



BETWEEN

**UNITED OVERSEAS BANK (MALAYSIA) BHD
(Company No.:271809-K)
(Bank)**

AND

**THE CUSTOMER NAMED HEREIN
(Customer)**

FACILITY AGREEMENT

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FACILITY AGREEMENT

THIS FACILITY AGREEMENT (hereinafter referred to as this “**Agreement**”) is made on the date more particularly set out in **Section 1 of First Schedule**.

BETWEEN

- (1) **UNITED OVERSEAS BANK (MALAYSIA) BHD (Company No.: 271809-K)** (“**Bank**”), which has a business address as stated in **Section 2 of First Schedule** to this Agreement.

AND

- (2) **The Party** whose name, particulars and details are as stated in **Section 3 of First Schedule** to this Agreement (“**Customer**”).

WHEREAS:

- A. The Customer has requested and the Bank has agreed to grant and make available the Facility as described in the Letter of Offer (hereinafter defined) and the Customer has accepted the Facility upon the terms and conditions in the Letter of Offer, including inter alia, the execution of this Agreement.
- B. The Bank may, at the request of the Customer, grant or make available further or other financing facility after this Agreement and it is intended that the terms and conditions in this Agreement will also govern such further or other financing facility granted or make available by the Bank and accepted by the Customer.

THE PARTIES HEREBY AGREE AS FOLLOWS:

1 DEFINITIONS & INTERPRETATION

1.1 Definitions

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

Words	Meaning
Associated Party	means any of the following:- <ul style="list-style-type: none">(a) any director of the Customer;(b) any shareholder of the Customer;(c) a company of which any of the Customer’s director(s) is a director or a shareholder;(d) a company of which any of the Customer’s shareholder(s) is a shareholder or a director;(e) the parent or holding company of the Customer;(f) any subsidiary company of the Customer;(g) a company of which the Customer is directly or indirectly a shareholder;

- (h) a partnership of which the Customer is a partner;
- (i) a sole-proprietorship of which the Customer is a proprietor; and/or
- (j) a company of which the Customer is a director;

Availability Period means the availability period for the Facility as stated in the Letter of Offer or such other period as the Bank may at its absolute discretion agree in writing from time to time;

Bank means **UNITED OVERSEAS BANK (MALAYSIA) BHD (COMPANY NO.: 271809-K)** and its successors in title;

Business Day(s) means a day on which the Bank is open in the state where the place of business of the Bank as stated in **Section 2 of First Schedule** is located for transaction of business of the nature required or contemplated by this Agreement;

Constitution means:

- (a) constitution of a company as described in Section 34 of the Companies Act; or
- (b) for an entity which is not a company registered under the Companies Act, such documents analogous to the constitution of a company stated in (a) above;

Event of Default means any of the events or matters specified in Clause 12;

Facility means collectively the Islamic financing facilities granted or made available by the Bank to the Customer and includes all other facilities or accommodation granted or made available or agreed to be granted or made available or to be continued to be made available by the Bank to the Customer now or hereafter in accordance with the Letter of Offer or if any of the Facility is varied in any way by a letter from the Bank to the Customer, the "**Facility**" will also refer to and include such further or other financing facility granted to the Customer and to the Facility as varied, "Facility" means any one of the Facility;

FATCA means:

- (a) the Internal Revenue Code of 1986 issued by the US or any associated regulations or other official guidance;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; and
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction;

Group	means the Bank's branches, agencies, representative offices, affiliated, associated or related corporations, and their respective officers, servants or agents, whether situated in or out of Malaysia, and includes the Bank;
Indebtedness	<p>means the aggregate of all monies (whether the Deferred Sale Price as defined in the Letter of Offer, principal, profit, compensation (<i>Ta'widh</i>), commission, fees, costs or charges) outstanding or payable or agreed to be payable by the Customer and/or any other Security Party to the Bank from time to time in respect of:</p> <ul style="list-style-type: none">(i) the Facility or any account and includes all liabilities incurred by the Customer to the Bank in respect of the following and any other sum referred to in this Agreement:-<ul style="list-style-type: none">(a) any financing, credit, advances or payments made to or for the use, benefit or accommodation or on behalf of the Customer; or(b) cheques, bills, notes, drafts or other negotiable or non-negotiable instruments accepted, paid or discounted for and on behalf of the Customer; or(c) any bond, sukuk, guarantee, indemnity, or letter of credit given, established or opened by the Bank for or at the Customer's request; or(d) foreign exchange transactions, and any contracts for the forward delivery of goods, bills, or specie; or(e) any other banking facilities, trust receipts, or any other security,whether present or future, actual or contingent, alone or jointly with any other person and in whatever style or name, and whether as principal or surety; and(ii) all commission, fees, charges, legal fees (including the legal fees and expenses of solicitors), and all other costs, charges and expenses which may be incurred by the Bank, including any costs and expense incurred in enforcing this Agreement or any other Security Documents;
Land Code	means the National Land Code 1965, the Sabah Land Ordinance (Cap. 68) or Sarawak Land Code (Cap. 81), as the case may be.
Legal Process	include, but is not limited to, any originating process including writ of summons and originating summons as well as any other forms of originating process, pleadings, interlocutory applications, affidavits, orders, judgments and any other documents which are required to be served under any written law and such notices under the Companies Act 2016, the Insolvency Act 1967 and the Land Code;

Letter of Offer	means the letter of offer(s) (including all schedules and documents annexed thereto) bearing the date stated in Section 4 of First Schedule issued by the Bank to the Customer and if further or other financing facilities are offered by the Bank to the Customer, shall include those letters of offer issued after this Agreement or if any of the Facility is varied by a letter of variation issued by the Bank to the Customer, “ Letter of Offer ” will also refer to and include such letters of offer or variation;
Month	means a calendar month;
Partnership	shall include a limited liability partnership or foreign limited liability partnership registered under Limited Liability Partnerships Act 2012;
Personal Data	include, but is not limited to, the Customer’s name, address, occupation, contact details, information captured on security systems (including a recording of the Customer’s image on Closed Circuit Television (CCTV)), the information contained in any of the Customer’s account(s) that the Customer may have with the Bank either singly or jointly with any other person, the type of products and/or services that the Customer has subscribed to with the Bank and such other necessary data regarding the Customer and the Customer’s transaction(s) with the Bank;
Process Service Agent	means an agent appointed by the Customer and who has accepted appointment by the Customer, to accept service on behalf of the Customer of all Legal Process arising out of or connected to the Facility and/or the Security Documents;
Ringgit Malaysia or RM	means the lawful currency of Malaysia;
Sanctions	means the sanctions, embargoes or restrictive measures administered, enacted or enforced by any government, governmental institutions or agencies, regulator or authority;
Schedule	means the Schedule to this Agreement;
Security	means the security or securities required to be created in favour of the Bank or given to the Bank in exchange for the Bank’s granting to the Customer the Facility; the Security is more particularly described in the Letter of Offer;
Security Documents	means any documents relating to the Facility and the Security and includes the Letter of Offer, this Agreement and any other agreement entered into between the Bank with the Customer and/or the Security Party;
Security Party	means any person creating or giving the Security and can also mean the Customer if the Customer is the person creating or giving the Security;
Strata Titles Act	means the Strata Titles Act 1985, the Strata Management Act 2013 or the Sabah Land Ordinance (Cap. 68) and Land (Subsidiary Title) Enactment, 1972 (Sabah) or the Strata Titles Ordinance 1974, as the case may be;
US	means United States of America;

US Person(s)	means a US citizen or resident individual, a partnership or corporation organised in the US or under the laws of the US or any state of the US, a trust if (i) a court within the US would have authority under applicable law to render orders or judgments concerning substantially all issues regarding administration of trust, and (ii) one or more US Person(s) have the authority to control all substantial decisions of the trust, or an estate of a decedent that is a citizen or resident of the US. This definition shall be interpreted in accordance with the Internal Revenue Code of 1986. Please note that persons who have lost their US citizenship and who live outside US may nonetheless in some circumstances be treated as a US Person(s);
US Tax Obligor	means a/an: (i) Customer which is resident for a tax purposes in the U.S; or (ii) Obligor some or all of whose payments under the Security Documents are from sources within the US for US federal income tax purposes;
this Agreement	means this Facility Agreement and includes the Schedules;
Year	means a calendar year with a period of three hundred and sixty five (365) days.

1.2 Interpretations

Unless when read with other words or phrase in this Agreement give it a more appropriate interpretation than the interpretations given below:-

- 1.2.1 words and phrases used in this Agreement which are applicable to natural persons (including the word “person”) also apply to non-natural persons such as companies, corporations, partnerships, firms and other bodies whether corporate or unincorporated;
- 1.2.2 references to Clauses are references to the clauses of this Agreement unless otherwise specified and a reference to Sections is a reference to Sections to the Schedules of this Agreement unless otherwise specified;
- 1.2.3 a reference to “this Agreement” or other similar reference refers to this Agreement as a whole, and not to any particular provision of this Agreement but shall include any supplemental agreements, amendments, variations and changes made to this Agreement;
- 1.2.4 a reference to a person includes his/its personal representatives, administrators, executors and/or executrix successors-in-title, assigns, and transferees;
- 1.2.5 clause headings and sub-headings of this Agreement have been used for convenience only and shall be ignored in interpreting the provisions of this Agreement;
- 1.2.6 words denoting the singular number only shall include the plural and vice versa and words importing the neuter gender shall, where appropriate, include the masculine and neuter genders and vice versa;

- 1.2.7 references to any laws, statutes, rules, regulations or guidelines include such laws, statutes, rules, regulations or guidelines as amended, re-enacted, substituted or replaced from time to time;
- 1.2.8 Where the Customer is a company, any references relating to insolvency/bankruptcy will be read as references relating to the winding-up, liquidation, amalgamation or reconstruction of the Customer;
- 1.2.9 words referring to the singular include the plural (and vice versa) and words referring to a gender include all genders;
- 1.2.10 Where there are two (2) or more persons or parties included in the expression “the Customer”, agreements and other matters expressed to be made by or on the part of the Customer are deemed to be made by or binding up such persons jointly and severally;
- 1.2.11 A reference to “principal” includes all sums and monies including facility amount and/or purchase price advanced or paid to or on behalf of the Customer and/or the Security Party by the Bank or otherwise howsoever payable by the Customer and/or the Security Party to the Bank under this Agreement and/or any other Security Document (whether or not it forms part of the Facility), and “profit” includes profit at the relevant Profit Rate or at such other rates fixed by the Bank from time to time on all such sums and monies.;
- 1.2.12 Where an act is required to be done within a specified number of days after or from a specified date, the period excludes the specified date. Similarly, a period from the occurrence of an event or the doing of an act excludes the day on which the event happens or the act is done or required to be done;
- 1.2.13 Where the Customer and/or the Security Party is a company, any references relating to insolvency/bankruptcy will be read as references relating to the winding-up, liquidation, amalgamation or reconstruction of the Customer and/or the Security Party;
- 1.2.14 Where the expression “the Customer and/or the Security Party” is used, all agreements and other matters expressed to be made by or on the part of the Customer and/or the Security Party are deemed to be made by or binding upon the customer and/or the Security Party jointly and severally;
- 1.2.15 The expressions “including” or “for example” (or other similar words) when introducing an example does not limit the meaning of words to those examples;
- 1.2.16 A reference to “payment” includes prepayment, as the case may be;
- 1.2.17 A reference to costs or fees “on a solicitor and client basis” means the expenses that a client has to pay his lawyer;
- 1.2.18 The expressions “the Customer” and “the Security Party” in this Agreement includes persons for the time being deriving title under the Customer and/or the Security Party respectively, and no change of any sort in relation to or affecting the Customer and/or the Security Party will in any way affect the security, liabilities, and/or obligations created by this Agreement in relation to any transaction, whether past, present, or future;
- 1.2.19 Where the Customer and/or the Security Party is not a natural person, then any of the provisions of this Agreement that are primarily and literally applicable to natural persons:-
- (a) shall be construed and take effect as if the Customer and/or the Security Party was an individual;

- (b) will bind all of the Customer's and/or the Security Party's assigns and successors-in-title; and
 - (c) if the Customer and/or the Security Party is a firm, will bind the firm and every member of that firm carrying on business in the name of or in succession to the firm;
- 1.2.20 Where a reference to any act, proceeding, action, investigation or inquiry being taken or is pending against the Customer and/or the Security Party or whether any offence has been committed by or any conviction or presence of any criminal record against the Customer and/or the Security Party shall refer to the same having occurred or occurring within or outside Malaysia; and
- 1.2.21 The Schedules to this Agreement are and shall be treated as essential part of this Agreement.

2 FACILITY

2.1 Limit

At the request of the Customer and in reliance on each of the representations and warranties set out in Clause 10.1, the Bank has agreed to make available and/or to continue to make available to the Customer the Facility subject to the terms and condition herein contained and in the Letter of Offer.

2.2 Purpose

- (a) The Customer shall utilise the Facility in accordance with the purpose in relation to the respective Facility. In the event the Customer requires or proposes or intends to use proceeds of the Facility or of any sum thereunder for any other purpose, written consent from the Bank must first be obtained by the Customer.
- (b) The Customer shall ensure that the proposed utilisation of the Facility is for financing halal or Shariah compliant activities. Without prejudice to the obligations of the Customer under the foregoing, the Bank shall not be obliged to monitor or to ensure that any of the Facility is utilised by the Customer in accordance with the purpose so stipulated in the Letter of Offer or otherwise permitted by the Bank and the Bank shall have no liability whatsoever to the Customer, the Security Party and any other party for any breach by the Customer of this Clause.
- (c) Notwithstanding any other provisions contained herein to the contrary, the Bank reserves the right to suspend or cancel the Facility if it is not utilised for the respective purposes it was granted or if the Facility is utilised for the purpose prohibited by Shariah and upon such cancellation, the Indebtedness shall become so due and payable together with compensation thereon and any other amounts then payable under this Agreement.

2.3 Availability of the Facility

Subject to fulfillment of all conditions precedent in Clause 3.1, in each case, in form and content satisfactory to the Bank and upon fulfillment of the other terms and covenants under Clause 4.1, the Bank shall make the Facility available to the Customer during the Availability Period. Any amount unutilised at the expiry of the Availability Period shall be cancelled or at the absolute discretion of the Bank, the Bank may extend the Availability Period subject to the fulfillment of any additional terms and conditions that may be imposed by the Bank pursuant to the extension.

2.4 Shariah principle

The Parties hereby agree and acknowledge that their rights and obligations under this Agreement are intended to be subject to and in conformity with Shariah principles as determined by the Shariah Committee of the Bank.

2.5 Rebate (*Ibra'*)

- (a) The Bank shall have the absolute discretion to grant Rebate (*Ibra'*) on any amount payable by the Customer in respect of any payment due under the Security Documents in any of the following situations:
- (i) any early settlement or early redemption by the Customer including prepayment;
 - (ii) any settlement of the Facility due to any financing restructuring exercised by the Customer;
 - (iii) any settlement by the Customer upon occurrence of the Event of Default;
 - (iv) any settlement by the Customer in the event of termination or cancellation of the Facility before the expiry of the Tenure of the Facility; and
 - (v) if the Facility is based on variable rate, on the difference between the amount of profit calculated based on the Contracted Profit Rate ("**CPR**") and the amount of profit calculated based on the Effective Profit Rate ("**EPR**") when the profit based on the EPR Rate is lower than the profit based on the CPR Rate.

$$Ibra'(Rebate) = \begin{array}{l} *Remaining \\ Profit \end{array} - \begin{array}{l} Early Settlement Charges \\ plus any other amount \\ payable (if any) \end{array}$$

**Remaining Unearned Profit is equal to unrealised profit at the time of full settlement*

- (b) For the avoidance of doubt, it is acknowledged and agreed that the Rebate (*Ibra'*) referred to under this Clause 2.5 shall not be construed in any manner whatsoever as cash rebate payable to the Customer, but shall be reflected as a reduction in the profit element of the Deferred Sale Price (as defined in the Letter of Offer).
- (c) The Rebate (*Ibra'*) shall only be deemed granted upon receipt of the settlement or redemption sum as determined by the Bank. The calculation of Rebate (*Ibra'*) shall be made in accordance with any rules, and/or directives (whether or not having the force of law) required of or imposed upon the Bank from time to time and at any time by Bank Negara Malaysia or any other authority having jurisdiction over the Bank.

2.6 Compensation (*Ta'widh*)

The Customer shall be liable to pay the Bank compensation (*Ta'widh*) as follows:

- (a) for any failure on the part of the Customer to pay the payment due under the Facility from the date of first disbursement until the date of maturity of the Facility, the Customer shall pay compensation charges to the Bank at the compensation rate of one per centum (1%) per annum:
- (i) on the overdue amount in case of default of scheduled payments; or
 - (ii) on the outstanding balance of the Facility in case of default causing the Facility to be terminated or brought to court for judgement prior to the expiry of the Tenure of the Facility.

