

**LAMPIRAN  
(ANNEXURE)  
(1<sup>st</sup> or 3<sup>rd</sup> Party)**

I/We, the party whose name and other particulars are as set out in Section 1 of the First Schedule hereto (“the Chargor”) DO HEREBY EXPRESSLY COVENANT, DECLARE AND UNDERTAKE with **MBSB BANK BERHAD (Registration No. 200501033981)(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) as follows:-

**RECITALS**

**WHEREAS**

- A. Application for the Facility: At the request of the Customer, the Bank has agreed to make available to the Customer the Facility pursuant to the Letter of Offer, subject to and upon the terms and conditions set out in the Facility Agreement (as defined herein).
- B. Charge: It is a term of the Letter of Offer and Facility Agreement that the payment of the Indebtedness and all monies due and payable by the Customer or the Chargor (as the case may be) to the Bank pursuant to the Security Documents or in connection with or arising from the Facility granted by the Bank at any time and from time to time are to be secured by amongst others, this Charge in favour of the Bank upon the terms and subject to the conditions hereinafter contained.

**ARTICLE I**

**DEFINITIONS AND INTERPRETATION**

**SECTION 1.01 DEFINITIONS**

- (a) Except where the context otherwise requires or unless this Charge otherwise provides, all words and expressions defined in the Facility Agreement when used or referred to in this Charge shall have the same meanings as in the Facility Agreement.
- (b) In addition to those words and expressions already defined in the Facility Agreement, the following words and expressions shall, unless the context otherwise requires, have the meaning respectively assigned to them under this Charge:-

"Chargor" the party whose name and other particulars are as stated in Section 1 of the First Schedule hereto and includes his heirs, personal representatives and successors-in-title, as the case may be.

“Customer” the party whose name and other particulars are stated in Section 2 of the First Schedule hereto and includes his heirs and personal representatives and successors-in-title, as the case may be.

“Facility Agreement”	the agreement entered between the Bank and the Customer on the date as stated in Section 3 of the First Schedule subject to the terms and conditions therein contained.
“Land Code”	the National Land Code, 1965, Sarawak Land Code (Cap. 81), Sabah Land Ordinance (Cap. 68), National Land Code (Penang and Malacca Titles) Act 1963 (Revised 1994), Land (Subsidiary Title) Enactment 1972, Strata Titles Act 1985 and Strata Titles Ordinance 1974 (whichever is applicable) and includes any statutory amendment thereto and all subsidiary legislation made thereunder.
“Property”	the Property as described in the Schedule of the Form 16A as attached hereof. A copy of the title or land search of the Property is as attached in Attachment 1 of this Charge.

## SECTION 1.02 INTERPRETATION

- (a) The headings in this Charge are inserted for convenience only and shall not be taken, read and interpreted as essential parts of this Charge.
- (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 Charge shall include all amendments and modifications to this Charge as shall from time to time be in force.
- (d) Words using 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 using 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 interpreted 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 Charge have a corresponding meaning.

## ARTICLE II

### SECURITY

#### SECTION 2.01 CONTINUING SECURITY

The security created herein is expressly intended to be and shall be a continuing security for all moneys whatsoever at any time owing to the Bank by the Customer and/or the Chargor whether alone or jointly and severally with another or others and whether as principal or security notwithstanding:

- (a) that the Customer and/or the Chargor may at any time or times cease to be indebted to the Bank for any period; and
- (b) that any account the Customer with the Bank may from any cause whatsoever cease to be current account or accounts; and
- (c) any settlement of any account or otherwise.

#### SECTION 2.02 COVENANT TO PROVIDE FURTHER SECURITY

- (a) The Chargor will at any time if and when required by the Bank to do so, execute in favour of the Bank or as the Bank will direct such legal or other mortgages, charges, assignments, transfers, guarantees or agreements as the Bank require and on all the Chargor's right, title and interest in any property or assets or business now or from now on belonging to or acquired by the Chargor (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 is to be prepared by or on behalf of the Bank at the cost of the Chargor and to contain all such terms and conditions for the benefit of the Bank as the Bank may reasonably require.
- (b) The Chargor will 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 Chargor for any tenure and all or any debentures, shares, stocks or other investments or securities registered in the name of the Chargor or belonging to the Chargor. Such deposit may be by way of collateral security for the payment of the Indebtedness and may also be for the purpose of securing any other moneys owing to the Bank by the Chargor and not secured under this Charge.

### **SECTION 2.03 RESTRICTION AGAINST OTHER CHARGES**

The Chargor declares, covenants, warrants and undertakes that there is no mortgage, charge, pledge or lien over the Property having priority to this Charge and that:-

- (a) the Chargor shall not during the subsistence of this Charge execute any form of charge, mortgage, debenture, pledge, lien or other security interest or permit to exist any caveat or prohibitory order or both in respect of the Property without the prior consent in writing of the Bank.
- (b) this Charge shall be without prejudice to and shall not operate so as to merge or otherwise affect any lien or any security already given by the Chargor and/or the Customer or any other party or any other security which may be given by the Chargor and/or the Customer or any other party to the Bank (whether for securing payment of the Indebtedness or any other monies covenanted to be paid pursuant to the Security Documents and whether such security is taken as additional or collateral security or otherwise) .

### **SECTION 2.04 LIEN AND OTHER SECURITIES NOT AFFECTED**

Nothing in this Charge shall prejudice or affect any lien to which the Bank is entitled or any other securities which the Bank may at any time hold for or on account of the monies hereby secured. Nor shall anything contained in this Charge 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 Security Documents or any right or remedy of the Bank under the Security Documents.

