

CM Property Financing-i

Dated [•]

Between



CIMB Islamic Bank Berhad (671380-H)

and

[Name of Party]

**MURABAHAH FACILITY
AGREEMENT**

In relation to the CM Property Financing-i

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THIS AGREEMENT is made the day _____ of _____ 20__ between:

- (1) CIMB ISLAMIC BANK BERHAD (Company No. 671380-H), a company incorporated in Malaysia under the Companies Act, 1965 with a registered address at Level 13, Menara CIMB, Jalan Sentral 2, Kuala Lumpur Sentral, 50470 Kuala Lumpur and its place of business at the address set out in the Letter of Offer and includes its successors in title and assigns (hereinafter referred as the “**Bank**”) of the first part;
AND
- (2) the person whose name, description and present address as set out in the Letter of Offer and includes its successors in title (hereinafter referred to as the “**Customer(s)**”) of the second part.

Recitals

At the request of the Customer(s), the Bank has agreed to make available the Facility (as defined below) up to the amount as set out in the Letter of Offer and subject to the terms and conditions of this Agreement.

It is agreed as follows:

1 DEFINITIONS, CONSTRUCTIONS, INTERPRETATIONS

1.1 Definitions

In this Agreement, each of the following expressions has, except where the context otherwise requires, the meaning shown opposite it:

Account	means an account of the Customer(s) maintained with the Bank for the purposes of making the Monthly Payments;
Accessory Parcel	shall have the meaning assigned to it by the Strata Titles Act, 1985, the Strata Titles Ordinance, 1995, and the Land (Subsidiary Title) Enactment, 1972, and includes any statutory amendment or re-enactment thereof;
Applicable Acts	means the National Land Code (Act 56 of 1965) of Peninsular Malaysia, Sarawak Land Code (Cap. 81) and Sabah Land Ordinance (Cap. 68) the Land (Subsidiary Title) Enactment, 1972, the Strata Titles Act, 1985, and the Strata Titles Ordinance, 1995, and includes any statutory amendment or re-enactment thereof;
Availability Period	means the period the Facility will be available for disbursement as set out in the Letter of Offer, subject to fulfilment of Conditions Precedent;

Bank's Sale Price	means the amount as stated in the Letter of Offer, payable by the Customer(s) to the Bank in monthly instalments (" Monthly Payments ") as the sale price for the Commodity which shall comprise of: (a) the Bank's Purchase Price; and (b) the Profit Portion;
Bank's Purchase Price	means the purchase price payable by the Bank for the purchase of the Commodity from the Commodity Supplier which in aggregate shall not exceed the limit of the Facility as approved by the Bank under the Letter of Offer;
BFR	means the Bank's Base Financing Rate as published by the Bank from time to time;
BNM	means Bank Negara Malaysia, a body corporate governed under the Bank Negara Malaysia Act, 2009;
Building	means the building or buildings erected on the Land more particularly described in the Letter of Offer;
Business Day	means a day (excluding Saturday, Sunday and public holiday) on which the branch of the Bank through which the Facility(ies) is (are) made available is open for transaction of business of the nature required or contemplated by the Letter of Offer;
Contracted Profit Rate or CPR	means the contracted profit rate applicable to the Facility as set out in the Letter of Offer;
Charge	means the legal charge over the Property in the form and substance acceptable to the Bank executed or to be executed by the Customer(s) in favour of the Bank in relation to the Facility;
Commodity	means any such Shariah compliant commodities other than ribawi items in the category of medium of exchange such as currencies, gold, silver and debt instruments which is endorsed by the Shariah Committee of the Bank and acceptable to the Bank;
Commodity Broker	means the commodity broker as determined by the Bank;
Commodity Supplier	means the commodity supplier as advised by the Bank;
Conditions Precedent	means the conditions precedent as set out in Schedule 1 of this Agreement;
Customer(s)' Sale Price	means an amount equivalent to Bank' Purchase Price;

Deed of Assignment	means the deed of assignment in the form and substance acceptable to the Bank executed or to be executed by the Customer(s) in favour of the Bank in relation to the Facility;
Developer/Vendor	means the party(ies) where the Customer(s) has entered into a Principal Sale and Purchase Agreement and includes his/her/their/its successors in title and permitted assigns, heirs and personal representatives as the case may be;
Differential Sum	means the difference between the Sale and Purchase Price of the Property and Customer(s)' Sale Price, i.e. equivalent to the amount financed by the Bank;
Effective Profit Rate or EPR	means the effective profit rate applicable to the Facility as set out in the Letter of Offer;
Event of Default	means any of the events as set out in Clause 11;
Facility	means the facility up to the amount as set out in the Letter of Offer;
Guarantee	means if applicable the guarantee in the form and substance acceptable to the Bank executed or to be executed by the Guarantor(s) in favour of the Bank or if more than one individual, joint and several guarantee in relation to the Facility;
Guarantor(s)	means the person(s) required to provide the Guarantee in favour of the Bank as set out in the Letter of Offer and includes his/her/their/its successors in title, permitted assigns, heirs and personal representative, as the case may be;
House Owner Takaful	means the house owner takaful plan taken up or to be taken up by the Customer(s) in respect of the Property on behalf of the Bank from a Takaful Operator acceptable by the Bank;
IBR	means the Bank's Islamic Base Rate as published by the Bank from time to time as more particularly described in the Letter of Offer;
Land	means (if applicable, in the case where the individual title to the Property has not been issued), all that parcel(s)/piece(s) of land(s) on which the Building is erected thereon, the particulars of which are set out in the Letter of Offer;
Letter of Offer	means the letter of offer for the Facility issued by the Bank and duly accepted by the Customer(s);

Lock-in Period	means (if applicable) the period during which the Customer(s) shall maintain the Facility with the Bank depending on the rate packages offered by the Bank in respect of the Facility, or otherwise the Customer(s) may be subject to Early Settlement Charges as calculated according to the formula set
Principal Sale and Purchase Agreement	(in the case where the individual title to the Property has not been issued) means the sale and purchase agreement made between the Customer(s) and the Developer/Vendor for the sale and purchase of the Property upon the terms and
Profit Portion	means the profit margin based on the CPR as set out
Property	means (i) the property which constitutes the purpose of the Facility as set out in the Letter of Offer comprising the Land, the Building and/or any building and fixture now or hereafter or from time to time erected thereon or affixed therein or any part or portion thereof and shall include all additions, replacement and renewals thereof whether made before or after the date of this Agreement; and (ii) where applicable shall include any Accessory Parcel
Proprietor	means (where applicable) the party(ies) who have entered into an agreement with the Developer/Vendor for the sale and purchase of the Land and/or Building;
Purchase Request	means a request issued by the Customer(s) to the Bank to utilise the Facility substantially in the form as set out in Schedule 2A of this Agreement;
Purchase Transaction	means the transaction between the Bank and the Commodity Supplier for the purchase of the Commodity by the Bank from the Commodity Supplier after the Bank has accepted the Purchase Request;
Revised EPR	means the revised Effective Profit Rate (EPR) by the Bank in the event of delay or failure to pay any Monthly Payments as more particularly described in the Letter of Offer;
Ringgit Malaysia or RM	means the lawful currency of Malaysia;
Sale and Purchase Price	means the total purchase price of the Property under the Sale and Purchase Agreement or the Principal Sale and Purchase Agreement, as the case may be;

Sale Transaction	means the transaction between the Bank and the Customer(s) for the sale of the Commodity by the Bank to the Customer(s) at the Bank' Sale Price which such transaction shall only become effective upon the due completion of the Purchase Transaction;
Security Documents	means the security documents in favour of the Bank in relation to the Facility as set out and required in the Letter of Offer, including but not limited to the following: <ul style="list-style-type: none">(i) Charge;(ii) Deed of Assignment; and(iii) Guarantee;
Security Interests	means any mortgage charge, pledge, lien, right of set off or any security interest whatsoever or howsoever created or arising;
Security Party(ies)	means the Customer(s) and/or the Guarantors and/or any other party from time to time required by the Bank to provide security to the Bank for the Customer(s)'s obligations under the Facility and execute the Security Documents and references to " Security Party(ies) " includes reference to each or any one thereof;
Settlement Amounts	means the aggregate of the payments due and payable by the Customer(s) to the Bank pursuant to this Agreement in accordance with the calculation method as set out in the Letter of Offer;
Shariah	means the Shariah rulings and decisions issued by the Shariah Advisory Council of BNM and Shariah Committee of the Bank respectively. Accordingly, for the purpose of this Agreement, "subject to Shariah" and "Shariah compliant" shall mean subject to and compliant with such rulings and decisions;
Takaful Operators	means any takaful company or takaful provider duly approved by the Bank;
Tawarruq Transactions	means collectively, the Purchase Transaction and Sale Transaction;
Tenure	means the tenure of the Facility as set out in the Letter of Offer;

Total Amount Due and Payable	<p>means the aggregate of the Settlement Amounts and where applicable shall include any of the following:</p> <ul style="list-style-type: none">(i) the payments due and payable by the Customer(s) to the Bank upon any occurrence of Event of Default ; or(ii) the payments due and payable by the Customer(s) to the Bank upon early settlement of the Bank's Sale Price or expiry of the Tenure, as the case may be; <p>which the Bank determines to be outstanding at any particular time and/or any part thereof, as well as all other monies whatsoever including but not limited to fees, charges, damages and expenses that are due and payable by the Customer(s) to the Bank under the Transaction Documents;</p>
Total Loss Incident	<p>means any incident or occurrence that results in the total loss or destruction of, or damage to the whole of the Property or any incident or occurrence that makes the Property permanently unfit for any economic use and the repair or remedial work in respect thereof is uneconomical;</p>
Transaction Documents	<p>means collectively the following documents:</p> <ul style="list-style-type: none">(a) Letter of Offer;(b) this Agreement;(c) documents evidencing the Tawarruq Transactions including but not limited to the Purchase Request and Murabahah Sale Contract ;(d) the Security Documents; <p>and such other documents designated as such by the Bank; and</p>
Transaction Fees	<p>means, where applicable, the set-up fee and monthly service charge payable by the Customer(s) to the Bank under Clause 4.2 in the amount and in the manner as provided in the Letter of Offer.</p>

1.2 Constructions

Except where the context otherwise requires, any reference in this Agreement to:

- (a) an “agreement” or “document” also includes a concession, contract, deed, franchise, licence, treaty, forms or undertaking (in each case, whether oral or written) and includes a reference to any documents which amends, waives, is supplemental to or novates the terms thereof;
- (b) the “assets” of any person shall be construed as a reference to the whole or any part of its business, undertaking, property, assets and revenues (including any right to receive revenues);
- (c) a “consent” also includes an approval, authorisations, exemption, filing, licence, order, permission, permit, recording or registration (and reference to obtaining consent shall be construed accordingly);
- (d) “day” or “year” shall be construed by reference to the Gregorian calendar;
- (e) a “directive” includes any present or future directive, policy, regulation, request, requirement or voluntary credit restraint programme (in each case, whether or not having the force of law but, if not having the force of law, the compliance with which is in accordance with the general practice of persons to whom the directive is addressed);
- (f) “disposal” includes any sale, assignment, exchange, transfer, concession, loan, lease surrender of lease, licence, reservation, waiver, compromise, release, security, dealing with or the granting of any option or right or interest whatsoever or any agreement for any of the same and “dispose” means to make a disposal, and “acquisition” and “acquire” shall be construed with such necessary changes having been made;
- (g) the “dissolution” of a person includes the bankruptcy or liquidation of that person, and any equivalent or analogous procedure under the law of any jurisdiction in which that person is domiciled or resident or carries on business or has assets;
- (h) a “guarantee” also includes any other obligation (whatever called) of any person to pay, purchase, provide funds (whether by way of the advance of money, the purchase of or subscription for shares or other securities, the purchase of assets or services, or otherwise) for the payment of, indemnify against the consequences of default in the payment of, or otherwise be responsible for, any indebtedness of any other person;
- (i) “indebtedness” includes any obligation (whether present or future, actual or contingent, secured or unsecured, as principal or surety or otherwise) for the payment or payment of money including but not limited to principal, profit, default and/or additional profit, commission, fee and other charges whether by this Agreement or any future facility granted by the Bank from time to time or at any time;
- (j) a “law” includes common or customary law and any constitution, decree, judgment, legislation, order, ordinance, regulation, statute, treaty or other legislative measure in each case of any jurisdiction whatsoever (and ‘lawful’ and ‘unlawful’ shall be construed accordingly);

- (k) “month” means a period beginning in one calendar month and ending in the next calendar month on the day numerically corresponding to the day of the calendar month on which it commences or, where there is no date in the next calendar month numerically corresponding as aforesaid, the last day of such calendar month, and ‘months’ and ‘monthly’ shall be construed accordingly;
- (l) any “obligation” of any party under this Agreement, or the other Transaction Documents shall be construed as a reference to an obligation expressed to be assumed by or imposed on it under this Agreement or, as the case may be, such Transaction Documents (and “due”, “owing”, “payable”, “receivable” shall be similarly construed);
- (m) a “person” includes any individual, company, corporation, firm, partnership, joint venture, association, organisation, trust, state or agency of a state (in each case, whether or not having separate legal personality) or any country or state or any political sub-division, possession or territory thereof or therein or the government or any bureau, minister, instrument, agency, instrumentality, court, regulatory body, authority, legislative body or department thereof (including, without limitation, the central bank or any taxing, fiscal or other monetary authority thereof) and reference to a person or party includes that person’s or party’s successors and, in the case of any person other than the Customer(s), its permitted assigns;
- (n) “security” includes any mortgage, pledge, lien, assignment, hypothecation, security interests, trust arrangement or other charge or encumbrance and any deferred purchase, title retention, leasing, sale-and-repurchase, transfer or other similar arrangements which have the effect of conferring security;
- (o) “subsidiary” has the meaning ascribed to it in Section 5 of the Companies Act, 1965;
- (p) “tax(es)” includes any present or future tax, levy, impost, duty, charge, fee, deduction or withholding of any nature and whatever called, by whomsoever, on whomsoever and wherever imposed, levied, collected, withheld or assessed and includes, but is not limited to, any fine, penalty, charge, fee or other amount imposed on or in respect of any of the above; and
- (q) in relation to any “consent” to be obtained pursuant to this Agreement and/or Transaction Documents by the Customer(s) from any party, such consent shall be dealt with promptly and shall not be unreasonably withheld by such party.

