

DATED THIS

DAY OF

20

BETWEEN

MBSB BANK BERHAD
(Company No. 716122-P)
(“the Bank”)

AND

The Party as stated in Section 3 of Schedule 1 hereto
(“the Customer”)

COMMODITY MURABAHAH PROPERTY FINANCING-*i*
FACILITY AGREEMENT
(1ST OR 3RD PARTY)

Prepared by:

FACILITY AGREEMENT

THIS FACILITY AGREEMENT (hereinafter referred to as this “Agreement”) is the day and year stated in Section 1 of Schedule 1 hereto.

BETWEEN

- (1) MBSB BANK BERHAD (Company No.: 716122-P), a company incorporated in Malaysia pursuant to the Companies Act, 2016 and having its registered office at 11th Floor, Wisma MBSB, 48 Jalan Dungun, Damansara Heights, 50490 Kuala Lumpur (“the Bank” and includes its successors in title and lawful assigns) of the one part;

AND

- (2) the party as stated in Section 3 of Schedule 1 hereto (hereinafter referred to as “the Customer”) of the other part,

(the Bank and the Customer are hereby collectively referred to as “Parties” and individually referred to as “Party”, as the context may require).

WHEREAS:

- A. **Application for the Facility:** At the request of the Customer, the Bank has agreed to make available to the Customer a Commodity Murabahah Property Financing-i facility (hereinafter referred to as “the Facility”) pursuant to a letter of offer (which includes any amendment, variation, modification or supplemental whatsoever), a copy of which is appended hereto in Schedule 4 of this Agreement (hereinafter called the “Letter of Offer”) subject to and upon the terms and conditions hereinafter set out which monies shall be disbursed subject to the completion of the required contracts.
- B. **Purpose:** The Facility shall be utilised by the Customer for the purposes as stipulated in Clause 2.2 herein and in accordance with the terms of the Transaction Documents (as defined herein).
- C. **Agreement:** The Parties hereby agree to enter into this Agreement to set out the terms and conditions for the Facility subject to the terms and conditions of this Agreement and the Transaction Documents.

NOW THE PARTIES HEREBY AGREE AS FOLLOWS:

1. DEFINITIONS & INTERPRETATION

- 1.1 **Definitions:** In this Agreement the following words and expressions shall have the meanings hereby assigned to them respectively unless there is something in the subject or context inconsistent with such construction or unless it is therein otherwise expressly provided:-

Agency Agreement means the agreement entered between the Customer and the Bank in the form as set out in Attachment 2 of the Letter of Offer whereby the Customer appoints the Bank as its agent to (i) purchase the Commodities from the Bank and (ii) sell the Commodities to any third party commodity trader upon the conclusion of the purchase by the Customer of the Commodities from the Bank;

Authorised Signatory means the person or persons authorised by resolution of the Board of Directors of the Customer from time to time to sign and certify any document referred to in this Agreement and references to “Authorised Signatories” shall be construed accordingly;

Availability Period	means the availability period for the Facility more particularly set out in Clause 2.6 of this Agreement or such other period as the Bank may at its absolute discretion agree in writing from time to time;
Base Rate (BR)	means the base rate of the Bank as published by the Bank from time to time;
Base Financing Rate (BFR)	means the base financing rate of the Bank as published by the Bank from time to time;
Business Day(s)	means a day (excluding Saturday, Sunday and public holidays) on which banks are open for business in Kuala Lumpur and Selangor;
Ceiling Profit Rate (CPR)	means the ceiling profit rate as set out in the Letter of Offer;
Commodities	means Shariah compliant goods and/or commodities acceptable to the Bank, purchased under the platform of any commodity trader appointed by the Bank which will be transacted as the underlying asset to facilitate the Tawarruq transaction;
Commodity Brokerage/Trading Fees	means fees that are imposed by the appointed service provider when the Bank transacts the Tawarruq transaction prior to disbursement of the financing via purchase and sale of commodities;
Commodity Trader	means commodity trader(s) in the commodity market as arranged by the Bank;
Commodity Transaction Documents	means the following documents: <ul style="list-style-type: none">(a) Purchase Requisition comprising of the Purchase Request and Undertaking to Purchase (Wa'd);(b) Agency Agreement; and(c) Murabahah Sale Contract;
Customer	means the party as stated in <u>Section 3 of Schedule 1</u> hereto and includes their successors, heirs, personal representatives and permitted assigns;
Deed of Assignment	means the following:- in relation to the Property where no individual/strata title has been issued; and the instrument pursuant to which the Security Party(ies) assigns (by way of security) all its rights and interest in the Property to the Bank upon the terms and conditions contained therein;
Deferred Profit	in relation to the Murabahah Profit, means the Bank's profit payable by the Customer to the Bank on regular deferred intervals derived from each Sale Transaction and upon the terms stipulated herein;
Directors and/or Shareholders	means the current directors and shareholders of the Customer and includes every person liable hereunder or any one or more of them and their respective heirs, personal representative, executors and administrators;
Effective Profit Rate (EPR)	means the effective profit rate as stated in the Letter of Offer;

Event of Default	means any event of default under this Agreement and/or the Transaction Documents or any event which, with the lapse of time and/or the giving of notice and/or a determination being made under the relevant paragraph would constitute an event of default;
Facility	means the facility of such maximum amount as specified in the Letter of Offer or of such maximum amount as the Bank may from time to time determine and grant and make available or continue to make available to the Customer now or from time to time hereafter under the Shariah principle of Tawarruq arrangement in accordance with the terms and conditions set out in the Letter of Offer and this Agreement and where the context so permits or requires shall refer to any part or portion thereof;
Facility Tenure	means the tenure of the Facility as set out in the Letter of Offer;
Grace Period	means the grace period of the Facility as set out in the Letter of Offer;
IFSA	means the Islamic Financial Services Act, 2013 as the case may be and includes all rules made thereunder and amendments as may be made at any time and from time to time;
Indebtedness	means the Facility hereby granted plus all commission, fees, payment and profit margin thereof or any outstanding part thereof (which remain due and payable at any time) including the Selling Price, and all other sums of money howsoever due including but not limited to costs (including legal costs on a solicitor and client basis) to the Bank under the terms of the Transaction Documents;
Legal Charge	means the instrument pursuant to which the Security Party(ies) charges all its rights and interest in the Property to the Bank upon the terms and conditions contained therein;
Letter of Offer	means the letter of offer issued by the Bank and accepted by the Customer as attached in <u>Schedule 4 of this Agreement</u> and includes any amendments, supplemental, modifications and variations thereto;
Material Adverse Effect	<p>means, in relation to any event or circumstance, the occurrence or effect of which would, in the opinion of the Bank:-</p> <ul style="list-style-type: none">(a) result in an adverse change in the financial condition, operations, business or assets of the Customer;(b) result in an adverse change in the socio-political, financial and/or global economic conditions; or(c) affect the validity or enforceability of any terms and conditions set in the Transaction Documents against the Customer which would have a material adverse effect on the rights, remedies and benefits available to, or conferred upon the Bank; <p>then the Bank reserves the right to cancel and/or restructure the Facility;</p>
Month	means a calendar month according to the Gregorian calendar;
Murabahah	means a sale contract with a disclosure of the asset cost price and profit margin to the buyer;

Murabahah Profit	means the Bank's profit payable by the Customer to the Bank which consists of the Deferred Profit;
Murabahah Sale Contract	means the document in relation to the purchase and sale of the Commodities by the Bank to the Customer in the form as set out in <u>Schedule 3 of this Agreement</u> ;
Property	means the property and/or properties described in the Letter of Offer which expression shall where the context so permits, include the meaning assigned to the term "parcel" under the applicable Acts and any statutory amendment or re-enactment thereof and wherever the context permits shall include the accessory parcel appurtenant to each property and any building(s) and fixture(s) now or hereafter or from time to time erected thereon or affixed thereto or any part or portion thereof;
Purchase Price	means the purchase price payable by the Bank for the purchase of the Commodities from a Commodity Trader and which is equal to the utilisation amount under the Purchase Requisition, the aggregate amount of which shall not exceed the total of the Facility amount;
Purchase Request	means the request by the Customer to purchase the Commodities from the Bank at the Selling Price, contained in the Purchase Requisition;
Purchase Requisition	means a request issued by the Customer to the Bank to utilise the Facility substantially in the form as attached in Attachment 1 <u>of</u> the Letter of Offer;
Purchase Transaction	means the transaction between the Bank and the Commodity Trader wherein the Commodities are purchased by the Bank from the Commodity Trader at cost price which is equivalent to the Purchase Price;
Ringgit Malaysia or RM	means the lawful currency of Malaysia;
Sale and Purchase Agreement	means the sale and purchase agreement entered into between the developer/vendor/proprietor and the Customer and where applicable the proprietor wherein the developer/vendor/proprietor agreed to sell and the Customer agreed to purchase the Property upon the terms and conditions contained in the sale and purchase agreement and such other agreements and/or documents (if any) pertaining to the Property evidencing the Customer's rights and/or ownership in the Property;
Sale Transaction	means the transaction between the Bank and the Customer wherein the Commodities are sold by the Bank to the Customer pursuant to the Murabahah Sale Contract;
Security Documents	means the security documents or guarantees executed hereafter or from time to time executed in favour of the Bank to secure the Indebtedness or any part thereof and without limiting the generality of the foregoing, includes the documents set out in <u>Section 4 of Schedule 1</u> hereto;
Security Interest	means any mortgage, pledge, lien, charge, covenant, caveat, debenture, right of set-off, assignment, hypothecation, encumbrance (title retention preferential prohibitory order right or trust arrangement) and any other security interest or arrangement howsoever created or arising;

Security Party(ies)	means the Customer and/or any party providing any security to the Bank or who has otherwise granted or will grant from time to time any security or guarantee to secure the payment of any monies cost and charges arising from and in connection with the Facility or any part thereof;
Selling Price	means the amount as set out in the Murabahah Sale Contract, payable by the Customer to the Bank as the selling price for the Commodities;
Tawarruq	means the arrangement that involves sale of an asset to the purchaser on a deferred basis and subsequent sale of the asset to a third party on a cash basis to obtain cash or <i>vice versa</i> ;
Transaction Documents	means documents set out in <u>Section 5 of Schedule 1</u> hereto; and
Undertaking To Purchase (Wa'd)	means the undertaking by the Customer to purchase the Commodities from the Bank at the Selling Price upon the Bank having purchased the said Commodities from a Commodity Trader, contained in the Purchase Requisition.

1.2 Construction: Except where the context otherwise requires, any reference in this Agreement to:-

- (a) an 'agency' of a state includes, at any particular time:-
 - (i) any agency, authority, central bank, department, government, legislature, minister, ministry, official or public or statutory person or state-owned organisation (whether autonomous or not), or the government of, that state or any political sub-division in or of that state; and
 - (ii) any person who in any capacity whatsoever then owns, holds, administers or controls any of the reserves of that state;
- (b) an 'agreement' also includes a concession, contract, deed, franchise, license, treaty or undertaking (in each case, whether oral or written) and includes a reference to any documents which amends, waives, is supplemental to or novates the terms thereof;
- (c) a "Clause" shall, subject to any contrary indication, be construed as a reference to a clause hereof;
- (d) this Agreement includes its Schedules, Appendices and references to "Schedules" and "Appendices" are to the schedules and appendices to this Agreement unless otherwise specified;
- (e) a 'person' includes any individual, company, corporation, firm, partnership, joint venture, association, organisation, trust, state or agency of a state (in each case, whether or not having separate legal personality) or any country or state or any political sub-division, possession or territory thereof or therein or the government or any bureau, minister, instrument, agency, instrumentality, court, regulatory body, authority, legislative body or department thereof (including, without limitation, the central bank or any taxing, fiscal or other monetary authority thereof) and reference to a person or party includes that person's or party's successors and, in the case of any person other than the Customer and/or the Commodity Trader, its assigns;
- (f) a period of time in this Agreement shall be construed as a reference to the Gregorian calendar month and all profits, rates of return, costs, expenses, commission and fees hereunder shall be calculated according to the Gregorian calendar;

- (g) references to the Customer or Commodity Trader shall be construed so as to include its successors in title and in case of the Customer, or its permitted assigns;
- (h) references in this Agreement to a “subsidiary” of a company or corporation shall be construed as a reference to any company or corporation:-
 - (i) which is controlled, directly or indirectly, by the first-mentioned company or corporation;
 - (ii) more than half the issued share capital of which is beneficially owned, directly or indirectly, by the first-mentioned company or corporation; or
 - (iii) which is a subsidiary of another subsidiary of the first-mentioned company or corporation,

and, for these purposes, 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;

- (i) save where the contrary is indicated, any reference in this Agreement to this Agreement or any other Transaction Document shall be construed as a reference to this Agreement or, as the case may be, such other document as the same may have been, or may from time to time be, amended, restated, varied, novated or supplemented.

1.3 Interpretation:

- (a) The headings in this Agreement are inserted for convenience only and shall not be taken, read and construed as essential parts of this Agreement.
- (b) All references to provisions of any legislation or statute include references to any amendments, any statutory modification and re-enactment thereof or regulations, proclamations, by-laws, published rulings, statements of policy or guidelines issued under or in relation to that statute.
- (c) References to this Agreement shall be taken to include the Letter of Offer which shall be read together and shall include all amendments and modifications to this Agreement as shall from time to time be in force.
- (d) Words importing the singular number shall include the plural number and *vice versa*.
- (e) Where two or more persons or parties are included or comprised in any expression, agreements, covenants, terms, stipulations and undertakings expressed to be made by or on the part of such persons or parties shall be deemed to be made by and be binding upon such persons or parties jointly and severally.
- (f) Words importing the masculine gender shall include the feminine and neuter gender and *vice versa*.
- (g) A reference to a document includes any amendment or supplement to, or replacement or novation of that document.
- (h) A reference to ‘date’ or ‘time’ is a reference to that date or time in Malaysia.
- (i) Any reference to ‘law of Malaysia’ shall be construed so as to include, without limitation, any Act (which includes all relevant guidelines/circulars made thereunder and amendments as may be made from time to time), ordinance, statutory or municipal, rule, regulation, ruling, decree, or order enacted, issued or decreed by the Parliament of Malaysia or any bureau, minister, instrument, agency, court, regulatory body, authority, legislative body or department thereof and Islamic law as administered by the courts of Malaysia.

- (j) The 'winding-up' of a person includes the amalgamation, reconstruction, re-organization, and administration with a view to winding-up or cessation of business of that person and the dissolution, liquidation, merger or consolidation of that person.
- (k) Other parts of speech and grammatical forms of a word or phrase defined in this Agreement have a corresponding meaning.

2. FACILITY

2.1 **Limit:** Subject to the terms and conditions hereinafter set forth and relying upon each of the representations and warranties set out in Clause 12.1, the Bank has agreed to make available to the Customer and the Customer agrees to accept from the Bank the Facility.

2.2 **Purpose:**

- (a) The Customer shall utilise the Facility for the purpose specified in the Letter of Offer;
- (b) The Customer shall ensure that the proposed utilisation of the Facility is for financing halal or Shariah permissible activities. Without prejudice to the obligations of the Customer under the foregoing, the Bank shall not be obliged to concern itself with the application by the Customer of the amount issued hereunder and the obligations of the Customer and the Security Parties under the Transaction Documents shall not in any way be prejudiced, affected or diminished by reason that all or any of the proceeds of the Facility are applied to some other purpose (whether or not the Bank has notice of that fact);
- (c) Notwithstanding any other provisions contained herein to the contrary, the Bank reserves the right to suspend or cancel the Facility if it is not utilised for the respective purposes it was granted or if the Facility are utilised for the purpose prohibited by Shariah and upon such cancellation, the Indebtedness shall become so due and payable together with compensation thereon and any other amounts then payable under this Agreement.

2.3 **Availability of the Facility:** Subject to fulfillment of all conditions set out in Clause 3.1 herein, in each case, in form and content satisfactory to the Bank and upon fulfillment of the conditions under Clause 4 herein, the Bank shall make the Facility available to the Customer during the Availability Period. Any amount undisbursed at the expiry of the Availability Period shall be cancelled or at the absolute discretion of the Bank, the Bank may extend the Availability Period subject to the fulfillment of any additional terms and conditions that may be imposed by the Bank pursuant to the extension.

2.4 **Shariah principle:** The Parties hereby agree and acknowledge that their rights and obligations under this Agreement are intended to be subject to and in conformity with Shariah principles of Tawarruq, as referred to in Clause 6 herein.

2.5 **Facility Tenure:** The tenure for the Facility shall be as set out in the Letter of Offer.

