

LAHL 1

CIMB BANK BERHAD

(13491-P)

AND

HOUSING / SHOPHOUSE LOAN AGREEMENT  
FLEXI SMART LOAN

Date :

PARTIES

1. The Bank : CIMB Bank Berhad (13491-P) of Level 13, Menara CIMB, Jalan Stesen Sentral 2, Kuala Lumpur Sentral, 50470 Kuala Lumpur
2. The Customer : The Party(s) whose name(s) and description(s) is/are as specified in Section 1 of Schedule 1.

WHEREAS

The Bank has pursuant to the Letter of Offer agreed to make or continue to make available to the Customer the Loan upon the terms and conditions hereinafter contained

IT IS HEREBY AGREED AS FOLLOWS:-

1 INTERPRETATION

1.1 In this Agreement the following words have the following meaning:-

- Base Rate (BR) : The rate of interest prescribed by the Bank from time to time as an indicator rate against which rates of interest for Loans or Advances are computed and include such indicator rate by whatever name called by the Bank.
- Charge : The Charge under the National Land Code 1965 or Sabah Land Ordinance (Cap 68) or the Sarawak Land Code (Cap. 81) as originally enacted and as may be amended from time to time including related ancillary or subsidiary legislation made thereunder, which shall be in form and content acceptable to the Bank.
- Deed of Assignment : The assignment to be executed by the Customer and/or the Security Party assigning the Property and all rights, interests and/or benefits of the sale and purchase agreement and/or construction contract (whichever applicable) to the Bank which Deed of Assignment shall be in form and content acceptable to the Bank.

Default Rate	: The default rate of interest as specified in the Letter of Offer, or such other default rate of interest as the Bank may in its discretion stipulate from time to time.
Availability Period	: The period within which full disbursement of the Loan is to be made, as stated in the provisions contained in Letter of Offer, or any extended period as agreed by the Bank by written notice.
Loan	: The loan to be made by the Bank to the Customer under this Agreement.
Loan Account	: The Customer's account maintained with the Bank to reflect the Indebtedness due and owing to the Bank by the Customer under this Agreement.
Monthly Instalment	: Means the amount stipulated in the Letter Of Offer to be the monthly instalment payable in respect of the Loan or such other amount as the Bank may stipulate in writing from time to time in accordance with the terms hereof.
Indebtedness	: Includes any amounts (whether present or future, actual or contingent, secured or unsecured) howsoever incurred or owed by the Customer to the Bank (whether as principal, surety, borrower or security provider) including but not limited to principal, interest, default and/or additional interest, premium, commission, fee and other charges whether by this Loan or any future facility granted by the Bank from time to time or at any time.
Insolvency Act	: The Insolvency Act, 1967 as originally enacted and as may be amended from time to time including any related ancillary or subsidiary legislation made thereunder.
Letter of Offer	: The letter of offer as attached in Schedule 2 and any subsequent letter of offer of the Bank relating to this Agreement and accepted by the Customer and any subsequent letter issued by the Bank to the Customer pursuant to this Agreement .
Prepayment Amount	: Means the amount prepaid or to be prepaid under Clause 5.2 hereof.
Prevailing Interest Rate	: The prevailing interest rate as specified in the Letter of Offer, or such other interest rate as the Bank may in its discretion stipulate from time to time.
Property	: The property to be provided as security for repayment of the Loan which is described in Section 2 of Schedule 1, the particulars of which are subject to the Bank's right of amendment or correction.

Redraw Fee	:	The fee as stated in the Letter of Offer or such other fee as may be prescribed by the Bank to be the “Redraw Fee” from time to time by written notice of at least twenty one (21) calendar days to the Customer in accordance with clause 15.6 hereof.
Repayment Date	:	The first (1st) day of the month or such other date(s) as the Bank may in its discretion stipulate from time to time.
Security Documents	:	The security documents referred to in the Letter of Offer and any other documents for the time being constituting security for the Indebtedness, all of which shall be in form and content acceptable to the Bank.
Security Interest	:	Such security as stated in the Letter of Offer which is or are to be provided by the Customer and or the Security Party as security for repayment of the Indebtedness, including such additional or other security as may be provided in favour of the Bank from time to time, whether comprising a mortgage, charge, pledge, lien, assignment, trust, hypothecation and/or other security interest of any kind securing any obligation of any person or any other agreement or arrangement having a similar effect.
Security Party	:	The party(ies) as specified in Section 3 of Schedule 1 who are providing the Security Interest.
Scheduled Balance	:	The principal amount outstanding from time to time under the Loan if the Customer repays only the stipulated Monthly Instalment without any other prepayment.
Tenure	:	The period as stated in the Letter of Offer and includes such other period as the Bank may stipulate in writing from time to time.
FSA	:	The Financial Services Act 2013, as originally enacted and as may be amended from time to time including any related ancillary or subsidiary legislation made thereunder.

- 1.2 Reference to the masculine gender includes the feminine and neuter genders and vice versa and references to the singular number include the plural and vice versa.
- 1.3 Where two or more persons or parties are included or comprised in any expressions and undertakings expressed to be made to such persons or parties the same shall be enforceable by or against them jointly and severally.
- 1.4 Words applicable to natural persons shall include any body of persons, company, corporation, firm or partnership, corporate or incorporated and vice versa.
- 1.5 Section headings are inserted for convenience only and shall not in any way affect the interpretation thereof.

## 2 AMOUNT, PURPOSE AND DURATION

### 2.1 Amount

The Bank's obligation under this Agreement shall not exceed the Loan amount specified in the Letter of Offer.

