

**MEMORANDUM OF DEPOSIT  
(COMMODITY MURABAHAH TERM DEPOSIT-*i*)**

**MEMORANDUM OF DEPOSIT  
(COMMODITY MURABAHAH TERM DEPOSIT-*i*)**

To:

**MBSB Bank Berhad (Registration No. 200501033981)(716122-P)**

Level 25, Menara MBSB Bank,  
PJ Sentral, Lot 12,  
Persiaran Barat, Seksyen 52,  
46200 Petaling Jaya, Selangor

Dear Sirs,

1. In consideration of you, at our/my request, having granted or made available or agreed to grant or make available or to continue to grant or make available to us/me a Facility of up to Ringgit Malaysia \_\_\_\_\_ (RM\_\_\_\_\_.00) only (hereinafter referred to as the "**Facility**") upon the terms and conditions contained in the Facility entered or to be entered into by us/me with you in respect of the Facility (including any supplemental, amendments, modifications and variations from time to time) (hereinafter referred to as the "**Facility Agreement**") and for better securing the payment of the Indebtedness (as defined in the Facility Agreement) to you, We/I, \_\_\_\_\_ (**Co. No./NRIC No.:** \_\_\_\_\_), \*a company incorporated under the laws of Malaysia and having our registered office at \_\_\_\_\_ and business addresses at \_\_\_\_\_ respectively/having an address at \_\_\_\_\_, (hereinafter referred to as the "**Chargor**") enter into this Memorandum of Deposit (Commodity Murabahah Term Deposit-*i*) (hereinafter referred to as this "**Memorandum**") upon the following terms.
2.
  - (a) Unless the context otherwise requires and save as specifically defined in this Memorandum, words, expressions and phrases defined in the Facility Agreement shall be incorporated and shall have the same meanings when used in this Memorandum.
  - (b) Similarly, wherever applicable, the provisions of this Memorandum shall be interpreted in the same manner as the provisions of the Facility Agreement would be interpreted.
  - (c) In addition to those words and expressions already defined in the Facility Agreement, the following words and expressions shall, unless the context otherwise requires, have the meaning respectively assigned to them under this Memorandum:

"Account Bank" means you and/or any other licensed Islamic financial institution acceptable to you with which the Commodity Murabahah Term Deposit-*i* ("CMTD-*i*") is opened and maintained by us/me;

"CMTD-*i*" means the Commodity Murabahah Term Deposit-*i* opened

and maintained under our/my name with the Account Bank, as more particularly described in Schedule 1 hereto;

- "Deposits" means all moneys now or from time to time standing to the credit of the CMTD-*i* (including all such moneys now or from time to time deposited with the Deposit Bank in substitution thereof, in addition thereto or in renewal thereof) as evidenced by the Deposit Receipts, together with all revenues, income, proceeds and moneys accrued thereon or derived or received therefrom or in connection therewith, and any rights, title, interest, benefits, claims arising thereof on such moneys, and "Deposit" includes any part thereof;
- "Deposit Bank" means you and/or any other licensed Islamic financial institution acceptable to you with which the Deposits or any part thereof are now or from time to time deposited;
- "Deposit Receipts" means the CMTD-*i* receipts or such deposit receipts issued in respect of the Deposits, including for the time being those mentioned in Schedule 1 and all deposit receipts, certificates and evidence of title to moneys issued in substitution thereof, in addition thereto or in renewal thereof, and "Deposit Receipt" means any one of them;
- "Facility" means the facility of up to Ringgit Malaysia \_\_\_\_\_ (RM\_\_\_\_\_.00) only granted or made available or agreed to be granted or made available or to be continued to be made available by you to us/me, as from time to time varied, reduced or cancelled, in accordance with the terms and conditions set out in the Facility Agreement;
- "Memorandum" means this first party Memorandum of Deposit (Commodity Murabahah Term Deposit-*i*) and extends to every separate and independent stipulation hereunder, and references to "this Memorandum" include references to the counterparts (if any);
- "Security Interest" includes, without limitation, any mortgage, debenture, charge, pledge, lien, right of set-off, caveats, covenants, assignment, hypothecation, encumbrance (including any title retention, preferential prohibitory order, right of trust arrangement, transfer by way of security, sale and lease-back and sale and repurchase on credit terms) and any other interests or arrangements of any nature in any property whether moveable or immovable of any kind

created or arising or any other agreement or arrangement having a similar effect created or arising.

- (i) Words importing the masculine gender include the feminine and neuter genders and vice versa.
  - (ii) Words importing the singular include the plural and vice versa.
  - (iii) Words applicable to natural persons include any body of persons, company, corporation, firm or partnership corporate or unincorporated and vice versa.
  - (iv) Any liberty or power which may be exercised or any determination which may be made under this Memorandum by you may be exercised or made in your discretion by giving twenty one (21) days' notice in writing to us/me and you will not be under any obligation to give any reason therefor.
  - (v) Except where otherwise stated, any reference to any statutory provision includes a reference to any modification, extension or re-enactment thereof (whether made before or after the date hereof) for the time being in force and also includes a reference to all by-laws, instrument, orders and regulations for the time being made thereunder or deriving therefrom.
  - (vi) In the event that there are two (2) or more signatories to this Memorandum, each and every agreement, covenant, undertaking and liability of each signatory hereto shall be joint and several on their part and shall be construed accordingly and references to the signatory to this Memorandum include references to any one of the signatories to this Memorandum.
3. In consideration of you, at our/my request, have granted or made available or agreed to grant or make available or to continue to grant or make available to us the Facility, upon the terms and conditions contained in the Facility Agreement, we/I as beneficial owner:
- (a) HEREBY DEPOSIT and/or have deposited and/or will deposit or cause to be deposited the Deposits with the Deposit Bank; and
  - (b) HEREBY CHARGES AND ASSIGN ABSOLUTELY to you by way of a first legal charge, free from any Security Interest, all our/my rights, title, interest, benefits, claims in and to the Deposits,
- as a continuing security for our/my due performance and observance of our/my obligations under the Security Documents, and the due and punctual payment and discharge of the Indebtedness.