- (b) for any failure on the part of the Customer to pay any amount overdue and which failure continues beyond the maturity date of the Facility or after judgement is obtained (whichever is earlier), at such rate per annum as determined by the Bank from time to time (before as well as after judgement) provided the applicable compensation rate shall not at any time exceed the prevailing Bank Negara Malaysia's Islamic Interbank Money Market Rate on the total outstanding balance of the Facility calculated on daily rest basis; or by any other method approved by the Shariah Advisory Council of Bank Negara Malaysia; and
- (c) the amount of such compensation shall not be compounded.

2.7 Tenure

The tenure for the Facility shall be up to period as set out in the Letter of Offer.

2.8 Specific Terms and Conditions for the Facility

Notwithstanding and without prejudice to anything stated herein, the Parties hereby agree that the utilisation of the Facility shall be subjected to all other Specific Terms and Conditions for the Facility as set out in the Letter of Offer.

2.9 Review

- (a) Notwithstanding Clause 2.1 and other provisions in this Agreement which provide to the contrary, the Customer understands and agrees that the Bank has the right to review the Facility (except for fixed or term financing) from time to time.
- (b) Any decision of the Bank not to conduct a review during any review period or any failure, omission or delay on the part of the Bank to conduct such review shall not be construed as a waiver of the Bank's right to review nor prejudice the Bank's right to recall or recover any amount due and payable by the Customer and/or the Security Party on demand under the Facility.

2.10 No Obligation to Make Further Advances

Nothing contained in this Agreement shall be deemed to impose on the Bank any obligation either at law or in equity to make or continue to make any advance to the Customer.

3 CONDITIONS PRECEDENT

3.1 Conditions Precedent

Subject to the terms and conditions contained in this Agreement, the Facility will be available for utilisation by the Customer only upon the satisfaction or fulfilment of the following conditions precedent:

- (a) all conditions precedent as stipulated in the Letter of Offer and as set out in the **SECOND SCHEDULE of this Agreement**, if any, pertaining to the relevant Facility are satisfied or fulfilled;
- (b) if the Customer and/or the Security Party is a company, the Bank must have received the search results conducted on the Customer and/or the Security Party at the Companies Commission of Malaysia and/or the relevant registry in the country of incorporation of the Customer and, where applicable, the Security Party and the Bank is satisfied that:
 - (i) there is no restriction on the Customer to utilise the Facility;
 - (ii) there is no restriction on the Customer and/or the Security Party to create and/or provide the Security; and

- (iii) that Security to be created in favour of the Bank is unencumbered (save for those that are to be redeemed using the relevant Facility).
- (c) the Bank must have received evidence acceptable to the Bank showing that the Customer and/or the Security Party has a valid and legal title to the Security and that they are entitled to and are not restricted or prohibited from creating or giving such Security to or in favour of the Bank;
- (d) if notice of the charge created under any of the Security Documents is required by any law to be lodged or registered with the Companies Commission of Malaysia or, in the case of a foreign entity, the relevant foreign registry, the prescribed statement of particulars of charge under the Companies Act 2016 or other analogous forms, as the case may be, must have been so lodged or if required by the Bank, so registered;
- (e) there must not have occurred any misrepresentation or breach of any of the warranties contained in this Agreement;
- (f) there must not have occurred any change in the financial, economic or political conditions in Malaysia which, in the sole opinion of the Bank, would make it inadvisable or impractical for the Bank to make or to continue to make available the Facility or any utilisation of the Facility; and
- (g) the Bank is satisfied that:
 - (i) no event has occurred so as to render any of the Indebtedness to be immediately due and payable and no Event of Default has happened and is continuing;
 - (ii) no extraordinary circumstances or change of law or other government action have occurred which may render the Customer and/or the Security Party to be unable to observe and perform their respective covenants and obligations in this Agreement; and
 - (iii) no event has occurred and no circumstances exist which could or might, in the opinion of the Bank (which shall be final and conclusive) affect the financial condition of the Customer and/or the Security Party so as to render any of them unable to perform their obligations under this Agreement.

3.2 **Waiver of Conditions Precedent**

The conditions precedent contained in Clause 3.1 are for the sole benefit of the Bank and may be waived wholly or in part by the Bank at the Bank's sole discretion without in any way affecting the rights of the Bank under this Agreement. Any waiver shall not prevent the Bank from insisting on compliance with any waived condition precedent at a later time.

3.3 **Suspension**

Until the conditions precedent contained in Clause 3.1 have been satisfied or fulfilled to the satisfaction of the Bank, the Bank may terminate, suspend or cancel the whole or any part of the Facility.

3.4 **The Bank's Authority to release**

The Customer hereby unconditionally and irrevocably authorises the Bank (where necessary) to pay the proceeds of the Facility directly to any such person or persons as may be entitled thereto or to any other party as the Bank may at its absolute discretion deem expedient. Provided That the Bank shall not be deemed to be the agent of the Customer in so disbursing the proceeds of the Facility. All amounts so paid shall be deemed to form part of the Facility made hereunder and the acknowledgment or receipt of such parties shall be deemed as if the same had been made or given by the Customer personally.

4 PROGRESSIVE RELEASE

4.1 The Customer hereby irrevocably authorises the Bank and the Bank can advance or pay (where applicable) all or part of the Facility to the builder, developer, contractor, architect or such other persons responsible for or concerned with the construction of any building (“**the property**”) or the vendor of the property at such times, on such terms, in such manner, by such amounts, and upon such contingencies and conditions, as the Bank decides in its absolute discretion.

4.2 All advances and payments made by the Bank to the person in Clause 4.1 (“**Third Party**”) shall be deemed paid to the Customer and shall constitute and form part of the monies secured by and payable under this Agreement and the Security Document. The acknowledgement or receipt of such person(s) will be as good, sufficient and effective as if it has been made or given by the Customer.

4.3 The Customer hereby irrevocably authorises the Bank and the Bank is entitled:

4.3.1 to issue to the Third Party or the solicitors or firm of solicitors purporting to act for the Third Party its undertaking, guarantee or covenant (which shall be in such form as agreed between the Bank and the Third Party) to release or pay all or part of the Facility to the Third Party at such time and in such manner as the Bank may in its absolute discretion agree;

4.3.2 to release or pay to the Bank’s solicitors all or part of the Facility to enable the Bank’s solicitors to issue their undertaking, guarantee or covenant to the Third Party, undertaking, guaranteeing or covenanting to release or pay to the Third Party all or part of the Facility; and

4.3.3 where the release of the Facility is to be made against a schedule of payment in an agreement, to release or pay to the Third Party on or before the due date as stated in the progressive billing submitted by the Third Party to the Bank upon terms that:-

(a) if any sum billed is to be paid on the date the Customer or the purchaser takes vacant possession of the property, the Bank shall be entitled to make such payment to the Third Party at any time, whether or not the Customer or the purchaser have actually taken vacant possession of the property; and

(b) in making such payment, the Bank shall not be obliged to verify or ascertain whether such progressive billing is in order or otherwise or whether the sums billed is properly due or otherwise;

and the Customer irrevocably agrees and confirms that the Bank shall be entitled to release or pay the Facility to the Third Party notwithstanding any protest or objection from the Customer, the Security Party and/or any other parties to restrain the Bank from making such release or payment. In the event any sum released by the Bank to the Third Party is subsequently found to be not due for payment when paid, the Customer agree that the Customer shall only claim against such Third Party in respect of such sum released and the Customer shall have no claim and shall not make any claim whatsoever against the Bank arising from such release.

4.4 If the Bank or the Bank’s solicitors have given or agreed to give their undertaking, guarantee, or covenant referred to in Clause 4.3 above to release or pay, all or part of the Facility in settlement of the balance purchase price payable by the Customer under the agreement of sale of the property progressively in accordance with the terms in the said agreement, the Customer agrees (in addition to the Security) that:-

4.4.1 the payment of all monies undertaken, guaranteed, or covenanted to be paid by the Bank to the Third Party, the Third Party’s solicitors, or the Bank’s solicitors (as the case may

be) will be secured under this Agreement and the Security Document; and

- 4.4.2 the Customer shall at all times indemnify and keep the Bank or the Bank's solicitors indemnified against all actions, proceedings, costs, expenses, claims, and demands which may be taken, incurred, or suffered by the Bank or the Bank's solicitors arising from the Bank's or the Bank's solicitors aforesaid undertaking given to the Third Party, the Third Party's solicitors, or the Bank's solicitors (as the case may be).

4.5 **Currency Unavailable**

If at any time, in the Bank's opinion, as a result of any change in the international financial and capital markets or any national or international, political or economic conditions or currency availability or exchange rates or controls, the currency offered under any Facility is not available to the Bank:-

- (a) the Customer's request for such currency to be disbursed shall be deemed withdrawn; and
- (b) any existing amount disbursed in such currency for a profit period shall not be rolled over and shall be paid on the last day of the profit period,

and in such event, the Customer may request for an alternative currency to be disbursed on terms to be agreed between the Bank and the Customer.

5 **FEES, CHARGES, COSTS AND EXPENSES**

5.1 **Fees**

The Customer shall pay to the Bank all fees that are payable by the Customer to the Bank as required under the Letter of Offer in respect of the Facility, which fees shall be non-refundable.

5.2 **Costs and Expenses**

- (a) All costs, charges, and expenses incurred by the Bank and/or expended by the Bank on behalf of the Security Party and/or the Customer under or pursuant to this Agreement, including but not limited to the following, shall be borne and paid by the Customer to the Bank:-
 - (i) any expenditure incurred in the preparation, execution and enforcement by the Bank (including solicitors' costs and out-of-pocket expenses, including stamp duties on a full indemnity basis) of this Agreement and/or the Security Documents and the exercise, preservation, protection or enforcement or the attempted exercise, preservation, protection or enforcement of its rights, powers and remedies under or in relation to this Agreement and/or the Security Documents, or in the giving of any notice or in the making of any demand for any monies secured by this Agreement and/or the Security Documents (including legal fees on a solicitor and client basis);
 - (ii) paying any expenses or outgoings in respect of takaful/insurance, repairs, maintenance, management, or disposal of the Security and/or any fixtures, crops, or plants in, on or within the Security;
 - (iii) all other monies whatsoever paid by the Bank in respect of the said costs, charges, expenses, and expenditure, or otherwise howsoever;
 - (iv) defending, prosecuting, or otherwise taking part in or attending (whether on a watching brief as observer or otherwise) any action, enquiry, hearing, suit, or other proceedings affecting the Security and/or any fixture, crops, or plants on the Security, and all other payments and sums stipulated on a full indemnity

basis; and

- (v) all or any other sums and monies paid or expended by the Bank under or pursuant to the express or implied provisions of the Land Code and/or this Agreement, and other usual banker's charges.
- (b) If the Customer defaults in the payment of any of the said sums in Clause 5.2 (a) above, the Bank shall be entitled (but not obliged) to pay the same and debit all monies so paid together with late payment charges (*Tawidh*) (if any) to the Customer's account(s) with the Bank for the relevant Facility and will be deemed to be charged on and secured against the Security in addition to the Facility hereby advanced and will form part of the payment due and payable under this Agreement.

5.3 Liability for costs, expenses and stamp duty

- (a) The Customer shall bear all costs and expenses for the preparation, execution, completion, stamping, filing, registration, perfection, giving notice, making demand, commence proceedings and enforcement by the Bank (including the solicitors' costs and out-of-pocket expenses on a full indemnity basis) of the Security Documents and the exercise, preservation, protection or enforcement or the attempted exercise, preservation, protection or enforcement of its rights, powers and remedies under or in relation to the Security Documents. The Customer shall fully indemnify the Bank from and against any expense, damage, loss, penalty or liability which the Bank may incur or suffer as a result of any delay or failure by the Customer to pay any such duties.
- (b) If the Customer defaults in the payment of any of the costs, charges, expenses and other sums and moneys as aforesaid, the Bank is entitled (but not obliged) to pay the same and debit all monies so paid together with late payment compensation to the Customer's account(s) with the Bank for the relevant Facility in accordance with Clause 18.

5.4 Taxes, Duties or Levies

- (a) During the continuation of the Facility, so long as the Facility or any part of it remains outstanding and unpaid, the Customer is liable to pay for any taxes or levies which on or after the date of the Letter of Offer, is required by law to be paid to anybody or authority having jurisdiction over the Bank, in respect of any moneys charged or incurred by the Bank.
- (b) Any taxes or levies incurred by the Bank in relation to the Facility and any other goods or services provided under the Facility shall be borne by and charged to the Customer. In the event the Bank shall effect payment of such taxes or levies, the Customer shall be liable to reimburse the Bank for such amounts paid.

6 PAYMENTS

6.1 Facility Recallable on Demand

The Customer agrees that other than Tem Financing-i (which may be recalled by the Bank upon the occurrence of an Event of Default), all the other Facility may, at the Bank's sole discretion, be cancelled or terminated and be recalled at any time by the Bank giving a written demand to the Customer. Upon such cancellation, termination and recall, the Customer is to make immediate payment to the Bank of the Indebtedness, regardless of whether the moneys and liabilities comprised in the Indebtedness have become due to be paid to the Bank.

6.2 Payment of the Facility

- (a) All payments to be made by the Customer under the Facility including the Indebtedness shall be payable at the times and in the manner set forth in the Letter of Offer, this Agreement and/or the Security Documents.

- (b) Notwithstanding Clause 6.2 (a), until the Customer have paid all profit, compensation (*Ta'widh*), penalties, demand, calculated as provided in this Agreement and/or the Letter of Offer which are due or deemed to be due or accrued and all costs, charges, expenses and all other payments herein covenanted to be paid by the Customer, no payment by the Customer to the Bank shall be treated as a payment of the principal under the Facility unless the Bank decide otherwise.
- (c) If the Customer shall default in the payment of the Indebtedness and/or other moneys due and payable on the respective due dates, as the case may be, or any other moneys herein covenanted to be paid from time to time, the Customer shall pay to the Bank a compensation (*Ta'widh*) in accordance with Clause 2.6 above.

6.3 Currency of Payment

- (a) All payments to be made by the Customer under this Agreement, shall be made in Ringgit Malaysia in immediately available funds on the relevant payment day.
- (b) For Facility in foreign currencies, the Bank may at the Bank's sole discretion convert the Facility to a Ringgit Malaysia facility upon such terms as the Bank may in the Bank's sole discretion prescribe in which case, the Facility is to be paid in Ringgit Malaysia and if otherwise, payments may be made in the currencies in which the Facility were provided. If the Bank suffers a loss as a result of the said conversion, the Customer agrees to indemnify the Bank against the loss and the conversion cost.

6.4 No Deduction or Withholding

All payments to be paid to the Bank under this Agreement and the Security Documents must be paid:-

- (a) unconditionally and without any restriction or condition; and
- (b) without any deduction of any kind including, without limitation, deductions for any bank charges or commissions, any kind of withholding, set-off or counterclaim against the Bank for any matter or on account of any taxes or duties or charges.

6.5 Grossing Up

If the Customer or the Bank is required by law to make any deduction or withholding on account of any such tax or other amount from any sum paid or payable by the Customer to the Bank or if the Bank (or any person on its behalf other than the Customer) is required by law to make any deduction or withholding from, (except on account of tax on the overall net income of the Bank) any payment on or calculated by reference to the amount of any sum received or receivable by the Bank:-

- (a) the Customer shall notify the Bank of any such requirement or any change in any such requirement as soon as it becomes aware of it;
- (b) the Customer shall pay any such tax or other amount before the date on which penalties attach thereto, such payment to be made (if that liability is imposed on any other party to this Agreement) on behalf of and in the name of the Bank;
- (c) the sum payable or to be paid by the Customer to the Bank or for the Bank's account in respect of which the relevant deduction, withholding or payment is required shall be increased to the extent necessary to ensure that, after the making of that deduction, withholding or payment, the Bank receives on the due date and retains (free from any liability in respect of any such deduction, withholding or payment) a net sum equal to what the Bank would have received and/or retained had no such deduction, withholding or payment been required or made;

- (d) the Customer shall ensure that the amount so deducted or withheld does not exceed the minimum legally required to be so deducted or withheld by the appropriate authorities; and
- (e) not later than fourteen (14) days after paying any sum from which it is required by law to make any deduction or withholding, and not later than fourteen (14) days after the due date of payment of any tax or other amount which it is required by Clause 6.5 (b) to pay, the Customer shall deliver to the Bank satisfactory evidence of such deduction, withholding or payment and of the remittance made to the relevant taxing or other authority and shall deliver to the Bank promptly after receipt from the relevant tax authorities an original or a certified true copy of the receipt issued by the tax authorities for any of the payments so made.