### 2.2 Purpose

The Customer shall utilise the Loan for the purpose specified in the Letter of Offer. The Bank is not bound to ensure that the Customer uses the Loan for the purpose specified.

## 3 CONDITIONS PRECEDENT AND DISBURSEMENT

### 3.1 Conditions Precedent

- (a) The Customer shall comply with the conditions precedent set out in Schedule 3 herein, within one hundred and eighty (180) days from the date of the Letter of Offer or any date extended by the Bank by written notice, failing which the Bank reserves the right to withdraw or cancel the Loan.
- (b) Disbursement or utilisation of the Loan will be made only after all conditions precedent have been fulfilled within the period stipulated above.

### 3.2 Waiver

The Bank may at its sole and absolute discretion waive or agree to an extension of time for the fulfillment of any condition precedent without prejudicing the Bank's right of recovery of the Loan.

### 3.3 Disbursement

- (a) The Customer authorises the Bank to pay any amount in such manner and upon such terms and conditions as the Bank deems fit, to any financial institution, firm of solicitors, developer, vendor, builder, contractor, architect or such other person responsible for or concerned with the sale of the Property or the construction of the Property, at such times, in such manner, in such amounts, and upon such contingencies and conditions as the Bank may in its absolute discretion decide, and/or by progressive releases or otherwise in accordance with the schedule of payments or such variation as the Bank may deem fit. An acknowledgement from the recipient shall be deemed as if the same had been made or given by the Customer personally.
- (b) The Customer acknowledges and agrees that the Bank is unable to defer or stop disbursement of any amounts under the Loan if the Bank has already given an undertaking to any third parties to disburse the Loan.
- (c) The Customer authorises the Bank to withhold the disbursement of the Loan if the developer or vendor fails to honour its obligation to any financial institution or if in the Bank's opinion

the developer or vendor or contractor or the Security Party is/are in breach of any sale and purchase agreement or any construction or development contract in relation to the Security Interest.

- (d) The Bank is not obliged either in law or in equity to make or continue to make any disbursement if an event of default had occurred or is about to occur and if capable of being remedied is not remedied within seven (7) days after written notice by the Bank to the Customer.
- (e) In consideration of the Bank agreeing to provide undertakings to any financial institution or developer or vendor or any of their respective solicitors, the Customer hereby undertakes to indemnify the Bank for all costs, expenses, claims and demand made on the Bank in connection with or howsoever arising from such undertaking(s).

#### 3.4 Drawdown Expiry Date

No disbursement shall be made after the expiry of the Availability Period, unless otherwise agreed by the Bank.

### 4 INTEREST

#### 4.1 Prevailing Interest Rate on Partial Release of Loan

Upon the first release of the Loan (except for a full release of the Loan), the following shall apply:-

- (a) Interest shall be debited to the Loan Account on the last day of each calendar month at the Prevailing Interest Rate.
- (b) The Customer shall pay the interest at the Prevailing Interest Rate following the first release of the Loan on the first day of the next calendar month, failing which:-
  - (i) the amount of overdue interest shall attract default interest at the Default Rate;
  - (ii) the overdue interest as referred to in Clause 4.1(b)(i) above, shall form part of the balance outstanding under the Loan Account and shall be chargeable with interest at the Prevailing Interest Rate;
  - (iii) the Bank reserves the right to reject any application for further disbursement without being liable for any consequential loss.

#### 4.2 Prevailing Interest Rate on Full Release

- (a) Interest shall be debited to the Loan Account on daily balance basis at the Prevailing Interest Rate.
- (b) The calculation and posting of interest shall occur at midnight irrespective of whether the interest computation date or the last day of the calendar month falls on a weekend or a public or a banking holiday.

#### 4.3 Recalculation Upon Variation of Interest Rate

Where the rate of interest for the Loan is varied from a certain date other than the month end (hereinafter referred to as the "Interest Variation Date"), then interest shall be charged as follows: -

- (a) The old interest rate shall continue to apply from the start of the previous month end until the day preceding the Interest Variation Date; and
- (b) For the remainder of that month, the new interest rate shall be calculated again on the sum standing to the debit of the Loan Account on the next month end and posted monthly to the Loan Account in the same manner as hereinbefore provided.

#### 4.4 Interest for Part of The Month

Where interest needs to be calculated on a number of days, which is less than one month, then interest, shall be calculated on the actual number of days found in that particular month.

#### 4.5 Capitalisation of Interest

The interest on the Loan including capitalised interest shall at the end of each calendar month be capitalised and added for all purposes to the Loan then owing, and shall thence forth bear interest at the Prevailing Interest Rate notwithstanding that the relationship of financier-customer has ceased. Notwithstanding any capitalisation of interest, the Customer shall service the interest monthly.

#### 4.6 Default Interest Rate

- (i) Default interest at the Default Rate shall be chargeable under the circumstances stated in the Letter of Offer, before as well as after judgment, and such default interest shall be payable by the Customer as a right within the meaning of Section 11 (b) of the Civil Law Act 1956, and shall constitute the rate otherwise agreed within the meaning of Section 16 (i) of the Courts of Judicature Act 1964.
- (ii) The above charges shall be in addition and without prejudice to the power, rights and remedies available to the Bank and is to be charged from the date they become due to the date of actual payment.