### **SECTION 2.05 BANK NOT BOUND TO TAKE ACTION**

The Bank will not be under any obligation to the Chargor to take any action or to enforce any rights, title, interests and benefits assigned under this Charge and will not be under any obligation to the Chargor by reason of the Bank having abstained from taking or continuing any such action or steps.

## **ARTICLE III**

### **COVENANTS IN RESPECT OF THE PROPERTY**

#### **SECTION 3.01 COVENANTS IN RESPECT OF THE PROPERTY**

The Chargor hereby expressly covenants with the Bank that during the continuance of this Charge the Chargor shall:-

- (a) keep the said Property and all building thereto in good and substantial repair and condition to the satisfaction of the Bank. With prior written notice from the Bank, the Chargor will permit the Bank or its agents with or without workmen and others at convenient hours in the day-time to enter into or upon the said Property and all buildings thereon and examine the state and condition thereof and will immediately repair and make good all defects and wants of reparation . The Chargor will permit the Bank to enter upon the same and effect such repairs as the Bank may consider necessary at the cost and expenses of the Chargor. All moneys expended by the Bank will become payable by the Chargor. The Bank is hereby fully authorized to debit the full amount in respect thereof to the Chargor's account and such amount shall be a sum secured herein;

- (b) 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. The Chargor shall at all times hereafter indemnify and keep indemnified the Bank against all actions, proceedings, cost, expenses, claims and demands in respect of any such act matter or thing done or omitted to be done in contravention of the said provisions;
- (c) pay the quit rent, assessment, rates, taxes, service charges and all other outgoings payable from time to time in respect of the Property as soon as the same become due and payable. The Chargor will produce to the Bank on demand all receipts for such payment, failing which, it will be lawful but not obligatory for the Bank to pay the same or any part thereof and upon such payments by the Bank all sums so paid will be for the account of the Chargor under this Charge;
- (d) inform the Bank of any application, demand, notice, order, or any other notice, document or transaction in any way affecting or concerning the Property or any part thereof immediately upon its issue, publication or service and shall produce the same to the Bank whether demanded or not. The Chargor will 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. The Bank may if it thinks fit and on behalf of or in the name and at the expense of the Chargor do all such acts and employ all such persons as the Bank deem fit for the purpose of safeguarding and preserving the Property;
- (e) give full particulars in writing within seven (7) days to the Bank upon receipt of any notice or order or proposal given issued or made to the Chargor in respect of the Property by or on behalf of any planning, local government, public health, sanitary, housing or other authority. If the Bank requires, the Chargor shall without delay and within the period stated in such notice, take all reasonable or necessary steps to comply with the provisions of such notice or order. At the request of the Bank and at the cost of the Chargor, the Chargor shall 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;
- (f) observe and perform all the terms and conditions contained in the Security Documents on the part of the Chargor to be observed and performed and in addition thereto any condition and covenant binding upon the Property. The Chargor will not do or omit to do any act matter or thing on or in respect of the Property which will contravene the provisions of the Security Documents or of any act, ordinance, enactment, order, rule or regulation now or in future affecting the same. The Chargor shall at all times 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;
- (g) discontinue use of the Property immediately upon the receipt of a notice in writing from the Bank that in the opinion of the Bank, any use by the Chargor of the Property whether by reason of over-crowding or for any other reason is calculated to affect adversely the security of the Bank;

- (h) in addition to and not in derogation of the agreements and stipulations implied, the obligations imposed and the rights created by law, custom and this Charge, expressly agree, covenant and undertake where applicable the following:-
- (i) the Chargor will continue to maintain and cultivate the Property in a proper and workmanlike manner and following the methods of good agriculture and until this Charge be fully satisfied and discharged the Bank shall at all reasonable times with prior notice to the Chargor to enter upon the Property to view and inspect the state of maintenance or cultivation;
  - (ii) the Bank with prior notice to the Chargor may employ a visiting agent or any other person or persons from time to time to enter into and inspect the Property and into any building or structure at any time erected on the Property and may have access to any fixture and to view and inspect the condition of repair thereof and to make a report thereon provided however that if the Bank should enter and repair the same, it shall not be liable as a chargee in possession;
  - (iii) the Chargor will keep the Property clean, weeded and free from lallang and other undergrowth, if not, it shall be lawful but not obligatory for the Bank to employ labourers, or workmen, for the purpose of keeping the Property clean weeded and free from lallang and other undergrowth PROVIDED ALWAYS that nothing in this clause contained and no act of the Bank, its servants or agents done in pursuance of the provisions of this clause shall render the Bank liable as a chargee in possession;
- (i) observe and perform all the terms and conditions contained in the Security Documents;
  - (j) not without the prior written consent of the Bank, assign, transfer, sell, charge or otherwise deal with the Chargor's rights, title and interest under 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;
  - (k) not without the prior written consent of the Bank, lease, let out, or grant any licence, part with the possession or make or accept the surrender of any lease of or in respect of the Property, any fixture or structure to any person, firm or company. The Bank shall give its reason for refusing such consent or may impose terms and conditions as the Bank deems fit for such consent;
  - (l) not without the prior written consent of the Bank, alter, pull down, or remove any building or fixture at any time erected on or affixed to the Property. The Chargor shall immediately replace or make good the same in the event of such alteration, pulling down or removal being made without the Bank's consent. Where it is intended that there is to be erected any building on the Property or that the Facility is to be utilised for the purposes thereof, the Chargor 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.

