

Dated [•]

Between



**CIMB BANK BERHAD [197201001799 (13491-P)]**

and

**[Name Of Party]**

**CONVENTIONAL PROPERTY FINANCING  
FACILITY AGREEMENT**

## PART A

### SECTION 1

#### 1.1 Property Financing/Facility

At the Borrower's request, the Bank has agreed to lend the Borrower money for the purpose and upon the terms and conditions stated in the Letter of Offer and this Agreement. The Borrower has agreed that the property and any other security as mentioned in the Letter of Offer shall be assigned or charged as security for the repayment of the Property Financing/Facility and to repay all amounts outstanding from time to time under the Letter of Offer and this Agreement.

#### 1.2 Agreement to Borrow and Lend

The Bank agrees to grant the Property Financing/Facility to the Borrower based on and in full reliance of the warranties, representations and undertakings contained in this Agreement and subject to the terms and conditions of the Letter of Offer and this Agreement.

### SECTION 2

#### 2.1 Definitions

In this Agreement (both Part A and Part B inclusive), the following words have the meaning given to them below.

“Bank”	CIMB Bank Berhad [197201001799 (13491-P)]
“Base Rate”	(a) The rate of interest stated by the Bank from time to time as its base rate; or (b) If the term Base Rate is no longer used, the rate of interest stated by the Bank to be applied for the purposes of this Agreement and the Security Documents.
“Borrower”	The person named in this Agreement as borrower of the Property Financing/Facility.
“Banking Day”	The days when the Bank is opened for banking business in the state where the Bank is located.
“Default Interest Rate”	The default rate of interest as stated in the Letter of Offer.
“Event of Default” or “Events of Default”	Any of the events, situations or circumstances set out in Section 8.1 of this Agreement.

<p>“Indebtedness”</p>	<p>All money outstanding or payable by the Borrower under the Security Documents in connection with the Property Financing/Facility:</p> <ul style="list-style-type: none"> <li>(a) whether such money is payable: <ul style="list-style-type: none"> <li>(i) immediately or in the future;</li> <li>(ii) upon the happening of any contingency as a result of a breach of any obligation under the Security Documents;</li> <li>(iii) as principal or as surety; or</li> <li>(iv) solely or jointly with any other person;</li> </ul> </li> <li>(b) including principal, interest, additional interest, charges, commission and other costs; and</li> <li>(c) including where applicable, monies referred to in Sections 10.2(b) and 12.2 of this Agreement.</li> </ul>
<p>“Interest Period”</p>	<p>In the case of interest to be calculated on:</p> <ul style="list-style-type: none"> <li>(a) a monthly basis, a period of 1 calendar month; or</li> <li>(b) an annual basis, a period of 12 calendar months, or</li> <li>(c) if an Event of Default occurs, such other period of any duration as the Bank may determine, but so that: <ul style="list-style-type: none"> <li>(i) the first Interest Period will commence on the date the Bank first releases the Property Financing/Facility or any part thereof and expire: <ul style="list-style-type: none"> <li>(aa) in the case of interest calculated on a monthly basis, on the day which is 1 month after that or any such day that the Bank may decide; or</li> <li>(bb) in the case of interest calculated on an annual basis, on the day which is 12 months after that or any such day that the Bank may decide</li> </ul> </li> <li>(ii) an Interest Period may not extend beyond the expiry of the Property Financing/Facility.</li> </ul> </li> </ul>
<p>“Letter of Offer”</p>	<p>Collectively, Letter(s) of Offer and such subsequent letter(s) of offer and/or notification issued after the date of this Agreement from time to time by the Bank to the Borrower including any amendments or variations thereto (if any).</p> <p>All the terms and conditions of the Letter of Offer shall form part of this Agreement and in the event of conflict or discrepancy between the terms and conditions of the Letter of Offer and this Agreement, the terms and conditions of the Letter of Offer shall prevail.</p>
<p>“Prevailing Interest Rate”</p>	<p>Base Rate plus the Spread or Standardised Base Rate plus the Spread, whichever applicable to the Property Financing/Facility or subject to Section 5.3(c), such other rate of interest that the Bank may prescribe at any time.</p>
<p>“Property”</p>	<p>The piece of land or the lease of the land or the parcel/unit of immovable property identified in the Letter of Offer together with all buildings and fixtures on such land or property and wherever the context permits shall include the car park(s) and also the accessory parcel belonging to the property.</p>

“Property Financing”/ “Facility”	(a) The principal amount as stated in the Letter of Offer and/or this Agreement; and (b) where applicable, this shall include other facilities previously lent or hereafter agreed to be lent by the Bank.
“Ringgit Malaysia”/“RM”	The lawful currency of Malaysia.
“Security Documents”	The Letter of Offer, this Agreement and such other security documents that have been or will be executed by the Borrower and the Security Party (if applicable) to secure the repayment of the Property Financing/Facility by the Borrower as well as the payment of other Indebtedness.
“Security Party”	Any party providing any guarantee or security to secure the payment or repayment of the Indebtedness or any part of it and as described in the Letter of Offer.
“Spread”	As stipulated in the Letter of Offer.
“Standardised Base Rate”	The standardised rate of interest used by all banks.

### SECTION 3

#### Section 3.1 Purpose(s) of the Property Financing/Facility

- (a) The Borrower must use the proceeds of the Property Financing/Facility for the purpose as stated in the Letter of Offer and, where applicable, paying all premiums/contributions on insurance policies/takaful contracts which the Borrower may be required to buy/take up and maintain for the Property and/or any legal, execution fees, costs and expenses and any other professional fees incurred in relation to the Property Financing/Facility.
- (b) The Bank is not bound to ensure that the Borrower uses the Property Financing/Facility for the purpose(s) above.

### SECTION 4

#### 4.1 Conditions Precedent to Drawing

The Bank may not release any part of the Property Financing/Facility unless the Bank is satisfied that the following have been fulfilled:

- (a) the conditions set out in the Letter of Offer and/or this Agreement;
- (b) the additional conditions precedent set out in the Letter of Offer and/or the Appendices to the Letter of Offer; and
- (c) no Event of Default has occurred.

#### 4.2 Cancellation of the Property Financing/Facility

If the Borrower does not comply with Clauses 4.1(a), 4.1(b) and 8.1(b) within the time stated by the Bank, the Bank is entitled to cancel the Property Financing/Facility after serving fourteen (14) days’ advance notice to the Borrower.

#### 4.3 Waiver of Conditions

The Bank may waive compliance with any of the conditions (including conditions precedent) in this Section. If the Bank chooses to waive compliance:

- (a) the Bank's rights under this Agreement are not affected;
- (b) the Bank can later demand the Borrower to comply with any or all the waived conditions within any reasonable period notified by the Bank to the Borrower; and
- (c) it does not mean all other conditions precedent are waived.

## **SECTION 5**

### **5.1 Payment of Interest**

- (a) The Borrower must pay interest at the relevant Prevailing Interest Rate and where applicable, the Default Interest Rate, to the Bank on such amount of the Property Financing/Facility specified in the Letter of Offer up to the date when the Property Financing/Facility is fully repaid to the Bank.
- (b) Unless otherwise notified by the Bank to the Borrower, interest is to be debited to the Borrower's account on the day as the Bank may prescribe of every month, and on the day when the full Indebtedness for the Property Financing/Facility is finally paid.
- (c) Interest is payable monthly in arrears, or at such other period as the Bank may prescribe after taking into account the circumstances prevailing at the time.

### **5.2 Calculation of Interest**

Interest calculation is set out in the Letter of Offer.

### **5.3 Variation of Interest Rate**

- (a) Regardless of any other provisions in this Agreement and/or the Letter of Offer, the Bank is entitled to vary at any time:
  - (i) the interest rate and the manner of calculation of the interest rate; and
  - (ii) any commission, discount or other banking charges.
- (b) Such variation may be made to:
  - (i) the Base Rate or Standardised Base Rate, whichever applicable to the Property Financing/Facility; or
  - (ii) subject to Section 5.3(c), the Spread

or a combination of any one or more of the methods of calculation of interest, including changing the basis on which the Prevailing Interest Rate or the Default Interest Rate is calculated.