Notwithstanding the above, the Bank reserves the right to vary the default interest in accordance with the terms of this Agreement. A statement in writing signed by an officer of the Bank as to the rate and/or amount of default interest payable shall, save for manifest error, be conclusive evidence of the rate and/or amount of default interest payable by the Customer.

#### 4.7 Variation of Interest Rate and Other Charges

- (i) The Bank shall be entitled to vary the Prevailing Interest Rate and/or other bank charges the following manner:-

(a) Variation of BLR or BR

By displaying at the premises of the Bank a general notice or in the Bank's website and such notice shall be deemed to have been communicated on the date of first display with such variation to take effect on the expiry of at least twenty one (21) calendar days from the date of display of such notice. In the event that the variation of such BLR or BR is in response to a change in Bank Negara Malaysia's Overnight Policy Rate ("OPR"), the Bank shall also publish such change in any major newspaper no later than the effective date of the variation of the BLR or BR, as the case may be; and/or

(b) Variation of Spread or Margin Above BLR or BR and/or Other Bank Charges

By serving a notice in writing by ordinary mail to the last known address of the Customer and such notice shall be deemed to have been received three (3) days after its date of posting. The variation shall take effect from the date specified in the notice. Such notice may be in the form of a computer generated statement which requires no signature; OR

By way of an insertion in or an enclosure with or an attachment to the Bank's statement of account to the Borrower stating such change and its effective date of change and such statement of account or noticed (in the event that the notice is not inserted in the statement of account but is enclosed therewith or attached thereto) may be in the form of a computer generated statement or notice which requires no signature and such notice shall be deemed to have been received three (3) days after posting of the statement of account.

- (ii) If and whenever there is a variation to the Prevailing Interest Rate and/or other bank charges, the Bank may in its absolute discretion make the necessary adjustment consequential to such variation either by varying the amount of any instalment and/or varying the number of instalments or both and shall provide the Customer with the revised particulars of the instalment amount or Tenure after each interest rate adjustment.

4.8 Section 8(2A) of the Insolvency Act

The Customer and the Security Party agree to pay the Prevailing Interest Rate and/or Default Rate in the event that the Bank does not realise its Security Interest within twelve (12) months from the date of the bankruptcy order adjudicating the Customer to be a bankrupt.

5 REPAYMENT

5.1 Repayment

- (i) The Customer shall repay the Loan by instalment as per the amount specified in the Letter of Offer. Unless stated otherwise in the Letter of Offer, the first instalment shall commence on the first day of the following month after full release of the Loan or the first day of the month immediately following the expiry of the Availability Period whichever is earlier and to be repaid before or on the monthly Repayment Date.



- (ii) The Bank shall be entitled to vary the above monthly instalment at any time and from time to time now and/or in the future due to any reasons whatsoever, including but not limited to a change in the Prevailing Interest Rate, to ensure that the amount outstanding is paid in full by the final Repayment Date (a day which shall be notified later by the Bank as the day when the total sum outstanding under the Loan shall be satisfied by the final instalment as required and made pursuant to this Clause).
- (iii) Notwithstanding the above, full payment must be made on receipt of a demand by the Bank.

## 5.2 Prepayment & Redraw

### 5.2.1 Prepayment

5.2.1.1 The Customer may prepay such amount at any time and from time to time subject to the terms and conditions herein.

5.2.1.2 Such Prepayment Amount shall be applied directly into the Customer's Loan Account for reduction of the principal amount, subject to the following conditions:-

- (i) there being no breach of any terms herein or breach of any guidelines, directives, laws and/or regulations in force from time to time including those issued by Bank Negara Malaysia;
- (ii) no default or breach has occurred or is threatened including in respect of payment and/or any other obligations in respect of the Loan;

### 5.2.2 Redraw

5.2.2.1 Subject to the Customer's fulfillment of all terms and conditions herein to the satisfaction of the Bank, the Bank may upon the request of the Customer make available for redrawing any amount of the Loan which has been prepaid by the Customer in accordance with Clause 5.2.1 above, (excluding such prepayments made through or from the Employee Provident Fund's withdrawal scheme which shall not be available for redrawing) upon and subject to the following terms and conditions:-

- (i) the redrawing will not result in any breach of any terms herein or breach of any guidelines, directives, laws and/or regulations in force from time to time including those issued by Bank Negara Malaysia;
- (ii) no default or breach has occurred or been threatened including in respect of payment and/or any other obligations in respect of the Loan;
- (iii) all fees, charges, commissions and other moneys due and payable under this Agreement, the Letter Of Offer and the Security Documents have been fully settled.

5.2.2.2 The maximum amount available for redrawing at any point shall be the balance amount of the Loan prepaid under Clause 5.2.1 above but not redrawn by the Customer or such other amount or limit as may be determined by the Bank in its absolute discretion from time to time, subject to a minimum redraw amount of RM1,000-00.

5.2.2.3 The Customer shall be liable to pay to the Bank a Redraw Fee in respect of each Redrawing.

5.2.2.4 The Customer acknowledges that notwithstanding any prepayment or redrawing, the monthly instalment of the Loan will remain unchanged.

