

# UOB BIZMONEY TERMS AND CONDITIONS

These UOB BizMoney Terms and Conditions (“Terms and Conditions”) will govern the UOB BizMoney loan (“the Loan”) which we grant or may grant to you in your capacity as borrower. These Terms and conditions have revision on clause 3.2.

Updates as of 15 Apr 2016, this version shall take effect from 5 May 2016.

## 1.0 DEFINITIONS AND INTERPRETATION

- 1.1 “Applicable Laws” means all relevant or applicable statutes, laws, rules, regulations, guidelines, directives and circulars (whether issued by any court, tribunal, government body or authority or self-regulatory organizations with jurisdiction over us or any other person within our Group).
- 1.2 “Application Form” means the application form prescribed by us for submitting an application for Loan.
- 1.3 “Approval Letter” means the letter to be issued by us to you approving your application for the Loan.
- 1.4 “Associated Party” means any of the following:-
  - (a) your director;
  - (b) your shareholder;
  - (c) a company of which any of your directors is a director or a shareholder;
  - (d) a company of which any of your shareholders is a shareholder or a director;
  - (e) your parent or holding company;
  - (f) your subsidiary company;
  - (g) a company of which you are directly or indirectly a shareholder;
  - (h) a partnership of which you are a partner;
  - (i) a sole-proprietorship of which you are a proprietor;
  - (j) a company of which you are a director;
- 1.5 “Authorised Person” means any person you authorise (either alone or collectively), and approved by us, to operate your account, and to act on your behalf in giving instructions, to perform any acts under an agreement between you and us, or to use any facility, product or service we make available to you.
- 1.6 “Code” means the Internal Revenue Code of 1986 issued by the US.
- 1.7 “Event of Default” means any of the events or matters specified in Clause 9.2.
- 1.8 “FATCA” means sections 1471 through 1474 of the Code and the regulations and other guidance issued under the Code, each as amended from time to time (commonly known as the Foreign Account Tax Compliance Act) (“FATCA”) or any other agreement entered into with or between authorities for the implementation of FATCA.
- 1.9 “Group” means our branches, agencies, representative officers, affiliated, associated or related corporations, and their respective officers, servants or agents, whether in Malaysia or elsewhere, and includes us.
- 1.10 “Legal Process” may 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 1965 and the Bankruptcy Act 1967.

- 1.11 "Personal Data" may include, but is not limited to, your name, address, occupation, contact details, information captured on security systems (including a recording of your image on Closed Circuit Television (CCTV)), the information contained in any of your accounts you may have with us either singly or jointly with any other person, the type of products and/or services that you have subscribed to with us and such other necessary data regarding yourself and your transactions with us.
- 1.12 "Process Service Agent" means an agent appointed by you and who has accepted your appointment, to accept service on your behalf of all Legal Process arising out of or connected to the Loan and/or security documents;
- 1.13 "Sanctions" means the sanctions, embargoes or restrictive measures administered, enacted or enforced by any government, governmental institutions or agencies, regulator or authority.
- 1.14 "Security Party" means any person providing guarantee or security in exchange for our granting to you the Loan.
- 1.15 "Statement of Account" refers to the following:
  - (a) the advance notice on instalment due that we will issue to you every month, showing the total amount payable by you for the Loan on or before the due date stated in the advance notice; and
  - (b) the statement we will issue to you every year, showing the total outstanding balance under the Loan, payments made by you towards settlement of the Loan and interest, fees and charges incurred (if any).
- 1.16 "US" means United States of America.
- 1.17 "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 Code. 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).
- 1.18 "We", "our" and "us" refers to United Overseas Bank (Malaysia) Bhd. (Co. No. 271809-K).
- 1.19 "You" and "your" refers to the applicant for the Loan in the Application Form.

## **2.0 GENERAL**

- 2.1 To apply for the Loan, you must complete and submit the Application Form to us. You agree that we have the right not to approve any application for the Loan at our discretion and are not under any obligation to give any explanation or reason or prior notice to you if your application is rejected or not approved.
- 2.2 The amount and tenure ("Tenure") of the Loan will be the amount and tenure approved by us at our absolute discretion, but which will not exceed the amount and tenure you applied for. You agree to accept such amount and tenure of the Loan approved by us.

- 2.3 The purpose of the Loan is restricted to business use.
- 2.4 We will issue an Approval Letter to you once we have approved the Loan. The contents of the Approval Letter will form part of the Terms and Conditions which will govern the Loan.
- 2.5 In addition to the terms and conditions set out in Clause 16.3, the following conditions must have been fulfilled before we disburse the Loan unless we have waived all or any of such conditions:-
- (a) we have received the guarantee signed by the persons whom we require to be guarantors;
  - (b) the insurance policy which we require to be taken up has been approved by the insurer; and
  - (c) we have received a letter of consent acceptable to us from Syarikat Jaminan Pembiayaan Perniagaan Berhad consenting to you obtaining the Loan (applicable if you have existing facilities under Working Capital Guarantee Scheme 1, Working Capital Guarantee Scheme 2 and Industry Restructuring Financing Guarantee Scheme).

If the conditions set out in Clause 2.5 are not fulfilled within one (1) month from the date of the Approval Letter or such extended time as we may grant, we have the right to cancel the Loan.

- 2.6 Upon fulfillment of the conditions for disbursement of the Loan, we will then create a loan account ("Account") in your name.
- 2.7 We will deduct the stamp duty, insurance premium and any other fees or charges imposed or incurred by us at any time, from the Loan before crediting the balance into the current account with us which you specified in the Part 1 of the Standing Order Payment Instruction on Loan form ("Nominated Account"). At the same time, the Loan will be debited to your Account.
- 2.8 We will not be responsible for any charges, loss, damages or liability of any kind you may experience because of any delay or failure by us in approving any applications or transmitting the Loan to your Nominated Account or cancelling the Loan.
- 2.9 You must repay the Loan by monthly instalments of principal and interest throughout the Tenure, or until the Loan and all interest and other monies payable under the Loan have been fully repaid.
- 2.10 The monthly instalment amount and the commencement of the monthly instalment payment will be stated in the Approval Letter. We can change the monthly instalment amount and Tenure at any time at our absolute discretion by providing you twenty one (21) days' prior notice.
- 2.11 The monthly instalments are payable even if you do not withdraw any of the Loan that was credited or transmitted into your Nominated Account.
- 2.12 You can effect payment in any of the following manner or any other manner we approve of from time to time, at our absolute discretion:-
- (i) at any of our cash deposit machines;
  - (ii) at any of our cheque deposit machines;

- (iii) through Interbank Giro;
- (iv) through our business internet banking services;
- (v) at any automatic teller machines;
- (vi) at any of our branches;
- (vii) by posting a cheque, bank draft or money order to the address stated in the Loan payment slip;
- (viii) through standing instruction from one of your accounts maintained with us.