- (c) The amendment to the Spread will only be made to reflect changes in the credit risk profile or creditworthiness of the Borrower during the tenure of the Property Financing/Facility.
- (d) The amended or new Prevailing Interest Rate or commission, discount or banking charges is payable from the date the change take(s) effect. Interest will be re-calculated, in accordance with the provisions of this Agreement and/or the Letter of Offer.

- (e) The Bank will give at least 21 calendar days' (or such other time frame as may be required to comply with any requirements under the applicable laws, regulations or guidelines) prior notice of change of the Prevailing Interest Rate, or the new commission, discount or banking charges to the Borrower but the Borrower's non-receipt of the notice will not affect or invalidate any change. Notice by the Bank may be given:
  - (i) in accordance with the "Notice" provisions set out in Section 11 of this Agreement; or
  - (ii) by general advertisement in any form(s) of mass communication; or
  - (iii) by notice in the Bank's website and/or placed at the banking hall of the Bank's branches.
  
- (f) If the Prevailing Interest Rate payable on the Property Financing/Facility is varied and the Property Financing/Facility is repayable in instalments, the Bank is entitled to:
  - (i) vary the amount of such instalments subject to Sections 5.3 (g) and (h); and/or
  - (ii) vary the number of instalments subject to Sections 5.3 (g) and (h)subject to the terms of the Property Financing/Facility at the Bank's determination.
  
- (g) For any upward or downward adjustment to the Base Rate or Standardised Base Rate, the Bank shall revise the amount of the instalments of the Property Financing/Facility accordingly. The Bank shall provide the Borrower with particulars of the revised instalment amount at least seven (7) calendar days (or such other timeframe as may be required to comply with any requirements under the applicable laws, regulations or guidelines) prior to the date the revised instalment comes into effect.
  
- (h) Notwithstanding Section 5.3(g), the Bank may allow the Borrower to retain the instalment amount upon the Borrower's specific request. This will result in either a bullet repayment at the end of the tenure of the Property Financing/Facility or an extension of the tenure of the Property Financing/Facility and may include new terms and additional cost of borrowing as shall be disclosed by the Bank to the Borrower.

#### 5.4 Capitalisation of Interest

Interest (other than interest at the Default Interest Rate) on any amounts secured under the Security Documents (including capitalised interest), is to be capitalised and added to the principal sum then owing on such date as stated in the Letter of Offer or as determined by the Bank. The total sum will then bear interest at the relevant Prevailing Interest Rate. This total sum shall be secured and payable accordingly, whether before or after court judgment or demand for payment has been made on the Borrower.

#### 5.5 Capitalised Interest excluded from Limit or Principal

For the purpose of ascertaining whether the limit of the principal amount has been exceeded or not, all accumulated and capitalised interest are deemed to be interest and not principal sum.

#### 5.6 Loan Statement

- (a) The Bank will provide a loan statement to the Borrower at least once a year indicating the outstanding balance at the beginning and end of the period covered by the statement, the amount credited and charged, including interest and other non-interest charges, and the dates when those amounts were posted to the account.

- (b) It is the Borrower's obligation to check that the loan statement furnished by the Bank is correct. If the Bank does not receive a written objection from the Borrower to the contents of the loan statement within 14 or such other shorter period as may be necessary to be imposed by the Bank as a result of the coming into force of any relevant law, regulation or guideline days of the loan statement date, in the absence of any obvious error on the face of the statement or fraud by the Bank, the Borrower shall be deemed conclusively to have accepted the contents of such loan statement as true and accurate and such loan statement shall be final and conclusive and binding on the Borrower for all purposes whatsoever including for the purposes of any legal proceedings.

## **SECTION 6**

### **6.1 Repayment**

- (a) Regardless of any provision of this Agreement, the Property Financing/Facility is immediately repayable upon demand by the Bank in writing upon the occurrence of an Event of Default.
- (b) Until the Bank makes such a demand, the Property Financing/Facility is repayable at the dates and in such manner as stated in the Letter of Offer or in this Agreement or as notified by the Bank to the Borrower.
- (c) Payments made by the Borrower will first be used towards payment of any instalments in arrears, monthly instalment(s) due and lastly, outstanding fees and charges under the Property Financing/Facility.

### **6.2 Re-drawing or Re-borrowing**

The Bank is entitled to, subject to the terms and conditions set out in Part B or as the case may be the Letter of Offer, allow the Borrower to re-draw or re-borrow any of the amounts repaid or prepaid. Such amounts re-drawn or re-borrowed together with interest thereon at the applicable Prevailing Interest Rate shall be deemed to be and form part of all the monies owing or payable by the Borrower and secured by the Security Documents.

### **6.3 Borrower's duty to approach the Bank**

The Borrower shall promptly inform the Bank in writing of the happening of any event which will or will likely cause the Borrower to be unable to comply with the Borrower's obligations pursuant to this Agreement or the Letter of Offer including repaying the Indebtedness ("the Borrower's Application"). The Bank at its discretion, will consider the Borrower's Application in determining the next course of action in respect of the Borrower, having regard to applicable standards of fair treatment and the circumstances of the Borrower. Taking into consideration the notification by the Borrower should also not preclude the Bank from exercising its rights and remedies under this Agreement.

## **SECTION 7**

### **Section 7.1 Prepayment and Early Settlement**

- (a) If:
  - (i) the Borrower wishes to repay any part of the Indebtedness or the Property Financing/Facility before its due date; and
  - (ii) such early repayment is permitted under the Letter of Offer, subject to all terms and conditions relating to prepayment in the Letter of Offer;

the Borrower must provide one month's prior notice (or such other period of notice as may be stated in the Letter of Offer) to the Bank.

- (b) The Borrower may repay any part of the Indebtedness or the Property Financing/Facility as mutually agreed in multiples of the prepayment sum.

## 7.2 Application of Prepayment Sum

All prepayments received by the Bank are to be applied by the Bank in or towards repayment of the Property Financing/Facility in the inverse order of maturity.

## 7.3 Partial Repayment

Even if the Borrower has made partial repayments, the Borrower shall continue to be bound by the Borrower's obligations under this Agreement.

# SECTION 8

## 8.1 Events of Default

The Borrower has committed a default under the Security Documents, if the Borrower/the Security Party commits or is likely to commit a breach of any of the covenants, undertakings, stipulations, terms, conditions, or provisions stated under the Security Documents, or the Borrower/the Security Party is in default upon the happening of any one or more of the following events:

- (a) Non-payment

The Borrower fails or defaults in the payment of any sum of money:

- (i) on its due date, whether formally demanded or not; or
- (ii) (if due on demand) when demanded by the Bank in accordance with the provisions of this Agreement and/or the Security Documents; or

- (b) Breach of Other Terms and Conditions

The Borrower/the Security Party:

- (i) breaches any term of this Agreement and/or the Security Documents; or
- (ii) fails to comply with any notice given under this Agreement and/or any of the Security Documents requiring the Borrower/the Security Party to remedy any breach of such terms; or

- (c) Breach of Representation and Warranties

Any representation or warranty made or implied under:

- (i) Section 16 or any other provision of this Agreement or the Letter of Offer; or
- (ii) any notice, certificate, letter or other document delivered under this Agreement

is incorrect or misleading (as determined by the Bank) in a material detail as of the date on which it was made or deemed to have been made; or



(d) Ability of the Borrower/the Security Party to Perform Terms in Security Documents

Any event(s) has/have occurred, or a situation exists (including but not limited to changes in the financial condition of the Borrower/the Security Party), which might, in the opinion of the Bank, is/are likely to affect the ability of the Borrower/the Security Party to perform the Borrower's/the Security Party's obligations under this Agreement and/or the Security Documents; or

(e) Validity of the Security Documents

The validity of any of the Security Documents is challenged by any person; or

(f) Security in Jeopardy

The Bank is of the opinion that any of the security created pursuant to the Security Documents is in jeopardy or the value of the security created pursuant to the Security Documents is insufficient for the Bank's purpose upon valuation or re-valuation; or