2.6 **Availability Period:**

- (a) Full disbursement shall be made not later than six (6) months from the date of the Letter of Offer or such further period as the Bank may prescribe failing which the Bank shall be at liberty either to withdraw the Facility or vary the terms of the Facility and the Customer shall reimburse the Bank for all costs, fees and expenses incurred by the Bank directly or indirectly;
- (b) The Parties shall execute this Agreement together with all the Transaction Documents within one (1) month from the date of the Letter of Offer failing the Bank may give the Customer notice in writing cancelling the Facility;

2.7 Purchase Price: For each Purchase Transaction, the Purchase Price shall be a sum equal to the utilisation amount under the Purchase Requisition.

2.8 Effective Profit Rate (EPR):

- (a) The effective Murabahah Profit which is part of the Selling Price, shall be an amount equivalent to the Effective Profit Rate and shall be calculated on the outstanding Purchase Price applicable for the entire duration of the Facility Tenure, on the basis of a 365 day year (both start and end date inclusive);
- (b) The applicable BR/BFR for the purpose of calculating the profit shall be the respective BR/BFR at the relevant Purchase Transaction date;

In the event of change of BR/BFR, the Effective Profit Rate shall be revised by the Bank accordingly. Any revision in the EPR shall not exceed the Ceiling Profit Rate.

2.9 Ceiling Profit Rate (CPR):

The Ceiling Profit Rate is at eleven per centum (11.0%) per annum; where in any case, the Effective Profit Rate will not be increased to exceed the Ceiling Profit Rate (save and except in a situation where Ta'widh is charged) which is to be calculated on the Purchase Price under each utilization applicable for the entire duration of the Facility Tenure on the basis of a three hundred sixty five (365) day year (both start and end date inclusive).

The Ceiling Profit Rate shall be applicable for the purpose of calculating "Murabahah Profit" at the respective relevant Purchase Transaction Date.

2.10 Selling Price: For each Sale Transaction, the Selling Price will be determined on the applicable Purchase Transaction date based on the Ceiling Profit Rate. The payment of the Selling Price shall be based on the Effective Profit Rate as follows:-

- (a) Grace Period Profit payment

The payment of Grace Period Profit shall commence on the first (1st) day of the month following the first disbursement of the Purchase Price until the expiry of the Grace Period or full disbursement of the Purchase Price, whichever is earlier. The monthly Grace Period profit to be paid will be based on actual amount disbursed, as advised by the Bank; and

- (b) Monthly Instalments payment

The monthly instalment payment shall be as set out in the Letter of Offer. The payment of monthly instalment shall commence on the first (1st) day of the month following the expiry of the Grace Period or full disbursement of the Purchase Price, whichever is earlier.

2.11 Ibra' (Rebate):

- (a) The Bank- shall grant rebate (Ibra') to the Customer, including but not limited to, the following events:-
 - (i) Early settlement or early redemption, including those arising from prepayments;
 - (ii) Settlement of the original financing contract due to financing restructuring exercise;
 - (iii) Settlement by the Customer in the case of default;
 - (iv) Settlement by the Customer in the event of termination or cancellation of the Facility before expiry of the Facility Tenure; and
 - (v) In the event the Effective Profit Rate is lower than the Ceiling Profit Rate.

- (b) The rebate (Ibra') for settlement is calculated in accordance to the following formula:-

Settlement Amount:

Outstanding Selling Price	+	Instalment Due	+	Late Payment Compensation (Ta'widh)	+	Other Charges	-	Rebate (Ibra')
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Where:-

Rebate (Ibra') = Deferred Profit - Early Settlement Charges

Deferred Profit means unaccrued profit at the point of settlement of the Facility.

Early Settlement Charges means the charges that may be imposed by the Bank on the Customer for early settlement of the Facility before the end of the Facility Tenure. Such charges may include:-

- (i) costs that have not been recovered because a financing contract has a structure with discount elements at the initial period of financing (if applicable); and
- (ii) initial costs that have not been recovered (e.g; legal fees, valuation fees and takaful contribution),

but shall in any event be a reasonable estimate of the costs incurred by the Bank as a direct result of such early settlement.

Other Charges are including but not limited to the following:

- (i) Advances paid by the Bank including takaful contribution/insurance premium, legal fees, quit rent, other incidental cost incurred and etc;
 - (ii) Any cost, expenses and charges (excluding Ta'widh) which have not been paid on the settlement date.
- (c) For the avoidance of doubt, it is hereby acknowledged and agreed that the rebate (Ibra') referred to herein shall not be construed in any manner whatsoever as cash rebate payable to the Customer, but shall be reflected as a reduction in the Murabahah Profit.

2.12 Changes in BR/BFR:

- (a) Notice on the change of the BR/BFR shall be notified by the Bank to the Customer in the following manner:
 - (i) By either placing in one issue of a daily national newspaper a general notice of change of the BR/BFR addressed to the public generally; or
 - (ii) By posting a notice of such changes in any of the Bank's branch premises or website.
- (b) Notwithstanding the issue of the general notice specified in Section 2.12(a)(i) and 2.12(a)(ii) above, the Bank may at its absolute discretion decide (without any further notice to the Customer) that such variation shall not apply to the Customer and the Security Party(ies) to whom a demand hereunder had been made or legal proceedings had been commenced against the Customer and/or any of the Security Party(ies).
- (c) The decision of the Bank as to what at any time is the BR/BFR and the date(s) from which such amendment shall take effect shall be final and conclusive and shall not be questioned on any account whatsoever.

- (d) If and whenever the BR/BFR payable by the Customer shall be varied, the Bank may, at its absolute discretion, adjust the amount of rebate granted to the Customer during the Facility Tenure upon changes of the EPR due to the fluctuating BR/BFR, provided always that the total amount received by the Bank shall not exceed the Bank's Selling Price.

2.13 Changes of the Monthly instalment/payment amount

- (a) In the event of any change in the BR/BFR at any time during the Facility Tenure resulting in the change in the EPR, the Bank shall have the right to revise the monthly instalment/payment amount accordingly and such revision in monthly instalment/payment amount shall be notified to the Customer(s). Any revision in the EPR as aforesaid shall not exceed the CPR.
- (b) In addition to Clause 2.13 (a) above, in the event of any delay or failure by the Customer(s) to pay any monthly instalment/payment amount during the Facility Tenure in accordance with this Agreement, the Bank shall have the right to revise the Monthly Payments by revising the EPR. Such revision in monthly instalment/payment amount as aforesaid shall be notified to the Customer(s) and the Revised EPR shall not exceed the CPR.

2.14 Prepayment:

- (a) The Customer shall give the Bank a minimum written notice of one (1) month prior to making a partial or total prepayment which prepayment must be made on the Profit Payment date as referred to in Clause 2.11.
- (b) Any notice for prepayment shall be irrevocable and the customer shall be obligated to make such prepayment in accordance with the notice and any amount which is paid may not be reimbursed.

2.15 Late Payment Compensation (Ta'widh): In addition to and without prejudice to the Bank's rights, powers and remedies contained in the Transaction Documents, in the event if there is any amount due and remains unpaid, the Customer shall pay to the Bank compensation on such default amount, commencing from the date such default amount was first due for payment to the date of actual payment (both before and after judgment) as follows:-

- (a) if default occurs during the Facility Tenure of the Facility or any part thereof, at the rate of one per centum (1%) per annum on such overdue amount or such other method thereof or such other method or rate as shall be stipulated by Shariah Advisory Committee of the Bank ("the Bank SAC") and/or Shariah Advisory Council of Bank Negara Malaysia ("BNM") from time to time; and
- (b) if default occurs after the maturity of the Facility or any part thereof, at the rate that shall not exceed the prevailing daily overnight Islamic Interbank Money Market (IIMM) on outstanding balance or other method approved by the Bank SAC and/or Shariah Advisory Council of BNM from time to time.

Notwithstanding the amount of Late Payment Compensation (Ta'widh) charged, it is expressly acknowledged and agreed that the said amount of Late Payment Compensation shall not be further compounded.

2.16 Priority of Payments: Payments received from the Customer will be deducted from the Facility in the following order of priority:-

- (a) Profit;
- (b) Principal Amount; and
- (c) Other Charges.

3. CONDITIONS PRECEDENT

- 3.1 **Conditions Precedent:** the Bank's obligation to make available the Facility shall be subject to the Bank being satisfied that the conditions precedent as referred to in Schedule 2 of this Agreement and all terms and conditions as stipulated in the Letter of Offer and as stipulated in the Transaction Documents have been complied with and fulfilled by the Customer and/or the Security Parties.
- 3.2 **Waiver, suspension and cancellation:** It is hereby expressly acknowledged and declared that the conditions hereinbefore contained are inserted for the sole benefit of the Bank and may therefore be waived wholly or in part by the Bank at the sole and absolute discretion of the Bank without prejudicing the rights of the Bank under any document entered into between the Bank and/or the Customer and such waiver shall not prejudice the rights of the Bank from insisting on the Customer's compliance with any such waived conditions at any subsequent time.
- 3.3 **Cancellation Pending Compliance:** Pending the fulfillment in the manner satisfactory to the Bank of the conditions hereinbefore stipulated, the Bank may at its absolute discretion suspend the issuance of the Facility or any part thereof should the Bank discover any irregularities or false information given to the Bank at the time of the approval of the Letter of Offer or application of the Facility.
- 3.4 **The Bank's Authority to release:** The Customer hereby unconditionally and irrevocably authorises the Bank (where necessary) to pay the proceeds of the Facility directly to any such person or persons as may be entitled thereto or to any other party as the Bank may at its absolute discretion deem expedient Provided That the Bank shall not be deemed to be the agent of the Customer in so disbursing the proceeds of the Facility. All amounts so paid shall be deemed to form part of the Facility made hereunder and the acknowledgment or receipt of such parties shall be deemed as if the same had been made or given by the Customer personally.
- 3.5 **No Obligation to Make Further Advances:** Nothing contained in this Agreement shall be deemed to impose on the Bank any obligation either at law or in equity to make or continue to make any advance to the Customer.

4. OTHER TERMS AND COVENANTS FOR UTILISATION OF THE FACILITY

- 4.1 **Other Terms and Covenants:** Notwithstanding Clause 3 hereinabove provided, the obligation of the Bank to make available and continue to make available the Facility to the Customer is further subject to the following conditions:-
- (a) no Events of Default shall have occurred and no event shall have occurred which, with the giving of notice and/or the lapse of time and/or upon the making of any necessary certification or determination, would constitute an Event of Default as a result of making any disbursement or to render the Facility to become immediately payable and no event of default under any agreement or arrangement referred to in this Agreement has happened and is continuing;
 - (b) no default has occurred in the performance by any party thereto of any covenant or agreement contained in any of the agreements and arrangements referred to in this Agreement;
 - (c) no extraordinary circumstances, governmental action or other Material Adverse Effect or event has occurred which in the opinion of the Bank prejudices the ability of the Customer to observe and perform the covenants and obligations on its part to be performed under this Agreement;

- (d) as from the date when the Customer first applied for the Facility there have been no alterations or changes in the constitution, condition, financial position, operations, business or other affairs of the Customer which could or might affect the decision of the Bank to grant the Facility;
 - (e) no breach of any covenant which will either constitute an act of default or lead to an act of default under the Facility, which permits the Bank to recall the Facility;
 - (f) no unsatisfactory judgment or order made against the Customer and/or the Security Party(ies);
 - (g) the Bank shall have the right to send any of its authorized representatives to visit and inspect the Property with full assistance from the Customer and/or the Security Party(ies);
 - (h) the Facility are subject to annual review and the Bank reserves the right at any time, at its discretion, to modify, vary or cancel the utilized portion of the Facility or part thereof;
 - (i) each of the representations and warranties set out in Clause 12 herein remains accurate at the date of the authorization as if given on that date by reference to the facts and circumstances then existing; and
 - (j) the Bank reserves the right to cancel the Facility if it is not used for the purpose(s) it was granted or if the Facility is used for a purpose prohibited by Shariah.
- 4.2 The Bank shall have been satisfied that the financing by the Bank hereunder and the Bank's agreement to make available or to continue to make available the Facility to the Customer will not contravene or be in breach of any financing limits or restrictions that may be imposed on the Bank from time to time by any authority having jurisdiction over the Bank or any of the guidelines directives or policies introduced by such authority from time to time.
- 4.3 The Bank shall reserve its right, at its absolute discretion, not to make any advance of monies, if such would at the time of advance, render the Bank in breach or default of any law, directive or regulation of any government and/or central bank authority or if funds are not available at the time of request by the Customer for a disbursement.
- 4.4 The Customer hereby agrees that the terms and conditions herein are subject to, in the opinion of the Bank that there is Material Adverse Effect occurs which could materially affect the successful completion of the Facility. Should a material adverse change occur, in the opinion of the Bank, prior to financial close, the Bank reserve the right to cancel and/or restructure the Facility.
- 4.5 The Customer hereby agrees that the Facility shall subject to all relevant authorities' approvals, where applicable.

5. DISBURSEMENT

- 5.1 **Disbursement of the Facility:** The disbursement of the Facility, which shall be made on a Business Day and subject to the Availability Period, is subject to the obligations on the part of the Customer as set out in this Agreement having been fulfilled and performed to the satisfaction of the Bank and to the compliance of the following conditions:-
- (a) the conditions precedent and/or disbursement conditions stipulated as stipulated herein shall have been fulfilled by the Customer and/or the Security Party(ies) to the satisfaction of the Bank;
 - (b) the Facility or any part thereof shall be disbursed to the vendor/developer (as the case may be) or their respective solicitors through the Bank's solicitors as follows:-

- (i) Where the property is under construction, the Facility will be progressively disbursed against the original or copy of the Architect's Certificate(s) of work done/completed certified by the relevant architect with supporting documents and the redemption statement (if there is any existing charge on the said Property); or
- (ii) The Bank shall not be liable to the Customer either directly or indirectly for late payments to the vendor/developer or to any third parties;
- (c) no event has occurred in the opinion of the Bank which amounts or would amount to any material adverse change in the condition, financial or otherwise of the Customer as at the date of the disbursement of the Facility;
- (d) such other conditions, confirmations and documents as may be deemed necessary by the Bank and/or the Solicitors to ensure that the Bank is fully protected and to ensure compliance with its standard terms and conditions;
- (e) all fees and expenses payable under the Transaction Documents and hereunder which have become due have been paid in full;
- (f) the terms and conditions of the Letter of Offer and/or any other letter issued or to be issued by the Bank has been duly complied with by the Customer; and
- (g) the Bank reserves the right to recall, cancel or withdraw the Facility at its absolute discretion and in accordance with the relevant Shariah principles in the event the Facility is not used for this purpose.

5.2 Specific Terms and Conditions: In addition to and not in derogation of other terms in this Agreement, the Facility shall be utilized subject to such special terms and conditions set out in the Letter of Offer or otherwise generally in accordance with the Bank's standard terms and conditions applicable to the Facility.

5.3 Guidelines: Notwithstanding the above, the transaction arising from this Facility / Facility Agreement shall at all times be subject to all prevailing rules, directives, terms, procedures, regulations and guidelines (whether having the force of law or otherwise) which in the opinion of the Bank is pertinent to the Bank in order to ensure industry practices are met.

6. METHOD OF FINANCING

6.1 The Facility shall be based on the Shariah principle of Tawarruq.

6.2 In accordance with the Shariah principle of Tawarruq and the Bank's Islamic financing facilities procedures, the Customer may utilize the Facility upon the completion of the following transaction:-

- (a) The Customer will issue the Purchase Requisition to purchase the Commodities from the Bank at the Selling Price;
- (b) The Customer will also execute the Agency Agreement whereby the Customer will appoint the Bank as his/her agent to:-
 - i. Purchase the Commodities from the Bank at an amount equivalent to the Selling Price; and thereafter
 - ii. Sell the Commodities to a third party Commodity Trader at an amount equivalent to the Purchase Price;
- (c) Upon receipt by the Bank of the Purchase Requisition from the Customer, the Bank will purchase the Commodities from a Commodity Trader at the cost price of the

Commodities payable on cash basis which shall be an amount equivalent to the Purchase Price;

- (d) The Commodity Trader will deliver the Commodities evidenced by a certificate together with the delivery order as evidenced for the transfer of ownership to the Bank;
- (e) Pursuant to the Agency Agreement whereby the Customer appoints the Bank as its agent to purchase the Commodities on his/her behalf from the Bank, the Bank will execute the Murabahah Sale Contract at the Selling Price based on the Murabahah concept (cost plus profit) which shall be payable by the Customer to the Bank by way of instalment or deferred payment or any other manner as prescribed by the Bank;
- (f) Upon conclusion of Clause (e) above and pursuant to the Agency Agreement in Clause (b) above, the Bank will then sell the Commodities to the third party Commodity Trader at the cost price of the commodity. The proceeds from the sale of the commodities shall be disbursed to the vendor/developer in accordance with the Agency Agreement.
- (g) Unless otherwise agreed between the parties, the Bank shall, upon request, allow the Customer to take possession of the Commodities or at the costs of the Customer, deliver the Commodities according to the Customer's instruction.