## ARTICLE IV

### REMEDIES OF THE BANK

#### SECTION 4.01 EVENTS OF DEFAULT

The Chargor is deemed to have committed a default if any of the Chargor and/or the Customer, or where applicable, any Security Party, commits or threatens to commit a breach of any of the covenants, undertakings, stipulations, terms, conditions or provisions stipulated in this Charge, the Facility Agreement and under other Security Documents and without prejudice to the generality of the preceding, upon the happening of any one or more of the Events of Default.

#### SECTION 4.02 RIGHTS OF THE BANK ON DEFAULT

Upon the occurrence of any Event of Default, the Bank shall be entitled to exercise such rights as the Bank may have under the Facility Agreement and/or any of the Security Documents or at law including without limitation the following:-

- (a) the right to enter and take possession of the Property and if permissible under any of the applicable acts, to be registered as proprietor of the Property;
- (b) the right to let, lease or demise the Property for such terms of years at such rent and generally upon such terms as the Bank in its discretion shall think fit;
- (c) the right to receive the rents and profits of the Property;
- (d) the right and power to sell the Property by public auction or private treaty as the absolute unencumbered owner thereof at such price and in such manner as the Bank shall in its discretion think fit, free from any interest of the Chargor under this Charge or otherwise and the right to bid at any such sale;
- (e) the right to sue and institute by way of civil suit or action for the recovery of the Indebtedness, whether before first realising the Property or otherwise or concurrently with any of the other rights and remedies of the Bank herein or at law;
- (f) the right to terminate the licence hereinbefore referred to and to enter upon and take possession of the Property and to deal with all the rights and interest of the Bank in relation to the Property or otherwise in all respects as the person absolutely and beneficially entitled thereto;
- (g) to sell, transfer or assign the Property as the beneficial owner thereof at such price and in such manner and subject to such conditions as the Bank shall in its discretion think fit free from any interest of the Chargor under this Charge or otherwise. No assignee or purchaser of the Bank shall be required or concerned to see whether any such default has in fact been made by the Chargor and/or the Customer or any other occasion has arisen for the exercise of the Bank's rights and power of assignment or of the sale under this Charge.

The Chargor expressly agrees, covenants and undertakes to do and execute all acts, deeds, instruments and things which the Bank may require or specify for the purpose of effecting and or completing anything and or any transaction mentioned in this Section.

When the power of sale granted hereof becomes exercisable by the Bank, the Chargor and/or the Customer declares and agrees that the Chargor will give vacant possession of the said Property to the Bank or any person authorized by the Bank, immediately upon receiving written demand from the Bank.

#### **SECTION 4.03            PROCEEDS OF SALE**

All moneys received by the Bank from any proceeding instituted or step taken under this Charge or under any of the Security 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 Security Documents in or about the exercise of the powers conferred upon the Bank or otherwise in relation to the Security 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 Security 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.

#### **SECTION 4.04            DEFICIENCY IN PROCEEDS OF SALE**

If the amount recovered or realised under the Security 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 Security 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 and/or the Chargor shall pay to the Bank the difference between the amount due and the amount so realised. Until payment, the Chargor will also pay ta'widh (late payment compensation) on such balance at the rate provided in the Facility Agreement.



## **SECTION 4.05 THE BANK'S RIGHT TO COMMENCE FORECLOSURE AND LEGAL PROCEEDINGS CONCURRENTLY**

Notwithstanding any provision in this Charge, it is expressly agreed that upon default or breach by the Chargor and/or the Customer of any term, covenant, stipulation and/or undertaking provided in this Charge and on the part of the Chargor and/or the Customer to be observed and performed, the Bank shall have the right to exercise all or any of the remedies available whether by this Charge or the Security Documents or by statute or otherwise. The Bank shall be entitled to exercise such remedies concurrently, including pursuing all remedies of sale or possession and civil suit to recover all monies due and owing to the Bank provided that nothing contained in this Charge shall be interpreted as imposing any obligation (whether at law or in equity) upon the Bank to exhaust its remedy to sell the Property before commencing any separate action or before enforcing any other remedies or exercising any other rights against the Chargor and/or the Customer or any other Security Party). The Chargor hereby irrevocably and unconditionally agrees and consents to the Bank commencing separate proceedings, enforcing other remedies and exercising any other rights which the Bank may have against the Chargor and/or the Customer or any Security Party simultaneously or consecutively in any order as the Bank deems fit with or without having exhausted its right to sell or to proceed against the Property or to realise its security under this Charge.

## **ARTICLE V**

### **TAKAFUL**

#### **SECTION 5.01 TAKAFUL ON PROPERTY**

The Chargor shall cover and cause the Property to be covered with a takaful company approved by the Bank for an amount acceptable to the Bank against loss or damage by fire or such other risks as the Bank may deem expedient. The Chargor shall cause the Bank's interest to be endorsed thereto as "Loss Payee" on the policy so taken out, failing which, the Bank may at its discretion take out such takaful policies and all contributions payable and costs and expenses incurred in respect thereof shall be borne and paid by the Chargor to the Bank on demand for the same being made by the Bank. The Chargor will deposit or cause to be deposited the policy or policies of such takaful with the Bank and will from time to time pay or cause to be paid the contribution thereon and deliver or cause to be delivered the receipts for the same to the Bank. Such policies of takaful shall not be cancelled without the prior written consent of the Bank.

