

DATED THIS

DAY OF

20

BETWEEN

**MBSB BANK BERHAD**  
**(Registration No. 200501033981)(716122-P)**

AND

THE PARTY AS SET OUT IN SECTION 2 OF THE FIRST SCHEDULE  
("the Assignor")

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**DEED OF ASSIGNMENT**

**(BY WAY OF SECURITY)**

**(1<sup>st</sup> or 3<sup>rd</sup> party)**

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**DEED OF ASSIGNMENT  
(By way of Security)  
(1<sup>st</sup> or 3<sup>rd</sup> Party)**

This Deed of Assignment made the day and year stated in Section 1 of the First Schedule hereto

BETWEEN

- (1) **MBSB BANK BERHAD (Registration No. 200501033981)(716122-P)**, a company incorporated in Malaysia with its registered office at 11th Floor, Wisma MBSB, 48, Jalan Dungun, Damansara Heights, 50490 Kuala Lumpur (hereinafter referred to as “the Bank” and includes its successors in title and lawful assigns) of the one part;

AND

- (2) The party whose name and other particulars are stated in Section 2 of the First Schedule hereto (hereinafter referred to as “the Assignor”) of the other part.

**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. Assignment: 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 Assignor (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 Assignment 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 Assignment otherwise provides all words and expressions defined in the Facility Agreement when used or referred to in this Assignment 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 Assignment:-

“Customer”	the party whose name and other particulars are stated in Section 3 of the First Schedule hereto and includes his heirs personal representatives, as the case may be.
“Facility Agreement”	the agreement entered between the Bank and the Customer on the date as stated in Section 5 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 1995 (whichever is applicable) and includes any statutory amendment thereto and all subsidiary legislation made thereunder.
“Property”	means the property and/or properties as stated in Section 4 of the First Schedule hereto. The expression “Property” shall where the context so permits, include the meaning assigned to the term “parcel” under the applicable acts and any statutory amendment or re-enactment thereof and wherever the context permits shall include the accessory parcel relating to each property and any building(s) and fixture(s) at any time erected thereon or affixed thereto or any part or portion thereof.
“Sale and Purchase Agreement”	means the sale and purchase agreement entered into between the developer/vendor/proprietor and the Assignor and where applicable the proprietor on the dates as stated in the relevant sale and purchase agreements appended to Attachment 1 pursuant to Section 6 of the First Schedule of this Assignment wherein the developer/vendor/proprietor agreed to sell and the Assignor agreed to purchase the Property upon the terms and conditions contained in the sale and purchase agreement and such other agreements and/or documents (if any) pertaining to the Property evidencing the Customer’s rights and/or ownership in the Property.

## SECTION 1.02 INTERPRETATION

- (a) The headings in this Assignment are inserted for convenience only and shall not be taken, read and understood as essential parts of this Assignment.
- (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 Assignment shall include all amendments and modifications to this Assignment 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' is to be understood 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 Assignment have a corresponding meaning.

## ARTICLE II

### THE ASSIGNMENT

#### SECTION 2.01 ABSOLUTE ASSIGNMENT

In consideration of the Bank agreeing to provide the Facility to the Customer under the Facility Agreement, the Assignor as beneficial owner having understood the contents and details of this Assignment, voluntarily and absolutely assigns to the Bank all of the Assignor's rights, title and interest (excluding the obligations) in and to the Property including all rights and interest of the Assignor in the Sale and Purchase Agreement and the Assignor's right of enforcement thereof, as security for the payment by the Customer and the Assignor to the Bank of the Indebtedness.

PROVIDED ALWAYS that notwithstanding the assignment herein contained or any other provision of the Facility Agreement, the Customer and/or the Assignor shall and hereby undertake to continue to observe and be bound by all conditions, covenants and stipulations therein on the party of the Customer and/or the Customer expressed and contained in the Sale and Purchase Agreement and the Bank shall have no obligation or

liability under the Sale and Purchase Agreement by reason of or arising out of this Assignment. The Bank will not be required or obligated in any manner to observe or perform any of the conditions or obligations of the Assignor under or pursuant to the Sale and Purchase Agreement (except to make progress disbursements out of the proceeds of the Facility to the developer/vendor/proprietor or such other persons under the terms and conditions of the Facility Agreement) where applicable or to present or file any claim or to take any other action to enforce the terms of the Sale and Purchase Agreement.