- 3A. We/I covenant and undertake with you that we/I shall immediately upon the execution of this Memorandum issue a notification substantially in the form set out in Schedule 2 hereto to the Account Bank and obtain an acknowledgement of receipt thereof substantially in the form set out in Schedule 3 hereto and deliver the same to you.
- 3B. If you receive notice of any subsequent Security Interest affecting any part of the Deposits or any other property, asset and undertaking which may be charged or offered to you as security for the Indebtedness, you may open a new account with us. If you do not in fact open a new account, you shall nevertheless be treated as if you had done so at the time when you received notice and as from that time, all payments made by us/me to you shall be credited or be treated as having been credited to the new account and shall not operate to reduce the amount due from us to you at the time when you received notice as specified above.
- 3C. We/I shall from time to time, whether before or after the security hereby constituted shall have become enforceable, and at our/my own cost and expense, execute and do all such transfers, assignments, assurances, acts and things as you may require for perfecting the security intended to be hereby constituted and for facilitating the realisation of the Deposits and the exercise by you of all the powers, authorities and discretions hereby conferred on you and of obtaining the full benefit of this Memorandum and of the rights and powers hereby granted. We/I shall also give all notices, orders and discretions which you may require. For such purposes, a certificate in writing signed by you or on your behalf to the effect that any particular transfer, assignment, assurance, act or thing required by you is reasonably required by you shall be conclusive evidence of the fact.
- 3D. We/I acknowledges and agrees that:
- (a) notwithstanding the charge herein contained, we/I shall remain liable to perform and discharge all our/my obligations and liabilities under or in connection with the Deposits and shall indemnify and keep you fully and effectually indemnified against all claims, demands, actions, fines, penalties and legal proceedings whatsoever and all losses and damages suffered by you arising from or in connection with any act or omission by us/me, our/my agents or servants in connection therewith.
  - (b) neither this Memorandum nor the receipt by you of any payment pursuant hereto shall cause you to be under any obligation or liability whatsoever or for the performance or observance of any conditions, covenants or other terms in relation to the Deposits on our/my part to be performed or observed.
- 3E. Nothing herein contained shall prejudice or affect the rights and remedies to which you shall be entitled as against us/me or your rights to any other security which you may at any time hold for or on account of the Indebtedness or any moneys advanced to us/me or for our/my benefit by

you, commission and/or profit thereon and all other moneys due and owing and remaining unpaid by us/me to you. Nothing herein contained shall prejudice or affect any bill, note, guarantee, charge or other security which you may for the time being have or hold for the Indebtedness or any right or remedy of you under such bill, note, guarantee, charge or other security.

4. During the continuance of this Memorandum and so long as the Indebtedness remains owing or unpaid, you (whether in your capacity as the Deposit Bank or otherwise) shall be entitled to:
- (a) retain or keep the Deposit Receipts in your custody or possession;
  - (b) with prior notice to us/me, appropriate the whole or any part of the Deposits in or towards payment or discharge of the Indebtedness and, for the purposes of any such appropriation, convert the whole or any part of the Deposits into any currency other than that in which the same is or are then held by you;
  - (c) at any time, break any deposits of any sums comprised in the Deposits notwithstanding that such Deposits have not matured; and
  - (d) collect all such sum of moneys as are due to us/me under the Deposit Receipts and to issue good receipts thereof,

AND we/I agree and undertake at all times hereafter to ratify and confirm, you shall lawfully do or cause to be done in and concerning the premises by virtue of this Memorandum.

- 4A. We/I irrevocably appoints you and any other officer(s) or and/or person(s) authorised by you and their substitute(s) as our/my attorney ("**Attorney**") with full power in our/my name and on our/my behalf to act and do or otherwise to sign, seal and deliver and to execute or otherwise generally to do all such assurances, acts and things as fully and effectually as we/I could ourselves/myself do including but not limited to:
- (a) renew the Deposits on maturity for such period as the Attorney shall deem fit and at a profit sharing ratio or profit rate or deposit rate (as the case may be) determined by the Attorney to be prevailing on the relevant date for the renewal;
  - (b) replace or substitute the Deposits;
  - (c) redeem and/or withdraw the Deposits and/or collect all such sums of moneys comprised in the Deposits and/or which are due to us/me under the Deposits and to issue good receipts therefor and to deal with the Deposits at the Attorney's discretion in any manner;
  - (d) perfect your title to or Security Interest in the Deposits;

- (e) give any notices (including but not limited to the notification referred to in Clause 3A) as the Attorney may deem fit in respect of this Memorandum or in connection with the Deposits;
- (f) demand, sue for, collect and receive from any person, company, corporation, partnership, firm, government or other body politic or otherwise all payments or any other sums or moneys that may become due to us/me under or in relation to the Deposits as and when the same shall be due and payable and to issue good receipts therefor;
- (g) deal with the Deposits in any manner;
- (h) enforce all rights and remedies under or in relation to the Deposits and under this Memorandum;
- (i) do and perform all acts, matters and things necessary or expedient for the registration and perfection of this Memorandum, including but not limited to the registration of the power of attorney herein conferred;
- (j) execute, seal, deliver and otherwise perfect any deed, assignment, transfer, assurance, agreement, instrument or act which, may in the opinion of the Attorney, be required or deemed proper, necessary or desirable in or for any of the purposes of this Memorandum;
- (k) ask, require, demand, receive, compound, give acquaintance for, settle and compromise any and all moneys and claims for moneys due or becoming due under and arising out of this Memorandum and to issue good receipt thereto, to endorse cheques or other instruments or orders in connection therewith, to file any claim, to take any action or institute or prosecute, defend, compromise, submit to arbitration and/or discontinue any action, suits or proceedings which the Attorney may deem in its discretion necessary or advisable in relation to the Deposits and to execute any documents; and
- (l) generally, do all things as fully and effectually as we/I ourselves/myself could do in connection with and do anything reasonably necessary under this Memorandum,

with full power to delegate any of the powers hereby conferred upon it and with power for the Attorney to substitute and appoint one (1) or more attorneys under him for all or any of the purposes aforesaid as the Attorney shall deem fit. We/I further confirm that the appointment of the Attorney is exclusive and we/I shall not ourselves/myself or by any other person exercise any of the powers, authorities and discretions herein conferred without your consent in writing. We/I declare that the Attorney shall not be held responsible or liable to us for any loss or damage howsoever or whatsoever arising as a result of the exercise or the omission to exercise by the Attorney of any of its powers, authorities or discretions under this Memorandum and any matter or thing in relation thereto. We/I shall keep the Attorney indemnified against all actual costs, expenses and charges which the Attorney

may incur in the exercise of the powers, authorities and discretions aforesaid and the provisions of this Clause shall continue in force notwithstanding the discharge by us/me of all our/my obligations in relation to the Facility Agreement.