7. GENERAL / FAMILY TAKAFUL

7.1 Fire Takaful:

- (a) The Bank shall arrange on behalf of the Customer, for the said Property to be covered according to its reinstatement value against fire and other contingencies as may be required by the Bank at the time when the first progress payment of the Facility is made with the Bank's appointed Takaful Provider. The Bank shall be entitled to act as the agent of the Takaful Provider and to retain any payment and commission receivable under the certificate.
- (b) However, should the Customer opt to take up the Takaful plan from Takaful Provider of the Customer's choice, the Customer has to ensure that the sum covered must be sufficient.
- (c) The Customer is also responsible for any annual payment of contribution of the Fire Takaful certificate. Where the protection period is expiring and the contribution is late, the Bank may advance the said contribution and the Customer shall reimburse the payment within the time period stipulated by the Bank. The Customer is required to advise the Bank on the amount to be covered failing which the Bank will cover the said Property for the amount/value as the Bank shall deem fit at its absolute discretion and the Customer shall not hold the Bank liable in any event of inadequacy of Takaful coverage. The contribution is to be settled within sixty (30) days of its inception or renewal date.

7.2 Mortgage Reducing Term Takaful ("MRTT")/Family Takaful:

The MRTT/Family Takaful is compulsory and is to be taken by the Customer at a full coverable value of the Facility and for the Facility Tenure of the Facility in order to guarantee the payment of all the Indebtedness unless otherwise stated by the Bank.

- (a) the Bank may at its absolute discretion finance the contribution payable for the MRTT certificate subject to the following conditions:-
 - (i) the MRTT certificate must be taken up only from the Bank's panel Takaful Provider or other Takaful Providers of your choice duly approved by the Bank. If

the Takaful Provider rejects the Customer's application, the Bank will not finance the contribution;

- (ii) the Bank will only finance the MRTT contribution according to details of the person(s) covered and amount of coverage as specified in the Letter of Offer;
 - (iii) only the basic contribution for the MRTT certificate will be financed. If the Takaful Provider requires a loading or excess to be paid, the customer may request the cost of such loading or excess amount to be included into the financing amount subject to approval by the Bank;
 - (iv) the Customer must assign absolutely all rights, title, interest and benefits of the covered proceeds payable under the MRTT certificate to the Bank and the Bank is to be named as the sole beneficiary;
 - (v) The execution of the Transaction Documents will be undertaken upon receipt of the Letter of Acceptance of the MRTT from the Takaful Provider; and
 - (vi) The MRTT shall take effect from the date of first disbursement of the Facility.
- (b) In the event, the Customer decides to opt for the Family Takaful, the Customer shall enter into the specific form as provided by the Takaful Provider on the assignment of the Family Takaful. The assignment form shall be lodged at the Bank for safekeeping throughout the Facility Tenure of the Facility. The Customer shall continue to settle the contribution payment for the said Family Takaful throughout the Facility Tenure of the Facility.
- (c) In the event the property is auctioned off and upon the Bank receiving full sale proceeds, all Takaful certificates relating to the Facility such as the MRTT/Family Takaful and Fire Takaful shall be terminated by the Bank.
- (d) In case of claim, all amount payable under the Takaful coverage taken up will be made to the Bank directly and will be first used to offset any outstanding Facility(ies) due to the Bank. The remaining benefits (if any, after the set-off) will be payable to the Customer or the Customer's estate (as the case may be).
- (e) In the event, the Customer is allowed waiver for MRTT or Family Takaful Assignment for the Facility (subject to approval by the Bank), the Facility will not be protected in case of death and any outstanding on the Facility shall be settled by the Customer's beneficiary.

8. CONDITIONS UNDER THE FACILITY

In addition to the conditions precedent in Clause 3 herein, the Bank shall have the absolute right and discretion, now or hereinafter or from time to time, to impose the following conditions and/or any other condition(s) as the Bank may deem fit for the utilisation and/or continued utilisation of the Facility by the Customer:

8.1 Special Conditions:

- (a) The Customer shall duly comply, perform and observe and will cause to be duly complied, performed and observed all the terms, covenants, conditions, provisions and obligations on the part of Customer as contained in the Transaction Documents and ensure that Customer shall immediately notify the Bank in the event that the Customer is unable to comply, perform or observe any of the provisions of the Transaction Documents.
- (b) The special conditions as set out in the Letter of Offer.

- (c) Such other conditions as advised by the Bank's solicitors.

8.2 Other Conditions:

- (a) The Bank reserves the rights at its sole discretion to debit the Customer's account with the Bank towards the payment of expenses relating to the Facility, including the MRTT contribution, quit rent, assessment, outgoings, fees and costs (including any professional charges) incurred in the recovery of the Facility and enforcement of the securities and the Bank's rights under the Facility (if applicable).
- (b) In the event there is any outstanding balance of the Facility after the expiry of the Grace Period, the balance of the Facility will be credited into a "Financing Payable Account" and thereafter, payment shall be made in the same manner as stated in the Letter of Offer.
- (c) The Transaction Documents (where applicable) entered between the Customer and the Bank is for the sole purpose of financing or part-financing the purchase of the said Property or such other purpose set out in the Letter of Offer and the Customer is obliged to follow the rules and regulations thereof.
- (d) The Bank shall reserve the right to revalue the said Property at any time and the fees and costs incurred shall be borne by the Customer.
- (e) The Customer and/or the Security Party(ies) hereby covenants with the Bank that it shall at all times during the continuance of the Facility obtain the prior written consent of the Bank:-
- (i) Before initiating, commencing, instituting or maintaining any action, suit or proceedings whatsoever in any court or tribunal against a developer and/or the vendor in respect of any matter arising out of the Sale and Purchase Agreement; and/or
- (ii) Before agreeing with the developer and/or the vendor on any variation or amendment whatsoever of the terms of the Sale and Purchase Agreement or the termination, rescission, cancellation or revocation of the Sale and Purchase Agreement.
- (f) The Bank reserves the right to impose additional conditions governing the Facility from time to time at its absolute discretion.

9. FEES AND EXPENSES

9.1 Fees, Costs and Expenses: The Customer shall pay on demand and on a full indemnity basis to the Bank:-

- (a) upon the execution of this Agreement all fees, costs, charges and expenses (including legal fees) incurred by the Bank in connection with the preparation and execution of the Transaction Documents;
- (b) notwithstanding the above, the Customer will also be liable for all the legal fees and incidental expenses incurred in the following event (including but not limited to):-
- (i) the Customer fails to execute any of the Transaction Documents;
- (ii) cancellation of the Facility (either partly or fully); and/or
- (iii) change of financing solicitors (by request of the Customer);

- (c) all costs, charges and expenses (including legal fees on a solicitor and client basis) of the Bank in connection with the enforcement of, or preservation of any rights under this Agreement and/or the Transaction Documents. If the Facility or any part thereof, profit thereon and all other moneys payable shall be required to be recovered through any process of law, or if the said moneys or any part thereof shall be placed in the hands of solicitors for collection, the Customer shall pay (in addition to the moneys then due and payable under the Transaction Documents) the solicitors' fees (on a solicitor and client basis) and any other fees and expenses incurred in respect of such collection;
- (d) all moneys expended by the Bank under the Transaction Documents from time to time for and on behalf of the Customer (relating to takaful/insurance, quit rent, assessment, rates, taxes, repairs, legal costs, stamp duties, registration fees and all other outgoings including any expenses incurred by the Bank in visiting, inspecting or reporting on the business of the Customer by the Bank's agents and or consultants) shall be recoverable and be paid by the Customer on demand by the Bank. In default of such payment, such moneys shall be deemed to form part of the indebtedness and to be secured accordingly under the Transaction Documents and the account of the Customer shall be debited accordingly.

9.2 Duties: The Customer shall pay all stamp documentary registration or other similar duties or taxes (including any such duties payable by the Bank) imposed in connection with this Agreement and/or the Transaction Documents and shall indemnify the Bank against any liability arising by reason of any delay or omission by the Customer to pay such duties or taxes.

9.3 Regulatory Taxes

If any supply or services made pursuant to this Agreement and the Transaction Documents is a taxable supply or service, the Bank reserves its right to levy the taxes at the prescribed rate and the Customer (as the recipient of the supply or service) agrees to pay the amount of taxes which will be advised by the Bank accordingly.

9.4 Early Settlement Charges: In the event the Customer opts to make an early settlement before expiry of the Facility Tenure, the Customer shall pay to the Bank all the costs incurred which have been duly paid by the Bank on behalf of the Customer (including but not limited to the legal and valuation expenses), if any.

10. PAYMENTS

- 10.1** The Selling Price shall be payable as per the terms and conditions of the Transaction Documents.
- 10.2** The Indebtedness for the Facility, other than the Selling Price shall be payable as per the terms of this Agreement.
- 10.3** All payments to be made by the Customer for the account of the Bank, shall be made in Ringgit Malaysia in immediately available funds not later than 11.00 a.m on the relevant day to the Bank's account or such other bank and account as the Bank may have notified to the Customer.
- 10.4** All payments by the Customer under this Agreement, whether in respect of principal, profit, commission, fees or any other amount, shall be made in full without any deduction or withholding (whether in respect of set-off, counterclaim, duties, taxes, charges or otherwise whatsoever) unless the deduction or withholding is required by law, in which event the Customer shall:-

- (a) ensure that the deduction or withholding does not exceed the minimum amount legally required;
- (b) forthwith pay to the Bank such additional amount so that the net amount received by the Bank will equal the full amount which would have been received by it had no such deduction or withholding been made;
- (c) pay to the relevant taxation or other authorities within the period for payment permitted by the applicable law, the full amount of the deduction or withholding (including, but without prejudice to the generality of the foregoing, the full amount of any deduction or withholding from any additional amount paid pursuant to this clause);
- (d) furnish to the Bank, within the period for payment permitted by the applicable law, either:-
 - (i) an official receipt of the relevant taxation authorities in respect of all amounts so deducted or withheld as aforesaid; and
 - (ii) if such receipt is not issued by the relevant taxation authorities on payments to them of amounts so deducted or withheld, a certificate of deduction or equivalent evidence of the relevant deduction or withholding;
- (e) if the Customer shall default in the payment of the Indebtedness and/or the Selling Price and/or other moneys owed on the respective due dates, as the case may be, or any other moneys herein covenanted to be paid from time to time, the Customer shall pay to the Bank Ta'widh (Late Payment Compensation) in accordance with Clause 2.14 hereof; and
- (f) if any payment would otherwise be due on a day which is not a Business Day, it shall be due on the next succeeding Business Day or, if that Business Day falls in the following month, the preceding Business Day.

All monies received from or on account of the Customer or from any other person (including but not limited to any surety) or from the realization of the security created by the Transaction Documents or any security or otherwise for the purpose of being applied in the reduction of the account of the Customer or of the monies covenanted to be paid as hereinbefore provided shall be treated for all purposes as payments in gross and not as appropriated or attributable to any specific part or item of the said monies covenanted to be paid even if appropriated thereto by the Bank. All securities now or at any time held by the Bank shall be treated as security for the said general balance. The Customer or any other person or persons claiming under the Customer shall have no claim to such securities or to any part thereof or any profit margin and/or commission therein unless and until the Bank has received the full amount owing to the Bank by the Customer.

11. SECURITY

11.1 Security: In consideration of the Bank granting the Facility, the Customer shall in addition to this Agreement, on the execution of this Agreement, execute and/or cause the Security Party(ies) to execute the Transaction Documents (which shall include the Security Documents as stated in Section 4 of Schedule 1 hereto) as stipulated under Section 5 of Schedule 1 hereto.

11.2 Covenant to Provide Further Security:

- (a) The Customer shall at any time if and when required by the Bank to do so, execute in favour of the Bank or as the Bank shall direct such legal or other mortgages, charges, assignments, transfers, guarantees or agreements as the Bank shall require and on all the Customer's right title and interest in any property or assets or business now belonging to or which may hereafter be acquired by or belong to the Customer

(including any vendor's lien) and the benefit of all licences in connection therewith to secure the Indebtedness, such mortgages, charges, assignments, transfers or agreements to be prepared by or on behalf of the Bank at the cost of the Customer and to contain all such terms and conditions for the benefit of the Bank as the Bank may reasonably require.

- (b) The Customer shall at any time if and when required by the Bank to do so, deposit with the Bank the documents of title of any or all immovable properties vested in the Customer for any tenure and all or any debentures shares stocks or other investments or securities registered in the name of the Customer or otherwise belonging to the Customer. Such deposit may be by way of collateral security for the payment of the Indebtedness and may also or otherwise be for the purpose of securing any other moneys owing to the Bank by the Customer and not secured hereby.

11.3 Continuing Security: The security created pursuant to the Transaction Documents is expressly intended to be and shall be a continuing security for all moneys whatsoever now or hereafter from time to time owing to the Bank by the Customer whether alone or jointly and severally with another or others and whether as principal or security notwithstanding that the Customer may at any time or times cease to be indebted to the Bank for any period or periods and notwithstanding that the account or accounts of the Customer with the Bank may from any cause whatsoever cease to be current account or accounts and notwithstanding any settlement of any account or accounts or otherwise.

11.4 Primary Security: The securities constituted under this Clause 11 shall be primary and not merely collateral securities and the Bank's rights against the Customer shall not be discharged or impaired by:-

- (a) the existence or validity of any other security taken by the Bank in relation to the monies due under the Transaction Documents or any exercise or enforcement of or failure to exercise or enforce any rights otherwise;
- (b) non-fulfilment for any reason (whether known to the Bank or otherwise) of any of the conditions, or the invalidity of any of the conditions, or the invalidity or unenforceability for any reason (known to the Bank or not) of any provision of any agreement with the Bank to which the Customer is a party, or any amendment or variation to such agreement or any security; or
- (c) any other act, event or omission which would or might but for this Clause operate to impair or discharge the Customer's obligations to the Bank or the Bank's rights against the Customer.

11.5 Liens and Other Securities Not Affected: Nothing herein shall prejudice or affect any lien to which the Bank is entitled or any other securities which the Bank may at any time or from time to time hold for or on account of the monies hereby secured, nor shall anything herein contained operate so as to merge or otherwise prejudice or affect any bill, note, guarantee, mortgage or other security which the Bank may for the time being have for any money intended to be secured by the Transaction Documents or any right or remedy of the Bank thereunder.

