue Date of the Series C Shares, may redeem, all or any portion of the then outstanding Preference Shares held by them in accordance with this Article 102, as follows:
- (i) at the election of the holders of at least seventy-five percent (75%) of the then outstanding Series A Shares, voting as a separate class on an as converted basis, the Company shall redeem, out of funds legally available therefor, all or any portion of the then outstanding Series A Shares, as elected by each holder thereof in its sole discretion;
- (ii) at the election of the holders of at least seventy-five percent (75%) of the then outstanding Series B Shares, voting as a separate class on an as converted basis, the Company shall redeem, out of funds legally available therefor, all or any portion of the then outstanding Series B Shares, as elected by each holder thereof in its sole discretion;
- (iii) at the election of the holders of at least seventy-five percent (75%) of the then outstanding Series A\* Shares, voting as a separate class on an as converted basis, the Company shall redeem, out of funds legally available therefor, all or any portion of the then outstanding Series A\* Shares, as elected by each holder thereof in its sole discretion;
- (iv) at the election of the holders of at least seventy-five percent (75%) of the then outstanding Series B\* Shares, voting as a separate class on an as converted basis, the Company shall redeem, out of funds legally available therefor, all or any portion of the then outstanding Series B\* Shares, as elected by each holder thereof in its sole discretion;
- (v) at the election of the holders of at least seventy-five percent (75%) of the then outstanding Series B5 Shares, voting as a separate class on an as

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converted basis, the Company shall redeem, out of funds legally available therefor, all or any portion of the then outstanding Series B5 Shares, as elected by each holder thereof in its sole discretion; or

- (vi) at the election of the holders of at least seventy-five percent (75%) of the then outstanding Series C Shares, voting as a separate class on an as converted basis, the Company shall redeem, out of funds legally available therefor, all or any portion of the then outstanding Series C Shares, as elected by each holder thereof in its sole discretion.
- (b) To exercise its rights under this Article 102 upon satisfaction of the applicable voting thresholds set out in Article 102(a) above, any such requesting Preferred Shareholder, shall provide the Company with written notice requesting redemption pursuant hereto (the "**Redemption Election**"). The Redemption Election shall provide the date on which the Preferred Shares shall be redeemed, (the "**Redemption Date**"); *provided, however*, the Redemption Date shall be at least forty (40) days after the date such Redemption Election is delivered to the Company.
- (c) Pursuant to any redemption pursuant to Article 102 and Article 103, for Preferred Shareholders, the Company shall redeem the Preferred Shares by paying in cash an amount per share equal to the relevant Original Purchase Price, as applicable (subject to adjustment for Recapitalization) for such Preferred Shares, plus an amount equal to all accrued or declared but unpaid dividends thereon. The term "**Redemption Price**" means the total amount that the Company pays to such Preferred Shareholders pursuant to this Article 102(c).
- (d) Within seven (7) days of the Company's receipt of the Redemption Election, the Company shall provide written notice by registered mail or express or international courier, to each holder of record (at the close of business on the Business Day preceding the day on which notice is given) of the then outstanding Preferred Shares, at the address last shown on the register of members of the Company for such holder, notifying such holder that redemption will be effected pursuant to this Article 102, specifying the series and number of shares that such holder may elect to have redeemed, the Redemption Date, the Redemption Price (calculated in accordance with Article 102(c)), the Redemption Deadline (calculated in accordance with Article 102(e)), the place at which payment may be obtained and calling upon such holder to surrender to the Company, in the manner and at the place designated, the holder's certificate or certificates representing the shares to be redeemed to the extent applicable (the "**Company Redemption Notice**").

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- (e) Each holder electing to have Preferred Shares redeemed on the Redemption Date shall provide the Company with notice thereof at least fifteen (15) days prior to such Redemption Date (the "**Redemption Deadline**"). Except as provided herein, on the Redemption Date, each Preferred Shareholder electing to have Preferred Shares redeemed shall surrender to the Company the certificate or certificates representing such shares, in the manner and at the place designated in the Company Redemption Notice, and thereupon the Redemption Price of such Shares shall be payable to the order of the Person whose name appears on such certificate or certificates as the owner thereof and each surrendered certificate shall be cancelled. In the event less than all the shares represented by any such certificate are redeemed, a new certificate shall be issued representing the unredeemed Shares.
- (f) If the funds of the Company legally available for redemption of Preferred Shares are insufficient to redeem the total number of Preferred Shares to be redeemed on the Redemption Date in accordance with this Article 102, those funds which are legally available for redemption of the Preferred Shares will be first paid to the holders of the Series C Shares in proportion to the number of the Series C Shares elected to be redeemed by them on the Redemption Date. The holders of the Existing Preferred Shares shall not be paid until and unless the Company has paid in full the Redemption Price (in addition to such interest charges which may have accrued in accordance with this Article 102) payable to the holders of the Series C Shares who have elected for redemption, upon which the balance of the funds which are legally available for redemption will be paid to the holders of the Existing Preferred Shares in proportion to the number of the Existing Preferred Shares elected to be redeemed by them on the Redemption Date. Notwithstanding the aforementioned provisions, among the holders of the Existing Preferred Shares, the other Existing Preferred Shareholders shall not be paid until and unless the Company has paid in full the Redemption Price (in addition to such interest charges which may have accrued in accordance with this Article 102) payable to the holders of the Series B5 Shares who have elected for redemption, upon which the balance of the funds which are legally available for redemption will be paid to the other Existing Preferred Shareholders in proportion to the number of the Existing Preferred Shares elected to be redeemed by them on the Redemption Date. Any amount of the Redemption Price which is not paid in full on the Redemption Date shall become a debt due from and payable by the Company to the relevant holders of the Preferred Shares. The Preferred Shares not redeemed shall remain outstanding and entitled to all the rights and preferences provided herein. At any time thereafter when additional funds of the Company are legally

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available for redemption of Preferred Shares, such funds will immediately be used to redeem the Preferred Shares which the Company has become obliged to redeem on the Redemption Date, but which it has not redeemed; *provided* that, for the Series A\* Shares and Series B\* Shares (collectively, the "**Star Preferred Shares**"), Series B5 Shares, and Series C Shares, interest at the rate of eight percent (8%) per annum compounded annually shall be charged in addition to the unpaid original Redemption Price for the period from the Redemption Date until full payment of the Redemption Price.

- (g) All dividends on the Preferred Shares designated for redemption shall continue to accrue and all rights of the holders thereof shall continue to be valid and enforceable until such Preferred Shares are redeemed. Without prejudice to the foregoing, from and after each Redemption Date, unless there shall have been a default in payment of the Redemption Price, all rights of the holders of Preferred Shares designated for redemption in the Company Redemption Notice as holders of Preferred Shares (except the right to receive the Redemption Price without interest upon surrender of their certificate or certificates)

shall cease with respect to the Preferred Shares designated for redemption and redeemed on such date, and such Preferred Shares shall not thereafter be transferred on the books of the Company or be deemed to be outstanding for any purpose whatsoever.

103. (a) Notwithstanding Article 102, in the event (i) the holders of at least 75% of the then outstanding Preferred Shares in each class have not elected to redeem such Preferred Shares pursuant to Article 102(a), or (ii) all outstanding Preferred Shares have not elected to be redeemed on the Redemption Date pursuant to Article 102, then, on or after the third (3<sup>rd</sup>) anniversary of the Original Issue Date of the Series C Shares, to the extent permitted by applicable laws, if elected by any holder of then outstanding Preferred Shares, the Company shall redeem, out of funds legally available therefor, all or any portion of such holder's Preferred Shares, as elected by each holder thereof in its sole discretion, (A) subject to the Preferred Shareholders' written consents of the Preferred Shareholders as required under Article 81(a) above, (B) only to the extent the Company's cash reserve on the Holder Redemption Date exceeds the Cash Threshold, and (C) if such electing holder provides the Company with written notice requesting redemption pursuant to this Article 103(a) (the "**Holder Redemption Election**"). The Holder Redemption Election shall provide the date on which such Preferred Shares shall be redeemed, as determined by the electing holder (the "**Holder Redemption Date**"); *provided, however*, the Holder Redemption Date shall be at least forty (40) days after the date such Holder Redemption Election is delivered to the Company. The Company shall not redeem any Preferred Shares pursuant to this

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Article 103(a) unless the electing holder has complied with the provisions hereof. For the purpose of this Article 103, "**Cash Threshold**" means the product of (x) 1.5 times (y) working capital plus capital expenditures projected in the Company's annual budget for the fiscal year in which the Holder Redemption Election is made.

- (b) Within seven (7) days of the Company's receipt of the Holder Redemption Election, the Company shall provide written notice by registered mail or express or international courier, to each holder of record (at the close of business on the Business Day preceding the day on which notice is given) of the then outstanding Preferred Shares, at the address last shown on the records of the Company for such holder, notifying such holder that redemption will be effected pursuant to Article 103(a), specifying the number of shares that such holder may elect to have redeemed, the Holder Redemption Date, the Redemption Price (calculated in accordance with Article 102(c)), the Holder Redemption Deadline (calculated in accordance with Article 103(c)), the place at which payment may be obtained and calling upon such holder to surrender to the Company, in the manner and at the place designated, the holder's certificate or certificates representing the shares to be redeemed (the "**Holder Redemption Notice**").
- (c) Each holder electing to have Preferred Shares redeemed on the Holder Redemption Date shall provide the Company with notice (the "**Holder Participation Election**") thereof at least fifteen (15) days prior to the Holder Redemption Date (the "**Holder Redemption Deadline**"). Except as provided herein, on the Holder Redemption Date, each Preferred Shareholder electing to have Preferred Shares redeemed shall surrender to the Company the certificate or certificates representing such shares, in the manner and at the place designated in the Holder Redemption Notice, and thereupon the Redemption Price of such shares shall be payable to the order of the Person whose name appears on such certificate or certificates as the owner thereof and each surrendered certificate shall be cancelled. In the event less than all the shares represented by any such certificate are redeemed, a new certificate shall be issued representing the unredeemed shares.
- (d) If on the Holder Redemption Date, the funds of the Company legally available for redemption of Preferred Shares or the Company's cash reserve exceeding the Cash Threshold, if any (whichever is higher, the "**Available Redemption Fund**"), is insufficient to redeem the total number of Preferred Shares to be redeemed on the Holder Redemption Date, the Available Redemption Fund will be first paid to the holders of the Series C Shares (if electing for the redemption in accordance with

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this Article 103) in proportion to the number of the Series C Shares (on an as converted basis) elected to be redeemed by them on the Holder Redemption Date. The holders of the Existing Preferred Shares shall not be paid until and unless the Company has paid in full the Redemption Price payable to the holders of the Series C Shares who have elected for redemption in accordance with this Article 103, upon which the balance of the Available Redemption Fund will be paid to the holders of the Existing Preferred Shares in proportion to the number of the Existing Preferred Shares (on an as converted basis) elected to be redeemed by them on the Holder Redemption Date. Any amount of the Redemption Price which is not paid in full on the Holder Redemption Date shall become a debt due from and payable by the Company to the relevant holders of the Preferred Shares. Notwithstanding the aforementioned provisions, among the holders of the Existing Preferred Shares, the other Existing Preferred Shareholders shall not be paid until and unless the Company has paid in full the Redemption Price payable to the holders of the Series B5 Shares who have elected for redemption in accordance with this Article 103, upon which the balance of the Available Redemption Fund will be paid to the other Existing Preferred Shareholders in proportion to the number of the Existing Preferred Shares (on an as converted basis) elected to be redeemed by them on the Holder Redemption Date.

- (e) The Preferred Shares not redeemed shall remain outstanding and entitled to all the rights and preferences provided herein. To the extent the Company's cash reserve exceeds the Cash Threshold at the end of any fiscal quarter of the Company following the Holder Redemption Date or Redemption Date (as the case may be), the Company shall redeem such Preferred Shares within fifteen (15) days of the release of the Company's audited financial results for the applicable fiscal quarter and, to the extent the Available Redemption Fund is insufficient to redeem the total number of Preferred Shares remaining to be redeemed thereon, the Preferred Shares shall be redeemed in the order as described in Article 102(f) and Article 103(d).
- (f) All dividends on the Preferred Shares designated for redemption shall continue to accrue and all rights of the holders thereof shall continue to be valid and enforceable until full payment of the Redemption Price. Without prejudice to the foregoing, from and after each Holder Redemption Date, unless there shall have been a default in payment of the Redemption Price, all rights of the holders of Preferred Shares designated for redemption in the Holder Redemption Election and Holder Participation Elections as holders of Preferred Shares (except the right to receive the Redemption Price without interest upon surrender of their certificate or certificates) shall cease with respect to such Preferred Shares

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designated for redemption on such date, and such Preferred Shares shall not thereafter be transferred on the books of the Company or be deemed to be outstanding for any purpose whatsoever.

- (g) At any time thereafter when additional funds of the Company are legally available for redemption of Preferred Shares, such funds will immediately be used to redeem the Preferred Shares which the Company has become obliged to redeem on the Holder Redemption Date, but which it has not redeemed; *provided that* for the redemption of Star Preferred Shares and Series C Shares, interest at a rate of eight percent (8%) per annum compounded annually shall be payable in addition to the unpaid original Redemption Price for the period from the Holder Redemption Date until full payment of the Redemption Price; *provided further that* such interest charges shall be paid to the holders of the Preferred Shares who have elected to redeem under Article 103(c) above in the order as described in Article 102(f) and Article 103(d).

#### DIVIDENDS

104. Each Preferred Share and Ordinary Share shall have the following rights to dividends:

- (a) In each calendar year, the holders of outstanding Series C Shares shall be entitled to receive dividends, when, as and if declared by the Board of Directors, out of any assets at the time available therefor under applicable law and these Articles, at the Dividend Rate, payable in preference and priority to any declaration or payment of any Distribution on Series B5 Shares, Series B\* Shares, Series B Shares, Series A\* Shares, Series A Shares and Ordinary Shares of the Company in such calendar year. The right to receive dividends on Series C Shares shall be cumulative, and the right to such dividends shall accrue to holders of Series C Shares from the date such dividends are declared notwithstanding the fact that dividends on said shares are not paid in any calendar year. No Distributions shall be made with respect to Series B5 Shares, Series B\* Shares, Series B Shares, Series A\* Shares, Series A Shares or Ordinary Shares until all accrued dividends on the Series C Shares, as set forth in this Article 104(a), have been paid or set aside for payment to the holders of Series C Shares. Payment of any dividends to the holders of the Series C Shares shall be on a *pro rata, pari passu* basis.
- (b) After all accrued dividends on the Series C Shares have been paid or set aside for payment to the holders of Series C Shares at the Dividend Rate, the holders of outstanding Series B5 Shares shall be entitled to receive dividends, when, as and if declared by the Board of Directors, out of any assets at the time available

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therefor under applicable law and these Articles, at the Dividend Rate, payable in preference and priority to any declaration or payment of any Distribution on Series B\* Shares, Series B Shares, Series A\* Shares, Series A Shares and Ordinary Shares of the Company in such calendar year. The right to receive dividends on Series B5 Shares shall be cumulative, and the right to such dividends shall accrue to holders of Series B5 Shares from the date such dividends are declared notwithstanding the fact that dividends on said shares are not paid in any calendar year. No Distributions shall be made with respect to Series B\* Shares, Series B Shares, Series A\* Shares, Series A Shares or Ordinary Shares until all accrued dividends on the Series B5 Shares, as set forth in this Article 104(b), have been paid or set aside for payment to the holders of Series B5 Shares. Payment of any dividends to the holders of the Series B5 Shares shall be on a *pro rata, pari passu* basis.

- (c) After all accrued dividends on the Series C Shares and the Series B5 Shares have been paid or set aside for payment to the holders of Series C Shares and the Series B5 Shares at the Dividend Rate, the holders of outstanding Series B\* Shares shall be entitled to receive dividends, when, as and if declared by the Board of Directors, out of any assets at the time available therefor under applicable law and these Articles, at the Dividend Rate, payable in preference and priority to any declaration or payment of any Distribution on Series B Shares, Series A\* Shares, Series A Shares and Ordinary Shares of the Company in such calendar year. The right to receive dividends on Series B\* Shares shall be cumulative, and the right to such dividends shall accrue to holders of Series B\* Shares from the date such dividends are declared notwithstanding the fact that dividends on said shares are not paid in any calendar year. No Distributions shall be made with respect to Series B Shares, Series A\* Shares, Series A Shares or Ordinary Shares until all accrued dividends on the Series B\* Shares, as set forth in this Article 104(c), have been paid or set aside for payment to the holders of Series B\* Shares. Payment of any dividends to the holders of the Series B\* Shares shall be on a *pro rata, pari passu* basis.
- (d) After all accrued dividends on Series C Shares, Series B5 Shares, and the Series B\* Shares have been paid or set aside for payment to the holders of Series C Shares, Series B5 Shares, and Series B\* Shares at the Dividend Rate, the holders of outstanding Series B Shares shall be entitled to receive dividends, when, as and if declared by the Board of Directors, out of any assets at the time available therefor under applicable law and these Articles, at the Dividend Rate, payable in preference and priority to any declaration or payment of any Distribution on Series A\* Shares, Series A Shares and Ordinary Shares of the Company in such calendar year. The right to receive dividends on Series B Shares shall be



cumulative, and the right to such dividends shall accrue to holders of Series B Shares from the date such dividends are declared notwithstanding the fact that dividends on said shares are not paid in any calendar year. No Distributions shall be made with respect to Series A\* Shares, Series A Shares or Ordinary Shares until all accrued dividends on the Series B Shares, as set forth in this Article 104(d), have been paid or set aside for payment to the holders of Series B Shares. Payment of any dividends to the holders of the Series B Shares shall be on a *pro rata, pari passu* basis.

- (e) After all accrued dividends on the Series C Shares, Series B5 Shares, Series B\* Shares and Series B Shares have been paid or set aside for payment to the holders of Series C Shares Series B5 Shares, Series B\* Shares and Series B Shares at the Dividend Rate, the holders of outstanding Series A\* Shares shall be entitled to receive dividends, when, as and if declared by the Board of Directors, out of any assets at the time available therefor under applicable law and these Articles, at the Dividend Rate, payable in preference and priority to any declaration or payment of any Distribution on Series A Shares and Ordinary Shares of the Company in such calendar year. The right to receive dividends on Series A\* Shares shall be cumulative, and the right to such dividends shall accrue to holders of Series A\* Shares from the date such dividends are declared notwithstanding the fact that dividends on said shares are not paid in any calendar year. No Distributions shall be made with respect to Series A Shares or Ordinary Shares until all accrued dividends on the Series A\* Shares, as set forth in this Article 104(e), have been paid or set aside for payment to the holders of Series A\* Shares. Payment of any dividends to the holders of the Series A\* Shares shall be on a *pro rata, pari passu* basis.
- (f) After all accrued dividends on the Series C Shares, Series B5 Shares, Series B\* Shares, Series B Shares, and Series A\* Shares have been paid or set aside for payment to the holders of Series C Shares, Series B5 Shares, Series B\* Shares, Series B Shares and Series A\* Shares at the Dividend Rate, the holders of outstanding Series A Shares shall be entitled to receive dividends, when, as and if declared by the Board of Directors, out of any assets at the time available therefor under applicable law and these Articles, at the Dividend Rate, payable in preference and priority to any declaration or payment of any Distribution on Ordinary Shares of the Company in such calendar year. The right to receive dividends on Series A Shares shall be cumulative, and the right to such dividends shall accrue to holders of Series A Shares from the date such dividends are declared notwithstanding the fact that dividends on said shares are not paid in any calendar year. No Distributions shall be made with respect to Ordinary Shares

until all accrued dividends on the Series A Shares, as set forth in this Article 104(f), have been paid or set aside for payment to the holders of Series A Shares. Payment of any dividends to the holders of the Series A Shares shall be on a *pro rata, pari passu* basis.

- (g) After all accrued dividends on the Preferred Shares have been paid or set aside for payment to the holders of Preferred Shares, any additional dividends declared shall be distributed among all holders of Ordinary Shares and Preferred Shares on a *pro rata* basis in proportion to the number of Ordinary Shares then held by each such holder (on an as-converted basis).
- (h) In the event that the Company shall have accrued or declared but unpaid dividends outstanding upon the Preferred Shares, then immediately prior to and in the event of a conversion of Preferred Shares as provided in Articles 19 through 24, the Company shall pay such dividends.
- (i) Immediately prior to and in the event of the Qualified IPO, the Company shall pay such dividends in respect of all shares.

105. Subject to the Statute and these Articles, the Directors may declare dividends and Distributions on Shares in issue and authorize payment of the dividends or Distributions out of the funds of the Company lawfully available therefor. No dividend or Distribution shall be paid except out of the realized or unrealized profits of the Company, or out of the share premium account or as otherwise permitted by the Statute.
106. Except as otherwise provided by the rights attached to Shares, all dividends shall be declared and paid according to the par value of the Shares that a Member holds. If any Share is issued on terms providing that it shall rank for dividend as from a particular date, that Share shall rank for dividend accordingly.
107. The Directors may deduct from any dividend or Distribution payable to any Member all sums of money (if any) then payable by him to the Company on account of calls or otherwise.
108. The Directors may declare that any dividend or Distribution be paid wholly or partly by the distribution of specific assets and in particular of shares, debentures, or securities of any other company or in any one or more of such ways and where any difficulty arises in regard to such distribution, the Directors may settle the same as they think expedient and in particular may issue fractional Shares and fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any

Members upon the basis of the value so fixed in order to adjust the rights of all Members and may vest any such specific assets in trustees as may seem expedient to the Directors; *provided, however*, that the holders of the Preferred Shares shall be entitled at all times to request the Company to arrange for the sale or caused to be sold assets on the basis of the value so fixed and distribute the proceeds of the sale.

109. Any dividend, Distribution, interest or other monies payable in cash in respect of Shares may be paid by wire transfer to the holder or by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of the holder who is first named on the Register of Members or to such Person and to such address as such holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the Person to whom it is sent. Any one of two or more joint holders may give effectual receipts for any dividends, bonuses, or other monies payable in respect of the Share held by them as joint holders.
110. No dividend or Distribution shall bear interest against the Company.
111. Any dividend which cannot be paid to a Member and/or which remains unclaimed after six months from the date of declaration of such dividend may, in the discretion of the Directors, be paid into a separate account in the Company's name, *provided* that the Company shall not be constituted as a trustee in respect of that account and the dividend shall remain as a debt due to the Member. Any dividend which remains unclaimed after a period of six years from the date of declaration of such dividend shall be forfeited and shall revert to the Company.

#### CAPITALIZATION

112. Subject to the other provisions of these Articles (including Article 81 hereof), upon the recommendation of the Board of Directors, the Members may by Ordinary Resolution authorize the Board of Directors to capitalize any sum standing to the credit of any of the Company's reserve accounts (including share premium account and capital redemption reserve fund) or any sum standing to the credit or profit and loan account or otherwise available for distribution and to appropriate such sum to Members in the proportions in which such sum would have been divisible amongst them had the same been a distribution of profits by way of dividend and to apply such sum on their behalf in paying up in full unissued shares for allotment and distribution credited as fully paid up to and amongst them in the proportion aforesaid. In such event the Board of Directors shall do all acts and things required to give effect to such capitalization, with full power to the Board of Directors to make such provisions as it thinks fit for the case of shares becoming distributable in fractions. The Board of Directors may authorize any Person to

enter on behalf of all of the Members interested into an agreement with the Company providing for such capitalization and matters incidental thereto and any agreement made under such authority shall be effective and binding on all concerned.

#### BOOKS OF ACCOUNT

113. The Board of Directors shall cause proper books of account to be kept with respect to:
- (a) all sums of money received and expended by the Company and the matters in respect of which the receipt or expenditure takes place;
- (b) all sales and purchases of goods by the Company; and
- (c) the assets and liabilities of the Company.

Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the Company's affairs and to explain its transactions.

114. The books and records of the Company shall be open to inspection upon the written demand of any Member, at any reasonable time during usual business hours, for a purpose reasonably related to the holder's interests as a Member or as the holder of a voting trust certificate. The inspection may be made in person or by an agent or attorney and shall include the right to copy and make extracts. Such rights of inspection shall extend to the records of each Subsidiary of the corporation.
115. The Board of Directors may from time to time cause to be prepared and to be laid before the Company in general meeting profit and loss accounts, balance sheets, group accounts (if any) and such other reports and accounts as may be required by law.

#### AUDIT

116. The Company may at any annual general meeting appoint an Auditor or Auditors of the Company who shall hold office until the next annual general meeting and may fix his or their remuneration. The Auditor or Auditors shall be selected from one of the following accounting firms or other firms approved by all Preferred Share Directors: Deloitte & Touche, Ernst and Young, KPMG, and PricewaterhouseCoopers.
117. The Board of Directors may before the first annual general meeting appoint an Auditor or Auditors of the Company who shall hold office until the first annual general meeting

unless previously removed by an Ordinary Resolution of the Members in general meeting in which case the Members at that meeting may appoint Auditors. The Board of Directors may fill any casual vacancy in the office of Auditor but while any such vacancy continues the surviving or continuing Auditor or Auditors, if any, may act. The remuneration of any Auditor appointed by the Board of Directors under this Article may be fixed by the Board of Directors.

118. Auditors shall at the next annual general meeting following their appointment and at any other time during their term of office, upon request of the Board of Directors or any general meeting of the Members, make a report on the accounts of the Company in general meeting during their tenure of office.

#### NOTICES

119. Notices shall be in writing and may be given by the Company to any Member either personally or by sending it by registered mail, express courier, electronic mail, facsimile transmission, telex or telecopy to him or to his address as shown in the register of Members, or, when notice is given by electronic mail, by sending it to the electronic mail address provided by such Member under the Members Agreement.
120. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, pre-paying and posting a letter containing the notice, and to have been effected at the expiration of five (5) Business Days after the letter containing the same is posted as aforesaid.
- (a) Where a notice is sent by express courier, service of the notice shall be deemed to be effected by properly addressing, and sending such notice through an internationally recognized express courier service, delivery fees pre-paid, and to have been effected three (3) Business Days following the day the same is sent as aforesaid.
- (b) Where a notice is sent by cable, electronic mail, facsimile transmission, telex or telecopy, service of the notice shall be deemed to be effected by properly addressing and sending such notice through an electrical or electronic network and to have been effected on the first (1st) Business Day following the same is sent as aforesaid; *provided, however*, that where the notice is sent by electronic mail, the electronic mail shall set forth the business to be considered or noticed and shall be transmitted using commercially available electronic messaging software.

121. A notice may be given by the Company to the joint holders of record of a share by giving the notice to the joint holder first named on the register of Members in respect of the share.
122. A notice may be given by the Company to the Person or Persons which the Company has been advised are entitled to a share or shares in consequence of the death or bankruptcy of a Member by sending it through the post as aforesaid in a pre-paid letter addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description at the address supplied for that purpose by the Persons claiming to be so entitled, or at the option of the Company by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.
123. No other Person shall be entitled to receive notices of general meetings.

#### WINDING UP

124. If the Company shall be wound up, the liquidator shall apply the assets of the Company in satisfaction of creditors' claims in such manner and order as he thinks fit. In the event of any liquidation, dissolution or winding up of the affairs of the Company, whether voluntary or involuntary, the liquidator shall, in relation to the assets available for distribution among the Members, distribute the same to the Members as follows:
- (a) The holders of Series C Shares then outstanding shall be entitled to be paid first out of the assets of the Company available for distribution among the Members (and prior and in preference to any payment on the Series B5 Shares, the Series B\* Shares, Series B Shares, Series A\* Shares, Series A Shares and the Ordinary Shares) a liquidation preference in the amount per Series C Share equal to the applicable Original Purchase Price, plus all accrued or declared but unpaid dividends, (the "**Series C Liquidation Preference**");
- (b) In the event that the assets available for distribution among the Members are insufficient to pay the Series C Liquidation Preference in full, the holders of Series C Shares then outstanding shall be entitled to be paid out of the assets of the Company available for distribution among the Members as follows: an amount equal to that holder's total Series C Liquidation Preference entitlement under paragraph (a) above, divided by the aggregate of all such holders' entitlements under paragraph (a) above, multiplied by the aggregate amount available for distribution under this Article 124;

- (c) After payment of or setting aside for payment to the holders of Series C Shares the full Series C Liquidation Preference under paragraph (a), the holders of Series B5 Shares then outstanding shall be entitled to be paid then out of the assets of the Company available for distribution among the Members (and prior and in preference to any payment on the Series B\* Shares, Series B Shares, Series A\* Shares, Series A Shares and the Ordinary Shares) a liquidation preference in the amount per Series B5 Share equal to the applicable Original Purchase Price, plus all accrued or declared but unpaid dividends, (the "**Series B5 Liquidation Preference**");
- (d) In the event that the assets available for distribution among the Members are insufficient to pay the Series B5 Liquidation Preference in full, the holders of Series B5 Shares then outstanding shall then be entitled to be paid out of the assets of the Company available for distribution among the Members as follows: an amount equal to that holder's total Series B5 Liquidation Preference entitlement under paragraph (c) above, divided by the aggregate of all such holders' entitlements under paragraph (c) above, multiplied by the aggregate amount available for distribution under this Article 124;
- (e) After payment of or setting aside for payment to the holders of Series C Shares the full Series C Liquidation Preference under paragraph (a) and payment to the holders of Series B5 Shares the full Series B5 Liquidation Preference under paragraph (c), the holders of Series B\* Shares then outstanding shall be entitled to be paid out of the assets of the Company available for distribution among the Members (and prior and in preference to any payment on the Series B Shares, Series A\* Shares, Series A Shares and the Ordinary Shares) a liquidation preference in the amount per Series B\* Share equal to the applicable Original Purchase Price, plus all accrued or declared but unpaid dividends, (the "**Series B\* Liquidation Preference**");
- (f) In the event that the assets available for distribution among the Members are insufficient to pay the Series B\* Liquidation Preference in full, the holders of Series B Shares then outstanding shall be entitled to be paid out of the assets of the Company available for distribution among the Members as follows: an amount equal to that holder's total Series B\* Liquidation Preference entitlement under paragraph (e) above, divided by the aggregate of all such holders' entitlements under paragraph (e) above, multiplied by the aggregate amount available for distribution under this Article 124;
- (g) After payment of or setting aside for payment to the holders of Series C Shares the full Series C Liquidation Preference under paragraph (a), payment to the

- holders of Series B5 Shares the full Series B5 Liquidation Preference under paragraph (c), and payment to the holders of Series B\* Shares the full Series B\* Liquidation Preference under paragraph (e), the holders of Series B Shares then outstanding shall be entitled to be paid first out of the assets of the Company available for distribution among the Members (and prior and in preference to any payment on the Series A\* Shares, Series A Shares and the Ordinary Shares) a liquidation preference in the amount per Series B Share equal to the Original Purchase Price applicable to such Series B Share (as adjusted for Recapitalization) plus all accrued or declared but unpaid dividends (the "**Series B Liquidation Preference**");
- (h) In the event that the assets available for distribution among the Members are insufficient to pay the Series B Liquidation Preference in full, the holders of Series B Shares then outstanding shall be entitled to be paid out of the assets of the Company available for distribution among the Members as follows: an amount equal to that holder's total Series B Liquidation Preference entitlement under paragraph (g) above, divided by the aggregate of all such holders' entitlements under paragraph (g) above, multiplied by the aggregate amount available for distribution under this Article 124;
- (i) After payment of or setting aside for payment to the holders of Series C Shares, payment to the holders of Series B5 Shares, payment to the holders of Series B\* Shares, and Series B Shares the full Series C Liquidation Preference, Series B5 Liquidation Preference, Series B\* Liquidation Preference and Series B Liquidation Preference under paragraphs (a), (c), (e) and (g) above, the holders of Series A\* Shares then outstanding shall be entitled to be paid first out of the assets of the Company available for distribution among the Members (and prior and in preference to any payment on the Series A Shares and the Ordinary Shares) a liquidation preference in the amount per Series A\* Share equal to the Original Purchase Price applicable to such Series A\* Share (as adjusted for Recapitalization) plus all accrued or declared but unpaid dividends (the "**Series A\* Liquidation Preference**");
- (j) In the event that the assets available for distribution among the Members are insufficient to pay the Series A\* Liquidation Preference in full, the holders of Series A\* Shares then outstanding shall be entitled to be paid out of the assets of the Company available for distribution among the Members as follows: an amount equal to that holder's total Series A\* Liquidation Preference entitlement under paragraph (i) above, divided by the aggregate of all such holders'

- entitlements under paragraph (i) above, multiplied by the aggregate amount available for distribution under this Article 124;
- (k) After payment of or setting aside for payment to the holders of Series C Shares, payment to the holders of Series B5 Shares, payment to the holders of Series B\* Shares, Series B Shares, Series A\* Shares, the full Series C Liquidation Preference, Series B5 Liquidation Preference, Series B\* Liquidation Preference, Series B Liquidation Preference and Series A\* Liquidation Preference under paragraphs (a), (c), (e), (g) and (i) above, the holders of Series A Shares then outstanding shall be entitled to be paid out of the assets of the Company available for distribution among the Members (and prior and in preference to any

payment on the Ordinary Shares) a liquidation preference in the amount per Series A Share equal to the Original Purchase Price applicable to such Series A Share (as adjusted for Recapitalization) plus all accrued or declared but unpaid dividends (the “**Series A Liquidation Preference**”, and Series A Liquidation Preference, Series A\* Liquidation Preference, Series B Liquidation Preference, Series B\* Liquidation Preference, Series B5 Liquidation and Preference Series C Liquidation Preference, collectively are referred to as “**Liquidation Preference**”);

- (l) In the event that the assets available for distribution among the Members are insufficient to pay the Series A Liquidation Preference in full, the holders of Series A Shares then outstanding shall be entitled to be paid out of the assets of the Company available for distribution among the Members as follows: an amount equal to that holder’s total Series A Liquidation Preference entitlement under paragraph (k) above, divided by the aggregate of all such holders’ entitlements under paragraph (k) above, multiplied by the aggregate amount available for distribution under this Article 124; and
- (m) Subject to the prior payment of all amounts due to the holders of Preferred Shares in accordance with the above paragraphs, the balance of all remaining assets available for distribution to Members shall be distributed *pro rata* amongst the holders of Ordinary Shares and the holders of Preferred Shares (on an as-converted basis).

125. For the purpose of these Articles, a Sale Transaction (except for events set forth in paragraph (ii) of the definition of “Sale Transaction”) (a “**Deemed Winding Up Event**”) shall be treated as a liquidation, dissolution or winding up of the Company so that each Preferred Shareholder receives the Liquidation Preference, whether by dividend or redemption of shares (as determined by the Board of Directors in its absolute discretion)

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as set forth in Article 124; *provided, however*, that the holders of at least eighty-five percent (85%) of the then outstanding Existing Preferred Shares (voting together as a separate class on an as converted basis) and the holders of at least seventy-five percent (75%) of the then outstanding Series C Shares (voting as a separate class on an as converted basis), may waive, on behalf of themselves and all holders of Preferred Shares, the treatment of any Deemed Winding Up Event as a liquidation, dissolution or winding up of the Company.

126. If any assets of the Company distributed to Members in connection with any liquidation, dissolution, or winding up of the affairs of the Company are other than cash, then the value of such assets shall be their fair market value as determined in good faith by the Board of Directors, including all Preferred Share Directors, except that any publicly-traded securities to be distributed to Members in a liquidation, dissolution, or winding up of the affairs of the Company shall be valued as follows:

- (a) If the securities are then traded on an internationally-recognized securities exchange or the Nasdaq Stock Market (or a similar national quotation system), then the value of the securities shall be deemed to be to the average of the closing prices of the securities on such exchange or system over the ten (10) trading day period ending five (5) trading days prior to the distribution date;
- (b) if the securities are actively traded over-the-counter, then the value of the securities shall be deemed to be the average of the closing bid prices of the securities over the ten (10) trading day period ending five (5) trading days prior to the distribution date.

Each of the Preferred Shareholders shall have the right to request the Company to arrange for the sale or cause to be sold such assets and distribute the Liquidation Preference in cash. The Company shall, at the option of the Preferred Shareholder, convert such proceeds into US Dollars for distribution.

In the event of any Deemed Winding Up Event, the distribution date shall be deemed to be the date such transaction closes.

For the purpose of this part entitled Winding Up, “**trading day**” shall mean any day which the exchange or system on which the securities to be distributed are traded is open and “**closing prices**” or “**closing bid prices**” shall be deemed to be: (i) for securities traded primarily on the New York Stock Exchange, the American Stock Exchange or the Nasdaq Stock Market, the last reported trade price or sale price, as the case may be, at 4:00 p.m., New York time, on that day and (ii) for securities listed or traded on other

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exchanges, markets and systems, the market price as of the end of the regular hours trading period that is generally accepted as such for such exchange, market or system. If, after the date hereof, the benchmark times generally accepted in the securities industry for determining the market price of a stock as of a given trading day shall change from those set forth above, the fair market value shall be determined as of such other generally accepted benchmark times

#### INDEMNITY

127. The Directors, alternate Directors and officers of the Company and any trustee for the time being acting in relation to any of the affairs of the Company and their heirs, executors, administrators and personal representatives respectively shall be indemnified to the maximum extent permitted by law out of the assets of the Company from and against all actions, proceedings, costs, charges, losses, damages and expenses which they or any of them shall or may incur or sustain by reason of any act done or omitted in or about the execution of their duty in their respective offices or trusts, except such (if any) as they shall incur or sustain by or through their own willful default or gross negligence or fraud respectively, and no such Director, alternate Director, officer or trustee shall be answerable for the acts, receipts, neglects or defaults of any other Director, alternate Director, officer or trustee or for joining in any receipt for the sake of conformity or for the solvency or honesty of any banker or other Persons with whom any monies or effects belonging to the Company may be lodged or deposited for safe custody or for any insufficiency of any security upon which any monies of the Company may be invested or for any other loss or damage due to any such cause as aforesaid or which may happen in or about the execution of his office or trust unless the same shall happen through willful default or gross negligence or fraud of such Director, alternate Director, officer or trustee.

#### FISCAL YEAR

128. Unless the Board of Directors otherwise prescribe, the financial year of the Company shall end on December 31 in each year.

#### TRANSFER BY WAY OF CONTINUATION

129. If the Company is exempted as defined in the Statute, it shall, subject to the provisions of the Statute and with the approval of a Special Resolution, have the power to register by way of continuation as a body corporate under the laws of any jurisdiction outside the Cayman Islands and to be deregistered in the Cayman Islands.

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EXECUTION VERSION

## UP TO RMB 530,000,000 TERM LOAN FACILITY AGREEMENT

Dated 17 September 2015 (as amended and restated pursuant to the Amendment Agreement dated 4 March 2016 and further amended and restated on 5 August 2016)

for

████████████████████ (SHENZHEN YUNGANG EDC TECHNOLOGY CO., LTD.)

as Borrower

and

**GDS HOLDINGS LIMITED**

as Ultimate Parent

and

████████████████████ (BEIJING WANGUO CHANGAN TECHNOLOGY CO., LTD.)

as Guarantor

arranged by

████████(██)████

**(CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK (CHINA) LIMITED)**

████(██)████████

**(UNITED OVERSEAS BANK (CHINA) LIMITED, SHENZHEN BRANCH)**

as Mandated Lead Arrangers

with

████(██)████████

**(UNITED OVERSEAS BANK (CHINA) LIMITED, SHENZHEN BRANCH)**

acting as Facility Agent and Security Agent

and

████(██)████████

**(UNITED OVERSEAS BANK (CHINA) LIMITED, SHENZHEN BRANCH)**

acting as Account Bank

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THIS AGREEMENT is dated 17 September 2015 (as amended and restated pursuant to an amendment agreement dated 4 March 2016 and further amended and restated on 5 August 2016) and made between:

- (1) 深圳洋刚电子科技有限公司 (SHENZHEN YUNGANG EDC TECHNOLOGY CO., LTD.), a wholly foreign owned enterprise established under the laws of the PRC, with its registered address at Room 713, 7<sup>th</sup> Floor, Energy Bonded Warehouse, No.5 Taohua Road, Fubao Street, Futian Bonded Area, Shenzhen, PRC (the “**Borrower**”);
- (2) GDS HOLDINGS LIMITED, a company established under the laws of the Cayman Islands, with its registered address at the offices of Codan Trust Company (Cayman) Limited, Cricket Square, Hutchins Drive, P.O. Box 2681, Grand Cayman KY1-1111, Cayman Islands (the “**Ultimate Parent**”);
- (3) 北京万国长安科技有限公司 (BEIJING WANGUO CHANGAN TECHNOLOGY CO., LTD.), a limited liability company established under the laws of the PRC, with its registered address at Room A-0155, 2<sup>nd</sup> Floor, Building 3, No. 30<sup>th</sup> Yard, Shixing Avenue, Shijingshan District, Beijing, PRC (the “**Guarantor**”);
- (4) 全球数据解决方案有限公司 (GLOBAL DATA SOLUTIONS CO., LTD.), a wholly foreign owned enterprise established under the laws of the PRC, with its registered address at Unit A0503-1, International Science & Technology Park, No. 1355, Jinjihu Avenue, Suzhou Industrial Park, PRC (“**GDS Suzhou**”);
- (5) 中国农业银行(中国)有限公司(CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK (CHINA) LIMITED) and 渣打银行(中国)有限公司(UNITED OVERSEAS BANK (CHINA) LIMITED, SHENZHEN BRANCH), as mandated lead arrangers (the “**Mandated Lead Arrangers**”);
- (6) THE FINANCIAL INSTITUTIONS listed in Schedule 1 as lenders (the “**Original Lenders**”);
- (7) 渣打银行(中国)有限公司(UNITED OVERSEAS BANK (CHINA) LIMITED, SHENZHEN BRANCH) as account bank (the “**Account Bank**”);
- (8) 渣打银行(中国)有限公司(UNITED OVERSEAS BANK (CHINA) LIMITED, SHENZHEN BRANCH) as agent of the Finance Parties (other than itself) (the “**Facility Agent**”); and
- (9) 渣打银行(中国)有限公司(UNITED OVERSEAS BANK (CHINA) LIMITED, SHENZHEN BRANCH) as security trustee for the Secured Parties (the “**Security Agent**”).

**BACKGROUND**

- (A) The Borrower and the Facility Agent has, among others, entered into this Agreement on 17 September 2015.
- (B) The Borrower and the Facility Agent has, among others, further entered into an amendment agreement on 4 March 2016 to amend this Agreement to add on the Facility C (as defined below).
- (C) All Parties have agreed to further amend and restate this Agreement and have intended to use this Agreement which is amended and restated on the above date to replace the facility agreement and its amendment agreement(s) which have been entered into by all Parties before such date.

IT IS AGREED as follows:

**SECTION 1  
INTERPRETATION**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Agreement:

“**Accession Letter**” means a document substantially in the form set out in Schedule 6 (*Form of Accession Letter*).

“Accounts” means:

- (a) the Debt Service Reserve Account;
- (b) the Excess Cashflow Account;
- (c) the Receiving Account 1;
- (d) the Receiving Account 2;
- (e) the Receiving Account 3;
- (f) the Debt Service Accrual Account;
- (g) the Operations Account; and
- (h) any account otherwise designated as an Account by (i) the Facility Agent and (ii) the Borrower, the Guarantor or GDS Suzhou (as the case may be) in writing.

“Account Control Agreement” means an account control agreement dated on 17 September 2015 and made by and between the Borrower, the Guarantor, GDS Suzhou, the Account Bank and the Facility Agent in relation to the Accounts, as amended and by the Supplemental Account Control Agreement.

“Administrative Party” means each of the Mandated Lead Arrangers, the Account Bank, the Facility Agent and the Security Agent.

“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.

“Amended and Restated Equity Pledge Agreement” means an amended and restated equity pledge agreement dated on or about the date of the Amendment Agreement and made by and between, the Parent, the Borrower and the Security Agent in respect of the Equity Pledge Agreement, which is amended by the Supplemental Equity Pledge Agreement.

“Amended and Restated Movable Assets Mortgage Agreement (Project SZ1)” means an amended and restated movable assets mortgage agreement (Project SZ1) dated on or about the date of the Amendment Agreement and made by and between the Borrower and the Security Agent in respect of the Movable Assets Mortgage Agreement (Project SZ1), which is amended by the Supplemental Movable Assets Mortgage Agreement (Project SZ1).

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“Amended Facility Agreement” means this Agreement as amended by the Amendment Agreement.

“Amendment Agreement” means the amendment agreement dated 4 March 2016 between, among others, the Borrower and the Facility Agent.

“Annualised Contract Value” means, (a) in relation to a Qualified Service Contract, its Contract Value divided by the number of years of the whole term of that Qualified Service Contract; and (b) in relation to a Service Contract (other than a Qualified Service Contract), its Contract Value divided by the remaining term of applicable Loan.

“APLMA” means the Asia Pacific Loan Market Association Limited.

“Assignment Agreement” means an agreement substantially in a recommended form of the APLMA or any other form agreed between the relevant assignor, assignee and the Facility 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 Facility A Availability Period, Facility B Availability Period or Facility C Availability Period (as the case may be).

“Available Commitment” means, in relation to a Facility, a Lender’s Commitment under that Facility minus:

- (a) the aggregate amount of its participation in any outstanding Loans under that Facility; and
- (b) in relation to any proposed Utilisation, the aggregate 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 Available Facility A, Available Facility B or Available Facility C (as the case may be).

“Available Facility A” means, in relation to the Facility A, the aggregate for the time being of each Lender’s Available Commitment in respect of the Facility A.

“Available Facility B” means, in relation to the Facility B, the aggregate for the time being of each Lender’s Available Commitment in respect of the Facility B.

“Available Facility C” means, in relation to the Facility C, the aggregate for the time being of each Lender’s Available Commitment in respect of the Facility C.

“Available Foreign Debt Quota” has the meaning given to that term in Clause 23.29 (b) (*Offshore Transaction Security*).

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“Back-to-Back Agreements” means Back-to-Back Agreement (GDS Suzhou), Back-to-Back Agreement (Guarantor), Back-to-Back Agreement (GDS Suzhou-SZ3) and Back-to-Back Agreement (Guarantor-SZ3).

“Back-to-Back Agreement (GDS Suzhou)” means, in respect of Project SZ1 and Project SZ2, one or more service agreements entered into by and between the Borrower and GDS Suzhou on or before the date of this Agreement and as amended from time to time, in which the Borrower agrees to provide data center facilities and other related services to GDS Suzhou for GDS Suzhou to perform its obligations under the GDS Suzhou Service Contracts in relation to Project SZ1 and Project SZ2 and GDS Suzhou agrees to pay all or certain percentage consideration under the GDS Suzhou Service Contracts in relation to Project SZ1 and Project SZ2 to the Borrower, in each case in the form and substance satisfactory to the Facility Agent.

“Back-to-Back Agreement (Guarantor)” means, in respect of Project SZ1 and Project SZ2, one or more service agreements entered into by and between the Borrower and the Guarantor on or before the date of this Agreement and as amended from time to time, in which the Borrower agrees to provide data center facilities and other related services to the Guarantor for the Guarantor to perform its obligations under the Guarantor Service Contracts in relation to Project SZ1 and Project SZ2 and the Guarantor agrees to pay all or certain percentage consideration under the Guarantor Service Contracts in relation to Project SZ1 and Project SZ2 to the Borrower, in each case in the form and substance satisfactory to the Facility Agent.

“Back-to-Back Agreement (GDS Suzhou-SZ3)” means, in respect of Project SZ3, one or more service agreements entered into by and between the Borrower and GDS Suzhou on or before the date of the Amendment Agreement and as amended from time to time, in which the Borrower agrees to provide data center facilities and other related services to GDS Suzhou for GDS Suzhou to perform its obligations under the GDS Suzhou Service Contracts in relation to Project SZ3 and GDS Suzhou agrees to pay all or certain percentage consideration under the GDS Suzhou Service Contracts in relation to Project SZ3 to the Borrower, in each case in the form and substance satisfactory to the Facility Agent.

“Back-to-Back Agreement (Guarantor-SZ3)” means, in respect of Project SZ3, one or more service agreements entered into by and between the Borrower and the Guarantor on or before the date of this Agreement and as amended from time to time, in which the Borrower agrees to provide data center facilities and other related services to the Guarantor for the Guarantor to perform its obligations under the Guarantor Service Contracts in relation to Project SZ3 and the Guarantor agrees to pay all or certain percentage consideration under the Guarantor Service Contracts in relation to Project SZ3 to the Borrower, in each case in the form and substance satisfactory to the Facility Agent.

“Borrower Group” means the Borrower and its Subsidiaries from time to time.

“Borrower Service Contracts” means all contracts, orders, agreements or any other documents entered into or expected to be entered into (in the reasonable opinion of the Facility Agent) by the Borrower and its customers to which the Projects may at any time be subject in respect of any management consultancy services or other services in connection with internet data center businesses provided or to be provided by the Borrower, the performance of which does not need an IDC License.

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“**Borrowings**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Break Costs**” means the amount (if any) by which:

- (a) the interest which a Lender should have received pursuant to the terms of this Agreement for the period from the date of receipt of all or any part of the principal amount of 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 of interest 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 in the Relevant Interbank Market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

“**Budget**” means each budget (including the detailed budget for each quarter of that Financial Year) delivered by the Borrower to the Facility Agent in respect of that Financial Year pursuant to Clause 21.5 (*Submission of Budget*).

“**Business Day**” means a day (other than a Saturday, Sunday or a public holiday) on which banks are open for general business in Shanghai and Shenzhen.

“**Business Plan**” means the business plan regarding the Projects (including but not limited to detailed development plans, construction programme, operation of Projects and projected cashflow over the whole life of the Projects) proposed by the Borrower and dated September 10, 2015 and approved in writing by the Facility Agent, as amended on 4 February 2016 and approved by the Facility Agent.

“**Capital Expenditure**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Cash**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Cash Equivalent Investments**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Cashflow**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**CBRC Rule**” means the Interim Measures on Administration of Fixed Assets Loan issued by China Banking Regulatory Commission on 23 July 2009, including any supplemental rules thereof and any amendments thereto from time to time.

“**Certificate of Completion**” means the fire safety certificate or any other documents issued by a competent counterpart of Shenzhen Public Security Bureau, Fire Services Department (深圳消防局), evidencing a Project has passed fire safety inspection.

“**Change of Control**” means:

- (a) the Sponsor ceases to, directly or indirectly,
- (i) prior to the occurrence of a Flotation, be the beneficial owner of at least 40 per cent. of equity interests of the Ultimate Parent or have the power (whether by way of ownership

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of shares, proxy, contract, agency or otherwise) to cast, or Control the casting of, at least 40 per cent. of the votes that may be cast at a meeting of the board of directors (or similar governing body) of the Ultimate Parent; or

- (ii) following the occurrence of Flotation, be the beneficial owner of at least 30 per cent. of equity interests of the Ultimate Parent or have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to cast, or Control the casting of, at least 30 per cent. of the votes that may be cast at a meeting of the board of directors (or similar governing body) of the Ultimate Parent; or
- (b) the Sponsor ceases to be the single largest shareholder of the Ultimate Parent; or
- (c) the Ultimate Parent ceases to, directly or indirectly, be the beneficial owner of 100 per cent. of equity interests of the Borrower and have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to Control the Borrower; or
- (d) the Ultimate Parent ceases to, directly or indirectly, be the beneficial owner of 100 per cent. of equity interests of the New WFOE and have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to Control the New WFOE; or
- (e) prior to the VIE Acquisition, the Ultimate Parent ceases to, directly or indirectly, be the beneficial owner of 100 per cent. of equity interests of GDS Suzhou and have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to Control the GDS Suzhou; or
- (f) after the VIE Acquisition, the Guarantor ceases to, directly or indirectly, be the beneficial owner of 100 per cent. of equity interests of GDS Suzhou and have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to Control the GDS Suzhou; or
- (g) William Huang ceases to, directly or indirectly,
- (i) prior to the completion of the VIE Equity Transfer, own 100% of the equity interests of the Guarantor; or
- (ii) after the completion of the VIE Equity Transfer, own at least 99.96% of the equity interests of the Guarantor.

For the purposes of this definition, “**equity interests**” means, in relation to any person:

- (i) any share of any class or capital stock of, or equity interest in, such person or any depositary receipt in respect of any such share, capital stock or equity interest; or
- (ii) any security convertible or exchangeable (whether at the option of the holder thereof or otherwise and whether such conversion is conditional or otherwise) into any such shares, capital stock, equity interest or depositary receipt, or any depositary receipt in respect of any such security; or
- (iii) any option, warrant or other right to acquire any such share, capital stock, equity interest, security, depositary receipt or security referred to in the foregoing paragraphs (i) and/or (ii) above.

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“**Code**” means the US Internal Revenue Code of 1986.

“**Commitment**” means Facility A Commitment, Facility B Commitment or Facility C Commitment (as the case may be).

“**Compensation**” means any sum (other than Insurance Proceeds):

- (a) by way of compensation under a Project Document;
- (b) in respect of the seizure, compulsory acquisition, expropriation or nationalisation of any of the assets or shares of any member of the Group;
- (c) as compensation for any Authorisation in connection with the Projects not being granted or renewed, or ceasing to be in full force and effect without modification;
- (d) in return for any decrease in its rights (including the release, modification or suspension of any rights) or any increase in its obligations (including the grant by it of rights or the modification of them), in each case, in connection with the Projects;
- (e) received by or payable to any Obligor Party or any other member of the Group under any guarantee, letter of credit or bond relating to any of the foregoing.

“**Compliance Certificate**” means a certificate delivered pursuant to Clause 21.2 (*Compliance Certificate*) and signed by one of the Borrower’s authorized signatories substantially in the form set out in Schedule 5 (*Form of Compliance Certificate*).

“**Confidential Information**” means all information relating to the Borrower, any Obligor Party, the Group, the Transaction Documents or a Facility of which a Secured Party becomes aware in its capacity as, or for the purpose of becoming, a Secured Party or which is received by a Secured Party in relation to, or for the purpose of becoming a Secured Party under, the Transaction Documents or a Facility from either:

- (a) any member of the Group or any of its advisers; or

(b) another Secured Party, if the information was obtained by that Secured 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 information that:

- (i) is or becomes public information other than as a direct or indirect result of any breach by that Secured Party of Clause 28 (*Disclosure of information*); or
- (ii) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
- (iii) is known by that Secured Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Secured Party after that date, from a source which is, as far as that Secured Party is aware, unconnected with the Group and which, in either case, as far as that Secured Party is

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aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

“**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 Facility Agent.

“**Confirmatory Share Mortgage Agreement**” means a confirmatory share mortgage agreement dated on or about the date of the Amendment Agreement and made by and between the Intermediate Parent and the Security Agent.

“**Confirmatory Letter**” means a confirmatory letter issued by the Ultimate Parent and the Intermediate Parent to the Security Agent in respect of the Ultimate Parent Guarantee and the Share Mortgage Agreement on 5 August 2016.

“**Confirmatory Ultimate Parent Guarantee**” means a confirmatory agreement in respect of the Ultimate Parent Guarantee dated on or about the date of the Amendment Agreement and issued by the Ultimate Parent in favour of the Security Agent.

“**Consigned Disbursement**” means the method by which the Lenders disburse loan proceeds into a Loan Disbursement Account, for further payment by the Facility Agent upon the instruction of the Borrower (which may be in the form of a duly completed Utilisation Request) to the respective transactional counterparty.

“**Contractor Agreements**” means:

- (a) in respect of the Project SZ1, a general contractor construction contract regarding the mechanical and electrical engineering work of Project SZ1 (□□1□□□□□□□□), which was entered into by the Borrower and Shenzhen Municipality Telecommunication and Engineering Co., Ltd.(□□□□□□□□□□) on August 1, 2013;
- (b) in respect of the Project SZ2, a general contractor construction contract regarding Project SZ2 (□□2□□□□□□□), which was entered into by the Borrower and China Security & Fire Technology Co., Ltd.(□□□□□□□□) on August 7, 2015;
- (c) in respect of the Project SZ3, a general contractor construction contract regarding Project SZ3, which will be entered into by the Borrower and Project SZ3 contractor after the date of the Amendment Agreement; and
- (d) any other contractor documents entered into by the Borrower in relation to the Projects which consideration (whether paid or payable by the Borrower) equals to or exceeds RMB 20,000,000.00, in each case, including any amendments thereto or any supplemental documents thereof.

“**Contract Novation**” means, in relation to a GDS Suzhou Service Contract, novation of all rights and obligations of GDS Suzhou thereunder to the Guarantor.

“**Contract Value**” means, in relation to a Service Contract, all revenues, receipts and payments, service charges, royalties, profits and refunds paid to or for the benefit of the Borrower, GDS Suzhou or the Guarantor from any source in respect of the Projects in connection with data center infrastructure business, management consultancy services or any other services provided either by the Borrower,

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GDS Suzhou or the Guarantor during the whole term (in the case of a Qualified Service Contract) or the respective remaining term (in the case of any Service Contract other than a Qualified Service Contract) of that Service Contract.

“**Contributed Equity**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Control**” or “**control**” means, in relation to any person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person, whether through the ownership of voting securities, by contract or otherwise (and the term “**Controlled**” or “**controlled**” shall be construed accordingly).

“**Current Assets**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Current Liabilities**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Custom**” means General Administration of Customs of the PRC or its local counterparty.

“**Customer Assets**” means any customer equipment in relation to internet data centre business that are purchased by the Borrower at the cost and request of its customers and made available for its customers by the Borrower under the relevant Service Contract, including but not limited to servers connecting to internet or other networks, the telecommunication lines and bandwidth connected to the equipment and facilities such as database system and servers, operating system and software system, and the intangible assets including without limitation, the trademark and domain name.

“**Debt Service**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Debt Service Accrual Account**” has the meaning given to that term in Clause 18.1(a)(iii) (*The Accounts*).

“**Debt Service Reserve Amount**” has the meaning given to that term in Clause 18.3(a) (*Debt Service Reserve Account*).

“**Debt Service Coverage Ratio**” or “**DSCR**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Debt Service Reserve Account**” has the meaning given to that term in Clause 18.1(a)(i) (*The Accounts*).

“**Debt to Equity Ratio**” or “**DER**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Default**” means an Event of Default or any event or circumstance specified in Clause 24 (*Event 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.

“**Default Rate**” means a rate determined by the Facility Agent to be:

- (a) in the event of any misapplication or misappropriation of any amount of the proceeds of the Loan as contemplated in Clause 10.3(b) (*Default interest*), 150% of the rate of interest which would have been applicable to that amount of the Loans pursuant to Clause 10.1 (*Calculation of interest*); and

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- (b) in the event of any Unpaid Sum (including, but not limited to, following any failure to pay upon acceleration of the Loan pursuant to Clause 24.21 (*Acceleration*)), 130% of the rate which would have been payable if the Unpaid Sum had, during the period of non-payment, constituted part of the Loans pursuant to Clause 10.1 (*Calculation of interest*),

or, in each case, if any misapplied or misappropriated amount also constitutes any part of Unpaid Sum, the highest default interest rate shall apply to such part of Unpaid Sum without double counting overdue interests on such part of Unpaid Sum.

“**Disposal**” means a sale, lease, licence, transfer, loan or other disposal by a person of any asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions) other than in the ordinary course of trading.



“Disposal Proceeds” means all sums paid or payable or any other consideration given or to be given in money or money’s worth for any Disposal made by any member of the Group in accordance with this Agreement except for the Excluded Disposal Proceeds and the Compensation.

“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 the Facilities (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.

“EBIT” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“EBITDA” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“Effective Date” means the date upon which the Facility Agent issues the notification referred to in Clause 2(c) of the Amendment Agreement.

“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 Obligor Party or any other 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.

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“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 Obligor Party or any other member of the Group conducted on or from the properties owned or used by the relevant Obligor Parties or any other relevant member of the Group.

“Equity Pledge Agreement” means an equity pledge agreement dated 17 September 2015 and made between the Borrower, the Parent and the Security Agent, pursuant to which the Parent pledges its equity interests corresponding to the registered capital of US\$ 40,000,000.00 in the Borrower in favour of the Security Agent (on behalf of all Secured Parties), as amended by the Supplemental Equity Pledge Agreement.

“Evidence of Facility A Utilization” has the meaning given to that term in sub-paragraph (vii) of paragraph (a) of Clause 5.2 (*Completion of a Utilisation Request*).

“Evidence of Facility B Utilization” has the meaning given to that term in sub-paragraph (viii) of paragraph (a) of Clause 5.2 (*Completion of a Utilisation Request*).

“Evidence of Facility C Utilization” has the meaning given to that term in sub-paragraph (iv) of paragraph (a) of Clause 5.2 (*Completion of a Utilisation Request*).

“Event of Default” means any event or circumstance specified as such in Clause 24 (*Event of Default*).

“Excess Cashflow” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“Excess Cashflow Account” has the meaning given to that term in Clause 18.1(a)(iv) (*The Accounts*).

“Excess Cashflow Prepayment Amount” has the meaning given to that term in Clause 18.6(a)(i) (*Excess Cash Flow Account*).

“Excluded Disposal Proceeds” means the proceeds of any Disposal which the Borrower notifies the Facility Agent will be applied for the replacement and/or reinstatement of its assets within 6 months after actual receipt of such proceeds.

“Excluded Insurance Proceeds” means any proceeds of an Insurance claim which the Borrower notifies the Facility Agent will be applied for the replacement, reinstatement and/or repair of the assets or otherwise in amelioration of the loss in respect of which the relevant Insurance claim was made within 6 months after receipt, but in each case such proceeds are not more than RMB 10,000,000.00 and does not include any proceeds arising out of a total loss or a major damage.

“Existing Account” means the Borrower’s existing bank accounts (other than the Accounts) opened with other banks (other than the Account Bank) before the date of this Agreement, as more particularly set out in Schedule 8 (*List of Existing Accounts*).

“Existing Deferred Payment” means the deferred payment under the following contracts in relation to the Projects, as more particularly set out in Schedule 9 (*List of Existing Deferred Payment*).

“Existing Inter-company Loan (Project SZ1)” means certain portion of the inter-company loan made by the members of the Group to the Borrower under the Existing Inter-company Loan Agreement (Project SZ1) that has been agreed by the Borrower and the Facility Agent, which will be refinanced pursuant to this Agreement (being RMB113,215,000.00 at the date of this Agreement).

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“Existing Inter-company Loan (Project SZ2)” means certain portion of the inter-company loan made by the members of the Group to the Borrower under the Existing Inter-company Loan Agreement (Project SZ2) that has been agreed by the Borrower and the Facility Agent, which will be refinanced pursuant to this Agreement (being RMB0.00 at the date of this Agreement).

“Existing Inter-company Loan (Project SZ3)” means certain portion of the inter-company loan made by the members of the Group to the Borrower under the Existing Inter-company Loan Agreement (Project SZ3) that has been agreed by the Borrower and the Facility Agent, which will be refinanced pursuant to this Agreement and the Amendment Agreement (being RMB11,300,000 at the date of the Amendment Agreement).

“Existing Inter-company Loan” means Existing Inter-company Loan (Project SZ1), Existing Inter-company Loan (Project SZ2) or Existing Inter-company Loan (Project SZ3) (as the case may be).

“Existing Inter-company Loan Agreement (Project SZ1)” means an inter-company loan agreement in relation to the Existing Inter-company Loan (Project SZ1) entered into by and between the Borrower and the members of the Group in respect of Project SZ1 on or before the date of this Agreement.

“Existing Inter-company Loan Agreement (Project SZ2)” means an inter-company loan agreement in relation to the Existing Inter-company Loan (Project SZ2) entered into by and between the Borrower and the members of the Group in respect of Project SZ2 on or before the date of this Agreement.

“Existing Inter-company Loan Agreement (Project SZ3)” means an inter-company loan agreement in relation to the Existing Inter-company Loan (Project SZ3) entered into by and between the Borrower and the members of the Group in respect of Project SZ3 on or before the date of the Amendment Agreement.

“Existing VIE Contracts” means any arrangement, instrument or agreement that is part of any contractual arrangements enabling GDS Suzhou to exercise effective control over the Guarantor or consolidate the financial condition or results of operation of the Guarantor for the purposes of the consolidated financial statements of the Group.

“Existing VIE Equity Pledge” means a pledge over the equity interests in the Guarantor held by William Huang in favour of GDS Suzhou as contemplated under the Existing VIE Contracts.

“Facility” means Facility A, Facility B or Facility C (as the case may be).

“Facility A” means the term loan facility made available under this Agreement as described in paragraph (a) of Clause 2 (*The Facilities*).

“Facility A Availability Period” means the period from and including the date of this Agreement to and including the date which is 6 Months after the date of this Agreement.

“Facility A Commitment” means:

- (a) in relation to an Original Lender, the amount in RMB set opposite its name under the heading “Facility A Commitment” in Schedule 1 (*Lenders and their Commitments*) and the amount of any other Facility A Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount in RMB of any Facility A Commitment transferred to it under this Agreement,

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to the extent not cancelled, reduced or transferred by it under this Agreement.

“**Facility A Loan**” means a loan made or to be made under Facility A or the principal amount outstanding for the time being of that loan.

“**Facility A Loan Disbursement Account**” means a bank account opened with the Account Bank for the purpose of receiving the Facility A Loan proceeds from the relevant Lenders.

“**Facility A Repayment Date**” has the meaning given to such term in paragraph (a) of Clause 6.1 (*Repayment of Facility A Loans*).

“**Facility A Utilisation Request**” means a Utilisation Request that requests a Facility A Loan.

“**Facility B**” means the term loan facility made available under this Agreement as described in paragraph (b) of Clause 2 (*The Facilities*).

“**Facility B Availability Period**” means the period from and including the date of this Agreement to and including (a) the date which is 15 Months after the date of this Agreement, and (b) if the Borrower exercises its extension rights pursuant to Clause 2.2 (*Extension of Facility B Availability Period*), to and including the date (if any) as notified by the Borrower and approved by all Lenders.

“**Facility B Commitment**” means:

- (a) in relation to an Original Lender, the amount in RMB set opposite its name under the heading “Facility B Commitment” in Schedule 1 (*Lenders and their Commitments*) and the amount of any other Facility B Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount in RMB of any Facility B Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

“**Facility B Loan**” means a loan made or to be made under Facility B or the principal amount outstanding for the time being of that loan.

“**Facility B Loan Disbursement Account**” means a bank account opened with the Account Bank for the purpose of receiving the Facility B Loan proceeds from the relevant Lenders.

“**Facility B Repayment Date**” has the meaning given to such term in paragraph (a) of Clause 6.2 (*Repayment of Facility B Loans*).

“**Facility B Utilisation Request**” means a Utilisation Request that requests a Facility B Loan.

“**Facility C**” means the term loan facility made available under this Agreement as described in paragraph (c) of Clause 2 (*The Facilities*).

“**Facility C Availability Period**” means the period from and including the Effective Date to 10 June 2017 (inclusive).

“**Facility C Commitment**” means:

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- (a) in relation to an Original Lender, the amount in RMB set opposite its name under the heading “Facility C Commitment” in Schedule 1 (*Lenders and their Commitments*) and the amount of any other Facility C Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount in RMB of any Facility A Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

“**Facility C Fee Letter**” means any letter or letters or supplemental letter dated on or about the date of the Amendment Agreement made by and between one or more Administrative Parties and the Borrower setting out the structuring fees and agency fees payable by the Borrower.

“**Facility C Loan**” means a loan made or to be made under Facility C or the principal amount outstanding for the time being of that loan.

“**Facility C Loan Disbursement Account**” means a bank account opened with the Account Bank for the purpose of receiving the Facility C Loan proceeds from the relevant Lenders.

“**Facility C Repayment Date**” has the meaning given to such term in paragraph (c) of Clause 6.1 (*Repayment of Facility C Loans*).

“**Facility C Utilisation Request**” means a Utilisation Request that requests a Facility C Loan.

“**Facility Office**” means the office or offices notified by a Lender to the Facility 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 paragraphs (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;
- (b) in relation to a “withholdable payment” described in section 1473(1)(A)(ii) of the Code (which relates to “gross proceeds” from the disposition of property of a type that can produce interest from sources within the US), 1 January 2017; or

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- (c) in relation to a “passthru payment” described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2017,

or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the date of this Agreement.

“**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.

“**FATCA FFI**” means a foreign financial institution as defined in section 1471(d)(4) of the Code which, if any Finance Party is not a FATCA Exempt Party, could be required to make a FATCA Deduction.

“**FATCA Payment**” means either:

- (a) the increase in a payment made by an Obligor Party to a Finance Party under Clause 13.7 (*FATCA Deduction and gross-up by Obligor Parties*) or paragraph (b) of Clause 13.8 (*FATCA Deduction by Finance Party*); or
- (b) a payment under paragraph (d) of Clause 13.8 (*FATCA Deduction by Finance Party*).

“**Fee Letter**” means the Initial Fee Letters and the Facility C Fee Letters.

“**Final Repayment Date**” means 18 September 2020.

“**Finance Document**” means this Agreement, the Amendment Agreement, any Accession Letter, any Fee Letter, the Account Control Agreement, the Supplemental Account Control Agreement, any Transaction Security Document, any Utilisation Request and any other document designated as such by the Facility Agent and the Borrower.

“**Finance Party**” means an Administrative Party or a Lender.

“**Financial Indebtedness**” means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (c) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (d) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (e) 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;
- (f) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (g) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;

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- (h) 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 shall be taken into account);
- (i) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 12 Months after the date of supply;
- (j) 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
- (k) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (j) above.

“**Financial Quarter**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Financial Year**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Flotation**” means the listing or admission to trading on any stock or securities exchange or market of any shares or securities of any member of the Group, or any sale or issue by way of listing, flotation or public offering (or any equivalent circumstances) of any shares or securities of any member of the Group in any jurisdiction or country.

“**Flotation Proceeds**” means the net cash proceeds in relation to a Flotation or a primary issue of shares in connection with a Flotation as shown in the prospectus or any other similar document of the Flotation.

“**Force Majeure**” means a circumstance that may not be foreseen, avoided or overcome, including but not limited to fire, flood, earthquake, storm, hurricane or other natural disaster, war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalisation, government sanction, blockage, embargo, strike.

“**GAAP**” means generally accepted accounting principles and practices from time to time in the jurisdiction of incorporation of the relevant Obligor Party.

“**GDS Suzhou Inter-company Loan**” means an inter-company loan up to an amount of RMB 60,000,000.00 to be advanced by GDS Suzhou to the Borrower on or after the date of this Agreement.

“**GDS Suzhou Inter-company Loan Agreement**” means an inter-company loan agreement made by and between GDS Suzhou and the Borrower in respect of the GDS Suzhou Inter-company Loan on or after the date of this Agreement.

“**GDS Suzhou Trapped Amount Loan Agreement**” has the meaning given to that term in Clause 18.11 (*Receiving Account 3 — Trapped Amount*).

“**GDS Suzhou Service Contracts**” means all contracts, orders, agreements or any other documents entered into or expected to be entered into (in the reasonable opinion of the Facility Agent) by GDS

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Suzhou and its customers to which the Projects may at any time be subject in respect of any data center infrastructure services or other services in connection with internet data center businesses provided or to be provided by the Borrower, the performance of which needs an IDC License, but excluding, following a Contract Novation, the contract that has been novated from GDS Suzhou to the Guarantor.

“**GDS Suzhou Trapped Amount**” has the meaning given to that term in Clause 18.11 (*Receiving Account 3 — Trapped Amount*).

“**Governmental Agency**” means any government or any governmental agency, semi-governmental or judicial entity or authority (including, without limitation, any stock exchange or any self-regulatory organisation established under statute).

“**Governmental Rules**” means all applicable statutes, laws, rules, codes, ordinances, decisions, regulations, permits, certificates, orders, connivance, indulgence, grace measures, practices, waivers and directions of any Governmental Agency now or hereafter in effect and, in each case, as amended or otherwise modified from time to time and any interpretation thereof by any competent Governmental Agency or official, including, without limitation, any judicial or administrative order, consent decree, settlement agreement or judgment and any industry guidelines.

“**Gross Leverage Ratio**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Group**” means the Ultimate Parent and its Subsidiaries from time to time.

“**Group Structure Chart**” means the structure chart of the Group which identifies the Ultimate Parent and any person by or through which they hold or beneficially own equity interests in or control the Borrower, GDS Suzhou, the Guarantor and any of its Subsidiaries (if any) and provided to the Facility Agent pursuant to Clause 4.1 (*Initial conditions precedent*).

“**Guarantor Service Contracts**” means all contracts, orders, agreements or any other documents entered into or expected to be entered into (in the reasonable opinion of the Facility Agent) by the Guarantor and its customers to which the Projects may at any time be subject in respect of any data center infrastructure services or other services in connection with internet data center businesses provided or to be provided by the Guarantor the performance of which needs an IDC License, and including, following a Contract Novation, the contract that has been novated from GDS Suzhou to the Guarantor.

“**Guarantor Trapped Amount**” has the meaning given to that term in Clause 18.9 (*Receiving Account 2 — Trapped Amount*).

“**Hedging Arrangement**” means any master agreement, confirmation, schedule or other agreement entered into or to be entered into by the Borrower and a Hedging Provider for the purpose of hedging the types of liabilities and/or risks in relation to this Agreement.

“**Hedging Provider**” has the meaning given to that term in Clause 23.17 (c) (*Treasury transaction*).

“**Hedging Termination**” means the termination or close out (whether partial or total) of that Hedging Arrangement either made by the Borrower or the Hedging Provider(s).

“**Hedging Termination Proceeds**” means any amount payable to or received by or on half of the Borrower as a result of the Hedging Termination, together with any due and payable interest accruing on any such amount.

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“**Holding Company**” means, in relation to a person, any other person in respect of which it is a Subsidiary.

“**IDC License**” means a value-added telecommunications business operating license issued by MIIT to the Guarantor on 8 April 2015, with a valid term ending on 14 November 2018 and license No. B1. B2 — 20130270, including any updated or renewed license issued from time to time.

“**IDC License Memo**” means the written advice by King & Wood Mallesons in relation to the renewal IDC License upon its expiry.

“**Indirect Tax**” means any goods and services tax, consumption tax, value added tax or any tax of a similar nature.

“**Initial Fee Letter**” means the letters dated 17 September 2015 and made by and between one or more Administrative Parties and the Borrower setting out the fees payable by the Borrower in respect of the Facility A and Facility B.

“**Insurance Assignment Agreement (Project SZ1)**” means an assignment of Insurances in relation to the movable assets of Project SZ1 dated 17 September 2015 and made by and between the Borrower and the Security Agent, as amended by the Supplemental Insurance Assignment Agreement (SZ1).

“**Insurance Assignment Agreement (Project SZ2)**” means an assignment of Insurances in relation to the movable assets of Project SZ2 dated on or about the Project SZ2 Completion Date and made by and between the Borrower and the Security Agent.

“**Insurance Assignment Agreement (Project SZ3)**” means an assignment of Insurances in relation to the movable assets of Project SZ3 dated on or about the Project SZ3 Completion Date and made by and between the Borrower and the Security Agent.

“**Insurances**” means all contracts and policies of insurance of any kind relating to the Borrower and the Projects taken out or, as the context requires, to be taken out from time to time and maintained in each case in accordance with Clause 23.16 (*Insurances*) by or on behalf of the Borrower, and such other policy or contract of insurance as the Facility Agent and the Borrower agree shall be an Insurance.

“**Insurance Proceeds**” means all proceeds of the Insurances payable to or received by or on behalf of the Borrower, but excluding any such proceeds payable to a third party claimant and the Excluded Insurance Proceeds and the Compensation.

“**Interest Coverage Ratio**” or “**ICR**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Interest Payment Date**” means each of 21<sup>st</sup> March, 21<sup>st</sup> June, 21<sup>st</sup> September and 21<sup>st</sup> December in each year, and the Final Repayment Date.

“**Interest Period**” means each period determined under this Agreement by reference to which interest on the Loans are calculated.

“**Interest Relevant Percentage**” has the meaning given to that term in Clause 10.1 (*Calculation of interest*).

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“**Intermediate Parent**” means EDC Holding Limited, an exempted company incorporated with limited liability in the Cayman Islands, with its registered address at the offices of Portcullis TrustNet (Cayman) Ltd., The Grand Pavilion Commercial Centre, Oleander Way, 802 West Bay Road, P.O. Box 32052, Grand Cayman KY1-1208, Cayman Islands.

“**Landlord**” means [REDACTED], with its registered address at No. 5 Taohua Road, Futian Free Trade Bond, Shenzhen, the PRC.

“**Lease Agreements**” means:

- (a) a building lease agreement entered into by and between the Landlord and the Borrower on March 9, 2015 (Contract No. BZ2014027J1) with a valid tenor from 1 June 2015 to 31 May 2025;
- (b) a building lease agreement entered into by and between the Landlord and the Parent (whose obligations and rights have subsequently transferred to the Borrower) on 16 July 2012 (Contract No. BZ20120420H1) with a valid tenor from 1 October 2012 to 30 September 2032; and
- (c) a building lease agreement entered into by and between Gangji Logistics (Shenzhen) Co., Ltd. ([REDACTED]) and the Borrower on 6 July 2015 with a valid tenor from 2 November 2015 to 1 November 2030,

in each case, including any amendments thereto or any supplemental documents thereof.

“**Lease Assignment Agreement**” means an assignment of the Lease Agreements of Project SZ1 and Project SZ2 dated 17 September 2015 and made by and between the Borrower and the Security Agent, as amended by the Supplemental Lease Assignment Agreement.

“**Lender**” means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party in accordance with Clause 26 (*Changes to the Lenders*),

which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

“**Leverage Ratio**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Loan**” means a Facility A Loan, a Facility B Loan or a Facility C Loan (as the case may be).

“**Loan Disbursement Accounts**” means the Facility A Loan Disbursement Account, the Facility B Loan Disbursement Account and the Facility C Loan Disbursement Account.

“**Majority Lenders**” means:

- (a) if there is no Loan then outstanding, a Lender or Lenders whose Commitments then aggregate 66<sup>2</sup>/<sub>3</sub> per cent. or more of the Total Commitments;

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- (b) if there is no Loan then outstanding and the Total Commitments have been reduced to zero, a Lender or Lenders whose Commitments aggregated 66<sup>2</sup>/<sub>3</sub> per cent. or more of the Total Commitments immediately before the reduction; or

- (c) at any other time, a Lender or Lenders 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.

“**Market Disruption Event**” means:

- (a) the PBOC ceases to prescribe the PBOC Base Rate; or
- (b) the Facility Agent receives by noon on the first day of an Interest Period notification from any Lender or Lenders, whose shares in the applicable Loan exceed fifty (50) per cent. of that Loan, that the rate of interest hereunder no longer reflects the costs to such Lender in funding and maintaining the applicable Loan.

“**Material Adverse Effect**” means a material adverse effect (or an event which is likely to result in a material adverse change) in (a) the financial condition, operations, performance, properties or prospects of any Obligor, or any Obligor Party’s ability to perform its obligations under the Finance Documents; or (b) the validity or enforceability of any Finance Documents or the rights and remedies of any Finance Party under any of the Finance Documents.

“**Material Credit Documents**” means the Finance Documents, the Back-to-Back Agreements and the GDS Suzhou Trapped Amount Loan Agreement (if any).

“**MIIT**” means the Ministry of Industry and Information Technology of the PRC.

“**MOFCOM**” means the Ministry of Commerce of the PRC or its local counterparty.

“**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;
- (c) 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
- (d) 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 apply only to the last Month of any period.

“**Movable Assets Mortgage Agreement (Project SZ1)**” means a movable assets mortgage agreement in relation to Project SZ1 (other than any Customer Assets) dated 17 September 2015 and made between the Borrower and the Security Agent, as amended and restated by the Supplemental Movable Assets Mortgage Agreement (Project SZ1).

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“**Movable Assets Mortgage Agreement (Project SZ2)**” means a movable assets mortgage agreement in relation to Project SZ2 (other than any Customer Assets) dated on or about of the Project SZ2 Completion Date and made between the Borrower and the Security Agent.

“**Movable Assets Mortgage Agreement (Project SZ3)**” means a movable assets mortgage agreement in relation to Project SZ3 (other than any Customer Assets) dated on or about of the Project SZ3 Completion Date and made between the Borrower and the Security Agent.

“**Net Finance Charges**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**New Lender**” has the meaning given to that term in Clause 26 (*Changes to the Lenders*).

“**New WFOE**” means [ ] with its registered address at Room 4056, 4<sup>th</sup> Floor, No. 173 Meisheng Road, China (Shanghai) Pilot Free Trade Zone, which is wholly owned, directly or indirectly, by the Ultimate Parent, whose primary purpose is to effectively control the Guarantor and other PRC companies (if any) that hold the IDC License or other value-added telecommunications business operating licenses (if any).

“**New VIE Contracts**” means any arrangement, instrument or agreement that is part of any contractual arrangements enabling the NEW WFOE to exercise effective control over the Guarantor or consolidate the financial condition or results of operation of the Guarantor for the purposes of the consolidated financial statements of the Group.

“**Notification Letter**” means a notice issued or to be issued by the Borrower, GDS Suzhou or the Guarantor (as applicable) to customers under the Service Contracts, in which the customers are notified of information relating to the relevant Receiving Accounts (as applicable) to which the customers are obligated to pay considerations under the Service Contracts.

“**Obligors**” means the Ultimate Parent, the Guarantor, GDS Suzhou and the Borrower and “**Obligor**” means each of them.

“**Obligor Parties**” means:

- (a) the Ultimate Parent, the Intermediate Parent, the Parent, the Guarantor, GDS Suzhou and the Borrower; or
- (b) any other party (other than the Finance Parties and the Hedging Providers) which is a party to any of the Transaction Documents,

and “**Obligor Party**” means each of them.

“**Onshore Security Document**” means:

- (a) Movable Assets Mortgage Agreement (Project SZ1);
- (b) Movable Assets Mortgage Agreement (Project SZ2);
- (c) Movable Assets Mortgage Agreement (Project SZ3);
- (d) Pledge of Receivables (Borrower);
- (e) Pledge of Receivables (Guarantor);

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- (f) Pledge of Receivables (GDS Suzhou);
- (g) Lease Assignment Agreement;
- (h) Insurance Assignment Agreement (Project SZ1);
- (i) Insurance Assignment Agreement (Project SZ2);
- (j) Insurance Assignment Agreement (Project SZ3);
- (k) Subordination Agreement;
- (l) Supplemental Movable Assets Mortgage Agreement (Project SZ1);
- (m) Supplemental Pledge of Receivables (Borrower);
- (n) Supplemental Pledge of Receivables (Guarantor);
- (o) Supplemental Pledge of Receivables (GDS Suzhou);
- (p) Supplemental Lease Assignment Agreement;
- (q) Supplemental Insurance Assignment Agreement (Project SZ1);
- (r) Supplemental Subordination Agreement;
- (s) Amended and Restated Movable Assets Mortgage Agreement (Project SZ1); and
- (t) any other document designated as such by the Facility Agent and the Borrower.

“**Offshore Security Document**” means:

- (a) Ultimate Parent Guarantee;
- (b) Equity Pledge Agreement;
- (c) Supplemental Equity Pledge Agreement;
- (d) Share Mortgage Agreement;
- (e) Confirmatory Share Mortgage Agreement;
- (f) Confirmatory Ultimate Parent Guarantee;
- (g) Confirmatory Letter;
- (h) Amended and Restated Equity Pledge Agreement; and
- (i) any other document designated as such by the Facility Agent and the Borrower.

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“**Offshore Transaction Security**” means any Security created or to be created or any guarantee granted or to be granted by an offshore security provider or an offshore guarantor, under the Offshore Security Document.

“**Operations Account**” has the meaning given to that term in Clause 18.1(a)(ii) (*The Accounts*).

“**Original Financial Statements**” means:

- (a) in relation to the Parent, its audited financial statements for the Financial Year ended 31 December 2014;

- (b) in relation to the Guarantor, its audited financial statements for the Financial Year ended 31 December 2014;
- (c) in relation to GDS Suzhou, its audited financial statements for the Financial Year ended 31 December 2014; and
- (d) in relation to the Borrower, an extract of the minutes of the Group's audit committee for the Financial Year ended 31 December 2014.

"Parent" means EDS (HK) Limited, with its registered address at Unit C&D, 10th Floor, Neich Tower, 128 Gloucester Road, Wanchai, Hong Kong.

"Party" means a party to this Agreement.

"PBOC" means the People's Bank of China.

"PBOC Base Rate" means the prevailing official lending rate per annum, as promulgated and announced by PBOC for term loans with a tenor of 1 year to 5 years, for the first Interest Period in respect of a Loan, on the first Utilisation Date of that Loan, and for any following Interest Periods, on the last Interest Payment Date.

"PBOC Information Center" means Credit Reference Centre of the PBOC.

"Permitted Facility A Aggregate Drawdown Amount" means a percentage of the Facility A Commitment set out in the table below under the heading "Permitted Facility A Aggregate Drawdown Amount" corresponding to the "Aggregate Annualised Contract Value" calculated based on a break down delivered to the Facility Agent pursuant to Clause 5.2(a)(x):

Aggregate Annualised Contract Value	Permitted Facility A Aggregate Drawdown Amount
Less than RMB 100,000,000	0%
Less than RMB 110,000,000 but greater than or equal to RMB 100,000,000	70%
Less than RMB 125,000,000 but greater than or equal to RMB 110,000,000	80%
Less than RMB 140,000,000 but greater than or equal to RMB 125,000,000	90%
Greater than or equal to RMB 140,000,000	100%

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"Permitted Facility B Aggregate Drawdown Amount" means a percentage of the Facility B Commitment set out in the table below under the heading "Permitted Facility B Aggregate Drawdown Amount" corresponding to the "Aggregate Annualised Contract Value" calculated based on a break down delivered to the Facility Agent pursuant to Clause 5.2(a)(x):

Aggregate Annualized Contract Value	Permitted Facility B Aggregate Drawdown Amount
Less than RMB 140,000,000	60%
Less than RMB 160,000,000 but greater than or equal to RMB 140,000,000	70%
Less than RMB 190,000,000 but greater than or equal to RMB 160,000,000	80%
Less than RMB 210,000,000 but greater than or equal to RMB 190,000,000	90%
Greater than or equal to RMB 210,000,000	100%

"Permitted Facility C Aggregate Drawdown Amount" means a percentage of the Facility C Commitment set out in the table below under the heading "Permitted Facility C Aggregate Drawdown Amount" corresponding to the "Aggregate Annualised Contract Value" calculated based on a break down delivered to the Facility Agent pursuant to Clause 5.2(a)(x):

Aggregate Annualized Contract Value	Permitted Facility C Aggregate Drawdown Amount
Less than RMB 65,000,000	70%
Less than RMB 75,000,000 but greater than or equal to RMB 65,000,000	80%
Less than RMB 85,000,000 but greater than or equal to RMB 75,000,000	90%
Greater than or equal to RMB 85,000,000	100%

"Pledge of Receivables (Borrower)" means an account receivables pledge agreement in respect of receivables under the Borrower Service Contracts and the Back-to-Back Agreements payable to the Borrower dated 17 September 2015 and made between the Borrower and the Security Agent, as amended by the Supplemental Pledge of Receivables (Borrower).

"Pledge of Receivables (GDS Suzhou)" means an account receivables pledge agreement in respect of receivables under the GDS Suzhou Service Contracts payable to GDS Suzhou dated 17 September 2015 and made between GDS Suzhou and the Security Agent, as amended by the Supplemental Pledge of Receivables (GDS Suzhou).

"Pledge of Receivables (Guarantor)" means an account receivables pledge agreement in respect of receivables under the Guarantor Service Contracts payable to the Guarantor dated on 17 September

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2015 and made between the Guarantor and the Security Agent, as amended by the Supplemental Pledge of Receivables (Guarantor).

"PRC" means the People's Republic of China, but excluding, for the purpose of the Transaction Documents, Taiwan and the special administrative regions of Hong Kong and Macau.

"Project Document" means:

- (a) each Service Contract;
- (b) each Contractor Agreement;
- (c) each Back-to-Back Agreement;
- (d) each Lease Agreement;
- (e) the GDS Suzhou Inter-company Loan Agreement;
- (f) the GDS Suzhou Trapped Amount Loan Agreement (if any); or
- (g) any other material contract entered into by the Borrower, GDS Suzhou or the Guarantor relating to the Projects and designated by the Facility Agent and the Borrower as a project document.

"Project SZ1" means the design, development, fitting out, maintenance and operation of the data center building rented by the Borrower located at 1st Floor to 7th Floor, No. 5 Taohua Road, Energy Logistics Center 2nd phase, Futian Free Trade Zone, Shenzhen, with a total floor area of 15,000 square meter.

"Project SZ2" means the design, development, fitting out, maintenance and operation of the data center building rented by the Borrower located at 1st Floor to 6th Floor, No. 5 Taohua Road, Energy Logistics Center 1st phase, Futian Free Trade Zone, Shenzhen, with a total floor area of 13,150.24 square meter.

"Project SZ3" means the design, development, fitting out, maintenance and operation of the data center building rented by the Borrower located at No. 51-5, Hongliu Road, Futian Free Trade Zone, Shenzhen, with a total floor area of 8431.6 square meter.

"Project SZ2 Completion" means the date on which the Certificate of Completion is issued in respect of Project SZ2.

"Project SZ3 Completion" means the date on which the Certificate of Completion is issued in respect of Project SZ3.

"Project SZ2 Completion Date" means 31 March 2016.

"Project SZ3 Completion Date" means 31 October 2016.

"Projects" means Project SZ1, Project SZ2 and Project SZ3, and "Project" means each of them.

"Qiuping Huang" means Ms. Huang Qiuping, whose identification number is 31010719611116122X.

"Qualified Service Contract" means a Service Contract with a term of no less than 3 years (inclusive).

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“**Quarter Date**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Quasi-Security**” has the meaning given to that term in Clause 23.4 (*Negative pledge*).

“**Receiving Accounts**” means the Receiving Account 1, the Receiving Account 2 and the Receiving Account 3.

“**Receiving Account 1**” has the meaning given to that term in Clause 18.1(a)(v) (*The Accounts*).

“**Receiving Account 2**” has the meaning given to that term in Clause 18.1(b) (*The Accounts*).

“**Receiving Account 3**” has the meaning given to that term in Clause 18.1(c) (*The Accounts*).

“**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 Interbank Market**” means the PRC interbank market.

“**Relevant Jurisdiction**” means, in relation to an Obligor Party:

- (a) its jurisdiction of incorporation;
- (b) any jurisdiction where any asset subject to or intended to be subject to the Transaction Security to be created by it is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of any of the Transaction Security Documents entered into by it.

“**Relevant Period**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Repeating Representations**” means each of the representations and warranties set out in Clause 20.1 (*Status*) to 20.31 (*Sanctions*) (inclusive), other than those specified to be given on a specified date.

“**Representative**” means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

“**Restricted Inter-company Loan**” means any present and future inter-company loan or shareholder loan made to the Borrower by any other member of the Group, other than the Existing Inter-company Loan, but for avoidance of doubt, including the loan under the GDS Suzhou Trapped Amount Loan Agreement (if any) and the GDS Suzhou Inter-company Loan.

“**RMB**” means the lawful currency of the PRC.

“**SAFE**” means the State Administration of Foreign Exchange of the PRC or its local counterpart.

“**SAIC**” means the State Administration of Industry and Commerce of the PRC or its local counterpart.

“**Sanctioned Country**” has the meaning given to that term in Clause 20.31(b) (*Sanctions*).

“**Sanctioned Person**” has the meaning given to that term in Clause 20.31(a) (*Sanctions*).

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“**Sanctions**” means any economic or trade sanctions or restrictive measures enacted, administered, imposed or enforced by the US Department of the Treasury’s Office of Foreign Assets Control (OFAC), the US Department of State, the United Nations Security Council, the European Union, the French Republic, Her Majesty’s Treasury, or any other relevant sanctions authority.

“**Secured Liabilities**” means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Obligor Party to any Secured Party under each Transaction Document.

“**Secured Party**” means a Finance Party or a Hedging Provider.

“**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.

“**Security Property**” means

- (a) the Transaction Security expressed to be granted in favour of the Security Agent as agent for the Secured Parties and all proceeds of that Transaction Security;
- (b) all obligations expressed to be undertaken by an Obligor Party to pay amounts in respect of the Secured Liabilities to the Security Agent as agent for the Secured Parties and secured by the Transaction Security together with all representations and warranties expressed to be given by an Obligor Party in favour of the Security Agent as agent for the Secured Parties; and
- (c) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Agent is required by the terms of the Finance Documents to hold as agent on trust for the Secured Parties.

“**Self-controlled Disbursement**” means the method by which the Lenders disburse loan proceeds into a Loan Disbursement Account for the Borrower to determine at its own discretion when and how to pay the proceeds to its respective counterparty and pursuant to the terms of the Finance Documents.

“**Service Contracts**” means the Borrower Service Contracts, the GDS Suzhou Service Contracts and the Guarantor Service Contracts.

“**Share Mortgage Agreement**” means a share mortgage agreement in respect of shares in the Parent held by the Intermediate Parent dated on 17 September 2015 and made by and between the Intermediate Parent and the Security Agent, as confirmed by the Confirmatory Share Mortgage Agreement and the Confirmatory Letter.

“**Sponsor**” means Singapore Technologies Telemedia Limited of Singapore, with its registered address at 1 Temasek Avenue, #33-01 Millenia Tower, Singapore 039192.

“**Subordination Agreement**” means a subordination agreement in respect of inter-company loans or shareholder loans made to the Borrower (other than the Existing Inter-company Loan) by the Parent, GDS Suzhou or any other member of the Group dated on 17 September 2015 and made by and between, among others, the Borrower, GDS Suzhou, the Parent and the Security Agent, as amended by the Supplemental Subordination Agreement.

“**Subsidiary**” means, in relation to any company or corporation, a company or corporation:

- (a) which is controlled, directly or indirectly, by the first mentioned company or corporation;
- (c) more than half the issued equity share capital of which is beneficially owned, directly or indirectly, by the first mentioned company or corporation; or
- (d) which is a Subsidiary of another Subsidiary of the first mentioned company or corporation,

and for this purpose, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

“**Supplemental Account Control Agreement**” means the supplemental account control agreement dated on or about the date of the Amendment Agreement and made by and between the Borrower, the Guarantor, GDS Suzhou, the Account Bank and the Facility Agent in respect of the Account Control Agreement.

“**Supplemental Equity Pledge Agreement**” means the supplemental equity pledge agreement dated on or about the date of the Amendment Agreement and made by and between the Borrower, the Parent and the Security Agent in respect of the Equity Pledge Agreement, pursuant to which the Parent further pledges its equity interests corresponding to its additional registered capital of US\$ 11,100,000.00 in the Borrower in favour of the Security Agent (on behalf of all Secured Parties).

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“**Supplemental Insurance Assignment Agreement (Project SZ1)**” means a supplemental insurance assignment agreement (Project SZ1) dated on or about the date of the Amendment Agreement and made by and between the Borrower and the Security Agent in respect of the Insurance Assignment Agreement (Project SZ1).

“**Supplemental Lease Assignment Agreement**” means a supplemental agreement in respect of the Lease Assignment Agreement and the assignment of Lease Agreement of Project SZ3 dated on or about the date of the Amendment Agreement and made by and between the Borrower and the Security Agent.

“**Supplemental Movable Assets Mortgage Agreement (Project SZ1)**” means a supplemental agreement in respect of the Movable Assets Mortgage Agreement (Project SZ1) dated on or about the date of the Amendment Agreement and made between the Borrower and the Security Agent.

“**Supplemental Pledge of Receivables (Borrower)**” means the supplemental agreement in respect of the Pledge of Receivables (Borrower) dated on or about the date of the Amendment Agreement and made between the Borrower and the Security Agent.

“**Supplemental Pledge of Receivables (GDS Suzhou)**” means the supplemental agreement in respect of the Pledge of Receivables (GDS Suzhou) dated on or about the date of the Amendment Agreement and made between the Borrower and the Security Agent.

“**Supplemental Pledge of Receivables (Guarantor)**” means the supplemental agreement in respect of the Pledge of Receivables (Guarantor) dated on or about the date of the Amendment Agreement and made between the Borrower and the Security Agent.

“**Supplemental Subordination Agreement**” means the supplemental agreement in respect of the Subordination Agreement dated on or about the date of the Amendment Agreement and made by and between, among others, the Borrower, GDS Suzhou, the Parent and the Security Agent.

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“**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).

“**Test Date**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Total Commitments**” means at any time the aggregate of the Total Facility A Commitments, the Total Facility B Commitments and the Total Facility C Commitments.

“**Total Facility A Commitments**” means the aggregate of the Facility A Commitments (being RMB 150,000,000 at the date of this Agreement).

“**Total Facility B Commitments**” means the aggregate of the Facility B Commitments (being RMB 280,000,000 at the date of this Agreement).

“**Total Facility C Commitments**” means the aggregate of the Facility C Commitments (being RMB 100,000,000 at the date of the Amendment Agreement).

“**Total Investment Amount**” means, in relation to a Project, total amount that is required to be available for completing that Project, in each case not more than the total investment amount as shown in the Business Plan for that Project, being RMB 287,300,000 for the Project SZ1, RMB 354,300,000 for the Project SZ2, and RMB 167,700,000 for the Project SZ3, as of the date of the Amendment Agreement.

“**Total Net Debt**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Transaction Documents**” means the Finance Documents and the Hedging Arrangements.

“**Transaction Expenses**” has the meaning given to that term in Clause 17.1 (*Transaction expenses*).

“**Transaction Security**” means the Security created or evidenced or expressed to be created or evidenced under the Transaction Security Documents.

“**Transaction Security Document**” means:

- (a) each Onshore Security Document;
- (b) each Offshore Security Document;
- (c) any other document evidencing or creating or expressed to evidence or create Security over any asset to secure any obligation of any Obligor Party to a Secured Party under the Transaction Documents; or
- (d) any other document designated as such by the Security Agent and the relevant Obligor Party.

“**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 Facility 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

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- (b) the date on which the Facility Agent executes the relevant Assignment Agreement or Transfer Certificate.

“**Ultimate Parent Guarantee**” means a corporate and completion guarantee dated on 17 September 2015 and made by and between the Ultimate Parent and the Security Agent, as confirmed by the Confirmatory Ultimate Parent Guarantee and the Confirmatory Letter.

“**Unpaid Sum**” means any sum due and payable but unpaid by an Obligor Party under the Finance Documents.

“**US**” means the United States of America.

“**US Tax Obligor**” means:

- (a) an Obligor Party which is resident for tax purposes in the US; or
- (b) an Obligor Party 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 Schedule 3 (*Utilisation Request*).

“**Utilisation Evidence**” means the Evidence of Facility A Utilisation, the Evidence of Facility B Utilisation and the Evidence of Facility C Utilisation.

“**VIE Acquisition**” means an acquisition of all equity interests in GDS Suzhou by the Guarantor, as a result of which GDS Suzhou will subsequently become a wholly owned Subsidiary of the Guarantor.

“**VIE Capital Increase**” means an increase in the registered capital of the Guarantor by way of a capital contribution of RMB 285,500,000 by William Huang, which will be paid up prior to the expiry of the Guarantor’s business term as recorded in the business license of the Guarantor.

“**VIE Contracts**” means the Existing VIE Contracts and the New VIE Contracts.

“**VIE Equity Pledges**” means the Existing VIE Equity Pledge, the VIE Equity Pledge (Guarantor), the VIE Equity Pledge (William Huang) and the VIE Equity Pledge (Qiuping Huang).

“**VIE Equity Pledge (Guarantor)**” means a pledge over the equity interests in GDS Suzhou held by the Guarantor in favour of the New WFOE as contemplated under the New VIE Contracts.

“**VIE Equity Pledge (William Huang)**” means a pledge over the equity interests in the Guarantor held by William Huang in favour of the New WFOE as contemplated under the New VIE Contracts.

“**VIE Equity Pledge (Qiuping Huang)**” means a pledge over the equity interests in the Guarantor held by Qiuping Huang in favour of the New WFOE as contemplated under the New VIE Contracts.

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“**VIE Equity Transfer**” means the transfer of around 0.03% equity interests in the Guarantor from William Huang to Qiuping Huang, as a result of which William Huang will own around 99.97% equity interests in the Guarantor and Qiuping Huang will own around 0.03% equity interests in the Guarantor.

“**VIE Restructuring**” means the restructuring of the shareholding of the Guarantor to ensure that the equity interests of the Guarantor are legally held by William Huang and Qiuping Huang respectively, and beneficially owned by the New WFOE by way of:

- (a) the VIE Capital Increase;
- (b) wind-up of Existing VIE Contracts and de-registration of the Existing VIE Equity Pledge;
- (c) the VIE Acquisition;
- (d) the VIE Equity Transfer;
- (e) signing of all New VIE Contracts; and
- (f) completion of all requirements contemplated under the New VIE Contracts.

“**Waterfall Date**” means the 15<sup>th</sup> day of each calendar month.

“**William Huang**” means Mr. Huang Wei, whose identification number is 31010719671101125X.

“**Working Capital**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

## 1.2 Construction

- (a) Unless a contrary indication appears, any reference in this Agreement to:
  - (i) any “**Administrative Party**”, the “**Facility Agent**”, any “**Mandated Lead Arranger**”, any “**Finance Party**”, any “**Secured Party**” any “**Lender**”, any “**Obligor**”, any “**Obligor Party**”, any “**Party**”, the “**Security Agent**”, the “**Account Bank**” or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Finance Documents;
  - (ii) “**assets**” includes present and future properties, revenues and rights of every description;
  - (iii) a “**Finance Document**”, a “**Material Credit Document**”, a “**Project Document**”, a “**Transaction Document**” or any other agreement or instrument is a reference to that Finance Document, Material Credit Document, Project Document, Transaction 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) “**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;
  - (vi) 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;

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- (vii) a “**person**” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
  - (viii) 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 regulatory, self-regulatory or other authority or organisation;
  - (ix) a provision of law is a reference to that provision as amended or re-enacted; and
  - (x) a time of day is a reference to Beijing time.
- (b) Section, Clause and Schedule headings are for ease of reference only.
  - (c) 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.
  - (d) A Default or an Event of Default is “**continuing**” if it has not been remedied or waived.
  - (e) 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 Facility Agent’s spot rate of exchange for the purchase of the specified currency with that other currency at or about 11 a.m. on the relevant date, is equal to the relevant amount in the specified currency.

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## SECTION 2 THE FACILITIES

### 2. THE FACILITIES

#### 2.1 The Facilities

Subject to the terms of this Agreement and (in respect of paragraph (c) below) the Amendment Agreement, the Lenders make available to the Borrower:

- (a) a term loan facility in an aggregate amount equal to the Total Facility A Commitments;
- (b) a term loan facility in an aggregate amount equal to the Total Facility B Commitments; and
- (c) a term loan facility in an aggregate amount equal to the Total Facility C Commitments.

#### 2.2 Extension of Facility B Availability Period

- (a) The Borrower may by giving prior notice to the Facility Agent by no later than fifteen (15) Business Days request that the Facility B Availability Period be extended to a date not later than the date falling 26 Months after the date of this Agreement.
- (b) Any extension of the Facility B Availability Period will only be effective upon written consent of all Lenders.
- (c) The Borrower may only request to extend the Facility B Availability Period no more than two times.

#### 2.3 Finance Parties’ rights and obligations

- (a) The obligations of the Finance Parties 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 the Finance Parties 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 an Obligor shall be a separate and independent debt.
- (c) A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.

### 3. PURPOSE

#### 3.1 Purpose

- (a) The Borrower shall apply all amounts borrowed by it under Facility A towards:
- (i) the repayment of the outstanding amount of the Borrower under the Existing Inter-company Loan (Project SZ1); and
  - (ii) the payment of the Capital Expenditures of the Project SZ1 in accordance with the Business Plan and the Budget (including the Existing Deferred Payment that is used for the Capital Expenditures purpose).
- (b) The Borrower shall apply all amounts borrowed by it under Facility B towards:

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- (i) the repayment of the outstanding amount of the Borrower under the Existing Inter-company Loan (Project SZ2); and
  - (ii) the payment of the Capital Expenditures of the Project SZ2 in accordance with the Business Plan and the Budget (including the Existing Deferred Payment that is used for the Capital Expenditures purpose).
- (c) The Borrower shall apply all amounts borrowed by it under Facility C towards:
- (i) the repayment of the outstanding amount of the Borrower under the Existing Inter-company Loan (Project SZ3); and
  - (ii) the payment of the Capital Expenditures of the Project SZ3 in accordance with the Business Plan and the Budget.
- (d) The Borrower may not use any Loan for any other purpose, including, without limitation, using any Loan for share capital equity investment, using any Loan for venturing operation in any securities market, futures market or other similar domain, or using any Loan to/for any other investment or business that is prohibited under the Governmental Rules.

#### 3.2 Monitoring

- (a) Unless otherwise expressly required by the Governmental Rules, no Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.
- (b) The Parties hereby expressly waive any obligation on the part of any Finance Party to so monitor or verify, to the fullest extent permitted by the Governmental Rules.
- (c) To the extent any Governmental Rules at any time require any Finance Party to monitor or verify any application of any Loan proceeds hereunder, the Borrower shall fully co-operate with that Finance Party and promptly upon reasonable request from that Finance Party, provide to that Finance Party any information or confirmation or other documents to evidence the purpose for which the proceeds of the Loan have been used.
- (d) In any event, the failure by any Finance Party to so monitor or verify shall not give rise to any defence by the Borrower or any other Obligor regarding its payment and performance of the Secured Liabilities or otherwise reduce, release or prejudice the Borrower or any other Obligor's obligations under the Finance Documents.

### 4. CONDITIONS OF UTILISATION AND CONDITIONS SUBSEQUENT

#### 4.1 Initial conditions precedent

- (a) The Borrower may not deliver a Utilisation Request under Facility A unless the Facility Agent has received all of the documents and other evidence listed in Part I (*Conditions Precedent to Initial Utilisation for All Facilities*) of Schedule 2 (*Conditions precedent and conditions subsequent*) and Part II (*Conditions Precedent to Initial Utilisation for Facility A*) of Schedule 2 (*Conditions precedent and conditions subsequent*) in form and substance satisfactory to the Facility Agent.
- (b) The Borrower may not deliver a Utilisation Request under Facility B unless the Facility Agent has received all of the documents and other evidence listed in Part I (*Conditions Precedent to Initial Utilisation for All Facilities*) of Schedule 2 (*Conditions precedent and conditions subsequent*) and Part

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III (*Conditions Precedent to Initial Utilisation for Facility B*) of Schedule 2 (*Conditions precedent and conditions subsequent*) in form and substance satisfactory to the Facility Agent.

- (c) The Borrower may not deliver a Utilisation Request under Facility C unless the Facility Agent has received all of the documents and other evidence listed in Part V (*Facility C Initial Conditions Precedent*) of Schedule 2 (*Conditions precedent and conditions subsequent*) in form and substance satisfactory to the Facility Agent.
- (d) The Facility Agent shall notify the Borrower and the Lenders promptly upon being so satisfied.

#### 4.2 Conditions precedent to Utilisation of Facility B beyond 60% of the Total Facility B Commitments

- (a) The Borrower may not deliver a Utilisation Request under Facility B which will result in the total amount utilized under the Facility B exceeds 60% of the Total Facility B Commitments unless the Facility Agent has received all of the documents and other evidence listed in Part IV (*Conditions Precedent to Utilisation of Facility B beyond 60% of the Total Facility B Commitments*) of Schedule 2 (*Conditions precedent and conditions subsequent*) in form and substance satisfactory to the Facility Agent.
- (b) The Facility Agent shall notify the Borrower and the Lenders promptly upon being so satisfied.

#### 4.3 Conditions precedent to Utilisation of Facility C beyond 70% of the Total Facility C Commitments

- (a) The Borrower may not deliver a Utilisation Request under Facility C which will result in the total amount utilized under the Facility C exceeds 70% of the Total Facility C Commitments unless the Facility Agent has received all of the documents and other evidence listed in Part VI (*Conditions Precedent to Utilisation of Facility C beyond 70% of the Total Facility C Commitments*) of Schedule 2 (*Conditions precedent and conditions subsequent*) in form and substance satisfactory to the Facility Agent.
- (c) The Facility Agent shall notify the Borrower and the Lenders promptly upon being so satisfied.

#### 4.4 Further conditions precedent

The Lenders will be obliged to comply with Clause 5.4 (*Lenders' participation*) only if on the date of the Utilisation Request and on the proposed Utilisation Date:

- (a) no Event of Default is continuing or would result from the proposed Loan;
- (b) none of the circumstances described in Clause 8.1 (*Change of control*) has occurred;
- (c) all representations and warranties made by each Obligor Party in each Finance Document are true and correct in all material respects with reference to the facts and circumstances then subsisting;
- (d) no event or circumstance which could reasonably be expected to have a Material Adverse Effect exists, has occurred or might occur;
- (e) no any Force Majeure has occurred or might occur;
- (f) in respect of a Utilization of a Facility, the ratio of the paid-up registered capital and the total registered capital of the Borrower is not less than the ratio of the total outstanding amount of the Loan(s) applicable to that Facility and the Total Commitments in relation to that Facility;

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- (g) in respect of a Utilization of Facility A, the Facility Agent is so satisfied that the construction progress of the Project SZ1 matches with the capital which has been invested into the Project SZ1;
- (h) in respect of a Utilization of Facility B, the Facility Agent is so satisfied that the construction progress of the Project SZ2 matches with the capital which has been invested into the Project SZ2; and
- (i) in respect of a Utilization of Facility C, the Facility Agent is so satisfied that the construction progress of the Project SZ3 matches with the capital which has been invested into the Project SZ3.

#### 4.5 Conditions subsequent documents

- (a) Each Obligor shall deliver to the Facility Agent on the specified date all of the documents and evidence set out in Part VII (*Conditions Subsequent*) of Schedule 2 (*Conditions precedent and conditions subsequent*) in form and substance reasonably satisfactory to the Facility Agent, unless the Facility Agent has waived or postponed delivery of such document or evidence in writing.
- (b) The Facility Agent shall notify the relevant Obligors and the Lenders promptly upon being so satisfied.
- 4.6 Maximum number of Loans**
- (a) Unless otherwise agreed by the Facility Agent, the Borrower may not deliver a Utilisation Request if as a result of the proposed Utilisation:
- (i) six (6) or more Facility A Loans would be outstanding;
  - (ii) sixteen (16) or more Facility B Loans would be outstanding; or
  - (iii) eighteen (18) or more Facility C Loans would be outstanding.
- (b) The Borrower may not request that a Loan be divided.
- (c) If two or more Interest Periods end on the same date, those Loans will be consolidated into, and treated as, a single Loan on the last day of the Interest Period.

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**SECTION 3  
UTILISATION**

**5. UTILISATION**

**5.1 Delivery of a Utilisation Request**

Subject to clause 4.5 (*Maximum number of Loans*) above, the Borrower may utilise a Facility by delivery to the Facility Agent of a duly completed Utilisation Request no later than 11:00 a.m. on the day falling five (5) Business Days before the Utilisation Date.

**5.2 Completion of a Utilisation Request**

- (a) Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:
- (i) it identifies the Facility to be utilised;
  - (ii) the proposed Utilisation Date is a Business Day within the Availability Period applicable to that Facility;
  - (iii) the proposed Interest Period of the Loan complies with this Agreement;
  - (iv) the currency specified in a Utilisation Request must be in RMB or any other currency agreed by the Parties;
  - (v) the amount of the Utilisation complies with Clause 5.3 (*Utilization Amount*);
  - (vi) in respect of a Loan that is required to be disbursed by way of the Consigned Disbursement, it specifies the wiring and transfer instructions with respect to the payee's name, the payee's account information, the payment amount and currency, payment purpose and any other information reasonably requested by the Facility Agent;
  - (vii) in the case of a Facility A Loan that is required to be disbursed by way of the Consigned Disbursement according to the paragraph (a) of clause 5.5 (*Advance of Loans*), the Utilisation Request is accompanied by certified copies of the following documents (the "**Evidence of Facility A Utilization**"):
    - (A) the Existing Inter-company Loan Agreement (Project SZ1),
    - (B) repayment notice, pay-off statement, invoice or other proof of the Existing Inter-company Loan (Project SZ1) pay-off amount and currency,
    - (C) purchase contracts or orders, invoices, bank account statements or other documentary proof evidencing the proceeds from the Existing Inter-company Loan (Project SZ1) have been applied towards the Capital Expenditures of the Project SZ1,
    - (D) purchase contracts or orders, invoices or other documents which would evidence that the Borrower is obliged to make the payment of the Capital Expenditures of the Project SZ1, and
    - (E) any other underlying transaction documents reasonably requested by the Facility Agent;

- (viii) in the case of a Facility B Loan that is required to be disbursed by way of the Consigned Disbursement according to the paragraph (b) of clause 5.5 (*Advance of Loans*), the Utilization Request is accompanied by certified copies of the following documents (the "**Evidence of Facility B Utilization**"):
  - (A) the Existing Inter-company Loan Agreement (Project SZ2),
  - (B) repayment notice, pay-off statement, invoice or other proof of the Existing Inter-company Loan (Project SZ2) pay-off amount and currency,
  - (C) purchase contracts or orders, invoices, bank account statements or other documentary proof evidencing the proceeds from the Existing Inter-company Loan (Project SZ2) have been applied towards the Capital Expenditures of the Project SZ2,
  - (D) purchase contracts or orders, invoices or other documents which would evidence that the Borrower is obliged to make the payment of the Capital Expenditures of the Project SZ2, and
  - (E) any other underlying transaction documents reasonably requested by the Facility Agent;
- (ix) the Utilization Request for the Facility C Loan is accompanied by certified copies of the following documents (the "**Evidence of Facility C Utilization**"):
  - (A) the Existing Inter-company Loan Agreement (Project SZ3),
  - (B) repayment notice, pay-off statement, invoice or other proof of the Existing Inter-company Loan (Project SZ3) pay-off amount and currency,
  - (C) purchase contracts or orders, invoices, bank account statements or other documentary proof evidencing the proceeds from the Existing Inter-company Loan (Project SZ3) have been applied towards the Capital Expenditures of the Project SZ3,
  - (D) purchase contracts or orders, invoices or other documents which would evidence that the Borrower is obliged to make the payment of the Capital Expenditures of the Project SZ3, and
  - (E) any other underlying transaction documents reasonably requested by the Facility Agent;
- (x) the Utilization Request is accompanied by a certified copy of break down list showing the details of all Service Contracts (including the Contract Value for each Service Contract) together with certified true copies of each duly signed Service Contracts, in each case which would reasonably evidence the amount of the proposed Loan to be utilized under that Utilization Request complies with the requirement as set out in Clause 5.3 (*Utilization Amount*) to the satisfaction of the Facility Agent.

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- (b) Only one Loan may be requested in each Utilisation Request.
- (c) The Borrower must deliver the first Facility B Utilisation Request within 3 Months after the date of this Agreement.

### 5.3 Utilization Amount

- (a) Any Utilisation of the Facility A in a Facility A Utilisation Request shall not result in the Permitted Facility A Aggregate Drawdown Amount being exceeded, and the amount of the proposed Facility A Loan must not be more than the Available Facility A.
- (b) Any Utilisation of the Facility B in a Facility B Utilisation Request shall not result in the Permitted Facility B Aggregate Drawdown Amount being exceeded, and the amount of the proposed Facility B Loan must not be more than the Available Facility B.
- (c) Any Utilisation of the Facility C in a Facility C Utilisation Request shall not result in the Permitted Facility C Aggregate Drawdown Amount being exceeded, and the amount of the proposed Facility C Loan must not be more than the Available Facility C.
- (d) Notwithstanding the above, unless the Facility Agent has received all of the documents and other evidence listed in Part IV (*Conditions Precedent to Utilisation of Facility B beyond 60% of the Total Facility B Commitments*) of Schedule 2 (*Conditions precedent and conditions subsequent*) in form and substance satisfactory to the Facility Agent, any Utilisation of the Facility B shall not result in the total amount utilized under the Facility B exceeds 60% of the Total Facility B Commitments.
- (e) Notwithstanding the above, unless the Facility Agent has received all of the documents and other evidence listed in Part VI (*Conditions Precedent to Utilisation of Facility C beyond 70% of the Total Facility C Commitments*) of Schedule 2 (*Conditions precedent and conditions subsequent*) in form and substance satisfactory to the Facility Agent, any Utilisation of the Facility C shall not result in the total amount utilized under the Facility C exceeds 70% of the Total Facility C Commitments.

### 5.4 Lender's participation

- (a) The Facility Agent shall promptly notify each Lender of the relevant Facility the details of a Utilization Request including amount of its participation in the requested Loan no later than three (3) Business Days prior to the applicable Utilisation Date.
- (b) The amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Loan.
- (c) If the conditions set out in Clause 4 (*Conditions of Utilisation and conditions subsequent*), 5.1 (*Delivery of a Utilisation Request*) to 5.3 (*Utilization Amount*) above have been met, each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office.
- (d) No Lender is obligated to participate in a Loan if, as a result, its participation in the Loans would exceed its Commitment or the Loans would exceed the Total Commitments.

### 5.5 Advance of Loans

- (a) Upon a Loan made available by each Lender pursuant to clause 5.4 (*Lender's participation*), the proceeds under such Loan shall be applied as follows:
  - (i) in respect of a Facility A Loan

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(A) if the amount of a Facility A Loan equals or exceeds (the lower of) RMB 5,000,000 or 5% of Total Investment Amount of the Project SZ1, the Consigned Disbursement shall apply, and upon the proceeds being credited in the Facility A Loan Disbursement Account, the Facility Agent shall immediately thereafter remit such proceeds to the account of the payee(s) in accordance with the Facility A Utilisation Request;

(B) if the amount of a Facility A Loan is less than (the lower of) RMB 5,000,000 or 5% of Total Investment Amount of the Project SZ1, the Self-controlled Disbursement shall apply, and all proceeds under such Facility A Loan shall be credited into the Facility A Disbursement Account, and the Borrower may use such Facility A Loan proceeds at its own discretion pursuant to the terms of this Agreement.

(ii) in respect of a Facility B Loan:

(A) if the amount of a Facility B Loan equals or exceeds (the lower of) RMB 5,000,000 or 5% of Total Investment Amount of the Project SZ2, the Consigned Disbursement shall apply, and upon the proceeds being credited in the Facility B Loan Disbursement Account, the Facility Agent shall immediately thereafter remit such proceeds to the account of the payee(s) in accordance with the Facility B Utilisation Request;

(B) if the amount of a Facility B Loan is less than (the lower of) RMB 5,000,000 or 5% of Total Investment Amount of the Project SZ2, the Self-controlled Disbursement shall apply, and all proceeds under such Facility B Loan shall be credited into the Facility B Disbursement Account, and the Borrower may use such Facility B Loan proceeds at its own discretion pursuant to the terms of this Agreement.

(iii) in respect of a Facility C Loan:

(A) if the amount of a Facility C Loan equals or exceeds (the lower of) RMB 5,000,000 or 5% of Total Investment Amount of the Project SZ3, the Consigned Disbursement shall apply, and upon the proceeds being credited in the Facility C Loan Disbursement Account, the Facility Agent shall immediately thereafter remit such proceeds to the account of the payee(s) in accordance with the Facility C Utilisation Request;

(B) if the amount of a Facility C Loan is less than (the lower of) RMB 5,000,000 or 5% of Total Investment Amount of the Project SZ3, the Self-controlled Disbursement shall apply, and all proceeds under such Facility C Loan shall be credited into the Facility C Disbursement Account, and the Borrower may use such Facility C Loan proceeds at its own discretion pursuant to the terms of this Agreement.

(b) Notwithstanding anything to the contrary above,

(i) If any payment that has been made through the Consigned Disbursement is returned to its original payment account due to the incomplete or incorrect specification of payment instruction by the Borrower or for any other reasons, the Facility Agent shall have the rights not to credit the money so returned to the original payment account and can freeze such returned money within the original payment account if it has been credited into the account for whatever reason.

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(ii) No Finance Party shall be held liable for the payment of all sums due under any underlying contracts under the Consigned Disbursement, including any costs or any return of funds from such account(s) to any Loan Disbursement Account for whatsoever reason, unless caused by its gross negligence or wilful misconduct.

(iii) In relation to a Self-controlled Disbursement, the Borrower shall provide to the Facility Agent the applicable Utilisation Evidence within sixty (60) days after each payment with the relevant Loan proceeds or upon request from the Facility Agent from time to time.

(iv) The proceeds of the Loan shall not be paid to any account of the Borrower with any Finance Party (other than the Loan Disbursement Accounts) or any other financial institutions whether or not Consigned Disbursement or Self-controlled Disbursement is to be applied.

(v) Upon the occurrence of any Default, the Facility Agent shall have the right, in its sole discretion, to suspend the disbursement of any Loan, refuse any Utilisation, refuse the withdrawal of any amounts from any Loan Disbursement Account, and/or apply all Utilisations by Consigned Disbursement.

### 5.6 Cancellation of Available Facility

Unless cancelled earlier in accordance with this Agreement:

- (a) The Facility A Commitments which, at that time, are unutilised shall be immediately cancelled at 5 p.m. on the last day of the Facility A Availability Period.
- (b) The Facility B Commitments which, at that time, are unutilised shall be immediately cancelled at 5 p.m. on the last day of the relevant Facility B Availability Period.
- (c) The Facility C Commitments which, at that time, are unutilised shall be immediately cancelled at 5 p.m. on the last day of the relevant Facility C Availability Period.

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## SECTION 4 REPAYMENT, PREPAYMENT AND CANCELLATION

### 6. REPAYMENT

## 6.1 Repayment of Facility A Loans

- (a) The Borrower shall repay the Facility A Loans in instalments by repaying on each date specified in the table below (each a “**Facility A Repayment Date**”) an amount that reduces the aggregate outstanding Facility A Loans by a proportion of the aggregate outstanding Facility A Loans as at the close of business on the last day of the Facility A Availability Period, which proportion is set out in the table below beside such Facility A Repayment Date:

<b>Facility A Repayment Date</b>	<b>Percentage</b>
21 <sup>st</sup> March 2017	3.20%
21 <sup>st</sup> June 2017	3.20%
21 <sup>st</sup> September 2017	4.30%
21 <sup>st</sup> December 2017	4.30%
21 <sup>st</sup> March 2018	4.40%
21 <sup>st</sup> June 2018	4.40%
21 <sup>st</sup> September 2018	4.40%
21 <sup>st</sup> December 2018	4.40%
21 <sup>st</sup> March 2019	4.40%
21 <sup>st</sup> June 2019	4.50%
21 <sup>st</sup> September 2019	4.50%
21 <sup>st</sup> December 2019	4.50%
21 <sup>st</sup> March 2020	4.50%
21 <sup>st</sup> June 2020	4.50%
Final Repayment Date	40.50%

- (b) Without prejudice to paragraph (a), all of the Facility A Loans must be repaid in full on the Final Repayment Date.
- (c) The Borrower may not reborrow any part of Facility A which is repaid.

## 6.2 Repayment of Facility B Loans

- (a) The Borrower shall repay the Facility B Loans in instalments by repaying on each date specified in the table below (each a “**Facility B Repayment Date**”) an amount that reduces the aggregate outstanding Facility B Loans by a proportion of the aggregate outstanding Facility B Loans as at the close of business on the last day of the Facility B Availability Period, which proportion is set out in the table below beside such Facility B Repayment Date:

<b>Facility B Repayment Date</b>	<b>Percentage</b>
21 <sup>st</sup> March 2017	4.00%
21 <sup>st</sup> June 2017	4.00%
21 <sup>st</sup> September 2017	4.00%
21 <sup>st</sup> December 2017	4.10%
21 <sup>st</sup> March 2018	4.10%

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21 <sup>st</sup> June 2018	4.10%
21 <sup>st</sup> September 2018	4.10%
21 <sup>st</sup> December 2018	4.20%
21 <sup>st</sup> March 2019	4.20%
21 <sup>st</sup> June 2019	4.50%
21 <sup>st</sup> September 2019	4.50%
21 <sup>st</sup> December 2019	4.50%
21 <sup>st</sup> March 2020	4.70%
21 <sup>st</sup> June 2020	4.70%
Final Repayment Date	40.30%

- (b) Without prejudice to paragraph (a), all of the Facility B Loans must be repaid in full on the Final Repayment Date.
- (c) The Borrower may not reborrow any part of Facility B which is repaid.

## 6.3 Repayment of Facility C Loans

- (a) The Borrower shall repay the Facility C Loans in instalments by repaying on each date specified in the table below (each a “**Facility C Repayment Date**”) an amount that reduces the aggregate outstanding Facility C Loans by a proportion of the aggregate outstanding Facility C Loans as at the close of business on the last day of the Facility C Availability Period, which proportion is set out in the table below beside such Facility C Repayment Date:

<b>Facility C Repayment Date</b>	<b>Percentage</b>
21 <sup>st</sup> December 2017	5.00%
21 <sup>st</sup> March 2018	5.00%
21 <sup>st</sup> June 2018	5.20%
21 <sup>st</sup> September 2018	5.20%
21 <sup>st</sup> December 2018	5.20%
21 <sup>st</sup> March 2019	5.30%
21 <sup>st</sup> June 2019	5.30%
21 <sup>st</sup> September 2019	5.30%
21 <sup>st</sup> December 2019	5.40%
21 <sup>st</sup> March 2020	5.40%
21 <sup>st</sup> June 2020	5.40%
Final Repayment Date	42.30%

- (b) Without prejudice to paragraph (a), all of the Facility C Loans must be repaid in full on the Final Repayment Date.
- (c) The Borrower may not reborrow any part of Facility C which is repaid.

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## 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:

- (a) that Lender shall promptly notify the Facility Agent upon becoming aware of that event and the Facility Agent shall notify the Borrower as soon as reasonably practicable after receiving such notification;
- (b) upon the Facility Agent notifying the Borrower, the Available Commitment of that Lender will be immediately cancelled; and
- (c) the Borrower shall repay that Lender’s participation in the Loans made to it on the last day of the Interest Period for each Loan occurring after the Facility Agent has notified the Borrower or, if earlier, the date specified by the Lender in the notice delivered to the Facility Agent (being no earlier than the last day of any applicable grace period permitted by law).

### 7.2 Voluntary cancellation

The Borrower may, if it gives the Facility Agent not less than 5 Business Days’ (or such shorter period as the Majority Lenders may agree) prior notice, reduce an Available Facility to zero or by such amount (being a minimum amount of RMB 5,000,000 and in integral multiple of RMB 1,000,000) as the Borrower may specify in such notice.

### 7.3 Voluntary prepayment of Loans

- (a) The Borrower may, if it gives the Facility Agent not less than 5 Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay on the relevant Interest Payment Date the whole or any part of any Loan (but, if in part, being an amount that reduces a Loan by a minimum amount of RMB 5,000,000 and in integral multiple of RMB 1,000,000, or the outstanding amount of the Loans).
- (b) If any voluntary prepayment is not made on an Interest Payment Date, the Borrower shall pay the Break Costs, without premium or penalty.
- (c) A Loan may be prepaid only after the last day of the Availability Period (or, if earlier, the day on which the applicable Available Facility is zero).

#### 7.4 Right of prepayment and cancellation in relation to a single Lender

- (a) If:
  - (i) any sum payable to any Lender by an Obligor is required to be increased under paragraph (a) of Clause 13.2 (*Tax gross-up*); or
  - (ii) any Lender claims indemnification from the Borrower or an Obligor under Clause 13.3 (*Tax indemnity*) or Clause 14.1 (*Increased costs*),

the Borrower may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, give the Facility 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.

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- (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 the relevant Loan.

## 8. MANDATORY PREPAYMENT AND CANCELLATION

### 8.1 Change of control

Upon the occurrence of a Change of Control:

- (a) the Borrower shall promptly notify the Facility Agent upon becoming aware of that event;
- (b) a Lender shall not be obliged to fund any Utilisation under a Utilisation Request that has been delivered to the Facility Agent pursuant to this Agreement or any future Utilisations, unless otherwise agreed by all Lenders; and
- (c) the Facility Agent shall be entitled to, by not less than three (3) Business Days' written 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 amounts will become immediately due and payable.

### 8.2 Flotation

Upon the occurrence of a Flotation (not resulting in a Change of Control):

- (a) the Borrower shall as soon as reasonably practicable notify the Facility Agent becoming aware of that event;
  - (b) the Borrower shall, within thirty (30) days after the date of the Flotation, apply or procure the application of the Flotation Proceeds to:
    - (i) reduce the Total Facility A Commitments and/or prepay the Facility A Loans, and the total amount so reduced or prepaid shall be up to RMB 60,000,000;
    - (ii) reduce the Total Facility B Commitments and/or prepay the Facility B Loans, and the total amount so reduced or prepaid shall be up to RMB 112,000,000; and
    - (iii) reduce the Total Facility C Commitments and/or prepay the Facility C Loans, and the total amount so reduced or prepaid shall be up to RMB 40,000,000.00,
- by way of:
- (A) firstly, reducing any Available Commitment (and the Facility Agent is hereby authorised by the Borrower to so reduce); and
  - (B) secondly, prepaying an amount of outstanding Facility A Loans, Facility B Loans or Facility C Loans equivalent to the difference between: (x) RMB 60,000,000 for Facility A, RMB 112,000,000 for Facility B and RMB 40,000,000.00 for Facility C, and (y) the amount so reduced pursuant to sub-paragraph (A) above.

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### 8.3 Disposal proceeds

Upon the occurrence of a Disposal,

- (a) the Borrower shall as soon as reasonably practicable notify the Facility Agent becoming aware of that event; and
- (b) the Borrower shall apply all Disposal Proceeds or cause all Disposal Proceeds to be applied towards the prepayment of the Loans within fourteen (14) days following the receipt of such Disposal Proceeds.

### 8.4 Compensation

Upon the occurrence of any Compensation:

- (a) the Borrower shall as soon as reasonably practicable notify the Facility Agent of such Compensation;
- (b) the Borrower shall apply or cause to apply all Compensation amount so received towards the prepayment of the Loans within fourteen (14) days following the receipt of such Compensation.

### 8.5 Insurance proceeds

Upon receipt of any Insurance Proceeds by the Borrower:

- (a) the Borrower shall as soon as reasonably practicable notify the Facility Agent of receipt of such Insurance Proceeds; and
- (b) the Borrower shall apply all of such Insurance Proceeds towards the prepayment of the Loans within fourteen (14) days following receipt of such Insurance Proceeds.

### 8.6 Excess Cashflow

If at any time the Borrower credits any Excess Cashflow Prepayment Amount into the Excess Cashflow Account pursuant to Clause 18.6 (*Excess Cashflow Account*), the Borrower shall, on the immediate next Interest Payment Date apply all Excess Cashflow Prepayment Amount towards the prepayment of the Loans.

### 8.7 Non-renewal of IDC License

If the Guarantor fails to renew the IDC License on or before 14 November 2018,

- (a) the Borrower shall immediately notify the Facility Agent upon becoming aware of such non-renewal; and
- (b) the Facility Agent shall be entitled to, by not less than three (3) Business Days' written notice to the Borrower, declare all outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents immediately due and payable, whereupon all such outstanding amounts will become immediately due and payable.

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## 8.8 Hedging termination proceeds

If the Borrower enters into any Hedging Arrangement pursuant to Clause 23.17 (*Treasury transaction*), and upon the occurrence of a Hedging Termination,

- (a) the Borrower shall promptly notify the Facility Agent upon becoming aware of such event; and
- (b) the Borrower shall apply all Hedging Termination Proceeds (if any) towards the prepayment of the Loans immediately following receipt of such Hedging Termination Proceeds.

## 9. RESTRICTIONS

### 9.1 Notices of cancellation or prepayment

Any notice of cancellation or prepayment given by any Party under Clause 7 (*Prepayment and cancellation*) and Clause 8 (*Mandatory Prepayment and cancellation*) 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.

### 9.2 Interest and other amounts

Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid, without premium or penalty, and subject to any Break Costs, if the prepayment is not made on an Interest Payment Date.

### 9.3 No reborrowing of the Facilities

The Borrower may not reborrow any part of Facilities which is prepaid.

### 9.4 Prepayment in accordance with Agreement

The Borrower shall not repay or prepay all or any part of the Loans or reduce all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.

### 9.5 No reinstatement of Commitments

If any Commitment is reduced in accordance with this Agreement, the amount of such reduction may not be subsequently reinstated.

### 9.6 Agent's receipt of notices

If the Facility Agent receives a notice under Clause 7 (*Prepayment and cancellation*) or Clause 8 (*Mandatory Prepayment and cancellation*) it shall promptly forward a copy of that notice to either the Borrower or the affected Lender, as appropriate.

### 9.7 Effect of repayment and prepayment on Commitments

If all or part of a Loan is repaid or prepaid and is not available for redrawing, an amount of the Commitments will be deemed to be cancelled on the date of repayment or prepayment. Any cancellation (save in connection with any cancellation under paragraph (b) of Clause 7.1 (*Illegality*) or paragraph (b) of Clause 7.4 (*Right of prepayment and cancellation in relation to a single Lender*)) shall first reduce rateably between the Facility A Commitments, the Facility B Commitments and the Facility C Commitments and then reduce rateably the Commitments of the Lenders in that Facility.

### 9.8 Application of prepayments

Any prepayment of the Loans (other than a prepayment pursuant to paragraph (c) of Clause 7.1 (*Illegality*) or paragraph (c) of Clause 7.4 (*Right of prepayment and cancellation in relation to a single Lender*)) shall be first applied rateably between the Facility A Loans, the Facility B Loans and the

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Facility C Loans, and then shall satisfy the obligations under Clause 6.1 (*Repayment of Facility A Loans*), Clause 6.2 (*Repayment of Facility B Loans*) or Clause 6.3 (*Repayment of Facility C Loans*) in inverse chronological order and be applied rateably among the participations of all Lenders in that Facility.

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## SECTION 5 COSTS OF UTILISATION

## 10. INTEREST

### 10.1 Calculation of interest

The rate of interest which shall accrue on each Loan for each Interest Period is (A) Interest Relevant Percentage multiplied by (B) the applicable PBOC Base Rate.

In this Agreement, "**Interest Relevant Percentage**" means 130%, but if:

- (a) no Event of Default has occurred; and
- (b) a period of at least 12 Months has expired since the first Utilisation Date;

then the Interest Relevant Percentage will be the percentage set out in the table below under the heading "Interest Relevant Percentage" which corresponds to the Leverage Ratio specified in the most recent Compliance Certificate delivered to the Facility Agent pursuant to Clause 21.2 (*Compliance Certificate*):

<u>Leverage Ratio</u>	<u>Interest Relevant Percentage</u>
Greater than 3.0:1	130%
Less than or equal to 3.0:1	120%

However,

- (i) any increase or decrease in the Interest Relevant Percentage for the Loans resulting from a change of the Leverage Ratio shall become effective on the immediate next Interest Payment Date;
- (ii) any change in the PBOC Base Rate for the Loans shall only become effective on the immediate next Interest Payment Date; and
- (iii) while an Event of Default is continuing, the Interest Relevant Percentage shall be the highest percentage set out above.

### 10.2 Payment of interest

Except where it is provided to the contrary in this Agreement, the Borrower shall pay accrued interest on the Loans on each Interest Payment Date, except that if the first Interest Period is less than 1 Month to the first Interest Payment Date, the interests on the Loans for the first Interest Period shall accrue to and be payable on the second Interest Payment Date.

### 10.3 Default interest

- (a) If an Obligor Party 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 the applicable Default Rate. Any interest accruing under this paragraph (a) shall be immediately payable by the Obligor Party on demand by the Facility Agent.
- (b) If the Borrower applies any part of the Loans otherwise as contemplated in Clause 3 (*Purpose*), then notwithstanding any other rights of the Finance Parties under the Finance Documents, the Borrower must immediately on demand by the Facility Agent pay interest on the misappropriated amount from

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and including the date of such misappropriation up to the date of actual payment (both before, on and after judgment) at the applicable Default Rate. Any interest accruing under this paragraph (b) shall be immediately payable by the Borrower on demand by the Facility Agent.

- (c) Default interest (if unpaid) arising on an Unpaid Sum or misappropriated amount will be compounded with the Unpaid Sum or misappropriated amount at each Interest Payment Date, and such Unpaid Sum and misappropriated amount (including the default interest compounded thereto) shall remain immediately due and payable.
- (d) 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 the applicable Default Rate.

#### 10.4 Notification of rates of interest

The Facility Agent shall promptly notify the relevant Lenders and the Borrower of the determination of a rate of interest under this Agreement.

#### 10.5 Length of Interest Periods

- (a) Each Loan has successive Interest Periods.
- (b) Subject to paragraph (c), each Interest Period shall have a duration of three (3) months.
- (c) Each Interest Period for each Loan will start on (and include) the expiry of its preceding Interest Period and end on, and exclude, the immediately following Interest Payment Date; *provided that*
- (i) the first Interest Period for each Loan shall start on (and include) the first Utilisation Date and end on (and exclude) the immediately following Interest Payment Date;
  - (ii) the last Interest Period for each Loan shall start on (and include) the Interest Payment Date immediately prior to the Final Repayment Date to, but excluding, the Final Repayment Date; and
  - (iii) any Interest Period for any Loan shall not extend beyond the Final Repayment Date.

### 11. CHANGES TO THE CALCULATION OF INTEREST

#### 11.1 Market disruption

- (a) Subject to any alternative basis agreed and consented to as contemplated by paragraphs (a) and (b) of Clause 11.2 (*Alternative basis of interest or funding*), if a Market Disruption Event occurs in relation to a Loan for any Interest Period, then the rate of interest on each Lender's participation in that Loan for that Interest Period shall reasonably reflect the applicable Lender's demonstrated cost of funds (if higher than then rate of interest) plus a margin comparable to the margin which the Lender is offering for loans in respect of similar transactions to the Facilities, as notified to the Facility Agent by that Lender as soon as practicable and in any event not later than five Business Days before interest is due

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to be paid in respect of that Interest Period (or such later date as may be acceptable to the Facility Agent).

- (b) If a Market Disruption Event occurs, the Facility Agent shall promptly notify the Lenders and the Borrower thereof and the Lender or Lenders (through the Facility Agent) shall provide to the Borrower reasonable evidence of the Market Disruption Event applicable to it at the reasonable request of the Borrower.

#### 11.2 Alternative basis of interest or funding

- (a) If a Market Disruption Event occurs and the Facility Agent or the Borrower so requires, the Facility Agent and the Borrower shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest.
- (b) Any alternative basis agreed pursuant to paragraph (a) above shall, with the prior consent of all the Lenders and the Borrower, be binding on all Parties.
- (c) For the avoidance of doubt, in the event that no substitute basis is agreed at the end of the thirty day period, the rate of interest shall continue to be determined in accordance with Clause 11.1(a) (*Market Disruption*) of this Agreement.

#### 11.3 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 Facility Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

### 12. FEES

#### 12.1 Commitment fee

- (a) The Borrower shall pay to the Facility Agent (for the account of each Lender) a fee in RMB computed and accruing on a daily basis at the rate of:
- (i) commencing from the date falling 1 Month after the date of this Agreement (inclusive), 0.5 per cent. per annum on that Lender's Available Commitment under Facility A for the Facility A Availability Period;
  - (ii) commencing from the date of this Agreement (inclusive), 0.5 per cent. per annum on that Lender's Available Commitment under Facility B for the Facility B Availability Period; and
  - (iii) commencing from the date of the Effective Date (inclusive), 0.5 per cent. per annum on that Lender's Available Commitment under Facility C for the Facility C Availability Period,
- at close of business (in the principal financial centre of the country of the relevant currency) on each day of the relevant Availability Period (inclusive, or, if any such day shall not be a Business Day, at such close of business on the immediately preceding Business Day).
- (b) The accrued commitment fee is payable, whichever is earlier:
- (i) on the last day of each Interest Period;

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- (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.

#### 12.2 Structuring fee

The Borrower shall pay to the Mandated Lead Arrangers a structuring fee in the amount and at the times agreed in a Fee Letter.

#### 12.3 Facility Agency fee

The Borrower shall pay to the Facility Agent (for its own account) a facility agency fee in the amount and at the times agreed in a Fee Letter.

#### 12.4 Security agency fee

The Borrower shall pay to the Security Agent (for its own account) a security agency fee in the amount and at the times agreed in a Fee Letter.

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### 13. TAX GROSS UP AND INDEMNITIES

#### 13.1 Tax definitions

(a) In this Clause 13:

“**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.

“**Tax Payment**” means an increased payment made by an Obligor to a Finance Party under Clause 13.2 (*Tax gross-up*) or a payment under Clause 13.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 13 a reference to “determines” or “determined” means a determination made in the absolute discretion of the person making the determination.

#### 13.2 Tax gross-up

- (a) All payments to be made by an Obligor Party to any Finance Party under the Finance Documents shall be made free and clear of and without any Tax Deduction unless such Obligor Party is required to make a Tax Deduction, in which case the sum payable by such Obligor Party (in respect of which such Tax Deduction is required to be made) shall be increased to the extent necessary to ensure that such Finance Party receives a sum net of any deduction or withholding equal to the sum which it would have received had no such Tax Deduction been made or required to be made.
- (b) The Borrower shall promptly upon becoming aware that an Obligor Party must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Facility Agent accordingly. Similarly, a Lender shall notify the Facility Agent on becoming so aware in respect of a payment payable to that Lender. If the Facility Agent receives such notification from a Lender it shall notify the Borrower and that Obligor Party.
- (c) If an Obligor Party is required to make a Tax Deduction, that Obligor Party shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- (d) Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor Party making that Tax Deduction shall deliver to the Facility Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

#### 13.3 Tax indemnity

- (a) Without prejudice to Clause 13.2 (*Tax gross-up*), if any Finance Party is required to make any payment of or on account of Tax on or in relation to any sum received or receivable under the Finance Documents (including any sum deemed for purposes of Tax to be received or receivable by such Finance Party whether or not actually received or receivable) or if any liability in respect of any such payment is asserted, imposed, levied or assessed against any Finance Party, the Borrower shall, within three Business Days of demand of the Facility Agent, promptly indemnify the Finance Party which suffers a loss or liability as a result against such payment or liability, together with any interest,

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penalties, costs and expenses payable or incurred in connection therewith, provided that this Clause 13.3 shall not apply to:

- (i) any Tax imposed on and calculated by reference to the net income actually received or receivable by such Finance Party (but, for the avoidance of doubt, not including any sum deemed for purposes of Tax to be received or receivable by such Finance Party but not actually receivable) by the jurisdiction in which such Finance Party is incorporated;
- (ii) any Tax imposed on and calculated by reference to the net income of the Facility Office of such Finance Party actually received or receivable by such Finance Party (but, for the avoidance of doubt, not including any sum deemed for purposes of Tax to be received or receivable by such Finance Party but not actually receivable) by the jurisdiction in which its Facility Office is located; or
- (iii) any Tax related to a FATCA Deduction required to be made by a Party.
- (b) A Finance Party intending to make a claim under paragraph (a) shall notify the Facility Agent of the event giving rise to the claim, whereupon the Facility Agent shall notify the Borrower thereof.
- (c) A Finance Party shall, on receiving a payment from an Obligor Party under this Clause 13.3, notify the Facility Agent.

#### 13.4 Stamp taxes

- (a) All stamp duty, registration and other similar Taxes payable in respect of any Finance Document shall be paid by the relevant Obligor Party, and to the extent required by the PRC law, each Lender respectively.
- (b) Subject to applicable laws and regulations, the Borrower must within fourteen (14) days of demand, indemnify each Finance Party against any reasonable cost, loss or liability that Finance Party incurs in relation to any stamp duty, registration fees or other similar Tax paid or payable in respect of any Finance Document.

#### 13.5 Indirect Tax

- (a) All amounts set out or expressed in a Finance Document to be payable by any Party to a Finance Party shall be deemed to be exclusive of any Indirect Tax. If any Indirect Tax is chargeable on any supply made by any Finance Party to any Party in connection with a Finance Document, that Party shall pay to the Finance Party (in addition to and at the same time as paying the consideration) an amount equal to the amount of the Indirect Tax.
- (b) Where a Finance Document requires any Party to reimburse a Finance Party for any costs or expenses, that Party shall also at the same time pay and indemnify the Finance Party against all Indirect Tax incurred by that Finance Party in respect of the costs or expenses to the extent that the Finance Party reasonably determines that it is not entitled to credit or repayment in respect of the Indirect Tax.

#### 13.6 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.

(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, 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 (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.

#### 13.7 FATCA Deduction and gross-up by Obligor Parties

- (a) If an Obligor Party is required to make a FATCA Deduction, that Obligor Party shall make that FATCA Deduction and any payment required in connection with that FATCA Deduction within the time allowed and in the minimum amount required by FATCA.

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- (b) If a FATCA Deduction is required to be made by an Obligor Party, the amount of the payment due from that Obligor Party shall be increased to an amount which (after making any FATCA Deduction) leaves an amount equal to the payment which would have been due if no FATCA Deduction had been required.
- (c) The Borrower shall promptly upon becoming aware that an Obligor Party must make a FATCA Deduction (or that there is any change in the rate or the basis of a FATCA Deduction) notify the Facility Agent accordingly. Similarly, a Finance Party shall notify the Facility Agent on becoming so aware in respect of a payment payable to that Finance Party. If the Facility Agent receives such notification from a Finance Party it shall notify the Borrower and that Obligor Party.
- (d) Within thirty days of making either a FATCA Deduction or any payment required in connection with that FATCA Deduction, the Obligor Party making that FATCA Deduction or payment shall deliver to the Facility Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the FATCA Deduction has been made or (as applicable) any appropriate payment has been paid to the relevant governmental or taxation authority.

### 13.8 FATCA Deduction by a Finance Party

- (a) Each Finance Party may make any FATCA Deduction it is required by FATCA to make, and any payment required in connection with that FATCA Deduction, and no Finance Party shall be required

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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. A Finance Party which becomes aware that it must make a FATCA Deduction in respect of a payment to another Party (or that there is any change in the rate or the basis of such FATCA Deduction) shall notify that Party and the Facility Agent.

- (b) If the Facility Agent is required to make a FATCA Deduction in respect of a payment to a Finance Party under Clause 32.2 (*Distributions by the Facility Agent*) which relates to a payment by an Obligor Party, the amount of the payment due from that Obligor Party shall be increased to an amount which (after the Facility Agent has made such FATCA Deduction), leaves the Facility Agent with an amount equal to the payment which would have been made by the Facility Agent if no FATCA Deduction had been required.
- (c) The Facility Agent shall promptly upon becoming aware that it must make a FATCA Deduction in respect of a payment to a Finance Party under Clause 32.2 (*Distributions by the Facility Agent*) which relates to a payment by an Obligor Party (or that there is any change in the rate or the basis of such a FATCA Deduction) notify the Borrower, the relevant Obligor Party and the relevant Finance Party.
- (d) The Borrower shall (within three Business Days of demand by the Facility Agent) pay to a Finance Party an amount equal to the loss, liability or cost which that Finance Party determines will be or has been (directly or indirectly) suffered by that Finance Party as a result of another Finance Party making a FATCA Deduction in respect of a payment due to it under a Finance Document. This paragraph shall not apply to the extent a loss, liability or cost is compensated for by an increased payment under paragraph (b) above.
- (e) A Finance Party making, or intending to make, a claim under paragraph (d) above shall promptly notify the Facility Agent of the FATCA Deduction which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Borrower.
- (f) A Finance Party must, on receiving a payment from an Obligor Party under this Clause, notify the Facility Agent.

## 14. INCREASED COSTS

### 14.1 Increased costs

- (a) Subject to Clause 14.3 (*Exceptions*) the Borrower shall, within fourteen (14) days of a demand by the Facility 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,
  - (ii) compliance with any law or regulation made after the date of this Agreement, or
  - (iii) the implementation or application of 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). 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.

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- (b) In this Agreement:

- (i) **"Increased Costs"** means:
- (A) a reduction in the rate of return from the Facilities 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);
  - (B) an additional or increased cost; or
  - (C) 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.
- (ii) **"Basel III"** means the global regulatory framework on bank capital and liquidity 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 in December 2010 each as amended, and any other documents published by the Basel Committee in relation to "Basel III".

### 14.2 Increased cost claims

- (a) A Finance Party intending to make a claim pursuant to Clause 14.1 (*Increased costs*) shall notify the Facility Agent of the event giving rise to the claim, following which the Facility Agent shall promptly notify the Borrower.
- (b) Each Finance Party shall, as soon as practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Increased Costs.

### 14.3 Exceptions

- (a) Clause 14.1 (*Increased costs*) does not apply to the extent any Increased Cost is:
- (i) attributable to a Tax Deduction required by law to be made by an Obligor Party;
  - (ii) compensated for by Clause 13.3 (*Tax indemnity*) (or would have been compensated for under Clause 13.3 (*Tax indemnity*) but was not so compensated solely because the exclusion in paragraph (a) of Clause 13.3 (*Tax indemnity*) applied);
  - (iii) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation;
  - (iv) attributable to a FATCA Deduction required to be made by an Obligor Party or a Finance Party; or
  - (v) compensated for by paragraph (d) of Clause 13.8 (*FATCA Deduction by a Finance Party*).
- (b) In this Clause 14.3, a reference to a **"Tax Deduction"** has the same meaning given to the term in Clause 13.1 (*Tax definitions*).

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## 15. MITIGATION BY THE LENDERS

### 15.1 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 13 (*Tax gross up and indemnities*) or Clause 14 (*Increased costs*), including 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 Obligor Party under the Finance Documents.

## 15.2 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 15.1 (*Mitigation*).

(b) A Finance Party is not obliged to take any steps under Clause 15.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

## 15.3 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.

## 16. OTHER INDEMNITIES

### 16.1 Currency indemnity

(a) If any sum due from an Obligor Party 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 that Obligor Party; or
- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor Party 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 Obligor Party 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.

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### 16.2 Other indemnities

(a) 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:

- (i) the occurrence of any Event of Default;
- (ii) any information produced or approved by any Obligor Party being or being alleged to be misleading and/or deceptive in any respect;
- (iii) a failure by an Obligor Party to pay any amount due under a Finance Document on its due date or in the relevant currency, including without limitation, any cost, loss or liability arising as a result of Clause 30 (*Sharing among the Finance Parties*); or
- (iv) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower.

(b) The Borrower shall within fourteen (14) days of demand, indemnify each Finance Party against any reasonable cost, loss or liability incurred by that Finance Party as a result of:

- (v) any enquiry, investigation, subpoena (or similar order) or litigation with respect to any Obligor Party or with respect to the transactions contemplated or financed under this Agreement; or
- (vi) 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).

### 16.3 Indemnity to the Facility Agent

(a) The Borrower shall within three Business Days of demand, indemnify the Facility Agent against any cost, loss or liability incurred by the Facility Agent as a result of investigating any event which it reasonably believes is a Default.

(b) The Borrower shall within fourteen (14) days of demand, indemnify the Facility Agent against any reasonable cost, loss or liability incurred by the Facility Agent as a result of:

- (i) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
- (ii) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement.

### 16.4 Obligor Parties' indemnity to the Security Agent

(a) Each Obligor Party shall within three Business Days of demand indemnify the Security Agent and each of its delegates, agents or nominees against any cost, loss or liability incurred by any of them as a result of:

- (i) the enforcement of the Transaction Security;
- (ii) the exercise of any of the rights, powers, discretions and remedies vested in the Security Agent and each of its delegates, agents or nominees by the Finance Documents or by law; or

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(iii) any default by any Obligor Party in the performance of any of the obligations expressed to be assumed by it in the Finance Documents; or

(b) Each Obligor Party shall fourteen (14) days of demand, indemnify the Security Agent and each of its delegates, agents or nominees against any reasonable cost, loss or liability incurred by any of them:

- (i) as a result of the taking, holding or protection of the Transaction Security; or
- (ii) which otherwise relates to any of the assets subject to the Transaction Security or the performance of the terms of the Finance Documents (otherwise than as a result of its gross negligence or wilful misconduct or default).

## 17. COSTS AND EXPENSES

### 17.1 Transaction expenses

The Borrower shall, within fourteen (14) days of demand or as otherwise stated in the respective Finance Documents, pay the Administrative Parties the fees under each Fee Letter and amount of all costs and expenses (including legal fees) (together referred to as the "**Transaction Expenses**") reasonably incurred by any of them in connection with the negotiation, preparation, printing, execution, syndication and perfection of:

- (a) this Agreement and any other documents referred to in this Agreement or in a Transaction Security Document; and
- (b) any other Finance Documents executed after the date of this Agreement.

### 17.2 Amendment costs

If (a) an Obligor Party requests an amendment, waiver or consent or (b) an amendment is required or expressly contemplated under a Finance Document, the Borrower shall, within fourteen (14) days of demand, reimburse each of the Facility Agent and the Security Agent for the amount of all costs and expenses (including legal fees) reasonably incurred by the Facility Agent or the Security Agent in responding to, evaluating, negotiating or complying with that request or requirement.

### 17.3 Enforcement and preservation 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 and the Transaction Security and any proceedings instituted by or against that Finance Party as a consequence of it entering into a Finance Document, taking or holding the Transaction Security, or enforcing those rights.

## 18. CASH MANAGEMENT

### 18.1 The Accounts

- (a) On or before the date of the first Utilisation Request, the Borrower shall establish the following accounts in its own name with the Account Bank as provided in this Clause 18:
- (i) a RMB debt service reserve account to receive the Debt Service Reserve Amount, as more particularly described in Clause 18.3 (*Debt Service Reserve Account*) (the “**Debt Service Reserve Account**”);
  - (ii) a RMB operations account to receive the operations costs, expenses and taxes, as more particularly described in Clause 18.4 (*Operations Account*) (the “**Operations Account**”);

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- (iii) a RMB debt accrual account to receive certain accrued amount due under the Finance Documents, as more particularly described in Clause 18.5 (*Debt Service Accrual Account*) (the “**Debt Service Accrual Account**”);
  - (iv) a RMB excess cashflow account to receive the Excess Cashflow Prepayment Amount, as more particularly described in Clause 18.6 (*Excess Cashflow Account*) (the “**Excess Cashflow Account**”); and
  - (v) a RMB receiving account to receive all payments paid or payable to the Borrower under the Borrower Service Contracts and the Back-to-Back Agreement in respect of the Projects, as more particularly described in Clause 18.7 (*Receiving Account 1*) (the “**Receiving Account 1**”).
- (b) On or before the date of the first Utilisation Request, the Guarantor shall establish a RMB receiving account to receive all payments paid or payable to the Guarantor under the Guarantor Service Contracts in respect of the Projects, as more particularly described in Clause 18.8 (*Receiving Account 2*) (the “**Receiving Account 2**”) in its own name with the Account Bank as provided in this Clause 18.
- (c) On or before the date of the first Utilisation Request, GDS Suzhou shall establish a RMB receiving account to receive all payments paid or payable to GDS Suzhou under GDS Suzhou Service Contracts in respect of the Projects, as more particularly described in Clause 18.10 (*Receiving Account 3*) (the “**Receiving Account 3**”) in its own name with the Account Bank as provided in this Clause 18.
- (d) Each Account shall be opened and maintained at the Account Bank in the name of the Borrower, GDS Suzhou and the Guarantor respectively.
- (e) The Borrower, GDS Suzhou and the Guarantor shall not have the unilateral right or sole authority to withdraw any funds from any of the Accounts, except for any withdrawal from the Accounts in accordance with this Agreement and the Account Control Agreement.
- (f) The Borrower, GDS Suzhou and the Guarantor shall deliver, or shall cause to be delivered, to the Facility Agent, monthly statements showing all activities in the Accounts and co-operate with the Facility Agent in connection with any audits of the Accounts, of which the audits may be undertaken at the Facility Agent’s sole discretion from time to time.
- (g) The Borrower, GDS Suzhou and the Guarantor shall respectively pay or cause to be paid all Taxes and all servicing and account fees in connection with the Accounts as they become due and payable.

### 18.2 Operation of Accounts

- (a) The Borrower, GDS Suzhou and the Guarantor shall:
- (i) maintain the Accounts; and
  - (ii) establish or cause to be established any other accounts if such account(s) is/are required to be opened under any applicable laws or regulations or at the request of any Governmental Agency; *provided* that any such account(s) must be opened with the Account Bank unless otherwise required by the applicable laws or regulations or the relevant Governmental Agency,

in each case on terms consistent with the principles applicable under the then existing Finance Documents and subject to any terms and conditions the Facility Agent may reasonably specify.

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- (b) The Borrower, GDS Suzhou or the Guarantor shall provide the Facility Agent a breakdown showing the sources and purposes of amounts received in each Receiving Account on each Waterfall Date.
- (c) The Borrower shall ensure no other accounts may be maintained by the Borrower with any other banks or other financial institutions (other than the Account Bank) during the life of the Loans except for the Existing Accounts, and the Borrower shall close the relevant Existing Account by the time as set out in rightmost column in Schedule 8 (*List of Existing Accounts*).
- (d) The Borrower, GDS Suzhou and the Guarantor shall ensure, after 60 days from the date of this Agreement, no any amounts under the Service Contracts may be paid into any other account (other than a Receiving Account).
- (e) Upon the occurrence of an Event of Default, the Security Agent shall be entitled without any prior notice to or consent from the Borrower, GDS Suzhou or the Guarantor or any other person, to offset and apply any or all of the funds in any or all of the Accounts, in its sole discretion and without limitation, to reduce the Secured Liabilities. The Borrower, GDS Suzhou and the Guarantor shall fully cooperate with the Security Agent in the exercise of such rights to the extent the exercise of such rights does not conflict with any applicable law or regulation or any Finance Documents. The rights of the Security Agent in this Clause 18 (*Cash Management*) shall be in addition to all other rights and remedies provided to the Security Agent in the Finance Documents.
- (f) Notwithstanding any other provisions of this Clause 18 (*Cash Management*), the insufficiency of funds on deposit in any Account at any time shall not relieve any Obligor Party from the obligation to make any payments as and when due, whether due pursuant to the Finance Documents or otherwise, and such obligations shall be separate and independent, and not conditioned on any event or circumstance whatsoever.
- (g) Nothing in this Clause 18 (*Cash Management*) shall be construed as imposing an obligation on the Facility Agent or any other Finance Party to be responsible for any payment that any Obligor Party would otherwise be responsible, whether under the Finance Documents or otherwise.

### 18.3 Debt Service Reserve Account

#### (a) Debt Service Reserve Amount

On and after the date of first Utilisation Request, the Borrower must ensure that the amount standing to the credit of the Debt Service Reserve Account is at all times not less than the Debt Service under the Finance Documents anticipated to fall due on the next Interest Payment Date (the “**Debt Service Reserve Amount**”).

#### (b) Payments in

- (i) On or before the date of first Utilisation Request, the Borrower must deposit into the Debt Service Reserve Account an amount sufficient to ensure that the amount standing to the credit of the Debt Service Reserve Account is not less than the Debt Service Reserve Amount as notified by the Facility Agent.
- (ii) On or before the date of the first Facility C Utilisation Request, the Borrower must deposit into the Debt Service Reserve Account an additional amount sufficient to ensure that the amount standing to the credit of the Debt Service Reserve Account is not less than the Debt Service Reserve Amount as notified by the Facility Agent.

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- (iii) If at any time the balance standing to the credit of the Debt Service Reserve Account is less than the Debt Service Reserve Amount in accordance with this Agreement or the Account Control Agreement, the Borrower must immediately, but in any event by no later than three Business Days transfer to the Debt Service Reserve Account an amount sufficient to satisfy the requirement set out in paragraph (a) of this Clause 18.3 (*Debt Service Reserve Amount*).
- (c) Withdrawals

The Borrower may only withdraw amounts from the Debt Service Reserve Account if they are approved by the Facility Agent and applied to pay any amounts due and payable under the Finance Documents at that time but only to the extent that there are insufficient funds in any other Borrower's accounts to meet those payments.

#### 18.4 Operations Account

(a) Payments in

The Borrower must ensure that, on each Waterfall Date, it will transfer the relevant amounts (if any) into the Operations Account pursuant to Clause 18.7(b)(ii).

(b) Withdrawal

The Borrower may only withdraw amounts from the Operations Account if such amounts are applied for the payment of the expenses and Taxes anticipated to be due and payable by the Borrower on or before the next Waterfall Date pursuant to the Business Plan and the Budget.

#### 18.5 Debt Service Accrual Account

(a) Payment in

The Borrower must ensure that, on each Waterfall Date, it shall transfer amounts (if any) into the Debt Service Accrual Account pursuant to Clause 18.7(b)(iii).

(b) Withdrawal

The Borrower may only withdraw amounts from the Debt Service Accrual Account on an Interest Payment Date to apply all amounts standing to the credit of the Debt Service Accrual Account towards the payment of all amounts due on that Interest Payment Date under the Finance Documents.

#### 18.6 Excess Cashflow Account

(a) Payments in

(i) The Borrower shall ensure that as soon as reasonably practicable, and in any event by no later than the Waterfall Date falling immediately after the Borrower was obliged to deliver the financial statements pursuant to Clause 21.1(c) (*Financial Statements*), starting with the Financial Year ending 31 December 2016, it shall deposit into the Excess Cashflow Account an amount (if positive) equal to the relevant percentage of Excess Cashflow for that Financial Quarter of the Borrower as set out in the following table determined by reference to the corresponding Leverage Ratio as shown in the most recent Compliance Certificate then (the "**Excess Cashflow Prepayment Amount**"):

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Leverage Ratio	Percentage of Excess Cashflow
Greater than 3.0:1	100%
Less than or equal to 3.0:1 but greater than 1.5:1	50%
Less than or equal to 1.5:1	0%

(ii) The Borrower shall promptly notify the Facility Agent upon crediting the Excess Cashflow Prepayment Amount into the Excess Cashflow Account.

(b) Withdrawals

The Borrower may only and must withdraw amounts from the Excess Cashflow Account to apply all Excess Cashflow Prepayment Amount towards prepayment of the Loans pursuant to Clause 8.6 (*Excess Cashflow*).

#### 18.7 Receiving Account 1

(a) Payments in

Unless otherwise permitted under this Agreement,

(i) On and after the date of this Agreement, the Borrower must ensure all amounts payable to it under the Back-to-Back Agreements will be directly and immediately paid into the Receiving Account 1.

(ii) Commencing from the date of this Agreement to the date falling 60 days after the date of this Agreement, the Borrower shall use its best endeavours to procure all amounts payable to it under the Borrower Service Contracts will be directly and immediately paid into the Receiving Account 1, and if any amount under the Borrower Service Contracts is paid into any other account (other than the Receiving Account 1), the Borrower shall within three Business Days of receipt of such amount into that account, transfer such amount into the Receiving Account 1.

(iii) Commencing from the 60th day after the date of this Agreement, the Borrower must ensure all amounts payable to it under the Borrower Service Contracts will be directly and immediately paid into the Receiving Account 1.

(iv) In respect with the Project SZ1 and the Project SZ2, on or before the date of the first Utilisation Request and in respect with the Project SZ3, on or before the date of the first Facility C Utilisation Request, the Borrower shall transfer all amounts standing to the credit of each Existing Account attributable to the Projects to the Receiving Account 1.

(v) the Guarantor shall transfer all revenues (other than the Guarantor Trapped Amount) received by the Guarantor under the Guarantor Service Contracts in respect of the Projects to the Receiving Account 1 pursuant to Clause 18.8(b) of this Agreement.

(vi) GDS Suzhou shall transfer all revenues (other than the GDS Suzhou Trapped Amount) received by GDS Suzhou under the GDS Suzhou Service Contracts in respect of the Projects to the Receiving Account 1 pursuant to Clause 18.10(b) of this Agreement.

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(b) Withdrawals

The Borrower may only withdraw amounts from the Receiving Account 1 on each Waterfall Date (unless indicated otherwise) and only if they are applied for the following purposes in the following order:

(i) first, transfer amounts to the Debt Service Reserve Account in accordance with Clause 18.3(b)(iii) of this Agreement;

(ii) second, if any, payment of all expenses including insurance, operational maintenance, Capital Expenditure or other operating expenses and all Taxes anticipated to be due and payable by the Borrower on or before the next Waterfall Date pursuant to the Business Plan and the Budget to the Operations Account;

(iii) third, if any, transfer an amount equal to one-third of the total Debt Service anticipated to be due on the next Interest Payment Date under the Finance Documents to the Debt Service Accrual Account; and

(iv) fourth, transfer any remaining amount to the Excess Cashflow Account in accordance with Clause 18.6(a)(i) of this Agreement (if applicable on that Waterfall Date).

#### 18.8 Receiving Account 2

(a) Payment in

(i) In respect with the Project SZ1 and the Project SZ2, on or before the date of the first Utilisation Request and in respect with the Project SZ3, on or before the date of the first Facility C Utilisation Request, the Guarantor shall transfer all amounts standing to the credit of any account of the Guarantor attributable to the Projects to the Receiving Account 2.

(ii) Commencing from the date of this Agreement to the date falling 60 days after the date of this Agreement, the Guarantor shall use its best endeavours to procure all amounts payable to it under the Guarantor Service Contracts will be directly and immediately paid into the Receiving Account 2, and if any amount under the Guarantor Service Contracts is paid into any other account (other than the Receiving Account 2), the Guarantor shall within three Business Days of receipt of such amount into that account, transfer such amount into the Receiving Account 2.

(iii) Commencing from the 60th day after the date of this Agreement, the Guarantor must ensure all amounts payable to it under the Guarantor Service Contracts (for avoidance of doubt, following a Contract Novation, including the contracts that have been novated from GDS Suzhou to the Guarantor pursuant to paragraph 3 in Part VII (*Conditions subsequent*) of Schedule 2 (*Conditions precedent and conditions subsequent*)) in respect of the Projects will be directly and immediately paid into the Receiving Account 2.

(b) Withdrawals

### 18.9 Receiving Account 2 — Trapped Amount

- (a) If any amount standing to the credit of the Receiving Account 2 may not be transferred to the Receiving Account 1 pursuant to Clause 18.8(b) of this Agreement due to any financial restrictions or prohibitions on the Guarantor, the Guarantor must provide relevant supporting documents to the satisfaction of the Facility Agent to explain such restrictions or prohibitions, and upon confirmation by the Facility Agent, the remaining amount standing to the credit of the Receiving Account 2 shall constitute a trapped amount (the “**Guarantor Trapped Amount**”).
- (b) Upon any amount being a Guarantor Trapped Amount, the Guarantor shall have no obligation to make the transfer of such Guarantor Trapped Amount to the Receiving Account 1 pursuant to Clause 18.8(b) of this Agreement, but the Guarantor shall not transfer any Guarantor Trapped Amount to any of its other accounts or accounts maintained by any other person without prior written consent of the Facility Agent, except for the application of such Guarantor Trapped Amount towards the payments under paragraph (d) of Clause 19.1 (*Guarantee and indemnity*).
- (c) If, at any time, the restrictions or prohibitions resulting in an amount being a Guarantor Trapped Amount are removed or no longer subsisting, the Guarantor must immediately transfer the amount which was a Guarantor Trapped Amount to the Receiving Account 1.

### 18.10 Receiving Account 3

- (a) Payment in
  - (i) In respect with the Project SZ1 and the Project SZ2, on or before the date of the first Utilisation Request and in respect with the Project SZ3, on or before the date of the first Facility C Utilisation Request, GDS Suzhou shall transfer all amounts standing to the credit of any account of GDS Suzhou attributable to the Projects to the Receiving Account 3.
  - (ii) Commencing from the date of this Agreement to the date falling 60 days after the date of this Agreement, GDS Suzhou shall use its best endeavours to procure all amounts payable to it under the GDS Suzhou Service Contracts will be directly and immediately paid into the Receiving Account 3, and if any amount under the GDS Suzhou Service Contracts is paid into any other account (other than the Receiving Account 3), GDS Suzhou shall within three Business Days of receipt of such amount into that account, transfer such amount into the Receiving Account 3.
  - (iii) Commencing from the 60th day after the date of this Agreement to the date on which the Contract Novation is completed, GDS Suzhou must ensure all amounts payable to it under the GDS Suzhou Service Contracts in respect of the Projects will be directly and immediately paid into the Receiving Account 3.
  - (iv) Commencing from the date on which the Contract Novation is completed, if any GDS Suzhou Service Contract is not novated from GDS Suzhou to the Guarantor pursuant to paragraph 3 in Part VII (*Conditions subsequent*) of Schedule 2 (*Conditions precedent and conditions subsequent*), GDS Suzhou shall ensure all amounts payable to it under the remaining GDS Suzhou Service Contracts in respect of the Projects will continue to be directly and immediately paid into the Receiving Account 3.

### (b) Withdrawals

Subject to Clause 18.11, GDS Suzhou shall transfer all amounts standing to the credit of Receiving Account 3 to the Receiving Account 1 within three Business Days of receipt of such amount. GDS Suzhou may not make any other withdrawal from the Receiving Account 3 unless otherwise permitted under this Agreement.

### 18.11 Receiving Account 3 — Trapped Amount

- (a) If any amount standing to the credit of the Receiving Account 3 may not be transferred to the Receiving Account 1 pursuant to Clause 18.10(b) of this Agreement due to any financial restrictions or prohibitions on GDS Suzhou, GDS Suzhou must provide relevant supporting documents to the satisfaction of the Facility Agent to explain such restrictions or prohibitions, and upon confirmation by the Facility Agent, the remaining amount standing to the credit of the Receiving Account 3 shall constitute a trapped amount (the “**GDS Suzhou Trapped Amount**”).
- (b) Upon any amount being a GDS Suzhou Trapped Amount, GDS Suzhou and the Borrower shall, to the extent permitted under the Governmental Rules, enter into an inter-company loan arrangement to transfer such GDS Suzhou Trapped Amount from GDS Suzhou to the Borrower (the “**GDS Suzhou Trapped Amount Loan Agreement**”).
- (c) GDS Suzhou and the Borrower agree that such inter-company loan shall constitute a Restricted Inter-company Loan and, without limiting their respective obligations under the Subordination Agreement, the Borrower shall not prepay or repay and GDS Suzhou will not ask for prepayment or repayment of such inter-company loan during the life of the Loans.
- (d) If, at any time, the restrictions or prohibitions resulting in an amount being a GDS Suzhou Trapped Amount are removed or no longer subsisting, GDS Suzhou must immediately transfer the amount which was a GDS Suzhou Trapped Amount to the Receiving Account 1.

## SECTION 7 GUARANTEE

### 19. GUARANTEE AND INDEMNITY

#### 19.1 Guarantee and indemnity

The Guarantor irrevocably and unconditionally jointly and severally:

- (a) guarantees to each Secured Party punctual performance by the Borrower of all Borrower’s obligations under the Transaction Documents;
- (b) undertakes with each Secured Party that whenever the Borrower does not pay any amount when due under or in connection with any Transaction Document, the Guarantor shall immediately on demand pay that amount as if it was the principal obligor;
- (c) agrees with each Secured Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Secured Party immediately on demand against any cost, loss or liability it incurs as a result of the Borrower not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Transaction Document on the date when it would have been due. The amount payable by the Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 19 if the amount claimed had been recoverable on the basis of a guarantee; and
- (d) Notwithstanding clause (b) and (c) above, the Guarantor further agrees that, whenever the Borrower has any amount due and payable under or in connection with any Transaction Document, the Security Agent shall be entitled to directly claim against the Guarantor in respect of any amount payable on any due date without first having recourse to the Borrower, and the Guarantor agrees to pay each Secured Party such amount on or before each due date. The Guarantor further irrevocably authorizes the Security Agent to directly deduct any balances in the Receiving Account 2 to pay the amount payable on each due date, and the Security Agent is not required to serve any prior notice for such claim and deduction.

#### 19.2 Continuing guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Obligor Party under the Transaction Documents, regardless of any intermediate payment or discharge in whole or in part.

#### 19.3 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor Party or any security for those obligations or otherwise) is made by a Secured Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Guarantor under this Clause 19 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

#### 19.4 Waiver of defences

The obligations of the Guarantor under this Clause 19 will not be affected by an act, omission, matter or thing which, but for this Clause 19, would reduce, release or prejudice any of its obligations under this Clause 19 (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor Party or other person;
- (b) the release of any other Obligor Party or any other person under the terms of any composition or arrangement with any creditor of any Obligor Party;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, execute, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor Party or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Transaction Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Transaction Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Transaction Document or any other document or security;
- (g) any insolvency or similar proceedings; or
- (h) this Agreement or any other Transaction Document not being executed by or binding upon any other party.

#### 19.5 Immediate recourse

The Guarantor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Guarantor under this Clause 19. This waiver applies irrespective of any law or any provision of a Transaction Document to the contrary.

#### 19.6 Appropriations

Until all amounts which may be or become payable by the Obligor Parties under or in connection with the Transaction Documents have been irrevocably paid in full, each Secured Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Secured Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from the Guarantor or on account of its liability under this Clause 19.

#### 19.7 Deferral of Guarantors' rights

Until all amounts which may be or become payable by the Obligor Parties under or in connection with the Transaction Documents have been irrevocably paid in full and unless the Facility Agent otherwise directs, the Guarantor will not exercise or otherwise enjoy the benefit of any right which it may have

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by reason of performance by it of its obligations under the Transaction Documents or by reason of any amount being payable, or liability arising, under this Clause 19:

- (a) to be indemnified by an Obligor Party;
- (b) to claim any contribution from any other guarantor of or provider of security for any Obligor Party's obligations under the Transaction Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Transaction Documents or of any other guarantee or security taken pursuant to, or in connection with, the Transaction Documents by any Secured Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor Party to make any payment, or perform any obligation, in respect of which the Guarantor has given a guarantee, undertaking or indemnity under Clause 19.1 (*Guarantee and Indemnity*);
- (e) to exercise any right of set-off against any Obligor Party; and/or
- (f) to claim or prove as a creditor of any Obligor Party in competition with any Secured Party.

If the Guarantor shall receive any benefit, payment or distribution in relation to any such right it shall hold that benefit, payment or distribution (or so much of it as may be necessary to enable all amounts which may be or become payable to the Secured Parties by the Obligor Parties under or in connection with the Transaction Documents to be paid in full) on trust for the Secured Parties, and shall promptly pay or transfer the same to the Facility Agent or as the Facility Agent may direct for application in accordance with Clause 32 (*Payment mechanics*).

#### 19.8 Additional security

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Secured Party.

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## SECTION 8 REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

#### 20. REPRESENTATIONS

Each Obligor makes the representations and warranties set out in this Clause 20 to each Finance Party on the date of this Agreement.

##### 20.1 Status

- (a) Each Obligor Party is a corporation, duly incorporated and validly existing, and in the case of the Ultimate Parent, in good standing under the laws of the jurisdiction of its incorporation.
- (b) Each Obligor Party and its Subsidiaries has the power to own its assets and carry on its business as it is being conducted.
- (c) Each Obligor Party is not a FATCA FFI or a US Tax Obligor.

##### 20.2 Binding obligations

- (a) The obligations expressed to be assumed by each Obligor Party 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 under this Agreement, legal, valid, binding and enforceable obligations.
- (b) Without limiting the generality of paragraph (a) above, each Transaction Security Document to which an Obligor Party is a party creates the security interests which that Transaction Security Document purports to create and those security interests are valid and effective.

##### 20.3 Non-conflict with other obligations

The entry into and performance by each Obligor Party of, and the transactions contemplated by, the Finance Documents and the granting of the Transaction Security do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets.

##### 20.4 Power and authority

Each Obligor Party 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.

## 20.5 Validity and admissibility in evidence

Except for approval or registration of the Transaction Security Documents referred to in Clause 20.8 (*No filing or stamp taxes*), all Authorisations required or desirable:

- (a) to enable each Obligor Party 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 an Obligor Party is a party admissible in evidence in its Relevant Jurisdiction; and
- (c) for each Obligor Party to carry on its business, and which are material,

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have been obtained or effected and are in full force and effect.

## 20.6 Governing law and enforcement

- (a) The choice of governing law of the Finance Documents will be recognised and enforced in the jurisdiction of incorporation of each Obligor Party, and any jurisdiction where any asset subject to or intended to be subject to the Transaction Security Documents is located and any jurisdiction where they conduct their business.
- (b) Any judgment obtained in relation to a Finance Document in the jurisdiction of the governing law of that Finance Document will be recognised and enforced in the jurisdiction of incorporation of each Obligor Party, and any jurisdiction where any asset subject to or intended to be subject to the Transaction Security Documents is located and any jurisdiction where they conduct their business.

## 20.7 Taxes

- (a) It is not required under the law applicable where an Obligor Party is incorporated or resident or at the address specified in the Finance Documents to make any deduction for or on account of Tax from any payment it may make under any Finance Document.
- (b) No claims are being, nor, as far as it is aware, might reasonably be expected to be, asserted against any Obligor Party with respect to Taxes which have or, if adversely determined to it, would be reasonably likely to have a Material Adverse Effect.
- (c) All Tax reports and returns required to be filed by or on behalf of any Obligor Party have been filed.
- (d) All Taxes required to be paid by or on behalf of it have been paid within the applicable time limit.

## 20.8 No filing or stamp taxes

It is not necessary under the laws of its Relevant Jurisdictions 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 for:

- (a) the approval of movable assets mortgages under the Movable Assets Mortgage Agreement (Project SZ1), the Supplemental Movable Assets Mortgage Agreement (Project SZ1), the Movable Assets Mortgage Agreement (Project SZ2) and the Movable Assets Mortgage Agreement (Project SZ3) from Custom;
- (b) the registration of movable assets mortgages under the Movable Assets Mortgage Agreement (Project SZ1), the Supplemental Movable Assets Mortgage Agreement (Project SZ1), the Movable Assets Mortgage Agreement (Project SZ2) and the Movable Assets Mortgage Agreement (Project SZ3) with SAIC;
- (c) the registration of account receivables pledge under the Pledge of Receivables (Borrower), the Supplemental Pledge of Receivables (Borrower), the Pledge of Receivables (GDS Suzhou), the Supplemental Pledge of Receivables (GDS Suzhou), the Pledge of Receivables (Guarantor) and the Supplemental Pledge of Receivables (Guarantor) with PBOC Information Center;
- (d) the approval of equity pledge under the Equity Pledge Agreement and the Supplemental Equity Pledge Agreement by MOFCOM;

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- (e) the registration of equity pledge under the Equity Pledge Agreement and the Supplemental Equity Pledge Agreement with SAIC and Hong Kong Companies Registry;
- (f) the payment of Cayman Islands stamp duties in respect of the Share Mortgage Agreement, this Agreement, the Ultimate Parent Guarantee, the Amendment Agreement, the Confirmatory Share Mortgage Agreement, the Confirmatory Ultimate Parent Guarantee and the Confirmatory Letter if such agreement is executed in, brought into, or produced before a court of, the Cayman islands;
- (g) the payment of stamp duties in respect of this Agreement and the Amendment Agreement;
- (h) the payment of registration or filing fees (if any) payable to the relevant authorities with respect to the approval and registrations specified in paragraph (a) to (e) above.

## 20.9 No default

- (a) No 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 any Obligor Party or to which its assets are subject which might have a Material Adverse Effect.

## 20.10 No misleading information

- (a) Any written and factual information provided by any Obligor Party to the Finance Parties and any transaction contemplated by them is 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 materials provided by any Obligor Party to the Finance Parties under this Agreement have been prepared on the basis of recent historical information and on the basis of reasonable assumptions.
- (c) Nothing has occurred since the date the written and factual information was provided which renders the written and factual information untrue or misleading in any material respect.
- (d) All material information in relation to each Project and each Facility have been provided to the Finance Parties.

## 20.11 Financial statements

- (a) The financial statements most recently supplied by each Obligor Party to the Facility Agent (which, at the date of this Agreement, are the Original Financial Statements) were prepared in accordance with GAAP consistently applied save to the extent expressly disclosed in such financial statements.
- (b) The financial statements most recently supplied by each Obligor Party to the Facility Agent (which, at the date of this Agreement, are the Original Financial Statements) give a true and fair view and represent its financial condition and operations (consolidated, in the case of the Ultimate Parent) during the relevant financial year save to the extent expressly disclosed in such financial statements.
- (c) There has been no material adverse change in the business or financial condition of the Obligor Parties (or the business or consolidated financial condition of the Group, in the case of the Ultimate Parent) since the date of the Original Financial Statements.

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## 20.12 Pari passu ranking

The payment obligations of each Obligor Party 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.

## 20.13 No proceedings pending or threatened



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 have (to the best of its knowledge and belief) been started or threatened against any Obligor Party.

#### 20.14 No breach of applicable laws

None of the Obligor Parties has breached any applicable law, rule, regulation or any agreements which breach, and no amount that is payable by any Obligor Party under any applicable law, rule, regulation or any agreements or any Authorisation has not been paid where such failure to pay, has or is reasonably likely to have a Material Adverse Effect or result in revocation or non-renewal of IDC License.

#### 20.15 Authorised Signatures

Any person specified as its authorised signatory under Schedule 2 (*Conditions precedent and conditions subsequent*) of this Agreement or paragraph (h) of Clause 21.9 (*Information: miscellaneous*) of this Agreement is authorised to sign Utilisation Requests (in the case of the Borrower only) and other notices on its behalf.

#### 20.16 Ranking of Security

The Transaction Security has or will have the ranking in priority which it is expressed to have in the Transaction Security Documents and it is not subject to any prior ranking or *pari passu* ranking Security.

#### 20.17 Solvency

- (a) No Obligor Party is bankrupt or insolvent or unable to pay its debts (including subordinated and contingent debts), nor could it be deemed by a court to be unable to pay its debts within the meaning of the law of the jurisdiction in which it is incorporated, nor, in any such case, will it become so in consequence of entering into any Finance Document and/or performing any transaction contemplated by any Finance Document.
- (b) No Obligor Party has taken any corporate action nor have any legal proceedings or other procedures or steps been taken, started or threatened in relation to anything referred to in Clause 24.7 (*Insolvency proceedings*).

#### 20.18 No other business

- (a) As at the date of this Agreement, the Borrower does not have any Subsidiaries.
- (b) The Borrower has not traded or carried on any business since the date of its incorporation other than the ownership, operation, maintenance and management of the Projects in connection with its data center infrastructure business or other businesses as recorded in its latest business license.

#### 20.19 Ownership

- (a) Subject to the Transaction Security, the Borrower's entire equity interest is legally and beneficially owned and controlled by the Parent, and the registered capital corresponding to the equity interests in

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the Borrower are fully paid and such equity interests are not subject to any option to purchase or similar rights or any security interests (other than the Transaction Security).

- (b) Subject to the Transaction Security, the Parent's entire issued share capital is legally and beneficially owned and controlled by the Intermediate Parent, and the shares in the capital of the Parent are fully paid and are not subject to any option to purchase or similar rights or any security interests (other than the Transaction Security).
- (c) The Intermediate Parent's entire issued share capital is legally and beneficially owned and controlled by the Ultimate Parent, and such shares in the capital of the Intermediate Parent are fully paid and not subject to any option to purchase or similar rights or any security interests.
- (d) Prior to a Flotation, no less than 40 percentage, and following a Flotation, no less than 30 percentage, of the issued share capital of the Ultimate Parent is legally and beneficially owned and controlled by the Sponsor and the Sponsor remains the single and largest shareholder of the Ultimate Parent, and such shares in the capital of the Ultimate Parent are fully paid and not subject to any option to purchase or similar rights or any security interests.
- (e) Subject to the VIE Equity Pledges, prior to the VIE Restructuring, the Guarantor's entire equity interest is legally owned by William Huang but beneficially owned and controlled by GDS Suzhou, and following the VIE Restructuring, the Guarantor's entire equity interest is legally owned by William Huang and Qiuping Huang but beneficially owned and controlled by the New WFOE.
- (f) Around 4.8% of registered capital in the Guarantor are fully paid as at the date of this Agreement and the equity interests corresponding to all registered capital of the Guarantor are not subject to any option to purchase or similar rights or any security interests (other than the VIE Equity Pledges).
- (g) Prior to the VIE Acquisition, GDS Suzhou's entire equity interest is legally and beneficially owned and controlled by Further Success Limited, and following the VIE Acquisition, GDS Suzhou's entire equity interest is legally and beneficially owned and controlled by the Guarantor.
- (h) The registered capital corresponding to the equity interests in GDS Suzhou are fully paid and such equity interests are not subject to any option to purchase or similar rights or any security interests (other than the VIE Equity Pledges).
- (i) Upon incorporation of the New WFOE, the entire equity interests are (either directly or indirectly) legally and beneficially owned and controlled by the Ultimate Parent, and the registered capital corresponding to the equity interests in the New WFOE are fully paid and such equity interests are not subject to any option to purchase or similar rights or any security interests.

#### 20.20 Shares

Provided that an Obligor Party's shares or equity interests are required to be subject to the Transaction Security, the constitutional documents of such Obligor Party do not and could not restrict or inhibit any transfer of those shares or equity interests on creation or enforcement of the Transaction Security. Except as provided in the Transaction Security Documents and subject to the VIE Equity Pledges, there are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share, equity interests or loan capital of any Obligor Party (other than the Ultimate Parent) and the New WFOE (including any option or right of pre-emption or conversion).

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#### 20.21 Immunity

- (a) The entry into by each Obligor Party of each Finance Document constitutes, and the exercise by it of its rights and performance of its obligations under each Finance Document will constitute, private and commercial acts performed for private and commercial purposes.
- (b) None of any Obligor Party will be entitled to claim immunity from suit, execution, attachment or other legal process in any proceedings taken in its jurisdiction of incorporation in relation to any Finance Document.

#### 20.22 Project Documents

As at the date of this Agreement:

- (a) each copy of a Project Document delivered to the Facility Agent under this Agreement is true and complete;
- (b) there is no other agreement in connection with, or arrangements which amend, supplement or affect any Project Document;
- (c) there are no claims pending or threatened against it under any Project Document;
- (d) it has not breached any of its material obligations under the Project Documents and there is no dispute in connection with any Project Document, in each case, which has or is reasonably likely to have a Material Adverse Effect.

#### 20.23 Existing Accounts

No other bank accounts are maintained by the Borrower other than the Existing Accounts and the relevant Accounts with the Account Bank.

#### 20.24 Good title to assets

Each Obligor Party has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as presently conducted.

#### 20.25 Legal and beneficial ownership

Each Obligor Party is the sole legal and beneficial owner of the respective assets over which it purports to grant Security.

#### 20.26 No Financial Indebtedness or Security

- (a) The Borrower, GDS Suzhou and the Guarantor do not have any Financial Indebtedness other than as permitted by Clause 23.13 (*Financial Indebtedness*).
- (b) No Security exists over all or any of assets of the Guarantor, GDS Suzhou or the Borrower other than as permitted by Clause 23.4 (*Negative pledge*).

#### 20.27 Insurances

In respect of the Borrower and the Projects:

- (a) after the first Utilisation Date, the Insurances of the Project SZ1 are valid and in full force and effect and are not void or voidable;
- (b) in respect of each Insurance in relation to the Project SZ2 and the Project SZ3, upon its signing and payment of all premia, it is valid and in full force and effect and are not void or voidable;

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- (c) no notice has been given or received in respect of cancellation of all or any part of the Insurances; and
- (d) all premia and other moneys (if any) payable in respect of Insurances have been duly paid and, to the best of its knowledge and belief, all covenants, terms and conditions contained in the Insurances have been duly observed and performed.

#### 20.28 Business Plan and Budget

- (a) Each of the Business Plan and the Budget (in each case whether draft or otherwise) as at its date:
  - (i) was true and accurate in all material respects;
  - (ii) was prepared in good faith and with due care on the basis of recent historical information and assumptions believed by it to be reasonable; and
  - (iii) fairly represented the Borrower's expectations in relation to the matters covered in those documents.
- (b) It is not aware of any information which, if disclosed, would make the Business Plan or the current Budget untrue or misleading in any material respect.
- (c) Each of the Business Plan and the current Budget specifies (at the date of delivery to the Facility Agent) all material costs and expenses incurred or to be incurred during the period to which it relates and is based on reasonable assumptions made in good faith and represents the Borrower's view as to costs and expenses anticipated by it to be incurred.

#### 20.29 Completion of Conditions Subsequent

As of the date of the Amendment Agreement, conditions subsequent contemplated in paragraphs 1, 2, 10 and 12 under Part VII (*Conditions subsequent*) of Schedule 2 (*Conditions precedent and conditions subsequent*) have been completed.

#### 20.30 Anti-bribery, anti-corruption and anti-money laundering

None of any Obligor Party, any of its Subsidiaries, their respective directors or officers, or, to the best knowledge of each Obligor Party, any Affiliate, agent or employee of either Obligor Party, has engaged in any activity or conduct which would violate any applicable anti-bribery, anti-corruption or anti-money laundering laws or regulations in any applicable jurisdiction and each Obligor Party has instituted and maintains policies and procedures designated to prevent violation of such laws, regulations and rules.

#### 20.31 Sanctions

None of the Obligor Parties, any of its Subsidiaries, their respective directors or officers, or, to the best knowledge of each Obligor Party, any Affiliate, agent or employee of either Obligor Party, is an individual or entity, that is, or is owned or controlled by such individual or entity that are:

- (a) the subject, or likely to become the subject, of any Sanctions (a "**Sanctioned Person**"); or
- (b) located, organised or resident in a country or territory that is, or whose government is, the subject of Sanctions broadly prohibiting dealings with such government, country, or territory (a "**Sanctioned Country**").

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#### 20.32 Repetition

The Repeating Representations are deemed to be made by each Obligor by reference to the facts and circumstances then existing on the date of each Utilisation Request and the first day of each Interest Period.

### 21. INFORMATION UNDERTAKINGS

The undertakings in this Clause 21 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.

#### 21.1 Financial statements

Each Obligor shall supply to the Facility Agent in sufficient copies for all the Lenders:

- (a) as soon as the same become available, but in any event within 150 days after the end of each of its Financial Years:
  - (i) in respect of the Ultimate Parent, its audited consolidated financial statements of the Group for that Financial Year, except for the audited consolidated financial statements of the Group delivered to the Facility Agent pursuant to paragraph 10 in Part VII (*Conditions subsequent*) of Schedule 2 (*Conditions precedent and conditions subsequent*); and
  - (ii) in respect of each Obligor other than the Ultimate Parent, its audited financial statements for that Financial Year; and
- (b) as soon as the same become available, but in any event within 90 days after the end of each half of each of its Financial Years:
  - (i) in respect of the Ultimate Parent, its consolidated financial statements of the Group for that half of Financial Year; and
  - (ii) in respect of each Obligor other than the Ultimate Parent, its financial statements for that half of Financial Year.
- (c) as soon as they are available, but in any event within 45 days after the end of each Financial Quarter of each of its Financial Years:
  - (i) in respect of the Ultimate Parent, its unaudited consolidated financial statements of the Group for that Financial Quarter; and
  - (ii) in respect of each Obligor other than the Ultimate Parent, its unaudited financial statements for that Financial Quarter.

#### 21.2 Compliance Certificate

- (a) The Borrower shall supply to the Facility Agent, with each set of financial statements delivered pursuant to Clause 21.1 (*Financial statements*), a Compliance Certificate setting out (in reasonable detail) computations as to compliance with Clause 22 (*Financial covenants*) and Excess Cashflow as calculated based on the definition of "Excess Cashflow" pursuant to Clause 22.1 (*Financial definitions*) as at the date as at which those financial statements were drawn up.
- (b) Each Compliance Certificate delivered by the Borrower pursuant to paragraph (a) above shall be signed by the one of the Borrower's authorized signatories.

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#### 21.3 Requirements as to financial statements

- (a) Each set of financial statements delivered by each Obligor pursuant to Clause 21.1 (*Financial statements*) shall be certified by a director of the relevant company as fairly representing its financial condition as at the date as at which those financial statements were drawn up.
- (b) Each Obligor shall ensure that each set of its financial statements delivered pursuant to Clause 21.1 (*Financial statements*) is prepared using GAAP, accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements for that Obligor unless, in relation to any set of financial statements, it notifies the Facility Agent that there has been a change in GAAP, the accounting practices or reference periods and its auditors (or, if appropriate, the auditors of the Obligor) deliver to the Facility 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 of that Obligor were prepared; and
  - (ii) sufficient information, in form and substance as may be reasonably required by the Facility Agent, to enable the Lenders to determine whether Clause 22 (*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 of that Obligor.

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.

#### 21.4 Presentations

Once in every Financial Year, at least one of senior management of the Borrower and one of senior management of the Ultimate Parent must give a presentation upon reasonable notice and at a reasonable time to the Finance Parties about the on-going business and financial performance of the Borrower and the Group respectively.

#### 21.5 Submission of Budget

- (a) On or before the date of the first Utilisation Request, the Borrower shall supply to the Facility Agent for its approval in sufficient copies for all the Lenders an annual draft Budget (including the detailed budget for last quarter of that Financial Year) for the Financial Year ending 31 December 2015.
- (b) On or before the date of the first Facility C Utilisation Request, the Borrower shall supply to the Facility Agent for its approval in sufficient copies for all the Lenders an annual draft Budget for the Financial Year ending 31 December 2016 (including the detailed budget of the Project SZ3).
- (c) Commencing with the Financial Year starting 1 January 2016, the Borrower shall supply to the Facility Agent for its consent in sufficient copies for all the Lenders, as soon as the same become available but in any event within 30 days before the start of each of its Financial Years, an annual draft Budget for that Financial Year, and within 60 days after the start of each of its Financial Year, a final Budget for that Financial Year as approved by its board of directors.
- (d) When any amount needs to be funded pursuant to a Budget of a Financial Year, in case that a final Budget is not available for that Financial Year, such amount shall be determined according to figures applicable to the last month in the Budget of the immediately previous Financial Year.

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- (e) The Borrower shall ensure that each draft Budget:
  - (i) includes a profit and loss, cashflow statement for the Borrower and projected financial covenant calculations;
  - (ii) specifies (A) details of revenues with a breakdown including revenues received from the customers existing as of the date of the Budget and expected revenues to be received from the new coming customers after the date of the Budget with tenants being identified; and (B) the remaining term of all Service Contracts (including the Qualified Service Contracts) existing as of the date of the Budget and the remaining Contract Value during such remaining term;
  - (iii) is accompanied with necessary documents and information evidencing the status of Business Plan and its Capital Expenditures; and
  - (iv) is prepared in accordance with the GAAP.
- (f) The Facility Agent shall, within fifteen (15) Business Days of receipt of any draft Budget (but for an initial Budget delivered by the Borrower pursuant to paragraph (a) above, before the date of the first Utilisation Request, and for paragraph (b) above, before the date of the first Facility C Utilisation Request), notify the Borrower whether or not it is approved for the purposes of this Agreement.
- (g) After the Budget is approved by the Facility Agent, the Borrower shall not amend or modify the Budget at any time without the prior written consent of the Facility Agent.
- (h) The draft Budget for that Financial Year and each line item in such draft Budget will only become effective upon approval by the Facility Agent and become the final Budget for the Financial Year in which it is approved by the Facility Agent.

#### 21.6 Quarterly Reports

- (a) Within 30 days after the last day of each Financial Quarter, the Borrower shall provide to the Facility Agent an operating statement in relation to the Projects, which shall specify the details of existing services status, new customers prospects, anticipated customers move-in schedule, actual move-in customers, contractual move-in customers, occupancy percentage, services annual renewal progress and turnover rate, etc.
- (b) Within 30 days after the last day of each Financial Quarter before the Project SZ2 reaches full occupation, the Borrower shall provide to the Facility Agent a regular update on the construction progress of the Project SZ2, together with necessary documents as may be reasonably required by the Facility Agent.
- (c) Within 30 days after the last day of each Financial Quarter before the Project SZ3 reaches full occupation, the Borrower shall provide to the Facility Agent a regular update on the construction progress of the Project SZ3, together with necessary documents as may be reasonably required by the Facility Agent.

#### 21.7 IDC License renewal

Within 90 days before the expiry date of the IDC License or other authorisation of the Guarantor in respect of its business, the Borrower shall provide to the Facility Agent an update in respect of the status of its application for the renewal of the IDC License or any such authorisation, together with

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any information or documents as may be reasonably required by any Finance Party (through the Facility Agent).

#### 21.8 Year-end

Each Obligor shall procure that each of its Financial Year-end falls on 31 December.

#### 21.9 Information: miscellaneous

The Borrower shall supply to the Facility Agent (in sufficient copies for all the Finance Parties, if the Facility Agent so requests):

- (a) all documents (for avoidance of doubt, excluding those creditors of its accounts payable generated in the ordinary course of trading) 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 notify of any existing and future shareholder loans or inter-company loans to the Borrower or the Guarantor accompanied by shareholder loan agreements or inter-company loan agreements (if any), including but not limited to the GDS Suzhou Inter-company Loan Agreement, provided that such shareholder loans or inter-company loans are made in accordance with this Agreement;
- (c) 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;
- (d) promptly, such information as the Security Agent may reasonably require about the assets subject to the Transaction Security and compliance of the Obligor Parties with the terms of any Transaction Security Documents;
- (e) promptly, such further information regarding the financial condition, business and operations of any Obligor Party as any Finance Party (through the Facility Agent) may reasonably request;
- (f) promptly upon occurrence of a Flotation, subject to any applicable laws and regulations, such information regarding the Flotation;
- (g) promptly, such further information relating to the construction progress of Project SZ2 and Project SZ3 as any Finance Party (through the Facility Agent) may reasonably request, to the extent not provided in Clause 21.6(b) (*Quarterly Reports*);

(h) promptly, notice of any change in authorised signatories of any Obligor Party in relation to the relevant Finance Documents accompanied by a new director resolution or shareholder resolution (as applicable).

#### 21.10 Notification of default

- (a) Each Obligor shall (and shall procure each of other Obligor Parties will) notify the Facility Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless it is aware that a notification has already been provided by another Obligor Party).
- (b) Promptly upon a request by the Facility Agent, the Borrower shall supply to the Facility Agent a certificate signed by two of its directors or senior officers on its behalf certifying that no Default is

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continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

#### 21.11 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 the information onto an electronic website designated by the Borrower and the Facility Agent (the “**Designated Website**”) if:
    - (i) the Facility 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 Facility 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 Facility Agent.
- If any Lender (a “**Paper Form Lender**”) does not agree to the delivery of information electronically then the Facility Agent shall notify the Borrower accordingly and the Borrower shall supply, and shall procure other Obligor Parties supply, the information to the Facility Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event the Borrower shall supply, and shall procure other Obligor Parties supply, the Facility Agent with at least one copy in paper form of any information required to be provided by it.
- (c) The Facility 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 Facility Agent.
  - (d) The Borrower shall promptly upon becoming aware of its occurrence notify the Facility 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 Facility 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.

- (e) Any Website Lender may request, through the Facility 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.

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#### 21.12 “Know your customer” checks

- (a) Each Obligor shall, and shall procure other Obligor Parties shall, promptly upon the request of the Facility Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender (including for any Lender on behalf of any prospective new Lender)) in order for the Facility Agent, such Lender or any prospective new Lender to conduct any “know your customer” or other similar procedures under applicable laws and regulations.
- (b) Each Lender shall promptly upon the request of the Facility Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself) in order for the Facility Agent to conduct any “know your customer” or other similar procedures under applicable laws and regulations.

### 22. FINANCIAL COVENANTS

#### 22.1 Financial definitions

In this Agreement:

“**Borrowings**” means, at any time, the 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 (h) of that definition for which the marked to market value shall be used).

“**Capital Expenditure**” means any expenditure or obligation in respect of expenditure which, in accordance with the GAAP, is treated as capital expenditure or intangible expense or intangible expenditure (and which shall include, for the avoidance of doubt, any royalties, licenses or similar costs, fees or expenses paid for the acquisition of patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, software or other intellectual property).

“**Cash**” means, at any time, cash at bank credited to an account in the name of the Borrower with a reputable financial institution and to which the Borrower is alone beneficially entitled and for so long as (a) that cash is repayable on demand; (b) repayment of that cash is not contingent on the prior discharge of any other indebtedness of the Borrower or of any other person whatsoever or on the satisfaction of any other condition; (c) there is no Security over that cash; and (d) such cash is freely and immediately available to be applied in repayment or prepayment of the Facilities.

“**Current Assets**” means the aggregate of all inventory, work in progress, trade and other receivables of the Borrower including prepayments in relation to operating items and sundry debtors (but excluding Cash and Cash Equivalent Investments) expected to be realised within twelve months from the date of computation but excluding amounts in respect of:

- (i) receivables in relation to Tax;
- (ii) extraordinary items, exceptional items and other non-operating items;
- (iii) insurance claims; and
- (iv) any interest owing to the Borrower.

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“**Cash Equivalent Investments**” means investments that are short term investments (excluding equity investments) which are readily convertible into cash without incurring any significant premium or penalty.

“**Cashflow**” means, in respect of any Relevant Period, EBITDA for that Relevant Period after:

- (i) adding the amount of any decrease (and deducting the amount of any increase) in Working Capital for that Relevant Period;
- (ii) deducting all amounts of tax on profits, gains or income actually paid and/or which fell due for payment during such period;
- (iii) adding the amount of any cash receipts (and deducting the amount of any cash payments) during that Relevant Period in respect of any extraordinary items, exceptional items and other non-operating items not already taken account of in calculating EBITDA for any Relevant Period;

- (iv) adding the amount of any cash receipts during that Relevant Period in respect of any Tax rebates or credits and deducting the amount actually paid or due and payable in respect of Taxes during that Relevant Period by the Borrower;
- (v) adding the amount of any increase in provisions, other non-cash debits and other non-cash charges (which are not Current Assets or Current Liabilities) and deducting the amount of any non-cash credits (which are not Current Assets or Current Liabilities) in each case to the extent taken into account in establishing EBITDA;
- (vi) deducting the amount of any additional Capital Expenditure made in cash during that Relevant Period by the Borrower that was not accounted for in the Total Investment Amount,

but in any case amounts required to be applied in mandatory prepayment of the Loans shall be disregarded from the calculation of the Cashflow.

“**Current Liabilities**” means the aggregate of all liabilities (including trade creditors, accruals and provisions) of the Borrower expected to be settled within twelve months from the date of computation but excluding amounts in respect of:

- (i) liabilities for Borrowings and Net Finance Charges;
- (ii) liabilities for tax on profits;
- (iii) extraordinary items, exceptional items and other non-operating items;
- (iv) liabilities in relation to dividends declared but not paid by the Borrower to the extent owed to a person which is not a member of the Group.

“**Contributed Equity**” means total registered capital of the Borrower that has been paid in by the Parent.

“**Debt Service**” means, in respect of any Relevant Period, the aggregate of:

- (i) Net Finance Charges for that Relevant Period;

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- (ii) all scheduled repayments of Borrowings (as reduced by any voluntary or mandatory prepayments) falling due during that Relevant Period but excluding (A) any amounts falling due under any overdraft or revolving facility and which were available for simultaneous redrawing according to the terms of that facility and (B) scheduled principal repayments of Existing Deferred Payments that were refinanced by drawdown under the Facilities;
- (iii) the amount of the capital element of any payments in respect of that Relevant Period payable under any finance lease or capital lease entered into by the Borrower.

“**Debt Service Coverage Ratio**” or “**DSCR**” means the ratio of Cashflow to Debt Service in respect of any Relevant Period.

“**Debt to Equity Ratio**” or “**DER**” means, in respect of any Relevant Period, the ratio of Total Debt on the last day of that Relevant Period to Contributed Equity on the same day.

“**EBIT**” means, for any Relevant Period, the operating profits of the Borrower before taxation for that Relevant Period:

- (i) **before deducting** any Net Finance Charges;
- (ii) **before taking into account** any items treated as exceptional or extraordinary items,

in each case, to the extent deducted or taken into account, as the case may be, for the purposes of determining the profits of the Borrower from ordinary activities before taxation.

“**EBITDA**” means, for any Relevant Period, EBIT for that Relevant Period **before deducting** any amount attributable to amortisation of goodwill or depreciation of tangible assets.

“**Excess Cashflow**” means, for any period for which it is being calculated, the aggregate of opening cash balances of the Receiving Account 1, the Operations Account and Cashflow for that period less (except to the extent already deducted in calculating Cashflow):

- (i) Debt Service of that period;
- (ii) any Capital Expenditure actually made in cash during that Relevant Period by the Borrower;
- (iii) any amount funded or to be funded in the Debt Service Reserve Account; and
- (iv) RMB 18,000,000.

“**Financial Quarter**” means the period commencing on the day after one Quarter Date and ending on the next Quarter Date.

“**Financial Year**” means the annual accounting period of the Borrower ending on or about 31 December in each year.

“**Gross Leverage Ratio**” means, in respect of any Relevant Period, the ratio of Total Debt on the last day of that Relevant Period to EBITDA in respect of that Relevant Period.

“**Interest Coverage Ratio**” or “**ICR**” means the ratio of Cashflow to Net Finance Charges in respect of any Relevant Period.

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“**Leverage Ratio**” means, in respect of any Relevant Period, the ratio of Total Net Debt on the last day of that Relevant Period to EBITDA in respect of that Relevant Period.

“**Net Finance Charges**” means, for any Relevant Period, the aggregate amount of interest, default interests, commission, fees, discounts, prepayment penalties or premiums and other finance payments in respect of Borrowings whether accrued, paid or payable and whether or not capitalised by the Borrower in respect of that Relevant Period:

- (i) **including** the interest element of leasing and hire purchase payments;
- (ii) **including** any amounts paid, payable or accrued by the Borrower to counterparties under any interest rate hedging instrument;
- (iii) **deducting** any amounts paid, payable or accrued by counterparties to the Borrower under any interest rate hedging instrument; and
- (iv) **deducting** any interest paid, payable to or accrued to the benefit of the Borrower on any deposit or bank account.

“**Quarter Date**” means each of 31 March, 30 June, 30 September and 31 December.

“**Relevant Period**” means each period of twelve months ending on any Test Date, except that for the purpose of calculating the ICR under sub-paragraphs (i) and (ii) in Clause 22.2(d) (*Financial conditions*), each following period:

- (i) for the ICR to be tested on 31 December 2016 under sub-paragraphs (i) in Clause 22.2(d) (*Financial conditions*), a period of three Months ending on 31 December 2016;
- (ii) for the ICR to be tested on 31 March 2017 under sub-paragraphs (ii) in Clause 22.2(d) (*Financial conditions*), a period of six Months ending on 31 March 2017; and
- (iii) for the ICR to be tested on 30 June 2017 under sub-paragraphs (ii) in Clause 22.2(d) (*Financial conditions*), a period of nine Months ending on 30 June 2017.

“**Total Debt**” means at any time the aggregate amount of all obligations of the Borrower for or in respect of Borrowings and so that no amount shall be included or excluded more than once.

“**Total Net Debt**” means at any time the aggregate amount of all obligations of the Borrower for or in respect of Borrowings but **deducting** the aggregate amount of freely available Cash and Cash Equivalent Investments held by the Borrower at such time, and so that no amount shall be included or excluded more than once.

“**Test Date**” means each Quarter Date starting from (inclusive) the earliest test date as provided in Clause 22.2 (*Financial conditions*).

“**Working Capital**” means, on any date, Current Assets less Current Liabilities.

The Borrower shall ensure that:

- (a) *DSCR*. *DSCR* in respect of any Relevant Period ending on or after 31 March 2017, shall not be less than 1.10:1.

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- (b) *Gross Leverage Ratio*. *Gross Leverage Ratio* of any Relevant Period ending:

- (i) on or after 30 June 2017, shall not be more than 5.0:1;  
(ii) on or after 31 December 2017, shall not be more than 3.5:1;  
(iii) on or after 31 December 2018, shall not be more than 2.5:1.

- (c) *DER*. *DER* in respect of any Relevant Period ending on or after (the earlier of) the first Utilisation Date or 31 March 2016, shall not be more than 65:35.

- (d) *ICR*. *ICR* in respect of any Relevant Period ending:

- (i) on or after 31 December 2016, shall not be less than 1.75:1;  
(ii) on or after 31 March 2017, shall not be less than 2.25:1;  
(iii) on or after 30 September 2017, shall not be less than 3.0:1;  
(iv) on or after 31 March 2018, shall not be less than 4.0:1.

- (e) *Capital Expenditure*: during the life of the Loans, its aggregate Capital Expenditure:

- (i) in respect of Project SZ1, shall not exceed 105% of RMB 287,300,000;  
(ii) in respect of Project SZ2, shall not exceed 105% of RMB 354,300,000;  
(iii) in respect of Project SZ3, shall not exceed 105% of RMB 167,700,000

### 22.3 Financial Testing

The financial covenants set out in Clause 22.2 (*Financial conditions*) shall be tested by reference to the financial statements and Compliance Certificates delivered pursuant to Clause 21.2 (*Compliance Certificate*) in respect of the Relevant Period, except that financial covenant set out in Clauses 22.2(e) (i) and (ii) shall be tested at the end of each Financial Year starting from the Financial Year ending on 31 December 2015.

### 23. GENERAL UNDERTAKINGS

The undertakings in this Clause 23 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.

#### 23.1 Authorisations

- (a) Each Obligor shall (and shall ensure the other members of the Group will) promptly obtain, comply with and do all that is necessary to maintain in full force and effect; and supply certified copies to the Facility Agent of, any Authorisation required:

- (i) to enable it to perform its obligations under the Finance Documents;  
(ii) to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document;  
(iii) to enable the Projects to be constructed, carried out and completed; and  
(iv) to carry on its business and operations.

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- (b) The Guarantor shall ensure it will successfully pass all annual inspections in respect of the IDC License and the renewed IDC License organized by MIIT or other Governmental Agencies pursuant to the PRC laws and ensure it will successfully maintain in full force and effect and renew the IDC License with MIIT or other Governmental Agencies upon expiry of the IDC License.

#### 23.2 Compliance with laws

Each Obligor shall (and shall ensure each member of the Group will) comply in all respects with all laws to which it may be subject, if failure so to comply would be likely to have a Material Adverse Effect.

#### 23.3 Pari passu ranking

Each Obligor shall ensure that the payment obligations of each Obligor Party under the Finance Documents 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.

#### 23.4 Negative pledge

In this Clause 23.4, "**Quasi-Security**" means an arrangement or transaction described in paragraph (c) below.

- (a) None of any Obligor (other than the Ultimate Parent) shall (and the Borrower shall ensure no member of the Borrower Group shall) create or permit to subsist any Security over any of its assets (tangible or intangible, including IDC License).
- (b) Each Obligor shall ensure that no Security exists or will be created or permitted to subsist over any equity interests in any of the New WFOE, Guarantor or GDS Suzhou.
- (c) None of any Obligor (other than the Ultimate Parent) shall (and the Borrower shall ensure no member of the Borrower Group shall):
- (i) sell, transfer or otherwise dispose of any of its assets (tangible or intangible, including the IDC License) on terms whereby they are or may be leased to or re-acquired by an Obligor 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.

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- (d) Paragraphs (a), (b) and (c) above do not apply to:

- (i) the VIE Equity Pledges;  
(ii) any Security or Quasi-Security created pursuant to any Finance Document;

- (iii) any Security or Quasi-Security created over any receivables of the Guarantor or GDS Suzhou in relation to any data center business between the Guarantor or GDS Suzhou and any other member of the Group (other than those related to the Projects and the Borrower);
- (iv) any Security or Quasi-Security over any Customer Assets, **provided that** the Customer Assets shall not be used to secure any other Financial Indebtedness of any member of the Group or any other person;
- (v) any netting or set-off arrangement entered into by any member of the Borrower Group, GDS Suzhou or the Guarantor in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
- (vi) 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;
- (vii) any Security or Quasi-Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to any member of the Borrower Group, GDS Suzhou or the Guarantor in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by any member of the Borrower Group, GDS Suzhou or the Guarantor; and
- (viii) any Security or Quasi-Security created or subsisting with the written consent of the Facility Agent (acting on the instructions of the Majority Lenders),

in each case the above exceptions shall not be construed to permit any Security over the IDC License or equity interests in the New WFOE, GDS Suzhou and the Guarantor (other than the VIE Equity Pledges).

### 23.5 Disposals

- (a) No Obligor shall (and the Borrower shall ensure no member of the Borrower 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.
- (b) Paragraph (a) above does not apply to any sale, lease, transfer or other disposal:
  - (i) made in the ordinary course of trading;
  - (ii) in respect of the members of the Borrower Group only,
    - (A) of assets in exchange for other assets comparable or superior as to type, value and quality and for a similar purpose;
    - (B) of assets made by the Borrower on arms-length terms and the proceeds of which will be used to prepay the Loans in accordance with Clause 8.3 (*Disposal proceeds*); or

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- (C) 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 the members of the Borrower Group, other than any permitted under paragraphs (A) to (B) above) does not exceed 10,000,000 (or its equivalent in another currency or currencies) in any Financial Year.

### 23.6 Merger

Each Obligor shall (and the Borrower shall ensure other members of the Borrower Group will) not enter into any amalgamation, demerger, merger or corporate reconstruction except for the VIE Restructuring.

### 23.7 Change of business

Each Obligor shall procure that no substantial change is made to the general nature of the business of themselves as well as the Group from that carried on at the date of this Agreement.

### 23.8 New WFOE

Each Obligor shall ensure that the New WFOE is set up for the primary purpose of controlling the Guarantor and other PRC companies (if any) that hold an IDC License or other value-added telecommunications business operating licenses, and there is no substantial change of the New WFOE's business since it is incorporated.

### 23.9 Environmental compliance

Each Obligor shall (and shall ensure that all other members 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.

### 23.10 Environmental Claims

Each Obligor shall inform the Facility 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 its knowledge and belief) is threatened against any Obligor Party or any other 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 Obligor Party or any other member of the Group,

in each case where such Environmental Claim might reasonably be expected, if determined against that Obligor Party or that member of the Group, to have a Material Adverse Effect.

### 23.11 Acquisitions

The Borrower shall (and shall ensure other members of the Borrower Group will) not acquire any company, business, assets or undertaking or make any investment.

### 23.12 Loans and guarantees

- (a) None of any Obligor (other than the Ultimate Parent) shall (and the Borrower shall ensure no member of the Borrower Group shall) make or allow to subsist any loans, grant any credit 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 (for the avoidance of doubt, including but not limited

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to any member of the Group) or otherwise voluntarily assume any liability, whether actual or contingent, in respect of any obligation of any person (for the avoidance of doubt, including but not limited to any member of the Group).

- (b) Paragraph (a) above does not apply to:

- (i) the Existing Inter-company Loan;
- (ii) the GDS Suzhou Inter-company Loan;
- (iii) the inter-company loan between GDS Suzhou and the Borrower in relation to GDS Suzhou Trapped Amount under the GDS Suzhou Trapped Amount Loan Agreement (if any);
- (iv) loans, guarantees, indemnities, bonds and letters of credit under or expressly permitted by the Finance Documents;
- (v) any existing loans or guarantees made under the VIE Contracts;
- (vi) any inter-company loans made by the Guarantor or GDS Suzhou to any member of the Group which operates any data centre in relation to any receivables (other than those related to the Projects) of the Guarantor or GDS Suzhou, as the case may be;
- (vii) any guarantees granted by the Guarantor in favour of its customers in respect of performance obligations of the Borrower under the Borrower Service Contracts; and
- (viii) any guarantees granted by the Guarantor in favour of other financial institutions in respect of any financing incurred by any member of the Group which established a data center operation business with the Guarantor similar to arrangements under the Back-to-Back Agreement, in each case under the similar financing structure contemplated under the Finance Documents.

### 23.13 Financial Indebtedness

- (a) None of any Obligor (other than the Ultimate Parent) shall (and the Borrower shall ensure no member of the Borrower Group shall) incur or permit to remain outstanding any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to:
  - (i) the loans to GDS Suzhou, provided that at any time the aggregate amount of the outstanding principals of such loans does not exceed RMB 550,000,000;
  - (ii) the Existing Inter-company Loan;
  - (iii) any Existing Deferred Payment;
  - (iv) any Financial Indebtedness incurred pursuant to any Finance Documents; and
  - (v) any Restricted Inter-company Loan.

#### 23.14 Group Structure

Each Obligor shall procure that no change is made to the Group Structure Chart that might reasonably be expected to have a Material Adverse Effect (other than the VIE Restructuring).

#### 23.15 Dividends

- (a) No Obligor shall:

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- (i) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its equity interests;
- (ii) repay or distribute any dividend or equity premium reserve;
- (iii) redeem, repurchase, defease, retire or repay any of its equity interests or resolve to do so.

- (b) Paragraph (a) above does not apply to dividend distributions to be made by GDS Suzhou to the Guarantor after the completion of the VIE Restructuring.

#### 23.16 Insurances

The Borrower shall comply with the insurance requirements set out in Schedule 7 (*Insurance*).

#### 23.17 Treasury transaction

- (a) Other than paragraph (b) and (c) below, the Borrower shall not enter (or agree to enter) into any treasury transaction unless otherwise agreed by the Facility Agent in writing.
- (b) After the date of this Agreement, the Borrower may enter into a hedging transaction in connection with this Agreement with any financial institutions and the Lenders shall have the right of first refusal to enter into such hedging transaction with the Borrower, provided that,
  - (i) such hedging transaction is an interest rate swap in relation to the interest rate under this Agreement, and/or a currency swap in relation to all or certain portion of the amount of the Loans outstanding then; and
  - (ii) such hedging transaction is only for the purpose of hedging interest risk or currency conversion risk of the Borrower under this Agreement, and in any case shall not be for speculation purpose.
- (c) Without prejudice to paragraph (b) above, if a financial institution is to share the Transaction Security, the Borrower must ensure:
  - (a) that financial institution must be a Lender, and accede to this Agreement by delivering to the Facility Agent an Accession Letter as a hedging provider (the "**Hedging Provider**");
  - (b) all Hedging Arrangements shall at all times be in form and substance satisfactory to the Facility Agent;
  - (c) the Hedging Arrangements are assigned to or otherwise secured in favour of, and in a manner acceptable to, the Security Agent; and
  - (d) any amount payable to the Hedging Providers ranks *pari passu* with all other amounts owed to any Finance Party under the Finance Documents and is secured by the Transaction Security Documents.

#### 23.18 Arm's length terms

No Obligor shall (and shall procure no member of the Group will) enter into any transaction with any person except on arm's length terms.

#### 23.19 Subordinated loans

Except for the Existing Inter-company Loan, the Borrower shall not:

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- (a) repay or prepay any principal amount (or capitalised interest) outstanding under any Restricted Inter-company Loan;
- (b) pay any interest, fee or charge accrued or due on any Restricted Inter-company Loan; or
- (c) purchase, redeem, defease or discharge any of any Restricted Inter-company Loan.

#### 23.20 Project Documents

- (a) Each of the Borrower, GDS Suzhou and the Guarantor (as applicable) shall:
  - (i) exercise its rights and comply with its obligations under each Project Document to which it is a party;
  - (ii) ensure (so far as this is within its control) that each other party to a Project Document exercises its rights and complies with its obligations under that Project Document, in a proper and timely manner consistent with its obligations under the Finance Documents.
- (b) None of the Borrower, GDS Suzhou or the Guarantor shall agree to:
  - (i) materially amend or waive;
  - (ii) assign or transfer; or
  - (iii) terminate, suspend or abandon,all or any part of a Project Document without the Facility Agent's prior written consent.
- (c) Upon entry into any new Service Contracts after the date of this Agreement, the Borrower, GDS Suzhou and the Guarantor shall promptly provide the Facility Agent with such new Service Contracts together with evidence that such new Service Contracts have been covered under the Back-to-Back Agreements existing at the date of this Agreement (in case that a new Back-to-Back Agreement is not executed for the purpose of the new Service Contracts).
- (d) If, after the date of this Agreement, the Borrower, GDS Suzhou and the Guarantor enter into any new Back-to-Back Agreements or make any amendment to the Back-to-Back Agreements that have been provided to the Facility Agent, the Borrower, GDS Suzhou and the Guarantor shall ensure each new or amended Back-to-Back Agreement shall reflect all terms and conditions under the Service Contracts that they have entered into, in each case such new or amended Back-to-Back Agreements shall be in substance and form satisfactory to the Facility Agent, and upon execution of any new Back-to-Back Agreement or any amendment, promptly provide it to the Facility Agent.
- (e) If the Landlord decides to unilaterally terminate the Lease Agreements, the Borrower shall, upon becoming aware of such termination, immediately notify the Facility Agent.



### 23.21 Project SZ2 and Project SZ3 Completion

- (a) The Borrower shall procure that Project SZ2 Completion occurs by no later than the Project SZ2 Completion Date.
- (b) The Borrower shall procure that the trial operation of the Project SZ2 (if any, as required by the relevant customers) will not be later than 120 days after the Project SZ2 Completion Date.

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- (c) The Borrower shall procure that Project SZ3 Completion occurs by no later than the Project SZ3 Completion Date.
- (d) The Borrower shall procure that the trial operation of the Project SZ3 (if any, as required by the relevant customers) will not be later than 120 days after the Project SZ3 Completion Date.

### 23.22 Acknowledgements

Each Obligor (other than the Ultimate Parent) shall use its best endeavours to provide to the Facility Agent acknowledgements from their customers on the Notification Letters which have been delivered pursuant to paragraph 2(c)(i) in Part I (*Conditions Precedent to Initial Utilisation for All Facilities*) and paragraph 2(c)(i) in Part V (*Facility C Initial conditions precedent*) of Schedule 2 (*Conditions precedent and conditions subsequent*) and (where applicable) paragraph 1 in Part VII (*Conditions Subsequent*) of Schedule 2 (*Conditions precedent and conditions subsequent*) of this Agreement.

### 23.23 Operation and maintenance

- (a) In this Clause “**Good Industry Practice**” means the exercise of the degree of skill, care and operating practice which would reasonably and ordinarily be expected from a skilled and experienced person engaged in the same type of undertaking as a member of the Group under the same or similar circumstances.
- (b) Each Obligor shall (and shall procure other members of the Group will) diligently operate and maintain, or ensure the diligent operation and maintenance of, each Project and all of its other assets in a safe, efficient and business-like manner and in accordance with the Good Industry Practice.

### 23.24 Application of FATCA

Each Obligor shall procure that it shall not (and ensure no Obligor Party will) become a FATCA FFI or a US Tax Obligor.

### 23.25 Sanctions

No Obligor shall (and shall procure no members of the Group will) contribute or otherwise make available all or any part of the proceeds of the Facilities, directly or indirectly, to, or for the benefit of, any person (whether or not related to any member of the Group) for the purpose of financing the activities of, transactions with, or investments in, any Sanctions Person, to the extent such action or status is prohibited by, or would itself cause any Finance Party or a member of the Group to be in breach of, any Sanctions in a manner or to an extent which is, or is reasonably likely to have a Material Adverse Effect.

### 23.26 Anti-bribery law, anti-corruption law and anti-money laundering law

Each Obligor shall (and shall ensure that all other members of the Group will) comply in all respects with all anti-bribery laws, anti-money laundering laws and anti-corruption laws where failure to so comply would have or would be reasonably likely to have a Material Adverse Effect.

### 23.27 CBRC Rule

Each Obligor shall, and shall ensure that all other members of the Group shall, comply in all material respects with the CBRC Rule, any amendments and/or supplements to the CBRC Rule to the extent applicable, and all further and/or supplemental laws and/or regulations (relating to any of the subject matters of the CBRC Rule) to which it is subject from time to time, and shall do or permit to be done any acts or provide any assistance which the Facility Agent may require pursuant to CBRC Rule for the purpose of complying with the CBRC Rule by any of Finance Parties.

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### 23.28 Further assurance

- (a) Each Obligor shall (and shall procure that other Obligor Parties will) promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, pledge, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):
  - (i) to perfect the Security created or intended to be created under or evidenced by the Transaction Security Documents (which may include the execution of a mortgage, assignment, pledge or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of the Security Agent or the Secured Parties provided by or pursuant to the Transaction Documents or by law;
  - (ii) to confer on the Security Agent or confer on the Secured Parties Security over any property and assets of that Obligor Party located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Transaction Security Documents; and/or
  - (iii) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Transaction Security.
- (b) Each Obligor shall (and shall procure that other Obligor Parties will) take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Secured Parties by or pursuant to the Transaction Documents.

### 23.29 Offshore Transaction Security

Subject to applicable PRC laws and regulations, the Borrower:

- (a) shall register the foreign debt and conduct relevant information filling with the local SAFE within fifteen (15) Business Days after enforcement of any Offshore Transaction Security and, at the request of the Facility Agent, provide the Facility Agent with the said foreign debt registration or filling documents as soon as practicable;
- (b) shall procure the amount of the principal of the indebtedness owed to any guarantor or security provider as a result of enforcement of any Offshore Transaction Security by the Secured Parties shall not exceed its audited net assets at the end of the year prior to such enforcement and its approved available foreign debt quota (the “**Available Foreign Debt Quota**”);
- (c) shall immediately inform the Facility Agent of any insufficiency of Available Foreign Debt Quota;
- (d) undertakes that it does not have any outstanding indebtedness owed to any guarantor or security provider as a result of enforcement of any offshore security or guarantee securing onshore loans borrowed by it (“**Wai Bao Nei Dai**” (□□□□)) (other than the Offshore Transaction Security) which has not been paid up;
- (e) shall forthwith notify the Facility Agent if there is any outstanding indebtedness by it owed to the relevant guarantor or security provider incurred as a result of enforcement of any Wai Bao Nei Dai (other than the Offshore Transaction Security) which has not been paid up whereupon the Secured Parties will have right to suspend new drawdown;

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- (f) at the request of the Facility Agent, forthwith provide the Facility Agent with necessary information and material of the details of any offshore security or guarantee, default of any offshore underlying transaction, foreign debt registration, repayment of offshore debt and other matters in relation to which it conducts registration for other offshore guarantors or security providers under Wai Bao Nei Dai. Such information and material shall be true, accurate and integrated;
- (g) shall not sign any offshore guarantee or security which constitutes Wai Bao Nei Dai (□□□□) where the Borrower knows or should know the certainty of enforcement of such offshore guarantee or security; and
- (h) undertakes that it complies with each requirement of SAFE and other regulators in relation to the offshore security/guarantee which constitutes Wai Bao Nei Dai (□□□□) and will follow the instruction of the Facility Agent to take or not take any action or render any cooperation and assistance.

## 24. EVENTS OF DEFAULT

Each of the events or circumstances set out in the following sub-clauses of this Clause 24 (other than Clause 24.21 (*Acceleration*)) is an Event of Default.

### 24.1 Non-payment

An Obligor Party does not pay on the due date any amount payable pursuant to a Material Credit Document at the place at and in the currency in which it is expressed to be payable, unless the non-payment is caused by:

- (a) an administrative or technical error and is remedied within 3 Business Days of its due date; or
- (b) a Disruption Event and is remedied within 3 Business Days of its due date.

#### 24.2 Financial covenants

Any requirement of Clause 22 (*Financial covenants*) is not satisfied.

#### 24.3 Other obligations

- (a) An Obligor Party does not comply with Clause 3 (*Purpose*), Clause 5.5 (*Advance of Loans*) or Clause 23 (*General undertakings*) of this Agreement; or
- (b) any Obligor Party does not comply with any other provision of the Material Credit Documents (other than those referred to in Clause 24.1 (*Non-payment*), Clause 24.2 (*Financial covenants*), Clause 24.19 (*Conditions subsequent*) and paragraph (a) above) to which it is a party unless the non-compliance is capable of remedy and is remedied within 7 days of the earlier of (i) the Facility Agent giving notice to the Borrower of the failure to comply and (ii) any Obligor Party becoming aware of the failure to comply.

#### 24.4 Misrepresentation

Any representation or statement made or deemed to be made by an Obligor Party in the Material Credit Documents or any other document delivered by or on behalf of any Obligor Party under or in connection with any Material Credit 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

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misrepresentation is capable of remedy and is remedied within 7 days of the earlier of (i) the Facility Agent giving notice to the Borrower of such misrepresentation and (ii) any Obligor Party becoming aware of such misrepresentation.

#### 24.5 Cross default

- (a) Other than as provided in paragraph (b) below:
  - (i) any Financial Indebtedness of any Obligor Party or any other member of the Group is not paid when due nor within any originally applicable grace period.
  - (ii) any Financial Indebtedness of any Obligor Party or any other 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).
  - (iii) any commitment for any Financial Indebtedness of any Obligor Party or any other 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).
  - (iv) any creditor of any Obligor Party or any other 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).
- (b) no Event of Default will occur under this paragraph (a) of Clause 24.5 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (i) to (iv) above is less than RMB 30,000,000 (or its equivalent in any other currency or currencies).
- (c) Any default or event of default (however described) under the Hedging Arrangements.

#### 24.6 Insolvency

- (a) An Obligor Party or any other member of the Group 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 with a view to rescheduling any of its indebtedness.
- (b) A moratorium is declared in respect of any indebtedness of any Obligor Party or any other member of the Group.

#### 24.7 Insolvency proceedings

- (a) Any corporate action, legal proceedings or other procedure or step is taken in relation to:
  - (i) 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 any Obligor Party or any other member of the Group other than a solvent liquidation or reorganisation of any member of the Group which is not an Obligor Party;
  - (ii) a composition or arrangement with any creditor of any Obligor Party or any other member of the Group, or an assignment for the benefit of creditors generally of any Obligor Party or any other member of the Group or a class of such creditors;

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- (iii) the appointment of a liquidator (other than in respect of a solvent liquidation of a member of the Group which is not an Obligor Party), receiver, administrator, administrative receiver, compulsory manager, provisional supervisor or other similar officer in respect of any Obligor Party or any other member of the Group or any of its assets; or

- (iv) enforcement of any Security over any assets of any Obligor Party or any other member of the Group,

or any analogous procedure or step is taken in any jurisdiction.

- (b) The above paragraph (a) shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 30 days of commencement.

#### 24.8 Creditors' process

Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of any Obligor Party having an aggregate value of RMB 30,000,000 and is not discharged within 14 days.

#### 24.9 Litigation

Any litigation, arbitration or administrative proceedings are current or, to the Obligors' knowledge pending or threatened against any of Obligor Parties, if adversely determined, are reasonably likely to have a Material Adverse Effect.

#### 24.10 Unlawfulness

- (a) It is or becomes unlawful for an Obligor Party to perform any of its obligations under the Material Credit Documents or any Transaction Security created or expressed to be created or evidenced by the Transaction Security Documents ceases to be effective.
- (b) Any obligation or obligations of any Obligor Party under any Material Credit Documents are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Finance Parties under the Material Credit Documents.
- (c) Any Material Credit Document ceases to be in full force and effect or any Transaction Security ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than a Secured Party) to be ineffective.

#### 24.11 Repudiation and rescission of agreements

An Obligor Party (or any other relevant party, other than a Finance Party) rescinds or purports to rescind or repudiates or purports to repudiate a Material Credit Document or any of the Transaction Security or evidences an intention to rescind or repudiate a Material Credit Document or any Transaction Security.

#### 24.12 Nationalisation and expropriation

If, pursuant to any law or governmental action:

- (a) the legal existence of any Obligor Party is terminated;
- (b) any substantial part of any of the business or operations of any Obligor Party is suspended or revoked; or

- (c) any part of the Projects or assets of any Obligor Party is seized, nationalised, attached, expropriated, divested, compulsorily acquired or suspended, which in each case has or will have a Material Adverse Effect.

#### 24.13 Cessation of business

Any Obligor 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.

#### 24.14 Major damage

Any part of the Projects or assets of the Borrower are destroyed or damaged and, in the opinion of the Majority Lenders taking into account the proceeds of insurance effected under Clause 23.16 (*Insurances*) and the timing of receipt of those proceeds, the destruction or damage will have a Material Adverse Effect.

#### 24.15 Abandonment

The Borrower, the Guarantor or GDS Suzhou abandons all or a significant part of the Projects.

#### 24.16 Government intervention

Any Authorisation relating to the Projects or the Borrower or any other Obligor is modified, revoked, withdrawn or cancelled and such modification, revocation, withdrawal or cancellation has or is reasonably likely to have a Material Adverse Effect.

#### 24.17 Creation of security

- (a) Any Security is created or subsists over the shares in the Ultimate Parent,
- (b) Except for the VIE Equity Pledges, any Security is created or subsists over the equity interests in the Guarantor, the New WFOE or GDS Suzhou, in each case in a manner not consistent with provisions of this Agreement.

#### 24.18 Foreign exchange control

Any foreign exchange control policies in the Relevant Jurisdiction (whether existing as of the date of this Agreement or enacted after the date of this Agreement) would otherwise prohibit, prevent or materially delay any payment, remittance or transfer of any amount due and payable under the Material Credit Documents and the relevant Obligor and the relevant Finance Party fail to agree on a substitute permitted by applicable Governmental Rules for making such payment, remittance or transfer within 7 days upon the occurrence of such prohibition, prevention or delay.

#### 24.19 Conditions subsequent

Any Obligor Party does not deliver all of its documents and evidence set out in Part VII (*Conditions subsequent*) of Schedule 2 (*Conditions precedent and conditions subsequent*) on or prior to the relevant date specified for delivery thereof in accordance with Clause 4.4 (*Conditions subsequent documents*).

#### 24.20 Material adverse change

Any event or circumstance occurs which has or is reasonably likely to have a Material Adverse Effect.

#### 24.21 Acceleration

On and at any time after the occurrence of an Event of Default the Facility Agent may, and shall if so directed by the Majority Lenders, by written notice to the Borrower:

- (a) without prejudice to the participations of any Lenders 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);
- (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;
- (c) declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Facility Agent on the instructions of the Majority Lenders; and/or
- (d) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

#### 25. SECURITY

##### 25.1 Security Agent as holder of security

- (a) In this Clause:
  - (v) “**Secured Party Claim**” means any amount which any Obligor Party owes to a Secured Party under or in connection with the Transaction Documents; and
  - (vi) “**Security Agent Claim**” means any amount which any Obligor Party owes to the Security Agent under this Clause.
- (b) Unless expressly provided to the contrary in any Transaction Document, the Security Agent holds:
  - (i) any security created by a Transaction Security Document;
  - (ii) the benefit of any Security Agent Claims; and
  - (iii) any proceeds of security,for the benefit, and as the property, of the Secured Parties and so that they are not available to the personal creditors of the Security Agent.
- (c) The Security Agent will separately identify in its records the property rights referred to in paragraph (b) above.

##### 25.2 Responsibility

- (a) The Security Agent is not liable or responsible to any other Secured Party for:

- (i) any failure in perfecting or protecting the security created by any Transaction Security Document; or
- (ii) any other action taken or not taken by it in connection with any Transaction Security Document,

unless directly caused by its gross negligence or wilful misconduct.

- (b) The Security Agent is not responsible for:
- (i) the right or title of any person in or to, or the value of, or sufficiency of any part of the security created by the Transaction Security Documents;
  - (ii) the priority of any security created by the Transaction Security Documents; or
  - (iii) the existence of any other security interest affecting any asset secured under a Transaction Security Document.

#### 25.3 Title

The Security Agent may accept, without enquiry, the title (if any) an Obligor Party may have to any asset over which security is intended to be created by any Transaction Security Document.

#### 25.4 Possession of documents

The Security Agent is not obliged to hold in its own possession any Transaction Security Document, title deed or other document in connection with any asset over which security is intended to be created by a Transaction Security Document. Without prejudice to the above, the Security Agent may allow any bank providing safe custody services or any professional adviser to the Security Agent to retain any of those documents in its possession.

#### 25.5 Approval

Each Secured Party:

- (a) confirms its approval of each Transaction Security Document; and
- (b) authorises and directs the Security Agent (by itself or by such person(s) as it may nominate) to enter into and enforce the Transaction Security Documents as trustee (or agent) or as otherwise provided (and whether or not expressly in the names of the Secured Finance Parties) on its behalf.

#### 25.6 Conflict with Transaction Security Documents

If there is any conflict between this Agreement and any Transaction Security Document with regard to instructions to, or other matters affecting, the Security Agent, this Agreement will prevail.

#### 25.7 Release of security

- (a) If a disposal of any asset subject to security created by a Transaction Security Document is made in the following circumstances:
  - (i) the Majority Lenders agree to the disposal;
  - (ii) the disposal is allowed by the terms of the Transaction Documents and will not result or could not reasonably be expected to result in any Default;

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- (iii) the disposal is being made at the request of the Security Agent in circumstances where any security created by the Transaction Security Documents has become enforceable; or
- (iv) the disposal is being effected by enforcement of a Transaction Security Document,

the asset(s) being disposed of will be released from any security over it created by a Transaction Security Document. However, the proceeds of any disposal (or an amount corresponding to them) shall be applied in accordance with the requirements of the Transaction Documents (if any).

- (b) Any release under this Clause will not become effective until the date of the relevant disposal or otherwise in accordance with the consent of the Majority Lenders.
  - (c) If a disposal is not made, then any release relating to that disposal will have no effect, and the obligations of the Obligor Parties under the Transaction Documents will continue in full force and effect.
  - (d) If the Security Agent is satisfied that a release is allowed under this Clause, (at the request and expense of the relevant Obligor Party) each Secured Party shall enter into any document and do all such other things which are reasonably required to achieve that release. Each other Secured Party irrevocably authorises the Security Agent to enter into any such document. Any release will not affect the obligations of any other Obligor Party under the Transaction Documents.
- #### 25.8 Enforcement instructions
- (a) The Security Agent may refrain from enforcing the security created by a Transaction Security Document unless instructed otherwise by the Majority Lenders.
  - (b) If the Security created by a Transaction Security Document becomes enforceable, the Majority Lenders may give or refrain from giving instructions to the Security Agent to enforce or refrain from enforcing that security as they see fit.
  - (c) The Security Agent shall, subject to the terms of the Transaction Security Documents, enforce the Security created by a Transaction Security Document in accordance with the instructions of the Majority Lenders.
  - (d) In the absence of instructions, the Security Agent may enforce the security created by a Transaction Security Document as it sees fit having regard first to the interests of the Secured Parties.
  - (e) None of the Security Agent or the Secured Parties is responsible to any Obligor Party for any enforcement or failure to enforce or to maximise the proceeds of any enforcement of the security created by the Transaction Security Documents. The Security Agent or any Secured Party may cease enforcement at any time.
  - (f) The Security Agent is fully protected if it acts on the instructions of the Majority Lenders in the exercise of any right, power or discretion or any matter not expressly provided for in the Transaction Security Documents.

#### 25.9 Competing instructions to Security Agent

Any instructions given to the Security Agent by the Majority Lenders will override any conflicting instructions given by any other Party.

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#### 25.10 Information

Each Secured Party and each of the Obligors shall (and the Borrower shall ensure other Obligor Parties will) supply the Security Agent with any information that the Security Agent may reasonably specify as being necessary or desirable to enable it to perform its functions under this Clause.

#### 25.11 Perfection of security

Each of the Obligors shall (and shall ensure other Obligor Parties will), at their own costs, take any action and enter into and deliver any document which is reasonably required by the Security Agent so that a Transaction Security Document provides for effective and perfected security in favour of any successor Security Agent.

#### 25.12 Proceeds of enforcement

- (a) Subject to the rights of any creditor with prior security or a preferential claim, the proceeds of enforcement of the security under the Transaction Security Documents shall be paid to the Security Agent.
- (b) Any proceeds of enforcement of the security under the Transaction Security Documents, and any amount paid to the Security Agent under this Agreement shall be applied in the following in the order of priority set out in Clause 32.5 (*Partial Payments*).

#### 25.13 Good Discharge

An acknowledgement of receipt signed by the relevant person to whom payments are to be made under this Clause will discharge the Security Agent.

#### 25.14 Non-cash distributions

## SECTION 9 CHANGES TO PARTIES

### 26. CHANGES TO THE LENDERS

#### 26.1 Assignments and transfers by the Lenders

Subject to this Clause 26 and to the extent permitted under the applicable laws, 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”).

#### 26.2 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 26.
- (b) Notwithstanding paragraph (a) above, a Lender shall notify the Borrower of such assignment or transfer not later than 5 days before the assignment or transfer if there is no Event of Default which is continuing.
- (c) A transfer will be effective only if the procedure set out in Clause 26.5 (*Procedure for transfer*) is complied with.
- (d) An assignment will be effective only if the procedure and conditions set out in Clause 25.6 (*Procedure for assignment*) are complied with.

#### 26.3 Assignment or transfer fee

The New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Facility Agent (for its own account) a fee of RMB 20,000.

#### 26.4 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 any Obligor;
  - (iii) the performance and observance by any Obligor Party 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.

- (a) Each New Lender confirms to the Existing Lender, 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 Obligor 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 Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.
- (b) 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 26; or
  - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor Party of its obligations under the Finance Documents or otherwise.

#### 26.5 Procedure for transfer

- (a) Subject to the conditions set out in Clause 26.2 (*Conditions of assignment or transfer*) a transfer is effected in accordance with paragraph (c) below when the Facility Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Facility 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 Facility 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 and in respect of the Transaction Security each of the Obligor Parties and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and in respect of the Transaction Security and their respective rights against one another shall be cancelled (being the “Discharged Rights and Obligations”);
  - (ii) each of the Obligor Parties 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 Obligor Party and the New Lender have assumed and/or acquired the same in place of that Obligor Party and the Existing Lender;
  - (iii) the Facility Agent, the Mandated Lead Arrangers, the Security Agent, the New Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security 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 the Facility Agent, the Mandated Lead Arrangers, the Security Agent 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 26.5 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.

#### 26.6 Procedure for assignment

- (a) Subject to the conditions set out in paragraph (d) below and in Clause 26.2 (*Conditions of assignment or transfer*), an assignment may be effected in accordance with paragraph (b) below when the Facility Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Facility Agent shall, subject to paragraph (d)(ii) 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) On the Transfer Date:
- (i) the Existing Lender will assign absolutely to the New Lender the rights under the Finance Documents and in respect of the Transaction Security expressed to be the subject of the assignment in the Assignment Agreement;
  - (ii) the Existing Lender will be released by each Obligor Party 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 (and any corresponding obligations by which it is bound in respect of the Transaction Security); and
  - (iii) the New Lender shall become a Party as a “Lender” and will be bound by obligations equivalent to the Relevant Obligations.
- (c) Lenders may utilise procedures other than those set out in this Clause 26.6 to assign their rights under the Finance Documents (but not, without the consent of the relevant Obligor Party or unless in accordance with Clause 26.5 (*Procedure for transfer*), to obtain a release by that Obligor Party from the obligations owed to that Obligor Party by the Lenders nor the assumption of equivalent obligations by a New Lender) **provided that** they comply with the conditions set out in paragraph (d) below.
- (d) An assignment (whether pursuant to an Assignment Agreement or paragraph (c) above) will only be effective on:
- (i) receipt by the Facility Agent (whether in an Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Facility Agent) that the New Lender will assume the same obligations to the other Finance Parties as it would have been under if it was an Original Lender; and

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- (ii) performance by the Facility Agent of all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Facility Agent shall promptly notify to the Existing Lender and the New Lender. The Facility Agent shall not be obliged to execute an Assignment Agreement delivered to it by an Existing Lender and the New Lender or any document delivered to it pursuant to paragraph (c) above 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.
- (e) The procedure set out in this Clause 26.6 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.

#### 26.7 Copy of Transfer Certificate or Assignment Agreement to Company

The Facility 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.

#### 26.8 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.

#### 26.9 Exclusion of Agent’s liability

In relation to any assignment or transfer pursuant to this Clause 26, each Party acknowledges and agrees that the Facility 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.

#### 26.10 Security over Lenders’ rights

In addition to the other rights provided to Lenders under this Clause 26, each Lender may without consulting with or obtaining consent from any Obligor Party, 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, without limitation:

- (a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and
- (b) in the case of any Lender which is a fund, 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

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- (ii) require any payments to be made by an Obligor Party 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.

### 27. CHANGES TO THE OBLIGORS

Neither the Borrower nor the Guarantor may (and shall ensure no other Obligor Parties will) assign or transfer any of its rights or obligations under any Finance Document, except with the prior written consent of all the Lenders.

### 28. DISCLOSURE OF INFORMATION

Any Secured Party may disclose:

- (a) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as that Secured Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is made aware 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 Transaction Documents and 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 Transaction Documents and/or one or more Obligor Parties and to any of that person’s Affiliates, Related Funds, Representatives and professional advisers;
  - (iii) appointed by any Secured Party or by a person to whom paragraph (b)(i) or (b)(ii) above applies to receive communications, notices, information or documents delivered pursuant to the Transaction Documents on its behalf (including, without limitation, any person appointed under paragraph (b) of Clause 29.18 (*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 (b)(i) or (b)(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

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of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;

(vii) to whom or for whose benefit that Secured Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 26.10 (*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 Secured Party shall consider appropriate if:

- (A) in relation to paragraphs (b)(i), (b)(ii) and (b)(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 (b)(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;
  - (C) in relation to paragraphs (b)(v), (b)(vi) and (b)(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 Secured Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Secured 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 Transaction Documents including without limitation, in relation to the trading of participations in respect of the Transaction 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 to maintain confidentiality of the Confidential Information;
- (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 Transaction Documents and/or the Obligor Parties.

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## SECTION 10 THE FINANCE PARTIES

### 29. ROLE OF THE ADMINISTRATIVE PARTIES

#### 29.1 Appointment of the Facility Agent

- (a) Each of the other Finance Parties appoints the Facility Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each of the other Finance Parties authorises the Facility Agent to exercise the rights, powers, authorities and discretions specifically given to the Facility Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

#### 29.2 Appointment of the Security Agent

- (a) Each Secured Party irrevocably appoints the Security Agent to act as its agent under and in connection with the security created under the Transaction Security Documents.
- (b) Each Secured Party irrevocably authorises the Security Agent to:
  - (i) perform the duties and to exercise the rights, powers, authorities and discretions that are specifically given to it under or in connection with the Transaction Security Documents, together with any other incidental rights, powers, authorities and discretions; and
  - (ii) enter into and deliver each Transaction Security Document expressed to be entered into by the Security Agent.

#### 29.3 Duties of the Facility Agent

- (a) Subject to paragraph (c) below, the Facility Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Facility Agent for that Party by any other Party.
- (c) Without prejudice to Clause 26.7 (*Copy of Transfer Certificate or Assignment Agreement to Company*), paragraph (a) above shall not apply to any Transfer Certificate or to any Assignment Agreement.
- (d) Except where a Finance Document specifically provides otherwise, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (e) If the Facility 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 Facility 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 Facility Agent's duties under the Finance Documents are solely mechanical and administrative in nature.

#### 29.4 Duties of the Security Agent

- (a) The Security Agent shall forward promptly to a Party the original or a copy of any document which is delivered to the Security Agent for that Party by any other Party.

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- (b) Except where a Transaction Security Document specifically provides otherwise, the Security Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (c) If the Security 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 Secured Parties.
- (d) If the Security Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than any Administrative Party) under this Agreement, it shall promptly notify the other Finance Parties.
- (e) The Security 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).

#### 29.5 Role of the Mandated Lead Arrangers

Except as specifically provided in the Finance Documents, each of the Mandated Lead Arrangers has no obligations of any kind to any other Party under or in connection with any Finance Document.

#### 29.6 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.

#### 29.7 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.

#### 29.8 Rights and discretions of the Facility Agent

- (a) The Facility Agent may rely on:
  - (i) any representation, 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; and
  - (ii) any statement purportedly made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.

- (b) The Facility Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
- (iii) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 24.1 (*Non-payment*));
  - (iv) any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised; and
  - (v) any notice or request made by the Borrower is made on behalf of and with the consent and knowledge of all the Obligor Parties.

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- (c) The Facility Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.
- (d) The Facility Agent may act in relation to the Finance Documents through its personnel and agents.
- (e) The Facility Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.
- (f) 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.

#### 29.9 Rights and discretions of the Security Agent

- (a) The Security 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 Lenders 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, that 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 Security 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 24.1 (*Non-payment*));
  - (ii) any right, power, authority or discretion vested in any Party or any group of Lenders has not been exercised;
  - (iii) any notice or request made by the Borrower (other than the Utilisation Request) is made on behalf of and with the consent and knowledge of all the Obligor Parties.

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- (c) The Security Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.
- (d) The Security Agent may act in relation to the Finance Documents through its personnel and agents. The Security Agent shall not be liable for the acts or omissions of any such agents provided that it has acted in good faith in the selection of such agents.
- (e) The Security Agent may disclose to any other Party any information it reasonably believes it has received as agent or trustee under this Agreement.
- (f) Notwithstanding any other provision of any Finance Document to the contrary, the Security Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or a breach of a fiduciary duty or duty of confidentiality.
- (g) In the event there is an inconsistency or conflict between the rights, duties, benefits, obligations, protections, immunities or indemnities of the Security Agent (the "**Security Agent Provisions**") as contained in this Agreement, on the one hand, and in any of the other Finance Documents, on the other hand, the Security Agent Provisions contained in this Agreement shall prevail and apply. The Security Agent Provisions contained in this Agreement are for the benefit of the Security Agent and shall survive the discharge or termination of this Agreement.

#### 29.10 Instructions

- (a) Each of the Facility Agent and the Security 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 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 sub-paragraph (i) above.
- (b) Each of Facility Agent and the Security 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 and the Facility Agent and the Security 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 Facility Agent or the Security Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.
- (d) Notwithstanding anything to the contrary in a Finance Document, the Facility Agent and the Security 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

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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 Facility Agent and the Security Agent may act (or refrain from acting) as it considers to be in the best interest of the Lenders.
- (f) Neither the Facility Agent nor the Security Agent is authorised to act on behalf of a Secured Party (without first obtaining that Secured Party's consent) in any legal or arbitration proceedings relating to any Transaction Document. This Paragraph (f) shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Transaction Security Documents or enforcement of the Transaction Security or Transaction Security Documents.

#### 29.11 Responsibility for documentation

No Administrative Party:

- (a) is responsible for the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by any Administrative Party, an Obligor Party or any other person given in or in connection with any Transaction Document; or



- (b) is responsible for the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Transaction Document or the Transaction Security; or
- (c) is responsible for any determination as to whether any information provided or to be provided to any Secured 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.

#### 29.12 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 any Administrative Party), no Administrative Party shall be liable for any cost, loss or liability incurred by any Party as a consequence of:
  - (i) the Administrative Party having taken or having omitted to take any action under or in connection with any Transaction Document or the Transaction Security, unless directly caused by the Administrative Party's gross negligence or wilful misconduct; or
  - (ii) any delay in the crediting to any account of an amount required under the Transaction Documents to be paid by the Administrative Party, if the Administrative Party shall have 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 Administrative Party for the purpose of such payment.
- (b) No Party (other than the relevant Administrative Party) may take any proceedings against any officer, employee or agent of an Administrative Party in respect of any claim it might have against that Administrative Party or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Transaction Document or the Transaction Security and any officer, employee or agent of an Administrative Party may rely on this Clause.

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- (c) Nothing in this Agreement shall oblige any Administrative Party to conduct any "know your customer" or other procedures in relation to any person on behalf of any Lender and each Lender confirms to each Administrative Party that it is solely responsible for any such procedures it is required to conduct and that it shall not rely on any statement in relation to such procedures made by any Administrative Party.

