

ASSET PURCHASE AGREEMENT

This **ASSET PURCHASE AGREEMENT** ("Agreement") is made the day and year as stated in **Section 1** of the **Schedule 1** hereto

Between

- (1) The party whose name and particulars are stated in **Section 2** of the **Schedule 1** hereto (hereinafter called "the Customer") of the first part;

and

- (2) **KOPERASI CO-OPBANK PERTAMA MALAYSIA BERHAD (Co-operative No. 1146 / 7.6.50)** a co-operative society registered under the Co-operatives Societies Act, 1993 and having its registered office at at Tingkat 6, Wisma JCBNext, No.27, Lorong Medan Tuanku 1, Off Jalan Sultan Ismail, 50300 Kuala Lumpur and having its place of business as set out in **Section 3** of **Schedule 1** hereto, and includes its successors in title and assigns (hereinafter referred as the "Bank") of the other part;

RECITAL

- A. The Customer is the owner of the assets more particularly stated in **Section 4** of the **Schedule 1** hereto (hereinafter called "the Assets").
- B. The Customer has offered the Bank to purchase the Assets in accordance with the Shariah principle of Bai' `Inah subject to the manner contained in the Letter of Option as stated in the **Section 7** of the **Schedule 1**.

NOW IT IS HEREBY AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.2 Definition

- (i) In this Agreement each of the following expressions has, unless the context otherwise requires, the meaning respectively assigned to them hereunder: -

Account	means an account of the Customer maintained with the Bank for the purposes of making the Monthly Payments.
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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.
Assets	Any assets to be determined by the Bank, which shall be the subject matter of the trade transaction under the Shariah principle of Bai' Al-Inah and as described in Section 4 of the Schedule 2 hereto.
Availability Period	means the period the Facility will be available for disbursement as set out in Section 8 of Schedule 1 hereto, subject to fulfilment of Conditions Precedent.
BFR	means the prevailing base financing rate as more particularly described in the Letter of Offer
BNM	means Bank Negara Malaysia, a body corporate governed under the Bank Negara Malaysia Act, 2009;
Business Day	means a day (excluding Saturday, Sunday and public holiday) on which the branch of the Bank through which the Facility is made available is open for transaction of business of the nature required or contemplated by the Letter of Offer.
Ceiling Profit Rate or CPR	means the ceiling 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 in favour of the Bank in relation to the Facility.
Conditions Precedent	means the conditions precedent as set out in Schedule 4 of this Agreement.
Contract Agreement	means (where applicable) the agreement made between the Customer and the Vendor/Contractor/Supplier Contractor on the date as stated in Section 11 (a) of Schedule 1 hereto in

	connection with the Project upon the terms and conditions contained therein.
Disbursement Notice	means the notice in the format and manner set out in Schedule 5 hereto forwarded to the Bank by the Customer at least five (5) Business Days prior to the proposed date of disbursement of the Facility or such other period as may be acceptable to the Bank.
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 in favour of the Bank in relation to the Facility, to include but not limited to:- <ul style="list-style-type: none"> (i) Deed of Assignment (By Way of Security); (ii) Deed of Assignment of Contract Proceeds; (iii) Deed of Assignment of Designated Account; and (iv) Deed of assignment of Rights, Title, Interest and Benefits.
Designated Account	means the account to be opened by the Customer which shall be assigned to the Bank.(if applicable)
Vendor/Contractor/Supplier	means (where applicable) the party where the Customer has entered into a Contract Agreement as set out in Section 11 (b) of Schedule 1 hereto and includes his/her/their/its successors in title and permitted assigns, heirs and personal representatives as the case may be.
Differential Sum	means (where applicable) the difference between Facility Amount and the Contract Price, as the case may be.
Effective Profit Rate or EPR	means the effective profit rate applicable to the Facility as set out in the Letter of Offer;
Existing Asset Purchase Agreement	means the asset purchase agreement executed by the Customer in favour of the Bank as stated in Section 14 of Schedule 1 herein.
Existing Chargee/Assignee Bank	means (if applicable) the bank or financial institution as set out in Section 13 of Schedule 1 hereto

Facility Amount	means the amount as set out in Section 9 of Schedule 1 hereto.
Guarantee	means (if applicable) the guarantee in the form and substance acceptable to the Bank executed or to be executed by the Guarantor in favour of the Bank, and if more than one individual, joint and several guarantee in relation to the Facility.
Guarantor	means (if applicable) the person or body corporate required to provide the Guarantee in favour of the Bank as set out in Section 2 of Schedule 2 hereto and includes his/her/their/its successors in title, permitted assigns, heirs and personal representative, as the case may be.
Land Act	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.
Letter of Offer	means the letter of offer for the Facility issued by the Bank and duly accepted by the Customer as stated in Section 6 of the Schedule 1 hereto (and includes any amendment, variation or modification and any supplemental and/or renewal thereof).
Letter of Option	means the letter of option as stated in Section 7 of the Schedule 1 hereto (and includes any amendment, variation or modification and any supplemental and/or renewal thereof).
Material Adverse Change	Means any material adverse change in the business or condition (financial or otherwise) or results in the operations of the Customer and/or its subsidiaries taken as a whole, which may materially and adversely affect the ability of the Customer to perform its obligations hereunder and/or the Security Documents.

Project	means the Customer's business venture in connection with the Facility and more particularly stated in Section 12 of Schedule 1 hereto.
Purpose	means the purpose of the Facility more particularly described in in Section 10 of Schedule 1 hereto.
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.
Contract Price	means the total contract price under the Contract Agreement.
Security Deposit	means the sum of money to be deposited by the Customer and/or deducted from the Facility Amount disbursed by the Bank as more particularly described in Section 1 of Schedule 2 herein which shall form part of the Security as mentioned in Clause 7 herein.
Security Documents	means the security documents in favour of the Bank in relation to the Facility as set out in Schedule 3 herein 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	means the Customer and/or the Guarantor and/or any other party from time to time required by the Bank to provide security to the Bank for the Customer's obligations under the Facility and execute the Security Documents and references to "Security Party" includes reference to each or any one thereof.

Settlement Amounts	means the aggregate of the payments due and payable by the Customer 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.
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 to the Bank upon any occurrence of Event of Default ; or ii. the payments due and payable by the Customer 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 to the Bank under the Security Documents.</p>
Total Loss Incident	means any incident or occurrence that results in the total loss or destruction of, or damage to the whole of the Project or any incident or occurrence that makes the Project permanently unfit for any economic use and any remedial work in respect thereof is uneconomical.

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 Security 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 Security 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, 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 Security Documents by the Customer 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.
- (b) Words importing the masculine gender include the feminine and neuter genders and vice versa.
- (c) 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.
- (d) References to “this Agreement” shall include any amendments, variations and/or supplemental made or entered into from time to time.

- (e) References to Items, Clauses and Schedules are to be construed as references to Items, Clauses and Schedules of this Agreement, unless stated otherwise.
- (f) References to the provisions of any legislation include a reference to any statutory modification or re-enactment thereof.
- (g) 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.
- (h) Words applicable to natural persons include any body, person, company, corporation, firm or partnership, corporate or otherwise and vice versa.
- (i) 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.
- (j) The words "monies", "Ringgit Malaysia" and the symbol "RM" shall be construed as Malaysian currency.
- (k) All Schedule(s) herein shall form an integral part of this Agreement and shall be taken, read and construed as an essential part hereof.
- (l) Where there are two (2) or more persons or parties included or comprised in the expression "the Customer":
 - (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 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 only. The parties agree that the version executed by the Customer 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. The Malay translation (if available) shall be for purposes of information only.

2. **AGREEMENT TO SELL AND PASSING OF TITLE**

In consideration of the Bank having agreed to purchase the Assets from the Customer hereby agrees to sell the Assets to the Bank free from all encumbrances at the Purchase Price as set out in **Section 5** of the **Schedule 1** hereto and subject to the terms and conditions herein contained.