12. REPRESENTATIONS AND WARRANTIES

12.1 Representation and Warranties: The Customer acknowledges that the Bank has entered into this Agreement and the Transaction Documents in full reliance of the representations and warranties by the Customer on the following terms and the Customer now represents and warrants to the Bank that:-

- (a) Status: where the Customer is a body corporate, the Customer has full legal right, authority, power and capacity to accept the Facility and to perform the terms in the Letter of Offer and all the Transaction Documents. The Customer is duly incorporated and validly existing under the laws of Malaysia and has full power and authority to

carry on its business as it is now being carried on has full power and authority to own assets;

(b) Powers and authorisations:

(i) the Customer has power and authority to own its assets, carry on its business and operations carry on its business and operations as they are now being conducted and execute and deliver, and perform its obligations under the Transaction Documents to which it is a party and the Transaction Documents to which it is a party constitute valid and binding obligations of the Customer enforceable in accordance with their respective terms;

(ii) this Agreement embodies in writing all and the entire terms of the agreement and it is hereby declared and confirmed that no warranties, promises, representations, collateral agreements have been made and if, which is denied, that any such warranties, promises, representations or collateral agreements were made they have now lapsed and are superseded by this Agreement and be of no effect whatsoever;

(c) Non-violation: the execution of each of the Transaction Documents and delivery and performance thereof by the Customer and the utilisation of the Facility do not and will not:-

(i) exceed the power granted to it by or violate the provisions of, any law or regulation or any order or decree of any governmental authority, agency or court to which it is subject;

(ii) result in any actual or potential default under any existing mortgage debenture contract or agreement binding on it or to which it is subject;

(iii) where it is a corporation, contravene any of the provisions of its Memorandum and Articles of Association; or

(iv) result in any limitation upon its powers to obtain financing or create any imposition of or oblige it to create any encumbrance over any of its undertaking or any of its assets, rights or revenues other than pursuant to the provisions of the Transaction Documents;

(d) Consents: no authorisation, approval, consent, licence, exemption, registration, recording, filing or notarisation and no payment of any duty or tax and no other action whatsoever which has not been duly and unconditionally obtained, made or taken is necessary or desirable to ensure the validity, enforceability or priority of the liabilities and obligations of the Customer and the rights of the Bank under the Transaction Documents;

(e) No default: no event has occurred which constitutes, or which with the giving of notice and/or the lapse of time and/or a relevant determination would constitute, a contravention of, or default under, any agreement or instrument to which the Customer or by which any of its assets is bound or affected being a contravention or default which might either have an adverse effect on the business, assets or condition of the Customer or adversely affect its ability to observe or perform its obligations under the Transaction Documents to which it is a party;

(f) Litigation: no litigation, arbitration or administrative proceeding or claim which might by itself or together with any other such proceedings or claims either have a Material Adverse Effect on its business, assets or condition or materially and adversely affect its ability to observe or perform its obligations under the Transaction Documents to which it is a party, is presently in progress or pending or, to the best of the knowledge, information and belief of the Customer, threatened against the Customer or any of its assets;

- (g) Tax liabilities: all necessary returns have been delivered by or on behalf of the Customer to the relevant taxation authorities and the Customer is not in default in the payment of any taxes, and where the Customer is a body corporate, no claim is being asserted with respect to taxes which are not disclosed in the financial statements referred to in Clause 12.1(h);
- (h) Accounts: where the Customer is a body corporate, all financial statements, information and other data furnished by the Customer to the Bank are complete and correct, have been prepared in accordance with generally accepted accounting principles and practices consistently applied and accurately and fairly represent the financial condition and results of operations of the Customer as at the date or dates to which they were made up. Since such date or dates there has been no change in the Customer's financial condition or results of operations sufficient to impair its ability to comply with its obligations under the Transaction Documents;
- (i) No Security Interest: other than those Security Interest pursuant to the Transaction Documents, none of the assets of the Customer is affected by any Security Interest, and the Customer is not a party to, nor is it or any of its assets bound by, any order, agreement or instrument under which the Customer is (or in certain events may be,) required to create, assume or permit to exist any Security Interests;
- (j) Information: the information (be it in writing or otherwise) furnished by the Customer in connection with the Facility and the Transaction Documents does not contain any untrue statement or omit to state any fact the omission of which makes the statements therein, in the light of the circumstances under which they were made, misleading/inaccurate, and all expressions of expectation, intention, belief and opinion contained therein were honestly made on reasonable grounds after due and careful enquiry by the Customer;
- (k) Change in Customer: where the Customer is a body corporate, since the date the Customer applied for the Facility there has been no material alterations or changes in the constitution condition, business financial position or operations or other affairs of the Customer which could or might adversely affect the ability of the Customer to perform its obligations under the Transaction Documents to which it is a party;
- (l) Change in Law: no extraordinary circumstances or change of law or other governmental action has occurred which shall make it improbable that the business of the Customer can be carried out or that the Customer will be able to perform its covenants and obligations to be performed under the Transaction Documents to which it is a party;
- (m) Assets: the Customer is the beneficial owner and has title to all its assets;
- (n) Legality of Agreement: this Agreement and the Transaction Documents are and will be the legal, valid and binding and the obligations of the Customer enforceable in accordance with the terms and the obligations therein contained and will be direct, unconditional and general obligations of the Customer;
- (o) Default: the Customer is not in default under any agreement or in the payment or performance of any of its obligations including in respect of monies advanced by any third party and such default is not continuing;
- (p) Disclosure of Liabilities: where the Customer is a body corporate, as at the date of this Agreement, the Customer has no liabilities (contingent or otherwise) which are not disclosed in its financial statements (or by the notes thereto) furnished to the Bank or reserved against therein, nor were there at that date any unrealised or anticipated losses;
- (q) Claim of Immunity: the Customer is not entitled to claim immunity from any suit, execution, attachment or legal process in Malaysia;

- (r) Winding-up/Bankruptcy Proceedings: the Customer has not been subjected to, or threatened to be subjected to, any bankruptcy, liquidation or winding-up proceedings, whether voluntary or compulsory, and neither has the Customer been subjected to circumstances in which a receiver, administrator or administrative receiver sought to be appointed of the whole or any part of its undertaking, property or assets nor has any petition for the appointment of an administrator of the Customer been presented or a voluntary arrangement been approved in relation to the Customer;
- (s) Legal Proceedings under Companies Act, 2016: where the Customer is a body corporate, no step has been taken by the Customer or its creditors or its shareholders or any other person on its behalf nor have any legal proceedings or applications been started or threatened under Section 176 of the Companies Act, 2016;
- (t) Restructure of Debts: where the Customer is a body corporate, no step has been taken by the Customer or its creditors or its shareholders or any other person on its behalf to restructure the debts of the Customer;
- (u) Environmental Matters: the Customer has observed and complied with all laws and directives relating to environmental matters whether in Malaysia or other jurisdictions which are applicable to the Customer and that where the Customer is a body corporate, the Customer's activities do not give rise to pollution liabilities or environmental damage;
- (v) Compliance with Government Authority: the Customer is conducting its business and operations in compliance with all laws, regulations, order or decree and all directives of governmental authorities having the force of law to which the Customer is subject;
- (w) Dishonoured Cheque Information System (DCHEQS): in accordance with the prevailing Dishonoured Cheque Information System (DCHEQS) maintained by BNM from time to time, the Customer hereby acknowledges that the Bank reserves the right without prior notice or reference to close the current account of the Customer whether held solely or jointly with others to comply with the system;
- (x) Takaful: the Customer has at the request of the Bank (if applicable) obtained and maintained all such takaful policies (life assurance policy and/or mortgage reducing term assurance policy or any other policy guaranteeing the payment of the Indebtedness) as would be maintained by a prudent Customer at all relevant times and has complied in all material respects with the terms and conditions of such policies; and
- (y) Related Persons:
 - (i) except as otherwise disclosed by the Customer, none of the Customer's spouse(s), parents, brothers, sisters, children, their spouses and/or their financial dependents directors, managers, controlling shareholders (whether directly or indirectly interested) or agents and guarantors of the Facility (where applicable) are in the employment of the Bank or its subsidiaries; and
 - (ii) except as otherwise disclosed by the Customer, none of the persons set out in paragraph (i) above are related to any director, officer or employee of the Bank or its subsidiaries currently.
- (z) No material adverse changes: There are no extraordinary circumstances or change of law or other governmental action or material adverse change in the Customer's financial position or operating environment or management or other conditions shall have occurred or continuing which is in the opinion of the Bank (which opinion shall be final and binding) would affect or prejudice the Customer's ability to fully perform and discharge the Customer's obligations hereunder; and

(aa) No investigations by any government agency, body or other regulatory authority are pending or are to be instituted against the Customer or the Security Party(ies).

12.2 Survival: The representations and warranties set out in Clause 12.1 shall survive the signing and delivery of this Agreement and any utilisation of the Facility and until the full and final settlement of the Indebtedness except that each reference to the financial accounts in Clause 12.1(h) hereof shall be construed as a reference to the then latest available financial statements of the Customer.

12.3 Repetition: The Customer warrants that each of the above representations and warranties in this Clause 12 is or shall be correct and complied with in all respects on each date on which a disbursement of the Facility are requested or made as if repeated by reference to the then existing circumstance, except that each reference to financial statements in Clause 12.1(h) above shall be construed as a reference to the then latest available financial statements.

13. COVENANTS

13.1 Positive covenants: The Customer undertakes with the Bank that, from the date of this Agreement until all the Indebtedness under this Agreement have been discharged:-

(a) Ranking: It shall ensure that its liabilities under the Transaction Documents to which it is a party rank and shall rank (and would rank if the Transaction Documents to which it is a party were neither executed nor required) at least equally and rateably (pari passu) in point of priority and security with all its other liabilities (both actual and contingent) except:-

(i) liabilities which are preferred solely by Malaysian law and not by reason of any Security Interest; and

(ii) any Security Interest created which is disclosed in writing to the Bank prior to the date hereof;

(b) Preparation of accounts: where the Customer is a body corporate, it shall prepare the financial statements referred to in Clause 12.1(h) on a basis consistently applied in accordance with generally accepted accounting principles in Malaysia and those financial statements shall give a true and fair view of the results of the operations of the Customer for the period in question and the state of its affairs for the period to which the financial statements are made up and shall disclose all the liabilities (actual or contingent) of the Customer which the same is to be furnished to the Bank on half yearly and yearly basis not later than six (6) months after the end of the financial period;

(c) Information: where the Customer is a body corporate, it shall keep full and particular accounts of the carrying on of its business or businesses and cause the same to be properly posted up to date and furnish to the Bank not later than ninety (90) days after the due dates the draft of unaudited quarterly financial statements of the Customer certified by the Authorised Signatory of the Customer in such form as the Bank may from time to time determine, and further as soon as available, but in any event within one hundred and twenty (120) days after end of its financial years, forward to the Bank copies of its audited annual financial statements (including balance sheet, profit and loss and cash flow) for those years and certified by a qualified independent auditor, stating accurately, in accordance with generally accepted accounting standards, the financial conditions of the Customer and promptly furnish to the Bank any other such information as the Bank shall reasonably require from time to time. The Customer shall also submit the quarterly accounts receivables report including ageing schedule no later than thirty (30) days from each quarter;

(d) Consents: It shall obtain and promptly renew from time to time, and shall promptly deliver to the Bank certified copies of, any authorisation, approval, consent, licence,

exemption, registration, recording, filing or notarisation as may be necessary or desirable to ensure the validity, enforceability or priority of the liabilities and obligations of the Customer or the rights of the Bank under the Transaction Documents and the Customer shall comply with the terms of the same;

- (e) Licences and Conduct of Business: where the Customer is a body corporate, it shall obtain all necessary licences and approvals and comply with all regulations relating to the carrying on of its business and shall carry on its business with due diligence and efficiency and in accordance with sound financial and business standards and practices and shall furnish to the Bank all information which the Bank may reasonably request in connection with such business;
- (f) Default: If it becomes aware of the possibility of the occurrence of an Event of Default, it shall forthwith notify the Bank and provide the Bank with full details of any steps which it is taking, or is considering taking, in order to remedy or mitigate the effect of the Event of Default or otherwise in connection with it;
- (g) Access: where the Customer is a body corporate, it shall at all times permit the Bank to have access to its books of account and its records relating to its business as and when the Bank requires;
- (h) Takaful: it shall maintain or cause to maintain such takaful in respect of the Property as required by the Bank and all such takaful shall be in such amounts, on such terms and with such takaful operator as may be approved by the Bank and will not do or omit to do or suffer anything to be done which might render any such takaful policies to be void or voidable with the Bank's interest as "financier" to be endorsed therein;
- (i) Auditors: where the Customer is a body corporate, it shall appoint from time to time such auditor or firm of auditors acceptable to the Bank and authorise such auditor or firm of auditors to supply the Bank with a certified copy of any communication sent by such auditor to the Customer and further to communicate directly with the Bank at any time in respect of any matter connected with the accounts and operations of the Customer;
- (j) Notification of Adverse Changes: It shall promptly notify the Bank of: (i) any material event or adverse change in the condition (financial or otherwise) of the Customer, (ii) any litigation or other proceedings of any nature whatsoever being threatened or initiated against the Customer before any court tribunal or administrative agency which may materially affect the operations and/or financial condition of the Customer, (iii) any dispute between the Customer and any government or statutory (body in respect of any of the Customer's lands and other asset, and (iv) any labour controversy which might result in a strike against the Customer; all such notification to be given to the Bank not later than fourteen (14) days after the Customer has knowledge of the change or of the litigation or other proceedings or threat thereof or dispute and the amount of any contingent liability if such amount is ascertainable;
- (k) Adverse Changes: No events shall have occurred in the opinion of the Bank that would have a Material Adverse Effect in the condition (financial or otherwise) of the Customer and/or the Security Party(ies);
- (l) Annual Return: where the Customer is a body corporate, it shall submit to the Bank annually at every financial year end a certified true copy of its annual return and return of allotment of shares as submitted to the Companies Commission of Malaysia;
- (m) Change in residential status: where the Customer is a body corporate, it shall promptly notify the Bank in the event of any change in its residential status, e.g. resident-controlled companies, its directors or its shareholders, as the case may be;
- (n) Operation and utilisation of the Facility: It shall ensure that the operation and utilization of the Facility with the Bank is active and satisfactory and the approved

limit of the Facility is observed at all times and that the Facility is utilised for the stipulated purposes in the Transaction Documents and for Shariah-compliant business;

- (o) Subordination of financing by directors, shareholders or related corporations: where the Customer is a body corporate, it shall procure and ensure that all present and future financing and advances granted to it by any of its directors, shareholders (including corporate shareholders) or related companies will be subordinated to the Indebtedness;
- (p) Costs, Expenses and Fees:
 - (i) It shall bear all costs, expenses and fees (including but not limited legal fees and Commodity Brokerage/Trading Fees) stamp duty, incidental fees or other charges incurred in the preparation of all documentation and perfection of the Transaction Documents;
 - (ii) It shall bear all costs and expenses of the Bank and any solicitors instructed by the Bank in the event that the Customer fails for any reason whatsoever, after having accepted the Letter of Offer, to proceed with the Facility;
 - (iii) It shall bear all fees and expenses, including the solicitor's fees (on a solicitor and client basis), in the event that any monies shall be required to be recovered by any process of law or by the solicitors; and
 - (iv) It shall punctually pay all its indebtedness when due and owing, unless contested in good faith and justifiable grounds;
- (q) Due diligence: where the Customer is a body corporate, it shall carry on and operate its business with due diligence and efficiency and in accordance with sound industrial and financial standards and practices and in accordance with its memorandum and articles of association and preserve, renew and keep in full force and effect its corporate existence and take all reasonable actions to maintain all rights and privileges necessary or desirable in the normal conduct of its business and comply with all contractual obligations, requirements and orders of applicable governmental authorities;
- (r) Payment of taxes and outgoings: It shall pay all rents, rates, assessments, taxes, levies, duties, charges, fees and outgoings due in respect of its assets, premises or the conduct of its business operations;
- (s) Notification of Disputes: It shall promptly, by written notice, inform the Bank of:-
 - (i) any legal proceeding, litigation or claim involving the Customer (where applicable, including its shareholders and any of its subsidiaries) and Security Party(ies);
 - (ii) any dispute between the Customer and any government or statutory body in respect of any of the Customer's lands and other assets;
 - (iii) any matter which has adversely affected or may adversely affect the Customer's ability to fulfill its obligations under this Agreement, its financial position or its ability to pay the Facility;
 - (iv) any material change in ownership and control, subject to assessment by the Bank of Material Adverse Effect;
- (t) Notification: It shall promptly give written notice to the Bank of:-
 - (i) any change in the financial condition, operations, business or assets of the Customer; and/or

- (ii) the inability of the Customer to pay amounts owed by it from time to time or to comply with the financial covenants under this Agreement and Transaction Documents; and/or
- (iii) the inability or unenforceability of any terms and conditions set in this Agreement and Transaction Documents against the Customer; and/or
- (iv) where the Customer is a body corporate, any change in the Customer's board of directors or its management or its major or controlling shareholders or partners; and/or
- (v) the occurrence of an Event of Default or of any event of default in relation to any of the Customer's other indebtedness; and/or
- (vi) any indebtedness of the Customer that has become due or capable of being declared due before its stated maturity, any guarantee or similar obligation of the Customer is not discharged at maturity or when called or the Customer has gone into default under, or commits a breach of, any instrument or agreement relating to any such indebtedness, guarantee or other obligation,

which would have a Material Adverse Effect on the rights, remedies and benefits available to, or conferred upon the Bank;