We/I ratify and confirm and agree and undertake at all times hereafter to ratify and confirm whatsoever the Attorney shall lawfully do or cause to be done and expressly agrees that all acts done or caused to be done by the Attorney shall be as good and effectual to all intents and purposes whatsoever as if the same had been done by us/me in our/my own person. We/I irrevocably and unconditionally further declare that the power and authority conferred hereby are given for valuable consideration and shall remain irrevocable by us/me until the Indebtedness has been settled in full.

5. You shall be entitled by giving seven (7) days' prior notice to us/me to set-off and transfer, in such manner and upon such terms and conditions generally as you shall think fit, all or any part of the Deposits in or towards satisfaction of the Indebtedness when they actually become due and payable whatever may be the currency of the Indebtedness and for that purpose (without prejudice to the generality of the preceding) to effect such combination or consolidation of accounts as you think fit. If any of the Indebtedness is in any currency other than the currency in which the Deposits are denominated, you shall be entitled to apply the Deposits or part of the Deposits in purchasing the currency of the Indebtedness at your rate for the purchase with the currency of the Deposits.
6. We/I also agree that a certificate signed by any of your officers as to the moneys or liabilities for the time being due or owing or incurred to you from us/me shall except for any obvious error be accepted by us/me as conclusive evidence that the amount thereby appearing is due or owing to you as aforesaid.
7. We/I irrevocably and unconditionally agree and undertake with you that until the Indebtedness shall have been discharged in full and the Facility shall cease to be available We/I shall:-
  - (a) deposit with you and you shall be entitled to the custody and possession of the Deposit Receipts and all other documents and evidence of title thereto or ownership thereof and the moneys represented thereby and shall not demand or request for the return thereof or any of them;
  - (b) do all acts, deeds and things including the execution and signing of all and such notices, endorsements and documents, including without prejudice to the generality of the preceding any Power of Attorney, as may be required for the continuance perfecting or enforcement of this security and to give effect to our/my obligations herein;
  - (c) maintain at all times the Deposits at the level as required by you and



shall not permit the Deposits to lapse;

- (d) renew the Deposits and any subsequent renewals thereof, for further periods as you deem fit and at a profit sharing ratio or profit rate or deposit rate (as the case may be) determined by you to be prevailing on the relevant date for the renewal, upon their maturity or due dates for payment, and shall sign, do and execute all documents required for such renewal.
8. Until the Indebtedness shall have been discharged in full and the Facility shall cease to be available, no part of the Deposit shall be payable except with your prior written consent (which you may grant conditionally or unconditionally or withhold at your discretion as you think fit).
9. Until the Indebtedness shall have been discharged in full and the Facility shall cease to be available, we/I undertake not to, except with your prior written consent (you shall give your reason for refusing such consent or may impose such terms and conditions as you deem fit for such consent):
- (a) withdraw the whole or any part of the Deposits;
  - (b) terminate or permit to lapse or seek payment of the Deposits;
  - (c) close the CMTD-*i* or permit the same to be closed;
  - (d) assign or transfer or purport to assign or transfer or otherwise deal with or create or permit to be created any Security Interest over the Deposits;
  - (e) revoke, terminate or cancel or purport to revoke, terminate or cancel the power of attorney conferred herein;
  - (f) make any claim or exercise any rights in relation to collateral or security held by you for the Indebtedness unless and until you shall have received the full amount secured under this Memorandum and we/I have been absolutely discharged or released in accordance with Clause 10; and
  - (g) take any collateral or security from any other Security Party for our/my liabilities under this Memorandum, and if any such collateral or security is taken, it shall be held by us/me on trust for you.
10. This security shall not be considered as satisfied by any conditional payment or satisfaction of the whole or any sum or sums of money owing or by any payment made to be held in suspense. This security shall be a continuing security and extend to cover all or any sum or sums of money which shall for the time being or from time to time be due and owing by us/me to you under or in connection with or arising from the Facility and/or this Memorandum notwithstanding that we/I may at any time cease to be so indebted for any

period or periods.

10A. The security created under this Memorandum is expressly intended to be and shall be a continuing security for all moneys now or from time to time owing to you by us/me whether individually or together with another or others and whether as principal or surety until the Indebtedness and all other moneys agreed to be payable by us/me under this Memorandum shall be paid and satisfied in full to you notwithstanding that we/I may at any time or times, cease to be indebted to you, for any period or periods and notwithstanding:

- (a) any of our/my account(s) with you may from any cause whatsoever cease to be current and notwithstanding any closure or settlement of account or accounts or otherwise;
- (b) any change by amalgamation, consolidation, reconstruction, merger or otherwise which may be made in the constitution of the company by which our business is for the time being carried on (if the Chargor is a corporation);
- (c) our or any other Security Party's winding-up, liquidation or dissolution, whether voluntarily or compulsory;
- (d) our relationship ceasing for any reason whatsoever.

10B. The validity and enforceability of the security created by this Memorandum shall not be prejudiced or otherwise affected:

- (a) by the invalidity or unenforceability of any of our/my obligations or liabilities under this Memorandum or the Facility Agreement; or
- (b) by reason of any invalidity or irregularity in the execution of this Memorandum or the Facility Agreement; or
- (c) by any deficiency in our/my powers to enter into, or perform any of our/my obligations under this Memorandum or the Facility Agreement; or
- (d) by any other security document or security now or in the future held by or available to you or any of your power, right or remedy in respect of any of the same; or
- (e) for any other reason whatsoever;

and the security created by this Memorandum shall extend to each obligation or liability of ours/mine under this Memorandum or the other Security Documents as if the same were wholly valid, legally binding and enforceable.

10C. Subject to Clauses 10D and 10E, if at any time the whole of the Indebtedness are paid in full and all our/my obligations have been performed under the

Facility Agreement and the other Security Documents, and no contingent obligations exist under the Facility Agreement and the other Security Documents, all your rights under this Memorandum shall terminate and we/I shall be entitled at our/my own costs and expenses to obtain a discharge and release of this Memorandum in such form as you shall in the circumstances then deem appropriate but without prejudice to your rights and remedies against us/me in respect of any antecedent claim or breach of covenant.