#### 29.13 Lenders' indemnity to the Facility Agent

- (a) Each Lender shall, in accordance with paragraph (b) below, indemnify the Facility Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Facility Agent (otherwise than by reason of the Facility Agent's gross negligence or wilful misconduct) in acting as Facility Agent under the Finance Documents (unless the Facility Agent has been reimbursed by an Obligor pursuant to a Finance Document).
- (b) The proportion of such cost, loss or liability to be borne by each Lender shall be:
  - (i) if there is any Loan then outstanding, the proportion borne by (A) the sum of its participation(s) in the Loan(s) then outstanding to (B) the aggregate amount of such Loan(s), or
  - (ii) if there is no Loan then outstanding and the Available Facility is then greater than zero, the proportion borne by (A) its Available Commitment to (B) the Available Facility, or
  - (iii) if there is no Loan then outstanding and the Available Facility is then zero:
    - (1) if the Available Facility became zero after a Loan ceased to be outstanding, the proportion borne by (A) its Available Commitment to (B) the Available Facility immediately before the Available Facility became zero, or
    - (2) if a Loan ceased to be outstanding after the Available Facility became zero, the proportion borne by (A) the sum of its participation(s) in the Loan(s) outstanding immediately before any Loan ceased to be outstanding to (B) the aggregate amount of such Loan(s).

#### 29.14 Secured Parties' indemnity to the Security Agent

- (a) Without limiting the liability of any Obligor Party under the Transaction Documents, each Secured Party shall indemnify the Security Agent for that Secured Party's share of any cost, loss or liability (whether arising in contract, tort or otherwise) incurred by the Security Agent in acting as Security Agent under the Transaction Security Documents, except to the extent that the cost, loss or liability is caused by the Security Agent's gross negligence, wilful misconduct or fraud.
- (b) The Borrower shall reimburse the Secured Parties for any amount paid to the Security Agent under this Clause 29.14 (*Secured Parties' indemnity to the Security Agent*).

#### 29.15 Resignation of the Facility Agent

- (a) The Facility Agent may resign and appoint one of its Affiliates as successor by giving notice to the other Finance Parties and the Borrower.
- (b) Alternatively the Facility Agent may resign by giving notice to the other Finance Parties and the Borrower, in which case the Majority Lenders (after consultation with the Borrower) may appoint a successor Facility Agent.

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- (c) If the Majority Lenders have not appointed a successor Facility Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the retiring Facility Agent (after consultation with the Borrower) may appoint a successor Facility Agent.
- (d) The retiring Facility Agent shall make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents.
- (e) The Facility Agent's resignation notice shall take effect only upon the appointment of a successor.
- (f) Upon the appointment of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 29. Its successor and each of the other Parties shall have the same rights and obligations amongst 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 Facility Agent, require it to resign in accordance with paragraph (b) above. In this event, the Facility Agent shall resign in accordance with paragraph (b) above.
- (h) The Facility Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Facility Agent pursuant to paragraph (c) above) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Facility Agent under the Finance Documents, either:
  - (i) the Facility Agent fails to respond to a request under Clause 13.6 (FATCA Information) and a Lender reasonably believes that the Facility 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 Facility Agent pursuant to Clause 13.6 (FATCA Information) indicates that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
  - (iii) the Facility Agent notifies the Borrower and the Lenders that Facility 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) a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Facility Agent were a FATCA Exempt Party, and that Lender, by notice to the Facility Agent, requires it to resign.

#### 29.16 Resignation of the Security Agent

- (a) The Security Agent may resign and appoint one of its Affiliates as successor by giving notice to the other Secured Parties and the Borrower.
- (b) Alternatively the Security Agent may resign by giving notice to the other Secured Parties and the Borrower, in which case the Majority Lenders (after consultation with the Borrower) may appoint a successor Security Agent.
- (c) If the Majority Lenders have not appointed a successor Security Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the retiring Security Agent (after consultation with the Borrower) may appoint a successor Security Agent.

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- (d) The retiring Security Agent shall make available to the successor Security Agent such documents and records and provide such assistance as the successor Security Agent may reasonably request for the purposes of performing its functions as Security Agent under the Transaction Documents.
- (e) The retiring Security Agent shall enter into and deliver to the successor Security Agent those documents and effect any registrations as may be reasonably required for the transfer or assignment of all of its rights and benefits under the Transaction Documents to the successor Security Agent.
- (f) The Security Agent's resignation notice shall take effect only (i) upon the appointment of a successor and (ii) the transfer of all of the Security Property to that successor.
- (g) Upon the appointment of a successor, the retiring Security Agent shall be discharged from any further obligation in respect of the Transaction Documents (other than paragraph (e) above) but shall remain entitled to the benefit of this Clause 29. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (h) After consultation with the Borrower, the Majority Lenders may, by notice to the Security Agent, require it to resign in accordance with paragraph (b) above. In this event, the Security Agent shall resign in accordance with paragraph (b) above.
- (i) The Security Agent shall resign in accordance with Paragraph 29.17 (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Security Agent pursuant to Paragraph 29.18) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Security Agent under the Finance Documents, either:
  - (i) the Security Agent fails to respond to a request under Clause 13.6 (FATCA Information) and a Lender reasonably believes that the Security 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 Security Agent pursuant to Clause 13.6 (FATCA Information) indicates that the Security Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
  - (iii) the Security Agent notifies the Borrower and the Lenders that the Security 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) a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Security Agent were a FATCA Exempt Party, and that Lender, by notice to the Security Agent, requires it to resign.

#### 29.17 Confidentiality

- (a) In acting as Facility Agent for the Finance Parties, or in the case of the Security Agent, for the Secured Parties, the Facility Agent and the Security Agent shall be regarded as acting through its agency division which shall be treated as a separate legal person from any other of its branches, divisions or departments.

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- (b) If information is received by another branch, division or department of the legal person which is the Facility Agent or the Security Agent, it may be treated as confidential to that branch, division or department and the Facility Agent or the Security Agent shall not be deemed to have notice of it.
- (c) The Facility Agent or the Security Agent shall not be obliged to disclose to any Finance Party, or in the case of the Security Agent, any Secured Party, any information supplied to it by the Borrower or any other Obligor Party 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.

#### 29.18 Relationship with the Lenders

- (a) The Facility Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Facility 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) Each Lender shall supply the Facility Agent with any information that the Security Agent may specify (through the Facility Agent) as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent. Each Lender shall deal with the Security Agent exclusively through the Facility Agent and shall not deal directly with the Security Agent.
- (c) Any Lender may by notice to the Facility 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.
- (d) Any such notice in the above paragraph (c):
  - (i) must contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under this Agreement) electronic mail address and/or any other information required to enable the sending and receipt of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made); and
  - (ii) will be treated as a notification of a substitute address, fax number, electronic mail address, department and officer by that Lender for the purposes of the Finance Documents,
 and the Facility Agent is 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.

#### 29.19 Relationship with Secured Parties

- (a) The Security Agent may treat the person shown in its records as Secured Party at the opening of business (in the place of the Security Agent's principal office as notified to the Parties from time to time) as the Secured Party acting through its Facility Office:

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- (i) entitled to or liable for any payment due under any Transaction Security 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 Transaction Security Document made or delivered on that day,
- unless it has received not less than five Business Days' prior notice from that Secured Party to the contrary in accordance with the terms of this Agreement.
- (b) Any Secured Party may by notice to the Security Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Secured Party under the Transaction Security Documents.
  - (c) Any such notice in the above paragraph (b):
    - (i) must contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under this Agreement) electronic mail address and/or any other information required to enable the sending and receipt of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made); and
    - (ii) will be treated as a notification of a substitute address, fax number, electronic mail address, department and officer by that Secured Party for the purposes of this Agreement and the Transaction Security Documents,
 and the Security Agent is entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Secured Party.

#### 29.20 Credit appraisal by the Lenders and the Secured Parties

Without affecting the responsibility of any Obligor Party for information supplied by it or on its behalf in connection with any Transaction Document, each Secured Party 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 Transaction 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 Transaction Document, the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document or the Transaction Security;
- (c) whether that Secured Party 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 Transaction Document, the Transaction Security, the transactions contemplated by the Transaction Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any

- (d) the adequacy, accuracy and/or completeness of the information provided by any Party or by any other person under or in connection with any Transaction Document, the transactions contemplated by the Transaction Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document;
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Security Property, the priority of any of the Transaction Security or the existence of any Security affecting the Security Property.

### 29.21 Deduction from amounts payable by the Facility Agent and the Security Agent

If any Party owes an amount to the Security Agent or the Facility Agent, as the case may be, under the Transaction Documents, the Facility Agent or the Security Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Facility Agent or the Security Agent would otherwise be obliged to make under the Transaction Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Transaction Documents that Party shall be regarded as having received any amount so deducted.

### 29.22 Facility Agent's and Security Agent's management time

Any amount payable to the Facility Agent or the Security Agent under Clause 16.3 (*Indemnity to the Facility Agent*), Clause 17 (*Costs and expenses*), Clause 29.13 (*Lenders' indemnity to the Facility Agent*) and Clause 29.14 (*Secured Parties' indemnity to the Security Agent*) shall include the cost of utilising the Facility Agent's or the Security Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Facility Agent or the Security Agent may notify to the Borrower and the Lenders, and is in addition to any fee paid or payable to the Facility Agent under Clause 12 (*Fees*).

## 30. SHARING AMONG THE FINANCE PARTIES

### 30.1 Payments to Finance Parties

If a Finance Party (a "**Recovering Finance Party**") receives or recovers (whether by set off or otherwise) any amount from an Obligor other than in accordance with Clause 32 (*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 Facility Agent;
- (b) the Facility 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 Facility Agent and distributed in accordance with Clause 32 (*Payment mechanics*), without taking account of any Tax which would be imposed on the Facility Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Finance Party shall, within three Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 32.5 (*Partial payments*).

### 30.2 Redistribution of payments

The Facility Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor Party and distribute it between the Finance Parties (other than the Recovering Finance Party) (the "**Sharing Finance Parties**") in accordance with Clause 32.5 (*Partial payments*) towards the obligations of that Obligor Party to the Sharing Finance Parties.

### 30.3 Recovering Finance Party's rights

- (a) On a distribution by the Facility Agent under Clause 30.2 (*Redistribution of payments*) of a payment received by a Recovering Finance Party from an Obligor Party, as between the relevant Obligor Party 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 Obligor Party.
- (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 Obligor Party shall be liable to the Recovering Finance Party for a debt equal to the Sharing Payment which is immediately due and payable.

### 30.4 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 Facility Agent, pay to the Facility 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) as between the relevant Obligor Party and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Obligor Party.

### 30.5 Exceptions

- (a) This Clause 30 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor Party.
- (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:
  - (iii) it notified that other Finance Party of the legal or arbitration proceedings; and
  - (iv) 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.

## 31. SHARING AMONG THE SECURED PARTIES

### 31.1 Equalisation Payments

If, following acceleration of the Loans in accordance with Clause 24.21 (*Acceleration*), any amount owing by any Obligor Party under the Transaction Documents to a Secured Party (a **Recovering**

**Secured Party**) is discharged by payment, set-off or any other manner other than through the Security Agent under this Agreement, then:

- (a) the Recovering Secured Party shall, within three Business Days supply details of the recovery to the Security Agent;
- (b) the Security Agent shall calculate whether the recovery is in excess of the amount which the Recovering Secured Party would have received if the recovery had been received by the Security Agent under the Transaction Security Documents and applied in accordance with this Agreement; and
- (c) the Recovering Secured Party shall pay to the Security Agent an amount equal to the excess (the **redistribution**).

### 31.2 Effect of redistribution

- (a) The Security Agent shall treat a redistribution as if it were the proceeds of enforcement of the Transaction Security Documents and distribute it in accordance with this Agreement.
- (b) When the Security Agent makes a distribution under paragraph (a) above, the Recovering Secured Party will be subrogated to the rights of the Secured Parties which have shared in that redistribution.
- (c) If and to the extent that the Recovering Secured Party is not able to rely on any rights of subrogation under paragraph (b) above, the relevant Obligor Party will owe the Recovering Secured Party a debt which is equal to the redistribution, immediately payable and of the type originally discharged.
- (d) If:

- (v) a Recovering Secured Party shall subsequently return a recovery, or an amount measured by reference to a recovery, to an Obligor Party; and
- (vi) the Recovering Secured Party has paid a redistribution in relation to that recovery,
- (vii) each Secured Party shall reimburse the Recovering Secured Party all or the appropriate portion of the redistribution paid to that Secured Party, together with interest for the period while it held the redistribution. In this event, the subrogation in paragraph (b) above will operate in reverse to the extent of the reimbursement.

### 31.3 Loss sharing

- (a) If any Secured Liability remains undischarged and any resulting loss is not borne by a Secured Party in accordance with Clause 25.13 (*Proceeds of enforcement*), the Secured Parties shall make such payments between themselves as the Security Agent may require to ensure that after taking into account those payments the losses are borne by the Secured Parties as if Clause 25.13 (*Proceeds of enforcement*) had applied.
- (b) For the purpose of paragraph (a) above:
  - (i) the Total Commitments under this Agreement will be notionally increased by an aggregate amount equal to the aggregate of any amount (if any, the "**Hedging Termination Payment**"):

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- (A) payable to any Hedging Provider as a result of the Hedging Termination under a Hedging Arrangement if such Hedging Arrangement was so terminated or closed out prior to the date of enforcement of the Transaction Security; or
  - (B) that would be payable to any Hedging Provider as a result of the Hedging Termination under a Hedging Arrangement if such Hedging Arrangement were so terminated or closed out on the date of enforcement of the Transaction Security; and
  - (ii) each Hedging Provider shall be deemed (if it is a Lender) to have the aggregate amount of its Commitments increased by, or (if it is not a Lender) to have a Commitment in, the amount equal to the aggregate of the Hedging Termination Payments (if any) that would be payable to that Hedging Provider as a result of the Hedging Termination under the Hedging Arrangements on the date of the enforcement of the security under the Transaction Security Documents.
- (c) This Clause 31.3 (*Loss sharing*) is without prejudice to Clause 29.14 (*Secured Parties' indemnity to the Security Agent*).

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## SECTION 11 ADMINISTRATION

### 32. PAYMENT MECHANICS

#### 32.1 Payments to the Facility Agent

- (a) On each date on which an Obligor Party or a Lender is required to make a payment under a Finance Document, that Obligor Party or Lender shall make the same available to the Facility 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 Facility 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 with such bank as the Facility Agent specifies.

#### 32.2 Distributions by the Facility Agent

- (a) Each payment received by the Facility Agent under the Finance Documents for another Party shall, subject to Clause 32.3 (*Distributions to an Obligor Party*) and Clause 32.4 (*Clawback*) be made available by the Facility 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 Facility Agent by not less than five Business Days' notice with a bank in the principal financial centre of the country of that currency.
- (b) The Facility 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 Facility Agent as being so entitled on that date provided that the Facility Agent is authorised to distribute payments to be made on the date on which any transfer becomes effective pursuant to Clause 26 (*Changes to the Lenders*) to the Lender so entitled immediately before such transfer took place regardless of the period to which such sums relate.

#### 32.3 Distributions to an Obligor Party

The Facility Agent may (with the consent of the Obligor Party or in accordance with Clause 33 (*Set-off*)) apply any amount received by it for that Obligor Party in or towards payment (in the currency and funds of receipt) of any amount due from that Obligor Party under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

#### 32.4 Clawback

- (a) Where a sum is to be paid to the Facility Agent under the Finance Documents for another Party, the Facility 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) If the Facility Agent pays an amount to another Party and it proves to be the case that the Facility 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 Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.

#### 32.5 Partial payments

- (a) If the Facility Agent or the Security Agent, as the case may be, receives a payment that is insufficient to discharge all the amounts then due and payable by an Obligor Party under the Finance Documents,

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or as the case may be, the Transaction Document, the Facility Agent or the Security Agent, as the case may be, shall apply that payment towards the obligations of that Obligor Party under the Finance Documents, or as the case may be, the Transaction Documents, in the following order:

- (i) **first**, in or towards payment pro rata of any unpaid fees, costs and expenses of, and other amounts owing to, the Facility Agent and the Security Agent under the Finance Documents;
  - (ii) **secondly**, in or towards payment pro rata of any accrued interest, fee (other than as provided in (i) above) or commission due but unpaid under the Finance Documents and any hedging payment due from the Borrower but unpaid under the Hedging Arrangements;
  - (iii) **thirdly**, in or towards payment pro rata of any principal due but unpaid under this Agreement and any Hedging Termination Payment (if any); and
  - (iv) **fourthly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.
- (c) The Facility Agent or, as the case may be, the Security Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (iv) above.
- (d) Paragraphs (a) and (b) above will override any appropriation made by an Obligor Party.

#### 32.6 No set-off by Obligor

All payments to be made by an Obligor Party under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

#### 32.7 Business Days

- (a) Any payment 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 paragraph (a) above, interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

#### 32.8 Currency of account

- (a) Subject to paragraphs (b) to (e) below, RMB is the currency of account and payment for any sum due from an Obligor Party under any Finance Document.
- (b) A repayment of a Loan or Unpaid Sum or a part of a Loan or Unpaid Sum shall be made in the currency in which that Loan or Unpaid Sum is denominated on its due date.
- (c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.
- (e) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (f) Any amount expressed to be payable in a currency other than RMB shall be paid in that other currency.

### 32.9 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:

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- (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 Facility 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 Facility Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Facility 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 Interbank Market and otherwise to reflect the change in currency.

### 33. SET-OFF

A Finance Party may set off any matured obligation due from an Obligor Party under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor Party, regardless of the place of payment, booking branch or currency of either obligation [and promptly notify the relevant Obligor Party of such set-off]. 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. A Finance Party shall notify the Borrower as soon as practicable after the set off.

### 34. NOTICES

#### 34.1 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.

#### 34.2 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) The contact details of the Obligor Parties for this purpose are:

Address:	2/F, Tower 2, Youyou Century Place, 428 South Yanggao Road, Pudong, Shanghai 200127, P.R.C.
Fax number:	8621-20330202
E-mail:	jiqiang@gds-services.com
Attention:	Finance SVP, Ji Qiang
Telephone number:	8621-20330303

- (b) in the case of the Facility Agent, the Security Agent and the Account Bank that identified with its name below,

- (i) The contact details of the Facility Agent for this purpose are:

Address:	111 Dongyuan Road, Pudong New Area, Shanghai, 200120
Fax number:	86 21 6886 0908
E-mail:	zhang.yunfei@uobgroup.com / Annie.Zhangmz@uobgroup.com

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Attention:	Zhang Yun Fei / Zhang Min Zhi
Telephone number:	86 21 6061 8258 / 86 21 6061 8326

- (ii) The contact details of the Security Agent for this purpose are:

Address:	111 Dongyuan Road, Pudong New Area, Shanghai, 200120
Fax number:	86 21 6886 0908
E-mail:	zhang.yunfei@uobgroup.com / Annie.Zhangmz@uobgroup.com
Attention:	Zhang Yun Fei / Zhang Min Zhi
Telephone number:	86 21 6061 8258 / 86 21 6061 8326

- (iii) The contact details of the Account Bank for this purpose are:

Address:	UNIT 02,03,05,06, 13F,SHUN HING SQUARE DI WANG COMMERCIAL CENTRE,5002 SHENNAN ROAD EAST, SHENZHEN 518008 P.R.CHINA
Fax number:	(86-755) 82463326
E-mail:	Jack.LuoJJ@UOBgroup.com / Tina.TuLP@UOBgroup.com
Attention:	Jack Luo, Jun Jie / Tina Tu, Li Ping
Telephone number:	(86) 755-2294 5602 / (86) 755-2294 5658

or any substitute address, fax number or department or officer as the Party may notify to the Facility Agent (or the Facility Agent may notify to the other Parties, if a change is made by the Facility Agent) by not less than five Business Days' notice.

### 34.3 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 34.2 (*Addresses*), if addressed to that department or officer.

- (g) Any communication or document to be made or delivered to the Facility Agent or the Security Agent will be effective only when actually received by the Facility Agent or the Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Facility Agent's or the Security Agent's signature below (or any substitute department or officer as the Facility Agent or the Security Agent shall specify for this purpose).
- (h) All notices from or to an Obligor Party shall be sent through the Facility Agent.
- (i) All communications from or to an Obligor Party (other than the Borrower) must be sent through the Borrower.

(j) Any communication made or delivered to the Borrower in accordance with this Clause will be deemed to have been made or delivered to each of the Obligor Parties.

(k) Each Secured Party may assume that any communication made by the Borrower (or by the Borrower on behalf of an Obligor Party) is made with the consent of each other Obligor Party.

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(l) 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.

(m) No Secured Party shall be held liable on any basis, whether in contract, tort (including negligence) or otherwise, in respect of any damage, loss or any other forms of liability as a result of any interception, corruption, loss, destruction, late arrival or degradation of information communicated through email due to any inherent risk associated with the use of email as a mode of communication as described in this Clause.

#### 34.4 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 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 and if those two Parties:

(i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt 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 electronic communication made between those two Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Facility Agent or the Security Agent only if it is addressed in such a manner as the Facility Agent or the Security Agent shall specify for this purpose.

(n) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

#### 34.5 English and Chinese language

(a) This Agreement will be executed in both English and Chinese, and in any case there is any inconsistency between the Chinese version and the English version, the Chinese version shall prevail.

(b) Any notice given under or in connection with any Finance Document must be in English or Chinese.

(o) All other documents provided under or in connection with any Finance Document must be:

(i) in English or Chinese; or

(ii) if not in English or Chinese, and if so required by the Facility Agent, accompanied by a certified English or Chinese translation and, in this case, the English or Chinese translation will prevail unless the document is a constitutional, statutory or other official document.

#### 35. CALCULATIONS AND CERTIFICATES

##### 35.1 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.

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##### 35.2 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.

##### 35.3 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 Interbank Market differs, in accordance with that market practice.

#### 36. PARTIAL INVALIDITY

If, at any time, any provision of the Finance Documents 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.

#### 37. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under the Finance Documents 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 of the Finance Documents 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 this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

#### 38. AMENDMENTS AND WAIVERS

##### 38.1 Required consents

(a) Subject to Clause 38.2 (*Exceptions*) any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the relevant Obligor Party and any such amendment or waiver will be binding on all Parties.

(b) The Facility Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 38. The Facility Agent shall notify the other Parties promptly of any amendment or waiver effected by it under this paragraph.

##### 38.2 Exceptions

(a) An amendment or waiver that has the effect of changing or which relates to:

(i) the definition of "Majority Lenders" in Clause 1.1 (*Definitions*);

(ii) an extension to the date of payment of any amount under the Finance Documents;

(iii) a reduction in the Interest Relevant Percentage or a reduction in the amount of any payment of principal, interest, fees or commission payable that is not consistent with this Agreement;

(iv) an increase in the amount of any Commitment or an extension of the period of availability for utilisation of any Commitment or any requirement that a cancellation of Commitments reduces the Commitments of the Lenders rateably under the relevant Facility;

(v) a change to an Obligor Party other than in accordance with this Agreement;

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(vi) a release of any Transaction Security Document or Transaction Security other than in accordance with this Agreement;

(vii) any provision which expressly requires the consent of all the Lenders;

(viii) Clause 2.2 (*Extension of Facility B Availability Period*)

(b) The Borrower may by giving prior notice to the Facility Agent by no later than fifteen (15) Business Days request that the Facility B Availability Period be extended to a date not later than the date falling 26 Months after the date of this Agreement.



- (v) Capital Verification Report (□□□□);
- (vi) List of Directors (□□□□);
- (vii) Certificate of Approval (□□□□□□□□); and
- (viii) Approvals from MOFCOM in respect of its establishment and all subsequent corporate changes.

(b) Certified copies of the following up-to-date constitutional documents of the Guarantor:

- (i) Articles of Association (□□□□);
- (ii) Business license (□□□□);
- (iii) Tax Registration Certificate (both local and state) (□□□□□□□□);
- (iv) Organizational Code Certificate (□□□□□□□□);
- (v) Capital Verification Report (□□□□); and
- (vi) List of Directors (□□□□).

(c) Certified copies of the following up-to-date constitutional documents of GDS Suzhou:

- (i) Articles of Association (□□□□);
- (ii) Business license (□□□□);
- (iii) Tax Registration Certificate (both local and state) (□□□□□□□□);
- (iv) Organizational Code Certificate (□□□□□□□□);

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- (v) Capital Verification Report (□□□□);
- (vi) List of Directors (□□□□);
- (vii) Certificate of Approval (□□□□□□□□); and
- (viii) Approvals from MOFCOM in respect of its establishment and all subsequent corporate changes.

(d) Certified copies of the following up-to-date constitutional documents of the Ultimate Parent:

- (i) Certificate of Incorporation;
- (ii) Memorandum of Association & Articles of Association;
- (iii) Register of Directors;
- (iv) Register of Members;
- (v) Register of Mortgages and Charges; and
- (vi) Certificate of Good Standing issued by the relevant authority in the Cayman Islands and dated as close to the proposed Utilisation Date in the Utilisation Request as possible, but in no event older than seven (7) days than the proposed Utilisation Date.

(e) Certified copies of the following up-to-date constitutional documents of the Intermediate Parent:

- (i) Certificate of Incorporation;
- (ii) Memorandum of Association & Articles of Association;
- (iii) Register of Directors;
- (iv) Register of Members;
- (v) Register of Mortgages and Charges; and
- (vi) Certificate of Good Standing issued by the relevant authority in the Cayman Islands and dated as close to the proposed Utilisation Date in the Utilisation Request as possible, but in no event older than seven (7) days than the proposed Utilisation Date.

(f) Certified copies of the following up-to-date constitutional documents of the Parent:

- (i) Certificate of Incorporation (Certificate of Incorporation upon Change of Name); and
- (ii) Memorandum and Articles of Association.

(g) A certified copy of a resolution of the board of directors (in the case of the Ultimate Parent, the Intermediate Parent and the Parent) and a resolution of the shareholder (in the case of the Borrower, the Guarantor and GDS Suzhou):

- (i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute, deliver and perform the Finance Documents to which it is a party;

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- (ii) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf;
- (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and
- (iv) in the case of the Ultimate Parent, resolving that it is in the best interests of that the Ultimate Parent to enter into the transactions contemplated by the Finance Documents to which it is a party.

(h) A specimen of the signature of each person authorised by the resolution referred to in paragraph (g) above.

(i) A copy of a resolution signed by all the holders of the issued shares in the Parent approving the amendment of the Memorandum and Articles of Association of the Parent for the purpose of removing restrictions on share transfer.

(j) A copy of a resolution signed by all the holders of the issued preferred shares in the Ultimate Parent approving the terms of, and the transactions contemplated by the Ultimate Parent Guarantee and certain actions contemplated by the Finance Documents.

(k) A certificate of each Obligor Party (signed by an authorized signatory) confirming that borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guarantee or security or similar limit binding on it to be exceeded.



(l) A certificate of each Obligor Party (signed by an authorized signatory) certifying that each copy document relating to it specified in this Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.

## 2. Finance Documents and Ancillary Documents

(a) Each of the following documents, duly executed by each party to it:

- (i) this Agreement;
- (ii) the Initial Fee Letters;
- (iii) the Account Control Agreement;
- (iv) the Ultimate Parent Guarantee;
- (v) the Share Mortgage Agreement;
- (vi) the Equity Pledge Agreement;
- (vii) the Movable Assets Mortgage Agreement (Project SZ1);
- (viii) the Lease Assignment Agreement;
- (ix) the Insurance Assignment Agreement (Project SZ1);
- (x) the Pledge of Receivables (Borrower);

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- (xi) the Pledge of Receivables (Guarantor);
- (xii) the Pledge of Receivables (GDS Suzhou);
- (xiii) the Subordination Agreement.

(b) Each of the following documents, in a form mutually acceptable to each of the parties thereto but unsigned:

- (i) the Movable Assets Mortgage Agreement (Project SZ2);
- (ii) the Insurance Assignment Agreement (Project SZ2).

(c) To the extent a Transaction Security Document requires, each of ancillary documents under that Transaction Security Document, duly executed and delivered by a person which is required to execute and deliver under that Transaction Security Document, including without limitation:

- (i) Evidence that the Notification Letter under the Pledge of Receivables (Borrower), the Pledge of Receivables (GDS Suzhou) and the Pledge of Receivables (Guarantor) has been duly delivered to all customers under the Service Contracts in relation to each Project existing as of the date of the first Utilization Request (except the Service Contracts under which the relevant customers have been required under that Service Contract to make payments to the Receiving Accounts under the Service Contracts), together with a list of customers to which the Notification Letters have been delivered;
- (ii) Pre-signed but undated Pledge Notices (as defined in the Pledge of Receivables (Borrower), the Pledge of Receivables (GDS Suzhou) and the Pledge of Receivables (Guarantor)) to all customers under the Service Contracts in respect of the Projects as required under the Pledge of Receivables (Borrower), the Pledge of Receivables (GDS Suzhou) and the Pledge of Receivables (Guarantor);
- (iii) Evidence that the Pledge Notices under the Pledge of Receivables (Borrower) have been delivered to GDS Suzhou and the Guarantor in respect of the Back-to-Back Agreements, and GDS Suzhou and the Guarantor has acknowledged such Pledge Notice;
- (iv) A pre-signed but undated Assignment Notice (as defined in the Lease Assignment Agreement) to the Landlord under the Lease Agreements as required under the Lease Assignment Agreement;
- (v) Evidence that the Maintenance Notice (as defined in the Lease Assignment Agreement) has been duly delivered by the Borrower to the Landlord as required under the Lease Assignment Agreement;
- (vi) Evidence that the notices under the Insurance Assignment Agreement (Project SZ1) have been duly delivered by the Borrower to relevant contract counterparties;
- (vii) the certificates of all the stock and shares and documents of title relating to the shares in the Parent held by the Intermediate Parent;
- (viii) pre-signed but undated instrument of transfer and bought and sold notes relating to the shares in the Parent held by the Intermediate Parent;

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- (ix) pre-signed but undated letters of resignation from each director and the secretary of the Parent substantially in the form of schedule 2 (Form of resignation letter) to the Share Mortgage Agreement;
- (x) pre-signed but undated resolution of all the directors of the Parent substantially in the form of schedule 3 (Form of written resolution of directors) to the Share Mortgage Agreement;
- (xi) pre-signed and dated letters of authorisation from each director and the secretary of the Parent substantially in the form of schedule 4 (Form of authorisation letter) to the Share Mortgage Agreement; and
- (xii) Any other ancillary documents required to be delivered and obtained under the Transaction Security Documents before the date of the first Utilisation Request.

## 3. Legal opinions

- (a) A legal opinion in relation to PRC law from Jun He Law Offices, addressed to the Finance Parties, substantially in the form distributed to the Original Lenders prior to the signing of this Agreement.
- (b) A legal opinion as to Hong Kong law from Allen & Overy addressed to the Finance Parties, substantially in the form distributed to the Original Lenders prior to signing this Agreement.
- (c) A legal opinion in relation to Cayman law from Walkers, addressed to the Finance Parties, substantially in the form distributed to the Original Lenders prior to the signing of this Agreement.

## 4. Other documents and evidence

- (a) Evidence that any process agent referred to in any Finance Documents has accepted its appointment.
- (b) Evidence that the account receivables pledges under the Pledge of Receivables (Borrower), the Pledge of Receivables (GDS Suzhou) and the Pledge of Receivables (Guarantor) have been registered with PBOC Information Center respectively.
- (c) Evidence that each Project has met the capital ratio requirement under the applicable Governmental Rules.
- (d) A copy of Group Structure Chart.
- (e) A copy of Budget for the Financial Year ending 31 December 2015 as approved by the Facility Agent.
- (f) Evidence that the Loan Disbursement Accounts, each Receiving Account, the Operations Account and the Excess Cashflow Account have been established with the Account Bank.
- (g) Evidence that the Debt Service Reserve Account has been established with the Account Bank and amount standing credit to the Debt Service Reserve Account is not less than the Debt Service Reserve Amount.
- (h) A certified copy of IDC License.
- (i) Original copy of the IDC License Memo.
- (j) Original Financial Statements.

- (k) Certified copies of the Lease Agreements.
- (l) Certified copies of the Contractor Agreements.
- (m) A certified copy of each Back-to-Back Agreement and the GDS Suzhou Trapped Amount Loan Agreement (if any).
- (n) A certified copy of the Business Plan evidencing, among others, (1) the minimum cash balance of the Borrower is not less than USD 10,000,000.00, (2) the minimum DSCR is not less than 125%, and (3) the average DSCR is not less than 130%.
- (o) Evidence that stamp duties payable by the Borrower in respect of the Finance Documents that have been entered into before the first Utilisation Date have been paid in full.
- (p) Evidence that the Transaction Expenses and any other fees, costs or expenses in relation to the Facilities then due from the Borrower under the Finance Documents have been paid in full.
- (q) A copy of any other Authorisation or other document, opinion or assurance which the Facility Agent reasonably considers to be necessary or desirable (if it has notified the Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.

## Part II

### Conditions Precedent to Initial Utilisation for Facility A

- (a) Evidence that USD 20,000,000 has been fully contributed into the Borrower by the Parent which will be used towards the operation of the Project SZ1.
- (b) The Certificate of Completion of Project SZ1.
- (c) A certified copy of valuation report in respect of the movable assets subject to the mortgage under the Movable Assets Mortgage Agreement (Project SZ1) issued by an appraiser acceptable to all Lenders.
- (d) Original policies of Insurances in relation to SZ1 evidencing that the Insurances coverage satisfactory to all Lenders required pursuant to the terms of this Agreement, including, without limitation, copies of certificates of insurance, insured amount is not less than RMB 150,000,000.00, together with evidence of payment of all related premiums, in which, among others, the Security Agent has been named as a loss-payee.

## Part III

### Conditions Precedent to Initial Utilisation for Facility B

- (a) Evidence that USD 20,000,000 has been fully contributed into the Borrower by the Parent which will be used towards the operation of the Project SZ2.

## Part IV

### Conditions Precedent to Utilisation of Facility B beyond 60% of the Total Facility B Commitments

- (a) The Certificate of Completion of Project SZ2.
- (b) A certified copy of valuation report in respect of the movable assets subject to the mortgage under the Movable Assets Mortgage Agreement (Project SZ2) issued by an appraiser acceptable to all Lenders and the market value of such movable assets in the valuation report shall not be less than RMB 106,000,000.
- (c) Original policies of Insurances in relation to Project SZ2 evidencing that the Insurances coverage satisfactory to all Lenders required pursuant to the terms of this Agreement, including, without limitation, copies of certificates of insurance, indicating the insured amount shall not be less than the Total Facility B Commitments or the replacement value of Project SZ2, whichever is higher, together with evidence of payment of all related premiums, in which, among others, the Security Agent has been named as a loss-payee.

## Part V

### Facility C Initial Conditions Precedent

#### 1. Obligor Parties

- (a) A copy of each document set out in paragraphs 1(a) to 1(c) and paragraph 1(f) of Part I (*Conditions precedent to initial Utilisation for all Facilities*) of Schedule 2 (*Conditions precedent and conditions subsequent*) or, if the Facility Agent already has a copy, a certificate of an authorised signatory of the Borrower, the Guarantor, GDS Suzhou or the Parent, as the case may be, confirming that the copy in the Facility Agent's possession is still correct, complete and in full force and effect as at a date no earlier than the date of the Amendment Agreement.
- (b) Certified copies of the following up-to-date constitutional documents of the Ultimate Parent:
  - (i) Certificate of Incorporation;
  - (ii) Memorandum of Association & Articles of Association;
  - (iii) Register of Directors;
  - (iv) Register of Members;
  - (v) Register of Mortgages and Charges; and
  - (vi) Certificate of Good Standing issued by the relevant authority in the Cayman Islands and dated as close to the proposed Facility C Utilisation Date in the Facility C Utilisation Request as possible, but in no event older than seven (7) days than the proposed Facility C Utilisation Date.
- (c) Certified copies of the following up-to-date constitutional documents of the Intermediate Parent:
  - (i) Certificate of Incorporation;
  - (ii) Memorandum of Association & Articles of Association;
  - (iii) Register of Directors;
  - (iv) Register of Members;
  - (v) Register of Mortgages and Charges; and
  - (vi) Certificate of Good Standing issued by the relevant authority in the Cayman Islands and dated as close to the proposed Facility C Utilisation Date in the Facility C Utilisation Request as possible, but in no event older than seven (7) days than the proposed Facility C Utilisation Date.

- (d) A certified copy of a resolution of the board of directors (in the case of the Ultimate Parent, the Intermediate Parent and the Parent) and a resolution of the shareholder (in the case of the Borrower, the Guarantor and GDS Suzhou);
- (i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute, deliver and perform the Finance Documents set out in the Section 2 (*Finance Documents*) below to which it is a party;

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- (ii) authorising a specified person or persons to execute the Finance Documents set out in the Section 2 (*Finance Documents*) below to which it is a party on its behalf;
- (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents set out in the Section 2 (*Finance Documents*) below to which it is a party; and
- (iv) in the case of the Ultimate Parent, resolving that it is in the best interests of that the Ultimate Parent to enter into the transactions contemplated by the Finance Documents set out in the Section 2 (*Finance Documents*) below to which it is a party.
- (e) A specimen of the signature of each person authorised by the resolution referred to in paragraph (d) above.
- (f) A copy of a resolution signed by all the holders of the issued preferred shares in the Ultimate Parent approving the terms of, and the transactions contemplated by the Ultimate Parent Guarantee and certain actions contemplated by the Finance Documents
- (g) A certificate of each Obligor Party (signed by an authorized signatory) confirming that borrowing or guaranteeing or securing, as appropriate, the Total Commitments (as amended by the Amendment Agreement) would not cause any borrowing, guarantee or security or similar limit binding on it to be exceeded.
- (h) A certificate of each Obligor Party (signed by an authorized signatory) certifying that each copy document relating to it specified in this Part V of Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of the Amendment Agreement.

## 2. Finance Documents

- (a) The following Finance Documents, each duly entered into by the parties to it:

- (i) the Amendment Agreement;
- (ii) the Facility C Fee Letters;
- (iii) the Supplemental Account Control Agreement;
- (iv) the Supplemental Pledge of Receivables (Borrower);
- (v) the Supplemental Pledge of Receivables (GDS Suzhou);
- (vi) the Supplemental Pledge of Receivables (Guarantor);
- (vii) the Supplemental Lease Assignment Agreement;
- (viii) the Supplemental Insurance Assignment Agreement (Project SZ1);
- (ix) the Supplemental Subordination Agreement;
- (x) the Supplemental Equity Pledge Agreement;
- (xi) the Supplemental Movable Assets Mortgage Agreement (Project SZ1);
- (xii) the Confirmatory Ultimate Parent Guarantee;

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- (xiii) the Confirmatory Share Mortgage Agreement;
- (xiv) the Amended and Restated Equity Pledge Agreement; and
- (xv) the Amended and Restated Movable Assets Mortgage Agreement (Project SZ1).

- (b) Each of the following documents, in a form mutually acceptable to each of the parties thereto but unsigned:

- (i) the Movable Assets Mortgage Agreement (Project SZ2);
- (ii) the Movable Assets Mortgage Agreement (Project SZ3);
- (iii) the Insurance Assignment Agreement (Project SZ2); and
- (iv) the Insurance Assignment Agreement (Project SZ3).

- (c) To the extent a Transaction Security Document requires, each of ancillary documents under that Transaction Security Document, duly executed and delivered by a person which is required to execute and deliver under that Transaction Security Document, including without limitation:

- (i) Evidence that the Notification Letter under the Supplemental Pledge of Receivables (Borrower), the Supplemental Pledge of Receivables (GDS Suzhou) and the Supplemental Pledge of Receivables (Guarantor) has been duly delivered to all customers under the Service Contracts in relation to the Project SZ3 existing as of the date of the first Facility C Utilization Request (except the Service Contracts under which the relevant customers have been required under that Service Contract to make payments to the Receiving Accounts under the Service Contracts), together with a list of customers to which the Notification Letters have been delivered;
- (ii) Pre-signed but undated Pledge Notices (as defined in the Pledge of Receivables (Borrower), the Pledge of Receivables (GDS Suzhou) and the Pledge of Receivables (Guarantor)) to all customers under the Service Contracts in respect of the Project SZ3 as required under the Supplemental Pledge of Receivables (Borrower), the Supplemental Pledge of Receivables (GDS Suzhou) and the Supplemental Pledge of Receivables (Guarantor);
- (iii) Evidence that the Pledge Notices under the Supplemental Pledge of Receivables (Borrower) have been delivered to GDS Suzhou and the Guarantor in respect of the Back-to-Back Agreement (GDS Suzhou-SZ3) and the Back-to-Back Agreement (Guarantor-SZ3), and GDS Suzhou and the Guarantor has acknowledged such Pledge Notice;
- (iv) A pre-signed but undated Assignment Notice (as defined in the Lease Assignment Agreement) to the Landlord under the Lease Agreement of Project SZ3 as required under the Supplemental Lease Assignment Agreement; and
- (v) Evidence that the Maintenance Notice (as defined in the Lease Assignment Agreement) has been duly delivered by the Borrower to the Landlord in respect of the Project SZ3 as required under the Supplemental Lease Assignment Agreement.

## 3. Legal opinions

- (a) A legal opinion in relation to PRC law from Jun He Law Offices, addressed to the Finance Parties.
- (b) A legal opinion as to Hong Kong law from Allen & Overy addressed to the Finance Parties.
- (c) A legal opinion in relation to Cayman law from Walkers, addressed to the Finance Parties.

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#### 4. Other documents and evidence

- (a) Evidence that the account receivables pledges under the Supplemental Pledge of Receivables (Borrower), the Supplemental Pledge of Receivables (GDS Suzhou) and the Supplemental Pledge of Receivables (Guarantor) have been registered with PBOC Information Center.
- (b) A certified copy of the updated register of mortgages and charges maintained by the Intermediate Parent reflecting the particulars as required by the Companies Law (as amended) of the Cayman Islands of the security interest created pursuant to the Confirmatory Share Mortgage Agreement.
- (c) Evidence that the Project SZ3 has met the capital ratio requirement under the applicable Governmental Rules.
- (d) A copy of Budget (reflecting the Project SZ3 related figures) for the Financial Year ending 31 December 2016 as approved by the Facility Agent.
- (e) Evidence that the Facility C Loan Disbursement Account has been established with the Account Bank.
- (f) Evidence that the amount standing credit to the Debt Service Reserve Account is not less than the Debt Service Reserve Amount (as amended pursuant to the Amended Facility Agreement).
- (g) Evidence that an amount of USD 11,100,000 has been fully contributed into the Borrower by the Parent as increased capital which will be used towards the operation of the Project SZ3.
- (h) Certified copies of the Lease Agreements in respect of Project SZ3.
- (i) A certified copy of the latest IDC License.
- (j) A certified copy of the Back-to-Back Agreement (GDS Suzhou-SZ3) and the Back-to-Back Agreement (Guarantor-SZ3).
- (k) A certified copy of the updated Business Plan reflecting the projections of Project SZ1, Project SZ2 and Project SZ3 and evidencing, among others, (1) the minimum cash balance of the Borrower is not less than USD 10,000,000.00, (2) the minimum DSCR is not less than 125%, and (3) the average DSCR is not less than 130%.
- (l) Evidence that stamp duties payable by the Borrower in respect of the Amendment Agreement that have been entered into before the first Facility C Utilisation Date have been paid in full.
- (m) Evidence that all fees, costs or expenses in relation to the Facility C then due from the Borrower under the Amended Facility Agreement have been paid in full.
- (n) A copy of any other Authorisation or other document, opinion or assurance which the Facility Agent reasonably considers to be necessary or desirable (if it has notified the Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.

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### Part VI

#### CONDITIONS PRECEDENT TO UTILISATION OF FACILITY C BEYOND 70% OF THE TOTAL FACILITY C COMMITMENTS

- (a) The Certificate of Completion of the Project SZ3.
- (b) A certified copy of valuation report in respect of the movable assets subject to the mortgage under the Movable Assets Mortgage Agreement (Project SZ3) issued by an appraiser acceptable to all Lenders and the market value of such movable assets in the valuation report shall not be RMB 50,000,000.
- (c) Original policies of Insurances in relation to the Project SZ3 evidencing that the Insurances coverage satisfactory to all Lenders required pursuant to the terms of this Amended Facility Agreement, including, without limitation, copies of certificates of insurance, indicating the insured amount shall not be less than the Total Facility C Commitments or the replacement value of the Project SZ3, whichever is higher, together with evidence of payment of all related premiums, in which, among others, the Security Agent has been named as a loss-payee.

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### Part VII

#### Conditions Subsequent

#### 1. Notification Letters

Within 60 days after the date of this Agreement, each Obligor (other than the Ultimate Parent) shall, if there is any new Service Contract after the date of the first Utilisation Request, within 7 days upon signing of any new Service Contracts, provide to the Facility Agent with documents evidencing that the Notification Letters have been delivered to all customers under the Service Contracts existing at that time, except for the Service Contracts in which the relevant customers have been required under that Service Contract to make payments under the Service Contracts to the Receiving Accounts.

#### 2. Updated List of Customers

The Borrower, GDS Suzhou and the Guarantor shall,

- (a) on or before the date falling 30 days after the date of this Agreement, provide to the Facility Agent a list of customers who have not agreed to comply with or, have not paid amounts under the Service Contracts into the relevant Receiving Account in accordance with, the Notification Letters which have been delivered to them pursuant to the Finance Documents; and
- (b) on or before the date falling 60 days after the date of this Agreement, provide to the Facility Agent a list of customers who have not agreed to comply with or, have not paid amounts under the Service Contracts into the relevant Receiving Account in accordance with, the Notification Letters which have been delivered to them pursuant to the Finance Documents.

#### 3. Contract Novation

GDS Suzhou and the Guarantor shall, within 6 Months after the date of this Agreement, provide to the Facility Agent documents acceptable to all Lenders evidencing that all obligations and rights of GDS Suzhou under the GDS Suzhou Service Contracts that represent at least 95% Contract Value of all GDS Suzhou Service Contracts have been novated to the Guarantor.

#### 4. Equity Pledge Agreement

The Borrower shall, within 75 days after the date of the Amendment Agreement (or any longer period as agreed by the Security Agent), provide the Facility Agent with the documents evidencing that the Equity Pledge Agreement and the Supplemental Equity Pledge Agreement have been approved by the MOFCOM and registered with the SAIC.

#### 5. Movable assets mortgage of Project SZ1

The Borrower shall, within 120 days after the date of the Amendment Agreement, obtain the approval from Custom in respect of the movable assets mortgage under the Movable Assets Mortgage Agreement (Project SZ1) and complete movable assets mortgage registration under the Movable Assets Mortgage Agreement (Project SZ1) with SAIC, and provide to the Security Agent a certified copy of the Custom approval and an original movable assets mortgage certificate (□□□□□□) or any other original certificates evidencing the completion of movable assets mortgage registration under the Movable Assets Mortgage Agreement (Project SZ1).

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#### 6. Movable assets mortgage of Project SZ2

The Borrower shall:

- (a) within 5 days after the Project SZ2 Completion Date, provide to the Facility Agent the Movable Assets Mortgage Agreement (Project SZ2) duly executed by each party to it;
- (b) within 120 days after the date of Movable Assets Mortgage Agreement (Project SZ2), obtain the approval from Custom in respect of the movable assets mortgage under the Movable Assets Mortgage Agreement (Project SZ2) and complete movable assets mortgage registration under the Movable Assets Mortgage Agreement (Project SZ2) with SAIC, and provide to the Security Agent a certified copy of the Custom approval and an original movable assets mortgage certificate (□□□□□□) or any other original certificates evidencing the completion of movable assets mortgage registration under the Movable Assets Mortgage Agreement (Project SZ2);

- (c) within 5 days after the Project SZ2 Completion Date, provide to the Facility Agent a certified copy of valuation report in respect of the movable assets subject to the mortgage under the Movable Assets Mortgage Agreement (Project SZ2) issued by an appraiser acceptable to all Lenders; and
- (d) within 5 days after the completion of movable assets mortgage registration as required under paragraph (b) above, provide or cause to be provided to the Facility Agent a legal opinion in respect of the execution of the Movable Assets Mortgage Agreement (Project SZ2) and the registration of movable assets mortgage thereunder.

**7. Movable assets mortgage of Project SZ3**

The Borrower shall:

- (a) within 5 days after the Project SZ3 Completion Date, provide to the Facility Agent the Movable Assets Mortgage Agreement (Project SZ3) duly executed by each party to it;
- (b) within 120 days after the date of Movable Assets Mortgage Agreement (Project SZ3), obtain the approval from Custom in respect of the movable assets mortgage under the Movable Assets Mortgage Agreement (Project SZ3) and complete movable assets mortgage registration under the Movable Assets Mortgage Agreement (Project SZ3) with SAIC, and provide to the Security Agent a certified copy of the Custom approval and an original movable assets mortgage certificate (□□□□□□) or any other original certificates evidencing the completion of movable assets mortgage registration under the Movable Assets Mortgage Agreement (Project SZ3);
- (c) within 5 days after the Project SZ3 Completion Date, provide to the Facility Agent a certified copy of valuation report in respect of the movable assets subject to the mortgage under the Movable Assets Mortgage Agreement (Project SZ3) issued by an appraiser acceptable to all Lenders; and
- (d) within 5 days after the completion of movable assets mortgage registration as required under paragraph (b) above, provide or cause to be provided to the Facility Agent a legal opinion in

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respect of the execution of the Movable Assets Mortgage Agreement (Project SZ3) and the registration of movable assets mortgage thereunder.

**8. Insurances of Project SZ2**

The Borrower shall within 30 days after the Project SZ2 Completion Date provide to the Facility Agent:

- (a) the Insurance Assignment Agreement (Project SZ2) duly executed by each party to it;
- (b) original policies of Insurances in relation to Project SZ2 evidencing that the Insurances coverage satisfactory to all Lenders required pursuant to the terms of this Agreement, including, without limitation, copies of certificates of insurance, together with evidence of payment of all related premiums, in which, among others, the Security Agent has been named as a loss-payee.

**9. Insurances of Project SZ3**

The Borrower shall within 30 days after the Project SZ3 Completion Date provide to the Facility Agent:

- (a) the Insurance Assignment Agreement (Project SZ3) duly executed by each party to it;
- (b) original policies of Insurances in relation to Project SZ3 evidencing that the Insurances coverage satisfactory to all Lenders required pursuant to the terms of this Agreement, including, without limitation, copies of certificates of insurance, together with evidence of payment of all related premiums, in which, among others, the Security Agent has been named as a loss-payee.

**10. Financial statements**

The Borrower shall on or before 31 October 2015, provide or cause to be provided to the Facility Agent an audited consolidated financial statement of the Group for the Financial Year ending 31 December 2014 which has been reviewed and verified by an independent auditor acceptable to all Lenders.

**11. VIE Restructuring**

The Guarantor and GDS Suzhou shall, within 9 Months after the date of this Agreement:

- (a) complete the VIE Restructuring and provide an updated Group Structure Chart to the Facility Agent;
- (b) provide to the Facility Agent an approval from MIIT on the VIE Equity Transfer and (if applicable) an updated IDC License after the VIE Equity Transfer; and
- (c) provide to the Facility Agent the duly signed New VIE Contracts and documents evidencing the registration of equity pledge under the VIE Equity Pledge (William Huang) and VIE Equity Pledge (Qiuping Huang) has been duly registered with SAIC.

**12. Account**

Within fourteen (14) days after the date of this Agreement, the Borrower shall provide the Facility Agent the evidence that the Debt Service Accrual Account has been established with the Account Bank.

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**13. Capital Verification Report**

Within five (5) days after the first Facility C Utilisation Date, the Borrower shall provide the Facility Agent the original capital verification report evidence that an amount of USD 11,100,000 has been fully contributed into the Borrower by the Parent as increased capital.

**14. Project SZ3 Contractor Agreement**

On or before 20 March 2016, the Borrower shall provide the Facility Agent a certified copy of the Contractor Agreement in respect of the Project SZ3.

**15. Inter-company Loan**

On or before 31 March 2016, the Borrower shall provide the Facility Agent the evidence that a RMB 23,000,000 inter-company loan has been received by the Borrower from GDS Suzhou under the GDS Suzhou Inter-company Loan Agreement.

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**SCHEDULE 3  
UTILISATION REQUEST**

From: □□□□□□□□□□□□ (SHENZHEN YUNGANG EDC TECHNOLOGY CO., LTD.)

To: [Facility Agent]

Dated:

Dear Sirs

□□□□□□□□□□□□ (SHENZHEN YUNGANG EDC TECHNOLOGY CO., LTD.) — RMB 430,000,000 Facility Agreement dated 17 September 2015 as amended and restated by the Amendment Agreement dated 4 March 2016 and further amended and restated on 5 August 2016 (the "Facility Agreement")

1. We refer to the Facility Agreement. This is a Utilisation Request. Terms defined in the Facility Agreement shall have the same meaning in this Utilisation Request.

2. We wish to borrow a Loan on the following terms:

Proposed Utilisation Date: [ ] (or, if that is not a Business Day, the next Business Day)

Facility to be utilised: [Facility A]/[Facility B]/[Facility C] (*delete if not relevant*)  
Currency of Loan: RMB  
Amount: [ ] or, if less, the Available Facility  
First Interest Period: [ ]  
Loan Disbursement Account: [ ]  
Loan purpose: [ ]

3. [For the purpose of the Consigned Disbursement, the proceeds of the Requested Loan should be credited to [the account in name of the applicable payee] through the Loan Disbursement Account.] (*delete if not relevant*)
4. [For the purpose of the Consigned Disbursement, we hereby confirm that we irrevocably and unconditionally authorise the Facility Agent to authorise the Account Bank to debit the Loan Disbursement Account for the transfer of funds in the amounts and to the accounts specified in paragraph 3 above.] (*delete if not relevant*)
5. [For the purpose of the Consigned Disbursement, we enclose with this Utilisation Request the evidence required to be submitted by us pursuant to Clause 5.2 (*Completion of a Utilisation Request*) of the Agreement.] (*delete if not relevant*)

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6. We confirm that each condition specified in Clause 4.3 (*Further conditions precedent*) is satisfied on the date of this Utilisation Request.
7. This Utilisation Request is irrevocable.

Yours faithfully

\_\_\_\_\_  
authorised signatory for  
████████████████████ (SHENZHEN YUNGANG EDC TECHNOLOGY CO., LTD.)  
(Company Chop)

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#### SCHEDULE 4 FORM OF TRANSFER CERTIFICATE

To: [ ] as Facility Agent and [ ] as Security Agent  
From: [*The Existing Lender*] (the "**Existing Lender**") and [*The New Lender*] (the "**New Lender**")  
Dated:

████████████████████ (SHENZHEN YUNGANG EDC TECHNOLOGY CO., LTD.) — RMB 430,000,000 Facility Agreement  
dated 17 September 2015 as amended and restated by the Amendment Agreement dated 4 March 2016 and further amended and restated on 5 August 2016 (the "**Facility Agreement**")

1. We refer to Clause 26.5 (*Procedure for transfer*) of the Facility Agreement. This is a Transfer Certificate. Terms used in the Facility Agreement shall have the same meaning in this Transfer Certificate.
2. The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation, and in accordance with Clause 26.5 (*Procedure for transfer*), all of the Existing Lender's rights and obligations under the Facility Agreement and the other Finance Documents which relate to that portion of the Existing Lender's Commitment(s) and participations in Loans under the Facility Agreement as specified in the Schedule.
3. The proposed Transfer Date is [ ].
4. The Facility Office and address, fax number and attention particulars for notices of the New Lender for the purposes of Clause 34.2 (*Addresses*) are set out in the Schedule.
5. The New Lender expressly acknowledges:
- (a) the limitations on the Existing Lender's obligations set out in paragraphs (a) and (c) of Clause 26.4 (*Limitation of responsibility of Existing Lenders*); and
- (b) that it is the responsibility of the New Lender to ascertain whether any document is required or any formality or other condition requires to be satisfied to effect or perfect the transfer contemplated by this Transfer Certificate or otherwise to enable the New Lender to enjoy the full benefit of each Finance Document.
6. The New Lender confirms that it is a "New Lender" within the meaning of Clause 26.1 (*Assignments and transfers by the Lenders*).
7. The Existing Lender and the New Lender confirm that the New Lender is not an Obligor or an Affiliate of an Obligor.
8. This Transfer Certificate 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 this Transfer Certificate.
9. This Transfer Certificate and all obligations arising from or in connection with this Transfer Certificate are governed by PRC law.

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10. This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate.

**Note:** The execution of this Transfer Certificate may not transfer a proportionate share of the Existing Lender's interest in the Transaction Security in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Lender's Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

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#### THE SCHEDULE

##### Commitment/rights and obligations to be transferred, and other particulars

##### Commitment/participation(s) transferred

Drawn Loan(s) participation(s) amount(s): [ ]  
Available Commitment amount: [ ]

##### Administration particulars:

New Lender's receiving account: [ ]  
Address: [ ]  
Telephone: [ ]  
Facsimile: [ ]

[the Existing Lender]

[the New Lender]

By:

By:

This Transfer Certificate is executed by the Facility Agent and the Transfer Date is confirmed as [ ].

[the Facility Agent]

By:

**Note:** It is the New Lender's responsibility to ascertain whether any other document is required, or any formality or other condition is required to be satisfied, to effect or perfect the transfer contemplated in this Transfer Certificate or to give the New Lender full enjoyment of all the Finance Documents.

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**SCHEDULE 5  
FORM OF COMPLIANCE CERTIFICATE**

To: [ ] as Facility Agent

From: ████████████████████ (SHENZHEN YUNGANG EDC TECHNOLOGY CO., LTD.)

Dated:

Dear Sirs

████████████████████ (SHENZHEN YUNGANG EDC TECHNOLOGY CO., LTD.) — RMB 430,000,000 Facility Agreement  
dated 17 September 2015 as amended and restated by the Amendment Agreement dated 4 March 2016 and further amended and restated on 5 August 2016 (the "Facility Agreement")

1. We refer to the Facility Agreement. This is a Compliance Certificate. Terms used in the Facility Agreement shall have the same meaning in this Compliance Certificate.

2. We confirm that:

- (a) in respect of the Relevant Period ending on [ ], Cashflow for the Relevant Period was [ ] and Debt Service for the Relevant Period was [ ]. Therefore the DSCR for such Relevant Period was [ ]:1 and the financial covenant contained in paragraph (a) of Clause 22.2 (*Financial conditions*) [has/has not] been complied with.
- (b) on the last day of the Relevant Period ending on [ ], Total Debt was [ ] and EBITDA for such Relevant Period was [ ]. Therefore the Gross Leverage Ratio for such Relevant Period was [ ]:1 and the financial covenant contained in paragraph (b) of Clause 22.2 (*Financial conditions*) [has/has not] been complied with.
- (c) on the last day of the Relevant Period ending on [ ], Total Net Debt was [ ] and Contributed Equity on such day was [ ]. Therefore the DER for such Relevant Period was [ ]:1 and the financial covenant contained in paragraph (c) of Clause 22.2 (*Financial conditions*) [has/has not] been complied with.
- (d) in respect of the Relevant Period ending on [ ], Cashflow for such Relevant Period was [ ] and Net Finance Charges for such Relevant Period were [ ]. Therefore the ICR for such Relevant Period was [ ]:1 and the financial covenant contained in paragraph (d) of Clause 22.2 (*Financial conditions*) [has/has not] been complied with.
- (e) [Capital Expenditure of [Project SZ1]/[Project SZ2]/[Project SZ3] for the Financial Year of the Borrower ending on [ ] was [ ], therefore Capital Expenditure of [Project SZ1]/[Project SZ2]/[Project SZ3] during such Financial Year [was/was not] in excess of [ ] and the covenant contained in paragraph (e) of Clause 22.2 (*Financial covenants*) [has/has not] been complied with.]

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(f) [Excess Cashflow for the Financial Year of the Borrower ending [ ] was [ ], therefore the Excess Cashflow to be applied in prepayment pursuant to Clause 8.6 (*Excess Cashflow*) will be [ ].]

(g) on the last day of the Relevant Period ending on [ ], Total Net Debt was [ ] and EBITDA for such Relevant Period was [ ]. Therefore the Leverage Ratio for such Relevant Period was [ ]:1.

3. [We confirm that no Default is continuing.]

4. [We refer to Clause [ ] (For the avoidance of doubt, no Flotation may occur in respect of any member of the Group). We confirm amount of [Disposal Proceeds]/[Insurance Proceeds]/[Compensation] is [ ]. We confirm that the amount of [Excluded Disposal Proceeds]/[Excluded Insurance Proceeds] is [ ], and that the specific purpose for which it was intended to be used is [ ]. We confirm that such amount of [Excluded Disposal Proceeds]/[Excluded Insurance Proceeds] has been used for that specific purpose and within the applicable period in the manner contemplated by this Agreement.]

Signed:

\_\_\_\_\_  
Authorized Signatory  
of  
[Company]

\* If this statement cannot be made, the certificate should identify any Default that is continuing and the steps, if any, being taken to remedy it.

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**SCHEDULE 6  
FORM OF ACCESSION LETTER**

To: [ ] as Facility Agent and [ ] as Security Agent

From: [Hedging Providers]

Dated:

Dear Sirs

████████████████████ (SHENZHEN YUNGANG EDC TECHNOLOGY CO., LTD.) — RMB 430,000,000 Facility Agreement  
dated 17 September 2015 as amended and restated by the Amendment Agreement dated 4 March 2016 and further amended and restated on 5 August 2016 (the "Facility Agreement")

1. We refer to the Facility Agreement. This is an Accession Letter. Terms defined in the Facility Agreement have the same meaning in this Accession Letter unless given a different meaning in this Accession Letter.

2. We, [name of new Hedging Provider] of [address/registered office], agree to become a Hedging Provider under the Facility Agreement and to be bound by the terms of the Agreement as a Hedging Provider. We are a company duly incorporated under the laws of [name of relevant jurisdiction].

3. [Hedging Provider's] administrative details are as follows:

Address:

Fax No:

Attention:

Telephone No:

4. This Accession Letter, and all obligations arising from or in connection with this Accession Letter are governed by PRC law.

[Hedging Provider]

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

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## SCHEDULE 7 INSURANCES

### 1. Insurance Requirements

Unless each Lender otherwise agrees, the Borrower (or any person on its behalf) shall, to the extent such insurances are available on commercially reasonable terms:

- (a) insure and keep insured, with financially sound and reputable insurers and reinsurers approved by each Lender, all its assets and business which can be insured against all insurable losses to include, without limitation, the insurances specified in this Schedule 7 (*Insurances*);
- (b) promptly following the receipt of a notice by any Lender or the Facility Agent from time to time, obtain such additional insurance coverage of risks or liabilities that are not specified in this Schedule 7 (*Insurances*) as would from time to time be obtained by a prudent internet data center company which does not self-insure and which shall be in such amounts and with such deductibles as are specified in that notice;
- (c) promptly following the receipt of a notice by the Lenders or the Facility Agent from time to time, obtain such additional insurance(s) or make such modifications to the terms, conditions, amounts or deductibles of any insurance policy required pursuant to paragraphs 1(a) and 1(b) above as the Facility Agent may reasonably determine and specify in that notice to be necessary so as to cover any material change in the identified risk exposure of the Borrower, its business or assets; and
- (d) promptly following the receipt of a notice by the Facility Agent from time to time pursuant to the terms of proviso (i) of this paragraph 1, make such modifications to the amounts and deductibles of any insurance policy required to be obtained under this Agreement as the Facility Agent specifies in that notice to take account of inflationary and other relevant factors,

provided always that:

- (i) the Facility Agent (acting reasonably) shall be entitled from time to time to review, in consultation with the Borrower, the monetary limits and deductibles of each policy required to be obtained under this Agreement, such review not to be conducted more frequently than once every calendar year with respect to each policy; and
- (ii) if at any time and for any reason any insurance required to be maintained under this Agreement shall not be in full force and effect or otherwise the Borrower fails to comply with any of the requirements in this paragraph 1, the Facility Agent (acting reasonably) shall thereupon, or at any time while the same is continuing, be entitled (but have no such obligation) on behalf of the Lenders to procure such insurance or, as the case may be, the fulfilment of the relevant requirement at the expense of the Borrower and to take all such steps to minimise hazard as the Facility Agent may consider expedient or necessary.

### 2. Insurance Provisions

Each insurance policy required to be obtained pursuant to paragraph 1 above shall be on terms and conditions acceptable to the Facility Agent (acting reasonably) and, to the extent it is commercially viable, contain cut-through provisions, where required, together with provisions to the effect that:

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- (a) no policy can expire or be cancelled or suspended by the Borrower, or the insurer for any reason (including failure to renew the policy or to pay the premium or any other amount) unless the Facility Agent and, in the case of expiration or if cancellation or suspension is initiated by the insurer, the Borrower receives at least 45 days' notice (or such lesser period as the Facility Agent may agree with respect to cancellation, suspension or termination in the event of war and kindred peril) prior to the effective date of termination, cancellation or suspension;
- (b) the Security Agent (on behalf of the Secured Parties) is named as additional insured party on all liability policies;
- (c) where relevant, all its provisions (except those relating to limits of liability) shall operate as if they were a separate policy covering each insured party;
- (d) on every insurance policy on the Borrower's assets which are the subject of the security granted pursuant to the Transaction Security Documents and on every insurance policy for business interruption, the Security Agent (on behalf of the Secured Parties) is named as loss payee;
- (e) where relevant, the insurers waive all rights of recourse or subrogation, howsoever arising, against the Borrower; and
- (f) all provisions of each insurance policy conferring any right, protection or benefit to the Secured Parties (including, without limitation, loss payee and additional named insured provisions, notice requirements, etc.) shall at all times remain in full force and in effect notwithstanding any act or failure to act on the part of the Borrower, its respective agents or employees or on the part of its respective contractors or subcontractors,

provided that none of the policies required pursuant to paragraph 1 above shall include any provision for self-insurance or any self-insured retention except to the extent of the deductibles specified in this Schedule 7 (*Insurances*) or as each Lender otherwise approves from time to time.

### 3. Borrower's Undertakings

The Borrower shall (and shall procure that any other person will, in respect of insurance policies maintains by such other person on behalf of the Borrower):

- (a) punctually pay any premium, commission and any other amounts necessary for effecting and maintaining in force each insurance policy;
- (b) promptly notify the relevant insurer of any event entitling the Borrower to make a claim under any policy written by that insurer and diligently pursue that claim;
- (c) comply with all warranties under each policy of insurance;
- (d) not do or omit to do, or permit to be done or not done, anything which might:
  - (i) render any insurance policy, or any provision of that policy, obtained pursuant to this Schedule 7 (*Insurances*) void or voidable or lead to its suspension or impair or defeat any such policy in whole or in part; or
  - (ii) prejudice the Borrower's or, where the Security Agent is a loss payee or an additional named insured, the Security Agent's right to claim or recover under any insurance policy;

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- (e) not vary, rescind, terminate, cancel or cause a material change to any insurance policy;
- (f) procure that each insurer under all insurance policies obtained pursuant to paragraph 1 above:
  - (i) is promptly notified of the security interests, created in favour of the Secured Parties pursuant to the Transaction Security Documents in the Borrower's title to, and rights, interest and benefits under, such policies;
  - (ii) (A) notes on each such policy, in form and substance satisfactory to each Secured Party, the Secured Parties' interest in that policy pursuant to the Transaction Security Documents and (B) deposits each such policy with its brokers;
  - (iii) together with the relevant brokers, notifies the Secured Parties of the issuance of any notice of cancellation or suspension or modification of the relevant policy and of any fact of which they become aware that could affect the coverage under that policy; and



(iv) acknowledges that the Secured Parties, as beneficiaries under the relevant policy and the Transaction Security Documents, are not liable to the insurers or reinsurers for the payment of any insurance or reinsurance premiums nor for any other obligations of the Borrower;

(g) use its best efforts to ascertain that payments of reinsurance, if any, premiums under reinsurance policies of insurances required to be maintained by the Borrower pursuant to paragraph 1 above are paid in a timely manner and promptly inform the Security Agent when it becomes aware that any such premiums have not been paid.

**4. Application of Proceeds**

- (a) The Borrower shall cause all proceeds from an Insurance claim (other than the Excluded Insurance Proceeds) to be directly applied towards the prepayment of the Loans in accordance with Clause 8.5 (Insurance proceeds) of this Agreement;
- (b) If the proceeds from an Insurance claim received by or payable to the Borrower is RMB 10,000,000 or less, such proceeds shall constitute the Excluded Insurance Proceeds, and shall be applied towards the replacement, reinstatement and/or repair of the assets or otherwise in amelioration of the loss in respect of which the relevant insurance claim was made within 6 months after receipt.

**5. Reporting Requirements**

Unless the Facility Agent otherwise agrees, the Borrower shall (and shall procure that any other person will, in respect of insurance policies maintains by such other person on behalf of the Borrower) provide to the Facility Agent the following:

- (a) as soon as possible after its occurrence, notice of any event which entitles the Borrower to claim under any one or more insurance policies;
- (b) within 30 days after any insurance policy is issued to the Borrower, a copy of that policy incorporating any loss payee provisions required under paragraph 2(d) above;
- (c) within 30 days after any notice has been given by the Facility Agent to the Borrower pursuant to paragraph 1(c) and paragraph 1(d) above, a copy of any additional insurance obtained, or modification of any existing policy made, pursuant to that notice;

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- (d) not less than ten Business Days prior to the expiry date of any insurance policy (or, for insurance with multiple renewal dates, not less than ten Business Days prior to the expiry date of the policy on the principal asset), a certificate of renewal from the insurer, insurance broker or agent confirming the renewal of that policy and the renewal period, the premium, the amounts insured for each asset or item and any changes in terms or conditions from the policy's issue date or last renewal, and confirmation from the insurer that provisions naming the Security Agent (on behalf of the Secured Parties) as loss payee or additional named insured, as applicable remain in effect;
- (e) such evidence of premium payment as the Facility Agent may from time to time request;
- (f) any cancellation, written notice of threatened or potential cancellation or material change in the terms, coverage or amounts of any insurance policy required to be maintained pursuant to this Schedule 7 (Insurances); and
- (g) any other information or documents on each insurance policy as the Facility Agent reasonably requests from time to time.

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**SCHEDULE 8  
LIST OF EXISTING ACCOUNTS**

No.	Account No.	Account Opening Bank	Targeted Timeline for Closure of the Existing Accounts	Status (as the date of the Amendment Agreement)
1.	41010900040025925	Agricultural Bank of China, North Renmin RD Branch (Shenzhen)	N/A	N/A
2.	41010900040025974	Agricultural Bank of China, North Renmin RD Branch (Shenzhen)	Within 3 Months after the date of this Agreement	Closed
3.	4000025319200465971	Industrial & Commercial Bank of China, Chegongmiao Branch (Shenzhen)	Within 3 Months after the date of this Agreement	Closed
4.	4000025329200466034	Industrial & Commercial Bank of China, Chegongmiao Branch (Shenzhen)	Within 3 Months after the date of this Agreement	Closed
5.	7441010182600361573	China CITIC Bank, Shenzhen Branch	On or before 15 April 2016	To be closed
6.	7441011482600035387	China CITIC Bank, Shenzhen Branch	Within 6 Months after the date of this Agreement	Closed
7.	32001617160052508842	China Construction Bank, Luoshe Branch (Wuxi)	On or before 30 June 2016	To be closed
8.	70010122002036663	Ningbo Bank, Shanghai Branch	Within 3 Months after the date of this Agreement	Closed

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**SCHEDULE 9  
LIST OF EXISTING DEFERRED PAYMENT**

Vendor Name	Contract Content	Financing Amount (RMB)	Ending Day	Status(as the date of the Amendment Agreement)
<b>Project SZ 1</b>				
████████████████████	██████	1,240,020.00	2016/11/30	Paid
████(██)██████████	PDU 2F*3F	1,330,000	2015/11/22	Paid
████(██)██████████	PDU 2F*3F ██████	112,610	2015/11/22	Paid
████(██)██████████	2F&3F██████████	2,812,296	2015/12/22	Paid
████(██)██████████	4F&6F████	6,880,000	2016/9/21	Paid
████(██)██████████	4F&6F UPS████	6,268,328	2016/4/4	To be paid
████(██)██████████	UPS-████15█	8,493,682	2015/9/23	Paid
████████████████████	██████	23,265,000.00	2019/1/30	Paid
████████████████████	██████	15,264,000.00	2019/6/29	Paid
<b>Project SZ 2</b>				
██████████	████████████████████	100,000,000.00	2017/7/31	To be paid
<b>Total</b>		<b>165,665,936.69</b>		

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**SIGNATORIES**

**Borrower**

████████████████████ (SHENZHEN YUNGANG EDC TECHNOLOGY CO., LTD.)

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

**GDS HOLDINGS LIMITED**

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

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**GDS Suzhou**

GLOBAL DATA SOLUTIONS CO., LTD.)

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

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**Guarantor**

BEIJING WANGUO CHANGAN TECHNOLOGY CO., LTD.)

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

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**Mandated Lead Arranger**

CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK (CHINA) LIMITED)

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

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**Mandated Lead Arranger**

UNITED OVERSEAS BANK (CHINA) LIMITED, SHENZHEN BRANCH)

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

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**Account Bank**

UNITED OVERSEAS BANK (CHINA) LIMITED, SHENZHEN BRANCH)

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

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**Facility Agent**

UNITED OVERSEAS BANK (CHINA) LIMITED, SHENZHEN BRANCH)

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

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**Security Agent**

UNITED OVERSEAS BANK (CHINA) LIMITED, SHENZHEN BRANCH)

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

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**Original Lender**

Credit Agricole Corporate and Investment Bank (China) Limited Shanghai Branch)

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

**Original Lender**

□□□□(□□)□□□□□□□□ (UNITED OVERSEAS BANK (CHINA) LIMITED, SHENZHEN BRANCH)

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

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**GDS HOLDINGS LIMITED**  
**SIXTH AMENDED AND RESTATED**  
**MEMBERS AGREEMENT**

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May 19, 2016

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**GDS HOLDINGS LIMITED**  
**SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

This Sixth Amended and Restated Members Agreement (the "**Agreement**") is made as of May 19, 2016 by and among GDS Holdings Limited, a company organized and existing under the laws of the Cayman Islands (the "**Company**") and the shareholders of the Company (which shall comprise of the Series A Shareholders, Series B Shareholders, the Series A\* Shareholders, the Series B1 Shareholders, the Series B2 Shareholders, the Series B4 Shareholder, the Series B5 Shareholder, the Key Founders, the Series C Shareholder and the Other Shareholders) (each as defined below).

**RECITALS**

- A. The Company, the Series C Shareholder, other Preferred Shareholders, the Key Founders and the Best Million Group Limited, entered into a Fifth Amended and Restated Members Agreement on December 18, 2014 (the "**Original Agreement**").
- B. Brilliant Wise Holdings Limited ("**Brilliant Wise**") has agreed to repurchase certain shares of Brilliant Wise held by its shareholders and in consideration, Brilliant Wise shall transfer all the shares held by Brilliant Wise in the Company to the shareholders of Brilliant Wise in accordance with the terms and conditions of a Share Swap Agreement entered into by and among the Company, Brilliant Wise Holdings Limited and the shareholders of Brilliant Wise Holdings Limited on May 19, 2016 (the "**Share Swap Agreement**").
- C. Best Million Group Limited has agreed to transfer certain number of shares held by Best Million Group Limited in the Company to Fortune Million International Corporation and Linmax Asia Limited (the "**Share Transfer**").
- D. Upon completion of the Share Transfer and the transaction contemplated by the Share Swap Agreement, Brilliant Wise Holdings Limited shall no longer be shareholder of the Company, and whereas certain Persons, which include, EDC Group Limited, GDS Enterprises Limited, SBDG Investment Limited, Ofira Capital Limited, Fortune Million International Corporation and Linmax Asia Limited shall become new shareholders of the Company, and, the parties hereto desire to enter into this Agreement, which shall amend, restate and supersede the Original Agreement in its entirety.

NOW, THEREFORE, in consideration of the foregoing premises and certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

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**1. Definitions**

**1.1 Certain Defined Terms.** As used in this Agreement, the following terms shall have the following respective meanings:

"**Affiliate**" shall mean, in respect of a Person, any other Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person, and (i) in the case of a natural person, shall include, without limitation, such Person's spouse, parents, children, siblings, mother-in-law and father-in-law and brothers and sisters-in-law, (ii) in the case of a Preferred Shareholder, shall include (A) any Person who holds shares as a nominee for such Preferred Shareholder, (B) any shareholder of such Preferred Shareholder, (C) any Person which has a direct and indirect interest in such Preferred Shareholder (including, if applicable, any general partner or limited partner) or any fund manager thereof; (D) any Person that directly or indirectly controls, is controlled by, under common control with, or is managed by such Preferred Shareholder or its fund manager, (E) the relatives of any individual referred to in (B) above, and (F) any trust controlled by or held for the benefit of such individuals. For the purpose of this definition, "control" (and correlative terms) shall mean the direct or indirect power, whether by contract, equity ownership or otherwise, to direct the policies or management of a Person; *provided* that the direct or indirect ownership of twenty-five percent (25%) or more of the voting power of a Person is deemed to constitute control of that Person.

"**Articles**" shall mean the Company's Articles of Association, as amended from time to time.

"**Audit Committee**" shall have the meaning as defined in Section 2.11(b).

"**Board**" and "**Board of Directors**" shall mean the Board of Directors of the Company.

"**Business**" shall have the meaning as defined in Section 2.14(b).

"**Business Day**" shall have the meaning as defined in the Articles.

"**Buyer**" shall have the meaning as defined in Section 2.5.

"**CEO**" shall mean the chief executive officer of the Company.

"**Claim Notice**" shall have the meaning as defined in Section 3.10(c).

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"**Closing**" shall mean completion of the Share Transfer and the transaction contemplated by the Share Swap Agreement.

"**Code**" shall mean the Internal Revenue Code of 1986, U.S.A. as amended from time to time.

"**Commission**" shall mean the United States Securities and Exchange Commission or any other federal agency at the time administering the Securities Act or other governmental agency administering the securities laws in the jurisdiction in which the Company's securities are registered or being registered.

"**Conversion Price**" shall have the meaning as defined in the Articles.

"**Conversion Shares**" shall mean the Ordinary Shares issued or issuable pursuant to conversion of the Preferred Shares.

"**Convertible Securities**" shall have the meaning as defined in the Articles.

"**Disclosing Party**" shall have the meaning as defined in Section 6.4.

"**Dispute**" shall mean any dispute, controversy or claim arising out of or in connection with this Agreement (including any issue as to the existence, validity, interpretation, construction, performance, breach or termination of this Agreement).

"**D&O Insurance**" shall have the meaning as defined in Section 2.2.

"**Drag-Along Sale**" shall have the meaning as defined in Section 2.5.

"**Drag Completion Date**" shall have the meaning as defined in Section 2.5.

"**Drag Notice**" shall have the meaning as defined in Section 2.5.

"**Dragged Member**" shall have the meaning as defined in Section 2.5.

"**Dragged Shares**" shall have the meaning as defined in Section 2.5.

“**EBITDA**” shall mean earnings before interest, taxes, depreciation and amortization.

“**ESOP**” shall have the meaning as defined in Section 2.12.

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“**Everbright**” shall mean Seabright SOF (I) Paper Limited and Forebright Management Limited.

“**Exchange Act**” shall mean the United States Securities Exchange Act of 1934, as amended.

“**Executive Committee**” shall have the meaning as defined in Section 2.11(d).

“**Executive Committee Members**” shall have the meaning as defined in Section 2.11(d).

“**Existing Preferred Share Director**” shall have the meaning as defined in Section 2.11(a).

“**Existing Preferred Shareholders**” shall mean all the holders of the then outstanding Existing Preferred Shares from time to time; and “**Existing Preferred Shareholder**” shall mean any of them.

“**Existing Preferred Shares**” shall mean Series A Shares, Series A\* Shares, Series B Shares, Series B1 Shares, Series B2 Shares, Series B4 Shares, and Series B5 Shares of the Company, issued and outstanding immediately following the Closing.

“**Form S-3/F-3**” shall have the meaning as defined in Section 3.5(a)(iii).

“**Fully Participating Preferred Shareholders**” shall have the meaning as defined in Section 4.1(b)(ii).

“**Group Company**” shall mean the Company or a Subsidiary, including those listed in Exhibit D attached hereto, and “**Group Companies**” shall mean all of them.

“**HKIAAC**” shall mean the Hong Kong International Arbitration Centre.

“**Holder**” shall mean (i) any Preferred Shareholder holding Registrable Securities, and (ii) any Person holding Registrable Securities to whom the rights under Section 3 have been transferred in accordance with Section 3.17 hereof; provided, however, that for the purpose of this Agreement, a holder of the Preferred Shares shall be deemed to be a Holder of the Registrable Securities issuable upon conversion of such Preferred Shares, as the case may be, and that Holders of Registrable Securities shall not be required by this Agreement to convert their Preferred Shares into Ordinary

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Shares in order to exercise registration rights hereunder, until immediately prior to the closing of the relevant offering to which the registration relates.

“**Hong Kong**” shall mean the Hong Kong Special Administrative Region of the People’s Republic of China.

“**IFRS**” shall mean the International Financial Reporting Standards.

“**Initiating Holders**” shall mean any Holders who in the aggregate hold at least twenty percent (20%) of the outstanding Registrable Securities.

“**IPO**” shall mean the Company’s first public offering of any of its securities to the general public pursuant to (i) a registration statement filed under the Securities Act, or (ii) the securities laws applicable to an offering of securities in another jurisdiction pursuant to which such securities will be listed.

“**IT**” shall have the meaning as defined in Section 2.14(b).

“**Key Founders**” shall mean the individual and entities listed on Exhibit B attached hereto.

“**Key Founders’ Shares**” shall mean the Ordinary Shares held on record and/or beneficially by the Key Founders as of the date of this Agreement, or subsequently acquired by the Key Founders, as applicable.

“**Members**” shall mean both the Preferred Shareholders and the Ordinary Shareholders.

“**Memorandum**” shall mean the Company’s Memorandum of Association as amended from time to time.

“**New Securities**” shall have the meaning as defined in Section 4.1.

“**Non-Disclosing Parties**” shall have the meaning as defined in Section 6.4.

“**Notice**” shall have the meaning as defined in Section 4.1(a).

“**Option**” shall have the meaning as defined in the Articles.

“**Ordinary Shareholders**” shall mean the holders of the Ordinary Shares.

“**Ordinary Shares**” shall mean Ordinary Shares of the Company.

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“**Ordinary Share Director(s)**” shall have the meaning as defined in Section 2.11(a).

“**Original Agreement**” shall have the meaning as defined in Recital A.

“**Original Purchase Price**” shall have the meaning as defined in the Articles.

“**Other Shareholders**” shall mean the entities as identified in Exhibit C hereto.

“**Overallotment New Securities**” shall have the meaning as defined in Section 4.1(b) (ii).

“**Overallotment Notice**” shall have the meaning as defined in Section 4.1(b)(ii).

“**Permitted Disclosees**” shall have the meaning as defined in Section 6.3(c)(i).

“**Person**” shall mean an individual, corporation, partnership, limited liability company, association, trust, unincorporated organization, or other entity.

“**PFIC**” shall mean a passive foreign investment company.

“**PRC**” shall mean the People’s Republic of China excluding, for the purpose of this Agreement, the Special Administrative Regions of Hong Kong and Macau and the territory of Taiwan.

“**Preferred Shareholders**” shall mean both the Existing Preferred Shareholders and the Series C Shareholder.

“**Preferred Shares**” shall mean both the Series C Shares and the Existing Preferred Shares.

“**Preferred Share Director(s)**” shall have the meaning as defined in Section 2.11(a).

“**Qualified IPO**” shall mean a firm commitment underwritten IPO on an internationally recognized securities exchange (i) with gross cash proceeds to the Company of at least US\$100 million, (ii) at an issue price per share being not less than twenty-five percent (25%) above US\$1.036522, as adjusted for any Recapitalization from time to time, and (iii) resulting in a

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free float of not less than twenty percent (20%) of the Company's share capital.

"**Recapitalization**" shall mean any share split, share dividend, share combination or consolidation, recapitalization, reclassification or other similar event in relation to the shares of the Company.

"**Refusal Period**" shall have the meaning as defined in Section 4.1(b)(i).

"**Registrable Securities**" shall mean (i) Conversion Shares; (ii) Ordinary Shares of the Company issued as (or issuable upon the conversion or exercise of any warrant, right or other security which is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of, any of the foregoing; (iii) any other Ordinary Shares owned or hereafter acquired by any Preferred Shareholder; (iv) Ordinary Shares issued or issuable in respect of the Ordinary Shares described in (i) to (iii) above upon any Recapitalization or otherwise issued or issuable with respect to such Ordinary Shares; and (v) any depositary receipts issued by an institutional depositary upon deposit of any of the foregoing. Notwithstanding the foregoing, "**Registrable Securities**" shall not include any Registrable Securities sold by a Person in a transaction in which rights under Section 3 are not assigned in accordance with this Agreement or any Registrable Securities sold in a public offering, whether sold pursuant to Rule 144, or in a registered offering, or otherwise.

"**Registrable Securities then outstanding**" (and similar expressions herein) shall mean the number of Ordinary Shares that are Registrable Securities that are then (i) issued and outstanding, or (ii) issuable pursuant to the conversion of then outstanding Preferred Shares.

"**register**," "**registered**" and "**registration**" shall refer to (i) a registration effected by preparing and filing a registration statement in compliance with the Securities Act, and the declaration or ordering of the effectiveness of such registration statement, or (ii) in the context of a public offering in a jurisdiction other than the United States, a registration, qualification or filing under the applicable securities laws of such other jurisdiction.

"**Registration Expenses**" shall mean all expenses incurred by the Company in complying with Sections 3.5, 3.6 and 3.7 hereof, including, without limitation, all registration, qualification and filing fees, printing expenses, escrow fees, fees and disbursements of counsel for the Company, blue sky fees and expenses, the expense of any special audits incident to or required by any such registration and the reasonable fees and disbursements of one counsel for all Holders, and any fee charged by any depositary bank,

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transfer agent or share registrar, but excluding Selling Expenses. For the avoidance of doubt and subject to Section 3.5(d), the Company shall pay all expenses incurred in connection with a registration pursuant to Section 3 notwithstanding the cancellation or delay of the registration proceeding for any reason.

"**Related Party**" shall mean any Person (i) that holds a Material Interest in any Group Company, (ii) in which a Group Company holds a Material Interest, (iii) that is otherwise an Affiliate of any Group Company, (iv) that serves (or has within the past twelve (12) months served) as a director, officer or employee of any Group Company, or (v) who is a member of the family of any individual included in any of the foregoing. For the purpose of this definition, "**Material Interest**" shall mean a direct or indirect ownership of voting shares representing at least one percent (1%) of the outstanding voting power or equity of any Group Company.

"**Remuneration Committee**" shall have the meaning as defined in Section 2.11.

"**Request Notice**" shall have the meaning as defined in Section 3.5(a).

"**Restricted Securities**" shall mean the securities of the Company required to bear the legend set forth in Section 3.3 hereof.

"**Rule 144**" shall have the meaning as defined in Section 3.4.

"**Rule 145**" shall have the meaning as defined in Section 3.5(a)(i).

"**Rules**" shall mean the Hong Kong International Arbitration Centre Administered Arbitration Rules.

"**Sale Agreement**" shall have the meaning as defined in Section 2.5.

"**Sale Transaction**" shall have the meaning as defined in the Articles.

"**SBCVC**" shall mean collectively SBCVC Fund II, L.P., SBCVC Venture Capital (□□□□□□□□□□), SBCVC Fund III, L.P., SBCVC Fund II-Annex, L.P., and SBCVC Company Limited.

"**Seabright SOF**" shall mean Seabright SOF (I) Paper Limited.

"**Securities Act**" shall mean the United States Securities Act of 1933 as amended from time to time, also as the "**Act**".

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"**Selling Expenses**" shall mean all underwriting discounts and selling commissions.

"**Selling Member**" shall have the meaning as defined in Section 2.5.

"**Senior Management Personnel**" shall mean CEO, the chief financial officer, and all other senior officers of each Group Company reporting directly to the CEO.

"**Series A Shareholders**" shall mean the holders of Series A Shares of the Company as listed in [Exhibit A](#) attached hereto.

"**Series A Shares**" shall mean shares in the capital of the Company of US\$0.00005 nominal or par value designated as Series A Preferred Shares and having the rights provided for in the Articles.

"**Series A\* Shareholders**" shall mean the holders of Series A\* Shares of the Company as listed in [Exhibit A-2](#) attached hereto.

"**Series A\* Shares**" shall mean shares in the capital of the Company of US\$0.00005 nominal or par value designated as Series A\* Preferred Shares and having the rights provided for in the Articles.

"**Series B Shareholders**" shall mean the holders of Series B Shares of the Company as listed in [Exhibit A-1](#) attached hereto.

"**Series B Shares**" shall mean shares in the capital of the Company of US\$0.00005 nominal or par value designated as Series B Preferred Shares and having the rights provided for in the Articles.

"**Series B1 Shareholders**" shall mean the holders of Series B1 Shares of the Company as listed in [Exhibit A-3](#) attached hereto.

"**Series B1 Shares**" shall mean shares in the capital of the Company of US\$0.00005 nominal or par value designated as Series B1 Preferred Shares, and having the rights provided for in the Articles.

"**Series B2 Shareholders**" shall mean the holders of Series B2 Shares of the Company as listed in [Exhibit A-3](#) attached hereto.

"**Series B2 Shares**" shall mean shares in the capital of the Company of US\$0.00005 nominal or par value designated as Series B2 Preferred Shares, and having the rights provided for in the Articles.

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"**Series B4 Shareholder**" shall mean the holder of Series B4 Shares of the Company as listed in [Exhibit A-3](#) attached hereto.

"**Series B4 Shares**" shall mean shares in the capital of the Company of US\$0.00005 nominal or par value designated as Series B4 Preferred Shares, and having the rights provided for in the Articles.

"**Series B5 Shareholder**" shall mean the holder of Series B5 Shares of the Company as listed in [Exhibit A-3](#) attached hereto.

"**Series B5 Shares**" shall mean the series B5 preferred shares of the Company.

"**Series C Director(s)**" shall have the meaning as defined in Section 2.11(a).

"**Series C Shareholder**" shall mean the holder of the Series C Shares of the Company as listed in [Exhibit A-4](#) attached hereto.

"**Series C Shares**" shall mean the shares in the capital of the Company of US\$0.00005 nominal or par value designated as Series C Preferred Shares, and having the rights provided for in the Articles.

"**Share Swap Agreement**" shall have the meaning as defined in Recital B.

“Shares” shall mean both the Ordinary Shares and the Preferred Shares; and “Share” shall mean any one of them.

“Share Transfer” shall have the meaning as defined in Recital C.

“STTC” shall mean STT Communications Ltd., a company incorporated with limited liability in Singapore.

“Subsidiary” shall mean any corporation, partnership, trust or other entity of which the Company directly or indirectly owns at the time shares or interests representing a majority of the voting power of such corporation, partnership, trust or other entity (including those listed in Exhibit D attached hereto and “Subsidiaries” shall mean those subsidiaries.

“Subsidiary Board” shall have the meaning as defined in Section 2.11(e).

“Terms” shall have the meaning as defined in Section 6.1.

“Territory” shall have the meaning as defined in Section 5.2(a)(i).

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“Transaction Agreements” shall mean this Agreement, the Sixth Amended and Restated Right of First Refusal and Co-Sale Agreement, the Sixth Amended and Restated Voting Agreement, respectively dated on May 19, 2016, and the Series C Preferred Shares Subscription and Purchase Agreement dated July 29, 2014.

“Tribunal” shall have the meaning as defined in Section 7.3.

“U.S. GAAP” shall mean the generally accepted accounting principles in the United States.

“VIE Entities” shall mean collectively, (i) Beijing Wanguo Chang’An Science & Technology Co., Ltd. (北京万国长安), and (ii) Shanghai Shu’An Data Solutions Co., Ltd. (上海舒安), a company incorporated and existing under the laws of PRC, and a “VIE Entity” shall mean either of these VIE Entities.

“Violation” shall have the meaning as defined in Section 3.10(a).

## 2. Covenants of the Group Companies.

### 2.1 Financial Information; Inspection Rights.

- (a) Financial Information. The Company covenants and agrees that, commencing on the date of Closing, and for so long as any Preferred Shareholder holds any Preferred Shares or any Ordinary Shares issued upon conversion of any Preferred Shares, the Company will deliver (in accordance with the provisions set forth in Section 7.7 hereof) to such Preferred Shareholder the following with respect to each Group Company and any other corporation, partnership, trust or other entity of which any of the Group Companies directly or indirectly owns at the time shares or interests representing a majority of the voting power of such corporation, partnership, trust or other entity:
- (i) As soon as practicable after the end of each fiscal year, and in any event within ninety (90) days thereafter, annual consolidated financial statements (including a balance sheet, income statement and cash flow statement) of the Group Companies for or as of the end of such fiscal year, prepared in accordance with the U.S. GAAP or with the IFRS and audited and certified by an accounting firm that is one of the “Big-4”

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international accounting firms and is acceptable to all the Preferred Share Directors.

- (ii) As soon as practicable, and in any event within thirty (30) days, after the end of each quarterly accounting period in each fiscal year of the Company, unaudited consolidated quarterly financial statements (including a balance sheet, income statement and cash flow statement) of the Group Companies.
- (iii) As soon as practicable, and in any event within thirty (30) days, after the end of each month, unaudited consolidated monthly financial statements (including a balance sheet, income statement and cash flow statement) of the Group Companies, including details of sales, capital expenditure, cash balance and net income; provided that such monthly financial statements shall be subject to normal year-end audit adjustments in the ordinary course.
- (iv) As soon as practicable, and in any event at least thirty (30) days prior to the beginning of each fiscal year, an annual, consolidated budget of the Group Companies for such fiscal year.

All financial statements to be provided to the Preferred Shareholders pursuant to this Section 2.1 shall be prepared in the English language in accordance with the accounting standard under which the Company prepares audited financial statements to be delivered pursuant to Section 2.1(a)(i) above and shall consolidate all of the consolidated financial results of the Group Companies.

- (b) Other Information and Inspection Rights. The Company covenants and agrees that, commencing from Closing, and for so long as any Preferred Shares are outstanding, the Company will, upon receipt of a prior written notice, afford to each Preferred Shareholder and to such Preferred Shareholder’s accountants, counsel and other representatives reasonably acceptable to the Company, reasonable access during normal business hours to each Group Company’s respective properties, books and records, and to afford each such Preferred Shareholder the right to discuss the business, operations and conditions of each Group Company with their respective officers, directors, key employees, accountants (including internal and external auditors), counsel and other representatives. Each such Preferred Shareholder shall have such other access to management (including advisors and internal and external auditors) of, and information regarding, the Group Companies

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as may be requested, whether for it to comply with its (i) obligations under applicable laws and regulations, (ii) financial and internal reporting and accounting requirements, and (iii) as required by any governmental or regulatory bodies, or otherwise. The Preferred Shareholders may exercise their rights under this Section 2.1(b) only for the purpose reasonably related to their interests under this Agreement and related agreements.

- (c) The Preferred Shareholders’ rights under this Section 2.1 may be assigned to (i) a transferee or assignee in connection with any transfer or assignment by such Preferred Shareholder, (ii) any partner or retired partner of any such Preferred Shareholder which is a partnership (or any member or retired member of any such Preferred Shareholder which is a limited liability company), (iii) any affiliated fund (United States based or non-United States based) of any such Preferred Shareholder, (iv) any family member or trust for the benefit of any such Preferred Shareholder which is an individual, or (v) any Affiliate of such Preferred Shareholder; provided in each case that: (A) such transfer may otherwise be effected in accordance with applicable securities laws, the Articles and the Sixth Amended and Restated Right of First Refusal and Co-Sale Agreement entered into between the Existing Preferred Shareholders, the Series C Shareholder, the Company and other parties on or about the date hereof (as amended and restated from time to time) (B) the Company is given prompt notice of the transfer, and (C) such assignee or transferee executes a Deed of Adherence (in the same form and substance as set out in Schedule 1 hereto) confirming to the other Members that it shall be bound by this Agreement as a Member.
- (d) Notification. The Company undertakes and agrees that the Company shall furnish to each Preferred Shareholder (from the date of this Agreement) prompt notification upon becoming aware of any: (i) litigation or investigations or proceedings which have or may reasonably be expected to have a materially adverse effect on the assets, business operations or financial conditions of any Group Company or the Group Companies as a whole, or on the ability of any Group Company to comply with its obligations under this Agreement, or other Transaction Agreements to which it is a party, and (ii) any criminal investigations or proceedings against the Company or any Related Party, and any such notification shall specify the nature of the action or proceeding and any steps the Company proposes to take in response to the same.

### 2.2 Directors’ and Officers’ Liability Insurance.

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At all times, the Company shall ensure that it maintains customary directors and officers liability insurance (“D&O Insurance”) for the directors, and alternate directors of the Company and the Subsidiary Boards (as defined below), covering an amount of at least US\$15,000,000 or such other amount as is approved by the holders representing more than seventy-five percent (75%) of the then outstanding Preferred Shares or shares resulting from conversion or exchange thereof. The Company shall maintain D&O Insurance to the extent deemed appropriate by the Board (including all the Preferred Share Directors). Such policy shall not be cancelled by the Company without unanimous prior approval of the Board then in office.

### 2.3 Memorandum of Association and Articles of Association.

The Company shall abide by, and take all actions necessary to achieve the economic effect of all of its obligations under the Memorandum and the Articles, including, but not limited to, the provisions related to the conversion of the Preferred Shares, the adjustment to the conversion prices of the Preferred Shares, the declaration and payment of dividends, the winding up of the Company and payment of liquidation preference on the Preferred Shares. The Company shall, and the Board shall procure that the Company shall, increase the authorized number of Ordinary Shares and/or Preferred Shares, as applicable and necessary, issue such

additional shares to the holders of Ordinary Shares or Preferred Shares, as applicable, and readjust the conversion price of the Preferred Shares in accordance with Article 29 of the Articles. In furtherance of the foregoing, the Company and each of the Members hereby agree to take all actions necessary to amend the Memorandum and the Articles, increase the authorized share capital of the Company, issue the additional shares and adjust the conversion price of the Preferred Shares to effectuate the terms of Article 29 of the Articles, including, but not limited to, providing any vote or written consent in favor thereof.

#### 2.4 Incorporation of Certain Provisions from the Articles.

(a) The following provisions of the Company's Articles shall be incorporated by reference into this Agreement and shall be enforceable as if such provisions were part of this Agreement.

- (i) Article 6 (Issue of Shares);
- (ii) Article 18 (Variation of Rights of Shares);
- (iii) Articles 19-24 (Conversion of Preferred Shares);
- (iv) Articles 25-31 (Adjustments to Conversion Prices);
- (v) Articles 39-40 (General Meetings of Members);
- (vi) Article 41 (Notice of General Meetings of Members);

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- (vii) Articles 42-50 (Proceedings at General Meetings of Members);
- (viii) Articles 51-58 (Votes of Members);
- (ix) Articles 59-61 (Record Dates);
- (x) Articles 62-66 (Proxies);
- (xi) Articles 68-75 (Directors; Alternate Directors; Proxies);
- (xii) Articles 76-80 (Powers and Duties of Directors);
- (xiii) Article 81 (Protective Provisions);
- (xiv) Article 82 (Management and Committees of the Board of Directors);
- (xv) Articles 83-92 (Proceedings of Board of Directors);
- (xvi) Article 93 (Appointment and Removal of Directors);
- (xvii) Articles 94-98 (Director Resignation, Removals and Vacancies);
- (xviii) Article 101 (Redemption and Repurchase);
- (xix) Articles 102-103 (Redemption of Preferred Shares);
- (xx) Articles 104-111 (Dividends);
- (xxi) Articles 124-126 (Winding Up); and
- (xxii) Article 127 (Indemnity).

(b) Notwithstanding anything to the contrary in this Agreement, (i) any amendment or waiver of any of the foregoing provisions of the Articles may be effected in accordance with the terms of the Articles and applicable laws without regard to any terms of this Agreement (including without limitation the amendment or waiver provisions of this Agreement), (ii) no amendment or waiver of any provision of the Articles shall result in an amendment or waiver of any provision of this Agreement unless the amendment or waiver provisions of this Agreement have also been satisfied with respect thereto and (iii) no amendment or waiver of any provision of this Agreement (including without limitation this Section 2.4) shall be deemed to effect an amendment or waiver of any provision of the Articles. In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the Articles, the parties shall, notwithstanding the conflict or inconsistency, act so as to effect the intent of this Agreement to the greatest extent possible under the circumstances and shall promptly amend the conflicting constitutional documents to conform to this Agreement to the greatest extent possible.

#### 2.5 Drag-Along Rights.

(a) Subject to the provisions of the Articles (including, without limitation, Article 81 of the Articles) and prior to the closing of a Qualified IPO, if (i) any Preferred Shareholders (the "**Selling Member**") receives a bona fide offer from and agrees to the terms for the sale of all of its shares

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with a third party buyer which is not an Affiliate of the Selling Member (the "**Buyer**") (the "**Drag-Along Sale**"), and (ii) holders representing not less than eighty-five percent (85%) of the then outstanding Existing Preferred Shares (voting together as a separate class) and holders representing not less than seventy-five percent (75%) of the then outstanding Series C Shares and the holders of at least fifty percent (50%) of the then outstanding Ordinary Shares, vote in favor of, or consent in writing to, or otherwise agree in writing to sell or transfer all of their Shares in the Drag-Along Sale, then the Selling Member may require all other Members to participate in the proposed Drag-Along Sale in accordance with and subject to the conditions set forth in this Section 2.5. However, the Series C Shareholder shall be exempted from being required to participate in the proposed Drag-Along Sale and for the avoidance of doubt, the Series C Shareholder shall not be a Dragged Member. Notwithstanding the foregoing, if such Series C Shareholder votes for the Drag-Along Sale, such Series C Shareholder (as the case may be) shall be deemed to have forfeited rights not to be a Dragged Member for this particular Drag-along Sale only.

(b) The Selling Member may, following execution of a binding agreement with the Buyer (whether conditional or unconditional) for the Drag-Along Sale (directly or indirectly) of the Shares (the "**Sale Agreement**"), by serving a notice in writing (a "**Drag Notice**") on each of the other Members who are subject to or have agreed to participate in the Drag-Along Sale and who is not a party to the Sale Agreement (each a "**Dragged Member**"), require each Dragged Member to transfer all of its Shares (the "**Dragged Shares**") to the Buyer at the price set out in Section 2.5(c) below on the date indicated in the Drag Notice as being the date of completion of the Sale Agreement (the "**Drag Completion Date**"), being not less than thirty (30) days after the date of the Drag Notice, and on the terms and subject to the conditions set out in this Section 2.5. If the Drag-Along Sale contemplated in the Sale Agreement does not complete, the Drag Notice shall lapse.

(c) The price for each Dragged Share shall:

- (i) be equal to the higher of (A) two point five (2.5) times of the highest Original Purchase Price (as defined in the Articles) and (B) the highest consideration offered for each Share in the Company in the Sale Agreement;
- (ii) be in the same form as that offered for each Share in the Company in the Sale Agreement; and

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(iii) be paid at the same time as the consideration is payable under the Sale Agreement (or, if later, on the Drag Completion Date) and shall be subject to the same payment terms.

(d) For the avoidance of doubt, the Preferred Shareholders' rights under this Section 2.5 to transfer the Dragged Shares shall apply regardless of whether the Dragged Shares are of the same class or type of Shares of the Company which the Selling Member proposes to sell.

(e) Any sale made by a Dragged Member shall be made on substantially the same terms and conditions as described in the Sale Agreement. However, the Dragged Members shall not be required to make any representation or warranty to the Buyer, other than as to good title to any Dragged Shares, absence of liens with respect to such Dragged Shares, the Dragged Member's power and authority to undertake the proposed sale, and the validity and enforceability of the Dragged Member's obligations in connection with it.

(f) Each Dragged Member's indemnification obligations, if any, in connection with the Drag-Along Sale shall only apply with respect to a breach of their own respective representations and warranties and shall be limited (A) to a period of twelve (12) months after consummation of the Drag-Along Sale and (B) to the net sale proceeds received by such Dragged Member in the Drag-Along Sale. The Selling Member shall use its best efforts to ensure that the Buyer in the Drag-Along Sale is a Person of good reputation acceptable to the Preferred Shareholders.

(g) Any duly appointed attorney of any Dragged Member, including any director of the Company, may act on such Dragged Member's behalf to fulfill its obligations hereunder on any Drag-Along Sale where any such Dragged Member refused to act.

#### 2.6 Passive Foreign Investment Company.

Upon a determination by the Company, any Preferred Shareholder or any taxing authority that, any of the Group Companies has been or is likely to become a PFIC as defined in Section 1297 of the Code, the Company will promptly notify each Preferred Shareholder of such determination and will provide as soon as practicable (but in no event later than ninety (90) days following the end of each taxable year) each Preferred Shareholder with all information reasonably available to the Group Companies to permit such Preferred Shareholder to (i) accurately prepare all tax returns and comply with any reporting requirements as a result of such determination, (ii) make any election (including, without limitation, a "qualified electing fund"

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election under Section 1295 of the Code), with respect to the any Group Company, and comply with any reporting or other requirements incident to such election, and (iii) file a "protective statement" pursuant to Section 1295 of the Code with respect to any Group Company, and comply with any reporting or other requirements incident to such statement. Upon request from a Preferred Shareholder, the Company shall provide the Preferred Shareholders with a completed "PFIC Annual Information Statement" as required by the U.S. Treasury Regulation Section 1295 and otherwise comply with applicable Treasury Regulation requirements. The Company will promptly notify the Preferred Shareholders of any assertion by the Internal Revenue Service that any Group Company is, or is likely to become, a PFIC.



## 2.7 Controlled Foreign Corporation.

The Company will provide prompt written notice to the Preferred Shareholders if at any time the Company becomes aware that any Group Company has become a "controlled foreign corporation" (as defined in the Code). Upon request of a Preferred Shareholder from time to time, subject to obtaining the consent of its shareholders to release such information, the Company will promptly provide in writing such information in its possession concerning its shareholders and, to the Company's actual knowledge, the direct and indirect interest holders in each shareholder reasonably sufficient for such Preferred Shareholder to determine that each Group Company is not a "controlled foreign corporation." The Company shall provide Preferred Shareholders with reasonable access to all Group Company information as the Company may then have available to it as may reasonably be required by a Preferred Shareholder to determine any Group Company's status as a "controlled foreign corporation" to determine whether such Preferred Shareholder is required to report its *pro rata* portion of the Company's "Subpart F income" (as defined in the Code) on its United States federal income tax return, or to allow such Preferred Shareholder to otherwise comply with applicable United States federal income tax law. The parties hereto shall use commercially reasonable efforts to prevent any future issuance of securities by any Group Company to the extent that such issuance would result in such shareholder or any direct or indirect investor in such shareholder being considered a "United States shareholder" of such Group Company within the meaning of Section 951(b) of the Code. Without limiting the Company's obligations as set forth in this Section 2.7, for the avoidance of doubt, the Company and the Key Founders are not responsible for any tax filings of the Preferred Shareholders or for any associated or related costs incurred in connection with such tax filings.

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## 2.8 Control of Subsidiaries.

The Company shall institute and shall keep in place arrangements reasonably satisfactory to all the Preferred Share Directors such that the Company (i) will control the operations of any Subsidiary of, or entity controlled by, the Company, and (ii) will be permitted to properly consolidate the financial results of all the Subsidiaries and VIE Entities in the consolidated financial statements for the Company. The Company shall, and shall cause each of its Subsidiaries, and each entity it controls (including the VIE Entities), to comply with the Company's policy on compliance with the U.S. Foreign Corrupt Practices Act, as amended. The Company shall take all necessary actions to maintain any Subsidiary, whether now in existence or formed in the future, as is necessary to conduct the Company's business as conducted or as proposed to be conducted. The Company shall cause each Subsidiary of, or entity controlled by, the Company, whether now in existence or formed in the future, to comply in all material respects with all applicable laws, rules and regulations.

## 2.9 Foreign Corrupt Practices Act.

The Company shall maintain a policy consistent with the U.S. Foreign Corrupt Practices Act, as amended, applicable to the Group Companies, which policy shall be reasonably satisfactory to all Preferred Shareholders.

## 2.10 UBTI Covenant.

The Company will take such steps as are necessary to cause the Company to be treated, at all times, as an association taxable as a corporation for United States federal income tax purposes.

## 2.11 Board Matters.

### (a) Board Composition.

At Closing, there shall be a Board of Directors consisting of nine (9) Directors. Holders of seventy-five percent (75%) of the then outstanding Existing Preferred Shares, voting together as a separate class on an as-converted basis, may appoint two (2) Directors (each an "**Existing Preferred Share Director**"), and may in like manner remove with or without cause any Existing Preferred Share Director so appointed and may in like manner appoint another Person in his stead. The Series C Shareholder may appoint four (4) Directors (the "**Series C Directors**", and collectively with the Existing Preferred Share Directors, the "**Preferred Share Directors**") and may in like manner

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remove with or without cause any Series C Director so appointed and may in like manner appoint another Person in his stead. The holders of a majority of the then outstanding Ordinary Shares, voting as a separate class, may appoint three (3) Directors (the "**Ordinary Share Directors**") and may in like manner remove with or without cause any Ordinary Share Director so appointed and may in like manner appoint another Person in his stead. For the avoidance of doubt, any votes "on an as-converted basis" as referred to in this Agreement shall be construed and calculated in accordance with the Articles.

Subsequently to Closing, in the event of any transfers or redemption of shares among the holders of the Ordinary Shares, the Existing Preferred Shareholders and the Series C Shareholders, the composition and size of the Board of Directors shall be determined as follows:

- (i) the holders of a majority of the then outstanding Ordinary Shares, voting as a separate class, shall be entitled to appoint one (1) Director for every ten percent (10%) of the issued share capital of the Company plus one Share held by holders of Ordinary Shares from time to time, and may in like manner remove with or without cause any Ordinary Share Director so appointed and may in like manner appoint another Person in his stead;
- (ii) the holders of seventy-five percent (75%) of the then outstanding Existing Preferred Shares, voting together as a separate class on an as-converted basis, shall be entitled to appoint one (1) Director for every ten percent (10%) of the issued share capital of the Company plus one Share held by the holders of Existing Preferred Shares from time to time and may in like manner remove with or without cause any Existing Preferred Director so appointed and may in like manner appoint another Person in his stead; and
- (iii) the holders of a majority of the then outstanding Series C Shares shall be entitled to appoint one (1) Director for every ten percent (10%) of the issued share capital of the Company plus one Share held by the holders of Series C Shares from time to time and may in like manner remove with or without cause any Series C Director so appointed and may in like manner appoint another Person in his stead;

provided, however, that there shall be no adjustment to the composition of the Board until and unless any of (A) the holders of a majority of the then outstanding Ordinary Shares, (B) the holders of

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seventy-five percent (75%) of the then outstanding Existing Preferred Shares, or (C) the holders of a majority of the then outstanding Series C Shares are entitled pursuant to Section 2.11(a)(i), (ii) or (iii) respectively to appoint a higher number of Directors than its Director appointment rights set out in the first paragraph of Section 2.11(a).

There shall be at least three (3) committees under the Board, which are the Audit Committee, the Remuneration Committee, and the Executive Committee.

- (b) Audit Committee. The audit committee (the "**Audit Committee**") shall be vested with oversight functions for financial and accounting matters of the Group Companies, including, but not limited to, preparation of budgets, performance and oversight of internal auditing. The Audit Committee shall consist of five (5) members, (3) of which are Preferred Share Directors, including two (2) Series C Directors and one (1) Existing Preferred Share Director. A Series C Director in the Audit Committee shall serve as the chairman thereof, who shall not have any casting vote. The remaining two (2) members of the Audit Committee shall be the Ordinary Share Directors. All decisions of the Audit Committee must be approved by a majority of the members of the Audit Committee, including at least one (1) Series C Director and one (1) Existing Preferred Share Director.
- (c) Remuneration Committee. The remuneration committee (the "**Remuneration Committee**") shall be vested with oversight functions for remuneration matters of the Group Companies, including but not limited to, establishment and approval of the compensation plan for employees and Senior Management Personnel and non-executive directors of the Group Companies, and administration of the Group Companies' equity incentive plans. The Remuneration Committee shall consist of five (5) members, three (3) of which are Preferred Share Directors, including two (2) Series C Directors and one (1) Existing Preferred Share Director. A Series C Director in the Remuneration Committee shall serve as the chairman thereof, who shall not have any casting vote. The remaining two (2) members of the Remuneration Committee shall be the Ordinary Share Directors. All decisions of the Remuneration Committee must be approved by a majority of the members of the Remuneration Committee, including at least one (1) Series C Director and one (1) Existing Preferred Share Director.
- (d) Executive Committee. The executive committee (the "**Executive Committee**") shall function primarily as an advisory body to the Board and provide consultation and recommendations to the Board on

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operating and strategic matters for any of the Group Companies, including the matters set forth as follows:

- (i) operational performance of any of Group Companies (against budgets, strategic business plans and contractual obligations e.g., debt covenants);
- (ii) appropriate strategies for any of the Group Companies;
- (iii) strategic business and financing plan(s) and annual budget of any of the Group Companies (including but not limited to any changes to the same);
- (iv) acquisitions, dispositions, investments and other potential growth and expansion opportunities (including but not limited to the identification, evaluation of new sites and new building opportunities) for any of the Group Companies;

- (v) capital structure and financing strategy of Group Companies, including but not limited to any debt, equity or equity-linked financing transactions, as well as any issuance, repurchase, conversion or redemption of any equity interests or debt of any of the Group Companies;
- (vi) any material litigation or other legal or administrative proceedings to which any of the Group Companies is a party;
- (vii) entry into any material contracts exceeding the approval authority of the Senior Management Personnel;
- (viii) enter into or agree to any transaction between any Group Company and any Member, director, officer or Affiliate of the Company or of any Affiliate thereof; and
- (ix) any other responsibilities as are delegated to the Executive Committee by the Board from time to time.

For efficiency, the Board may delegate certain decision making authority to the Executive Committee (including but not limited to approving capital and operational expenditure and changes to any strategic or business plan(s)) within appropriate perimeters approved by the Board. To the extent that the Executive Committee is delegated such authority from the Board, the Executive Committee shall function as an executive body of the Board in respect of the matters so delegated.

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The Executive Committee shall comprise of five (5) members (who may or may not be members of the Board) (the “*Executive Committee Members*”), of whom two (2) Executive Committee Members shall be nominated by the Series C Shareholder, one (1) Executive Committee member shall be nominated by the Existing Preferred Shareholders (approved by the holders of at least fifty percent (50%) of the then outstanding Existing Preferred Shares) (voting as a separate class). The remaining two (2) Executive Committee Members shall comprise the CEO and such other person as nominated by the CEO or the Ordinary Shareholders (voting as a separate class). The Chairman of the Executive Committee shall be the CEO of the Company and the deputy Chairman of the Executive Committee shall be one of the two Executive Committee Members nominated by the Series C Shareholder. Neither the Chairman nor the deputy Chairman of the Executive Committee shall have a casting vote. All recommendations or decisions (as the case may be) of the Executive Committee must be approved by a majority of the Executive Committee Members, including at least one (1) Executive Committee Member nominated by the Series C Shareholder and one (1) Executive Committee Member nominated by the Existing Preferred Shareholders (approved by the holders of at least fifty percent (50%) of the then outstanding Existing Preferred Shares, voting as a separate class).

- (e) **Board Composition of Subsidiaries.** Each Group Company (as applicable) shall, upon the written request of the Series C Shareholder, appoint such person as nominated by the Series C Shareholder to the relevant Subsidiary(ies) and at all times maintain the composition of the board of directors, supervisory board or similar governing body of each of its Subsidiaries as requested by the Series C Shareholder (each, a “*Subsidiary Board*”) such that each Subsidiary Board shall have three (3) members including at least one (1) director appointed by the Series C Shareholder. Within sixty (60) days of the giving of such written request by the Series C Shareholder, each Group Company shall file with the appropriate governmental authorities its amended articles of association or other applicable constitutional document which shall reflect the aforesaid composition of the Subsidiary Board.

#### 2.12 **Reserved Employee Shares.**

Before Closing, the Company shall maintain an employee stock option plan (the “*ESOP*”) and reserve up to 29,240,000 Ordinary Shares for the ESOP (as adjusted for any Recapitalization). Stock options under the ESOP shall be granted to Persons nominated by the CEO of the Company, subject to

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the approval of a simple majority vote of the Board or the Remuneration Committee or its equivalent under authorization by the Board.

#### 2.13 **Key Employees.**

Subject to the Articles, the Board (including all Preferred Share Directors) shall be entitled to designate, appoint, or remove the Senior Management Personnel of the Group Companies, including, without limitation, the CEO, chief operating officer, chief financial officer and chief technical officer (if applicable).

The Series C Shareholder shall be entitled to nominate candidates as each Group Company’s chief financial officer and senior operations manager in consultation with the CEO. The Company shall consider each such nomination by the Series C Shareholder in good faith, and if any such nominee is not appointed, the Series C Shareholder shall be entitled to nominate a different individual in consultation with the CEO. The Series C Shareholder shall be entitled to provide any suggestion on operational performance of any of the Group Companies (including product lines and management strategies) and the Company shall consider in good faith such suggestions.

#### 2.14 **Business and Operations.**

- (a) The Company and each other Group Company undertake, and shall procure each of the Key Founders, employees, agents, contractors and subcontractors, to ensure that its business, activities and investments are undertaken in compliance with (i) every law, regulation, rule, judgment, order, license, agreement, directive, guideline, requirement, whether in effect as of the date hereof or thereafter and in each case as amended, applicable to it, and (ii) the terms and conditions of the Articles and the Transaction Agreements.
- (b) The Company shall act as a holding company of the other Group Companies and shall carry out, and shall cause each of the other Group Companies to carry out the business within the scope of building a professional, national network of enterprise-class data centers in the PRC, and providing data center infrastructure facility services and professional operation management services to information technology (“*IT*”) service providers and enterprises or organizations (the “*Business*”), and the Business shall be conducted in accordance with good and commercial business practice and in accordance with the business plan approved by the Board.

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- (c) The Company shall adopt and maintain a policy, in form and substance satisfactory to each of the Preferred Shareholders, designed to maximize its ownership of Intellectual Property (as defined below) developed or acquired in the course of its operations, which policy shall require the Company to (i) cause all material technological developments, patentable or unpatentable, inventions, discoveries or improvements by the Company’s or any of its Subsidiaries’ officers or employees to be documented in accordance with the appropriate professional standards; and (ii) cause all officers and key employees, and to the extent practicable, consultants of the Company and its Group Companies, to enter into non-disclosure and proprietary rights agreement in customary form, approved by the Board. For the purpose of this Section 2.14, “*Intellectual Property*” shall mean any and all intellectual property, including, without limitation, patents, trademarks, trade names, copyrights, proprietary information and rights, service marks, domain names, mask works, trade secrets, know-how, business processes, all computer software including the codes, inventions, information, processes, formulas, applications, design, drawings, technical data and all documentation related to any of the foregoing.

#### 2.15 **Fiscal Control.**

The Company shall adopt a Management of Fiscal Affairs Policy applicable to the Group Companies, which policy shall be reasonably satisfactory to a majority in interest of the holders of the then outstanding Preferred Shares.

#### 2.16 **Reservation of Shares.**

The Company shall, and the Board shall procure that the Company shall, maintain and reserve a sufficient number of Ordinary Shares at all times for issuance upon conversion of the Preferred Shares at the effective conversion rate as in effect from time to time (taking into account any outstanding options or convertible securities exercisable or convertible into Ordinary Shares). In furtherance of the foregoing, the Company shall take all actions necessary for such reservation including, but not limited to, solicitation of Board and/or shareholder approvals as necessary to increase the authorized share capital of the Company and the authorized number of Ordinary Shares authorized for issuance.

#### 2.17 **Termination of Covenants.**

The covenants set forth in Section 2 (other than Sections 2.1(b) (Other information and Inspection Rights), Sections 2.2 (Directors’ and Officers’ Liability Insurance), Section 2.5 (Drag-Along Rights), Section 2.8 (Control

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of Subsidiaries), Section 2.9 (Foreign Corrupt Practices Act), Section 2.10 (UBTI Covenant), and 2.17 (Termination of Covenants)) shall terminate and be of no further force or effect immediately prior to the effectiveness of the registration statement for a Qualified IPO or, with respect to Section 2.1 only, the date on which the Company is required to file reports with the Commission pursuant to Section 13 or 15(d) of the Exchange Act.

### 3. **Registration Rights.**

#### 3.1 **Restrictions on Transferability and Applicability of Rights.**

- (a) **Transfer Restrictions.** The Restricted Securities shall not be sold, assigned, transferred or pledged except upon the conditions specified in this Section 3, which conditions are intended to ensure compliance with the provisions of applicable securities laws. Each holder of Restricted Securities will cause any proposed purchaser, assignee, transferee or pledgee of any such shares held by such holder to agree in writing to take and hold such securities subject to the provisions and upon the conditions specified in this Agreement.
- (b) **Applicability of Rights.** The holders of Preferred Shares and Conversion Shares shall be entitled to the following rights with respect to any potential public offering of Ordinary Shares in the United States, and to any analogous or equivalent rights with respect to any other offering of shares in any other jurisdiction pursuant to which the Company undertakes to publicly offer or list such securities for trading on a recognized securities exchange.

### 3.2 [intentionally omitted].

### 3.3 Restrictive Legend; Execution by the Company.

Each certificate representing (i) Preferred Shares, (ii) Conversion Shares, (iii) Key Founders' Shares, (iv) any Other Shareholders' Shares, and (v) any other securities issued in respect of the Preferred Shares, Conversion Shares or Key Founders' Shares upon any Recapitalization, shall (unless otherwise permitted by the provisions of Section 3.4 below) be stamped or otherwise imprinted with legends substantially in the following form (in addition to any legend required under applicable federal, state, local or non-United States law):

- (a) "THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"). SUCH SECURITIES MAY NOT BE TRANSFERRED UNLESS (A) A REGISTRATION

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STATEMENT UNDER THE ACT IS EFFECTIVE AS TO SUCH TRANSFER OR (B) PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE ACT."

- (b) "THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO AND MAY ONLY BE SOLD, DISPOSED OF OR OTHERWISE TRANSFERRED IN COMPLIANCE WITH A MEMBERS AGREEMENT, AND/OR A RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT, AND/OR A VOTING AGREEMENT DATED MAY 19, 2016, ENTERED INTO BY THE HOLDER OF THESE SHARES, THE COMPANY AND CERTAIN SHAREHOLDERS OF THE COMPANY AS APPLICABLE. A COPY OF SUCH AGREEMENTS IS ON FILE AT THE PRINCIPAL OFFICE OF THE COMPANY. SUCH LOCK-UP PERIOD, RIGHTS OF FIRST REFUSAL AND RIGHTS OF CO-SALE ARE BINDING ON TRANSFEREES OF THESE SHARES. BY ACCEPTING ANY INTEREST IN SUCH SHARES THE PERSON ACCEPTING SUCH INTEREST SHALL BE DEEMED TO AGREE TO AND SHALL BECOME BOUND BY ALL THE PROVISIONS OF SAID VOTING AGREEMENT AS APPLICABLE."

Each of the Preferred Shareholders, Holders, Key Founders and Other Shareholders consents to the Company making a notation on its records and giving instructions to any transfer agent of the Restricted Securities in order to implement the restrictions on transfer established in this Section 3.

The Company, by its execution in the space provided below, agrees that it will cause the certificates evidencing the Shares to bear the legend required by this Section 3.3, and it shall supply, free of charge, a copy of this Agreement to any holder of a certificate evidencing Shares containing such legend upon written request from such holder to the Company at its principal office. The parties hereto do hereby agree that the failure to cause the certificates evidencing the appropriate Shares to bear the legend required by this Section 3.3 and/or failure of the Company to supply, free of charge, a copy of this Agreement as provided under this Section 3.3 shall not affect the validity or enforcement of this Agreement.

### 3.4 Notice of Proposed Transfers.

The holder of each certificate representing Restricted Securities by acceptance thereof agrees to comply in all respects with the provisions of this Section 3.4. Prior to any proposed sale, assignment, transfer or pledge of any Restricted Securities (other than (i) a transfer not involving a change

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in beneficial ownership, (ii) in transactions involving the distribution without consideration of Restricted Securities by the holder to any of its partners, members, or retired partners or members, or to the estate of any of its partners or members or retired partners or members, (iii) in transactions in compliance with Rule 144 promulgated under the Securities Act ("Rule 144"), (iv) transfers by members that are entities to affiliated entities or funds (United States based or non-United States based), and (v) transfers to the Company by any holder of Restricted Securities pursuant to the Company's repurchase option set forth in any agreement entered into after the date hereof if such agreement is approved by a majority of the Board, including at least one (1) Preferred Share Director, unless there is in effect a registration statement under the Securities Act covering the proposed transfer), the holder thereof shall give written notice to the Company of such holder's intention to effect such transfer, sale, assignment or pledge. Each such notice shall describe the manner and circumstances of the proposed transfer, sale, assignment or pledge in sufficient detail, and if reasonably requested by the Company, shall be accompanied, at such holder's expense, by either (i) a written opinion of legal counsel who shall be, and whose legal opinion shall be, reasonably satisfactory to the Company addressed to the Company, to the effect that the proposed transfer of the Restricted Securities may be effected without registration under the Securities Act, or (ii) a "no action" letter from the Commission to the effect that the transfer of such securities without registration will not result in a recommendation by the staff of the Commission that action be taken with respect thereto, whereupon the holder of such Restricted Securities shall be entitled to transfer such Restricted Securities in accordance with the terms of the notice delivered by the holder to the Company. For the avoidance of doubt, it shall not be reasonable for the Company to request that a notice be accompanied by any such opinion or "no action" letter if, among other things, both the transferor and the transferee have certified in writing that each of them is not a U.S. Person (as defined under Rule 902 of Regulation S promulgated under the Securities Act). Notwithstanding any of the foregoing exceptions to the notice requirements, all transferees shall be bound by the obligations of the transferor in this Agreement and other shareholder agreements, including the market standoff set forth in Section 3.14 below. Each certificate evidencing the Restricted Securities transferred as above provided shall bear, except if such transfer is made pursuant to Rule 144, the appropriate restrictive legends set forth in Section 3.3 above, except that such certificate shall not bear such restrictive legends if in the opinion of counsel for such holder and the Company such legend is not required in order to establish compliance with any provision of the Securities Act.

### 3.5 Demand Registration.

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- (a) **Request by Holders.** If the Company shall at any time after the earlier of six (6) months after the closing of an IPO, or three (3) years after Closing receive a written request from Initiating Holders that the Company effect a registration, qualification or compliance with respect to the Registrable Securities pursuant to this Section 3.5, then the Company shall, within ten (10) Business Days of the receipt of such written request, give written notice of such request (the "Request Notice") to all Holders, and use its best efforts to effect, as soon as practicable, such registration, qualification or compliance (including, without limitation, appropriate qualification under applicable blue sky or other state securities laws and appropriate compliance with applicable regulations issued under the Securities Act and any other governmental requirements or regulations) as may be so requested and as would permit or facilitate the sale and distribution of all or such portion of such Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any Holder or Holders joining in such request as are specified in a written request received by the Company within twenty (20) days after receipt of the Request Notice, subject only to the limitations of this Section 3.5; provided that the Company shall not be obligated to effect any such registration:
- (i) During the period starting with the date sixty (60) days prior to the Company's estimated date of filing of, and ending on the date six (6) months immediately following the effective date of, any registration statement pertaining to securities of the Company (other than a registration of securities in a transaction under Rule 145 promulgated under the Securities Act ("Rule 145") or with respect to an employee benefit plan), provided that the Company is actively employing in good faith commercially reasonable efforts to cause such registration statement to become effective;
- (ii) After the Company has effected two (2) such registrations pursuant to this Section 3.5(a), and such registration has been declared or ordered effective; or
- (iii) If the Initiating Holders may dispose of shares of Registrable Securities pursuant to a registration statement on Form S-3 or Form F-3 under the Securities Act as in effect on the date hereof or any successor form under the Securities Act ("Form S-3/F-3") pursuant to a request made under Section 3.7 hereof.

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- (b) **Underwriting.** If the Initiating Holders intend to distribute the Registrable Securities covered by their request by means of an underwriting, then they shall so advise the Company as a part of their request made pursuant to this Section 3.5 and the Company shall include such information in the Request Notice referred to in Section 3.5(a). In the event of an underwritten offering, the right of any Holder to include its Registrable Securities in such registration shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting (unless otherwise mutually agreed by a majority in interest of the Initiating Holders and such Holder) to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall enter into an underwriting agreement in customary form with the managing underwriter or underwriters selected for such underwriting by the Holders of a majority of the Registrable Securities being registered and reasonably acceptable to the Company. Notwithstanding any other provision of this Section 3.5, if the underwriter(s) advise(s) the Company in writing that marketing factors require a limitation of the number of securities to be underwritten, then the Company shall so advise all Holders of Registrable Securities which would otherwise be registered and underwritten pursuant hereto, and the number of Registrable Securities that may be included in the underwriting shall be reduced as required by the underwriter(s) and allocated among the Holders of Registrable Securities on a *pro rata* basis according to the number of Registrable Securities then held by each Holder requesting registration (including the Initiating Holders); provided, however, that the number of shares of Registrable Securities to be included in such underwriting and registration shall not be reduced unless all other securities are first entirely excluded from the underwriting and registration including, without limitation, all shares that are not Registrable Securities and are held by any other Person, including, without limitation, any Person who is an employee, officer or director of any of the Group Companies. If any Holder disapproves of the terms of any such underwriting, such Holder may elect to withdraw therefrom by written notice to the Company and the underwriter(s), delivered at least ten (10) Business Days prior to the effective date of the registration statement. Any Registrable Securities and/or other securities so excluded or withdrawn from such underwriting shall be excluded and withdrawn from the registration. For any Holder that is a partnership, the Holder and the partners and retired partners of such Holder, or the estates and family members of any such partners and retired partners and any trusts for the benefit of any of the foregoing Persons, and for any Holder that is a corporation, the Holder and all corporations that are Affiliates of such Holder, shall be deemed to be a single "Holder," and any *pro rata* reduction with respect to such "Holder" shall be

based upon the aggregate amount of shares carrying registration rights owned by all entities and individuals included in such "Holder," as defined in this sentence.

- (c) **Deferral.** Notwithstanding the foregoing, if the Company shall furnish to Holders requesting the filing of a registration statement pursuant to this Section 3.5, a certificate signed by CEO of the Company stating that in the good faith judgment of the Board (including all the Preferred Share Directors then serving on the Board), it would be materially detrimental to the Company and its shareholders for such registration statement to be filed, then the Company shall have the right to defer such filing for a period of not more than ninety (90) days after receipt of the request of the Initiating Holders; provided, however, that the Company may not utilize this right more than once in any twelve (12) month period; provided further that during such ninety (90) day period, the Company shall not file any registration statement pertaining to the public offering of any securities of the Company.
- (d) **Expenses.** The Company shall pay all Registration Expenses. Each Holder participating in a registration pursuant to this Section 3.5 shall bear such Holder's proportionate share (based on the total number of shares sold in such registration other than for the account of the Company) of all Selling Expenses incurred in connection with such registration of securities on behalf of the Holders. Notwithstanding the foregoing, the Company shall not be required to pay for any expenses of any registration proceeding begun pursuant to this Section 3.5 if the registration request is subsequently withdrawn at the request of the Holders of a majority of the Registrable Securities to be registered, unless the Holders of a majority of the Registrable Securities then outstanding agree that such registration constitutes the use by the Holders of one (1) demand registration pursuant to this Section 3.5 (in which case such registration shall also constitute the use by all Holders of Registrable Securities of one (1) such demand registration); provided further, however, that if at the time of such withdrawal, the Holders have learned of a material adverse change in the condition, business, or prospects of the Company not known to the Holders at the time of their request for such registration and have withdrawn their request for registration with reasonable promptness after learning of such material adverse change, then the Holders shall not be required to pay any of such expenses and such registration shall not constitute the use of a demand registration pursuant to this Section 3.5.

### 3.6 Piggyback Registrations.

- (a) **Notice of Registration.** The Company shall notify all Holders of Registrable Securities in writing at least thirty (30) days prior to

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registration of any of its securities, either for its own account or the account of a security holder or holders (including, but not limited to, registration statements relating to secondary offerings of securities of the Company, but excluding registration statements relating to (i) any registration under Section 3.5 or Section 3.7 of this Agreement, (ii) any employee benefit plan, or (iii) and corporate reorganization) and will afford each such Holder an opportunity to include in such registration all or any part of the Registrable Securities then held by such Holder. Each Holder desiring to include in any such registration (and any related qualifications under blue sky laws or other compliance) and in any underwriting involved therein, all or any part of the Registrable Securities held by such Holder shall within twenty (20) days after receipt of the above-described notice from the Company, so notify the Company in writing, and in such notice shall inform the Company of the number of Registrable Securities such Holder wishes to include in such registration statement. If a Holder decides not to include all of its Registrable Securities in any registration statement thereafter filed by the Company, such Holder shall nevertheless continue to have the right to include any Registrable Securities in any subsequent registration statement or registration statements as may be filed by the Company with respect to offerings of its securities, all upon the terms and conditions set forth herein.

- (b) **Underwriting.** If a registration under which the Company gives notice under this Section 3.6 is for an underwritten offering, then the Company shall so advise the Holders of Registrable Securities. In such event, the right of any such Holder's Registrable Securities to be included in a registration pursuant to this Section 3.6 shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting to the extent provided herein. All Holders proposing to distribute their Registrable Securities through such underwriting shall enter into an underwriting agreement in customary form with the managing underwriter or underwriters selected by the Company for such underwriting. Notwithstanding any other provision of this Agreement, if the managing underwriter(s) determine(s) in good faith that marketing factors require a limitation of the number of shares to be underwritten, then the managing underwriter(s) may exclude shares from the registration and the underwriting, and the number of shares that may be included in the registration and the underwriting shall be allocated, first to the Company, and second, to each of the Holders requesting inclusion of their Registrable Securities in such registration statement on a *pro rata* basis based on the total number of Registrable Securities then held by each such Holder; provided, however, that the

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right of the underwriter(s) to exclude shares (including Registrable Securities) from the registration and underwriting as described above shall be restricted so that (i) the number of Registrable Securities included in any such registration is not reduced below thirty percent (30%) of the aggregate number of Registrable Securities for which inclusion has been requested, even if this will cause the Company to reduce the number of shares it wishes to offer; and (ii) all shares that are not Registrable Securities and are held by any other Person, including, without limitation, any Person who is an employee, officer or director of any of the Group Companies shall first be excluded from such registration and underwriting before any Registrable Securities are so excluded. Notwithstanding the foregoing, if such offering is the Qualified IPO, any or all of the Registrable Securities of the Holders may be excluded in accordance with this Section 3.6(b), provided that any and all securities of the Company to be sold by other selling shareholders are also excluded. If any Holder disapproves of the terms of any such underwriting, such Holder may elect to withdraw therefrom by written notice to the Company and the underwriter(s), delivered at least ten (10) Business Days prior to the effective date of the registration statement. Any Registrable Securities excluded or withdrawn from such underwriting shall be excluded and withdrawn from the registration. For any Holder that is a partnership, the Holder and the partners and retired partners of such Holder, or the estates and family members of any such partners and retired partners and any trusts for the benefit of any of the foregoing Persons, and for any Holder that is a corporation, the Holder and all corporations that are Affiliates of such Holder, shall be deemed to be a single "Holder," and any *pro rata* reduction with respect to such "Holder" shall be based upon the aggregate amount of shares carrying registration rights owned by all entities and individuals included in such "Holder," as defined in this sentence.

- (c) **Expenses.** The Company shall pay all Registration Expenses incurred in connection with each registration under this Section 3.6. Each Holder participating in a registration pursuant to this Section 3.6 shall bear such Holder's proportionate share (based upon the total number of shares sold in such registration other than for the account of the Company) of all Selling Expenses incurred in connection with such registration of securities on behalf of the Holders.
- (d) **Not a Demand Registration.** Registration pursuant to this Section 3.6 shall not be deemed to be a demand registration as described in Section 3.5 above. Except as otherwise provided herein, there shall be no limit

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on the number of times the Holders may request registration of Registrable Securities under this Section 3.6.

### 3.7 Form S-3/F-3 Registration.

- (a) After its IPO, the Company shall use its best efforts to qualify for registration on Form S-3/F-3 or any comparable or successor form as early as possible and use best efforts to maintain such qualification thereafter. If the Company is qualified to use Form S-3/F-3, any Holder or Holders shall have a right to request at such time from time to time (such request shall be in writing) that the Company effect a registration on either Form S-3/F-3 and any related qualification or compliance with respect to all or a part of the Registrable Securities owned by such Holder or Holders, and upon receipt of each such request, the Company will:
- (i) **Notice.** Promptly give written notice of the proposed registration and the Holder's or Holders' request therefor, and any related qualification or compliance, to all other Holders of Registrable Securities; and
- (ii) **Registration.** As soon as practicable, effect such registration and all such qualifications and compliances as may be so requested and as would permit or facilitate the sale and distribution of all or such portion of such Holders or Holders' Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any other Holder or Holders joining in such request as are specified in a written request given within twenty (20) days after the Company provides the notice contemplated by Section 3.7(a)(i); provided, however, that the Company shall not be obligated to effect any such registration, qualification or compliance pursuant to this Section 3.7:
- (1) if Form S-3/F-3 becomes unavailable for such offering by the Holders;
  - (2) if the Holders, together with the holders of any other securities of the Company entitled to inclusion in such registration, propose to sell Registrable Securities and such other securities (if any) at an aggregate price to the public of less than US\$1,000,000; or

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- (3) if the Company has effected a registration pursuant to this Section 3.7 during the preceding (6) month period.

- (b) **Expenses.** The Company shall pay all Registration Expenses incurred in connection with each registration requested pursuant to this Section 3.7. Each Holder participating in a registration pursuant to this Section 3.7 shall bear such Holder's proportionate share (based upon the total number of shares sold in such registration other than for the account of the Company) of all Selling Expenses incurred in connection with such registration of securities on behalf of the Holders.
- (c) **Maximum Frequency.** Except as otherwise provided herein, there shall be no limit on the number of times the Holders may request registration of Registrable Securities under this Section 3.7.

- (d) **Deferral.** Notwithstanding the foregoing, if the Company shall furnish to Holders requesting the filing of a registration statement pursuant to this Section 3.7, a certificate signed by the CEO of the Company stating that in the good faith judgment of the Board (including all the Preferred Share Directors then serving on the Board), it would be materially detrimental to the Company and its shareholders for such Form S-3/F-3 registration statement to be filed, then the Company shall have the right to defer such filing for a period of not more than ninety (90) days after receipt of the request of the initiating Holders; provided, however, that the Company may not utilize this right more than once in any twelve (12) month period; provided further that during such ninety (90) day period, the Company shall not file any registration statement pertaining to the public offering of any securities of the Company.
- (e) **Not Demand Registration.** Form S-3/F-3 registrations shall not be deemed to be demand registrations as described in Section 3.5 above.
- (f) **Underwriting.** If the requested registration under this Section 3.7 is for an underwritten offering, the provisions of Section 3.5(b) shall apply.

### 3.8 **Obligations of the Company.**

Whenever required to effect the registration of any Registrable Securities under this Agreement, the Company shall keep each Holder advised in writing as to the initiation of such registration and as to the completion thereof, and shall, at its expense and as expeditiously and as reasonably possible:

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- (a) **Registration Statement.** Prepare and file with the Commission a registration statement with respect to such Registrable Securities and use its best efforts to cause such registration statement to become effective, and keep any such registration statement effective for a period of one hundred twenty (120) days or until the Holder or Holders have completed the distribution described in the registration statement relating thereto, whichever occurs first.
- (b) **Amendments and Supplements.** Prepare and file with the Commission such amendments and supplements to such registration statement and the prospectus used in connection with such registration statement as may be necessary to comply with the provisions of the Securities Act or other applicable securities laws with respect to the disposition of all securities covered by such registration statement.
- (c) **Registration Statements and Prospectuses.** Furnish to the Holders such number of copies of registration statements and prospectuses, including a preliminary prospectus, in conformity with the requirements of the Securities Act or other applicable securities laws, and such other documents as they may reasonably request in order to facilitate the disposition of the Registrable Securities owned by them that are included in such registration.
- (d) **Blue Sky.** Use its best efforts to register and qualify the securities covered by such registration statement under such other securities or Blue Sky laws of such jurisdictions as shall be reasonably requested by the Holders, provided that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions.
- (e) **Deposit Agreement.** If the registration relates to an offering of depositary shares or other securities representing Ordinary Shares deposited pursuant to a deposit agreement or similar facility, cause the depositary under such agreement or facility to accept for deposit under such agreement or facility all Registrable Securities requested by each Holder to be included in such registration in accordance with this Section 3.
- (f) **Underwriting.** In the event of any underwritten public offering, enter into and perform its obligations under an underwriting agreement in usual and customary form, with the managing underwriter(s) of such offering. Each Holder participating in such underwriting shall also enter into and perform its obligations under such an agreement.

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- (g) **Notification.** Notify each Holder of Registrable Securities covered by such registration statement at any time when a prospectus relating thereto is required to be delivered under the Securities Act or other applicable securities laws of the happening of any event as a result of which the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances then existing.
- (h) **Opinion and Comfort Letter.** Furnish, at the request of any Holder requesting registration of Registrable Securities, on the date that such Registrable Securities are delivered to the underwriter(s) for sale, if such securities are being sold through underwriters, or, if such securities are not being sold through underwriters, on the date that the registration statement with respect to such securities becomes effective, (i) an opinion, dated as of such date, of the counsel representing the Company for the purpose of such registration, in form and substance as is customarily given to underwriters in an underwritten public offering and reasonably satisfactory to a majority in interest of the Holders requesting registration, addressed to the underwriters, if any, and to the Holders requesting registration of Registrable Securities and (ii) a "comfort" letter dated as of such date, from the independent certified public accountants of the Company, in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering and reasonably satisfactory to a majority in interest of the Holders requesting registration, addressed to the underwriters, if any, and to the Holders requesting registration of Registrable Securities.
- (i) **Listing on Securities Exchange(s).** Cause all such Registrable Securities registered pursuant hereunder to be listed on each securities exchange on which similar securities issued by the Company are then listed or, in the case of the IPO, on a U.S. national or internationally- recognized securities exchange.

If the Company fails to perform any of the Company's obligations set forth above in this Section 3.8 relating to a demand registration made pursuant to Section 3.5, such registration shall not constitute the use of a demand registration under Section 3.5.

### 3.9 **Furnish Information.**

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It shall be a condition precedent to the obligations of the Company to take any action pursuant to Sections 3.5, 3.6 or 3.7 with respect to the Registrable Securities of any Holder, that such Holder shall furnish to the Company such information regarding itself, the Registrable Securities held by it and the intended method of disposition of such securities as shall be reasonably requested in writing by the Company to timely effect the registration of its Registrable Securities.

### 3.10 **Indemnification.**

The following indemnification provisions shall apply in the event any Registrable Securities are included in a registration statement under Sections 3.5, 3.6 or 3.7:

- (a) **By the Company.** To the extent permitted by law, the Company will indemnify and hold harmless each Holder, its partners, officers, directors, employees, trustees, legal counsel and any underwriter (as determined in the Securities Act) for such Holder and each Person, if any, who controls such Holder or underwriter within the meaning of Section 15 of the Securities Act against any expenses, losses, claims, damages, or liabilities (joint or several) (or actions in respect thereof) to which they may become subject under the Securities Act, the Exchange Act or other applicable law, insofar as such expenses, losses, claims, damages, or liabilities (or actions in respect thereof) arise out of or are based upon any of the following statements, omissions or violations (each a "**Violation**"):
- (i) any untrue statement or alleged untrue statement of a material fact contained in any registration statement, offering circular, preliminary prospectus, final prospectus or other document, or any amendments or supplements thereto;
  - (ii) the omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading, or
  - (iii) any violation or alleged violation of the Securities Act, the Exchange Act, any federal or state or foreign securities law or any rule or regulation promulgated under the Securities Act, the Exchange Act or other applicable securities law in connection with the offering covered by such registration statement;

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and the Company will reimburse each such Holder, its partner, officer, director, employee, legal counsel, underwriter or controlling Person for any legal or other expenses reasonably incurred by them, as incurred, in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that the indemnity agreement contained in this Section 3.10(a) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Company (which consent shall not be unreasonably withheld), nor shall the Company be liable in any such case for any such loss, claim, damage, liability or action to the extent that it arises out of or is based upon a Violation which occurs in reliance upon and in conformity with written information furnished expressly for use in connection with such registration by such Holder, underwriter or controlling Person of such Holder.

- (b) **By Selling Holders.** To the extent permitted by law, each selling Holder will indemnify and hold harmless the Company, each of its directors, each of its officers who have signed the registration statement, each Person, if any, who controls the Company within the meaning of Section 15 of the Securities Act, any underwriter (as determined in the Securities Act) and any other Holder selling securities under such registration statement or any of such other Holder's partners, directors, officers, employees, trustees, legal counsel and any underwriter (as determined in the Securities Act) for such Holder and each Person, if any, who controls such Holder within the meaning of Section 15 of the Securities Act, against any expenses, losses, claims, damages or liabilities (joint or several) (or actions in respect thereof) to which the Company or any such director, officer, employee, trustee, legal counsel, controlling Person, underwriter or other such Holder, partner or director, officer, employee or controlling Person of such other Holder

may become subject under the Securities Act, the Exchange Act or other applicable law, insofar as such expenses, losses, claims, damages or liabilities (or actions in respect thereto) arise out of or are based upon any Violation, in each case to the extent (and only to the extent) that such Violation occurs in reliance upon and in conformity with written information furnished by such Holder expressly for use in connection with such registration; and each such Holder will reimburse any legal or other expenses reasonably incurred by the Company or any such director, officer, employee, controlling Person, underwriter or other Holder, partner, officer, employee, director or controlling Person of such other Holder in connection with investigating or defending any such loss, claim, damage, liability or action: provided, however, that the indemnity agreement contained in this Section 3.10(b) shall not apply to amounts

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paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Holder, which consent shall not be unreasonably withheld; and provided further that the total amounts payable in indemnity by a Holder under this Section 3.10(b) plus any amount under Section 3.10(e) in respect of any Violation shall not exceed the net proceeds received by such Holder in the registered offering out of which such Violation arises.

- (c) Notice. Promptly after receipt by an indemnified party under this Section 3.10 of notice of the commencement of any claim or action (including any governmental action), such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Section 3.10, deliver to the indemnifying party a written notice of the commencement thereof (a "Claim Notice") and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly notified, to assume the defense thereof with counsel mutually satisfactory to the parties; provided, however, that an indemnified party shall have the right to retain its own counsel, with the fees and expenses to be paid by the indemnifying party, (i) during the period from the delivery of a Claim Notice until retention of counsel by the indemnifying party; and (ii) if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential conflict of interests between such indemnified party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action shall relieve such indemnifying party of liability to the indemnified party under this Section 3.10 to the extent the indemnifying party is prejudiced as a result thereof, but the omission so to deliver written notice to the indemnifying party will not relieve it of any liability that it may have to any indemnified party otherwise than under this Section 3.10.
- (d) Defect Eliminated in Final Prospectus. The foregoing indemnity agreements of the Company and Holders are subject to the condition that, insofar as they relate to any untrue statement, alleged untrue statement, omission or alleged omission made in a preliminary prospectus or free writing prospectus on file with the Commission at the time the registration statement becomes effective, such indemnity agreement shall not inure to the benefit of any Person if an amended prospectus is filed with the Commission and delivered pursuant to the Securities Act at or prior to the time of sale (including, without limitation, a contract of sale, and as further contemplated by Rule 159 promulgated under the Securities Act) to the Person asserting the loss, liability, claim or damage.

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- (e) Contribution. In order to provide for just and equitable contribution to joint liability under the Securities Act in any case in which either (i) any Holder exercising rights under this Agreement, or any controlling Person of any such Holder, makes a claim for indemnification pursuant to this Section 3.10 but it is judicially determined (by the entry of a final judgment or decree by a court of competent jurisdiction and the expiration of time to appeal or the denial of the last right of appeal) that such indemnification may not be enforced in such case notwithstanding the fact that this Section 3.10 provides for indemnification in such case, or (ii) contribution under the Securities Act may be required on the part of any such selling Holder or any such controlling Person in circumstances for which indemnification is provided under this Section 3.10; then, and in each such case, the Company and such Holder will contribute to the aggregate losses, claims, damages or liabilities to which they may be subject (after contribution from others) in such proportion so that such Holder is responsible for the portion represented by the percentage that the public offering price of its Registrable Securities offered by and sold under the registration statement bears to the public offering price of all securities offered by and sold under such registration statement, and the Company and other selling Holders are responsible for the remaining portion; provided, however, that, in any such case: (A) no such Holder will be required to contribute any amount in excess of the public offering price of all such Registrable Securities offered and sold by such Holder pursuant to such registration statement; and (B) no Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation.
- (f) Survival. The obligations of the Company and Holders under this Section 3.10 shall survive until the fifth (5th) anniversary of the completion of any offering of Registrable Securities in a registration statement, regardless of the expiration of any statutes of limitation or extensions of such statutes.

### 3.11 Rule 144 Reporting.

With a view to making available to the Holders the benefits of certain rules and regulations of the Commission which may permit the sale of the Restricted Securities to the public without registration, the Company agrees to use its best efforts to:

- (a) Make and keep public information available, as those terms are understood and defined in Rule 144 or any similar or analogous rule promulgated under the Securities Act, at all times after the effective

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date of the first registration filed by the Company for an offering of its securities to the general public;

- (b) File with the Commission, in a timely manner, all reports and other documents required of the Company under the Securities Act or the Exchange Act, at all times after the effective date of the first registration under the Securities Act filed by the Company; and
- (c) So long as a Holder owns any Restricted Securities, furnish to such Holder forthwith upon request, (i) a written statement by the Company as to its compliance with the reporting requirements of said Rule 144, and of the Exchange Act (at any time after it has become subject to such reporting requirements, (ii) a copy of the most recent annual, interim, quarterly or other report of the Company, and (iii) such other reports and documents as a Holder may reasonably request in availing itself of any rule or regulation of the Commission allowing it to sell any such securities without registration.

### 3.12 Termination of the Company's Obligations.

Notwithstanding the foregoing, the Company shall have no obligations pursuant to Sections 3.5, 3.6 or 3.7 with respect to any Registrable Securities proposed to be sold by a Holder in a registered public offering (i) five (5) years after the consummation of a Qualified IPO, or (ii), if, in the opinion of counsel to the Company, all such Registrable Securities proposed to be sold by a Holder may then be sold under Rule 144 in one three month period without exceeding the volume limitations thereunder. For the avoidance of doubt, Sections 3.5 to 3.17 shall survive and remain in full force and effect notwithstanding the consummation by the Company of an IPO.

### 3.13 No Registration Rights to Third Parties.

Without the prior written consent of the Holders of more than seventy percent (70%) of the Registrable Securities then outstanding, the Company covenants and agrees that it shall not grant, or cause or permit to be created, for the benefit of any Person any registration rights of any kind (whether similar to the demand, "piggyback" or Form S-3/F-3 registration rights described in this Section 3, or otherwise) relating to any shares or other securities of the Company, other than rights that are subordinate to the rights of the Holders hereunder.

### 3.14 "Market Stand-Off" Agreement.

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Each Member hereby agrees that, if and to the extent requested by the lead underwriter of securities of the Company in connection with a registration relating to a specific proposed public offering (other than a registration on Form S-8 or a related or successor form relating solely to an employee benefit plan or a registration on Form S-4 or a related or successor form relating solely to a transaction under Rule 145), such Member will, subject to the following conditions, enter into a lock-up or standoff agreement in customary form (subject to the following conditions) under which such Member agrees not to sell or otherwise transfer or dispose of any Registrable Securities or other shares of the Company owned by such Member as of the date of such registration for up to one hundred eighty (180) days following the effective date of the related registration statement. The obligations of each Member under this Section 3.14 are subject to the following conditions: (i) the lockup or standoff agreement applies only to the first registration statement of the Company which covers securities to be sold on its behalf to the public in an underwritten offering, but not to Registrable Securities actually sold pursuant to such registration statement; (ii) such Member is reasonably satisfied that all directors, officers, and holders of 1% or more of any class of securities of the Company are bound by substantially identical restrictions; (iii) the lockup or standoff agreement provides that if any securities of the Company are to be excluded or released in whole or part from such restrictions, the underwriter shall so notify each Member and each Member shall be excluded or released, in proportionate amounts to the extent of the exclusion or release with respect to any other holder of Company's securities, including director, officer, or holder of 1% or more of any class of securities of the Company subject to such restrictions; and (iv) the lockup or standoff agreement by its terms permits transfers of Registrable Securities by any Member to any Affiliate of such Member during the restricted period, provided that such Affiliate executes a lock-up or standoff agreement substantively identical to that signed by the transferring Member. The Company may impose a stop-transfer instruction with respect to Registrable Securities subject to any such lockup or standoff agreement but shall remove such instruction immediately upon expiration of the underlying restrictions.

### 3.15 Public Offering Rights (Non-U.S. Offerings).

If shares of the Company are offered in an underwritten public offering (whether or not a Qualified IPO) outside the United States for the account of any Key Founder or other shareholders, each Holder shall have the right to include a pro-rata number of shares (based on the number of shares (on an as-converted basis) then held by such holder and all other shareholders

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of the Company selling in the offering) in the offering on terms and conditions no less favorable to the Holders than to any other selling shareholder.

### 3.16 Re-Sale Rights.

The Company shall use its best efforts to assist each Holder in the sale or disposition of its Registrable Securities after an IPO, including the prompt delivery of applicable instruction letters by the Company and legal opinions from the Company's counsels in forms reasonably satisfactory to the Holder's counsel. In the event the Company has depositary receipts listed or traded on any stock exchange or inter-dealer quotation system, the Company shall pay all costs and fees related to such depositary facility, including conversion fees and maintenance fees for Registrable Securities held by the Holders.

### 3.17 Transfer of Registration Rights.

The rights to cause the Company to register securities granted to a Holder under Sections 3.5, 3.6 and 3.7 may be assigned to a transferee or assignee in connection with any transfer or assignment of Registrable Securities by the Holder; provided that: (a) such transfer may otherwise be effected in accordance with applicable securities laws, (b) the Company is given prompt notice of the transfer, (c) such assignee or transferee agrees to be bound by the terms of this Agreement by executing and delivering a Deed of Adherence (in the same form and substance as set out in Schedule 1 hereto), (d) such assignee or transferee is not a competitor of the Company, and (e) such assignee or transferee is (i) any partner or retired partner of any Holder which is a partnership (or any member or retired member of any Holder which is a limited liability company), (ii) any Affiliate or affiliated fund (United States based or non-United States based) of any Holder, (iii) any family member or trust for the benefit of any individual Holder, or (iv) any transferee of at least five percent (5%) of the Registrable Securities originally issued to the Holder (as adjusted for Recapitalization).

## 4. Pre-emptive Right.

### 4.1 Pre-emptive Right.

Subject to the terms and conditions specified in this Section 4.1, the Company hereby grants to each Preferred Shareholder a pre-emptive right to subscribe for its Pro Rata Share (as hereinafter defined) (in whole or in part) with respect to future issuances by the Company of New Securities (as

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hereinafter defined). For the purpose of this Section 4.1, a Preferred Shareholder's "**Pro Rata Share**" shall mean that number of New Securities (as defined below) that equals the total number of such New Securities to be issued by the Company, multiplied by a fraction, the numerator of which is (i) the number of Ordinary Shares (assuming conversion of all securities that are outstanding that are convertible into Ordinary Shares) held by such Preferred Shareholder and the denominator of which is (ii) the total number of Ordinary Shares (assuming conversion of all securities that are outstanding that are convertible into Ordinary Shares) of the Company, outstanding immediately prior to the issuance of New Securities giving rise to the pre-emptive right.

Subject to Section 4.1(d), each time the Company proposes to offer any shares of, or securities convertible into or exercisable for any shares of, any class of its shares ("**New Securities**"), the Company shall first make an offering of such New Securities to each Preferred Shareholder in accordance with the following provisions:

- (a) The Company shall deliver a written notice ("**Notice**") pursuant to Section 7.7 hereof to each of the Preferred Shareholders stating (i) its bona fide intention to offer such New Securities, (ii) the number of such New Securities to be offered, and (iii) the price and a summary of the terms, if any, upon which it proposes to offer such New Securities.
- (b)
  - (i) By written notification received by the Company within fifteen (15) Business Days after delivery of the Notice (the "**Refusal Period**"), each Preferred Shareholder may elect to purchase or obtain, at the price and on the terms specified in the Notice, up to its Pro Rata Share of such New Securities.
  - (ii) In the event that any Preferred Shareholder elects not to purchase its full Pro Rata Share of the New Securities available to it pursuant to Section 4.1(b)(i) above within the Refusal Period, then the Company shall promptly give written notice (the "**Overallocation Notice**") to each of the Preferred Shareholders that has elected to purchase its full Pro Rata Share (the "**Fully Participating Preferred Shareholders**"), which notice shall set forth the number of New Securities not purchased by the other Preferred Shareholders (such shares, the "**Overallocation New Securities**"), and shall offer the Fully Participating Preferred Shareholders the right to purchase its Pro Rata Share of the Overallocation New Securities. By written notification received by the Company within five (5) Business Days after delivery of the Overallocation Notice, each

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Fully Participating Preferred Shareholder may elect to purchase or obtain at the price and terms specified in the Notice, up to its Pro Rata Share of the Overallocation New Securities. For the purpose of this Section 4.1(b)(ii), each Fully Participating Preferred Shareholder's Pro Rata Share shall be the number of Overallocation New Securities multiplied by a fraction, the numerator of which shall be the number of Ordinary Shares (assuming conversion of all securities that are outstanding that are convertible into Ordinary Shares) held by such Fully Participating Preferred Shareholder on the date of the Notice and the denominator of which shall be the total number of Ordinary Shares (assuming conversion of all securities that are outstanding that are convertible into Ordinary Shares) held by all Fully Participating Preferred Shareholders on the date of the Notice.

- (c) In the event that not all New Securities specified in the Notice are acquired by the Preferred Shareholders pursuant to Section 4.1(b) hereof, the Company may, during the ninety (90) day period following the expiration of the period provided in Section 4.1(b) hereof, offer the remaining unsubscribed portion of such New Securities to any Person(s) approved by holders representing at least eighty-five percent (85%) of the Existing Preferred Shares (voting together as a separate class) and holders representing at least seventy-five percent (75%) of the Series C Shares, at a price not less than, and upon terms no more favorable than those specified in the Notice to such Person(s). If the Company does not enter into an agreement for the sale of the New Securities within such period, or if such agreement is not consummated within sixty (60) days of the execution thereof, the right provided hereunder shall be deemed to be revived and such New Securities shall not be offered unless first reoffered to the Preferred Shareholders in accordance herewith.
- (d) Notwithstanding the foregoing, New Securities does not include the Ordinary Shares, Options or other Convertible Securities issued or issuable (or deemed to be issued or issuable pursuant to Article 26 of the Articles):
  - (i) upon conversion of Preferred Shares;
  - (ii) in the aggregate up to 29,240,000 Ordinary Shares upon exercise or conversion of Options or Convertible Securities issued from time to time, as approved by the Board, to employees, officers, directors or consultants of the Group

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Companies pursuant to option plans, restricted stock plans or other arrangements, each such plan, arrangement or issuance (as applicable) having been approved pursuant to Article 81 of the Articles;

- (iii) as a dividend or distribution on Preferred Shares;
- (iv) pursuant to Recapitalization subject to Article 29 of the Articles;
- (v) pursuant to any acquisition of the Company or of another entity by the Company by merger, purchase of substantially all of the assets, reorganization or similar transaction, approved by the Board, including all the Preferred Share Directors;
- (vi) pursuant to transactions with financial institutions or lessors in connection with loans, credit arrangements, equipment financings or similar transactions approved by the Board, including all the Preferred Share Directors;
- (vii) in a registered public offering under the Securities Act or pursuant to the securities laws applicable to an offering of securities in another jurisdiction pursuant to which such securities will be listed on an internationally recognized securities exchange which has been approved by the Board, including all the Preferred Share Directors; and
- (viii) pursuant to other transactions expressly excluded from the definition of "New Securities" by approval of at least seventy-five percent (75%) of the then outstanding Preferred Shares, voting as a separate class on an as-converted basis.

The pre-emptive right is not assignable except to an Affiliate of such Preferred Shareholder.

### 4.2 Termination of Right.

The pre-emptive right granted under Section 4.1 shall expire immediately prior to the first to occur of the following: (i) the closing of the Qualified IPO, and (ii) the effectiveness of a Sale Transaction.

## 5. Representations and Warranties, Covenants and Other Agreements of the Key Founders.

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### 5.1 Full Time Commitment of the Key Founders.

Each Key Founder warrants, undertakes and covenants to the Preferred Shareholders that, for such time as such Key Founder continues to provide services to any of the Group Companies, he/it shall commit all of his/its efforts to furthering the business of the Group Companies and shall not, either on his/its own account or through any of his/its Affiliates, or in conjunction with or on behalf of any other Person, carry on or be engaged, concerned or interested directly or indirectly whether as shareholder, director, employee, partner, agent or otherwise carry on any business other than the business of the Group Companies.

### 5.2 Non-Competition.

- (a) Each Key Founder undertakes to each of the Preferred Shareholders that for a period of twenty-four (24) months after he/it ceases to be employed by any Group Company, or such Key Founder ceases to hold any equity interest in any Group Company he/it will not, without the prior written consent of all Preferred Shareholders:
- (i) in the territory of the PRC, Macau, Taiwan and Hong Kong (the "**Territory**") either on his/its own account or through any of his/its Affiliates, or in conjunction with or on behalf of any other Person, carry on or be engaged, concerned or interested, directly or indirectly, whether as shareholder, director, employee, partner, agent or otherwise carry on any business in competition with the business of any of the Group Companies;
  - (ii) either on his/its own account or through any of his/its Affiliates or in conjunction with or on behalf of any other Person solicit or entice away or attempt to solicit or entice away from any of the Group Companies, any Person who is or shall at any time within twenty-four (24) months prior to such cessation have been a customer, client, representative, agent or correspondent of such Group Company or in the habit of dealing with such Group Company;
  - (iii) either on his/its own account or through any of his/its Affiliates or in conjunction with or on behalf of any other Person, employ or engage from any Group Company any Person who is or shall have been at the date of or within twelve (12) months prior to such cessation of employment an officer, manager, consultant or employee of any such of the Group Companies whether or

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not such Person would commit a breach of contract by reason of leaving such employment;

- (iv) either on his/its own account or through any of his/its Affiliates or in conjunction with or on behalf of any other Person, solicit or entice away, or attempt to employ or engage, solicit or entice away from any Group Company any Person who is or shall have been at the date of or within twelve (12) months prior to such cessation of employment an officer, manager, consultant or employee of any such of the Group Companies whether or not such Person would commit a breach of contract by reason of leaving such employment; and
  - (v) either he/it or any of his/its Affiliates will at any time hereafter, in relation to any trade, business or company use a name or any other words hereafter used by any of the Group Companies in its name or in the name of any of its products, services or their derivative terms, or the Chinese or English equivalent or any similar word in such a way as to be capable of or likely to be confused with the name of any Group Company or the product or services or any other products or services of any Group Company, and shall use all reasonable endeavors to procure that no such name shall be used by any of his Affiliates or otherwise by any Person with which he is connected.
- (b) Each and every obligation under Section 5.2(a) shall be treated as a separate obligation and shall be severally enforceable as such and in the event of any obligation or obligations being or becoming unenforceable in whole or in part, such part or parts which are unenforceable shall be deleted from such section and any such deletion shall not affect the enforceability of the remainder parts of such section.
- (c) The parties agree that in light of the circumstances, the restrictive covenants contained in Section 5.2(a) are reasonable and necessary for the protection of the Group Companies and the Preferred Shareholders, and further agree that having regard to those circumstances the said covenants and are not excessive or unduly onerous upon the Key Founders. However, it is recognized that restrictions of the nature in question may fail for technical reasons currently unforeseen and accordingly it is hereby agreed and declared that if any of such restrictions shall be adjudged to be void as going beyond what is

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reasonable, in light of the circumstances, for the protection of the Group Companies or the Preferred Shareholders, but would be valid if part of the wording thereof were deleted or the periods thereof reduced or the range of activities or area dealt with thereby reduced in scope, the said restriction shall apply with such modification as may be necessary to make it valid and effective.

### 5.3 IPO.

- (a) The parties to this Agreement agree that:
- (i) In the event of any IPO, the priority of such IPO shall be to raise new funds for the Company's capital expenditure and working capital, and such priority shall always take precedence over any Member's desire to exit its investment in the Company; and
  - (ii) the Company shall not initiate the formal preparation of any IPO prior to January 1, 2015.
- Subject to this Section 5.3(a), the Company shall consider undertaking an IPO at an appropriate time subject to the Company achieving a critical size in terms of revenue, EBITDA and visibility of free cash.
- (b) Without prejudice to any Member's rights and interests hereunder or under any agreement to which such Member is a party, the parties hereto (other than the Company) agree to use their respective commercially reasonable efforts to cooperate with the Company to work towards achieving a Qualified IPO after January 1, 2015.
- (c) The Company shall, and the Key Founders shall procure that the Company will, consult with the Preferred Shareholders on the pricing of the Qualified IPO and allow the Preferred Shareholders a reasonable opportunity to attend and participate in all meetings and discussions with the underwriter(s) and other advisers at which pricing of the Qualified IPO is to be discussed or determined.

## 6. Confidentiality and Announcements.

### 6.1 Disclosure of Terms.

Each party hereto acknowledges that the terms and conditions (collectively, the "**Terms**") of this Agreement, the other Transaction Agreements, and all exhibits, restatements and amendments hereto and thereto, shall be

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considered as confidential information and shall not be disclosed by it to any third party except in accordance with the provisions set forth below. Each Preferred Shareholder agrees with the Company that such Preferred Shareholder will keep confidential and will not disclose or divulge, any written information that is clearly and conspicuously identified as "Confidential" which such Preferred Shareholder obtains from the Company, pursuant to financial statements, reports, presentations, correspondence, and any other materials provided by the Company to, or written communications between the Company and such Preferred Shareholder, or pursuant to information rights granted under this Agreement or any other related documents, unless the information is known, or until the information becomes known, to the public through no fault of such Preferred Shareholder, or unless the Company gives its written consent to such Preferred Shareholder's release of the information.

### 6.2 Press Releases.

Within sixty (60) days after Closing, the Company may issue a press release disclosing that the Preferred Shareholders have invested in the Company provided that (a) the release does not disclose any of the Terms, (b) the press release does not disclose the amount or other specific terms of the investment, and (c) the final form of the press release is approved in advance in writing by each Preferred Shareholder mentioned therein. Preferred Shareholders' names and the fact that Preferred Shareholders are shareholders in the Company can be included in a reusable press release boilerplate statement, so long as each Preferred Shareholder has given the Company its initial approval of such boilerplate statement and the boilerplate statement is reproduced in exactly the form in which it was approved. No other announcement regarding any Preferred Shareholder in a press release, conference, advertisement, announcement, professional or trade publication, mass marketing materials or otherwise to the general public may be made without such Preferred Shareholder's prior written consent, which consent may be withheld at such Preferred Shareholder's sole discretion.

### 6.3 Permitted Disclosures.

Notwithstanding anything in the foregoing to the contrary:

- (a) The Company may disclose any of the Terms to its current or bona fide prospective investors, directors, officers, employees, shareholders, investment bankers, lenders, accountants, auditors, insurers, business or financial advisors, and attorneys, in each case only if such Persons are under appropriate nondisclosure obligations imposed by professional ethics, law or otherwise;

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- (b) Each Preferred Shareholder may, without disclosing the identities of the other Preferred Shareholders or the Terms of their respective investments in the Company without their consent, disclose such Preferred Shareholder's investment in the Company to third parties or to the public at its sole discretion and, if it does so, the other parties shall have the right to disclose to third parties any such information disclosed in a press release or other public announcement by such Preferred Shareholder;



- (c) Each party shall have the right to disclose:
- (i) any information to such party's and/or its Affiliate's legal counsel, auditor, insurer, accountant, consultant, rating agency, or to an officer, director, general partner, limited partner, its shareholder, investment counsel or advisor, or employee of such party and/or its Affiliate (the "**Permitted Disclosees**"); provided, however, that any counsel, auditor, insurer, accountant, consultant, rating agency, officer, director, general partner, limited partner, shareholder, investment counsel or advisor, or employee shall only be disclosed with such information on a need-to-know basis and shall be advised of the confidential nature of the information and are under appropriate non-disclosure obligation imposed by professional ethics, law or otherwise; provided further that, notwithstanding the foregoing, any disclosure of information to a limited partner, shareholder or any other Permitted Disclosee that is a competitor of the Company shall require the prior written consent of the Company;
  - (ii) any information as required by law, government authorities, exchanges and/or regulatory bodies, including by the Securities and Futures Commission of the Hong Kong Special Administrative Region, the China Securities and Regulatory Commission of the PRC or the Securities and Exchange Commission of the United States (or equivalent for other venues);
  - (iii) any information to bona fide prospective purchasers/investors of any share, security or other interests in the Company, provided that (i) the Company has been informed of such disclosure and (ii) the prospective purchaser/investor has agreed to keep Company information confidential, and/or
  - (iv) any information contained in press releases or public announcements of the Company pursuant to Section 6.2 above.

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- (d) The confidentiality obligations set out in this Section 6 do not apply to:
- (i) information which was in the public domain or otherwise known to the relevant party before it was furnished to it by another party hereto or, after it was furnished to that party, entered the public domain otherwise than as a result of (i) a breach by that party of this Section 6, or (ii) a breach of a confidentiality obligation by the discloser, where the breach was known to that party;
  - (ii) information the disclosure of which is necessary in order to comply with any applicable law, governmental rule or regulation, the order of any court, tribunal or regulatory authority or pursuant to other legal process, the requirements of a stock exchange or to obtain tax or other clearances or consents from any relevant authority; or
  - (iii) information disclosed by any director of the Company to its appointer or any of its Affiliates or otherwise in accordance with the foregoing provisions of this Section 6.3.

#### 6.4 Legally Compelled Disclosure.

In the event that any party is requested or becomes legally compelled (including without limitation pursuant to any securities laws and regulations) to disclose the existence of this Agreement, any other Transaction Agreement or any Terms in contravention of the provisions of this Section 6, such party (the "**Disclosing Party**") shall provide the other parties (the "**Non-Disclosing Parties**") with a prompt written notice of that fact so that the appropriate party may seek (with the cooperation and reasonable efforts of the other parties) a protective order, confidential treatment or other appropriate remedy. In such event, the Disclosing Party shall furnish only that portion of the information that is legally required and shall exercise reasonable efforts to obtain reliable assurance that confidential treatment will be accorded such information to the extent as reasonably requested by any Non-Disclosing Party.

#### 6.5 Other Nondisclosure Agreements.

Notwithstanding the provisions set forth below in Section 7.6 hereof, the provisions of this Section 6 shall be in addition to, and not in substitution for, the provisions of the separate nondisclosure agreements if any executed by the Company with any Preferred Shareholder with respect to the transactions contemplated herein. The provisions of this Sections 6.1 to 6.4 shall terminate with respect to a Preferred Shareholder on the earlier of (a) the termination of this Agreement and (b) the date such Preferred Shareholder ceases to hold any Preferred Shares.

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#### 6.6 Use of Names or Logos.

- (a) Use of "SBCVC" Name or Logo. Without the prior written consent of SBCVC and whether or not SBCVC is then a shareholder of the Company, no other party hereto shall use, publish or reproduce the name "SBCVC" or any similar name, trademark or logo in any of their marketing, advertising or promotion materials or otherwise for any marketing, advertising or promotional purposes.
- (b) Use of "Seabright", "Forebright" or "China Everbright" Name or Logo. Without the prior written consent of Everbright, and whether or not Everbright is then a shareholder of the Company, no other party hereto shall use, publish or reproduce the name "Seabright", "Forebright" or "China Everbright" or any similar name, trademark or logo in any of their marketing, advertising or promotion materials or otherwise for any marketing, advertising or promotional purposes.
- (c) Use of "STT", "STTC", "STT Communications", "ST Telemedia", "Singapore Technologies Telemedia", "GDC" or "APDC" Name or Logo. Without the prior written consent of the Series C Shareholder (for so long as it is controlled by STTC), and whether or not the Series C Shareholder is then a shareholder of the Company, no other party hereto shall, for any marketing, advertising or promotional purposes, use, publish or reproduce the name "STT", "STTC", "STT Communications", "ST Telemedia", "Singapore Technologies Telemedia", "GDC" or "APDC" or any similar name, trademark or logo in any of their marketing, advertising or promotion materials or any other trade name or logo to be used for STTC's data center related businesses or operations as may be notified by the Series C Shareholder to the Company from time to time.

### 7. Miscellaneous.

#### 7.1 Term and Termination.

This Agreement shall become effective on the date of Closing. Section 2 shall terminate in accordance with Section 2.17; the registration rights granted pursuant to Sections 3.5, 3.6 and 3.7 shall terminate in accordance with Section 3.12; and Section 4 shall terminate in accordance with Section 4.2.

#### 7.2 Waivers and Amendments.

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Neither this Agreement nor any term hereof, may be changed, waived, discharged or terminated orally or in writing, except that any term of this Agreement may be amended and the observance of such terms may be waived (either generally or in a particular instance and either retroactively or prospectively) with (but only with) (i) the written consent of the Company, (ii) the holders of at least eighty-five percent (85%) of the then outstanding Existing Preferred Shares (voting together as a separate class) and (iii) the holders of at least seventy-five percent (75%) of the then outstanding Series C Shares; provided, however, that no such amendment or waiver shall extend to or affect any obligation not expressly waived or impair any right consequent therein. Any party may waive any of its rights or the obligations of the Company hereunder without obtaining the consent of any other parties of this Agreement. However, any amendments or waivers to rights of, or benefits to, SBCVC under this Agreement shall not be made without prior consent of SBCVC, and any amendments or waivers to rights of, or benefits to, the Series C Shareholder under this Agreement shall not be made without prior consent of the Series C Shareholder. No consent shall be required from any Shareholder hereunder for a permitted transferee of any Equity Securities hereunder to sign a counterpart signature page to this Agreement; provided that such permitted transferee of any Equity Securities shall duly execute a Deed of Adherence (in the same form and substance as set out in Schedule 1 hereto) confirming to the other Members that it shall be bound by this Agreement as a Member.

#### 7.3 Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of Hong Kong without regard to principles of conflicts of laws. Each of the parties hereto irrevocably agrees that any Dispute, shall be referred to and finally resolved by binding arbitration administered by the HKIAC in accordance with the Rules in force when the notice of arbitration is submitted in accordance with these Rules, which Rules are deemed to be incorporated by reference into this section and as may be amended by the rest of this section. The arbitration tribunal shall consist of three (3) arbitrators (the "**Tribunal**"). The parties agree that the three arbitrators can be selected from outside the HKIAC's panel(s) of arbitrators. The claimant and the respondent shall each designate one (1) arbitrator in accordance with the Rules. The HKIAC shall appoint the third and presiding arbitrator, who shall be qualified to practice Law in Hong Kong. The seat of the arbitration shall be Hong Kong. The language of the arbitration proceedings shall be English. Any award of the Tribunal shall be made in writing and shall be final, conclusive and binding on the parties to the arbitration from the day it is made.

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#### 7.4 Other Remedies; Specific Performance.

Except as otherwise provided herein, any and all remedies herein expressly conferred upon a party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such party, and the exercise by a party of any one remedy will not preclude the exercise of any other remedy. The parties hereto agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to seek an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof, this being in addition to any other remedy to which they are entitled at law or in equity.

#### 7.5 Successors and Assigns.

Except as otherwise expressly provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors, assigns, heirs, executors and administrators. No party hereto may delegate, assign or otherwise transfer any of its rights or obligations under this Agreement except in connection with the permitted transfer of securities in accordance with the terms hereof or as provided in Section 2.1(c) hereof. Additionally, neither the Company nor any of the Group Companies may assign or delegate any of its rights or obligations under this Agreement without the prior written consent of all the Preferred Shareholders.

**7.6 Entire Agreement.**

This Agreement and the documents referred to herein constitute the full and entire understanding and agreement between the parties with regard to the subjects hereof, and supersede any and all other prior written or oral agreements relating to the subject matter hereof existing between the parties hereto.

**7.7 Notices.**

All notices and other communications required or permitted hereunder shall be in writing and shall be sent by facsimile or mailed by electronic, registered or certified mail or by overnight courier or otherwise delivered by hand or by messenger, addressed: (i) if to an Existing Preferred Shareholder, at the Preferred Shareholder's address, as shown on Exhibit A, Exhibit A-1, Exhibit A-2, Exhibit A-3 hereto, or at such other address as the Existing Preferred Shareholder shall have furnished to the Company in

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writing, (ii) if to the Series C Shareholder, at the Series C Shareholder's address, as shown on Exhibit A-4 hereto, (iii) if to a Key Founder, at the address as shown on Exhibit B hereto, or at such other address as the Key Founder shall have furnished to the Company in writing, (iv) if to one of the Other Shareholders, at the address as shown on Exhibit C hereto, or at such other address as the Key Founder shall have furnished to the Company in writing, or, until any such holder so furnishes an address to the Company, then to and at the address of the last holder of such shares who has so furnished an address to the Company, or (v) if to any of the Group Companies, at the address set forth on the respective signature pages attached hereto (attention: CEO), or at such other address as such Group Company shall have furnished to the Preferred Shareholders.

Where a notice is sent by mail, service of the notice shall be deemed to be effected by properly addressing, pre-paying and mailing a letter containing the notice, and to have been effected at the expiration of five (5) Business Days after the letter containing the same is mailed as aforesaid.

Where a notice is sent by overnight courier, service of the notice shall be deemed to be effected by properly addressing, and sending such notice through an internationally recognized express courier service, delivery fees pre-paid, and to have been effected three (3) Business Days following the day the same is sent as aforesaid. Notwithstanding anything to the contrary in this Agreement, notice sent to the Series C Shareholder (and its permitted assigns) shall only be delivered by internationally recognized express courier service pursuant to this paragraph.

Where a notice is delivered by facsimile, electronic mail, by hand or by messenger, service of the notice shall be deemed to be effected upon delivery or successful transmission record being generated by the sender's machine.

**7.8 Severability.**

If any provision of this Agreement shall be determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**7.9 Titles and Subtitles.**

The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. All references in this Agreement to sections, paragraphs and exhibits shall, unless otherwise provided, refer to sections and paragraphs hereof and exhibits attached hereto.

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**7.10 Counterparts; Facsimiles.**

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument. A facsimile, teletype or other reproduction of this Agreement may be executed by one or more parties hereto and delivered by such party by facsimile or any similar electronic transmission device pursuant to which the signature of or on behalf of such party can be seen. Such execution and delivery shall be considered valid, binding and effective for all purposes. At the request of any party hereto, all parties hereto agree to execute and deliver an original of this Agreement as well as any facsimile, teletype or other reproduction hereof.

**7.11 Delays or Omissions.**

It is agreed that no delay or omission to exercise any right, power or remedy accruing to any Preferred Shareholder, upon any breach or default of the Company under this Agreement, shall impair any such right, power or remedy, nor shall it be construed to be a waiver of any such breach or default, or any acquiescence therein, or of any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. It is further agreed that any waiver, permit, consent or approval of any kind or character by any Preferred Shareholder of any breach or default under this Agreement, or any waiver by any Preferred Shareholder of any provisions or conditions of this Agreement must be in writing and shall be effective only to the extent specifically set forth in writing and that all remedies, either under this Agreement, or by law or otherwise afforded to the Preferred Shareholder, shall be cumulative and not alternative.

**7.12 Share Splits.**

All references to the number of shares in this Agreement shall be appropriately adjusted to reflect any Recapitalization, which may be made by the Company after Closing.

**7.13 Aggregation of Stock.**

All shares of the Company held or acquired by affiliated Persons shall be aggregated together for the purpose of determining the availability of any rights under this Agreement.

**7.14 Several Liabilities of the Preferred Shareholders.**

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Each Preferred Shareholder shall be severally (and not jointly and severally or jointly with any other Person) liable for its own obligations under this Agreement.

**7.15 Further Understanding and Agreement**

It is understood and agreed by all parties to this Agreement that the Share Swap Agreement dated on June 12, 2014, entered into by the Company, EDC Holding Limited, Brilliant Wise Holdings Limited, and certain other entities, and the shares issued pursuant to such agreement and relevant resolutions are made for an inter-group restructuring purpose, and will not trigger the adjustment of the Conversion Price.

*[Remainder of Page Intentionally Left Blank]*

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**"THE COMPANY"**  
**GDS HOLDINGS LIMITED**

By: /s/ [ ]

Print Name of  
Authorized Signatory: William Wei Huang ([ ])  
Title of  
Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**"PREFERRED SHAREHOLDERS"  
STT GDC PTE. LTD.**

By:           /s/ Bruno Lopez          

Print Name of  
Authorized Signatory:                     Bruno Lopez  
Title of  
Authorized Signatory:                     Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**"PREFERRED SHAREHOLDERS"  
SBCVC COMPANY LIMITED**

By:           /s/ Ping Hua          

Print Name of  
Authorized Signatory:                     Ping Hua  
Title of  
Authorized Signatory:                     Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**"PREFERRED SHAREHOLDERS"  
SBCVC FUND II, L.P.**

By:           /s/ Ping Hua          

Print Name of  
Authorized Signatory:                     Ping Hua  
Title of  
Authorized Signatory:                     Managing Partner

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**"PREFERRED SHAREHOLDERS"  
SBCVC VENTURE CAPITAL  
(XXXXXXXXXX)**

By:           /s/ Ping Hua          

Print Name of  
Authorized Signatory:                     Ping Hua  
Title of  
Authorized Signatory:                     Member of the Joint  
  Management Committee

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**"PREFERRED SHAREHOLDERS"  
SBCVC FUND II-ANNEX, L.P.**

By:           /s/ Ping Hua          

Print Name of  
Authorized Signatory:                     Ping Hua  
Title of  
Authorized Signatory:                     Managing Partner

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**"PREFERRED SHAREHOLDERS"  
SBCVC FUND III L.P.**

By:           /s/ Ping Hua          

Print Name of  
Authorized Signatory:                     Ping Hua  
Title of  
Authorized Signatory:                     Managing Partner

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“PREFERRED SHAREHOLDERS”  
SEABRIGHT SOF (I) PAPER LIMITED**

By:  /s/ Tang Chi Chun

Print Name of  
Authorized Signatory: Tang Chi Chun  
Title of  
Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“PREFERRED SHAREHOLDERS”  
FOREBRIGHT MANAGEMENT LIMITED**

By:  /s/ HE Ling

Print Name of  
Authorized Signatory: HE Ling  
Title of  
Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“PREFERRED SHAREHOLDERS”  
MAXPOINT DEVELOPMENT LIMITED**

By:  /s/ Changgen Wu

Print Name of  
Authorized Signatory: Changgen Wu  
Title of  
Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“KEY FOUNDERS”  
SBGD INVESTMENT LIMITED**

By:  /s/ Luo Zhi Ping

Print Name of  
Authorized Signatory: Luo Zhi Ping  
Title of  
Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“KEY FOUNDERS”  
EDC GROUP LIMITED**

By:  /s/ 黄伟

Print Name of  
Authorized Signatory: William Wei Huang (黄伟)  
Title of  
Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“KEY FOUNDERS”  
GDS ENTERPRISES LIMITED**

By:  /s/ 黄伟

Print Name of

Authorized Signatory: William Wei Huang (黄伟)  
Title of  
Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“KEY FOUNDERS”  
OFIRA CAPITAL LIMITED**

By: /s/ Daniel Antony Newman

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Print Name of  
Authorized Signatory: Daniel Antony NEWMAN  
Title of  
Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“KEY FOUNDERS”  
EXCEL PRAYER LIMITED**

By: /s/ Shi Lan

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Print Name of  
Authorized Signatory: Shi Lan  
Title of  
Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“KEY FOUNDERS”  
SOLUTION LEISURE INVESTMENT LTD.**

By: /s/ □□

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Print Name of  
Authorized Signatory: William Wei Huang (□□)  
Title of  
Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“KEY FOUNDERS”  
GLOBAL DATA SOLUTIONS LIMITED**

By: /s/ □□

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Print Name of  
Authorized Signatory: William Wei Huang (□□)  
Title of  
Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“KEY FOUNDERS”  
WILLIAM WEI HUANG (□□)**

By: /s/ □□

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**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**“OTHER SHAREHOLDERS”  
BEST MILLION GROUP LIMITED**

By: /s/ Yang Juan

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Print Name of  
Authorized Signatory: Yang Juan  
Title of  
Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**“OTHER SHAREHOLDERS”  
FORTUNE MILLION INTERNATIONAL CORPORATION**

By: /s/ Lu Ronghan

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Print Name of  
Authorized Signatory: Lu Ronghan  
Title of  
Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**“OTHER SHAREHOLDERS”  
LINMAX ASIA LIMITED**

By: /s/ Lim Ah Doo

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Print Name of  
Authorized Signatory: Lim Ah Doo  
Title of  
Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED MEMBERS AGREEMENT**

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**EXHIBIT A**

**SERIES A SHAREHOLDERS**

**Name and Address of Series A Shareholder**

**SBCVC Fund II, L.P.**

(a partnership with limited liability registered and existing under the laws of the Cayman Islands with registered number CT-17141)

Cricket Square, Hutchins Drive  
P.O.Box 2681  
Grand Cayman KYI-1111  
Cayman Islands  
Attn: Peter Hua  
Fax: (8621) 5240-0700  
Email: peterhua@sbcvc.com

**Seabright SOF(I) Paper Limited**

(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1030636)

40/F., Far East Finance Centre  
6 Harcourt Road  
Hong Kong  
Attn: Ip Kun Wan, Kiril  
Fax: +852 2520 5125  
Email: kiril.ip@forebrightcapital.com

**Maxpoint Development Limited**

(a company incorporated and existing under the laws of British Virgin Islands, with registered number: 1061834)

40th Floor Bank of China Tower 1 Garden Road  
Hong Kong  
Attn: CG.Wu  
Fax: 852 2103 0808  
Email: changgen.wu@morganstanley.com

**Name and Address of Series A Shareholder**

**Forebright Management Limited**

(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1019522)

Suite 3720, Jardine House, 1 Connaught Place,  
Central, Hong Kong  
Attn: Ip Kun Wan, Kiril  
Fax: +852 2520 5125  
Email: kiril.ip@forebrightcapital.com

**EXHIBIT A-1**

**SERIES B SHAREHOLDERS**

**Name and Address of Series B Shareholder**

**SBCVC Fund II-Annex, L.P.**

(a partnership with limited liability registered and existing under the laws of the Cayman Islands with registered number CT-23170)

Codan Trust Company (Cayman) Limited  
Cricket Square, Hutchins Drive  
P.O.Box 2681  
Grand Cayman KYI-1111  
Cayman Islands  
Attn: Peter Hua  
Fax: (8621) 5240-0700  
Email: peterhua@sbcvc.com

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**EXHIBIT A-2**

**SERIES A\* SHAREHOLDERS**

**Name and Address of Series A\* Shareholder**

**SBCVC Company Limited**

(a company incorporated and existing under the laws of Hong Kong with registered number 1144947)

Unit 12  
19th Floor, Tower B, Southmark  
11 Yip Hing Street, Wong Chuk Hang  
Hong Kong  
Attn: Ping Hua  
Fax: (8621) 5240-0366  
Email: peterhua@sbcvc.com

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**EXHIBIT A-3**

**SERIES B1 SHAREHOLDERS**

**Name and Address of Series B1 Shareholder**

**SBCVC Company Limited**

(a company incorporated and existing under the laws of Hong Kong with registered number 1144947)

Unit 12, 19th Floor, Tower B, Southmark, 11 Yip Hing Street, Wong Chuk Hang, Hong Kong

Attn: Peter Hua  
Fax: (8621) 5240-0366  
Email: peterhua@sbcvc.com

**SBCVC Venture Capital ( )**

(a co-operative joint venture enterprise incorporated and existing under the laws of PRC with registered number 320594500004043)

15A-C, Hua Min Empire Plaza  
728 Yan An Road (West)  
Shanghai, 200050  
China

Attn: Peter Hua  
Fax: (8621) 5240-0366  
Email: peterhua@sbcvc.com

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**EXHIBIT A-3**

**SERIES B2 SHAREHOLDERS**

**Name and Address of Series B2 Shareholder**

**SBCVC Company Limited**

(a company incorporated and existing under the laws of Hong Kong with registered number 1144947)

Unit 12, 19th Floor, Tower B, Southmark, 11 Yip Hing Street, Wong Chuk Hang, Hong Kong

Attn: Peter Hua  
Fax: (8621) 5240-0366  
Email: peterhua@sbcvc.com

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**EXHIBIT A-3**

**SERIES B4 SHAREHOLDER**

**Name and Address of Series B4 Shareholder**

**SBCVC Fund III L.P.**

(a partnership with limited liability registered and existing under the laws of the Cayman Islands with registered number CT-24546)

Cricket Square, Hutchins Drive  
P.O.Box 2681  
Grand Cayman KYI-1111  
CAYMAN ISLANDS

Attn: Peter Hua  
Fax: (8621) 5240-0366  
Email: peterhua@sbcvc.com

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**EXHIBIT A-3**

**SERIES B5 SHAREHOLDER**

**Name and Address of Series B5 Shareholder**

**SBCVC Fund III L.P.**

(a partnership with limited liability registered and existing under the laws of the Cayman Islands with registered number CT-24546)

Cricket Square, Hutchins Drive  
P.O.Box 2681  
Grand Cayman KYI-1111  
CAYMAN ISLANDS

Attn: Peter Hua  
Fax: (8621) 5240-0366  
Email: peterhua@sbcvc.com

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**EXHIBIT A-4**

**SERIES C SHAREHOLDER**

**Name and Address of the Series C Shareholder**

**STT GDC Pte. Ltd.**  
(a company incorporated and existing under the laws of the Republic of Singapore with registered number 201228542D)  
1 Temasek Avenue  
#33-01 Millenia Tower  
Singapore 039192  
Attn: Company Secretary  
Fax: +65 6720 7220

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**EXHIBIT B**

**KEY FOUNDERS**

**Name and Address of Key Founders**

**Excel Prayer Limited**  
(a company incorporated and existing under the laws of the British Virgin Islands with registered number 555554)

Room 304  
Chang Feng Er Cun 110#  
Jin Sha Jiang Road  
Shanghai 200062 P.R.China

**Global Data Solutions Limited**  
(a company incorporated and existing under the laws of the Cayman Islands with registered number CT 128826)

Cricket Square, Hutchins Drive  
P.O.Box 2681  
Grand Cayman KY1-1111  
Cayman Islands

**SBGD Investment Limited**  
(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1628587)

OMC Chambers, Wickhams Cay 1,  
Road Town, Tortola,  
British Virgin Islands

**EDC Group Limited**  
(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1628788)

OMC Chambers, Wickhams Cay 1,  
Road Town, Tortola,  
British Virgin Islands

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**Name and Address of Key Founders**

**GDS Enterprises Limited**  
(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1628589)

OMC Chambers, Wickhams Cay 1,  
Road Town, Tortola,  
British Virgin Islands

**OFIRA CAPITAL LIMITED**  
(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1567746)

263 Main Street,  
Road Town, Tortola,  
British Virgin Islands

**Solution Leisure Investment Ltd.**  
(a company incorporated and existing under the laws of the British Virgin Islands with registered number 551497)

2/F, Tower 2, Youyou Century Place, 428 South Yanggao Road,  
Pudong, Shanghai 200127, P.R.C.  
Attn: William Wei Huang (黄伟)  
Fax: 86-21-20330202  
Email: huangwei@gds-services.com

**William Wei Huang (黄伟)**

2/F, Tower 2, Youyou Century Place, 428 South Yanggao Road,  
Pudong, Shanghai 200127, P.R.C.  
Attn: William Wei Huang (黄伟)  
Fax: 86-21-20330202  
Email: huangwei@gds-services.com

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**EXHIBIT C**

**OTHER SHAREHOLDERS**

**Name and Address of Other Shareholders**



**Best Million Group Limited**

(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1634472)

2/F, Tower 2, Youyou Century Place, 428 South Yanggao Road,  
Pudong, Shanghai 200127, P.R.C.  
Attn: William Wei Huang (黄伟)  
Fax: 86-21-20330202  
Email: huangwei@gds-services.com

**Fortune Million International Corporation**

(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1910205)

OMC Chambers, Wickham Cay 1, Road Town, Tortola, British Virgin Islands  
Attn: Lu Ronghan  
Email: crescent.lu@fosmail.com

**Linmax Asia Limited**

(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1903042)

Portcullis TrustNet Chambers,  
4th Floor, Ellen Skelton Building,  
3076 Sir Francis Drake Highway, Road Town,  
Tortola, British Virgin Islands  
Attn: Lim Ah Doo  
Email: adlim311@gmail.com

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**EXHIBIT D**  
**SCHEDULE OF GROUP COMPANIES**

**The Company**

- (1) GDS Holdings Limited

**The Subsidiaries (including the VIE Entities)**

- (2) EDC Holding Limited
- (3) Further Success Limited
- (4) EDC China Holdings Limited
- (5) EDE I (HK) Limited
- (6) EDE II (HK) Limited
- (7) EDE III (HK) Limited
- (8) EDB (HK) Limited
- (9) EDB II (HK) Limited
- (10) FEP (HK) Limited
- (11) EDCQ (HK) Limited
- (12) EDH (HK) Limited
- (13) EDS (HK) Limited
- (14) Megaport International Limited
- (15) GDS (Hong Kong) Limited
- (16) EDCD (HK) Limited
- (17) EDKS (HK) Limited
- (18) EDSUZ (HK) Limited
- (19) GDS Data Services Company Ltd. (located in Macau)
- (20) GDS Services Limited
- (21) GDS Services (Hong Kong) Limited
- (22) Global Data Solutions Co., Ltd. 全球数据服务有限公司
- (23) EDC (Chengdu) Industry Co., Ltd. 成都数据服务有限公司
- (24) EDC Technology (Kunshan) Co., Ltd. 昆山数据服务有限公司
- (25) EDC Technology (Suzhou) Co., Ltd. 苏州数据服务有限公司
- (26) Shanghai Waigaoqiao EDC Technology Co., Ltd. 上海外高桥数据服务有限公司
- (27) Guojin Technology (Kunshan) Co., Ltd. 国锦数据服务有限公司

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**上海外高桥数据服务有限公司**

- (28) Shanghai Yungang EDC Technology Co., Ltd. 上海外高桥数据服务有限公司
- (29) Shenzhen Yungang EDC Technology Co., Ltd. 深圳外高桥数据服务有限公司
- (30) Beijing Wan'guo Chang'an Science & Technology Co., Ltd. 北京万国长安数据服务有限公司
- (31) Shanghai Shu'an Data Services Ltd. 上海数据服务有限公司
- (32) Beijing Hengpu'an Digital Technology Development Co., Ltd. 北京恒普安数据服务有限公司
- (33) Beijing Wanguo Shu'an Science & Technology Development Co., Ltd. 北京万国数据服务有限公司

- (34) Shanghai Free Trade Zone GDS Management Co., Ltd. 上海自由贸易试验区GDS管理有限公司
  - (35) Shanghai Puchang Data Science & Technology Development Co., Ltd. 上海普畅数据科学与技术发展有限公司
  - (36) Shenzhen Pingshan New Area Global Data Science & Technology Development Co., Ltd. 深圳坪山新区全球数据科学与技术发展有限公司
  - (37) Kunshan Wanyu Data Service Co., Ltd. 昆山万宇数据服务有限公司
- 

**SCHEDULE 1**

**FORM OF DEED OF ADHERENCE**

**THIS DEED** is made the     day of     20[ ] by [ ] of [ ] (the “**New Member**”) and is supplemental to the Sixth Amended and Restated Members Agreement of GDS Holdings Limited dated [•], 2016 made between GDS Holdings Limited (the “**Company**”), William Wei Huang, Global Data Solutions Limited, STT GDC Pte. Ltd. and other Members of the Company (such agreement as amended, restated or supplemented from time to time, the “**Members Agreement**”).

**WITNESSETH** as follows:

The New Member confirms that it has been provided with a copy of the Members Agreement and all amendments, restatements and supplements thereto and hereby covenants with each of the parties to the Members Agreement from time to time to observe, perform and be bound by all the terms and conditions of the Members Agreement which are capable of applying to the New Member to the intent and effect that the New Member shall be deemed as and with effect from the date hereof to be a party to the Members Agreement and to be a Member (as defined in the Members Agreement).

The address and facsimile number at which notices are to be served on the New Member under the Members Agreement and the person for whose attention notices are to be addressed are as follows:

[to insert the contact details]

Words and expressions defined in the Members Agreement shall have the same meaning in this Deed. This Deed shall be governed by and construed in accordance with the laws of Hong Kong.

This Deed shall take effect as a deed poll for the benefit of the Company, William Wei Huang, Global Data Solutions Limited, STT GDC Pte. Ltd. and other parties to the Members Agreement.

**IN WITNESS** whereof the New Member has executed this Deed the day and year first above written.

**THE COMMON SEAL** of [ ]

was hereunto affixed     )

in the presence of:     )

\_\_\_\_\_

(Director)

\_\_\_\_\_

(Director/Secretary)

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## GDS HOLDINGS LIMITED

## SIXTH AMENDED AND RESTATED VOTING AGREEMENT

This Sixth Amended and Restated Voting Agreement (this "**Agreement**") is made and entered into as of the May 19, 2016, by and among GDS Holdings Limited, a company organized and existing under the laws of the Cayman Islands (the "**Company**"), each of the persons and entities listed on Exhibit A attached hereto (the "**Series A Shareholders**"), each of the persons and entities listed on Exhibit A-1 attached hereto (the "**Series B Shareholders**"), each of the persons and entities as listed on Exhibit A-2 attached hereto (the "**Series A\* Shareholders**"), each of the persons and the entities listed on Exhibit A-3 attached hereto (the "**Series B1 Shareholders**"), each of the persons and the entities listed on Exhibit A-3 attached hereto (the "**Series B2 Shareholders**"), the entity listed on Exhibit A-3 attached hereto (the "**Series B4 Shareholder**"), and the entity listed on Exhibit A-3 attached hereto (the "**Series B5 Shareholder**"), and the entity listed on Exhibit A-4 attached hereto (the "**Series C Shareholder**", together with the Existing Preferred Shareholders (as defined below), the "**Preferred Shareholders**").

## RECITALS

- A. The Company and the Existing Preferred Shareholders entered into a Fifth Amended and Restated Voting Agreement on December 18, 2014 (the "**Original Agreement**").
- B. Brilliant Wise Holdings Limited ("**Brilliant Wise**") has agreed to repurchase certain shares of Brilliant Wise held by its shareholders and in consideration, Brilliant Wise shall transfer all the shares held by Brilliant Wise in the Company to the shareholders of Brilliant Wise in accordance with the terms and conditions of a Share Swap Agreement entered into by and among the Company, Brilliant Wise Holdings Limited and the shareholders of Brilliant Wise Holdings Limited on May 19, 2016 (the "**Share Swap Agreement**").
- C. Best Million Group Limited has agreed to transfer certain number of shares held by Best Million Group Limited in the Company to Fortune Million International Corporation and Linmax Asia Limited (the "**Share Transfer**").
- D. The Company's Seventh Amended and Restated Articles of Association (the "**Amended Articles**") provides that (i) the holders of seventy-five percent (75%) of the Existing Preferred Shares (as defined below), voting together as a separate class on an as-converted basis, may appoint two (2) directors of the Company (the "**Existing Preferred Share Director(s)**") in accordance with the provisions of the Amended Articles; (ii) the holder of Series C Preferred Shares issued pursuant to the Subscription and Purchase Agreement dated July 29,

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2014 (the "**Series C Shares**"), and collectively with the Existing Preferred Shares, the "**Preferred Shares**"), may appoint four (4) directors of the Company in accordance with the provisions of the Amended Articles. Both (i) and (ii) aforesaid are subject to any adjustment in accordance with the Amended Articles.

## AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Definitions.** As used herein, the following terms shall have the following meanings:
- a. "**Affiliate**" shall mean, in respect of a Person, any other Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person, and (i) in the case of a natural Person, shall include, without limitation, such Person's spouse, parents, children, siblings, mother-in-law and father-in-law and brothers and sisters-in-law, (ii) in the case of a Preferred Shareholder, shall include (A) any Person who holds shares as a nominee for such Preferred Shareholder, (B) any shareholder of such Preferred Shareholder, (C) any Person which has a direct and indirect interest in such Preferred Shareholder (including, if applicable, any general partner or limited partner) or any fund manager thereof; (D) any Person that directly or indirectly controls, is controlled by, under common control with, or is managed by such Preferred Shareholder or its fund manager, (E) the relatives of any individual referred to in (B) above, and (F) any trust controlled by or held for the benefit of such individuals (in each case, "**control**" (and correlative terms) shall mean, for the purpose of this definition only, the direct or indirect power, whether by contract, equity ownership or otherwise, to direct the policies or management of a Person; provided that the direct or indirect ownership of twenty-five percent (25%) or more of the voting power of a Person is deemed to constitute control of that Person).
- b. "**Alternate Director**" shall have the meaning as defined in Section 7.
- c. "**Amended Articles**" shall mean the Company's Seventh Amended and Restated Articles of Association, as may be amended from time to time.
- d. "**as-converted basis**" shall have the meaning as defined in the Amended Articles.
- e. "**Board**" or "**Board of Directors**" shall mean the Board of Directors of the Company.
- f. "**Board Designee**" shall mean any individual who is designated for election to the Board pursuant to Section 3 of this Agreement.
- g. "**Business Day**" shall have the meaning as defined in the Amended Articles.
- h. "**Closing**" shall mean completion of the Share Transfer and the transaction contemplated by the Share Swap Agreement.
- i. "**Deed of Adherence**" shall mean the form of deed of adherence set out in Exhibit B hereto.
- j. "**Designator**" shall mean any person, entity or group of persons or entities who, at the time in question, has the right to designate, nominate or appoint any Board Designee.
- k. "**Dispute**" shall mean any dispute, controversy or claim arising out of or in connection with this Agreement (including any issue as to the existence, validity, interpretation, construction, performance, breach or termination of this Agreement).
- l. "**Existing Preferred Shareholders**" shall mean all the holders of the then outstanding Existing Preferred Shares from time to time; and "**Existing Preferred Shareholder**" shall mean any of them.
- m. "**Existing Preferred Shares**" shall mean Series A Shares, Series A\* Shares, Series B Shares, Series B1 Shares, Series B2 Shares, Series B4 Shares, and Series B5 Shares, issued and outstanding immediately following the Closing.
- n. "**HKIAC**" shall mean the Hong Kong International Arbitration Centre.
- o. "**IPO**" shall mean the Company's first public offering of any of its securities to the general public pursuant to (i) a registration statement filed under the U.S. Securities Act of 1933, as amended, or (ii) the securities laws applicable to an offering of securities in another jurisdiction pursuant to which such securities will be listed.
- p. "**Information**" shall have the meaning as defined in Section 7.

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- q. "**Members Agreement**" shall mean the Sixth Amended and Restated Members Agreement, of even date herewith, by and among the GDS Companies, the Key Founders and the Preferred Shareholders (each as defined therein).
- r. "**Ordinary Shares**" shall mean ordinary shares of the Company.
- s. "**Person**" shall mean an individual, corporation, partnership, limited liability company, association, trust, unincorporated organization, or other entity.
- t. "**Preferred Shareholder Director**" shall have the meaning as defined in Section 6.
- u. "**Preferred Shareholders**" shall mean both the Existing Preferred Shareholders and the Series C Shareholder.
- v. "**Qualified IPO**" shall mean a firm commitment underwritten IPO on an internationally recognized securities exchange (i) with gross cash proceeds to the Company of at least US\$100 million, (ii) at an issue price per share being not less than twenty-five percent (25%) above US\$1.036522, as adjusted for any Recapitalization from time to time, and (iii) resulting in a free float of not less than twenty percent (20%) of the Company's share capital.
- w. "**Recapitalization**" shall mean any share split, share dividend, share combination or consolidation, recapitalization, reclassification or other similar event in relation to the shares of the Company.

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x. “**Rules**” shall mean the Hong Kong International Arbitration Centre Administered Arbitration Rules.

y. “**Sale Transaction**” shall have the meaning as defined in the Amended Articles.

z. “**Series A Shares**” shall mean the series A preferred shares of the Company.

aa. “**Series A\* Shares**” shall mean the series A\* preferred shares of the Company.

bb. “**Series B Shares**” shall mean the series B preferred shares of the Company.

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cc. “**Series B1 Shares**” shall mean the series B1 preferred shares of the Company.

dd. “**Series B2 Shares**” shall mean the series B2 preferred shares of the Company.

ee. “**Series B4 Shares**” shall mean the series B4 preferred shares of the Company.

ff. “**Series B5 Shares**” shall mean the series B5 preferred shares of the Company.

gg. “**Share Swap Agreement**” shall have the meaning as defined in Recital B.

hh. “**Shares**” shall mean Preferred Shares now owned or hereafter legally or beneficially acquired by a party hereto.

ii. “**Share Transfer**” shall have the meaning as defined in Recital C.

jj. “**Subsidiary**” and “**Subsidiaries**” shall have the meanings as defined in the Members Agreement.

kk. “**Tribunal**” shall have the meaning as defined in Section 22.

2. **Agreement to Vote.** Each of the Preferred Shareholders agrees to vote all Shares, and attend, in person or by proxy, all meetings of shareholders called for the purpose of electing directors, and the Company agrees to take all actions (including, but not limited to the nomination of specified persons) to cause and maintain the election to the Board, to the extent permitted by and pursuant to the Amended Articles.

3. **Designation of Directors.** The designation of Directors shall be in accordance with the Members Agreement.

4. **Size of the Board of Directors.** During the term of this Agreement, each Preferred Shareholder agrees to vote all Shares to maintain the authorized numbers of members of the Board so that the Board shall consist of nine (9) members unless otherwise agreed to in writing by the shareholders of the Company in accordance with the Amended Articles.

5. **Removal and Filling of Vacancies.** From time to time during the term of this Agreement, each Designator may, in its sole discretion:

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a. elect to remove from the Board any incumbent Board Designee who occupies a Board seat for which such Designator then is entitled to designate a Board Designee under Section 3 above; and/or

b. designate a new Board Designee for election to a Board seat for which such Designator is then entitled to designate the Board Designee under Section 3 above (whether to replace a prior Board Designee or to fill a vacancy in such Board seat).

In the event of such removal and/or designation, each party hereto agrees to vote its Shares as necessary to cause the removal from the Board of any Board Designee so designated for removal by the appropriate Designator and the election to the Board of any new Board Designee so designated for election to the Board by such appropriate Designator.

6. **Waiver.** The Company acknowledges that each Preferred Shareholder will likely have, from time to time, information that may be of interest to the Company or its Subsidiaries (“**Information**”) regarding a wide variety of matters including (a) a Preferred Shareholder’s technologies, plans and services, and plans and strategies relating thereto, (b) current and future investments a Preferred Shareholder has made, may make, may consider or may become aware of with respect to other companies and other technologies, products and services, including technologies, products and services that may be competitive with those of the Company or any of its Subsidiaries, and (c) developments with respect to the technologies, products and services, and plans and strategies relating thereto, of other companies, including companies that may be competitive with the Company or any of its Subsidiaries. The Company recognizes that a portion of such Information may be of interest to the Company or any of its Subsidiaries. Such Information may or may not be known by the directors of the Company nominated by any Preferred Shareholder (each, a “**Preferred Shareholder Director**”) pursuant to the terms of this Agreement, the Members Agreement or the Amended Articles. The Company, as a material part of the consideration for this Agreement, agrees that a Preferred Shareholder Director shall not have any duty to disclose any Information to the Company or any of its Subsidiaries, or permit the Company or any of its Subsidiaries to participate in any projects or investments based on any Information, or otherwise to take advantage of any opportunity that may be of interest to the Company or any of its Subsidiaries if it were aware of such Information, and hereby waives, to the extent permitted by law, any claim based on the corporate opportunity doctrine or otherwise that could limit any Preferred Shareholder’s ability to pursue opportunities based on such Information or that would require any Preferred Shareholder, any representative, any Preferred Shareholder Director to disclose any such Information to the Company or any of its Subsidiaries or offer any opportunity relating thereto to the Company or any of

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its Subsidiaries. The Company also acknowledges that each Preferred Shareholder Director will likely have, from time to time, information that may be of interest to its appointing Preferred Shareholder. The Company, as a material part of the consideration for this Agreement, agrees that such Preferred Shareholder Director may disclose any such information to its Preferred Shareholder, provided that the disclosure of such information does not in any manner fetter the fiduciary duties that the relevant Preferred Shareholder Director owes towards the Company and to the extent permitted by law.

7. **Indemnification.** Notwithstanding anything to the contrary in this Agreement or in the Amended Articles, the Company and its Subsidiaries shall, jointly and severally, indemnify and hold harmless each Preferred Shareholder Director, a Preferred Shareholder Director’s alternate (an “**Alternate Director**”) to the fullest extent permissible by law, from and against all liabilities, damages, actions, suits, proceedings, claims, costs, charges and expenses suffered or incurred by or brought or made against such Preferred Shareholder Director or Alternate Director as a result of any act, matter or thing done or omitted to be done by him in good faith in the course of acting as a Preferred Shareholder Director or an Alternate Director, as applicable, of the Company or its Subsidiaries, by delivering to such Preferred Shareholder Director or Alternate Director, at the time of its appointment as a Preferred Shareholder Director or an Alternate Director an indemnification agreement duly executed by the Company. For the avoidance of doubt, indemnification provided in favor of such Preferred Shareholder Director and Alternate Director under this Section 7 shall not apply to any liabilities, damages, actions, suits, proceedings, claims, costs, charges and expenses arising from fraud on the part of the foregoing Preferred Shareholder Director or Alternate Director.

8. **Director Expenses.** The Company shall reimburse the Preferred Shareholder Directors and the Alternate Directors for all reasonable out-of-pocket expenses incurred in connection with Board duties and meetings, up to US\$25,000 per calendar year per Preferred Shareholder Director or Alternate Director. The Preferred Shareholder Directors and the Alternate Directors shall be paid in a timely manner for all travelling, hotel, and other expenses properly incurred by them in connection with their attendance at meetings of directors, committees of directors, general meetings or separate meetings of the holders of any class of Shares of the Company or otherwise in connection with the discharge of their duties.

9. **Binding Effect.** The provisions of this Agreement shall be binding upon the successors in interest to any of the Shares. The Company shall not permit the transfer of any of the Shares on its books or issue a new certificate representing any of the Shares unless and until the person to whom such Shares is to be transferred shall have executed a written agreement that is substantially in the

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form of this Agreement, or a Deed of Adherence, pursuant to which such person becomes a party to this Agreement and agrees to be bound by all the provisions hereof as if such person were a Preferred Shareholder, as applicable, hereunder.

10. **Covenants of the Company.** The Company agrees to use its best efforts to ensure that the rights granted hereunder are effective and that the parties hereto enjoy the benefits thereof. Such actions include, without limitation, the use of the Company’s best efforts to cause the nomination and election of the directors as provided above. The Company will not, by any voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be performed hereunder by the Company, but will at all times in good faith assist in the carrying out of all of the provisions of this Agreement and in the taking of all such actions as may be necessary, appropriate or reasonably requested by the Person(s) entitled to designate a director in order to protect the rights of the parties hereunder against impairment.

11. **Specific Enforcement.** Except as otherwise provided herein, any and all remedies herein expressly conferred upon a party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such party, and the exercise by a party of any one remedy will not preclude the exercise of any other remedy. The parties hereto agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to seek an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof, this being in addition to any other remedy to which they are entitled at law or in equity.

12. **Titles and Subtitles.** The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. All references in this Agreement to sections, paragraphs and exhibits shall, unless otherwise provided, refer to sections and paragraphs hereof and exhibits attached hereto.

13. **Notices.** All notices and other communications required or permitted hereunder shall be in writing and shall be sent by facsimile or mailed by electronic, registered or certified mail or by overnight courier or otherwise delivered by hand or by messenger, addressed:

a. if to an Existing Preferred Shareholder, at the Preferred Shareholder's address, as shown on Exhibit A, Exhibit A-1, Exhibit A-2 and Exhibit A-3 hereto, or at such other address as the Preferred Shareholders shall have furnished to the Company in writing;

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b. if to the Series C Shareholder, at the Series C Shareholder's address, as shown on Exhibit A-4 hereto, or at such other address as the Series C Shareholders shall have furnished to the Company in writing;

c. if to any other holder of any shares subject to this Agreement, at such address as such holder shall have furnished the Company in writing, or, until any such holder so furnishes an address to the Company, then to and at the address of the last holder of such shares who has so furnished an address to the Company; and

d. if to the Company, at the address of its principal corporate offices (attention: CEO), or at such other address as the Company shall have furnished to the Preferred Shareholders.

Where a notice is sent by mail, service of the notice shall be deemed to be effected by properly addressing, pre-paying and mailing a letter containing the notice, and to have been effected at the expiration of three (3) Business Days after the letter containing the same is mailed as aforesaid.

Where a notice is sent by overnight courier, service of the notice shall be deemed to be effected by properly addressing, and sending such notice through an internationally recognized express courier service, delivery fees pre-paid, and to have been effected at the expiration of three (3) Business Days following the day the same is sent as aforesaid. Notwithstanding anything to the contrary in this Agreement, notices sent to Preferred Shareholders (and their permitted assigns) shall only be delivered by internationally recognized express courier service pursuant to this paragraph.

Where a notice is delivered by facsimile, electronic mail, by hand or by messenger, service of the notice shall be deemed to be effected upon delivery or successful transmission record being generated by the sender's machine.

14. **Term.** This Agreement shall terminate and be of no further force or effect on the date that is the earliest of: (a) the closing of the Qualified IPO, (b) the closing of a Sale Transaction, and (iii) the date upon which there are no longer any Preferred Shares outstanding; *provided, however*, that Sections 7 (Indemnification), 8 (Director Expenses), 14 (Term), 21 (Successors), 22 (Governing Law) and 23 (Entire Agreement) shall survive termination of this Agreement. Notwithstanding anything in the foregoing to the contrary, termination of this Agreement shall be without prejudice to any liability or obligation in respect of any matters, undertakings or conditions which shall not have been observed or performed by the relevant party prior to such termination.

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15. **Manner of Voting.** The voting of shares pursuant to this Agreement may be effected in person, by proxy, by written consent, or in any other manner permitted by applicable law. A Preferred Shareholder shall be obligated to vote its Shares at a general meeting or special meeting only if such Preferred Shareholder receives notice of such general meeting or special meeting in accordance with the Amended Articles.

16. **Aggregation.** All Shares of the Company held or acquired by Affiliates of a Preferred Shareholder shall be aggregated together for the purpose of determining the availability of any rights under this Agreement which are triggered by the beneficial ownership of a threshold number of shares of the Company's capital shares.

17. **Amendments and Waivers.** Neither this Agreement nor any term hereof, may be changed, waived, discharged or terminated orally or in writing, except that any term of this Agreement may be amended and the observance of such terms may be waived (either generally or in a particular instance and either retroactively or prospectively) with (but only with) the written consent of (i) the Company, (ii) the holders of at least eighty-five percent (85%) of each of the then outstanding Existing Preferred Shares (voting together as a separate class) and (iii) the holders of at least seventy-five percent (75%) of the then outstanding Series C Shares; provided, however, that no such amendment or waiver shall extend to or affect any obligation not expressly waived or impair any right consequent therein. Any party hereto may waive any of its rights or the obligations of the Company hereunder without obtaining the consent of any other parties to this Agreement. However, any amendments or waivers to rights of, or benefits to, SBCVC under this Agreement shall not be made without prior consent of SBCVC, and any amendments or waivers to rights of, or benefits to, the Series C Shareholder under this Agreement shall not be made without prior consent of the Series C Shareholder. No consent shall be required from any holder of the Shares hereunder for a permitted transferee (as provided under the Members Agreement) to sign a counterpart signature page to this Agreement, provided that such permitted transferee shall duly execute a Deed of Adherence (in the same form and substance as set out in Schedule 1 hereto) confirming to the other parties hereto that it shall be bound by this Agreement as the transferor.

18. **Delays or Omissions.** No delay or omission to exercise any right, power or remedy accruing to any party under this Agreement, upon any breach or default of any other party under this Agreement, shall impair any such right, power or remedy of such non-breaching or non-defaulting party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of

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any kind or character on the part of any party of any breach or default under this Agreement, or any waiver on the part of any party of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement or by law otherwise affording to any party, shall be cumulative and not alternative.

19. **Share Splits, Share Dividends, etc.** All references to the number of shares in this Agreement shall be appropriately adjusted to reflect any Recapitalization which may be made by the Company after the date hereof. In the event of any issuance of any shares of capital stock or other securities of the Company issued on, or in exchange for, any of the Shares by reason of a Recapitalization, such shares or securities shall be deemed to be Shares for purposes of this Agreement and shall be endorsed with the legend set forth above.

20. **Severability.** If any provision of this Agreement shall be determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

21. **Successors.** Except as otherwise expressly provided herein, the provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors, assigns, administrators and executors. No party hereto may delegate, assign or otherwise transfer any of its rights or obligations under this Agreement except in connection with the permitted transfer of securities in accordance with the terms hereof (it being understood that any such permitted transferee shall duly execute and deliver a Deed of Adherence confirming to the Company and the other parties hereto that it shall be bound by this Agreement as was the transferor). Additionally, the Company may not assign or delegate any of its rights or obligations under this Agreement without the prior written consent of all the Preferred Shareholders.

22. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of Hong Kong without regard to principles of conflicts of laws. Each of the parties hereto irrevocably agrees that any Dispute shall be referred to and finally resolved by binding arbitration administered by the HKIAC in accordance with the Rules in force when the notice of arbitration is submitted in accordance with these Rules, which Rules are deemed to be incorporated by reference into this section and as may be amended by the rest of this section. The arbitration tribunal shall consist of three (3) arbitrators (the "**Tribunal**"). The parties agree that the three arbitrators can be selected from outside the HKIAC's panel(s) of arbitrators. The claimant and the respondent shall each designate one (1) arbitrator in accordance with the Rules. The HKIAC shall appoint the third and presiding arbitrator, who shall be qualified to practice Law in Hong Kong. The seat of the arbitration shall be Hong Kong.

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The language of the arbitration proceedings shall be English. Any award of the Tribunal shall be made in writing and shall be final, conclusive and binding on the parties to the arbitration from the day it is made.

23. **Entire Agreement.** This Agreement and the documents referred to herein constitute the full and entire understanding and agreement between the parties with regard to the subjects hereof, and supersede any and all other prior written or oral agreements relating to the subject matter hereof existing between the parties hereto. In the event of any inconsistency between this Agreement and the Amended Articles, this Agreement shall prevail as between the parties hereto, with the exception of the Company, and the parties will take all steps necessary to give effect to its terms.

24. **Counterparts; Facsimiles.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument. A facsimile, telecopy or other reproduction of this Agreement may be executed by one or more parties hereto and delivered by such party by facsimile or any similar electronic transmission device pursuant to which the signature of or on behalf of such party can be seen. Such execution and delivery shall be considered valid, binding and effective for all purposes. At the request of any party hereto, all parties hereto agree to execute and deliver an original of this Agreement as well as any facsimile, telecopy or other reproduction hereof.

[Remainder of Page Intentionally Left Blank]

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

"THE COMPANY"

**GDS HOLDINGS LIMITED**

By: /s/ □□

Print Name of

Authorized Signatory: William Wei Huang (□□)

Title of

Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED VOTING AGREEMENT**

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“PREFERRED SHAREHOLDERS”  
SBCVC FUND II, L.P.**

By: /s/ Ping Hua

Print Name of

Authorized Signatory: Ping Hua

Title of

Authorized Signatory: Managing Partner

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED VOTING AGREEMENT**

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“PREFERRED SHAREHOLDERS”  
SBCVC FUND II-ANNEX, L.P.**

By: /s/ Ping Hua

Print Name of

Authorized Signatory: Ping Hua

Title of

Authorized Signatory: Managing Partner

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED VOTING AGREEMENT**

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“PREFERRED SHAREHOLDERS”  
SBCVC COMPANY LIMITED**

By: /s/ Ping Hua

Print Name of

Authorized Signatory: Ping Hua

Title of

Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED VOTING AGREEMENT**

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“PREFERRED SHAREHOLDERS”  
SBCVC VENTURE CAPITAL  
(□□□□□□□□)**

By: /s/ Ping Hua

Print Name of

Authorized Signatory: Ping Hua

Title of

Authorized Signatory: Member of the Joint  
Management Committee

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED VOTING AGREEMENT**

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“PREFERRED SHAREHOLDERS”  
SBCVC FUND III L.P.**

By: /s/ Ping Hua

Print Name of Authorized Signatory:

Ping Hua

Title of Authorized Signatory:

Managing Partner

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED VOTING AGREEMENT**

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“PREFERRED SHAREHOLDERS”  
SEABRIGHT SOF (I) PAPER LIMITED**

By: /s/ Tang Chi Chun  
Print Name of Authorized Signatory: Tang Chi Chun  
Title of Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED VOTING AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“PREFERRED SHAREHOLDERS”  
FOREBRIGHT MANAGEMENT LIMITED**

By: /s/ HE Ling  
Print Name of Authorized Signatory: HE Ling  
Title of Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED VOTING AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“PREFERRED SHAREHOLDERS”  
MAXPOINT DEVELOPMENT LIMITED**

By: /s/ Changgen Wu  
Print Name of Authorized Signatory: Changgen Wu  
Title of Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED VOTING AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“PREFERRED SHAREHOLDERS”  
STT GDC PTE. LTD.**

By: /s/ Bruno Lopez  
Print Name of Authorized Signatory: Bruno Lopez  
Title of Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED VOTING AGREEMENT**

**EXHIBIT A**

**Series A Shareholders**

**Name and Address of Series A Shareholder**

**SBCVC Fund II, L.P.**

(a partnership with limited liability registered and existing under the laws of the Cayman Islands with registered number CT-17141)

Cricket Square, Hutchins Drive  
P.O.Box 2681  
Grand Cayman KYI-1111  
CAYMAN ISLANDS

Attn: Peter Hua  
Fax: (8621) 5240-0700  
Email: peterhua@sbcvc.com

**Seabright SOF(I) Paper Limited**

(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1030636)

40/F., Far East Finance Centre, 16 Harcourt Road, Hong Kong  
Attn: Ip Kun Wan, Kiril  
Fax: +852 2520 5125  
Email: Kiril.Ip@everbright165.com

**Maxpoint Development Limited**

(a company incorporated and existing under the laws of British Virgin Islands with registered number 1061834)

40th Floor Bank of China Tower 1 Garden Road  
Hong Kong  
Attn: CG.Wu  
Fax: 852 2103 0808  
Email: changgen.wu@morganstanley.com

**Name and Address of Series A Shareholder**

**Forebright Management Limited**

(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1019522)

Suite 3720, Jardine House, 1 Connaught Place,  
Central, Hong Kong  
Attn: Ip Kun Wan, Kiril  
Fax: +852 2520 5125  
Email: kiril.ip@forebrightcapital.com

**Series B Shareholders**

**Name and Address of Series B Shareholder**

**SBCVC Fund II-Annex, L.P.**

(a partnership with limited liability registered and existing under the laws of the Cayman Islands with registered number CT-23170)

Codan Trust Company (Cayman) Limited  
Cricket Square, Hutchins Drive  
P.O.Box 2681  
Grand Cayman KYI-1111  
CAYMAN ISLANDS  
Attn: Peter Hua  
Fax: (8621) 5240-0700  
Email: peterhua@sbvc.com

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**EXHIBIT A-2**

**Schedule of Series A\* Shareholders**

**Name and Address of Series A\* Shareholder**

**SBCVC Company Limited**

(a company incorporated and existing under the laws of Hong Kong with registered number 1144947)

Unit 12, 19th Floor  
Tower B, Southmark  
11 Yip Hing Street, Wong Chuk Hang  
Hong Kong

Attn: Peter Hua  
Fax: (8621) 5240-0366  
Email: peterhua@sbvc.com

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**EXHIBIT A-3**

**Schedule of Series B1 Shareholders**

**Name and Address of Series B1 Shareholder**

**SBCVC Company Limited**

(a company incorporated and existing under the laws of Hong Kong with registered number 1144947)

Unit 12, 19th Floor  
Tower B, Southmark  
11 Yip Hing Street, Wong Chuk Hang  
Hong Kong

Attn: Peter Hua  
Fax: (8621) 5240-0366  
Email: peterhua@sbvc.com

**SBCVC Venture Capital (□□□□□□□□□□)**

(a co-operative joint venture enterprise incorporated and existing under the laws of PRC with registered number 320594500004043)

15A-C  
Hua Min Empire Plaza  
728 Yan An Road (West)  
Shanghai, 200050  
China

Attn: Peter Hua  
Fax: (8621) 5240-0366  
Email: peterhua@sbvc.com

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**Schedule of Series B2 Shareholders**

**Name and Address of Series B2 Shareholder**

**SBCVC Company Limited**

(a company incorporated and existing under the laws of Hong Kong with registered number 1144947)

Unit 12, 19th Floor  
Tower B, Southmark  
11 Yip Hing Street, Wong Chuk Hang  
Hong Kong

Attn: Peter Hua  
Fax: (8621) 5240-0366  
Email: peterhua@sbvc.com

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**Schedule of Series B4 Shareholder**

**Name and Address of Series B4 Shareholder**

**SBCVC Fund III L.P.**

(a partnership with limited liability registered and existing under the laws of the Cayman Islands with registered number CT-24546)

Cricket Square, Hutchins Drive  
P.O.Box 2681  
Grand Cayman KYI-1111  
CAYMAN ISLANDS

Attn: Peter Hua  
Fax: (8621) 5240-0366  
Email: peterhua@sbvc.com

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**Schedule of Series B5 Shareholder**

**Name and Address of Series B5 Shareholder**

**SBCVC Fund III L.P.**

(a partnership with limited liability registered and existing under the laws of the Cayman Islands with registered number CT-24546)

Cricket Square, Hutchins Drive  
P.O.Box 2681  
Grand Cayman KYI-1111  
CAYMAN ISLANDS

Attn: Peter Hua  
Fax: (8621) 5240-0366  
Email: peterhua@sbcvc.com

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**EXHIBIT A-4**

**Schedule of Series C Shareholder**

**Name and Address of Investor**

**STT GDC Pte. Ltd.**

(a company incorporated and existing under the laws of the Republic of Singapore with registered number 201228542D)

1 Temasek Avenue  
#33-01 Millenia Tower  
Singapore 039192  
Attn: Company Secretary  
Fax: +65 6720 7220

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**EXHIBIT B**

**Form of Deed of Adherence**

**THIS DEED** is made the \_\_\_\_ day of \_\_\_\_ 20[ ] by [ ] of [ ] (the "**New Party**") and is supplemental to Sixth Amended and Restated Voting Agreement of GDS Holdings Limited dated [•], 2016 made between GDS Holdings Limited (the "**Company**"), STT GDC Pte. Ltd. and the Existing Preferred Shareholders (as defined in the Voting Agreement) (such agreement as amended, restated or supplemented from time to time, the "**Voting Agreement**").

**WITNESSETH** as follows:

The New Party confirms that it has been provided with a copy of the Voting Agreement and all amendments, restatements and supplements thereto and hereby covenants with each of the parties to the Voting Agreement from time to time to observe, perform and be bound by all the terms and conditions of the Voting Agreement which are capable of applying to the New Party to the intent and effect that the New Party shall be deemed as and with effect from the date hereof to be a party to the Voting Agreement.

The address and facsimile number at which notices are to be served on the New Party under the Voting Agreement and the person for whose attention notices are to be addressed are as follows:

[to insert the contact details]

Words and expressions defined in the Voting Agreement shall have the same meaning in this Deed. This Deed shall be governed by and construed in accordance with the laws of Hong Kong.

This Deed shall take effect as a deed poll for the benefit of the Company, and all holders of the preferred shares in the capital of the Company.

**IN WITNESS** whereof the New Party has executed this Deed the day and year first above written.

**THE COMMON SEAL** of [ ]  
was hereunto affixed )  
in the presence of: )

\_\_\_\_\_  
(Director)

\_\_\_\_\_  
(Director/Secretary)

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**GDS HOLDINGS LIMITED  
SIXTH AMENDED AND RESTATED**

**RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

This Sixth Amended and Restated Right of First Refusal and Co-Sale Agreement (this "**Agreement**") is made as of May 19, 2016 by and among GDS Holdings Limited, an exempted company organized and existing under the laws of the Cayman Islands (the "**Company**"), the entities as listed on Exhibit A attached hereto (the "**Series A Shareholders**"), the entities listed on Exhibit A-1 attached hereto (the "**Series B Shareholders**"), the entities listed on Exhibit A-2 attached hereto (the "**Series A\* Shareholders**"), the entities listed on Exhibit A-3 attached hereto (the "**Series B1 Shareholders**"), the entities listed on Exhibit A-3 attached hereto (the "**Series B2 Shareholders**"), the entity listed on Exhibit A-3 attached hereto (the "**Series B4 Shareholder**"), the entity listed on Exhibit A-3 attached hereto (the "**Series B5 Shareholder**"), the entity listed on Exhibit A-4 attached hereto (the "**Series C Shareholder**"), the individuals and entities listed on Exhibit B attached hereto (each a "**Key Founder**" and collectively, the "**Key Founders**") and the entities listed in Exhibit B-1 attached hereto (the "**Other Shareholders**").

**RECITALS**

- A. The Company, the Series C Shareholder, other Preferred Shareholders, the Key Founders and Best Million Group Limited, entered into the Fifth Amended and Restated Right of First Refusal and Co-sale Agreement on December 18, 2014 (the "**Original Agreement**").
- B. Brilliant Wise has agreed to repurchase certain shares of Brilliant Wise held by its shareholders and in consideration, Brilliant Wise shall transfer all the shares held by Brilliant Wise in the Company to the shareholders of Brilliant Wise in accordance with the terms and conditions of a Share Swap Agreement entered into by and among the Company, Brilliant Wise and the shareholders of Brilliant Wise on May 19, 2016 (the "**Share Swap Agreement**").
- C. Best Million Group Limited has agreed to transfer certain number of shares held by Best Million Group Limited in the Company to Fortune Million International Corporation and Linmax Asia Limited (the "**Share Transfer**").
- D. Upon completion of the Share Transfer and the transaction contemplated by the Share Swap Agreement, Brilliant Wise shall no longer be the shareholder of the Company, and whereas certain Persons, which include, EDC Group Limited, GDS Enterprises Limited, SBGD Investment Limited, Ofira Capital Limited, Fortune Million International Corporation and Linmax Asia Limited shall become new shareholders of the Company, and, the parties hereto desire

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to enter into this Agreement, which shall amend, restate and supersede the Original Agreement in its entirety.

NOW, THEREFORE, in consideration of the mutual promises herein contained, and other consideration, the receipt and adequacy of which hereby is acknowledged, the parties hereto agree as follows:

**1. Certain Definitions.**

For the purpose of this Agreement, the following terms shall have the following meanings:

"**Affiliate**" shall mean, in respect of a Person, any other Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person, and (i) in the case of a natural Person, shall include, without limitation, such Person's spouse, parents, children, siblings, mother-in-law and father-in-law and brothers and sisters-in-law, (ii) in the case of a Preferred Shareholder, shall include (A) any Person who holds shares as a nominee for such Preferred Shareholder, (B) any shareholder of such Preferred Shareholder, (C) any Person which has a direct and indirect interest in such Preferred Shareholder (including, if applicable, any general partner or limited partner) or any fund manager thereof, (D) any Person that directly or indirectly controls, is controlled by, under common control with, or is managed by such Preferred Shareholder or its fund manager, (E) the relatives of any individual referred to in (B) above, and (F) any trust controlled by or held for the benefit of any individual referred to in (B) above. For the purpose of this definition, unless otherwise defined herein, "**control**" (and correlative terms) shall mean the direct or indirect power, whether by contract, equity ownership or otherwise, to direct the policies or management of a Person; *provided* that the direct or indirect ownership of twenty-five percent (25%) or more of the voting power of a Person is deemed to constitute control of that Person.

"**Affected Founder's Shares**" shall have the same meaning as defined in Section 10(b).

"**Amended Articles**" shall mean the Company's Seventh Amended and Restated Articles of Association, as may be amended from time to time.

"**Applicable Preferred Shareholder Shares**" shall have the same meaning as defined in Section 10(b).

"**Approved Third Party Purchaser**" shall mean a bona fide Person that does not already hold any interests in the Company.

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"**as-converted basis**" shall have the meaning as defined in the Amended Articles.

"**Attributed Value**" shall have the same meaning as defined in Section 10(b).

"**Board**" and "**Board of Directors**" shall mean the Board of Directors of the Company.

"**Brilliant Wise**" shall mean Brilliant Wise Holdings Limited, a BVI business company.

"**BVI**" shall mean the British Virgin Islands.

"**Business Day**" shall have the meaning as defined in the Amended Articles.

"**Closing**" shall mean completion of the Share Transfer and the transaction contemplated by the Share Swap Agreement.

"**Confirmation Notice**" shall have the meaning as defined in Section 3(c).

"**Co-Sale Eligible Shares**" shall have the meaning as defined in Section 3(f).

"**Co-Sale Shareholder**" shall have the meaning as defined in Section 5(a)(i).

"**Co-Sale Period**" shall have the meaning as defined in Section 5(a)(i).

"**Deed of Adherence**" shall mean the form of deed of adherence set out in Schedule 1.

"**Dispute**" shall have the meaning as defined in Section 11(f).

"**EDC Group**" shall mean EDC Group Limited, a company incorporated and existing under the laws of the British Virgin Islands.

"**Equity Securities**" shall mean the Ordinary Shares or the Preferred Shares, or any securities convertible into, exchangeable for or exercisable for the Ordinary Shares now or hereafter held, directly or indirectly, by any Person.

"**Excel Prayer**" shall mean Excel Prayer Ltd., a BVI business company, which is a shareholder of Global Data Solutions.

"**Existing Preferred RFO Notice**" shall have the meaning as defined in Section 4(b)(ii)(2).

"**Existing Preferred RFO Offering Period**" shall have the meaning as defined in Section 4(b)(ii)(2).

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"**Existing Preferred Seller**" shall mean an Existing Preferred Shareholder proposing to Transfer any Equity Securities.

"**Existing Preferred Shareholders**" shall mean all the holders of the then outstanding Existing Preferred Shares from time to time; and "**Existing Preferred Shareholder**" shall mean any of them.

“**Existing Preferred Shares**” shall mean Series A Shares, Series A\* Shares, Series B Shares, Series B1 Shares, Series B2 Shares, Series B4 Shares, and Series B5 Shares of the Company, issued and outstanding immediately following the Closing.

“**Existing Preferred Transfer Offering Period**” shall have the meaning as defined in Section 4(a)(ii)(2).

“**Expert**” shall have the same meaning as defined in Section 10(c).

“**Fair Value**” shall have the same meaning as defined in Section 10(c).

“**Fully Participating Preferred Shareholders**” shall have the meaning as defined in Section 3(b)(ii).

“**GDS Enterprises**” shall mean GDS Enterprises Limited, a company incorporated and existing under the laws of the British Virgin Islands.

“**Global Data Solutions**” shall mean Global Data Solutions Limited, an exempted Cayman Islands company, which is an Ordinary Shareholder of the Company.

“**HKIAC**” shall mean the Hong Kong International Arbitration Centre.

“**IPO**” shall mean the Company’s first public offering of any of its securities to the general public pursuant to (i) a registration statement filed under the Securities Act, or (ii) the securities laws applicable to an offering of securities in another jurisdiction pursuant to which such securities will be listed.

“**Key Founder Seller**” shall mean a Key Founder proposing to Transfer any Equity Securities.

“**Key Shareholders**” shall mean Global Data Solutions, SBGD, EDC Group, GDS Enterprises and Ofira Capital, and a “**Key Shareholder**” shall mean any of them.

“**Key Shareholders RFO Notice**” shall have the meaning as defined in Section 4(b)(ii)(3).

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“**Key Shareholders RFO Offering Period**” shall have the meaning as defined in Section 4(b)(ii)(3).

“**Moratorium Period**” shall have the meaning as defined in Section 2(a)(i).

“**Offer Notice**” shall have the meaning as defined in Section 4(a)(ii)(2).

“**Offered Price**” shall have the meaning as defined in Section 3(a).

“**Offered Shares**” shall have the meaning as defined in Section 3(a).

“**Ofira Capital**” shall mean Ofira Capital Limited, a company incorporated and existing under the laws of the British Virgin Islands.

“**Ordinary Shares**” shall mean the ordinary shares of the Company.

“**Ordinary Shareholder(s)**” shall mean the holder(s) of the Ordinary Shares of the Company.

“**Original Agreement**” shall have the meaning as defined in Recital A.

“**Other Shareholder Seller**” shall mean an Other Shareholder proposing to Transfer any Equity Securities.

“**Overallotment Notice**” shall have the meaning as defined in Section 3(b)(ii).

“**Overallotment Refusal Period**” shall have the meaning as defined in Section 3(b)(ii).

“**Overallotment Shares**” shall have the meaning as defined in Section 3(b)(ii).

“**Permitted Transferee**” shall mean any transferee of Shares in a transaction excluded from the definition of Transfer pursuant to (i), (ii) and (iii) thereof.

“**Participating Co-Sale Shareholder**” shall have the meaning as defined in Section 5(a)(i).

“**Participating Co-Sale Shareholder Shares**” shall have the meaning as defined in Section 5(a)(i).

“**Person**” shall mean an individual, corporation, partnership, limited liability company, association, trust, unincorporated organization, or other entity.

“**Preferred Share Directors**” shall have the meaning as defined in the Amended Articles.

“**Preferred Shareholders**” shall mean all of the Existing Preferred Shareholders and the holder(s) of the Series C Shares from time to time.

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“**Preferred Shares**” shall mean the Series A Shares, the Series A\* Shares, the Series B Shares, the Series B1 Shares, the Series B2 Shares, the Series B4 Shares, the Series B5 Shares and the Series C Shares of the Company.

“**Prohibited Transfer**” shall have the meaning as defined in Section 7 (a).

“**Proposed Transferee**” shall have the meaning as defined in Section 3(a).

“**Pro-Rata Share**” shall mean, as to each Right Holder’s Right of Co-Sale, the percentage determined by dividing (i) the number of the Ordinary Shares (assuming conversion of all securities then outstanding that are convertible into the Ordinary Shares) owned by such Right Holder immediately prior to the RFR Completion or RFO Completion (as the case may be), by (ii) the total number of shares (assuming conversion of all securities then outstanding that are convertible into Ordinary Shares) held by the Seller and all of such Right Holders exercising their respective Right of Co-Sale immediately prior to the RFR Completion or RFO Completion (as the case may be).

“**Qualified IPO**” shall mean a firm commitment underwritten IPO on an internationally recognized securities exchange (i) with gross cash proceeds to the Company of at least US\$100 million, (ii) at an issue price per share being not less than twenty-five percent (25%) above US\$1.036522, as adjusted for any Recapitalization from time to time, and (iii) resulting in a free float of not less than twenty percent (20%) of the Company’s share capital.

“**Refusal Period**” shall have the meaning as defined in Section 3(b)(i).

“**Remaining Shares**” shall have the meaning as defined in Section 3(c).

“**RFO Completion**” shall have the meaning as defined in Section 4(c)(iii).

“**RFO Completion Date**” shall have the meaning as defined in Section 4(c)(iii).

“**RFR Completion**” shall have the meaning as defined in Section 3(g).

“**RFR Completion Date**” shall have the meaning as defined in Section 3(g).

“**RFO Notice**” shall have the meaning as defined in Section 4(a)(ii)(1) or 4(b)(ii)(1).

“**RFR Notice**” shall have the meaning as defined in Section 3(a).

“**Right Holder**” shall mean the Person, who or which is entitled to exercise the Right of First Refusal, the Right of First Offer or the Right of Co-Sale, as the case may be.

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“**Right of Co-Sale**” shall mean the right of co-sale provided in Section 5 of this Agreement.

“**Right of First Offer**” shall mean the right of first offer provided in Section 4 of this Agreement.

“**Right of First Refusal**” shall mean the right of first refusal provided in Section 3 of this Agreement.

“**Rules**” shall mean the Hong Kong International Arbitration Centre Administered Arbitration Rules.

“**SBCVC**” shall mean SBCVC Fund II, L.P., SBCVC Venture Capital (□□□□□□□□), SBCVC Fund III L.P., SBCVC Fund II-Annex, L.P., and SBCVC Company Limited.

“**Sale Notice**” shall have the same meaning as defined in Section 10(b).

“**SBGD**” shall mean SBGD Investment Limited, a company incorporated and existing under the laws of the British Virgin Islands.

“**Seller**” shall mean the Key Founder Seller, the Other Shareholder Seller, the Existing Preferred Seller and/or the Series C Seller, as applicable.

“**Selling GDS Upstream Shareholder**” shall be one out of Excel Prayer, and Solution Leisure, all of which are shareholders of Global Data Solutions.

“**Series A Shares**” shall mean the series A preferred shares of the Company.

“**Series B Shares**” shall mean the series B preferred shares of the Company.

“**Series A\* Shares**” shall mean the series A\* preferred shares of the Company.

“**Series B1 Shares**” shall mean the series B1 preferred shares of the Company.

“**Series B2 Shares**” shall mean the series B2 preferred shares of the Company.

“**Series B4 Shares**” shall mean the series B4 preferred shares of the Company.

“**Series B5 Shares**” shall mean the series B5 preferred shares of the Company, each having the preferences and rights provided for in the Amended Articles.

“**Series C Seller**” shall mean the Series C Shareholder proposing to Transfer any Equity Securities.

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“**Series C Shares**” shall mean the shares in the capital of the Company of US\$0.00005 nominal or par value designated as Series C Preferred Shares, and having the preferences and rights provided for in the Amended Articles.

“**Share Swap Agreement**” shall have the meaning as defined in Recital B.

“**Shares**” shall mean and include all of the Ordinary Shares and Preferred Shares.

“**Share Transfer**” shall have the meaning as defined in Recital C.

“**Solution Leisure**” shall mean Solution Leisure Investment Limited, a BVI business company, which is a shareholder of Global Data Solutions.

“**Transfer**” shall mean and include any sale, assignment, creation of any encumbrance, hypothecation, pledge, option, conveyance in trust, gift, transfer by bequest, devise or descent, or other agreement, transfer or disposition of any kind, whether voluntary or by operation of law, directly or indirectly, or entering into any agreement or arrangement (a) to effectively pass or transfer the voting rights attached to any interests in the capital of the Company, or (b) to effectively pass or transfer the economic interest derived from any interests in the capital of the Company, including but not limited to transfer to receivers, levying creditors, trustees or receivers in bankruptcy proceedings or general assignees for the benefit of creditors, except for the following:

- (i) any creation of a bona fide encumbrance of the Equity Securities held by a Seller as security granted to the lender, made pursuant to a bona fide loan transaction, if the beneficiary of such encumbrance executes a counterpart copy of this Agreement or a Deed of Adherence and becomes bound thereby as was the Seller, in the event and to the extent that such beneficiary of such encumbrance ever acquires ownership of such Equity Securities;
- (ii) any Transfer of Equity Securities by a Seller, if a Seller is a natural person, to a Seller’s spouse, parents, children and siblings or trusts for the benefit of any of the foregoing individuals, or transfers of Shares by the Seller by devise or descent; provided, that, in all cases, the transferee or other recipient executes a counterpart copy of this Agreement or a Deed of Adherence and becomes bound thereby as was the Seller;
- (iii) any Transfer of Equity Securities by a Seller, if a Seller is an entity, to any Person that directly or indirectly controls, is controlled by, under common control with, or is managed by such Person or its fund manager, and where a Seller is an Existing Preferred Shareholder, any general partner or limited partner which has a direct or indirect interest

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in such Preferred Shareholder; provided that, for the purpose of limb (iii) of this definition of “**Transfer**”, the direct or indirect ownership of fifty percent (50%) or more of the voting power of a Person is deemed to constitute control of that Person; provided, further, that, in all cases, the transferee or other recipient executes a counterpart copy of this Agreement or a Deed of Adherence and becomes bound thereby as was the Seller; and

- (iv) any Transfers of Equity Securities in a registered public offering pursuant to (a) registration under the Act, or (b) the securities laws applicable to an offering of securities in a jurisdiction other than the United States.

“**Transfer Period**” shall have the meaning as defined in Section 3(e).

“**Transfer Price**” shall have the meaning as defined in Section 4(a)(ii)(1) or 4(b)(ii)(1).

“**Transfer Shares**” shall have the meaning as defined in Section 4(a)(ii)(1) or 4(b)(ii)(1).

“**Transferring Shareholder**” shall have the meaning as defined in Section 4(a)(ii)(1).

“**Tribunal**” shall have the meaning as defined in Section 11(f).

## 2. **Restrictions on Transfer.**

### (a) **General.**

- (i) **Moratorium Period.**

Each of the Key Founders, the Other Shareholders and the Existing Preferred Shareholders agrees that for a period of six (6) months from the date of the issuance of the Series C Shares (the “**Moratorium Period**”), he/it shall not, without the prior written consent of the Series C Shareholder, Transfer any of their respective Equity Securities. William Wei Huang (□□) further agrees that he shall not, without the prior written consent of the Series C Shareholder, Transfer any of his beneficial interests in the Company for a further period of twelve (12) months commencing from the end of the Moratorium Period, which would result in his beneficial interests in the share capital of the Company becoming less than 15.17% following any such Transfer.

- (ii) **Prohibited Transfer.**

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No party is permitted to Transfer any interest it may hold, directly or indirectly, in the capital of the Company, or in the capital of any of Global Data Solutions, SBGD, EDC Group, GDS Enterprises, Ofira Capital, Excel Prayer, Solution Leisure or Topperfect Investment Limited to any of the entities as listed in **Exhibit C** (including any consolidated subsidiary of such entity), unless with the prior consent of holders collectively holding at least seventy-five percent (75%) of all the Ordinary Shares and Preferred Shares (voting together on an as-converted basis).

(iii) Key Founders' and the Other Shareholders' Transfer.

Subject to Sections 2(a)(i) and (ii), before a Key Founder Seller or an Other Shareholder Seller may Transfer any Equity Securities, the Preferred Shareholders shall have a Right of First Refusal to purchase the Equity Securities which the Key Founder Seller or the Other Shareholder Seller (as the case may be) desires to Transfer on the terms and conditions set forth herein. In connection with any proposed Transfer by any Key Founder Seller or any Other Shareholder Seller (as the case may be) of any Equity Securities, each Preferred Shareholder shall have a Right of Co-Sale if such Preferred Shareholder has not exercised its Right of First Refusal with respect to the Offered Shares pursuant to Section 3 hereof, to sell certain of its Equity Securities on the terms and conditions set forth herein.

(iv) Existing Preferred Shareholders' Transfer.

Subject to Sections 2(a)(i) and (ii), before an Existing Preferred Seller may Transfer any Equity Securities, the Series C Shareholder shall have a Right of First Offer to purchase all (but not less than all) the Equity Securities which such Existing Preferred Seller desires to Transfer, on the terms and conditions set forth herein. Before an Existing Preferred Seller may Transfer all (but not less than all) the Equity Securities, the Series C Shareholder shall have a Right of Co-Sale if it has not exercised its Right of First Offer with respect to the Transferred Shares pursuant to Section 4 hereof, to sell certain of its Equity Securities on the terms and conditions set forth herein.

(v) Series C Shareholder's Transfer.

Subject to Section 2(a)(ii), before the Series C Seller may Transfer any Equity Securities, the Existing Preferred Shareholders shall have a Right of First Offer to purchase all (but not less than all) the Equity Securities which the Series C Seller desires to Transfer, on the terms and conditions set forth herein, and to the extent the Right of First

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Offer to purchase all (but not less than all) the Equity Securities which the Series C Seller desires to Transfer is not accepted by the Existing Preferred Shareholders, the Key Shareholders shall have the Right of First Offer to purchase the Equity Securities which the Series C Seller desires to Transfer, on terms and conditions set forth herein. Before the Series C Seller may Transfer any Equity Securities, any of the Existing Preferred Shareholders and any of the Key Shareholders, who has not exercised its Right of First Offer with respect to the Transferred Shares pursuant to Section 4 hereof, shall have a Right of Co-Sale as to the Equity Securities which the Series C Seller desires to Transfer, on the terms and conditions set forth herein.

(b) Effectiveness of Transfer.

Any Transfer of any Equity Securities to any Person (who is not already a party to this Agreement) shall not be completed until such Person has agreed to be bound by and has complied with the terms and conditions of this Agreement to which the Seller is subject (it being understood that any such Person shall duly execute and deliver a Deed of Adherence confirming to the Company and the other shareholders of the Company that it shall be bound by this Agreement as was the Seller).

3. Right of First Refusal.

(a) Notice of Proposed Transfer.

If any Key Founder Seller or any Other Shareholder Seller (as the case may be) proposes to Transfer any of its Equity Securities to any Person (a "**Proposed Transferee**") save for a transfer pursuant to Section 5, such Key Founder Seller or Other Shareholder Seller (as the case may be) shall deliver to the Company and each of the Preferred Shareholders a written notice (the "**RFR Notice**") stating: (i) the Key Founder Seller's or the Other Shareholder Seller's (as the case may be) bona fide intention to Transfer such Equity Securities (the "**Offered Shares**"); (ii) the name, address and phone number of the Proposed Transferee; (iii) the maximum aggregate number of Offered Shares to be Transferred; (iv) the bona fide cash price or other consideration for which the Key Founder Seller or the Other Shareholder Seller (as the case may be) proposes to Transfer the Offered Shares (the "**Offered Price**"); (v) each Preferred Shareholder's right to exercise either its Right of First Refusal or its Right of Co-Sale (but not both rights) with respect to the Offered Shares; (vi) each Preferred Shareholder's pro rata share of the Offered Shares (as determined in accordance with Section 3(b)(i)); and (vii) a deadline, consistent with the terms of this Agreement, within which the Preferred Shareholders may exercise such rights. Such RFR Notice shall constitute an offer by the Key Founder Seller or the Other Shareholder Seller (as the case may be) to

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each of the Preferred Shareholders to sell to it the total number of the Offered Shares. The Key Founder Seller or the Other Shareholder Seller (as the case may be) shall use its best efforts to ensure that the Proposed Transferee (if not an existing shareholder of the Company) is a Person of good reputation acceptable to the Preferred Shareholders.