- (u) Dividend: where the Customer is a body corporate, it shall promptly give written notice to the Bank of declaration or payment of any dividend or bonus issue or any distribution (be it income or capital in nature);
- (v) Compliance with the Transaction Documents: It shall comply, perform and observe and will cause to be complied, performed and observed all the terms, covenants, conditions, provisions and obligations on its part as contained in the Transaction Documents and ensure that the Customer shall immediately notify the Bank in the event that the Customer is unable to comply, perform or observe any of the provisions of the Transaction Documents;
- (w) Property:-
 - (i) in the case where the separate issue document of title or strata title has been issued, let or cause to let the Bank have the custody or possession of the issue document of title or strata title to the Property for so long as the charge shall remain enforceable. In the case where the separate issue document of title or strata title has not been issued, let or cause to let the Bank have the custody or possession of the original stamped copy of the Sale and Purchase Agreement and such other agreement(s) or document(s), if any, evidencing the Customer's or Security Party's title to the Property, for so long as the Selling Price and all other moneys payable by the Customer remain undischarged and upon issuance of the separate document of title or strata title to the Property by the appropriate authority, deliver and caused to be delivered to the Bank the separate document of title or strata title to the Property for so long as the Charge shall remain enforceable. The parties hereby agree that insofar as the law shall permit the application of Section 244(2) of the National Land Code 1965 shall be restricted to instances where the production of any document is required for purposes of any action or matter initiated or instituted by the Government or any governmental authority department or officer and not where such document is required for any purpose or to effect any transaction conducted or initiated by the Customer AND nothing contained or expressed in the said Section 244(2) shall be construed as or deemed to be consent by the Bank;
 - (ii) pay the quit rent, assessment, rates, taxes, service charges and all other outgoings whatsoever payable from time to time in respect of the Property as

soon as the same become due and payable and will produce to the Bank on demand all receipts for such payment. In default whereof it shall be lawful for but not obligatory upon the Bank to pay the same or any part thereof and upon such payments by the Bank all sums so paid shall be for the account of the Customer hereunder;

- (iii) observe and perform all the terms and conditions contained in the Sale and Purchase Agreement and the Transaction Documents;
- (iv) comply with and observe all the conditions, restrictions and category of use, express or implied, imposed upon, relating to, or affecting the Property or any building erected thereon or to which the Property is subject as well as the provisions of any Act of Parliament, Ordinance or Enactment for the time being in force and of any rule or order made thereunder affecting the same;
- (v) keep all structures and fixtures now or at any time hereafter erected on or affixed to the Property in tenable repair and condition. In default whereof, it shall be lawful for but not obligatory upon the Bank to carry out such repairs and if the Bank shall carry out repairs, the costs and expenses thereof shall be for the account of the Customer and shall form part of the amount due hereunder;
- (vi) permit the Bank and its agents and workmen at all reasonable times of the day to enter upon the property and have access to any fixture thereof and to view and inspect the condition or repair thereof;
- (vii) inform the Bank of any application, demand, notice, order whatsoever, or any other notice, document or transaction in anyway affecting or concerning the Property or any part thereof forthwith upon its issue, publication or service (time being of the essence in respect thereof) and shall produce the same to the Bank whether demanded or not AND the Customer or the Security Party(ies) shall do all acts and take all steps necessary or expedient to safeguard and preserve the Property or any part thereof or the title or ownership thereto AND the Bank may if it thinks fit and on behalf of or in the name and at the expense of the Customer do all such acts and employ all such persons as the Bank shall deem fit for the purpose of safeguarding and preserving the Property;
- (viii) give full particulars in writing within seven (7) days to the Bank upon receipt of any notice or order or proposal therefor given issued or made to the Customer or the Security Party(ies) in respect of the Property by or on behalf of any planning, local government, public health, sanitary, housing or other authority and if so required by the Bank, without delay and within the period prescribed by such notice, take all reasonable or necessary steps to comply with the provisions of such notice or order and also at the request of the Bank and at the cost of the Customer make or join with the Bank in making such objection or representations against or in respect of any such notice or order or proposal therefor as the Bank may deem expedient; and
- (ix) observe and perform all the terms and conditions contained in the Transaction Documents and on the part of the Customer or the Security Party(ies) to be observed and performed and in addition thereto any condition and covenant binding upon the Property and not do or omit to do any act matter or thing on or in respect of the Property which shall contravene the provisions of the Transaction Documents or of any act, ordinance, enactment, order, rule or regulation now or hereafter affecting the same and at all times hereafter indemnify and keep indemnified the Bank against all actions, proceedings, costs, expenses, claims and demands in respect of such act matter or thing done omitted or suffered to be done in contravention of the said provisions.
- (x) Execution of Transaction Documents: Execute or procure to be executed all such documents and do or procure to be done all such acts and things as may be necessary

to give full effect to all provisions of the Transaction Documents;

- (y) Indebtedness: The Customer shall punctually pay all its indebtedness when due and owing, unless contested in good faith and justifiable grounds;

13.2 Negative Covenants: The Customer hereby further covenants and undertakes that from the date of this Agreement, it shall not without the prior written consent of the Bank first had and obtained:-

- (a) Amendments: where the Customer is a body corporate, add to, delete, vary, amend its memorandum and articles of association in any manner which would be inconsistent with:-
- (i) the provision of the Letter of Offer or the Transaction Documents; or
 - (ii) the nature of the Customer's business or sell, transfer, lease or otherwise dispose of all or a substantial part of its capital or undertake or permit any merger, consolidation or reorganization if the result will affect its ability to perform obligations under the Transaction Documents;
- (b) Indebtedness: incur, assume or permit to exist any indebtedness except where applicable, for any advances made by the directors or shareholders which are subordinated to the Facility;
- (c) Advances/Financing: where the Customer is a body corporate, make any advance or financing or guarantee or grant any credit (other than advances to its subsidiaries or its parent company) to any of its directors, shareholders or related companies or any company or person or firm or organisation or purchase or otherwise acquire the capital stock, assets or obligation of any of its directors, shareholders or related companies or associated company or any company or person firm or organisation save and except in the normal trade guarantees or financing to its staff or incur additional financing or create further encumbrances on the Security during the Facility Tenure of the Facility;
- (a) Encumbrances: create or permit to exist any Security Interest on its assets during the Facility Tenure;
- (b) Negative Pledge: create or permit to exist over all or any part of its business or assets any security interest or charge, pledge or otherwise encumber any of its present or future assets and/or revenue during the Facility Tenure;
- (c) Dissolution: where the Customer is a body corporate, dissolve its affairs or enter into any amalgamation, consolidation, merger or reconstruction with any other entity which may materially affect its ability to perform its obligation or enter into any management contract of similar arrangement where the business is managed by third parties which may materially affect its ability to perform its obligation under the Facility;
- (d) Disposal: where the Customer is a body corporate, change the nature of its present business or sell, transfer or otherwise dispose of, or in any way cease to exercise control over, whether by single transaction or a number of transactions, related or not, the whole or part (being the aggregate a substantial part in relation to the Customer) of its undertaking, business or assets, or undertake or permit any merger consolidation or reorganization;
- (e) Utilisation of Facility: utilize the proceeds of the Facility for any other purpose other than as stated in the Letter Offer;
- (f) Shareholding Structure and Board Composition: where the Customer is a body corporate, change its existing shareholding structure or the existing composition of the board of directors of the Customer;

- (j) Share Capital: where the Customer is a body corporate, reduce or in any way whatsoever alter (other than by way of an increase), its authorised and/or issued shares in existence at the date hereof whether by varying the amount, structure or value thereof or the rights attached thereto or connected to any of its share capital into stock or by consolidating, dividing or subdividing all or any of its shares;
- (k) Variation of Sale and Purchase Agreement: agree to change the material terms and conditions of the Sale and Purchase Agreement;
- (l) Restriction on transactions: where the Customer is a body corporate, enter into any transaction or agreement with any of its shareholders, subsidiaries or related or associated companies or affiliates or person, firm or company except in the ordinary course of business, on ordinary commercial terms and on the basis of arm's length arrangements and on terms not materially less favourable to the Customer than would have been the case if such transaction had been effected with any other unrelated persons or establish any exclusive purchasing or sales agency, or enter into any transaction whereby the Customer might pay more than the ordinary commercial price for any purchase or might receive less than the full ex-works commercial price (subject to normal trade discounts) for its products;
- (m) Indebtedness by others: where the Customer is a body corporate, enter into any transaction or arrangement whereby any related company or associated company of the Customer or any director or shareholders of the Customer incurs in its favour any indebtedness. For the purpose of this sub-clause, the expression "director" or "shareholder" includes a spouse, parent, child, brother or sister of the director or shareholder;
- (n) Invest, Acquire Shares or Debentures: where the Customer is a body corporate, invest, acquire shares or debentures in or with or lend money to or make any financing whatsoever to any company or person or redeem or purchase its own shares or dividends;
- (o) Change in Nature of Business: where the Customer is a body corporate, change the Customer's financial year or the nature of its present business or sell, transfer or otherwise dispose of, or in any way cease to exercise control over, whether by single transaction or a number of transactions, related or not, the whole or part (being the aggregate a substantial part in relation to the Customer) of its undertaking, business or assets, or undertake or permit any merger consolidation or reorganisation;
- (p) Capital Expenditure: where the Customer is a body corporate, commit to, or incur any capital expenditure for an amount deemed material by the Bank;
- (q) Expenditure for Fixed Assets: where the Customer is a body corporate, incur expenditure for fixed and other non-current assets, other than those required for its business operations or necessary for repairs or replacements essential to the operation of such business;
- (r) Withdrawal of Monies: where the Customer is a body corporate, withdraw or distribute to its shareholders from the account of its business any money from the capital of the business or any profits including received or accrued profits;
- (s) Consolidation and Merger: where the Customer is a body corporate, dissolve its affairs or consolidate with or merge with any other party or allow any other party to consolidate or merge with the Customer;

- (t) Surrender of Rights under Transaction Documents: surrender, transfer, assign, relinquish or otherwise dispose any of its rights and interest under the Transaction Documents;
- (u) Winding Up or Dissolution of the Customer: where the Customer is a body corporate, no step has been taken by the Customer or its creditors or its shareholders or any other person on its behalf nor have any legal proceedings or applications been started or threatened with a view to winding up or dissolving the Customer under Section 176 of the Companies Act, 2016;
- (v) Dividend: where the Customer is a body corporate, declare or pay any dividend or make any distribution whether income or capital in nature to its shareholders or repay any advances from its shareholders or directors (either profit or principal);
- (w) Property:
 - (i) assign, transfer, sell, charge or otherwise howsoever deal with the Customer's or the Security Party's rights, title and interest under the Sale and Purchase Agreement or the Property or any interest therein or make the same subject to any charge, encumbrance, liability or lien whatsoever or rescind remove or vary any condition or restriction affecting the Property;
 - (ii) lease, let out, or grant any licence or otherwise howsoever part with the possession or make or accept the surrender of any lease whatsoever of or in respect of the Property or any fixture, structure or part thereof, to any person firm or company; and
 - (iii) alter, pull down, or remove any building or fixture now or at any time hereafter erected on or affixed to the Property or any part thereof and will forthwith replace or make good the same in the event of such alteration, pulling down or removal. Where it is intended that there is to be erected any building or buildings on the Property or that the Facility is to be utilised for the purposes thereof, the Customer shall complete the erection of such building or buildings in accordance with the approved plans thereof of such competent authority or authorities necessary for the obtaining of and shall obtain a Certificate of Fitness for Occupation/Certificate of Completion and Compliance not later than such date as the Bank may stipulate.
- (x) Other business: where the Customer is a body corporate, carry on any business or carry out any activity other than giving effect to the Facility and performing its obligations under the Transaction Documents;

14. EVENTS OF DEFAULT

- 14.1 Notwithstanding the maturity dates of the Facility, the Bank shall have the right to accelerate any sum outstanding or terminate the Facility at any time if one or more of the following events shall occur (including but not limited to) :
- (a) Non-payment: The Customer or the Security Party(ies) defaults or fails to pay any amount due under this Agreement and any of the Transaction Documents within fourteen (14) Business Days or fails to pay any amount due under any agreement or arrangement to any other financiers on the due date or on demand, if so payable; or
 - (b) Breach of obligations: The Customer or the Security Party(ies) fails to observe or perform:-
 - (i) any of its respective obligations under any of the Transaction Documents or under any undertaking or arrangement entered into in connection herewith or therewith, other than an obligation of the type referred to in Clause 14.1 (a)

and, in the case of a failure capable of being remedied, the Bank does not determine, within seven (7) days after the Customer became aware of the failure, that it has been remedied to the Bank's satisfaction; or

- (ii) the Customer fails to observe or perform its obligations under any of the terms of the Sale and Purchase Agreement and in the case of a failure which in the opinion of the Bank is capable of being remedied, the Customer does not remedy the failure within the period provided in the Sale and Purchase Agreement or the Sale and Purchase Agreement is terminated; or
- (c) Misrepresentation: Any representation, warranty or statement which is made (or acknowledged to have been made) by the Customer or the Security Party(ies) in any of the Transaction Documents or which is contained in any certificate, statement, legal opinion or notice provided under or in connection herewith or therewith proves to be incorrect in any material respect, or if repeated at any time with reference to the facts and circumstances subsisting at such time would not be accurate in all material respects; or
- (d) Disposal of assets: The Customer or the Security Party(ies) or where applicable, any of its subsidiaries transfers or disposes of, or threatens to transfer or dispose of, a substantial part of its business or assets without the prior written consent of the Bank and such transfer or disposal will materially and adversely affect the ability of the Customer to pay the Indebtedness and all other sums of moneys payable hereunder and under the Transaction Documents; or
- (e) Cessation of business: Where the Customer or Security Party(ies) is a body corporate, The Customer or the Security Party(ies) or any of its subsidiaries changes or threatens to change the nature or scope of its business, suspends or threatens to suspend a substantial part of the present business operations which it now conducts directly or indirectly, or any governmental authority expropriates or threatens to expropriate all or part of its assets and the result of any of the foregoing is, in the determination of the Bank adversely to affect the financial condition or the ability of the Customer or the Security Party(ies) to observe or perform its respective obligations under any of the Transaction Documents; or
- (f) Cross-default: Any indebtedness of the Customer and/or the Security Party(ies) or any of its subsidiaries becomes due or capable of being declared due before its stated maturity or any guarantee of the Customer or the Security Party(ies) or any of its subsidiaries is not discharged at maturity or when called or the Customer or the Security Party(ies) or any of its subsidiaries goes into default under, or commits a breach of, any instrument agreement relating to any such indebtedness or guarantee; or
- (g) Appointment of receiver, legal process: Any encumbrancer takes possession of, or a trustee or administrative or other receiver or similar officer is appointed in respect of, all or any part of the business or assets of the Customer or the Security Party(ies) or any of its subsidiaries or distress or any form of execution is levied or enforced upon or sued out against any such assets and is not discharged within seven (7) days after being levied, enforced or sued out, or any Security Interest which may for the time being affect any of its assets becomes enforceable; or
- (h) Legal Proceedings: Any legal proceedings, suits, actions, litigation, arbitration or administrative proceeding is commenced or threatened against the Customer or the Security Party(ies) or any of its subsidiaries and which, in the opinion of the Bank, will affect the Customer's or the Security Party(ies)' ability to observe or perform its obligations under the Transaction Documents to which it is a party; or
- (i) Insolvency: The Customer or the Security Party(ies) or any of its subsidiaries is deemed unable to pay its debts within the meaning of section 218(2) of the Companies Act, 2016 or becomes unable to pay its debts as they fall due or suspends or threatens to

suspend making payments (whether of principal or profit) with respect to all or any, class of its debts; or

- (j) Composition winding up: where the Customer or the Security Party(ies) is a body corporate, the Customer or the Security Party(ies) or any of its subsidiaries convenes a meeting of its creditors or proposes or makes any arrangement or composition with, or any assignment for the benefit of, its creditors or a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for making an administration order against or for winding up of the Customer or the Security Party(ies) or any of its subsidiaries (other than for the purposes of and followed by a reconstruction previously approved in writing by the Bank, unless during or following such reconstruction the Customer or the Security Party(ies) or the relevant subsidiary (as the case may be) becomes or is declared to be insolvent); or
- (k) Judgment Outstanding: where the Customer or the Security Party(ies) is a body corporate, the Customer or the Security Party(ies) or any of its subsidiaries shall fail to satisfy any judgment passed against any of them by any court of competent jurisdiction and no appeal against such judgment has been made to any appropriate appellate Court within the time prescribed by law or such appeal has been dismissed and in the case of any judgment obtained in default of appearance no application has been made to set such judgment aside within thirty (30) days of the date the party against whom judgment was obtained becoming aware of the judgment; or
- (l) Change in law: Any law is brought into effect which purports to render ineffective or invalid any provision of any of the Transaction Documents or which would prevent the Customer or the Security Party(ies) from performing any of its respective obligations under the Transaction Documents; or
- (m) Licence: Any licence, authorisation, approval, consent, order, exemption, registration, filing or notarisation referred to herein is revoked or withheld or modified or is otherwise not granted or fails to remain in full force and effect; or
- (n) Nationalisation: All or a material part of the property or assets of the Customer shall be condemned, seized or otherwise appropriated or nationalised and such situation shall remain unremedied for more than sixty (60) days, or custody or control of such property or assets shall be assumed and retained for more than sixty (60) days by any person acting or purporting to act under the authority of the government, or the Customer or where applicable, any subsidiary of the Customer shall have been prevented for a period of more than sixty (60) days from exercising normal managerial control over all or any substantial part of its property or assets by any such person; or
- (o) Moratorium: The Customer or the Security Party(ies) enters into or proposes to enter into or there is declared by any competent court or authority, a moratorium on the payment of indebtedness or other suspension of payments generally; or
- (p) Analogous Proceedings: Anything analogous to any of the events specified in paragraphs (g), (i), (j) and (q) occurs under any applicable law in any jurisdiction occurs; or
- (q) Suspension of Payments: The Customer or the Security Party(ies) or any of its subsidiaries suspends or threatens to suspend making payments (whether of principal or profit) with respect to all or any class of its debts and the result of any of the foregoing is, in the determination of the Bank adversely to affect the financial condition or the ability of the Customer or the Security Party(ies) to observe or perform its obligations under the Transaction Documents; or
- (r) Invalidity: Any provision of the Transaction Documents is or becomes, for any reason, invalid or unenforceable; or