(g) Illegality

It is or it shall become unlawful for the Borrower/the Security Party to perform or comply with any one or more of the obligations of the Borrower/the Security Party under this Agreement and/or the Security Documents; or

(h) Authorisation and Consents

Any authorisation, approval, consent, condition, order or licence required to be taken, fulfilled or done for the purpose of the Property Financing/Facility:

- (i) is not taken, fulfilled or done; or
- (ii) ceases to be in full force and effect; or

(i) Breach of Other Loans

The Borrower commits a default of any provision of any agreement, or security documents, or both (as the case may be) relating to other accounts or loan facilities granted by other parties; or

(j) Cross Default

- (i) Any other indebtedness of the Borrower becomes payable or becomes capable of being declared payable or due prematurely, by reason of a default by the Borrower in the Borrower's obligations with respect to that indebtedness; or
- (ii) The Borrower fails to make any payment in respect of that Indebtedness on the due date for such payment, or if due on demand when demanded; or
- (iii) Upon the security for any such indebtedness becoming enforceable; or

(k) Legal Proceedings

Any legal proceedings, suit or action (whether civil or criminal) is instituted against the Borrower/the Security Party; or

(l) Enforcement Proceedings

A distress or execution or other process of a court of competent jurisdiction is levied upon or issued against all or any part of the property of the Borrower/the Security Party and such distress, execution or other process is not discharged by the Borrower/the Security Party within seven (7) days from the date of such levy or issue; or

(m) Bankruptcy

- (i) Any step or action is taken for the bankruptcy of the Borrower; or
- (ii) A petition for bankruptcy is presented against the Borrower;

Provided Always that if such proceeding or action has been taken by or against the Borrower, that step or petition is not discharged or stayed within twenty-one (21) days from the date of the taking of the step or petition; or

(n) Compulsory acquisition

A notice or proposal for compulsory acquisition of the Property is issued or made under or by virtue of an Act of Parliament or other statutory provision; or

(o) Death and Insanity

The Borrower/the Security Party dies or becomes insane; or

(p) Material Adverse Change

Any event or series of events (whether within or outside of Malaysia and whether of a national or international nature) including any act of violence, terrorism, hostility or war or endemic or epidemic or other calamity occurs which in the Bank's opinion:

- (i) could or might affect the Borrower's/the Security Party's ability or willingness to fully comply with all or any of the Borrower's/the Security Party's obligations under any of the Security Documents or make it improbable that the Borrower/the Security Party would be able to do so; or
- (ii) would render it inadvisable or impractical for the Bank to make or continue to make the Property Financing/Facility available or allow any use of the Property Financing/ Facility; or
- (iii) could or might jeopardise the Property Financing/Facility or any of the Bank's security or the Bank's security position; or

(q) Use of Property Financing/Facility not for purposes stated

The Property Financing/Facility is not used for the purposes stated or the Property Financing/Facility is used for illegal or speculative purposes; or

(r) Borrower's Account re-designated or closed

If the Borrower's account is re-designated or closed by the Bank as a result of:

- (i) any changes in the applicable law or regulation making it unlawful or impossible for the Bank to continue granting the Property Financing/Facility or maintaining the account; or
- (ii) the account having been conducted unsatisfactorily; or
- (iii) the account having been suspended due to a court order or at law; or

(iv) an investigation by the Bank giving rise to negative findings including dishonesty, fraud or suspicious activities; or

(s) Security Document not perfected

If any of the Security Documents cannot be perfected for any reason whatsoever or if any Security Document cannot be registered, where registration is necessary or is invalid for any reason whatsoever; or

(t) Security

The assignment and/or charge on the Property created in favour of the Bank or any of the Security Documents:

(ii) ceases to have full force and effect;

(iii) is terminated or disputed or in jeopardy or is invalidated; or

(iv) is unenforceable; or

(u) Default in other accounts

There is a default in the payment of any monies under the accounts of any other party for which the Borrower/the Security Party is providing security or guarantee; or

(v) Winding Up of developer/vendor

If before the Property is fully and completely constructed and/or issued with the Certificate of Completion and Compliance (or its equivalent), a petition is presented for the winding up of the developer/vendor or the landowner (if applicable); or

(w) Suspension of Construction

If the developer/vendor or landowner suspends or gives notice to any person of its intention to suspend construction of the Property or abandons construction (if applicable).

## **SECTION 9**

### **9.1 Rights of Bank on Default**

(a) If any of the events described in Section 8.1 occurs, the Bank shall be entitled (after serving seven (7) calendar days' advance notice to the Borrower):

(i) to suspend further utilisation of any or all of the Property Financing/Facility, or to reduce the limit or amount made available under the Property Financing/Facility, regardless of whether the Bank has made a prior demand; and

(ii) to cease to be under any further obligation and/or commitment to the Borrower in relation to the Property Financing/Facility; and

(iii) the Indebtedness will become immediately due and payable, regardless of any provision of this Agreement to the contrary; and

- (iv) to (on its own or through the Bank's agent(s)) take such action as may be appropriate against the Borrower, including:
  - (aa) recalling the Property Financing/Facility or suing for the recovery of the Indebtedness either before, after or concurrently with the action to enforce any of the Security Documents;
  - (bb) applying any credit balance in whatever currency standing to any account of the Borrower with any office or branch of the Bank or any member of the Bank's group of companies, towards satisfaction of the Indebtedness;
  - (cc) exercising all or any of the Bank's rights or powers which the Bank may possess in the Security Documents against the Borrower and/or the Security Party, regardless of whether the Property Financing/Facility has been recalled or not; and
- (v) to cancel any part of the Property Financing/Facility not disbursed or utilised before the default. Upon such cancellation, any part of the Property Financing/Facility already disbursed or utilised will become due and immediately repayable on demand.

After the Bank has exercised the abovesaid, the Bank shall notify the Borrower accordingly.

## 9.2 Proceeds of Recovery

Subject to statutory priorities (if any), all amounts received by the Bank from any proceeding instituted or step taken under any of the Security Documents shall be applied by the Bank as follows:

- FIRSTLY in payment of any rents, taxes, assessments, fees, lawful outgoings and other fees due and payable to the relevant authorities by the Borrower in respect of the Property charged or assigned to the Bank as security for the Property Financing/Facility;
- SECONDLY in the enforcement of any of the Security Documents or in the performance of any duties or the exercise of any powers vested in the Bank, in payment of any costs, charges, expenses and liabilities incurred by the Bank and every person appointed by the Bank in realising any security under the Security Documents (this include the fees and charges mentioned herein);
- THIRDLY in or towards payment to the Bank of all interest then accrued and remaining unpaid in respect of the Property Financing/Facility;
- FOURTHLY in or towards payment to the Bank of the principal sum due and remaining unpaid under the Property Financing/Facility;
- FIFTHLY in or towards payment to the Bank of all other moneys due and remaining unpaid under any or all of the Security Documents;
- SIXTHLY in or towards payment to the Bank of all other moneys due and remaining unpaid;
- SEVENTHLY in payment of any net surplus to the Borrower or the persons entitled to such surplus within sixty (60) days from the date the Bank receives the net surplus. For any net surplus that remains unpaid after a period of sixty (60) days, the Bank shall pay a minimum compound interest at the average fixed deposit rate applicable for the period of twelve months for licensed banks as published by Bank Negara Malaysia plus one per cent on the amount in the net surplus upon expiry of the sixty

(60) days until the date of payment. This provision shall not apply:- (a) where the Bank has exhausted all reasonable means to contact the Borrower or the persons entitled to such surplus, and the Borrower or the persons entitled to such surplus do/does not have a deposit account with the Bank and where the Unclaimed Moneys Act 1965 applies; or (b) in the event that the surplus or the net surplus or any part thereof becomes or has become or is likely to become the subject matter or part thereof in any legal proceeding.