(b) Exercise of the Right of First Refusal by the Preferred Shareholders in a Key Founder's or an Other Shareholder Seller's Transfer.

(i) As stated in Section 2(a)(iii), and subject to the terms of this Section 3(b), each of the Preferred Shareholders shall have the Right of First Refusal to purchase all or any part of the Offered Shares of the Key Founder Seller or the Other Shareholder Seller (as the case may be); provided that each Preferred Shareholder so electing gives a written notice of the exercise of such right to the Key Founder Seller or the Other Shareholder Seller (as the case may be) within thirty (30) days after the date on which the RFR Notice is received by such Preferred Shareholder (the "**Refusal Period**"). Each Preferred Shareholder who has given written notice of its election to exercise of such right within the Refusal Period shall have the right to purchase its pro rata share of the Offered Shares. For the purpose of this Section 3(b)(i), each Preferred Shareholder's pro rata share of the Offered Shares shall be the aggregate number of Offered Shares multiplied by a fraction, the numerator of which shall be the number of Ordinary Shares (assuming conversion of all securities then outstanding that are convertible into Ordinary Shares) owned by such Preferred Shareholder on the date of the RFR Notice and the denominator of which shall be the number of Ordinary Shares (assuming conversion of all securities then outstanding that are convertible into Ordinary Shares) held by all Preferred Shareholders on the date of the RFR Notice.

(ii) In the event that any Preferred Shareholder has not elected to purchase its full pro rata share of the Offered Shares available to it pursuant to its rights under Section 3(b)(i) above within the Refusal Period, then the Key Founder Seller or the Other Shareholder Seller (as the case may be) shall promptly (and in any case no later than three (3) days after the Refusal Period) give a written notice (the "**Overallocation Notice**") to the Company and each Preferred Shareholder that has elected to purchase its full pro rata share of the Offered Shares (the "**Fully Participating Preferred Shareholders**"), which notice shall set forth the number of Offered Shares that have not been elected for purchase by the other Preferred Shareholders (such shares, the "**Overallocation Shares**"), and shall offer the Fully Participating Preferred Shareholders the right to purchase its pro rata share of the Overallocation Shares as

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set forth in the Overallocation Notice. Each Fully Participating Preferred Shareholder shall have ten (10) days after receipt of the Overallocation Notice (the "**Overallocation Refusal Period**") to deliver a written notice to the Key Founder Seller or the Other Shareholder Seller (as the case may be) of its election to purchase up to its pro rata share of the Overallocation Shares on the same terms and conditions as set forth in the RFR Notice. For the purpose of this Section 3(b)(ii), each Fully Participating Preferred Shareholder's pro rata share of the Overallocation Shares shall be the aggregate number of the Overallocation Shares multiplied by a fraction, the numerator of which shall be the number of Ordinary Shares (assuming conversion of all securities then outstanding that are convertible into Ordinary Shares) owned by such Fully Participating Preferred Shareholder on the date of the RFR Notice and the denominator of which shall be the total number of Ordinary Shares (assuming conversion of all securities then outstanding that are convertible into Ordinary Shares) owned by all Fully Participating Preferred Shareholders on the date of the RFR Notice.

(c) Exercise by the Company.

Within five (5) days after the expiration of the Overallocation Refusal Period, the Key Founder Seller or the Other Shareholder Seller (as the case may be) proposing to Transfer the Offered Shares will give written notices to the Company and each Preferred Shareholder (the "**Confirmation Notice**") specifying the number of Offered Shares that have been elected for purchase by the Preferred Shareholders exercising their Rights of First Refusal pursuant to Section 3(b) and the number of Offered Shares, if any, that remains available for Transfer (the "**Remaining Shares**"). The Company shall have the right to purchase, and subsequently cancel in accordance with the laws of the Cayman Islands all or any part of the Remaining Shares if the Company gives written notice of the exercise of such right to the Key Founder Seller or the Other Shareholder Seller (as the case may be) proposing to Transfer the Offered Shares within ten (10) days of delivery of the Confirmation Notice to the Company and each of the Preferred Shareholders.

(d) Purchase Price.

The purchase price for the Offered Shares to be purchased by the Company or by a Preferred Shareholder exercising its Right of First Refusal under this Agreement will be the Offered Price and will be payable as set forth in Section 3(e) hereof. If the Offered Price includes consideration other than cash, the cash equivalent value of the non-cash consideration will be determined by the Board of Directors of the Company (including affirmative votes of all Preferred Share Directors) in good faith, and such determination will be

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binding upon the Company, each Preferred Shareholder (if applicable), and the Key Founder Seller or the Other Shareholder Seller (as the case may be), absent fraud or error.

(e) Payment.

Payment of the Offered Price for the Offered Shares elected for purchase by the Company or by a Preferred Shareholder exercising its Right of First Refusal pursuant to this Section 3 shall be made within ninety (90) days after the date of the Confirmation Notice ("**Transfer Period**"). Payment of the Offered Price shall be made, at the option of the exercising Preferred Shareholder, as applicable, (i) in cash (or by check), (ii) by cancellation of all or a portion of any outstanding indebtedness of the Key Founder Seller or the Other Shareholder Seller (as the case may be) to such Preferred Shareholder or to the Company, as the case may be, or (iii) by any combination of the foregoing. Following the payment by the Company for the Offered Shares purchased by the Company, such Offered Shares shall be cancelled.

(f) Key Founder Sellers' or Other Shareholder Sellers' Right to Transfer.

If the Company and each Preferred Shareholder have not elected to purchase all or any portion of the Offered Shares pursuant to Section 3, then the Key Founder Seller or the Other Shareholder Seller (as the case may be) may Transfer such portion of the Offered Shares that the Company and the Preferred Shareholders have not elected to purchase (the "Co-Sale Eligible Shares") to the Proposed Transferee named in the RFR Notice, at the Offered Price; provided that any such Transfer by a Key Founder Seller or an Other Shareholder Seller (as the case may be) of the Co-Sale Eligible Shares shall still be subject to the Preferred Shareholders' Right of Co-Sale provided in Section 5 hereof and provided further that the Proposed Transferee shall have executed a counterpart to this Agreement or a Deed of Adherence confirming that it shall be bound by this Agreement.

(g) Completion in the event that the Right of First Refusal is exercised.

Any Transfer of the Offered Shares pursuant to Section 3 shall be completed (the "RFR Completion") on the date set for the RFR Completion (the "RFR Completion Date"), subject to fulfillment of each condition set out in Section 3(g)(i) or waiver in whole or in part by each of the Preferred Shareholders exercising their Rights of First Refusal pursuant to Section 3 or the Company (as the case may be), when the matters set out in Sections 3(g)(i)(1) and 3(g)(ii) shall take place, provided that none of the Key Founder Sellers or the Other Shareholder Seller (as the case may be), the Preferred Shareholders exercising their Rights of First Refusal pursuant to Section 3, or the Company, shall be

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obliged to perform their relevant obligations under Sections 3(g)(i) and (ii) if each of the others does not simultaneously perform (or has not already performed) its relevant obligations thereunder.

(i) Exercise by Preferred Shareholder(s).

- (1) Not less than ten (10) days prior to the RFR Completion Date, the Key Founder Seller or the Other Shareholder Seller (as the case may be) shall deliver to each Preferred Shareholder exercising its Right of First Refusal the following documents in a form previously approved by, or on behalf of, each such Preferred Shareholder exercising its Right of First Refusal pursuant to Section 3:
  - a. draft instruments of transfer in relation to the Transfer of the relevant number of Offered Shares that have been elected for purchase by each Preferred Shareholder exercising its Right of First Refusal by the registered holders of those Offered Shares in favor of each such Preferred Shareholder;
  - b. copies of the existing share certificates representing the Offered Shares that have been elected for purchase by each Preferred Shareholder exercising its Right of First Refusal pursuant to this Section 3 and draft copies of the new share certificate in the name of the relevant Preferred Shareholder in respect of such number of Offered Shares that such Preferred Shareholder has elected to purchase pursuant to this Section 3; and
  - c. a certified true copy of the resolutions of a properly convened board meeting of the Company at which the Board of Directors approves:
    - (A) the Transfers of the Offered Shares that have been elected for purchase by each Preferred Shareholder pursuant to this Section 3 from the Key Founder Seller or the Other Shareholder Seller (as the case may be) to each of such Preferred Shareholders or their specified nominees;
    - (B) the cancellation of the existing share certificates representing the Offered Shares that have been elected for purchase by each Preferred Shareholder pursuant to this Section 3 and the issue of new share

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certificates in the name of the relevant Preferred Shareholders (or their nominees) in respect of such number of Offered Shares that have been elected for purchase by each such Preferred Shareholder pursuant to this Section 3 and, if the sale is in respect of only part of such Key Founder Sellers' or such Other Shareholder Sellers' holding of Shares (as the case may be), new share certificates in the name of the Key Founder Seller or the Other Shareholder Seller (as the case may be) for the balance of the Shares retained by it; and

(C) the amendment of the register of members of the Company, to reflect such Transfer.

- (2) At the RFR Completion, the Key Founder Seller or the Other Shareholder Seller (as the case may be) shall deliver the following documents in a form previously approved by, or on behalf of, each Preferred Shareholder exercising its Right of First Refusal:
  - a. undated and executed instruments of transfer in relation to the transfer of the relevant Offered Shares by the registered holders of those Shares in favor of such Preferred Shareholder (or any other Person that such Preferred Shareholder nominates for the purpose (in such case, such nominee shall execute a counterpart to this Agreement confirming that it shall be bound by this Agreement as was the Preferred Shareholder)); and
  - b. a new share certificate representing the relevant number of Offered Shares that have been elected for purchase by each Preferred Shareholder pursuant to this Section 3.
- (3) At the RFR Completion and against the full compliance by the Key Founder Seller or the Other Shareholder Seller (as the case may be) of its obligations under Sections 3(g)(i)(1) and (2), each Preferred Shareholder exercising its Right of First Refusal shall pay to the Key Founder Seller or the Other Shareholder Seller (as the case may be), or as it may direct, the consideration for the Offered Shares to be acquired by such Preferred Shareholder.

(ii) Exercise by the Company.

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- (1) Not less than ten (10) days prior to the RFR Completion Date, the Key Founder Seller or the Other Shareholder Seller (as the case may be) shall deliver to the Company the following documents in a form previously approved by, or on behalf of, the Company:
  - a. draft instruments of transfer in relation to the Transfer of the relevant number of Offered Shares that have been elected for purchase by the Company by the registered holders of those Offered Shares in favor of the Company;
  - b. copies of the existing share certificates representing the Offered Shares that have been elected for purchase by the Company; and
  - c. a certified true copy of the resolutions of a properly convened board meeting of the Company at which the Board of Directors approves:
    - (A) the Transfers of the Offered Shares that have been elected for purchase by the Company pursuant to this Section 3 from the Key Founder Seller or the Other Shareholder Seller (as the case may be) to each of such the Company;
    - (B) the cancellation of the existing share certificates representing the Offered Shares that have been elected for purchase by the Company pursuant to this Section 3; and
    - (C) the amendment of the register of members of the Company, to reflect such Transfer and the cancellation of the Offered Shares that have been elected for purchase by the Company pursuant to this Section 3.
- (2) At the RFR Completion, the Key Founder Seller or the Other Shareholder Seller (as the case may be) shall deliver the following documents in a form previously approved by, or on behalf of, the Company undated and executed instruments of transfer in relation to the transfer of the relevant Offered Shares by the registered holders of those Shares in favor of the Company.
- (3) At the RFR Completion and against the full compliance by the Key Founder Seller or the Other Shareholder Seller (as the case

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may be) of its obligations under Sections 3(g)(i) and (ii), the Company shall pay to the Key Founder Seller or the Other Shareholder Seller (as the case may be), or as it may direct, the consideration for the Offered Shares to be acquired the Company. Following such payment, such Offered Shares shall be cancelled.

(h) Key Founder Seller's or Other Shareholder Seller's Representations and Warranties.

The Preferred Shareholders exercising their Right of First Refusal shall receive from the Key Founder Seller or the Other Shareholder Seller (as the case may be) the following representations and warranties as at the date of the RFR Notice and the date of the RFR Completion:

(i) Key Founder Seller's or the Other Shareholder Seller's right to sell the Offered Shares.

The Key Founder Seller or the Other Shareholder Seller (as the case may be) is the sole legal and beneficial owner of the Offered Shares it desires to Transfer and has the right to Transfer the full legal and beneficial interest in those Offered Shares to the Preferred Shareholder without any consent of any third Person.

(ii) No encumbrance over the Offered Shares.

The Offered Shares are not subject to any encumbrance and there are no arrangements or obligations that could result in the creation of an encumbrance affecting any of the Offered Shares.

(iii) No other rights over share capital of the Company.

Save for the provisions of this Agreement and subject to the Amended Articles, in regards to rights over share capital of the Company:

- (1) no Person has or claims to have (A) the right (actual or contingent) to require the allotment, issue, transfer, conversion or redemption of any Share or loan capital of the Company or of any other securities giving rise to a right over the share capital of the Company; or (B) any other right relating to any of the Shares in the capital of the Company, or relating to any of the rights attaching to those Shares, and
- (2) there is no arrangement or obligation to create any right of the kind mentioned in Section 3 (h)(iii)(1).

(iv) Organization, good standing and qualification.

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The Key Founder Seller (except William Wei Huang (□□)) or the Other Shareholder Seller (as the case may be) is a company duly incorporated, validly existing and in good standing under the respective laws of jurisdictions in which it is incorporated, and is qualified and is duly authorized to conduct business in the jurisdictions where it is operating its business.

(v) Due authorization.

The Key Founder Seller or the Other Shareholder Seller (as the case may be) and its directors (if applicable) have all the necessary powers and authorities under its memorandum and articles of association or otherwise to execute, complete and perform the Transfer.

4. Right of First Offer.

(a) Existing Preferred Shareholders' Transfer.

(i) General.

As stated in Section 2(a)(iv), in the event that any Existing Preferred Shareholder proposes to Transfer all or any of the Equity Securities then held by it save for a transfer pursuant to Section 5, such Existing Preferred Shareholder shall comply with the provisions of this Section 4(a) to provide a Right of First Offer to the Series C Shareholder, and the exercise of such right shall also comply with provisions in Section 4(c).

(ii) Exercise of the Right of First Offer by the Series C Shareholder.

- (1) If any Existing Preferred Seller (the "**Transferring Shareholder**") proposes to Transfer all or any portion of its Equity Securities in the Company, it shall first give a written notice thereof (the "**RFO Notice**") to the Series C Shareholder stating: (A) the Transferring Shareholder's bona fide intention to Transfer such Equity Securities (the "**Transfer Shares**"); (B) the maximum aggregate number of Transfer Shares to be Transferred; (C) the bona fide cash price for which the Existing Preferred Seller intends to Transfer the Transfer Shares (the "**Transfer Price**"); and (D) Series C Shareholder's right to exercise either its Right of First Offer or its Right of Co-Sale (but not both rights). Such RFO Notice shall constitute an offer by such Transferring Shareholder to sell the Transfer Shares to the Series C Shareholder on the terms of the RFO Notice;

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- (2) As stated in Section 2(a)(iv) and subject to the terms of this Section 4, the Series C Shareholder shall have the Right of First Offer to acquire all (but not less than all) the Transfer Shares offered by the Existing Preferred Seller in the RFO Notice. Within thirty (30) days from the date of receipt of the RFO Notice by the Series C Shareholder (the "**Existing Preferred Transfer Offering Period**"), the Series C Shareholder has the right to exercise the Right of First Offer to acquire all (but not less than all) the Transfer Shares by delivering a written notice (the "**Offer Notice**") to the Transferring Shareholder stating that it is willing to acquire such Transfer Shares on the terms and conditions as set forth in the RFO Notice.

- (3) If the Series C Shareholder either rejects or fails to fully accept the Right of First Offer to acquire all (but not less than all) the Transfer Shares as set out in Section 4(a)(ii)(1) above within thirty (30) days from the date of receipt of the RFO Notice by the Series C Shareholder, then the Transferring Shareholder shall be free to enter into a binding agreement to Transfer all of the Transfer Shares to a purchaser and to consummate such Transfer within ninety (90) days commencing from the date of rejection of the Right of First Offer to acquire all (but not less than all) the Transfer Shares as set out in Section 4(a)(ii)(1) above by the Series C Shareholder or the last day of the Existing Preferred Transfer Offering Period, whichever is earlier, on no less favorable terms than those offered by the Transferring Shareholder to the Series C Shareholder in the RFO Notice, provided that any such Transfer shall still be subject to the relevant Right Holder's Right of Co-Sale provided in Section 5 hereof and the provisions in Section 2(b) hereof. If the Transferring Shareholder does not enter into such an agreement and consummate the Transfer to a purchaser within such 90-day period, any subsequent proposed Transfer by it of any Equity Securities (including some or all of the Transfer Shares) shall again be subject to the provisions of this Section 4(a).

(b) Series C Shareholder's Transfer

(i) General.

As stated in Section 2(a)(v), in the event the Series C Shareholder proposes to Transfer all or any of the Equity Securities then held by it save for a Transfer pursuant to Section 5, the Series C Seller shall be subject to the Existing Preferred Shareholders' Right of First Offer and

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the Key Shareholders' Right of First Offer in accordance with the provisions of this Section 4(b), and the exercise of such right shall also comply with provisions in Section 4(c).

(ii) Exercise of the Right of First Offer by the Existing Preferred Shareholders and the Key Shareholders.

- (1) If the Series C Seller proposes to Transfer all or any portion of its Equity Securities in the Company, it shall first give a written notice thereof (the "**RFO Notice**") to each of the Company, Existing Preferred Shareholders and the Key Shareholders stating: (A) the Series C Seller's bona fide intention to Transfer such Equity Securities (the "**Transfer Shares**"); (B) the maximum aggregate number of Transfer Shares to be Transferred; (C) the bona fide cash price for which the Series C Seller intends to Transfer the Transfer Shares (the "**Transfer Price**"); and (D) each Existing Preferred Shareholder's and Key Shareholder's right to exercise either its Right of First Offer or its Right of Co-Sale (but not both rights). Such RFO Notice shall constitute an offer by the Series C Shareholder to sell the Transfer Shares to the Existing Preferred Shareholders and the Key Shareholders on the terms of the RFO Notice.
- (2) As stated in Section 2(a)(v) and subject to the terms of this Section 4, the Existing Preferred Shareholders shall have the Right of First Offer to purchase all (but not less than all) the Transfer Shares of the Series C Shareholder. Within fifteen (15) days from the date of receipt by the Company of the RFO Notice (the "**Existing Preferred RFO Offering Period**"), the Existing Preferred Shareholders may exercise the Right of First Offer (as a group) to acquire all (but not less than all) the Transfer Shares by duly delivering one (and only one) written notice ("**Existing Preferred RFO Notice**") to the Series C Seller stating the identity of the Existing Preferred Shareholder(s) who have accepted the Right of First Offer to acquire all (but not less than all) the Transfer Shares pursuant to this Section 4(b)(ii) and the specific number of Transfer Shares to be acquired by each of such accepting Existing Preferred Shareholder(s) on the terms and conditions as set forth herein. Each of the Existing Preferred Shareholders hereby irrevocably acknowledges and agrees that, if the Series C Seller receives more than one Existing Preferred RFO Notice during the Existing Preferred RFO Offering Period, then all of the Existing Preferred RFO Notices received by the Series C Seller shall be

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deemed as void and invalid, and the Existing Preferred Shareholders shall be deemed to have rejected their Right of First Offer with respect to the Transfer Shares.

- (3) Upon the expiry of the above Existing Preferred RFO Offering Period, if the Series C Seller has not received any Existing Preferred RFO Notice or has received more than one Existing Preferred RFO Notice, or has received one or more notice(s) from all of the Existing Preferred Shareholders which state(s) that the Existing Preferred Shareholders have not accepted the Right of First Offer to acquire all (but not less than all) the Transfer Shares or the Existing Preferred Shareholders have rejected or failed to accept the Right of First Offer to acquire all (but not less than all) the Transfer Shares, each of the Existing Preferred Shareholders shall be deemed to have waived its Right of First Offer to acquire all (but not less than all) the Transfer Shares pursuant to this Section 4(b)(ii) and the Company shall immediately notify each of the Key Shareholders of their right to exercise their Right of First Offer to acquire all (but not less than all) the Transfer Shares pursuant to this Section 4(b)(ii). Each of the Key Shareholders hereby appoints the Company as its authorised representative for the purpose of the exercise of its Right of First Offer pursuant to this Section 4(b)(ii) and agrees to be bound by the actions or omissions of the Company pursuant to this Section 4(b)(ii). Within a further fifteen (15) days from the end of the Existing Preferred RFO Offering Period (the "**Key Shareholders RFO Offering Period**"), each Key Shareholder may exercise the Right of First Offer to acquire all (but not less than all) such Transfer Shares and the Company (acting as the

authorised representative of the Key Shareholders) shall (on behalf of each of the Key Shareholders) deliver a written notice (“**Key Shareholders RFO Notice**”) to the Series C Seller stating that either (i) all the Key Shareholders have rejected or failed to accept the Right of First Offer to acquire all (but not less than all) the Transfer Shares pursuant to this Section 4(b)(ii); or (ii) the identity of the Key Shareholder(s) who have accepted the Right of First Offer to acquire all (but not less than all) the Transfer Shares pursuant to this Section 4(b)(ii) and to the extent that more than one Key Shareholder has accepted the Right of First Offer to acquire all (but not less than all) the Transfer Shares pursuant to this Section 4(b)(ii), the number of Transfer Shares to be acquired by each of such accepting Key Shareholders on the terms and conditions as set forth herein.

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- (4) If the Existing Preferred Shareholders or the Key Shareholders (as the case maybe) have either rejected or failed to fully accept the Right of First Offer to acquire all (but not less than all) the Transfer Shares pursuant to this Section 4(b)(ii) as set out above, then the Series C Seller shall be free to enter into a binding agreement to Transfer all of the Transfer Shares to a purchaser within ninety (90) days commencing from the date of the rejection of the Right of First Offer to acquire all (but not less than all) the Transfer Shares pursuant to this Section 4(b)(ii) by the Existing Preferred Shareholders or the Key Shareholders or the last day of the Key Shareholders RFO Offering Period, whichever is earlier, on no less favorable terms than those offered by the Series C Seller to the Existing Preferred Shareholders and the Key Shareholders (as the case maybe) in the RFO Notice, provided that any such Transfer shall still be subject to the relevant Right Holder’s Right of Co-Sale provided in Section 5 hereof and to the provisions of Section 2(b) hereof. If the Series C Seller does not enter into such an agreement or consummate the Transfer to a purchaser within such 90-day period, any subsequent proposed Transfer by it of some or all of the Transfer Shares shall again be subject to the provisions of this Section 4(b).

(iii) Transfer as a Whole.

- (1) The Existing Preferred Shareholders agree that they shall only exercise their Right of First Offer pursuant to Section 4(b)(ii) by purchasing the Transfer Shares in whole but not in part, and if more than one Existing Preferred Shareholder exercises their Right of First Offer, then such Existing Preferred Shareholders shall have first agreed amongst themselves whether to acquire the Transfer Shares on a pro rata basis among all the Existing Preferred Shareholders who have exercised their respective Right of First Offer or on some other basis. Notwithstanding any provisions of this Agreement, the parties hereto agree that, the Existing Preferred RFO Notice that is delivered by the Existing Preferred Shareholders or any failure by the Existing Preferred Shareholders to deliver the Existing Preferred RFO Notice in accordance with Section 4(b)(ii)(2) shall be deemed to be final and binding upon each Existing Preferred Shareholder.
- (2) The Key Shareholders agree, to the extent that the Existing Preferred Shareholders do not fully exercise their Right of First Offer pursuant to Section 4(b)(ii) by purchasing the Transfer

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Shares in whole but not in part, the Key Shareholders shall only exercise their Right of First Offer pursuant to Section 4(b)(ii) by purchasing Transfer Shares in whole but not in part, and if more than one Key Shareholder exercise their Right of First Offer pursuant to Section 4(b)(ii), then such Key Shareholders shall have first agreed amongst themselves whether to acquire the Transfer Shares on a pro rata basis among all the Key Shareholders who exercised their respective Right of First Offer or on some other basis. Notwithstanding any provisions of this Agreement, the parties hereto agree that, the Key Shareholders RFO Notice that is delivered by the Company or any failure by the Company to deliver the Existing Preferred RFO Notice in accordance with Section 4(b)(ii)(3) shall be deemed to be final and binding upon each Key Shareholder.

- (3) For the avoidance of doubt, the parties agree that the Series C Seller (i) shall be entitled to treat any Existing Preferred RFO Notice and any Key Shareholder RFO Notice that is received by the Series C Shareholder as final and binding on all the Existing Preferred Shareholders and all the Key Shareholders (as the case maybe); and (ii) shall not be required to confirm or verify any of the contents in any of such Existing Preferred RFO Notice or any Key Shareholder RFO Notice, or that such contents reflect the agreement of all or any of the Existing Preferred Shareholders and/or the Key Shareholders (as the case maybe).

(c) General Procedures of the Exercise of the Right of First Offer in Both Existing Preferred Shareholders’ Transfer and Series C Shareholder’s Transfer.

(i) Purchase Price.

The purchase price for the Transfer Shares to be purchased by the Series C Shareholder, an Existing Preferred Shareholder or by a Key Shareholder exercising its respective Right of First Offer under this Agreement will be the Transfer Price and will be payable as set forth in Section 4(c)(ii) hereof.

(ii) Payment.

Payment of the purchase price for the Transfer Shares purchased by a Series C Shareholder, an Existing Preferred Shareholder or by a Key Shareholder who has elected to purchase the Transfer Shares pursuant to this Section 4 shall be made within fifteen (15) days after the expiry

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of the relevant Offering Period. Payment of the Transfer Price shall be made in cash.

(iii) Completion in the event that Right of First Offer is exercised.

Any Transfer of the Transfer Shares pursuant to Section 4 shall be completed (the “**RFO Completion**”) on the date set for the RFO Completion (the “**RFO Completion Date**”), subject to fulfillment of each condition set out in Section 4(c)(iii)(1) or waiver in whole or in part by the relevant Rights Holder exercising its Right of First Refusal pursuant to this Section 4, when the matters set out in Sections 4(c)(iii)(2) and 4(c)(iii)(3) shall take place, provided that none of the Series C Seller, the Existing Preferred Seller and the relevant Right Holder respectively shall be obliged to perform their relevant obligations under Sections 4(c)(iii)(2) and 4(c)(iii)(3) if each of the others does not simultaneously perform (or has not already performed) its relevant obligations thereunder.

- (1) Not less than ten (10) days prior to the Completion Date, the Series C Seller or the Existing Preferred Seller (as the case may be) shall deliver the following documents in a form previously approved by, or on behalf of, each relevant Right Holder exercising its Right of First Offer:
- (A) draft instruments of transfer in relation to the Transfer of the relevant number of Transfer Shares that have been elected for purchase by the relevant Right Holder pursuant to this Section 4 by the registered holders of those Transfer Shares in favor of each of such relevant Right Holder(s) (or any other Person such Right Holder nominates for the purpose);
- (B) copies of the existing share certificates representing the Transfer Shares and draft copies of the new share certificate(s) in the name of the relevant Right Holder(s) in respect of such number of Transfer Shares that such Right Holder has elected to purchase pursuant to this Section 4; and
- (C) a certified true copy of the resolutions of a properly convened board meeting of the Company at which the Board of Directors approves:
- (x) the Transfers of the Transfer Shares that have been elected for purchase by the relevant Right Holder

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pursuant to this Section 4 from the Series C Seller or the Existing Preferred Seller to their respective Right Holders exercising Rights of First Offer or their specified nominees;

- (y) the cancellation of the existing share certificates representing the Transfer Shares that have been elected for purchase by the relevant Right Holder pursuant to this Section 4 and the issue of new share certificates in the name of the relevant Right Holders exercising the Right of First Offer (or their nominees); and
- (z) the amendment of the register of members of the Company, to reflect such Transfer.
- (2) At the RFO Completion, the Series C Seller or the Existing Preferred Seller (as the case may be) shall deliver the following documents in a form previously approved by, or on behalf of, each relevant Right Holder exercising its Right of First Offer:
- (A) undated and executed instruments of transfer in relation to the transfer of the Transfer Shares that have been elected for purchase by the relevant Right Holder pursuant to this Section 4 by the registered holders of those Shares in favor of the relevant Right Holder exercising the Right of First Offer (or any other Person that such Right Holder nominates for the purpose (in such case, such nominee shall execute a counterpart to this Agreement confirming that it shall be bound by this Agreement)); and
- (B) the new share certificates representing the relevant number of Transfer Shares that have been elected for purchase by the relevant Right Holder pursuant to this Section 4.
- (3) At the RFO Completion and against the full compliance by the Series C Seller or the Existing Preferred Seller (as the case may be), each relevant Right Holder exercising the Right of First Offer pursuant to this Section 4 shall pay to the Series C Seller or the Existing Preferred Seller (as the case may be), or as it may direct, the consideration for the Transfer Shares to be acquired by such relevant Right Holder.
- (4) Representations and Warranties.



The Series C Seller or any of the Existing Preferred Seller (as the case may be) shall not make (or be required to make) any representation or warranty to their respective relevant Right Holder in connection with the exercise of the Right of First Offer, other than those on good title to the Transfer Shares, absence of liens with respect to the Transfer Shares and customary representations and warranties concerning the Transferring Shareholder's power and authority to undertake the proposed Transfer.

- (iv) The provisions of this Section 4 shall not apply to the extent that the Transferred Shares are being Transferred as a result of the exercise of the rights of any party under Section 5.

5. **Right of Co-Sale.**

(a) **Key Founder's or Other Shareholder Seller's Transfer.**

(i) **Initial Exercise by the Preferred Shareholders.**

To the extent that any Preferred Shareholder has not exercised its Right of First Refusal with respect to the Offered Shares pursuant to Section 3 hereof, then each Preferred Shareholder who has not exercised its right in Section 3(b) (a "**Co-Sale Shareholder**") shall have the right to participate in such sale of the Co-Sale Eligible Shares pursuant to Section 3(f) on the same terms and conditions as specified in the RFR Notice subject to the terms of this Section 5 by notifying the Key Founder Seller or the Other Shareholder Seller (as the case may be) in writing within seventeen (17) days after delivery of the Confirmation Notice to such Co-Sale Shareholder (the "**Co-Sale Period**"). Each Co-Sale Shareholder who delivers a notice pursuant to the preceding sentence (a "**Participating Co-Sale Shareholder**") may sell, pursuant to the Participating Co-Sale Shareholder's Right of Co-Sale, up to that number of shares held by such Participating Co-Sale Shareholder which equals, the product of the Co-Sale Eligible Shares multiplied by such Participating Co-Sale Shareholder's Pro-Rata Share. The Participating Co-Sale Shareholder shall indicate the number of shares (on an as converted basis) it then holds that it wishes to sell pursuant to this Section 5(a) (the "**Participating Co-Sale Shareholder Shares**"). The sale of the Participating Co-Sale Shareholder Shares shall occur simultaneously with the sale of the Co-Sale Eligible Shares and within ninety (90) days after the end of the Co-Sale Period. The Key Founder Seller or the Other Shareholder Seller (as the case may be) shall ensure that the Participating Co-Sale Shareholder Shares are included in the relevant Transfer to the Approved Third Party Purchaser. If the Approved Third Party Purchaser fails to purchase all the Participating

Co-Sale Shares, then the relevant Transfer of Co-Sale Eligible Shares shall not be completed. This Right of Co-Sale shall not apply with respect to the Offered Shares sold or to be sold to the Company or Preferred Shareholders under their Right of First Refusal.

(ii) **Consummation of Co-Sale.**

A Participating Co-Sale Shareholder which has exercised the Right of Co-Sale shall deliver to the Key Founder Seller or the Other Shareholder Seller (as the case may be) at or before the RFR Completion, one or more instruments of transfer together with the applicable share certificates, representing a number of shares not to exceed the number of shares to which the Participating Co-Sale Shareholder is entitled in Section 5(a), representing such shares to be Transferred by the Key Founder Seller or the Other Shareholder Seller (as the case may be) on behalf of the Participating Co-Sale Shareholder. If the Participating Co-Sale Shareholder does not hold a certificate in that series, class or type of shares representing the number of securities owned and to be sold by such Participating Co-Sale Shareholder pursuant to this Section 5, then the Company shall, in accordance with the conversion provision and other relevant provisions of the Company's Memorandum of Association and Articles of Association then in effect, promptly issue a certificate representing the proper series, class, type and number of shares to be sold pursuant to this Right of Co-Sale. At the RFR Completion, such certificates and instruments of transfer will be delivered to the Approved Third Party Purchaser as set forth in the RFR Notice in consummation of the Transfer of the shares pursuant to the terms and conditions specified in the RFR Notice, and the Key Founder Seller or the Other Shareholder Seller (as the case may be) will remit, or will cause to be remitted, to each Participating Co-Sale Shareholder that portion of the proceeds of the Transfer to which each Participating Co-Sale Shareholder is entitled by reason of each Participating Co-Sale Shareholder's participation in such Transfer pursuant to the Right of Co-Sale. Following the RFR Completion, the Company shall deliver a certificate for the remaining balance of the securities held by the Participating Co-Sale Shareholder, if any, to such Participating Co-Sale Shareholder.

- (iii) Participating Co-Sale Shareholders who exercise the Right of Co-Sale shall not be required to give representations and warranties other than those on good title of the shares to be Transferred by the Key Founder Seller or the Other Shareholder Seller (as the case may be) on behalf of the Participating Co-Sale Shareholder.

(b) **Existing Preferred Shareholders' Transfer.**

In the event that any of the Existing Preferred Shareholder (other than SBCVC) proposes to Transfer any of the Equity Securities held by it, to the extent that the Series C Shareholder has not exercised its Right of First Offer with respect to the Transfer Shares pursuant to Section 4 hereof, then the Series C Shareholder shall be entitled to exercise the Right of Co-Sale, provided that the exercise of such right shall comply with, *mutatis mutandis*, the procedures as set out in Section 5(a) (for the avoidance of doubt, references to "RFR Completion" shall be deemed to be "RFO Completion"). The relevant Existing Preferred Shareholder shall ensure that the Participating Co-Sale Shares are included in the relevant Transfer to the Approved Third Party Purchaser. If the Approved Third Party Purchaser fails to purchase all the Participating Co-Sale Shares, then the relevant Transfer of Co-Sale Eligible Shares shall not be completed. Notwithstanding anything to the contrary in this Agreement, the disposition of any Preferred Shares held by SBCVC shall not be subject to the Right of Co-Sale as set forth in this Agreement.

(c) **Series C Shareholder's Transfer.**

In the event that the Series C Shareholder proposes to Transfer any of the Equity Securities then held by it, to the extent that the Existing Preferred Shareholders or the Key Shareholders have not exercised their Rights of First Offer with respect to the Transfer Shares pursuant to Section 4 hereof, each Existing Preferred Shareholder (other than SBCVC) and each Key Shareholder shall be entitled to exercise their respective Right of Co-Sale, provided that the exercise of such right shall comply with, *mutatis mutandis*, the procedures as set out in Section 5(a) (for the avoidance of doubt, references to "RFR Completion" shall be deemed to be "RFO Completion"). There is no priority in exercising the Right of Co-Sale between the Key Shareholders and the Existing Preferred Shareholders (other than SBCVC), and the Series C Shareholder shall ensure that the relevant Participating Co-Sale Shares held by the Key Shareholders and the Existing Preferred Shareholders (other than SBCVC) are included in the relevant Transfer to the Approved Third Party Purchaser. If the Approved Third Party Purchaser fails to purchase all the Participating Co-Sale Shares, then the relevant Transfer of Co-Sale Eligible Shares shall not be completed.

6. **Upstream Transfer.**

- (a) Each Selling GDS Upstream Shareholder agrees and shall ensure that any proposed Transfer of an indirect beneficial interest in the capital of the Company shall be deemed to be a Transfer of Shares in the Company and shall be subject to the Series C Shareholder's Right of First Refusal under Section 3 hereto. Each Selling GDS Upstream Shareholder may only Transfer any of their respective interests in the capital of Global Data Solutions to a purchaser

provided that (i) Global Data Solutions has first offered to the Series C Shareholder such number of shares in the capital of the Company calculated by multiplying (x) the percentage of shares of Global Data Solutions that is proposed to be sold by the Selling GDS Upstream Shareholder to the Approved Third Party Purchaser; by (y) the total number of Shares held by Global Data Solutions in the Company at the time of such offer, on no less favourable terms than those offered by such purchaser to such Selling GDS Upstream Shareholder and (ii) such Series C Shareholder has either rejected or failed to accept such offer. William Wei Huang (□) agrees and shall ensure that any proposed Transfer of an indirect beneficial interest in the capital of the Company shall be deemed to be a Transfer of Shares in the Company and shall be subject to the Series C Shareholder's Right of First Refusal under Section 3 hereto. William Wei Huang (□) may only Transfer his direct and indirect interests in the capital of EDC Group and GDS Enterprises, to an Approved Third Party Purchaser provided that (i) EDC Group or GDS Enterprises has first offered to the Series C Shareholder such number of Shares in the capital of the Company calculated by multiplying (x) the percentage of the direct or indirect effective interest of EDC Group or GDS Enterprises that is proposed to be sold by William Wei Huang (□) to a purchaser; by (y) the total number of Shares held by EDC Group or GDS Enterprises in the Company at the time of such offer, on no less favourable terms than those offered by such purchaser to William Wei Huang (□) and (ii) the Series C Shareholder has either rejected or failed to accept such offer.

- (b) William Wei Huang (□) agrees and shall ensure that any proposed Transfer of an indirect beneficial interest in the capital of the Company shall be deemed to be a Transfer of Shares in the Company and shall be subject to the Series C Shareholders' Right of First Refusal under Section 3 thereto. William Wei Huang (□) may only transfer his interests in the capital of Excel Prayer and/or Solution Leisure, to a purchaser provided that (i) Global Data Solutions has first offered to the Series C Shareholder such number of shares in the capital of the Company calculated by multiplying (x) the percentage of shares of Excel Prayer and/or Solution Leisure (as the case may be) that is proposed to be sold by William Wei Huang (□) to the Approved Third Party Purchaser; by (y) the percentage of shares of Global Data Solutions that is held by Excel Prayer and/or Solution Leisure (as the case may be) at the time of such offer; by (z) the total number of Shares held by Global Data Solutions in the Company at the time of such offer, on no less favourable terms than those

offered by such Approved Third Party Purchaser to William Wei Huang (□) and (ii) the Series C Shareholder has either rejected or failed to accept such offer.

- (c) The Upstream transfer restrictions set forth in Sections 6(a) to (c) above, shall be carried out *mutatis mutandis*, in accordance with the procedures as set out in Section 3 and 5.

7. **Prohibited Transfer.**

- (a) Any Transfer of Equity Securities in violation of Sections 2, 3, 4, 5, 6 or Section 7(a) hereof (a “**Prohibited Transfer**”) shall be null and void and shall not confer on any transferee any rights whatsoever, and the Company shall not, and in the case of Section 6, the relevant Parties shall not recognize such Transfer and will not effect such Transfer on the Company’s (or as applicable, the relevant company’s) register of members or other records without the written consent of the holders collectively holding (i) at least eighty-five percent (85%) of the then outstanding Existing Preferred Shares voting together as a separate class and on an as converted basis, (ii) at least seventy-five percent (75%) of the then outstanding Series C Shares, voting as a separate class and on an as converted basis and (iii) at least seventy-five percent (75%) of the then outstanding Ordinary Shares, voting as a separate class and on an as converted basis.

- (b) No Transfer of Equity Securities referred to in Section 7(a) shall in any event be registered or become effective.

## 8. **Stop-Transfer Orders.**

### (a) **Stop Transfer Instructions.**

In order to ensure compliance with the restrictions referred to herein, each Seller agrees that the Company may issue appropriate “stop transfer” certificates or instructions.

### (b) **Transfers.**

No Equity Securities shall be Transferred unless (i) such Transfer is made in compliance with the terms of this Agreement and applicable laws, including applicable federal and state securities laws, and (ii) prior to such Transfer, the transferee or transferees, who prior to such Transfer are not already parties to this Agreement, sign a counterpart to this Agreement pursuant to which it or they agree to be bound by the terms of this Agreement by way of executing and delivering a Deed of Adherence confirming to the Company and the other shareholders of the Company that it shall be bound by this Agreement as was the Seller.

## 9. **Termination.**

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The Right Holder’s Right of First Refusal, Right of First Offer and Right of Co-Sale, as applicable, will terminate upon the earlier to occur of (i) immediately prior to the effectiveness of the registration statement for a Qualified IPO, and (ii) the date on which this Agreement is terminated as agreed in writing by the holders collectively holding (i) at least eighty-five percent (85%) of the then outstanding Existing Preferred Shares and (ii) at least seventy-five percent (75%) of the then outstanding Series C Shares, each voting as a separate class on an as converted basis. For the avoidance of doubt, in the event that neither of the foregoing circumstances occurs, the Right Holder’s Right of First Refusal and Right of Co-sale will remain in full force and effect. Notwithstanding anything in the foregoing to the contrary, termination of this Agreement shall be without prejudice to any liability or obligation in respect of any matters, undertakings or conditions which shall not have been observed or performed by the relevant party prior to such termination.

## 10. **Change of Control of EDC Group and GDS Enterprises.**

### (a) **Definition of “control” and “change of control” under this Section 10.**

For the purpose of this Section 10, “**control**” shall mean William Wei Huang (□□) having fifty per cent (50%) or more legal and/or beneficiary ownership interest in each of EDC Group and GDS Enterprises, and “**change of control**” shall mean William Wei Huang (□□)’s legal and/or beneficiary ownership interest in any of EDC Group and GDS Enterprises decreasing to below fifty per cent (50%).

### (b) **Preferred Shareholders Rights against William Wei Huang (□□).**

If William Wei Huang (□□) shall cease to control any of EDC Group and GDS Enterprises, each Preferred Shareholder, without prejudice to any other rights to which they may be entitled, may require William Wei Huang (□□) to acquire its Shares in the Company in accordance with this Section 10 and subject to Section 4.

### (c) **Notice of Consideration.**

William Wei Huang (□□) will promptly, but in any case not later than fifteen (15) days following the change of control of any of EDC Group and GDS Enterprises, give notice to the Preferred Shareholders describing the consideration paid for the shares in EDC Group or GDS Enterprises and the

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value (the “**Attributed Value**”) attributable on a see-through basis to each Share in the Company held by EDC Group or GDS Enterprises (the “**Affected Founder’s Shares**”). Within thirty (30) days of receipt of such notice or otherwise becoming aware of such change of control in EDC Group or GDS Enterprises, each Preferred Shareholder, without prejudice to any other rights to which they may be entitled, may give a notice to William Wei Huang (□□) (the “**Sale Notice**”) specifying (i) the number of Shares that the Preferred Shareholders wants to Transfer to William Wei Huang (□□) (the “**Applicable Preferred Shareholder Shares**”) and (ii) whether it accepts that the Attributed Value represents a fair valuation of the Affected Founder’s Shares.

### (d) **Valuation of Affected Founder’s Shares.**

If a Preferred Shareholder does not consider that the Attributed Value represents a fair per Share value for the Applicable Preferred Shareholder Shares, such Preferred Shareholder, without prejudice to any other rights to which they may be entitled, shall be entitled to appoint a qualified person from a reputable independent auditors firm (the “**Expert**”) to determine what constitutes the fair value of each Share in the Company and each Ordinary Share Equivalent (the “**Fair Value**”). The Expert shall act as an expert and not as an arbitrator. Absent manifest error, the Expert’s decision shall be final and binding. The Expert’s fees shall be borne by William Wei Huang (□□). Such Preferred Shareholder, William Wei Huang (□□) and the Company shall give the Expert such information as the Expert reasonably requests to enable it to determine the Fair Value.

### (e) **Settlement Date.**

On the fifteenth (15<sup>th</sup>) Business Day after the later of the delivery of the Sale Notice or, if applicable, the Expert delivering its determination:

- (i) William Wei Huang (□□) shall pay to the relevant Preferred Shareholder in dollars in immediately available funds an amount equal to the higher of the Attributed Value and the Fair Value multiplied by the number of Applicable Preferred Shareholder Shares held by such Preferred Shareholders at a bank account designated by such Preferred Shareholder, without deduction whatsoever for any fees, taxes, duties, costs or other charges howsoever called; and
- (ii) Such Preferred Shareholder shall, after receipt of such funds, transfer to the William Wei Huang (□□) free of all encumbrances

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or rights of third parties the certificates, if any, evidencing title to the Shares to be sold by it together with such instruments of transfer, and the Company shall approve such transfer and update its register of members to reflect its terms if any, as required by the laws of Cayman Islands to effect the transfer.

### (f) **Preferred Shareholders Representations and Warranties.**

The Preferred Shareholder shall not be required to make any representation or warranty, other than as to good title to any Applicable Preferred Shareholder Shares, absence of encumbrances with respect to such Shares, the Preferred Shareholder’s power and authority to undertake the proposed Transfer, and the validity and enforceability of the Preferred Shareholder’s obligations in connection with it.

## 11. **Miscellaneous Provisions.**

### (a) **Notices.**

All notices and other communications required or permitted hereunder shall be in writing and shall be sent by facsimile or mailed by electronic, registered or certified mail or by overnight courier or otherwise delivered by hand or by messenger, addressed:

- (i) if to an Existing Preferred Shareholder, at the Existing Preferred Shareholder’s address, as shown on Exhibit A, Exhibit A-1, Exhibit A-2, Exhibit A-3, hereto, or at such other address as the Existing Preferred Shareholders shall have furnished to the Company in writing;
- (ii) if to the Series C Shareholder, at the Series C Shareholder’s address, as shown on Exhibit A-4 hereto, or at such other address as the Series C Shareholder shall have furnished to the Company in writing;
- (iii) if to a Key Founder or an Other Shareholder, as shown on Exhibits B and B-1 respectively, or at such other address as the Series C Shareholder shall have furnished to the Company in writing, or
- (iv) if to the Company, at the address of its principal corporate offices (attention: CEO), or at such other address as the Company shall have furnished to the Preferred Shareholders.

Where a notice is sent by mail, service of the notice shall be deemed to be effected by properly addressing, pre-paying and mailing a letter containing the notice, and to have been effected at the expiration of five (5) Business Days after the letter containing the same is mailed as aforesaid.

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Where a notice is sent by overnight courier, service of the notice shall be deemed to be effected by properly addressing, and sending such notice through an internationally recognized express courier service, delivery fees pre-paid, and to have been effected three (3) Business Days following the day the same is sent as aforesaid. Notwithstanding anything to the contrary in this Agreement, notices sent to the Preferred Shareholders (and their permitted assigns) shall only be delivered by internationally recognized express courier service pursuant to this paragraph.

Where a notice is delivered by hand, by facsimile, by electronic mail or by messenger, service of the notice shall be deemed to be effected upon delivery or successful transmission record being generated by the sender's machine.

(b) Successors and Assigns.

Except as otherwise expressly provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors, assigns, heirs, executors and administrators. No party hereto may delegate, assign or otherwise transfer any of its rights or obligations under this Agreement except in connection with the permitted transfer of securities in accordance with the terms hereof. Additionally, neither the Company nor any Seller may assign or delegate any of its rights or obligations under this Agreement without the prior written consent of all the Right Holder (as the case may be in different types of Transfer).

(c) Severability.

If any provision of this Agreement shall be determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(d) Waivers and Amendment.

Neither this Agreement nor any term hereof, may be changed, waived, discharged or terminated orally or in writing, except that any term of this Agreement may be amended and the observance of such terms may be waived (either generally or in a particular instance and either retroactively or prospectively) with (but only with) the written consent of (i) the Company, (ii) the holders of at least eighty-five percent (85%) of the then outstanding Existing Preferred Shares (voting together as a separate class) and (iii) the holders of at least seventy-five percent (75%) of the then outstanding Series C Shares; provided, however, that no such amendment or waiver shall extend to or affect any obligation not expressly waived or impair any right consequent

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therein. However, any amendments or waivers to rights of, or benefits to, SBCVC under this Agreement shall not be made without prior consent of SBCVC, and any amendments or waivers to rights of, or benefits to, the Series C Shareholder under this Agreement shall not be made without prior consent of the Series C Shareholder. No consent shall be required from any Shareholder hereunder for a Permitted Transferee of any Ordinary Shares or Preferred Shares here under to sign a counterpart signature page to this Agreement, or other similar document, binding said transferee and the Ordinary Shares or the Preferred Shares held by such transferee to the terms and conditions of this Agreement.

(e) Continuity of Other Restrictions.

Any Equity Securities not purchased by the Company or any Right Holder under their Right of First Refusal, Right of First Offer and Right of Co-Sale hereunder will continue to be subject to all other restrictions imposed upon such Equity Securities by law, including any restrictions imposed under the Company's Memorandum of Association and Articles of Association then in effect.

(f) Governing Law and Dispute Resolution.

This Agreement shall be governed by and construed in accordance with the laws of Hong Kong without regard to principles of conflicts of laws. Each of the parties hereto irrevocably agrees that any dispute, controversy or claim arising out of or in connection with this Agreement (including any issue as to the existence, validity, interpretation, construction, performance, breach or termination of this Agreement) (a "Dispute"), shall be referred to and finally resolved by binding arbitration administered by the HKIAC in accordance with the Rules in force when the notice of arbitration is submitted in accordance with these Rules, which Rules are deemed to be incorporated by reference into this section and as may be amended by the rest of this section. The arbitration tribunal shall consist of three (3) arbitrators (the "Tribunal"). The parties agree that the three arbitrators can be selected from outside the HKIAC's panel(s) of arbitrators. The claimant and the respondent shall each designate one (1) arbitrator in accordance with the Rules. The HKIAC shall appoint the third and presiding arbitrator, who shall be qualified to practice law in Hong Kong. The seat of the arbitration shall be Hong Kong. The language of the arbitration proceedings shall be English. Any award of the Tribunal shall be made in writing and shall be final, conclusive and binding on the parties to the arbitration from the day it is made.

(g) Other Remedies; Specific Enforcement.

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Except as otherwise provided herein, any and all remedies herein expressly conferred upon a party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such party, and the exercise by a party of any one remedy will not preclude the exercise of any other remedy. The parties hereto agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to seek an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof, this being in addition to any other remedy to which they are entitled at law or in equity.

(h) Binding Nature of Exercise.

Any exercise of the Right of First Refusal, Right of First Offer or Right of Co-Sale will be binding upon the party so exercising, and may not be withdrawn without the written consent of the Company or the Seller as to whom it is given, as the case may be, except that such exercise may be withdrawn unilaterally by the exercising party if there is any legal prohibition as to a party's consummation of its purchase or sale hereunder.

(i) Counterparts; Facsimiles.

This Agreement may be executed in any number of counterparts, each of which shall be enforceable against the parties actually executing such counterpart, and all of which together shall constitute one instrument. A facsimile, teletype or other reproduction of this Agreement may be executed by one or more parties hereto and delivered by such party by facsimile or any similar electronic transmission device pursuant to which the signature of or on behalf of such party can be seen. Such execution and delivery shall be considered valid, binding and effective for all purposes. At the request of any party hereto, all parties hereto agree to execute and deliver an original of this Agreement as well as any facsimile, teletype or other reproduction hereof.

(j) Titles and Subtitles.

The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. All references in this Agreement to sections, paragraphs and exhibits shall, unless otherwise provided, refer to sections and paragraphs hereof and exhibits attached hereto.

(k) Entire Agreement.

This Agreement and the documents referred to herein constitute the full and entire understanding and agreement between the parties with regard to the

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subjects hereof, and supersede any and all other prior written or oral agreements relating to the subject matter hereof existing between the parties hereto.

(l) Delays and Omissions.

It is agreed that no delay or omission to exercise any right, power or remedy accruing to any Right Holder (excluding the Company), upon any breach or default of the Company under this Agreement, shall impair any such right, power or remedy, nor shall it be construed to be a waiver of any such breach or default, or any acquiescence therein, or of any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. It is further agreed that any waiver, permit, consent or approval of any kind or character by any Right Holder (excluding the Company) of any breach or default under this Agreement, or any waiver by any Right Holder (excluding the Company) of any provisions or conditions of this Agreement must be in writing and shall be effective only to the extent specifically set forth in writing and that all remedies, either under this Agreement, or by law or otherwise afforded to the Right Holder (excluding the Company), shall be cumulative and not alternative.

(m) Share Splits.

All references to the number of shares in this Agreement shall be appropriately adjusted to reflect any share split, share dividend or other change in the capital stock which may be made by the Company after the RFR Completion or RFO Completion.

(n) Aggregation.

All Shares held or acquired by Affiliates of a Seller or Right Holder shall be aggregated together for the purpose of determining the availability of any rights under this Agreement which are triggered by the beneficial ownership of a threshold number of shares of the Company's capital shares.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“THE COMPANY”  
GDS HOLDINGS LIMITED**

By: /s/ William Wei Huang  
Print Name of Authorized Signatory: William Wei Huang (□□)  
Title of Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“KEY FOUNDERS”  
EXCEL PRAYER LTD.**

By: /s/ Shi Lan  
Print Name of Authorized Signatory: Shi Lan  
Title of Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“KEY FOUNDERS”  
SOLUTION LEISURE INVESTMENT LTD.**

By: /s/ William Wei Huang  
Print Name of Authorized Signatory: William Wei Huang (□□)  
Title of Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“KEY FOUNDERS”  
WILLIAM WEI HUANG (□□)**

By: /s/ William Wei Huang

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“KEY FOUNDERS”  
GLOBAL DATA SOLUTIONS LIMITED**

By: /s/ William Wei Huang  
Print Name of Authorized Signatory: William Wei Huang (□□)  
Title of Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“KEY FOUNDERS”  
SBGD INVESTMENT LIMITED**

By: /s/ Luo Zhi Ping  
Print Name of Authorized Signatory: Luo Zhi Ping  
Title of Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“KEY FOUNDERS”**

**EDC GROUP LIMITED**

By: /s/ 黄伟

Print Name of Authorized Signatory: Huang Wei (黄伟)

Title of Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“KEY FOUNDERS”**

**GDS ENTERPRISES LIMITED**

By: /s/ 黄伟

Print Name of Authorized Signatory: Huang Wei (黄伟)

Title of Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“KEY FOUNDERS”**

**OFIRA CAPITAL LIMITED**

By: /s/ Daniel Antony Newman

Print Name of Authorized Signatory: Daniel Antony Newman

Title of Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“OTHER SHAREHOLDERS”**

**BEST MILLION GROUP LIMITED**

By: /s/ Yang Juan

Print Name of Authorized Signatory: Yang Juan

Title of Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“OTHER SHAREHOLDERS”**

**FORTUNE MILLION INTERNATIONAL CORPORATION**

By: /s/ Lu Ronghan

Print Name of Authorized Signatory: Lu Ronghan

Title of Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“OTHER SHAREHOLDERS”**

**LINMAX ASIA LIMITED**

By: /s/ Lim Ah Doo

Print Name of Authorized Signatory: Lim Ah Doo

Title of Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“PREFERRED SHAREHOLDERS”**

**SBCVC COMPANY LIMITED**

By: /s/ Ping Hua

Print Name of Authorized Signatory: Ping Hua

Title of Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“PREFERRED SHAREHOLDERS”  
SBCVC FUND II, L.P.**

By:     /s/ Ping Hua      
Print Name of Authorized Signatory: Ping Hua  
Title of Authorized Signatory: Managing Partner

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“PREFERRED SHAREHOLDERS”  
SBCVC FUND II-ANNEX, L.P.**

By:     /s/ Ping Hua      
Print Name of Authorized Signatory: Ping Hua  
Title of Authorized Signatory: Managing Partner

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**PREFERRED SHAREHOLDERS”  
SBCVC VENTURE CAPITAL  
(□□□□□□□□)**

By:     /s/ Ping Hua      
Print Name of Authorized Signatory: Ping Hua  
Title of Authorized Signatory: Member of the Joint Management Committee

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**PREFERRED SHAREHOLDERS”  
SBCVC FUND III L.P.**

By:     /s/ Ping Hua      
Print Name of Authorized Signatory: Ping Hua  
Title of Authorized Signatory: Managing Partner

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“PREFERRED SHAREHOLDERS”  
SEABRIGHT SOF (I) PAPER LIMITED**

By:     /s/ Tang Chi Chun      
Print Name of Authorized Signatory: Tang Chi Chun  
Title of Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“PREFERRED SHAREHOLDERS”  
FOREBRIGHT MANAGEMENT LIMITED**

By:     /s/ HE Ling      
Print Name of Authorized Signatory: HE Ling  
Title of Authorized Signatory: Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**“PREFERRED SHAREHOLDERS”**

By: /s/ Changgen Wu  
Print Name of Authorized Signatory:  
Title of Authorized Signatory:

Changgen Wu  
Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**"PREFERRED SHAREHOLDERS"  
STT GDC PTE. LTD.**

By: /s/ Bruno Lopez  
Print Name of Authorized Signatory:  
Title of Authorized Signatory:

Bruno Lopez  
Director

**SIGNATURE PAGE TO SIXTH AMENDED AND RESTATED  
RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

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**EXHIBIT A**

**Schedule of Series A Shareholders**

**Name and Address of Series A Shareholder**

**SBCVC Fund II, L.P.**

(a partnership with limited liability registered and existing under the laws of the Cayman Islands with registered number CT-17141)

Cricket Square, Hutchins Drive  
P.O.Box 2681  
Grand Cayman KYI-1111  
CAYMAN ISLANDS

Attn: Peter Hua

Fax: (8621) 5240-0700

Email: peterhua@sbcvc.com

**Seabright SOF(I) Paper Limited**

(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1030636)

40/F., Far East Finance Centre, 16 Harcourt Road, Hong Kong

Attn: Ip Kun Wan, Kiril

Fax: +852 2520 5125

Email: Kiril.Ip@everbright165.com

---

**Name and Address of Series A Shareholder**

**Maxpoint Development Limited**

(a company incorporated and existing under the laws of British Virgin Islands with registered number 1061834)

40th Floor Bank of China Tower 1 Garden Road  
Hong Kong  
Attn: CG.Wu

Fax: 852 2103 0808

Email: changgen.wu@morganstanley.com

**Forebright Management Limited**

(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1019522)

Suite 3720, Jardine House, 1 Connaught Place,

Central, Hong Kong

Attn: Ip Kun Wan, Kiril

Fax: +852 2520 5125

Email: kiril.ip@forebrightcapital.com

---

**EXHIBIT A-1**

**Schedule of Series B Shareholders**

**Name and Address of Series B Shareholder**

**SBCVC Fund II-Annex, L.P.**

(a partnership with limited liability registered and existing under the laws of the Cayman Islands with registered number CT-23170)

Codan Trust Company (Cayman) Limited  
Cricket Square, Hutchins Drive  
P.O.Box 2681  
Grand Cayman KYI-1111  
CAYMAN ISLANDS

Attn: Peter Hua

Fax: (8621) 5240-0700

Email: peterhua@sbcvc.com

---

**EXHIBIT A-2**

**Schedule of Series A\* Shareholders**

**Name and Address of Series A\* Shareholder**

**SBCVC Company Limited**

(a company incorporated and existing under the laws of Hong Kong with registered number 1144947)

Unit 12, 19th Floor

Tower B, Southmark

11 Yip Hing Street, Wong Chuk Hang

Hong Kong

Attn: Peter Hua

Fax: (8621) 5240-0366

Email: peterhua@sbcvc.com

---

**EXHIBIT A-3**

**Schedule of Series B1 Shareholders**

**Name and Address of Series B1 Shareholder**

**SBCVC Company Limited**

(a company incorporated and existing under the laws of Hong Kong with registered number 1144947)

Unit 12, 19th Floor

Tower B, Southmark

11 Yip Hing Street, Wong Chuk Hang

Hong Kong

Attn: Peter Hua

Fax: (8621) 5240-0366

Email: peterhua@sbcvc.com

---

**Name and Address of Series B1 Shareholder**

**SBCVC Venture Capital (□□□□□□□□)**

(a co-operative joint venture enterprise incorporated and existing under the laws of PRC with registered number 320594500004043)

15A-C

Hua Min Empire Plaza

728 Yan An Road (West)

Shanghai, 200050

China

Attn: Peter Hua

Fax: (8621) 5240-0366

Email: peterhua@sbcvc.com

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**Schedule of Series B2 Shareholders**



**Name and Address of Series B2 Shareholder**

**SBCVC Company Limited**

(a company incorporated and existing under the laws of Hong Kong with registered number 1144947)

Unit 12, 19th Floor

Tower B, Southmark

11 Yip Hing Street, Wong Chuk Hang

Hong Kong

Attn: Peter Hua

Fax: (8621) 5240-0366

Email: peterhua@sbcvc.com

---

**Schedule of Series B4 Shareholders**

**Name and Address of Series B4 Shareholder**

**SBCVC Fund III L.P.**

(a partnership with limited liability registered and existing under the laws of the Cayman Islands with registered number CT-24546)

Cricket Square, Hutchins Drive  
P.O.Box 2681  
Grand Cayman KYI-1111  
CAYMAN ISLANDS

Attn: Peter Hua

Fax: (8621) 5240-0366

Email: peterhua@sbcvc.com

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**Schedule of Series B5 Shareholders**

**Name and Address of Series B5 Shareholder**

**SBCVC Fund III L.P.**

(a partnership with limited liability registered and existing under the laws of the Cayman Islands with registered number CT-24546)

Cricket Square, Hutchins Drive  
P.O.Box 2681  
Grand Cayman KYI-1111  
CAYMAN ISLANDS

Attn: Peter Hua

Fax: (8621) 5240-0366

Email: peterhua@sbcvc.com

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**EXHIBIT A-4**

**Schedule of Series C Shareholder**

**Name and Address of Investor**

**STT GDC Pte. Ltd.**

(a company incorporated and existing under the laws of the Republic of Singapore with registered number 201228542D)

Address: 1 Temasek Avenue, #33-01 Millenia Tower, Singapore 039192  
Attn: Company Secretary  
Fax: +65 6720 7220

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**EXHIBIT B**

**Schedule of Key Founders**

**Name and Address of Key Founders**

**Excel Prayer Limited**

(a company incorporated and existing under the laws of the British Virgin Islands with registered number 555554)

Room 304  
Chang Feng Er Cun 110#  
Jin Sha Jiang Road  
Shanghai 200062 P.R.China

**Global Data Solutions Limited**

(a company incorporated and existing under the laws of the Cayman Islands with registered number CT 128826)

Cricket Square, Hutchins Drive  
P.O.Box 2681  
Grand Cayman KY1-1111

**Name and Address of Key Founders**

**SBGD Investment Limited**

(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1628587)

OMC Chambers, Wickhams Cay 1,  
Road Town, Tortola,  
British Virgin Islands

**EDC Group Limited**

(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1628788)

OMC Chambers, Wickhams Cay 1,  
Road Town, Tortola,  
British Virgin Islands

**GDS Enterprises Limited**

(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1628589)

OMC Chambers, Wickhams Cay 1,  
Road Town, Tortola,  
British Virgin Islands

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**Name and Address of Key Founders**

**OFIRA CAPITAL LIMITED**

(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1567746)

263 Main Street,  
Road Town, Tortola,  
British Virgin Islands

**Solution Leisure Investment Ltd.**

(a company incorporated and existing under the laws of the British Virgin Islands with registered number 551497)

2/F, Tower 2, Youyou Century Place, 428 South Yanggao Road,  
Pudong, Shanghai 200127, P.R.C.  
Attn: William Wei Huang (黄伟)  
Fax: 86-21-20330202  
Email: huangwei@gds-services.com

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**Name and Address of Key Founders**

**William Wei Huang (黄伟)**

2/F, Tower 2, Youyou Century Place, 428 South Yanggao Road,  
Pudong, Shanghai 200127, P.R.C.  
Attn: William Wei Huang (黄伟)  
Fax: 86-21-20330202  
Email: huangwei@gds-services.com

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**EXHIBIT B-1**

**Schedule of Other Shareholders**

**Name and Address of Other Shareholders**

**Best Million Group Limited**

(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1634472)

2/F, Tower 2, Youyou Century Place, 428 South Yanggao Road,  
Pudong, Shanghai 200127, P.R.C.  
Attn: William Wei Huang (黄伟)  
Fax: 86-21-20330202  
Email: huangwei@gds-services.com

**Fortune Million International Corporation**

(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1910205)

OMC Chambers, Wickham Cay 1, Road Town, Tortola, British Virgin Islands  
Attn: Lu Ronghan  
Email: crescent.lu@fosmail.com

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**Name and Address of Key Founders**

**Linmax Asia Limited**

(a company incorporated and existing under the laws of the British Virgin Islands with registered number 1903042)

Portcullis TrustNet Chambers,  
4th Floor, Ellen Skelton Building,  
3076 Sir Francis Drake Highway, Road Town,  
Tortola, British Virgin Islands  
Attn: Lim Ah Doo

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**EXHIBIT C**

**Schedule of the Prohibited Transferee**

21ViaNet Group, Inc  
Dr. Peng Telecom and Media Group Corporation (ooooooooooooo)  
Equinix, Inc  
KDDI CORPORATION  
NTT Communications  
SingTel Group  
PCCW Limited  
KT Corporation  
SK TELECOM  
Philippine Long Distance Telephone Company  
Telkom Indonesia  
Axiata Group Berhad  
Telekom Malaysia Berhad

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**SCHEDULE 1  
FORM OF DEED OF ADHERENCE**

**THIS DEED** is made the     day of     20[ ] by [ ] of [ ] (the "**Purchaser**") and is supplemental to the Sixth Amended and Restated Right of First Refusal and Co-Sale Agreement in relation to GDS Holdings Limited dated [•], 2016 made between GDS Holdings Limited (the "**Company**"), William Wei Huang, Global Data Solutions Limited, certain other shareholders of the Company and other parties thereto (such agreement as amended, restated or supplemented from time to time, the "**ROFR & Co-Sale Agreement**").

**WITNESSETH** as follows:

The Purchaser confirms that it has been provided with a copy of the ROFR & Co-Sale Agreement and all amendments, restatements and supplements thereto and hereby covenants with each of the parties to the ROFR & Co-Sale Agreement from time to time and the Company to observe, perform and be bound by all the terms and conditions of the ROFR & Co-Sale Agreement which are capable of applying to the Purchaser to the intent and effect that the Purchaser shall be deemed as and with effect from the date hereof to be a party to the ROFR & Co-Sale Agreement and to be a Seller (as defined in the ROFR & Co-Sale Agreement).

The address and facsimile number at which notices are to be served on the Purchaser under the ROFR & Co-Sale Agreement and the person for whose attention notices are to be addressed are as follows:

[to insert the contact details]

Words and expressions defined in the ROFR & Co-Sale Agreement shall have the same meaning in this Deed. This Deed shall be governed by and construed in accordance with the laws of Hong Kong.

This Deed shall take effect as a deed poll for the benefit of the Company, William Wei Huang, Global Data Solutions Limited, STT GDC Pte. Ltd. and other parties to the ROFR & Co-Sale Agreement.

**IN WITNESS WHEREOF** the Purchaser has executed this Deed the day and year first above written.

**THE COMMON SEAL** of [ ]

was hereunto affixed     )

in the presence of:     )

\_\_\_\_\_  
(Director)

\_\_\_\_\_  
(Director/Secretary)

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## FACILITY AGREEMENT

Dated 30 June 2016

for

上海外高桥保税区开发股份有限公司 (SHANGHAI WAIGAOQIAO EDC TECHNOLOGY CO., LTD.)

上海外高桥保税区开发股份有限公司 (SHANGHAI YUNGANG EDC TECHNOLOGY CO., LTD.)

as Borrowers

and

GDS HOLDINGS LIMITED

as Ultimate Parent

arranged by

交通银行(中国)有限公司

(CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK (CHINA) LIMITED)

交通银行(中国)有限公司上海自贸区试点分支行

(UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)

as Mandated Lead Arrangers

with

交通银行(中国)有限公司上海自贸区试点分支行

(UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)

acting as Facility Agent and Security Agent

交通银行(中国)有限公司上海自贸区试点分支行

(UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)

acting as Account Bank

and

交通银行(中国)有限公司

(CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK (CHINA) LIMITED)

交通银行(中国)有限公司

(UNITED OVERSEAS BANK LIMITED)

acting as Coordinating Banks

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THIS AGREEMENT is dated 30 June 2016 and made between:

- (1) 上海外高桥信息科技股份有限公司 (SHANGHAI WAIGAOQIAO EDC TECHNOLOGY CO., LTD.), a wholly foreign owned enterprise established under the laws of the PRC, with its registered address at Building 1, No. 6, Huajin Road, China (Shanghai) Pilot Free Trade Zone, PRC (Unified Social Credit Code: 91310115685460850P) (“**EDC WGQ**”);
- (2) 上海外高桥信息科技股份有限公司 (SHANGHAI YUNGANG EDC TECHNOLOGY CO., LTD.), a wholly foreign owned enterprise established under the laws of the PRC, with its registered address at Room 431, 4<sup>th</sup> Floor, No. 8, Huajin Road, China (Shanghai) Pilot Free Trade Zone, PRC (Unified Social Credit Code: 91310115599775434E) (“**EDC YG**”, together with EDC WGQ, the “**Borrowers**” and each a “**Borrower**”);
- (3) **GDS HOLDINGS LIMITED**, an exempted company incorporated with limited liability under the laws of the Cayman Islands, with its registered address at the offices of Codan Trust Company (Cayman) Limited, Cricket Square, Hutchins Drive, P.O. Box 2681, Grand Cayman KY1-1111, Cayman Islands (the “**Ultimate Parent**”);
- (4) 北京万国长安科技有限公司 (BEIJING WANGUO CHANGAN TECHNOLOGY CO., LTD.), a limited liability company established under the laws of the PRC, with its registered address at Room A-0155, 2<sup>nd</sup> Floor, Building 3, No. 30<sup>th</sup> Yard, Shixing Avenue, Shijingshan District, Beijing, PRC (Unified Social Credit Code: 911101077889501239) (the “**GDS Beijing**”);
- (5) 苏州数据解决方案有限公司 (GLOBAL DATA SOLUTIONS CO., LTD.), a limited liability company established under the laws of the PRC, with its registered address at Unit A0503-1, International Science & Technology Park, No. 1355, Jinjihu Avenue, Suzhou Industrial Park, PRC (Unified Social Credit Code: 913205947230335351) (“**GDS Suzhou**”);
- (6) 上海自贸区GDS管理有限公司 (SHANGHAI FREE TRADE ZONE GDS MANAGEMENT CO., LTD.), a wholly foreign owned company established under the laws of the PRC, with its registered address at Room 4056 4<sup>th</sup> Floor, No. 173, Meisheng Road, China (Shanghai) Pilot Free Trade Zone, PRC (Unified Social Credit Code: 91310000MA1FL18A2U) (“**GDS Management Co.**”);
- (7) 中国农业银行 (CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK (CHINA) LIMITED) and 渣打银行 (UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH), as mandated lead arrangers (the “**Mandated Lead Arrangers**”);
- (8) THE FINANCIAL INSTITUTIONS listed in Schedule 1 as lenders (the “**Original Lenders**”);
- (9) 渣打银行 (UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH) as agent of the Finance Parties (other than itself) (the “**Facility Agent**”);
- (10) 渣打银行 (UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH) as security trustee for the Secured Parties (the “**Security Agent**”);

- (11) 渣打银行 (UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH) as account bank (the “**Account Bank**”); and
- (12) 中国农业银行 (CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK (CHINA) LIMITED) and 渣打银行 (UNITED OVERSEAS BANK LIMITED) as coordinating banks (the “**Coordinating Banks**”)

IT IS AGREED as follows:

## SECTION 1 INTERPRETATION

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

In this Agreement:

“**Accession Letter**” means a document substantially in the form set out in Schedule 6 (*Form of Accession Letter*).

“Accounts” means:

- (a) Debt Service Reserve Account (WGQ);
- (b) Debt Service Reserve Account (YG Onshore Loan);
- (c) Debt Service Reserve Account (YG Offshore Loan);
- (d) Operations Account (WGQ);
- (e) Operations Account (YG);
- (f) Debt Service Accrual Account (WGQ);
- (g) Debt Service Accrual Account (YG Onshore Loan);
- (h) Debt Service Accrual Account (YG Offshore Loan);
- (i) Excess Cashflow Account (WGQ);
- (j) Excess Cashflow Account (YG);
- (k) Receiving Accounts (WGQ);
- (l) Receiving Account (YG);
- (m) Receiving Account (GDS Beijing-WGQ);
- (n) Receiving Accounts (GDS Beijing-YG);
- (o) Receiving Account (GDS Suzhou-WGQ);
- (p) Receiving Account (GDS Suzhou-YG);

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- (q) Receiving Account (GDS HK-WGQ);
- (r) Receiving Account (GDS HK-YG);
- (s) Receiving Account (GDS Shanghai-WGQ);
- (t) Receiving Account (GDS Shanghai-YG);
- (u) Offshore Loan Account (YG); and
- (v) any account otherwise designated as an Account by (i) the Facility Agent and (ii) each Borrower, GDS Beijing or GDS Suzhou (as the case may be) in writing.

“Account Control Agreement” means an account control agreement dated on or about the date of this Agreement and made by and between the Borrowers, GDS Beijing, GDS Suzhou, GDS HK, GDS Shanghai, the Account Bank and the Facility Agent in relation to the Accounts.

“Administrative Party” means each of the Mandated Lead Arrangers, the Account Bank, the Facility Agent, the Security Agent and each of the Coordinating Banks.

“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.

“Assignee Group Member” means a member of the Group incorporated in the PRC, to which all obligations and rights of GDS HK under the GDS HK Service Contracts will be novated. For avoidance of doubt, the Assignee Group Member shall be GDS Beijing, GDS Suzhou or EDC WGQ (after EDC WGQ Restructuring) to be agreed by the Lenders prior to the Contract Novation.

“Assignment Agreement” means an agreement substantially in a recommended form of the APLMA or any other form agreed between the relevant assignor, assignee and the Facility 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 Facility A Availability Period and Facility B Availability Period (as the case may be).

“Available Commitment” means, in relation to a Facility, a Lender’s Commitment under that Facility minus:

- (a) the aggregate amount of its participation in any outstanding Loans under that Facility; and
- (b) in relation to any proposed Utilisation, the aggregate amount of its participation in any Loans that are due to be made under that Facility on or before the proposed Utilisation Date.

3

“Available Facility” means Available Facility A or Available Facility B (as the case may be).

“Available Facility A” means, in relation to the Facility A, the aggregate for the time being of each Lender’s Available Commitment in respect of the Facility A.

“Available Facility B” means, in relation to the Facility B, the aggregate for the time being of each Lender’s Available Commitment in respect of the Facility B.

“Available Foreign Debt Quota” has the meaning given to that term in Clause 23.32(b).

“Back-to-Back Agreements” means Back-to-Back Agreements (GDS Suzhou), Back-to-Back Agreements (GDS Beijing), Back-to-Back Agreements (GDS HK) and Back-to-Back Agreements (GDS Shanghai).

“Back-to-Back Agreements (GDS Beijing)” means Back-to-Back Agreements (GDS Beijing -WGQ) and Back-to-Back Agreements (GDS Beijing - YG).

“Back-to-Back Agreements (GDS Beijing - WGQ)” means one or more service agreements entered into or to be entered into by and between EDC WGQ and GDS Beijing in respect of the Project SH1 in which EDC WGQ agrees to provide data center facilities and other related services to GDS Beijing for GDS Beijing to perform its obligations under GDS Beijing Service Contracts and GDS Beijing agrees to pay all or certain percentage consideration under GDS Beijing Service Contracts to EDC WGQ, in each case in the form and substance satisfactory to the Facility Agent.

“Back-to-Back Agreements (GDS Beijing - YG)” means one or more service agreements entered into or to be entered into by and between EDC YG and GDS Beijing in respect of the Projects (other than Project SH1) in which EDC YG agrees to provide data center facilities and other related services to GDS Beijing for GDS Beijing to perform its obligations under GDS Beijing Service Contracts and GDS Beijing agrees to pay all or certain percentage consideration under GDS Beijing Service Contracts to EDC YG, in each case in the form and substance satisfactory to the Facility Agent.

“Back-to-Back Agreements (GDS HK)” means Back-to-Back Agreements (GDS HK - WGQ) and Back-to-Back Agreements (GDS HK - YG).

“Back-to-Back Agreements (GDS HK - WGQ)” means one or more service agreements entered into or to be entered into by and between EDC WGQ and GDS HK in respect of the Project SH1 in which EDC WGQ agrees to provide data center facilities and other related services to GDS HK for GDS HK to perform its obligations under the GDS HK Service Contracts and GDS HK agrees to pay all or certain percentage consideration under the GDS HK Service Contracts to EDC WGQ, in each case in the form and substance satisfactory to the Facility Agent.

“**Back-to-Back Agreements (GDS HK - YG)**” means one or more service agreements entered into or to be entered into by and between EDC YG and GDS HK in respect of the Projects (other than Project SH1) in which EDC YG agrees to provide data center facilities and other related services to GDS HK for GDS HK to perform its obligations under the GDS HK Service Contracts and GDS HK agrees to pay all or certain percentage consideration under the GDS HK Service Contracts to EDC YG, in each case in the form and substance satisfactory to the Facility Agent.

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“**Back-to-Back Agreements (GDS Shanghai)**” means Back-to-Back Agreements (GDS Shanghai -WGQ) and Back-to-Back Agreements (GDS Shanghai - YG).

“**Back-to-Back Agreements (GDS Shanghai - WGQ)**” means one or more service agreements entered into or to be entered into by and between EDC WGQ and GDS Shanghai in respect of the Project SH1 in which EDC WGQ agrees to provide data center facilities and other related services to GDS Shanghai for GDS Shanghai to perform its obligations under the GDS Shanghai Service Contracts and GDS Shanghai agrees to pay all or certain percentage consideration under the GDS Shanghai Service Contracts to EDC WGQ, in each case in the form and substance satisfactory to the Facility Agent.

“**Back-to-Back Agreements (GDS Shanghai - YG)**” means one or more service agreements entered into or to be entered into by and between EDC YG and GDS Shanghai in respect of the Projects (other than Project SH1) in which EDC YG agrees to provide data center facilities and other related services to GDS Shanghai for GDS Shanghai to perform its obligations under the GDS Shanghai Service Contracts and GDS Shanghai agrees to pay all or certain percentage consideration under the GDS Shanghai Service Contracts to EDC YG, in each case in the form and substance satisfactory to the Facility Agent.

“**Back-to-Back Agreements (GDS Suzhou)**” means Back-to-Back Agreements (GDS Suzhou -WGQ) and Back-to-Back Agreements (GDS Suzhou - YG).

“**Back-to-Back Agreements (GDS Suzhou - WGQ)**” means one or more service agreements entered into or to be entered into by and between EDC WGQ and GDS Suzhou in respect of the Project SH1 in which EDC WGQ agrees to provide data center facilities and other related services to GDS Suzhou for GDS Suzhou to perform its obligations under the GDS Suzhou Service Contracts and GDS Suzhou agrees to pay all or certain percentage consideration under the GDS Suzhou Service Contracts to EDC WGQ, in each case in the form and substance satisfactory to the Facility Agent.

“**Back-to-Back Agreements (GDS Suzhou - YG)**” means one or more service agreements entered into or to be entered into by and between EDC YG and GDS Suzhou in respect of the Projects (other than Project SH1) in which EDC YG agrees to provide data center facilities and other related services to GDS Suzhou for GDS Suzhou to perform its obligations under the GDS Suzhou Service Contracts and GDS Suzhou agrees to pay all or certain percentage consideration under the GDS Suzhou Service Contracts to EDC YG, in each case in the form and substance satisfactory to the Facility Agent.

“**Back-to-Back Agreements (WGQ)**” means Back-to-Back Agreements (GDS Beijing - WGQ), Back-to-Back Agreements (GDS Suzhou - WGQ), Back-to-Back Agreements (GDS HK - WGQ) and Back-to-Back Agreements (GDS Shanghai - WGQ).

“**Back-to-Back Agreements (YG)**” means Back-to-Back Agreements (GDS Beijing - YG), Back-to-Back Agreements (GDS Suzhou - YG), Back-to-Back Agreements (GDS HK - YG) and Back-to-Back Agreements (GDS Shanghai - YG).

“**Borrower Group**” means the Borrowers and their respective Subsidiaries from time to time.

“**Borrower Service Contracts**” means the Borrower Service Contracts (WGQ) and the Borrower Service Contracts (YG).

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“**Borrower Service Contracts (WGQ)**” means all contracts, orders, agreements or any other documents entered into or expected to be entered into (in the reasonable opinion of the Facility Agent) by EDC WGQ and its customers to which the Project SH1 may at any time be subject in respect of any management consultancy services or other services in connection with internet data center businesses provided or to be provided by EDC WGQ.

“**Borrower Service Contracts (YG)**” means all contracts, orders, agreements or any other documents entered into or expected to be entered into (in the reasonable opinion of the Facility Agent) by EDC YG and its customers to which the Projects (other than Project SH1) may at any time be subject in respect of any management consultancy services or other services in connection with internet data center businesses provided or to be provided by EDC YG, the performance of which does not need a value-added telecommunications business operating license.

“**Borrowings**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Break Costs**” means the amount (if any) by which:

- (a) the interest which a Lender should have received pursuant to the terms of this Agreement for the period from the date of receipt of all or any part of the principal amount of 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 of interest 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 in the Relevant Interbank Market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

“**Budget**” means each budget (including the detailed budget for each quarter of that Financial Year) delivered by each Borrower to the Facility Agent in respect of that Financial Year pursuant to Clause 21.5 (*Submission of Budget*).

“**Business Day**” means a day (other than a Saturday, Sunday or a public holiday) on which banks are open for general business in Hong Kong and Shanghai.

“**Business Plan**” means each business plan (including but not limited to detailed development plans, construction programme, operation of a Project and projected cashflow over the whole life of a Project) regarding (a) Project SH1, Project SH2 and Project SH3 proposed by the Borrowers and approved in writing by the Facility Agent; and (b) Project SH4 to be proposed by EDC YG and approved in writing by the Facility Agent.

“**Capital Expenditure**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Cash**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Cash Equivalent Investments**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Cashflow**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

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“**CBRC Rules**” means (a) the Interim Measures on Administration of Fixed Assets Loan promulgated by China Banking Regulatory Commission on 23 July 2009; (b) the Project Finance Business Guidelines promulgated by China Banking Regulatory Commission on 18 July 2009; and (c) the Interim Measures for Administration of Working Capital Loans promulgated by China Banking Regulatory Commission on 12 February 2010; in each case, including any supplemental rules thereof and any amendments thereto from time to time.

“**Certificate of Completion**” means the fire safety certificate or any other documents issued or to be issued by Shanghai Fire Services Department (消防局) or its local counterparts, evidencing a Project has passed fire safety inspection.

“**Change of Control**” means:

- (a) the Sponsor ceases to, directly or indirectly, be the beneficial owner of at least 50.1 per cent. of equity interests of the STT GDC; or
- (b) in relation to STT GDC:
- (i) prior to the occurrence of a Flotation, the STT GDC ceases to, directly or indirectly, be the beneficial owner of at least 40 per cent. of equity interests of the Ultimate Parent or have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to cast, or Control the casting of, at least 40 per cent. of the votes that may be cast at a meeting of the board of directors (or similar governing body) of the Ultimate Parent or the STT GDC ceases to be the single largest shareholder of the Ultimate Parent; or
- (ii) following the occurrence of a Flotation, the STT GDC ceases to, directly or indirectly, be the beneficial owner of at least 30 per cent. of equity interests of the Ultimate Parent or have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to cast, or Control the casting of, at least 30 per cent. of the votes that may be cast at a meeting of the board of directors (or similar governing body) of the Ultimate Parent or the STT GDC ceases to be the single largest shareholder of the Ultimate Parent; or
- (c) the Ultimate Parent ceases to, directly or indirectly, be the beneficial owner of 100 per cent. of equity interests of the Borrowers and have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to Control the Borrowers; or

- (d) the Ultimate Parent ceases to, directly or indirectly, be the beneficial owner of 100 per cent. of equity interests of GDS Management Co. and have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to Control GDS Management Co.; or
- (e) GDS Management Co. ceases to, directly or indirectly, be the beneficial owner of 100 per cent. of equity interests of the GDS Beijing, GDS Suzhou, GDS Shanghai or EDC WGQ (after the EDC WGQ Restructuring) and have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to Control the GDS Beijing, GDS Shanghai, GDS Suzhou or EDC WGQ (after the EDC WGQ Restructuring); or

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- (f) GDS Beijing ceases to, directly or indirectly, be the beneficial owner of 100 per cent. of equity interests of GDS Suzhou or EDC WGQ (after the EDC WGQ Restructuring) and have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to Control the GDS Suzhou or EDC WGQ (after the EDC WGQ Restructuring); or
- (g) William Huang ceases to, directly or indirectly, own at least 99.9% of the equity interests of GDS Beijing.
- (h) For the purposes of this definition, “**equity interests**” means, in relation to any person:
- (i) any share of any class or capital stock of, or equity interest in, such person or any depositary receipt in respect of any such share, capital stock or equity interest; or
- (ii) any security convertible or exchangeable (whether at the option of the holder thereof or otherwise and whether such conversion is conditional or otherwise) into any such shares, capital stock, equity interest or depositary receipt, or any depositary receipt in respect of any such security; or
- (iii) any option, warrant or other right to acquire any such share, capital stock, equity interest, security, depositary receipt or security referred to in the foregoing paragraphs (i) and/or (ii) above.

“**CNH**” means offshore RMB traded in the markets outside of the PRC.

“**Code**” means the US Internal Revenue Code of 1986.

“**Commitment**” means Facility A Commitment or Facility B Commitment (as the case may be).

“**Compensation**” means any sum (other than Insurance Proceeds):

- (a) by way of compensation under a Project Document;
- (b) in respect of the seizure, compulsory acquisition, expropriation or nationalisation of any of the assets or shares of any member of the Group;
- (c) as compensation for any Authorisation in connection with the Projects not being granted or renewed, or ceasing to be in full force and effect without modification;
- (d) in return for any decrease in its rights (including the release, modification or suspension of any rights) or any increase in its obligations (including the grant by it of rights or the modification of them), in each case, in connection with the Projects; or
- (e) received by or payable to any Obligor Party or any other member of the Group under any guarantee, letter of credit or bond relating to any of the foregoing.

“**Compliance Certificate**” means a certificate delivered pursuant to Clause 21.2 (*Compliance Certificate*) and jointly signed by each of EDC WGQ’s one authorised signatory and EDC YG’s one authorised signatory substantially in the form set out in Schedule 5 (*Form of Compliance Certificate*).

“**Confidential Information**” means all information relating to any Borrower, any Obligor Party, the Group, the Transaction Documents or a Facility of which a Secured Party becomes aware in its

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capacity as, or for the purpose of becoming, a Secured Party or which is received by a Secured Party in relation to, or for the purpose of becoming a Secured Party under, the Transaction Documents or a Facility from either:

- (a) any member of the Group or any of its advisers; or
- (b) another Secured Party, if the information was obtained by that Secured 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 information that:
- (i) is or becomes public information other than as a direct or indirect result of any breach by that Secured Party of Clause 28 (*Disclosure of information*); or
- (ii) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
- (iii) is known by that Secured Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Secured Party after that date, from a source which is, as far as that Secured Party is aware, unconnected with the Group and which, in either case, as far as that Secured Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

“**Confidentiality Undertaking**” means a confidentiality undertaking substantially in a recommended form of the APLMA or in any other form agreed between the Obligors’ Agent and the Facility Agent.

“**Consigned Disbursement**” means the method by which the Lenders disburse loan proceeds into a Loan Disbursement Account, for further payment by the Facility Agent upon the instruction of any Borrower (which may be in the form of a duly completed Utilisation Request) to the respective transactional counterparty.

“**Contract Novation**” means, in relation to the GDS HK Service Contracts which entered or to be entered into by GDS HK with China Telecom (Americas) Corporation and Premiere Conferencing (Hong Kong) Limited respectively, novation of all rights and obligations of GDS HK thereunder to the Assignee Group Member.

“**Contract Value**” means, in relation to a Service Contract, all revenues, receipts and payments, service charges, royalties, profits and refunds paid to or for the benefit of the Borrowers, GDS Suzhou, GDS Beijing, GDS HK or GDS Shanghai from any source in respect of the Projects in connection with data center infrastructure business, management consultancy services or any other services provided either by any Borrower, GDS Suzhou, GDS Beijing, GDS HK or GDS Shanghai during the whole term (in the case of a Qualified Service Contract) or the respective remaining term (in the case of any Service Contract other than a Qualified Service Contract) of that Service Contract.

“**Contractor Agreements**” means:

- (a) in respect of the Project SH1, a general contractor construction contract regarding the electrical engineering work, water supply and drainage and air conditioning work of Project

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SH1 (██████████(87 ████████████████████) entered into by EDC WGQ and ████████████████████ on 9 May 2011;

- (b) in respect of the Project SH2, a general contractor construction contract regarding the mechanical and electrical installation work of Project SH2 (██████88#██████████████████) entered into by EDC YG and ████████████████████ on 20 March 2015; and
- (c) any other contractor documents entered into by any Borrower in relation to the Projects which consideration (whether paid or payable by that Borrower) equals to or exceeds RMB 20,000,000;

in each case, including any amendments thereto or any supplemental documents thereof.

“**Contributed Equity**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Control**” or “**control**” means, in relation to any person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person, whether through the ownership of voting securities, by contract or otherwise (and the term “**Controlled**” or “**controlled**” shall be construed accordingly).

“**Current Assets**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Current Liabilities**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).



“**Custom**” means General Administration of Customs of the PRC or its local counterparts.

“**Customer Assets**” means any customer equipment in relation to internet data centre business that is purchased by a Borrower at the cost and request of its customers and made available for its customers by that Borrower under the relevant Service Contract, including but not limited to servers connecting to internet or other networks, the telecommunication lines and bandwidth connected to the equipment and facilities such as database system and servers, operating system and software system, and the intangible assets including without limitation, the trademark and domain name.

“**Debt Service**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Debt Service Accrual Account (WGQ)**” has the meaning given to that term in Clause 18.1(a)(iii).

“**Debt Service Accrual Account (YG Offshore Loan)**” has the meaning given to that term in Clause 18.1(c)(ii).

“**Debt Service Accrual Account (YG Onshore Loan)**” has the meaning given to that term in Clause 18.1(b)(iii).

“**Debt Service Coverage Ratio**” or “**DSCR**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Debt Service Reserve Account (WGQ)**” has the meaning given to that term in Clause 18.1(a)(i).

“**Debt Service Reserve Account (YG Offshore Loan)**” has the meaning given to that term in Clause 18.1(c)(i).

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“**Debt Service Reserve Account (YG Onshore Loan)**” has the meaning given to that term in Clause 18.1(b)(i).

“**Debt Service Reserve Amount (WGQ)**” has the meaning given to that term in Clause 18.3(a).

“**Debt Service Reserve Amount (YG Offshore Loan)**” has the meaning given to that term in Clause 18.3(b)(ii).

“**Debt Service Reserve Amount (YG Onshore Loan)**” has the meaning given to that term in Clause 18.3(b)(i).

“**Debt to Equity Ratio**” or “**DER**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Default**” means an Event of Default or any event or circumstance specified in Clause 24 (*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.

“**Default Rate**” means a rate determined by the Facility Agent to be:

- (a) in the event of any misapplication or misappropriation of any amount of the proceeds of the Loan as contemplated in Clause 10.3(b), 150% of the rate of interest which would have been applicable to that amount of the Loans pursuant to Clause 10.1 (*Calculation of interest*); and
- (b) in the event of any Unpaid Sum (including, but not limited to, following any failure to pay upon acceleration of the Loan pursuant to Clause 24.21 (*Acceleration*)), 130% of the rate which would have been payable if the Unpaid Sum had, during the period of non-payment, constituted part of the Loans pursuant to Clause 10.1 (*Calculation of interest*),

or, in each case, if any misapplied or misappropriated amount also constitutes any part of Unpaid Sum, the highest default interest rate shall apply to such part of Unpaid Sum without double counting overdue interest on such part of Unpaid Sum.

“**Disposal**” means a sale, lease, licence, transfer, loan or other disposal by a person of any asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions) other than in the ordinary course of trading.

“**Disposal Proceeds**” means all sums paid or payable or any other consideration given or to be given in money or money’s worth for any Disposal made by any member of the Group in accordance with this Agreement except for the Excluded Disposal Proceeds and the Compensation.

“**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 the Facilities (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

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- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payment 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.

“**EBIT**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**EBITDA**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**EDC China**” means EDC China Holdings Limited, a company established under the laws of Hong Kong, with its registered address at Units 323-325 3/F Core Building 2 Hong Kong Science Park Shatin NT.

“**EDC WGQ Restructuring**” means an acquisition of all equity interests in EDC WGQ by GDS Beijing, as a result of which EDC WGQ will subsequently become a wholly owned Subsidiary of GDS Beijing.

“**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 Obligor or any other 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 Obligor or any other member of the Group conducted on or from the properties owned or used by the relevant Obligors or any other relevant member of the Group.

“**Equity Pledge Agreement (WGQ Onshore Loan)**” means an equity pledge agreement entered into or to be entered into between EDC WGQ, GDS Beijing and the Security Agent, pursuant to which GDS Beijing pledges its 100% equity interests in EDC WGQ in favour of the Security Agent (on behalf of all Secured Parties).

“**Equity Pledge Agreement (YG Onshore Loan)**” means an equity pledge agreement entered into or to be entered into between EDC YG, the Parent (EDC YG) and the Security Agent, pursuant to which the Parent (EDC YG) pledges its 100% equity interests in EDC YG in favour of the Security Agent (on behalf of all Secured Parties).

“**Event of Default**” means any event or circumstance specified as such in Clause 24 (*Events of Default*).

“**Evidence of Facility A Utilisation**” has the meaning given to that term in sub-paragraph (vii) of paragraph (a) of Clause 5.2 (*Completion of a Utilisation Request*).

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“**Evidence of Facility B Utilisation**” has the meaning given to that term in sub-paragraph (viii) of paragraph (a) of Clause 5.2 (*Completion of a Utilisation Request*).

“**Excess Cashflow**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Excess Cashflow Account (WGQ)**” has the meaning given to that term in Clause 18.1(a)(iv).

“Excess Cashflow Account (YG)” has the meaning given to that term in Clause 18.1(b)(iv).

“Excess Cashflow Prepayment Amount (WGQ)” has the meaning given to that term in Clause 18.6(a)(i) (Excess Cashflow Account).

“Excess Cashflow Prepayment Amount (YG)” has the meaning given to that term in Clause 18.6(a)(iii) (Excess Cashflow Account).

“Excluded Disposal Proceeds” means the proceeds of (a) any Disposal which a Borrower notifies the Facility Agent will be applied for the replacement and/or reinstatement of its assets within 6 months after actual receipt of such proceeds; or (b) any Disposal in the Borrower’s ordinary course of business.

“Excluded Insurance Proceeds” means any proceeds of an Insurance claim which a Borrower notifies the Facility Agent will be applied for the replacement, reinstatement and/or repair of the assets or otherwise in amelioration of the loss in respect of which the relevant Insurance claim was made within 6 months after receipt, but in each case such proceeds are not more than RMB 10,000,000 and does not include any proceeds arising out of a total loss or a major damage.

“Existing Account” means the Borrowers’ existing bank accounts (other than the Accounts) opened with other banks (other than the Account Bank) before the date of this Agreement, as more particularly set out in Schedule 8 (List of Existing Accounts).

“Existing Account Control (Project SH2)” means the supervision and control over EDC YG’s bank accounts in relation to Project SH2 in favor of Bank of China, Shanghai Jing’an Sub-branch securing the Existing Bank Loan (Project SH2), which will be discharged and released in accordance with this Agreement.

“Existing Bank Loan Agreement (Project SH1)” means a fixed assets loan agreement in relation to the Existing Bank Loan (Project SH1) entered into by and between EDC WGQ and Bank of Communications, Shanghai Branch on 1 December 2010.

“Existing Bank Loan Agreement (Project SH2)” means a fixed assets loan agreement in relation to the Existing Bank Loan (Project SH2) entered into by and between EDC YG and Bank of China, Shanghai Jing’an Sub-branch on 5 June 2015.

“Existing Bank Loans (GDS Suzhou)” means the Existing Bank Loan (GDS Suzhou-Bank of Ningbo), the Existing Entrustment Loan (GDS Suzhou-Ping An Bank) and the Existing Bank Loan (GDS Suzhou-Shanghai Bank).

“Existing Bank Loan (GDS Suzhou-Bank of Ningbo)” means the bank loan under a working capital loan agreement entered into by and between GDS Suzhou and Bank of Ningbo, Shanghai Branch on 21 January 2016, and at the date hereof the outstanding principal amount is RMB 50,000,000.

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“Existing Bank Loan (GDS Suzhou-Shanghai Bank)” means the bank loan under a working capital loan agreement entered into by and between GDS Suzhou and Shanghai Bank, Suzhou Branch on 16 September 2015, and at the date hereof the outstanding principal amount is RMB 20,000,000.

“Existing Bank Loan (Project SH1)” means the bank loan made by Bank of Communications, Shanghai Branch to EDC WGQ under the Existing Bank Loan Agreement (Project SH1), and at the date hereof the outstanding principal amount is RMB 25,000,000.

“Existing Bank Loan (Project SH2)” means the bank loan made by Bank of China, Shanghai Jing’an Sub-branch to EDC YG under the Existing Bank Loan Agreement (Project SH2) and at the date hereof the outstanding principal amount is RMB 180,454,981.

“Existing Entrustment Loan (GDS Suzhou-Ping An Bank)” means the entrustment bank loan under an entrustment loan agreement entered into by and among 中国工商银行(上海) (as principal), Shanghai Pudong Development Bank, Shenzhen Branch (as trustee) and GDS Suzhou (as borrower) on 4 July 2014, and at the date hereof the outstanding principal amount is RMB 199,700,000.

“Existing Inter-company Loans” means the Existing Inter-company Loans (Project SH1) and the Existing Inter-company Loans (Project SH2).

“Existing Inter-company Loans (Project SH1)” means certain portion of the inter-company loans made by the members of the Group to EDC WGQ under the Existing Inter-company Loan Agreements (Project SH1) that have been agreed by the Borrower and the Facility Agent, which will be refinanced pursuant to this Agreement (being RMB 364,933,035.71 at the date of this Agreement).

“Existing Inter-company Loans (Project SH2)” means certain portion of the inter-company loans made by the members of the Group to EDC YG under the Existing Inter-company Loan Agreements (Project SH2) that has been agreed by the Borrower and the Facility Agent, which will be refinanced pursuant to this Agreement (being RMB 14,268,459.48 at the date of this Agreement).

“Existing Inter-company Loan Agreements (Project SH1)” means the inter-company loan agreements in relation to the Existing Inter-company Loans (Project SH1) entered into by and between EDC WGQ and the members of the Group in respect of Project SH1 on or before the date of this Agreement.

“Existing Inter-company Loan Agreements (Project SH2)” means the inter-company loan agreements in relation to the Existing Inter-company Loans (Project SH2) entered into by and between EDC YG and the members of the Group in respect of Project SH2 on or before the date of this Agreement.

Existing Maximum Amount Mortgage Contract (Project SH1)” means a maximum amount mortgage contract dated 20 November 2010 entered into by EDC WGQ (as mortgagor) and Bank of Communication, Shanghai Branch (as mortgagee) in respect of the mortgage over equipment in relation to Project SH1 to secure the Existing Bank Loan (Project SH1), which will be terminated in accordance with this Agreement.

“Existing Pledge over Receivables (Project SH1)” means the pledges over account receivables under the Service Contracts in relation to Project SH1 created by GDS Beijing and GDS Suzhou

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respectively to secure the Existing Bank Loans (GDS Suzhou), which will be discharged and released in accordance with this Agreement.

“Existing Pledge over Receivables (Project SH2)” means the pledges over account receivables under the Service Contracts in relation to Project SH2 created by GDS Suzhou to secure the Existing Bank Loans (GDS Suzhou), which will be discharged and released in accordance with this Agreement.

“Existing Shareholder Loan (WGQ)” means the USD 18,000,000 shareholder loan made by EDC China to EDC WGQ under the shareholder loan agreement dated 7 January 2015.

“Facilities” means Facility A, Facility B and Facility D, and a “Facility” means any of them.

“Facility A” means the term loan facility made available under this Agreement as described in paragraph (a) of Clause 2.1 (The Facilities).

“Facility A Availability Period” means the period from and including the date of this Agreement to and including the date which is one (1) Month after the date of this Agreement.

“Facility A Commitment” means:

- (a) in relation to an Original Lender, the amount in RMB set opposite its name under the heading “Facility A Commitment” in Schedule 1 (Lenders and their Commitments) and the amount of any other Facility A Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount in RMB of any Facility A Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

“Facility A Loan” means a loan made or to be made under Facility A or the principal amount outstanding for the time being of that loan.

“Facility A Loan Disbursement Account” means a bank account opened with the Account Bank for the purpose of receiving the Facility A Loan proceeds from the relevant Lenders.

“Facility A Maturity Date” means the date falling five (5) years after the first Utilisation Date of Facility A.

“Facility A Repayment Date” has the meaning given to such term in paragraph (a) of Clause 6.1 (Repayment of Facility A Loans).

“Facility A Utilisation Request” means a Utilisation Request that requests a Facility A Loan.

“Facility B” means the term loan facility made available under this Agreement as described in paragraph (b) of Clause 2.1 (The Facilities).

“Facility B Availability Period” means the period from and including the date of this Agreement to and including the date which is three (3) Month after the date of this Agreement.

“Facility B Commitment” means:

- (a) in relation to an Original Lender, the amount in RMB set opposite its name under the heading “Facility B Commitment” in Schedule 1 (*Lenders and their Commitments*) and the amount of any other Facility B Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount in RMB of any Facility B Commitment transferred to it under this Agreement,
- to the extent not cancelled, reduced or transferred by it under this Agreement.

“**Facility B Loan**” means a loan made or to be made under Facility B or the principal amount outstanding for the time being of that loan.

“**Facility B Loan Disbursement Account**” means a bank account opened with the Account Bank for the purpose of receiving the Facility B Loan proceeds from the relevant Lenders.

“**Facility B Maturity Date**” means the date falling five (5) years after the first Utilisation Date of Facility B.

“**Facility B Repayment Date**” has the meaning given to such term in paragraph (a) of Clause 6.2 (*Repayment of Facility B Loans*).

“**Facility B Utilisation Request**” means a Utilisation Request that requests a Facility B Loan.

“**Facility C**” means a RMB term loan facility to be made available under an agreement otherwise agreed between EDC YG, the Lenders and/or other PRC financial institution(s) as described in paragraph (h) of Clause 2.3 (*Conditions of other facilities*).

“**Facility D**” means the term loan facility to be made available under this Agreement or other agreement otherwise agreed between EDC YG and the Lenders as described in paragraph (b) of Clause 2.1 (*The Facilities*).

“**Facility D Commitment**” means the commitment amount of the Facility D to be mutually agreed between EDC YG and the relevant Lenders, but in any event the amount shall not exceed RMB 340,000,000.

“**Facility D Commitment Date**” means the date as notified by the Facility Agent to EDC YG that the relevant Lenders have agreed to make the Facility D available to EDC YG.

“**Facility D Loan**” means a loan made or to be made under Facility D or the principal amount outstanding for the time being of that loan.

“**Facility D Maturity Date**” means the date Facility D Loans are repaid or discharged in full.

“**Facility E**” means a RMB term loan facility to be made available under an agreement otherwise agreed between EDC YG, the Lenders and/or other PRC financial institution(s) as described in paragraph (h) of Clause 2.3 (*Conditions of other facilities*).

“**Facility Office**” means the office or offices notified by a Lender to the Facility Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five (5) 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 paragraphs (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;
- (b) in relation to a “withholdable payment” described in section 1473(1)(A)(ii) of the Code (which relates to “gross proceeds” from the disposition of property of a type that can produce interest from sources within the US), 1 January 2017; or
- (c) in relation to a “passthru payment” described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2017,

or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the date of this Agreement.

“**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.

“**FATCA FFI**” means a foreign financial institution as defined in section 1471(d)(4) of the Code which, if any Finance Party is not a FATCA Exempt Party, could be required to make a FATCA Deduction.

“**FATCA Payment**” means either:

- (a) the increase in a payment made by an Obligor Party to a Finance Party under Clause 13.7 (*FATCA Deduction and gross-up by Obligor Parties*) or paragraph (b) of Clause 13.8 (*FATCA Deduction by a Finance Party*); or
- (b) a payment under paragraph (d) of Clause 13.8 (*FATCA Deduction by a Finance Party*).

“**Fee Letter**” means any letter or letters referring to this Agreement or the Facilities between one or more Administrative Parties and the Borrowers setting out any of the fees referred to in Clause 12 (*Fees*).

“**Final Repayment Date**” means Facility A Maturity Date, Facility B Maturity Date or Facility D Maturity Date (as the case may be).

“**Finance Document**” means this Agreement, any Accession Letter, any Fee Letter, the Account Control Agreement, any Transaction Security Document, the Intercreditor Agreement (if any), any Utilisation Request and any other document designated as such by the Facility Agent and the Obligors’ Agent.

“**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) 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 shall be taken into account);

- (h) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 12 Months after the date of supply;
- (i) 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
- (j) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (i) above.

“**Financial Quarter**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Financial Year**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**First WGQ Utilisation Request**” means the first Utilisation Request delivered by EDC WGQ.

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“**First YG Utilisation Request**” means the first Utilisation Request delivered by EDC YG.

“**Flotation**” means the listing or admission to trading on any stock or securities exchange or market of any shares or securities of any member of Group, or any sale or issue by way of listing, flotation or public offering (or any equivalent circumstances) of any shares or securities of any member of the Group in any jurisdiction or country.

“**Force Majeure**” means a circumstance that may not be foreseen, avoided or overcome, including but not limited to fire, flood, earthquake, storm, hurricane or other natural disaster, war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalisation, government sanction, blockage, embargo, strike.

“**GAAP**” means generally accepted accounting principles and practices from time to time in the jurisdiction of incorporation of the relevant Obligor Party.

“**GDS Beijing’s IDC License**” means a value-added telecommunications business operating license issued by MIIT to GDS Beijing on 17 December 2015, with a valid term ending on 14 November 2018 and license No. B1. B2 – 20130270, including any updated or renewed license issued following the review and approval of MIIT upon expiry.

“**GDS Beijing Inter-company Loan Agreements**” means the GDS Beijing Inter-company Loan Agreement (WGQ) and the GDS Beijing Inter-company Loan Agreement (YG).

“**GDS Beijing Inter-company Loan Agreement (WGQ)**” has the meaning given to that term in Clause 18.9(c).

“**GDS Beijing Inter-company Loan Agreement (YG)**” has the meaning given to that term in Clause 18.9(d).

“**GDS Beijing Service Contracts**” means all contracts, orders, agreements or any other documents entered into or expected to be entered into (in the reasonable opinion of the Facility Agent) by GDS Beijing and its customers to which the Projects may at any time be subject in respect of any data center infrastructure services or other services in connection with internet data center businesses provided or to be provided by GDS Beijing, the performance of which needs a value-added telecommunications business operating license; for avoidance of doubt, GDS Beijing Service Contracts shall include the service contracts entered into by and between GDS HK and GDS Beijing in relation to the Projects.

“**GDS Beijing Trapped Amount (WGQ)**” has the meaning given to that term in Clause 18.9(a).

“**GDS Beijing Trapped Amount (YG)**” has the meaning given to that term in Clause 18.9(b).

“**GDS HK**” means GDS (HongKong) Limited, a company established under the laws of Hong Kong, with its registered address at Units 323-325 3/F Core Building 2 Hong Kong Science Park Shatin NT.

“**GDS HK Service Contracts**” means all contracts, orders, agreements or any other documents entered into or expected to be entered into (in the reasonable opinion of the Facility Agent) by GDS HK and its customers to which the Projects may at any time be subject in respect of any data center infrastructure services or other services in connection with internet data center businesses provided or to be provided by GDS HK.

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“**GDS Shanghai**” means Shanghai Shu’an Data Services Ltd. (上海数安数据服务有限公司), a limited liability company established under the laws of the PRC, with its registered address at Room 432, No. 26, 28, Jiangchang San Lu, Shanghai, PRC (Unified Social Credit Code: 913101085758870013).

“**GDS Shanghai’s IDC License**” means a value-added telecommunications business operating license issued by MIIT to GDS Shanghai on 6 April 2016, with a valid term ending on 6 April 2021 and license No. B1 – 20160366, including any updated or renewed license issued following the review and approval of MIIT upon expiry.

“**GDS Shanghai Inter-company Loan Agreements**” means the GDS Shanghai Inter-company Loan Agreement (WGQ) and the GDS Shanghai Inter-company Loan Agreement (YG).

“**GDS Shanghai Inter-company Loan Agreement (WGQ)**” has the meaning given to that term in Clause 18.14(c).

“**GDS Shanghai Inter-company Loan Agreement (YG)**” has the meaning given to that term in Clause 18.14(d).

“**GDS Shanghai Service Contracts**” means all contracts, orders, agreements or any other documents entered into or expected to be entered into (in the reasonable opinion of the Facility Agent) by GDS Shanghai and its customers to which the Projects may at any time be subject in respect of any data center infrastructure services or other services in connection with internet data center businesses provided or to be provided by GDS Shanghai, the performance of which needs a value-added telecommunications business operating license.

“**GDS Suzhou Inter-company Loan Agreements**” means the GDS Suzhou Inter-company Loan Agreement (WGQ) and the GDS Suzhou Inter-company Loan Agreement (YG).

“**GDS Suzhou Inter-company Loan Agreement (WGQ)**” has the meaning given to that term in Clause 18.11(c).

“**GDS Suzhou Inter-company Loan Agreement (YG)**” has the meaning given to that term in Clause 18.11(d).

“**GDS Suzhou Service Contracts**” means all contracts, orders, agreements or any other documents entered into or expected to be entered into (in the reasonable opinion of the Facility Agent) by GDS Suzhou and its customers to which the Projects may at any time be subject in respect of any data center infrastructure services or other services in connection with internet data center businesses provided or to be provided by GDS Suzhou, the performance of which needs a value-added telecommunications business operating license.

“**GDS Suzhou Trapped Amount (WGQ)**” has the meaning given to that term in Clause 18.11(a).

“**GDS Suzhou Trapped Amount (YG)**” has the meaning given to that term in Clause 18.11(b).

“**Governmental Agency**” means any government or any governmental agency, semi-governmental or judicial entity or authority (including, without limitation, any stock exchange or any self-regulatory organisation established under statute).

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“**Governmental Rules**” means all applicable statutes, laws, rules, codes, ordinances, decisions, regulations, permits, certificates, orders, connivance, indulgence, grace measures, practices, waivers and directions of any Governmental Agency now or hereafter in effect and, in each case, as amended or otherwise modified from time to time and any interpretation thereof by any competent Governmental Agency or official, including, without limitation, any judicial or administrative order, consent decree, settlement agreement or judgment and any industry guidelines.

“**Gross Leverage Ratio**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Group**” means the Ultimate Parent and its Subsidiaries from time to time.

“**Group Structure Chart**” means the structure chart of the Group which identifies the Ultimate Parent and any person by or through which they hold or beneficially own equity interests in or control the Borrowers, GDS Suzhou, GDS Beijing, GDS Management Co., GDS HK, GDS Shanghai, and any of its Subsidiaries (if any) and provided to the Facility Agent pursuant to Clause 4.1 (*Initial conditions precedent*).

“**Guarantors**” means the Ultimate Parent, GDS Beijing and each Borrower, and a “**Guarantor**” means each of them.

“**Hedging Arrangement**” means any master agreement, confirmation, schedule or other agreement entered into or to be entered into by any Borrower and a Hedging Provider for the purpose of hedging the types of liabilities and/or risks in relation to this Agreement.

“**Hedging Provider**” has the meaning given to that term in Clause 23.18(c).

“**Hedging Termination**” means the termination or close out (whether partial or total) of that Hedging Arrangement either made by any Borrower or the Hedging Provider(s).

“**Hedging Termination Proceeds**” means any amount payable to or received by or on behalf of any Borrower as a result of the Hedging Termination, together with any due and payable interest accruing on any such amount.

“**Holding Company**” means, in relation to a person, any other person in respect of which it is a Subsidiary.

“**IDC Authorization**” means an approval granted or to be granted by MIIT in relation to the authorisation by GDS Beijing to GDS Suzhou and EDC WGQ (after the EDC WGQ Restructuring) to operate the value-added telecommunications business in relation to the Projects, which is permitted to be carried out by GDS Beijing pursuant to GDS Beijing’s IDC License.

“**IDC Licenses**” means (a) GDS Beijing’s IDC License; (b) the GDS Shanghai’s IDC License; (c) the IDC Authorization granted to GDS Suzhou; and (d) (after EDC WGQ Restructuring) the IDC Authorization granted to EDC WGQ; in each case of foregoing clause (a) to clause (d), including any updated or renewed license or approval (if applicable) issued or granted following the review and approval of MIIT or other Governmental Agencies upon expiry. “**IDC License**” means any of them.

“**IDC License Memo**” means the written advice by King & Wood Mallesons in relation to (a) the IDC Authorization to GDS Suzhou and EDC WGQ (after the EDC WGQ Restructuring) and (b) the renewal of IDC Licenses upon its expiry.

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“**Indirect Tax**” means any goods and services tax, consumption tax, value added tax or any tax of a similar nature.

“**Insurance Assignment Agreement (WGQ)**” means an assignment of Insurances in relation to the movable assets of EDC WGQ dated on or about the date of this Agreement and made by and between EDC WGQ and the Security Agent.

“**Insurance Assignment Agreement (YG)**” means an assignment of Insurances in relation to the movable assets of EDC YG dated on or about the date of this Agreement and made by and between EDC YG and the Security Agent.

“**Insurance Proceeds**” means all proceeds of the Insurances payable to or received by or on behalf of any Borrower, but excluding any such proceeds payable to a third party claimant and the Excluded Insurance Proceeds and the Compensation.

“**Insurances**” means all contracts and policies of insurance of any kind relating to the Borrowers and/or the Projects taken out or, as the context requires, to be taken out from time to time and maintained in each case in accordance with Clause 23.17 (*Insurances*) by or on behalf of each Borrower, and such other policy or contract of insurance as the Facility Agent and the Borrower(s) agree shall be an Insurance.

“**Inter-company Loan Agreements**” means GDS Beijing Inter-company Loan Agreements, GDS Suzhou Inter-company Loan Agreements and GDS Shanghai Inter-company Loan Agreements.

“**Intercreditor Agreement**” means an intercreditor agreement to be entered into, among others, the Lenders and the Offshore Lenders.

“**Interest Coverage Ratio**” or “**ICR**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Interest Payment Date**” means each of 21<sup>st</sup> March, 21<sup>st</sup> June, 21<sup>st</sup> September and 21<sup>st</sup> December in each year, and the Final Repayment Date.

“**Interest Period**” means each period determined under this Agreement by reference to which interest on the Loans are calculated.

“**Interest Relevant Percentage**” has the meaning given to that term in Clause 10.1 (*Calculation of interest*).

“**Intermediate Parent**” means EDC Holding Limited, an exempted company incorporated with limited liability under the laws of the Cayman Islands, with its registered address at the offices of Portcullis TrustNet (Cayman) Ltd., The Grand Pavilion Commercial Centre, Oleander Way, 802 West Bay Road, P.O. Box 32052, Grand Cayman KY 1-1208, Cayman Islands.

“**Landlord**” means 上海浦东发展银行股份有限公司, with its registered address at No. 2001 North Yanggao Road, China (Shanghai) Pilot Free Trade Bond Zone, the PRC, with whom a Borrower entered into or will enter into the relevant Lease Agreements in respect of a Project.

“**Lease Agreements**” means:

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- (a) a building lease agreement (Contract No. 163420) dated 26 December 2008 entered into by and between the Landlord and the EDC China in respect of Project SH1 (as well as a shared substation between Project SH1 and Project SH2) with a valid tenor from 31 December 2010 to 31 December 2020, including its supplements and amendments thereto, and an assignment of rights and obligations entered into by and among EDC China, the Landlord and EDC WGQ on 12 April 2010 whereby all rights and obligations of EDC China under the said building lease agreement have been assigned to and assumed by EDC WGQ; and
- (b) a building lease agreement (Contract No. 7239) dated 15 April 2011 entered into by and between the Landlord and the EDC WGQ in respect of Project SH2 with a valid tenor of 20 years, including its supplements and amendments thereto, and an assignment of rights and obligations entered into by and among EDC WGQ, the Landlord and EDC YG on 24 February 2014 whereby all rights and obligations of EDC WGQ under the said building lease agreement have been assigned to and assumed by EDC YG;

in each case, including any amendments thereto or any supplemental documents thereof (including but not limited to any amendments or any supplemental documents entered into or to be entered into by and between the Landlord and EDC WGQ from time to time in accordance with Clause 23.22(g) of this Agreement).

“**Lease Assignment Agreement (WGQ)**” means an assignment of the Lease Agreements in respect of Project SH1 dated on or about the date of this Agreement and made by and between EDC WGQ and the Security Agent.

“**Lease Assignment Agreement (YG)**” means an assignment of the Lease Agreements in respect of Project SH2 dated on or about the date of this Agreement and made by and between EDC YG and the Security Agent.

“**Lender**” means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party in accordance with Clause 26 (*Changes to the Lenders*),

which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

“**Loan**” means a Facility A Loan, a Facility B Loan or a Facility D Loan (as the case may be).

“**Loan Disbursement Accounts**” means the Facility A Loan Disbursement Account and Facility B Loan Disbursement Account.

“**Majority Lenders**” means:

- (a) if there is no Loan then outstanding, a Lender or Lenders whose Commitments then aggregate 66<sup>2</sup>/<sub>3</sub> per cent. or more of the Total Commitments;
- (b) if there is no Loan then outstanding and the Total Commitments have been reduced to zero, a Lender or Lenders whose Commitments aggregated 66<sup>2</sup>/<sub>3</sub> per cent. or more of the Total Commitments immediately before the reduction; or

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- (c) at any other time, a Lender or Lenders 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.

“**Market Disruption Event**” means:

- (a) the PBOC ceases to prescribe the PBOC Base Rate; or

(b) the Facility Agent receives by noon on the first day of an Interest Period notification from any Lender or Lenders, whose shares in the applicable Loan exceed fifty (50) per cent. of that Loan, that the rate of interest hereunder no longer reflects the costs to such Lender in funding and maintaining the applicable Loan.

“**Material Adverse Effect**” means a material adverse effect (or an event which is likely to result in a material adverse change) in (a) the financial condition, operations, performance, properties or prospects of any Obligor, or any Obligor Party’s ability to perform its obligations under the Finance Documents; or (b) the validity or enforceability of any Finance Documents or the rights and remedies of any Finance Party under any of the Finance Documents.

“**Material Credit Documents**” means the Finance Documents, the Back-to-Back Agreements and the Inter-company Loan Agreements (if any).

“**MIIT**” means the Ministry of Industry and Information Technology of the PRC or its local counterparts.

“**MOFCOM**” means the Ministry of Commerce of the PRC or its local counterparts.

“**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 apply only to the last Month of any period.

“**Movable Assets Mortgage Agreement (WGQ SH1 Onshore)**” means a movable assets mortgage agreement in relation to Project SH1 (other than any Customer Assets) dated on or about the date of this Agreement and made between EDC WGQ and the Security Agent.

“**Movable Assets Mortgage Agreement (YG SH2 Onshore)**” means a movable assets mortgage agreement in relation to Project SH2 (other than any Customer Assets) dated on or about the date of this Agreement and made between EDC YG and the Security Agent.

“**NRA**” means non-residence account under PRC law.

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“**Net Finance Charges**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**New Lender**” has the meaning given to that term in Clause 26 (*Changes to the Lenders*).

“**Obligors**” means the Ultimate Parent, GDS Beijing, GDS Suzhou, GDS Management Co. and each Borrower and an “**Obligor**” means each of them.

“**Obligors’ Agent**” means EDC YG, appointed to act on behalf of each Obligor in relation to the Transaction Documents pursuant to Clause 2.5 (*Obligors’ Agent*).

“**Obligor Parties**” means:

- (a) the Ultimate Parent, the Intermediate Parent, the Parent (EDC YG), EDC China, GDS Beijing, GDS Suzhou, GDS Management Co., each Borrower, GDS HK, GDS Shanghai and EDC Technology (Kunshan) Co. Ltd. (EDC Technology (Kunshan) Co. Ltd.); or
- (b) any other party (other than the Finance Parties and the Hedging Providers) which is a party to any of the Transaction Documents,

and an “**Obligor Party**” means each of them.

“**Offshore Borrower**” means the borrower under the Offshore Facility Agreement, i.e. EDC YG.

“**Offshore Facility**” means the loan facility to be made available by the Offshore Lenders to the Offshore Borrower.

“**Offshore Facility Agreement**” means a facility agreement to be arranged by the Mandated Lead Arrangers and entered into between, among others, the Offshore Borrower and the Offshore Lenders, in relation to (a) term loan facilities up to CNH 455,000,000; and (b) revolving loan facilities up to CNH 50,000,000.

“**Offshore Facility C**” has the meaning given to the term “Facility C” in the Offshore Facility Agreement.

“**Offshore Facility E**” has the meaning given to the term “Facility E” in the Offshore Facility Agreement.

“**Offshore Finance Document**” has the meaning given to the term “Finance Document” in the Offshore Facility Agreement.

“**Offshore Finance Party**” has the meaning given to the term “Finance Party” in the Offshore Facility Agreement.

“**Offshore Lenders**” has the meaning given to the term “Lenders” in the Offshore Facility Agreement.

“**Offshore Loan Account (YG)**” has the meaning given to that term in Clause 18.1(c)(iii).

“**Offshore Loan Security**” has the meaning given to the term “Transaction Security” in the Offshore Facility Agreement.

“**Offshore Loan Security Document**” has the meaning given to the term “Transaction Security Document” in the Offshore Facility Agreement.

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“**Offshore Loans**” has the meaning given to the term “Loan” in the Offshore Facility Agreement.

“**Offshore Security Document**” means:

- (a) Ultimate Parent Guarantee;
- (b) Equity Pledge Agreement (YG Onshore Loan); and
- (c) Share Mortgage Agreement (Parent (EDC YG)).

“**Offshore Transaction Security**” means any Security created or to be created or any guarantee granted or to be granted under the Offshore Security Document.

“**Onshore Security Document**” means:

- (a) Movable Assets Mortgage Agreement (WGQ SH1 Onshore);
- (b) Movable Assets Mortgage Agreement (YG SH2 Onshore);
- (c) Pledge over Receivables (WGQ);
- (d) Pledge over Receivables (YG);
- (e) Pledge over Receivables (GDS Beijing);
- (f) Pledge over Receivables (GDS Suzhou);
- (g) Pledge over Receivables (GDS Shanghai);

- (h) Lease Assignment Agreement (WGQ);
- (i) Lease Assignment Agreement (YG);
- (j) Insurance Assignment Agreement (WGQ);
- (k) Insurance Assignment Agreement (YG);
- (l) (after the EDC WGQ Restructuring) Equity Pledge Agreement (WGQ Onshore Loan); and
- (m) Subordination Agreement.

“**Operations Account (WGQ)**” has the meaning given to that term Clause 18.1(a)(ii).

“**Operations Account (YG)**” has the meaning given to that term in Clause 18.1(b)(ii).

“**Original Financial Statements**” means:

- (a) in relation to the Ultimate Parent, its audited financial statements for the Financial Year ended 31 December 2015;
- (b) in relation to Parent (EDC YG), its audited financial statements for the Financial Year ended 31 December 2015;
- (c) in relation to GDS Beijing, its audited financial statements for the Financial Year ended 31 December 2015;

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- (d) in relation to GDS Suzhou, its audited financial statements for the Financial Year ended 31 December 2015;
- (e) in relation to each Borrower, its audited financial statements for the Financial Year ended 31 December 2015; and
- (f) in relation to GDS Management Co., its financial statements for the month ended 31 May 2016.

“**Parent (EDC WGQ)**” means (a) (prior to the EDC WGQ Restructuring) EDC China; or (b) (after the EDC WGQ Restructuring) GDS Beijing.

“**Parent (EDC YG)**” means EDE I (HK) Limited, a company established under the laws of Hong Kong, with its registered address at Units 323-325 3/F Core Building 2 Hong Kong Science Park Shatin NT.

“**Parents**” means Parent (EDC WGQ) and Parent (EDC YG), and a “**Parent**” means each of them.

“**Party**” means a party to this Agreement.

“**PBOC**” means the People’s Bank of China.

“**PBOC Base Rate**” means the prevailing official lending rate per annum, as promulgated and announced by PBOC for term loans with a tenor of 1 year (exclusive) to 5 years (inclusive) for the first Interest Period in respect of a Loan, on the first Utilisation Date of that Loan, and for any following Interest Periods, on the last Interest Payment Date.

“**PBOC Information Center**” means Credit Reference Centre of the PBOC.

“**Pledge over Receivables (GDS Beijing)**” means an account receivables pledge agreement in respect of receivables payable to GDS Beijing under the GDS Beijing Service Contracts, dated on or about of this Agreement and made between GDS Beijing and the Security Agent.

“**Pledge over Receivables (GDS Shanghai)**” means an account receivables pledge agreement in respect of receivables payable to GDS Shanghai under the GDS Shanghai Service Contracts, dated on or about of this Agreement and made between GDS Shanghai and the Security Agent.

“**Pledge over Receivables (GDS Suzhou)**” means an account receivables pledge agreement in respect of receivables payable to GDS Suzhou under the GDS Suzhou Service Contracts, dated on or about of this Agreement and made between GDS Suzhou and the Security Agent.

“**Pledge over Receivables (WGQ)**” means an account receivables pledge agreement in respect of receivables payable to EDC WGQ under the Borrower Service Contracts (WGQ) and the Back-to-Back Agreements (WGQ), dated on or about of this Agreement and made between EDC WGQ and the Security Agent.

“**Pledge over Receivables (YG)**” means an account receivables pledge agreement in respect of receivables payable to the EDC YG under the Borrower Service Contracts (YG) and the Back-to-Back Agreements (YG), dated on or about of this Agreement and made between EDC YG and the Security Agent.

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“**PRC**” means the People’s Republic of China, but excluding, for the purpose of the Transaction Documents, Taiwan and the special administrative regions of Hong Kong and Macau.

“**Project Document**” means, in relation to each Project:

- (a) each Service Contract;
- (b) each Contractor Agreement;
- (c) each Back-to-Back Agreement;
- (d) each Lease Agreement;
- (e) the Inter-company Loan Agreements (if any); or
- (f) any other material contract entered into by a Borrower, GDS Suzhou or GDS Beijing relating to the Projects and designated by the Facility Agent and the Obligors’ Agent as a project document.

“**Project SH1**” means the design, development, fitting out, maintenance and operation of the data center building rented by the EDC WGQ located at 87# Property, F16 Block, Shanghai, PRC, with a total floor area of 24,015.06 square meters.

“**Project SH2**” means the design, development, fitting out, maintenance and operation of the data center building rented by EDC YG located at 88# Property, F16 Block, Shanghai, PRC with a total floor area of 20,888 square meters.

“**Project SH2 Completion**” means the date on which the Certificate of Completion is issued in respect of Project SH2.

“**Project SH3**” means the design, development, fitting out, maintenance and operation of the data center building to be rented by EDC YG located at 90# Property, F16 Block, Shanghai, PRC, with a total floor area of 28,683 square meters.

“**Project SH4**” means the design, development, fitting out, maintenance and operation of the data center building to be rented by EDC YG located adjacent to Project SH3, with a total floor area similar to Project SH3.

“**Project SH4 Completion**” means the date on which the Certificate of Completion is issued in respect of Project SH4.

“**Projects**” means Project SH1, Project SH2, Project SH3 and Project SH4, and a “**Project**” means each of them.

“**Qiuping Huang**” means Ms. Huang Qiuping, whose PRC identification number is 3101071961116122X.

“**Qualified Service Contract**” means a Service Contract with a term of no less than 3 years (inclusive).

“**Quarter Date**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“Receiving Account (GDS Beijing-WGQ)” has the meaning given to that term in Clause 18.1(d)(i).

“Receiving Account (GDS HK-WGQ)” has the meaning given to that term in Clause 18.1(f)(i).

“Receiving Account (GDS HK-YG)” has the meaning given to that term in Clause 18.1(f)(ii).

“Receiving Account (GDS Shanghai-WGQ)” has the meaning given to that term in Clause 18.1(g)(i).

“Receiving Account (GDS Shanghai-YG)” has the meaning given to that term in Clause 18.1(g)(ii).

“Receiving Account (GDS Suzhou-WGQ)” has the meaning given to that term in Clause 18.1(e)(i).

“Receiving Account (GDS Suzhou-YG)” has the meaning given to that term in Clause 18.1(e)(ii).

“Receiving Account (YG)” has the meaning given to that term in Clause 18.1(b)(v).

“Receiving Accounts” means the Receiving Accounts (WGQ), the Receiving Account (YG), the Receiving Account (GDS Beijing-WGQ), the Receiving Accounts (GDS Beijing-YG), the Receiving Account (GDS Suzhou-WGQ), the Receiving Account (GDS Suzhou-YG), the Receiving Account (GDS HK-WGQ), the Receiving Account (GDS HK-YG), the Receiving Account (GDS Shanghai-WGQ) and the Receiving Account (GDS Shanghai -YG).

“Receiving Accounts (GDS Beijing-YG)” has the meaning given to that term in Clause 18.1(d)(ii).

“Receiving Accounts (WGQ)” has the meaning given to that term in Clause 18.1(a)(v).

“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 Interbank Market” means the PRC interbank market.

“Relevant Jurisdiction” means, in relation to an Obligor:

- (a) its jurisdiction of incorporation;
- (b) any jurisdiction where any asset subject to or intended to be subject to the Transaction Security to be created by it is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of any of the Transaction Security Documents entered into by it.

“Relevant Period” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“Repeating Representations” means each of the representations and warranties set out in Clause 20.1 (*Status*) to 20.30 (*Sanctions*) (inclusive), other than those specified to be given on a specified date.

“Representative” means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

“Restricted Inter-company Loan” means any present and future inter-company loan or shareholder loan made to any Borrower by any other member of the Group, other than the Existing Inter-company Loans (Project SH1) or the Existing Inter-company Loans (Project SH2), but for avoidance of doubt, including the Existing Shareholder Loan (WGQ) and the inter-company loan under the Inter-company Loan Agreements (if any).

“SAFE” means the State Administration of Foreign Exchange of the PRC or its local counterparts.

“SAIC” means the State Administration of Industry and Commerce of the PRC or its local counterparts.

“Sanctioned Country” has the meaning given to that term in Clause 20.30(b) (*Sanctions*).

“Sanctioned Person” has the meaning given to that term in Clause 20.30(a) (*Sanctions*).

“Sanctions” means any economic or trade sanctions or restrictive measures enacted, administered, imposed or enforced by the US Department of the Treasury’s Office of Foreign Assets Control (OFAC), the US Department of State, the United Nations Security Council, the European Union, the French Republic, Her Majesty’s Treasury, or any other relevant sanctions authority.

“Secured Liabilities” means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Obligor Party to any Secured Party under each Transaction Document.

“Secured Party” means a Finance Party or a Hedging Provider.

“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.

“Security Property” means

- (a) the Transaction Security expressed to be granted in favour of the Security Agent as agent for the Secured Parties and all proceeds of that Transaction Security;
- (b) all obligations expressed to be undertaken by an Obligor Party to pay amounts in respect of the Secured Liabilities to the Security Agent as agent for the Secured Parties and secured by the Transaction Security together with all representations and warranties expressed to be given by an Obligor Party in favour of the Security Agent as agent for the Secured Parties; and
- (c) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Agent is required by the terms of the Finance Documents to hold as agent on trust for the Secured Parties.

“Selected Finance Lease Agreements” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“Self-controlled Disbursement” means the method by which the Lenders disburse loan proceeds into a Loan Disbursement Account for the Borrowers to determine at its own discretion when and

how to pay the proceeds to its respective counterparty and pursuant to the terms of the Finance Documents.

“Service Agreement” means a service agreement entered into by and among EDC WGQ, EDC YG and GDS Management Co. on or before the date of this Agreement.

“Service Contracts” means the Borrower Service Contracts, the GDS Beijing Service Contracts, GDS Suzhou Service Contracts, GDS HK Service Contracts and GDS Shanghai Service Contracts.

“Share Mortgage Agreement (Parent (EDC YG))” means a share mortgage agreement in respect of shares in the Parent (EDC YG) held by the Intermediate Parent dated on or about the date of this Agreement and made by and between the Intermediate Parent and the Security Agent.

“Sponsor” means STT Communications Ltd, with its registered address at 1 Temasek Avenue, #33-01 Millenia Tower, Singapore 039192.

“STT GDC” means STT GDC Pte. Ltd., a limited liability company established under the laws of Singapore, with its registered address at 1 Temasek Avenue, #33-01 Millenia Tower, Singapore 039192.



“**Subordination Agreement**” means a subordination agreement in respect of inter-company loans or shareholder loans made to any Borrower (other than the Existing Inter-company Loans) by EDC China, GDS Beijing, GDS Suzhou, GDS Shanghai or any other member of the Group dated on or about the date of this Agreement and made by and between, among others, the Borrowers, and EDC China, GDS Beijing, GDS Suzhou GDS Shanghai and any other member of the Group (as subordinated lenders) and the Security Agent.

“**Subsidiary**” means, in relation to any company or corporation, a company or corporation:

- (a) which is controlled, directly or indirectly, by the first mentioned company or corporation;
- (b) more than half the issued equity share capital of which is beneficially owned, directly or indirectly, by the first mentioned company or corporation; or
- (c) which is a Subsidiary of another Subsidiary of the first mentioned company or corporation, and for this purpose, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

“**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).

“**Test Date**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Total Commitments**” means (a) the aggregate of the Total Facility A Commitments and the Total Facility B Commitments (being RMB 630,000,000 at the date of this Agreement); or (b) the aggregate of the Total Facility A Commitments, the Total Facility B Commitments and the Total Facility D Commitments (being RMB 970,000,000 on the Facility D Commitment Date).

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“**Total Facility A Commitments**” means the aggregate of the Facility A Commitments (being RMB 405,000,000 at the date of this Agreement).

“**Total Facility B Commitments**” means the aggregate of the Facility B Commitments (being RMB 225,000,000 at the date of this Agreement).

“**Total Facility D Commitments**” means the aggregate of the Facility D Commitments (being up to RMB 340,000,000 on the Facility D Commitment Date).

“**Total Investment Amount**” means, in relation to a Project, total amount that is required to be available for completing that Project, in each case not more than the total investment amount as shown in the Business Plan for that Project.

“**Transaction Documents**” means the Finance Documents and the Hedging Arrangements.

“**Transaction Expenses**” has the meaning given to that term in Clause 17.1 (*Transaction expenses*).

“**Transaction Security**” means the Security created or evidenced or expressed to be created or evidenced under the Transaction Security Documents.

“**Transaction Security Document**” means:

- (a) each Onshore Security Document;
- (b) each Offshore Security Document (if applicable);
- (c) any other document evidencing or creating or expressed to evidence or create Security over any asset to secure any obligation of any Obligor Party to a Secured Party under the Transaction Documents; or
- (d) any other document designated as such by the Security Agent and the relevant Obligor Party.

“**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 Facility Agent and the Borrowers.

“**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 Facility Agent executes the relevant Assignment Agreement or Transfer Certificate.

“**Ultimate Parent Guarantee**” means a corporate and completion guarantee dated on or about the date of this Agreement and made by and between the Ultimate Parent and the Security Agent.

“**Unpaid Sum**” means any sum due and payable but unpaid by an Obligor Party under the Finance Documents.

“**US**” means the United States of America.

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“**US Tax Obligor**” means:

- (a) an Obligor Party which is resident for tax purposes in the US; or
- (b) an Obligor Party 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 Evidence**” means Evidence of Facility A Utilisation or Evidence of Facility B Utilisation (as the case may be).

“**Utilisation Request**” means a notice substantially in the form set out in Schedule 3 (*Utilisation Request*).

“**VIE Contracts**” means any arrangement, instrument or agreement that is part of any contractual arrangements enabling the GDS Management Co. to exercise effective control over GDS Beijing and its Subsidiaries or consolidate the financial condition or results of operation of GDS Beijing and its Subsidiaries for the purposes of the consolidated financial statements of the Group, which shall include without limitation the VIE Equity Pledges, the VIE Exclusive Share Option Agreement and the VIE Shareholders’ Voting Rights Proxy Agreement.

“**VIE Equity Pledges**” means the VIE Equity Pledge (William Huang) and the VIE Equity Pledge (Qiuping Huang).

“**VIE Equity Pledge (Qiuping Huang)**” means a pledge over the equity interests in GDS Beijing held by Qiuping Huang in favour of the GDS Management Co. as contemplated under the VIE Contracts.

“**VIE Equity Pledge (William Huang)**” means a pledge over the equity interests in GDS Beijing held by William Huang in favour of the GDS Management Co. as contemplated under the VIE Contracts.

“**VIE Exclusive Share Option Agreement**” means an exclusive share option agreement entered into by and among William Huang, Qiuping Huang, GDS Management Co. and GDS Beijing on 13 April 2016 whereby, among others, William Huang and Qiuping Huang agree to grant to GDS Management Co. the option to purchase 100% of the equity interest in GDS Beijing at any time with a relatively low price.

“**VIE Shareholders’ Voting Rights Proxy Agreement**” means a shareholders’ voting rights proxy agreement entered into by and among William Huang, Qiuping Huang, GDS Management Co. and GDS Beijing on 13 April 2016 whereby, among others, William Huang and Qiuping Huang agree to grant a power of attorney to GDS Management Co. that gives it all of their shareholders rights in GDS Beijing.

“**Wai Bao Nei Dai**” has the meaning given to that term in Clause 23.32(b) (*Offshore Transaction Security*).

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“**Waterfall Date**” means the 15<sup>th</sup> day of each calendar month.

“**William Huang**” means Mr. Huang Wei, whose identification number is 31010719671101125X.

“**Working Capital**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

## 1.2 Construction

- (a) Unless a contrary indication appears, any reference in this Agreement to:
- (i) any “**Administrative Party**”, the “**Facility Agent**”, any “**Mandated Lead Arranger**”, any “**Coordinating Bank**”, any “**Finance Party**”, any “**Secured Party**” any “**Lender**”, any “**Guarantor**”, any “**Obligor**”, the “**Obligors’ Agent**”, any “**Obligor Party**”, any “**Party**”, the “**Security Agent**”, the “**Account Bank**” or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Security Agent, any person for the time being appointed as Security Agent in accordance with the Finance Documents;
  - (ii) “**assets**” includes present and future properties, revenues and rights of every description;
  - (iii) a “**Finance Document**”, a “**Material Credit Document**”, a “**Project Document**”, a “**Transaction Document**” or any other agreement or instrument is a reference to that Finance Document, Material Credit Document, Project Document, Transaction 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) “**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;
  - (vi) 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;
  - (vii) a “**person**” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
  - (viii) 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 regulatory, self-regulatory or other authority or organisation;
  - (ix) a provision of law is a reference to that provision as amended or re-enacted; and
  - (x) a time of day is a reference to Beijing time.
- (b) Section, Clause and Schedule headings are for ease of reference only.

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- (c) 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.
- (d) A Default or an Event of Default is “**continuing**” if it has not been remedied or waived.
- (e) 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 Facility Agent’s spot rate of exchange for the purchase of the specified currency with that other currency at or about 11 a.m. on the relevant date, is equal to the relevant amount in the specified currency.

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## SECTION 2 THE FACILITIES

### 2. THE FACILITIES

#### 2.1 The Facilities

- (a) Subject to the terms of this Agreement, the Lenders make available to EDC WGQ a term loan facility in an aggregate amount equal to the Total Facility A Commitments.
- (b) Subject to the terms of this Agreement, the Lenders make available to EDC YG:
- (i) a term loan facility in an aggregate amount equal to the Total Facility B Commitments; and
  - (ii) after the Facility D Commitment Date, a term loan facility in an aggregate amount equal to the Total Facility D Commitments.

#### 2.2 Conditions of the Facility D Commitment

- (a) EDC YG may, upon satisfaction of the following conditions, by giving a 90-day prior written notice to the Facility Agent accompanied by the documents evidencing such satisfaction, request the relevant Lenders to make commitment of the Facility D:
- (i) the construction progress of Project SH4 matches with the capital which has been invested into the Project SH4 to the satisfaction of the Facility Agent;
  - (ii) the DER in respect of the total funding for Project SH4 shall not be more than 70:30; and
  - (iii) a certified copy of the Business Plan in respect of Project SH4 evidencing (A) the minimum DSCR is not less than 125%, and (B) the average DSCR is not less than 130%.
- (b) The Facility Agent shall promptly notify the relevant Lenders of the request set out in paragraph (a) above.
- (c) The Facility Agent shall promptly notify EDC YG of the relevant Lenders’ determination whether they agree to make commitment of Facility D, and the Facility D will only be made available upon written consent of all the relevant Lenders. For the avoidance of doubt, the terms and conditions of the Facility D shall be agreed between EDC YG (or if applicable, other Obligors) and the relevant Finance Parties in writing. Unless otherwise agreed by all Lenders:
- (i) the Facility D Maturity Date shall not be earlier than the date falling five (5) years after the first Utilisation Date of Facility D; and
  - (ii) the Project SH4 Completion shall be on or before the date falling fifteen (15) Months after the date of first Utilisation Date of the Facility D.

#### 2.3 Conditions of other Facilities

- (a) EDC YG may, by delivering a not less than 45 days’ prior written application (the “**Offshore Facility Application**”) to both Mandated Lead Arrangers, request the Offshore Lenders to make available the Offshore Facilities.

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- (b) Subject to the terms of this Agreement (as supplemented, modified or novated from time to time) or the Offshore Facility Agreement, the Mandated Lead Arrangers agree to arrange and procure that their respective related banks in Singapore (as offshore lenders) will make available to EDC YG, CNH 455,000,000 under the Offshore Facility C and CNH 50,000,000 under the Offshore Facility E.
- (c) Subject to the terms of this Agreement and the Offshore Facility Agreement, EDC YG shall apply all amounts borrowed by it under (i) Offshore Facility C towards the Capital Expenditures of the Project SH3; and (ii) Offshore Facility E towards the working capital purposes of EDC YG.
- (d) Each Mandated Lead Arranger’s obligation to arrange and to procure the Offshore Facilities referred to in paragraph (b) above is subject to the conditions that:
- (i) it has received an Offshore Facility Application from EDC YG as referred to in paragraph (a) above;
  - (ii) the terms and conditions of the Offshore Facilities are satisfactory to the Offshore Lenders and EDC YG, and the Offshore Finance Documents are in form and substance satisfactory to the Offshore Finance Parties and EDC YG; and

- (iii) no Default has occurred or might occur.
- (e) EDC YG shall enter into:
- (i) the Offshore Finance Documents;
- (ii) any amendments to the Finance Documents in accordance with Clause 38 (*Amendments and waivers*); and
- (iii) any necessary additional documentation,
- as may be required by any Offshore Lender, any Offshore Finance Party, any Mandated Lead Arranger, or any Lender.
- (f) No Lender under any Facility has any commitment to make available to EDC YG under any Offshore Facility and, subject to the terms of this Agreement, no Offshore Lender has any commitment to make available to EDC YG under any Offshore Facility.
- (g) The Offshore Facility Application may only be delivered within 3 Months from the date of this Agreement. The Offshore Facility Application shall cover both Offshore Facilities and in form and substance satisfactory to the Offshore Finance Parties. Only one Offshore Facility Application may be delivered unless otherwise agreed by the each Mandated Lead Arranger and EDC YG.
- (h) Notwithstanding the paragraph (a) to (g) above, EDC YG may, request both Mandated Lead Arrangers to arrange and procure that certain PRC financial institution(s) will make available to EDC YG RMB 455,000,000 under the Facility C and RMB 50,000,000 under the Facility E, EDC YG may negotiate with the relevant lenders and the Mandated Lead Arrangers on the terms and conditions on the Facility C and Facility E.

#### 2.4 Finance Parties' rights and obligations

- (a) The obligations of the Finance Parties 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

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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 the Finance Parties 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 an Obligor shall be a separate and independent debt.
- (c) A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.

#### 2.5 Obligors' Agent

- (a) Each Obligor (other than the EDC YG) by its execution of this Agreement or an Accession Letter irrevocably appoints EDC YG to act on its behalf as its agent in relation to the Transaction Documents and irrevocably authorises:
- (i) EDC YG on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give all notices and instructions, to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by any Obligor notwithstanding that they may affect the Obligor, without further reference to or the consent of that Obligor; and
- (ii) each Finance Party to give any notice, demand or other communication to that Obligor pursuant to the Finance Documents to EDC YG,

and in each case the Obligor shall be bound as though the Obligor itself had given the notices and instructions 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 Obligors' Agent or given to the Obligors' Agent under any Finance Document on behalf of another Obligor or in connection with any Finance Document (whether or not known to any other Obligor and whether occurring before or after such other Obligor became an Obligor under any Finance Document) shall be binding for all purposes on that Obligor as if that Obligor had expressly made, given or concurred with it. In the event of any conflict between any notices or other communications of the Obligors' Agent and any other Obligor, those of the Obligors' Agent shall prevail.

### 3. PURPOSE

#### 3.1 Purpose

- (a) EDC WGQ shall apply all amounts borrowed by it under Facility A towards (i) the repayment of the outstanding amount under the Existing Inter-company Loans (Project SH1) and the Existing Bank Loan (Project SH1); and (ii) the payment of the fees and expenses in relation to the Facilities.
- (b) EDC YG shall apply all amounts borrowed by it under Facility B towards (i) the repayment of the outstanding amount under the Existing Inter-company Loans (Project SH2) and the Existing Bank Loan (Project SH2); (ii) the payment of the Capital Expenditures of the Project SH2 in accordance with the Business Plan of Project SH2 and the Budget; and (iii) the payment of the fees and expenses in relation to the Facilities.

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- (c) EDC YG shall apply all amounts borrowed by it under Facility D towards the purpose otherwise agreed between EDC YG and the Finance Parties in writing.
- (d) The Borrowers may not use any Loan for any other purpose, including, without limitation, using any Loan for share capital equity investment, using any Loan for venturing operation in any securities market, futures market or other similar domain, or using any Loan to/for any other investment or business that is prohibited under the Governmental Rules.

#### 3.2 Monitoring

- (a) Unless otherwise expressly required by the Governmental Rules, no Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.
- (b) The Parties hereby expressly waive any obligation on the part of any Finance Party to so monitor or verify, to the fullest extent permitted by the Governmental Rules.
- (c) To the extent any Governmental Rules at any time require any Finance Party to monitor or verify any application of any Loan proceeds hereunder, the Borrowers shall fully co-operate with that Finance Party and promptly upon reasonable request from that Finance Party, provide to that Finance Party any information or confirmation or other documents to evidence the purpose for which the proceeds of the Loan have been used.
- (d) In any event, the failure by any Finance Party to so monitor or verify shall not give rise to any defence by the Borrowers or any other Obligor regarding its payment and performance of the Secured Liabilities or otherwise reduce, release or prejudice the Borrowers or any other Obligor's obligations under the Finance Documents.

### 4. CONDITIONS OF UTILISATION AND CONDITIONS SUBSEQUENT

#### 4.1 Initial conditions precedent

- (a) EDC WGQ may not deliver a Utilisation Request under Facility A unless the Facility Agent has received all of the documents and other evidence listed in Part I (*Conditions Precedent to Initial Utilisation for All Facilities*) of Schedule 2 (*Conditions precedent and conditions subsequent*) and Part II (*Conditions Precedent to Initial Utilisation for Facility A*) of Schedule 2 (*Conditions precedent and conditions subsequent*) in form and substance satisfactory to the Facility Agent.
- (b) EDC YG may not deliver a Utilisation Request under Facility B unless the Facility Agent has received all of the documents and other evidence listed in Part I (*Conditions Precedent to Initial Utilisation for All Facilities*) of Schedule 2 (*Conditions precedent and conditions subsequent*) and Part III (*Conditions Precedent to Initial Utilisation for Facility B*) of Schedule 2 (*Conditions precedent and conditions subsequent*) in form and substance satisfactory to the Facility Agent.
- (c) EDC YG may not deliver a Utilisation Request under Facility D unless the terms and conditions of the Utilisation of Facility D as otherwise agreed between EDC YG and the Finance Parties in writing have been satisfied.
- (d) The Facility Agent shall notify the Obligors' Agent and the Lenders promptly upon being so satisfied.

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#### 4.2 Further conditions precedent

The Lenders will be obliged to comply with Clause 5.4 (*Lenders' participation*) only if on the date of the Utilisation Request and on the proposed Utilisation Date:

- (a) no Event of Default is continuing or would result from the proposed Loan;
- (b) none of the circumstances described in Clause 8.1 (*Change of control*) has occurred;
- (c) all representations and warranties made by each Obligor Party in each Finance Document are true and correct in all material respects with reference to the facts and circumstances then subsisting;
- (d) no event or circumstance which could reasonably be expected to have a Material Adverse Effect exists, has occurred or might occur;
- (e) no any Force Majeure has occurred or might occur;
- (f) in respect of a Utilisation of a Facility, the ratio of the paid-up registered capital and the total registered capital of the Borrower who proposes the Loan(s) is not less than the ratio of the total outstanding amount of the Loan(s) applicable to that Facility and the Total Commitments in relation to that Facility; and
- (g) in respect of a Utilisation of Facility B, the Facility Agent is so satisfied that the construction progress of the Project SH2 matches with the capital which has been invested into the Project SH2.

#### 4.3 Conditions subsequent documents

- (a) Each Obligor shall deliver to the Facility Agent on the specified date all of the documents and evidence set out in Part IV (*Conditions Subsequent*) of Schedule 2 (*Conditions precedent and conditions subsequent*) in form and substance reasonably satisfactory to the Facility Agent, unless the Facility Agent has waived or postponed delivery of such document or evidence in writing.
- (b) The Facility Agent shall notify the relevant Obligors and the Lenders promptly upon being so satisfied.

#### 4.4 Maximum number of Loans

- (a) Unless otherwise agreed by the Facility Agent, a Borrower may not deliver a Utilisation Request if as a result of the proposed Utilisation:
  - (i) five (5) or more Facility A Loans would be outstanding; or
  - (ii) five (5) or more Facility B Loans would be outstanding.
- (b) The Borrowers may not request that a Loan be divided.
- (c) If two or more Interest Periods end on the same date, those Loans will be consolidated into, and treated as, a single Loan on the last day of the Interest Period.

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### SECTION 3 UTILISATION

## 5. UTILISATION

### 5.1 Delivery of a Utilisation Request

Subject to clause 4.4 (*Maximum number of Loans*) above, a Borrower may utilise a Facility by delivery to the Facility Agent of a duly completed Utilisation Request no later than 11:00 a.m. on the day falling five (5) Business Days before the Utilisation Date.

### 5.2 Completion of a Utilisation Request

- (a) Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:
  - (i) it identifies the Facility to be utilised;
  - (ii) the proposed Utilisation Date is a Business Day within the Availability Period applicable to that Facility;
  - (iii) the proposed Interest Period of the Loan complies with this Agreement;
  - (iv) the currency specified in a Utilisation Request must be in RMB or any other currency agreed by the Parties;
  - (v) the amount of the Utilisation complies with Clause 5.3 (*Utilisation Amount*);
  - (vi) in respect of a Loan that is required to be disbursed by way of the Consigned Disbursement, it specifies the wiring and transfer instructions with respect to the payee's name, the payee's account information, the payment amount and currency, payment purpose and any other information reasonably requested by the Facility Agent;
  - (vii) in the case of a Facility A Loan that is required to be disbursed by way of the Consigned Disbursement according to the paragraph (a) of clause 5.5 (*Advance of Loans*), the Utilisation Request is accompanied by certified copies of the following documents (the "**Evidence of Facility A Utilisation**"):
    - (A) Existing Inter-company Loan Agreements (Project SH1);
    - (B) Existing Bank Loan Agreement (Project SH1);
    - (C) repayment notice, pay-off statement, invoice or other proof of the Existing Intercompany Loans (Project SH1) and the Existing Bank Loan (Project SH1) pay-off amount and currency;
    - (D) purchase contracts or orders, invoices, bank account statements or other documentary proof evidencing the proceeds from the Existing Inter-company Loans (Project SH1) and the Existing Bank Loan (Project SH1) have been applied towards the Capital Expenditures and/or working capital of the Project SH1; and
    - (E) any other underlying transaction documents reasonably requested by the Facility Agent;

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(viii) in the case of a Facility B Loan that is required to be disbursed by way of the Consigned Disbursement according to the paragraph (b) of Clause 5.5 (*Advance of Loans*), the Utilisation Request is accompanied by certified copies of the following documents (the "**Evidence of Facility B Utilisation**"):

- (A) Existing Inter-company Loan Agreements (Project SH2);
  - (B) Existing Bank Loan Agreement (Project SH2);
  - (C) repayment notice, pay-off statement, invoice or other proof of the Existing Intercompany Loans (Project SH2) and the Existing Bank Loan (Project SH2) pay-off amount and currency;
  - (D) purchase contracts or orders, invoices, bank account statements or other documentary proof evidencing the proceeds from the Existing Inter-company Loans (Project SH2) and the Existing Bank Loan (Project SH2) have been applied towards the Capital Expenditures and/or working capital of the Project SH2;
  - (E) purchase contracts or orders, invoices or other documents which would evidence that EDC YG is obliged to make the payment of the Capital Expenditures of the Project SH2; and
  - (F) any other underlying transaction documents reasonably requested by the Facility Agent.
- (b) Only one Loan may be requested in each Utilisation Request.
- ### 5.3 Utilisation Amount
- (a) Any Utilisation of the Facility A in a Facility A Utilisation Request shall not result in the amount of the proposed Facility A Loan exceeding the Available Facility A.
  - (b) Any Utilisation of the Facility B in a Facility B Utilisation Request shall not result in the amount of the proposed Facility B Loan exceeding the Available Facility B.

#### 5.4 Lender's participation

- (a) The Facility Agent shall promptly notify each Lender of the relevant Facility the details of a Utilisation Request including amount of its participation in the requested Loan no later than three (3) Business Days prior to the applicable Utilisation Date.
- (b) The amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Loan.
- (c) If the conditions set out in Clause 4 (*Conditions of Utilisation and conditions subsequent*), 5.1 (*Delivery of a Utilisation Request*) to 5.3 (*Utilisation Amount*) above have been met, each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office.
- (d) No Lender is obliged to participate in a Loan if, as a result, its participation in the Loans would exceed its Commitment or the Loans would exceed the Total Commitments.

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#### 5.5 Advance of Loans

- (a) Upon a Loan made available by each Lender pursuant to clause 5.4 (*Lender's participation*), the proceeds under such Loan shall be applied as follows:
- (i) in respect of a Facility A Loan:
- (A) if the amount of a Facility A Loan equals or exceeds (the lower of) RMB 5,000,000 or 5% of Total Investment Amount of the Project SH1, the Consigned Disbursement shall apply, and upon the proceeds being credited in the Facility A Loan Disbursement Account, the Facility Agent shall immediately thereafter remit such proceeds to the account of the payee(s) in accordance with the Facility A Utilisation Request;
- (B) if the amount of a Facility A Loan is less than (the lower of) RMB 5,000,000 or 5% of Total Investment Amount of the Project SH1, the Self-controlled Disbursement shall apply, and all proceeds under such Facility A Loan shall be credited into the Facility A Disbursement Account, and EDC WGQ may use such Facility A Loan proceeds at its own discretion pursuant to the terms of this Agreement.
- (ii) in respect of a Facility B Loan:
- (A) if the amount of a Facility B Loan equals or exceeds (the lower of) RMB 5,000,000 or 5% of Total Investment Amount of the Project SH2, the Consigned Disbursement shall apply, and upon the proceeds being credited in the Facility B Loan Disbursement Account, the Facility Agent shall immediately thereafter remit such proceeds to the account of the payee(s) in accordance with the Facility B Utilisation Request;
- (B) if the amount of a Facility B Loan is less than (the lower of) RMB 5,000,000 or 5% of Total Investment Amount of the Project SH2, the Self-controlled Disbursement shall apply, and all proceeds under such Facility B Loan shall be credited into the Facility B Disbursement Account, and EDC YG may use such Facility B Loan proceeds at its own discretion pursuant to the terms of this Agreement.
- (b) Notwithstanding anything to the contrary above,
- (i) If any payment that has been made through the Consigned Disbursement is returned to its original payment account due to the incomplete or incorrect specification of payment instruction by a Borrower or for any other reasons, the Facility Agent shall have the right not to credit the money so returned to the original payment account and can freeze such returned money within the original payment account if it has been credited into the account for whatever reason.
- (ii) No Finance Party shall be held liable for the payment of all sums due under any underlying contracts under the Consigned Disbursement, including any costs or any return of funds from such account(s) to any Loan Disbursement Account for whatsoever reason, unless caused by its gross negligence or wilful misconduct.

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- (iii) In relation to a Self-controlled Disbursement, the Borrowers shall provide to the Facility Agent the applicable Utilisation Evidence within sixty (60) days after each payment with the relevant Loan proceeds or upon request from the Facility Agent from time to time.
- (iv) The proceeds of the Loan shall not be paid to any account of the Borrowers with any Finance Party (other than the Loan Disbursement Accounts) or any other financial institutions whether or not Consigned Disbursement or Self-controlled Disbursement is to be applied.
- (v) Upon the occurrence of any Default, the Facility Agent shall have the right, in its sole discretion, to suspend the disbursement of any Loan, refuse any Utilisation, refuse the withdrawal of any amounts from any Loan Disbursement Account, and/or apply all Utilisations by Consigned Disbursement.

#### 5.6 Cancellation of Available Facility

Unless cancelled earlier in accordance with this Agreement the Commitments which, at that time, are unutilised shall be immediately cancelled at 5 p.m. on the last day of the relevant Availability Period.

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### SECTION 4 REPAYMENT, PREPAYMENT AND CANCELLATION

#### 6. REPAYMENT

##### 6.1 Repayment of Facility A Loans

- (a) EDC WGQ shall repay the Facility A Loans in instalments by repaying on each date specified in the table below (each a "Facility A Repayment Date") an amount that reduces the aggregate outstanding Facility A Loans by a proportion of the aggregate outstanding Facility A Loans as at the close of business on the last day of the Facility A Availability Period, which proportion is set out in the table below beside such Facility A Repayment Date:

Facility A Repayment Date	Percentage
21 <sup>st</sup> December 2017	3.5%
21 <sup>st</sup> March 2018	3.5%
21 <sup>st</sup> June 2018	4%
21 <sup>st</sup> September 2018	4%
21 <sup>st</sup> December 2018	4.5%
21 <sup>st</sup> March 2019	4.5%
21 <sup>st</sup> June 2019	4.5%
21 <sup>st</sup> September 2019	4.5%
21 <sup>st</sup> December 2019	4.5%
21 <sup>st</sup> March 2020	5%
21 <sup>st</sup> June 2020	5%
21 <sup>st</sup> September 2020	5%
21 <sup>st</sup> December 2020	5%
21 <sup>st</sup> March 2021	5.5%
21 <sup>st</sup> June 2021	5.5%
Facility A Maturity Date	31.5%

- (b) Without prejudice to paragraph (a), all of the Facility A Loans must be repaid in full on the Facility A Maturity Date.
- (c) EDC WGQ may not re-borrow any part of Facility A which is repaid.

##### 6.2 Repayment of Facility B Loans

- (a) EDC YG shall repay the Facility B Loans in instalments by repaying on each date specified in the table below (each a "Facility B Repayment Date") an amount that reduces the aggregate outstanding Facility B Loans by a proportion of the aggregate outstanding Facility B Loans as at the close of business on the last day of the Facility B Availability Period, which proportion is set out in the table below beside such Facility B

Repayment Date:

Facility B Repayment Date	Percentage
21 <sup>st</sup> December 2017	3.5%
21 <sup>st</sup> March 2018	3.5%

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21 <sup>st</sup> June 2018	4%
21 <sup>st</sup> September 2018	4%
21 <sup>st</sup> December 2018	4.5%
21 <sup>st</sup> March 2019	4.5%
21 <sup>st</sup> June 2019	4.5%
21 <sup>st</sup> September 2019	4.5%
21 <sup>st</sup> December 2019	4.5%
21 <sup>st</sup> March 2020	5%
21 <sup>st</sup> June 2020	5%
21 <sup>st</sup> September 2020	5%
21 <sup>st</sup> December 2020	5%
21 <sup>st</sup> March 2021	5.5%
21 <sup>st</sup> June 2021	5.5%
Facility B Maturity Date	31.5%

(b) Without prejudice to paragraph (a), all of the Facility B Loans must be repaid in full on the Facility B Maturity Date.

(c) EDC YG may not reborrow any part of Facility B which is repaid.

### 6.3 Repayment of Facility D Loans

EDC YG shall repay the Facility D Loans in accordance with the repayment schedule otherwise agreed between EDC YG and the Lenders.

## 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:

- that Lender shall promptly notify the Facility Agent upon becoming aware of that event and the Facility Agent shall notify the Obligors' Agent as soon as reasonably practicable after receiving such notification;
- upon the Facility Agent notifying the Obligors' Agent, the Available Commitment of that Lender will be immediately cancelled; and
- each Borrower shall repay that Lender's participation in the Loans made to it on the last day of the Interest Period for each Loan occurring after the Facility Agent has notified the Obligors' Agent or, if earlier, the date specified by the Lender in the notice delivered to the Facility Agent (being no earlier than the last day of any applicable grace period permitted by law).

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### 7.2 Voluntary cancellation

Each Borrower may, if it gives the Facility Agent not less than five (5) Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, reduce an Available Facility to zero or by such amount (being a minimum amount of RMB 10,000,000 and in integral multiple of RMB 5,000,000) as that Borrower may specify in such notice.

### 7.3 Voluntary prepayment of Loans

- Each Borrower may, if it gives the Facility Agent not less than five (5) Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay on the relevant Interest Payment Date the whole or any part of any Loan (but, if in part, being an amount that reduces a Loan by a minimum amount of RMB 10,000,000 and in integral multiple of RMB 5,000,000, or the outstanding amount of the Loans).
- If any voluntary prepayment is not made by a Borrower on an Interest Payment Date, that Borrower shall pay the Break Costs, without premium or penalty.
- A Loan may be prepaid only after the last day of the Availability Period (or, if earlier, the day on which the applicable Available Facility is zero).

### 7.4 Right of prepayment and cancellation in relation to a single Lender

- If:
  - any sum payable to any Lender by an Obligor is required to be increased under paragraph (a) of Clause 13.2 (*Tax gross-up*); or
  - any Lender claims indemnification from any Borrower or an Obligor under Clause 13.3 (*Tax indemnity*) or Clause 14.1 (*Increased costs*),

that Borrower may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, give the Facility 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.

- On receipt of a notice of cancellation referred to in paragraph (a) above, the Commitment of that Lender shall immediately be reduced to zero.
- On the last day of each Interest Period which ends after a Borrower has given notice of cancellation under paragraph (a) above (or, if earlier, the date specified by that Borrower in that notice), that Borrower shall prepay that Lender's participation in the relevant Loan.

## 8. MANDATORY PREPAYMENT AND CANCELLATION

### 8.1 Change of control

Upon the occurrence of a Change of Control:

- the Obligors' Agent shall promptly notify the Facility Agent upon becoming aware of that event. Notwithstanding the aforementioned, (x) in the event of a Change of Control arising from William Huang ceasing to, directly or indirectly, own at least 99.9% of the equity interests of GDS Beijing, the Obligors' Agent shall promptly notify the Facility Agent at

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least three (3) Months before the prospective replacement in order for the Lenders to seek the consent on the replacement; (y) in the event of a Change of Control arising from William Huang ceasing to, directly or indirectly, own at least 99.9% of the equity interests of GDS Beijing as a result of unforeseen and unexpected death of William Huang, the Obligors' Agent shall promptly notify the Facility Agent upon the occurrence of such event, take and/or procure any necessary actions or legal proceedings to be taken within 45 days of the death of William Huang to have William Huang's estate successor to be nominated and seek the consent on the successor from the Lenders. The Lenders may not exercise their rights under this Clause 8.1 as a result of a Change of Control (A) (i) if the equity interest is transferred to and held by the replacement or successor of William Huang as approved by the Lenders under this paragraph and (ii) (if applicable) the Obligors' Agent has given notice in accordance with this paragraph; or (B) (if sub-paragraph (y) applies), during the first 45 day period of the death of William Huang;

- a Lender shall not be obliged to fund any Utilisation under a Utilisation Request that has been delivered to the Facility Agent pursuant to this Agreement or any future Utilisations, unless otherwise agreed by all Lenders; and
- the Facility Agent shall be entitled to, by not less than three (3) Business Days' written notice to the Obligors' Agent, 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 amounts will become immediately due and payable.

## 8.2 Non-Extension of Lease Agreement for Project SH1

If EDC WGQ fails to extend the tenor under the Lease Agreement in respect of Project SH1 in accordance with Clause 23.22(g):

- (a) the Obligors' Agent shall as soon as reasonably practicable notify the Facility Agent upon becoming aware of that event; and
- (b) EDC WGQ shall, within 30 days upon the Obligors' Agent notifying the Facility Agent pursuant to paragraph (a) above, reduce the Total Facility A Commitments and/or prepay the Facility A Loans, provided that the total amount of the Total Facility A Commitments so reduced, and/or the Facility A Loans so prepaid shall be up to RMB 172,000,000;

## 8.3 Disposal proceeds

- (a) Upon the occurrence of a Disposal:
  - (i) the Obligors' Agent shall as soon as reasonably practicable notify the Facility Agent upon becoming aware of that event; and
  - (ii) any Borrower shall apply all Disposal Proceeds or cause all Disposal Proceeds to be applied towards the prepayment of the relevant Loans within fourteen (14) days following the receipt of such Disposal Proceeds in the order of application contemplated by Clause 9.8 (*Application of prepayments*).

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## 8.4 Compensation

Subject to Clause 9.8(c), upon the occurrence of any Compensation:

- (a) the Obligors' Agent shall as soon as reasonably practicable notify the Facility Agent of such Compensation;
- (b) any Borrower shall apply or cause to apply all Compensation amount so received towards the prepayment of the Loans within fourteen (14) days following the receipt of such Compensation.

## 8.5 Insurance proceeds

- (a) Upon receipt of any Insurance Proceeds by any Borrower:
  - (i) that Borrower shall as soon as reasonably practicable notify the Facility Agent of receipt of such Insurance Proceeds; and
  - (ii) that Borrower shall apply all of such Insurance Proceeds towards the prepayment of the relevant Loans within fourteen (14) days following receipt of such Insurance Proceeds in the order of application contemplated by Clause 9.8 (*Application of prepayments*).

## 8.6 Excess Cashflow

- (a) If at any time EDC WGQ credits any Excess Cashflow Prepayment Amount (WGQ) into the Excess Cashflow Account (WGQ) pursuant to Clause 18.6 (*Excess Cashflow Account*), EDC WGQ shall, on the immediate next Interest Payment Date apply all Excess Cashflow Prepayment Amount (WGQ) towards the prepayment of the Facility A Loans.
- (b) If at any time EDC YG credits any Excess Cashflow Prepayment Amount (YG) into the Excess Cashflow Account (YG) pursuant to Clause 18.6 (*Excess Cashflow Account*), EDC YG shall, on the immediate next Interest Payment Date apply all Excess Cashflow Prepayment Amount (YG) ratably towards the prepayment of the Loans (other than Facility A Loans) and (to the extent applicable) the Offshore Loans.

## 8.7 Non-renewal of IDC License

If any IDC License has not been renewed on or before its expiry date:

- (a) the Obligors' Agent shall immediately notify the Facility Agent upon becoming aware of such non-renewal; and
- (b) the Facility Agent shall be entitled to, by not less than three (3) Business Days' written notice to the Obligors' Agent, declare all outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents immediately due and payable, whereupon all such outstanding amounts will become immediately due and payable.

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## 8.8 Hedging termination proceeds

If any Borrower enters into any Hedging Arrangement pursuant to Clause 23.18 (*Treasury transaction*), and upon the occurrence of a Hedging Termination:

- (a) that Borrower shall promptly notify the Facility Agent upon becoming aware of such event; and
- (b) that Borrower shall apply all Hedging Termination Proceeds (if any) towards the prepayment of the relevant Loans immediately following receipt of such Hedging Termination Proceeds at the times and in the order of application contemplated by Clause 9.8 (*Application of prepayments*).

## 8.9 Termination of Service Contract

If any of the Service Contracts entered into by and between EDC WGQ and China Telecom Shanghai Branch Office (中国通信服务股份有限公司) in relation to the Projects with Alibaba Group as the end-user (at the date of this Agreement, including a service contract with contract number of SHSXW1300880C00ZS and a supplemental service contract with contract number of SHSXW1500292CGN00) is terminated by notification from China Telecom Shanghai Branch Office:

- (a) the Obligors' Agent shall as soon as reasonably practicable notify the Facility Agent upon becoming aware of that event; and
- (b) The Borrowers shall, within 6 Months upon the receipt of such termination notice from China Telecom Shanghai Branch Office, reduce the Total Commitments and/or prepay the outstanding Loans, provided that the total amount of the Total Commitments so reduced, and/or the Loans so prepaid shall be up to RMB 250,000,000; unless where the Borrowers provide evidence satisfactory to all Lenders evidencing that relevant parties are in discussions with a replacement customer or customers to take up an equivalent value of such Service Contract, the Borrowers may defer the aforesaid reduction and/or prepayment for an additional 3 Months.

For avoidance of doubt, if the Borrowers fail to enter into any new Service Contract satisfactory to all Lenders within 9 Months upon the receipt of such termination notice from China Telecom Shanghai Branch Office, the Borrowers shall make reduction and/or prepayment stipulated in paragraph (b) above.

## 9. RESTRICTIONS

### 9.1 Notices of cancellation or prepayment

Any notice of cancellation or prepayment given by any Party under Clause 7 (*Prepayment and cancellation*) and Clause 8 (*Mandatory Prepayment and cancellation*) 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.

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### 9.2 Interest and other amounts

Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid, without premium or penalty, and subject to any Break Costs, if the prepayment is not made on an Interest Payment Date.

### 9.3 No reborrowing of the Facilities

No Borrower may reborrow any part of Facilities which is prepaid.

### 9.4 Prepayment in accordance with Agreement

No Borrower shall repay or prepay all or any part of the Loans or reduce all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.

**9.5 No reinstatement of Commitments**

If any Commitment is reduced in accordance with this Agreement, the amount of such reduction may not be subsequently reinstated.

**9.6 Agent's receipt of notices**

If the Facility Agent receives a notice under Clause 7 (*Prepayment and cancellation*) or Clause 8 (*Mandatory Prepayment and cancellation*) it shall promptly forward a copy of that notice to either the Obligors' Agent or the affected Lender, as appropriate.

**9.7 Effect of repayment and prepayment on Commitments**

If all or part of a Loan is repaid or prepaid and is not available for redrawing, an amount of the Commitments will be deemed to be cancelled on the date of repayment or prepayment. Any cancellation (save in connection with any cancellation under paragraph (b) of Clause 7.1 (*Illegality*) or paragraph (b) of Clause 7.4 (*Right of prepayment and cancellation in relation to a single Lender*)) shall first reduce rateably between the Facility A Commitments, the Facility B Commitments and the Facility D Commitments (after the Facility D Commitment Date), and then reduce rateably the Commitments of the Lenders in that Facility.

**9.8 Application of prepayments**

- (a) In respect of EDC WGQ, if the amount is not sufficient for prepayment of all the outstanding Facility A Loans (including accrued interest and other sums payable under the Finance Documents), any prepayment made under:
  - (i) Clause 8.2 (*Non-Extension of Lease Agreement for Project SH1*);
  - (ii) Clause 8.3 (*Disposal proceeds*);
  - (iii) Clause 8.5 (*Insurance proceeds*); and/or
  - (iv) Clause 8.8 (*Hedging termination proceeds*),

shall be applied towards the satisfaction of the obligations under the relevant repayment provisions in inverse chronological order (where applicable) and be applied ratably among the participations of the relevant Lenders of the Facility A.

- (b) In respect of EDC YG, if the amount is not sufficient for prepayment of all the outstanding Facility B Loans, Facility D Loans (after Facility D Commitment Date) and (to the extent applicable) the outstanding Offshore Loans (including their respective accrued interest and other sums payable under the Finance Documents and the Offshore Finance Documents), any prepayment made under:
  - (i) Clause 8.3 (*Disposal proceeds*);
  - (ii) Clause 8.5 (*Insurance proceeds*); and/or
  - (iii) Clause 8.8 (*Hedging termination proceeds*),

shall be first applied rateably between the Facility B Loans, the Facility D Loans (after Facility D Commitment Date) and (to the extent applicable) the Offshore Loans, and then satisfy the obligations under the relevant repayment provisions in inverse chronological order (where applicable) and be applied ratably among the participations of the relevant Lenders of the Facilities (other than Facility A) and (to the extent applicable) the Offshore Facilities (as the case may be).

- (c) If the amount is not sufficient for prepayment of all the outstanding Loans and (to the extent applicable) the outstanding Offshore Loans (including their respective accrued interest and other sums payable under the Finance Documents and the Offshore Finance Documents), any prepayment made under:
  - (i) Clause 8.4 (*Compensation*) (but only to the extent that such Compensation is due to the seizure, compulsory acquisition, expropriation or nationalisation of any of the assets or shares of any member of the Group by any Governmental Agency); and/or
  - (ii) Clause 8.9 (*Termination of Service Contract*)

shall be first applied rateably between the Facility A Loans, the Facility B Loans, the Facility D Loans (after Facility D Commitment Date) and (to the extent applicable) the Offshore Loans, and then satisfy the obligations under the relevant repayment provisions in inverse chronological order (where applicable) and be applied ratably among the participations of the relevant Lenders of the Facilities and (to the extent applicable) the Offshore Lenders of the Offshore Facilities (as the case may be).

**SECTION 5  
COSTS OF UTILISATION**

**10. INTEREST**

**10.1 Calculation of interest**

The rate of interest which shall accrue on each Loan for each Interest Period is (A) Interest Relevant Percentage multiplied by (B) the applicable PBOC Base Rate.

In this Agreement, "Interest Relevant Percentage" means 130%, but if:

- (a) no Event of Default has occurred; and
- (b) a period of at least 12 Months has expired since the first Utilisation Date of a Facility;

then the Interest Relevant Percentage will be the percentage set out in the table below under the heading "Interest Relevant Percentage" which corresponds to the Gross Leverage Ratio specified in the most recent Compliance Certificate delivered to the Facility Agent pursuant to Clause 21.2 (*Compliance Certificate*):

Gross Leverage Ratio	Interest Relevant Percentage
Greater than 3.0:1	130%
Less than or equal to 3.0:1	120%

However,

- (i) any increase or decrease in the Interest Relevant Percentage for the Loans resulting from a change of the Gross Leverage Ratio shall become effective on the immediate next Interest Payment Date and shall be applicable to the next Interest Period;
- (ii) any change in the PBOC Base Rate for the Loans shall only become effective on the immediate next Interest Payment Date and shall be applicable to the next Interest Period; and
- (iii) while an Event of Default is continuing, the Interest Relevant Percentage shall be the highest percentage set out above.

**10.2 Payment of interest**

Except where it is provided to the contrary in this Agreement, the Borrowers shall pay accrued interest on the Loans on each Interest Payment Date, except that if the first Interest Period is less than 1 Month to the first Interest Payment Date, the interests on the Loans for the first Interest Period shall accrue to and be payable on the second Interest Payment Date.

**10.3 Default interest**

- (a) If an Obligor Party 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, on and after judgment) at the applicable Default Rate. Any interest accruing under this paragraph (a) shall be immediately payable by the Obligor Party on demand by the Facility Agent.



- (b) If any Borrower applies any part of the Loans otherwise as contemplated in Clause 3 (*Purpose*), then notwithstanding any other rights of the Finance Parties under the Finance Documents, that Borrower must immediately on demand by the Facility Agent pay interest on the misappropriated amount from and including the date of such misappropriation up to the date of actual payment or the date on which such misappropriation is rectified satisfactory to the Facility Agent (both before, on and after judgment) at the applicable Default Rate. Any interest accruing under this paragraph (b) shall be immediately payable by that Borrower on demand by the Facility Agent.
- (c) Default interest (if unpaid) arising on an Unpaid Sum or misappropriated amount will be compounded with the Unpaid Sum or misappropriated amount at each Interest Payment Date, and such Unpaid Sum and misappropriated amount (including the default interest compounded thereto) shall remain immediately due and payable.
- (d) 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 the applicable Default Rate.

#### 10.4 Notification of rates of interest

The Facility Agent shall promptly notify the relevant Lenders and the Obligors' Agent of the determination of a rate of interest under this Agreement.

#### 10.5 Length of Interest Periods

- (a) Each Loan has successive Interest Periods.
- (b) Subject to paragraph (c), each Interest Period shall have a duration of three (3) Months.
- (c) Each Interest Period for each Loan will start on (and include) the expiry of its preceding Interest Period and end on, and exclude, the immediately following Interest Payment Date; provided that
- (i) the first Interest Period for each Loan shall start on (and include) the first Utilisation Date and end on (and exclude) the immediately following Interest Payment Date;
  - (ii) the last Interest Period for each Loan shall start on (and include) the Interest Payment Date immediately prior to the Final Repayment Date applicable to that Loan to, but excluding, the Final Repayment Date applicable to that Loan; and
  - (iii) any Interest Period for any Loan shall not extend beyond the Final Repayment Date applicable to that Loan.

### 11. CHANGES TO THE CALCULATION OF INTEREST

#### 11.1 Market disruption

- (a) Subject to any alternative basis agreed and consented to as contemplated by paragraphs (a) and (b) of Clause 11.2 (*Alternative basis of interest or funding*), if a Market Disruption Event occurs in relation

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to a Loan for any Interest Period, then the rate of interest on each Lender's participation in that Loan for that Interest Period shall reasonably reflect the applicable Lender's demonstrated cost of funds (if higher than then rate of interest) plus a margin comparable to the margin which the Lender is offering for loans in respect of similar transactions to the Facilities, as notified to the Facility Agent by that Lender as soon as practicable and in any event not later than five (5) Business Days before interest is due to be paid in respect of that Interest Period (or such later date as may be acceptable to the Facility Agent).

- (b) If a Market Disruption Event occurs, the Facility Agent shall promptly notify the Lenders and the Obligors' Agent thereof and the Lender or Lenders (through the Facility Agent) shall provide to the Obligors' Agent reasonable evidence of the Market Disruption Event applicable to it at the reasonable request of the Obligors' Agent.

#### 11.2 Alternative basis of interest or funding

- (a) If a Market Disruption Event occurs and the Facility Agent or the Obligors' Agent so requires, the Facility Agent and the Obligors' Agent shall enter into negotiations (for a period of not more than thirty (30) days) with a view to agreeing a substitute basis for determining the rate of interest.
- (b) Any alternative basis agreed pursuant to paragraph (a) above shall, with the prior consent of all the Lenders and the Obligors' Agent, be binding on all Parties.
- (c) For the avoidance of doubt, in the event that no substitute basis is agreed at the end of the thirty day period, the rate of interest shall continue to be determined in accordance with Clause 11.1(a) (*Market disruption*) of this Agreement.

#### 11.3 Break Costs

- (a) Each Borrower shall, within three (3) 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 any 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 Facility Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

### 12. FEES

#### 12.1 Commitment fee

- (a) EDC WGQ shall pay to the Facility Agent (for the account of each Lender) a fee in RMB computed and accruing on a daily basis, at the rate of 0.5 per cent. per annum on that Lender's Available Commitment under Facility A for the Facility A Availability Period commencing from the date of this Agreement (inclusive), at close of business (in the principal financial centre of the country of the relevant currency) on each day of the Facility A Availability Period (inclusive, or, if any such day shall not be a Business Day, at such close of business on the immediately preceding Business Day).
- (b) EDC YG shall pay to the Facility Agent (for the account of each Lender) a fee in RMB computed and accruing on a daily basis at the rate of:
- (i) in respect of the Facilities (other than Facility A and Facility D), commencing from the date of this Agreement (inclusive), 0.5 per cent. per annum on that Lender's Available

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Commitment under Facilities (other than Facility A and Facility D) for the relevant Availability Period;

- (ii) in respect of Facility D, commencing from the Facility D Commitment Date (inclusive), the amount otherwise agreed between EDC YG and the Lenders in writing,

at close of business (in the principal financial centre of the country of the relevant currency) on each day of the relevant Availability Period (inclusive, or, if any such day shall not be a Business Day, at such close of business on the immediately preceding Business Day).

- (c) The accrued commitment fee is payable, whichever is earlier:

- (i) on the last day of each Interest 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.

#### 12.2 Arrangement fee

Each Borrower shall pay to the Mandated Lead Arrangers an arrangement fee in the amount and at the times agreed in a Fee Letter.

#### 12.3 Facility agency fee

Each Borrower shall pay to the Facility Agent (for its own account) a facility agency fee in the amount and at the times agreed in a Fee Letter.

#### 12.4 Security agency fee

**SECTION 6  
ADDITIONAL PAYMENT OBLIGATIONS**

**13. TAX GROSS UP AND INDEMNITIES**

**13.1 Tax definitions**

(a) In this Clause 13:

“**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.

“**Tax Payment**” means an increased payment made by an Obligor to a Finance Party under Clause 13.2 (*Tax gross-up*) or a payment under Clause 13.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 13 a reference to “determines” or “determined” means a determination made in the absolute discretion of the person making the determination.

**13.2 Tax gross-up**

(a) All payments to be made by an Obligor Party to any Finance Party under the Finance Documents shall be made free and clear of and without any Tax Deduction unless such Obligor Party is required to make a Tax Deduction, in which case the sum payable by such Obligor Party (in respect of which such Tax Deduction is required to be made) shall be increased to the extent necessary to ensure that such Finance Party receives a sum net of any deduction or withholding equal to the sum which it would have received had no such Tax Deduction been made or required to be made.

(b) The Obligors’ Agent shall promptly upon becoming aware that an Obligor Party must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Facility Agent accordingly. Similarly, a Lender shall notify the Facility Agent on becoming so aware in respect of a payment payable to that Lender. If the Facility Agent receives such notification from a Lender it shall notify the Obligors’ Agent.

(c) If an Obligor Party is required to make a Tax Deduction, that Obligor Party shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

(d) Within thirty (30) days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor Party making that Tax Deduction shall deliver to the Facility Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

**13.3 Tax indemnity**

(a) Without prejudice to Clause 13.2 (*Tax gross-up*), if any Finance Party is required to make any payment of or on account of Tax on or in relation to any sum received or receivable under the Finance Documents (including any sum deemed for purposes of Tax to be received or receivable by such Finance Party whether or not actually received or receivable) or if any liability in respect of any such payment is asserted, imposed, levied or assessed against any Finance Party, each Borrower shall, within three (3) Business Days of demand of the Facility Agent, promptly indemnify the Finance Party which suffers a loss or liability as a result against such payment or liability, together with any

interest, penalties, costs and expenses payable or incurred in connection therewith, provided that this Clause 13.3 shall not apply to:

(i) any Tax imposed on and calculated by reference to the net income actually received or receivable by such Finance Party (but, for the avoidance of doubt, not including any sum deemed for purposes of Tax to be received or receivable by such Finance Party but not actually receivable) by the jurisdiction in which such Finance Party is incorporated;

(ii) any Tax imposed on and calculated by reference to the net income of the Facility Office of such Finance Party actually received or receivable by such Finance Party (but, for the avoidance of doubt, not including any sum deemed for purposes of Tax to be received or receivable by such Finance Party but not actually receivable) by the jurisdiction in which its Facility Office is located; or

(iii) any Tax related to a FATCA Deduction required to be made by a Party.

(b) A Finance Party intending to make a claim under paragraph (a) shall notify the Facility Agent of the event giving rise to the claim, whereupon the Facility Agent shall notify the Obligors’ Agent.

(c) A Finance Party shall, on receiving a payment from an Obligor Party under this Clause 13.3, notify the Facility Agent.

**13.4 Stamp taxes**

(a) All stamp duty, registration and other similar Taxes payable in respect of any Finance Document shall be paid by the relevant Obligor Party, and to the extent required by the PRC law, each Lender respectively.

(b) Subject to applicable laws and regulations, each Borrower must within fourteen (14) days of demand, indemnify each Finance Party against any reasonable cost, loss or liability that Finance Party incurs in relation to any stamp duty, registration fees or other similar Tax paid or payable in respect of any Finance Document.

**13.5 Indirect Tax**

(a) All amounts set out or expressed in a Finance Document to be payable by any Party to a Finance Party shall be deemed to be exclusive of any Indirect Tax. If any Indirect Tax is chargeable on any supply made by any Finance Party to any Party in connection with a Finance Document, that Party shall pay to the Finance Party (in addition to and at the same time as paying the consideration) an amount equal to the amount of the Indirect Tax.

(b) Where a Finance Document requires any Party to reimburse a Finance Party for any costs or expenses, that Party shall also at the same time pay and indemnify the Finance Party against all Indirect Tax incurred by that Finance Party in respect of the costs or expenses to the extent that the Finance Party reasonably determines that it is not entitled to credit or repayment in respect of the Indirect Tax.

**13.6 FATCA Information**

(a) Subject to paragraph (c) below, each Party shall, within ten (10) 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.

(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, 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 (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.

### 13.7 FATCA Deduction and gross-up by Obligor Parties

- (a) If an Obligor Party is required to make a FATCA Deduction, that Obligor Party shall make that FATCA Deduction and any payment required in connection with that FATCA Deduction within the time allowed and in the minimum amount required by FATCA.
- (b) If a FATCA Deduction is required to be made by an Obligor Party, the amount of the payment due from that Obligor Party shall be increased to an amount which (after making any FATCA Deduction) leaves an amount equal to the payment which would have been due if no FATCA Deduction had been required.
- (c) The Obligors' Agent shall promptly upon becoming aware that an Obligor Party must make a FATCA Deduction (or that there is any change in the rate or the basis of a FATCA Deduction) notify the Facility Agent accordingly. Similarly, a Finance Party shall notify the Facility Agent on becoming so aware in respect of a payment payable to that Finance Party. If the Facility Agent receives such notification from a Finance Party it shall notify the Obligors' Agent.
- (d) Within thirty (30) days of making either a FATCA Deduction or any payment required in connection with that FATCA Deduction, the Obligor Party making that FATCA Deduction or payment shall deliver to the Facility Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the FATCA Deduction has been made or (as applicable) any

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appropriate payment has been paid to the relevant governmental or taxation authority.

### 13.8 FATCA Deduction by a Finance Party

- (a) Each Finance Party may make any FATCA Deduction it is required by FATCA to make, and any payment required in connection with that FATCA Deduction, and no Finance 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. A Finance Party which becomes aware that it must make a FATCA Deduction in respect of a payment to another Party (or that there is any change in the rate or the basis of such FATCA Deduction) shall notify that Party and the Facility Agent.
- (b) If the Facility Agent is required to make a FATCA Deduction in respect of a payment to a Finance Party under Clause 32.2 (*Distributions by the Facility Agent*) which relates to a payment by an Obligor Party, the amount of the payment due from that Obligor Party shall be increased to an amount which (after the Facility Agent has made such FATCA Deduction), leaves the Facility Agent with an amount equal to the payment which would have been made by the Facility Agent if no FATCA Deduction had been required.
- (c) The Facility Agent shall promptly upon becoming aware that it must make a FATCA Deduction in respect of a payment to a Finance Party under Clause 32.2 (*Distributions by the Facility Agent*) which relates to a payment by an Obligor Party (or that there is any change in the rate or the basis of such a FATCA Deduction) notify the Obligors' Agent and the relevant Finance Party.
- (d) Each Borrower shall (within three (3) Business Days of demand by the Facility Agent) pay to a Finance Party an amount equal to the loss, liability or cost which that Finance Party determines will be or has been (directly or indirectly) suffered by that Finance Party as a result of another Finance Party making a FATCA Deduction in respect of a payment due to it under a Finance Document. This paragraph shall not apply to the extent a loss, liability or cost is compensated for by an increased payment under paragraph (b) above.
- (e) A Finance Party making, or intending to make, a claim under paragraph (d) above shall promptly notify the Facility Agent of the FATCA Deduction which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Obligors' Agent.
- (f) A Finance Party must, on receiving a payment from an Obligor Party under this Clause, notify the Facility Agent.

## 14. INCREASED COSTS

### 14.1 Increased costs

- (a) Subject to Clause 14.3 (*Exceptions*) each Borrower shall, within fourteen (14) days of a demand by the Facility 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,
- (ii) compliance with any law or regulation made after the date of this Agreement, or

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- (iii) the implementation or application of 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). 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:

- (i) "Increased Costs" means:

- (A) a reduction in the rate of return from the Facilities 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);
- (B) an additional or increased cost; or
- (C) 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.

- (ii) "Basel III" means the global regulatory framework on bank capital and liquidity 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 in December 2010 each as amended, and any other documents published by the Basel Committee in relation to "Basel III".

### 14.2 Increased cost claims

- (a) A Finance Party intending to make a claim pursuant to Clause 14.1 (*Increased costs*) shall notify the Facility Agent of the event giving rise to the claim, following which the Facility Agent shall promptly notify the Obligors' Agent.
- (b) Each Finance Party shall, as soon as practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Increased Costs.

### 14.3 Exceptions

- (a) Clause 14.1 (*Increased costs*) does not apply to the extent any Increased Cost is:
- (i) attributable to a Tax Deduction required by law to be made by an Obligor Party;
- (ii) compensated for by Clause 13.3 (*Tax indemnity*) (or would have been compensated for under Clause 13.3 (*Tax indemnity*) but was not so compensated solely because the exclusion in paragraph (a) of Clause 13.3 (*Tax indemnity*) applied);
- (iii) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation;

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- (iv) attributable to a FATCA Deduction required to be made by an Obligor Party or a Finance Party; or
- (v) compensated for by paragraph (d) of Clause 13.8 (*FATCA Deduction by a Finance Party*).

(b) In this Clause 14.3, a reference to a “**Tax Deduction**” has the same meaning given to the term in Clause 13.1 (*Tax definitions*).

## 15. MITIGATION BY THE LENDERS

### 15.1 Mitigation

(a) Each Finance Party shall, in consultation with the Obligors’ Agent, 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 13 (*Tax gross up and indemnities*) or Clause 14 (*Increased costs*), including 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 Obligor Party under the Finance Documents.

### 15.2 Limitation of liability

(a) Each 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 15.1 (*Mitigation*).

(b) A Finance Party is not obliged to take any steps under Clause 15.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

### 15.3 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.

## 16. OTHER INDEMNITIES

### 16.1 Currency indemnity

(a) If any sum due from an Obligor Party 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 that Obligor Party; or

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(ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor Party shall as an independent obligation, within three (3) 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 Obligor Party 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.

### 16.2 Other indemnities

(a) The Borrowers shall within three (3) Business Days of demand, indemnify each Finance Party against any cost, loss or liability incurred by that Finance Party as a result of:

- (i) the occurrence of any Event of Default;
- (ii) any information produced or approved by any Obligor Party being or being alleged to be misleading and/or deceptive in any respect;
- (iii) a failure by an Obligor Party to pay any amount due under a Finance Document on its due date or in the relevant currency, including without limitation, any cost, loss or liability arising as a result of Clause 30 (*Sharing among the Finance Parties*); or
- (iv) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by a Borrower.

(b) The Borrowers shall within fourteen (14) days of demand, indemnify each Finance Party against any reasonable cost, loss or liability incurred by that Finance Party as a result of:

- (i) any enquiry, investigation, subpoena (or similar order) or litigation with respect to any Obligor Party or with respect to the transactions contemplated or financed under this Agreement; or
- (ii) 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).

### 16.3 Indemnity to the Facility Agent

(a) The Borrowers shall within three (3) Business Days of demand, indemnify the Facility Agent against any cost, loss or liability incurred by the Facility Agent as a result of investigating any event which it reasonably believes is a Default.

(b) The Borrowers shall within fourteen (14) days of demand, indemnify the Facility Agent against any reasonable cost, loss or liability incurred by the Facility Agent as a result of:

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(i) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or

(ii) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement.

### 16.4 Obligor Parties’ indemnity to the Security Agent

(a) Each Obligor Party shall within three (3) Business Days of demand indemnify the Security Agent and each of its delegates, agents or nominees against any cost, loss or liability incurred by any of them as a result of:

- (i) the enforcement of the Transaction Security;
- (ii) the exercise of any of the rights, powers, discretions and remedies vested in the Security Agent and each of its delegates, agents or nominees by the Finance Documents or by law; or
- (iii) any default by any Obligor Party in the performance of any of the obligations expressed to be assumed by it in the Finance Documents; or

(b) Each Obligor Party shall within fourteen (14) days of demand, indemnify the Security Agent and each of its delegates, agents or nominees against any reasonable cost, loss or liability incurred by any of them:

- (i) as a result of the taking, holding or protection of the Transaction Security; or
- (ii) which otherwise relates to any of the assets subject to the Transaction Security or the performance of the terms of the Finance Documents (other than as a result of its gross negligence or wilful misconduct or default).

## 17. COSTS AND EXPENSES

### 17.1 Transaction expenses

The Borrowers shall, within fourteen (14) days of demand or as otherwise stated in the respective Finance Documents, pay the Administrative Parties the fees under each Fee Letter and amount of all costs and expenses (including legal fees) (together referred to as the “**Transaction Expenses**”) reasonably incurred by any of them in connection with the negotiation, preparation, printing, execution, syndication and perfection

of:

- (a) this Agreement and any other documents referred to in this Agreement or in a Transaction Security Document; and
- (b) any other Finance Documents executed after the date of this Agreement.

## 17.2 Amendment costs

If (a) an Obligor Party requests an amendment, waiver or consent or (b) an amendment is required or expressly contemplated under a Finance Document, the Borrowers shall, within fourteen (14) days of demand, reimburse each of the Facility Agent and the Security Agent for the amount of all costs and expenses (including legal fees) reasonably incurred by the Facility Agent or the Security Agent in responding to, evaluating, negotiating or complying with that request or requirement.

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## 17.3 Enforcement and preservation costs

The Borrowers shall, within three (3) 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 and/or the Transaction Security and/or any proceedings instituted by or against that Finance Party as a consequence of it entering into a Finance Document, taking or holding the Transaction Security, or enforcing those rights.

## 18. CASH MANAGEMENT

### 18.1 The Accounts

- (a) On or before the date of the first Utilisation Request of the Facilities (or within the time period otherwise provided in this Agreement), EDC WGQ shall establish the following accounts in its own name with the Account Bank as provided in this Clause 18 (*Cash Management*):
  - (i) a RMB debt service reserve account to receive the Debt Service Reserve Amount (WGQ), as more particularly described in Clause 18.3 (*Debt Service Reserve Account*) (the “**Debt Service Reserve Account (WGQ)**”);
  - (ii) a RMB operations account to receive the operations costs, expenses and taxes in respect of Project SH1, as more particularly described in Clause 18.4 (*Operations Account*) (the “**Operations Account (WGQ)**”);
  - (iii) a RMB debt accrual account to (A) receive certain accrued amount due and payable by EDC WGQ under the Finance Documents; and (B) pay all accrued and unpaid interest and fees due and payable by EDC WGQ to the Finance Parties under the Finance Documents, as more particularly described in Clause 18.5 (*Debt Service Accrual Account*) (the “**Debt Service Accrual Account (WGQ)**”);
  - (iv) a RMB excess cashflow account to receive the Excess Cashflow Prepayment Amount (WGQ), as more particularly described in Clause 18.6 (*Excess Cashflow Account*) (the “**Excess Cashflow Account (WGQ)**”); and
  - (v) a RMB receiving account and a USD receiving account to receive all payments paid or payable to EDC WGQ under the Borrower Service Contracts (WGQ) and the Back-to-Back Agreements (WGQ) in respect of the Project SH1, as more particularly described in Clause 18.7 (*Receiving Account*) (the aforesaid USD receiving account is referred to as the “**USD Receiving Account (WGQ)**”, and together with the aforesaid RMB receiving account, the “**Receiving Accounts (WGQ)**” and each of them the “**Receiving Account (WGQ)**”).
- (b) On or before the date of the first Utilisation Request of the Facilities, EDC YG shall establish the following accounts in its own name with the Account Bank as provided in this Clause 18:
  - (i) a RMB debt service reserve account to receive the Debt Service Reserve Amount (YG Onshore Loan), as more particularly described in Clause 18.3 (*Debt Service Reserve Account*) (the “**Debt Service Reserve Account (YG Onshore Loan)**”);

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- (ii) a RMB operations account to receive the operations costs, expenses and taxes in respect of the Projects (other than Project SH1), as more particularly described in Clause 18.4 (*Operations Account*) (the “**Operations Account (YG)**”);
  - (iii) a RMB debt accrual account to (A) receive certain accrued amount due and payable by EDC YG under the Finance Documents; and (B) pay all accrued and unpaid interest and fees due and payable by EDC YG to the Finance Parties under the Finance Documents, as more particularly described in Clause 18.5 (*Debt Service Accrual Account*) (the “**Debt Service Accrual Account (YG Onshore Loan)**”);
  - (iv) a RMB excess cashflow account to receive the Excess Cashflow Prepayment Amount (YG), as more particularly described in Clause 18.6 (*Excess Cashflow Account*) (the “**Excess Cashflow Account (YG)**”); and
  - (v) a RMB receiving account to receive all payments paid or payable to EDC YG under the Borrower Service Contracts (YG) and the Back-to-Back Agreements (YG) in respect of the Projects (other than Project SH1), as more particularly described in Clause 18.7 (*Receiving Account*) (the “**Receiving Account (YG)**”).
- (c) EDC YG shall establish the following accounts in accordance with the Offshore Finance Documents:
    - (i) a debt service reserve account opened and maintained pursuant to the Offshore Facility Agreement to receive the Debt Service Reserve Amount (YG Offshore Loan) in respect of the Offshore Facilities (the “**Debt Service Reserve Account (YG Offshore Loan)**”);
    - (ii) a debt accrual account opened and maintained pursuant to the Offshore Facility Agreement to (A) receive certain accrued amount due and payable by EDC YG under the Offshore Finance Documents; and (B) pay all accrued and unpaid interest and fees due and payable by EDC YG to the Offshore Finance Parties under the Offshore Finance Documents (the “**Debt Service Accrual Account (YG Offshore Loan)**”); and
    - (iii) a loan disbursement and repayment account opened and maintained pursuant to the Offshore Facility Agreement (the “**Offshore Loan Account (YG)**”).
  - (d) GDS Beijing shall:
    - (i) on or before the date of the First WGQ Utilisation Request, establish a RMB receiving account to receive all payments paid or payable to GDS Beijing under the GDS Beijing Service Contracts in respect of the Project SH1, as more particularly described in Clause 18.8 (*Receiving Account (GDS Beijing)*) (the “**Receiving Account (GDS Beijing-WGQ)**”); and
    - (ii) on or before the date of the First YG Utilisation Request (or within the time period otherwise provided in this Agreement), establish a RMB receiving account and a USD receiving account to receive all payments paid or payable to GDS Beijing under GDS Beijing Service Contracts in respect of the Projects (other than Project SH1), as more particularly described in Clause 18.8 (*Receiving Account (GDS Beijing)*) (the aforesaid USD receiving account is referred to as the “**USD Receiving Account (Beijing-YG)**”, and together with the aforesaid RMB receiving account, the “**Receiving Accounts (GDS Beijing-YG)**” and each of them the “**Receiving Account (GDS Beijing-YG)**”).

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- (e) GDS Suzhou shall:
  - (i) on or before the date of the First WGQ Utilisation Request, establish a RMB receiving account to receive all payments paid or payable to GDS Suzhou under the GDS Suzhou Service Contracts in respect of the Project SH1, as more particularly described in Clause 18.10 (*Receiving Account (GDS Suzhou)*) (the “**Receiving Account (GDS Suzhou-WGQ)**”); and
  - (ii) on or before the date of the First YG Utilisation Request, establish a RMB receiving account to receive all payments paid or payable to GDS Suzhou under GDS Suzhou Service Contracts in respect of the Projects (other than Project SH1), as more particularly described in Clause 18.10 (*Receiving Account (GDS Suzhou)*) (the “**Receiving Account (GDS Suzhou-YG)**”).
- (f) Each Obligor shall procure GDS HK to:
  - (i) on or before the date of the First WGQ Utilisation Request (or within the time period otherwise provided in this Agreement), establish a NRA receiving account to receive all payments paid or payable to GDS HK under the GDS HK Service Contracts in respect of the Project SH1, as more particularly described in Clause 18.12 (*Receiving Account (GDS HK)*) (the “**Receiving Account (GDS HK-WGQ)**”); and
  - (ii) on or before the date of the First YG Utilisation Request (or within the time period otherwise provided in this Agreement), establish a NRA receiving account to receive all payments paid or payable to GDS HK under GDS HK Service Contracts in respect of the Projects (other than Project SH1), as more particularly described in Clause 18.12 (*Receiving Account (GDS HK)*) (the “**Receiving Account (GDS HK-YG)**”).

- (g) Each Obligor shall procure GDS Shanghai to:
- (i) on or before the date of the First WGQ Utilisation Request (or within the time period otherwise provided in this Agreement), establish a RMB receiving account to receive all payments paid or payable to GDS Shanghai under the GDS Shanghai Service Contracts in respect of the Project SH1, as more particularly described in Clause 18.13 (*Receiving Account (GDS Shanghai)*) (the “**Receiving Account (GDS Shanghai -WGQ)**”); and
- on or before the date of the First YG Utilisation Request (or within the time period otherwise provided in this Agreement), establish a RMB receiving account to receive all payments paid or payable to GDS Shanghai under GDS Shanghai Service Contracts in respect of the Projects (other than Project SH1), as more particularly described in Clause 18.13 (*Receiving Account (GDS Shanghai)*) (the “**Receiving Account (GDS Shanghai -YG)**”).
- (h) Each Account shall be opened and maintained at the Account Bank in the name of each Borrower, GDS Beijing, GDS Suzhou, GDS HK and GDS Shanghai respectively.
- (i) The Borrowers, GDS Suzhou and GDS Beijing shall not, and each Obligor shall procure GDS HK and GDS Shanghai not to, have the unilateral right or sole authority to withdraw any funds from any of the Accounts, except for any withdrawal from the Accounts in accordance with this Agreement and the Account Control Agreement.

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- (j) The Borrowers, GDS Suzhou and GDS Beijing shall, and each Obligor shall procure GDS HK and GDS Shanghai to, deliver, or shall cause to be delivered, to the Facility Agent, monthly statements showing all activities in the Accounts and co-operate with the Facility Agent in connection with any audits of the Accounts, of which the audits may be undertaken at the Facility Agent’s sole discretion from time to time.
- (k) The Borrowers, GDS Suzhou and GDS Beijing shall, and each Obligor shall procure GDS HK and GDS Shanghai to, respectively pay or cause to be paid all Taxes and all servicing and account fees in connection with the Accounts as they become due and payable.

## 18.2 Operation of Accounts

- (a) The Borrowers, GDS Suzhou and GDS Beijing shall and each Obligor shall procure GDS HK and GDS Shanghai to:
- (i) maintain the Accounts; and
- (ii) establish or cause to be established any other accounts if such account(s) is/are required to be opened under any applicable laws or regulations or at the request of any Governmental Agency; provided that any such account(s) must be opened with the Account Bank unless otherwise required by the applicable laws or regulations or the relevant Governmental Agency,
- in each case on terms consistent with the principles applicable under the then existing Finance Documents and subject to any terms and conditions the Facility Agent may reasonably specify.
- (b) The Borrowers, GDS Beijing and GDS Suzhou shall, and each Obligor shall procure GDS HK and GDS Shanghai to, provide the Facility Agent a breakdown showing the sources and purposes of amounts received in each Receiving Account on each Waterfall Date.
- (c) Each Borrower shall ensure no other accounts may be maintained by that Borrower with any other banks or other financial institutions (other than the Account Bank) during the life of the Loans except for the Existing Accounts, and each Borrower shall close the relevant Existing Account by the time as set out in the column (*Targeted Timeline for Closure of the Existing Accounts*) in Schedule 8 (*List of Existing Accounts*).
- (d) The Borrowers, GDS Suzhou and GDS Beijing shall, and each Obligor shall procure GDS HK and GDS Shanghai to, ensure, after 90 days from the date of this Agreement, no any amounts under the Service Contracts may be paid into any other account (other than a Receiving Account).
- (e) Upon the occurrence of an Event of Default, the Facility Agent shall be entitled, without any prior notice to or consent from any Borrower, GDS Beijing, GDS Suzhou, GDS HK or GDS Shanghai or any other person, to offset and apply any or all of the funds in any or all of the Accounts, in its sole discretion and without limitation, to reduce the Secured Liabilities. Each Borrower, GDS Beijing and GDS Suzhou shall, and each Obligor shall procure GDS HK and GDS Shanghai to, fully cooperate with the Facility Agent in the exercise of such rights to the extent the exercise of such rights does not conflict with any applicable law or regulation or any Finance Documents. The rights of the Facility Agent in this Clause 18 (*Cash Management*) shall be in addition to all other rights and remedies provided to the Facility Agent in the Finance Documents.

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- (f) Notwithstanding any other provisions of this Clause 18 (*Cash Management*), the insufficiency of funds on deposit in any Account at any time shall not relieve any Obligor Party from the obligation to make any payments as and when due, whether due pursuant to the Finance Documents (to the extent applicable) or otherwise, and such obligations shall be separate and independent, and not conditioned on any event or circumstance whatsoever.
- (g) Nothing in this Clause 18 (*Cash Management*) shall be construed as imposing an obligation on the Facility Agent or any other Finance Party to be responsible for any payment that any Obligor Party would otherwise be responsible, whether under the Finance Documents or otherwise.

## 18.3 Debt Service Reserve Account

- (a) Debt Service Reserve Amount – EDC WGQ
- On and after the date of the First WGQ Utilisation Request, EDC WGQ must ensure the amount standing to the credit of the Debt Service Reserve Account (WGQ) is at all times not less than EDC WGQ’s Debt Service under the Finance Documents anticipated to fall due on the next Interest Payment Date (the “**Debt Service Reserve Amount (WGQ)**”).
- (b) Debt Service Reserve Amount – EDC YG
- (i) On and after the date of First YG Utilisation Request, EDC YG must ensure that the amount standing to the credit of the Debt Service Reserve Account (YG Onshore Loan) is at all times not less than EDC YG’s Debt Service under the Finance Documents anticipated to fall due on the next Interest Payment Date (the “**Debt Service Reserve Amount (YG Onshore Loan)**”); and
- (ii) To the extent applicable, EDC YG must ensure that the amount standing to the credit of the Debt Service Reserve Account (YG Offshore Loan) is at all times not less than EDC YG’s debt service reserve amount under the Offshore Finance Documents (the “**Debt Service Reserve Amount (YG Offshore Loan)**”).
- (c) Payments in
- (i) On or before the date of:
- (A) the First WGQ Utilisation Request, EDC WGQ must deposit into the Debt Service Reserve Account (WGQ) an amount sufficient to ensure that the amount standing to the credit of the Debt Service Reserve Account (WGQ) is not less than the Debt Service Reserve Amount (WGQ) as notified by the Facility Agent; and
- (B) the First YG Utilisation Request, EDC YG must deposit into the Debt Service Reserve Account (YG Onshore Loan) an amount sufficient to ensure that the amount standing to the credit of the Debt Service Reserve Account (YG Onshore Loan) is not less than the Debt Service Reserve Amount (YG Onshore Loan) as notified by the Facility Agent.
- (ii) If at any time:
- (A) the balance standing to the credit of the Debt Service Reserve Account (WGQ) is less than the Debt Service Reserve Amount (WGQ) in accordance with this

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- Agreement or the Account Control Agreement, EDC WGQ must immediately, but in any event by no later than three (3) Business Days transfer to the Debt Service Reserve Account (WGQ) an amount sufficient to satisfy the requirement set out in Clause 18.3(a) (*Debt Service Reserve Amount – EDC WGQ*); or
- (B) the balance standing to the credit of the Debt Service Reserve Account (YG Onshore Loan) is less than the Debt Service Reserve Amount (YG Onshore Loan) in accordance with this Agreement or the Account Control Agreement, EDC YG must immediately, but in any event by no later than three (3) Business Days transfer to the Debt Service Reserve Account (YG Onshore Loan) an amount sufficient to satisfy the requirement set out in paragraph (i) of Clause 18.3(b) (*Debt Service Reserve Amount – EDC YG*).
- (d) Withdrawals
- EDC WGQ may only withdraw amounts from the Debt Service Reserve Account (WGQ) and EDC YG may only withdraw amounts from the Debt Service Reserve Account (YG Onshore Loan) if they are approved by the Facility Agent and applied to pay any amounts due and payable under the Finance Documents at that time respectively, but only to the extent that there are insufficient funds in any other accounts opened and maintained by EDC WGQ or EDC YG (as the case may be) to meet their respective payments.

## 18.4 Operations Account

- (a) Payments in
- (i) EDC WGQ must ensure that, on each Waterfall Date, it will transfer the relevant amounts (if any) into the Operations Account (WGQ) pursuant to Clause 18.7(c)(ii).
- (ii) EDC YG must ensure that, on each Waterfall Date, it will transfer the relevant amounts (if any) into the Operations Account (YG) pursuant to Clause 18.7(d)(ii).
- (b) Withdrawals
- (i) EDC WGQ may only withdraw amounts from the Operations Account (WGQ) if such amounts are applied for the payment of the expenses (including insurance, operational maintenance, Capital Expenditure or other operating expenses) and Taxes anticipated to be due and payable by EDC WGQ on or before the next Waterfall Date pursuant to the Business Plan in respect of Project SH1 and the Budget.
- (ii) EDC YG may only withdraw amounts from the Operations Account (YG) if such amounts are applied for the payment of the expenses (including insurance, operational maintenance, Capital Expenditure or other operating expenses) and Taxes anticipated to be due and payable by EDC YG on or before the next Waterfall Date pursuant to the Business Plan in respect of Projects (other than Project SH1) and the Budget.

#### 18.5 Debt Service Accrual Account

- (a) Payments in
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- (i) EDC WGQ must ensure that, on each Waterfall Date, it shall transfer amounts (if any) into the Debt Service Accrual Account (WGQ) pursuant to Clause 18.7(c)(iii).
- (ii) EDC YG must ensure that, on each Waterfall Date, it shall transfer amounts (if any) into the Debt Service Accrual Account (YG Onshore Loan) and (to the extent applicable) the Debt Service Accrual Account (YG Offshore Loan) pursuant to Clause 18.7(d)(iii).
- (b) Withdrawals
- (i) EDC WGQ may only withdraw from the Debt Service Accrual Account (WGQ) on an Interest Payment Date to apply all amounts standing to the credit of the Debt Service Accrual Account (WGQ) towards the payment of all amounts due on that Interest Payment Date under the Finance Documents.
- (ii) EDC YG may only withdraw amounts from the Debt Service Accrual Account (YG Onshore Loan) on an Interest Payment Date to apply all amounts standing to the credit of the Debt Service Accrual Account (YG Onshore Loan) towards the payment of all amounts due on that Interest Payment Date under the Finance Documents.

#### 18.6 Excess Cashflow Account

- (a) Payments in
- (i) EDC WGQ shall ensure that as soon as reasonably practicable, and in any event by no later than the Waterfall Date falling immediately after EDC WGQ was obliged to deliver the financial statements pursuant to Clause 21.1(c) (*Financial Statements*), starting from the Financial Year ending 31 December 2017, it shall deposit into the Excess Cashflow Account (WGQ) an amount (if positive) equal to the relevant percentage of Excess Cashflow for that Financial Quarter of EDC WGQ as set out in the following table determined by reference to the corresponding Gross Leverage Ratio as shown in the most recent Compliance Certificate then (the “**Excess Cashflow Prepayment Amount (WGQ)**”).
- | Gross Leverage Ratio                               | Percentage of Excess Cashflow |
|--|-------------------------------|
| Greater than 3.0:1                                 | 100%                          |
| Less than or equal to 3.0:1 but greater than 1.5:1 | 50%                           |
| Less than or equal to 1.5:1                        | 0%                            |
- (ii) EDC WGQ shall promptly notify the Facility Agent upon crediting the Excess Cashflow Prepayment Amount (WGQ) into the Excess Cashflow Account (WGQ).
- (iii) EDC YG shall ensure that as soon as reasonably practicable, and in any event by no later than the Waterfall Date falling immediately after EDC YG was obliged to deliver the financial statements pursuant to Clause 21.1(c) (*Financial Statements*), starting from the Financial Year ending 31 December 2017, it shall deposit into the Excess Cashflow Account (YG) an amount (if positive) equal to the relevant percentage of Excess Cashflow for that Financial Quarter of EDC YG as set out in the following table determined by

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reference to the corresponding Gross Leverage Ratio as shown in the most recent Compliance Certificate then (the “**Excess Cashflow Prepayment Amount (YG)**”).

Gross Leverage Ratio	Percentage of Excess Cashflow
Greater than 3.0:1	100%
Less than or equal to 3.0:1 but greater than 1.5:1	50%
Less than or equal to 1.5:1	0%

- (iv) EDC YG shall promptly notify the Facility Agent upon crediting the Excess Cashflow Prepayment Amount (YG) into the Excess Cashflow Account (YG).
- (b) Withdrawals
- (i) EDC WGQ must withdraw amounts from the Excess Cashflow Account (WGQ) to apply all Excess Cashflow Prepayment Amount (WGQ) towards prepayment of the Facility A Loans pursuant to Clause 8.6 (*Excess Cashflow*).
- (ii) EDC YG must withdraw amounts from the Excess Cashflow Account (YG) to apply all Excess Cashflow Prepayment Amount (YG), to the extent applicable, ratably (i) towards the prepayment of the Loans (other than Facility A Loans) pursuant to Clause 8.6 (*Excess Cashflow*), and (ii) (to the extent applicable) by first transferring relevant amounts to the Offshore Loan Account (YG), towards prepayment of the Offshore Loans pursuant to the Offshore Facility Agreement.

#### 18.7 Receiving Account

- (a) Payments in - Receiving Account (WGQ)
- Unless otherwise permitted under this Agreement,
- (i) on and after the date of this Agreement, EDC WGQ must ensure all amounts payable to it under the Back-to-Back Agreements (WGQ) will be directly and immediately paid into the Receiving Account (WGQ);
- (ii) on and after the date of this Agreement, EDC WGQ must ensure all amounts payable to it under the Borrower Service Contracts (WGQ) will be directly and immediately paid into the Receiving Account (WGQ);
- (iii) on or before the date of the First WGQ Utilisation Request, EDC WGQ shall transfer all amounts standing to the credit of each Existing Account under its name to the Receiving Account (WGQ);
- (iv) on or before the date of the First WGQ Utilisation Request, GDS Beijing shall transfer all revenues (other than GDS Beijing Trapped Amount) received by GDS Beijing under GDS Beijing Service Contracts in respect of Project SH1 to the Receiving Account (WGQ) pursuant to Clause 18.8(b)(i) of this Agreement;
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- (v) on or before the date of the First WGQ Utilisation Request, GDS Suzhou shall transfer all revenues (other than the GDS Suzhou Trapped Amount) received by GDS Suzhou under the GDS Suzhou Service Contracts in respect of Project SH1 to the Receiving Account (WGQ) pursuant to Clause 18.10(b)(i) of this Agreement;
- (vi) on or before the date of the First WGQ Utilisation Request (or within the time period otherwise provided in this Agreement or agreed by all Lenders), each Obligor shall procure GDS HK to transfer all revenues received by GDS HK under the GDS HK Service Contracts in respect of Project SH1 to the Receiving Account (WGQ) pursuant to Clause 18.12(b)(i) of this Agreement; and
- (vii) on or before the date of the First WGQ Utilisation Request (or within the time period otherwise provided in this Agreement or agreed by all Lenders), each Obligor shall procure GDS Shanghai to transfer all revenues (other than the GDS Shanghai Trapped Amount) received by GDS Shanghai under the GDS Shanghai Service Contracts in respect of Project SH1 to the Receiving Account (WGQ) pursuant to Clause 18.13(b)(i) of this Agreement.

(b) Payments in - Receiving Account (YG)

Unless otherwise permitted under this Agreement,

- (i) on and after the date of this Agreement, EDC YG must ensure all amounts payable to it under the Back-to-Back Agreements (YG) will be directly and immediately paid into the Receiving Account (YG);
- (ii) on and after the date of this Agreement, EDC YG must ensure all amounts payable to it under the Borrower Service Contracts (YG) will be directly and immediately paid into the Receiving Account (YG);
- (iii) on or before the date of the First YG Utilisation Request, EDC YG shall transfer all amounts standing to the credit of each Existing Account under its name, if any, to the Receiving Account (YG), except that the amounts standing to the credit of relevant accounts under the Existing Account Control (Project SH2) shall be transferred to the Receiving Account (YG) in accordance with paragraph 3(c) of Part IV, Schedule 2 (*Conditions Precedent and Conditions Subsequent*);
- (iv) on or before the date of the First YG Utilisation Request, GDS Beijing shall transfer all revenues (other than GDS Beijing Trapped Amount) received by GDS Beijing under GDS Beijing Service Contracts in respect of the Projects (other than Project SH1) to the Receiving Account (YG) pursuant to Clause 18.8(b)(ii);
- (v) on or before the date of the First YG Utilisation Request, GDS Suzhou shall transfer all revenues (other than the GDS Suzhou Trapped Amount) received by GDS Suzhou under the GDS Suzhou Service Contracts in respect of the Projects (other than Project SH1) to the Receiving Account (YG) pursuant to Clause 18.10(b)(ii);
- (vi) on or before the date of the First YG Utilisation Request (or within the time period otherwise provided in this Agreement or agreed by all Lenders), each Obligor shall procure GDS HK to transfer all revenues received by GDS HK under the GDS HK Service

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Contracts in respect of the Projects (other than Project SH1) to the Receiving Account (YG) pursuant to Clause 18.12(b)(ii) of this Agreement; and

- (vii) on or before the date of the First YG Utilisation Request (or within the time period otherwise provided in this Agreement or agreed by all Lenders), each Obligor shall procure GDS Shanghai to transfer all revenues (other than the GDS Shanghai Trapped Amount) received by GDS Shanghai under the GDS Shanghai Service Contracts in respect of the Projects (other than Project SH1) to the Receiving Account (YG) pursuant to Clause 18.13(b)(ii) of this Agreement.

(c) Withdrawals - Receiving Account (WGQ)

EDC WGQ may only withdraw amounts from the Receiving Account (WGQ) on each Waterfall Date (unless indicated otherwise) and only if they are applied for the following purposes in the following order:

- (i) first, transfer an amount equal to the Debt Service Reserve Amount (WGQ) to the Debt Service Reserve Account (WGQ);
- (ii) second, if any, transfer amounts to the Operations Account (WGQ) for the payment of all expenses (including insurance, operational maintenance, Capital Expenditure or other operating expenses) and all Taxes anticipated to be due and payable by EDC WGQ on or before the next Waterfall Date pursuant to the Business Plan in respect of Project SH1 and the Budget;
- (iii) third, if any, transfer an amount equal to one-third of the Debt Service Reserve Amount (WGQ) to the Debt Service Accrual Account (WGQ); and
- (iv) fourth, transfer any remaining amount calculated on the basis of the Excess Cashflow Prepayment Amount (WGQ) to the Excess Cashflow Account (WGQ) in accordance with Clause 18.6(a)(i) of this Agreement (if applicable on that Waterfall Date).

(d) Withdrawals - Receiving Account (YG)

EDC YG may only withdraw amounts from the Receiving Account (YG) on each Waterfall Date (unless indicated otherwise) and only if they are applied for the following purposes in the following order:

- (i) first, to the extent applicable, transfer an amount equal to:
  - (A) the Debt Service Reserve Amount (YG Onshore Loan) to the Debt Service Reserve Account (YG Onshore Loan); and
  - (B) (to the extent applicable) the Debt Service Reserve Amount (YG Offshore Loan) to the Debt Service Reserve Account (YG Offshore Loan),on pro rata basis between the paragraph (A) and paragraph (B) above;
- (ii) second, if any, transfer amounts to the Operations Account (YG) for the payment of all expenses (including insurance, operational maintenance, Capital Expenditure or other operating expenses) and all Taxes anticipated to be due and payable by EDC YG on or

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before the next Waterfall Date pursuant to the Business Plan in respect of the Project SH2 and to the extent applicable, the Project SH3, and the Budget;

- (iii) third, if any and to the extent applicable, transfer an amount equal to:
  - (A) one-third of the Debt Service Reserve Amount (YG Onshore Loan) to the Debt Service Accrual Account (YG Onshore Loan); and
  - (B) (to the extent applicable) one-third of the Debt Service Reserve Amount (YG Offshore Loan) to the Debt Service Accrual Account (YG Offshore Loan),on pro rata basis between the paragraph (A) and paragraph (B) above; and
- (iv) fourth, transfer any remaining amount calculated on the basis of the Excess Cashflow Prepayment Amount (YG) to the Excess Cashflow Account (YG) in accordance with Clause 18.6(a)(iii) of this Agreement (if applicable on that Waterfall Date).

**18.8 Receiving Account (GDS Beijing)**

(a) Payments in

- (i) On or before the date of the first Utilisation Request of the Facilities (or within the time period otherwise provided in this Agreement or agreed by all Lenders), GDS Beijing shall:
  - (A) transfer all amounts standing to the credit of any account of GDS Beijing attributable to the Project SH1 before the date of this Agreement to the Receiving Account (GDS Beijing-WGQ); and
  - (B) transfer all amounts standing to the credit of any account of GDS Beijing attributable to the Projects (other than Project SH1) before the date of this Agreement to the Receiving Account (GDS Beijing-YG).
- (ii) Commencing from the date of this Agreement (or within the time period otherwise provided in this Agreement or agreed by all Lenders), GDS Beijing must ensure:
  - (A) all amounts payable to it under GDS Beijing Service Contracts in respect of the Project SH1 will be directly and immediately paid into the Receiving Account (GDS Beijing-WGQ); and
  - (B) all amounts payable to it under GDS Beijing Service Contracts in respect of the Projects (other than Project SH1) will be directly and immediately paid into the Receiving Account (GDS Beijing-YG).

(b) Withdrawals

Subject to Clause 18.9 (*Receiving Account (GDS Beijing) – Trapped Amount*), GDS Beijing shall not make any other withdrawal from its Receiving Accounts, other than:

- (i) transferring all amounts standing to the credit of Receiving Account (GDS Beijing-WGQ) to the Receiving Account (WGQ) within three (3) Business Days of receipt of such amount; and

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- (ii) transferring all amounts standing to the credit of Receiving Account (GDS Beijing-YG) to the Receiving Account (YG) within three (3) Business Days of receipt of such amount.

**18.9 Receiving Account (GDS Beijing) – Trapped Amount**



- (a) If any amount standing to the credit of the Receiving Account (GDS Beijing-WGQ) may not be transferred to the Receiving Account (WGQ) pursuant to Clause 18.8(b)(i) due to any financial restrictions or prohibitions on GDS Beijing, GDS Beijing must provide relevant supporting documents to the satisfaction of the Facility Agent to explain such restrictions or prohibitions, and upon confirmation by the Facility Agent, the remaining amount standing to the credit of the Receiving Account (GDS Beijing-WGQ) shall constitute a trapped amount (the “**GDS Beijing Trapped Amount (WGQ)**”).
- (b) If any amount standing to the credit of the Receiving Account (GDS Beijing-YG) may not be transferred to the Receiving Account (YG) pursuant to Clause 18.8(b)(ii) due to any financial restrictions or prohibitions on GDS Beijing, GDS Beijing must provide relevant supporting documents to the satisfaction of the Facility Agent to explain such restrictions or prohibitions, and upon confirmation by the Facility Agent, the remaining amount standing to the credit of the Receiving Account (GDS Beijing-YG) shall constitute a trapped amount (the “**GDS Beijing Trapped Amount (YG)**”).
- (c) Upon any amount being a GDS Beijing Trapped Amount (WGQ):
- (i) Subject to paragraphs (ii) and (iii) below, GDS Beijing shall have no obligation to make the transfer of such GDS Beijing Trapped Amount (WGQ) to the Receiving Account (WGQ) pursuant to Clause 18.8(b)(i), but GDS Beijing shall not transfer any GDS Beijing Trapped Amount (WGQ) to any of its other accounts or accounts maintained by any other person without prior written consent of the Facility Agent, except for the application of such GDS Beijing Trapped Amount (WGQ) towards the payments under paragraph (d) of Clause 19.1 (*Guarantee and indemnity*);
- (ii) GDS Beijing and EDC WGQ shall, to the extent permitted under the Governmental Rules, enter into an inter-company loan arrangement to transfer such GDS Beijing Trapped Amount (WGQ) from GDS Beijing to EDC WGQ (the “**GDS Beijing Inter-company Loan Agreement (WGQ)**”); and
- (iii) GDS Beijing and EDC WGQ agree that such inter-company loan under the GDS Beijing Inter-company Loan Agreement (WGQ) shall constitute a Restricted Inter-company Loan and, without limiting their respective obligations under the Subordination Agreement, EDC WGQ shall not prepay or repay, and GDS Beijing will not ask for prepayment or repayment of such inter-company loan during the life of the Loans.
- (d) Upon any amount being a GDS Beijing Trapped Amount (YG):
- (i) Subject to paragraphs (ii) and (iii) below, GDS Beijing shall have no obligation to make the transfer of such GDS Beijing Trapped Amount (YG) to the Receiving Account (YG) pursuant to Clause 18.8(b)(ii), but GDS Beijing shall not transfer any GDS Beijing Trapped Amount (YG) to any of its other accounts or accounts maintained by any other person without prior written consent of the Facility Agent, except for the application of such GDS

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Beijing Trapped Amount (YG) towards the payments under paragraph (d) of Clause 19.1 (*Guarantee and indemnity*);

- (ii) GDS Beijing and EDC YG shall, to the extent permitted under the Governmental Rules, enter into an inter-company loan arrangement to transfer such GDS Beijing Trapped Amount (YG) from GDS Beijing to EDC YG (the “**GDS Beijing Inter-company Loan Agreement (YG)**”); and
- (iii) GDS Beijing and EDC YG agree that such inter-company loan under the GDS Beijing Inter-company Loan Agreement (YG) shall constitute a Restricted Inter-company Loan and, without limiting their respective obligations under the Subordination Agreement, EDC YG shall not prepay or repay, and GDS Beijing will not ask for prepayment or repayment of such inter-company loan during the life of the Loans.
- (e) If, at any time, the restrictions or prohibitions resulting in an amount being a GDS Beijing Trapped Amount (WGQ) or a GDS Beijing Trapped Amount (YG) are removed or no longer subsisting, GDS Beijing must immediately transfer the amount which was (i) a GDS Beijing Trapped Amount (WGQ) to the Receiving Account (WGQ); and/or (ii) a GDS Beijing Trapped Amount (YG) to the Receiving Account (YG).

#### 18.10 Receiving Account (GDS Suzhou)

- (a) Payments in
- (i) On or before the date of the first Utilisation Request of the Facilities, GDS Suzhou shall:
- (A) transfer all amounts standing to the credit of any account of GDS Suzhou attributable to the Project SH1 before the date of this Agreement to the Receiving Account (GDS Suzhou-WGQ); and
- (B) transfer all amounts standing to the credit of any account of GDS Suzhou attributable to the Projects (other than Project SH1) before the date of this Agreement to the Receiving Account (GDS Suzhou-YG).
- (ii) Commencing from the date of this Agreement, GDS Suzhou must ensure:
- (A) all amounts payable to it under the GDS Suzhou Service Contracts in respect of the Project SH1 will be directly and immediately paid into the Receiving Account (GDS Suzhou-WGQ); and
- (B) all amounts payable to it under the GDS Suzhou Service Contracts in respect of the Projects (other than Project SH1) will be directly and immediately paid into the Receiving Account (GDS Suzhou-YG).
- (b) Withdrawals
- Subject to Clause 18.11 (*Receiving Account (GDS Suzhou) – Trapped Amount*), GDS Suzhou shall not make any other withdrawal from its Receiving Accounts, other than:

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- (i) transferring all amounts standing to the credit of Receiving Account (GDS Suzhou-WGQ) to the Receiving Account (WGQ) within three (3) Business Days of receipt of such amount; and
- (ii) transferring all amounts standing to the credit of Receiving Account (GDS Suzhou-YG) to the Receiving Account (YG) within three (3) Business Days of receipt of such amount.

#### 18.11 Receiving Account (GDS Suzhou) – Trapped Amount

- (a) If any amount standing to the credit of the Receiving Account (GDS Suzhou-WGQ) may not be transferred to the Receiving Account (WGQ) pursuant to Clause 18.10(b)(i) due to any financial restrictions or prohibitions on GDS Suzhou, GDS Suzhou must provide relevant supporting documents to the satisfaction of the Facility Agent to explain such restrictions or prohibitions, and upon confirmation by the Facility Agent, the remaining amount standing to the credit of the Receiving Account (GDS Suzhou-WGQ) shall constitute a trapped amount (the “**GDS Suzhou Trapped Amount (WGQ)**”).
- (b) If any amount standing to the credit of the Receiving Account (GDS Suzhou-YG) may not be transferred to the Receiving Account (YG) pursuant to Clause 18.10(b)(ii) due to any financial restrictions or prohibitions on GDS Suzhou, GDS Suzhou must provide relevant supporting documents to the satisfaction of the Facility Agent to explain such restrictions or prohibitions, and upon confirmation by the Facility Agent, the remaining amount standing to the credit of the Receiving Account (GDS Suzhou-YG) shall constitute a trapped amount (the “**GDS Suzhou Trapped Amount (YG)**”).
- (c) Upon any amount being a GDS Suzhou Trapped Amount (WGQ):
- (i) Subject to paragraphs (ii) and (iii) below, GDS Suzhou shall have no obligation to make the transfer of such GDS Suzhou Trapped Amount (WGQ) to the Receiving Account (WGQ) pursuant to Clause 18.10(b)(i), but GDS Suzhou shall not transfer any GDS Suzhou Trapped Amount (WGQ) to any of its other accounts or accounts maintained by any other person without prior written consent of the Facility Agent, except for the application of such GDS Suzhou Trapped Amount (WGQ) towards the payments under paragraph (d) of Clause 19.1 (*Guarantee and indemnity*);
- (ii) GDS Suzhou and EDC WGQ shall, to the extent permitted under the Governmental Rules, enter into an inter-company loan arrangement to transfer such GDS Suzhou Trapped Amount (WGQ) from GDS Suzhou to EDC WGQ (the “**GDS Suzhou Inter-company Loan Agreement (WGQ)**”); and
- (iii) GDS Suzhou and EDC WGQ agree that such inter-company loan under the GDS Suzhou Inter-company Loan Agreement (WGQ) shall constitute a Restricted Inter-company Loan and, without limiting their respective obligations under the Subordination Agreement, EDC WGQ shall not prepay or repay, and GDS Suzhou will not ask for prepayment or repayment of such inter-company loan during the life of the Loans.
- (d) Upon any amount being a GDS Suzhou Trapped Amount (YG):
- (i) Subject to paragraphs (ii) and (iii) below, GDS Suzhou shall have no obligation to make the transfer of such GDS Suzhou Trapped Amount (YG) to the Receiving Account (YG) pursuant

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to Clause 18.10(b)(ii), but GDS Suzhou shall not transfer any GDS Suzhou Trapped Amount (YG) to any of its other accounts or accounts maintained by any other person without prior written consent of the Facility Agent, except for the application of such GDS Suzhou Trapped Amount (YG) towards the payments under paragraph (d) of Clause 19.1 (*Guarantee and indemnity*);

- (ii) GDS Suzhou and EDC YG shall, to the extent permitted under the Governmental Rules, enter into an inter-company loan arrangement to transfer such GDS Suzhou Trapped Amount (YG) from GDS Suzhou to EDC YG (the “**GDS Suzhou Inter-company Loan Agreement (YG)**”); and
  - (iii) GDS Suzhou and EDC YG agree that such inter-company loan under the GDS Suzhou Inter-company Loan Agreement (YG) shall constitute a Restricted Inter-company Loan and, without limiting their respective obligations under the Subordination Agreement, EDC YG shall not prepay or repay, and GDS Suzhou will not ask for prepayment or repayment of such inter-company loan during the life of the Loans.
- (e) If, at any time, the restrictions or prohibitions resulting in an amount being a GDS Suzhou Trapped Amount (WGQ) or a GDS Suzhou Trapped Amount (YG) are removed or no longer subsisting, GDS Suzhou must immediately transfer the amount which was (i) a GDS Suzhou Trapped Amount (WGQ) to the Receiving Account (WGQ); and/or (ii) a GDS Suzhou Trapped Amount (YG) to the Receiving Account (YG).

#### 18.12 Receiving Account (GDS HK)

- (a) Payments in
- (i) On or before the date of the first Utilisation Request of the Facilities (or within the time period otherwise provided in this Agreement or agreed by all Lenders), each Obligor shall procure GDS HK to:
    - (A) transfer all amounts standing to the credit of any account of GDS HK attributable to the Project SH1 before the date of this Agreement to the Receiving Account (GDS HK-WGQ); and
    - (B) transfer all amounts standing to the credit of any account of GDS HK attributable to the Projects (other than Project SH1) before the date of this Agreement to the Receiving Account (GDS HK-YG).
  - (ii) Commencing from the date of this Agreement (or within the time period otherwise provided in this Agreement or agreed by all Lenders), each Obligor shall procure GDS HK to ensure:
    - (A) all amounts payable to it under GDS HK Service Contracts in respect of the Project SH1 will be directly and immediately paid into the Receiving Account (GDS HK-WGQ); and
    - (B) all amounts payable to it under GDS HK Service Contracts in respect of the Projects (other than Project SH1) will be directly and immediately paid into the Receiving Account (GDS HK-YG).

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(b) Withdrawals

Each Obligor shall procure GDS HK will not make any other withdrawal from its Receiving Accounts, other than:

- (i) transferring all amounts standing to the credit of Receiving Account (GDS HK-WGQ) to the Receiving Account (WGQ) within three (3) Business Days of receipt of such amount; and
- (ii) transferring all amounts standing to the credit of Receiving Account (GDS HK-YG) to the Receiving Account (YG) within three (3) Business Days of receipt of such amount.

#### 18.13 Receiving Account (GDS Shanghai)

- (a) Payments in
- (i) On or before the date of the first Utilisation Request of the Facilities (or within the time period otherwise provided in this Agreement or agreed by all Lenders), each Obligor shall procure GDS Shanghai to:
    - (A) transfer all amounts standing to the credit of any account of GDS Shanghai attributable to the Project SH1 before the date of this Agreement to the Receiving Account (GDS Shanghai-WGQ); and
    - (B) transfer all amounts standing to the credit of any account of GDS Shanghai attributable to the Projects (other than Project SH1) before the date of this Agreement to the Receiving Account (GDS Shanghai-YG).
  - (ii) Commencing from the date of this Agreement (or within the time period otherwise provided in this Agreement or agreed by all Lenders), each Obligor shall procure GDS Shanghai to ensure:
    - (A) all amounts payable to it under GDS Shanghai Service Contracts in respect of the Project SH1 will be directly and immediately paid into the Receiving Account (GDS Shanghai-WGQ); and
    - (B) all amounts payable to it under GDS Shanghai Service Contracts in respect of the Projects (other than Project SH1) will be directly and immediately paid into the Receiving Account (GDS Shanghai-YG).

(b) Withdrawals

Subject to Clause 18.14 (*Receiving Account (GDS Shanghai) – Trapped Amount*), each Obligor shall procure GDS Shanghai will not make any other withdrawal from its Receiving Accounts, other than:

- (i) transferring all amounts standing to the credit of Receiving Account (GDS Shanghai-WGQ) to the Receiving Account (WGQ) within three (3) Business Days of receipt of such amount; and
- (ii) transferring all amounts standing to the credit of Receiving Account (GDS Shanghai-YG) to the Receiving Account (YG) within three (3) Business Days of receipt of such amount.

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#### 18.14 Receiving Account (GDS Shanghai) – Trapped Amount

- (a) If any amount standing to the credit of the Receiving Account (GDS Shanghai-WGQ) may not be transferred to the Receiving Account (WGQ) pursuant to Clause 18.13(b)(i) due to any financial restrictions or prohibitions on GDS Shanghai, each Obligor must procure GDS Shanghai to provide relevant supporting documents to the satisfaction of the Facility Agent to explain such restrictions or prohibitions, and upon confirmation by the Facility Agent, the remaining amount standing to the credit of the Receiving Account (GDS Shanghai-WGQ) shall constitute a trapped amount (the “**GDS Shanghai Trapped Amount (WGQ)**”).
- (b) If any amount standing to the credit of the Receiving Account (GDS Shanghai-YG) may not be transferred to the Receiving Account (YG) pursuant to Clause 18.13(b)(ii) due to any financial restrictions or prohibitions on GDS Shanghai, each Obligor must procure GDS Shanghai to provide relevant supporting documents to the satisfaction of the Facility Agent to explain such restrictions or prohibitions, and upon confirmation by the Facility Agent, the remaining amount standing to the credit of the Receiving Account (GDS Shanghai-YG) shall constitute a trapped amount (the “**GDS Shanghai Trapped Amount (YG)**”).
- (c) Upon any amount being a GDS Shanghai Trapped Amount (WGQ):
- (i) Subject to paragraphs (ii) and (iii) below, GDS Shanghai shall have no obligation to make the transfer of such GDS Shanghai Trapped Amount (WGQ) to the Receiving Account (WGQ) pursuant to Clause 18.13(b)(i), but each Obligor shall procure GDS Shanghai will not transfer any GDS Shanghai Trapped Amount (WGQ) to any of its other accounts or accounts maintained by any other person without prior written consent of the Facility Agent;
  - (ii) Each Obligor shall procure GDS Shanghai to, and EDC WGQ shall, to the extent permitted under the Governmental Rules, enter into an inter-company loan arrangement to transfer such GDS Shanghai Trapped Amount (WGQ) from GDS Shanghai to EDC WGQ (the “**GDS Shanghai Inter-company Loan Agreement (WGQ)**”); and
  - (iii) Each Obligor shall procure GDS Shanghai to agree, and EDC WGQ agrees that such inter-company loan under the GDS Shanghai Inter-company Loan Agreement (WGQ) shall constitute a Restricted Inter-company Loan and, without limiting their respective obligations under the Subordination Agreement, EDC WGQ shall not prepay or repay, and each Obligor shall procure GDS Shanghai will not ask for prepayment or repayment of such inter-company loan during the life of the Loans.
- (d) Upon any amount being a GDS Shanghai Trapped Amount (YG):
- (i) Subject to paragraphs (ii) and (iii) below, GDS Shanghai shall have no obligation to make the transfer of such GDS Shanghai Trapped Amount (YG) to the Receiving Account (YG) pursuant to Clause 18.13(b)(ii), but each Obligor shall procure GDS Shanghai will not transfer any GDS Shanghai Trapped Amount (YG) to any of its other accounts or accounts maintained by any other person without prior written consent of the Facility Agent;
  - (ii) Each Obligor shall procure GDS Shanghai to, and EDC YG shall, to the extent permitted under the Governmental Rules, enter into an inter-company loan arrangement to transfer such GDS Shanghai Trapped Amount (YG) from GDS Shanghai to EDC YG (the “**GDS Shanghai Inter-company Loan Agreement (YG)**”); and

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- (iii) Each Obligor shall procure GDS Shanghai to agree, and EDC YG agrees that such inter-company loan under the GDS Shanghai Inter-company Loan Agreement (YG) shall constitute a Restricted Inter-company Loan and, without limiting their respective obligations under the Subordination Agreement, EDC YG shall not prepay or repay, and each Obligor shall procure GDS Shanghai will not ask for prepayment or repayment of such inter-company loan during the life of the Loans.

(e) If, at any time, the restrictions or prohibitions resulting in an amount being a GDS Shanghai Trapped Amount (WGQ) or a GDS Shanghai Trapped Amount (YG) are removed or no longer subsisting, each Obligor must procure GDS Shanghai to immediately transfer the amount which was (i) a GDS Shanghai Trapped Amount (WGQ) to the Receiving Account (WGQ); and/or (ii) a GDS Shanghai Trapped Amount (YG) to the Receiving Account (YG).

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**SECTION 7  
GUARANTEE**

**19. GUARANTEE AND INDEMNITY**

**19.1 Guarantee and indemnity**

Each Guarantor (other than the Ultimate Parent) irrevocably and unconditionally jointly and severally:

- (a) guarantees to each Secured Party punctual performance by each Obligor Party of all that Obligor Party's obligations under the Transaction Documents;
- (b) undertakes with each Secured Party that whenever any Obligor Party does not pay any amount when due under or in connection with any Transaction Document, the Guarantor shall immediately on demand pay that amount as if it was the principal obligor;
- (c) agrees with each Secured Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Secured Party immediately on demand against any cost, loss or liability it incurs as a result of any Obligor Party not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Transaction Document on the date when it would have been due. The amount payable by such Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 19 if the amount claimed had been recoverable on the basis of a guarantee; and
- (d) Notwithstanding clause (b) and (c) above, the Guarantors further agree that, whenever any Obligor Party has any amount due and payable under or in connection with any Transaction Document, the Security Agent shall be entitled to directly claim against any Guarantor in respect of any amount payable on any due date without first having recourse to such Obligor Party, and the Guarantors agree to pay each Secured Party such amount on or before each due date. The Guarantors further irrevocably authorise the Security Agent to directly deduct any balances in the Accounts to pay the amount payable on each due date, and the Security Agent is not required to serve any prior notice for such claim and deduction.

**19.2 Continuing guarantee**

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Obligor Party under the Transaction Documents, regardless of any intermediate payment or discharge in whole or in part.

**19.3 Reinstatement**

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor Party or any security for those obligations or otherwise) is made by a Secured Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Guarantor under this Clause 19 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

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**19.4 Waiver of defences**

The obligations of each Guarantor under this Clause 19 will not be affected by an act, omission, matter or thing which, but for this Clause 19, would reduce, release or prejudice any of its obligations under this Clause 19 (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor Party or other person;
- (b) the release of any other Obligor Party or any other person under the terms of any composition or arrangement with any creditor of any Obligor Party;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, execute, take up or enforce, any rights against, or security over assets of, any Obligor Party or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor Party or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Transaction Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Transaction Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Transaction Document or any other document or security;
- (g) any insolvency or similar proceedings; or
- (h) this Agreement or any other Transaction Document not being executed by or binding upon any other party.

**19.5 Immediate recourse**

Each Guarantor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under this Clause 19. This waiver applies irrespective of any law or any provision of a Transaction Document to the contrary.

**19.6 Appropriations**

Until all amounts which may be or become payable by the Obligor Parties under or in connection with the Transaction Documents have been irrevocably paid in full, each Secured Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Secured Party (or any trustee or agent on its behalf) in respect of those amounts, or

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apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and

- (b) hold in an interest-bearing suspense account any moneys received from any Guarantor or on account of its liability under this Clause 19.

**19.7 Deferral of Guarantors' rights**

Until all amounts which may be or become payable by the Obligor Parties under or in connection with the Transaction Documents have been irrevocably paid in full and unless the Facility Agent otherwise directs, no Guarantor will exercise or otherwise enjoy the benefit of any right which it may have by reason of performance by it of its obligations under the Transaction Documents or by reason of any amount being payable, or liability arising, under this Clause 19:

- (a) to be indemnified by an Obligor Party;
- (b) to claim any contribution from any other guarantor of or provider of security for any Obligor Party's obligations under the Transaction Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Transaction Documents or of any other guarantee or security taken pursuant to, or in connection with, the Transaction Documents by any Secured Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor Party to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under Clause 19.1 (*Guarantee and Indemnity*);
- (e) to exercise any right of set-off against any Obligor Party; and/or
- (f) to claim or prove as a creditor of any Obligor Party in competition with any Secured Party.

If a Guarantor shall receive any benefit, payment or distribution in relation to any such right it shall hold that benefit, payment or distribution (or so much of it as may be necessary to enable all amounts which may be or become payable to the Secured Parties by the Obligor Parties under or in connection with the Transaction Documents to be paid in full) on trust for the Secured Parties, and shall promptly pay or transfer the same to the Facility Agent or as the Facility Agent may direct for application in accordance with Clause 32 (*Payment mechanics*).

#### 19.8 Additional security

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Secured Party.

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### SECTION 8 REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

#### 20. REPRESENTATIONS

Each Obligor makes the representations and warranties set out in this Clause 20 to each Finance Party on the date of this Agreement.

##### 20.1 Status

- (a) Each Obligor Party is a corporation, duly incorporated and validly existing, and in the case of the Ultimate Parent and the Intermediate Parent, in good standing under the laws of the jurisdiction of its incorporation.
- (b) Each Obligor Party and its Subsidiaries has the power to own its assets and carry on its business as it is being conducted.
- (c) Each Obligor Party is not a FATCA FFI or a US Tax Obligor.

##### 20.2 Binding obligations

- (a) The obligations expressed to be assumed by each Obligor Party 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 under this Agreement, legal, valid, binding and enforceable obligations.
- (b) Without limiting the generality of paragraph (a) above, each Transaction Security Document to which an Obligor Party is a party creates the security interests which that Transaction Security Document purports to create and those security interests are valid and effective.

##### 20.3 Non-conflict with other obligations

The entry into and performance by each Obligor Party of, and the transactions contemplated by, the Finance Documents and the granting of the Transaction Security do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets.

##### 20.4 Power and authority

Each Obligor Party 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.

##### 20.5 Validity and admissibility in evidence

Except for approval or registration of the Transaction Security Documents referred to in Clause 20.8 (*No filing or stamp taxes*), all Authorisations required or desirable:

- (a) to enable each Obligor Party lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party;

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- (b) to make the Finance Documents to which an Obligor Party is a party admissible in evidence in its Relevant Jurisdiction; and
- (c) for each Obligor Party to carry on its business, and which are material,

have been obtained or effected and are in full force and effect.

##### 20.6 Governing law and enforcement

- (a) The choice of governing law of the Finance Documents will be recognised and enforced in the jurisdiction of incorporation of each Obligor Party, and any jurisdiction where any asset subject to or intended to be subject to the Transaction Security Documents is located and any jurisdiction where they conduct their business.
- (b) Any judgment obtained in relation to a Finance Document in the jurisdiction of the governing law of that Finance Document will be recognised and enforced in the jurisdiction of incorporation of each Obligor Party, and any jurisdiction where any asset subject to or intended to be subject to the Transaction Security Documents is located and any jurisdiction where they conduct their business.

##### 20.7 Taxes

- (a) It is not required under the law applicable where an Obligor Party is incorporated or resident or at the address specified in the Finance Documents to make any deduction for or on account of Tax from any payment it may make under any Finance Document.
- (b) No claims are being, nor, as far as it is aware, might reasonably be expected to be, asserted against any Obligor Party with respect to Taxes which have or, if adversely determined to it, would be reasonably likely to have a Material Adverse Effect.
- (c) All Tax reports and returns required to be filed by or on behalf of any Obligor Party have been filed.
- (d) All Taxes required to be paid by or on behalf of any Obligor Party have been paid within the applicable time limit.

##### 20.8 No filing or stamp taxes

It is not necessary under the laws of its Relevant Jurisdictions 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 for:

- (a) the approval of movable assets mortgages under the Movable Assets Mortgage Agreement (WGQ SH1 Onshore) and the Movable Assets Mortgage Agreement (YG SH2 Onshore) from the Custom;
- (b) the registration of movable assets mortgages under the Movable Assets Mortgage Agreement (WGQ SH1 Onshore) and the Movable Assets Mortgage Agreement (YG SH2 Onshore) with SAIC;

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- (c) the registration of account receivables pledge under the Pledge over Receivables (WGQ), the Pledge over Receivables (YG), the Pledge over Receivables (GDS Suzhou), the Pledge over Receivables (GDS Beijing) and Pledge over Receivables (GDS Shanghai) with PBOC Information Center;
- (d) the approval or filing of equity pledge under the Equity Pledge Agreement (YG Onshore Loan) by or with MOFCOM;
- (e) the registration of equity pledge under the Equity Pledge Agreement (YG Onshore Loan) with SAIC and Hong Kong Companies Registry;
- (f) (after the EDC WGQ Restructuring) the registration of equity pledge under the Equity Pledge Agreement (WGQ Onshore Loan) with SAIC;

- (g) the payment of Cayman Islands stamp duties in respect of the Share Mortgage Agreement (Parent (EDC YG)), this Agreement and the Ultimate Parent Guarantee if such agreement is executed in, brought into, or produced before a court of, the Cayman islands;
- (h) the payment of stamp duties in respect of this Agreement; and
- (i) the payment of registration or filing fees (if any) payable to the relevant authorities with respect to the approval and registrations specified in paragraph (a) to (h) above.

#### 20.9 No default

- (a) No 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 any Obligor Party or to which its assets are subject which might have a Material Adverse Effect.

#### 20.10 No misleading information

- (a) Any written and factual information provided by any Obligor Party to the Finance Parties and any transaction contemplated by them is 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 materials provided by any Obligor Party to the Finance Parties under this Agreement have been prepared on the basis of recent historical information and on the basis of reasonable assumptions.
- (c) Nothing has occurred since the date the written and factual information was provided which renders the written and factual information untrue or misleading in any material respect.
- (d) All material information in relation to each Project and each Facility have been provided to the Finance Parties.