2.13 Your payments will not be considered to have been made until we deem that the funds have been properly received. Any payment received from you in respect of the Loan will be credited into the Account.

### 3.0 INTEREST CHARGES

3.1 Interest on the Loan will be charged at the flat rate stated in the Approval Letter ("Prescribed Rate").

3.2 The following interest rate (or any other rate we may impose at any time at our absolute discretion), to be calculated on daily rests ("Default Interest Rate"), will be charged on monies outstanding and payable to us, including interest, fees, commission and charges not paid when due:

1% per annum above the Effective Interest Rate on any overdue installment, subject to minimum of RM10.00 (or any other minimum sum as we may decide at any time at our absolute discretion).

3.3 The Default Interest Rate will be charged from the date of default until the date of full payment, both after and before any demand or judgment, and even if the banker-customer relationship may have ended.

3.4 In the event that an Event of Default occurs, the applicable interest rate (or any other rate we may impose at any time at our absolute discretion) which we will charge on the Newly Adjusted Outstanding Balance (as defined in Clause 3.7 below) will be as follows, calculated on a daily rests basis ("Recall Interest Rate"):-

1% per annum above the Effective Interest Rate on the Newly Adjusted Outstanding Balance minus any payment made by you towards the settlement of the Loan after an Event of Default has occurred.

3.5 The Effective Interest Rate is calculated as follows:

$$\text{Effective Interest Rate} = \frac{2NF(300C + NF)}{2N^2F + 300C(N+1)}$$

Where: **N** = Total number of instalments in the Tenure  
**C** = Number of instalments that will be paid in a year  
**F** is determined by the following formula:-

$$F = \frac{100C \times T}{N \times A}$$

Where: **C** = Same as above  
**T** = Total interest payable on the Loan under the Tenure.  
**N** = Total number of instalments in the Tenure  
**A** = Loan amount.

- 3.6 The total interest charged in accordance with Clause 3.4 will be compounded at the end of each month ("Compounded Interest") and such Compounded Interest will be included in the computation of the Newly Adjusted Outstanding Balance for the following month.
- 3.7 The Newly Adjusted Outstanding Balance is the total of the following:-
- (a) The Loan minus previous monthly instalments (exclusive of charges and interest);
  - (b) The monies outstanding and payable to us under the Account including the outstanding monthly instalments, interest, fees, commission and charges not paid when due as at the date that the Event of Default occurs;
  - (c) The Compounded Interest for the previous month, if any.
- 3.8 The Recall Interest Rate will be charged from the date that the Event of Default occurs until the date of full payment, both after and before any demand or judgment, and even if the banker-customer relationship may have ended. This does not affect our right to require payment of the monies due.
- 3.9 We can change any of the interest rates at any time at our absolute discretion by giving you twenty one (21) days' notice.

#### **4.0 PREPAYMENT/CANCELLATION**

- 4.1 You cannot prepay or cancel the Loan without our consent, which may be given or withheld at our absolute discretion.

#### **5.0 EARLY SETTLEMENT**

- 5.1 You can settle the Loan in full before the end of the Tenure by giving us one (1) month's written notice (or such other notice period as we may decide at any time at our absolute discretion), or by paying the interest for the notice period in lieu of notice.
- 5.2 An early settlement fee of 3.0% (or any other rate as we may decide at any time at our absolute discretion) will be charged on the approved loan limit, subject to a minimum of RM5,000.00 (or any other minimum sum as we may decide at any time at our absolute discretion).
- 5.3 The total amount you must pay to us on early settlement of the Loan will be the aggregate of the following:
- (a) The balance still to be paid under the original Tenure and instalments.
  - (b) The amount payable under Clause 5.2.
  - (c) Any other sum due and payable to us under the Loan or otherwise, less a rebate for early settlement ("Rebate"). The Rebate is calculated as follows (or based on another formula as we may decide at any time at our absolute discretion):

$$\text{Rebate} = \frac{C * r(r+1)}{t(t+1)}$$

Where: **C** = Interest payable for the whole Tenure

**r** = Number of remaining months of the Tenure from date of first disbursement

**t** = Whole Tenure in months

## 6.0 REPRESENTATIONS AND WARRANTIES

6.1 Our acceptance of your application for the Loan is in reliance on the following representations and warranties made by you all of which must be complied with in all material respects throughout the subsistence of the Loan:-

- (i) you have the full capacity and authority to accept and agree to the terms governing the Loan (as set out in the Application Form, these Terms and Conditions and the Approval Letter).
- (ii) you have all authorisations, consents, licenses or approvals (whether under Applicable Laws or otherwise) required to accept and agree to these Terms and Conditions, to execute the Application Form, to apply for the Loan and to perform your obligations under these Terms and Conditions.
- (iii) each Security Party has the power, right and capacity to execute, deliver and perform the terms of the guarantee.
- (iv) the Application Form and the guarantee, when executed, will constitute your and the Security Party's legal, valid and binding obligations enforceable in accordance with their respective terms.
- (v) there are no litigation (whether civil or criminal) arbitration or administrative proceedings pending, on-going or threatened against you or any Security Party.
- (vi) that you have filed all tax returns which you 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 you or upon your properties, assets, businesses and incomes;
- (vii) no Event of Default has occurred or is continuing or will occur as a result of us making available the Loan to you.
- (viii) all the information given by you and the Security Party to us in connection with the Loan do not contain any untrue or misleading statement or omit to state any fact 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.
- (ix) you and/or the Security Party are not involved in any illegal activities and all moneys paid to us are not derived in any way from illegal activities.
- (x) you and the Security Parties are not:-
  - (1) nationals of any country which is subjected to Sanctions;
  - (2) entities incorporated under the laws of or owned or controlled (directly or indirectly) by a person located in or organized under the laws of a country which is subjected to Sanctions; or
  - (3) 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.

- 6.2 You agree that each of the above representations and warranties shall continue to be true and correct in all respects with reference to the prevailing circumstances so long as the Loan or any part of it remains outstanding and unpaid.

## **7.0 INFORMATION REQUEST**

- 7.1 You must provide and disclose to us within such time prescribed by us, any information which we deem necessary in order to:-
- (a) 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);
  - (b) manage money-laundering risk or terrorism-financing risk or economic and trade sanctions risk; and/or
  - (c) conduct and be satisfied with the results of all necessary “know your customer” or other similar procedures under Applicable Laws.
- 7.2 Pending our receipt of the information from you and until we have verified the information to our satisfaction, we are not obliged to proceed with any transactions or disbursements.
- 7.3 You declare and undertake to us that the processing of any transactions will not breach any laws or Sanctions of Malaysia or any other country. We 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 you.