PROVIDED ALWAYS THAT the Bank may alter the above order of payment or keep such amounts in a non-interest bearing suspense account. Such alteration or payment will not affect the right of the Bank to receive the full amount to which the Bank would have been entitled if the primary order had been observed, or any lesser amount which is ultimately realised from the security.

### 9.3 Deficiency in Proceeds of Sale

The parties agree that, regardless of any other provision contained in this Agreement:

- (a) the Borrower shall pay all costs and expenses (including legal fees on a solicitor-client basis, execution or valuation fees, any other professional fees, stamp duties, disbursements and any related penalties) on a full indemnity basis that the Bank incurs in connection with:
  - (i) the enforcement or the preservation of any rights under the Security Documents. For clarity, this would include fees, charges and expenses expended on legal proceedings and foreclosure proceedings (including legal fees, execution fees, valuation fees, real estate agent fees, auctioneer fees and any other professional fees); or
  - (ii) any legal proceedings relating to or in connection with the Property or to protect the Bank's interest in the Property or any account(s) of the Borrower; or
  - (iii) maintenance (including maintenance fee) or realisation of the Property; or
  - (iv) the recovery of the Indebtedness.
- (b) if the amount received and/or realised by the Bank under this Agreement and/or Security Documents, after deduction of all costs and expenses mentioned above, rates, taxes and other outgoings, is less than the amount due to the Bank under the Security Documents, the Borrower will be liable for the shortfall regardless of whether or not the banker-customer relationship between the Bank and the Borrower has ceased or been terminated;
- (c) paragraph (b) applies whether or not the Bank is the purchaser of all the assets or properties charged and/or assigned to the Bank under the Security Documents at such sale;
- (d) until payment is made for the amount of the shortfall, the Borrower will (regardless of any foreclosure proceedings taken or sale made by the Bank) also pay interest (both before demand as well as after judgment and whether or not the banker-customer relationship between the Bank and the Borrower has ceased or been terminated) on the shortfall at the Prevailing Interest Rate and if applicable, the Default Rate, up to the date such shortfall together with all accrued interests is actually received in full by the Bank; and
- (e) any interest payable under this Section 9.3 is to be calculated and charged in accordance with Section 5.

## **SECTION 10**

### **10.1 Obligation to maintain Mortgage Insurance Policy**

If the Borrower is required to buy/take up, or in the event that the Bank buys/takes up on the Borrower's behalf, and maintains a mortgage reducing term policy, or any other policy, guaranteeing the repayment of the Indebtedness, the Borrower expressly agrees with the Bank to:

- (a) cause the interest of the Bank as loss payee to be endorsed on the insurance policy so bought/taken up;
- (b) pay the premium on such policies; and
- (c) deliver the receipts for such payments to the Bank.

### **10.2 Obligation to maintain insurance or takaful on the Property**

- (a) The Borrower expressly agrees with the Bank that whenever required by the Bank, the Borrower will utilise a licensed insurance company or if it is available, a takaful operator of the Borrower's choice to:
  - (i) ensure that the Property is adequately insured up to their full insurable value, against loss or damage by fire, lightning, tempest, flood, riot, civil commotion, malicious acts and strike and such other risks as the Bank may require;
  - (ii) ensure that the interest of the Bank as chargee or assignee and loss payee is endorsed on the insurance policy or policies or where applicable, the takaful contract or contracts so bought/taken up; and
  - (iii) deposit with the Bank a certified true copy of the policy or policies or where applicable, the takaful contract or contracts so bought/taken up together with evidence of payment of the current insurance premium or where applicable, the current takaful contribution, payable under such insurance policy or policies or takaful contract or contracts.
- (b) The Borrower also expressly agrees that the Bank may but is not obliged to insure and keep the Property insured in accordance with Section 10.2(a)(i). In the event the Bank proceeds to do so, the Borrower shall be required to pay the insurance premium or where applicable, the takaful contribution on demand by the Bank. If the Borrower fails to pay the insurance premium or where applicable, the takaful contribution, the Bank may proceed to make the payment on behalf of the Borrower and such payment shall be added to the Indebtedness or the Property Financing/Facility.

### **10.3 Obligation to inform the Bank of change of contact information**

The Borrower expressly agrees with the Bank to inform the Bank immediately of any change in the contact information such as correspondence address, phone number, facsimile number and/or email address of the Borrower. Any change in the Borrower's contact information such as address, phone number, facsimile number and/or email address is not binding on the Bank unless the Borrower has given notice in writing to the Bank and/or via other channels provided by the Bank.

## **SECTION 11**

### **11.1 Notices by Bank**

Any notice, demand or other communication (including computer generated notices/statements that do not require any signature) from the Bank under this Agreement shall be given in writing to the Borrower at the Borrower's address, facsimile numbers or electronically (including email) as stated in the Letter of Offer and/or last appearing in the Bank's records. The notices may be given or made by post, facsimile, electronically (including email), personal delivery or such other mode as may be determined by the Bank.

#### 11.2 Delivery

The notices or other communications are given to the Borrower:

- (a) in the case of post, five (5) days after the date of posting;
- (b) in the case of facsimile, on the day of transmission;
- (c) in the case of electronic mail, on the day it is sent provided that the Bank has not received a failed or undeliverable message from the host provider on the day of transmission;
- (d) in the case of personal delivery, at the time of delivery; or
- (e) in the case of courier, at the time of delivery.

### SECTION 12

#### 12.1 Stamp Duties, Registration Fees and Other Costs

- (a) The Borrower must on demand pay the Bank all costs and expenses (including legal fees, stamp duties, disbursements and any related penalties) the Bank incurs in connection with the preparation, execution, registration, perfection or enforcement of the Security Documents.

All such amounts are payable by the Borrower on a full indemnity basis. Such payment must be made together with interest from the date the costs and expenses are incurred to the date of full payment at the Prevailing Interest Rate and if applicable, the Default Rate (both before and after judgment).

- (b) Legal costs and expenses on a full indemnity basis are payable by the Borrower regardless of whether the Property Financing/Facility is cancelled or aborted at any time before completion of legal documentation.

#### 12.2 Upstamping

In the event that the total monies advanced to or due and owing by the Borrower to the Bank shall at any time exceed the principal limit for which ad valorem stamp duty had been paid, this Agreement, the Security Documents or the Letter of Offer shall be upstamped with ad valorem duty to cover the excess. The stamp duty including any penalty incurred shall form part of the monies owing or payable by the Borrower and secured by this Agreement and the Security Documents.

#### 12.3 Principal and Secondary Instrument

The Letter of Offer, this Agreement and the Security Documents are instruments employed in one transaction to secure the Indebtedness. Ad valorem stamp duty had been paid from time to time on the original of this Agreement within the meaning of Section 4(3) of the Stamp Act, 1949. For the purpose of the said Section 4(3) of the Stamp Act, this Agreement shall be deemed to be the primary or principal instrument and the Letter of Offer and/or Security Documents are deemed to be the auxiliary or secondary instruments.

#### 12.4 Complaints and Redress

The Borrower may raise any queries or grievance with respect the Bank's services or regarding the Property Financing/Facility directly with the account holding branch or to the Customer Resolution Unit of the Bank. The Borrower can also refer any unresolved dispute(s) with the Bank to the Ombudsman for Financial Services.