#### **SECTION 5.02 OTHER TAKAFUL PROCEEDS**

The Bank may at any time require the Chargor to take out and maintain a takaful mortgage plan or a life takaful policy. The Chargor agrees and undertakes to assign absolutely all rights, title, interests and benefits to the proceeds payable under the takaful mortgage plan or such life policy to the Bank as further security and the Chargor shall name the Bank as the sole beneficiary, failing which, the Bank may at its discretion at the cost and expense of the Chargor take out and maintain such policy guaranteeing the payment of all monies owing by the Customer and/or the Chargor to the Bank on such terms as the Bank may think fit. In the event of an Event of Default, the takaful mortgage plan or such life policy shall be terminated by the Bank at its discretion and the Bank shall be entitled to claim the surrender value of the policy.

### **SECTION 5.03            RESTRICTION AGAINST ADDITIONAL TAKAFUL**

Except at the request or with the prior written consent of the Bank, the Chargor shall not buy or take up any takaful against any risk in respect of the Property or any works buildings or fixtures on or in respect of the Property or any property charged or secured to the Bank when the Bank or the Chargor has bought or took up the takaful policy as referred to in Section 5.01.

### **SECTION 5.04            APPLICATION OF TAKAFUL PROCEEDS**

- (a) The Bank may require any monies received on any takaful policies as aforesaid whether effected by the Bank or by the Chargor to be applied in or towards making good the loss or damage to the Property in respect of which the monies is received OR at the option of the Bank in or towards the payment of the Indebtedness secured hereby. The Chargor shall hold the monies so received from the takaful policy in trust for the Bank and the Bank may receive and give a good discharge of all such monies.
- (b) Pending the receipt of any monies by the Bank from the takaful company, the Chargor shall continue paying to the Bank whatever monies due and payable herein.
- (c) In the event that the Chargor chooses with the consent of the Bank to apply the monies received under any Takaful policies to make good the loss or damage to the Property, the Chargor shall in addition to paying the Indebtedness, bear the difference between the cost of making good such loss or damage to the Property and the compensation received under the takaful policy.
- (d) In the event (if applicable) that the Chargor chooses to utilise the monies received under any Takaful policies to settle the payment of the Indebtedness and other monies payable under the Facility Agreement hereby secured and the monies so received is less than the total Indebtedness, the Chargor shall pay to the Bank the difference between the total amount received under the Takaful policies and the total Indebtedness due within seven (7) days from the date of demand by the Bank.

### **SECTION 5.05            EVIDENCE OF TAKAFUL**

On the date of execution of this Charge or at such later date as the Bank may require, the Chargor shall provide the Bank with the originals of all Takaful policies assigned under this Charge together with any renewals thereof and all binder and certified copies of cover notes or other written evidence satisfactory to the Bank showing that the required Takaful of each type has been placed. No change shall be made in any Takaful policies without the Bank's prior written consent.

### **SECTION 5.06            THE BANK'S RIGHT TO COLLECT PROCEEDS AND COVER**

The Bank is hereby authorised but not required, in its own name or in the name of the Chargor to demand, collect, give receipts for and prosecute all necessary actions in the courts to recover any and all Takaful monies that may become due and payable under the Takaful policies. If the Chargor at any time fails:-

- (a) to pay or cause to be paid when due any takaful contribution when due, calls or other costs related to obtaining or maintaining the Takaful policies required under this Charge; or
- (b) to obtain any required takaful; or
- (c) to deliver to the Bank all policies, certificates, contracts of takaful, binders and cover notes and all renewals thereof as required by the provisions of this Charge,

the Bank may, but is not required to, procure such Takaful policies or pay the unpaid contribution, or both, and other costs. All expenditure incurred thereby shall be for the account of the Chargor and shall be deemed to be and form part of the Indebtedness.

#### **SECTION 5.07 COMPLIANCE WITH TAKAFUL TERMS, LAWS, REGULATIONS AND ETC**

The Chargor shall not do any act, allow or permit any act to be done (whether by omission or commission), whereby the Takaful policies may become void or voidable, or may become a ground for repudiation by the Takaful companies or allow the Property to be used in any manner not permitted under the Takaful policies.

### **ARTICLE VI**

#### **WARRANTIES**

##### **SECTION 6.01 WARRANTIES**

The Chargor represents and warrants that:-

- (a) the Chargor and/or the Customer is not in default under the Security Documents;
- (b) the Property is not affected by any existing agreement, mortgage, charge (whether fixed or floating), debenture, pledge, lien or any other form of encumbrance. Nor is the Chargor a party to or bound by any order, agreement or instrument under which the Chargor is, or in certain events may be, required to create, assume or permit to arise any encumbrance, other than those arising in connection with and pursuant to this Charge;
- (c) the Chargor is the registered owner of the Property;
- (d) there is no order of any court or other governmental agency or any provision of any existing agreement binding on the Chargor which would be contravened or breached by the execution, delivery and performance of this Charge;
- (e) no violation of any legislation, court orders and/or judgments has been committed by the Chargor;
- (f) any financial statements, information and other data provided by the Chargor to the Bank are complete and correct, have been prepared in accordance with generally applied accounting principles and practices consistently applied in Malaysia and accurately and fairly represent the financial condition and results of operations of the Chargor as at the date or dates to which they were made up. Since such date or dates, there has been no change in the Chargor's financial

condition or results of operations sufficient to impair the Chargor's ability to comply with its obligations under this Charge or might adversely affect the decision of the Bank to proceed with the Facility (if applicable);