## **SECTION 2.02 POWER OF ATTORNEY**

For the consideration aforesaid, the Assignor hereby voluntarily and irrevocably appoints the Bank or any person or corporate body appointed by the Bank as attorney of the Assignor and in the Assignor's name or in the name of the attorney or otherwise and on the Assignor's behalf to:

- (a) deal with the Property in any manner including the power to transfer the Property to the Assignor and to charge the Property to the Bank upon issuance of the separate document of title or strata title to the Property; and
- (b) enforce all rights and remedies under the Facility Agreement and do all other things as fully and effectually as the Assignor could do himself in connection therewith and in particular but without prejudice to the generality of the preceding to:
  - (i) assign, sell, let, lease or demise the Property or any part thereof; and
  - (ii) do all acts, to obtain all whatsoever consents and approvals from the appropriate State Authority or Authorities and or other authorities; and
- (c) execute all documents to give effect to such transfer, charging, procurement of consents and approvals, sale, letting, lease or demise of which the Bank may deem necessary on any sale by the Bank of the Assignor's rights, title and interest in the Property under the power of sale conferred by the Assignment; and
- (d) give a good receipt for the purchase moneys received;
- (e) for the purpose of giving effect to the rights of the Bank under the Assignment and without prejudice to the generality of the preceding to:
  - (i) execute on the Assignor's behalf any transfer or charge or lease or any other agreement and instrument and such transfer or charge or lease or any other agreement and instrument executed on the Assignor's behalf by the Bank or any person or corporate body appointed in that behalf by the Bank shall be as good valid and effectual to all intents and purposes as if the same had been executed by the Assignor in his own proper person; and
  - (ii) do and perform all acts matters and things necessary or expedient for the registration of all instruments required by law to be registered as fully and effectually as the Assignor could do himself if the Assignor were personally present;

with power for such attorney to substitute and appoint one or more attorneys under him for all or any of the purposes aforesaid as he shall think fit.

AND the Assignor agrees and undertakes at all times hereafter to ratify and confirm whatsoever the said attorney shall lawfully do or cause to be done in and concerning the premises by virtue of the Assignment.

### **ARTICLE III**

#### **CHARGE UPON ISSUE OF TITLE**

##### **SECTION 3.01 EXECUTION OF CHARGE**

As security for the Indebtedness, the Assignor will immediately upon the issuance of the separate document of title or the strata title to the Property execute in favour of and deliver to the Bank the Legal Charge in accordance with the provisions of the Land Code and upon the terms and conditions as the Bank may require.

### **ARTICLE IV**

#### **SECURITY**

##### **SECTION 4.01 CONTINUING SECURITY**

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

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

##### **SECTION 4.02 COVENANT TO PROVIDE FURTHER SECURITY**

- (a) The Assignor 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 Assignor's right, title and interest in any property or assets or business now or from now on belonging to or acquired by the Assignor (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 Assignor and to contain all such terms and conditions for the benefit of the Bank as the Bank may reasonably require.
- (b) The Assignor 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 Assignor for any tenure and all or any debentures, shares, stocks or other investments or securities registered in the name of the Assignor or belonging to the Assignor. 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 Assignor and not secured under this Assignment.

#### **SECTION 4.03 RESTRICTION AGAINST OTHER CHARGES**

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

- (a) the Assignor will not during the subsistence of this Assignment 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; or
- (b) this Assignment shall be without prejudice to and shall not operate so as to merge or otherwise affect any lien or security already given by the Assignor and/or the Customer or any other security which may hereafter be given to the Bank by the Assignor and/or the Customer or any other party (whether for securing payment of the Indebtedness or any other moneys covenanted to be paid pursuant to the Security Documents and whether such security is taken as additional or collateral security or otherwise).

#### **SECTION 4.04 LIEN AND OTHER SECURITIES NOT AFFECTED**

Nothing in this Assignment 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 Assignment 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 4.05 THE BANK NOT BOUND TO TAKE ACTION**

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

### **ARTICLE V**

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

##### **SECTION 5.01 COVENANTS IN RESPECT OF THE PROPERTY**

The Assignor hereby expressly covenants with the Bank that during the continuance of this Assignment the Assignor will:-

- (a) keep the 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 Assignor will permit the Bank or its agents with or without workmen and others at convenient hours in the day-time to enter the 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 Assignor will permit the Bank to enter the Property and effect such repairs as the Bank may consider necessary at the cost

and expenses of the Assignor. All moneys incurred by the Bank will become payable by the Assignor and the Bank is hereby fully authorized to debit the full amount in respect thereof to the Assignor's account and such amount will 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 Assignor will 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 on 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 Assignor 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 shall be for the account of the Assignor under this Assignment;
- (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 produce the same to the Bank whether demanded or not. The Assignor 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 Assignor 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 Assignor 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 Assignor will 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 Assignor, the Assignor will 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 Assignor to be observed and performed and in addition thereto any condition and covenant binding upon the Property. The Assignor will not do or omit to do any act, matter or thing on or in respect of the Property which shall contravene the provisions of the Security Documents or of any act, ordinance, enactment, order, rule or regulation now or in future affecting the same. The Assignor will 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 user by the Assignor 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 Assignment, the Assignor expressly agrees, covenants and undertakes where applicable the following:-
- (i) continue to maintain and cultivate the Property in a proper and workmanlike manner and following the methods of good agriculture and until this Assignment be fully satisfied and discharged the Bank will at all reasonable times with prior notice to the Assignor to enter upon the Property to view and inspect the state of maintenance or cultivation;
  - (ii) the Bank with prior notice to the Assignor may employ a visiting agent or agents 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;
  - (iii) keep the Property clean, weeded and free from lalang and other undergrowth. If not, it will 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 lalang and other undergrowth;
- (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 its rights, title and interest under the Sale and Purchase Agreement or the Property or any interest therein or make the same subject to any assignment, encumbrance, liability or lien whatsoever or rescind, remove or vary 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 Assignor will 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 or buildings on the Property or that the Facility is to be utilised for the purposes thereof, the Assignor will 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 will obtain a Certificate of Fitness for Occupation/Certificate of Completion and Compliance not later than such date as the Bank may stipulate;
- (m) as and when a separate document of title or strata title to the Property has been issued by the appropriate authorities, immediately deposit the same with the Bank for security and for the purpose of registering the intended Charge; and

- (n) deliver vacant possession of the Property to the Bank upon the expiration of the notice referred to in Section 6.01 under this Assignment if the breach or default complained of in the said notice has not been rectified to the satisfaction of the Bank.

## ARTICLE VI

### MUTUAL COVENANTS

#### SECTION 6.01 LICENCE

Notwithstanding anything contained in this Assignment, it is declared that the Assignor will during the continuance of this Assignment retain possession of the Property as licensee of the Bank and by no other right. Within seven (7) days after the Assignor's licence to occupy the Property is terminated in the manner hereinafter provided, the Assignor will give immediate vacant possession of the Property to the Bank.

#### SECTION 6.02 PEACEFUL ENJOYMENT

The Customer and/or the Assignor will hold and occupy the Property free from any interference from the Bank provided that the Customer and/or the Assignor observes and complies with all the terms and conditions of this Assignment and punctually paying the Indebtedness to the Bank in the amount and the times provided herein and in the Security Documents.

## ARTICLE VII

### REMEDIES OF THE BANK

#### SECTION 7.01 EVENT OF DEFAULT

The Assignor is deemed to have committed a default if any of the Assignor 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 Assignment, the Facility Agreement and the Security Documents and without prejudice to the generality of the preceding, upon the happening of any one or more of the Event of Default.

#### SECTION 7.02 RIGHTS OF THE BANK ON DEFAULT

Upon the occurrence of any Event of Default, the Bank will 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 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 in its discretion think fit, free from any interest of the Assignor under this Assignment 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 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 Assignor under this Assignment 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 Assignor 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 Assignment.

The Assignor 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 Assignor and/or the Customer declares and agrees that the Assignor 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 7.03 PROCEEDS OF SALE**

All moneys received by the Bank from any proceeding instituted or step taken under this Assignment 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 7.04            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 Assignor will pay to the Bank the difference between the amount due and the amount so realised. Until payment, the Assignor will also pay ta'widh (late payment compensation) on such balance at the rate provided in the Facility Agreement.

#### **SECTION 7.05            THE BANK'S RIGHT TO COMMENCE FORECLOSURE AND LEGAL PROCEEDINGS CONCURRENTLY**

Notwithstanding any provision in this Assignment, it is expressly agreed that upon default or breach by the Assignor and/or Customer of any term, covenant, stipulation and/or undertaking provided in this Assignment and on the part of the Assignor and/or the Customer to be observed and performed, the Bank will have the right to exercise all or any of the remedies available whether by this Assignment or the other Security Documents or by statute or otherwise. The Bank will be entitled to exercise such remedies concurrently, including pursuing all remedies of sale or possession and civil suit to recover all moneys due and owing to the Bank provided that nothing contained in this Assignment shall be understood 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 Assignor and/or the Customer or any other security party. The Assignor 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 Assignor and/or the Customer or any other 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 Assignment.

### **ARTICLE VIII**

#### **TAKAFUL**

#### **SECTION 8.01            TAKAFUL ON PROPERTY**

The Assignor will 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 Assignor will 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 will be borne and paid by the Assignor to the Bank on demand for the same being made by the Bank. The Assignor 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 will not be cancelled without the prior written consent of the Bank.

#### **SECTION 8.02 OTHER TAKAFUL PROCEEDS**

The Bank may at any time require the Assignor to take out and maintain a takaful mortgage plan or a life takaful policy. The Assignor 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 Assignor will name the Bank as the sole beneficiary, failing which, the Bank may at its discretion at the cost and expense of the Assignor take out and maintain such policy guaranteeing the payment of all monies owing by the Customer and/or the Assignor 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 will be terminated by the Bank at its discretion and the Bank will be entitled to claim the surrender value of the policy.

#### **SECTION 8.03 RESTRICTION AGAINST ADDITIONAL TAKAFUL**

Except at the request or with the prior written consent of the Bank, the Assignor will 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 Assignor has bought or took up the takaful policy as referred to in Section 8.01.

#### **SECTION 8.04 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 Assignor 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 Assignor will 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 Assignor will continue paying to the Bank whatever monies due and payable herein.
- (c) In the event that the Assignor 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 Assignor 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 Assignor 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 Assignor will 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 8.05 EVIDENCE OF TAKAFUL**

On the date of execution of this Assignment or at such later date as the Bank may require, the Assignor will provide the Bank with the originals of all takaful policies assigned under

this Assignment 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 will be made in any takaful policies without the Bank's prior written consent.

#### **SECTION 8.06 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 Assignor to demand, collect, give receipts for and prosecute all necessary actions in the courts to recover any and all takaful moneys that may become due and payable under the takaful policies. If the Assignor at any time fails:-

- (a) to pay any takaful contribution when due, calls or other costs related to obtaining or maintaining the takaful policies required under this Assignment; 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 Assignment,

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

#### **SECTION 8.07 COMPLIANCE WITH TAKAFUL TERMS, LAWS, REGULATIONS ETC**

The Assignor will not do any act, allow or permit any act to be done (whether by omission or commission), whereby the takaful 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 IX**

#### **WARRANTIES AND OBLIGATIONS OF ASSIGNOR**

##### **SECTION 9.01 WARRANTIES**

The Assignor represents and warrants that:-

- (a) the Sale and Purchase Agreement and Security Documents are valid and enforceable and is in full force and effect;
- (b) the Customer and/or Assignor is not in default under the Sale and Purchase Agreement and/or Security Documents;
- (c) 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 Assignor a party to or bound by any order, agreement or instrument under which the Assignor 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 Assignment;
- (d) the Assignor is the beneficial owner of the Property;

- (e) there is no order of any court or other governmental agency or any provision of any existing agreement binding on the Assignor which would be contravened or breached by the execution, delivery and performance of this Assignment;
- (f) no violation of any legislation, court orders and/or judgments has been committed by the Assignor;
- (g) any financial statements, information and other data provided by the Assignor 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 Assignor as at the date or dates to which they were made up. Since such date or dates, there has been no change in the Assignor's financial condition or results of operations sufficient to impair the Assignor's ability to comply with its obligations under this Assignment or might adversely affect the decision of the Bank to proceed with the Facility (if applicable);
- (h) the Assignor 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);
- (i) the Assignor 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;
- (j) no bankruptcy or winding up proceedings have been commenced against the Assignor;
- (k) the execution, delivery and performances of this Assignment:-
  - (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
- (l) all information furnished by the Assignor in connection with this Assignment 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 Assignor.

## **SECTION 9.02 OBLIGATIONS OF ASSIGNOR**

It is expressly agreed that notwithstanding anything contained in this Assignment to the contrary, the Assignor will remain liable under the Sale and Purchase Agreement to observe and perform all of the conditions and obligations therein provided to be observed and performed by the Assignor. The Bank will have no obligation or liability under the Sale and

Purchase Agreement by reason of or arising out of this Assignment, nor will the Bank be required or obliged in any manner to observe or perform any of the conditions or obligations of the Assignor under or pursuant to the Sale and Purchase Agreement or to present or file any claim, or to take any other action to enforce the terms of the Sale and Purchase Agreement.

## **ARTICLE X**

### **MISCELLANEOUS**

#### **SECTION 10.01 WAIVER, RIGHTS CUMULATIVE**

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 Assignment, or any security in favour of the Bank upon any default on the part of the Customer and/or the Assignor will impair any such right, power, privilege remedy or be understood as waiver thereof or any consent to such default, affect or impair whether in relation to or effecting the Customer and/or the Assignor will in any way affect the security liabilities and/or obligations created by this Assignment 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 10.02 RECONSTRUCTION OF THE BANK, ASSIGNOR OR CUSTOMER**

The security, liabilities and obligations created by this Assignment will 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 Assignor and/or the Customer. It is expressly declared that no change whatsoever in relation to or affecting the Bank and/or the Assignor and/or the Customer, or any or all of them, shall in any way affect the security, liabilities and obligations created under this Assignment in relation to any transaction whether past, present or future.

#### **SECTION 10.03 STAMP DUTIES**

The Assignor shall pay all stamp duties, fees or other charges payable on or related to the execution of this Assignment and the subsequent registration of the intended Charge relating to the Property (upon issue of the separate document of title or strata title in respect of the Property) and any documents related thereto including but not limited to discharge of Assignment. The Assignor shall reimburse the Bank for any such duties, fees or other charges paid by the Bank.

#### **SECTION 10.04 MODIFICATION AND INDULGENCE**

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

- (a) determine, modify, restructure, vary or increase any credit or other facility granted to the Customer and may open or continue any account with the Customer at any branch of the Bank;
- (b) grant to the Assignor 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 time have from or against the Assignor and/or the Customer or Security Party or any other person; and/or
- (d) enter into any deed of composition with the Assignor and/or the Customer.

#### **SECTION 10.05 COSTS**

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

#### **SECTION 10.06 CUMULATIVE REMEDIES**

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

#### **SECTION 10.07 EXPENDITURE INCURRED BY THE BANK FOR AND ON BEHALF OF THE ASSIGNOR**

All moneys expended by the Bank under this Assignment from time to time for and on behalf of the Assignor relating to takaful, quit rent, assessment, rates, taxes, repairs, legal costs, stamp duties, registration fees, valuation of the Property (as referred to in Section 10.09) and all other outgoings (excluding any expense incurred by the Bank in visiting, inspecting or reporting on the Property by the Bank's agent and or consultants) shall be recoverable from and be paid by the Assignor on demand by the Bank. In default of such payment, such moneys shall be deemed to form part of the Indebtedness and to be secured accordingly under this Assignment and the account of the Assignor shall be debited accordingly.

#### **SECTION 10.08 SEVERABILITY**

If any term, condition, stipulation, provision, covenant or undertaking contained herein which is illegal, prohibited or unenforceable in any jurisdiction, then such terms, conditions, 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 10.09 VALUATION OF THE PROPERTY**

The Assignor authorises the Bank to value the Property in situations where the Customer and/or the Assignor 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 Assignor'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 Assignor within

fourteen (14) days from the date of the notice from the Bank to charge, pledge, mortgage or deposit with the Bank the Assignor's stock and shares, assets, movable property and/or the issue documents of title, if any, of all immovable properties vested in the Assignor of such value as the Bank from time to time require or 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 Assignment.

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 Assignor 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 Assignor 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 Assignor to do so shall be deemed (with notice on the Bank's part) to be an Event of Default.

#### **SECTION 10.10 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 Assignor; or
- (b) terminate the Facility and demand for payment of the Indebtedness thereof from the Customer and/or the Assignor; 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 Assignor under this Assignment or under any other account with the Bank or with any other financial institution; or
- (b) there is a default by any of the Customer and/or the Assignor 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 Assignor 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 Assignor is/are a guarantor; or
- (d) the Customer and/or the Assignor or any subsidiary or holding company of the Customer and/or the Assignor 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 Assignor or any related companies or substantial shareholder of the Customer and/or the Assignor (if body corporates).

#### **SECTION 10.11          SUSPENSE ACCOUNT**

Any money received under this Assignment 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 Assignment, apply the moneys kept in the suspense account or any part thereof in or towards discharge of or any money or liability due or incurred by the Assignor 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 10.12          ALL PAYMENTS RECEIVED TO BE PAYMENT IN GROSS**

All moneys 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 owing. 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 owing 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 10.13          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 Assignor 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 access the credit worthiness of existing or potential customers.

#### **SECTION 10.14          FALSE DECLARATION**

Notwithstanding any other provisions contained in this Assignment, in the event that any of the declarations made by the Assignor under the Facility and/or this Assignment be found to be false in any way, the Bank may in its discretion terminate or vary the 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 Assignor and/or 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 10.15          TIME**

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

#### **SECTION 10.16          PROVISIONS OF FACILITY AGREEMENT INCORPORATED**

All the provisions of the Facility Agreement shall be deemed to be incorporated into and form part of this Assignment (whether such provisions are repeated in this Assignment or not) subject to such alterations or variations where necessary to make the provisions of

the Facility Agreement consistent with the provisions of this Assignment. If there is any conflict or discrepancy between the provisions of the Facility Agreement and the provisions of this Assignment, the provisions of this Assignment shall prevail for the purposes of interpretation and enforcement of this Assignment.

#### **SECTION 10.17 CONSOLIDATION AND COMBINATION OF ACCOUNTS**

- (a) It is expressly agreed and declared that unless the Bank otherwise agrees, the Assignor shall not be entitled to redeem, require the release or discharge of any security given by the Assignor to the Bank and whether given now or in future except on payment by the Assignor of not only all moneys referred to herein but also all moneys owing or payable or due from the Assignor to the Bank under any other account whether as a customer, 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 Assignment created herein shall not be terminated except on payment of:
- (i) all the Indebtedness; and
  - (ii) all other moneys due and owing to the Bank by the Assignor under any account with the Bank whether or not secured; and
  - (iii) all moneys secured by any other security created by the Assignor and/or the Customer or by any person through whom the Assignor claims in favour of or vested in the Bank.
- (b) The Bank further has the right at any time at its discretion to combine or consolidate all or any of his accounts including jointly with others (of any nature whatsoever) wherever situate with any liabilities and obligations owed or incurred by the Assignor 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 moneys obligations and liabilities due and payable to the Bank by giving seven (7) days' notice prior to set-off or transfer.

#### **SECTION 10.18 SUCCESSORS BOUND**

This Assignment shall be binding upon the heirs, personal representatives, successors-in-title and/or permitted assigns of the Assignor as the case may be and on the successors-in-title and assigns of the Bank.

#### **SECTION 10.19 CERTIFICATE OF INDEBTEDNESS**

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

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

## **SECTION 10.20 INDEMNITY**

The Assignor shall at all times hereafter indemnify, save and hold the Bank harmless against all losses, damages, claims, demands, actions, 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 for any breach of any provision of the Sale and Purchase Agreement and Security Documents as well by the Customer and/or the Assignor or that may be incurred, suffered or sustained by the Bank as result thereof. The Assignor 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 10.21 EFFECTIVE DATE**

The parties agree that this Assignment 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 Assignment respectively.

## **SECTION 10.22 DISCLOSURE**

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

- (a) to the Bank's auditor, legal counsel and other professional advisors; or
- (b) to 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 Assignment and the other 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 10.23 RIGHT TO ASSIGN/TRANSFER**

- (a) The Bank may by giving the Assignor 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 Assignment shall be taken as a correct statement or recital that such amount is in fact due and shall be conclusive and binding on the Assignor.
- (c) The Assignor shall not assign or transfer any of its rights and obligations under this Assignment without the prior written consent of the Bank.

#### **SECTION 10.24 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 Assignor 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 Assignor.

The Bank shall be entitled at the expense of the Assignor 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 Assignment. The Assignor shall and declares that he shall hold all moneys so received in trust for the Bank and the Assignor 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 Assignor shall immediately pay the difference between the amount due and the amount so received.

#### **SECTION 10.25 LAW**

This Assignment is to be governed by and understood in all respect in accordance with the laws of Malaysia on all matters connected with the obligations and liabilities of the Parties under this Assignment. 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 Assignment may be effected in the manner set out in this Assignment.

#### **SECTION 10.26 SERVICE OF NOTICES AND LEGAL PROCESS**

- (a) Unless otherwise provided in this Assignment, any demand for payment of the monies to be paid by the Assignor and any notice or request required to be given or made under this Assignment 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 to the Bank.
- (b) Further to Section 10.26(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 Assignor and/or the Customer and/or the Assignor's estate and/or successors in title notwithstanding any evidence to the contrary.

- (c) In case of the Assignor's death and until the Bank receives notice in writing of the grant of probate or letters of administration of the Assignor's estate, any notice or demand by the Bank sent by post as aforesaid addressed to the Assignor and/or the Assignor's personal representative at the e Assignor's last known address will for all purposes be deemed a sufficient notice or demand by the Bank to the Assignor and/or the Assignor's personal representative and will be effectual as if the Assignor is still living.
- (d) No change in the address of the Assignor 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 Assignor, the Assignor 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 Assignment 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 Assignor 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 Assignor'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 10.27      PRINCIPAL AND SECONDARY INSTRUMENTS**

IT IS HEREBY AGREED AND DECLARED THAT this Assignment and other 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 Assignment and the other Security Documents are considered as the secondary instruments.

**[End of clauses]**



**EXECUTION**

**IN WITNESS WHEREOF** the parties hereto have hereunto set their respective hands/seal the day and year set out in Section 1 of the First Schedule hereto.

**THE BANK**

SIGNED BY	)	<b>THE BANK</b>
	)	by its Attorney(s)
as Attorney(s) for and on behalf of	)	
<b>MBSB BANK BERHAD</b>	)	
<b>(Registration No. 200501033981)</b>	)	
<b>(716122-P)</b>	)	.....
in the presence of:	)	Name:
		NRIC No.:
		Designation:

**The Assignor** (\*whichever applicable)

*SIGNED by	)
the <b>ASSIGNOR</b>	)
in the presence of:	)

.....  
Name:  
NRIC No.:

*The Common Seal of the <b>ASSIGNOR</b>	)
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>THE FIRST SCHEDULE</b> (which is to be taken read and understood as an integral part of this Assignment)		
<b>Section No.</b>	<b>Matter</b>	<b>Particulars</b>
1.	The day and year of this Assignment	(Please insert)  Date:
2.	Name and description of the Assignor	(Please insert)
3.	Name and description of the Customer  <i>Note: For 1<sup>st</sup> Party case, the particulars of the Customer are as per Section 2 and 3 of this First Schedule.</i>  <i>Note: For 3<sup>rd</sup> Party case, the particulars of Assignor are as per Section 2 and particulars of Customer are as per Section 3 of this First Schedule.</i>	(Please insert)
4.	Description of the Property	The description of the <b>Property</b> as per the Sale and Purchase Agreement a copy of which is appended hereto in Attachment 1 of this Agreement.
5.	Date of Facility Agreement)	(Please insert)  Date:
6.	Sale and Purchase Agreement	The particulars as stated in the Sale and Purchase Agreement a copy of which is appended hereto in Attachment 1 of this Agreement.  Note : in a subsale situation : Principal Sale and Purchase Agreement and all other agreements in a subsale situation including the relevant Deed of Assignment (by way of transfer) copies of all sale and purchase agreements and relevant deed of assignment (by way of transfer) pertaining to the Property are attached in sequence to Attachment 1 of this Deed of Assignment (by way of security).

**\*AUTHENTICATION OF POWER OF ATTORNEY**

I, \_\_\_\_\_ an Advocate and Solicitor of the High Court of Malaya practicing at \_\_\_\_\_ hereby certify that the signature of the Donor (Assignor) above named was written in my presence on this \_\_\_\_\_, and is to my own personal knowledge, the true signature of \_\_\_\_\_ (NRIC No.: \_\_\_\_\_) who have acknowledged to me that they are of full age and that they have voluntarily executed this instrument /of the common seal of by \_\_\_\_\_ (Company No. \_\_\_\_\_) was duly affixed on the above written instrument in my presence in accordance with the rules and regulations of the company.

Witness my hand,

\_\_\_\_\_

**ACKNOWLEDGEMENT BY DEVELOPER/PROPRIETOR (for Strata)**

I/We, \_\_\_\_\_ of \_\_\_\_\_ being the developer and the proprietor (if applicable) of the Property do hereby consent to the preceding Assignment and the same has been noted in our records. I/We further undertake to execute all such instruments and agreements and obtain such consent as may be necessary to transfer to the Customer the title of the Property. Unless otherwise instructed by the Bank in writing, I/We will deliver the issue document of title/strata title to the Property free from all encumbrances to the Bank upon issuance of the same together with a valid and registrable memorandum of transfer in favour of the Customer.

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

SIGNED by \_\_\_\_\_ )  
for and on behalf of \_\_\_\_\_ )  
in the presence of.- \_\_\_\_\_ )  
\_\_\_\_\_ )  
\_\_\_\_\_ )

SIGNED by \_\_\_\_\_ )  
for and on behalf of \_\_\_\_\_ )  
in the presence of.- \_\_\_\_\_ )  
\_\_\_\_\_ )  
\_\_\_\_\_ )

**NOTICE OF ASSIGNMENT (For cases Developers registered under HDA)**  
(to be executed by the Assignor(s))

To: (Please insert the name and address of the Developer) \_\_\_\_\_

Dear Sirs,

**RE: NOTICE OF ASSIGNMENT**

**PROPERTY: (Please insert)** \_\_\_\_\_

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I/We refer to the above matter.

Please be informed that pursuant to the Sale and Purchase Agreement dated (Please insert) \_\_\_\_\_ entered into between (vendor/developer) and me/us, I/We have agreed to purchase the above property at the purchase price and upon the terms and conditions contained therein.

To finance the said purchase, MBSB Bank Berhad of (Please insert the address of the Bank's Servicing Branch \_\_\_\_\_) ("the Bank") has agreed to grant me/us Facility for the amount as stipulated in the letter of offer.

I/We hereby give you notice that by a Deed of Assignment (by way of security) dated (Please insert) \_\_\_\_\_ made between the Bank and me/us, I/We have assigned absolutely to the Bank all my/our rights, title and benefits under, in and to the above Property, upon the terms and conditions and subject to the terms and conditions as therein contained.

I/We further give you notice that upon issuance of the individual/strata title, please forward the said individual/strata title to the Bank.

Enclosed herewith are the following documents for your record purposes:-

- i. a stamped copy of the sale and purchase agreement between (vendor/developer) and me/us;
- ii. the duly executed deed of absolute assignment (by way of transfer) between (developer) and me/us (if any); and
- iii. a stamped copy of the deed of absolute assignment (by way of charge) between the Bank and me/us.

Kindly acknowledge receipt of this notice.

Yours faithfully,

(Assignor)

## **ATTACHMENT 1**

**Copy(s) of the duly stamped Sale and Purchase Agreement(s)**

**(Note: For subsale, copies of all sale and purchase agreements and relevant deed of assignment (by way of transfer) pertaining to the Property are to be attached to this Attachment 1 in sequence.**