**[End of Part A]**



## PART B

Additional terms and conditions of the Property Financing are:

### SECTION 13

#### 13.1 Additional Events of Default

In addition to Section 8.1, the following shall be regarded and included as Events of Default:

- (i) if there is a failure or default by a Security Party to pay any sum due to the Bank and/or any third party on its due date or whether formally demanded or not;
- (ii) (i) if any of the parties to the sale and purchase agreement or construction or development contract or contract evidenced by a proclamation of sale, in each case relating to the Property, commits or threatens to commit a breach of any term in such contract which entitles any party to the contract to repudiate the same or (ii) if such contract is terminated;
- (iii) in the event of a breach or contravention of the (i) Financial Services Act 2013; (ii) Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 including any related ancillary or subsidiary legislation; and (iii) any regulatory requirements stipulated in any directives or guidelines issued by Bank Negara Malaysia from time to time and/or any other person or body having authority or jurisdiction over the Bank (“**Laws and Guidelines**”) by the Borrower and/or the Security Party;
- (iv) if the Borrower and/or the Security Party and/or any other party applies to Court or any other authority to restrain the Bank or their other creditors from enforcing any of their rights or securities contained in any guarantee or Security Document;
- (v) if the Borrower and/or the Security Party is subject to or implicated in any investigation or disciplinary action by any regulatory or statutory or other body whatsoever (whether or not having the force of law);
- (vi) if the Borrower and/or the Security Party fail to satisfy any judgment issued against the Borrower and/or the Security Party (as applicable) by any court of competent jurisdiction and (i) no appeal against such judgment has been made to the appropriate appellate court within the time prescribed by law, or (ii) such appeal has been dismissed, or (iii) in the case of a judgment in default, no application has been made to set aside the judgment within one (1) month of the Borrower and/or the Security Party becoming aware of the judgment;
- (vii) if any part of the Property (including any structure on the same) is damaged or destroyed and the insurance over the Property proves to be invalid, unenforceable or otherwise not in full force;
- (viii) if the Bank determines that the security provided by the Borrower and/or the Security Party is different from that which the Borrower agreed would be provided;
- (ix) if the Borrower and/or Security Party proposes to, or enters into any composition or other arrangement (voluntary or otherwise), or is/are placed under judicial management or has an

application made for an order of judicial management against it, or has a receiver and/or manager, administrator or similar officer appointed to take over any material part of its assets and/or business (as applicable);

- (x) if the Property or any part of it is not utilised for its intended purpose;
- (xi) if the Borrower or Security Party becomes subject to any sanctions, regulations, embargoes or restrictive measures administered, enacted or enforced by any authorities in (i) the United States of America; (ii) the United Nations; (iii) the states of the European Union; (iv) the United Kingdom; (v) Malaysia; or (vi) the respective governmental institutions and agencies of any of such countries, including but not limited to the United Nations Security Council, the Office of Foreign Assets Control, the United States Department of State, His Majesty's Treasury and Bank Negara Malaysia ("**Sanctions**"); and
- (xii) if the Borrower authorises any other person to directly or indirectly use, lend, make payments of, contribute, or otherwise make available, all or any part of the proceeds of the Facility granted to the Borrower to fund any trade, business or other activities: (a) involving or for the benefit of any person or party subject to Sanctions ("**Restricted Party**"), or (b) in any other manner that would reasonably be expected to result in the Borrower or the Security Party being in breach of any Sanctions (if to the extent applicable to either of them) or becoming a Restricted Party.

## **SECTION 14**

### 14.1 Lien and Set Off

- (a) The Bank shall have a lien on all assets (movable and immovable) of the Borrower and/or the Security Party deposited with, or in the possession, custody or control of the Bank or its nominee for as long as the Facility remains outstanding and/or are made available to the Borrower. The Bank may exercise any rights in relation to set-off, combination or consolidation of accounts in accordance with the Letter of Offer.
- (b) Neither the Borrower nor the Security Party may set off or counter claim against the Bank any liability owed by the Bank to the Borrower and/or the Security Party until the Indebtedness is fully paid.

## **SECTION 15**

### 15.1 Additional Security

- (a) If the value of the Property diminishes, if the Property is in jeopardy in any way or the value of the Property becomes insufficient to secure the Facility and the Bank requests that additional security be provided, the Borrower and/or any Security Party (as applicable) shall create further security in favour of the Bank, in such form and of such value as may be agreed by all parties.
- (b) The Borrower must not and must ensure that the Security Party shall not create or permit any other form of encumbrance to be created or exist over the Property (other than in favour of the Bank), including but not limited to caveats or prohibitory orders.

## SECTION 16

### 16.1 Representations and Warranties

The Borrower represents and warrants to the Bank that:-

- (i) the Borrower and the Security Party each (where applicable) have full power and capacity to execute, deliver and perform their obligations under the Security Documents;
- (ii) that acceptance of the Facility by the Borrower shall not constitute an event of default or potential event of default under any of its agreements with a third party, or contravene any law, regulation or order binding on the Borrower;
- (iii) (i) there are no legal proceedings, bankruptcy or insolvency proceedings threatened or pending against the Borrower and/or the Security Party; (ii) neither the Borrower nor the Security Party are undischarged bankrupts, wound up or insolvent; (iii) neither the Borrower nor the Security Party has violated any court order or judgment; (iv) no voluntary arrangement has been entered into or proposed to be entered into by (I) the Borrower with its creditors or (II) the Security Party with its creditors; or (v) no receiver and/or manager has been appointed to take over the Borrower's or the Security Party's assets or business; or (vi) there is no application made or pending by any person for an order for (I) the Borrower and/or the Security Party to be placed under judicial management and (II) the appointment of a judicial manager; or (vii) there is no form of arrangement or composition (voluntary or otherwise) entered or proposed to be entered into by the Borrower with its creditors and/or the Security Party with its creditors;
- (iv) all information, statements and declarations provided by the Borrower and/or the Security Party to the Bank are true, accurate and complete, and do not omit any material facts;
- (v) there is no contravention or breach of any prevailing Laws and Guidelines (as defined in Section 13) by the Borrower and/or the Security Party;
- (vi) the Security Party is/are/will be the beneficial owner(s) of the Property;
- (vii) that at the date of this Agreement and except as disclosed in writing to the Bank prior to the date of this Agreement, there is no encumbrance on the Property except that created or to be created in favour of the Bank;
- (viii) that the Borrower and/or the Security Party and/or any of their respective directors, officers or employees or any persons acting on any of their behalf:
  - (1) is/are Restricted Party (as defined in Section 13); and
  - (2) has/have not received notice of or is/are aware of any claim, action, suit, proceeding or investigation against it with respect to Sanctions by any Sanctions Authorities (both terms as defined in Section 13); and
- (ix) that all the necessary (i) consents, approvals, licenses and authorisations have been obtained, (ii) registrations filed and (iii) duty or tax (including stamp duty) has been paid, each to or with (as

applicable) the appropriate authorities to ensure the legality, validity, enforceability of the Security Documents and the same are in full force and effect.

16.2 Each of the above representations and warranties shall constitute continuing representations and warranties throughout the term of this Agreement.

## **SECTION 17**

### **17.1 Disbursement and Use**

- (a) The Borrower must fulfil each condition precedent set out in the Letter of Offer and any additional conditions precedent stated in Schedule 3, otherwise the Facility may be cancelled by the Bank.
- (b) The Borrower authorises the Bank to disburse the Facility to any financial institution, firm of solicitors, developer, vendor, court, builder, contractor, architect or such other person responsible or in accordance with the Letter of Offer. The disbursements shall be used to facilitate the purchase, construction, redemption or financing of the Property (as applicable), whether by progressive releases or otherwise, and in accordance with the applicable schedule of payments or any variation to the same. An acknowledgement of receipt of such payment(s) by the recipient shall be as effective as if given by the Borrower personally.
- (c) The Borrower acknowledges and agrees that the Bank is unable to defer or stop disbursement of any amounts under the Facility if the Bank has already given an undertaking to a third party to disburse the Facility and has received the relevant invoice or redemption statement in accordance with the sale and purchase agreement or construction or development contract or proclamation of sale.
- (d) The Borrower authorises the Bank to withhold the disbursement of the Facility if the relevant developer or vendor, builder or contractor fails to honour its obligations under any relevant contract and/or undertaking or if in the Bank's opinion the developer, or vendor, or builder or contractor or the Security Party is/are in breach of the relevant contract relating to the Property.
- (e) If an Event of Default or potential Event of Default has occurred or is about to occur, the Bank is not obliged either in law or in equity to make or continue to make any disbursement of the Facility.
- (f) In consideration of the Bank agreeing to provide customary undertaking(s) to third parties in such form as the Bank may decide (including but not limited to any financial institution, developer or vendor or their respective solicitors), the Borrower undertakes to indemnify the Bank for all costs, expenses, claims and demands suffered by or made on the Bank in connection with or arising from the issuance or performance of such undertakings.
- (g) The Borrower undertakes that it shall not, and it shall ensure that the Security Party shall not, permit any other person to directly or indirectly utilise any part of the Facility to fund any trade, business or activities which: (a) involve or is for the benefit of any Restricted Party, or (b) would reasonably be expected to result in the Borrower or the Security Party being in breach of any Sanctions (if to the extent applicable to either of them) or becoming a Restricted Party.
- (h) If the Facility comprises of a term loan and an overdraft, the Bank will allow utilisation of the overdraft only after the term loan has been fully disbursed.