## **8.0 REORGANISATION OR CHANGES IN SHARE CAPITAL OR MEMORANDUM AND ARTICLES OF ASSOCIATION**

- 8.1 You must not without our prior written permission, undertake or allow any reorganisation, amalgamation, reconstruction, take-over, reduction or alteration to your authorized or issued and paid share capital, substantial change of shareholders or your management or any other schemes of companies or arrangement affecting your present constitution or residential status or amend or alter any of the provisions in your Memorandum and Articles of Association relating to your borrowing powers and principal business activities.

## **9.0 EVENTS OF DEFAULT**

- 9.1 If any of the events listed in Clause 9.2 (each an “Event of Default”) occur:-
- (a) we will not be under any further obligation and/or commitment to you in relation to the Loan;
  - (b) all monies and interest then owing to us under the Loan and any other monies owing to us by you will become immediately payable on demand by us;
  - (c) we will immediately become entitled to recover those monies with interest at the Default Interest Rate; and
  - (d) we will be entitled to exercise any right and power:-

- (i) which we may have upon an Event of Default by virtue of these Terms and Conditions and the guarantee; and
- (ii) which may be available to us in law,

without any previous notice to you.

9.2 The following are the Events of Default:-

- (a) if you fail to pay on any due date any money which you should be paying to us or if you fail to discharge any obligation or liability owing to us;
- (b) if you, or any Security Party, fails to observe, perform or comply with these Terms and Conditions or the terms in the Approval Letter, Application Form or guarantee;
- (c) if any representation, warranty or undertaking made to us by you and/or any Security Party is or will become incorrect or misleading in a material respect;
- (d) if you, or any Security Party die or become insane;
- (e) if you, or any Security Party, become bankrupt or insolvent, or allow any judgment to remain unsatisfied for a period of twenty one (21) days;
- (f) if you, or any Security Party, commit any act of bankruptcy or is/are unable to pay your or its debts, as the case may be, or suspend the payment of your or its debts, as the case may be, or enter into any composition or arrangement with or for the benefit of your or its creditors, as the case may be;
- (g) if any resolution is passed, or if a petition is presented against you, or any Security Party:
  - (i) for 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 or a similar official is appointed for all or a substantial part of your assets or the assets of any Security Party;
- (i) if execution or any form of recovery or enforcement action is levied or taken against any of your assets or the assets of any Security Party;
- (j) if you, or any Security Party, stops or threatens to stop carrying on your or the Security Party's business, as the case may be;
- (k) if you, or any Security Party, changes or intends to change the nature or scope of your or the Security Party's business as is presently conducted, as the case may be;
- (l) if you, or any Security Party, transfers or disposes of or intends to transfer or dispose of a substantial part of your or the Security Party's assets, as the case may be;
- (m) in our opinion, there is a change or threatened change in:-
  - (i) circumstances which would materially and adversely affect your or any Security Party's business or financial condition, your or any Security



Party's ability to perform any of your or the Security Party's obligations under these Terms and Conditions or the guarantee; or

- (ii) circumstances in relation to you, any director or member of the management board or any direct or indirect shareholder that could, in our opinion, expose us to the risk of loss or reputation or regulatory action in any country; or
  - (iii) your or any Security Party's status as a Malaysian citizen or resident or resident controlled company, as the case may be; or
  - (iv) your shareholders, shareholding structure, directors or management, if you are a company; or
  - (v) the shareholders, shareholding structure, directors or management of any Security Party, if it is a company;
- (n) if a notice or proposal for compulsory acquisition of any of your or any Security Party's property(ies) is issued or made under any law;
  - (o) if you, 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 relevant authority having jurisdiction over us;
  - (p) if any of your or the Security Party's accounts is redesignated or closed by us for any reason;
  - (q) if you, any Security Party or any Associated Party, fails to discharge any obligation or liability to us or to any other person;
  - (r) if you, any Security Party or any Associated Party, commits a default in any loan, facility or similar arrangement with any person (including us) which gives the right to the creditor concerned (including us) the right to demand repayment of the loan, facility or arrangement before its due date, to withdraw the loan, facility or arrangement; or to enforce the security for the loan, facility or arrangement;
  - (s) if there is a default in the payment of any moneys under the account of any other person for whom you, any Security Party or any Associated Party, are providing security;
  - (t) there is any litigation (whether civil or criminal), arbitration or administrative proceedings pending, on-going or threatened against you or any Security Party;
  - (u) your credit rating as determined by us has deteriorated;
  - (v) if we suspect or have reasons to believe that the Loan or any part of it is used for any unlawful activity;
  - (w) there is any investigation by the police or regulators pending, on-going or threatened against you or any Security Party;
  - (x) if you or any Security Party have been charged or convicted for any criminal offences or have any criminal records;
  - (y) if there is any report lodged against you or any Security Party under the Anti-Money Laundering and Anti-Terrorism Financing Act 2001;

- (z) if we decide, at our absolute discretion, that the continuation of the Loan may be detrimental to our own position or that our security position could be in jeopardy and our discretion is final and is not subject to query by you.
- 9.3 You cannot use the any part of the Loan for any unlawful activities. If we find, suspect or have reasons to believe that any part of the Loan has been or is being used for any unlawful activity, we may take any actions we consider appropriate in order for us to meet any obligation or requirement in Malaysia or elsewhere in the world in connection with the prevention of any unlawful activity including but not limited to fraud, money laundering, terrorist activity, bribery, corruption or tax evasion or the enforcement of any economic or trade sanction. The actions we may take include immediately closing the Account, making reports and taking such other actions as we may deem appropriate.

## **10.0 NOTICES AND COMMUNICATIONS**

- 10.1 You must maintain a permanent local correspondence address in Malaysia.
- 10.2 Any notice, demand, request or communication (other than Legal Process) that we send to you may be:-
- (a) delivered by hand to your address as stated in the Application Form or such other address last known to us;
  - (b) sent by post (registered, AR registered, ordinary or otherwise) to your address as stated in the Application Form or such other address last known to us;
  - (c) sent by facsimile transmission to the facsimile number last known to us;
  - (d) sent by electronic mail to the electronic mail address last known to us;
  - (e) sent by short message system (SMS) to the mobile phone number last known to us;
  - (f) communicated to you by posting on our website; or
  - (g) communicated to you by insertion in any Statement of Account which we send to you.
- 10.3 The said notice, demand, request or communication will be deemed to have been received by you:-
- (a) at the time of delivery at your address, if delivered by hand;
  - (b) on the third (3<sup>rd</sup>) day (including the day of posting) from the date it is posted, even if it is undelivered or returned;
  - (c) at the time the facsimile transmission is completed;
  - (d) at the time the electronic mailing is completed;
  - (e) at the time the sending by short message system (SMS) is completed;
  - (f) at the time of posting on our website; or

- (g) at the time the Statement of Account is deemed to have been received by you.
- 10.4 We will not be responsible for what may happen to notices, demands, requests or communications after they are sent, for example if any notice, demand, request or communication is delayed, intercepted, lost, fails to reach or is disclosed to any during transit.
- 10.5 We also reserve the right to serve on you any notice in connection with the Loan by advertisement in any one daily newspaper and such notice will be deemed to have been served on you on the day the advertisement appears in the newspaper regardless of whether you have actually seen the advertisement.
- 10.6 Changes in contact details:-
  - (a) You agree to notify us immediately of any change in your correspondence, mailing, residential or business address and your contact information ("Information").
  - (b) If you do not inform us of any change in your Information, you agree that we may at our absolute discretion, rely on:-
    - (i) any address and/or contact information stated in the Application Form or any other address and/or contact information as reflected in our records; or
    - (ii) any address and/or contact information we obtain from any communication purportedly issued by you to us.
- 10.7 Any failure by you to notify us of a change of your Information resulting in delay or the non-delivery of any Statement of Account, correspondence and/or notice will not prejudice our rights and entitlement under these Terms and Conditions.

## **11.0 DISCLOSURE**

- 11.1 You agree and consent that we (including our officials, employees, agents or any other persons to whom we grant access to our records, correspondence or any material relating to you or your Loan) can disclose at any time at our absolute discretion without notifying you, any information relating to you, your accounts with us, any of your Authorised Persons, this Loan and these Terms and Conditions, to the following persons:-
  - (a) any one or more of the members of the Group, for any of the following purposes:-
    - (i) providing you with banking services;
    - (ii) reporting;
    - (iii) data matching;
    - (iv) improving and furthering the provision of other services by us to you;
    - (v) fraud or crime prevention;
    - (vi) investigating, preventing or otherwise in relation to money laundering and criminal activities;
    - (vii) debt collection;
    - (viii) outsourcing our operations;
    - (ix) performance of duties as our officer or in connection with the conduct of audit or the performance of risk management;
    - (x) facilitating our performance or any members of the Group's functions;

- (xi) compliance with the Group's policies, guidelines, directives or requirements;
  - (xii) corporate exercise;
  - (xiii) any legal process initiated by or served on us;
- (b) any person for or in connection with any action or proceeding taken to recover monies due and payable by you to us under these Terms and Conditions;
  - (c) any person, whether in Malaysia or elsewhere, who provides electronic or other services to us for the purpose of providing, updating, maintaining and upgrading the said services, including but not limited to investigating discrepancies, errors or claims;
  - (d) any person, whether in Malaysia or elsewhere, which we engage for the purpose of performing or in connection with the performance of services or operational functions which have been out-sourced;
  - (e) the police or any public officer conducting an investigation in connection with any offence including suspected offences;
  - (f) credit card companies and financial institutions in connection with credit card enquiries;
  - (g) other banks, financial institutions, credit bureau, credit reporting or credit reference agents (only for credit information);
  - (h) our auditors, solicitors, and professional advisors;
  - (i) our stationery printers, vendors of the computer systems we use, and to such persons installing and maintaining them and other suppliers of goods or service providers we engage;
  - (j) any credit bureau of which we are a member, and any other members and/or compliance committee of such credit bureau;
  - (k) any rating agency, business alliance partner, insurer or insurance broker or direct or indirect provider of credit protection;
  - (l) any actual or potential participant or sub-participant in relation to any of our obligations under the banking agreement between you and us, or assignee, novatee or transferee (or any officer, employee, agent or adviser) of any of them;
  - (m) any court, tribunal or authority, whether governmental or quasi-governmental with jurisdiction over us or any members of the Group;
  - (n) any person to whom we or any members of the Group is permitted or required to disclose to under the law of any country;
  - (o) any other person to whom such disclosure is considered by us to be in our interest, or the interest of any members of the Group (not applicable to strategic alliance for marketing and promotional purpose);
  - (p) any person connected to the enforcement or preservation of any of our rights under these Terms and Conditions and the guarantee;

- (q) any person connected to the enforcement or preservation of any of our rights under these Terms and Conditions and the guarantee;
- (r) any Security Party; and
- (s) any of your directors.

## **12.0 COMPLIANCE WITH COURT ORDERS**

- 12.1 We and the Group can act in any way we see fit, without consulting you beforehand, if we are served with a court order issued by a court of any jurisdiction. You agree that you will not hold us liable for any loss or damage in connection with our actions.

## **13.0 SEARCHES**

- 13.1 We may but are not obliged to conduct bankruptcy/winding up searches or credit related searches from any credit reference agencies, database or system on any person before and at any time after the disbursement of the Loan.
- 13.2 You consent, and will procure the consent of your directors, shareholders, officers or Authorised Persons and each Security Party, to us to carry out such searches on you and/or your directors, shareholders, officers or Authorised Persons and each Security Party to the extent permitted by the law.
- 13.3 All charges incurred in connection with the above searches will be borne by you.

## **14.0 DATA PROTECTION**

- 14.1 You hereby confirm that you have received, read, understood and agreed to be bound by the Privacy Notice issued by us (which is available at our branches as well as at our website at [www.uob.com.my](http://www.uob.com.my) and the clauses in these Terms and Conditions as may relate to the processing of your and/or Authorised Person's Personal Data. For the avoidance of doubt, you agree that the said Privacy Notice shall be deemed to be incorporated by reference into these Terms and Conditions.
- 14.2 You agree and consent that we may transfer the Personal Data outside of Malaysia. All Personal Data held by us 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.
- 14.3 In the event you provide Personal Data relating to third parties, including data relating to your next-of-kin and dependents (where you are an individual) or data relating to your directors, shareholders, officers, individual guarantors and security providers (where you are a corporation), for the purpose of opening or operating your accounts or facilities with us or otherwise subscribing to our products and services, you:
- (a) confirm that you have obtained their consent or are otherwise entitled to provide this data to us and for us to use it in accordance with these Terms and Conditions;
  - (b) undertake that you have informed the said third parties to read the Privacy Notice at our website [www.uob.com.my](http://www.uob.com.my);
  - (c) have informed the said third parties:-

- (i) that we may collect or verify their personal and financial data with third party sources;
  - (ii) that we may disclose their personal data to classes of third parties described in our Privacy Notice;
  - (d) agree to ensure that the personal and financial data of the said third parties is accurate;
  - (e) agree to update us in writing in the event of any material change to the said personal and financial data; and
  - (f) agree to our right to terminate these Terms and Conditions should such consent be withdrawn by the said third parties.
- 14.4 Where you instruct us 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 us and/or our agents to enter into any cross-border transaction on your behalf, you agree to the above said disclosures on behalf of yourself and others involved in the said cross-border transaction.
- 14.5 Additionally, but always subject to any laws (including regulations, guidelines and/or obligations) applicable to the Group (whether in or outside Malaysia), you agree that the Group, and our merchants and strategic partners may contact you about products, services and offers, which we believe may be of interest to you or benefit you financially. Notwithstanding the foregoing, we will only disclose your personal data (excluding data relating to your affairs or account) with our merchants and strategic partners where your express prior consent has been obtained.
- 14.6 You may choose not to receive any direct marketing materials from the Group by writing in to us at 'Personal Financial Services, P.O. Box 13525, Menara UOB, Jalan Raja Laut, 50738 Kuala Lumpur' (or such other address notified by us) with your request and we will abide by your latest written instructions to us.
- 14.7 You acknowledge that certain communications such as statements of account and our websites contain standard information regarding our other products and services that cannot be removed without affecting the delivery/provision of our services and/or products, the operation of your accounts and/or facilities with us, and/or without imposing additional costs to you.
- 14.8 You are entitled to request in writing:
- (a) for any information in relation to your Personal Data that we hold or store, upon payment of a prescribed fee;
  - (b) for any information held or stored by us to be updated, amended and/or corrected;
  - (c) for us to limit the processing of your Personal Data held or stored by us; and
  - (d) to make an enquiry or complaint in respect of our processing of your Personal Data.

For requests under (a) or (b), you may make a request to us via our Data Access Request Form or Data Correction Request Form respectively. These forms are available at our branches as well as at our website at [www.uob.com.my](http://www.uob.com.my).

You may direct all your requests to any of our branches or 'Customer Communications Management, UOB Call Centre, P.O. Box 11212, Menara UOB, Jalan Raja Laut, 50738 Kuala Lumpur'.

We may charge a fee for processing your request for access or correction. We may also refuse to comply with your request in respect of (a) or (b) above if the information supplied by you is insufficient (as determined by us) or where such request may breach or violate any law or regulation or any other reason which we deem not to be in our interest to do so. If we refuse to comply with such request, we will inform you of our refusal and reason for our refusal.

- 14.9 You are responsible for ensuring that the information you provide us is accurate, complete and not misleading and that such information is kept up to date.
- 14.10 Please note that if you subsequently withdraw your consent to process your Personal Data as given earlier to us, as we will not be able to process and/or disclose your Personal Data in relation to the purposes set out in the Privacy Notice, we 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.
- 14.11 We reserve the right to amend this clause from time to time at our sole discretion and shall provide prior notification to you in writing and place any such amendments on our websites or by placing notices at the banking halls or at prominent locations within our branches or by such other means of communication deemed suitable by us.
- 14.12 This clause shall be without prejudice to any other clause in these Terms and Conditions which provides for the disclosure of data.

## **15.0 COMPLIANCE WITH FATCA**

- 15.1 You 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 us or any member of the Group to comply with all requirements of FATCA or other agreement by or between governments.

You shall notify us in writing within thirty (30) days of any change that affects your tax status in relation to FATCA under any laws, regulations or other agreement by or between governments.

- 15.2 You represent and warrant that you have provided to us all documentation or other information as may be required by us 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 us in writing or otherwise.

You further acknowledge that any failure on your part to provide accurate and timely information pursuant to requirements and requests by us may result in us having to deem you recalcitrant and/or reportable and take all necessary action against you in order for us 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.

- 15.3 For individual customers, you consent to the collection, storage, and disclosure by us or any member of the Group of any Personal Data to persons from whom we or any member of the Group receive or make payments on behalf of you and to governmental authorities as required by law or other agreement by or between governments. Your consent shall be effective notwithstanding any applicable nondisclosure agreement. You represent that you have secured from any third party whose information is provided to us any consents and waivers necessary to permit us or any member of the Group to carry

out the actions described in this Clause 15.0, and that you will secure such consents and waivers in advance of providing similar information to us in the future.

- 15.4 For customers who are a sole proprietorship, partnerships or other business entity, a corporation, or an association, club or society or trust, you consent to the collection, storage, and disclosure by us or any member of the Group of any Confidential Information to persons from whom we or any member of the Group receive or make payments on behalf of you and to governmental authorities as required by law or other agreement by or between governments. Confidential Information includes your personal data, your bank account details, transactional information, and any other information that a reasonable person would consider being of a confidential or proprietary nature. Your consent shall be effective notwithstanding any applicable nondisclosure agreement. You represent that you have secured from any third party whose information is provided to us any consents and waivers necessary to permit us or any member of the Group to carry out the actions described in this Clause 15.0, and that you will secure such consents and waivers in advance of providing similar information to us in the future.
- 15.5 You agree and acknowledge that we are 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 your income is reportable and some is not, we will report all income unless we can reasonably determine the reportable amount. You hereby authorise us 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 Code, each as amended from time to time or any other agreement by or between authorities.
- 15.6 We or any member of the Group, may take whatever action we 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 your 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 your account and transferring it to such tax authorities. If we are not satisfied that a payment in or out of your account is lawful, we may refuse to deal with it.
- 15.7 To the fullest extent as may be permitted by law, we will not be liable to you for any losses, costs, expenses, damages, liabilities you may suffer as a result of our complying with legislation, regulations, orders or agreements with tax authorities or by and between tax authorities or if we make an incorrect determination as to whether or not you should be treated as being subject to tax or tax reporting obligations.
- 15.8 This Clause 15.0 will override any inconsistent term or consent provided by you under any agreement with us to the extent that such agreement provides fewer or lesser rights for us, whether before or after the date of these Terms and Conditions. This Clause 15.0 shall be without prejudice to any other clause in these Terms and Conditions which provides for the request for information or disclosure of data.

## **16.0 OTHER TERMS AND CONDITIONS**

- 16.1 .We will not be obligated to grant the Loan if, at any time prior to the release of the Loan, an Event of Default as described in Clause 9.2 has occurred. We will not be responsible for any consequences from the withdrawal of the Loan, and you will be responsible for any charges, taxes, duties and levies incurred.



- 16.2 Your liabilities and obligations under the Terms and Conditions will continue to be valid and binding for all purposes despite:-
- (a) any change in your constitution or Memorandum and Articles of Association by amalgamation, consolidation, reconstruction or otherwise; or
  - (b) any change in your constitution by retirement, expulsion, bankruptcy, death, admission, accession or change of any of the partners or otherwise; or
  - (c) any change caused by your bankruptcy, death, winding-up or otherwise.
- 16.3 Our obligation to make available and continue to make available the Loan is conditional upon the following:
- (a) Neither of the following is in the employment of or is a member of the Board of Directors of any financial institutions in the Bank's Group:
    - (1) you or your spouse, or parent or children;
    - (2) your office bearers or their spouse or parents or children;
    - (3) your directors or managers or agents or shareholders or their spouses or parent or children;
    - (4) the Security Party or their directors or their spouses or parents or children.
  - (b) if you are a company, we must have received from you:
    - (i) proof acceptable to us that you are duly incorporated and validly existing under Malaysian laws, that you have the necessary power and authority under your Memorandum and Articles of Association to own assets, to carry on the business that you are carrying on, to borrow money, and to give or create guarantee for any money borrowed by you; and
    - (ii) a resolution of your directors passed in accordance with Your Articles of Association in the form and manner as set out in the Application Form.
  - (c) You must have opened a current account with us.
  - (d) If you want us to act on instructions from you by telephone, facsimile transmission, telex or cable, you must have given us a signed Indemnity for Taking Fax, Oral and Written Instructions.
  - (e) No Event of Default has occurred, is continuing, or will occur due to our making any advance or continuing to make available the Loan.
  - (f) All consents, licenses, approvals, authorisations, orders and exemptions of any Ministry, agency, department, or authority in Malaysia and elsewhere which may be required or advisable for or in connection with the Loan, the execution, delivery, performance, legality, or enforceability of the guarantee and/or any other security document, have been obtained, and are in full force and effect.
  - (g) Your use or continued use of the Loan must not be in breach of any Malaysian law, rule, guideline or regulation including those issued by Bank Negara Malaysia or any other authority which has jurisdiction over us or the Group.
  - (h) Neither the Loan nor the performance or observance of any of your obligations under the Terms and Conditions will conflict with or result in a breach of any law, statute, regulation, judgment, order, contract, agreement, trust deed or other instrument, arrangement, obligation or duty which you are subject to.

- (i) You are not in default of any agreement, and there are no current, pending or threatened litigation, arbitration or legal proceedings which might materially affect your solvency or your ability to perform your obligations.
  - (j) You do not have any investigation by the police or regulators pending, on-going or threatened against you.
  - (k) All the information provided by you or any Security Party, in relation to your application for the Loan must be true and complete. You, and any such Security Party, must not have withheld from us any information which might cause us not to grant you the Loan or not to accept the guarantee and/or any other security..
  - (l) We have performed “Know Your Customer” (KYC) due diligence on you, any of your directors, shareholders or beneficial owners, your employees, your agents and/or any Security Party, and are satisfied with the results.
  - (m) The completion of legal documentation and the fulfillment of any conditions precedent we require.
  - (n) Us performing a site visit to your business premises and being satisfied that your business premises and operations are in satisfactory condition (such to be determined by us at our absolute discretion) and in accordance with the information provided and representations made by you to us.
- 16.4 We can do the following at any time at our absolute discretion, without affecting the liabilities and obligations under these Terms and Conditions:
- (a) determine, vary, increase or reduce the Loan or any other facility granted to you.
  - (b) grant you another facility.
  - (c) grant you and/or any Security Party time or indulgence.
  - (d) deal with, exchange, release or modify any right we have at any time, from or against you and/or any Security Party.
  - (e) enter into a deed of composition with you and/or any Security Party.
  - (f) upon your request, accept any payment of any monies due or becoming due under these Terms and Conditions in such increased or reduced instalment amount.
  - (g) review or change any of these Terms and Conditions by providing twenty one (21) days prior notification to you.
  - (h) use any remedies or means for recovering any monies due to us as we see fit.
- 16.5 We can review the Loan at any time, whether or not an Event of Default has occurred, and impose further conditions as we deem necessary. We are not obliged to make or continue to make available the Loan to you. Notwithstanding anything stated in the Terms and Conditions, the Loan and all interest, costs and fees thereon shall be payable on demand.
- 16.6 We can, at any time and at our absolute discretion, and without having to give a reason, suspend or cancel the Loan and require immediate repayment of the Loan amount. Nothing in the Terms and Conditions obliges us to grant or continue to grant the Loan to you.
- 16.7 Upon our request, you will execute in our favour any mortgages, charges, assignments, transfers or agreements we may require of and on all or any part of your estate, assets or business, and the benefit of all related licenses, to secure all monies and liabilities due and payable to us under the Loan. The mortgage, charges, assignments, transfers or

agreements will be prepared by us at your cost, and will contain any terms and conditions as we require.

## **17.0 MARKET DISRUPTION**

17.1 Regardless of whatever is stated in these Terms and Conditions, we may at any time and from time to time, at our sole discretion and without having to give you any reason, cancel or suspend the Loan by notice in writing to you if in our sole 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 Loan to be temporarily or permanently not practical or not possible from our point of view.

## **18.0 CIRCUMSTANCES BEYOND OUR CONTROL**

18.1 If we are unable:

21.1.1 to perform any of our obligations under these Terms and Conditions;

21.1.2 to carry out our usual business operations; or

21.1.3 to provide any service;

due to any reason beyond our control including, but not limited to:

- (a) any fire, earthquake, flood, epidemic, natural disaster, accident, riot, civil disturbance, industrial dispute, act of terrorism, embargo, war or Act of God;
- (b) any failure of or interruption to telecommunications, internet, electricity, water or fuel supply; or
- (c) any circumstance in the nature of a *force majeure*, that is, an unforeseeable event that prevents us from performing any of our obligations under these Terms and Conditions,

we will not be in any way liable for any failure to perform or for any inconvenience, loss, injury or damage which you may directly or indirectly suffer as a result.

## **19.0 INCREASED COSTS**

19.1 If we in our sole discretion decide that, as a result of any new law, guideline, directive or regulation, or as a result of any change to any existing law, guideline, directive or regulation:

(a) we would incur increased costs because of having granted you or continuing to grant you the Loan and having to continue to perform our obligations under the Loan;

(b) we would not be able to obtain the rate of return on our overall capital which we would have been able to obtain if not for our having granted you or continuing to grant you the Loan and having to continue to perform our obligations under the Loan;

(c) any sum received or receivable by us under the guarantee is reduced;

- (d) there is an increase in the costs to us of paying for or maintaining your use of the Loan; or
- (e) we have to make any payment or forgo any interest or other payment to us on the basis of any sum repayable or to be paid to us under the Loan,

you will have to pay to us upon demand by us an amount sufficient to make good:

- (i) the increased costs, the reduced return and the reduced sum suffered by us;
- (ii) the payment we have to make; and
- (iii) the interest or other payment which we have to forgo.

19.2 We may, at our sole discretion, either bill you for the additional costs or make the necessary adjustment to increase either the number of instalments payable and/or the amount of your monthly instalments after providing you twenty one (21) days' prior notice.

## **20.0 ILLEGALITY**

20.1 If we deem that because of:

- (a) any change after the date of the Approval Letter in applicable law, regulation or regulatory requirement; or
- (b) in the way any applicable law, regulation or regulatory requirement is interpreted or applied by any relevant governmental or other authority,

it becomes unlawful or impractical for us to comply with our obligations under the Approval Letter or these Terms and Conditions or to continue to make available the Loan granted to you or to charge or receive interest at the rate applicable:

- (i) we will notify you, and following that notification the Loan and our obligations under the Loan will be suspended immediately; and
- (ii) following such notification, you must prepay the Loan to us together with accrued interest and all other amounts payable to us on the date deemed necessary by us to comply with the relevant law; and
- (iii) we will have no further obligations under the Loan, which will be deemed cancelled.

## **21.0 APPLICATION OF MONEYS, SUSPENSE ACCOUNT AND PROOF OF DEBT**

21.1 If any moneys paid to us or recovered by us in respect of your liabilities under the Loan is less than the amount then owing to us, we may at our sole discretion apply the moneys towards payment of interest, fees, principal or any amount due to us in such proportions and order and generally in such manner as we consider fit; We may also choose to credit the moneys or any part of the moneys into a non-interest bearing suspense account without any obligation to apply the moneys or any part of the moneys in or towards the settlement of your liabilities under the Loan.

- 21.2 Regardless of the payment of any such money, if you or any Security Party becomes the subject of any bankruptcy, insolvency or similar proceedings, we may prove for and agree to accept any dividend or composition in respect of the whole or any part of such money.
- 21.3 After we have received the ultimate balance in full, any claim on your part and/or a Security Party to any excess will be a matter of adjustment between us and you and/or the Security Party and/or any other person or persons laying claim to the same.

## **22.0 CERTIFICATE**

- 22.1 Any certificate or statement issued by us showing the outstanding amount due and owing from you to us in relation to the Loan will be conclusive proof as the outstanding amount due and owing from you to us in relation to the Loan; this certificate or statement will be binding on you for all purposes including for the purposes of any legal proceedings.

## **23.0 COSTS AND EXPENSES**

- 23.1 You are to pay for all costs and expenses (including all legal costs) connected with the provision, maintenance, protection, processing and implementation of the Loan and the recovery of monies owing under the Loan.
- 23.2 The costs and expenses are to be paid on a full indemnity basis.
- 23.3 Interest (at a rate we will specify at any time at our absolute discretion) is payable on the costs and expenses from the date they are incurred to the date of full payment.
- 23.4 You will be responsible for full payment of all costs and expenses incurred for the provision of securities (including the preparation of security documents), despite the cancellation of the Loan prior to disbursement for any reason.

## **24.0 TAXES, DUTIES OR LEVIES**

- 24.1 You are liable to pay for any goods and services tax or other taxes or levies which as at the date of the application for the Loan or at any date subsequent to the date of the application for the Loan, is required by law (including the Goods and Services Tax Act 2014) or regulations, guidelines, decisions or directives issued under such laws (and shall include any amendments made to such laws, regulations, guidelines, decisions or directives) to be paid to any body or authority having jurisdiction over us, in respect of any monies charged or incurred by us in relation to the Loan. Unless otherwise stated by us at any time, any fees and charges notified to you are inclusive of any applicable goods and services tax at the prevailing rate. Where we have stated otherwise, you shall be liable to pay the applicable goods and services tax in addition to our fees and charges.
- 24.2 Any goods and services tax or other taxes or levies incurred by us in relation to the Loan and any other goods or services provided in relation to or under the Loan shall be borne by and charged to you and in the event that we shall effect payment, you shall be liable to reimburse us for such amounts paid.

## **25.0 RIGHT TO DEBIT**

- 25.1 Without affecting any other rights that we may have, we may, at any time, at our sole discretion, and without giving you any prior notice, debit your current account or any other account (including the balance on any overdraft account) which you may have with us with any moneys whatsoever which is payable by you to us, including but not limited to costs, expenses, taxes, duties, levies and all other monies due on the Loan.
- 25.2 If we do debit your account, such debiting will not affect any other rights that we may have, and will not be deemed to be payment of the amount due (except to the extent of any amount that is credited in your account) or a waiver of any Event of Default.
- 25.3 If any debiting of your account causes that account to be overdrawn, interest at the prevailing rate as we may impose and determine from time to time shall be payable to us accordingly.

## **26.0 FINANCIAL STATEMENTS**

- 26.1 Upon our request, you must give us all statements, information, materials and explanations relating to your business and financial position, including your Annual Audited Financial Statements and Directors' and Auditors' Reports which must be provided within thirty (30) days after the close of each of your business' financial years or within such longer period as we may allow.

## **27.0 RIGHT TO SET- OFF AND CONSOLIDATION**

- 27.1 In addition to any general right of set-off under law or any other agreement, you agree that we may, in our absolute discretion, without notice to you, at any time, combine consolidate or merge all or any of your accounts (whether current, deposit, loan or otherwise) and liabilities with and to us, whether singly or jointly with any other persons. You authorise us, after giving you not less than seven (7) days' notice, to set-off or transfer any sum standing to the credit of any of your accounts (whether matured or not) in or towards the satisfaction of your liabilities to us under the Loan, these Terms and Conditions, under any other agreements and/or in any other respect, whether such liabilities are present or future, actual or contingent, primary or collateral and several or joint.
- 27.2 Upon the issuance of the notice mentioned in Clause 27.1 above, you agree that we have the right to earmark or to place a hold on any monies standing to the credit of all or any of your accounts with us, prior to the setting-off and you shall not be entitled to withdraw such monies, without our prior written consent.
- 27.3 Where such combination, set-off, consolidation or transfer requires the conversion of one currency to another, such conversion shall be calculated at our then prevailing spot rate of exchange (as determined by us at our absolute discretion) for purchasing the currency for which you are liable for.