1.3 Interpretations

- (a) Words denoting the singular includes the plural number and vice versa.
- (a) Words importing the masculine gender include the feminine and neuter genders and vice versa.
- (b) The headings and sub-headings to Clauses and Schedules in this Agreement are inserted for convenience only and shall be ignored in construing the provisions of this Agreement.
- (c) References to “this Agreement” shall include any amendments, variations and/or supplemental made or entered into from time to time.

- (d) References to Items, Clauses and Schedules are to be construed as references to Items, Clauses and Schedules of this Agreement, unless stated otherwise.
- (e) References to the provisions of any legislation include a reference to any statutory modification or re-enactment thereof.
- (f) Any liberty or power which may be exercised or any determination which may be made hereunder by the Bank may be exercised or made at the Bank's absolute or unfettered discretion and the Bank shall not be under any obligation to give any reason thereof to the Customer(s).
- (g) Words applicable to natural persons include any body, person, company, corporation, firm or partnership, corporate or otherwise and vice versa.
- (h) The word "herein", "hereinafter", "hereof", "hereunder" and other words of similar important shall refer to this Agreement as a whole and not to any particular provision.
- (i) The words "monies", "Ringgit Malaysia" and the symbol "RM" shall be construed as Malaysian currency.
- (j) All Schedule(s) herein shall form an integral part of this Agreement and shall be taken, read and construed as an essential part hereof.
- (k) Where there are two (2) or more persons or parties included or comprised in the expression "the Customer(s)":
 - (i) and any one or more of such persons ("Original Signatories") is not bound by the provisions of this Agreement (whether by reason of its or their lack of capacity or improper execution or for any other reason whatever), the remaining Original Signatory or Signatories shall continue to be bound by the provisions of this Agreement as if such other Original Signatory or Signatories had never been party hereto;
 - (ii) the Bank shall be at liberty to release or discharge any one or more of such persons from liability or to compound with, accept compositions from or make any other arrangements with any of such persons without in consequence releasing or discharging any other of such persons or otherwise prejudicing or affecting the Bank's rights and remedies against any other of such persons;
 - (iii) otherwise all agreements, covenants, terms, stipulations and undertakings expressed to be made by and on the part of the Customer(s) shall be deemed to be made by or binding upon such persons or parties jointly and severally.

1.4 Language

This Agreement is available in English and Bahasa Malaysia versions. The parties agree that the version executed by the Customer(s) shall prevail for the purpose of legal contract by the parties. However, all correspondence, notices or other documents required or permitted hereunder may be drawn up in English and drawings and diagrams shall unless otherwise expressly agreed by the parties in writing, be annotated in English.

2 THE FACILITY

2.1 Availability of the Facility

- (a) At the request of the Customer(s), the Bank agrees to make available to the Customer(s) the Facility pursuant to which the parties shall enter into the Tawarruq Transactions, subject to Availability Period and in accordance with the terms of this Agreement.
- (b) Upon expiry of the Availability Period, the Bank at its sole discretion may review the Facility and extend the Availability Period or treat the Facility as cancelled unless an extension is granted by the Bank.
- (c) If the Bank does not extend the Availability Period, the Bank may treat the Facility as cancelled if the Tawarruq Transactions have not been entered into. However if the Tawarruq Transactions have been entered into, any undisbursed portion of the Customer(s)' Sale Price after the Availability Period shall be treated as prepayment of the Bank's Sale Price (Principal portion) and the Profit Portion for the undisbursed portion shall be waived as Ibra' as stated in Clause 6.2.

2.2 Purpose

- (a) The Facility shall be used towards the Shariah compliant purposes as set out in the Letter of Offer and shall not be utilised by the Customer(s) for any other purposes.
- (b) Notwithstanding anything to the contrary, the Bank shall not be under any obligation whatsoever to ensure that the Facility is utilised towards the purposes as set out therein.

2.3 Disbursement of the Customer(s)' Sale Price and Drawdown Mode

The Facility can only be drawdown upon compliance with Conditions Precedent and availability of funds.

- (a) Payment to third party (ies)

The Bank is hereby authorised by the Customer(s) to disburse the Customer(s)' Sale Price or such part or parts thereof directly to the Customer(s)' respective solicitors or firm of solicitors, Developer/Vendor, Proprietor, the existing chargee or assignee of the Property, as the case may be, ("**Existing Chargee/ Assignee**"), courts, Takaful Operators or such other person(s) responsible for or concerned with the sale of the Property or to any other person, as the case may be, at such times in such manner by such amounts and upon such contingencies and conditions as the Bank may in its absolute discretion decide or otherwise:

- (i) in accordance with the manner set out in the Sale and Purchase Agreement;
- (ii) upon receipt by the Bank of the architect's certificate(s) or other documentary evidence satisfactory to the Bank certifying that works on the Property in respect of which claims for payment or payments are requested have been duly carried out and completed;
- (iii) in the case of refinancing, sub-sale or auctioned property, such disbursement shall be further subject to the Bank's receipt of satisfactory evidence of payment made by the Customer(s) to the Customer(s)' respective solicitors or firm of solicitors, Developer/Vendor, Proprietor, Existing Chargee/Assignee, courts, Takaful Operator or such other person(s) responsible for or concerned with the sale of the Property in the form of receipts or acknowledgement of payment and where applicable, a valuation report on the Property as set out under Clause 19.4; or

(iv) such variations in the manner of payment as the Bank may in its absolute discretion deem fit and the acknowledgement of receipt by the aforesaid party(ies) shall be as good and sufficient and effective as if the same had been made or given by the Customer(s) personally AND it is hereby further irrevocably agreed and confirmed by the Customer(s) that the Customer(s) shall not be entitled to object to or to restrain such payment by the Bank. The Customer shall not request the Bank to stop or defer any disbursement of the Customer's Sale Price or such part or any part thereof if the Bank has already given any undertaking to any third party to disburse the said payment unless such third party expressly agrees to the Customer's request and the release and discharge of the Bank from its undertaking. The Customer shall indemnify the Bank for all costs, expenses, claims and demand made on the Bank pursuant to the Bank giving an express or implied undertaking or covenant to any financial institution or developer or vendor or their solicitors or firm or solicitors purporting to act for any of them.

(b) Default on the part of the third party (ies)

And where applicable and without prejudice to the Bank's powers and rights conferred herein, it is hereby expressly agreed between the parties herein that in the event of any default on the part of the Developer/Vendor, Proprietor or such other third parties in their obligations to the Bank and the Existing Chargee/Assignee for the purpose of discharging/reassigning the same in favour of the Bank or in the opinion of the Bank, the Developer/Vendor is/are in breach of the Sale and Purchase Agreement, the Bank shall be at liberty to withhold the disbursement of the Customer(s)' Sale Price or any part(s) thereof.

(c) Payment for the Customer(s)'s benefit

The disbursement of the Customer(s)' Sale Price or such part or parts thereof, as the case may be, by the Bank to the parties as aforesaid in the manner set out herein shall be deemed to be effective payment thereof to or for the benefit of the Customer(s) PROVIDED HOWEVER that the Bank shall not be bound to make payment unless and until the Differential Sum shall have been duly paid by the Customer(s) to the respective solicitors or firm of solicitors, Developer/Vendor, Proprietor, the Existing Chargee/Assignee or courts, as the case may be, and PROVIDED FURTHER THAT the conditions precedent set out in Schedule 1 herein shall have been fulfilled and complied with by the Customer(s).

(d) Payment of the Differential Sum

The Customer(s) shall forthwith pay to the Developer/Vendor the Differential Sum in the event the Customer(s)' Sale Price is less than the balance of the Sale and Purchase Price remaining unpaid by the Customer(s) to the respective solicitors or firm of solicitors, Developer/Vendor, Proprietor, the Existing Chargee/Assignee or courts, as the case may be, and shall immediately provide the Bank with such documentary evidence satisfactory to the Bank confirming that the Differential Sum has been fully paid by the Customer(s).

(e) Excess of the Customer(s)' Sale Price

If there be an excess in the amount of the Customer(s)' Sale Price with that of the Differential Sum, such excess amount shall be disbursed by the Bank directly to the Customer(s).

3 MANNER OF TAWARRUQ TRANSACTIONS

3.1 Purchase Request

Subject to all the Conditions Precedent having been met, the Customer(s) may utilize the Facility by issuing a Purchase Request to the Bank notifying the Bank of its intention to enter into a Sale Transaction. The Purchase Request once issued is irrevocable and shall specify the amount of the Customer(s)' Sale Price to be utilized by the Customer(s). Under the Purchase Request, the Customer(s) will request the Bank:

- (a) Upon receipt by the Bank of the Purchase Request from the Customer(s), to proceed with a Purchase Transaction.
- (b) Upon due completion of the Purchase Transaction, to enter into the Sale Transaction with the Customer(s). The Bank and the Customer shall execute the Murabahah Sale Contract in the form as set out in Schedule 2B. to complete the Sale Transaction.
- (c) Upon the due conclusion of the Tawarruq Transactions, the Bank or any third party acceptable to the Bank is appointed as agent on behalf of the Customer(s) in accordance with Clause 4 is mandated to sell the Commodity to the Commodity Broker at the Customer(s)' Sale Price.
- (d) The Bank will deliver to the Customer(s) the Commodity evidenced by relevant notice setting out delivery order and/or the certificate of ownership as evidence of the transfer of ownership to the Bank, for the purpose of the Sale Transaction.

3.2 Terms and conditions of Tawarruq Transactions

- (a) The Tawarruq Transactions shall be governed by the terms and conditions of this Agreement and the applicable provisions of the Letter of Offer and the Purchase Request.
- (b) The Customer(s) will obtain such title to the Commodity as the Bank receives from the Commodity Supplier but free from encumbrances. The Bank shall not be deemed to give any warranty or representation (express or implied) whatsoever, whether arising by law, by statute or otherwise and, without prejudice to the generality of the foregoing, any such warranty or representation by the Bank is hereby expressly excluded to the full extent permitted by any applicable law.

3.3 Risks

All risks in the Commodity shall pass to the Customer(s) immediately at the time when the Trade Transaction is entered into, being the time when the Customer(s) completes the Sale Transaction with the Bank.

3.4 No Warranties

- (a) The Commodity is sold on an "as is, where is" basis but free from encumbrances.
- (b) The Customer(s) acknowledges that:
 - (i) it shall be considered to have accepted the Commodity on the basis and in the state described in Clause 3.4(a) above and shall have no remedy against the Bank in respect of quality, condition, quantity, description, title or otherwise; and

- (ii) it waives any claims which it may have against the Bank in respect of any loss or damage which it, or its officers, employees or agents, may suffer by reason of, or arising out of or in connection with this Agreement, any other Transaction Documents or otherwise (however arising) in connection with or arising from any Tawarruq Transaction and/or purchase of Commodity from the Commodity Supplier.

3.5 Indemnity

The Customer(s) shall at all times fully indemnify and keep the Bank indemnified against all and any action, proceeding, claim, expense, loss, damage or liability which the Bank may incur as a consequence of or arising from or connected to the appointment of the Bank as agent to the Customer(s) for the Tawarruq Transactions. The Purchase Request shall be irrevocable upon issuance and shall be binding on the Customer(s) in such form as the Bank requires.

4 UNDISCLOSED AGENCY

4.1 Appointment

- (a) Contemporaneous with the delivery of the Purchase Request by the Customer(s) to the Bank under this Agreement to enter into a Sale Transaction, the Customer(s) shall irrevocably appoints the Bank or any third party acceptable to the bank to act as his agent to sell the Commodity to any third party at the Customer's Sale Price.
- (b) In performing its duties under this Clause 4, the Bank shall at all times act as an undisclosed agent of the Customer(s) and it shall not disclose that it is acting as an agent of the Customer(s) and the Bank shall, amongst other:
 - (i) be authorised to sign and execute all documents and do all acts and observe and perform all obligations required to be done in connection with this Agreement, or imposed under any agreement of sale of the Commodity to a third party;
 - (ii) be required to do all the administrative duties regarding the holding and the selling of the Commodity as well as the insurance thereof;
 - (iii) not be under a duty to disclose and/or provide any documents to the Customer(s) in relation to its duties in terms of this Agreement; and
 - (iv) be at liberty and absolute discretion to sell the Commodity to any third party.
- (c) The appointment of the Bank as agent of the Customer(s) shall not create or be deemed to create a partnership or a joint venture between the parties, nor shall it establish a relationship of principal or agent in any other relationship between the parties.
- (d) The appointment of the Bank as agent of the Customer(s) for the purpose of this Agreement shall cease upon payment by the Bank into the Designated Account referred to in Clause 4.3(b) below.

4.2 Transaction Fees

The Customer(s) shall prior to the Sale Transaction, pay the Transaction Fees to the Bank.

4.3 Proceeds of Sale of the Commodity

- (a) The Bank shall sell the Commodity and obtain immediate payment of the Customer(s)' Sale Price free from any set-off, deduction, withholding or counterclaim in immediately available and freely transferable funds for good value.
- (b) The proceeds of any sale of the Commodity due to the Customer(s) shall be paid by the Bank into a bank account opened by the Customer(s) with a bank acceptable to the Bank (hereinafter referred to as the "**Designated Account**") once the Bank has received payment of the Customer(s)' Sale Price from the purchaser of the Commodity.