- (g) the Chargor has fully and accurately disclosed in writing to the Bank all facts relating to its business which it knows or should reasonably know and which are material for disclosure to the Bank in the context of the Facility (if applicable);
- (h) the Chargor has paid all taxes, duties, charges and fees due in Malaysia in respect of the ownership of his/its assets or the conduct of his business operation;
- (i) no bankruptcy or winding up proceedings have been commenced against the Chargor;
- (j) the execution, delivery and performances of this Charge:
  - (i) has been duly authorized by all necessary corporate action;
  - (ii) do not contravene its Constitution (if applicable);
  - (iii) do not violate any law or regulation or any judgment, order or decree of any governmental authority, or any mortgage, contract or undertaking binding on or affecting it; and
  - (iv) do not result in or require the creation of any encumbrances upon or with respect to any of its property or revenues pursuant to the provisions of any such contract (if applicable); and
- (k) all information furnished by the Chargor in connection with this Charge do not contain any untrue statements or omit to state any fact the omission of which makes any statement made therein in the light of the circumstances under which they are made, misleading and all expressions of expectation, intention, belief and opinion and all projections contained therein were honestly made on reasonable grounds after due and careful inquiry by the Chargor.

## ARTICLE VII

### MISCELLANEOUS

#### SECTION 7.01 DISCHARGE OF INDEBTEDNESS

Subject always to the Bank's right to consolidation, it is hereby agreed that upon satisfaction or discharge by payment or otherwise of the whole of the Indebtedness and other monies due under this Charge all the provisions herein contained shall cease to be of any effect but without prejudice to the Bank's right and remedies against the Chargor in respect of any previous claim of breach of covenant.

#### SECTION 7.02 CONSOLIDATION

The relevant provision in the Land Code restricting the right of consolidation shall not apply to this security. It is hereby expressly agreed and declared that unless the Bank otherwise agrees, this Charge shall not be discharged except on payment by the Chargor of

not only monies secured hereby but also all monies secured by any other security created by the Chargor in favour of or vested in the Bank.

### **SECTION 7.03            RESTRICTION ON PRODUCTION OF DOCUMENTS**

Insofar as the laws shall permit, the application of Section 244(2) of the National Land Code 1965 or the respective provision of other statutes under the Land Code shall be restricted to instances where the production of any document is required for purposes of any act or matter initiated or instituted by the government or any government authority department or officer and not where such document is required for any purpose or to effect any transaction conducted or initiated by the Chargor. Nothing contained or expressed in the said Section 244(2) shall be interpreted as or deemed to be consent by the Bank (whether express or implied) to any act or transaction requiring the consent of the Bank.

### **SECTION 7.04            WAIVER**

No failure or delay on the part of the Bank in exercising nor any omission to exercise any rights, power, privilege or remedy accruing to the Bank under this Charge, or any security in favour of the Bank upon any default on the part of the Customer and/or the Chargor shall impair any such right, power, privilege remedy or be construed as waiver thereof or consent to such default, affect or impair whether in relation to or effecting the Customer and/or the Chargor shall in any way affect the security liabilities and/or obligations created by this Charge or the Security Documents in relation to any transaction whether past, present or future. The remedies provided herein are cumulative and do not exclude any remedies provided by law.

### **SECTION 7.05            RECONSTRUCTION OF THE BANK OR CHARGOR OR CUSTOMER**

The security, liabilities and obligations created by this Charge shall continue to be valid and binding for all purposes notwithstanding any change by amalgamation, reconstruction or otherwise which may be made in the constitution of the Bank and/or the Chargor and/or the Customer. No change in any manner in relation to or affecting the Bank and/or the Chargor and/or the Customer or any or all of them, shall in any way affect the security liabilities and obligations created under this Charge in relation to any transaction whether past, present or future.

### **SECTION 7.06            FALSE DECLARATIONS**

Notwithstanding any other provisions contained in this Charge, in the event that any of the declarations made by the Chargor under the Facility and/or this Charge be found to be false in any way, the Bank may in its discretion terminate or vary the said Facility upon such terms and conditions as determined by the Bank or require the Facility to be secured by any existing Charge and/or any other collateral created in favour of the Bank subject to such revised terms and conditions as may be deemed appropriate by the Bank and upon such manner as determined by the Bank. If the Chargor and/or the Customer fail to comply with the terms and conditions of the Facility as may be varied, the Bank shall have right to foreclose the Property and/or seek to recover the Indebtedness by any remedy available to the Bank as it deems fit.

**SECTION 7.07 TIME**

Time of performance shall be an essential term under this Charge.

**SECTION 7.08 LAW**

This Charge shall be governed by and interpreted in all respect in accordance with the laws of Malaysia on all matters connected with the obligations and liabilities of the Parties under this Charge. The Parties further agree that the service of any writ or summons of any legal process in respect of any action arising out of or connected with this Charge may be effected in the manner set out in this Charge.

**SECTION 7.09 PROVISIONS OF THE FACILITY AGREEMENT INCORPORATED**

All the provisions of the Facility Agreement shall be deemed to be incorporated into and form part of this Charge (whether such provisions are repeated in this Charge or not) subject to such alterations or variations where necessary to make the provisions of the Facility Agreement consistent with the provisions of this Charge. If there is any conflict or discrepancy between the provisions of the Facility Agreement and the provisions of this Charge, the provisions of this Charge shall prevail for the purpose of interpretation and enforcement of this Charge.

**SECTION 7.10 INDEMNITY**

The Chargor shall at all times hereafter indemnify, save and hold the Bank harmless against all losses, damages, claims, demands, action, penalties and expenses (including legal costs on a solicitors and client basis) that may be made or brought at any time by any party against the Bank for any act or default under or that may be incurred, suffered or sustained by the Bank as a result thereof. The Chargor shall promptly upon a demand being made by the Bank pay to the Bank all amounts so paid incurred, suffered or sustained by the Bank.

**SECTION 7.11 STAMP DUTIES**

The Chargor shall pay all stamp duties, fees or other charges payable on or incidental to the execution, issue, delivery and registration of this Charge (including any penalties for late payment thereof attributable to default by the Chargor) and any documents related thereto including but not limited to discharge of charge. The Chargor shall reimburse the Bank for any such duties, fees or other charges paid by the Bank.

**SECTION 7.12 MODIFICATION AND INDULGENCE**

The Bank may at any time, by giving notice (for any variation to the terms of the Facility, the Bank will give twenty one (21) days' notice) to the Chargor and without in any way affecting the security hereby created:-

- (a) determine, modify, restructure, vary or increase any financing or other facility granted to the Customer and may open or continue any account (or both) with the Chargor at any branch of the Bank;

- (b) grant to the Chargor and/or the Customer or any surety or guarantor or any other person any time or indulgence;
- (c) deal with, exchange, release or modify or abstain from perfecting or enforcing any security or other guarantee or right it may now or at any have from or against the Chargor and/or the Customer and/or Security Party or any other person; and/or
- (d) enter into any deed of composition with the Chargor and/or the Customer;

### **SECTION 7.13 CONSOLIDATION AND COMBINATION OF ACCOUNTS**

- (a) It is expressly agreed and declared that unless the Bank otherwise agrees, the Chargor shall not be entitled to redeem, require the release or discharge of any security given by the Chargor to the Bank and whether given now or in future except on payment by the Chargor of not only all monies referred to herein but also all monies owing or payable or due from the Chargor to the Bank under any other account whether as a chargor, guarantor, assignor with the Bank. Without prejudice to the generality of the preceding it is expressly agreed and declared that unless the Bank otherwise agrees in writing the Charge created herein shall not be terminated except on payment of:-
  - (i) all the Indebtedness; and
  - (ii) all other monies due and payable to the Bank by the Chargor under any account with the Bank whether or not secured; and
  - (iii) all monies secured by any other security created by the Chargor and/or the Customer or by any person through whom the Chargor claims in favour of or vested in the Bank.
- (b) The Bank has the right at any time at its discretion to combine or consolidate all or any of his accounts including accounts jointly with others (of any nature whatsoever) wherever situated with any liabilities and obligations owed or incurred by the Chargor to the Bank and set-off or transfer any sum standing to the credit of any one or more of such accounts in or towards satisfaction of all monies obligations and liabilities due and payable to the Bank by giving seven (7) days' notice prior to set-off or transfer.

### **SECTION 7.14 COSTS**

The Chargor shall be liable to pay all fees and expenses in connection with or related to the preparation of this Charge including the Solicitor's fees (on a solicitor and client basis) in connection with the preparation and execution of this Charge and other documents related thereto. If the Indebtedness or any part thereof shall be required to be recovered through any legal process, the Chargor shall pay (in addition to the monies than due and payable under this Charge) the Solicitor's fees (on a solicitor and client basis) and any other fees and expenses incurred in respect of such action.

**SECTION 7.15 CUMULATIVE REMEDIES**

The remedies provided herein are cumulative and do not exclude any other remedies provided by law.

**SECTION 7.16 EXPENDITURE INCURRED BY THE BANK FOR AND ON BEHALF OF THE CHARGOR**

All monies expended by the Bank under this Charge from time to time for and on behalf of the Chargor relating to takaful, quit rent, assessment, rates, taxes, repairs, legal costs, stamp duties, registration fees, valuation of the Property (as referred to in Section 7.23) and all other outgoings (excluding any expense incurred by the Bank in visiting, inspecting or reporting on the Property by the Bank's agents and or consultants) shall be recoverable from and be paid by the Chargor on demand by the Bank. In default of such payment, such monies shall be deemed to form part of the Indebtedness and to be secured accordingly under this Charge and the account of the Chargor and the Customer shall be debited accordingly.

**SECTION 7.17 RIGHT TO ASSIGN/TRANSFER**

- (a) The Bank may by giving the Chargor prior notice of the Bank's intention to do so, transfer or assign the benefit of this security to any person.
- (b) Any statement or recital in the documents of transfer of the amount then due to the Bank under and by virtue of this Chargor shall be taken as a correct statement or recital that such amount is in fact due and shall be conclusive and binding on the Chargor.
- (c) The Chargor shall not assign or transfer any of its rights and obligations under this Charge without the prior written consent of the Bank.

**SECTION 7.18 CERTIFICATE OF INDEBTEDNESS**

It is hereby agreed that the following shall be conclusive evidence of Indebtedness and shall be binding against the Chargor or in a court of law:-

- (a) any admission or acknowledgement in writing by the Chargor or by any person authorised on behalf of the Chargor; or
- (b) a judgment (by default or otherwise obtained against him); or
- (c) a certificate in writing showing the Indebtedness of the Chargor which is duly certified by an authorised officer of the Bank.

**SECTION 7.19 SEVERABILITY**

If any term, condition, stipulation, provision, covenant or undertaking contained herein which is illegal, prohibited or unenforceable in any jurisdiction, then such term, condition, stipulation, provision, covenant or undertaking shall be ineffective in such jurisdiction, to the extent of such illegality, prohibition or unenforceability. The other remaining provisions shall remain valid. Such illegality, prohibition or unenforceability in any



jurisdiction shall not invalidate or render illegal, void or unenforceable any such term, condition, stipulation, provision, covenant or undertaking in any other jurisdiction.