## **SECTION 18**

### **18.1 Tenure of the Facility**

- (a) The Tenure of the Facility is as stated in the Letter of Offer.
- (b) The Bank may extend the Tenure of the Facility on such terms and conditions as will be disclosed by the Bank to the Borrower in writing.
- (c) If the Facility comprises of a term loan and an overdraft, the overdraft must be repaid on (i) expiry of the Tenure, or (ii) termination of the term loan, or (iii) on demand by the Bank, whichever is the earliest.

## **SECTION 19**

### **19.1 Section 8(2A) of the Insolvency Act 1967 for Joint Borrowers**

If the Facility is granted to joint Borrowers and one of the Borrowers has been declared a bankrupt during the tenure of the Facility but the Bank has not realised its security within 12 months from the bankruptcy order, the other Borrower who is not bankrupt must continue to pay interest at the Prevailing Interest Rate on the Facility.

## **SECTION 20**

### **20.1 Payments**

- (a) All payments made by the Borrower to the Bank under this Agreement shall be made on or before the fourth (4th) day of every month (except for Home Flexi or Overdraft where all payments shall be made on or before the first (1st) day of every month) or such other date(s) as the Bank may notify the Borrower. This Section does not apply to any early settlement and prepayment made under Section 6 above.
- (b) All payments to the Bank shall be made in Malaysian Ringgit and in immediately available funds.
- (c) All payments shall be made without set-off, counter claim, or any deduction or withholding. If there is any deduction or withholding, the Borrower shall immediately pay to the Bank an additional amount so that the net amount received by the Bank shall be equal to the full amount the Bank should have received without such deduction or withholding.
- (d) Any money received pursuant to any realization of security charged or created in favour of the Bank or recovery action by the Bank may be placed and retained in a suspense account to facilitate a discharge of any obligation due by the Borrower in relation to the Property. If there is a shortfall from proceeds of the foreclosure or recovery action and there are proceedings in or comparable to bankruptcy, liquidation, composition or arrangement, the Bank may prove for and agree to accept any dividend or composition in respect of such shortfall.

## **SECTION 21**

### **21.1 Liability**

The Borrower agrees that:

- (i) subject to sub-clauses (ii) and (iii) below, the Borrower retains the right to claim for damages and all other remedies available in law for direct losses arising from any act or omission of the Bank;
- (ii) the Bank shall not be liable for any indirect, incidental, consequential or secondary loss or damage, including but not limited to any loss of profit or income or savings, expectation loss, reliance loss, pure economic loss or similar loss or damage that the Borrower may suffer by reason of any act or omission of the Bank, even if the Bank had been advised of the possibility of such loss or damages in advance;
- (iii) the Bank shall not be liable for any exemplary or punitive damages, and
- (iv) all such loss and damage as referred to in sub-clauses (ii) and (iii) above are expressly disclaimed by the Bank.

## **SECTION 22**

### **22.1 Modification and Indulgence**

The Bank may, without affecting its security granted by the Borrower and/or Security Party in relation to this Facility:

- (i) vary the terms and/or conditions of this Agreement with at least twenty-one (21) days' prior written notice to the Borrower for operational expediency or due to a change in any laws and regulations or any other reason; or
- (ii) grant to the Borrower or the Security Party any indulgence.

No failure, delay or omission on the part of the Bank to exercise any right or power under this Agreement upon any default on your part will not (i) impair any such right or power, or (ii) be construed as a waiver or any acquiescence in such default. Further, any action or any acquiescence by the Bank in respect of any default will not affect or impair any of the Bank's rights or powers in respect of any other or subsequent default.

## **SECTION 23**

### **23.1 Severability**

Any provision of this Agreement that is or becomes invalid, void, illegal or unenforceable shall only be ineffective to the extent necessary and shall not affect or impair the validity, legality and/or enforceability of the remaining provisions of this Agreement. The Borrower agrees, upon request by the Bank, to a substitution of any such invalid, void, illegal or unenforceable provision with a valid provision which has as far as possible the same effect.

## **SECTION 24**

### **24.1 Legal Proceedings**

If the Bank takes legal action to recover any money due from the Borrower, or to enforce any term or condition of the Security Documents, then the Bank may:

- (i) claim for the amounts outstanding (including interest and other moneys) due from the Borrower and/or the Security Party and/or under the Security Documents, in the same or separate proceedings; and
- (ii) proceed simultaneously in the same or separate proceedings to realise the security created in favour of the Bank by the Borrower and/or the Security Party,

to satisfy the Indebtedness.

## **SECTION 25**

### **25.1 General Indemnity**

The Borrower shall fully indemnify and keep the Bank indemnified against any fee, cost, charge, expense, loss, damage or liability (as to the amount of which the certificate of the Bank shall, in the absence of manifest error, be conclusive) which the Bank may incur as a consequence of any Event of Default, or cancellation or termination of the Facility by the Borrower. This obligation to indemnify the Bank shall extend to (i) any interest, fees, costs, charges, expenses or other sums whatsoever paid or payable by the Bank in consequence or on account of any funds borrowed and/or utilised by the Bank, and (ii) any loss (including loss of profit), premium, penalty, fee, cost, charge or expense which the Bank may incur from liquidating or employing deposits from third parties to provide, maintain or fund the Facility (or any part of it) or (iii) any other amount due under the Security Documents.

## **SECTION 26**

### **26.1 Service of Legal Process**

In addition to any mode of service that may be permitted by law, if the Bank commences legal proceedings against the Borrower, the originating process shall be deemed to have been duly served on the Borrower at the address stated in the Letter of Offer or at the last address maintained in the Bank's records for the Facility, if:

- (i) given by prepaid registered or ordinary post, five (5) days after it is posted; and
- (ii) if delivered personally or by courier, on the day it is delivered.

## **SECTION 27**

### **27.1 Borrower's Covenants**

The Borrower covenants with the Bank that the Borrower shall and shall cause the Security Party (where applicable) to, at all times during the continuance of this Agreement:

- (i) promptly obtain, maintain, renew from time to time, and deliver to the Bank certified copies of, any authorisation, approval, consent, license, exemption, registration, recording, filing or notarisation necessary to ensure the legality, validity, enforceability or priority of the Security Documents, and to comply with the terms and/or conditions of the same;
- (ii) immediately notify the Bank of the occurrence of any Event of Default or potential Event of Default and provide details of steps being taken or to be taken to remedy or mitigate such Event of Default or potential Event of Default;
- (iii) inform the Bank in writing on becoming aware that any close relatives i.e. any parents, spouses, dependents of the spouses, brothers, sisters, children (including step children and adopted children) and any other dependents and persons who may influence or be influenced by the Borrower have become or are a director, officer or employee of the Bank or CIMB Islamic Bank Berhad or CIMB Investment Bank Berhad or other entities within the CIMB Group (“**CIMB Group**” consists of CIMB Group Holdings Berhad and all its related companies as defined in Section 7 of the Companies Act 2016 and jointly controlled companies that provide financial and other regulated services, excluding companies, branches, offices and other forms of presence operating outside Malaysia), which state of affairs would fall within the Guidelines on Credit Transactions and Exposures with Connected Parties issued by Bank Negara Malaysia;
- (iv) to inform the Bank by written notice of:
  - (1) any dispute between the Borrower, the Security Party and any government or statutory body in respect of the Property, or any Security; and/or
  - (2) any other matter which adversely affects or may adversely its ability to fulfil its obligations under the Security Documents, its financial position or its ability to repay the Facility.
- (v) observe, comply with and/or perform all the terms and conditions of the Security Documents;
- (vi) notify the Bank promptly if there is a change to its or the Security Party’s respective residential status;
- (vii) (1) not carry out any acts which will or could have an adverse effect on:
  - (I) the Borrower’s and/or the Security Party’s business, operations, property, condition and their respective prospects (financial or otherwise); or
  - (II) the Borrower’s and/or the Security Party’s ability to perform any of their respective obligations under the Security Documents, or
  - (III) the validity or enforceability of any of the Security Documents, or
  - (IV) the rights or remedies of the Bank under the Security Documents; and