- (s) Security in Jeopardy: the Bank shall be of the opinion that any of the securities created pursuant to the Transaction Documents is in jeopardy; or
- (t) Adverse Event or Events: Any event or events has or have occurred or a situation exists including changes in the financial condition which could or might, in the opinion of the Bank, prejudice the ability of the Customer or the Security Party(ies) to perform any of its respective obligation under the Transaction Documents or under any undertaking or arrangement entered into in connection therewith in accordance with the terms hereof or thereof; or
- (u) Death/ Insanity/ Bankruptcy/ Winding up of the Customer or Security Party(ies): The Customer and/ or the Security Party(ies) dies, becomes insane or is adjudicated a bankrupt or is wound up (as applicable); or
- (v) Bad cheque offender: The Customer is listed as a bad cheque offender by the Dishonoured Cheques Information System (DCHQIS) set up by BNM; or
- (w) Damage to Assets: Any of the Customer's properties and assets is damaged or destroyed and the results whether by reason of the takaful over such properties and assets proving to be invalid or unenforceable or for any other reason is, in the determination of the Bank, shall adversely affect the financial conditions of the Customer or its ability to observe or perform its obligations under this Agreement or the Transaction Documents to which it is a party; or
- (x) Levy of Distress or Enforcement of Execution: A distress or execution is levied or enforced upon any of the Customer's property or assets or Security Party(ies)' property or assets and is not satisfied within seven (7) days from the date of commencement of such distress or execution; or
- (y) Others (where the Customer is a body corporate):
 - (i) any diminution in the net tangible assets of the Customer as reflected in the Customer's latest balance sheet and accounts;
 - (ii) the Customer or its directors or shareholders has commit a breach of the applicable laws pertaining to their respective activities or operations;
 - (iii) proceeds of the Facility are not utilised for the intended purposes of the Facility;
 - (iv) repudiation by the Customer of any Transaction Documents or evidence of the intent to do so;
 - (v) any of the Customer's directors, officers, managers, guarantors, agents or any other, their spouses, parents or children are directors or officers of the Bank or otherwise connected with the Bank; or

then, at once or at any time thereafter, the Bank may, by notice to the Customer, declare:

- (i) the Indebtedness shall become immediately due and payable;
 - (ii) no further utilisation of the Facility shall be made and the Facility shall be recalled and cancelled; and
 - (iii) the provisions under Clause 14.2 shall apply.
- (z) Shariah: the Facility is utilized for non-Shariah compliant purposes.

- (aa) **Credit Facilities To Connected Parties:** The approval of the Facility to the Customer shall be upon the condition that the Bank will fully comply with any applicable law, legislation or regulation including, the provision of Section 57 of Islamic Financial Services Act 2013 (IFSA) read together with BNM's Guidelines on Credit Transactions and Exposures with Connected Parties for Islamic Bank and/or of any replacement guidelines/specifications/circulars issued by BNM from time to time in connection therewith. In addition to the above, the Customer hereby declares to the Bank that the Customer is not related to/a guarantor to/in control of/controlled by any of the directors, controlling shareholders, officers of the the Bank, member of the Shariah Committee of the Bank and their respective close relatives (spouse and dependents of the spouse, child (including step/adopted child) and spouse of the child, parent and brother or sister and their spouses). None of the directors, controlling shareholders, officers of the the Bank, member of the Shariah Committee of the Bank and their respective close relatives is a director, partner, executive officer, agent or guarantor in the Customer's firm / partnership / company / legal entity and/or subsidiaries/entities controlled by the Customer. The Customer shall at all material times covenant to declare to the the Bank should any connected party relationship materializes throughout the duration of the Facility. In the event any undisclosed connected party relationship is established or discovered subsequently, the Bank reserves the right to terminate and recall the Facility immediately.

14.2 Rights on a Default: the Bank may (without prejudice to any other rights and remedies under this Agreement and/ or the other Transaction Documents) upon and at any time after the occurrence of an Event of Default, so long as the same is continuing:-

- (a) by notice to the Customer declare that any commitment or obligation on the part of the Bank to make available the Facility shall be terminated, whereupon such commitment and such obligation shall be terminated forthwith;
- (b) by notice to the Customer declare that the Facility has been terminated, whereupon the Customer shall forthwith be bound by and comply with the same on demand and any outstanding balance thereof all other moneys payable by the Customer under the terms of the Transaction Documents shall be forthwith due and payable on demand;
- (c) the Bank may forthwith thereafter enforce the securities constituted by, and exercise the powers conferred upon it under, the Transaction Documents in accordance with the terms therein to recover all sums payable under the Transaction Documents;
- (d) the Bank reserves the overriding right of payment of the Facility on demand by serving to the Customer a one (1) month's written notice; and
- (e) apply any credit balance standing to any account of the Customer with any office or branch of the Bank whether in Malaysia or otherwise with the Bank and in whatever currency towards the satisfaction of the payment of the Facility and profit thereon together with any other charges fees costs or expenses arising from any act in connection with the provision of the Facility.

14.3 Concurrent enforcement of security: Upon the occurrence of any of the events mentioned in Clause 14.1 above, the Bank shall have the right to institute such proceedings and to enforce all or any of its remedies whether under this Agreement, the other Transaction Documents or by statute or otherwise and shall be entitled to exercise such rights and remedies concurrently, including pursuing all remedies of sale possession and by civil suit to recover all sums payable to the Bank in such manner as the Bank may deem fit in its absolute discretion.

14.4 Proceeds of sale: All moneys received by the Bank from any proceeding instituted or step taken under any of the Transaction Documents and the Transaction Documents shall, subject to statutory priorities (if any), be applied by the Bank:-

FIRSTLY in payment of or provision for all costs, charges, expenses and liabilities incurred by the Bank and every receiver, attorney, agent, delegate or other persons

appointed by the Bank under the Transaction Documents or the Transaction Documents in or about the exercise of the powers conferred upon the Bank or otherwise in relation to the Transaction Documents and payments made by the Bank thereunder.

SECONDLY in or towards payment to the Bank of all profit or commission, as the case may be, then accrued and remaining unpaid in respect of the Facility, or the balance thereof for the time being owing.

THIRDLY in or towards payment to the Bank of the principal sum due and remaining unpaid under the Facility.

FOURTHLY in or towards payment to the Bank of all other moneys due and remaining unpaid under any or all of the Transaction Documents.

FIFTHLY any surplus shall be paid to such persons entitled thereto.

PROVIDED ALWAYS THAT if the Bank shall be of the opinion that the security may prove deficient payments may be made to the Bank on account of principal before profit or commission, as the case may be, but such alteration in the order of payment shall not prejudice the right of the Bank to receive the full amount to which it would have been entitled if the primary order had been observed or any lesser amount which the sum ultimately realised from the security may be sufficient to pay.

- 14.5 Deficiency in Proceeds of Sale:** If the amount recovered or realised under the Transaction Documents after deduction and payment, from the amount so recovered or realised, of all fees, costs, expenses and other outgoings, is less than the amount due to the Bank under the Transaction Documents and whether in the process of such recovery or realisation the Bank has purchased any of the properties and assets charged to the Bank or otherwise, the Customer shall pay to the Bank the difference between the amount due and the amount so realised and until payment will also pay ta'widh (late payment compensation) on such balance at the rate provided in Clause 21.30 herein.
- 14.6 Concurrent Proceedings:** Notwithstanding any provision hereof, it is hereby expressly agreed that upon default or breach by the Customer of any term, covenant, stipulation and/or undertaking herein provided and on the part of the Customer to be observed and performed, the Bank shall thereafter have the right to exercise all or any of the remedies available whether by this Agreement or by statute or otherwise and shall be entitled to exercise such remedies concurrently, or in any order of priority including pursuing all remedies of sale or possession pursuant to the Land Code (Laws of Sarawak - Land Code (Cap. 81)) and civil suit to recover all monies due and owing to the Bank PROVIDED THAT nothing herein contained shall be construed as imposing any obligation (whether at law or in equity) upon the Bank to exhaust its remedy under the Transaction Documents before commencing any separate action or before enforcing any other remedies and exercising any other rights which the Bank may have against the Customer or any other Security Party(ies) simultaneously or consecutively in any order as the Bank deems fit with or without having exhausted its right or to realise any security granted under the Transaction Documents from time to time.
- 14.7 Cross Default:** It is hereby expressly agreed and declared that the Bank reserves the right to proceed with legal proceedings against the Customer or any Security Party(ies) or to terminate the Facility and demand for payment of the Indebtedness thereof from the Customer or any Security Party(ies) or to withhold or withdraw the Facility if there is a default in the payment of any monies due by the Customer hereunder or under any other account with the Bank or with any other financial institution or a default by any Security Party(ies) or any related company (by virtue of Section 7 of the Companies Act 2016) or substantial shareholder (by virtue of Section 136 of the Companies Act 2016) of the Customer or any Security Party(ies), under any account with the Bank or any other financial institution or if there is a default in the payment of any monies under the accounts of any other party of which the Customer or any Security Party(ies) is/are a guarantor or when the Customer and/or any Security Party(ies) or any subsidiary or holding company of the Customer and/or

any Security Party(ies) cease(s) or threaten(s) to cease to carry on its business or a petition is presented or a resolution passed for the winding-up of the Customer, any Security Party(ies) or any related companies or substantial shareholder of the Customer or any Security Party(ies) (if body corporates).

15. ANTI-MONEY LAUNDERING ACT, ANTI-TERRORISM FINANCING AND PROCEEDS OF UNLAWFUL ACTIVITIES ACT 2001 (ACT 613)

The Customer hereby further covenants and undertakes that from the date of this Agreement, it shall ensure that it has never and would not:-

- (a) engage, directly or indirectly, in a transaction that involves proceeds of any unlawful activity;
- (b) acquire, receive, possess, disguise, transfer, convert, exchange, carry, dispose, use, remove from or bring into Malaysia proceeds of any unlawful activity; or
- (c) 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; and

the Customer confirms to the Bank that it is not involved in any money laundering activity within the meaning of Section 3 of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act, 2001.

16. PERSONAL DATA PROTECTION ACT 2010 (ACT 709)

In the course of the Customer's dealing with the Bank, the Bank may request the Customer to provide personal data of the Customer and where applicable, the Customer's employees, agents, directors, contact persons, shareholders, representatives, authorized person and shareholdings details of the Customer's shareholders as disclosed by the Customer prior to or during the course of performance of this contract for the performance of contract, marketing, legitimate business activity, administration and economic efficiency purposes. Where applicable, the personal data of the Customer and the Customer's employees, agents, directors, contact persons, shareholders, representatives, authorized person and shareholdings details of the Customer's shareholders may be disclosed and shared with other related corporations and subsidiaries of the Bank within and outside Malaysia for the aforesaid purposes. The Customer hereby warrants that the Personal Data Protection Act 2010 has been complied with and that consents have been obtained from the Customer or where applicable, the Customer's employees, agents, directors, contact persons, shareholders, representatives, authorized person and shareholdings details of the Customer's shareholders in relation to the disclosure and processing of their personal data by the Bank for the aforesaid purposes.

17. DISCRETION TO EXERCISE REMEDIES

Notwithstanding any provisions to the contrary herein, it is hereby expressly agreed that in the Event of Default or breach by the Customer of any term, covenant, stipulation and/or undertaking herein provided on the part of the Customer to be observed and performed which is not remedied by the Customer within thirty (30) days or such other period as agreed by the Bank at its absolute discretion the Bank shall have the exclusive rights to exercise all or any of the remedies available to the Bank, whether by this Agreement or the other Transaction Documents or by statute or otherwise and shall be entitled to exercise such or all of the remedies concurrently including pursuing all remedies of sale or possession and/or concurrently or otherwise institute civil proceedings against the Customer for the recovery of all monies due and owing to the Bank.

18. INDEMNITY

Whether or not the Transaction Documents are executed, the Customer shall indemnify and hold the Bank and each of its respective affiliates directors, officers, employees, agents, advisors and representatives (each an "Indemnified Party") from and against any and all claims, damages, losses, liabilities and expenses (altogether "Losses") that may be incurred by or asserted or awarded against any Indemnified Party in relation to the Letter of Offer or the Transaction Documents contemplated thereby, except to the extent such Losses are found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's gross negligence or willful misconduct.

Without prejudice to its generality, the foregoing indemnity shall extend to any fees or other sums whatsoever paid or payable in connection with the preservation or enforcement or attempted preservation or enforcement of any of the rights of the Bank under this Agreement, the Transaction Documents or related documents.

19. CHANGES IN CIRCUMSTANCES/LAW

Notwithstanding any provision to the contrary herein, in the event that by reason of the enactment of or the making of any change in any applicable law, regulation or regulatory requirement or in the interpretation or application thereof or the making of any request or direction from or requirement of any relevant authority or other fiscal or monetary authority (whether or not having the force of law) the Bank shall be of opinion that it has or will become unlawful or it is otherwise prohibited or prevented for it to maintain or given effect to all or any of its obligations as contemplated by this Agreement then, notwithstanding any other provisions herein, the Bank's commitment to make or maintain the Facility will end upon notice to the Customer of the happening of such event after becoming aware thereof and the Customer shall on demand forthwith pay the Indebtedness in full together with accrued profit thereon and any other amount payable thereunder to the Bank. the Bank from time to time reserves the right to vary any of the terms and conditions stated herein in accordance with Shariah principles.

20. ASSIGNMENT AND TRANSFER

20.1 Assignment and Transfer by the Bank: the Bank may, upon giving notice to the Customer and at the cost and expense of the Customer, assign its rights, benefits and obligations under the Transaction Documents pertaining to the Facility or any part thereof and/or transfer its obligations under the Transaction Documents or any part thereof to other banks or other financial institutions or any parties approved by or acceptable to BNM, subject to the terms of the Transaction Documents and:-

- (a) for this purpose, the Bank may disclose to a potential assignee or transferee or any other person who derives or may derive rights or obligations under or by reference to the Transaction Documents such information about the Customer as shall have been made available to the Bank;
- (b) where the Bank transfers its obligations or any part thereof, the Customer shall execute such documents as are reasonably necessary to release the Bank to the extent of the transfer and join the transferee as a party hereto;
- (c) where the Bank transfers all its obligations and rights hereunder the Customer shall thereafter deal solely with the transferee with respect to payments, notices and other matters relating to the administration of this Agreement;
- (d) for the avoidance of doubt, the Bank's right under this clause is not limited to Credit Facility(ies) which is/are non-performing.

20.2 No Assignment and Transfer by Customer: The Customer shall not assign nor transfer any of its obligations or benefits under the Transaction Documents without prior written consent of the Bank.

21. MISCELLANEOUS

21.1 Waiver, rights cumulative: No failure or delay on the part of the Bank in exerting nor any omission to exercise any rights, power, privilege or remedy accruing to the Bank under this Agreement, or any security in favour of the Bank upon any default on the part of the Customer shall impair any such right, power, privilege remedy or be construed as waiver thereof or any acquiescence in any default, affect or impair sort whether in relation to or effecting the Customer shall in any way affect the security liabilities and/ or obligations created by this Agreement or the Transaction Documents in relation to any transaction whatsoever whether past, present or future. The remedies provided herein are cumulative and are not exclusive of any remedies provided by law.