4.4 Specific Warranties and Indemnity in relation to Bank's role as Agent of Customer(s)

- (a) The Commodity shall be received and shall be sold on an "as is where is" basis, in each case with no warranty or representation whatsoever to any third party and/or purchaser thereof.
- (b) The Bank shall not be liable to remunerate or reimburse the Customer(s) for any sum or have any other obligation arising by reason of the agency relationship mandated hereby apart from those sums due to the Customer(s) unless resulting from the willful default or gross negligence of the Bank.
- (c) The Customer(s) hereby unconditionally and irrevocably waives all and any rights or claims, whether under law, in equity or otherwise howsoever which the Customer(s) may have against the Bank arising from or in connection with the exercise by the Bank of the authorities, discretions and powers granted by this Agreement, apart from those resulting from the willful default or gross negligence of the Bank.
- (d) The Customer(s) hereby unconditionally and irrevocably undertakes to the Bank that the Customer(s) will, on demand, indemnify the Bank and keep the Bank harmless from and against all and any actions, proceedings, claims, liabilities, losses, costs and expenses (including, without limitation, all costs and expenses incurred in disputing or defending any of the foregoing on a full indemnity basis, but other than those resulting from any willful default or gross negligence of the Bank), which may be made or brought against the Bank or which the Bank may suffer or incur as a result of or in connection with the exercise or purported exercise by the Bank of the authorities, discretions and power granted by this Agreement.

5 AVAILABILITY

5.1 Conditions Precedent

The Bank's obligation to make available the Facility and to accept any Purchase Request from the Customer(s) shall be subject to the Bank being satisfied that the Conditions Precedent as set out in Schedule 1 have been complied with and fulfilled by the Customer(s).

5.2 Waiver of Conditions Precedent

The Conditions Precedent are inserted for the sole benefit of the Bank and may be waived by the Bank in whole or in part with or without terms or conditions and shall be without prejudicing the right of the Bank to assert such terms and conditions in whole or in part in respect of future availability of the Facility.

6 UNDERTAKING TO PAY

The Customer(s) hereby undertakes to pay the Bank's Sale Price through Monthly Payments in the manner and at the time as notified by the Bank subject to and in accordance with the terms of this Agreement. The Customer(s) further undertakes to pay the Total Amount Due and Payable to the Bank under this Agreement and other Transaction Documents as and when it falls due.

6.1 Partial Settlement/Early Settlement

- (a) The Customer(s) shall be allowed to request for the partial settlement of the Bank's Sale Price ("**Partial Settlement**") at any time during the Tenure by giving advance written notice to the Bank. Payment of the partial settlement amount ("**Partial Settlement Amount**") must be made on the date(s) as determined by the Bank..
- (b) The Customer(s) shall make full settlement of the Settlement Amount ("**Early Settlement**") before expiry of the Tenure in either of the following events:
 - (i) the Customer(s) requests for an Early Settlement;
 - (ii) Early Settlement due to financing restructuring exercise;
 - (iii) Early Settlement in the Event of Default; and/or
 - (iv) Early Settlement in the event of termination of this Agreement before expiry of the Tenure for any other reason whatsoever.
- (c) In the event the Customer(s) requests for an Early Settlement of the Facility, payment of the Early Settlement must be made on the date(s) as may be determined by the Bank.
- (d) Any notice for Early Settlement shall be irrevocable and the Customer(s) shall be obligated to make such settlement in accordance with the notice.
- (e) The Bank shall have the right to charge an Early Settlement Charge to the Customer(s) upon Early Settlement during the Lock-in Period made by the Customer(s) and the Early Settlement Charges shall be calculated in the manner as set out below:

"**Early Settlement Charges**" shall mean $[(\text{Board Rate} - \text{Discounted Rate})]$ or 1%, whichever is lower, X (Outstanding Bank's Purchase Price) X (number of days from the first disbursement date until date of Settlement Amount is paid)/365.

For this purpose, "**Board Rate**" shall mean the Bank's normal rates provided to the Customer(s) is published, which usually higher than the discounted rate and "**Discounted Rate**" shall mean the Bank's promotional rates at the point of issuance of the Letter of Offer.

6.2 Undertaking to give Ibra' (Rebate)

- (a) The Bank undertakes to provide to the Customer(s) an Ibra' (rebate) on the Bank's Sale Price and/or other monies remaining unpaid by the Customer(s) in particular but not limited to the circumstances as stated in the Letter of Offer.
- (b) The Bank's calculation of such Ibra' (rebate) shall be treated as final and binding.

6.3 Changes of the Monthly Payments

- (a) In the event of any change in the BFR at any time during the Tenure resulting in change in the EPR (applicable for Facility where the EPR is based on BFR), the Bank shall have the right to revise the Monthly Payments accordingly and such revision in Monthly Payments shall be notified to the Customer(s). Any revision in the EPR as aforesaid shall not exceed the CPR.
- (b) In the event of any change in the IBR at any time during the Tenure resulting in change in the EPR (applicable for Facility where the EPR is based on IBR), the Bank shall have the right to revise the Monthly Payments accordingly and such revision in Monthly Payments shall be notified to the Customer(s). Any revision in the EPR as aforesaid shall not exceed the CPR.
- (c) In addition to Clause 6.3 (a) or (b) above (whichever applicable), in the event of any delay or failure by the Customer(s) to pay any Monthly Payments during the Tenure in accordance with this Agreement, the Bank shall have the right to revise the Monthly Payments by revising the EPR to Revised EPR. Such revision in Monthly Payments as aforesaid shall be notified to the Customer(s) and the Revised EPR shall not exceed the CPR.

7 SECURITY

7.1 Security

Where applicable, as security for the obligation to pay and timely payment of the indebtedness including but not limited to Bank's Sale Price and all monies due and owing under this Agreement, the Customer(s) shall execute or procure the execution of the Security Documents in favour of the Bank upon such terms and conditions as the Bank may require.

7.2 Continuing Security

The security herein created is expressly intended to be and shall be a continuing security for the indebtedness including but not limited to all monies whatsoever now or hereafter payable by the Customer(s) under this Agreement and the Security Documents.

7.3 Covenant to Provide Further Security

- (a) The Customer(s) shall at any time if and when required by the Bank execute or procure the execution in favour of the Bank or to any other person as the Bank shall direct such legal or other security as the Bank shall require and on all of the Customer(s)' assets, right, title and interest in any property or asset or business now belonging to or which may hereafter be acquired by or belong to the Customer(s) (including any contractor's lien) and the benefit of all licenses held in connection therewith to secure the indebtedness including but not limited to all monies and liabilities hereby agreed to be paid or intended to be secured, such security to be prepared by or on behalf of the Bank at the cost of the Customer(s) and to contain all such terms and conditions for the benefit of the Bank as the Bank may reasonably require.

- (b) The Customer(s) shall, at any time if and when required by the Bank, deposit with the Bank the documents of title of any or all immovable properties vested in the Customer(s) for any tenure and all or any debentures shares stocks or other investments or securities registered in the name of the Customer(s) or otherwise belonging to the Customer(s). Such deposit may be by way of collateral security for the payment of the indebtedness and may also or otherwise be for the purpose of securing any other monies owing to the Bank by the Customer(s) and not secured hereby.

8 REPRESENTATIONS AND WARRANTIES

8.1 Representations and Warranties

The Customer(s) hereby represent(s) and warrant(s) to the Bank as set out in Schedule 4 herein.

8.2 Truth and Correctness of Representations and Warranties

- (a) The Customer(s) acknowledge(s) that the Bank has accepted this Agreement on the basis of and in full reliance upon, the aforesaid representations and warranties, which are correct and complied with in all material respects so long as this Agreement shall remain in force and each of the above representations and warranties will be correct and complied with in all material respects throughout the subsistence of this Agreement.
- (b) The truth and correctness of all the matters stated in the representations and warranties under Clause 8.1 herein shall form the basis of the Bank's commitment to make available or continue to make available the Facility to the Customer(s). If any such representations and/or warranties made shall at any time hereafter be found to have been incorrect in any material respect then and in such event and notwithstanding anything to the contrary hereunder the Bank shall have the right at its absolute discretion and subject to Shariah to review, suspend or terminate the Facility.

9. COVENANTS

9.1 Affirmative Covenants

The Customer(s) undertakes with the Bank that until all his/their liabilities and obligations hereunder and until the Facility have been discharged, the Customer(s) shall undertake all undertakings that are set out in Schedule 5 herein.

9.2 Negative Covenants

The Customer(s) hereby covenant with the Bank that from the date of this Agreement until all his/their liabilities and obligations hereunder and under the other Security Documents have been discharged, the Customer(s) shall not without the written consent of the Bank first had and obtained do any matters that are set out in Schedule 5 herein

10 CHANGES IN CIRCUMSTANCES

10.1 Illegality

If by reason of any change after the date of this Agreement in applicable law regulation or regulatory requirement or in the interpretation or application thereof (including the interpretation or application of Shariah and/or the relevant Shariah concepts) by any governmental or other authority charged with the administration thereof (including, where applicable, the Shariah Advisory Council of BNM and Shariah Committee of the Bank respectively) whereby it shall become unlawful or constitute an irregularity for the Bank to comply with its obligations hereunder or to continue to make available the Facility, the Bank shall promptly inform the Customer(s) of the relevant circumstances whereupon:

- (a) the Bank's obligation (if any) in respect of any future availability of the Facility shall forthwith be terminated and the Facility shall be cancelled to such extent; and
- (b) the Customer(s) shall upon being so notified, be obliged to forthwith upon demand refund to the Bank all monies paid to the Customer(s) together with any other monies covenanted to be paid by the Customer(s) under and in relation to this Agreement.

10.2 Notification

Any notification by the Bank concerning any of the matters referred to in Clause 10.1 above shall, save for any manifest error be conclusive and binding on the Customer(s).

10.3 Force Majeure and/or Delay

- (a) The Bank shall not be liable for any failure in performing any of their obligations hereunder or any claim in respect of any loss, damage or injury to earnings, profit, goodwill or business caused directly or indirectly or other fault if such failure, loss, damage or other fault is caused by circumstances beyond the reasonable control of the Bank including but not limited to any fire, earthquake, flood, epidemic, accident, explosion, casualty, lockout, riot, civil disturbance, act of public enemy, natural catastrophe, embargo, war or act of God.
- (b) Notwithstanding anything to the contrary in this Agreement or any other document or in any law, the Bank shall not be liable in any manner whatsoever (and whether in law or in equity or otherwise) and under any circumstances whatsoever to any Security Party(ies) or any other person whosoever for any delays whatsoever:
 - (i) in the preparation, execution or perfection of any of the Transaction Documents;
 - (ii) in the satisfaction of any of the conditions for the disbursement / utilisation of the Facility or any part thereof;
 - (iii) in the disbursement/ utilisation of the Facility or any part thereof;
 - (iv) in effecting or otherwise in connection with any indulgence (including but not limited to the release or discharge of any document or security) agreed to be extended, granted or permitted by the Bank to the Customer(s) or any other Security Party(ies) or any person whomsoever whether providing security for the Facility or otherwise; or

- (v) in the preparation, issue, execution, delivery, submission, perfection or registration of any redemption statement, undertaking, release, reassignment, discharge or other document or instrument whatsoever in relation to the redemption, release, reassignment or discharge of any security under the Transaction Documents;

howsoever caused (including but not limited to by reason of any negligence or default on the part of the Bank) or for any and/or all consequences arising from any such delay (including but not limited to any loss or damage whatsoever howsoever arising from any such delay which may be incurred or suffered by any Security Party(ies) or any other person whomsoever).

11 EVENT OF DEFAULT

11.1 Event of Default

If at any time and for any reason, whether within or beyond control of the Customer(s), any one (1) of the events set out in the Schedule 6 occurs then, at once or at any time thereafter, the Bank may, by notice to the Customer(s), declare that an Event of Default has occurred and simultaneously or at any time thereafter, irrespective of whether any event mentioned herein is continuing, the Bank may by written notice to the Customer(s):

- (a) declare this Agreement to be terminated;
- (b) declare the Settlement Amounts together with any sum then payable by the Customer(s) under the Transaction Documents to be immediately due and payable; and
- (c) declare the security created by the Security Documents to immediately become enforceable.

11.2 Remedies of the Bank

Upon demand and/or the occurrence of any Event of Default, the Bank shall be entitled to exercise such rights that are available to it under the Transaction Documents and/or at law including any of the following rights and powers:

- (a) the right to enter and take possession of the Property or any part or parts thereof and if permissible under any of the Applicable Acts, to be registered as the Proprietor thereof;
- (b) the right and power to sell and assign the Property by public auction or private treaty as the absolute and unencumbered owner thereof at such price or prices and in such manner as the Bank shall in its absolute discretion deem fit free from any interest of the Customer(s) hereunder or otherwise and the right to bid at any such sale;
- (c) the right to sue and institute by way of a civil suit or action for the recovery of the Settlement Amounts whether before first realized the Property or otherwise or concurrently with any of the other rights and remedies of the Bank herein or at law; and the Customer(s) shall and hereby expressly agree covenant and undertake to do and execute or cause the Security Party(ies) as the case may be, to do and execute all acts, deeds, instruments and things which the Bank may require or stipulate for the purpose of effecting and/or completing anything and/or any transaction mentioned in this Clause 11.2.

11.3 Enforcement of Security

At any time after the occurrence of the Event of Default, the Bank shall be entitled (but not obligated) to enforce its remedies under the Security Documents.

11.4 Concurrent Remedy

Notwithstanding any provision hereof, it is hereby expressly agreed that upon occurrence of an Event of Default, the Bank shall thereafter have the right to exercise all or any of the remedies available under this Agreement and any Security Documents or by law statute or otherwise and shall be entitled to exercise such remedies concurrently, including pursuing all remedies available under and pursuant to the security documents and/or Transaction Documents and/or civil suit and/or pursuant to any statute or otherwise to recover amount due and owing by the Customer(s) to the Bank. In the event the Bank does not wish to exercise such remedies concurrently the Bank shall be entitled at its discretion to institute civil suits against the Customer(s) or any party providing security to recover all monies outstanding or to dispose of or realise any security herein provided.