5.2.2.5 The Customer shall ensure to seek confirmation on the Schedule Balance from the Bank from time to time to ensure that the amount to be redrawn shall not exceed the Schedule Balance

### 5.3 Prepayment & Redemption

- (a) The Customer may, with the Bank's consent and by paying the charges stipulated in Clause 5.3(c) below, prepay the Loan owing or part of the Loan owing, for the purpose of fully settling the Loan or permanently reducing the principal limit of the Loan (in the case of partial prepayment) by giving three (3) months written notice to the Bank. Where the customer wishes to fully settle the Loan. The Bank shall thereafter stipulate the redemption sum(s) payable within such period ("Redemption Period") by written notice to the Customer.
- (b) The Customer acknowledges that it may incur additional charges and/or interest in the event the Redemption Sum is not paid within the Redemption Period.
- (c) As consideration for the Bank's consent, and if so stated in the Letter of Offer, the Customer shall pay any prepayment charges as stipulated in the Letter of Offer towards full settlement of the Loan in the event the Customer seeks to fully repay the Loan.
- (d) The Bank reserves the right to vary the terms of Clause 5.2(a) above as per the Letter of Offer and/or the Special Conditions in Schedule 2 herein.

### 5.4 Redemption

If so stated in the Letter of Offer, the Customer shall pay a redemption fee at the rate stated in the Letter of Offer if the Loan is fully discharged, terminated or redeemed by either party, within the period stated in the Letter of Offer.

## 6 PAYMENTS

- 6.1 All payments under this Agreement shall be made on or before the monthly Repayment Date. This Clause does not apply for prepayment made under Clause 5.2 above.

- 6.2 Any payments made may be applied towards the Customer's repayment obligation in inverse order of maturity.
- 6.3 All payments to be made shall in Malaysian Ringgit and in immediately available funds.
- 6.4 All payments shall be made without set-off, counter claim and any deduction whatsoever.
- 6.5 Notwithstanding any other provisions herein, the Customer shall be liable for any taxes payable in connection with or arising out of this Agreement or the Loan/the product or any services in connection therewith.
- 6.6 The Bank may by giving 7 calendar days prior notice debit the Loan Account, as an advance to the Customer, to effect payments of all quit rent, assessment, premium, fee, commission, legal costs (both party and party and solicitor and client costs), valuation and/or any other charges due and payable under this Agreement. Any advance made under this Clause shall be repaid within fourteen (14) days of a notice given by the Bank. Interest at the Prevailing Interest Rate shall be charged on all advances.

## 7 REPRESENTATIONS AND WARRANTIES

- 7.1 The Customer represents and warrants to the Bank that:-
- (i) The Customer has full power to enter and perform the Customer's obligations under this Agreement.
  - (ii) The acceptance of the Loan shall not constitute an event of default under any of the Customer's agreements with a third party or contravene any law or regulation or order to which the Customer is a party.
  - (iii) There is no legal proceedings and/or bankruptcy or winding up or insolvency proceedings threatened or pending against the Customer and/or any Security Party or the Customer and/or any Security Party is not an undischarged bankrupt or wound up or insolvent or the Customer and/or any Security Party has not violated any court order or judgment or the Customer and/or any Security Party has not entered into or proposed to enter into any voluntary arrangement with their respective creditor(s) or there is no receiver and/or manager appointed to take over the Customer's and/or any Security Party's assets and/or business or there is no application made or pending by any person for an order for the Customer and/or any Security Party to be placed under judicial management and for the appointment of a judicial manager or there is no form of arrangement or composition (voluntary or otherwise) entered or proposed to be entered into by the Customer and/or any Security Party with their respective creditor(s).
  - (iv) All information furnished or declaration made to the Bank are true and do not omit any facts which would affect the Bank's decision to grant this Loan.
  - (v) There is no violation of any provisions contained in the FSA 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').

- (vi) The Customer and/or the Security Party is/are or shall be the beneficial owner(s) of the Property.
- (vii) That at the date of this Agreement, there is no encumbrance on the Property except the Security Interest created or to be created in favour of the Bank.

7.2 Each of the above representations and warranties shall constitute continuing representations and warranties throughout the validity of this Agreement.

## 8 DEFAULT

### 8.1 Events

Each of the following events shall be an event of default: -

- (a) Failure by the Customer to meet the Bank's demand within the time stipulated in the demand.
- (b) Failure by the Customer to pay the monthly instalment, the interest, capitalised interest, default interest and/or other charges within the time stipulated.
- (c) Failure by the Customer to comply with any part of the terms and/or conditions of this Agreement.
- (d) If there is any misrepresentation in any form by the Customer and/or if the Bank discovers information which may affect the Bank's decision to grant the Loan and/or should the Bank have any reason to believe that any information supplied or declaration made to the Bank is false, untrue or misleading.
- (e) Failure by the Security Party to comply with any part of the terms and/or conditions of the Security Documents to which it/he is a party.
- (f) If any housing development project and/or construction of any property and/or building, and/or any form of construction project, which involves any Property financed under the Loan, is delayed, abandoned or discontinued;
- (g) A situation shall occur which in the opinion of the Bank may imperil, delay or prevent the Customer or the Security Party from performing its obligations or jeopardise the Bank's interest.
- (h) In the event of a breach or contravention of any Laws or Guidelines by the Customer.
- (i) Failure by the Customer to comply with the provisions of other facilities granted by the Bank or by a third party to the Customer.