## **28.0 INDEMNITY**

- 28.1 In addition and without affecting the powers, rights, and remedies granted under these Terms and Conditions, you will indemnify us against any loss or expenses (including legal expenses on a solicitor and client basis) which we sustain or incur because of:

- (a) any of your cancellation or failure to draw the whole or any part of the Loan or overdraft facility; or
  - (b) any prepayment of the Loan; or
  - (c) any default in payment by you of any sum due under the Approval Letter or these Terms and Conditions, including any interest or fees paid or payable on account of, or in respect of, any funds borrowed 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; or
  - (e) any taxation laws or regulations of any country having jurisdiction over us.
- 28.2 Our certification of the amount of the said loss or expenses will be conclusive and binding upon you unless there is any obvious mistake.

## **29.0 CURRENCY INDEMNITY**

- 29.1 Unless otherwise specifically agreed in writing by us in relation to the Loan:-
- (a) your obligation shall be to pay the obligations or liabilities in the same currency in which the said obligations or liabilities are incurred ("Currency of Account").
  - (b) any amount received or recovered by us in respect of any sums expressed to be due to us from you under the Approval Letter, these Terms and Conditions and/or the guarantee in a currency ("Relevant Currency") other than the Currency of Account (whether as a result of, or arising from the enforcement of, a judgment or order of court of any jurisdiction or your death or bankruptcy or otherwise) shall only constitute a discharge to you to the extent of the amount in the Currency of Account which we are able, in accordance with our 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 us under the Approval Letter, these Terms and Conditions and/or the guarantee, you shall indemnify us against any loss sustained by us as a result thereof. In any event, you shall indemnify us against the cost of making any such purchase.

## **30.0 RETENTION OF YOUR RECORDS**

- 30.1 You agree that we are not obligated to maintain any records of your account, including but not limited to the security documents, transaction documents, Statement of Account, correspondences or documents provided to us by you or any third party, exceeding any retention period as set out under our internal policies, guidelines and procedures and/or as provided under any applicable laws or regulations of any country having jurisdiction over us.

### **31.0 SERVICE OF LEGAL PROCESS**

- 31.1 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 us can be effected on you:
- (a) by leaving a copy at the address as stated in the Application Form or in any communication purportedly issued by you to us or last known to us or your last known place of business or registered or principal office address and it shall be deemed to have been duly received by you on the day it was left at the address; or
  - (b) by sending a copy through prepaid registered or ordinary post to the address as stated in the Application Form or in any communication purportedly issued by you to us or last known to us or your last known place of business or registered or principal office address and it shall be deemed to have been duly received by you on the third (3<sup>rd</sup>) day (including the day of posting) from the date it is posted, even if it is undelivered or returned.

### **32.0 AGENT FOR SERVICE OF LEGAL PROCESS**

- 32.1 If you primarily conduct your business outside Malaysia, you are required at all times to maintain a Process Service Agent in Malaysia to accept service of all Legal Process on your behalf arising out of or connected to the Loan and the guarantee.
- 32.2 You shall not revoke the authority of the Process Service Agent without appointing a new Process Service Agent and notifying us in writing of such appointment and promptly delivering a copy of the acceptance by the new Process Service Agent of its appointment.
- 32.3 If for any reason whatsoever the Process Service Agent no longer serves as your Process Service Agent, you shall be required to immediately appoint another Process Service Agent and notifying us in writing of such appointment and promptly delivering a copy of the acceptance by the new Process Service Agent of its appointment.
- 32.4 Service on the Process Service Agent shall be effected in the same manner specified in Clause 31.0.

### **33.0 NO WAIVER**

- 33.1 You agree that if you breach any of these Terms and Conditions, we may at our sole discretion decide not to exercise any right or remedy which we may have in relation to your breach.
- 33.2 You agree that, even if we may not have exercised any right or remedy available to us immediately upon default by you or even if we may have accepted moneys from you after such default, we shall not be held to have waived or acquiesced to such default and we may at any time after that exercise all or any of its rights or remedies available to us under these Terms and Conditions and any applicable law. Any delay on our part in taking steps to enforce the remedies available to us under these Terms and Conditions or any Applicable Law does not affect in any way affect our right to take those steps and we retain the right at any time afterwards to strictly enforce or to insist on our rights in relation to that breach or any subsequent breach by you.



#### **34.0 BANK'S RIGHT TO MAKE ADJUSTMENTS**

34.1 We have the right to adjust the entries in our records or the Statement of Account if there is any error or missing entries.

#### **35.0 VARIATION**

35.1 These Terms and Conditions and the availability, limits, interest rate, fees and charges of and relating to the Loan are subject to:-

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

35.2 In the event of any changes or variation, we will give you twenty one (21) days' prior notice before the change(s) take effect.

#### **36.0 SEVERABILITY**

36.1 If any of the provisions in these Terms and Conditions is or becomes invalid or unenforceable, the invalid or unenforceable provision is to be treated as not having been included in these Terms and Conditions; the remainder of these Terms and Conditions is to continue to be effective and in force and is not be affected in any way by the invalid or unenforceable provision.

#### **37.0 ASSIGNABILITY**

37.1 We can assign and/or transfer all our rights, interest, benefits and obligations to any person or corporation we choose, without notifying you. You will pay all costs and expenses incurred by us, the assignee or transferee related to the assignment or transfer. Following the assignment or transfer, the assignee or transferee will be entitled to our rights, interest and obligations as if the assignee or transferee has been a party to the Terms and Conditions instead of us, and you will be bound by any Statement of Accounts stating the amounts due to us.

37.2 You may not assign any of your rights under these Terms and Conditions without our express written consent.

#### **38.0 PRESERVATION OF RIGHTS AND ENTITLEMENT**

38.1 You agree that, regardless of what is stated anywhere else in these Terms and Conditions, our rights and entitlement under these Terms and Conditions will continue to remain in full force and effect, and will survive any cancellation, revocation or suspension of the Loan.

#### **39.0 CUMULATIVE REMEDIES**

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

**40.0 SUCCESSORS BOUND**

40.1 These Terms and Conditions shall be binding on:-

- (a) your heirs, liquidators, receivers, personal representatives and successors-in-title notwithstanding any change in your constitution, if a corporation, by amalgamation, consolidation, reconstruction or otherwise, and if a partnership, by retirement, expulsion, death, admission, accession or change of any partners; and
- (b) our successors-in-title and assigns.

**41.0 LEGAL ADVICE**

41.1 You are advised to seek independent legal advice before applying for the Loan and signing the Application Form.

**42.0 GOVERNING LAW**

42.1 These Terms and Conditions shall be governed by and construed in accordance with the laws of Malaysia and you irrevocably agree to:-

- (a) submit to the non-exclusive jurisdiction of the courts in Malaysia;
- (b) waive any objections on the ground of suitability venue, jurisdiction or any similar grounds; and
- (c) consent to service of Legal Process by ordinary mail or in any other manner permitted by these Terms and Conditions and/or any relevant laws.

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