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#### 20.11 Financial statements

- (a) The financial statements most recently supplied by each Obligor Party to the Facility Agent (which, at the date of this Agreement, are the Original Financial Statements) were prepared in accordance with GAAP consistently applied save to the extent expressly disclosed in such financial statements.
- (b) The financial statements most recently supplied by each Obligor Party to the Facility Agent (which, at the date of this Agreement, are the Original Financial Statements) give a true and fair view and represent its financial condition and operations (consolidated, in the case of the Ultimate Parent) during the relevant financial year save to the extent expressly disclosed in such financial statements.
- (c) There has been no material adverse change in the business or financial condition of the Obligor Parties (or the business or consolidated financial condition of the Group, in the case of the Ultimate Parent) since the date of the Original Financial Statements.

#### 20.12 Pari passu ranking

The payment obligations of each Obligor Party 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.

#### 20.13 No proceedings pending or threatened

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 have (to the best of its knowledge and belief) been started or threatened against any Obligor Party.

#### 20.14 No breach of applicable laws

None of the Obligor Parties has breached any applicable law, rule, regulation or any agreements which breach, and no amount that is payable by any Obligor Party under any applicable law, rule, regulation or any agreements or any Authorisation has not been paid where such failure to pay, has or is reasonably likely to have a Material Adverse Effect or result in revocation or non-renewal of IDC Licenses.

#### 20.15 Authorised Signatures

Any person specified as its authorised signatory under Schedule 2 (*Conditions precedent and conditions subsequent*) or paragraph (h) of Clause 21.9 (*Information: miscellaneous*) is authorised to sign Utilisation Requests (in the case of a Borrower only) and other notices on its behalf.

#### 20.16 Ranking of Security

The Transaction Security has or will have the ranking in priority which it is expressed to have in the Transaction Security Documents and it is not subject to any prior ranking or *pari passu* ranking Security.

#### 20.17 Solvency

- (a) No Obligor Party is bankrupt or insolvent or unable to pay its debts (including subordinated and contingent debts), nor could it be deemed by a court to be unable to pay its debts within the meaning

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of the law of the jurisdiction in which it is incorporated, nor, in any such case, will it become so in consequence of entering into any Finance Document and/or performing any transaction contemplated by any Finance Document.

- (b) No Obligor Party has taken any corporate action nor has any legal proceedings or other procedures or steps been taken, started or threatened in relation to anything referred to in Clause 24.7 (*Insolvency proceedings*).

#### 20.18 No other business

- (a) As at the date of this Agreement, each Borrower does not have any Subsidiaries.
- (b) No Borrower has traded or carried on any business since the date of its incorporation other than the ownership, operation, maintenance and management of the Projects in connection with its data center infrastructure business or other businesses as recorded in its latest business license.

#### 20.19 Ownership

- (a) Subject to the Transaction Security, (i) prior to the EDC WGQ Restructuring, EDC WGQ's entire equity interest is legally and beneficially owned and controlled by EDC China; and (ii) following the EDC WGQ Restructuring, EDC WGQ's entire equity interest is legally owned and controlled by GDS Beijing but beneficially owned and controlled by the GDS Management Co., and the registered capital corresponding to the equity interests in EDC WGQ are fully paid and such equity interests are not subject to any option to purchase or similar rights or any security interests (other than the Transaction Security).
- (b) Subject to the Transaction Security, EDC YG's entire equity interest is legally and beneficially owned and controlled by the Parent (EDC YG), and the registered capital corresponding to the equity interests in EDC YG are fully paid and such equity interests are not subject to any option to purchase or similar rights or any security interests (other than the Transaction Security).
- (c) Subject to the Transaction Security, the entire issued share capital of EDC China and Parent (EDC YG) is legally and beneficially owned and controlled by the Intermediate Parent, and the shares in the capital of EDC China and Parent (EDC YG) are fully paid and are not subject to any option to purchase or similar rights or any security interests (other than the Transaction Security).
- (d) The Intermediate Parent's entire issued share capital is legally and beneficially owned and controlled by the Ultimate Parent, and such shares in the capital of the Intermediate Parent are fully paid and not subject to any option to purchase or similar rights or any security interests. Prior to a Flotation, no less than 40 per cent., and following a Flotation, no less than 30 per cent., of the issued share capital of the Ultimate Parent is legally and beneficially owned and controlled by the STT GDC and such shares in the capital of the Ultimate Parent are fully paid and not subject to any option to purchase or similar rights or any security interests, and STT GDC is the single and largest shareholder of the Ultimate Parent.
- (e) No less than 50.1 per cent. of the issued share capital of STT GDC is legally and beneficially owned and controlled by the Sponsor and such shares in the capital of the STT GDC are fully paid and not subject to any option to purchase or similar rights or any security interests at all times, and the Sponsor is the single and largest shareholder of the STT GDC.

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- (f) Subject to the VIE Equity Pledges, the VIE Exclusive Share Option Agreement and the VIE Shareholders' Voting Rights Proxy Agreement, GDS Beijing's entire equity interest is legally owned by William Huang and Qiuping Huang but beneficially owned and controlled by the GDS Management Co..
- (g) Around 4.8% of registered capital in GDS Beijing are fully paid as at the date of this Agreement and the equity interests corresponding to all registered capital of GDS Beijing are not subject to any option to purchase or similar rights or any security interests (other than the VIE Exclusive Share Option Agreement and the VIE Equity Pledges).
- (h) GDS Suzhou's entire equity interest is legally owned and controlled by GDS Beijing but beneficially owned and controlled by the GDS Management Co.. The registered capital corresponding to the equity interests in GDS Suzhou is fully paid and such equity interests are not subject to any option to purchase or similar rights or any security interests.
- (i) The entire equity interests of the GDS Management Co. are (either directly or indirectly) legally and beneficially owned and controlled by the Ultimate Parent, and the registered capital corresponding to the equity interests in the GDS Management Co. is fully paid and such equity interests are not subject to any option to purchase or similar rights or any security interests.

#### 20.20 Shares

Provided that an Obligor Party's shares or equity interests are required to be subject to the Transaction Security and (to the extent applicable) the Offshore Loan Security, the constitutional documents of such Obligor Party do not and could not restrict or inhibit any transfer of those shares or equity interests on creation or enforcement of the Transaction Security and (to the extent applicable) the Offshore Loan Security. Except as provided in the Transaction Security Documents and (to the extent applicable) the Offshore Loan Security Documents and subject to the VIE Equity Pledges and the VIE Exclusive Share Option Agreement, there are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share, equity interests or loan capital of any Obligor Party (other than the Ultimate Parent) (including any option or right of pre-emption or conversion).

#### 20.21 Immunity

- (a) The entry into by each Obligor Party of each Finance Document constitutes, and the exercise by it of its rights and performance of its obligations under each Finance Document will constitute, private and commercial acts performed for private and commercial purposes.
- (b) None of any Obligor Party will be entitled to claim immunity from suit, execution, attachment or other legal process in any proceedings taken in its jurisdiction of incorporation in relation to any Finance Document.

#### 20.22 Project Documents

As at the date of this Agreement:

- (a) each copy of a Project Document delivered to the Facility Agent under this Agreement is true and complete;

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- (b) there is no other agreement in connection with, or arrangements which amend, supplement or affect any Project Document;
- (c) there are no claims pending or threatened against it under any Project Document; and
- (d) no Obligor Party has breached any of its material obligations under the Project Documents and there is no dispute in connection with any Project Document, in each case, which has or is reasonably likely to have a Material Adverse Effect.

#### 20.23 Existing Accounts

No other bank accounts are maintained by any Borrower other than (a) the Existing Accounts (which shall be closed pursuant to this Agreement except for the basic accounts of each Borrower, foreign debt accounts of EDC WGQ and the company credit card account of EDC WGQ); (b) (if any) the bank accounts opened pursuant to Offshore Finance Documents; and/or (c) the relevant Accounts opened and maintained with the Account Bank.

#### 20.24 Good title to assets

Each Obligor Party has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as presently conducted.

#### 20.25 Legal and beneficial ownership

Each Obligor Party is the sole legal and beneficial owner of the respective assets over which it purports to grant Security.

#### 20.26 No Financial Indebtedness or Security

- (a) The Borrowers, GDS Management Co., GDS Suzhou and GDS Beijing do not have any Financial Indebtedness other than as permitted by Clause 23.13 (*Financial Indebtedness*).
- (b) No Security exists over all or any of assets of GDS Management Co., GDS Beijing, GDS Suzhou or the Borrowers other than as permitted by Clause 23.4 (*Negative pledge*).

#### 20.27 Insurances

In respect of each Borrower and the relevant Projects:

- (a) after the first Utilisation Date under this Agreement, the Insurances are valid and in full force and effect and are not void or voidable;
- (b) no notice has been given or received in respect of cancellation of all or any part of the Insurances; and
- (c) all premiums and other moneys (if any) payable in respect of Insurances have been duly paid and, to the best of its knowledge and belief, all covenants, terms and conditions contained in the Insurances have been duly observed and performed.

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#### 20.28 Business Plan and Budget

- (a) The Business Plan in relation to Project SH1, Project SH2 and Project SH3, and the Budget (in each case whether draft or otherwise) as at its date:
  - (i) was true and accurate in all material respects;
  - (ii) was prepared in good faith and with due care on the basis of recent historical information and assumptions believed by it to be reasonable; and
  - (iii) fairly represented the Borrowers' expectations in relation to the matters covered in those documents.
- (b) It is not aware of any information which, if disclosed, would make the Business Plan in relation to Project SH1, Project SH2 or Project SH3, or the current Budget untrue or misleading in any material respect.
- (c) Each of the Business Plan in relation to Project SH1, Project SH2 and Project SH3, and the current Budget specifies (at the date of delivery to the Facility Agent) all material costs and expenses incurred or to be incurred during the period to which it relates and is based on reasonable assumptions made in good faith and represents the relevant Borrower's view as to costs and expenses anticipated by it to be incurred.

#### 20.29 Anti-bribery, anti-corruption and anti-money laundering

None of any Obligor Party, any of its Subsidiaries, their respective directors or officers, or, to the best knowledge of each Obligor Party, any Affiliate, agent or employee of either Obligor Party, has engaged in any activity or conduct which would violate any applicable anti-bribery, anti-corruption or anti-money laundering laws or regulations in any applicable jurisdiction and each Obligor Party has instituted and maintains policies and procedures designated to prevent violation of such laws, regulations and rules.

#### 20.30 Sanctions

None of the Obligor Parties, any of its Subsidiaries, their respective directors or officers, or, to the best knowledge of each Obligor Party, any Affiliate, agent or employee of either Obligor Party, is an individual or entity, that is, or is owned or controlled by such individual or entity that are:

- (a) the subject, or likely to become the subject, of any Sanctions (a "Sanctioned Person"); or

- (b) located, organised or resident in a country or territory that is, or whose government is, the subject of Sanctions broadly prohibiting dealings with such government, country, or territory (a “Sanctioned Country”).

### 20.31 Repetition

The Repeating Representations are deemed to be made by each Obligor by reference to the facts and circumstances then existing on the date of each Utilisation Request and the first day of each Interest Period.

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## 21. INFORMATION UNDERTAKINGS

The undertakings in this Clause 21 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.

### 21.1 Financial statements

Each Obligor shall supply to the Facility Agent in sufficient copies for all the Lenders:

- (a) as soon as the same become available, but in any event within 150 days after the end of each of its Financial Years:
- (i) in respect of the Ultimate Parent, its audited consolidated financial statements of the Group (in any event GDS Beijing and the Borrowers shall remain consolidated thereunder) for that Financial Year, which have been reviewed and verified by the independent auditor acceptable to all Lenders; and
  - (ii) in respect of each Obligor (other than the Ultimate Parent), its audited financial statements for that Financial Year and the pro-forma consolidated financial statements of the Borrowers, which have been reviewed and verified by the independent auditor acceptable to all Lenders; and
- (b) as soon as the same become available, but in any event within 90 days after the end of each half of each of its Financial Years:
- (i) in respect of the Ultimate Parent, its consolidated financial statements of the Group (in any event GDS Beijing and the Borrowers shall remain consolidated thereunder) for that half of Financial Year; and
  - (ii) in respect of each Obligor (other than the Ultimate Parent), its financial statements for that half of Financial Year.
- (c) as soon as they are available, but in any event within 45 days after the end of each Financial Quarter of each of its Financial Years:
- (i) in respect of the Ultimate Parent, its unaudited consolidated financial statements of the Group (in any event GDS Beijing and the Borrowers shall remain consolidated thereunder) for that Financial Quarter; and
  - (ii) in respect of each Obligor (other than the Ultimate Parent), its unaudited financial statements for that Financial Quarter.

### 21.2 Compliance Certificate

- (a) Each Borrower shall supply to the Facility Agent, with each set of financial statements delivered pursuant to Clause 21.1 (*Financial statements*), a Compliance Certificate setting out (in reasonable detail) computations as to compliance with Clause 22 (*Financial covenants*) and Excess Cashflow as calculated based on the definition of “Excess Cashflow” pursuant to Clause 22.1 (*Financial definitions*) as at the date as at which those financial statements were drawn up.

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Each Compliance Certificate delivered by the Borrowers pursuant to paragraph (a) above shall be signed by one of the EDC WGQ’s authorised signatories together with one of EDC YG’s authorised signatories.

### 21.3 Requirements as to financial statements

- (a) Each set of financial statements delivered by each Obligor pursuant to Clause 21.1 (*Financial statements*) shall be certified by a director of the relevant company as fairly representing its financial condition as at the date as at which those financial statements were drawn up.
- (b) Each Obligor shall ensure that each set of its financial statements delivered pursuant to Clause 21.1 (*Financial statements*) is prepared using GAAP, accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements for that Obligor unless, in relation to any set of financial statements, it notifies the Facility Agent that there has been a change in GAAP, the accounting practices or reference periods and its auditors (or, if appropriate, the auditors of the Obligor) deliver to the Facility 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 of that Obligor were prepared; and
  - (ii) sufficient information, in form and substance as may be reasonably required by the Facility Agent, to enable the Lenders to determine whether Clause 22 (*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 of that Obligor.
- (c) 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.

### 21.4 Presentations

Once in every Financial Year, at least one of senior management of each Borrower and one of senior management of the Ultimate Parent must give a presentation upon reasonable notice and at a reasonable time to the Finance Parties about the on-going business and financial performance of each Borrower and the Group respectively.

### 21.5 Submission of Budget

- (a) On or before the date of the first Utilisation Request, each Borrower shall supply to the Facility Agent for its approval in sufficient copies for all the Lenders an annual draft Budget (including the detailed budget for last quarter of that Financial Year) for the Financial Year ending 31 December 2016.
- (b) Commencing with the Financial Year starting 1 January 2017, each Borrower shall supply to the Facility Agent for its consent in sufficient copies for all the Lenders, as soon as the same become available but in any event within 30 days before the start of each of its Financial Years, an annual draft Budget for that Financial Year, and within 60 days after the start of each of its Financial Year, a final Budget for that Financial Year as approved by its board of directors or its executive director (as applicable).

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- (c) When any amount needs to be funded pursuant to a Budget of a Financial Year, in case that a final Budget is not available for that Financial Year, such amount shall be determined according to figures applicable to the last month in the Budget of the immediately previous Financial Year.
- (d) Each Borrower shall ensure that each draft Budget:
- (i) includes a profit and loss, balance sheet, cashflow statement for that Borrower and projected financial covenant calculations;
  - (ii) specifies (A) details of revenues with a breakdown including revenues received from the customers existing as of the date of the Budget and expected revenues to be received from the new coming customers after the date of the Budget with customers being identified; and (B) the remaining term of all Service Contracts (including the Qualified Service Contracts) existing as of the date of the Budget and the remaining Contract Value during such remaining term;
  - (iii) is accompanied with necessary documents and information evidencing the status of Business Plan and its Capital Expenditures; and
  - (iv) is prepared in accordance with the GAAP.
- (e) The Facility Agent shall, within fifteen (15) Business Days of receipt of any draft Budget (but for an initial Budget delivered by a Borrower pursuant to paragraph (a) above, before the date of the first Utilisation Request delivered by a Borrower), notify that Borrower whether or not it is approved for the purposes of this Agreement.
- (f) After the Budget is approved by the Facility Agent, the relevant Borrower shall not amend or modify the Budget at any time without the prior written consent of the Facility Agent.

(g) The draft Budget for that Financial Year and each line item in such draft Budget will only become effective upon approval by the Facility Agent and become the final Budget for the Financial Year in which it is approved by the Facility Agent.

#### 21.6 Quarterly Reports

- (a) Within 30 days after the last day of each Financial Quarter, each Borrower shall provide to the Facility Agent an operating statement in relation to the relevant Project(s) (if applicable), which shall specify the details of existing service status, new customers prospects, anticipated customers move-in schedule, actual move-in customers, contractual move-in customers, occupancy percentage, services annual renewal progress and turnover rate, etc.
- (b) Within 30 days after the last day of each Financial Quarter, but before each Project reaches 90% occupation, each Borrower shall provide to the Facility Agent a regular update on the construction progress of such Project, together with necessary documents as may be reasonably required by the Facility Agent.

#### 21.7 IDC License Renewal

Within 90 days before the expiry date of any IDC License, the Obligors' Agent shall provide to the Facility Agent an update in respect of the status of an application for the renewal of that IDC License

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(including any IDC Authorization), together with any information or documents as may be reasonably required by any Finance Party (acting through the Facility Agent).

#### 21.8 Year-end

Each Obligor shall procure that each of its Financial Year-end falls on 31 December.

#### 21.9 Information: miscellaneous

Each Obligor shall supply to the Facility Agent (in sufficient copies for all the Finance Parties, if the Facility Agent so requests):

- (a) all documents (for the avoidance of doubt, excluding those creditors of its accounts payable generated in the ordinary course of trading) dispatched by that Obligor to its shareholders (or any class of them) or its creditors generally at the same time as they are despatched;
- (b) promptly notify of any existing and future shareholder loans or inter-company loans to that Obligor accompanied by shareholder loan agreements or inter-company loan agreements (if any), provided that such shareholder loans or inter-company loans are made in accordance with this Agreement;
- (c) 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;
- (d) promptly, such information as the Security Agent may reasonably require about the assets subject to the Transaction Security and compliance of the Obligor Parties with the terms of any Transaction Security Documents;
- (e) promptly, such further information regarding the financial condition, business and operations of any Obligor Party as any Finance Party (through the Facility Agent) may reasonably request;
- (f) promptly upon occurrence of a Flotation, subject to any applicable laws and regulations, such information regarding the Flotation;
- (g) promptly, such further information relating to the construction progress of Projects as any Finance Party (through the Facility Agent) may reasonably request, to the extent not provided in Clause 21.6(b);
- (h) promptly, notice of any change in authorised signatories of any Obligor Party in relation to the relevant Finance Documents accompanied by a new executive director's decision, board resolution, shareholder's decisions or shareholder resolutions (as applicable).

#### 21.10 Notification of default

- (a) Each Obligor shall (and shall procure each of other Obligor Parties will) notify the Facility Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless it is aware that a notification has already been provided by another Obligor Party).

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- (b) Promptly upon a request by the Facility Agent, each Borrower shall supply to the Facility Agent a certificate signed by its executive director (or two of its directors (as applicable)) or two of its 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).

#### 21.11 Use of websites

- (a) The Obligors' Agent 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 the information onto an electronic website designated by the Obligors' Agent and the Facility Agent (the "Designated Website") if:

- (i) the Facility Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;
- (ii) both the Obligors' Agent and the Facility 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 Obligors' Agent and the Facility Agent.

If any Lender (a "Paper Form Lender") does not agree to the delivery of information electronically then the Facility Agent shall notify the Obligors' Agent accordingly and the Obligors' Agent shall supply, and shall procure other Obligors supply, the information to the Facility Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event the Obligors' Agent shall supply, and shall procure other Obligors supply, the Facility Agent with at least one copy in paper form of any information required to be provided by it.

- (b) The Facility 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 Obligors' Agent and the Facility Agent.

- (c) The Obligors' Agent shall promptly upon becoming aware of its occurrence notify the Facility 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 Obligors' Agent 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.

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If the Obligors' Agent notifies the Facility Agent under paragraph (c)(i) or paragraph (c)(v) above, all information to be provided by the Obligors' Agent under this Agreement after the date of that notice shall be supplied in paper form.

- (d) Any Website Lender may request, through the Facility Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Obligors' Agent shall comply with any such request within ten (10) Business Days.

#### 21.12 "Know your customer" checks

- (a) Each Obligor shall, and shall procure other Obligor Parties shall, promptly upon the request of the Facility Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender (including for any Lender on behalf of any prospective new Lender)) in order for the Facility Agent, such Lender or any prospective new Lender to conduct any "know your customer" or other similar procedures under applicable laws and regulations.



(b) Each Lender shall promptly upon the request of the Facility Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself) in order for the Facility Agent to conduct any "know your customer" or other similar procedures under applicable laws and regulations.

## 22. FINANCIAL COVENANTS

### 22.1 Financial definitions

In this Agreement:

**"Borrowings"** means, at any time, the 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 of any Borrower (or the Ultimate Parent for the purpose of Clause 23.15 (*Dividends*) only) (other than in respect of paragraph (g) of that definition for which the marked to market value shall be used).

**"Capital Expenditure"** means any expenditure or obligation in respect of expenditure which, in accordance with the GAAP, is treated as capital expenditure or intangible expense or intangible expenditure (and which shall include, for the avoidance of doubt, any royalties, licenses or similar costs, fees or expenses paid for the acquisition of patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, software or other intellectual property).

**"Cash"** means, at any time, cash at bank credited to an account in the name of any Borrower with a reputable financial institution and to which that Borrower is alone beneficially entitled and for so long as (a) that cash is repayable on demand; (b) repayment of that cash is not contingent on the prior discharge of any other indebtedness of that Borrower or of any other person whatsoever or on the satisfaction of any other condition; (c) there is no Security over that cash; and (d) such cash is freely and immediately available to be applied in repayment or prepayment of the Facilities.

**"Cash Equivalent Investments"** means investments that are short term investments (excluding equity investments) which are readily convertible into cash without incurring any significant premium or penalty.

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**"Cashflow"** means, in respect of any Relevant Period, EBITDA (for the avoidance of doubt, the calculation of EBITDA includes all scheduled finance charges and scheduled payments under or in connection with the Selected Finance Lease Agreements in respect of that Relevant Period) for that Relevant Period after:

- (i) adding the amount of any decrease (and deducting the amount of any increase) in Working Capital for that Relevant Period;
- (ii) deducting all amounts of tax on profits, gains or income actually paid and/or which fell due for payment during such period;
- (iii) adding the amount of any cash receipts (and deducting the amount of any cash payments) during that Relevant Period in respect of any extraordinary items, exceptional items and other non-operating items not already taken account of in calculating EBITDA for any Relevant Period;
- (iv) adding the amount of any cash receipts during that Relevant Period in respect of any Tax rebates or credits and deducting the amount actually paid or due and payable in respect of Taxes during that Relevant Period by any Borrower;
- (v) adding the amount of any increase in provisions, other non-cash debits and other non-cash charges (which are not Current Assets or Current Liabilities) and deducting the amount of any non-cash credits (which are not Current Assets or Current Liabilities) in each case to the extent taken into account in establishing EBITDA;
- (vi) deducting the amount of any Capital Expenditure actually made in cash during that Relevant Period by any Borrower (except for the Capital Expenditure funded with the Facilities or (to the extent applicable) the Offshore Facilities),

but in any case amounts required to be applied in mandatory prepayment of the Loans shall be disregarded from the calculation of the Cashflow.

**"Current Assets"** means the aggregate of all inventory, work in progress, trade and other receivables of any Borrower including prepayments in relation to operating items and sundry debtors (but excluding Cash and Cash Equivalent Investments) expected to be realised within twelve months from the date of computation but excluding amounts in respect of:

- (i) receivables in relation to Tax;
- (ii) extraordinary items, exceptional items and other non-operating items;
- (iii) insurance claims; and
- (iv) any interest owing to that Borrower.

**"Current Liabilities"** means the aggregate of all liabilities (including trade creditors, accruals and provisions) of any Borrower expected to be settled within twelve months from the date of computation but excluding amounts in respect of:

- (i) liabilities for Borrowings and Net Finance Charges;
- (ii) liabilities for tax on profits;

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- (iii) extraordinary items, exceptional items and other non-operating items;
  - (iv) liabilities in relation to dividends declared but not paid by that Borrower to the extent owed to a person which is not a member of the Group.

**"Contributed Equity"** means the aggregate of (i) total registered capital of any Borrower that has been paid in by its immediate shareholder; and (ii) the Existing Shareholder Loan (WGQ).

**"Debt Service"** means, in respect of any Relevant Period, the aggregate of:

- (i) Net Finance Charges for that Relevant Period;
- (ii) all scheduled repayments of Borrowings (as reduced by any voluntary or mandatory prepayments) falling due during that Relevant Period but excluding any amounts falling due under any overdraft or revolving facility and which were available for simultaneous redrawing according to the terms of that facility; and
- (iii) the amount of the capital element of any payments in respect of that Relevant Period payable under any finance lease or capital lease entered into by any Borrower,

and for the avoidance of doubt, the calculation of the Debt Service shall exclude all scheduled finance charges and scheduled payments under or in connection with the Selected Finance Lease Agreements in respect of that Relevant Period.

**"Debt Service Coverage Ratio"** or **"DSCR"** means the ratio of Cashflow to Debt Service (both calculated on a consolidated basis of the Borrowers) in respect of any Relevant Period.

**"Debt to Equity Ratio"** or **"DER"** means, in respect of any Relevant Period, the ratio of Total Debt on the last day of that Relevant Period (calculated on a consolidated basis of the Borrowers) to Contributed Equity of the Borrowers on the same day.

**"EBIT"** means, for any Relevant Period, the operating profits of any Borrower (or the Ultimate Parent for the purpose of Clause 23.15 (*Dividends*) only) before taxation for that Relevant Period:

- (i) **before deducting** any Net Finance Charges;
- (ii) **before taking into account** any items treated as exceptional or extraordinary items,

in each case, to the extent deducted or taken into account, as the case may be, for the purposes of determining the profits of any Borrower from ordinary activities before taxation.

**"EBITDA"** means, for any Relevant Period, EBIT for that Relevant Period **before deducting** any amount attributable to amortisation of goodwill or depreciation of tangible assets and for the avoidance of doubt, the calculation of EBITDA shall include all scheduled finance charges and scheduled payments under or in connection with the Selected Finance Lease Agreements in respect of that Relevant Period.

**"Excess Cashflow"** means:

- (i) in respect of EDC WGQ, for any period for which it is being calculated, the aggregate of opening cash balances of the Receiving Account (WGQ), the Operations Account (WGQ)

and Cashflow in respect of Project SH1 for that period less (except to the extent already deducted in calculating Cashflow):

- (A) the Debt Service in respect of EDC WGQ of that period;
  - (B) any Capital Expenditure in respect of Project SH1 actually made in cash during that Relevant Period by EDC WGQ;
  - (C) any amount funded or to be funded in the Debt Service Reserve Account (WGQ); and
  - (D) RMB 10,000,000.
- (ii) in respect of EDC YG, for any period for which it is being calculated, the aggregate of opening cash balances of the Receiving Account (YG), the Operations Account (YG) and Cashflow in respect of Project SH2, Project SH3 and (if applicable) Project SH4 for that period less (except to the extent already deducted in calculating Cashflow):
- (A) the Debt Service in respect of EDC YG of that period;
  - (B) any Capital Expenditure in respect of the Projects (other than Project SH1) actually made in cash during that Relevant Period by EDC YG;
  - (C) any amount funded or to be funded in the Debt Service Reserve Account (YG Onshore Loan) and/or (if applicable) the Debt Service Reserve Account (YG Offshore Loan); and
  - (D) RMB 20,000,000;

“**Financial Quarter**” means the period commencing on the day after one Quarter Date and ending on the next Quarter Date.

“**Financial Year**” means the annual accounting period of any Borrower ending on or about 31 December in each year.

“**Gross Leverage Ratio**” means, in respect of any Relevant Period, the ratio of Total Debt on the last day of that Relevant Period to EBITDA in respect of that Relevant Period (for the purpose of Clause 23.15 (*Dividends*) only, in the case of the Ultimate Parent, the Total Debt and EBITDA shall be calculated on a consolidated basis of the Group).

“**Interest Coverage Ratio**” or “**ICR**” means the ratio of Cashflow to Net Finance Charges (both calculated on a consolidated basis of the Borrowers) in respect of any Relevant Period.

“**Net Finance Charges**” means, for any Relevant Period, the aggregate amount of interest, default interests, commission, fees, discounts, prepayment penalties or premiums and other finance payments in respect of Borrowings whether accrued, paid or payable and whether or not capitalised by any Borrower in respect of that Relevant Period:

- (i) **including** the interest element of leasing and hire purchase payments;
- (ii) **including** any amounts paid, payable or accrued by that Borrower to counterparties under any interest rate hedging instrument;

(iii) **deducting** any amounts paid, payable or accrued by counterparties to that Borrower under any interest rate hedging instrument; and

(iv) **deducting** any interest paid, payable to or accrued to the benefit of that Borrower on any deposit or bank account.

“**Quarter Dates**” means each of 31 March, 30 June, 30 September and 31 December of each calendar year (each a “**Quarter Date**”).

“**Relevant Period**” means each period of twelve Months ending on any Test Date.

“**Selected Finance Lease Agreements**” (i) the Lease Agreements; and (ii) any other document designated as such by the Facility Agent and the Obligors’ Agent.

“**Test Date**” means each Quarter Date starting from (inclusive) the earliest test date as provided in Clause 22.2 (*Financial conditions*).

“**Total Debt**” means at any time the aggregate amount of all obligations of any Borrower (or the Ultimate Parent for the purpose of Clause 23.15 (*Dividends*) only) for or in respect of Borrowings and so that no amount shall be included or excluded more than once, and for the avoidance of doubt, the calculation of the Total Debt for any Borrower shall exclude obligations under or in connection with the Selected Finance Lease Agreements.

“**Working Capital**” means, on any date, Current Assets less Current Liabilities.

## 22.2 Financial conditions

The Borrowers shall ensure that:

- (a) **DSCR**. DSCR in respect of any Relevant Period ending on or after 31 December 2017, shall not be less than 1.1:1.
- (b) **Gross Leverage Ratio**. Gross Leverage Ratio of any Relevant Period ending:
  - (i) on or after 31 December 2017, shall not be more than 5.50:1;
  - (ii) on or after 30 June 2018, shall not be more than 5.00:1;
  - (iii) on or after 31 December 2018, shall not be more than 4.00:1;
  - (iv) on or after 31 December 2019, shall not be more than 3.00:1;
  - (v) on or after 31 December 2020, shall not be more than 2.00:1.
- (c) **DER**. DER in respect of any Relevant Period ending on or after 30 September 2016, shall not be more than 65:35.
- (d) **ICR**. ICR in respect of any Relevant Period ending:
  - (i) on or after 30 September 2017, shall not be less than 1.50:1;
  - (ii) on or after 31 March 2018, shall not be less than 2.00:1;
  - (iii) on or after 30 September 2018, shall not be less than 3.00:1;

(iv) on or after 31 March 2019, shall not be less than 4.00:1;

(v) on or after 30 September 2019, shall not be less than 5.00:1

(e) **Capital Expenditure**: during the life of the Loans, the aggregate Capital Expenditure:

- (i) in respect of Project SH1, shall not exceed 110% of RMB 623,000,000;
- (ii) in respect of Project SH2, shall not exceed 110% of RMB 383,000,000;
- (iii) in respect of Project SH3, shall not exceed 110% of RMB 617,000,000; and
- (iv) in respect of Project SH4, shall not exceed the amount to be agreed between the Facility Agent and the Borrowers.

### 22.3 Financial Testing

The financial covenants set out in Clause 22.2 (*Financial conditions*) shall be tested by reference to the financial statements and Compliance Certificates delivered pursuant to Clause 21.2 (*Compliance Certificate*) in respect of the Relevant Period, except that, in respect of Project SH4, all the financial covenants set out herein will only be tested after 12 Months falling the Project SH4 Completion.

### 23. GENERAL UNDERTAKINGS

The undertakings in this Clause 23 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.

#### 23.1 Authorisations

- (a) Each Obligor shall (and shall ensure the other members of the Group will) promptly obtain, comply with and do all that is necessary to maintain in full force and effect; and supply certified copies to the Facility Agent of, any Authorisation required:
- (i) to enable it to perform its obligations under the Finance Documents to which it is a Party;
  - (ii) to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document;
  - (iii) to enable the Projects to be constructed, carried out and completed; and
  - (iv) to carry on its business and operations.
- (b) Each Obligor shall ensure GDS Beijing, GDS Suzhou, GDS Shanghai and EDC WGQ (to the extent applicable) will successfully pass all annual inspections in respect of relevant IDC License(s) and relevant renewed IDC License(s) organized by MIIT or other Governmental Agencies pursuant to the PRC laws and shall ensure each of GDS Beijing, GDS Suzhou, GDS Shanghai and EDC WGQ (to the extent applicable) will successfully maintain in full force and effect and renew relevant IDC License with MIIT or other Governmental Agencies upon expiry of a IDC License.

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#### 23.2 Compliance with laws

Each Obligor shall (and shall ensure GDS HK and GDS Shanghai and other members of the Group will) comply in all respects with all laws to which it may be subject, if failure so to comply would be likely to have a Material Adverse Effect.

#### 23.3 Pari passu ranking

Each Obligor shall ensure that the payment obligations of each Obligor Party under the Finance Documents 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.

#### 23.4 Negative pledge

In this Clause 23.4, “**Quasi-Security**” means an arrangement or transaction described in paragraph (c) below.

- (a) None of any Obligor (other than the Ultimate Parent) shall (and the Borrowers shall ensure no member of the Borrower Group shall) create or permit to subsist any Security over any of its assets (tangible or intangible, including IDC Licenses).
- (b) Each Obligor shall ensure that no Security exists or will be created or permitted to subsist over any equity interests in any of each Borrower, GDS Management Co., GDS Beijing or GDS Suzhou.
- (c) None of any Obligor (other than the Ultimate Parent) shall (and the Borrowers shall ensure no member of the Borrower Group shall):
- (i) sell, transfer or otherwise dispose of any of its assets (tangible or intangible, including IDC Licenses) on terms whereby they are or may be leased to or re-acquired by an Obligor 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.
- (d) Paragraphs (a), (b) and (c) above do not apply to:
- (i) the VIE Equity Pledges;
  - (ii) any Security or Quasi-Security created pursuant to any Finance Documents and if applicable) Offshore Finance Documents;

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- (iii) the equipment mortgage under the Existing Maximum Amount Mortgage Contract (Project SH1) (for avoidance of doubt, such equipment mortgage has not been and will not be registered with SAIC), and the Existing Maximum Amount Mortgage Contract (Project SH1) shall be terminated in accordance with this Agreement;
- (iv) the Existing Account Control (Project SH2) which shall be discharged and released in accordance with this Agreement;
- (v) the Existing Pledge over Receivables (Project SH1) and the Existing Pledge over Receivables (Project SH2) which shall be discharged and released in accordance with this Agreement;
- (vi) any Security or Quasi-Security created over any receivables of GDS Beijing or GDS Suzhou in relation to any data center business between GDS Beijing or GDS Suzhou and any other member of the Group (other than those related to the Projects and the Borrowers);
- (vii) any Security or Quasi-Security over any Customer Assets, **provided that** the Customer Assets shall not be used to secure any other Financial Indebtedness of any member of the Group or any other person;
- (viii) any netting or set-off arrangement entered into by any member of the Borrower Group, GDS Suzhou or GDS Beijing in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
- (ix) 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;
- (x) any Security or Quasi-Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to any member of the Borrower Group, GDS Suzhou or GDS Beijing in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by any member of the Borrower Group, GDS Suzhou or GDS Beijing; and
- (xi) any Security or Quasi-Security created or subsisting with the written consent of the Facility Agent (acting on the instructions of the Majority Lenders),

in each case the above exceptions shall not be construed to permit any Security over the IDC Licenses or equity interests in any Borrower, GDS Management Co., GDS Suzhou or GDS Beijing (other than the VIE Equity Pledges).

#### 23.5 Disposals

- (a) No Obligor shall (and the Borrowers shall ensure no member of the Borrower 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.
- (b) Paragraph (a) above does not apply to any sale, lease, transfer or other disposal:

- (i) made in the ordinary course of trading;

- (ii) (if applicable) permitted under the Offshore Finance Documents;
- (iii) in respect of the members of the Borrower Group only,
- (A) of assets in exchange for other assets comparable or superior as to type, value and quality and for a similar purpose;
- (B) of assets made by any Borrower on arms-length terms and the proceeds of which will be used to prepay the Loans in accordance with Clause 8.3 (*Disposal proceeds*); or
- (C) 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 the members of the Borrower Group, other than any permitted under paragraphs (A) to (B) above) does not exceed RMB 10,000,000 (or its equivalent in another currency or currencies) in any Financial Year.

### 23.6 Merger

Each Obligor shall (and the Borrowers shall ensure other members of the Borrower Group will) not enter into any amalgamation, demerger, merger or corporate reconstruction except for (a) the EDC WGQ Restructuring and (b) the restructuring of GDS Management Co. to be a PRC holding company of the Group, provided that such restructuring arrangement shall be reviewed and agreed by the Lenders in advance.

### 23.7 Change of business

Each Obligor shall procure that no substantial change is made to the general nature of the business of themselves as well as the Group from that carried on at the date of this Agreement.

### 23.8 Group Business

Each Obligor shall ensure that the GDS Management Co. is set up for the primary purpose of controlling GDS Beijing, GDS Suzhou and EDC WGQ (after the EDC WGQ Restructuring) and other PRC companies (if any) that hold value-added telecommunications business operating licenses, and there is no substantial change of the GDS Management Co.'s business since it is incorporated.

### 23.9 Environmental compliance

Each Obligor shall (and shall ensure that all other members 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.

### 23.10 Environmental Claims

Each Obligor shall inform the Facility 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 its knowledge and belief) is threatened against any Obligor Party or any other 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 Obligor Party or any other member of the Group, in each case where such Environmental Claim might reasonably be expected, if determined against that Obligor Party or that member of the Group, to have a Material Adverse Effect.

### 23.11 Acquisitions

No Borrower shall (and shall ensure no members of the Borrower Group will) acquire any company, business, assets or undertaking or make any investment.

### 23.12 Loans and guarantees

- (a) None of any Obligor (other than the Ultimate Parent) shall (and the Borrowers shall ensure no member of the Borrower Group shall) make or allow to subsist any loans, grant any credit or give or allow to remain outstanding any guarantee or indemnity (except as required under any of the Finance Documents or (if applicable) the Offshore Finance Documents) to or for the benefit of any person (for the avoidance of doubt, including but not limited to any member of the Group) or otherwise voluntarily assume any liability, whether actual or contingent, in respect of any obligation of any person (for the avoidance of doubt, including but not limited to any member of the Group).
- (b) Paragraph (a) above does not apply to:
- (i) the Existing Inter-company Loans (Project SH1) and Existing Inter-company Loans (Project SH2);
- (ii) the Existing Bank Loan (Project SH1) and the Existing Bank Loan (Project SH2);
- (iii) the Existing Bank Loans (GDS Suzhou);
- (iv) the Existing Shareholder Loan (WGQ);
- (v) the inter-company loan between GDS Beijing, GDS Suzhou or GDS Shanghai and any Borrower in relation to GDS Beijing Trapped Amount, GDS Suzhou Trapped Amount or GDS Shanghai Trapped Amount under the Inter-company Loan Agreements (if any);
- (vi) loans, guarantees, indemnities, bonds and letters of credit under or expressly permitted by the Finance Documents or (if applicable) the Offshore Finance Documents;
- (vii) a loan up to RMB 300,100,000 granted and to be granted by GDS Management Co. to William Huang and Qiuping Huang under the VIE Contracts;
- (viii) any inter-company loans made by GDS Beijing, GDS Suzhou or GDS Management Co. to any member of the Group which operates any data centre in relation to any receivables (other than those related to the Projects) of GDS Beijing, GDS Suzhou or GDS Management Co., as the case may be;
- (ix) any guarantees granted by GDS Beijing or GDS Management Co. in favour of its customers in respect of performance obligations of a Borrower or a member of the Group which operates a data center under the relevant Borrower Service Contracts or the service contracts in relation to data center business to which that member is a party; and

- (x) any guarantees granted by GDS Beijing in favour of other financial institutions in respect of any financing incurred by any member of the Group which established a data center operation business with GDS Beijing similar to the arrangements under the relevant Back-to-Back Agreements, in each case under the similar financing structure contemplated under the Finance Documents.

### 23.13 Financial Indebtedness

- (a) None of the Obligors (other than the Ultimate Parent) shall (and the Borrowers shall ensure no member of the Borrower Group shall) incur or permit to remain outstanding any Financial Indebtedness.

(b) Paragraph (a) above does not apply to:

- (i) the loans provided to GDS Beijing, GDS Suzhou and/or GDS Management Co., provided that the aggregate amount of the outstanding principals of such loans does not exceed RMB 650,000,000;
- (ii) any Financial Indebtedness incurred pursuant to any Finance Documents or (if applicable) the Offshore Finance Documents;
- (iii) any Restricted Inter-company Loan; and
- (iv) any scheduled finance charges and scheduled payments under or in connection with the Selected Finance Lease Agreements.

### 23.14 Group Structure

Each Obligor shall procure that no change is made to the Group Structure Chart that might reasonably be expected to have a Material Adverse Effect (other than the EDC WGQ Restructuring and the restructuring of GDS Management Co. to be the PRC holding company of the Group which shall not have a Material Adverse Effect).

### 23.15 Dividends

- (a) No Obligor shall:
- (i) make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its equity interests;
  - (ii) repay or distribute any dividend or equity premium reserve;
  - (iii) redeem, repurchase, defease, retire or repay any of its equity interests.
- (b) Paragraph (a) above does not apply to:
- (i) the dividend distributions to be made by GDS Suzhou to GDS Beijing;
  - (ii) the dividend distributions to be made by GDS Management Co. to its shareholder as permitted by applicable laws and regulations; and

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- (iii) the dividend distributions to be made by the Ultimate Parent to its shareholders, provided that the Ultimate Parent has provided the Facility Agent with a certificate in form and substance satisfactory to the Facility Agent evidencing that: (A) no Default or Event of Default occurs, (B) the payment of such dividend distributions may only generate from the Ultimate Parent's share premium reserve, net profit or retained earnings (determined by the applicable GAAP) but nonetheless shall at all times be no more than 50% of the net profit after tax (determined by the applicable GAAP) of that relevant Financial Year, and (C) such dividend distributions shall not result in the Gross Leverage Ratio of the Ultimate Parent to be less than 4.00:1.

### 23.16 Service fee

Each Obligor shall procure that the service fee is paid by a Borrower to GDS Management Co. in accordance with the Service Agreement, and the service fee paid or payable by a Borrower to GDS Management Co. in one Financial Year shall not exceed (a) 0.2 per cent. of the total annual revenue of that Borrower of that Financial Year, or (b) 7% of labor costs in the Budget of that Financial Year (whichever is the lower) as approved by the Lenders.

### 23.17 Insurances

Each Borrower shall comply with the insurance requirements set out in Schedule 7 (*Insurances*).

### 23.18 Treasury transaction

- (a) Other than paragraph (b) and (c) below, no Borrower shall enter (or agree to enter) into any treasury transaction unless otherwise agreed by the Facility Agent in writing.
- (b) After the date of this Agreement, a Borrower may enter into a hedging transaction in connection with this Agreement with any financial institutions and the Lenders shall have the right of first refusal to enter into such hedging transaction with that Borrower, provided that,
- (i) such hedging transaction is an interest rate swap in relation to the interest rate under this Agreement, and/or a currency swap in relation to all or certain portion of the amount of the Loans outstanding then; and
  - (ii) such hedging transaction is only for the purpose of hedging interest risk or currency conversion risk of that Borrower under this Agreement, and in any case shall not be for speculation purpose.
- (c) Without prejudice to paragraph (b) above, if a financial institution is to share the Transaction Security, that Borrower must ensure:
- (i) that financial institution must be a Lender, and accede to this Agreement by delivering to the Facility Agent an Accession Letter as a hedging provider (the "**Hedging Provider**");
  - (ii) all Hedging Arrangements shall at all times be in form and substance satisfactory to the Facility Agent;
  - (iii) the Hedging Arrangements are assigned to or otherwise secured in favour of, and in a manner acceptable to, the Security Agent; and

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- (iv) any amount payable to the Hedging Providers ranks *pari passu* with all other amounts owed to any Finance Party under the Finance Documents and is secured by the Transaction Security Documents.

### 23.19 Arm's length terms

No Obligor shall (and shall procure no member of the Group will) enter into any transaction with any person except on arm's length terms.

### 23.20 Subordinated loans

Except for the Existing Inter-company Loans (Project SH1), the Existing Inter-company Loans (Project SH2), the Existing Bank Loan (Project SH1) and the Existing Bank Loan (Project SH2), no Borrower shall:

- (a) repay or prepay any principal amount (or capitalised interest) outstanding under any Restricted Inter-company Loan;
- (b) pay any interest, fee or charge accrued or due on any Restricted Inter-company Loan (for avoidance of doubt, this includes the Existing Shareholder Loan (WGQ)); or
- (c) purchase, redeem, defease or discharge any of any Restricted Inter-company Loan.

### 23.21 Repayment of Existing Bank Loans (GDS Suzhou)

- (a) GDS Suzhou shall, and each Obligor shall ensure GDS Suzhou shall apply all amounts repaid by EDC WGQ and EDC YG (if any) under the Existing Inter-company Loans (Project SH1) only towards the full repayment or prepayment of the Existing Bank Loans (GDS Suzhou). GDS Suzhou shall, and each Obligor shall ensure GDS Suzhou shall deposit all amounts (which shall be no less than RMB 228,300,000) received by it from EDC WGQ and EDC YG (if any) under the Existing Inter-company Loans (Project SH1) with the Account Bank and shall not withdraw any of such amounts except that, of which, RMB 199,700,000 is used towards the repayment or prepayment of the Existing Entrustment Loan (GDS Suzhou-Ping An Bank) and RMB 20,000,000 is used towards the repayment or prepayment of the Existing Bank Loans (GDS Suzhou-Shanghai Bank), and any remaining amount shall not be withdrawn until all the Existing Pledge over Receivables (Project SH1) and the Existing Pledge over Receivables (Project SH2) are fully discharged.
- (b) GDS Beijing and GDS Suzhou shall release and discharge the Existing Pledge over Receivables (Project SH1) and the Existing Pledge over Receivables (Project SH2) in accordance with this Agreement.

### 23.22 Project Documents

- (a) Each Borrower, GDS Suzhou and GDS Beijing shall and shall procure GDS HK and GDS Shanghai to:
- (i) exercise its rights and comply with its obligations under each Project Document to which it is a party;
  - (ii) ensure (so far as this is within its control) that each other party to a Project Document exercises its rights and complies with its obligations under that Project Document,

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in a proper and timely manner consistent with its obligations under the Finance Documents.

- (b) None of the Borrowers, GDS Suzhou or GDS Beijing shall agree to, and each Obligor shall procure GDS HK and GDS Shanghai not to:
- (i) materially amend or waive;
  - (ii) assign or transfer;

- (iii) terminate, suspend or abandon; or
  - (iv) enter into any other contracts, agreements or arrangements which may be contradictory to,
- all or any part of a Project Document without the Facility Agent's prior written consent.
- (c) Upon entry into any new Project Document after the date of this Agreement, the Borrowers, GDS Suzhou and GDS Beijing shall and shall procure GDS HK and GDS Shanghai to promptly provide the Facility Agent with such new Project Document and each of them shall ensure, subject to paragraphs (d) and (e) below, that:
    - (i) each of such new Project Document provided to the Facility Agent is true and complete;
    - (ii) there is no other agreement in connection with, or arrangement which amend, supplement or affect any such new Project Document;
    - (iii) each of the Service Contracts in relation to Project SH1 stipulates that all amounts payable to EDC WGQ, GDS Beijing, GDS Suzhou, GDS HK or GDS Shanghai (as the case may be) by the customer thereunder must be directly and immediately paid into the Receiving Account (WGQ), the Receiving Account (GDS Beijing-WGQ), the Receiving Account (GDS Suzhou-WGQ), the Receiving Account (GDS HK-WGQ) and the Receiving Account (GDS Shanghai-WGQ) (as the case may be);
    - (iv) each of the Service Contracts in relation to Project SH2 stipulates that all amounts payable to EDC YG, GDS Beijing, GDS Suzhou, GDS HK or GDS Shanghai (as the case may be) by the customer thereunder must be directly and immediately paid into the Receiving Account (YG), the Receiving Account (GDS Beijing-YG), the Receiving Account (GDS Suzhou-YG), the Receiving Account (GDS HK-YG) and the Receiving Account (GDS Shanghai-YG) (as the case may be);
    - (v) there are no claims pending or threatened against it under any of such new Project Document;
    - (vi) it has not breached any of its material obligations under such new Project Document and there is no dispute in connection with any such new Project Document, in each case, which has or is reasonably likely to have a Material Adverse Effect; and
    - (vii) it shall not enter into any other contracts, agreements or arrangements which may be contradictory to such new Project Documents.
  - (d) Upon entry into any new Service Contracts after the date of this Agreement, the Borrowers, GDS Suzhou and GDS Beijing (as the case may) shall, and shall procure GDS HK and GDS Shanghai (as

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the case may) to promptly provide the Facility Agent with such new Service Contracts together with evidence that such new Service Contracts have been covered under the Back-to-Back Agreements.

- (e) If, after the date of this Agreement, any Borrower, GDS Suzhou, GDS Beijing, GDS HK and GDS Shanghai enter into any new Back-to-Back Agreements or make any amendment to the Back-to-Back Agreements that have been provided to the Facility Agent, that Borrower, GDS Suzhou and GDS Beijing (as the case may) shall, and shall procure GDS HK and GDS Shanghai (as the case may) to ensure each new or amended Back-to-Back Agreement shall reflect all terms and conditions under the Service Contracts that they have entered into, in each case such new or amended Back-to-Back Agreements shall be in substance and form satisfactory to the Facility Agent, and upon execution of any new Back-to-Back Agreement or any amendment, promptly provide its certified copy to the Facility Agent.
- (f) If a Borrower becomes aware that the Landlord decides to unilaterally terminate the relevant Lease Agreements to which it is a party, that Borrower shall immediately notify the Facility Agent.
- (g) EDC WGQ shall, prior to 31 December 2019, reach an agreement with the Landlord with respect to the Lease Agreement in relation to Project SH1 to extend the tenancy for a period not less than 10 years and with other terms and conditions satisfactory to the Lenders.

#### 23.23 Contract Novation

- (a) Each Obligor shall procure the Contract Novation to be completed within 3 Months after the date of this Agreement. Following the Contract Novation, each Obligor shall procure the relevant Assignee Group Member (other than EDC WGQ) to enter into relevant back-to-back agreement with EDC WGQ or EDC YG (as case may be) and to enter into relevant supplemental agreement to the relevant pledge over receivables.
- (b) Each Obligor shall procure GDS HK, upon the relevant Receiving Accounts being established with the Account Bank, to deliver the notification letters in form and substance satisfactory to all Lenders to all customers under GDS HK Service Contracts pursuant to which the receiving account in respect of GDS HK Service Contracts shall be changed to the Receiving Account (GDS HK-WGQ) or the Receiving Account (GDS HK-YG) (as the case may be).
- (c) Notwithstanding the above, if any amounts payable by the customers under GDS HK Service Contracts are paid into any bank accounts other than the Receiving Accounts, each Obligor shall procure that such amounts to be immediately transferred to relevant Receiving Accounts.

#### 23.24 Business Plan for Project SH4

- (a) EDC YG shall ensure that the Business Plan in relation to Project SH4 will be submitted to the Facility Agent for approval not later than ninety (90) days prior to the Facility D Commitment Date.
- (b) EDC YG shall ensure the Business Plan in relation to Project SH4 (whether draft or otherwise) as at its date:
  - (i) is true and accurate in all material respects;
  - (ii) is prepared in good faith and with due care on the basis of recent historical information and assumptions believed by it to be reasonable; and

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(iii) fairly represented EDC YG's expectations in relation to the matters covered in those documents.

- (c) EDC YG shall ensure it is not aware of any information which, if disclosed, would make the Business Plan in relation to Project SH4 untrue or misleading in any material respect at the date of delivery to the Facility Agent.
- (d) EDC YG shall ensure that the Business Plan in relation to Project SH4 specifies (at the date of delivery to the Facility Agent) all material costs and expenses incurred or to be incurred during the period to which it relates and is based on reasonable assumptions made in good faith and represents EDC YG's view as to costs and expenses anticipated by it to be incurred.

#### 23.25 Acknowledgement

Each Obligor (other than the Ultimate Parent and the GDS Management Co.) shall use its best endeavours to provide to the Facility Agent acknowledgements from their customers on the Notification Letters which have been delivered pursuant to (i) paragraph (e) in Part II (*Conditions Precedent to Initial Utilisation for Facility A*) of Schedule 2 (*Conditions precedent and conditions subsequent*); (ii) paragraph (d) in Part III (*Conditions Precedent to Initial Utilisation for Facility B*) of Schedule 2 (*Conditions precedent and conditions subsequent*); (iii) (where applicable) paragraph 2(c) in Part IV (*Conditions Subsequent*) of Schedule 2 (*Conditions precedent and conditions subsequent*); and (iv) (where applicable) paragraph 3(e) in Part IV (*Conditions Subsequent*) of Schedule 2 (*Conditions precedent and conditions subsequent*).

#### 23.26 Operation and maintenance

- (a) In this Clause "Good Industry Practice" means the exercise of the degree of skill, care and operating practice which would reasonably and ordinarily be expected from a skilled and experienced person engaged in the same type of undertaking as a member of the Group under the same or similar circumstances.
- (b) Each Obligor shall (and shall procure other members of the Group will) diligently operate and maintain, or ensure the diligent operation and maintenance of, each Project and all of its other assets in a safe, efficient and business-like manner and in accordance with the Good Industry Practice.

#### 23.27 Application of FATCA

Each Obligor shall procure that it shall not (and ensure no Obligor Party will) become a FATCA FFI or a US Tax Obligor.

#### 23.28 Sanctions

No Obligor shall (and shall procure no members of the Group will) contribute or otherwise make available all or any part of the proceeds of the Facilities, directly or indirectly, to, or for the benefit of, any person (whether or not related to any member of the Group) for the purpose of financing the activities of, transactions with, or investments in, any Sanctions Person, to the extent such action or status is prohibited by, or would itself cause any Finance Party or a member of the Group to be in breach of, any Sanctions in a manner or to an extent which is, or is reasonably likely to have a Material Adverse Effect.

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### 23.29 Anti-bribery law, anti-corruption law and anti-money laundering law

Each Obligor shall (and shall ensure that all other members of the Group will) comply in all respects with all anti-bribery laws, anti-money laundering laws and anti-corruption laws where failure to so comply would have or would be reasonably likely to have a Material Adverse Effect.

### 23.30 CBRC Rules

Each Obligor shall, and shall ensure that all other members of the Group shall, comply in all material respects with the CBRC Rules, any amendments and/or supplements to the CBRC Rules to the extent applicable, and all further and/or supplemental laws and/or regulations (relating to any of the subject matters of the CBRC Rules) to which it is subject from time to time, and shall do or permit to be done any acts or provide any assistance which the Facility Agent may require pursuant to CBRC Rules for the purpose of complying with the CBRC Rules by any of Finance Parties.

### 23.31 Further assurance

- (a) Each Obligor shall (and shall procure that other Obligor Parties will) promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, pledge, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):
- (i) to perfect the Security created or intended to be created under or evidenced by the Transaction Security Documents (which may include the execution of a mortgage, assignment, pledge or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of the Security Agent or the Secured Parties provided by or pursuant to the Transaction Documents or by law;
  - (ii) to confer on the Security Agent or confer on the Secured Parties Security over any property and assets of that Obligor Party located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Transaction Security Documents; and/or
  - (iii) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Transaction Security.
- (b) Each Obligor shall (and shall procure that other Obligor Parties will) take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Secured Parties by or pursuant to the Transaction Documents.

### 23.32 Offshore Transaction Security

Subject to applicable PRC laws and regulations, each Borrower:

- (a) shall register the foreign debt and conduct relevant information filing with the local SAFE within fifteen (15) Business Days after enforcement of any Offshore Transaction Security and, at the request of the Facility Agent, provide the Facility Agent with the said foreign debt registration or filing documents as soon as practicable;

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- (b) shall procure the amount of the principal of the indebtedness owed to any guarantor or security provider as a result of enforcement of any Offshore Transaction Security and Offshore Loan Security (to the extent applicable) by the Secured Parties and the Offshore Secured Parties shall not exceed its audited net assets at the end of the year prior to such enforcement and its approved available foreign debt quota, or other available foreign debt quota permitted by the applicable laws regulations (the "Available Foreign Debt Quota");
- (c) shall immediately inform the Facility Agent of any insufficiency of Available Foreign Debt Quota;
- (d) undertakes that it does not have any outstanding indebtedness owed to any guarantor or security provider as a result of enforcement of any offshore security or guarantee securing onshore loans borrowed by it ("Wai Bao Nei Dai" (Wai Bao Nei Dai)) which has not been paid up;
- (e) shall forthwith notify the Facility Agent if there is any outstanding indebtedness owed by it to the relevant guarantor or security provider incurred as a result of enforcement of any Wai Bao Nei Dai which has not been paid up whereupon the Secured Parties will have right to suspend new drawdown;
- (f) at the request of the Facility Agent, forthwith provide the Facility Agent with necessary information and material of the details of any offshore security or guarantee, default of any offshore underlying transaction, foreign debt registration, repayment of offshore debt and other matters in relation to which it conducts registration for other offshore guarantors or security providers under Wai Bao Nei Dai. Such information and material shall be true, accurate and integrated;
- (g) shall not sign any offshore guarantee or security which constitutes Wai Bao Nei Dai (Wai Bao Nei Dai) where it knows or should know the certainty of enforcement of such offshore guarantee or security; and
- (h) undertakes that it complies with each requirement of SAFE and other regulators in relation to the offshore security/guarantee which constitutes Wai Bao Nei Dai (Wai Bao Nei Dai) and will follow the instruction of the Facility Agent to take or not take any action or render any cooperation and assistance.

## 24. EVENTS OF DEFAULT

Each of the events or circumstances set out in the following sub-clauses of this Clause 24 (other than Clause 24.21 (*Acceleration*)) is an Event of Default.

### 24.1 Non-payment

An Obligor Party does not pay on the due date any amount payable pursuant to a Material Credit Document at the place and in the currency in which it is expressed to be payable, unless the nonpayment is caused by:

- (a) an administrative or technical error and is remedied within 3 Business Days of its due date; or
- (b) a Disruption Event and is remedied within 3 Business Days of its due date.

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### 24.2 Financial covenants

Any requirement of Clause 22 (*Financial covenants*) is not satisfied.

### 24.3 Other obligations

- (a) An Obligor Party does not comply with Clause 3 (*Purpose*), Clause 5.5 (*Advance of Loans*) or Clause 23 (*General undertakings*) of this Agreement;
- (b) GDS Beijing or any Borrower ceases to remain consolidated under the consolidated financial statements of the Ultimate Parent;
- (c) any Obligor Party does not comply with any other provision of the Material Credit Documents (other than those referred to in Clause 24.1 (*Non-payment*), Clause 24.2 (*Financial covenants*), Clause 24.19 (*Conditions subsequent*) and paragraph (a), (b) above) to which it is a party unless the non-compliance is capable of remedy and is remedied within 7 days of the earlier of (i) the Facility Agent giving notice to the Obligors' Agent of the failure to comply; or (ii) any Obligor Party becoming aware of the failure to comply.

### 24.4 Misrepresentation

Any representation or statement made or deemed to be made by an Obligor Party in the Material Credit Documents or any other document delivered by or on behalf of any Obligor Party under or in connection with any Material Credit 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 is capable of remedy and is remedied within 7 days of the earlier of (i) the Facility Agent giving notice to the Obligors' Agent of such misrepresentation; or (ii) any Obligor Party becoming aware of such misrepresentation.

### 24.5 Cross default

- (a) Other than as provided in paragraph (b) below:

- (i) any Financial Indebtedness of any Obligor Party or any other member of the Group is not paid when due nor within any originally applicable grace period;
- (ii) any Financial Indebtedness of any Obligor Party or any other 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);
- (iii) any commitment for any Financial Indebtedness of any Obligor Party or any other 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); or

- (iv) any creditor of any Obligor Party or any other 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).
- (b) No Event of Default will occur under the paragraph (a) of this Clause 24.5, if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (i) to (iv) above is less than RMB 50,000,000 (or its equivalent in any other currency or currencies).
- (c) (If applicable) any event of default (however described) under the Offshore Finance Document.

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- (d) Any default or event of default (however described) under the Hedging Arrangements.

#### 24.6 Insolvency

- (a) An Obligor Party or any other member of the Group 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 with a view to rescheduling any of its indebtedness.
- (b) A moratorium is declared in respect of any indebtedness of any Obligor Party or any other member of the Group.

#### 24.7 Insolvency proceedings

- (a) Any corporate action, legal proceedings or other procedure or step is taken in relation to:
- (i) 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 any Obligor Party or any other member of the Group other than a solvent liquidation or reorganisation of any member of the Group which is not an Obligor Party;
- (ii) a composition or arrangement with any creditor of any Obligor Party or any other member of the Group, or an assignment for the benefit of creditors generally of any Obligor Party or any other member of the Group or a class of such creditors;
- (iii) the appointment of a liquidator (other than in respect of a solvent liquidation of a member of the Group which is not an Obligor Party), receiver, administrator, administrative receiver, compulsory manager, provisional supervisor or other similar officer in respect of any Obligor Party or any other member of the Group or any of its assets; or
- (iv) enforcement of any Security over any assets of any Obligor Party or any other member of the Group,
- or any analogous procedure or step is taken in any jurisdiction.
- (b) The above paragraph (a) shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 30 days of commencement.

#### 24.8 Creditors' process

Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of any Obligor Party having an aggregate value of RMB 30,000,000 and is not discharged within 14 days.

#### 24.9 Litigation

Any litigation, arbitration or administrative proceedings are current or, to the Obligor Parties' knowledge pending or threatened against any of Obligor Parties, if adversely determined, are reasonably likely to have a Material Adverse Effect.

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#### 24.10 Unlawfulness

- (a) It is or becomes unlawful for an Obligor Party to perform any of its obligations under the Material Credit Documents or any Transaction Security created or expressed to be created or evidenced by the Transaction Security Documents ceases to be effective.
- (b) Any obligation or obligations of any Obligor Party under any Material Credit Documents are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Finance Parties under the Material Credit Documents.
- (c) Any Material Credit Document ceases to be in full force and effect or any Transaction Security ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than a Secured Party) to be ineffective.

#### 24.11 Repudiation and rescission of agreements

An Obligor Party (or any other relevant party, other than a Finance Party) rescinds or purports to rescind or repudiates or purports to repudiate a Material Credit Document or any of the Transaction Security or evidences an intention to rescind or repudiate a Material Credit Document or any Transaction Security.

#### 24.12 Nationalisation and expropriation

If, pursuant to any law or governmental action:

- (a) the legal existence of any Obligor Party is terminated;
- (b) any substantial part of any of the business or operations of any Obligor Party is suspended or revoked; or
- (c) any part of the Projects or assets of any Obligor Party is seized, nationalised, attached, expropriated, divested, compulsorily acquired or suspended,

which in each case has or will have a Material Adverse Effect.

#### 24.13 Cessation of business

Any Obligor 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.

#### 24.14 Major damage

Any part of the Projects or assets of the Borrowers are destroyed or damaged and, in the opinion of the Majority Lenders taking into account the proceeds of insurance effected under Clause 23.17 (*Insurances*) and the timing of receipt of those proceeds, the destruction or damage will have a Material Adverse Effect.

#### 24.15 Abandonment

Any Borrower, GDS Beijing or GDS Suzhou abandons all or a significant part of the Projects.

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#### 24.16 Government intervention

Any Authorisation relating to the Projects or the Borrowers or any other Obligor is modified, revoked, withdrawn or cancelled and such modification, revocation, withdrawal or cancellation has or is reasonably likely to have a Material Adverse Effect.

#### 24.17 Creation of security

- (a) Any Security is created or subsists over the shares in the Ultimate Parent; or
- (b) Except for the VIE Equity Pledges, any Security is created or subsists over the equity interests in the GDS Management Co., GDS Beijing, or GDS Suzhou,



in each case in a manner not consistent with provisions of this Agreement.

#### 24.18 Foreign exchange control

Any foreign exchange control policies in the Relevant Jurisdiction (whether existing as of the date of this Agreement or enacted after the date of this Agreement) would otherwise prohibit, prevent or materially delay any payment, remittance or transfer of any amount due and payable under the Material Credit Documents and the relevant Obligor and the relevant Finance Party fail to agree on a substitute permitted by applicable Governmental Rules for making such payment, remittance or transfer within 14 days upon the occurrence of such prohibition, prevention or delay.

#### 24.19 Conditions subsequent

Any Obligor Party does not deliver all of its documents and evidence set out in Part IV (*Conditions subsequent*) of Schedule 2 (*Conditions precedent and conditions subsequent*) on or prior to the relevant date specified for delivery thereof in accordance with Clause 4.3 (*Conditions subsequent documents*).

#### 24.20 Material adverse change

Any event or circumstance occurs which has or is reasonably likely to have a Material Adverse Effect.

#### 24.21 Acceleration

On and at any time after the occurrence of an Event of Default the Facility Agent may, and shall if so directed by the Majority Lenders, by written notice to the Obligors' Agent:

- (a) without prejudice to the participations of any Lenders 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);

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- (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;
- (c) declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Facility Agent on the instructions of the Majority Lenders; and/or
- (d) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

### 25. SECURITY

#### 25.1 Security Agent as holder of security

- (a) In this Clause:
  - (i) "**Security Agent Claim**" means any amount which any Obligor Party owes to the Security Agent under this Clause.
- (b) Unless expressly provided to the contrary in any Transaction Document, the Security Agent holds:
  - (i) any security created by a Transaction Security Document;
  - (ii) the benefit of any Security Agent Claims; and
  - (iii) any proceeds of security,for the benefit, and as the property, of the Secured Parties and so that they are not available to the personal creditors of the Security Agent.
- (c) The Security Agent will separately identify in its records the property rights referred to in paragraph (b) above.

#### 25.2 Responsibility

- (a) The Security Agent is not liable or responsible to any other Secured Party for:
  - (i) any failure in perfecting or protecting the security created by any Transaction Security Document; or
  - (ii) any other action taken or not taken by it in connection with any Transaction Security Document,unless directly caused by its gross negligence or wilful misconduct.
- (b) The Security Agent is not responsible for:
  - (i) the right or title of any person in or to, or the value of, or sufficiency of any part of the security created by the Transaction Security Documents;
  - (ii) the priority of any security created by the Transaction Security Documents; or

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- (iii) the existence of any other security interest affecting any asset secured under a Transaction Security Document.

#### 25.3 Title

The Security Agent may accept, without enquiry, the title (if any) an Obligor Party may have to any asset over which security is intended to be created by any Transaction Security Document.

#### 25.4 Possession of documents

The Security Agent is not obliged to hold in its own possession any Transaction Security Document, title deed or other document in connection with any asset over which security is intended to be created by a Transaction Security Document. Without prejudice to the above, the Security Agent may allow any bank providing safe custody services or any professional adviser to the Security Agent to retain any of those documents in its possession.

#### 25.5 Approval

Each Secured Party:

- (a) confirms its approval of each Transaction Security Document; and
- (b) authorises and directs the Security Agent (by itself or by such person(s) as it may nominate) to enter into and enforce the Transaction Security Documents as trustee (or agent) or as otherwise provided (and whether or not expressly in the names of the Secured Parties) on its behalf.

#### 25.6 Conflict with Transaction Security Documents

If there is any conflict between this Agreement and any Transaction Security Document with regard to instructions to, or other matters affecting, the Security Agent, this Agreement will prevail.

#### 25.7 Release of security

- (a) If a disposal of any asset subject to security created by a Transaction Security Document is made in the following circumstances:

- (i) the Majority Lenders agree to the disposal;
- (ii) the disposal is allowed by the terms of the Transaction Documents and will not result or could not reasonably be expected to result in any Default;
- (iii) the disposal is being made at the request of the Security Agent in circumstances where any security created by the Transaction Security Documents has become enforceable; or
- (iv) the disposal is being effected by enforcement of a Transaction Security Document,

the asset(s) being disposed of will be released from any security over it created by a Transaction Security Document. However, the proceeds of any disposal (or an amount corresponding to them) shall be applied in accordance with the requirements of the Transaction Documents (if any).

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- (b) Any release under this Clause will not become effective until the date of the relevant disposal or otherwise in accordance with the consent of the Majority Lenders.
- (c) If a disposal is not made, then any release relating to that disposal will have no effect, and the obligations of the Obligor Parties under the Transaction Documents will continue in full force and effect.
- (d) If the Security Agent is satisfied that a release is allowed under this Clause, (at the request and expense of the relevant Obligor Party) each Secured Party shall enter into any document and do all such other things which are reasonably required to achieve that release. Each other Secured Party irrevocably authorises the Security Agent to enter into any such document. Any release will not affect the obligations of any other Obligor Party under the Transaction Documents.

#### 25.8 Enforcement instructions

- (a) The Security Agent may refrain from enforcing the security created by a Transaction Security Document unless instructed otherwise by the Majority Lenders.
- (b) If the Security created by a Transaction Security Document becomes enforceable, the Majority Lenders may give or refrain from giving instructions to the Security Agent to enforce or refrain from enforcing that security as they see fit.
- (c) The Security Agent shall, subject to the terms of the Transaction Security Documents, enforce the Security created by a Transaction Security Document in accordance with the instructions of the Majority Lenders.
- (d) In the absence of instructions, the Security Agent may enforce the security created by a Transaction Security Document as it sees fit having regard first to the interests of the Secured Parties.
- (e) None of the Security Agent or the Secured Parties is responsible to any Obligor Party for any enforcement or failure to enforce or to maximise the proceeds of any enforcement of the security created by the Transaction Security Documents. The Security Agent or any Secured Party may cease enforcement at any time.
- (f) The Security Agent is fully protected if it acts on the instructions of the Majority Lenders in the exercise of any right, power or discretion or any matter not expressly provided for in the Transaction Security Documents.

#### 25.9 Competing instructions to Security Agent

Any instructions given to the Security Agent by the Majority Lenders will override any conflicting instructions given by any other Party.

#### 25.10 Information

Each Secured Party and each of the Obligors shall (and the Borrowers shall ensure other Obligor Parties will) supply the Security Agent with any information that the Security Agent may reasonably specify as being necessary or desirable to enable it to perform its functions under this Clause.

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#### 25.11 Perfection of security

Each of the Obligors shall (and shall ensure other Obligor Parties will), at their own costs, take any action and enter into and deliver any document which is reasonably required by the Security Agent so that a Transaction Security Document provides for effective and perfected security in favour of the Security Agent or any successor Security Agent.

#### 25.12 Proceeds of enforcement

- (a) Subject to the rights of any creditor with prior security or a preferential claim, the proceeds of enforcement of the Security under the Transaction Security Documents shall be paid to the Security Agent.
- (b) Any proceeds of enforcement of the security under the Transaction Security Documents, and any amount paid to the Security Agent under this Agreement shall be applied in the following in the order of priority set out in Clause 32.5 (*Partial payments*).

#### 25.13 Good Discharge

An acknowledgement of receipt signed by the relevant person to whom payments are to be made under this Clause will discharge the Security Agent.

#### 25.14 Non-cash distributions

If the Security Agent or any other Secured Party receives any distribution other than in cash in respect of any Secured Liability, the Secured Liabilities will not be reduced by that distribution until and except to the extent that the realisation proceeds are applied towards the Secured Liabilities.

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### SECTION 9 CHANGES TO PARTIES

#### 26. CHANGES TO THE LENDERS

##### 26.1 Assignments and transfers by the Lenders

Subject to this Clause 26 and to the extent permitted under the applicable laws, 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").

##### 26.2 Conditions of assignment or transfer

- (a) The consent of any Borrower is not required for any assignment or transfer by a Lender pursuant to this Clause 26.
- (b) Notwithstanding paragraph (a) above, a Lender shall notify the Obligors' Agent of such assignment or transfer not later than 5 days before the assignment or transfer if there is no Event of Default which is continuing.
- (c) A transfer will be effective only if the procedure set out in Clause 26.5 (*Procedure for transfer*) is complied with.
- (d) An assignment will be effective only if the procedure and conditions set out in Clause 26.6 (*Procedure for assignment*) are complied with.

##### 26.3 Assignment or transfer fee

The New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Facility Agent (for its own account) a fee of RMB 20,000.

#### 26.4 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 any Obligor ;
  - (iii) the performance and observance by any Obligor Party 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,

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and any representations or warranties implied by law are excluded.

- (b) Each New Lender confirms to the Existing Lender, 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 Obligor Party 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 Obligor Party 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 26; or
  - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor Party of its obligations under the Finance Documents or otherwise.

#### 26.5 Procedure for transfer

- (a) Subject to the conditions set out in Clause 26.2 (*Conditions of assignment or transfer*) a transfer is effected in accordance with paragraph (c) below when the Facility Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Facility 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 Facility 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 and in respect of the Transaction Security each of the Obligor Parties and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and in respect of the Transaction Security and their respective rights against one another shall be cancelled (being the “**Discharged Rights and Obligations**”);
  - (ii) each of the Obligor Parties 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 Obligor Party and the New Lender have assumed and/or acquired the same in place of that Obligor Party and the Existing Lender;

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- (iii) the Facility Agent, the Mandated Lead Arrangers, the Security Agent, the New Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security 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 the Facility Agent, the Mandated Lead Arrangers, the Security Agent 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 26.5 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.

#### 26.6 Procedure for assignment

- (a) Subject to the conditions set out in paragraph (d) below and in Clause 26.2 (*Conditions of assignment or transfer*), an assignment may be effected in accordance with paragraph (b) below when the Facility Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Facility Agent shall, subject to paragraph (d)(ii) 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) On the Transfer Date:
- (i) the Existing Lender will assign absolutely to the New Lender the rights under the Finance Documents and in respect of the Transaction Security expressed to be the subject of the assignment in the Assignment Agreement;
  - (ii) the Existing Lender will be released by each Obligor Party 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 (and any corresponding obligations by which it is bound in respect of the Transaction Security); and
  - (iii) the New Lender shall become a Party as a “Lender” and will be bound by obligations equivalent to the Relevant Obligations.
- (c) Lenders may utilise procedures other than those set out in this Clause 26.6 to assign their rights under the Finance Documents (but not, without the consent of the relevant Obligor Party or unless in accordance with Clause 26.5 (*Procedure for transfer*), to obtain a release by that Obligor Party from the obligations owed to that Obligor Party by the Lenders nor the assumption of equivalent obligations by a New Lender) provided that they comply with the conditions set out in paragraph (d) below.
- (d) An assignment (whether pursuant to an Assignment Agreement or paragraph (c) above) will only be effective on:

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- (i) receipt by the Facility Agent (whether in an Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Facility Agent) that the New Lender will assume the same obligations to the other Finance Parties as it would have been under if it was an Original Lender; and
  - (ii) performance by the Facility Agent of all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Facility Agent shall promptly notify to the Existing Lender and the New Lender. The Facility Agent shall not be obliged to execute an Assignment Agreement delivered to it by an Existing Lender and the New Lender or any document delivered to it pursuant to paragraph (c) above 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.
- (e) The procedure set out in this Clause 26.6 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.

#### 26.7 Copy of Transfer Certificate or Assignment Agreement to Obligors' Agent

The Facility Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or an Assignment Agreement, send to the Obligors' Agent a copy of that Transfer Certificate or Assignment Agreement.

## 26.8 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.

## 26.9 Exclusion of Agent's liability

In relation to any assignment or transfer pursuant to this Clause 26, each Party acknowledges and agrees that the Facility 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.

## 26.10 Security over Lenders' rights

In addition to the other rights provided to Lenders under this Clause 26, each Lender may without consulting with or obtaining consent from any Obligor Party, 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, without limitation:

- (a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and

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- (b) in the case of any Lender which is a fund, 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 an Obligor Party 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.

## 27. CHANGES TO THE OBLIGORS

No Borrowers, GDS Suzhou or GDS Beijing may (and shall ensure no other Obligor Parties will) assign or transfer any of its rights or obligations under any Finance Document, except with the prior written consent of all the Lenders.

## 28. DISCLOSURE OF INFORMATION

Any Secured Party may disclose:

- (a) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as that Secured Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is made aware 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 Transaction Documents and 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 Transaction Documents and/or one or more Obligor Parties and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
- (iii) appointed by any Secured Party or by a person to whom paragraph (b)(i) or (b)(ii) above applies to receive communications, notices, information or documents delivered pursuant to the Transaction Documents on its behalf (including, without limitation, any person appointed under paragraph (b) of Clause 29.18 (*Relationship with the*

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*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 (b)(i) or (b)(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 Secured Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 26.10 (*Security over Lenders' rights*);
- (viii) who is a Party; or
- (ix) with the consent of the Obligors' Agent;

in each case, such Confidential Information as that Secured Party shall consider appropriate if:

- (A) in relation to paragraphs (b)(i), (b)(ii) and (b)(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 (b)(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;
- (C) in relation to paragraphs (b)(v), (b)(vi) and (b)(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 Secured Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Secured 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 Transaction Documents including without limitation, in relation to the trading of participations in respect of the Transaction 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

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Information is to be given has entered into a confidentiality agreement to maintain confidentiality of the Confidential Information;

- (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 Transaction Documents and/or the Obligor Parties.

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**29. ROLE OF THE ADMINISTRATIVE PARTIES****29.1 Appointment of the Facility Agent**

- (a) Each of the other Finance Parties appoints the Facility Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each of the other Finance Parties authorises the Facility Agent to exercise the rights, powers, authorities and discretions specifically given to the Facility Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

**29.2 Appointment of the Security Agent**

- (a) Each Secured Party irrevocably appoints the Security Agent to act as its agent under and in connection with the security created under the Transaction Security Documents.
- (b) Each Secured Party irrevocably authorises the Security Agent to:
- (i) perform the duties and to exercise the rights, powers, authorities and discretions that are specifically given to it under or in connection with the Transaction Security Documents, together with any other incidental rights, powers, authorities and discretions; and
  - (ii) enter into and deliver each Transaction Security Document expressed to be entered into by the Security Agent.

**29.3 Duties of the Facility Agent**

- (a) Subject to paragraph (b) below, the Facility Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Facility Agent for that Party by any other Party.
- (b) Without prejudice to Clause 26.7 (*Copy of Transfer Certificate or Assignment Agreement to Obligors' Agent*), paragraph (a) above shall not apply to any Transfer Certificate or to any Assignment Agreement.
- (c) Except where a Finance Document specifically provides otherwise, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (d) If the Facility 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.
- (e) If the Facility 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.
- (f) The Facility Agent's duties under the Finance Documents are solely mechanical and administrative in nature.

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**29.4 Duties of the Security Agent**

- (a) The Security Agent shall forward promptly to a Party the original or a copy of any document which is delivered to the Security Agent for that Party by any other Party.
- (b) Except where a Transaction Security Document specifically provides otherwise, the Security Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (c) If the Security 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 Secured Parties.
- (d) If the Security Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than any Administrative Party) under this Agreement, it shall promptly notify the other Finance Parties.
- (e) The Security 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).

**29.5 Role of the Mandated Lead Arrangers and the Coordinating Banks**

Except as specifically provided in the Finance Documents, neither a Mandated Lead Arranger nor a Coordinating Bank has obligations of any kind to any other Party under or in connection with any Finance Document.

**29.6 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.

**29.7 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.

**29.8 Rights and discretions of the Facility Agent**

- (a) The Facility Agent may rely on:
- (i) any representation, 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; and
  - (ii) any statement purportedly made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.

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- (b) The Facility 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 24.1 (*Non-payment*));
  - (ii) any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised; and
  - (iii) any notice or request made by the Obligors' Agent is made on behalf of and with the consent and knowledge of all the Obligor Parties.
- (c) The Facility Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.
- (d) The Facility Agent may act in relation to the Finance Documents through its personnel and agents.
- (e) The Facility Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.
- (f) 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.

**29.9 Rights and discretions of the Security Agent**

- (a) The Security 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 Lenders 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, that 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.

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- (b) The Security 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 24.1 (Non-payment));
  - (ii) any right, power, authority or discretion vested in any Party or any group of Lenders has not been exercised;
  - (iii) any notice or request made by the Obligors' Agent (other than the Utilisation Request) is made on behalf of and with the consent and knowledge of all the Obligor Parties.
- (c) The Security Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.
- (d) The Security Agent may act in relation to the Finance Documents through its personnel and agents. The Security Agent shall not be liable for the acts or omissions of any such agents provided that it has acted in good faith in the selection of such agents.
- (e) The Security Agent may disclose to any other Party any information it reasonably believes it has received as agent or trustee under this Agreement.
- (f) Notwithstanding any other provision of any Finance Document to the contrary, the Security Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or a breach of a fiduciary duty or duty of confidentiality.
- (g) In the event there is an inconsistency or conflict between the rights, duties, benefits, obligations, protections, immunities or indemnities of the Security Agent (the "Security Agent Provisions") as contained in this Agreement, on the one hand, and in any of the other Finance Documents, on the other hand, the Security Agent Provisions contained in this Agreement shall prevail and apply. The Security Agent Provisions contained in this Agreement are for the benefit of the Security Agent and shall survive the discharge or termination of this Agreement.

#### 29.10 Instructions

- (a) Each of the Facility Agent and the Security 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 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 sub-paragraph (i) above.
- (b) Each of Facility Agent and the Security 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)

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as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Facility Agent and the Security 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 Facility Agent or the Security Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.
- (d) Notwithstanding anything to the contrary in a Finance Document, the Facility Agent and the Security 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 Facility Agent and the Security Agent may act (or refrain from acting) as it considers to be in the best interest of the Lenders.
- (f) Neither the Facility Agent nor the Security Agent is authorised to act on behalf of a Secured Party (without first obtaining that Secured Party's consent) in any legal or arbitration proceedings relating to any Transaction Document. This Paragraph (f) shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Transaction Security Documents or enforcement of the Transaction Security or Transaction Security Documents.

#### 29.11 Responsibility for documentation

No Administrative Party:

- (a) is responsible for the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by any Administrative Party, an Obligor Party or any other person given in or in connection with any Transaction Document; or
- (b) is responsible for the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Transaction Document or the Transaction Security; or
- (c) is responsible for any determination as to whether any information provided or to be provided to any Secured 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.

#### 29.12 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 any Administrative Party), no Administrative Party shall be liable for any cost, loss or liability incurred by any Party as a consequence of:

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- (i) the Administrative Party having taken or having omitted to take any action under or in connection with any Transaction Document or the Transaction Security, unless directly caused by the Administrative Party's gross negligence or wilful misconduct; or
  - (ii) any delay in the crediting to any account of an amount required under the Transaction Documents to be paid by the Administrative Party, if the Administrative Party shall have 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 Administrative Party for the purpose of such payment.
- (b) No Party (other than the relevant Administrative Party) may take any proceedings against any officer, employee or agent of an Administrative Party in respect of any claim it might have against that Administrative Party or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Transaction Document or the Transaction Security and any officer, employee or agent of an Administrative Party may rely on this Clause.
  - (c) Nothing in this Agreement shall oblige any Administrative Party to conduct any "know your customer" or other procedures in relation to any person on behalf of any Lender and each Lender confirms to each Administrative Party that it is solely responsible for any such procedures it is required to conduct and that it shall not rely on any statement in relation to such procedures made by any Administrative Party.

#### 29.13 Lenders' indemnity to the Facility Agent

- (a) Each Lender shall, in accordance with paragraph (b) below, indemnify the Facility Agent, within three (3) Business Days of demand, against any cost, loss or liability incurred by the Facility Agent (other than by reason of the Facility Agent's gross negligence or wilful misconduct) in acting as Facility Agent under the Finance Documents (unless the Facility Agent has been reimbursed by an Obligor Party pursuant to a Finance Document).
- (b) The proportion of such cost, loss or liability to be borne by each Lender shall be:
- (i) if there is any Loan then outstanding, the proportion borne by (A) the sum of its participation(s) in the Loan(s) then outstanding to (B) the aggregate amount of such Loan(s), or
  - (ii) if there is no Loan then outstanding and the Available Facility is then greater than zero, the proportion borne by (A) its Available Commitment to (B) the Available Facility, or
  - (iii) if there is no Loan then outstanding and the Available Facility is then zero:
    - (A) if the Available Facility became zero after a Loan ceased to be outstanding, the proportion borne by (A) its Available Commitment to (B) the Available Facility immediately before the Available Facility became zero, or
    - (B) if a Loan ceased to be outstanding after the Available Facility became zero, the proportion borne by (A) the sum of its participation(s) in the Loan(s) outstanding immediately before any Loan ceased to be outstanding to (B) the aggregate amount of such Loan(s).

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#### 29.14 Secured Parties' indemnity to the Security Agent

- (a) Without limiting the liability of any Obligor Party under the Transaction Documents, each Secured Party shall indemnify the Security Agent for that Secured Party's share of any cost, loss or liability (whether arising in contract, tort or otherwise) incurred by the Security Agent in acting as Security Agent under the Transaction Security Documents, except to the extent that the cost, loss or liability is caused by the Security Agent's gross negligence, wilful misconduct or fraud.
- (b) Each Borrower shall reimburse the Secured Parties for any amount paid to the Security Agent under this Clause 29.14 (*Secured Parties' indemnity to the Security Agent*).

#### 29.15 Resignation of the Facility Agent

- (a) The Facility Agent may resign and appoint one of its Affiliates as successor by giving notice to the other Finance Parties and the Obligors' Agent.
- (b) Alternatively the Facility Agent may resign by giving notice to the other Finance Parties and the Obligors' Agent, in which case the Majority Lenders (after consultation with the Obligors' Agent) may appoint a successor Facility Agent.
- (c) If the Majority Lenders have not appointed a successor Facility Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the retiring Facility Agent (after consultation with the Obligors' Agent) may appoint a successor Facility Agent.
- (d) The retiring Facility Agent shall make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents.
- (e) The Facility Agent's resignation notice shall take effect only upon the appointment of a successor.
- (f) Upon the appointment of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 29. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (g) After consultation with the Obligors' Agent, the Majority Lenders may, by notice to the Facility Agent, require it to resign in accordance with paragraph (b) above. In this event, the Facility Agent shall resign in accordance with paragraph (b) above.
- (h) The Facility Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Facility Agent pursuant to paragraph (c) above) if on or after the date which is three (3) months before the earliest FATCA Application Date relating to any payment to the Facility Agent under the Finance Documents, either:
- (i) the Facility Agent fails to respond to a request under Clause 13.6 (*FATCA Information*) and a Lender reasonably believes that the Facility 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 Facility Agent pursuant to Clause 13.6 (*FATCA Information*) indicates that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or

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- (iii) the Facility Agent notifies the Obligors' Agent and the Lenders that Facility 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) a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Facility Agent were a FATCA Exempt Party, and that Lender, by notice to the Facility Agent, requires it to resign.

#### 29.16 Resignation of the Security Agent

- (a) The Security Agent may resign and appoint one of its Affiliates as successor by giving notice to the other Secured Parties and the Obligors' Agent.
- (b) Alternatively the Security Agent may resign by giving notice to the other Secured Parties and the Obligors' Agent, in which case the Majority Lenders (after consultation with the Obligors' Agent) may appoint a successor Security Agent.
- (c) If the Majority Lenders have not appointed a successor Security Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the retiring Security Agent (after consultation with the Obligors' Agent) may appoint a successor Security Agent.
- (d) The retiring Security Agent shall make available to the successor Security Agent such documents and records and provide such assistance as the successor Security Agent may reasonably request for the purposes of performing its functions as Security Agent under the Transaction Documents.
- (e) The retiring Security Agent shall enter into and deliver to the successor Security Agent those documents and effect any registrations as may be reasonably required for the transfer or assignment of all of its rights and benefits under the Transaction Documents to the successor Security Agent.
- (f) The Security Agent's resignation notice shall take effect only (i) upon the appointment of a successor and (ii) the transfer of all of the Security Property to that successor.
- (g) Upon the appointment of a successor, the retiring Security Agent shall be discharged from any further obligation in respect of the Transaction Documents (other than paragraph (e) above) but shall remain entitled to the benefit of this Clause 29. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (h) After consultation with the Obligors' Agent, the Majority Lenders may, by notice to the Security Agent, require it to resign in accordance with paragraph (b) above. In this event, the Security Agent shall resign in accordance with paragraph (b) above.
- (i) The Security Agent shall resign in accordance with Paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Security Agent pursuant to Paragraph (c) above) if on or after the date which is three (3) months before the earliest FATCA Application Date relating to any payment to the Security Agent under the Finance Documents, either:
- (i) the Security Agent fails to respond to a request under Clause 13.6 (*FATCA Information*) and a Lender reasonably believes that the Security Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

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- (ii) the information supplied by the Security Agent pursuant to Clause 13.6 (*FATCA Information*) indicates that the Security Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
- (iii) the Security Agent notifies the Obligors' Agent and the Lenders that the Security 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) a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Security Agent were a FATCA Exempt Party, and that Lender, by notice to the Security Agent, requires it to resign.

#### 29.17 Confidentiality

- (a) In acting as Facility Agent for the Finance Parties, or in the case of the Security Agent, for the Secured Parties, the Facility Agent and the Security Agent shall be regarded as acting through its agency division which shall be treated as a separate legal person from any other of its branches, divisions or departments.
- (b) If information is received by another branch, division or department of the legal person which is the Facility Agent or the Security Agent, it may be treated as confidential to that branch, division or department and the Facility Agent or the Security Agent shall not be deemed to have notice of it.
- (c) The Facility Agent or the Security Agent shall not be obliged to disclose to any Finance Party, or in the case of the Security Agent, any Secured Party, any information supplied to it by the Obligors' Agent or any other Obligor Party 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.

#### 29.18 Relationship with the Lenders

- (a) The Facility Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Facility 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 (5) Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.
- (b) Each Lender shall supply the Facility Agent with any information that the Security Agent may specify (through the Facility Agent) as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent. Each Lender shall deal with the Security Agent exclusively through the Facility Agent and shall not deal directly with the Security Agent.
- (c) Any Lender may by notice to the Facility 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.

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- (d) Any such notice in the above paragraph (c):
  - (i) must contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under this Agreement) electronic mail address and/or any other information required to enable the sending and receipt of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made); and
  - (ii) will be treated as a notification of a substitute address, fax number, electronic mail address, department and officer by that Lender for the purposes of the Finance Documents,and the Facility Agent is 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.

#### 29.19 Relationship with Secured Parties

- (a) The Security Agent may treat the person shown in its records as Secured Party at the opening of business (in the place of the Security Agent's principal office as notified to the Parties from time to time) as the Secured Party acting through its Facility Office:
  - (i) entitled to or liable for any payment due under any Transaction Security 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 Transaction Security Document made or delivered on that day,unless it has received not less than five (5) Business Days' prior notice from that Secured Party to the contrary in accordance with the terms of this Agreement.
- (b) Any Secured Party may by notice to the Security Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Secured Party under the Transaction Security Documents.
- (c) Any such notice in the above paragraph (b):
  - (i) must contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under this Agreement) electronic mail address and/or any other information required to enable the sending and receipt of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made); and
  - (ii) will be treated as a notification of a substitute address, fax number, electronic mail address, department and officer by that Secured Party for the purposes of this Agreement and the Transaction Security Documents,and the Security Agent is entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Secured Party.

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#### 29.20 Credit appraisal by the Lenders and the Secured Parties

Without affecting the responsibility of any Obligor Party for information supplied by it or on its behalf in connection with any Transaction Document, each Secured Party 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 Transaction 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 Transaction Document, the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document or the Transaction Security;
- (c) whether that Secured Party 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 Transaction Document, the Transaction Security, the transactions contemplated by the Transaction Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document or the Transaction Security;
- (d) the adequacy, accuracy and/or completeness of the information provided by any Party or by any other person under or in connection with any Transaction Document, the transactions contemplated by the Transaction Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document;
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Security Property, the priority of any of the Transaction Security or the existence of any Security affecting the Security Property.

#### 29.21 Deduction from amounts payable by the Facility Agent and the Security Agent

If any Party owes an amount to the Security Agent or the Facility Agent, as the case may be, under the Transaction Documents, the Facility Agent or the Security Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Facility Agent or the Security Agent would otherwise be obliged to make under the Transaction Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Transaction Documents that Party shall be regarded as having received any amount so deducted.

#### 29.22 Facility Agent's and Security Agent's management time

Any amount payable to the Facility Agent or the Security Agent under Clause 16.3 (*Obligors' Indemnity to the Facility Agent*), Clause 17 (*Costs and expenses*), Clause 29.13 (*Lenders' indemnity to the Facility Agent*) and Clause 29.14 (*Secured Parties' indemnity to the Security Agent*) shall include the cost of utilising the Facility Agent's or the Security Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Facility

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Agent or the Security Agent may notify to the Obligors' Agent and the Lenders, and is in addition to any fee paid or payable to the Facility Agent under Clause 12 (*Fees*).

### 30. SHARING AMONG THE FINANCE PARTIES

#### 30.1 Payments to Finance Parties

If a Finance Party (a "**Recovering Finance Party**") receives or recovers (whether by set off or otherwise) any amount from an Obligor Party other than in accordance with Clause 32 (*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 (3) Business Days, notify details of the receipt or recovery, to the Facility Agent;
- (b) the Facility 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 Facility Agent and distributed in accordance with Clause 32 (*Payment mechanics*), without taking account of any Tax which would be imposed on the Facility Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Finance Party shall, within three (3) Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 32.5 (*Partial payments*).

#### 30.2 Redistribution of payments

The Facility Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor Party and distribute it between the Finance Parties (other than the Recovering Finance Party) (the "**Sharing Finance Parties**") in accordance with Clause 32.5 (*Partial payments*) towards the obligations of that Obligor Party to the Sharing Finance Parties.

#### 30.3 Recovering Finance Party's rights

- (a) On a distribution by the Facility Agent under Clause 30.2 (*Redistribution of payments*) of a payment received by a Recovering Finance Party from an Obligor Party, as between the relevant Obligor Party 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 Obligor .
- (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 Obligor Party shall be liable to the Recovering Finance Party for a debt equal to the Sharing Payment which is immediately due and payable.

#### 30.4 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:

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- (a) each Sharing Finance Party shall, upon request of the Facility Agent, pay to the Facility 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) as between the relevant Obligor Party and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Obligor Party.

#### 30.5 Exceptions

- (a) This Clause 30 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor Party.
- (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.

### 31. SHARING AMONG THE SECURED PARTIES

#### 31.1 Equalisation Payments

If, following acceleration of the Loans in accordance with Clause 24.21 (*Acceleration*), any amount owing by any Obligor Party under the Transaction Documents to a Secured Party (a "**Recovering Secured Party**") is discharged by payment, set-off or any other manner other than through the Security Agent under this Agreement, then:

- (a) the Recovering Secured Party shall, within three (3) Business Days supply details of the recovery to the Security Agent;
- (b) the Security Agent shall calculate whether the recovery is in excess of the amount which the Recovering Secured Party would have received if the recovery had been received by the Security Agent under the Transaction Security Documents and applied in accordance with this Agreement; and
- (c) the Recovering Secured Party shall pay to the Security Agent an amount equal to the excess (the **redistribution**).

#### 31.2 Effect of redistribution

- (a) The Security Agent shall treat a redistribution as if it were the proceeds of enforcement of the Transaction Security Documents and distribute it in accordance with this Agreement.

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- (b) When the Security Agent makes a distribution under paragraph (a) above, the Recovering Secured Party will be subrogated to the rights of the Secured Parties which have shared in that redistribution.
- (c) If and to the extent that the Recovering Secured Party is not able to rely on any rights of subrogation under paragraph (b) above, the relevant Obligor Party will owe the Recovering Secured Party a debt which is equal to the redistribution, immediately payable and of the type originally discharged.
- (d) If:
  - (i) a Recovering Secured Party shall subsequently return a recovery, or an amount measured by reference to a recovery, to an Obligor Party; and
  - (ii) the Recovering Secured Party has paid a redistribution in relation to that recovery,

each Secured Party shall reimburse the Recovering Secured Party all or the appropriate portion of the redistribution paid to that Secured Party, together with interest for the period while it held the redistribution. In this event, the subrogation in paragraph (b) above will operate in reverse to the extent of the reimbursement.

#### 31.3 Loss sharing

- (a) If any Secured Liability remains undischarged and any resulting loss is not borne by a Secured Party in accordance with Clause 25.12 (*Proceeds of enforcement*), the Secured Parties shall make such payments between themselves as the Security Agent may require to ensure that after taking into account those payments the losses are borne by the Secured Parties as if Clause 25.12 (*Proceeds of enforcement*) had applied.
- (b) For the purpose of paragraph (a) above:
  - (i) the Total Commitments under this Agreement will be notionally increased by an aggregate amount equal to the aggregate of any amount (if any, the "**Hedging Termination Payment**"):
    - (A) payable to any Hedging Provider as a result of the Hedging Termination under a Hedging Arrangement if such Hedging Arrangement was so terminated or closed out prior to the date of enforcement of the Transaction Security; or
    - (B) that would be payable to any Hedging Provider as a result of the Hedging Termination under a Hedging Arrangement if such Hedging Arrangement were so terminated or closed out on the date of enforcement of the Transaction Security; and

(ii) each Hedging Provider shall be deemed (if it is a Lender) to have the aggregate amount of its Commitments increased by, or (if it is not a Lender) to have a Commitment in, the amount equal to the aggregate of the Hedging Termination Payments (if any) that would be payable to that Hedging Provider as a result of the Hedging Termination under the Hedging Arrangements on the date of the enforcement of the security under the Transaction Security Documents.

(c) This Clause 31.3 (*Loss sharing*) is without prejudice to Clause 29.14 (*Secured Parties' indemnity to the Security Agent*).

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## SECTION 11 ADMINISTRATION

### 32. PAYMENT MECHANICS

#### 32.1 Payments to the Facility Agent

(a) On each date on which an Obligor Party or a Lender is required to make a payment under a Finance Document, that Obligor Party or Lender shall make the same available to the Facility 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 Facility 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 with such bank as the Facility Agent specifies.

#### 32.2 Distributions by the Facility Agent

(a) Each payment received by the Facility Agent under the Finance Documents for another Party shall, subject to Clause 32.3 (*Distributions to an Obligor Party*) and Clause 32.4 (*Clawback*) be made available by the Facility 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 Facility Agent by not less than five (5) Business Days' notice with a bank in the principal financial centre of the country of that currency.

(b) The Facility 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 Facility Agent as being so entitled on that date provided that the Facility Agent is authorised to distribute payments to be made on the date on which any transfer becomes effective pursuant to Clause 26 (*Changes to the Lenders*) to the Lender so entitled immediately before such transfer took place regardless of the period to which such sums relate.

#### 32.3 Distributions to an Obligor Party

The Facility Agent may (with the consent of the Obligor Party or in accordance with Clause 33 (*Set-off*)) apply any amount received by it for that Obligor Party in or towards payment (in the currency and funds of receipt) of any amount due from that Obligor Party under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

#### 32.4 Clawback

(a) Where a sum is to be paid to the Facility Agent under the Finance Documents for another Party, the Facility 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) If the Facility Agent pays an amount to another Party and it proves to be the case that the Facility 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 Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.

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#### 32.5 Partial payments

(a) If the Facility Agent or the Security Agent, as the case may be, receives a payment that is insufficient to discharge all the amounts then due and payable by an Obligor Party under the Finance Documents, or as the case may be, the Transaction Documents, the Facility Agent or the Security Agent, as the case may be, shall apply that payment towards the obligations of that Obligor Party under the Finance Documents, or as the case may be, the Transaction Documents, in the following order:

(i) **first**, in or towards payment pro rata of any unpaid fees, costs and expenses of, and other amounts owing to, the Facility Agent and the Security Agent under the Finance Documents;

(ii) **secondly**, in or towards payment pro rata of any accrued interest, fee (other than as provided in (i) above) or commission due but unpaid under the Finance Documents and any hedging payment due from the Borrowers but unpaid under the Hedging Arrangements;

(iii) **thirdly**, in or towards payment pro rata of any principal due but unpaid under this Agreement and any Hedging Termination Payment (if any); and

(iv) **fourthly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.

(b) The Facility Agent or, as the case may be, the Security 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 an Obligor Party.

#### 32.6 No set-off by Obligor Parties

All payments to be made by an Obligor Party under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

#### 32.7 Business Days

(a) Any payment 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 paragraph (a) above, interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

#### 32.8 Currency of account

(a) Subject to paragraphs (b) to (e) below, RMB is the currency of account and payment for any sum due from an Obligor Party under any Finance Document.

(b) A repayment of a Loan or Unpaid Sum or a part of a Loan or Unpaid Sum shall be made in the currency in which that Loan or Unpaid Sum is denominated on its due date.

(c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.

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(d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

(e) Any amount expressed to be payable in a currency other than RMB shall be paid in that other currency.

#### 32.9 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 Facility Agent (after consultation with the Obligors' Agent); 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 Facility Agent (acting reasonably).

(b) If a change in any currency of a country occurs, this Agreement will, to the extent the Facility Agent (acting reasonably and after consultation with the Obligors' Agent) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

### 33. SET-OFF

A Finance Party may set off any matured obligation due from an Obligor Party under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor Party, 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. A Finance Party shall notify the Obligors' Agent as soon as practicable after the set off.

### 34. NOTICES

#### 34.1 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.

#### 34.2 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) The contact details of the Obligor Parties for this purpose are:

Address: 2nd floor, Building 2, 428 South Yanggao Rd, Shanghai, China  
Fax: 021 20330303  
Email: gaozhanping@gds-services.com

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Attention: Allen Wang / Jason Gao  
Tel: 021 20330334

- (b) in the case of the Facility Agent, the Security Agent and the Account Bank that identified with its name below,

- (i) The contact details of the Facility Agent for this purpose are:

Address: 111 Dongyuan Road, Pudong New Area, Shanghai, 200120  
Fax number: 86 21 6886 0908  
E-mail: Zhang.Yunfei@uobgroup.com / Annie.Zhangmz@uobgroup.com  
Attention: Zhang Yun Fei / Zhang Min Zhi  
Telephone number: 86 21 6061 8258 / 86 21 6061 8326

- (ii) The contact details of the Security Agent for this purpose are:

Address: 111 Dongyuan Road, Pudong New Area, Shanghai, 200120  
Fax number: 86 21 6886 0908  
E-mail: Zhang.Yunfei@uobgroup.com / Annie.Zhangmz@uobgroup.com  
Attention: Zhang Yun Fei / Zhang Min Zhi  
Telephone number: 86 21 6061 8258 / 86 21 6061 8326

- (iii) The contact details of the Account Bank for this purpose are:

Address: 111 Dongyuan Road, Pudong New Area, Shanghai, 200120  
Fax number: 86 21 6886 1115  
E-mail: Wang.Siwei@uobgroup.com / Sha.Sha@uobgroup.com  
Attention: Wang Si Wei / Sha Sha  
Telephone number: 86 21 6061 8570 / 86 21 6061 8488

or any substitute address, fax number or department or officer as the Party may notify to the Facility Agent (or the Facility Agent may notify to the other Parties, if a change is made by the Facility Agent) by not less than five (5) Business Days' notice.

#### 34.3 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 (5) 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 34.2 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Facility Agent or the Security Agent will be effective only when actually received by the Facility Agent or the Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Facility Agent's or the Security Agent's signature below (or any substitute department or officer as the Facility Agent or the Security Agent shall specify for this purpose).

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- (c) All notices from or to an Obligor Party shall be sent through the Facility Agent.  
(d) All communications from or to an Obligor Party (other than the Obligors' Agent) must be made by the Obligors' Agent.  
(e) Any communication made or delivered to the Obligors' Agent in accordance with this Clause will be deemed to have been made or delivered to each of the Obligor Parties.  
(f) Each Secured Party may assume that any communication made by the Obligors' Agent (or by the Obligors' Agent on behalf of an Obligor Party) is made with the consent of each other Obligor Party.  
(g) Any communication or document which becomes effective, in accordance with paragraphs (a) to (f) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.  
(h) No Secured Party shall be held liable on any basis, whether in contract, tort (including negligence) or otherwise, in respect of any damage, loss or any other forms of liability as a result of any interception, corruption, loss, destruction, late arrival or degradation of information communicated through email due to any inherent risk associated with the use of email as a mode of communication as described in this Clause.

#### 34.4 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 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 and if those two Parties:  
(i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt 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 (5) Business Days' notice.  
(b) Any electronic communication made between those two Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Facility Agent or the Security Agent only if it is addressed in such a manner as the Facility Agent or the Security Agent shall specify for this purpose.  
(c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

#### 34.5 English and Chinese language

- (a) This Agreement will be executed in both English and Chinese, and in any case there is any inconsistency between the Chinese version and the English version, the Chinese version shall prevail.

(b) Any notice given under or in connection with any Finance Document must be in English or Chinese.

(c) All other documents provided under or in connection with any Finance Document must be:

(i) in English or Chinese; or

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(ii) if not in English or Chinese, and if so required by the Facility Agent, accompanied by a certified English or Chinese translation and, in this case, the English or Chinese translation will prevail unless the document is a constitutional, statutory or other official document.

### 35. CALCULATIONS AND CERTIFICATES

#### 35.1 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.

#### 35.2 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.

#### 35.3 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 Interbank Market differs, in accordance with that market practice.

### 36. PARTIAL INVALIDITY

If, at any time, any provision of the Finance Documents 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.

### 37. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under the Finance Documents 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 of the Finance Documents 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 this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

### 38. AMENDMENTS AND WAIVERS

#### 38.1 Required consents

(a) Subject to Clause 38.2 (*Exceptions*), any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and relevant Obligor Party and any such amendment or waiver will be binding on all Parties.

(b) The Facility Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 38. The Facility Agent shall notify the other Parties promptly of any amendment or waiver effected by it under this paragraph.

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#### 38.2 Exceptions

(a) An amendment or waiver that has the effect of changing or which relates to:

(i) the definition of "Majority Lenders" in Clause 1.1 (*Definitions*);

(ii) an extension to the date of payment of any amount under the Finance Documents;

(iii) a reduction in the Interest Relevant Percentage or a reduction in the amount of any payment of principal, interest, fees or commission payable that is not consistent with this Agreement;

(iv) an increase in the amount of any Commitment or an extension of the period of availability for utilisation of any Commitment or any requirement that a cancellation of Commitments reduces the Commitments of the Lenders rateably under the relevant Facility;

(v) a change to an Obligor Party other than in accordance with this Agreement;

(vi) a release of any Transaction Security Document or Transaction Security other than in accordance with this Agreement;

(vii) any provision which expressly requires the consent of all the Lenders;

(viii) Clause 2.4 (*Finance Parties' rights and obligations*), Clause 26 (*Changes to the Lenders*), Clause 40 (*Governing law*), Clause 41 (*Enforcement*) or this Clause 38; or

(ix) the nature or scope of, or the release of, any guarantee and indemnity granted under Clause 19 (*Guarantee and indemnity*) or of any Transaction Security unless permitted under any Finance Document, shall not be made without the prior consent of all the Lenders.

(b) A Fee Letter may be amended or waived with the agreement of each Administrative Party that is a party to that Fee Letter and the Borrowers.

(c) An amendment or waiver which relates to the rights or obligations of any Administrative Party may not be effected without the consent of such Administrative Party.

### 39. 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.

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## SECTION 12

### GOVERNING LAW AND ENFORCEMENT

#### 40. GOVERNING LAW

This Agreement and all obligations arising from or in connection with this Agreement are governed by PRC law.

#### 41. ENFORCEMENT

##### 41.1 Jurisdiction of PRC courts

(a) The competent courts of PRC at the Facility Agent's domicile have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (a "**Dispute**").

(b) The courts of the PRC are the most appropriate and convenient courts to settle any such dispute in connection with this Agreement. Each Obligor agrees not to argue to the contrary and waives objection to those courts on the grounds of inconvenient forum or otherwise in relation to proceedings in connection with this Agreement.

(c) This Clause 41.1 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.

(d) References in this Clause to a Dispute in connection with this Agreement include any dispute as to the existence, validity or termination of this Agreement.

#### 41.2 Waiver of immunities

Each Obligor 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.

### SCHEDULE 1

#### Lenders and their Commitments

##### Part I Lenders and Facility A Commitment

Name of Original Lender	Facility A Commitment
信用合作社 (Credit Agricole Corporate and Investment Bank (China) Limited Shanghai Branch)	RMB 145,000,000
有限公司 (UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)	RMB 260,000,000

##### Part II Lenders and Facility B Commitment

Name of Original Lender	Facility B Commitment
信用合作社 (Credit Agricole Corporate and Investment Bank (China) Limited Shanghai Branch)	RMB 80,000,000
有限公司 (UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)	RMB 145,000,000

### SCHEDULE 2

#### Conditions precedent and conditions subsequent

##### Part I

##### Conditions Precedent to Initial Utilisation for All Facilities

#### 1. Obligor Parties

(a) Certified copies of the following up-to-date constitutional documents of each Borrower:

- (i) Articles of Association (章程) and all the amendments thereto (if any);
- (ii) Business License (营业执照);
- (iii) Tax Registration Certificate (both local and state) (税务登记证) (if applicable);
- (iv) Organizational Code Certificate (组织机构代码证) (if applicable);
- (v) List of Directors (董事名单);
- (vi) the Institution Credit Code Certificate or the valid access to information of its borrowing history recorded in the PBOC Basic Credit Information Database;
- (vii) Certificate of Approval (批准证书) or other equivalent certificate; and
- (viii) Approval Letters from MOFCOM in respect of its establishment and all subsequent corporate changes.

(b) Certified copies of the following up-to-date constitutional documents of GDS Beijing:

- (i) Articles of Association (章程) and all the amendments thereto (if any);
- (ii) Business License (营业执照);
- (iii) Tax Registration Certificate (both local and state) (税务登记证) (if applicable);
- (iv) Organizational Code Certificate (组织机构代码证) (if applicable);
- (v) Capital Verification Report (验资报告); and
- (vi) List of Directors (董事名单).

(c) Certified copies of the following up-to-date constitutional documents of GDS Suzhou:

- (i) Articles of Association (章程) and all the amendments thereto (if any);
- (ii) Business License (营业执照);

- (iii) Tax Registration Certificate (both local and state) (□□□□□□□□) (if applicable);
- (iv) Organizational Code Certificate (□□□□□□□□) (if applicable);

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- (v) Capital Verification Report (□□□□);
  - (vi) List of Directors (□□□□); and
  - (vii) Approval Letters from MOFCOM in respect of its establishment and all subsequent corporate changes (to the extent applicable, and including the transfer of all equity interests in GDS Suzhou to GDS Beijing).
- (d) Certified copies of the following up-to-date constitutional documents of GDS Management Co.:
- (i) Articles of Association (□□□□) and all the amendments thereto (if any);
  - (ii) Business License (□□□□);
  - (iii) Tax Registration Certificate (both local and state) (□□□□□□□□) (if applicable);
  - (iv) Organizational Code Certificate (□□□□□□□□) (if applicable);
  - (v) List of Directors (□□□□); and
  - (vi) Certificate of Approval (□□□□□□□□) or other equivalent certificate;
  - (vii) Approval Letters from MOFCOM in respect of its establishment and all subsequent corporate changes.
- (e) Certified copies of the following up-to-date constitutional documents of GDS Shanghai:
- (i) Articles of Association (□□□□) and all the amendments thereto (if any);
  - (ii) Business License (□□□□);
  - (iii) Tax Registration Certificate (both local and state) (□□□□□□□□) (if applicable);
  - (iv) Organizational Code Certificate (□□□□□□□□) (if applicable); and
  - (v) List of Directors (□□□□).
- (f) Certified copies of the following up-to-date constitutional documents of EDC Technology (Kunshan) Co. Ltd. (□□□□□□□□(□□)□□□□):
- (vi) Articles of Association (□□□□) and all the amendments thereto (if any);
  - (vii) Business License (□□□□);
  - (viii) Tax Registration Certificate (both local and state) (□□□□□□□□) (if applicable);
  - (ix) Organizational Code Certificate (□□□□□□□□) (if applicable);
  - (x) List of Directors (□□□□);
  - (xi) Certificate of Approval (□□□□□□□□) or other equivalent certificate; and

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- (xii) Approval Letters from MOFCOM in respect of its establishment and all subsequent corporate changes.
- (g) Certified copies of the following up-to-date constitutional documents of the Ultimate Parent:
- (i) Certificate of Incorporation;
  - (ii) Memorandum of Association & Articles of Association;
  - (iii) Register of Directors;
  - (iv) Register of Members;
  - (v) Register of Mortgages and Charges; and
  - (vi) Certificate of Good Standing issued by the relevant authority in the Cayman Islands and dated as close to the proposed Utilisation Date in the Utilisation Request as possible, but in no event older than seven (7) days than the proposed Utilisation Date.
- (h) Certified copies of the following up-to-date constitutional documents of the Intermediate Parent:
- (i) Certificate of Incorporation;
  - (ii) Memorandum of Association & Articles of Association;
  - (iii) Register of Directors;
  - (iv) Register of Members;
  - (v) Register of Mortgages and Charges; and
  - (vi) Certificate of Good Standing issued by the relevant authority in the Cayman Islands and dated as close to the proposed Utilisation Date in the Utilisation Request as possible, but in no event older than seven (7) days than the proposed Utilisation Date.
- (i) Certified copies of the following up-to-date constitutional documents of Parent (EDC YG) and EDC China:
- (i) Certificate of Incorporation (Certificate of Incorporation upon Change of Name); and
  - (ii) Memorandum and Articles of Association.
- (j) Certified copies of the following up-to-date constitutional documents of GDS HK:
- (i) Certificate of Incorporation (Certificate of Incorporation upon Change of Name); and
  - (ii) Memorandum and Articles of Association.

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- (k) A certified copy of resolutions of the board of directors (in the case of the Ultimate Parent, the Intermediate Parent, EDC China, the Parent (EDC YG) and GDS HK) and the certified copies of resolutions/decisions of the shareholder(s) (as applicable) (in the case of each Borrower, GDS Beijing, GDS Suzhou, GDS Management Co., GDS Shanghai and EDC Technology (Kunshan) Co. Ltd. ( )):
- (i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute, deliver and perform the Finance Documents to which it is a party;
  - (ii) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf;
  - (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and
  - (iv) in the case of the Ultimate Parent, resolving that it is in the best interests of that the Ultimate Parent to enter into the transactions contemplated by the Finance Documents to which it is a party.
- (l) A specimen of the signature of each person authorised by the resolutions referred to in paragraph (k) above.
- (m) A copy of a resolution signed by all the holders of the issued shares in the Parent (EDC YG) approving the amendment of the Memorandum and Articles of Association of the Parent (EDC YG) for the purpose of removing restrictions on share transfer.
- (n) A copy of resolutions signed by all the holders of the issued preferred shares in the Ultimate Parent approving the terms of, and the transactions contemplated by the Ultimate Parent Guarantee and certain actions contemplated by the Finance Documents.
- (o) A certificate of each Obligor Party (signed by an authorised signatory) confirming that borrowing or guaranteeing or securing, as appropriate, and that the Total Commitments would not cause any borrowing, guarantee or security or similar limit binding on it to be exceeded.
- (p) A certificate of each Obligor Party (signed by an authorised signatory) certifying that each copy document relating to it specified in this Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.

## 2. Finance Documents and Ancillary Documents

(a) Each of the following documents, duly executed by each party to it:

- (i) this Agreement;
  - (ii) the Fee Letters;
  - (iii) the Account Control Agreement;
  - (iv) the Ultimate Parent Guarantee;
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- (v) the Share Mortgage Agreement (Parent (EDC YG));
  - (vi) the Equity Pledge Agreement (YG Onshore Loan);
  - (vii) the Movable Assets Mortgage Agreement (WGQ SH1 Onshore);
  - (viii) the Movable Assets Mortgage Agreement (YG SH2 Onshore);
  - (ix) the Lease Assignment Agreement (WGQ);
  - (x) the Lease Assignment Agreement (YG);
  - (xi) the Insurance Assignment Agreement (WGQ);
  - (xii) the Insurance Assignment Agreement (YG);
  - (xiii) the Pledge over Receivables (WGQ) and the registration agreement thereunder;
  - (xiv) the Pledge over Receivables (YG) and the registration agreement thereunder;
  - (xv) the Pledge over Receivables (GDS Beijing) and the registration agreement thereunder;
  - (xvi) the Pledge over Receivables (GDS Suzhou) and the registration agreement thereunder;
  - (xvii) the Pledge over Receivables (GDS Shanghai) and the registration agreement thereunder; and
  - (xviii) the Subordination Agreement.

(b) The Equity Pledge Agreement (WGQ Onshore Loan), in a form mutually acceptable to each of the parties thereto but unsigned.

(c) To the extent a Transaction Security Document requires, each of ancillary documents under that Transaction Security Document, duly executed and delivered by a person which is required to execute and deliver under that Transaction Security Document, including without limitation:

- (i) the certificates of all the stock and shares and documents of title relating to the shares in the Parent (EDC YG) held by the Intermediate Parent;
- (ii) pre-signed but undated instrument of transfer and bought and sold notes relating to the shares in the Parent (EDC YG) held by the Intermediate Parent;
- (iii) pre-signed but undated letters of resignation from each director and the secretary of the Parent (EDC YG) substantially in the form of schedule 2 (Form of resignation letter) to the Share Mortgage Agreement (Parent (EDC YG));
- (iv) pre-signed but undated resolution of all the directors of the Parent (EDC YG) substantially in the form of schedule 3 (Form of written resolution of directors) to the Share Mortgage Agreement (Parent (EDC YG));
- (v) pre-signed and dated letters of authorisation from each director and the secretary of the Parent (EDC YG) substantially in the form of schedule 4 (Form of authorisation letter) to the Share Mortgage Agreement (Parent (EDC YG)); and

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- (vi) Any other ancillary documents required to be delivered and obtained under the Transaction Security Documents before the date of the first Utilisation Request.

## 3. Legal opinions

- (a) A legal opinion in relation to PRC law from Zhong Lun Law Firm, addressed to the Finance Parties, substantially in the form distributed to the Original Lenders prior to the signing of this Agreement.
- (b) A legal opinion as to Hong Kong law from Allen & Overy, addressed to the Finance Parties, substantially in the form distributed to the Original Lenders prior to signing this Agreement.
- (c) A legal opinion in relation to Cayman law from Walkers, addressed to the Finance Parties, substantially in the form distributed to the Original Lenders prior to the signing of this Agreement.

## 4. Other documents and evidence

- (a) Evidence that any process agent referred to in any Finance Documents has accepted its appointment.
- (b) Evidence that Project SH2 has met the capital ratio requirement under the applicable Governmental Rules.

- (c) A copy of Group Structure Chart.
- (d) A copy of Budget for the Financial Year ending 31 December 2016 as approved by the Facility Agent.
- (e) Evidence that the each Loan Disbursement Accounts, each Receiving Accounts (other than the USD Receiving Account (WGQ), the USD Receiving Account (GDS Beijing-YG), the Receiving Account (GDS HK-WGQ), the Receiving Account (GDS HK-YG), the Receiving Account (GDS Shanghai-WGQ) and the Receiving Account (GDS Shanghai-YG)), the Operations Account (WGQ), the Operations Account (YG), the Debt Service Accrual Account (WGQ), the Debt Service Accrual Account (YG Onshore Loan), the Excess Cashflow Account (WGQ) and the Excess Cashflow Account (YG) have been established with the Account Bank.
- (f) Evidence that the Debt Service Reserve Account (WGQ) has been established with the Account Bank and amount standing credit to the Debt Service Reserve Account (WGQ) is not less than the Debt Service Reserve Amount (WGQ).
- (g) Evidence that the Debt Service Reserve Account (YG Onshore Loan) has been established with the Account Bank and amount standing credit to the Debt Service Reserve Account (YG Onshore Loan) is not less than the Debt Service Reserve Amount (YG Onshore Loan).
- (h) Certified copies of the IDC Licenses which shall include the GDS Beijing's IDC License and GDS Shanghai's IDC License.
- (i) Original IDC License Memo.
- (j) Original Financial Statements, in case of the Parent (EDC YG), its management report for year 2015.
- (k) An audited consolidated financial statement of the Group for the Financial Year ending 31 December 2015 which has been reviewed and verified by an independent auditor acceptable to all Lenders.

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- (l) Certified copies of the Lease Agreements.
- (m) Certified copies of the Contractor Agreements
- (n) Certified copies of each Service Contracts.
- (o) Certified copies of the Existing Shareholder Loan (WGQ), the Inter-company Loan Agreements (if any) and the Service Agreement.
- (p) Evidence that stamp duties payable by each Borrower in respect of the Finance Documents that have been entered into before the first Utilisation Date under this Agreement have been paid in full.
- (q) Evidence that the Transaction Expenses and any other fees, costs or expenses in relation to the Facilities then due from each Borrower under the Finance Documents have been paid in full.
- (r) Evidence that all "Know your customer" checks required by the Facility Agent pursuant to Clause 21.12 ("Know your customer" checks) have been completed and the result of which is satisfactory to the Facility Agent.
- (s) The loan card search result of each Borrower satisfactory to the Facility Agent.
- (t) Satisfactory due diligence by the Facility Agent and/or its consultants, agents, representatives, including the review of the ultimate parent shareholding of each Borrower, key contracts including Contractor Agreements, Service Contracts, Lease Agreements and the Back-to-Back Agreements
- (u) A copy of any other Authorisation or other document, opinion or assurance which the Facility Agent reasonably considers to be necessary or desirable (if it has notified any Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.

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## Part II

### Conditions Precedent to Initial Utilisation for Facility A

- (a) Capital Verification Report (□□□□) showing that the registered capital of EDC WGQ (i.e., USD 20,000,000) has been fully paid up.
- (b) The Certificate of Completion of Project SH1.
- (c) A certified true copy of the construction completion acceptance and filing receipt (□□□□□□□□) issued by Shanghai Comprehensive Bonded Zone Planning and Construction Department (□□□□□□□□□□) evidencing relevant building to be leased by EDC WGQ for Project SH1 under the relevant Lease Agreement has passed the completion inspection.
- (d) A certified copy of the Business Plan evidencing, among others, (1) the minimum cash balance of EDC WGQ is not less than RMB 10,000,000, (2) the minimum DSCR is not less than 125%, and (3) the average DSCR is not less than 130%.
- (e) Evidence that the Notification Letters under the Pledge over Receivables (EDC WGQ), the Pledge over Receivables (GDS Suzhou) and the Pledge over Receivables (GDS Beijing) have been duly delivered to all customers under the Service Contracts in relation to Project SH1 existing as of the date of this Agreement (except for the Service Contracts under which the relevant customers have been required under that Service Contract to make payments to the relevant Receiving Accounts), together with a list of customers to which the Notification Letters have been delivered, except that the Notification Letters in relation to the Service Contracts under the Existing Pledge over Receivables (Project SH1) shall be delivered to all relevant customers pursuant to the timeline stipulated in the Pledge over Receivables (GDS Suzhou) and the Pledge over Receivables (GDS Beijing) respectively.
- (f) In respect of Pledge over Receivables (WGQ)
  - (i) evidence that pledge under the Pledge over Receivables (WGQ), the Pledge over Receivables (GDS Suzhou), the Pledge over Receivables (GDS Beijing) and the Pledge over Receivables (GDS Shanghai) in relation to Project SH1 have all been registered with PBOC Information Center pursuant to the timeline stipulated in the Pledge over Receivables (GDS Suzhou) and the Pledge over Receivables (GDS Beijing) respectively;
  - (ii) pre-signed but undated Notice of Pledge (as defined in the Pledge over Receivables (WGQ), the Pledge over Receivables (GDS Suzhou), the Pledge over Receivables (GDS Beijing) and the Pledge over Receivables (GDS Shanghai)) required under the Pledge over Receivables (WGQ), the Pledge over Receivables (GDS Suzhou), the Pledge over Receivables (GDS Beijing) and the Pledge over Receivables (GDS Shanghai) to all customers under the relevant Service Contracts in respect of Project SH1; and
  - (iii) evidence that the Notice of Pledge under the Pledge over Receivables (WGQ) have been delivered to GDS Suzhou, GDS Beijing, GDS HK and GDS Shanghai in respect of the Back-to-Back Agreements (WGQ) for Project SH1, and GDS Suzhou, GDS Beijing, GDS HK and GDS Shanghai have acknowledged such Notice of Pledge.

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- (g) In respect of Insurance Assignment Agreement (WGQ)
  - (i) evidence that the notice under the Insurance Assignment Agreement (WGQ) in relation to Project SH1 has been duly delivered by EDC WGQ to relevant contract counterparties; and
  - (ii) original policies of Insurances in relation to Project SH1 evidencing that the insurance coverage satisfactory to all Lenders required are issued pursuant to the terms of this Agreement, including, without limitation, the certificates of insurance in which, among others, the Security Agent has been named as the first loss-payee and the copies of evidence of payment of all related premiums.
- (h) In respect of Lease Assignment Agreement (WGQ)
  - (i) a pre-signed but undated Assignment Notice (as defined in the Lease Assignment Agreement (WGQ)) under the Lease Assignment Agreement (WGQ) to the Landlord in relation to Project SH1; and
  - (ii) evidence that the Maintenance Notice (as defined in the Lease Assignment Agreement(WGQ)) under the Lease Assignment Agreement (WGQ) has been duly delivered by EDC WGQ to the Landlord in relation to Project SH1, and the Landlord has acknowledged such Maintenance Notice.
- (i) In respect of Back-to-Back Agreements

certified copies of each Back-to-Back Agreements in relation to Project SH1 duly executed by each party thereto in form and substance satisfactory to all Lenders.



**Part III**

**Conditions Precedent to Initial Utilisation for Facility B**

- (a) Evidence to the satisfaction of the Facility Agent that the registered capital of EDC YG (i.e., USD 64,000,000) has been fully paid up.
- (b) The Certificate of Completion to evidence the Project SH2 Completion.
- (c) A certified copy of the Business Plan evidencing, among others, (1) the minimum cash balance of EDC YG is not less than RMB 10,000,000, (2) the minimum DSCR is not less than 125%, and (3) the average DSCR is not less than 130%.
- (d) Evidence that the Notification Letters under the Pledge over Receivables (EDC YG), the Pledge over Receivables (GDS Suzhou) and the Pledge over Receivables (GDS Beijing) have been duly delivered to all customers under the Service Contracts in relation to Project SH2 existing as of the date of this Agreement (except for the Service Contracts under which the relevant customers have been required under that Service Contract to make payments to the Receiving Accounts), together with a list of customers to which the Notification Letters have been delivered, except that the Notification Letter in relation to the Service Contracts under the Existing Pledge over Receivables (Project SH2) shall be delivered to all relevant customers pursuant to the timeline stipulated in the Pledge over Receivables (GDS Suzhou) and the Pledge over Receivables (GDS Beijing) respectively.
- (e) In respect of Pledge over Receivables (YG)
  - (i) evidence that pledge under the Pledge over Receivables (YG), the Pledge over Receivables (GDS Suzhou), the Pledge over Receivables (GDS Beijing) and the Pledge over Receivables (GDS Shanghai) in relation to Project SH2 have all been registered with PBOC Information Center, except that the pledge over relevant Service Contracts under the Existing Pledge over Receivables (Project SH2) shall be registered with PBOC Information Center pursuant to the timeline stipulated in the Pledge over Receivables (GDS Suzhou) and the Pledge over Receivables (GDS Beijing) respectively;
  - (ii) pre-signed but undated Notice of Pledge (as defined in the Pledge over Receivables (YG), the Pledge over Receivables (GDS Suzhou), the Pledge over Receivables (GDS Beijing) and the Pledge over Receivables (GDS Shanghai)) under the Pledge over Receivables (YG), the Pledge over Receivables (GDS Suzhou), the Pledge over Receivables (GDS Beijing) and the Pledge over Receivables (GDS Shanghai) to all customers under the Service Contracts in respect of Project SH2; and
  - (iii) evidence that the Notice of Pledge under the Pledge over Receivables (YG) have been delivered to GDS Suzhou and GDS Beijing in respect of the Back-to-Back Agreements (YG) for Project SH2, and GDS Suzhou and GDS Beijing have acknowledged such Notice of Pledge.
- (f) In respect of Insurance Assignment Agreement (YG)
  - (i) evidence that the notice under the Insurance Assignment Agreement (YG) in relation to Project SH2 has been duly delivered by EDC YG to relevant contract counterparties; and

- (ii) original policies of Insurances in relation to Project SH2 evidencing that the insurance coverage satisfactory to all Lenders required are issued pursuant to the terms of this Agreement, including, without limitation, the certificates of insurance in which, among others, the Security Agent has been named as the first loss-payee, and the copies of evidence of payment of all related premiums.
- (g) In respect of Lease Assignment Agreement (YG)
  - (i) a pre-signed but undated Assignment Notice (as defined in the Lease Assignment Agreement (YG)) under the Lease Assignment Agreement (YG) to the Landlord in relation to Project SH2; and
  - (ii) evidence that the Maintenance Notice (as defined in the Lease Assignment Agreement (YG)) under the Lease Assignment Agreement (YG) has been duly delivered by EDC YG to the Landlord in relation to Project SH2, and the Landlord has acknowledged such Maintenance Notice.
- (h) In respect of Back-to-Back Agreement
 

certified copies of each Back-to-Back Agreements in relation to Project SH2 duly executed by each party thereto in the form and substance satisfactory to all Lenders.

**Part IV**

**Conditions Subsequent**

**1. Conditions Subsequent for all Facilities**

- (a) The Obligors' Agent shall, within 14 days after this Agreement, provide the Facility Agent with the originals of resolutions/decisions of the shareholder(s) of each Borrower, GDS Beijing, GDS Suzhou, GDS Management Co., GDS Shanghai and EDC Technology (Kunshan) Co. Ltd. ( ) stipulated in paragraph 1(k), Part I Schedule 2 (*Conditions Precedents to Initial Utilisation for all Facilities*).
- (b) Contract Novation
 

GDS HK shall (and the Obligors shall procure GDS HK), within 3 Months after the date of this Agreement, provide to the Facility Agent documents acceptable to all Lenders evidencing that all obligations and rights of GDS HK under the GDS HK Service Contracts have been novated to the Assignee Group Member.

Following the Contract Novation, the Assignee Group Member (other than EDC WGQ) shall (and each Obligor shall procure such Assignee Group Member (other than EDC WGQ)), within 3 Months after the date of this Agreement, provide to the Facility Agent documents acceptable to all Lenders evidencing that relevant back-to-back agreements have been entered into by and between such Assignee Group Member (other than EDC WGQ) and EDC WGQ or EDC YG (as case may be) and relevant pledge over receivables have been entered into by and between such Assignee Group Member (other than EDC WGQ and EDC YG) and the Security Agent.
- (c) USD Receiving Account (WGQ)
 

EDC WGQ shall, within 14 days after the first Utilisation Date, provide the Facility Agent with evidence that the USD Receiving Account (WGQ) has been established and maintained with the Account Bank.
- (d) USD Receiving Account (Beijing-YG)
 

GDS Beijing shall, within 14 days after the first Utilisation Date, provide the Facility Agent with evidence that the USD Receiving Account (Beijing-YG) has been established and maintained with the Account Bank.
- (e) Receiving Accounts of GDS Shanghai
 

GDS Shanghai shall, within 14 days after the first Utilisation Date, provide the Facility Agent with evidence that the Receiving Account (GDS Shanghai-WGQ) and the Receiving Account (GDS Shanghai-YG) have been established and maintained with the Account Bank.
- (f) Receiving Accounts of GDS HK
 

GDS HK shall, within 2 Months after the first Utilisation Date, provide the Facility Agent with evidence that the Receiving Account (GDS HK-WGQ) and the Receiving Account (GDS HK-YG) have been established and maintained with the Account Bank.

- (g) Back-to-Back Agreement between EDC WGQ and EDC YG

EDC WGQ and EDC YG shall, prior to 31 July 2016, provide the Facility Agent with the evidence that relevant back-to-back agreement in form and substance satisfactory to all Lenders has been entered into by and between EDC WGQ and EDC YG in respect of the Projects (other than Project SH2) in which EDC YG agrees to provide data center facilities and other related services to EDC WGQ for EDC WGQ to perform its obligations under the relevant Service Contracts and EDC WGQ agrees to pay all or certain percentage consideration thereunder to EDC YG and relevant pledge over receivables or supplemental agreement to the Pledge over Receivables (YG) in relation to such back-to-back agreement has been entered into by and between EDC YG and the Security Agent.

(h) IDC Authorization to GDS Suzhou

GDS Suzhou shall, within 30 days after the first Utilisation Date under this Agreement, provide the Facility Agent with evidence that the IDC Authorization has been granted to GDS Suzhou.

(i) Original Financial Statement in relation to Parent (EDC YG)

Parent (EDC YG) shall, prior to 31 July 2016, provide the Facility Agent with its audited financial statements for the Financial Year ended 31 December 2015.

**2. Conditions Subsequent for Facility A**

(a) Termination of the Existing Maximum Amount Mortgage Contract (Project SH1)

EDC WGQ shall, within 14 Business Days after the first Utilisation under Facility A, provide the Facility Agent with documents evidencing that the Existing Maximum Amount Mortgage Contract (Project SH1) has been irrevocably and unconditionally terminated and released.

(b) Release of the Existing Pledge over Receivables (Project SH1)

GDS Suzhou and GDS Beijing shall, within 90 days after the first Utilisation Date of Facility A, provide the Facility Agent with documents evidencing that the Existing Pledge over Receivables (Project SH1) has been irrevocably and unconditionally discharged, released and deregistered.

(c) Notification Letter

GDS Suzhou and the GDS Beijing shall, within 3 Business Days upon the release and deregistration of the Existing Pledge over Receivables (Project SH1) but in no event later than 90 days after the first Utilisation Date of Facility A, provide the Facility Agent with documents evidencing that the Notification Letters in relation to the Service Contracts under the Existing Pledge over Receivables (Project SH1) have been delivered to all relevant customers.

GDS Shanghai shall, upon the Receiving Account (GDS Shanghai-WGQ) and the Receiving Account (GDS Shanghai-YG) being established with the Account Bank but in no event later than 14 days after the first Utilisation Date, provide the Facility Agent with the evidence that the Notification Letters under the Pledge over Receivables (GDS Shanghai) have been duly

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delivered to all customers under the Service Contracts in relation to Project SH1 existing as of the date of this Agreement (except for the Service Contracts under which the relevant customers have been required under that Service Contract to make payments to the relevant Receiving Accounts), together with a list of customers to which the Notification Letters have been delivered.

GDS HK shall, upon the Receiving Account (GDS HK-WGQ) and the Receiving Account (GDS Shanghai-YG) being established with the Account Bank but in no event later than 2 Months after the first Utilisation Date, provide the Facility Agent with the evidence that the notification letters stipulated in Clause 23.23 (*Contract Novation*) of this Agreement have been duly delivered to all customers under the GDS HK Service Contracts in relation to Project SH1 existing as of the date of this Agreement.

(d) Updated List of Customers

EDC WGQ, GDS Suzhou, the GDS Beijing and GDS Shanghai shall, on or before the date falling 30 days after the date of this Agreement, provide to the Facility Agent a list of customers who have not agreed to comply with or, have not paid amounts under the Service Contracts in relation to Project SH1 into the relevant Receiving Accounts in accordance with the Notification Letters which have been delivered to them pursuant to the Finance Documents.

(e) Equity Pledge Agreement

(i) GDS Beijing and EDC WGQ shall, within three (3) Months after the date of this Agreement, complete the EDC WGQ Restructuring and provide documents evidencing such completion as well as an updated Group Structure Chart to the Facility Agent.

(ii) EDC WGQ shall, (A) within 90 days after the first Utilisation Date of the Facility A, provide the Facility Agent with the Equity Pledge Agreement (WGQ Onshore Loan) duly signed by the parties thereto; and (B) within 120 days after the first Utilisation Date of the Facility A, provide the Facility Agent with the documents evidencing that the Equity Pledge Agreement (WGQ Onshore Loan) has been registered with the SAIC.

(f) Registration of Pledge over Receivables

GDS Suzhou and the GDS Beijing shall, within 3 Business Days upon the release and deregistration of the Existing Pledge over Receivables (Project SH1) but in no event later than 90 days after the first Utilisation Date of Facility A, provide to the Facility Agent with documents evidencing that the pledge over relevant Service Contracts under the Existing Pledge over Receivables (Project SH1) have been registered with PBOC Information Center pursuant to the Pledge over Receivables (GDS Suzhou) and the Pledge over Receivables (GDS Beijing) respectively.

(g) Movable Assets Mortgage of Project SH1

(i) In relation to the mortgaged assets under the Movable Assets Mortgage Agreement (WGQ SH1 Onshore) that are not subject to Custom's supervision, EDC WGQ shall, within 30 days after the date of Movable Assets Mortgage Agreement (WGQ SH1 Onshore) complete movable assets mortgage registration under the Movable Assets

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Mortgage Agreement (WGQ SH1 Onshore) with SAIC, and provide to the Security Agent an original movable assets mortgage certificate (□□□□□□) or any other original certificates evidencing the completion of such movable assets mortgage registration;

(ii) EDC WGQ shall, within 60 days after the date of this Agreement provide to the Facility Agent a certified copy of valuation report in respect of the movable assets subject to the mortgage under the Movable Assets Mortgage Agreement (WGQ SH1 Onshore) issued by an appraiser acceptable to all Lenders; and

(iii) In relation to the mortgaged assets under the Movable Assets Mortgage Agreement (WGQ SH1 Onshore) that are subject to Custom's supervision, EDC WGQ shall, within 120 days after the date of Movable Assets Mortgage Agreement (WGQ SH1 Onshore) obtain the approval from the Custom in respect of the movable assets mortgage under the Movable Assets Mortgage Agreement (WGQ SH1 Onshore) and complete movable assets mortgage registration under the Movable Assets Mortgage Agreement (WGQ SH1 Onshore) with SAIC, and provide to the Security Agent a certified copy of the Custom approval and an original movable assets mortgage certificate (□□□□□□) or any other original certificates evidencing the completion of such movable assets mortgage registration; and

(iv) EDC WGQ shall, within 5 days after the completion of movable assets mortgage registration as required in paragraphs (i) and (iii) above (as the case may be), provide or cause to be provided to the Facility Agent a legal opinion in respect of the registration of movable assets mortgage thereunder.

(h) IDC Authorization

EDC WGQ shall, within 60 days after the completion of EDC WGQ Restructuring, provide the Facility Agent with documents evidencing the IDC Authorization has been granted to EDC WGQ.

**3. Conditions Subsequent for Facility B**

(a) Capital Verification Report EDC YG shall, within 30 Business Days after the first Utilisation under Facility B, provide the Facility Agent with the Capital Verification Report (□□□□) showing that the registered capital of EDC YG (i.e., USD 64,000,000) has been fully paid up.

(b) EDC YG shall, within 6 Months after the date of this Agreement, provide the Facility Agent with the certified copy of the construction completion acceptance and filing receipt (□□□□□□□□) issued by Shanghai Comprehensive Bonded Zone Planning and Construction Department (□□□□□□□□□□□□□□□□) evidencing that relevant building to be leased by EDC YG for Project SH2 under the relevant Lease Agreement has passed the completion inspection.

(c) Release of the Existing Account Control (Project SH2)

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EDC YG shall, within 14 Business Days after the first Utilisation under Facility B, provide the Facility Agent with documents evidencing that the Existing Account Control (Project SH2) has been irrevocably and unconditionally discharged and released and all account balances standing to the credit of relevant Existing Accounts shall be transferred to the relevant Receiving Accounts.

(d) Release of the Existing Pledge over Receivables (Project SH2)

GDS Suzhou and GDS Beijing shall, within 90 days from the first Utilisation Date of Facility B, provide the Facility Agent with documents evidencing that the Existing Pledge over Receivables (Project SH2) has been irrevocably and unconditionally discharged, released and deregistered.

(e) Notification Letter GDS

Suzhou and the GDS Beijing shall, within 3 Business Days upon the release and deregistration of the Existing Pledge over Receivables (Project SH2) but in no event later than 90 days after the first Utilisation Date of Facility B, provide to the Facility Agent with documents evidencing that the Notification Letters in relation to the Service Contracts under the Existing Pledge over Receivables (Project SH2) have been delivered to all relevant customers.

GDS Shanghai shall, upon the Receiving Account (GDS Shanghai-WGQ) and the Receiving Account (GDS Shanghai-YG) being established with the Account Bank but in no event later than 14 days after the first Utilisation Date, provide the Facility Agent with the evidence that the Notification Letters under the Pledge over Receivables (GDS Shanghai) have been duly delivered to all customers under the Service Contracts in relation to Project SH2 existing as of the date of this Agreement (except for the Service Contracts under which the relevant customers have been required under that Service Contract to make payments to the relevant Receiving Accounts), together with a list of customers to which the Notification Letters have been delivered.

GDS HK shall, upon the Receiving Account (GDS HK-WGQ) and the Receiving Account (GDS Shanghai-YG) being established with the Account Bank but in no event later than 2 Months after the first Utilisation Date, provide the Facility Agent with the evidence that the notification letters stipulated in Clause 23.23 (*Contract Novation*) of this Agreement have been duly delivered to all customers under the GDS HK Service Contracts in relation to Project SH2 existing as of the date of this Agreement.

(f) Updated List of Customers

EDC WGQ, GDS Suzhou, the GDS Beijing and GDS Shanghai shall, on or before the date falling 30 days after the date of this Agreement, provide to the Facility Agent a list of customers who have not agreed to comply with or, have not paid amounts under the Service Contracts in relation to Project SH2 into the relevant Receiving Account in accordance with the Notification Letters which have been delivered to them pursuant to the Finance Documents.

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(g) Equity Pledge Agreement

(i) The Parent (YG) shall, within 1 Month after the date of this Agreement, provide the Facility Agent with the documents evidencing that the Equity Pledge Agreement (YG Onshore Loan) has been duly registered with the Hong Kong Companies Registry; and

(ii) EDC YG shall, within 75 days after the date of this Agreement (or any longer period as agreed by the Security Agent), provide the Facility Agent with the documents evidencing that the Equity Pledge Agreement (YG Onshore Loan) has been approved by or filed with the MOFCOM and registered with the SAIC.

(h) Registration of Pledge over Receivables

GDS Suzhou and the GDS Beijing shall, within 3 Business Days upon the release and deregistration of the Existing Pledge over Receivables (Project SH2) but in no event later than 90 days after the first Utilisation Date of Facility B, provide to the Facility Agent with documents evidencing that the pledge over relevant Service Contracts under the Existing Pledge over Receivables (Project SH2) have been registered with PBOC Information Center pursuant to the Pledge over Receivables (GDS Suzhou) and the Pledge over Receivables (GDS Beijing) respectively.

(i) Movable Assets Mortgage of Project SH2

(i) In relation to the mortgaged assets under the Movable Assets Mortgage Agreement (YG SH2 Onshore) that are not subject to Custom's supervision, EDC YG shall, within 30 days after the date of Movable Assets Mortgage Agreement (YG SH2 Onshore) complete movable assets mortgage registration under the Movable Assets Mortgage Agreement (YG SH2 Onshore) with SAIC, and provide to the Security Agent an original movable assets mortgage certificate (不动产权证书) or any other original certificates evidencing the completion of such movable assets mortgage registration;

(ii) EDC YG shall, within 60 days after the date of this Agreement provide to the Facility Agent a certified copy of valuation report in respect of the movable assets subject to the mortgage under the Movable Assets Mortgage Agreement (YG SH2 Onshore) issued by an appraiser acceptable to all Lenders;

(iii) In relation to the mortgaged assets under the Movable Assets Mortgage Agreement (YG SH2 Onshore) that are subject to Custom's supervision, EDC YG shall, within 120 days after the date of Movable Assets Mortgage Agreement (YG SH2 Onshore) obtain the approval from the Custom in respect of the movable assets mortgage under the Movable Assets Mortgage Agreement (YG SH2 Onshore) and complete movable assets mortgage registration under the Movable Assets Mortgage Agreement (YG SH2 Onshore) with SAIC, and provide to the Security Agent a certified copy of the Custom approval and an original movable assets mortgage certificate (不动产权证书) or any other original certificates evidencing the completion of such movable assets mortgage registration; and

(iv) EDC YG shall, within 5 days after the completion of movable assets mortgage registration as required in paragraphs (i) and (iii) above (as the case may be), provide or cause to be provided to the Facility Agent a legal opinion in respect of the registration of movable assets mortgage thereunder.

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(j) Insurance in relation to Project SH2

EDC YG shall, within 30 days after the date of this Agreement, provide the Facility Agent with the evidence that the insurance amount in relation to Project SH2 has been increased to the extent commercially reasonable and satisfactory to all Lenders pursuant to the Insurance Assignment Agreement (YG).

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SCHEDULE 3

Utilisation Request

From: [EDC WGQ/EDC YG]

To: [Facility Agent]

Dated:

Dear Sirs

SHANGHAI WAIGAOQIAO EDC TECHNOLOGY CO., LTD.) / SHANGHAI YUNGANG EDC TECHNOLOGY CO., LTD.) — Facility Agreement dated [ ] 2016 (the "Facility Agreement")

1. We refer to the Facility Agreement. This is a Utilisation Request. Terms defined in the Facility Agreement shall have the same meaning in this Utilisation Request.

2. We wish to borrow a Loan on the following terms:

Proposed Utilisation Date: [ ] (or, if that is not a Business Day, the next Business Day)

Facility to be utilised: [Facility A / Facility B] (*delete if not relevant*)

Currency of Loan: RMB

Amount: [ ] or, if less, the Available Facility

[First] Interest Period: [ ]

Loan Disbursement Account: [ ]

Loan purpose: [ ]

3. [For the purpose of the Consigned Disbursement, the proceeds of the requested Loan should be credited to [the account in name of the applicable payee] through the Loan Disbursement Account.] (delete if not relevant)
4. [For the purpose of the Consigned Disbursement, we hereby confirm that we irrevocably and unconditionally authorise the Facility Agent to authorise the Account Bank to debit the Loan Disbursement Account for the transfer of funds in the amounts and to the accounts specified in paragraph 3 above.] (delete if not relevant)
5. [For the purpose of the Consigned Disbursement, we enclose with this Utilisation Request the evidence required to be submitted by us pursuant to Clause 5.2 (Completion of a Utilisation Request) of the Agreement.] (delete if not relevant)
6. We confirm that each condition specified in Clause 4.2 (Further conditions precedent) is satisfied on the date of this Utilisation Request.

7. This Utilisation Request is irrevocable.

Yours faithfully

\_\_\_\_\_  
 authorised signatory for  
 [EDC WGQ/EDC YG]

(Company Chop)

**SCHEDULE 4**

**Form of Transfer Certificate**

To: [ ] as Facility Agent and [ ] as Security Agent

From: [The Existing Lender] (the "Existing Lender") and [The New Lender] (the "New Lender")

Dated:

SHANGHAI WAIGAOQIAO EDC TECHNOLOGY CO., LTD. / SHANGHAI YUNGANG EDC TECHNOLOGY CO., LTD. — Facility Agreement dated [ ] 2016 (the "Facility Agreement")

1. We refer to Clause 26.5 (Procedure for transfer) of the Facility Agreement. This is a Transfer Certificate. Terms used in the Facility Agreement shall have the same meaning in this Transfer Certificate.
2. The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation, and in accordance with Clause 26.5 (Procedure for transfer), all of the Existing Lender's rights and obligations under the Facility Agreement and the other Finance Documents which relate to that portion of the Existing Lender's Commitment(s) and participations in Loans under the Facility Agreement as specified in the Schedule.
3. The proposed Transfer Date is [ ].
4. The Facility Office and address, fax number and attention particulars for notices of the New Lender for the purposes of Clause 34.2 (Addresses) are set out in the Schedule.
5. The New Lender expressly acknowledges:
  - (a) the limitations on the Existing Lender's obligations set out in paragraphs (a) and (c) of Clause 26.4 (Limitation of responsibility of Existing Lenders); and
  - (b) that it is the responsibility of the New Lender to ascertain whether any document is required or any formality or other condition requires to be satisfied to effect or perfect the transfer contemplated by this Transfer Certificate or otherwise to enable the New Lender to enjoy the full benefit of each Finance Document.
6. The New Lender confirms that it is a "New Lender" within the meaning of Clause 26.1 (Assignments and transfers by the Lenders).
7. The Existing Lender and the New Lender confirm that the New Lender is not an Obligor or an Affiliate of an Obligor.
8. This Transfer Certificate 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 this Transfer Certificate.

9. This Transfer Certificate and all obligations arising from or in connection with this Transfer Certificate are governed by PRC law.
10. This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate.

**Note:** The execution of this Transfer Certificate may not transfer a proportionate share of the Existing Lender's interest in the Transaction Security in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Lender's Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

**THE SCHEDULE**

**Commitment/rights and obligations to be transferred, and other particulars**

**Commitment/participation(s) transferred**

Drawn Loan(s) participation(s) amount(s):	[ ]
Available Commitment amount:	[ ]

**Administration particulars:**

New Lender's receiving account:	[ ]
Address:	[ ]
Telephone:	[ ]
Facsimile:	[ ]
Attn/Ref:	[ ]

[the Existing Lender]

[the New Lender]

By:

By:

This Transfer Certificate is executed by the Facility Agent and the Transfer Date is confirmed as [ ].

By:

Note: It is the New Lender's responsibility to ascertain whether any other document is required, or any formality or other condition is required to be satisfied, to effect or perfect the transfer contemplated in this Transfer Certificate or to give the New Lender full enjoyment of all the Finance Documents.

SCHEDULE 5

Form of Compliance Certificate

To: [ ] as Facility Agent

From: [Borrowers]

Dated:

Dear Sirs

SHANGHAI WAIGAOQIAO EDC TECHNOLOGY CO., LTD. / SHANGHAI YUNGANG EDC TECHNOLOGY CO., LTD. — Facility Agreement dated [ ] 2016 (the "Facility Agreement")

1. We refer to the Facility Agreement. This is a Compliance Certificate. Terms used in the Facility Agreement shall have the same meaning in this Compliance Certificate. For the purpose of the financial covenants set out in paragraph 2 of this Compliance Certificate, the calculation is made on the consolidated basis of the Borrowers.

2. We confirm that:

- (a) in respect of the Relevant Period ending on [ ], Cashflow for the Relevant Period was [ ] and Debt Service for the Relevant Period was [ ]. Therefore the DSCR for such Relevant Period was [ ];:1 and the financial covenant contained in paragraph (a) of Clause 22.2 (Financial conditions) [has/has not] been complied with.
(b) on the last day of the Relevant Period ending on [ ], Total Debt was [ ] and EBITDA for such Relevant Period was [ ]. Therefore the Gross Leverage Ratio for such Relevant Period was [ ];:1 and the financial covenant contained in paragraph (b) of Clause 22.2 (Financial conditions) [has/has not] been complied with.
(c) on the last day of the Relevant Period ending on [ ], Total Debt was [ ] and Contributed Equity on such day was [ ]. Therefore the DER for such Relevant Period was [ ];:1 and the financial covenant contained in paragraph (c) of Clause 22.2 (Financial conditions) [has/has not] been complied with.
(d) in respect of the Relevant Period ending on [ ], Cashflow for such Relevant Period was [ ] and Net Finance Charges for such Relevant Period were [ ]. Therefore the ICR for such Relevant Period was [ ];:1 and the financial covenant contained in paragraph (d) of Clause 22.2 (Financial conditions) [has/has not] been complied with.
(e) [Capital Expenditure in respect of Project SH1 for the Financial Year of EDC WGQ ending on [ ] was [ ], therefore Capital Expenditure in respect of Project SH1 during such Financial Year [was/was not] in excess of [ ] and the covenant contained in paragraph (e)(i) of Clause 22.2 (Financial conditions) [has/has not] been complied with.]

- (f) [Capital Expenditure in respect of Project SH2 for the Financial Year of EDC YG ending on [ ] was [ ], therefore Capital Expenditure in respect of Project SH2 during such Financial Year [was/was not] in excess of [ ] and the covenant contained in paragraph (e)(ii) of Clause 22.2 (Financial conditions) [has/has not] been complied with.]
(g) [Capital Expenditure in respect of Project SH3 for the Financial Year of EDC YG ending on [ ] was [ ], therefore Capital Expenditure in respect of Project SH3 during such Financial Year [was/was not] in excess of [ ] and the covenant contained in paragraph (e)(iii) of Clause 22.2 (Financial conditions) [has/has not] been complied with.]
(h) [Excess Cashflow for the Financial Year of EDC WGQ ending [ ] was [ ], therefore the Excess Cashflow to be applied in prepayment pursuant to Clause 8.6 (Excess Cashflow) will be [ ].]
(i) [Excess Cashflow for the Financial Year of EDC YG ending [ ] was [ ], therefore the Excess Cashflow to be applied in prepayment pursuant to Clause 8.6 (Excess Cashflow) will be [ ].]

3. [We confirm that no Default is continuing.]\*

4. [We refer to Clause [ ] (For the avoidance of doubt, no Flotation may occur in respect of any member of the Group). We confirm amount of [Disposal Proceeds]/[Insurance Proceeds]/[Compensation] in respect of Project [SH1/SH2] is [ ]. We confirm that the amount of [Excluded Disposal Proceeds]/[Excluded Insurance Proceeds] in respect of Project [SH1/SH2] is [ ], and that the specific purpose for which it was intended to be used is [ ]. We confirm that such amount of [Excluded Disposal Proceeds]/[Excluded Insurance Proceeds] in respect of Project [SH1/SH2] has been used for that specific purpose and within the applicable period in the manner contemplated by this Agreement.]

\* If this statement cannot be made, the certificate should identify any Default that is continuing and the steps, if any, being taken to remedy it.

Signed: Authorised Signatory of [EDC WGQ]

Signed: Authorised Signatory of [EDC YG]

SCHEDULE 6

Form of Accession Letter

To: [ ] as Facility Agent and [ ] as Security Agent

From: [Hedging Providers]

Dated:

Dear Sirs

SHANGHAI WAIGAOQIAO EDC TECHNOLOGY CO., LTD. / SHANGHAI YUNGANG EDC TECHNOLOGY CO., LTD.

1. We refer to the Facility Agreement. This is an Accession Letter. Terms defined in the Facility Agreement have the same meaning in this Accession Letter unless given a different meaning in this Accession Letter.
2. We, [name of new Hedging Provider] of [address/registered office], agree to become a Hedging Provider under the Facility Agreement and to be bound by the terms of the Facility Agreement as a Hedging Provider. We are a company duly incorporated under the laws of [name of relevant jurisdiction].
3. [Hedging Provider's] administrative details are as follows:  
Address:  
Fax No:  
Attention:  
Telephone No:
4. This Accession Letter, and all obligations arising from or in connection with this Accession Letter are governed by PRC law.

[Hedging Provider]

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

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## SCHEDULE 7

### Insurances

#### 1. Insurance Requirements

Unless each Lender otherwise agrees, each Borrower (or any person on its behalf) shall, to the extent such insurances are available on commercially reasonable terms:

- (a) insure and keep insured, with financially sound and reputable insurers and reinsurers approved by each Lender, all its assets and business which can be insured against all insurable losses to include, without limitation, the insurances specified in this Schedule 7 (*Insurances*);
- (b) promptly following the receipt of a notice by any Lender or the Facility Agent from time to time, obtain such additional insurance coverage of risks or liabilities that are not specified in this Schedule 7 (*Insurances*) as would from time to time be obtained by a prudent internet data center company which does not self-insure and which shall be in such amounts and with such deductibles as are specified in that notice;
- (c) promptly following the receipt of a notice by the Lenders or the Facility Agent from time to time, obtain such additional insurance(s) or make such modifications to the terms, conditions, amounts or deductibles of any insurance policy required pursuant to paragraphs 1(a) and 1(b) above as the Facility Agent may reasonably determine and specify in that notice to be necessary so as to cover any material change in the identified risk exposure of a Borrower, its business or assets; and
- (d) promptly following the receipt of a notice by the Facility Agent from time to time pursuant to the terms of proviso (i) of this paragraph 1, make such modifications to the amounts and deductibles of any insurance policy required to be obtained under this Agreement as the Facility Agent specifies in that notice to take account of inflationary and other relevant factors,

provided always that:

- (i) the Facility Agent (acting reasonably) shall be entitled from time to time to review, in consultation with a Borrower, the monetary limits and deductibles of each policy required to be obtained under this Agreement, such review not to be conducted more frequently than once every calendar year with respect to each policy; and
- (ii) if at any time and for any reason any insurance required to be maintained under this Agreement shall not be in full force and effect or otherwise a Borrower fails to comply with any of the requirements in this paragraph 1, the Facility Agent (acting reasonably) shall thereupon, or at any time while the same is continuing, be entitled (but have no such obligation) on behalf of the Lenders to procure such insurance or, as the case may be, the fulfilment of the relevant requirement at the expense of that Borrower and to take all such steps to minimise hazard as the Facility Agent may consider expedient or necessary.

#### 2. Insurance Provisions

Each insurance policy required to be obtained pursuant to paragraph 1 above shall be on terms and conditions acceptable to the Facility Agent (acting reasonably) and, to the extent it is commercially viable, contain cut-through provisions, where required, together with provisions to the effect that:

- (a) no policy can expire or be cancelled or suspended by any Borrower, or the insurer for any reason (including failure to renew the policy or to pay the premium or any other amount) unless the Facility Agent and, in the case of expiration or if cancellation or suspension is initiated by the insurer, that Borrower receives at least 45 days' notice (or such lesser period as the Facility Agent may agree with respect to cancellation, suspension or termination in the event of war and kindred peril) prior to the effective date of termination, cancellation or suspension;
- (b) the Security Agent (on behalf of the Secured Parties) is named as additional insured party on all liability policies;
- (c) where relevant, all its provisions (except those relating to limits of liability) shall operate as if they were a separate policy covering each insured party;
- (d) on every insurance policy on any Borrower's assets which are the subject of the security granted pursuant to the Transaction Security Documents and on every insurance policy for business interruption, the Security Agent (on behalf of the Secured Parties) is named as loss payee;
- (e) where relevant, the insurers waive all rights of recourse or subrogation, howsoever arising, against any Borrower; and
- (f) all provisions of each insurance policy conferring any right, protection or benefit to the Secured Parties (including, without limitation, loss payee and additional named insured provisions, notice requirements, etc.) shall at all times remain in full force and in effect notwithstanding any act or failure to act on the part of any Borrower, its respective agents or employees or on the part of its respective contractors or subcontractors,

provided that none of the policies required pursuant to paragraph 1 above shall include any provision for self-insurance or any self-insured retention except to the extent of the deductibles specified in this Schedule 7 (*Insurances*) or as each Lender otherwise approves from time to time.

#### 3. Borrowers' Undertakings

The Borrowers shall (and shall procure that any other person will, in respect of insurance policies maintains by such other person on behalf of any Borrower):

- (a) punctually pay any premium, commission and any other amounts necessary for effecting and maintaining in force each insurance policy;
- (b) promptly notify the relevant insurer of any event entitling the Borrowers to make a claim under any policy written by that insurer and diligently pursue that claim;
- (c) comply with all warranties under each policy of insurance;
- (d) not do or omit to do, or permit to be done or not done, anything which might:
  - (i) render any insurance policy, or any provision of that policy, obtained pursuant to this Schedule 7 (*Insurances*) void or voidable or lead to its suspension or impair or defeat any such policy in whole or in part; or
  - (ii) prejudice the Borrowers' or, where the Security Agent is a loss payee or an additional named insured, the Security Agent's right to claim or recover under any insurance policy;

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- (e) not vary, rescind, terminate, cancel or cause a material change to any insurance policy;
- (f) procure that each insurer under all insurance policies obtained pursuant to paragraph 1 above:
- (i) is promptly notified of the security interests, created in favour of the Secured Parties pursuant to the Transaction Security Documents in the Borrowers' title to, and rights, interests and benefits under, such policies;
- (ii) (A) notes on each such policy, in form and substance satisfactory to each Secured Party, the Secured Parties' interest in that policy pursuant to the Transaction Security Documents and (B) deposits each such policy with its brokers;
- (iii) together with the relevant brokers, notifies the Secured Parties of the issuance of any notice of cancellation or suspension or modification of the relevant policy and of any fact of which they become aware that could affect the coverage under that policy; and
- (iv) acknowledges that the Secured Parties, as beneficiaries under the relevant policy and the Transaction Security Documents, are not liable to the insurers or reinsurers for the payment of any insurance or reinsurance premiums nor for any other obligations of the Borrowers;
- (g) use its best efforts to ascertain that payments of reinsurance, if any, premiums under reinsurance policies of insurances required to be maintained by the Borrowers pursuant to paragraph 1 above are paid in a timely manner and promptly inform the Security Agent when it becomes aware that any such premiums have not been paid.

#### 4. Application of Proceeds

- (a) The Borrowers shall cause all proceeds from an Insurance claim (other than the Excluded Insurance Proceeds) to be directly applied towards the prepayment of the Loans in accordance with Clause 8.5 (*Insurance proceeds*) of this Agreement;
- (b) If the proceeds from an Insurance claim received by or payable to any Borrower is RMB 10,000,000 or less, such proceeds shall constitute the Excluded Insurance Proceeds, and shall be applied towards the replacement, reinstatement and/or repair of the assets or otherwise in amelioration of the loss in respect of which the relevant insurance claim was made within 6 months after receipt.

#### 5. Reporting Requirements

Unless the Facility Agent otherwise agrees, the Borrowers shall (and shall procure that any other person will, in respect of insurance policies maintained by such other person on behalf of any Borrower) provide to the Facility Agent the following:

- (a) as soon as possible after its occurrence, notice of any event which entitles the Borrowers to claim under any one or more insurance policies;
- (b) within 30 days after any insurance policy is issued to any Borrower, a copy of that policy incorporating any loss payee provisions required under paragraph 2(d) above;
- (c) within 30 days after any notice has been given by the Facility Agent to a Borrower pursuant to paragraph 1(c) and paragraph 1(d) above, a copy of any additional insurance obtained, or modification of any existing policy made, pursuant to that notice;

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- (d) not less than 10 Business Days prior to the expiry date of any insurance policy (or, for insurance with multiple renewal dates, not less than 10 Business Days prior to the expiry date of the policy on the principal asset), a certificate of renewal from the insurer, insurance broker or agent confirming the renewal of that policy and the renewal period, the premium, the amounts insured for each asset or item and any changes in terms or conditions from the policy's issue date or last renewal, and confirmation from the insurer that provisions naming the Security Agent (on behalf of the Secured Parties) as loss payee or additional named insured, as applicable remain in effect;
- (e) such evidence of premium payment as the Facility Agent may from time to time request;
- (f) any cancellation, written notice of threatened or potential cancellation or material change in the terms, coverage or amounts of any insurance policy required to be maintained pursuant to this Schedule 7 (*Insurances*); and
- (g) any other information or documents on each insurance policy as the Facility Agent reasonably requests from time to time.

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### SCHEDULE 8

#### List of Existing Accounts

#### EDC WGQ:

No.	Account No.	Account Opening Bank	Targeted Timeline for Closure of the Existing Accounts
1.	449459218086	Bank of China, Shanghai Pilot Free Trade Zone Branch	Basic account, not closed
2.	441668869094	Bank of China, West Nanjing Road No. 3 Sub-branch (Shanghai)	The company credit card account, not closed
3.	310066137018010107902	Bank of Communications, Shanghai Pilot Free Trade Zone Branch	Within 3 Months after the date of this Agreement
4.	310066137018010149696	Bank of Communications, Shanghai Pilot Free Trade Zone Branch	Within 6 Months after the date of this Agreement
5.	310066137018800022065	Bank of Communications, Shanghai Pilot Free Trade Zone Branch	Within 3 Months after the date of this Agreement
6.	70010122001855493	Bank of Ningbo, Shanghai Branch	Within 3 Months after the date of this Agreement
7.	5992010420082474	East West Bank (China) Limited	Within 3 Months after the date of this Agreement
8.	8110201013900002543	China CITIC Bank, Shanghai Pudian Road Sub-Branch	Within 3 Months after the date of this Agreement
9.	310066137146150004712	Bank of Communications, Shanghai Pilot Free Trade Zone Branch	Within 6 Months after the date of this Agreement
10.	310066713146150009255	Bank of Communications, Shanghai Pilot Free Trade Zone Branch	Within 6 Months after the date of this Agreement
11.	310066137146100006783	Bank of Communications, Shanghai Pilot Free Trade Zone Branch	Within 6 Months after the date of this Agreement
12.	70012028000001301	Bank of Ningbo, Shanghai Branch	Foreign debt account for the Existing Shareholder Loan (WGQ), not closed
13.	7314411482600002218	China CITIC Bank, Shanghai Branch	Foreign debt account for the Existing Shareholder Loan

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No.	Account No.	Account Opening Bank	Targeted Timeline for Closure of the Existing Accounts
			(WGQ), not closed
14.	1113000983	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
15.	1113001033	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A

16.	1113001041	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
17.	1113001068	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
18.	1113001076	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
19.	1113001084	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
20.	1113001092	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A

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**EDC YG:**

No.	Account No.	Account Opening Bank	Targeted Timeline for Closure of the Existing Accounts
1.	310066137018010185106	Bank of Communications, Shanghai Pilot Free Trade Zone Branch	Basic Account, not closed
2.	FTE4510729929000000153	Industrial & Commercial Bank of China, Qingpu Industrial Zone Sub- Branch	Within 3 Months after the date of this Agreement
3.	310066137018010370346	Bank of Communications, Shanghai Pilot Free Trade Zone Branch	Within 6 Months after the date of this Agreement
4.	446868869238	Bank of China, West Nanjing Road No. 3 Sub-branch (Shanghai)	Within 3 Months after the date of this Agreement
5.	448168728902	Bank of China, West Nanjing Road No. 3 Sub-branch (Shanghai)	Within 6 Months after the date of this Agreement
6.	FTE787570007212	Bank of China, West Nanjing Road No. 3 Sub-branch (Shanghai)	Within 3 Months after the date of this Agreement
7.	32001617160052508859	China Construction Bank, Luoshe Branch (Wuxi)	Within 3 Months after the date of this Agreement
8.	442969141975	Bank of China, West Nanjing Road No. 3 Sub-branch (Shanghai)	Within 3 Months after the date of this Agreement
9.	310066137146150005935	Bank of Communications, Shanghai Pilot Free Trade Zone Branch	Within 6 Months after the date of this Agreement
10.	445568599029	Bank of China, West Nanjing Road No. 3 Sub-branch (Shanghai)	Within 6 Months after the date of this Agreement
11.	1119000632	United Overseas Bank (China) Limited	N/A
12.	1113001122	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
13.	1113001149	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
14.	1113001157	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A

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No.	Account No.	Account Opening Bank	Targeted Timeline for Closure of the Existing Accounts
15.	1113001165	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
16.	1113001173	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
17.	1113001181	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
18.	1113001203	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
19.	1113001211	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A

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**SIGNATURE PAGE**

**Borrower**

SHANGHAI WAIGAOQIAO EDC TECHNOLOGY CO., LTD.)

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

GDS-Facility Agreement (Onshore Loan)

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**Borrower**

SHANGHAI YUNGANG EDC TECHNOLOGY CO., LTD.)

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

GDS-Facility Agreement (Onshore Loan)

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**Ultimate Parent**



**GDS HOLDINGS LIMITED**

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

GDS-Facility Agreement (Onshore Loan)

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**GDS Beijing**

北京万国畅安科技有限公司 (BEIJING WANGUO CHANGAN TECHNOLOGY CO., LTD.)

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

GDS-Facility Agreement (Onshore Loan)

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**GDS Suzhou**

全球数据解决方案有限公司 (GLOBAL DATA SOLUTIONS CO., LTD.)

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

GDS-Facility Agreement (Onshore Loan)

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**GDS Management Co.**

上海自贸区GDS管理有限公司 (SHANGHAI FREE TRADE ZONE GDS MANAGEMENT CO., LTD.)

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

GDS-Facility Agreement (Onshore Loan)

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**Mandated Lead Arranger**

中国农业银行 (CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK (CHINA) LIMITED)

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

GDS-Facility Agreement (Onshore Loan)

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**Mandated Lead Arranger**

联合国海外银行 (CHINA) 有限公司上海自贸区试点自由贸易区支行 (UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)

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

GDS-Facility Agreement (Onshore Loan)

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**Original Lender**

中国农业银行 (CHINA) 有限公司上海分行 (Credit Agricole Corporate and Investment Bank (China) Limited Shanghai Branch)

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

GDS-Facility Agreement (Onshore Loan)

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**Original Lender**

联合国海外银行 (CHINA) 有限公司上海自贸区试点自由贸易区支行 (UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)

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

GDS-Facility Agreement (Onshore Loan)

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**Facility Agent**

联合国海外银行 (CHINA) 有限公司上海自贸区试点自由贸易区支行 (UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)

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

GDS-Facility Agreement (Onshore Loan)

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**Security Agent**

UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH

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

GDS-Facility Agreement (Onshore Loan)

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**Account Bank**

UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH

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

GDS-Facility Agreement (Onshore Loan)

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**Coordinating Bank**

CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK (CHINA) LIMITED

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

GDS-Facility Agreement (Onshore Loan)

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**Coordinating Bank**

UNITED OVERSEAS BANK LIMITED

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

GDS-Facility Agreement (Onshore Loan)

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FACILITY AGREEMENT

Dated September 29, 2016

for

SHANGHAI WAIGAOQIAO EDC TECHNOLOGY CO., LTD.)  
 SHANGHAI YUNGANG EDC TECHNOLOGY CO., LTD.)  
 as Borrowers

and

**GDS HOLDINGS LIMITED**  
 as Ultimate Parent

arranged by

CRIC (CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK)

UNOB (UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)

DBS Bank (China) Ltd, Shanghai Branch

SHR (Shanghai HuaRui Bank Co., LTD)

ANZ (Australia and New Zealand Bank (China) Company Limited, Shanghai Branch)  
 as Mandated Lead Arrangers

with

UNOB (UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)  
 acting as Facility Agent and Security Agent

UNOB (UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)  
 acting as Account Bank

and

CRIC (CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK)

UNOB (UNITED OVERSEAS BANK LIMITED)  
 acting as Coordinating Banks

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THIS AGREEMENT is dated September 29, 2016 and made between:

- (1) 上海外高桥埃迪科技股份有限公司 (SHANGHAI WAIGAOQIAO EDC TECHNOLOGY CO., LTD.), a limited liability company established under the laws of the PRC, with its registered address at Building 1, No. 6, Huajin Road, China (Shanghai) Pilot Free Trade Zone, PRC (Unified Social Credit Code: 91310115685460850P) (“EDC WGQ”);
- (2) 上海外高桥埃迪科技股份有限公司 (SHANGHAI YUNGANG EDC TECHNOLOGY CO., LTD.) a wholly foreign owned enterprise established under the laws of the PRC, with its registered address at Room 431, 4<sup>th</sup> Floor, No. 8, Huajin Road, China (Shanghai) Pilot Free Trade Zone, PRC (Unified Social Credit Code: 91310115599775434E) (“EDC YG”, together with EDC WGQ, the “Borrowers” and each a “Borrower”);
- (3) GDS HOLDINGS LIMITED, an exempted company incorporated with limited liability under the laws of the Cayman Islands, with its registered address at the offices of Codan Trust Company (Cayman) Limited, Cricket Square, Hutchins Drive, P.O. Box 2681, Grand Cayman KY1-1111, Cayman Islands (the “Ultimate Parent”);
- (4) 北京万国长安科技股份有限公司 (BEIJING WANGUO CHANGAN TECHNOLOGY CO., LTD.), a limited liability company established under the laws of the PRC, with its registered address at Room 9037, 9<sup>th</sup> Floor, Building 3, No. 30<sup>th</sup> Yard, Shixing Avenue, Shijingshan District, Beijing, PRC (Unified Social Credit Code: 911101077889501239) (the “GDS Beijing”);
- (5) 苏州数据解决方案有限公司 (GLOBAL DATA SOLUTIONS CO., LTD.), a limited liability company established under the laws of the PRC, with its registered address at Unit A0503-1, International Science & Technology Park, No. 1355, Jinjiu Avenue, Suzhou Industrial Park, PRC (Unified Social Credit Code: 913205947230335351) (“GDS Suzhou”);
- (6) 上海自贸区GDS管理有限公司 (SHANGHAI FREE TRADE ZONE GDS MANAGEMENT CO., LTD.), a wholly foreign owned company established under the laws of the PRC, with its registered address at Room 4056 4<sup>th</sup> Floor, No. 173, Meisheng Road, China (Shanghai) Pilot Free Trade Zone, PRC (Unified Social Credit Code: 91310000MA1FL18A2U) (“GDS Management Co.”);
- (7) 渣打银行(中国)有限公司 (CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK), 渣打银行(中国)有限公司上海自贸区分行 (UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH), 渣打银行(中国)有限公司 (DBS Bank (China) Ltd, Shanghai Branch), 上海华瑞银行有限公司 (Shanghai HuaRui Bank Co., LTD) and 澳大利亚及新西兰银行(中国)有限公司 (Australia and New Zealand Bank (China) Company Limited, Shanghai Branch) as mandated lead arrangers (the “Mandated Lead Arrangers”);
- (8) THE FINANCIAL INSTITUTIONS listed in Schedule 1 as lenders (the “Original Lenders”);
- (9) 渣打银行(中国)有限公司上海自贸区分行 (UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH) as agent of the Finance Parties (other than itself) (the “Facility Agent”);

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- (10) 渣打银行(中国)有限公司上海自贸区分行 (UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH) as security trustee for the Secured Parties (the “Security Agent”);
- (11) 渣打银行(中国)有限公司上海自贸区分行 (UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH) as account bank (the “Account Bank”); and
- (12) 渣打银行(中国)有限公司 (CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK) and 渣打银行有限公司 (UNITED OVERSEAS BANK LIMITED) as coordinating banks (the “Coordinating Banks”)

IT IS AGREED as follows:

**SECTION 1  
INTERPRETATION**

**1. DEFINITIONS AND INTERPRETATION**

## 1.1 Definitions

In this Agreement:

“**Accession Letter**” means a document substantially in the form set out in Schedule 6 (*Form of Accession Letter*).

“**Accounts**” means:

- (a) Debt Service Reserve Account (WGQ);
- (b) Debt Service Reserve Account (YG);
- (c) Operations Account (WGQ);
- (d) Operations Account (YG);
- (e) Debt Service Accrual Account (WGQ);
- (f) Debt Service Accrual Account (YG);
- (g) Excess Cashflow Account (WGQ);
- (h) Excess Cashflow Account (YG);
- (i) Receiving Accounts (WGQ);
- (j) Receiving Account (YG);
- (k) Receiving Account (GDS Beijing-WGQ);
- (l) Receiving Accounts (GDS Beijing-YG);
- (m) Receiving Account (GDS Suzhou-WGQ);

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(n) Receiving Account (GDS Suzhou-YG);

(o) Receiving Account (GDS HK-WGQ);

(p) Receiving Account (GDS HK-YG);

(q) Receiving Account (GDS Shanghai-WGQ);

(r) Receiving Account (GDS Shanghai-YG); and

(s) any account otherwise designated as an Account by (i) the Facility Agent and (ii) each Borrower, GDS Beijing or GDS Suzhou (as the case may be) in writing.

“**Account Control Agreement**” means an account control agreement dated on or about the date of this Agreement and made by and between the Borrowers, GDS Beijing, GDS Suzhou, GDS HK, GDS Shanghai, the Account Bank and the Facility Agent in relation to the Accounts.

“**Administrative Party**” means each of the Mandated Lead Arrangers, the Account Bank, the Facility Agent, the Security Agent and each of the Coordinating Banks.

“**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.

“**Annualised Contract Value**” means (a) in relation to a Qualified Service Contract, its Contract Value divided by the number of years of the whole term of that Qualified Service Contract; and (b) in relation to a Service Contract (other than a Qualified Service Contract), its Contract Value divided by the remaining term of applicable Loan.

“**APLMA**” means the Asia Pacific Loan Market Association Limited.

“**Assignee Group Member**” means a member of the Group incorporated in the PRC, to which all obligations and rights of GDS HK under the GDS HK Service Contracts will be novated. For avoidance of doubt, the Assignee Group Member shall be GDS Beijing, GDS Suzhou or EDC WGQ to be agreed by the Lenders prior to the Contract Novation.

“**Assignment Agreement**” means an agreement substantially in a recommended form of the APLMA or any other form agreed between the relevant assignor, assignee and the Facility 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 Facility A Availability Period, Facility B Availability Period, Facility C Availability Period and Facility E Availability Period (as the case may be).

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“**Available Commitment**” means, in relation to a Facility, a Lender’s Commitment under that Facility minus:

- (a) the aggregate amount of its participation in any outstanding Loans under that Facility; and
- (b) in relation to any proposed Utilisation, the aggregate 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 Available Facility A, Available Facility B, Available Facility C or Available Facility E (as the case may be).

“**Available Facility A**” means, in relation to the Facility A, the aggregate for the time being of each Lender’s Available Commitment in respect of the Facility A.

“**Available Facility B**” means, in relation to the Facility B, the aggregate for the time being of each Lender’s Available Commitment in respect of the Facility B.

“**Available Facility C**” means, in relation to the Facility C, the aggregate for the time being of each Lender’s Available Commitment in respect of the Facility C.

“**Available Facility E**” means, in relation to the Facility E, the aggregate for the time being of each Lender’s Available Commitment in respect of the Facility E.

“**Available Foreign Debt Quota**” has the meaning given to that term in Clause 23.32(b).

“**Back-to-Back Agreements**” means Back-to-Back Agreements (GDS Suzhou), Back-to-Back Agreements (GDS Beijing), Back-to-Back Agreements (GDS HK), Back-to-Back Agreements (GDS Shanghai) and Back-to-Back Agreements (WGQ - YG).

“**Back-to-Back Agreements (GDS Beijing)**” means Back-to-Back Agreements (GDS Beijing - WGQ) and Back-to-Back Agreements (GDS Beijing - YG).

“**Back-to-Back Agreements (GDS Beijing - WGQ)**” means one or more service agreements entered into or to be entered into by and between EDC WGQ and GDS Beijing in respect of the Project SH1 in which EDC WGQ agrees to provide data center facilities and other related services to GDS Beijing for GDS Beijing to perform its obligations under GDS Beijing Service Contracts and GDS Beijing agrees to pay all or certain percentage consideration under GDS Beijing Service Contracts to EDC WGQ, in each case in the form and substance satisfactory to the Facility Agent.

“**Back-to-Back Agreements (GDS Beijing - YG)**” means one or more service agreements entered into or to be entered into by and between EDC YG and GDS Beijing in respect of the Projects (other than Project SH1) in which EDC YG agrees to provide data center facilities and other related services to GDS Beijing for GDS Beijing to perform its obligations under GDS Beijing Service Contracts and GDS Beijing agrees to pay all or certain percentage consideration under GDS Beijing Service Contracts to EDC YG, in each case in the form and substance satisfactory to the Facility Agent.

“**Back-to-Back Agreements (GDS HK)**” means Back-to-Back Agreements (GDS HK - WGQ) and Back-to-Back Agreements (GDS HK - YG).

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“**Back-to-Back Agreements (GDS HK - WGQ)**” means one or more service agreements entered into or to be entered into by and between EDC WGQ and GDS HK in respect of the Project SH1 in which EDC WGQ agrees to provide data center facilities and other related services to GDS HK for GDS HK to perform its obligations under the GDS HK Service Contracts and GDS HK agrees to pay all or certain percentage consideration under the GDS HK Service Contracts to EDC WGQ, in each case in the form and substance satisfactory to the Facility Agent.

“**Back-to-Back Agreements (GDS HK - YG)**” means one or more service agreements entered into or to be entered into by and between EDC YG and GDS HK in respect of the Projects (other than Project SH1) in which EDC YG agrees to provide data center facilities and other related services to GDS HK for GDS HK to perform its obligations under the GDS HK Service Contracts and GDS HK agrees to pay all or certain percentage consideration under the GDS HK Service Contracts to EDC YG, in each case in the form and substance satisfactory to the Facility Agent.

“**Back-to-Back Agreements (GDS Shanghai)**” means Back-to-Back Agreements (GDS Shanghai - WGQ) and Back-to-Back Agreements (GDS Shanghai - YG).

“**Back-to-Back Agreements (GDS Shanghai - WGQ)**” means one or more service agreements entered into or to be entered into by and between EDC WGQ and GDS Shanghai in respect of the Project SH1 in which EDC WGQ agrees to provide data center facilities and other related services to GDS Shanghai for GDS Shanghai to perform its obligations under the GDS Shanghai Service Contracts and GDS Shanghai agrees to pay all or certain percentage consideration under the GDS Shanghai Service Contracts to EDC WGQ, in each case in the form and substance satisfactory to the Facility Agent.

“**Back-to-Back Agreements (GDS Shanghai - YG)**” means one or more service agreements entered into or to be entered into by and between EDC YG and GDS Shanghai in respect of the Projects (other than Project SH1) in which EDC YG agrees to provide data center facilities and other related services to GDS Shanghai for GDS Shanghai to perform its obligations under the GDS Shanghai Service Contracts and GDS Shanghai agrees to pay all or certain percentage consideration under the GDS Shanghai Service Contracts to EDC YG, in each case in the form and substance satisfactory to the Facility Agent.

“**Back-to-Back Agreements (GDS Suzhou)**” means Back-to-Back Agreements (GDS Suzhou - WGQ) and Back-to-Back Agreements (GDS Suzhou - YG).

“**Back-to-Back Agreements (GDS Suzhou - WGQ)**” means one or more service agreements entered into or to be entered into by and between EDC WGQ and GDS Suzhou in respect of the Project SH1 in which EDC WGQ agrees to provide data center facilities and other related services to GDS Suzhou for GDS Suzhou to perform its obligations under the GDS Suzhou Service Contracts and GDS Suzhou agrees to pay all or certain percentage consideration under the GDS Suzhou Service Contracts to EDC WGQ, in each case in the form and substance satisfactory to the Facility Agent.

“**Back-to-Back Agreements (GDS Suzhou - YG)**” means one or more service agreements entered into or to be entered into by and between EDC YG and GDS Suzhou in respect of the Projects (other than Project SH1) in which EDC YG agrees to provide data center facilities and other related services to GDS Suzhou for GDS Suzhou to perform its obligations under the GDS Suzhou Service Contracts and GDS Suzhou agrees to pay all or certain percentage consideration under the GDS

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Suzhou Service Contracts to EDC YG, in each case in the form and substance satisfactory to the Facility Agent.

“**Back-to-Back Agreements (WGQ - YG)**” means one or more service agreements entered into or to be entered into by and between EDC YG and EDC WGQ in respect of the Projects (other than Project SH1) in which EDC YG agrees to provide data center facilities and other related services to EDC WGQ for EDC WGQ to perform its obligations under the Borrower Service Contracts (WGQ) and EDC WGQ agrees to pay all or certain percentage consideration under the Borrower Service Contracts (WGQ) to EDC YG, in each case in the form and substance satisfactory to the Facility Agent.

“**Back-to-Back Agreements (WGQ)**” means Back-to-Back Agreements (GDS Beijing - WGQ), Back-to-Back Agreements (GDS Suzhou - WGQ), Back-to-Back Agreements (GDS HK - WGQ) and Back-to-Back Agreements (GDS Shanghai - WGQ).

“**Back-to-Back Agreements (YG)**” means Back-to-Back Agreements (GDS Beijing - YG), Back-to-Back Agreements (GDS Suzhou - YG), Back-to-Back Agreements (GDS HK - YG), Back-to-Back Agreements (GDS Shanghai - YG) and Back-to-Back Agreements (WGQ - YG).

“**Borrower Group**” means the Borrowers and their respective Subsidiaries from time to time.

“**Borrower Service Contracts**” means the Borrower Service Contracts (WGQ) and the Borrower Service Contracts (YG).

“**Borrower Service Contracts (WGQ)**” means all contracts, orders, agreements or any other documents entered into or expected to be entered into (in the reasonable opinion of the Facility Agent) by EDC WGQ and its customers to which the Projects may at any time be subject in respect of any management consultancy services or other services in connection with internet data center businesses provided or to be provided by EDC WGQ.

“**Borrower Service Contracts (YG)**” means all contracts, orders, agreements or any other documents entered into or expected to be entered into (in the reasonable opinion of the Facility Agent) by EDC YG and its customers to which the Projects (other than Project SH1) may at any time be subject in respect of any management consultancy services or other services in connection with internet data center businesses provided or to be provided by EDC YG, the performance of which does not need a value-added telecommunications business operating license.

“**Borrowings**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Break Costs**” means the amount (if any) by which:

- (a) the interest which a Lender should have received pursuant to the terms of this Agreement for the period from the date of receipt of all or any part of the principal amount of 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 of interest 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

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in the Relevant Interbank Market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

“**Budget**” means each budget (including the detailed budget for each quarter of that Financial Year) delivered by each Borrower to the Facility Agent in respect of that Financial Year pursuant to Clause 21.5 (*Submission of Budget*).

“**Business Day**” means a day (other than a Saturday, Sunday or a public holiday) on which banks are open for general business in Hong Kong and Shanghai.

“**Business Plan**” means each business plan (including but not limited to detailed development plans, construction programme, operation of a Project and projected cashflow over the whole life of a Project) regarding (a) Project SH1, Project SH2 and Project SH3 proposed by the Borrowers and approved in writing by the Facility Agent; and (b) Project SH4 to be proposed by EDC YG and approved in writing by the Facility Agent.

“**Capital Expenditure**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Cash**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Cash Equivalent Investments**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Cashflow**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**CBRC Rules**” means (a) the Interim Measures on Administration of Fixed Assets Loan promulgated by China Banking Regulatory Commission on 23 July 2009; (b) the Project Finance Business Guidelines promulgated by China Banking Regulatory Commission on 18 July 2009; and (c) the Interim Measures for Administration of Working Capital Loans promulgated by China Banking Regulatory Commission on 12 February 2010; in each case, including any supplemental rules thereof and any amendments thereto from time to time.

“**Certificate of Completion**” means the fire safety certificate or any other documents issued or to be issued by Shanghai Fire Services Department (消防局) or its local counterparts, evidencing a Project has passed fire safety inspection.

“**Change of Control**” means:

- (a) the Sponsor ceases to, directly or indirectly, be the beneficial owner of at least 50.1 per cent. of equity interests of the STT GDC; or
- (b) in relation to STT GDC:
- (i) prior to the occurrence of a Flotation, the STT GDC ceases to, directly or indirectly, be the beneficial owner of at least 40 per cent. of equity interests of the Ultimate Parent or have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to cast, or Control the casting of, at least 40 per cent. of the votes that may be cast at a meeting of the board of directors (or similar governing body) of the Ultimate Parent or the STT GDC ceases to be the single largest shareholder of the Ultimate Parent; or

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- (ii) following the occurrence of a Flotation, the STT GDC ceases to, directly or indirectly, be the beneficial owner of at least 30 per cent. of equity interests of the Ultimate Parent or have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to cast, or Control the casting of, at least 30 per cent. of the votes that may be cast at a meeting of the board of directors (or similar governing body) of the Ultimate Parent or the STT GDC ceases to be the single largest shareholder of the Ultimate Parent; or
- (c) the Ultimate Parent ceases to, directly or indirectly, be the beneficial owner of 100 per cent. of equity interests of the Borrowers and have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to Control the Borrowers; or
- (d) the Ultimate Parent ceases to, directly or indirectly, be the beneficial owner of 100 per cent. of equity interests of GDS Management Co. and have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to Control GDS Management Co.; or
- (e) GDS Management Co. ceases to, directly or indirectly, be the beneficial owner of 100 per cent. of equity interests of the GDS Beijing, GDS Suzhou, GDS Shanghai or EDC WGQ and have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to Control the GDS Beijing, GDS Shanghai, GDS Suzhou or EDC WGQ; or
- (f) GDS Beijing ceases to, directly or indirectly, be the beneficial owner of 100 per cent. of equity interests of GDS Suzhou or EDC WGQ and have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to Control the GDS Suzhou or EDC WGQ; or
- (g) William Huang ceases to, directly or indirectly, own at least 99.9% of the equity interests of GDS Beijing.
- (h) For the purposes of this definition, “**equity interests**” means, in relation to any person:
- (i) any share of any class or capital stock of, or equity interest in, such person or any depositary receipt in respect of any such share, capital stock or equity interest; or
- (ii) any security convertible or exchangeable (whether at the option of the holder thereof or otherwise and whether such conversion is conditional or otherwise) into any such shares, capital stock, equity interest or depositary receipt, or any depositary receipt in respect of any such security; or
- (iii) any option, warrant or other right to acquire any such share, capital stock, equity interest, security, depositary receipt or security referred to in the foregoing paragraphs (i) and/or (ii) above.

“**Code**” means the US Internal Revenue Code of 1986.

“**Commitment**” means Facility A Commitment, Facility B Commitment, Facility C Commitment, Facility D Commitment or Facility E Commitment (as the case may be).

“**Compensation**” means any sum (other than Insurance Proceeds):

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- (a) by way of compensation under a Project Document;
- (b) in respect of the seizure, compulsory acquisition, expropriation or nationalisation of any of the assets or shares of any member of the Group;
- (c) as compensation for any Authorisation in connection with the Projects not being granted or renewed, or ceasing to be in full force and effect without modification;
- (d) in return for any decrease in its rights (including the release, modification or suspension of any rights) or any increase in its obligations (including the grant by it of rights or the modification of them), in each case, in connection with the Projects; or
- (e) received by or payable to any Obligor Party or any other member of the Group under any guarantee, letter of credit or bond relating to any of the foregoing.

“**Compliance Certificate**” means a certificate delivered pursuant to Clause 21.2 (*Compliance Certificate*) and jointly signed by each of EDC WGQ’s one authorised signatory and EDC YG’s one authorised signatory substantially in the form set out in Schedule 5 (*Form of Compliance Certificate*).

“**Confidential Information**” means all information relating to any Borrower, any Obligor Party, the Group, the Transaction Documents or a Facility of which a Secured Party becomes aware in its capacity as, or for the purpose of becoming, a Secured Party or which is received by a Secured Party in relation to, or for the purpose of becoming a Secured Party under, the Transaction Documents or a Facility from either:

- (a) any member of the Group or any of its advisers; or
- (b) another Secured Party, if the information was obtained by that Secured 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 information that:

- (i) is or becomes public information other than as a direct or indirect result of any breach by that Secured Party of Clause 28 (*Disclosure of information*); or
- (ii) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
- (iii) is known by that Secured Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Secured Party after that date, from a source which is, as far as that Secured Party is aware, unconnected with the Group and which, in either case, as far as that Secured Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

“**Confidentiality Undertaking**” means a confidentiality undertaking substantially in a recommended form of the APLMA or in any other form agreed between the Obligors’ Agent and the Facility Agent.

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“**Consigned Disbursement**” means the method by which the Lenders disburse loan proceeds into a Loan Disbursement Account, for further payment by the Facility Agent upon the instruction of any Borrower (which may be in the form of a duly completed Utilisation Request) to the respective transactional counterparty.

“**Contract Novation**” means, in relation to the GDS HK Service Contracts which entered or to be entered into by GDS HK with China Telecom (Americas) Corporation and Premiere Conferencing (Hong Kong) Limited respectively, novation of all rights and obligations of GDS HK thereunder to the Assignee Group Member.

“**Contract Value**” means, in relation to a Service Contract, all revenues, receipts and payments, service and estimated power charges, royalties, profits and refunds paid to or for the benefit of the Borrowers, GDS Suzhou, GDS Beijing, GDS HK or GDS Shanghai from any source in respect of the Projects in connection with data center infrastructure business, management consultancy services or any other services provided either by any Borrower, GDS Suzhou, GDS Beijing, GDS HK or GDS Shanghai during the whole term (in the case of a Qualified Service Contract) or the respective remaining term (in the case of any Service Contract other than a Qualified Service Contract) of that Service Contract.

“**Contractor Agreements**” means:

- (a) in respect of the Project SH1, a general contractor construction contract regarding the electrical engineering work, water supply and drainage and air conditioning work of Project SH1 (□□□□□□□□□□(87□□□□□□□□□□□□□□)) entered into by EDC WGQ and □□□□□□□□□□ on 9 May 2011;
- (b) in respect of the Project SH2, a general contractor construction contract regarding the mechanical and electrical installation work of Project SH2 (□□□□88#□□□□□□□□□□□□□□) entered into by EDC YG and □□□□□□□□□□□□□□ on 20 March 2015;
- (c) In respect of Project SH3, a general contractor construction contract regarding mechanical and electrical installation and sever room decoration work of Project SH3 (□□□□□□3#(90#)□□□□□□□□□□□□□□□□□□□□) entered into by EDC YG and □□□□□□□□□□□□□□ on 24 June 2016; and

(d) any other contractor documents entered into by any Borrower in relation to the Projects which consideration (whether paid or payable by that Borrower) equals to or exceeds RMB 20,000,000;

in each case, including any amendments thereto or any supplemental documents thereof.

“**Contributed Equity**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Control**” or “**control**” means, in relation to any person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person, whether through the ownership of voting securities, by contract or otherwise (and the term “**Controlled**” or “**controlled**” shall be construed accordingly).

“**Current Assets**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

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“**Current Liabilities**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Custom**” means General Administration of Customs of the PRC or its local counterparts.

“**Customer Assets**” means any customer equipment in relation to internet data centre business that is purchased by a Borrower at the cost and request of its customers and made available for its customers by that Borrower under the relevant Service Contract, including but not limited to servers connecting to internet or other networks, the telecommunication lines and bandwidth connected to the equipment and facilities such as database system and servers, operating system and software system, and the intangible assets including without limitation, the trademark and domain name.

“**Debt Service**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Debt Service Accrual Account (WGQ)**” has the meaning given to that term in Clause 18.1(a)(iii).

“**Debt Service Accrual Account (YG)**” has the meaning given to that term in Clause 18.1(b)(iii).

“**Debt Service Coverage Ratio**” or “**DSCR**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Debt Service Reserve Account (WGQ)**” has the meaning given to that term in Clause 18.1(a)(i).

“**Debt Service Reserve Account (YG)**” has the meaning given to that term in Clause 18.1(b)(i).

“**Debt Service Reserve Amount (WGQ)**” has the meaning given to that term in Clause 18.3(a).

“**Debt Service Reserve Amount (YG)**” has the meaning given to that term in Clause 18.3(b).

“**Debt to Equity Ratio**” or “**DER**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Default**” means an Event of Default or any event or circumstance specified in Clause 24 (*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.

“**Default Rate**” means a rate determined by the Facility Agent to be:

- (a) in the event of any misapplication or misappropriation of any amount of the proceeds of the Loan as contemplated in Clause 10.3(b), 150% of the rate of interest which would have been applicable to that amount of the Loans pursuant to Clause 10.1 (*Calculation of interest*); and
- (b) in the event of any Unpaid Sum (including, but not limited to, following any failure to pay upon acceleration of the Loan pursuant to Clause 24.21 (*Acceleration*)), 130% of the rate which would have been payable if the Unpaid Sum had, during the period of non-payment, constituted part of the Loans pursuant to Clause 10.1 (*Calculation of interest*),

or, in each case, if any misapplied or misappropriated amount also constitutes any part of Unpaid Sum, the highest default interest rate shall apply to such part of Unpaid Sum without double counting overdue interest on such part of Unpaid Sum.

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“**Disposal**” means a sale, lease, licence, transfer, loan or other disposal by a person of any asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions) other than in the ordinary course of trading.

“**Disposal Proceeds**” means all sums paid or payable or any other consideration given or to be given in money or money’s worth for any Disposal made by any member of the Group in accordance with this Agreement except for the Excluded Disposal Proceeds and the Compensation.

“**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 the Facilities (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 payment 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.

“**EBIT**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**EBITDA**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**EDC China**” means EDC China Holdings Limited, a company established under the laws of Hong Kong, with its registered address at Units 323-325 3/F Core Building 2 Hong Kong Science Park Shatin NT.

“**EDC WGQ Inter-company Loan Agreement**” has the meaning given to that term in Clause 18.7(c)(iii)(B)(2).

“**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 Obligor or any other 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 Obligor or any other member of the Group conducted on or from the properties owned or used by the relevant Obligors or any other relevant member of the Group.

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“**Equity Pledge Agreement (WGQ)**” means an equity pledge agreement entered into or to be entered into between EDC WGQ, GDS Beijing and the Security Agent, pursuant to which GDS Beijing pledges its 100% equity interests in EDC WGQ in favour of the Security Agent (on behalf of all Secured Parties).

“**Equity Pledge Agreement (YG)**” means an equity pledge agreement entered into or to be entered into between EDC YG, the Parent (EDC YG) and the Security Agent, pursuant to which the Parent (EDC YG) pledges its 100% equity interests in EDC YG in favour of the Security Agent (on behalf of all Secured Parties).

“**Event of Default**” means any event or circumstance specified as such in Clause 24 (*Events of Default*).

“**Evidence of Facility A Utilisation**” has the meaning given to that term in sub-paragraph (vii) of paragraph (a) of Clause 5.2 (*Completion of a Utilisation Request*).



“Evidence of Facility B Utilisation” has the meaning given to that term in sub-paragraph (viii) of paragraph (a) of Clause 5.2 (*Completion of a Utilisation Request*).

“Evidence of Facility C Utilisation” has the meaning given to that term in sub-paragraph (ix) of paragraph (a) of Clause 5.2 (*Completion of a Utilisation Request*).

“Evidence of Facility E Utilisation” has the meaning given to that term in sub-paragraph (x) of paragraph (a) of Clause 5.2 (*Completion of a Utilisation Request*).

“Excess Cashflow” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“Excess Cashflow Account (WGQ)” has the meaning given to that term in Clause 18.1(a)(iv).

“Excess Cashflow Account (YG)” has the meaning given to that term in Clause 18.1(b)(iv).

“Excess Cashflow Prepayment Amount (WGQ)” has the meaning given to that term in Clause 18.6(a)(i) (*Excess Cashflow Account*).

“Excess Cashflow Prepayment Amount (YG)” has the meaning given to that term in Clause 18.6(a)(iii) (*Excess Cashflow Account*).

“Excluded Disposal Proceeds” means the proceeds of (a) any Disposal which a Borrower notifies the Facility Agent will be applied for the replacement and/or reinstatement of its assets within 6 months after actual receipt of such proceeds; or (b) any Disposal in the Borrower’s ordinary course of business.

“Excluded Insurance Proceeds” means any proceeds of an Insurance claim which a Borrower notifies the Facility Agent will be applied for the replacement, reinstatement and/or repair of the assets or otherwise in amelioration of the loss in respect of which the relevant Insurance claim was made within 6 months after receipt, but in each case such proceeds are not more than RMB 10,000,000 and does not include any proceeds arising out of a total loss or a major damage.

“Existing Account” means the Borrowers’ existing bank accounts (other than the Accounts) opened with other banks (other than the Account Bank) before the date of this Agreement, as more particularly set out in Schedule 8 (*List of Existing Accounts*).

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“Existing Bank Loans (GDS Suzhou)” means the Existing Bank Loan (GDS Suzhou-Bank of Ningbo) and the Existing Entrustment Loan (GDS Suzhou-Ping An Bank).

“Existing Bank Loan (GDS Suzhou-Bank of Ningbo)” means the bank loan under a working capital loan agreement entered into by and between GDS Suzhou and Bank of Ningbo, Shanghai Branch on 21 January 2016, and at the date hereof the outstanding principal amount is RMB 50,000,000.

“Existing Entrustment Loan (GDS Suzhou-Ping An Bank)” means the entrustment bank loan under an entrustment loan agreement entered into by and among 中国工商银行(上海)信托理财中心 (as principal), Shanghai Pudong Development Bank, Shenzhen Branch (as trustee) and GDS Suzhou (as borrower) on 4 July 2014, and at the date hereof the outstanding principal amount is RMB 199,700,000.

“Existing Inter-company Loans (Project SH1)” means the inter-company loans made by the members of the Group to EDC WGQ under the Existing Inter-company Loan Agreements (Project SH1) that have been agreed by the Borrower and the Facility Agent, and at the date of this Agreement, the outstanding principal amount is RMB 15,566,964.29.

“Existing Inter-company Loans (Project SH2)” means the inter-company loans made by the members of the Group to EDC YG under the Existing Inter-company Loan Agreements (Project SH2) that has been agreed by the Borrower and the Facility Agent, and at the date of this Agreement, the outstanding principal amount is RMB 40,031,540.52.

“Existing Inter-company Loan Agreements (Project SH1)” means the inter-company loan agreements in relation to the Existing Inter-company Loans (Project SH1) entered into by and between EDC WGQ and the members of the Group in respect of Project SH1 on or before the date of this Agreement.

“Existing Inter-company Loan Agreements (Project SH2)” means the inter-company loan agreements in relation to the Existing Inter-company Loans (Project SH2) entered into by and between EDC YG and the members of the Group in respect of Project SH2 on or before the date of this Agreement.

“Existing Pledge over Receivables (GDS Suzhou-Bank of Ningbo)” means the pledges over account receivables under the Service Contracts in relation to Project SH1 created by GDS Suzhou to secure the Existing Bank Loan (GDS Suzhou-Bank of Ningbo), which will be discharged and released in accordance with this Agreement.

“Existing Shareholder Loan (WGQ)” means the USD 18,000,000 shareholder loan made by EDC China to EDC WGQ under the shareholder loan agreement dated 7 January 2015.

“Facilities” means Facility A, Facility B, Facility C, Facility D and Facility E, and a “Facility” means any of them.

“Facility A” means the term loan facility made available under this Agreement as described in paragraph (a) of Clause 2.1 (*The Facilities*).

“Facility A Availability Period” means the period from and including the date of this Agreement to and including the date which is one (1) Month after the date of this Agreement.

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“Facility A Commitment” means:

- (a) in relation to an Original Lender, the amount in RMB set opposite its name under the heading “Facility A Commitment” in Schedule 1 (*Lenders and their Commitments*) and the amount of any other Facility A Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount in RMB of any Facility A Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

“Facility A Loan” means a loan made or to be made under Facility A or the principal amount outstanding for the time being of that loan.

“Facility A Loan Disbursement Account” means a bank account opened with the Account Bank for the purpose of receiving the Facility A Loan proceeds from the relevant Lenders.

“Facility A Maturity Date” means 12 July 2021.

“Facility A Repayment Date” has the meaning given to such term in paragraph (a) of Clause 6.1 (*Repayment of Facility A Loans*).

“Facility A Utilisation Request” means a Utilisation Request that requests a Facility A Loan.

“Facility B” means the term loan facility made available under this Agreement as described in paragraph (b) of Clause 2.1 (*The Facilities*).

“Facility B Availability Period” means the period from and including the date of this Agreement to and including the date which is two (2) Month after the date of this Agreement.

“Facility B Commitment” means:

- (a) in relation to an Original Lender, the amount in RMB set opposite its name under the heading “Facility B Commitment” in Schedule 1 (*Lenders and their Commitments*) and the amount of any other Facility B Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount in RMB of any Facility B Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

“Facility B Loan” means a loan made or to be made under Facility B or the principal amount outstanding for the time being of that loan.

“Facility B Loan Disbursement Account” means a bank account opened with the Account Bank for the purpose of receiving the Facility B Loan proceeds from the relevant Lenders.

“Facility B Maturity Date” means 12 July 2021.

“Facility B Repayment Date” has the meaning given to such term in paragraph (a) of Clause 6.2 (*Repayment of Facility B Loans*).

“Facility B Utilisation Request” means a Utilisation Request that requests a Facility B Loan.

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“**Facility C**” means the term loan facility made available under this Agreement as described in paragraph (b) of Clause 2.1 (*The Facilities*).

“**Facility C Availability Period**” means the period from and including the date of this Agreement to and including the date which is 14 Months after the date of this Agreement.

“**Facility C Commitment**” means:

- (c) in relation to an Original Lender, the amount in RMB set opposite its name under the heading “Facility C Commitment” in Schedule 1 (*Lenders and their Commitments*) and the amount of any other Facility C Commitment transferred to it under this Agreement; and
- (d) in relation to any other Lender, the amount in RMB of any Facility C Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

“**Facility C Loan**” means a loan made or to be made under Facility C or the principal amount outstanding for the time being of that loan.

“**Facility C Loan Disbursement Account**” means a bank account opened with the Account Bank for the purpose of receiving the Facility C Loan proceeds from the relevant Lenders.

“**Facility C Maturity Date**” means the date falling 5 years after the first Utilisation Date of Facility C.

“**Facility C Repayment Date**” has the meaning given to such term in paragraph (a) of Clause 6.3 (*Repayment of Facility C Loans*).

“**Facility C Utilisation Request**” means a Utilisation Request that requests a Facility C Loan.

“**Facility D**” means the term loan facility to be made available under this Agreement or other agreement otherwise agreed between EDC YG and the Lenders as described in paragraph (b) of Clause 2.1 (*The Facilities*).

“**Facility D Commitment**” means the commitment amount of the Facility D to be mutually agreed between EDC YG and the relevant Lenders, but in any event the amount shall not exceed RMB 340,000,000.

“**Facility D Commitment Date**” means the date as notified by the Facility Agent to EDC YG that the relevant Lenders have agreed to make the Facility D available to EDC YG.

“**Facility D Loan**” means a loan made or to be made under Facility D or the principal amount outstanding for the time being of that loan.

“**Facility D Maturity Date**” means the date Facility D Loans are repaid or discharged in full.

“**Facility E**” means the revolving loan facility made available under this Agreement as described in paragraph (c) of Clause 2.1 (*The Facilities*).

“**Facility E Availability Period**” means the period from and including the first Utilisation Date of Facility E to and including the date which is five (5) years after the first Utilisation Date of Facility E.

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“**Facility E Commitment**” means:

- (a) in relation to an Original Lender, the amount in RMB set opposite its name under the heading “Facility E Commitment” in Schedule 1 (*Lenders and their Commitments*) and the amount of any other Facility E Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount in RMB of any Facility E Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

“**Facility E Financing Period**” means the period from and including the Utilisation Date of a Facility E Loan to and including the date which is twelve (12) Months after the Utilisation Date of such Facility E Loan.

“**Facility E Lender**” means:

- (a) any Original Lender in relation to the Facility E; and
- (b) any bank, financial institution, trust, fund or other entity which has become a lender to the Facility E in accordance with Clause 26 (*Changes to the Lenders*),

which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

“**Facility E Loan**” means a loan made or to be made under Facility E or the principal amount outstanding for the time being of that loan.

“**Facility E Loan Disbursement Account**” means a bank account opened with the Account Bank for the purpose of receiving the Facility E Loan proceeds from the relevant Lenders.

“**Facility E Maturity Date**” means the five (5) years after the first Utilisation Date of Facility E.

“**Facility E Repayment Date**” has the meaning given to such term in paragraph (a) of Clause 6.5 (*Repayment of Facility E Loans*).

“**Facility E Utilisation Request**” means a Utilisation Request that requests a Facility E Loan.

“**Facility Office**” means the office or offices notified by a Lender to the Facility Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five (5) 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 paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

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“**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;
- (b) in relation to a “withholdable payment” described in section 1473(1)(A)(ii) of the Code (which relates to “gross proceeds” from the disposition of property of a type that can produce interest from sources within the US), 1 January 2017; or
- (c) in relation to a “passthru payment” described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2017,

or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the date of this Agreement.

“**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.

“**FATCA FFI**” means a foreign financial institution as defined in section 1471(d)(4) of the Code which, if any Finance Party is not a FATCA Exempt Party, could be required to make a FATCA Deduction.

“**FATCA Payment**” means either:

(a) the increase in a payment made by an Obligor Party to a Finance Party under Clause 13.7 (*FATCA Deduction and gross-up by Obligor Parties*) or paragraph (b) of Clause 13.8 (*FATCA Deduction by a Finance Party*); or

(b) a payment under paragraph (d) of Clause 13.8 (*FATCA Deduction by a Finance Party*).

“**Fee Letter**” means any letter or letters referring to this Agreement or the Facilities between one or more Administrative Parties and the Borrowers setting out any of the fees referred to in Clause 12 (*Fees*).

“**Final Repayment Date**” means Facility A Maturity Date, Facility B Maturity Date, Facility C Maturity Date, Facility D Maturity Date or Facility E Maturity Date (as the case may be).

“**Finance Document**” means this Agreement, any Accession Letter, any Fee Letter, the Account Control Agreement, any Transaction Security Document, any Utilisation Request and any other document designated as such by the Facility Agent and the Obligors’ Agent.

“**Finance Party**” means an Administrative Party or a Lender.

“**Financial Indebtedness**” means any indebtedness for or in respect of:

(a) moneys borrowed;

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(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) 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 shall be taken into account);

(h) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 12 Months after the date of supply;

(i) 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

(j) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (i) above.

“**Financial Quarter**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Financial Year**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**First WGQ Utilisation Request**” means the first Utilisation Request delivered by EDC WGQ.

“**First YG Utilisation Request**” means the first Utilisation Request delivered by EDC YG.

“**Flotation**” means the listing or admission to trading on any stock or securities exchange or market of any shares or securities of any member of Group, or any sale or issue by way of listing, flotation or public offering (or any equivalent circumstances) of any shares or securities of any member of the Group in any jurisdiction or country.

“**Force Majeure**” means a circumstance that may not be foreseen, avoided or overcome, including but not limited to fire, flood, earthquake, storm, hurricane or other natural disaster, war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalisation, government sanction, blockade, embargo, strike.

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“**GAAP**” means generally accepted accounting principles and practices from time to time in the jurisdiction of incorporation of the relevant Obligor Party.

“**GDS Beijing’s IDC License**” means a value-added telecommunications business operating license issued by MIIT to GDS Beijing on 2 June 2016, with a valid term ending on 14 November 2018 and license No. B1-B2 — 20130270, including any updated or renewed license issued following the review and approval of MIIT upon expiry.

“**GDS Beijing Inter-company Loan Agreements**” means the GDS Beijing Inter-company Loan Agreement (WGQ) and the GDS Beijing Inter-company Loan Agreement (YG).

“**GDS Beijing Inter-company Loan Agreement (WGQ)**” has the meaning given to that term in Clause 18.9(c).

“**GDS Beijing Inter-company Loan Agreement (YG)**” has the meaning given to that term in Clause 18.9(d).

“**GDS Beijing Service Contracts**” means all contracts, orders, agreements or any other documents entered into or expected to be entered into (in the reasonable opinion of the Facility Agent) by GDS Beijing and its customers to which the Projects may at any time be subject in respect of any data center infrastructure services or other services in connection with internet data center businesses provided or to be provided by GDS Beijing, the performance of which needs a value-added telecommunications business operating license; for avoidance of doubt, GDS Beijing Service Contracts shall include the service contracts entered into by and between GDS HK and GDS Beijing in relation to the Projects.

“**GDS Beijing Trapped Amount (WGQ)**” has the meaning given to that term in Clause 18.9(a).

“**GDS Beijing Trapped Amount (YG)**” has the meaning given to that term in Clause 18.9(b).

“**GDS HK**” means GDS (HongKong) Limited, a company established under the laws of Hong Kong, with its registered address at Units 323-325 3/F Core Building 2 Hong Kong Science Park Shatin NT.

“**GDS HK Service Contracts**” means all contracts, orders, agreements or any other documents entered into or expected to be entered into (in the reasonable opinion of the Facility Agent) by GDS HK and its customers to which the Projects may at any time be subject in respect of any data center infrastructure services or other services in connection with internet data center businesses provided or to be provided by GDS HK.

“**GDS Shanghai**” means Shanghai Shu’an Data Services Ltd. (上海数安数据服务有限公司), a limited liability company established under the laws of the PRC, with its registered address at Room 432, No. 26, 28, Jiangchang San Lu, Shanghai, PRC (Unified Social Credit Code: 913101085758870013).

“**GDS Shanghai’s IDC License**” means a value-added telecommunications business operating license issued by MIIT to GDS Shanghai on 6 April 2016, with a valid term ending on 6 April 2021 and license No. B1 — 20160366, including any updated or renewed license issued following the review and approval of MIIT upon expiry.

“**GDS Shanghai Inter-company Loan Agreements**” means the GDS Shanghai Inter-company Loan Agreement (WGQ) and the GDS Shanghai Inter-company Loan Agreement (YG).

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“**GDS Shanghai Inter-company Loan Agreement (WGQ)**” has the meaning given to that term in Clause 18.14(c).

“**GDS Shanghai Inter-company Loan Agreement (YG)**” has the meaning given to that term in Clause 18.14(d).

“**GDS Shanghai Service Contracts**” means all contracts, orders, agreements or any other documents entered into or expected to be entered into (in the reasonable opinion of the Facility Agent) by GDS Shanghai and its customers to which the Projects may at any time be subject in respect of any data center infrastructure services or other services in connection with internet data center businesses provided or to be provided by GDS Shanghai, the performance of which needs a value-added telecommunications business operating license.

“**GDS Suzhou Inter-company Loan Agreements**” means the GDS Suzhou Inter-company Loan Agreement (WGQ) and the GDS Suzhou Inter-company Loan Agreement (YG).

“GDS Suzhou Inter-company Loan Agreement (WGQ)” has the meaning given to that term in Clause 18.11(c).

“GDS Suzhou Inter-company Loan Agreement (YG)” has the meaning given to that term in Clause 18.11(d).

“GDS Suzhou Service Contracts” means all contracts, orders, agreements or any other documents entered into or expected to be entered into (in the reasonable opinion of the Facility Agent) by GDS Suzhou and its customers to which the Projects may at any time be subject in respect of any data center infrastructure services or other services in connection with internet data center businesses provided or to be provided by GDS Suzhou, the performance of which needs a value-added telecommunications business operating license.

“GDS Suzhou Trapped Amount (WGQ)” has the meaning given to that term in Clause 18.11(a).

“GDS Suzhou Trapped Amount (YG)” has the meaning given to that term in Clause 18.11(b).

“Governmental Agency” means any government or any governmental agency, semi-governmental or judicial entity or authority (including, without limitation, any stock exchange or any self-regulatory organisation established under statute).

“Governmental Rules” means all applicable statutes, laws, rules, codes, ordinances, decisions, regulations, permits, certificates, orders, connivance, indulgence, grace measures, practices, waivers and directions of any Governmental Agency now or hereafter in effect and, in each case, as amended or otherwise modified from time to time and any interpretation thereof by any competent Governmental Agency or official, including, without limitation, any judicial or administrative order, consent decree, settlement agreement or judgment and any industry guidelines.

“Gross Leverage Ratio” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“Group” means the Ultimate Parent and its Subsidiaries from time to time.

“Group Structure Chart” means the structure chart of the Group which identifies the Ultimate Parent and any person by or through which they hold or beneficially own equity interests in or control the Borrowers, GDS Suzhou, GDS Beijing, GDS Management Co., GDS HK, GDS

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Shanghai, and any of its Subsidiaries (if any) and provided to the Facility Agent pursuant to Clause 4.1 (*Initial conditions precedent*).

“Guarantors” means the Ultimate Parent, GDS Beijing and each Borrower, and a “Guarantor” means each of them.

“Hedging Arrangement” means any master agreement, confirmation, schedule or other agreement entered into or to be entered into by any Borrower and a Hedging Provider for the purpose of hedging the types of liabilities and/or risks in relation to this Agreement.

“Hedging Provider” has the meaning given to that term in Clause 23.18(c).

“Hedging Termination” means the termination or close out (whether partial or total) of that Hedging Arrangement either made by any Borrower or the Hedging Provider(s).

“Hedging Termination Proceeds” means any amount payable to or received by or on behalf of any Borrower as a result of the Hedging Termination, together with any due and payable interest accruing on any such amount.

“Holding Company” means, in relation to a person, any other person in respect of which it is a Subsidiary.

“IDC Authorization” means an approval granted or to be granted by MIIT in relation to the authorisation by GDS Beijing to GDS Suzhou and EDC WGQ to operate the value-added telecommunications business in relation to the Projects, which is permitted to be carried out by GDS Beijing pursuant to GDS Beijing’s IDC License.

“IDC Licenses” means (a) GDS Beijing’s IDC License; (b) the GDS Shanghai’s IDC License; (c) the IDC Authorization granted to GDS Suzhou; and (d) the IDC Authorization granted to EDC WGQ; in each case of foregoing clause (a) to clause (d), including any updated or renewed license or approval (if applicable) issued or granted following the review and approval of MIIT or other Governmental Agencies upon expiry. “IDC License” means any of them.

“IDC License Memo” means the written advice by King & Wood Mallesons in relation to (a) the IDC Authorization to GDS Suzhou and EDC WGQ and (b) the renewal of IDC Licenses upon its expiry.

“Indirect Tax” means any goods and services tax, consumption tax, value added tax or any tax of a similar nature.

“Insurance Assignment Agreement (WGQ)” means an assignment of Insurances in relation to the movable assets of EDC WGQ with respect to Project SH1 dated on or about the date of this Agreement and made by and between EDC WGQ and the Security Agent.

“Insurance Assignment Agreement (YG)” means an assignment of Insurances in relation to the movable assets of EDC YG with respect to the Projects (other than Project SH1) dated on or about the date of this Agreement and made by and between EDC YG and the Security Agent.

“Insurance Proceeds” means all proceeds of the Insurances payable to or received by or on behalf of any Borrower, but excluding any such proceeds payable to a third party claimant and the Excluded Insurance Proceeds and the Compensation.

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“Insurances” means all contracts and policies of insurance of any kind relating to the Borrowers and/or the Projects taken out or, as the context requires, to be taken out from time to time and maintained in each case in accordance with Clause 23.17 (*Insurances*) by or on behalf of each Borrower, and such other policy or contract of insurance as the Facility Agent and the Borrower(s) agree shall be an Insurance.

“Inter-company Loan Agreements” means GDS Beijing Inter-company Loan Agreements, GDS Suzhou Inter-company Loan Agreements, GDS Shanghai Inter-company Loan Agreements and EDC WGQ Inter-company Loan Agreement.

“Interest Coverage Ratio” or “ICR” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“Interest Payment Date” means each of 21<sup>st</sup> March, 21<sup>st</sup> June, 21<sup>st</sup> September and 21<sup>st</sup> December in each year, and the Final Repayment Date.

“Interest Period” means each period determined under this Agreement by reference to which interest on the Loans are calculated.

“Interest Relevant Percentage” has the meaning given to that term in Clause 10.1 (*Calculation of interest*).

“Intermediate Parent” means EDC Holding Limited, an exempted company incorporated with limited liability under the laws of the Cayman Islands, with its registered address at the offices of Portcullis TrustNet (Cayman) Ltd., The Grand Pavilion Commercial Centre, Oleander Way, 802 West Bay Road, P.O. Box 32052, Grand Cayman KY1-1208, Cayman Islands.

“Landlord” means [REDACTED], with its registered address at No. 2001 North Yanggao Road, China (Shanghai) Pilot Free Trade Bond Zone, the PRC, with whom a Borrower entered into or will enter into the relevant Lease Agreements in respect of a Project.

“Lease Agreements” means:

- (a) a building lease agreement (Contract No. 163420) dated 26 December 2008 entered into by and between the Landlord and the EDC China in respect of Project SH1 (as well as a shared substation between Project SH1 and Project SH2) with a valid tenor from 31 December 2010 to 31 December 2020, including its supplements and amendments thereto, and an assignment of rights and obligations entered into by and among EDC China, the Landlord and EDC WGQ on 12 April 2010 whereby all rights and obligations of EDC China under the said building lease agreement have been assigned to and assumed by EDC WGQ;
- (b) a building lease agreement (Contract No. 7239) dated 15 April 2011 entered into by and between the Landlord and the EDC WGQ in respect of Project SH2 with a valid tenor of 20 years, including its supplements and amendments thereto, and an assignment of rights and obligations entered into by and among EDC WGQ, the Landlord and EDC YG on 24 February 2014 whereby all rights and obligations of EDC WGQ under the said building lease agreement have been assigned to and assumed by EDC YG;
- (c) a building lease agreement dated 13 February 2015 entered into by and between the Landlord and EDC WGQ in respect of Project SH3 with a valid tenor of 20 years, including

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its supplements and amendments thereto, and a sublease agreement or an assignment of rights and obligations to be entered into by and between EDC WGQ and EDC YG whereby EDC YG will ultimately assume the tenancy under the said building lease agreement; and

- (d) a building lease agreement dated 15 January 2015 entered into by and between the Landlord and EDC WGQ in respect of Project SH4 with a valid tenor of 20 years, including its supplements and amendments thereto, and a sublease agreement or an assignment of rights and obligations to be entered into by and between EDC WGQ and EDC YG whereby EDC YG will ultimately assume the tenancy under the said building lease agreement;

in each case, including any amendments thereto or any supplemental documents thereof (including but not limited to any amendments or any supplemental documents entered into or to be entered into by and between the Landlord and EDC WGQ from time to time in accordance with Clause 23.22(g) of this Agreement).

**"Lease Assignment Agreement (WGQ)"** means an assignment of the Lease Agreements in respect of Projects (other than Project SH2) dated on or about the date of this Agreement and made by and between EDC WGQ and the Security Agent.

**"Lease Assignment Agreement (YG)"** means an assignment of the Lease Agreements in respect of the Projects (other than Project SH1) dated on or about the date of this Agreement and made by and between EDC YG and the Security Agent.

**"Lenders"** means the Term Loan Lender and the Facility E Lender, each of which is referred to herein as a **"Lender"**.

**"Loan"** means a Facility A Loan, a Facility B Loan, a Facility C Loan, a Facility D Loan or a Facility E Loan (as the case may be).

**"Loan Disbursement Accounts"** means the Facility A Loan Disbursement Account, Facility B Loan Disbursement Account, Facility C Loan Disbursement Account and Facility E Loan Disbursement Account.

**"Majority Facility E Lenders"** means:

- (a) if there is no Facility E Loan then outstanding, a Facility E Lender or Facility E Lenders whose Commitments then aggregate 66<sup>2</sup>/<sub>3</sub> per cent. or more of the Facility E Commitments;
- (b) if there is no Facility E Loan then outstanding and the Facility E Commitments have been reduced to zero, a Facility E Lender or Facility E Lenders whose Commitments aggregated 66<sup>2</sup>/<sub>3</sub> per cent. or more of the Facility E Commitments immediately before the reduction; or
- (c) at any other time, a Facility E Lender or Facility E Lenders whose participation in the outstanding Facility E 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 Facility E Loans and the Available Commitments of all the Facility E Lenders.

**"Majority Lenders"** means:

- (a) if there is no Loan then outstanding, a Lender or Lenders whose Commitments then aggregate 66<sup>2</sup>/<sub>3</sub> per cent. or more of the Total Commitments;

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- (b) if there is no Loan then outstanding and the Total Commitments have been reduced to zero, a Lender or Lenders whose Commitments aggregated 66<sup>2</sup>/<sub>3</sub> per cent. or more of the Total Commitments immediately before the reduction; or
- (c) at any other time, a Lender or Lenders 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.

**"Majority Term Loan Lenders"** means:

- (a) if there is no Term Loans then outstanding, a Term Loan Lender or Term Loan Lenders whose Commitments then aggregate 66<sup>2</sup>/<sub>3</sub> per cent. or more of the Total Term Loan Commitments;
- (b) if there is no Term Loans then outstanding and the Total Term Loan Commitments have been reduced to zero, a Term Loan Lender or Term Loan Lenders whose Commitments aggregated 66<sup>2</sup>/<sub>3</sub> per cent. or more of the Total Term Loan Commitments immediately before the reduction; or
- (c) at any other time, a Term Loan Lender or Term Loan Lenders whose participation in the outstanding Term 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 Term Loans and the Available Commitments of all the Term Loan Lenders.

**"Market Disruption Event"** means:

- (a) the PBOC ceases to prescribe the PBOC Base Rate; or
- (b) the Facility Agent receives by noon on the first day of an Interest Period notification from any Lender or Lenders, whose shares in the applicable Loan exceed fifty (50) per cent. of that Loan, that the rate of interest hereunder no longer reflects the costs to such Lender in funding and maintaining the applicable Loan.

**"Material Adverse Effect"** means a material adverse effect (or an event which is likely to result in a material adverse change) in (a) the financial condition, operations, performance, properties or prospects of any Obligor, or any Obligor Party's ability to perform its obligations under the Finance Documents; or (b) the validity or enforceability of any Finance Documents or the rights and remedies of any Finance Party under any of the Finance Documents.

**"Material Credit Documents"** means the Finance Documents, the Back-to-Back Agreements and the Inter-company Loan Agreements (if any).

**"MIIT"** means the Ministry of Industry and Information Technology of the PRC or its local counterparts.

**"MOFCOM"** means the Ministry of Commerce of the PRC or its local counterparts.

**"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:

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- (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 apply only to the last Month of any period.

**"Movable Assets Mortgage Agreement (WGQ SH1 Restricted Assets)"** means a movable assets mortgage agreement in relation to the restricted assets of Project SH1 (other than any Customer Assets) dated on or about the date of this Agreement and made between EDC WGQ and the Security Agent.

**"Movable Assets Mortgage Agreement (WGQ SH1 Non-Restricted Assets)"** means a movable assets mortgage agreement in relation to the non-restricted assets of Project SH1 (other than any Customer Assets) dated on or about the date of this Agreement and made between EDC WGQ and the Security Agent.

**"Movable Assets Mortgage Agreement (YG SH2 Restricted Assets)"** means a movable assets mortgage agreement in relation to the restricted assets of Project SH2 (other than any Customer Assets) dated on or about the date of this Agreement and made between EDC YG and the Security Agent.

**"Movable Assets Mortgage Agreement (YG SH2 Non-Restricted Assets)"** means a movable assets mortgage agreement in relation to the non-restricted assets of Project SH2 (other than any Customer Assets) dated on or about the date of this Agreement and made between EDC YG and the Security Agent.

**"Movable Assets Mortgage Agreement (YG SH3 Restricted Assets)"** means a movable assets mortgage agreement in relation to the restricted assets of Project SH3 (other than any Customer Assets) to be entered into by and between EDC YG and the Security Agent.

**"Movable Assets Mortgage Agreement (YG SH3 Non-Restricted Assets)"** means a movable assets mortgage agreement in relation to the non-restricted assets of Project SH3 (other than any Customer Assets) to be entered into by and between EDC YG and the Security Agent.

**"NRA"** means non-residence account under PRC law.

“**Net Finance Charges**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**New Lender**” has the meaning given to that term in Clause 26 (*Changes to the Lenders*).

“**Obligors**” means the Ultimate Parent, GDS Beijing, GDS Suzhou, GDS Management Co. and each Borrower and an “**Obligor**” means each of them.

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“**Obligors’ Agent**” means EDC YG, appointed to act on behalf of each Obligor in relation to the Transaction Documents pursuant to Clause 2.4 (*Obligors’ Agent*).

“**Obligor Parties**” means:

- (a) the Ultimate Parent, the Intermediate Parent, the Parent (EDC YG), EDC China, GDS Beijing, GDS Suzhou, GDS Management Co., each Borrower, GDS HK, GDS Shanghai and EDC Technology (Kunshan) Co. Ltd. (德意志利源(中国)有限公司); or
- (b) any other party (other than the Finance Parties and the Hedging Providers) which is a party to any of the Transaction Documents,

and an “**Obligor Party**” means each of them.

“**Offshore Security Document**” means:

- (a) Ultimate Parent Guarantee;
- (b) Equity Pledge Agreement (YG); and
- (c) Share Mortgage Agreement (Parent (EDC YG)).

“**Offshore Transaction Security**” means any Security created or to be created or any guarantee granted or to be granted under the Offshore Security Document.

“**Onshore Security Document**” means:

- (a) Movable Assets Mortgage Agreement (WGQ SH1 Restricted Assets);
- (b) Movable Assets Mortgage Agreement (WGQ SH1 Non-Restricted Assets);
- (c) Movable Assets Mortgage Agreement (YG SH2 Restricted Assets);
- (d) Movable Assets Mortgage Agreement (YG SH2 Non-Restricted Assets);
- (e) Movable Assets Mortgage Agreement (YG SH3 Restricted Assets);
- (f) Movable Assets Mortgage Agreement (YG SH3 Non-Restricted Assets);
- (g) Pledge over Receivables (WGQ);
- (h) Pledge over Receivables (YG);
- (i) Pledge over Receivables (GDS Beijing);
- (j) Pledge over Receivables (GDS Suzhou);
- (k) Pledge over Receivables (GDS Shanghai);
- (l) Lease Assignment Agreement (WGQ);
- (m) Lease Assignment Agreement (YG);
- (n) Insurance Assignment Agreement (WGQ);

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- (o) Insurance Assignment Agreement (YG);
- (p) Equity Pledge Agreement (WGQ); and
- (q) Subordination Agreement.

“**Operations Account (WGQ)**” has the meaning given to that term Clause 18.1(a)(ii).

“**Operations Account (YG)**” has the meaning given to that term in Clause 18.1(b)(ii).

“**Original Financial Statements**” means:

- (a) in relation to the Ultimate Parent, its audited financial statements for the Financial Year ended 31 December 2015;
- (b) in relation to Parent (EDC YG), its audited financial statements for the Financial Year ended 31 December 2015;
- (c) in relation to GDS Beijing, its audited financial statements for the Financial Year ended 31 December 2015;
- (d) in relation to GDS Suzhou, its audited financial statements for the Financial Year ended 31 December 2015;
- (e) in relation to each Borrower, its audited financial statements for the Financial Year ended 31 December 2015; and
- (f) in relation to GDS Management Co., its financial statements for the month ended 31 May 2016.

“**Original Bank Loan A**” means the bank loan facility made available by the Original Onshore Lenders to EDC WGQ in respect of Project SH1 pursuant to the Original Bank Loan Agreement, and at the date of this Agreement, the outstanding principal amount is RMB 405,000,000.

“**Original Bank Loan Agreement**” means a facility agreement entered into by and among, *inter alios*, the Original Onshore Lenders and the Borrowers as borrowers on 30 June 2016 with respect to, *inter alios*, the Original Bank Loan A and the Original Bank Loan B.

“**Original Bank Loan B**” means the bank loan facility made available by the Original Onshore Lenders to EDC YG in respect of Project SH2 pursuant to the Original Bank Loan Agreement, and at the date of this Agreement, the outstanding principal amount is RMB 221,617,196.06.

“**Original Onshore Lenders**” means the “Original Lenders” as defined in the Original Bank Loan Agreement.

“**Original Securities**” means all the existing securities created in connection with the Original Bank Loan Agreement securing, *inter alios*, the Original Bank Loan A and the Original Bank Loan B.

“**Parent (EDC WGQ)**” means GDS Beijing.

“**Parent (EDC YG)**” means EDE I (HK) Limited, a company established under the laws of Hong Kong, with its registered address at Units 323-325 3/F Core Building 2 Hong Kong Science Park Shatin NT.

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“**Parents**” means Parent (EDC WGQ) and Parent (EDC YG), and a “**Parent**” means each of them.

“**Party**” means a party to this Agreement.

“**PBOC**” means the People’s Bank of China.

“**PBOC Base Rate**” means the prevailing official lending rate per annum, as promulgated and announced by PBOC from time to time, for the first Interest Period in respect of a Loan, on the first Utilisation Date of that Loan, and for any following Interest Periods, on the last Interest Payment Date, which is applicable to loans with tenor equivalent to the tenor of such Loan.

“**PBOC Information Center**” means Credit Reference Centre of the PBOC.

“**Permitted Facility C Aggregate Drawdown Amount**” means a percentage of the Facility C Commitment set out in the table below under the heading “Permitted Facility C Aggregate Drawdown Amount” corresponding to the “Aggregate Annualised Contract Value” calculated based on a break down delivered to the Facility Agent pursuant to Clause 5.2(a)(ix):

Aggregate Annualized Contract Value	Permitted Facility C Aggregate Drawdown Amount
Less than RMB 220,000,000	70%
Less than RMB 260,000,000 but greater than or equal to RMB 220,000,000	80%
Less than RMB 300,000,000 but greater than or equal to RMB 260,000,000	90%
Greater than or equal to RMB 300,000,000	100%

“**Pledge over Receivables (GDS Beijing)**” means an account receivables pledge agreement in respect of receivables payable to GDS Beijing under the GDS Beijing Service Contracts, dated on or about of this Agreement and made between GDS Beijing and the Security Agent.

“**Pledge over Receivables (GDS Shanghai)**” means an account receivables pledge agreement in respect of receivables payable to GDS Shanghai under the GDS Shanghai Service Contracts, dated on or about of this Agreement and made between GDS Shanghai and the Security Agent.

“**Pledge over Receivables (GDS Suzhou)**” means an account receivables pledge agreement in respect of receivables payable to GDS Suzhou under the GDS Suzhou Service Contracts, dated on or about of this Agreement and made between GDS Suzhou and the Security Agent.

“**Pledge over Receivables (GDS Suzhou-Ping An Bank)**” means the pledges over account receivables under the Service Contracts in relation to Project SH1 and Project SH2 created by GDS Beijing and GDS Suzhou respectively to secure the Existing Entrustment Loan (GDS Suzhou-Ping An Bank), which has been discharged and released as of the date of this Agreement.

“**Pledge over Receivables (GDS Suzhou-Shanghai Bank)**” means the pledges over account receivables under the Service Contracts in relation to Project SH1 created by GDS Suzhou to secure the bank loan under a working capital loan agreement entered into by and between GDS Suzhou and

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Shanghai Bank, Suzhou Branch on 16 September 2015, which has been discharged and released as of the date of this Agreement.

“**Pledge over Receivables (WGQ)**” means an account receivables pledge agreement in respect of receivables payable to EDC WGQ under the Borrower Service Contracts (WGQ) and the Back-to-Back Agreements (WGQ), dated on or about of this Agreement and made between EDC WGQ and the Security Agent.

“**Pledge over Receivables (YG)**” means an account receivables pledge agreement in respect of receivables payable to the EDC YG under the Borrower Service Contracts (YG) and the Back-to-Back Agreements (YG), dated on or about of this Agreement and made between EDC YG and the Security Agent.

“**PRC**” means the People’s Republic of China, but excluding, for the purpose of the Transaction Documents, Taiwan and the special administrative regions of Hong Kong and Macau.

“**Project Document**” means, in relation to each Project:

- (a) each Service Contract;
- (b) each Contractor Agreement;
- (c) each Back-to-Back Agreement;
- (d) each Lease Agreement;
- (e) the Inter-company Loan Agreements (if any); or
- (f) any other material contract entered into by a Borrower, GDS Suzhou, GDS Beijing, GDS Shanghai or GDS HK relating to the Projects and designated by the Facility Agent and the Obligors’ Agent as a project document.

“**Project SH1**” means the design, development, fitting out, maintenance and operation of the data center building rented by the EDC WGQ located at 87# Property, F16 Block, Shanghai, PRC, with a total floor area of 24,015.06 square meters.

“**Project SH2**” means the design, development, fitting out, maintenance and operation of the data center building rented by EDC YG located at 88# Property, F16 Block, Shanghai, PRC with a total floor area of 20,888 square meters.

“**Project SH2 Completion**” means the date on which the Certificate of Completion is issued in respect of Project SH2.

“**Project SH3**” means the design, development, fitting out, maintenance and operation of the data center building to be rented by EDC YG located at 90# Property, F16 Block, Shanghai, PRC, with a total floor area of 28,683 square meters.

“**Project SH3 Completion**” means the date on which the Certificate of Completion is issued in respect of Project SH3.

“**Project SH3 Completion Date**” means 31 March 2017.

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“**Project SH4**” means the design, development, fitting out, maintenance and operation of the data center building to be rented by EDC YG located at 89# Property, F16 Block, Shanghai, PRC, with an estimated total floor area of 20,800 square meters.

“**Project SH4 Completion**” means the date on which the Certificate of Completion is issued in respect of Project SH4.

“**Projects**” means Project SH1, Project SH2, Project SH3 and Project SH4, and a “**Project**” means each of them.

“**Qiuping Huang**” means Ms. Huang Qiuping, whose PRC identification number is 3101071961116122X.

“**Qualified Service Contract**” means a Service Contract with a term of no less than 3 years (inclusive).

“**Quarter Date**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Quasi-Security**” has the meaning given to that term in Clause 23.4 (*Negative pledge*).

“**Receiving Account (GDS Beijing-WGQ)**” has the meaning given to that term in Clause 18.1(c)(i).

“**Receiving Accounts (GDS Beijing-YG)**” has the meaning given to that term in Clause 18.1(c)(ii).

“**Receiving Account (GDS HK-WGQ)**” has the meaning given to that term in Clause 18.1(e)(i).

“**Receiving Account (GDS HK-YG)**” has the meaning given to that term in Clause 18.1(e)(ii).

“**Receiving Account (GDS Shanghai-WGQ)**” has the meaning given to that term in Clause 18.1(f)(i).

“Receiving Account (GDS Shanghai-YG)” has the meaning given to that term in Clause 18.1(f)(ii).

“Receiving Account (GDS Suzhou-WGQ)” has the meaning given to that term in Clause 18.1(d)(i).

“Receiving Account (GDS Suzhou-YG)” has the meaning given to that term in Clause 18.1(d)(ii).

“Receiving Accounts (WGQ)” has the meaning given to that term in Clause 18.1(a)(v).

“Receiving Account (YG)” has the meaning given to that term in Clause 18.1(b)(v).

“Receiving Accounts” means the Receiving Accounts (WGQ), the Receiving Account (YG), the Receiving Account (GDS Beijing-WGQ), the Receiving Accounts (GDS Beijing-YG), the Receiving Account (GDS Suzhou-WGQ), the Receiving Account (GDS Suzhou-YG), the Receiving Account (GDS HK-WGQ), the Receiving Account (GDS HK-YG), the Receiving Account (GDS Shanghai-WGQ) and the Receiving Account (GDS Shanghai -YG).

“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.

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“Release Agreements” means the agreements to be entered into between and by, among others, the Obligor Parties and the security agent (on behalf of the secured parties of the Original Bank Loan Agreement), in respect of the termination and release of, among others, the Original Securities, in form and substance satisfactory to all the Lenders, including any other release documents as required by the Governmental Agency for purpose of completing the release procedures with the Governmental Agency.

“Relevant Interbank Market” means the PRC interbank market.

“Relevant Jurisdiction” means, in relation to an Obligor:

- (a) its jurisdiction of incorporation;
- (b) any jurisdiction where any asset subject to or intended to be subject to the Transaction Security to be created by it is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of any of the Transaction Security Documents entered into by it.

“Relevant Period” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“Repeating Representations” means each of the representations and warranties set out in Clause 20.1 (*Status*) to 20.30 (*Sanctions*) (inclusive), other than those specified to be given on a specified date.

“Representative” means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

“Restricted Inter-company Loan” means any present and future inter-company loan or shareholder loan made to any Borrower by any other member of the Group, for avoidance of doubt, including the Existing Shareholder Loan (WGQ) and the inter-company loan under the Inter-company Loan Agreements (if any).

“SAFE” means the State Administration of Foreign Exchange of the PRC or its local counterparts.

“SAIC” means the State Administration of Industry and Commerce of the PRC or its local counterparts.

“Sanctioned Country” has the meaning given to that term in Clause 20.30(b) (*Sanctions*).

“Sanctioned Person” has the meaning given to that term in Clause 20.30(a) (*Sanctions*).

“Sanctions” means any economic or trade sanctions or restrictive measures enacted, administered, imposed or enforced by the US Department of the Treasury’s Office of Foreign Assets Control (OFAC), the US Department of State, the United Nations Security Council, the European Union, the French Republic, Her Majesty’s Treasury, the Department of Foreign Affairs and Trade of Australia or any other relevant sanctions authority.

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“Secured Liabilities” means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Obligor Party to any Secured Party under each Transaction Document.

“Secured Party” means a Finance Party or a Hedging Provider.

“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.

“Security Property” means

- (a) the Transaction Security expressed to be granted in favour of the Security Agent as agent for the Secured Parties and all proceeds of that Transaction Security;
- (b) all obligations expressed to be undertaken by an Obligor Party to pay amounts in respect of the Secured Liabilities to the Security Agent as agent for the Secured Parties and secured by the Transaction Security together with all representations and warranties expressed to be given by an Obligor Party in favour of the Security Agent as agent for the Secured Parties; and
- (c) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Agent is required by the terms of the Finance Documents to hold as agent on trust for the Secured Parties.

“Selected Finance Lease Agreements” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“Self-controlled Disbursement” means the method by which the Lenders disburse loan proceeds into a Loan Disbursement Account for the Borrowers to determine at its own discretion when and how to pay the proceeds to its respective counterparty and pursuant to the terms of the Finance Documents.

“Service Agreements” means (i) the service agreement entered into by and between EDC WGQ and GDS Suzhou or GDS Management Co. (as the case may be) on or before the date of this Agreement, and (ii) the service agreement entered into by and between EDC YG and GDS Suzhou or GDS Management Co. (as the case may be) on or before the date of this Agreement.

“Service Contracts” means the Borrower Service Contracts, the GDS Beijing Service Contracts, GDS Suzhou Service Contracts, GDS HK Service Contracts and GDS Shanghai Service Contracts.

“Share Mortgage Agreement (Parent (EDC YG))” means a share mortgage agreement in respect of shares in the Parent (EDC YG) held by the Intermediate Parent dated on or about the date of this Agreement and made by and between the Intermediate Parent and the Security Agent.

“Sponsor” means STT Communications Ltd, with its registered address at 1 Temasek Avenue, #33-01 Millenia Tower, Singapore 039192.

“STT GDC” means STT GDC Pte. Ltd., a limited liability company established under the laws of Singapore, with its registered address at 1 Temasek Avenue, #33-01 Millenia Tower, Singapore 039192.

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“Subordination Agreement” means a subordination agreement in respect of inter-company loans or shareholder loans made to any Borrower by EDC China, GDS Beijing, GDS Suzhou, GDS Shanghai or any other member of the Group dated on or about the date of this Agreement and made by and between, among others, the Borrowers, and EDC China, GDS Beijing, GDS Suzhou GDS Shanghai and any other member of the Group (as subordinated lenders) and the Security Agent.

“Subsidiary” means, in relation to any company or corporation, a company or corporation:

- (a) which is controlled, directly or indirectly, by the first mentioned company or corporation;



- (b) more than half the issued equity share capital of which is beneficially owned, directly or indirectly, by the first mentioned company or corporation; or
- (c) which is a Subsidiary of another Subsidiary of the first mentioned company or corporation,

and for this purpose, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

“**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).

“**Term Loans**” means Facility A Loan, Facility B Loan, Facility C Loan and Facility D Loan.

“**Term Loan Facilities**” means Facility A, Facility B, Facility C and Facility D.

“**Term Loan Lender**” means:

- (a) any Original Lender in relation to the Term Loan Facility; and
- (b) any bank, financial institution, trust, fund or other entity which has become a lender to any Term Loan Facilities in accordance with Clause 26 (*Changes to the Lenders*),

which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

“**Test Date**” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

“**Total Commitments**” means (a) the aggregate of the Total Facility A Commitments, the Total Facility B Commitments, Total Facility C Commitments and Total Facility E Commitments (being RMB 1,135,000,000 at the date of this Agreement); or (b) the aggregate of the Total Facility A Commitments, the Total Facility B Commitments, Total Facility C Commitments, the Total Facility D Commitments and Total Facility E Commitments (being RMB 1,475,000,000 on the Facility D Commitment Date).

“**Total Facility A Commitments**” means the aggregate of the Facility A Commitments (being RMB 405,000,000 at the date of this Agreement).

“**Total Facility B Commitments**” means the aggregate of the Facility B Commitments (being RMB 225,000,000 at the date of this Agreement).

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“**Total Facility C Commitments**” means the aggregate of the Facility C Commitments (being RMB 455,000,000 at the date of this Agreement).

“**Total Facility D Commitments**” means the aggregate of the Facility D Commitments (being up to RMB 340,000,000 on the Facility D Commitment Date).

“**Total Facility E Commitments**” means the aggregate of the Facility E Commitments (being RMB 50,000,000 at the date of this Agreement).

“**Total Investment Amount**” means, in relation to a Project, total amount that is required to be available for completing that Project, in each case not more than the total investment amount as shown in the Business Plan for that Project.

“**Total Term Loan Commitments**” means (a) the aggregate of the Total Facility A Commitments, the Total Facility B Commitments and Total Facility C Commitments (being RMB 1,085,000,000 at the date of this Agreement); or (b) the aggregate of the Total Facility A Commitments, the Total Facility B Commitments, Total Facility C Commitments and the Total Facility D Commitments (being RMB 1,425,000,000 on the Facility D Commitment Date).

“**Transaction Documents**” means the Finance Documents and the Hedging Arrangements.

“**Transaction Expenses**” has the meaning given to that term in Clause 17.1 (*Transaction expenses*).

“**Transaction Security**” means the Security created or evidenced or expressed to be created or evidenced under the Transaction Security Documents.

“**Transaction Security Document**” means:

- (a) each Onshore Security Document;
- (b) each Offshore Security Document (if applicable);
- (c) any other document evidencing or creating or expressed to evidence or create Security over any asset to secure any obligation of any Obligor Party to a Secured Party under the Transaction Documents; or
- (d) any other document designated as such by the Security Agent and the relevant Obligor Party.

“**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 Facility Agent and the Borrowers.

“**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 Facility Agent executes the relevant Assignment Agreement or Transfer Certificate.

“**Ultimate Parent Guarantee**” means a corporate and completion guarantee dated on or about the date of this Agreement and made by and between the Ultimate Parent and the Security Agent.

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“**Unpaid Sum**” means any sum due and payable but unpaid by an Obligor Party under the Finance Documents.

“**US**” means the United States of America.

“**US Tax Obligor**” means:

- (a) an Obligor Party which is resident for tax purposes in the US; or
- (b) an Obligor Party 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 Evidence**” means Evidence of Facility A Utilisation, Evidence of Facility B Utilisation, Evidence of Facility C Utilisation or Evidence of Facility E Utilisation (as the case may be).

“**Utilisation Request**” means a notice substantially in the form set out in Schedule 3 (*Utilisation Request*).

“**VIE Contracts**” means any arrangement, instrument or agreement that is part of any contractual arrangements enabling the GDS Management Co. to exercise effective control over GDS Beijing and its Subsidiaries or consolidate the financial condition or results of operation of GDS Beijing and its Subsidiaries for the purposes of the consolidated financial statements of the Group, which shall include without limitation the VIE Equity Pledges, the VIE Exclusive Share Option Agreement and the VIE Shareholders' Voting Rights Proxy Agreement.

“**VIE Equity Pledges**” means the VIE Equity Pledge (William Huang) and the VIE Equity Pledge (Qiuping Huang).

“**VIE Equity Pledge (Qiuping Huang)**” means a pledge over the equity interests in GDS Beijing held by Qiuping Huang in favour of the GDS Management Co. as contemplated under the VIE Contracts.

“**VIE Equity Pledge (William Huang)**” means a pledge over the equity interests in GDS Beijing held by William Huang in favour of the GDS Management Co. as contemplated under the VIE Contracts.

“VIE Exclusive Share Option Agreement” means an exclusive share option agreement entered into by and among William Huang, Qiuping Huang, GDS Management Co. and GDS Beijing on 13 April 2016 whereby, among others, William Huang and Qiuping Huang agree to grant to GDS Management Co. the option to purchase 100% of the equity interest in GDS Beijing at any time with a relatively low price.

“VIE Shareholders’ Voting Rights Proxy Agreement” means a shareholders’ voting rights proxy agreement entered into by and among William Huang, Qiuping Huang, GDS Management Co. and GDS Beijing on 13 April 2016 whereby, among others, William Huang and Qiuping Huang agree to

grant a power of attorney to GDS Management Co. that gives it all of their shareholders rights in GDS Beijing.

“Wai Bao Nei Dai” has the meaning given to that term in Clause 23.32(b) (*Offshore Transaction Security*).

“Waterfall Date” means the 15<sup>th</sup> day of each calendar month.

“WGQ-YG Revenues” has the meaning given to that term in Clause 18.7(b)(iv).

“William Huang” means Mr. Huang Wei, whose identification number is 31010719671101125X.

“Working Capital” has the meaning given to that term in Clause 22.1 (*Financial definitions*).

## 1.2 Construction

(a) Unless a contrary indication appears, any reference in this Agreement to:

- (i) any “Administrative Party”, the “Facility Agent”, any “Mandated Lead Arranger”, any “Coordinating Bank”, any “Finance Party”, any “Secured Party” any “Lender”, any “Term Loan Lender”, any “Facility E Lender”, any “Guarantor”, any “Obligor”, the “Obligors’ Agent”, any “Obligor Party”, any “Party”, the “Security Agent”, the “Account Bank” or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Security Agent, any person for the time being appointed as Security Agent in accordance with the Finance Documents;
- (ii) “assets” includes present and future properties, revenues and rights of every description;
- (iii) a “Finance Document”, a “Material Credit Document”, a “Project Document”, a “Transaction Document” or any other agreement or instrument is a reference to that Finance Document, Material Credit Document, Project Document, Transaction 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) “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;
- (vi) 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;
- (vii) a “person” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
- (viii) 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 regulatory, self-regulatory or other authority or organisation;

(ix) a provision of law is a reference to that provision as amended or re-enacted; and

(x) a time of day is a reference to Beijing time.

(b) Section, Clause and Schedule headings are for ease of reference only.

(c) 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.

(d) A Default or an Event of Default is “continuing” if it has not been remedied or waived.

(e) 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 Facility Agent’s spot rate of exchange for the purchase of the specified currency with that other currency at or about 11 a.m. on the relevant date, is equal to the relevant amount in the specified currency.

## SECTION 2 THE FACILITIES

### 2. THE FACILITIES

#### 2.1 The Facilities

(a) Subject to the terms of this Agreement, the Term Loan Lenders make available to EDC WGQ a term loan facility in an aggregate amount equal to the Total Facility A Commitments.

(b) Subject to the terms of this Agreement, the Term Loan Lenders make available to EDC YG:

- (i) a term loan facility in an aggregate amount equal to the Total Facility B Commitments;
- (ii) a term loan facility in an aggregate amount equal to the Total Facility C Commitments; and
- (iii) after the Facility D Commitment Date, a term loan facility in an aggregate amount equal to the Total Facility D Commitments.

(c) Subject to the terms of this Agreement, the Facility E Lenders make available to EDC YG a revolving loan facility in an aggregate amount equal to the Total Facility E Commitments.