- (j) The Security Interest is in jeopardy or is not be capable of being perfected.
- (k) If it becomes impossible or unlawful for the Bank or the Customer to perform its obligation under this Agreement.
- (l) Any steps and/or proceedings are taken for bankruptcy or winding up or insolvency or any proposal for voluntary arrangement is entered into or is proposed to be entered into by the Customer and/or any Security Party with their respective creditor(s) or a receiver and/or manager is appointed to take over the Customer's and/or any Security Party's assets and/or business or any application is made or is proposed to be made by any person for an order for the Customer and/or any Security Party to be placed under judicial management and for the appointment of a judicial manager or the Customer and/or any Security Party enter into or propose to enter into any form of arrangement or composition (voluntary or otherwise) with their respective creditor(s).
- (m) where the Facility is granted for the purpose of financing the purchase of the Property under construction, the developer and/or the proprietor of the Property is wound up or a winding up proceeding is threatened or pending or a receiver and/or manager is appointed to take over the assets and/or business of such developer and/or the proprietor or any application is made or proposed to be made by any person for an order for the developer and/or the proprietor to be placed under judicial management and for the appointment of a judicial manager or the developer and/or the proprietor enter into or propose to enter into any form of arrangement or composition (voluntary or otherwise) with the developer's and/or proprietor's creditor(s).
- (n) If any Security Party and or the Customer and or any one of the Customer (i.e where the Customer comprises more than one natural person) shall die or shall be of unsound mind.
- (o) If any sum shall be due from the Customer and or any of the Security Party 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, loan, any other credit facilities or any other account current or otherwise ("the account(s)") 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 the account(s).

## 8.2 Consequences

- (i) Upon the occurrence of any events of default, the Bank reserves the right to recall, withdraw and/or suspend the Loan and the Bank shall not be obliged to further disburse the Loan, the Customer shall repay all amounts outstanding under the Loan, and the Bank may exercise all its rights and remedies at law and in equity.
- (ii) Notwithstanding Clause 8.2(i) above, the Bank reserves the right to vary the Prevailing Interest Rate as specified in the Letter of Offer or to such other rate as the Bank may in its discretion stipulate from time to time if the Customer fails to pay the monthly instalment, interest, capitalised interest, default interest and other charges.

### 8.3 Remedies Exercised Concurrently

- (a) The Bank shall have the right to exercise its remedies concurrently, including pursuing all remedies of sale or realisation of security and civil suit to recover the amount outstanding.
- (b) The exercise of the above rights would not subject the Bank to any claim for involuntary loss.
- (c) The Customer shall pay the Bank the difference between the Indebtedness and the net proceeds of the sale of the Property.

## 9 SECURITY

- 9.1 The Customer shall provide, or shall ensure that each Security Party creates the Security Interest in favour of the Bank or any other person authorised by the Bank and a power of attorney appointing the Bank as attorney of the Customer and/or Security Party and in the Customer's and/or Security Party's name and on their behalf, to deal with the Property, by executing the Security Document in form and substance acceptable to the Bank.
- 9.2 The Bank shall have the right to request for a substitution of the Security Interest or additional security in form and substance acceptable to the Bank, and the Customer shall comply with such request by on a timely basis.
- 9.3 The Security Interest created in favour of the Bank shall be continuing security for the existing Indebtedness and all future Indebtedness of the Customer with the Bank.
- 9.4 The Customer shall not and shall ensure that the Security Party shall not, during the existence of this Agreement, without the prior written consent of the Bank, create or permit any other form of Security Interest (other than in favour of the Bank as contemplated under this Agreement) nor create nor permit to exist any caveat or prohibitory order in respect of the Property.

## 10 SECURITY INTEREST

The Customer confirms that the Security Interest is created in favour of the Bank as security for all existing and future Indebtedness or future advances granted by the Bank to the Customer.

## 11 INSURANCE

- 11.1 The Customer shall cause the Security Party to maintain a house owner insurance policy with extended coverage for a sum not less than the Loan in the joint names of the Security Party and the Bank ("the Policy") or cause the Bank's interest as assignee to be endorsed on the Policy, with such insurance company approved by the Bank. The Customer shall ensure that the Bank is nominated as "Loss Payee" under such Policy. The Customer shall ensure that the Bank's written consent is obtained before any amendment or cancellation of the Policy.
- 11.2 If necessary, the Bank shall effect and/or maintain the above Policy on behalf of the Customer or Security Party (as the case may be) and the Customer shall bear the costs of the Bank effecting and/or maintaining such Policy.

- 11.3 In the event of any loss or damage to the Property, all monies received on any of the above Policy shall be applied in and towards making good the loss or damage to the Property or at the Bank's option, towards paying the Indebtedness.
- 11.4 In the event the Customer or the Security Party shall receive such monies pursuant to the Policy the Customer shall hold and/or the Customer shall ensure that the Security Party holds such monies received on such insurance in trust for the Bank and the Bank may receive and give a good discharge for all such monies.
- 11.5 The Customer agrees that in the event of any loss or damage to the Property and notwithstanding that the payment of monies under the Policy is pending, the Customer shall continue to pay the monthly instalments and such monies as may be due under this Agreement.
- 11.6 In the event that any monies payable under the Policy is insufficient of making good the loss or damage to the Property, the Customer shall bear the difference between the cost of making good the loss or damage to the Property and any amounts received under the Policy (as the case may be) and shall pay to the Bank within seven (7) days from the date of demand by the Bank.

## 12 LIABILITY

Notwithstanding anything to the contrary, in no event will the measure of damages payable by the Bank to the Borrower for any loss or damage incurred by the Borrower include, nor will the Bank be liable for, any amounts for loss of income or profit or savings, or any indirect, incidental, consequential, exemplary, punitive or special damages of the Borrower, even if the Bank had been advised of the possibility of such loss or damages in advance, and all such loss and damages are expressly disclaimed.