12 PROCEEDS

12.1 Application of Proceeds

If after the security created hereunder becomes enforceable or upon a declaration of an Event of Default, all monies received by the Bank from any proceeding instituted or step taken under any of the Security Documents shall (subject to the payment of debts which by law have priority, if any), be applied by the Bank:

- (a) firstly, in or towards payment to quit rent, rates, taxes, assessments and other outgoings due to the Government;
- (b) secondly, in or towards payment of all costs charges and expenses incurred and payments made by the Bank under the provisions of all or any of the Security Documents and any other taxes payable under any written law for the time being in force on the disposal of the Property;
- (c) thirdly, in or towards payment to the Bank of the Settlement Amounts or any part thereof remaining unpaid under the Facility including any late payment compensation charges;
- (d) fourthly, in or towards payment to the Bank of all other moneys due and remaining unpaid under the Security Documents or any related documents; and
- (e) fifthly, in or towards any payment to the Bank of the Customer(s)' liabilities to the Bank (whether such liabilities be present, future, actual, contingent, primary, secondary, collateral, secured or unsecured, several or joint) under any accounts of whatsoever nature, agreement or contract or otherwise with the Bank and all such monies available under this premise are specially held in trust for the Bank for the satisfaction of liabilities;
- (f) sixthly, any surplus shall be paid to such persons entitled thereto.

12.2 Deficiency in Proceeds

Without prejudice to the rights of the Bank under this Agreement, if the amount realised by the Bank on the sale or application of the properties or assets to Security Interests to the Bank pursuant to Clause 12.1 hereof, after deduction and payment from such sale of all fees, costs, charges and other outgoing arising out of such realisation is less than the amount due to the Bank and whether at such sale the Bank is the purchaser thereof or otherwise, the Customer(s) shall on demand pay to the Bank, the difference between the amount due to the Bank and the amount so realised and until payment of such differential amount, the Customer(s) shall pay late payment compensation charges on the differential sum until the date of actual payment made.

13 LATE PAYMENT CHARGES

13.1 Ta'widh (compensation)

(a) Notwithstanding anything contained in this Agreement, the Customer(s) hereby agree(s), covenant(s) and undertakes(s) to pay late payment charges including ta'widh (compensation) to the Bank for any actual loss incurred by the Bank due to the Customer(s)' delay or default in paying any Monthly Payment(s) when it becomes due or any other amount payable by the Customer(s) to the Bank under this Agreement as follows:

- (i) for default in payment during the Tenure, the ta'widh (compensation) rate that shall be applied is up to one per centum (1%) per annum or any other rates approved by BNM on the balance of Monthly Payments from the due date(s) for payment of such Monthly Payment(s) until the date when payment is received by the Bank;
- (ii) for default in payment during the Tenure, where such default causes the entire Facility to be terminated or brought to court for judgment prior to Maturity, the ta'widh (compensation) rate that shall be applied is up to one per centum (1%) per annum or any other rates approved by BNM on the outstanding Bank's Sale Price less Ibra' ("**Outstanding Balance**"), from the date the entire Facility is terminated until the date the Outstanding Balance is received by the Bank or the judgment is obtained, whichever is earlier; and
- (iii) for default in payment beyond the Tenure, the ta'widh (compensation) rate to be applied shall not be more than the BNM's prevailing daily overnight Islamic Interbank Money Market Rate (IIMM) or any other rates approved by BNM on the Outstanding Balance from the date the Tenure expires until the date the Outstanding Balance is received by the Bank;

subject always to Ibra' wherever applicable, in accordance with the methods and formula as set out in the Letter of Offer or such other methods and formula adopted by the Bank and approved by BNM.

(b) The accumulated ta'widh (compensation) shall not exceed one hundred percent (100%) of the outstanding Bank's Purchase Price.

13.2 Statement of Account

A statement of account in writing stating the Total Amount Due and Payable by the Customer(s) under the Facility and/or under the Transaction Documents and indication as to how such amount has been calculated and duly certified by any authorised officer of the Bank shall in the absence of manifest error be conclusive evidence that such amount is in fact due and payable by the Customer(s) including for the purpose of legal proceedings.

14 PAYMENTS

14.1 Payment Clear From Deduction

All payments to be made under the respective Trade Transaction documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim and in immediately available and transferable funds for the Commodity value on the due date thereof.

14.2 All Payments Received to be Payment in Gross

All monies received from or on account of the Customer(s) or from any other person (including but not limited to any surety) or from the realisation of the security created by this Agreement and Security Documents or any security or otherwise for the purpose of being applied in the reduction of the account of the Customer(s) or of the monies covenanted to be paid as hereinbefore provided shall be treated for all purposes as payments in gross and not as appropriated or attributable to any specific part or item of the said monies covenanted to be paid even if appropriated thereto by the Bank. All securities now or at any time held by the Bank shall be treated as security for the said general balance. The Customer(s) or any other person or persons claiming under the Customer(s) shall have no claim to such securities or to any part thereof unless and until the Bank has received the full amount owing to the Bank by the Customer(s).

14.3 Withholding

All payments by the Customer(s) under this Agreement and/or the Transaction Documents shall be made in full without any deduction or withholding (whether in respect of set off, counterclaim, duties, taxes, charges or otherwise whatsoever) unless the deduction or withholding is required by law, in which event the Customer(s) shall:

- (a) ensure that the deduction or withholding does not exceed the minimum amount legally required;
- (b) forthwith pay to the Bank such additional amount so that the net amount received by the Bank will equal the full amount which would have been received by it had no such deduction or withholding been made;
- (c) pay to the relevant taxation or other authorities within the period for payment permitted by applicable law the full amount of the deduction or withholding (including, but without prejudice to the generality of the foregoing, the full amount of any deduction or withholding from any additional amount paid pursuant to this clause); and
- (d) furnish to the Bank, within the period for payment permitted by the applicable law, either:
 - (i) an official receipt of the relevant taxation authorities in respect of all amounts so deducted or withheld as aforesaid; or

- (ii) if such receipts are not issued by the relevant taxation authorities on payments to them of amounts so deducted or withheld, a certificate of deduction or equivalent evidence of the relevant deduction or withholding.

15 INDEMNITY

15.1 Indemnity

- (a) The Customer(s) shall at all times fully indemnify and keep the Bank including any of its agents, employees or representatives indemnified against all and any action, proceeding, claim, expense, loss, damage or liability which the Bank may incur as a consequence of or arising from or connected to the Customer(s)' control, possession or use of the Commodity, including but not limited to any damage or injury to persons or property and the costs and liabilities arising from such claims.
- (b) The Customer(s) shall at all times fully indemnify and keep the Bank including any of its agents, employees or representatives indemnified against any action, proceeding, claim, expense, loss, damage or liability (as to the amount of which a certificate of the Bank, shall in the absence of manifest error, be conclusive and binding upon the Customer(s)) which the Bank may incur as a consequence of any Event of Default or otherwise in connection with this Agreement or the Transaction Documents or other related documents unless such expense, loss, damage or liability is attributable to the wilful default, gross negligence or fraud of the Bank.
- (c) Any certificate issued by the Bank in connection with the above shall, in the absence of manifest error, be conclusive.
- (d) Without prejudice to its generality, the foregoing indemnity shall extend to any expenses, fees (including legal fees on solicitors and client basis) or other sums whatsoever paid or payable in connection with the enforcement of any of the rights of the Bank under this Agreement and the Security Documents.

15.2 Indemnities Separate

The foregoing indemnities shall constitute obligations of the Customer(s), separate and independent from its other obligations under this Agreement, and shall give rise to separate and independent causes of action against the Customer(s).

16 EXPENSES

16.1 Expenses

The Customer(s) shall on demand pay to the Bank and bear from time to time all whatsoever, costs, fees and charges, expenses, taxes and other moneys in any way connected with or arising out of the Facility and/or the Transaction Documents from time to time including but not limited to all costs, fees and charges, expenses, taxes and other moneys whatsoever including but not limited to:

- (a) all expenses, in each case on the basis of a full indemnity, including:
 - (i) legal and out-of-pocket expenses incurred by the Bank in connection with the negotiation, preparation or completion of the Transaction Documents and any related documents;

- (ii) the charges of the Bank's valuers, appraisers, estate agents and auctioneers;
- quit rent, assessment, rates, taxes, drainage charges, sewerage charges, takaful/insurance contributions/premiums, sinking fund payments and other outgoings, service charges, maintenance fee, charges and payments whatsoever that may be payable in respect of any property which is the subject matter of any Security Document incurred or expended by the Bank in the negotiation, preparation, execution, completion, stamping, registration and/or perfection and/or discharge and/or release of any of the Transaction Documents and/or any security and/or in the collection of any moneys due or becoming due under the Transaction Documents and/or in enforcing and/or preserving any of the security and/or any of the rights under the Security Documents and/or in connection with or arising out of any variation or review of the Facility by the Bank and/or otherwise in connection with the Facility and/or the Transaction Documents or for or on behalf of or for the account of any Security Party(ies) irrespective of whether or not the Facility is utilised, suspended or cancelled;
- (b) any expenses covenanted to be paid by the Customer(s) under this Agreement which are paid by the Bank on behalf of the Customer(s) and form part of the indebtedness herein;
- (c) all costs, charges, expenses, taxes and moneys referred to in this Agreement and any of the provisions of the Transaction Documents or otherwise howsoever incurred hereunder by the Bank and payable by the Customer(s) to the Bank on demand from time to time; including any expenditure incurred in the preservation and/or enforcement of this Agreement and the other Security Documents and any documents related thereto or in the giving of any notice or in the making of any demand, under or pursuant to or in respect of this Agreement; and
- (d) all other monies whatsoever agreed to be paid by any Security Party(ies) under any of the provisions of the Security Documents which are not paid may be paid by the Bank without any obligation so to do upon the failure of any Security Party(ies) to do so in respect of the said costs, charges, expenses and expenditure or otherwise howsoever and all or any sums of monies paid or expended by the Bank under or pursuant to the provisions of the Applicable Acts, this Agreement and the other Security Documents and any documents related thereto express or implied, shall be debited to the Customer(s)' accounts and payable by the Customer(s) to the Bank on demand calculated from the date it is due until full payment.

16.2 Stamp duty

The Customer(s) shall pay all stamp, documentary and other similar duties and taxes to which this Agreement, the Transaction Documents or any related documents may be subject and shall fully indemnify the Bank from and against any expense, damage, loss or liability which any of them may incur as a result of any delay or omission by the Customer(s) to pay such duties.

17 ASSIGNMENT AND TRANSFER

17.1 Benefit of Agreement

- (a) The Bank shall be entitled after giving due notice to the Customer(s), to assign its rights under this Agreement or any part thereof and/or transfer its obligations under this Agreement or any part thereof, and
- (i) for this purpose may disclose to a potential assignee or transferee or any other person who derives or may derive rights or obligations under or by reference to this Agreement such information about the Customer(s) and/or Security Party(ies) as shall have been made available to the Bank;
 - (ii) where the Bank transfers its obligations or any part thereof, the Customer(s) and/or Security Party(ies) shall execute such documents as are reasonably necessary to release the Bank to the extent of the transfer and join the transferee as a party hereto; and
 - (iii) where the Bank transfers all its obligations and rights hereunder the Customer(s) shall thereafter deal solely with the transferee with respect to payments, notices and other matters relating to the administration of this Agreement.
- (b) All costs and expenses incurred by the Bank and/or the assignee/transferee pursuant to or incidental to such assignment/transfer shall be payable by the Customer(s).

17.2 No Transfer by Customer(s)

The Customer(s) shall not assign any of its rights and/or benefits and/or transfer any of its obligations under this Agreement and/or under the Transaction Documents to which it is a party or any part thereof without the prior written consent of the Bank.

18 GOVERNMENT ACQUISITION

In the event that the Property or any part thereof shall at any time become the subject matter of or be included in any notice, notification or declaration concerning or relating to acquisition by government or any government authority or any enquiry or proceeding in respect thereof, the Customer(s) shall forthwith inform the Bank of the same and shall forward to the Bank a copy or copies of any such notice, notification or declaration as soon as the same shall be delivered to or served on the Customer(s). In addition and without prejudice to the Representation and Warranties under Schedule 4 herein, the Bank shall be entitled at the expense of the Customer(s) to engage such advisers and agents (including solicitors and valuers) as it may think fit for the purpose of appearing or attending at or advising upon any enquiry or proceeding affecting, concerning or relating to any such acquisition. All monies received as or by way of compensation for any such acquisition of the Property or any part thereof shall be applied in or towards the settlement of the Monthly Payments or any part or parts thereof and the Customer(s) shall and hereby declare that the Customer(s) shall hold all monies if paid to and so received by the Customer(s) in trust for the Bank and the Customer(s) agree and confirm that the Bank may receive and give a good discharge for all such monies. In the event of all such monies aforesaid being less than the Settlement Amounts due to the Bank, the Customer(s) shall forthwith pay to the Bank difference between the amount due and the amount so received.

19 FURTHER PROVISIONS

19.1 Evidence of Indebtedness

For all purposes, including any legal proceedings relating to this Agreement and the Facility, a statement as to any amount due to the Bank which is certified as being correct by an authorized officer of the Bank or its solicitors shall, in the absence of manifest error, be conclusive evidence that such amount is in fact due and payable.

19.2 Reconstruction

The liabilities and/or obligations created under this Agreement and/or Transaction Documents shall continue to be valid and binding for all purposes whatsoever notwithstanding any change by amalgamation reconstruction or otherwise which may be made in constitution of the Bank and similarly the liabilities and/or obligations created by this Agreement shall continue to be valid and binding for all purposes whatsoever notwithstanding any change by amalgamation reconstruction or otherwise howsoever in the constitution of the Customer(s) or any party providing security and it is expressly declared that no change in any manner or of any sort whatsoever in relation to or affecting the Customer(s) or the party providing security shall in any way affect the security liabilities and/or obligations created hereunder in relation to any transaction whatsoever whether past present or future.