- (2) to promptly notify the Bank of any adverse change in the Borrower's and/or the Security Party's business, operations, property, condition (financial or otherwise) or prospects; and
  - (3) promptly notify the Bank of any litigation or other proceedings threatened or initiated against the Borrower and/or the Security Party by or before any court, authority, tribunal or administrative agency, which may adversely affect its and/or the Security Party's (I) business or condition (financial or otherwise) or (II) ability to fulfil its obligations under the Security Documents and the amount of any contingent liability if such amount is ascertainable;
- (viii) execute such further documents or perform further acts necessary to give effect to the terms and conditions of the Security Documents if requested or demanded by the Bank at any time; and
- (ix) ensure that the Borrower and Security Party (as applicable) have the ability to pay all their indebtedness when due and payable.

## **SECTION 28**

### **28.1 Reconstruction**

The security, liabilities and obligations created by the Security Documents shall continue to be valid, binding and enforceable for all purposes even if there is a change by amalgamation, reconstruction or otherwise to the constitution of the Bank and/or the Borrower and/or the Security Party. Any change affecting the Bank, the Borrower and/or the Security Party shall not adversely affect the security, liabilities and obligations created under the Security Documents.

## **SECTION 29**

### **29.1 Additional Facility and Stamp Duty**

Section 12.2 (*Upstamping*) shall also apply if the Bank grants any additional facility under this Agreement to the Borrower.

## **SECTION 30**

### **30.1 Communications for Multiple Borrower**

Where the Borrower comprises two or more persons:

- (i) any certificate, statement, notice, demand or other communication given to any one or more of such persons in respect of the Facility shall be deemed to have been given to, and is binding on all such persons; and
- (ii) where any certificate, statement, notice, demand or other communication given by any one or more of such persons to the Bank in respect of the Facility, the Bank shall be entitled but not bound to treat such communication as having been given by all such persons, and therefore binding on all such persons,

- (iii) and the Borrower confirms and declares that each such person is individually authorised to receive and/or give any and all such certificates, statements, notices, demands or other communications from and/or to the Bank on behalf of all such persons.

## **SECTION 31**

### **31.1 Evidence of Indebtedness**

In any proceeding relating to any of the Security Documents, a certificate or statement of account as to the amount due to the Bank which is signed by an officer of the Bank or contained in a document produced by a computer in the ordinary course of its use, shall (in the absence of fraud or manifest error), be conclusive evidence that such amount is in fact due and payable.

## **SECTION 32**

### **32.1 Acting as Principal and Money Laundering**

(a) The Borrower warrants and represents to the Bank that:

(i) unless and until the Borrower notifies the Bank in writing to the contrary:

- (1) the Borrower is the principal borrower in relation to the Facility;
- (2) no person other than the Borrower has or will have any interest in the Facility; and
- (3) all monies which will be paid to the Bank, and Security given in favour of the Bank to secure the Facility shall come from a lawful source of activity, as defined under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (“**AMLA**”);

(ii) on notification that the Borrower is an intermediary for other persons:

- (1) the Bank may require, and the Borrower agrees and undertakes to provide verification of the identity of the beneficiary and such other information required by the Bank for its records (including but not limited to certified true copies of any authorisation to act or documents required to verify the information provided);
- (2) the Borrower further declares and certifies that it has conducted the necessary “know-your-client” checks, including but not limited to checks on the identity, existence, address and nature of the business of the beneficiary, and that the relevant monies, funds or collateral paid or given to the Bank are from a lawful source of activity and not any “unlawful activity” as defined under the AMLA; and
- (3) the provision of beneficiary details shall not make that beneficiary a client of the Bank’s and the Bank is entitled to treat the Borrower as the principal at all times.

(b) The Borrower agrees and undertakes that:

- (i) the Borrower shall disclose and furnish to the Bank any information required to the satisfaction of the Bank within the time period specified by the Bank for purposes of complying with AMLA or other regulatory requirements;
  - (ii) the Bank is not obliged to proceed with any transaction or disbursement under the Facility or accept any monies, funds or collaterals (“**Assets**”) pending receipt or verification of the information by the Bank and/or the relevant authorities. For Assets in the Bank’s possession, the Bank shall be entitled (and authorised) to retain the Assets for the time being; any Assets requested to be returned to the Borrower or the Security Party shall be returned to the Borrower or the Security Party after the Bank receives satisfactory clearance from the relevant authorities;
  - (iii) the Borrower shall not use the Facility for money laundering purposes or violate any laws relating to money laundering as defined under the AMLA; and
  - (iv) the Bank shall not be liable for any losses by reason of the Bank carrying out its duties under the laws currently in force, including but not limited to the AMLA, etc.
- (c) If it is discovered that any monies used for payment or repayment of the Indebtedness or any part of it have been sourced from “unlawful activities” (as defined under the AMLA), then: -
- (i) any release and discharge of the Borrower’s obligations under the Security Documents shall to such extent be automatically nullified and of no force and effect, and the Borrower and the Security Party shall continue to be liable to the Bank for such sums even if the Bank has issued any document(s) to discharge and release the Borrower or the Security Provider; and
  - (ii) the Borrower shall indemnify and keep the Bank fully indemnified and shall cause the Security Party (if any) to indemnify the Bank and keep the Bank fully indemnified (on full indemnity basis) for any losses, damages, costs, fees and charges incurred by the Bank as a result of contravention by the Borrower and/or the Security Party of the provisions of the AMLA.

### **SECTION 33**

#### **33.1 Time of Essence**

Time shall be of the essence of this Agreement.

### **SECTION 34**

#### **34.1 Successors Bound**

This Agreement shall be binding upon the heirs, personal representatives, permitted assigns and the successors-in-title of the Borrower and on the successors-in-title and assigns of the Bank.

### **SECTION 35**

#### **35.1 Governing Law**

This Agreement and the Security Documents shall be governed by the laws of Malaysia. Parties to this Agreement agree to submit to the exclusive jurisdiction of the Malaysian Courts.

## **SECTION 36**

### **36.1 Effective Date**

This Agreement shall come into force on the date stated in this Agreement, even if the parties have executed this Agreement on different dates.

## **SECTION 37**

### **37.1 Assignment and Transfer**

- (a) The Borrower may not assign or transfer any of its rights, benefits and/or obligations under this Agreement to any person without the Bank's prior written consent.
- (b) The Bank may, with prior written notice to the Borrower, assign its rights, benefits and/or obligations under this Agreement without the Borrower's consent provided such assignment or transfer does not materially and adversely affect (i) the Borrower's rights under this Agreement or (ii) the Facility.

## **SECTION 38**

### **38.1 Variation**

Other than variation of interest rates and/or other charges, the Bank may vary or modify any term or condition of this Facility Agreement by giving you at least twenty-one (21) days' notice. Any such variation will take effect on the date stated in such notice.

## **SECTION 39**

### **39.1 Letter of Offer**

This Agreement and the Letter of Offer shall supersede all oral negotiations and prior correspondence in respect of the Property Financing. If there are any inconsistencies between this Agreement and the Letter of Offer, the Letter of Offer shall prevail.