## 13 OTHER CONDITIONS

### 13.1 Letter of Offer

This Agreement, the Schedules and the Letter of Offer shall supersede all oral negotiations and prior correspondence in respect of this Loan. The Schedules and the Letter of Offer shall form part of this Agreement. In the event of any inconsistencies between this Agreement and the Letter of Offer, the Letter of Offer shall prevail.

### 13.2 Variation

Other than any variation of the interest rate and/or other charges which variation is governed by Clause 4.7, the Bank shall be entitled to vary or modify any term or condition of this Agreement by written notice to the Customer at its last known address and such variation shall take effect on the date(s) specified in such notice.

### 13.3 Review

This Agreement is subject to periodic review at the discretion of the Bank and the terms and/or conditions as may be varied by the Bank from time to time in accordance with the terms

hereof.

#### 13.4 Conclusive Evidence

Any statement by an officer of the Bank as to the amount due and owing as communicated to the Customer shall be final and conclusive proof of the Indebtedness except for manifest error or where fraud is proven.

#### 13.5 Lien and Set-Off

- (a) The Bank shall have a lien on all assets (movable and immovable) of the Customer whether in the possession of the Bank, its affiliates, branch or office, and the Bank shall have the right to withhold, combine, consolidate, debit, transfer and/or set-off from any accounts of the Customer and or any of the Obligors with the Bank wheresoever situate (whether current, deposit, loan or of any other nature whether in Ringgit or in any other currency) any available balance or any sum standing to the credit of any one or more of such accounts for the purpose of effecting repayment of the Indebtedness and or the indebtedness of any of the Obligors.
- (b) Until the Indebtedness and or the indebtedness of any of the Obligors have been paid, the Customer shall not be entitled to claim set-off or counterclaim against the Bank in respect of any liability from the Bank to the Customer.
- (c) The Bank is entitled to set-off any monies received from the sale of the Property to discharge the Indebtedness and or the indebtedness of any of the Obligors.

#### 13.6 Disclosure

Subject to the provisions below which (i) prohibit disclosure of information to Group Companies if objected to by the Customer; and (ii) require the Customer's express consent for disclosure of information to third parties for the stated purposes, the Customer hereby agrees and authorizes the Bank to disclose any information relating to this Agreement, the Security Interest, and/or the Customer's affairs or accounts:

- (a) to the Bank's agents, service providers, auditors, legal counsel, other professional advisors and to any person in or outside Malaysia who provide the Security Interest and/or is a party to any agreements which may constitute or form the basis of such Security Interest;
- (b) to the Central Credit Bureau, Biro Maklumat Cek or other relevant authorities to whom such Bureau or authorities the Bank is required to make such disclosure and/or to any authorities having jurisdiction over the Bank;
- (c) to any financial institutions with which the Customer has or propose to have dealings;
- (d) to any insurance company which the Bank may deem fit in connection with any insurance policy which the Bank may wish to take pursuant to terms of this Agreement;
- (e) to companies which are or which in future may be companies within the group of the Bank



as well as companies within the group of CIMB Group Holdings Berhad, the Bank's ultimate holding company ("the Group Companies") whether such Group Companies are residing, carrying on business, incorporated or constituted within or outside Malaysia;

for facilitating the business, operations, facilities and services of or granted or provided by the Bank and/or the Group Companies to their customers or as required by law or pursuant to any subpoena or order of the court.

Disclosure to Group Companies shall be for facilitating the operations, businesses, cross-selling and other purposes of the Bank and/or the Group Companies provided always that disclosure for cross selling purposes shall not be effected if such disclosure is objected by the Customer by contacting the Bank at the following telephone number or address (which may be changed by the Bank from time to time by notice to the Customer): 19th Floor, Menara Bumiputra Commerce, 11 Jalan Raja Laut, 50350 Kuala Lumpur, Tel No.: 1300-880-900.

Further, where the Bank intends to share the Customer's information (excluding information relating to the Customer's affairs or account) with third parties for strategic alliances, marketing and promotional purposes, the Bank shall ensure that consent from the Customer has been obtained.

The Customer hereby expressly confirms that the Bank, its officers and agents shall be under no liability under any circumstances whatsoever for furnishing such information whether by reason of any misstatement, error, negligence, omission, delay or any matter in connection thereto whatsoever and whether before on or after the date of this Agreement.

#### 13.7 Modification and Indulgence

The Bank may at any time without affecting the Security Interest: -

- (a) vary the terms and/or conditions of this Agreement in accordance with the terms of this Agreement.
- (b) grant to the Customer or Security Party any indulgence.

#### 13.8 Expenses and Stamp Duty

The Customer shall:-

- (i) in connection with this Agreement; and/or pay on demand, on the basis of full indemnity all expenses (including legal, stamp duty and out-of-pocket expenses) incurred;
- (ii) indemnify the Bank from and against any losses or liabilities incurred or which the Bank may incur as a result of any delay or omission to pay such stamp duty.

Notwithstanding the above, the Bank reserves the right to vary the terms above as per the Letter of Offer and/or the Special Conditions in Schedule 2 herein.

### 13.9 Service of Notice

- (a) Any notice in writing required to be served shall be deemed to have been served on the Customer if it is left or sent by ordinary mail to the usual or last known place of business or residence of the Customer or at the address stated in Section 1 of Schedule 1.
- (b) Unless otherwise stated specifically in this Agreement, if sent by ordinary mail to the Customer, any such notice shall be deemed to be received by the Customer when the notice would in the ordinary course of post have been delivered.