3. **OWNERSHIP OF ASSET**

Ownership right of the Assets through physical possession or constructive possession shall pass to the Bank upon execution of this Agreement.

4. **THE FACILITY**

4.1 Availability of the Facility

- (a) At the request of the Customer, the Bank agrees to make available to the Customer the Facility preceding to which the parties shall enter into the trade transactions, subject to Availability Period as set out in **Section 8** of **Schedule 1** 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 trade transactions have not been entered into. However if the trade transactions have been entered into, any undisbursed portion of the Facility Amount **Section 9** of **Schedule 1** hereto 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 per Shariah.

4.2 Purpose

- (a) The Facility shall be used towards the Shariah compliant purposes as set out in **Section 10** of **Schedule 1** hereto and shall not be utilised by the Customer 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.

4.3 Disbursement of the Facility Amount and Disbursement Mode

For the avoidance of doubt, the Facility has been disbursed upon the execution of the existing Asset Purchase Agreement as stated in Section 14 of the First Schedule between the Customer and the Bank (hereinafter referred to as "the Existing Asset Purchase Agreement"). There would be no further disbursement from the Bank to the Customer pursuant to this Agreement.

(a) Payment to third party

The Bank is hereby authorised by the Customer to disburse the Facility Amount or such part or parts thereof directly to the Customer's respective solicitors or firm of solicitors, Vendor/Contractor/Supplier, Proprietor, the Existing Chargee/Assignee of the Property, as the case may be, courts, Takaful Operators or such other persons responsible for or concerned with the Project 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 Contract Agreement entered by the Customer and the Vendor/Contractor/Supplier, which particulars as stated in **Section 11** of **Schedule 1** hereto;
- (ii) upon receipt by the Bank of the architect's certificate or other documentary evidence satisfactory to the Bank certifying that works on the Project or the supply of the goods with regard to the Project, as the case may be, in respect of which claims for payment or payments are requested have been duly carried out and completed; or
- (iii) 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 shall be as good and sufficient and effective as if the same had been made or given by the Customer personally AND it is hereby further irrevocably agreed and confirmed by the Customer that the Customer 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 Facility Amount 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 contractor or their solicitors or firm or solicitors purporting to act for any of them.

(b) Default on the part of the third party

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 Vendor/Contractor/Supplier, Proprietor or such other persons responsible for or concerned with the Project 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 Vendor/Contractor/Supplier or such other persons responsible for or concerned with the Project is/are in breach of the Contract Agreement, the Bank shall be at liberty to withhold the disbursement of the Facility Amount or any part(s) thereof.

(c) Payment for the Customer's benefit

The disbursement of the Facility Amount 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 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 to the respective solicitors or firm of solicitors, Vendor/Contractor/Supplier, Proprietor, the Existing Chargee/ Assignee or such other persons responsible for or concerned with the Project or courts, as the case may be, and PROVIDED FURTHER THAT the conditions precedent set out in **Schedule 4** herein shall have been fulfilled and complied with by the Customer.

(d) Payment of the Differential Sum

The Customer shall forthwith pay to the Vendor/Contractor/Supplier or such other persons responsible for or concerned with the Project the Differential Sum in the event the Facility Amount is less than the balance of the Contract Price remaining unpaid by the Customer to the respective solicitors or firm of solicitors, Vendor/Contractor/Supplier, 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.

(e) Excess of the Facility Amount

If there be an excess in the amount of the Facility Amount with that of the Differential Sum, such excess amount shall be disbursed by the Bank directly to the Customer in the mode and manner prescribed solely by the Bank, at the Bank's absolute discretion, but subject to the terms and conditions herein contained.

5. AVAILABILITY

5.1 Conditions Precedent

Subject to **Clause 4.3** above, the Bank's obligation to make available the Facility shall be subject to the Bank being satisfied that the Conditions Precedent as set out in **Schedule 4** herein have been complied with and fulfilled by the Customer.

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. REVIEW OF FACILITY

6.1 Review of Facility

- (a) The Bank shall be entitled to review, amend or cancel the Facility at any time and from time to time as the Bank thinks fit.
- (b) Any decision by the Bank not to conduct any review, amend or any failure, omission or delay on the part of the Bank to conduct such review shall not be construed as a

waiver of the Bank's rights nor prejudice the Bank's right to recover all Indebtedness outstanding under the Facility.

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 shall execute or procure the execution of the Security Documents as set out in **Schedule 3** herein 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 under this Agreement and the Security Documents.

7.3 Covenant to Provide Further Security

- (a) The Customer 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 (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 and to contain all such terms and conditions for the benefit of the Bank as the Bank may reasonably require.
- (b) The Customer 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 for any tenure and all or any debentures shares stocks or other investments or securities registered in the name of the Customer or otherwise belonging to the Customer. 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 and not secured hereby.

8. TAKAFUL

- 8.1 The Customer shall arrange for and maintain adequate Takaful insurance coverage for the properties, machinery or asset to be charged as security to the Bank and/or financed by the Bank from a Takaful company acceptable to the Bank and the Bank shall be named as beneficiary of the Takaful insurance policy. The sum insured shall not be below the total Facility. All cost shall be borne by the Customer.

- 8.2 The Takaful coverage shall include (but is not limited to) Contractor All Risk, Public Liability, All Risk and/or any other coverage which shall be deemed necessary by the Bank for the Customer's activities or endeavor and/or as may be advised by the Bank's Takaful panels. The Takaful coverage shall be taken from the Bank's panel of Takaful operators/brokers only (if any). In default whereof it shall be lawful for but not obligatory upon the Bank to insure the same and all monies expended by the Bank shall be paid on demand for the same being made by the Bank.

9. **REPRESENTATIONS AND WARRANTIES**

9.1 Representations and Warranties

The Customer hereby represents and warrants to the Bank as set out in **Schedule 6** herein.

9.2 Truth and Correctness of Representations and Warranties

- (a) The Customer acknowledges 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. 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.

10. **COVENANTS**

10.1 Affirmative Covenants

The Customer undertakes with the Bank that until all his/her/its/their liabilities and obligations hereunder and until the Facility have been discharged, the Customer shall undertake all undertakings that are set out in **Schedule 7** herein.

10.2 Negative Covenants

The Customer hereby covenants with the Bank that from the date of this Agreement until all his/her/its/their liabilities and obligations hereunder and under the other Security Documents have been discharged, the Customer shall not without the written consent of the Bank first had and obtained do any matters that are set out in **Schedule 7** herein.

11. CHANGES IN CIRCUMSTANCES

11.1 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 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 shall upon being so notified, be obliged to forthwith upon demand refund to the Bank all monies paid to the Customer together with any other monies covenanted to be paid by the Customer under and in relation to this Agreement.

11.2 Notification

Any notification by the Bank concerning any of the matters referred to in **Clause 11.1** above shall, save for any manifest error be conclusive and binding on the Customer.

11.3 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 or any other person whosoever for any delays whatsoever:
 - (i) in the preparation, execution or perfection of any of the Security 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 or any other Security Party 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 Security 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 or any other person whomsoever).

12. INDEMNITY

12.1 Indemnity

- (a) The Customer 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 Assets, 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 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) which the Bank may incur as a consequence of any Event of Default or otherwise in connection with this Agreement or the Security 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.

12.3 Indemnities Separate

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

13. **EXPENSES**

13.1 Expenses

The Customer 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 Security 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 Security Documents and any related documents;
 - (ii) the charges of the Bank's valuers, appraisers, estate agents and auctioneers;
 - (iii) quit rent, assessment, rates, taxes, drainage charges, sewerage charges, takaful contributions, 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 Security Documents and/or any security and/or in the collection of any moneys due or becoming due under the Security 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 Security Documents or for or on behalf of or for the account of any Security Party irrespective of whether or not the Facility is utilised, suspended or cancelled;
- (b) any expenses covenanted to be paid by the Customer under this Agreement which are paid by the Bank on behalf of the Customer 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 Security Documents or otherwise howsoever incurred hereunder by the Bank and payable by the Customer 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 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 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 Land Act, 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 to the Bank on demand calculated from the date it is due until full payment.