- 10D. Any settlement or discharge between us/me shall be conditional upon no security or payment to you by us/me or any other Security Party or any other person being invalidated for any reason whatsoever or being avoided or refused or set aside by virtue of any provision or enactment or laws relating to bankruptcy, insolvency or liquidation for the time being or from time to time in force by virtue of any obligation to give effect to any preference or priority and you shall be entitled to recover the value or amount of any such security or payment from us subsequently as if such settlement or discharge had not occurred.
- 10E. (a) We/I agree that in addition to any right of set-off or other general lien or similar right to which you may be entitled in law, you may by giving seven (7) days' prior notice to us/me but subject always to the terms of the Facility Agreement, combine and consolidate or merge all or any of the accounts with you or any of your affiliates or subsidiaries in our/my name or to which we/I are beneficially entitled and/or set-off any moneys whatsoever, whether on deposit account or otherwise, or any security which you may at any time hold for our/my account against any of our/my liabilities whatsoever (including all actual costs, charges and expenses incurred in any way in relation to this Memorandum and the Facility Agreement) which may be due or accruing due to you whether such liabilities are or may be joint or several or primary or secondary or actual or contingent.
- (b) Unless you otherwise agree, this security shall not be discharged except on payment to you not only of all moneys secured hereby but also of other moneys secured by any other security created by us/me or any other Security Party.
- 10F. Notwithstanding any provision hereof, it is expressly agreed that upon default or breach by us/me of any term, covenant stipulation and/or undertaking herein provided and on our/my part to be observed and performed in this Memorandum or the Facility Agreement, you shall thereafter have the right to exercise all or any of the remedies available whether by this Memorandum or the Facility Agreement or by statute or otherwise. You shall be entitled to exercise such remedies concurrently, including pursuing all remedies of sale or possession pursuant to this Memorandum or the Facility Agreement and civil suit to recover all monies due and owing to you. In the event that you do not exercise such remedies concurrently you shall be entitled to institute civil suits to recover all monies outstanding or to dispose of the security created under this Memorandum.

- 10G. You shall at any time after the occurrence of any Event of Default, be at liberty (without being bound to do so) to resort to any other means of payment at any time and in any order as you may think fit without thereby diminishing our/my liability under this Memorandum .You may exercise your rights under this Memorandum for the payment of the amount hereby intended to be secured either after resorting to other means of payment or at any time notwithstanding that other means of payment have not been resorted to. You shall have the right to exercise all or any of the remedies available whether by this Memorandum or the Facility Agreement or by statute or otherwise and shall be entitled to exercise such remedies concurrently, including but not limited to, pursuing all remedies of realisation, sale or possession pursuant to this Memorandum or the Facility Agreement and civil suit to recover the Indebtedness and all other moneys due and owing to you.
- 10H. (a) The Indebtedness shall become immediately due and payable on demand and the security hereby created shall become enforceable in any of the following events:
- (i) if in accordance with the terms of the Facility Agreement and/or any of the other Security Documents, the Indebtedness shall become immediately due and payable;
  - (ii) if any Event of Default has been declared; or
  - (iii) if any of the Security Documents shall become enforceable.
- (b) At any time after the security hereby created becomes enforceable and the Indebtedness shall become due and immediately payable on demand, you shall be entitled to enforce the security and the proceeds of such enforcement shall be applied in accordance with the provisions of the Facility Agreement.
- (c) If the sum received, recovered or realised under this Memorandum after deduction and payment from the sum so received, recovered or realised of all fees, costs, expenses and other outgoings, is less than the amount due to you under this Memorandum and/or the Facility Agreement, and whether in the process of such recovery or realisation you have purchased any of the properties and assets charged to you or otherwise, then, in addition and without prejudice to any other right or remedy which you may be entitled to, we/I shall pay to you the difference between the sum due and the sum so received, recovered or realised and until such payment will also pay late payment compensation (ta'widh) on such balance at the rate provided in Clause 10I.
- 10I. We/I shall be liable to pay you late payment compensation (ta'widh) on any amount overdue as follows:

- (a) If the default to pay any amount overdue occurs during the tenure of the Facility, at the rate of one per centum (1%) per annum on such overdue amount under the Facility from the due date up to the date of settlement or such other rate/method stipulated or approved by your Shariah Advisory Committee of the Bank ("the Bank SAC") and/or the Shariah Advisory Council of Bank Negara Malaysia from time to time; and
- (b) If the default to pay any amount overdue occurs after the maturity of the Facility, at the rate which is your prevailing Islamic Interbank Money Market rate on the balance of the principal sum or such other method approved by the Bank SAC and/or the Shariah Advisory Council of Bank Negara Malaysia.

The amount of such Ta'widh shall not be compounded on the overdue amount or principal balance, as the case may be.

- 11. No failure or delay on your part in exercising nor any omission to exercise any right, power, privilege or remedy accruing to you under this Memorandum upon any default on our/my and/or any other Security Party's part shall impair any such right, power, privilege or remedy or to be interpreted as a waiver thereof or consent in such default. Nor shall any waiver or action by you in respect of any default or any consent in any such default affect or impair any of your rights, power, privilege or remedy in respect of any other or subsequent default. Nor shall any single or partial exercise of any right, power, privilege or remedy precludes any other or further exercise thereof or the exercise of any other right, power, privilege or remedy.
- 12. Our/my obligations under this Memorandum are and will remain in full force and effect by way of continuing security until the Indebtedness shall have been discharged in full and the Facility shall cease to be available.
- 13. We/I shall:
  - (a) on demand, pay to you all fees and expenses in connection with or incidental to this Memorandum and the Facility Agreement (including legal fees (on client and solicitor and full indemnity basis) and any goods and services tax payable and out of pocket expenses incurred by you in connection with the negotiation, preparation and execution of this Memorandum and the Facility Agreement). If any moneys due in respect of the Facility or under this Memorandum shall be required to be recovered through any process of law or be placed in the hands of solicitors for collection, we/I shall pay (in addition to such moneys) the fees of the solicitors for you (on a solicitor and client and full indemnity basis) and any other fees and expenses incurred in respect of such collection;
  - (b) from time to time on your demand, pay to you for your account all

actual costs and expenses incurred in or in connection with any variation, consent or approval relating to the Facility Agreement or any steps taken in connection with the preservation or enforcement of any of your rights under the Facility Agreement; and

- (c) pay all stamp, registration and other taxes to which this Memorandum is or at any time may be subject and shall, from time to time on your demand, indemnify you against any liabilities, costs claims and expenses reasonably incurred as a result of any failure to pay or any delay in paying any such tax.