19.3 Rights cumulative, waivers

The rights of the Bank under this Agreement are cumulative, may be exercised as often as the Bank consider it reasonably appropriate and are in addition to the Bank's other rights under any applicable law. The rights of the Bank in relation to the Facility (whether arising under this Agreement or under any applicable law) shall not be capable of being waived or varied otherwise than by an express waiver or variation in writing. No failure or delay in exercising nor any omission to exercise any rights power privilege or remedy accruing to the Bank under this Agreement or any security in favour of the Bank upon any breach of the Customer(s) shall impair any such right power privilege or remedy or be construed as a waiver thereof or any acquiescence in any breach, nor shall any action by the Bank in respect of any default or any acquiescence in any breach, affect or impair any such right, power privilege or remedy of the Bank in respect of any other or subsequent breach.

19.4 Valuation of the Property

- (a) The Bank shall be entitled to carry out or to require the Customer(s) to carry out, at the cost and expense of the Customer(s), a valuation or a revaluation of the Property or any property of any Security Party(ies) which is offered by the Security Party(ies) as security to the Bank in respect of the Facility or which is the subject matter of any Security Document by any of the valuers on the Bank's panel:
- (i) at any time prior to the disbursement of the Customer(s)' Sale Price. If the valuation report confirms that the open market value or any other value of the Property as may be required by the Bank in its absolute discretion is less than the Sale and Purchase Price, the Bank shall be entitled at its sole discretion to revise the Facility but which shall be ascertained prior to execution of this Agreement and notified to the Customer(s) accordingly and impose any further conditions which shall likewise be ascertained as aforesaid as the Bank may require prior to the disbursement of the Customer(s)' Sale Price.
 - (ii) from time to time as and when it deems fit.

The Customer(s) shall give or cause to be given to the Bank or such valuer such rights of access and entry and such written authorities as may be required by the Bank or such valuer.

- (b) Any determination of the Bank as to the value of or attributable to any property of any Security Party(ies) which is offered by the Security Party(ies) as security to the Bank in respect of the Facility or which is the subject matter of any Security Document shall be binding and conclusive on the Customer(s).

19.5 Application of Malay Reservation Enactment(s)

For the avoidance of doubt it is hereby agreed and declared that this Agreement is entered into for the purpose of and in order to effect the financing transaction in accordance with the Shariah concept of Commodity Murabahah and in the event that the provisions of the Applicable Acts or any Malay Reservation Enactment(s) of the States of Peninsular Malaysia shall become applicable or would be contravened in the process unless an approval of a Ruler in Council or any other approval under the Applicable Acts is obtained or become necessary, it shall be the sole responsibility of the Customer(s) to obtain such approval or to procure the owner(s) of the Property to obtain such approval prior to the execution of the Transaction Documents and the Customer(s) hereby undertakes with the Bank to obtain or cause to obtain or to procure the owner(s) of the Property to obtain such approval prior to the disbursement of the Customer(s)' Sale Price.

19.6 Time

Time shall be the essence of this Agreement.

19.7 Notices and Communications

- (a) Any notice or communication under or in connection with this Agreement shall be in writing and shall be delivered personally, or by post or facsimile to the addresses set out in this Agreement or at facsimile numbers or at such other address or facsimile number as the recipient may have notified to the other Party hereto in writing. Proof of posting or dispatch of any notice or communication shall be deemed to be proof of receipt:
- (i) if it is personally delivered, at the time of delivery and duly acknowledged;
 - (ii) in the case of a letter sent by post, on the third (3rd) Business Day after posting;
 - (iii) in the case of telex or cable, on the Business Day immediately after transmission;
 - (iv) in the case of a facsimile, on the Business Day immediately after transmission provided that the sender has received an answer back confirmation and has sent a copy by post confirming the facsimile transmission.
- (b) Where there are 2 or more persons comprised in the expression “**Customer(s)**”:
- (i) any certificate, statement, notice, demand or other communication given or required to be given to the Customer(s) hereunder and/or in respect of the Facility which is given by the Bank to any one or more of such persons shall be deemed to be given to and shall be binding on all such persons as though such certificate, statement, notice, demand or other communication had been given to all such persons; and
 - (ii) the Bank shall be entitled (but not bound) to treat any certificate, statement, notice, demand or other communication given or required to be given to the Bank hereunder and/or in respect of the Facility which is given to the Bank by any one or more of such persons as having been given by all such persons whereupon such certificate, statement, notice, demand or other communication shall be deemed to have been given by and shall be binding on all such persons as though such certificate, statement, notice, demand or other communication had been given by all such persons;

and the Customer(s) hereby 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.

19.8 Service of legal process

- (a) The service of any legal process pursuant to any rules of High Courts or rules of the Subordinate Courts and any courts of competent jurisdiction may be given by prepaid registered or ordinary post sent to the respective address of the parties provided herein and such legal process shall be deemed to have been duly served after the expiration of five (5) Business Days from the date it is posted and if delivered by hand, on the day it was delivered.

- (b) No change in the address for Service howsoever brought about shall be effective or binding on the Bank unless the Customer(s) has given to the Bank actual notice of the change of the address and nothing done in reliance on Clause 19.8(a) above shall be affected or prejudiced by any subsequent change in the address for which the Bank has no actual knowledge of at the time the act or thing was done or carried out.

19.9 Severability

Any term, condition, stipulation, provision, covenant or undertaking contained herein which is illegal, void, prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such illegality, prohibition or unenforceability without invalidating the remaining provisions hereof and any such illegality, prohibition or unenforceability in any jurisdiction shall not invalidate or render illegal, void or unenforceable any such term, condition, stipulation or undertaking in any other jurisdiction.

19.10 Modification and indulgence

The Bank may at any time, without in any way affecting this Agreement:

- (a) grant to the Customer(s) or any Security Party(ies) or any surety any time or indulgence; and/or
- (b) renew any bill, notes or any negotiable securities; and/or
- (c) deal with, exchange, release or modify or abstain from perfecting or enforcing any securities or other guarantees or rights it may now or at any time hereafter or from time to time have from or against the Customer(s) or any Security Party(ies) or any other person; and/or
- (d) compound with the Customer(s) or any Security Party(ies) or any other person or surety; and/or
- (e) enter into any deed of composition with the Customer(s), security party, guarantor or any other person.

19.11 Variation of terms

It is hereby expressly agreed and declared by the parties hereto that notwithstanding any of the provisions of this Agreement to the contrary, the provisions and terms of this Agreement may at any time and from time to time subject to Shariah be varied or amended by the Bank by means of exchange of letters or such other means as the Bank deems fit from time to time and thereupon such amendments and variations shall be deemed to become effective and the relevant provisions of this Agreement shall be deemed to have been amended or varied accordingly and shall be read and construed as if such amendments and variations have been incorporated in and had formed part of this Agreement at the time of execution hereof.

19.12 Disclosure of information

- (a) Without limiting the subsequent provisions of this Clause 19.12, the Bank may at any time, disclose to any person who may, in the Bank's absolute discretion, require such information or access thereof any documents or records of, or information about the Transaction Documents or assets or affairs of the Customer(s) (including his/their account(s) or future account(s) with the Bank) whether or not confidential and whether or not the disclosure would be in breach of any law or of any duty owed to the Customer(s) provided that in respect of documents, records or information which the Customer(s) has informed the Bank to be confidential, the person receiving such information from the Bank may be required to undertake to maintain the confidentiality of documents, records or information received.
- (b) The Customer(s) hereby irrevocably consents for the Bank to disclose any documents or records of, or information about the Transaction Documents, the Facility, or the assets, or affairs of the Customer(s), whether or not confidential and whether or not the disclosure would be in breach of any law or of any duty owed to the Customer(s):
- (i) to the Central Credit Unit, Biro Maklumat Cek, Bank Negara Malaysia, any Governmental Agency or such other authority having jurisdiction over the Bank; or
 - (ii) to the Bank's auditors, legal counsel and other professional advisers; or
 - (iii) to the Security Party(ies); or
 - (iv) to Dishonoured Cheques Information System (DCHEQS), under which the operation of the Customer(s) current account-i is subject to, wherein the Bank also reserves the right upon giving the Customer(s) a seven (7) days' notice to close the current account-i after a total of three (3) incidences of cheques returned within twelve (12) months from the date of first incidence following which a report shall be submitted to DCHEQS on such closure of account; or
 - (v) to any branch, subsidiary or parent company of the Bank and to any companies within CIMB Group Holdings Berhad's group of companies; or
 - (vi) for or in connection with any legal action, suit or proceedings relating to the Facility or security(ies); or
 - (vii) to any third party, if required by any law, regulation or by-law; or
 - (viii) to any party pursuant to any arrangement, composition, restructuring or any proposed arrangement, composition or restructuring between the creditors of the Customer(s); or
 - (ix) pursuant to any subpoena or other legal provisions; or
 - (x) pursuant to any law;
or
 - (xi) to any person, body authority, credit bureau and/or agency as the bank deems proper.
- (c) The Bank may disclose to any person who derives or may derive rights or obligation under or by reference to the Security Documents (including but not limited to an assignee or transferee or prospective assignee or transferee) such information about the Customer(s) in relation to the Facility or the Security Documents as shall have been made available to the Bank generally.

- (d) The Customer(s) acknowledges and agrees that the permission given under this Clause 19.12 is for the purposes of Section 146(1) of the Islamic Financial Services Act, 2013 and that no further consent from the Customer(s) is required for the purposes of this Clause 19.12.

19.13 Bank Negara Malaysia

The Facility shall be at all times governed by such rules, regulations and/or directives (whether or not having the force of law) required or imposed upon the Bank from time to time and at any time by BNM or any other authority having jurisdiction over the Bank.

19.14 Currency

All sums of money herein offered and to be received by the Bank shall be in Ringgit Malaysia.

19.15 Suspense account

Any money received hereunder or any of the Security Documents may be placed and kept to the credit of a non-income bearing suspense account for so long as the Bank thinks fit without any obligation in the meantime to apply the same or any part thereof in or towards discharge of any money or liabilities due or incurred by the Customer(s) to it. Notwithstanding any such payment in the event of any proceedings in or analogous to bankruptcy, liquidation, composition or arrangement the Bank may prove for and agree to accept any dividend or composition in respect of the whole or any part of such monies and liabilities in the same manner as if the securities herein created had not been created and no monies or dividends so received by the Bank shall be treated as received in respect of this Agreement and the other Security Documents, but the full amount hereby secured shall be payable by the Customer(s) until the Bank shall have received from all sources one hundred sen in the ringgit on the ultimate balance outstanding against the Customer(s). After the Bank has received such ultimate balance in full, any claim on the part of the Customer(s) to any excess or any securities remaining with the Bank shall be a matter of adjustment between the Bank and the Customer(s) and any other person or persons laying claim thereto.

19.16 Right to Set-Off or Consolidate Accounts

- (a) It is hereby expressly agreed and declared that unless the Bank otherwise agrees any Security whether given now or hereafter shall not be discharged or released except on payment of not only all monies secured hereby but also all monies whatsoever and howsoever owing or payable or due from the Customer(s) to the Bank (whether such liability be present, future, actual, contingent, primary, secondary, collateral, secured or unsecured, several or joint) under any other account or accounts of whatsoever nature (whether current, deposit or financing account), agreement or contract or otherwise with the Bank.

- (b) Without prejudice to any other remedies which the Bank may have, the Bank shall have the right at its sole and absolute discretion to:
- (i) withhold, combine, consolidate or merge any or all accounts of the Customer(s) with the Bank of whatsoever nature (whether current, deposit or financing account), at any branch of the Bank with any liabilities of the Customer(s) (whether such liability be present, future, actual, contingent, primary, secondary, collateral, secured or unsecured, several or joint) under any account (whether current, deposit or financing documents), or contract or otherwise with the Bank; and
 - (ii) upon the Bank giving seven (7) calendar days' prior written notice to the Customer(s), debit, transfer and/or set-off from any account of the Customer(s) with the Bank wheresoever situate (whether current, deposit, financing or of any other nature whether in Ringgit or any other currency), any available balance or any sum (standing to the credit of any such accounts, agreement or contract in or towards the satisfaction of the total Monthly Payments and/or the indebtedness of the Customer(s).
- (c) Such right shall be exercised by the Bank at its discretion following an occurrence of an Event of Default and it is hereby agreed and declared that the Customer(s) shall not be entitled to require the release of any security provided to the Bank except on payment by the Customer(s) to the Bank of not only all monies referred to herein but also all monies whatsoever or howsoever payable or due from the Customer(s) to the Bank under any other account whether as a customer, guarantor or security provider.
- (d) If the Property is put up for sale by way of auction pursuant to the provisions herein contained or the provision of the National Land Code 1965 or otherwise, the Bank shall be entitled to set off the unpaid total Monthly Payments and any other monies owing to the Bank against any monies payable by the Customer(s) as the purchaser at such sale in the event the Bank exercising its rights under this Agreement or the National Land Code 1965, as the case may be, to bid at such sale.

19.17 Terms of Letter of Offer Incorporated

The Letter of Offer which has been duly accepted by the Customer(s) shall form part of this Agreement. Unless otherwise stated, all references, terms, conditions and provisions as set out in the Letter of Offer which are not specifically stated in this Agreement are incorporated herein whether or not repeated herein and shall form part of this Agreement and shall be binding upon the parties hereto and their successor-in-title and assigns of the Bank and successors in title of the Customer(s). Subject to such alterations or variations where necessary to make the provisions of the Letter of Offer consistent with the provisions of this Agreement, in the event of any conflict or discrepancy between the provisions of the Letter of Offer and this Agreement, the provisions of the Letter of Offer shall prevail for the purpose of interpretation and enforcement of this Agreement.