## **SECTION 40**

### **40.1 Privacy Notice**

- (a) The Borrower hereby confirms that the Borrower has read, understood and agreed to be bound by the CIMB Group Privacy Notice (which is available at [www.cimb.com.my](http://www.cimb.com.my)) and the Sections herein, as may relate to the processing of the Borrower's personal information. For the avoidance of doubt, the Borrower agrees that the said Privacy Notice shall be deemed to be incorporated by reference into this Agreement.
- (b) In the event the Borrower provides personal and financial information relating to third parties, including information relating to the Borrower's next-of-kin and dependents (where the Borrower is an individual) for the purpose of opening or operating the Borrower's account(s)/facility(ies) with the Bank or otherwise

subscribing to the Bank's products and services, the Borrower (a) confirms that the Borrower has obtained their consent or is otherwise entitled to provide this information to the Bank and for the Bank to use it in accordance with this agreement; (b) agrees to ensure that the personal and financial information of the said third parties are accurate; (c) agrees to update the Bank in writing in the event of any material change to the said personal and financial information; and (d) agrees to the Bank's right to terminate the Facility should such consent be withdrawn by any of the said third parties.

- (c) Where the Borrower 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 information relating to those involved in the said transaction) may be received from or sent abroad, where it could be accessible (whether directly or indirectly) by overseas regulators and authorities (e.g. for the prevention of crime). In instructing the Bank and/or the Bank's agents to enter into any cross-border transaction on behalf of the Borrower, the Borrower agrees to the above said disclosures and also on behalf of the others involved in the said cross-border transaction.
- (d) The Bank may at any time and from time to time now and/or in the future carry out the necessary reference checks including but not limited to credit reporting/reference checks with credit reporting/reference agencies including but not limited to CCRIS, FIS and/or any other agencies and/or from any financial institution to enable the Bank to ascertain the Borrower's status as may be required to help make decisions, for example when the Bank needs to (a) check details on applications for credit and credit-related or other facilities; (b) manage credit and credit-related accounts or facilities, including conducting reviews of the Borrower's portfolio(s); and/or (c) recover debts. The Borrower shall be linked by credit reporting/reference agencies to any other names the Borrower uses or has used, and any joint and several applicants. The Borrower agrees that the Bank may also share information about the Borrower and how the Borrower manages the Borrower's account(s)/facility(ies) with relevant credit reporting/reference agencies and for any of these credit reporting/reference agencies to disclose the Borrower's credit information to its subscribers for purposes of fraud detection and fraud prevention.
- (e) Even after the Borrower has provided the Bank with any information, the Borrower shall have the option to withdraw the consent given earlier. In such instances, the Bank shall have the right to not provide or discontinue the provision of any product, service, account(s) and/or facility(ies) that is/are linked with such information with at least 3 business days' prior written notice to the Borrower.
- (f) The Bank reserves the right to amend this Section from time to time at the Bank's sole discretion and shall provide not less than twenty-one (21) days' prior written notice to the Borrower and place any such amendments on the Bank's websites and/or by placing notices at the banking halls or at prominent locations within the Bank's branches.
- (g) For the purposes of this Section 40, the use of the words "the Bank" and "the Bank's" are to be read as references to the CIMB Group.
- (h) This Section shall be without prejudice to any other Section in this Agreement which provides for the disclosure of information.

## **SECTION 41**

#### 41.1 Anti-Bribery and Corruption

- (a) The Borrower undertakes that the Borrower shall not, and shall ensure that his personnel, officers, directors, agents shall not engage in any form of corruption, bribery or the giving or receiving of any benefit, gratification, gift, commission, financial advantage or advantage/consideration of any kind as an inducement or reward for doing or forbearance from doing any act howsoever related or intending to improperly influence decision making in relation to the Facility or other services from the Bank or any other third party. A breach of this clause may be considered by the Bank to be a material breach and the Bank may, in its discretion, terminate the Facility or other services or contract from the Bank without prejudice to any remedies available to it.
- (b) The Borrower acknowledges that the Bank is under a statutory obligation to report any offer or giving of benefit, gratification, gift, commission or consideration to the relevant regulatory authorities. The Borrower shall therefore promptly and in good faith report to the Bank in the event that any of the Bank's personnel, officer(s) or director(s):- (i) request(s) or demand(s) for or attempt(s) to request or demand for; and/or (ii) receive(s), take(s) or extort(s) or attempts to receive or take or extort any benefit, gratification, gift, commission, financial advantage or advantage/ consideration of any kind as an inducement or reward for doing or forbearance from doing any act howsoever related or intending to improperly influence any decision to be made by the Bank whether in connection with the Facility, other services or contract from the Bank.
- (c) All reporting by the Borrower pursuant to Section 41.1(b) above may be made in accordance with the Bank's Whistle Blowing Policy as set out in <https://www.cimb.com/en/who-weare/overview/corporate-governance/code-of-conduct/whistle-blowing.html>.
- (d) The Borrower agrees to respond promptly to the Bank's enquiries and shall co-operate and provide reasonable assistance during any investigation or audit by the Bank relating to any allegations of bribery or corruption.

## SECTION 42

#### 42.1 References in this Agreement

- (a) Reference to the masculine gender includes the feminine and neuter genders and vice versa and references to the singular number include the plural and vice versa.
- (b) Where two or more persons are included in any expression used in this Agreement, such expression will mean all such persons, or each or any of them. All covenants, terms, stipulations, undertakings, certificate, statement, notice, demand or other communications expressed to be made by or on the part of such persons will be considered to be made by and binding upon such persons jointly and severally.
- (c) References to a natural person are to be construed to include references to a corporation, firm, partnership, joint venture, unincorporated body of persons, individual or any state or agency of a state, whether or not a separate legal entity.
- (d) Section headings are inserted for ease of reference only.
- (e) References to any document are references to that document as amended, novated, supplemented, extended or restated, and include any document which is in addition to or in substitution to such document.

- (f) References to any statute, law, enactment, guidelines, rule or regulation include the statute, law, enactment, guidelines, rules or regulations as re-enacted, amended, extended or issued under the same from time to time. References to "law" include by-laws, common or customary law and any constitution, decree, judgment, legislation, order, ordinance, regulation, statute, treaty or other legislative measure in any jurisdiction or any present or future directive, regulation, request or requirement (in each case, whether or not having the force of law but, if not having the force of law, the compliance should be in accordance with the general practice of persons to whom the directive, regulation, request or requirement is addressed).
- (g) References to any Schedule or Section are references to the Schedules and Section of this Agreement.
- (h) All Schedules to this Agreement are to be read and construed as an essential part of this Agreement.

**[End of Clauses]**

IN WITNESS WHEREOF the parties hereto have set their hands and seal hereunto.

Signed by

As Attorney for and on behalf of  
CIMB BANK BERHAD  
in the presence of:

.....	
Witness	Signatory
Name:	Name:
NRIC No:	Designation:
	NRIC No:

THE BORROWER  
Signed by

(NRIC No. •)  
in the presence of:



.....

Witness

Name:  
NRIC No:



**SCHEDULE 1**

(which is to be taken, read and construed as an essential part of this Agreement)

<b>Section</b>	<b>Item</b>	<b>Description</b>
<b>1.</b>	<b>Name(s) and address(es) of the Borrower</b>	
<b>2.</b>	<b>Description of the Property</b>	The Property details as stated in the Charge/Deed of Assignment (to delete whichever is inapplicable) dated _____ between the Bank and the Security Party.
<b>3.</b>	<b>Name(s) and Description(s) of the persons providing the Security</b>	

## SCHEDULE 2

(to enclose a copy of the stamped Letter of Offer duly accepted in this Schedule)

### Special Conditions Forming Part Of This Agreement

(To state any special conditions, e.g. if the legal fees, etc are to be paid by the Bank, any special prepayment conditions, any special re-drawing or re-borrowing conditions any other benefits such as credit card facility, and/or any other conditions as advised by the attending solicitors.

To state "Not Applicable" if inapplicable)

SCHEDULE 3  
(Section 17.1(a))

Additional Conditions Precedent To Disbursement

(To state any additional conditions precedent to disbursement as advised by the attending solicitors.  
To state "Not Applicable" if inapplicable)