

**SPECIFIC TERMS AND CONDITIONS FOR
FOREIGN CURRENCY CURRENT ACCOUNT-i
BASED ON TAWARRUQ
(Effective Date: 07th June 2018)**

The Specific Terms and Conditions mentioned herein are applicable to Foreign Currency Current Account-i (FCA-i) products based on the Shariah concept of *Tawarruq* offered by MBSB Bank. FCA-i product is governed by the relevant laws of Malaysia and Shariah principles.

This Specific Terms and Conditions shall be read together with the General Terms and Conditions for Current Account-i and Savings Account-i ("CASA-i"). All definitions used in the General Terms and Conditions shall have the same meaning when used in these Specific Terms and Conditions.

This Specific Terms and Conditions shall be additional to the Terms and Conditions of each type of the product/ accounts appearing in the General Terms & Conditions. In the event of any discrepancy, ambiguity or dispute in the interpretation of these Specific Terms and Condition and the said Terms and Conditions for each type of product/accounts appearing in the General Terms & Conditions, the said Specific Terms and Conditions for each product/accounts shall prevail.

1.0 GENERAL

1.1 The FCA-i shall be operated in accordance with the Shariah concept of *Tawarruq* arrangement whereby the Customer appoints MBSB Bank under *Wakalah* contract, as his/her agent to buy Commodity from any commodity traders and thereupon to sell the Commodity to MBSB Bank under *Murabahah/ Musawamah* contract on deferred payment.

Under the arrangement:

- i. MBSB Bank acts an agent will purchase the Commodity on behalf of the Customer for the Purchase Price of the Commodity in the amount deposited with MBSB Bank;
- ii. MBSB Bank will thereafter on its own capacity purchase the Commodity from the Customer at the Selling Price which shall be paid to the Customer upon maturity;
- iii. MBSB Bank may thereafter sell the Commodity to a third party;

1.2 FCA-i involves in foreign currency exchange where the concept of Bai' al-Sarf (currency exchange) shall also applied where currency conversion from one currency type to the desired currency type. i.e. Malaysian Ringgit ("MYR") to foreign currency ("FCY"), FCY to other FCY.

1.3 The Customer applying for the opening of the FCA-i with MBSB Bank shall be bound by these Terms and Conditions governing the operations of the FCA-i in force from time to time.

1.4 These Terms and Conditions are also intended to be read together with pamphlets, brochures or any other relevant Terms and Conditions issued by MBSB Bank which may be imposed from time to time that are applicable to the particular FCA-i opened by the Customer.

2.0 MALAYSIA DEPOSIT INSURANCE CORPORATION ("PIDM")

2.1 This deposit product is covered by Malaysia Deposit Insurance Corporation ("PIDM").

2.2 Subject to the latest version of Guidelines issued by PIDM including any statutory amendment or re-enactment thereof, any capital will be insured up to a maximum of Ringgit Malaysia Two Hundred Fifty Thousand

(RM250,000) inclusive of the initial capital and any dividend (profit) there from.

3.0 DEFINITIONS

In this Specific Terms and Conditions governing *Tawarruq*, the following words shall have the meanings stated thereto:

"Actual Profit" refers to the accrued profit computed at the Effective Profit Rate which is credited into the FCA-i on periodic basis as part of the settlement of the Selling Price.

"Agent" refers to MBSB Bank which shall be appointed by the Customer to do such acts on behalf of the Customer under the Shariah contract of *Wakalah* in matters relating to *Tawarruq* in accordance to the terms herein.

"Bai' Al-Sarf" refers to a contract of exchange of money for money of the same or different type.

"Business Day" means a day (other than a Saturday, Sunday or a public holiday) on which the Bank, where the account is maintained, is open for the transaction of ordinary banking business in Kuala Lumpur, Malaysia.

"Ceiling Profit" refers to the ceiling profit computed at the Ceiling Profit Rate and which constitutes the profit component of the Selling Price.

"Ceiling Profit Rate (CPR)" refers to the rate used to compute the Ceiling Profit of the Selling Price.