## **SECTION 7.20 CROSS DEFAULT**

It is hereby expressly agreed and declared that the Bank has the right to:-

- (a) proceed with legal proceedings against the Customer and/or the Chargor; or
- (b) terminate the Facility and demand for payment of the Indebtedness thereof from the Customer and/or the Chargor; or
- (c) withhold or withdraw the Facility;

if:

- (a) there is a default in the payment of any monies due by the Customer and/or the Chargor hereunder under this Charge or under any other account with the Bank or with any other financial institution;
- (b) there is a or a default by any of the Customer and/or the Chargor or any related company (by virtue of Section 7 of the Companies Act 2016; a holding company, subsidiary company, or subsidiary of the holding company of another company) or substantial shareholder (by virtue of Section 136 of the Companies Act 2016; a shareholder having not less than five per centum (5%) of the total number of voting shares in the company) of the Customer and/or the Chargor under any account with the Bank or any other financial institution; or
- (c) there is a default in the payment of any monies under the accounts of any other party of which the Customer and/or the Chargor is/are a guarantor; or
- (d) the Customer and/or the Chargor or any subsidiary or holding company of the Customer and/or the Chargor 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 and/or the Chargor or any related companies or substantial shareholder of the Customer and/or the Chargor (if body corporates).

## **SECTION 7.21 SUSPENSE ACCOUNT**

Any money under this Charge may be placed and kept to the credit of a non-income bearing suspense account until expiry of the Tenure. The Bank may from time to time during the Charge, apply the moneys kept in the suspense account or any part thereof in or towards discharge of any money or liability due or incurred by the Chargor and/or the Customer to the Bank. Notwithstanding any such payment, in the event of proceedings in or analogous to bankruptcy, liquidation, composition or arrangement, the Bank may prove for and agree to accept any dividend or composition in respect of the whole or any part of such money and liability in the same manner as if this security had not been created.

## **SECTION 7.22 ALL PAYMENTS RECEIVED TO BE PAYMENT IN GROSS**

All monies received by the Bank from any person or estate capable of being applied to reduce the Indebtedness shall be regarded for all purposes as payments in gross or in total. If a receiving order or any order shall be made against any person liable to the Bank, the Bank may prove for the full amount then payable. No money received under such proof shall be considered as having been received and the full amount owing shall be payable until the Bank has received from all sources ONE HUNDRED cent in the Ringgit Malaysia. If the amount ultimately received by the Bank exceeds the amount of the final balance payable to the Bank the surplus amount shall be paid to the person or party on whose account the same shall have been received by the Bank.

## **SECTION 7.23 VALUATION OF THE PROPERTY**

The Chargor authorises the Bank to value the Property in situations where the Customer and/or Chargor is in default or upon the occurrence of an event which in the Bank's reasonable opinion would reduce the value of the Property and affect the security given to the Bank as security for the Facility. . The valuation may be conducted by any valuer or any officer of the Bank or any person of the Bank's choice at the Chargor's cost and expense.

In the event such valuation reveals that the forced sale value of the Property is lower than that at the date hereof the Bank shall have the discretion to require the Chargor within fourteen (14) days from the date of the notice from the Bank to charge, pledge, mortgage or deposit with the Bank the Chargor's stock and shares, assets, movable property and/or the issue documents of title, if any, of all immovable properties vested in the Chargor of such value as the Bank may from time to time require for such tenure as the Bank so requires by way of further and additional security for the payment of the Indebtedness for the time being under this Charge.

If the forced sale value of the Property has in the opinion of the Bank fallen to the extent that the limit of the Facility and the Bank's profit margin shall be exceeded and the Chargor shall fail upon request to provide further and additional security as required by the Bank to restore or maintain the limit of the Facility and such profit margin, the Bank shall be entitled at its discretion to demand and require the Chargor to make immediate payment of such amount and in such manner as may be necessary to reduce the aggregate Indebtedness to levels in maintenance of the limit of the Facility and profit margin thereto and failure by the Chargor to do so shall be deemed (with notice on the Bank's part) to be an Events of Default.

## **SECTION 7.24 DISCLOSURE TO BANK NEGARA MALAYSIA (BNM)**

The Bank may be or is required, whether pursuant to law or otherwise, to provide information to BNM regarding the financing facilities which it grants to its customers or the customer's account. The Chargor consents to the Bank disclosing such information to BNM for the purpose of collecting information from banks regarding their customers to enable participating banks and other financial institutions to assess the credit worthiness of existing or potential customers.

**SECTION 7.25            SUCCESSORS BOUND**

This Charge shall be binding upon the heirs, personal representatives, successors-in-title and permitted assign of the Chargor as the case maybe and on the successors-in-title and assigns of the Bank.

**SECTION 7.26            EFFECTIVE DATE**

The parties agree that this Charge shall come into force on the date as stated in the preamble hereto irrespective of the diverse dates upon which they may have each executed this Charge respectively.

**SECTION 7.27            GOVERNMENT ACQUISITION**

If the Property shall at any time become the subject matter of or be included in any notice, notification or declaration concerning or relating to acquisitions by government or any government authority or any enquiry proceedings in respect thereof, the Chargor shall immediately inform the Bank of the same and shall forward to the Bank a copy or copies of any such notice, notification or declaration as soon as the same is delivered or served on the Chargor.