13A. We/I shall indemnify you to your satisfaction in respect of:

- (a) all liabilities, losses and expenses (including legal expenses on a solicitor and client and full indemnity basis including any goods and services tax payable) incurred by you or by any person appointed by you or to whom any trust, duty, right, power, authority or discretion may be delegated by you in the execution or purported execution of any of the trusts, duties, rights, powers, authorities or discretions vested in it by this Memorandum and the Facility Agreement; and
- (b) all liabilities, losses and expenses (including legal expenses on a solicitor and client and full indemnity basis including any goods and services tax payable) which you or any person appointed by you or to whom any trust, duty, right, power, authority or discretion may be delegated by you may sustain or incur as a consequence of any default in payment by us/me of any sum under this Memorandum (including any profit or fees paid or payable on account of or in respect of any funds borrowed or deposits obtained from any third party in order to maintain the amount in default or in liquidating or re-employing such funds or deposits); and
- (c) against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted to be done in any way relating to this Memorandum and the Security Document or in or about the enforcement or preservation of any of the security created under this Memorandum and you or any person appointed by you or to whom any trust, duty, right, power, authority or discretion may be delegated by you may retain and pay all sums in respect of the same out of any moneys received in the exercise of the powers, authorities conferred upon you or any such person, other than those arising out of your gross negligence or wilful misconduct.

14. This Memorandum shall be binding upon our/my heirs, personal representatives, successors in title, and permitted assigns and shall be enforceable by your successors in title and assigns.

15. The security created by this Memorandum is in addition to and not in substitution for any other security or guarantee which you may at any time hold for the payment of the Indebtedness, shall not merge with or otherwise prejudice or affect any other Security Documents or security now or in future held by or available to you or any of your power, right or remedy in respect of any of the same and may be enforced without first having recourse to any such security or guarantee and without taking any steps or proceedings against any other surety or party.
16. This Memorandum shall be in addition to and shall not be in any way prejudiced or affected by any collateral or other security now or in future held by you for the Indebtedness nor shall such collateral or other security or lien to which you may be otherwise entitled or the liability of any person or body or corporation not parties hereto for all or any part of the Indebtedness be in any prejudiced or affected by this Memorandum.
17. In the event of our winding up, liquidation, composition or arrangement or any proceedings analogous thereto, you may (notwithstanding our payment to you of any part of the amount hereby guaranteed or secured) rank as secured creditor and prove for the whole amount of your claim against us/me or agree to accept any composition or dividend in respect of the same in the same manner as if this security had not been created. You may receive and retain the whole of the dividends, composition or other payments thereon and no money so received by you shall be treated as received in respect of this security but the full amount hereby secured shall be payable by us/me until you shall have received from all sources one hundred sen in the Ringgit Malaysia on the ultimate balance outstanding against us/me and each Security Party. After you have received such ultimate balance in full, any claim on our part to any excess or any securities remaining with you shall be a matter of adjustment between us and/or any other person(s) laying claim thereto. For the purpose of enabling you to sue or to prove against us/me for the whole of the monies owing by us/me or any other Security Party to you under the Facility and this Memorandum and any other Security Documents, any money received by virtue of or in connection with this Memorandum may be placed to the credit of a suspense account for such time as you shall think fit without any intermediate obligation on your part to apply such money in or towards the discharge of the monies owing as aforesaid PROVIDED THAT if we/I shall have paid in full the whole of the monies hereby secured then notwithstanding the placement of such monies so paid in a separate or suspense account we/I shall be discharged from our/my liabilities and shall be deemed to have performed our/my obligations under this Memorandum.
18. Any notice, request or legal process shall be sufficiently served, given or made to us/me by sending the same personally or by prepaid registered post or ordinary post addressed to us/me at our/my address hereinbefore stated (or such other address as may from time to time be notified by us/me and actually received by you) and shall be deemed to be received by us/me if it is personally delivered, at the time of delivery and duly acknowledged and if it is sent by post, three (3) days from the date it is posted to the last address as

registered by us/me with the Bank.. 'Legal process' shall include all forms of originating process, pleadings, interlocutory applications of whatever nature, affidavits, orders and such other documents and notices as may be required to be given or served under any legislation or subsidiary legislation.

19. (a) The security, liabilities and/or obligations created by this Memorandum shall continue to be valid and binding for all purposes whatsoever notwithstanding any change by amalgamation, reconstruction or otherwise which may be made in your constitution or the constitution of any company by which your business may for the time being be carried on and shall be available to the company carrying on that business.
- (b) The securities, liabilities and/or obligation created by this Memorandum shall continue to be valid and binding for all purposes whatsoever notwithstanding any change whether by reason of amalgamation, reconstruction, merger, winding-up, insolvency, incorporation or otherwise howsoever in the name style constitution or composition of ours. It is expressly declared that no change of any sort whatsoever in relation to or affecting us shall in any way affect the security, liabilities and/or obligations created by this Memorandum or the Facility Agreement in relation to any transaction whatsoever whether past, present or future.
20. (a) You may, by notice in writing to us/me at any time transfer, sell, participate in secondary debt markets or transfer all or any part of your rights and benefits and/or obligations under this Memorandum by assigning to any other person(s) all or any part of your rights and benefits under this Memorandum and/or transferring to any other person(s) its obligations under this Memorandum, upon the terms and conditions to be determined by you and you may disclose to such potential assignee or transferee or such other person(s) who derives or may derive rights, benefits and/or obligations under or by reference to this Memorandum, such information about us/me, our/my financial condition, the Facility, this Memorandum and the Facility Agreement to which we/I are a party:
  - (i) where you transfer your rights and benefits, we/I shall execute such documents as are reasonably necessary to release you to the extent of the transfer and join the transferee as a party hereto; and
  - (ii) where you transfer all its obligations, rights and benefits under this Memorandum, we/I shall thereafter deal solely with the transferee with respect to payments, notices and other matters relating to the administration of this Memorandum.
- (b) We/I shall not assign or transfer our/my rights or interest in this Memorandum without your prior written consent and shall in any event



remain liable for all our/my obligations under this Memorandum. All undertakings, agreements, representations and warranties given, made or entered into by us/me in this Memorandum shall survive the making of any such assignment or transfer.