### 13.10 TransferBenefit

The Bank may at any time with or without the consent or concurrence of the Customer and/or the Security Party transfer this Agreement and the Security Interest to any person. All costs relating to the transfer shall be borne by the Customer.

### 13.11 Severability

If at any time any provision hereof is or becomes invalid, illegal, or unenforceable in any respect, such provision shall be ineffective to the extent necessary without affecting or impairing the validity, legality, and/or enforceability of the remaining provisions hereof.

### 13.12 Time

Time shall be the essence of this Agreement.

### 13.13 Successors Bound

This Agreement and the Security Interest shall be binding upon and enure to the benefit of the Bank and the Customer and their respective estate, heirs, personal representatives, assigns and/or successors-in-title and any other persons for the time being deriving title under them except that the Customer may not assign his or her rights or obligations herein.

### 13.14 GoverningLaw

This Agreement shall be governed by the laws of Malaysia.

### 13.15 Interpretation

In the event of any conflict in the interpretation of the provisions contained in this Agreement, the Schedules and the Letter of Offer ('these documents') and any translation thereof in any language, the English version of these documents shall prevail. Notwithstanding the aforementioned where the Customer has requested for the Bahasa Malaysia version of this Agreement the Bank shall provide the same to the Customer and if the Agreement is entered into on this basis, then the Bahasa Malaysia version of this Agreement shall prevail

14 PRINCIPAL AND SUBSIDIARY INSTRUMENTS

IT IS HEREBY AGREED AND DECLARED that this Agreement, the Letter of Offer and the Security Documents are instruments in one transaction to secure the Loan and the Indebtedness and for the purpose of Section 4 (3) of the Stamp Act 1949 this Agreement is deemed to be the principal or primary instrument.

15. PRIVACY CLAUSE

15.1 The Customer hereby confirms that the Customer has read, understood and agreed to be bound by the CIMB Group Privacy Notice (which is available at [www.cimbbank.com.my](http://www.cimbbank.com.my) or [www.cimbislamic.com](http://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 agrees that the said Privacy Notice shall be deemed to be incorporated by reference into this Agreement.

15.2 In the event the Customer provides personal and financial information relating to third parties, including information relating to the Customer's next-of-kin and dependents (where the Customer is an individual) or information relating to the Customer's directors, shareholders, officers, individual guarantors and security providers (where the Customer is a corporation), 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) confirms that the Customer has obtained their consent or is otherwise entitled to provide this information to the Bank and for the Bank to use it in accordance with this agreement; (b) 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.

15.3 Where the Customer instructs the Bank to effect any sort of cross-border transaction (including to make or receive payments), the details relevant to the cross-border transaction (including 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 behalf of the Customer, the Customer agrees to the above said disclosures on behalf of the Customer and others involved in the said cross-border transaction.

15.4 The Bank may at any time and from time to time now and/or in the future carry out the necessary reference checks including but not limited to credit reporting/reference checks with credit reporting/reference agencies including but not limited to CCRIS, FIS and/or any other agencies and/or from any financial institution to enable us to ascertain the Customer's status as may be required to help make decisions, for example when the Bank needs to (a) check details on applications for credit and credit-related or other facilities; (b) manage credit and credit-related accounts or facilities, including conducting reviews of the Customer's portfolio(s); and/or recover debts. The Customer will be linked by credit reporting/reference agencies to any other names the Customer uses or has used, and any joint and several applicants. The Bank may also share information about the Customer and how the Customer manages the Customer's

account(s)/facility(ies) with relevant credit reporting/reference agencies.

- 15.5 Even after the Customer has provided the Bank with any information, the Customer will have the option to withdraw the consent given earlier. In such instances, the Bank 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.
- 15.6 The Bank reserves the right to amend this clause from time to time at the Bank's sole discretion and shall provide prior notification to the Customer in writing and place any such amendments on the Bank's websites and/or by placing notices at the banking halls or at prominent locations within the Bank's branches.
- 15.7 For the purposes of this Clause, the CIMB Group consists of CIMB Group Holdings Berhad and all its related companies as defined in Section 7 of the Companies Act 2016 and jointly controlled companies that provide financial and other regulated services, excluding companies, branches, offices and other forms of presence operating outside Malaysia, and the use of the words "the Bank" and " the Bank's" are to be read as references to the CIMB Group.
- 15.8 The Customer further agrees that the Bank shall not in any event be liable for any claim, loss, damage (financial or otherwise), injuries, embarrassments or liability howsoever arising whether in contract, tort, negligence, strict liability or any basis (arising from any inaccuracy or loss, deletion or modification of data or for any other reasons whatsoever relating to any information forwarded by the Bank to such credit reporting/reference agencies and/or such other party, as the case may be, or in relation to any access or use, or the inability to access or use by such credit reporting/reference agencies and/or such other party or reliance on the information contained therein, whether caused by any technical, hardware or software failure of any kind, the interruption, error, omission, delay, viruses or otherwise howsoever, save and except where proven to have been caused directly by the Bank's gross negligence, default or omission.

The Customer further agrees that the Bank shall not in any event be liable for any indirect, special, incidental, consequential or punitive damages arising from or howsoever in relation any inaccuracy or loss, deletion or modification of data or for any other reasons whatsoever relating to any information forwarded by the Bank to such credit reporting/reference agencies and/or such other party, as the case may be, or in relation to any access or use, or the inability to access or use by such credit reporting/reference agencies and/or such other party or reliance on the information contained therein, whether caused by any technical, hardware or software failure of any kind, the interruption, error, omission, delay, viruses or otherwise.

- 15.9 This clause shall be without prejudice to any other clause in this Agreement which provides for the disclosure of information.

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

Signed for and on )  
behalf of )  
CIMB BANK BERHAD )  
(13491-P) )  
by its Attorney in the )  
presence of:- )

( )  
(I.C. No. )

Signed by the Customer )  
in the presence of )

( )  
(I.C. No. )

SCHEDULE 1

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

Section	Item	Description
1	Name(s) and address (es) of the Customer.	
2	Description of the Property	<p>The particulars of the Property shall be as stated in the Charge/Deed of Assignment (to delete whichever is inapplicable) dated _____ between the Bank and the Security Party, subject to the Bank's right to vary and/or amend the particulars of the Property and/or the Charge/Deed of Assignment (to delete whichever is inapplicable) at the Bank's absolute discretion.</p>
3	Name(s) and Description(s) of the persons providing the Security	

## SCHEDULE 2

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

### SPECIAL CONDITIONS FORMING PART OF THIS AGREEMENT

(To state any special conditions, e.g. if the legal fees, etc are to be paid by the Bank, any special prepayment conditions, any other benefits such as credit card facility, and/or any other conditions in the Letter of Offer which are not stated in this Agreement. To state "Not Applicable" if inapplicable)

## SCHEDULE 3

### CONDITIONS RECEDENT

- a) This Agreement and the Security Documents shall have been duly executed, stamped, and registered with such registries as the Bank may deem necessary or expedient, and copies thereof duly delivered to the Bank. Provided that the Bank may at its absolute discretion disburse the Loan or any part thereof prior to or upon presentation of the Security Documents requiring registration at the relevant registries for registration;
- b) A search having been made at the relevant land registry/land office confirming that the Property is free from all encumbrances and no acquisition notices have been lodged and/or registered or issued against the Property and the lodgement of a private caveat on the master title of the Property;
- c) The Bank is satisfied that the execution, delivery and performance of this Agreement and the Security Interest have been duly authorised and approved by all necessary parties and that the same do not contravene any law, rules or regulations or any contractual or other restrictions binding upon the Customer or the Security Party (if any);
- d) The receipt by the Bank of any undertakings, consents, approvals, and/or confirmations required by the Bank to the Bank's satisfaction;
- e) If applicable, the Bank shall have received the letter of disclaimer/undertaking from the bridging financier/existing chargee to exclude the Property from foreclosure proceedings, such letter of disclaimer/undertaking to be in form and content acceptable to the Bank;
- f) Where the Loan is to be disbursed by progressive releases, the receipt by the Bank of the relevant architect certificates;
- g) The Customer shall have delivered or caused to deliver to the Bank the current receipts of quit rent, assessments, rates, dues and other outgoings thereto as the Bank may require;
- h) Where required by the Bank, a valuation of the Property and/or verification of the address of the Property by a valuer acceptable to the Bank at the cost and expense of the Customer;
- i) Receipt by the Bank of a duly executed and stamped copy/original of the Sale and Purchase Agreement and/or original Proclamation of Sale together with duly executed and stamped Memorandum of Contract, as the Bank may require, and/or all other documents pertaining to the Property as the Bank may require;
- j) Where the Customer or any of the Security Parties is/are a corporation, receipt by the Bank of certified true copies of the Constitution (Memorandum and Articles of Association for purposes of the Companies Act, 1965), the latest Return of Allotment of Shares Form (Forms 24 for purposes of the Companies Act, 1965), Notice of Situation of Registered Office and of Office Hours and Particulars of Changes Form 44 for purposes of the Companies Act, 1965) or



Notification of Change in the Registered Address, Return Giving Particulars Notification of Change in the Register of Directors, Managers and Secretaries and Changes of Particulars (Form 49 for purposes of the Companies Act, 1965) or Notification of Change in the Register of Directors, Managers and Secretaries, and the board of directors' resolution authorising the borrowing of the Loan, the execution of this Agreement and/or the Security Interest, of the Customer and/or the Security Party, as the case may be;

- k) Receipt by the Bank of all insurance policies required by the Bank to be taken out, which insurance policies shall be in form and content acceptable to the Bank, and from insurers acceptable to the Bank;
- l) The difference between the purchase price under the Sale and Purchase Agreement and the Loan has been fully settled;
- m) Completion of all legal documentation to the satisfaction of the Bank;
- n) A search having been made at the Director General of Insolvency's Office or Registry of Companies and a satisfactory report having been obtained on the Customer and the Security Party confirming that there are no bankruptcy or winding-up or insolvency proceedings pending against the Customer and/or the Security Party and that no petition or order for bankruptcy or winding up or insolvency has been received by the Customer and/or the Security Party, or if the Bank so decides, in lieu thereof the Bank may in its absolute discretion accept a statutory declaration by the Customer and/or the Security Party declaring the same;
- o) The Customer shall have complied with and satisfied to the Bank's satisfaction all operational requirements relating to the operation of the Loan as may be stipulated by the Bank from time to time;
- p) Receipt by the Bank of Solicitor's written confirmation that the documentation is in order, all conditions precedent have been fulfilled, and that it is in order for the Bank to disburse the Loan; and
- q) If any, the following additional conditions precedent hereto shall have been satisfied and fulfilled:-

[To insert any other conditions precedent in the Letter of Offer]

Pending fulfillment of any of the above conditions in a manner satisfactory to the Bank, the Bank may at its absolute discretion terminate or suspend the Loan or disbursement of any part thereof.