#### 2.2 Conditions of the Facility D Commitment

(a) EDC YG may, upon satisfaction of the following conditions, by giving a no less than 90-day prior written notice to the Facility Agent accompanied by the documents evidencing such satisfaction, request all the Lenders to make commitment of the Facility D:

- (i) the construction progress of Project SH4 matches with the capital which has been invested into the Project SH4 to the satisfaction of the Facility Agent;
- (ii) the DER in respect of the total funding for Project SH4 shall not be more than 70:30; and
- (iii) a certified copy of the Business Plan in respect of Project SH4 evidencing (A) the minimum DSCR is not less than 125%, and (B) the average DSCR is not less than 130%.

(b) The Facility Agent shall promptly notify all the Lenders of the request set out in paragraph (a) above.

(c) The Facility Agent shall promptly notify EDC YG of the Term Loan Lenders’ determination whether they agree to make commitment of Facility D, and the Facility D will only be made available upon written consent of all Term Loan Lenders. For the avoidance of doubt, the terms and conditions of the Facility D shall be agreed between EDC YG (or if applicable, other Obligors) and the relevant Finance Parties in writing. Unless otherwise agreed by all Lenders:

- (i) the Facility D Maturity Date shall not be earlier than the date falling five (5) years after the first Utilisation Date of Facility D; and

### 2.3 Finance Parties' rights and obligations

- (a) The obligations of the Finance Parties 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 the Finance Parties 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 an Obligor shall be a separate and independent debt.
- (c) A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.
- (d) Notwithstanding any other provisions of this Agreement to the contrary, no Finance Party is obliged to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of any applicable anti-money laundering, counter-terrorism financing, economic or trade sanctions law or regulation.

### 2.4 Obligors' Agent

- (a) Each Obligor (other than the EDC YG) by its execution of this Agreement or an Accession Letter irrevocably appoints EDC YG to act on its behalf as its agent in relation to the Transaction Documents and irrevocably authorises:
  - (i) EDC YG on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give all notices and instructions, to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by any Obligor notwithstanding that they may affect the Obligor, without further reference to or the consent of that Obligor; and
  - (ii) each Finance Party to give any notice, demand or other communication to that Obligor pursuant to the Finance Documents to EDC YG,and in each case the Obligor shall be bound as though the Obligor itself had given the notices and instructions 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 Obligors' Agent or given to the Obligors' Agent under any Finance Document on behalf of another Obligor or in connection with any Finance Document (whether or not known to any other Obligor and whether occurring before or after such other Obligor became an Obligor under any Finance Document) shall be binding for all purposes on that Obligor as if that Obligor had expressly made, given or concurred with it. In the event of any conflict between any notices or other communications of the Obligors' Agent and any other Obligor, those of the Obligors' Agent shall prevail.

## 3. PURPOSE

### 3.1 Purpose

- (a) EDC WGQ shall apply all amounts borrowed by it under Facility A towards the repayment of the outstanding amount under the Original Bank Loan A.
- (b) EDC YG shall apply all amounts borrowed by it under Facility B towards (i) the repayment of the outstanding amount under the Original Bank Loan B; and (ii) the payment or reimbursement of the Capital Expenditure of the Project SH2 in accordance with the Business Plan of Project SH2 and the Budget.
- (c) EDC YG shall apply all amounts borrowed by it under Facility C towards (i) the payment of the Capital Expenditure of the Project SH3 in accordance with the Business Plan of Project SH3 and the Budget; and (ii) the payment of the fees and expenses in relation to the Facilities.
- (d) EDC YG shall apply all amounts borrowed by it under Facility D towards the purpose otherwise agreed between EDC YG and the Finance Parties in writing.
- (e) EDC YG shall apply all amounts borrowed by it under Facility E towards (i) the working capital purpose; and (ii) the payment of the fees and expenses in relation to the Facilities.
- (f) The Borrowers may not use any Loan for any other purpose, including, without limitation, using any Loan for share capital equity investment, using any Loan for venturing operation in any securities market, futures market or other similar domain, or using any Loan to/for any other investment or business that is prohibited under the Governmental Rules.

### 3.2 Monitoring

- (a) Unless otherwise expressly required by the Governmental Rules, no Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.
- (b) The Parties hereby expressly waive any obligation on the part of any Finance Party to so monitor or verify, to the fullest extent permitted by the Governmental Rules.
- (c) To the extent any Governmental Rules at any time require any Finance Party to monitor or verify any application of any Loan proceeds hereunder, the Borrowers shall fully co-operate with that Finance Party and promptly upon reasonable request from that Finance Party, provide to that Finance Party any information or confirmation or other documents to evidence the purpose for which the proceeds of the Loan have been used.
- (d) In any event, the failure by any Finance Party to so monitor or verify shall not give rise to any defence by the Borrowers or any other Obligor regarding its payment and performance of the Secured Liabilities or otherwise reduce, release or prejudice the Borrowers or any other Obligor's obligations under the Finance Documents.

## 4. CONDITIONS OF UTILISATION AND CONDITIONS SUBSEQUENT

### 4.1 Initial conditions precedent

- (a) EDC WGQ may not deliver a Utilisation Request under Facility A unless the Facility Agent has received all of the documents and other evidence listed in Part I (*Conditions Precedent to Initial*

*Utilisation for All Facilities)* of Schedule 2 (*Conditions precedent and conditions subsequent*) and Part II (*Conditions Precedent to Initial Utilisation for Facility A)* of Schedule 2 (*Conditions precedent and conditions subsequent*) in form and substance satisfactory to the Facility Agent.

- (b) EDC YG may not deliver a Utilisation Request under Facility B unless the Facility Agent has received all of the documents and other evidence listed in Part I (*Conditions Precedent to Initial Utilisation for All Facilities)* of Schedule 2 (*Conditions precedent and conditions subsequent*) and Part III (*Conditions Precedent to Initial Utilisation for Facility B)* of Schedule 2 (*Conditions precedent and conditions subsequent*) in form and substance satisfactory to the Facility Agent.
- (c) EDC YG may not deliver a Utilisation Request under Facility D unless the terms and conditions of the Utilisation of Facility D as otherwise agreed between EDC YG and the Finance Parties in writing have been satisfied.
- (d) EDC YG may not deliver a Utilisation Request under Facility E unless the Facility Agent has received all of the documents and other evidence listed in Part I (*Conditions Precedent to Initial Utilisation for All Facilities)* of Schedule 2 (*Conditions precedent and conditions subsequent*) in form and substance satisfactory to the Facility Agent.
- (e) The Facility Agent shall notify the Obligors' Agent and the Lenders promptly upon being so satisfied.

### 4.2 Conditions precedent to Utilisation of Facility C

- (a) Subject to paragraph (b) below, EDC YG may not deliver a Utilisation Request under Facility C unless the Facility Agent has received all of the documents and other evidence listed in Part I (*Conditions Precedent to Initial Utilisation for All Facilities)* of Schedule 2 (*Conditions precedent and conditions subsequent*) and Part IV (*Conditions Precedent to Initial Utilisation for Facility C)* of Schedule 2 (*Conditions precedent and conditions subsequent*) in form and substance satisfactory to the Facility Agent.
- (b) EDC YG may not deliver a Utilisation Request under Facility C which will result in the total amount utilized under the Facility C exceeds 70% of the Total Facility C Commitments unless the Facility Agent has received all of the documents and other evidence listed in Part V (*Conditions Precedent to Utilisation of Facility C beyond 70% of the Total Facility C Commitments*) of Schedule 2 (*Conditions precedent and conditions subsequent*) in form and substance satisfactory to the Facility Agent.

- (c) The Facility Agent shall notify EDC YG and the Lenders promptly upon being of the conditions set out in paragraph (a) so satisfied.

#### 4.3 Further conditions precedent

The Lenders will be obliged to comply with Clause 5.4 (*Lenders' participation*) only if on the date of the Utilisation Request and on the proposed Utilisation Date:

- (a) no Event of Default is continuing or would result from the proposed Loan;
- (b) none of the circumstances described in Clause 8.1 (*Change of control*) has occurred;

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- (c) all representations and warranties made by each Obligor Party in each Finance Document are true and correct in all material respects with reference to the facts and circumstances then subsisting;
- (d) no event or circumstance which could reasonably be expected to have a Material Adverse Effect exists, has occurred or might occur;
- (e) no any Force Majeure has occurred or might occur;
- (f) in respect of a Utilisation of a Facility, the ratio of the paid-up registered capital and the total registered capital of the Borrower who proposes the Loan(s) is not less than the ratio of the total outstanding amount of the Loan(s) applicable to that Facility and the Total Commitments in relation to that Facility;
- (g) in respect of a Utilisation of Facility B, the Facility Agent is so satisfied that the construction progress of the Project SH2 matches with the capital which has been invested into the Project SH2; and
- (h) in respect of a Utilisation of Facility C, the Facility Agent is so satisfied that the construction progress of the Project SH3 matches with the capital which has been invested into the Project SH3.

#### 4.4 Conditions subsequent documents

- (a) Each Obligor shall deliver to the Facility Agent on the specified date all of the documents and evidence set out in Part VI (*Conditions Subsequent*) of Schedule 2 (*Conditions precedent and conditions subsequent*) in form and substance reasonably satisfactory to the Facility Agent, unless the Facility Agent has waived or postponed delivery of such document or evidence in writing.
- (b) The Facility Agent shall notify the relevant Obligors and the Lenders promptly upon being so satisfied.

#### 4.5 Maximum number of Loans

- (a) Unless otherwise agreed by the Facility Agent, a Borrower may not deliver a Utilisation Request if as a result of the proposed Utilisation:
- (i) five (5) or more Facility A Loans would be outstanding;
- (ii) five (5) or more Facility B Loans would be outstanding;
- (iii) twelve (12) or more Facility C Loans would be outstanding; or
- (iv) two (2) or more Facility E Utilisation Request would have been delivered within one (1) calendar month.
- (b) The Borrowers may not request that a Loan be divided.
- (c) If two or more Interest Periods end on the same date, those Loans will be consolidated into, and treated as, a single Loan on the last day of the Interest Period.

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### SECTION 3 UTILISATION

#### 5. UTILISATION

##### 5.1 Delivery of a Utilisation Request

Subject to clause 4.5 (*Maximum number of Loans*) above, a Borrower may utilise a Facility by delivery to the Facility Agent of a duly completed Utilisation Request no later than 11:00 a.m. on the day falling five (5) Business Days before the Utilisation Date.

##### 5.2 Completion of a Utilisation Request

- (a) Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:
- (i) it identifies the Facility to be utilised;
- (ii) the proposed Utilisation Date is a Business Day within the Availability Period applicable to that Facility;
- (iii) the proposed Interest Period of the Loan complies with this Agreement;
- (iv) the currency specified in a Utilisation Request must be in RMB or any other currency agreed by the Parties;
- (v) the amount of the Utilisation complies with Clause 5.3 (*Utilisation Amount*);
- (vi) in respect of a Loan that is required to be disbursed by way of the Consigned Disbursement, it specifies the wiring and transfer instructions with respect to the payee's name, the payee's account information, the payment amount and currency, payment purpose and any other information reasonably requested by the Facility Agent;
- (vii) in the case of a Facility A Loan that is required to be disbursed by way of the Consigned Disbursement according to the paragraph (a) of clause 5.5 (*Advance of Loans*), the Utilisation Request is accompanied by certified copies of the following documents (the "**Evidence of Facility A Utilisation**"):
- (A) Original Bank Loan Agreement;
- (B) Existing Inter-company Loan Agreements (Project SH1);
- (C) repayment notice, pay-off statement, invoice or other proof of the Original Bank Loan A and the Existing Inter-company Loans (Project SH1) pay-off amount and currency;
- (D) purchase contracts or orders, invoices, bank account statements or other documentary proof evidencing the proceeds from the Original Bank Loan A and the Existing Inter-company Loans (Project SH1) have been applied towards the Capital Expenditures and/or working capital of the Project SH1; and
- (E) any other underlying transaction documents reasonably requested by the Facility Agent;

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- (viii) in the case of a Facility B Loan that is required to be disbursed by way of the Consigned Disbursement according to the paragraph (a) of Clause 5.5 (*Advance of Loans*), the Utilisation Request is accompanied by certified copies of the following documents (the "**Evidence of Facility B Utilisation**"):

- (A) Original Bank Loan Agreement;
- (B) Existing Inter-company Loan Agreements (Project SH2);
- (C) repayment notice, pay-off statement, invoice or other proof of the Original Bank Loan B and the Existing Inter-company Loans (Project SH2) pay-off amount and currency;

- (D) purchase contracts or orders, invoices, bank account statements or other documentary proof evidencing the proceeds from the Original Bank Loan B and the Existing Inter-company Loans (Project SH2) have been applied towards the Capital Expenditures and/or working capital of the Project SH2;
  - (E) purchase contracts or orders, invoices or other documents which would evidence that EDC YG is obliged to make the payment of the Capital Expenditures of the Project SH2; and
  - (F) any other underlying transaction documents reasonably requested by the Facility Agent.
- (ix) in the case of a Facility C Loan that is required to be disbursed by way of the Consigned Disbursement according to the paragraph (a) of clause 5.5 (*Advance of Loans*), the Utilisation Request is accompanied by certified copies of the following documents (the “**Evidence of Facility C Utilisation**”):
- (A) purchase contracts or orders, invoices or other documents which would evidence that EDC YG is obliged to make the payment of the Capital Expenditures of the Project SH3;
  - (B) a certified copy of break down list showing the details of all Service Contracts (including the Contract Value for each Service Contract) together with certified true copies of each duly signed Service Contract, in each case which would reasonably evidence the amount of the proposed Loan to be utilized under that Utilisation Request complies with the requirement as set out in paragraph (c) of Clause 5.3 (*Utilisation Amount*) to the satisfaction of the Facility Agent; and
  - (C) any other underlying transaction documents reasonably requested by the Facility Agent;
- (x) in the case of a Facility E Loan that is required to be disbursed by way of the Consigned Disbursement according to the paragraph (a) of clause 5.5 (*Advance of Loans*), the Utilisation Request is accompanied by certified copies of the following documents (the “**Evidence of Facility E Utilisation**”):
- (A) purchase contracts or orders, invoices or other documents which would evidence that EDC YG is obliged to make the payment for the working capital purpose; and

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- (B) any other underlying transaction documents reasonably requested by the Facility Agent.
- (b) Only one Loan may be requested in each Utilisation Request.
- (c) EDC YG must deliver the first Facility C Utilisation Request within 3 Months after the date of this Agreement.
- (d) EDC YG must deliver the first Facility E Utilisation Request within 3 Months after the date of this Agreement.

### 5.3 Utilisation Amount

- (a) Any Utilisation of the Facility A in a Facility A Utilisation Request shall not result in the amount of the proposed Facility A Loan exceeding the Available Facility A.
- (b) Any Utilisation of the Facility B in a Facility B Utilisation Request shall not result in the amount of the proposed Facility B Loan exceeding the Available Facility B.
- (c) Any Utilisation of the Facility C in a Facility C Utilisation Request shall not result in the Permitted Facility C Aggregate Drawdown Amount being exceeded, and the amount of the proposed Facility C Loan must not be more than the Available Facility C.
- (d) Any Utilisation of the Facility E in a Facility E Utilisation Request shall not result in the amount of the proposed Facility E Loan exceeding the Available Facility E.
- (e) Notwithstanding the above, unless the Facility Agent has received all of the documents and other evidence listed in Part V (Conditions *Precedent to Utilisation of Facility C beyond 70% of the Total Facility C Commitments*) of Schedule 2 (Conditions *precedent and conditions subsequent*) in form and substance satisfactory to the Facility Agent, any Utilisation of the Facility C shall not result in the total amount utilized under the Facility C exceeds 70% of the Total Facility C Commitments.

### 5.4 Lender's participation

- (a) The Facility Agent shall promptly notify the relevant Lender of the relevant Facility the details of a Utilisation Request including amount of its participation in the requested Loan no later than three (3) Business Days prior to the applicable Utilisation Date.
- (b) The amount of the relevant Lender's participation in a Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Loan.
- (c) If the conditions set out in Clause 4 (Conditions of Utilisation and conditions subsequent), 5.1 (Delivery of a Utilisation Request) to 5.3 (Utilisation Amount) above have been met, the relevant Lender shall make its participation in a Loan available by the Utilisation Date through its Facility Office.
- (d) No Lender is obliged to participate in a Loan if, as a result, its participation in the Loans would exceed its Commitment or the Loans would exceed the Total Commitments.

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### 5.5 Advance of Loans

- (a) Upon a Loan made available by the relevant Lender pursuant to clause 5.4 (Lender's participation), the proceeds under such Loan shall be applied as follows:
  - (i) in respect of a Facility A Loan:
    - (A) if the amount of a Facility A Loan equals or exceeds (the lower of) RMB 5,000,000 or 5% of Total Investment Amount of the Project SH1, the Consigned Disbursement shall apply, and upon the proceeds being credited in the Facility A Loan Disbursement Account, the Facility Agent shall immediately thereafter remit such proceeds to the account of the payee(s) in accordance with the Facility A Utilisation Request;
    - (B) if the amount of a Facility A Loan is less than (the lower of) RMB 5,000,000 or 5% of Total Investment Amount of the Project SH1, the Self-controlled Disbursement shall apply, and all proceeds under such Facility A Loan shall be credited into the Facility A Disbursement Account, and EDC WGQ may use such Facility A Loan proceeds at its own discretion pursuant to the terms of this Agreement.
  - (ii) in respect of a Facility B Loan:
    - (A) if the amount of a Facility B Loan equals or exceeds (the lower of) RMB 5,000,000 or 5% of Total Investment Amount of the Project SH2, the Consigned Disbursement shall apply, and upon the proceeds being credited in the Facility B Loan Disbursement Account, the Facility Agent shall immediately thereafter remit such proceeds to the account of the payee(s) in accordance with the Facility B Utilisation Request;
    - (B) if the amount of a Facility B Loan is less than (the lower of) RMB 5,000,000 or 5% of Total Investment Amount of the Project SH2, the Self-controlled Disbursement shall apply, and all proceeds under such Facility B Loan shall be credited into the Facility B Disbursement Account, and EDC YG may use such Facility B Loan proceeds at its own discretion pursuant to the terms of this Agreement.
  - (iii) in respect of a Facility C Loan:
    - (A) if the amount of a Facility C Loan equals or exceeds (the lower of) RMB 5,000,000 or 5% of Total Investment Amount of the Project SH3, the Consigned Disbursement shall apply, and upon the proceeds being credited in the Facility C Loan Disbursement Account, the Facility Agent shall immediately thereafter remit such proceeds to the account of the payee(s) in accordance with the Facility C Utilisation Request;
    - (B) if the amount of a Facility C Loan is less than (the lower of) RMB 5,000,000 or 5% of Total Investment Amount of the Project SH3, the Self-controlled Disbursement shall apply, and all proceeds under such Facility C Loan shall be credited into the Facility C Disbursement Account, and EDC YG may use such Facility C Loan proceeds at its own discretion pursuant to the terms of this Agreement.

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- (iv) in respect of a Facility E Loan:
  - (A) if the amount of a Facility E Loan equals or exceeds RMB 5,000,000, the Consigned Disbursement shall apply, and upon the proceeds being credited in the Facility E Loan Disbursement Account, the Facility Agent shall immediately thereafter remit such proceeds to the account of the payee(s) in accordance with the Facility E Utilisation Request;

(B) if the amount of a Facility E Loan is less than RMB 5,000,000, the Self-controlled Disbursement shall apply, and all proceeds under such Facility E Loan shall be credited into the Facility E Disbursement Account, and EDC YG may use such Facility E Loan proceeds at its own discretion pursuant to the terms of this Agreement.

(b) Notwithstanding anything to the contrary above,

- (i) If any payment that has been made through the Consigned Disbursement is returned to its original payment account due to the incomplete or incorrect specification of payment instruction by a Borrower or for any other reasons, the Facility Agent shall have the right not to credit the money so returned to the original payment account and can freeze such returned money within the original payment account if it has been credited into the account for whatever reason.
- (ii) No Finance Party shall be held liable for the payment of all sums due under any underlying contracts under the Consigned Disbursement, including any costs or any return of funds from such account(s) to any Loan Disbursement Account for whatsoever reason, unless caused by its gross negligence or wilful misconduct.
- (iii) In relation to a Self-controlled Disbursement, the Borrowers shall provide to the Facility Agent the applicable Utilisation Evidence within sixty (60) days after each payment with the relevant Loan proceeds or upon request from the Facility Agent from time to time.
- (iv) The proceeds of the Loan shall not be paid to any account of the Borrowers with any Finance Party (other than the Loan Disbursement Accounts) or any other financial institutions whether or not Consigned Disbursement or Self-controlled Disbursement is to be applied.
- (v) Upon the occurrence of any Default, the Facility Agent shall have the right, in its sole discretion, to suspend the disbursement of any Loan, refuse any Utilisation, refuse the withdrawal of any amounts from any Loan Disbursement Account, and/or apply all Utilisations by Consigned Disbursement.

#### 5.6 Cancellation of Available Facility

Unless cancelled earlier in accordance with this Agreement the Commitments which, at that time, are unutilised shall be immediately cancelled at 5 p.m. on the last day of the relevant Availability Period.

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## SECTION 4

### REPAYMENT, PREPAYMENT AND CANCELLATION

#### 6. REPAYMENT

##### 6.1 Repayment of Facility A Loans

- (a) EDC WGQ shall repay the Facility A Loans in instalments by repaying on each date specified in the table below (each a "Facility A Repayment Date") an amount that reduces the aggregate outstanding Facility A Loans by a proportion of the aggregate outstanding Facility A Loans as at the close of business on the last day of the Facility A Availability Period, which proportion is set out in the table below beside such Facility A Repayment Date:

Facility A Repayment Date	Percentage
21 <sup>st</sup> December 2017	3.5%
21 <sup>st</sup> March 2018	3.5%
21 <sup>st</sup> June 2018	4%
21 <sup>st</sup> September 2018	4%
21 <sup>st</sup> December 2018	4.5%
21 <sup>st</sup> March 2019	4.5%
21 <sup>st</sup> June 2019	4.5%
21 <sup>st</sup> September 2019	4.5%
21 <sup>st</sup> December 2019	4.5%
21 <sup>st</sup> March 2020	5%
21 <sup>st</sup> June 2020	5%
21 <sup>st</sup> September 2020	5%
21 <sup>st</sup> December 2020	5%
21 <sup>st</sup> March 2021	5.5%
21 <sup>st</sup> June 2021	5.5%
Facility A Maturity Date	31.5%

- (b) Without prejudice to paragraph (a), all of the Facility A Loans must be repaid in full on the Facility A Maturity Date.

- (c) EDC WGQ may not reborrow any part of Facility A which is repaid.

##### 6.2 Repayment of Facility B Loans

- (a) EDC YG shall repay the Facility B Loans in instalments by repaying on each date specified in the table below (each a "Facility B Repayment Date") an amount that reduces the aggregate outstanding Facility B Loans by a proportion of the aggregate outstanding Facility B Loans as at the close of business on the last day of the Facility B Availability Period, which proportion is set out in the table below beside such Facility B Repayment Date:

Facility B Repayment Date	Percentage
21 <sup>st</sup> December 2017	3.5%
21 <sup>st</sup> March 2018	3.5%

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21 <sup>st</sup> June 2018	4%
21 <sup>st</sup> September 2018	4%
21 <sup>st</sup> December 2018	4.5%
21 <sup>st</sup> March 2019	4.5%
21 <sup>st</sup> June 2019	4.5%
21 <sup>st</sup> September 2019	4.5%
21 <sup>st</sup> December 2019	4.5%
21 <sup>st</sup> March 2020	5%
21 <sup>st</sup> June 2020	5%
21 <sup>st</sup> September 2020	5%
21 <sup>st</sup> December 2020	5%
21 <sup>st</sup> March 2021	5.5%
21 <sup>st</sup> June 2021	5.5%
Facility B Maturity Date	31.5%

- (b) Without prejudice to paragraph (a), all of the Facility B Loans must be repaid in full on the Facility B Maturity Date.

- (c) EDC YG may not reborrow any part of Facility B which is repaid.

##### 6.3 Repayment of Facility C Loans

- (a) EDC YG shall repay the Facility C Loans in instalments by repaying on each date specified in the table below (each a "Facility C Repayment Date") an amount that reduces the aggregate outstanding Facility C Loans by a proportion of the aggregate outstanding Facility C Loans as at the close of business on the last day of the Facility C Availability Period, which proportion is set out in the table below beside such Facility C Repayment Date:

Facility C Repayment Date	Percentage
21 <sup>st</sup> December 2017	1%
21 <sup>st</sup> March 2018	1%
21 <sup>st</sup> June 2018	1%
21 <sup>st</sup> September 2018	1%
21 <sup>st</sup> December 2018	3.5%

21 <sup>st</sup> March 2019	3.5%
21 <sup>st</sup> June 2019	3.5%
21 <sup>st</sup> September 2019	3.5%
21 <sup>st</sup> December 2019	3.5%
21 <sup>st</sup> March 2020	4%
21 <sup>st</sup> June 2020	4%
21 <sup>st</sup> September 2020	4%
21 <sup>st</sup> December 2020	4%
21 <sup>st</sup> March 2021	4.5%
21 <sup>st</sup> June 2021	4.5%
Facility C Maturity Date	53.5%

(b) Without prejudice to paragraph (a), all of the Facility C Loans must be repaid in full on the Facility C Maturity Date.

(c) EDC YG may not reborrow any part of Facility C which is repaid.

#### 6.4 Repayment of Facility D Loans

EDC YG shall repay the Facility D Loans in accordance with the repayment schedule otherwise agreed between EDC YG and the Term Loan Lenders.

#### 6.5 Repayment of Facility E Loans

(a) EDC YG shall repay each Facility E Loan on the last day of relevant Facility E Financing Period with EDC YG's own cash flow.

(b) All of the Facility E Loans must be repaid in full on the Facility E Maturity Date.

### 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:

(a) that Lender shall promptly notify the Facility Agent upon becoming aware of that event and the Facility Agent shall notify the Obligors' Agent as soon as reasonably practicable after receiving such notification;

(b) upon the Facility Agent notifying the Obligors' Agent, the Available Commitment of that Lender will be immediately cancelled; and

(c) each Borrower shall repay that Lender's participation in the Loans made to it on the last day of the Interest Period for each Loan occurring after the Facility Agent has notified the Obligors' Agent or, if earlier, the date specified by the Lender in the notice delivered to the Facility Agent (being no earlier than the last day of any applicable grace period permitted by law).

#### 7.2 Voluntary cancellation

In relation to the Term Loan Facilities, each Borrower may, if it gives the Facility Agent not less than five (5) Business Days' (or such shorter period as the Majority Term Loan Lenders may agree) prior notice, reduce the applicable Available Facility to zero or by such amount (being a minimum amount of RMB 10,000,000 and in integral multiple of RMB 5,000,000) as that Borrower may specify in such notice.

In relation to the Facility E, EDC YG may, if it gives the Facility Agent not less than five (5) Business Days' (or such shorter period as the Majority Facility E Lenders may agree) prior notice, reduce the Available Facility E to zero or by such amount (being a minimum amount of RMB 10,000,000 and in integral multiple of RMB 5,000,000) as EDC YG may specify in such notice.

#### 7.3 Voluntary prepayment of Loans (other than any Facility E Loan)

(a) Each Borrower may, if it gives the Facility Agent not less than five (5) Business Days' (or such shorter period as the Majority Term Loan Lenders may agree) prior notice, prepay on the relevant Interest Payment Date the whole or any part of any Term Loan (but, if in part, being an amount that reduces a Term Loan by a minimum amount of RMB 10,000,000 and in integral multiple of RMB 5,000,000 or the outstanding amount of the Term Loans).

(b) A Term Loan may be prepaid only after the last day of the applicable Availability Period (or, if earlier, the day on which the applicable Available Facility is zero).

#### 7.4 Voluntary Prepayment of Facility E Loans

In relation to Facility E Loans only, EDC YG may, if it gives the Facility Agent not less than five (5) Business Days' (or such shorter period as the Majority Facility E Lenders may agree) prior notice, prepay the whole or any part of a Facility E Loan (but if in part, being an amount that reduces the amount of that Facility E Loan by a minimum amount of RMB 10,000,000 and in integral multiple of RMB 5,000,000 or the outstanding amount of the Facility E Loans).

#### 7.5 Right of prepayment and cancellation in relation to a single Lender

- (a) If:
- (i) any sum payable to any Lender by an Obligor is required to be increased under paragraph (a) of Clause 13.2 (*Tax gross-up*); or
  - (ii) any Lender claims indemnification from any Borrower or an Obligor under Clause 13.3 (*Tax indemnity*) or Clause 14.1 (*Increased costs*),

that Borrower may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, give the Facility 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.

(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 a Borrower has given notice of cancellation under paragraph (a) above (or, if earlier, the date specified by that Borrower in that notice), that Borrower shall prepay that Lender's participation in the relevant Loan.

### 8. MANDATORY PREPAYMENT AND CANCELLATION

#### 8.1 Change of control

Upon the occurrence of a Change of Control:

- (a) the Obligors' Agent shall promptly notify the Facility Agent upon becoming aware of that event. Notwithstanding the aforementioned, (x) in the event of a Change of Control arising from William Huang ceasing to, directly or indirectly, own at least 99.9% of the equity interests of GDS Beijing, the Obligors' Agent shall promptly notify the Facility Agent at least three (3) Months before the prospective replacement in order for the Lenders to seek the consent on the replacement; (y) in the event of a Change of Control arising from

William Huang ceasing to, directly or indirectly, own at least 99.9% of the equity interests of GDS Beijing as a result of unforeseen and unexpected death of William Huang, the Obligors' Agent shall promptly notify the Facility Agent upon the occurrence of such event, take and/or procure any necessary actions or legal proceedings to be taken within 45 days of the death of William Huang to have William Huang's estate successor to be nominated and seek the consent on the successor from the Lenders. The Lenders may not exercise their rights under this Clause 8.1 as a result of a Change of Control (A) (i) if the equity interest is transferred to and held by the replacement or successor of William Huang as approved by the Lenders under this paragraph and (ii) (if applicable) the Obligors' Agent has given notice in accordance with this paragraph; or (B) (if sub-paragraph (y) applies), during the first 45 day period of the death of William Huang;

- (b) a Lender shall not be obliged to fund any Utilisation under a Utilisation Request that has been delivered to the Facility Agent pursuant to this Agreement or any future Utilisations, unless otherwise agreed by all Lenders; and

- (c) the Facility Agent shall be entitled to, by not less than three (3) Business Days' written notice to the Obligors' Agent, 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 amounts will become immediately due and payable.

## 8.2 Non-Extension of Lease Agreement for Project SH1

If EDC WGQ fails to extend the tenor under the Lease Agreement in respect of Project SH1 in accordance with Clause 23.22(g):

- (a) the Obligors' Agent shall as soon as reasonably practicable notify the Facility Agent upon becoming aware of that event; and
- (b) EDC WGQ shall, within thirty (30) days upon the Obligors' Agent notifying the Facility Agent pursuant to paragraph (a) above, reduce the Total Facility A Commitments and/or prepay the Facility A Loans, provided that the total amount of the Total Facility A Commitments so reduced, and/or the Facility A Loans so prepaid shall be up to RMB 172,000,000.

## 8.3 Disposal proceeds

- (a) Upon the occurrence of a Disposal:
- (i) the Obligors' Agent shall as soon as reasonably practicable notify the Facility Agent upon becoming aware of that event; and
- (ii) any Borrower shall apply all Disposal Proceeds or cause all Disposal Proceeds to be applied towards the prepayment of the relevant Loans within fourteen (14) days following the receipt of such Disposal Proceeds in the order of application contemplated by Clause 9.9 (*Application of prepayments*).

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## 8.4 Compensation

Subject to Clause 9.9(c), upon the occurrence of any Compensation:

- (a) the Obligors' Agent shall as soon as reasonably practicable notify the Facility Agent of such Compensation;
- (b) any Borrower shall apply or cause to apply all Compensation amount so received towards the prepayment of the relevant Loans within fourteen (14) days following the receipt of such Compensation.

## 8.5 Insurance proceeds

- (a) Upon receipt of any Insurance Proceeds by any Borrower:
- (i) that Borrower shall as soon as reasonably practicable notify the Facility Agent of receipt of such Insurance Proceeds; and
- (ii) that Borrower shall apply all of such Insurance Proceeds towards the prepayment of the relevant Loans within fourteen (14) days following receipt of such Insurance Proceeds in the order of application contemplated by Clause 9.9 (*Application of prepayments*).

## 8.6 Excess Cashflow

- (a) If at any time EDC WGQ credits any Excess Cashflow Prepayment Amount (WGQ) into the Excess Cashflow Account (WGQ) pursuant to Clause 18.6 (*Excess Cashflow Account*), EDC WGQ shall, on the immediate next Interest Payment Date apply all Excess Cashflow Prepayment Amount (WGQ) towards the prepayment of the Facility A Loans in inverse chronological order and be applied ratably among the participations of the relevant Lenders of Facility A.
- (b) If at any time EDC YG credits any Excess Cashflow Prepayment Amount (YG) into the Excess Cashflow Account (YG) pursuant to Clause 18.6 (*Excess Cashflow Account*), EDC YG shall, on the immediate next Interest Payment Date apply all Excess Cashflow Prepayment Amount (YG) ratably towards the prepayment of the Loans (other than Facility A Loans) in inverse chronological order and be applied ratably among the participations of the relevant Lenders of the Facilities (other than Facility A).

## 8.7 Non-renewal of IDC License

If any IDC License has not been renewed on or before its expiry date:

- (a) the Obligors' Agent shall immediately notify the Facility Agent upon becoming aware of such non-renewal; and
- (b) the Facility Agent shall be entitled to, by not less than three (3) Business Days' written notice to the Obligors' Agent, declare all outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents immediately due and payable, whereupon all such outstanding amounts will become immediately due and payable.

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## 8.8 Hedging termination proceeds

If any Borrower enters into any Hedging Arrangement pursuant to Clause 23.18 (*Treasury transaction*), and upon the occurrence of a Hedging Termination:

- (a) that Borrower shall promptly notify the Facility Agent upon becoming aware of such event; and
- (b) that Borrower shall apply all Hedging Termination Proceeds (if any) towards the prepayment of the relevant Loans immediately following receipt of such Hedging Termination Proceeds at the times and in the order of application contemplated by Clause 9.9 (*Application of prepayments*).

## 8.9 Termination of Service Contract

If any of the Service Contracts entered into by and between EDC WGQ and China Telecom Shanghai Branch Office (中国网通上海分公司) in relation to the Projects with Alibaba Group as the end-user (at the date of this Agreement, including a service contract with contract number of SHSXW1300880C00ZS and a supplemental service contract with contract number of SHSXW1500292CGN00) is terminated by notification from China Telecom Shanghai Branch Office:

- (a) the Obligors' Agent shall as soon as reasonably practicable notify the Facility Agent upon becoming aware of that event; and
- (b) The Borrowers shall, within 6 Months upon the receipt of such termination notice from China Telecom Shanghai Branch Office, reduce the Total Commitments and/or prepay the outstanding Loans, provided that the total amount of the Total Commitments so reduced, and/or the Loans so prepaid shall be up to RMB 250,000,000; unless where the Borrowers provide evidence satisfactory to all Lenders evidencing that relevant parties are in discussions with a replacement customer or customers to take up an equivalent value of such Service Contract, the Borrowers may defer the aforesaid reduction and/or prepayment for an additional three (3) Months.

For avoidance of doubt, if the Borrowers fail to enter into any new Service Contract satisfactory to all Lenders within 9 Months upon the receipt of such termination notice from China Telecom Shanghai Branch Office, the Borrowers shall make reduction and/or prepayment stipulated in paragraph (b) above.

## 9. RESTRICTIONS

### 9.1 Notices of cancellation or prepayment

Any notice of cancellation or prepayment given by any Party under Clause 7 (*Prepayment and cancellation*) and Clause 8 (*Mandatory Prepayment and cancellation*) 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.

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### 9.2 Interest and other amounts

Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid, without premium or penalty, and subject to any Break Costs, if the prepayment is not made on an Interest Payment Date.

### 9.3 No re-borrowing of the Facilities



No Borrower may re-borrow any part of Facilities (other than Facility E) which is prepaid.

#### 9.4 Re-borrowing of Facility E

Unless a contrary indication appears in this Agreement, any part of the Facility E which is prepaid or repaid may be re-borrowed in accordance with the terms of this Agreement.

#### 9.5 Prepayment in accordance with Agreement

No Borrower shall repay or prepay all or any part of the Loans or reduce all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.

#### 9.6 No reinstatement of Commitments

If any Commitment is reduced in accordance with this Agreement, the amount of such reduction may not be subsequently reinstated.

#### 9.7 Agent's receipt of notices

If the Facility Agent receives a notice under Clause 7 (*Prepayment and cancellation*) or Clause 8 (*Mandatory Prepayment and cancellation*), it shall promptly forward a copy of that notice to either the Obligors' Agent or the affected Lender, as appropriate.

#### 9.8 Effect of repayment and prepayment on Commitments

If all or part of a Loan is repaid or prepaid and is not available for redrawing, an amount of the Commitments will be deemed to be cancelled on the date of repayment or prepayment. Any cancellation (save in connection with any cancellation under paragraph (b) of Clause 7.1 (*Illegality*) or paragraph (b) of Clause 7.5 (*Right of prepayment and cancellation in relation to a single Lender*)) shall reduce rateably the Commitments of the Lenders in that Facility.

#### 9.9 Application of prepayments

- (a) In respect of EDC WGQ, if the amount is not sufficient for prepayment of all the outstanding Facility A Loans (including accrued interest and other sums payable under the Finance Documents), any prepayment made under:
- (i) Clause 8.2 (*Non-Extension of Lease Agreement for Project SH1*);
  - (ii) Clause 8.3 (*Disposal proceeds*);
  - (iii) Clause 8.5 (*Insurance proceeds*); and/or
  - (iv) Clause 8.8 (*Hedging termination proceeds*),

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shall be applied towards the satisfaction of the obligations under the relevant repayment provisions in inverse chronological order (where applicable) and be applied ratably among the participations of the relevant Lenders of the Facility A.

- (b) In respect of EDC YG, if the amount is not sufficient for prepayment of all the outstanding Facility B Loans, Facility C Loans, Facility D Loans (after Facility D Commitment Date) and Facility E Loans (including their respective accrued interest and other sums payable under the Finance Documents), any prepayment made under:
- (i) Clause 8.3 (*Disposal proceeds*);
  - (ii) Clause 8.5 (*Insurance proceeds*); and/or
  - (iii) Clause 8.8 (*Hedging termination proceeds*),

shall be first applied rateably between the Facility B Loans, the Facility C Loans, the Facility D Loans (after Facility D Commitment Date) and the Facility E Loans, and then satisfy the obligations under the relevant repayment provisions in inverse chronological order (where applicable) and be applied ratably among the participations of the relevant Lenders of the Facilities (other than Facility A).

- (c) If the amount is not sufficient for prepayment of all the outstanding Loans (including their respective accrued interest and other sums payable under the Finance Documents), any prepayment made under:
- (i) Clause 8.4 (*Compensation*) (but only to the extent that such Compensation is due to the seizure, compulsory acquisition, expropriation or nationalisation of any of the assets or shares of any member of the Group by any Governmental Agency); and/or
  - (ii) Clause 8.9 (*Termination of Service Contract*)

shall be first applied rateably between the Facility A Loans, the Facility B Loans, the Facility C Loans, the Facility D Loans (after Facility D Commitment Date) and the Facility E Loans, and then satisfy the obligations under the relevant repayment provisions in inverse chronological order (where applicable) and be applied ratably among the participations of the relevant Lenders of the Facilities.

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## SECTION 5

### COSTS OF UTILISATION

#### 10. INTEREST

##### 10.1 Calculation of interest

The rate of interest which shall accrue on each Loan for each Interest Period is (A) Interest Relevant Percentage multiplied by (B) the applicable PBOC Base Rate.

In this Agreement, "Interest Relevant Percentage" means 130%, but if:

- (a) no Event of Default has occurred; and
- (b) a period of at least 12 Months has expired since the first Utilisation Date of a Facility;

then the Interest Relevant Percentage will be the percentage set out in the table below under the heading "Interest Relevant Percentage" which corresponds to the Gross Leverage Ratio specified in the most recent Compliance Certificate delivered to the Facility Agent pursuant to Clause 21.2 (*Compliance Certificate*):

Gross Leverage Ratio	Interest Relevant Percentage
Greater than 3.0:1	130%
Less than or equal to 3.0:1	120%

However,

- (i) any increase or decrease in the Interest Relevant Percentage for the Loans resulting from a change of the Gross Leverage Ratio shall become effective on the immediate next Interest Payment Date and shall be applicable to the next Interest Period;
- (ii) any change in the PBOC Base Rate for the Loans shall only become effective on the immediate next Interest Payment Date and shall be applicable to the next Interest Period; and
- (iii) while an Event of Default is continuing, the Interest Relevant Percentage shall be the highest percentage set out above.

##### 10.2 Payment of interest

Except where it is provided to the contrary in this Agreement, the Borrowers shall pay accrued interest on the Loans on each Interest Payment Date, except that if the first Interest Period is less than 1 Month to the first Interest Payment Date, the interests on the Loans for the first Interest Period shall accrue to and be payable on the second Interest Payment Date.

### 10.3 Default interest

- (a) If an Obligor Party 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, on and after judgment) at the applicable Default Rate. Any interest accruing under this paragraph (a) shall be immediately payable by the Obligor Party on demand by the Facility Agent.

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- (b) If any Borrower applies any part of the Loans otherwise as contemplated in Clause 3 (*Purpose*), then notwithstanding any other rights of the Finance Parties under the Finance Documents, that Borrower must immediately on demand by the Facility Agent pay interest on the misappropriated amount from and including the date of such misappropriation up to the date of actual payment or the date on which such misappropriation is rectified satisfactory to the Facility Agent (both before, on and after judgment) at the applicable Default Rate. Any interest accruing under this paragraph (b) shall be immediately payable by that Borrower on demand by the Facility Agent.
- (c) Default interest (if unpaid) arising on an Unpaid Sum or misappropriated amount will be compounded with the Unpaid Sum or misappropriated amount at each Interest Payment Date, and such Unpaid Sum and misappropriated amount (including the default interest compounded thereto) shall remain immediately due and payable.
- (d) 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 the applicable Default Rate.

### 10.4 Notification of rates of interest

The Facility Agent shall promptly notify the relevant Lenders and the Obligors' Agent of the determination of a rate of interest under this Agreement.

### 10.5 Length of Interest Periods

- (a) Each Loan has successive Interest Periods.
- (b) Subject to paragraph (c), each Interest Period shall have a duration of three (3) Months.
- (c) Each Interest Period for each Loan will start on (and include) the expiry of its preceding Interest Period and end on, and exclude, the immediately following Interest Payment Date; provided that
- (i) the first Interest Period for each Loan shall start on (and include) the first Utilisation Date and end on (and exclude) the immediately following Interest Payment Date;
  - (ii) the last Interest Period for each Loan shall start on (and include) the Interest Payment Date immediately prior to the Final Repayment Date applicable to that Loan to, but excluding, the Final Repayment Date applicable to that Loan; and
  - (iii) any Interest Period for any Loan shall not extend beyond the Final Repayment Date applicable to that Loan.

## 11. CHANGES TO THE CALCULATION OF INTEREST

### 11.1 Market disruption

- (a) Subject to any alternative basis agreed and consented to as contemplated by paragraphs (a) and (b) of Clause 11.2 (*Alternative basis of interest or funding*), if a Market Disruption Event occurs in relation

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to a Loan for any Interest Period, then the rate of interest on each Lender's participation in that Loan for that Interest Period shall reasonably reflect the applicable Lender's demonstrated cost of funds (if higher than then rate of interest) plus a margin comparable to the margin which the Lender is offering for loans in respect of similar transactions to the Facilities, as notified to the Facility Agent by that Lender as soon as practicable and in any event not later than five (5) Business Days before interest is due to be paid in respect of that Interest Period (or such later date as may be acceptable to the Facility Agent).

- (b) If a Market Disruption Event occurs, the Facility Agent shall promptly notify the Lenders and the Obligors' Agent thereof and the Lender or Lenders (through the Facility Agent) shall provide to the Obligors' Agent reasonable evidence of the Market Disruption Event applicable to it at the reasonable request of the Obligors' Agent.

### 11.2 Alternative basis of interest or funding

- (a) If a Market Disruption Event occurs and the Facility Agent or the Obligors' Agent so requires, the Facility Agent and the Obligors' Agent shall enter into negotiations (for a period of not more than thirty (30) days) with a view to agreeing a substitute basis for determining the rate of interest.
- (b) Any alternative basis agreed pursuant to paragraph (a) above shall, with the prior consent of all the Lenders and the Obligors' Agent, be binding on all Parties.
- (c) For the avoidance of doubt, in the event that no substitute basis is agreed at the end of the thirty day period, the rate of interest shall continue to be determined in accordance with Clause 11.1(a) (*Market disruption*) of this Agreement.

### 11.3 Break Costs

- (a) Each Borrower shall, within three (3) 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 any 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 Facility Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

## 12. FEES

### 12.1 Commitment fee

- (a) EDC WGQ shall pay to the Facility Agent (for the account of each Lender) a fee in RMB computed and accruing on a daily basis, at the rate of 0.5 per cent. per annum on that Lender's Available Commitment under Facility A for the Facility A Availability Period commencing from the date of this Agreement (inclusive), at close of business (in the principal financial centre of the country of the relevant currency) on each day of the Facility A Availability Period (inclusive, or, if any such day shall not be a Business Day, at such close of business on the immediately preceding Business Day).
- (b) EDC YG shall pay to the Facility Agent (for the account of each Lender) a fee in RMB computed and accruing on a daily basis at the rate of:
- (i) in respect of the Facilities (other than Facility A and Facility D), commencing from the date of this Agreement (inclusive), 0.5 per cent. per annum on that Lender's Available

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Commitment under Facilities (other than Facility A and Facility D) for the relevant Availability Period;

- (ii) in respect of Facility D, commencing from the Facility D Commitment Date (inclusive), the amount otherwise agreed between EDC YG and the Lenders in writing, at close of business (in the principal financial centre of the country of the relevant currency) on each day of the relevant Availability Period (inclusive, or, if any such day shall not be a Business Day, at such close of business on the immediately preceding Business Day).
- (c) The accrued commitment fee is payable, whichever is earlier:
- (i) on the last day of each Interest 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.

### 12.2 Arrangement fee

Each Borrower shall pay to the Mandated Lead Arrangers an arrangement fee in the amount and at the times agreed in a Fee Letter.

### 12.3 Facility agency fee

Each Borrower shall pay to the Facility Agent (for its own account) a facility agency fee in the amount and at the times agreed in a Fee Letter.

### 12.4 Security agency fee

Each Borrower shall pay to the Security Agent (for its own account) a security agency fee in the amount and at the times agreed in a Fee Letter.

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## SECTION 6

### ADDITIONAL PAYMENT OBLIGATIONS

#### 13. TAX GROSS UP AND INDEMNITIES

##### 13.1 Tax definitions

(a) In this Clause 13:

“**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.

“**Tax Payment**” means an increased payment made by an Obligor to a Finance Party under Clause 13.2 (*Tax gross-up*) or a payment under Clause 13.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 13 a reference to “determines” or “determined” means a determination made in the absolute discretion of the person making the determination.

##### 13.2 Tax gross-up

(a) All payments to be made by an Obligor Party to any Finance Party under the Finance Documents shall be made free and clear of and without any Tax Deduction unless such Obligor Party is required to make a Tax Deduction, in which case the sum payable by such Obligor Party (in respect of which such Tax Deduction is required to be made) shall be increased to the extent necessary to ensure that such Finance Party receives a sum net of any deduction or withholding equal to the sum which it would have received had no such Tax Deduction been made or required to be made.

(b) The Obligors’ Agent shall promptly upon becoming aware that an Obligor Party must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Facility Agent accordingly. Similarly, a Lender shall notify the Facility Agent on becoming so aware in respect of a payment payable to that Lender. If the Facility Agent receives such notification from a Lender it shall notify the Obligors’ Agent.

(c) If an Obligor Party is required to make a Tax Deduction, that Obligor Party shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

(d) Within thirty (30) days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor Party making that Tax Deduction shall deliver to the Facility Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

##### 13.3 Tax indemnity

(a) Without prejudice to Clause 13.2 (*Tax gross-up*), if any Finance Party is required to make any payment of or on account of Tax on or in relation to any sum received or receivable under the Finance Documents (including any sum deemed for purposes of Tax to be received or receivable by such Finance Party whether or not actually received or receivable) or if any liability in respect of any such payment is asserted, imposed, levied or assessed against any Finance Party, each Borrower shall, within three (3) Business Days of demand of the Facility Agent, promptly indemnify the Finance Party which suffers a loss or liability as a result against such payment or liability, together

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with any interest, penalties, costs and expenses payable or incurred in connection therewith, provided that this Clause 13.3 shall not apply to:

(i) any Tax imposed on and calculated by reference to the net income actually received or receivable by such Finance Party (but, for the avoidance of doubt, not including any sum deemed for purposes of Tax to be received or receivable by such Finance Party but not actually receivable) by the jurisdiction in which such Finance Party is incorporated;

(ii) any Tax imposed on and calculated by reference to the net income of the Facility Office of such Finance Party actually received or receivable by such Finance Party (but, for the avoidance of doubt, not including any sum deemed for purposes of Tax to be received or receivable by such Finance Party but not actually receivable) by the jurisdiction in which its Facility Office is located; or

(iii) any Tax related to a FATCA Deduction required to be made by a Party.

(b) A Finance Party intending to make a claim under paragraph (a) shall notify the Facility Agent of the event giving rise to the claim, whereupon the Facility Agent shall notify the Obligors’ Agent.

(c) A Finance Party shall, on receiving a payment from an Obligor Party under this Clause 13.3, notify the Facility Agent.

##### 13.4 Stamp taxes

(a) All stamp duty, registration and other similar Taxes payable in respect of any Finance Document shall be paid by the relevant Obligor Party, and to the extent required by the PRC law, each Lender respectively.

(b) Subject to applicable laws and regulations, each Borrower must within fourteen (14) days of demand, indemnify each Finance Party against any reasonable cost, loss or liability that Finance Party incurs in relation to any stamp duty, registration fees or other similar Tax paid or payable in respect of any Finance Document.

##### 13.5 Indirect Tax

(a) All amounts set out or expressed in a Finance Document to be payable by any Party to a Finance Party shall be deemed to be exclusive of any Indirect Tax. If any Indirect Tax is chargeable on any supply made by any Finance Party to any Party in connection with a Finance Document, that Party shall pay to the Finance Party (in addition to and at the same time as paying the consideration) an amount equal to the amount of the Indirect Tax.

(b) Where a Finance Document requires any Party to reimburse a Finance Party for any costs or expenses, that Party shall also at the same time pay and indemnify the Finance Party against all Indirect Tax incurred by that Finance Party in respect of the costs or expenses to the extent that the Finance Party reasonably determines that it is not entitled to credit or repayment in respect of the Indirect Tax.

##### 13.6 FATCA Information

(a) Subject to paragraph (c) below, each Party shall, within ten (10) 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.

(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, which would or might in its reasonable opinion constitute a breach of:

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- (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 (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.

### 13.7 FATCA Deduction and gross-up by Obligor Parties

- (a) If an Obligor Party is required to make a FATCA Deduction, that Obligor Party shall make that FATCA Deduction and any payment required in connection with that FATCA Deduction within the time allowed and in the minimum amount required by FATCA.
- (b) If a FATCA Deduction is required to be made by an Obligor Party, the amount of the payment due from that Obligor Party shall be increased to an amount which (after making any FATCA Deduction) leaves an amount equal to the payment which would have been due if no FATCA Deduction had been required.
- (c) The Obligors' Agent shall promptly upon becoming aware that an Obligor Party must make a FATCA Deduction (or that there is any change in the rate or the basis of a FATCA Deduction) notify the Facility Agent accordingly. Similarly, a Finance Party shall notify the Facility Agent on becoming so aware in respect of a payment payable to that Finance Party. If the Facility Agent receives such notification from a Finance Party it shall notify the Obligors' Agent.
- (d) Within thirty (30) days of making either a FATCA Deduction or any payment required in connection with that FATCA Deduction, the Obligor Party making that FATCA Deduction or payment shall deliver to the Facility Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the FATCA Deduction has been made or (as applicable) any

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appropriate payment has been paid to the relevant governmental or taxation authority.

### 13.8 FATCA Deduction by a Finance Party

- (a) Each Finance Party may make any FATCA Deduction it is required by FATCA to make, and any payment required in connection with that FATCA Deduction, and no Finance 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. A Finance Party which becomes aware that it must make a FATCA Deduction in respect of a payment to another Party (or that there is any change in the rate or the basis of such FATCA Deduction) shall notify that Party and the Facility Agent.
- (b) If the Facility Agent is required to make a FATCA Deduction in respect of a payment to a Finance Party under Clause 32.2 (*Distributions by the Facility Agent*) which relates to a payment by an Obligor Party, the amount of the payment due from that Obligor Party shall be increased to an amount which (after the Facility Agent has made such FATCA Deduction), leaves the Facility Agent with an amount equal to the payment which would have been made by the Facility Agent if no FATCA Deduction had been required.
- (c) The Facility Agent shall promptly upon becoming aware that it must make a FATCA Deduction in respect of a payment to a Finance Party under Clause 32.2 (*Distributions by the Facility Agent*) which relates to a payment by an Obligor Party (or that there is any change in the rate or the basis of such a FATCA Deduction) notify the Obligors' Agent and the relevant Finance Party.
- (d) Each Borrower shall (within three (3) Business Days of demand by the Facility Agent) pay to a Finance Party an amount equal to the loss, liability or cost which that Finance Party determines will be or has been (directly or indirectly) suffered by that Finance Party as a result of another Finance Party making a FATCA Deduction in respect of a payment due to it under a Finance Document. This paragraph shall not apply to the extent a loss, liability or cost is compensated for by an increased payment under paragraph (b) above.
- (e) A Finance Party making, or intending to make, a claim under paragraph (d) above shall promptly notify the Facility Agent of the FATCA Deduction which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Obligors' Agent.
- (f) A Finance Party must, on receiving a payment from an Obligor Party under this Clause, notify the Facility Agent.

## 14. INCREASED COSTS

### 14.1 Increased costs

- (a) Subject to Clause 14.3 (*Exceptions*) each Borrower shall, within fourteen (14) days of a demand by the Facility 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,
  - (ii) compliance with any law or regulation made after the date of this Agreement, or

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- (iii) the implementation or application of 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). 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:

- (i) "Increased Costs" means:
  - (A) a reduction in the rate of return from the Facilities 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);
  - (B) an additional or increased cost; or
  - (C) 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.

- (ii) "Basel III" means the global regulatory framework on bank capital and liquidity 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 in December 2010 each as amended, and any other documents published by the Basel Committee in relation to "Basel III".

### 14.2 Increased cost claims

- (a) A Finance Party intending to make a claim pursuant to Clause 14.1 (*Increased costs*) shall notify the Facility Agent of the event giving rise to the claim, following which the Facility Agent shall promptly notify the Obligors' Agent.
- (b) Each Finance Party shall, as soon as practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Increased Costs.

### 14.3 Exceptions

- (a) Clause 14.1 (*Increased costs*) does not apply to the extent any Increased Cost is:
  - (i) attributable to a Tax Deduction required by law to be made by an Obligor Party;
  - (ii) compensated for by Clause 13.3 (*Tax indemnity*) (or would have been compensated for under Clause 13.3 (*Tax indemnity*) but was not so compensated solely because the exclusion in paragraph (a) of Clause 13.3 (*Tax indemnity*) applied);
  - (iii) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation;

- (iv) attributable to a FATCA Deduction required to be made by an Obligor Party or a Finance Party; or
  - (v) compensated for by paragraph (d) of Clause 13.8 (*FATCA Deduction by a Finance Party*).
- (b) In this Clause 14.3, a reference to a “**Tax Deduction**” has the same meaning given to the term in Clause 13.1 (*Tax definitions*).

## 15. MITIGATION BY THE LENDERS

### 15.1 Mitigation

- (a) Each Finance Party shall, in consultation with the Obligors’ Agent, 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 13 (*Tax gross up and indemnities*) or Clause 14 (*Increased costs*), including 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 Obligor Party under the Finance Documents.

### 15.2 Limitation of liability

- (a) Each 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 15.1 (*Mitigation*).
- (b) A Finance Party is not obliged to take any steps under Clause 15.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

### 15.3 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.

## 16. OTHER INDEMNITIES

### 16.1 Currency indemnity

- (a) If any sum due from an Obligor Party 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 that Obligor Party; or

- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor Party shall as an independent obligation, within three (3) 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 Obligor Party 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.

### 16.2 Other indemnities

- (a) The Borrowers shall within three (3) Business Days of demand, indemnify each Finance Party against any cost, loss or liability incurred by that Finance Party as a result of:
  - (i) the occurrence of any Event of Default;
  - (ii) any information produced or approved by any Obligor Party being or being alleged to be misleading and/or deceptive in any respect;
  - (iii) a failure by an Obligor Party to pay any amount due under a Finance Document on its due date or in the relevant currency, including without limitation, any cost, loss or liability arising as a result of Clause 30 (*Sharing among the Finance Parties*);
  - (iv) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by a Borrower; or
  - (v) any losses due to early termination of any Hedging Arrangement.
- (b) The Borrowers shall within fourteen (14) days of demand, indemnify each Finance Party against any reasonable cost, loss or liability incurred by that Finance Party as a result of:
  - (i) any enquiry, investigation, subpoena (or similar order) or litigation with respect to any Obligor Party or with respect to the transactions contemplated or financed under this Agreement; or
  - (ii) 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).

### 16.3 Indemnity to the Facility Agent

- (a) The Borrowers shall within three (3) Business Days of demand, indemnify the Facility Agent against any cost, loss or liability incurred by the Facility Agent as a result of investigating any event which it reasonably believes is a Default.
- (b) The Borrowers shall within fourteen (14) days of demand, indemnify the Facility Agent against any reasonable cost, loss or liability incurred by the Facility Agent as a result of:

- (i) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
- (ii) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement.

### 16.4 Obligor Parties’ indemnity to the Security Agent

- (a) Each Obligor Party shall within three (3) Business Days of demand indemnify the Security Agent and each of its delegates, agents or nominees against any cost, loss or liability incurred by any of them as a result of:
  - (i) the enforcement of the Transaction Security;
  - (ii) the exercise of any of the rights, powers, discretions and remedies vested in the Security Agent and each of its delegates, agents or nominees by the Finance Documents or by law; or
  - (iii) any default by any Obligor Party in the performance of any of the obligations expressed to be assumed by it in the Finance Documents; or
- (b) Each Obligor Party shall within fourteen (14) days of demand, indemnify the Security Agent and each of its delegates, agents or nominees against any reasonable cost, loss or liability incurred by any of them:
  - (i) as a result of the taking, holding or protection of the Transaction Security; or

- (ii) which otherwise relates to any of the assets subject to the Transaction Security or the performance of the terms of the Finance Documents (other than as a result of its gross negligence or wilful misconduct or default).

## 17. COSTS AND EXPENSES

### 17.1 Transaction expenses

The Borrowers shall, within fourteen (14) days of demand or as otherwise stated in the respective Finance Documents, pay the Administrative Parties the fees under each Fee Letter and amount of all costs and expenses (including legal fees) (together referred to as the “**Transaction Expenses**”) reasonably incurred by any of them in connection with the negotiation, preparation, printing, execution, syndication and perfection of:

- (a) this Agreement and any other documents referred to in this Agreement or in a Transaction Security Document; and
- (b) any other Finance Documents executed after the date of this Agreement.

### 17.2 Amendment costs

If (a) an Obligor Party requests an amendment, waiver or consent or (b) an amendment is required or expressly contemplated under a Finance Document, the Borrowers shall, within fourteen (14) days of demand, reimburse each of the Facility Agent and the Security Agent for the amount of all costs and expenses (including legal fees) reasonably incurred by the Facility Agent or the Security Agent in responding to, evaluating, negotiating or complying with that request or requirement.

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### 17.3 Enforcement and preservation costs

The Borrowers shall, within three (3) 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 and/or the Transaction Security and/or any proceedings instituted by or against that Finance Party as a consequence of it entering into a Finance Document, taking or holding the Transaction Security, or enforcing those rights.

## 18. CASH MANAGEMENT

### 18.1 The Accounts

- (a) On and after the date of the first Utilisation Request of the Facilities, EDC WGQ shall maintain the following accounts in its own name with the Account Bank as provided in this Clause 18 (*Cash Management*):
- (i) a RMB debt service reserve account to receive the Debt Service Reserve Amount (WGQ), as more particularly described in Clause 18.3 (*Debt Service Reserve Account*) (the “**Debt Service Reserve Account (WGQ)**”);
- (ii) a RMB operations account to receive the operations costs, expenses and taxes in respect of Project SH1, as more particularly described in Clause 18.4 (*Operations Account*) (the “**Operations Account (WGQ)**”);
- (iii) a RMB debt accrual account to (A) receive certain accrued amount due and payable by EDC WGQ under the Finance Documents; and (B) pay all accrued and unpaid interest and fees due and payable by EDC WGQ to the Finance Parties under the Finance Documents, as more particularly described in Clause 18.5 (*Debt Service Accrual Account*) (the “**Debt Service Accrual Account (WGQ)**”);
- (iv) a RMB excess cashflow account to receive the Excess Cashflow Prepayment Amount (WGQ), as more particularly described in Clause 18.6 (*Excess Cashflow Account*) (the “**Excess Cashflow Account (WGQ)**”); and
- (v) a RMB receiving account and a USD receiving account to receive all payments paid or payable to EDC WGQ under the Borrower Service Contracts (WGQ) and the Back-to-Back Agreements (WGQ) in respect of the Project SH1, as more particularly described in Clause 18.7 (*Receiving Account (EDC WGQ and EDC YG)*) (the aforesaid RMB receiving account is referred to as the “**RMB Receiving Account (WGQ)**”, the aforesaid USD receiving account is referred to as the “**USD Receiving Account (WGQ)**”, and these two accounts are collectively referred to as the “**Receiving Accounts (WGQ)**” and each of them the “**Receiving Account (WGQ)**”).
- (b) On and after the date of the first Utilisation Request of the Facilities, EDC YG shall maintain the following accounts in its own name with the Account Bank as provided in this Clause 18 (*Cash Management*):

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- (i) a RMB debt service reserve account to receive the Debt Service Reserve Amount (YG), as more particularly described in Clause 18.3 (*Debt Service Reserve Account*) (the “**Debt Service Reserve Account (YG)**”);
- (ii) a RMB operations account to receive the operations costs, expenses and taxes in respect of the Projects (other than Project SH1), as more particularly described in Clause 18.4 (*Operations Account*) (the “**Operations Account (YG)**”);
- (iii) a RMB debt accrual account to (A) receive certain accrued amount due and payable by EDC YG under the Finance Documents; and (B) pay all accrued and unpaid interest and fees due and payable by EDC YG to the Finance Parties under the Finance Documents, as more particularly described in Clause 18.5 (*Debt Service Accrual Account*) (the “**Debt Service Accrual Account (YG)**”);
- (iv) a RMB excess cashflow account to receive the Excess Cashflow Prepayment Amount (YG), as more particularly described in Clause 18.6 (*Excess Cashflow Account*) (the “**Excess Cashflow Account (YG)**”); and
- (v) a RMB receiving account to receive all payments paid or payable to EDC YG under the Borrower Service Contracts (YG) and the Back-to-Back Agreements (YG) in respect of the Projects (other than Project SH1), as more particularly described in Clause 18.7 (*Receiving Account (EDC WGQ and EDC YG)*) (the “**Receiving Account (YG)**”).
- (c) GDS Beijing shall:
- (i) on and after the date of the First WGQ Utilisation Request, maintain a RMB receiving account and establish a USD receiving account to receive all payments paid or payable to GDS Beijing under the GDS Beijing Service Contracts in respect of the Project SH1, as more particularly described in Clause 18.8 (*Receiving Account (GDS Beijing)*) (the aforesaid RMB receiving account is referred to as the “**RMB Receiving Account (GDS Beijing-WGQ)**”, the aforesaid USD receiving account is referred to as “**USD Receiving Account (GDS Beijing-WGQ)**”, and these two accounts are collectively referred to as the “**Receiving Accounts (GDS Beijing-WGQ)**” and each of them the “**Receiving Account (GDS Beijing-WGQ)**”); and
- (ii) on and after the date of the First YG Utilisation Request, maintain a RMB receiving account and a USD receiving account to receive all payments paid or payable to GDS Beijing under GDS Beijing Service Contracts in respect of the Projects (other than Project SH1), as more particularly described in Clause 18.8 (*Receiving Account (GDS Beijing)*) (the aforesaid RMB receiving account is referred to as the “**RMB Receiving Account (GDS Beijing-YG)**”, the aforesaid USD receiving account is referred to as “**USD Receiving Account (GDS Beijing-YG)**”, and these two accounts are collectively referred to as the “**Receiving Accounts (GDS Beijing-YG)**” and each of them the “**Receiving Account (GDS Beijing-YG)**”).
- (d) GDS Suzhou shall:
- (i) on and after the date of the First WGQ Utilisation Request, maintain a RMB receiving account to receive all payments paid or payable to GDS Suzhou under the GDS Suzhou Service Contracts in respect of the Project SH1, as more particularly described in Clause

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18.10 (*Receiving Account (GDS Suzhou)*) (the “**Receiving Account (GDS Suzhou-WGQ)**”); and

- (ii) on and after the date of the First YG Utilisation Request, maintain a RMB receiving account to receive all payments paid or payable to GDS Suzhou under GDS Suzhou Service Contracts in respect of the Projects (other than Project SH1), as more particularly described in Clause 18.10 (*Receiving Account (GDS Suzhou)*) (the “**Receiving Account (GDS Suzhou-YG)**”).

### (e) Each Obligor shall procure GDS HK to:

- (i) on and after the date of the First WGQ Utilisation Request, maintain a NRA receiving account to receive all payments paid or payable to GDS HK under the GDS HK Service Contracts in respect of the Project SH1, as more particularly described in Clause 18.12 (*Receiving Account (GDS HK)*) (the “**Receiving Account (GDS HK-WGQ)**”); and
- (ii) on and after the date of the First YG Utilisation Request, maintain a NRA receiving account to receive all payments paid or payable to GDS HK under GDS HK Service Contracts in respect of the Projects (other than Project SH1), as more particularly described in Clause 18.12 (*Receiving Account (GDS HK)*) (the “**Receiving Account (GDS HK-YG)**”).

- (f) Each Obligor shall procure GDS Shanghai to:
- (i) on and after the date of the First WGQ Utilisation Request, maintain a RMB receiving account to receive all payments paid or payable to GDS Shanghai under the GDS Shanghai Service Contracts in respect of the Project SH1, as more particularly described in Clause 18.13 (*Receiving Account (GDS Shanghai)*) (the “**Receiving Account (GDS Shanghai -WGQ)**”); and
- on and after the date of the First YG Utilisation Request, maintain a RMB receiving account to receive all payments paid or payable to GDS Shanghai under GDS Shanghai Service Contracts in respect of the Projects (other than Project SH1), as more particularly described in Clause 18.13 (*Receiving Account (GDS Shanghai)*) (the “**Receiving Account (GDS Shanghai -YG)**”).
- (g) Each Account shall be opened and maintained at the Account Bank in the name of each Borrower, GDS Beijing, GDS Suzhou, GDS HK and GDS Shanghai respectively.
- (h) The Borrowers, GDS Suzhou and GDS Beijing shall not, and each Obligor shall procure GDS HK and GDS Shanghai not to, have the unilateral right or sole authority to withdraw any funds from any of the Accounts, except for any withdrawal from the Accounts in accordance with this Agreement and the Account Control Agreement.
- (i) The Borrowers, GDS Suzhou and GDS Beijing shall, and each Obligor shall procure GDS HK and GDS Shanghai to, deliver, or shall cause to be delivered, to the Facility Agent, monthly statements showing all activities in the Accounts and co-operate with the Facility Agent in connection with any audits of the Accounts, of which the audits may be undertaken at the Facility Agent’s sole discretion from time to time.

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- (j) The Borrowers, GDS Suzhou and GDS Beijing shall, and each Obligor shall procure GDS HK and GDS Shanghai to, respectively pay or cause to be paid all Taxes and all servicing and account fees in connection with the Accounts as they become due and payable.

## 18.2 Operation of Accounts

- (a) The Borrowers, GDS Suzhou and GDS Beijing shall and each Obligor shall procure GDS HK and GDS Shanghai to:
- (i) maintain the Accounts; and
- (ii) establish or cause to be established any other accounts if such account(s) is/are required to be opened under any applicable laws or regulations or at the request of any Governmental Agency; provided that any such account(s) must be opened with the Account Bank unless otherwise required by the applicable laws or regulations or the relevant Governmental Agency,
- in each case on terms consistent with the principles applicable under the then existing Finance Documents and subject to any terms and conditions the Facility Agent may reasonably specify.
- (b) The Borrowers, GDS Beijing and GDS Suzhou shall, and each Obligor shall procure GDS HK and GDS Shanghai to, provide the Facility Agent a breakdown showing the sources and purposes of amounts received in each Receiving Account on each Waterfall Date.
- (c) Each Borrower shall ensure no other accounts may be maintained by that Borrower with any other banks or other financial institutions (other than the Account Bank) during the life of the Loans except for the Existing Accounts, and each Borrower shall close the relevant Existing Account by the time as set out in the column (*Targeted Timeline for Closure of the Existing Accounts*) in Schedule 8 (*List of Existing Accounts*).
- (d) The Borrowers, GDS Suzhou and GDS Beijing shall, and each Obligor shall procure GDS HK and GDS Shanghai to, ensure, after 28 October 2016, no any amounts under the Service Contracts may be paid into any other account (other than a Receiving Account).
- (e) Upon the occurrence of an Event of Default, the Facility Agent shall be entitled, without any prior notice to or consent from any Borrower, GDS Beijing, GDS Suzhou, GDS HK or GDS Shanghai or any other person, to offset and apply any or all of the funds in any or all of the Accounts, in its sole discretion and without limitation, to reduce the Secured Liabilities. Each Borrower, GDS Beijing and GDS Suzhou shall, and each Obligor shall procure GDS HK and GDS Shanghai to, fully cooperate with the Facility Agent in the exercise of such rights to the extent the exercise of such rights does not conflict with any applicable law or regulation or any Finance Documents. The rights of the Facility Agent in this Clause 18 (*Cash Management*) shall be in addition to all other rights and remedies provided to the Facility Agent in the Finance Documents.
- (f) Notwithstanding any other provisions of this Clause 18 (*Cash Management*), the insufficiency of funds on deposit in any Account at any time shall not relieve any Obligor Party from the obligation to make any payments as and when due, whether due pursuant to the Finance Documents (to the extent applicable) or otherwise, and such obligations shall be separate and independent, and not conditioned on any event or circumstance whatsoever.

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- (g) Nothing in this Clause 18 (*Cash Management*) shall be construed as imposing an obligation on the Facility Agent or any other Finance Party to be responsible for any payment that any Obligor Party would otherwise be responsible, whether under the Finance Documents or otherwise.

## 18.3 Debt Service Reserve Account

- (a) Debt Service Reserve Amount — EDC WGQ

On and after the date of the First WGQ Utilisation Request, EDC WGQ must ensure the amount standing to the credit of the Debt Service Reserve Account (WGQ) is at all times not less than EDC WGQ’s Debt Service under the Finance Documents anticipated to fall due on the next Interest Payment Date (the “**Debt Service Reserve Amount (WGQ)**”).

- (b) Debt Service Reserve Amount — EDC YG

On and after the date of First YG Utilisation Request, EDC YG must ensure that the amount standing to the credit of the Debt Service Reserve Account (YG) is at all times not less than EDC YG’s Debt Service under the Finance Documents anticipated to fall due on the next Interest Payment Date (the “**Debt Service Reserve Amount (YG)**”).

- (c) Payments in

- (i) On or before the date of:
- (A) the First WGQ Utilisation Request, EDC WGQ must deposit into the Debt Service Reserve Account (WGQ) an amount sufficient to ensure that the amount standing to the credit of the Debt Service Reserve Account (WGQ) is not less than the Debt Service Reserve Amount (WGQ) as notified by the Facility Agent; and
- (B) the First YG Utilisation Request, EDC YG must deposit into the Debt Service Reserve Account (YG) an amount sufficient to ensure that the amount standing to the credit of the Debt Service Reserve Account (YG) is not less than the Debt Service Reserve Amount (YG) as notified by the Facility Agent.
- (ii) If at any time:
- (A) the balance standing to the credit of the Debt Service Reserve Account (WGQ) is less than the Debt Service Reserve Amount (WGQ) in accordance with this Agreement or the Account Control Agreement, EDC WGQ must immediately, but in any event by no later than three (3) Business Days transfer to the Debt Service Reserve Account (WGQ) an amount sufficient to satisfy the requirement set out in Clause 18.3(a) (*Debt Service Reserve Amount — EDC WGQ*); or
- (B) the balance standing to the credit of the Debt Service Reserve Account (YG) is less than the Debt Service Reserve Amount (YG) in accordance with this Agreement or the Account Control Agreement, EDC YG must immediately, but in any event by no later than three (3) Business Days transfer to the Debt Service Reserve Account (YG) an amount sufficient to satisfy the requirement set out in paragraph (i) of Clause 18.3(b) (*Debt Service Reserve Amount — EDC YG*).

- (d) Withdrawals

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EDC WGQ may only withdraw amounts from the Debt Service Reserve Account (WGQ) and EDC YG may only withdraw amounts from the Debt Service Reserve Account (YG) if they are approved by the Facility Agent and applied to pay any amounts due and payable under the Finance Documents at that time respectively, but only to the extent that there are insufficient funds in any other accounts opened and maintained by EDC WGQ or EDC YG (as the case may be) to meet their respective payments.

## 18.4 Operations Account

- (a) Payments in

- (i) EDC WGQ must ensure that, on each Waterfall Date, it will transfer the relevant amounts (if any) into the Operations Account (WGQ) pursuant to Clause 18.7(c)(i)(B).
- (ii) EDC YG must ensure that, on each Waterfall Date, it will transfer the relevant amounts (if any) into the Operations Account (YG) pursuant to Clause 18.7(d)(ii).

- (b) Withdrawals
- (i) EDC WGQ may only withdraw amounts from the Operations Account (WGQ) if such amounts are applied for the payment of the expenses (including insurance, operational maintenance, Capital Expenditure or other operating expenses) and Taxes anticipated to be due and payable by EDC WGQ on or before the next Waterfall Date pursuant to the Business Plan in respect of Project SH1 and the Budget.
- (ii) EDC YG may only withdraw amounts from the Operations Account (YG) if such amounts are applied for the payment of the expenses (including insurance, operational maintenance, Capital Expenditure or other operating expenses) and Taxes anticipated to be due and payable by EDC YG on or before the next Waterfall Date pursuant to the Business Plan in respect of Projects (other than Project SH1) and the Budget.

#### 18.5 Debt Service Accrual Account

- (a) Payments in
- (i) EDC WGQ must ensure that, on each Waterfall Date, it shall transfer amounts (if any) into the Debt Service Accrual Account (WGQ) pursuant to Clause 18.7(c)(i)(C).
- (ii) EDC YG must ensure that, on each Waterfall Date, it shall transfer amounts (if any) into the Debt Service Accrual Account (YG) pursuant to Clause 18.7(d)(iii).
- (b) Withdrawals
- (i) EDC WGQ may only withdraw from the Debt Service Accrual Account (WGQ) on an Interest Payment Date to apply all amounts standing to the credit of the Debt Service Accrual Account (WGQ) towards the payment of all amounts due on that Interest Payment Date under the Finance Documents.
- (ii) EDC YG may only withdraw amounts from the Debt Service Accrual Account (YG) on an Interest Payment Date to apply all amounts standing to the credit of the Debt Service

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Accrual Account (YG) towards the payment of all amounts due on that Interest Payment Date under the Finance Documents.

#### 18.6 Excess Cashflow Account

- (a) Payments in
- (i) EDC WGQ shall ensure that as soon as reasonably practicable, and in any event by no later than the Waterfall Date falling immediately after EDC WGQ was obliged to deliver the financial statements pursuant to Clause 21.1(c) (*Financial Statements*), starting from the Financial Year ending 31 December 2017, it shall deposit into the Excess Cashflow Account (WGQ) an amount (if positive) equal to the relevant percentage of Excess Cashflow for that Financial Quarter of EDC WGQ as set out in the following table determined by reference to the corresponding Gross Leverage Ratio as shown in the most recent Compliance Certificate then (the "Excess Cashflow Prepayment Amount (WGQ)").

Gross Leverage Ratio	Percentage of Excess Cashflow
Greater than 3.0:1	100%
Less than or equal to 3.0:1 but greater than 1.5:1	50%
Less than or equal to 1.5:1	0%

- (ii) EDC WGQ shall promptly notify the Facility Agent upon crediting the Excess Cashflow Prepayment Amount (WGQ) into the Excess Cashflow Account (WGQ).
- (iii) EDC YG shall ensure that as soon as reasonably practicable, and in any event by no later than the Waterfall Date falling immediately after EDC YG was obliged to deliver the financial statements pursuant to Clause 21.1(c) (*Financial Statements*), starting from the Financial Year ending 31 December 2017, it shall deposit into the Excess Cashflow Account (YG) an amount (if positive) equal to the relevant percentage of Excess Cashflow for that Financial Quarter of EDC YG as set out in the following table determined by reference to the corresponding Gross Leverage Ratio as shown in the most recent Compliance Certificate then (the "Excess Cashflow Prepayment Amount (YG)").

Gross Leverage Ratio	Percentage of Excess Cashflow
Greater than 3.0:1	100%
Less than or equal to 3.0:1 but greater than 1.5:1	50%
Less than or equal to 1.5:1	0%

- (iv) EDC YG shall promptly notify the Facility Agent upon crediting the Excess Cashflow Prepayment Amount (YG) into the Excess Cashflow Account (YG).

- (b) Withdrawals

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- (i) EDC WGQ must withdraw amounts from the Excess Cashflow Account (WGQ) to apply all Excess Cashflow Prepayment Amount (WGQ) towards prepayment of the Facility A Loans pursuant to Clause 8.6 (*Excess Cashflow*).
- (ii) EDC YG must withdraw amounts from the Excess Cashflow Account (YG) to apply all Excess Cashflow Prepayment Amount (YG) towards the prepayment of the Loans (other than Facility A Loans) pursuant to Clause 8.6 (*Excess Cashflow*).

#### 18.7 Receiving Account (EDC WGQ and EDC YG)

- (a) Payments in - Receiving Account (WGQ)

Unless otherwise permitted under this Agreement,

- (i) on and after the date of this Agreement, EDC WGQ must ensure all amounts payable to it under the Back-to-Back Agreements (WGQ) will be directly and immediately paid into the Receiving Account (WGQ);
- (ii) on and after the date of this Agreement, EDC WGQ must ensure all amounts payable to it under the Borrower Service Contracts (WGQ) will be directly and immediately paid into the Receiving Account (WGQ);
- (iii) to the extent applicable, on or before the date of the First WGQ Utilisation Request, EDC WGQ shall transfer all amounts standing to the credit of each Existing Account under its name to the Receiving Account (WGQ);
- (iv) on or before the date of the First WGQ Utilisation Request, GDS Beijing shall transfer all revenues (other than GDS Beijing Trapped Amount) received by GDS Beijing under GDS Beijing Service Contracts in respect of Project SH1 to the Receiving Account (WGQ) pursuant to Clause 18.8(b)(i) of this Agreement;
- (v) on or before the date of the First WGQ Utilisation Request, GDS Suzhou shall transfer all revenues (other than the GDS Suzhou Trapped Amount) received by GDS Suzhou under the GDS Suzhou Service Contracts in respect of Project SH1 to the Receiving Account (WGQ) pursuant to Clause 18.10(b)(i) of this Agreement;
- (vi) on or before the date of the First WGQ Utilisation Request, each Obligor shall procure GDS HK to transfer all revenues received by GDS HK under the GDS HK Service Contracts in respect of Project SH1 to the Receiving Account (WGQ) pursuant to Clause 18.12(b)(i) of this Agreement; and
- (vii) on or before the date of the First WGQ Utilisation Request, each Obligor shall procure GDS Shanghai to transfer all revenues (other than the GDS Shanghai Trapped Amount) received by GDS Shanghai under the GDS Shanghai Service Contracts in respect of Project SH1 to the Receiving Account (WGQ) pursuant to Clause 18.13(b)(i) of this Agreement.

- (b) Payments in - Receiving Account (YG)

Unless otherwise permitted under this Agreement,

- (i) on and after the date of this Agreement, EDC YG must ensure all amounts payable to it under the Back-to-Back Agreements (YG) will be directly and immediately paid into the Receiving Account (YG);
- (ii) on and after the date of this Agreement, EDC YG must ensure all amounts payable to it under the Borrower Service Contracts (YG) will be directly and immediately paid into the Receiving Account (YG);

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- (iii) to the extent applicable, on or before the date of the First YG Utilisation Request, EDC YG shall transfer all amounts standing to the credit of each Existing Account under its name, if any, to the Receiving Account (YG);
- (iv) on and after the first Utilisation Date, EDC WGQ shall transfer all revenues (other than EDC WGQ Trapped Amount) received by EDC WGQ under Borrower Service Contracts (WGQ) in respect of the Projects (other than Project SH1) (“**WGQ-YG Revenues**”) to the Receiving Account (YG) pursuant to Clause 18.7(c)(ii);
- (v) on or before the date of the First YG Utilisation Request, GDS Beijing shall transfer all revenues (other than GDS Beijing Trapped Amount) received by GDS Beijing under GDS Beijing Service Contracts in respect of the Projects (other than Project SH1) to the Receiving Account (YG) pursuant to Clause 18.8(b)(ii);
- (vi) on or before the date of the First YG Utilisation Request, GDS Suzhou shall transfer all revenues (other than the GDS Suzhou Trapped Amount) received by GDS Suzhou under the GDS Suzhou Service Contracts in respect of the Projects (other than Project SH1) to the Receiving Account (YG) pursuant to Clause 18.10(b)(ii);
- (vii) on or before the date of the First YG Utilisation Request, each Obligor shall procure GDS HK to transfer all revenues received by GDS HK under the GDS HK Service Contracts in respect of the Projects (other than Project SH1) to the Receiving Account (YG) pursuant to Clause 18.12(b)(ii) of this Agreement; and
- (viii) on or before the date of the First YG Utilisation Request, each Obligor shall procure GDS Shanghai to transfer all revenues (other than the GDS Shanghai Trapped Amount) received by GDS Shanghai under the GDS Shanghai Service Contracts in respect of the Projects (other than Project SH1) to the Receiving Account (YG) pursuant to Clause 18.13(b)(ii) of this Agreement.

(c) Withdrawals - Receiving Account (WGQ)

- (i) EDC WGQ may only withdraw amounts from the Receiving Account (WGQ) on each Waterfall Date (unless indicated otherwise) and only if they are applied for the following purposes in the following order:
  - (A) first, transfer an amount equal to the Debt Service Reserve Amount (WGQ) to the Debt Service Reserve Account (WGQ);
  - (B) second, if any, transfer amounts to the Operations Account (WGQ) for the payment of all expenses (including insurance, operational maintenance, Capital Expenditure or other operating expenses) and all Taxes anticipated to be due and

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payable by EDC WGQ on or before the next Waterfall Date pursuant to the Business Plan in respect of Project SH1 and the Budget;

- (C) third, if any, transfer an amount equal to one-third of the Debt Service Reserve Amount (WGQ) to the Debt Service Accrual Account (WGQ); and
- (D) fourth, transfer any remaining amount calculated on the basis of the Excess Cashflow Prepayment Amount (WGQ) to the Excess Cashflow Account (WGQ) in accordance with Clause 18.6(a)(i) of this Agreement (if applicable on that Waterfall Date).
- (ii) Subject to Clause paragraph (i) above and paragraph (iii) below, EDC WGQ shall not make any other withdrawal from the Receiving Account (WGQ), other than transferring all WGQ-YG Revenues to the Receiving Account (YG) within three (3) Business Days of receipt of such amount.
- (iii) Receiving Account (WGQ) — Trapped Amount
  - (A) If all or any part of the WGQ-YG Revenues may not be transferred to the Receiving Account (YG) pursuant to Clause 18.7(c)(ii) due to any financial restrictions or prohibitions on EDC WGQ, EDC WGQ must provide relevant supporting documents to the satisfaction of the Facility Agent to explain such restrictions or prohibitions, and upon confirmation by the Facility Agent, the remaining amount of the WGQ-YG Revenues shall constitute a trapped amount (the “**EDC WGQ Trapped Amount**”).
  - (B) Upon any amount being a EDC WGQ Trapped Amount:
    - (1) Subject to paragraphs (2) and (3) below, EDC WGQ shall have no obligation to make the transfer of such EDC WGQ Trapped Amount to the Receiving Account (YG) pursuant to Clause 18.7(c)(ii), but EDC WGQ shall not transfer any EDC WGQ Trapped Amount to any of its other accounts or accounts maintained by any other person without prior written consent of the Facility Agent, except for the application of such EDC WGQ Trapped Amount towards the payments under paragraph (d) of Clause 19.1 (*Guarantee and indemnity*);
    - (2) EDC WGQ and EDC YG shall, to the extent permitted under the Governmental Rules, enter into an inter-company loan arrangement to transfer such EDC WGQ Trapped Amount from EDC WGQ to EDC YG (the “**EDC WGQ Inter-company Loan Agreement**”); and
    - (3) EDC WGQ and EDC YG agree that such inter-company loan under the EDC WGQ Inter-company Loan Agreement shall constitute a Restricted Inter-company Loan and, without limiting their respective obligations under the Subordination Agreement, EDC YG shall not prepay or repay, and EDC WGQ will not ask for prepayment or repayment of such inter-company loan during the life of the Loans.

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- (C) If, at any time, the restrictions or prohibitions resulting in an amount being a EDC WGQ Trapped Amount are removed or no longer subsisting, EDC WGQ must immediately transfer the amount which was a EDC WGQ Trapped Amount to the Receiving Account (YG).

(d) Withdrawals - Receiving Account (YG)

EDC YG may only withdraw amounts from the Receiving Account (YG) on each Waterfall Date (unless indicated otherwise) and only if they are applied for the following purposes in the following order:

- (i) first, to the extent applicable, transfer an amount equal to the Debt Service Reserve Amount (YG) to the Debt Service Reserve Account (YG);
- (ii) second, if any, transfer amounts to the Operations Account (YG) for the payment of all expenses (including insurance, operational maintenance, Capital Expenditure or other operating expenses) and all Taxes anticipated to be due and payable by EDC YG on or before the next Waterfall Date pursuant to the Business Plan in respect of the Project SH2 and to the extent applicable, the Project SH3, and the Budget;
- (iii) third, if any and to the extent applicable, transfer an amount equal to one-third of the Debt Service Reserve Amount (YG) to the Debt Service Accrual Account (YG); and
- (iv) fourth, transfer any remaining amount calculated on the basis of the Excess Cashflow Prepayment Amount (YG) to the Excess Cashflow Account (YG) in accordance with Clause 18.6(a)(iii) of this Agreement (if applicable on that Waterfall Date).

**18.8 Receiving Account (GDS Beijing)**

(a) Payments in

- (i) On or before the date of the first Utilisation Request of the Facilities, GDS Beijing shall:
  - (A) transfer all amounts standing to the credit of any account of GDS Beijing attributable to the Project SH1 before the date of this Agreement to the Receiving Account (GDS Beijing-WGQ); and
  - (B) transfer all amounts standing to the credit of any account of GDS Beijing attributable to the Projects (other than Project SH1) before the date of this Agreement to the Receiving Account (GDS Beijing-YG).
- (ii) Commencing from the date of this Agreement, GDS Beijing must ensure:
  - (A) all amounts payable to it under GDS Beijing Service Contracts in respect of the Project SH1 will be directly and immediately paid into the Receiving Account (GDS Beijing-WGQ); and
  - (B) all amounts payable to it under GDS Beijing Service Contracts in respect of the Projects (other than Project SH1) will be directly and immediately paid into the Receiving Account (GDS Beijing-YG).

(b) Withdrawals

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Subject to Clause 18.9 (*Receiving Account (GDS Beijing) — Trapped Amount*), GDS Beijing shall not make any other withdrawal from its Receiving Accounts, other than:

- (i) transferring all amounts standing to the credit of Receiving Account (GDS Beijing-WGQ) to the Receiving Account (WGQ) within three (3) Business Days of receipt of such amount; and

- (ii) transferring all amounts standing to the credit of Receiving Account (GDS Beijing-YG) to the Receiving Account (YG) within three (3) Business Days of receipt of such amount.

#### 18.9 Receiving Account (GDS Beijing) — Trapped Amount

- (a) If any amount standing to the credit of the Receiving Account (GDS Beijing-WGQ) may not be transferred to the Receiving Account (WGQ) pursuant to Clause 18.8(b)(i) due to any financial restrictions or prohibitions on GDS Beijing, GDS Beijing must provide relevant supporting documents to the satisfaction of the Facility Agent to explain such restrictions or prohibitions, and upon confirmation by the Facility Agent, the remaining amount standing to the credit of the Receiving Account (GDS Beijing-WGQ) shall constitute a trapped amount (the “**GDS Beijing Trapped Amount (WGQ)**”).
- (b) If any amount standing to the credit of the Receiving Account (GDS Beijing-YG) may not be transferred to the Receiving Account (YG) pursuant to Clause 18.8(b)(ii) due to any financial restrictions or prohibitions on GDS Beijing, GDS Beijing must provide relevant supporting documents to the satisfaction of the Facility Agent to explain such restrictions or prohibitions, and upon confirmation by the Facility Agent, the remaining amount standing to the credit of the Receiving Account (GDS Beijing-YG) shall constitute a trapped amount (the “**GDS Beijing Trapped Amount (YG)**”).
- (c) Upon any amount being a GDS Beijing Trapped Amount (WGQ):
  - (i) Subject to paragraphs (ii) and (iii) below, GDS Beijing shall have no obligation to make the transfer of such GDS Beijing Trapped Amount (WGQ) to the Receiving Account (WGQ) pursuant to Clause 18.8(b)(i), but GDS Beijing shall not transfer any GDS Beijing Trapped Amount (WGQ) to any of its other accounts or accounts maintained by any other person without prior written consent of the Facility Agent, except for the application of such GDS Beijing Trapped Amount (WGQ) towards the payments under paragraph (d) of Clause 19.1 (*Guarantee and indemnity*);
  - (ii) GDS Beijing and EDC WGQ shall, to the extent permitted under the Governmental Rules, enter into an inter-company loan arrangement to transfer such GDS Beijing Trapped Amount (WGQ) from GDS Beijing to EDC WGQ (the “**GDS Beijing Inter-company Loan Agreement (WGQ)**”); and
  - (iii) GDS Beijing and EDC WGQ agree that such inter-company loan under the GDS Beijing Inter-company Loan Agreement (WGQ) shall constitute a Restricted Inter-company Loan and, without limiting their respective obligations under the Subordination Agreement, EDC WGQ shall not prepay or repay, and GDS Beijing will not ask for prepayment or repayment of such inter-company loan during the life of the Loans.
- (d) Upon any amount being a GDS Beijing Trapped Amount (YG):

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- (i) Subject to paragraphs (ii) and (iii) below, GDS Beijing shall have no obligation to make the transfer of such GDS Beijing Trapped Amount (YG) to the Receiving Account (YG) pursuant to Clause 18.8(b)(ii), but GDS Beijing shall not transfer any GDS Beijing Trapped Amount (YG) to any of its other accounts or accounts maintained by any other person without prior written consent of the Facility Agent, except for the application of such GDS Beijing Trapped Amount (YG) towards the payments under paragraph (d) of Clause 19.1 (*Guarantee and indemnity*);
  - (ii) GDS Beijing and EDC YG shall, to the extent permitted under the Governmental Rules, enter into an inter-company loan arrangement to transfer such GDS Beijing Trapped Amount (YG) from GDS Beijing to EDC YG (the “**GDS Beijing Inter-company Loan Agreement (YG)**”); and
  - (iii) GDS Beijing and EDC YG agree that such inter-company loan under the GDS Beijing Inter-company Loan Agreement (YG) shall constitute a Restricted Inter-company Loan and, without limiting their respective obligations under the Subordination Agreement, EDC YG shall not prepay or repay, and GDS Beijing will not ask for prepayment or repayment of such inter-company loan during the life of the Loans.
- (e) If, at any time, the restrictions or prohibitions resulting in an amount being a GDS Beijing Trapped Amount (WGQ) or a GDS Beijing Trapped Amount (YG) are removed or no longer subsisting, GDS Beijing must immediately transfer the amount which was (i) a GDS Beijing Trapped Amount (WGQ) to the Receiving Account (WGQ); and/or (ii) a GDS Beijing Trapped Amount (YG) to the Receiving Account (YG).

#### 18.10 Receiving Account (GDS Suzhou)

- (a) Payments in
  - (i) On or before the date of the first Utilisation Request of the Facilities, GDS Suzhou shall:
    - (A) transfer all amounts standing to the credit of any account of GDS Suzhou attributable to the Project SH1 before the date of this Agreement to the Receiving Account (GDS Suzhou-WGQ); and
    - (B) transfer all amounts standing to the credit of any account of GDS Suzhou attributable to the Projects (other than Project SH1) before the date of this Agreement to the Receiving Account (GDS Suzhou-YG).
  - (ii) Commencing from the date of this Agreement, GDS Suzhou must ensure:
    - (A) all amounts payable to it under the GDS Suzhou Service Contracts in respect of the Project SH1 will be directly and immediately paid into the Receiving Account (GDS Suzhou-WGQ); and
    - (B) all amounts payable to it under the GDS Suzhou Service Contracts in respect of the Projects (other than Project SH1) will be directly and immediately paid into the Receiving Account (GDS Suzhou-YG).
- (b) Withdrawals

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Subject to Clause 18.11 (*Receiving Account (GDS Suzhou) — Trapped Amount*), GDS Suzhou shall not make any other withdrawal from its Receiving Accounts, other than:

- (i) transferring all amounts standing to the credit of Receiving Account (GDS Suzhou-WGQ) to the Receiving Account (WGQ) within three (3) Business Days of receipt of such amount; and
- (ii) transferring all amounts standing to the credit of Receiving Account (GDS Suzhou-YG) to the Receiving Account (YG) within three (3) Business Days of receipt of such amount.

#### 18.11 Receiving Account (GDS Suzhou) — Trapped Amount

- (a) If any amount standing to the credit of the Receiving Account (GDS Suzhou-WGQ) may not be transferred to the Receiving Account (WGQ) pursuant to Clause 18.10(b)(i) due to any financial restrictions or prohibitions on GDS Suzhou, GDS Suzhou must provide relevant supporting documents to the satisfaction of the Facility Agent to explain such restrictions or prohibitions, and upon confirmation by the Facility Agent, the remaining amount standing to the credit of the Receiving Account (GDS Suzhou-WGQ) shall constitute a trapped amount (the “**GDS Suzhou Trapped Amount (WGQ)**”).
- (b) If any amount standing to the credit of the Receiving Account (GDS Suzhou-YG) may not be transferred to the Receiving Account (YG) pursuant to Clause 18.10(b)(ii) due to any financial restrictions or prohibitions on GDS Suzhou, GDS Suzhou must provide relevant supporting documents to the satisfaction of the Facility Agent to explain such restrictions or prohibitions, and upon confirmation by the Facility Agent, the remaining amount standing to the credit of the Receiving Account (GDS Suzhou-YG) shall constitute a trapped amount (the “**GDS Suzhou Trapped Amount (YG)**”).
- (c) Upon any amount being a GDS Suzhou Trapped Amount (WGQ):
  - (i) Subject to paragraphs (ii) and (iii) below, GDS Suzhou shall have no obligation to make the transfer of such GDS Suzhou Trapped Amount (WGQ) to the Receiving Account (WGQ) pursuant to Clause 18.10(b)(i), but GDS Suzhou shall not transfer any GDS Suzhou Trapped Amount (WGQ) to any of its other accounts or accounts maintained by any other person without prior written consent of the Facility Agent, except for the application of such GDS Suzhou Trapped Amount (WGQ) towards the payments under paragraph (d) of Clause 19.1 (*Guarantee and indemnity*);
  - (ii) GDS Suzhou and EDC WGQ shall, to the extent permitted under the Governmental Rules, enter into an inter-company loan arrangement to transfer such GDS Suzhou Trapped Amount (WGQ) from GDS Suzhou to EDC WGQ (the “**GDS Suzhou Inter-company Loan Agreement (WGQ)**”); and
  - (iii) GDS Suzhou and EDC WGQ agree that such inter-company loan under the GDS Suzhou Inter-company Loan Agreement (WGQ) shall constitute a Restricted Inter-company Loan and, without limiting their respective obligations under the Subordination Agreement, EDC WGQ shall not prepay or repay, and GDS Suzhou will not ask for prepayment or repayment of such inter-company loan during the life of the Loans.
- (d) Upon any amount being a GDS Suzhou Trapped Amount (YG):

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- (i) Subject to paragraphs (ii) and (iii) below, GDS Suzhou shall have no obligation to make the transfer of such GDS Suzhou Trapped Amount (YG) to the Receiving Account (YG) pursuant to Clause 18.10(b)(ii), but GDS Suzhou shall not transfer any GDS Suzhou Trapped Amount (YG) to any of its other accounts or accounts maintained by any other person without prior written consent of the Facility Agent, except for the application of such GDS Suzhou Trapped Amount (YG) towards the payments under paragraph (d) of Clause 19.1 (*Guarantee and indemnity*);

- (ii) GDS Suzhou and EDC YG shall, to the extent permitted under the Governmental Rules, enter into an inter-company loan arrangement to transfer such GDS Suzhou Trapped Amount (YG) from GDS Suzhou to EDC YG (the “**GDS Suzhou Inter-company Loan Agreement (YG)**”); and
  - (iii) GDS Suzhou and EDC YG agree that such inter-company loan under the GDS Suzhou Inter-company Loan Agreement (YG) shall constitute a Restricted Inter-company Loan and, without limiting their respective obligations under the Subordination Agreement, EDC YG shall not prepay or repay, and GDS Suzhou will not ask for prepayment or repayment of such inter-company loan during the life of the Loans.
- (e) If, at any time, the restrictions or prohibitions resulting in an amount being a GDS Suzhou Trapped Amount (WGQ) or a GDS Suzhou Trapped Amount (YG) are removed or no longer subsisting, GDS Suzhou must immediately transfer the amount which was (i) a GDS Suzhou Trapped Amount (WGQ) to the Receiving Account (WGQ); and/or (ii) a GDS Suzhou Trapped Amount (YG) to the Receiving Account (YG).

#### 18.12 Receiving Account (GDS HK)

- (a) Payments in
- (i) On or before the date of the first Utilisation Request of the Facilities, each Obligor shall procure GDS HK to:
    - (A) transfer all amounts standing to the credit of any account of GDS HK attributable to the Project SH1 before the date of this Agreement to the Receiving Account (GDS HK-WGQ); and
    - (B) transfer all amounts standing to the credit of any account of GDS HK attributable to the Projects (other than Project SH1) before the date of this Agreement to the Receiving Account (GDS HK-YG).
  - (ii) Commencing from the date of this Agreement, each Obligor shall procure GDS HK to ensure:
    - (A) all amounts payable to it under GDS HK Service Contracts in respect of the Project SH1 will be directly and immediately paid into the Receiving Account (GDS HK-WGQ); and
    - (B) all amounts payable to it under GDS HK Service Contracts in respect of the Projects (other than Project SH1) will be directly and immediately paid into the Receiving Account (GDS HK-YG).

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(b) Withdrawals

Each Obligor shall procure GDS HK will not make any other withdrawal from its Receiving Accounts, other than:

- (i) transferring all amounts standing to the credit of Receiving Account (GDS HK-WGQ) to the Receiving Account (WGQ) within three (3) Business Days of receipt of such amount; and
- (ii) transferring all amounts standing to the credit of Receiving Account (GDS HK-YG) to the Receiving Account (YG) within three (3) Business Days of receipt of such amount.

#### 18.13 Receiving Account (GDS Shanghai)

- (a) Payments in
- (i) On or before the date of the first Utilisation Request of the Facilities, each Obligor shall procure GDS Shanghai to:
    - (A) transfer all amounts standing to the credit of any account of GDS Shanghai attributable to the Project SH1 before the date of this Agreement to the Receiving Account (GDS Shanghai-WGQ); and
    - (B) transfer all amounts standing to the credit of any account of GDS Shanghai attributable to the Projects (other than Project SH1) before the date of this Agreement to the Receiving Account (GDS Shanghai-YG).
  - (ii) Commencing from the date of this Agreement, each Obligor shall procure GDS Shanghai to ensure:
    - (A) all amounts payable to it under GDS Shanghai Service Contracts in respect of the Project SH1 will be directly and immediately paid into the Receiving Account (GDS Shanghai-WGQ); and
    - (B) all amounts payable to it under GDS Shanghai Service Contracts in respect of the Projects (other than Project SH1) will be directly and immediately paid into the Receiving Account (GDS Shanghai-YG).

(b) Withdrawals

Subject to Clause 18.14 (*Receiving Account (GDS Shanghai) — Trapped Amount*), each Obligor shall procure GDS Shanghai will not make any other withdrawal from its Receiving Accounts, other than:

- (i) transferring all amounts standing to the credit of Receiving Account (GDS Shanghai-WGQ) to the Receiving Account (WGQ) within three (3) Business Days of receipt of such amount; and
- (ii) transferring all amounts standing to the credit of Receiving Account (GDS Shanghai-YG) to the Receiving Account (YG) within three (3) Business Days of receipt of such amount.

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#### 18.14 Receiving Account (GDS Shanghai) — Trapped Amount

- (a) If any amount standing to the credit of the Receiving Account (GDS Shanghai-WGQ) may not be transferred to the Receiving Account (WGQ) pursuant to Clause 18.13(b)(i) due to any financial restrictions or prohibitions on GDS Shanghai, each Obligor must procure GDS Shanghai to provide relevant supporting documents to the satisfaction of the Facility Agent to explain such restrictions or prohibitions, and upon confirmation by the Facility Agent, the remaining amount standing to the credit of the Receiving Account (GDS Shanghai-WGQ) shall constitute a trapped amount (the “**GDS Shanghai Trapped Amount (WGQ)**”).
- (b) If any amount standing to the credit of the Receiving Account (GDS Shanghai-YG) may not be transferred to the Receiving Account (YG) pursuant to Clause 18.13(b)(ii) due to any financial restrictions or prohibitions on GDS Shanghai, each Obligor must procure GDS Shanghai to provide relevant supporting documents to the satisfaction of the Facility Agent to explain such restrictions or prohibitions, and upon confirmation by the Facility Agent, the remaining amount standing to the credit of the Receiving Account (GDS Shanghai-YG) shall constitute a trapped amount (the “**GDS Shanghai Trapped Amount (YG)**”).
- (c) Upon any amount being a GDS Shanghai Trapped Amount (WGQ):
- (i) Subject to paragraphs (ii) and (iii) below, GDS Shanghai shall have no obligation to make the transfer of such GDS Shanghai Trapped Amount (WGQ) to the Receiving Account (WGQ) pursuant to Clause 18.13(b)(i), but each Obligor shall procure GDS Shanghai will not transfer any GDS Shanghai Trapped Amount (WGQ) to any of its other accounts or accounts maintained by any other person without prior written consent of the Facility Agent;
  - (ii) Each Obligor shall procure GDS Shanghai to, and EDC WGQ shall, to the extent permitted under the Governmental Rules, enter into an inter-company loan arrangement to transfer such GDS Shanghai Trapped Amount (WGQ) from GDS Shanghai to EDC WGQ (the “**GDS Shanghai Inter-company Loan Agreement (WGQ)**”); and
  - (iii) Each Obligor shall procure GDS Shanghai to agree, and EDC WGQ agrees that such inter-company loan under the GDS Shanghai Inter-company Loan Agreement (WGQ) shall constitute a Restricted Inter-company Loan and, without limiting their respective obligations under the Subordination Agreement, EDC WGQ shall not prepay or repay, and each Obligor shall procure GDS Shanghai will not ask for prepayment or repayment of such inter-company loan during the life of the Loans.
- (d) Upon any amount being a GDS Shanghai Trapped Amount (YG):
- (i) Subject to paragraphs (ii) and (iii) below, GDS Shanghai shall have no obligation to make the transfer of such GDS Shanghai Trapped Amount (YG) to the Receiving Account (YG) pursuant to Clause 18.13(b)(ii), but each Obligor shall procure GDS Shanghai will not transfer any GDS Shanghai Trapped Amount (YG) to any of its other accounts or accounts maintained by any other person without prior written consent of the Facility Agent;
  - (ii) Each Obligor shall procure GDS Shanghai to, and EDC YG shall, to the extent permitted under the Governmental Rules, enter into an inter-company loan arrangement to transfer such GDS Shanghai Trapped Amount (YG) from GDS Shanghai to EDC YG (the “**GDS Shanghai Inter-company Loan Agreement (YG)**”); and

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- (iii) Each Obligor shall procure GDS Shanghai to agree, and EDC YG agrees that such inter-company loan under the GDS Shanghai Inter-company Loan Agreement (YG) shall constitute a Restricted Inter-company Loan and, without limiting their respective obligations under the Subordination Agreement, EDC YG shall not prepay or repay, and each Obligor shall procure GDS Shanghai will not ask for prepayment or repayment of such inter-company loan during the life of the Loans.

- (e) If, at any time, the restrictions or prohibitions resulting in an amount being a GDS Shanghai Trapped Amount (WGQ) or a GDS Shanghai Trapped Amount (YG) are removed or no longer subsisting, each Obligor must procure GDS Shanghai to immediately transfer the amount which was (i) a GDS Shanghai Trapped Amount (WGQ) to the Receiving Account (WGQ); and/or (ii) a GDS Shanghai Trapped Amount (YG) to the Receiving Account (YG).

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**SECTION 7****GUARANTEE****19. GUARANTEE AND INDEMNITY****19.1 Guarantee and indemnity**

Each Guarantor (other than the Ultimate Parent) irrevocably and unconditionally jointly and severally:

- (a) guarantees to each Secured Party punctual performance by each Obligor Party of all that Obligor Party's obligations under the Transaction Documents;
- (b) undertakes with each Secured Party that whenever any Obligor Party does not pay any amount when due under or in connection with any Transaction Document, the Guarantor shall immediately on demand pay that amount as if it was the principal obligor;
- (c) agrees with each Secured Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Secured Party immediately on demand against any cost, loss or liability it incurs as a result of any Obligor Party not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Transaction Document on the date when it would have been due. The amount payable by such Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 19 if the amount claimed had been recoverable on the basis of a guarantee; and
- (d) Notwithstanding clause (b) and (c) above, the Guarantors further agree that, whenever any Obligor Party has any amount due and payable under or in connection with any Transaction Document, the Security Agent shall be entitled to directly claim against any Guarantor in respect of any amount payable on any due date without first having recourse to such Obligor Party, and the Guarantors agree to pay each Secured Party such amount on or before each due date. The Guarantors further irrevocably authorise the Security Agent to directly deduct any balances in the Accounts to pay the amount payable on each due date, and the Security Agent is not required to serve any prior notice for such claim and deduction.

**19.2 Continuing guarantee**

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Obligor Party under the Transaction Documents, regardless of any intermediate payment or discharge in whole or in part.

**19.3 Reinstatement**

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor Party or any security for those obligations or otherwise) is made by a Secured Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Guarantor under this Clause 19 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

**19.4 Waiver of defences**

The obligations of each Guarantor under this Clause 19 will not be affected by an act, omission, matter or thing which, but for this Clause 19, would reduce, release or prejudice any of its obligations under this Clause 19 (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor Party or other person;
- (b) the release of any other Obligor Party or any other person under the terms of any composition or arrangement with any creditor of any Obligor Party;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, execute, take up or enforce, any rights against, or security over assets of, any Obligor Party or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor Party or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Transaction Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Transaction Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Transaction Document or any other document or security;
- (g) any insolvency or similar proceedings; or
- (h) this Agreement or any other Transaction Document not being executed by or binding upon any other party.

**19.5 Immediate recourse**

Each Guarantor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under this Clause 19. This waiver applies irrespective of any law or any provision of a Transaction Document to the contrary.

**19.6 Appropriations**

Until all amounts which may be or become payable by the Obligor Parties under or in connection with the Transaction Documents have been irrevocably paid in full, each Secured Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Secured Party (or any trustee or agent on its behalf) in respect of those amounts, or

apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and

- (b) hold in an interest-bearing suspense account any moneys received from any Guarantor or on account of its liability under this Clause 19.

**19.7 Deferral of Guarantors' rights**

Until all amounts which may be or become payable by the Obligor Parties under or in connection with the Transaction Documents have been irrevocably paid in full and unless the Facility Agent otherwise directs, no Guarantor will exercise or otherwise enjoy the benefit of any right which it may have by reason of performance by it of its obligations under the Transaction Documents or by reason of any amount being payable, or liability arising, under this Clause 19:

- (a) to be indemnified by an Obligor Party;
- (b) to claim any contribution from any other guarantor of or provider of security for any Obligor Party's obligations under the Transaction Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Transaction Documents or of any other guarantee or security taken pursuant to, or in connection with, the Transaction Documents by any Secured Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor Party to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under Clause 19.1 (*Guarantee and Indemnity*);
- (e) to exercise any right of set-off against any Obligor Party; and/or

(f) to claim or prove as a creditor of any Obligor Party in competition with any Secured Party.

If a Guarantor shall receive any benefit, payment or distribution in relation to any such right it shall hold that benefit, payment or distribution (or so much of it as may be necessary to enable all amounts which may be or become payable to the Secured Parties by the Obligor Parties under or in connection with the Transaction Documents to be paid in full) on trust for the Secured Parties, and shall promptly pay or transfer the same to the Facility Agent or as the Facility Agent may direct for application in accordance with Clause 32 (*Payment mechanics*).

#### 19.8 Additional security

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Secured Party.

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### SECTION 8

#### REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

#### 20. REPRESENTATIONS

Each Obligor makes the representations and warranties set out in this Clause 20 to each Finance Party on the date of this Agreement.

##### 20.1 Status

- (a) Each Obligor Party is a corporation, duly incorporated and validly existing, and in the case of the Ultimate Parent and the Intermediate Parent, in good standing under the laws of the jurisdiction of its incorporation.
- (b) Each Obligor Party and its Subsidiaries has the power to own its assets and carry on its business as it is being conducted.
- (c) Without prejudice to Clause 2.4 (*Obligors' Agent*), each Obligor Party 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 any Finance Document.
- (d) Each Obligor Party is not a FATCA FFI or a US Tax Obligor.

##### 20.2 Binding obligations

- (a) The obligations expressed to be assumed by each Obligor Party 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 under this Agreement, legal, valid, binding and enforceable obligations.
- (b) Without limiting the generality of paragraph (a) above, each Transaction Security Document to which an Obligor Party is a party creates the security interests which that Transaction Security Document purports to create and those security interests are valid and effective.

##### 20.3 Non-conflict with other obligations

The entry into and performance by each Obligor Party of, and the transactions contemplated by, the Finance Documents and the granting of the Transaction Security do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets.

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##### 20.4 Power and authority

Each Obligor Party 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.

##### 20.5 Validity and admissibility in evidence

Except for approval or registration of the Transaction Security Documents referred to in Clause 20.8 (*No filing or stamp taxes*), all Authorisations required or desirable:

- (a) to enable each Obligor Party 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 an Obligor Party is a party admissible in evidence in its Relevant Jurisdiction; and
- (c) for each Obligor Party to carry on its business, and which are material,

have been obtained or effected and are in full force and effect.

##### 20.6 Governing law and enforcement

- (a) The choice of governing law of the Finance Documents will be recognised and enforced in the jurisdiction of incorporation of each Obligor Party, and any jurisdiction where any asset subject to or intended to be subject to the Transaction Security Documents is located and any jurisdiction where they conduct their business.
- (b) Any judgment obtained in relation to a Finance Document in the jurisdiction of the governing law of that Finance Document will be recognised and enforced in the jurisdiction of incorporation of each Obligor Party, and any jurisdiction where any asset subject to or intended to be subject to the Transaction Security Documents is located and any jurisdiction where they conduct their business.

##### 20.7 Taxes

- (a) It is not required under the law applicable where an Obligor Party is incorporated or resident or at the address specified in the Finance Documents to make any deduction for or on account of Tax from any payment it may make under any Finance Document.
- (b) No claims are being, nor, as far as it is aware, might reasonably be expected to be, asserted against any Obligor Party with respect to Taxes which have or, if adversely determined to it, would be reasonably likely to have a Material Adverse Effect.
- (c) All Tax reports and returns required to be filed by or on behalf of any Obligor Party have been filed.
- (d) All Taxes required to be paid by or on behalf of any Obligor Party have been paid within the applicable time limit.

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##### 20.8 No filing or stamp taxes

It is not necessary under the laws of its Relevant Jurisdictions 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 for:

- (a) the approval of movable assets mortgages under the Movable Assets Mortgage Agreement (WGQ SH1 Restricted Assets), the Movable Assets Mortgage Agreement (YG SH2 Restricted Assets) and the Movable Assets Mortgage Agreement (YG SH3 Restricted Assets) from the Custom;
- (b) the registration of movable assets mortgages under the Movable Assets Mortgage Agreement (WGQ SH1 Restricted Assets), the Movable Assets Mortgage Agreement (WGQ SH1 Non-Restricted Assets), the Movable Assets Mortgage Agreement (YG SH2 Restricted Assets), the Movable Assets Mortgage Agreement (YG SH2 Non-Restricted Assets), the Movable Assets Mortgage Agreement (YG SH3 Restricted Assets) and the Movable Assets Mortgage Agreement (YG SH3 Non-Restricted Assets) with SAIC;

- (c) the registration of account receivables pledge under the Pledge over Receivables (WGQ), the Pledge over Receivables (YG), the Pledge over Receivables (GDS Suzhou), the Pledge over Receivables (GDS Beijing) and Pledge over Receivables (GDS Shanghai) with PBOC Information Center;
- (d) the approval or filing of equity pledge under the Equity Pledge Agreement (YG) by or with MOFCOM;
- (e) the registration of equity pledge under the Equity Pledge Agreement (YG) with SAIC and Hong Kong Companies Registry;
- (f) the registration of equity pledge under the Equity Pledge Agreement (WGQ) with SAIC;
- (g) the payment of Cayman Islands stamp duties in respect of the Share Mortgage Agreement (Parent (EDC YG)), this Agreement and the Ultimate Parent Guarantee if such agreement is executed in, brought into, or produced before a court of, the Cayman islands;
- (h) the payment of stamp duties in respect of this Agreement; and
- (i) the payment of registration or filing fees (if any) payable to the relevant authorities with respect to the approval and registrations specified in paragraph (a) to (h) above.

**20.9 No default**

- (a) No 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 any Obligor Party or to which its assets are subject which might have a Material Adverse Effect.

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**20.10 No misleading information**

- (a) Any written and factual information provided by any Obligor Party to the Finance Parties and any transaction contemplated by them is 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 materials provided by any Obligor Party to the Finance Parties under this Agreement have been prepared on the basis of recent historical information and on the basis of reasonable assumptions.
- (c) Nothing has occurred since the date the written and factual information was provided which renders the written and factual information untrue or misleading in any material respect.
- (d) All material information in relation to each Project and each Facility have been provided to the Finance Parties.

**20.11 Financial statements**

- (a) The financial statements most recently supplied by each Obligor Party to the Facility Agent (which, at the date of this Agreement, are the Original Financial Statements) were prepared in accordance with GAAP consistently applied save to the extent expressly disclosed in such financial statements.
- (b) The financial statements most recently supplied by each Obligor Party to the Facility Agent (which, at the date of this Agreement, are the Original Financial Statements) give a true and fair view and represent its financial condition and operations (consolidated, in the case of the Ultimate Parent) during the relevant financial year save to the extent expressly disclosed in such financial statements.
- (c) There has been no material adverse change in the business or financial condition of the Obligor Parties (or the business or consolidated financial condition of the Group, in the case of the Ultimate Parent) since the date of the Original Financial Statements.

**20.12 Pari passu ranking**

The payment obligations of each Obligor Party 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.

**20.13 No proceedings pending or threatened**

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 have (to the best of its knowledge and belief) been started or threatened against any Obligor Party.

**20.14 No breach of applicable laws**

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None of the Obligor Parties has breached any applicable law, rule, regulation or any agreements which breach, and no amount that is payable by any Obligor Party under any applicable law, rule, regulation or any agreements or any Authorisation has not been paid where such failure to pay, has or is reasonably likely to have a Material Adverse Effect or result in revocation or non-renewal of IDC Licenses.

**20.15 Authorised Signatures**

Any person specified as its authorised signatory under Schedule 2 (*Conditions precedent and conditions subsequent*) or paragraph (h) of Clause 21.9 (*Information: miscellaneous*) is authorised to sign Utilisation Requests (in the case of a Borrower only) and other notices on its behalf.

**20.16 Ranking of Security**

The Transaction Security has or will have the ranking in priority which it is expressed to have in the Transaction Security Documents and it is not subject to any prior ranking or *pari passu* ranking Security.

**20.17 Solvency**

- (a) No Obligor Party is bankrupt or insolvent or unable to pay its debts (including subordinated and contingent debts), nor could it be deemed by a court to be unable to pay its debts within the meaning of the law of the jurisdiction in which it is incorporated, nor, in any such case, will it become so in consequence of entering into any Finance Document and/or performing any transaction contemplated by any Finance Document.
- (b) No Obligor Party has taken any corporate action nor has any legal proceedings or other procedures or steps been taken, started or threatened in relation to anything referred to in Clause 24.7 (*Insolvency proceedings*).

**20.18 No other business**

- (a) As at the date of this Agreement, each Borrower does not have any Subsidiaries.
- (b) No Borrower has traded or carried on any business since the date of its incorporation other than the ownership, operation, maintenance and management of the Projects in connection with its data center infrastructure business or other businesses as recorded in its latest business license.

**20.19 Ownership**

- (a) Subject to the Transaction Security, EDC WGQ's entire equity interest is legally owned and controlled by GDS Beijing but beneficially owned and controlled by the GDS Management Co., and the registered capital corresponding to the equity interests in EDC WGQ are fully paid and such equity interests are not subject to any option to purchase or similar rights or any security interests (other than the Transaction Security).
- (b) Subject to the Transaction Security, EDC YG's entire equity interest is legally and beneficially owned and controlled by the Parent (EDC YG), and the registered capital corresponding to the equity interests in EDC YG are fully paid and such equity interests are not subject to any option to purchase or similar rights or any security interests (other than the Transaction Security).

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- (c) Subject to the Transaction Security, the entire issued share capital of EDC China and Parent (EDC YG) is legally and beneficially owned and controlled by the Intermediate Parent, and the shares in the capital of EDC China and Parent (EDC YG) are fully paid and are not subject to any option to purchase or similar rights or any security interests (other than the Transaction Security).

- (d) The Intermediate Parent's entire issued share capital is legally and beneficially owned and controlled by the Ultimate Parent, and such shares in the capital of the Intermediate Parent are fully paid and not subject to any option to purchase or similar rights or any security interests. Prior to a Flotation, no less than 40 per cent., and following a Flotation, no less than 30 per cent., of the issued share capital of the Ultimate Parent is legally and beneficially owned and controlled by the STT GDC and such shares in the capital of the Ultimate Parent are fully paid and not subject to any option to purchase or similar rights or any security interests, and STT GDC is the single and largest shareholder of the Ultimate Parent.
- (e) No less than 50.1 per cent. of the issued share capital of STT GDC is legally and beneficially owned and controlled by the Sponsor and such shares in the capital of the STT GDC are fully paid and not subject to any option to purchase or similar rights or any security interests at all times, and the Sponsor is the single and largest shareholder of the STT GDC.
- (f) Subject to the VIE Equity Pledges, the VIE Exclusive Share Option Agreement and the VIE Shareholders' Voting Rights Proxy Agreement, GDS Beijing's entire equity interest is legally owned by William Huang and Qiuping Huang but beneficially owned and controlled by the GDS Management Co..
- (g) Around 4.8% of registered capital in GDS Beijing are fully paid as at the date of this Agreement and the equity interests corresponding to all registered capital of GDS Beijing are not subject to any option to purchase or similar rights or any security interests (other than the VIE Exclusive Share Option Agreement and the VIE Equity Pledges).
- (h) GDS Suzhou's entire equity interest is legally owned and controlled by GDS Beijing but beneficially owned and controlled by the GDS Management Co.. The registered capital corresponding to the equity interests in GDS Suzhou is fully paid and such equity interests are not subject to any option to purchase or similar rights or any security interests.
- (i) The entire equity interests of the GDS Management Co. are (either directly or indirectly) legally and beneficially owned and controlled by the Ultimate Parent, and the registered capital corresponding to the equity interests in the GDS Management Co. is fully paid and such equity interests are not subject to any option to purchase or similar rights or any security interests.

#### 20.20 Shares

Provided that an Obligor Party's shares or equity interests are required to be subject to the Transaction Security, the constitutional documents of such Obligor Party do not and could not restrict or inhibit any transfer of those shares or equity interests on creation or enforcement of the Transaction Security. Except as provided in the Transaction Security Documents and subject to the VIE Equity Pledges and the VIE Exclusive Share Option Agreement, there are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share, equity interests or loan capital of any Obligor Party (other than the Ultimate Parent) (including any option or right of pre-emption or conversion).

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#### 20.21 Immunity

- (a) The entry into by each Obligor Party of each Finance Document constitutes, and the exercise by it of its rights and performance of its obligations under each Finance Document will constitute, private and commercial acts performed for private and commercial purposes.
- (b) None of any Obligor Party will be entitled to claim immunity from suit, execution, attachment or other legal process in any proceedings taken in its jurisdiction of incorporation in relation to any Finance Document.

#### 20.22 Project Documents

As at the date of this Agreement:

- (a) each copy of a Project Document delivered to the Facility Agent under this Agreement is true and complete;
- (b) there is no other agreement in connection with, or arrangements which amend, supplement or affect any Project Document;
- (c) there are no claims pending or threatened against it under any Project Document; and
- (d) no Obligor Party has breached any of its material obligations under the Project Documents and there is no dispute in connection with any Project Document, in each case, which has or is reasonably likely to have a Material Adverse Effect.

#### 20.23 Existing Accounts

No other bank accounts are maintained by any Borrower other than (a) the Existing Accounts (which shall be closed pursuant to this Agreement except for the basic accounts of each Borrower, foreign debt accounts of EDC WGQ and the company credit card account of EDC WGQ); and/or (b) the relevant Accounts opened and maintained with the Account Bank.

#### 20.24 Good title to assets

Each Obligor Party has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as presently conducted.

#### 20.25 Legal and beneficial ownership

Each Obligor Party is the sole legal and beneficial owner of the respective assets over which it purports to grant Security.

#### 20.26 No Financial Indebtedness or Security

- (a) The Borrowers, GDS Management Co., GDS Suzhou and GDS Beijing do not have any Financial Indebtedness other than as permitted by Clause 23.13 (*Financial Indebtedness*).
- (b) No Security exists over all or any of assets of GDS Management Co., GDS Beijing, GDS Suzhou or the Borrowers other than as permitted by Clause 23.4 (*Negative pledge*).

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#### 20.27 Insurances

In respect of each Borrower and the relevant Projects:

- (a) after the first Utilisation Date under this Agreement, the Insurances are valid and in full force and effect and are not void or voidable;
- (b) no notice has been given or received in respect of cancellation of all or any part of the Insurances; and
- (c) all premiums and other moneys (if any) payable in respect of Insurances have been duly paid and, to the best of its knowledge and belief, all covenants, terms and conditions contained in the Insurances have been duly observed and performed.

#### 20.28 Business Plan and Budget

- (a) The Business Plan in relation to Project SH1, Project SH2 and Project SH3, and the Budget (in each case whether draft or otherwise) as at its date:
  - (i) was true and accurate in all material respects;
  - (ii) was prepared in good faith and with due care on the basis of recent historical information and assumptions believed by it to be reasonable; and
  - (iii) fairly represented the Borrowers' expectations in relation to the matters covered in those documents.
- (b) It is not aware of any information which, if disclosed, would make the Business Plan in relation to Project SH1, Project SH2 or Project SH3, or the current Budget untrue or misleading in any material respect.
- (c) Each of the Business Plan in relation to Project SH1, Project SH2 and Project SH3, and the current Budget specifies (at the date of delivery to the Facility Agent) all material costs and expenses incurred or to be incurred during the period to which it relates and is based on reasonable assumptions made in good faith and represents the relevant Borrower's view as to costs and expenses anticipated by it to be incurred.

#### 20.29 Anti-bribery, anti-corruption and anti-money laundering

None of any Obligor Party, any of its Subsidiaries, their respective directors or officers, or, to the best knowledge of each Obligor Party, any Affiliate, agent or employee of either Obligor Party, has engaged in any activity or conduct which would violate any applicable anti-bribery, anti-corruption or anti-money laundering laws or regulations in any applicable jurisdiction and each Obligor Party has instituted and maintains policies and procedures designated to prevent violation of such laws, regulations and rules.

#### 20.30 Sanctions

- (a) the subject, or likely to become the subject, of any Sanctions (a “**Sanctioned Person**”); or
- (b) located, organised or resident in a country or territory that is, or whose government is, the subject of Sanctions broadly prohibiting dealings with such government, country, or territory (a “**Sanctioned Country**”).

#### 20.31 Repetition

The Repeating Representations are deemed to be made by each Obligor by reference to the facts and circumstances then existing on the date of each Utilisation Request and the first day of each Interest Period.

### 21. INFORMATION UNDERTAKINGS

The undertakings in this Clause 21 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.

#### 21.1 Financial statements

Each Obligor shall supply to the Facility Agent in sufficient copies for all the Lenders:

- (a) as soon as the same become available, but in any event within 150 days after the end of each of its Financial Years:
  - (i) in respect of the Ultimate Parent, its audited consolidated financial statements of the Group (in any event GDS Beijing and the Borrowers shall remain consolidated thereunder) for that Financial Year, which have been reviewed and verified by the independent auditor acceptable to all Lenders; and
  - (ii) in respect of each Obligor (other than the Ultimate Parent), its audited financial statements for that Financial Year and the pro-forma consolidated financial statements of the Borrowers, which have been reviewed and verified by the independent auditor acceptable to all Lenders; and
- (b) as soon as the same become available, but in any event within 90 days after the end of each half of each of its Financial Years:
  - (i) in respect of the Ultimate Parent, its consolidated financial statements of the Group (in any event GDS Beijing and the Borrowers shall remain consolidated thereunder) for that half of Financial Year; and
  - (ii) in respect of each Obligor (other than the Ultimate Parent), its financial statements for that half of Financial Year and the pro-forma consolidated financial statements of the Borrowers.
- (c) as soon as they are available, but in any event within 45 days after the end of each Financial Quarter of each of its Financial Years:
  - (i) in respect of the Ultimate Parent, its unaudited consolidated financial statements of the Group (in any event GDS Beijing and the Borrowers shall remain consolidated thereunder) for that Financial Quarter; and

- (ii) in respect of each Obligor (other than the Ultimate Parent), its unaudited financial statements for that Financial Quarter and the pro-forma consolidated financial statements of the Borrowers.

#### 21.2 Compliance Certificate

- (a) Each Borrower shall supply to the Facility Agent, with each set of financial statements delivered pursuant to Clause 21.1 (*Financial statements*), a Compliance Certificate setting out (in reasonable detail) computations as to compliance with Clause 22 (*Financial covenants*) and Excess Cashflow as calculated based on the definition of “Excess Cashflow” pursuant to Clause 22.1 (*Financial definitions*) as at the date as at which those financial statements were drawn up.

Each Compliance Certificate delivered by the Borrowers pursuant to paragraph (a) above shall be signed by one of the EDC WGQ’s authorised signatories together with one of EDC YG’s authorised signatories.

#### 21.3 Requirements as to financial statements

- (a) Each set of financial statements delivered by each Obligor pursuant to Clause 21.1 (*Financial statements*) shall be certified by a director of the relevant company as fairly representing its financial condition as at the date as at which those financial statements were drawn up.
- (b) Each Obligor shall ensure that each set of its financial statements delivered pursuant to Clause 21.1 (*Financial statements*) is prepared using GAAP, accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements for that Obligor unless, in relation to any set of financial statements, it notifies the Facility Agent that there has been a change in GAAP, the accounting practices or reference periods and its auditors (or, if appropriate, the auditors of the Obligor) deliver to the Facility 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 of that Obligor were prepared; and
  - (ii) sufficient information, in form and substance as may be reasonably required by the Facility Agent, to enable the Lenders to determine whether Clause 22 (*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 of that Obligor.
- (c) 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.

#### 21.4 Presentations

Once in every Financial Year, at least one of senior management of each Borrower and one of senior management of the Ultimate Parent must give a presentation upon reasonable notice and at a reasonable time to the Finance Parties about the on-going business and financial performance of each Borrower and the Group respectively.

#### 21.5 Submission of Budget

- (a) On or before the date of the first Utilisation Request, each Borrower shall supply to the Facility Agent for its approval in sufficient copies for all the Lenders an annual draft Budget (including the detailed budget for last quarter of that Financial Year) for the Financial Year ending 31 December 2016.
- (b) Commencing with the Financial Year starting 1 January 2017, each Borrower shall supply to the Facility Agent for its consent in sufficient copies for all the Lenders, as soon as the same become available but in any event within 30 days before the start of each of its Financial Years, an annual draft Budget for that Financial Year, and within 60 days after the start of each of its Financial Year, a final Budget for that Financial Year as approved by its board of directors or its executive director (as applicable).
- (c) When any amount needs to be funded pursuant to a Budget of a Financial Year, in case that a final Budget is not available for that Financial Year, such amount shall be determined according to figures applicable to the last month in the Budget of the immediately previous Financial Year.
- (d) Each Borrower shall ensure that each draft Budget:
  - (i) includes a profit and loss, balance sheet, cashflow statement for that Borrower and projected financial covenant calculations;
  - (ii) specifies (A) details of revenues with a breakdown including revenues received from the customers existing as of the date of the Budget and expected revenues to be received from the new coming customers after the date of the Budget with customers being identified; and (B) the remaining term of all Service Contracts (including the Qualified Service Contracts) existing as of the date of the Budget and the remaining Contract Value during such remaining term;
  - (iii) is accompanied with necessary documents and information evidencing the status of Business Plan and its Capital Expenditures; and
  - (iv) is prepared in accordance with the GAAP.



- (e) The Facility Agent shall, within fifteen (15) Business Days of receipt of any draft Budget (but for an initial Budget delivered by a Borrower pursuant to paragraph (a) above, before the date of the first Utilisation Request delivered by a Borrower), notify that Borrower whether or not it is approved for the purposes of this Agreement.
- (f) After the Budget is approved by the Facility Agent, the relevant Borrower shall not amend or modify the Budget at any time without the prior written consent of the Facility Agent.
- (g) The draft Budget for that Financial Year and each line item in such draft Budget will only become effective upon approval by the Facility Agent and become the final Budget for the Financial Year in which it is approved by the Facility Agent.

#### 21.6 Quarterly Reports

- (a) Within 30 days after the last day of each Financial Quarter, each Borrower shall provide to the Facility Agent an operating statement in relation to the relevant Project(s) (if applicable), which shall

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specify the details of existing service status, new customers prospects, anticipated customers move-in schedule, actual move-in customers, contractual move-in customers, occupancy percentage, services annual renewal progress and turnover rate, etc.

- (b) Within 30 days after the last day of each Financial Quarter, but before each Project reaches 90% occupation, each Borrower shall provide to the Facility Agent a regular update on the construction progress of such Project, together with necessary documents as may be reasonably required by the Facility Agent.

#### 21.7 IDC License Renewal

Within 90 days before the expiry date of any IDC License, the Obligors' Agent shall provide to the Facility Agent an update in respect of the status of an application for the renewal of that IDC License (including any IDC Authorization), together with any information or documents as may be reasonably required by any Finance Party (acting through the Facility Agent).

#### 21.8 Year-end

Each Obligor shall procure that each of its Financial Year-end falls on 31 December.

#### 21.9 Information: miscellaneous

Each Obligor shall supply to the Facility Agent (in sufficient copies for all the Finance Parties, if the Facility Agent so requests):

- (a) all documents (for the avoidance of doubt, excluding those creditors of its accounts payable generated in the ordinary course of trading) dispatched by that Obligor to its shareholders (or any class of them) or its creditors generally at the same time as they are despatched;
- (b) promptly notify of any existing and future shareholder loans or inter-company loans to that Obligor accompanied by shareholder loan agreements or inter-company loan agreements (if any), provided that such shareholder loans or inter-company loans are made in accordance with this Agreement;
- (c) 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;
- (d) promptly, such information as the Security Agent may reasonably require about the assets subject to the Transaction Security and compliance of the Obligor Parties with the terms of any Transaction Security Documents;
- (e) promptly, such further information regarding the financial condition, business and operations of any Obligor Party as any Finance Party (through the Facility Agent) may reasonably request;
- (f) promptly upon occurrence of a Flotation, subject to any applicable laws and regulations, such information regarding the Flotation;

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- (g) promptly, such further information relating to the construction progress of Projects as any Finance Party (through the Facility Agent) may reasonably request, to the extent not provided in Clause 21.6(b);
  - (h) promptly, notice of any change in authorised signatories of any Obligor Party in relation to the relevant Finance Documents accompanied by a new executive director's decision, board resolution, shareholder's decisions or shareholder resolutions (as applicable).

#### 21.10 Notification of default

- (a) Each Obligor shall (and shall procure each of other Obligor Parties will) notify the Facility Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless it is aware that a notification has already been provided by another Obligor Party).
- (b) Promptly upon a request by the Facility Agent, each Borrower shall supply to the Facility Agent a certificate signed by its executive director (or two of its directors (as applicable)) or two of its 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).

#### 21.11 Use of websites

- (a) The Obligors' Agent 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 the information onto an electronic website designated by the Obligors' Agent and the Facility Agent (the "Designated Website") if:
  - (i) the Facility Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;
  - (ii) both the Obligors' Agent and the Facility 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 Obligors' Agent and the Facility Agent.

If any Lender (a "Paper Form Lender") does not agree to the delivery of information electronically then the Facility Agent shall notify the Obligors' Agent accordingly and the Obligors' Agent shall supply, and shall procure other Obligors supply, the information to the Facility Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event the Obligors' Agent shall supply, and shall procure other Obligors supply, the Facility Agent with at least one copy in paper form of any information required to be provided by it.

- (b) The Facility 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 Obligors' Agent and the Facility Agent.
- (c) The Obligors' Agent shall promptly upon becoming aware of its occurrence notify the Facility Agent if:
  - (i) the Designated Website cannot be accessed due to technical failure;

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- (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 Obligors' Agent 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 Obligors' Agent notifies the Facility Agent under paragraph (c)(i) or paragraph (c)(v) above, all information to be provided by the Obligors' Agent under this Agreement after the date of that notice shall be supplied in paper form.

- (d) Any Website Lender may request, through the Facility Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Obligors' Agent shall comply with any such request within ten (10) Business Days.

## 21.12 "Know your customer" checks

- (a) Each Obligor shall, and shall procure other Obligor Parties shall, promptly upon the request of the Facility Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender (including for any Lender on behalf of any prospective new Lender)) in order for the Facility Agent, such Lender or any prospective new Lender to conduct any "know your customer" or other similar procedures under applicable laws and regulations.
- (b) Each Lender shall promptly upon the request of the Facility Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself) in order for the Facility Agent to conduct any "know your customer" or other similar procedures under applicable laws and regulations.

## 22. FINANCIAL COVENANTS

### 22.1 Financial definitions

In this Agreement:

**"Borrowings"** means, at any time, the 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 of any Borrower (or the Ultimate Parent for the purpose of Clause 23.15 (*Dividends*) only) (other than in respect of paragraph (g) of that definition for which the marked to market value shall be used).

**"Capital Expenditure"** means any expenditure or obligation in respect of expenditure which, in accordance with the GAAP, is treated as capital expenditure or intangible expense or intangible expenditure (and which shall include, for the avoidance of doubt, any royalties, licenses or similar costs, fees or expenses paid for the acquisition of patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, software or other intellectual property).

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**"Cash"** means, at any time, cash at bank credited to an account in the name of any Borrower with a reputable financial institution and to which that Borrower is alone beneficially entitled and for so long as (a) that cash is repayable on demand; (b) repayment of that cash is not contingent on the prior discharge of any other indebtedness of that Borrower or of any other person whatsoever or on the satisfaction of any other condition; (c) there is no Security over that cash; and (d) such cash is freely and immediately available to be applied in repayment or prepayment of the Facilities.

**"Cash Equivalent Investments"** means investments that are short term investments (excluding equity investments) which are readily convertible into cash without incurring any significant premium or penalty.

**"Cashflow"** means, in respect of any Relevant Period, EBITDA (for the avoidance of doubt, the calculation of EBITDA includes all scheduled finance charges and scheduled payments under or in connection with the Selected Finance Lease Agreements in respect of that Relevant Period) for that Relevant Period after:

- (i) adding the amount of any decrease (and deducting the amount of any increase) in Working Capital for that Relevant Period;
- (ii) deducting all amounts of tax on profits, gains or income actually paid and/or which fell due for payment during such period;
- (iii) adding the amount of any cash receipts (and deducting the amount of any cash payments) during that Relevant Period in respect of any extraordinary items, exceptional items and other non-operating items not already taken account of in calculating EBITDA for any Relevant Period;
- (iv) adding the amount of any cash receipts during that Relevant Period in respect of any Tax rebates or credits and deducting the amount actually paid or due and payable in respect of Taxes during that Relevant Period by any Borrower;
- (v) adding the amount of any increase in provisions, other non-cash debits and other non-cash charges (which are not Current Assets or Current Liabilities) and deducting the amount of any non-cash credits (which are not Current Assets or Current Liabilities) in each case to the extent taken into account in establishing EBITDA;
- (vi) deducting the amount of any Capital Expenditure actually made in cash during that Relevant Period by any Borrower (except for the Capital Expenditure funded with the Facilities),

but in any case amounts required to be applied in mandatory prepayment of the Loans shall be disregarded from the calculation of the Cashflow.

**"Current Assets"** means the aggregate of all inventory, work in progress, trade and other receivables of any Borrower including prepayments in relation to operating items and sundry debtors (but excluding Cash and Cash Equivalent Investments) expected to be realised within twelve months from the date of computation but excluding amounts in respect of:

- (i) receivables in relation to Tax;
- (ii) extraordinary items, exceptional items and other non-operating items;

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(iii) insurance claims; and

(iv) any interest owing to that Borrower.

**"Current Liabilities"** means the aggregate of all liabilities (including trade creditors, accruals and provisions) of any Borrower expected to be settled within twelve months from the date of computation but excluding amounts in respect of:

- (i) liabilities for Borrowings and Net Finance Charges;
- (ii) liabilities for tax on profits;
- (iii) extraordinary items, exceptional items and other non-operating items;
- (iv) liabilities in relation to dividends declared but not paid by that Borrower to the extent owed to a person which is not a member of the Group.

**"Contributed Equity"** means the aggregate of (i) total registered capital of any Borrower that has been paid in by its immediate shareholder; and (ii) the Existing Shareholder Loan (WGQ).

**"Debt Service"** means, in respect of any Relevant Period, the aggregate of:

- (i) Net Finance Charges for that Relevant Period;
- (ii) all scheduled repayments of Borrowings (as reduced by any voluntary or mandatory prepayments) falling due during that Relevant Period but excluding any amounts falling due under any overdraft or revolving facility and which were available for simultaneous redrawing according to the terms of that facility; and
- (iii) the amount of the capital element of any payments in respect of that Relevant Period payable under any finance lease or capital lease entered into by any Borrower,

and for the avoidance of doubt, the calculation of the Debt Service shall exclude all scheduled finance charges and scheduled payments under or in connection with the Selected Finance Lease Agreements in respect of that Relevant Period.

**"Debt Service Coverage Ratio"** or **"DSCR"** means the ratio of Cashflow to Debt Service (both calculated on a consolidated basis of the Borrowers) in respect of any Relevant Period.

**"Debt to Equity Ratio"** or **"DER"** means, in respect of any Relevant Period, the ratio of Total Debt on the last day of that Relevant Period (calculated on a consolidated basis of the Borrowers) to Contributed Equity of the Borrowers on the same day.

**"EBIT"** means, for any Relevant Period, the operating profits of any Borrower (or the Ultimate Parent for the purpose of Clause 23.15 (*Dividends*) only) before taxation for that Relevant Period:

- (i) **before deducting** any Net Finance Charges;
- (ii) **before taking into account** any items treated as exceptional or extraordinary items,

in each case, to the extent deducted or taken into account, as the case may be, for the purposes of determining the profits of any Borrower from ordinary activities before taxation.

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“**EBITDA**” means, for any Relevant Period, EBIT for that Relevant Period **before deducting** any amount attributable to amortisation of goodwill or depreciation of tangible assets and for the avoidance of doubt, the calculation of EBITDA shall include all scheduled finance charges and scheduled payments under or in connection with the Selected Finance Lease Agreements in respect of that Relevant Period.

“**Excess Cashflow**” means:

- (i) in respect of EDC WGQ, for any period for which it is being calculated, the aggregate of opening cash balances of the Receiving Account (WGQ), the Operations Account (WGQ) and Cashflow in respect of Project SH1 for that period less (except to the extent already deducted in calculating Cashflow):
  - (A) the Debt Service in respect of EDC WGQ of that period;
  - (B) any Capital Expenditure in respect of Project SH1 actually made in cash during that Relevant Period by EDC WGQ;
  - (C) any amount funded or to be funded in the Debt Service Reserve Account (WGQ); and
  - (D) RMB 10,000,000.
- (ii) in respect of EDC YG, for any period for which it is being calculated, the aggregate of opening cash balances of the Receiving Account (YG), the Operations Account (YG) and Cashflow in respect of Project SH2, Project SH3 and (if applicable) Project SH4 for that period less (except to the extent already deducted in calculating Cashflow):
  - (A) the Debt Service in respect of EDC YG of that period;
  - (B) any Capital Expenditure in respect of the Projects (other than Project SH1) actually made in cash during that Relevant Period by EDC YG;
  - (C) any amount funded or to be funded in the Debt Service Reserve Account (YG); and
  - (D) RMB 20,000,000;

“**Financial Quarter**” means the period commencing on the day after one Quarter Date and ending on the next Quarter Date.

“**Financial Year**” means the annual accounting period of any Borrower ending on or about 31 December in each year.

“**Gross Leverage Ratio**” means, in respect of any Relevant Period, the ratio of Total Debt on the last day of that Relevant Period to EBITDA in respect of that Relevant Period (for the purpose of Clause 23.15 (*Dividends*) only, in the case of the Ultimate Parent, the Total Debt and EBITDA shall be calculated on a consolidated basis of the Group).

“**Interest Coverage Ratio**” or “**ICR**” means the ratio of Cashflow to Net Finance Charges (both calculated on a consolidated basis of the Borrowers) in respect of any Relevant Period.

“**Net Finance Charges**” means, for any Relevant Period, the aggregate amount of interest, default interests, commission, fees, discounts, prepayment penalties or premiums and other finance

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payments in respect of Borrowings whether accrued, paid or payable and whether or not capitalised by any Borrower in respect of that Relevant Period:

- (i) **including** the interest element of leasing and hire purchase payments;
- (ii) **including** any amounts paid, payable or accrued by that Borrower to counterparties under any interest rate hedging instrument;
- (iii) **deducting** any amounts paid, payable or accrued by counterparties to that Borrower under any interest rate hedging instrument; and
- (iv) **deducting** any interest paid, payable to or accrued to the benefit of that Borrower on any deposit or bank account.

“**Quarter Dates**” means each of 31 March, 30 June, 30 September and 31 December of each calendar year (each a “**Quarter Date**”).

“**Relevant Period**” means each period of twelve Months ending on any Test Date.

“**Selected Finance Lease Agreements**” (i) the Lease Agreements; and (ii) any other document designated as such by the Facility Agent and the Obligors’ Agent.

“**Test Date**” means each Quarter Date starting from (inclusive) the earliest test date as provided in Clause 22.2 (*Financial conditions*).

“**Total Debt**” means at any time the aggregate amount of all obligations of any Borrower (or the Ultimate Parent for the purpose of Clause 23.15 (*Dividends*) only) for or in respect of Borrowings and so that no amount shall be included or excluded more than once, and for the avoidance of doubt, the calculation of the Total Debt for any Borrower shall exclude obligations under or in connection with the Selected Finance Lease Agreements.

“**Working Capital**” means, on any date, Current Assets less Current Liabilities.

## 22.2 Financial conditions

The Borrowers shall ensure that:

- (a) *DSCR*. DSCR in respect of any Relevant Period ending on or after 31 December 2017, shall not be less than 1.1:1.
- (b) *Gross Leverage Ratio*. Gross Leverage Ratio of any Relevant Period ending:
  - (i) on or after 31 December 2017, shall not be more than 5.50:1;
  - (ii) on or after 30 June 2018, shall not be more than 5.00:1;
  - (iii) on or after 31 December 2018, shall not be more than 4.00:1;
  - (iv) on or after 31 December 2019, shall not be more than 3.00:1;
  - (v) on or after 31 December 2020, shall not be more than 2.00:1.

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- (c) *DER*. DER in respect of any Relevant Period ending on or after 30 September 2016, shall not be more than 65:35.
- (d) *ICR*. ICR in respect of any Relevant Period ending:
  - (i) on or after 30 September 2017, shall not be less than 1.50:1;
  - (ii) on or after 31 March 2018, shall not be less than 2.00:1;
  - (iii) on or after 30 September 2018, shall not be less than 3.00:1;
  - (iv) on or after 31 March 2019, shall not be less than 4.00:1;
  - (v) on or after 30 September 2019, shall not be less than 5.00:1
- (e) *Capital Expenditure*: during the life of the Loans, the aggregate Capital Expenditure:
  - (i) in respect of Project SH1, shall not exceed 110% of RMB 623,000,000;
  - (ii) in respect of Project SH2, shall not exceed 110% of RMB 383,000,000;

(iii) in respect of Project SH3, shall not exceed 110% of RMB 617,000,000; and

(iv) in respect of Project SH4, shall not exceed the amount to be agreed between the Facility Agent and the Borrowers.

### 22.3 Financial Testing

The financial covenants set out in Clause 22.2 (*Financial conditions*) shall be tested by reference to the financial statements and Compliance Certificates delivered pursuant to Clause 21.2 (*Compliance Certificate*) in respect of the Relevant Period, except that, in respect of Project SH4, all the financial covenants set out herein will only be tested after 12 Months falling the Project SH4 Completion.

## 23. GENERAL UNDERTAKINGS

The undertakings in this Clause 23 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.

### 23.1 Authorisations

(a) Each Obligor shall (and shall ensure the other members of the Group will) promptly obtain, comply with and do all that is necessary to maintain in full force and effect; and supply certified copies to the Facility Agent of, any Authorisation required:

- (i) to enable it to perform its obligations under the Finance Documents to which it is a Party;
- (ii) to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document;
- (iii) to enable the Projects to be constructed, carried out and completed; and
- (iv) to carry on its business and operations.

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(b) Each Obligor shall ensure GDS Beijing, GDS Suzhou, GDS Shanghai and EDC WGQ (to the extent applicable) will successfully pass all annual inspections in respect of relevant IDC License(s) and relevant renewed IDC License(s) organized by MIIT or other Governmental Agencies pursuant to the PRC laws and shall ensure each of GDS Beijing, GDS Suzhou, GDS Shanghai and EDC WGQ (to the extent applicable) will successfully maintain in full force and effect and renew relevant IDC License with MIIT or other Governmental Agencies upon expiry of a IDC License.

### 23.2 Compliance with laws

Each Obligor shall (and shall ensure GDS HK and GDS Shanghai and other members of the Group will) comply in all respects with all laws to which it may be subject, if failure so to comply would be likely to have a Material Adverse Effect.

### 23.3 Pari passu ranking

Each Obligor shall ensure that the payment obligations of each Obligor Party under the Finance Documents 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.

### 23.4 Negative pledge

In this Clause 23.4, "**Quasi-Security**" means an arrangement or transaction described in paragraph (c) below.

(a) None of any Obligor (other than the Ultimate Parent) shall (and the Borrowers shall ensure no member of the Borrower Group shall) create or permit to subsist any Security over any of its assets (tangible or intangible, including IDC Licenses).

(b) Each Obligor shall ensure that no Security exists or will be created or permitted to subsist over any equity interests in any of each Borrower, GDS Management Co., GDS Beijing or GDS Suzhou.

(c) None of any Obligor (other than the Ultimate Parent) shall (and the Borrowers shall ensure no member of the Borrower Group shall):

- (i) sell, transfer or otherwise dispose of any of its assets (tangible or intangible, including IDC Licenses) on terms whereby they are or may be leased to or re-acquired by an Obligor 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.

(d) Paragraphs (a), (b) and (c) above do not apply to:

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- (i) the VIE Equity Pledges;
- (ii) any Security or Quasi-Security created pursuant to any Finance Documents;
- (iii) prior to the First Utilisation Date, the Original Securities;
- (iv) the Existing Pledge over Receivables (GDS Suzhou-Bank of Ningbo) which shall be discharged and released in accordance with this Agreement;
- (v) any Security or Quasi-Security created over any receivables of GDS Beijing or GDS Suzhou in relation to any data center business between GDS Beijing or GDS Suzhou and any other member of the Group (other than those related to the Projects and the Borrowers);
- (vi) any Security or Quasi-Security over any Customer Assets, **provided that** the Customer Assets shall not be used to secure any other Financial Indebtedness of any member of the Group or any other person;
- (vii) any netting or set-off arrangement entered into by any member of the Borrower Group, GDS Suzhou or GDS Beijing in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
- (viii) 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;
- (ix) any Security or Quasi-Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to any member of the Borrower Group, GDS Suzhou or GDS Beijing in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by any member of the Borrower Group, GDS Suzhou or GDS Beijing; and
- (x) any Security or Quasi-Security created or subsisting with the written consent of the Facility Agent (acting on the instructions of the Majority Lenders),

in each case the above exceptions shall not be construed to permit any Security over the IDC Licenses or equity interests in any Borrower, GDS Management Co., GDS Suzhou or GDS Beijing (other than the VIE Equity Pledges).

### 23.5 Disposals

(a) No Obligor shall (and the Borrowers shall ensure no member of the Borrower 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.

(b) Paragraph (a) above does not apply to any sale, lease, transfer or other disposal:

- (i) made in the ordinary course of trading;
- (ii) in respect of the members of the Borrower Group only,

- (A) of assets in exchange for other assets comparable or superior as to type, value and quality and for a similar purpose;
- (B) of assets made by any Borrower on arms-length terms and the proceeds of which will be used to prepay the Loans in accordance with Clause 8.3 (*Disposal proceeds*); or
- (C) 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 the members of the Borrower Group, other than any permitted under paragraphs (A) to (B) above) does not exceed RMB 10,000,000 (or its equivalent in another currency or currencies) in any Financial Year.

### 23.6 Merger

Each Obligor shall (and the Borrowers shall ensure other members of the Borrower Group will) not enter into any amalgamation, demerger, merger or corporate reconstruction except for the restructuring of GDS Management Co. to be a PRC holding company of the Group, provided that such restructuring arrangement shall be reviewed and agreed by all the Lenders in advance.

### 23.7 Change of business

Each Obligor shall procure that no substantial change is made to the general nature of the business of themselves as well as the Group from that carried on at the date of this Agreement.

### 23.8 Group Business

Each Obligor shall ensure that the GDS Management Co. is set up for the primary purpose of controlling GDS Beijing, GDS Suzhou and EDC WGQ and other PRC companies (if any) that hold value-added telecommunications business operating licenses, and there is no substantial change of the GDS Management Co.'s business since it is incorporated.

### 23.9 Environmental compliance

Each Obligor shall (and shall ensure that all other members 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.

### 23.10 Environmental Claims

Each Obligor shall inform the Facility 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 its knowledge and belief) is threatened against any Obligor Party or any other 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 Obligor Party or any other member of the Group,

in each case where such Environmental Claim might reasonably be expected, if determined against that Obligor Party or that member of the Group, to have a Material Adverse Effect.

### 23.11 Acquisitions

No Borrower shall (and shall ensure no members of the Borrower Group will) acquire any company, business, assets or undertaking or make any investment.

### 23.12 Loans and guarantees

- (a) None of any Obligor (other than the Ultimate Parent) shall (and the Borrowers shall ensure no member of the Borrower Group shall) make or allow to subsist any loans, grant any credit 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 (for the avoidance of doubt, including but not limited to any member of the Group) or otherwise voluntarily assume any liability, whether actual or contingent, in respect of any obligation of any person (for the avoidance of doubt, including but not limited to any member of the Group).
- (b) Paragraph (a) above does not apply to:
  - (i) the Existing Inter-company Loans (Project SH1) and Existing Inter-company Loans (Project SH2);
  - (ii) the Original Bank Loan A and the Original Bank Loan B;
  - (iii) the Existing Bank Loans (GDS Suzhou);
  - (iv) the Existing Shareholder Loan (WGQ);
  - (v) the inter-company loan between GDS Beijing, GDS Suzhou, GDS Shanghai or EDC WGQ and EDC WGQ or EDC YG (as the case may be) in relation to GDS Beijing Trapped Amount, GDS Suzhou Trapped Amount, GDS Shanghai Trapped Amount or EDC WGQ Trapped Amount under the Inter-company Loan Agreements (if any);
  - (vi) loans, guarantees, indemnities, bonds and letters of credit under or expressly permitted by the Finance Documents;
  - (vii) a loan up to RMB 300,100,000 granted and to be granted by GDS Management Co. to William Huang and Qiuping Huang under the VIE Contracts;
  - (viii) any inter-company loans made by GDS Beijing, GDS Suzhou or GDS Management Co. to any member of the Group which operates any data centre in relation to any receivables (other than those related to the Projects) of GDS Beijing, GDS Suzhou or GDS Management Co., as the case may be;
  - (ix) any guarantees granted by GDS Beijing or GDS Management Co. in favour of its customers in respect of performance obligations of a Borrower or a member of the Group which operates a data center under the relevant Borrower Service Contracts or the service contracts in relation to data center business to which that member is a party;
  - (x) any guarantees granted by GDS Beijing in favour of other financial institutions in respect of any financing incurred by any member of the Group which established a data center

operation business with GDS Beijing similar to the arrangements under the relevant Back-to-Back Agreements, in each case under the similar financing structure contemplated under the Finance Documents; and

- (xi) any inter-company loans made, or any guarantees granted, by GDS Management Co. as a result of or in connection with the cross-border and domestic cash management activities (including but not limited to the cross-border and domestic cash pooling arrangement).

### 23.13 Financial Indebtedness

- (a) None of the Obligors (other than the Ultimate Parent) shall (and the Borrowers shall ensure no member of the Borrower Group shall) incur or permit to remain outstanding any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to:
  - (i) the loans provided to GDS Beijing, GDS Suzhou and/or GDS Management Co., provided that the aggregate amount of the outstanding principals of such loans does not exceed RMB 650,000,000;
  - (ii) any Financial Indebtedness incurred pursuant to any Finance Documents;
  - (iii) any Restricted Inter-company Loan;

- (iv) any inter-company loans made to GDS Management Co. as a result of or in connection with the cross-border and domestic cash management activities (including but not limited to the cross-border and domestic cash pooling arrangement; and
- (v) any scheduled finance charges and scheduled payments under or in connection with the Selected Finance Lease Agreements.

#### 23.14 Group Structure

Each Obligor shall procure that no change is made to the Group Structure Chart that might reasonably be expected to have a Material Adverse Effect (other than the restructuring of GDS Management Co. to be the PRC holding company of the Group which shall not have a Material Adverse Effect).

#### 23.15 Dividends

- (a) No Obligor shall:
  - (i) make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its equity interests;
  - (ii) repay or distribute any dividend or equity premium reserve;
  - (iii) redeem, repurchase, defease, retire or repay any of its equity interests.
- (b) Paragraph (a) above does not apply to:

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- (i) the dividend distributions to be made by GDS Suzhou to GDS Beijing;
- (ii) the dividend distributions to be made by GDS Management Co. to its shareholder as permitted by applicable laws and regulations; and
- (iii) the dividend distributions to be made by the Ultimate Parent to its shareholders, provided that the Ultimate Parent has provided the Facility Agent with a certificate in form and substance satisfactory to the Facility Agent evidencing that: (A) no Default or Event of Default occurs, (B) the payment of such dividend distributions may only generate from the Ultimate Parent's share premium reserve, net profit or retained earnings (determined by the applicable GAAP) but nonetheless shall at all times be no more than 50% of the net profit after tax (determined by the applicable GAAP) of that relevant Financial Year, and (C) such dividend distributions shall not result in the Gross Leverage Ratio of the Ultimate Parent to exceed 4.00:1.

#### 23.16 Service fee

Each Obligor shall procure that the service fee is paid by a Borrower to GDS Suzhou and/or GDS Management Co. in accordance with the Service Agreements, and the service fee paid or payable by a Borrower to GDS Suzhou and/or GDS Management Co. in one Financial Year shall not exceed (a) 0.2 per cent. of the total annual revenue of that Borrower of that Financial Year, or (b) 7% of labor costs in the Budget of that Financial Year (whichever is the lower) as approved by all the Lenders.

#### 23.17 Insurances

Each Borrower shall comply with the insurance requirements set out in Schedule 7 (*Insurances*).

#### 23.18 Treasury transaction

- (a) Other than paragraph (b) and (c) below, no Borrower shall enter (or agree to enter) into any treasury transaction unless otherwise agreed by the Facility Agent in writing.
- (b) After the date of this Agreement, a Borrower may enter into a hedging transaction in connection with this Agreement with any financial institutions and the Lenders shall have the right of first refusal to enter into such hedging transaction with that Borrower, provided that,
  - (i) such hedging transaction is an interest rate swap in relation to the interest rate under this Agreement, and/or a currency swap in relation to all or certain portion of the amount of the Loans outstanding then; and
  - (ii) such hedging transaction is only for the purpose of hedging interest risk or currency conversion risk of that Borrower under this Agreement, and in any case shall not be for speculation purpose.
- (c) Without prejudice to paragraph (b) above, if a financial institution is to share the Transaction Security, that Borrower must ensure:
  - (i) that financial institution must be a Lender, and accede to this Agreement by delivering to the Facility Agent an Accession Letter as a hedging provider (the "**Hedging Provider**");

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- (ii) all Hedging Arrangements shall at all times be in form and substance satisfactory to the Facility Agent;
- (iii) the Hedging Arrangements are assigned to or otherwise secured in favour of, and in a manner acceptable to, the Security Agent; and
- (iv) any amount payable to the Hedging Providers ranks *pari passu* with all other amounts owed to any Finance Party under the Finance Documents and is secured by the Transaction Security Documents.

#### 23.19 Arm's length terms

No Obligor shall (and shall procure no member of the Group will) enter into any transaction with any person except on arm's length terms.

#### 23.20 Subordinated loans

Except for the Original Bank Loan A and the Original Bank Loan B, no Borrower shall:

- (a) repay or prepay any principal amount (or capitalised interest) outstanding under any Restricted Inter-company Loan;
- (b) pay any interest, fee or charge accrued or due on any Restricted Inter-company Loan (for avoidance of doubt, this includes the Existing Shareholder Loan (WGQ)); or
- (c) purchase, redeem, defease or discharge any of any Restricted Inter-company Loan.

#### 23.21 Project SH3 Completion

- (a) The Borrowers shall procure that Project SH3 Completion occurs by no later than the Project SH3 Completion Date.
- (b) The Borrowers shall procure that the trial operation of the Project SH3 (if any, as required by the relevant customers) will not be later than 120 days after the Project SH3 Completion Date.

#### 23.22 Project Documents

- (a) Each Borrower, GDS Suzhou and GDS Beijing shall and shall procure GDS HK and GDS Shanghai to:
  - (i) exercise its rights and comply with its obligations under each Project Document to which it is a party;
  - (ii) ensure (so far as this is within its control) that each other party to a Project Document exercises its rights and complies with its obligations under that Project Document, in a proper and timely manner consistent with its obligations under the Finance Documents.
- (b) None of the Borrowers, GDS Suzhou or GDS Beijing shall agree to, and each Obligor shall procure GDS HK and GDS Shanghai not to:
  - (i) materially amend or waive;

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- (ii) assign or transfer;
  - (iii) terminate, suspend or abandon; or
  - (iv) enter into any other contracts, agreements or arrangements which may be contradictory to, all or any part of a Project Document without the Facility Agent's prior written consent.
- (c) Upon entry into any new Project Document after the date of this Agreement, the Borrowers, GDS Suzhou and GDS Beijing shall and shall procure GDS HK and GDS Shanghai to promptly provide the Facility Agent with such new Project Document and each of them shall ensure, subject to paragraphs (d) and (e) below, that:
- (i) each of such new Project Document provided to the Facility Agent is true and complete;
  - (ii) there is no other agreement in connection with, or arrangement which amend, supplement or affect any such new Project Document;
  - (iii) each of the Service Contracts in relation to Project SH1 stipulates that all amounts payable to EDC WGQ, GDS Beijing, GDS Suzhou, GDS HK or GDS Shanghai (as the case may be) by the customer thereunder must be directly and immediately paid into the Receiving Account (WGQ), the Receiving Account (GDS Beijing-WGQ), the Receiving Account (GDS Suzhou-WGQ), the Receiving Account (GDS HK-WGQ) and the Receiving Account (GDS Shanghai-WGQ) (as the case may be);
  - (iv) each of the Service Contracts in relation to Project SH2 stipulates that all amounts payable to EDC YG, GDS Beijing, GDS Suzhou, GDS HK or GDS Shanghai (as the case may be) by the customer thereunder must be directly and immediately paid into the Receiving Account (YG), the Receiving Account (GDS Beijing-YG), the Receiving Account (GDS Suzhou-YG), the Receiving Account (GDS HK-YG) and the Receiving Account (GDS Shanghai-YG) (as the case may be);
  - (v) there are no claims pending or threatened against it under any of such new Project Document;
  - (vi) it has not breached any of its material obligations under such new Project Document and there is no dispute in connection with any such new Project Document, in each case, which has or is reasonably likely to have a Material Adverse Effect; and
  - (vii) it shall not enter into any other contracts, agreements or arrangements which may be contradictory to such new Project Documents.
- (d) Upon entry into any new Service Contracts after the date of this Agreement, the Borrowers, GDS Suzhou and GDS Beijing (as the case may) shall, and shall procure GDS HK and GDS Shanghai (as the case may) to promptly provide the Facility Agent with such new Service Contracts together with evidence that such new Service Contracts have been covered under the Back-to-Back Agreements.
- (e) If, after the date of this Agreement, any Borrower, GDS Suzhou, GDS Beijing, GDS HK and GDS Shanghai enter into any new Back-to-Back Agreements or make any amendment to the Back-to-Back Agreements that have been provided to the Facility Agent, that Borrower, GDS Suzhou and GDS Beijing (as the case may) shall, and shall procure GDS HK and GDS Shanghai (as the case may)

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to ensure each new or amended Back-to-Back Agreement shall reflect all terms and conditions under the Service Contracts that they have entered into, in each case such new or amended Back-to-Back Agreements shall be in substance and form satisfactory to the Facility Agent, and upon execution of any new Back-to-Back Agreement or any amendment, promptly provide its certified copy to the Facility Agent.

- (f) If a Borrower becomes aware that the Landlord decides to unilaterally terminate the relevant Lease Agreements to which it is a party, that Borrower shall immediately notify the Facility Agent.
- (g) EDC WGQ shall, prior to 31 December 2019, reach an agreement with the Landlord with respect to the Lease Agreement in relation to Project SH1 to extend the tenancy for a period no less than 10 years and with other terms and conditions satisfactory to the Term Loan Lenders.

#### 23.23 Contract Novation

- (a) Each Obligor shall procure the Contract Novation to be completed before 28 October 2016. Following the Contract Novation, each Obligor shall procure the relevant Assignee Group Member (other than EDC WGQ) to enter into relevant back-to-back agreement with EDC WGQ or EDC YG (as case may be) and to enter into relevant supplemental agreement to the relevant pledge over receivables.
- (b) Each Obligor shall procure GDS HK, in no events later than 28 October 2016, to deliver the notification letters in form and substance satisfactory to all Lenders to all customers under GDS HK Service Contracts pursuant to which the receiving account in respect of GDS HK Service Contracts shall be changed to the Receiving Account (GDS HK-WGQ) or the Receiving Account (GDS HK-YG) (as the case may be).
- (c) Notwithstanding the above, if any amounts payable by the customers under GDS HK Service Contracts are paid into any bank accounts other than the Receiving Accounts, each Obligor shall procure that such amounts to be immediately transferred to relevant Receiving Accounts.

#### 23.24 Business Plan for Project SH4

- (a) EDC YG shall ensure that the Business Plan in relation to Project SH4 will be submitted to the Facility Agent for approval not later than ninety (90) days prior to the Facility D Commitment Date.
- (b) EDC YG shall ensure the Business Plan in relation to Project SH4 (whether draft or otherwise) as at its date:
  - (i) is true and accurate in all material respects;
  - (ii) is prepared in good faith and with due care on the basis of recent historical information and assumptions believed by it to be reasonable; and
  - (iii) fairly represented EDC YG's expectations in relation to the matters covered in those documents.
- (c) EDC YG shall ensure it is not aware of any information which, if disclosed, would make the Business Plan in relation to Project SH4 untrue or misleading in any material respect at the date of delivery to the Facility Agent.

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- (d) EDC YG shall ensure that the Business Plan in relation to Project SH4 specifies (at the date of delivery to the Facility Agent) all material costs and expenses incurred or to be incurred during the period to which it relates and is based on reasonable assumptions made in good faith and represents EDC YG's view as to costs and expenses anticipated by it to be incurred.

#### 23.25 Acknowledgement

Each Obligor (other than the Ultimate Parent and the GDS Management Co.) shall use its best endeavours to provide to the Facility Agent acknowledgements from their customers on the Notification Letters which have been delivered pursuant to paragraphs 2(f)(v), 2(f)(vi), 2(g), 3(h)(iv), and 3(i) in Part VI (*Conditions Subsequent*) of Schedule 2 (*Conditions precedent and conditions subsequent*).

#### 23.26 Operation and maintenance

- (a) In this Clause "Good Industry Practice" means the exercise of the degree of skill, care and operating practice which would reasonably and ordinarily be expected from a skilled and experienced person engaged in the same type of undertaking as a member of the Group under the same or similar circumstances.
- (b) Each Obligor shall (and shall procure other members of the Group will) diligently operate and maintain, or ensure the diligent operation and maintenance of, each Project and all of its other assets in a safe, efficient and business-like manner and in accordance with the Good Industry Practice.

#### 23.27 Application of FATCA

Each Obligor shall procure that it shall not (and ensure no Obligor Party will) become a FATCA FFI or a US Tax Obligor.

#### 23.28 Sanctions

No Obligor shall (and shall procure no members of the Group will) contribute or otherwise make available all or any part of the proceeds of the Facilities, directly or indirectly, to, or for the benefit of, any person (whether or not related to any member of the Group) for the purpose of financing the activities of, transactions with, or investments in, any Sanctions Person, to the extent such action or status is prohibited by, or would itself cause any Finance Party or a member of the Group to be in breach of, any Sanctions.

#### 23.29 Anti-bribery law, anti-corruption law and anti-money laundering law

Each Obligor shall (and shall ensure that all other members of the Group will) comply in all respects with all anti-bribery laws, anti-money laundering laws and anti-corruption laws where failure to so comply would have or would be reasonably likely to have a Material Adverse Effect.

### 23.30 CBRC Rules

Each Obligor shall, and shall ensure that all other members of the Group shall, comply in all material respects with the CBRC Rules, any amendments and/or supplements to the CBRC Rules to the extent applicable, and all further and/or supplemental laws and/or regulations (relating to any of the subject matters of the CBRC Rules) to which it is subject from time to time, and shall do or permit to be

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done any acts or provide any assistance which the Facility Agent may require pursuant to CBRC Rules for the purpose of complying with the CBRC Rules by any of Finance Parties.

### 23.31 Further assurance

- (a) Each Obligor shall (and shall procure that other Obligor Parties will) promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, pledge, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):
- (i) to perfect the Security created or intended to be created under or evidenced by the Transaction Security Documents (which may include the execution of a mortgage, assignment, pledge or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of the Security Agent or the Secured Parties provided by or pursuant to the Transaction Documents or by law;
  - (ii) to confer on the Security Agent or confer on the Secured Parties Security over any property and assets of that Obligor Party located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Transaction Security Documents; and/or
  - (iii) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Transaction Security.
- (b) Each Obligor shall (and shall procure that other Obligor Parties will) take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Secured Parties by or pursuant to the Transaction Documents.

### 23.32 Offshore Transaction Security

Subject to applicable PRC laws and regulations, each Borrower:

- (a) shall register the foreign debt and conduct relevant information filing with the local SAFE within fifteen (15) Business Days after enforcement of any Offshore Transaction Security and, at the request of the Facility Agent, provide the Facility Agent with the said foreign debt registration or filing documents as soon as practicable;
- (b) shall procure the amount of the principal of the indebtedness owed to any guarantor or security provider as a result of enforcement of any Offshore Transaction Security by the Secured Parties shall not exceed its audited net assets at the end of the year prior to such enforcement and its approved available foreign debt quota, or other available foreign debt quota permitted by the applicable laws regulations (the "Available Foreign Debt Quota");
- (c) shall immediately inform the Facility Agent of any insufficiency of Available Foreign Debt Quota;
- (d) undertakes that it does not have any outstanding indebtedness owed to any guarantor or security provider as a result of enforcement of any offshore security or guarantee securing onshore loans borrowed by it ("Wai Bao Nei Dai" (□□□□)) which has not been paid up;

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- (e) shall forthwith notify the Facility Agent if there is any outstanding indebtedness owed by it to the relevant guarantor or security provider incurred as a result of enforcement of any Wai Bao Nei Dai which has not been paid up whereupon the Secured Parties will have right to suspend new drawdown;
- (f) at the request of the Facility Agent, forthwith provide the Facility Agent with necessary information and material of the details of any offshore security or guarantee, default of any offshore underlying transaction, foreign debt registration, repayment of offshore debt and other matters in relation to which it conducts registration for other offshore guarantors or security providers under Wai Bao Nei Dai. Such information and material shall be true, accurate and integrated;
- (g) shall not sign any offshore guarantee or security which constitutes Wai Bao Nei Dai (□□□□) where it knows or should know the certainty of enforcement of such offshore guarantee or security; and
- (h) undertakes that it complies with each requirement of SAFE and other regulators in relation to the offshore security/guarantee which constitutes Wai Bao Nei Dai (□□□□) and will follow the instruction of the Facility Agent to take or not take any action or render any cooperation and assistance.

### 23.33 Release Agreements

The Obligors shall (i) enter into, and procure each party thereto to enter into the Release Agreements, and (ii) ensure the Release Agreements will take effective on the first Utilisation Date under this Agreement.

### 23.34 Further Release of Pledge over Receivables (GDS Suzhou-Ping An Bank)

The Obligors shall, and shall procure the pledgee under the Pledge over Receivables (GDS Suzhou-Ping An Bank) to carry out the deregistration/alteration registration with PBOC Information Center by 31 January 2017 so that to ensure the Pledge over Receivables (GDS Suzhou-Ping An Bank) being duly and completely deregistered and released with PBOC Information Center.

### 23.35 Lease Assignment for Project SH3

EDC WGQ shall, within 60 days from Project SH3 Completion, enter into a sublease agreement or an assignment of rights and obligations with EDC YG whereby EDC YG will ultimately assume the tenancy under the Lease Agreement in relation to Project SH3.

## 24. EVENTS OF DEFAULT

Each of the events or circumstances set out in the following sub-clauses of this Clause 24 (other than Clause 24.21 (*Acceleration*)) is an Event of Default.

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### 24.1 Non-payment

An Obligor Party does not pay on the due date any amount payable pursuant to a Material Credit Document at the place and in the currency in which it is expressed to be payable, unless the non-payment is caused by:

- (a) an administrative or technical error and is remedied within 3 Business Days of its due date; or
- (b) a Disruption Event and is remedied within 3 Business Days of its due date.

### 24.2 Financial covenants

Any requirement of Clause 22 (*Financial covenants*) is not satisfied.

### 24.3 Other obligations

- (a) An Obligor Party does not comply with Clause 3 (*Purpose*), Clause 5.5 (*Advance of Loans*) or Clause 23 (*General undertakings*) of this Agreement;
- (b) GDS Beijing or any Borrower ceases to remain consolidated under the consolidated financial statements of the Ultimate Parent;
- (c) any Obligor Party does not comply with any other provision of the Material Credit Documents (other than those referred to in Clause 24.1 (*Non-payment*), Clause 24.2 (*Financial covenants*), Clause 24.19 (*Conditions subsequent*) and paragraph (a), (b) above) to which it is a party unless the non-compliance is capable of remedy and is remedied within 7 days of the earlier of (i) the Facility Agent giving notice to the Obligors' Agent of the failure to comply; or (ii) any Obligor Party becoming aware of the failure to comply.

### 24.4 Misrepresentation

Any representation or statement made or deemed to be made by an Obligor Party in the Material Credit Documents or any other document delivered by or on behalf of any Obligor Party under or in connection with any Material Credit 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 is capable of remedy



and is remedied within 7 days of the earlier of (i) the Facility Agent giving notice to the Obligors' Agent of such misrepresentation; or (ii) any Obligor Party becoming aware of such misrepresentation.

#### 24.5 Cross default

(a) Other than as provided in paragraph (b) below:

- (i) any Financial Indebtedness of any Obligor Party or any other member of the Group is not paid when due nor within any originally applicable grace period;
- (ii) any Financial Indebtedness of any Obligor Party or any other 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);

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(iii) any commitment for any Financial Indebtedness of any Obligor Party or any other 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); or

(iv) any creditor of any Obligor Party or any other 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).

(b) No Event of Default will occur under the paragraph (a) of this Clause 24.5, if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (i) to (iv) above is less than RMB 50,000,000 (or its equivalent in any other currency or currencies).

(c) Any default or event of default (however described) under the Hedging Arrangements.

#### 24.6 Insolvency

(a) An Obligor Party or any other member of the Group 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 with a view to rescheduling any of its indebtedness.

(b) A moratorium is declared in respect of any indebtedness of any Obligor Party or any other member of the Group.

#### 24.7 Insolvency proceedings

(a) Any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (i) 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 any Obligor Party or any other member of the Group other than a solvent liquidation or reorganisation of any member of the Group which is not an Obligor Party;
- (ii) a composition or arrangement with any creditor of any Obligor Party or any other member of the Group, or an assignment for the benefit of creditors generally of any Obligor Party or any other member of the Group or a class of such creditors;
- (iii) the appointment of a liquidator (other than in respect of a solvent liquidation of a member of the Group which is not an Obligor Party), receiver, administrator, administrative receiver, compulsory manager, provisional supervisor or other similar officer in respect of any Obligor Party or any other member of the Group or any of its assets; or
- (iv) enforcement of any Security over any assets of any Obligor Party or any other member of the Group,

or any analogous procedure or step is taken in any jurisdiction.

(b) The above paragraph (a) shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 30 days of commencement.

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#### 24.8 Creditors' process

Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of any Obligor Party having an aggregate value of RMB 30,000,000 and is not discharged within 14 days.

#### 24.9 Litigation

Any litigation, arbitration or administrative proceedings are current or, to the Obligor Parties' knowledge pending or threatened against any of Obligor Parties, if adversely determined, are reasonably likely to have a Material Adverse Effect.

#### 24.10 Unlawfulness

(a) It is or becomes unlawful for an Obligor Party to perform any of its obligations under the Material Credit Documents or any Transaction Security created or expressed to be created or evidenced by the Transaction Security Documents ceases to be effective.

(b) Any obligation or obligations of any Obligor Party under any Material Credit Documents are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Finance Parties under the Material Credit Documents.

(c) Any Material Credit Document ceases to be in full force and effect or any Transaction Security ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than a Secured Party) to be ineffective.

#### 24.11 Repudiation and rescission of agreements

An Obligor Party (or any other relevant party, other than a Finance Party) rescinds or purports to rescind or repudiates or purports to repudiate a Material Credit Document or any of the Transaction Security or evidences an intention to rescind or repudiate a Material Credit Document or any Transaction Security.

#### 24.12 Nationalisation and expropriation

If, pursuant to any law or governmental action:

- (a) the legal existence of any Obligor Party is terminated;
- (b) any substantial part of any of the business or operations of any Obligor Party is suspended or revoked; or
- (c) any part of the Projects or assets of any Obligor Party is seized, nationalised, attached, expropriated, divested, compulsorily acquired or suspended,

which in each case has or will have a Material Adverse Effect.

#### 24.13 Cessation of business

Any Obligor 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.

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#### 24.14 Major damage

Any part of the Projects or assets of the Borrowers are destroyed or damaged and, in the opinion of the Majority Lenders taking into account the proceeds of insurance effected under Clause 23.17 (*Insurances*) and the timing of receipt of those proceeds, the destruction or damage will have a Material Adverse Effect.

#### 24.15 Abandonment

Any Borrower, GDS Beijing or GDS Suzhou abandons all or a significant part of the Projects.

#### 24.16 Government intervention

Any Authorisation relating to the Projects or the Borrowers or any other Obligor is modified, revoked, withdrawn or cancelled and such modification, revocation, withdrawal or cancellation has or is reasonably likely to have a Material Adverse Effect.

#### 24.17 Creation of security

- (a) Any Security is created or subsists over the shares in the Ultimate Parent; or
- (b) Except for the VIE Equity Pledges, any Security is created or subsists over the equity interests in the GDS Management Co., GDS Beijing, or GDS Suzhou, in each case in a manner not consistent with provisions of this Agreement.

#### 24.18 Foreign exchange control

Any foreign exchange control policies in the Relevant Jurisdiction (whether existing as of the date of this Agreement or enacted after the date of this Agreement) would otherwise prohibit, prevent or materially delay any payment, remittance or transfer of any amount due and payable under the Material Credit Documents and the relevant Obligor and the relevant Finance Party fail to agree on a substitute permitted by applicable Governmental Rules for making such payment, remittance or transfer within 14 days upon the occurrence of such prohibition, prevention or delay.

#### 24.19 Conditions subsequent

Any Obligor Party does not deliver all of its documents and evidence set out in Part VI (*Conditions subsequent*) of Schedule 2 (*Conditions precedent and conditions subsequent*) on or prior to the relevant date specified for delivery thereof in accordance with Clause 4.4 (*Conditions subsequent documents*).

#### 24.20 Material adverse change

Any event or circumstance occurs which has or is reasonably likely to have a Material Adverse Effect.

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#### 24.21 Acceleration

On and at any time after the occurrence of an Event of Default the Facility Agent may, and shall if so directed by the Majority Lenders, by written notice to the Obligors' Agent:

- (a) without prejudice to the participations of any Lenders 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);
- (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;
- (c) declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Facility Agent on the instructions of the Majority Lenders; and/or
- (d) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

### 25. SECURITY

#### 25.1 Security Agent as holder of security

- (a) In this Clause:
  - (i) **"Security Agent Claim"** means any amount which any Obligor Party owes to the Security Agent under this Clause.
- (b) Unless expressly provided to the contrary in any Transaction Document, the Security Agent holds:
  - (i) any security created by a Transaction Security Document;
  - (ii) the benefit of any Security Agent Claims; and
  - (iii) any proceeds of security,for the benefit, and as the property, of the Secured Parties and so that they are not available to the personal creditors of the Security Agent.
- (c) The Security Agent will separately identify in its records the property rights referred to in paragraph (b) above.

#### 25.2 Responsibility

- (a) The Security Agent is not liable or responsible to any other Secured Party for:

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- (i) any failure in perfecting or protecting the security created by any Transaction Security Document; or
- (ii) any other action taken or not taken by it in connection with any Transaction Security Document, unless directly caused by its gross negligence or wilful misconduct.

- (b) The Security Agent is not responsible for:

- (i) the right or title of any person in or to, or the value of, or sufficiency of any part of the security created by the Transaction Security Documents;
- (ii) the priority of any security created by the Transaction Security Documents; or
- (iii) the existence of any other security interest affecting any asset secured under a Transaction Security Document.

#### 25.3 Title

The Security Agent may accept, without enquiry, the title (if any) an Obligor Party may have to any asset over which security is intended to be created by any Transaction Security Document.

#### 25.4 Possession of documents

The Security Agent is not obliged to hold in its own possession any Transaction Security Document, title deed or other document in connection with any asset over which security is intended to be created by a Transaction Security Document. Without prejudice to the above, the Security Agent may allow any bank providing safe custody services or any professional adviser to the Security Agent to retain any of those documents in its possession.

#### 25.5 Approval

Each Secured Party:

- (a) confirms its approval of each Transaction Security Document; and
- (b) authorises and directs the Security Agent (by itself or by such person(s) as it may nominate) to enter into and enforce the Transaction Security Documents as trustee (or agent) or as otherwise provided (and whether or not expressly in the names of the Secured Parties) on its behalf.

#### 25.6 Conflict with Transaction Security Documents

If there is any conflict between this Agreement and any Transaction Security Document with regard to instructions to, or other matters affecting, the Security Agent, this Agreement will prevail.

#### 25.7 Release of security

- (a) If a disposal of any asset subject to security created by a Transaction Security Document is made in the following circumstances:

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- (i) the Majority Lenders agree to the disposal;
- (ii) the disposal is allowed by the terms of the Transaction Documents and will not result or could not reasonably be expected to result in any Default;
- (iii) the disposal is being made at the request of the Security Agent in circumstances where any security created by the Transaction Security Documents has become enforceable; or
- (iv) the disposal is being effected by enforcement of a Transaction Security Document,

the asset(s) being disposed of will be released from any security over it created by a Transaction Security Document. However, the proceeds of any disposal (or an amount corresponding to them) shall be applied in accordance with the requirements of the Transaction Documents (if any).

- (b) Any release under this Clause will not become effective until the date of the relevant disposal or otherwise in accordance with the consent of the Majority Lenders.
- (c) If a disposal is not made, then any release relating to that disposal will have no effect, and the obligations of the Obligor Parties under the Transaction Documents will continue in full force and effect.
- (d) If the Security Agent is satisfied that a release is allowed under this Clause, (at the request and expense of the relevant Obligor Party) each Secured Party shall enter into any document and do all such other things which are reasonably required to achieve that release. Each other Secured Party irrevocably authorises the Security Agent to enter into any such document. Any release will not affect the obligations of any other Obligor Party under the Transaction Documents.

#### 25.8 Enforcement instructions

- (a) The Security Agent may refrain from enforcing the security created by a Transaction Security Document unless instructed otherwise by the Majority Lenders.
- (b) If the Security created by a Transaction Security Document becomes enforceable, the Majority Lenders may give or refrain from giving instructions to the Security Agent to enforce or refrain from enforcing that security as they see fit.
- (c) The Security Agent shall, subject to the terms of the Transaction Security Documents, enforce the Security created by a Transaction Security Document in accordance with the instructions of the Majority Lenders.
- (d) In the absence of instructions, the Security Agent may enforce the security created by a Transaction Security Document as it sees fit having regard first to the interests of the Secured Parties.
- (e) None of the Security Agent or the Secured Parties is responsible to any Obligor Party for any enforcement or failure to enforce or to maximise the proceeds of any enforcement of the security created by the Transaction Security Documents. The Security Agent or any Secured Party may cease enforcement at any time.
- (f) The Security Agent is fully protected if it acts on the instructions of the Majority Lenders in the exercise of any right, power or discretion or any matter not expressly provided for in the Transaction Security Documents.

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#### 25.9 Competing instructions to Security Agent

Any instructions given to the Security Agent by the Majority Lenders will override any conflicting instructions given by any other Party.

#### 25.10 Information

Each Secured Party and each of the Obligors shall (and the Borrowers shall ensure other Obligor Parties will) supply the Security Agent with any information that the Security Agent may reasonably specify as being necessary or desirable to enable it to perform its functions under this Clause.

#### 25.11 Perfection of security

Each of the Obligors shall (and shall ensure other Obligor Parties will), at their own costs, take any action and enter into and deliver any document which is reasonably required by the Security Agent so that a Transaction Security Document provides for effective and perfected security in favour of the Security Agent or any successor Security Agent.

#### 25.12 Proceeds of enforcement

- (a) Subject to the rights of any creditor with prior security or a preferential claim, the proceeds of enforcement of the Security under the Transaction Security Documents shall be paid to the Security Agent.
- (b) Any proceeds of enforcement of the security under the Transaction Security Documents, and any amount paid to the Security Agent under this Agreement shall be applied in the following in the order of priority set out in Clause 32.5 (*Partial payments*).

#### 25.13 Good Discharge

An acknowledgement of receipt signed by the relevant person to whom payments are to be made under this Clause will discharge the Security Agent.

#### 25.14 Non-cash distributions

If the Security Agent or any other Secured Party receives any distribution other than in cash in respect of any Secured Liability, the Secured Liabilities will not be reduced by that distribution until and except to the extent that the realisation proceeds are applied towards the Secured Liabilities.

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## SECTION 9 CHANGES TO PARTIES

### 26. CHANGES TO THE LENDERS

#### 26.1 Assignments and transfers by the Lenders

Subject to this Clause 26 and to the extent permitted under the applicable laws, 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 (in equal proportion of its rights, benefits and/or obligations in respect of each Facility) 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**").

#### 26.2 Conditions of assignment or transfer

- (a) The consent of any Borrower is not required for any assignment or transfer by a Lender pursuant to this Clause 26.
- (b) Notwithstanding paragraph (a) above, a Lender shall notify the Obligors' Agent of such assignment or transfer not later than 5 days before the assignment or transfer if there is no Event of Default which is continuing.
- (c) A transfer will be effective only if the procedure set out in Clause 26.5 (*Procedure for transfer*) is complied with.
- (d) An assignment will be effective only if the procedure and conditions set out in Clause 26.6 (*Procedure for assignment*) are complied with.

### 26.3 Assignment or transfer fee

The New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Facility Agent (for its own account) a fee of RMB 20,000.

### 26.4 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 any Obligor ;
  - (iii) the performance and observance by any Obligor Party of its obligations under the Finance Documents or any other documents; or

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- (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, 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 Obligor Party 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 Obligor Party 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 26; or
- (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor Party of its obligations under the Finance Documents or otherwise.

### 26.5 Procedure for transfer

- (a) Subject to the conditions set out in Clause 26.2 (*Conditions of assignment or transfer*) a transfer is effected in accordance with paragraph (c) below when the Facility Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Facility 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 Facility 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 and in respect of the Transaction Security each of the Obligor Parties and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and in respect of the Transaction Security and their respective rights against one another shall be cancelled (being the "**Discharged Rights and Obligations**");
- (ii) each of the Obligor Parties and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights

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and Obligations only insofar as that Obligor Party and the New Lender have assumed and/or acquired the same in place of that Obligor Party and the Existing Lender;

- (iii) the Facility Agent, the Mandated Lead Arrangers, the Security Agent, the New Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security 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 the Facility Agent, the Mandated Lead Arrangers, the Security Agent 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 26.5 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.

### 26.6 Procedure for assignment

- (a) Subject to the conditions set out in paragraph (d) below and in Clause 26.2 (*Conditions of assignment or transfer*), an assignment may be effected in accordance with paragraph (b) below when the Facility Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Facility Agent shall, subject to paragraph (d)(ii) 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) On the Transfer Date:

- (i) the Existing Lender will assign absolutely to the New Lender the rights under the Finance Documents and in respect of the Transaction Security expressed to be the subject of the assignment in the Assignment Agreement;
- (ii) the Existing Lender will be released by each Obligor Party 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 (and any corresponding obligations by which it is bound in respect of the Transaction Security); and
- (iii) the New Lender shall become a Party as a "Lender" and will be bound by obligations equivalent to the Relevant Obligations.

- (c) Lenders may utilise procedures other than those set out in this Clause 26.6 to assign their rights under the Finance Documents (but not, without the consent of the relevant Obligor Party or unless in accordance with Clause 26.5 (*Procedure for transfer*), to obtain a release by that Obligor Party from the obligations owed to that Obligor Party by the Lenders nor the assumption of equivalent obligations by a New Lender) provided that they comply with the conditions set out in paragraph (d) below.

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- (d) An assignment (whether pursuant to an Assignment Agreement or paragraph (c) above) will only be effective on:

- (i) receipt by the Facility Agent (whether in an Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Facility Agent) that the New Lender will assume the same obligations to the other Finance Parties as it would have been under if it was an Original Lender; and

- (ii) performance by the Facility Agent of all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Facility Agent shall promptly notify to the Existing Lender and the New Lender. The Facility Agent shall not be obliged to execute an Assignment Agreement delivered to it by an Existing Lender and the New Lender or any document delivered to it pursuant to paragraph (c) above 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.
- (e) The procedure set out in this Clause 26.6 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.

#### 26.7 Copy of Transfer Certificate or Assignment Agreement to Obligor's Agent

The Facility Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or an Assignment Agreement, send to the Obligor's Agent a copy of that Transfer Certificate or Assignment Agreement.

#### 26.8 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.

#### 26.9 Exclusion of Agent's liability

In relation to any assignment or transfer pursuant to this Clause 26, each Party acknowledges and agrees that the Facility 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.

#### 26.10 Security over Lenders' rights

In addition to the other rights provided to Lenders under this Clause 26, each Lender may without consulting with or obtaining consent from any Obligor Party, 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, without limitation:

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- (a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and
- (b) in the case of any Lender which is a fund, 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 an Obligor Party 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.

#### 27. CHANGES TO THE OBLIGORS

No Borrowers, GDS Suzhou or GDS Beijing may (and shall ensure no other Obligor Parties will) assign or transfer any of its rights or obligations under any Finance Document, except with the prior written consent of all the Lenders.

#### 28. DISCLOSURE OF INFORMATION

Any Secured Party may disclose:

- (a) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, insurers, insurance brokers, partners and Representatives such Confidential Information as that Secured Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is made aware 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 Transaction Documents and 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 Transaction Documents and/or one or more Obligor Parties and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
- (iii) appointed by any Secured Party or by a person to whom paragraph (b)(i) or (b)(ii) above applies to receive communications, notices, information or documents delivered

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pursuant to the Transaction Documents on its behalf (including, without limitation, any person appointed under paragraph (b) of Clause 29.18 (*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 (b)(i) or (b)(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 Secured Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 26.10 (*Security over Lenders' rights*);
- (viii) who is a Party; or
- (ix) with the consent of the Obligor's Agent;

in each case, such Confidential Information as that Secured Party shall consider appropriate if:

- (A) in relation to paragraphs (b)(i), (b)(ii) and (b)(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 (b)(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;
- (C) in relation to paragraphs (b)(v), (b)(vi) and (b)(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 Secured Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Secured 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 Transaction Documents including without limitation, in relation to the trading of participations in respect of the Transaction Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the

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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 to maintain confidentiality of the Confidential Information;

- (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 Transaction Documents and/or the Obligor Parties.

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## SECTION 10

### THE FINANCE PARTIES

#### 29. ROLE OF THE ADMINISTRATIVE PARTIES

##### 29.1 Appointment of the Facility Agent

- (a) Each of the other Finance Parties appoints the Facility Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each of the other Finance Parties authorises the Facility Agent to exercise the rights, powers, authorities and discretions specifically given to the Facility Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

##### 29.2 Appointment of the Security Agent

- (a) Each Secured Party irrevocably appoints the Security Agent to act as its agent under and in connection with the security created under the Transaction Security Documents.
- (b) Each Secured Party irrevocably authorises the Security Agent to:
- (i) perform the duties and to exercise the rights, powers, authorities and discretions that are specifically given to it under or in connection with the Transaction Security Documents, together with any other incidental rights, powers, authorities and discretions; and
  - (ii) enter into and deliver each Transaction Security Document expressed to be entered into by the Security Agent.

##### 29.3 Duties of the Facility Agent

- (a) Subject to paragraph (b) below, the Facility Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Facility Agent for that Party by any other Party.
- (b) Without prejudice to Clause 26.7 (*Copy of Transfer Certificate or Assignment Agreement to Obligors' Agent*), paragraph (a) above shall not apply to any Transfer Certificate or to any Assignment Agreement.
- (c) Except where a Finance Document specifically provides otherwise, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (d) If the Facility 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.
- (e) If the Facility 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.
- (f) The Facility Agent's duties under the Finance Documents are solely mechanical and administrative in nature.

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##### 29.4 Duties of the Security Agent

- (a) The Security Agent shall forward promptly to a Party the original or a copy of any document which is delivered to the Security Agent for that Party by any other Party.
- (b) Except where a Transaction Security Document specifically provides otherwise, the Security Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (c) If the Security 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 Secured Parties.
- (d) If the Security Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than any Administrative Party) under this Agreement, it shall promptly notify the other Finance Parties.
- (e) The Security 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).

##### 29.5 Role of the Mandated Lead Arrangers and the Coordinating Banks

Except as specifically provided in the Finance Documents, neither a Mandated Lead Arranger nor a Coordinating Bank has obligations of any kind to any other Party under or in connection with any Finance Document.

##### 29.6 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.

##### 29.7 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.

##### 29.8 Rights and discretions of the Facility Agent

- (a) The Facility Agent may rely on:
- (i) any representation, 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; and
  - (ii) any statement purportedly made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.

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- (b) The Facility 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 24.1 (*Non-payment*));
  - (ii) any right, power, authority or discretion vested in any Party, the Majority Lenders, the Majority Term Loan Lenders or the Majority Facility E Lenders has not been exercised; and
  - (iii) any notice or request made by the Obligors' Agent is made on behalf of and with the consent and knowledge of all the Obligor Parties.
- (c) The Facility Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.
- (d) The Facility Agent may act in relation to the Finance Documents through its personnel and agents.
- (e) The Facility Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.

- (f) 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.

#### 29.9 Rights and discretions of the Security Agent

- (a) The Security 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 Lenders 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, that 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.

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- (b) The Security 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 24.1 (*Non-payment*));
  - (ii) any right, power, authority or discretion vested in any Party or any group of Lenders has not been exercised;
  - (iii) any notice or request made by the Obligors' Agent (other than the Utilisation Request) is made on behalf of and with the consent and knowledge of all the Obligor Parties.
- (c) The Security Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.
- (d) The Security Agent may act in relation to the Finance Documents through its personnel and agents. The Security Agent shall not be liable for the acts or omissions of any such agents provided that it has acted in good faith in the selection of such agents.
- (e) The Security Agent may disclose to any other Party any information it reasonably believes it has received as agent or trustee under this Agreement.
- (f) Notwithstanding any other provision of any Finance Document to the contrary, the Security Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or a breach of a fiduciary duty or duty of confidentiality.
- (g) In the event there is an inconsistency or conflict between the rights, duties, benefits, obligations, protections, immunities or indemnities of the Security Agent (the "**Security Agent Provisions**") as contained in this Agreement, on the one hand, and in any of the other Finance Documents, on the other hand, the Security Agent Provisions contained in this Agreement shall prevail and apply. The Security Agent Provisions contained in this Agreement are for the benefit of the Security Agent and shall survive the discharge or termination of this Agreement.

#### 29.10 Instructions

- (a) Each of the Facility Agent and the Security 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 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, (as stipulated in the relevant Finance Document) the Majority Lenders, the Majority Term Loan Lenders or the Majority Facility E Lenders (as the case may be); and
  - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with sub-paragraph (i) above.

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- (b) Each of Facility Agent and the Security 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 and the Facility Agent and the Security 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 Facility Agent or the Security Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.
- (d) Notwithstanding anything to the contrary in a Finance Document, the Facility Agent and the Security 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 Facility Agent and the Security Agent may act (or refrain from acting) as it considers to be in the best interest of the Lenders.
- (f) Neither the Facility Agent nor the Security Agent is authorised to act on behalf of a Secured Party (without first obtaining that Secured Party's consent) in any legal or arbitration proceedings relating to any Transaction Document. This Paragraph (f) shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Transaction Security Documents or enforcement of the Transaction Security or Transaction Security Documents.

#### 29.11 Responsibility for documentation

No Administrative Party:

- (a) is responsible for the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by any Administrative Party, an Obligor Party or any other person given in or in connection with any Transaction Document; or
- (b) is responsible for the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Transaction Document or the Transaction Security; or
- (c) is responsible for any determination as to whether any information provided or to be provided to any Secured 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.

#### 29.12 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 any Administrative Party), no Administrative Party shall be liable for any cost, loss or liability incurred by any Party as a consequence of:

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- (i) the Administrative Party having taken or having omitted to take any action under or in connection with any Transaction Document or the Transaction Security, unless directly caused by the Administrative Party's gross negligence or wilful misconduct; or

- (ii) any delay in the crediting to any account of an amount required under the Transaction Documents to be paid by the Administrative Party, if the Administrative Party shall have 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 Administrative Party for the purpose of such payment.
- (b) No Party (other than the relevant Administrative Party) may take any proceedings against any officer, employee or agent of an Administrative Party in respect of any claim it might have against that Administrative Party or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Transaction Document or the Transaction Security and any officer, employee or agent of an Administrative Party may rely on this Clause.
- (c) Nothing in this Agreement shall oblige any Administrative Party to conduct any “know your customer” or other procedures in relation to any person on behalf of any Lender and each Lender confirms to each Administrative Party that it is solely responsible for any such procedures it is required to conduct and that it shall not rely on any statement in relation to such procedures made by any Administrative Party.

### 29.13 Lenders’ indemnity to the Facility Agent

- (a) Each Lender shall, in accordance with paragraph (b) below, indemnify the Facility Agent, within three (3) Business Days of demand, against any cost, loss or liability incurred by the Facility Agent (other than by reason of the Facility Agent’s gross negligence or wilful misconduct) in acting as Facility Agent under the Finance Documents (unless the Facility Agent has been reimbursed by an Obligor Party pursuant to a Finance Document).
- (b) The proportion of such cost, loss or liability to be borne by each Lender shall be:
  - (i) if there is any Loan then outstanding, the proportion borne by (A) the sum of its participation(s) in the Loan(s) then outstanding to (B) the aggregate amount of such Loan(s), or
  - (ii) if there is no Loan then outstanding and the Available Facility is then greater than zero, the proportion borne by (A) its Available Commitment to (B) the Available Facility, or
  - (iii) if there is no Loan then outstanding and the Available Facility is then zero:
    - (A) if the Available Facility became zero after a Loan ceased to be outstanding, the proportion borne by (A) its Available Commitment to (B) the Available Facility immediately before the Available Facility became zero, or
    - (B) if a Loan ceased to be outstanding after the Available Facility became zero, the proportion borne by (A) the sum of its participation(s) in the Loan(s) outstanding immediately before any Loan ceased to be outstanding to (B) the aggregate amount of such Loan(s).

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- (c) Each Borrower shall reimburse the Lenders for any amount paid to the Facility Agent under this Clause 29.13 (*Lenders’ indemnity to the Facility Agent*).

### 29.14 Secured Parties’ indemnity to the Security Agent

- (a) Without limiting the liability of any Obligor Party under the Transaction Documents, each Secured Party shall indemnify the Security Agent for that Secured Party’s share of any cost, loss or liability (whether arising in contract, tort or otherwise) incurred by the Security Agent in acting as Security Agent under the Transaction Security Documents, except to the extent that the cost, loss or liability is caused by the Security Agent’s gross negligence, wilful misconduct or fraud.
- (b) Each Borrower shall reimburse the Secured Parties for any amount paid to the Security Agent under this Clause 29.14 (*Secured Parties’ indemnity to the Security Agent*).

### 29.15 Resignation of the Facility Agent

- (a) The Facility Agent may resign and appoint one of its Affiliates as successor by giving notice to the other Finance Parties and the Obligors’ Agent.
- (b) Alternatively the Facility Agent may resign by giving notice to the other Finance Parties and the Obligors’ Agent, in which case the Majority Lenders (after consultation with the Obligors’ Agent) may appoint a successor Facility Agent.
- (c) If the Majority Lenders have not appointed a successor Facility Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the retiring Facility Agent (after consultation with the Obligors’ Agent) may appoint a successor Facility Agent.
- (d) The retiring Facility Agent shall make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents.
- (e) The Facility Agent’s resignation notice shall take effect only upon the appointment of a successor.
- (f) Upon the appointment of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 29. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (g) After consultation with the Obligors’ Agent, the Majority Lenders may, by notice to the Facility Agent, require it to resign in accordance with paragraph (b) above. In this event, the Facility Agent shall resign in accordance with paragraph (b) above.
- (h) The Facility Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Facility Agent pursuant to paragraph (c) above) if on or after the date which is three (3) months before the earliest FATCA Application Date relating to any payment to the Facility Agent under the Finance Documents, either:
  - (i) the Facility Agent fails to respond to a request under Clause 13.6 (*FATCA Information*) and a Lender reasonably believes that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

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- (ii) the information supplied by the Facility Agent pursuant to Clause 13.6 (*FATCA Information*) indicates that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
- (iii) the Facility Agent notifies the Obligors’ Agent and the Lenders that Facility 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) a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Facility Agent were a FATCA Exempt Party, and that Lender, by notice to the Facility Agent, requires it to resign.

### 29.16 Resignation of the Security Agent

- (a) The Security Agent may resign and appoint one of its Affiliates as successor by giving notice to the other Secured Parties and the Obligors’ Agent.
- (b) Alternatively the Security Agent may resign by giving notice to the other Secured Parties and the Obligors’ Agent, in which case the Majority Lenders (after consultation with the Obligors’ Agent) may appoint a successor Security Agent.
- (c) If the Majority Lenders have not appointed a successor Security Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the retiring Security Agent (after consultation with the Obligors’ Agent) may appoint a successor Security Agent.
- (d) The retiring Security Agent shall make available to the successor Security Agent such documents and records and provide such assistance as the successor Security Agent may reasonably request for the purposes of performing its functions as Security Agent under the Transaction Documents.
- (e) The retiring Security Agent shall enter into and deliver to the successor Security Agent those documents and effect any registrations as may be reasonably required for the transfer or assignment of all of its rights and benefits under the Transaction Documents to the successor Security Agent.
- (f) The Security Agent’s resignation notice shall take effect only (i) upon the appointment of a successor and (ii) the transfer of all of the Security Property to that successor.
- (g) Upon the appointment of a successor, the retiring Security Agent shall be discharged from any further obligation in respect of the Transaction Documents (other than paragraph (e) above) but shall remain entitled to the benefit of this Clause 29. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (h) After consultation with the Obligors’ Agent, the Majority Lenders may, by notice to the Security Agent, require it to resign in accordance with paragraph (b) above. In this event, the Security Agent shall resign in accordance with paragraph (b) above.



- (i) The Security Agent shall resign in accordance with Paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Security Agent pursuant to Paragraph (c) above) if on or after the date which is three (3) months before the earliest FATCA Application Date relating to any payment to the Security Agent under the Finance Documents, either:

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- (i) the Security Agent fails to respond to a request under Clause 13.6 (*FATCA Information*) and a Lender reasonably believes that the Security 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 Security Agent pursuant to Clause 13.6 (*FATCA Information*) indicates that the Security Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
- (iii) the Security Agent notifies the Obligors' Agent and the Lenders that the Security 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) a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Security Agent were a FATCA Exempt Party, and that Lender, by notice to the Security Agent, requires it to resign.

#### 29.17 Confidentiality

- (a) In acting as Facility Agent for the Finance Parties, or in the case of the Security Agent, for the Secured Parties, the Facility Agent and the Security Agent shall be regarded as acting through its agency division which shall be treated as a separate legal person from any other of its branches, divisions or departments.
- (b) If information is received by another branch, division or department of the legal person which is the Facility Agent or the Security Agent, it may be treated as confidential to that branch, division or department and the Facility Agent or the Security Agent shall not be deemed to have notice of it.
- (c) The Facility Agent or the Security Agent shall not be obliged to disclose to any Finance Party, or in the case of the Security Agent, any Secured Party, any information supplied to it by the Obligors' Agent or any other Obligor Party 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.

#### 29.18 Relationship with the Lenders

- (a) The Facility Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Facility 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 (5) Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.
- (b) Each Lender shall supply the Facility Agent with any information that the Security Agent may specify (through the Facility Agent) as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent. Each Lender shall deal with the Security Agent exclusively through the Facility Agent and shall not deal directly with the Security Agent.

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- (c) Any Lender may by notice to the Facility 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.
- (d) Any such notice in the above paragraph (c):
- (i) must contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under this Agreement) electronic mail address and/or any other information required to enable the sending and receipt of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made); and
- (ii) will be treated as a notification of a substitute address, fax number, electronic mail address, department and officer by that Lender for the purposes of the Finance Documents,
- and the Facility Agent is 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.

#### 29.19 Relationship with Secured Parties

- (a) The Security Agent may treat the person shown in its records as Secured Party at the opening of business (in the place of the Security Agent's principal office as notified to the Parties from time to time) as the Secured Party acting through its Facility Office:
- (i) entitled to or liable for any payment due under any Transaction Security 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 Transaction Security Document made or delivered on that day,
- unless it has received not less than five (5) Business Days' prior notice from that Secured Party to the contrary in accordance with the terms of this Agreement.
- (b) Any Secured Party may by notice to the Security Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Secured Party under the Transaction Security Documents.
- (c) Any such notice in the above paragraph (b):
- (i) must contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under this Agreement) electronic mail address and/or any other information required to enable the sending and receipt of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made); and
- (ii) will be treated as a notification of a substitute address, fax number, electronic mail address, department and officer by that Secured Party for the purposes of this Agreement and the Transaction Security Documents,

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and the Security Agent is entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Secured Party.

#### 29.20 Credit appraisal by the Lenders and the Secured Parties

Without affecting the responsibility of any Obligor Party for information supplied by it or on its behalf in connection with any Transaction Document, each Secured Party 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 Transaction 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 Transaction Document, the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document or the Transaction Security;
- (c) whether that Secured Party 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 Transaction Document, the Transaction Security, the transactions contemplated by the Transaction Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document or the Transaction Security;
- (d) the adequacy, accuracy and/or completeness of the information provided by any Party or by any other person under or in connection with any Transaction Document, the transactions contemplated by the Transaction Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document;
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Security Property, the priority of any of the Transaction Security or the existence of any Security affecting the Security Property.

#### 29.21 Deduction from amounts payable by the Facility Agent and the Security Agent

If any Party owes an amount to the Security Agent or the Facility Agent, as the case may be, under the Transaction Documents, the Facility Agent or the Security Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Facility Agent or the Security Agent would otherwise be obliged to make under the Transaction Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Transaction Documents that Party shall be regarded as having received any amount so deducted.

## 29.22 Facility Agent's and Security Agent's management time

Any amount payable to the Facility Agent or the Security Agent under Clause 16.3 (*Obligors' Indemnity to the Facility Agent*), Clause 17 (*Costs and expenses*), Clause 29.13 (*Lenders' indemnity to the Facility Agent*) and Clause 29.14 (*Secured Parties' indemnity to the Security Agent*) shall

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include the cost of utilising the Facility Agent's or the Security Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Facility Agent or the Security Agent may notify to the Obligors' Agent and the Lenders, and is in addition to any fee paid or payable to the Facility Agent under Clause 12 (*Fees*).

## 30. SHARING AMONG THE FINANCE PARTIES

### 30.1 Payments to Finance Parties

If a Finance Party (a "**Recovering Finance Party**") receives or recovers (whether by set off or otherwise) any amount from an Obligor Party other than in accordance with Clause 32 (*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 (3) Business Days, notify details of the receipt or recovery, to the Facility Agent;
- (b) the Facility 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 Facility Agent and distributed in accordance with Clause 32 (*Payment mechanics*), without taking account of any Tax which would be imposed on the Facility Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Finance Party shall, within three (3) Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 32.5 (*Partial payments*).

### 30.2 Redistribution of payments

The Facility Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor Party and distribute it between the Finance Parties (other than the Recovering Finance Party) (the "**Sharing Finance Parties**") in accordance with Clause 32.5 (*Partial payments*) towards the obligations of that Obligor Party to the Sharing Finance Parties.

### 30.3 Recovering Finance Party's rights

- (a) On a distribution by the Facility Agent under Clause 30.2 (*Redistribution of payments*) of a payment received by a Recovering Finance Party from an Obligor Party, as between the relevant Obligor Party 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 Obligor.
- (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 Obligor Party shall be liable to the Recovering Finance Party for a debt equal to the Sharing Payment which is immediately due and payable.

### 30.4 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:

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- (a) each Sharing Finance Party shall, upon request of the Facility Agent, pay to the Facility 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) as between the relevant Obligor Party and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Obligor Party.

### 30.5 Exceptions

- (a) This Clause 30 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor Party.
- (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.

## 31. SHARING AMONG THE SECURED PARTIES

### 31.1 Equalisation Payments

If, following acceleration of the Loans in accordance with Clause 24.21 (*Acceleration*), any amount owing by any Obligor Party under the Transaction Documents to a Secured Party (a **Recovering Secured Party**) is discharged by payment, set-off or any other manner other than through the Security Agent under this Agreement, then:

- (a) the Recovering Secured Party shall, within three (3) Business Days supply details of the recovery to the Security Agent;
- (b) the Security Agent shall calculate whether the recovery is in excess of the amount which the Recovering Secured Party would have received if the recovery had been received by the Security Agent under the Transaction Security Documents and applied in accordance with this Agreement; and
- (c) the Recovering Secured Party shall pay to the Security Agent an amount equal to the excess (the **redistribution**).

### 31.2 Effect of redistribution

- (a) The Security Agent shall treat a redistribution as if it were the proceeds of enforcement of the Transaction Security Documents and distribute it in accordance with this Agreement.

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- (b) When the Security Agent makes a distribution under paragraph (a) above, the Recovering Secured Party will be subrogated to the rights of the Secured Parties which have shared in that redistribution.
- (c) If and to the extent that the Recovering Secured Party is not able to rely on any rights of subrogation under paragraph (b) above, the relevant Obligor Party will owe the Recovering Secured Party a debt which is equal to the redistribution, immediately payable and of the type originally discharged.
- (d) If:
  - (i) a Recovering Secured Party shall subsequently return a recovery, or an amount measured by reference to a recovery, to an Obligor Party; and
  - (ii) the Recovering Secured Party has paid a redistribution in relation to that recovery,

each Secured Party shall reimburse the Recovering Secured Party all or the appropriate portion of the redistribution paid to that Secured Party, together with interest for the period while it held the re-distribution. In this event, the subrogation in paragraph (b) above will operate in reverse to the extent of the reimbursement.

### 31.3 Loss sharing

- (a) If any Secured Liability remains undischarged and any resulting loss is not borne by a Secured Party in accordance with Clause 25.12 (*Proceeds of enforcement*), the Secured Parties shall make such payments between themselves as the Security Agent may require to ensure that after taking into account those payments the losses are borne by the Secured Parties as if Clause 25.12 (*Proceeds of enforcement*) had applied.

- (b) For the purpose of paragraph (a) above:
- (i) the Total Commitments under this Agreement will be notionally increased by an aggregate amount equal to the aggregate of any amount (if any, the “**Hedging Termination Payment**”):
- (A) payable to any Hedging Provider as a result of the Hedging Termination under a Hedging Arrangement if such Hedging Arrangement was so terminated or closed out prior to the date of enforcement of the Transaction Security; or
- (B) that would be payable to any Hedging Provider as a result of the Hedging Termination under a Hedging Arrangement if such Hedging Arrangement were so terminated or closed out on the date of enforcement of the Transaction Security; and
- (ii) each Hedging Provider shall be deemed (if it is a Lender) to have the aggregate amount of its Commitments increased by, or (if it is not a Lender) to have a Commitment in, the amount equal to the aggregate of the Hedging Termination Payments (if any) that would be payable to that Hedging Provider as a result of the Hedging Termination under the Hedging Arrangements on the date of the enforcement of the security under the Transaction Security Documents.
- (c) This Clause 31.3 (*Loss sharing*) is without prejudice to Clause 29.14 (*Secured Parties’ indemnity to the Security Agent*).

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## SECTION 11 ADMINISTRATION

### 32. PAYMENT MECHANICS

#### 32.1 Payments to the Facility Agent

- (a) On each date on which an Obligor Party or a Lender is required to make a payment under a Finance Document, that Obligor Party or Lender shall make the same available to the Facility 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 Facility 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 with such bank as the Facility Agent specifies.

#### 32.2 Distributions by the Facility Agent

- (a) Each payment received by the Facility Agent under the Finance Documents for another Party shall, subject to Clause 32.3 (*Distributions to an Obligor Party*) and Clause 32.4 (*Clawback*) be made available by the Facility 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 Facility Agent by not less than five (5) Business Days’ notice with a bank in the principal financial centre of the country of that currency.
- (b) The Facility Agent shall distribute payments received by it in relation to all or any part of a Loan to the relevant Lender indicated in the records of the Facility Agent as being so entitled on that date provided that the Facility Agent is authorised to distribute payments to be made on the date on which any transfer becomes effective pursuant to Clause 26 (*Changes to the Lenders*) to the relevant Lender so entitled immediately before such transfer took place regardless of the period to which such sums relate.

#### 32.3 Distributions to an Obligor Party

The Facility Agent may (with the consent of the Obligor Party or in accordance with Clause 33 (*Set-off*)) apply any amount received by it for that Obligor Party in or towards payment (in the currency and funds of receipt) of any amount due from that Obligor Party under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

#### 32.4 Clawback

- (a) Where a sum is to be paid to the Facility Agent under the Finance Documents for another Party, the Facility 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) If the Facility Agent pays an amount to another Party and it proves to be the case that the Facility 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 Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.

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### 32.5 Partial payments

- (a) If the Facility Agent or the Security Agent, as the case may be, receives a payment that is insufficient to discharge all the amounts then due and payable by an Obligor Party under the Finance Documents, or as the case may be, the Transaction Documents, the Facility Agent or the Security Agent, as the case may be, shall apply that payment towards the obligations of that Obligor Party under the Finance Documents, or as the case may be, the Transaction Documents, in the following order:
- (i) **first**, in or towards payment pro rata of any unpaid fees, costs and expenses of, and other amounts owing to, the Facility Agent and the Security Agent under the Finance Documents;
- (ii) **secondly**, in or towards payment pro rata of any accrued interest, fee (other than as provided in (i) above) or commission due but unpaid under the Finance Documents and any hedging payment due from the Borrowers but unpaid under the Hedging Arrangements;
- (iii) **thirdly**, in or towards payment pro rata of any principal due but unpaid under this Agreement and any Hedging Termination Payment (if any); and
- (iv) **fourthly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.
- (b) The Facility Agent or, as the case may be, the Security Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(i) to (a)(iv) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor Party.

#### 32.6 No set-off by Obligor Parties

All payments to be made by an Obligor Party under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

#### 32.7 Business Days

- (a) Any payment 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 paragraph (a) above, interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

#### 32.8 Currency of account

- (a) Subject to paragraphs (b) to (e) below, RMB is the currency of account and payment for any sum due from an Obligor Party under any Finance Document.
- (b) A repayment of a Loan or Unpaid Sum or a part of a Loan or Unpaid Sum shall be made in the currency in which that Loan or Unpaid Sum is denominated on its due date.
- (c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.

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- (d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (e) Any amount expressed to be payable in a currency other than RMB shall be paid in that other currency.

#### 32.9 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 Facility Agent (after consultation with the Obligors' Agent); 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 Facility Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Facility Agent (acting reasonably and after consultation with the Obligors' Agent) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

### 33. SET-OFF

A Finance Party may set off any matured obligation due from an Obligor Party under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor Party, 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. A Finance Party shall notify the Obligors' Agent as soon as practicable after the set off.

### 34. NOTICES

#### 34.1 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.

#### 34.2 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) The contact details of the Obligor Parties for this purpose are:

Address: 2nd floor, Building 2, 428 South Yanggao Rd, Shanghai, China  
Fax: 021 20330303  
Email: gaozhanping@gds-services.com

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Attention: Allen Wang / Jason Gao  
Tel: 021 20330334

- (b) in the case of the Facility Agent, the Security Agent and the Account Bank that identified with its name below,

- (i) The contact details of the Facility Agent for this purpose are:

Address: 17/F, No. 116 & No. 128 Yin Cheng Road, Pudong New Area, Shanghai, 200120  
Fax number: 86 21 6886 0908  
E-mail: Zhang.Yunfei@uobgroup.com / Annie.Zhangmz@uobgroup.com  
Attention: Zhang Yun Fei / Zhang Min Zhi  
Telephone number: 86 21 6061 8258 / 86 21 6061 8326

- (ii) The contact details of the Security Agent for this purpose are:

Address: 17/F, No. 116 & No. 128 Yin Cheng Road, Pudong New Area, Shanghai, 200120  
Fax number: 86 21 6886 0908  
E-mail: Zhang.Yunfei@uobgroup.com / Annie.Zhangmz@uobgroup.com  
Attention: Zhang Yun Fei / Zhang Min Zhi  
Telephone number: 86 21 6061 8258 / 86 21 6061 8326

- (iii) The contact details of the Account Bank for this purpose are:

Address: 6/F, No. 116 & No. 128 Yin Cheng Road, Pudong New Area, Shanghai, 200120  
Fax number: 86 21 6886 1115  
E-mail: Wang.Siwei@uobgroup.com / Sha.Sha@uobgroup.com  
Attention: Wang Si Wei / Sha Sha  
Telephone number: 86 21 6061 8570 / 86 21 6061 8488

or any substitute address, fax number or department or officer as the Party may notify to the Facility Agent (or the Facility Agent may notify to the other Parties, if a change is made by the Facility Agent) by not less than five (5) Business Days' notice.

#### 34.3 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 (5) 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 34.2 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Facility Agent or the Security Agent will be effective only when actually received by the Facility Agent or the Security Agent and then

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only if it is expressly marked for the attention of the department or officer identified with the Facility Agent's or the Security Agent's signature below (or any substitute department or officer as the Facility Agent or the Security Agent shall specify for this purpose).

- (c) All notices from or to an Obligor Party shall be sent through the Facility Agent.
- (d) All communications from or to an Obligor Party (other than the Obligors' Agent) must be made by the Obligors' Agent.
- (e) Any communication made or delivered to the Obligors' Agent in accordance with this Clause will be deemed to have been made or delivered to each of the Obligor Parties.
- (f) Each Secured Party may assume that any communication made by the Obligors' Agent (or by the Obligors' Agent on behalf of an Obligor Party) is made with the consent of each other Obligor Party.
- (g) Any communication or document which becomes effective, in accordance with paragraphs (a) to (f) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.
- (h) No Secured Party shall be held liable on any basis, whether in contract, tort (including negligence) or otherwise, in respect of any damage, loss or any other forms of liability as a result of any interception, corruption, loss, destruction, late arrival or degradation of information communicated through email due to any inherent risk associated with the use of email as a mode of communication as described in this Clause.

#### 34.4 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 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 and if those two Parties:

- (i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt 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 (5) Business Days' notice.
- (b) Any electronic communication made between those two Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Facility Agent or the Security Agent only if it is addressed in such a manner as the Facility Agent or the Security Agent shall specify for this purpose.
- (c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

#### 34.5 English and Chinese language

- (a) This Agreement will be executed in both English and Chinese, and in any case there is any inconsistency between the Chinese version and the English version, the Chinese version shall prevail.
- (b) Any notice given under or in connection with any Finance Document must be in English or Chinese.

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- (c) All other documents provided under or in connection with any Finance Document must be:

- (i) in English or Chinese; or
- (ii) if not in English or Chinese, and if so required by the Facility Agent, accompanied by a certified English or Chinese translation and, in this case, the English or Chinese translation will prevail unless the document is a constitutional, statutory or other official document.

### 35. CALCULATIONS AND CERTIFICATES

#### 35.1 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.

#### 35.2 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.

#### 35.3 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 Interbank Market differs, in accordance with that market practice.

### 36. PARTIAL INVALIDITY

If, at any time, any provision of the Finance Documents 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.

### 37. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under the Finance Documents 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 of the Finance Documents 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 this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

### 38. AMENDMENTS AND WAIVERS

#### 38.1 Required consents

- (a) Subject to Clause 38.2 (*Exceptions*), any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and relevant Obligor Party and any such amendment or waiver will be binding on all Parties.

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- (b) The Facility Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 38. The Facility Agent shall notify the other Parties promptly of any amendment or waiver effected by it under this paragraph.

#### 38.2 Exceptions

- (a) An amendment or waiver that has the effect of changing or which relates to:

- (i) the definition of "Majority Lenders" in Clause 1.1 (*Definitions*);
- (ii) an extension to the date of payment of any amount under the Finance Documents (other than the amount under (x)(ii) and (y)(ii) of this Paragraph (a));
- (iii) a reduction in the Interest Relevant Percentage or a reduction in the amount of any payment of principal, interest, fees or commission payable that is not consistent with this Agreement (other than the amount under (x)(iii) and (y)(iii) of this Paragraph (a));
- (iv) a change to an Obligor Party other than in accordance with this Agreement;
- (v) a release of any Transaction Security Document or Transaction Security other than in accordance with this Agreement;
- (vi) any provision which expressly requires the consent of all the Lenders;
- (vii) Clause 2.4 (*Finance Parties' rights and obligations*), Clause 26 (*Changes to the Lenders*), Clause 40 (*Governing law*), Clause 41 (*Enforcement*) or this Clause 38; or
- (viii) the nature or scope of, or the release of, any guarantee and indemnity granted under Clause 19 (*Guarantee and indemnity*) or of any Transaction Security unless permitted under any Finance Document,

shall not be made without the prior consent of all the Lenders, provided that (x) an amendment or waiver that has the effect of changing or which relates to: (i) the definition of "Majority Term Loan Lenders" in Clause 1.1 (*Definitions*), (ii) an extension to the date of payment of any amount in relation to the Term Loans, (iii) (in relation to the Term Loan Facilities) a reduction in the amount of any payment of principal, interest, fees or commission payable that is not consistent with this Agreement, (iv) (in relation to the Term Loan Facilities) an increase in the amount of any Commitment or an extension of the period of availability for utilisation of any Commitment or any requirement that a cancellation of Commitments reduces the Commitments of the Term Loan Lenders rateably under the relevant Facility, or (v) any provision which expressly requires the consent of all the Term Loan Lenders, shall not be made without the prior consent of all the Term Loan Lenders; and (y) an amendment or waiver that has the effect of changing or which relates to: (i) the definition of "Majority Facility E Lenders" in Clause 1.1 (*Definitions*), (ii) an extension to the date of payment of any amount in relation to the Facility E Loans, (iii) (in relation to the Facility E) a reduction in the amount of any payment of principal, interest, fees or commission payable that is not consistent with this Agreement, (iv) (in relation to the Facility E) an increase in the amount of Facility E Commitment or an extension of the period of availability for utilisation of Facility E Commitment or any requirement that a cancellation of Facility E Commitments reduces the Facility E Commitment of the Facility E Lenders rateably under the Facility E, or (v) any provision which

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expressly requires the consent of all the Facility E Lenders, shall not be made without the prior consent of all the Facility E Lenders.

- (b) A Fee Letter may be amended or waived with the agreement of each Administrative Party that is a party to that Fee Letter and the Borrowers.
- (c) An amendment or waiver which relates to the rights or obligations of any Administrative Party may not be effected without the consent of such Administrative Party.

### 39. COUNTERPARTS

**SECTION 12  
GOVERNING LAW AND ENFORCEMENT**

**40. GOVERNING LAW**

This Agreement and all obligations arising from or in connection with this Agreement are governed by PRC law.

**41. ENFORCEMENT**

**41.1 Jurisdiction of PRC courts**

- (a) The competent courts of PRC at the Facility Agent's domicile have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (a "Dispute").
- (b) The courts of the PRC are the most appropriate and convenient courts to settle any such dispute in connection with this Agreement. Each Obligor agrees not to argue to the contrary and waives objection to those courts on the grounds of inconvenient forum or otherwise in relation to proceedings in connection with this Agreement.
- (c) This Clause 41.1 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.
- (d) References in this Clause to a Dispute in connection with this Agreement include any dispute as to the existence, validity or termination of this Agreement.

**41.2 Waiver of immunities**

Each Obligor 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.

**SCHEDULE 1**

**Lenders and their Commitments**

**Part I Lenders and Facility A Commitment**

Name of Original Lender		Facility A Commitment
中国工商银行股份有限公司(Credit Agricole Corporate and Investment Bank (China) Limited Shanghai Branch)	RMB	80,000,000
中国工商银行股份有限公司(UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)	RMB	145,000,000
新加坡渣打银行有限公司(DBS Bank (China) Ltd, Shanghai Branch)	RMB	71,000,000
上海华 Rui 银行有限公司(Shanghai HuaRui Bank Co., LTD)	RMB	55,000,000
澳大利亚和新西兰银行有限公司(Australia and New Zealand Bank (China) Company Limited, Shanghai Branch)	RMB	54,000,000

**Part II Lenders and Facility B Commitment**

Name of Original Lender		Facility B Commitment
中国工商银行股份有限公司(Credit Agricole Corporate and Investment Bank (China) Limited Shanghai Branch)	RMB	45,000,000
中国工商银行股份有限公司(UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)	RMB	80,000,000
新加坡渣打银行有限公司(DBS Bank (China) Ltd, Shanghai Branch)	RMB	40,000,000
上海华 Rui 银行有限公司(Shanghai HuaRui Bank Co., LTD)	RMB	31,000,000
澳大利亚和新西兰银行有限公司(Australia and New Zealand Bank (China) Company Limited, Shanghai Branch)	RMB	29,000,000

(China) Company Limited, Shanghai Branch)

**Part III Lenders and Facility C Commitment**

Name of Original Lender		Facility C Commitment
中国工商银行股份有限公司(Credit Agricole Corporate and Investment Bank (China) Limited Shanghai Branch)	RMB	90,000,000
中国工商银行股份有限公司(UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)	RMB	162,000,000
新加坡渣打银行有限公司(DBS Bank (China) Ltd, Shanghai Branch)	RMB	80,000,000
上海华 Rui 银行有限公司(Shanghai HuaRui Bank Co., LTD)	RMB	62,000,000
澳大利亚和新西兰银行有限公司(Australia and New Zealand Bank (China) Company Limited, Shanghai Branch)	RMB	61,000,000

**Part IV Lenders and Facility E Commitment**

Name of Original Lender		Facility E Commitment
中国工商银行股份有限公司(Credit Agricole Corporate and Investment Bank (China) Limited Shanghai Branch)	RMB	10,000,000
中国工商银行股份有限公司(UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)	RMB	18,000,000
新加坡渣打银行有限公司(DBS Bank (China) Ltd, Shanghai Branch)	RMB	9,000,000
上海华 Rui 银行有限公司(Shanghai HuaRui Bank Co., LTD)	RMB	13,000,000

**SCHEDULE 2**

**Conditions precedent and conditions subsequent**

**Part I**

**Conditions Precedent to Initial Utilisation for All Facilities**

**1. Obligor Parties**

- (a) Certified copies of the following up-to-date constitutional documents of EDC WGQ:
- (i) Articles of Association (章程) and all the amendments thereto (if any);
  - (ii) Business License (营业执照);
  - (iii) Tax Registration Certificate (both local and state) (税务登记证) (if applicable);
  - (iv) Organizational Code Certificate (组织机构代码证) (if applicable);
  - (v) List of Directors (董事名单);
  - (vi) Approval Letters from MOFCOM in respect of its establishment and all subsequent corporate changes (to the extent applicable, and including the transfer of all equity interests in EDC WGQ to GDS Beijing); and
  - (vii) the Institution Credit Code Certificate or the valid access to information of its borrowing history recorded in the PBOC Basic Credit Information Database;
- (b) Certified copies of the following up-to-date constitutional documents of EDC YG:
- (i) Articles of Association (章程) and all the amendments thereto (if any);
  - (ii) Business License (营业执照);
  - (iii) Tax Registration Certificate (both local and state) (税务登记证) (if applicable);
  - (iv) Organizational Code Certificate (组织机构代码证) (if applicable);
  - (v) List of Directors (董事名单);
  - (vi) the Institution Credit Code Certificate or the valid access to information of its borrowing history recorded in the PBOC Basic Credit Information Database;
  - (vii) Certificate of Approval (批准证书) or other equivalent certificate; and
  - (viii) Approval Letters from MOFCOM in respect of its establishment and all subsequent corporate changes.
- (c) Certified copies of the following up-to-date constitutional documents of GDS Beijing:
- (i) Articles of Association (章程) and all the amendments thereto (if any);
  - (ii) Business License (营业执照);

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- (iii) Tax Registration Certificate (both local and state) (税务登记证) (if applicable);
  - (iv) Organizational Code Certificate (组织机构代码证) (if applicable);
  - (v) Capital Verification Report (验资报告); and
  - (vi) List of Directors (董事名单).
- (d) Certified copies of the following up-to-date constitutional documents of GDS Suzhou:
- (i) Articles of Association (章程) and all the amendments thereto (if any);
  - (ii) Business License (营业执照);
  - (iii) Tax Registration Certificate (both local and state) (税务登记证) (if applicable);
  - (iv) Organizational Code Certificate (组织机构代码证) (if applicable);
  - (v) Capital Verification Report (验资报告);
  - (vi) List of Directors (董事名单); and
  - (vii) Approval Letters from MOFCOM in respect of its establishment and all subsequent corporate changes (to the extent applicable, and including the transfer of all equity interests in GDS Suzhou to GDS Beijing).
- (e) Certified copies of the following up-to-date constitutional documents of GDS Management Co.:
- (i) Articles of Association (章程) and all the amendments thereto (if any);
  - (ii) Business License (营业执照);
  - (iii) Tax Registration Certificate (both local and state) (税务登记证) (if applicable);
  - (iv) Organizational Code Certificate (组织机构代码证) (if applicable);
  - (v) List of Directors (董事名单); and
  - (vi) Certificate of Approval (批准证书) or other equivalent certificate;
  - (vii) Approval Letters from MOFCOM in respect of its establishment and all subsequent corporate changes.
- (f) Certified copies of the following up-to-date constitutional documents of GDS Shanghai:
- (i) Articles of Association (章程) and all the amendments thereto (if any);
  - (ii) Business License (营业执照);
  - (iii) Tax Registration Certificate (both local and state) (税务登记证) (if applicable);
  - (iv) Organizational Code Certificate (组织机构代码证) (if applicable); and

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- (v) List of Directors (董事名单).
- (g) Certified copies of the following up-to-date constitutional documents of EDC Technology (Kunshan) Co. Ltd. (埃迪科技(昆山)有限公司):
- (i) Articles of Association (章程) and all the amendments thereto (if any);
  - (ii) Business License (营业执照);

- (iii) Tax Registration Certificate (both local and state) (□□□□□□□□) (if applicable);
  - (iv) Organizational Code Certificate (□□□□□□) (if applicable);
  - (v) List of Directors (□□□□);
  - (vi) Certificate of Approval (□□□□□□□□) or other equivalent certificate; and
  - (vii) Approval Letters from MOFCOM in respect of its establishment and all subsequent corporate changes.
- (h) Certified copies of the following up-to-date constitutional documents of the Ultimate Parent:
- (i) Certificate of Incorporation;
  - (ii) Memorandum of Association & Articles of Association;
  - (iii) Register of Directors;
  - (iv) Register of Members;
  - (v) Register of Mortgages and Charges; and
  - (vi) Certificate of Good Standing issued by the relevant authority in the Cayman Islands and dated as close to the proposed Utilisation Date in the Utilisation Request as possible, but in no event older than seven (7) days than the proposed Utilisation Date.
- (i) Certified copies of the following up-to-date constitutional documents of the Intermediate Parent:
- (i) Certificate of Incorporation;
  - (ii) Memorandum of Association & Articles of Association;
  - (iii) Register of Directors;
  - (iv) Register of Members;
  - (v) Register of Mortgages and Charges; and
  - (vi) Certificate of Good Standing issued by the relevant authority in the Cayman Islands and dated as close to the proposed Utilisation Date in the Utilisation Request as possible, but in no event older than seven (7) days than the proposed Utilisation Date.

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- (j) Certified copies of the following up-to-date constitutional documents of Parent (EDC YG) and EDC China:
- (i) Certificate of Incorporation (Certificate of Incorporation upon Change of Name); and
  - (ii) Memorandum and Articles of Association.
- (k) Certified copies of the following up-to-date constitutional documents of GDS HK:
- (i) Certificate of Incorporation (Certificate of Incorporation upon Change of Name); and
  - (ii) Memorandum and Articles of Association.
- (l) A certified copy of resolutions of the board of directors (in the case of the Ultimate Parent, the Intermediate Parent, EDC China, the Parent (EDC YG) and GDS HK) and the certified copies of resolutions/decisions of the shareholder(s) (as applicable) (in the case of each Borrower, GDS Beijing, GDS Suzhou, GDS Management Co., GDS Shanghai and EDC Technology (Kunshan) Co. Ltd. (□□□□□□□□(□□)□□□□□□)):
  - (i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute, deliver and perform the Finance Documents to which it is a party;
  - (ii) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf;
  - (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and
  - (iv) in the case of the Ultimate Parent, resolving that it is in the best interests of that the Ultimate Parent to enter into the transactions contemplated by the Finance Documents to which it is a party.
- (m) A specimen of the signature of each person authorised by the resolutions referred to in paragraph (l) above.
- (n) A copy of a resolution signed by all the holders of the issued shares in the Parent (EDC YG) approving the amendment of the Memorandum and Articles of Association of the Parent (EDC YG) for the purpose of removing restrictions on share transfer.
- (o) A copy of resolutions signed by all the holders of the issued preferred shares in the Ultimate Parent approving the terms of, and the transactions contemplated by the Ultimate Parent Guarantee and certain actions contemplated by the Finance Documents.
- (p) A certificate of each Obligor Party (signed by an authorised signatory) confirming that borrowing or guaranteeing or securing, as appropriate, and that the Total Commitments would not cause any borrowing, guarantee or security or similar limit binding on it to be exceeded.
- (q) A certificate of each Obligor Party (signed by an authorised signatory) certifying that each copy document relating to it specified in this Schedule 2 is correct, complete and in full force and effect as

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at a date no earlier than the date of this Agreement.

## 2. Finance Documents and Ancillary Documents

- (a) Each of the following documents, duly executed by each party to it:
- (i) this Agreement;
  - (ii) the Fee Letters;
  - (iii) the Account Control Agreement;
  - (iv) the Ultimate Parent Guarantee;
  - (v) the Share Mortgage Agreement (Parent (EDC YG)); (executed but undated)
  - (vi) the Equity Pledge Agreement (YG);
  - (vii) the Equity Pledge Agreement (WGQ);
  - (viii) Movable Assets Mortgage Agreement (WGQ SH1 Restricted Assets);



- (ix) Movable Assets Mortgage Agreement (WGQ SH1 Non-Restricted Assets);
  - (x) Movable Assets Mortgage Agreement (YG SH2 Restricted Assets);
  - (xi) Movable Assets Mortgage Agreement (YG SH2 Non-Restricted Assets);
  - (xii) the Lease Assignment Agreement (WGQ);
  - (xiii) the Lease Assignment Agreement (YG);
  - (xiv) the Insurance Assignment Agreement (WGQ);
  - (xv) the Insurance Assignment Agreement (YG);
  - (xvi) the Pledge over Receivables (WGQ) and the registration agreement thereunder;
  - (xvii) the Pledge over Receivables (YG) and the registration agreement thereunder;
  - (xviii) the Pledge over Receivables (GDS Beijing) and the registration agreement thereunder;
  - (xix) the Pledge over Receivables (GDS Suzhou) and the registration agreement thereunder;
  - (xx) the Pledge over Receivables (GDS Shanghai) and the registration agreement thereunder; and
  - (xxi) the Subordination Agreement.
- (b) Each of the following documents in a form mutually acceptable to each of the parties thereto but unsigned:
- (i) the Movable Assets Mortgage Agreement (YG SH3 Restricted Assets); and
  - (ii) the Movable Assets Mortgage Agreement (YG SH3 Non-Restricted Assets).

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- (c) To the extent a Transaction Security Document requires, each of ancillary documents under that Transaction Security Document, duly executed and delivered by a person which is required to execute and deliver under that Transaction Security Document.

### 3. Legal opinions

- (a) A legal opinion in relation to PRC law from Zhong Lun Law Firm, addressed to the Finance Parties, substantially in the form distributed to the Original Lenders prior to the signing of this Agreement.
- (b) A legal opinion as to Hong Kong law from Allen & Overy, addressed to the Finance Parties, substantially in the form distributed to the Original Lenders prior to signing this Agreement.
- (c) A legal opinion in relation to Cayman law from Walkers, addressed to the Finance Parties, substantially in the form distributed to the Original Lenders prior to the signing of this Agreement.

### 4. Other documents and evidence

- (a) Evidence that any process agent referred to in any Finance Documents has accepted its appointment.
- (b) Evidence that Project SH2 has met the capital ratio requirement under the applicable Governmental Rules.
- (c) A copy of Group Structure Chart.
- (d) A copy of Budget for the Financial Year ending 31 December 2016 as approved by the Facility Agent.
- (e) Evidence that the each Loan Disbursement Accounts, each Receiving Accounts (other than the USD Receiving Account (GDS Beijing-WGQ)), the Operations Account (WGQ), the Operations Account (YG), the Debt Service Accrual Account (WGQ), the Debt Service Accrual Account (YG), the Excess Cashflow Account (WGQ) and the Excess Cashflow Account (YG) have been established with the Account Bank.
- (f) Evidence that the Debt Service Reserve Account (WGQ) has been established with the Account Bank and amount standing credit to the Debt Service Reserve Account (WGQ) is not less than the Debt Service Reserve Amount (WGQ).
- (g) Evidence that the Debt Service Reserve Account (YG) has been established with the Account Bank and amount standing credit to the Debt Service Reserve Account (YG) is not less than the Debt Service Reserve Amount (YG).
- (h) Certified copies of the IDC Licenses which shall include the GDS Beijing's IDC License and GDS Shanghai's IDC License, and evidence that the IDC Authorization has been granted to GDS Suzhou.
- (i) Original IDC License Memo.
- (j) Original Financial Statements.
- (k) An audited consolidated financial statement of the Group for the Financial Year ending 31 December 2015 which has been reviewed and verified by an independent auditor acceptable to all Lenders.
- (l) Certified copies of the Lease Agreements.

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- (m) Certified copies of the Contractor Agreements.
- (n) Certified copies of each Service Contracts.
- (o) Certified copies of the Existing Shareholder Loan (WGQ), the Inter-company Loan Agreements (if any) and the Service Agreement.
- (p) Evidence that stamp duties payable by each Borrower in respect of the Finance Documents that have been entered into before the first Utilisation Date under this Agreement have been paid in full.
- (q) Evidence that the Transaction Expenses and any other fees, costs or expenses in relation to the Facilities then due from each Borrower under the Finance Documents have been paid in full.
- (r) Evidence that all "Know your customer" checks required by the Facility Agent pursuant to Clause 21.12 ("Know your customer" checks) have been completed and the result of which is satisfactory to the Facility Agent.
- (s) The loan card search result of each Borrower satisfactory to the Facility Agent.
- (t) A certified copy of the Original Bank Loan Agreement.
- (u) A copy of any other Authorisation or other document, opinion or assurance which the Facility Agent reasonably considers to be necessary or desirable (if it has notified any Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.

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## Part II

### Conditions Precedent to Initial Utilisation for Facility A

- (a) Capital Verification Report (□□□□) showing that the registered capital of EDC WGQ (i.e., USD 20,000,000 or equivalent RMB) has been fully paid up.

- (b) The Certificate of Completion of Project SH1.
- (c) A certified true copy of the construction completion acceptance and filing receipt (□□□□□□□□) issued by Shanghai Comprehensive Bonded Zone Planning and Construction Department (□□□□□□□□□□□□) evidencing relevant building to be leased by EDC WGQ for Project SH1 under the relevant Lease Agreement has passed the completion inspection.
- (d) A certified copy of the Business Plan evidencing, among others, (1) the minimum cash balance of EDC WGQ and EDC YG is not less than RMB 20,000,000 in aggregate, (2) the minimum DSCR is not less than 125%, and (3) the average DSCR is not less than 130%.
- (e) A certified copy of valuation report in respect of the movable assets subject to the mortgage under the Movable Assets Mortgage Agreement (WGQ SH1 Non-Restricted Assets) and Movable Assets Mortgage Agreement (WGQ SH1 Restricted Assets) issued by an appraiser acceptable to all Lenders.
- (f) Original policies of Insurance in relation to Project SH1 evidencing that the insurance coverage satisfactory to all Lenders required are issued pursuant to the terms of this Agreement, and copies of evidence of payment of all related premiums.
- (g) A certified copy of the repayment voucher from the Original Onshore Lenders in respect of the Original Bank Loan A in the substance satisfactory to the Facility Agent, and any other documents required to be delivered and obtained before the date of the first Utilisation Request of Facility A evidencing that the Original Bank Loan A will be repaid and discharged in full on the first Utilisation Date of Facility A.
- (h) In respect of Back-to-Back Agreements
- Certified copies of each Back-to-Back Agreements in relation to Project SH1 duly executed by each party thereto in form and substance satisfactory to all Lenders.
- (i) Subject to paragraph 1(d), Part VI (*Conditions Subsequent*) of Schedule 2, evidence that the Pledge over Receivables (GDS Suzhou-Ping An Bank) and the Pledge over Receivables (GDS Suzhou-Shanghai Bank) in relation to Service Contracts of Project SH1 has been irrevocably and unconditionally discharged, released and deregistered.

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### Part III

#### Conditions Precedent to Initial Utilisation for Facility B

- (a) Capital Verification Report (□□□□) showing that the registered capital of EDC YG (i.e., USD 64,000,000) has been fully paid up.
- (b) The Certificate of Completion to evidence the Project SH2 Completion.
- (c) A certified copy of the Business Plan evidencing, among others, (1) the minimum cash balance of EDC WGQ and EDC YG is not less than RMB 20,000,000 in aggregate, (2) the minimum DSCR is not less than 125%, and (3) the average DSCR is not less than 130%.
- (d) A certified copy of valuation report in respect of the movable assets subject to the mortgage under the Movable Assets Mortgage Agreement (YG SH2 Non-Restricted Assets) and Movable Assets Mortgage Agreement (YG SH2 Restricted Assets) issued by an appraiser acceptable to all Lenders.
- (e) Original policies of Insurance in relation to Project SH2 evidencing that the insurance coverage satisfactory to all Lenders required are issued pursuant to the terms of this Agreement, and copies of evidence of payment of all related premiums.
- (f) A certified copy of the repayment voucher from the Original Onshore Lenders in respect of the Original Bank Loan B in the substance satisfactory to the Facility Agent, and any other documents required to be delivered and obtained before the date of the first Utilisation Request of Facility B evidencing that the Original Bank Loan B will be repaid and discharged in full on the first Utilisation Date of Facility B.
- (g) In respect of Back-to-Back Agreement
- Certified copies of each Back-to-Back Agreements in relation to Project SH2 duly executed by each party thereto in the form and substance satisfactory to all Lenders.
- (h) Subject to paragraph 1(d), Part VI (*Conditions Subsequent*) of Schedule 2, evidence that the Pledge over Receivables (GDS Suzhou-Ping An Bank) in relation to Service Contracts of Project SH2 has been irrevocably and unconditionally discharged, released and deregistered.

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### Part IV

#### Conditions Precedent to Initial Utilisation for Facility C

- (a) Capital Verification Report (□□□□) showing that the registered capital of EDC YG (i.e., USD 64,000,000) has been fully paid up.
- (b) A copy of updated Budget (reflecting the Project SH3 related figures) for the Financial Year ending 31 December 2016 as approved by the Facility Agent.
- (c) A certified copy of the Business Plan of the Project SH3 evidencing, among others, (i) the minimum cash balance of EDC WGQ and EDC YG as at the date of 31 March 2016 is not less than RMB 20,000,000 in aggregate, (ii) the minimum DSCR is not less than 125%, and (3) the average DSCR is not less than 130%.
- (d) A certified copy of (i) the Land Use Rights Certificate; (ii) the Permit for Construction Land Use Planning; (iii) the Permit for Construction Project Planning; and (iv) the Permit for Commencement of Construction, in each case in respect of the Project SH3.
- (e) Certified copies of each Back-to-Back Agreements in relation to Project SH3 duly executed by each party thereto in the form and substance satisfactory to all Lenders.

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### Part V

#### Conditions Precedent to Utilisation of Facility C Beyond 70% of the Total Facility C Commitments

- (a) The Certificate of Completion to evidence the Project SH3 Completion.
- (b) A certified copy of valuation report in respect of the movable assets subject to the mortgage under the Movable Assets Mortgage Agreement (YG SH3 Non-Restricted Assets) and Movable Assets Mortgage Agreement (YG SH3 Restricted Assets) issued by an appraiser acceptable to all Lenders.
- (c) Original policies of Insurances in relation to Project SH3 evidencing that the Insurances coverage satisfactory to all Lenders required pursuant to the terms of this Agreement, including, without limitation, copies of certificates of insurance, indicating the insured amount shall not be less than the Total Facility C Commitments or the replacement value of Project SH3, whichever is higher, together with evidence of payment of all related premiums.

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### Part VI

#### Conditions Subsequent

#### 1. Conditions Subsequent for all Facilities

(a) Release Agreements

The Obligors' Agent shall, on the first Utilisation Date of this Agreement, provide the Facility Agent with the originals of the duly signed Release Agreements.

(b) The Obligors' Agent shall, within 14 days after this Agreement, provide the Facility Agent with the originals of resolutions/decisions of the shareholder(s) of each Borrower, GDS Beijing, GDS Suzhou, GDS Management Co., GDS Shanghai and EDC Technology (Kunshan) Co. Ltd. (□□□□□□□□□□□□□□) stipulated in paragraph 1(l), Part I Schedule 2 (*Conditions Precedents to Initial Utilisation for all Facilities*).

(c) Contract Novation

GDS HK shall (and the Obligors shall procure GDS HK), in any event no later than 28 October 2016, provide to the Facility Agent documents acceptable to all Lenders evidencing that all obligations and rights of GDS HK under the GDS HK Service Contracts have been novated to the Assignee Group Member.

Following the Contract Novation and in any event no later than 28 October 2016, the Assignee Group Member (other than EDC WGQ) shall (and each Obligor shall procure such Assignee Group Member (other than EDC WGQ)) provide to the Facility Agent documents acceptable to all Lenders evidencing that relevant back-to-back agreements have been entered into by and between such Assignee Group Member (other than EDC WGQ) and EDC WGQ or EDC YG (as case may be) and relevant pledge over receivables have been entered into by and between such Assignee Group Member (other than EDC WGQ and EDC YG) and the Security Agent.

(d) Further Release of the Pledge over Receivables (GDS Suzhou-Ping An Bank)

GDS Suzhou shall, by 31 January 2017, provide the Facility Agent with evidence that the Pledge over Receivables (GDS Suzhou-Ping An Bank) has been duly and completely deregistered and released with PBOC Information Center to the extent satisfactory to all Lenders.

(e) USD Receiving Account (GDS Beijing-WGQ)

GDS Beijing shall, within 14 Business Days after the first Utilisation Date, provide the Facility Agent with evidence that the USD Receiving Account (Beijing-WGQ) has been established and maintained with the Account Bank.

## 2. Conditions Subsequent for Facility A

(a) Release of Pledge over Receivables in connection with the Original Bank Loan Agreement

EDC WGQ shall, on the first Utilisation Date of Facility A (or such longer period as otherwise agreed by the Facility Agent) but in any event after the first Utilisation of Facility

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A occurs, provide the Facility Agent with documents evidencing that the pledge over receivables in respect of Project SH1 created by it in connection with the Original Bank Loan Agreement has been irrevocably and unconditionally discharged, released and deregistered.

(b) Release of the Existing Pledge over Receivables (GDS Suzhou-Bank of Ningbo)

GDS Suzhou shall, in any event no later than 10 December, 2016, provide the Facility Agent with documents evidencing that the Existing Pledge over Receivables (GDS Suzhou-Bank of Ningbo) has been irrevocably and unconditionally discharged, released and deregistered.

(c) Release of Mortgage over Movable Assets in respect of Project SH1

EDC WGQ shall, within 7 Business Days from the first Utilisation Date of Facility A, provide the Facility Agent with documents evidencing that the mortgage over movable assets in respect of Project SH1 created by it in connection with the Original Bank Loan Agreement has been irrevocably and unconditionally discharged, released and deregistered.

(d) Updated List of Customers

EDC WGQ, GDS Suzhou, the GDS Beijing and GDS Shanghai shall, on or before the date falling 30 days after the date of this Agreement, provide to the Facility Agent a list of customers who have not agreed to comply with or, have not paid amounts under the Service Contracts in relation to Project SH1 into the relevant Receiving Accounts in accordance with the Notification Letters which have been delivered to them pursuant to the Finance Documents.

(e) Equity Pledge Agreement

EDC WGQ shall, within 1 Month after the date of this Agreement, provide the Facility Agent with the documents evidencing that the Equity Pledge Agreement (WGQ) has been registered with the SAIC.

(f) In respect of Pledge over Receivables

(i) EDC WGQ shall, on the date when the release of pledge over receivables in connection with the Original Bank Loan Agreement as stated above in item (a) of Conditions Subsequent for Facility A has been completed (or such longer period as otherwise agreed by the Facility Agent), provide to the Facility Agent with documents evidencing that the pledge under the Pledge over Receivables (WGQ), the Pledge over Receivables (GDS Suzhou), the Pledge over Receivables (GDS Beijing) and the Pledge over Receivables (GDS Shanghai) in relation to Project SH1 have all been registered with PBOC Information Center, except that the pledge over relevant Service Contracts in relation to Project SH1 under the Existing Pledge over Receivables (GDS Suzhou-Bank of Ningbo) shall be registered with PBOC Information Center pursuant to the timeline stipulated in item (ii) below.

(ii) EDC WGQ shall, in any event no later than 10 December 2016, provide to the Facility Agent with documents evidencing that the pledge over relevant Service Contracts in relation to Project SH1 under the Existing Pledge over Receivables (GDS Suzhou-Bank of Ningbo) have been registered with PBOC Information Center.

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(iii) EDC WGQ shall, within 3 Business Days from the first Utilisation Date of Facility A, provide to the Facility Agent with documents evidencing that the Notice of Pledge under the Pledge over Receivables (WGQ) have been delivered to GDS Suzhou, GDS Beijing, GDS HK and GDS Shanghai in respect of the Back-to-Back Agreements (WGQ) for Project SH1, and GDS Suzhou, GDS Beijing, GDS HK and GDS Shanghai have acknowledged such Notice of Pledge.