6.6 Tax Indemnities

- (a) Without prejudice to the other provisions of this Clause 6.6, if the Bank is required by law to make any payment, whether on account of tax (not being a payment of tax on its overall net income) or otherwise, on or calculated by reference to any sum received or receivable by the Bank under this Agreement or any liability in respect of any such payment is asserted, imposed, levied or assessed against the Bank as a consequence of any credit, deduction or refund obtained by the Bank in respect of profit and/or commission paid under this Agreement being disallowed, the Customer will on demand pay to the Bank free and clear of all withholdings and deductions, an amount sufficient to indemnify the Bank against such payment or liability, together with any profit, compensations, penalties/damages and expenses payable or incurred in connection with such payment or penalties. The Customer agree that no demand is required to be made by the Bank under this Clause 6.6 until the Bank is required to make such payment or such liability is so asserted, imposed, levied or assessed.
- (b) If the Bank is unable to sustain any claim for a credit, deduction or refund from any taxation authorities because of the Customer's failure to comply with its obligations under this Clause 6.6, the Customer shall immediately upon demand reimburse to the Bank the amount which would otherwise have been recovered by the Bank by way of credit, deduction or refund had such failure not occurred.
- (c) Without in any way affecting any of the provisions in this Agreement, if any tax, charge or levy of a similar nature is required by any law to be paid in respect of any moneys payable to the Bank under this Agreement or the Security Documents, such tax, charge or levy shall be added and be included in the Indebtedness and shall be paid by the Customer.

6.7 Payment on Business Day

If any moneys are due to be paid to the Bank on a day which is not a Business Day, the payment shall made on a Business Day immediately following that day. If the Business Day immediately following that day falls in a different calendar month, the payment shall be made on a Business Day immediately before that day.

7 PREPAYMENT

- 7.1 Subject to provision of Letter of Offer and Rebate (*Ibra'*), the Customer may prepay the Facility by giving the Bank a minimum written notice as stated in the Letter of Offer prior to making a partial or total prepayment which prepayment must be made on the profit payment date or any other date as determined by the Bank.
- 7.2 Any notice for prepayment shall be irrevocable and the customer shall be obligated to make such prepayment in accordance with the notice and any amount which is paid may not be reimbursed.

8 SECURITY

8.1 Execution of Security Documents

As security for the Indebtedness, the Customer simultaneously with the execution of this Agreement or at such other time directed by the Bank:-

- (a) consents to the creation of the Security and will execute all such Security Documents over such Security as stated in the Letter of Offer; and/or
- (b) procures consent from the Security Party to create such Security and cause the Security Party to execute the Security Documents over such Security as stated in the Letter of Offer.

8.2 Covenant to Perfect and Provide Further Security

- (a) The Customer will, whenever required by the Bank, execute or cause the Security Party to execute in favour of the Bank (or as the Bank may direct) such legal or other mortgages, charges, assignments, transfers, or agreements as required by the Bank of and on the Customer's and/or the Security Party's estate, assets, or business, which now or in future will belong to the Customer and/or the Security Party (including any vendor's lien) and the benefit of all licences held in connection with such estate, assets, or business to secure the Indebtedness.
- (b) Such mortgages, charges, assignments, transfers, or agreements will be prepared by or on behalf of the Bank by the Bank's solicitors at the Customer's cost, and will contain all terms and conditions required by the Bank to protect its interest.

8.3 Continuing Security

8.3.1 The Security is and will be a continuing security for the Indebtedness, and will continue to be held by the Bank notwithstanding that the Customer may cease to be indebted to the Bank for any period(s), and regardless of:-

- (a) any account(s) ceasing to be current or any settlement or closure of account(s) or otherwise;
- (b) the death, insanity or insolvency/bankruptcy of the Customer and/or the Security Party;
- (c) the voluntary or compulsory liquidation of the Customer and/or the Security Party;
- (d) any change by amalgamation, consolidation or otherwise which may be made in the constitution of the company by which the business of the Customer and/or the Security Party is currently being carried on; or
- (e) any change in the constitution or composition of the firm by which the Customer's business is currently being carried on, whether by death, retirement, admission of partners, or any other reason.

8.3.2 The Security will be released by the Bank only when:-

- (a) all amounts outstanding under the Facility, including contingent liabilities, have been fully settled by the Customer; and
- (b) the Bank has been fully released from all its obligations or contingent liabilities, if any under the Facility or under any other instrument issued by the Bank for the account of the Customer.

8.4 Further Assurances

The Customer will, whenever required by the Bank, at the Customer's own cost and expense make, sign, do and perform and cause to be made, signed, done and performed all such further acts, agreements, assignments, assurances, deeds, mortgages, charges and documents of any nature as reasonably required to perfect the security created or intended to be created under this Agreement and the Security Documents.

8.5 Security Margin

If the aggregate market value of such Security (whose value is agreed by the Bank to be used in computing the Security Margin) falls below what the Bank has determined in its sole discretion to be adequate security for the Facility ("**Security Margin**") or such Security Margin as stated in the Letter of Offer, the Customer must within such period as permitted by the Bank to maintain and keep the Security Margin satisfied and for this purpose, the Bank may, without affecting any other right which the Bank may have, take any one or more of the following actions:-

- (a) reduce the financing limit of all or any of the Facility;
- (b) withhold further release or utilisation of all or any part of the Facility;
- (c) require the Customer to make payment of such amount of the Facility as the Bank may decide upon;
- (d) require the Customer to make prepayment of the Facility, in which case the Bank will not charge the Customer any prepayment fee;
- (e) require additional security acceptable to the Bank to be provided as additional security for the Facility; and/or
- (f) provide cash cover for the Facility.

8.6 Liens and Other Securities Not Affected

Nothing in this Agreement will:-

- (a) affect any lien to which the Bank is entitled or any other security which the Bank may from time to time hold for or on account of the Indebtedness.
- (b) operate to merge or otherwise affect any bill, note, guarantee, mortgage or other security which the Bank may for the time being have for any Indebtedness or any right or remedy of the Bank.

8.7 Discharge of Security

If the whole of the Indebtedness is fully settled by the Customer, then the Bank shall, without affecting the Bank's rights of consolidation, upon the request by the Customer or the relevant Security Party made at any time after the whole of the Indebtedness is fully settled, discharge at the cost and expense of the Customer, the securities created and release to the Customer or the relevant Security Party such security or other documents of title to such security provided:-

- (a) the Customer's liabilities and obligations under this Agreement shall not be discharged until the Customer have received from the Bank an absolute discharge or release duly signed by the Bank; and
- (b) any discharge or release of the securities created shall be deemed made subject to the condition that such discharge or release shall be void if any payment received by the Bank in respect of the Indebtedness is set aside under any applicable law or process to have been for any reason invalid.

9 REPRESENTATIONS AND WARRANTIES

9.1 Upon the signing of this Agreement, the Customer hereby represents and warrants to the Bank as follows:

- (a) **Capacity.** The Customer and each of the Security Party has the power, right and capacity to execute, deliver and perform the terms of this Agreement and the Security Documents and that all necessary action has been taken to authorise the execution, delivery and performance of this Agreement and the Security Documents;
- (b) **Incorporation.** Where the Customer or any Security Party is:
 - (i) a company or corporation, that the Customer and/or the Security Party is duly incorporated and validly existing under the laws of the country of its incorporation, and has full power and authority to own its assets and carry on its business; or
 - (ii) a partnership, society, association or company, that the Customer and/or the Security Party is/are duly registered or incorporated under the laws of Malaysia or, in the case of a foreign entity, incorporated under the laws of the country of registration or incorporation, as the case may be, and has the power, right and capacity to execute, deliver and perform the terms of this Agreement and the Security Documents and to carry on the business which the Customer or the Security Party conducts and/or proposes to conduct under their own constituent documents;
- (c) **Contractual Obligations.** This Agreement and the Security Documents, when executed, will constitute legal, valid and binding obligations of the Customer and the Security party enforceable in accordance with their respective terms;
- (d) **No Breach or Conflict.** The execution, delivery and performance of this Agreement and the Security Documents:
 - (i) will not breach any law, rule, regulation, order or decree of any governmental authority, agency or court to which the Customer and/or the Security Party is/are subject; and
 - (ii) will not breach any provision of any contract, mortgage, undertaking or instrument to which the Customer and/or the Security Party is/are a party or which is binding on them and will not result in the creation or imposition of any obligation to create or impose any mortgage, charge, lien, pledge or other security interest in the Security or in the Security Documents or on the assets or moneys of the Customer or any of the Security Party;
- (e) **Authorisation and Consents.** All consents, licences, approvals, authorisations, orders and exemptions of any ministry, agency, department or authority in Malaysia and elsewhere which are required or advisable to be obtained in connection with the execution, delivery and performance, legality and enforceability of this Agreement and the Security Documents have been obtained and are in full force and effect and that no further consent, permission, licence, approval, authorisation, order or exemption is required;
- (f) **Compliance with Terms and Authorisation and Consents.** That the conditions contained in any consent, permission, license, approval, authorisation, order or exemption which are required or advisable to be obtained or have been obtained have been duly complied with;
- (g) **Compliance with Laws.** The financing by the Bank under this Agreement, and the Bank's agreement to make and continue to make available the facility to the Customer will not contravene or be in breach of any Act of Parliament, Ordinance, Enactment,

rule or law, regulation, order, or other statutory provision in force now or in future, including the provisions of the Financial Services Act, 2013, Islamic Financial Services Act 2013, the Companies Act, 2016, any financing limit or restriction imposed on the Bank, guidelines, directives, regulations, including any foreign exchange rules and regulations or policies introduced from time to time by Bank Negara Malaysia or such other authority having jurisdiction over the Bank;

- (h) **Proceedings.** There are no litigation (whether civil or criminal) arbitration or administrative proceedings, pending, on-going or threatened against the Customer or any of the Security Party and where the Customer and/or the Security Party is/are:
- (i) an individual or an ordinary person, that the Customer and/or the Security Party has/have not committed any act of insolvency/bankruptcy and that no insolvency/bankruptcy proceedings have been commenced or are being threatened against the Customer and/or any of the Security Party;
 - (ii) a company, that no steps have been taken or are being taken to appoint a receiver, receiver and/or manager or liquidator to take over the assets or undertakings of the Customer and/or the Security Party or to wind-up the Customer and/or any of the Security Party.
- (i) **Tax Returns.** The Customer and each of the Security Party have filed all tax returns which the Customer and each of the Security Party are required by law to file and have paid or made adequate provision for the payment of all taxes, assessments, fees and other governmental charges assessed against each of them or upon any of their respective properties, assets, businesses or incomes;
- (j) **Events of Default.** No Event of Default has occurred or is continuing or will occur as a result of the Bank making any advance or continuing to make available the whole or any part of the Facility to the Customer;
- (k) **Changes in Circumstances.** There has been no change in the financial condition, operating environment or management of the Customer and/or the Security Party which would materially affect in an adverse way the ability of the Customer and/or the Security Party to perform the obligations of the Customer and/or the Security Party under this Agreement and the Security Documents since the Customer first applied for the Facility;
- (l) **Financial Statements.** The financial statements or accounts of the Customer and/or the Security Party which has previously been submitted to the Bank by the Customer and/or the Security Party:
- (i) were prepared in accordance with accounting principles and practices generally accepted in Malaysia, and consistently applied, and have been prepared, examined, reported on, and approved in accordance with all procedures required by law and the Constitution of the Customer and/or the Security Party;
 - (ii) are complete and correct and that they fairly and correctly represent and disclose the financial condition of the Customer and/or the Security Party and the results of the operations of the Customer and/or the Security Party for the period stated in accordance with generally accepted accounting principles applied on a consistent basis and together with the notes to the accounts:
 - (aa) give a true and fair view of the financial condition and operations of the Customer and/or the Security Party as at the date of such accounts and for the period as covered by the accounts; and
 - (bb) disclose or reserve against the liabilities (contingent or otherwise) of the Customer and/or the Security Party as at the date of the said

accounts and all material unrealised or anticipated losses from any commitment entered into by it and which existed on such date;

- (m) **Ownership of Security.** The Security Party is the legal and beneficial owner of the Security free of all encumbrances, unless the acquisition of the same is currently being financed by the Bank, in which case, the Security Party's title to the Security is regular, valid and indefeasible, and the Security Party's beneficial interests in the Security are free from all defects and encumbrances;
- (n) **Information:** All the information given to the Bank by the Customer and the Security Party in connection with the Facility do not contain any untrue or misleading statement or omit to state any fact which render any statement made to the Bank misleading or incorrect and that all expressions of expectation, intention, belief and opinion and all projections contained in such information were honestly made on reasonable grounds after due and careful enquiry;
- (o) **Disclosure.** The Customer is not aware of and has not intentionally withheld any information or fact which may result in or give rise to the offering or the grant of the Facility by the Bank breaching any law or regulation including, without limitation, the Financial Services Act 2013, Islamic Financial Services Act or any financing limits or restrictions that may be imposed upon the Bank from time to time by Bank Negara Malaysia or such other authority having jurisdiction over the Bank;
- (p) **Conviction.** Where the Customer and/or the Security Party is an individual, the Customer and/or the Security Party have not been charged or convicted for any criminal offences or have any criminal records;
- (q) **Activities.** The Customer and/or the Security Party are not involved in any illegal activities or Shariah non-compliant activities and all moneys and properties provided to the Bank are not derived in any way from illegal activities or Shariah non-compliant activities;
- (r) **Sanctions.** The Customer and the Security Parties are not:-
 - (i) nationals of any country which is subjected to Sanctions;
 - (ii) entities incorporated under the laws of or owned or controlled (directly or indirectly) by a person located in or organised under the laws of a country which is subject to Sanctions; or
 - (iii) persons listed on or owned or controlled (directly or indirectly) by any person listed on, any sanctioned persons list published by any government, governmental institutions or agencies, regulator or authority or prepared by the Group.
- (s) **Connected Parties.** Unless permitted by guidelines issued by any authority which has jurisdiction over the Bank:-
 - (i) the Customer and/or any of his close relatives are not a director (including alternate director) in the Bank or any of the financial institutions in the Group;
 - (ii) the Customer and/or his close relatives are not a controlling shareholder or influential shareholder in the Bank or any of the financial institutions in the Group;
 - (iii) the Customer is not an executive officer or designated officer of the Bank;
 - (iv) the Customer is not a firm, partnership, company or any other legal entity:-

- (aa) which is in control of or is controlled by any persons stated in Clause 9.1 (s) (i) to (iii); or
- (bb) in which any person (including their close relatives in the case of individual) listed in Clause 9.1 (s) (i) to (iii) other than a designated officer is interested as a director, partner, executive officer, agent or guarantor and their subsidiaries or entities controlled by them.

For the purpose of this Clause:-

“close relatives” in relation to an individual means his/her spouse and dependents of the spouse, child (including step/adopted child) and spouse of the child, parent and brother or sister and their spouses.

“controlling shareholder” of a company means a shareholder who fulfils any of the following criteria, whether individually or with parties acting in concert with such shareholder:-

- (aa) controls more than 50% of the voting rights of the company;
- (bb) holds more than 50% of the issued shares, whether directly or indirectly (excluding preference shares) of the company;
- (cc) controls the composition of the board of directors of the company;
- (dd) has the power to appoint and/or remove all or a majority of the board of directors of the company;
- (ee) control the controlling shareholder of the company; or
- (ff) is a person in accordance with whose direction or instruction, the director or a director of the company's holding company are accustomed to act.

“director” shall include a person who has ceased to be a director of the Bank or of the Group for less than twelve (12) months from the date of a credit transaction origination's request.

“influential shareholder” means a shareholder who fulfils any of the following criteria, whether individually or with parties acting in concert with him:-

- (aa) holds 20% or more of the shares of the company but is not a controlling shareholder;
- (bb) has the power to appoint at least one director to the board of directors of the company;

“executive officer” means a person who is a member of the Bank's management having authority and responsibility for planning, directing and/or controlling the Bank's activities (other than in the capacity as a director) including Shariah Committee whether or not the officer has an official title, or is entitled to salary or other compensation and shall also include such person who has ceased to be in the employment of the Bank or of the Group for less than twelve (12) months from the date of a credit transaction origination's request.

“designated officer” means a person who is responsible for or has the authority to appraise and/or approve credit transactions or review the status of existing credit transactions of the Bank, either as a member of a committee or individually, and his close relatives. None of the Bank's directors, controlling shareholders, officers and their respective close relatives is a director, partner, executive officer, agent or guarantor of the Customer and/or subsidiaries/entities controlled by the Customer. For the purpose of this Clause 9.1 (s), “close relatives” refers to spouse and dependents of the spouse, child (including step/adopted child) and spouse of the child, parent and brother or sister

and their spouses;

- (t) **ESG Law.** At all times:-
- (i) the Customer have not been convicted for violation of any ESG Law and no ESG Claim has been commenced or is threatened against the Customer; and
 - (ii) the Customer shall:-
 - (aa) comply with the ESG Laws;
 - (bb) obtain, maintain and ensure compliance with the terms and conditions of all required ESG Permits; and
 - (cc) implement policies and procedures to ensure compliance with the ESG Laws; and
 - (iii) all information provided by the Customer for the purposes of ESG due diligence by the Bank, is true and accurate in all material respects as at the date it was provided and is not misleading in any respect; and
 - (iv) the Customer shall, promptly upon becoming aware, notify the Bank in writing of:-
 - (aa) any non-compliance with any of the provisions under this clause;
 - (bb) any ESG Claim against the Customer; and
 - (cc) any fact or circumstance which may result in any ESG Claim being commenced or threatened against the Customer.

For the purpose of this clause:

“**ESG Laws**” means all applicable environment, social and governance laws and regulations, in the jurisdiction(s) in which the Customer operate and conduct business, which relate to the protection and/or violation of environmental, social and governance issues.