19.18 Additional Terms and Conditions

The Facility hereby granted shall be further subject to specific covenants and additional terms and conditions as set out in Schedule 3 hereto (if any).

19.19 No Inference of Condonation or Acquiescence

Notwithstanding the fact that the Bank may not have exercised any remedy available to it immediately on default by the Customer(s) or that it may have accepted monies from the Customer(s) or any of the Security Party(ies) after such default the Bank shall not be held to have condoned or acquiesced in such default and may at any time thereafter exercise all or any of the remedies available to it and any delay on the part of the Bank in taking steps to enforce the remedies conferred on or available to it by this Agreement and the other Security Documents or statute shall not be held to prejudice its right of action in respect thereof.

19.20 Successors bound

This Agreement shall be binding upon the successors-in-title of the Customer(s) and on the successors-in-title and assigns of the Bank.

19.21 Involuntary Loss

The Bank shall not be answerable for any involuntary loss happening in or about the exercise or execution of any power, right, privilege and remedy conferred on the Bank by this Agreement, and the other Security Documents or by law.

19.22 Enforcement of this Agreement

This Agreement is in addition to and not in substitution of any other rights or securities which the Bank may have from or against the Customer(s) or under any of the Security Documents and may be enforced in accordance with the terms hereof without first having recourse to any of such other rights or securities and without taking any steps or proceedings against any Security Party(ies) as aforesaid.

19.23 Avoidance of Payments

No assurance, security or payment which may be avoided under any law relating to bankruptcy and no release, settlement or discharge given or made by the Bank on the faith of any such assurance, security or payment, shall prejudice or affect the Bank's rights to recover from the Customer(s) the monies hereby owing to the full extent hereunder. Any such release, settlement or discharge shall be deemed to be made subject to the condition that it will be void if any payment or security which the Bank may previously have received or may hereafter receive from any person in respect of the monies hereby owing is set aside under any applicable law or proves to have been for any reason invalid.

19.24 Further Assurance

The Customer(s) shall from time to time and at any time, whether before or after this Agreement or any of the Security Documents shall have become enforceable, execute and do or cause to be executed and done all such transfer, assignments, assurances, charges, debentures, instruments, documents, acts and things as the Bank may reasonably require for perfecting the security intended to be hereby constituted and for facilitating the realisation of the Property charged or to be charged to the Bank and the exercise by it of all the powers, authorities and discretion which the Bank may think expedient. For such purposes a certificate in writing signed by or on behalf of the Bank to the effect that any particular transfer, assignment, assurance, charge, debenture, instrument, document, act or thing required by it is reasonably required by it shall be conclusive evidence of the fact.

19.25 Central Credit Reference

- (a) BNM has established a Central Credit Bureau (the “**Bureau**”) to collect information from banks for inclusion into a Central Credit Reference Information System (“**CCRIS**”) regarding the credit/financing facilities which they grant to their customers to enable participating banks (of which the Bank is one), who are approached for credit/financing facilities by a customer, to be informed by the Bureau of the aggregate credit facilities granted to that customer by other banks.
- (b) The information is kept strictly in confidence between the Bureau and all participating banks and it is a term of the Facility offered herein that information regarding it shall be given to the Bureau for the use of the Bureau and the participating banks.
- (c) CCRIS is part of BNM’s on-going efforts to improve the credit approval process. The information held will enable participating banks to obtain customer’s credit information for credit evaluation purposes. The Bank as a participant in this programme will also be providing such credit information to CCRIS. Information disclosed may also extend to guarantors details of which the Customer(s) may have provided, to secure credit facilities granted by the Bank.
- (d) As a participating bank, the Bank has taken all the necessary steps to ensure that the information provided to CCRIS is both timely and accurate. Nonetheless, the Bank and its officers shall not in any event be liable to the Customers, other credit applicants or any third party (including Securities Parties of the Facilities) for any claim, loss or damage, direct or indirect howsoever arising from any reliance placed on the information provided to CCRIS and irrespective of the nature of any erroneous content.

19.26 No payment of interest

For the avoidance of doubt and notwithstanding any other provision to the contrary herein contained, it is hereby agreed and declared that nothing in this Agreement shall oblige any party hereto nor shall any party be entitled to pay interest (by whatever name called) on any amount due or payable to any of the other parties hereto or to receive any interest on any amount due or payable to such party.

20 GOVERNING LAW

- (a) This Agreement shall be governed by and shall be construed in all respects in accordance with the laws of Malaysia and in relation to any legal action or proceedings arising out of or in connection with this Agreement (“**Proceedings**”) and the parties herein hereby submit to the jurisdiction of the courts of Malaysia and waives any objections to proceedings in any court on the grounds that the Proceedings have been brought in an inconvenient forum.
- (b) Such submission however shall not affect the right of the Bank to take Proceedings in any other jurisdiction nor shall the taking of Proceedings in any jurisdiction preclude the Bank from taking Proceedings in any other jurisdiction and the Bank shall be at liberty to initiate and take actions or Proceedings or otherwise in the court of Malaysia and/or elsewhere as it may deem fit.

21 STAMP DUTY DECLARATION

IT IS HEREBY DECLARED THAT this Agreement, the other Transaction Documents and the Security Documents are instruments employed in one transaction to secure the payment of the Facility and all other monies due and owing by the Customer(s) to the Bank and for the purpose of Section 4(3) of the Stamp Act, 1949 (Consolidated and Revised in 1989), this Agreement shall be the principal instrument.

22 PRIVACY

- (a) The Customer hereby confirm that the Customer have read, understood and agreed to be bound by the CIMB Group Privacy Notice (which is available at www.cimb.com.my or www.cimbislamic.com) and the clauses herein, as may relate to the processing of the Customer's personal information. For the avoidance of doubt, the Customer agree that the said Privacy Notice shall be deemed to be incorporated by reference into this Agreement.
- (b) In the event the Customer provide personal and financial information relating to third parties, including information relating to the Customer's next-of-kin and dependents, for the purpose of opening or operating the Customer's account(s)/facility(ies) with the Bank or otherwise subscribing to the Bank's products and services, the Customer (a) confirm that the Customer have obtained their consent or are otherwise entitled to provide this information to the Bank and for the Bank to use it in accordance with this agreement; (b) agree to ensure that the personal and financial information of the said third parties is accurate; (c) agree to update the Bank in writing in the event of any material change to the said personal and financial information; and (d) agree to the Bank's right to terminate this agreement should such consent be withdrawn by any of the said third parties.
- (c) Where the Customer instruct 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 in connection with their legitimate duties (e.g. the prevention of crime). In instructing the Bank and/or the Bank's agents to enter into any cross-border transaction on the Customer's behalf, the Customer agree to the above said disclosures on behalf of the Customer and others involved in the said cross-border transaction.
- (d) The Bank may use a credit reporting/reference agency to help make decisions, for example when the Bank need 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 Customer's portfolio(s); and/or recover debts. The Customer will be linked by credit reporting/reference agencies to any other names the Customer use or have used, and any joint and several applicants. The Bank may also share information about the Customer and how the Customer manage the Customer's account(s)/facility(ies) with relevant credit reporting/reference agencies.

- (e) Even after the Customer's have provided the Bank with any information, the Customer will have the option to withdraw the consent given earlier. In such instances, the Customer will 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.
- (f) The Bank reserve the right to amend this clause from time to time at our sole discretion and shall provide prior notification to the Customer in writing 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 Clause, the CIMB Group consists of CIMB Group Holdings Berhad and all its related companies as defined in Sec 6 of the Companies Act 1965 and jointly controlled companies that provide financial and other regulated services, excluding companies, branches, offices and other forms of presence operating outside Malaysia, and the use of the word "Bank" shall be read as references to the CIMB Group.
- (h) This clause shall be without prejudice to any other clause in this Agreement which provides for the disclosure of information.

[End of Clause]

SCHEDULE 1: CONDITIONS PRECEDENT

(Clause 5.1)

(which shall be taken and construed as an integral part of this Agreement)

- (a) the Letter of Offer has been duly accepted by the Customer(s) within fourteen (14) days from the date of the Letter of Offer or any period extended by the Bank and returned to the Bank;
- (b) receipt by the Bank certification from the Bank's solicitors that the Transaction Documents are in order and that the terms and conditions are valid and enforceable, accompanied by:
 - (i) a search conducted at the relevant land registry/land office confirming that the Property is free from all encumbrances and no acquisition notices or private caveat have been lodged and/or registered or issued against the Property;
 - (ii) a search result conducted on the Customer(s) at Jabatan Insolvency Malaysia. Pending receipt of this, a clearance of any CTOS (Credit Tip Off Services) finding and a duly stamped statutory declaration confirming that the Customer(s) is/are not an adjudged bankrupt and there is no petition pending in court against the Customer(s). If the said search result report contains positive disclosure on any legal proceedings, the Bank at its discretion has the right not to disburse the Customer(s)' Sale Price;
 - (iii) consent to transfer/charge from the relevant land registry/land office to be obtained;
 - (iv) certification from the Developer/Bank's solicitors/relevant parties that the Differential Sum has been duly settled by the Customer(s);
 - (v) Letter of Disclaimer/Undertaking from the Existing Chargee/Assignee to exclude the Property in case of foreclosure on the master title charged to them, in form and content acceptable to the Bank (if applicable);
 - (vi) in the event the title is available, the Transaction Documents and charge to be duly executed and stamped and the charge presented for registration, a copy of presentation receipt to be submitted to the Bank. In the event the title deed is not available, the Transaction Documents, deed of assignment and power of attorney to be duly executed and stamped, the power of attorney presented for registration with the relevant court, a copy of presentation receipt to be submitted to the Bank, and accompanied with the Sale and Purchase Agreement;
 - (vii) in the case of a purchase of the Property from a Developer, a Letter Of Undertaking from the Developer should be obtained to:
 - (aa) apply for individual title and on receipt of the same to forward this the Bank free from encumbrances for creation of the charge;
 - (bb) forward the original individual title and memorandum of transfer (where applicable);
 - (cc) refund all monies already disbursed by the Bank in the event the transfer cannot be executed for any reason whatsoever; and

- (dd) for purchase of the Property from a Developer/Vendor, where title is not available, all security documents executed prior to this Agreement, namely the Principal Sale and Purchase Agreement, receipt and reassignment and any other related loan/financing documents between the financier and the Developer/Vendor must be submitted to the Bank;
- (c) receipt by the Bank of the original or duplicate copy of Sale and Purchase Agreement and where applicable, the original Principal Sale and Purchase Agreement and all other documents pertaining to the ownership of the Property as the Bank may require and/or the original proclamation of sale together with duly executed and stamped memorandum of contract, as the Bank may require;
- (d) in the case of a refinancing facility from another bank or financial institution, receipt by the Bank of the redemption statement and undertaking from that bank or financial institution;
- (e) where required by the Bank:
 - (i) receipt by the Bank of a full valuation report of the Property by the Bank's approved valuers;
 - (ii) the registration of any security to be provided to the Bank, with such registries as the Bank may deem necessary or expedient; and
 - (iii) receipt by the Bank of all takaful certificates required by the Bank including but not limited to Long-term House Owner's Takaful to cover the Property against Total Loss Incident, against the risks of fire and other risks as the Bank deems fit, which takaful plans shall be in form and content acceptable to the Bank, from Sun Life Malaysia Takaful Berhad (Formerly known as CIMB Aviva Takaful Berhad) or a Takaful Operator on the Bank's panel or such other Takaful Operator acceptable to the Bank;
- (f) where the Customer(s) opts, Group Mortgage Takaful Plan has been obtained by the Customer(s) with Sun Life Malaysia Takaful Berhad (Formerly known as CIMB Aviva Takaful Berhad) or the Takaful Operator on the Bank's panel or such other Takaful Operator acceptable to the Bank, naming the Bank as beneficiary;
- (g) private caveat to be lodged on the Property in the Bank's favour (if applicable);
- (h) receipt by the Bank of statutory declaration executed by the Customer(s) confirming that the Property is for owner occupation (if applicable);
- (i) receipt by the Bank of current receipts of quit rent, assessment, rates, dues, and other outgoings;
- (j) the Bank is satisfied that the execution, delivery and performance of the Transaction Documents and Security Documents have been duly authorised and approved by all necessary party(ies) and that the same do not contravene any laws, rules or regulations or any contractual or other restrictions;
- (k) the receipt by the Bank of all relevant undertakings, disclaimers, confirmations required by the Bank to the Bank's satisfaction;
- (l) fulfilment of all conditions precedent stated herein and any other additional conditions precedent as may be set out in this Schedule 1 and any other conditions precedent as deemed fit and may be required by the Bank.

Additional Condition Precedent

[•]

[Non Free Moving Cost (NFMC) Scheme

All legal fees, costs and incidental charges and expenses incurred in connection with the preparation, completion and enforcement of the Transaction Documents and Security Documents including but not limited to fees and charges shall be borne by the Customer(s). In the event any of the fees and charges or any part(s) thereof has/have not been settled or paid in full by the Customer(s), the Bank reserves the right at its sole discretion to pay the same on the Customer(s)' behalf at any time and monies so paid by the Bank on the Customer(s)' behalf shall be debited by the Bank from any of the Customer(s)' account maintained with the Bank including but not limited to the Customer(s)' financing account-i, savings account-i, current account-i, investment accounts-i or any other accounts with adequate notice to the Customer(s).]