(iv) EDC WGQ shall, within 3 Business Days from the first Utilisation Date of Facility A, provide to the Facility Agent with pre-signed but undated Notice of Pledge (as defined in the Pledge over Receivables (WGQ), the Pledge over Receivables (GDS Suzhou), the Pledge over Receivables (GDS Beijing) and the Pledge over Receivables (GDS Shanghai)) required under the Pledge over Receivables (WGQ), the Pledge over Receivables (GDS Suzhou), the Pledge over Receivables (GDS Beijing) and the Pledge over Receivables (GDS Shanghai) to all customers under the relevant Service Contracts in respect of Project SH1.

(v) EDC WGQ shall, within 3 Business Days from the first Utilisation Date of Facility A, provide to the Facility Agent with documents evidencing that the Notification Letters under the Pledge over Receivables (WGQ), the Pledge over Receivables (GDS Suzhou), the Pledge over Receivables (GDS Beijing) and the Pledge over Receivables (GDS Shanghai) have been duly delivered to all customers under the Service Contracts in relation to Project SH1 existing as of the date of this Agreement (except for the Service Contracts under which the relevant customers have been required under that Service Contract or the notification letter delivered by the relevant Obligor Party to make payments to the relevant Receiving Accounts), together with a list of customers to which the Notification Letters have been delivered, except that the Notification Letters in relation to the Service Contracts under the Existing Pledge over Receivables (GDS Suzhou-Bank of Ningbo) shall be delivered to all relevant customers pursuant to the timeline stipulated in item (vi) below.

(vi) GDS Suzhou shall, in any event no later than 10 December 2016, provide to the Facility Agent with documents evidencing that the Notification Letters under the Pledge over Receivables (GDS Suzhou) in relation to the Service Contracts under the Existing Pledge over Receivables (GDS Suzhou-Bank of Ningbo) have been delivered to all relevant customers.

(g) EDC WGQ shall, in any event no later than 28 October 2016, procure GDS HK to provide the Facility Agent with the evidence that the notification letters stipulated in Clause 23.23 (*Contract Novation*) of this Agreement have been duly delivered to all customers under the GDS HK Service Contracts in relation to Project SH1 existing as of the date of this Agreement.

(h) Movable Assets Mortgage of Project SH1

(i) In relation to the mortgaged assets under the Movable Assets Mortgage Agreement (WGQ SH1 Non-Restricted Assets), EDC WGQ shall, within 30 days after the first Utilisation Date of Facility A, complete movable assets mortgage registration under the Movable Assets Mortgage Agreement (WGQ SH1 Non-Restricted Assets) with SAIC, and provide to the Facility Agent an original movable assets mortgage certificate (□□)

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□□□□) or any other original certificates evidencing the completion of such movable assets mortgage registration;

(ii) In relation to the mortgaged assets under the Movable Assets Mortgage Agreement (WGQ SH1 Restricted Assets), EDC WGQ shall, within 120 days after the first Utilisation Date of Facility A, obtain the approval from the Custom in respect of the movable assets mortgage under the Movable Assets Mortgage Agreement (WGQ SH1 Restricted Assets) and complete movable assets mortgage registration

under the Movable Assets Mortgage Agreement (WGQ SH1 Restricted Assets) with SAIC, and provide to the Facility Agent a certified copy of the Custom approval and an original movable assets mortgage certificate (□□□□□□) or any other original certificates evidencing the completion of such movable assets mortgage registration; and

- (iii) EDC WGQ shall, within 5 days after the completion of movable assets mortgage registration as required in paragraphs (i) and (ii) above (as the case may be), provide or cause to be provided to the Facility Agent a legal opinion in respect of the registration of movable assets mortgage thereunder.
- (i) In respect of Insurance Assignment Agreement (WGQ), EDC WGQ shall, within 3 Business Days after the first Utilisation Date of Facility A, provide to the Facility Agent with the following documents:
- (i) documents evidencing that the notice under the Insurance Assignment Agreement (WGQ) in relation to Project SH1 has been duly delivered by EDC WGQ to relevant contract counterparties; and
- (ii) original policies of Insurances in relation to Project SH1 and any endorsement thereto (if any) evidencing that, among others, the Security Agent has been named as the first loss-payee.
- (j) In respect of Lease Assignment Agreement (WGQ), EDC WGQ shall, within 5 Business Days after the first Utilisation Date of Facility A, provide to the Facility Agent with the following documents:
- (i) a pre-signed but undated Assignment Notice (as defined in the Lease Assignment Agreement (WGQ)) under the Lease Assignment Agreement (WGQ) to the Landlord in relation to Project SH1 and Project SH3; and
- (ii) evidence that the Maintenance Notice (as defined in the Lease Assignment Agreement (WGQ)) under the Lease Assignment Agreement (WGQ) has been duly delivered by EDC WGQ to the Landlord in relation to Project SH1 and Project SH3, and the Landlord has acknowledged such Maintenance Notice.
- (k) IDC Authorization
- EDC WGQ shall, in any event no later than 31 December 2016, provide the Facility Agent with documents evidencing the IDC Authorization has been granted to EDC WGQ.

### 3. Conditions Subsequent for Facility B

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- (a) EDC YG shall, in any event no later than December 30, 2016, provide the Facility Agent with the certified copy of the construction completion acceptance and filing receipt (□□□□□□□□) issued by Shanghai Comprehensive Bonded Zone Planning and Construction Department (□□□□□□□□□□□□) evidencing that relevant building to be leased by EDC YG for Project SH2 under the relevant Lease Agreement has passed the completion inspection.
- (b) Release of Pledge over Receivables in connection with the Original Bank Loan Agreement
- EDC YG shall, on the first Utilisation Date of Facility B (or such longer period as otherwise agreed by the Facility Agent) but in any event after the first Utilisation of Facility B occurs, provide the Facility Agent with documents evidencing that the pledge over receivables in respect of Project SH2 created by it in connection with the Original Bank Loan Agreement has been irrevocably and unconditionally discharged, released and deregistered.
- (c) Release of Mortgage over Movable Assets in respect of Project SH2
- EDC YG shall, within 7 Business Days from the first Utilisation Date of Facility B, provide the Facility Agent with documents evidencing that the mortgage over movable assets in respect of Project SH2 created by it in connection with the Original Bank Loan Agreement has been irrevocably and unconditionally discharged, released and deregistered.
- (d) Release of Pledge over Equity Interests
- EDC YG shall, within 30 Business Days from the first Utilisation Date of Facility B, provide the Facility Agent with documents evidencing that the pledge over equity interest in EDC YG created by the Parent (EDC YG) in connection with the Original Bank Loan Agreement has been irrevocably and unconditionally discharged, released and deregistered.
- (e) Share Mortgage
- EDC YG shall, within 14 Business Days from the first Utilisation Date of Facility B, provide the Facility Agent with documents evidencing that the mortgage in respect of shares in the Parent (EDC YG) created by the Intermediate Parent in connection with the Original Bank Loan Agreement has been irrevocably and unconditionally discharged, released and deregistered.
- EDC YG shall provide the Facility Agent with the documents pursuant to clause 5.1 of the Share Mortgage Agreement (Parent (EDC YG)), including without limitation:
- (i) the certificates of all the stock and shares and documents of title relating to the shares in the Parent (EDC YG) held by the Intermediate Parent;
- (ii) pre-signed but undated instrument of transfer and bought and sold notes relating to the shares in the Parent (EDC YG) held by the Intermediate Parent;
- (iii) pre-signed but undated letters of resignation from each director and the secretary of the Parent (EDC YG) substantially in the form of schedule 2 (Form of resignation letter) to the Share Mortgage Agreement (Parent (EDC YG));

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- (iv) pre-signed but undated resolution of all the directors of the Parent (EDC YG) substantially in the form of schedule 3 (Form of written resolution of directors) to the Share Mortgage Agreement (Parent (EDC YG)); and
- (v) pre-signed and dated letters of authorisation from each director and the secretary of the Parent (EDC YG) substantially in the form of schedule 4 (Form of authorisation letter) to the Share Mortgage Agreement (Parent (EDC YG)).
- (f) Updated List of Customers
- EDC WGQ, GDS Suzhou, the GDS Beijing and GDS Shanghai shall, on or before the date falling 30 days after the date of this Agreement, provide to the Facility Agent a list of customers who have not agreed to comply with or, have not paid amounts under the Service Contracts in relation to Project SH2 into the relevant Receiving Account in accordance with the Notification Letters which have been delivered to them pursuant to the Finance Documents.
- (g) Equity Pledge Agreement
- (i) The Parent (YG) shall, within 1 Month after the first Utilisation Date of Facility B, provide the Facility Agent with the documents evidencing that the Equity Pledge Agreement (YG) has been duly registered with the Hong Kong Companies Registry; and
- (ii) EDC YG shall, within 75 days after the date of deregistration of the pledge over equity interest in EDC YG created by the Parent (EDC YG) in connection with the Original Bank Loan Agreement with SAIC (or any longer period as agreed by the Facility Agent), provide the Facility Agent with the documents evidencing that the Equity Pledge Agreement (YG) has been approved by or filed with the MOFCOM (if applicable) and registered with the SAIC.
- (h) In respect of Pledge over Receivables
- (i) EDC YG shall, on the date when the release of pledge over receivables in connection with the Original Bank Loan Agreement as stated above in item (b) of Conditions Subsequent for Facility B has been completed (or such longer period as otherwise agreed by the Facility Agent), provide to the Facility Agent with documents evidencing that the pledge under (to the extent applicable) the Pledge over Receivables (WGQ), the Pledge over Receivables (YG), the Pledge over Receivables (GDS Suzhou), the Pledge over Receivables (GDS Beijing) and the Pledge over Receivables (GDS Shanghai) in relation to Project SH2 have all been registered with PBOC Information Center.
- (ii) EDC YG shall, within 3 Business Days from the first Utilisation Date of Facility B, provide to the Facility Agent with documents evidencing that the Notice of Pledge under the Pledge over Receivables (YG) have been delivered to EDC WGQ (to the extent applicable), GDS Suzhou and GDS Beijing in respect of the Back-to-Back Agreements (YG) for Project SH2, and EDC WGQ (to the extent applicable), GDS Suzhou and GDS Beijing have acknowledged such Notice of Pledge.

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- (iii) EDC YG shall, within 3 Business Days from the first Utilisation Date of Facility B, provide to the Facility Agent with pre-signed but undated Notice of Pledge (as defined in the Pledge over Receivables (WGQ), the Pledge over Receivables (YG), the Pledge over Receivables (GDS Suzhou), the Pledge over Receivables (GDS Beijing) and the Pledge over Receivables (GDS Shanghai)) under the Pledge over Receivables (WGQ), the Pledge over Receivables (YG), the Pledge over Receivables (GDS Suzhou), the Pledge over Receivables (GDS Beijing) and the Pledge over Receivables (GDS Shanghai) to all customers under the Service Contracts in respect of Project SH2.

- (iv) EDC YG shall, within 3 Business Days from the first Utilisation Date of Facility B, provide to the Facility Agent with documents evidencing that the Notification Letters under the Pledge over Receivables (WGQ), the Pledge over Receivables (YG), the Pledge over Receivables (GDS Suzhou), the Pledge over Receivables (GDS Beijing) and the Pledge over Receivables (GDS Shanghai) have been duly delivered to all customers under the Service Contracts in relation to Project SH2 existing as of the date of this Agreement (except for the Service Contracts under which the relevant customers have been required under that Service Contract or the notification letter delivered by the relevant Obligor Party to make payments to the Receiving Accounts), together with a list of customers to which the Notification Letters have been delivered.
- (i) EDC YG shall, in any event no later than 28 October 2016, procure GDS HK to provide the Facility Agent with the evidence that the notification letters stipulated in Clause 23.23 (*Contract Novation*) of this Agreement have been duly delivered to all customers under the GDS HK Service Contracts in relation to Project SH2 existing as of the date of this Agreement.
- (j) **Movable Assets Mortgage of Project SH2**
- (i) In relation to the mortgaged assets under the Movable Assets Mortgage Agreement (YG SH2 Non-Restricted Assets), EDC YG shall, within 30 days after the first Utilisation Date of Facility B, complete movable assets mortgage registration under the Movable Assets Mortgage Agreement (YG SH2 Non-Restricted Assets) with SAIC, and provide to the Facility Agent an original movable assets mortgage certificate (□□□□□□) or any other original certificates evidencing the completion of such movable assets mortgage registration;
- (ii) In relation to the mortgaged assets under the Movable Assets Mortgage Agreement (YG SH2 Restricted Assets), EDC YG shall, within 120 days after the first Utilisation Date of Facility B, obtain the approval from the Custom in respect of the movable assets mortgage under the Movable Assets Mortgage Agreement (YG SH2 Restricted Assets) and complete movable assets mortgage registration under the Movable Assets Mortgage Agreement (YG SH2 Restricted Assets) with SAIC, and provide to the Facility Agent a certified copy of the Custom approval and an original movable assets mortgage certificate (□□□□□□) or any other original certificates evidencing the completion of such movable assets mortgage registration; and
- (iii) EDC YG shall, within 5 days after the completion of movable assets mortgage registration as required in paragraphs (i) and (ii) above (as the case may be), provide or

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cause to be provided to the Facility Agent a legal opinion in respect of the registration of movable assets mortgage thereunder.

- (k) In respect of Insurance Assignment Agreement (YG), EDC YG shall, within 3 Business Days after the first Utilisation Date of Facility B, provide to the Facility Agent with the following documents:
- (i) documents evidencing that the notice under the Insurance Assignment Agreement (YG) in relation to Project SH2 has been duly delivered by EDC YG to relevant contract counterparties; and
- (ii) original policies of Insurances in relation to Project SH2 and any endorsement thereto (if any) evidencing that, among others, the Security Agent has been named as the first loss-payee.
- (l) In respect of Lease Assignment Agreement (YG), EDC YG shall, within 5 Business Days after the first Utilisation Date of Facility B, provide to the Facility Agent with the following documents:
- (i) a pre-signed but undated Assignment Notice (as defined in the Lease Assignment Agreement (YG)) under the Lease Assignment Agreement (YG) to the Landlord in relation to Project SH2; and
- (ii) evidence that the Maintenance Notice (as defined in the Lease Assignment Agreement (YG)) under the Lease Assignment Agreement (YG) has been duly delivered by EDC YG to the Landlord in relation to Project SH2, and the Landlord has acknowledged such Maintenance Notice.

#### 4. Conditions Subsequent for Facility C beyond 70% of the Total Facility C Commitments

- (a) **Movable Assets Mortgage of Project SH3**
- (i) In relation to the mortgaged assets under the Movable Assets Mortgage Agreement (YG SH3 Non-Restricted Assets), EDC YG shall, within 15 days from the first Utilisation Date of Facility C beyond 70% of the Total Facility C Commitments, provide to the Facility Agent with the Movable Assets Mortgage Agreement (YG SH3 Non-Restricted Assets) duly executed by each party to it, and shall, with 30 days from the date of the Movable Assets Mortgage Agreement (YG SH3 Non-Restricted Assets), complete movable assets mortgage registration under the Movable Assets Mortgage Agreement (YG SH3 Non-Restricted Assets) with SAIC, and provide to the Facility Agent with an original movable assets mortgage certificate (□□□□□□) or any other original certificates evidencing the completion of such movable assets mortgage registration;
- (ii) In relation to the mortgaged assets under the Movable Assets Mortgage Agreement (YG SH3 Restricted Assets), EDC YG shall, within 15 days from the first Utilisation Date of Facility C beyond 70% of the Total Facility C Commitments, provide to the Facility Agent with the Movable Assets Mortgage Agreement (YG SH3 Restricted Assets) duly executed by each party to it, and shall, with 120 days from the date of the Movable Assets Mortgage Agreement (YG SH3 Restricted Assets), obtain the

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approval from the Custom in respect of the movable assets mortgage under the Movable Assets Mortgage Agreement (YG SH3 Restricted Assets) and complete movable assets mortgage registration under the Movable Assets Mortgage Agreement (YG SH3 Restricted Assets) with SAIC, and provide to the Facility Agent with a certified copy of the Custom approval and an original movable assets mortgage certificate (□□□□□□) or any other original certificates evidencing the completion of such movable assets mortgage registration; and

- (iii) EDC YG shall, within 5 days after the completion of movable assets mortgage registration as required in paragraphs (i) and (ii) above (as the case may be) provide or cause to be provided to the Facility Agent a legal opinion in respect of the registration of movable assets mortgage thereunder.
- (b) **Supplemental Agreements to the Pledge over Receivables in relation to Project SH3**
- EDC YG shall, within 7 Business Days from the first Utilisation Date of Facility C beyond 70% of the Total Facility C Commitments, provide to the Facility Agent with:
- (i) the supplemental agreements to (to the extent applicable) the Pledge over Receivables (WGQ), the Pledge over Receivables (YG), the Pledge over Receivables (GDS Suzhou), the Pledge over Receivables (GDS Beijing) and/or the Pledge over Receivables (GDS Shanghai) in relation to Project SH3 duly executed by each party thereto;
- (ii) evidence that pledge under such supplemental agreements (as described in paragraph (i) above) have all been registered with PBOC Information Center respectively; and
- (iii) evidence that the Notice of Pledge (as defined in (to the extent applicable) the Pledge over Receivables (WGQ), the Pledge over Receivables (YG), the Pledge over Receivables (GDS Suzhou), the Pledge over Receivables (GDS Beijing) and the Pledge over Receivables (GDS Shanghai)) under the Pledge over Receivables (YG) have been delivered to GDS Suzhou, GDS Beijing, GDS Shanghai and/or EDC WGQ in respect of the Back-to-Back Agreements (YG) for Project SH3, and GDS Suzhou, GDS Beijing, GDS Shanghai and/or EDC WGQ have acknowledged such Notice of Pledge.

- (c) **Supplemental Agreements to the Insurances Assignment Agreement (YG)**

EDC YG shall, within 3 Business Days from the first Utilisation Date of Facility C beyond 70% of the Total Facility C Commitments, provide to the Facility Agent with:

- (i) the supplemental assignment of Insurance duly executed by each party thereto in respect of Project SH3 in the form and instance substantially set forth in schedule 3 of the Insurance Assignment Agreement (YG);
- (ii) evidence that the notices under the Insurance Assignment Agreement (YG) in relation to Project SH3 have been duly delivered by EDC YG to relevant contract counterparties; and

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- (iii) original policies of Insurances in relation to Project SH3 and any endorsement thereto (if any) evidencing that evidencing that, among others, the Security Agent has been named as the first loss-payee.
- (d) **Lease Assignment Agreement in respect of Project SH3**
- EDC YG shall, within 60 days from Project SH3 Completion, provide to the Facility Agent a certified copy of the sublease agreement or assignment of rights and obligations entered into by and between EDC WGQ and EDC YG, and/or other documents evidencing that EDC YG will ultimately assume the tenancy under the Lease Agreement in relation to Project SH3, and following documents:
- (i) A supplemental assignment of Lease Agreements in respect of Project SH3 in the form and instance substantially set forth in schedule 2 of the Lease Assignment Agreement (YG) duly executed by each party thereto.
- (ii) (A) A pre-signed but undated Assignment Notice (as defined in the Lease Assignment Agreement (YG)) addressed to the Landlord in relation to Project SH3; or (B) (in the event that EDC WGQ enters into the sublease agreement with EDC YG) documents evidencing that the Assignment Notice (as defined in the Lease Assignment Agreement (YG)) has been duly delivered by EDC YG to EDC WGQ in relation to Project SH3, and EDC WGQ has acknowledged such Assignment Notice; and
- (iii) Evidence that the Maintenance Notice (as defined in the Lease Assignment Agreement (YG)) has been duly delivered by EDC YG to the Landlord or EDC WGQ (as the case may be) in relation to Project SH3, and the Landlord or EDC WGQ (as the case may be) has acknowledged such Maintenance Notice.

## SCHEDULE 3

## Utilisation Request

From: [EDC WGQ/EDC YG]

To: [Facility Agent]

Dated:

Dear Sirs

SHANGHAI WAIGAOQIAO EDC TECHNOLOGY CO., LTD./SHANGHAI YUNGANG EDC TECHNOLOGY CO., LTD. — Facility Agreement dated [ ] 2016 (the "Facility Agreement")

- We refer to the Facility Agreement. This is a Utilisation Request. Terms defined in the Facility Agreement shall have the same meaning in this Utilisation Request.
- We wish to borrow a Loan on the following terms:
 

Proposed Utilisation Date:	[ ] (or, if that is not a Business Day, the next Business Day)
Facility to be utilised:	[Facility A / Facility B / Facility C / Facility E] (delete if not relevant)
Currency of Loan:	RMB
Amount:	[ ] or, if less, the Available Facility
[First] Interest Period:	[ ]
Loan Disbursement Account:	[ ]
Loan purpose:	[ ]
- [For the purpose of the Consigned Disbursement, the proceeds of the requested Loan should be credited to [the account in name of the applicable payee] through the Loan Disbursement Account.] (delete if not relevant)
- [For the purpose of the Consigned Disbursement, we hereby confirm that we irrevocably and unconditionally authorise the Facility Agent to authorise the Account Bank to debit the Loan Disbursement Account for the transfer of funds in the amounts and to the accounts specified in paragraph 3 above.] (delete if not relevant)
- [For the purpose of the Consigned Disbursement, we enclose with this Utilisation Request the evidence required to be submitted by us pursuant to Clause 5.2 (Completion of a Utilisation Request) of the Agreement.] (delete if not relevant)
- We confirm that each condition specified in Clause 4.3 (Further conditions precedent) is satisfied on the date of this Utilisation Request.

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- This Utilisation Request is irrevocable.

Yours faithfully

\_\_\_\_\_  
authorised signatory for  
[EDC WGQ/EDC YG ]

(Company Chop)

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## SCHEDULE 4

## Form of Transfer Certificate

To: [ ] as Facility Agent and [ ] as Security Agent

From: [The Existing Lender] (the "Existing Lender") and [The New Lender] (the "New Lender")

Dated:

SHANGHAI WAIGAOQIAO EDC TECHNOLOGY CO., LTD./SHANGHAI YUNGANG EDC TECHNOLOGY CO., LTD. — Facility Agreement dated [ ] 2016 (the "Facility Agreement")

- We refer to Clause 26.5 (Procedure for transfer) of the Facility Agreement. This is a Transfer Certificate. Terms used in the Facility Agreement shall have the same meaning in this Transfer Certificate.
- The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation, and in accordance with Clause 26.5 (Procedure for transfer), all of the Existing Lender's rights and obligations under the Facility Agreement and the other Finance Documents which relate to that portion of the Existing Lender's Commitment(s) and participations in Loans under the Facility Agreement as specified in the Schedule.
- The proposed Transfer Date is [ ].
- The Facility Office and address, fax number and attention particulars for notices of the New Lender for the purposes of Clause 34.2 (Addresses) are set out in the Schedule.
- The New Lender expressly acknowledges:
  - the limitations on the Existing Lender's obligations set out in paragraphs (a) and (c) of Clause 26.4 (Limitation of responsibility of Existing Lenders); and
  - that it is the responsibility of the New Lender to ascertain whether any document is required or any formality or other condition requires to be satisfied to effect or perfect the transfer contemplated by this Transfer Certificate or otherwise to enable the New Lender to enjoy the full benefit of each Finance Document.
- The New Lender confirms that it is a "New Lender" within the meaning of Clause 26.1 (Assignments and transfers by the Lenders).
- The Existing Lender and the New Lender confirm that the New Lender is not an Obligor or an Affiliate of an Obligor.
- This Transfer Certificate 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 this Transfer Certificate.

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- This Transfer Certificate and all obligations arising from or in connection with this Transfer Certificate are governed by PRC law.

- This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate.

**Note:** The execution of this Transfer Certificate may not transfer a proportionate share of the Existing Lender's interest in the Transaction Security in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Lender's Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

## THE SCHEDULE

## Commitment/rights and obligations to be transferred, and other particulars

## Commitment/participation(s) transferred

Drawn Loan(s) participation(s) amount(s): [ ]  
 Available Commitment amount: [ ]

## Administration particulars:

New Lender's receiving account: [ ]  
 Address: [ ]  
 Telephone: [ ]  
 Facsimile: [ ]  
 Attn/Ref: [ ]

[the Existing Lender]

[the New Lender]

By:

By:

This Transfer Certificate is executed by the Facility Agent and the Transfer Date is confirmed as [ ].

[the Facility Agent]

By:

**Note:** It is the New Lender's responsibility to ascertain whether any other document is required, or any formality or other condition is required to be satisfied, to effect or perfect the transfer contemplated in this Transfer Certificate or to give the New Lender full enjoyment of all the Finance Documents.

## SCHEDULE 5

## Form of Compliance Certificate

To: [ ] as Facility Agent

From: [Borrowers]

Dated:

Dear Sirs

████████████████████ (SHANGHAI WAIGAOQIAO EDC TECHNOLOGY CO., LTD.)/████████████████████ (SHANGHAI YUNGANG EDC TECHNOLOGY CO., LTD.) — Facility Agreement dated [ ] 2016 (the "Facility Agreement")

1. We refer to the Facility Agreement. This is a Compliance Certificate. Terms used in the Facility Agreement shall have the same meaning in this Compliance Certificate. For the purpose of the financial covenants set out in paragraph 2 of this Compliance Certificate, the calculation is made on the consolidated basis of the Borrowers.

2. We confirm that:

- in respect of the Relevant Period ending on [ ], Cashflow for the Relevant Period was [ ] and Debt Service for the Relevant Period was [ ]. Therefore the DSCR for such Relevant Period was [ ];1 and the financial covenant contained in paragraph (a) of Clause 22.2 (Financial conditions) [has/has not] been complied with.
- on the last day of the Relevant Period ending on [ ], Total Debt was [ ] and EBITDA for such Relevant Period was [ ]. Therefore the Gross Leverage Ratio for such Relevant Period was [ ];1 and the financial covenant contained in paragraph (b) of Clause 22.2 (Financial conditions) [has/has not] been complied with.
- on the last day of the Relevant Period ending on [ ], Total Debt was [ ] and Contributed Equity on such day was [ ]. Therefore the DER for such Relevant Period was [ ];1 and the financial covenant contained in paragraph (c) of Clause 22.2 (Financial conditions) [has/has not] been complied with.
- in respect of the Relevant Period ending on [ ], Cashflow for such Relevant Period was [ ] and Net Finance Charges for such Relevant Period were [ ]. Therefore the ICR for such Relevant Period was [ ];1 and the financial covenant contained in paragraph (d) of Clause 22.2 (Financial conditions) [has/has not] been complied with.
- [Capital Expenditure in respect of Project SH1 for the Financial Year of EDC WGQ ending on [ ] was [ ], therefore Capital Expenditure in respect of Project SH1 during such Financial Year [was/was not] in excess of [ ] and the covenant contained in paragraph (e)(i) of Clause 22.2 (Financial conditions) [has/has not] been complied with.]

- [Capital Expenditure in respect of Project SH2 for the Financial Year of EDC YG ending on [ ] was [ ], therefore Capital Expenditure in respect of Project SH2 during such Financial Year [was/was not] in excess of [ ] and the covenant contained in paragraph (e)(ii) of Clause 22.2 (Financial conditions) [has/has not] been complied with.]
- [Capital Expenditure in respect of Project SH3 for the Financial Year of EDC YG ending on [ ] was [ ], therefore Capital Expenditure in respect of Project SH3 during such Financial Year [was/was not] in excess of [ ] and the covenant contained in paragraph (e)(iii) of Clause 22.2 (Financial conditions) [has/has not] been complied with.]
- [Excess Cashflow for the Financial Year of EDC WGQ ending [ ] was [ ], therefore the Excess Cashflow to be applied in prepayment pursuant to Clause 8.6 (Excess Cashflow) will be [ ].]
- [Excess Cashflow for the Financial Year of EDC YG ending [ ] was [ ], therefore the Excess Cashflow to be applied in prepayment pursuant to Clause 8.6 (Excess Cashflow) will be [ ].]

3. [We confirm that no Default is continuing.]\*

4. [We refer to Clause [ ] (For the avoidance of doubt, no Flotation may occur in respect of any member of the Group). We confirm amount of [Disposal Proceeds]/[Insurance Proceeds]/[Compensation] in respect of Project [SH1/SH2] is [ ]. We confirm that the amount of [Excluded Disposal Proceeds]/[Excluded Insurance Proceeds] in respect of Project [SH1/SH2] is [ ], and that the specific purpose for which it was intended to be used is [ ]. We confirm that such amount of [Excluded Disposal Proceeds]/[Excluded Insurance Proceeds] in respect of Project [SH1/SH2] has been used for that specific purpose and within the applicable period in the manner contemplated by this Agreement.]

\* If this statement cannot be made, the certificate should identify any Default that is continuing and the steps, if any, being taken to remedy it.

Signed:

\_\_\_\_\_  
 Authorised Signatory  
 of  
 [EDC WGQ]

Signed:

\_\_\_\_\_  
Authorised Signatory  
of  
[EDC YG]

**SCHEDULE 6**

**Form of Accession Letter**

To: [ ] as Facility Agent and [ ] as Security Agent

From: [Hedging Providers]

Dated:

Dear Sirs

SHANGHAI WAIGAOQIAO EDC TECHNOLOGY CO., LTD./SHANGHAI YUNGANG EDC TECHNOLOGY CO., LTD.) — Facility Agreement dated [ ] 2016 (the "Facility Agreement")

- 1. We refer to the Facility Agreement. This is an Accession Letter. Terms defined in the Facility Agreement have the same meaning in this Accession Letter unless given a different meaning in this Accession Letter.
- 2. We, [name of new Hedging Provider] of [address/registered office], agree to become a Hedging Provider under the Facility Agreement and to be bound by the terms of the Facility Agreement as a Hedging Provider. We are a company duly incorporated under the laws of [name of relevant jurisdiction].

3. [Hedging Provider's] administrative details are as follows:

Address:

Fax No:

Attention:

Telephone No:

4. This Accession Letter, and all obligations arising from or in connection with this Accession Letter are governed by PRC law.

[Hedging Provider]

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

**SCHEDULE 7**

**Insurances**

**1. Insurance Requirements**

Unless each Lender otherwise agrees, each Borrower (or any person on its behalf) shall, to the extent such insurances are available on commercially reasonable terms:

- (a) insure and keep insured, with financially sound and reputable insurers and reinsurers approved by each Lender, all its assets and business which can be insured against all insurable losses to include, without limitation, the insurances specified in this Schedule 7 (*Insurances*);
- (b) promptly following the receipt of a notice by any Lender or the Facility Agent from time to time, obtain such additional insurance coverage of risks or liabilities that are not specified in this Schedule 7 (*Insurances*) as would from time to time be obtained by a prudent internet data center company which does not self-insure and which shall be in such amounts and with such deductibles as are specified in that notice;
- (c) promptly following the receipt of a notice by the Lenders or the Facility Agent from time to time, obtain such additional insurance(s) or make such modifications to the terms, conditions, amounts or deductibles of any insurance policy required pursuant to paragraphs 1(a) and 1(b) above as the Facility Agent may reasonably determine and specify in that notice to be necessary so as to cover any material change in the identified risk exposure of a Borrower, its business or assets; and
- (d) promptly following the receipt of a notice by the Facility Agent from time to time pursuant to the terms of proviso (i) of this paragraph 1, make such modifications to the amounts and deductibles of any insurance policy required to be obtained under this Agreement as the Facility Agent specifies in that notice to take account of inflationary and other relevant factors,

provided always that:

- (i) the Facility Agent (acting reasonably) shall be entitled from time to time to review, in consultation with a Borrower, the monetary limits and deductibles of each policy required to be obtained under this Agreement, such review not to be conducted more frequently than once every calendar year with respect to each policy; and
- (ii) if at any time and for any reason any insurance required to be maintained under this Agreement shall not be in full force and effect or otherwise a Borrower fails to comply with any of the requirements in this paragraph 1, the Facility Agent (acting reasonably) shall thereupon, or at any time while the same is continuing, be entitled (but have no such obligation) on behalf of the Lenders to procure such insurance or, as the case may be, the fulfilment of the relevant requirement at the expense of that Borrower and to take all such steps to minimise hazard as the Facility Agent may consider expedient or necessary.

**2. Insurance Provisions**

Each insurance policy required to be obtained pursuant to paragraph 1 above shall be on terms and conditions acceptable to the Facility Agent (acting reasonably) and, to the extent it is commercially viable, contain cut-through provisions, where required, together with provisions to the effect that:

- (a) no policy can expire or be cancelled or suspended by any Borrower, or the insurer for any reason (including failure to renew the policy or to pay the premium or any other amount) unless the Facility Agent and, in the case of expiration or if cancellation or suspension is initiated by the insurer, that Borrower receives at least 45 days' notice (or such lesser period as the Facility Agent may agree with respect to cancellation, suspension or termination in the event of war and kindred peril) prior to the effective date of termination, cancellation or suspension;
- (b) the Security Agent (on behalf of the Secured Parties) is named as additional insured party on all liability policies;
- (c) where relevant, all its provisions (except those relating to limits of liability) shall operate as if they were a separate policy covering each insured party;
- (d) on every insurance policy on any Borrower's assets which are the subject of the security granted pursuant to the Transaction Security Documents and on every insurance policy for business interruption, the Security Agent (on behalf of the Secured Parties) is named as loss payee;
- (e) where relevant, the insurers waive all rights of recourse or subrogation, howsoever arising, against any Borrower; and
- (f) all provisions of each insurance policy conferring any right, protection or benefit to the Secured Parties (including, without limitation, loss payee and additional named insured provisions, notice requirements, etc.) shall at all times remain in full force and in effect notwithstanding any act or failure to act on the part of any Borrower, its respective agents or employees or on the part of its respective contractors or subcontractors,



provided that none of the policies referred pursuant to paragraph 1 above shall include any provision for self-insurance or any self-insured retention except to the extent of the deductibles specified in this Schedule 7 (Insurances) or as each Lender otherwise approves from time to time.

### 3. Borrowers' Undertakings

The Borrowers shall (and shall procure that any other person will, in respect of insurance policies maintains by such other person on behalf of any Borrower):

- (a) punctually pay any premium, commission and any other amounts necessary for effecting and maintaining in force each insurance policy;
- (b) promptly notify the relevant insurer of any event entitling the Borrowers to make a claim under any policy written by that insurer and diligently pursue that claim;
- (c) comply with all warranties under each policy of insurance;
- (d) not do or omit to do, or permit to be done or not done, anything which might:
  - (i) render any insurance policy, or any provision of that policy, obtained pursuant to this Schedule 7 (Insurances) void or voidable or lead to its suspension or impair or defeat any such policy in whole or in part; or
  - (ii) prejudice the Borrowers' or, where the Security Agent is a loss payee or an additional named insured, the Security Agent's right to claim or recover under any insurance policy;

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- (e) not vary, rescind, terminate, cancel or cause a material change to any insurance policy;
- (f) procure that each insurer under all insurance policies obtained pursuant to paragraph 1 above:
  - (i) is promptly notified of the security interests, created in favour of the Secured Parties pursuant to the Transaction Security Documents in the Borrowers' title to, and rights, interests and benefits under, such policies;
  - (ii) (A) notes on each such policy, in form and substance satisfactory to each Secured Party, the Secured Parties' interest in that policy pursuant to the Transaction Security Documents and (B) deposits each such policy with its brokers;
  - (iii) together with the relevant brokers, notifies the Secured Parties of the issuance of any notice of cancellation or suspension or modification of the relevant policy and of any fact of which they become aware that could affect the coverage under that policy; and
  - (iv) acknowledges that the Secured Parties, as beneficiaries under the relevant policy and the Transaction Security Documents, are not liable to the insurers or reinsurers for the payment of any insurance or reinsurance premiums nor for any other obligations of the Borrowers;
- (g) use its best efforts to ascertain that payments of reinsurance, if any, premiums under reinsurance policies of insurances required to be maintained by the Borrowers pursuant to paragraph 1 above are paid in a timely manner and promptly inform the Security Agent when it becomes aware that any such premiums have not been paid.

### 4. Application of Proceeds

- (a) The Borrowers shall cause all proceeds from an Insurance claim (other than the Excluded Insurance Proceeds) to be directly applied towards the prepayment of the Loans in accordance with Clause 8.5 (Insurance proceeds) of this Agreement;
- (b) If the proceeds from an Insurance claim received by or payable to any Borrower is RMB 10,000,000 or less, such proceeds shall constitute the Excluded Insurance Proceeds, and shall be applied towards the replacement, reinstatement and/or repair of the assets or otherwise in amelioration of the loss in respect of which the relevant insurance claim was made within 6 months after receipt.

### 5. Reporting Requirements

Unless the Facility Agent otherwise agrees, the Borrowers shall (and shall procure that any other person will, in respect of insurance policies maintains by such other person on behalf of any Borrower) provide to the Facility Agent the following:

- (a) as soon as possible after its occurrence, notice of any event which entitles the Borrowers to claim under any one or more insurance policies;
- (b) within 30 days after any insurance policy is issued to any Borrower, a copy of that policy incorporating any loss payee provisions required under paragraph 2(d) above;
- (c) within 30 days after any notice has been given by the Facility Agent to a Borrower pursuant to paragraph 1(c) and paragraph 1(d) above, a copy of any additional insurance obtained, or modification of any existing policy made, pursuant to that notice;

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- (d) not less than 10 Business Days prior to the expiry date of any insurance policy (or, for insurance with multiple renewal dates, not less than 10 Business Days prior to the expiry date of the policy on the principal asset), a certificate of renewal from the insurer, insurance broker or agent confirming the renewal of that policy and the renewal period, the premium, the amounts insured for each asset or item and any changes in terms or conditions from the policy's issue date or last renewal, and confirmation from the insurer that provisions naming the Security Agent (on behalf of the Secured Parties) as loss payee or additional named insured, as applicable remain in effect;
- (e) such evidence of premium payment as the Facility Agent may from time to time request;
- (f) any cancellation, written notice of threatened or potential cancellation or material change in the terms, coverage or amounts of any insurance policy required to be maintained pursuant to this Schedule 7 (Insurances); and
- (g) any other information or documents on each insurance policy as the Facility Agent reasonably requests from time to time.

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## SCHEDULE 8

### List of Existing Accounts

EDC WGQ:

No.	Account No.	Account Opening Bank	Targeted Timeline for Closure of the Existing Accounts
1.	449459218086	Bank of China, Shanghai Pilot Free Trade Zone Branch	Basic account, not closed
2.	441668869094	Bank of China, West Nanjing Road No. 3 Sub-branch (Shanghai)	The company credit card account, not closed
3.	310066137018010107902	Bank of Communications, Shanghai Pilot Free Trade Zone Branch	Within 3 Months after the date of this Agreement
4.	310066137018010149696	Bank of Communications, Shanghai Pilot Free Trade Zone Branch	Within 6 Months after the date of this Agreement
5.	70010122001855493	Bank of Ningbo, Shanghai Branch	Within 3 Months after the date of this Agreement
6.	8110201013900002543	China CITIC Bank, Shanghai Pudian Road Sub-Branch	Within 3 Months after the date of this Agreement
7.	310066137146150004712	Bank of Communications, Shanghai Pilot Free Trade Zone Branch	Within 6 Months after the date of this Agreement
8.	310066713146150009255	Bank of Communications, Shanghai Pilot Free Trade Zone Branch	Within 6 Months after the date of this Agreement
9.	310066137146100006783	Bank of Communications, Shanghai Pilot Free Trade Zone Branch	Within 6 Months after the date of this Agreement
10.	70012028000001301	Bank of Ningbo, Shanghai Branch	Foreign debt account for the Existing Shareholder Loan (WGQ), not closed
11.	7314411482600002218	China CITIC Bank, Shanghai Branch	Foreign debt account for the Existing Shareholder Loan (WGQ), not closed

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No.	Account No.	Account Opening Bank	Targeted Timeline for Closure of the Existing Accounts
12.	1113000983	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-	N/A

13.	1113001033	Branch United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
14.	1113001041	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
15.	1113001068	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
16.	1113001076	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
17.	1113001084	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
18.	1113001092	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
19.	1119000802	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A

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**EDC YG:**

No.	Account No.	Account Opening Bank	Targeted Timeline for Closure of the Existing Accounts
1.	310066137018010185106	Bank of Communications, Shanghai Pilot Free Trade Zone Branch	Basic Account, not closed
2.	FTE 4510729929000000153	Industrial & Commercial Bank of China, Qingpu Industrial Zone Sub-Branch	Within 3 Months after the date of this Agreement
3.	310066137018010370346	Bank of Communications, Shanghai Pilot Free Trade Zone Branch	Within 6 Months after the date of this Agreement
4.	448168728902	Bank of China, West Nanjing Road No. 3 Sub-branch (Shanghai)	Within 6 Months after the date of this Agreement
5.	FTE787570007212	Bank of China, West Nanjing Road No. 3 Sub-branch (Shanghai)	Within 3 Months after the date of this Agreement
6.	32001617160052508859	China Construction Bank, Luoshe Branch (Wuxi)	Within 3 Months after the date of this Agreement
7.	310066137146150005935	Bank of Communications, Shanghai Pilot Free Trade Zone Branch	Within 6 Months after the date of this Agreement
8.	445568599029	Bank of China, West Nanjing Road No. 3 Sub-branch (Shanghai)	Within 6 Months after the date of this Agreement
9.	1119000632	United Overseas Bank (China) Limited	N/A
10.	1113001122	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
11.	1113001149	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
12.	1113001157	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
13.	1113001165	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
14.	1113001173	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A

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No.	Account No.	Account Opening Bank	Targeted Timeline for Closure of the Existing Accounts
15.	1113001181	Branch United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
16.	1113001203	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A
17.	1113001211	United Overseas Bank (China) Limited Shanghai Pilot Free Trade Zone Sub-Branch	N/A

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**SIGNATURE PAGE**

**Borrower**

□□□□□□□□□□□□□□ (SHANGHAI WAIGAOQIAO EDC TECHNOLOGY CO., LTD.)

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

S-1

**Borrower**

□□□□□□□□□□□□□□ (SHANGHAI YUNGANG EDC TECHNOLOGY CO., LTD.)

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

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**Ultimate Parent**

**GDS HOLDINGS LIMITED**

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

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**GDS Beijing**

□□□□□□□□□□ (BEIJING WANGUO CHANGAN TECHNOLOGY CO., LTD.)

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

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**GDS Suzhou**

□□□□□□□□□□ (GLOBAL DATA SOLUTIONS CO., LTD.)

By: \_\_\_\_\_  
S-5

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**GDS Management Co.**

SHANGHAI FREE TRADE ZONE GDS MANAGEMENT CO., LTD.)

By: \_\_\_\_\_  
S-6

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**Mandated Lead Arranger**

CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK)

By: \_\_\_\_\_  
S-7

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**Mandated Lead Arranger**

UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)

By: \_\_\_\_\_  
S-8

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**Mandated Lead Arranger**

DBS Bank (China) Ltd, Shanghai Branch)

By: \_\_\_\_\_  
S-9

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**Mandated Lead Arranger**

Shanghai HuaRui Bank Co., LTD)

By: \_\_\_\_\_  
S-10

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**Mandated Lead Arranger**

Australia and New Zealand Bank (China) Company Limited, Shanghai Branch)

By: \_\_\_\_\_  
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**Original Lender**

Credit Agricole Corporate and Investment Bank (China) Limited Shanghai Branch)

By: \_\_\_\_\_  
S-12

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**Original Lender**

UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)

By: \_\_\_\_\_  
S-13

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**Original Lender**

DBS Bank (China) Ltd, Shanghai Branch)

By: \_\_\_\_\_  
S-14

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**Original Lender**

上海华 Rui 银行有限公司 (Shanghai HuaRui Bank Co., LTD)

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

S-15

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**Original Lender**

澳大利亚和新西兰银行有限公司 (Australia and New Zealand Bank (China) Company Limited, Shanghai Branch)

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

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**Facility Agent**

渣打银行有限公司 (UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)

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

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**Security Agent**

渣打银行有限公司 (UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)

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

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**Account Bank**

渣打银行有限公司 (UNITED OVERSEAS BANK (CHINA) LIMITED SHANGHAI PILOT FREE TRADE ZONE SUB-BRANCH)

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

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**Coordinating Bank**

农业信贷银行有限公司 (CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK)

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

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**Coordinating Bank**

渣打银行有限公司 (UNITED OVERSEAS BANK LIMITED)

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

S-21

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[4] October 2016

Matter No.:822558  
Doc Ref: RH/102783594

GDS Holdings Limited  
Cricket Square, Hutchins Drive  
PO Box 2681  
Grand Cayman KY1-1111  
Cayman Islands

Dear Sirs,

**GDS Holdings Limited (the "Company")**

We have acted as special legal counsel in the Cayman Islands to the Company in connection with a registration statement on form F-1 to be filed with the U.S. Securities and Exchange Commission (the "**Commission**") on or about [4] October 2016 (the "**Registration Statement**", which term does not include any other document or agreement whether or not specifically referred to therein or attached as an exhibit or schedule thereto) relating to the registration under the U.S. Securities Act of 1933, as amended, (the "**Securities Act**") of class A ordinary shares, par value US\$0.00005 each (the "**Class A Ordinary Shares**") of the Company.

For the purposes of giving this opinion, we have examined a copy of the Registration Statement. We have also reviewed (1) the currently adopted amended and restated memorandum and articles of association of the Company provided to us on [4] October 2016, (2) minutes of meetings of the board of directors of the Company held on each of 26 September 2016, 29 September 2016 and 3 October 2016 (the "**Director Resolutions**"), and [the latest draft of] unanimous written resolutions of the members of the Company [to be] passed prior to the effectiveness of the Registration Statement (the "**Member Resolutions**"), (3) the latest drafts of the amended and restated memorandum of association and the amended and restated articles of association of the Company proposed to become effective upon the closing of the Company's initial public offering of Class A Ordinary Shares represented by American Depositary Shares (the "**Listing M&As**"), (4) a Certificate of Good Standing issued by the Registrar of Companies in relation to the Company on [4] October 2016 (the "**Certificate Date**"), and (5) such other documents and made such enquiries as to questions of law as we have deemed necessary in order to render the opinion set forth below.

We have assumed (a) the genuineness and authenticity of all signatures and the conformity to the originals of all copies (whether or not certified) examined by us and the authenticity and completeness of the originals from which such copies were taken, (b) that where a document has been examined by us in draft form, it will be or has been executed and/or filed in the form of that draft, and where a number of drafts of a document have been examined by us all changes thereto have been marked or otherwise drawn to our attention, (c) the accuracy and completeness of all factual representations made in the Registration Statement and other documents reviewed by us, (d) that the Director Resolutions were passed at one or more duly convened, constituted and quorate meetings, remain in full force and effect and have not been rescinded or amended and the Member Resolutions will be passed at one or more duly convened, constituted and quorate meetings or by unanimous written resolutions, will remain in full force and effect and will not be rescinded or amended, (e) that the Listing M&As will have been duly adopted by all corporate authority of the Company prior to the issue of any Class A Ordinary Shares by the Company, (f) that there is no provision of the law of any jurisdiction, other than the Cayman Islands, which would have any implication in relation to the opinions expressed herein, (g) that upon issue of any Class A Ordinary Shares to be sold by the Company, the Company will receive consideration for the full issue price thereof which shall be equal to at least the par value thereof, and (h) the validity and binding effect under the laws of the United States of America of the Registration Statement and that the Registration Statement will be duly filed with the Commission.

We have made no investigation of and express no opinion in relation to the laws of any jurisdiction other than the Cayman Islands. This opinion is to be governed by and construed in accordance with the laws of the Cayman Islands and is limited to and is given on the basis of the current law and practice in the Cayman Islands.

On the basis of and subject to the foregoing, we are of the opinion that:

1. The Company is duly incorporated and existing under the law of the Cayman Islands and, based on the Certificate of Good Standing, is in good standing as at the Certificate Date. Pursuant to the Companies Law (the "Law"), a company is deemed to be in good standing if all fees and penalties under the Law have been paid and the Registrar of Companies has no knowledge that the Company is in default under the Law.
2. When issued and paid for as contemplated by the Registration Statement, the Class A Ordinary Shares will be validly issued, fully paid and non-assessable (which term means when used herein that no further sums are required to be paid by the holders thereof in connection with the issue of such shares or in connection with any assessments or calls on such shares by the Company or its creditors).

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement and to the references to our firm under the captions "Enforceability of Civil Liabilities", "Taxation" and "Legal Matters" in the prospectus forming a part of the Registration

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Statement. In giving this consent, we do not hereby admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the Rules and Regulations of the Commission promulgated thereunder.

Yours faithfully,

**Conyers Dill & Pearman**

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## Simpson Thacher &amp; Bartlett LLP

425 LEXINGTON AVENUE  
NEW YORK, NY 10017-3954

TELEPHONE: +1-212-455-2000  
FACSIMILE: +1-212-455-2502

October 4, 2016

GDS Holdings Limited  
2/F, Tower 2, Youyou Century Place  
428 South Yanggao Road  
Pudong Shanghai 200127  
People's Republic of China

Ladies and Gentlemen:

We have acted as United States counsel to GDS Holdings Limited, a Cayman Islands company (the "Company"), in connection with the registration statement on Form F-1, including the prospectus contained therein (together, the "Registration Statement"), filed on the date hereof by the Company with the U.S. Securities and Exchange Commission (the "Commission") under the U.S. Securities Act of 1933, as amended, relating to the registration of shares of the Company's ordinary shares, par value US\$0.00005 per share, which will be represented by American depository shares ("ADSs") evidenced by American depository receipts.

We have examined the Registration Statement and the form of deposit agreement to be entered into among the Company, JPMorgan Chase Bank, N.A., as depository and holders from time to time of ADSs (the "Deposit Agreement"). In addition, we have examined, and have relied as to matters of fact upon, originals, or duplicates or certified or conformed copies, of such records, agreements, documents and other instruments and such certificates or comparable documents of public officials and of officers and representatives of the Company, and have made such other and further investigations as we have deemed necessary or appropriate as a basis for the opinion hereinafter set forth. In such examination, we have assumed the accuracy of the factual matters described in the Registration Statement and that the Registration Statement and other documents will be executed by the parties in the forms provided to and reviewed by us. We have also assumed that the Deposit Agreement is executed in the form reviewed by us.

BEIJING HONG KONG HOUSTON LONDON LOS ANGELES PALO ALTO SÃO PAULO SEOUL TOKYO WASHINGTON, D.C.

In rendering the opinion set forth below, we have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as duplicates or certified or conformed copies and the authenticity of the originals of such latter documents.

Based upon the foregoing, and subject to the qualifications, assumptions and limitations stated herein and in the Registration Statement, we hereby confirm that the discussion set forth on pages 201-206 of the Registration Statement under the caption "Taxation — Material United States Federal Income Tax Considerations," insofar as such discussion relates to matters of United States federal income tax law, constitutes our opinion as to the material United States federal income tax consequences to United States Holders (as such term is defined in the Registration Statement) of the purchase, ownership and disposition of the Company's ADSs and ordinary shares.

We note that, because the determination of the Company's status as a passive foreign investment company (a "PFIC") for United States federal income tax purposes is based on an annual determination that cannot be made until the close of a taxable year, and involves extensive factual investigation, we do not express any opinion herein with respect to the Company's PFIC status in any taxable year.

We do not express any opinion herein concerning any law other than the United States federal income tax law.

We hereby consent to the filing of this opinion with the Commission as an exhibit to the Registration Statement and to the reference to our firm under the headings "Taxation" and "Legal Matters" in the Registration Statement.

Very truly yours,  
/s/ Simpson Thacher & Bartlett LLP  
SIMPSON THACHER & BARTLETT LLP

[4] October 2016

Matter No.:822558  
Doc Ref: RH/102784100

GDS Holdings Limited  
 Cricket Square, Hutchins Drive  
 PO Box 2681  
 Grand Cayman KY1-1111  
 Cayman Islands

Dear Sirs,

**GDS Holdings Limited (the "Company")**

We have acted as special legal counsel in the Cayman Islands to the Company in connection with a registration statement on form F-1 to be filed with the U.S. Securities and Exchange Commission (the "**Commission**") on or about [4] October 2016 (the "**Registration Statement**", which term does not include any other document or agreement whether or not specifically referred to therein or attached as an exhibit or schedule thereto) relating to the registration under the U.S. Securities Act of 1933, as amended, (the "**Securities Act**") of class A ordinary shares, par value US\$0.00005 each of the Company.

For the purposes of giving this opinion, we have examined and relied upon copies of the following documents:

- (i) the Registration Statement; and
- (ii) a draft of the prospectus (the "**Prospectus**") contained in the Registration Statement which is in substantially final form.

We have also reviewed and relied upon (1) the currently adopted amended and restated memorandum of association and articles of association of the Company, (2) the latest drafts of the amended and restated memorandum of association and articles of association of the Company, to be adopted by the Company and to become effective upon the effectiveness of the Registration Statement, and (3) such other documents and made such enquiries as to questions of law as we have deemed necessary in order to render the opinion set forth below.

We have assumed (a) the genuineness and authenticity of all signatures, stamps and seals and the conformity to the originals of all copies of documents (whether or not certified) examined by us and the authenticity and completeness of the originals from which such

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copies were taken; (b) the accuracy and completeness of all factual representations made in the Prospectus and Registration Statement reviewed by us; (c) the validity and binding effect under the laws of the United States of America of the Registration Statement and the Prospectus and that the Registration Statement will be duly filed with or declared effective by the Commission; and (d) that the Prospectus, when published, will be in substantially the same form as that examined by us for purposes of this opinion.

We have made no investigation of and express no opinion in relation to the laws of any jurisdiction other than the Cayman Islands. This opinion is to be governed by and construed in accordance with the laws of the Cayman Islands and is limited to and is given on the basis of the current law and practice in the Cayman Islands.

On the basis of and subject to the foregoing, we are of the opinion that the statements under the caption "**Taxation — Cayman Islands Taxation**" in the Prospectus forming part of the Registration Statement, to the extent that they constitute statements of Cayman Islands law, are accurate in all material respects and that such statements constitute our opinion.

We hereby consent to the use of this opinion in, and the filing hereof as an exhibit to, the Registration Statement and further consent to the reference of our name in the Prospectus forming part of the Registration Statement. In giving this consent, we do not hereby admit that we are experts within the meaning of Section 11 of the Securities Act or that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the Rules and Regulations of the Commission promulgated thereunder.

Yours faithfully,

**Conyers Dill & Pearman**

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**To: GDS Holdings Limited**  
2/F, Tower 2, Youyou Century Place,  
428 South Yanggao Road, Pudong  
Shanghai 200127  
People's Republic of China

**Re: Tax Matters in connection with the Listing of GDS Holdings Limited**

[\*, 2016]

Dear Sirs,

We are qualified lawyers of the People's Republic of China (the "PRC", for the purpose of this opinion, excluding the Hong Kong Special Administrative Region, Macao Special Administrative Region and the region of Taiwan) and as such are qualified to issue legal opinions on the PRC laws, regulations or rules effective on the date hereof (the "PRC Laws").

We are acting as the PRC counsel to GDS Holdings Limited (the "Company"), a company incorporated under the laws of the Cayman Islands in connection with the proposed listing of the Company's American depositary shares (the "ADSs") on the New York Stock Exchange or the NASDAQ Global Market (the "Listing").

This legal opinion (the "Opinion") is furnished pursuant to the instructions of the Company on the captioned matters, and is delivered to the Company for the purposes of the Listing.

As used herein, "Prospectuses" means the prospectus, including all amendments or supplements thereto, that form parts of the Registration Statement.

Our Opinion is subject to the following qualifications:

(a) this Opinion is limited to matters of the PRC Laws effective as the date hereof. We have not investigated, and we do not express or imply any opinion on accounting,

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auditing, or laws of any other jurisdiction.

(b) this Opinion is intended to be used in the context which is specially referred to herein and each section should be considered as a whole and no part should be extracted and referred to independently.

(c) for the purpose of the Listing, we consent to the filing with the SEC of this letter as an exhibit to the Registration Statement. In giving such consent, we do not thereby admit that we come within the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended, or the regulations promulgated thereunder.

Based on the foregoing and subject to the qualifications set out above, as of the issuance date of this Opinion:

1. we are of the opinion that, as of the date hereof, the discussions of PRC taxation in the Prospectuses are true and accurate based on the PRC Laws; and
2. the statements of law and legal conclusions in the Registration Statement under the caption "Taxation—People's Republic of China Taxation" constitute our opinion as to the material tax consequences of an investment in the ADSs under the PRC Laws.

Sincerely yours,

King & Wood Mallesons



## SHARE SWAP AGREEMENT

THIS SHARE SWAP AGREEMENT (this “**Agreement**”) is entered into by and among GDS Holdings Limited, a company organized under the laws of the Cayman Islands (“**GDSS**”), EDC Holding Limited, a company organized under the laws of the Cayman Islands (“**GDSI**”) and each of the entities, severally and not jointly, whose names are set forth on the Schedule of GDSI Shareholders attached hereto as **Exhibit A** (the “**GDSI Shareholders**”) dated as of June 12, 2014.

## RECITALS

- A. Each GDSI Shareholder holds certain number of shares of GDSI, which number is set forth opposite the name of such GDSI Shareholder on the Schedule of GDSI Shareholders attached hereto as **Exhibit A** (collectively, the “**GDSI Shares**”).
- B. The GDSI Shareholders desire to transfer the GDSI Shares held by them to GDSS in consideration of the allotment and issuance by GDSS to each GDSI Shareholder of certain number of shares of GDSS, which number is set forth opposite the name of such GDSI Shareholder on the Schedule of GDSS Shares attached hereto as **Exhibit B** (collectively, the “**GDSS Shares**”), and GDSS desires to acquire the GDSI Shares and issue such GDSS Shares to each GDSI Shareholder.

NOW, THEREFORE, in consideration of the premises and the mutual promises set forth in this Agreement, the parties agree as follows:

## 1. THE SHARE SWAP

Subject to the terms and conditions contained herein, the GDSI Shareholders, as the owners of the GDSI Shares, hereby agree to sell, assign and convey unto GDSS all the GDSI Shares, in consideration for which GDSS shall issue to each GDSI Shareholder the number of GDSS Shares indicated in **Exhibit B**, which, in aggregate, representing about 51.88% of the issued share capital of GDSS at the Closing (as defined below) on a fully diluted and as-converted basis.

## 2. CLOSING.

- 2.1 The closing of the transactions contemplated by this Agreement (the “**Closing**”) shall take place on June 30, 2014 (the “**Closing Date**”), or at such other day and time as the parties hereto shall agree upon.
- 2.2 At or before Closing, if applicable, GDSS, the GDSI Shareholders and other relevant parties thereto will execute counterpart signature pages to

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this Agreement, the Third Amended and Restated Members Agreement of GDSS in substantially the form attached hereto as **Exhibit C** (the “**Members Agreement**”), the Third Amended and Restated Right of First Refusal and Co-Sale Agreement of GDSS in substantially the form attached hereto as **Exhibit D** (the “**Co-Sale Agreement**”) and the Third Amended and Restated Voting Agreement in substantially the form attached hereto as **Exhibit E** (the “**Voting Agreement**”), together with this Agreement, the Members Agreement and the Co-Sale Agreement, the “**Transaction Agreements**”). All entities purchasing the GDSS Shares at the Closing shall, upon execution and delivery of the relevant signature pages, become parties to, and be bound by, each of the Transaction Agreements, without the need for a further amendment to any of the agreements except to add such person’s or entity’s name to the appropriate exhibit to such agreements, and shall have the rights and obligations of the holders of the GDSS Shares hereunder and thereunder, in each case as of the Closing Date, as applicable.

- 2.3 On or prior to the Closing Date and subject to the terms and conditions set forth in this Agreement, (i) each GDSI Shareholder, severally, shall transfer the GDSI Shares to GDSS, free and clear of all security interests, liens, mortgages, claims, charges, pledges, equitable interests, or encumbrances of any nature, including any put, call or similar right of a third party (“**Liens**”) with respect to the GDSI Shares; and (ii) GDSS shall allot and issue GDSS Shares, free and clear of all Liens, to each of the GDSI Shareholders, which number is set forth opposite the name of each such GDSI Shareholder on the Schedule of GDSS Shares attached hereto as **Exhibit B**. The GDSS Shares and the ordinary shares of GDSS to be issued upon conversion of the GDSS Shares, if applicable, (the “**Conversion Shares**”) shall have the rights, preferences, privileges and restrictions set forth in the Fourth Amended and Restated Memorandum of Association of GDSS (the “**Amended Memorandum**”) and the Fourth Amended and Restated Articles of Association of GDSS (the “**Amended Articles**”), together with the Amended Memorandum, the “**Amended Charter**”), in the forms attached hereto as **Exhibit F**.
- 2.4 At or prior to Closing, each GDSI Shareholder shall deliver or cause to be delivered to GDSS an instrument of transfer, transferring title to the GDSI Shares to GDSS and any share certificates (if any) issued in the name of such GDSI Shareholder in respect of the GDSI Shares for cancellation.
- 2.5 At or following Closing, GDSI shall cause GDSS to be recorded in the register of members of GDSI as the holder of the GDSI Shares.

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- 2.6 At or prior to Closing, GDSS shall deliver or cause to be delivered to the GDSI Shareholders certificates (if any) or such other documents representing the GDSS Shares. GDSS shall cause the GDSI Shareholders to be recorded in the register of members of GDSS as the holders of the GDSS Shares.

## 3. REPRESENTATIONS AND WARRANTIES.

- 3.1 The GDSI Shareholders, severally but not jointly, represent and warrant to GDSS as of the date hereof and as of the Closing Date in the terms of the representations and warranties of the GDSI Shareholders (the “**GDSI Shareholders Warranties**”) set out in **Exhibit G** and acknowledge that GDSS in entering into this Agreement is relying on the GDSI Shareholders Warranties.
- 3.2 Each GDSI Shareholder hereto shall notify GDSS upon it becoming aware of any event which could reasonably be expected to cause any of it respective representations and warranties hereunder to be incorrect, misleading or breached in any material respect or which may have any material adverse effect on the assets or liabilities of GDSI or the ability of the relevant GDSI Shareholders to consummate the transactions contemplated by the Transaction Agreements (as the case may be).
- 3.3 The GDSS represents and warrants to each GDSI Shareholder, as of the date hereof and as of the Closing Date in the terms of the representations and warranties of the GDSS (the “**GDSS Shareholders Warranties**”) set out in **Exhibit H** and acknowledges that each GDSI Shareholder in entering into this Agreement is relying on the GDSS Warranties.
- 3.4 GDSS hereto shall notify each GDSI Shareholder upon it becoming aware of any event which could reasonably be expected to cause any of it respective representations and warranties hereunder to be incorrect, misleading or breached in any material respect or which may have any material adverse effect on the assets or liabilities of GDSS or the ability of the GDSS to consummate the transactions contemplated by the Transaction Agreements.

## 4. CONDITIONS TO CLOSING.

Each GDSI Shareholder’s obligation to transfer the GDSI Shares held by it to GDSS and to purchase its respective portion of the GDSS Shares at Closing is, at its option, subject to the fulfillment as of the date of Closing of the conditions set forth in **Exhibit I**.

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## 5. CONFIDENTIALITY AND ANNOUNCEMENTS.

- 5.1 **Disclosure of Terms.** Each party hereto acknowledges that the terms and conditions (collectively, the “**Terms**”) of this Agreement, the other Transaction Agreements, and all exhibits, restatements and amendments hereto and thereto, shall be considered confidential information and shall not be disclosed by it to any third party except in accordance with the provisions set forth in the Members Agreement.
- 5.2 **Permitted Disclosures.** Notwithstanding anything in the foregoing to the contrary,
- (a) GDSS may disclose any of the Terms to its current or bona fide prospective investors, directors, officers, employees, shareholders, investment bankers, lenders, accountants, auditors, insurers, business or financial advisors, and attorneys, in each case only where such persons or entities are under appropriate nondisclosure obligations imposed by professional ethics, law or otherwise;
- (b) The GDSI Shareholders may, without disclosing the identities of the other holders of the GDSS Shares or the Terms of their respective investments in GDSS without their consents or otherwise as required by applicable laws, regulations or internal policies, disclose their investment in GDSS to third parties or to the public at their sole discretion and, if they do so, the other parties shall have the right to disclose to third parties any such information disclosed in a press release or other public announcement by them; and
- (c) The GDSI Shareholders shall have the right to disclose:
- (A) any information to its and/or its affiliate’s legal counsel, fund managers, auditor, insurer, accountant, consultant, rating agency, or to an officer, director, general partner, limited partner, its fund manager, shareholder, investment counsel or advisor, or employee of it and/or its affiliate; **provided, however,** that any counsel, auditor, insurer, accountant, consultant, rating agency, officer, director, general partner,

limited partner, fund manager, shareholder, investment counsel or advisor, or employee shall be advised of the confidential nature of the information or are under appropriate non-disclosure obligation imposed by professional ethics, law or otherwise;

(B) any information for fund and inter-fund reporting purposes;

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(C) any information as required by law, government authorities, exchanges and/or regulatory bodies, including by the Securities and Futures Commission of the Hong Kong Special Administrative Region, the China Securities and Regulatory Commission of the People's Republic of China ("PRC", and for purpose of this Agreement, excluding Hong Kong, Macau, and Taiwan) or the U.S. Securities and Exchange Commission (the "SEC") (or equivalent for other venues);

(D) any information to bona fide prospective purchasers/investors of any share, security or other interests in GDSS, provided that (i) GDSS has been informed of such disclosure and (ii) the prospective purchaser/investor has agreed to keep GDSS information confidential; and/or

(E) any information contained in press releases or public announcements of GDSS.

(d) the confidentiality obligations set out in this Section 5 do not apply to:

(A) information which was in the public domain or otherwise known to the relevant party before it was furnished to it by another party hereto or, after it was furnished to that party, entered the public domain otherwise than as a result of (i) a breach by that party of this Section 5 or (ii) a breach of a confidentiality obligation by the discloser, where the breach was known to that party;

(B) information the disclosure of which is necessary in order to comply with any applicable law, governmental rule or regulation, the order of any court, tribunal or regulatory authority or pursuant to other legal process, the requirements of a stock exchange or to obtain tax or other clearances or consents from any relevant authority; or

(C) information disclosed by any director or observer of GDSS to its appointer or any of its affiliates or otherwise in accordance with the foregoing provisions of this subsection 5.2(d).

5.3 **Legally Compelled Disclosure.** In the event that any party is requested or becomes legally compelled (including without limitation pursuant to securities laws and regulations) to disclose the existence of this Agreement, the other Transaction Agreements or any Terms in contravention of the provisions of this Section 5, such party (the "**Disclosing Party**") shall provide the other parties (the "**Non-Disclosing Parties**") with prompt

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written notice of that fact so that the appropriate party may seek (with the cooperation and reasonable efforts of the other parties) a protective order, confidential treatment or other appropriate remedy. In such event, the Disclosing Party shall furnish only that portion of the information that is legally required and shall exercise reasonable efforts to obtain reliable assurance that confidential treatment will be accorded to such information to the extent reasonably requested by any Non-Disclosing Party.

5.4 **Non-Disclosure Agreements.** The provisions of this Section 5 shall be in addition to, and not in substitution for, the provisions of the separate nondisclosure agreements if any executed by GDSS with the GDSI Shareholders with respect to the transactions contemplated herein. The provisions of Section 5 shall terminate with respect to the GDSI Shareholders on the earlier of (i) the termination of the Members Agreement and (ii) the date any GDSI Shareholder ceases to hold any shares in GDSS.

## 6. INDEMNIFICATION.

GDSS agrees to indemnify and hold harmless each of the GDSI Shareholders, and their respective directors, officers, employees, affiliates, agents and assigns (each, an "**Indemnitee**"), to the fullest extent permitted by applicable law against any and all Indemnifiable Losses to such Indemnitee, directly or indirectly, as a result of, or based upon or arising from any inaccuracy in or breach or nonperformance of any of the representations, warranties, covenants or agreements made by it, in or pursuant to this Agreement. For purposes of this Section, "**Indemnifiable Loss**" means, with respect to any Indemnitee, any action, cost, damage, disbursement, expense, liability, loss, deficiency, diminution in value, obligation, penalty or settlement of any kind or nature, whether foreseeable or unforeseeable, including, but not limited to, (i) interest or other carrying costs, penalties, legal, accounting and other professional fees and expenses reasonably incurred in the investigation, collection, prosecution and defense of claims and amounts paid in settlement, that may be imposed on or otherwise incurred or suffered by such Indemnitee and (ii) any taxes that may be payable by such Indemnitee as a result of the indemnification of any Indemnifiable Loss hereunder.

## 7. GENERAL PROVISIONS.

7.1 All notices hereunder shall be delivered as follows:

### If to GDSS:

Address: 2F, Tower 2 of YouYou Century Place, 428 South Yanggao Road, Shanghai, P.R.China  
Facsimile: +86 21 20330202

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Telephone: +86 21 20330303  
Contact Person: William Wei Huang (☐☐)  
Email Address: Huangwei@gds-services.com

### If to the GDSI Shareholders:

Address: Codan Trust Company (Cayman) Limited, Cricket Square, Hutchins Drive, P.O.Box 2681, Grand Cayman KYI-1111, CAYMAN ISLANDS  
Facsimile: (8621) 5240-0700  
Telephone: (8621) 52534888  
Contact Person: Peter Hua  
Email Address: peterhua@sbcvc.com]

### If to GDSI:

Address: 2F, Tower 2 of YouYou Century Place, 428 South Yanggao Road, Shanghai, P.R.China  
Facsimile: +86 21 20330202  
Telephone: +86 21 20330303  
Contact Person: William Wei Huang (☐☐)  
Email Address: Huangwei@gds-services.com

A notice shall be deemed to have been duly given and made if in writing and if served by personal delivery upon the party for whom it is intended, if delivered by registered or certified mail, return receipt requested, or by a national or international courier service, or if sent by facsimile, upon successful transmission of such facsimile, or at such other address as may be designated in writing hereafter, in the same manner, by such party.

7.2 This Agreement shall be governed by, and construed and enforced in accordance with, the laws of Hong Kong as such laws are applied to agreements between Hong Kong residents entered into and to be performed within Hong Kong without regard to principles of conflicts of laws. Each of the parties hereto irrevocably agrees that any dispute or controversy arising out of, relating to, or concerning any interpretation, construction, performance or breach of this Agreement, shall be settled by arbitration to be held in Hong Kong under the auspices of the Hong Kong International Arbitration Centre (the "**HKIAC**"). There shall be three arbitrators. The complainant and the respondent to such dispute shall each select one arbitrator within thirty (30) days after giving or receiving the demand for arbitration. Such arbitrators shall be freely selected, and the Parties shall not be limited in their selection to any prescribed list. The Chairman of the HKIAC shall select the third arbitrator, who shall be qualified to practice Law in Hong Kong. If either party to the arbitration does not appoint an

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arbitrator who has consented to participate within thirty (30) days after selection of the first arbitrator, the relevant appointment shall be made by the Chairman of the HKIAC. The arbitration shall be conducted in English. The decision of the arbitrator shall be final, conclusive and binding on the parties to the arbitration. Judgment may be entered on the arbitrator's decision in any court having jurisdiction. The parties to the

arbitration shall each pay an equal share of the costs and expenses of such arbitration, and each party shall separately pay for its respective counsel fees and expenses; provided, however, that the prevailing party in any such arbitration shall be entitled to recover from the non-prevailing party its costs and attorney fees.

- 7.3 The parties hereto agree that: (a) no provision of this Agreement or the submission by International Finance Corporation (“IFC”) to arbitration pursuant thereto in any way constitutes or implies a waiver, renunciation or other modification by IFC of any privilege, immunity or exemption granted in the Articles of Agreement establishing IFC, international conventions or applicable law, including, without limitation, the immunity of its property and assets from seizure, attachment or execution before delivery of final judgment against it, the immunity of all assets of IFC from search, requisition, confiscation, expropriation or any other forms of seizure by executive or legislative action and the freedom of IFC’s assets from restrictions of any nature; and (b) the archives of IFC remain inviolable and each of the other parties hereto irrevocably waives any right of discovery with respect thereto.
- 7.4 This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer upon any person other than the parties hereto or their successors or permitted assigns, any rights or remedies under or by reason of this Agreement.
- 7.5 Each party hereto shall bear its own costs and expenses in connection with the transactions contemplated by the Transaction Agreements.
- 7.6 The parties hereto agree that if any of the provisions of this Agreement are not performed in accordance with their specific terms or are otherwise breached, irreparable damage would occur, no adequate remedy at law would exist and damages would be difficult to determine, and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or equity.
- 7.7 This Agreement contains the entire agreement among the parties hereto with respect to the subject matter hereof and supersedes all prior

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agreements and understandings, oral or written, with respect to such matters.

- 7.8 This Agreement may be executed in more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement.

[Remainder of Page Intentionally Left Blank]

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IN WITNESS WHEREOF, each of GDSS, the GDSI Shareholders and GDSI has caused this Agreement to be executed on its behalf, all as of the date first above written.

GDSI:  
GDS HOLDINGS LIMITED

By: /s/ [ ]  
Name: William Wei Huang ([ ])  
Title: Director

GDSI SHAREHOLDERS:  
BRILLIANT WISE HOLDINGS LIMITED

By: /s/ [ ]  
Name: William Wei Huang ([ ])  
Title: Director

GDSI:  
EDC HOLDING LIMITED

By: /s/ [ ]  
Name: William Wei Huang ([ ])  
Title: Director

GDSI SHAREHOLDERS:  
SBCVC COMPANY LIMITED

By: /s/ Ping Hua  
Name: Ping Hua  
Title:

GDSI SHAREHOLDERS:  
SBCVC VENTURE CAPITAL ( )

By: /s/ Ping Hua  
Name: Ping Hua  
Title:

GDSI SHAREHOLDERS:  
SBCVC FUND III L.P.

By: /s/ Ping Hua  
Name: Ping Hua  
Title:

GDSI SHAREHOLDERS:  
INTERNATIONAL FINANCE CORPORATION

By: /s/ Nikunj Jinsi  
Name: Nikunj Jinsi  
Title: Global Head Venture Capital

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**Exhibit A**

**Schedule of GDSI Shareholders**

Name of GDSI Shareholder	Class of GDSI Shares	Number of GDSI Shares
Brilliant Wise Holdings Limited	Ordinary Shares	149,859,050
SBCVC Company Limited	Series A Shares	19,200,000
International Finance Corporation	Series A Shares	4,800,000
SBCVC Company Limited	Series B Shares	16,000,000
SBCVC Venture Capital	Series B Shares	16,000,000
SBCVC Fund III L.P.	Series B Shares	39,075,465
International Finance Corporation	Series B Shares	49,423,137
International Finance Corporation	Series B+ Shares	14,484,211
SBCVC Company Limited	Series B+ Shares	28,968,421
<b>Total</b>		<b>337,810,284</b>

**Exhibit B**

**Schedule of GDSS Shares**

Name of GDSI Shareholder	Class of GDSS Shares	Number of GDSS Shares
Brilliant Wise Holdings Limited	Ordinary Shares	88,352,558
SBCVC Company Limited	Series A* Shares	11,319,764
International Finance Corporation	Series A* Shares	2,829,941
SBCVC Company Limited	Series B1 Shares	9,433,137
SBCVC Venture Capital	Series B1 Shares	9,433,137
International Finance Corporation	Series B1 Shares	15,093,019
International Finance Corporation	Series B2 Shares	8,539,471
SBCVC Company Limited	Series B2 Shares	17,078,942
International Finance Corporation	Series B3 Shares	14,045,432

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Exhibit C

Members Agreement

[to attach]

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Exhibit D

Right of First Refusal and Co-sale Agreement

[to attach]

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Exhibit E

Voting Agreement

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Exhibit F

Amended Charter

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Exhibit G

The GDSI Shareholders' Warranties

1. GDSI Shares.

The GDSI Shares listed on the Schedule of GDSI Shareholders attached hereto as Exhibit A represent all the remaining outstanding shares of GDSI, except for those owned by GDSS directly. The GDSI Shares are owned by the GDSI Shareholders respectively free and clear of all Liens and upon the consummation of the transactions contemplated hereby, GDSS will acquire good title to the GDSI Shares free and clear of all Liens.

2. Authorization.

- (a) Each GDSI Shareholder, other than International Finance Corporation ("IFC"), is duly organized, validly existing and in good standing under the laws of the jurisdiction under which it is organized. IFC is duly organized as an international organization pursuant to Articles of Agreement among its member countries. Each GDSI Shareholder has the requisite legal and corporate or partnership power and authority, as the case may be, to execute and deliver the Transaction Agreements, to subscribe for the shares hereunder and to carry out and perform its obligations under the terms of the Transaction Agreements. All corporate or partnership action on the part of each GDSI Shareholder necessary for the authorization, execution, delivery and performance of the Transaction Agreements, and the performance of all of its obligations under the Transaction Agreements, has been taken or will be taken prior to Closing.
- (b) Each of the Transaction Agreements, when executed and delivered by each GDSI Shareholder, will constitute valid and legally binding obligations of it, enforceable in accordance with their terms except: (A) to the extent that the indemnification provisions contained in the Members Agreement may be limited by applicable law and principles of public policy, (B) as limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, and (C) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies or by general principles of equity.
- (c) No consent, approval, authorization, order, filing, registration or qualification of or with any court, governmental authority or third person is required to be obtained by any GDSI Shareholder in connection with the

execution and delivery of the Transaction Agreements or the performance of its obligations hereunder or thereunder.

3. Brokers or Finders.

None of GDSI Shareholders has engaged any investment banker, broker, finder or agent, and neither GDSS nor any other shareholder of GDSS has, or will, incur, directly or indirectly, as a result of any action taken by any GDSI Shareholder, any liability for brokerage or finders' fees or agents' commissions or any similar charges in connection with the Transaction Agreements.

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Exhibit H

GDSS Warranties

1. Authorization.

- (a) GDSS is duly organized, validly existing and in good standing under the laws of the jurisdiction under which it is organized. GDSS has the requisite legal and corporate power and authority to execute and deliver the Transaction Agreements, to subscribe for the GDSI Shares hereunder and to carry out and perform its obligations under the terms of the Transaction Agreements. All corporate action on the part of GDSS necessary for the authorization, execution, delivery and performance of the Transaction Agreements, and the performance of all of its obligations under the Transaction Agreements, has been taken or will be taken prior to Closing.
- (b) Each of the Transaction Agreements, when executed and delivered by GDSS, will constitute valid and legally binding obligations of it, enforceable in accordance with their terms except: (A) to the extent that the indemnification provisions contained in the Members Agreement may be limited by applicable law and principles of public policy, (B) as limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, and (C) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies or by general principles of equity.
- (c) No consent, approval, authorization, order, filing, registration or qualification of or with any court, governmental authority or third person is required to be obtained by GDSS in connection with the execution and delivery of the Transaction Agreements or the performance of its obligations hereunder or thereunder.

2. Capitalization

An accurate and complete list of GDSS' shareholders and their respective holdings of the GDSS' issued share capital both immediately prior to and after Closing, is set forth in Schedule 4(vi) hereto.

3. Compliance with Law and Other Instruments

GDSS is in compliance in all material respects with all applicable statutes, laws, regulations and executive orders of the United States and all states, the PRC, Hong Kong, Cayman Islands and other countries or other governmental bodies

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and agencies having jurisdiction over GDSS' business or properties and the performance standards of IFC.

4. Social and Environmental Matters

To the best of GDSS' knowledge and belief, after due inquiry, there are no material social or environmental risks or issues in relation to the business other than those identified by the ESRS (as defined in the Members Agreement) in respect of GDSS' normal operation.

5. Sanctionable Practice

GDSS has not committed or engaged in, with respect to any transaction contemplated by this Agreement, any Corrupt Practice (as defined in the Members Agreement), Fraudulent Practice (as defined in the Members Agreement), Coercive Practice (as defined in the Members Agreement), Collusive Practice (as defined in the Members Agreement), or Obstructive Practice (as defined in the Members Agreement).

6. UN Security Council Resolutions

GDSS has not entered into any transaction or engaged in any activity prohibited by any resolution issued by the United Nations Security Council under Chapter VII of the UN Charter.

7. Full Disclosure

GDSS has fully provided GDSI Shareholders with all the information that (i) any GDSI Shareholder has requested for deciding whether to subscribe for the GDSS Shares and (ii) is reasonably necessary or material to enable GDSI Shareholders to make a fully informed decision as to whether or not to subscribe for the GDSS Shares, all such information being accurate and complete in all material respects and not misleading in any respect. No documents or certificates delivered in connection with this Agreement contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

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**Exhibit I**

**Condition to Closing of GDSI Shareholders**

1. Representations and Warranties and Covenants and No Breaches. The representations and warranties made by GDSS herein remain true, accurate and not misleading. GDSS shall have performed all covenants, obligations and conditions herein and in the other Transaction Agreements required to be performed or observed by it on or prior to the Closing.
2. Legal Matters.

All matters of a legal nature, which pertain to the Transaction Agreements, and the transactions contemplated hereby, shall have been reasonably approved. On the date of Closing, the sale and issuance of the GDSS Shares and the proposed issuance of the Conversion Shares shall be legally permitted by all laws and regulations to which GDSS are subject.
3. Qualifications.

All authorizations, approvals, permits, qualifications or exemptions, if any, of any governmental authority or regulatory body of the United States or of any state or foreign body that are required in connection with the lawful issuance and sale of GDSS Shares pursuant to the Transaction Agreements shall be duly obtained and effective as of the date of Closing, except for such as may properly be obtained subsequent to Closing.
4. Consents, Permits, and Waivers.

GDSS shall have obtained any and all consents, authorizations, approvals, permits and waivers necessary or appropriate for consummation of the transactions contemplated by the Transaction Agreements.
5. Memorandum and Articles of Association.

The Amended Charter shall have been duly adopted by the members of GDSS, filed with the Registrar of the Cayman Islands, and shall be in full force and effect.
6. Board of Directors.

Effective as of the date of Closing, the authorized size of the Board of Directors shall be five (5), of whom three (3) have been appointed by the holders of ordinary shares of GDSS, and (ii) two (2) have been appointed by the Preferred Shareholders (as defined in the Members Agreement).
7. Members Agreement.

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GDSS, the GDSI Shareholders and each of the parties thereto shall have entered into the Members Agreement.

8. Right of First Refusal and Co-Sale Agreement.

GDSS, the GDSI Shareholders and each of the parties thereto shall have entered into the Co-Sale Agreement.

9. Voting Agreement.

GDSS, the GDSI Shareholders and each of the parties thereto shall have entered into the Voting Agreement.

10. Other Deliverables.

GDS shall have delivered to the GDSI Shareholders at or before Closing:

- (i) a copy of the Amended Charter as in effect at the time of Closing;
- (ii) a copy of the register of members of GDSS as at the date of Closing, certified by a director of GDSS and reflecting the ownership structure of GDSS immediately prior to and following Closing hereof;
- (iii) a copy of the register of directors of GDSS as at the date of Closing;
- (iv) GDSS shall have delivered to the GDSI Shareholders the share certificate representing their respective number of GDSS Shares purchased by them hereunder; and
- (v) a copy of the resolutions adopted by the board of directors and the shareholders of GDSS authorizing the applicable transactions contemplated hereby.

11. No Material Adverse Effect.

Since the date of this Agreement, there shall not have occurred any change, event, condition or circumstance that has or could reasonably be expected to have a materially adverse effect on the business, assets, condition (financial or otherwise) or prospects of GDSS or its ability to comply with its obligations under any Transaction Agreement.

12. Legal Opinions.

Each GDSI Shareholder has received legal opinions, in form and substance satisfactory to it, from GDSS' counsel in Hong Kong and in the Cayman Islands covering such matters relating to the transactions contemplated by this

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Agreement, the other Transaction Documents and the Company's Memorandum and Articles as any GDSI Shareholder may reasonably request.

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**Schedule 4(vi)**

**A. Capitalization Table of GDSS**

**Pre-Closing Capitalization:**

Name of Shareholder	Number of shares of GDSS	Class of shares
Alan Song	1	Ordinary Share
Global Data Solutions Limited	110,000,000	Ordinary Share
International Finance Corporation	13,750,000	Series A Share
SBCVC Fund II, L.P.	35,750,000	Series A Share
Maxpoint Development Limited	2,750,000	Series A Share
Maxima Ventures I, Inc.	2,200,000	Series A Share
Maxima Capital Management, Inc.	550,000	Series A Share
Forebright Management Limited	247,500	Series A Share
Seabright SOF (I) Paper Limited	8,002,500	Series A Share
International Finance Corporation	916,667	Series B Share
SBCVC Fund II-Annex, L.P.	4,216,666	Series B Share
China-Singapore Suzhou Industrial Park Ventures Co., Ltd.	6,416,667	Series B Share
<b>Total</b>	<b>184,800,001</b>	

**Post-Closing Capitalization:**

Name of Shareholder	Number of shares of GDSS	Class of shares	Shareholding percentage
Alan Song	1	Ordinary Share	0.00%
Global Data Solutions Limited	110,000,000	Ordinary Share	28.65%
Brilliant Wise Holdings	88,352,558	Ordinary Share	23.01%

Name of Shareholder	Number of shares of GDSS	Class of shares	Shareholding percentage
Limited			
International Finance Corporation	13,750,000	Series A Share	3.58%
SBCVC Fund II, L.P.	35,750,000	Series A Share	9.31%
Maxpoint Development Limited	2,750,000	Series A Share	0.72%
Maxima Ventures I, Inc.	2,200,000	Series A Share	0.57%
Maxima Capital Management, Inc.	550,000	Series A Share	0.14%
Forebright Management Limited	247,500	Series A Share	0.06%
Seabright SOF (I) Paper Limited	8,002,500	Series A Share	2.08%
SBCVC Company Limited	11,319,764	Series A* Shares	2.95%
International Finance Corporation	2,829,941	Series A* Shares	0.74%
International Finance Corporation	916,667	Series B Share	0.24%
SBCVC Fund II-Annex, L.P.	4,216,666	Series B Share	1.10%
China-Singapore Suzhou Industrial Park Ventures Co., Ltd.	6,416,667	Series B Share	1.67%
SBCVC Company Limited	9,433,137	Series B1 Share	2.46%
SBCVC Venture Capital	9,433,137	Series B1 Share	2.46%
International Finance Corporation	15,093,019	Series B1 Share	3.93%
SBCVC Company Limited	17,078,942	Series B2 Share	4.45%
International Finance Corporation	8,539,471	Series B2 Share	2.22%
International Finance Corporation	14,045,432	Series B3 Share	3.66%
SBCVC Fund III L.P.	23,037,763	Series B4 Share	6.00%
<b>Total</b>	<b>383,963,165</b>		<b>100%</b>

Dated: this 30<sup>th</sup> day of Decembe, 2015

GDS HOLDINGS LIMITED

and

PERFECT SUCCESS LIMITED

and

S TT GDC PTE. LTD.

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**SUBSCRIPTION AGREEMENT**

for

up to US\$250,000,000

10% Convertible and Redeemable Bond due 2019 convertible

into shares in

**GDS Holdings Limited**

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**THIS AGREEMENT** is made on this 30<sup>th</sup> day of December, 2015.

**BETWEEN**

- (1) **GDS HOLDINGS LIMITED** (Company No.CT-178332), an exempt company incorporated under the laws of the Cayman Islands with limited liability whose registered office is situate at the offices of Codan Trust Company (Cayman) Limited, Cricket Square, Hutchins Drive, P.O. Box 2681, Grand Cayman KY1-1111, Cayman Islands (the "**Company**");
- (2) **PERFECT SUCCESS LIMITED**, a company incorporated under the laws of Cayman Islands, whose registered office is situate at PO Box 309, Uglan House, Grand Cayman, KY1-1104, Cayman Islands ("**PA Investor**"); and
- (3) **S TT GDC PTE. LTD.**, a company incorporated under the laws of Singapore whose registered office is situate at 1 Temasek Avenue #33-01 Millenia Tower Singapore 039192 ("**STT Investor**").

**Recitals**

**WHEREAS :-**

- (A) The Company was incorporated in the Cayman Islands on 1 December 2006. The share capital of the Company is US\$51,310 divided into 675,636,564 Ordinary Shares of nominal or par value of US\$0.00005 each, 29,635,045 Series A Shares of nominal or par value of US\$0.00005 each, 6,916,645 Series A\* Shares of nominal or par value of US\$0.00005 each, 2,576,483 Series B Shares of nominal or par value of US\$0.00005 each, 11,527,742 Series B1 Shares of nominal or par value of US\$0.00005 each, 10,435,639 Series B2 Shares of nominal or par value of US\$0.00005 each, 14,076,620 Series B4 Shares of nominal or par value of US\$0.00005 each, 35,395,262 Series B5 Shares of nominal or par value of US\$0.00005 each, and 240,000,000 Series C Shares of nominal or par value of US\$0.00005 each.
- (B) The Company has agreed to issue the Bond (as defined herein) convertible into ordinary shares of the Company and the Investors have,

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severally and not jointly, agreed to subscribe for the Bond, in each case upon and subject to the terms and conditions set out in this Agreement.

**NOW IT IS HEREBY AGREED** as follows :-

**1. Purpose and Definition**

- 1.1 The Schedules form an integral part of this Agreement and shall be construed and have the same full force and effect as is expressly set out in the main body of this Agreement.
- 1.2 The words and expressions set out below shall have the meanings attributed to them below unless the context otherwise requires :-

**"Accounts"** the unaudited consolidated accounts of the Company comprising its balance sheet as at 31 December 2014 and its profit and loss account in respect of the period ended 31 December 2014;

**"Accounts Date"** 31 December 2014;

**"Affiliate"** with respect to any entity, any other entity that directly or indirectly, including through one or more intermediaries, Controls, is Controlled by or is under common Control with such entity;

“Agreement”	this Subscription Agreement;
“Bond”	the convertible bond with an aggregate amount of up to US\$250,000,000 to be issued by the Company with the benefit of and subject to the provisions of the Terms and Conditions;
“Bondholder”	the person who is for the time being the holder of the Bond;
“Business Day”	a day, other than a Saturday or Sunday, on which banks are open in Hong Kong, Singapore, the PRC, Cayman Islands and

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	New York to the general public for business;
“Certificate”	the certificate to be issued in respect of the Bond substantially in the form set out in Schedule 1;
“Change of Control”	means the occurrence after the date of this Agreement of any of the following events: (i) the consummation of a reorganization, merger or consolidation, or sale or other disposition of all or substantially all of the assets of the Company or the acquisition of assets of another corporation, or other transaction (each, a “ <b>Business Combination</b> ”), unless, in each case, immediately following such Business Combination, all or substantially all of the beneficial owners of the Shares of the Company immediately prior to such Business Combination beneficially own, directly or indirectly, more than 50% of the combined voting power of the then outstanding Shares of the entity resulting from such Business Combination; or (ii) approval by the Shareholders of the Company of a complete liquidation or dissolution of the Company;
“Completion”	completion of the transaction contemplated herein pursuant to Clause 3, Clause 4 and Schedule 2;
“Completion Date”	means the date of completion of the First Tranche, the Second Tranche, the Third Tranche and the Fourth Tranche (each as set out in Clause 2.1) as the case may be;
“Condition Precedent”	the condition precedent for the Third Tranche and Fourth Tranche set out in Clause 3.3;
“Control”	means the power or authority, whether

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	exercised or not, to direct the business, management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, which power or authority shall conclusively be presumed to exist upon possession of beneficial ownership or power to direct the vote of more than fifty percent (50%) of the votes entitled to be cast at a meeting of the members or shareholders of such person or power to control the composition of a majority of the board of directors of such person; the term “ <b>Controlled</b> ” has meaning correlative to the foregoing;
“Conversion Date”	the date on which the Conversion Rights are exercised in accordance with Condition 6 of Schedule 1;
“Conversion Price”	US\$1.675262 per Share, which is equivalent to a pre-money valuation of US\$950,000,000 for 100% of the share capital of the Company in issue at the date of this Agreement, subject to adjustment for, among other things, subdivision or consolidation of Shares, bonus issues, rights issues and other dilutive events, as set out in Condition 7 of Schedule 1;
“Conversion Rights”	the rights attached to the Bond to convert the same or a part thereof into the Conversion Shares;
“Conversion Shares”	the ordinary shares to be issued by the Company upon exercise by the Bondholder of the Conversion Rights attached to the Bond;
“EDC China”	EDC China Holdings Limited (Company No: 1157479), a limited company incorporated in Hong Kong, which is wholly-owned by EDC Holding;

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“EDC Holding”	EDC Holding Limited, a limited company incorporated in the Cayman Islands, which is wholly-owned by the Company;
“Encumbrance”	a mortgage, charge, pledge, lien, option, restriction, right of first refusal, right of pre-emption, third-party right or interest, other encumbrance or security interest of any kind, or another type of preferential arrangement (including, without limitation, a title transfer or retention arrangement) having similar effect and any agreement or obligation to create or grant any of the aforesaid;
“Equity Share Capital”	the issued share capital of the Company;
“Group Companies”	the Company and each of its Subsidiaries, lists of which are attached hereto as Schedule 4; and “ <b>Group Company</b> ” means each one of them;
“Hong Kong”	the Hong Kong Special Administrative Region of the People’s Republic of China;
“IDC Adjustment Plan”	shall have the same meaning as defined in Clause 6.3(a);
“IPO”	initial public offering by the Company on a Recognized Stock Exchange;
“Investors”	collectively, PA Investor and STT Investor and “ <b>Investor</b> ” shall mean each of the Investors;
“IRR”	annualised effective compounded return rate;
“MAC”	any (a) event, occurrence, fact, condition, change or development that has had or reasonably would be expected to have material adverse effect on the business,

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	operations, results of operations, financial or other condition, assets or liabilities of any Group Company and its Subsidiaries, taken as a whole, but excluding any of the foregoing resulting from general economic conditions or from conditions that generally affect the industry of any Group Company or any of its Subsidiaries other than changes that have a materially disproportionate effect on any Group Company or any of its Subsidiaries, or (b) material impairment of the ability of any Group Company or any of its Subsidiaries to perform their respective material obligations hereunder, taken as a whole;
“Members Agreement”	Fifth Amended and Restated Member Agreement of the Company dated 18 December 2014;
“PRC”	means the People’s Republic of China, excluding for the purpose of this Agreement Hong Kong, Macau and Taiwan;
“QIPO”	a firm commitment underwritten IPO on a Recognized Stock Exchange (i) with gross cash proceeds to the Company of at least US\$100 million, (ii) at an issue price per Share being not less than twenty-five percent (25%) above US\$1.036522, as adjusted for any Recapitalization from time to time, and (iii) resulting in a free float of not less than twenty percent (20%) of the Company’s share capital;
“Recapitalization”	any share split, share dividend, share combination or consolidation, recapitalization, reclassification or other similar event in relation to the shares of the Company;
“Recognized Stock	the Stock Exchange of Hong Kong Limited or

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Exchange”	NASDAQ or such other equivalent internationally recognized stock exchange;
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“RMB”	Renminbi, the lawful currency of the PRC;
“Shareholders”	shareholders of the Company and each a “Shareholder”;
“Shares”	the shares of US\$0.00005 each in the issued share capital of the Company existing on the date of this Agreement and all other (if any) stock or shares from time to time and for the time being ranking pari passu therewith and all other (if any) shares or stock in the Equity Share Capital of the Company resulting from any sub-division, consolidation or re-classification of shares;
“Share Charge”	a share charge made by EDC Holding in favour of the Investors whereby EDC Holding charges 100% of the equity it owns in EDC China to the Investors;
“Subscription Price”	means (i) a total subscription price for cash at par up to US\$250,000,000; or (ii) respective subscription price for cash at par of each tranche of the Bond, as the case may be;
“Subsidiary”	shall have the same meaning as defined in section 15 of the Companies Ordinance (Chapter 622 of the Laws of Hong Kong);
“Terms and Conditions”	the terms and conditions to be attached to the Certificate substantially in the form set out in Schedule 1 (with such minor amendments thereto as the parties may agree), and “Condition” refers to the relative numbered paragraph of the Terms and Conditions;
“US\$”	United States dollars, lawful currency of the United States of America;

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“Warranties” the warranties and representations set out in Schedule 3.

1.3 Except as otherwise expressly provided, expressions defined in the Companies Ordinance (Chapter 622 of the Laws of Hong Kong) have the same meaning in this Agreement.

1.4 A reference to a statute or statutory provision includes a reference:-

- (a) to that statute or provision as from time to time modified or re-enacted;
- (b) to any repeated statute or statutory provisions which it re-enacts (with or without modification); and
- (c) to any orders, regulations instruments or other subordinate legislation made under the relevant statute or statutory provision.

1.5 Unless the context otherwise requires :-

- (a) words in the singular include the plural, and vice versa;
- (b) words importing any gender include all genders; and
- (c) a reference to a person includes a reference to a body corporate and to an unincorporated body of persons.

1.6 A reference to a clause, sub-clause or schedule is to a clause, sub-clause or schedule (as the case may be) of or to this Agreement.

1.7 The headings are for convenience only and do not affect interpretation.

1.8 The definitions adopted in the recitals preceding this Clause apply throughout this Agreement.

## 2. Issue and Subscription of the Bond

2.1 Each of the Investors shall, severally and not jointly, subscribe for cash at par the Bond at the Subscription Price and the Company shall, on the Completion Date, issue the Bond at its full face value to the Investors in the following manner:

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- (a) First Tranche US\$100,000,000 (United States Dollars One Hundred Million) on the Completion of the First Tranche as specified in Clause 3.1(the “**First Tranche Issue Date**”) to be subscribed in full by PA Investor.
- (b) Second Tranche US\$50,000,000 (United States Dollars Fifty Million) on a date falling on the 1<sup>st</sup> calendar month from the First Tranche Issue Date or such earlier date as may be mutually agreed by the Company and STT Investor (the “**Second Tranche Issue Date**”), to be subscribed in full by STT Investor.
- (c) Third Tranche Up to US\$50,000,000 (United States Dollars Fifty Million) on or before a date falling on the 9<sup>th</sup> calendar month from the First Tranche Issue Date or such later date as may be agreed by the Company and STT Investor (the “**Third Tranche Issue Date**”) to be subscribed by STT Investor. No later than one (1) month prior to the Third Tranche Issue Date, the Company will formally notify STT Investor of the total amount of the Third Tranche which it commits to issue (such total amount being zero, or US\$10,000,000, or multiples thereof, up to a maximum of US\$50,000,000), and of which STT Investor must undertake to subscribe in full at the end of the notice period.
- (d) Fourth Tranche Up to US\$50,000,000 (United States Dollars Fifty Million) on or before a date falling on the 9<sup>th</sup> calendar month from the First Tranche Issue Date or such later date as may be agreed by the Company and PA Investor (the “**Fourth Tranche Issue Date**”), to be subscribed by PA Investor. No later than one (1) month prior to the Fourth Tranche Issue Date, the Company will formally notify PA Investor of the total amount of the Fourth Tranche which it commits to issue (such total amount being zero, or US\$10,000,000, or multiples thereof, up to a maximum of US\$50,000,000, and of which

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PA Investor must undertake to subscribe in full at the end of the notice period. The Company undertakes not to issue any part of the Fourth Tranche to PA Investor unless and until it has previously formally notified STT Investor of its commitment to issue the maximum amount (being US\$50,000,000) of the Third Tranche and STT Investor has subscribed in full for the maximum amount of the Third Tranche.

2.2 The Investors shall, severally and not jointly, pay the Subscription Price to the Company on or before the First Tranche Issue Date, the Second Tranche Issue Date, the Third Tranche Issue Date (if applicable) or the Fourth Tranche Issue Date (if applicable) (as the case may be) to a bank account of the Company designated by the Company in writing.

## 3. Completion

3.1 Completion of the First Tranche shall take place on the date of this Agreement, or such later date as the Company and PA Investor may agree, and be subject to the fulfilment of the following conditions unless any one or more of the following conditions precedent which are not fulfilled or satisfied are waived by the Investors in its sole discretion:

- (a) All corporate and other proceedings in connection with the issuance of the Bond (including the approval by the board of directors of the Company, the approval of all preferred shareholders of the Company, and the consents from such preferred shareholders to waive pre-emptive rights in respect of the issuance of the Bond) shall be completed and reasonably satisfactory in substance and form to the Investors; and
- (b) The notification regarding the proposed issuance of the Bond by the Company has been delivered to the Bank of Communications Suzhou Branch (□□□□□□□□□□□□□□□□).

3.2 Completion of the Second Tranche shall take place unconditionally on the Second Tranche Issue Date.

3.3 Completion of the Third Tranche (if any) and the Fourth Tranche (if any) shall take place unconditionally on the Third Tranche Issue Date and the

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Fourth Tranche Issue Date respectively unless there is a MAC (the “**Condition Precedent**”). For avoidance of any doubt, the Completion of the Third Tranche and the Fourth Tranche shall each be subject to the then separate board approval and the written consent of the preferred shareholders of the Company. The Company and the Investors shall not proceed to completing the Third Tranche and/or the Fourth Tranche by waiving the requirements above or the Completion Deliverables of the Company as required by Item 1 (a) and/or (b) in Schedule 2.

3.4 If the Condition Precedent has not been fulfilled on the date falling on the 9<sup>th</sup> calendar month from the First Tranche Issue Date or such later date as may be agreed between the Investors and the Company (as the case may be), any provisions in this Agreement with respect to the Third Tranche and the Fourth Tranche will lapse and become null and void and the parties will be released from all obligations hereunder with respect to the Third Tranche and the Fourth Tranche, save the liabilities for any antecedent breaches hereof.

**4. Completion of the Third Tranche and the Fourth Tranche**

Completion of the Third Tranche (if any) and the Fourth Tranche (if any) shall take place remotely via the exchange of documents and signatures, on or before a date falling on the 9<sup>th</sup> calendar month from the First Tranche Issue Date or such later date as may be agreed between the Investors (as the case may be) and the Company.

**5. Use of Proceeds**

The parties hereto agree that the proceeds from this subscription shall be used on new data centre development and construction, the purchase of equipment for data centers and additional working capital.

**6. Undertakings**

6.1 The Company shall notify the Investors upon it becoming aware of any event which could reasonably be expected to cause any of the Warranties to be incorrect, misleading or breached in any material respect or which may have any material adverse effect on the assets or liabilities of the Company.

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6.2 If any party fails to perform any of its obligations in any material respect (including its obligation at Completion) under this Agreement or breaches any of the terms or Warranties set out in this Agreement in any material respect prior to Completion then without prejudice to all and any other rights and remedies available at any time to a non-defaulting party (including but not limited to the right to damages for any loss suffered by that party) any non-defaulting party may, by notice either require the defaulting party to perform such obligations or, insofar as the same is practicable, remedy such breach, or to the extent it relates to the failure of the defaulting party to perform its obligation on or prior to Completion treat the defaulting party as having repudiated this Agreement and rescind the same. The rights conferred upon the respective parties by the provisions of this Clause 6 are additional to and do not prejudice any other rights the respective parties may have. Failure to exercise any of the rights herein conferred shall not constitute a waiver of any such rights.

6.3 The Company undertakes and covenants that:

- (a) the Company will use its reasonable endeavours to complete all restructuring so as to ensure compliance with IDC license conditions (the "IDC Adjustment Plan") within six (6) months after the date of Completion of the First Tranche;
- (b) the registration at the State Administration of Industry and Commerce or its local counterpart for the pledges over the equity interests in Beijing Wanguo Chang'an Technology Co., Ltd. (□□□□□□□□□□) will be obtained within two (2) months after completion of the IDC Adjustment Plan;
- (c) each of the Group Companies with IDC operation in Beijing will use their reasonable efforts to complete the energy conservation evaluation as required by the PRC laws with the competent government authorities within six (6) months after the date of Completion of the First Tranche;
- (d) the Company would use its best efforts to (i) procure William Wei Huang to complete all necessary filings and registration with

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the State Administration of Foreign Exchange or its local counterpart as required under the PRC laws or (ii) come up with an alternative to resolve this issue, within one (1) year after the date of Completion of the First Tranche;

- (e) EDC Technology (Suzhou) Co., Ltd. (□□□□□□□□□□□□□□) will complete all tax filings as required by the PRC laws within one (1) year after the date of Completion of the First Tranche;
- (f) the shareholder of Guojin Technology (Kunshan) Co., Ltd. (□□□□□□□□□□□□□□) will fund in full amount of its registered capital as required by the articles of association or revise the period for funding within one (1) year after the date of Completion of the First Tranche;
- (g) EDC (Chengdu) Industry Co., Ltd. (□□□□□□□□□□□□□□) and Shanghai Waigaoqiao EDC Technology Co., Ltd. will solve the problem that the operation place is different from the registered address of such companies within one (1) year after the date of Completion of the First Tranche;
- (h) the Company will procure EDC Holding to complete the filing of the Share Charge with the eligible Cayman registration authority within fifteen (15) Business Days from the date of Completion of the First Tranche; and
- (i) the Company will procure EDC Holding to provide the duly executed and undated Ancillary Documents as defined in the Share Charge to each of the Investors within fifteen (15) Business Days from the date of Completion of the First Tranche.

6.4 The Company agrees and undertakes to fully indemnify the Investors and to keep the Investors harmless and indemnified from any and all liabilities and losses incurred by the Investors in connection with or arising from the matters contained in the indemnity letter as set out in Schedule 5 to this Agreement.

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6.5 The Company agrees and undertakes to procure William Wei Huang to enter into an indemnity letter substantially in the form set out in Schedule 6 to this Agreement to fully indemnify the Investors and to keep the Investors harmless and indemnified from any and all liabilities and losses incurred by the Investors in connection with or arising from the matter contained therein.

**7. Confidentiality**

7.1 All communications between the parties and all information and such other material supplied to or received by any of them from the other which is either marked "confidential" or is by its nature intended to be exclusively for the knowledge of the recipient alone and any information concerning the business transactions or the financial arrangements of the parties or the Company or of any person with whom any of them is in a confidential relationship with regard to the matter in question coming to the knowledge of the recipient shall be kept confidential by the recipient unless or until compelled to disclose any judicial or administrative procedures or in the opinion of its counsel, by other requirements of law, or the recipient can reasonably demonstrate (a) that it is or part of it is, in the public domain, whereupon, to the extent that it is public, this obligation shall cease or (b) it is required to be furnished to the bankers or advisers or investor or potential investor of any of the parties or to any regulatory agencies as part of a public flotation exercise involving any of the parties and in such cases, this obligation shall cease only to the extent required under the respective circumstances.

7.2 The obligations contained in this Clause shall endure, even after the termination of this Agreement, without limit in point of time except and until any confidential information enters the public domain as set out above.

**8. Notices**

Any notice required or permitted to be given by or under this Agreement shall be in writing and shall be given by delivering it to the address of the relevant party concerned :-

- (a) in the case of the Company

Address: F2, Century Plaza Building 2#, Yanggao Road 428,  
Pudong New Area, Shanghai, PRC.

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Attention: William Wei Huang  
Fax No.: 86-21-20330202

- (b) in the case of PA Investor

Address: □□□□□□□□□□□□□□□□13□

Attention: □□□

Fax No.: 86-755-22621348

(c) in the case of STT Investor

Address: 1 Temasek Avenue, #33-01 Millenia Tower,  
Singapore 039192  
Attention: Company Secretary  
Fax No.: +65 6720 7220

and may be given by sending it by hand or in a prepaid envelope by post to such address or (in either case) to such other address as the party concerned may have notified to the other party in accordance with this clause and such notice shall be deemed to be served at the time of delivery or (as the case may be) five (5) Business Days after posting, or if sooner upon acknowledgement of receipt by or on behalf of the party to which it is addressed.

#### 9. Costs and Expenses

Each party shall bear its own legal, accountancy and other costs and expenses incurred in connection with the preparation, negotiation and settlement of this Agreement. Capital duty or stamp duty (if any) relating to the issue and delivery of the Bond shall be borne by the Company.

#### 10. General Provisions relating to Agreement

10.1 As regards any date or period, time shall be of the essence of this Agreement.

10.2 Each party undertakes to the other to execute or procure to be executed all such documents and to do or procure to be done all such other acts

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and things as may be reasonable and necessary to give all parties the full benefit of this Agreement.

10.3 This Agreement shall be binding on and enure for the benefit of the successors of each of the parties and shall not be assignable.

10.4 The exercise of or failure to exercise any right or remedy in respect of any breach of this Agreement shall not, save as provided herein, constitute a waiver by such party of any other right or remedy it may have in respect of that breach.

10.5 Any right or remedy conferred by this Agreement on any party for breach of this Agreement (including without limitation the breach of any representations and warranties) shall be in addition and without prejudice to all other rights and remedies available to it in respect of that breach.

10.6 Any provision of this Agreement which is capable of being performed after Completion but which has not been performed at or before Completion and all representations and warranties and other undertakings contained in or entered into pursuant to this Agreement shall remain in full force and effect notwithstanding Completion.

10.7 This Agreement constitutes the entire agreement between the parties with respect to its subject matter (neither party having relied on any representation or warranty made by the other party which is not contained in this Agreement) and no variation of this Agreement shall be effective unless made in writing and signed by all of the parties.

10.8 This Agreement supersedes all and any previous agreements, arrangements or understanding between the parties relating to the matters referred to in this Agreement and all such previous agreements, understanding or arrangements (if any) shall cease and determine with effect from the date hereof.

10.9 If at any time any provision of this Agreement is or becomes illegal, void or unenforceable in any respect, the remaining provisions hereof shall in no way be affected or impaired thereby.

#### 11. Governing Law and Dispute Resolution

11.1 This Agreement shall be governed by and construed in accordance with the laws of Hong Kong.

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11.2 (a) Any dispute, controversy or claim arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in accordance with the Hong Kong International Arbitration Centre ("HKIAC") Administered Arbitration Rules, as at present in force and as may be amended by the rest of this paragraph.

(b) The place of arbitration shall be in Hong Kong at the HKIAC.

(c) The arbitral tribunal shall be composed of three (3) arbitrators. The arbitrators shall be appointed by the HKIAC.

(d) The language of the arbitration shall be English.

(e) Any such arbitration shall be administered by HKIAC in accordance with the HKIAC Procedures for Arbitration in force as at the date of this Agreement.

AS WITNESS whereof this Agreement has been duly executed on the date first above written.

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#### Schedule 1

Certificate No: [\*]

**GDS HOLDINGS LIMITED**  
(Incorporated in the Cayman Islands with limited liability)  
up to US\$250,000,000 Convertible Bond

#### **CERTIFICATE**

Issued pursuant to the memorandum of association and articles of association of GDS Holdings Limited and a resolution of its board of directors passed on [\*] 2015.

**THIS IS TO CERTIFY** that [\*] is the registered holder (the "**Bondholder**") of [First/ Second / Third / Fourth Tranche] of convertible bond in the principal amount of US\$[\*] (the "**Bond**").

The Bond in respect of which this Certificate is issued is convertible into fully-paid ordinary shares with par value of US\$0.00005 each of the Company subject to the terms and conditions attached hereto which shall form an integral part of this Certificate.

This Certificate is evidence of entitlement only. Title to the Bond passes only on due registration on the register of Bondholders and only the duly registered holder is entitled to payments on the Bond in respect of which this Certificate is issued.

This Certificate shall not be valid for any purpose until executed by the Company.

This Certificate is governed by, and shall be construed in accordance with the laws of Hong Kong.

GIVEN under the Seal of GDS Holdings Limited this [\*] [2015/2016].

Director

*Notes : This Bond is not transferable except with the prior written approval of the Company. This Bond cannot be transferred to bearer on delivery and is only transferable to the extent permitted by Condition 2 of the terms and conditions hereof. This certificate must be delivered to the secretary of GDS Holdings Limited for cancellation and reissue of an appropriate certificate in the event of any such transfer.*

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**TERMS AND CONDITIONS OF THE BOND**

The Bond shall be held subject to and with the benefit of the terms and conditions set out below and such terms and conditions shall be binding on GDS Holdings Limited (the “Company”). Expressions defined in the Subscription Agreement dated December 30, 2015 relating to the Bond (the “Subscription Agreement”) shall have the same meaning in this certificate.

**1. Period**

- (a) Subject as provided herein, the Company shall repay such principal moneys outstanding under the Bond to the Bondholder (together with all interest accrued thereon up to and including the date of repayment) on the fourth (4<sup>th</sup>) anniversary from the First Tranche Issue Date (the “Maturity Date”). For the avoidance of doubt, the Bond issued in the Second Tranche, Third Tranche (if any) and Fourth Tranche (if any) will mature and become repayable on the same date as the First Tranche.
- (b) If a QIPO has not been completed by the Maturity Date, each Investor may voluntarily extend the Maturity Date by an additional one (1) year in respect of all or part of the Bonds outstanding by giving to the Company a 3-month prior notice in writing, provided that the amount of principal for which the Maturity Date is extended shall be US\$10,000,000 or multiples thereof.

**2. Status and Transfer**

- (a) The obligations of the Company arising under the Bond constitute general, secured obligations of the Company, and will rank senior, in respect of right of receipt of interest and repayment of principal, to the Company’s preferred Shares.
- (b) The Bond is not transferable except with the prior written approval of the Company. Subject to the foregoing, the Bond may be assigned or transferred in multiple(s) of US\$10,000,000.
- (c) Subject to above 2(b), the Bond may be transferred by execution of a form of transfer (the “Transfer Form”) as set out in Exhibit A hereto, which is in a form designated by the Company under the hand of the transferor and the transferee (or their duly authorized representatives) or, where either the transferor or transferee is a corporation, under its common seal (if any) and under the hand of one of its officers duly authorized in writing or otherwise executed by a duly authorized officer

thereof. In this Condition “transferor” shall, where the context permits or requires, include joint transferors or can be construed accordingly.

- (d) The Certificate of the Bond must be delivered for registration to the Company accompanied by (i) a duly executed Transfer Form; (ii) in the case of the execution of the Transfer Form on behalf of a corporation by its officers, the authority of that person or those persons to do so; and (iii) such other evidence (including legal opinions) as the Company may reasonably require if the Transfer Form is executed by some other person on behalf of the Bondholder. The Company shall, within fourteen (14) days of receipt of such documents from the Bondholder, cancel the existing Certificate and issue a new certificate under the seal of the Company, in favour of the transferee or assignee as applicable.
- (e) The Company shall maintain and keep a full and complete register of the Bond and the Bondholders from time to time and shall record its conversion and/or cancellation and the destruction of any replacement Bonds issued in substitution for any mutilated, defaced, lost, stolen or destroyed Bonds and of sufficient identification details of all Bondholders from time to time holding the Bond. The Company shall further procure that such register shall be made available to any holder of the Bond during normal office hours.

**3. Security**

- (a) The Bond will have the benefit of the following collateral security as security for payment obligations and performance of all of the obligations of the Company in respect of the Bond :-  
a share pledge in favour of the Investors granted by EDC Holding in respect of the entire equity interest in the registered capital of EDC China (a limited company incorporated in Hong Kong) beneficially owned by the Company and its rights, benefit and title over such equity interest and all dividends and other income and distributions relating thereto (the “Share Charge”).
- (b) The Company shall procure that EDC Holding will grant the security pursuant to the Share Charge.
- (c) Such Share Charge shall be released if (a) the Bonds have been fully redeemed, or (b) at any time after the QIPO, more than 50% of the principal value of the Bond has been converted into ordinary shares of

the Company in accordance with this Terms and Conditions of the Bond, and the Investors shall fully cooperate with the Company to release the Share Charge and take any actions necessary to effect such release, upon reasonable requests by the Company.

**4. Interest**

- (a) The Bond will bear interest from the date of issue at a simple rate of five per cent (5%) per annum on the principal amount of the Bond outstanding, which will be payable by the Company semi-annually in arrears and calculated daily on a 180/360 day basis as at the interest payment dates.
- (b) In the event that the Bondholder has redeemed or converted part or whole of the principal amount of the Bond, the Bondholder shall be entitled, other than in the event of any redemption pursuant to Condition 11, to interest in addition to the interest in Condition 4 (a) (the “Accrued Interest”):
- (i) in respect of such part or whole of the principal amount redeemed at a simple rate of five per cent (5%) per annum calculated daily on a 180/360 day basis, payable in cash on the Maturity Date;
- (ii) in respect of such part or whole of the principal amount converted at a simple rate of five per cent (5%) per annum calculated daily on a 180/360 day basis, payable on the Conversion Date in kind by the issuance of ordinary shares of the Company at the Conversion Price.
- (c) Interest on the Bond shall accrue on a 180/360 day basis from the First Tranche Issue Date, the Second Tranche Issue Date, the Third Tranche Issue Date (if applicable) and Fourth Tranche Issue Date (if applicable) respectively. In the event that the Bondholder has converted part or whole of the principal amount of the Bond, the Bondholder shall be entitled to Accrued Interest up to the date immediately preceding the relevant Conversion Date.

**5. Payments**

- (a) Payment of the principal and interest in respect of the Bond shall be made for value on the due dates by way of wire transfer of immediately available funds into a bank account designated by Bondholder in writing or by other means as the Bondholder may notify the Company in writing

from time to time.

- (b) If the due date for payment of any amount in respect of the Bond is not a Business Day, the Bondholder will be entitled to payment on the next following Business Day in the same manner and will not be entitled to any further interest or other payment in respect of any such delay.
- (c) The Company shall not be allowed to redeem the Bond before the Maturity Date.

**6. Conversion and Redemption**

- (a) (i) *Conversion:* Subject as hereinafter provided, the Bondholder will, if the Company completes a QIPO, at any time between the date of completion of such QIPO (the “QIPO Completion Date”) and the Maturity Date (the “Conversion Period”), have the right to convert up to 100% of the principal amount of the Bond (in multiples of US\$10,000,000), together with the Accrued Interest thereon, into ordinary shares of the Company, by giving a Conversion Notice (as defined below) to the Company requiring the Company to convert the Bond in whole or in part. The Conversion Price shall be US\$1.675262 subject to adjustment as hereafter described. No fraction of an ordinary share will be issued on conversion and the number or ordinary shares issued will be rounded down to the nearest whole number, but an equivalent cash payment in United States dollars will be made to the Bondholder in respect of such fraction.

(ii) *Company's call:* If the Company completes a QIPO and the closing price of its Shares is at or above 125% of the Conversion Price (i.e. 25% premium to the Conversion Price) for a period of at least ten (10) consecutive trading days, the Company may, at its unilateral option, give two (2) month's notice to the Bondholder that the Bond then outstanding will be mandatorily converted at the end of the notice period in accordance with this Terms and Conditions of the Bond.

(iii) *Lock-up:* Any Shares issued as a result of conversion of the Bond during the one (1) year period following the QIPO Completion Date shall be locked up until the 1-year anniversary of the QIPO Completion Date. Such lock-up will not apply to the existing Shareholders of the Company.

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(iv) *Pre-emptive rights:* For one (1) year following the First Tranche Issue Date, the Bondholder shall be entitled to participate proportionately in any issuance by the Company of convertible bonds at the same interest rate and on the same terms and conditions as the Company offers to other investors. The proportionate entitlement of the Bondholder will be calculated as if all convertible capital, options, warrants, etc. issued and outstanding on the date of the proposed issue are converted. For the avoidance of doubt, the pre-emptive rights shall not apply to the Second Tranche, Third Tranche (if any) and Fourth Tranche (if any) of the Bond.

(v) *Redemption on maturity:* Unless previously converted or purchased and cancelled in the circumstances referred to herein and subject to Condition 1(b), the Bond will be redeemed on the fourth (4<sup>th</sup>) anniversary from the First Tranche Issue Date at its principal amount, plus Accrued Interest thereon.

(b) *Conversion Notice:*

(i) To exercise the Conversion Rights attaching to any Bond, the Bondholder must complete, execute and deposit at his own expense during 9 a.m. to 5 p.m., on any Business Day at the principal place of business of the Company a written notice of conversion as set out in Exhibit B hereto (the "**Conversion Notice**") in duplicate, together with the relevant Certificate and any amounts required to be paid by the Bondholder under Condition 6(c).

(ii) The conversion date in respect of the Bond (the "**Conversion Date**") must fall at a time when the Conversion Rights attaching to the Bond is expressed in these Terms and Conditions to be exercisable and will be deemed to be the Business Day immediately following the date of the surrender of the Certificate in respect of such Bond and delivery of such Conversion Notice and, if applicable, any payment to be made or indemnity given under these Terms and Conditions in connection with the exercise of such Conversion Rights.

(iii) A Conversion Notice once delivered shall be irrevocable and may not be withdrawn unless the Company consents to such withdrawal.

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(c) *Stamp duty and taxes:* The Company shall pay to the relevant tax authorities any taxes and stamp, issue and registration duties arising on conversion, if any, and a Bondholder delivering a certificate in respect of a Bond for conversion must pay all, if any, taxes arising by reference to any disposal or deemed disposal of the Bond in connection with such conversion. The Company is under no obligation to determine whether the Bondholder is liable to pay any taxes or the amounts thereof payable (if any) in connection with this Condition 6(c).

(d) *Cancellation:* All Bonds, which are redeemed or converted or purchased by the Company, will forthwith be cancelled. Certificates in respect of all Bonds cancelled will be forwarded to the Company and such Bonds may not be re-issued or sold.

7. **Adjustments**

(a) Subject hereinafter provided, the Conversion Price shall from time to time be adjusted in accordance with the following relevant provisions and so that if the event giving rise to any such adjustment shall be such as would be capable of falling within more than one of sub-paragraphs (i) to (vii) inclusive of this Condition 7(a) it shall fall within the first of the applicable paragraphs to the exclusion of the remaining paragraphs :-

(i) If and whenever the Shares by reason of any consolidation or sub-division become of a different nominal amount, the Conversion Price in force immediately prior thereto shall be adjusted by multiplying it by the revised nominal amount and dividing the result by the former nominal amount. Each such adjustment shall be effective from the close of business in Hong Kong on the day immediately preceding the date on which the consolidation or sub-division becomes effective.

(ii) If and whenever the Company shall issue (other than in lieu of a cash dividend) any Shares credited as fully paid by way of capitalization of profits or reserves (including any share premium account or capital redemption reserve fund), the Conversion price in force immediately prior to such issue shall be adjusted by multiplying it by the aggregate nominal amount of the issued Shares immediately before such issue and dividing the result by the sum of such aggregate nominal amount and the aggregate nominal amount of the Shares issued in such capitalization. Each such adjustment shall be effective (if appropriate retroactively) from the commencement of the day next following the record date for such

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issue.

(iii) If and whenever the Company shall make any **Capital Distribution** (as defined in Condition 7(b)) to holders (in their capacity as such) of Shares (whether on a reduction of capital or otherwise) or shall grant to such holders rights to acquire for cash assets of the Company or any of its Subsidiaries, the Conversion Price in force immediately prior to such distribution or grant shall be adjusted by multiplying it by the following fraction.

$$\frac{A-B}{A}$$

Where :-

A = the market price on the date on which the Capital Distribution, or, as the case may be, the grant is announced or (failing any such announcement) next preceding the date of the Capital Distribution or, as the case may be, of the grant; and

B = the fair market value on the day of such announcement or (as the case may require) the next preceding day, as determined in good faith by an approved merchant bank, of the portion of the Capital Distribution or of such rights which is attributable to one Share,

Provided that :-

(aa) if in the opinion of the relevant approved merchant bank, the use of the fair market value as aforesaid produces a result which is significantly inequitable, it may instead determine (and in such event the above formula shall be construed as if B meant) the amount of the said market price which should properly be attributed to the value of the Capital Distribution or rights; and

(bb) the provisions of this sub-paragraph (iii) shall not apply in relation to the issue of Shares paid out of profits or reserves and issued in lieu of a cash dividend.

Each such adjustment shall be effective (if appropriate retroactively) from the commencement of the day next following the record date for the Capital Distribution or grant.

(iv) if and whenever the Company shall offer to holders of Shares new Shares for subscription by way of rights, or shall grant to holders

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of Shares any options or warrants to subscribe for new shares, at a price which is less than eighty per cent (80%) of the market price at the date of the announcement of the terms of the offer or grant, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before the date of such announcement by a fraction of which the numerator is the number of shares in issue immediately before the date of such announcement plus the number of Shares which the aggregate of the amount (if any) payable for the rights, options or warrants and of the amount payable for the total number of new Shares comprised therein would purchase at such market price and the denominator is the number of Shares in issue immediately before the date of such announcement plus the aggregate number of Shares offered for subscription or comprised in the options or warrants (such adjustment to become effective (if appropriate retroactively) from the commencement of the day next following the record date for the offer or grant).

(v) (aa) Subject to Condition 7(c), if and whenever the Company shall issue wholly for cash any securities which by their terms are convertible into or exchangeable for or carry rights of subscription for new Shares, and the total **Effective Consideration per Share** (as defined below) initially receivable for such securities is less than eighty per cent (80%) of the market price at the date of the announcement of the terms of issue of such securities, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the issue by a fraction of which the numerator is the number of Shares in issue immediately before the date of the issue plus the number of Shares which the total **Effective Consideration** receivable for the securities issued would purchase at such market price and the denominator is the number of Shares in issue immediately before the date of the issue plus the number of Shares to be issued upon conversion or exchange of, or the exercise of the subscription rights conferred by, such securities at the initial conversion or exchange rate or subscription price. Such adjustment shall become effective (if appropriate retrospectively) from the close of business in Hong Kong on the Business Day next preceding whichever is the earlier of the date on which the issue is announced and the date on which the Company determines the conversion or exchange rate or

subscription price.

- (bb) Subject to Condition 7(c), if and whenever the rights of conversion or exchange or subscription attached to any such securities as are mentioned in section (aa) of this sub-paragraph (v) are modified so that the total Effective Consideration per Share initially receivable for such securities shall be less than eighty per cent (80%) of the market price at the date of announcement of the proposal to modify such rights of conversion or exchange or subscription, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to such modification by a fraction of which the numerator is the number of Shares in issue immediately before the date of such modification plus the number of Shares which the total Effective Consideration receivable for the securities issued at the modified conversion or exchange price would purchase at such market price and of which the denominator is the number of Shares in issue immediately before such date of modification plus the number of Shares to be issued upon conversion or exchange of or the exercise of the subscription rights conferred by such securities at the modified conversion or exchange rate or subscription price. Such adjustment shall become effective as at the date upon which such modification shall take effect. A right of conversion or exchange or subscription shall not be treated as modified for the foregoing purposes where it is adjusted to take account of rights or capitalization issues and other events normally giving rise to adjustment of conversion or exchange terms.

For the purposes of this sub-paragraph (v), the “**total Effective Consideration**” receivable for the securities issued shall be deemed to be the consideration receivable by the Company for any such securities plus the additional minimum consideration (if any) to be received by the Company upon (and assuming) the conversion or exchange thereof or the exercise of such subscription rights, and the total Effective Consideration per Share initially receivable for such securities shall be such aggregate consideration divided by the number of Shares to be issued upon (and assuming) such conversion or exchange at the initial conversion or exchange rate or the exercise of such subscription rights at the initial

subscription price, in each cases without any deduction for any commissions, discounts or expenses paid, allowed or incurred in connection with the issue.

- (vi) Subject to Condition 7(c), if and whenever the Company shall issue wholly for cash any Shares at a price per Share which is less than eighty per cent (80%) of the market price at the date of the announcement of the terms of such issue, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before the date of such announcement by a fraction of which the numerator is the number of Shares in issue immediately before the date of such announcement plus the number of Shares which the aggregate amount payable for the issue would purchase at such market price and the denominator is the number of Shares in issue immediately before the date of such announcement plus the number of Shares so issued. Such adjustment shall become effective on the date of the issue.
- (vii) Subject to Condition 7(c), if and whenever the Company shall issue Shares for the acquisition of asset at a total Effective Consideration per Share (as defined below) which is less than eighty per cent (80%) of the market price at the date of the announcement of the terms of such issue, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before the date of such announcement by a fraction of which the numerator is the number of Shares in issue immediately before the date of such announcement plus the number of Shares which the total Effective Consideration would purchase at such market price and the denominator is the number of Shares in issue immediately before the date of such announcement plus the number of Shares so issued. Each such adjustment shall be effective (if appropriate retroactively) from the close of business in Hong Kong on the business day immediately preceding whichever is the earlier of the date on which the issue is announced and the date on which the Company determines the issue price for such Shares. For the purpose of this subparagraph (vii) “**total Effective Consideration**” shall be the aggregate consideration credited as being paid for such Shares by the Company on acquisition of the relevant asset without any deduction of any commissions, discounts or expenses paid, allowed or incurred in connection with the issue thereof, and the “**total Effective Consideration per Share**” shall be the total Effective Consideration divided by the number of Shares issued as aforesaid.

- (b) For the purposes of this Condition 7

“**approved merchant bank**” means a merchant bank of repute in Hong Kong jointly selected by the Company and the Investors in good faith for the purpose of providing a specific opinion or calculation or determination hereunder, or if there is no agreement among the Company and the Investors, to be selected by the Chairperson of the Hong Kong International Arbitration Centre;

“**Capital Distribution**” shall (without prejudice to the generality of that phrase) include distributions in cash or specie but shall exclude any preference shares dividends. Any dividend (other than preference shares dividends) charged or provided for in the accounts for any financial period shall (whenever paid and however described) be deemed to be a Capital Distribution;

“**issue**” shall include allot;

“**market price**” means (i) before the Company’s Shares are listed on a Recognized Stock Exchange, fair market value of one Share as determined in good faith by an approved merchant bank on the day preceding the day on or as of which the market price is to be ascertained; or (ii) after the Company’s Shares are listed on a Recognized Stock Exchange, the average of the closing prices of one Share on the Recognized Stock Exchange for each of the last five (5) Recognized Stock Exchange dealing days on which dealings in the Shares on the Recognized Stock Exchange took place ending on the last such dealing day preceding the day on or as of which the market price is to be ascertained;

“**Shares**” includes, for the purposes of Shares comprised in any issue, distribution on grant pursuant to sub-paragraphs (iii), (iv), (v), (vi) or (vii) of Condition 7(a), any such ordinary shares of the Company as, when fully paid, will be Shares.

- (c) (i) The provisions of sub-paragraphs (v), (vi) and (vii) shall only apply to transactions between the Company and the Shareholders.
- (ii) The foregoing provisions shall not apply to transactions between the Company and parties other than the Shareholders (“**Non-Shareholders Transactions**”), whereby any new Shares or convertible bonds are issued. Prices agreed in those

Non-Shareholders Transactions shall be deemed to be fair value and not subject to any further adjustment.

- (d) The provisions of sub-paragraphs (ii), (iii), (iv), (v), (vi) and (vii) of Condition 7(a) shall not apply to:-
- (i) an issue of fully paid Shares upon the exercise of any conversion rights attached to securities convertible into Shares or upon exercise of any rights (including any conversion of the Bond) to acquire Shares provided that an adjustment has been made under this Condition 7 in respect of the issue of such securities or granting of such rights (as the case may be);
- (ii) an issue of Shares or other securities of the Company or any Subsidiary of the Company wholly or partly convertible into, or rights to acquire, Shares to officers or employees of the Company or any of its Subsidiaries pursuant to any employee or executive share scheme in existence as at the date of issue of the Bond;
- (iii) an issue by the Company of Shares or by the Company or any Subsidiary of the Company of securities wholly or partly convertible into, or rights to acquire Shares, in any such case in consideration or part consideration for the acquisition of any other securities, assets or business provided that an adjustment has been made (if appropriate) under this Condition 7 in respect of the issue of such securities or granting of such rights (as the case may be);
- (iv) an issue of fully paid Shares by way of capitalization of all or part of any subscription right reserve, or any similar reserve which has been or may be established pursuant to the terms of any securities wholly or partly convertible into or rights to acquire Shares; or
- (v) an issue of Shares pursuant to a scrip dividend scheme where an amount not less than the nominal amount of the Shares so issued is capitalized and the market value of such Shares is not more than one hundred and twenty per cent (120%) of the amount of dividend which holders of the Shares could elect to or would otherwise receive in cash.
- (e) Any adjustment to the Conversion Price shall be made to the nearest sixth decimal point. In addition to any determination which may be made by the directors of the Company every adjustment to the Conversion Price shall be certified either (at the option of the Company) by the auditors of

the Company for the time being or by an approved merchant bank.

- (f) If the Company or any Subsidiary of the Company shall in any way modify the rights attached to any share or loan capital so as wholly or partly to convert or make convertible such share or loan capital into, or attach thereto any rights to acquire, Shares, the Company shall appoint an approved merchant bank to consider whether any adjustment to the Conversion Price is appropriate (and if such approved merchant bank shall certify that any such adjustment is appropriate the Conversion Price shall be adjusted accordingly and the provisions of Conditions 7(e) and 7(h) shall apply).
- (g) Notwithstanding the provisions of Condition 7(a), in any circumstances where the directors of the Company shall consider that an adjustment to the Conversion Price provided for under the said provisions should not be made or should be calculated on a different basis or that an adjustment to the Conversion Price should be made notwithstanding that no such adjustment is required under the said provisions or that an adjustment should take effect on a different date or with a different time from that provided for under the provisions, the Company may appoint an approved merchant bank to consider whether for any reason whatever the adjustment to be

made (or the absence of adjustment) would or might not fairly and appropriately reflect the relative interests of the persons affected thereby and, if such approved merchant bank shall consider this to be the case, the adjustment shall be modified or nullified or an adjustment made instead of no adjustment in such manner including without limitation, making an adjustment calculated on a different basis) and/or the adjustment shall take effect from such other date and/or time as shall be certified by such approved merchant bank to be in its opinion appropriate.

- (h) Whenever the Conversion Price is adjusted as herein provided the Company shall give notice to the holder of the Bond that the Conversion Price has been adjusted (setting forth the event giving rise to the adjustment, the Conversion Price in effect prior to such adjustment, the adjusted Conversion Price and the effective date thereof) and shall at all times thereafter so long as the Bond remains outstanding make available for inspection at its principal place of business in Hong Kong a signed copy of the said certificate of the auditors of the Company or (as the case may be) of the relevant approved merchant bank and a certificate signed by a director of the Company setting forth brief particulars of the event giving rise to the adjustment, the Conversion Price in effect prior to such adjustment, the adjusted Conversion Price and the effective date thereof and shall, on request, send a copy thereof to the Bondholder.

## 8. Qualified Initial Public Offering

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The Company shall use its reasonable commercial endeavours to effect a QIPO for all the issued Shares on a Recognized Stock Exchange as the Company may from time to time determine.

## 9. Protection of the Bondholder

- (a) Subject to 9(g) and 9(h) below, consent of each of the Investors shall be required for the Company to:

- (i) issue any convertible bonds having a preference over the Bond with respect to the receipt of interest and repayment of principal;
- (ii) approve any material change in the scope, nature and/or activities of the business of any of the Group Companies;
- (iii) approve any related party transactions or a series of related transactions within any twelve (12) month period, contracts and arrangements or a series or related contracts or arrangements which exceed US\$10,000,000 per transaction for related companies in consideration with any Shareholders, directors and Affiliates, excluding any transaction relating to the IDC Adjustment Plan for purposes of this Condition 9(a) or any transaction contemplated under the Subscription Agreement;
- (iv) make or result in any new material acquisitions, sale of control or assets, merger, consolidation, joint venture or partnership arrangements, from the date of the Agreement, which are outside the existing business or geographic scope of the Group Companies and exceed US\$10,000,000;
- (v) change materially the accounting methods or policies or appoint or change the auditors except for any change that has been notified to the Bondholder before the date of the Agreement;
- (vi) incur additional debt in any Group Company incorporated in the PRC such that, at the time of incurrence, total external debt of all Group Companies incorporated in the PRC on a consolidated basis exceeds 75% of total capitalisation of all Group Companies on a consolidated basis;

The above incurrence test shall be based on the latest management accounts prepared on a basis which is consistent with the

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accounting methods and policies of the Company's audited accounts.

For the purpose of this clause:

**"Total external debt of all Group Companies incorporated in the PRC"** shall mean the total amount of current and non-current external loans, borrowings, bonds payable, vendor finance payables and convertible bonds (but excluding obligations under finance leases) of such companies on a consolidated basis.

**"Total capitalisation of all Group Companies"** shall mean the sum of the total amount of current and non-current loans, borrowings, bonds payable, vendor finance payables and convertible bonds (but excluding obligations under finance leases) of such companies on a consolidated basis and the total amount of issued and paid up share capital of the Company, including ordinary shares and all classes of preferred shares, as stated in the Company's accounts.

- (vii) make any changes to, or grant exceptions from, the lock-up and non-compete provisions contained in the existing memorandum and articles of association of the Company and the Members Agreement.
- (b) Prior to the QIPO, each of the Investors shall have standard inspection rights and the Company shall deliver to them: (i) audited annual financial statements no later than one hundred twenty (120) days after the end of each fiscal year; (ii) unaudited monthly and quarterly financial reports; (iii) annual business plan, budget and projected financial statements no later than thirty (30) days before each fiscal year; and (iv) any other financial or other information that the Investor may reasonably request or that is otherwise provided to Shareholders of the Company.
- (c) Prior to the QIPO, PA Investor shall have the right to appoint one (1) observer to the board of directors of the Company.
- (d) Should the Company complete any future financings of convertible debt or debt plus equity options that provide an investor in such financing with terms (the **"New Investor Terms"**) more favorable than the terms offered to the Investors in this financing (the **"Current Investor Terms"**) within one (1) year of the First Tranche Issue Date and prior to the QIPO, the Investors shall have the right to have any such New Investor Terms added

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to or replace the corresponding Current Investor Terms, provided that, when assessing whether a New Investor Term is more favorable than a Current Investor Term (references are to terms set out in this Agreement): Conditions 4(a), 4(b), 4(c) and 6(a), 6(b) shall be considered on an aggregate basis and the Investors shall only be entitled to have all such terms (i.e. Conditions 4(a), 4(b), 4(c) and 6(a), 6(b)) replaced by the equivalent New Investor Terms.

- (e) The Company shall promptly notify the Investors upon the receipt of any early redemption notice from any of its Shareholders in accordance with the articles of association of the Company, and if at the Investors' sole discretion by reasonable judgment that the consummation of the redemption by the Company to the Shareholders will materially affect the ability for the Company to repay the Bond, the Investors may give notice to the Company that the Bond is, and it shall on the giving of such notice immediately become, due and payable at its principal amount together with any Accrued Interest calculated up to and including the date of repayment.
- (f) The Company shall notify the Investors five (5) days prior to the convening of a board of directors meeting for the declaration of ordinary dividends and/or discretionary dividends to ordinary shareholders, and if at the Investors' sole discretion by reasonable judgment that the consummation of the declaration of such ordinary dividends or discretionary dividends by the Company to the ordinary shareholders will materially affect the ability for the Company to repay the Bond, the Investors may give notice to the Company that the Bond is, and it shall on the giving of such notice immediately become, due and payable at its principal amount together with any Accrued Interest calculated up to and including the date of repayment.
- (g) The rights of PA Investor in Clauses 9(a), 9(b), 9(c), 9(d), 9(e) and 9(f) will terminate at the time of the QIPO or if, at any time prior to the QIPO, PA Investor holds less than seventy-five per cent (75%) of the principal amount of the Bond originally issued to PA Investor.
- (h) The rights of STT Investor in Clauses 9(a), 9(b), 9(d), 9(e) and 9(f) will terminate at the time of the QIPO or if, at any time prior to the QIPO, STT Investor holds less than seventy-five per cent (75%) of the principal amount of the Bond originally issued to STT Investor.

## 10. Procedure for Conversion

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- (a) The Conversion Rights may, subject as provided herein, be exercised on any Business Day prior to maturity of the Bond by the Bondholder delivering to the address of the Company in Condition 13 a written notice stating the intention of the Bondholder to convert together with the Certificate. The Company shall be responsible for payment of all taxes and stamp duty, issue and registration duties (if any) and Stock Exchange levies and charges (if any) arising on conversion.
- (b) The Shares arising on conversion shall be allotted and issued by the Company to the Bondholder or as it may direct within fourteen (14) days after, and with effect from, the date the conversion notice is served by the Bondholder and certificates for the Shares to which the Bondholder shall become entitled in consequence of exercising his Conversion Rights shall be issued in board lots or otherwise directed by the Bondholder and delivered to the Bondholder, and (if appropriate) together with an endorsement on the Certificate by a director of the Company for any balance of the Bond not converted.

## 11. Events of Default

If any of the following events occurs and is continuing, the Bondholder may give notice to the Company that the Bond is, and it shall on the giving of such notice immediately become, due and payable at its principal amount together with any Accrued Interest calculated up to and including the date of repayment.

- (a) *Non-Payment:*
- (i) a default is made in the payment of any principal, interest, premium (if any) due in respect of the Bonds and such default continues for a period of thirty (30) days; or
  - (ii) failure to pay any amount due at maturity; or
  - (iii) in case of Default Redemption (as defined below) within thirty (30) days after due date.
- (b) *Breach of Other Obligations:* the Company does not perform or comply with any one or more of its other obligations in these Terms and Conditions of the Bonds which default is incapable of remedy or, if capable of remedy, is not remedied within thirty (30) days after notice of such default shall have been given to the Company by a Bondholder;
- (c) *Insolvency:* the Company is (or is, or could be, deemed by law or a court

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to be) insolvent or bankrupt or unable to pay, when due, its debts, stops, suspends or threatens to stop or suspend payment of all or a substantial part of its debts, proposes or makes any agreement for the deferral, rescheduling or other readjustment of all of its debts (or of any part which it will or might otherwise be unable to pay when due), proposes or makes a general assignment or an arrangement or composition with or for the benefit of the relevant creditors in respect of any of such debts or a moratorium is agreed or declared in respect of or affecting all or any part of the debts of the Company; or if an administrator or liquidator of the Company or the whole or any substantial part of the assets and revenues of the Company is appointed (or application for any such appointment is made);

- (d) *Winding-up:* an order is made or an effective resolution passed for the winding-up or judicial management or dissolution or administration of the Company, or the Company or any of its Subsidiaries ceases or threatens to cease to carry on all or substantially all of its business or operations, except for the purpose of and followed by a voluntary solvent reconstruction, amalgamation, reorganization, merger or consolidation;
- (e) *Receiver:* an encumbrancer takes possession or a receiver, manager or other similar officer is appointed of the whole or any part of the undertaking, property, assets or revenues of the Company or its Subsidiaries;
- (f) *Seizure, expropriation, etc.:* a moratorium is agreed or declared in respect of any indebtedness of the Company or any of its Subsidiaries or any governmental authority or agency condemns, seizes, compulsorily purchases or expropriates all or a substantial part of the assets of the Company or any of its Subsidiaries;
- (g) *Cross default:* any other bonds, debentures, notes or other instruments of indebtedness or any other loan indebtedness having an aggregate outstanding amount of at least US\$25,000,000 of the Company or EDC China becoming prematurely repayable following a default in respect of the terms thereof which shall not have been remedied, or steps are taken to enforce any security therefore, or the Company or EDC China defaults in the repayment of such indebtedness at the maturity thereof;
- (h) *Change of Control:* Change of Control of the Company without consent of the Bondholder;
- (i) *Other Material Breach:* Any material breach of legally binding

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transaction documents related to this transaction.

Upon the occurrence of an Event of Default, the Bondholder has the right to request the Company to redeem all or part of the Bond owned by such Bondholder at a redemption price equal to the principal plus an IRR of ten per cent (10%), net of any interest paid up to that date (the "Default Redemption").

## 12. Experts

In giving any certificate or making any adjustment hereunder, the auditors of the Company or (as the case may be) the approved merchant bank shall be deemed to be acting as experts and not as arbitrators and, in the absence of manifest error, their decision shall be conclusive and binding on the Company and the Bondholder and all persons claiming through or under them respectively.

## 13. Notices

Any notice required or permitted to be given shall be given by delivering it to the party

- (a) in the case of PA Investor:

Address: 13  
Attention:   
Fax No: 86-755-2262 1348

- (b) in the case of STT Investor

Address: 1 Temasek Avenue, #33-01 Millenia Tower, Singapore 039192  
Attention: Company Secretary  
Fax No.: +65 6720 7220

- (c) in the case of the Company:

Address: F2, Century Plaza Building 2#, Yanggao Road 428, Pudong New Area, Shanghai, PRC  
Attention: William Wei Huang

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Fax No: 86-21-20330202

or to such other address as the party concerned may have notified to the other party pursuant to this Condition 13 and may be given by sending it by hand or in a prepaid envelope by registered mail (by air if international) to such address or (in either case) to such other address as the party concerned may have notified to the other parties in accordance with this paragraph and such notice shall be deemed to be served at the time of delivery or (as the case may be) five (5) Business Days after posting, or if sooner upon acknowledgement of receipt by or on behalf of the party to which it is addressed.

## 14. Amendment

The terms and conditions of the Bond may be varied, expanded or amended by agreement in writing between the Company and the Bondholder.

## 15. Governing law and jurisdiction

The Bond and the terms of the Bond are governed by and shall be construed in accordance with Hong Kong law and the parties agree that any dispute, controversy, difference or claim arising out of or relating to the Bond, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non-contractual obligations arising out of or relating to it shall be referred to and finally resolved by arbitration administered by the Hong Kong International Arbitration Centre ("HKIAC") under the HKIAC Administered Arbitration Rules as at present in force and as may be amended by the rest of this paragraph. The place of arbitration shall be in Hong Kong at the HKIAC. The arbitral tribunal shall be composed of three (3) arbitrators. The arbitrators shall be appointed by the HKIAC. The language of the arbitration shall be English. Any such arbitration shall be administered by HKIAC in accordance with the HKIAC Procedures for Arbitration in force as at the date of this Bond.

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## EXHIBIT A

### FORM OF TRANSFER

For value received, the undersigned hereby transfers to:



US\$ principal amount of the Bond in respect of which this Certificate is issued, and all rights in respect thereof.

All payments in respect of the Bond hereby transferred are to be made (unless otherwise instructed by the transferee) to the following account:

Name of bank :
Account number :
For the account of :

Date: \_\_\_\_\_

Transferor's name :
Transferor's signature :
Transferor's witness :
Transferee's name :
Transferee's signature :
Transferee's witness :

- Notes: (a) A representative of the holder of the Bonds should state the capacity in which he signs, e.g. executor.
(b) The signature of the persons effecting a transfer shall conform to any list of duly authorized specimen signatures supplied by the registered holder or be certified by a notary public or in such other manner as the Company may require.
(c) This form of transfer should be dated as of the date it is deposited with the Company.
(d) Transfers of the Bonds are subject to the restrictions set out in Condition 2.

EXHIBIT B

CONVERSION NOTICE

Terms defined in the Certificate relating to a convertible bond of an aggregate amount of [ ] (the "Bond") issued on [\*] [2015/2016] by GDS Holdings Limited (the "Company") in favour of Perfect Success Limited and STT GDC Pte. Ltd. (as may be amended) shall bear the same meanings in this Conversion Notice.

The undersigned hereby irrevocably elects to convert the following amount of the Bond into ordinary shares of the Company in accordance with the Terms and Conditions, as of the date specified below, such ordinary shares to be issued in the name of the shareholder of the Company set out below.

Name of Bondholder :
Certificate Number(s) :
Amount to be converted :
Conversion Date :
Applicable Conversion Price :
Name in which shares are to be issued :
Address of Bondholder :
Signature of Bondholder :
Dated this day of 20

Schedule 2

Completion Deliverables

1. Obligations of the Company

The Company shall deliver to the respective Investor:-

- (a) certified copies of the board resolutions of the Company and written consent by preferred shareholders of the Company approving and authorizing the execution and completion of this Agreement;
(b) for issue of each of the Third Tranche and Fourth Tranche and its Certificate upon the terms and subject to the Terms and Conditions contained therein, certified copies of the board resolutions of the Company and written consent by preferred shareholders of the Company approving such issue;
(c) scanned copy of the notification sent to Bank of Communications Suzhou Branch and the relevant courier sheet/document; and
(d) the Certificate duly issued in favour of the Investor.

2. Obligations of each Investor:-

The Investor shall deliver to the Company:

- (a) a certified copy of its board resolution approving and authorizing the execution and completion of this Agreement.

Schedule 3

Warranties

For the purposes of this Schedule, the term "Company" shall mean each of the Group Company accordingly, statements referring to the "Company" shall be construed as referring to each of the Group Company.

**1. Corporate Status**

- (a) The Company has been duly incorporated and constituted, and is legally subsisting under the laws of the jurisdiction of its incorporation and there has been no resolution, petition or order for the winding up and no receiver has been appointed in respect of the undertaking, property or assets of any the Company or any part thereof.
- (b) The Company has duly and properly complied in all material respects with all filing or registration requirements in respect of corporate or other documents imposed under the relevant law of the jurisdiction of its incorporation.

**2. The Shares**

- (a) There are no Encumbrances on, over or affecting any of the Shares or any part of the issued or unissued share capital of the Company other than as set out in the articles of association of the Company. There is no agreement or commitment to give or create any Encumbrance. No claim has been made by any person to be entitled to any Encumbrance which has not been waived in its entirety or satisfied in full.
- (b) All of the issued Shares are fully paid up or credited as fully paid up.
- (c) There is no agreement or commitment outstanding which calls for the transfer, allotment or issue of or accords to any person the right to call for the transfer, allotment or issue of any shares or debentures in the Company (including any option or right of

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pre-emption or conversion). No claim has been made by any person to be entitled to any such agreement or commitment.

- (d) Other than as contemplated under the Share Charge, the shares in the share capital of each Group Company are owned by the Company free from all Encumbrances and are fully paid up or credited as such.
- (e) The Company has not repaid, redeemed or purchased any of its share capital or issued any share capital as paid up otherwise than by receipt of consideration therefor.
- (f) Since the Accounts Date, the Company has not been directly or indirectly engaged or involved in any scheme of reconstruction or amalgamation or any reorganisation or reduction of share capital or conversion of securities nor has the Company transferred any business carried on by it.
- (g) The Company has full power, authority and capacity to allot and issue the Bonds and, upon Conversion, the Conversion Shares pursuant to this Agreement under the memorandum and articles of association of the Company and the directors of the Company have full power and authority to effect such allotment.
- (h) No consent of any third party (other than the Shareholders of the Company) is required to be obtained in respect of the allotment and issue of the Bonds and, upon Conversion, the Conversion Shares.
- (i) The obligations of the Company under this Agreement and each document to be executed at or before Completion are, or when the relevant document is executed, will be binding in accordance with their terms.

**3. Accuracy of Information**

- (a) The information given in the Recitals, the Schedules, the Accounts and this Agreement is true and accurate in all respects and is not misleading because of any omission or ambiguity or for any other reason.
- (b) The copy of the memorandum and articles of association (or equivalent document) of the Company provided to the Investor is

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complete and accurate in all respects, has attached to it copies of all resolutions and other documents required by law to be so attached and fully set out the rights and restrictions attaching to each class, if any, of the share capital of the Company.

- (c) All the accounts, books, ledgers and financial and other records of the Company have been properly kept in accordance with normal business practice and are in the possession of the Company or under its control and all transactions relating to its business have been duly and correctly recorded therein and there are as at the date of this Agreement no inaccuracies or discrepancies of any kind contained or reflected in such accounts, books, ledgers and financial and other records and at the date of this Agreement they are sufficient to give a true and accurate view of the state of the Company's affairs and to explain its transactions.
- (d) The statutory books (including all registers and minute books) of the Company have been properly kept and contain (in respect of matters up to but not including Completion) an accurate and complete record of the matters which should be dealt with in those books and contain no inaccuracies or discrepancies of any kind and no notice or allegation that any of them is incorrect or should be rectified has been received.
- (e) All information provided by or on behalf of any of the Company to the Investor or their agents or advisers is true and accurate in all respects and all copies of documents supplied have been true and complete copies of such documents.

**4. Compliance with Legal Requirements**

- (a) The Company has complied with all legal and procedural requirements and other formalities applicable to it in connection with its:
  - (i) memorandum and articles of association or other constitutional documents (including all resolutions passed or purported to have been passed);
  - (ii) filing of all documents required by the appropriate legislation to be filed with the appropriate regulatory bodies;

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- (iii) issues of shares, debentures or other securities;
  - (iv) payments of interest and dividends and making of other distributions and
  - (v) directors and other officers.
- (b) The Company is empowered and duly qualified to carry on its business in such countries in which it operates.
- (c) There has been no breach by the Company or by any of their officers or employees (in their capacity as such) of any legislation or regulations affecting the Company or its business.
- (d) The Company is not in breach of any legal or regulatory requirement relating to the identity and nationality of Shareholders and any nominee structure in relation to the shares in the Company is legally effective.

**5. Accounts and Assets and Liabilities**

- (a) The Accounts:
  - (i) comply with the requirements of all applicable legislation;
  - (ii) were prepared on the same basis and in accordance with the same accounting policies consistently applied as the audited accounts of the Company prepared in the three preceding years and in accordance with accounting principles generally accepted in the relevant country of incorporation at the time they were prepared;
  - (iii) are complete and accurate in all respects and in particular make full provision for all established liabilities or make proper provision for (or contain a note in accordance with good accounting practice respecting) all deferred or contingent liabilities (whether liquidated or unliquidated) at the date thereof including deferred tax where appropriate;
  - (iv) give a true and fair view of the state of affairs and financial position of the relevant Company at the Accounts Date thereof and of the relevant Company's results for the financial period ended on such date; and

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- (v) are not adversely affected by any unusual or non-recurring items which are not disclosed as such in the Accounts.
- (b) Without limitation to Clause 5(a), full provision has been made in the Accounts:
  - (i) for depreciation of assets;
  - (ii) for any foreseeable liabilities in relation to the disposal of any assets or the cessation or diminution of any part of the business of the relevant Company;
  - (iii) for bad or doubtful debts and all debts which were, as at the Accounts Date, more than six months overdue;
  - (iv) for long service payments;
  - (v) for all tax exposures (including contingent exposures);
  - (vi) for any exposures (including contingent exposures) relating to supplier discount arrangements;
  - (vii) in respect of all litigation;
  - (viii) in respect of all claims and returns;
  - (ix) for all management fees;
  - (x) for bonuses payable; and
  - (xi) in respect of all customer rebates.
- (c) The Company has no outstanding liability for tax of any kind which has not been provided for or is not provided for in the Accounts.
- (d) The Company has no capital commitment and is not engaged in any scheme or project requiring the expenditure of capital.
- (e) The Company owns and will own free from Encumbrance all its undertaking and assets shown or comprised in the relevant Accounts and all such assets are in its possession or under its

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control.

- (f) The assets owned by the Company and such other assets that the Company has the right to use together comprise all the assets necessary for the continuation of the business as now carried on by the Company and no asset acquired by the Company is surplus to requirements.
- (g) The Company holds no security (including any guarantee or indemnity) which is not valid and enforceable by the Company against the grantor thereof in accordance with its terms.
- (h) The Company does not have any liability (actual or potential) in respect of any sale, disposal or cessation of any company or business, nor are there outstanding any obligations or restrictions on the part of or which otherwise may continue to bind the Company in respect of any such sale, disposal or cessation of a company or business.
- (i) The Company does not have any liability (actual or potential) which is not or will not be shown or otherwise specifically provided for in the Accounts.
- (j) All of the debts which are reflected in the Accounts as owing to the Company (apart from bad and doubtful debts to the extent to which they have been provided for in the Accounts) or which have subsequently been recorded in the books of the Company have realised or will realise in the normal course of collection and within three months of Completion their full value as included in the Accounts or in the books of the Company, and no such debt nor any part of it has been outstanding for more than three (3) months from its due date for payment.

## 6. Contracts, Commitments and Financial and Other Arrangements

- (a) There are not now outstanding, nor will there be outstanding at Completion, with respect to the Company:
  - (i) any contracts of service with directors or employees which cannot be terminated by one month's notice or less or (where not reduced to writing) by reasonable notice without giving rise to any claim for damages or compensation (other than a statutory redundancy payment);
  - (ii) any agreements or arrangements to which the Company is a party for profit sharing, share incentives, share options, incentive payments or payment to employees of bonuses except for the GDS Holding Limited 2014 Stock Option Plan adopted on May 21, 2014;
  - (iii) any obligation or arrangement to pay any pension, gratuity, retirement annuity or benefit or any similar obligation or arrangement in favour of any person except for the social benefits paid to or to be paid to any person as required by applicable laws and regulations;
  - (iv) any agreement (whether by way of guarantee indemnity warranty representation or otherwise) under which the Company is under any actual or contingent liability in respect of:
    - (1) any disposal by the Company of its assets or business or any part thereof except such as are usual in the ordinary and proper course of its normal day to day trading as carried on at the date of this Agreement; or
    - (2) the obligations of any other person;
  - (v) any arrangements (contractual or otherwise) between the Company and any party which will or may be terminated or prejudicially affected as a result of the sale of the Bonds and, upon Conversion, the Conversion Shares or of compliance with any other provision of this Agreement; or
  - (vi) any contract which restricts the freedom of the Company to carry on the business now carried on by it in any part of the world.
- (b) There is no invalidity, nor any grounds for determination, rescission, avoidance or repudiation, of any agreement to which the Company is a party.
- (c) Compliance with this Agreement does not and will not conflict with or result in the breach of or constitute a default under any agreement or instrument to which the Company is now a party or

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any loan to or mortgage created by the Company or relieve any other party to a contract with the Company of its obligations under such contract or entitle such party to terminate such contract, whether summarily or by notice.

- (d) Neither entering into nor completing this Agreement will or is likely to cause the Company to lose the benefit of any right or privilege it currently enjoys or any person who normally does business with or gives credit to the Company not to continue to do so on the same basis or any officer or senior employee of the Company to leave its employment.
- (e) No charges, rights of security or third party rights of any kind whatsoever have been created or agreed to be created or permitted to arise over any of the assets of the Company other than liens arising in the ordinary course of business.
- (f) The Company is under no obligation, nor is it a party to any contract, which cannot readily be fulfilled or performed by it on time and without undue or unusual expenditure of money or effort.
- (g) Save for any guarantee or warranty implied by law, the Company has not given any guarantee or warranty, or made any representation, in respect of goods or services supplied or contracted to be supplied by it or accepted any liability or obligation that would apply after any such goods or services had been supplied by it.

## 7. Insolvency

- (a) No receiver, manager or the like, has been appointed of the whole or any part of the assets or undertaking of the Company.

- (b) No petition has been presented, no order has been made and no resolution has been passed for the winding-up or dissolution of the Company or for a provisional liquidator to be appointed in respect of the Company.
- (c) No distress, execution or other process has been levied in respect of the Company.

**8. Litigation**

Save as disclosed, the Company is not engaged (whether as plaintiff, defendant or otherwise) in any litigation or arbitration, administrative or criminal or other proceeding and, to the knowledge of the Company, no litigation or arbitration, administrative or criminal or other proceedings against the Company is pending, threatened or expected and there is no fact or circumstance likely to give rise to any such litigation or arbitration, administrative or criminal or other proceedings or to any proceedings against any director, officer or employee (past or present) of the Company in respect of any act or default for which the Company might be vicariously liable.

**9. Employment**

- (a) No employee or consultant or former employee or consultant of the Company has currently outstanding any claims against the Company.
- (b) The Company has no outstanding undischarged liability to pay to any governmental or regulatory authority in any jurisdiction any contribution, taxation or other impose arising in connection with the employment or engagement of personnel by any company.

**10. Authority and Approval**

- (a) The Company has the power or the corporate power to enter into and perform its obligations under this Agreement and to carry out the transactions contemplated hereby.
- (b) The Company has taken all necessary action or corporate action to authorise the entering into and performance of this Agreement and to carry out the transactions contemplated hereby, and this Agreement is a valid and binding obligation on each of them.
- (c) The execution and delivery of, the performance of the obligations of the Company under, and compliance with the provisions of, this Agreement will not:-
  - (i) contravene any existing applicable law, statute, rule or regulation or any judgment, decree or permit to which it/he is subject;

- (ii) conflict with, or result in any breach of any of the terms of, or constitute a default under, any agreement or other instrument to which it/he is a party or is subject or by which it/his or any of it/his property is bound;
- (iii) result in the creation or imposition of or obliges it/him to create any Encumbrance or any of it/his undertakings, assets, rights or revenues; or
- (i) result in a breach of any provision of the Company's constitutional documents.
- (d) Save as disclosed, the Company holds all licenses, consents and other permissions and approvals required for or in connection with the carrying on of its business and all such licenses, consents and other permissions and approvals.

**Schedule 4**

**Details of Group Companies**

List of PRC Group Companies

No.	Chinese Name of the PRC Group Companies	English Name of the PRC Group Companies	Correspondence Address	Marked for Attention of	Fax Number and Email
1	上海外高桥EDC技术有限公司	Shanghai Waigaoqiao EDC Technology Co., Ltd.	中国（上海）自由贸易试验区 外高桥保税区200127	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
2	上海洋泾EDC技术有限公司	Shanghai Yungang EDC Technology Co., Ltd.	中国（上海）自由贸易试验区 外高桥保税区200127	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
3	EDC Technology (Kunshan) Co., Ltd.	EDC Technology (Kunshan) Co., Ltd.	中国（上海）自由贸易试验区 外高桥保税区189	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
4	Guojin Technology (Kunshan) Co., Ltd.	Guojin Technology (Kunshan) Co., Ltd.	中国（上海）自由贸易试验区 外高桥保税区189	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
5	EDC (Chengdu) Industry Co., Ltd.	EDC (Chengdu) Industry Co., Ltd.	中国（四川）自由贸易试验区 成都高新区333	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com

No.	Chinese Name of the PRC Group Companies	English Name of the PRC Group Companies	Correspondence Address	Marked for Attention of	Fax Number and Email
			中国（上海）自由贸易试验区 外高桥保税区2302		
6	EDC Technology (Suzhou) Co., Ltd.	EDC Technology (Suzhou) Co., Ltd.	中国（江苏）自由贸易试验区 苏州工业园区1355 A0503-1	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
7	Shenzhen Yungang EDC Technology Co., Ltd.	Shenzhen Yungang EDC Technology Co., Ltd.	中国（广东）自由贸易试验区 前海深港现代服务业合作区5	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
8	Global Data Solutions Co., Ltd.	Global Data Solutions Co., Ltd.	中国（上海）自由贸易试验区 外高桥保税区200127	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
9	Beijing Wanguo Chang'an Science & Technology Co., Ltd.	Beijing Wanguo Chang'an Science & Technology Co., Ltd.	中国（北京）自由贸易试验区 顺义区26 1008	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
10	Shanghai Shu'an Data Services Ltd.	Shanghai Shu'an Data Services Ltd.	中国（上海）自由贸易试验区 外高桥保税区200127	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com

No.	Chinese Name of the PRC Group Companies	English Name of the PRC Group Companies	Correspondence Address	Marked for Attention of	Fax Number and Email
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11	北京恒普安数据 科技发展有限公司	Beijing Hengpu'an Data Technology Development Co., Ltd.	北京市朝阳区 100800	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
12	北京王固舒安 科学与技术 发展有限公司	Beijing Wanguo Shu'an Science & Technology Development Co., Ltd.	北京市朝阳区 100800	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
13	昆山万宇数据 服务有限公司	Kunshan Wanyu Data Services Co., Ltd.	昆山市 215000	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com

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List of non-PRC Group Companies

ENGLISH NAME OF THE PRC GROUP COMPANIES	Correspondence Address	Marked for Attention of	Fax Number and Email
GDS HOLDINGS LIMITED	2F, Tower 2 of YouYou Century Place, 428 South Yanggao Road, Shanghai, P. R. China, 20127	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
EDC HOLDING LIMITED	2F, Tower 2 of YouYou Century Place, 428 South Yanggao Road, Shanghai, P. R. China, 20127	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
EDC CHINA HOLDINGS LIMITED	Units 323-325, 3/F, Core Building 2, Hong Kong Science Park, Shatin, Hong Kong	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
EDE I (HK) LIMITED	Units 323-325, 3/F, Core Building 2, Hong Kong Science Park, Shatin, Hong Kong	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
EDE II (HK) LIMITED	Units 323-325, 3/F, Core Building 2, Hong Kong Science Park, Shatin, Hong Kong	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
EDE III (HK) LIMITED	Units 323-325, 3/F, Core Building 2, Hong Kong Science Park, Shatin, Hong Kong	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
EDB (HK) LIMITED	Units 323-325, 3/F, Core Building 2, Hong Kong Science Park, Shatin, Hong Kong	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com

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EDB II (HK) LIMITED	Units 323-325, 3/F, Core Building 2, Hong Kong Science Park, Shatin, Hong Kong	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
FEP (HK) LIMITED	Units 323-325, 3/F, Core Building 2, Hong Kong Science Park, Shatin, Hong Kong	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
EDCQ (HK) LIMITED	Units 323-325, 3/F, Core Building 2, Hong Kong Science Park, Shatin, Hong Kong	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
EDH (HK) LIMITED	Units 323-325, 3/F, Core Building 2, Hong Kong Science Park, Shatin, Hong Kong	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
EDS (HK) LIMITED	Units 323-325, 3/F, Core Building 2, Hong Kong Science Park, Shatin, Hong Kong	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
MEGAPORT INTERNATIONAL LIMITED	Units 323-325, 3/F, Core Building 2, Hong Kong Science Park, Shatin, Hong Kong	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
GDS (HONG KONG) LIMITED	Units 323-325, 3/F, Core Building 2, Hong Kong Science Park, Shatin, Hong Kong	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
EDCD (HK) LIMITED	Units 323-325, 3/F, Core Building 2, Hong Kong Science Park, Shatin, Hong Kong	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
EDKS (HK) LIMITED	Units 323-325, 3/F, Core Building 2, Hong Kong Science Park, Shatin, Hong Kong	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com

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EDSUZ (HK) LIMITED	Units 323-325, 3/F, Core Building 2, Hong Kong Science Park, Shatin, Hong Kong	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
GDS DATA SERVICES COMPANY LTD. (LOCATED IN MACAU)	Units 323-325, 3/F, Core Building 2, Hong Kong Science Park, Shatin, Hong Kong	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
GDS SERVICES LIMITED	2F, Tower 2 of YouYou Century Place, 428 South Yanggao Road, Shanghai, P.R.China, 20127	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
GDS SERVICES (HONG KONG) LIMITED	Units 323-325, 3/F, Core Building 2, Hong Kong Science Park, Shatin, Hong Kong	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com
FURTHER SUCCESS LIMITED	2F, Tower 2 of YouYou Century Place, 428 South Yanggao Road, Shanghai, P.R.China, 20127	William Wei Huang	Fax: 8621-20330202 Email: huangwei@gds-services.com

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Schedule 5

Form of Company Indemnity Letter

Indemnity Letter

BY

(1) **GDS HOLDINGS LIMITED** (Company No.CT-178332), an exempt company incorporated under the laws of the Cayman Islands with limited liability whose registered office is situate at the offices of Codan Trust Company (Cayman) Limited, Cricket Square, Hutchins Drive, P.O. Box 2681, Grand Cayman KY1-1111, Cayman Islands (the “**Company**”);

IN FAVOUR OF

- (1) **PERFECT SUCCESS LIMITED**, a company incorporated under the laws of Cayman Islands, whose registered office is situate at PO Box 309, Uglan House, Grand Cayman, KY1-1104, Cayman Islands ; and
- (2) **STT GDC PTE. LTD.**, a company incorporated under the laws of Singapore whose registered office is situate at 1 Temasek Avenue #33-01 Millenia Tower Singapore 039192 (together with **PERFECT SUCCESS LIMITED**, the “**Investors**”).

Reference is hereby made to that certain Subscription Agreement (the “**Agreement**”), dated [\*], 2015, by and between the Company and the Investors. Capitalized terms used herein shall have the meaning set forth in the Agreement.

THE UNDERSIGNED, as the authorized officer of the Company, hereby undertakes on behalf of the Company that the Company shall indemnify and hold the Investors harmless against any and all Indemnifiable Losses (as defined below) related to, resulting from, or arising in connection with:

- (a) Company’s non-utilization of the land under the land certificate number “□□□□2013□DW21□”□

- (b) EDC Technology (Kunshan) Co., Ltd. (□□□□□□□□□□□□□□□□)’s acceptance of the environment protection (□□□□) in respect of its possessed data center;
- (c) the Group Companies’ failure to pay full amount of social insurance and housing funds premiums as required under the PRC laws prior to Completion; and
- (d) the registration of the lease agreement entered into by each of the relevant Group Companies in respect of any data center site possessed and/or operated by such Group Company with the competent government authorities.

For purpose of this Letter, “**Indemnifiable Losses**” means, with respect to the Investors, any action, cost, damage, fines, disbursement, expense, liability, loss, deficiency, obligation, penalty of any kind or nature, including without limitation, (i) interest or other carrying costs, penalties, legal, accounting and other professional fees and expenses reasonably incurred by the Investors; and (ii) any taxes that may be payable by the Investors as a result of the indemnification of any Indemnifiable Loss hereunder.

IN WITNESS WHEREOF, the undersigned has set forth his signature on this Indemnity Letter as of the date first set forth above.

**GDS HOLDINGS LIMITED**

By: \_\_\_\_\_  
 Name:  
 Title: Authorized Officer

Schedule 6

Form of William Indemnity Letter  
Indemnity Letter

THIS LETTER is made on this day of 2015.

BY

(1) **William Wei Huang**, the director and CEO of GDS Holdings Limited (the “**Company**”);

IN FAVOUR OF

- (1) **PERFECT SUCCESS LIMITED**, a company incorporated under the laws of Cayman Islands, whose registered office is situate at PO Box 309, Uglan House, Grand Cayman, KY1-1104, Cayman Islands ; and
- (2) **STT GDC PTE. LTD.**, a company incorporated under the laws of Singapore whose registered office is situate at 1 Temasek Avenue #33-01 Millenia Tower Singapore 039192 (together with **PERFECT SUCCESS LIMITED**, the “**Investors**”).

Reference is hereby made to that certain Subscription Agreement (the “**Agreement**”), dated [\*], 2015, by and between the Company and the Investors. Capitalized terms used herein shall have the meanings set forth in the Agreement.

THE UNDERSIGNED hereby undertakes that he shall indemnify and hold the Investors harmless against any and all Indemnifiable Losses (as defined below) related to, resulting from, or arising in connection with any failure to complete all necessary filings and registration with the State Administration of Foreign Exchange or its local counterpart as required under the PRC law.

For purpose of this Letter, “**Indemnifiable Losses**” means, with respect to the Investors, any action, cost, damage, fines, disbursement, expense, liability, loss, deficiency, obligation, penalty of any kind or nature, including without limitation, (i) interest or other carrying costs, penalties, legal, accounting and other professional fees and expenses reasonably incurred by the Investors; and (ii) any taxes that may be payable by the Investors as a result of the indemnification of any Indemnifiable Loss hereunder.

IN WITNESS WHEREOF, the undersigned has set forth his signature on this Indemnity Letter as of the date first set forth above.

**William Wei Huang**

\_\_\_\_\_  
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SIGNED by )  
 duly authorized for and on behalf of )  
**GDS HOLDINGS LIMITED** ) /s/ William Wei Huang  
 in the presence of )

SIGNED by )  
 duly authorized for and on behalf of )  
**PERFECT SUCCESS LIMITED** ) /s/ Huang Xiaofeng  
 in the presence of )

SIGNED by )  
duly authorized for and on behalf of )  
**STT GDC PTE. LTD.** )  
in the presence of )

/s/ Bruno Lopez

---

**Equity Interest Pledge Agreement**  
concerning  
**Beijing Wanguo Chang'an Science & Technology Co., Ltd.**

Among  
**William Wei Huang**  
**Qiuping Huang**  
and  
**Shanghai Free Trade Zone GDS Management Co., Ltd.**  
Date: April 13, 2016

**Equity Interest Pledge Agreement**

This Equity Interest Pledge Agreement (the "**Agreement**") is entered into by and between the following parties on April 13, 2016 in Shanghai, PRC:

**Party A:**

**William Wei Huang**

**Address:** Room 3205, Unit 1, Building 7, Greenlake Place, 88 East 4<sup>th</sup> Ring Middle Road, Chaoyang District, Beijing, Postal Code: 100025

**ID Card No.:** 31010719671101125x

**Qiuping Huang**

**Address:** Room 411, No.12, Alley 180, Xiangde Road, Hongkou District, Shanghai

**ID Card No.:** 31010719611116122x

(William Wei Huang and Qiuping Huang hereinafter shall be collectively referred to as the "**Pledgers**".)

**Party B:**

**Shanghai Free Trade Zone GDS Management Co., Ltd.** (hereinafter referred to as the "**Pledgee**")

**Registered Address:** Room 4056, Floor 4, 173 Meisheng Road, Shanghai Pilot Free Trade Zone, China

**Legal Representative:** William Wei Huang

Whereas:

- (1) The Pledgers, William Wei Huang and Qiuping Huang, are the registered shareholders of Beijing Wanguo Chang'an Science & Technology Co., Ltd. (with registered address at Room A-0155, 2<sup>nd</sup> Floor, Building 3, Compound 30, Shixing Avenue, Shijingshan Park, Zhongguancun Science Park, Beijing, hereinafter referred to as the "**Company**"), collectively holding 100% of the equity interests of the Company ("**Company's Equity Interest**").
- (2) The Pledgers have entered into a Loan Agreement with the Pledgee on April 13, 2016 (the "**Loan Agreement**") to borrow a loan with a principal of RMB 300,100,000 (the "**Loan**") to expand the Company's business.
- (3) According to the Exclusive Call Option Agreement (the "**Call Option Agreement**") entered into by and between the Pledgers, the Pledgee and the Company on April 13th, 2016, the Pledgers shall, to the extent permitted by PRC Law, transfer all or part of their equity shares in the Company to the Pledgee and/or its designated entity or individual upon the request of the Pledgee.
- (4) According to the Shareholder Voting Rights Proxy Agreement (the "**Voting Proxy Agreement**") entered into by and between the Pledgee, the Company and the Pledgers on April 13, 2016, the Pledgers have entrusted as representative of the Pledgers to exercise all of their voting rights as the shareholders of the Company.
- (5) According to the Exclusive Technology License and Service Agreement (the "**Service Agreement**") entered into by and between the Pledgee and the Company on April 13, 2016, the Company has exclusively engaged the Pledgee to provide relevant technology license and technical support service and will pay the Pledgee the corresponding license service fees for such license and service.

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- (6) The Pledgers agree to pledge all their equity shares in the Company to the Pledgee for the purpose of guaranteeing the performance of the Contractual Obligations (as defined below) of the Pledgers and the Company and the discharge of the Secured Debts (as defined below) under this Agreement, to which the Pledgee shall be given priority.

Now, therefore, the parties agree as follows through negotiation:

**Article I Terms and Definitions**

- 1.1 Unless otherwise specified or in cases where the context demands a different interpretation, the terms used in this Agreement shall have the following meanings:

<b>"Contractual Obligations":</b>	means all contractual obligations of the Pledgers under the Call Option Agreement, Voting Proxy Agreement, Loan Agreement and this Agreement, and all contractual obligations of the Company under the Call Option Agreement, the Voting Proxy Agreement and Service Agreement.
<b>"Equity Pledge"</b>	has the meaning as stipulated in Article 2.2 of this Agreement.
<b>"Event of Default":</b>	means any of the following event: (i) any breach by the Pledgers of the contractual obligations under the Call Option Agreement, the License Agreement, the Shareholder Voting Right Proxy Agreement or this Agreement; (ii) any breach by the Company of any obligations under the Call Option Agreement, the Voting Proxy Agreement and the Service Agreement; or (iii) the Call Option Agreement, the License Agreement, the Voting Proxy Agreement or any of the Transaction Agreements becomes invalid or unenforceable due to change of PRC Law, promulgation of a new PRC Law or any other reasons, and Pledgee is unable to provide for an alternative arrangement to effectuate the purpose under the Transaction Agreements.
<b>"Pledged Equity":</b>	are to all Company's Equity Interest lawfully owned by the Pledgers on the effective date of the Agreement and to be pledged to the Pledgee for the purpose of guaranteeing the performance of the Contractual Obligations by the Pledgers and the Company in accordance with this Agreement. The total amount of the pledged equity from the Pledgers is RMB 300,100,000 per 10,000 shares, of which RMB 300,000,000 per 10,000 shares is pledged by William Wei Huang, and RMB 100,000 per 10,000 shares is pledged by Qiuping Huang, plus the increased capital and dividends under Articles 2.6 and 2.7 of this Agreement.
<b>"Power of Attorney"</b>	has the meaning as stipulated in Article 12.11 of this Agreement.
<b>"PRC"</b>	for the purpose of this Agreement, means the People's Republic of China, excluding Hong Kong, Macau and Taiwan.



- rules, local regulations, judicial interpretations and other binding legal documents of the People’s Republic of China that are in force at the time.
- “Said Party’s Rights” has the meaning as stipulated in Article 12.6 of this Agreement.
- “Secured Debts” means all direct, indirect and derivative losses and losses of anticipated profits incurred upon the Pledgee as a result of any Event of Default by the Pledgers and/or the Company, the amount of such losses shall be determined by the Pledgee at its absolute discretion to the extent permitted under PRC Law and shall be binding to the Pledgers; and all expenses occurred in connection with enforcement by the Pledgee of the Pledgers’ and/or the Company’s Contractual Obligations.
- “Transaction Agreements” means the Call Option Agreement, the Loan Agreement, the Voting Proxy Agreement and the Service Agreement.
- 1.2 Any citation of any PRC law in this Agreement shall be deemed to:
- (1) simultaneously include the citation of the content of the amendments, adjustments, complements and revisions of PRC law regardless of whether the effective date is before or after the conclusion of this Agreement; and
- (2) simultaneously include the citation of other decisions, notices and rules made or taking effect pursuant to the PRC Law.
- 1.3 Unless otherwise stipulated in the context of this Agreement, Article, Section, Paragraph and Subparagraph referred to in this Agreement shall mean relevant content in this Agreement.

#### Article 2 Equity Pledge

- 2.1 The Pledgers hereby agree to pledge to Pledgee the Pledged Equity, which it lawfully owns and has the right of disposal, as the guarantee for the performance of the Contractual Obligations and the discharge of the Secured Debts. Subject to other provisions of this Agreement, the Pledgers’ respective Pledged Equity and Secured Debts are as follows:

Pledger	Pledged Equity	Secured Debts
William Wei Huang	RMB 300,000,000 per 10,000 shares	RMB 300,000,000
Qiuping Huang	RMB 100,000 per 10,000 shares	RMB 100,000
<b>Total:</b>	RMB 300,100,000 per 10,000 shares	RMB 300,100,000

- 2.2 The Pledgers undertake that they shall record the equity pledge arrangement hereunder (the “Equity Pledge”) in the register of shareholders of the Company on the date of the execution of this Agreement, and shall make their best effort to register the Equity Pledge at the Administration for Industry and Commerce where the Company is registered within a time period agreed upon by the parties. The Pledgers shall provide

- the Pledgee with a certificate of registration of the aforesaid Equity Pledge in the register of shareholders of the Company to the satisfaction of the Pledgee.
- 2.3 During the valid term of this Agreement, unless attributable to the Pledgee’s willful conduct or the Pledgee’s gross negligence with direct causation to the consequence, the Pledgee shall not be held liable to any reduction in the value of the Pledged Equity, and the Pledgers shall have no right to claim any compensation or to make other requests in any way against the Pledgee.
- 2.4 Without breaching the provisions of the above-mentioned Article 2.3, if there is any probability that the value of the Pledged Equity will notably decrease which is sufficient to prejudice the rights of the Pledgee, the Pledgee may at any time auction or sell the Pledged Equity on behalf of the Pledgers, and reach an agreement with the Pledgers to use the proceeds from such auction or sales to prepay the Secured Debts or to withdraw and deposit such proceeds with the notary office in the place where the Pledgee is domiciled (all expenses so incurred shall be assumed by the Pledgers).
- 2.5 Upon occurrence of any Event of Default, the Pledgee has the right to dispose of the Pledged Equity in accordance with Article 4 of this Agreement.
- 2.6 The Pledgers may increase the registered capital of the Company with the Pledgee’s prior consent. The increased capital contribution amount of the Pledgers in the registered capital of the Company as a result of such capital increase of the Company shall be a part of the Pledged Equity.
- 2.7 The Pledgers may distribute dividends or capital bonus from the Equity Interest with prior written consent of the Pledgee. The dividends or capital bonus distributed from the Pledged Equity received by the Pledgers shall be deposited into an account designated and supervised by the Pledgee and shall be used to discharge the Secured Debts prior and in preference to making any other payment.
- 2.8 The Pledgee shall have the right to dispose of any of the Pledged Equity of any Pledgers in accordance with this Agreement after the occurrence of any Event of Default.

#### Article 3 Release of Pledge

After the Pledgers and the Company have fully and completely performed all of the Contractual Obligations, the Pledgee shall, upon the Pledgers’ request, release the Equity Pledge under this Agreement and cooperate with the Pledgers to cancel the registration of the Equity Pledge on the Company’s register of shareholders. The Pledgee shall assume the reasonable expenses arising out of the release of the Equity Pledge.

#### Article 4 Disposal of Pledged Equity

- 4.1 The Pledgers and the Pledgee hereby agree that in case of the occurrence of any Event of Default, the Pledgee shall have the right to, by notifying the Pledgers in writing, exercise all the remedial rights and power as prescribed by PRC Law, the Transaction Agreements and the provisions of this Agreement, including but not limited to being compensated in first priority with proceeds from auctions or sales of the Pledged Equity. The Pledgee shall not be held liable to any loss caused by its reasonable exercise of such rights and power.
- 4.2 The Pledgee shall have the right to delegate in writing its lawyers or other agents to exercise all or any part of its rights and power above, and the Pledgers shall not raise any objection thereto.

- 4.3 The Pledgers shall assume the reasonable expenses arising from the Pledgee’s exercise of any or all of the above-mentioned rights and power; the Pledgee has the right to deduct such expenses from the proceeds gained from its exercise of such rights and power.
- 4.4 The proceeds gained from the Pledgee’s exercise of its rights and power shall be settled in accordance with the following order:
- firstly, pay all expenses arising out of the disposal of the Pledged Equity and the Pledgee’s exercise of its rights and power (including but not limited to court expenses and the remuneration paid to its lawyers and agents);
- secondly, pay the taxes and charges payable for the disposal of the Pledged Equity; and
- thirdly, repay the Secured Debts to the Pledgee.
- If any balance remains after the deduction of the above amounts, the Pledgee shall return the balance to the Pledgers or any other person entitled to such amount pursuant to relevant laws and regulations, or deposit such amount with the notary office in the place where the Pledgee is domiciled (all expenses so incurred shall be assumed by the Pledgers).
- 4.5 The Pledgee has the discretion to, simultaneously or in certain sequence, exercise any remedies for defaults that it is entitled to. The Pledgee may exercise its rights to auction or sell the Pledged Equity under this Agreement without first exercising any other remedies for defaults.

#### Article 5 Costs and Expenses

All actual expenses related to the creation of the Equity Pledge under this Agreement, including but not limited to stamp duty, any other taxes and all legal fees, etc., shall be assumed by the Pledgee.

#### Article 6 Continuity and No Waiver

The Equity Pledge created under this Agreement is a continuing assurance, which shall be valid until the Contractual Obligations are fully performed or the Secured Debts are fully discharged. No waiver or grace period of any default of the Pledgers given by the Pledgee, nor the Pledgee’s delay in performance of any of its rights under the Transaction Agreements and this Agreement, shall affect the rights of the Pledgee under this Agreement, the

Transaction Agreements and the relevant PRC Law to require, at any time thereafter, the Pledgers to strictly implement the Transaction Agreements and this Agreement, or the rights that the Pledgee is entitled to with respect to the Pledgers' subsequent breach of the Transaction Agreements and/or this Agreement.

#### Article 7 Representations and Warranties

The Pledgers represent and warrant to the Pledgee as follows:

- 7.1 They are PRC citizens with full capacity of action. They have the complete and independent legal status and legal capacity, and have valid authority to execute, deliver and perform this Agreement. They have the independent capacity each as a subject of the proceedings.
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- 7.2 They have full capacity and power to execute and deliver this Agreement and all other documents to be executed by them in relation to the transaction referred to in this Agreement, and to complete the transaction referred to in this Agreement.
  - 7.3 All the reports, documents and information related to the Pledgers and all the matters required under this Agreement provided to the Pledgee by the Pledgers prior to the effective date of this Agreement are true and accurate in all material respects as of the effective date of this Agreement.
  - 7.4 All the reports, documents and information related to the Pledgers and all the matters required under this Agreement provided to the Pledgee by the Pledgers after the effective date of this Agreement are true, accurate and effective in all material respects at the time of provision.
  - 7.5 On the effective date of the Agreement, the Pledgers are the sole legal and beneficial owners of the Pledged Equity and have the right to dispose of the Pledged Equity or any part of it. There is no existing dispute with respect to the ownership of the Pledged Equity.
  - 7.6 Except the security interests created over the Pledged Equity under this Agreement and the rights created under the Transaction Agreements, there are no other security interests or third party rights over the Pledged Equity.
  - 7.7 The Pledged Equity can be legally pledged and transferred, and the Pledgers have full rights and power to pledge the Pledged Equity to the Pledgee in accordance with the provisions of this Agreement.
  - 7.8 This Agreement, upon due execution by the Pledgers, constitutes the lawful, valid and binding obligations on the Pledgers.
  - 7.9 All third party approvals, permits, waivers and authorizations, all approvals, permits and waivers from any governmental authorities, and all registration or filing formalities with any government authorities (if legally required), which are required with respect to the execution and performance of this Agreement and the Equity Pledge under this Agreement, have been obtained or conducted, and will be fully effective during the valid term of this Agreement.
  - 7.10 The execution and performance of this Agreement by the Pledgers does not violate or conflict with any laws applicable thereto, any agreement, any court judgment, any arbitration award or any decision of administrative authorities to which it is a party or by which its assets is bound.
  - 7.11 The pledge under this Agreement constitutes the first priority security interest over the Pledged Equity with the first priority.
  - 7.12 All taxes and expenses payable for obtainment of the Pledged Equity have been paid by the Pledgers in full.
  - 7.13 There is no pending or, to the knowledge of the Pledgers, imminent lawsuit, legal proceeding or claim at any court or arbitration tribunal against the Pledgers, their property or the Pledged Equity, or any pending or, to the knowledge of the Pledgers, imminent lawsuit, legal proceeding or claim at any government agency or administrative authority against the Pledgers, their property or the Pledged Equity, that will have material or adverse effect on the financial conditions of the Pledgers or their abilities to perform their obligations and security liabilities under this Agreement.
  - 7.14 The Pledgers hereby undertake to the Pledgee that the above representations and

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warranties are true and accurate and will be fully complied with under any circumstance and at any time before the Contractual Obligations are performed in full or the Secured Debts are discharged in full.

#### Article 8 Pledgers' Undertakings

The Pledgers hereby jointly and severally undertake to the Pledgee as follows:

- 8.1 Without prior written consent of the Pledgee, the Pledgers shall not create, or allow to be created, any new pledge or any other security interests over the Pledged Equity. Any pledge or other security interest created over all or any part of the Pledged Equity without prior written consent of the Pledgee shall be invalid.
- 8.2 Without prior written notice to and prior written consent from the Pledgee, the Pledgers shall not transfer the Pledged Equity and all activities of the Pledgers to transfer the Pledged Equity shall be invalid. The proceeds obtained from the Pledgers' transfer of the Pledged Equity shall be used first to prepay the Secured Debts to the Pledgee or to be deposited with a third party as agreed with the Pledgee. In case any Pledgers transfers the Pledged Equity held by it with prior written consent from the Pledgee, the Pledged Equity held by other Pledgers shall continue to be bound by the Agreement without being adversely affected.
- 8.3 In the event of occurrence of any lawsuit, arbitration or other claim which may have adverse effect on the interests of the Pledgers or the Pledgee under the Transaction Agreements and this Agreement or on the Pledged Equity, the Pledgers undertake to notify the Pledgee in writing as soon as possible and in a timely manner, and, as reasonably required by the Pledgee, to take all necessary measures to ensure the pledge interest of the Pledgee over the Pledged Equity.
- 8.4 The Pledgers shall not take, or allow to be taken, any activity or action which may have adverse effect on the Pledgee's interest under the Transaction Agreements and this Agreement or on the Pledged Equity.
- 8.5 The Pledgers undertake to, as reasonably required by the Pledgee, take all necessary measures and execute all necessary documents (including but not limited to any supplemental agreement to this Agreement) to ensure the pledge interest of the Pledgee over the Pledged Equity and the exercise and realization thereof.
- 8.6 If the exercise of the right of pledge under this Agreement will result in the transfer of any Pledged Equity, the Pledgers undertake to take all measures to complete such transfer.

#### Article 9 Change of Circumstances

As supplement and not in conflict with the Transaction Agreements and other provisions of this Agreement, if at any time, due to the promulgation or change of any PRC Law, or the change of interpretation or application of such PRC Law, or the change of relevant registration procedures, the Pledgee believes that it is illegal or in conflict with such PRC Law, to keep this Agreement effective and/or to dispose of the Pledged Equity in accordance with this Agreement, the Pledgers shall promptly take any action and/or execute any agreement or other document upon written instruction by the Pledgee and as reasonably required by the Pledgee, so as to:

- (1) keep this Agreement effective;
- (2) facilitate the disposal of the Pledged Equity in accordance with this Agreement;

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and/or

- (3) keep or realize the security created or intended by this Agreement.

#### Article 10 Effectiveness and Term of this Agreement

- 10.1 This Agreement shall come into effect upon the satisfaction of all of the following conditions:
  - (1) this Agreement has been duly executed by the parties;
  - (2) the Equity Pledge under this Agreement has been legally recorded in the register of shareholders of the Company.
- 10.2 The term of this Agreement shall end upon the full performance of the Contractual Obligations or upon the full discharge of the Secured Debts.

#### Article 11 Notices

- 11.1 All notices between the parties in connection with the performance of the rights and obligations under this Agreement shall be made in writing and shall be delivered in person, by registered mail, postage prepaid mail, recognized express mail, facsimile to the party concerned.
- 11.2 If any of such notices or other correspondences is transmitted by facsimile or telex, it shall be deemed delivered immediately upon transmission; if delivered in person, it shall be deemed delivered at the time of delivery; if sent by post, it shall be deemed delivered five (5) days after dispatch.

#### Article 12 Miscellaneous

- 12.1 Without consent of the Pledgers, the Pledgee may transfer its rights and/or obligations hereunder to any third party upon notifying the Pledgers, however, the Pledgers may not transfer their rights, obligations and/or liabilities hereunder to any third party without the prior written consent of the Pledgee. The successors or permitted assignees (if any) of the Pledgers shall continue to perform the respective obligations of the Pledgers under this Agreement.
- 12.2 This Agreement is made in triplicate (3 copies), with one (1) original to be retained by each Party hereto. More originals may be executed (when necessary) for the purpose of registration or filing formalities.
- 12.3 The conclusion, validity, performance, amendment, interpretation and termination of this Agreement shall be governed by the PRC Law.
- 12.4 Any dispute arising out of or relating to this Agreement shall be settled through amicable negotiations between the parties. If any dispute cannot be resolved through negotiations within thirty (30) days, the dispute shall be referred to Beijing Arbitration Commission for arbitration in accordance with the commission's arbitration rules. The seat of arbitration shall be Beijing. The arbitration award shall be final and binding upon the parties. The Pledgers hereby authorize the arbitrator the right to deliver remedies for the equity shares and property of the Company, to issue injunctions, or to make arbitration award requiring the liquidation of the Company. After the arbitration award

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takes effect, any party shall have the right to submit an application to a court with jurisdiction for enforcement of the arbitration award. The competent court shall have the right to grant a provisional remedy on request by the disputing party, such as a judgment or an order to seize or freeze the breaching party's properties or equity shares.

- 12.5 Any right, power or remedy granted to a Party by any provision of this Agreement shall not preclude the Party from any right, power or remedy granted by provisions of law and other provisions of this Agreement, and any exercise of any right, power and remedy by a Party shall not preclude the Party from exercising other rights, power and remedies.
- 12.6 No failure or delay by any Party in exercising any right, power or remedy (the "**Said Party's Rights**") provided by law or under this Agreement shall constitute a waiver of the Said Party's Rights and no single or partial waiver of any Said Party's Rights shall preclude the exercise of any Said Party Rights in other means or the exercise of any other Said Party's Rights.
- 12.7 The headings hereof have been inserted for convenience of reference only, under no circumstances shall such headings be construed for or affect the interpretation of provisions of this Agreement.
- 12.8 The provisions of this Agreement are severable and independent to one another. If at any time one or several articles herein shall be deemed invalid, illegal or unenforceable, the validity, legality or enforceability of other provisions herein shall not be affected thereby.
- 12.9 Any amendments or supplements to this Agreement shall be made in writing. Except for the assignment by the Pledgee of its rights hereunder pursuant to Article 12.1, the amendments or supplements to this Agreement shall take effect only upon the due execution by the parties to this Agreement.
- 12.10 Subject to Article 12.1, this Agreement shall be binding on the legal successors of the parties.
- 12.11 Upon request of the Pledgee, the Pledgers shall execute a power of attorney (the "**Power of Attorney**") to authorize any person designated by the Pledgee (the "**Trustee**") to execute on the Pledgers' behalf pursuant to this Agreement any and all legal documents necessary for the exercise of the Pledgee's rights hereunder. Such Power of Attorney shall be delivered to the Pledgee to keep once executed and, when necessary, the Pledgee may at any time submit the Power of Attorney to the relevant government authorities. When and only when the Pledgee issues a written notice to the Pledgers to dismiss and replace the Trustee shall the Pledgers immediately revoke the entrustment of the existing Trustee under this Agreement and entrust another Trustee designated by the Pledgee at the time to execute any and all necessary legal documents on behalf of the Pledgers in accordance with the stipulations of this Agreement; the new Power of Attorney shall replace the original Power of Attorney once made. Under no other circumstances shall the Pledgers revoke the Power of Attorney to the Trustee.

[Remainder of this page intentionally left blank]

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In witness whereof, this Equity Pledge Agreement is executed by and between the following parties on the date and at the place first above written.

#### William Wei Huang

Signature: /s/ William Wei Huang

#### Qiuping Huang

Signature: /s/ Qiuping Huang

#### Shanghai Free Trade Zone GDS Management Co., Ltd. (Seal)

Signature: /s/ William Wei Huang

Authorized representative: William Wei Huang  
Title: Legal Representative

Signature Page of Equity Interest Pledge Agreement

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**Shareholder Voting Rights Proxy Agreement**  
**Concerning**  
**Beijing Wanguo Chang'an Science & Technology Co., Ltd.**

**Between**  
**Shanghai Free Trade Zone GDS Management Co., Ltd.**  
**Beijing Wanguo Chang'an Science & Technology Co., Ltd.**

**and**  
**William Wei Huang**  
**Qiuping Huang**

Date: April 13, 2016

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**Shareholder Voting Rights Proxy Agreement**

This Shareholder Rights Voting Proxy Agreement ("**this Agreement**") is entered into on April 13, 2016 in the People's Republic of China ("**China**") by and between:

**Shanghai Free Trade Zone GDS Management Co., Ltd.** (hereinafter referred to as the "**WFOE**")

**Registered Address:** Room 4056, Floor 4, 173 Meisheng Road, Shanghai Pilot Free Trade Zone, China

**Legal Representative:** William Wei Huang

**Beijing GDS Chang'an Science & Technology Co., Ltd.** (hereinafter referred to as "**GDS Beijing**")

**Registered Address:** Room A-0155, Floor 2, Building 3, Compound 30, Shixing Avenue, Shijingshan Park, Zhongguancun Science Park, Beijing

**Legal Representative:** William Wei Huang

**William Wei Huang**

**ID Card No.:** 31010719671101125x

**Qiuping Huang** (referred to collectively with "**William Wei Huang**" as "**Shareholders**")

**ID Card No.:** 31010719611116122x

(In this Agreement, the above parties are referred to individually as "**a Party**" and collectively as "**the Parties**".)

Whereas:

The Shareholders are existing equity interest holders of GDS Beijing and collectively holding all equity shares of GDS Beijing.

The Shareholders intend to appoint the WFOE as their voting proxy for exercising their voting right in GDS Beijing, and the WFOE agrees to accept the appointment and designate a person to exercise the voting right.

Now, therefore, the Parties reach an agreement as follows through amicable negotiation:

**Article 1 Voting Proxy**

1.1 The Shareholders hereby irrevocably undertake that they will, upon the WFOE's written notification during the term of this Agreement and subject to Article 1.2 of this Agreement,

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sign a Power of Attorney to authorize (ID Card No.: ) to exercise the following rights of them as shareholders of GDS Beijing in line with the articles of incorporation of GDS Beijing in force at the time:

- (1) Right to attend shareholders meetings as the proxy of the Shareholders;
- (2) Right to make decisions on issues to be deliberated by the Shareholders (including but not limited to designation and election of directors, general manager and other senior management of GDS Beijing);
- (3) Any voting rights of the Shareholders as prescribed by law;
- (4) Other voting rights of shareholders under the articles of incorporation of GDS Beijing (including any other voting rights of shareholders under revised and restated articles of incorporation);
- (5) Right to endorse any meeting minutes and resolutions of shareholders meetings or other legal documents; and
- (6) Right to submit documents to relevant corporate registration agency for filing and archiving as the proxy of the Shareholders.

GDS Beijing hereby irrevocably undertakes it will, upon the WFOE's written notification during the term of this Agreement and subject to Article 1.2 of this Agreement, sign a Power of Attorney to authorize (ID Card No.: ), together with the authorized person in the above paragraph, hereinafter referred to as the "**Agent**") to exercise the following rights (together with the rights in the above paragraph hereinafter referred to as the "**Agent Rights**") of it as shareholder of its subsidiaries in line with the articles of incorporation of its subsidiaries in force at the time:

- (1) Represent GDS Beijing to attend its subsidiaries' shareholders meetings;
- (2) Represent GDS Beijing to make decisions on issues to be deliberated by the shareholders of its subsidiaries (including but not limited to designation and election of directors, general manager and other senior management of GDS Beijing's subsidiaries);
- (3) Any voting rights of GDS Beijing as its subsidiaries' shareholder as prescribed by law;
- (4) Other voting rights of GDS Beijing under the articles of incorporation of its subsidiaries (including any other voting rights of GDS Beijing under revised and restated articles of incorporation);
- (5) Right to endorse any meeting minutes and resolutions of shareholders meetings where GDS Beijing acts as shareholder of its subsidiaries or other relevant legal documents; and

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- (6) Right to submit documents to relevant corporate registration agency for filing and archiving as the proxy of GDS Beijing.

- 1.2 The above-mentioned authorization and assignment shall only be effective on the condition that the Agent is Chinese citizen and the WFOE agrees to such authorization and assignment. When and only when the WFOE issues a written notice to the Shareholders requesting the dismissal and replacement of the Agent shall the Shareholders immediately revoke the assignment of the current Agent under this Agreement and entrust another Chinese citizen designated by the WFOE at the time to exercise Agent Rights in accordance with provisions of this Agreement; the new authorization shall replace the original authorization immediately. Under no other circumstances shall the Shareholders revoke the authorization to the Agent.
- 1.4 The WFOE shall ensure the Agent fulfills his/her proxy duties within the scope of authorization under this Agreement with due diligence and caution; the Shareholders shall acknowledge and be held liable for any legal consequence arising from the Agent's exercise of the above-mentioned rights.
- 1.5 The Shareholders hereby confirm that the Agent does not have to consult the Shareholders before making decisions during his/her exercise of the above-mentioned Agent Rights. The WFOE shall nonetheless ensure that the Agent will inform the Shareholders of any such decision in a timely manner once the decision is made.

#### Article 2 Right to Know

The Agent designated in accordance with Article 1.1 of this Agreement shall, for the purpose of exercising the Agent Rights under this Agreement, have the right to access relevant data (including but not limited to any account book, statement, contract, and internal communication that is related to their financial, business and operational activities, all meeting minutes of the board of directors, and other documents) of GDS Beijing in order to get necessary information of GDS Beijing on their operation, business, clients, finance, and employees, and GDS Beijing shall give full cooperation with respect to that.

#### Article 3 Exercise of Agent rights

- 3.1 The Shareholders shall give full assistance to facilitate the Agent's exercise of the Agent Rights, including prompt execution of the decisions made by the Agent as the proxy of GDS Beijing and other pertinent legal documents when necessary (e.g. documents required to be submitted to government agencies for examination and approval, registration, and/or filing).
- 3.2 If, at any time during the term of this Agreement, the conferral or exercise of the Agent Rights under this Agreement is unenforceable for any reason (except for breach of the agreement by the Shareholders or GDS Beijing), the Parties shall immediately look for an alternative scheme most similar to the unenforceable one, and sign a supplementary agreement to make modifications or adjustments to the provisions of this Agreement when

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necessary, in order to ensure the continuous fulfillment of the purpose of this Agreement.

#### Article 4 Exemption and compensation

- 4.1 The Parties acknowledge that the WFOE shall not be requested to be liable for or compensate (monetary or otherwise) other Parties or any third party due to the exercise of the Agent Rights by Agent designated by the WFOE under this Agreement.
- 4.2 GDS Beijing and the Shareholders agree to indemnify the WFOE and the Agent and hold them harmless against all losses incurred or likely to incur due to the exercise of the Agent Rights by the Agent designated by the WFOE, including but not limited to any loss resulting from any litigation, demand, arbitration or claim initiated or raised by any third party against it or from administrative investigation or penalty of governmental authorities. However, losses incurred due to willful misconduct or gross negligence of the WFOE or the Agent shall not be indemnified.

#### Article 5 Representations and Warranties

- 5.1 The Shareholders hereby represent and warrant that:
- 5.1.1 They are Chinese citizens with full capacity of action, full and independent legal status, and legal capacity, and are capable acting independently as a subject of proceedings.
- 5.1.2 They have full power and authority to sign and deliver this Agreement and all other documents to be signed by them for the transaction referred to in this Agreement and they have full power and authority to complete the transaction referred to in this Agreement.
- 5.1.3 This Agreement is executed and delivered by the shareholders lawfully and properly; this Agreement constitutes the legal and binding obligations on them and is enforceable on them in accordance with the terms and conditions hereof.
- 5.1.4 They are the enrolled shareholders of GDS Beijing en bloc as of the effective date of this Agreement, and except the rights created by this Agreement, the Equity Pledge Agreement between them and the WFOE, and the Exclusive Call Option Agreement between them and GDS Beijing and the WFOE, there exists no third party right on the Agent Rights. Pursuant to this Agreement, the Agent may fully and sufficiently exercise the Agent Rights in accordance with the effective articles of incorporation of GDS Beijing.
- 5.2 The WFOE and GDS Beijing hereby respectively represent and warrant that:
- 5.2.1 It is a limited liability company duly incorporated and validly existing under the laws

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of the People's Republic of China as an independent judicial person and with complete, independent legal status and legal competence to sign, deliver and perform this Agreement, as an independent subject of proceedings.

- 5.2.2 It is vested with full power and authority to complete the transaction referred to in this Agreement and the signing of all other documents related to the transaction referred to in this Agreement.
- 5.3 GDS Beijing further represents and warranties that the Shareholders are the enrolled shareholders of GDS Beijing en bloc on the effective date of this Agreement. Pursuant to this Agreement, the Agent may fully and sufficiently exercise the Agent Rights in accordance with the effective articles of incorporation of GDS Beijing

#### Article 6 Term of Agreement

- 6.1 This Agreement takes effect as of the date of due execution of all the parties hereto, unless terminated in advance by written agreement between all parties or in accordance with the stipulations in Article 8.1 of this Agreement.
- 6.2 If any Shareholder transfers his/her equity interest in the GDS Beijing with advance consent of the WFOE, he/she will cease to be a party of this Agreement, while the obligations and commitments of other parties shall not be negatively affected.

#### Article 7 Notice

- 7.1 All notices or other correspondences between the Parties in connection with the performance of the rights and obligations under this Agreement shall be in writing and be delivered in person, by registered mail, postage prepaid mail, recognized express mail, facsimile to the party concerned.
- 7.2 If any of such notices or other correspondences is transmitted by facsimile or telex, it shall be treated as delivered immediately upon transmission; if delivered in person, it shall be treated as delivered at the time of delivery; if posted by mail, it shall be deemed delivered five (5) days after posting.

#### Article 8 Breach of Agreement

- 8.1 The Parties agree and acknowledge that, any substantial violation of any provision under this Agreement, or substantially non-performance of this Agreement by a Party (the "**Breaching Party**") constitutes a breach of the Agreement ("**Breach of Agreement**"). Any of the non-breaching parties (the "**Non-breaching Parties**") shall be entitled to require the Breaching Party to correct or take remedial measures within a reasonable time limit. Where the Breaching Party does not take any remedy measures in a reasonable time limit by the Non-breaching Party or within 10 days after the written notice of the Non-breaching Party,

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if the Breaching Party is any of the Shareholders or GDS Beijing, then the Non-breaching Party has the right to take any of the following measures at its discretion: (1) terminate this Agreement and require full compensation from the Breaching Party; or (2) require the compulsory performance of the obligations of and full compensation from the Breaching Party under this Agreement; if the Breaching Party is the WFOE, then the Non-breaching Party has the right to require the compulsory performance of the obligations of and full compensation from the Breaching Party under this Agreement.

- 8.2 The Parties agree and acknowledge that the Shareholders or GDS Beijing shall under no circumstances prematurely terminate this Agreement for whatever reasons, unless otherwise specified in this Agreement or required by law.
- 8.3 Notwithstanding any other provisions herein, the effect of this Article shall survive the suspension or termination of this Agreement.

Article 9 Miscellaneous

- 9.1 This Agreement is made in quadruplicate (4 copies), with each party holding a copy.
- 9.2 The conclusion, validity, performance, amendment, interpretation and termination of this Agreement are governed by the laws of the People's Republic of China.
- 9.3 The Parties shall strive to settle any dispute, conflicts, or compensation claims arising from the interpretation or performance (including any issue relating to the existence, validity and termination) in connection with this Agreement through amicable negotiation. If the discrepancies cannot be solved by negotiations within thirty (30) days, they should be submitted to Beijing Arbitration Commission for arbitration in accordance with the commission's arbitration rules in Beijing. The decision of the arbitration tribunal shall be final and binding upon the Parties. After the decision takes effect, any Party shall have the right to submit an application to a court with jurisdiction for enforcement of the arbitration decision. A Party to the arbitration proceeding may move the court with jurisdiction for a provisional remedy, such as announcing its judgment or order the seizure or freeze of the Breaching party's properties or equity shares.
- 9.4 Any right, power or remedy granted to a Party by one term of this Agreement does not exclude the Party from any right, power or remedy granted by other terms or laws and regulations; the exercise of any right, power or remedy by a Party shall not preclude the Party's exercise of its other rights, powers or remedies.
- 9.5 No failure or delay by any Party in exercising any right or remedy provided by law or under this Agreement shall impair such right or remedy or operate or be construed as a waiver or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy shall preclude any other or further exercise of it or the exercise of any other right or remedy.

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- 9.6 The headings hereof have been inserted for convenience of reference only, under no circumstances shall such headings be construed to affect the meaning, construction or effect of this Agreement.
- 9.7 The provisions of this Agreement are severable and independent to one another. If at any time one or several articles herein shall be deemed invalid, illegal or unenforceable, the validity, legality or enforceability of other provisions herein shall not be affected thereby.
- 9.8 Any amendment or supplement of this Agreement shall be made in writing and duly executed by all Parties herein before taking effect.
- 9.9 Without prior written permission from the other Parties, no Party may transfer any of its rights and/or obligations under this Agreement to any third Party.
- 9.10 This Agreement is binding to all the parties herein and their respective lawful successors and assignees.

[Remainder of this page intentionally left blank]

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In witness whereof, this Voting Proxy Agreement is signed by the following parties on the date and at the place first above written.

**Shanghai Free Trade Zone GDS Management Co., Ltd**

(Seal)  
Signature:           /s/ William Wei Huang            
Name: William Wei Huang  
Title:

**Beijing GDS Chang'an Science & Technology Co., Ltd.**

(Seal)  
Signature:           /s/ William Wei Huang            
Name: William Wei Huang  
Title:

**William Wei Huang**

Signature:           /s/ William Wei Huang          

**Qiuping Huang**

Signature:           /s/ Qiuping Huang          

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**Exclusive Call Option Agreement**  
**Concerning**  
**Beijing Wanguo Chang'an Science & Technology Co., Ltd.**

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**Among**  
**William Wei Huang**  
**Qiuping Huang**  
**and**  
**Shanghai Free Trade Zone GDS Management Co., Ltd.**  
Date: April 13, 2016

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**Exclusive Call Option Agreement**

This Exclusive Call Option Agreement (the "**Agreement**") is entered into by and between the following parties on April 13, 2016 in Shanghai, China:

**William Wei Huang**, a citizen of the People's Republic of China (ID Card No.: 31010719671101125x);

**Qiuping Huang**, a citizen of the People's Republic of China (ID Card No.: 31010719611116122x, hereinafter referred to collectively with William Wei Huang as the "**Existing Shareholders**");

**Shanghai Free Trade Zone GDS Management Co., Ltd.** (hereinafter referred to as the "**WFOE**")

**Registered Address:** Room 4056, 4<sup>th</sup> Floor, 173 Meisheng Road, China (Shanghai) Pilot Free Trade Zone

**Beijing Wanguo Chang'an Science & Technology Co., Ltd.** ("**GDS Beijing**")

**Registered Address:** Room A-0155, 2<sup>nd</sup> Floor, Building 3, Compound 30, Shixing Avenue, Shijingshan Park, Zhongguancun Science Park, Beijing

(In this Agreement, the above parties are referred to individually as a "**Party**" and collectively as the "**Parties**".)

Whereas:

The Existing Shareholders are the registered shareholders of GDS Beijing and own 100% of the equity shares of GDS Beijing on the execution date of this Agreement (general information of GDS Beijing on the execution date of this Agreement is as provided in Exhibit 1 to this Agreement).

The Existing Shareholders intend to transfer all of their equity shares in GDS Beijing to the WFOE and/or any other entity or individual designated by the WFOE without violating PRC law, and the WFOE intends to accept the transfer.

In order to carry out the aforesaid transfer of shares, the Existing Shareholders hereby irrevocably grant to the WFOE an exclusive call option right to purchase shares (the "**Stock Option**"). To the extent permitted by PRC Law and in accordance with the Stock Option, the Existing Shareholders shall transfer the Option Stock (defined below) to the WFOE and/or any other entity or individual designated by the WFOE upon its request.

GDS Beijing agrees that the Existing Shareholders grant the Stock Option to the WFOE in accordance with this Agreement.

Now, therefore, the parties agree as follows through negotiation:

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**Article 1 Terms and Definitions**

1.1 Unless otherwise specified or in cases where the context demands a different interpretation, the terms used in this Agreement shall have the following meanings:

<b>"Assets of GDS Beijing"</b>	means all tangible and intangible assets owned or entitled to use by GDS Beijing during the term of this Agreement, including but not limited to any real estates, movable properties, intellectual properties including trademark, copyright, patent, proprietary technology, domain name, software use right and other intellectual properties.
<b>"Breach of Contract"</b>	has the same meaning as stipulated in Article 11.1 of this Agreement.
<b>"Breaching Party"</b>	has the same meaning as stipulated in Article 11.1 of this Agreement.
<b>"Certificates"</b>	means any approval, license, filing, and registration GDS Beijing shall hold for legal and effective management of the Existing Business and all other business.
<b>"Confidential Information"</b>	has the same meaning as stipulated in Article 8.1 of this Agreement.
<b>"Conversion Price"</b>	means, during each Exercise in accordance with Article 4 of this Agreement, the total consideration paid to the Existing Shareholders for the acquisition of the shares transferred by the WFOE or its designated entity or natural person.
<b>"Exercise Notice"</b>	has the same meaning as stipulated in Article 3.5 of this Agreement.
<b>"Existing Business of GDS Beijing"</b>	means, on the execution date of this Agreement, the business scope of GDS Beijing as specified in its business license.
<b>"Option Stock"</b>	means, as to the Existing Shareholders, the 100% equity interests held by the Existing Shareholders in the Registered Capital of GDS Beijing (as defined below).
<b>"Principal Agreements"</b>	means the agreements to which GDS Beijing is a party and has material effect on the business and assets of GDS Beijing, including but not limited to the Exclusive Technical License and Service Agreement between GDS Beijing and the WFOE and

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other agreements relating to the business of GDS Beijing.

**"Power of Attorney"** has the same meaning as stipulated in Article 3.7 of this Agreement.

**"PRC":** means, for the purpose of this Agreement, the People's Republic of China, excluding Hong Kong, Macau and Taiwan.

**"PRC Laws and Regulations"** refers to the laws, administrative regulations, administrative rules, local regulations, judicial interpretations and other binding legal documents of the People's Republic of China that are in force at the time.

**“Registered Capital of GDS Beijing”**

means, on the execution date of this Agreement, the registered capital of GDS Beijing of RMB 300,100,000 Yuan, including any enlarged registered capital after future capital increase.

**“Said Party’s Rights”**

has the same meaning as stipulated in Article 12.5 of this Agreement.

**“Transfer of Shares”**

means, when the WFOE exercises its Stock Option (the **“Exercise”**), the shares of GDS Beijing of which it has the right to request the Existing Shareholders to transfer to the WFOE or entity or individual designated by it pursuant to Article 3.2 of this Agreement. The amount may be part or all of the Option Stock. The specific amount shall be decided by the WFOE at its absolute discretion in accordance with PRC Law and its business considerations at the time.

**“Upper Limit”**

has the same meaning as stipulated in Article 3.2 of this Agreement.

1.2 Any citation of PRC Laws and Regulations under this Agreement shall be deemed to:

- (1) simultaneously include the citation of the content of the amendments, adjustments, complements and revisions of those PRC Laws and Regulations regardless of whether the effective date is before or after the conclusion of this Agreement; and
- (2) simultaneously include the citation of other decisions, notices and rules made or taking effect pursuant to those PRC Laws and Regulations.

1.3 Unless otherwise stipulated in the context of this Agreement, Article, Section, Paragraph and Subparagraph referred to in this Agreement mean relevant content in this Agreement.

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**Article 2 Grant of Stock Option**

2.1 The Existing Shareholders hereby irrevocably grant, without any additional term, exclusive Stock Option to the WFOE, pursuant to which the WFOE shall have the right to require the Existing Shareholders to transfer the Option Stock to the WFOE or its designated entity or individual, to the extent permitted by PRC Laws and Regulations, in accordance with the procedures specified in this Agreement. The WFOE also agrees to accept such Stock Option.

2.2 GDS Beijing hereby agrees that the Existing Shareholders grant the WFOE such Stock Option in accordance with the above Article 2.1 and other provisions in this Agreement.

**Article 3 Exercise Procedures**

3.1 WFOE shall have the right to decide at its absolute discretion the specific time, procedure and number of Exercises to the extent permitted by PRC Laws and Regulations.

3.2 If, at the time of the Exercise, PRC Laws and Regulations allow WFOE and/or its designated entity or individual to hold all shares of GDS Beijing, WFOE shall be entitled to exercise all the Stock Option, and all of the Transferred Shares shall be received by WFOE and/or its designated entity or individual from the Existing Shareholders; if at the time of the Exercise, PRC Laws and Regulations only allow WFOE and/or its designated entity or individual to hold part of the shares of GDS Beijing, WFOE shall be entitled to decide the amount of the Transferred Shares within the upper limit of the proportion of shares required by PRC Laws and Regulations (the **“Upper Limit”**), and such amount of the Transferred Shares shall be received by WFOE and/or its designated entity or individual from the Existing Shareholders. In the latter situation, WFOE is entitled to exercise the Stock Option in installments in accordance with the gradual relaxation of the Upper Limit allowed by PRC Laws and Regulations until all the Stock Option has been exercised.

3.3 During each Exercise, the WFOE shall have the right to decide at its discretion the amount of shares to be transferred to itself or its designated entity or individual, the Existing Shareholders shall transfer the Transferred Shares to the WFOE and/or its designated entity or individual respectively as required by the WFOE. The WFOE and/or its designated entity or individual shall pay Conversion Price to the Existing Shareholders for the Transferred Shares upon each Exercise.

3.4 During each Exercise, the WFOE may purchase the Transferred Shares by itself or may designate any third party to purchase all or part of the Transferred Shares.

3.5 The WFOE shall, upon its decision to exercise the Stock Option, issue a written notice to exercise the Stock Option (the **“Exercise Notice”**, refer to Exhibit 2 for its format) to the Existing Shareholders. The Existing Shareholders shall, within 30 days upon the receipt

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of the Exercise Notice, make a one-off transfer of the Transferred Shares in whole to the WFOE and/or its designated entity or individual in accordance with the Exercise Notice and the provisions of Article 3.3 of this Agreement.

3.6 The Existing Shareholders hereby represent and warrant that once the WFOE dispatches an Exercise Notice:

- (1) They shall promptly pass a shareholder resolution and take all necessary actions to agree to the transfer of the Transferred Shares in whole to the WFOE and/or its designated entity or individual at the Conversion Price;
- (2) They shall promptly execute an equity transfer agreement with the WFOE and/or its designated entity or individual to transfer the Transferred Shares in whole to the WFOE and/or its designated entity or individual at the Conversion Price; and
- (3) They shall provide necessary support to the WFOE in accordance with the WFOE’s requirements and applicable laws and regulations (including provide and execute all relating legal documents, perform all government approval, registration, filing procedures and bear all the relevant obligations) to enable the WFOE and/or its designated entity or individual to obtain the Transferred Shares without legal flaws.

3.7 The Existing Shareholders shall, upon the request of the WFOE, execute a power of attorney (the **“Power of Attorney”**, refer to Exhibit 3 for its format) to authorize in written form any person designated by the WFOE (the **“Agent”**) to represent the Existing Shareholders to execute any and all necessary legal documents to enable WFOE and/or its designated entity or individual to obtain the Transferred Shares without legal flaws. The Power of Attorney shall be kept by the WFOE upon execution, and, when necessary, the WFOE may at any time request Existing Shareholders to execute multiple duplicates of the Power of Attorney and deliver them to relevant government authorities. When and only when the WFOE issues a written notice to the Existing Shareholders to dismiss and replace the Agent shall the Existing Shareholders immediately revoke the entrustment of the existing Trustee under this Agreement and entrust another Trustee designated by WFOE at the time to execute any and all necessary legal documents on behalf of the Existing Shareholders in accordance with the stipulations of this Agreement; the new Power of Attorney shall replace the original Power of Attorney once made. Under no other circumstances shall the Existing Shareholders revoke the Power of Attorney for the Trustee.

**Article 4 Conversion Price**

During each Exercise, the WFOE or its designated entity or individual shall pay to the Existing Shareholders RMB one (1) yuan only or any price agreed upon by the Parties in written form. If at the time of exercise any regulatory PRC laws or regulations have mandatory provisions on the Conversion Price, the WFOE or its designated entity or individual shall be entitled to exercise the

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option at the minimum price in accordance with the applicable PRC laws and regulations.

**Article 5 Representations and Warranties**

5.1 The Existing Shareholders hereby make the following representations and warranties, which shall remain at all times in full force as in the occasion when they are made at the time of the transfer of the Option Stock.

5.1.1 The Existing Shareholders are PRC citizens with full capacity of action, full and independent legal status, and legal capacity to execute, deliver and perform this Agreement, and are capable of acting independently as a subject of litigation proceedings.

5.1.2 GDS Beijing is a limited liability company duly registered and validly existing under the PRC Laws and Regulations as an independent legal person and with complete, independent legal status and legal competence to execute, deliver and perform this Agreement, and is capable of acting as an independent subject of litigation proceedings.

5.1.3 The Existing Shareholders have full capacity and power to execute and deliver this Agreement and all other documents to be executed by them for the transaction referred to in this Agreement and they have full capacity and power to complete the transaction referred to in this Agreement.

5.1.4 This Agreement is legally and appropriately executed and delivered by the Existing Shareholders. This Agreement constitutes a legal and binding obligation on them, enforceable against them in accordance with the terms of the Agreement.

5.1.5 On the effective date of this Agreement, the Existing Shareholders are the registered legal owners of the Option Stock. Except for the rights provided under this Agreement, the Equity Pledge Agreement entered into by and between the Existing Shareholders and the WFOE, and the Shareholder Voting Proxy Agreement entered into by and between the Existing Shareholders, the WFOE, and GDS Beijing, the Option



Stock is free and clear of any liens, pledge, claims, other security interests and other third-party rights; the WFOE and/or its designated entity or individual shall be entitled to the ownership of the Transferred Shares free of any liens, pledge, claims, other security interests and other third-party rights after the Exercise in accordance with this Agreement.

5.2 GDS Beijing hereby represents and warrants that:

5.2.1 GDS Beijing is a limited liability company duly registered and validly existing under PRC Laws and Regulations as an independent legal person. GDS Beijing has full and independent legal status and legal capacity to execute, deliver and perform

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this Agreement, and is capable of acting as an independent subject of litigation proceedings.

5.2.2 GDS Beijing is vested with full internal power and authority to execute and deliver this Agreement and all other documents to be executed by it in relation to the transaction referred to in this Agreement and to complete the transaction referred to in this Agreement.

5.2.3 This Agreement is legally and appropriately executed and delivered by GDS Beijing. This Agreement constitutes a legal and binding obligation on GDS Beijing.

5.2.4 The Existing Shareholders are the registered legal owners of Option Stock on the effective date of this Agreement. The WFOE and/or its designated entity or individual shall be entitled to the ownership of the Transferred Stock free of any liens, pledge, claims, other security interests and other third-party rights after the Exercise in accordance with this Agreement.

5.2.5 On the effective date of this Agreement, GDS Beijing has all the Certificates necessary for its operation. GDS Beijing has sufficient rights and qualifications to operate its existing business within the territory of China. GDS Beijing has been operating its business lawfully since its foundation and there is no breach or potential breach of the regulations or requirements of Industrial and Commercial Bureau, Tax Bureau, Telecommunication Administration, Administration of Quality Supervision, Inspection and Quarantine, Labor and Social Security Bureau or other government authorities. GDS Beijing is not involved in any breach-of-contract dispute.

#### Article 6 Undertakings of the Existing Shareholders

The Existing Shareholders hereby undertake that they will:

6.1 Within the term of this Agreement, take all necessary actions to ensure that GDS Beijing obtain all Certificates for its business operation in a timely manner and maintain the continuous effectiveness of the certificates at all times;

6.2 During the term of the Agreement, without prior written consent by the WFOE:

6.2.1 The Existing Shareholders shall not transfer or dispose of in any other means any Option Stock or create any security interests or third party rights on the Option Stock;

6.2.2 The Existing Shareholders shall not increase or decrease Registered Capital of GDS Beijing;

6.2.3 The Existing Shareholders shall not dispose of or cause the management personnel

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of GDS Beijing to dispose of any of the Assets of GDS Beijing (except in the ordinary course of business);

6.2.4 The Existing Shareholders shall not terminate or cause the management personnel of GDS Beijing to terminate the Principal Agreements or enter into any contract in conflict with the existing Principal Agreements;

6.2.5 The Existing Shareholders shall not appoint or dismiss any of the directors, supervisors or other management personnel of GDS Beijing that shall be appointed and dismissed by the Existing Shareholders;

6.2.6 The Existing Shareholders shall not declare distribution of or actually payout any distributable profits, interests, or dividends;

6.2.7 The Existing Shareholders shall ensure the continuous existence of GDS Beijing and that GDS Beijing will not be terminated, liquidated or dissolved;

6.2.8 The Existing Shareholders shall not modify the Articles of Association of GDS Beijing; and

6.2.9 The Existing Shareholders shall ensure that GDS Beijing do not lend or borrow any loan, or provide guarantee or provide securities in other means, or assume any material liabilities for those other than arising from ordinary business operations;

6.3 During the term of this Agreement, use its best endeavor to promote GDS Beijing's business and to ensure the legal operation of GDS Beijing, without any action or nonfeasance that might damage the Assets of GDS Beijing, its reputation, or the effectiveness of its Certificates.

#### Article 7 Undertakings of GDS Beijing

7.1 If any consent, permit, waiver or authorization by any third party, or any approval, permit or exemption by any government authority, or any registration or filing formalities (if required by laws or regulations) with any government authority is required to be obtained or handled with respect to the execution and performance of this Agreement and the grant of the Stock Option under this Agreement, GDS Beijing shall endeavor to assist in satisfying the above conditions.

7.2 Without WFOE's prior written consent, GDS Beijing shall not assist or permit the Existing Shareholders to transfer or otherwise dispose of any Option Stock or create any security interests or other third party rights on any Option Stock.

7.3 GDS Beijing shall not behave in a way or allow behavior or action that may adversely affect the interests of the WFOE under this Agreement.

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#### Article 8 Confidentiality

8.1 Regardless of whether this Agreement is terminated or not, the Existing Shareholders shall be under the obligation to keep strictly confidential the following information (collectively the "Confidential Information"):

- (i) The execution, performance and content of this Agreement;
- (ii) The WFOE's business secrets, proprietary information and client information of which the Existing Shareholders may become aware of or received in connection with the execution and performance of this Agreement; and
- (iii) Business secrets, proprietary information and client information of GDS Beijing, of which the Existing Shareholders may become aware of or received as the shareholders of GDS Beijing.

The Existing Shareholders may use the Confidential Information solely in connection with the performance of their obligations under the agreement. Without the WFOE's written consent, the Existing Shareholders shall not disclose such Confidential Information to any third party. Otherwise, the Existing Shareholders shall be held liable for their breaching this Agreement and shall indemnify the WFOE against all losses.

8.2 Following the termination of this Agreement, the Existing Shareholders shall return, destroy or dispose of properly with other means all documents, data or software and shall stop using such Confidential Information upon the request of the WFOE.

8.3 Notwithstanding any other provisions herein, the effect of this Article shall survive the suspension or termination of this Agreement.

#### Article 9 Term of Agreement

This Agreement comes into effect as of its execution date, and shall terminate after all the Option Stock under this Agreement has been transferred to the WFOE or its designated entity or individual.

#### Article 10 Notification

10.1 All notices to be made by the Parties in connection with the performance of the rights and obligations under this Agreement shall be in written form and be delivered in person, by registered mail, postage prepaid mail, recognized express mail, or facsimile to the address of the party concerned or to the addresses of all parties of the agreement listed hereafter.

10.2 If any of such notices or other correspondences is transmitted by facsimile or telex, it shall be deemed delivered immediately upon transmission; if delivered in person, it shall be deemed delivered at the time of delivery; if sent by post, it shall be deemed delivered

five (5) days after dispatch.

#### Article 11 Breach of Agreement

- 11.1 The Parties agree and acknowledge that, any material breach of any provision of this Agreement, or substantial non-performance of any obligation under this Agreement by any party (the "**Breaching Party**") constitutes a breach of the Agreement (the "**Breach**"). Any of the non-breaching parties (the "**Non-breaching Parties**") shall be entitled to require the Breaching Party to correct or take remedial measures within a reasonable time. Where the Breaching Party does not take any remedy measures in a reasonable time or within ten (10) days after the written notice from the Non-breaching Parties to request for remedial measures, if the breaching party is any of the Existing Shareholders or GDS Beijing, then the Non-breaching Parties, at their discretion, shall have the right to: (1) terminate this Agreement and require full compensation from the Breaching Party; or (2) request for compulsory performance of the obligations of the Breaching Party under this Agreement and request for full compensation from the Breaching Party under this Agreement; if the breaching party is the WFOE, then the Non-breaching Parties shall have the right to request for compulsory performance of the obligations of the Breaching Party under this Agreement and request for full compensation from the Breaching Party under this Agreement .
- 11.2 The Parties agree and acknowledge that the Existing Shareholders or GDS Beijing shall under no circumstances prematurely terminate this agreement for whatever reasons.
- 11.3 The rights and remedies stipulated in this Agreement are accumulative, and do not preclude other rights or remedies as prescribed by laws and regulations.
- 11.4 Notwithstanding any other provisions herein, the effect of this Article shall survive the suspension or termination of this Agreement.

#### Article 12 Miscellaneous

- 12.1 This Agreement is made in quadruplicate (4 copies), with each Party holding one (1) copy.
- 12.2 The conclusion, validity, performance, amendment, interpretation and termination of this Agreement shall be governed by PRC Laws and Regulations.
- 12.3 The Parties shall settle any dispute arising out of or relating to this Agreement through amicable negotiation. If any dispute cannot be resolved through negotiations within 30 days, the dispute shall be referred to Beijing Arbitration Commission for arbitration in accordance with the commission's arbitration rules. The seat of arbitration shall be Beijing. The arbitration award shall be final and binding upon the Parties. The Existing Shareholders hereby authorize the arbitrator the right to deliver remedies for the equity

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shares of GDS Beijing, issue injunctions, or arbitration award requiring the liquidation of GDS Beijing. After the arbitration award takes effect, any Party shall have the right to submit an application to a court with jurisdiction for enforcement of the arbitration award. The competent court shall have the right to grant a provisional remedy on request by the disputing party, such as a judgment or an order to seize or freeze the Breaching Party's properties or equity shares.

- 12.4 Any right, power or remedy granted to a Party by any provision of this Agreement does not preclude the Party from any right, power or remedy granted by laws and regulations or other provisions of this Agreement; any party's exercise of its rights, powers and remedies by a Party shall not preclude the Party from exercising its other rights, powers and remedies.
- 12.5 No failure or delay by any Party in exercising any right, power or remedy (the "**Said Party's Rights**") provided by law or under this Agreement shall constitute a waiver of the Said Party's Rights and no single or partial waiver of any Said Party's Rights shall preclude the exercise of any Said Party's Rights in other means or the exercise of any other Said Party's Rights.
- 12.6 The headings hereof have been inserted for convenience of reference only. Under no circumstances shall such headings be construed to affect the construction of any provision of this Agreement.
- 12.7 The provisions of this Agreement are severable and independent to one another. If at any time one or several articles herein shall be deemed invalid, illegal or unenforceable, the validity, legality or enforceability of other provisions herein shall not be affected thereby.
- 12.8 This Agreement upon execution shall supersede any other legal documents on the same subject matter entered into by the Parties hereto. Any amendment or supplement of this Agreement shall be made in written form and duly executed by all parties herein before taking effect.
- 12.9 The Existing Shareholders shall not transfer any rights and/or obligations hereunder to any third party without the prior written consent of the WFOE, while the WFOE may transfer any rights and/or obligations hereunder to its designated third party upon notifying the Existing Shareholders and GDS Beijing.
- 12.10 This Agreement is binding on the lawful successors and assignees of the Parties.

[Remainder of this page intentionally left blank]

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In witness whereof, this Exclusive Call Option Agreement is executed by and between the following parties on the date and at the place first above written.

#### William Wei Huang

Signature: /s/ William Huang Wei

#### Qiuping Huang

Signature: /s/ Qiuping Huang

#### Shanghai Free Trade Zone GDS Management Co., Ltd.

(Seal)

Signature: /s/ William Huang Wei  
 Name: William Wei Huang  
 Title: Authorized Representative

#### Beijing Wanguo Chang'an Science & Technology Co., Ltd.

(Seal)

Signature: /s/ William Huang Wei  
 Name: William Wei Huang  
 Title: Authorized Representative

Signature page of Exclusive Call Option Agreement

Exhibit 1:

#### Basic information of GDS Beijing

Company Name: Beijing Wanguo Chang'an Science & Technology Co., Ltd.  
 Registered Address: Room A-0155, 2<sup>nd</sup> Floor, Building 3, Compound 30, Shixing Avenue, Shijingshan Park, Zhongguancun Science Park, Beijing

Registered Capital: RMB 300,100,000

Legal Representative: William Wei Huang

Share Structure:

Name of Shareholder	Share of Registered Capital	Proportion of Capital Contribution
William Wei Huang	RMB 300,000,000	99.9667%
Qiuping Huang	RMB 100,000	0.0333%

Fiscal Year: January 1 to December 31

Exhibit 1 of Exclusive Call Option Agreement

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Exhibit 2:

**Format of Exercise Notice**

To:

Whereas, our company has entered into an Exclusive Call Option Agreement (“**Call Option Agreement**”) with you and Beijing Wanguo Chang’an Science & Technology Co., Ltd. (“**GDS Beijing**”) on [Insert the date], 2016, which designated that under circumstances permitted by PRC Laws and Regulations, you shall transfer your equity interests in GDS Beijing to our company or any third party designated by our company upon our request.

Now, therefore, our company hereby issue the notice to you as follows:

Our company hereby request to exercise the Stock Option under the Call Option Agreement and require you to transfer % of the equity interests held by you in GDS Beijing (the “**Assigned Shares**”) to our company/[insert entity or individual’s name] designated by our company. Please immediately transfer all of the Assigned Shares to our company/[insert entity or individual’s name] pursuant to the Call Option Agreement within [insert days] days upon receipt of this notice.

Sincerely,

**Shanghai Free Trade Zone GDS Management Co., Ltd.**

(Seal)

Authorized representative:

Date:

Exhibit 2 of Exclusive Call Option Agreement

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Exhibit 3:

**Format of Power of Attorney**

I, \_\_\_\_\_, hereby irrevocably entrust [ID Card No.: \_\_\_\_\_], as my entrusted agent, to execute the legal documents among Beijing Wanguo Chang’an Science & Technology Co., Ltd., Shanghai Free Trade Zone GDS Management Co., Ltd. and me on the transfer of equity shares of Beijing Wanguo Chang’an Science & Technology Co., Ltd..

Signature:

Date:

Exhibit 3 of Exclusive Call Option Agreement

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**Loan Agreement**

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**Among**

**William Wei Huang**

**Qiuping Huang**

**and**

**Shanghai Free Trade Zone GDS Management Co., Ltd.**

Date: April 13, 2016

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**Loan Agreement**

This Loan Agreement (the “**Agreement**”) is entered into on April 13, 2016 in Shanghai, China by and among the following parties:

**William Wei Huang**, a citizen of the People’s Republic of China (ID Card No.: 31010719671101125x);

**Qiuping Huang**, a citizen of the People’s Republic of China (ID Card No.: 31010719611116122x);

William Wei Huang and Qiuping Huang hereinafter are collectively referred to as the “**Borrowers**”.

**Shanghai Free Trade Zone GDS Management Co., Ltd.**, a wholly foreign owned enterprise duly incorporated under the laws of the People’s Republic of China, with legal address at Room 4056, 4<sup>th</sup> Floor, 173 Meisheng Road, China (Shanghai) Pilot Free Trade Zone, China (the “**Lender**”).

(In this Agreement, the above parties are referred to individually as a “**Party**” and collectively as the “**Parties**”.)

Whereas:

1. Beijing Wanguo Chang’an Science & Technology Co., Ltd. (“**GDS Beijing**”) is a limited liability company duly incorporated under PRC laws, with legal address at Room A-0155, Floor 2, Building 3, Compound 30, Shixing Avenue, Shijingshan Park, Zhongguancun Science Park, Beijing, and a registered capital of RMB 300,100,000. The Borrowers are the shareholders of GDS Beijing;
2. The Borrowers intend to obtain necessary financial support from the Lender to expand the business of GDS Beijing;
3. Now therefore, for the purpose of setting out rights and obligations of the Borrowers and the Lender regarding loan arrangement, the Parties herein agree as follows:

**Article 1 Terms and Definitions**

- 1.1 Unless otherwise specified in this Agreement or in cases where the context demands a different interpretation, the terms used in this Agreement shall have the following meanings:

“**Loan**” refers to the Renminbi loan offered by the Lender to the Borrowers;

“**Debt**” refers to the outstanding balance under the Loan;

“**Repayment Notice**” has the meaning as stipulated in Article 4.1 of this Agreement;

“**Repayment Application**” has the meaning as stipulated in Article 4.2 of this Agreement;

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“**Effective Date**” refers to the date first above written on which the Parties execute this Agreement;

“**PRC**”, for the purpose of this Agreement, refers to the People’s Republic of China, excluding Hong Kong, Macau and Taiwan.

- 1.2 The terms referred to herein shall have the following meanings:

“**Article**” shall, unless otherwise stipulated in this Agreement, be construed as an article of this Agreement;

“**Taxes and Fees**” shall be construed so as to include any tax, fee, tariff or other charges of similar nature (including but not limited to, any penalty or interest payable in connection with any failure to pay or any delay in paying any of the such).

The “**Lender**” and the “**Borrowers**” shall be construed so as to include the successors and assignees as permitted by the Parties based on their respective interests.

- 1.3 Unless otherwise provided, any reference herein to this Agreement or any other agreements or documents shall be construed as the referral to the amendments, variations, substitutions or supplements as are already made or may be from time to time made to this Agreement or such other agreements or documents, as the case may be.
- 1.4 The headings hereof have been inserted for convenience of reference only.
- 1.5 Unless the context otherwise requires, the words importing the plural shall include the singular and vice versa.

**Article 2 Amount and Interest Rate of the Loan**

- 2.1 The Parties hereby acknowledge that, upon the execution of this Agreement, the Lender shall provide a loan with a principal amount of RMB 300,100,000 to the Borrowers, including the principal amount advanced to William Wei Huang of RMB 300,000,000, and the principal amount advanced to Qiuping Huang of RMB 100,000.
- 2.2 The interest rate of the Loan hereunder is nil, i.e., no interest is accrued thereupon.

**Article 3 Purpose**

The Borrowers shall use the Loan under this Agreement only for business expansion of GDS Beijing.

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**Article 4 Repayment**

- 4.1 The Lender may, at its own absolute discretion, at any time request that the Debt be discharged, in whole or in part, by the Borrowers, upon a 30-day prior repayment notice to the Borrowers (the “**Repayment Notice**”). The Lender may request that the Borrowers repay the Debt in whole or in part in the following methods pursuant to the preceding provision:
  - a) Repay the Debt in full by purchasing or designating a third party to purchase the corresponding equity interest held by the Borrowers in GDS Beijing at such a price equivalent to the amount of the Debt requested to be discharged, provided that the ratio of the equity interest to be so purchased to the equity interest held by the Borrowers in GDS Beijing shall be equivalent to the ratio of the Debt required to be discharged to the principal amount of the Loan borrowed by the Borrowers hereunder.; or

- b) in other ways determined by resolutions passed by the board of directors of the Lender in accordance with its articles of association and the stipulations of applicable laws and regulations.
- 4.2 The Borrowers may at any time request to repay the Debt, in whole or in part, by servicing a 30-day prior repayment application (the “**Repayment Application**”) to the Lender. In such case, Borrowers may discharge its Debt by transferring to the Lender the equity interest in GDS Beijing in the amount equal to the Debt amount to be discharged by the Borrowers, or by the methods recognized by the Lender pursuant to the aforesaid Article 4.1, in whole or in part. In the former situation, the Lender shall have the right to purchase or to designate a third party to purchase part of the equity interest held by the Borrowers in GDS Beijing at such a price equivalent to the amount of the Debt to be discharged by the Borrowers, provided that the ratio of the equity interest to be so purchased to the equity interest held by the Borrowers in GDS Beijing shall be equivalent to that of the Debt required to be discharged to the principal amount of the Loan borrowed by the Borrowers hereunder; or
- 4.3 Upon the expiration of the 30-day period set forth in the Repayment Notice or the Repayment Application, as the case may be, the Borrowers being requested or applied to repay the Debt shall discharge the Debt in accordance with the repayment method specified in the Repayment Notice, or by any other methods determined by a resolution passed by the board of directors of the Lender in accordance with its articles of association and the stipulations of applicable laws and regulations, or by any other methods stipulated in this Agreement.
- 4.4 When the Borrowers discharge the Debt pursuant to the above provisions of this Article IV, the Parties shall execute relevant written documents to acknowledge that the Debt has been absolutely discharged in accordance with the methods agreed upon in this Agreement.

#### Article 5 Taxes and Fees

All Taxes and Fees in connection with the Loan shall be borne by the Lender.

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#### Article 6 Confidentiality

- 6.1 Regardless of the termination of this Agreement, the Borrowers shall keep in confidential (i) the execution, performance and content of this Agreement, and (ii) Lender’s trade secrets, proprietary information and client information (the “**Confidential Information**”) learnt or received by the Borrowers in connection with the execution and performance of this Agreement. The Borrowers may use the Confidential Information solely for the performance of its obligations hereunder. Without the Lender’s written consent, the Borrowers shall not disclose such Confidential Information to any third party, otherwise such Borrower shall be held liable for breach of this Agreement and shall indemnify the Lender against all losses.
- 6.2 Notwithstanding any other provisions herein, the effect of this Article 6 shall survive the suspension or termination of this Agreement.

#### Article 7 Notification

- 7.1 Any communications made as required by or pursuant to this Agreement including notices, demands, requests and other correspondences shall be delivered to the recipient in writing.
- 7.2 If any of such notices or other correspondences is transmitted by facsimile or telex, it shall be deemed delivered immediately upon transmission; if delivered in person, it shall be deemed delivered at the time of delivery; if sent by post, it shall be deemed delivered five (5) days after dispatch.

#### Article 8 Breach of Agreement

- 8.1 The Borrowers hereby undertake that it will indemnify and hold harmless the Lender against any action, charge, claim, cost, harm, demand, fee, liability, loss and procedure suffered or incurred to Lender from the breach by the Borrowers of any of its obligations hereunder.
- 8.2 Notwithstanding any other provisions herein, the effect of this Article shall survive the suspension or termination of this Agreement.

#### Article 9 Miscellaneous

- 9.1 This Agreement is executed in triplicate (3 copies), with each Party holding one (1) copy.
- 9.2 The conclusion, validity, performance, amendment, interpretation and termination of this Agreement shall be governed by the PRC laws.
- 9.3 The Parties shall settle any dispute arising out of or relating to this Agreement through

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amicable negotiation. If any dispute cannot be resolved through negotiations within thirty (30) days, the dispute shall be referred to Beijing Arbitration Commission for arbitration in accordance with the commission’s arbitration rules. The seat of arbitration shall be Beijing. The arbitration award shall be final and binding upon the Parties. After arbitration award takes effect, any party shall have the right to apply for the enforcement of the arbitration award to a court with jurisdiction. The competent court shall have right to grant a provisional remedy on request by the disputing party, such as a judgment or an order to seize or freeze the breaching party’s properties or equity shares.

- 9.4 Any right, power or remedy granted to a Party by any provision of this Agreement shall not exclude the Party from any right, power or remedy granted by other provisions of this Agreement; and any exercise of any right, power or remedy by a Party shall not preclude the Party from exercising other rights, powers or remedies.
- 9.5 No failure or delay by any Party in exercising any right, power or remedy (“**Such Rights**”) provided by law or under this Agreement shall constitute a waiver of Such Rights and no single or partial waiver of any Such Rights shall preclude the exercise of any Such Rights in other means or the exercise of any other Such Rights.
- 9.6 The headings hereof have been inserted for convenience of reference only, under no circumstances shall such headings be construed to affect the meaning, construction or effect of this Agreement.
- 9.7 The provisions of this Agreement are severable and independent to one another. If at any time one or several articles herein shall be deemed invalid, illegal or unenforceable, the validity, legality or enforceability of other provisions herein shall not be affected thereby.
- 9.8 Any amendment and supplement of this Agreement shall be made in writing and duly executed by the Parties herein before taking effect.
- 9.9 The Borrowers shall not assign its rights and/or obligations hereunder to any third party without the prior written consent of the Lender, while the Lender shall have the right to assign its rights and/or obligations hereunder to its designated third party upon notifying the other Parties.
- 9.10 This Agreement is binding on the lawful successors and assignees of the Parties.

[Remainder of this page intentionally left blank]

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In witness whereof, this Loan Agreement is executed by and among the following parties on the date and at the place first above written.

**Borrower:**

**William Wei Huang**

Signature: /s/ William Wei Huang

**Qiuping Huang**

Signature: /s/ Qiuping Huang

**Lender:**

(Seal)

Signature:           /s/ William Wei Huang            
Authorized representative: William Wei Huang  
Title: Legal Representative

**Exclusive Technology  
License and Service  
Agreement**

Between

**Beijing Wanguo Chang'an Science & Technology Co., Ltd.**

and

**Shanghai Free Trade Zone GDS Management Co., Ltd.**

Date: April 13, 2016

**Exclusive Technology License and Service Agreement**

This Exclusive Technology License and Service Agreement (hereinafter, **the "Agreement"**) is entered into by and between the following parties on April 13, 2016 in Shanghai, China:

- (1) **Beijing Wanguo Chang'an Science & Technology Co., Ltd.**, a limited liability company duly incorporated and validly existing under the laws of the People's Republic of China, with legal address at Room A-0155, Floor 2, Building 3, Compound 30, Shixing Avenue, Shijingshan District, Beijing (hereinafter, **the Party A**"); and
- (2) **Shanghai Free Trade Zone GDS Management Co., Ltd.**, a wholly foreign owned enterprise duly incorporated and validly existing under the laws of the People's Republic of China, with legal address at Room 4056, Floor 4, 173 Meisheng Road, Shanghai Pilot Free Trade Zone, China (hereinafter, **the Party B**").

(In this Agreement, Party A and Party B are collectively referred to as **"the Parties"**, and individually referred to as **"a Party"**.)

**Foreword**

Whereas, Party A is a limited liability company duly incorporated and validly existing in Beijing, with Internet data center service under 1<sup>st</sup> Category of value-added telecommunication business and Internet access service under 2<sup>nd</sup> Category of value-added telecommunication business, and technology development and technical service relating to computer disaster recovery backup and data backup as its main business scope;

Whereas, Party B is a wholly foreign owned enterprise duly incorporated and validly existing in Shanghai, with investment and business decision-making, capital operation and financial management, R & D and technical support, shared service within the group company, and outsourcing service for offshore companies, employee training and management, marketing service and consulting service relating to the above-mentioned instances as its main business scope;

Whereas, Party A requires Party B to provide its software license and relevant service relating to Party A's business operation (see the definition below), and Party B agrees to provide the aforesaid service to Party A.

Now therefore, the Parties hereby mutually agree as follows through amicable negotiation:

**Article 1 Terms and Definitions**

1.1 Unless otherwise specified or in cases where the context demands a different interpretation, the terms used in this Agreement shall have the following meanings:

<b>"Annual business plan"</b> :	Party A's annual business development plan and budget report for the next calendar year prepared under this Agreement with the assistance of Party B before November 30 every year.
<b>"Breach"</b>	has the meaning as stipulated by Paragraph 1, Article 11 under this Agreement.
<b>"Breaching party"</b>	has the meaning as stipulated by Paragraph 1, Article 11 under this Agreement.
<b>"Business related technology"</b> :	Any and all software and technology related to Party A's business and developed by Party A (including subsidiaries of Party A) on the basis of the services provided by Party B under this Agreement.
<b>"China"</b> :	refers to the People's Republic of China, for the purpose of this Agreement, excluding Hong Kong, Macau and Taiwan.
<b>"Client information"</b>	has the meaning as stipulated by Paragraph 1, Article 6 under this Agreement.
<b>"Confidential information"</b>	has the meaning as stipulated by Paragraph 2, Article 6 under this Agreement.
<b>"Equipment"</b> :	Any and all equipment owned or purchased from time to time, and utilized by Party B for the provision of service.
<b>"Party A's business"</b> :	All business conducted and developed by Party A currently and at any time during the term of this Agreement, including but not limited to Internet data center service under 1 <sup>st</sup> Category of value-added telecommunication business, Internet access service under 2 <sup>nd</sup> Category of value-added telecommunication business, and technology development and technical service relating to computer disaster recovery backup and data backup.
<b>"Service"</b> :	Software license, technical support and other service provided by Party B exclusively to Party A, as well as implementation of Party A's data process program and relevant programs, including but not limited to: <ol style="list-style-type: none"> <li>(1) licensing Party A to use relevant software applications necessary for its business;</li> </ol>

- (2) total IT solutions necessary for Party A's business;
- (3) daily management, maintenance, and update of hardware equipment and databases;
- (4) development, maintenance and update of relevant software application;
- (5) training of Party A's professional technicians;
- (6) assistance to Party A in the collection and research of relevant technology information;
- (7) other relevant technology service and consulting service provided to Party A from time to time upon its request;

**"Service fees"**: All fees paid by Party A to Party B in accordance with Article 3 of this Agreement for the software licenses and other service provided by Party B.

**"The said party's rights"** has the meaning as stipulated by Paragraph 5, Article 13 under this Agreement.

1.2 To invoke any laws and regulations (the **"Laws"**) under this Agreement means:

- (1) To invoke at the same time the content of the amendments, adjustments, complements and revisions of the Laws no matter it comes into effect before or after the conclusion of this Agreement; and

(2) To invoke at the same time other decisions, notices and rules made or taking effect according to the Laws.

1.3 Unless otherwise stipulated in the context of this Agreement, all articles, paragraphs and subparagraphs as well as their subdivisions and abbreviations cited herein have meaning provided under this Agreement and its amendments, if any.

#### Article 2 Service

2.1 Party A needs Party B's service to facilitate its business and Party B agrees to provide such service to Party A. For this purpose, Party A herewith authorizes Party B as its exclusive provider of software and technical service and Party B agrees to accept the authorization.

2.2 Party B shall, in accordance with the provisions of this Agreement, provide service to Party A and Party A shall help facilitating Party B's service.

#### Article 3 Service Fees

3.1 As stipulated in Paragraph 2 Article 3, Party A agrees to pay the fees for the service provided by Party B according to Article 2 of this Agreement.

3.2 The Parties agree that the service fees shall be paid in accordance with the following stipulations:

(1) Party A shall pay depreciation expenses to Party B on a monthly basis. Party A shall, before the tenth (10) day of each month, pay to Party B a depreciation expense calculated by amortizing the actual value determined annually at the beginning of a year to the equipment's period of depreciation.

(2) Party B shall be entitled to all of Party A's business net profits (including net profits from its subsidiaries) as considerations for the service provided by Party B to Party A under this Agreement. After the end of each fiscal year, both parties shall calculate the outstanding service fees based on Party A's total consolidated pre-tax revenue and net profit of last fiscal year as confirmed in the audit report issued by a Chinese certified accounting firm recognized by both parties, in order to negotiate on and determine the annual service fees to be paid by Party A to Party B. Party A undertakes to provide the relevant Chinese certified accounting firm with all necessary materials and assistance and urge such firm to complete the audit report of last fiscal year and issue it to both Party A and Party B within thirty (30) days after the end of last fiscal year. Where any dispute arises between the Parties over the amount of the service fees determined in accordance with Article 3 of this Agreement, the figure confirmed by Party B shall prevail.

3.3 Party A shall transfer all the service fees of the previous year determined as per Article 3.2.(2) above to the bank account designated by Party B in accordance with the provisions of this Article before the date designated by Party B. In case Party B changes its bank account, it shall notify Party A in writing the change seven (7) workdays in advance.

3.4 Notwithstanding the provisions in Paragraph 1, Article 3 of this Agreement, the Parties may adjust the specific amount of equipment depreciation referred to in Article 3.2.(1) by consensus.