"Customer" means MBSB Bank's customers whose application for FCA-i has been accepted by MBSB Bank and such FCA-i is maintained with MBSB Bank.

"Commodity" means Shariah-compliant goods and/or commodities (excluding *ribawi* items in the category of medium of exchange such as currency, gold and silver) acceptable to MBSB Bank, purchased under the platform of any commodity trader appointed by MBSB Bank and duly approved by the Shariah Advisory Committee (SAC) of MBSB Bank which will be transacted as the underlying asset to facilitate the *Tawarruq* transaction.

"Commodity Trading" means the sale and purchase transactions performed in accordance to the Shariah concept of *Tawarruq*.

"Daily Net Deposit (DND)" refers to End of Day balance on any single day, excluding the floats and represents the positive difference of the daily deposit minus daily withdrawal.

"Dormant Account" means an account with no transaction for more than a year

"Effective Profit Rate (EPR)" refers to the actual profit rate used to compute the profit accrual and profit crediting.

"FCA-i" means any MBSB Bank's foreign currency account including but not limited to Foreign Currency Current Account-i based on *Tawarruq*.

"Foreign Currency Current Account-i" means a current account-i which allows the Accountholder to deposit and withdraw in foreign currency as agreed, approved and selected by MBSB Bank.

"Foreign Exchange Administration Rules" ("FEA Rules") means the rules, regulations, notices and/or directions issued by Bank Negara Malaysia ("BNM") pursuant to Section 225 of Islamic Financial Services Act

2013 [Act 759] (including any variations, changes, amendment made thereto).

“Hamish Jiddiyah” refers to a Security Deposit (SD) placed to secure the undertaking to purchase an asset before execution of sale and purchase contract. Under this product, the SD will be placed by MBSB Bank in order to secure an undertaking to purchase the Commodity from Customer. It is only applicable when there is any DND during the final day of the month whereby the purchase of Commodity will only be conducted on the next day.

“Malaysian Ringgit Account-i” means the current account-i opened and operated by the Accountholder for the purposes of crediting proceeds of sale / debiting for purchase of foreign currencies and/or for the debiting of fees and charges related to FCA-i.

“Maturity Date” refers to 31 December of that year upon which the Sale Transaction is executed.

“Murabahah” refers to a sale and purchase of a Commodity where the acquisition/purchase cost and the mark-up are disclosed to the purchaser.

“Musawamah” refers to a sale and purchase of a Commodity where the acquisition/purchase cost and the mark-up are not disclosed to the purchaser.

“Purchase Price” refers to the amount equivalent to the Daily Net Deposit and / or Total Outstanding Balance which will be used to purchase the Commodity on the Trading Day.

“Purchase Transaction” refers to when Customer purchases the Commodity (via MBSB Bank acting as his/her agent) from any commodity trader at the Purchase Price.

“Profit Crediting Day” where the total accrued profit for a particular period will be credited into the Customer’s FCA-i being partial settlement of the Selling Price.

“Rebate (Ibra)” represents the “waiver on rights of claim” accorded by a person to another person that has an obligation which is due to him.

“Remaining Days” refers to the remaining number of days from the current date up to the Maturity Date of the Selling Price.

“Sale Transaction” refers to when the Customer sells the Commodity (via MBSB Bank acting as his/her agent) to MBSB Bank at the Selling Price.

“Selling Price” means the sum payable by MBSB Bank to acquire the Commodity from the Customer on *Murabahah* basis which comprise of the Purchase Price of the Commodity and the profit.

“Tawarruq” consists of two sale and purchase contracts where the first involves the sale of an asset to a purchaser on a deferred basis and the subsequent sale involves sale of the asset to a third party on a spot and cash basis. Under this product, the Customer will purchase the Commodity at Purchase Price from any commodity trader and thereafter, sell the Commodity to MBSB Bank at Selling Price on the basis of *Murabahah/ Musawamah* which shall be paid to the Customer at the Maturity Date (after taking into consideration any rebates, if any). MBSB Bank shall thereafter sell the Commodity to a third party on a cash and spot basis.