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SCHEDULE 2A: FORM OF PURCHASE REQUEST
(which shall be taken and construed as an integral part of this Agreement)

Dated: <***>

From: <***Customer>

To: **CIMB ISLAMIC BANK BERHAD** (Bank)

Dear Sirs

MURABAHAH FACILITY AGREEMENT DATED <*> (“Agreement”)**

1. Terms defined in the Agreement have the same meanings when used in this Purchase Request.
2. I/We hereby request a utilisation of the Facility in the amount of Ringgit Malaysia <***>, subject to fulfilment of all conditions precedent as set out in Schedule 1 of the Agreement.
3. By this letter, I/we irrevocably:
 - (a) request you to purchase the Commodity from the Commodity Supplier at the Bank’s Purchase Price under the Purchase Transaction.
 - (b) undertake to purchase the Commodity from you after you have purchased the Commodity from the Commodity Supplier. I/We shall indemnify you and shall keep you indemnified against all losses, actions, proceedings, claims, demands, costs, damages and/or expenses (including legal costs on a full indemnity basis) which you may incur, suffer or sustain by reason of any breach of our undertaking contained in this Purchase Request.
 - (c) appoint you as my/our agent and authorise you to act for and on my behalf:
 - (i) upon due conclusion of the Sale Transaction, to sell the Commodity to any Commodity Broker at the Customer’s Sale Price; and
 - (ii) to receive payment of the Customer’s Sale Price on my/our behalf; and
 - (iii) to deliver possession of and title in and to the Commodity to a purchaser of the Commodity.
4. The date the Bank should purchase the Commodity under the Purchase Transaction will be <***>
5. The term for the appointment of the agency shall commence from the date of this Purchase Request cum Undertaking until the conclusion of the sale of the Commodity in accordance with item 3(c) above
6. I/We hereby irrevocably instruct the Bank to immediately pay the proceeds of the Customer’s Sale Price for the amount of Ringgit Malaysia <***> (RM<***>) to:-
<***Developer/Vendor>
<***Account details, if applicable>

7. I/We shall at all times fully indemnify and keep the Bank indemnified against all and any action, proceeding, claim, expense, loss, damage or liability which the Bank may incur as a consequence of or arising from or connected to the appointment of the Bank as my/our agent. This Purchase Request shall be irrevocable upon issuance and shall be binding on me/us as the Customer.

Yours faithfully,
<***Customer>

Name:

Designation:

SCHEDULE 2B: MURABAHAH SALE CONTRACT

(Clause 3.1(b))

(which shall be taken and construed as an integral part of this Agreement)

THIS Murabahah Sale Contract (hereinafter referred to as “this **Contract**”) made on the day and year stated in Section 1 of the Appendix 1 hereto **BETWEEN**:

- (1) **CIMB ISLAMIC BANK BERHAD** (Company No. 671380-H), a company incorporated in Malaysia with its registered office at Level 13, Menara CIMB, Jalan Stesen Sentral 2, Kuala Lumpur Sentral, 50470 Kuala Lumpur, headquarter office at level 34, Menara Bumiputra-Commerce, No 11 Jalan Raja Laut, 50350 Kuala Lumpur (hereinafter referred to as “the Bank”) of the one part; and
- (2) The person(s) named in Section 2 of the Appendix 1 hereto (hereinafter referred to as “Customer”) of the other part.

(The Bank and the Customer are hereinafter collectively referred to as “Parties” and individually referred to as “Party”, as the context may require.)

WHEREAS:

Pursuant to the Purchase Request dated the day and year stated in Section 3 of the Appendix 1 hereto issued by the Customer, the Bank has agreed at the request of the Customer, to sell the Commodity as described in Section 4 of the Appendix 1 hereto at the sale price more particularly stated in Section 5 of the Appendix 1 hereto (hereinafter referred to as the “Bank’s Sale Price”), upon the terms and subject to the conditions therein contained.

IT IS HEREBY AGREED as follows:

1. The Bank hereby sells and the Customer hereby purchases the Commodity at the Bank’s Sale Price, comprising an amount equal to the Bank’s Purchase Price which is more particularly stated in Section 6 of the Appendix 1 hereto and the profit amount in the sum and at the rate of which are more particularly stated in Section 7 of the Appendix 1 hereto upon deferred payment terms and subject to the terms and conditions herein contained.
2. Upon execution of this Murabahah Sale Contract, all rights title and benefits to the Commodity shall be passed to the Customer.
3. The Bank’s Sale Price shall be paid in the manner as specified in Section 8 of the Appendix 1 hereto.
4. The Facility shall be subject to the terms and conditions as set out in the Murabahah Facility Agreement and the Letter of Offer (as earlier executed/entered into by the Bank and the Customer).
5. The terms and conditions as set out in the Murabahah Facility Agreement and the Letter of Offer are hereby repeated and shall be binding upon the parties hereto and the successor-in-title and assigns of the Bank and the successor-in-title of the Customer.

(End of Clauses)

IN WITNESS WHEREOF the respective hands of the attorneys of the Bank and the Customer were hereunto written respectively the day and year first as set out Section 1 of the Appendix 1 hereto.

THE BANK

Signed by

As Attorney for and on behalf of CIMB
ISLAMIC BANK BERHAD
(Company No. 671380-H) in the
presence of:



.....
Witness

Name:
NRIC No:

.....
Signatory

Name:
Designation:
NRIC No:

THE CUSTOMER(S)

Signed by

(NRIC No. •)
in the presence of:



.....
Witness

Name
NRIC No:

APPENDIX 1

(To be read and construed as an integral part of this Murabahah Sale Contract)

Section	Item	Particulars
1.	Day and Year of this Murabahah Sale Contract	
2.	Customer	
3.	Date and Year of the Purchase Request	
4.	Description of the Commodity	Type: Quantity:
5.	The Bank's Sale Price	
6.	The Bank's Purchase Price	
7.	Profit Sum / Profit Rate	
8.	Payment of Bank's Sale Price	

SCHEDULE 3: ADDITIONAL TERMS AND CONDITIONS

(Clause 19.19)

(which shall be taken and construed as an integral part of this Agreement)

Additional Terms and Conditions

1. Group Mortgage Takaful Plan (GMTP)

(a) Applicable for GMTP financed through proceeds of the Customer's Sale Price:

The coverage under the GMTP will only be effective upon acceptance of risk by Takaful Operator, or upon successful execution of the Murabahah Facility Agreement by the Bank. Pending the effective coverage of GMTP, the Customer(s) will not be entitled to any takaful coverage under the GMTP.

Takaful Operator:

Sun Life Malaysia Takaful Berhad (Formerly known as CIMB Aviva Takaful Berhad)

Level 11, No 338 Jalan Tuanku Abdul Rahman

50100 Kuala Lumpur

Tel: 03 - 2612 3600

The takaful coverage shall be endorsed in favour of the Bank as the chargee or loss payee. The Bank shall not be liable in any manner whatsoever for any action taken or omission to effect, take out, maintain, renew or increase any such takaful whether by reason of the Bank's negligence or otherwise howsoever.

The disbursement of the takaful contribution to the Takaful Operator, will only be made upon acceptance of risk by the Takaful Operator, or upon first disbursement of Facility, whichever is later, to the vendor/developer/any relevant parties whichever applicable.

In the event of any shortfall up to a maximum of RM1,000.00 on the final GMTP contribution compared to the amount originally quoted due to any reasons, the Bank has the right (but not obliged) to pay the shortfall to the Takaful Operator and such shortfall will be charged to the Customer(s)' miscellaneous account.

(b) Applicable for Self-financed GMTP:

The coverage under the GMTP will only be effective upon acceptance of risk by Takaful Operator, or upon successful execution of this Agreement by the Bank together with full payment of the GMTP contribution by the Customer(s), whichever is later.

2. Periodic Review:

(a) The Customer(s) will understand that while it is the Bank's policy to grant the Facility to the Customer(s) so long as credit, market, economic, political and other factors remain unchanged, the availability or continuation of the Facility and its terms and conditions are nevertheless subject to periodic review and change from time to time at the Bank's discretion.

- (b) In the event that upon any such review the Bank decides to suspend, cancel or terminate the Facility prior to its expiry (irrespective of whether or not an Event of Default has occurred or is continuing or whether or not the Facility has been made available for utilisation or utilised) or to extend the Facility on its expiry or to restructure and/or reschedule the Facility or to vary any of the terms or conditions of the Facility, the Bank shall be entitled to do so by notice in writing to the Customer(s) at the Customer(s)' address herein stated or at the Customer(s)' last address known to the Bank and such suspension, cancellation, termination, extension, restructuring, rescheduling or variation shall take effect from the date specified in the notice.
- (c) Any right, entitlement, discretion, liberty or power which may be exercised or any determination which may be made under this Agreement by the Bank may be exercised or made at the Bank's sole, absolute and unfettered discretion and the Bank shall not be obliged, whether at law or in equity, to give any reasons therefore.

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SCHEDULE 4: REPRESENTATIONS AND WARRANTIES

(Clause 8.1)

(which shall be taken and construed as an integral part of this Agreement)

The Customer(s) understand that the offer and availability of the Facility in the Letter of Offer and this Agreement is conditional upon the Customer(s) representing and undertaking that the financing by the Bank herein and the Bank's agreement to grant or make or continue to make available the Facility to the Customer(s) will not contravene nor be in breach of any prevailing laws or regulatory requirements or terms and conditions or provisions prescribed by or stipulated in the directives or guidelines that are or may from time to time be issued by BNM, the Association of Islamic Banking Institutions Malaysia (**AIBIM**) and/or any other persons or body having authority or jurisdiction over the Bank (the "**Applicable Laws and Regulations**"). The Applicable Laws and Regulations to which the Facility are subject shall include but are not limited to:

- (i) all prevailing provisions of the Islamic Financial Services Act 2013 and all prevailing BNM's guidelines and directives issued in respect thereof and all prevailing BNM's guidelines issued pertaining or applicable to grant of Facility to persons connected to the Bank; and
- (ii) any financing limits or restrictions that may be imposed upon the Bank from time to time by BNM or any other governmental authority.

The Customer(s) hereby further represent(s) and warrant(s) to the Bank as follows:

- (a) Valid and binding: that the Transaction Documents constitute the legal, valid and binding obligations on the Customer(s) and/or the Security Party(ies) in accordance with their respective terms and conditions;
- (b) Non-violation: that the execution, delivery and performance of the Security Documents by the Security Party(ies):
 - (i) shall not violate the provisions of any law or regulation or any order or decree of any governmental authority, agency or Court to which the Security Party(ies) is/are subject;
 - (ii) shall not violate the provisions of any mortgage, contract or other undertaking or instrument to which the Security Party(ies) is a/are party(ies) or which is/are binding upon the Security Party(ies);
 - (iii) shall not result in the creation or imposition of any obligation to create or impose any mortgage, lien, pledge or charge on any of the Security Party(ies)'s assets or revenues pursuant to the provisions of any such mortgage, contract or other undertaking or instrument;
- (c) Consents: that all consents, approvals or authorisations of any relevant authority which are required on the part of the Customer(s) and/or the Security Party(ies) or which are advisable for or in connection with the execution, delivery, performance, legality and enforceability of the Transactions Documents have been obtained and are in full force and any conditions contained therein or otherwise applying thereto have been complied with;

- (d) No default: that the Customer(s) and the Security Party(ies) is/are not in default under any agreement to which the Customer(s) and/or the Security Party(ies) is/are a party or by which the Customer(s) and the Security Party(ies) are bound and no bankruptcy or winding up proceedings are pending nor any litigation, arbitration or administrative proceedings are presently current or pending or threatened which default bankruptcy, winding-up, arbitration or administrative proceedings as the case may be might materially affect the solvency of the Customer(s) and the Security Party(ies) and might impair the Customer(s)' and the Security Party(ies)'s ability to perform the Customer(s)' and the Security Party(ies)'s respective obligations under the Transaction Documents;
- (e) Power and authorisations: that the Customer(s) and the Security Party(ies) have the full and absolute power, right and authority to execute the Transactions Documents and that there is and shall be no person or party having priority over the Bank in respect of the Property and/or the security provided to the Bank, save and except as the Bank may agree in writing in its absolute discretion;
- (f) Information: all information including financial statements, information, particulars and declarations furnished by the Customer(s) in respect of the Customer(s)'s application for the Facility, in connection with the Customer(s) and to the best of his/their knowledge and belief, each Security Party(ies), are complete, true, accurate and correct in all respects and do not contain any untrue statement or omit to state any fact the omission of which makes any statements made therein in the light of the circumstances under which they are made, misleading, and all expressions of expectation, intention, belief and opinion contained therein were honestly made on reasonable grounds after due and careful inquiry by the Customer(s) and the Customer(s) is/are not aware of any material facts or circumstances that have not been disclosed to the Bank which might, if disclosed, adversely affect the decision of a person considering whether or not to provide finance to the Customer(s);
- (g) Disclosure: the Customer(s) has/have fully disclosed in writing to the Bank all facts relating to the Customer(s) and the Security Party(ies) which the Customer(s) knows or should reasonably know and which are material for disclosure to the Bank in the context of this Agreement;
- (h) Event of Default: no Event of Default has occurred and/or is continuing;
- (i) No Immunity : the Customer(s) and each Security Party(ies) is/are subject to civil and commercial law with regard to his/their obligations under the Transactions Documents and the execution, delivery and performance of the Transactions Documents constitute private and commercial acts rather than governmental or public acts and neither the Customer(s), the Security Party(ies) nor any of his/their properties enjoy any immunity on the grounds of sovereignty or otherwise in respect of his/their obligations under this the Transactions Documents;
- (j) **Islamic Financial Services Act 2013 ("IFSA")**: there is no violation of any provisions contained in the IFSA or any prevailing laws or regulatory requirements or directives or guidelines issued or which may from time to time be issued or amended by Bank Negara Malaysia pertaining to the grant of facilities generally or to persons connected with the Bank ('Laws or Guidelines')