“**ESG Permits**” means any applicable permit, licence, certification and/or other authorisation that is required under any ESG Law to carry on the Customer’s operation and business.

“**ESG Claims**” means any notice, claim, proceeding or investigation in connection with any ESG Law and/or ESG Permit by any person or entity.

- (u) **FATCA.** Each of the Customer and the Security Parties is not a US Tax Obligor; and
- (v) **Additional Representations and Warranties.** Such additional representations and warranties as set out in the **Third Schedule**, if any.

9.2 Repetition

Prior to and on each of the dates of the utilization of the Facility, the above representations and warranties are true and accurate in all respects as if made on each such date, and as if repeated by reference to the ten existing circumstances, except that each reference to financial statements in Clause 9.1(l) above will be construed as a reference to the then latest available financial statements of the Customer and/or the Security Party.

9.3 Survival

The Customer acknowledges that the Bank has entered into this Agreement on the basis of and in full reliance on the representations and warranties above and the Customer agrees, covenants, undertakes and confirms that each of the representations and warranties given shall survive and continue to have full force and effect after the execution of this Agreement and the Security Documents and will be true and correct and fully observe on each and every date that any of the Facility is utilised and until the Indebtedness has been fully and completely discharged.

9.4 Remedies

The Bank's rights and remedies in relation to any misrepresentation or breach of warranty shall not be affected in any way by any investigation made by or on behalf of the Bank into the affairs of the Customer or the Security Party or by the execution or the performance by the Bank of this Agreement, or by any other act or thing which may be done by or on behalf of the Bank in connection with this Agreement or which might, apart from this Clause, affect such rights or remedies of the Bank.

10 POSITIVE AND NEGATIVE COVENANTS

10.1 Positive covenants

For so long as the Facility remain available for use by the Customer and for so long as the Indebtedness remains outstanding, the Customer undertakes with the Bank that:-

- (a) **Ranking.** It shall ensure that its liabilities under the Security Documents to which it is a party rank and shall rank (and would rank if the Security Documents to which it is a party were neither executed nor required) at least equally and rateably (*pari passu*) in point of priority and security with all its other liabilities (both actual and contingent) except:
 - (i) liabilities which are preferred solely by Malaysian law and not by reason of any Security Interest; and
 - (ii) any Security Interest created which is disclosed in writing to the Bank prior to the date hereof;
- (b) **Preparation of Accounts.** If the Customer is a company, the Customer will deliver or cause to be delivered to the Bank the audited financial statements, annual report and profit and loss account of the Customer and of any Security Party which is a company every year within six (6) months of its financial year end of the Customer or the Security Party. Such financial statement and accounts must have been duly audited and certified by qualified independent auditors acceptable to the Bank;
- (c) **Information.** The Customer will deliver or cause to be delivered to the Bank any other financial information or such other information relating to the Customer and any Security Party as may be requested by the Bank from time to time;
- (d) **Security Documents.** The Customer will observe and perform the terms and conditions of this Agreement and the Security Documents or to cause to be observed and performed the terms and conditions of the Security Documents;
- (e) **Change of Address.** The Customer will inform the Bank in writing of any change in the residential or correspondence address and place of business or registered office of the Customer or of any Security Party;
- (f) **Bank's Request.** The Customer will, at the request of the Bank:-
 - (i) comply with any of the conditions precedent listed in this Agreement which

were previously waived by the Bank; and/or

- (ii) give or cause to be given to the Bank any other or additional Security as the Bank may in its sole discretion require;
- (g) **Access to the Security.** The Customer will allow or cause to be allowed the Bank or its agents and servants, at all times and upon the Bank having given prior notice, to enter upon, inspect or examine any Security, to require repairs or remedial works and to make inventories and records of the Security. If the Bank requires, the Customer shall at his own cost and expense, and wherever applicable:-
 - (i) cause the Security to be valued by a valuer appointed by the Bank or a valuer acceptable to the Bank appointed by the Customer; and
 - (ii) cause relevant reports to be prepared by such professional consultants as the Bank may in its sole discretion appoint, which confirm the structural adequacy of the Security and other works, if any carried out on the Security on the basis of determinants acceptable to the Bank;
- (h) **Conduct of Business.** The Customer will comply with all conditions imposed by any authority in connection with the Customer's business and the borrowing and the Bank's grant of the Facility and will maintain or cause to be maintained in full force and effect, all authorisations, licences, approvals and consents relating to the Customer's business and the borrowing and the Bank's grant of the Facility.
- (i) **Notification of Adverse Changes.** The Customer will notify the Bank immediately of the occurrence of:-
 - (i) any Event of Default or of any event of default in relation to any other indebtedness of the Customer or of the Security Party; or
 - (ii) any other changes in the condition or performance or nature of the Customer's business or constitution (including, but not limited to, any legal proceedings threatened or commenced against the Customer or the Security Party); or
 - (iii) any changes in any matter affecting the Customer or the Security Party which might affect the Customer's or any Security Party's ability to fully comply with its obligations;
- (j) **Licence.** The Customer will fully observe and comply at all times with all relevant laws, rules and regulations which are applicable to any licence issued to the Customer, including all the conditions contained in or pertaining to such licence;
- (k) **Compliance with Tax Law.** The Customer will at all times observe and comply with or to cause to be observed and complied with all laws, rules and regulations and all conditions, covenants and restrictions:-
 - (i) governing the Security, whether imposed by the Bank or by any governmental authority; and
 - (ii) governing the filing of all tax returns which the Customer and each of the Security Party are required to file and pay, including making adequate provision to pay all such taxes, assessments, fees and other governmental charges assessed against each of them or upon any of their respective properties, assets, businesses or incomes; and
 - (iii) governing cross border tax fraud and/or tax evasion and /or whether the Customer or any of the Security party is a tax resident of a foreign jurisdiction and for the purpose of the Bank's compliance with any automatic exchange of financial account information under any multilateral convention on mutual

administrative assistance in tax matters, the Customer shall and shall cause each of the Security Party to give written notice to the Bank of their confirmation as to their respective tax resident status and such financial account information as required by the Bank's policy based on common reporting standards adopted by the Bank as and when so required by the Bank or if the Customer and/or any of the Security Party is or shall at any time become a tax resident of a foreign jurisdiction;

- (l) **Notice Concerning the Security.** The Customer will deliver or cause to be delivered to the Bank, any notice received by the Customer from any governmental authority concerning the Security within seven (7) days of the Customer's receipt of such notice and if any compensation moneys in respect of the Security is paid to the Customer, the Customer shall pay such money to the Bank and until the money is paid to the Bank, the Customer shall hold such money in trust for the Bank;
- (m) **Due Dilligence.** The Customer will carry out and operate its business and affairs with due diligence and efficiency in compliance with sound financial and industrial standards and practices and in accordance with the law and its Constitution;
- (n) **Subordination of financing and/or advances by director(s), shareholder(s) or related corporations.** It shall procure and ensure that all present and future financing and advances granted to it by any of its director(s), shareholder(s) (including corporate shareholder(s)) or related companies will be subordinated to the Indebtedness;
- (o) **Auditor.** The Customer will appoint from time to time such auditor or firm of auditors acceptable to the Bank, and authorise such auditor or firm of auditors to supply the Bank with a certified copy of any communication sent by such auditor to the Customer whenever requested by the Bank, to communicate directly with the Bank at any time in respect of any matter connected with the accounts and operations of the Customer; and
- (p) **Additional Positive Covenant.** The Customer will comply with all such additional positive covenants as stated in the **Fourth Schedule** of this Agreement, if any.

10.2 Negative Covenants

For so long as the Facility remain available for use by the Customer and if any of the Indebtedness remains outstanding, the Customer undertakes, covenants with the Bank that the Customer will not without obtaining the prior written consent of the Bank (which consent may be given or refused by the Bank at its sole discretion of if given, be subject to such terms and conditions as the Bank deems fit):-

- (a) **Negative Pledge.** Create or permit to be created any kind of interest whatsoever over the Security Interest or charge, pledge or otherwise encumber any of its present or future assets and/or revenue during the Tenure of the Facility
- (b) **Amendments.** If the Customer is a company, effect or undertake or permit any form of merger, reconstruction, consolidation or amalgamation by way of a scheme of arrangement or in any other way, or approve or permit any transfer of any part of its issued capital;
- (c) **Advances/Financing.** If the Company is a company, make any loans or advances to any of its shareholders or directors or any person or entity or guarantee any person or entity other than normal trade credit or trade guarantees or loans to staff (under a scheme of service), customers, contractors or suppliers in the ordinary course of business;
- (d) **Indebtedness.** Incur, take on, guarantee or permit to exist any indebtedness except such financing, credit facilities or accommodation as have been disclosed in writing and consented to in writing by the Bank;

- (e) **Dealing with Security.** In any way assign, transfer, deal in or part with the possession or permit any such dealing with the Security by the Security Party;
- (f) **Takaful/Insurance.** Except at the request of the Bank, effect or permit to be effected any takaful/insurance against any risk in respect of the Security when the Bank has effected or has in existence such takaful/insurance;
- (g) **Company.** If the Customer is not an individual and:-
 - (i) has a Constitution, in any way add to, delete, vary or amend its Constitution in any manner which would be inconsistent with the provisions of this Agreement or the Security Documents, or change its financial year, or the nature of its business or permit any such acts by a Security Party if the Security Party is also not an individual; or
 - (ii) do not have a Constitution, to adopt a Constitution unless the Customer shall have given prior written notice to the Bank of its intention to adopt a Constitution provided that such Constitution to be adopted shall not be inconsistent in any manner with the provisions of this Agreement or the Security Documents;
- (h) **Disposal.** Sell, transfer, lease or otherwise dispose of all or a substantial part of its assets or permit any such acts by a Security Party (except in the ordinary course of business of the Customer or the Security Party, as the case may be, on ordinary commercial terms and on the basis of arm's length arrangements);
- (i) **Share Capital.** If the Customer is a company, reduce or make any alteration to the issued share capital of the Customer or permit any such act in relation to the Security Party if the Security Party is also a company, whether by varying the amount, structure or value of the issued or share capital;
- (j) **Shareholding Structure.** If the Customer is a company, permit any change of its controlling shareholder, ownership structure and/or management or if the Customer is a partnership, society or other unincorporated body, permit any change in its constitution or management;
- (k) **Restriction on Transactions.** Enter into :-
 - (i) profit sharing or other similar arrangement whereby the Customer's income or profits are shared with any other person or company unless such arrangement is entered into in the ordinary course of business on ordinary commercial terms and on an arm's length basis, or enter into any management agreement whereby its business is managed by a third party; or
 - (ii) any transaction with any person, firm company except in the ordinary course of business on ordinary commercial terms and on the basis of arm's length arrangements; and
- (l) **Additional Negative Covenants.** Where applicable, undertake or take any actions or steps in relation to additional negative covenants as set out in the **Fifth Schedule** of this Agreement.

11 EVENTS OF DEFAULT

11.1 The occurrence of any one or more of following will constitute an Event of Default:-

- (a) if the Customer fails to pay any money to the Bank on the date such money is due for payment by the Customer to the Bank or if the Customer fails to discharge

- any obligation or liability owing to the Bank;
- (b) if the Customer, or any Security Party, fails to observe or perform any of the terms and conditions contained in this Agreement or the Security Documents;
 - (c) if any representation, warranty or undertaking made to the Bank by the Customer and/or any Security Party is or is found to be or will become incorrect or misleading in a material respect;
 - (d) if the Customer or any Security Party dies or becomes insane;
 - (e) if the Customer, or any Security Party, proposes any voluntary arrangement with its/his creditors or a nominee is appointed for the purpose of the voluntary arrangement or becomes bankrupt or insolvent or allows any judgment to remain unsatisfied for a period of twenty-one (21) days or more;
 - (f) if the Customer, or any Security Party, commits any act of insolvency/bankruptcy or is unable to pay any of their respective debt or any of their debts is/are suspended or the Customer and/or the Security Party enters into any composition or arrangement with or for the benefit of their creditors, as the case may be;
 - (g) if any resolution is passed, or if a petition is presented against the Customer or any Security Party:-
 - (i) for insolvency/ bankruptcy, liquidation, winding-up or dissolution; or
 - (ii) for the appointment of a liquidator, receiver, trustee or judicial manager;
 - (h) if a liquidator, receiver, trustee, judicial manager, nominee or a similar official is appointed for all or a substantial part of the Customer's assets or the assets of any Security Party or for any voluntary arrangement;
 - (i) if execution or any form of recovery or enforcement action is levied or taken against any of the Customer's assets or the assets of any Security Party;
 - (j) if the Customer, or any Security Party, stops or threatens to stop carrying on the Customer's or the Security Party's business, as the case may be;
 - (k) if the Customer, or any Security Party, changes or intends to change the nature or scope of the Customer's or the Security Party's business as is presently being conducted, as the case may be;
 - (l) if the Customer, or any Security Party, transfers or disposes of or intends to transfer or dispose of a substantial part of the Customer's or the Security Party's assets, as the case may be;
 - (m) if, in the Bank's opinion, there is any change or threatened change in:-
 - (i) circumstances which would materially and adversely affect the Customer's or any Security Party's business or financial condition or the Customer's or any Security Party's ability to perform the Customer's or the Security Party's obligations under this Agreement or the Security Documents;
 - (ii) the Customer's status or the status of any Security Party as a resident or resident controlled company, as the case may be;
 - (iii) the Customer's shareholders, shareholding structure, directors or management, if the Customer is a company; or

- (iv) the shareholders, shareholding structure, directors or management of any Security Party, if it is a company;
- (n) if a notice or proposal for the compulsory acquisition of any of the Customer's properties or the properties for any Security Party is issued or made under any law;
- (o) if any of the Customer or Security Party's cheques is dishonoured;
- (p) if the Customer, or any Security Party, is blacklisted pursuant to the Dishonoured Cheques Information System (DCHEQS) guidelines or any guidelines issued by Bank Negara Malaysia or any other authority having jurisdiction over the Bank;
- (q) if any of the Customer's accounts with the Bank is re-designated or closed by the Bank for any reason whatsoever;
- (r) if the Customer, any Security Party or any Associated Party, fails to discharge any obligation or liability to the Bank or to any other person;
- (s) if the Customer, any Security Party or any Associated Party, commits a default in any financing or similar arrangement with any person (including the Bank) which gives the right to the creditor concerned (including the Bank) to demand payment of the financing or arrangement before its due date, to withdraw the financing or arrangement, or to enforce the security for the financing or arrangement;
- (t) if there is a default in the payment of any moneys under the account of any other person for whom the Customer, any Security Party or any Associated Party, is providing security;
- (u) if there is any litigation (whether civil or criminal) arbitration or administrative proceedings pending, on-going or threatened against the Customer or any Security Party whether in or outside Malaysia;
- (v) if the Customer's credit rating as determined by the Bank has deteriorated;
- (w) if the Bank suspects or has reasons to believe that the Facility or any part of it is used for any unlawful activity;
- (x) if there is any investigation by the police, regulators or authorities, pending, on-going or threatened against the Customer or any Security Party;
- (y) if the Customer or any Security Party have been charged or convicted for any criminal offences or have any criminal records;
- (z) if there is any report lodged against the Customer or any Security Party under the Anti-Money Laundering, Anti-Terrorism Financing Act and Proceeds of Unlawful Activities Act 2001 or any of the regulations and/or orders made thereunder or any similar legislation outside Malaysia;
- (aa) if the Customer uses the Facility or any part of the Facility for a purpose other than that stated in the Letter of Offer;
- (bb) if an event of default under any Security Document has occurred;
- (cc) if the Bank decides in its sole discretion that the continuation of the Facility could likely be detrimental to the Bank's own position or that the Bank's security position could be in jeopardy. The decision of the Bank is final and is not subject to query by the Customer;

- (dd) if the Facility is utilised for the purposes which are in contravention to the principles of Shariah; or
- (ee) there occurs any events of default stipulated in the Letter of Offer or any of the events stated in the **Sixth Schedule** of this Agreement, if any.

11.2 If an Event of Default occurs:-

- (a) the Bank will not be under any further obligation and/or commitment to the Customer in relation to the Facility;
- (b) the Indebtedness then due and payable to the Bank under the Facility and any other indebtedness then due and payable to the Bank by the Customer will immediately become payable on demand by the Bank;
- (c) the Bank will immediately become entitled to recover all indebtedness then due and payable to the Bank together with compensation (*Ta'widh*) at the rate as stated in Clause (2.6) of this Agreement;
- (d) the Customer will upon demand pay to the Bank such amount in cash to cover all the Customer's contingent liabilities to the Bank, and for all notes or bills accepted, endorsed, or discounted, and all Islamic bonds/sukuk, guarantees, indemnities, documentary or other credits, or any instruments whatsoever entered into from time to time by the Bank for or at the Customer's request; and
- (e) the Bank will be entitled, to exercise all or any of its rights or powers with reasonable notice to the Customer:-
 - (i) which the Bank have upon the occurrence of an Event of Default under this Agreement and/or the Security Documents; and
 - (ii) which is/are available to the Bank, both in law or equity.

12 PROCEEDS OF RECOVERY

12.1 Application of Proceeds

The Customer agrees that all monies received by the Bank from any proceedings instituted or steps taken under this Agreement and any of the Security Documents will be applied in the following order:-

- (a) Firstly, to pay the quit rent, rates, taxes, assessments and other outgoings due to the relevant authorities.
- (b) Secondly, to pay all costs (including the solicitor's costs on a solicitor and client basis), charges, expenses, and liabilities incurred by the Bank and every receiver or other person appointed by the Bank in realising the Security or in performing any duties or exercising any powers.
- (c) Thirdly, to pay the Bank all profit, costs, compensation, charges, commission and other monies which are outstanding in connection with the Facility.
- (d) Fourthly, to pay all principal monies payable to the Bank in connection with the Facility.
- (e) Fifthly, to pay the Bank all other monies due and remaining unpaid under any of the Security Documents.
- (f) Sixthly, to pay the Bank any of the Customer's and/or the Security Party's liabilities to the Bank (whether present, future, contingent, primary, secondary, collateral, secured or

unsecured, several or joint) under any account, agreement, or contract with the Bank.

(g) Seventhly, towards settlement of any monies payable by any other company in the Customer's and/or the Security Party's group of companies (including holding, subsidiary, and associated companies) to the Bank (if any).

(h) Eighthly, to the Customer and/or the Security Party or any other entitled persons.

12.2 The Customer agrees and has simultaneously procured the Security Party's consent to the application of all monies received by the Bank in the manner stated in Clause 12.1 and any other manner including the change the order of payment above and apply the moneys received towards payment of profit, fees, principal, purchase price or any amount due to the Bank in such proportions and order, or keep such amounts received in a non-income bearing suspense account without any obligation to apply the monies received in or towards settlement of the Customer's liabilities under this Agreement. However, the change in the order of payment will not affect the Bank's right to receive the full amount to which the Bank would have been entitled to receive if the primary order of payment had been observed, or any lesser amount which the sum ultimately realised from the security may be sufficient to pay.

12.3 **Right of Bank to Commence Simultaneous Proceedings**

The Customer agrees that the obligations to pay the Bank under this Agreement and the Security Documents are separate and independent obligations which give the Bank separate and independent rights and causes of action regardless of any waiver or indulgence which may have been granted by the Bank in respect of any one or more of those obligations and shall remain in full force and effect regardless of any judgment, order, claim or proof for a liquidated amount in respect of any other obligation and thus, can be relied upon and enforced by the Bank independently, or together with any other action under such obligations or under the Security Documents. Accordingly, the Bank shall have the right to exercise simultaneously and concurrently all or any of the remedies available to the Bank against the Customer and/or the Security Parties and/or any other person as the Bank deems fit, whether by this Agreement or such other Security Documents or by statute or otherwise including without limitation by the sale or possession of any land pursuant to the Land Code and by civil suit, to recover the Indebtedness due and payable to the Bank by the Customer and/or the Security Parties without having first resorted to any other remedy or having first sold or disposed of any Security.

12.4 **Insufficiency in Proceeds Recovered**

(a) If the amount recovered or realised by the Bank after deduction and payment from the proceeds of such recovery or realisation of all fees, dues, costs, rents, rates, taxes, and other outgoings, is less than the amount due to the Bank (and whether in the process of such recovery or realisation the Bank is the purchaser or otherwise) the Customer must pay the Bank the difference between the amount due and the amount so realised.

(b) Until the payment in the Clause 12.4 (a) is made, the Customer will also pay the compensation pursuant to Clause 2.6 and regardless of whether or not the banker-customer relationship between the Bank and the Customer has ceased or been terminated.

13 **PAYMENT IN GROSS**

13.1 All moneys received from or on account of the Customer and/or any Security Party, or from any other person, from the realisation of any Security for the purpose of being applied towards reducing the Indebtedness will be treated for all purposes as payments in gross and not as appropriated or attributable to any specific part or item of any moneys owing to the Bank, even if appropriated as such by the Bank.

13.2 All Security held by the Bank now or at any time in the future will be treated as security for the general balance of the Indebtedness.

- 13.3 The Customer, the Security Party, his estate or any other person deriving or claiming title under the Customer or the Security Party will have no claim to such Security, or any part of or interest in such Security, unless the Bank has received the full amount owing to it by the Customer and/or the Security Party.

14 PROCEDURE ON NOTICE OF FURTHER CHARGE

- 14.1 If the Customer (or any one or more of them) executes or creates any further or subsequent charge, mortgage, or encumbrance over all or any part of its assets or properties assigned, mortgaged or charged to the Bank in favour of any other corporation or persons, and the Bank receives actual or constructive notice of this, the Bank can immediately open a new or separate account with the Customer in its books.
- 14.2 If the Bank does not open such new or separate account, the Bank will nevertheless be deemed to have done so at the time when the Bank received or was deemed to have received such notice ("**the time of notice**").
- 14.3 From the time of notice, all payments in account made by the Customer and/or any party to the Bank will (regardless of any legal or equitable rule of presumption to the contrary) be placed or deemed to have been placed to the credit of the new or separate account so opened or deemed to have been opened. Such payments will not go towards reducing the amount due by the Customer to the Bank at the time of notice.
- 14.4 Nothing in this Clause will affect the security which the Bank otherwise would have had under this Agreement for the payment of the Indebtedness, even though it may become due or owing or be incurred after the time of notice.

15 INDEMNITY

15.1 General Indemnity

In addition and without affecting the powers, rights, and remedies granted under this Agreement, the Customer will indemnify the Bank against any loss or expenses (including legal expenses on a solicitor and client basis) which the Bank sustains or incurs because of:-

- (a) any cancellation or failure of the Customer to utilise the whole or any part of the Facility; or
- (b) any prepayment of the Facility or any part of it unless otherwise provided under this Agreement or the Letter of Offer; or
- (c) any default in payment by the Customer of any sum due under this Agreement, including any profit or fees paid or payable on account of, or in respect of, any financing facilities or deposits from third parties in order to maintain the amount in default, or in liquidating or re-employing such funds or deposits; or
- (d) the occurrence of any Event of Default.

The Bank's certification of the amount of the said loss or expenses will be conclusive and binding upon the Customer unless there is any obvious mistake.

15.2 Currency Indemnity

Unless otherwise specifically agreed in writing by the Bank in relation to the Facility:-

- (a) the obligation of the Customer shall be to pay the obligations or liabilities in the same currency in which the said obligations or liabilities are incurred ("**Currency of Account**"); and

- (b) any amount received or recovered by the Bank in respect of any sums expressed to be due to it from the Customer under this Agreement and/or the Security Documents in a currency ("**Relevant Currency**") other than the Currency of Account (whether as a result of, or arising from the enforcement of, a judgement or order of court of any jurisdiction or the death or bankruptcy of the Customer or otherwise) shall only constitute a discharge to the Customer to the extent of the amount in the Currency of Account which the Bank is able, in accordance with its usual practice, to purchase with the Relevant Currency so received or recovered on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If that amount in the Currency of Account purchased with the Relevant Currency is less than the amount of the Currency of Account expressed to be due to the Bank under this Agreement and/or the Security Documents, the Customer shall indemnify the Bank against any loss sustained by it as a result thereof. In any event, the Customer shall indemnify the Bank against the cost of making any such purchase.

16 MODIFICATION AND INDULGENCE

16.1 The Bank may at any time and without in any way affecting the security created under this Agreement and the Security Documents:-

- (a) terminate, vary or increase the amount of the Facility or any part of the Facility or any credit or other facility granted to the Customer and/or any Security Party and may open and/or continue any account or accounts whatsoever with the Customer and/or any Security Party at any office of the Bank;
- (b) in addition to and without in any way affecting the Bank's right of review under this Agreement vary or not comply with the provisions of this Agreement and/or the Security Documents and the Customer expressly consents to any such variation and/or non-compliance;
- (c) grant to the Customer, the Security Party or any other person any time or indulgence;
- (d) renew any Islamic bills, notes or other Islamic negotiable securities;
- (e) deal with, exchange, release or modify or abstain from perfecting or enforcing any Security Documents or rights the Bank may now or at any time after this Agreement have against the Customer, any Security Party or any other person;
- (f) enter into any arrangement whatsoever with the Customer, any Security Party or any other person;
- (g) at the request of the Customer and/or any Security Party, accept payment of any amounts due or becoming due under this Agreement and/or any Security Documents by such increased or reduced instalments as the Bank may agree to;
- (h) at the request of the Customer and/or any Security Party, agree to suspend payments to reduce any principal payable to the Bank under this Agreement and/or any Security Documents;
- (i) grant further or other financing facilities to the Customer and/or any Security Party;
- (j) reinstate, change, interchange, substitute or convert any of the financing facilities granted by the Bank to the Customer and/or any Security Party, including, for the avoidance of doubt, the Facility;

- (k) reinstate, change, interchange, substitute or convert the principal limits or sub-principal limits of any of the financing facilities granted by the Bank to the Customer and/or any Security Party, including, for the avoidance of doubt, the Facility; and/or
 - (l) for the purpose of recovering the Indebtedness, resort to all or any of the remedies or means set out in this Agreement and/or any Security Documents at any time and in such order or sequence as the Bank may in its sole discretion think fit.
- 16.2 If the Bank at any time and from time to time in its sole discretion, grant additional or further financing facilities or vary or substitute the Facility (or any of them if more than one) with any other banking facility upon such terms and conditions as may be prescribed by the Bank, all the provisions of this Agreement and the Security Documents, except for those provisions which are inconsistent with the terms and conditions prescribed by the Bank for the additional or further financing facilities or varied or substituted Facility, shall continue to apply unless otherwise stated by the Bank.

17 AVOIDANCE OF PAYMENTS

- 17.1 Any release, discharge or settlement between the Customer and the Bank in relation to this Agreement shall be conditional upon no right, security, disposition or payment to the Bank by the Customer or any Security Party or any other person being void, set aside or ordered to be refunded pursuant to any applicable laws relating to any breach of duty by any person or insolvency, bankruptcy, liquidation, administration, protection from creditors generally or insolvency or for any other reason. If any such right, security, disposition or payment to the Bank is void or at any time set aside or ordered to be refunded, the Bank will be entitled subsequently to enforce this Agreement against the Customer as if such release, discharge or settlement had not occurred and any such security, disposition or payment had not been made.
- 17.2 The Bank's rights to recover and receive from the Customer and/or the Security Party the whole of the Indebtedness shall not be affected in any way whatsoever:-
- (a) by any assurance, security or payment which may be avoided under any law relating to insolvency, bankruptcy, winding-up, liquidation, administration, protection from creditors or insolvency or for any other reason; and
 - (b) by any release, settlement or discharge given or made by the Bank on the basis of such assurance, security or payment,

any such release, settlement or discharge shall be taken to have been made on the condition that it will be void if any payment or Security which the Bank may previously have received or may receive in respect of the Indebtedness under this Agreement or any of the Security Documents is rendered void, set aside, held invalid for any reason whatsoever or ordered to be refunded pursuant to any applicable laws. If any of such events occurs, the Bank is entitled to enforce this Agreement and the Security Documents against the Customer and the Security Party as if such release, discharge or settlement had not occurred and any such security, disposition or payment had not been made.

18 IRREVOCABLE RIGHT TO DEBIT

- 18.1 Without affecting any other rights and remedies of the Bank under this Agreement or the law, the Bank shall have the right (without being obliged to) at any time without prior notice to debit the Customer's current or any other account which the Customer may have with the Bank, whether alone or with any other person, with all amounts due and payable to the Bank including but not limited to valuation fees, insurance premium/takaful contribution, fees, commissions, charges, cost and expenses referred to in Clause 5 herein and all other monies due on the Facility.

- 18.2 If the Bank does debit the Customer's account, such debiting shall not be treated as payment by the Customer of the amount so debited and shall not to be taken as a waiver by the Bank of any breach by the Customer or any Events of Default that may have occurred.
- 18.3 If any debiting of any of the Customer's accounts causes that account to be overdrawn and the Customer fails to regularise the accounts within the period as determined by the Bank, such amount shall be payable to the Bank upon demand.

19 CONSOLIDATION AND RIGHT OF SET-OFF

- 19.1 The Bank can at any time after the occurrence of an Event of Default or the making of a demand and notwithstanding any settlement of account or any other matter whatsoever, combine or consolidate all or any of the Customer's then existing accounts (whether current, deposit, financing or of any other nature whatsoever, whether subject to notice or not and whether in Ringgit or in any other currency) wheresoever situate, including accounts in the Customer's sole name, or jointly with others.
- 19.2 In addition, the Bank can, after giving seven (7) days' notice to the Customer, set-off or transfer any sum standing to the credit of any one or more such accounts in or towards satisfaction of the Indebtedness or any part thereof.
- 19.3 If any of the Customer's liabilities are contingent, the Bank can set-off and transfer any sum standing to the credit of any of the Customer's accounts towards the satisfaction of the Customer's contingent liabilities and if the Customer's actual liabilities are less than the amount set-off by the Bank, the Bank will refund the surplus to the Customer.
- 19.4 Where a combination, set-off or transfer requires the conversion between currencies, the conversion will be calculated at the Bank's then prevailing spot rate of exchange (as fixed by the Bank at its absolute discretion) for purchasing the currency for which the Customer is liable.
- 19.5 Upon the issuance of the notice mentioned in Clause 19.2, the Customer hereby consent for the Bank to earmark or to place a hold on any monies standing to the credit of all or any of the Customer's accounts with the Bank prior to effecting the setting-off in Clause 19.2, and the Customer shall not be entitled to withdraw the monies without the Bank's prior written consent.

20 SUSPENSE ACCOUNT AND PROOF OF DEBT

- 20.1 The Bank may at any time place and keep any sum or sums of moneys received, recovered or realised by the Bank under or in connection with this Agreement or any other Security Documents in a non-profit bearing suspense account(s) for so long as the Bank thinks fit without being obliged to apply the same (or any part of it) in or towards discharging any liability due or incurred by the Customer for such purpose as the Bank thinks fit, including but not limited to taking action against the Customer or any Security Party, or to prove in the insolvency of the Customer or any Security Party, for any moneys or liabilities at any time owing or payable to the Bank or to preserve the Bank's interest over the Security under the Security Documents or the liability of the Customer or any Security Party to the Bank.
- 20.2 In the event any sum or sums referred to in Clause 20.1 is applied by the Bank in or towards discharge of any monies or liabilities due or incurred by the Customer, the same may be applied by the Bank in such order and proportions as the Bank may in its absolute discretion deems fit.
- 20.3 Notwithstanding any payment by the Bank in Clause 20.2, in the event the Customer or any Security Party becomes bankrupt, wound up, insolvent or subject to any insolvency proceedings, the Bank may prove for and agree to accept any dividend or composition in respect of the whole or any part of such money. Upon the Bank having received the ultimate balance of the Indebtedness in full, any claim on the part of the Customer and/or a Security Party to any excess or any security remaining with the Bank will be a matter of adjustment

between the Bank and the Customer and/or the Security Party and/or any other person or persons laying claim to the same.

21 CHANGE IN CONSTITUTION OF BANK OR CUSTOMER

This Agreement, the Letter of Offer and all the provisions governing the Facility and the Security and the obligations and liabilities of the Customer under the Letter of Offer and this Agreement shall continue to be valid, binding and enforceable against the Customer and the Security Party for all purposes notwithstanding the following:-

- (a) for the Bank - any transfer or assignment of the Bank's business, operations, assets, or liabilities, or any change by amalgamation, consolidation, reconstruction, or otherwise in the Bank's constitution, or of any company by which the Bank's business is carried on, and will be available by the company carrying on that business;
- (b) for the Customer or Security Party:-
 - (i) the adoption of or any change in the Constitution of the Customer or the Security Party or their constitution, whether due to death, insanity, bankruptcy, insolvency, liquidation, winding-up, dissolution, incorporation, amalgamation, merger, reconstruction, re-organisation or any other change or changes in the name, style, constitution or composition of the Customer or the Security Party;
 - (ii) any change in the constitution whether due to the admission of any partner or partners into the firm or the death, retirement, expulsion, accession, resignation, disqualification or dissolution of any partner or partners or any other change in the constitution of the firm if the Customer or the Security Party is a firm (whether a sole proprietorship or partnership); and
 - (iii) that the Customer and/or any Security Party is a committee, association, or other unincorporated body which has no legal existence or which is under no legal liability to discharge obligations undertaken or purported to be undertaken by it or on its behalf.

22 CHANGES IN CIRCUMSTANCES

22.1 Market Disruption

Regardless of whatever is stated in this Agreement or any Security Document, if in the Bank's opinion there is any change in national or international monetary, financial, political or economic conditions, or currency exchange rates which would cause the continuation of the Facility to be temporarily or permanently not practical or not possible from the Bank's point of view, the Bank can:-

- (a) at any time; and
- (b) upon notification in writing to the Customer,

if the notification is given prior to any disbursement, no drawdown will be made and if such notification is given after a partial disbursement, the Bank may explore with the Customer an alternative arrangement, failing which:-

- (i) the Facility shall be cancelled;
- (ii) the total aggregate amounts outstanding under the Facility together with all other sums payable under this Agreement will immediately become due and payable on demand; and

- (iii) the Bank's obligations under this Agreement or any Security Document shall terminate.

22.2 Increased Costs

If the Bank decides as a result of any new law, guideline, directive or regulation, or as a result of any change (including any change in the interpretation or application of) to any existing law, guideline, directive or regulation or the removal or modification of any exemption currently in force in favour of the Bank or compliance by the Bank with any directive (including, but without limitation, a directive which affects the manner in which the Bank allocates capital reserves to its obligations under this Agreement):-

- (a) the Bank would incur increased costs in granting or continuing to grant to the Customer the Facility and having to continue to perform the Bank's obligations under the Facility or the Security Documents;
- (b) any sum received or to be received by the Bank under this Agreement or the effective return to the Bank under this Agreement is reduced (except on account of tax on the Bank's overall net income); or
- (c) the Bank has to make payment or forego any profit, fee, commission or *Ta'widh* (compensation), charges or other payment to the Customer on the basis of any sum payable or to be paid to the Bank in its grant of the Facility under the Letter of Offer and/or this Agreement,

the Customer must indemnify the Bank against that increased cost and other sums stated above and must pay to the Bank when demanded by the Bank from time to time, the amount sufficient to indemnify the Bank.

The terms law guideline, directive or regulation in this Clause 22.2 shall include, without limitation, any law, regulation, official directive, ruling or request concerning capital adequacy, prudential limits, liquidity, reserve assets or tax.

22.3 Illegality

If any change in applicable law, regulation or regulatory requirement or in the interpretation or application thereof by any governmental or other authority charged with the administration, request or requirement (whether or not having the force of law) of any governmental or other authority in Malaysia make it or makes apparent that it is unlawful or impracticable for the Bank to grant or continue to grant the Facility, then:-

- (a) the Bank will comply with the applicable law, regulation or regulatory requirements or the interpretation or application thereof in such manner as the Bank deem fit;
- (b) the Bank will notify the Customer, and following that notification the Facility and the Bank's obligations under the Facility will be suspended immediately; and
- (c) the Customer must following such notice from the Bank, prepay the Facility together with accrued profit and all other amounts payable to the Bank on the date required by the Bank to enable the Bank to comply with the relevant law; and
- (d) the Bank will have no further obligations under the Facility, which will be deemed cancelled.

22.4 Circumstance Beyond the Bank's Control

The Customer agrees that the Bank will not be liable in any way to the Customer for any loss, injury or damage or inconvenience caused to the Customer, which the Customer may suffer, whether directly or indirectly as a result of any failure by the Bank to perform or is unable to perform any of the Bank's obligations under the Letter of Offer, this Agreement or any Security Document or to carry out any of the Bank's usual business operations or to provide any service

due to any reason beyond the Bank's control including, but not limited to:-

- (a) any strike, lock-out, industrial dispute, boycott, blockade, sanction, war, hostilities (whether war is declared or not), terrorist activity, insurrection, riot or civil commotion or unrest;
- (b) any fire, earthquake, flood, epidemic, natural disaster, accident, riot, civil disturbance, industrial dispute, act of terrorism, embargo, war or Act of God;
- (c) any failure, stoppage or disruption of:-
 - (i) any telecommunication services, internet, electricity supply, water supply or fuel supply; or
 - (ii) services outsourced by the Bank to service providers, whether in or outside Malaysia for any reason whatsoever, including but not limited to hardware and/or software malfunction or system down due to virus attach, hacking etc.
- (d) any action or inaction of any governmental, local or other authority; or
- (e) any circumstance in the nature of a force majeure, that is, an unforeseeable event that prevents the Bank from performing any of the Bank's obligations under this Agreement or any Security Document.

22.5 Financial Crime Representations and Warranties

- (a) The Bank shall be entitled to take all actions that the Bank consider appropriate in order for the Bank to meet any obligation or requirement, either in Malaysia or elsewhere, in connection with the detection, investigation and prevention of financial crime including fraud, money laundering, terrorism financing, bribery, corruption, or tax evasion or the enforcement of any economic or trade sanction ("**Financial Crime**").
- (b) The Customer understands and agrees that if any activities, conduct or circumstances the Customer is involved in (directly or indirectly) may expose the Bank to legal or reputational risk, or actual or potential regulatory or enforcement actions, the Bank shall at any time, without giving any reason, have the right to immediately:-
 - (i) to exercise all the Bank's rights stated in Clause 11.2;
 - (ii) close all accounts and terminate all services the Customer have with the Bank;
 - (iii) make reports and take such other actions as the Bank may deem appropriate.
- (c) The Customer undertake that the Customer will not initiate, engage in or effect a transaction (directly or indirectly) that may involve Financial Crime and agree to hold the Bank harmless, indemnify the Bank and keep the Bank indemnified from and against any and all liabilities, claims, obligations, losses, damages, penalties, actions, judgments, suits, costs (including, but not limited to, legal costs on a full indemnity basis), expenses and disbursements of any kind whatsoever which the Bank may suffer or incur in connection with or arising from any breach by the Customer of this undertaking.

23 MISCELLANEOUS

23.1 Certificate

Any certificate or statement issued by the Bank showing the outstanding amount due and payable from the Customer to the Bank in relation to the Facility, including the amount of any loss or expenses in Clause 16.1 will be conclusive proof as to the outstanding amount due and

payable from the Customer to the Bank in relation to the Facility and such loss or expenses; this certificate or statement will be binding on the Customer for all purposes whatsoever including for the purposes of any legal proceedings unless there is any obvious mistake.

23.2 **Involuntary Loss**

In exercising or executing any of the Bank's powers given by this Agreement, any Security Document or any law, the Bank will not be liable to the Customer and/or any Security Party for any loss or damage incurred, or claimed to be incurred, by the Customer and/or the Security Party, the Bank will also not be obliged to obtain the true or best market value of any Security.

23.3 **Consolidation**

Unless the Bank agrees otherwise, this Agreement will not be discharged except on full payment by the Customer and/or the Security Party of not only all monies secured under the Agreement, but also all monies which may become due or owing to the Bank under any other financing facilities granted to the Customer and/or the Security Party and/or any third parties from time to time (whether such liabilities be present, future, actual, contingent, primary, collateral, several, or joint) and whether secured by any other charge or security created now or in future or from time to time secured by the Customer and/or the Security Party (or by any person through whom the Customer and/or the Security Party claims in favour of or vested in the Bank) or otherwise, and the Bank's right of consolidation will apply to this security.

23.4 **Combination of Accounts**

The Customer agrees that the Bank has the right, particularly if an Event of Default has occur, without any notice to the Customer, to combine, consolidate or merge all or any number of the Customer's accounts with the Bank anywhere whether in or outside Malaysia (whether savings, current, deposit, financing or any other account of any nature whatsoever, whether due or not, whether subject to notice or not, whether in Ringgit Malaysia or in any other currency and whether in the Customer's name alone or in the joint names of the Customer and another person(s) including accounts in the name of the Bank. The Bank also have the right after giving the Customer seven (7) days' notice, to set-off or transfer any sum standing to the credit of any one or more of such accounts in or towards satisfaction of the Indebtedness or any part thereof whether present or future, actual or contingent, primary or collateral, or joint or several.

23.5 **Power to Obtain Financing and to Charge**

Where any monies are due and secured by this Agreement and/or the Security Documents, they will be deemed to be so owing and secured regardless of:

- (a) any legal limitation, incapacity or otherwise of the Customer in respect of the financing of the Facility which might be a defence as between the Customer and the Bank;
- (b) the Customer's power to enter into this Agreement; or
- (c) any legal limitation in the power of any director, attorney, partner, agent or other person purporting to act or acting on behalf of the Customer or any other irregularity in such borrowing, financing or incurring of such liabilities.

23.6 **Bank's Right to Make Adjustment**

The Bank has the right to adjust the entries in its records or the account statement if there is any error or missing entries.

23.7 **Additional Terms and Conditions**

If there are additional terms and conditions stated in the **Seventh Schedule**, such additional terms and conditions shall be considered as part of this Agreement and shall bind the Customer accordingly.

23.8 Variation of Terms

The Customer acknowledges and agrees that the provisions of this Agreement and/or the Security Documents, and the availability, limits, profit rates, commission, fees and charges of and relating to the Facility are subject to:-

- (a) guidelines issued from time to time by Bank Negara Malaysia or any other authority having jurisdiction over the Bank;
- (b) the Bank's review and variation from time to time at the Bank's discretion.

If there is a change in any fees and charges, the Bank will give the Customer twenty-one (21) days' prior notice before the change takes effect.

23.9 Retention of Records

The Customer agrees that the Bank is not obligated to maintain any records of the Customer's account, including but not limited to the Security Documents statements of account, correspondences or documents provided to the Bank by the Customer or any other third party, exceeding any retention period as set out under the Bank's internal policies, guidelines and procedures and/or as provided under any applicable laws or regulations of any country having jurisdiction over the Bank.

23.10 Legal Advice

The Customer confirms that the Customer has been advised to seek independent legal advice before accepting the Facility and before signing the Letter of Offer and the Security Documents prepared by the Bank or the Bank's solicitor.

23.11 Time of the essence

Time, wherever referred to in this Agreement, shall be of the essence of this Agreement.

23.12 Cessation of Relationship

The cessation of the banker-customer relationship between the Bank and the Customer will not in any circumstances or in any manner affect the Bank's right to recover all monies due and owing to the Bank under the Facility;

23.13 Searches

- (a) The Bank may but is not obliged to conduct insolvency/ bankruptcy/ winding up searches or credit related searches from any credit reference agencies, database or system on any person, including but not limited to the Customer and the Security Party, before and at any time after the disbursement of any of the Facility.
- (b) The Customer consents to and shall cause the Security Party to consent to the Bank carrying out all such searches stated in Clause 23.13 (a) on the Customer and the Security Party to the extent permitted by law and all charges incurred in connection with the searches will be borne and paid by the Customer and/or the Security Party.

24 ASSIGNMENT OR TRANSFER OF SECURITY

- (a) The Bank can, at any time at its sole discretion and without notifying the Customer and/or any Security Party, assign all or any part of its rights, interests, benefits and obligations in this Agreement and/or transfer the benefit of this Agreement to any person or corporation. Following such assignment or transfer:-

- (i) The costs and expenses of the Bank and the assignee or transferee will be paid by the Customer;
 - (ii) the assignee or transferee will assume and be entitled to the rights, interests, and obligations of the Bank in this Agreement as if the assignee or transferee had been a party to this Agreement in place of the Bank; and
 - (iii) any recital or statement in this Agreement of the amount due to the Bank under or by virtue of this Agreement shall, in the absence of manifest error, be conclusive and binding for all purposes against the Customer.
- (b) The Customer cannot assign its rights or obligations under this Agreement.

25 REORGANISATION WITH BANK'S CONSENT

The Customer agrees that the Customer will not without the Bank's prior written permission undertake or allow to be undertaken:-

- (a) any reorganisation, amalgamation, reconstruction, takeover or substantial change of the Customer, the Customer's shareholders, management or business;
- (b) any corporate schemes or arrangements which may affect the Customer's present constitution or residential status;
- (c) any amendment or alteration to any of the provisions in the Customer's Constitution or to adopt a Constitution relating to the Customer's borrowing powers and principal business activities; and/or
- (d) any of the Customer's partners (applicable to partnership).

26 SANCTIONS AND ANTI-MONEY LAUNDERING

- (a) The Customer must provide and disclose to the Bank within such time prescribed by the Bank, any information which the Bank deemed necessary in order to:-
 - (i) comply with the laws or sanctions of Malaysia or any other country (including but not limited those relating to anti-money laundering or anti- terrorism); and/or
 - (ii) manage money-laundering risk or terrorism-financing risk or economic and trade sanctions risk.
- (b) Pending the Bank's receipt of the information from the Customer and until the Bank has verified the information to the Bank's satisfaction, the Bank is not obliged to proceed with any transactions or disbursements.
- (c) The Customer declares and undertakes to the Bank that the processing of any transactions will not breach any laws or sanctions in Malaysia or any other country. The Bank will not be liable for any loss arising from any delay or failure to process any transactions due to inadequate information and documentation provided by the Customer.

27 DISCLOSURE OF INFORMATION

27.1 Persons to whom disclosure may be made

The Customer agrees that the Bank (including the Bank's officers, employees, agents or

any other persons to whom the Bank may grant access to the Customer's records, correspondence or any material relating to the Customer and the Customer's account) can disclose at any time at the Bank's absolute discretion without notifying the Customer beforehand, any information relating to the Customer, the Customer's account and any of the Customer's Authorised Persons to the following:-

- (a) any one (1) or more members of the Group, for any of the following purposes:-
 - (i) providing the Customer with banking services and/or improving and furthering the provision of other services by the Bank;
 - (ii) reporting or data matching;
 - (iii) fraud or crime prevention or investigating, preventing or otherwise in relation to money laundering, terrorism financing or any other criminal activities;
 - (iv) debt collection or any legal process initiated by or served on the Bank;
 - (v) outsourcing the Bank's operations or any part of the Bank's operations;
 - (vi) performance of duties as an officer of the Bank or in connection with the conduct of audit or the performance of risk management;
 - (vii) facilitating the performance of the Bank's or any members of the Group's functions;
 - (viii) compliance with the Group's policies, guidelines, directives or requirements;
 - (ix) corporate exercise;
- (b) any person, whether in Malaysia or elsewhere, who provides electronic or other services to the Bank for the purpose of providing, updating, maintaining and upgrading the services including but not limited to, investigating discrepancies, errors or claims.
- (c) any person, whether in Malaysia or elsewhere, engaged by the Bank engages in connection with the performance of services or operational functions which have been out-sourced.
- (d) the police or any public officer conducting an investigation in connection with any offence including suspected offences.
- (e) credit card companies and financial institutions in connection with credit card enquiries.
- (f) other banks, financial institutions, credit bureau or credit reference agents (only for credit information).
- (g) the Bank's auditors, solicitors, professional advisors including but not limited to Shariah Committee of the Bank.
- (h) Bank's stationery printers, vendors of the computer systems the Bank uses, and to such persons installing and maintaining them and other suppliers of goods or service providers the Bank may engage.
- (i) any receiver appointed by the Bank or by any other party.
- (j) any credit bureau of which the Bank is a member, and any other members and/or compliance committee of such credit bureau.

- (k) any rating agency, takaful operator/insurer or takaful/insurance or direct or indirect provider of credit protection.
- (l) any actual or potential participant or sub-participant in relation to any of the Bank's obligations under the financing agreement between the Customer and the Bank, or assignee, novatee or transferee (or any officer, employee, agent or adviser) of any of them.
- (m) for transactions effected or processed with or without the Customer's authority in or through the automated teller machines of other banks or financial or non-financial institutions or terminals or other card operated machines or devices the Bank approves, to the bank, financial institution or non-financial institution, trader or other party accepting the use of the automated teller machine card and their respective agents or contractors.
- (n) any court, tribunal or authority, whether governmental or quasi- governmental with jurisdiction over the Bank or any member of the Group.
- (o) any person to whom the Bank or any member of the Group is permitted or required to disclose to under the laws of any country.
- (p) any other person to whom such disclosure is considered by the Bank to be in the Bank's interest, or the interest of any members of the Group (not applicable to strategic alliance for marketing and promotional purpose).
- (q) any person intending to settle any moneys outstanding under the Facility and any person connected to the enforcement or preservation of any of the Bank's rights under this Agreement and the Security Documents.
- (r) the Central Credit Bureau or any other authority or body established by Bank Negara Malaysia or any other authority having jurisdiction over the Bank.
- (s) any other country, its central bank or investigative authorities in respect of cross border offences, whether civil or criminal in nature, including but not limited to tax fraud or tax evasion for the purpose of compliance with any automatic exchange of financial account information under any multilateral convention on mutual administrative assistance in tax matters.
- (t) any Security Party; and
- (u) any of the Customer's directors.

27.2 Disclosure in compliance with Court Order

The Customer agrees that the Bank and the Group can act in any way the Bank sees fit, without consulting the Customer beforehand, if the Bank is served with a court order issued by a court of any jurisdiction. The Customer agrees that the Customer will not hold the Bank liable for any loss or damage in connection with the Bank's actions.

27.3 No Liability for Disclosure

The Customer agrees that no disclosure of information and/or provision of any documents made pursuant to Clause 27 shall render the Bank (including the Bank's officials, employees, agents or any other persons who the Bank grants access to their records, correspondence or any material relating to the Customer and/or the Security Party or the Facility) to be liable in any manner under any law, including the provisions of the Financial Services Act, 2013, Islamic Financial Services Act and the Companies Act, 2016.

28 DATA PROTECTION

- (a) The Customer hereby confirms that the Customer has received, read, understood and agreed to be bound by the Privacy Notice issued by the Bank (which is available at the Bank's branches as well as at the Bank's website at www.uob.com.my) and the clauses in this Agreement as may relate to the processing of the Customer's Personal Data. For the avoidance of doubt, the Customer agrees that the said Privacy Notice shall be deemed to be incorporated by reference into this Agreement.
- (b) The Customer agrees and consents that the Bank may transfer the Personal Data outside of Malaysia. All Personal Data held by the Bank and the Group will be accorded a reasonable level of protection against any loss, misuse, modification, unauthorised or accidental access or disclosure, alteration or deletion.
- (c) In the event the Customer provides Personal Data relating to third parties, including data relating to their next-of-kin and dependents (where the Customer is an individual) or data relating to their directors, shareholders, officers, individual guarantors and security providers (where the Customer is a corporation), for the purpose of the Facility, the Customer:
- (i) confirms that the Customer has obtained their consent or is otherwise entitled to provide this data to the Bank and for the Bank to use it in accordance with this Agreement and/or the Facility;
 - (ii) undertakes that the Customer has informed the said third parties to read the Privacy Notice at the Bank's website www.uob.com.my;
 - (iii) has informed the said third parties:-
 - (aa) that the Bank may collect or verify their personal and financial data with third party sources;
 - (ab) that the Bank may disclose their personal data to classes of third parties described in the Bank's Privacy Notice;
 - (iv) agrees to ensure that the personal and financial data of the said third parties is accurate;
 - (v) agrees to update the Bank in writing in the event of any material change to the said personal and financial data; and
 - (vi) agrees that the Bank has the right and is entitled to terminate the Facility should any of such consent be withdrawn by any of the said third parties.
- (d) Where the Customer instructs the Bank to effect any sort of cross-border transaction (including to make or receive payments), the details relevant to the cross-border transaction (including data relating to those involved in the said transaction) may be received from or sent abroad, where it could be accessible by overseas regulators and authorities in connection with their legitimate duties (e.g. the prevention of crime). In instructing the Bank and/or the Bank's agents to enter into any cross-border transaction on the Customer's behalf, the Customer agrees to the above said disclosures on behalf of the Customer and others involved in the said cross-border transaction.
- (e) Additionally, but always subject to any laws (including regulations, guidelines and/or obligations) applicable to the Bank or the Group (whether in or outside Malaysia), the Customer agrees that the Bank and the Group, and the Bank's merchants and strategic partners may contact the Customer about products, services and offers, which the Bank believes may be of interest to the Customer or

benefit the Customer financially. Notwithstanding the foregoing, the Bank will only disclose the Customer's Personal Data (excluding data relating to the Customer's affairs or account) to the Bank's merchants and strategic partners where the Customer's express prior consent has been obtained.

- (f) The Customer may choose not to receive any direct marketing materials from the Bank or the Group by writing in to the Bank at "Personal Financial Services, P.O. Box 13525, Menara UOB, Jalan Raja Laut, 50738 Kuala Lumpur" (or such other address notified by the Bank) with the Customer's request and the Bank will abide by the Customer's latest written instructions to the Bank.
- (g) The Customer acknowledges that certain communications such as statements of account and the Bank's websites contain standard information regarding the Bank's other products and services that cannot be removed without affecting the delivery/provision of the Bank's services and/or products, the operation of the Facility and/or without imposing additional costs to the Customer.
- (h) The Customer is entitled to request in writing:
 - (i) for any information in relation to the Customer's Personal Data that the Bank holds or stores, upon payment of a prescribed fee;
 - (ii) for any information held or stored by the Bank to be updated, amended and/or corrected;
 - (iii) for the Bank to limit the processing of the Customer's Personal Data held or stored by the Bank; and
 - (iv) to make an enquiry or complaint in respect of the Bank's processing of the Customer's Personal Data.

For requests under (i) or (ii), the Customer may make a request to the Bank via the Bank's Data Access Request Form or Data Correction Request Form respectively. These forms are available at the Bank's branches as well as at the Bank's website at www.uob.com.my.

The Customer may direct all the Customer's requests to any of the Bank's branches or "Customer Communications Management, UOB Call Centre, P.O. Box 11212, Menara UOB, Jalan Raja Laut, 50738 Kuala Lumpur".

The Bank may charge a fee for processing the Customer's request for access or correction. The Bank may also refuse to comply with the Customer's request in respect of (i) or (ii) above if the information supplied by the Customer is insufficient (as determined by the Bank) or where such request may breach or violate any law or regulation or any other reason which the Bank deems not to be in the Bank's interest to do so. If the Bank refuses to comply with such request, the Bank will inform the Customer of the Bank's refusal and reason for the Bank's refusal.

- (i) The Customer is responsible for ensuring that the information the Customer provides to the Bank is accurate, complete and not misleading and that such information is kept up to date.
- (j) The Customer acknowledges that if the Customer subsequently withdraws the Customer's consent to process the Customer's Personal Data as given earlier to the Bank, as the Bank will not be able to process and/or disclose the Customer's Personal Data in relation to the purposes set out in the Privacy Notice, the Bank will have the right to not provide or discontinue the provision of any product, service, account and/or facilities that is linked to such Personal Data.

- (k) The Bank reserves the right to amend this clause from time to time at the Bank's sole discretion and shall provide prior notification to the Customer in writing and place any such amendments on the Bank's websites or by placing notices at the banking halls or at prominent locations within the Bank's branches or by such other means of communication deemed suitable by the Bank.
- (l) This Clause 28 shall be without prejudice to any other clause in this Agreement which provides for the disclosure of data.

29 COMPLIANCE WITH FATCA

29.1 Information

- (a) The Customer shall provide all required documentation or information, including but not limited to date of birth, countries of citizenship, countries of permanent residence, countries of tax residency and associated taxpayer identification numbers, that may be required to enable the Bank or any member of the Group to comply with all requirements of FATCA or other agreement by or between governments.

The Customer shall notify the Bank in writing within thirty (30) days of any change that affects the Customer's tax status in relation to FATCA under any laws, regulations or other agreement by or between governments.

- (b) The Customer represents and warrants that the Customer has provided to the Bank all documentation or other information as may be required by the Bank for compliance with FATCA and in connection with change in tax status and shall provide all required documentation or other information within seven (7) days of a request from the Bank in writing or otherwise.

The Customer further acknowledges that any failure on the Customer's part to provide accurate and timely information pursuant to requirements and requests by the Bank may result in the Bank having to deem the Customer recalcitrant and/or reportable and take all necessary action against the Customer in order for the Bank to be compliant with requirements under FATCA, local legislation in connection with FATCA and any other provision arising out of an agreement between governments pertaining to FATCA.

- (c) For individual Customers, the Customer consents to the collection, storage, and disclosure by the Bank or any member of the Group of any Personal Data to persons from whom the Bank or any member of the Group receive or make payments on behalf of the Customer and to governmental authorities as required by law or other agreement by or between governments. The Customer's consent shall be effective notwithstanding any applicable nondisclosure agreement. The Customer represents that the Customer has secured from any third party whose information is provided to the Bank any consents and waivers necessary to permit the Bank or any member of the Group to carry out the actions described in this Clause 29.1 (c) and that the Customer will secure such consents and waivers in advance of providing similar information to the Bank in the future.
- (d) For Customers who are a sole proprietorship, partnerships or other business entity, a corporation, or an association, club or society or trust, the Customer consents to the collection, storage, and disclosure by the Bank or any member of the Group of any Confidential Information to persons from whom the Bank or any member of the Group receive or make payments on behalf of the Customer and to governmental authorities as required by law or other agreement by or between governments. Confidential Information includes the Customer's Personal Data, the Customer's bank account details, transactional information, and any other information that a reasonable person would consider being of a confidential or

proprietary nature. The Customer's consent shall be effective notwithstanding any applicable nondisclosure agreement. The Customer represents that the Customer has secured from any third party whose information is provided to the Bank any consents and waivers necessary to permit the Bank or any member of the Group to carry out the actions described in this Clause 29.1, and that the Customer will secure such consents and waivers in advance of providing similar information to the Bank in the future.

- 29.2 The Customer agrees and acknowledges that the Bank is entitled to take all necessary action to be and remain compliant with FATCA as is required by law or other agreement by or between governments. If some of the Customer's income is reportable and some is not, the Bank will report all income unless the Bank can reasonably determine the reportable amount. The Customer hereby authorises the Bank or any member of the Group, where appropriate, to withhold or otherwise collect from any payment any required tax or other government assessment, including but not limited to any requirement to withhold or deduct an amount under the Code and the regulations and other guidance issued under the FATCA.
- 29.3 The Bank or any member of the Group, may take whatever action the Bank consider appropriate to meet any obligations, either in Malaysia or elsewhere in the world, relating to the prevention of tax evasion. This may include, but is not limited to, investigating and intercepting payments into and out of the Customer's account(s) (particularly in the case of international transfer of funds), investigating the source of or intended recipient of funds, sharing information and documents with domestic and international tax authorities and withholding income from the Customer's account(s) and transferring it to such tax authorities. If the Bank is not satisfied that a payment in or out of the Customer's account(s) is lawful, the Bank may refuse to deal with it.
- 29.4 To the fullest extent as may be permitted by law, the Bank will not be liable to the Customer for any losses, costs, expenses, damages, liabilities the Customer may suffer as a result of the Bank complying with legislation, regulations, orders or agreements with tax authorities or by and between tax authorities or if the Bank make an incorrect determination as to whether or not the Customer should be treated as being subject to tax or tax reporting obligations.
- 29.5 This Clause 29 will override any inconsistent term or consent provided by the Customer under any agreement with the Bank to the extent that such agreement provides fewer or lesser rights for Bank, whether before or after the date of this Agreement. This Clause 29 shall be without prejudice to any other clause in this Agreement which provides for the Bank's right to request for information or disclosure of data.

30 NOTICES, LEGAL PROCESS AND PROCESS SERVICE AGENT

30.1 Notices

- (a) Any demand, request, notice (including a notice or statement generated by the Bank's computer which need not be signed) or communication (collectively the "**Notices**") by or on behalf of the Customer or the Bank must be in writing in English or Bahasa Malaysia.
- (b) Any Notices that the Bank send to the Customer may be:-
- (i) delivered by hand to the address of the Customer as stated in this Agreement, the Letter of Offer or such other address last known to the Bank;
 - (ii) sent by post (registered, AR registered, ordinary or otherwise) to the Customer's address as stated in this Agreement, the Letter of Offer or such other address last known to the Bank;
 - (iii) sent by facsimile transmission to the facsimile number last known to the Bank;

- (iv) sent by electronic mail to the electronic mail address last known to the Bank;
 - (v) sent by short messaging system (SMS) to the mobile phone number last known to the Bank;
 - (vi) made by posting on the Bank's website; or
 - (vii) made by insertion in any statement of account which the Bank sends to the Customer.
- (c) The Notices will be deemed to have been received by the Customer:-
- (i) at the time of delivery at the address of the Customer, if delivered by hand;
 - (ii) on the third (3rd) day (including the day of posting) from the date it is posted, even if it is undelivered or returned;
 - (iii) at the time the facsimile transmission is completed;
 - (iv) at the time the electronic mailing is completed;
 - (v) at the time the sending by short messaging system (SMS) is completed;
 - (vi) at the time of posting on the Bank's website; or
 - (vii) at the time the statement of account is deemed to have been received by the Customer.
- (d) The Bank also reserves the right to serve on the Customer any Notice by:-
- (i) advertisement in any one daily newspaper and such Notice will be deemed to have been served on the Customer on the day the advertisement appears in the newspaper regardless of whether the Customer has actually seen the advertisement; or
 - (ii) displaying at any of the Bank's place of business, any of its branches or premises and such Notice will be deemed to have been served on the Customer on the day of such display regardless of whether the Customer have actually seen the displayed notice.
- (e) The Customer must notify the Bank in writing immediately on any change in the address, facsimile number, electronic mail address or mobile phone number of the Customer.
- (f) If the Customer do not inform the Bank of any change in the address, facsimile number, electronic mail address or mobile phone number, the Customer agrees that the Bank may at the Bank's discretion rely on:-
- (i) any address as stated in this Agreement; or
 - (ii) any address, facsimile number, electronic mail address or mobile phone number the Bank obtain from any communication purportedly issued by the Customer to the Bank or last known to the Bank.
- (g) The Bank's rights under this Agreement and the Security Documents are not to be affected by any failure on the part of the Customer and/or the Security Party to notify the Bank of any change in the address, facsimile number, electronic mail address or mobile phone number of the Customer and/or the Security Party.

- (h) Notices from the Customer to the Bank may be sent by personal delivery or ordinary mail.
- (i) Notices by the Customer to the Bank must be duly signed by the Customer or, if permitted by the Bank, the Customer's authorised signatories. The Notices must be served on the Bank at the address specified by the Bank from time to time. Notices are deemed received by the Bank upon actual receipt of the Notices and any additional documents or information which the Bank may require to verify the source of the Notices.

30.2 Legal Process

In addition to and not in substitution of any mode of service that may be permitted or prescribed by any written law in force for the time being, any service of Legal Process by or on behalf of the Bank can be effected on the Customer:

- (a) by leaving a copy at the address as stated in this Agreement or in any communication purportedly issued by the Customer to the Bank or last known to the Bank and it shall be deemed to have been duly received by the Customer on the day it was left at the address; or
- (b) by leaving a copy at the address as stated in this Agreement or in any communication purportedly issued by the Customer to the Bank or last known to the Bank and it shall be deemed to have been duly received by the Customer on the day it was left at the address; or
- (c) by sending a copy via prepaid registered or ordinary post to the address as stated in this Agreement or in any communication purportedly issued by the Customer to the Bank and it shall be deemed to have been duly received by the Customer on the third (3rd) day (including the day of posting) from the date it is posted, even if it is undelivered or returned.

30.3 Agent for Service of Legal Process

- (a) If the Customer resides outside Malaysia or does not have a permanent address in Malaysia (for individuals) or primarily conduct your business outside Malaysia or is a company incorporated outside Malaysia, the Customer is required at all times to appoint and maintain a Process Service Agent in Malaysia to accept service of all Legal Process on behalf of the Customer arising out of or connected to the Facility and the Security Documents. The Customer shall not revoke, cancel or withdraw the authority of the Process Service Agent without having first appointed a new Process Service Agent and notified the Bank in writing of such appointment and promptly delivering a copy of the acceptance by the new Process Service Agent of its appointment.
- (b) If for any reason whatsoever the Process Service Agent no longer serves as the Customer's Process Service Agent, the Customer shall be required to immediately appoint another Process Service Agent and notify the Bank in writing of such appointment and promptly delivering a copy of the acceptance by the new Process Service Agent of its appointment.
- (c) Service on the Process Service Agent shall be effected in the same manner specified in Clause 30.1.

31 SEVERABILITY

If any of the provisions of this Agreement is or becomes invalid or unenforceable, the invalid or unenforceable provision is to be treated as having been deleted and not included in this Agreement. The remaining provisions of this Agreement are to continue to be valid, effective

and enforceable and are not affected in any way by the deletion of the invalid or unenforceable provisions.

32 NON-WAIVER

32.1 Failure / delay / acceptance of money

If upon the occurrence of any default by the Customer or Security Party the Bank fails or delays in exercising or taking any action or omitted to exercise any right, power, privilege or remedy accruing to the Bank under this Agreement or accepted any moneys from the Customer or any Security Party, such failure, delay or omission by the Bank or acceptance of money:-

- (a) shall not be construed as a waiver or an acquiescence by the Bank of any of such default; and
- (b) shall not impair or affect the Bank's subsequent exercise of any of the Bank's right, power, privilege or remedy accrued and/or accruing to the Bank under this Agreement or the Security Documents.

32.2 Action/acquiescence

If the Bank took no action upon the default by the Customer or Security Party or if the Bank acquiesce in any such default by the Customer or Security Party, such inaction or acquiesces by the Bank shall not affect or impair any of the Bank's right, power, privilege or remedy in respect of any other or subsequent default by the Customer or the Security Party.

33 CUMULATIVE REMEDIES

The rights, remedies, powers, and privileges provided under this Agreement are cumulative and are not exclusive of any rights, remedies, and privileges provided by law, in any other agreement between the parties or otherwise.

34 PRESERVATION OF RIGHTS AND ENTITLEMENT

The Customer agrees that, regardless of what is stated anywhere else in this Agreement or the Security Documents, the Bank's rights as stated in this Agreement or the Security Documents will continue to remain in full force and effect and shall survive any cancellation, revocation or suspension of the Facility by the Bank.

35 INCONSISTENCIES

The provisions of this Agreement, including the Schedules are in addition to the terms and conditions contained in the Letter of Offer (which terms and conditions shall be deemed incorporated into this Agreement as if the same are set forth in this Agreement in full). In the event there is any inconsistency between any of the provisions of this Agreement with the Letter of Offer and/or the Schedules:-

- (a) the terms and conditions in the Letter of Offer shall prevail over those terms and conditions in the Schedules; and
- (b) the terms and condition in the Schedules shall prevail over the terms and conditions in this Agreement.