- (c) All your costs and expenses incidental to such assignment or transfer shall be payable by us/me and any statement or recital in the deed of assignment or the document of transfer of the sum then due to you under and by virtue of this shall, except for obvious errors, be conclusive and binding on us/me.
21. In the event that this Memorandum is invalid or ineffective as a charge on the Deposits, this Memorandum shall nevertheless operate as and be deemed to be an instrument conferring on you a contractual right of set-off in the terms hereof. We/I irrevocably confirm our agreement to you deducting and setting off from any monies, including dividend and/or profits which may be payable to us/me under or arising from or represented by the Deposit Receipts and/or the Indebtedness.
22. If any term, condition, stipulation, provision, covenant or undertaking contained in this Memorandum is illegal, prohibited or unenforceable in any jurisdiction, then such term, condition, stipulation, provision, covenant or undertaking shall be ineffective in such jurisdiction to the extent of such illegality, prohibition or unenforceability. The other remaining provisions shall remain valid. Such illegality, prohibition or unenforceability in any jurisdiction shall not invalidate or render illegal, void or unenforceable any such term, condition, stipulation, provision, covenant or undertaking in any other jurisdiction.
23. We/I covenant and declare that we/I have been advised by you to seek independent legal advice on the effects and consequences to us/me in respect of the signing of this Memorandum. We/I agree that the provisions contained in this Memorandum shall be binding on us/me regardless of whether we/I have resorted to any such advice.
24. Your rights and remedies under this Memorandum are cumulative and not exclusive of any rights or remedies you may have under the general law.
25. All moneys received by you from any person or estate capable of being applied to reduce the Indebtedness will be regarded for all purposes as payments in gross or in total towards settlement of the Facility. If an adjudicating or receiving order is to be made against any person liable to you or any order be made, you may prove for the whole of the moneys then owing. No money received under such proof will be considered as having been received and the full amount owing will be payable until you have received from all sources one hundred cents in the Ringgit Malaysia. If the amount ultimately received by you exceeds the amount of the ultimate balance owing to you, the excess amount is to be repaid to the person or party on whose account the same have been received by you.

26. (a) Place of Payment: All payments to be made under this Memorandum and, where appropriate, the rest of the Security Documents by us/me shall be made by us/me in Ringgit Malaysia in immediately available funds on the due date to you at your place of business which you may specify in writing from time to time. Except for facility in foreign currency in which case the payments may be made in the currency in which the facility were provided, subject to the compliance of any foreign exchange laws and regulations to which we/I are subject.
- (b) Payments to be free and clear: All sums payable by us/me under this Memorandum shall be paid (i) free of any restriction or condition; (ii) free and clear of and (except to the extent required by law) without any deduction or withholding on account of any tax, and (iii) without deduction or withholding (except to the extent required by law) on account of any bank charges or commission or any other charges or deductions or any other amount, whether by way of set-off or counterclaim or otherwise. If we/I are required by law to make any deduction or withholding on account of any such tax or any other amount from any sum paid or payable by us/me to you under this Memorandum, we/I shall pay such additional sum to the extent necessary to ensure that, after the making of that deduction, withholding or payment you receive on the due date and retains (free from any liability in respect of any such deduction, withholding or payment) a net sum equal to what you would have received and so retained had no such deduction, withholding or payment been required or made.
- (c) Business Day: If any sum becomes due for payment under or pursuant to this Memorandum or any of the other Security Documents on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day unless such next succeeding Business Day falls in another calendar month in which event such payment shall be made on the Business Day preceding the due date.
- (d) Debit: You are authorised at any time with prior notice to us/me, to debit any of our account with you in respect of the Indebtedness and all other monies due and payable under this Memorandum and, where applicable, the other Security Documents as well as debt recovery fees and other amounts and sums of money payable by us/me. No such debiting shall be deemed to be a payment of the amount due (except to the extent of any amount available in any of our current account) or a waiver of any event of default under any agreement relating to the Facility. If such debiting causes any of our/my account to be overdrawn, profit shall be charged accordingly.
27. It is expressly agreed and declared by us/me that each of our obligations to pay under any of the provisions of this Memorandum, or where appropriate, the other Security Documents constitute separate and independent

obligations, shall give rise to separate and independent causes of action, shall apply irrespective of any waiver granted by you in respect of any other obligation, shall remain in full force and effect despite any judgment, order, claim or proof for a liquidated amount in respect of some other obligation and may be relied upon and enforced by you independently of or simultaneously with or without having to commence any other action under such obligations or under any of the other Security Documents or having first exhausted any remedy or having first sold or disposed of any assets, properties or undertaking which may be provided as security to you from time to time.

28. It is agreed that any admission or acknowledgement in writing by us/me, or any other Security Party or party or authorised person on our/my behalf, or any other Security Party or any other party, or a statement of account showing the Indebtedness duly certified by your authorised agent or officer or which is a computer generated statement without any such certification shall, except for any obvious error, be binding and conclusive against us/me and our/my heirs, personal representatives, successors in title, and permitted assigns.
29. No person dealing with you or with your attorneys or agents shall be concerned to enquire whether the security hereby constituted has become enforceable or whether the power exercised or purported to be exercised has become exercisable or whether any moneys remain due upon the security of this Memorandum or to see to the application of any money paid to you or your attorneys or agents. In the absence of fraud on the part of such person, such dealing shall be deemed so far as regards the safety and protection of such person to be within the powers hereby conferred and to be valid and effectual accordingly and our remedy in respect of any irregularity or impropriety whatsoever in the exercise of such power shall be in damages only.
30. Your receipt or the receipt of your attorneys or agents in respect of any moneys paid to you or such attorneys or agents shall effectually discharge the person paying the same therefrom and from being concerned to see to the application or being answerable for the loss or misapplication thereof.
31. You shall be entitled on our behalf to enter into any settlement or arrangement or accept any compositions or grant any waiver or time in relation to the Deposits without our concurrence and such settlement or arrangement or composition or waiver or granting of time shall be binding on us/me.
32. You shall not be under any obligation to us/me to make any enquiry as to the nature or sufficiency of any payment received by you under this Memorandum or to demand or take or continue any action or step to recover the Deposits. Nor shall it be under any obligation to us/me by reason of you having abstained from taking or continuing any such action or step.

