

**IMPORTANT NOTICE**

**These Terms are terms and conditions in addition to the terms and conditions set out in the Letter of Offer and the Facility Agreement and shall form a legally binding agreement between the Borrower and the Bank in respect of the banking facilities obtained by the Borrower from the Bank. You are advised to read and understand these Terms. If you do not understand any of these Terms, you may seek the Bank’s clarification.**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

<b>Applicable Laws</b>	any laws or any directives, guidelines, circulars, notes, directions, requests, requirements, orders, rules, rulings and/or regulations (in each case, whether or not having the force of law) including ESG Law of any governmental, enforcement and/or regulatory authority and/or other persons or body having authority or jurisdiction over the Bank, the Borrower and/or the Security Party, as the case may be.
<b>Additional Business Day</b>	the day as specified in the Reference Rate Terms.
<b>Availability Period</b>	such period whereby the Facility will be available for utilisation, as stated in the Letter of Offer.
<b>Bank</b>	CIMB Bank Berhad (Registration No.: 197201001799 (13491-P)).
<b>Base Lending Rate or BLR</b>	the rate of interest per annum prescribed by the Bank from time to time as its base lending rate.
<b>BNM</b>	Bank Negara Malaysia.
<b>Borrower</b>	the person(s) named and having his (their) address as stated in the Letter of Offer who had obtained the Facility from the Bank.
<b>Business Day</b>	a day on which the Bank is open for business in respect of the Facility, and in relation to: (i) any date for payment of an amount relating to a loan or the principal sums outstanding under the Facility; or (ii) the determination of the first day or the last day of an interest period for a loan or the principal sums outstanding under the Facility, or otherwise in relation to the determination of the length of such an interest period, which is an Additional Business Day relating to that loan or the principal sums outstanding under the Facility.
<b>Central Bank Rate</b>	the rate specified as such in the Reference Rate Terms.
<b>Companies Act</b>	the Companies Act 2016 of Malaysia.
<b>Constitution</b>	has the meaning provided in the Companies Act.
<b>Cost of Funds or COF</b>	the rate of interest incurred by the Bank for obtaining funds in the relevant interbank market to fund the amount and for the tenure of the banking facilities applicable to the interest period or any overdue amount, as the case may be and to which shall be added the cost of maintaining statutory reserves and complying with liquidity and other requirements imposed at any time by BNM and/or any other authorities having jurisdiction over the Bank in Malaysia.
<b>Daily Rate</b>	the rate specified as such in the Reference Rate Terms.
<b>Default Rate</b>	the default rate of interest as specified in the Letter of Offer and includes such other rate or rates as may be prescribed by the Bank from time to time.
<b>ESG</b>	environmental, social and governance matters.
<b>ESG Claim</b>	any claim, proceeding, investigation or any similar actions by any governmental and/or regulatory authority and/or any person or body in respect of ESG.
<b>ESG Due Diligence</b>	any assessment to identify ESG risks and impacts appropriate to the scale and risk profile of the business/ operation, and related mitigation policies, mechanisms, and plans.
<b>ESG Law</b>	any applicable law, rules, regulations, guidelines, directives or guidance in any jurisdiction in which the Borrower, any of its subsidiaries and/or the Security Party conduct business which relates to issues concerning ESG including but not limited to, (i) adverse impacts on UNESCO World Heritage Sites (ii) illegal forest encroachment, unlawful use of natural resources, pollution, or adverse impacts to the environment and ecosystems, including endangered and protected species of flora and fauna; (iii) climate change mitigation and adaptation; (iv) occupational, public, health and safety; (v) labour laws, human rights, labour rights including modern slavery, and communities’ rights; and (vi) social security and responsibility.
<b>ESG Permits</b>	any authorisation and the filing of any notification, report or assessment required under any ESG Law for the operation of the business of the Borrower, any of its subsidiaries and/or the Security Party conducted on or from the properties owned or used by the Borrower, any of its subsidiaries and/or the Security Party.
<b>Event of Default</b>	any of the events mentioned in Clause 10 or any event which, with a lapse of time and/or the giving of notice and/or a determination being made under the relevant paragraph, would constitute any of the events mentioned in Clause 10.
<b>Exim Bank</b>	Export-Import Bank of Malaysia Berhad (Registration No: 199501027992 (357198-K)).
<b>Facility</b>	the facility or facilities stated in the Letter of Offer granted or to be granted by the Bank to the Borrower subject to the terms and conditions of the Transaction Documents and where the context so requires or admits, references to the “ <b>Facilities</b> ” shall be construed as a reference to one or more of the Facilities or all the Facilities and “ <b>Facility</b> ” shall be construed accordingly.
<b>Facility Agreement</b>	the agreement executed between the Borrower and the Bank relating to the Facility, including any variation, amendment, supplemental and substitution thereto .
<b>Indebtedness</b>	the aggregate of all monies, whether principal, interest, capitalized interest, commission, commitment fees, cost, fees, charges or other monies due, outstanding or payable or agreed to be payable by the Borrower and /or any Security Party to the Bank from time to time whether solely or jointly with any other person and whether as principal or surety and includes all liabilities, obligations and indemnities whether present or future or actual or contingent for the repayment and payment of all or any monies by the Borrower

and/or Security Party in respect of or arising from the Facility or future facilities to be granted by the Bank to the Borrower, at any time and from time to time, and references to “**Indebtedness**” shall be construed as a reference to all or any part thereof.

<b>Labuan FSA</b>	the Labuan Financial Services Authority, Malaysia.
<b>Letter of Offer</b>	the letter of offer issued by the Bank to the Borrower relating to the Facility, including any variation, amendment, supplemental and substitution thereto.
<b>Market Disruption</b>	the occurrence, determined at the Bank’s sole discretion, of either of the following: (i) there is no applicable RFR or Central Bank Rate for the purposes of calculating the RFR rate for any RFR Banking Day during an interest period for a loan or the principal sums outstanding under the Facility for the time being; or (ii) the Bank’s cost of funding that loan or the principal sums outstanding under the Facility for the time being exceeds the Market Disruption Rate.
<b>Market Disruption Rate</b>	the rate specified as such in the Reference Rate Terms.
<b>Obligors</b>	has the meaning assigned to it at Clause 10.1(g).
<b>Power of Attorney</b>	the power of attorney to be issued/executed by the Security Party in favour of the Bank, in form and content acceptable to the Bank.
<b>Prevailing Interest Rate</b>	the rate or rates of interest specified in the Letter of Offer in respect of the various Facility, (including the BLR, RFR and Cost of Funds, where applicable) and such other rate or rates of interest as may be prescribed by the Bank from time to time.
<b>Reference Rate Terms</b>	the terms set out in the Letter of Offer.
<b>Repayment Date</b>	the repayment date or dates specified in the Letter of Offer for the various Facility.
<b>Restricted Party</b>	refers to a person: (i) that is listed on, or owned or controlled by a person listed on, or acting on behalf of a person listed on, any Sanctions List; (ii) that is located in, incorporated under the laws of, or owned or (directly or indirectly) controlled by, or acting on behalf of, a person located in or organized under the laws of a country or territory that is the target of country-wide or territory-wide Sanctions; (iii) with whom a US person or other national of a Sanctions Authority would be prohibited or restricted by law from engaging in trade, business or other activities; or (iv) that is listed or restricted under the Bank’s policy or persons acting on behalf of or a person located in prohibited or restricted countries under the Bank’s policy or persons acting on behalf of a person dealing in prohibited business or currencies under the Bank’s policy or persons acting on behalf of such person.
<b>RFR</b>	the rate specified as such in the Reference Rate Terms.
<b>RFR Banking Day</b>	any day specified as such in the Reference Rate Terms.
<b>Ringgit Malaysia and RM</b>	the lawful currency of Malaysia.
<b>Sanctions</b>	the economic sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by any Sanctions Authority.
<b>Sanctions Authority</b>	refers to: (i) the US government; (ii) the United Nations; (iii) the European Union; (iv) the United Kingdom government; (v) the Malaysian government; (vi) the government of countries in which CIMB Group has presence or dealings; (vii) the respective governmental agencies and governmental institutions of any of the foregoing, including, the Office of Foreign Assets Control of the US Department of Treasury, the US Department of State and Her Majesty's treasury of the United Kingdom; or (viii) and other enforceable authority.
<b>Sanctions List</b>	refers to (i) the "Specially Designated Nationals and Blocked Persons" list maintained by the Office of Foreign Assets Control of the US Department of Treasury and published from time to time on its website at <a href="http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx">http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx</a> (or any replacement website or page); (ii) the consolidated list of financial sanctions targets and the investment ban list maintained by Her Majesty's treasury of the United Kingdom and published from time to time on its website at <a href="http://www.hm-treasury.gov.uk/fin_sanctions_index.htm">http://www.hm-treasury.gov.uk/fin_sanctions_index.htm</a> (or any replacement website or page); or any similar list maintained by, or public announcement of Sanctions designation made by, any Sanctions Authority controlled, prohibited or restricted goods list maintained by law enforcement agencies.
<b>Security Documents</b>	the agreements and documents in respect of the Security Interest, including any variation, amendment, supplemental and substitution thereto.
<b>Security Interest</b>	any guarantee, mortgage, pledge, lien, right of set-off, sale with right of retention (other than a lien, right of set-off or sale with right of retention arising by operation of law and in the normal course of business), charge (whether legal or equitable, fixed or floating), assignment, debenture, hypothecation, deposit, insurance policy and/or any security interest of any kind (including without prejudice any “hold-back” or “flawed assets” arrangement title retention, assignment or transfer by way of security, sale and lease-back, sale and repurchase on credit terms) and/or any other arrangement having substantially the same legal or economic effect as any of the foregoing, and “ <b>secured</b> ” shall be construed accordingly.
<b>Security Party</b>	any persons presently or in future executing or providing any Security Interest and/or any form of security to the Bank for payment of the Indebtedness, and references to the “ <b>Security Party</b> ” shall be construed as a reference to all or any of them.
<b>Transaction Documents</b>	the Letter of Offer, the Facility Agreement, these Terms, the Security Documents and such other documents and agreements as may be required by the Bank relating to the Facility.

## 1.2 Interpretation

In these Terms (unless the context otherwise requires):

- (a) words applicable to natural persons shall include any body of persons, companies, corporations, firms or partnerships, states, administrative and governmental entities, and vice versa and shall also include their respective permitted assigns, personal representatives, successors-in-title, as the case may be;
- (b) references to the masculine gender include the feminine and neuter genders and vice versa, and references to the singular number include the plural and vice versa;
- (c) references to any Schedule, Clauses, sub-clauses, paragraphs and sub-paragraphs are references to the schedules, clauses, sub-clauses, paragraphs and sub-paragraphs of these Terms;
- (d) the headings of clauses and the underlined introductory words to sub-clause are inserted for ease of reference only and shall be ignored in construing these Terms;
- (e) references to any statute, law, enactment, rule or regulation include the statute, law, enactment, rule or regulation as re-enacted, amended or extended from time to time;
- (f) references to any document shall be deemed to include references to such document as varied supplemented or replaced from time to time;
- (g) all annexures, schedules or appendices to these Terms shall be taken, read and construed as essential parts of these Terms;
- (h) where two or more persons or parties are included or comprised in any agreements, terms, stipulations and undertakings expressed to be made to such persons or parties the same shall be enforceable by them jointly and severally and all agreements, terms, stipulations and undertakings expressed to be made by or on the part of such persons or parties shall be deemed to be made by and binding upon such person or parties jointly and severally;
- (i) words and expressions denoting singular shall include the plural and vice versa; and
- (j) words denoting an obligation on a person or party to do any act, matter or thing include an obligation to procure that it be done and words placing a person or party under a restriction include an obligation not to permit infringement of that restriction.

## 2. CONDITIONS FOR UTILISATION AND DISBURSEMENT

### 2.1 Conditions for Utilisation

If:

- (a) no Event of Default has occurred or would occur as a result of the utilisation of any of the Facility;
- (b) the conditions precedent in the Letter of Offer have been fulfilled by the Borrower to the satisfaction of the Bank;
- (c) all fees and expenses payable hereunder which have become due have been paid in full;
- (d) there has been no material adverse change in the financial condition of the Borrower;
- (e) each of the representations and warranties set out in Clause 6.1 remain accurate at the date of utilisation as if given on that date by reference to the facts and circumstances then existing;
- (f) there has been no change in circumstances or law which may affect the ability of the Bank to grant the Facility or which may increase the costs to the Bank in doing so; and
- (g) so required by the Bank, the Borrower shall have delivered to the Bank a notice for utilisation in such form and substance as may be prescribed by the Bank,

then subject to the provisions of the Letter of Offer and the Transaction Documents, and in particular to the specific terms and conditions set out in relation to the particular Facility, the Borrower may on a Business Day during the duration of the Facility or the Availability Period (as the case may be) utilise or continue to utilise the Facility.

### 2.2 Disbursement

- (a) The Borrower hereby authorises the Bank to pay any amounts of the Facility in such manner and upon such terms and/or conditions as determined by the Bank, to any financial institution, firm of solicitors, developer or vendor, builder, contractor, architect and/or any such persons as the Bank may in its discretion decide, and/or by progressive release or otherwise as determined by the Bank.
- (b) The Borrower shall not request the Bank to stop or defer any disbursement of the Facility if the Bank has already given any undertaking to any third parties to disburse the Facility.
- (c) The Borrower shall indemnify the Bank for all costs, expenses, claims and demands made on the Bank pursuant to the Bank giving any express or implied undertaking for and on behalf of the Borrower to any financial institution or developer or vendor or their solicitors of firm of solicitors purporting to act for any of them.

## 3. THE FACILITY

The Borrower undertakes and agrees that the Facility shall be used solely for the purposes herein stated. Despite the foregoing provision:

- (a) the Bank shall not be obliged to enquire as to the utilisation by the Borrower of the Facility or to ensure that they are in fact utilised as envisaged; and
- (b) the liability of the Borrower under the Transaction Documents shall not be in any way prejudiced, affected or diminished by reason that all or any part of the Facility are utilised for some other purpose (whether or not the Bank has notice of that fact).

## 4. PAYMENT AND VARIATION OF INTEREST, COMMISSION, DISCOUNT RATES, FEES AND CHARGES

### 4.1 Payment of Interest

Unless any other interest payment period is specified by the Bank, the Borrower shall pay to the Bank the interest, commissions, discount rates, other bank charges or fees whatsoever set out in the relevant Letter of Offer and chargeable under the Transaction Documents. The interest period for each utilisation or disbursement under

the Facility shall be divided into successive interest periods of one (1) month. The Bank may revise the duration of the interest periods by giving the Borrower not less than twenty-one (21) days' prior written notice.

Any unpaid interest on the Facility for the time being hereby secured, including capitalised interest, shall at the end of each calendar month, or at the end of any other interest payment period, as determined by the Bank be capitalised and added for all purposes to the Facility then owing and shall thenceforth bear interest and be secured and payable accordingly, and all the undertakings and conditions contained in or implied by these presents and all rules of law or equity in relation to the Facility and interest thereon shall equally apply to such capitalised interest and to interest on such arrears.

#### 4.2 Right to Recall

Despite the provision of Clause 4.1 above, the Bank may by notice to the Borrower recall the Facility upon any non- repayment of interest, capitalised or otherwise, and/or principal sums and/or disbursements when due to the Bank.

#### 4.3 Variation

The Bank may vary the Prevailing Interest Rate (including default interest) or commissions or discount rates, fees or other bank charges provided in these Terms or elsewhere in any of the Transaction Documents, or in the manner or mode of computation or charging or howsoever) by giving twenty-one (21) days' notice. The variation will take effect on the date as stated in the notice.

Provided always that the above Prevailing Interest Rate within the duration or tenure of the Facility must always be above the Bank's effective Cost of Funds. In the event that the BLR is equal to or fall below the COF, the Bank may upon giving the Borrower not less than twenty-one (21) calendar days' prior written notice, vary the above Prevailing Interest Rate or to vary the structure of the interest rate from BLR to COF.

In the event of any delay on the part of the Bank to give any notice to the Borrower regarding any variation as stated above shall not relieve the Borrower from its obligation to pay the interest, commissions, discount charges, fees or other bank charges or fees at the varied rates. The decision and certificate or confirmation of the Bank as to what at any time is the rate of interest chargeable or commission or discount charges or other bank charges or fees or the amount of interest or commission or discount charges or other bank charges or fees payable by the Borrower shall in the absence of manifest error be final and conclusive and binding upon the Borrower shall not, in the absence of manifest error, be questioned on any account whatsoever.