21.2 Disclosure of Information:

- (a) Without limiting the subsequent provisions of this Clause, the Bank may at any time for so long as the Facility continue and/or for so long as the Indebtedness remains outstanding, disclose to any person who may in the Bank's absolute discretion, require such information or access thereof any documents or records of, or information about the Transaction Documents or assets, business or affairs of the Customer whether or not confidential and whether or not the disclosure would be in breach of any law or of any duty owed to the Customer provided that in respect of documents, records or information which the Customer has specifically informed the Bank to be confidential, the person receiving such information from the Bank may be required to undertake to maintain the confidentiality of documents, records or information received.
- (b) The Customer hereby agrees and permits that for so long as the Facility continue and/or for so long as the Indebtedness remains outstanding, the Bank is entitled to disclose all or any part of any information on the Customer's business including the Customer's accounts and/or future accounts), report or documents supplied in connection with the Transaction Documents:-
 - (i) to the Central Credit Bureau, Biro Maklumat Cek/Dishonoured Cheque Information System (BMC/DCHEQS), BNM, any governmental agency, Association of Islamic Banking Institutions Malaysia (AIBIM) or any other associations or such other authority having jurisdiction over the Bank; or
 - (ii) to the Bank's auditor, legal counsel and other professional advisors; or
 - (iii) to any current or future corporation which may be associated or related with the Bank (as defined in the Companies Act 2016), including representative and branch offices and their respective representatives; or; or
 - (iv) for or in connection with the enforcement of preservation of any rights of the Bank under this Agreement and the other Transaction Documents; or
 - (v) to the Security Party(ies) and/or surety and/or to any party pursuant to any arrangement, composition, restructuring or any proposed arrangement, composition or restructuring between the creditors of the Customer; or
 - (vi) pursuant to subpoena or other legal process or in connection with any action, suit or proceeding relating to the Transaction Documents; or
 - (vii) pursuant to any law; or
 - (viii) to any person upon occurrence of an Event of Default; or
 - (ix) to the Bank's 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 the Bank and its related or associated companies; or

- (x) to any person for the purpose of the Bank's recovery of the outstanding sums due to it under the Facility and the Transaction Documents.
- (c) the Bank may disclose to any person who derives or may derive rights or obligation under or by reference to the Transaction Documents (including but not limited to an assignee or transferee or prospective assignee or transferee) such information about the Customer in relation to the Facility or the Transaction Documents as shall have been made available to the Bank generally.
- (d) The Customer hereby acknowledges and agrees that the permission given under this Clause is deemed to be the permission given for the purposes of any prevailing laws and no further consent from the Customer is required.
- (e) The Customer hereby irrevocably consents to such disclosure and confirms that the Bank, its officers and employees shall under no liability for furnishing such information or for the consequences of any reliance which may be placed on the information so furnished in accordance with this Agreement.

- 21.3 Disclosure among Branches, Subsidiaries or Parent Company:** The Customer hereby agrees that for so long as this Agreement continues and/or for so long as the Indebtedness remains outstanding, the Bank shall be entitled to disclose information on the Customer's business with the Bank's (including its account and/or future accounts) Solicitors, auditors, branches, subsidiaries, parent company or companies which are or which in future may be a subsidiary of the Bank and the branches, subsidiaries or parent company of the Bank shall also be entitled to make such disclosure to the Bank and the Bank shall take all reasonable care to ensure that such information shall remain confidential between the Bank's group of subsidiaries.
- 21.4 Currency of the Facility:** All sums of monies herein offered and to be received by the Bank shall be in Ringgit Malaysia.
- 21.5 Transaction Documents Deemed Incorporated:** The Transaction Documents shall be read and construed as part and parcel of this Agreement and shall be applicable in full force and effect in all respect as if the same were spelt out and stated in this Agreement.
- 21.6 Costs:** The Customer shall be liable to pay all fees and expenses in connection with or incidental to the preparation of this Agreement and the Transaction Documents including the Solicitor's fees (on a solicitor and client basis) in connection with the preparation and execution of this Agreement and the Transaction Documents and other documents related thereto. If the Indebtedness or any part thereof shall be required to be recovered through any legal process, the Customer shall pay (in addition to the monies then due and payable under this Agreement) the Solicitor's fees (on a solicitor and client basis) and any other fees and expenses incurred in respect of such action.
- 21.7 Legal Proceedings:** It is hereby declared and agreed that if the Bank takes legal action to recover any monies due to it from the Customer or to enforce any term or condition of this Agreement or the Transaction Documents then the Bank shall be at liberty to proceed simultaneously in the same or separate proceedings against the Customer and any of the Security Parties and all other parties liable to satisfy the Indebtedness to the Bank and to claim and execute judgment for monies due and the Bank shall discontinue such proceedings immediately upon the recovery of the full amount due to it.
- 21.8 Letter of Offer:** It is hereby expressly understood by the Parties hereto that the Letter of Offer to the Customer shall be deemed to be incorporated in this Agreement and shall be read and construed as one document and in the event of any conflict or discrepancy between the provisions of this Agreement and the Letter of Offer, the provisions of this Agreement shall prevail for the purpose of interpretation and enforcement of this Agreement.

- 21.9 Lien and Set-Off:** In addition to all liens upon and rights of set-off against the monies, securities or other property of the Customer given to the Bank by law, the Bank shall have a lien upon and a right of set-off against all monies, securities and other assets of the Customer in any currency now or hereafter in the possession of or on deposit with the Bank, or any of its affiliates, at any branch or office, whether held in a general or special account of deposit, or for safe-keeping or otherwise and such lien and right of set-off may be exercised with or without notice to the Customer. No lien or right of set-off shall be deemed to have been waived by any act or conduct on the part of the Bank, or by any neglect to exercise such right of set-off or to enforce such lien, or by any in so doing and every right of set-off and lien shall continue in full force and effect until such right of set-off or lien is specifically waived or released by an instrument in writing executed by the Bank.
- 21.10 Illegality:** If by reason of any change in any applicable law regulation or regulatory requirement or in the interpretation or application thereof (after the date of this Agreement) by BNM or any governmental or any authority whereby it shall become unlawful for the Bank to comply with its obligations hereunder, the Bank shall promptly inform the Customer of the relevant circumstances whereupon:-
- (a) any outstanding obligations of the Bank shall forthwith be terminated and cancelled; and
 - (b) the Customer shall upon demand refund to the Bank all monies covenanted to be paid by the Customer under and in relation to this Agreement and the Transaction Documents.
- 21.11 Variation of Terms:** Subject to Shariah principles, it is hereby expressly agreed and declared by the Parties hereto that notwithstanding any of the provisions of this Agreement to the contrary, the provisions and terms of this Agreement and/or the Transaction Documents may at any time and from time to time be varied or amended by means of letters or supplemental agreements or such other means as the Parties may agree from time to time and thereupon such amendments and variations shall be deemed to have been amended or varied accordingly and shall be read and construed as if such amendments and variations have been incorporated in and had formed part of this Agreement at the time of execution thereof.
- 21.12 Imposition of Terms by BNM:** The transaction arising from this Agreement shall at all times be subject to all procedures, terms, rules, directives regulations (whether or not having the force of law) as may be imposed by BNM or such other authority having jurisdiction over the Bank from time to time.
- 21.13 Evidence of Indebtedness:** In any proceeding relating to this Agreement, a statement as to any amount due and payable to the Bank under this Agreement which is certified as being correct by an officer of the Bank shall, unless otherwise provided in this Agreement, save for manifest error, be prima facie evidence that amount is in fact due and payable.
- 21.14 English Language:** All notices or communications under or in connection with this Agreement shall be in the English language or in Bahasa Malaysia. In the event of conflict between the English text and the text in any other language including Bahasa Malaysia, the English text shall prevail.
- 21.15 Consolidation and Right of Set-Off:** Without prejudice to any other remedies which the Bank may have, the Bank may at its sole discretion issue a 7-day notice to the Customer and at any time or from time to time combine, consolidate or merge all or any of the Customer's accounts of whatever nature at any branch of the Bank and set-off or transfer any sum standing to the credit of any such account or agreements in or towards the satisfaction of any of the Customer's liabilities to the Bank hereunder or under any other accounts or agreements with the Bank.
- 21.16 Time:** Time in relation to all the provisions of this Agreement and in particular to the payment of the Indebtedness or any part thereof and the payment of all monies due by the Customer to the Bank under this Agreement and the Transaction Documents shall be of the essence.

- 21.17 Liabilities and Obligations:** Liabilities and obligations created by this Agreement shall continue to be valid and binding for all purposes whatsoever notwithstanding:-
- (a) any time or indulgence which the Bank may from time to time grant to the Customer for the payment of monies due to the Bank for the observance or performance of any term stipulation covenant or undertaking on the part of the Customer to be observed and performed under the terms of this Agreement; and
 - (b) any arrangement entered into or any composition accepted by the Bank modifying its right and remedies under this Agreement or any alteration in the obligations terms stipulations covenants and undertakings contained herein or by any forbearance whether as to pay time performance or otherwise.
- 21.18 Governing Law and Jurisdiction:** This Agreement shall be governed by and construed in all respect in accordance with the laws of Malaysia on all matters connected with the obligations and liabilities of the Parties under this Agreement and the Parties hereto submit to the jurisdiction of the courts of Malaysia provided that such submission shall however not affect the right of the Bank to take proceedings in any other jurisdiction nor shall the taking of proceedings in any jurisdiction preclude the Bank from taking proceedings in any other jurisdiction and the Bank shall be at liberty to initiate and take actions or proceedings or otherwise against the Customer in Malaysia and/or elsewhere or concurrently in more than one jurisdiction as the Bank may deem fit. The Parties further agree that the service of any writ or summons or any legal process in respect of any action arising out of or connected with this Agreement may be effected by forwarding a copy of the writ of summons and statement of claim and other legal process by prepaid registered post to their respective addresses set out in Clause 22.5 hereof.
- 21.19 Severability:** Any term, condition, stipulation, provision, covenant or undertaking contained herein which is illegal prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such illegality, prohibition or unenforceable without invalidating the remaining provisions hereof and any 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.
- 21.20 Notification:** Any notification by the Bank concerning any of the matters shall, save for any manifest error, be conclusive and binding on the Customer.
- 21.21 Reconstruction of the Bank or the Customer:** The security liabilities and obligations created by this Agreement shall continue to be valid and binding for all purposes whatsoever notwithstanding any change by amalgamation reconstruction otherwise which may be made in the constitution of the Bank or the Customer, or both, and it expressly declared that no change whatsoever in relation to or affecting the Bank or the Customer, or both, shall in any way affect the security, liabilities and obligations created hereunder in relation to any transaction whatsoever whether past present or future.
- 21.22 Cross Reference:** The Customer hereby covenants and agrees that all the provisions, covenants, stipulations, conditions, undertakings and agreements contained in the Transaction Documents shall unless repugnant to any of the provision contained herein to be read as part of this Agreement and shall be applicable with full force and effect as if the same was set out hereunder.
- 21.23 Indulgences:** The liabilities and obligations of the Customer shall not be impaired or discharged by reason of any time, forbearance or other indulgences being granted by or with the consent of the Bank to the Customer or to any person who or which may be in any way liable to pay any of the monies secured hereby or by any other security in favour of the Bank or by reason of any arrangement being entered into or composition accepted by the Bank modifying the operation of law or otherwise the rights and remedies of the Bank under the provisions of the Transaction Documents.

- 21.24 Force Majeure:** Notwithstanding any provision of the Transaction Documents, the Bank shall not be liable for any failure on the part of the Bank to perform any obligation under the Transaction Documents resulting directly or indirectly from the action or inaction of any governmental or local authority or any strike, boycott, blockade, Act of God, civil disturbance or cause beyond the control of the Bank.
- 21.25 Taxation:** All payments by the Customer shall be made without withholding or deductions for or on account of any present or future tax, duty or charge of whatsoever nature imposed or levied by or on behalf of Malaysia or any other applicable jurisdictions, or any authority thereof or therein having power to tax, unless such withholding or deductions is required by law. If the Customer is compelled by law to deduct or withhold any such taxes, levies, imposts, duties, charges or fees, the Customer shall pay such additional amounts as may be necessary in order that the net amounts received by the Bank after such deductions or withholdings shall equal the amount it would have received had no such deductions or withholdings been required to be made.
- 21.26 Clear Market:** From the date of provision of a formal offer by the Bank until the date of the execution of the Transaction Documents, the Customer shall ensure that no other borrowings, debt instruments or securities issued and/or guaranteed by the Customer or any of its affiliates are mandated, syndicated or privately placed which might, in the opinion of the Bank have the effect of prejudicing the successful completion of this transaction.
- 21.27 Adverse Market:** From the date of provision of a formal offer by the Bank until the date of execution of the documentation, the Bank retains the right to withdraw and/or terminate the offer if there occurs any event or circumstance which, in the opinion of the Bank will materially affect both the international and domestic money, capital or syndicated financing markets, the Customer and its affiliated companies' business activities, and/or the social, political, financial and economic situation in Malaysia.
- 21.28 Right of the Bank to Revoke:** In amplification of and/ or in addition to the Bank's rights hereunder this Agreement and notwithstanding any other provisions contained in this Agreement or elsewhere, the Bank shall be entitled in its absolute discretion to revoke or withdraw or terminate the Facility and demand at any time the payment by the Customer of all sums of monies then due and owing under this Agreement or to vary or amend the terms and condition under the Facility are granted in such manner as the Bank may in its absolute discretion determine if in the opinion of the Bank the granting of the Facility are prejudicial to the Bank's interest. the Bank shall be under no obligation whatsoever to assign any reason therefore or to discuss or negotiate with the Customer or afford the Customer any opportunity to resolve any problems which may be faced by the Customer when exercising its rights herein.
- 21.29 Termination to the Facility:** Notwithstanding any provisions to the contrary herein, it is hereby expressly agreed that in the Event of Default or breach by the Customer of any term, covenant, stipulation and/or undertaking herein provided on the part of the Customer, the Bank shall have the right to terminate the Facility by notice in writing to the Customer and shall be entitled to exercise such or all of the remedies concurrently including pursuing all remedies of sale or possession and/or concurrently or otherwise institute civil proceedings against the Customer for the recovery of all monies due and owing to the Bank.
- 21.30 Counter-parts:** This Agreement may be executed in any number of counterparts, all of which shall constitute one and the same instrument, and any of the parties may execute this Agreement by signing any one of such counterparts.
- 21.31 Recall of Facility:** the Bank shall be entitled to recall and/or discontinue making the Facility available and require payment of the Facility on demand, in any of the following events:-
- (a) The Customer or any Security Party(ies) breaches any of the terms and conditions of the Facility with the Bank or with any other financial institution which in the Bank's opinion is likely to prejudice the Customer's ability to pay the Facility; or

- (b) If a change in the applicable law or regulation makes it impossible or unlawful for the Bank to continue making the Facility available to the Customer; or
- (c) If any of the Transaction Documents are in jeopardy; or
- (d) If there is any change in the major shareholder or management of the Customer or any Security Party(ies) (if applicable); or
- (e) Any other events stated in the Transaction Documents.

21.32 Periodic Review:

- (a) Notwithstanding and without prejudice to anything stated herein, the Bank may review the Facility from time to time or at any time and in the manner as the Bank at its sole discretion may decide irrespective of whether an event of default has occurred and nothing herein shall be deemed to impose on the Bank any obligation in law or equity to make or continue to make available the Facility to the Customer.
- (b) Any decision of the Bank not to conduct a review during any review period or any failure, omission or delay on the part of the Bank to conduct such review shall not be construed as a waiver of the Bank's right to review nor prejudice the Bank's right to recall or recover any amount due and payable by the Customer and/or the Security Party(ies) on demand under the Facility.

21.33 Strategic Trade Act 2010

The Customer hereby agrees, covenants and undertakes that the Facility herein shall not be utilised for transaction involving goods, items and services identified and/or classified as strategic items for the purposes of the Strategic Trade Act 2010 including the importation, exportation, transshipment, brokering, marketing, distribution or all other transactions not specifically stated herein involving such strategic items and/or in any way act in contravention of the Strategic Trade Act 2010 and the Customer further agrees and covenants that the Bank may at its absolute discretion and without assigning any reasons thereto decline to disburse the Facility, allow further utilisation, make payments or process the payment of the Facility herein or accept and negotiate any trade facilities granted to the Customer or requested to be negotiated by the Customer if such transaction relates to the said strategic items and the Bank further reserves its absolute right to declare an event of default and terminate or cancel the Facility granted herein as a result of such transactions. The Customer shall absolve the Bank from any liability arising from such transactions and shall further indemnify and keep the Bank indemnified on a full indemnity basis against any fines and/or penalties imposed on the Bank and against any penal sanctions imposed on the Bank or of the Bank as a result of any act or conduct or contravention by the Customer of the Strategic Trade Act 2010 and /or causing the Bank to in any way contravene the Strategic Trade Act 2010.