33. We/I irrevocably authorise and permit you, your officers and employees to disclose and furnish all information concerning the Facility, the Facility Agreement, our/my present and future accounts and any other matters relating to us/me or our/my business and operations to:-
- (a) other financial institutions granting or intending to grant any financing or credit facilities to us;
  - (b) the Central Credit Bureau or any other central credit bureau established by Bank Negara Malaysia, Cagamas Berhad, Biro Maklumat Cek, Credit Guarantee Corporation, any other relevant authority as may be authorised by law to obtain such information or such authorities/agencies established by Bank Negara Malaysia or any agency established by the Association of Islamic Banking Institutions Malaysia;
  - (c) any current or future corporation which may be associated or related with you (as defined in the Companies Act 2016), including representative and branch offices and their respective representatives;
  - (d) the Security Party or any party intending to provide security in respect of the Facility;
  - (e) your auditors, solicitors and/or other agents in connection with the recovery of moneys due and payable under this Memorandum; and
  - (f) your professional advisers, service providers, nominees, agents, contractors or third party service providers who are involved in the provision of products and services to or by you and your related or associated companies.

We/I irrevocably consent to such disclosure and confirm that you, your officers and employees will not be liable for furnishing such information or for the consequences of any reliance which may be placed on the information so furnished in accordance with this Memorandum.

34. We/I further represent, covenant and undertake that:
- (a) we/I have not engaged and will not engage, directly or indirectly, in a transaction that involves proceeds of any unlawful activity or instrumentalities of an offence;
  - (b) we/I have not acquired, received, possessed, disguised, transferred, converted, exchanged, carried, disposed of, used or removed from or bring into Malaysia and will not acquire, receive, possess, disguise, transfer, convert, exchange, carry, dispose of, use, remove from or bring into Malaysia, proceeds of any unlawful activity or instrumentalities of an offence; or

- (c) we/I have not concealed, disguised or impeded and will not conceal, disguise or impede, the establishment of the true nature, origin, location, movement, disposition, title of, rights with respect to, or ownership of, proceeds of any unlawful activity or instrumentalities of an offence; and

we/I confirm to you that we/I are/am not involved in any unlawful activity within the meaning of Section 3 of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities 2001 i.e. (a) any activity which constitutes any serious offence or any foreign serious offence; or (b) any activity which is of such a nature, or occurs in such circumstances, that results in or leads to the commission of any serious offence or any foreign serious offence, regardless whether such activity, wholly or partly, takes place within or outside Malaysia.

- 35. In the course of our/my dealing with you, you may request us/me to provide our/my personal data prior to or during the course of performance of this Memorandum for the purpose of the performance of contract, marketing, legitimate business activity, administration, and ensuring the economy is balanced effectively. Our/my personal data which will be processed in accordance with the requirements set out in Personal Data Protection Act 2010 may be disclosed and shared with your other related corporations and subsidiaries within and outside Malaysia for the aforesaid purposes. You however, will obtain our/my express consent and authorisation to release our/my name, address, email address, telephone number(s) and any other information, to any third party for the marketing and promotion of your products and services. Such consent and authorisation may be withdrawn at any time by us/me by giving adequate prior written notice to you.
- 36. All the provisions of the Facility Agreement, whether repeated in this Memorandum or not, are incorporated into and form part of this Memorandum and all representations, warranties and covenants made by us/me in the Facility Agreement shall be deemed to have been made by us/me in this Memorandum. Where relevant, references in the Facility Agreement to "this Agreement" shall be to this Memorandum, subject to such alterations or variations where necessary to make the provisions of this Memorandum consistent with the provisions of the Facility Agreement.
- 37.
  - (a) This Memorandum and our/my rights and duties under this Memorandum shall be governed by, and construed in accordance with, the laws of Malaysia. In relation to any legal action or proceedings arising out of or in connection with this Memorandum ("Proceedings"), we/I irrevocably submit to the jurisdiction of the courts of Malaysia, and waive any objections to proceedings in any court on the grounds that the Proceedings have been brought in an inconvenient forum.
  - (b) The above submission shall not affect your right to take Proceedings in any other jurisdiction nor shall the taking of Proceedings in any

jurisdiction preclude you from taking Proceedings in any other jurisdiction and you shall be at liberty to initiate and take actions or Proceedings or otherwise against us in Malaysia and/or elsewhere as you may deem fit.

38. In the event of any inconsistency between the provisions of this Memorandum and the provisions of the Facility Agreement, the provision of this Memorandum shall prevail insofar as such provisions relate to matters dealt with by this Memorandum.
39. It is agreed and declared that this Memorandum and the Security Documents are instruments all employed in one transaction to secure the Indebtedness within the meaning of Section 4(3) of the Stamp Act 1949 and for the purpose of the said Section, the Facility Agreement is deemed to be the principal or primary instrument and this Memorandum and other Security Documents are the auxiliary or secondary instruments. Stamp duty payable on this Memorandum and/or other documents, if any, shall be paid by us/me.

*\*\*\*\*\* The rest of the page is intentionally left blank\*\*\*\*\**

**IN WITNESS WHEREOF** the hand(s)/Common Seal of the Customer(s) and the hand of the Attorney of the Bank were hereunto set/affixed respectively.