- (k) Takaful: no event or circumstance has occurred, nor has there been any omission to disclose a fact which, in any such case, to the best of the Customer(s)'s knowledge and belief after due enquiry would entitle any takaful provider to avoid or reduce its liability under any of the takaful coverage and all takaful coverage required under the Security Documents to be effected by the Customer(s) have been so effected and are valid and binding and in full force and effect and all contributions due have been paid;
- (l) BMC Guidelines: that the Customer(s) or any Security Party(ies) or the Customer(s)' or any Security Party(ies) account is not listed under the Biro Maklumat Cek (BMC) guidelines or otherwise for that matter designated as "special" under such guidelines;
- (m) Corporation: if the other Security Party(ies) is/are a corporation:
 - (i) the other Security Party(ies) is/are duly incorporated under the relevant law;
 - (ii) all requisite corporate shareholders or other approvals for the execution of the Security Documents have been obtained;
 - (iii) the Security Party(ies) is/are empowered to execute the Security Documents under its/their Memorandum and Articles of Association;
 - (iv) no step has been taken by the Security Party(ies), its/their creditors or any of its/their shareholders or any other person in its/their behalf nor have any legal proceedings or applications been started or threatened under Section 176 of the Companies Act, 1965 of Malaysia;
 - (v) no step has been taken by the Security Party(ies), its/their shareholders nor have any legal proceedings been started or threatened for the dissolution of the Security Party(ies) or for the appointment of a receiver, trustee or similar officer of the Security Party(ies), its/their assets or any of them;
- (n) Approval of the Shariah Committee: that the Customer(s) understand(s) that this Agreement has been endorsed by the Shariah Committee appointed by the Bank and hereby agrees and undertakes that the approval is final, conclusive and binding upon the Customer(s);
- (o) Exclusive Purpose: that the Facility shall be exclusively applied towards the purpose stated in the Letter of Offer and the Property shall at all times be used for Shariah compliant purposes and will not be used in any manner which is in contravention with the religion of Islam;
- (p) Termination: that the Customer(s) shall not revoke, cancel and/or terminate the Sale and Purchase Agreement or the Construction/ Renovation Agreement (as the case may be) or effect a variation thereof; and
- (q) Other representation and warranties:
 - (i) the Bank is satisfied that no Event of Default under any agreement or arrangement referred to in this Agreement and the other Transaction Documents shall have happened and be continuing;
 - (ii) there shall not have been occurred any default in the performance by any party therein of any covenant or agreement contained in any of the agreements and arrangements referred to in sub-clause (i) hereof;

- (iii) no extraordinary circumstances or changes of law or other governmental action shall have occurred which shall make it improbable that the Customer(s) will be able to observe and perform the covenants and obligations on the Customer(s)' part to be observed and performed under the provisions of this Agreement and the other Transaction Documents;
- (iv) no extraordinary circumstances or change of law or circumstances or other governmental action shall have occurred or is likely in the opinion of the Bank to occur which shall in the opinion of the Bank render it unlawful to grant the Bank's on the security contemplated under the Security Documents.

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SCHEDULE 5: COVENANTS

(Clause 9.1)

(which shall be taken and construed as an integral part of this Agreement)

Affirmative Covenants

For the purpose of this Schedule, and in the context where it is applicable:

“Management Corporation” means the management corporation established under the Applicable Acts in relation to the building in which the Property is comprised where the Property is part of a building;

“Management Fund” means the management agreement as defined in the Applicable Acts.

The Customer(s) hereby covenant with the Bank that it shall at all times during the subsistence of this Agreement:

- (a) forthwith submit the current year's assessment and quit rent receipts in respect of the Property to the solicitors and photocopies of such be submitted to the Bank for retention;
- (b) pay the subsequent year's quit rent by the due dates, failing which or in the event quit rents are paid by the Bank, the Bank reserves the right to debit such costs from the Customer(s)' current account-i or any other account(s) maintained with the Bank;
- (c) forthwith notify or cause to be notified to the Bank of:
 - (i) the occurrence of any Event of Default or any event of default in relation to other indebtedness of the Customer(s) which in his/their reasonable opinion might adversely affect his/their ability to comply with his/their obligations hereunder; or
 - (ii) any of the Applicable Laws and Regulations or any of the terms and conditions of this Facility ceases to be satisfied or is discovered to have not been satisfied;
- (d) furnish to the Bank on demand such information in respect of his/their properties and assets or statement of his/their income, as the Bank may from time to time require;
- (e) punctually pay his/their indebtedness to the Bank when due and owing;
- (f) comply with, perform, observe, discharge and abide by:
 - (i) any directive of the Bank which may be issued from time to time; and
 - (ii) all and singular the duties, responsibilities, liabilities, obligations and covenants imposed on the Customer(s) by the Applicable Acts or the by-laws established thereunder or any regulations, resolutions or by-laws passed by the Developer or the Management Corporation, as the case may be, in relation to the Customer(s)' rights, use and enjoyment of, to or in the Property and the common property and the Customer(s) further covenants and undertakes not to do or cause to be done anything contrary to or inconsistent with the aforesaid duties, responsibilities, liabilities, obligations and covenants respecting the Customer(s)' use, enjoyment and right of, to or in the Property and the common property

- (g) pay:
 - (i) the quit rents, assessment, rates, taxes and all other charges whatsoever payable from time to time in respect of the Property as and when the same become due and payable; and
 - (ii) contributions, subscriptions, dues and levies to the Management Fund, in such manner and at such times as may be determined by the Developer/Vendor or the Management Corporation, as the case may be, for the purposes of maintaining, controlling, managing and administering the common property, paying rents, rates, assessments, taxes and takaful contributions and discharging any other obligations on the part of the Developer/Vendor or the Management Corporation, as the case may be. In default whereof it shall be lawful for but not obligatory upon the Bank to pay the same or any part thereof and such payment including all other monies paid out or expended by the Bank hereunder shall constitute a debt due from the Customer(s) to the Bank and shall form part of the Settlement Amounts;
- (h) keep the Property in satisfactory repair and condition. In default whereof, it shall be lawful for but not obligatory upon the Bank to carry out such repairs and if the Bank shall carry out such repairs, the costs and expenses thereof shall be indemnified by the Customer(s);
- (i) advise the Bank immediately of any threatened, impending or existing legal proceedings affecting the Customer(s) or any Security Parties(s);
- (j) that there are no change that would be detrimental to the financial standing of the Customer(s) or any Security Party(ies) Provided Always that the Bank has the absolute discretion to decide whether a change is detrimental or not; and
- (k) advise the Bank immediately of any change in the financial standing of the Customer(s) or any Security Party(ies).

(Clause 9.2)

Negative Covenants

The Customer(s) hereby covenant with the Bank that it shall not, at all times during the subsistence of this Agreement, without prior written consent of the Bank:

- (a) create or permit to arise or subsist or cause to be created or permitted to arise or subsist any encumbrance over the Property without the prior written consent of the Bank except the security provided herein;
- (b) do or permit or cause to be done or permitted to occur any act, thing or event whereby any takaful effected in respect of the Property, may be or become avoided, vitiated, discharged or unenforceable; and
- (c) assign, transfer, sell or otherwise howsoever deal with the Customer(s) rights, title and interest in the Property or any part thereof or any interest therein.
- (d) assert any claim or allegation that any provision in or any transaction effected pursuant to the Transaction Documents and/or Security Documents contravene the Shariah.

SCHEDULE 6: EVENT OF DEFAULT

(Clause 11.1)

(which shall be taken and construed as an integral part of this Agreement)

If at any time and for any reason, whether within or beyond control of the Customer(s), any one (1) of the following events occurs, that is to say:

- (a) Non-payment: the Customer(s) or any Security Party(ies) fail to make payment of the monies owing to the Bank under the Transaction Documents on the due date or on demand, if so payable;
- (b) Default in payment: the Customer(s) or any Security Party(ies) shall default in the payment on due dates of any one or more of the Monthly Payment or other sums or monies herein agreed or covenanted by the Customer(s) to be paid;
- (c) Non-performance: the Customer(s) or any Security Party(ies) fail to observe or perform any of the agreements, covenants, stipulations, terms and conditions on the part of the Customer(s) or any Security Party(ies) under the Transaction Documents;
- (d) Jeopardy: the Bank decides in its sole discretion that the continuation of the grant of the Facility(ies) or any part thereof would be likely to be detrimental to its own position or otherwise undesirable or that its security hereunder is inadequate or in jeopardy or that any event or events has/have occurred or a situation exists which could or might prejudice the Customer's or any of the other Security Party(ies)' ability to perform its and/or any of the other Security Party(ies)' obligation(s) hereunder in accordance with the terms hereof, or any of the Transaction Documents as the case may be;
- (e) Bankruptcy: any step is taken for the bankruptcy of the Customer(s) and/or the Security Party(ies) who is/are individual(s) or a petition for bankruptcy is presented against such Security Party(ies) and/or the Customer(s) and such Customer(s) and/or Security Party(ies) commits any act of bankruptcy;
- (f) Change in financial position: any change in the financial position of the Customer or any Security Party(ies) which in the opinion of the Bank will materially and adversely affect the ability of the Customer to perform any of its obligations under the Transaction Documents or such Security Party(ies) to perform any of its obligations under any of the Security Documents;
- (g) Death or incapacity: the Customer(s) and/or the Security Party(ies) who is/are individual(s) die or becomes incapacitated or of unsound mind or serves any custodial sentence or terminates or threatens to terminate his/their obligations under the Security Documents;
- (h) Event or events: any event or events has or have occurred or a situation exists which could or might, in the opinion of the Bank, prejudice the ability of the Customer(s) or any Security Party(ies) to perform any of his/its/their respective obligations under any of the Security Documents in accordance with the terms hereof or thereof;

- (i) Non-registration: the transfer of the Property in favour of the Customer(s) or any of the Security Documents cannot be registered or perfected for any reason whatsoever or the Charge cannot be registered or is invalid for any reason whatsoever;
- (j) Unlawfulness: it is or will become unlawful by the laws of Malaysia or by the laws of any applicable jurisdiction for the Customer(s) or any Security Party(ies) to perform or comply with any one or more of their respective obligations under the Security Documents or makes it impossible or unlawful for the Bank to continue its making available the Facility to the Customer(s) or the receipt by the Bank of the Settlement Amounts or any part thereof;
- (k) Nationalisation: all or a material part of the Property or assets of the Customer(s) or any Security Party(ies) shall be condemned, seized or otherwise appropriated for more than sixty (60) days, or custody or remain unremedied for more than sixty (60) days, or custody or control for such property or assets shall be assumed and retained for more than sixty (60) days by any person acting or purporting to act under the authority of the government, or the Customer(s) or any Security Party(ies) shall have been prevented for a period of more than sixty (60) days from exercising normal managerial control over all or any substantial part of his/its/their or their property or assets by any such person;
- (l) Appointment of receiver, legal process: an encumbrance takes possession of, or a trustee or administrative or other receiver or similar officer is appointed in respect of, all or any part of the business or assets of the Customer(s) or any Security Party(ies) or distress or any form of execution is levied or enforced upon or sued out against any such assets and is not discharged within seven (7) days after being levied, enforced or sued out, or any security interest which may for the time being affect any of his/its/their assets becomes enforceable;
- (m) Indebtedness due: any debt, guarantee or other obligation whatsoever constituting indebtedness of the Customer(s) or the Security Party(ies) becomes due prior to its scheduled maturity (by demand acceleration or otherwise) or such indebtedness shall not be paid at the maturity thereof or within any grace period allowed for payment thereof or if the Customer(s) or the Security Party(ies) is otherwise in breach of or default under any agreement, deed or mortgage pursuant to which such indebtedness was created, incurred or assumed;
- (n) Judgment outstanding: the Customer(s) or the Security Party(ies) shall fail to satisfy any judgment passed or order given against the Customer(s) or the Security Party(ies) by any court of competent jurisdiction and no appeal against such judgment or order is pending in any appropriate appellate court;
- (o) Revocation of authorisations: any authorisation exemption or undertaking referred to in the Transaction Documents shall be revoked terminated restricted or modified in a manner unacceptable to the Bank or an event or events shall have occurred which in the opinion of the Bank (which opinion shall be conclusive and binding on the Customer(s) makes it improbable that the Customer(s) or the Security Party(ies) will be able to perform or indicates that the Customer(s) or the Security Party(ies) is unwilling to perform his/its/their obligation under the Transaction Documents;
- (p) Misrepresentation: any representation or warranty or statement made (or acknowledged in writing to have been made) by the Customer(s) and/or any

Security Party(ies) in connection with the delivery of the Transaction Documents or any request for utilisation for the Facility proves to be incorrect in any material respect, or if repeated at any time with reference to the facts and circumstances subsisting at such time would not be accurate in all material respects and written notice thereof is given to the Customer(s) and/or Security Party(ies) by the Bank requiring the remedy thereof, and the subsequent failure by the Customer(s) and/or Security Party(ies) to remedy the same within the period stipulated thereunder;

- (q) Non-Shariah compliant purposes or activities: the Property is used or occupied by the Customer(s) for “non-Shariah” compliant purposes or activities as determined by the Committee of the Bank at its absolute discretion;
- (r) False or misleading information: any of the credit information furnished by the Customer(s) to the Bank is found to be untrue or misleading in any respect whatsoever, or if the information furnished by the Customer(s) to the Bank has changed in any way whatsoever;
- (s) Cross Default: If any sum shall be due from the Customer(s) and or any of the Security Party(ies) and or any guarantors (collectively, “**the Obligors**”) to the Bank and or any other third party from time to time or at any time or if any of the Obligors may be or become liable to the Bank anywhere on any banking, financing, any other credit facilities or any other account current or otherwise or in any other manner whatsoever including but not limited to liability of any of the Obligors incurred to the Bank as surety(ies) or guarantor(s) or if default is made in relation to any provisions governing such account(s);

Each of paragraphs (a) to (s) above is to be construed independently and no one Event of Default limits the generality of any other Event of Default.

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Execution

IN WITNESS WHEREOF the hand of the Attorney of the Bank and the hand(s) of the Customer(s) were hereunto set respectively.

THE BANK

Signed by

As Attorney for and on behalf of CIMB
ISLAMIC BANK BERHAD
(Company No. 671380-H) in the
presence of:



.....
Witness

Name:
NRIC No:

.....
Signatory

Name:
Designation:
NRIC No:

THE CUSTOMER(S)

Signed by

(NRIC No. •)
in the presence of:



.....
Witness

Name
NRIC No: