

DATED THIS DAY OF 201_

BY

(

_____)
("Chargor")

IN FAVOUR OF

MBSB Bank Berhad
(Company No. 716122-P)
("the Bank")

MEMORANDUM OF DEPOSIT
(COMMODITY MURABAHAH TERM DEPOSIT-i) – THIRD PARTY

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

To:

MBSB Bank Berhad (Company No. 716122-P)
11th Floor, Wisma MBSB
48 Jalan Dungun
Damansara Heights
50490 Kuala Lumpur

Dear Sirs,

1. In consideration of you, at the Customer's request, having made, making and/or continuing advances and/or otherwise having granted, granting and/or affording and/or renewing and/or continuing to grant and/or afford credit and other facilities and accommodation to the Customer as described in Section 3 of the Schedule 1 of the Facility Agreement the Facility of up to Ringgit Malaysia _____ (RM_____00) only (hereinafter referred to as the "**Facility**") upon the terms and conditions contained in the Facility Agreement entered or to be entered into by the Customer with you in respect of the Facility (including any supplemental, amendments, modifications and variations thereto) (hereinafter referred to as the "**Facility Agreement**") and for better securing the payment of the Indebtedness to you, We/I, _____ (**Co. No./NRIC No.:**_____), *a company incorporated under the laws of Malaysia and having our registered office at _____ and business addresses at _____ respectively/having an address at _____, hereby enter into this Memorandum of Deposit (Commodity Murabahah Term Deposit-i) (hereinafter referred to as this "**Memorandum**") upon the following terms.
2. (a) In this Memorandum unless the context otherwise requires and save as specifically defined in this Memorandum, words, expressions and phrases defined in the Facility Agreement shall be deemed incorporated herein and shall have the same meanings when used herein.
(b) Similarly, wherever applicable, the provisions of this Memorandum shall be interpreted in the same manner as the provisions of the Facility Agreement would be interpreted.
(c) In addition to those words and expressions already defined in the Facility Agreement, the following words and expressions shall, unless the context otherwise requires, have the meaning respectively assigned to them hereunder:

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

"Deposits" means all moneys now or hereafter or from time to time standing to the credit of the CMTD-i (including all such moneys now or hereafter or from time to time deposited with the Deposit Bank in substitution thereof, in addition thereto or in renewal thereof) as evidenced by the Deposit Receipts, together with all revenues, income, proceeds and moneys accrued thereon or derived or

received therefrom or in connection therewith, and any rights, title, interest, benefits, claims arising thereof on such moneys, and “Deposit” includes any part thereof;

- “Deposit Bank” means you and/or any other licensed Islamic financial institution acceptable to you with which the Deposits or any part thereof are now or hereafter or from time to time deposited;
- “Deposit Receipts” means the CMTD-*i* receipts or such deposit receipts issued in respect of the Deposits, including for the time being those mentioned in Schedule 1 hereto and all deposit receipts and certificates and evidence of title to moneys issued in substitution thereof, in addition thereto or in renewal thereof, and “Deposit Receipt” means any one of them;
- “Facility” means the facility of up to Ringgit Malaysia _____ (RM_____.00) only granted or made available or agreed to be granted or made available or to be continued to be made available by you to us, as from time to time varied, reduced or cancelled, in accordance with the terms and conditions set out in the Facility Agreement;
- “CMTD-*i*” means the Commodity Murabahah Term Deposit-*i* opened and maintained under our name/my name with the Account Bank, as more particularly described in Schedule 1 hereto;
- “Indebtedness” has the meaning ascribed to it under the Facility Agreement.
- “Memorandum” means this first party Memorandum of Deposit (Commodity Murabahah Term Deposit-*i*) and extends to every separate and independent stipulation hereunder and references to this Memorandum include references to the counterparts (if any) thereof;
- “Security Interest” includes, without limitation, any mortgage, debenture, charge, pledge, lien, right of set-off, caveats, covenants, assignment, hypothecation, encumbrance (including any title retention, preferential prohibitory order, right of trust arrangement, transfer by way of security, sale and lease-back and sale and repurchase on credit terms) and any other interests or arrangements of any nature in any property whether moveable or immovable of any kind whatsoever and howsoever created or arising or any other agreement or arrangement having a similar effect howsoever created or arising.
- “Transaction Documents” has the meaning ascribed to it under the Facility Agreement.
- a) Words importing the masculine gender include the feminine and neuter genders and vice versa.
- b) Words importing the singular include the plural and vice versa.

- c) Words applicable to natural persons include any body of persons company corporation firm or partnership corporate or unincorporated.
 - d) Any liberty or power which may be exercised or any determination which may be made hereunder by you may be exercised or made in your absolute and unfettered discretion and you shall not be under any obligation to give any reason therefor.
 - e) Except where otherwise stated, any reference to any statutory provision includes a reference to any modification extension or re-enactment thereof (whether made before or after the date hereof) for the time being in force and also includes a reference to all by-laws, instrument, orders and regulations for the time being made thereunder or deriving therefrom.
 - f) In the event that there are two (2) or more signatories to this Memorandum each and every agreement, covenant, undertaking and liability of each signatory hereto shall be joint and several on their part and shall be construed accordingly and references to the signatory to this Memorandum include references to any one of the signatories to this Memorandum.
3. In consideration of you, at the Customer's request, have granted or made available or agreed to grant or make available or to continue to grant or make available to the Customer the Facility, upon the terms and conditions contained in the Facility Agreement, we/I as beneficial owner:
- (a) HEREBY DEPOSIT and/or have deposited and/or will deposit or cause to be deposited the Deposits with the Deposit Bank; and
 - (b) HEREBY CHARGES AND ASSIGN ABSOLUTELY to you by way of a first legal charge, free from any Security Interest, all our/my rights, title, interest, benefits, claims in and to the Deposits,
- as a continuing security for the Customer(s) due performance and observance of the Customer(s) obligations under the Transactions, and the due and punctual payment and discharge of the Indebtedness.
- 3A. We/I hereby covenant and undertake with you that we/I shall immediately upon the execution of this Memorandum issue a notification substantially in the form set out in Schedule 2 hereto to the Account Bank and obtain an acknowledgement of receipt thereof substantially in the form set out in Schedule 3 hereto and deliver the same to you.
- 3B. If you receive notice of any subsequent Security Interest affecting any part of the Deposits or any other property, asset and undertaking which may be charged or offered to you as security for the Indebtedness, you may open a new account and it shall be treated as if you had done so at the time when you received notice and as from that time for the purpose of crediting all payments made by us to you to the new account and shall not operate to reduce the amount due from us to you at the time when you received notice as specified above.

- 3C. We/I shall from time to time and at any time, whether before or after the security hereby constituted shall have become enforceable, and at our/my own cost and expense, execute and do all such transfers, assignments, assurances, acts and things as you may require for perfecting the security intended to be hereby constituted and for facilitating the realisation of the Deposits or any part thereof and the exercise by you of all the powers, authorities and discretions hereby conferred on you and of obtaining the full benefit of this Memorandum and of the rights and powers hereby granted, and we/I shall also give all notices, orders and discretions which you may require. For such purposes, a certificate in writing signed by you or on your behalf to the effect that any particular transfer, assignment, assurance, act or thing required by you is reasonably required by you shall be conclusive evidence of the fact.
- 3D. We/I hereby acknowledge and agree that:
- (a) notwithstanding the charge herein contained, we/I shall remain liable to perform and discharge all our/my obligations and liabilities under or in connection with the Deposits and shall indemnify and keep you fully and effectually indemnified against all claims, demands, actions, fines, penalties and legal proceedings whatsoever and all losses and damages suffered by you arising from or in connection with any act or omission by us/me our/my agents or servants in connection therewith.
 - (b) neither this Memorandum nor the receipt by you of any payment pursuant hereto shall cause you to be under any obligation or liability whatsoever or for the performance or observance of any conditions, covenants or other terms in relation to the Deposits on our/my part to be performed or observed.
- 3E. Nothing herein contained shall prejudice or affect the rights and remedies to which you shall be entitled as against us or your rights to any other security which you may at any time or from time to time hold for or on account of the Indebtedness or any moneys advanced to us or for our/my benefit by you, commission and/or profit thereon and all other moneys due and owing and remaining unpaid by us to you, nor shall anything herein prejudice or affect any bill, note, guarantee, charge or other security which you may for the time being have or hold for the Indebtedness or any right or remedy of you under such bill, note, guarantee, charge or other security.
4. During the continuance of this Memorandum and so long as the Indebtedness remains owing or unpaid, you (whether in your capacity as the Deposit Bank or otherwise) shall be entitled to:
- (a) retain or keep the Deposit Receipts in your custody or possession;
 - (b) without prior notice to us, appropriate the whole or any part of the Deposits in or towards payment or discharge of the Indebtedness and, for the purposes of any such appropriation, convert the whole or any part of the Deposits into any currency other than that in which the same is or are then held by you;
 - (c) at any time, break any deposits of any sums comprised in the Deposits notwithstanding that such Deposits have not matured; and
 - (d) collect all such sum of moneys as are due to us under the Deposit Receipts and to issue good receipts thereof,

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

- 4A. We/I hereby irrevocably appoints you and any other officer(s) or and/or person(s) authorised by you and their substitute(s) as our/my attorney ("**Attorney**") with full power in our/my name and on our/my behalf to act and do or otherwise to sign, seal and deliver and to execute or otherwise generally to do all such assurances, acts and things as fully and effectually as we/I could ourselves/myself do including but not limited to:
- (a) to renew the Deposits on maturity for such period as the Attorney shall deem fit and at a profit sharing ratio or profit rate or deposit rate (as the case may be) determined by the Attorney to be prevailing on the relevant date for the renewal;
 - (b) to replace or substitute the Deposits;
 - (c) to redeem and/or withdraw the Deposits and/or collect all such sums of moneys comprised in the Deposits and/or which are due to us under the Deposits and to issue good receipts therefor and to deal with the Deposits at the Attorney's discretion in any manner;
 - (d) to perfect your title to or Security Interest in the Deposits;
 - (e) to give any notices (including but not limited to the notification referred to in Clause 3A) as the Attorney may deem fit in respect of this Memorandum or in connection with the Deposits;
 - (f) demand, sue for, collect and receive from any person, company, corporation, partnership, firm, government or other body politic or otherwise all payments or any other sums or moneys that may become due to us under or in relation to the Deposits as and when the same shall be due and payable and to issue good receipts therefor;
 - (g) to deal with the Deposits in any manner whatsoever;
 - (h) to enforce all rights and remedies under or in relation to the Deposits and hereunder;
 - (i) to do and perform all whatsoever acts, matters and things necessary or expedient for the registration and perfection of this Memorandum, including but not limited to the registration of the power of attorney herein conferred;
 - (j) to execute, seal, deliver and otherwise perfect any deed, assignment, transfer, assurance, agreement, instrument or act which, may in the opinion of the Attorney, be required or deemed proper, necessary or desirable in or for any of the purposes of this Memorandum;
 - (k) to ask, require, demand, receive, compound, give acquaintance for, settle and compromise any and all moneys and claims for moneys due or becoming due under and arising out of this Memorandum and to issue good receipt thereto, to

endorse cheques or other instruments or orders in connection therewith, to file any claim, to take any action or institute or prosecute, defend, compromise, submit to arbitration and/or discontinue any action, suits or proceedings which the Attorney may deem in its absolute discretion necessary or advisable in relation to the Deposits and to execute any documents; and

- (l) generally, do all things as fully and effectually as we/I ourselves/myself could do in connection therewith and do anything reasonably necessary under this Memorandum,

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

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

5. You shall be entitled without prior notice or demand forthwith to set-off and transfer, in such manner and upon such terms and conditions generally as you shall think fit, all or any part of the Deposits and apply the same in or towards satisfaction of the Indebtedness when they actually become due and payable whatever may be the currency of the Indebtedness and for that purpose (without prejudice to the generality of the foregoing) to effect such combination or consolidation of accounts as you think fit. If any of the Indebtedness are in a currency or currencies other than the currency in which the Deposits are denominated you shall be entitled to apply the Deposits or part thereof in purchasing the currency or currencies of the Indebtedness at your rate for the purchase with the currency of the Deposits.
6. We/I also agree that a certificate signed by any of your officers as to the moneys or liabilities for the time being due or owing or incurred to you from me shall save and except for any manifest error be accepted by me as conclusive evidence that the amount thereby appearing is due or owing to you as aforesaid.
7. We/I hereby irrevocably and unconditionally agree and undertake with you that until the Indebtedness shall have been discharged in full and the Facility shall cease to be available We/I shall:-

- (a) deposit or cause to be deposited with you and you shall be entitled to the custody and possession of the Deposit Receipts and all other documents and evidence of title thereto or ownership thereof and the moneys represented thereby and shall not demand or request for the return thereof or any of them;
 - (b) do all acts deeds and things including the execution and signing of all and such notices, endorsements and documents, including without prejudice to the generality of the foregoing any Power of Attorney, as may be required for the continuance perfecting or enforcement of this security and to give effect to our/my obligations herein;
 - (c) maintain or cause to be maintained at all times or from time to time the Deposits at the level as required by you and shall not permit the Deposits to lapse;
 - (d) renew or cause to renew the Deposits and any subsequent renewals thereof, for further periods as you deem fit and at a profit sharing ratio or profit rate or deposit rate (as the case may be) determined by you to be prevailing on the relevant date for the renewal, upon their maturity or due dates for payment, and shall sign, do and execute all documents required for such renewal.
8. Until the Indebtedness shall have been discharged in full and the Facility shall cease to be available no part of the Deposit shall be payable except with your prior written consent (which you may grant conditionally or unconditionally or withhold at your absolute discretion as you think fit).
9. Until the Indebtedness shall have been discharged in full and the Facility shall cease to be available, we/I undertake not to, except with your prior written consent (which consent may be given or refused without assigning any reason therefor either absolutely or on such terms and conditions as you deem fit and your decision shall be final and conclusive):.
- (a) withdraw the whole or any part of the Deposits;
 - (b) terminate or permit to lapse or seek payment of the Deposits;
 - (c) close the CMTD-*i* or permit the same to be closed;
 - (d) assign or transfer or purport to assign or transfer or otherwise deal with or create or permit to be created any Security Interest over the Deposits;
 - (e) revoke, terminate or cancel or purport to revoke, terminate or cancel the power of attorney conferred herein;
 - (f) make any claim or exercise any rights in relation to collateral or security held by you for the Indebtedness unless and until you shall have received the full amount secured hereunder and we/I have been absolutely discharged or released in accordance with Clause 10; and
 - (g) take any collateral or security from any other Security Party for our/my liabilities hereunder, and if any such collateral or security is taken, it shall be held by us on trust for you.

10. This security shall not be considered as satisfied by any conditional payment or satisfaction of the whole or any sum or sums of money owing or by any payment made to be held in suspense but shall be a continuing security and extend to cover all or any sum or sums of money which shall for the time being or from time to time be due and owing by us to you under or in connection with or arising from the Facility and/or this Memorandum notwithstanding that we/I may at any time and from cease to be so indebted for any period or periods.
- 10A. The security herein created is expressly intended to be and shall be a continuing security for all moneys whatsoever now or hereafter from time to time owing to you by us whether alone or jointly and severally with another or others and whether as principal or surety until the Indebtedness and all other moneys herein agreed to be payable by us shall be paid and satisfied in full to you and notwithstanding that we/I may at any time or times, cease to be indebted to you, for any period or periods and notwithstanding:
- (a) any of our/my account(s) with you may from any cause whatsoever cease to be current and notwithstanding any closure or settlement of account or accounts or otherwise;
 - (ii) any change by amalgamation, consolidation, reconstruction, merger or otherwise which may be made in the constitution of the company by which our/my business is for the time being carried on;
 - (iii) our or any other Security Party's winding-up, liquidation or dissolution, whether voluntarily or compulsory;
 - (iv) our relationship ceasing for any reason whatsoever.
- 10B. The validity and enforceability of the security created by this Memorandum shall not be prejudiced or otherwise affected:
- (a) by the invalidity or unenforceability of any of our/my obligations or liabilities under this Memorandum or the Facility Agreement; or
 - (b) by reason of any invalidity or irregularity in the execution of this Memorandum or the Facility Agreement; or
 - (c) by any deficiency in our/my powers to enter into, or perform any of our/my obligations under this Memorandum or the Facility Agreement; or
 - (d) by any other security document or security now or hereafter held by or available to you or any of your power, right or remedy in respect of any of the same; or
 - (e) for any other reason whatsoever;

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

- 10C. Subject to Clauses 10D and 10E, if at any time the whole of the Indebtedness are paid in full and all our/my obligations have been performed under the Facility Agreement and the other the Facility Agreement and no contingent obligations exist under the Facility Agreement and the other Transaction Documents, all your rights hereunder shall terminate and we/I shall be entitled at our/my own costs and expenses to obtain a discharge and release of this Memorandum hereunder in such form as you shall in the circumstances then deem appropriate but without prejudice to your rights and remedies against us in respect of any antecedent claim or breach of covenant.
- 10D. Any settlement or discharge between us shall be conditional upon no security or payment to you by us or any other Security Party or any other person being invalidated for any reason whatsoever or being avoided or refused or set aside by virtue of any provision or enactment or laws relating to bankruptcy, insolvency or liquidation for the time being or from time to time in force by virtue of any obligation to give effect to any preference or priority and you shall be entitled to recover the value or amount of any such security or payment from us subsequently as if such settlement or discharge had not occurred.
- 10E. (a) We/I agree that in addition to any right of set-off or other general lien or similar right to which you may be entitled in law, you may at any time and without notice to us but subject always to the terms of the Facility Agreement, combine and consolidate or merge all or any of the accounts with you or any of your affiliates or subsidiaries in our/my name or to which we/I are beneficially entitled and/or set off any moneys whatsoever, whether on deposit account or otherwise, or any security which you may at any time hold for our/my account against any of our/my liabilities whatsoever (including all costs, charges and expenses incurred in any way in relation to this Memorandum and the Facility Agreement) which may be due or accruing due to you whether such liabilities are or may be joint or several or primary or secondary or actual or contingent.
- (b) Unless you otherwise agree, this security shall not be discharged except on payment to you not only of all moneys secured hereby but also of other moneys secured by any other security created by us or any other Security Party.
- 10F. Notwithstanding any provision hereof, it is hereby expressly agreed that upon default or breach by us of any term, covenant stipulation and/or undertaking herein provided and on our/my part to be observed and performed in this Memorandum or the Facility Agreement, you shall thereafter have the right to exercise all or any of the remedies available whether by this Memorandum or the Facility Agreement or by statute or otherwise and shall be entitled to exercise such remedies concurrently, including pursuing all remedies of sale or possession pursuant to this Memorandum or the Facility Agreement and civil suit to recover all monies due and owing to you. In the event that you do not exercise such remedies concurrently you shall be entitled to institute civil suits to recover all monies outstanding or to dispose of the security created hereunder.
- 10G. You shall at any time after the occurrence of any Event of Default, be at liberty (without being bound to do so) to resort to any other means of payment at any time and in any order as you may think fit without thereby diminishing our/my liability hereunder and you may exercise your rights hereunder for the payment of the amount hereby intended to be secured either after resorting to other means of payment or at any time notwithstanding that other means of payment have not been resorted to, and you shall have the right to exercise all or any of the remedies available whether by this

Memorandum or the Facility Agreement or by statute or otherwise and shall be entitled to exercise such remedies concurrently, including but not limited to, pursuing all remedies of realisation, sale or possession pursuant to this Memorandum or the Facility Agreement and civil suit to recover the Indebtedness and all other moneys due and owing to you.

- 10H. (a) The Indebtedness shall become immediately due and payable on demand and the security hereby created shall become enforceable in any of the following events:
- (i) if in accordance with the terms of the Facility Agreement and/or any of the other Transaction Documents, the Indebtedness shall become forthwith due and payable;
 - (ii) if any Event of Default has been declared; or
 - (iii) if any of the Transaction Documents shall become enforceable.
- (b) At any time after the security hereby created becomes enforceable and the Indebtedness shall become due and immediately payable on demand, you shall be entitled to enforce the security and the proceeds of such enforcement shall be applied in accordance with the provisions of the Facility Agreement.
- (c) If the sum received, recovered or realised under this Memorandum after deduction and payment from the sum so received, recovered or realised of all fees, costs, expenses and other outgoings, is less than the amount due to you under this Memorandum and/or the Facility Agreement, and whether in the process of such recovery or realisation you have purchased any of the properties and assets charged to you or otherwise, then, in addition and without prejudice to any other right or remedy which you may be entitled to, we/I shall pay to you the difference between the sum due and the sum so received, recovered or realised and until such payment will also pay late payment compensation (Ta'widh) on such balance at the rate provided in Clause 10I.
- 10I. We/I shall be liable to pay you late payment compensation (Ta'widh) on any amount overdue as follows:
- (a) If the default to pay any amount overdue occurs during the tenure of the Facility, at the rate of one per centum (1%) per annum on such overdue amount under the Facility from the due date up to the date of settlement or such other rate/method stipulated or approved by your Shariah Advisory Committee of the Bank ("the Bank SAC") and/or the Shariah Advisory Council of Bank Negara Malaysia from time to time; and
 - (b) If the default to pay any amount overdue occurs after the maturity of the Facility, at the rate which is your prevailing Islamic Interbank Money Market rate on the balance of the principal sum or such other method approved by the Bank SAC and/or the Shariah Advisory Council of Bank Negara Malaysia.

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

11. No failure or delay on your part in exercising nor any omission to exercise any right, power, privilege or remedy accruing to you under this Memorandum upon any default on our/my and/or any other Security Party's part shall impair any such right, power, privilege or remedy or to be construed as a waiver thereof or an acquiescence in such default nor shall any waiver or action by you in respect of any default or any acquiescence in any such default affect or impair any of your rights, power, privilege or remedy in respect of any other or subsequent default nor shall any single or partial exercise of any right, power, privilege or remedy precludes any other or further exercise thereof or the exercise of any other right, power, privilege or remedy.
12. Our obligations under this Memorandum are and will remain in full force and effect by way of continuing security until the Indebtedness shall have been discharged in full and the Facility shall cease to be available.
13. We/I shall:
 - (a) on demand pay to you all fees and expenses in connection with or incidental to this Memorandum and the Facility Agreement (including legal fees (on client and solicitor and full indemnity basis) and any goods and services tax payable and out of pocket expenses incurred by you in connection with the negotiation, preparation and execution of this Memorandum and the Facility Agreement). If any moneys due in respect of the Facility or hereunder shall be required to be recovered through any process of law or be placed in the hands of solicitors for collection, we/I shall pay (in addition to such moneys) the fees of the solicitors for you (on a solicitor and client and full indemnity basis) and any other fees and expenses incurred in respect of such collection;
 - (b) from time to time on your demand, pay to you for your account all costs and expenses incurred in or in connection with any variation, consent or approval relating to the Facility Agreement or any steps taken in connection with the preservation or enforcement of any of your rights under the Facility Agreement; and
 - (c) pay all stamp, registration and other taxes to which this Memorandum is or at any time may be subject and shall, from time to time on your demand, indemnify you against any liabilities, costs claims and expenses reasonably incurred as a result of any failure to pay or any delay in paying any such tax.
- 13.A We/I shall indemnify you to your satisfaction in respect of all liabilities, losses and expenses (including legal expenses on a solicitor and client and full indemnity basis including any goods and services tax payable) incurred by you or by any person appointed by you or to whom any trust, duty, right, power, authority or discretion may be delegated by you in the execution or purported execution of any of the trusts, duties, rights, powers, authorities or discretions vested in it by this Memorandum and the Facility Agreement and in respect of all liabilities, losses and expenses (including legal expenses on a solicitor and client and full indemnity basis including any goods and services tax payable) which you or any person appointed by you or to whom any trust, duty, right, power, authority or discretion may be delegated by you may sustain or incur as a consequence of any default in payment by us of any sum hereunder (including any profit or fees paid or payable on account of or in respect of any funds borrowed or deposits obtained from any third party in order to maintain the amount in default or in liquidating or re-employing such funds or deposits) and against all actions, proceedings,

costs, claims and demands in respect of any matter or thing done or omitted to be done in any way relating to this Memorandum and the Transaction Document or in or about the enforcement or preservation of any of the security created hereunder and you or any person appointed by you or to whom any trust, duty, right, power, authority or discretion may be delegated by you may retain and pay all sums in respect of the same out of any moneys received in the exercise of the powers, authorities conferred upon you or any such person, other than those arising out of your gross negligence or wilful misconduct.

14. This Memorandum shall be binding upon our/my successors in title and shall be enforceable by your successors in title and assigns.
15. The security created by this Memorandum is in addition to and not in substitution for any other security or guarantee which you may at any time hold for the payment of the Indebtedness, shall not merge with or otherwise prejudice or affect any other Transaction Documents or security now or hereafter held by or available to you or any of your power, right or remedy in respect of any of the same and may be enforced without first having recourse to any such security or guarantee and without taking any steps or proceedings against any other surety or party.
16. This Memorandum shall be in addition to and shall not be in any way prejudiced or affected by any collateral or other security now or hereafter held by you for the Indebtedness nor shall such collateral or other security or lien to which you may be otherwise entitled or the liability of any person or body or corporation not parties hereto for all or any part of the Indebtedness be in any prejudiced or affected by this Memorandum.
17. In the event of our/my bankruptcy, winding up, liquidation, composition or arrangement or any proceedings analogous thereto, you may (notwithstanding our payment to you of any part of the amount hereby guaranteed or secured) rank as secured creditor and prove for the whole amount of your claim against us or agree to accept any composition or dividend in respect of the same in the same manner as if this security had not been created and you may receive and retain the whole of the dividends, composition or other payments thereon and no money received so received by you shall be treated as received in respect of this security but the full amount hereby secured shall be payable by us until you shall have received from all sources one hundred sen in the Ringgit Malaysia on the ultimate balance outstanding against us and each Security Party. After you have received such ultimate balance in full, any claim on our/my part to any excess or any securities remaining with you shall be a matter of adjustment between us and/or any other person(s) laying claim thereto. For the purpose of enabling you to sue or to prove against us for the whole of the monies owing by us or any other Security Party to you under the Facility and this Memorandum and any other Transaction Documents, any money received by virtue of or in connection with this Memorandum may be placed to the credit of a suspense account for such time as you shall think fit without any intermediate obligation on your part to apply such money or any part thereof in or towards the discharge of the monies owing as aforesaid PROVIDED THAT if we/I shall have paid in full the whole of the monies hereby secured then notwithstanding the placement of such monies so paid or any part thereof in a separate or suspense account we/I shall be discharged from my liabilities and shall be deemed to have performed our/my obligations under this Memorandum.

18. Any notice, request or legal process shall be sufficiently served, given or made to us by sending the same personally or by prepaid registered post or ordinary post addressed to us at our/my address hereinbefore stated (or such other address as may from time to time be notified by us and actually received by you) and shall be deemed to be received by us if it is personally delivered, at the time of delivery and duly acknowledged and if it is sent by post, three (3) days from the date it is posted notwithstanding that such notice, request or legal process may be returned through the post office undelivered. 'Legal process' shall include all forms of originating process, pleadings, interlocutory applications of whatever nature, affidavits, orders and such other documents and notices as may be required to be given or served under any legislation or subsidiary legislation.
19. (a) The security, liabilities and/or obligations created by this Memorandum shall continue to be valid and binding for all purposes whatsoever notwithstanding any change by amalgamation, reconstruction or otherwise which may be made in your constitution or the constitution of any company by which your business may for the time being be carried on and shall be available to the company carrying on that business.
- (b) The securities, liabilities and/or obligation created by this Memorandum shall continue to be valid and binding for all purposes whatsoever notwithstanding any change whether by reason of amalgamation, reconstruction, merger, winding-up, insolvency, incorporation or otherwise howsoever in the name style constitution or composition of ours/mine and it is expressly declared that no change of any sort whatsoever in relation to or affecting us shall in any way affect the security, liabilities and/or obligations created by this Memorandum or the Facility Agreement in relation to any transaction whatsoever whether past present or future.
20. (a) You may, by notice in writing to us at any time transfer, sell, participate in secondary debt markets or transfer all or any part of your rights and benefits and/or obligations under this Memorandum by assigning to any other person(s) all or any part of your rights and benefits under this Memorandum and/or transferring to any other person(s) its obligations under this Memorandum, upon the terms and conditions to be determined by you and you may disclose to such potential assignee or transferee or such other person(s) who derives or may derive rights, benefits and/or obligations under or by reference to this Memorandum, such information about us, our/my financial condition, the Facility, this Memorandum and the Facility Agreement to which we/I are a party:
- (i) where you transfer your rights and benefits or any part thereof, we/I shall execute such documents as are reasonably necessary to release you to the extent of the transfer and join the transferee as a party hereto; and
- (ii) where you transfer all its obligations, rights and benefits hereunder we/I shall thereafter deal solely with the transferee with respect to payments, notices and other matters relating to the administration of this Memorandum.
- (b) We/I shall not assign or transfer our/my rights hereunder or any interest herein without your prior written consent and it shall in any event remain liable for all our/my obligations hereunder. All undertakings, agreements, representations and

warranties given, made or entered into by us herein shall survive the making of any assignment or transfer hereunder.

- (c) All your costs and expenses incidental to such assignment or transfer shall be payable by us and any statement or recital in the deed of assignment or the document of transfer of the sum then due to you under and by virtue of this shall, save for manifest errors, be conclusive and binding on us.
21. In the event that this Memorandum is invalid or ineffective as a charge on the Deposits, this Memorandum shall nevertheless operate as and be deemed to be an instrument conferring on you a contractual right of set off in the terms hereof and we/I hereby irrevocably confirm our/my agreement to your deducting and setting off from any monies, including dividend and/or profits which may be payable to us under or arising from or represented by the Deposit Receipts and/or the Indebtedness.
22. 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 unenforceability 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.
23. We/I hereby covenant and declare that we/I have been advised by you to seek independent legal advice on the effects and consequences to us in respect of the signing of this Memorandum and we/I agree that the provisions contained herein shall be binding on us regardless of whether we/I have resorted to any such advice.
24. Your rights and remedies under this Memorandum are cumulative and not exclusive of any rights or remedies you may have under the general law.
25. All moneys received by you from any person or estate capable of being applied in reduction of the Indebtedness shall be regarded for all purposes as payments in gross and not appropriated or attributable to any specific part or item of the said Indebtedness even if applied thereto by you and if an adjudicating or receiving order shall be made against any person liable to you or any order be made, you may prove for the whole of the moneys then owing and no money received under such proof shall be considered as having been received and the full amount owing shall be payable until you have received from all sources one hundred cents in the Ringgit Malaysia and if the amount ultimately received by you exceeds the amount of the ultimate balance owing to you the excess only over such ultimate balance shall be paid to the person or party on whose account the same shall have been received by you.
26. (a) Place of Payment: All payments to be made hereunder and, where appropriate, the rest of the Transaction Documents by us shall be made by us in Ringgit Malaysia in immediately available funds on the due date or dates to you at your place of business which you may specify in writing from time to time, save and except for facility in foreign currency in which case the payments may be made in the currency in which the facility were provided, subject to the compliance of any foreign exchange laws and regulations to which we/I are subject.

- (b) Payments to be free and clear: All sums payable by us under this Memorandum shall be paid (i) free of any restriction or condition; (ii) free and clear of and (except to the extent required by law) without any deduction or withholding on account of any tax, and (iii) without deduction or withholding (except to the extent required by law) on account of any bank charges or commission or any other charges or deductions or any other amount, whether by way of set-off or counterclaim or otherwise. If we/I are required by law to make any deduction or withholding on account of any such tax or any other amount from any sum paid or payable by us to you under this Memorandum, we/I shall pay such additional sum to the extent necessary to ensure that, after the making of that deduction, withholding or payment you receive on the due date and retains (free from any liability in respect of any such deduction, withholding or payment) a net sum equal to what you would have received and so retained had no such deduction, withholding or payment been required or made.
- (c) Business Day: If any sum becomes due for payment under or pursuant to this Memorandum or any of the other Transaction Documents on a day which is not a Business Day such payment shall be made on the next succeeding Business Day unless such next succeeding Business Day falls in another calendar month in which event such payment shall be made on the Business Day preceding the due date.
- (d) Debit: You are hereby authorised at any time without notice to us to debit any of our/my account with you in respect of the Indebtedness and all other monies due and payable hereunder and, where applicable, the other Transaction Documents as well as debt recovery fees and other amounts and sums of money payable by us. No such debiting shall be deemed to be a payment of the amount due (except to the extent of any amount available in any of our/my current account) or a waiver of any event of default under any agreement relating to the Facility. If such debiting causes any of our/my account to be overdrawn, profit shall be charged accordingly.
27. It is hereby expressly agreed and declared by us that each of our/my obligations to pay under any of the provisions of this Memorandum, or where appropriate, the other Transaction Documents constitute separate and independent obligations, shall give rise to separate and independent causes of action, shall apply irrespective of any waiver or indulgence granted by you in respect of any other obligation, shall remain in full force and effect despite any judgment, order, claim or proof for a liquidated amount in respect of some other obligation and may be relied upon and enforced by you independently of or simultaneously with or without having to commence any other action under such obligations or under any of the other Transaction Documents or having first exhausted any remedy or having first sold or disposed of any assets, properties or undertaking which may be provided as security to you from time to time.
28. It is hereby agreed that any admission or acknowledgement in writing by us or any other Security Party or any other party or any authorised person on our/my behalf or any other Security Party or any other party or a statement of account showing the Indebtedness duly certified by your authorised agent or officer, or which is a computer generated statement without any such certification shall, save and except for any manifest error, be binding and conclusive against us and our/my successors in title.

29. No person dealing with you or with your attorneys or agents shall be concerned to enquire whether the security hereby constituted has become enforceable or whether the power exercised or purported to be exercised has become exercisable or whether any moneys remain due upon the security of this Memorandum or to see to the application of any money paid to you or your attorneys or agents and in the absence of fraud on the part of such person, such dealing shall be deemed so far as regards the safety and protection of such person to be within the powers hereby conferred and to be valid and effectual accordingly and our/my remedy in respect of any irregularity or impropriety whatsoever in the exercise of such power shall be in damages only.
30. Your receipt or the receipt of your attorneys or agents in respect of any moneys paid to you or such attorneys or agents shall effectually discharge the person paying the same therefrom and from being concerned to see to the application or being answerable for the loss or misapplication thereof.
31. You shall be entitled on our/my behalf to enter into any settlement or arrangement or accept any compositions or grant any waiver or time in relation to the Deposits or any part thereof without our/my concurrence and such settlement or arrangement or composition or waiver or granting of time shall be binding on us.
32. You shall not be under any obligation to us to make any enquiry as to the nature or sufficiency of any payment received by you hereunder or to demand or take or continue any action or step to recover the Deposits or any part thereof nor shall it be under any obligation to us by reason of you having abstained from taking or continuing any such action or step.
33. In addition to the permitted disclosures provided under Schedule 11 of the Financial Services Act, 2013, we/I irrevocably authorise and permit you, your officers and employees to disclose and furnish all information concerning the Facility, the Facility Agreement, our/my present and future accounts and any other matters relating to us or our/my business and operations to:-
 - (a) other financial institutions granting or intending to grant any financing or credit facilities to us, the Central Credit Bureau or any other central credit bureau established by Bank Negara Malaysia, Cagamas Berhad, Biro Maklumat Cek, Credit Guarantee Corporation, any other relevant authority as may be authorised by law to obtain such information or such authorities/agencies established by Bank Negara Malaysia or any agency established by the Association of Islamic Banking Institutions Malaysia;
 - (b) any current or future corporation which may be associated or related with you (as defined in the Companies Act 1965), including representative and branch offices and their respective representatives;
 - (c) the Security Party or any party intending to provide security in respect of the Facility;
 - (d) your auditors, solicitors and/or other agents in connection with the recovery of moneys due and payable hereunder; and

- (e) your professional advisers, service providers, nominees, agents, contractors or third party service providers who are involved in the provision of products and services to or by you and your related or associated companies.

We/I hereby irrevocably consent to such disclosure and confirm that you, your officers and employees shall be 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 Memorandum.

34. We/I hereby further represent, covenant and undertake that:

- (a) we/I have not engaged and will not engage, directly or indirectly, in a transaction that involves proceeds of any unlawful activity or instrumentalities of an offence;
- (b) we/I have not acquired, received, possessed, disguised, transferred, converted, exchanged, carried, disposed of, used or removed from or bring into Malaysia and will not acquire, receive, possess, disguise, transfer, convert, exchange, carry, dispose of, use, remove from or bring into Malaysia, proceeds of any unlawful activity or instrumentalities of an offence; or
- (c) we/I have not concealed, disguised or impeded and will not conceal, disguise or impede, the establishment of the true nature, origin, location, movement, disposition, title of, rights with respect to, or ownership of, proceeds of any unlawful activity or instrumentalities of an offence; and

we/I confirm to you that we/I are 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, 2001.

35. In the course of our dealing with you, you may request us to provide the personal data of our employees, agents, directors, contact persons, shareholders, representatives, authorized person and shareholdings details of our shareholders as disclosed by us prior to or during the course of performance of this Memorandum for the performance of contract, marketing, legitimate business activity, administration and economic efficiency purposes. The personal data of our employees, agents, directors, contact persons, shareholders, representatives and authorized persons may be disclosed and shared with your other related corporations and subsidiaries within and outside Malaysia for the aforesaid purposes. We/I hereby warrant that the Personal Data Protection Act 2010 has been complied with and that consents have been obtained from our employees, agents, directors, contact persons, shareholders, representatives and authorized persons in relation to the disclosure and processing of their personal data by you for the aforesaid purposes.
36. All the provisions of the Facility Agreement are, whether repeated herein or not, deemed to be incorporated into and form part of this Memorandum and all representations, warranties and covenants made therein by us shall be deemed to have been made by us herein and where relevant references therein to "this Agreement" shall for the purposes hereof be and to this Memorandum, subject to such alterations or variations where necessary to make the provisions of this Memorandum consistent with the provisions of the Facility Agreement.

37. (a) This Memorandum and our/my rights and duties hereunder shall be governed by, and construed and interpreted in accordance with, the laws of Malaysia and in relation to any legal action or proceedings arising out of or in connection with this Memorandum (“Proceedings”), we/I irrevocably submit to the jurisdiction of the courts of Malaysia, and waive any objections to proceedings in any court on the grounds that the Proceedings have been brought in an inconvenient forum.
- (b) Such submission shall however not affect your right to take Proceedings in any other jurisdiction nor shall the taking of Proceedings in any jurisdiction preclude you from taking Proceedings in any other jurisdiction and you shall be at liberty to initiate and take actions or Proceedings or otherwise against us in Malaysia and/or elsewhere as you may deem fit.
38. In the event of any inconsistency between the provisions of this Memorandum and the provisions of the Facility Agreement, the provision of this Memorandum shall prevail insofar as such provisions relate to matters dealt with by this Memorandum.
39. It is hereby agreed and declared that this Memorandum and the Facility Agreement are instruments all employed in one transaction to secure the Indebtedness within the meaning of Section 4(3) of the Stamp Act, 1949 and for the purpose of the said Section, the Facility Agreement is deemed to be the principal or primary instrument and this Memorandum and other documents are the auxiliary or secondary instruments for the Indebtedness. Stamp duty payable on this Memorandum and/or other documents, if any, shall be paid by us.