#### Article 4 Obligations of Party A

4.1 The service provided by Party B under this Agreement is exclusive. During the term of this Agreement, Party A shall not enter into, or cause its subsidiaries to enter, any other agreements with a third party for a service identical or similar to Party B's service without prior written permission from Party B.

4.2 Party A shall provide Party B with the final copy of Party A and its subsidiaries' annual business plan for the next year before November 30 of each year to help Party B to prepare relevant service plan and purchase software, equipment and consolidate its technical service force as necessary. In case Party A requires Party B to extemporaneously purchase new equipment, it shall negotiate and reach a consensus with Party B fifteen (15) days in advance.

4.3 To facilitate Party B's provision of service, Party A shall provide relevant information to Party B promptly and accurately upon Party B's request.

4.4 Party A shall pay Party B the service fees on time and in full in accordance with Article 3 of this Agreement.

4.5 Party A shall maintain its good reputation, proactively expand business, and maximize its profit.

#### Article 5 Intellectual Property Rights

5.1 The intellectual property rights of the products created in the process of Party B's provision of service shall be attributable to Party B.

5.2 Whereas the business operation of Party A relies on the service provided by Party B under this Agreement, Party A (including its subsidiaries) agrees to make the following arrangements regarding the business-related technology developed by Party A on the basis of such service:

(1) If a business-related technology is developed by Party A or its subsidiary in a further development entrusted by Party B, or as a result of the collaboration between Party A and Party B, then the ownership and claims of patent application go to Party B.

(2) If a business-related technology is independently developed by Party A or its subsidiary, the ownership of the technology shall belong to the entity that has developed such technology, provided: (A) Party A has notified, or has caused its subsidiary to notify, Party B of details of the technology in a timely manner, and has provided relevant materials as per Party B's request; (B) If Party A or its subsidiary is going to license or transfer such technology, Party B shall, without violating the applicable enforced Chinese laws and regulations, have preemptive

right to purchase the technology or be licensed to use the technology exclusively, and Party B may use the technology to the same extent to which Party A or its subsidiary would transfer or license the technology to others (Party B has the right to decide whether or not to accept the offer of the transfer or the license); Party A may, upon Party B's waiver of preemptive right and the exclusive right to the technology, transfer or license the technology to a third party with conditions no superior to those offered to Party B (including but not limited to the transfer price or license fee), and shall guarantee the third party will fully abide by and perform the duties and obligations of Party A under this Agreement. (C) With the exception of the situations specified in Article 5.2(2)(B), Party B has the right to purchase the technology within the term stipulated by Article 8.1 of this Agreement; in such cases, Party A shall, without violating applicable Chinese laws and regulations, accept Party B's aforesaid offer at the lowest price allowed by applicable laws.

5.3 If Party B is licensed the exclusive right to use the technology as per Article 5.2(2), the aforesaid license shall comply with the following provisions in this Paragraph:

(1) The term of the license shall be no less than five (5) years (as of the effective date of the Agreement);

(2) The scope of the rights licensed shall be defined as wide as possible;

(3) Within the term and the scope of the license, no Party (including Party A) other than Party B may use or license the technology in any way;

(4) Without breaching Article 5.3(3), Party A has the right to decide at its discretion to license any other third party to use the technology;

(5) Upon expiration of the license, Party B shall be entitled to renew the license agreement and Party A shall agree, and the provisions of the license shall remain unchanged at that time save the adjustments as confirmed by Party B.

5.4 Notwithstanding the provisions in the above-mentioned Article 5.2(2), the patent application for any business related technology referred to in the Paragraph shall be handled in accordance with the following provisions:

(1) If Party A intends to apply for patent for any business related technology described in the aforementioned subparagraph, it shall obtain prior written permission from Party B.

(2) Party A may apply for patent for any business-related technology independently or transfer such right to a third party only upon the waiver of such rights of Party B. In case Party A transfers the afore-mentioned claims of patent application to a third party, Party A shall guarantee that the third party will fully abide by and perform

the duties and obligations of Party A under this Agreement; meanwhile, the conditions (including but not limited to the transfer price) Party A offers to the third party shall not be more preferential than that offered to Party B as described in Subparagraph 3.

(3) Within the term of this Agreement, Party B may at any time require Party A to file a patent application for such business-related technology, and determine at its discretion whether or not to purchase such patent application right. Upon Party B's written request, Party A shall transfer the claims of patent application to Party B without violating applicable Chinese laws and regulations at the lowest price allowable by law; Party B will be the legal owner of such claims of patent application and, after having been granted the patent, become the legal owner of the claims of patent application.

5.5 The Parties undertake that either Party shall be indemnified of any and all economic losses incurred by the other Party's infringement of any third party's intellectual rights (including but not limited to publish rights, trademark rights, patent rights and know-how).



## Article 6 Confidentiality

- 6.1 Within the term of this Agreement, all client information and other related materials (the “**Client Information**”) related to the business of Party A and the service provided by Party B are jointly possessed by both Parties.
- 6.2 Both Parties shall keep strictly confidential each Party’s business secrets, proprietary information, Client Information and related materials jointly possessed by them and any nonpublic information of each Party (collectively the “**Confidential Information**”). Except for disclosure made with a prior written permission from the other Party or as required by relevant laws and regulations or IPO procedures, the recipient of Confidential Information shall not disclose all or any part thereof to any third party; the recipient shall not exploit the Confidential Information or any part thereof unless for the performance of this Agreement.
- 6.3 The following information shall not be deemed confidential:
- (a) Any information known to the recipient before the disclosure as demonstrated by written evidence(s);
  - (b) Information released into a public domain or known to the public for reasons other than the recipient’s fault; or
  - (c) Information obtained by the recipient from other legal sources.
- 6.4 The recipient may disclose the Confidential Information to its employees, agencies and experts hired and shall guarantee that this Agreement is of binding force to the aforesaid
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people, who shall keep the Confidential information confidential and use the aforesaid Confidential Information solely for performance of the Agreement.

## Article 7 Undertaking and warranty

- 7.1 Party A hereby represents, warranties and undertakes that:
- 7.1.1 It is a limited liability company duly incorporated and validly existing under the laws of the jurisdiction of its incorporation as an independent legal person and with complete, independent legal status and legal competence to sign, deliver and perform this Agreement, and to act as an independent subject of proceedings.
  - 7.1.2 It is vested with all requisite power and authority within company to execute and deliver this Agreement and all other documents to be signed related to the transaction referred to in this Agreement, and to perform the transaction under this Agreement. This Agreement has been legitimately and appropriately executed and delivered by Party A. This Agreement constitutes a legal and binding obligation of, and enforceable against Party A in accordance with the terms of the Agreement.
  - 7.1.3 At the date of this Agreement, it has obtained all the certificates necessary for its business operation as provided on its business license. It has full right and qualification to conduct business as currently conducted by Party A within the territory of China.
  - 7.1.4 It will provide Party B with consolidated quarterly financial statement and budget for the next quarter within fifteen (15) workdays upon the end of each quarter, and the consolidated financial statement for the fiscal year and the budget for next fiscal year within thirty (30) workdays upon the end of each fiscal year.
  - 7.1.5 It will promptly notify Party B of all legal proceedings and other unfavorable situations where it is involved, and will make utmost efforts to curb the losses and damages.
  - 7.1.6 Without prior written permission from Party B, Party A shall neither dispose of its important assets nor change its current shareholding structure.
- 7.2 Party B hereby represents and warranties that:
- 7.2.1 It is a limited liability company duly incorporated and validly existing under the laws of its place of incorporation as an independent legal person with complete, independent legal status and legal competence to sign, deliver and perform this Agreement, and to act as an independent subject of proceedings.
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- 7.2.2 It is vested with full power and authority within company to execute and deliver this Agreement and all other documents to be signed related to the transaction referred to in this Agreement, and to perform the transaction under this Agreement. This Agreement has been legitimately and appropriately executed and delivered by Party B. This Agreement constitutes a legal and binding obligation of, and enforceable against Party B in accordance with the terms of the Agreement.

## Article 8 Term of Agreement

- 8.1 The Parties hereby confirm that this Agreement takes effect upon its formal execution by the Parties. Unless it is prematurely terminated by the Parties in writing, this Agreement shall expire on April 13, 2026.
- 8.2 The obligations of Party A and Party B under Article 6 of this Agreement shall survive the termination of this Agreement.

## Article 9 Indemnification

Party A shall indemnify Party B from any and all losses incurred or may incur as a result of Party B’s provision of service, including but not limited to losses sustained from legal suits, recovery, arbitration, claims and administrative investigation and penalties, with the exceptions of the losses caused by Party B’s intentional misconduct or gross negligence.

## Article 10 Notification

- 10.1 Any communications between the Parties pursuant to this Agreement including notices, requirements, offers and other correspondence shall be delivered to the recipient in written form.
- 10.2 If any of such notices or other correspondences is transmitted by facsimile or telex, it shall be deemed as delivered immediately upon transmission; if delivered personally, it shall be deemed as delivered at the time of actual delivery; if delivered by post, it shall be deemed delivered five (5) days after posting.

## Article 11 Breach of Agreement

- 11.1 The Parties agree and confirm that, any substantial violation of any provision under this Agreement, or substantial non-performance of any obligation under this Agreement by a
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Party (the “**Breaching Party**”) constitutes a breach of the Agreement (“**Breach of Agreement**”). The non-breaching Party shall be entitled to demand the Breaching Party to correct or take remedial measures within a reasonable time. In case the Breaching Party does not take any remedial measures in a reasonable time or within ten (10) days of written notice of the non-breaching Party requiring remedial measures to be taken, where Party A being the Breaching Party, the non-breaching Party has the right to take any of the following measures at its discretion: (1) terminate this Agreement and demand full damages from the Breaching Party; or (2) demand compulsory performance of the obligations under this Agreement and full damages from the Breaching Party; where Party B being the Breaching Party, the non-breaching Party has the right to demand compulsory performance of the obligations under this Agreement and full damages from the Breaching Party.

- 11.2 Both Parties agree and confirm that under no circumstances shall Party A terminate this agreement for any reason, unless otherwise specified in this Agreement or required by law.
- 11.3 Notwithstanding any other provisions herein, the effect of Article 11 shall survive suspension or termination of this Agreement.

## Article 12 Force Majeure

In case any Party is unable to perform this Agreement at all or in accordance with the conditions agreed upon because of earthquakes, typhoons, floods, fire, wars, computer viruses, design flaws of instrumental tools, hacker attacks on the Internet, changes of policies and laws and other situations which cannot be foreseen, avoided or overcome, the affected Party shall immediately notify the other Party by fax and provide within 30 days the details of the force majeure and evidence documents proving the reasons that it is unable to perform this agreement or the performance of this agreement will be delayed. The aforesaid certificate documents shall be issued by a notarization institution located in the area where the force majeure event takes place. The Parties shall, depending on the impact of the force majeure event on the performance of this Agreement, negotiate whether the obligations under this Agreement should be partly exempted or postponed. Both parties are exempted from the compensation liability for economic losses caused by force majeure events.

## Article 13 Miscellaneous

- 13.1 This Agreement is executed in two copies, with each Party holding a copy.
- 13.2 The conclusion, validity, performance, amendment, interpretation and termination of this Agreement are governed by the laws of the People’s Republic of China.
- 13.3 The Parties shall strive to settle any dispute, conflicts, or compensation claims arising from
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the interpretation or performance (including any issue relating to the existence, validity and termination) in connection with this Agreement through amicable negotiation. If the discrepancies cannot be solved by negotiations within thirty (30) days, they should be submitted to Beijing Arbitration Commission for arbitration in accordance with the commission's arbitration rules in Beijing. The award of the arbitration shall be final and binding upon the Parties.

- 13.4 Any right, power or remedy granted to a Party by one term of this Agreement does not exclude the Party from any right, power or remedy granted by other terms or laws and regulations.
- 13.5 No failure or delay by any Party in exercising any right or remedy provided by law or under this Agreement shall impair such right or remedy or operate or be construed as a waiver or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy shall preclude any other or further exercise of it or the exercise of any other right or remedy.
- 13.6 The headings hereof have been inserted for convenience of reference only, under no circumstances shall such headings be construed to affect the meaning, construction or effect of this Agreement.
- 13.7 This Agreement supersedes any other writing or oral agreements entered into by and between the Parties and constitutes a complete agreement between the Parties.
- 13.8 The provisions of this Agreement are severable and independent to one another. If at any time one or several articles herein shall be deemed invalid, illegal or unenforceable, the validity, legality or enforceability of other provisions herein shall not be affected thereby.
- 13.9 The Parties may amend and supply this Agreement with a written agreement. The amendment and supplement duly executed by the Parties shall be a part of this Agreement and shall have the same legal effect as this Agreement.
- 13.10 Without prior written permission from the other party, no party may transfer any of its rights and/or obligations under this Agreement to any third Party.
- 13.11 This Agreement is binding to all the parties herein and their respective lawful successors and assignees.
- 13.12 The Parties undertake that they will report and pay their respective taxes and fees relating to the transaction under the Agreement.

[Remainder of this page intentionally left blank]

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In witness whereof, this Exclusive Technology License and Service Agreement is signed by the Parties on the date and at the place first above written.

**Party A:**

**Beijing Wanguo Chang'an Science & Technology Co., Ltd.**  
(Seal)

Signature:           /s/ William Wei Huang            
Name: William Wei Huang  
Post: Authorized Representative

**Party B:**

**Shanghai Free Trade Zone GDS Management Co., Ltd.**  
(Seal)

Signature:           /s/ William Wei Huang            
Name: William Wei Huang  
Post: Authorized Representative

[Signature Page]

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**Equity Interest Pledge Agreement**

**Concerning**

**Shanghai Shu'an Data Services Co., Ltd.**

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**Between**

**William Wei Huang**

**Qiuping Huang**

**and**

**Shanghai Free Trade Zone GDS Management Co., Ltd.**

**Date: April 13, 2016**

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**Equity Pledge Agreement**

This Equity Pledge Agreement (the "**Agreement**") is entered into by and between the following parties on April 13, 2016 in Shanghai, PRC:

**Party A:**

**William Wei Huang**

**Address:** Room 3205, Unit 1, Building 7, Greenlake Place, 88 East 4th Ring Middle Road, Chaoyang District, Beijing, Postal Code: 100025  
**ID Card No.:** 31010719671101125x

**Qiuping Huang** (hereinafter referred to collectively with William Wei Huang as the "**Pledgers**")

**Address:** Room 411, No.12, Alley 180, Xiangde Road, Hongkou District, Shanghai  
**ID Card No.:** 31010719611116122x

**Party B:**

**Shanghai Free Trade Zone GDS Management Co., Ltd.** (hereinafter referred to as the "**Pledgee**")

**Registered Address:** Room 4056, Floor 4, 173 Meisheng Road, Shanghai Pilot Free Trade Zone, China  
**Legal Representative:** William Wei Huang

Whereas:

- (1) The Pledgers are the registered shareholders of Shanghai Shu'an Data Services Co., Ltd. (with registered address at Room 432, No.26 and 28 Jiangchangsan Road, Shanghai, hereinafter referred to as the "**Company**"), collectively holding 100% of the equity interests of the Company (with a total capital contribution of RMB10 million, hereinafter referred to as "**Company's Equity Interest**"). On the execution date of this Agreement, the capital contribution and proportion of shares of the Pledgers in the Company's registered capital are as shown in **Exhibit 1** of this Agreement.
- (2) The Pledgers have entered into a Loan Agreement with the Pledgee on April 13, 2016 (the "**Loan Agreement**") to borrow a loan of RMB 10,000,000 (the "**Loan**") to expand the Company's business.
- (3) The Pledgers have entered into an Exclusive Call Option Agreement (the

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"**Call Option Agreement**"), a Shareholder Voting Right Proxy Agreement (the "**Voting Proxy Agreement**"), an Exclusive Technology License and Service Agreement (the "**Service Agreement**") and an Intellectual Property Rights License Agreement (the "**License Agreement**") with the Pledgee and the Company on April 13, 2016.

- (4) The Pledgers agree to pledge all their equity shares in the Company as security to the Pledgee for the purpose of guaranteeing the performance of the Contractual Obligations (as defined below) of the Pledgers and the Company and the discharge of the Secured Debts (as defined below) under this Agreement, to which the Pledgee shall have first priority.

Now, therefore, the Parties agree as follows through negotiation:

**Article 1 Terms and Definitions:**

- 1.1 Unless otherwise specified or in cases where the context demands a different interpretation, the terms used in this Agreement shall have the following meanings:

<b>"Contractual Obligations":</b>	means all contractual obligations of the Pledgers under the Transaction Agreements (as defined below) and this Agreement, and all contractual obligations of the Company under the Call Option Agreement, the Voting Proxy Agreement, the Service Agreement and the License Agreement.
<b>"Secured Debts":</b>	means all direct, indirect and derivative losses and losses of anticipated profits, suffered by the Pledgee, incurred as a result of any Event of Default by the Pledgers and/or the Company, and all expenses occurred in connection with enforcement by the Pledgee of the Pledgers' and/or the Company's Contractual Obligations. The pledgers' amount of pledge (i.e. the secured amount) is RMB 1 million.
<b>"Transaction Agreements":</b>	means the Loan Agreement, the Call Option Agreement and the Voting Proxy Agreement.
<b>"Event of Default":</b>	means any of the following event: (i) any

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breach by the Pledgers of the contractual obligations under the Loan Agreement, the Call Option Agreement, the Voting Proxy Agreement or this Agreement; (ii) any breach by the Company of any obligations under the Call Option Agreement, the Voting Proxy Agreement, the Service Agreement and the License Agreement; or (iii) the License Agreement, the Service Agreement and/or any of the Transaction Agreements becomes invalid or unenforceable due to change of PRC Law, promulgation of a new PRC Law or any other reasons, and Pledgee is unable to provide for an alternative arrangement to effectuate the purpose under the Transaction Agreements.

<b>"Pledged Equity":</b>	means all Company's Equity Interest lawfully owned by the Pledgers on the effective date of the Agreement and to be pledged to the Pledgee for the purpose of guaranteeing the performance of the Contractual Obligations by the Pledgers and the Company in accordance with this Agreement. The total amount of the pledged equity from the Pledgers is RMB 10,000,000 per 10,000,000 shares, of which RMB 9,990,000 per 9,990,000 shares is pledged by William Wei Huang, and RMB10,000 per 10,000 shares is pledged by Qiuping Huang, plus the increased capital and dividends under Articles 2.6 and 2.7 of this Agreement.
<b>"PRC":</b>	means, for the purpose of this Agreement, the People's Republic of China, excluding Hong Kong, Macau and Taiwan.
<b>"PRC Law":</b>	means the laws, administrative regulations, administrative rules, local regulations, judicial interpretations and other binding legal documents of the People's Republic of China that are in force at the time.
<b>"Equity Pledge"</b>	has the same meaning as the one stipulated in Article 2.2 of this Agreement.

“Said Party’s Rights” has the same meaning as the one stipulated in Article 12.6 of this Agreement.

“Power of Attorney” has the same meaning as the one stipulated in Article 12.11 of this Agreement.

1.2 Any citation of any PRC law in this Agreement shall be deemed to:

- (1) simultaneously include the citation of the content of the amendments, adjustments, complements and revisions of PRC law regardless of whether the effective date is before or after the conclusion of this Agreement; and
- (2) simultaneously include the citation of other decisions, notices and rules made or taking effect pursuant to the PRC Law.

1.3 Unless otherwise stipulated in the context of this Agreement, Article, Section, Paragraph and Subparagraph referred to in this Agreement shall mean relevant content in this Agreement.

#### Article 2 Equity Pledge

2.1 The Pledgers hereby agree to pledge to Pledgee the Pledged Equity, which it lawfully owns and has the right of disposal, as the Pledgee’s interest in the Transaction Agreements, and as the guarantee for the performance of the Contractual Obligations and the discharge of the Secured Debts. Subject to other provisions of this Agreement, the Pledgers’ respective Pledged Equity and Secured Debts are as follows:

Pledger	Pledged Equity	Secured Debts
William Wei Huang	RMB 9,990,000 per 9,990,000 shares	RMB 9,990,000
Qiuping Huang	RMB 10,000 per 10,000 shares	RMB 10,000
Total:	RMB 10,000,000 per 10,000,000 shares	RMB 10,000,000

2.2 The Pledgers undertake that they shall record the equity pledge arrangement hereunder (the “Equity Pledge”) in the register of shareholders of the Company on the date of the execution of this Agreement, and shall register the Equity Pledge at the administration for industry and commerce where the

Company is registered within a time period agreed upon by the Parties. The Pledgers shall provide the Pledgee with a certificate of registration of the aforesaid Equity Pledge in the register of shareholders of the Company to the satisfaction of the Pledgee.

2.3 During the valid term of this Agreement, unless attributable to the Pledgee’s willful conduct or the Pledgee’s gross negligence with direct causation to the consequence, the Pledgee shall not be held liable to any reduction in the value of the Pledged Equity, and the Pledgers shall have no right to claim any compensation or to make other requests in any way against the Pledgee.

2.4 Without breaching the provisions of the above-mentioned Article 2.3, if there is any probability that the value of the Pledged Equity will be notably reduce which is sufficient to prejudice the rights of the Pledgee, the Pledgee may at any time auction or sell the Pledged Equity on behalf of the Pledgers, and reach an agreement with the Pledgers to use the proceeds from such auction or sales to prepay the Secured Debts or to withdraw and deposit such proceeds with the notary office in the place where the Pledgee is domiciled (all expenses so incurred shall be assumed by the Pledgee).

2.5 Upon occurrence of any Event of Default, the Pledgee has the right to dispose of the Pledged Equity in accordance with Article 4 of this Agreement.

2.6 The Pledgers may increase the registered capital of the Company with the Pledgee’s prior consent. If the Pledgers subscribe for the increased registered capital of the Company, the Pledgers shall, as required by the Pledgee, execute relevant equity pledge agreement for the pledge of the increased registered capital of the Company, and go through the formalities for equity pledge correspondingly.

2.7 The Pledgers shall not distribute dividends or capital bonus (whether formed before or after the execution of this Agreement) from the Equity Interest without prior written consent of the Pledgee. The dividends or capital bonus (whether formed before or after the execution of this Agreement) distributed from the Pledged Equity received by the Pledgers shall be deposited into an account designated and supervised by the Pledgee and shall be used to discharge the Secured Debts prior and in preference to making any other payment

2.8 The Pledgee shall have the right to dispose of any of the Pledged Equity of any Pledgers in accordance with this Agreement after the occurrence of any Event of Default.

#### Article 3 Release of Pledge

After the Pledgers and the Company have fully and completely performed all of the Contractual Obligations and discharged all of the Secured Debts, the Pledgee shall, upon the Pledgers’ request, release the Equity Pledge under this Agreement and cooperate with the Pledgers to cancel the registration of the Equity Pledge on the Company’s register of shareholders. The Pledgee shall assume the reasonable expenses arising out of the release of the Equity Pledge.

#### Article 4 Disposal of Pledged Equity

4.1 The Pledgers and the Pledgee hereby agree that in case of the occurrence of any Event of Default, the Pledgee shall have the right to, by notifying the Pledgers in writing, exercise all the remedial rights and power as prescribed by PRC Law, the Transaction Agreements and the provisions of this Agreement, including but not limited to being compensated in first priority with proceeds from auctions or sales of the Pledged Equity. The Pledgee shall not be held liable to any loss caused by its reasonable exercise of such rights and power.

4.2 The Pledgee shall have the right to delegate in writing its lawyers or other agents to exercise all or any part of its rights and power above, and the Pledgers shall not raise any objection thereto.

4.3 The Pledgers shall assume the reasonable expenses arising from the Pledgee’s exercise of any or all of the above-mentioned rights and power; the Pledgee has the right to deduct such expenses from the proceeds gained from its exercise of such rights and power.

4.4 The proceeds gained from the Pledgee’s exercise of its rights and power shall be settled in accordance with the following order:

firstly, pay all expenses arising out of the disposal of the Pledged Equity and the Pledgee’s exercise of its rights and power (including but not limited to court expenses and the remuneration paid to its lawyers and agents);

secondly, pay the taxes and charges payable for the disposal of the Pledged Equity; and

thirdly, repay the Secured Debts to the Pledgee.

If any balance remains after the deduction of the above amounts, the Pledgee

shall return the balance to the Pledgers or any other person entitled to such amount pursuant to relevant laws and regulations, or deposit such amount with the notary office in the place where the Pledgee is domiciled (all expenses so incurred shall be assumed by the Pledgers).

4.5 The Pledgee has the discretion to, simultaneously or in certain sequence, exercise any remedies for defaults that it is entitled to. The Pledgee may exercise its rights to auction or sell the Pledged Equity under this Agreement without first exercising any other remedies for defaults.

#### Article 5 Costs and Expenses

All actual expenses related to the creation of the Equity Pledge under this Agreement, including but not limited to stamp duty, any other taxes and all legal fees, etc., shall be assumed by the Pledgee.

#### Article 6 Continuity and No Waiver

The Equity Pledge created under this Agreement is a continuing assurance, which shall be valid until the Contractual Obligations are fully performed or the Secured Debts are fully discharged. No waiver or grace period of any default of the Pledgers given by the Pledgee, nor the Pledgee’s delay in performance of any of its rights under the Transaction Agreements and this Agreement, shall affect the rights of the Pledgee under this Agreement, the Transaction Agreements and the relevant PRC Law to require, at any time thereafter, the Pledgers to strictly implement the Transaction Agreements and this Agreement, or the rights that the Pledgee is entitled to with respect to the Pledgers’ subsequent breach of the Transaction Agreements and/or this Agreement.

## Article 7 Representations and Warranties

The Pledgers represent and warrant to the Pledgee as follows:

- 7.1 They are PRC citizens with full capacity of action. They have the complete and independent legal status and legal capacity, and have valid authority to execute, deliver and perform this Agreement. Each of them has the independent capacity as a subject of the proceedings.
- 7.2 They have full capacity and power to execute and deliver this Agreement and all other documents to be executed by them in relation to the transaction referred to in this Agreement, and to complete the transaction referred to in

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this Agreement.

- 7.3 All the reports, documents and information related to the Pledgers and all the matters required under this Agreement provided to the Pledgee by the Pledgers prior to the effective date of this Agreement are true and accurate in all material respects as of the effective date of this Agreement.
- 7.4 All the reports, documents and information related to the Pledgers and all the matters required under this Agreement provided to the Pledgee by the Pledgers prior to the effective date of this Agreement are true, accurate and effective in all material respects at the time of provision.
- 7.5 On the effective date of the Agreement, the Pledgers are the sole legal and beneficial owners of the Pledged Equity and have the right to dispose of the Pledged Equity or any part of it. There is no existing dispute with respect to the ownership of the Pledged Equity.
- 7.6 Except the security interests created over the Pledged Equity under this Agreement and the rights created under the Transaction Agreements, there are no other security interests or third party rights over the Pledged Equity.
- 7.7 The Pledged Equity can be legally pledged and transferred, and the Pledgers have full rights and power to pledge the Pledged Equity to the Pledgee in accordance with the provisions of this Agreement.
- 7.8 This Agreement, upon due execution by the Pledgers, constitutes the lawful, valid and binding obligations on the Pledgers.
- 7.9 All third party approvals, permits, waivers and authorizations, all approvals, permits and waivers from any governmental authorities, and all registration or filing formalities with any government authorities (if legally required), which are required with respect to the execution and performance of this Agreement and the Equity Pledge under this Agreement, have been obtained or conducted, and will be fully effective during the valid term of this Agreement.
- 7.10 The execution and performance of this Agreement by the Pledgers does not violate or conflict with any laws applicable thereto, any agreement, any court judgment, any arbitration award or any decision of administrative authorities to which it is a party or by which its assets is bound.
- 7.11 The pledge under this Agreement constitutes the first priority security interest over the Pledged Equity with the first priority.

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- 7.12 All taxes and expenses payable for obtainment of the Pledged Equity have been paid by the Pledgers in full.
- 7.13 There is no pending or, to the knowledge of the Pledgers, imminent lawsuit, legal proceeding or claim at any court or arbitration tribunal against the Pledgers, their property or the Pledged Equity, or any pending or, to the knowledge of the Pledgers, imminent lawsuit, legal proceeding or claim at any government agency or administrative authority against the Pledgers, their property or the Pledged Equity, that will have material or adverse effect on the financial conditions of the Pledgers or their abilities to perform their obligations and security liabilities under this Agreement.
- 7.14 The Pledgers hereby undertake to the Pledgee that the above representations and warranties are true and accurate and will be fully complied with under any circumstance and at any time before the Contractual Obligations are performed in full or the Secured Debts are discharged in full.

## Article 8 Pledgers' Undertakings

The Pledgers hereby jointly and severally undertake to the Pledgee as follows:

- 8.1 Without prior written consent of the Pledgee, the Pledgers shall not create, or allow to be created, any new pledge or any other security interests over the Pledged Equity. Any pledge or other security interest created over all or any part of the Pledged Equity without prior written consent of the Pledgee shall be invalid.
- 8.2 Without prior written notice to and prior written consent from the Pledgee, the Pledgers shall not transfer the Pledged Equity and all activities of the Pledgers to transfer the Pledged Equity shall be invalid. The proceeds obtained from the Pledgers' transfer of the Pledged Equity shall be used first to prepay the Secured Debts to the Pledgee or to be deposited with a third party as agreed with the Pledgee. In case any Pledgers transfers the Pledged Equity held by it with prior written consent from the Pledgee, the Pledged Equity held by other Pledgers shall continue to be bound by the Agreement without being adversely affected.
- 8.3 In the event of occurrence of any lawsuit, arbitration or other claim which may have adverse effect on the interests of the Pledgers or the Pledgee under the Transaction Agreements and this Agreement or on the Pledged Equity, the Pledgers undertake to notify the Pledgee in writing as soon as possible and in a timely manner, and, as reasonably required by the Pledgee, to take all necessary measures to ensure the pledge interest of the Pledgee over the

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Pledged Equity.

- 8.4 The Pledgers shall not take, or allow to be taken, any activity or action which may have adverse effect on the Pledgee's interest under the Transaction Agreements and this Agreement or on the Pledged Equity.
- 8.5 The Pledgers undertake to, as reasonably required by the Pledgee, take all necessary measures and execute all necessary documents (including but not limited to any supplemental agreement to this Agreement) to ensure the pledge interest of the Pledgee over the Pledged Equity and the exercise and realization thereof.
- 8.6 If the exercise of the right of pledge under this Agreement will result in the transfer of any Pledged Equity, the Pledgers undertake to take all measures to complete such transfer.

## Article 9 Change of Circumstances

As supplement and not in conflict with the Transaction Agreements and other provisions of this Agreement, if at any time, due to the promulgation or change of any PRC Law, or the change of interpretation or application of such PRC Law, or the change of relevant registration procedures, the Pledgee believes that it is illegal or in conflict with such PRC Law, to keep this Agreement effective and/or to dispose of the Pledged Equity in accordance with this Agreement, the Pledgers shall promptly take any action and/or execute any agreement or other document upon written instruction by the Pledgee and as reasonably required by the Pledgee, so as to:

- (1) keep this Agreement effective;
- (2) facilitate the disposal of the Pledged Equity in accordance with this Agreement; and/or
- (3) keep or realize the security created or intended by this Agreement.

## Article 10 Effectiveness and Term of this Agreement

- 10.1 This Agreement shall come into effect upon the satisfaction of all of the following conditions:
  - (1) this Agreement has been duly executed by the Parties;
  - (2) the Equity Pledge under this Agreement has been legally recorded in

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the register of shareholders of the Company.

- 10.2 The term of this Agreement shall end upon the full performance of the Contractual Obligations or upon the full discharge of the Secured Debts.

#### Article 11 Notices

- 11.1 All notices between the Parties in connection with the performance of the rights and obligations under this Agreement shall be made in writing and shall be delivered in person, by registered mail, postage prepaid mail, recognized express mail, facsimile to the party concerned.
- 11.2 If any of such notices or other correspondences is transmitted by facsimile or telex, it shall be deemed delivered immediately upon transmission; if delivered in person, it shall be deemed delivered at the time of delivery; if sent by post, it shall be deemed delivered five (5) days after dispatch.

#### Article 12 Miscellaneous

- 12.1 Without consent of the Pledgers, the Pledgee may transfer its rights and/or obligations hereunder to any third party upon notifying the Pledgers, however, the Pledgers may not transfer their rights, obligations and/or liabilities hereunder to any third party without the prior written consent of the Pledgee. The successors or permitted assignees (if any) of the Pledgers shall continue to perform the respective obligations of the Pledgers under this Agreement.
- 12.2 This Agreement is made in triplicate (3 copies), with one (1) original to be retained by each Party hereto. More originals may be executed (when necessary) for the purpose of registration or filing formalities.
- 12.3 The conclusion, validity, performance, amendment, interpretation and termination of this Agreement shall be governed by the PRC Law.
- 12.4 Any dispute arising out of or relating to this Agreement shall be settled through amicable negotiations between the Parties. If any dispute cannot be resolved through negotiations within thirty (30) days, the dispute shall be referred to Shanghai International Economic and Trade Arbitration Commission for arbitration in accordance with the commission's arbitration rules. The seat of arbitration shall be Shanghai. The arbitration award shall be final and binding upon the Parties. The Pledgers hereby authorize the arbitrator the right to deliver remedies for the equity shares and property of

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Shanghai Shu'an Data Service Co., Ltd., to issue injunctions, or to make arbitration award requiring the liquidation of Shanghai Shu'an Data Services Co., Ltd.. After the arbitration award takes effect, any party shall have the right to submit an application to a court with jurisdiction for enforcement of the arbitration award. The competent court shall have the right to grant a provisional remedy on request by the disputing party, such as a judgment or an order to seize or freeze the breaching party's properties or equity shares.

- 12.5 Any right, power or remedy granted to a Party by any provision of this Agreement shall not preclude the Party from any right, power or remedy granted by other provisions of this Agreement, and any exercise of any right, power and remedy by a Party shall not preclude the Party from exercising other rights, power and remedies.
- 12.6 No failure or delay by any Party in exercising any right, power or remedy (the "Said Party's Rights") provided by law or under this Agreement shall constitute a waiver of the Said Party's Rights and no single or partial waiver of any Said Party's Rights shall preclude the exercise of any Said Party Rights in other means or the exercise of any other Said Party's Rights.
- 12.7 The headings hereof have been inserted for convenience of reference only, under no circumstances shall such headings be construed to affect the meaning, construction or effect of this Agreement.
- 12.8 The provisions of this Agreement are severable and independent to one another. If at any time one or several articles herein shall be deemed invalid, illegal or unenforceable, the validity, legality or enforceability of other provisions herein shall not be affected thereby.
- 12.9 Any amendments or supplements to this Agreement shall be made in writing. Except for the assignment by the Pledgee of its rights hereunder pursuant to Article 12.1, the amendments or supplements to this Agreement shall take effect only upon the due execution by the Parties to this Agreement.
- 12.10 Subject to the provisions in the above-mentioned Article 12.1, this Agreement shall be binding on the legal successors of the Parties.
- 12.11 Upon request of the Pledgee, the Pledgers shall execute a power of attorney (the "Power of Attorney", refer to Exhibit 2 of this Agreement) to authorize any person designated by the Pledgee (the "Trustee") to execute on the Pledgers's behalf pursuant to this Agreement any and all legal documents necessary for the exercise of the Pledgee's rights hereunder. Such Power of Attorney shall be delivered to the Pledgee to keep once executed and, when

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necessary, the Pledgee may at any time submit the Power of Attorney to the relevant government authorities. When and only when the Pledgee issues a written notice to the Pledgers to dismiss and replace the Trustee shall the Pledgers immediately revoke the entrustment of the existing Trustee under this Agreement and entrust another Trustee designated by the Pledgee at the time to execute any and all necessary legal documents on behalf of the Pledgers in accordance with the stipulations of this Agreement; the new Power of Attorney shall replace the original Power of Attorney once made. Under no other circumstances shall the Pledgers revoke the Power of Attorney to the Trustee.

[Remainder of this page intentionally left blank]

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In witness whereof, this Equity Interest Pledge Agreement is executed by and between the following parties on the date and at the place first above written.

#### William Wei Huang

Signature: /s/ William Wei Huang

#### Qiuping Huang

Signature: /s/ Qiuping Huang

#### Shanghai Free Trade Zone GDS Management Co., Ltd.

(Seal)

Signature: /s/ William Wei Huang

Name: William Wei Huang

Title: Legal Representative

Signature page of Equity Interest Pledge Agreement

Exhibit 1:

#### Company Profile

Company Name: Shanghai Shu'an Data Services Co., Ltd.

Registered Address: Room 432, No.26 and 28 Jiangchangsan Road, Shanghai

Registered Capital: RMB 10,000,000

Legal Representative: William Wei Huang

Share Structure:

Shareholder's/Pledger's name	Share of Registered Capital	Proportion of Capital Contribution
William Wei Huang	RMB 9,990,000	99.9%
Qiuping Huang	RMB 10,000	0.1%

Exhibit 2:

**Format of Power of Attorney**

I, \_\_\_\_\_, hereby irrevocably entrust \_\_\_\_\_ [ID Card No.: \_\_\_\_\_], as my trustee, to execute the legal documents in connection with the exercise of the shareholder's rights (including but not limited to the transfer of such shares, excluding the attendance of shareholder's meetings of the Company and the exercise of voting right of shareholder in such meetings) corresponding to all the shares I hold in Shanghai Shu'an Date Services Co., Ltd..

Signature:

Date

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**Shareholder Voting Rights Proxy Agreement**

**Concerning**

**Shanghai Shu'an Data Services Co., Ltd.**

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**Between**

**Shanghai Free Trade Zone GDS Management Co., Ltd.**

**Shanghai Shu'an Data Services Co.,Ltd.**

**and**

**Willian Wei Huang**

**Qiuping Huang**

Date: April 13, 2016

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**Shareholder Voting Rights Proxy Agreement**

This Voting Proxy Agreement (the "**Agreement**") is entered into on date April 13, 2016 in Shanghai, People's Republic of China ("**PRC**") by and between:

**Shanghai Free Trade Zone GDS Management Co., Ltd.** (hereinafter referred to as "**WFOE**")

**Registered Address:** Room 4056, 4<sup>th</sup> Floor, 173 Meisheng Road, China (Shanghai) Pilot Free Trade Zone, China

**Legal Representative:** Willian Wei Huang

**Shanghai Shu'an Data Services Co.,Ltd. ("GDS Shanghai")**

**Registered Address:** Room 432, No. 26, 28 Jiangchangsan Road, Shanghai

**Legal Representative:** Willian Wei Huang

**Willian Wei Huang**

**ID Card No.:** 31010719671101125x

**Qiuping Huang**

**ID Card No.:** 31010719611116122x (referred to collectively with Willian Wei Huang as the "**Shareholders**")

(In this Agreement, the above parties are referred to individually as a "**Party**" and collectively as the "**Parties**".)

Whereas:

The Shareholders are the current equity holders of GDS Shanghai, aggregately holding all shares of GDS Shanghai;

The Shareholders intend to appoint an individual designated by WFOE to exercise their voting rights in GDS Shanghai, and WFOE agrees to designate an individual to accept such appointment.

Now, therefore, the Parties reach the agreement as follows through amicable negotiation:

**Article 1 Voting Proxy**

1.1 The Shareholders hereby irrevocably undertake that they will, upon WFOE's written notification during the term of this Agreement and subject to the stipulations of Section 1.2 of this Agreement, execute a Power of Attorney to authorize (ID Card No.: ) to exercise following rights of them as shareholders of GDS Shanghai pursuant to the articles of association of GDS Shanghai in force at the time:

- (1) right to attend shareholders' meeting on behalf of the Shareholders;

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- (2) right to make decisions on behalf of the Shareholders on issues to be deliberated by the shareholders (including but not limited to the designation and election of directors, general manager and other senior managements of GDS Shanghai);

- (3) any voting rights of the shareholders as prescribed by law;

- (4) other voting rights of shareholders under the articles of association of GDS Shanghai (including any other voting rights of shareholders under revised and restated articles of association);

- (5) right to endorse any shareholder meeting minutes, shareholder resolutions or other legal documents; and

- (6) right to submit documents to relevant company registration authorities for record and filing on behalf of the Shareholders.

GDS Shanghai hereby irrevocably undertakes that it will, upon WFOE's written notification during the term of this Agreement and subject to the stipulations of Article 1.2 of this Agreement, execute a Power of Attorney to authorize [ ] (ID Card No.: , together with the above-mentioned authorized agent, are collectively referred to as the "**Proxy**") to exercise following rights of GDS Shanghai as the shareholder of its subsidiaries pursuant to the articles of association of the subsidiaries in force at the time(the rights referred to in this Section, together with the above-mentioned rights, are collectively referred to as "**Entrusted Rights**"):

- (1) right to attend shareholders' meetings of its subsidiaries on behalf of GDS Shanghai;

- (2) right to make decisions on behalf of GDS Shanghai on matters of its subsidiaries to be deliberated by GDS Shanghai as the shareholder of GDS Shanghai (including but not limited to the appointment and election of directors, general manager and other senior managements of its subsidiaries);

- (3) any voting rights of GDS Shanghai as the equity holder of its subsidiaries as prescribed by law;

- (4) other voting rights of shareholders under the articles of association of the subsidiaries of GDS Shanghai (including any other voting rights of shareholders under any revised and restated articles of association);

- (5) right to endorse any shareholder meeting minutes, shareholder's resolutions or other legal documents on behalf of GDS Shanghai as shareholder of its subsidiaries; and

- (6) right to submit documents to relevant company registration authorities for record and

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filing on behalf of GDS Shanghai.

1.2 The above-mentioned authorizations and assignments are subjected to the conditions that the Proxy is a PRC citizen and that WFOE agrees to the authorizations and assignments. When and only when WFOE issues a written notice to the Shareholders to dismiss and replace the Proxy shall the Shareholders immediately revoke the entrustment of the existing Proxy under this Agreement and entrust another PRC citizen designated by WFOE at the time to exercise the Entrusted Rights in accordance with the stipulations of this Agreement; the new authorization shall replace the original authorization once made. Under no other circumstances shall the Shareholders revoke the authorization or entrustment to the Proxy.



- 1.3 WFOE shall ensure that the Proxy fulfills the entrusted duties within the scope of authorization under this Agreement with due diligence and as prescribed by law; the Shareholders acknowledge and shall be held liable for any legal consequence arising from the Proxy's exercise of the above-mentioned Entrusted Rights.
- 1.4 The Shareholders hereby confirm that prior approvals from the Shareholders are not required for the Proxy to exercise the above-mentioned Entrusted Rights. WFOE shall nonetheless ensure that the Proxy promptly inform the Shareholders of any such decision after the decision is made.

#### Article 2 Right to Information

The Proxy designated in accordance with Section 1.1 of this Agreement shall, for the purpose of exercising the Entrusted Rights under this Agreement, have the right to learn about relevant information on the operation, business, clients, finance, employees and other information of GDS Shanghai and its subsidiaries and to access relevant data (including but not limited to any account book, statement, contract, internal communication, all meeting minutes of the board of directors, and other documents which are related to the financial, business and operational activities) of GDS Shanghai and its subsidiaries, and GDS Shanghai shall provide full cooperation.

#### Article 3 Exercise of Entrusted Rights

- 3.1 The shareholders and GDS Shanghai shall provide sufficient assistance to facilitate the Proxy's exercise of the Entrusted Rights, including prompt execution of shareholder resolution or other relevant legal documents made by the Proxy for GDS Shanghai and its subsidiaries if necessary (e.g. documents required to be submitted to government agencies for examination and approval, registration, and/or filing).
- 3.2 If, at any time during the term of this Agreement, the conferral or exercise of the Entrusted Rights under this Agreement is unenforceable for any reason (except for the breach by the Shareholders or GDS Shanghai), the Parties shall immediately seek an alternative scheme most similar to the unenforceable provision, and, if necessary, execute a supplemental

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agreement or modify or revise the provisions of this Agreement to ensure the continuous realization of the purpose of this Agreement).

#### Article 4 Exemption and Compensation

- 4.1 The Parties acknowledge that WFOE shall not be held liable or compensate (monetary or otherwise) to other Parties or any third party for the exercise of the Entrusted Rights under this Agreement by Proxys designated by WFOE.
- 4.2 GDS Shanghai and the Shareholders agree to compensate WFOE and the Proxy for and hold them harmless against all losses incurred or likely to incur from the exercise of the Entrusted Rights by the Proxy, including but not limited to any loss incurred from any litigation, demand, arbitration or claim initiated or raised by any third party or from any administrative investigations or penalties by governmental authorities. However, losses incurred due to willful misconduct or gross negligence of WFOE or the Proxy shall not be compensated.

#### Article 5 Representations and Warranties

- 5.1 The Shareholders hereby represent and warrant that:
- 5.1.1 they are PRC citizens with full capacity of action, full and independent legal status, and legal capacity, and are capable of acting independently as a subject of proceedings.
- 5.1.2 they have full capacity and power to execute and deliver this Agreement and all other documents to be executed by them for the transaction referred to in this Agreement and they have full capacity and power to complete the transaction referred to in this Agreement.
- 5.1.3 this Agreement is executed and delivered by the Shareholders lawfully and properly; this Agreement constitutes the legal and binding obligations on them and is enforceable against them in accordance with the terms and conditions hereof.
- 5.1.4 they are all the registered shareholders of GDS Shanghai as of the effective date of this Agreement, and except the rights created by this Agreement, the *Equity Pledge Agreement* executed by and between the Shareholders and WFOE, and the *Exclusive Call Option Agreement* executed by and between the Shareholders, GDS Shanghai and WFOE, no third party rights existed on the Entrusted Rights. In accordance with this Agreement, the Proxys may fully and sufficiently exercise the Entrusted Rights pursuant to the effective articles of association of GDS Shanghai at the time.
- 5.2 WFOE and GDS Shanghai hereby respectively represents and warrants that:

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- 5.2.1 it is a limited liability company duly incorporated and validly existing under the PRC law as an independent judicial person and with complete, independent legal status and legal competence to execute, deliver and perform this Agreement, and with the capacity as an independent subject of proceedings.
- 5.2.2 it is vested with full internal capacity and power to execute and deliver this Agreement and all other documents to be executed by it in relation to the transaction referred to in this Agreement and to complete the transaction referred to in this Agreement.
- 5.3 GDS Shanghai further represents and warranties that the shareholders are all the registered shareholders of GDS Shanghai on the effective date of this Agreement. In accordance with this Agreement, the Proxys may fully and sufficiently exercise the Entrusted Rights pursuant to the effective articles of association of GDS Shanghai at the time.

#### Article 6 Term of Agreement

- 6.1 This Agreement takes effect as of the date of due execution by the Parties hereto, unless terminated in advance by written agreement between all the Parties or pursuant to the stipulations in Section 8.1 of this Agreement.
- 6.2 If any Shareholder transfers all of its equity interest in GDS Shanghai with prior consent from WFOE, such Shareholder shall cease to be a party to this Agreement, while the obligations and commitments of other parties shall not be negatively affected.

#### Article 7 Notice

- 7.1 All notices to be made by the Parties in connection with the performance of the rights and obligations under this Agreement shall be in writing and be delivered in person, by registered mail, postage prepaid mail, recognized express mail, or facsimile to the party concerned.
- 7.2 If any of such notices or other correspondences is transmitted by facsimile or telex, it shall be deemed delivered immediately upon transmission; if delivered in person, it shall be deemed delivered at the time of delivery; if sent by post, it shall be deemed delivered five (5) days after dispatch.

#### Article 8 Breach of Agreement

- 8.1 The Parties agree and acknowledge that, any material breach of any provision of this Agreement, or substantial non-performance of this Agreement by any Party (the "**Breaching Party**") constitutes a breach of the Agreement (the "**Breach**"). Any of the non-breaching parties (the "**Non-breaching Parties**") shall be entitled to require the

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Breaching Party to correct or take remedial measures within a reasonable time. Where the Breaching Party does not take any remedy measures in a reasonable time or within 10 days after the written notice from the Non-breaching Party to request remedial measures, if the breaching party is any of the Shareholders or GDS Shanghai, then the Non-breaching Parties, at its discretion, shall have the right to: (1) terminate this Agreement and require full compensation from the Breaching Party; or (2) request for compulsory performance of the obligations of the Breaching Party under this Agreement and request for full compensation from the Breaching Party under this Agreement; if the Breaching Party is WFOE, then the Non-breaching Parties shall have the right to request for compulsory performance of the obligations of the Breaching Party under this Agreement and request for full compensation from the Breaching Party under this Agreement.

- 8.2 The Parties agree and acknowledge that the Shareholders or GDS Shanghai shall under no circumstances prematurely terminate this Agreement for whatever reasons, unless otherwise specified in this Agreement or required by law.
- 8.3 Notwithstanding any other provisions herein, the effect of this Article shall survive the suspension or termination of this Agreement.

#### Article 9 Miscellaneous

- 9.1 This Agreement is made in quadruplicate (4 copies), with each Party holding a copy.
- 9.2 The conclusion, validity, performance, amendment, interpretation and termination of this Agreement shall be governed by the PRC law.

9.3 The Parties shall settle any dispute arising out of or relating to this Agreement through amicable negotiation. If any dispute cannot be resolved through negotiations within thirty (30) days, the dispute shall be referred to Shanghai International Economic and Trade Arbitration Commission for arbitration in accordance with the commission's arbitration rules. The seat of arbitration shall be Shanghai. The arbitration award shall be final and binding upon the Parties. After the arbitration award takes effect, any Party shall have the right to submit an application to a court with jurisdiction for enforcement of the arbitration award. The competent court shall have the right to grant a provisional remedy on request by the disputing party, such as a judgment or an order to seize or freeze the Breaching Party's properties or equity shares.

9.4 Any right, power or remedy granted to a Party by any provision of this Agreement does not preclude the Party from any right, power or remedy granted by law or other provisions of this Agreement; any party's exercise of its right, power and remedy by a Party shall not preclude the Party from exercising its other rights, powers and remedies.

9.5 No failure or delay by any Party in exercising any right, power or remedy (the "Said Party's Rights") provided by law or under this Agreement shall constitute a waiver of the

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Said Party's Rights and no single or partial waiver of any Said Party's Rights shall preclude the exercise of any Said Party's Rights in other means or the exercise of any other Said Party's Rights.

9.6 The headings hereof have been inserted for convenience of reference only, under no circumstances shall such headings be construed to affect the meaning, construction or effect of this Agreement.

9.7 The provisions of this Agreement are severable and independent to one another. If at any time one or several articles herein shall be deemed invalid, illegal or unenforceable, the validity, legality or enforceability of other provisions herein shall not be affected thereby.

9.8 Any amendment or supplement of this Agreement shall be made in writing and duly executed by all parties herein before taking effect.

9.9 Without prior written consent from other Parties, no Party may transfer any of its rights and/or obligations under this Agreement to any third Party.

9.10 This Agreement is binding on the lawful successors and assignees of the Parties.

[Remainder of this page intentionally left blank]

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In witness whereof, this Shareholder Voting Right Proxy Agreement is executed by and between the following parties on the date and at the place first above written.

**Shanghai Free Trade Zone GDS Management Co., Ltd.**

(Seal)

Signature: /s/ William Wei Huang

Name: William Wei Huang

Title: Legal Representative

**Shanghai Shu'an Data Services Co., Ltd.**

(Seal)

Signature: /s/ William Wei Huang

Name: William Wei Huang

Title: Legal Representative

**William Wei Huang**

Signature: /s/ William Wei Huang

**Qiuping Huang**

Signature: /s/ Qiuping Huang

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## Intellectual Property Rights License Agreement

This Intellectual Property Rights License Agreement (the “**Agreement**”) is entered into on date April 13, 2016 in Shanghai, People’s Republic of China (“**PRC**”) by and between:

**Licensor:****Shanghai Shu’an Data Services Co., Ltd.**

Registered Address: Room 432, No.26 & 28 Jiangchangan Road, Shanghai

Legal Representative: William Huang Wei

**Licensee:****Shanghai Free Trade Zone GDS Management Co., Ltd.**

Registered Address: Room 4056, 4<sup>th</sup> Floor, 173 Meisheng Road, China (Shanghai) Pilot Free Trade Zone

Legal Representative: William Huang Wei

(The Licensor and the Licensee are hereinafter collectively referred to as the “**Parties**”)

**Whereas:**

The Licensee is a wholly owned foreign enterprise duly incorporated and validly existing in China under the laws of the PRC;

The Licensor is a limited liability company duly incorporated and validly existing in China under the laws of the PRC;

The Parties agree that the Licensor will exclusively license the Licensee to use the Licensor’s Intellectual Property Rights (as defined in Article 1.1) in accordance with the terms and conditions of this Agreement.

Now, therefore, the Parties through amicable negotiation agree as follows:

**1. License****1.1 License of Intellectual Property Rights**

The Licensor agrees and will cause its subsidiaries to agree to grant a license to the

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Licensee in accordance with the provisions of this Agreement, the Licensee agrees to accept from the Licensor and its subsidiaries the license to all the intellectual property rights in the possession of the Licensor and its subsidiaries, including but not limited to the intellectual property rights as shown in the Exhibit (which may be updated from time to time) in part and in full (the “**Intellectual Property Rights**”), or the right to use the Intellectual Property Rights to carry out business activities.

**1.2 Nature**

The intellectual property rights license under this Agreement is an exclusive license. Without a prior written agreement between the Parties, the Licensor and its subsidiaries can use the Intellectual Property Rights only in their own business operation, and shall not, take any actions, including but not limited to the transfer of the Intellectual Property Rights, direct or indirect, in any process other than their normal business process, to any third party in any forms, that will affect or likely to affect the Licensee’s use of the Intellectual Property Rights.

**1.3 Geographic Restrictions**

The license granted by the Licensor and its subsidiaries in accordance with this Agreement is free of geographic restrictions.

**1.4 Licensor’s Consent**

In case the Licensee implements an intellectual property right that is not covered in this Agreement (the “**New Intellectual Property Right**”), the Licensor acknowledges and agrees and will cause its subsidiaries to acknowledge and agree that the Licensee shall have any and all rights and interests in the New Intellectual Property Right, including but not limited to the rights to own, possess, use, dispose of, and profit from the New Intellectual Property Right, without the need to get the consent from the Licensor and its subsidiaries or to pay any fees to the Licensor and its subsidiaries, regardless of whether or not the New Intellectual Property Right is dependent on the Intellectual Property Rights under this Agreement, or whether or not it is the variation or modification of the Intellectual Property Rights under this Agreement, either in form or in essence. The Licensor and its subsidiaries are under the obligation to assist the Licensee to go through formalities relating to the New Intellectual Property Right, including but not limited to the execution of necessary written documents.

**2. License Fee**

Unless otherwise agreed upon by the Parties, the license under this Agreement is free of charge.

**3. Confidential Obligations****3.1** For the purposes of this Agreement, “**Confidential Information**” refers to any of the following information, in part or in full: confidential data and information provided to the Licensee by the Licensor (including its subsidiaries) for the performance of this Agreement, including but not limited to technical information, documents, schemes, data, parameters, standards, software, computer programs; any contracts, agreements, MOUs, exhibits, protocols or records signed by the Parties for the purpose of this Agreement (including this Agreement); and any information that is not specified as public information when it is provided by one party to the other party.

Except as stipulated in Article 3.2, the Parties shall keep in confidential any Confidential Information to which it has access during the performance of this Agreement and any Intellectual Property Rights under this Agreement that have not been made public; once this Agreement is terminated, the Parties shall return any documents, data, software or other tangible carriers that contain Confidential Information as required by the original owner or the disclosing party of the Confidential Information, or destroy by consent of the original owner or disclosing party, and shall not continue to use such Confidential Information; without prior written consent from the owner or the disclosing party of the Confidential Information, neither party to this Agreement shall disclose, give or transfer such Confidential Information to any third party; both Parties shall take necessary measures to disclose Confidential Information only to their employees, agents or professional advisers who are necessary to learn about, and to cause the said employees, agents or professional advisers to comply with the confidential obligations under this Agreement.

**3.2** The above confidentiality obligations shall not apply to the information which:

3.2.1 already enters the public domain at the time of disclosure;

3.2.2 is publicly available after disclosure other than through the fault of either party to this Agreement;

3.2.3 is already possessed by a party before disclosure and not received from the other party directly; or

3.2.4 is disclosed by any party to relevant government authorities, stock exchange, etc. under the obligation as prescribed by law or court orders, or is disclosed to its legal counsel and financial consultant to the extent required by its normal operations.

**3.3** The Parties agree that this article shall survive the modification, rescission or termination of this Agreement.**4. Representations and Warranties****4.1** The Licensor represents and warrants that:

4.1.1 The Licensor is a company duly incorporated and existing under the laws and regulations of PRC with legal and full power and rights to carry out business and possess and exploit its assets and has secured and maintained all approvals and permits as legally required for its business operations;

4.1.2 The Licensor will execute and perform this Agreement within its corporate power and business scope; has taken necessary corporate actions, has been properly authorized, has received necessary consents and approvals from a third party or governmental authorities, and will not violate the laws or contractual restrictions having binding force or influence on it;

4.1.3 Once this Agreement is executed, it shall constitute a legal, valid, binding obligation on the Licensor, enforceable against it in accordance with its terms.

4.1.4 The Licensor (including its subsidiaries) is the legitimate owner of the Intellectual Property Rights under this Agreement.

4.1.5 The Licensor will and will cause its subsidiaries to promptly execute any and all documents that the Licensee deemed necessary in connection with the licensed Intellectual Property Rights and to promptly handle or give assistance in handling the formalities that the Licensee deems necessary in connection with the licensed Intellectual Property Rights.

4.2 The Licensee represents and warrants that:

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4.2.1 The Licensee is a company duly incorporated and existing under the laws of PRC.

4.2.2 The Licensee will execute and perform this Agreement within its corporate power and business scope; has taken necessary corporate actions, has been properly authorized, has received necessary consents and approvals from a third party or governmental authorities, and will not violate the laws or contractual restrictions having binding force or influence on it;

4.2.3 Once this Agreement is signed, it will constitute a legal, valid and binding obligations on the Licensee, enforceable against the Licensee in accordance with its terms.

## 5. The Licensor further warrants that

5.1 The Licensor agrees and will cause its subsidiaries to agree that, during the term of this Agreement and thereafter, neither all the Licensee's rights to the Intellectual Property Rights under this Agreement nor the validity of this Agreement will be questioned, and no act or omission that is deemed by the Licensee to be prejudicial or likely prejudicial to such rights and license will be implemented.

5.2 The Licensor agrees and will cause its subsidiaries to agree that they will provide assistance to the Licensee to facilitate the Licensee's exercise of its rights to the Intellectual Property Rights under this Agreement and all other relevant rights. In case any claim on the Intellectual Property Rights is brought about by a third party, the Licensee may at its own discretion respond to the compensation claim in its own name, in the name of Licensor (including its subsidiaries) or in the name of both Parties. The Licensor (including its subsidiaries) shall notify the Licensee in writing of any infringements by any third party of the above-mentioned Intellectual Property Rights which may come to the Licensor's (including its subsidiaries) attention, and the Licensee shall have the sole right to determine whether or not any action shall be taken on account of any such infringements.

5.3 The Licensor agrees and will cause its subsidiaries to agree not to use the Intellectual Property Rights in such a way that the Licensee deems to be prejudicial or potentially prejudicial to the Intellectual Property Rights or the business reputation of either party.

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## 6. Quality Terms and Advertisement

6.1 Both Parties acknowledge the value of business reputation that is in connection with the Intellectual Property Rights and will take reasonable efforts to improve their business quality to facilitate the protection and consolidation of the business reputation represented by the above-mentioned Intellectual Property Rights.

6.2 The Licensor agrees and will cause its subsidiaries to agree that they will not make public or place advertisement for the Intellectual Property Rights under this Agreement on radio, television, newspaper, journals, Internet and/or other media without prior written consent of the Licensee.

## 7. Breach of Agreement

If a party fails to perform any of its obligations under this Agreement or if any of a party's representation or warranty under this Agreement is materially untrue or inaccurate, such party shall be deemed to have breached this Agreement and shall compensate all losses sustained by the other party.

## 8. Effective Date and Term

8.1 This Agreement comes into effect as of the date first above written. Unless earlier terminated in accordance with relevant provisions of this Agreement, the term of this Agreement shall be ten (10) years.

8.2 The Parties shall extend the term of this Agreement and shall execute another Intellectual Property Rights License Agreement or continue to perform this Agreement upon the request of the Licensee prior to the expiration thereof.

## 9. Filing

The Parties shall go through the filing formalities at intellectual property rights administration authorities for the Intellectual Property Rights license in accordance with applicable laws of PRC (if applicable) within three (3) months after the execution date of this Agreement and the date the Licensor (including its subsidiaries) has secured all certificates corresponding to the Intellectual Property Rights (if required). The Parties agree to execute or provide relevant documents necessary for the filing formalities in accordance with the principles stipulated in this Agreement and the requirements of applicable laws. If the Parties decide to make any

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amendments or supplements to this Agreement in accordance with the provisions of Article 16, the Parties shall go through the filing formalities (if applicable) at intellectual property rights administration authorities for the amendments or supplements in accordance with applicable laws of PRC. The Parties agree to execute or provide relevant documents necessary for the filing formalities in accordance with this Agreement and the requirements of applicable laws and regulations.

## 10. Termination

10.1 Unless extended in accordance with relevant provisions of this Agreement, this Agreement will be terminated on its expiry date or on the date when the license of the Intellectual Property Rights of the Licensor (including its subsidiaries) are terminated (whichever comes first).

10.2 No party can terminate this Agreement prematurely during the term of this Agreement unless agreed upon by both Parties. Notwithstanding the afore-mentioned provisions, the Licensee shall have the right to terminate this Agreement at any time by sending a thirty (30) days prior written notice to the Licensor.

10.3 Articles 3, 4.1, 5, 14 and 15 shall survive after this Agreement is terminated or rescinded.

## 11. Force Majeure

11.1 "Events of Force Majeure" refers to any events that are beyond the reasonable control of a party and cannot be avoided with reasonable care by the Affected Party, including but not limited to government acts, natural disasters, fire, explosion, storm, flood, earthquake, tide, lightning or war. However, insufficient credit, capital or financing shall not be deemed as matters beyond the reasonable control of a party. The party under the impact of an event of force majeure (the "Affected Party") shall be exempted from its obligations in part or in full depending on the extent of the impact of the event of force majeure. Any Affected Party seeking to be exempted from its obligations under this Agreement because of an event of force majeure shall notify the other party of the event of force majeure no later than ten (10) days after the occurrence of the event of force majeure, and the Parties shall revise this Agreement according to the impact of the event of force majeure and exempt the obligations of the Affected Party under this Agreement in part or in full.

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11.2 The Affected Party shall take appropriate measures to minimize or eliminate the effects of the event of force majeure and shall endeavor to resume the performance of its obligations delayed or obstructed by the event of force majeure in order to be exempted from its obligations only to the extent of the delayed or obstructed part. The Parties agree to make utmost efforts to resume exercise of their rights and performance of their obligations under this Agreement once the event of force majeure is eliminated.

## 12. Notification

All notices between the Parties in connection with the performance of the rights and obligations under this Agreement shall be made in writing and shall be delivered in person, by registered mail, postage prepaid mail, recognized express mail, facsimile to the party concerned.

## 13. Assignment and Sublicense

Without a prior written consent from the Licensee, the Licensor shall neither assign any of its rights or obligations under this Agreement, nor sublicense the Intellectual Property Rights under this Agreement in any form to any third party. The Licensor shall not take any other actions that may have adverse impact on the Licensee's rights under this Agreement.

**14. Dispute Resolution**

14.1 In case there is any dispute on the interpretation and performance of any provision under this Agreement, the Parties shall settle the dispute through amicable negotiation in good faith. If the dispute cannot be resolved through negotiation, either party may submit the dispute to Shanghai International Economic and Trade Arbitration Commission for arbitration in accordance with its arbitration rules in force at the time. The arbitration shall be carried out in Shanghai using the Chinese language. The arbitration award shall be final and binding on both Parties. The provisions of this Article shall survive the termination or rescindment of this Agreement.

14.2 Except for the matters under dispute, the Parties shall continue to exercise their respective rights and perform their obligations under this Agreement in good faith.

**15. Governing Law**

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The execution, validity, performance, interpretation, and dispute resolution of this Agreement shall be governed and interpreted by the laws of PRC.

**16. Amendments and Supplements**

Any amendment or supplement to this Agreement shall be taken effect only after a written agreement thereto is duly executed by the Parties. The amendment or the supplement thereto duly executed by the Parties shall be part of this Agreement and shall be equally authentic with this Agreement.

**17. Severability**

The Parties hereby acknowledge that this Agreement is a fair and reasonable agreement executed on the basis of equality and mutual benefit. In case any provision or regulation of this Agreement is ruled illegal or unenforceable under the applicable laws, it shall be deemed to be excluded from this Agreement and be null and void, as if such provisions had never been included in this Agreement. However, other provisions of this Agreement shall remain in force. The Parties shall replace the deemed-deleted provisions with lawful and valid provisions acceptable to the Parties through amicable consultations.

**18. Waiver**

No failure by either party in exercising any right, power or privilege hereunder shall be deemed as a waiver of any such right, power or privilege. No single or partial exercise of any right, power or privilege hereunder shall preclude the exercise of any other or further exercise of such right, power or privilege.

**19. Exhibits of the Agreement**

The exhibits to this Agreement are an integral part of this Agreement and have the same legal validity as this Agreement.

**20. Language**

This Agreement is made in duplicate (2 copies) in Chinese.

[Remainder of this page intentionally left blank]

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In witness whereof, the Parties have had their authorized representatives duly signed this Agreement on the date first above written.

**Licensor:**

**Shanghai Shu'an Data Services Co., Ltd.**

Legal Representative: /s/ William Huang Wei

William Huang Wei

**Licensee:**

**Shanghai Free Trade Zone GDS Management Co., Ltd.**

Legal Representative: /s/ William Huang Wei

William Huang Wei

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**Exhibit**

**List of licensed Intellectual Property Rights license**

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**Exclusive Call Option Agreement**

**Concerning**

**Shanghai Shu'an Data Services Co., Ltd.**

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**Between**

**William Wei Huang**

**Qiuping Huang**

**Shanghai Shu'an Data Services Co., Ltd.**

**and**

**Shanghai Free Trade Zone GDS Management Co., Ltd.**

Date: April 13, 2016

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**Exclusive Call Option Agreement**

This Exclusive Call Option Agreement (the "**Agreement**") is entered into by and between the following parties on April 13, 2016 in Shanghai, China :

**William Wei Huang**, a citizen of the People's Republic of China (ID Card No.: 31010719671101125x);

**Qiuping Huang**, a citizen of the People's Republic of China (ID Card No.: 31010719611116122x, hereinafter referred to collectively with William Wei Huang as the "**Existing Shareholders**");

**Shanghai Free Trade Zone GDS Management Co., Ltd.** (hereinafter referred to as the "**WFOE**")

Registered Address: Room 4056, 4<sup>th</sup> Floor, 173 Meisheng Road, China (Shanghai) Pilot Free Trade Zone

**Shanghai Shu'an Data Services Co., Ltd.** ("**GDS Shanghai**")

Registered Address: Room 432, No.26 &28 Jiangchangsan Road, Shanghai

(In this Agreement, the above parties are referred to individually as a "**Party**" and collectively as the "**Parties**".)

Whereas:

The Existing Shareholders are the registered shareholders of GDS Shanghai and in legal possession of 100% if the equity shares of GDS Shanghai on the execution date of this Agreement (general information of GDS Shanghai on the execution date of this Agreement is as shown in Exhibit 1 to this Agreement).

The Existing Shareholders intend to transfer all of their equity shares in GDS Shanghai to WFOE and/or any other entity or individual designated by WFOE without violating PRC law, and WFOE intend to accept the transfer.

In order to carry out the aforesaid transfer of shares, the Existing Shareholders hereby irrevocably grant to WFOE an exclusive call option right to purchase shares (the "**Stock Option**"). To the extent permitted by PRC Law and in accordance with the Stock Option, the Existing Shareholders shall transfer the Option Stock (defined

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below) to WFOE and/or any other entity of individual designated by WFOE according to the requirements of WFOE.

GDS Shanghai agrees that the Existing Shareholders grant the Stock Option to WFOE in accordance with this Agreement.

Now, therefore, the Parties agree as follows through negotiation:

**Article 1 Terms and Definitions**

1.1 Unless otherwise specified or in cases where the context demands a different interpretation, the terms used in this Agreement shall have the following meanings:

<b>"Option Stock"</b>	means, as to the Existing Shareholders, the 100% equity interests held by the Existing Shareholders in the Registered Capital of GDS Shanghai (as defined below).
<b>"Registered Capital of GDS Shanghai"</b>	means, on the execution date of this Agreement, the registered capital of GDS Shanghai of RMB 10,000,000, including any enlarged registered capital after future capital increase within the term of this Agreement.
<b>"Existing Business of GDS Shanghai"</b>	means, on the execution date of this Agreement, the business scope of GDS Shanghai as specified in its business license.
<b>"Transfer of Shares"</b>	means, when WFOE exercises its Stock Option (the " <b>Exercise</b> "), the shares of GDS Shanghai of which it has the right to request the Existing Shareholders to transfer to WFOE or its designated entity or individual pursuant to Article 3.2 of this Agreement. The amount may be part or all of the Option Stock. The specific amount shall be decided by WFOE at its

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absolute discretion according to PRC Law and its business considerations at the time.

<b>"Conversion Price"</b>	means, during each Exercise in accordance with Article 4 of this Agreement, the total consideration paid to the Existing Shareholders for the acquisition of the Shares Transferred by WFOE or its designated entity or natural person.
<b>"Certificates"</b>	means any approval, license, filing, and registration GDS Shanghai shall hold for legal and effective management of the Existing Business and all other business.
<b>"Assets of GDS Shanghai"</b>	means all tangible and intangible assets owned or entitled to use by GDS Shanghai during the term of this Agreement, including but not limited to any real estate, movable property, trademark, copyright, patent, proprietary technology, domain name, software use right and other intellectual properties.
<b>"Principal Agreements"</b>	means the agreements to which GDS Shanghai is a party and have material effect on the business and assets of GDS Shanghai, including but not limited to the Exclusive Technical License and Service Agreement between GDS Shanghai and WFOE and other agreements regarding the business of GDS Shanghai.
<b>"PRC":</b>	Means, for the purpose of this Agreement, the People's Republic of China, excluding Hong Kong, Macau and Taiwan.
<b>"PRC Laws and Regulations"</b>	refers to the laws, administrative regulations, administrative rules, local regulations, judicial interpretations and other binding legal

documents of the People's Republic of China that are in force at the time.

“Upper Limit”	has the same meaning as stipulated in Article 3.2 of this Agreement.
“Exercise Notice”	has the same meaning as stipulated in Article 3.5 of this Agreement.
“Power of Attorney”	has the same meaning as stipulated in Article 3.7 of this Agreement.
“Confidential Information”	has the same meaning as stipulated in Article 8.1 of this Agreement.
“Breaching Party”	has the same meaning as stipulated in Article 11.1 of this Agreement.
“Breach of Contract”	has the same meaning as stipulated in Article 11.1 of this Agreement.
“Said Party's Rights”	has the same meaning as stipulated in Article 12.5 of this Agreement.

1.2 Any citation of PRC Laws and Regulations under this Agreement shall be deemed to:

- (1) simultaneously include the citation of the content of the amendments, adjustments, complements and revisions of PRC Laws and Regulations regardless of whether the effective date is before or after the conclusion of this Agreement; and
- (2) simultaneously include the citation of other decisions, notices and rules made or taking effect pursuant to PRC Laws and Regulations.

1.3 Unless otherwise stipulated in the context of this Agreement, Article, Section, Paragraph and Subparagraph referred to in this Agreement mean relevant content in this Agreement.

#### Article 2 Award of Stock Option

- 2.1 The Existing Shareholders hereby irrevocably grant, without any additional term, exclusively to WFOE the Stock Option, pursuant to which WFOE shall have the right to require the Existing Shareholders to transfer the Option Stock to WFOE or its designated entity or individual, to the extent permitted by PRC Laws and Regulations, in accordance with the procedures specified in this Agreement. WFOE also agrees to accept such Stock Option.
- 2.2 GDS Shanghai hereby agrees that the Existing Shareholders grant WFOE such Stock Option in accordance with the above Article 2.1 and other provisions in this Agreement.

#### Article 3 Exercise Procedures

- 3.1 WFOE shall have the right to decide at its absolute discretion the specific time, procedure and number of exercise to the extent permitted by PRC Laws and Regulations.
- 3.2 If, at the time of the Exercise, PRC Laws and Regulations allow WFOE and/or its designated entity or individual to hold all shares of GDS Shanghai, WFOE shall be entitled to exercise all the Stock Option; if at the time of the Exercise, PRC Laws and Regulations only allow WFOE and/or its designated entity or individual to hold part of the shares of GDS Shanghai, WFOE shall be entitled to decide the amount of the Transferred Shares within the upper limit of the proportion of shares regulated by PRC Laws and Regulations (the “Upper Limit”), and such amount of the Transferred Shares shall be received by WFOE and/or its designated entity or individual from the Existing Shareholders. Under the latter situation, WFOE is entitled to exercise the Stock Option in installments in accordance with the gradual relaxation of the Upper Limit allowed by PRC Laws and Regulations until all the Stock Option has been exercised.
- 3.3 During each Exercise, WFOE shall have the right to decide at its discretion the number of shares to be transferred to itself or its designated entity or individual, the Existing Shareholders shall transfer the Transferred Shares to WFOE and/or its designated entity or individual respectively as required by WFOE. WFOE and/or its designated entity or individual shall pay Conversion Price to the

Existing Shareholders for the Transferred Shares upon each Exercise.

- 3.4 During each Exercise, WFOE may purchase the Transferred Shares by itself or may designate any third party to purchase all or part of the Transferred Shares.
- 3.5 WFOE shall, upon its decision to exercise the Stock Option, issue a written notice to exercise the Stock Option (the “Exercise Notice”, refer to Exhibit 2 for its format) to the Existing Shareholders. The Existing Shareholders shall, within thirty (30) days upon the receipt of the Exercise Notice, make a one-off transfer of the Transferred Shares in whole to WFOE and/or its designated entity or individual in accordance with the Exercise Notice and the provisions of Article 3.3 of this Agreement.
- 3.6 The Existing Shareholders hereby represent and warrant that once WFOE dispatch an Exercise Notice:
  - (1) They shall promptly pass a shareholder resolution and take all necessary actions to agree to the transfer of the Transferred Shares in whole to WFOE and/or its designated entity or individual at the Conversion Price;
  - (2) They shall promptly execute an equity transfer agreement with WFOE and/or its designated entity or individual to transfer the Transferred Shares in whole to WFOE and/or its designated entity or individual at the Conversion Price; and
  - (3) They shall provide necessary support to WFOE in accordance with WFOE's requirements and applicable laws and regulations (including provide and execute all relating legal documents, perform all government approval, registration, filing procedures and bear all the relevant obligations) to enable WFOE and/or its designated entity or individual to obtain the Transferred Shares without legal flaws.
- 3.7 The Existing Shareholders shall, upon the request of WFOE, execute a power of attorney (the “Power of Attorney”, refer to Exhibit 3 for its format) to authorize in writing any person designated by WFOE (the “Trustee”) to represent the Existing Shareholders to execute any and all necessary legal documents to enable WFOE and/or its designated entity or individual to obtain the Transferred Shares without legal flaws. The Power of Attorney shall be kept by WFOE upon execution, and, when necessary, WFOE may at any time require that the

Existing Shareholders to execute multiple duplicates of the Power of Attorney and present them to relevant government authorities. When and only when WFOE issues a written notice to the Existing Shareholders to dismiss and replace the Trustee shall the Existing Shareholders immediately revoke the entrustment of the existing Trustee under this Agreement and entrust another Trustee designated by WFOE at the time to execute any and all necessary legal documents on behalf of the Existing Shareholders in accordance with the stipulations of this Agreement; the new Power of Attorney shall replace the original Power of Attorney once made. Under no other circumstances shall the Existing Shareholders revoke the Power of Attorney to the Trustee.

#### Article 4 Conversion Price

During each Exercise, WFOE or its designated entity or individual shall pay to the Existing Shareholders RMB one (1) only or any price agreed upon by the Parties in writing. If at that time of exercise any regulatory PRC laws and regulations has mandatory provisions on the Conversion Price, WFOE or its designated entity or individual shall be entitled to exercise the option at the regulated minimum price in accordance with the applicable PRC laws and regulations.

#### Article 5 Representations and warranties

- 5.1 The Existing Shareholders hereby make the following representations and warranties, which shall remain at all times in full force as in the occasion when they are made at the time of the transfer of the Option Stock.
  - 5.1.1 The Existing Shareholders are PRC citizens with full capacity of action, full and independent legal status, and legal capacity to execute, deliver and perform this Agreement, and are capable of acting independently as a subject of proceedings.
  - 5.1.2 GDS Shanghai is a limited liability company duly incorporated and validly existing under the PRC Laws and Regulations as an independent judicial person and with complete, independent legal status and legal competence to execute, deliver and perform this Agreement, as an independent subject of proceedings.

- 5.1.3 The Existing Shareholders have full capacity and power to execute and deliver this Agreement and all other documents to be executed by them for the transaction referred to in this Agreement and they have full capacity and power to complete the transaction referred to in this Agreement.
- 5.1.4 This Agreement is legally and appropriately executed and delivered by the Existing Shareholders. This Agreement constitutes a legal and binding obligation on it, enforceable against it in accordance with the terms of the Agreement.
- 5.1.5 At the date of this Agreement, the Existing Shareholders are the registered legal owners of the Option Stock. Except for the rights provided under this Agreement, the Equity Pledge Agreement entered into by and between the Existing Shareholders and WFOE, and the Shareholder Voting Proxy Agreement entered into by and between the Existing Shareholders, WFOE, and GDS Shanghai, the Option Stock is free and clear of any liens, pledge, claims, other security interests and other third-party rights; WFOE and/or its designated entity or individual shall be entitled to the ownership of the Transferred Shares free of any liens, pledge, claims, other security interests and other third-party rights after the Exercise in accordance with this Agreement.

5.2 GDS Shanghai hereby represents and warrants that:

- 5.2.1 GDS Shanghai is a limited liability company duly incorporated and validly existing under PRC Laws and Regulations as an independent judicial person. GDS Shanghai has full and independent legal status and legal capacity to execute, deliver and perform this Agreement, and with capacity as an independent subject of proceedings.
- 5.2.2 It is vested with full internal power and authority to execute and deliver this Agreement and all other documents to be executed by it in relation to the transaction referred to in this Agreement and to complete the transaction referred to in this Agreement.
- 5.2.3 This Agreement is legally and appropriately executed and delivered by GDS Shanghai. This Agreement constitutes a legal and binding obligation on GDS Shanghai.

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- 5.2.4 The Existing Shareholders are the registered legal owners of Option Stock on the date of this Agreement. WFOE and/or its designated entity or individual shall be entitled to the ownership of the Transferred Stock free of any liens, pledge, claims, other security interests and other third-party rights after the Exercise in accordance with this Agreement.
- 5.2.5 On the date of this Agreement, GDS Shanghai has all the Certificates necessary for its operation. GDS Shanghai has sufficient rights and qualifications to operate business within the territory of China. GDS Shanghai has been operating its business lawfully since its foundation and there is no breach or potential breach of the regulations or requirements of Industrial and Commercial Bureau, Tax Bureau, Telecommunication Administration, Administration of Quality Supervision, Inspection and Quarantine, Labor and Social Security Bureau or other government authorities. GDS Shanghai is not involved in any breach of contract dispute.

#### Article 6 Undertakings of the Existing Shareholders

The Existing Shareholders hereby undertake that they will:

- 6.1 Within the term of this Agreement, take all necessary actions to ensure that GDS Shanghai obtain all Certificates for its business operation in a timely manner and maintain the continuous effectiveness of the certificates at all times;
- 6.2 During the term of the Agreement, without prior written consent by WFOE:
- 6.2.1 The Existing Shareholders shall not transfer or dispose of in any other means any Option Stock or create any security interests or third party rights on the Option Stock;
- 6.2.2 The Existing Shareholders shall not increase or decrease Registered Capital of GDS Shanghai;
- 6.2.3 The Existing Shareholders shall not dispose of or cause the management of GDS Shanghai to dispose of any of the Assets of GDS Shanghai (except in the ordinary course of business);

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- 6.2.4 The Existing Shareholders shall not terminate or cause the management of GDS Shanghai to terminate the Principal Agreements or enter into any contract in conflict with the Principal Agreements;
- 6.2.5 The Existing Shareholders shall not appoint or dismiss any of the directors, supervisors or other management personnel of GDS Shanghai that shall be appointed and dismissed by the Existing Shareholders;
- 6.2.6 The Existing Shareholders shall not declare distribution or actual payout of any distributable profits, interests, or dividends;
- 6.2.7 The Existing Shareholders shall ensure the continuous existence of GDS Shanghai and that GDS Shanghai will not be terminated, liquidated or dissolved;
- 6.2.8 The Existing Shareholders shall not modify the Articles of Association of GDS Shanghai; and
- 6.2.9 The Existing Shareholders shall ensure that GDS Shanghai do not lend or borrow any loan, or provide guarantee or provide securities in other means, or assume any material liabilities for those other than arising from the ordinary business operations;
- 6.3 During the term of this Agreement, use its best endeavor to promote GDS Shanghai's business and to ensure the legal operation of GDS Shanghai, without any action or nonfeasance that might damage to the Assets of GDS Shanghai, its reputation, or the effectiveness of its Certificates.

#### Article 7 Undertakings of GDS Shanghai

- 7.1 If any consent, permit, waiver or authorization by any third party, or any approval, permit or exemption by any government authority, or any registration or filing formalities (if required by law) with any government authority is required to be obtained or handled with respect to the execution and performance of this Agreement and the grant of the Stock Option under this Agreement, GDS Shanghai shall endeavor to assist in satisfying the above conditions.

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- 7.2 Without WFOE's prior written consent, GDS Shanghai shall not assist or permit the Existing Shareholders to transfer or otherwise dispose of any Option Stock or create any security interests or other third party rights on any Option Stock.
- 7.3 GDS Shanghai shall not do or permit to be done any behavior or action that may adversely affect the interests of WFOE under this Agreement.

#### Article 8 Confidentiality

- 8.1 Regardless of whether this Agreement is terminated or not, the Existing Shareholders shall be under the obligation to keep strictly confidential the following information (collectively the "Confidential Information"):
- (i) The execution, performance and content of this Agreement;
- (ii) WFOE's business secrets, proprietary information and client information of which the Existing Shareholders may become aware or received in connection with the execution and performance of this Agreement; and
- (iii) Business secrets, proprietary information and client information of GDS Shanghai, of which the Existing Shareholders may become aware or received as the shareholders of GDS Shanghai.

The Existing Shareholders may use the Confidential Information solely in connection with the performance of its obligations hereunder. Without WFOE's written consent, the Existing Shareholders shall not disclose such Confidential Information to any third party, otherwise, the Existing Shareholders shall be held liable for their breaching this Agreement and shall indemnify WFOE against all losses.

- 8.2 Following the termination of this Agreement, the Existing Shareholders shall return, destroy or dispose of properly with other means all documents, data or software and shall stop using such Confidential Information upon the request of WFOE.
- 8.3 Notwithstanding any other provisions herein, the effect of this Article shall survive the suspension or termination of this Agreement.

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#### Article 9 Term of Agreement



This Agreement comes into effect as of its execution date, and shall terminate until all the Option Stock under this Agreement has been transferred to WFOE or its designated entity or individual.

#### Article 10 Notification

- 10.1 All notices to be made by the Parties in connection with the performance of the rights and obligations under this Agreement shall be in writing and be delivered in person, by registered mail, postage prepaid mail, recognized express mail, or facsimile to the party concerned.
- 10.2 If any of such notices or other correspondences is transmitted by facsimile or telex, it shall be deemed delivered immediately upon transmission; if delivered in person, it shall be deemed delivered at the time of delivery; if sent by post, it shall be deemed delivered five (5) days after dispatch.

#### Article 11 Breach of Agreement

- 11.1 The Parties agree and acknowledge that, any material breach of any provision of this Agreement, or substantial non-performance of this Agreement by any party (the "**Breaching Party**") constitutes a breach of the Agreement (the "**Breach**"). Any of the non-breaching parties (the "**Non-breaching Parties**") shall be entitled to require the Breaching Party to correct or take remedial measures within a reasonable time. Where the Breaching Party does not take any remedy measures in a reasonable time or within 10 days after the written notice from the Non-breaching Parties to request remedial measures, if the breaching party is any of the Existing Shareholders or GDS Shanghai, then the Non-breaching Parties, at its discretion, shall have the right to: (1) terminate this Agreement and require full compensation from the Breaching Party; or (2) request for compulsory performance of the obligations of the Breaching Party under this Agreement and request for full compensation from the Breaching Party under this Agreement; if the Breaching Party is WFOE, then the Non-breaching Parties shall have the right to request for compulsory performance of the obligations of the Breaching Party under this Agreement and request for full compensation from the Breaching Party under this Agreement.

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- 11.2 The parties agree and acknowledge that the Existing Shareholders or GDS Shanghai shall under no circumstances prematurely terminate this agreement for whatever reasons.
- 11.3 The rights and remedies stipulated in this Agreement are accumulative, and do not preclude other rights or remedies as prescribed by laws and regulations.
- 11.4 Notwithstanding any other provisions herein, the effect of this Article shall survive the suspension or termination of this Agreement.

#### Article 12 Miscellaneous

- 12.1 This Agreement is made in quadruplicate (4 copies), with each Party holding one (1) copy.
- 12.2 The conclusion, validity, performance, amendment, interpretation and termination of this Agreement shall be governed by PRC Laws and Regulations.
- 12.3 The Parties shall settle any dispute arising out of or relating to this Agreement through amicable negotiation. If any dispute cannot be resolved through negotiations within thirty (30) days, the dispute shall be referred to Shanghai International Economic and Trade Arbitration Commission for arbitration in accordance with the commission's arbitration rules. The seat of arbitration shall be Shanghai. The arbitration award shall be final and binding upon the Parties. The Existing Shareholders hereby authorize the arbitrator the right to deliver remedies for the equity shares of GDS Shanghai, issue injunctions, or arbitration award requiring the liquidation of GDS Shanghai. After the arbitration award takes effect, any Party shall have the right to submit an application to a court with jurisdiction for enforcement of the arbitration award. The competent court shall have the right to grant a provisional remedy on request by the disputing party, such as a judgment or an order to seize or freeze the Breaching Party's properties or equity shares.
- 12.4 Any right, power or remedy granted to a Party by any provision of this Agreement does not preclude the Party from any right, power or remedy granted by law or other provisions of this Agreement; any party's exercise of

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its right, power and remedy by a Party shall not preclude the Party from exercising its other rights, powers and remedies.

- 12.5 No failure or delay by any Party in exercising any right, power or remedy (the "**Said Party's Rights**") provided by law or under this Agreement shall constitute a wave of the Said Party's Rights and no single or partial waiver of any Said Party's Rights shall preclude the exercise of any Said Party's Rights in other means or the exercise of any other Said Party's Rights.
- 12.6 The headings hereof have been inserted for convenience of reference only, under no circumstances shall such headings be construed to affect the meaning, construction or effect of this Agreement.
- 12.7 The provisions of this Agreement are severable and independent to one another. If at any time one or several articles herein shall be deemed invalid, illegal or unenforceable, the validity, legality or enforceability of other provisions herein shall not be affected thereby.
- 12.8 This Agreement upon execution shall supersede any other legal documents on the same subject matter entered into by the Parties hereto. Any amendment or supplement of this Agreement shall be made in writing and duly executed by all parties herein before taking effect.
- 12.9 The Existing Shareholders shall not assign any rights and/or obligations hereunder to any third party without the prior written consent of the WFOE, while WFOE may assign any rights and/or obligations hereunder to its designated third party upon notifying the Existing Shareholders and GDS Shanghai.
- 12.10 This Agreement is binding on the lawful successors and assignees of the Parties.

[Remainder of this page intentionally left blank]

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In witness whereof, this Exclusive Call Option Agreement is executed by and between the following parties on the date and at the place first above written.

#### William Wei Huang

Signature: /s/ William Wei Huang

#### Qiuping Huang

Signature: /s/ Qiuping Huang

#### Shanghai Free Trade Zone GDS Management Co., Ltd.

(Seal)

Signature: /s/ William Wei Huang  
Name: William Wei Huang  
Title: Legal Representative

#### Shanghai Shu'an Data Services Co., Ltd.

(Seal)

Signature: /s/ William Wei Huang  
Name: William Wei Huang  
Title: Legal Representative

Signature page of Exclusive Call Option Agreement

**Basic information of GDS Shanghai**

Company Name: Shanghai Shu'an Data Services Co., Ltd.

Registered Address: Room 432, No.26&28 Jiangchangsan Road, Shanghai

Registered Capital: RMB10,000,000

Legal Representative: Huang Wei

Share Structure:

<u>Name or Shareholder</u>	<u>Share of Registered Capital</u>		<u>Proportion of Capital Contribution</u>
William Wei Huang	RMB	9,990,000	99.9%
Qiuping Huang	RMB	10,000	0.1%

Fiscal Year: January 1 to December 31

Exhibit 1 of Exclusive Call Option Agreement

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Exhibit 2:

**Format of Exercise Notice**

To:

Whereas, our company has entered into an Exclusive Call Option Agreement (“**Call Option Agreement**”) with you and Shanghai Shu'an Data Services Co., Ltd. (“**GDS Shanghai**”) on [Insert the date], 2016, which designated that under circumstances permitted by PRC Laws and Regulations, you shall transfer your equity interests in GDS Shanghai to our company or any third party designated by our company upon our request.

Now, therefore, our company hereby issue the notice as follows:

Our company hereby request to exercise the Stock Option under the Call Option Agreement and requires you to transfer % of the equity interests held by you in GDS Shanghai (the “**Assigned Shares**”) to our company/[insert entity or individual's name] designated by our company. Please transfer all of the Assigned Shares to our company/[insert entity or individual's name] pursuant to the Call Option Agreement within [insert days] days upon receipt of this notice.

Sincerely,

**Shanghai Free Trade Zone GDS Management Co., Ltd.**  
(Seal)  
Authorized representative:  
Date

Exhibit 2 of Exclusive Call Option Agreement

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Exhibit 3:

**Format of Power of Attorney**

I, \_\_\_\_\_, hereby irrevocably entrust [ID Card No.: \_\_\_\_\_], as my entrusted agent, to execute the legal documents among Shanghai Shu'an Data Services Co., Ltd., Shanghai Free Trade Zone GDS Management Co., Ltd. and me on the transfer of equity shares of Shanghai Shu'an Data Services Co., Ltd..

Signature:

Date

Exhibit 3 of Exclusive Call Option Agreement

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**Exclusive Technology License  
and Service Agreement**

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**Between**

**Shanghai Shu'an Data Services Co., Ltd.**

**and**

**Shanghai Free Trade Zone GDS Management Co., Ltd.**

Date: April 13, 2016

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**Exclusive Technology License and Service Agreement**

This Exclusive Technology License and Service Agreement (the "**Agreement**") is entered into by and between the following parties on April 13, 2016 in Shanghai, PRC:

- (1) **Shanghai Shu'an Data Services Co., Ltd.**, a limited liability company duly incorporated and validly existing under the laws of the People's Republic of China, with legal address at Room 432, No. 26, 28 Jiangchangsan Road, Shanghai ("**Party A**"); and
- (2) **Shanghai Free Trade Zone GDS Management Co., Ltd.**, a wholly owned foreign enterprise duly incorporated and validly existing under the laws of the People's Republic of China, with legal address at Room 4056, 4<sup>th</sup> Floor, 173 Meisheng Road, China (Shanghai) Pilot Free Trade Zone ("**Party B**").

(In this Agreement, Party A and Party B are collectively referred to as the "**Parties**", and individually referred to as a "**Party**".)

**Recitals**

Whereas, Party A is a limited liability company duly incorporated and validly existing in Shanghai, China, with technology development, technical consultation, technical service, technology transfer, software development and sale, and computer system integration in the field of computer data processing as its main business scope;

Whereas, Party B is a wholly foreign owned enterprise duly incorporated and validly existing in Shanghai, with investment and business decision-making, capital operation and financial management, R & D and technical support, shared service within the group company, and outsourcing service for offshore companies, employee training and management, marketing service and consulting service relating to the above-mentioned instances as its main business scope;

Whereas, Party A requires Party B to provide its software license and relevant service relating to Party A's business operation (see the definition below), and Party B agrees to provide the aforesaid service to Party A.

Now therefore, the Parties hereby mutually agree as follows through amicable negotiation:

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**Article 1 Terms and Definitions**

1.1 Unless otherwise specified or in cases where the context demands a different interpretation, the terms used in this Agreement shall have the following meanings:

<b>"Party A's Business":</b>	means all business conducted and on the developing made by Party A currently and at any time during the term of this Agreement, including but not limited to technology development and technical service relating to computer disaster recovery backup and data backup.
<b>"Services":</b>	means software license, technical support and other services related to Party A's Business provided by Party B exclusively to Party A, including the data processing solutions for Party A and the implementation of relevant solutions, such services include but not limited to: <ol style="list-style-type: none"> <li>(1) licenses for Party A to use relevant software applications necessary for its business;</li> <li>(2) IT total solutions necessary for Party A's Business;</li> <li>(3) daily management, maintenance, and update of hardware equipment and databases;</li> <li>(4) development, maintenance and update of relevant software application;</li> <li>(5) training of Party A's professional technicians;</li> <li>(6) assistance to Party A in the collection and research of relevant technology information;</li> <li>(7) other relevant technology service and consulting service as required by Party A from time to time.</li> </ol>
<b>"Annual Business Plan":</b>	means the development plan and budget report of Party A's Business for the next calendar year made by Party A pursuant to this Agreement with the assistance of Party B before

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November 30 every year.

<b>"Service Charges":</b>	means all fees paid by Party A to Party B in accordance with Article 3 of this Agreement for the software licenses and other services provided by Party B.
<b>"Equipment":</b>	means any and all equipment, owned by or purchased by Party B from time to time, used or to be used for the provision of Services.
<b>"Business Related Technologies":</b>	means any and all software and technologies related to Party A's Business and developed by Party A (including its subsidiaries) on the basis of the Services provided by Party B under this Agreement.
<b>"Client Information"</b>	has the same meaning as stipulated in Section 1 of Article 6 of this Agreement.
<b>"Confidential Information"</b>	has the same meaning as stipulated in Section 2 of Article 6 of this Agreement.
<b>"Breaching Party"</b>	has the same meaning as stipulated in Section 1 of Article 11 of this Agreement.
<b>"Breach"</b>	has the same meaning as stipulated in Section 1 of Article 11 of this Agreement.
<b>"Said Party's Rights"</b>	has the same meaning as stipulated in Section 5 of Article 13 of this Agreement.
<b>"PRC":</b>	means, for the purpose of this Agreement, PRC refers to the People's Republic of China, excluding Hong Kong, Macau and Taiwan.

1.2 Any citation of any laws and regulations (the "**Laws**") in this Agreement shall be deemed to:

- (1) simultaneously include the citation of the content of the amendments, adjustments,

complements and revisions of the Laws regardless of whether the effective date is before or after the conclusion of this Agreement; and

(2) simultaneously include the citation of other decisions, notices and rules made or taking effect pursuant to the Laws.

1.3 Unless otherwise stipulated in the context of this Agreement, Article, Section, Paragraph and Subparagraph referred to in this Agreement mean relevant content in this Agreement.

#### Article 2 Services

2.1 To better develop Party A's Business, Party A requires that Party B provide the Services for Party A, and Party B agrees to provide such Service to Party A. For this purpose, Party A appoints Party B as its exclusive software and technical service provider and Party B agrees to accept the appointment.

2.2 Party B shall, in accordance with the provisions of this Agreement, provide the Services to Party A and Party A shall facilitate Party B's Services wherever possible.

#### Article 3 Service Charges

3.1 Pursuant to Section 2 of Article 3, Party A agrees to pay the Service Charges for the Services provided by Party B according to Article 2 of this Agreement.

3.2 The Parties agree that the Service Charges shall be paid in accordance with the following stipulations:

- (1) Party A shall pay the equipment depreciation expense to Party B on a monthly basis. Party A shall, before the tenth (10) business day of each month, pay to Party B the equipment depreciation expense equal to the amount calculated by dividing the actual use value of the equipment determined by the Parties at the beginning of every year by the depreciation period.
- (2) Party B shall be entitled to all net profits of Party A's Business (shall include the net profits Party A retained from its subsidiaries) as the consideration of the Services provided by Party B to Party A under this Agreement. To reach an agreement on the

annual Service Charges to be paid by Party A to Party B, after the conclusion of each Party A's fiscal year, the Parties shall calculate the performance Service Charges payable by Party A according to Party A's consolidated total pre-tax gross income and net profit of the previous fiscal year confirmed by the audit report issued by a Chinese certified public accountants firm recognized by both Parties. Party A undertakes to provide the related Chinese certified public accountants firm with all necessary documents and assistance and cause them to complete and issue the audit report for the previous fiscal year to both Party A and Party B within thirty (30) days after the end of every fiscal year. Where any dispute arises between the Parties over the specific amount of the Service Charges determined in accordance with Article 3 of this Agreement, the specific amount of such Service confirmed by Party B shall prevail.

3.3 In accordance with the provisions of this Article, Party A shall transfer the total amount of the Service Charges of the previous year determined per the above-mentioned Article 3.2(2) to the bank account designated by Party B before the date designated by Party B every year. In case Party B changes its bank account, it shall notify Party A in writing of the change seven (7) business days in advance.

3.4 Notwithstanding the provisions in Section 1 of Article 3 of this Agreement, the specific amount of the equipment depreciation expense described in Article 3.2(1) may be adjusted by consensus.

#### Article 4 Obligations of Party A

4.1 The Services provided by Party B under this Agreement is exclusive. During the term of this Agreement, Party A shall not and shall cause its subsidiaries not to enter into any other agreements with any other third party to provide Party A with services identical or similar to Party B's Services without prior written consent from Party B.

4.2 Party A shall provide Party B with a final copy of the Annual Business Plan of Party A and its subsidiaries for the next year before November 30 of each year for Party B to arrange the development of relevant service plan, to purchase software and equipment and to consolidate its technical service force. In case Party A temporarily requires Party B to purchase new equipment, Party B shall consult with Party B fifteen (15) days in advance to reach a consensus.

4.3 To facilitate Party B's provision of the Services, Party A shall and shall cause its subsidiaries to provide relevant documents to Party B promptly and accurately upon Party B's request.

4.4 In accordance with Article 3 of this Agreement, Party A shall pay Party B the Service Charges on time and in full.

4.5 Party A shall maintain its good reputation, proactively expand its business, and maximize its profit.

#### Article 5 Intellectual Property Rights

5.1 The intellectual property rights of the work products created by Party B during Party B's provision of the Services shall belong to Party B.

5.2 Whereas the development of Party A's Business relies on the Services provided by Party B under this Agreement, Party A agrees to the following arrangements regarding the Business Related Technologies developed by Party A (including its subsidiaries) on the basis of such Services:

- (1) If Business Related Technologies is acquired by Party A through further development to Party A or its subsidiaries entrusted by Party B, or through joint development by Party A or its subsidiaries and Party B, then the ownership and the right to apply for patent shall belong to Party B.
- (2) If Business Related Technologies is acquired by Party A through independent development by Party A or its subsidiaries, the ownership shall belong to the entity that independently developed the technology, provided that: (A) Party A promptly notifies or causes its subsidiaries to promptly notify Party B of the details of the relevant technology, and provide Party B with relevant information as required by Party B; (B) If Party A or its subsidiaries intend to license or transfer such relevant technology, Party A shall or shall cause its subsidiaries to, without violating mandatory provisions of PRC Laws, ensure the preemptive rights of Party B to purchase the technology or be licensed to use the technology exclusively, and Party B may use the technology to the same extent to which the technology is transferred or licensed by Party A or its subsidiaries (Party B has the right to decide whether or not to accept the transfer or the license); if and only if Party B waives the preemptive right to purchase the ownership of the relevant technology or the exclusive right to

the technology, can Party A or its subsidiaries transfer the ownership of the relevant technology or license the technology to a third party with conditions not superior to those offered to Party B (including but not limited to the transfer price or license fee), and Party A or its subsidiaries shall assure that the third party fully abide by and perform the duties and obligations of Party A under this Agreement. (C) With the exception of the situations specified in Article 5.3(2)(B), Party B has the right to purchase the technology within the term stipulated by Article 8.1 of this Agreement; in such cases, Party A shall or shall cause its subsidiaries to, without violating mandatory provisions of PRC Laws, accept Party B's aforesaid offer at the lowest price allowed by law.

5.3 If Party B is licensed the exclusive right to use the Business Related Technologies pursuant to Article 5.2(2) of this Agreement, such license shall comply with the following provisions of this section:

- (1) the term of the license shall be no less than five (5) years (as of the effective date of the license agreement);
- (2) the scope of license shall be defined as wide as possible;
- (3) within the term of the license and the licensed area, no party (including Party A and its subsidiaries) other than Party B may use or license any other party to use the technology in any way;
- (4) without breaching Article 5.3(3), Party B or its subsidiaries have the right to decide at its discretion to license any other third party to use the technology;
- (5) upon expiration of the license, Party B shall be entitled to renew the license agreement and Party A shall or shall cause its subsidiary to agree to the renewal, and the provisions of the license shall remain unchanged at that time except from the changes confirmed by Party B.

5.4 Notwithstanding the provisions of the above-mentioned Article 5.2(2), the patent application for any Business Related Technologies described in the section shall be proceed in accordance with the following provisions:

- (1) If Party A or its subsidiaries intend to apply for patent for any Business Related Technologies described in the section, it shall obtain prior written consent from Party

B.

- (2) Party A or its subsidiaries may apply for patent for any Business Related Technologies independently or transfer such right to a third party only upon the waiver of such rights by Party B. In the event that Party A or its subsidiary transfers the afore-mentioned right to apply for patent to a third party, Party A shall or shall cause its subsidiaries to guarantee that the third party shall fully abide by and perform the duties and obligations of Party A under this Agreement; Meanwhile, the conditions (including but not limited to the transfer price) Party A offers to the third party shall not be more preferential than that offered to Party B pursuant to Paragraph 3 of this Section.
- (3) Within the term of this Agreement, Party B may at any time require Party A or its subsidiaries to apply for a patent for such Business Related Technologies, and determine at its discretion whether or not to purchase such patent application right. Upon Party B's request, without violating mandatory provisions of PRC Laws, Party A shall or shall cause its subsidiaries to transfer the patent application right to Party B at the lowest price allowed by law at the time; Party B shall be the legal owner of such patent rights after acquiring the patent application right for the Business Related Technologies and receive the patent after the patent application.
- 5.5 The Parties assure to each other that it shall indemnify the other party of any and all economic losses incurred by its (including its subsidiaries') infringement of any third party's intellectual property rights (including but not limited to copyrights, trademark rights, patent rights and know-how).

#### Article 6 Confidentiality

- 6.1 Within the term of this Agreement, all client information and other related materials (hereinafter, the "Client Information") related to Party A's Business and the Services provided by Party B are jointly owned by both Parties.
- 6.2 Regardless of the termination of this Agreement, both Parties shall keep strict confidential of the other party's business secrets, proprietary information, jointly owned Client Information and other related information and nonpublic information of the other party (collectively the "Confidential Information") received by the Parties during the performance of this Agreement. Without prior written consent from the disclosing party, the

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recipient shall not disclose or give or transfer such Confidential Information to any third party (including the recipient of the Confidential Information being merged into, being acquired by, directly or indirectly controlled by a third party). Once this Agreement is terminated, Party A and Party B shall return any documents, data or software that contain Confidential Information as required by the original owner or the discloser of the Confidential Information, or destroy by consent of the original owner or the discloser, including deleting Confidential Information from any relevant memory device, and shall not continue to use such Confidential Information. Party A and Party B shall take necessary measures to disclose Confidential Information only to the employees, agents or professional advisers of Party B who are necessary to learn about, and to cause the said employees, agents or professional advisers to comply with the confidential obligations under this Agreement. Party A shall execute specific confidential agreements with Party B or employees, agents or professional advisers of Party B respectively in order for the parties to comply with.

- 6.3 The above confidentiality obligations shall not apply to the information which:
- 6.3.1 already enters the public domain at the time of disclosure;
- 6.3.2 is publicly available after disclosure other than through the fault of the recipient of the Confidential Information;
- 6.3.3 the recipient of the Confidential Information can prove that were already possessed by the recipient before disclosure and that were not received directly or indirectly from the discloser of the Confidential Information; or
- 6.3.4 is disclosed by the recipient of the Confidential Information to relevant government authorities, stock exchange, etc. under the obligation as prescribed by law or to its direct legal counsel and financial consultant to the extent required by its normal operations.
- 6.4 Both parties agree that this article shall survive the modification, rescission or termination of this Agreement.

#### Article 7 Undertakings and Warranties

- 7.1 Party A hereby represents, represents and warrants that:

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- 7.1.1 It is a limited liability company duly incorporated and validly existing under the laws of its place of registration as an independent judicial person and with complete, independent legal status and legal competence to execute, deliver and perform this Agreement, and with the capacity as an independent subject of proceedings.
- 7.1.2 It is vested with full internal power and authorities to execute and deliver this Agreement and all other documents to be executed by it in relation to the transaction referred to in this Agreement and to complete the transaction referred to in this Agreement. This Agreement is legally and properly executed and delivered by it. This Agreement constitutes a legal and binding obligation on it, enforceable against it in accordance with the terms of the Agreement.
- 7.1.3 At the effective date of this Agreement, it has complete certificates necessary for the operation of the business scope under its Business License, and has full rights and qualifications to carry out Party A's Business it currently engaged in within the territory of PRC.
- 7.1.4 It shall provide Party B with the quarterly consolidated financial statement for the previous quarter and the budget for the next quarter within fifteen (15) business days after each quarter and shall provide the annual consolidated financial statement for the previous fiscal year and the budget for the next fiscal year within thirty (30) business days after each fiscal year.
- 7.1.5 It shall promptly notify Party B of all legal proceedings and other unfavorable situations that involve itself and its subsidiaries and shall make utmost efforts to prevent further losses and damages.
- 7.1.6 Without prior written consent from Party B, Party A shall neither dispose major assets of the company or its subsidiaries nor change the current equity structure of the company and its subsidiaries.

- 7.2 Party B hereby represents and warrants that:

- 7.2.1 It is a limited liability company duly incorporated and validly existing under the laws of its place of registration as an independent judicial person and with complete, independent legal status and legal competence to execute, deliver and perform this Agreement, with the capacity of an independent subject of proceedings.

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- 7.2.2 It is vested with full internal power and authorities to execute and deliver this Agreement and all other documents to be executed by it in relation to the transaction referred to in this Agreement and to complete the transaction referred to in this Agreement. This Agreement is legally and properly executed and delivered by it. This Agreement constitutes a legal and binding obligation on it, enforceable against it in accordance with the terms of the Agreement.

#### Article 8 Term of Agreement

- 8.1 The Parties hereby confirm that this Agreement takes effect upon its formal execution by the Parties. Unless prematurely terminated by the Parties in writing.
- 8.2 The obligations of Party A and Party B under Article 3 and Article 6 of this Agreement shall survive the termination of this Agreement.

#### Article 9 Indemnification

Party A shall indemnify Party B against any and all losses incurred or likely to incur as a result of Party B's provision of the Services, including but not limited to losses incurred from legal suits, recoveries, arbitrations, claims initiated or raised by any third party or administrative investigations and penalties by governmental authorities. However, Party A shall not indemnify Party B for any losses caused by Party B's willful misconduct or gross negligence.

#### Article 10 Notification

- 10.1 All notices between the Parties in connection with the performance of the rights and obligations under this Agreement shall be made in writing and shall be delivered in person, by registered mail, postage prepaid mail, recognized express mail, facsimile to the party concerned.
- 10.2 If any of such notices or other correspondences is transmitted by facsimile or telex, it shall be deemed delivered immediately upon transmission; if delivered in person, it shall be deemed delivered at the time of delivery; if sent by post, it shall be deemed delivered five (5) days after dispatch.

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**Loan Agreement**

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**Between**

**William Wei Huang**

**Qiuping Huang**

**and**

**Shanghai Free Trade Zone GDS Management Co., Ltd.**

**April 13, 2016**

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**Loan Agreement**

This Loan Agreement (the "**Agreement**") is entered into on April 13, 2016 in Shanghai, China by and between the following parties:

**William Wei Huang**, a citizen of the People's Republic of China (ID Card No.: 31010719671101125X);

**Qiuping Huang**, a citizen of the People's Republic of China (ID Card No.: 31010719611116122X);

(William Wei Huang and Qiuping Huang hereinafter are collectively referred to as the "**Borrowers**".)

**Shanghai Free Trade Zone GDS Management Co., Ltd.**, a wholly foreign-owned enterprise duly incorporated under the laws of the People's Republic of China, with registered address at Room 4056, 4<sup>th</sup> Floor, 173 Meisheng Road, China (Shanghai) Pilot Free Trade Zone, China (the "**Lender**").

(In this Agreement, the above parties are referred to individually as a "**Party**" and collectively as the "**Parties**".)

Whereas:

Shanghai Shu'an Data Services Co., Ltd. ("**GDS Shanghai**") is a limited liability company duly incorporated under PRC law, with registered address at Room 432, 26-28 Jiangchangsang Road, Shanghai, and a registered capital of RMB 10 million. The Borrowers are the shareholders of GDS Shanghai;

The Borrowers intend to receive necessary financial support from the Lender to expand the business of GDS Shanghai;

Now, therefore, the Parties agree as follows in order to clarify the rights and obligations of the Borrowers and the Lender under relevant loan arrangements:

**Article I Terms and Definitions**

1.1 Unless otherwise specified in this Agreement or in cases where the context demands a different interpretation, the terms used in this Agreement shall have the following meanings:

"**Loan**" refers to the RMB loan offered by the Lender to the Borrowers;

"**Debt**" refers to the outstanding balance under the loan;

"**Repayment Notice**" has the same meaning as stipulated in Article 4.1 of this Agreement;

"**Repayment Application**" has the same meaning as stipulated in Article 4.2 of this Agreement;

"**Effective Date**" refers to the date first above written on which the Parties executed this Agreement;

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"**PRC**", for the purpose of this Agreement, refers to the People's Republic of China, excluding Hong Kong, Macau and Taiwan.

1.2 The terms referred to herein shall have the following meanings:

"**Article**" shall, unless otherwise stipulated in this Agreement, be construed as an article of this Agreement;

"**Taxes and Fees**" shall be construed so as to include any tax, fee, tariff or other charges of similar nature (including, without limitation, any penalty or interest payable in connection with any failure to pay or any delay in paying any of the above).

The "**Lender**" and the "**Borrowers**" shall be construed to include the successors and assignees nominated by the Parties based on their respective interests.

1.3 Unless otherwise provided, any reference herein to this Agreement or any other agreements or documents shall be construed as the referral to the amendments, variations, substitutions or supplements as are already made or may be from time to time made to this Agreement or such other agreements or documents, as the case may be.

1.4 The headings hereof have been inserted for convenience of reference only.

1.5 Unless the context otherwise requires, the words importing the plural shall include the singular and vice versa.

**Article II Principal Amount and Interest Rate of the Loan**

2.1 The Parties hereby acknowledge that, upon the execution of this Agreement, the Lender shall provide a loan with a principal amount of RMB 10,000,000 to the Borrowers, including a principal amount advanced to William Wei Huang of RMB 9,990,000, and a principal amount advanced to Qiuping Huang of RMB 10,000.

2.2 The interest rate of the Loan hereunder is nil, i.e., no interest is accrued thereupon.

**Article III Purpose of the Loan**

The Borrowers shall use the loan under this Agreement only for business expansion of GDS Shanghai.

**Article IV Repayment of the Loan**

4.1 The Lender may, at its own absolute discretion, at any time request that the Debt be discharged, in whole or in part, by the Borrowers, upon a 30-day prior repayment notice to the Borrowers (the "**Repayment Notice**"). The Lender may request that the Borrowers repay the Debt in whole or in part in the following methods pursuant to the preceding provision:

- a) Repay the Debt in full by purchasing or designating a third party to purchase the corresponding equity interest held by the Borrowers in GDS Shanghai at such a price equivalent to the amount of the Debt requested to be discharged, provided that the ratio of the equity interest to be so purchased to the equity interest held by the

Borrowers in GDS Shanghai shall be equivalent to the ratio of the Debt required to be discharged to the principal amount of the Loan borrowed by the Borrowers hereunder; or

- b) in other ways determined by resolutions passed by the board of directors of the Lender in accordance with its articles of association and the stipulations of applicable laws and regulations.

- 4.2 The Borrowers may at any time request to repay the Debt, in whole or in part, by servicing a 30-day prior repayment application (the "**Repayment Application**") to the Lender. In such case, Borrower may discharge its Debt by transferring to the Lender the equity interest in GDS Shanghai in the amount equal to the Debt amount to be discharged by the Borrowers, or by the methods recognized by the Lender pursuant to the aforesaid Article 4.1, in whole or in part. In the former situation, the Lender shall have the right to purchase or to designate a third party to purchase part of the equity interest held by the Borrowers in GDS Shanghai at such a price equivalent to the amount of the Debt to be discharged by the Borrowers, provided that the ratio of the equity interest to be so purchased to the equity interest held by the Borrowers in GDS Shanghai shall be equivalent to that of the Debt required to be discharged to the principal amount of the Loan borrowed by the Borrowers hereunder.
- 4.3 Upon the expiration of the 30-day period set forth in the Repayment Notice or the Repayment Application, as the case may be, the Borrowers being requested or applied to repay the Debt shall discharge the Debt in accordance with the repayment method specified in the Repayment Notice, or by any other methods determined by a resolution passed by the board of directors of the Lender in accordance with its articles of association and the stipulations of applicable laws and regulations, or by any other methods stipulated in this Agreement.
- 4.4 When the borrower discharges the Debt pursuant to the above provisions of this Article IV, the Parties shall execute relevant written documents to acknowledge that the Debt has been absolutely discharged in accordance with the methods agreed upon in this Agreement.

#### Article V Taxes and Fees

All Taxes and Fees in connection with the Loan shall be borne by the Lender.

#### Article VI Confidentiality

- 6.1 Regardless of the termination of this Agreement, the Borrowers shall keep confidential (i) the execution, performance and content of this Agreement, and (ii) Lender's trade secrets, proprietary information and client information (the "**Confidential Information**") learnt or received by the Borrowers in connection with the execution and performance of this Agreement. The Borrowers may use the Confidential Information solely for the performance of their obligations hereunder. Without the Lender's written consent, the Borrowers shall not disclose such Confidential Information to any third party; otherwise, such Borrower shall be held liable for the breaching of this Agreement and shall indemnify the Lender against all losses.
- 6.2 Notwithstanding any other provisions herein, the effect of this Article VI shall survive the

suspension or termination of this Agreement.

#### Article VII Notification

- 7.1 Any communications made as required by or pursuant to this Agreement including notices, demands, requests and other correspondences shall be delivered to the recipient in written form.
- 7.2 If any of such notices or other correspondences is transmitted by facsimile or telex, it shall be deemed delivered immediately upon transmission; if delivered in person, it shall be deemed delivered at the time of delivery; if sent by post, it shall be deemed delivered five (5) days after dispatch.

#### Article VIII Breach of Agreement

- 8.1 The Borrowers hereby undertake that it will indemnify correspondingly and hold harmless the Lender against any action, charge, claim, cost, harm, demand, fee, liability, loss and procedure suffered by or incurred to the Lender from the breach of the Borrowers of any of their obligations hereunder.
- 8.2 Notwithstanding any other provisions herein, the effect of this Article shall survive the suspension or termination of this Agreement.

#### Article IX Miscellaneous

- 9.1 This Agreement is made in triplicate (3 copies), with each Party holding one (1) copy.
- 9.2 The conclusion, validity, performance, amendment, interpretation and termination of this Agreement shall be governed by PRC laws and regulations.
- 9.3 The Parties shall settle any dispute arising out of or relating to this Agreement through amicable negotiation. If any dispute cannot be resolved through negotiation within thirty (30) days, the dispute shall be referred to Shanghai International Economic and Trade Arbitration Commission for arbitration in accordance with the commission's arbitration rules. The seat of arbitration shall be Shanghai. The arbitration tribunal's decision shall be final and binding upon the Parties. After such decision takes effect, any party shall have the right to apply for the enforcement of the decision to a court with jurisdiction. The competent court shall have right to grant a provisional remedy upon request of the disputing party, such as a judgment or an order to seize or freeze the breaching party's properties or equity shares.
- 9.4 Any right, power or remedy granted to a Party by any provision of this Agreement shall not exclude the Party from any right, power or remedy granted by other provisions of this Agreement, and any exercise of any right, power or remedy by a Party shall not preclude the Party from exercising other rights, powers or remedies.
- 9.5 No failure or delay by any Party in exercising any right, power or remedy ("**Such Rights of the Party**") provided by law or under this Agreement shall constitute a waiver of Such Rights of the Party and no single or partial waiver of any Such Rights of the Party shall preclude the exercise of any Such Rights of the Party in other means or the exercise of any other Such Rights of the Party.

- 9.6 The headings hereof have been inserted for convenience of reference only. Under no circumstances shall such headings be used for or affect the construction of any provision of this Agreement.
- 9.7 The provisions of this Agreement are severable and independent to one another. If at any time one or several articles herein shall be deemed invalid, illegal or unenforceable, the validity, legality or enforceability of other provisions herein shall not be affected thereby.
- 9.8 Any amendment and supplement of this Agreement shall be made in written form and duly executed by the Parties herein before taking effect.
- 9.9 The Borrowers shall not assign its rights and/or obligations hereunder to any third party without the prior written consent of the Lender, while the Lender shall have the rights to assign its rights and/or obligations hereunder to its designated third party upon notifying the other Parties.
- 9.10 This Agreement is binding on the lawful successors and assignees of the Parties.

[Remainder of this page intentionally left blank]

In witness whereof, this Loan Agreement is executed by and between the following parties on the date and at the place first above written.

**Borrower**

**William Wei Huang**

Signature: /s/ William Wei Huang

**Borrower**



**Qiuping Huang**

Signature: /s/ Qiuping Huang

**Lender**

**Shanghai Free Trade Zone GDS Management Co., Ltd.**

(Seal)

Signature: /s/ William Wei Huang

Name: William Wei Huang

Title: Legal Representative

## FORM INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (this "Agreement") is made as of \_\_\_\_\_, by and between GDS Holdings Limited, a Cayman Islands company (the "Company"), and \_\_\_\_\_ (the "Indemnitee"), [a director/an executive officer] of the Company.

WHEREAS, the Indemnitee has agreed to serve as [a director/an executive officer] of the Company and in such capacity will render valuable services to the Company; and

WHEREAS, in order to induce and encourage highly experienced and capable persons such as the Indemnitee to serve as directors and officers of the Company, the board of directors of the Company (the "Board") has determined that it is reasonably prudent and necessary for the Company contractually to obligate itself to indemnify, and to advance expenses on behalf of, such persons;

NOW, THEREFORE, in consideration of the premises and mutual agreements hereinafter set forth, and other good and valuable consideration, including, without limitation, the service of the Indemnitee, the receipt of which hereby is acknowledged, and in order to induce the Indemnitee to serve, or continue to serve, as [a director/an executive officer] of the Company, the Company and the Indemnitee hereby agree as follows:

1. Definitions. As used in this Agreement:

a. "Change in Control" shall mean any of the following:

(i) any "person" (as such term is used in Sections 13(d) and 14(d) of the United States Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (collectively, the "Act")), but excluding (1) the Company, (2) any trustee or other fiduciary holding securities pursuant to an employee benefit or welfare plan or employee share plan of the Company or any subsidiary or affiliate of the Company, or any entity organized, appointed, established or holding securities of the Company with voting power for or pursuant to the terms of any such plan and (3) any entity owned, directly or indirectly, by the shareholders of the Company in substantially the same proportions as their ownership of stock of the Company, becomes the "beneficial owner" (as defined in Rule 13d-3 under the Act), directly or indirectly, of securities of the Company representing 45% or more of the combined voting power of the Company's then outstanding securities without the prior approval of at least majority of the directors in office immediately prior to such person's attaining such interest;

(ii) any merger or consolidation of the Company with any other entity, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than 50% of the combined voting power of the voting securities of the surviving entity outstanding immediately after such merger or consolidation and with the power to elect at least a majority of the Board or other governing body of such surviving entity;

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(iii) the approval by the shareholders of the Company of a complete liquidation of the Company or an agreement for the sale or disposition by the Company, in one transaction or a series of related transactions, of all or substantially all of the Company's assets;

(iv) any other event of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or in response to any similar item or any similar or successor schedule or form) promulgated under the Act whether or not the Company is then subject to such reporting requirements; and

(v) during any period of two (2) consecutive years (not including any period prior to the execution of this Agreement), individuals who at the beginning of such period constitute the Board, and any new director (other than a director designated by a person who has entered into an agreement with the Company to effect a transaction described in Sections 1(a)(i), 1(a)(iii) or 1(a)(iv)) whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute a least a majority of the members of the Board.

b. "Disinterested Director" with respect to any request by the Indemnitee for indemnification or advancement of expenses hereunder shall mean a director of the Company who neither is nor was a party to the Proceeding (as defined below) in respect of which indemnification or advancement is being sought by the Indemnitee.

c. The term "Expenses" shall mean any expense, liability or loss, including, without limitation, damages, judgments, fines, penalties, settlements (if, and only if, such settlement is approved in advance by the Company, which approval shall not be unreasonably withheld) and costs, attorneys' fees and disbursements and costs of attachment or similar bond, investigations, liabilities, losses, taxes, any expense paid or incurred in connection with investigating, defending, being a witness in, participating in (including on appeal), or preparing for any of the foregoing in, any Proceeding, and any taxes, interests, assessments or other charges imposed as a result of the actual or deemed receipt of any payment under this Agreement.

d. The term "Independent Legal Counsel" shall mean any firm of attorneys that:

(i) if a Change in Control shall not have occurred, shall be selected by the Board, and the Company shall give written notice to the Indemnitee advising him of the identity of the Independent Legal Counsel so selected, or

(ii) if a Change in Control shall have occurred, shall be selected by the Indemnitee (unless the Indemnitee shall request that such selection be made by the Board, in which event the preceding sentence shall apply), and the Indemnitee shall give written notice to the Company advising it of the identity of the Independent Legal Counsel so selected,

so long as such firm is not presently representing and has not in the preceding five (5) years represented the Company, the Company's subsidiaries or affiliates, the Indemnitee, any entity controlled by the Indemnitee, or any party adverse to the Company in any matter material to any such party (other than with respect to matters concerning the Indemnitee under this Agreement, or of other indemnitees under similar indemnification agreements). Notwithstanding the foregoing, the term "Independent Legal Counsel" shall not include any person who, under applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or the Indemnitee in an action to determine the Indemnitee's right to indemnification or advancement of expenses under this Agreement, the Company's Amended and Restated Memorandum and Articles of Association (the "Articles"), which became effective immediately after the Company's initial public offering, applicable law or otherwise. The Company agrees to pay the reasonable fees and expenses of the Independent Legal Counsel referred to above and to fully indemnify such counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

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e. The term "Proceeding" shall mean any threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, investigation, inquiry, hearing or any other proceeding (including, without limitation, an appeal therefrom), formal or informal, whether brought in the name of the Company or otherwise, whether of a civil, criminal, administrative or investigative nature, and whether by, in or involving a court or an administrative, other governmental or private entity or body (including, without limitation, an investigation by the Company or its Board), in which the Indemnitee was, is or will be involved as a party or otherwise, by reason of (i) the fact that the Indemnitee is or was a director (or a director appointee) or an executive officer of the Company, or is or was serving at the request of the Company as an agent of another enterprise, (ii) any actual or alleged act or omission or neglect or breach of duty, including, without limitation, any actual or alleged error or misstatement or misleading statement, which the Indemnitee commits or suffers while acting in any such capacity, or (iii) the Indemnitee attempting to establish or establishing a right to indemnification or advancement of expenses pursuant to this Agreement, the Articles, applicable law or otherwise, in each case whether or not the Indemnitee is acting or serving in any such capacity at the time any liability or expense is incurred for which indemnification can be provided under this Agreement.

f. The phrase "servicing at the request of the Company as an agent of another enterprise" or any similar terminology shall mean, unless the context otherwise requires, servicing at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, limited liability company, trust, employee benefit or welfare plan or other enterprise, foreign or domestic. The phrase "servicing at the request of the Company" shall include, without limitation, any service as a director or an executive officer of the Company which imposes duties on, or involves services by, such director or executive officer with respect to the Company or any of the Company's subsidiaries, affiliates, employee benefit or welfare plans, such plan's participants or beneficiaries or any other enterprise, foreign or domestic. In the event that the Indemnitee shall be a director, officer, employee or agent of another corporation, partnership, joint venture, limited liability company, trust, employee benefit or welfare plan or other enterprise, foreign or domestic, 50% or more of the ordinary shares, combined voting power or total equity interest of which is owned by the Company or any subsidiary or affiliate thereof, then it shall be presumed conclusively that the Indemnitee is so acting at the request of the Company.

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2. Indemnification. Subject to Section 6 below, the Company hereby agrees to hold harmless and indemnify the Indemnitee to the fullest extent permitted by law, as such may be amended from time to time. In furtherance of the foregoing indemnification and without limiting the generality thereof:

a. Proceedings by or in the Right of the Company. The Company shall indemnify the Indemnitee if the Indemnitee is a party to or threatened to be made a party to or is otherwise involved in any Proceeding by or in the right of the Company to procure a judgment in its favor against all Expenses which are actually and reasonably incurred by the Indemnitee in connection with such a Proceeding, if the Indemnitee acted in good faith and in a manner the Indemnitee reasonably believed to be in, or not opposed to, the best interests of the Company; except that no indemnification under this subsection shall be made in respect of any claim, issue or matter as to which the Indemnitee shall have been adjudicated by final and non-appealable judgment by a court of competent jurisdiction to be liable to the Company for dishonesty, willful default or fraud in the performance of his/her duty to the Company, unless and only to the extent that the court in which such Proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, the Indemnitee is fairly and reasonably entitled to indemnity for such amounts which such court shall deem proper.

b. Proceedings Other than Proceedings by or in the Right of the Company. The Company shall indemnify the Indemnitee if the Indemnitee is a party to or threatened to be made a party to or is otherwise involved in any Proceeding (other than a Proceeding by or in the right of the Company) against all Expenses which are actually and reasonably incurred by the Indemnitee in connection with such a Proceeding, if the Indemnitee acted in good faith and in a manner the Indemnitee reasonably believed to be in, or not opposed to, the best interests of the Company.

c. Indemnification for Expenses of Witness. Notwithstanding any other provision of this Agreement, to the extent that the Indemnitee, has prepared to serve or has served as a witness or is made to respond to discovery requests in any Proceeding to which the Indemnitee is not a party, the Indemnitee shall be indemnified against all Expenses actually and reasonably incurred by the Indemnitee in connection therewith.

d. Partial Indemnification. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of Expenses incurred in connection with any Proceedings, but not, however, for all of the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion of such Expenses to which Indemnitee is entitled.

3. Contribution. If the indemnification provided in Section 2 above is unavailable to Indemnitee for any reason (other than those set forth in Section 6 below) in connection with a Proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such Proceeding), the Company, in lieu of indemnifying Indemnitee thereunder, shall contribute to the amount of Expenses which are actually and reasonably incurred and paid or payable by the Indemnitee in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company and the Indemnitee and/or (ii) the relative fault of the Company and such Indemnitee in connection with the transaction or events from which such Proceeding arose. The relative fault of the Company and the Indemnitee shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such Expenses.

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4. Advancement of Expenses. The Expenses incurred by the Indemnitee in any Proceeding shall be paid promptly by the Company in advance of the final disposition of the Proceeding at the written request of the Indemnitee to the fullest extent permitted by applicable law; provided, however, that the Indemnitee shall set forth in such request reasonable evidence that such Expenses have been incurred by the Indemnitee in connection with such Proceeding and an undertaking in writing to repay any advances if it is ultimately determined as provided in subsection 5(b) of this Agreement that the Indemnitee is not entitled to indemnification under this Agreement, the Articles, applicable law or otherwise.

5. Indemnification Procedure; Determination of Right to Indemnification.

a. Promptly after receipt by the Indemnitee of notice of the commencement of any Proceeding, the Indemnitee shall, if a claim for indemnification in respect thereof is to be made against the Company under this Agreement, notify the Company of the commencement thereof in a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification. The omission to so notify the Company will not relieve the Company from any liability which the Company may have to the Indemnitee under this Agreement unless the Company shall have lost significant substantive or procedural rights with respect to the defense of any Proceeding as a result of such omission to so notify.

b. The Indemnitee shall be conclusively presumed to be entitled to indemnification under this Agreement unless a determination is made that the Indemnitee is not entitled to indemnification under this Agreement, the Articles, applicable law or otherwise by one of the following two methods, which, if there has not been a Change in Control, shall be at the election of the Board: (i) by a majority vote of the Board of a quorum consisting of Disinterested Directors or (ii) if a quorum of the Board consisting of Disinterested Directors is not obtainable or, even if obtainable, said Disinterested Directors so direct, by Independent Legal Counsel in a written opinion to the Board, a copy of which shall be delivered to the Indemnitee. If a Change in Control shall have occurred and the Indemnitee so requests in writing, such determination shall be made only by Independent Legal Counsel in the manner set forth in this subsection.

c. If (i) a determination is made that the Indemnitee is not entitled to indemnification under this Agreement or (ii) a claim for indemnification or advancement of Expenses under this Agreement is not paid by the Company within thirty (30) days after receipt by the Company of written notice thereof, the Indemnitee is entitled to an adjudication in any court of competent jurisdiction. Such judicial proceeding shall be made de novo. The burden of proving that indemnification or advances are not appropriate shall be on the Company. Neither the failure of the directors of the Company or Independent Legal Counsel to have made a determination prior to the commencement of such action that indemnification or advancement of Expenses is proper in the circumstances because the Indemnitee has met the applicable standard of conduct, if any, nor an actual determination by the directors of the Company or Independent Legal Counsel that the Indemnitee has not met the applicable standard of conduct shall be a defense to an action by the Indemnitee or create a presumption for the purpose of such an action that the Indemnitee has not met the applicable standard of conduct. The termination of any Proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself (i) create a presumption that the Indemnitee did not act in good faith and in a manner which he reasonably believed to be in the best interests of the Company and/or its shareholders, and, with respect to any criminal Proceeding, that the Indemnitee had reasonable cause to believe that his conduct was unlawful or (ii) otherwise adversely affect the rights of the Indemnitee to indemnification or advancement of Expenses under this Agreement, except as may be provided herein.

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d. If a court of competent jurisdiction shall determine that the Indemnitee is entitled to any indemnification or advancement of Expenses hereunder, the Company shall pay all Expenses actually and reasonably incurred by the Indemnitee in connection with such adjudication (including, but not limited to, any appellate proceedings).

e. With respect to any Proceeding for which indemnification or advancement of Expenses is requested, the Company will be entitled to participate therein at its own expense and, except as otherwise provided below, to the extent that it may wish, the Company may assume the defense thereof, with counsel reasonably satisfactory to the Indemnitee. After notice from the Company to the Indemnitee of its election to assume the defense of a Proceeding, the Company will not be liable to the Indemnitee under this Agreement for any Expenses subsequently incurred by the Indemnitee in connection with the defense thereof, other than as provided below. The Company shall not settle any Proceeding in any manner which would impose any penalty or limitation on the Indemnitee without the Indemnitee's written consent. The Indemnitee shall have the right to employ his own counsel in any Proceeding, but the fees and expenses of such counsel incurred after notice from the Company of its assumption of the defense of the Proceeding shall be at the expense of the Indemnitee, unless (i) the employment of counsel by the Indemnitee has been authorized by the Company, (ii) the Indemnitee shall have reasonably concluded that there may be a conflict of interest between the Company and the Indemnitee in the conduct of the defense of a Proceeding, or (iii) the Company shall not in fact have employed counsel to assume the defense of a proceeding, in each of which cases the fees and expenses of the Indemnitee's counsel shall be advanced by the Company. The Company shall not be entitled to assume the defense of any Proceeding brought by or on behalf of the Company or as to which the Indemnitee has reasonably concluded that there may be a conflict of interest between the Company and the Indemnitee.

f. Indemnitee shall give the Company such information and cooperation as it may reasonably require and as shall be within Indemnitee's power, provided that any costs or expenses (including attorneys' fees and disbursements) incurred by the Indemnitee in so cooperating shall be borne by the Company (irrespective of the determination as to the Indemnitee's entitlement to indemnification) and the Company hereby indemnifies and agrees to hold the Indemnitee harmless therefrom. Subject to Section 3, the Company shall not be liable to indemnify the Indemnitee under this Agreement with regard to any judicial action if the Company was not given a reasonable and timely opportunity, at its expense, to participate in the defense, conduct and/or settlement of such action.

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6. Limitations on Indemnification. Notwithstanding any provision in this Agreement, the Company shall not be obligated under this Agreement to make any indemnity in connection with any claim made against the Indemnitee:

a. in connection with any Proceeding initiated or brought voluntarily by the Indemnitee and not by way of defense, unless (i) the Board authorized the Proceeding prior to its initiation or (ii) the Proceeding is to enforce indemnification rights under this Agreement, the Articles, applicable law or otherwise and either (A) Indemnitee is successful in such Proceeding in establishing Indemnitee's right, in whole or in part, to indemnification or advancement of Expenses hereunder (in which case such indemnification or advancement shall be to the fullest extent permitted by this Agreement) or (B) the court in such Proceeding shall determine that, despite Indemnitee's failure to establish his or her right to indemnification, Indemnitee is entitled to indemnity for such expenses (in which case such indemnification or advancement shall be to the extent provided by such court);

b. in connection with the Indemnitee preparing to serve or serving, prior to a Change in Control, as a witness in voluntary cooperation with any non-governmental or nonregulatory party or entity who or which has threatened or commenced any action or proceeding against the Company, or any director, officer, employee, trustee, agent, representative, subsidiary, parent corporation or affiliate of the Company, but such indemnification may be provided by the Company if the Board finds it to be appropriate;

c. for which payment has actually been made to the Indemnitee under a valid and collectible insurance policy, except in respect of any excess beyond the amount of payment under such insurance policy;

d. for an accounting of profits made from the purchase or sale by the Indemnitee of securities of the Company pursuant to the provisions of Section 16(b) of the Act or similar provisions of any foreign or United States federal, state or local statute or regulation;

e. for which the Indemnitee is indemnified and actually paid other than pursuant to this Agreement;

f. for conduct that is finally adjudged by a court of competent jurisdiction to have been caused by the Indemnitee's dishonesty, wilful default or fraud, including, without limitation, breach of the duty of loyalty, unless and only to the extent that the court in which such Proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, the Indemnitee is fairly and reasonably entitled to indemnity for such amounts which such court shall deem proper;

g. if a court of competent jurisdiction finally determines that such indemnification is unlawful. In this respect, the Company and the Indemnitee have been advised that the Securities and Exchange Commission (the "SEC") takes the position that indemnification for liabilities arising under securities laws is against public policy and is, therefore, unenforceable and that claims for indemnification should be submitted to appropriate courts for adjudication;

h. in connection with the Indemnitee's personal tax matters;

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i. subject to the proviso in Section 6(a) hereof, in connection with any dispute or breach arising under any contract or similar obligation between the Company or any of its subsidiaries or affiliates and such Indemnitee; or

j. in connection with any reimbursement made by Indemnitee to the Company pursuant to Section 304 of the SarbanesOxley Act of 2002 (the "SarbanesOxley Act"), Section 306 of the SarbanesOxley Act or Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the rules promulgated by the SEC thereunder.

7. **Insurance.** To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, or agents or fiduciaries of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise that such person serves at the request of the Company, the Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any director, officer, employee, agent or fiduciary under such policy or policies. If, at the time of the receipt of a notice of a Proceeding pursuant to the terms hereof, the Company has directors' and officers' insurance in effect, the Company shall give prompt notice of the commencement of such Proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of the Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such policies.

8. **No Employment Rights.** Nothing in this Agreement is intended to create in the Indemnitee any right to continued employment with the Company.

9. **Continuation of Indemnification.** All agreements and obligations of the Company contained herein shall continue during the period that the Indemnitee is [a director/an executive officer] of the Company (or is or was serving at the request of the Company as an agent of another enterprise, foreign or domestic) and shall continue thereafter so long as the Indemnitee shall be subject to any Proceeding by reason of the fact that the Indemnitee is or was [a director/an executive officer] of the Company or is or was serving in any other capacity referred to in this Section 9. This Agreement shall continue in effect regardless of whether the Indemnitee continues to serve as [a director/an executive officer] of the Company or as an agent of another enterprise at the Company's request.

10. **Indemnification Hereunder Not Exclusive.** The indemnification provided by this Agreement shall not be deemed to be exclusive of any other rights to which the Indemnitee may be entitled under the Articles, any agreement, vote of shareholders or vote of Disinterested Directors, provisions of applicable law, or otherwise, both as to action or omission in the Indemnitee's official capacity and as to action or omission in another capacity on behalf of the Company while holding such office.

11. **Other Indemnity Agreement.** Other than this Agreement, the Company has not entered into as of the date hereof, and shall not enter into following the date hereof, any indemnification agreement or side letter or other similar agreement or arrangement (collectively, an "Indemnity Agreement"), or amend any existing Indemnity Agreement, with any existing or future director/executive officer of the Company that has the effect of establishing rights or otherwise benefiting such director/executive officer in a manner more favorable in any respect than the rights and benefits established in favor of the Indemnitee by this Agreement, unless, in each such case, the Indemnitee is offered the opportunity to receive the rights and benefits of such Indemnity Agreement. All Indemnity Agreements shall be in writing.

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12. **Assignment; Successors and Assigns.** Neither this Agreement nor any of the rights or obligations hereunder may be assigned by either party thereto without the prior written consent of the other party, except that the Company may, without such consent, assign all such rights and obligations to a successor in interest to the Company which assumes all obligations of the Company under this Agreement in a written agreement in form and substance satisfactory to the Indemnitee. Notwithstanding the foregoing, this Agreement shall be binding upon and inure to the benefit of and be enforceable by and against the parties hereto and the Company's successors (including any direct or indirect successor by purchase, merger, consolidation, or otherwise to all or substantially all of the business and/or assets of the Company) and assigns, as well as the Indemnitee's spouses, heirs, and personal and legal representatives.

13. **Subrogation.** In the event of payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of the Indemnitee, who shall execute all documents required and shall do all acts that may be necessary to secure such rights and to enable the Company effectively to bring suit to enforce such rights.

14. **Severability.** Each and every section, sentence, term and provision of this Agreement is separate and distinct so that if any section, sentence, term or provision thereof shall be held to be invalid, unlawful or unenforceable for any reason, such invalidity, unlawfulness or unenforceability shall not affect the validity, lawfulness or enforceability of any other section, sentence, term or provision hereof. To the extent required, any section, sentence, term or provision of this Agreement may be modified by a court of competent jurisdiction to preserve its validity and to provide the Indemnitee with the broadest possible indemnification permitted under applicable law. The Company's inability, pursuant to a court order or decision, to perform its obligations under this Agreement shall not constitute a breach of this Agreement.

15. **Savings Clause.** If this Agreement or any section, sentence, term or provision hereof is invalidated on any ground by any court of competent jurisdiction, the Company shall nevertheless indemnify the Indemnitee as to any Expenses which are incurred with respect to any Proceeding to the fullest extent permitted by any (a) applicable section, sentence, term or provision of this Agreement that has not been invalidated or (b) applicable law.

16. **Interpretation; Governing Law.** This Agreement shall be construed as a whole and in accordance with its fair meaning and any ambiguities shall not be construed for or against either party. Headings are for convenience only and shall not be used in construing meaning. This Agreement shall be governed and interpreted in accordance with the laws of Hong Kong without regard to the conflict of laws principles thereof. Each of the parties to this Agreement irrevocably agrees that any dispute, controversy or claim arising out of or in connection with this Agreement (including any issue as to the existence, validity, interpretation, construction, performance, breach or termination of this Agreement) (the "Dispute"), shall be referred to and finally resolved by binding arbitration administered by the Hong Kong International Arbitration Centre in accordance with the HKIAC Administered Arbitration Rules (the "Rules"), as amended and supplemented from time to time in force when the notice of arbitration is submitted in accordance with these Rules, which Rules are deemed to be incorporated by reference into this section and as may be amended by the rest of this section. The arbitration tribunal shall consist of three (3) arbitrators (the "Tribunal"). The parties agree that the three arbitrators can be selected from outside the HKIAC's panel(s) of arbitrators. The claimant and the respondent shall each designate one (1) arbitrator in accordance with the Rules. The HKIAC shall appoint the third and presiding arbitrator, who shall be qualified to practice Law in Hong Kong. The seat of the arbitration shall be Hong Kong. The language of the arbitration proceedings shall be English. Any award of the Tribunal shall be made in writing and shall be final, conclusive and binding on the parties to the arbitration from the day it is made. Nothing in this Section 16 shall be construed as preventing any party from seeking conservatory or interim relief from any court of competent jurisdiction.

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17. **Amendments.** No amendment, waiver, modification, termination or cancellation of this Agreement shall be effective unless in writing signed by the party against whom enforcement is sought. The indemnification rights afforded to the Indemnitee hereby are contract rights and may not be diminished, eliminated or otherwise affected by amendments to the Articles, or by other agreements, including directors' and officers' liability insurance policies, of the Company.

18. **Counterparts.** This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each party and delivered to the other.

19. **Notices.** Any notice required to be given under this Agreement shall be directed to the General Counsel of the Company at c/o GDS Holdings Limited, 2/F, Tower 2, Youyou Century Place, 428 South Yanggao Road, Pudong, Shanghai 200127, P.R.C., and to the Indemnitee at or to such other address as the Indemnitee shall designate to the Company in writing.

20. **Entire Agreement.** This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof.

[The remainder of this page is intentionally left blank]

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IN WITNESS WHEREOF, the parties have executed this Indemnification Agreement as of the date first written above.

GDS HOLDINGS LIMITED

By: \_\_\_\_\_  
Name:  
Title:

INDEMNITEE

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

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[DATE]

[NAME]  
Present

Dear [NAME],

**Re: Offer of Employment**

We are pleased to extend our offer of employment to you. This letter agreement (the "Agreement") sets forth the terms and conditions of your employment with \_\_\_\_\_ (the "Company") and/or any of the affiliates of the Company's ultimate parent company GDS Holdings Limited (together, the Company and other affiliates of GDS Holdings Limited are referred to herein as the "Group")

**1. DUTIES**

- 1.1 You shall be employed as \_\_\_\_\_. Your job grade is \_\_\_\_\_. You will be based in \_\_\_\_\_, and will report to \_\_\_\_\_
- 1.2 You shall diligently and faithfully perform all duties required in your position. You shall devote your full time, effort and attention to the performance of your duties and shall act in all respects in accordance with the instructions and directions given to you by your immediate supervisor.
- 1.3 You will be subject to, and must comply with, the provisions of the Company's policies, rules and regulations implemented from time to time during the course of your employment, including organizational changes affecting your title, responsibilities and reporting structure.
- 1.4 You shall not commit any act which shall prejudice or is detrimental to the Company's reputation or business.

**2. TERM OF EMPLOYMENT**

Your employment shall commence on a date to be agreed to between you and the Company (the "Effective Date"), which shall be no later than \_\_\_\_\_, and will continue on an at-will basis unless terminated in accordance with the terms of this Agreement. However, this offer of employment is conditional upon the check of references by the Company to its satisfaction and the successful application of [ \_\_\_\_\_ Visa (if necessary)].

**3. REMUNERATION**Base Salary

- 3.1 Your base salary will be \_\_\_\_\_ per month and payable monthly on a 12-month basis in accordance with the Company's customary payroll practices as in effect from time to time.

Discretionary Bonus

- 3.2 The Company will take into account your performance and contribution to the Company's business, as well as the financial performance of the Company's business, in determining whether you will receive any bonus and the amount thereof.

Employee Stock Option/RSs/RSUs (if any)

- 3.3 The terms and conditions governing your share options/RSs/RSUs granted under your previous employment in \_\_\_\_\_ shall remain unchanged. Such options/RSs/RSUs shall continue to be governed by the terms and conditions under the applicable Option/RS/RSU award notice and agreement.

Performance-Based Equity Compensation

- 3.4 Subject to existing policies of the Group then in effect, you may be eligible for additional equity-based awards, such as options or RSs or RSUs, based on your performance, generally on an annual basis. Such awards will be determined at our sole discretion and the terms and conditions of such awards will be subject to the relevant plans and agreements governing such award.

Deductions and Off-Set

- 3.5 All payments made to you will be subject to normal withholding and deductions including but not limited to mandatory pension and other contributions and individual income tax, if required by law. If at any time money is owed and payable by you to the Group whether under the provisions of this Agreement or otherwise, you agree that the Group may deduct the sum or sums from time to time owing to the Group from any payment due to you under this Agreement.

**4. ANNUAL LEAVE**

- 4.1 The number of paid annual leave that you will be entitled to will be subject to the government regulation and Company's policy (which may be amended from time to time in our sole discretion). The number of paid annual leave under government regulation and current policy of the Company applicable to you based in \_\_\_ is \_\_\_ days. You shall otherwise observe the public holiday/work day schedule applicable in \_\_\_\_. Any holiday shall be taken at such times as your immediate supervisor shall approve having regard to the commercial requirements of the Company's business. If your employment commences or terminates part way through any calendar year, your holiday entitlement for that year shall be assessed on a pro rata basis.
- 4.2 Upon termination of employment,
- (a) we shall be entitled to make deductions from your final pay for any annual holiday taken in excess of your annual holiday entitlement; and
- (b) you shall be entitled to payment in lieu of any unused annual holiday entitlement.

**5. SUPPLEMENTARY BENEFITS**

On the first day of employment, you shall be entitled to have supplementary benefits per Company's policy, which may be amended from time to time.

**6. RESTRICTION ON OTHER EMPLOYMENT**

During your employment with the Company, you may not without our prior written consent engage in any form of business or employment other than your employment with the Company, whether inside or outside your normal hours of work. At no time shall you engage, whether directly or indirectly, in any activity that is or may be in conflict with, or that might place you in a position of conflict with the Company. You shall adhere to the Company's policies with respect to ethical code of conduct, conflict of interest and business opportunities.

**7. INTELLECTUAL PROPERTY**

You acknowledge and agree that all intellectual or creative property discovered or developed by you during the course of your employment, including but not limited to form of documents, agreements, business models, business plans, marketing plans, financial forecasts and models, computer programs, codes (whether source codes or object codes), algorithms, know-how, formulas, processes, ideas, inventions (whether patentable or not), schematics and other technical, business, marketing, financial and product development plans, forecasts, strategies and information (collectively, the "Intellectual Property") shall belong to the Group. The Intellectual Property shall be deemed to originate in the course of your employment and termination of your employment shall not divest the Group of exclusive ownership of any such Intellectual Property. You shall, at any time during the term of this Agreement or at any time thereafter, assist the Group in obtaining and maintaining any patent, copyright, trademark or other protection for the Intellectual Property in any country. You agree to execute an inventions assignment agreement or any other document in order to achieve the purposes of this Section 7.

**8. CONFIDENTIALITY**

- 8.1 You acknowledge that in the course of your employment, you will have access to and be entrusted with information with respect to the business, operations, legal matters, financial standing, shareholding and corporate structure, contractual agreements, technology, infrastructure, transactions, affairs, ideas, concepts, know-how, methodologies and trade secrets of the Group, our shareholders, customers or business partners, all of which information is or may be confidential.

8.2 You hereby agree that you shall not (except in connection with the proper discharge of your duties) during or after the period of your employment divulge to any party or otherwise make use of (and shall use your best efforts to prevent the publication or disclosure of) any trade secret or any confidential information of the Group, our shareholders, customers or business partners, including without limitation, the Intellectual Property.

8.3 You agree to execute any confidentiality agreement or any other document relating to the protection of such confidential information as may from time to time be required by the Group, our shareholders, customers or business partners.

8.4 All notes, files and documentation, whether in paper or electronic form, containing any of the Group's trade secrets or confidential information which are acquired, received or made by you during the course of your employment and all personal property, including without limitation, all books, manuals, records, reports, notes, contracts, lists, blueprints and other documents or materials, or copies thereof, and equipment furnished to or prepared by you during the course of your employment and containing any of the Group's trade secrets or confidential information shall remain the property of the Group, and you shall surrender the same to a designated person of the Group at the termination of your employment or at the request of the Group at any time during the course of your employment.

## 9. NON-COMPETITION

9.1 You hereby covenant that during your employment, you shall not be engaged or interested (whether as a director, shareholder (except as ownership of shares in public traded companies for portfolio investment purposes), agent, partner or employee) in any business concern of whatever kind which shall be in competition with the Group.

9.2 You hereby represent that as of the Effective Date, you are not and will not be subject to, by virtue of becoming an employee of the Company, any non-compete obligation with respect to any third party.

## 10. NON-SOLICITATION

10.1 You hereby covenant that during the term of your employment and for a period of twelve (12) months after the termination of your employment, you shall not, either on your own behalf or on behalf of any third party, canvass, solicit or approach any person, firm or company who was a customer of or was in any business arrangement with the Group.

10.2 You hereby covenant that during your employment and for a period of twelve (12) months after the termination of your employment, you shall not, either on your own behalf or on behalf any third party, solicit or entice or endeavor to solicit or entice away any employee of the Group.

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## 11. TERMINATION

11.1 The employment contract can be terminated by the Company and you after mutual agreement.

11.2 Thirty (30) days' written notice is required if you want to terminate the employment contract.

11.3 The Company shall have the right to terminate your employment immediately without compensation for Cause or upon any other ground pursuant to any applicable employment law. For purposes of this Agreement, "Cause" means:

- (i) the commission by you of an act of theft, embezzlement, fraud, dishonesty, ethical breach or other similar acts, or commission of any criminal offence;
- (ii) a material breach of any agreement or understanding between you and the Group including, without limitation, any applicable invention assignment, employment, non-competition, confidentiality or other similar agreement;
- (iii) misrepresentation or omission of any material fact in connection with your employment;
- (iv) a material failure to perform your duties, to obey a reasonable direction of a supervisor or to abide by the policies or codes of conduct of the Company; or
- (v) any conduct that is materially adverse to the name, reputation or interests of the Group.

11.4 Following termination of your employment, you shall fully cooperate with us in all matters relating to the winding up of pending work and the orderly transfer of work to other employees of the Company. All books, manuals, records, reports, plans, presentations, financial and operating data, notes, contracts, lists, blueprints and other documents or materials regarding the business of the Group, and equipment furnished to you in the course of or incident to your employment, shall be the property of the Company (the "Company Property"). You shall not remove any Company Property at any time without proper advance authorization and shall return all Company Property in your possession or under your control to designated persons of the Company upon termination of your employment.

## 12. EMPLOYING ENTITY; INTRA-GROUP TRANSFERS

You agree that you may be required to enter into legal employment relationships with one or more of the affiliates within the Group in order to achieve the purposes of this Agreement based on the terms and conditions herein. We may, from time to time, transfer your employment to any of the affiliates within the Group provided that all periods of employment with any affiliate within the Group shall count as a continuous period of service.

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## 13. PROVISIONS SURVIVING TERMINATION

The termination of your employment shall not terminate those provisions of this Agreement which impose a continuing obligation on you after such termination.

## 14. ACKNOWLEDGEMENTS

14.1 You acknowledge that you have carefully reviewed all the terms and obligations contained in this Agreement and understand fully the character and extent of the restrictions and obligations imposed upon you during and after the term of your employment. You hereby expressly agree that the restrictions and obligations are reasonable and are necessary for the proper protection of the Company.

14.2 You agree that if any one or more of such restrictions shall be judged to be void as going beyond what is reasonable in the circumstances for the protection of the Company but would be valid if words were deleted therefrom or if the restriction periods were shortened, such restrictions shall apply with such modifications as may be necessary to make them valid and effective and any such modification shall not thereby affect the validity of any other restriction contained herein.

14.3 The provisions herein shall not preclude any party from injunctive or other relief for any breach of any term of this Agreement.

## 15. GENERAL

15.1 In the event that any of the provisions of this Agreement shall be determined to be invalid, void or unenforceable, such provision shall be deemed to be deleted from this Agreement and the remaining provisions of this Agreement shall continue in full force and effect.

15.2 This Agreement is personal to you and cannot be assigned to any third party.

15.3 This Agreement may be signed and accepted in counterparts and by the parties on separate counterparts, each of which when executed shall be an original but all counterparts shall together constitute one and the same document.

15.4 Unless stated otherwise in this Agreement, this Agreement, any inventions assignment and confidentiality agreement, the Non-Competition Agreement and the Award Notice and Agreement shall constitute the entire agreement between us and supersede all previous communications, representations and agreements, whether oral or written, with respect to the subject matter of this Agreement.

15.5 This Agreement shall be governed by the laws of [the Hong Kong Special Administrative Region].

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We are excited that you will be joining us, and we very much look forward to working with you.

Yours faithfully,  
[Name of the company]

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[NAME]  
[TITLE]

To: [Name of the company]

I have read and understood the terms of the above Agreement and hereby accept such terms as stated.

Name: \_\_\_\_\_

No. [ ]

**Labor Contract**

Party A: [Global Data Solutions Co., Ltd., Shanghai Branch]

Party B: \_\_\_\_\_

Date of Signing: \_\_\_\_\_

Party A: [Global Data Solutions Co., Ltd., Shanghai Branch]

Legal Representative: Huang Wei

Company Address: 2/F, Building 2, 428 Yanggao South Road, Pudong New District, Shanghai

Telephone: 021-2033 0303

Facsimile: 021-2033 0202

Party B: \_\_\_\_\_ Sex: \_\_\_\_\_ Age: \_\_\_\_\_

ID No.: \_\_\_\_\_

Current Address: \_\_\_\_\_

Address under Residence Certificate: \_\_\_\_\_

Telephone: \_\_\_\_\_

Contact Person for Emergency: \_\_\_\_\_

His/her Telephone: \_\_\_\_\_

Party A and Party B have, through equal negotiations, entered into this Labor Contract based on willingness and in accordance with the Labor Law of the People's Republic of China, and agree to comply with all terms of this Contract.

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**Chapter 1 Employment Term and Documents Forming Contract**

Article 1 This Contract is a [fixed term/open term] employment.

This Contract shall become effective from \_\_\_\_\_ and expires as on \_\_\_\_\_. The probation period will end as on \_\_\_\_\_. Party A has the right to shorten the probation period to convert Party B as the formal employee.

The documents forming this Contract include: text of this Contract and all Renewal Agreements and Novation Agreements, Job Description, Offer Letter, Confidentiality/Non-compete Agreement (if any), Training Agreement (if any), Compensation and Benefits Policy, Employee Manual, and any regulations of Party A's Rules and Systems (as amended and publicized by Party A from time to time) which are applicable to this Contract based on their natures. Party A shall have delivered the above documents to Party B within a reasonable time prior to the formation of this Contract.

**Chapter 2 Description of Job**

Article 2 The department and position of Party B are detailed in the Offer Letter.

Article 3 Party B shall complete the duties assigned by Party A in accordance with the job standards as set forth in the Job Description signed by the parties and other agreements between the parties as well as schedules for monthly performance targets and his/her performance shall be basis for valuation of his/her work and renewal of employment.

Article 4 Party B acknowledges that during the term of this Contract, Party B has the right to, by giving a written notice, change or adjust the position and title of Party B to meet its demands for positions and on the basis of Party B's capacity, performance and job review in accordance with Article 10 hereof.

**Chapter 3 Labor Protection and Working Conditions**

Article 5 Party B shall adopt [Standard Working Hours System/Comprehensively Calculated Working Hours System/Non-fixed Working Hours System].

- Standard Working Hours System: a 8-hour working day and a 40-hour working week (excluding dining time);
- Comprehensively Calculated Working Hours System: average 8-hour working day and average 40-hour working week (excluding dining time);
- If Non-fixed Working Hours System or Comprehensively Calculated Working Hours System is applied, the rest time will be arranged by Party A on the condition that Party B can complete the work assignments by Party A.

Article 6 Party A may extend the working hours of Party B or arrange extra work for Party B according to work demands. Extra work shall be arranged in accordance with the extra work procedures set forth in Employee Manual. The compensation base for extra work shall be the standards set forth in Compensation and Benefits Policy and the standards for extra work pay shall comply with the applicable laws and regulations.

Article 7 Party A shall provide Party B with requisite working conditions and tools, establish sound work process, and formulate operation specifications, work scope and safety and health systems.

Article 8 Party A shall educate Party B in respect of ethics, working skills, safety, disciplines and rules and regulations.

**Chapter 4 Compensation (as set forth in Offer Letter)**

Article 9 Party A shall pay to Party B the monthly salary in cash on 30<sup>th</sup> of each month. The salary standards and statutory holiday benefits shall be applied in accordance with the Offer Letter and Compensation and Benefits Policy, in no case below the minimum salary line cut by local government. If compensation is otherwise agreed by the parties in any attachment, such attachment shall be applied for payment of compensation.

In case of illness or non-work injury, Party B will be paid a sick pay in accordance with the standards applicable for sick leave as set forth in the Compensation and Benefits Policy. Party B shall provide sick leave certificate issued by a designated medical institution.

Article 10 In case Party A will change the position of Party B (including duties, salary (including allowances and perks) and benefits), it shall give a 15 days prior written notice to Party B. If Party B agrees to such change, the parties shall sign a Novation Agreement in the form attached to this Contract. If Party B refuses to accept such change, it may terminate this Contract in accordance with Article 24(5). Party B shall decide to accept or refuse such change by giving a notice within 15 days of receipt of the above notice.

Article 11 If Party B has to take a full month rest due to lack of work volume of Party A, Party B will be paid monthly living expenses (after deduction of mandatory social security contributions) in accordance with the applicable laws and regulations.

Article 12 Party A has established compensation non-disclosure policy. Party B shall comply with such policy and shall be deemed to have committed a serious violation of labor disciplines if he/she violates these policy and will be disciplined in accordance with the provisions set forth in the Offer Letter and the relevant regulations of Party A.

Party A may, in its full discretion, grant Party B stock incentive plans, including but not limited to stocks, stock options or other similar rights of Party A or its shareholders and a separate agreement shall be entered into by the parties to govern such grant plans. Party B acknowledges and agrees that the grant of such stocks, stock options or other similar rights shall not be a commitment of employment.

#### Chapter 5 Social Security and Welfares and Benefits

Article 13 The parties shall fully pay pension, medical insurance, unemployment insurance, work-related injury insurance, maternity insurance and housing fund in accordance with the social security regulations applicable nationally and at the place of employment and social security maintenance. Party A will handle the social security issues for Party B and withhold for Party B the social security premium and housing fund payable by Party B.

Article 14 After this Contract is terminated or cancelled, Party A shall handle the transfer of

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personal files and social security for Party B within seven days after request by Party B. If Party B needs to file unemployment registration, Party A shall issue document evidencing termination of labor contract.

Article 15 After the termination of this Contract, Party B shall complete handover process in accordance with the regulations of Party A. Upon completion of such handover, Party A shall handle the transfer of social security, housing fund and personal files of Party B in accordance with applicable regulations.

Article 16 In case of illness or non-work injury, Party B will be entitled to medical standards as set forth by the applicable medical insurance rules at the place of employment/social security maintenance. In case of sick rest, a separate medical treatment period agreement shall be signed by the parties. The medical treatment period shall be applied in accordance with the Regulations of Medical Treatment Period for Employee Illness or Non-work Injury.

Article 17 In case of work injury, the work injury insurance regulations applicably nationally and at the place of employment shall be applied to Party B.

Article 18 The female employee benefits in pregnancy, child birth and baby nursing periods shall be applied in accordance with the maternity insurance regulations applicable nationally and at the place of employment.

#### Chapter 6 Labor Disciplines

Article 19 Party A will establish regulations and labor disciplines in accordance with laws to meet demands of business and operations. Party A has the right to discipline Party B for his/her performance in work in accordance with Employee Manual and Employee Rewards and Disciplinary Sanctions Policy. In case Party B violates the working disciplines and other regulations of Party A, Party A may impose disciplinary sanctions in accordance with the applicable regulations, even by terminating this Contract.

Article 20 Party B shall fully read, understand and comply with all regulations and policies of Party A, comply with labor safety and health policy, production and operation specifications and working requirements, protect assets of Party A, adhere to ethics, proactively participate in training activities organized by Party A to improve his/her skills.

Article 21 Party B shall keep confidential Party A's trade secret and shall not use such trade secrets for unjust economic interests of his/her personal or other organizations.

Article 22 Without consent of Party A, Party B shall not engage in other employments (including part-time).

#### Chapter 7 Novation and Termination of Labor Contract

Article 23 Novation of Contract. Upon occurrence of any of the following events, Party A and Party B may amend this Contract and the employment novation shall be processed accordingly:

- (1) Agreement of the parties on novation;
- (2) Change of compulsory provisions of the laws and regulations applicable to this Contract;

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(3) The objective conditions based on which this Contract was formed have changed significantly so that the parties can't perform this Contract and a party requests to change the terms of this Contract. In such case, a party requesting for change shall inform the other party of its request in writing and the other party shall respond in writing within 15 days. The other party failing to respond within the above period shall be deemed to refuse the request for change.

Article 24 Termination of Contract. Upon the occurrence of any of the following events, this Contract may be terminated:

- (1) Party A has the right to terminate this Contract immediately upon occurrence of any of the following events:
  - (a) Party B is proven to be unqualified for recruitment conditions within the probation period;
  - (b) Party B is in material violation of labor disciplines or regulations of Party A;
  - (c) Party B commits gross misconduct or malpractice, which causes losses to Party A;
  - (d) Party B establishes labor relationship with other employers and such condition has serious impact on his/her carrying out of the tasks assigned by Party A, and he/she refuses to correct upon demand by Party A;
  - (e) Party B is prosecuted for his/her crime.
- (2) Party A has the right to terminate this Contract by giving 30 days prior written notice to Party B upon occurrence of any of the following events:
  - (a) Party B is still unable to perform his/her original work or other works assigned by Party A after expiry of his/her applicable medical treatment period for illness or non-work injury;
  - (b) Party B is not competent for his/her work and remains so after training or change of position;
  - (c) There occurs material change of objective conditions on the basis of which this Contract was formed such that the parties can't continue to perform this Contract and are still unable to agree to change of this Contract through consultation.
- (3) Redundancy. If Party A needs to lay off its employees upon occurrence of any of the following events, it shall inform all its employees 30 days prior to redundancy and listen to their opinions, unless otherwise provided for in Confidentiality/Non-compete Agreement or other agreements between the parties, and it may terminate this Contract after report to local labor and social security authority:
  - (a) Party A enters into reorganization under the bankruptcy laws;
  - (b) Party A is in serious distress of business and operation.



- (4) Party A shall not terminate this Contract in accordance with the above paragraphs (2) or (3) if Party B is in any of the following conditions:
- (a) Party B is in occupational illness or is rated for disability due to work injury;
  - (b) Party B is in the prescribed medical treatment period for illness or non-work injury;
  - (c) Party B who is female is in the periods of pregnancy, child birth or baby nursing;
  - (d) Party B has worked with Party A for ten consecutive years and is in less than five years prior to statutory retirement age;
  - (e) Party B is a veteran and his/her employment with Party A is his/her first job and has not reached three years;
  - (f) Party B is in mandatory military service;
  - (g) Other applicable conditions as set forth by laws and regulations applicably nationally and at the place of employment.
- (5) Party B may terminate this Contract by giving 30 days prior written notice to Party A, unless otherwise provided for in Confidentiality/Non-compete Agreement or other agreements between the parties.
- (6) Upon occurrence of any of the following events, Party B may terminate this Contract by giving a notice to Party A:
- (a) During the probation period (by giving 3 days prior written notice);
  - (b) Party A forces Party B to work by violence, threat, imprisonment or other unlawful freedom confinement;
  - (c) Party A fails to pay salary or provide working conditions in accordance with this Contract;
  - (d) Party A fails to pay social security premiums for Party B in accordance with the laws.
- (7) The parties may terminate this Contract by agreement.

Article 25

Upon the expiry of the term of this Contract, the employment relationship shall be immediately terminated upon request by Party B if Party A fails to process the termination documentation. Except for compensation as set forth in Article 30(3) below, such termination shall be deemed as happens under Article 26(1).

#### Chapter 8 Termination and Renewal of Labor Contract

Article 26

This Contract shall be terminated upon occurrence of any of the following events:

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- (1) The term of this Contract expires and is not extended by the parties;
- (2) Party B reaches statutory retirement age;
- (3) Other conditions as set forth by laws, regulations and rules.

Article 27

Party A shall inform Party B in writing of its intent to terminate or renew this Contract 30 days prior to expiry of the term of this Contract.

Article 28

Upon occurrence of any of the following events, this Contract shall be extended and the employment renewal shall be processed accordingly:

- (1) The parties agree to extend this Contract;
- (2) Upon the expiry of term of this Contract, the employment between the parties continues without termination and Party B requires renewal of employment;
- (3) For the above paragraph (2), if the parties can't agree on the new employment term whilst Party B requires renewal, then the new employment term shall not be less than 12 months from the signing of a Renewal Agreement;
- (4) In case Party B is dispatched for domestic or offshore training programs at the cost of Party A, the parties shall sign training agreement upon request by Party A, which shall stipulate the service term committed by Party B in consideration of the training. If the committed service term is longer than the term of this Contract, the excessive term shall be deemed as a renewal term, unless otherwise required by Party A.

The parties agree as follows:

#### Chapter 9 Economic Compensatory Payments and Indemnities

Article 29

In any of the following events, Party A shall make economic compensatory payments to Party B in accordance with the standards as set forth below:

- (1) If Party A deducts or is late in paying salary to Party B without cause, or refuses to pay extra work pay to Party B, it shall pay Party B an economic compensation equivalent to 25% of overdue salary in addition to full payment of salary;
- (2) If the salary paid to Party B is below the minimum wage rate applicable at the place of employment, Party A shall pay Party B an economic compensation equivalent to 25% of the shortage in addition to full payment of shortage;
- (3) If Party A fails to give a termination notice to Party B prior to expiry of employment term in accordance with Article 27, it shall pay Party B an economic compensation at a rate of Party B's average day wage for preceding month for each day as delayed.

Article 30

Compensations to Party B in case of Party A's termination of this Contract:

- (1) The regulations on medical aid fees applicable nationally and at the place of employment shall be applied in case that Party A terminates this Contract in

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accordance with Article 24(1)(a);

- (2) Party A shall pay Party B an economic compensation according to his/her seniority in Party A which shall be equal to one monthly salary for one year and half a monthly salary for six months in case that Party A unilaterally terminates this Contract in accordance with Article 24(2) and Article 24(3). A period of six months or more but less than a full year will be deemed as one year in calculating compensation. A period of less than six months will be deemed as six months in calculating compensation.

The monthly salary herein means the average monthly salary of Party B for 12 months prior to termination.

If the monthly salary of Party B exceeds 300% of average employee monthly salary for preceding year as published by municipal government at the place of employer, then the monthly salary as used to calculate the above compensation to Party B shall be such 300% of average employee monthly salary with the total compensation to be capped at twelve monthly salaries.

The economic compensation will be paid by Party A after the handover process as set forth in Article 15 has been completed.

- (3) The compensation amount and method as set forth in any Confidentiality/Non-compete Agreements between the parties (if any) shall be applied in case of termination of employment.

Article 31

Compensations to Party A in case of Party B's termination of this Contract:

- (1) Party B shall compensate losses suffered by Party A as a result of termination of this Contract by Party B in violation of Article 24(5);
- (2) If Party B unilaterally terminates this Contract within the committed service term as set forth in a training agreement between the parties in accordance with Article 28(4), it shall pay Party A an economic compensation in accordance with the Compensation and Benefits Policy of Party A;
- (3) The compensations as set forth in the above (1) and (2) shall be cumulative.

Article 32 Party B shall compensate losses suffered by Party A as a result of Party B's violation of confidentiality obligation or termination of this Contract by Party A in case of Party B's breach of the terms hereof.

Article 33 Party B shall not be entitled to claim compensation against Party A in the following events:

- (1) This Contract is terminated by Party A as result of Party B's breach of Article 19;
- (2) Party A terminates this Contract in accordance with Article 24(1).

Article 34 Upon occurrence of event under Article 33(2), Party A has the right to deduct the salary payable at the month when such event occurs as compensation to Party A.

**Chapter 10 Additional Clauses**

Article 35 The parties agree to add the following clauses:

~~35.1 Non-compete. Both parties will sign another Non-compete Agreement, the specific clauses of which can be referred to Non-disclosure and Non-compete Agreement between the parties.~~

~~35.2 Non-solicitation. Party B covenants that during the term of his or her employment and for a period of twelve (12) months after the termination of his or her employment, Party B shall not, either on his or her own behalf or on behalf of any third party, canvass, solicit or approach any person, firm or company who was a customer of or was in any business arrangement with Party A or solicit or entice or endeavor to solicit or entice away any employee of Party A.~~

**Chapter 11 Labor Dispute and Miscellaneous**

Article 36 If a dispute arises between the parties in respect of performance of this Contract, the parties may ask for mediation. If failing so, each party may submit the dispute to labor dispute arbitration commission for arbitration within one year after the occurrence of the dispute.

Either party may also directly submit the dispute to the labor dispute arbitration commission for solution.

This agreement will be governed by the laws of People's Republic of China.

Article 37 Upon request of Party A, the parties shall enter into the separate agreements specific to his/her position (including training agreement, medical treatment period agreement, compensation agreement, but shall exclude agreements regarding stocks, stock options or other similar rights). These specific agreements shall constitute an integral part of this Contract with the same legal effect.

Article 38 If any clause of this Contract is in conflict with the mandatory provisions of the current and future laws and regulations applicable nationally and at the place of employment, this clause shall be void and laws shall be applied in its place and for this purpose, the parties shall conclude a Novation Agreement in the form attached hereto.

Article 39 This Contract (including all attachments and novation agreements) is written in two copies and each party holds one copy.

(no text to follow)

Party A (company seal):

Party B (seal):

Legal Rep/Authorized Rep.: \_\_\_\_\_

\_\_\_\_\_

Dated \_\_\_\_\_

Dated \_\_\_\_\_

Party B hereby acknowledges that:

I have been given sufficient time to read all clauses of this Contract (including all attachments) and I fully understand the meanings of all clauses without doubt. I am willing to comply with all clauses of this Contract.

Signed by \_\_\_\_\_

Dated \_\_\_\_\_

**Renewal Agreement to Labor Contract**

This Renewed Labor Contract is a [fixed/open] term contract. The effective date of this Renewal Agreement shall be \_\_\_\_\_ and will end as on \_\_\_\_\_.

The original clauses of the Labor Contract shall be revised as follows:

\_\_\_\_\_

Party A (company seal):

Party B (seal):

Legal Rep/Authorized Rep.: \_\_\_\_\_

\_\_\_\_\_

Dated \_\_\_\_\_

Dated \_\_\_\_\_

**Novation Agreement to Labor Contract**

Through consultations and on the principles of equality and willingness, the parties agree to revise the Labor Contract as follows:

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Party A (company seal):

Party B (seal):

Legal Rep/Authorized Rep.:

Dated

Dated

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**Instructions**

1. This Contract is used as labor contract between employer and employee.
2. When employer and employee enter into labor contract in the form of this Contract, any contents subject to agreement of the parties will be filled in the relevant blanks in the Contract.  
In signing the labor contract, Party A shall affix its company seal and its legal representative or authorized representative shall undersign or seal on it.
3. Any additional clauses as agreed by the parties shall be expressly stated in this Contract.
4. Any other agreements or changes to this Contract may be attached to this Contract.
5. This Contract shall be filled out by fountain pen or felt-tip pen, written clearly and eligibly, concisely, accurately, and free from correction.
6. This Contract is written in two copies and each party holds one copy. Party B's copy shall not be kept by Party A.

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**GDS Holdings Limited**  
**2014 EQUITY INCENTIVE PLAN**

**1. Purpose of the Plan**

The purpose of the Plan is to aid the Company and its Affiliates in recruiting and retaining key employees, directors or consultants of outstanding ability and to motivate such employees, directors or consultants to exert their best efforts on behalf of the Company and its Affiliates by providing incentives through the granting of Awards. The Company expects that it will benefit from the added interest which such key employees, directors or consultants will have in the welfare of the Company as a result of their proprietary interest in the Company's success.

**2. Definitions**

The following capitalized terms used in the Plan have the respective meanings set forth in this Section:

- (a) **Applicable Laws:** All laws, statutes, regulations, ordinances, rules or governmental requirements that are applicable to this Plan or any Award granted pursuant to this Plan, including but not limited to applicable laws of the People's Republic of China, the United States and the Cayman Islands, and the rules and requirements of any applicable national securities exchange.
- (b) **Act:** The U.S. Securities Exchange Act of 1934, as amended, or any successor thereto.
- (c) **Affiliate:** With respect to the Company, any entity directly or indirectly controlling, controlled by, or under common control with, the Company or any other entity designated by the Board in which the Company or an Affiliate has an interest.
- (d) **Award:** An Option, Stock Appreciation Right or Other Stock-Based Award.
- (e) **Beneficial Owner:** A "beneficial owner", as such term is defined in Rule 13d-3 under the Act (or any successor rule thereto).
- (f) **Board:** The board of directors of the Company.
- (g) **Change in Control:** The occurrence of any of the following events:
  - (i) the sale or disposition, in one or a series of related transactions, of all or substantially all, of the assets of the Company to any "person" or "group" (as such terms are defined in Sections 13(d)(3) or 14(d)(2) of the Act) other than the Permitted Holders;
  - (ii) any person or group, other than the Permitted Holders, is or becomes the Beneficial Owner (except that a person shall be deemed to have "beneficial

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ownership" of all shares that any such person has the right to acquire, whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of more than 50% of the total voting power of the voting stock of the Company (or any entity which controls the Company), including by way of merger, consolidation, tender or exchange offer or otherwise; or

(iii) during any period of two consecutive years, individuals who at the beginning of such period constituted the Board (together with any new directors whose election by such Board or whose nomination for election by the shareholders of the Company was approved by a vote of a majority of the directors of the Company, then still in office, who were either directors at the beginning of such period or whose election or nomination for election was previously so approved) cease for any reason to constitute a majority of the Board, then in office.

- (h) **Code:** The U.S. Internal Revenue Code of 1986, as amended, or any successor thereto.
- (i) **Committee:** The Finance Committee or any of its succession committee of the Board.
- (j) **Company:** GDS Holdings Limited, a company incorporated under the laws of the Cayman Islands.
- (k) **Disability:** Inability of a Participant to perform in all material respects his duties and responsibilities to the Company, or any Subsidiary of the Company, by reason of a physical or mental disability or infirmity which inability is reasonably expected to be permanent and has continued (i) for a period of not less than 90 consecutive days or (ii) such shorter period as the Committee may reasonably determine in good faith. The Disability determination shall be in the sole discretion of the Committee and a Participant (or his representative) shall furnish the Committee with medical evidence documenting the Participant's disability or infirmity which is satisfactory to the Committee.
- (l) **Effective Date:** The date the Board approves the Plan, or such later date as is designated by the Board.
- (m) **Employment:** The term "Employment" as used herein shall be deemed to refer to (i) a Participant's employment if the Participant is an employee of the Company or any of its Affiliates, (ii) a Participant's services as a consultant, if the Participant is consultant to the Company or its Affiliates and (iii) a Participant's services as a non-employee director, if the Participant is a non-employee member of the Board.
- (n) **Fair Market Value:** On a given date, (i) if there should be a public market for the Shares on such date, the arithmetic mean of the high and low prices of the Shares as reported on such date on the Composite Tape of the principal national securities exchange on which such Shares are listed or admitted to trading, or if the Shares are not listed or admitted on any national securities exchange, the arithmetic mean of

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the per Share closing bid price and per Share closing asked price on such date as traded on the NYSE, or, if no sale of Shares shall have been reported on the Composite Tape of any national securities exchange, including the NYSE on such date, then the immediately preceding date on which sales of the Shares have been so reported or quoted shall be used, or (ii) if there should not be a public market for the Shares on such date, the Fair Market Value shall be the value established by the Committee in good faith.

- (o) **ISO:** An Option that is also an incentive stock option granted pursuant to Section 6(d) of the Plan.
- (p) **LSAR:** A limited stock appreciation right granted pursuant to Section 7(d) of the Plan.
- (q) **Other Stock-Based Awards:** Awards granted pursuant to Section 8 of the Plan.
- (r) **Option:** A stock option granted pursuant to Section 6 of the Plan.
- (s) **Option Price:** The purchase price per Share of an Option, as determined pursuant to Section 6(a) of the Plan.
- (t) **Participant:** An employee, director or consultant who is selected by the Committee to participate in the Plan.
- (u) **Permitted Holder:** means, as of the date of determination, (i) the Company or (ii) any employee benefit plan (or trust forming a part thereof) maintained by (A) the Company or (B) any corporation or other Person of which a majority of its voting power of its voting equity securities or equity interest is owned, directly or indirectly, by the Company,
- (v) **Person:** A "person", as such term is used for purposes of Section 13(d) or 14(d) of the Act (or any successor section thereto).
- (w) **Plan:** This GDS Holdings Limited 2014 Equity Incentive Plan.
- (x) **Shares:** Ordinary Shares of the Company, par value [US\$] per share.
- (y) **Stock Appreciation Right:** A stock appreciation right granted pursuant to Section 7 of the Plan.
- (z) **Subsidiary:** A 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.

**3. Shares Subject to the Plan**

The total number of Shares which may be issued under the Plan is 29,240,000 Shares. The Shares may consist, in whole or in part, of authorized and unissued Shares or Shares

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purchased on the open market. The issuance of Shares or the payment of cash upon the exercise of an Award or in consideration of the cancellation or termination of an Award shall reduce the total number of Shares available under the Plan, as applicable. Shares which are subject to Awards which terminate or lapse without the payment of consideration may be granted again under the Plan.

#### 4. Administration

The Plan shall be administered by the Board of Directors (only with respect to the Options to be granted on the date of the initial public offering) or the Committee, which may delegate its duties and powers in whole or in part to any subcommittee thereof consisting solely of at least two individuals who are intended to qualify as "Non-Employee Directors" within the meaning of Rule 16b-3 under the Act (or any successor rule thereto) and an "independent director" as defined in NYSE Rule 303A.02 (or any successor rule thereto). Awards may, in the discretion of the Committee, be made under the Plan in assumption of, or in substitution for, outstanding awards previously granted by the Company or its affiliates or a company acquired by the Company or with which the Company combines. The number of Shares underlying such substitute awards shall be counted against the aggregate number of Shares available for Awards under the Plan. The Committee is authorized to interpret the Plan, to establish, amend and rescind any rules and regulations relating to the Plan, and to make any other determinations that it deems necessary or desirable for the administration of the Plan. The Committee may correct any defect or supply any omission or reconcile any inconsistency in the Plan in the manner and to the extent the Committee deems necessary or desirable. Any decision of the Committee in the interpretation and administration of the Plan, as described herein, shall lie within its sole and absolute discretion and shall be final, conclusive and binding on all parties concerned (including, but not limited to, Participants and their beneficiaries or successors). The Committee shall have the full power and authority to establish the terms and conditions of any Award consistent with the provisions of the Plan and to waive any such terms and conditions at any time (including, without limitation, accelerating or waiving any vesting conditions). The Committee shall require payment of any amount it may determine to be necessary to withhold for any applicable taxes as a result of the exercise, grant or vesting of an Award. Unless the Committee specifies otherwise, the Participant may elect to pay a portion or all of such withholding taxes by (a) delivery in Shares or (b) having Shares withheld by the Company from any Shares that would have otherwise been received by the Participant.

#### 5. Limitations

No Award may be granted under the Plan after the fifth anniversary of the Effective Date, but Awards theretofore granted may extend beyond that date.

#### 6. Terms and Conditions of Options

Options granted under the Plan shall be, as determined by the Committee, non-qualified or incentive stock options for U.S. federal income tax purposes, as evidenced by the related Award agreements, and shall be subject to the foregoing and the following terms and conditions and to such other terms and conditions, not inconsistent therewith, as the Committee shall determine:

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- (a) **Option Price.** Except for the Options to be granted on the date of the initial public offering, the Option Price per Share shall be determined by the Committee, but shall not be less than 100% of the Fair Market Value of the Shares on the date an Option is granted. The Option Price per Share for the Options to be granted on the date of the initial public offering shall be determined by the Board of Directors.
- (b) **Exercisability.** Options granted under the Plan shall be exercisable at such time and upon such terms and conditions as may be determined by the Committee, but in no event shall an Option be exercisable more than ten years after the date it is granted.
- (c) **Exercise of Options.** Except as otherwise provided in the Plan or in an Award agreement, an Option may be exercised for all, or from time to time any part, of the Shares for which it is then exercisable. For purposes of this Section 6 of the Plan, the exercise date of an Option shall be the later of the date a notice of exercise is received by the Company and, if applicable, the date payment is received by the Company pursuant to clauses (i), (ii), (iii) or (iv) in the following sentence. The purchase price for the Shares as to which an Option is exercised shall be paid to the Company in full at the time of exercise at the election of the Participant (i) in cash or its equivalent (e.g., by check), (ii) to the extent permitted by the Committee, in Shares having a Fair Market Value equal to the aggregate Option Price for the Shares being purchased and satisfying such other requirements as may be imposed by the Committee; provided, that such Shares have been held by the Participant for no less than six months (or such other period as established from time to time by the Committee in order to avoid adverse accounting treatment applying generally accepted accounting principles), (iii) partly in cash and, to the extent permitted by the Committee and subject to the other requirements and conditions set forth above in (ii), partly in Shares or (iv) if there is a public market for the Shares at such time, through the delivery of irrevocable instructions to a broker to sell Shares obtained upon the exercise of the Option and to deliver promptly to the Company an amount out of the proceeds of such sale equal to the aggregate Option Price for the Shares being purchased. No Participant shall have any rights to dividends or other rights of a stockholder with respect to Shares subject to an Option until the Participant has given written notice of exercise of the Option, paid in full for such Shares and, if applicable, has satisfied any other conditions imposed by the Committee pursuant to the Plan.
- (d) **ISOs.** The Committee may grant Options under the Plan that are intended to be ISOs. Such ISOs shall comply with the requirements of Section 422 of the Code (or any successor section thereto). No ISO may be granted to any Participant who at the time of such grant, owns more than ten percent of the total combined voting power of all classes of stock of the Company or of any Subsidiary, unless (i) the Option Price for such ISO is at least 110% of the Fair Market Value of a Share on the date the ISO is granted and (ii) the date on which such ISO terminates is a date not later than the day preceding the fifth anniversary of the date on which the ISO is granted. Any Participant who disposes of Shares acquired upon the exercise of an ISO either (i) within two years after the date of grant of such ISO or (ii) within one

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year after the transfer of such Shares to the Participant, shall notify the Company of such disposition and of the amount realized upon such disposition. All Options granted under the Plan are intended to be nonqualified stock options, unless the applicable Award agreement expressly states that the Option is intended to be an ISO. If an Option is intended to be an ISO, and if for any reason such Option (or portion thereof) shall not qualify as an ISO, then, to the extent of such nonqualification, such Option (or portion thereof) shall be regarded as a nonqualified stock option granted under the Plan; provided that such Option (or portion thereof) otherwise complies with the Plan's requirements relating to nonqualified stock options. In no event shall any member of the Committee, the Company or any of its Affiliates (or their respective employees, officers or directors) have any liability to any Participant (or any other Person) due to the failure of an Option to qualify for any reason as an ISO.

- (e) **Attestation.** Wherever in this Plan or any agreement evidencing an Award a Participant is permitted to pay the exercise price of an Option or taxes relating to the exercise of an Option by delivering Shares, the Participant may, subject to procedures satisfactory to the Committee, satisfy such delivery requirement by presenting proof of beneficial ownership of such Shares, in which case the Company shall treat the Option as exercised without further payment and shall withhold such number of Shares from the Shares acquired by the exercise of the Option.

#### 7. Terms and Conditions of Stock Appreciation Rights

- (a) **Grants.** The Committee also may grant (i) a Stock Appreciation Right independent of an Option or (ii) a Stock Appreciation Right in connection with an Option, or a portion thereof. A Stock Appreciation Right granted pursuant to clause (ii) of the preceding sentence (A) may be granted at the time the related Option is granted or at any time prior to the exercise or cancellation of the related Option, (B) shall cover the same number of Shares covered by an Option (or such lesser number of Shares as the Committee may determine) and (C) shall be subject to the same terms and conditions as such Option except for such additional limitations as are contemplated by this Section 7 (or such additional limitations as may be included in an Award agreement).
- (b) **Terms.** The exercise price per Share of a Stock Appreciation Right shall be an amount determined by the Committee but in no event shall such amount be less than the greater of (i) the Fair Market Value of a Share on the date the Stock Appreciation Right is granted or, in the case of a Stock Appreciation Right granted in conjunction with an Option, or a portion thereof, the Option Price of the related Option and (ii) the minimum amount permitted by Applicable Laws. Each Stock Appreciation Right granted independent of an Option shall entitle a Participant upon exercise to an amount equal to (i) the excess of (A) the Fair Market Value on the exercise date of one Share over (B) the exercise price per Share, times (ii) the

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number of Shares covered by the Stock Appreciation Right. Each Stock Appreciation Right granted in conjunction with an Option, or a portion thereof, shall entitle a Participant to surrender to the Company the unexercised Option, or any portion thereof, and to receive from the Company in exchange therefore an amount equal to (i) the excess of (A) the Fair Market Value on the exercise date of one Share over (B) the Option Price per Share, times (ii) the number of Shares covered by the Option, or portion thereof, which is surrendered. The date a notice of exercise is received by the Company shall be the exercise date. Payment shall be made in Shares or in cash, or partly in Shares and partly in cash (any such Shares valued at such Fair Market Value), all as shall be determined by the Committee. Stock Appreciation Rights may be exercised from time to time upon actual receipt by the Company of written notice of exercise stating the number of Shares with respect to which the Stock Appreciation Right is being exercised. No fractional Shares will be issued in payment for Stock Appreciation Rights, but instead cash will be paid for a fraction or, if the Committee should so determine, the number of Shares will be rounded downward to the next whole Share.

- (c) **Limitations.** The Committee may impose, in its discretion, such conditions upon the exercisability or transferability of Stock Appreciation Rights as it may deem fit.
- (d) **Limited Stock Appreciation Rights.** The Committee may grant LSARs that are exercisable upon the occurrence of specified contingent events. Such LSARs may provide for a different method of determining appreciation, may specify that payment will be made only in cash and may provide that any related Awards are not exercisable while such LSARs are exercisable. Unless the context otherwise requires, whenever the term "Stock Appreciation Right" is used in the Plan, such term shall include LSARs.

#### 8. Other Stock-Based Awards

The Committee, in its sole discretion, may grant or sell Awards of Shares, Awards of restricted Shares and Awards that are valued in whole or in part by reference to, or are otherwise based on the Fair Market Value of, Shares ("Other Stock-Based Awards"). Such Other Stock-Based Awards shall be in such form, and dependent on such conditions, as the Committee shall determine, including, without limitation, the right to receive, or vest with respect to, one or more Shares (or the equivalent cash value of such Shares) upon the completion of a specified period of service, the occurrence of an event and/or the attainment of performance objectives. Other Stock-Based Awards may be granted alone or in addition to any other Awards granted under the Plan. Subject to the provisions of the Plan, the Committee shall determine to whom and when Other Stock-Based Awards will be made, the number of Shares to be awarded under (or otherwise related to) such Other Stock-Based Awards; whether such Other Stock-Based Awards shall be settled in cash, Shares or a combination of cash and Shares; and all other terms and conditions of such Awards (including, without limitation, the vesting provisions thereof and provisions ensuring that all Shares so awarded and issued shall be fully paid and non-assessable).

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## 9. Adjustments Upon Certain Events

Notwithstanding any other provisions in the Plan to the contrary, the following provisions shall apply to all Awards granted under the Plan:

- (a) **Generally.** In the event of any change in the outstanding Shares after the Effective Date by reason of any Share dividend or split, reorganization, recapitalization, merger, consolidation, spin-off, combination, combination or transaction or exchange of Shares or other corporate exchange, or any distribution to shareholders of Shares other than regular cash dividends or any transaction similar to the foregoing, the Committee in its sole discretion and without liability to any person shall make such substitution or adjustment, if any, as it deems to be equitable, as to (i) the number or kind of Shares or other securities issued or reserved for issuance pursuant to the Plan or pursuant to outstanding Awards, (ii) the maximum number of Shares for which Options or Stock Appreciation Rights may be granted during a calendar year to any Participant, (iii) the maximum number of Shares for which Other Stock-Based Awards may be granted during a calendar year to any Participant, (iv) the maximum amount of an Award that is valued in whole or in part by reference to, or is otherwise based on the Fair Market Value of, Shares that may be granted during a calendar year to any Participant, (v) the Option Price or exercise price of any Stock Appreciation Right and/or (vi) any other affected terms of such Awards.
- (b) **Change in Control.** In the event of a Change of Control after the Effective Date, (i) if determined by the Committee in the applicable Award agreement or otherwise, any outstanding Awards then held by Participants which are unexercisable or otherwise unvested or subject to lapse restrictions shall automatically be deemed exercisable or otherwise vested or no longer subject to lapse restrictions, as the case may be, as of immediately prior to such Change of Control and (ii) the Committee may, but shall not be obligated to, (A) cancel such Awards for fair value (as determined in the sole discretion of the Committee) which, in the case of Options and Stock Appreciation Rights, may equal the excess, if any, of value of the consideration to be paid in the Change of Control transaction to holders of the same number of Shares subject to such Options or Stock Appreciation Rights (or, if no consideration is paid in any such transaction, the Fair Market Value of the Shares subject to such Options or Stock Appreciation Rights) over the aggregate exercise price of such Options or Stock Appreciation Rights, (B) provide for the issuance of substitute Awards that will substantially preserve the otherwise applicable terms of any affected Awards previously granted hereunder as determined by the Committee in its sole discretion or (C) provide that for a period of at least 15 days prior to the Change of Control, such Options shall be exercisable as to all Shares subject thereto and that upon the occurrence of the Change of Control, such Options shall terminate and be of no further force and effect.

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## 10. No Right to Employment or Awards

The granting of an Award under the Plan shall impose no obligation on the Company or any Subsidiary to continue the Employment of a Participant and shall not lessen or affect the Company's or Subsidiary's right to terminate the Employment of such Participant. No Participant or other Person shall have any claim to be granted any Award, and there is no obligation for uniformity of treatment of Participants, or holders or beneficiaries of Awards. The terms and conditions of Awards and the Committee's determinations and interpretations with respect thereto need not be the same with respect to each Participant (whether or not such Participants are similarly situated).

## 11. Successors and Assigns

The Plan shall be binding on all successors and assigns of the Company and a Participant, including without limitation, the estate of such Participant and the executor, administrator or trustee of such estate, or any receiver or trustee in bankruptcy or representative of the Participant's creditors.

## 12. Nontransferability of Awards

Unless otherwise determined by the Committee, an Award shall not be transferable or assignable by the Participant otherwise than by will or by the laws of descent and distribution. An Award exercisable after the death of a Participant may be exercised by the legatees, personal representatives or distributees of the Participant.

Notwithstanding the foregoing, no provision herein shall prevent or forbid transfers by will, by the laws of descent and distribution, to a trust that was established solely for tax planning purposes and not for purposes of profit or commercial activity or, to one or more "family members" (as such term is defined in SEC Rule 701 promulgated under the Securities Act of 1933, as amended) by gift or pursuant to a qualified domestic relations order.

## 13. Amendments or Termination

The Board may amend, alter or discontinue the Plan, but no amendment, alteration or discontinuation shall be made, (a) without the approval of the shareholders of the Company, if such action would (except as is provided in Section 9 of the Plan) increase the total number of Shares reserved for the purposes of the Plan or change the maximum number of Shares for which Awards may be granted to any Participant, in each case only to the extent such approval is required by the principal national securities exchange on which the Shares are listed or admitted to trading, or (b) without the consent of a Participant, if such action would diminish any of the rights of the Participant under any Award theretofore granted to such Participant under the Plan; provided, however, that the Committee may amend the Plan in such manner as it deems necessary to permit the granting of Awards meeting the requirements of any Applicable Laws.

Without limiting the generality of the foregoing, to the extent applicable, notwithstanding anything herein to the contrary, this Plan and Awards issued hereunder shall be interpreted in accordance with Section 409A of the Code and Department of Treasury regulations

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and other interpretative guidance issued thereunder, including without limitation any such regulations or other guidance that may be issued after the Effective Date. Notwithstanding any provision of the Plan to the contrary, in the event that the Committee determines that any amounts payable hereunder will be taxable to a Participant under Section 409A of the Code and related Department of Treasury guidance prior to payment to such Participant of such amount, the Company may (a) adopt such amendments to the Plan and Awards and appropriate policies and procedures, including amendments and policies with retroactive effect, that the Committee determines necessary or appropriate to preserve the intended tax treatment of the benefits provided by the Plan and Awards hereunder and/or (b) take such other actions as the Committee determines necessary or appropriate to comply with the requirements of Section 409A of the Code.

## 14. Multiple Jurisdictions

In order to assure the viability of Awards granted to Participants employed in various jurisdictions, the Committee may, in its sole discretion, 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, 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 limitation contained in Section 3 hereof. Notwithstanding the foregoing, the Committee may not take any actions hereunder, and no Awards shall be granted that would violate any Applicable Laws.

## 15. Distribution of Shares

The obligation of the Company to make payments in Shares pursuant to an Award shall be subject to all Applicable Laws and to any such approvals by government agencies as may be required. Additionally, in the discretion of the Committee, American depository shares, or ADSs, may be distributed in lieu of Shares in settlement of any Award, provided that the ADSs shall be of equal value to the Shares that would have otherwise been distributed. If the number of Shares represented by an ADS is other than on a one-to-one basis, the limitations contained in Section 3 shall be adjusted to reflect the distribution of ADSs in lieu of Shares.

## 16. 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 any Applicable Laws, in particular, the tax laws, rules, regulations and government orders of the People's Republic of China or the U.S. federal, state or other local tax laws, as applicable. The Company and each of its Subsidiaries 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, if any) required to be withheld under any Applicable Laws with respect to any Award issued to the Participant hereunder. 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

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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 other 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 other income tax any payroll tax purposes that are applicable to such taxable income.

## 17. Choice of Law

The Plan shall be governed by and construed in accordance with the laws of the state of New York.

## 18. Effectiveness of the Plan

The Plan shall be effective as of the Effective Date and shall terminate five years later, subject to earlier termination by the Board pursuant to Section 13 hereof.



Customer's No.:

GDS' No.:

Data Center Outsourcing Service Agreement

By and between

[Customer]

And

BEIJING WANGUO CHANG'AN SCIENCE & TECHNOLOGY CO., LTD
北京万国长安科学技术有限公司

Date: [ ] China

Customer's No.:

GDS' No.:

Data Center Outsourcing Service Agreement

Content

Table with 3 columns: Item Number, Item Name, and Page Number. Items include Term of Agreement, Terms and Service Levels, Price and Payment, Report, Data Center Security and Management, Change Control, Management, Customer's Responsibility, GDS' Responsibility, Guarantees, Intellectual Property, Infringement of Intellectual Property and Compensation, Liability for Indemnity and Liability for Breach, Data of Customer, Confidentiality, Termination, Consequence of Termination or Expiration, Settlement of Disputes, Relationships, Audit, and General Provisions.

Data Center Outsourcing Service Agreement

This Data Center Outsourcing Service Agreement ("Agreement") is made and entered into in [PLACE], China, as of the date [DD MM YY], by and between the parties as follows:

The parties:

- 1. [ COMPANY NAME ] ("Customer")
2. BEIJING WANGUO CHANG'AN SCIENCE & TECHNOLOGY CO., LTD 北京万国长安科学技术有限公司 ("GDS")

Whereas, Customer needs data center to operate company information system, and desires to engage the data center outsourcing service of GDS; and

Whereas, GDS has the capacity and resources to provide data center outsourcing service desired by Customer.

THEREFORE, for and in consideration of the agreements set forth below, the Customer and GDS agree as follows:

1. Term of Agreement

1.1 This Agreement shall come into effect from the date of the execution by the last one of the parties. The term of Agreement ("Term") shall be [ ] years, commencing from [DD MM YY] and terminating on [DD MM YY]. The parties shall start negotiations on the extension 60 (sixty) days prior to the expiration date, if the parties cannot reach a consensus, the term shall expire automatically on the expiration date.

1.2 Either party shall, subject to Clause 16, be entitled to terminate this Agreement at any time prior to expiration date.

2. Terms and Service Levels

2.1 GDS shall provide the services outlined in Appendix 1 "Service of Work" ("SOW") pursuant to the service level specified in Appendix 2 "Service Level Agreement" ("SLA").

2.2 GDS shall exercise due diligence, perform and manage the service in a professional and skillful way.



2.3 GDS shall provide specialized personnel with adequate competence to render service to meet the specified service levels.

2.4 GDS constitutes a breach of agreement only if GDS fails to provide the service stipulated in SLA due to GDS' reasons. In this case, GDS shall conduct an investigation promptly and take all proper measures to prevent the breach occurring again. Besides, GDS shall render a written report on the breach with the corresponding solutions to Customer every week.

2.5 GDS shall not be liable for the breach of this Agreement if GDS fails to perform the Agreement as required( including fail to render service specified in SLA) as a result of:

- Customer fails to fulfill the duties of this Agreement, which are prerequisites for GDS to perform the relevant obligations.
- Acts of any person from Customer, unless otherwise instructed by GDS.
- The malfunction or incorrect operation of equipment owned by Customer, unless otherwise caused by GDS. The equipment owned by Customer hereby refers to "The Equipment List" as well as the equipment added by Customer from time to time during the term.
- Any malfunction of Customer's software or third party's software used by Customer, unless otherwise caused by GDS.
- Force majeure.

If GDS fails to perform the obligations as a result of the above reasons, GDS still needs to take necessary and appropriate measures, to the extent possible, to fulfill the duties.

### 3. Price and Payment

3.1 Price-The total price of this Agreement for [ ]-year service is RMB [ ] (SAY RMB [ ] ONLY).

3.2 The price details and payment methods for this Agreement refer to the Appendix 3.

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### 4. Report

GDS shall provide the service report specified in SOW of Appendix 1 for Customer.

### 5. Data Center Security and Management

5.1 In order to supervise GDS' service, the representative of Customer can visit the data center located in [ ] provided Customer gives 1 (one) business day written notice in advance.

5.2 To any employee from Customer (including Customer's representative and any other aid workers) who does not abide by the informed reasonable safety or security rules or regulations or any reasonable requirements, GDS may refuse its visit to the data center.

5.3 At the request of GDS, Customer shall inform GDS of the identity of the person who is performing the above duties without delay.

### 6. Change Control

6.1 If Customer wishes to change the services during the term of this Agreement, Customer shall issue a request to GDS. GDS shall submit a statement about the influence on GDS arising from the proposed service change and make an offer for cost change (if any) within 10 (ten) working days after receipt of Customer's request. If the request is infeasible, GDS shall make an explanation to Customer in the statement to clarify the reasons.

6.2 If GDS wishes to change the services during the term of this Agreement, GDS shall issue a request to Customer, including a statement about the influence on GDS arising from the proposed change and the offer for cost change (if any).

6.3 After receipt of the statement specified in Clause 6.1 and 6.2, Customer can,

- 1) Object the statement and/or the offer;
- 2) Accept the statement and/or the offer and confirm the change to any service as well as the corresponding change to SLA and/or fees; or
- 3) Terminate or refuse the request for service change.

6.4 The request for service change will be deemed to be refused if Customer does not give any response within 20 (twenty) working days after receipt of the request set in Clause 6.2 from GDS.

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6.5 If Customer files a challenge to the statement and/or the offer on the grounds of the regulations set in Clause 6.3, the parties shall conduct consultations based on the principle of good faith. Customer can accept or refuse GDS' statement and/or offer according to the final negotiated outcome.

6.6 Any reasonable fees borne by GDS arising from the Customer's request of service change shall be paid to GDS by Customer within 10 (ten) working days after receipt of the concerning invoice, unless otherwise agreed by the parties.

### 7. Management

7.1 Unless otherwise informed by one party, for this Agreement, the representative of each party shall be regarded as the contact person of this party, and each party shall provide all address information for receiving notice to the designated person of the other party according to this provision.

7.2 The parties shall authorize their representatives to:

- a) Perform the party's obligations hereunder on behalf of the party;
- b) Act on behalf of the party to handle all matters hereof;
- c) Send and receive notifications according to the Agreement;
- d) Exercise the rights and give approval according to the Agreement.

7.3 If one party wishes to change the designated representative listed in Clause 7.1, the party shall notify the other party in writing at least 5 (five) working days in advance. Then, both parties can meet each other to discuss their opinions on the proposed substitute person.

### 8. Customer's Responsibility

8.1 Customer shall:

- 1) Provide necessary help and assistance with the spirit of cooperation for GDS to perform the service, as long as the help and assistance are connected with Customer's obligations hereunder;
- 2) Ensure all approval and permission for the business entrusted by Customer have been obtained and remain effective during the term of this Agreement;

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3) Ensure all license, permission and approval for operating Customer's equipment required by law have been obtained and will remain effective during the term of this Agreement;

4) At its sole cost and risk, undertake the disassembling of the equipment from its original location and packing, transportation and installation of the same in GDS' data center (GDS shall provide reasonable assistance);

5) Procure insurance in accordance with business practice with respect to all Customers' equipment trusted and kept in GDS' data center, and ensure such insurance policies will remain in effect during the term of this Agreement.

## 9. GDS' Responsibility

9.1 GDS shall:

- 1) Provide Customer with high-quality data center outsourcing service according to this Agreement to satisfy Customer's normal business requirements
- 2) Safeguard and maintain the equipment trusted and kept in GDS' data center by Customer. GDS shall be liable for the damages to Customer's equipment caused by GDS' equipment defect or GDS' improper operation or maintenance;
- 3) Ensure Customer's equipment can operate well. If any fault or problem is found in the operation process, GDS shall notify Customer without delay and assist Customer to remove the faults timely;
- 4) Take all justifiable measures to prevent GDS' creditor from claiming any right to Customer's equipment.

## 10. Guarantees

10.1 Each party hereby guarantees to the other party that as of the effective date as follows :

- 1) The execution and delivery of this Agreement have been duly and effectively authorized;
- 2) Each Party has all legal capacity, power and authority to execute, deliver and perform its obligations hereunder;

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- 3) This Agreement does not and will not violate any substantive provisions or regulations of the articles, laws or provisions for or binding upon the parties, nor will it lead to or constitute a breach of the preceding normative documents;
- 4) No filed, pending or potential litigation, claim, procedure or investigation will have a substantial impact against the object hereof.
- 5) To fulfill the obligations hereunder, each party has obtained all permits, authorization, consent, permission and approval required by relevant laws and legislations, or conformed with all provisions of laws and regulations applied to these obligations.

## 11. Intellectual Property

11.1 The parties confirm and agree that:

- 1) All intellectual property rights of the software owned by Customer or authorized to Customer for use by a third party will remain in full force and effect during the term of this Agreement.
- 2) All intellectual property rights of the software owned by GDS or authorized to GDS for use will remain in full force and effect during the term of this Agreement.
- 3) Customer owns all intellectual property rights on Customer's updated or modified software arising from the use of GDS' services.
- 4) Customer or a third party owns all intellectual property rights of Customer's data.

11.2 Either party shall not infringe any legitimate rights, qualifications or interests contained in each other's intellectual property rights in any way.

11.3 No provision hereunder shall be interpreted or construed that one party transfers its own or third party's intellectual property rights to the other party.

11.4 All terms and conditions under Clause 11 shall remain in force and effect after the expiration or termination of this Agreement.

## 12. Infringement of Intellectual Property and Compensation

12.1 Customer shall indemnify, defend and hold harmless GDS from and against any damages, liabilities, costs and expenses (including reasonable attorneys' fees

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and expenses) arising out of, or relating to any civil, criminal, administrative, arbitral or investigative action, suit or proceeding alleged by any third party against GDS in connection with the use of any software, equipment (whether the same is owned or leased by Customer), information, materials and/or any other resources owned or provided by Customer in GDS' data center.

12.2 GDS shall indemnify, defend and hold harmless Customer from and against any damages, liabilities, costs and expenses (including reasonable attorneys' fees and expenses) arising out of, or relating to any civil, criminal, administrative, arbitral or investigative action, suit or proceeding alleged by any third party against Customer in connection with the use of any software, equipment (whether the same is owned or leased by Customer), information, materials and/or any other resources owned or provided by GDS, unless otherwise provided by GDS in accordance with Customer's instructions or recommendations.

## 13. Liability for Indemnity and Liability for Breach

13.1 Liability for Indemnity

- 1) Indemnity for personal injury and property damage—Each party should indemnify the other party for personal injury to any person or losses of any property (excluding the following compensation for infringement) arising out of wilful act or gross negligence of such party during the period of providing or accepting service
- 2) GDS' Indemnity for Infringement—In the event that any other third party claims indemnity for infringement against Customer (no matter claimed as the main or secondary infringer) as result of using the software according to the Agreement or acquiring software owned or provided by GDS, GDS shall indemnify Customer for the losses or damages caused by the third party's claim for infringement indemnity, including the indemnity amount paid to the third party by Customer or reasonable legal costs affirmed by a final and unappealable court judgment or verdict.
- 3) Customer's indemnity for infringement—In the event that any other third party claims indemnity for infringement against GDS (no matter claimed as the main or secondary infringer) as a result of using the software

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according to the Agreement or acquiring software owned or provided by Customer or storing or processing or using data or information or other materials provided by Customer, Customer shall indemnify GDS for the losses or damages caused by the third party's claim for infringement indemnity, including the indemnity amount paid to the third party by GDS or reasonable legal costs affirmed by a final and unappealable court judgment or verdict.

- 4) As for infringement indemnity described in this Clause, the indemnitor shall be given notice timely and granted full rights of defense and reconciliation on liability of indemnity.

13.2 Liability

- 1) Each party shall indemnify the other party any direct losses or damages arising out of or in relation to indemnitor's breach of any term of this Agreement.
- 2) The direct losses or damages in this Clause shall not include: i) the party's loss of business, loss of profits, loss of sales revenues or loss of goodwill resulted from the other's breach, no matter existing or anticipated, and ii) any direct losses and additional damages caused by the party who should but fail to take reasonable remedial measures to mitigate the losses after the other's breach.
- 3) In the event that Customer terminates the Agreement prior to the expiration of the Agreement (apart from Clause 16), Customer shall give GDS a written notice 3 (three) months in advance and shall pay GDS a termination fee in an amount equal to 100% of the remaining total contract amount.

Both parties shall settle the service fees and relevant expenses at the time of the termination. When Customer terminates the Agreement in advance, it shall pay GDS for the services already completed (including the fees for one-time set-up charge, the initial costs invested by GDS and the fees for the service already provided up to the date of termination). GDS shall refund Customer the fees which have been paid but without service provided.

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4) If either party delays in payment, the party shall pay the other party 0.5% of the sum payable per day from the first day of such breach to the date of payment fully received by the other party.

### 13.3 Limitation of liability

The limitation of liability—the maximum aggregate limitation of liability of either party hereunder (regardless of indemnity caused by default, tort, or any other form) shall not exceed the aggregate amount equal to one month' service fee.

The aggregate limitation of liability above shall not be applicable to the following claims:

- 1) The liability of indemnity provided by Clause 13.1;
- 2) Any payment obligations hereunder;
- 3) One party violates the duties of confidentiality specified by Clause 15;
- 4) The willful act or gross negligence of one party.

### 13.4 Consequential damages

In no event shall any party be responsible for any consequential damages suffered by the other party arising in providing or accepting the services hereunder, no matter whether the consequential damages can be reasonably foreseen or not when the Agreement comes into force.

## 14. Data of Customer

14.1 Nothing in this Agreement is aimed to grant GDS intellectual property rights or any other rights for the data of Customer.

14.2 GDS undertakes to comply with all the laws and regulations relating to the storage and use of Customer's data, including but not limited to the requirement of keeping confidentiality and protecting individual privacy, and comply with any other published, effective and applicable laws and regulations required at any time by Customer in writing.

14.3 Subject to Clause 15.1 e), GDS may disclose Customer's data within the limitation of the order, requirement or judgment issued by duly authorized law enforcement official or governmental representative or official, or the final and unappealable court judgment; provided that GDS shall notify such officials or their agents, the related governmental institution or the court of the

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confidentiality of Customer's data and notify Customer with respect of the aforesaid.

## 15. Confidentiality

15.1 Both parties acknowledge and agree that:

- a) All confidential information of the disclosing party shall remain as its sole and exclusive property.
- b) Each party shall receive the other party's confidential information with the state of confidentiality. Its employees who access the confidential information shall be limited to those authorized ones who have an absolute need to know the confidential information in order to perform the obligations hereunder. Furthermore, the authorized employees shall be informed with the confidentiality and ownership of such information.
- c) Unless otherwise pursuant to Clause 14.3 or with special written consent of the disclosing party, neither party shall or shall authorize any others to disclose, expose or divulge any confidential information of the disclosing party. For the avoidance of doubt, Customer's express authorization on the disclosure of such information shall be limited only to other operators for the purpose of providing service.
- d) One party can only utilize the other party's confidential information for the purpose of performing the obligations hereunder and other purposes permitted by written agreement signed by both parties.
- e) In the event that one party receives any requirement from any third party or entity in respect of disclosing any confidential information (no matter it is in the form of subpoenas or orders issued by a court with jurisdiction or any other governmental department or other forms), and the disclosure of the confidential information is in compliance with the requirements of the applicable law, statute or Stock Exchange regulations, the party may disclose such information but shall be subject to the two conditions below: 1) the required disclosing party shall notify this requirement to the other party before disclosure; 2) the required disclosing party shall endeavor to apply for a protection order or seek for other credible

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guarantee to ensure the confidential information to be disclosed will be treated as confidentiality.

- f) The duty of confidentiality for the confidential information shall survive the termination of this Agreement.
- g) No provision herein shall be construed as approval or permission to make, utilize or sell the confidential information or products derived from such confidential information.

15.2 Insofar as it is within the scope of responsibility of GDS' authorized employees, GDS may disclose Customer's confidential information to its authorized employees (and permit its authorized employees to access to such information), provided that GDS shall ensure everyone to be disclosed:

- a) Has been informed of GDS' duty of confidentiality;
- b) Will abide by these obligations just as they are bound.

15.3 Insofar as it is within the scope of responsibility of Customer's authorized employees, Customer may disclose GDS' confidential information to its authorized employees (and permit its authorized employees to access to such information), provided that Customer shall ensure everyone to be disclosed:

- a) Has been informed of Customer's duty of confidentiality;
- b) Will abide by these obligations just as they are bound.

15.4 Neither party shall disclose any confidential information of the disclosing party to any other persons, except as disclosed to employees or counselors who need to know the information as per their duties.

## 16. Termination

16.1 GDS may terminate this Agreement through notice to Customer in writing under the following conditions:

- a) Customer commits a material breach or default in any of the terms or conditions hereof and fails to remedy the breach or default within 20 (twenty) working days after receipt of written notice of that breach from GDS;
- b) Customer is subject to bankruptcy restrictions;
- c) Customer fails to pay GDS and the total outstanding amount exceeds one-month service fee.

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16.2 Customer may terminate this Agreement through notice to GDS in writing under the following conditions:

- a) GDS commits a material breach or default in any terms or conditions hereof and fails to remedy the breach or the default within 20 (twenty) working days after receipt of written notice of that breach from Customer;
- b) GDS is subject to bankruptcy restrictions;
- c) GDS breaches the duty of confidentiality specified in Clause 14 and Clause 15, whereupon Customer may terminate the Agreement forthwith.

## 17. Consequence of Termination or Expiration

- 17.1 Termination of this Agreement shall not affect or prejudice any other rights incurred prior to the date of termination or the right to take remedial measures.
- 17.2 Except for the termination specified in Clause 16.1 b) or 16.1 c) hereof, upon the termination of this Agreement, Customer may require GDS to provide reasonable assistance to change the service provider from GDS to Customer itself or to its designated third-party provider. Customer shall compensate GDS all of the reasonable costs and expenses resulted from providing assistance by GDS.
- 17.3 Clause 10, 11, 12, 13, 15, 17, 18 and 21, which by their nature are intended to survive the termination or expiration of this Agreement, shall remain in full force and effect after the expiration or termination of this Agreement.
- 17.4 In the event that transfer is in need upon the termination of this Agreement, GDS shall accomplish all necessary work reasonably required by Customer after the date of termination and transfer Customer's equipment, data and system to Customer. Customer may take these over on its own or through its designated third party. Risks associated with Customer's equipment, data and system shall be transferred to Customer upon the transfer from GDS to Customer (or the third provider designated by Customer). The transfer shall be conducted in the data center of GDS.

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## 18. Settlement of Disputes

- 18.1 Before resorting to external dispute settlement authorities for a solution, the parties shall endeavor to resolve disputes arising from this Agreement through friendly consultations, except as resorted to urgent or temporary relief by one party.
- 18.2 Where the parties fail to reach an agreement on the dispute through negotiations, either party is entitled to submit such dispute to [name of Arbitration Commission] in accordance with arbitration rules then in force. The arbitral award shall be final and binding upon both parties.

## 19. Relationships

- 19.1 Nothing in this Agreement shall constitute or be deemed to constitute employer-employee relationship, principal-agent relationship, partnership, joint venture relationship or any other combined relationship through which one party shall be responsible for the act or omission of the other party.
- 19.2 Neither party shall have the right to:
- Bind the other party by this Agreement or laws unless otherwise provided herein; or
  - Represent the other party for foreseeable definite purposes not specified herein.

## 20. Audit

- 20.1 Providing convenience
- Both parties agree to facilitate and assist with the other party's audits (including external audits);
  - GDS agrees to provide all files, books and any other necessary information relating to this Agreement for Customer to conduct audits and reasonably evaluate the contract performance of GDS. GDS agrees that the result of the audit conducted by Customer pursuant to Appendix 1 "Service of Work" (SOW) and Appendix 2 "Service Level Agreement" (SLA) of this Agreement can be used as the basis for Customer to evaluate GDS' performance status hereof;

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- Neither party has obligations to provide information not reasonably needed in the audits while assisting the other party in audit process (including commercial confidentiality, financial information and intellectual property rights and etc.).
- 20.2 Notification and Cost
- Each party shall give the other party at least 10 (ten)-working day prior written notice requesting assistance with audits. Each party shall bear and pay all costs arising out of the audits on its own.
- 20.3 External audit
- In the event that one party entrusts or appoints a third institution to conduct audits, the written notice requesting assistance with audits issued to the other party shall cover the appointment of such third institution and defined scope of authorization.

## 21. General Provisions

- 21.1 Waiver of rights
- The failure of one party at any time to exercise the right under this Agreement or take any action against the breach of the other party shall not be regarded or construed as a waiver of such right or such breach against the default party. The specific waiver by one party to the defaulted party's breach of any provision or breach or default in performance shall not be deemed as a waiver of other provisions or breaches or defaults of the other party. All of these waivers shall be in written form.
- 21.2 Compensation
- All compensations provided hereunder are persistent in nature once occur, and shall be separate and independent from other responsibilities of each party and shall survive the expiration or termination of this Agreement.
- 21.3 Force Majeure
- Force majeure refers to unforeseeable, unavoidable and insurmountable objective conditions. Where one party fails to perform the Agreement due to force majeure, liability shall be exempted partly or wholly according to the impact of force majeure. A party who fails to fulfill the Agreement due to force majeure shall promptly notify the other party in order to reduce

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- The party suffering from force majeure shall provide the other party with certifications of relevant departments within 10 (ten) working days from the date when force majeure occurs.
  - The party suffering from force majeure shall take all reasonable measures to reduce the adverse consequences caused by force majeure.
- 21.4 Non-solicit
- During the service period of this Agreement and 12 (twelve) months following the expiration or termination of this Agreement, neither party shall directly or indirectly employ the other party's employees who participate in the performance of this Agreement or are aware of the contents of this Agreement (including the employees who leave office during the above period) unless agreed by the other party; otherwise the party shall indemnify the other party the direct economic losses caused thereby.
- 21.5 Notice

Any notice, consent, request or any other communications hereunder shall be delivered in written form to, or mailed to the following designated recipient address via prepaid postage (or airmails, if sent from or to locations other than the following addresses,), or by fax to the following designated fax number or any other address, fax number or E-mail address designated by recipient.

Customer:  
Address:  
Contact person:  
Fax No.:

GDS:  
Address:

Contact person:  
Fax No.:

21.6 Entire Agreement

This Agreement together with its appendixes attached hereto shall constitute the entire Agreement between the parties with respect of the subject matter and shall supersede all previous negotiations, oral and written commitments,

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agreements, memoranda and communications between the parties relating to the subject matter hereof.

21.7 Originals and Appendixes

This Agreement is made in six originals, three for each party. Each original shall have the same legal effect. This Agreement shall become effective since being signed and affixed with company seals by authorized representatives of both parties.

The appendixes hereof are: Appendix 1 "Service of Work" (SOW) and Appendix 2 "Service Level Agreement" (SLA). Both appendixes are effective parts of this Agreement.

21.8 Modification

This Agreement can only be modified upon written agreement between the parties.

21.9 Application of Law

This Agreement shall be governed by and construed in accordance with the laws of the People's Republic of China.

IN WITNESS WHEREOF, the authorized representatives of both parties sign this Agreement as follows:

Representative  
Customer (seal)

Representative  
**BEIJING WANGUO CHANG'AN SCIENCE & TECHNOLOGY CO., LTD**   
(seal):

Authorized Representative (signature)

Authorized Representative (signature)

Name (Printed)

Name (Printed)

Date:

Date:

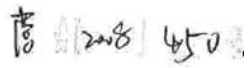
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Shanghai Waigaoqiao Free Trade Zone

**Premises and Warehouse Lease Agreement**

Printed by Shanghai Waigaoqiao Free Trade Zone Management Committee



Shanghai Waigaoqiao Free Trade Zone

**Premises and Warehouse Lease Agreement**

(Contract No.: 163420)

House Lease Contract of 87#, 88#, 89# and 90# Properties in F16 Plot

Lessor: Shanghai Waigaoqiao Free Trade Zone Sanlian Development Co., Ltd. (hereinafter referred to as party A)Legal address: No.2001, North Yanggao Road, Shanghai City, China 200131Legal representative: Shi WeiminLessee: EDC CHINA HOLDINGS LTD.

(hereinafter referred to as Party B)

Legal address: \_\_\_\_\_

Legal representative: \_\_\_\_\_

Party A and Party B sign this Contract by consensus according to the *Contract Law of the People's Republic of China*, the *Urban Real Estate Administration Law of the People's Republic of China* and relevant provisions to clarify the relationship of rights and obligations of the lessor and the lessee.

**Article 1: Name, structure, area and use of leased housing**

1. \_\_\_\_\_ TOC The<sup>1</sup> housing structure, floor load and supporting facilities are shown in Appendix 2 to the Contract.

**Article 2: Lease term (as shown in supplementary terms)**

Party A rents out the housing and supporting facilities determined in Article 1 to Party B on (date) and recovers on (date). The lease term is 10 years.

**Article 3: Rent and property management fees, payment method and payment period (as shown in supplementary terms)**

- The housing rent is RMB[REDACTED]<sup>2</sup>/m<sup>2</sup>/day by construction area and the total annual rent is construction area (m<sup>2</sup>) of delivered housing × RMB[REDACTED]<sup>3</sup>/m<sup>2</sup>/day × 365 days.
- The rent is calculated from the lease commencement date determined in Article 2 herein. With a lease quarter of every three months, Party B shall pay the rent for next lease quarter before the 25th day in the month prior to each lease quarter. The construction deposit is handled as shown in the supplementary terms.
- The rent is unchanged for 10 years from the effective date of the Contract. \_\_\_\_\_
- The property management fee of the housing is / and the payment method and period is / \_\_\_\_

**Article 4: Deposit (as shown in supplementary terms)**

Within / days after execution of the Contract, Party B shall pay the rent for / months as the deposit, totaling RMB / in advance. The deposit is not refunded if Party B intends to surrender in advance after execution of the Contract. To renew the housing determined herein or exchange lease of \_\_\_\_\_

<sup>1</sup> Confidential treatment requested

<sup>2</sup> Confidential treatment requested

<sup>3</sup> Confidential treatment requested

other housing of Party A upon expiry of the Contract, Party B shall give a written notice to Party A 180 months upon expiry of the lease term. Both parties sign a separate lease contract with the consent of Party A and the deposit is included in the new lease contract; if Party B does no longer renew, Party A refunds the deposit within 30 days after Party B submits the leased housing to Party A for acceptance and returns the housing to Party A intactly before (date).The deposit is free of interest.

**Article 5: Handover of leased housing (as shown in supplementary terms)**

- Party A shall deliver the housing and supporting facilities determined in Article 1 herein to Party B according to the procedures agreed by both parties before (date) after execution of the Contract; Party B shall sign the handover sheet after acceptance of the housing and supporting facilities delivered by Party A to prove complete delivery.
- In case of failure to renew after expiry of the lease term, Party B shall hand over the leased housing to party A integrally upon acceptance of Party A before (date).
- The water, electricity, gas and telephone used by Party B are agreed by Party A and Party B in the supplementary terms of the Contract or the management and maintenance convention according to the actual situation.

**Article 6: Housing use, construction and management in lease term**

- Party A and Party B shall jointly comply with the *Housing Use, Management and Maintenance Convention of Shanghai Waigaoqiao Free Trade Zone*. Party A or the property management enterprise entrusted by Party A is uniformly responsible for management and maintenance of public areas, public equipment and public facilities as well as coordination between adjacent units.
- Party B leases the housing determined in Article 1 herein only for outsourcing services based on the data center and shall not arbitrarily change its structure and use in the lease term and must comply with the laws and regulations of the People's Republic of China and safeguard the public facilities and public benefits. Party A is responsible for repairing the natural loss of the leased housing. Party B is obliged to repairing and recovering the unnatural loss and relevant facility damage of the leased housing or compensating for the loss and Party A makes timely maintenance and repair according to the provisions. The responsible party is responsible for repairing the artificial damage of the leased housing or compensating for corresponding economic loss.
- Party B may make supporting facility operation to the leased housing with a prior notice to Party A within the lease term. In case of damage to Party A's equipment or stored goods for Party B's fault, Party B shall be responsible for restoring or compensating for the loss.
- Party B may partition or decorate the leased housing at its own cost with prior written consent of Party A and shall inform Party A before construction. Party B shall timely negotiate with Party A on the specific matters and comply with national and Shanghai regulations and provisions on building, fire protection, environmental protection and health and epidemic prevention. Party A shall provide relevant drawings and information. Party B shall not damage the leased housing, build, dismantle or destroy the housing structure arbitrarily or exceed the allowed load on the floor. In case of damage or arbitrary change of the building structure, Party B shall be responsible for restoring or compensating for the loss.
- In addition to setting up a special warehouse with the approval of the public security department, Party B shall not stack flammable and combustible, corrosive, poisonous and

harmful articles inside and outside the plant (or warehouse), discharge the production wastewater to the sewage and rainwater pipelines or emit poisonous and harmful gases to ensure safety. All consequences caused by violation of this article shall be borne by Party

6. Party B may temporarily park the vehicles for goods in the outdoor open storage area and traffic roads with the consent of Party A. After loading and unloading cargo, Party B shall timely drive the vehicles away from the site and shall not park and place the vehicles and cargo at will. Party A develops corresponding management systems to ensure safe and smooth traffic.
7. Both parties shall comply with *Management Regulations for Afforestation and Greening in Shanghai* and shall not embezzle the greenbelt arbitrarily. To use the greenbelt, Party B shall obtain the consent of Party A and submit to the Free Trade Zone Management Committee for approval.
8. Party B shall properly protect all underground facilities and public facilities built by Party A under the determined ground.
9. Party A is responsible for the public health, greening and conservation outside the leased housing and Party B shall undertake the related management costs according to relevant provisions.
10. The responsible person shall undertake the resulting losses from damage of public equipment or impact on normal use of public parts.
11. If Party A's management does not reach the predetermined requirements, Party B has the right to refuse payment of relevant property management fees.

#### **Article 7: Insurance (as shown in supplementary terms)**

1. Party B or the owner of cargo covers insurance for Party B's cargo and properties in an insurance company at the premium of Party B.
2. Party A is responsible for covering the insurance for the housing provided by Party A (including relevant equipment) in the insurance company at the cost of Party A.

#### **Article 8: Lessee change by lessor**

When transferring the ownership of the leased housing to a third party in the lease term, Party A shall truthfully inform the transferee of the leasehold relation and the housing transferee shall continue to perform the original house lease contract.

#### **Article 9: Liability for breach of contract (as shown in supplementary terms)**

1. Unless otherwise stipulated in the contract documents, Party A constitutes breach of contract in case of any of the following circumstances:
  - A. The housing provided does not meet the stipulated conditions;
  - B. Fail to provide the housing stipulated in Article 1 herein according to the time stipulated herein;
  - C. Make operations in the housing leased by Party B without prior notice to Party B, affecting normal operating activities of Party B or causing loss to the goods stored by Party B (as shown in paragraph 1f in Article 12 of supplementary terms);
  - D. Fail to timely repair the leased housing and supporting facilities required to be repaired by Party A according to the contract agreement;
  - E. Violate other terms herein.

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2. Unless otherwise stipulated in the contract documents, Party B constitutes breach of contract in case of any of the following circumstances:
  - A. Damage the leased housing and various supporting facilities or arbitrarily change the building structure, causing economic losses to Party A;
  - B. Fail to pay the rent in full and on time according to the contract provisions;
  - C. Fail to return the leased housing to Party A according to the contract provisions;
  - D. Violate other terms herein.
3. The default party shall pay the liquidated damages to the other party. The liquidated damages are calculated by day, with the method as follows:
  - A. The daily liquidated damages are 0.4‰ of the accrued payables;
  - B. Number of default days = number of days from occurrence of default fact to completion of correction of default fact
  - C. Amount of liquidated damages = daily liquidated damages x number of default days.
4. If the losses caused by default to the other party exceed the liquidated damages, the default party shall make compensation for the insufficient part. The compensation is actually calculated and jointly checked by both parties according to the degree of loss and may also be verified by a professional authorized third party jointly entrusted by both parties.
5. If the observant party requires continuing to perform the Contract after default fact, the default party shall continue to perform the Contract no matter whether the liquidated damages and compensation have been paid actually.
6. The liquidated damages and compensation shall be paid no later than 10 days after the default; if the default still exists on and after the payment date, the liquidated damages and compensation shall be paid no later than the end of the month; otherwise, it may be handled as overdue payment.

#### **Article 10: Exemption conditions**

Either party does not assume liability for breach of contract for failure to perform the Contract according to the agreed conditions due to force majeure; however, the party encountering force majeure shall immediately notify the other party and, within ten days, provide the details of the force majeure and the reasons and effective evidential documents for failure to perform the Contract in whole or in part and the need for delay in the performance. The property loss to Party A and Party B for force majeure within the lease term is handled by respective party. After above event, Party A shall recover the damaged part to the serviceable conditions within 60 days; otherwise, both parties may determine whether to temporarily interrupt performance or terminate the Contract through friendly negotiation.

#### **Article 11: Dispute resolution**

Any dispute arising from performance of the Contract is resolved by both parties through negotiation; If negotiation fails, both parties may select any of the following arbitration agency for arbitration: x

- o Shanghai Arbitration Commission;
- x China International Economic and Trade Arbitration Commission Shanghai Branch;
- o \_\_\_\_\_.

#### **Article 12: Processing mode of unaccomplished matters**

1. For the unaccomplished matters, both parties develop the supplementary terms through

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negotiation according to the *Contract Law of the People's Republic of China* and other legal regulations. The supplementary terms have legal effect with this Contract (as shown in paragraph 17e in Article 12 of the supplementary terms).

2. Both parties may modify the Contract by consensus. Before execution of the modified contract, both parties shall still perform the content stipulated in the Contract (as shown in paragraph 17 in Article 22 of the supplementary terms).

#### **Article 13: Execution, modification, renewal and termination of contract**

1. Before signing of the Contract, Party A is responsible for informing Party B of the real estate management policies in the Free Trade Zone, the use nature, class and scope of application of the leased housing as well as related information on the leased housing and surrounding areas in detail; Party B is responsible for soliciting the opinions of the competent authority on whether it is allowed to set up the future project in the leased housing.
2. The Contract takes effect after being signed and sealed by the legal representatives or authorized representatives of both parties.
3. If the national and Shanghai laws, regulations and provisions for modification of the Contract or the new laws, regulations and provisions promulgated are retrospective to the Contract after execution of Contract, both parties shall timely revise the Contract to prevent the legitimate rights and interests of both parties from being damaged.
4. Party B has the priority right of renewal of the leased housing under the equal price and conditions upon expiry of the lease term. For renewal after expiry of the lease term, Party B shall make a written renewal application to Party A 180 days prior to the expiry of the lease term. Beyond above term, Party A has the right to replace the lessee. Both parties may enter into a new house lease contract according to the purpose stipulated herein.
5. Either party may modify or terminate the Contract for special reasons with a written notice to the other party 180 days in advance and with the consent of the other party. Either party shall compensate the other party for the resulting losses, except exempted from liability according to law.
6. If not applying for renewal upon expiry of the lease term, Party B shall sign a house surrender agreement with Party A one month in advance.
7. In case of any of the following circumstances of Party B, Party A has the right to notify Party A to terminate the Contract, recover the housing and require Party B to compensate for the economic losses:
  - A. Party B subleases, transfers or under-leases the housing or exchanges with the others (as shown in Article 14 in the supplementary terms);
  - B. Party B arbitrarily changes the structure or use of the leased housing;
  - C. Party B conducts illegal activities by means of the leased housing, damaging the public interests;
  - D. Party B is behind in payment of the rent for 6 consecutive months.
8. In case of any of the following circumstances of Party A, Party B has the right to notify Party A to terminate the Contract and require Party A to compensate for the economic losses:
  - A. Fail to deliver the house more than one month after the delivery time stipulated herein;
  - B. The housing provided does not meet the stipulated conditions;
  - C. Make operations in the housing leased by Party B without prior notice to Party B,

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affecting normal operating activities of the lessee or causing loss to the goods stored by Party B.

#### **Article 14: Contract registration record**

Party A shall submit the original of the Contract to Shanghai Waigaoqiao Free Trade Zone Management Committee for registration record (including registration record of the contract change and termination) after execution of the Contract. Both parties undertake 50% of the registration record costs respectively.

#### **Article 15: Supplementary provisions (as shown in supplementary terms)**

1. The Contract, together with the appendices (original), is made out in quintuplicate and has equal effect.
2. Any change in the contact address, telephone and contact of either party shall be timely notified to the other party.

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#### **Supplementary terms**

Party A and Party B reach the following supplementary terms on establishment of Shanghai Data Center by Party B in Party A's park by consensus:

##### **1. Definitions**

- 1) Lease contract mentioned herein refers to House Lease Contract of 87#, 88#, 89# and 90# Properties in F16 Plot;
- 2) Article mentioned herein refers to the articles in the House Lease Contract of 87#, 88#, 89# and 90# Properties in F16 Plot;
- 3) Appendix mentioned herein refers to the appendix in the House Lease Contract of 87#, 88#, 89# and 90# Properties in F16 Plot;
- 4) The supporting facilities in the House Lease Contract of 87#, 88#, 89# and 90# Properties in F16 Plot are shown in "Appendix 2: Custom property specification and delivery interface of "GDS Shanghai Data Center" of the lease contract;
- 5) Agreed delivery date of the leased housing refers to the corresponding date to 12 months after the leased housing construction drawing design agreed herein is subject to written confirmation of Party B and the contract agreed date when the Party A delivers the housing to Party B. For example, if Party B makes written confirmation on March 1, 2009, the agreed delivery date of the leased housing is March 1, 2010;
- 6) Actual delivery date of the leased housing refers to the date when Party A and Party B hand over the leased housing and sign the handover list on site according to the agreement on housing handover in the lease contract;
- 7) Lease commencement date of the leased housing refers to the commencement date of the rent paid by Party B after expiry of the decoration preparation period provided by Party A for Party B agreed in the lease contract.
- 8) Force majeure includes war, turmoil, natural disasters and other unforeseeable, insuperable and unavoidable events. Natural disasters refer to earthwork, tsunami, thunder, hurricane, typhoon, tornado, windstorm, rainstorm, flood, freeze disaster, hail, ground avalanche, snow slide, volcanic eruption, unartificial land subsidence and other irresistible natural phenomena with powerful destructive power.

##### **2. Area, location and nature of leased housing**

- 1) The leased housing is located in Plot F16 in District F of Shanghai Waigaoqiao Free Trade Zone and the specific position is shown in the plan in Appendix 1 to the lease contract.
- 2) The temporary construction area of the leased housing is 43393m<sup>2</sup> (hereinafter referred to as the "temporary area"), in which, the temporary construction area is 14986m<sup>2</sup> for 87# building as the main machine room, 8502m<sup>2</sup> for 88# building as the power center, 14986m<sup>2</sup> for 89# building as the main machine room and 4919m<sup>2</sup> for 90# building as the office building. The final construction design shall be subject to the construction drawings confirmed by both parties and the official reply of relevant government departments.
- 3) Since the leased housing is new planned construction property, the housing rent, property management fees or other funds calculated according to the housing area are calculated on the basis of the temporary area in the drawings. The final housing lease construction area shall be subject to the measured construction area provided by Shanghai Housing Surveying and Mapping Center and the housing rent, deposit, property management fees and other related costs are adjusted according to the measured construction area. Both parties shall sign a separate supplementary agreement.
- 4) Both parties agree that the housing construction in the Contract is initiated as industrial plants.

##### **3. Rent, lease term and lease term delivery method**

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- 1) The leased housing rent is RMB[REDACTED]/m<sup>2</sup>/day and remains unchanged in the lease term of the Contract.
- 2) The lease term is 10 years from the actual delivery date of the housing.
- 3) With a lease quarter of every three months, Party B shall pay the rent for next lease quarter before the 25th day in the month prior to each lease quarter. The first rent is calculated from the end of the decoration preparation period provided by Party A for Party B. The first rent shall be deducted from the construction deposit paid by Party B and the insufficient part shall be completed by Party B to Party A before the actual delivery date of the leased housing.



#### 4. Construction deposit

- 1) The total construction deposit is RMB [REDACTED]<sup>5</sup>. Party B shall pay the initial construction deposit of RMB[REDACTED]<sup>6</sup> to Party A within 30 days after execution of the Contract and pay the remaining construction deposit of RMB [REDACTED]<sup>7</sup> to Party A within 15 days after the foundation engineering construction drawings of 87# and 88# buildings are confirmed by Party B.
- 2) In case of failure to pay the initial construction deposit of RMB [REDACTED]<sup>8</sup> to Party A within 30 days after execution of the release contract, Party B shall be deemed to unilaterally terminate the Contract and Party A has the right to require Party B to pay the initial construction deposit of RMB [REDACTED]<sup>9</sup> as the liquidated damages; if Party B fails to pay the remaining construction deposit of RMB [REDACTED]<sup>10</sup> within 15 days after confirmation of the foundation engineering construction drawings, the initial construction deposit paid by Party B is not returned and Party B is required to pay all direct and indirect cost compensations incurred, including but not limited to land surveying expenses, engineering design fees, project initiation declaration fees, land leveling fees, seedling migration fees and damages for contract termination by related suppliers. The construction deposit is free of interest.
- 3) Unless otherwise stipulated in the lease contract and supplementary terms, if Party B terminates the lease contract arbitrarily before the actual delivery date of the leased housing (Party B is deemed to unilaterally terminate the Contract automatically in case of failure to confirm and reply in writing within 60 days upon receipt of the design scheme, preliminary design or complete set of construction drawings from Party A), Party A does not return the construction deposit and has the right to require Party B to pay all direct and indirect costs incurred as described above.
- 4) Unless otherwise stipulated in the lease contract and supplementary terms, if Party A terminates the lease contract arbitrarily before the actual delivery date of the leased housing (Party A is deemed to unilaterally terminate the Contract automatically in case of failure to deliver the housing to Party B within 6 months after agreed delivery date for Party A's reasons), Party B has the right to terminate the Contract and Party A shall double return the construction deposit paid by Party B and compensate Party B for the direct and indirect costs paid for the construction project of the leased housing. The compensations include but are not limited to the electromechanical design fees and the damages for termination of contract with related contractors and suppliers.
- 5) From the actual delivery date of 87# and 88# of the leased housing to Party B, 50% (i.e. RMB [REDACTED]<sup>11</sup>) of the construction deposit is automatically transferred as part of the lease deposit and initial rent of the delivered leased housing of 87# and 88#; Party B shall

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<sup>4</sup> Confidential treatment requested

<sup>5</sup> Confidential treatment requested

<sup>6</sup> Confidential treatment requested

<sup>7</sup> Confidential treatment requested

<sup>8</sup> Confidential treatment requested

<sup>9</sup> Confidential treatment requested

<sup>10</sup> Confidential treatment requested

<sup>11</sup> Confidential treatment requested

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complement the insufficient part of the initial rent to Party A one time within 10 days prior to the actual delivery date. If Party B fails to complement the initial rent balance according to the agreement, Party A has the right to delay in delivery the housing accordingly. The remaining construction deposit of RMB [REDACTED]<sup>12</sup> is automatically transferred as part of the lease deposit and initial rent of the delivered leased housing of 89# and 90# from the actual delivery date. Party B shall complement the insufficient part of the initial rent to Party A one time within 10 days prior to the actual delivery date. If Party B fails to complement the initial rent balance according to the agreement, Party A has the right to delay in delivery the housing accordingly.

#### 5. Decoration preparation period

Party A agrees to give a decoration preparation period of 180 days from the actual delivery date of the leased housing to Party B. Party B does not pay the rent but shall pay the property management fee and the utilities and other relevant costs incurred in actual decoration within the decoration preparation period. Party A agrees that Party B may enter and decorate the housing in advance after handling the housing delivery procedures with Party A and Party A provides necessary coordination upon approval of relevant government departments when the housing meets the decoration conditions. For coordination between both parties and other unaccomplished matters in terms of engineering construction during engineering construction, both parties sign a separate MOU of the project.(Appendix 8)

#### 6. Delivery and return of leased housing

- 1) Housing construction and delivery date
  - (a) Both parties agree that Party A is responsible for planning, design and construction of the leased housing when Party B pays the construction deposit according to Article 4 in the supplementary terms.
  - (b) The project design of Party B's Shanghai Data Center is performed in three phases, i.e. scheme design, preliminary design and construction drawing design. In view of the particularity of the data center project, the design at each phase shall be subject to written confirmation by Party B. Party A may change and modify the design confirmed by Party B after re-confirmation of Party B. Party B shall make written reply or confirmation within 3 working days upon receipt of the design documents submitted by Party A in writing. Any confirmation and approval of Party B do not exempt Party A from the responsibilities undertaken for the construction project safety, quality and project legality. Party A shall urge the design institute to implement reasonable modification opinions (limited to the scope agreed in Appendix 2 to the lease contract) proposed by Party B for the construction drawings. If Party A makes construction arbitrarily before the construction drawings are confirmed by Party B, Party B shall give a reasonable period to Party A to rectification and remedy. If Party A fails to rectify timely, the Contract continues to be performed and Party A shall still deliver the housing on the agreed delivery date herein; if Party A fails to complete rectification without above reasonable period, resulting in Party B's failure to implement Shanghai Data Center project, Party B has the right to terminate the Contract and Party A shall double return the construction deposit paid by Party B and compensate Party B for the actual loss, except the circumstances when Party B delays in written confirmation of the drawings for more than 30 days agreed in Article 4 of the supplementary terms.
  - (c) The project design bidding is divided into building civil design and electromechanical design. The former is in the charge of Party A, while the latter is in the charge of Party B. Both parties are responsible for the preparation of the design bidding documents and the implementation of the bidding review respectively and jointly confirm the design specifications of the bidding documents. The successful design unit is jointly determined

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by both parties. Both parties agree that the civil design and electromechanical design of the project are undertaken by the same design unit, the design contract is signed separately and the costs are borne by both parties respectively.

- (d) If the leased housing specification (as shown in Appendix 2 to the lease contract) shall be modified by Party B in construction, both parties shall solve through further negotiation. If the construction period is delayed due to related modification, both parties shall sign a supplementary agreement.
- (e) Party A shall complete the construction of 87# building and 88# building and deliver to Party B within 12 months (including 12 months) after completing the construction drawing design of the leased housing and obtaining the written confirmation of Party B. Party A shall complete the major structure acceptance and allow and assist Party B to make electromechanical installation and construction on site within 9 months after completing the construction drawing design of the leased housing and obtaining the written confirmation of Party B.
- (f) Party B may negotiate with Party A on the launch plan of 89# and 90# buildings depending on the practical situation after signing of the Contract and Party A shall entrust the design unit to make architectural design of 89# and 90# buildings upon receipt of the written notice on the launch plan of 89# and 90# buildings from Party B. Party A shall complete the construction of 89# building and 90# building and deliver to Party B within 12 months (including 12 months) after completing the construction drawing design of the leased housing and obtaining the written confirmation of Party B.
- (g) Party A must select the surveying, supervision, construction and other professional work units with legal qualification through legal procedures and inform Party B of the selection of the surveying, supervision, construction and other professional work units.
- (h) Party B may or invites a third party to participate in the project construction supervision and management and has the right to randomly check the project construction progress, quality and construction. Party A shall provide necessary help and related materials for Party B to carry out above work. Party B may dispatch representatives to join working group and participate in the housing acceptance and Party A shall notify Party B 3 working days prior to the housing acceptance.
- (i) Delivery signs for the leased housing to meet actual conditions: meet the custom property specification and delivery interface in Appendix 2 to the lease contract and meet the construction drawings confirmed by both parties; the housing major structure passes the acceptance of the government quality supervision department.
- (j) Party A and Party B shall bear the respective project warranty responsibilities, and the project warranty period and warranty requirements shall be implemented according to relevant national provisions. In case of losses caused by the project quality problems to Party B within the warranty period, Party B may investigate relevant compensation liability of Party A after approval by the professional third party approved by the country. If Party A fails to respond or refuses to repair within a reasonable period upon receipt of the written warranty notice from Party B, Party B may repair independently and require Party A to bear the repair costs.
- (k) Party A shall strive to accelerate the project progress. If the housing may be delivered to Party B in advance, the housing delivery procedures may be handled in advance through approval of both parties and the lease term and rent payment date shall be advanced accordingly. Party A shall give a written notice to Party B 10 days prior to the housing delivery date.

## 2) Housing handover procedures

Party B shall handle the handover procedures in Party A upon receipt of Party A's written handover notice according to paragraph 1) in Article 6 of the supplementary terms. After the representatives dispatched by both parties simultaneously according to the agreement [Party A designates the sales and marketing department, park service department and Shanghai Sankai

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Property Management Co., Ltd. (hereinafter referred to as Sankai Property) as Party A's representatives] photograph, check and register the leased housing and status as well as the interface interface and materials agreed in Appendix 2 according to the lease contract, make a handover list (in duplicate) and transfer the leased housing and all handover materials, the representatives of both parties sign and seal the handover list and the leased housing is deemed to be handed over completely and the date is the actual delivery date of the housing. If Party B fails to or refuses to handle the handover procedures according to the article. The housing delivery time notified by Party A in writing is still considered as the actual delivery date of the housing.

## 3) Housing return

The leased housing handover procedures upon termination of the lease contract are contacted by Party B to Party A actively. The representatives dispatched by both parties simultaneously according to the agreement [Party A designates the park service department and Shanghai Sankai Property Management Co., Ltd. as Party A's representatives] photograph, check and register the leased housing and status according to the lease contract. Both parties negotiate on whether to recover the housing to the status acceptable by Party A according to the actual situation at the termination of the lease contract. The leased housing is deemed to have been fully handed over after the representatives of both parties sign and seal and transfer the leased housing.

In case of failure to handle the handover procedures with Party A on time on the contract termination date, Party B shall pay the rent for one day and a half for each day overdue. Meanwhile, Party B guarantees to have move out its registered address as at the termination date of the Contract. If applying for customs bonded warehouse within the leased housing, Party B shall also handle the emigration or cancellation procedures of the customs bonded warehouse. If Party B fails to handle the company registered address and customs bonded warehouse emigration or cancellation on time on the termination date of the contract, Party A shall investigate Party B's liability for breach of contract according to the agreement on failure to handle surrender and handover procedures with Party A on time.

## 7. Partition and decoration

Party B may partition and decorate the leased housing according to the building, fire prevention, environmental protection, health and epidemic prevention laws, regulations and policies in the People's Republic of China, Shanghai and Waigaoqiao Free Trade Zone after handling relevant approval procedures and passing acceptance of relevant government departments and property company after housing handover. Party A shall make coordination.

If the partition and decoration involve the housing major structure and other important project matters, Party B shall obtain the prior consent of Party A and Party A's design unit.

After the requirements proposed by Party B in writing are approved by Party A, the documents issued by both parties for the arrangement shall become an appendix to the lease contract.

Party B shall comply with relevant national fire codes, install relevant firefighting facilities according to the housing use nature in decoration and report to relevant departments for approval. The costs, if involved, shall be borne by Party B.

## 8. Lease deposit and bank account

Party A and Party B determine the following according to the provisions in Article 4: Deposit in the lease contract:

The amount of the housing lease deposit shall be equivalent to the housing rent for three months and is paid by Party B according to the following method:

- 1) According to Article 4 in the supplementary terms, a part of the construction deposit paid by Party B is automatically transferred as the lease deposit of the leased housing from the actual delivery date of the housing.
- 2) Party A will return the housing lease deposit to Party BB according to the agreement in the lease contract after signing of the *Housing Lease Termination Agreement*. The lease deposit is free of interest.

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- 3) The construction deposit, rent and rent deposit described in Article 3 in the lease contract shall be paid by Party B to the bank account designated by Party A by check or transfer:

Account name: [REDACTED]<sup>13</sup>  
Bank name: [REDACTED]<sup>14</sup>  
RMB account: [REDACTED]<sup>15</sup>

## 9. Property management

Before handling the housing delivery procedures determined in Article 1 in the original of the lease contract after signing of the lease contract, Party B shall negotiate with Sankai Property separately, sign a *Property Management Agreement* and comply with the *Housing Use, Management and Maintenance Convention of Shanghai Waigaoqiao Free Trade Zone* (as shown in Appendix 3 to the lease contract). Party B shall pay the property management fee to Sankai Property after the actual delivery date of the leased housing and the property management fee shall be determined by Party B and Sankai Property through negotiation.

## 10. Public facilities

If Party B applies for connecting outlet or using such facilities independently or by relevant utility department entrusted, Party B shall bear related costs.

## 11. Purchasing right of leased property

- 1) Party B has the right to exercise the purchasing right of 87# and 88# buildings after Party A obtains the leased housing title deed and records in the government real estate management department within the lease term from the housing delivery date agreed in the lease contract signed by both parties. The price of the purchasing right exercised by Party B for 87# and 88# buildings at different time in the lease term will be calculated according to the principle in Appendix 4 to the lease contract.
- 2) Party B shall give a formal written notice to Party A 6 months before exercising the purchasing right and sign the *House Sales Contract* after both parties determine corresponding house purchase matters through negotiation. The housing purchase price of 87# and 88# in the *House Sales Contract* is determined based on the corresponding date in the 6th month after the written letter for Party B to exercise the purchasing right to Party A and the corresponding date is the base date for exercising the purchasing right.

If both parties fail to sign the *House Sales Contract* on the base date for exercising the purchasing right for Party A's reasons, Party B stops payment of the rent from the base date for exercising the purchasing right until Party A meets the conditions to sign the *House Sales Contract* with Party B. At that time, the housing purchase price is still the corresponding price on the base date for exercising the purchasing right. Party B shall still pay the rent after signing of *House Sales Contract* until settlement of the full house purchase price. The rent is calculated by day.

If the signing conditions of the *House Sales Contract* cannot be met within the foreseeable period (more than 4 months) by both parties not for the reasons of both parties, both parties shall negotiate on the solutions separately.

- 3) Party B can only use the right to give a written notice of exercising the purchasing right once under the lease contract. That is, in case of failure to sign the *House Sales Contract* with Party A for Party B's reasons within 6 months after the written notice of Party B to exercise the purchasing right for 87# and 88# buildings is sent to Party A, Party B is deemed to permanently give up the purchasing right for 87# and 88# buildings.
- 4) After both parties formally sign the *House Sales Contract*, Party B shall handle the property

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right transfer procedures for 87# and 88# buildings according to relevant real estate transaction provisions and the property construction area and land use right area shall be subject to the title deed. Party A shall provide assistance and coordination for Party B to handle above title deed.

- 5) After paying the house purchase price of 87# and 88# buildings to Party A in full according to the agreement in the *House Sales Contract* of 87# and 88# buildings, Party B does no longer pay the rent for 87# and 88# buildings and may apply for property right transfer of 87# and 88# buildings.
- 6) Party A gives Party B irrevocable and unconditional rights to exercise the purchasing right according to the Contract and purchase 87# and 88# buildings, including but not limited to the housing property right and corresponding land use right within the lease term of the Contract; otherwise, the actual resulting losses to Party B are borne by Party A and such matter shall be listed in the *House Sales Contract*.

- 7) Party B has the right of preemption when Party A transfers 89# and 90# buildings.

## 12. Commitment and guarantee

Party A and Party B agree that if the commitment and guarantee made by one party to the other according to this article are verified to be untruthful and misleading, resulting the losses to the other party, such party shall make corresponding compensation for the other party to avoid loss.