The Bank shall be entitled at the expense of the Chargor to engage such advisers and agents (including solicitors and valuers) as it may think fit for the purposes of appearing or attending at or advising-upon-any enquiry or proceeding affecting concerning or relating to any such acquisition. All moneys received as or by way of compensation for the acquisition of the said Property shall be applied in or towards the discharge or payment of any money or liability secured by this Charge and the Security Documents. The Chargor shall and declares that he shall hold all moneys so received in trust for the Bank and the Chargor agrees and confirms that the Bank may receive and give a good discharge for all such moneys. In the event of all such moneys as aforesaid being less than the amount due to the Bank, the Chargor shall immediately pay the difference between the amount due and the amount so received.

**SECTION 7.28            DISCLOSURE**

The Chargor agrees that for so long as the Facility continues and/or for so long as any moneys due thereunder remain outstanding, the Bank will be entitled to disclose information on the Chargor's affair (including the Chargor's accounts and/or future accounts) with the Bank:

- (a) to the Bank's auditor, legal counsel and other professional advisors; or
- (b) the Central Credit Reference Information System and any other entities established by Bank Negara Malaysia, 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
- (c) 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

- (d) for or in connection with the enforcement of preservation of any rights of the Bank under this Charge and the Security Documents; or
- (e) to the Security Party 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
- (f) pursuant to subpoena or other legal process or in connection with any action, suit or proceeding relating to the Security Documents; or
- (g) pursuant to any law; or
- (h) to any person upon occurrence of an Event of Default; or
- (i) 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
- (j) to any person for the purpose of the Bank's recovery of the outstanding sums due to it under the Facility and the Security Documents.

#### **SECTION 7.29 SERVICE OF NOTICES AND LEGAL PROCESS**

- (a) Unless otherwise provided in this Charge, any demand for payment of the monies to be paid by the Chargor and any notice or request required to be given or made under this Agreement to the Bank will be in writing and in the case of the Bank will 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 by the Customer to the Bank.
- (b) Further to Section 7.29(a) above, all statements of accounts, communications demand, notice, writ summons or any legal process or request will be deemed to have been sufficiently given or made if sent by registered post, or delivered by hand or faxed to such address and will be deemed to have been duly given or made if:-
  - (i) in the case of delivery by hand, at the time of receipt by the other party;
  - (ii) in the case of delivery by registered post, after the expiration of three (3) Business Days from the date it is posted inclusive of the day in which it was posted;
  - (iii) in the case of facsimile, 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 will be deemed to have been served on the following Business Day; and
  - (iv) in the case of electronic mail, twenty four (24) hours after the date of despatch.

Any demand, notice or request by fax is to 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 will be

binding and conclusive evidence of the fact as against the Customer and/or the Chargor and/or the Customer's and/or the Chargor's estate and/or successors in title notwithstanding any evidence to the contrary.

- (c) In case \ the Chargor's death and until the Bank receives notice in writing of the grant of probate or letters of administration of the Chargor's estate, any notice or demand by the Bank sent by post as aforesaid addressed to the Chargor and/or the Chargor's personal representative at the Chargor's last known address will for all purposes be deemed a sufficient notice or demand by the Bank to the Chargor and/or the Customer's and/or the Chargor's personal representative and be effectual as if the Customer and/or the Chargor is still living.
- (d) No change in the address of the Chargor howsoever brought about will 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 Chargor, the Chargor will as soon as practicable but within fourteen (14) Business Days prior to such change notify in writing to the Bank of the change.
- (e) Any notice or other communication to be given in respect of this Agreement is to 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 this Section.
- (f) The Chargor 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 Chargor's last known address or sent by registered letter to any such addresses and in the last mentioned case the service will be deemed to be made within three (3) Business Days from the date the letter was sent inclusive of the day in which it was sent.

#### **SECTION 7.30            PRINCIPAL AND SECONDARY INSTRUMENTS**

IT IS HEREBY AGREED AND DECLARED THAT this Charge and the Security Documents are all instruments employed in one transaction to secure the Indebtedness within the meaning of Section 4(3) of the Stamp Act, 1949 [Consolidated and Revised 1989] of the States of Malaysia. For the purpose of the said Section, the Facility Agreement is deemed to be the primary or principal instrument and this Charge and the Security Documents are considered as the secondary instruments.

**[End of clauses]**

IN WITNESS WHEREOF the parties hereto have hereunto set their respective hands/seal the day and year first abovewritten.

**THE BANK**

SIGNED by )  
as Attorney for and on behalf )  
**MBSB BANK BERHAD** )  
**(Registration No. 200501033981)** )  
**(716122-P)** )

**THE BANK**  
by its Attorney

in the presence of :- .....

**The Chargor** (\*whichever applicable)

\*SIGNED by the **CHARGOR** )  
in the presence of: )

.....  
Name:  
NRIC No.:

\*The Common Seal of the **CHARGOR** )  
was hereunto affixed in accordance )  
with its Constitution )  
in the presence of: )  
)

.....  
Director  
Name:  
NRIC No:

.....  
Director/Secretary  
Name:  
NRIC No:

*\*delete whichever is not applicable*

<b>FIRST SCHEDULE</b> (which is to be taken read and construed as an integral part of this Charge)		
Section No.	Matter	Particulars
1.	Chargor	(Please insert)
2.	Customer  <i>Note: For 1<sup>st</sup> Party case, the particulars of the Customer are as per Section 1 and 2 of this First Schedule.</i>  <i>Note: For 3<sup>rd</sup> Party case, the particulars of Chargor are as per Section 1 and particulars of Customer are as per Section 2 of this First Schedule.</i>	(Please insert)
3.	Facility Agreement	(Please insert)  Date:

**ATTACHMENT 1**

**Copy of Title / Latest Land Search**