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

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

The Bank

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

*(If by Common Seal)

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

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

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

*(If under hand)

SIGNED by)
)
)
The Depositor(s))
in the presence of:-)

.....
Name:
NRIC No:

.....
Name:
NRIC No:

CERTIFICATE OF AUTHENTICATION

I, _____ an Advocate and Solicitor of the High Court of Malaya practising in _____ hereby certify that on the _____ day of 201__, the common seal of _____ (_____) was duly affixed to the abovementioned instrument in my presence in accordance with the regulations of the said Company.

Dated this _____ day of _____ 201_

Witness my hand,

.....
Advocate & Solicitor

SCHEDULE 1
CMTD-i AND DEPOSIT RECEIPTS

DETAILS OF CMTD-i

Account No.	Type of Account	Deposit Bank

DETAILS OF DEPOSIT RECEIPTS

Certificate No. and Issue Date	Issued by	Amount

SCHEDULE 2
FORM OF NOTICE OF CHARGE

[to be adopted on the letterhead of _____]

Date:

[state name of Deposit Bank]

[state address of Deposit Bank]

Dear Sirs,

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

Chargor: _____ (_____)

Chargee: MBSB Bank Berhad (Company No. 716122-P)

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

1. We/I hereby give you notice that pursuant to the Memorandum, we/I have charged to the Chargee all our/my present and future rights, title, interest, benefits, claims in and to all moneys now or hereafter or from time to time standing to the credit of the CMTD-i (including all such moneys now or hereafter or from time to time deposited with you in substitution thereof, in addition thereto or in renewal thereof), together with all revenues, income, proceeds and moneys accrued thereon or derived or received therefrom or in connection therewith, and any rights, title, interest, benefits, claims arising thereof on such moneys ("Deposits").
2. We/I hereby confirm that we/I will remain liable to perform all the obligations assumed by us in relation to the Deposits and that the Chargee and/or its nominees will not be under any obligation of any kind whatsoever in relation thereto.
3. We/I further confirm that the Chargee shall be sole signatory to operate the Deposits.
4. We/I hereby irrevocably and unconditionally authorise and instruct you to act upon the instructions of the Chargee and/or its nominees in relation to any withdrawals or other matters relating to the Deposits, including, if so instructed by the Chargee and/or its nominees, to pay to the Chargee and/or its nominees (whose receipt shall be a full and sufficient discharge to you for any such payment) all or any sums whatsoever due and owing to us under or by virtue of the Deposits. We/I hereby irrevocably and unconditionally confirm that such notice by the Chargee and/or its nominees shall be final, conclusive and binding and you shall not concern yourself with the propriety of any such notice.
5. This notice and the authorisation and instruction contained herein shall be irrevocable and may not be amended or varied without the Chargee's prior written consent.

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

Yours faithfully,

For and on behalf of (*delete if Individual)

_____ (Co. No./NRIC No.: _____)

.....
(Authorised Signatories)

c.c. MBSB Bank Berhad

**SCHEDULE 3
FORM OF ACKNOWLEDGEMENT**

Date:

To: **MBSB BANK BERHAD**

Dear Sirs,

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

Chargor: _____ (_____)

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

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

-
1. We/I refer to the Memorandum, under which the Chargor has charged to the Chargee all its present and future rights, title, interest, benefits, claims in and to all moneys now or hereafter or from time to time standing to the credit of the CMTD-i (including all such moneys now or hereafter or from time to time deposited with us in substitution thereof, in addition thereto or in renewal thereof), together with all revenues, income, proceeds and moneys accrued thereon or derived or received therefrom or in connection therewith, and any rights, title, interest, benefits, claims arising thereof on such moneys ("Deposits").
 2. We/I hereby consent to the charge of the Deposits in accordance with the provisions of the Memorandum and acknowledge and confirm that:-
 - (a) we/I will act upon the instructions of the Chargee and/or its nominees in relation to any withdrawals or other matters relating to the Deposits, including, if so instructed by the Chargee and/or its nominees, to pay to the Chargee and/or its nominees (whose receipt shall be a full and sufficient discharge to us for any such payment) all or any sums whatsoever due and owing to the Chargor under or by virtue of the Deposits;
 - (b) such notice from the Chargee and/or its nominees shall be final, conclusive and binding and we/I shall not concern ourselves/myself with the propriety of any such notice;
 - (c) the Chargor remains liable to perform all obligations assumed by it in relation to the Deposits and the Chargee and/or its nominees will not be under any obligation of any kind whatsoever in relation thereto;
 - (d) we/I have no knowledge or notice of any assignment or other Security Interest of or over the Deposits prior to the date hereof. "Security Interest" means any mortgage, pledge, lien, charge, covenant, caveat, debenture, right of set-off, assignment, hypothecation, encumbrance (including any title retention, preferential prohibitory order, right or trust arrangement, transfer by way of security, sale and lease-back and sale and repurchase on credit terms) and any other interest or arrangement having substantially the same economic effect as any of the foregoing howsoever created or arising; and

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

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

.....

Name:

Designation:

Date:

c.c. _____