1) The commitment and guarantee of Party A to Party B are as follows:

- (a) Party A guarantees that it is the legal owner of the leased housing and that the leased housing meets the requirements herein in terms of quantity and quality and may be used for the purpose agreed in paragraph 2 in Article 2 herein according to the law.
- (b) Party A shall ensure that the quality of the project undertaken meets the current national standard eligibility criteria and the construction standards agreed in Appendix 2 herein. If the project quality does not meet the current national standard eligibility criteria and the construction standards agreed in Appendix 2 herein, Party A shall instruct the construction unit to rectify within a time limit; in case of still nonconformity to the current national standard eligibility criteria after rectification within a time limit, Party A constitutes breach of contract and Party B may terminate the Contract unilaterally and require Party A to double return the construction deposit paid.
- (c) The property completion has been approved by relevant government departments in Waigaoqiao Free Trade Zone. Party A shall provide the copies of relevant evidential documents, including the written acceptance of the quality supervision department in Waigaoqiao Free Trade Zone and the fire acceptance documents from the fire department for the housing for Party B when delivering the housing. Party A shall handle and obtain the housing title deed within 12 months after meeting the title deed conditions and provide Party B with the copy of the title deed.
- (d) Party A guarantees that any mortgage, guarantee or other behaviors that may affect the right of Party B to lease the housing are not set in the leased housing before signing of the Contract.
- (e) Party A has provided Party B with the planning, existing facilities, equipment, buildings and other information (as shown in Appendix 5) within 1km around the leased housing (within the scope of the Free Trade Zone). If the government adjusts the planning, Party A may not bear any responsibility for Party B.
- (f) To make operations in Party B's leased housing after Party B formally uses the leased housing, Party A shall give a written notice, obtain the written reply of Party B and comply with Party B's rules and regulations under the guidance of Party B. Party B shall give a written reply within 1 working day upon receipt of prior notice from Party A, except the circumstances in which Party A shall make emergency repair for the leased housing and supporting facilities according to the Contract. Party A does not constitute breach of contract in case of failure to enter the leased housing for emergency repair for Party B's failure to reply timely, affecting normal operating activities of Party B or resulting in losses to Party B.

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- (g) Party A guarantees that Party B will not be subject to improper interference from Party A within the lease term. If Party B cannot operate normally due to Party A's arbitrary termination of the Contract or other nonperformance in the lease term, Party B has the right to terminate the Contract and Party A shall bear the liquidated damages at three-month rent. If the liquidated damages are insufficient to make up for the losses to Party B, Party A shall compensate for actual losses to Party B.
- (h) The shareholding transfer between Party A and its affiliated companies shall not be deemed as Party A's breach of contract without prejudice to the rights and obligations of Party B under the Contract. If Party A terminates the Contract unilaterally without permission due to the shareholding transfer between Party A and its affiliated companies, Party B has the right to terminate the Contract and Party A shall bear the liquidated damages at three-month rent. If the liquidated damages are insufficient to make up for the losses to Party B, Party A shall compensate for actual losses to Party B.
- (i) Party A shall sign and perform the Contract with legal authorization and the approval of competent authority through relevant procedures; otherwise, Party A shall bear the actual resulting losses to Party B.
- (j) Party B shall strive to build a 35KV substation in principle. Within three months after the independent legal entity established by Party B according to paragraph 2) a) in Article 12 of the supplementary terms and the initial registered capital is in place, the legal person applies for handling loads with the total amount not exceeding RMB[REDACTED]<sup>16</sup> to the bank and Party A assists in seeking guarantee. The loans will be used for construction of 35KV substation.

In case of failure to obtain the loads within three months, Party A is responsible for building the 35KW substation for lease and Party B shall provide the guarantee approved by Party A upon written requirements of Party B and the legal person to Party A. The specific lease term, substation rent, substation purchase and ownership transfer and other relevant matters shall be clarified in Appendix 7. Both parties shall strive to complete the substation construction by close coordination 1 month prior to the lease commencement date and deliver to Party B for use.

2) The commitment and guarantee of Party B to Party A are as follows:

- (a) Party B will register and establish a new foreign-funded enterprise in Party A's Sanlian Development Park as the independent legal entity of Party B's Shanghai Data Center project. The initial registered capital of the new company is about USD 10 million (temporary) and the capital is increased to USD 30 million within three years.
- (b) Party B is an investor intending to invest and establish an independent legal entity in Shanghai Waigaoqiao Free Trade Zone. Before the independent legal entity is approved by the government agency for registration, the lease contract (and the supplementary terms) signed by Party B's legal representative or its entrusted agent through authorization is binding on Party B; after being approved and registered by the government registration authority (i.e. obtaining the approval certificate, the business license and other legal evidential documents according to law), the independent legal entity shall continue to perform all rights and obligations in the lease contract (and the supplementary terms).
- (c) Party B commits to actively coordinate with Party A in confirmation of various design drawings and written documents at the leased housing design and construction stage. The complete set of construction design drawings provided by Party A shall be subject to written confirmation and reply within 30 days, the scheme design and preliminary design drawings shall be subject to written confirmation within 7 working days and the other schemes and written materials are generally subject to written confirmation within 3 working days.
- (d) The leased housing occupation, use and earnings by Party B shall meet the provisions in the lease contract (and the supplementary terms) and the appendices and comply with the building,

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fire prevention, environmental protection, health and epidemic prevention laws, regulations and policies in the People's Republic of China, Shanghai and Waigaoqiao Free Trade Zone.

- (e) Party B guarantees not to surrender for no reason within the lease term of the Contract. In case of surrender in advance, the lease deposit equivalent to 3-month rent is not returned and Party A has the right to require Party B to compensate for the total amount of the nonperformance part in previous 5.5 years (including 180-day decoration preparation period) in the contract lease term one time.
- (f) In case of failure to pay the rent payable for 6 months to Party A for Party B's reasons, Party B is deemed to surrender unilaterally in advance and Party A has the right to cancel the right of Party B to purchase 87# and 88# buildings and require Party B to bear the liability for breach of contract according to paragraph 2) d) in Article 12 of the supplementary terms; in case of above circumstance, Party A may unilaterally terminate the Contract and has the right to apply for relocating or locally sealing all devices and properties of Party B in the leased housing to the local people's court. The resulting costs are borne by Party B. Party A shall assist the executive staff of the court to protect Party B's properties.
- (g) Party B shall sign and perform the Contract with legal authorization and the approval of competent authority through relevant procedures; otherwise, Party B shall bear the actual resulting losses to Party A.

## 13. Lessee change by lessor and lessee change

### Mortgage and transfer notice

- (a) To mortgage 89# and 90# buildings and provide the third party with guarantee and other rights, Party A shall give a written notice to Party B within 3 working days after mortgage registration.
- (b) Party A may sell 89# and 90# buildings with a prior written notice to Party B and Party B may purchase 89# and 90# buildings at the price in Appendix 4 according to the purchase method of 87# and 88# buildings in the Contract within 2 months upon receipt of above written notice; if Party B clearly gives up purchase or fails to reply within 2 months in writing, Party A may transfer the buildings to a third party.
- (c) Party A shall not transfer 87# and 88# buildings to a third party without the written consent of Party B within the contract lease term. Within 30 working days upon receipt of the written notice of exercising the purchasing right from Party B, Party A shall withdraw relevant mortgage and guarantee of 87# and 88# buildings without prejudice to the right of Party B to purchase the leased housing.

## 14. Sublease

Party B may sublease the housing to a third party in part for business needs in the lease term. Party B shall guarantee to own relevant qualification for sublease operation above and to carry out lawful operation. The sublease operation shall not exceed the scope of rights and obligations stipulated herein and Party B shall not be relieved from the obligations for Party A for the sublease behavior, including but not limited to rent payment.

## 15. Insurance

Party A is responsible for covering the insurance (including property insurance) for the housing and relevant supporting equipment provided by Party A at its own cost; Party B or the owner of cargo covers insurance for Party B's equipment, cargo and properties in an insurance company at the premium of Party B.

## 16. Expansion

In case of future expansion requirements for Party B's Shanghai Data Center project, Party A is willing to continue to provide corresponding property in F16 and other appropriate plots to support

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continuous development of Party B in Shanghai Waigaoqiao Free Trade Zone. The specific matters are determined by both parties through further negotiation.

## 17. Liability for breach of contract

- 1) Both parties clearly agree that any of the following circumstances shall be deemed as overdue payment. For each day overdue, the default party shall pay the overdue fine at 0.4‰ of the amount paid overdue:
  - (a) Party B fails to pay or fully pay the leased housing rent on the last day of the payment term stipulated in the lease contract;
  - (b) Either party makes overdue payment of the liquidated damages and compensation.
- 2) In case of violation of paragraph 1) (d) in Article 12, Party A shall pay the liquidated damages at the construction deposit paid by Party B to Party A and Party B has the right to terminate the Contract.
- 3) If Party A violates paragraphs (b) and (c) in Article 13, Party B may require Party A to pay the liquidated damages at the rent deposit paid by Party B to Party A; or Party A shall correct the nonperformance within the time limit required by Party B.
- 4) If Party A fails to deliver the housing to Party B within the agreed delivery date for Party A's reasons, Party B agrees to give a grace period of 15 days (hereinafter referred to as the "delivery grace period") from the agreed delivery date. The formal lease term and the decoration preparation period of Party B will be postponed accordingly. In case of still failure to deliver the housing to Party B upon expiry of the delivery grace period for Party A's reasons, Party A agrees to pay RMB [REDACTED]<sup>17</sup> to Party B for each day overdue (from the next day after expiry of the delivery grace period) as the liquidated damages for delay in delivery of housing till actual delivery date of the housing; meanwhile, the formal lease term and the decoration preparation period of Party B will be postponed accordingly.

## 18. Maintenance of leased housing

If the leased housing does not meet the service status agreed in the lease contract in the lease term, Party A undertakes the responsibility for maintenance of the leased housing at its own cost; Party B shall assume liability for damage for the damage and loss to the leased housing since Party B does not fulfill the obligations for properly keeping and using the leased housing.

## 19. Dispute resolution

Any dispute arising from performance of the Contract shall be resolved by both parties through friendly negotiation; if negotiation fails, either party may submit arbitration to China International Economic and Trade Arbitration Commission Shanghai Branch.

## 20. Confidentiality requirements

Both parties shall keep confidential the materials with confidentiality nature or exclusively by either party or both parties and related to performance of the lease contract and shall not disclose to any third party until such materials have been known by local public. The confidential materials shall include but be no limited to the price, confidential data and information materials related to the lease contract as well as all confidential materials in the lease contract and appendices and in the negotiation, revision and performance process.

Either party may disclose relevant confidential information with prior written notice to the other party according to the court or administrative orders or ruling requirements, administrative approval and coordination needs.

## 21. Notice

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Any notice or liaison issued by both parties based on or related to this Contract shall be delivered by registered mail or express delivery in writing to the following address:

Party A: Shanghai Waigaoqiao Free Trade Zone Sanlian Development Co., Ltd.

Addressee: Sales and marketing department

Address: No.2001, North Yanggao Road, Shanghai City, China

Postal code: 200131

Fax: 0086-21-50461256

Party B: EDC CHINA HOLDINGS LTD

Addressee: He Zheng

Address: Room 1801, Block B, Jianwai Soho Office Building, No.39, Middle East Third Ring Road, Chaoyang District, Beijing City

Postal code: 100022

Fax: 0086-10-58695120

Or delivered to other addresses in the latest notice issued by the receiving party to the sending party.

## 22. Miscellaneous

- (a) The supplementary terms (including appendices) are part of the lease contract. In case of conflict between the supplementary terms and the other terms in the lease contract, the former shall prevail.
- (b) The lease contract (and the supplementary terms) is interpreted according to the laws and regulations of the People's Republic of China and the local regulations in Shanghai and governed by the law of the People's Republic of China.
- (c) The Chinese version of the lease contract is made out in quintuplicate. Party A holds one copy, Party B holds three copies and the rest copy is submitted to the real estate management department for registration record.
- (d) The Contract and all appendices take effect simultaneously after being signed and sealed by both parties. Any change and supplement to the lease contract shall be described by both parties in a supplementary agreement, which may take effect after being signed and sealed by both parties.

## 23. Other agreement

Both parties shall strive to control the budget of 35KW substation in the project within RMB [REDACTED]<sup>18</sup>. If the budget exceeds RMB [REDACTED]<sup>19</sup>, both parties shall try to seek the solutions to control the budget within above scope. If the budget can still not adjusted, both parties negotiate on the performance mode separately and seek the best solutions.

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Party A:

Legal representative:

Authorized representative

Contract address: No.2001, North Yanggao Road, Shanghai City

Tel: 021-50460888

Party B:

Legal representative:

Authorized representative

Address: Room 1801, Block B, Jianwai SOHO Office Building, No.39, Middle East Third Ring Road, Chaoyang District, Beijing City

Tel: 010-58695118

Supplementary Agreement (III)

Party A: Shanghai Waigaoqiao Free Trade Zone Sanlian Development Co., Ltd.
Party B: Shanghai Waigaoqiao EDC Technology Co., Ltd.

According to the Premise and Warehouse Lease Agreement (Contract number: 163420) (hereinafter "Lease Contract") entered into by Party A and Party B on December 26th, 2008, the Memorandum made on January 26th, 2010, the Agreement on the Total Transfer of Rights and Obligations made on April 12, 2010, the Supplementary Agreement (II) made on July 12th, 2010, the Memorandum (II) made on November 8th, 2010, in respect of F16 Plate Plant in Shanghai Waigaoqiao Free Trade Zone;

Given the realities of Property 87#, Party A and Party B agree as follows in terms of related matters such as time schedule for moving in, delivery time, rent starting time and lease term in respect of Property 87# :

- 1. Adjustment to property delivery time: Party A had delivered Property 87# to Party B before December 31th, 2010 for mechanical and electrical installation and re-decoration at site, so the house delivery date of Property 87# for mechanical and electrical installation is dated to December 31th, 2010.
2. Adjustment to the decoration and preparation period: Party A provides a rent-free period of 180 days for decoration and preparation for Party B from January 1st, 2011, Party B shall pay to Party the rent of Property 87# from July 1st, 2011.
3. Rent and other payments:
1) The first rent payment (July 1st, 2011 - September 30th, 2011): RMB[REDACTED]20 (temporarily subject to the construction area of Property 87# at 24131 square meters, and based on the calculation formula [REDACTED]21 \*24131\*365/4). Party B has paid to Party A RMB[REDACTED]22 as a construction deposit and RMB[REDACTED]23 as restoration deposit of Property 87#. From July 1st, 2011, RMB[REDACTED]24 in the construction deposit and the restoration deposit of RMB[REDACTED]25 shall be converted into the rental deposit; RMB[REDACTED]26 in the construction deposit shall be converted into part of the first rent payment. Party B shall, before June 25, 2011, make up the difference of RMB[REDACTED]27 for the first rent payment. Party B shall pay the rent for the next rental quarter before the 25th day of the third month of each rental quarter (March, June, September, December). The remaining construction deposit of RMB[REDACTED]28 shall be converted into part of the construction deposit of property 88# contract project after signing of the House Leasing Contract of Property 88#.
2) As for the sharing rent of increased project costs caused by floor elevation and other work: Party B shall cover the expenses according to the actual cost list confirmed by audit after Party A completes the construction (please refer to the "Memorandum (II)" and the "Supplementary Agreement (II)"). Party B shall, in accordance with the Memorandum (II)

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and the Supplementary Agreement (II), pay the comprehensive fees and the sharing rent, but not later than September 30th, 2011.

- 4. Adjustment to the lease term: 10 years, from January 1st, 2011 to December 31th, 2020.
5. This Supplementary Agreement shall come into force from the day that it is signed and sealed by the two parties. In the event of any inconsistency between this Supplementary Agreement and House Leasing Contract, Memorandum, Supplementary Agreement (II), Memorandum (II), Agreement on the Total Transfer of Rights and Obligations, will be execute according to the Supplementary Agreement.
6. This Supplementary Agreement is in quadruplicate, each two originals held by each party.
7. Non-mentioned matters in this Supplementary Agreement can be executed by further negotiation of Party A and Party B.

(No text on this page)

Party A:
Shanghai Waigaoqiao Free Trade Zone Sanlian Development Co., Ltd. (seal)

Legal representative or authorized representative: (signature)

Party B:
Shanghai Waigaoqiao EDC Technology Co., Ltd.. (seal)

Legal representative or authorized representative: (signature)

Signed on: April 15th, 2011
Signed in: Pudong Shanghai

Shanghai Free Trade Zones

**Plant and Warehouse Lease Contract**

(Contract No.:7239)

House Lease Contract of 88# Property in PlotF16

Lessor: Shanghai Waigaoqiao Free Trade Zone Sanlian Development Co., Ltd. (hereinafter referred to as Party A)  
Address: No.2001, North Yanggao Road, Shanghai City  
Legal representative: Li Yuanzhang

Lessee: Shanghai Waigaoqiao EDC Technology Co., Ltd. (hereinafter referred to as Party B)  
Legal address:  
Legal representative:

Party A and Party B sign this Contract by consensus according to the *Contract Law of the People's Republic of China*, the *Urban Real Estate Administration Law of the People's Republic of China* and relevant provisions to clarify the relationship of rights and obligations of the lessor and the lessee.

**Article 1: Name, location, area, use and structure of leased housing**

- Housing name: 88# building (temporary).
- Location: Part/Floor/ Building 88#, F16 Plot, District F
- Construction area: 20888m<sup>2</sup>; usage area: / m<sup>2</sup> (housing plan is shown in Appendix 1).
- Use: industrial plant.
- Housing structure, floor load and supporting facilities are shown in Appendix 2.

**Article 2: Lease term**

Party A rents out the housing and supporting facilities determined in Article 1 to Party B from (date) to (date) and has the right to recover. The lease term is 20 years and 6 months.

**Article 3: Rent and property management fees, payment method and payment period  
(as shown in supplementary terms)**

- The house rent is RMB / per square meter of construction area, totaling RMB /.
- The rent is calculated from the lease commencement date determined in Article 2 herein. With a lease quarter of every three months, Party B shall pay the rent for next lease quarter before the 25th day in the month prior to each lease quarter.
- The rent is unchanged for 20 years and 6 months from the effective date of the Contract and is adjusted from / every / years with each adjustment range of /.
- The housing property management fee is RMB / and the payment method and period are /.

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**Article 4: Deposit (as shown in supplementary terms)**

Within / days after execution of the Contract, Party B shall pay the rent for / months one time as the deposit, totaling RMB / in advance. If Party B intends to surrender in advance after execution of the Contract, the losses to Party A due to early surrender shall be deducted from the deposit and the remaining deposit is returned to Party B. If the deposit is insufficient to make up for Party A's losses, the insufficient part shall be complemented by Party B. To renew the housing determined herein or exchange lease of other housing of Party A upon expiry of the Contract, Party B shall give a written notice to Party A 180 days prior to expiry of the lease term. Both parties sign a separate lease contract with the consent of Party A and the deposit is included in the new lease contract; if Party B does no longer renew, Party A refunds the deposit within 30 days after Party B submits the leased housing to Party A for acceptance and returns the housing to Party A intactly before (date). The deposit is free of interest.

**Article 5: Handover of leased housing (as shown in supplementary terms)**

- Party A shall deliver the housing and supporting facilities determined in Article 1 herein to Party B according to the procedures agreed by both parties before (date) after execution of the Contract;
- Party B shall sign the handover sheet after acceptance of the housing and supporting facilities delivered by Party A to prove complete delivery.
- In case of failure to renew after expiry of the lease term, Party B shall hand over the leased housing to party A integrally upon acceptance of Party A before (date).
- The water, electricity, gas and telephone used by Party B are agreed by Party A and Party B in the supplementary terms of the Contract or the management and maintenance convention according to the actual situation.

**Article 6: Housing use, construction and management in lease term**

- Party A and Party B shall jointly comply with the *Housing Use, Management and Maintenance Convention of Shanghai Free Trade Zones*. Party A or the property management enterprise entrusted by Party A is uniformly responsible for management and maintenance of public areas, public equipment and public facilities as well as coordination between adjacent units.
- Party B leases the housing determined in Article 1 herein only for outsourcing services based on the data center and shall not arbitrarily change its structure and use in the lease term and must comply with the laws and regulations of the People's Republic of China and safeguard the public facilities and public benefits. Party A is responsible for repairing the natural loss of the leased housing. Party B is obliged to repairing and recovering the unnatural loss and relevant facility damage of the leased housing or compensating for the loss and Party A makes timely maintenance and repair according to the provisions. The responsible party is responsible for repairing the artificial damage of the leased housing or compensating for corresponding economic loss.
- Party B may make supporting facility operation to the leased housing with a prior notice to Party A within the lease term. In case of damage to Party A's equipment

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for Party B's fault, Party B shall be responsible for restoring or compensating for the loss.

- Party B may partition or decorate the leased housing at its own cost with prior written consent of Party A and shall inform Party A before construction. Party B shall timely negotiate with Party A on the specific matters and comply with national and Shanghai regulations and provisions on building, fire protection, environmental protection and health and epidemic prevention. Party A shall provide relevant drawings and information. Party B shall not damage the leased housing, build, dismantle or destroy the housing structure arbitrarily or exceed the allowed load on the floor. In case of damage or arbitrary change of the building structure, Party B shall be responsible for restoring or compensating for the loss.
- In addition to setting up a special warehouse with the approval of the public security department, Party B shall not stack flammable and combustible, corrosive, poisonous and harmful articles inside and outside the plant (or warehouse), discharge the production wastewater to the sewage and rainwater pipelines or emit poisonous and harmful gases to ensure safety. All consequences caused by violation of this article shall be borne by Party B.
- Party B may temporarily park the vehicles for goods in the outdoor open storage area and traffic roads with the consent of Party A. After loading and unloading cargo, Party B shall timely drive the vehicles away from the site and shall not park and place the vehicles and cargo at will. Party A shall develop corresponding management systems to ensure safe and smooth traffic.

7. Both parties shall comply with *Management Regulations for Afforestation and Greening in Shanghai* and shall not embezzle the greenbelt arbitrarily. To use the greenbelt, Party B shall obtain the consent of Party A and submit to the Shanghai Free Trade Zones Management Committee for approval.
8. Party B shall properly protect all underground facilities and public facilities built by Party A under the determined ground.
9. Party A is responsible for the public health, greening and conservation outside the leased housing and Party B shall undertake the related management costs according to relevant provisions.
10. The responsible person shall undertake the resulting losses from damage of public equipment or impact on normal use of public parts.
11. If the management of Party A or the property management company designated by Party A does not reach the predetermined requirements, Party B has the right to refuse payment of relevant property management fees.

**Article 7: Insurance (as shown in supplementary terms)**

1. Party B or the owner of cargo covers insurance for Party B's cargo and properties in an insurance company at the premium of Party B.
2. Party A is responsible for covering the insurance for the housing provided by Party A (including relevant equipment) in the insurance company at the cost of Party A.

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**Article 8: Ownership change of leased housing**

When transferring the ownership of the leased housing to a third party in the lease term, Party A shall truthfully inform the transferee of the leasehold relation and the housing transferee shall continue to perform the original house lease contract.

**Article 9: Liability for breach of contract (as shown in supplementary terms)**

1. Unless otherwise stipulated in the contract documents, Party A constitutes breach of contract in case of any of the following circumstances:
  - A. The housing provided does not meet the stipulated conditions;
  - B. Fail to provide the housing stipulated in Article 1 herein according to the time stipulated herein;
  - C. Make operations in the housing leased by Party B without prior notice to Party B, affecting normal operating activities of Party B or causing loss to the goods stored by Party B (as shown in paragraph 1f in Article 12 of supplementary terms);
  - D. Fail to timely repair the leased housing and supporting facilities required to be repaired by Party A according to the contract agreement;
  - E. Violate other terms herein.
2. Unless otherwise stipulated in the contract documents, Party B constitutes breach of contract in case of any of the following circumstances:
  - A. Damage the leased housing and various supporting facilities or arbitrarily change the building structure, causing economic losses to Party A;
  - B. Fail to pay the rent in full and on time according to the contract provisions;
  - C. Fail to return the leased housing to Party A according to the contract provisions;
  - D. Violate other terms herein.
3. The default party shall pay the liquidated damages to the other party. The liquidated damages are calculated by day, with the method as follows:
  - A. The daily liquidated damages are 0.4% of the accrued payables;
  - B. Number of default days = number of days from occurrence of default fact to completion of correction of default fact;
  - C. Amount of liquidated damages = daily liquidated damages x number of default days.
4. If the losses caused by default to the other party exceed the liquidated damages, the default party shall make compensation for the insufficient part. The compensation is actually calculated and jointly checked by both parties according to the degree of loss and may also be verified by a professional authorized third party jointly entrusted by both parties.
5. If the observant party requires continuing to perform the Contract after default fact, the default party shall continue to perform the Contract no matter whether the liquidated damages and compensation have been paid actually.
6. The liquidated damages and compensation shall be paid no later than 10 days after the default; if the default still exists on and after the payment date, the liquidated damages and compensation shall be paid no later than the end of the month;

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otherwise, it may be handled as overdue payment.

**Article 10: Exemption conditions**

Either party does not assume liability for breach of contract for failure to perform the Contract according to the agreed conditions due to force majeure; however, the party encountering force majeure shall immediately notify the other party and, within ten days, provide the details of the force majeure and the reasons and effective evidential documents for failure to perform the Contract in whole or in part and the need for delay in the performance. The property loss to Party A and Party B for force majeure within the lease term is handled by respective party. After above event, Party A shall recover the damaged part to the serviceable conditions within 60 days; otherwise, both parties may determine whether to temporarily interrupt performance or terminate the Contract through friendly negotiation.

**Article 11: Dispute resolution**

Any dispute arising from performance of the Contract is resolved by both parties through negotiation; If negotiation fails, both parties may select any of the following arbitration agency for arbitration:

- Shanghai Arbitration Commission;
- China International Economic and Trade Arbitration Commission Shanghai Branch;
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**Article 12: Processing mode of unaccomplished matters**

1. For the unaccomplished matters, both parties develop the supplementary terms through negotiation according to the *Contract Law of the People's Republic of China* and other legal regulations. The supplementary terms have legal effect with this Contract (as shown in paragraph 1)e in Article 12 of the supplementary terms).
2. Both parties may modify the Contract by consensus. Before execution of the modified contract, both parties shall still perform the content stipulated in the Contract (as shown in paragraph d) in Article 24 of the supplementary terms).

**Article 13: Execution, modification, renewal and termination of contract**

1. Before signing of the Contract, Party A is responsible for informing Party B of the real estate management policies in Shanghai Free Trade Zones, the use nature, class and scope of application of the leased housing as well as related information on the leased housing and surrounding areas in detail; Party B is responsible for soliciting the opinions of the competent authority on whether it is allowed to set up the future project in the leased housing.
2. The Contract takes effect after being signed and sealed by the legal

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representatives or authorized representatives of both parties.

3. If the national and Shanghai laws, regulations and provisions for modification of the Contract or the new laws, regulations and provisions promulgated are retrospective to the Contract after execution of Contract, both parties shall timely revise the Contract to prevent the legitimate rights and interests of both parties from being damaged.
4. Party B has the priority right of renewal of the leased housing under the equal price and conditions upon expiry of the lease term. For renewal after expiry of the lease term, Party B shall make a written renewal application to Party A 180 days prior to the expiry of the lease term. Beyond above term, Party A has the right to replace the lessee. Both parties may enter into a new house lease contract according to the purpose stipulated herein.
5. Either party may modify or terminate the Contract for special reasons with a written notice to the other party 180 days in advance and with the consent of the other party. Either party shall compensate the other party for the resulting losses, except exempted from liability according to law.
6. In case of any of the following circumstances of Party B, Party A has the right to notify Party A to terminate the Contract, recover the housing and require Party B to compensate for the economic losses:
  - A. Party B subleases, transfers or under-leases the housing or exchanges with the others (as shown in Article 14 in section 7 the supplementary terms);
  - B. Party B arbitrarily changes the structure or use of the leased housing;
  - C. Party B conducts illegal activities by means of the leased housing, damaging the public interests;
  - D. Party B is behind in payment of the rent for 6 consecutive months.
7. In case of any of the following circumstances of Party A, Party B has the right to notify Party A to terminate the Contract and require Party A to compensate for the economic losses:
  - A. Fail to deliver the house more than one month after the delivery time stipulated herein;
  - B. The housing provided does not meet the stipulated conditions;
  - C. Make operations in the housing leased by Party B without prior notice to Party B, affecting normal operating activities of the lessee or causing loss to the goods stored by Party B.

#### Article 14: Contract registration record

Party A shall submit the original of the Contract to Shanghai Free Trade Zones Management Committee for registration record (including registration record of the contract change and termination) after execution of the Contract.

#### Article 15: Supplementary provisions

1. The Contract, together with the appendixes (original), is made out in

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quintuplicate and has equal effect (as shown in the supplementary terms).

2. Any change in the contact address, telephone and contact of either party shall be timely notified to the other party.

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Party A:	Party B:
Legal representative:	Legal representative:
Authorized representative:	Authorized representative:
Contract address:	Contract address:
Tel:	Tel:
Postal code:	Postal code:
Date of signing: April 15, 2011	Date of signing: April 15, 2011
Place of signing: <u>Pudong, Shanghai</u>	Place of signing: <u>Pudong, Shanghai</u>

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#### Supplementary Agreement (I)

Party A: Shanghai Waigaoqiao Free Trade Zone Sanlian Development Co., Ltd.

Party B: Shanghai Waigaoqiao EDC Technology Co., Ltd.

Party A and Party B entered into the House Leasing Contract in respect of Property 88# on F16 Plate Plant in Shanghai Waigaoqiao Free Trade Zone on April 15, 2011 (contract number: [SHZHBSQ]7239) (hereinafter "Leasing Contract"). Now Party A and Party B, through friendly negotiation, agree to make adjustments to the construction deposit and payment terms of Property 88# agreed in Article 4 of the supplementary terms under the Leasing Contract, and both parties have entered into a Supplementary Agreement as follows:

- 1 The construction deposit of Property 88# shall be RMB[REDACTED]<sup>1</sup> million, and Party B shall pay such fund to Party A in one lump sum within 30 days after this Supplementary Agreement is signed. The construction deposit shall carry no interest.
- 2 This construction deposit shall be paid by Party B to the RMB account designated by Party A:  
Shanghai Waigaoqiao Free Trade Zone Sanlian Development Co., Ltd.  
[REDACTED]<sup>2</sup>  
[REDACTED]<sup>3</sup>
- 3 This construction deposit shall be converted into the rental deposit (including restoration deposit of RMB[REDACTED]<sup>4</sup> million) and rent automatically of Property 88# after the actual delivery of such house to Party B.
- 4 Investor of Party B, considering the need for business development, plans to set up a new legal entity with a registered capital of USD 5 million in Waigaoqiao Free Trade Zone. In the event that the industrial and commercial registration is completed for the new legal entity and all the registered capital is fully funded, Party A will enter into an Agreement on the Total Transfer of Rights and Obligations with Party B and this new legal entity, so that the new legal entity will continue to perform all rights and obligations of Party B under the House Lease Contract in respect of Property 88#. Specific terms will be worked out after full consultation by the three parties.

<sup>1</sup> Confidential treatment requested

<sup>2</sup> Confidential treatment requested

<sup>3</sup> Confidential treatment requested

<sup>4</sup> Confidential treatment requested



5 This Supplementary Agreement shall come into force from the day that it is signed and sealed by the two parties. In the event of any inconsistency between this Supplementary Agreement and House Leasing Contract in respect of Property 88#, will be executed according to this Supplementary Agreement.

6 This Supplementary Agreement is in quadruplicate, each two originals held by each party. Non-mentioned in this Supplementary Agreement can be executed by further negotiation of Party A and Party B.

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Party A: Shanghai Waigaoqiao Free Trade Zone Sanlian Development Co., Ltd. (seal)

Legal representative or authorized representative: (signature)

Party B: Shanghai Waigaoqiao EDC Technology Co., Ltd. (seal)

Legal representative or authorized representative: (signature)

Signed on: August 12th, 2011

Signed in: Pudong Shanghai

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### Supplementary Terms

Party A and Party B reach the following supplementary terms on establishment of Shanghai Data Center by Party B in Party A's park by consensus:

#### 1. Definitions

- 1) Lease contract mentioned herein refers to *House Lease Contract* of 88# Property in F16 Plot;
- 2) Article mentioned herein refers to the articles in the *House Lease Contract* of 88# Property in F16 Plot;88#
- 3) Appendix mentioned herein refers to the appendix in the *House Lease Contract* of 88# Property in F16 Plot;
- 4) The supporting facilities in the *House Lease Contract* of 88# Property in F16 Plot are shown in "Appendix 2: Custom property specification and delivery interface of GDS Shanghai Data Center" of the lease contract;
- 5) Agreed delivery date of the leased housing refers to the corresponding date to 12 months after the leased housing construction drawing design agreed herein is subject to written confirmation of Party B and after the date when Party A makes official commencement and the contract agreed date when the Party A delivers the housing to Party B. For example, if Party A makes official commencement on March 1, 2011, the agreed delivery date of the leased housing is March 1, 2012;

Party B's electromechanical installation and secondary decoration team may enter the site in advance according to the contract with the consent of Party A. However, if Party B enters the site in advance for electromechanical installation and secondary decoration (except the condition when Party A assists Party B in embedded part foundation, measurement and civil engineering odd projects in the site in advance), Party B's project and Party A's project shall be applied for completion acceptance to the government simultaneously. In this case, the actual approach date of Party B is the actual delivery date of the housing and also the commencement date of the lease term of the Contract. Actual delivery date of the leased housing refers to the date when Party A and Party B hand over the leased housing and sign the handover list on site according to the agreement on housing handover in the lease contract;

Lease commencement date of the leased housing refers to the commencement date of the rent paid by Party B after expiry of the decoration preparation period provided by Party A for Party B agreed in the lease contract.

- 6) Force majeure includes war, turmoil, natural disasters and other unforeseeable, insuperable and unavoidable events. Natural disasters refer to earthwork, tsunami, thunder, hurricane, typhoon, tornado, windstorm, rainstorm, flood, freeze disaster, hail, ground avalanche, snow slide, volcanic eruption, inartificial land subsidence and other irresistible natural phenomena with powerful destructive power.

#### 2. Area, location and nature of leased housing

- 1) The leased housing is located in Plot F16 in District F of Shanghai Waigaoqiao Free Trade Zone and the specific position is shown in the plan in Appendix 1 to the lease contract.
- 2) The temporary construction area of the leased housing is 20888m<sup>2</sup> and the final construction design shall be subject to the construction drawings confirmed by both parties and the official reply of relevant government departments.
- 3) Since the leased housing is new planned construction property, the housing rent, property management fees or other funds calculated according to the housing area are calculated on the basis of the temporary area in the drawings. The final housing lease construction area shall be

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subject to the measured construction area provided by Shanghai Housing Surveying and Mapping Center and the housing rent, deposit, property management fees and other related costs are adjusted according to the measured construction area. Both parties shall sign a separate supplementary agreement.

- 4) Both parties agree that the housing construction in the Contract is initiated as industrial plants.

#### 3. Rent, lease term and lease term delivery method

- 1) The rent of the leased housing (hereinafter referred to as house rent) is RMB[REDACTED]<sup>5</sup>/m<sup>2</sup>/day and is adjusted every 10 years within the lease term. Both parties negotiate on the unit price of house rent separately according to the industrial real estate lease market price and the amount of increase does not exceed [REDACTED]<sup>6</sup>% (including [REDACTED]<sup>7</sup>%) of the unit price of rent involved herein.

At the request of Party B, Party A has adjusted related configuration of the building (as shown in Appendix 6) and the increased cost per square meter of the construction area is expected to be RMB[REDACTED]<sup>8</sup>. Both parties reach a consensus on the burden of the increased cost through friendly negotiation and increase the shared rent RMB[REDACTED]<sup>9</sup>/m<sup>2</sup>/day on the basis of house rent. After housing completion and delivery, Party B may pay the total sum in Appendix 6 to Party A in full and bear relevant costs involved. Party B may not pay the shared rent after one-off payment. The expected increased cost of RMB[REDACTED]<sup>10</sup> for per square meter of construction area is estimated by both parties according to the unit construction cost of 87# building and the area in 88# drawing and the final cost is settled according to the actual audit price and adjusted according to the fact in the unit price of shared rent. (The adjustment project cost rent is shown in Appendix 7)

- 2) The lease term is 20 years and 6 months from the actual delivery date of the housing.
- 3) With a lease quarter of every three months, Party B shall pay the rent for next lease quarter before the 25th day in the month prior to each lease quarter. The first rent is calculated from the end of the decoration preparation period provided by Party A for Party B.

#### 4. Construction deposit

- 1) The construction deposit of 88# property is RMB[REDACTED]<sup>11</sup> million. From the signing date of the Contract, RMB[REDACTED]<sup>12</sup> million in the construction deposit paid by Party B to Party A for 87# and 88# properties in F16 plot is automatically transferred to the construction deposit for 88# property under the Contract; the remaining construction deposit of RMB[REDACTED]<sup>13</sup> million shall be complemented by Party B to Party A within 15 working days after the foundation engineering construction drawings of 88# building are confirmed by Party B. The above construction deposit of RMB[REDACTED]<sup>14</sup> million is automatically transferred as the lease deposit (including deposit for recovery) and rent of 88# leased housing from the date of actual delivery of 88# to Party B. The construction deposit is free of interest.
- 2) Unless otherwise stipulated in the lease contract and supplementary terms, if Party B terminates

<sup>5</sup> Confidential treatment requested

<sup>6</sup> Confidential treatment requested

<sup>7</sup> Confidential treatment requested

<sup>8</sup> Confidential treatment requested

<sup>9</sup> Confidential treatment requested

<sup>10</sup> Confidential treatment requested

<sup>11</sup> Confidential treatment requested

<sup>12</sup> Confidential treatment requested

the lease contract arbitrarily before the actual delivery date of 88# leased housing (Party B is deemed to unilaterally terminate the Contract automatically in case of failure to confirm and reply in writing within 60 days upon receipt of the design scheme, preliminary design or complete set of construction drawings from Party A), Party A does not return the construction deposit and has the right to require Party B to compensate all losses, including but not limited to land surveying expenses, engineering design fees, project initiation declaration fees, land leveling fees, seedling migration fees and damages for contract termination with relevant suppliers.

- 3) Unless otherwise stipulated in the lease contract and supplementary terms, if Party A terminates the lease contract arbitrarily before the actual delivery date of the leased housing (Party A is deemed to unilaterally terminate the Contract automatically in case of failure to deliver the housing to Party B within 6 months after agreed delivery date for Party A's reasons), Party B has the right to terminate the Contract and Party A shall double return the construction deposit paid by Party B under the Contract and compensate Party B for the direct and indirect costs paid for the construction project of the leased housing. The compensations include but are not limited to the electromechanical design fees and the damages for termination of contract with related contractors and suppliers.

#### 5. Decoration preparation period

Party A agrees to give a decoration preparation period of 180 days from the actual delivery date of the leased housing to The decoration preparation period is 180 days from the actual delivery date of the leased housing. Party B does not pay the rent but shall pay the property management fee and the utilities and other relevant costs incurred in actual decoration within the decoration preparation period. Party A agrees that Party B may enter and decorate the housing in advance after handling the housing delivery procedures with Party A and Party A provides necessary coordination upon approval of relevant government departments when the housing meets the decoration conditions. For coordination between both parties and other unaccomplished matters in terms of engineering construction during engineering construction, both parties sign a separate MOU of the project.

#### 6. Delivery and return of leased housing

##### 1) Housing construction and delivery date

- (a) Both parties agree that Party A is responsible for planning, design and construction of the leased housing when Party B pays the construction deposit according to Article 4 in the supplementary terms.
- (b) The project design of Party B's Shanghai Data Center is performed in three phases, i.e. scheme design, preliminary design and construction drawing design. In view of the particularity of the data center project, the design at each phase shall be subject to written confirmation by Party B. Party A may change and modify the design confirmed by Party B after re-confirmation of Party B. Party B shall make written reply or confirmation within 3 working days upon receipt of the design documents submitted by Party A in writing. Any confirmation and approval of Party B do not exempt Party A from the responsibilities undertaken for the construction project safety, quality and project legality. Party A shall urge the design institute to implement reasonable modification opinions (limited to the scope agreed in Appendix 2 to the lease contract) proposed by Party B for the construction drawings. If Party A makes construction arbitrarily before the construction drawings are confirmed by Party B, Party B shall give a reasonable period to Party A to rectification and remedy. If Party A fails to rectify timely, the Contract continues to be performed and Party A shall still deliver the housing on the agreed delivery date herein; if Party A fails to complete rectification without above reasonable period, resulting in Party B's failure to implement Shanghai Data Center project, Party B has the right to terminate the Contract and Party A shall double return the construction deposit paid by Party B and

compensate Party B for the actual loss, except the circumstances when Party B delays in written confirmation of the drawings for more than 30 days agreed in Article 4 of the supplementary terms.

- (c) The project design bidding is divided into building civil design and electromechanical design. The former is in the charge of Party A, while the latter is in the charge of Party B. Both parties are responsible for the preparation of the design bidding documents and the implementation of the bidding review respectively and jointly confirm the design specifications of the bidding documents. The successful design unit is jointly determined by both parties. Both parties agree that the civil design and electromechanical design of the project are undertaken by the same design unit, the design contract is signed separately and the costs are borne by both parties respectively.
- (d) If the leased housing specification (as shown in Appendix 2 to the lease contract) shall be modified by Party B in construction, both parties shall solve through further negotiation. If the construction period is delayed due to related modification, both parties shall sign a supplementary agreement.
- (e) Party A shall complete the construction of 88# building and deliver to Party B within 12 months (including 12 months) after formal commencement date. Party A shall complete the major structure acceptance and allow and assist Party B to make electromechanical installation and construction on site within 9 months after formal commencement date. If Party B enters the site in advance for electromechanical installation and secondary decoration (except the condition when Party A assists Party B in embedded part foundation, measurement and civil engineering odd projects in the site in advance), the actual approach date of Party B is the actual delivery date of the housing and also the commencement date of the lease term of the Contract according to paragraph 5) in Article 1 herein.
- (f) Party A must select the surveying, supervision, construction and other professional work units with legal qualification through legal procedures and inform Party B of the selection of the surveying, supervision, construction and other professional work units.
- (g) Party B may or invites a third party to participate in the project construction supervision and management and has the right to randomly check the project construction progress, quality and construction. Party A shall provide necessary help and related materials for Party B to carry out above work. Party B may dispatch representatives to join working group and participate in the housing acceptance and Party A shall notify Party B 3 working days prior to the housing acceptance.
- (h) Delivery signs for the leased housing to meet actual conditions: meet the custom property specification and delivery interface in Appendix 2 to the lease contract and meet the construction drawings confirmed by both parties; the housing major structure passes the acceptance of the government quality supervision department. If Party B enters the site in advance for electromechanical installation or secondary decoration according to the supplementary agreement, the date of the electromechanical installation or secondary decoration on site in advance is the actual lease commencement date.
- (i) Party A and Party B shall bear the respective project warranty responsibilities, and the project warranty period and warranty requirements shall be implemented according to relevant national provisions. In case of losses caused by the project quality problems to Party B within the warranty period, Party B may investigate relevant compensation liability of Party A after approval by the professional third party approved by the country. If Party A fails to respond or refuses to repair within a reasonable period upon receipt of the written warranty notice from Party B, Party B may repair independently and require Party A to bear the repair costs.
- (j) Party A shall strive to accelerate the project progress. If the housing may be delivered to Party B in advance, the housing delivery procedures may be handled in advance through approval of

both parties and the lease term and rent payment date shall be advanced accordingly. Party A shall give a written notice to Party B 10 days prior to the housing delivery date.

##### 2) Housing handover procedures

Party B shall handle the handover procedures in Party A upon receipt of Party A's written handover notice. After the representatives dispatched by both parties simultaneously according to the agreement [Party A designates relevant departments and Shanghai Sankai Property Management Co., Ltd. (hereinafter referred to as Sankai Property) as Party A's representatives] photograph, check and register the leased housing and status as well as the interface interface and materials agreed in Appendix 2 according to the lease contract, make a handover list (in duplicate) and transfer the leased housing and all handover materials, the representatives of both parties sign and seal the handover list and the leased housing is deemed to be handed over completely and the date is the actual delivery date of the housing. If Party B fails to or refuses to handle the handover procedures according to the article, the housing delivery time notified by Party A in writing is still considered as the actual delivery date of the housing.

##### 3) Housing return

The leased housing handover procedures upon termination of the lease contract are contacted by Party B to Party A actively. The representatives dispatched by both parties simultaneously according to the agreement [Party A designates the relevant departments and Sankai Property as Party A's representatives] check and register the leased housing and status according to the lease contract and make a handover list (in duplicate). Both parties negotiate on whether to recover the housing to the status acceptable by Party A according to the actual situation at the termination of the lease contract. The leased housing is deemed to have been fully handed over after the representatives of both parties sign and seal and transfer the leased housing. In case of failure to handle the handover procedures with Party A on time on the contract termination date, Party B shall pay the rent for one day and a half for each day overdue. Meanwhile, Party B guarantees to have move out its registered address as at the termination date of the Contract. If applying for customs bonded warehouse within the leased housing, Party B shall also handle the emigration or cancellation procedures of the customs bonded warehouse. If Party B fails to handle the company registered address and customs bonded warehouse emigration or cancellation on time on the termination date of the contract, Party A shall investigate Party B's liability for breach of contract according to the agreement on failure to handle surrender and handover procedures with Party A on time.

#### 7. Partition and decoration

Party B may partition and decorate the leased housing according to the building, fire prevention, environmental protection, health and epidemic prevention laws, regulations and policies in the People's Republic of China, Shanghai and Waigaoqiao Free Trade Zone after handling relevant approval procedures and passing acceptance of relevant government departments and property company after housing handover. Party A shall make coordination.

If the partition and decoration involve the housing major structure and other important project matters, Party B shall obtain the prior consent of Party A and Party A's design unit.

After the requirements proposed by Party B in writing are approved by Party A, the documents issued by both parties for the arrangement shall become an appendix to the lease contract.

Party B shall comply with relevant national fire codes, install relevant firefighting facilities according to the housing use nature in decoration and report to relevant departments for approval. The costs, if involved, shall be borne by Party B.

## 8. Lease deposit and bank account

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Party A and Party B determine the following according to the provisions in Article 4: Deposit in the lease contract:

Housing lease deposit=house rent for [REDACTED]<sup>15</sup> months+ RMB[REDACTED]<sup>16</sup> million (deposit for recovery);

Deposit for recovery: for the construction requirements of Party B's Data Center, the building ground elevation of the machine room area and office area in 88# building has been subject to different degrees of decline treatment. To this end, both parties agree that if Party B surrenders lease, Party A has the right to require Party A to clean the floor and relevant floor decoration conducted for 88# building according to the current status, maintain free of charge for Party A or recover the leased housing according to the floor horizontal elevation of ordinary plants agreed in the lease contract. The deposit for recovery herein is free of interest. If Party B surrenders lease, Party A requires Party B to recover according to the above floor horizontal elevation depending on the circumstance; if Party B does not recover, Party A has the right to deduct the funds required for recovery from the deposit. If Party B purchases 88# building or handles 88# building surrender procedures with Party A according to relevant agreement, Party A shall return the above deposit and the housing lease deposit to Party B according to the lease contract within 15 days after completing relevant purchase or surrender procedures.

The specific payment method is as follows:

- 1) According to Article 4 in the supplementary terms, a part of the construction deposit paid by Party B is automatically transferred as the lease deposit (including deposit for recovery) of the leased housing from the actual delivery date of the housing.
- 2) Party A will return the housing lease deposit to Party BB according to the agreement in the lease contract after signing of the *Housing Lease Termination Agreement*. The lease deposit is free of interest.
- 3) The construction deposit, rent and rent deposit described in Article 3 in the lease contract shall be paid by Party B to the bank account designated by Party A by check or transfer. Party A fully entrusts "Shanghai Sankai Property Management Co., Ltd. as the property management unit of the leased housing for unified property management and fund collection of the leased housing and entrusts Sankai Property to issue relevant invoices (Party A is the invoice title) on behalf of Party A. The specific account information is as follows:

Full name of collecting company: Shanghai Sankai Property Management Co., Ltd.

Bank name: [REDACTED]<sup>17</sup>

RMB account: [REDACTED]<sup>18</sup>

## 9. Property management

Before handling the housing delivery procedures determined in Article 1 in the original of the lease contract after signing of the lease contract, Party B shall negotiate with Sankai Property separately, sign a *Property Management Agreement* and comply with the *Housing Use, Management and Maintenance Convention of Shanghai Waigaoqiao Free Trade Zone* (as shown in Appendix 3 to the lease contract). Party B shall pay the property management fee to Sankai Property after the actual delivery date of the leased housing and the property

<sup>15</sup> Confidential treatment requested

<sup>16</sup> Confidential treatment requested

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<sup>18</sup> Confidential treatment requested

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management fee shall be determined by Party B and Sankai Property through negotiation.

## 10. Public facilities

If Party B applies for connecting outlet or using such facilities independently or by relevant utility department entrusted, Party B shall bear related costs.

## 11. Purchasing right of leased property

In case of intention to purchase 88# property in the contract within the lease term from the housing delivery date agreed in the lease contract signed by Party A and Party B, Party B shall sign the *House Sales Contract* by consensus with Party A according to the market conditions and combined with relevant real estate transaction provisions.

Party B is qualified for negotiating with Party A on purchase of 88# property after purchasing the property right of 87# property and 35KV substation.

## 12. Commitment and guarantee

Party A and Party B agree that if the commitment and guarantee made by one party to the other according to this article are verified to be untruthful and misleading, resulting the losses to the other party, such party shall make corresponding compensation for the other party to avoid loss.

1) The commitment and guarantee of Party A to Party B are as follows:

- (a) Party A guarantees that it is the legal owner of the leased housing and that the leased housing meets the requirements herein in terms of quantity and quality and may be used for the purpose agreed in paragraph 2 in Article 6 herein according to the law.
- (b) Party A shall ensure that the quality of the project undertaken meets the current national standard eligibility criteria and the construction standards agreed in Appendix 2 herein. If the project quality does not meet the current national standard eligibility criteria and the construction standards agreed in Appendix 2 herein, Party A shall instruct the construction unit to rectify within a time limit; in case of still nonconformity to the current national standard eligibility criteria after rectification within a time limit, Party A constitutes breach of contract and Party B may terminate the Contract unilaterally and require Party A to double return the construction deposit paid.
- (c) The property completion has been approved by relevant government departments in Waigaoqiao Free Trade Zone. Party A shall provide the copies of relevant evidential documents, including the written acceptance of the quality supervision department in Waigaoqiao Free Trade Zone and the fire acceptance documents from the fire department for the housing for Party B when delivering the housing. Party A shall handle and obtain the housing title deed within 12 months after meeting the title deed conditions and provide Party B with the copy of the title deed.
- (d) Party A guarantees that any mortgage, guarantee or other behaviors that may affect the right of Party B to lease the housing are not set in the leased housing before signing of the Contract.
- (e) To make operations in Party B's leased housing after Party B formally uses the leased housing, Party A shall give a written notice, obtain the written reply of Party B and comply with Party B's rules and regulations under the guidance of Party B. Party B shall give a written reply within 1 working day upon receipt of prior notice from Party A, except the circumstances in which Party A shall make emergency repair for the leased housing and supporting facilities according to the Contract.

Party A does not constitute breach of contract in case of failure to enter the leased housing for emergency repair for Party B's failure to reply timely, affecting normal operating

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activities of Party B or resulting in losses to Party B.

- (f) Party A guarantees that Party B will not be subject to improper interference from Party A within the lease term. If Party B cannot operate normally due to Party A's arbitrary termination of the Contract or other nonperformance in the lease term, Party B has the right to terminate the Contract and Party A shall bear the liquidated damages at three-month rent. If the liquidated damages are insufficient to make up for the losses to Party B, Party A shall compensate for actual losses to Party B.
- (g) The shareholding transfer between Party A and its affiliated companies shall not be deemed as Party A's breach of contract without prejudice to the rights and obligations of Party B under the Contract. If Party A terminates the Contract unilaterally without permission due to the shareholding transfer between Party A and its affiliated companies, Party B has the right to terminate the Contract and Party A shall bear the liquidated damages at three-month rent. If the liquidated damages are insufficient to make up for the losses to Party B, Party A shall compensate for actual losses to Party B.

(h) Party A shall sign and perform the Contract with legal authorization and the approval of competent authority through relevant procedures; otherwise, Party A shall bear the actual resulting losses to Party B.

2) The commitment and guarantee of Party B to Party A are as follows:

- (a) Party B commits to increase capital within half a year after delivery of 88# property and the capital is increased by no less than USD 5 million on the basis of the registered capital of the legal entity in Waigaoqiao Free Trade Zone. The total capital is increased to USD 30 million within three years.
- (b) Party B commits to actively coordinate with Party A in confirmation of various design drawings and written documents at the leased housing design and construction stage.
- (c) The complete set of construction design drawings provided by Party A shall be subject to written confirmation and reply within 30 days, the scheme design and preliminary design drawings shall be subject to written confirmation within 7 working days and the other schemes and written materials are generally subject to written confirmation within 3 working days.
- (d) The leased housing occupation, use and earnings by Party B shall meet the provisions in the lease contract (and the supplementary terms) and the appendixes and comply with the building, fire prevention, environmental protection, health and epidemic prevention laws, regulations and policies in the People's Republic of China, Shanghai and Waigaoqiao Free Trade Zone.
- (e) Party B guarantees not to surrender for no reason within the lease term of the Contract. In case of surrender in advance, the lease deposit equivalent to 3-month rent is not returned and Party A has the right to require Party B to compensate for the total amount of the nonperformance part in previous 5.5 years (including 180-day decoration preparation period) in the contract lease term one time.
- (f) In case of failure to pay the rent payable for 6 months to Party A for Party B's reasons, Party B is deemed to surrender unilaterally in advance and Party A has the right to require Party B to bear the liability for breach of contract according to the Contract and the supplementary terms; when exercising the right to unilaterally terminate the Contract in case of above circumstance, Party A has the right to apply for relocating or locally sealing all devices and properties of Party B in the leased housing to the local people's court. The resulting costs are borne by Party B. Party A shall assist the executive staff of the court to protect Party B's properties.
- (g) Party B shall sign and perform the Contract with legal authorization and the approval of

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competent authority through relevant procedures; otherwise, Party B shall bear the actual resulting losses to Party A.

### 13. Lessee change by lessor and lessee change

Mortgage and transfer notice

- (a) Party A may mortgage the housing or provide the third party with guarantee and other rights with the housing only after housing delivery; if mortgaging 88# building and providing guarantee and other rights for the third party, Party A shall give a written notice to Party B within fifteen working days after the mortgage registration date.
- (b) In case of intention to sell 88# property, Party A shall give a prior written notice to Party B; in case of intention to purchase, Party B shall reach a consensus with Party A on housing purchase within 2 months upon receipt of above written notice; if both parties fail to reach a consensus, Party A has the right to transfer the housing to a third party. Party A commits not to sell 88# to a third party having competitive relation with Party B (engaged in data center, disaster recovery center and IT outsourcing services) within the contract term.

### 14. Sublease

Party B may sublease the housing to a third party in part for business needs in the lease term. Party B shall guarantee to own relevant qualification for sublease operation above and to carry out lawful operation. The sublease operation shall not exceed the scope of rights and obligations stipulated herein and Party B shall not be relieved from the obligations for Party A for the sublease behavior, including but not limited to rent payment.

### 15. Agreement on Party A's construction start

Party B commits to lease 87# housing and pay the rent on time according to the Supplementary Agreement 3 of 87# House Lease Agreement on July 1, 2011. Meanwhile, Party B will formally operate Shanghai Data Center phase 1 project (in 87# housing) in 2011.

If Party B meets above conditions, both parties agree that Party A shall start the pile foundation project within half a year after Party B formally operates 87# building and both parties confirm 88# construction drawings (in case of local adjustment of the construction blueprint at that time, both parties may negotiate on the construction progress separately.)

### 16. Lessee change

For the project data center business development needs of 88# building, Party B's investor intends to establish a new legal entity in Waigaoqiao Free Trade Zone. The registered capital of the new legal entity is USD 5 million by consensus between both parties. After the new legal entity completes industrial and commercial registration and the registered capital is in place, both parties may change the lessee (Party B) of the lease contract as the new legal entity by further negotiation.

### 17. Insurance

Party A is responsible for covering the insurance (including property insurance) for the housing and relevant supporting equipment provided by Party A at its own cost; Party B or the owner of cargo covers insurance for Party B's equipment, cargo and properties in an insurance company at the premium of Party B.

### 18. Expansion

In case of future expansion requirements for Party B's Shanghai Data Center project, Party A is willing to continue to provide corresponding property in F16 and other appropriate plots to support continuous development of Party B in Shanghai Waigaoqiao Free Trade Zone. The specific matters are determined by both parties through further negotiation.

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### 19. Liability for breach of contract

- 1) Both parties clearly agree that any of the following circumstances shall be deemed as overdue payment. For each day overdue, the default party shall pay the overdue fine at 0.4‰ of the amount paid overdue:
  - (a) Party B fails to pay or fully pay the leased housing rent on the last day of the payment term stipulated in the lease contract;
  - (b) Either party makes overdue payment of the liquidated damages and compensation.
- 2) In case of violation of paragraph 1) (d) in Article 12, Party A shall pay the liquidated damages at the construction deposit paid by Party B to Party A and Party B has the right to terminate the Contract.
- 3) If Party A violates paragraphs (a) and (b) in Article 13, Party B may require Party A to pay the liquidated damages at the rent deposit paid by Party B to Party A; or Party A shall correct the nonperformance within the time limit required by Party B.
- 4) If Party A fails to deliver the housing to Party B within the agreed delivery date for Party A's reasons, Party B agrees to give a grace period of 15 days (hereinafter referred to as the "delivery grace period") from the agreed delivery date." The formal lease term and the decoration preparation period of Party B will be postponed accordingly. In case of still failure to deliver the housing to Party B upon expiry of the delivery grace period for Party A's reasons, Party A agrees to pay RMB[REDACTED]<sup>19</sup> to Party B for each day overdue (from the next day after expiry of the delivery grace period) as the liquidated damages for delay in delivery of housing till actual delivery date of the housing; meanwhile, the formal lease term and the decoration preparation period of Party B will be postponed accordingly, unless otherwise stipulated in paragraph 5) in Article 1 of the supplementary agreement.
- 5) If the Contract cannot continue to be performed for the Party A's reasons with the contract term, Party A shall assist Party B to find an appropriate third place until Party B reaches an agreement with the third party on the third place lease and shall compensate Party B for all losses.

### 20. Maintenance of leased housing

If the leased housing does not meet the service status agreed in the lease contract in the lease term, Party A undertakes the responsibility for maintenance of the leased housing at its own cost; Party B shall assume liability for damage for the damage and loss to the leased housing since Party B does not fulfill the obligations for properly keeping and using the leased housing.

### 21. Dispute resolution

Any dispute arising from performance of the Contract shall be resolved by both parties through friendly negotiation; if negotiation fails, either party may submit arbitration to China International Economic and Trade Arbitration Commission Shanghai Branch.

### 22. Confidentiality requirements

Both parties shall keep confidential the materials with confidentiality nature or exclusively by either party or both parties and related to performance of the lease contract and shall not disclose to any third party until such materials have been known by local public. The confidential materials shall include but be no limited to the price, confidential data and information materials related to the lease contract as well as all confidential materials in the lease contract and appendixes and in the negotiation, revision and performance process.

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<sup>19</sup> Confidential treatment requested

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Either party may disclose relevant confidential information with prior written notice to the other party according to the court or administrative orders or ruling requirements, administrative approval and coordination needs.

### 23. Notice

Any notice or liaison issued by both parties based on or related to this Contract shall be delivered by registered mail or express delivery in writing to the following address:

Party A:: Shanghai Waigaoqiao Free Trade Zone Sanlian Development Co., Ltd.

Addressee: Sales and marketing department  
Address: Floor 18, No.6, Jilong Road, Shanghai Waigaoqiao Free Trade Zone, China  
Postal code 200131  
Fax: 0086-21-58692179

Party B: Shanghai Shanghai Waigaoqiao EDC Technology Co., Ltd.  
Addressee: He Zheng  
Address: Floor 30, Block 3, China Central Place, No.77, Jianguo Road, Chaoyang District, Beijing City  
Postal code: 100022  
Fax: 0086-10-59539066

Or delivered to other addresses in the latest notice issued by the receiving party to the sending party.

### 24. Miscellaneous

- (a) The supplementary terms (including appendixes) are part of the lease contract. In case of conflict between the supplementary terms and the other terms in the lease contract, the former shall prevail.
- (b) The lease contract (and the supplementary terms) is interpreted according to the laws and regulations of the People's Republic of China and the local regulations in Shanghai and governed by the law of the People's Republic of China.
- (c) The Chinese version of the lease contract is made out in quintuplicate. Party A holds one copy, Party B holds three copies and the rest copy is submitted to the real estate management department for registration record.
- (d) The Contract and all appendixes take effect simultaneously after being signed and sealed by both parties. Any change and supplement to the lease contract shall be described by both parties in a supplementary agreement, which may take effect after being signed and sealed by both parties.

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## Shenzhen Data Center Project

## Premise Lease Agreement

**Lessor:** Shenzhen Energy Logistics Co., Ltd.

**Lessee:** EDS (HK) Limited[EDS (HK) Limited ]

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## Premise Lease Agreement

No.BZ20120420H1

**Lessor:** Shenzhen Energy Logistics Co., Ltd. (hereinafter referred to as Party A)  
Address: No.5, Taohua Road, Futian Free Trade Zone, Shenzhen  
Tel: +86 755 — 83591868 Fax: +86 755 - 83594467

**Lessee:** EDS (HK) Limited[EDS (HK) Limited ] (hereinafter referred to as Party B)  
Address: Unit C, 9 Floor, Regency Centre, Phase Two, 41-43 Wong Chuk Hang Road, Hong Kong.  
Tel: +86 10 - 59539000 Fax: +86 10 - 59539066

Party A and Party B enter into this Contract by consensus through friendly negotiation according to the *Contract Law of the People's Republic of China, Customs Law of the People's Republic of China, Management Regulations on Futian Free Trade Zone in Shenzhen Special Economic Zone* and other relevant national regulations to clarify the rights and obligations of the lessor and the lessee.

## Article 1: Leased object and purpose

- Party A agrees to rent out its house (hereinafter referred to as "leased housing") with the construction area of 15000m<sup>2</sup> from the first to seventh floor (in which, the construction area leased in the seventh floor is 633.365m<sup>2</sup>, including elevator machine room, equipment room, stairs and other shared construction area according to the provisions) in the Energy Logistics center phase 2 located at No.5, Taohua Road, Futian Free Trade Zone, Shenzhen to Party B, and the construction area division of the rental housing may be agreed by both parties in the appendix. The construction area is subject to the construction area in the title deed.
- Party B uses the rental housing as the data center for data processing, data center site services, disaster recovery services and other IT outsourcing services. All transformation and decoration schemes, including the basement and outdoor container type diesel generator sites, shall be approved by Party A and relevant competent departments.

## Article 2: Term of contract

- The contract is valid for twenty years from October 1, 2012 to September 30, 2032.
- The rent-free period is 4 months.
- Both parties shall confirm the contract renewal matters 6 months prior to the expiry of the Contract. Party B enjoys the priority right to lease under equal conditions.

## Article 3: Special terms

- According to the power supply line requirements of Party B, Party A, as the owner, is responsible for declaring the power supply capacity increase project, with the power supply capacity of 17500 + 17500KVA double circuits (the power supply capacity of single circuit does not exceed 17500KVA, subject to final technical scheme; Party B provides the final

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technical scheme for power utilization within 15 days after signing of the agreement) and Party B is responsible for the technology and capital contribution and provides various materials, drawings and documents required by the power supply department. If Party B delays in providing the technical scheme for power utilization, the time for Party A to obtain the power supply application approval may be delayed accordingly. Under normal circumstances, Party A obtains the power supply application approval within one month after Party B provides the technical scheme for power utilization.

- If Party A fails to obtain the power supply application approval before approach construction of Party B or within two months after Party B provides the power utilization scheme, Party B has the right to terminate the Contract. Party A returns the lease deposit paid by Party B and pays corresponding current interest within one week after termination of the Contract.
- Party B shall register a domestic enterprise in Shenzhen within half a year after signing of this agreement. Both parties agree that the rights and obligations of Party B agreed herein are transferred to the enterprise legal person established by Party B in Shenzhen and agree to re-sign the house lease contract according to the agreement herein.

## Article 4: Delivery of leased housing

- Both parties shall handle the handover procedures of the leased housing on the delivery date. Both parties sign Appendix 4 House Handover Sheet after acceptance of the leased housing and Party A is deemed to have performed the delivery obligations of the leased housing. Both parties agree that Appendix 4 is used as the acceptance basis for Party A to deliver the leasehold to Party B and for Party B to return the leasehold to Party A at the termination of the Contract.
- In case of failure to deliver the leased housing to Party B on the delivery date without justified reasons, Party A shall pay the liquidated damages at RMB[REDACTED]<sup>1</sup>/day for each day overdue.

## Article 5: House rent

- The leased housing rent is calculated according to the total construction area 15000m<sup>2</sup> and charged in installments of 10 years + 5 years + 5 years. Before the end of the 10th month in the 10th year, both parties negotiate on the rent from the 11th year to the 13th year according to the rent in the market, with the rise or fall amplitude not exceeding [REDACTED]<sup>2</sup> of the rent in the 10th year. The rent standard for the 14th year and the 15th year is charged according to [REDACTED]<sup>3</sup> of the rent from the 11th year to the 13th year agreed by both parties. Before the end of the 10th month in the 15th year, both parties negotiate on the rent from the 16th year to the 20th year. The detailed rents are shown in the appendixes.

<sup>1</sup> Confidential treatment requested

<sup>2</sup> Confidential treatment requested

<sup>3</sup> Confidential treatment requested

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- Lease term from 1st to 4th year: the rent is charged at RMB[REDACTED]<sup>4</sup>/m<sup>2</sup>/month (excluding the property management fee) from October 1, 2012 to September 30, 2016; within two years from lease commencement date (1 month in 2012, 2.5 months in 2013 and 0.5 months in 2014), Party B enjoys a rent-free period for 4 months.
  - Lease term from the 5th to the 7th year: the rent is charged at RMB[REDACTED]<sup>5</sup>/m<sup>2</sup>/month (excluding the property management fee) from October 1, 2016 to September 30, 2019.
  - Lease term from the 8th to the 10th year: the rent is charged at RMB[REDACTED]<sup>6</sup>/m<sup>2</sup>/month (excluding the property management fee) from October 1, 2019 to September 30, 2022.
  - Lease term from the 11th to the 13th year: the rent standard from October 1, 2022 to September 30, 2025 is negotiated by both parties separately and the rent rise or fall amplitude does not exceed [REDACTED]<sup>7</sup>% of the rent in the 10th year.
  - Lease term from the 14th to the 15th year: the rent standard from October 1, 2025 to September 30, 2027 is charged according to [REDACTED]<sup>8</sup>% of the rent from the 11th year to the 13th year agreed by both parties.
  - Lease term from the 16th to the 20th year: the rent from October 1, 2027 to September 30, 2032 is negotiated separately according to the surrounding market quotation and the government guidance price, with the rise or fall amplitude not exceeding [REDACTED]<sup>9</sup>% of the property rent in the surrounding equal conditions.
- The property management fees and the service charges are charged at [REDACTED]<sup>10</sup>% of the rent. The property management fees only contain the costs for the sanitation and hygiene, greening, fire prevention and public security in Party A's public areas and exclude the costs for the property in the building leased by Party B, such as the costs incurred from lighting appliance replacement (fluorescent lamps, sockets and wires) and

cleaning in the building area. If Party A is required to provide corresponding property services, the corresponding fees shall be charged separately. The property service content and level are shown in the appendixes.

3. If Party B leases the outdoor site other than the building leased by Party B, the rent is charged at RMB[REDACTED]<sup>11</sup>/m<sup>2</sup>/month and the charging standard is calculated according to the floor area of the outdoor site to be used by Party B, in which, the rent is exempted for the floor area of the basement (floor area not exceeding 300m<sup>2</sup>) and an outdoor container type diesel generator.
4. Payment account: Party B shall pay all rents, property management fees and deposits of the

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<sup>4</sup> Confidential treatment requested  
<sup>5</sup> Confidential treatment requested  
<sup>6</sup> Confidential treatment requested  
<sup>7</sup> Confidential treatment requested  
<sup>8</sup> Confidential treatment requested  
<sup>9</sup> Confidential treatment requested  
<sup>10</sup> Confidential treatment requested  
<sup>11</sup> Confidential treatment requested

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leased housing under the Contract to the following account of Party A:

Account name: [REDACTED]<sup>12</sup>

Account No.: [REDACTED]<sup>13</sup>

Bank name: [REDACTED]<sup>14</sup>

#### Article 6: Lease deposit

1. Party B shall pay the lease deposit of RMB[REDACTED]<sup>15</sup> (in words: RMB[REDACTED]<sup>16</sup>) equivalent to the total rent for two months and may make payment in installments. Party B pays the lease deposit of RMB[REDACTED]<sup>17</sup> (in words: RMB[REDACTED]<sup>18</sup>) equivalent to the total rent for a month to Party A within five working days after effective date of the Contract and pays the lease deposit of RMB[REDACTED]<sup>19</sup> (in words: RMB[REDACTED]<sup>20</sup>) equivalent to the total rent for a month to Party A within five working days after power supply transformation.
2. As the guarantee for Party B to commit to implement relevant contract terms, the lease deposit may be used for breach compensation and other others and for charge against the accounts payable upon expiry of the Contract; if there are no obligations not performed through validation, the lease deposit is returned by Party A fully free of interest.
3. In case of failure to submit the lease deposit overdue, the Contract is invalid automatically and the default party bears relevant responsibilities.

#### Article 7: Utilities and other costs

1. The utilities arising from the leased housing use process by Party B are charged according to the charging standard of the water and power supply department in Futian Free Trade Zone and Party B shall bear reasonable damage costs according to the charging standard of the government departments;
2. The installation procedures and the costs arising from installation of digital optical fiber, broadband network, telefacsimile and other communication equipment by Party B for business requirements are borne by Party B.

#### Article 8: Costs and settlement method

1. Regarding the monthly house rent Party A issues a regular tax invoice before the [REDACTED]<sup>21</sup>day each month and Party B pays the rent of the month before the

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<sup>12</sup> Confidential treatment requested  
<sup>13</sup> Confidential treatment requested  
<sup>14</sup> Confidential treatment requested  
<sup>15</sup> Confidential treatment requested  
<sup>16</sup> Confidential treatment requested  
<sup>17</sup> Confidential treatment requested  
<sup>18</sup> Confidential treatment requested  
<sup>19</sup> Confidential treatment requested  
<sup>20</sup> Confidential treatment requested  
<sup>21</sup> Confidential treatment requested

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[REDACTED]<sup>22</sup>day each month;

2. Regarding the property management and service fees, Party A submits the cost composition list and invoice of the property management and service fees for last month before the [REDACTED]<sup>23</sup>day each month and Party B pays the property management and service fees for last month before the [REDACTED]<sup>24</sup>day each month after audit.
3. The lease deposit is calculated and collected according to relevant provisions in Article 5 herein;
4. The monthly utilities and other costs payable to Party A are checked and paid by Party B before the [REDACTED]<sup>25</sup>day next month;
5. The monthly communication fees and other relevant costs paid by Party B in its own name shall be paid by Party B to relevant departments on schedule;
6. All costs receivable by Party A involved in performance of the Contract shall be paid by Party B within the period stipulated herein and the period is postponed in case of holidays. In case of failure to pay on time, Party B shall pay the overdue fine at [REDACTED]<sup>26</sup>% of the accounts payable for each day overdue.

#### Article 9: Staff

Party A agrees Party B to dispatch staff in the leased area and Party B's staff shall comply with Party A's fire and safety systems and other relevant provisions; otherwise, Party A has the right to require Party B to replace the dispatched staff.

#### Article 10: Leased Housing Management

1. The ownership nature of the leased housing shall not be changed as a result of signing of the Contract.
2. Party A regularly makes fire and safety inspection of the leased housing in the term of lease and ensures that the leased housing and its ancillary facilities, public facilities and equipment shall be in normal available and safe status;
3. Party A may be entrusted by Party B to provide indoor decoration, business affairs, indoor cleaning and other services at the cost of Party B;
4. Through consent by Party A's audit scheme and approval of relevant departments, Party B may make secondary decoration of the leased housing at the cost of Party B;
5. The installation of equipment, furniture and pipelines and the operation affecting the building structure of the leased housing may be performed with the consent of Party A;
6. Any person shall hold the pass, temporary work permit or access card and other effective certificates issued by Party A to enter Party A's area;

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<sup>22</sup> Confidential treatment requested  
<sup>23</sup> Confidential treatment requested  
<sup>24</sup> Confidential treatment requested  
<sup>25</sup> Confidential treatment requested  
<sup>26</sup> Confidential treatment requested

7. The property maintenance incurred in Party B's leased area is borne by Party B;
8. Party B is responsible for management work in the leased housing and any person may enter Party B's leased area with the consent of Party B;
9. Party B shall not engage in the behaviors violating national regulations, control regulations of the customs and relevant rules and regulations of Party A in the leased housing;
10. Neither party may, in any name, place the inflammable, explosive or corrosive and other hazardous articles in the building of the leased housing as ordinary houses. Either party concealing the cargo nature and bringing in such cargo shall bear all resulting personal and property losses;
11. According to the fire codes and relevant department provisions, Party B shall sign a *Safety Management Agreement* (as shown in Appendix 7) when signing this Contract;
12. Party B shall move out of the leased housing and move out all equipment, furniture and sundries and obtain Party A's written certificate to get back the lease deposit within 30 days before expiry of the Contract. For the articles not moved out overdue, Party B is deemed to give up their ownership; for each day overdue, Party B shall pay the amount twice the rent payable on the day.
13. The new articles acquired by Party B may be recovered by Party B at the expiry of the term of lease and the part set up, transformed and decorated by Party B, except that not treated by Party B with the written consent of Party A (including generator set and other equipment), shall be recovered by Party B at the request of Party A; if Party B entrusts Party A to recover, the costs incurred are borne by Party B.

#### **Article 11: Sublease**

1. Party B may provide the leased housing under the Contract for a third party for paid use for the purpose of data center services with in term of lease according to the permission scope of its own main business and Party B guarantees to own relevant qualification for sublease of the operation and to carry out lawful operation. Party B shall not be relieved from the obligations for Party A for the sublease behavior, including but not limited to rent payment.
2. In case of sublease not for the purposes agreed herein, Party B is deemed as breach of contract and shall bear relevant liability for damage no lower than 1.25 times the full earnings obtained by Party B from sublease.

#### **Article 12: Rights and obligations of both parties**

##### *I. Rights and obligations of Party A*

1. The ownership of the leased warehouse is not changed due to signing of the Contract;
2. Properly manage the private land and attachments according to relevant contract provisions and Party A's rules and regulations;
3. Ensure normal operation of the firefighting and security facilities in the public areas and make regular inspection and maintenance in strict accordance with relevant provisions;
4. Take charge of plantation and health in public areas and maintain good work environment;

5. Strictly control the issue of the work permits and access cards (temporary access card) and strictly register the incoming and outgoing personnel;
6. Strictly comply with various contract provisions;
7. Collect rent and other service charges according to the contract terms;
8. Party A shall provide active coordination during decoration and transformation by Party B;
9. Party A shall submit power supply capacity increase for approval according to Party B's requirements;
10. Party A is responsible for covering the building insurance for the housing provided in the insurance company at the cost of Party A;
11. For operation in Party B's leased housing within the lease term, Party A shall notify in advance and obtain the consent of Party B and comply with Party B's rules and regulations under the guidance of Party B except emergencies;
12. Party A guarantees that Party B will not be subject to relevant improper interference from Party A within the lease term.

##### *II. Rights and obligations of Party B*

1. Enjoy the right to use and earnings of the leased warehouse within the lease term;
2. Properly use the leased housing, actively maintain the housing, immediately take remedial measures and timely notify Party A in case of housing damage;
3. Accept Party A's security management and fire inspection and comply with relevant rules and regulations of Party A;
4. Strictly comply with various contract provisions;
5. Timely pay the warehouse rent, service charges and relevant costs;
6. Party B is responsible for the data center transformation project of the warehouse. Before the transformation project, Party B shall submit the transformation scheme to Party A and obtain the consent of Party A and relevant competent departments. Party B shall timely report the project progress to Party A in the decoration and transformation process;
7. Party B is responsible for buying the equipment and property related insurance in the insurance company at the cost of Party B.

#### **Article 13: Commitment and guarantee**

The commitment and guarantee of Party A to Party B are as follows:

1. Party A guarantees that it is the legal owner of the leased housing and that the leased housing meets the requirements herein. Party A provides the ownership certificates (land use certificate and project completion acceptance registration form) of the leased housing when signing the Contract and shall provide the copy of the leased housing title deed for Party B within 15 days after obtaining the title deed.
2. Party A guarantees that any mortgage, guarantee or other behaviors that may affect Party B to exercise the housing lease right are not set in the leased housing on the signing date of the Contract. To mortgage the leased housing and provide a third party with guarantee and other

rights within the lease term, Party A shall give a written notice to Party B within 15 days after signing of the mortgage contract and guarantee contract.

3. Any change in the ownership of the leased housing in the lease term does not affect performance of the Contract. Party A shall guarantee the transferee to confirm the rights of Party B under the Contract and bear the obligations herein.
4. If intentionally selling the leased housing in the lease term, Party A shall give a prior written to Party B. Party B has the priority to purchase under equal conditions. Party A commits not to sell the leased housing to a third party having competitive relation with Party B (engaged in data center, disaster recovery center and IT outsourcing services) unless otherwise agreed by Party B in writing.
5. Party A guarantees that signing and performance of the Contract have been subject to necessary consent, approval and authorization. Party A agrees that Party A will compensate Party B for the losses since above commitment and guarantee made by Party A are verified to be untruthful and misleading.

#### **Article 14: Liability for breach of contract**

##### *I. Direct loss compensation and additional punishment*



If violating relevant provisions herein or causing losses to the other party directly for the reasons of the default party, the default party shall compensate for the resulting direct losses to the other party. In case of grave breach of contract, the default party, in addition to compensating for the direct losses to the other party, shall be subject to additional punishment to the limit of 100% of the lease deposit, i.e. RMB[REDACTED]<sup>27</sup> (in words: RMB[REDACTED]<sup>28</sup>).

The following behaviors are deemed as grave breach of contract:

1. Party A fails to timely provide the leased housing for 15 days after the agreed delivery date;
2. The leased housing cannot be used normally for 30 consecutive days for Party A's reasons;
3. Party B is behind in payment of house rent for 2 months;
4. Party B conceals the cargo nature and stores the dangerous goods in the leased housing, resulting in major loss; or Party B fails to rectify effectively after Party A makes written opinions;
5. Party B violates national regulations of relevant provisions of the customs on cargo supervision, causing that the whole housing area of Party A is restricted for operation or the lessees other than Party B cannot work normally for 3 days;
6. Other behaviors resulting in damage to the warehouse building without the consent of Party A;
7. Other behaviors violating national regulations or contract provisions and causing major personal, property or reputation damage to the other party.

II. Special agreement on early termination of the contract unilaterally except otherwise stipulated herein

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<sup>27</sup> Confidential treatment requested

<sup>28</sup> Confidential treatment requested

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1. If Party B fails to comply with the contract provisions and terminates the Contract in advance, Party A does not return the lease deposit of RMB[REDACTED]<sup>29</sup> (in words: RMB[REDACTED]<sup>30</sup>) and Party B shall compensate Party A for the direct losses and bear additional punishment to the limit of 7-month rent, i.e. RMB[REDACTED]<sup>31</sup> (in words: RMB[REDACTED]<sup>32</sup>) within 10 days.
  2. If Party A terminates the Contract in advance or the Contract cannot continue to be performed for Party A's reasons, Party A shall return the lease deposit to Party B, compensate Party B for direct loss and bear additional punishment to the limit of 1-year rent, i.e. RMB[REDACTED]<sup>33</sup> (in words: RMB[REDACTED]<sup>34</sup>) within 10 days.
  3. The insurance bought by both parties respectively is used as the first way for loss compensation.
  4. The respective "direct losses" of Party A and Party B must be appraised by a third-party independent appraisal agency approved by both parties.

#### Article 15: Exemption clause

1. In case of leased housing damage and failure to perform the Contract according to the agreed conditions for force majeure, both parties do not bear the liability for breach of contract, but the party encountering the force majeure shall immediately notify the other party.
2. The property loss to Party A and Party B for force majeure within the lease term is handled by respective party.
3. Party A is not deemed as breach of contract if the service level falls temporarily, some public facilities and places cannot be used and the leased housing cannot be used in part as a result of Party B's transformation of the building.

#### Article 16: Discharge (termination) of contract

1. In case of any of the following behaviors of either party, the other party has the right to unilaterally terminate the Contract and reserve the right to claim:
  - 1) Pay the rent and other costs for more than 60 days overdue;
  - 2) Fail to deliver the housing for more than 30 days overdue beyond the agreed deadline herein;
  - 3) The leased housing does not meet the contract agreement, resulting in failure to achieve the contract purpose;
  - 4) Be bankrupt, dissolved or closed down;
  - 5) Either party seriously violates relevant national regulations, resulting the operation stop of the other party for 30 days;

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<sup>29</sup> Confidential treatment requested

<sup>30</sup> Confidential treatment requested

<sup>31</sup> Confidential treatment requested

<sup>32</sup> Confidential treatment requested

<sup>33</sup> Confidential treatment requested

<sup>34</sup> Confidential treatment requested

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2. Either party may require early termination of the Contract only with a written notice to the other party two days in advance and by consensus;
  3. The Contract may be terminated if the Contract cannot continue to be performed or continuing performance will cause major loss to the other party due to force majeure.

#### Article 17: Confidentiality

1. Both parties to the Contract shall strictly keep the trade secrets classified by proper confidential measures and take all reasonable measures to prevent their received materials from being distributed, disseminated, disclosed, copied, misused or contacted by irrelevant personnel. Without permission of the obligee, neither party may provide for the third party or independently use the trade secrets obtained during signing and performance of the Contract;
2. The confidentiality period finishes 2 years after termination of the Contract;
3. The trade secrets herein include but are not limited to the Contracts and its appendixes, any cost, operating procedure and other information of either party to the Contract or the information obtained by one party on the commercial activities of the other party.

#### Article 18: Dispute resolution

Any dispute arising from and related to the Contract is resolved by both parties through negotiation; if the negotiation fails, either party may apply for arbitration to China International Economic and Trade Arbitration Commission South China Branch.

#### Article 19: Appendixes to contract

1. Party A and Party B provide one copy of the business license for enterprise's legal person, organization code certificate, tax registration certificate and other qualification certificates required for enterprises respectively;
2. After execution of the Contract, both parties may change or supplement the contract content in writing as the appendixes to the Contract;
3. The appendixes have equal legal effect with the Contract.

#### Article 20: Execution of contract

The Contract is made out in quadruplicate with equal legal effect and takes effect immediately after being signed and sealed by both parties. Party A and Party B hold two copies respectively.

(No text below)

Party A: Shenzhen Energy Logistics Co., Ltd.

Party B: EDS (HK) Limited[EDS (HK) Limited ]

Signature of legal person or authorized person:

Signature of legal person or authorized person:

Company (seal):

Company (seal):

Signed in (Shenzhen) on July 16, 2012

## Premise Lease Agreement

No.:BZ20141027J1

Lessor: Shenzhen Energy Logistics Co., Ltd. (hereinafter referred to as Party A)  
 Address: No.5, Taohua Road, Futian Free Trade Zone, Shenzhen  
 Tel: +86 755 - 83591868 Fax: +86 755 - 83594467  
 Lessee: Shenzhen Yungang EDC Technology Co., Ltd. (hereinafter referred to as Party B)  
 Address: No.5, Taohua Road, Futian Free Trade Zone, Shenzhen  
 Tel: Fax:

Party A and Party B enter into this Contract by consensus through friendly negotiation according to the Contract Law of the People's Republic of China, Customs Law of the People's Republic of China and other relevant national regulations to clarify the rights and obligations of the lessor and the lessee.

## Article 1: Leased object and purpose

1. Party A agrees to rent out its house (hereinafter referred to as "leased housing") with the construction area of 10941.21m<sup>2</sup> from the first to the fifth floor in the Energy Logistics center phase 2 warehouse located at No.5, Taohua Road, Futian Free Trade Zone, Shenzhen to Party B. The construction area is subject to the construction area in the title deed. The house ownership certificate is shown in the appendixes.
2. Party B uses the rental housing as the data center for data processing, data center site services, disaster recovery services and other IT outsourcing services. All transformation and decoration schemes shall be approved by Party A and relevant competent departments.

## Article 2: Term of contract

1. The contract life is 6 years + 4 years, from June 1, 2015 to May 31, 2025.
2. The rent-free period is 4 months, respectively, December 2015, February 2016, December 2016 and February 2017.
3. For renewal, Party B shall issue a written renewal notice to Party A within three months prior to expiry of the service term agreed herein.

## Article 3: Special terms

According to Party B's power supply line requirements, Party A assists Party B to provide the owner's related materials required for power supply capacity increase declaration and seal the drawings and relevant materials. Power supply capacity increase is the obligation and responsibility of Party B and whether it is approved by the power department is unrelated to Party A.

## Article 4: Delivery of leased housing

1. Both parties shall handle the handover procedures of the leased housing on the delivery date. Both parties sign Appendix 4 House Handover Sheet after acceptance of the leased housing and Party A is deemed to have performed the delivery obligations of the leased housing. Both parties agree that Appendix 4 is used as the acceptance basis for Party A to deliver the leasehold to Party B and for Party B to return the leasehold to Party A at the termination of the Contract. Both parties negotiate on the delivery date separately and the delivery date is no later than June 1, 2015. Party A is deemed to have performed the delivery obligations and fully meet the Party B's requirements if Party B fails to sign or seal the

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handover sheet or both parties fail to sign the handover sheet actually and Party B pays the first rent under the Contract according to the agreement.

2. In case of failure to deliver the leased housing to Party B five days after the delivery date without justified reasons, the rent is not charged for each day overdue and Party A shall pay the liquidated damages at RMB[REDACTED]<sup>7</sup>/day to Party B.

## Article 5: House rent

1. The rent is RMB[REDACTED]<sup>2</sup>/m<sup>2</sup>/month in the first year, the rent in previous 6 years is increased progressively by RMB[REDACTED]<sup>3</sup>/m<sup>2</sup>/year on the basis of upset rent and the rent in the 6th year is RMB[REDACTED]<sup>4</sup>/m<sup>2</sup>/month; the rent in the 7th year is charged according to the surrounding market price situation and from the 8th year, the annual rise or fall amplitude does not [REDACTED]<sup>5</sup>% of the rent for previous year (as shown in the rent list).
2. The property management and service fees are charged at [REDACTED]<sup>6</sup>% of the unit rent. The property management fees only contain the costs for the sanitation and hygiene, greening, fire prevention and public security in Party A's public areas and exclude the costs for the property in the building leased by Party B, such as the costs incurred from lighting appliance replacement (fluorescent lamps, sockets and wires) and cleaning in the building area. If Party A is required to provide corresponding property services, the corresponding fees shall be charged separately. The property service content and level are shown in the appendixes.
3. If Party B leases the outdoor site other than the building leased by Party B, the rent is charged at RMB[REDACTED]<sup>7</sup>/m<sup>2</sup>/month and the charging standard is calculated according to the floor area of the outdoor site to be used by Party B.
4. Payment account: Party B shall pay all rents, property management fees and deposits of the leased housing under the Contract to the following account of Party A:

Account name: [REDACTED]<sup>8</sup>  
 Account No.: [REDACTED]<sup>9</sup>  
 Bank name: [REDACTED]<sup>10</sup>

## Article 6: Lease deposit

1. Party B shall pay the lease deposit (with the base of the monthly rent in the first year) equivalent to the total amount of [REDACTED]<sup>11</sup>-month rent to Party A within [REDACTED]<sup>12</sup> working days after the effective date of the Contract.
2. Party B shall pay related deposit if dismantling the original property goods elevator, hydraulic height

<sup>1</sup> Confidential treatment requested

<sup>2</sup> Confidential treatment requested

<sup>3</sup> Confidential treatment requested

<sup>4</sup> Confidential treatment requested

<sup>5</sup> Confidential treatment requested

<sup>6</sup> Confidential treatment requested

<sup>7</sup> Confidential treatment requested

<sup>8</sup> Confidential treatment requested

<sup>9</sup> Confidential treatment requested

<sup>10</sup> Confidential treatment requested

<sup>11</sup> Confidential treatment requested

<sup>12</sup> Confidential treatment requested

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adjustment plate and other fixed assets (equipment) of Party A and applying for high-reliability electricity consumption in the name of Party A within the lease contract term for project design and transformation needs. The specific matters are negotiated by both parties separately.

3. As the guarantee for Party B to commit to implement relevant contract terms, the lease deposit may be used for breach compensation and other others and for charge against the accounts payable upon expiry of the Contract; if there are no obligations not performed through validation, the lease deposit is returned by Party A fully free of interest.
4. In case of failure to submit the lease deposit overdue, the Contract is invalid automatically and the default party bears relevant responsibilities.

## Article 7: Utilities and other costs

1. The utilities arising from the leased housing use process by Party B are charged according to the charging standard of the water and power supply department in Futian Free Trade Zone and Party B shall bear reasonable damage costs according to the charging standard of the government departments;
2. The installation procedures and the costs arising from installation of digital optical fiber, broadband network, telefacsimile and other communication equipment by Party B for business requirements are borne by Party B.

#### Article 8: Costs and settlement method

1. For the monthly house rent, property management and service fees, Party A shall provide the business tax invoice before the [REDACTED]<sup>13</sup> day each month and Party B pays the rent, property management and service fees for the month before the [REDACTED]<sup>14</sup> day of the month after audit;
2. Party B shall pay the property management service charges to Party A in the rent-free period;
3. The lease deposit is calculated and collected according to relevant provisions in Article 6 herein;
4. The monthly utilities and other costs payable to Party A are checked and paid by Party B before the 5th day next month;
5. The monthly communication fees and other relevant costs paid by Party B in its own name shall be paid by Party B to relevant departments on schedule;
6. All costs receivable by Party A involved in performance of the Contract shall be paid by Party B within the period stipulated herein and the period is postponed in case of holidays. In case of failure to pay on time, Party B shall pay the overdue fine at [REDACTED]<sup>15</sup>% of the accounts payable for each day overdue.

#### Article 9: Staff

Party A agrees Party B to dispatch staff in the leased area and Party B's staff shall comply with Party A's fire and safety systems and other relevant provisions; otherwise, Party A has the right to require Party B to replace the dispatched staff.

#### Article 10: Leased Housing Management

1. The ownership nature of the leased housing shall not be changed as a result of signing of the Contract.
2. Party A regularly makes fire and safety inspection of the leased housing in the term of lease and ensures that the leased housing and its ancillary facilities, public facilities and equipment shall be in normal

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<sup>13</sup> Confidential treatment requested

<sup>14</sup> Confidential treatment requested

<sup>15</sup> Confidential treatment requested

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available and safe status. For the new equipment purchased by Party B, Party B is responsible for management and provides the records;

3. Party A may be entrusted by Party B to provide indoor decoration, business affairs, indoor cleaning and other services at the cost of Party B;
4. Through consent by Party A's audit scheme and approval of relevant departments, Party B may make secondary decoration of the leased housing at the cost of Party B; the fire acceptance after decoration and transformation is completed by Party B at its own cost. Party B is responsible for maintenance of the firefighting equipment and facilities and other equipment and facilities constructed and transformed by Party B;
5. The installation of equipment, furniture and pipelines and the operation affecting the building structure of the leased housing may be performed with the consent of Party A;
6. Any person shall hold the pass, temporary work permit or access card and other effective certificates issued by Party A to enter Party A's area.
7. The property maintenance incurred in Party B's leased area is borne by Party B;
8. Party B is responsible for management work in the leased housing and any person may enter Party B's leased area with the consent of Party B;
9. Party B shall not engage in the behaviors violating national regulations, control regulations of the customs and relevant rules and regulations of Party A in the leased housing;
10. Neither party may, in any name, place the inflammable, explosive or corrosive and other hazardous articles in the building of the leased housing as ordinary houses. Either party concealing the cargo nature and bringing in such cargo shall bear all resulting personal and property losses;
11. According to the fire codes and relevant department provisions, Party B shall sign a Safety Management Agreement (as shown in Appendix 7) when signing this Contract;
12. Party B shall move out of the leased housing and move out all equipment, furniture and sundries and obtain Party A's written certificate to get back the lease deposit within 30 days before expiry of the Contract. For the articles not moved out overdue, Party B is deemed to give up their ownership; for each day overdue, Party B shall pay the amount twice the rent payable on the day.
13. The new articles acquired by Party B may be recovered by Party B at the expiry of the lease term or discharge of contract (without consideration to the reasons for discharge) and the part set up, transformed and decorated by Party B, except that not treated by Party B with the written consent of Party A (including generator set and other equipment), shall be recovered by Party B at the request of Party A; if Party B entrusts Party A to recover, the costs incurred are borne by Party B. Party A has the right to directly deduct the costs from the lease deposit and the insufficient part is still borne by Party B.

#### Article 11: Sublease

1. Party B may provide the leased housing under the Contract for a third party for paid use for the purpose of data center services with in term of lease according to the permission scope of its own main business and Party B guarantees to own relevant qualification for sublease of the operation and to carry out lawful operation. Party B shall not be relieved from the obligations for Party A for the sublease behavior, including but not limited to rent payment.
2. In case of sublease not for the purposes agreed herein, Party B is deemed as breach of contract and shall bear relevant liability for damage no lower than [REDACTED]<sup>16</sup> times the full earnings obtained by Party B

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<sup>16</sup> Confidential treatment requested

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from sublease. For the earnings from sublease, Party B shall provide the sublease contract and the bank transaction record of the rent paid by the sub-lessee to Party B and all earnings from sublease are calculated according to whichever is higher. If Party B does not provide relevant materials, the earnings obtained by Party B from sublease are determined at twice the full rent payable by Party B in the Contract.

#### Article 12: Rights and obligations of both parties

##### 1. Rights and obligations of Party A

1. The ownership of the leased warehouse is not changed due to signing of the Contract;
2. Properly manage the private land and attachments according to relevant contract provisions and Party A's rules and regulations;
3. Ensure normal operation of the firefighting and security facilities in the public areas and make regular inspection and maintenance in strict accordance with relevant provisions;
4. Take charge of plantation and health in public areas and maintain good work environment;
5. Strictly control the issue of the work permits and access cards (temporary access card) and strictly register the incoming and outgoing personnel;
6. Strictly comply with various contract provisions;
7. Collect rent and other service charges according to the contract terms;
8. Party A shall provide active coordination during decoration and transformation by Party B;

9. Party A is responsible for covering the building insurance for the housing provided in the insurance company at the cost of Party A;
10. For operation in Party B's leased housing within the lease term, Party A shall notify in advance and obtain the consent of Party B and comply with Party B's rules and regulations under the guidance of Party B except emergencies;
11. Party B shall make lawful operation in the lease term and Party A shall not interfere with Party A's normal operation.

## II. Rights and obligations of Party B

1. Enjoy the right to use and earnings of the leased warehouse within the lease term;
2. Properly use the leased housing, actively maintain the housing, immediately take remedial measures and timely notify Party A in case of housing damage;
3. Accept Party A's security management and fire inspection and comply with relevant rules and regulations of Party A;
4. Strictly comply with various contract provisions;
5. Timely pay the warehouse rent, service charges and relevant costs;
6. Party B is responsible for the data center transformation project of the warehouse. Before the transformation project, Party B shall submit the transformation scheme to Party A and obtain the consent of Party A and relevant competent departments. Party B shall timely report the project progress to Party A in the decoration and transformation process;
7. Party B is responsible for buying the equipment and property related insurance in the insurance company at the cost of Party B.

## Article 13: Commitment and guarantee

The commitment and guarantee of Party A to Party B are as follows:

1. Party A guarantees that it is the legal owner of the leased housing and that the leased housing meets the requirements herein. Party A provides the ownership certificates of the leased housing when signing the

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Contract.

2. Party A guarantees that any mortgage, guarantee or other behaviors that may affect Party B to exercise the housing lease right are not set in the leased housing on the signing date of the Contract. To mortgage the leased housing and provide a third party with guarantee and other rights within the lease term, Party A shall give a written notice to Party B within 15 days after signing of the mortgage contract and guarantee contract.
3. Any change in the ownership of the leased housing in the lease term does not affect performance of the Contract. Party A shall guarantee the transferee to confirm the rights of Party B under the Contract and bear the obligations herein.
4. If intentionally selling the leased housing in the lease term, Party A shall give a prior written to Party B and Party B does not enjoy the priority to the housing in part or in whole. To sell the leased housing to a third party, Party A shall guarantee Party B's right of lease and lease renewal; otherwise, Party A shall bear the resulting losses to Party B. Party A commits not to sell the leased housing to a third party having competitive relation with Party B (engaged in data center, disaster recovery center and IT outsourcing services) unless otherwise agreed by Party B in writing.
5. Party A guarantees that signing and performance of the Contract have been subject to necessary consent, approval and authorization. Party A agrees that Party A will compensate Party B for the losses since above commitment and guarantee made by Party A are verified to be untruthful and misleading.
6. In case of never breach of contract, Party B has the right to generally transfer its rights and obligations under the Contract to an affiliated company (subsidiary of Party B) and Party A coordinates in signing the general transfer agreement of rights and obligations.

## Article 14: Liability for breach of contract

### I. Direct loss compensation and additional punishment

If violating relevant provisions herein or causing losses to the other party directly for the reasons of the default party, the default party shall compensate for the resulting direct losses to the other party. In case of grave breach of contract, the default party, in addition to compensating for the direct losses to the other party, shall be subject to additional punishment to the limit of [REDACTED]<sup>17</sup>% of the lease deposit.

The following behaviors are deemed as grave breach of contract:

1. Party A fails to timely provide the leased housing for 15 days after the agreed delivery date;
2. The leased housing cannot be used normally for 30 consecutive days for Party A's reasons when Party B does not violate the Contract;
3. Party B is behind in payment of house rent, property management fee and other costs for 2 months;
4. Party B conceals the cargo nature and stores the dangerous goods in the leased housing, resulting in major loss; or Party B fails to rectify effectively after Party A makes written opinions;
5. Party B violates national regulations of relevant provisions of the customs on cargo supervision, causing that the whole housing area of Party A is restricted for operation or the lessees other than Party B cannot work normally for 3 days;
6. Other behaviors resulting in damage to the warehouse building without the consent of Party A;
7. Other behaviors violating national regulations or contract provisions and causing major personal, property or reputation damage to the other party.

### II. Special agreement on early termination of the contract unilaterally except otherwise stipulated herein

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<sup>17</sup> Confidential treatment requested

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1. If Party B fails to comply with the contract provisions and terminates the Contract in advance, Party A does not return the lease deposit and Party B shall compensate Party A for the direct losses and bear additional punishment to the limit of [REDACTED]<sup>18</sup>-month rent (with the base of the rent in the month of contract termination).
  2. If Party A terminates the Contract in advance in violation of the Contract, Party A shall return the lease deposit free of interest within 10 days, compensate Party B for the direct losses and bear additional punishment to the limit of [REDACTED]<sup>19</sup>-month rent (with the base of the rent in the month of contract termination).
  3. The insurance bought by both parties respectively is used as the first way for loss compensation.
  4. The respective "direct losses" of Party A and Party B must be appraised by a third-party independent appraisal agency approved by both parties.

## Article 15: Exemption clause

1. In case of leased housing damage and failure to perform the Contract according to the agreed conditions for force majeure, both parties do not bear the liability for breach of contract, but the party encountering the force majeure shall immediately notify the other party.
2. The property loss to Party A and Party B for force majeure within the lease term is handled by respective party.
3. Party A is not deemed as breach of contract if the service level falls temporarily, some public facilities and places cannot be used and the leased housing cannot be used in part as a result of Party B's transformation of the building.

## Article 16: Discharge (termination) of contract

1. In case of any of the following behaviors of either party, the other party has the right to unilaterally terminate the Contract and reserve the right to claim:

- 1) Pay the rent and other costs for more than 60 days overdue;
  - 2) Fail to deliver the housing for more than 30 days overdue beyond the agreed deadline herein;
  - 3) The leased housing does not meet the contract agreement, resulting in failure to achieve the contract purpose;
  - 4) Be bankrupt, dissolved or closed down;
  - 5) Either party seriously violates relevant national regulations, resulting the operation stop of the other party for 30 days;
2. Either party may require early termination of the Contract only with a written notice to the other party two days in advance and by consensus.
  3. The Contract may be terminated if the Contract cannot continue to performed or continuing performance will cause major loss to the other party due to force majeure.
  4. In case of failure to obtain the reply to the power supply application in Article 3 herein, Party B has the right to terminate the Contract. In this case, the lease deposit is not returned to compensate for Party A's losses and costs.

Article 17: Confidentiality

<sup>18</sup> Confidential treatment requested  
<sup>19</sup> Confidential treatment requested

1. Both parties to the Contract shall strictly keep the trade secrets classified by proper confidential measures and take all reasonable measures to prevent their received materials from being distributed, disseminated, disclosed, copied, misused or contacted by irrelevant personnel. Without permission of the obligee, neither party may provide for the third party or independently use the trade secrets obtained during signing and performance of the Contract;
2. The confidentiality period finishes 2 years after termination of the Contract;
3. The trade secrets herein include but are not limited to the Contracts and its appendixes, any cost, operating procedure and other information of either party to the Contract or the information obtained by one party on the commercial activities of the other party.

Article 18: Dispute resolution

Any dispute arising from and related to the Contract is resolved by both parties through negotiation; if the negotiation fails, either party may apply for arbitration to China International Economic and Trade Arbitration Commission South China Branch.

Article 19: Appendixes to contract

1. Party A and Party B provide one copy of the business license for enterprise's legal person, organization code certificate, tax registration certificate and other qualification certificates required for enterprises respectively;
2. After execution of the Contract, both parties may change or supplement the contract content in writing as the appendixes to the Contract;
3. The appendixes have equal legal effect with the Contract.

Article 20: Execution of contract

The Contract is made out in quadruplicate with equal legal effect and takes effect immediately after being signed and sealed by both parties. Party A and Party B hold two copies respectively.

Lessor: Shenzhen Energy Logistics Co., Ltd.

Lessee: Shenzhen Yungang EDC Technology Co., Ltd.

Signature of legal person or authorized representative:

Signature of legal person or authorized representative:

Company (seal):

Company (seal):

Signed in (Shenzhen) on March 9, 2015

House Lease Contract  
 Supplementary Agreement 1

No.: BZ20141027J1-1

Lessor: Shenzhen Energy Logistics Co., Ltd. (hereinafter referred to as Party A)  
 Address: No.5, Taohua Road, Futian Free Trade Zone, Shenzhen

Lessee: Shenzhen Yungang EDC Technology Co., Ltd. (hereinafter referred to as Party B)  
 Address: No.5, Taohua Road, Fubao Street, Futian Free Trade Zone, Shenzhen

Party A and Party B reach the following agreement through friendly negotiation on the basis of the original house lease contract (No.: BZ20141027J1, hereinafter referred to as the original contract) signed by both parties:

I. Contract term (supplementary term to Article 2: Contract term in original contract):

1. For renewal upon expiry of the contract, Party B shall issue a written renewal notice to Party A within three months prior to expiry of the service term agreed in the original contract. The rent standard proposed by Party B shall not be lower than the latest and highest standard implemented by both parties before expiry of the term and not higher than the average level of the market lease price of the properties with the similar year of completion and similar construction class within the same area of the premises of the leased housing. Party A shall sign a renewal agreement within 5 years (including 5 years) of the renewal period.
2. The four-month rent-free period is adjusted to December 2015, February 2016, February 2017 and February 2018.

II. House rent (supplementary term to Article 5: House rent in original contract):

The rent is RMB[REDACTED]<sup>20</sup>/m<sup>2</sup>/month in the first year, the rent in previous 6 years is increased progressively by RMB[REDACTED]<sup>21</sup>/m<sup>2</sup>/year and the rent in the 6th year is RMB[REDACTED]<sup>22</sup>/m<sup>2</sup>/month; the rent in the 7th year is charged according to the surrounding market price situation and the annual rise or fall amplitude does not [REDACTED]<sup>23</sup>% of the rent for the 6th year; from the 8th year, the annual rise or fall amplitude does not [REDACTED]<sup>24</sup>% of the rent for previous year.

III. Increased office area and outdoor area:

1. For the outdoor area of 3548m<sup>2</sup> (including the square area of 2958m<sup>2</sup> and the west parking lot usable area of 590m<sup>2</sup>), the rent is charged at RMB[REDACTED]<sup>25</sup>/m<sup>2</sup>/month and the property

<sup>20</sup> Confidential treatment requested  
<sup>21</sup> Confidential treatment requested  
<sup>22</sup> Confidential treatment requested  
<sup>23</sup> Confidential treatment requested  
<sup>24</sup> Confidential treatment requested  
<sup>25</sup> Confidential treatment requested

management and service fees are charged at [REDACTED]<sup>26%</sup> of the unit rent. The rent is exempted for the floor area of the basement (floor area not exceeding 300m<sup>2</sup>) and an outdoor container type diesel generator.

2. Party A agrees to deliver the original customer service office building with the construction area of 668.74m<sup>2</sup> to Party B for use. The rent is charged at RMB[REDACTED]<sup>27</sup>/m<sup>2</sup>/month and the property management and service fees are charged at [REDACTED]<sup>28%</sup> of the unit rent.
3. The above increased office area and outdoor area are leased from June 1, 2015 to May 31, 2025. Party B shall pay the lease deposit equivalent to the total rent for [REDACTED]<sup>29</sup> months to Party A within 10 working days after execution of the Agreement.
4. The rent-free period is not set for the outdoor area and original customer service office building.
5. The other increased outdoor area is subject to the email of the personnel designated and confirmed by Party B and the lease commencement date is subject to the date confirmed by Party A.

#### IV. Miscellaneous

1. In case of any conflict between this Agreement and the original contract, the former shall prevail. The responsibilities and obligations of both parties not mentioned herein are implemented according to the original contract.
2. As effective supplement to the original contract, this Agreement has equal legal effect with the original contract.
3. The agreement is made out in quadruplicate with each party holding two copies respectively. It takes effect after being signed and sealed by both parties.

Lessor: Shenzhen Energy Logistics Co., Ltd.

Lessee: Shenzhen Yungang EDC Technology Co., Ltd.

Signature of legal person or authorized representative:

Signature of legal person or authorized representative:

Date:

Date:

<sup>26</sup> Confidential treatment requested

<sup>27</sup> Confidential treatment requested

<sup>28</sup> Confidential treatment requested

<sup>29</sup> Confidential treatment requested

#### House Lease Contract Supplementary Agreement 2

No.: BZ20141027J1-2

Lessor: Shenzhen Energy Logistics Co., Ltd. (hereinafter referred to as Party A)  
Address: No.5, Taohua Road, Futian Free Trade Zone, Shenzhen

Lessee: Shenzhen Yungang EDC Technology Co., Ltd. (hereinafter referred to as Party B)  
Address: No.5, Taohua Road, Futian Free Trade Zone, Shenzhen

No.: BZ20141027J1-12

Party B shall dismantle original three goods elevators, loading platforms and seven hydraulic height adjustment plates in Party A's housing leased by Party B in the lease contract term for project design and transformation. The dismantling matters of the goods elevators, loading platforms and hydraulic height adjustment plates are not specified in the original house lease contract (No.: BZ20141027J1, hereinafter referred to as the original contract). To clarify relevant matters, Party A and Party B reach the following agreement through friendly negotiation:

1. Party A agrees Party B to dismantle three goods elevators in original four property goods elevators, the loading platforms and seven hydraulic height adjustment plates. The dismantled elevators and hydraulic adjustment plates are finally owned by Party A. Party B hands over relevant dismantled parts to Party A and handles corresponding handover procedures.
2. After Party B pays the equipment deposit, Party A is responsible for handling relevant procedures of application for suspension and dismantling of three goods elevators and Party B completes equipment dismantling under the supervision of Party A. Any behavior possibly resulting in the damage to corresponding assets and parts in the dismantling process shall be stopped to ensure the integrity of Party A's assets. Party A provides the drawings and relevant materials (model, specification and technical parameters) of three goods elevators, loading platforms and seven hydraulic height adjustment plates within 5 days after signing of the Agreement. Party A coordinates with Party B to dismantle the elevators, hydraulic height adjustment plates and other devices.
3. Party A is responsible for daily management and maintenance of a goods elevator, a passenger elevator and the hydraulic height adjustment plates not dismantled. Party B is responsible for undertaking and resolving the major personal, property or reputation loss caused by improper use of Party B.
4. Party A takes RMB[REDACTED]<sup>30</sup> million as the elevator reinstatement deposit for three goods elevators and seven hydraulic height adjustment plates to be dismantled. Party B shall pay the deposit of RMB[REDACTED]<sup>31</sup> million (in words: [REDACTED]<sup>32</sup>) after signing of the Contract and before equipment dismantling. In case of failure to reinstate by Party B upon expiry of the lease term, this deposit is used to compensate Party A for its asset loss and is not refunded.
5. In case of any conflict between this Agreement and the original contract, the former shall prevail. The responsibilities and obligations of both parties not mentioned herein are implemented according to the original contract.
6. As effective supplement to the original contract, this Agreement has equal legal effect with the original

<sup>30</sup> Confidential treatment requested

<sup>31</sup> Confidential treatment requested

<sup>32</sup> Confidential treatment requested

contract.

7. The agreement is made out in quadruplicate with each party holding two copies respectively. It takes effect after being signed and sealed by both parties.

Lessor: Shenzhen Energy Logistics Co., Ltd.

Lessee: Shenzhen Yungang EDC Technology Co., Ltd.

Signature of legal person or authorized representative:

Signature of legal person or authorized representative:

Date:

Date:

No.: BZ20141027J1-13

Lessor: Shenzhen Energy Logistics Co., Ltd. (hereinafter referred to as Party A)  
Address: No.5, Taohua Road, Futian Free Trade Zone, Shenzhen

Lessee: Shenzhen Yungang EDC Technology Co., Ltd. (hereinafter referred to as Party B)  
Address: No.5, Taohua Road, Futian Free Trade Zone, Shenzhen

Party A and Party B reach the following agreement on the basis of the original *House Lease Contract* BZ20141027J1 and the *Supplementary Agreement 1 of the House Lease Contract* BZ20141027J1-1 (hereinafter collectively referred to as the original contract) signed by both parties through friendly negotiation:

1. Party A agrees to rent out the housing in floor 6 (construction area 2209.03m<sup>2</sup>) (hereinafter referred to as the housing in floor 6) in phase 1 warehouse of Shenzhen Energy Logistics Park.
2. House rent: The rent is RMB[REDACTED]<sup>33</sup>/m<sup>2</sup>/month in the 1st year, RMB[REDACTED]<sup>34</sup>/m<sup>2</sup>/month in the 2nd year, RMB[REDACTED]<sup>35</sup>/m<sup>2</sup>/month in the 3rd year, RMB[REDACTED]<sup>36</sup>/m<sup>2</sup>/month in the 4th year, RMB[REDACTED]<sup>37</sup>/m<sup>2</sup>/month in the 5th year and RMB[REDACTED]<sup>38</sup>/m<sup>2</sup>/month in the 6th year; the rent in the 7th year is charged according to the surrounding market price situation and the annual rise or fall amplitude does not [REDACTED]<sup>39</sup>% of the rent for the 6th year; from the 8th year, the annual rise or fall amplitude does not [REDACTED]<sup>40</sup>% of the rent for previous year.
3. The property management and service fees are charged at [REDACTED]<sup>41</sup>% of the unit rent
4. Party B shall pay the lease deposit (with the base of the monthly rent in the first year) equivalent to the total amount of [REDACTED]<sup>42</sup>-month rent to Party A within 10 working days after the effective date of the Contract.
5. The housing in floor 6 is rented from July 1, 2015 to May 31, 2025 and the delivery date is no later than July 1, 2015. The renewal agreement on the housing in floor 6 is the same with the original contract.

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<sup>33</sup> Confidential treatment requested  
<sup>34</sup> Confidential treatment requested  
<sup>35</sup> Confidential treatment requested  
<sup>36</sup> Confidential treatment requested  
<sup>37</sup> Confidential treatment requested  
<sup>38</sup> Confidential treatment requested  
<sup>39</sup> Confidential treatment requested  
<sup>40</sup> Confidential treatment requested  
<sup>41</sup> Confidential treatment requested  
<sup>42</sup> Confidential treatment requested

6. In case of any conflict between this Agreement and the original contract, the former shall prevail. The responsibilities and obligations of both parties not mentioned herein are implemented according to the original contract.
7. As effective supplement to the original contract, this Agreement has equal legal effect with the original contract.
8. The agreement is made out in quadruplicate with each party holding two copies respectively. It takes effect after being signed and sealed by both parties.

Lessor (official seal): Shenzhen Energy Logistics Co., Ltd.

Lessee (official seal): Shenzhen Yungang EDC Technology Co., Ltd.

Signature of representative:

Signature of representative:

Date:

Date:



## Premise Lease Agreement

**Lessor:** Gangji Logistics (Shenzhen) Co., Ltd. (hereinafter referred to as Party A)

**Lessee:** Shenzhen Yungang EDC Technology Co., Ltd. (hereinafter referred to as Party B)

Party A and Party B enter into this Contract by consensus through friendly negotiation according to the *Contract Law of the People's Republic of China* and other relevant national regulations to clarify the rights and obligations of the lessor and the lessee.

#### Article 1: Leased object and purpose

- Party A agrees to rent out its property located at No.51-5, Hongliu Road, Futian Free Trade Zone, Shenzhen (hereinafter referred as the leased housing) to Party B. The housing, with the construction area of 8431.6m<sup>2</sup>, is leased by Party B as status quo. Party B has fully understood the current status and use of the leased housing. The leased house ownership certificate is shown in the appendixes. The house ownership certificate number is [REDACTED]<sup>1</sup>.
- Party B uses the leased housing as the data center for data processing, data center site services, cloud services, disaster recovery services and other IT outsourcing services.

#### Article 2: Lease term

- The housing lease period is fifty years from November 2, 2015 to November 1, 2030.
- The rent-free period is 3 months. Party A gives a rent-free period of three months to Party B from the housing delivery.
- Both parties shall negotiate on the contract renewal 6 months prior to the expiry of the Contract term. Party B enjoys the priority right to lease under equal conditions. If both parties fail to reach a consensus 3 months prior to expiry of the Contract term, Party B is deemed to give up renewal and the Contract is automatically terminated at expiry.

#### Article 3: Special terms

- According to Party B's requirements for the power supply capacity and the lines, both parties declare the power supply capacity increase project jointly and the power supply capacity is 2\*6300KVA (subject to final technical scheme. Party B provides the final technical scheme for

<sup>1</sup> Confidential treatment requested

power utilization within 15 days after signing of the Contract). Party A provides necessary evidential documents and handling procedures and provides necessary assistance in construction process. Party B is responsible for providing technology, providing the materials, drawings and documents required by the power supply department and bearing all relevant costs.

- If the power utilization scheme proposed by Party B fails to be effectively replied by the power supply department not for Party A's reasons, both parties agree to terminate the Contract without bearing the liability for breach of contract, but the lease deposit is not returned. In this period, Party B shall not use or dismantle the leasehold and supporting equipment and facilities; otherwise, Party B shall reinstate after termination of the Contract; in case of failure to reinstate, Party B shall reimburse the estimated price
- If the power utilization scheme proposed by Party B fails to be effectively replied by the power supply department and Party B requires terminating the lease contract in advance, Party B must notify Party A of the reasons for failure to perform the agreement in writing before December 31, 2015, the Contract is terminated automatically and both parties do not bear the liability for breach of contract, but the lease deposit is not returned. In case of failure to perform or delay in performance of the written notice obligations herein, the lease deposit is not returned and Party B shall still bear the corresponding liability for breach of Contract.

#### Article 4: Delivery of leased housing

- Both parties agree that the leased housing is delivered on November 2, 2015.
- The leased housing is delivered in status quo and both parties shall handle the leased housing handover procedures on the delivery date. When both parties accept the leased housing and sign the house handover sheet (as shown in Appendix 4), Party A is deemed to have fulfilled the delivery obligations of the leased housing. The house handover sheet is used as the acceptance basis for Party A to deliver the leased housing to Party B and for Party B to return the leased housing to Party A at the termination of the Contract.
- If Party A fails to deliver the leased housing on the delivery date without justified reasons or Party B fails to receive the leased housing from Party A on the delivery date without justified reasons, the default party shall pay the liquidated damages of RMB[REDACTED]<sup>2</sup> for each day overdue.

#### Article 5: House rent

- The rent of the leased housing is charged according to the construction area (8431.6m<sup>2</sup>) and the

<sup>2</sup> Confidential treatment requested

rent standard is shown in Appendix 8.

- Payment account: Party B shall pay all rents and lease deposits of the leased housing under the Contract to the following account of Party A

:

Account name: [REDACTED]<sup>3</sup>Account No.: [REDACTED]<sup>4</sup>

Account name: [REDACTED]<sup>5</sup>

#### Article 6: Lease deposit

- After signing of the Contract, Party B shall pay the lease deposit RMB[REDACTED]<sup>6</sup> equivalent to [REDACTED]<sup>7</sup> month rent. In case of failure to pay the lease deposit to Party A in full within [REDACTED]<sup>8</sup>days after signing, Party B is deemed to refuse performance of the Contract and the Contract is terminated automatically.
- As the guarantee for Party B to commit to implement relevant contract terms, the lease deposit may be used for breach compensation and for charge against the accounts payable upon expiry of the Contract; if Party B is confirmed to have fully fulfilled the obligations or responsibilities, the lease deposit is returned by Party A fully free of interest.
- Party B shall complement the lease deposit to the amount equivalent to [REDACTED]<sup>9</sup> month rent in the [REDACTED]<sup>9</sup>th year and [REDACTED]<sup>11</sup>th year before October 31 in the two years. That is, Party B shall complement the lease deposit to ¥[REDACTED]<sup>12</sup>before October 31, 2021 and to ¥[REDACTED]<sup>13</sup> before October 31, 2026 (i.e. complement the balance on the basis of the deposit for previous year).

#### Article 7: Utilities and other costs

- The utilities arising from Party B's use of the leased housing is charged according to the charging standards of the water supply and power supply departments in the premises of the leased housing. Party A agrees Party B to apply for power supply and water supply and open an account independently and the utilities are directly checked with the water supply and power

<sup>3</sup> Confidential treatment requested

<sup>4</sup> Confidential treatment requested

<sup>5</sup> Confidential treatment requested

<sup>6</sup> Confidential treatment requested

<sup>7</sup> Confidential treatment requested

<sup>8</sup> Confidential treatment requested

<sup>9</sup> Confidential treatment requested

supply departments independently.

2. The installation procedures and the costs arising from installation of digital optical fiber, broadband network, telefacsimile and other communication equipment by Party B for business requirements are borne by Party B, but Party A shall coordinating in opening the tube wells and channels.

#### **Article 8: Rent and cost payment and settlement method**

1. Party B shall pay the rent to Party A with the payment cycle of month (natural month). Party B shall pay the monthly rent before the [REDACTED]<sup>14</sup>th day each month and Party A shall provide a compliance invoice of equal amount within [REDACTED]<sup>15</sup>days upon receipt of the rent.
2. All costs receivable by Party A involved in implementation of the Contract shall be paid by Party B according to the period stipulated in the Contract. In case of legal holidays, the period is postponed. In case of overdue payment, the liquidated damages shall be charged at [REDACTED]<sup>16</sup>% of the accounts payable for each day overdue.

#### **Article 9: Leased housing management**

1. The ownership nature of the leased housing shall not be changed as a result of signing and performance of the Contract.
2. Party A may be entrusted by Party B to provide indoor decoration, business affairs, indoor cleaning and other services at the cost of Party B;
3. Party B may make secondary decoration of the leased housing upon approval of Party A. If required, Party B must handle relevant application procedures according to relevant national provisions at its own cost;
4. Any operation affecting the building structure of the leased housing shall be performed with the consent of Party A;
5. Any person of either party may enter the area of the other party with effective documents approved or recorded by the other party;
6. The property maintenance (except major structure) incurred in Party B's leased area is borne by Party B;

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<sup>14</sup> Confidential treatment requested

<sup>15</sup> Confidential treatment requested

<sup>16</sup> Confidential treatment requested

7. Party B is responsible for management in the leased housing;
8. Party B shall not engage in the behavior violating the national regulations in the leased housing;
9. Neither party may, in any name, place the inflammable, explosive or corrosive and other hazardous articles in the building of the leased housing as warehouse. Either party concealing the cargo nature and bringing in such cargo shall bear all resulting personal and property losses;
10. Party B shall move out of the leased housing and move out all equipment, furniture, documents and sundries and obtain Party A's written certificate to get back the lease deposit within 15 days after expiry of the Contract. For the articles not moved out overdue, Party B is deemed to give up their ownership and Party A has the right to dispose of independently; for each day overdue, Party B shall pay the amount [REDACTED]<sup>17</sup> times the rent payable on the day.
11. The movable articles acquired by Party B in the lease term are recovered by Party B. The part set up, transformed and decorated by Party B, except that not treated by Party B with the written consent of Party A (including generator set and other equipment), shall be recovered by Party B; if Party B entrusts Party A to recover, the costs incurred are borne by Party B.
12. Both parties apply for power supply stop jointly to the power supply department one month before surrender of tenancy by Party B and the power supply department stops power supply for the leased housing since the surrender date at the cost of Party B. If Party B does not have any account payable or default and compensation costs after settling the electricity charges of the month with the power supply department, Party A shall return the lease deposit to Party B. Party A shall make a written request to Party B to reserve the power supply for the leased housing and both parties handle the change procedures in the power supply department and sign a power supply transfer related contract.
13. Party B, with a prior written application to Party A, has the right to independently or allow its affiliated companies to set up signs in the project land use scope and the house building and has the right to name the building. The earnings, if any, are fully owned by Party B. Party A shall make positive coordination and shall not interfere in any form.

#### **Article 10: Sublease and inheritance of lease right**

Party B may sublease the leased housing under the Contract to a third party within the lease term and shall not be relieved from the obligations undertaken for Party A, including but not limited to rent payment for the sublease.

In case of merger, division, liquidation and bankruptcy of Party B, Party A agrees the organization or individual inheriting the rights to continue to perform the Contract and the Contract

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<sup>17</sup> Confidential treatment requested

responsibilities are not exempted therefore.

#### **Article 11: Rights and obligations of both parties**

##### *I. Rights and obligations of Party A*

1. The ownership of the leased housing is not changed due to signing of the Contract;
2. Strictly comply with various contract provisions;
3. Collect rent and other service charges according to the contract terms;
4. Party A shall provide active coordination during decoration and transformation by Party B;
5. Party A shall coordinate in the report of power supply capacity increase, fire transformation, energy consumption evaluation and environmental evaluation at relevant costs of Party B;
6. Party A is responsible for covering the building insurance for the housing provided in the insurance company at the cost of Party A;
7. For operation in Party B's leased housing within the lease term, Party A shall notify in advance and obtain the consent of Party B and comply with Party B's rules and regulations under the guidance of Party B except emergencies.

##### *II. Rights and obligations of Party B*

1. Enjoy the right to use and earnings of the leased housing within the lease term;
2. Properly use the leased housing, actively maintain the housing, immediately take remedial measures and timely notify Party A in case of housing damage;

3. Make security management and fire check for the leased housing according to the requirements in the national laws, regulations and rules to ensure safety and use safety of the leased housing. Party B shall bear the compensation liability and other legal responsibilities for the damage and loss to the leased housing and the damage to the third party as a result of improper management, maintenance and use by Party B;
4. Strictly comply with various contract provisions;
5. Pay the rents and various costs according to the provisions herein;
6. Party B is responsible for transformation of the leased housing data center, commits to perform all transformations and construction of the leased housing according to national provisions and standards and submits the transformation scheme to Party A for approval before transformation. If required, Party B must handle relevant application procedures according to relevant national provisions;
7. Party B buys insurance for its equipment, property and business interests in an insurance company at the cost of Party B.
8. Party B bears the management right and responsibilities of the housing property in the agreement term and is responsible for management, maintenance and repair of the properties including but not limited to power distribution room, generator room, health, water, electricity and fire pipe network (including transformer), elevators and fire control room at the cost of Party B.

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#### Article 12: Commitment and guarantee

The commitment and guarantee of Party A to Party B are as follows:

1. Party A guarantees that it is the legal owner of the leased housing and that the leased housing meets the requirements herein. Party A provides the ownership certificates (land use certificate and project completion acceptance registration form) of the leased housing and provides the copy of the leased housing title deed (as shown in Appendix 1) for Party B when signing the Contract;
2. Party A's housing was mortgaged to Shanghai Commercial Bank Co., Ltd. on July 17, 2013 without impact on the signing, effect and performance of the Contract.

In case of failure to pay off the debts under the Contract during performance of the mortgage contract signed by and between Party A and Shanghai Commercial Bank Co., Ltd. on the leased housing, Party A shall give a written notice to Party B three months in advance and may sell the leased housing to Party B at a discount. Both parties reach a house sales and purchase contract. Party A pays off the debts of Shanghai Commercial Bank Co., Ltd. with some house purchase price paid by Party B and transfers the ownership of the housing to Party B.

If the leased contract cannot continue to be performed since the leased housing mortgagee exercises the mortgage right, Party A is deemed as fundamental breach of contract and shall bear the liability for breach of contract according to the consequences of early termination of the Contract in paragraph 2 of Article 14 herein.

3. Any change in the ownership of the leased housing in the lease term does not affect performance of the Contract. Party A shall guarantee the transferee to confirm the rights of Party B under the Contract and bear the obligations herein;
4. If intentionally selling the leased housing in the lease term, Party A shall give a written to Party B one month in advance. Party B has the priority to purchase under equal conditions.
5. Party A guarantees that signing and performance of the Contract have been subject to necessary consent, approval and authorization;
6. Party A guarantees that Party B will not be subject to relevant improper interference from Party A within the lease term;
7. Party A guarantees the qualification related to the housing lease services.

#### Article 13: Unilateral discharge and termination of contract

1. In case of any of the following behaviors of either party, the other party has the right to unilaterally terminate the Contract and reserve the right to claim:
  - (1) Make overdue payment of the rent for more than 30 days (including 30 days);

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- (2) Delay in delivery of the housing for more than 30 days (including 30 days);
- (3) The leased housing does not meet the contract agreement, resulting in failure to achieve the contract purpose;
- (4) Serious violation of the Contract provisions, causing major losses to the other party;
- (5) Either party seriously violates relevant national regulations, resulting the operation stop of the other party for 30 days;
- (6) Violate the commitment and guarantee under the Contract.

2. Early termination of contract

Unless otherwise stipulated herein, neither party may terminate the Contract in advance;

#### Article 14: Liability for breach of contract

##### I. Loss compensation and additional punishment

1. If violating relevant provisions herein or causing losses to the other party directly for the reasons of the default party, the default party shall compensate for the resulting direct losses to the other party.
2. Unless otherwise agreed herein, the grave breach party shall compensate the other loss for the other party and pay the liquidated damages equivalent to the [REDACTED]<sup>18</sup>-month rent.

The following behaviors are deemed as grave breach of contract:

- (1) Party A delays in delivery of the housing for more than 30 days (including 30 days);
- (2) Party B delays in payment of the house rent for more than 30 days (including 30 days);
- (3) The leased housing cannot be used normally for more than 30 days (including 30 days) for Party A's reasons;
- (4) Party B stores the dangerous goods in the leased housing, resulting in major loss; or Party B fails to rectify effectively after Party A makes written opinions;
- (5) Party B violates national regulations, causing that the whole housing area of Party A is restricted for operation or the lessees other than Party B cannot work normally for more than 15 days (including 15 days);
- (6) Other behaviors resulting in serious damage to the leased housing without the consent of Party A;
- (7) Other behaviors violating national regulations or contract provisions and causing major personal, property or reputation damage to the other party.

##### II. Consequences of early termination of contract

If the observant party exercises the right to terminate the Contract in advance for breach of the default party, the default party shall pay the liquidated damages at [REDACTED]<sup>19</sup>% of the

<sup>18</sup> Confidential treatment requested

<sup>19</sup> Confidential treatment requested

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A. In case of default by Party B, the lease deposit is not returned.

B. In case of default by Party A, Party A shall return the deposit within 10 days. The losses to Party B include but are not limited to decoration compensation fees, secondary relocation fees, rent loss caused by relocation and loss from early termination of Party B's customer; Party A shall assist Party B to find an appropriate relocation place. Before signing a formal lease contract with a third party on the relocation place, Party B has the right to refuse to move out from the leased housing.

#### Article 15: Exemption clause

1. In case of leased housing damage or failure to perform the Contract due to force majeure, both parties do not assume responsibilities. However, both parties may perform the executable part until expiry of the Contract at the request of the obligee in case of elimination of the reasons affecting the contract performance or failure to perform in part in the contract term;
2. Either party does not assume liability for breach of contract for failure to perform the Contract according to the agreed conditions due to leased housing damage for force majeure; however, the party encountering force majeure shall immediately notify the other party and, within ten days, provide the details of the force majeure and the reasons and effective evidential documents for failure to perform the Contract in whole or in part and the need for delay in the performance. The property loss to Party A and Party B for force majeure within the lease term is handled by respective party.
3. If the Contract cannot continue to be performed in case of requisition and demolition by government in the lease term, both parties may terminate the Contract without bearing the liability for breach of contract. The compensation obtained by Party B from requisition and demolition is implemented according to the provisions of the land requisition and demolition and relevant laws and regulations.

#### Article 16: Notice

Any notice or liaison issued by both parties based on this Contract shall be delivered by registered mail or express delivery in writing to the following address:

Party A: Gangji Logistics (Shenzhen) Co., Ltd.  
Address: Room 303, Building 3, Hongji Warehouse, No.2, Yong'an Road, Yantian District, Shenzhen City

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Contact:[REDACTED]<sup>20</sup>  
Tel: [REDACTED]<sup>21</sup>

Party B: Shenzhen Yungang EDC Technology Co., Ltd.  
Address: Room 1008, Borui Building, No.A26, East Third Ring North Road, Chaoyang District, Beijing City  
Contact: Xu Chao  
Tel: 010-53228000

In case of change in the contact information, either party shall give a written notice to the other party; otherwise, such party shall bear the consequences for failure to notify.

#### Article 17: Confidentiality

1. The parties to the Contract shall strictly keep the trade secrets (except public information) classified by proper confidential measures and take all reasonable measures to prevent their received materials from being distributed, disseminated, disclosed, copied, misused or contacted by irrelevant personnel. Without permission of the obligee, neither party may provide for the third party or independently use the trade secrets obtained during signing and performance of the Contract;
2. The confidentiality period finishes 3 years after termination of the Contract;
3. The trade secrets herein include but are not limited to the Contracts and its appendixes, any cost, operating procedure and other information of either party to the Contract or the information obtained by one party on the commercial activities of the other party.

#### Article 18: Special agreement on subject change

Party B intends to establish a new legal entity in the premises of the leased housing for business needs. After industrial and commercial registration of the legal entity, Party A and Party B agree to change the lessee (Party B) of the lease contract to the new legal entity by consensus. Party A shall coordinate in signing relevant subject change agreement.

#### Article 19: Dispute resolution

Any dispute arising from or related to the Contract is resolved by both parties through negotiation; if the negotiation fails, either party may apply for arbitration to Shenzhen Arbitration Commission.

#### Article 22: Appendixes to contract

<sup>20</sup> Confidential treatment requested

<sup>21</sup> Confidential treatment requested

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1. Party A and Party B provide one copy of the business license for enterprise's legal person, organization code certificate, tax registration certificate and other qualification certificates required for enterprises respectively (as shown in Appendix 3);
2. After execution of the Contract, both parties may change or supplement the contract content in writing as the appendixes to the Contract;
3. The appendixes have equal legal effect with the Contract.

#### Article 21: Execution of contract

The Contract is made out in quadruplicate with equal legal effect and takes effect immediately after being signed and sealed by both parties. Party A and Party B hold two copies respectively.

(No text below)

Lessor (Party A): Gangji Logistics (Shenzhen) Co., Ltd.

Lessee (Party B): Shenzhen Yungang  
EDC Technology Co., Ltd.

Signature of legal representative of lessor (Party A):

Signature of legal representative of lessee (Party B):

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Company (seal):

Company (seal):

Date of signing: July 6, 2015

Date of signing: July 6, 2015

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Contract No.:

**Tenement Lease Agreement**

**Lessor** (hereinafter referred to as "Party A"): Guangzhou South China Advanced Materials Innovation Park Co., Ltd.

**Lessee** (hereinafter referred to as "Party B"): Guangzhou Weiteng Construction Co., Ltd.

As a private high-tech business incubator operated and managed by Party A, South China Advanced Materials Innovation Park, with the service objects of scientific and technological enterprises in the new material industry and relevant industries, provides the resident enterprises with office, R&D, pilot plant test, production and business sites, shared facilities as well as marketing, technology R&D, investment and financing, business incubation, application of science and technology projects and other entrepreneur services to reduce the entrepreneurial risks and initial costs and cultivate successful science and technology enterprises. Party A and Party B reach the following contract terms on the matter that Party B leases Party A's property on the basis of equality, voluntariness and consensus.

**Article 1: Leased property**

Party A agrees to rent out the property of G6 building in South China Advanced Materials Innovation Park, No.3 Kefeng Road, Science City, Guangzhou High-Tech Industrial Development Zone (the specific position is shown in Appendix 1: *Property Use Plan*) to Party B.

Party B confirms to have made due diligence for the ownership and supporting facilities of above property and made field investigation and measurement of the property status and actual use area before signing the Contract; if Party A is not obliged to take any action to meet such requirements, Party B will complete relevant matters independently (including but not limited to completing relevant works and handling relevant procedures) to meet such requirements. Party B hereby agrees to lease above property according to its current status.

Both parties confirm that the leasable area of the property is 15531m<sup>2</sup>, including the inner construction area and shared common construction area and shall be used as the basis for any cost measured by area (including but not limited to rent, property management fee and shared utilities) within the leasehold relation between both parties; any other measurement, surveying and mapping and registration results for above property do not affect confirmation of the leasable area by both parties. Even if there is discrepancy between the results and the leasable area, Party A may not return and Party B may not pay additional costs (including but not limited to rent, property management fee

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and shared utilities).

**Article 2: Lease term**

The lease term is 14 years and 101 days (from April 1, 2015 to July 14, 2029).

**Article 3: Property use**

The property is only used for production, R&D and office of Party B. Party B's business operation scope is in the lease term. Party B guarantees not to change the use and business operation scope of the property without prior written consent of Party A and audit and approval of relevant departments according to the provisions.

**Article 4: Property delivery**

Both parties shall check the leased property on the delivery date of the property and sign the *Leased Property Receiving List*. The delivery date of the property is the initial day of utilities in the lease term.

**Article 5: Costs and payment method (as shown in Appendix 2 *Schedule of Costs*)****1. Prepaid costs: contract deposit and utilities deposit**

- (1) The contract deposit of RMB [REDACTED]<sup>1</sup> is paid by Party B to Party A within 5 days after signing of the Contract.
- (2) The utilities deposit of RMB [REDACTED]<sup>2</sup> is paid by Party B to Party A within 5 days after signing of the Contract.
- (3) Party A shall refund the contract deposit and utilities deposit one time to Party B in full free of interest within [REDACTED]<sup>3</sup> days after Party B settles all costs (including liquidated damages and overdue fine), changes/moves out of the registered address (if registered in the park), delivers the leased property and its facilities to Party A in intact situation and passes the audit of Party A upon expiry of the lease term or after discharge or termination of the Contract.

**2. Charge costs: rent, property management fee and utilities by area by month**

- (1) The rent is RMB [REDACTED]<sup>4</sup>/m<sup>2</sup>/month, totaling RMB [REDACTED]<sup>5</sup>/month. From

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the second year after execution of the Contract, the rent is progressively increased by [REDACTED]<sup>6</sup>% each year.

- (2) The property management fee is RMB [REDACTED]<sup>7</sup>/m<sup>2</sup>/month, totaling RMB [REDACTED]<sup>8</sup>/month. From the second year after execution of the Contract, the property management fee is progressively increased by [REDACTED]<sup>9</sup>% each year.
- (3) The shared utilities are [REDACTED]<sup>10</sup>/m<sup>2</sup>/month, totaling RMB [REDACTED]<sup>11</sup>/month. From the second year after execution of the Contract, the shared utilities are progressively increased by [REDACTED]<sup>12</sup>% each year.

(Both parties confirm to charge the shared utilities by month according to "constant unit price\*leasable area" in line with the principle of "overcharge not returned and shortage not supplemented.")

Note: Progressive increase by [REDACTED]<sup>13</sup>% means: monthly accounts payable = monthly accounts payable in previous year × (1+[REDACTED]<sup>14</sup>%).

- (4) Payment (rent, property management fee and shared utilities) provisions:
  - a) Payment principle: make payment before use. The payment (billing) cycle is each natural month and the payment deadline is before the [REDACTED]<sup>15</sup>th day each month, that is the costs of the month (from the first day to last day of the month) are paid off before the [REDACTED]<sup>16</sup>th day each month.
  - b) First payment: Party B pays the contract deposit, utilities deposit and rent-free period costs (if any) one time in full to Party A within [REDACTED]<sup>17</sup> working days after signing of the Contract.
  - c) If otherwise agreed on the costs in the "rent-free period" and "rent-free vacation period", such agreement shall prevail.

**3. Charge the utilities according to actual amount incurred in the month**

The utilities used by Party B in the lease term are paid to Party A according to the actual consumption of Party B and the charging standards of the water supply and power supply

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departments before the [REDACTED]<sup>18</sup>th day each month.

The unit price (standard) reference of the utilities is as follows: (unit: RMB)

(1) Water charge: RMB[REDACTED]<sup>19</sup>/t (including the sewage charge RMB[REDACTED]<sup>20</sup>/t for domestic sewage); if discharging industrial sewage in the production or operation, Party B must pay the industrial sewage charge of RMB[REDACTED]<sup>21</sup>/t (m3) separately to Party A; if the industrial sewage discharged by Party B exceeds Party A's sewage treatment requirements (capacity), Party B shall be responsible for handling to meet national, provincial and Luogang discharge standards.

(2) Electricity charge: including kilowatt-hour charges and initial meter charges, with the charging standards as follows:

A: Kilowatt-hour charges = electricity price × electricity consumption;

(1) Charged as RMB[REDACTED]<sup>22</sup>/KWH for G1 and G2 buildings; charged by peak, flat and valley periods for G3-G12 buildings (RMB[REDACTED]<sup>23</sup>/KWH for peak period, RMB[REDACTED]<sup>24</sup>/KWH for flat period and RMB[REDACTED]<sup>25</sup>/KWH for valley period, unless otherwise stipulated herein) and increased with the initial meter charges of RMB[REDACTED]<sup>26</sup>/KVA/month installed capacity on such basis;

(2) Charged by RMB[REDACTED]<sup>27</sup>/KWH for the well-decorated laboratory on the six floor in G5 building and increased with the shared fees of the exhaust fan on such basis (charged according to the facts);

(3) Charged by RMB[REDACTED]<sup>28</sup>/KWH for the blank laboratories on the third floor and fourth floor in G5 building and the first floor in G7 building;

B: Initial meter charges = declared amount of electricity utilization capacity × RMB [REDACTED]<sup>29</sup>/KVA/month; the initial meter charges are collected by month from the lease commencement date of the Contract (from the next day after termination of the rent-free period agreed in the Contract).x The “declared amount” refers to the electricity utilization capacity declared by Party B to Party A according to Party A's electricity consumption standard (160KVA/1000m<sup>2</sup>); if

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the electricity capacity used actually by Party B after settlement exceeds the standard capacity stipulated by Party A, Party B shall undertake all costs for capacity increase for beyond the above standard capacity.

In view of above agreement, the electric capacity declared by Party B to Party A is confirmed as:

KVA.

Special note: the unit price of above utilities shall be adjusted accordingly according to the adjustment amplitude of relevant departments in case of unit price adjustment by the water supply and power supply departments.

#### 4. Cost payment method

(1) Party B shall remit above costs to the following account designated by Party A:

Bank name: [REDACTED]<sup>30</sup>;  
Account name: [REDACTED]<sup>31</sup>  
Account No.: [REDACTED]<sup>32</sup>

(2) Upon receipt of the costs paid by Party B, Party A shall issue corresponding invoices or receipts within [REDACTED]<sup>33</sup> working days. Party B shall propose any objection to the total amount of the monthly costs payable to Party A in payment and Party A shall check with Party B within [REDACTED]<sup>34</sup> working days.

#### Article 6: Rights and obligations of Party A

1 Charge various costs from Party B according to the Contract.

2 Transform the park environment.

3 Supervise Party B to use the leased property (including but not limited to use of leased property according to the use and decoration according to the agreement) and punish Party B for its misconducts (including but not limited to fire prevention, safety and property management) impairing the property use.

4 Guarantee the rentable property of the leased property, take charge of the management, repair, security, sanitation and hygiene of the public facilities and the environment greening services and guarantee normal water supply and drainage and power supply for Party B. However, Party A is exempted from liability for the matters affecting the property use caused by the water supply and power supply departments, or repair and maintenance deemed necessary by Party A,

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or emergencies or force majeure.

5 Party A may enter the leased property for emergency rescue and disaster relief, safety maintenance, inspection of facilities and equipment, fire safety inspection, sanitation and hygiene, cost settlement, industrial and commercial inspection and other just causes.

#### Article 7: Rights and obligations of Party B

1. Require Party A to guarantee the rentable property of the leased property. However, in case of any matter affecting the rentable property and safety of the leased property, Party B shall timely notify Party A and shall not eliminate such matter without the consent of Party A.
2. Comply with national and government laws and regulations, operate according to law, timely handle the industrial and commercial and tax registration and pay the taxes according to the rules.
3. Pay the costs to Party A in full and on time, including but not limited to rent, property fee, shared utilities, utilities and various costs agreed in other agreements between both parties (if any).
4. Use the leased property according to the agreed purpose of the leased property and do not occupy the public areas without permission or affect the other persons to use the public areas.
5. Do not dismantle or decorate the leased property without permission. Party B shall handle the application procedures according to Party A's provisions and obtain the written approval of Party A before decorating the property and perform corresponding approval (such as fire prevention, environmental protection and health) according to relevant national and provisional laws and regulations.
6. Make safety protection according to Party A's requirements and make rectification according to Party A's safety guidelines. Party B shall bear all safety accidents for the fault of Party B and Party B's reasons and resulting losses to Party B, Party A or any third party.
7. Party B's pollutants shall be discharged according to relevant national, provincial and municipal standards.
8. When using the leased property, Party B shall not place the equipment or cargo exceeding the corresponding load on the floors. The stipulated load bearing capacity for Party A's building is 500 kg/m<sup>2</sup>.
9. Party B shall strengthen the education and supervision for its employees and guarantee that Party B's employees are not engaged in unlawful and criminal activities in the leased property; otherwise, Party B shall bear the resulting losses.
10. Party B shall not sublease the leased property without written consent of Party A.
11. Party B fills in relevant statistical statements regularly on time according to the provisions of

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tax, statistics, technology, industry and commerce and other departments.

12. Party B shall timely and accurately fill in relevant statements (such as "conditions of incubated (graduated) enterprises in high-tech business incubator") according to relevant national, provisional, municipal and local requirements for incubated enterprises in the incubator and has the right to require Party B to keep technical and trade secrets.

#### **Article 8: Property decoration, maintenance and safety management**

- 1 The free-rent period of Party B is 181 days from April 1, 2015 to August 31, 2015. The rent is free in this period and Party A only charges the property management fees and shared utilities (i.e. RMB [REDACTED]<sup>35</sup>/m<sup>2</sup> · month) and utilities (charged according to actual consumption of Party B) from Party B.
- 2 Party A charges the rent, property management fees, shared utilities, utilities and other relevant costs from Party B.
- 3 Before decoration of the leased property, Party B shall submit the decoration plan and scheme to Party A for recording and make decoration under the supervision of Party A after audit and consent of Party A.
- 4 Without prior written consent of Party A, Party B and its employees shall not set up advertising boards in and around the leasehold, or use or install the water and electricity exceeding the water meter and ammeter capacity of the leased property arbitrarily.
- 5 All embedded ancillary facilities increased by Party B in the housing walls shall not be removed in principle when relocating upon expiry of the lease term or after discharge or termination of the lease contract. Party A does not make compensation for above ancillary facilities; otherwise, Party B shall recover the leased housing to the original status before lease and bear all costs before getting back the contract deposit.

#### **Article 9: Modification, discharge and termination of contract**

- 1 Modification of contract: The rights and obligations in the Contract may be modified in case of illegal contract content due to changes in national laws and regulations or policies during performance of the Contract or by consensus between both parties. If negotiation fails, both parties agree to handle according to the article of dispute resolution in this agreement.
- 2 Discharge of contract:
  - (1) The Contract meets the stipulated discharge circumstances or is discharged through negotiation by both parties.

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- (2) The fundamental objectives of the Contract cannot be realized due to force majeure or situation changes (including but not limited to the changes in laws, regulations or government policies).
- 3 Termination of Contract:
  - (1) The Contract expires or is terminated by consensus between both parties.
  - (2) Both parties form an unity of credits and debts due to mutual merger, acquisition and combination.
  - (3) The corporate capacity of either party is canceled due to dissolving and liquidation, bankruptcy liquidation and revocation.
  - (4) Either party shall notify the other party in writing 60 days in advance to terminate this agreement in advance and the other party shall give a reply within 5 working days upon receipt of notice. Both parties sign a termination confirmation letter on termination of this agreement after consensus on the unfinished matters. Before signing of the confirmation letter, this agreement is still valid.

#### **Article 10: Property return**

- 1 Party B shall settle all costs with Party A, vacate the leased property and handle relevant procedures in Party A within 10 days upon expiry of the lease term or after discharge or termination of the Contract ("rent-free vacancy period"). If Party B vacates the property within the 10-day rent-free vacancy period, Party A only charges the property management fees and shared utilities (i.e. RMB [REDACTED]<sup>36</sup>/m<sup>2</sup> · month) and utilities (charged according to actual consumption of Party B) from Party B and the rent is not charged in the 10 days.
- 2 In property return, Party A will check, verify and confirm the current status of the property. In case of damage to relevant facilities and equipment in the leased property, Party B shall assume compensation liability.

#### **Article 11: Liability for breach of contract**

- 1 If Party B fails to pay off the costs overdue in violation of paragraph 3 in Article 7, Party A will make the breach treatment for Party B according to the following provisions:
  - (1) Party B shall pay the overdue fine to Party A: overdue fine = costs not paid off overdue × overdue days × 1%;
  - (2) Party A has the right to make interpellation and water and power supply stop warning to Party B on the 10th day overdue and has the right to stop water and power supplies of

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Party B on the 5th day overdue;

- (3) In case of over 20 days overdue, Party A has the right to cancel the Contract independently and require Party B to vacate the property within a time limit.
- 2 If Party B vacates the property overdue (beyond the rent-free vacancy period) in violation of paragraph 1 in Article 10, Party A will make the breach treatment for Party B according to the following provisions:

- (1) Party B shall pay the liquidated damages to Party A: liquidated damages = contract deposit × overdue days (calculated from next day after expiry of the rent-free vacancy period, i.e. the 11th day upon expiry of the lease term or after discharge of termination of the Contract) × 1%;
  - (2) Party A has the right to make interpellation and water and power supply stop warning to Party B on the 2nd day overdue and has the right to stop water and power supplies of Party B on the 3rd day overdue.
  - (3) Party B does no longer enjoy the 10-day free-rent privilege agreed in paragraph 1 in Article 10 and shall settle the rent in the vacancy period according to practical fees.
  - (4) If Party B fails to vacate the leased property and handle relevant procedures in Party A for 15 days overdue, Party A has the right to locally seal or independently transfer all articles in the leased plant of Party B and Party B shall bear all resulting losses (including but not limited to missing, stolen and damage) and costs (including but not limited to dismantling costs, freight, storage charges and custodian fees).
- 3 If violating the agreement in item (4) of paragraph 3 in Article 9 herein and unilaterally terminate the Contract in advance, either party of the Contract shall pay the liquidated damages to the observant party and the liquidated damages are calculated as remaining lease term (number of months) of the Contract × amount payable by month × 50%. Less than a month is calculated as a month.

**Article 12: Renewal of contract**

- 1 Party B may propose renewal to Party A in writing 60 days prior to expiry of the contract term and Party A gives official reply to Party B 10 days prior to expiry of the contract term. If Party A agrees, Party B enjoys the lease priority under equal conditions.
- 2 Party A has the right to take the new lessee or future user to explore the leased unit 60 days prior to the expiry of the lease term.
- 3 Both parties shall sign a property lease contract separately on the renewal matters and the rent is implemented according to the price re-agreed by both parties from the lease commencement date.

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Article 13: Dispute resolution

Any dispute arising from implementation of the Contract shall be resolved by both parties through friendly negotiation; in case of negotiation fails, either party may take a legal action to the people's court in Party A's premises.

**Article 14**

The Contract takes effect after being signed and sealed by both parties. This agreement is made out in quadruplicate (duplicate), with each party holding two copies (one copy) respectively.

**Article 15**

As an inseparable part of the Contract, the appendixes to the Contract have equal legal effect with the Contract.

**Article 16**

The unaccomplished matters of the Contract are stipulated by both parties through separate agreement. Any modification, change and supplement to the Contract shall be determined in writing and become an inseparable part of the Contract and have equal legal effect with the Contract after being signed and confirmed valid by the legal representatives or authorized representatives of both parties.

(No text below)

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Party A: Guangzhou South China Advanced Materials Innovation Park Co., Ltd.  
Legal representative (or authorized signatory)  
Contact information:  
Date of signing:

Party A: Guangzhou Weiteng Construction Co., Ltd.  
Legal representative (or authorized signatory)  
Contact information:  
Date of signing:

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## Premise Lease Agreement

Lessor: Beijing Bio-Tech Co., Ltd. (hereinafter referred to as "Party A")

Lessee: Global Data Solutions Co., Ltd. (hereinafter referred to as "Party B")

This Agreement is entered into by and between Party A and Party B upon friendly negotiation in a bid to define the rights and obligations of the Lessor and lessee according to the Contract Law of the People's Republic of China, Regulations for Beijing Economic - Technological Development Area and other relevant state laws and regulations.

## Article 1 Leased Subject and Use

1. Party A agrees to rent the Plant No.2 (hereinafter referred to as the "Leased Premise") in the No.11 yard at North Dognhuan Road in Beijing Economic - Technological Development Area. The floorage of the Leased Premise is 9,536.52m<sup>2</sup> (including the shared area for rooms at 1st and 2nd floors, lift motor room, equipment room and stairs). The floorage shall be subject to that specified in the property ownership certificate.

2. Party B uses the Leased Premise as a data center for IT outsourcing services concerning data processing, site service, disaster recovery, etc. All the renovation and decoration plans shall be subject to the approval of Party A and relevant competent authorities.

## Article 2 Agreement Period

1. This Agreement shall be valid for 20 years, namely from November 27, 2013 to November 26, 2033.

2. The rent-free period shall be five months, of which, the first three months shall start from the date when this Agreement is concluded, and each of the rest two months shall be given in the third and fourth year.

3. Party A and Party B shall negotiate about the renewal of this Agreement six months before expiry of this Agreement. Party B shall have the right of first refusal to rent the Leased Premise under the same conditions.

## Article 3 Special Provisions

1. Based on Party B's requirements on power capacity and circuits, Party A and Party B shall jointly apply for increasing power capacity under double circuits with capacity of 10, 000KVa+10, 000KVa (the power capacity for single circuit shall not exceed 10, 000KVa and shall be subject

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to the final technical solution, which shall be provided by Party B within 15 days after this Agreement is concluded). Party A shall provide necessary evidential documents and complete relevant formalities and assistance in construction, and Party B shall be responsible for technology and funds and provide all necessary drawings and documents to the electricity supply administration.

2. Party A and Party B agree to terminate this Agreement if Party B fails to obtain any reply the electricity supply administration concerning the aforesaid applications within two months after submitting the final technical solution. Party A shall return to Party B the paid security deposit within one week after termination of this Agreement, during which Party B shall not use or dismantle the Leased Premise or any supportive equipment therein. Otherwise, Party B shall restore the Leased Premise to the original status and make relevant compensations to Party A.

## Article 4 Delivery of the Leased Premise

1. Party A and Party B agree that the fifth workday after conclusion of this Agreement is the delivery date of the Leased Premise.

2. The pump room, steam pipeline, condensate pipeline and upper and lower heating water pipelines owned by Party A in the Leased Premise shall be reserved. Party A shall ensure the safety of the aforesaid equipment and pipelines in delivery of the Leased Premise to Party B, and shall be responsible for the maintenance on such equipment and pipelines during the lease period.

3. Party A and Party B shall complete the handover formalities for the Leased Premise at the date of delivery. Upon inspection and acceptance of the Leased Premise, the two parties shall sign the Premise Handover (see Annex 5 for details), which shall be deemed that Party A has fulfilled the obligation of delivery. The Premise Handover shall be used as the evidence for Party A's delivery of Leased Premise to Party B and Party B's returning of the Leased Premise to Party A upon termination of this Agreement.

4. Where Party A fails to deliver the Leased Premise to Party B without any proper reason at the date of delivery, or Party B fails to hand over the Leased Premise from Party A without any proper reason at the date of delivery, the defaulting party shall pay the other party a forfeit of RMB[REDACTED]<sup>1</sup> for each day delayed.

## Article 5 Rent

1. The rent for the Leased Premise shall be calculated on the basis of its floorage, and shall be

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paid by installment of 10 years + 10 years, of which the rent for the first 10 years shall be collected at a basis of RMB[REDACTED]<sup>2</sup>/m<sup>2</sup>/day.

(The rent for months containing 31 days, 30 days, 29 days and 28 days shall be RMB[REDACTED]<sup>3</sup>/month, RMB[REDACTED]<sup>4</sup>/month, RMB[REDACTED]<sup>5</sup>/month and RMB[REDACTED]<sup>6</sup>/month).

Party A and Party B shall start to negotiate about the rent for the next ten years three month before the expiry of the first ten-year lease. The new rent standards shall be determined with reference to the market price of the plants with similar level and aging in the same area of the Leased Premise, with the maximum adjustment range to be no more than [REDACTED]<sup>7</sup>% of the rent in the first ten years.

2. The property management fee is included in the rent and shall not be collected separately. The property management fee shall only cover the payment for the cleaning, greening, firefighting, security, etc. outside the Leased Premise. For any property service required from Party A, relevant expenses shall be paid (the contents and level of property service are specified in the annexes).

3. Apart from the Leased Premise, the surrounding outside area in about 1,000 m<sup>2</sup> is used to store the equipment like container diesel generator and underground oil tanks. The specific place of storage shall be subject to the approval of Party A. Party B shall negotiate with Party A about joint renovation and use of the current outdoor impounding reservoir, which shall be free from rent. The initial place of storage is specified in Annex 4 (Schematic Diagram of the Lessee's Use of Lessor's Outdoor Area).

4. Payment account: Party B shall pay all the rent and security deposit of the Leased Premise to the following account of Party A:

Account name: [REDACTED]<sup>8</sup>Account No.: [REDACTED]<sup>9</sup>

Bank: [REDACTED]<sup>10</sup>

## Article 6 Security Deposit

1. Party B shall pay Party A a security deposit equivalent to [REDACTED]<sup>11</sup> months' rent. Such

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rent may be paid by installment, namely the deposit equivalent to the first month's rent shall be paid within five workdays after the validation of this Agreement, and the rest deposit shall be paid within five workdays after completion of electricity supply system improvement.

2. The security deposit, as the guarantee of Party B's commitment to fulfill this Agreement, may be used for the purposes like compensations for defaulting or covering payables after the expiry of this Agreement. If Party B's obligations are confirmed completed, the security deposit shall be returned free of interest.

#### Article 7 Expenses on Water, Electricity, etc.

1. The water and electricity fee incurred from ZL's use of the Leased Premise shall be collected as per the charging standards of water and electricity supply administrations in Beijing Economic - Technological Development Area. Party A shall complete the formalities with the water supply administration to change the user of tap water into Party B, and Party B shall pay the water fees of each month. The water fees of Party A in the current month shall be deducted by Party A from Party B's rent for the next month. Party A agrees that Party B applies for a separate supply of electricity and independent account, and the electricity fee will be settled separately with the electricity supply administration.

2. Party B shall pay for the expenses related to or incurred from the installation of digital optic-fibers, broadband network, telefacsimile and other communication equipment for business needs, and Party A shall be cooperative to open relevant tubes and wells.

#### Article 8 Expenses and Method of Settlement

1. Party A shall raise the payment application before the [REDACTED]<sup>12</sup>th day in the [REDACTED]<sup>13</sup> month after conclusion of this Agreement, and Party B shall pay for the first rent before the [REDACTED]<sup>14</sup>th day in the said month. Concerning the rent and other expenses in the future, within the first two years upon conclusion of this Agreement, Party A shall issue to Party B the Payables by Party B for the next month before the [REDACTED]<sup>15</sup>th day of each month, and Party B shall pay all the expenses as specified in the Payables by Party B before the [REDACTED]<sup>16</sup> day of each month. Meanwhile, Party A shall issue to Party B relevant formal

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invoices of local taxation within two workdays after receiving Party B's rent. After two years of cooperation, Party A may issue to Party B the formal invoices of local taxation with equivalent amount to all the expenses that shall be paid by Party A for the next month before the [REDACTED]<sup>17</sup>th day of each month, and Party B shall pay for the said expenses before the [REDACTED]<sup>18</sup>th day of the said month.

2. The calculation and collection of security deposit shall be subject to Article 5 of this Agreement;

3. Party B shall pay for the communication fees and other related expenses in its name to relevant authority in due time;

4. All the receivables of Party A involved in performance of this Agreement shall be paid by Party B in due time according to this Agreement (the date of payment may be postponed if it falls on a holiday). In case of delayed payment, a forfeit equivalent to [REDACTED]<sup>19</sup>% of the outstanding payables shall be paid by Party B for each day delayed, while the total forfeit shall not exceed [REDACTED]<sup>20</sup>% of the outstanding payables.

#### Article 9 Work Staff

Party A agrees that Party B dispatches work staff in the leased area. Party B's work staff shall observe Party A's regulations on fire fighting, security, etc.; otherwise, Party A shall have the right to require Party B to replace the work staff.

#### Article 10 Management of the Leased Premise

1. The ownership of the Leased Premise shall not be changed due to the conclusion of this Agreement;

2. During the lease period, Party A shall check the Leased Premise on a regular basis and guarantee that the Leased Premise and the accessory facilities, public utilities and equipment owned by Party A are normal, functional and safe;

3. With Party B's entrustment, Party A may provide services like indoor decorations, commerce and indoor cleanings with expenses to be borne by Party B. The provisions on property management are specified in Annex 6;

4. Upon approval of relevant authority (if necessary), Party B may redecorate the Leased

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<sup>17</sup> Confidential treatment requested

<sup>18</sup> Confidential treatment requested

<sup>19</sup> Confidential treatment requested

<sup>20</sup> Confidential treatment requested

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Premise at its own expense;

5. Any work that may cause influences to the structure of the Leased Premise shall not be conducted before the approval of Party A;

6. Any personnel of either party shall hold valid documentations that are recognized or filed by the other party before entering the area of the other party;

7. Party B shall pay for the property maintenance incurred in the leased area;

8. Party B shall be responsible for the management in the Leased Premise;

9. Party B shall not engage in any illegal activities in the Lease Premise;

10. Since the Leased Premise is a normal plant, neither party shall place any flammables, explosives, corrosives or other dangerous goods in it. Either party bringing the said goods in the Leased Premise without specifying the nature shall bear all the personal injuries or property losses arising therefrom;

11. According to fire control laws and the regulations of relevant department, Party B shall sign the Safety Management Agreement (see Annexes 7 and 8) in conclusion of this Agreement;

12. Party B shall move out from the Leased Premise along with all the equipment, furniture, documents and other items within five days upon expiry or termination of this Agreement, and shall seek a written document from Party A to take back the security deposit. Otherwise, Party B shall be deemed as having waived the ownership of the items not moved out, and shall pay a forfeit [REDACTED]<sup>21</sup> times the daily rent for each day delayed.

13. Party B shall take back the movables placed by it during the lease period, and restore the built, renovated, decorated and refit parts to the original status, except those (including generator units) as approved by Party A in writing. Where Party B entrusts Party A to complete the restoration, Party B shall bear relevant expenses.

14. Party A and Party B shall apply for stopping electricity supply to the electricity supply administration one month before Party B's surrender of lease. The electricity supply shall be stopped as from the date of Party B's surrender of lease, and Party B shall bear relevant expenses arising therefrom. After Party B settles the electricity fee in the current month with the electricity supply administration, Party A shall return the security deposit to Party B. Where Party A needs to maintain the electricity supply to the Leased Premise, Party A shall send a written request to Party B, and both parties shall complete relevant formalities with the electricity supply administration and sign the contract related to the transfer of electricity supply.

#### Article 11 Sublease

Party B may sublease the Leased Premise under this Agreement to any third party (including

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<sup>21</sup> Confidential treatment requested

related companies) for the operation need of data center. Party B undertakes to hold relevant qualification for subleasing operations and conduct lawful operations. Party B shall reduce the duties to Party A due to the sublease, including but not limited to the payment of rent.

## Article 12 Rights and Obligations of Both Parties

### I. Rights and Obligations of Party A

1. The ownership to the Leased Premise shall not be changed due to the conclusion of this Agreement;
2. Proper management to the proprietary land and attachments according to this Agreement and rules of Party A;
3. Assurance of normal operations of and routine maintenance on the fire-fighting and security equipment in the leased area (excluding the Leased Premise) in strict compliance with relevant regulations;
4. Greening and sanitary in public area and keeping a good working environment;
5. Registration and management of the persons and vehicles entering and leaving the Leased Premise;
6. Strict compliance with all the regulations of this Agreement;
7. Collection of rent and other related fees as per this Agreement;
8. Provision of active cooperation during Party B's decoration and renovation to the Leased Premise;
9. Cooperation in report of capacity increase of electricity supply, fire-fighting transformation, energy consumption evaluation, environmental assessment, etc. as required by Party B;
10. Purchase of building insurance for the houses provided by Party A at its own expense;
11. Making prior report and seeking Party B's consent for entering the Leased Premise during the lease period, and observance with Party B's rules and regulations under Party B's guidance, except in emergencies.

### II. Rights and Obligations of Party B

1. Right to use and earnings of the Leased Premise during the lease period;
2. Proper use and active maintenance of the Leased Premise, and taking remedies and make timely report to Party A in case of any damages in the Leased Premise;
3. Acceptance of Party A's security management and fire-fighting inspections, and observance with Party A's rules and regulations;
4. Strict compliance with all the regulations of this Agreement;
5. Timely payment of all the expenses;
6. Reconstruction of the data center. Party B shall send the reconstruction scheme to Party A before the operation, and shall not start the reconstruction before receiving the approval of Party

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A and relevant competent authority (if necessary);

7. Purchase of insurance for its own equipment and properties at its own expense.

## Article 13 Undertakings

Party A undertakes to Party B that

1. It is the lawful owner of the Leased Premise, and the Leased Premise complies with this Agreement. In conclusion of this Agreement, Party A shall provide the ownership certificates (land use permit and the recording form for the final inspection and acceptance of the completion of project) of the Leased Premise and shall provide Party B with the copies of property ownership certificates (see Annexes 1 and 2);
2. No mortgage, pledge or any other activity that may impact Party B's execution of the right of lease is set to the Leased Premise. During the lease period, Party A shall notify Party B in writing 30 days after conclusion of mortgage contract or security contract in order to mortgage the Leased Premise or give security to any third party;
3. During the lease period, any change to the ownership of the Leased Premise shall not impact the fulfillment of this Agreement, and Party A shall guarantee that the transferee confirms Party B's rights under this Agreement and bears Party A's obligations under this Agreement;
4. Where Party A intends to sell the Leased Premise during the lease period, Party A shall send a written notice to Party B, and Party B shall have the right of first refusal under the same conditions. Party A undertakes not to sell the Leased Premise to any third party (engaged in data center, disaster recovery center and IT outsourcing service) in competition against Party B;
5. Necessary consent, approval and authorizations have been obtained for signature and fulfillment of this Agreement. Party A agrees to compensate Party B for the losses arising from the aforesaid undertakings if proved to be false and misleading;
6. Party B will be free from improper interference related to Party A during the lease period;
7. Party B ensures to hold the qualifications related to house leasing.

## Article 14 Liabilities for Breach of This Agreement

### I. Compensation for actual losses

Either party shall pay the other party for all the actual losses arising from breach of this Agreement or directly due to the reasons of the party in fault.

Breaches of this Agreement include, without limitation,

1. Party A delays the delivery of Leased Premise for 15 days after the agreed date of delivery;
2. The Leased Premise cannot be normally used for 30 consecutive days due to the reasons of Party A;
3. Party B delays the rent for two months;
4. Party B stores dangerous goods in the Leased Premise, which causes material losses, or

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Party B fails to make effective corrections after Party A raises written opinions;

5. Party B violates relevant state laws, which causes restrictive businesses to the whole leased area or results in suspension to the other tenants (except Party B) for three days due to the aforesaid reason;
6. Actions that cause damages to the Leased Premise without approval of Party A;
7. Actions that cause personal, property or reputational losses to the other party for violations to relevant state laws and this Agreement;
8. Other contents against the undertakings under this Agreement.

### II. Special provisions on unilateral termination of this Agreement, save as otherwise agreed herein.

1. Where Party B prematurely terminates this Agreement for breach of this Agreement, the commission shall not be returned;

2. Where Party A prematurely terminates this Agreement or this Agreement cannot be further performed due to the reasons ascribable to Party A, Party A shall return the security deposit to Party B within 10 days and compensate Party B for actual losses (losses from untransferable and unrecyclable investment after depreciation) and another [REDACTED]<sup>22</sup> month's rent.

#### Article 15 Exemption Clause

1. Where the Leased Premise is damaged or this Agreement cannot be performed due to force majeure, neither party shall bear any liability. However, if the causes impacting the performance of this Agreement are eliminated during the period of this Agreement or only part of this Agreement cannot be performed, as required by the obligee, both parties shall perform the executable parts until the expiry of this Agreement.

2. In case of any damage to the Leased Premise, which causes failure to perform this Agreement according to the agreed conditions due to force majeure, neither party shall bear any liability for breach of this Agreement, but the party impacted by the force majeure shall immediately notify the other party, and provide, within 10 days, the details of force majeure and the causes and valid evidence that this Agreement cannot be performed in whole or in part or needs to be postponed. The property loss to Party A and Party B for force majeure within the lease period shall be handled by respective party.

#### Article 16: Discharge (Termination) of This Agreement

In any of the following behaviors of either party, the other party shall have the right to unilaterally

<sup>22</sup> Confidential treatment requested

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terminate this Agreement and reserve the right to claim:

- (1) Over 60 days of delay to pay rent and other fees;
- (2) Delay of delivering the Leased Premise for more than 30 days after the required deadline in this Agreement;
- (3) Inconformity of the Leased Premise with this Agreement, resulting in the failure to achieve the purpose of this Agreement;
- (4) Bankruptcy, dissolution or seizure;
- (5) Serious breach to this Agreement, causing substantial losses to the other party;
- (6) Serious violation to relevant state laws, resulting in the business suspension to the other party for 30 days.

2. Either party may require premature termination of this Agreement only with a written notice to the other party two days in advance and by consensus;

3. This Agreement may be terminated if it cannot be further performed or the on-going performance will cause substantial losses to the other party due to force majeure.

#### Article 17 Notices

Any notice or contact issued by either Party A or Party B concerning this Agreement shall be executed in writing by registered mail or courier to the following address:

Party A: Beijing Bio-Tech Co., Ltd.

Address: [REDACTED]<sup>23</sup>

Contact person: [REDACTED]<sup>24</sup>

Tel.: [REDACTED]<sup>25</sup> Party B: Global Data Solutions Co., Ltd.

Address: 16/F, Electronic Technology Tower, A12, Jiuxianqiao Road, Chaoyang District, Beijing (Postal Code: 100016)

Contact person: [REDACTED]<sup>26</sup>

Tel.: [REDACTED]<sup>27\*</sup>

If either party changes the contact information thereof, the said party shall notify the other party in writing.

#### Article 18 Confidentiality

1. Either party to this Agreement shall strictly keep confidential the trade secrets of the other party under proper confidentiality and take all reasonable measures to prevent the received

<sup>23</sup> Confidential treatment requested

<sup>24</sup> Confidential treatment requested

<sup>25</sup> Confidential treatment requested

<sup>26</sup> Confidential treatment requested

<sup>27</sup> Confidential treatment requested

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information from being distributed, disseminated, disclosed, copied, misused or contacted by irrelevant personnel. Without permission of the obligee, neither party may provide to the third party or use the trade secrets obtained during signing and performance of this Agreement;

2. The confidentiality period shall last for 2 years after termination of this Agreement;

The trade secrets herein include but are not limited to this Agreement and annexes thereof, any cost, operating procedure and other information of either party to this Agreement or the information on commercial activities of either party obtained by the other party.

#### Article 18 Settlement of Disputes

Any dispute arising from or related to this Agreement shall preferably be settled through friendly negotiation between Party A or Party B. If the negotiation fails, either party may refer the dispute to Beijing Arbitration Commission for arbitration.

#### Article 20 Annexes to This Agreement

Party A and Party B shall provide one copy of necessary qualification certificates like the business license of enterprise as legal person, organization code certificate and tax, respectively;

2. After validation of this Agreement, any amendment or supplement to this Agreement by both parties shall be made in writing as an annex to this Agreement;

3. The annexes shall have the same legal force as this Agreement.

#### Article 21 Validation of this Agreement

This Agreement shall be executed in four counterparts with equal legal force, with two held by Party A and Party B respectively, and shall come into effect after affixing of signatures and seals of both parties thereto.

(Remainder of this page intentionally left blank)

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Signature of the representative of the Lessor (Party A):

Signature of the representative of the Lessee (Party B):

Company (Seal)

Company (Seal)

Signing date: MM DD, YYYY

Signing date: MM DD, YYYY

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#### Supplementary Agreement to Premise Lease Agreement (I)

Lessor: Beijing Bio-Tech Co., Ltd. (hereinafter referred to as "Party A")

Lessee: Global Data Solutions Co., Ltd. (hereinafter referred to as "Party B")

Party A and Party B reach the intent of concluding the *Premise Lease Agreement* (hereinafter referred to as "Lease Agreement") concerning the No.2 Plant of Party A in the No.11 yard (hereinafter referred to as the "Leased Premise") at North Donghuan Road, Beijing Economic - Technological Development Area. Upon friendly negotiation, Party A and Party B reach a consensus and arrive at the following agreements concerning the cooperation during completion of formalities for project initialization in Beijing Economic - Technological Development Area for Party B's use of the Leased Premise:

1. Party B shall complete the formalities related to project initialization after conclusion of the Leased Agreement as per relevant regulations of Beijing Economic - Technological Development Area;
2. Party A shall actively assist Party B in the formalities of project initialization by issuing relevant evidential documents;
3. This Supplementary Agreement shall be terminated after Party B obtains the approval of relevant government department;
4. If Party B uses or reconstructs the Leased Premise without completion of formalities on project initialization or receiving relevant approval, Party A shall not bear any liability for the consequences arising therefrom; ;
5. Where Party B decides to terminate the Lease Agreement without obtaining the approval of project initialization from the government department, Party A shall return the paid security deposit to Party B according to Article 3.2 of the Lease Agreement, and the Lease Agreement shall be terminated;
6. This Supplementary Agreement shall come into effect upon affixing of signatures and seals of both parties;
7. Matters not covered herein shall be settled through negotiations between the two parties;
8. This Supplementary shall be executed in four counterparts, with two held by Party A and Party B, respectively.

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Lessor: Beijing Bio-Tech Co., Ltd.

Lessee: Global Data Solutions Co., Ltd.

Seal:

Seal:

Signing date:

Signing date:

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#### Supplementary Agreement to Premise Lease Agreement (II)

Lessor: Beijing Bio-Tech Co., Ltd. (hereinafter referred to as "Party A")

Lessee: Global Data Solutions Co., Ltd. (hereinafter referred to as "Party B")

On November 27, 2013, Party A and Party B concluded the *Premise Lease Agreement* (hereinafter referred to as "Lease Agreement") concerning Party B's lease of Party A's No.2 Plant in the No.11 yard (hereinafter referred to as the "Leased Premise") at North Donghuan Road, Beijing Economic - Technological Development Area. Given that Party B is to decorate and reconstruct the Leased Premise (hereinafter referred to as "reconstruction"), upon friendly negotiation, Party A and Party B reach a consensus and arrive at the following agreement concerning the reconstruction:

##### I. Scope of Construction

The scope of construction for Party B shall only cover the Leased Premise and the area enclosed by the center lines of the surrounding roads (for more details, see Annex 1: Lay Out of the Construction Site). During the construction, Party B shall seal off the construction area with equipment like walls without occupation of the other areas for construction or stacking materials. In need of any other area of Party A, Party B shall send prior application to Party A for approval.

##### II. Time of Construction

Party B confirms that the reconstruction starts from May 1, 2014 to November 30, 2014. Party B may apply appropriate adjustment to the time of construction for special reasons.

##### III. Permit of Construction

1. Given that Party B is to apply substantial reconstruction to the Leased Premise, in order to keep Party A's rights and obligations free from damages, Party B shall send the data like restructuring plans and drawings to the design institute recognized by Beijing Municipal Commission of Housing and Urban-Rural Development for examination and sealing. Party B shall bear the expenses for examining the plans.
2. Party B and entrusted construction party shall ensure that the reconstruction has been approved by relevant government department in documents, and shall submit the copies of such documents to Party A before construction. Where Party B starts the reconstruction without the document approval of relevant government department, Party A shall not bear any joint liability arising therefrom.
3. For the reconstruction of power supply system, Party A and Party B shall negotiate a separate supplementary agreement after relevant construction scheme is approved by the power supply administration.

Note: The Master Agreement has given provisions in Article 12.9.

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##### IV. Construction Safety

1. Party B shall be responsible for the closure management of the construction site. Party A shall hand over the access control of the gate at the south of the construction site to Party B after the construction scheme is approved. During the whole construction period, Party B shall manage the persons, vehicles and goods in and out of the construction site, while Party A shall not be responsible for the security of Party B's access control and construction site. The staff of either party shall not enter the area of the other party without the permission of the other party.
2. Party B shall observe state laws and regulations on fire control, security and constructor management of constructions and relevant provisions on fire control and security specified in the Lease Agreement. In case of any accident of security and fire control due to reasons ascribable to Party B, Party A shall not bear any joint liability.

##### V. Security Deposit

1. Party B shall pay Party A a security deposit of RMB[REDACTED]<sup>28</sup> within [REDACTED]<sup>29</sup>workdays after conclusion of this Agreement, and Party A shall issue an invoice with equalization amount to Party B.
2. Where Party B breaches this Agreement, upon negotiation, Party A shall have the right to deduct the security deposit for restoring the Leased Premise to its original status, and make settlement as the case may be.
3. After the reconstruction is completed and accepted, the aforesaid security deposit of RMB[REDACTED]<sup>30</sup> shall be converted into the rent for the month following the date of completion and acceptance.

## VI. Compensations for Construction and Equipment Reservation

1. The following equipment in the Leased Premise shall be reserved (see Annex 2: Location of Reserved Equipment for details): Steam pipeline, condensate pipeline, heating pipeline, return pipeline, fire pump, accessory facilities and indoor trenches, all of which is under normal use for now. Party B shall protect the aforesaid equipment, and shall negotiate with Party A for any temporary adjustment for construction need. The adjustment shall be made with Party A's consent provided that the normal productions are not impacted. Where status quo of the aforesaid equipment finally needs to be changed, Party B shall negotiation with Party A and seek approval of Party A before construction, with all the expenses arising therefrom to be borne by Party B.

2. Party B shall apply effective protection to the plants in the construction area before

<sup>28</sup> Confidential treatment requested

<sup>29</sup> Confidential treatment requested

<sup>30</sup> Confidential treatment requested

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construction. The damaged plants or greenbelt caused by the construction shall be recovered. If the recovery cannot be accomplished, the plants with the same species of the damaged ones recognized by Party A shall be planted. Before the construction, Party A and Party B shall check and count the plants in the construction area (see Annex 3: Details of Plants in the Construction Area of Leased Premise).

## VI. Temporary Water and Electricity Supply for Construction

1. Before construction, Party B shall send the schemes on temporary water and electricity supply, sewage disposal, etc. to Party A, and Party A shall provide assistance.

2. The water and electricity consumption of Party B shall be calculated with a separate meter, and Party B shall pay relevant expenses of each month to Party A. If Party B needs an invoice from Party A, Party B shall bear relevant taxes.

3. Before the reconstruction, Party B or the third party designated by Party B shall pay Party A RMB[REDACTED]<sup>31</sup> (in words: RMB[REDACTED]<sup>32</sup>) as the advance payment for water and electricity, from which the water and electricity fees shall be deducted on a monthly basis. Where the advance payment for water and electricity fee is less than RMB[REDACTED]<sup>33</sup>, Party A and Party B shall negotiate, based on the progress of construction, about the renewal of fees. If Party B refuses the negotiation and advance payment, Party A shall have the right to stop the water and electricity supply, and Party B shall bear the losses arising therefrom. The aforesaid water and electricity fees shall be deducted from the advance payment on a monthly basis.

## VII. Other Matters

1. This Agreement shall be executed in four counterparts and shall be valid upon affixing of seals of both parties.

2. In case of any discrepancy between this Agreement and Lease Agreement, the former shall prevail.

3. The attachment hereof shall be a part of this Agreement and shall have the same legal force as this Agreement.

Lessor: Beijing Bio-Tech Co., Ltd.

Lessee: Global Data Solutions Co., Ltd.

Date:

Date:

<sup>31</sup> Confidential treatment requested

<sup>32</sup> Confidential treatment requested

<sup>33</sup> Confidential treatment requested

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## Supplementary Agreement to Premise Lease Agreement (III)

Lessor: Beijing Bio-Tech Co., Ltd. (hereinafter referred to as "Party A")

Lessee: Global Data Solutions Co., Ltd. (hereinafter referred to as "Party B")

On November 27, 2013, Party A and Party B concluded the Premise Lease Agreement (hereinafter referred to as "Lease Agreement") concerning Party B's lease of Party A's No.2 Plant in the No.11 yard (hereinafter referred to as the "Leased Premise") at North Donghuan Road, Beijing Economic - Technological Development Area. Given that Party B is to decorate and reconstruct the Leased Premise (hereinafter referred to as "reconstruction"), in order to simplify the construction, save the expenses and accelerate the progress, as required by Party B, Party A and Party B reach a consensus on the piping trenches and the four operating pipelines in the Leased Premise involved in the reconstruction and arrive at the following agreements:

### I. Disposal of the four operating pipelines:

1. The steam pipeline, condensate pipeline, heating pipeline and return pipeline in the Leased Premise are being used by the Party A, and Party A agrees that Party B transfers them outside the Leased Premise for rearrangement.

2. Party B shall protect the aforesaid pipelines during the reconstruction and avoid any impact to the production and office of Party A.

3. Party A and Party B shall negotiate about the paths and schemes for rearranging the pipelines outside the Leased Premise (see Annex 1 for details). Party B shall be responsible for the specific construction and all relevant expenses concerning the pipeline rearrangement. Party A shall provide pipeline drawings and site for the construction.

4. After Party A inspects and accepts the pipelines, the ownership thereof shall belong to Party A, and Party A shall be responsible for subsequent management and maintenance of the pipelines.

### II. Disposal of the piping trenches in the Leased Premise

1. Party A agrees with Party B's backfilling of all the piping trenches in the Leased Premise according to the operating standards of civil constructions.

2. Where the Lease Agreement is terminated prematurely due to the reasons ascribable to Party B, or fails to be renewed after the expiry, Party B shall recover the piping trenches in the Leased Premise based on the status quo (see Annex 2 for details), or Party B shall make compensations to Party A as per the construction cost at the termination of the Leased Agreement as recognized by both parties.

III. This Agreement shall be executed into four counterparts, with two held by Party A and Party B, respectively. This Agreement shall come into effect upon affixing of seals of both parties thereto.

IV. Matters not covered herein shall be settled through negotiations between the two parties.

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Lessor: Beijing Bio-Tech Co., Ltd.

Lessee: Global Data Solutions Co., Ltd.

Seal:

Seal:

Signing date:

Signing date:

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## Supplementary Agreement to Premise Lease Agreement (IV)

Party A: Beijing Bio-Tech Co., Ltd.

Party B: Global Data Solutions Co., Ltd.

Party C: Beijing Hengpuan Digital Technology Development Co., Ltd.

Whereas:

I. Party A and Party B concluded the following agreements concerning Party B's lease of Party A's No.2 Plant in the No.11 yard (hereinafter referred to as the "Leased Premise") at North Donghuan Road, Beijing Economic - Technological Development Area:

1. *Premise Lease Agreement* (hereinafter referred to as "Lease Agreement");
2. Supplementary Agreement to Premise Lease Agreement (I);
3. Supplementary Agreement to Premise Lease Agreement (II);
4. Supplementary Agreement to Premise Lease Agreement (III).

The aforesaid four agreements shall be collectively referred to as "original agreements".

II. Party B registered a project-related company as needed - "Beijing Hengpuan Digital Technology Development Co., Ltd." ("Party C").

Upon friendly negotiation, Party A, Party B and Party C arrive at the following agreements concerning the rights and obligations under the original agreements as well as the performance of the said agreements:

1. After validation of this Agreement, all the rights and obligations of Party B under the original agreements shall be transferred to Party C. Wherein, the rights and obligations regarding the security deposit (RMB[REDACTED]<sup>34</sup>) and decoration commission (RMB[REDACTED]<sup>35</sup>) paid to Party A as confirmed have been transferred to Party C (the receipt title of the said security deposit and commission shall be changed into Party C), and Party B shall not require Party A to return the aforesaid fees for any reason.
2. This Agreement shall be a valid supplement to the original agreements and shall have the same legal force as the original agreements;
3. With the first two years in the lease period of the original agreements, Party A shall issue formal invoices of local taxation with equal amount to the monies under the original agreements paid by Party C via settlement of exchange with capital account.
4. Party C confirms that Shan Xinying as the commercial interface person and Tao Haixia as the financial interface person in charge of contact and coordination with Party A;
5. This Agreement shall be executed into three counterparts, with one held by Party A, Party B

<sup>34</sup> Confidential treatment requested

<sup>35</sup> Confidential treatment requested

and Party C respectively, and shall come into effect upon signatures of the three parties thereto.

(Remainder of this page intentionally left blank)

Party A (signature and seal):

Date:

Party B (signature and seal):

Date:

Party C (signature and seal):

Date:

Supplementary Agreement  
to Premise Lease Agreement (V)

Lessor: Beijing Bio-Tech Co., Ltd. (hereinafter referred to as "Party A")

Lessee: Beijing Hengpuan Digital Technology Development Co., Ltd. (hereinafter referred to as "Party B")

Whereas:

I. Party A and Party B concluded the following agreements concerning Party B's lease of Party A's No.2 Plant in the No.11 yard (hereinafter referred to as the "Leased Premise") at North Donghuan Road, Beijing Economic - Technological Development Area:

1. *Premise Lease Agreement* (hereinafter referred to as "Lease Agreement");
2. Supplementary Agreement to Premise Lease Agreement (I);
3. Supplementary Agreement to Premise Lease Agreement (II);
4. Supplementary Agreement to Premise Lease Agreement (III);
5. Supplementary Agreement to Premise Lease Agreement (IV).

The aforesaid five agreements shall be collectively referred to as "original agreements".

Party A and Party B arrive at the following agreements concerning the schemes involved in the reconstruction of the Leased Premise:

1. The floor with oil tanks on it shall not be higher than the original floor;
2. Safety and legitimacy shall be satisfied. Party B shall bear the liabilities for any accidents caused by the placement of oil tanks and penalties of relevant department arising therefrom;
3. Rainwater drainage pipes shall not be set up peripherally, but may be set 500mm above the ground to go through the wall.;
4. Shutters may be installed on the exterior wall, which shall be restored to the original status in surrender of lease;
5. The fire control plans shall be executed according to the Annex while all the relevant expenses (including those for changing the outdoor tap water pipelines) shall be borne by Party B.
6. This Supplementary Agreement shall be executed into six counterparts, with three held by Party A and Party B respectively, and shall come into effect upon affixing of signatures and seals of both parties thereto.

Lessor:

Lessee:

Signing date:

Signing date:

Supplementary Agreement  
to Premise Lease Agreement (VI)

Lessor: Beijing Bio-Tech Co., Ltd. (hereinafter referred to as "Party A")

Lessee: Beijing Hengpuan Digital Technology Development Co., Ltd. (hereinafter referred to as "Party B")

Whereas:

I. Party A and Party B concluded the following agreements concerning Party B's lease of Party A's No.2 Plant in the No.11 yard (hereinafter referred to as the "Leased Premise") at North Donghuan Road, Beijing Economic - Technological Development Area:

1. *Premise Lease Agreement* (hereinafter referred to as "Lease Agreement");
2. Supplementary Agreement to Premise Lease Agreement (I);
3. Supplementary Agreement to Premise Lease Agreement (II);
4. Supplementary Agreement to Premise Lease Agreement (III);
5. Supplementary Agreement to Premise Lease Agreement (IV);
6. Supplementary Agreement to Premise Lease Agreement (V).

The aforesaid five agreements shall be collectively referred to as "original agreements".

Party A and Party B arrive at the following agreements concerning the capacity increase for electricity supply:

1. Party B shall cancel the electricity supply scheme (2 X7500kva) applied with the help of Party A to the electricity supply administration in 2014, and shall provide relevant evidential documents to Party A.
2. Since Party B is changing the purpose of electricity with an application from "commerce" to "industry", the electricity supply administration will collect "basic electricity fee" from Party A for existing electricity capacity (2X 500kva). Such fee shall be paid by Party B instead of Party A as per relevant policies and standards of the electricity supply administration and shall be included in the monthly rent to Party A.
3. Party B shall be responsible for the report of electricity supply and relevant expenses. Party A shall provide relevant necessary licenses and affix the seal on relevant documents as examined and approved by both parties. Either Party A or Party B shall be obliged to urge the other party to make report as required by the government or electricity supply administration. Where either party insists on operations against relevant regulations, the other party shall have the right to stop providing cooperation.
4. Given Party B's increase for the electricity capacity in the area of Leased Premise, in order to guarantee a long-term use of electricity, Party B shall assist Party A in coordination with

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electricity supply administration and bear relevant expenses incurred by

the actions not adding equipment if Party A needs to increase the electricity capacity in the future. Where Party B refuses to provide cooperation, Party A shall have the right to deduct relevant expenses from the security deposit.

5. This Supplementary shall be executed into six counterparts, with three held by Party A and Party B, respectively, and shall come into effect upon affixing of seals of both parties thereto.

Lessor:

Lessee:

Signing date:

Signing date:

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Premise Lease Agreement

**Lessor: Beijing Rishang Industry & Trade Co., Ltd. (hereinafter referred to as "Party A")**

**Lessee: Beijing Hengpu'an Data Technology Development Co., Ltd. (hereinafter referred to as "Party B")**

This Contract is entered into by and between Party A and Party B upon friendly negotiation in a bid to define the rights and obligations of the Lessor and Lessee according to the *Contract Law of the People's Republic of China, Regulations for Beijing Economic - Technological Development Area* and other relevant state laws and regulations.

**Article 1 Leased Object and Purpose**

1. Party A agrees to rent its proprietary property situated at No.16, Kechuang 2<sup>nd</sup> Street, East Zone, Beijing Economic - Technological Development Area (hereinafter referred to as "Leased House", with a floorage of 20,129. 69 m<sup>2</sup>, of which the plant and temporary building occupy 18,379. 69 m<sup>2</sup> and 1,750 m<sup>2</sup>, respectively. The ownership certificate of the Leased House is shown in Appendix 1.
2. Party B uses the Leased House as a data center for IT outsourcing services concerning data processing, site service, disaster recovery, etc.

**Article 2 Contract Period**

1. This Contract shall be valid for 20 years, namely from August 1, 2015 to July 31, 2035.
2. Party A gives Party B a rent-free period of 6 months, from August 1, 2015 to January 31, 2016. The rent shall be paid as from February 1, 2016.
3. Party B shall determine whether to renew this Contract 6 months before expiry of the contract period. Party B shall have the right of first refusal to rent the Leased House under the same conditions.

**Article 3 Special Provisions**

1. Based on Party B's requirements on power capacity and circuits, Party A and Party B shall jointly apply for increasing electricity capacity of 2\*15000KVA (subject to the final technical solution, which shall be provided by Party B within 15 days after this Agreement is concluded). Party A shall provide necessary evidential documents and

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complete relevant formalities and assistance in construction, and Party B shall be responsible for technology and funds and provide all necessary drawings and documents to the electricity supply administration.

2. Where Party B fails to obtain any reply from the electricity supply administration concerning the aforesaid applications and Party A and Party B agree to terminate this Contract, Party B shall pay Party A the actual rent for the days occupying the Leased House from the date of delivery to the date of termination of this Contract (calculated by the standards for the first year), during which Party B shall not use or dismantle the Leased House or any supportive equipment therein; otherwise, Party B shall restore the Leased House to the original status and make relevant compensations to Party A within 20 days after termination of this Contract.

**Article 4 Delivery of the Leased House**

1. Party A and Party B agree that the fifth workday after conclusion of this Contract is the delivery date of the Leased House.
2. Party A and Party B shall complete the handover formalities for the Leased House at the date of delivery. Upon inspection and acceptance of the Leased House, the two parties shall sign the House Handover (see Appendix 4 for details), which shall be deemed that Party A has fulfilled the obligation of delivery. The House Handover shall be used as the evidence for Party A's delivery of Leased Premise to Party B and Party B's returning of the Leased House to Party A upon termination of this Contract.
3. Where Party A fails to deliver the Leased House to Party B without any proper reason at the date of delivery, or Party B fails to take over the Leased House from Party A without any proper reason at the date of delivery, the defaulting party shall pay the other party a forfeit of RMB[REDACTED]<sup>1</sup> for each day delayed.

**Article 5 Rent**

1. The rent for the Leased House shall be calculated as per the floorage (plant: RMB[REDACTED]<sup>2</sup>/day/m<sup>2</sup>; temporary building: RMB[REDACTED]<sup>3</sup>/day/m<sup>2</sup>). The rent is subject to an [REDACTED]<sup>4</sup>% increment every five years. The rent standards are

<sup>1</sup> Confidential treatment requested  
<sup>2</sup> Confidential treatment requested  
<sup>3</sup> Confidential treatment requested  
<sup>4</sup> Confidential treatment requested

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specified as follows:

Time	Daily rent for plant (RMB/m <sup>2</sup> )	Daily rent for temporary building(RMB/m <sup>2</sup> )
1	[REDACTED] <sup>5</sup>	[REDACTED] <sup>6</sup>
2	[REDACTED] <sup>7</sup>	[REDACTED] <sup>8</sup>
3	[REDACTED] <sup>9</sup>	[REDACTED] <sup>10</sup>
4	[REDACTED] <sup>11</sup>	[REDACTED] <sup>12</sup>

2. The property management fee is included in the rent and shall not be collected separately. The property service content and level are shown in the appendices.
3. Payment account: Party B shall pay all the rent and security deposit of the Leased House to the following account of Party A:

Account name: [REDACTED]<sup>13</sup>Account No.: [REDACTED]<sup>14</sup>  
 Bank: [REDACTED]<sup>15</sup>

**Article 6 Lease Deposit**

1. Party B shall pay Party A a lease deposit equivalent to [REDACTED]<sup>16</sup> months' rent without interest (subject to the standards of the first year) within [REDACTED]<sup>17</sup> workdays after conclusion of this Contract.
2. The lease deposit, as the guarantee of Party B's commitment to fulfill this Contract, may be used for the purposes like compensations for breach of this Contract. Upon expiry of the contract period, Party A shall return the lease deposit to Party B on conditions that Party B pays all the monies in full (including, without limitation, rent, electricity and water fee, communication cost and other expenses) and fulfills all of its obligations as

<sup>5</sup> Confidential treatment requested  
<sup>6</sup> Confidential treatment requested  
<sup>7</sup> Confidential treatment requested  
<sup>8</sup> Confidential treatment requested  
<sup>9</sup> Confidential treatment requested  
<sup>10</sup> Confidential treatment requested  
<sup>11</sup> Confidential treatment requested  
<sup>12</sup> Confidential treatment requested  
<sup>13</sup> Confidential treatment requested  
<sup>14</sup> Confidential treatment requested  
<sup>15</sup> Confidential treatment requested  
<sup>16</sup> Confidential treatment requested  
<sup>17</sup> Confidential treatment requested

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confirmed by Party A after completing the transfer formalities related to the Leased House.

- Where the deposit cannot cover the payables during performance of this Contract, Party B shall make up the deficiency within three days after receiving Party A's notice. In case of failure to make up the deficiency in due time, Party B shall pay a forfeit equivalent to [REDACTED]<sup>18</sup>% of the deposit for each day delayed.

#### Article 7 Expenses on Water, Electricity, etc.

1. The water and electricity fee incurred the use of the Leased House shall be collected as per the charging standards of Beijing Economic - Technological Development Area.

(1) Party A shall complete the formalities with the water supply administration to change the user of tap water into Party B, and Party B shall pay the water fees of each month. The water fees of Party A in the current month shall be deducted by Party A from Party B's rent for the next month. Where Party B cannot complete the aforesaid formalities, it shall pay Party A the water fee of the previous month before the fifth day of the each month according to the actual consumption. Party A shall provide the copy of the invoice (with the corporate seal of Party A) of the current month issued by the water supply administration.

(2) Party A agrees that Party B applies for a separate supply of electricity and independent account, and the electricity fee will be settled separately with the electricity supply administration. Where Party B cannot apply for a separate account for electricity supply, it shall pay Party A the electricity fee of the previous month before the fifth day of the each month according to the actual consumption. Party A shall provide the copy of the invoice (with the corporate seal of Party A) of the current month issued by the electricity supply administration.

2. The installation procedures and the costs arising from installation of digital optical fiber, broadband network, telefacsimile and other communication equipment by Party B for business requirements shall be borne by Party B, and Party A shall be cooperative to open relevant tubes and wells.

#### Article 8 Expenses and Method of Settlement

1. Party B shall pay Party A the rent on a semiannual basis (each consecutive six months

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<sup>18</sup> Confidential treatment requested

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after the inception of lease is a payment period). Meanwhile, an advance payment shall be applied for the rent, namely the rent for the next period shall be paid [REDACTED]<sup>19</sup> days before the expiry of the current period.

2. After Party B pays the rent, Party A shall issue relevant formal tax invoices for lease to Party B.

3. All the receivables of Party A involved in performance of this Contract shall be paid by Party B in due time according to this Agreement (the date of payment may be postponed if it falls on a statutory holiday). In case of delayed payment, a forfeit equivalent to [REDACTED]<sup>20</sup>% of the outstanding payables shall be paid by Party B for each day delayed.

#### Article 10 Leased House Management

1. The ownership of the Leased House shall not be changed due to the conclusion of this Agreement;

2. During the lease period, Party A shall check the Leased House on a regular basis and guarantee that the Leased House and the accessory facilities, public utilities and equipment owned by Party A are normal, functional and safe;

3. With approval of relevant departments, Party B may make secondary decoration to the Leased House at its own cost;

4. Any operation that may cause impact to the structure of the Leased House shall be subject the consent of Party A;

5. Any personnel of either party shall hold valid documentations that are recognized or filed by the other party before entering the area of the other party;

6. Party B shall pay for the property maintenance incurred in the leased area;

7. Party B shall be responsible for the management in the Leased House;

8. Party B shall not engage in any illegal activities in the Lease House;

9. Since the Leased House is a normal plant, neither party shall place any flammables, explosives, corrosives or other dangerous goods in it. Either party bringing the said goods in the Leased House without specifying the nature shall bear all the personal injuries or property losses arising therefrom;

10. According to fire control laws and the regulations of relevant department, Party B shall sign the Safety Management Agreement (see Appendices 6 and 7 for details) in

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<sup>19</sup> Confidential treatment requested

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conclusion of this Contract;

11. Party B shall move out from the Leased House along with all the equipment, furniture, documents and other items within 30 days upon expiry or termination of this Contract or before the deadline as stipulated in this Contract. Otherwise, Party B shall be deemed as having waived the ownership of the items not moved out, and shall pay a forfeit twice the daily rent.

12. Party B shall take back the movables placed by it during the lease term, and restore the built, renovated, decorated and refit parts to the original status, except those (including generator sets) as approved by Party A in writing. Where Party B entrusts Party A to complete the restoration, Party B shall bear relevant expenses.

13. Party A and Party B shall apply for stopping electricity supply to the electricity supply administration one month before Party B's surrender of lease. The electricity supply shall be stopped as from the date of Party B's surrender of lease, and Party B shall bear relevant expenses arising therefrom. After Party B settles the electricity fee in the current month with the electricity supply administration, Party A shall return the lease deposit to Party B. Where Party A needs to maintain the electricity supply to the Leased House, Party A shall send a written request to Party B, and both parties shall complete relevant formalities with the electricity supply administration and sign the contract related to the transfer of electricity supply.

#### Article 11 Sublease and Succession of Right to Lease

During the lease term, Party B may sublease the Leased House or share it with a third party upon the written consent of Party A. Party B shall not be relieved from the obligations for Party A for the sublease, including but not limited to rent payment.

In case of merger, division, liquidation and bankruptcy to Party B, Party A agrees that the unit or individual with the succession of right to lease to continue performing this Contract.

#### Article 12 Rights and Obligations of Both Parties

I. Rights and Obligations of Party A

1. The ownership to the Leased House shall not be changed due to the conclusion of this Contract;

2. Proper management to the proprietary land and attachments according to this Contract and rules of Party A ;

3. Assurance of normal operations of and regular maintenance on the fire-fighting and security equipment in the leased area (excluding that in the Leased House) in strict

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compliance with relevant regulations;

4. Greening and sanitary in public area and keeping a good working environment;
5. Registration and management of the persons and vehicles entering and leaving the Leased House;
6. Strict compliance with all the regulations of this Contract;
7. Collection of rent and other related fees as per this Contract;
8. Provision of active cooperation during Party B's decoration and renovation to the Leased House;
9. Cooperation in report of capacity increase of electricity supply, fire-fighting transformation, energy consumption evaluation, environmental assessment, etc. as required by Party B;
10. Purchase of building insurance for the houses provided by Party A at its own expense;
11. Making prior report and seeking Party B's consent for entering the Leased House during the lease term, and observance with Party B's rules and regulations under Party B's guidance, except in emergencies.

## II. Rights and obligations of Party B

1. Right to use and earnings of the Leased House during the lease term;
2. Proper use and active maintenance of the Leased House, and taking remedies and making timely report to Party A in case of any damages in the Leased House;
3. Acceptance of Party A's security management and fire-fighting inspections, and observance with Party A's rules and regulations;
4. Responsible for the fire control, security and property and personal safety for leased area in strict compliance with the this Contract;
5. Timely payment of all the expenses;
6. Reconstruction of the data center. Party B shall submit the reconstruction scheme to Party A before the reconstruction.
7. Purchase of insurance for Party B's equipment and properties at its own expense.
8. Party B shall have the right to or authorize any related company to set identifications in the area of the Leased House and on the Leased House, and name the Leased House. However, neither Party B nor the said related company shall conduct any businesses for profits. Otherwise, Party B shall bear all the liabilities arising from the penalties imposed by relevant competent authority or infringement upon the right of a third party due to the aforesaid conduct.

## Article 13 Undertakings

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Party A undertakes to Party B that

1. Party A is the lawful owner of the Leased House, and the Leased House complies with this Agreement. Party A shall provide the ownership certificates (copy of land use certificate and property ownership certificate, see Appendices 1 and 2 for details) of the Leased House when signing this Contract;
2. No mortgage, pledge or any other activity that may impact Party B's execution of the right of lease is set to the Leased House. During the lease period, Party A shall notify Party B in writing 30 days after conclusion of mortgage contract or security contract in order to mortgage the Leased Premise or give security to any third party. Where Party A conducts financing by mortgaging the Leased House, Party B shall have the right to require Party A give it priority of financing under the same conditions concerning financing interest rate, financing term, repayment conditions, etc.
3. During the lease term, any change to the ownership of the Leased House shall not impact the fulfillment of this Contract, and Party A shall guarantee that the transferee confirms Party B's rights under this Contract and bears Party A's obligations under this Contract; Party A undertakes not to sell the Leased House to a third party having competitive relation with Party B (engaged in data center, disaster recovery center and IT outsourcing services) unless otherwise agreed by Party B in writing.
4. Where Party A intends to sell the Leased House during the lease term, Party A shall send a written notice to Party B three months in advance, and Party B shall have the right of first refusal under the same conditions.
5. Necessary consent, approval and authorization have been obtained for signature and fulfillment of this Contract.
6. Party B will be free from improper interference related to Party A during the lease period.

## Article 14 Liabilities for Breach of This Contract

### I. Direct loss compensation and additional punishment

1. Either party shall pay the other party for all the actual losses arising from breach of this Contract or directly due to the reasons of the party in fault.
2. The party in serious violation to this Contract shall also pay [REDACTED]<sup>21</sup> month's rent as penalty besides the compensations to the other party. The following behaviors are deemed as grave breach of this Contract:
  - (1) Party A delays the delivery of the Leased House for 15 days;

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- (2) The Leased House cannot be normally used for 30 consecutive days due to the reasons of Party A;
- (3) Party B stores dangerous goods in the Leased House, which causes material losses, or Party B fails to make effective corrections after Party A raises written opinions;
- (4) Party B violates relevant state laws, which causes restrictive businesses to the whole leased area or results in suspension to the other tenants (except Party B) for three days due to the aforesaid reason;
- (5) Actions that cause damages to the Leased Premise without approval of Party A;
- (6) Other behaviors that cause personal, property or reputational losses to the other party for violations to relevant state laws and this Agreement;
- (7) Party B delays the rent for 15 days.

### II. Special provisions on unilateral cancellation/termination of this Contract

- (1) Neither Party or Party B shall terminate this Contract prematurely;
- (2) Where this Contract is terminated prematurely by either party due to the other party's breach of this Contract, the defaulting party shall compensate the other party for all the direct or indirect losses arising therefrom and pay the other party a year's rent (calculated on the basis of the standards when this Contract is terminated) as a forfeit. Meanwhile,
  - a. Where Party B breaches this Contract, the lease deposit shall not be returned, and the rent for the rent-free period ([REDACTED]<sup>22</sup> months) shall be paid (as per the charging standards of the first year);
  - b. Where Party A breaches this Contract, the lease deposit shall be returned within 10 days.

Party B shall move out of the Leased House along with all the equipment, furniture, documents and other items within 90 days after expiry of this Contract in case of Party A's breach or within 30 days after expiry of this Contract in case of Party B's breach.

### III. Delayed payment of rent

1. In the event Party B fails to pay the rent according to this Contract, Party B shall pay a forfeit equivalent to [REDACTED]<sup>23</sup>% of the rent for each day delayed.

2. Where Party B delays the payment of rent for over 90 days after the deadline specified in this Contract, Party A shall have the right to terminate this Contract.

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<sup>22</sup> Confidential treatment requested

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3. Where Party B fails to pay expenses (including but are not limited to electricity and water fees and other expenses) for the third party according to this Contract, which results in Party A's payment for Party B or adverse impacts or joint liabilities to Party A, Party B shall bear relevant expenses. Meanwhile, Party B shall pay a forfeit equivalent to [REDACTED]<sup>24</sup>% of the rent for each day after the date of payment.

#### Article 15 Exemption Clause

1. Where the Leased Premise is damaged or this Agreement cannot be performed due to force majeure, neither party shall bear any liability. However, if the causes impacting the performance of this Contract are eliminated during the period of this Contract or only part of this Contract cannot be performed, as required by the obligee, both parties shall perform the executable parts until the expiry of this Contract.
2. In case of any damage to the Leased House, which causes failure to perform this Contract according to the agreed conditions due to force majeure, neither party shall bear any liability for breach of this Contract, but the party impacted by the force majeure shall immediately notify the other party, and provide, within 10 days, the details of force majeure and the causes and valid evidence that this Contract cannot be performed in whole or part or needs to be postponed. The property loss to Party A and Party B due to force majeure within the lease term shall be handled by respective party.

#### Article 16 Cancellation/Termination of This Contract

In any of the following behaviors of either party, the other party shall have the right to unilaterally terminate this Contract and reserve the right to claim:

- (1) Over 90days of delay to pay rent;

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- (2) Delay of delivering the Leased House for more than 30 days;
- (3) Inconformity of the Leased House with this Contract, resulting in the failure to achieve the purpose of this Contract;
- (4) Serious breach to this Contract, causing substantial losses to the other party;
- (5) Serious violation to relevant state laws, resulting in the business suspension to the other party for 60 days.
- (6) Other contents against the undertakings under this Contract.

#### Article 17 Requisition and Demolition

During performance of this Contract, this Contract may be terminated in case of impossibility to continual performance due to government requisition or demolition. The indemnity to Party B incurred from the requisition or demolition shall be subject to the regulations of the requisition and demolition department or relevant laws and regulations.

#### Article 18 Guarantee

Concerning performance of this Contract,

1. The related company of Party A, Hebei Rishang Building Materials Manufacturing Co., Ltd., is the guarantor of Party A, and provides guarantee of supplementary joint liability for all the monies (including forfeit) concerning this Contract, with the guarantee period to be concluded as soon as this Contract is completed.
2. The related company of Party B, GDS (Chengdu) Industry Co., Ltd., is the guarantor of Party B, and provides guarantee of supplementary joint liability for all the monies (including forfeit) concerning this Contract, with the guarantee period to be concluded as soon as this Contract is completed.

#### Article 19 Notice

Any notice or contact issued by either Party A or Party B concerning this Contract shall be executed in writing by registered mail or courier to the following address:

Party A: **Beijing Rishang Industry & Trade Co., Ltd.**

Address: No.16, Kechuang 3<sup>rd</sup> Street, East Zone, Beijing Economic - Technological Development Area

Contact person:[REDACTED]<sup>25</sup>

Tel.:[REDACTED]<sup>26</sup>

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Party B: Beijing Hengpu'an Data Technology Development Co., Ltd..

Address: Room 1008, Bonui Mansion, No.26, North Street to East 3rd Ring Road, Chaoyang District, Beijing

Contact person: Lv Haitao

Tel.:18513582424

In case of any change to the contact information, the party concerned shall send a written notice to the other party; otherwise, the said party shall bear relevant consequences arising therefrom.

#### Article 20 Confidentiality

1. Both parties to this Contract shall strictly keep the trade secrets classified by proper confidential measures and take all reasonable measures to prevent their received materials from being distributed, disseminated, disclosed, copied, misused or contacted by irrelevant personnel. Without permission of the obligee, neither party may provide to the third party or independently use the trade secrets obtained during signing and performance of this Contract;
2. The confidentiality period shall last for 5 years after termination of this Contract;
3. The trade secrets herein include but are not limited to this Contract and appendices thereof, any cost, operating procedure and other information of either party to this Contract or the information on commercial activities of either party obtained by the other party.

#### Article 21 Settlement of Disputes

Any dispute arising from or related to this Contract shall preferably be settled through friendly negotiation between Party A or Party B. If the negotiation fails, either party may initiate legal proceedings to the people's court at the place of the Leased House.

#### Article 22 Appendices to This Contract and Others

1. Party A and Party B shall provide one copy of necessary qualification certificates like the

business license of enterprise as legal person, organization code certificate and tax ,respectively;

2. After validation of this Contract, any amendment or supplement to this Contract by both parties shall be made in writing as an appendix to this Contract;

3. The appendices shall have the same legal force as this Contract.

**Article 23 Validation of This Contract**

This Contract shall be executed into four counterparts with equal legal force, with one held by Party A, Party B and the guarantors thereof, respectively, and shall come into effect after affixing of signatures and seals of Party A, Party B and the guarantors thereof.

(Remainder of this page intentionally left blank)

Lessee (Party B): Beijing Hengpu'an Data Technology Development Co., Ltd.

Signature of the representative of the Lessor (Party A):

Signature of the representative of the Lessee (Party B):

Lessor (corporate seal):

Lessee (corporate seal):

Guarantor of the Lessor (Party A):

Guarantor of the Lessee (Party B):

(Seal):

(Seal):

Guarantor of the Lessor (Party A)

Guarantor of the Lessee (Party B)

Signature of representative:

Signature of representative:

Signing date: MM DD, YYYY

**GDS Holdings Limited**  
**2016 EQUITY INCENTIVE PLAN**

**1. Purpose of the Plan**

The purpose of the Plan is to aid the Company and its Affiliates in recruiting and retaining key employees and directors of outstanding ability and to motivate such employees and directors to exert their best efforts on behalf of the Company and its Affiliates by providing incentives through the granting of Awards. The Company expects that it will benefit from the added interest which such key employees and directors will have in the welfare of the Company as a result of their proprietary interest in the Company's success.

**2. Definitions**

The following capitalized terms used in the Plan have the respective meanings set forth in this Section:

- (a) **Applicable Laws:** All laws, statutes, regulations, ordinances, rules or governmental requirements that are applicable to this Plan or any Award granted pursuant to this Plan, including but not limited to applicable laws of the People's Republic of China, the United States and the Cayman Islands, and the rules and requirements of any applicable national securities exchange.
- (b) **Act:** The U.S. Securities Exchange Act of 1934, as amended, or any successor thereto.
- (c) **Affiliate:** With respect to the Company, any entity directly or indirectly controlling, controlled by, or under common control with, the Company or any other entity designated by the Board in which the Company or an Affiliate has an interest.
- (d) **Award:** An Option, Stock Appreciation Right, Restricted Share Unit, Restricted Share or Other Stock-Based Award.
- (e) **Award Agreement:** The document or documents by which each Award is evidenced, which may be in written or electronic form.
- (f) **Beneficial Owner:** A "beneficial owner", as such term is defined in Rule 13d-3 under the Act (or any successor rule thereto).
- (g) **Board:** The board of directors of the Company.
- (h) **Change in Control:** The occurrence of any of the following events:
  - (i) the sale or disposition, in one or a series of related transactions, of all or substantially all, of the assets of the Company to any Person or "group" other than the Permitted Holders, provided that any such sale or disposition shall not

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constitute, or is not expected to constitute, a Change in Control if the primary purpose of such sale or disposition is (x) for the Company to undertake an initial public offering; or (y) to create a holding entity for the Company that will be directly or indirectly owned in substantially the same proportions by the Persons which held the shares of the Company immediately prior to the consummation of such sale or disposition. For the purposes of this paragraph 2(h)(i), the phrase "substantially all" in relation to the assets of the Company shall be as determined by the Committee in its absolute discretion taking into account such information as the Committee may deem fit; or

(ii) a transaction or a series of related transactions whereby any Person or "group", other than the Permitted Holders or any Relevant Shareholder and their respective Affiliates, (A) is or becomes the Beneficial Owner (except that a Person shall be deemed to have "beneficial ownership" of all shares that any such Person has the right to acquire, whether such right is exercisable immediately or only after the passage of time), by, directly or indirectly, acquiring "beneficial ownership" of more than 50% of the total voting power of the total voting stock of the Company outstanding immediately after such acquisition, including by way of merger, consolidation, tender or exchange offer or otherwise; and (B) controls the composition of a majority of the Board, provided that any such transaction or series of related transactions shall not constitute, or is not expected to constitute, a Change in Control if the primary purpose of such transaction or series of related transactions is (x) for the Company to undertake an initial public offering; or (y) to create a holding entity for the Company that will be directly or indirectly owned in substantially the same proportions by the Person which held the shares of the Company immediately prior to the consummation of such sale or disposition. For the purposes of this paragraph (h)(ii) of this Section 2, the term "Relevant Shareholder" shall mean each of William Huang Wei, STT GDC Pte. Ltd. and SBCVC, and the term "Affiliate" shall mean in relation to a Relevant Shareholder, any other Person which, directly or indirectly, controls, is controlled by or is under common control with such Relevant Shareholder, or otherwise having such affiliation as determined by the Committee in its absolute discretion.

- (i) **Code:** The U.S. Internal Revenue Code of 1986, as amended, or any successor thereto.
- (j) **Committee:** The Remuneration Committee of the Board (or a successor thereto), or such other committee as designated by the Board; provided, that in the absence of any such committee, the term "Committee" shall mean the Board.
- (k) **Company:** GDS Holdings Limited, a company incorporated under the laws of the Cayman Islands.
- (l) **Disability:** Inability of a Participant to perform in all material respects his duties and responsibilities to the Company, or any Affiliate, by reason of a physical or mental disability or infirmity which inability is reasonably expected to be permanent and has continued (i) for a period of not less than ninety (90)

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consecutive days or (ii) such shorter period as the Committee may reasonably determine in good faith. The Disability determination shall be in the sole discretion of the Committee and a Participant (or his representative) shall furnish the Committee with medical evidence documenting the Participant's disability or infirmity which is satisfactory to the Committee.

- (m) **Effective Date:** The date the Board approves the Plan, or such later date as is designated by the Board in connection with such approval.
- (n) **Employment:** The term "Employment" as used herein shall be deemed to refer to (i) a Participant's employment if the Participant is an employee of the Company or any of its Affiliates and (ii) a Participant's services as a non-executive director, if the Participant is a non-executive member of the Board.
- (o) **Fair Market Value:** On a given date, (i) if there should be a public market for the Shares on such date, the closing sales price of the Shares as reported on such date on the Composite Tape of the principal national securities exchange on which such Shares are listed or admitted to trading, or if the Shares are not listed or admitted on any national securities exchange, the closing sales price of the Shares on such date as traded on the NYSE, or, if no sale of Shares shall have been reported on the Composite Tape of any national securities exchange, including the NYSE on such date, then the immediately preceding date on which sales of the Shares have been so reported or quoted shall be used, or (ii) if there should not be a public market for the Shares on such date, the Fair Market Value shall be the value established by the Committee in good faith.
- (p) **ISO:** An Option that is also an incentive stock option granted pursuant to Section 6(d) of the Plan.
- (q) **LSAR:** A limited stock appreciation right granted pursuant to Section 7(d) of the Plan.
- (r) **Other Stock-Based Awards:** Awards granted pursuant to Section 8 of the Plan.
- (s) **Option:** A stock option granted pursuant to Section 6 of the Plan.
- (t) **Option Price:** The purchase price per Share of an Option, as determined pursuant to Section 6(a) of the Plan.
- (u) **Participant:** An employee or director of the Company or any of its Affiliates who is selected by the Committee to participate in the Plan.
- (v) **Permitted Holder:** means, as of the date of determination, (i) the Company or (ii) any employee benefit plan (or trust forming a part thereof) maintained by (A) the Company or (B) any corporation or other Person of which a majority of its voting power of its voting equity securities or equity interest is owned, directly or indirectly, by the Company,

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- (w) **Person:** A "person", as such term is used for purposes of Section 13(d) or 14(d) of the Act (or any successor section thereto).
- (x) **Plan:** This GDS Holdings Limited 2016 Equity Incentive Plan.
- (y) **Restricted Period:** The period of time determined by the Committee during which an Award is subject to restrictions, including vesting conditions.

- (z) **Restricted Shares:** Shares, subject to certain specified restrictions (which may include, without limitation, a requirement that the Participant remain continuously employed or provide continuous services for a specified period of time), granted under Section 8 of the Plan.
- (aa) **Restricted Share Units:** An unfunded and unsecured promise to deliver Shares, cash, other securities or other property, subject to certain restrictions (which may include, without limitation, a requirement that the Participant remain continuously employed or provide continuous services for a specified period of time), granted under Section 8 of the Plan.
- (bb) **Shares:** Ordinary Shares of the Company, par value US\$0.00005 per share.
- (cc) **Stock Appreciation Right:** A stock appreciation right granted pursuant to Section 7 of the Plan.
- (dd) **Subsidiary:** A 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.
- (ee) **U.S. Securities Act:** The Securities Act of 1933, as amended, or any successor thereto.

### 3. Shares Subject to the Plan

- (a) Subject to the provisions of Section 9 and paragraph (b) of this Section 3, the maximum aggregate number of Shares which may be subject to Awards under the Plan is 56,707,560 Shares. The Shares which may be subject to Awards are authorized but unissued Shares of the Company.
- (b) If an Award (or any portion thereof) terminates, expires or lapses or is cancelled for any reason, any Shares subject to the Award (or such portion thereof) shall again be available for the grant of an Award pursuant to the Plan (unless the Plan has terminated). If any Award (in whole or in part) is settled in cash or other property in lieu of Shares, then the number of Shares subject to such Award (or such portion of an Award) shall again be available for grant pursuant to the Plan. However, Shares that have actually been issued under the Plan, pursuant to Awards under the Plan shall not be returned to the Plan and shall not become available for future distribution under the Plan, except that if any restricted Shares are forfeited, then such restricted Shares shall form part of the authorized but unissued share capital of

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the Company and may become available for future grant under the Plan (to the extent permitted under Applicable Laws).

- (c) Shares withheld or not issued by the Company upon the grant, exercise or vesting of any Award under the Plan, in payment of the exercise or purchase price thereof or tax obligation or withholding thereon, may again be optioned, granted or awarded hereunder, subject to the limitations of Section 3(a).

### 4. Administration

The Plan shall be administered by the Board (only with respect to the Awards to be granted on the date of the initial public offering) or the Committee, which may delegate its duties and powers in whole or in part to any subcommittee thereof consisting solely of at least two individuals who are intended to qualify as "Non-Employee Directors" within the meaning of Rule 16b-3 under the Act (or any successor rule thereto) and an "independent director" as defined in NYSE Rule 303A.02 (or any successor rule thereto). Awards may, in the discretion of the Committee, be made under the Plan in assumption of, or in substitution for, outstanding awards previously granted by the Company or its Affiliates or a company acquired by the Company or with which the Company combines. The number of Shares underlying such substitute awards shall be counted against the aggregate number of Shares available for Awards under the Plan. The Committee is authorized to interpret the Plan, to establish, amend and rescind any rules and regulations relating to the Plan, and to make any other determinations that it deems necessary or desirable for the administration of the Plan. The Committee may correct any defect or supply any omission or reconcile any inconsistency in the Plan in the manner and to the extent the Committee deems necessary or desirable. Any decision of the Committee in the interpretation and administration of the Plan, as described herein, shall lie within its sole and absolute discretion and shall be final, conclusive and binding on all parties concerned (including, but not limited to, Participants and their beneficiaries or successors). The Committee shall have the full power and authority to establish the terms and conditions of any Award consistent with the provisions of the Plan and to waive any such terms and conditions at any time (including, without limitation, accelerating or waiving any vesting conditions). The Committee shall require payment of any amount it may determine to be necessary to withhold for any applicable taxes as a result of the exercise, grant or vesting of an Award.

### 5. Limitations

No Award may be granted under the Plan after the tenth (10<sup>th</sup>) anniversary of the Effective Date, but Awards theretofore granted may extend beyond that date.

### 6. Terms and Conditions of Options

Options granted under the Plan shall be, as determined by the Committee, non-qualified or ISOs for U.S. federal income tax purposes, as evidenced by the related Award Agreements, and shall be subject to the foregoing and the following terms and conditions and to such other terms and conditions, not inconsistent therewith, as the Committee shall determine:

- (a) **Option Price.** Except for the Options to be granted on the date of the initial public offering, the Option Price per Share shall be determined by the Committee and may

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be a fixed or variable price determined by reference to the Fair Market Value of the Shares over which such Option is granted; provided, that no Option may be granted to a U.S. Person with an Option Price per Share which is less than the Fair Market Value of such Shares on the date of grant, without compliance with Section 409A of the Code, or the Participant's consent; provided, further, that non-qualified Options may be granted with an Option Price lower than that set forth herein if such Option is granted pursuant to an assumption or substitution for an option granted by another company, whether in connection with an acquisition of such other company or otherwise. The Option Price per Share for the Options to be granted on the date of the initial public offering shall be determined by the Board.

- (b) **Exercisability.** Options granted under the Plan shall be exercisable at such time and upon such terms and conditions as may be determined by the Committee, but in no event shall an Option be exercisable more than ten years after the date it is granted.
- (c) **Exercise of Options.** Except as otherwise provided in the Plan or in an Award Agreement, an Option may be exercised for all, or from time to time any part, of the Shares for which it is then exercisable. For purposes of this Section 6 of the Plan, the exercise date of an Option shall be the later of the date a notice of exercise is received by the Company and, if applicable, the date payment is received by the Company pursuant to clauses (i), (ii), (iii) or (iv) in the following sentence. The purchase price for the Shares as to which an Option is exercised shall be paid to the Company in full at the time of exercise at the election of the Participant (i) in cash or its equivalent (e.g., by check), (ii) to the extent permitted by the Committee, in Shares having a Fair Market Value equal to the aggregate Option Price for the Shares being purchased and satisfying such other requirements as may be imposed by the Committee; provided, that such Shares have been held by the Participant for no less than six months (or such other period as established from time to time by the Committee in order to avoid adverse accounting treatment applying generally accepted accounting principles), (iii) partly in cash and, to the extent permitted by the Committee and subject to the other requirements and conditions set forth above in (ii), partly in Shares or (iv) if there is a public market for the Shares at such time, through the delivery of irrevocable instructions to a broker to sell Shares obtained upon the exercise of the Option and to deliver promptly to the Company an amount out of the proceeds of such sale equal to the aggregate Option Price for the Shares being purchased. No Participant shall have any rights to dividends or other rights of a shareholder with respect to Shares subject to an Option until the Participant has given written notice of exercise of the Option, paid in full for such Shares and, if applicable, has satisfied any other conditions imposed by the Committee pursuant to the Plan.
- (d) **ISOs.** The Committee may grant Options under the Plan that are intended to be ISOs to Participants who are employees of the Company and its Subsidiaries. Such ISOs shall comply with the requirements of Section 422 of the Code (or any successor section thereto). No ISO may be granted to any Participant who at the time of such grant, owns more than ten percent of the total combined voting power of all classes of stock of the Company or of any Subsidiary, unless (i) the Option

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Price for such ISO is at least 110% of the Fair Market Value of a Share on the date the ISO is granted and (ii) the date on which such ISO terminates is a date not later than the day preceding the fifth anniversary of the date on which the ISO is granted. Any Participant who disposes of Shares acquired upon the exercise of an ISO either (i) within two years after the date of grant of such ISO or (ii) within one year after the transfer of such Shares to the Participant, shall notify the Company of such disposition and of the amount realized upon such disposition. All Options granted under the Plan are intended to be nonqualified stock options, unless the applicable Award Agreement expressly states that the Option is intended to be an ISO. If an Option is intended to be an ISO, and if for any reason such Option (or portion thereof) shall not qualify as an ISO, then, to the extent of such nonqualification, such Option (or portion thereof) shall be regarded as a nonqualified stock option granted under the Plan; provided, that such Option (or portion thereof) otherwise complies with the Plan's requirements relating to nonqualified stock options. In no event shall any member of the Committee, the Company or any of its Affiliates (or their respective employees, officers or directors) have any liability to any Participant (or any other Person) due to the failure of an Option to qualify for any reason as an ISO.

- (e) **Attestation.** Wherever in this Plan or any agreement evidencing an Award a Participant is permitted to pay the exercise price of an Option or taxes relating to the exercise of an Option by delivering Shares, the Participant may, subject to procedures satisfactory to the Committee, satisfy such delivery requirement by presenting proof of beneficial ownership of such Shares, in which case the Company shall treat the Option as exercised without further payment and shall withhold such number of Shares from the Shares acquired by the exercise of the Option.

### 7. Terms and Conditions of Stock Appreciation Rights

- (a) **Grants.** The Committee also may grant (i) a Stock Appreciation Right independent of an Option or (ii) a Stock Appreciation Right in connection with an Option, or a portion thereof. A Stock Appreciation Right granted pursuant to clause (ii) of the preceding sentence (A) may be granted at the time the related Option is granted or at any time prior to the exercise or cancellation of the related Option. (B) shall cover the same number of Shares covered by an Option (or such lesser number of Shares as the Committee may determine) and (C) shall be subject to the same terms and conditions as such Option except for such additional limitations as are contemplated by this Section 7 (or such additional limitations as may be included in an Award Agreement).

- (b) **Terms.** The exercise price per Share of a Stock Appreciation Right shall be an amount determined by the Committee but in no event shall such amount be less than the greater of (i) the Fair Market Value of a Share on the date the Stock Appreciation Right is granted or, in the case of a Stock Appreciation Right granted in conjunction with an Option, or a portion thereof, the Option Price of the related Option and (ii) the minimum amount permitted by Applicable Laws. Each Stock

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Appreciation Right granted independent of an Option shall entitle a Participant upon exercise to an amount equal to (i) the excess of (A) the Fair Market Value on the exercise date of one Share over (B) the exercise price per Share, times (ii) the number of Shares covered by the Stock Appreciation Right. Each Stock Appreciation Right granted in conjunction with an Option, or a portion thereof, shall entitle a Participant to surrender to the Company the unexercised Option, or any portion thereof, and to receive from the Company in exchange therefore an amount equal to (i) the excess of (A) the Fair Market Value on the exercise date of one Share over (B) the Option Price per Share, times (ii) the number of Shares covered by the Option, or portion thereof, which is surrendered. The date a notice of exercise is received by the Company shall be the exercise date. Payment shall be made in Shares or in cash, or partly in Shares and partly in cash (any such Shares valued at such Fair Market Value), all as shall be determined by the Committee. Stock Appreciation Rights may be exercised from time to time upon actual receipt by the Company of written notice of exercise stating the number of Shares with respect to which the Stock Appreciation Right is being exercised. No fractional Shares will be issued in payment for Stock Appreciation Rights, but instead cash will be paid for a fraction or, if the Committee should so determine, the number of Shares will be rounded downward to the next whole Share.

- (c) **Limitations.** The Committee may impose, in its discretion, such conditions upon the exercisability or transferability of Stock Appreciation Rights as it may deem fit.
- (d) **Limited Stock Appreciation Rights.** The Committee may grant LSARs that are exercisable upon the occurrence of specified contingent events. Such LSARs may provide for a different method of determining appreciation, may specify that payment will be made only in cash and may provide that any related Awards are not exercisable while such LSARs are exercisable. Unless the context otherwise requires, whenever the term "Stock Appreciation Right" is used in the Plan, such term shall include LSARs.

## 8. Terms and Conditions of Restricted Shares Units, Restricted Shares and Other Stock-Based Awards

- (a) **General — Restricted Share Units and Restricted Shares.** Each grant of Restricted Share Units and Restricted Shares shall be evidenced by an Award Agreement. Each Restricted Share Unit and Restricted Share so granted shall be subject to the conditions set forth in this Section 8, and to such other conditions not inconsistent with the Plan as may be reflected in the applicable Award Agreement.
- (b) **Share Certificates and Book-Entry; Escrow or Similar Arrangement.** Upon the grant of Restricted Shares, the Committee shall cause a share certificate registered in the name of the Participant to be issued or shall cause Share(s) to be registered in the name of the Participant and held in book-entry form subject to the Company's directions and, if the Committee determines that the Restricted Shares shall be held by the Company or in escrow rather than issued to the Participant pending the release of the applicable restrictions, the Committee may require the Participant to

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additionally execute and deliver to the Company (i) an escrow agreement satisfactory to the Committee, if applicable; and (ii) the appropriate share power (endorsed in blank) with respect to the Restricted Shares covered by such agreement. If a Participant shall fail to execute and deliver (in a manner determined by the Committee) an agreement evidencing an Award of Restricted Shares and, if applicable, an escrow agreement and blank share power within the amount of time specified by the Committee, the Award shall be null and void. Subject to the restrictions set forth in this Section 8 and the applicable Award Agreement, a Participant generally shall have the rights and privileges of a shareholder as to Restricted Shares, including, without limitation, the right to vote such Restricted Shares; provided, that any dividends payable on Restricted Shares shall be held by the Company and delivered (without interest) to the Participant within fifteen (15) days following the date on which the restrictions on such Restricted Shares lapse (and the right to any such accumulated dividends shall be forfeited upon the forfeiture of the Restricted Shares to which such dividends relate). To the extent Restricted Shares are forfeited, any stock certificates issued to the Participant evidencing such Shares shall be returned to the Company, and all rights of the Participant to such Shares and as a shareholder with respect thereto shall terminate without further obligation on the part of the Company. A Participant shall have no rights or privileges as a shareholder as to Restricted Share Units.

- (c) **Vesting — Restricted Share Units and Restricted Shares.** Restricted Share Units and Restricted Shares shall vest, and any applicable Restricted Period shall lapse, in such manner and on such date or dates or upon such event or events as determined by the Committee.
- (d) **Settlement of Restricted Share Units and Issuance of Restricted Shares.**
- (i) Unless otherwise provided by the Committee in an Award Agreement or otherwise, upon the expiration of the Restricted Period with respect to any outstanding Restricted Share Units, the Company shall issue to the Participant or the Participant's beneficiary, without charge, one (1) Share or such portion or multiple of a Share (or other securities or other property, as applicable) for each such outstanding Restricted Share Unit; provided, that the Committee may, in its sole discretion, elect to (A) pay cash or part cash and part Shares in lieu of issuing only Shares in respect of such Restricted Share Units; or (B) defer the issuance of Shares (or cash or part cash and part Shares, as the case may be) beyond the expiration of the Restricted Period if such extension would not cause adverse tax consequences under Section 409A of the Code. If a cash payment is made in lieu of issuing Shares in respect of such Restricted Share Units, the amount of such payment shall be equal to the Fair Market Value per Share as of the date on which the Restricted Period lapsed with respect to such Restricted Share Units. To the extent provided in an Award Agreement, the holder of outstanding Restricted Share Units shall be entitled to be credited with dividend equivalent payments (upon the payment by the Company of dividends on Shares) either in cash or, in the sole discretion of the

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Committee, in Shares having a Fair Market Value equal to the amount of such dividends (and interest may, in the sole discretion of the Committee, be credited on the amount of cash dividend equivalents at a rate and subject to such terms as determined by the Committee), which accumulated dividend equivalents (and interest thereon, if applicable) shall be payable at the same time as the underlying Restricted Share Units are settled following the date on which the Restricted Period lapses with respect to such Restricted Share Units, and, if such Restricted Share Units are forfeited, the Participant shall have no right to such dividend equivalent payments (or interest thereon, if applicable).

(ii) Upon the expiration of the Restricted Period with respect to any Restricted Shares, the restrictions set forth in the applicable Award Agreement shall be of no further force or effect with respect to such Shares, except as set forth in the applicable Award Agreement. If an escrow arrangement is used, upon such expiration, the Company shall issue to the Participant, or the Participant's beneficiary, without charge, the share certificate (or, if applicable, a notice evidencing a book-entry notation) evidencing the Restricted Shares which have not then been forfeited and with respect to which the Restricted Period has expired (rounded down to the nearest full Share). Dividends, if any, that may have been withheld by the Committee and attributable to any particular Restricted Share shall be distributed to the Participant in cash or, in the sole discretion of the Committee, in Shares having a Fair Market Value (on the date of distribution) equal to the amount of such dividends, upon the release of restrictions on such Share and, if such Share is forfeited, the Participant shall have no right to such dividends.

- (e) **Legends on Restricted Shares.** Each certificate, if any, or book entry representing Restricted Shares awarded under the Plan, if any, shall bear a legend or book entry notation substantially in the form of the following, in addition to any other information the Company deems appropriate, until the lapse of all restrictions with respect to such Shares:

TRANSFER OF THIS CERTIFICATE AND THE SHARES REPRESENTED HEREBY IS RESTRICTED PURSUANT TO THE TERMS OF THE GDS HOLDINGS LIMITED 2016 EQUITY INCENTIVE PLAN AND A RESTRICTED SHARE AWARD AGREEMENT BETWEEN GDS HOLDINGS LIMITED AND PARTICIPANT. A COPY OF SUCH PLAN AND AWARD AGREEMENT IS ON FILE AT THE PRINCIPAL EXECUTIVE OFFICES OF GDS HOLDINGS LIMITED.

- (f) **Other Stock-Based Awards.** The Committee, in its sole discretion, may grant or sell Awards of Shares and Awards that are valued in whole or in part by reference to, or are otherwise based on the Fair Market Value of, Shares ("**Other Stock-Based Awards**"). Such Other Stock-Based Awards shall be in such form, and dependent on such conditions, as the Committee shall determine, including,

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without limitation, the right to receive, or vest with respect to, one or more Shares (or the equivalent cash value of such Shares) upon the completion of a specified period of service, the occurrence of an event and/or the attainment of performance objectives. Other Stock-Based Awards may be granted alone or in addition to any other Awards granted under the Plan. Subject to the provisions of the Plan, the Committee shall determine to whom and when Other Stock-Based Awards will be made, the number of Shares to be awarded under (or otherwise related to) such Other Stock-Based Awards; whether such Other Stock-Based Awards shall be settled in cash, Shares or a combination of cash and Shares; and all other terms and conditions of such Awards (including, without limitation, the vesting provisions thereof and provisions ensuring that all Shares so awarded and issued shall be fully paid and non-assessable).

## 9. Adjustments Upon Certain Events

Notwithstanding any other provisions in the Plan to the contrary, the following provisions shall apply to all Awards granted under the Plan:

- (a) **Generally.** In the event of any change in the outstanding Shares after the Effective Date by reason of any Share dividend or split, reorganization, recapitalization, merger, consolidation, spin-off, combination or transaction or exchange of Shares or other corporate exchange, or any extraordinary cash dividend or any transaction similar to the foregoing, the Committee in its sole discretion and without liability to any Person shall make such substitution or adjustment, if any, as it deems to be equitable, as to (i) the number or kind of Shares or other securities issued or reserved for issuance pursuant to the Plan or pursuant to outstanding Awards, (ii) the maximum number of Shares for which ISOs may be granted, (iii) the Option Price or exercise price of any Stock Appreciation Right and/or (iv) any other affected terms of such Awards, including, without limitation, any applicable performance measures; provided, that in the case of any "equity restructuring" (within the meaning of the Financial Accounting Standards Board Accounting Standards Codification Topic 718 (or any successor pronouncement thereto)), the Committee shall make an equitable or proportionate adjustment to outstanding Awards to reflect such equity restructuring. Any adjustment under this Section 9 shall be conclusive and binding for all purposes.

- (b) **Change in Control.** In the event of a Change in Control after the Effective Date, (i) if determined by the Committee in the applicable Award Agreement or otherwise, any outstanding Awards then held by Participants which are unexercisable or otherwise unvested or subject to lapse restrictions shall automatically be deemed exercisable or otherwise vested or no longer subject to lapse restrictions, as the case



consideration is paid in any such transaction, the Fair Market Value of the Shares subject to such Options or Stock Appreciation Rights) over the aggregate Option Price or exercise price of such Options or Stock Appreciation Rights, respectively, (B) provide for the issuance of substitute Awards that will substantially preserve the otherwise applicable terms of any affected Awards previously granted hereunder as determined by the Committee in its sole discretion or (C) provide that for a period of at least 15 days prior to the Change in Control, such Options or Stock Appreciation Rights shall be exercisable as to all Shares subject thereto and that upon the occurrence of the Change in Control, such Options or Stock Appreciation Rights shall terminate and be of no further force and effect.

#### 10. No Right to Employment or Awards

The granting of an Award under the Plan shall impose no obligation on the Company or any Affiliate to continue the Employment of a Participant and shall not lessen or affect the Company's or Affiliate's right to terminate the Employment of such Participant. No Participant or other Person shall have any claim to be granted any Award, and there is no obligation for uniformity of treatment of Participants, or holders or beneficiaries of Awards. The terms and conditions of Awards and the Committee's determinations and interpretations with respect thereto need not be the same with respect to each Participant (whether or not such Participants are similarly situated).

#### 11. Successors and Assigns

The Plan shall be binding on all successors and assigns of the Company and a Participant, including without limitation, the estate of such Participant and the executor, administrator or trustee of such estate, or any receiver or trustee in bankruptcy or representative of the Participant's creditors.

#### 12. Nontransferability of Awards

Unless otherwise determined by the Committee, an Award shall not be transferable or assignable by the Participant otherwise than by will or by the laws of descent and distribution. An Award exercisable after the death of a Participant may be exercised by the legatees, personal representatives or distributees of the Participant.

Notwithstanding the foregoing, no provision herein shall prevent or forbid transfers by will, by the laws of descent and distribution, to a trust that was established solely for tax planning purposes and not for purposes of profit or commercial activity or, to one or more "family members" (as such term is defined in SEC Rule 701 promulgated under the U.S. Securities Act) by gift or pursuant to a qualified domestic relations order.

#### 13. Amendments or Termination

The Board may amend, alter or discontinue the Plan, but no amendment, alteration or discontinuation shall be made (a) without the approval of the shareholders of the Company if such approval is required by the principal national securities exchange on which the Shares are listed or admitted to trading or (b) without the consent of a Participant, if such action would

diminish any of the rights of the Participant under any Award theretofore granted to such Participant under the Plan; provided, that the Committee may amend the Plan in such manner as it deems necessary to permit the granting of Awards meeting the requirements of any Applicable Laws.

#### 14. Section 409A

The Plan is intended to comply with the requirements of Section 409A of the Code or an exemption or exclusion therefrom and, with respect to amounts that are subject to Section 409A of the Code, it is intended that the Plan be administered in all respects in accordance with Section 409A of the Code. Each payment under any Award shall be treated as a separate payment for purposes of Section 409A of the Code. In no event may a Participant, directly or indirectly, designate the calendar year of any payment to be made under any Award, but only to the extent such payment is considered "nonqualified deferred compensation" within the meaning of Section 409A of the Code. Notwithstanding any provision of the Plan or any Award Agreement to the contrary, in the event that a Participant is a "specified employee" within the meaning of Section 409A of the Code (as determined in accordance with the methodology established by the Company), amounts that constitute "nonqualified deferred compensation" within the meaning of Section 409A of the Code that would otherwise be payable on account of a separation from service within the meaning of Section 409A of the Code and during the six-month period immediately following a Participant's "separation from service" within the meaning of Section 409A of the Code ("Separation from Service") shall instead be paid or provided on the first business day after the date that is six months following the Participant's Separation from Service. If the Participant dies following the Separation from Service and prior to the payment of any amounts delayed on account of Section 409A of the Code, such amounts shall be paid to the personal representative of the Participant's estate within thirty (30) days after the date of the Participant's death. The Company shall use commercially reasonable efforts to implement the provisions of this Section 14 in good faith; provided, that neither the Company, the Committee nor any of the Company's employees, directors or representatives shall have any liability to any Participant with respect to this Section 14.

#### 15. Certain Securities Law Matters and Other Regulations

- (a) The obligation of the Company to settle Awards in Shares or other consideration shall be subject to all Applicable Laws, rules, and regulations, and to such approvals by governmental agencies as may be required. Notwithstanding any terms or conditions of any Award to the contrary, the Company shall be under no obligation to offer to sell or to sell, and shall be prohibited from offering to sell or selling, any Shares pursuant to an Award unless such shares have been properly registered for sale pursuant to the U.S. Securities Act or unless the Company has received an opinion of counsel, satisfactory to the Company, that such Shares may be offered or sold without such registration pursuant to an available exemption therefrom and the terms and conditions of such exemption have been fully complied with. The Company shall be under no obligation to register for sale under the U.S. Securities Act any of the Shares to be offered or sold under the Plan,

- (b) The Committee may cancel an Award or any portion thereof if it determines, in its sole discretion, that legal or contractual restrictions and/or blockage and/or other market considerations would make the Company's acquisition of Shares from the public markets, the Company's issuance of the Shares to the Participant, the Participant's acquisition of the Shares from the Company and/or the Participant's sale of Shares to the public markets, illegal, impracticable or inadvisable. If the Committee determines to cancel all or any portion of an Award in accordance with the foregoing, the Company shall, subject to any limitations or reductions as may be necessary to comply with Section 409A of the Code, (A) pay to the Participant an amount equal to the excess of (I) the aggregate Fair Market Value of the Shares subject to such Award or portion thereof canceled (determined as of the applicable exercise date, or the date that the Shares would have been vested or issued, as applicable); over (II) the aggregate Option Price, exercise price or base amount or any amount payable as a condition of issuance of Shares (in the case of any other Award). Such amount shall be delivered to the Participant as soon as practicable following the cancellation of such Award or portion thereof, or (B) in the case of Restricted Share Units, Restricted Shares or Other Stock-Based Awards, provide the Participant with a cash payment or equity subject to deferred vesting and delivery consistent with the vesting restrictions applicable to such Restricted Share Units, Restricted Shares or Other Stock-Based Awards, or the underlying Shares in respect thereof.
- (c) Notwithstanding any provision of the Plan to the contrary, in no event shall a Participant be permitted to exercise an Option or Stock Appreciation Right in a manner that the Committee determines would violate the United States Sarbanes-Oxley Act of 2002, or any other applicable law or the applicable rules and regulations of the U.S. Securities Exchange Commission or the applicable rules and regulations of any securities exchange or inter-dealer quotation system on which the securities of the Company are listed or traded.

#### 16. Multiple Jurisdictions

In order to assure the viability of Awards granted to Participants employed in various jurisdictions, the Committee may, in its sole discretion, 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, 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, that no such supplements, amendments, restatements or alternative versions shall increase the Share limitation contained in Section 3 hereof. Notwithstanding the foregoing, the Committee may not take any actions hereunder, and no Awards shall be granted that would violate any Applicable Laws.

#### 17. Distribution of Shares

The obligation of the Company to make payments in Shares pursuant to an Award shall be subject to all Applicable Laws and to any such approvals by government agencies as may

be required. Additionally, in the discretion of the Committee, American depositary shares, or ADSs, may be distributed in lieu of Shares in settlement of any Award; provided, that the ADSs shall be of equal value to the Shares that would have otherwise been distributed; provided, further, that, in lieu of issuing a fractional ADS, the Company shall make a cash payment to the Participant equal to the fair market value of such fractional ADS. If the number of Shares represented by an ADS is other than on a one-to-one basis, the limitations contained in Section 3 shall be adjusted to reflect the distribution of ADSs in lieu of Shares.

#### 18. Taxes

- (a) A Participant shall be required to pay to the Company or one or more of its Affiliates, as applicable, an amount in cash (by check or wire transfer) equal to the aggregate amount of any income, employment and/or other applicable taxes that are statutorily required to be withheld in respect of an Award. Alternatively, the Company or any of its Affiliates may elect, in its sole discretion, to satisfy this requirement by

withholding such amount from any cash compensation or other cash amounts owing to a Participant.

- (b) Without limiting the generality of [Section 18\(a\)](#), above, the Committee may (but is not obligated to), in its sole discretion, permit or require a Participant to satisfy, all or any portion of the minimum income, employment and/or other applicable taxes that are statutorily required to be withheld with respect to an Award by (i) the delivery of Shares (which are not subject to any pledge or other security interest) that have been both held by the Participant and vested for at least six (6) months (or such other period as established from time to time by the Committee in order to avoid adverse accounting treatment under applicable accounting standards) having an aggregate Fair Market Value equal to such minimum statutorily required withholding liability (or portion thereof); or (B) having the Company withhold from the Shares otherwise issuable or deliverable to, or that would otherwise be retained by, the Participant upon the grant, exercise, vesting or settlement of the Award, as applicable, a number of Shares with an aggregate Fair Market Value equal to an amount, subject to [Section 18\(c\)](#) below, not in excess of such minimum statutorily required withholding liability (or portion thereof).
- (c) The Committee, subject to its having considered the applicable accounting impact of any such determination, has full discretion to allow Participants to satisfy, in whole or in part, any additional income, employment and/or other applicable taxes payable by them with respect to an Award by electing to have the Company withhold from the Shares otherwise issuable or deliverable to, or that would otherwise be retained by, a Participant upon the grant, exercise, vesting or settlement of the Award, as applicable, Shares having an aggregate Fair Market Value that is greater than the applicable minimum required statutory withholding liability (but such withholding may in no event be in excess of the maximum statutory withholding amount(s) in a Participant's relevant tax jurisdictions).

#### 19. Choice of Law and Dispute Resolution

The Plan shall be governed by and construed in accordance with the laws of the state of New York. Any dispute hereunder shall be referred to and finally resolved by binding arbitration administered by the Hong Kong International Arbitration Centre ("HKIAC") in accordance with the Hong Kong International Arbitration Centre Administered Arbitration Rules (the "Rules") in force when the notice of arbitration is submitted in accordance with these Rules, which Rules are deemed to be incorporated by reference into this section and as may be amended by the rest of this section. The arbitration tribunal shall consist of one (1) arbitrator (the "Tribunal") appointed by the HKIAC from the HKIAC's panel(s) of arbitrators. The seat of the arbitration shall be Hong Kong. The language of the arbitration proceedings shall be English. Any award of the Tribunal shall be made in writing and shall be final, conclusive and binding on the parties to the arbitration from the day it is made.

#### 20. Effectiveness of the Plan

The Plan shall be effective as of the Effective Date and shall terminate ten (10) years later, subject to earlier termination by the Board pursuant to [Section 13](#) hereof.

List of Subsidiaries and Consolidated Variable Interest Entities of  
GDS Holdings Limited

Subsidiaries	Jurisdiction of Incorporation
EDC Holding Limited	Cayman Islands
Further Success Limited	BVI
EDC China Holdings Limited	Hong Kong
EDE I (HK) Limited	Hong Kong
EDE II (HK) Limited	Hong Kong
EDE III (HK) Limited	Hong Kong
EDB (HK) Limited	Hong Kong
EDB II (HK) Limited	Hong Kong
FEP (HK) Limited	Hong Kong
EDCQ (HK) Limited	Hong Kong
EDH (HK) Limited	Hong Kong
EDS (HK) Limited	Hong Kong
Megaport International Limited	BVI
GDS (Hong Kong) Limited	Hong Kong
EDCD (HK) Limited	Hong Kong
EDKS (HK) Limited	Hong Kong
EDSUZ (HK) Limited	Hong Kong
GDS Data Services Company Ltd.	Macau
GDS Services Limited	Cayman Islands
GDS Services (Hong Kong) Limited	Hong Kong
EDC (Chengdu) Industry Co., Ltd.* 成都(成都)数据服务有限公司	PRC
EDC Technology (Kunshan) Co., Ltd.* 昆山(昆山)数据服务有限公司	PRC
EDC Technology (Suzhou) Co., Ltd.* 苏州(苏州)数据服务有限公司	PRC
Guojin Technology (Kunshan) Co., Ltd.* 昆山(昆山)数据服务有限公司	PRC
Shanghai Yungang EDC Technology Co., Ltd.* 上海云钢数据服务有限公司	PRC
Shenzhen Yungang EDC Technology Co., Ltd.* 深圳云钢数据服务有限公司	PRC
Beijing Hengpu'an Data Technology Development Co., Ltd.* 北京恒普安数据技术有限公司	PRC

Beijing Wanguo Shu'an Science & Technology Development Co., Ltd.* 北京万国数安科学与技术发展有限公司	PRC
Shanghai Free Trade Zone GDS Management Co., Ltd.* 上海自由贸易区GDS管理有限公司	PRC
Shenzhen Pingshan New Area Global Data Science & Technology Development Co., Ltd.* 深圳坪山新区全球数据科学与技术发展有限公司	PRC

Consolidated Variable Interest Entities	
Beijing Wanguo Chang'an Science & Technology Co., Ltd.* 北京万国长安科学与技术有限公司	PRC
Shanghai Shu'an Data Services Co., Ltd.* 上海数安数据服务有限公司	PRC
Guangzhou Weiteng Construction Co., Ltd.* 广州维腾建设工程有限公司	PRC
Global Data Solutions Co., Ltd.* 全球数据服务有限公司	PRC
Kunshan Wanyu Data Service Co., Ltd.* 昆山万宇数据服务有限公司	PRC
Shanghai Waigaoqiao EDC Technology Co., Ltd.* 上海外高桥EDC技术有限公司	PRC
Beijing Wanguo Yixin Science & Technology Co., Ltd.* 北京万国义信科学与技术有限公司	PRC

\*The English name of this subsidiary or consolidated Variable Interest Entity, as applicable, has been translated from its Chinese name.

**Consent of Independent Registered Public Accounting Firm**

The Board of Directors  
GDS Holdings Limited:

We consent to the use of our report dated May 20, 2016, with respect to the consolidated balance sheets of GDS Holdings Limited as of December 31, 2014 and 2015, and the related consolidated statements of operations, comprehensive loss, changes in shareholders' deficit and cash flows for the years then ended, included herein and to the reference to our firm under the heading "Experts" in the registration statement.

/s/ KPMG Huazhen LLP

Shanghai, China  
October 3, 2016

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**Consent of Independent Registered Public Accounting Firm**

The Board of Directors  
EDC Holding Limited:

We consent to the use of our report dated May 20, 2016, with respect to the consolidated statement of comprehensive loss and the consolidated statement of cash flows of EDC Holding Limited for the six-month period ended June 30, 2014, included herein and to the reference to our firm under the heading "Experts" in the registration statement.

/s/ KPMG Huazhen LLP

Shanghai, China  
October 3, 2016

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## Consent of 451 Research

September 1, 2016

GDS Holdings Limited  
2/F, Tower 2, Youyou Century Place  
428 South Yanggao Road  
Pudong, Shanghai 200127  
People's Republic of China

Ladies and Gentlemen:

451 Research, LLC hereby consents to references to its name and inclusion of information, data and statements from the report entitled "The Datacenter Market in China" (together with any amendments thereto, the "Report"), as well as the citation of the Report, in the registration statement on Form F-1 (together with any amendments thereto, the "Registration Statement") in relation to the initial public offering (the "IPO") of GDS Holdings Limited (the "Company") to be filed with the United States Securities and Exchange Commission (the "SEC") under the Securities Act of 1933, as amended, and any other future filings with the SEC, including filings on Form 20-F or Form 6-K or other SEC filings (collectively, the "SEC Filings"), as well as on the websites of the Company and its subsidiaries and affiliates, in institutional and retail road shows and other activities in connection with the IPO, and in other publicity materials in connection with the IPO.

451 Research, LLC also hereby consents to the filing of this letter as an exhibit to the Registration Statement.

Yours truly,

For and on behalf of  
451 Research, LLC

/s/ Jodi G. Weissberg  
Name: Jodi G. Weissberg  
Title: Associate General Counsel

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