“Tawarruq Notice” refers to yearly statement consist of all information of Commodity trading transaction sent by MBSB Bank to the Customer.

“Termination Date” refers to the date the Customer terminated the FCA-i and withdraws the entire outstanding balance.

“Total Outstanding Balance” refers to the prior year outstanding balance as at 31 December that shall be used for the computation of the Selling Price at each new year.

“Trading Day” refers to the days where Commodity Trading is executed from Monday to Sunday and on which the commodity trading platform is open for trading.

“Wakalah” means an agency contract in which a party mandates another party as her/his agent to perform a particular task in matters that may be delegated voluntarily or with imposition of fee.

“Wa’d” means a promise or undertaking, refers to expression of commitment given by one party to another to perform certain action(s) in future.

4.0 FEES AND CHARGES

4.1 MBSB Bank is entitled to charge fees / charges / commission for any of its services rendered for the FCA-i. All fees / charges / commission shall be debited from the Accountholder’s FCA-i or the Malaysian Ringgit Account-i.

4.2 When the fees / charges / commissions are debited from the Malaysian Ringgit Account-i, the relevant foreign currency shall be converted to Malaysian Ringgit at the prevailing counter rate of the transaction date.

5.0 DORMANT ACCOUNTS

5.1 Any FCA-i with no transactions for more than a year shall be classified as a dormant account.

5.2 Reactivation of any dormant account must be done by the Accountholder at the counter of any branches of MBSB Bank and subject to verification process of the Accountholder.

5.3 No statement of account will be sent to the Accountholder upon classification of the FCA-i as a dormant account.

5.4 Any dormant Account with nil (zero) balance shall be closed by MBSB Bank.

5.5 Any available balance in the dormant account which has been left unclaimed for a period of seven (7) years shall be converted to Ringgit Malaysia using the day’s closing rate and be forwarded to the Registrar of Unclaimed Monies, *Jabatan Akauntan Negara Malaysia* by MBSB Bank and for any claim of the available balance thereafter requires direct dealing of the Accountholder with the Registrar of Unclaimed Monies.

5.6 All costs, fees, expenses and charges incurred by MBSB Bank for the maintenance and operation of the dormant account will be charged to the dormant account until the balance is sent to the Registrar of Unclaimed Monies, *Jabatan Akauntan Negara Malaysia* by MBSB Bank.

6.0 COMPLIANCE WITH FOREIGN EXCHANGE ADMINISTRATION RULES (“FEA RULES”)

6.1 The continuity of the operation of the FCA-i is subject always to the rules, regulations and limits set by the FEA Rules and direction issued by BNM pursuant to the

- Islamic Financial Services Act 2013 ("IFSA 2013") and its amendments thereto.
- 6.2 The Accountholder shall ensure that all payment transfers from or to the FCA-i are in compliance with the prevailing rules, regulations and limits set by the FEA Rules and direction issued by BNM pursuant to the IFSA 2013 including any amendments or variations made thereto. If the Accountholder's deposits in FCA-i is subject to any conditions / limits imposed by the FEA Rules, then the Accountholder shall adhere to such limits imposed by it.
- 6.3 MBSB Bank shall be entitled to request, sight and verify any documents from the Accountholder to ensure the accuracy of information provided by the Accountholder to MBSB Bank.
- 6.4 The Accountholder shall indemnify MBSB Bank for any losses suffered by the Accountholder arising from any actions taken by MBSB Bank for the purpose of complying and adhering to the rules, regulations and limits imposed by the FEA Rules.
- 7.0 DEPOSIT & WITHDRAWALS FROM FCA-i**
- 7.1 All withdrawals or deposits to the FCA-i must be made by way of either drafts, telegraphic transfer, money orders or credited into Malaysian Ringgit Account-i. Cash withdrawals and/or deposits over the counter or ATM are not allowed.
- 8.0 FURTHER TERMS**
- 8.1 For Foreign Currency Current Account-i: No cheque book will be issued. All withdrawals shall be made via written instructions by Accountholder to MBSB Bank. Accountholder agrees and acknowledges that MBSB Bank may levy or impose service charge on the Foreign Currency.
- 8.2 Other terms and conditions applicable to this FCA-i are as stated in the General Terms and Conditions for CASA-i which is available in MBSB Bank's website (www.mbsbbank.com) and branches.
- 9.0 APPOINTMENT AS AN AGENT**
- 9.1 Based on the concept of *Wakalah*, the Customer (acting as the "Principal") agrees to appoint MBSB Bank (acting as the "Agent") and MBSB Bank agrees to accept the appointment as an agent of the Customer for the purchase and sale transaction of the Commodity ("Commodity Trading") in accordance with this Terms and Conditions. MBSB Bank will only act as the Customer's agent and will not assume, or be deemed to have assumed, any additional obligations to, or to have any special relationship with the Customer other than those that is envisioned in this Terms and Conditions.
- 9.2 As the Customer's agent, MBSB Bank shall, during the tenure or any renewal thereof, have the following powers and authority:-
- to do and execute all acts with respect to the purchase of the Commodity on a cash and spot basis through purchase agreement, certificate and other instrument and to negotiate with commodity trader on behalf of the Customer in relation thereto; and
 - to sell the Commodity on deferred payment to MBSB Bank at cost plus profit ("Selling Price") on behalf of the Customer and to do and execute all acts in relation thereto ("Sale Transaction").
- 9.3 MBSB Bank will look after the best interest of the Customer and acts in good faith in performing its obligations in buying and selling of Commodity.
- 9.4 The Customer shall be entitled to request and take physical delivery of the Commodity. In the event the Customer were to exercise such right to take physical delivery, all costs and expenses in respect thereof shall be borne by the Customer .
- 9.5 The Customer indemnifies MBSB Bank against all losses, actions, proceedings, damage, costs and expenses whatsoever claimed by any party and/or incurred or sustained by MBSB Bank as a result of the purchase of Commodity under any transaction hereunder as an agent of the Customer and/or in the event of breach by the Customer of any of his obligations herein. The indemnity given shall survive termination of this Terms and Conditions and any sum payable under it shall not be subject to any deduction either by way of set off counter claim or otherwise.
- 9.6 The Customer shall not revoke the appointment of MBSB Bank as agent as long as the FCA-i remains available. The appointment of MBSB Bank as agent of the Customer shall cease upon closure of the FCA-i *Tawarruq*;
- 9.7 MBSB Bank shall not be obliged to enter into any transaction or follow any instruction by the Customer, if in the opinion of MBSB Bank that the entering into such transaction, may cause MBSB Bank or its affiliates to breach of any law, policy, rule or regulation.
- 10.0 COMMODITY TRADING TRANSACTION**
- 10.1 As the Customer's agent, MBSB Bank shall enter into the Purchase Transaction as determined by MBSB Bank as follows;
- MBSB Bank shall enter into a *Tawarruq* transaction on the Trading Day which falls on the next day following the deposit placement date, subject to the Daily Net Deposit amount; and
 - MBSB Bank shall enter into a *Tawarruq* transaction on the Trading Day which falls on the next day of each new year on the Total Outstanding Balance.
- 10.2 In view the Trading Day is later than the date the Purchase Price is deposited to MBSB Bank, the Purchase Price will be treated as *Qard* (loan) to MBSB Bank prior to the Purchase Transaction. In this regard, the Customer consents for MBSB Bank to deal with the Purchase Price in any manner deem fit by MBSB Bank.
- 10.3 In connection with each Purchase Transaction, MBSB Bank (as the "Commodity Purchaser") shall provide a promise (*Wa'd*) to the Customer and agree to purchase the Commodity from the Customer upon completion of the Purchase Transaction.
- 10.4 The Selling Price shall be computed based on the following formula:
- $$\text{Selling Price} = \text{Purchase Price} + \text{Ceiling Profit}$$
- 10.5 The Selling Price shall be deferred to two cash flow streams:
- Principal portion i.e. deposit amount shall be paid on the Maturity Date i.e. December 31 (and subsequent years);
 - Actual Profit shall be paid at every month. The actual profit rate shall be based on the Effective Profit Rate as per formula below:

$$\text{Actual Profit} = \frac{\text{End of Day Balance}}{\text{No. of Days}} \times \text{EPR} \times \frac{\text{No. of Days}}{360 \text{ or } 365 \text{ or } 366}$$

10.6 The Ceiling Profit shall be computed based on the following formula:-

$$\text{Ceiling Profit} = \frac{\text{Purchase Price}}{\text{Remaining Days}} \times \text{EPR} \times \frac{\text{Remaining Days}}{360 \text{ or } 365 \text{ or } 366}$$

10.7 Following the Maturity Date, MBSB Bank shall rolled-over the Total Outstanding Balance under the Customer's FCA-i and enter into a new Commodity Trading for a tenure that matures on 31 December of the following calendar year.

11.0 HAMISH JIDDIYYAH (SECURITY DEPOSIT)

11.1 *Hamish Jiddiyyah* is the security deposit amount which MBSB Bank will credit into the Customer's FCA-i on the Profit Crediting Day.

11.2 *Hamish Jiddiyyah* is granted as an assurance from MBSB Bank to the Customer to purchase the Commodity from the Customer on the respective Trading Day.

11.3 Security Deposit is derived based on the following formula:

$$\text{Security Deposit} = \frac{\text{Daily Net Deposit} \times \text{EPR} \times n}{360 \text{ or } 365 \text{ or } 366}$$

Where;

n = number of days prior to the Commodity Trading that consequently occurs prior to Profit Crediting Day

11.4 The *Hamish Jiddiyyah* shall not be utilised by the Customer prior to the Commodity Trading.

11.5 Upon completion of the Commodity Trading, the *Hamish Jiddiyyah* shall be offset against Actual Profit.

11.6 The *Hamish Jiddiyyah* shall be returned to MBSB Bank in the event the Purchase Transaction does not take place. However, MBSB Bank may waive its right on the *Hamish Jiddiyyah* on specific circumstances such as closing of FCA-i prior to Commodity Trading.

12.0 REBATE ('IBRA')

12.1 The Customer shall consent to grant rebate under the concept of *Ibra'* subject to the occurrence of certain events including but not limited to:-

- i. withdrawal of funds prior to Maturity Date;
- ii. upon termination of the FCA-i prior to Maturity Date;
- iii. difference between CPR and EPR at the Maturity Date, given the profit component of the Selling Price computed using CPR is in excess of the aggregate profit during the year computed using EPR based on the following formula:

$$\text{Rebate} = \text{Total Ceiling Profit} - \text{Total Accrued Profit Payable}$$

12.2 The Customer hereby agrees that MBSB Bank's determination of any profit amount payable to the Customer under the FCA-i save for manifest error shall be final, conclusive and binding against the Customer.

13.0 PROFIT RATE

13.1 The profit rate of the FCA-i shall be subjected to the prevailing Effective Profit Rate for respective products or campaigns which will be made known to the Customer upon opening of the account and shall be determined by MBSB Bank from time to time.

13.2 The profit rate will be credited on monthly basis.

14.0 TAWARRUQ NOTICE

14.1 Customer will receive *Tawarruq* Notice on yearly basis, which detailing the *Tawarruq* transactions i.e. Purchase Price, Selling Price, Total Profit, Total Profit Credited, Total Rebate and etc. for the period by post at the correspondence address last registered with MBSB Bank or any other mediums or Services as provided by MBSB Bank.

14.2 The Customer may also request for an ad hoc notice at any of MBSB Bank's branches, via e-mail or fax subject to MBSB Bank's prevailing applicable charges.

14.3 Where MBSB Bank has to rely on and make verbal confirmation with the Customer or the Authorised Signatory(ies) via telephone, the Customer agrees that MBSB Bank is authorised to effect, rely and act on such telephone confirmation / instruction which MBSB Bank reasonably believes to have originated from the Customer in the event the request is submitted by a third party or received via e-mail or fax.

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