21.34 Shariah Compliance and Waiver of Interest

Each of the Parties recognizes and irrevocably agrees that it has accepted the Shariah compliant nature of the Facility and the Transaction Documents and further agrees that:

- (a) it shall not take any steps or bring any proceedings in any forum to challenge the Shariah compliance of the Facility and the Transaction Documents;
- (b) the principle of payment of interest is repugnant to Shariah and, accordingly, to the extent that any court would impose, whether by contract or by statute any obligation to pay interest, the parties hereby irrevocably and unconditionally expressly waive and reject any entitlement to recover interest from each other; and

- (c) none of its obligations under the Facility and the Transaction Documents shall in any way be diminished, abrogated, impaired, invalidated or otherwise adversely affected by any finding, declaration, pronouncement, order or judgment of any court, tribunal or other body that the Facility and the Transaction Documents are not compliant with Shariah.

21.35 Additional Interchange or Substitution of the Facility: the Bank may at any time or from time to time in its absolute discretion and without affecting the Bank's security, at the request of the Customer grant additional or further facility(ies), vary, restructure, convert, interchange or substitute the Facility or any one of them with any other facilities in accordance with Shariah principles on such terms and conditions as may be stipulated in the relevant Letters of Offer and Transaction Documents. All the provisions of this Agreement and the other Transaction Documents save and except such provisions which are inconsistent with the said Letter of Offer and Transaction Documents or not applicable to the additional, interchanged, restructured, converted or substituted facilities shall secure such facilities, unless otherwise stipulated by the Bank.

21.36 Market Conditions: From the date of provision of the Letter of Offer by the Bank until the date of execution of the documentation, the Bank retains the right to withdraw and/or terminate the offer if there occurs any event or circumstance which, in the opinion of the Bank will materially affect both the international and domestic money, capital or syndicated loan markets, the Customer and its affiliated companies' business activities (if applicable), and/or the social, political, financial and economic situation in Malaysia.

21.37. Exchange Control of Malaysia (ECM) Notices: The Customer shall procure any approval as may be required from time to time pursuant to Foreign Exchange Controls for Malaysia which is determined by the Foreign Exchange Administration (FEA) Department of BNM.

22. SERVICE OF NOTICE AND LEGAL PROCESS

22.1 Save as otherwise herein provided, any demand for payment of the monies to be paid by the Customer and any notice or request required or permitted to be given or made under this Agreement to the Bank shall be in writing and in the case of the Bank shall be under the hand of any duly authorised officer of the Bank or solicitor or firm of solicitors purporting to act for the Bank to the addresses set out below or as may be subsequently notified.

22.2 All statements of accounts, communications demand, notice, writ of summons or any legal process or request shall be deemed to have been sufficiently given or made if sent by registered post, addressed as aforesaid or delivered by hand to such address or faxed to such address and shall in the case of delivery by hand be deemed to have been duly served on and duly received by the other party at the time of delivery and in the case of delivery by registered post shall be deemed to have been duly served on and duly received by the other party after the expiration of three (3) business days from the date it is posted inclusive of the day in which it was posted despite any evidence to the contrary notwithstanding that such letter may be subsequently returned unclaimed by the post office and in the case of facsimile shall be deemed to have been duly served on and duly received by the other party against due transmission evidenced by a print-out record of such transmission, subject to the condition that if such transmission is made after 5.00 p.m. on the day of transmission, it shall be deemed to have been served on the following Business Day. Any demand, notice or request by fax shall be followed by registered post or delivered by hand to such address as soon as practicable thereafter. A written statement by an officer of the Bank confirming the posting of any statement of accounts or any other notice or communication whatsoever from the Bank shall be binding and conclusive evidence of the fact as against the Customer and/or the Customer's estate and/or successors in title notwithstanding any evidence to the contrary.

22.3 For individual accounts, in case of the Customer's death and until the Bank receives notice in writing of the grant of probate or letters of administration of the Customer's estate, any notice or demand by the Bank sent by post as aforesaid addressed to the Customer or to the Customer's personal representative at the Customer's last known address shall for all purposes hereunder be deemed a sufficient notice or demand by the Bank to the Customer

and/or the Customer's personal representative and shall be effectual as if the Customer is still living.

- 22.4** No change in the address of the Customer herein stated howsoever brought about shall be effective or binding on the Bank unless actual notice of the change of address has been given to the Bank. In the event of a change in address of the Customer, the Customer shall as soon as practicable but within fourteen (14) Business Days prior to such change notify in writing to the Bank of the change.
- 22.5** Any notice or other communication to be given under or in respect of this Agreement shall be delivered, given or sent to the addressee at the address or facsimile number (or such other address or facsimile number as the addressee may give notice of to the other party in accordance with the provisions of this Clause from time to time) set out below:

For the Bank

Place of business and fax no. as stated in Section 2 of Schedule 1 hereto.

For the Customer

Address and fax no. as stated in Section 3 of Schedule 1 hereto.

- 22.6** The Customer irrevocably consents to service of process out of any Court whether or not personal service is required or otherwise by the same being left at the Customer's last known address or sent by registered letter to any such addresses and in the last mentioned case the service shall be deemed to be made despite any evidence to the contrary within two (2) days from the date the letter was sent inclusive of the day in which it was sent.

23. STAMPING

IT IS HEREBY AGREED AND DECLARED that this Agreement and the Transaction Documents and any other agreements or documents are all instruments employed in one transaction to secure the Indebtedness (subject to the terms of the Transaction Documents) and all other charges, costs and expenses whatsoever within the meaning of Section 4(3) of the Stamp Act, 1949 and for the purpose of the said Section, this Agreement is deemed to be the principal or primary instrument and the other Transaction Documents and other relevant documents in relation to the Facility are the subsidiary or auxiliary instruments. Stamp duty payable on this Agreement and the Transaction Documents, shall be paid by the Customer.

24. RIGHT OF UPSTAMPING

This Agreement and the Transaction Documents are intended to regulate and secure any further financing to the Customer, and in the event such further financing is made by the Bank, the Bank is hereby duly authorised to pay such additional stamp duty on this Agreement to regulate and secure such further financing at such rate as such additional financing shall attract based on the then prevailing legislations pertaining to stamp duty.

Notwithstanding anything herein written, the Bank shall also have the right, at any time and from time to time, without any prior notice to the Customer, to upstamp this Agreement to secure also the excess of any Indebtedness (including all profits thereon) due or owing to the Bank over the principal amount for which this Agreement shall for the time being be stamped.

(End of Clauses)

IN WITNESS WHEREOF the Parties have hereunto set their respective hands and seal the day of the year first set out above.

THE BANK

SIGNED by)
as Attorney for and on behalf)
MBSB BANK BERHAD)
(Company No.: 716122-P))
in the presence of :-)

THE BANK
by its Attorney

.....

The Customer (Please insert details)

*SIGNED by the CUSTOMER)
in the presence of:)

.....
Name:
NRIC No.:

*The Common Seal of the CUSTOMER)
was hereunto affixed in accordance)
with its Articles of Association)
in the presence of:)
)

.....
Director
Name:
NRIC No:

.....
Director
Name:
NRIC No:

**delete whichever is not applicable*

SCHEDULE 1

Section 1: The Date of this Agreement (Please insert)
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Section 2: The Bank Servicing Branch

As per the particulars stated in the Letter of Offer and/or Supplementary and/or Notification Letter of Offer (if any).

Section 3: The Customer (Please insert details)
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Section 4: Security Documents
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As stated in the Letter of Offer and/or Supplementary and/or Notification Letter of Offer (if any).

Section 5: Transaction Documents

- | |
|--|
| <ol style="list-style-type: none">1. The Letter of Offer2. This Agreement3. The Purchase Requisition4. The Agency Agreement5. The Murabahah Sale Contract6. The Security Documents (as per the Section 4 above) |
|--|

SCHEDULE 2

CONDITIONS PRECEDENT

(referred to in Clause 3.1)

(Which is to be taken as read and construed as an essential part of this Agreement)

The utilization and disbursement of the Facility may be allowed only after fulfillment of the following terms and conditions:-

1. the Letter of Offer has been duly executed by the Customer and returned to the Bank;
2. the Availability Period for the disbursement has not expired;
3. where the Customer and/or the Security Party(ies) is/are companies, receipt by the Bank of certified true copies of the Memorandum and Articles of Association and Forms 24, 44 and 49 and the Board of Directors' resolution authorizing the execution of the Transaction Documents by the Customer and each of the Security Party(ies);
4. the Transaction Documents and/or other documents which are required by the Bank to be executed by the Customer and/or the Security Party(ies) has/have been duly executed, stamped and registered with such registries as the Bank may deem necessary or expedient and copies thereof duly delivered to the Bank PROVIDED THAT the Bank may at its absolute discretion make payment(s) either wholly or partially of the Facility upon presentation of the Transaction Documents at the relevant registries;
5. the Bank shall have received from the Official Receivers and /or the Official Assignees, as the case may be that according to its record, Customer and/or the Security Party(ies) has/have not been adjudged bankrupt or wound up, and there is no prosecution, bankruptcy or winding up or analogous proceedings commenced or threatened against the Customer and/or the Security Party(ies) as the case may be;
6. a search having been made at the relevant land registry/land office confirming that the Property is free from all encumbrances and no acquisition notices have been lodged and/or registered or issued against the Property and no lodgment of a private caveat on the Property has been made;
7. the Bank is satisfied that the execution, delivery and performance of the Transaction Documents have been duly authorized and approved by all necessary party(ies) and that the same do not contravene any laws, rules or regulations or any contractual or other restrictions binding upon the Customer and/or the Security Party(ies);
8. the receipt by the Bank of all relevant undertakings, disclaimers, confirmations required by the Bank to the Bank's satisfaction;
9. where payment of the Facility is by progressive release, receipt by the Bank of the relevant architect certificates;
10. where the Facility or any part thereof is for the purchase of property under development or for the construction of residential/commercial property, as the case may be, all the approvals from the relevant government and local authorities for the development or construction of the property, including but not limited to development order, building plans and layout plans;
11. the Customer shall have delivered or cause to be delivered to the Bank the current receipts of quit rent, assessments, rates, dues and other outgoings in respect of the Property as the Bank may require;

12. where required by the Bank, a valuation of the Property in the form and substance satisfactory to the Bank confirming that the forced sale value/open market value of the Property, whichever is required, is not less than the amount stated in the Letter of Offer and verification of the address of the Property by a valuer appointed by the Bank shall have been done at the cost and expense of the Customer;
13. receipt by the Bank of the original copy of the Sale and Purchase Agreement and where applicable, the original Principal Sale and Purchase Agreement and all other documents pertaining to the ownership of the Property as the Bank may require;
14. receipt by the Bank of all takaful policies required by the Bank;
15. the differential sum has been fully settled by the Customer to the developer/vendor and receipt by the Bank of a documentary evidence confirming the same;
16. completion of all legal documentation to the satisfaction of the Bank and upon receipt of the Bank's solicitors' legal opinion to release the Facility;
17. if the official search with Companies Commission of Malaysia reveal that any of the assets of the Customer in particular the Property and/or the Security(ies) in particular the security provided herein, whether present or future, is encumbered and is subject to a charge or debenture, the receipt by the Bank of all relevant undertakings, disclaimer, confirmations and consents from the existing charge, debenture-holder and/or encumbrancer;
18. fulfillment of all conditions precedent stated herein and any other additional conditions precedent as may be required by the Bank;
19. no event of default or breach of terms by the person from whom performance is required under the principal Sale and Purchase Agreement between the Vendor and the first seller / Sale and Purchase Agreement, this Agreement and/or the Transaction Documents shall have happened and be continuing;
20. the Customer and/or the Security Party(ies) is/are not in default in payment of any monies due to the Bank under any other account with the Bank or any other financial institution or under the Customer and/or the Security Party(ies)'s associated accounts with the Bank or any other financial institution or the accounts of any other party which the Customer and/or the Security Party(ies) is/are guarantor(s) is/are not in default;
21. the Customer shall have complied with all operational requirements relating to the operation of the Facility as may be stipulated by the Bank from time to time;
22. the Customer having paid all legal fees, the processing fees and all incidental fees/charges payable or agreed to be paid to the Bank and its solicitors for or in connection with the Facility;
23. where required by the Bank, receipt by the Bank of the irrevocable standing instructions for the payment of instalments; and
24. where required by the Bank, the Customer shall have opened with the Bank a savings or current account.

SCHEDULE 3

(Which is to be taken as read and construed as an essential part of this Agreement)

MURABAHAH SALE CONTRACT

THIS MURABAHAH SALE CONTRACT is made on the day of 20 BETWEEN:

- (1) **MBSB BANK BERHAD (Company No.: 716122-P)**, a company incorporated in Malaysia pursuant to the Companies Act, 2016 and having its registered office at 11th Floor, Wisma MBSB, 48, Jalan Dungun, Damansara Heights, 50490 Kuala Lumpur (“the Bank” and includes its successors in title and lawful assigns); and
- (2) the party as stated in Section 1 of the Appendix (“the Customer”)

The parties **HEREBY AGREE AND DECLARE** as follows:

1. **AGREEMENT TO SELL**

- (a) Pursuant to a Purchase Requisition of an even date issued by the Customer to the Bank, the Bank hereby sells and the Customer hereby purchases the Commodities on an “as is where is basis” as stated in Section 2 of the Appendix at the Selling Price set out in Section 3 of the Appendix.
- (b) The Selling Price shall be paid on deferred payment terms and subject to terms and conditions in the Facility Agreement.

2. **TRANSFER OF OWNERSHIP**

- (a) Upon completion of this Murabahah Sale Contract, the liabilities and beneficial ownership to the Commodities (including the risk in the Commodities) shall immediately pass to the Customer.
- (b) The transfer of ownership of the Commodities shall be evidenced by certificate and the delivery order issued by the Commodity Trader.
- (c) The Bank shall retain the relevant certificate relating to the Commodities in its custody as trustee for the benefit of the Customer for the purpose of subsequent sale of the Commodities to a Commodity Trader pursuant to the Agency Agreement of even date executed between the Customer and the Bank. The Customer shall have the right to inspect the said certificate at the premise of the Bank or to require the Bank to furnish the Customer with a photocopy of the said certificate by written notification to the Bank.

3. **PAYMENT OF THE SELLING PRICE**

The payment of the Selling Price by the Customer to the Bank shall be by way of deferred payments in the amount and in the manner as specified in Section 4 of the Appendix of the Schedule 3.

4. **TERMS AND CONDITIONS**

The terms and conditions set out in the Facility Agreement are hereby repeated and shall be binding on the Customer (including its successors in title) and the Bank (including persons deriving title there under and its successors in title and assigns).

In this Murabahah Sale Contract unless otherwise stated, all the terms and references shall bear the same meaning as designated to them in the Facility Agreement and the Letter of Offer.

IN WITNESS WHEREOF the parties have hereunto set their respective hand(s) the day and year, first above written.

THE BANK

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

The Customer

*SIGNED by The Bank)	The Bank
)	by its Attorney(s)
for the Customer as agent of the Customer)	
)	
)	
in the presence of:)

APPENDIX

1.	<p>*(where the Customer is an individual)</p> <p>Name</p> <p>NRIC/Passport No.</p> <p>Address</p> <p>(where the Customer is a body corporate)</p> <p>Name</p> <p>Registration No.</p> <p>Registered Address</p> <p>Business Address</p>	<p>(Please insert)</p>
2.	<p>Commodities</p>	<p>means the Commodities as per the Commodity Trading Certificate No.: _____ being the Shariah compliant goods and/or commodities acceptable to the Bank, purchased under the platform of any commodity trader appointed by the Bank which will be transacted as the underlying asset to facilitate the Tawarruq transaction.</p>
3.	<p>Selling Price</p>	<p>The description of the Selling Price as per the Commodity Trading Certificate No.: _____.</p>
4.	<p>Payment of Selling Price</p>	<p>The payment of the Selling Price by the Customer to the Bank shall be by way of deferred payments in the manner as specified below:-</p> <p>The payment of the Selling Price shall be based on the Effective Profit Rate as follows:-</p> <p>(a) Grace Period Profit payment</p> <p>The payment of Grace Period Profit shall commence on the first (1st) day of the month following the first disbursement of the Purchase Price until the expiry of the Grace Period or full disbursement of the Purchase Price, whichever is earlier. The monthly Grace Period profit to be paid will be based on actual amount disbursed, as advised by the Bank; and</p>

		<p>(b) Monthly Instalments payment</p> <p>The monthly instalment payment as set out in the Letter of Offer. The payment of monthly instalment shall commence on the first (1st) day of the month following the expiry of the Grace Period or full disbursement of the Purchase Price, whichever is earlier.</p>
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**delete whichever is not applicable*

SCHEDULE 4

Copy of the duly stamped Letter of Offer