SIGNED by ) by its Attorney(s)  
 )  
as Attorney(s) for and on behalf of )  
 )  
**MBSB BANK BERHAD** )  
**(Registration No.** )  
**200501033981)** ) .....  
**(716122-P)** in the presence of:

\*(If by Common Seal)

The Common Seal of the )  
Customer(s) )  
was hereunto affixed )  
in the presence of:

.....  
Name:  
Designation:  
NRIC No.:

.....  
Name:  
Designation:  
NRIC No.:

\*(If under hand)

SIGNED by )  
The Customer(s) )  
in the presence of: )

.....  
Name:  
Designation:  
NRIC No.:

.....  
Name:  
Designation:  
NRIC No.:

**CERTIFICATE OF AUTHENTICATION**

I, \_\_\_\_\_ an Advocate and Solicitor of the High Court of Malaya practising in \_\_\_\_\_ hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, the common seal of \_\_\_\_\_ (\_\_\_\_\_) was duly affixed to the abovementioned instrument in my presence in accordance with the regulations of the said Company.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

Witness my hand,

.....  
Advocate & Solicitor



**SCHEDULE 1**  
**CMTD-*i* AND DEPOSIT RECEIPTS**

**DETAILS OF CMTD-*i***

| <b>Account No.</b> | <b>Type of Account</b> | <b>Deposit Bank</b> |
|--------------------|------------------------|---------------------|
|                    |                        |                     |

**DETAILS OF DEPOSIT RECEIPTS**

| <b>Certificate No. and<br/>Issue Date</b> | <b>Issued by</b> | <b>Amount</b> |
|---|------------------|---------------|
|   |                  |               |

**SCHEDULE 2**  
**FORM OF NOTICE OF CHARGE**

[to be adopted on the letterhead of \_\_\_\_\_]

Date:

[state name of Deposit Bank]

[state address of Deposit Bank]

Dear Sirs,

**Notice of Charge pursuant to the Memorandum of Deposit (Commodity Murabahah Term Deposit-i) dated [\*\*] ("Memorandum")**

**Chargor:** \_\_\_\_\_ (\_\_\_\_\_)

**Chargee:** **MBSB Bank Berhad** (Registration **No.**  
**200501033981)(716122-P)**

**Account No.:** **[\*\*] ("CMTD-i")**

- 
1. We/I hereby give you notice that pursuant to the Memorandum, we/I have charged to the Chargee all our present and future rights, title, interest, benefits, claims in and to all moneys now or at any time standing to the credit of the CMTD-i (including all such moneys now or from time to time deposited with you in substitution thereof, in addition thereto or in renewal thereof), together with all revenues, income, proceeds and moneys accrued thereon or derived or received therefrom or in connection therewith, and any rights, title, interest, benefits, claims arising thereof on such moneys ("**Deposits**").
  2. We/I confirm that we/I will remain liable to perform all the obligations assumed by us/me in relation to the Deposits and that the Chargee and/or its nominees will not be under any obligation of any kind whatsoever in relation thereto.
  3. We/I further confirm that the Chargee shall be sole signatory to operate the Deposits.
  4. We/I irrevocably and unconditionally authorise and instruct you to act upon the instructions of the Chargee and/or its nominees in relation to any withdrawals or other matters relating to the Deposits, including, if so instructed by the Chargee and/or its nominees, to pay to the Chargee and/or its nominees (whose receipt shall be a full and sufficient discharge to you for any such payment) all or any sums whatsoever due and owing to us/me

under or by virtue of the Deposits. We/I irrevocably and unconditionally confirm that such notice by the Chargee and/or its nominees shall be final, conclusive and binding and you shall not concern yourself with the propriety of any such notice.

5. This notice and the authorisation and instruction contained herein shall be irrevocable and may not be amended or varied without the Chargee's prior written consent.

Please acknowledge receipt of this notice by signing the acknowledgement attached and returning the same to the Chargee.

Yours faithfully,

For and on behalf of (\*delete if Individual)

\_\_\_\_\_ (**Co. No./NRIC No.:** \_\_\_\_\_)

.....  
(Authorised Signatories)

**c.c. MBSB BANK BERHAD**

**SCHEDULE 3  
FORM OF ACKNOWLEDGEMENT**

Date:

To: **MBSB BANK BERHAD**

Dear Sirs,

**Notice of Charge pursuant to the Memorandum of Deposit (Commodity Murabahah Term Deposit-/) dated [\*\*] ("Memorandum")**

**Chargor:** \_\_\_\_\_ (\_\_\_\_\_)

**Chargee:** **MBSB Bank Berhad (Registration No. 200501033981)(716122-P)**

**Account No.:** **[\*\*] ("CMTD-")**

- 
1. We/I refer to the Memorandum, under which the Chargor has charged to the Chargee all its present and future rights, title, interest, benefits, claims in and to all moneys now or at any time standing to the credit of the CMTD-/ (including all such moneys now or from time to time deposited with us in substitution thereof, in addition thereto or in renewal thereof), together with all revenues, income, proceeds and moneys accrued thereon or derived or received therefrom or in connection therewith, and any rights, title, interest, benefits, claims arising thereof on such moneys ("**Deposits**").
  2. We/I hereby consent to the charge of the Deposits in accordance with the provisions of the Memorandum and acknowledge and confirm that:-
    - (a) we/I will act upon the instructions of the Chargee and/or its nominees in relation to any withdrawals or other matters relating to the Deposits, including, if so instructed by the Chargee and/or its nominees, to pay to the Chargee and/or its nominees (whose receipt shall be a full and sufficient discharge to us for any such payment) all or any sums whatsoever due and owing to the Chargor under or by virtue of the Deposits;
    - (b) such notice from the Chargee and/or its nominees shall be final, conclusive and binding and we/I shall not concern ourselves with the propriety of any such notice;
    - (c) the Chargor remains liable to perform all obligations assumed by it in relation to the Deposits and the Chargee and/or its nominees will not be under any obligation of any kind whatsoever in relation thereto;
    - (d) we/I have no knowledge or notice of any assignment or other Security Interest of or over the Deposits prior to the date hereof. "Security

Interest" means any mortgage, pledge, lien, charge, covenant, caveat, debenture, right of set-off, assignment, hypothecation, encumbrance (including any title retention, preferential prohibitory order, right or trust arrangement, transfer by way of security, sale and lease-back and sale and repurchase on credit terms) and any other interest or arrangement having substantially the same economic effect as any of the preceding howsoever created or arising; and

- (e) we/I shall not exercise our right of set-off or lien over the Deposits, and, to the extent that we/I have acquired such right, we/I hereby waive our right of set-off or lien as aforesaid.

Yours faithfully,  
for and on behalf of [Deposit Bank]

.....

Name:

Designation:

Date:

c.c. \_\_\_\_\_