13.2 Stamp duty

The Customer shall pay all stamp, documentary and other similar duties and taxes to which this Agreement, the Security 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 to pay such duties.

14. **ASSIGNMENT AND TRANSFER**

14.1 Benefit of Agreement

- (a) The Bank shall be entitled after giving due notice to the Customer, 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 and/or Security Party as shall have been made available to the Bank;
- (ii) where the Bank transfers its obligations or any part thereof, the Customer and/or Security Party 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 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.

14.2 No Transfer by Customer

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

15. **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 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. In addition and without prejudice to the Representation and Warranties under **Schedule 6** herein, the Bank shall be entitled at the expense of the Customer 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 shall and hereby declare that the Customer shall hold all monies if paid to and so received by the Customer in trust for the Bank and the Customer 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 shall forthwith pay to the Bank difference between the amount due and the amount so received.

16. **FURTHER PROVISIONS**

16.1 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.

16.2 Discharge of Indebtedness

Subject always to the Bank's right of consolidation, it is hereby agreed that on the satisfaction by payment or otherwise of the whole of the Indebtedness due under this Agreement and the other Security Documents all the provisions herein contained shall cease to be of any effect but without prejudice to the Bank's rights and remedies against the Customer in respect of any antecedent claim or breach of covenant.

16.3 Reconstruction

The liabilities and/or obligations created under this Agreement and/or Security 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 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 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.

16.4 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 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.

16.5 Valuation of the Property

- (a) The Bank shall be entitled to carry out or to require the Customer to carry out, at the cost and expense of the Customer, a valuation or a revaluation of the Property or any property of any Security Party which is offered by the Security Party 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 Facility Amount. 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 Contract 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 accordingly and impose any further conditions which shall likewise be ascertained as aforesaid as the Bank may require prior to the disbursement of the Facility Amount.
 - (ii) from time to time as and when it deems fit.
- (b) Any determination of the Bank as to the value of or attributable to any property of any Security Party which is offered by the Security Party 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.

16.6 Application of Malay Reservation Enactments

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 Bai 'Inah and in the event that the provisions of the Land Act or any Malay Reservation Enactments 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 Land Act is obtained or become necessary, it shall be the sole responsibility of the Customer to obtain such approval or to procure the owner of the Property to obtain such approval prior to the execution of the Security Documents and the Customer hereby undertakes with the Bank to obtain or cause to obtain or to procure the owner of the Property to obtain such approval prior to the disbursement of the Facility Amount.

16.7 Time

Time shall be the essence of this Agreement.

16.8 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;
 - (v) if by way of electronic mail or messages, when actually received in readable form and only if it is addressed in such a manner as the Bank shall specify for this purpose;
- (b) Where there are 2 or more persons comprised in the expression "Customer":
- (i) any certificate, statement, notice, demand or other communication given or required to be given to the Customer 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 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.

16.9 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 has given to the Bank actual notice of the change of the address and nothing done in reliance on **Clause 16.9(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.

16.10 Modification and indulgence

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

- (a) grant to the Customer or any Security Party 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 or any Security Party or any other person; and/or
- (d) compound with the Customer or any Security Party or any other person or surety; and/or
- (e) enter into any deed of composition with the Customer, security party, guarantor or any other person.

16.11 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.

16.12 Disclosure of information

- (a) Without limiting the subsequent provisions of this **Clause 16.13**, 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 Security Documents or assets or affairs of the Customer (including his/their account or future account 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 provided that in respect of documents, records or information which the Customer 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 hereby irrevocably consents for the Bank to disclose any documents or records of, or information about the Security Documents, the Facility, or the assets, or affairs of the Customer, 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:
- (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; or
- (iv) to Dishonoured Cheques Information System (DCHEQS); or
- (v) to any branch, subsidiary or parent company of the Bank and to any companies within the group of companies; or
- (vi) for or in connection with any legal action, suit or proceedings relating to the Facility or security; 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; 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 in relation to the Facility or the Security Documents as shall have been made available to the Bank generally.
- (d) The Customer acknowledges and agrees that the permission given under this **Clause 16.13** is for the purposes of Section 146(1) of the Islamic Financial Services Act, 2013 and that no further consent from the Customer is required for the purposes of this **Clause 16.13**.

16.13 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.

16.14 Currency

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

16.15 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 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 until the Bank shall have received from all sources all outstanding amount against the Customer. After the Bank has received such ultimate balance in full, any claim on the part of the Customer to any excess or any securities remaining with the Bank shall be a matter of adjustment between the Bank and the Customer and any other person or persons laying claim thereto.

16.16 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 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 with the Bank of whatsoever nature (whether current, deposit or financing account), at any branch of the Bank with any liabilities of the Customer (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, debit, transfer and/or set-off from any account of the Customer 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.
- (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 shall not be entitled to require the release of any security provided to the Bank except on payment by the Customer to the Bank of not only all monies referred to herein but also all monies whatsoever or howsoever payable or due from the Customer 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 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.

16.17 Terms of Letter of Offer Incorporated

The Letter of Offer which has been duly accepted by the Customer 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. 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 this Agreement shall prevail for the purpose of interpretation and enforcement of this Agreement.

16.18 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 8** herein (if any).

16.19 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 or that it may have accepted monies from the Customer or any of the Security Party 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.

16.20 Successors bound

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

16.21 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.

16.22 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 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 as aforesaid.

16.23 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 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.

16.24 Further Assurance

The Customer 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.

16.25 Central Credit Reference (if applicable)

- (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 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 Customer, 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.

16.26 Cross-Default

The Customer hereby expressly agrees that if any sums shall be due from the Customer to the Bank from time to time or at any time or if the Customer may be or becomes liable to the Bank anywhere on banking account or any other account current or otherwise in any manner whatsoever or if default is made in any provisions of such accounts or in any other banking facilities granted by the Bank to the Customer or in any of the provisions herein contained or therein contained in the other Security Documents, then and on such event, the Indebtedness together with all monies payable under such accounts or other banking facilities aforesaid shall immediately become due and payable and the security herein become immediately enforceable.

16.27 Appropriation

The Bank shall be entitled at its absolute discretion to utilize any moneys received by it to account of any payments to be appropriated in any manner howsoever as it shall deem fit.

16.28 Regulatory Compliance

The Customer acknowledges and agrees that the Bank is subject to the supervision of, and/or governed by, and/or subject to any rules, regulations, guidelines and/or any other form of directives from, Bank Negara Malaysia ("BNM"), Association of Banks in Malaysia ("ABM"), Cooperative Commission of Malaysia and/or any other regulatory bodies having authority over the Bank. The Bank shall have the right to vary this Agreement to give effect to any such rules, regulations, guidelines and/or any other form of directives from Bank Negara Malaysia ("BNM"), Association of Banks in Malaysia ("ABM"), Cooperative Commission of Malaysia and/or any other regulatory bodies having authority over the Bank. This right of variation on the part of the Bank

shall be in addition and not in derogation of any other right of variation on the part of the Bank under this Agreement.

16.29 Expenditure Incurred by the Bank for and on behalf of the Customer

All moneys expended by the Bank hereunder from time to time for and on behalf of the Customer (relating to takaful/insurance, quit rent, premium, assessment, rates, taxes, repairs, valuation reports, legal costs, stamp duties, registration fees and all other outgoings including any expenses incurred by the Bank in visiting, inspecting or reporting on the business of the Customer by the Bank's agents and or consultants) shall be recoverable and be paid by the Customer on demand by the Bank. In default of such payment, such moneys shall be deemed to form part of the Indebtedness and to be secured accordingly hereunder and the account of the Customer shall be debited accordingly.

16.30 Trademarks and Trade Names

Unless otherwise permitted in writing to do so, the Customer shall not use in its corporate, firm or business name or otherwise or allow to be used by others, in so far as it may have any power to prevent such use, the name of the Bank or any other trade name or trademark adopted by the Bank, or any words or names, or combination of words or names closely resembling any of them. Upon the expiration or termination of this Agreement in accordance with its terms, the Customer forthwith shall discontinue the use of any such name and of any other name or names or any combination of words or designs or trademarks or trade names that would indicate or tend to indicate that the Representative was or is a representative of the Bank for the Services/Projects/Business in the territories.

16.31 Relaxation Wavier Etc

- (a) No relaxation forbearance delay or indulgence by the Bank in enforcing any of the terms and conditions of this Agreement or the Security Documents defined herein nor the granting of time by the Bank to the Customer shall prejudice affect or restrict the rights and powers of the Bank hereunder nor shall any waiver of any breach thereof operate as a waiver of any subsequent breach thereof.
- (b) Neither this Agreement nor any of the documents referred to in the Security Documents defined herein may be amended changed modified varied waived discharged or terminated orally but only by a statement in writing signed by the Bank and then any such amendment change modification waiver discharge or termination shall be effective only in the specific instance and for the specific purpose for which it was given.
- (c) Notwithstanding the fact that the Bank may not have exercised any remedy available to it immediately on default by the Customer or that the Bank may have accepted moneys from the Customer 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 or the documents referred to in the Security Documents defined herein or by statute or otherwise shall not be held to prejudice its rights of action in respect thereof.

16.32 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.

16.33 Schedules

All the [Schedules](#) hereto shall be taken read and construed as integral parts of this Agreement.

17. **LAW APPLICABLE**

- (a) This Agreement shall be governed by and construed, interpreted and applied in accordance with the laws of Malaysia and the parties hereby submit to the jurisdiction of the Courts of Malaysia. The parties hereby further agree that the service of any notice or any legal process in respect of any action arising out of or connected with this Agreement may be effected in accordance with [Clause 16.9](#) above.
- (b) The Customer hereby acknowledges that the acceptance of the Facility shall be conclusive as to the Customer's acceptance of the Shariah permissibility of all the Shariah contracts the Customer enters into with the Financier and all action and arrangements contemplated thereunder.
- (c) NOTWITHSTANDING the above, the parties hereto further agree that for the avoidance of doubt, any interpretation, questions disputes and/ or references by then parties, any proceedings before any court or arbitrator, in relation with and concerning Shariah issues, principles and/ or practices, all parties shall take into consideration any published rulings of the Shariah Advisory Council of Bank Negara Malaysia or in the silent of which, refer the interpretation, questions, disputes and/ or references to the Shariah Advisory Council of Bank Negara Malaysia whose rulings and/ or recommendations shall then be binding on and followed by all parties.

18. **ANTI-MONEY LAUNDERING AND ANTI-TERRORISM FINANCING ACT 2001 (Act 613) (AMLAT)**

The Customer is prohibited to utilize the Facility granted for any illegal activities as stipulated under the AMLAT. The Bank has the absolute right to obtain all information required as well as the financing source related to the Customer. The Bank has also the right to lodge a report to the relevant authorities and to extend full cooperation in order for the authorities to carry out their duties under AMLAT. If it is found that the Customer is in violation of AMLAT, the Bank is entitled forthwith to exercise all of its rights contained in Clause 10 herein.

19. PERSONAL DATA PROTECTION ACT 2010

The Customer hereby acknowledges that the Bank in exercising its rights, duties and obligations under this Agreement and in exercising its daily operation and in providing its customers a high quality of service may need to contact, inform and/ or notify the Customer via email, telephone, post or any other communication media with details of the Bank's services. While the Bank will at all times capture and process the Customer's personal information in accordance with the requirements set out in Personal Data Protection Act 2010, the Customer herewith consents and authorises the Bank to release the Customer's name, address, email address, telephone number(s) and any other information which the Bank feels in its entire discretion, may be relevant, to any third party for the marketing and promotion of the Bank's products and services. Provided always that this consent and authorisation may be withdrawn at any anytime by the Customer by giving ample prior written notice to the Bank.

20. STAMP DUTY DECLARATION

IT IS HEREBY DECLARED THAT this Agreement, the other 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 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 deemed to be a substitution or a supplemental to the principal instrument. The duty chargeable for this Agreement shall be exempted, remitted or of nominal value pursuant to:-

- a. General exemption under Para 35(6) of Stamp Act 1949; or
- b. Stamp Duty (Remission) Order 2011; or
- c. this Agreement being an auxiliary or secondary instrument.

21. SHARIAH COMPLIANCE

- (a) The Customer hereby agrees, confirms and acknowledges that this Agreement and any transaction entered into pursuant to this Agreement are subject to and in conformity with Shariah principles, as ascertained by the BNM Shariah Advisory Council ("SAC") and/or any other authority having jurisdiction over the Bank.
- (b) Where in any proceedings relating to this Agreement and any transaction entered into pursuant to this Agreement before any court or arbitrator any question arises concerning a Shariah matter, the court or the arbitrator, as the case maybe shall:
 - (i) take into consideration any published rulings of the BNM SAC; or
 - (ii) refer such question to the BNM SAC for its ruling.
- (c) Any such rulings made by the BNM SAC shall be final and binding among the Parties and the court or arbitrator making a reference to the BNM SAC.
- (d) The Customer has had notice of guidelines, specifications, standards or circulars issued pursuant to the Islamic Financial Services Act 2013. If from time to time and at any time before or during the continuance of this Agreement and any transaction entered into pursuant to this Agreement, it is discovered or it has come to the

attention of the parties that any part or portion or in any aspect of the facility, there is or is likely to be in any way or manner which have or would result in an infringement of Shariah principles, guidelines, specifications, standards or circulars and or that the continued utilisation of the Facility shall be in violation of the same, the Parties hereby agree that the relevant provision and/or term and/or condition of the Agreement shall be deemed to be amended or varied in such a manner and to such extend as is necessary to be in conformity with Shariah principles, guidelines, specifications, standards or circulars. The Bank shall be entitled forthwith to exercise all of its rights contained herein and vary the terms of this Agreement and any transaction entered into pursuant to this Agreement to the extent necessary to ensure that this Agreement and any transaction entered into pursuant to this Agreement to be in conformity with Shariah principles, guidelines, specifications, standards or circulars.

- (e) Notwithstanding any determination that the Agreement and/or any part thereof and/or any transaction arising therefrom is in any manner or form Shariah non-compliant, the Customer hereby agrees that the indebtedness arising from the Customer's utilisation of the Facility shall remain intact and owing and shall not in any way or manner be affected adversely by any Shariah non-compliance.
- (f) If the infringement of a Shariah principle is caused by or attributed to the Customer, the costs applicable to the rectification or variation process shall be borne by the Customer. If the infringement of a Shariah principle is caused by or attributed to the Bank, the costs applicable to the rectification or variation process shall be borne by the Bank.

*****[End of Clauses]*****

IN WITNESS WHEREOF the parties hereto have hereunto set their respective hands below.

SIGNED by }
for and on behalf of }
KOPERASI CO-OPBANK PERTAMA }
MALAYSIA BERHAD (1146 / 7.6.50) }
by its lawful Attorney }
in the presence of: }

Time stamp:

SIGNED by }
} }
} }
} }
the Customer }
in the presence of:- }

Time stamp:

SCHEDULE 1

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

Section No.	Section	Particulars
1.	Day and year of this Agreement	Please refer to Appendix 1
2.	Name and other particulars of the Customer	Please refer to Appendix 1
3.	Address of the branch/business department	Please refer to Appendix 1
4.	Description of Assets	Please refer to Appendix 1
5.	Purchase Price	Please refer to Appendix 1
6.	Day and year of the Letter of Offer	Please refer to Appendix 1
7.	Day and year of the Letter of Option	Please refer to Appendix 1
8.	Availability Period	Please refer to Appendix 1
9.	Facility Amount	Please refer to Appendix 1
10.	The Purpose	Please refer to Appendix 1

11.	(a) Day and year of the Contract Agreement	Please refer to Appendix 1
	(b) Particulars of Vendor/Contractor/Supplier	Please refer to Appendix 1
12.	Particulars of Project	Please refer to Appendix 1
13.	Particulars of Existing Chargee/Assignee	Please refer to Appendix 1
14.	Existing Asset Purchase Agreement	Please refer to Appendix 1

SCHEDULE 3

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

Please refer to Appendix 1

THE PARTICULARS OF SECURITY DOCUMENTS AND SECURITY PARTIES

- *1. A Letter of Guarantee (hereinafter referred to as “the Letter of Guarantee”) to be executed by the person(s) whose name(s) and descriptions are stated in **Section 2** of **Schedule 2** hereto in favour of the Bank in a form and substance acceptable to the Bank guaranteeing the due performance and observance by the Customer of all the terms conditions undertakings and payment due under this Facility and other monies whatsoever due and payable by the Customer to the Bank.
- *2. A Corporate Guarantee (hereinafter referred to as “the Corporate Guarantee”) to be executed by the company which particulars and descriptions are stated in **Section 2** of **Schedule 2** hereto in favour of the Bank in a form and substance acceptable to the Bank guaranteeing the due performance and observance by the Customer of all the terms conditions undertakings and payment due under this Facility and other monies whatsoever due and payable by the Customer to the Bank.
- *4. A registrable *first/ third party first fixed legal charge under the National Land Code 1965 over the land held (hereinafter referred to as “the Charge”) in the form and manner prescribed by the Bank.
- *5. A Deed of Assignment in respect of the property [hereinafter called "the Deed of Assignment (By Way of Security)"] held under master title.....
..... in favour of the Bank in form and substance acceptable to the Bank and upon the issue of the separate document of title execute a registrable first charge in favour of the Bank over the Property in the Bank's form of charge applicable therefore;
- *6. A Deed of Assignment in respect of all contract proceeds (hereinafter called "the Deed of Assignment of Contract Proceeds") in favour of the Bank in form and substance acceptable to the Bank.
- *7. A Deed of Assignment in respect of all rights, title and benefits of the business (hereinafter called "the Deed of Assignment of Rights, Title and Benefits ") in favour of the Bank in form and substance acceptable to the Bank.
- 8* Others (please specify) :

**Delete whichever is not applicable*

- *1. A Letter of Guarantee (hereinafter referred to as “the Letter of Guarantee”) to be executed by the person(s) whose name(s) and descriptions are stated in **Section 2** of **Schedule 2** hereto in favour of the Bank in a form and substance acceptable to the Bank guaranteeing the due performance and observance by the Customer of all the terms conditions undertakings and payment due under this Facility and other monies whatsoever due and payable by the Customer to the Bank.

- *2. A registrable *first/ third party first fixed legal charge under the National Land Code 1965 over the land (hereinafter called “the Property”) held (hereinafter referred to as “the Charge”) in the form and manner prescribed by the Bank.

- *3. A Deed of Assignment in respect of the property [hereinafter called "the Deed of Assignment (By Way of Security)"] held under master title..... in favour of the Bank in form and substance acceptable to the Bank and upon the issue of the separate document of title execute a registrable first charge in favour of the Bank over the Property in the Bank's form of charge applicable therefore;

- *4. Others (please specify) :

***Delete whichever is not applicable**

SCHEDULE 4

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

CONDITIONS PRECEDENT

(A) The Customer shall have executed/completed and submitted to the Bank the followings:

- 1) The Bank's Letter of Offer duly accepted by the Customer's Authorised Signatories.
- 2) Original or certified true copies of (if applicable):
 - (a) the Customer's and / or the Security Party's Board of Directors or Partners' Resolution or such other written approval as appropriate authorising the following:
 - i. the acceptance of the Facility and/or providing the Security for securing the Indebtedness, as the case may be;
 - ii. the list of person(s) designated to be the Authorised Signatories of the Customer and/or the Security Party together with their specimen signatures (if applicable);and
 - iii. that the Common Seal of the Customer and/or the Security Party be affixed on all Security Document(s) and/or any other documents relating and/or arising out of the Facility (if applicable);
 - (b) if the Customer and/or the Security Party is a sole proprietorship or a partnership, the Customer's and/or the Security Party's Certificate of Registration of Business or other similar documents, as the case may be;
- 3) The Customer's and/or the Security Party's Memorandum and Articles of Association or Partnership Agreement or Registration Certification or any other similar document, as the case may be;
- 4) The Customer's and/or the Security Party's latest Annual Return, Forms 24,44 and 49;
- 5) An undertaking by the Customer not to advance any monies to its directors or shareholders or any related parties (including its subsidiaries) without prior written consent from the Bank.
- 6) An undertaking to open a saving account (if applicable), to operate and centralize its main accounts with the Bank.

- 7) A Letter of Standing Instruction (if applicable) duly executed by the Customer and stamped; and
- 8) An undertaking that all advances by director(s) and/or shareholder(s) of the Security Party shall be subordinated to the Facility.

(B) The Bank shall have received/satisfied on the following:

- 1) Security Documents have been duly executed, stamped and where applicable, presented for registration at the relevant registry.
- 2) Official bankruptcy/winding up search result on the Customer and the Security Party and the Customer's directors from the office of the Director General of Insolvency, Malaysia (Jabatan Insolvency Malaysia), pending thereof, statutory declaration in form and substance satisfactory to the Bank confirming that Customer, the Security Party and the Customer's directors are not bankrupt/wound up nor there is bankruptcy/winding up action or proceedings being taken or pending against the Customer, the Security Party and the Customer's director.
- 3) A certified true copy each of the Customer and the Security Party's Memorandum and Articles of Association, By-laws, other appropriate constitutional documents, Forms 24, 44 and 49 and any other relevant documents evidencing incorporation and/or registration of the Customer and the Security Party with the relevant authority and other relevant documents in the form and substance acceptable to the Bank.
- 4) The Memorandum and Articles of Association or the Rules and By-Laws of the Customer shall be in form and substance satisfactory to the Bank and there shall have been obtained or there shall have been made provisions satisfactory to the Bank for obtaining all governmental corporate creditors' shareholders' or other necessary licences approvals and consents for the carrying on of the Customer's business and the due execution and delivery of this Agreement and the documents related hereto.
- 5) No event has occurred which in the opinion of the Bank (which opinion shall be final and binding upon the Customer and the Security Party) amounts to a material adverse change in any circumstances including any material adverse change in the constitution, business, condition (financial or otherwise) or operations or prospects or other affairs of the Customer or any Security Party or which would renders insufficient or inadequate the securities provided by or under the Security Document.
- 6) No other event or series of events whether related or not has or have occurred which could or might adversely affect the decision of the Bank to proceed with the Facility.

- 7) The Bank shall be satisfied that no event has occurred so as to render the Facility to become immediately payable and no event of default under any agreement or arrangement related to in this Agreement shall have happened and be continuing;
- 8) No event or events have occurred which could or might materially or adversely affect the condition financial or otherwise of the Customer or the ability of the Customer to observe and perform its obligations under this Agreement or the documents related hereto;
- 9) All Conditions Precedent have been fulfilled;
- 10) Evidence satisfactory to the Bank that all approval authorisations and consents (if any) necessary for any matter or thing contemplated by this Agreement and such other documents as may be required by the Bank have been obtained and remain in full force and effect;
- 11) The Customer's and the Security Party(s)'s Board of Directors or Partners' Resolution or other relevant approval is in order (if applicable);
- 12) Duly executed and stamped statutory declarations by the Customer and the Security Party that there is no legal proceeding suit or action whatsoever (whether criminal or civil) instituted against the Customer and the Security Party and they are not an adjudged bankrupt and/or wound up, as the case may be, and there are no petitions pending in court against them;
- 13) Valuation reports by an independent valuer on the Bank's panel of valuers confirming therein the forced value of the assets charged to the Bank (if applicable);
 - (a) Where the separate document of title in respect of land to be charged to the Bank ("Land") has been issued by the appropriate authority, the issue document of title therefor; or
 - (b) Where the separate document of title in respect of the Land has not been issued by the appropriate authority, the original of the sale and purchase agreement and such other agreements and/or documents evidencing their rights in and/or ownership of the Land; and
- 14) All other conditions deemed appropriate by the Bank or the Bank's solicitors have been complied with.

(C) The Bank's solicitors shall have confirmed to the Bank and/or the Bank shall have received/ be satisfied that:

- (1) No winding-up and/or bankruptcy proceedings have been commenced against the Customer and the Security Party and the Customer's directors and all relevant

searches with the relevant authorities have been made and the result of those searches would not jeopardise the security arrangements under the Facility;

- (2) The Facility when utilised will not constitute a breach by the Customer of any limit imposed by its Memorandum and Articles of Association, By-laws and/or other relevant constitutional documents of the Customer;
- (3) The Security Document has been duly executed by the parties thereto and stamped and where applicable presented for registration or registered with the relevant authorities and that they are valid, legally binding and enforceable against the parties that have executed them and that the Bank's interest is protected;
- (4) The Customer has paid all costs charges solicitors fees stamping and registration fees and other expenses incidental thereto;
- (5) Search on the Land has been made at the relevant land registry or office and the Land is free from any encumbrances whatsoever. In the event that the Land is encumbered, the relevant letter of undertaking for the discharge of the encumbrances or letter of disclaimer from the existing encumbrancer;
- (6) Searches have been made on the Customer and the Security Party at the Director General of Insolvency's Office and the Companies Commission of Malaysia and the result thereof are acceptable;
- (7) the power of attorney clause in the Security Documents have been duly stamped and registered at the relevant registries (if applicable);
- (8) All power of attorneys related to the Facility are valid and subsisting (if applicable);
- (9) The sale and purchase agreement and/or any other relevant documents in respect of the Land are valid and subsisting (if applicable);
- (10) the Customer shall have delivered the original of the sale and purchase agreement to the Bank to be held in its custody (if applicable);
- (11) All approvals, authorisations and consents (if any) necessary for any matter or thing contemplated by this Agreement and such other documents as may be required by the Bank have been obtained and remain in full force and effect;
- (12) The Customer and the Security Party have complied with all standard conditions deemed relevant by the Bank and the Bank's solicitors for a facility of this nature;
- (13) A private caveat if so required has been entered on behalf of the Bank in respect of the Land (if applicable); and
- (14) A copy of the current quit rent and assessment receipts in respect of the Land (if applicable).

(D) Others [please specify if any]:

AND the Customer shall have delivered to the Bank certificates in respect of the matters specified in **Sub-section B (7)** and **B (8)** above signed by an authorised representative of the Customer and expressed to be effective as at each disbursement date together with such evidence as to the proposed utilisation of the proceeds thereof as the Bank shall reasonably require.

SCHEDULE 5

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

DISBURSEMENT NOTICE

(To be transcribed onto the Customer's letterhead)

Date:

KOPERASI BANK PERSATUAN MALAYSIA BERHAD (1146 / 7.6.50)
No. 41, 43 & 45, Wisma Bank Persatuan,
Jalan Selat, Taman Selat,
12000 Butterworth, Pulau Pinang

Dear Sirs,

Re: Facility of up to RM..... only referred in the Facility Agreement dated _____

*I/We refer to the abovementioned Facility Agreement.

1. I/We hereby give you five (5) Business Days irrevocable notice that we wish to request for the disbursement of the *whole/part of the Facility:

(a) on the _____ day of _____ 20 (which is a working day) by way of you issuing a cheque of Ringgit Malaysia [_____] (RM _____) payable to [_____]; and/or

* (b) I/we hereby further request and irrevocably authorise you to apply the whole amount drawn hereunder to _____ Account No. _____ for our account.

2. I/We certify that:-

(i) each the warranties set out in Schedule 6 of the Facility Agreement remains accurate at the date of this Disbursement as if given on that date by reference to the facts and circumstances then existing;

(ii) no event of default has occurred in the performance by any party thereto of any covenant or agreement contained any of the agreements and arrangements referred to in the Security Documents;

(iii) no extraordinary circumstances or change of law or other governmental actions have occurred which in the opinion of the Bank shall make it improbable that the Customer will be able to observe and perform its covenants and obligations hereunder; and

(iv) as from the date when I/we first applied for the Facility there have been material adverse change in our affairs which could or might affect the decision of the Bank to grant the Facility.

3. Words and expressions used in this notice shall bear the same meanings as defined in the other Security Documents.

Yours faithfully,

.....

The Customer

(Authorised signatory(ies))

**Delete whichever inapplicable.*

SCHEDULE 6

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

REPRESENTATIONS AND WARRANTIES

(A) The Customer represents and warrants to the Bank as follows:

- (a) The Customer has full legal right authority and power to obtain the Facility and to enter into and bind itself by this Agreement and the documents related hereto and all appropriate and necessary action has been taken to authorise the execution of this Agreement and the documents related hereto and the execution and delivery hereof and thereof does not exceed the power and authority of the officers executing the same;
- (b) This Agreement and the documents related hereto constitute the legal valid and binding obligations of the Customer and are enforceable in accordance with their terms and the obligations of the Customer hereunder and thereunder in respect of any payment due and payable by the Customer do not contravene any legislation or regulation binding on the Customer;
- (c) The Customer is not now nor will it be by executing this Agreement and the documents related hereto and utilising the Facility be in default under this Agreement and the documents related hereto or any other existing mortgage indenture contract or debenture binding on the Customer or to which it is subject;
- (d) There is no order of any Court or any governmental agency or any provision of any existing agreement binding on the Customer or to which it is subject which would be contravened or breached by the execution delivery and performance of this Agreement or the documents related hereto;
- (e) No lawsuits or investigations by any Government agency body or other regulatory authority are pending or are to be instituted against the Customer;
- (f) No violation of any provisions of legislation Court orders or judgment has been committed by the Customer;
- (g) The Customer and, where applicable, the Security Party are duly incorporated * private/public limited company having a share capital in accordance with the Companies Act 1965 or a co-operative society duly registered under the Co-operative Societies Act 1993 and validly subsisting under the laws of Malaysia and has the power and authority to own properties and assets and carry on business as it is now being conducted;

- (h) There are no winding-up or liquidation proceedings pending against the Customer and the Customer has not commenced any action for voluntary winding-up or liquidation of the Customer;
- (i) Every consent, licence, approval or authorisation of any governmental authority in Malaysia which is required in connection with the execution performance validity or enforceability of this Agreement and the documents related hereto has been obtained and is in full force and effect;
- (j) The Memorandum and Articles of Association or such other appropriate constitutional documents of the Customer and the Security Party include provisions which give power and all necessary corporate authority has been obtained and action taken for the Customer and the Security Party to own assets, carry on their businesses and operations as they are now being conducted and execute, deliver and perform their obligations under the Security Documents;
- (k) That the execution, delivery and performance of each of the Security Documents by the Customer and the Security Party do not and shall not violate, contravene or constitute a default under, or cause to be exceed any limitation on the Customer or the Security Party or the powers of its directors imposed by or contained in the provisions of:
 - i. any law or regulation or any order or decree of any governmental authority, agency or court to be which they are subject;
 - ii. their Memorandum and Articles of Association or such other constitutional documents as appropriate; or
 - iii. any contract of whatever nature, other undertaking, or instrument to which they are a party or which are binding upon them or any of their assets and shall not result in the creation, imposition of, or any obligation to create, or impose, any mortgage, lien, pledge or charge on any of their assets pursuant to the provision of any such contract, or other undertaking, or instrument;
- (l) That no event has occurred which constitutes, or which with the giving of notice and/or the lapse of time and/or a relevant determination would constitute, a contravention of, or default under, any agreement or instrument to which the Customer and the Security Party or by which any of its assets are bound or affected being a contravention or default which might either have an adverse effect on the business, assets or condition of the Customer and the Security Party might materially affect the solvency of the Customer or the Security Party or adversely affect its ability to observe or perform its obligations under the Security Documents to which it is a party;
- (m) That none of the directors, managers, guarantor, agents, shareholders or employees of the Customer or the spouses, parents, children of such directors, guarantors, managers, agents, shareholders or employees are directors, officers or in any way otherwise connected with the Bank within the meaning stipulated under any guidelines, specifications, standards or circulars issued pursuant to the Islamic Financial Services Act 2013;

- (n) Where applicable, that the audited financial statements (including the income statement and balance sheet) of the Customer for the relevant years have been prepared on a basis consistently applied in accordance with generally accepted accounting principles in Malaysia and give a true and fair view of the results of its operation for that year and the state of its affairs at that date, and in particular accurately disclose or reserve against all the liabilities of the Customer;
- (o) That none of the assets of the Customer and the Security Party is affected by any security interest, and the Customer and the Security Party are not a party to, nor are they or any of their assets bound by, any order, agreement or instrument under which the Customer or the Security Party is (or in certain events may be) required to create, assume or permit to exist any Security Interest, other than those Security Interest created pursuant to the Security Documents;
- (p) That no step has been taken or meeting has been convened or any resolution made for the winding up, dissolution, deregistration or the cessation of the business or affairs of the Customer or the Security Party;
- (q) That the customer and the Security Party have filed all tax returns which the Customer and the Security Party are required by law to file and not in default and have made adequate provision for the payment of all taxes, assessments, fees and other governmental charges assessed against each of them or upon any of their respective assets, income or franchise or any of them, and no claim is being asserted with respect to taxes which are not disclosed in the financial statements referred to in **Sub-section (n)** above;
- (r) That the Bank is satisfied that as from the date when the Customer first applied for the Facility, there has been no material alterations or changes in the constitution, condition, business, financial and other affairs of the Customer and the Security Party which could or might adversely affect their ability to perform their obligations under the Security Documents to which they are a Party and/or which could or might adversely affect the decision of the Bank to proceed with the Facility;
- (s) That no extraordinary circumstances or change of law or other governmental action has occurred which shall make it improbable that the business of the Customer and the Security Party can be carried out or that the Customer and the Security Party will be able to perform their covenants and obligations to be performed under the Security Documents to which they are a party;
- (t) That the rights and obligations of the parties under this Agreement and the other Security Documents is governed by and construed in accordance with the laws of Malaysia;
- (u) That the information furnished by the Customer and each Security Party in connection with the Facility does 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 and all projections contained therein were honestly made on reasonable grounds after due and careful inquiry by the Customer;

- (v) The Customer has fully disclosed in writing to the Bank all facts relating to the Customer which the Customer knows or should reasonably know and which are material for disclosure to the Bank in the context of the Facility;
- (w) That the representation and warranties contained under this Clause are true and accurate in all respects as if made on each such date and will be correct and complied with in all material respects on each of the dates the Facility is utilised;
- (x) The Customer understands that the Facility has been endorsed by the Shariah Committee of the Bank and hereby agrees and undertakes that their approval is final, conclusive and binding upon the Customer; and
- (y) Others (please specify if any) :

Each disbursement of the Facility shall constitute and each payment of any sums due and payable by the Customer shall unless the Customer notifies the Bank in writing to the contrary constitute a representation and warranty by the Customer that at the time of each disbursement or payment no event of default or event which with the giving of notice or passing of time or both would constitute an event of default has occurred and that the Representations and Warranties are true and correct as at the date of each disbursement.

(B) Continuing Nature of Representations and Warranties

Any release of the Facility made under the provisions of this Agreement shall be deemed to be made on the basis of a representation and warranty by the Customer that:-

- i. as from the date when the Customer first applied for the Facility there have been no material alterations or changes in the constitution condition business or other affairs of the Customer which could or might adversely affect the ability of the Customer to perform its obligations hereunder; and
- ii. the representations and warranties contained in **Schedule 5** hereof are true, accurate and correct in all respect and will be correct and complied with in all respects as at the date of such disbursement as if repeated then by reference to the then existing circumstances.

(C) Survival of Representations and Warranties

The representations and warranties set out in **Schedule 5** shall survive the signing and delivery of this Agreement and any utilisation of the Facility and until the full and final settlement of the Facility.

(* Delete whichever is not applicable)

SCHEDULE 7

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

AFFIRMATIVE COVENANTS

The Customer will at all times from the date of this Agreement until all its Indebtedness under this Agreement have been discharged:

- (a) carry out and operate its business and affairs with due diligence and efficiency and in accordance with sound financial and industrial standards and practices and in accordance with its Memorandum and Articles of Association or Rules and by-laws as the case may be as amended from time to time;
- (b) furnish to the Bank all such information as the Bank shall reasonably request concerning the use of the Facility and on any factors materially affecting the Customer's business and the operations and financial condition of the Customer and in particular supply the Bank with statements of all monies owing by the Customer in such form as the Bank may from time to time require;
- (c) maintain records adequate to reflect in accordance with consistently maintained sound accounting practices the operations and financial condition of the Customer and allow the Bank or its agents and servants to inspect all such records at any office or place of business of the Customer so far as such records relate to or affect the Customer's properties assets and business and the Customer shall give to the Bank or any person authorized by the Bank to inspect such records such written authorities as may be required to enable the Bank to inspect the said records at all times;
- (d) keep and maintain its present paid up share capital or member's funds as the case may be and any increases thereof as herein provided unless otherwise directed by any regulatory or governmental body or authority;
- (e) it will ensure that its liabilities under the Security Documents to which it is a party rank and will rank (and would rank if the Security Documents to which it is a party were neither executed nor required) at least equally and rateably (pari passu) in point of priority and security with all its other liabilities (both actual and contingent) except:
 - i. liabilities which are subject to liens or rights of set off arising in the normal course of trading and the aggregate amount of which is not material;
 - ii. liabilities which are preferred solely by Malaysian Law and not by reason of any Security Interest; and
 - iii. any Security Interest created which is disclosed to the Bank prior to the date hereof;

- (f) it will prepare the financial statements referred to in **Sub-section (g)** below on a basis consistently applied in accordance with generally accepted accounting principles in Malaysia and those financial statements shall give a true and fair view of the results of the operations of the Customer for the period in question and the state of its affairs for the period to which the financial statements are made up and shall disclose all the liabilities (actual or contingent) of the Customer;
- (g) it will deliver to the Bank:
- i. as soon as they become available (and in any event within one hundred and eighty (180) days after the end of each of its financial periods) copies of its financial statements for that period which shall contain an income statement and a balance sheet and, where applicable, be audited and certified by a firm of independent accountants;
 - ii. half yearly financial statements to be delivered not later than sixty (60) days after the end of each half year which shall contain full particulars of its business for that period and an income statement and a balance sheet; and
 - iii. promptly, such additional financial or other information as the Bank may from time to time reasonably request;
- (h) it will obtain and promptly renew from time to time, and will promptly deliver to the Bank certified copies of any authorisation, approval, consent, licence, exemption, registration, recording, filing or notarisation as may be necessary or desirable to ensure the validity, enforceability or priority of the liabilities and obligation of the Customer or the rights of the Bank under the Security Documents and the Customer shall comply with the term of the same;
- (i) it will obtain all necessary licences and approvals and comply with all regulations relating to the carrying on of its business and will carry on its business with due diligence and efficiency and in accordance with sound financial and business standards and practices and will furnish to the Bank all information which the Bank may reasonably request in connection with such business;
- (j) if it becomes aware of the occurrence of an event of default it will forthwith notify the Bank and will provide the Bank with full details of any steps which it is taking, or is considering taking, in order to remedy or mitigate the effect of the event of default or otherwise in connection with it;
- (k) it will maintain or cause to maintain such Takaful/insurance in respect of its assets and business against all risks (including third party risks and workmen's compensation) which a prudent entity carrying on a business similar to that of the Customer would normally insure and all such Takaful/insurance shall be in such amounts, on such terms and with such insurers as may be approved by the Bank and will not do or omit to do or suffer anything to be done which might render any such Takaful/insurance policies to be void or voidable;
- (l) it will appoint from time to time such auditor or firm of auditors acceptable to the Bank and authorise such auditor or firm of auditors to supply the Bank with a

certified copy of any communication sent by such auditor to the Customer and further to communicate directly with the Bank at any time in respect of any matter connected with the accounts and operation of the Customer;

- (m) it will promptly notify the Bank of :-
- i. any material event or adverse change in the condition (financial or otherwise) of the Customer or any Security Party;
 - ii. any litigation or other proceedings of any nature whatsoever being threatened or initiated against the Customer or any Security Party before any court tribunal or administrative agency which may materially affect the operations and/or financial condition of the Customer or the Security Party;
 - iii. any dispute between the Customer or any Security Party and any government or statutory body in respect of any of their assets;
 - iv. any labour controversy which might result in a strike against the Customer; and
 - v. all such notification to be given to the Bank not later than fourteen (14) days after the Customer has knowledge of the change or of the litigation or other proceedings or threat thereof or dispute and the amount of any contingent liability if such amount is ascertainable.
- (n) it will inform the Bank in the event of any acquisition of assets of a substantial amount;
- (o) where the Customer is a company, it will submit to the Bank a certified true copy of its annual return and return of allotment of shares as submitted to the Companies Commission of Malaysia;
- (p) it will forthwith notify the Bank in the event of any of its Authorised Signatories is no longer authorised to sign any documents or to otherwise act on the Customer's behalf hereunder;
- (q) it will promptly notify the Bank in the event of any change in its residential status of any Security Party;
- (r) it will ensure that the operation of the current account or any other account(s) of the Customer with the Bank is active and satisfactory and the approved limit of the Facility observed at all times;
- (s) where the Customer is a company, it will procure and ensure that all present and future facilities granted to it by any of its directors, shareholders or related corporations will be subordinated to the Indebtedness;
- (t) where applicable, it will punctually pay all quit rents, assessments, rates, taxes and all other outgoings payable from time to time in connection with or arising out of its properties and forward copies of all receipts in respect of such payments to the Bank;

- (u) pay all sums due and payable under the Facility pursuant to this Agreement in the manner herein specified and to perform all its other obligations and undertakings herein contained and pursuant to the Letter of Offer and the Security Document in the manner therein specified and to perform all its other obligations and undertakings therein contained; and
- (v) perform all its other obligations under this Agreement;
- (w) utilize the Facility for the Purpose granted; and
- (x) others (please specify if any) :

SCHEDULE 8

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

NEGATIVE COVENANTS

The Customer hereby further covenants that from the date of this Agreement, it will not without the consent in writing of the Bank first had and obtained:

- (a) incur assume guarantee or permit to exist any indebtedness except the Facility and short-term debts incurred in respect of money borrowed from licensed banks or from other sources in the ordinary course of business.

For the purposes of this sub clause any credit from a supplier of capital goods installment purchase or other similar arrangement is deemed to be indebtedness and a short-term debt is deemed to be any debt payable on demand or maturing by its terms within twelve (12) months after the date on which it was originally incurred;

- (b) create or permit to exist any lien on any assets of the Customer except any tax or other statutory lien provided that such lien shall be discharged within thirty (30) days after final adjudication.

For the purposes of this sub clause the expression "lien" includes mortgages pledges charges privileges and priorities of any kind and the expression "assets" includes any revenues and property movable and immovable of any kind;

- (c) decrease or in any way whatsoever alter the authorized or issued capital or member's funds as the case may be of the Customer whether by varying the amount structure or value thereof or the rights attached thereto or convert any of its share capital into stock or by consolidating dividing or subdividing all or any of its shares;
- (d) make any prepayment in respect of any debt (other than short-term debts as defined in subsection (a) hereof);
- (e) have any subsidiary or make or permit to exist loans or lend or makes advances to others or make investments in other companies or enterprises or guarantee any person enterprise or company (other than normal trade credit or trade guarantees or temporary loans to staff customers contractors or suppliers in the ordinary course of business) PROVIDED that the Customer shall be at liberty to invest in short term marketable securities acquired solely so as to utilize such funds of the Customer as are not immediately required for the Customer's business;
- (f) add to delete vary or amend its Memorandum and Articles of Association or its Rules and by-laws as the case may be or change the nature of its present business in any manner which would be materially inconsistent with the provisions of the Shariah or change its financial year;

- (g) terminate or seek to terminate commit or threaten to commit a breach mend or grant any waiver in respect of any of the provisions of :
 - i. this Agreement or any of the documents referred to in the **Schedule 3** hereof; or
 - ii. any other agreement entered into in connection with or in pursuance of this Agreement.
- (h) enter into any partnership profit-sharing or royalty agreement or other similar arrangement whereby the Customer's income or profits are or might be shared with any other person firm or any company or enter into any management contract or similar arrangement whereby the Customer's business or operations are managed by any other person firm or company;
- (i) carry on any business other than its existing business on the date it first applied for the Facility or permit any change in the nature of the said business PROVIDED THAT the Customer shall be at liberty to carry on any such business or to change the nature of the said business save and to the extent that the same is permissible under the Shariah;
- (j) enter into any transaction with any person firm or company except in the ordinary course of business on ordinary commercial terms and on the basis of arm's length arrangements or establish any exclusive purchasing or sales agency or enter into any transaction whereby the Customer might pay more than the ordinary commercial price for any purchase or might receive less than the full ex-works commercial price (subject to normal trade discount) for its products;
- (k) where the Customer is a company, declare or pay any dividend or bonus issue or make any distribution (be it income or capital in nature) if there is any monies outstanding under the Facility which is due and unpaid;
- (l) where the Customer is a company, make any prepayment or payment of any advance made by its shareholders, directors or related corporations or any other facilities or indebtedness if there is any monies outstanding under the Facility which are due and unpaid;
- (m) where the Customer is a private company, allow any change in its existing shareholders or their respective shareholdings and/or its directors and/or its management line-up;
- (n) sell transfer encumber or otherwise dispose of or in any case cease to exercise control over, whether by single transaction or a number of transactions, whether related or not, the whole or part of the Customer's undertakings business or assets or undertake any merger consolidation or reorganisation save and except in the ordinary course of business and on ordinary commercial terms on the basis of arm's length transaction;
- (o) where the Customer is a company, enter into any transaction or arrangement whereby any related or associated company of the Customer or any director or shareholders of the Customer incurs in its favour any indebtedness. For the

purpose of this sub-clause, the expression "director" or "shareholder" includes a spouse, parent, child, brother or sister of the director or shareholder;

- (p) make any alteration to the general purpose stated in its application for the Facility;
- (q) change the nature of its present business or sell, transfer or otherwise dispose of, or in any way cease to exercise control over, whether by single transaction or a number of transactions, related or not, the whole or part (being the aggregate a substantial part in the relation to the Customer) of its undertaking, business or assets, or undertake or permit any merger consolidation or reorganisation; and
- (r) others (please specify if any).

SCHEDULE 9

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

ADDITIONAL COVENANTS, UNDERTAKINGS AND TERMS

The Parties hereto hereby further agree:

(please specify if any)

APPENDIX 1
DESCRIPTION OF THE ASS ETS