36 UPSTAMPING

- (a) This Agreement and the Security Documents are intended to regulate and secure any further financing to the Customer, and in the event such further financing is made by the Bank, the Bank is hereby duly authorised to pay such additional stamp duty on this Agreement to regulate and secure such further financing at such rate as such additional financing shall attract based on the then prevailing legislations pertaining to stamp duty.
- (b) Notwithstanding anything herein written, the Bank shall also have the right, at any time and from time to time, without any prior notice to the Customer, to upstamp this Agreement to secure also the excess of any Indebtedness due or owing to the Bank for which this Agreement shall for the time being be stamped.
- (c) The cost and expenses of upstamping this Agreement, including any penalty payable, shall form part of the moneys secured by this Agreement and the Security Documents.

37 GOVERNING LAW

This Agreement and the Security Documents are to be governed by and interpreted in accordance with the laws of Malaysia and the Customer agrees that, upon the Customer's acceptance of the Facility, the Customer is deemed to have unconditionally and irrevocably:-

- (a) agreed that any dispute involving this Agreement and the Security Documents may be submitted to the courts of law within and outside of Malaysia;
- (b) agreed not to raise any objection to any dispute being submitted in any particular court of law on the basis that it is not the correct or most convenient court for the dispute to be submitted to;
- (c) consented to the service on the Customer of any demand by the Bank and of any court documents by registered mail or by any other manner allowed by the relevant laws; and
- (d) be bound by any decision or conclusion related to *Shariah* matters pronounced or made by the Bank's Shariah Committee in respect of the Facility.

38 SUCCESSION-IN-TITLE

This Agreement will be binding on the Customer's heirs, personal and legal representatives and successors in title (as the case may be) and, if it is signed by more than one party, the liability of each of the parties signing this Agreement and of their respective heirs, personal or legal representatives and successors in title (as the case may be) to the Bank shall be joint and several and every agreement and undertaking contained in this Agreement will be read and applied accordingly.

39 PRINCIPAL AND SECONDARY INSTRUMENT

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

(The remainder of this page is intentionally left blank)

EXECUTION

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

THE BANK

SIGNED by)
)
 as Attorney for and on behalf of)
UNITED OVERSEAS BANK)
(MALAYSIA) BHD)
(Company No. 271809 K))
 in the presence of:)

THE CUSTOMER

*Signed by)
)
 *for and on behalf of)
 *The Common Seal of)
)
 the aforesaid Customer)
 *was affixed to this document)
 in the presence of:)

.....
 *Authorized Signatory
 Name:
 NRIC No:

.....
 *Director
 Name :
 NRIC No:

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

** Delete where not applicable*

FIRST SCHEDULE

Section 1 Date of this Agreement

Section 2 Address of the Bank

Section 3 Particulars of the Customer

Section 4 Date of Letter of Offer

SECOND SCHEDULE

(Pursuant to Clause 3.1 (a) of this Agreement)

CONDITIONS PRECEDENT

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

(a) Execution:

This Agreement and the Security Documents must have been duly executed, stamped and registered with such registries as the Bank may consider necessary and copies of those documents must have been delivered to the Bank.

(b) Customer's and/or Security Party's Documents:

The Bank must have received, in form and substance acceptable to the Bank copies (in such quantity as may be requested by the Bank) of the following documents, duly certified as true and correct by an authorised officer of the Customer or the Security Party, as the case may be:-

Where the Customer/Security Party is a Company

- (i) the Constitution (where applicable) and the Certificate of Incorporation of the Customer and/or the Security Party and their latest Return for Allotment of Shares, Notification for Change in the Registered Address and Notification of Change in the Register of Directors, Managers and Secretaries or any equivalent form as prescribed under the Companies Act;
- (ii) all authorisations, approvals, and consents required by law including, without limitation, resolutions of the director(s) and/or shareholder(s) of the Customer and/or the Security Party authorising:-
 - (1) the Customer's acceptance of the Facility;
 - (2) the execution of this Agreement and, where applicable, the Security Documents;
 - (3) either the affixing of the Customer's and/or the Security Party's common seal onto this Agreement and, where applicable, the Security Documents or, where appropriate, a named person or persons to sign this Agreement and, where applicable, the Security Documents by hand for and on behalf of the Customer and/or the Security Party; and
 - (4) a named person or persons (whose specimen signatures must be given to and verified by the Bank) to sign documents and to act and to give instructions on the Customer's and/or the Security Party's behalf in respect of the Facility and/or the Security Documents and any changes to the authorised signatories of the Customer and/or the Security Party;

Where the Customer is a Society, a Partnership or Other Unincorporated Body

- (i) all authorisations, approvals, and consents required by law including, without limitation, a resolution or authorisation, in form and substance acceptable to the Bank, made under the Customer's constituent documents approving the matters set out in paragraphs (b)(1) to (4) above; and

- (ii) the certificate of registration of the society, partnership or other type of unincorporated body with the relevant authority and its constituent documents or partnership agreement, as the case may be.

(c) Company Search

If the Customer and/or a Security Party is a company, searches must have been made by the Bank at the Companies Commission of Malaysia and/or the relevant registry in the country of incorporation of the Customer and, where applicable, the Security Party, to verify the particulars of the Customer and/or the Security Party and to confirm that no charges, encumbrances or other Security Interests whatsoever have been registered with the Companies Commission of Malaysia or the relevant registry, as the case may be, over any of the assets, properties or undertakings of the Customer and/or the Security Party.

(d) Winding-up/Bankruptcy Search

The Bank must have received from the Director General of Insolvency, Malaysia, or, if the Customer is not a citizen of Malaysia or is a foreign company, the relevant registry of the country of citizenship/incorporation, the results of the searches made on the Customer and/or the Security Party confirming that the Customer and/or the Security Party has not been wound up or adjudged bankrupt and that no petition or order for the winding up or bankruptcy of the Customer and/or the Security Party has been made or received against the Customer and/or the Security Party.

(e) Evidence of Ownership

The Bank must have received evidence acceptable to the Bank showing that the Security Party has a valid and legal title to the Security and that the Security Party is entitled to create or give the Security in favour of or to the Bank.

(f) Lodgement of Statement of Particulars to be Lodged with Charge

If any of the Security Documents is required by any law to be lodged or registered with the Companies Commission of Malaysia or, in the case of a foreign entity, the relevant registry, the Statement of Particulars to be Lodged with Charge or other applicable forms, as the case may be, must have been so lodged or registered.

(g) No Misrepresentation or Breach of Warranty

There must not have occurred any misrepresentation or breach of any of the warranties contained in this Agreement.

(h) Payment of Fees, Costs and Expenses

All fees, costs and expenses which are due and payable or which have accrued by virtue of this Agreement or any Security Document must have been fully paid and settled.

(i) No Event of Default

No Event of Default and no event which, with the giving of notice or lapse of time or both, would constitute such an Event of Default must have occurred and/or is continuing.

(j) Receipt of Additional Documents, etc

The Bank must have received such other documents, undertakings, confirmations, opinions, certificates, authorisations or assurances as the Bank may in its sole discretion consider necessary.

(k) Receipt of solicitor's Advice

The Bank must have received from the solicitor an advice in writing confirming that the security for the Facility is in place and that the Bank may release the Facility or any part of the Facility.

(l) No Change in Ability to Perform

There must not have occurred any extraordinary circumstance, change of law or change in the financial position of the Customer or the Security Party which, in the sole opinion of the Bank, would affect or prejudice the ability of the Customer or the Security Party to fully perform and discharge its respective obligations under this Agreement or the Security Documents.

(m) No change in Financial, Economic or Political Situation

There must not have occurred any change in the financial, economic or political conditions in Malaysia which, in the sole opinion of the Bank, would make it inadvisable or impractical for the Bank to make or to continue to make available the Facility or any utilisation of the Facility.

(n) Compliance with Operational Requirements

The Customer must have complied with all the Bank's operational requirements to the satisfaction of the Bank.

(o) Compliance with Additional and/or Other Conditions Precedent

If additional and/or other conditions precedent are set out in the Letter of Offer and/or this Agreement, the Customer must have complied with such additional and/or other conditions precedent.

*Insert other CP if any.

THIRD SCHEDULE

(Pursuant to Clause 9.1 (v) of this Agreement)

ADDITIONAL REPRESENTATIONS AND WARRANTIES

FOURTH SCHEDULE

(Pursuant to Clause 10.1 (p) of this Agreement)

ADDITIONAL POSITIVE COVENANTS

FIFTH SCHEDULE

(Pursuant to Clause 10.2 (m) of this Agreement)

ADDITIONAL NEGATIVE COVENANTS

SIXTH SCHEDULE

(Pursuant to Clause 11.1 (ee) of this Agreement)

EVENTS OF DEFAULT

SEVENTH SCHEDULE

(Pursuant to Clause 23.7 of this Agreement)

ADDITIONAL TERMS AND CONDITIONS

1. **Additional terms and conditions if any Security to be provided comprise of immovable property**

1.1 All moneys payable on the property which is charged or assigned to the Bank, such as quit rent, assessment rates and maintenance, sewerage and utilities charges, sinking funds, takaful contribution/insurance premium must be paid up to date; the Customer must submit proof of payment to the Bank every year.

1.2 The Customer shall adequately cover/insure or cause to be adequately covered/insured at all times any landed property charged or assigned to the Bank on a full reinstatement value basis up to its full cover/insurable value against loss or damage by fire, lightning, tempest, flood, riot, civil commotion, malicious acts and strikes, landslides, earth movement, subsistence and such other risks as the Bank may from time to time require with a takaful operator/insurance company acceptable to the Bank in the name of the Customer or, where applicable, the Security Party, with the endorsements below on the takaful certificate/insurance policy and deposit or cause to be deposited with the Bank a certified true copy of the takaful certificate/insurance policy effected under this clause together with the evidence of payment of the current takaful contribution/premium payable under such certificate/policy:-

- (a) that the Bank as the chargee, assignee and loss payee; and
- (b) that the interests of the Bank under the policy shall not be invalidated by any one or more of the following:-
 - (i) act or neglect of the Customer or, where applicable, the Security Party as owner of the property;
 - (ii) any foreclosure or other proceedings or notice of sale relating to the property;
 - (iii) any change in the title or ownership of the property; or
 - (iv) the occupation of the property for the purposes more hazardous than what is permitted by the certificate/policy

provided that in case the Customer or, where applicable, the Security Party as owner of the property neglect to pay any contribution/premium due under the certificate/policy, the Bank shall on demand pay the same. Additionally, if so required by the Bank, the Customer or, where applicable, the Security Party shall also keep covered/insured the whole or any parts of the property and effects included in the property charged or assigned to the Bank of an cover/insurable nature against loss or damage by fire and all other such risks and contingencies

Such takaful certificate/policy shall also provide that the takaful operator/insurer must give reasonable written notice to the Bank if the takaful operator/insurer cancels the takaful certificate/policy or refuses to renew it. If the Customer and/or person covered/insured has failed to pay the contribution/premium, the takaful operator/insurer must notify the Bank at least ten (10) days in advance before canceling the takaful certificate/policy. If the takaful operator/insurer cancels the takaful certificate/policy for any reason other than non-payment of the contribution/premium, it must provide thirty (30) days' advance notice to the Bank. Should the takaful operator/insurer decide not to renew the takaful certificate/policy, it must provide the Bank ten (10) days' notice.

The Customer or, where applicable, the Security Party shall deposit and cause to be deposited with the Bank a copy of the takaful certificates/insurance policies and will from

time to time pay all contribution/premium to ensure the effectiveness of the takaful certificates/insurance policies and deliver the relevant receipts to the Bank.

- 1.3 If the property charged or assigned to the Bank is:-
- (a) landed residential property, a House owner's Policy/Certificate shall be effected by the Customer;
 - (b) landed commercial or industrial property, a Fire Policy/Certificate shall be effected by the Customer; and
 - (c) covered by the Strata Titles Act 1985, the Customer or, where applicable, the Security Party shall give to the Bank proof that the building comprising and including the property securing the Facility is covered/insured against fire and such other risks as prescribed in the Strata Titles Act 1985 for its full reinstatement value

and if the Bank is not in receipt from the Customer or, where applicable, the Security Party of such proof, a House owner's Policy/Certificate shall be effected by the Customer or, where applicable, the Security Party. Notwithstanding the provision herein, in the event the Customer or, where applicable, the Security Party does not effect, maintain or renew any such takaful/insurance stated above, the Bank can (but is not obliged to), at the Customer's or, where applicable, the Security Party's cost and expense, effect, maintain, or renew any such takaful/insurance as the Bank may think fit.

- 1.4 Without affecting the provisions above (and whether or not the Customer is in default), the Customer agrees that if the Bank in its absolute discretion consider necessary, the Customer authorizes the Bank to take out, maintain or renew the takaful/insurances referred to above and:-
- (a) all moneys and expenses incurred by the Bank with compensation shall form part of the Facility and Indebtedness be payable to the Bank on demand by the Bank; and
 - (b) any commission which may be paid to the Bank as a commission agent of the takaful operator/insurance company belongs to the Bank.

For the avoidance of doubt, the Customer or, where applicable, the Security Party agrees that:-

- (a) unless requested or consented to by the Bank, the Customer or, where applicable, the Security Party will not take out or keep on foot any takaful/insurance against any risk in respect of the property, fixture, structures, premises, and effects where the Bank or the Customer or, where applicable, the Security Party has effected or kept on foot any such takaful/insurance; and
 - (b) the Bank shall not be held liable to the Customer and/or the Security Party for anything whatsoever if the Bank took out or fails to take out, maintain, renew or increase any such takaful/insurance or otherwise.
- 1.5 The Bank can at its discretion require all monies received on any takaful/insurance of the property and effects, whether effected by the Bank or by the Customer and/or the Security Party, to be applied:-
- (a) in or towards making good the loss or damage in respect of which the money is received if it is decided by the joint management body or management corporation that the property is to be reinstated; or
 - (b) at the option of the Bank, in or towards the discharge of any Indebtedness if it is decided by the joint management body or management corporation that the property is not to be reinstated

The Customer and/or the Security Party shall ensure that all takaful/insurance proceeds received pursuant to the takaful certificate/policy referred to above are applied as above unless the Bank shall decide otherwise. If the takaful/insurance proceeds is paid to or

received by the Customer or the Security Party, such takaful/insurance proceeds shall be held by the Customer and/or the Security Party in trust for the Bank

- 1.6 The Customer must not renovate or refurbish the property without first obtaining the Bank's written consent. The Bank has the right not to give its consent. If the Bank gives its consent, the Bank has the right to impose such terms and conditions as the Bank deems fit which may include the Customer taking up of a Contractors' All Risk Certificate/Policy for the renovation or refurbishment work before the start of the work with a takaful operator/insurance company appointed by the Bank and with the Bank named as chargee and loss payee. If the Customer does not give the Bank proof acceptable to the Bank that the Customer has taken up the Certificate/Policy, the Bank may arrange for takaful/insurance coverage at the Customer's expense by debiting the Customer's account.
- 1.7 The Customer and/or the Security Party shall, if at any time required by the Bank at its absolute discretion, take up and maintain a takaful over the life of the Customer and/or the Security Party or life assurance policy and/or any other certificate/policy guaranteeing the payment of the Indebtedness, whether absolute and/or on the happening of a contingency, and to assign to the Bank such certificate/policy and all connected benefits and advantages as further security for the Indebtedness.

If the Customer and/or the Security Party fails to take up and maintain the takaful certificate/insurance policy above and assigning the same when required, the Bank can at its absolute discretion and at the costs and expense of the Customer and/or the Security Party, take up and maintain a certificate/policy guaranteeing the payment of the Indebtedness on such terms as the Bank thinks fit and such costs and expenses incurred by the Bank shall be payable by the Customer and/or the Security Party with late payment charges (*Ta'widh*) as specified in this Agreement and until payment will form part of the Indebtedness.

The Customer and/or the Security Party will allow all takaful certificates/insurance policies and the receipts or other evidence of payment of contribution/premium to be kept by the Bank. The Customer and/or the Security Party will when required deliver or produce to the Bank or to such persons designated by the Bank, any takaful certificate/insurance policy effected by the Customer and/or the Security Party and the receipt or other evidence of payment of the current contribution/premium for the certificate/policy.

- 1.8 If the property is charged or assigned to some other party, the Bank has the right to use the Facility or any part of it to pay the redemption sum to redeem the property. If the Bank exercises this right, the acknowledgement or receipt of that other party will be binding on the Customer as if it was the Customer who had received payment from the Bank.
- 1.9 The Bank also has the right to use the Facility or any part of it to pay the balance of the purchase price of the property to the vendor who sold the property to the Customer or the Security Party. If the Bank exercises this right, the acknowledgement or receipt of that other party will be binding on the Customer as if it was the Customer who had received payment from the Bank.

2. **Bank's right to withhold release**

The Bank shall cease to be under any obligation or commitment to grant the Facility if at any time:-

- (a) before the release of the Facility, the Bank decides, at its sole discretion, that the granting of the Facility would likely to be detrimental to its own position or otherwise undesirable; or
- (b) before the full release of the Facility, the Bank decides, at its sole discretion, that any condition precedent or additional term or condition for any release or further release of any part of the Facility has not been fulfilled to the Bank's satisfaction.

APPENDIX 1

COPY OF THE LETTER OF OFFER