#### 4.4 Changes to Repayment Terms Consequential to Variation of Interest

Subject to Clause 4.3 above, if as and when the rate of interest payable by the Borrower under any of the Transaction Documents is varied by the Bank, the Bank may in its discretion, by notice to the Borrower make the necessary adjustments consequential to such variation by:

- (a) varying the amount of any instalments;
- (b) varying the number of instalments; and/or
- (c) varying the time for repayment.

#### 4.5 Method of Calculating Interest

- (a) For Ringgit Malaysia-denominated facilities, interest shall be calculated on the basis of actual days elapsed and shall be paid by the Borrower (which the Borrower hereby undertakes to do) to the Bank at the end of each interest period.
- (b) For foreign currencies-denominated facilities, the rate of interest on the Facility for any day during an interest period is the percentage rate per annum which is the aggregate of the applicable:
  - (i) margin as specified in the Letter of Offer for the various Facility; and
  - (ii) RFR Rate for that day.

If any day during an interest period for a Facility is not an RFR Banking Day, the rate of interest on that Facility for that day will be the rate applicable to the immediately preceding RFR Banking Day.

Interest shall accrue from day to day and the amount of such interest is calculated on the basis of the actual number of days elapsed and a year of 365 days (or, in any case where the practice in the Relevant Market differs, in accordance with that market practice).

- (c) Despite the above, the Borrower hereby agrees that the method or manner of calculation of interest or commission or discount charges or other bank charges or fees payable herein shall be by such method or manner as the Bank shall adopt from time to time in the discretion of the Bank and the decision of the Bank shall in the absence of manifest error be final and conclusive.

#### 4.6 Late Payment Interest for Foreign Currency Facilities

The respective late payment interest (calculated on a monthly rest basis) for the foreign currency facilities shall be payable if there is a default in the payment of any instalment, interest and/or any other moneys agreed to be paid by the Borrower under the relevant Facilities or a demand is made by the Bank of the Indebtedness or any part thereof in connection with or arising from the foreign currency facilities. Such late payment interest shall be payable by the Borrower within seven (7) days of receipt of a demand being made by or on behalf of the Bank and until demanded as aforesaid, monthly, calculated as from the date such monies are due up to the date of the Bank's actual receipt of the full amount thereof from the Borrower (both before as well as after demand or judgment and irrespective of whether or not the banker and borrower relationship exists or subsists or has been terminated) by way of indemnity.

#### 4.7 Market Disruption (applicable for Foreign Currencies only)

The Bank may at its sole discretion determine that a Market Disruption has occurred and Clause 4.5(b) shall not apply to that Facility for that interest period, in which event the Bank may give the Borrower not less than twenty-one (21) calendar days' prior written notice that the rate of interest for that Facility for that interest period shall be the percentage rate per annum which is the sum of:

- (a) the applicable margin as specified in the Letter of Offer for the various Facility; and
- (b) the Bank's Cost of Fund (determined at the Bank's sole discretion) for that loan or the principal sums outstanding under the Facility for the time being.

When this Clause 4.7 applies, and the Bank so agrees, the Bank and the Borrower may enter into negotiations (for a period of not more than thirty (30) days) with a view to agreeing a substitute basis for determining the rate of interest.

#### 4.8 Changes to reference rate

- (a) If an RFR Replacement Event (as defined below) has occurred, the Bank and the Borrower may mutually agree to any amendment or waiver which relates to:
  - (i) providing for the use of a Replacement Reference Rate (as defined below) in place of the RFR; and
  - (ii) (A) aligning any provision of any Transaction Document to the use of that Replacement Reference Rate;

- (B) enabling that Replacement Reference Rate to be used for the calculation of interest under this Facility and the relevant Transaction Documents (including, without limitation, any consequential changes required to enable that Replacement Reference Rate to be used for the purposes of these Terms);
  - (C) implementing market conventions applicable to that Replacement Reference Rate;
  - (D) providing for appropriate fallback (and market disruption) provisions for that Replacement Reference Rate; or
  - (E) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one party to another as a result of the application of that Replacement Reference Rate (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body (as defined below), the adjustment shall be determined on the basis of that designation, nomination or recommendation).
- (b) An amendment or waiver that relates to, or has the effect of, aligning the means of calculation of interest on a Facility under the Letter of Offer and/or these Terms to any recommendation of a Relevant Nominating Body which:
- (i) relates to the use of a risk-free reference rate on a compounded basis in the international or any relevant domestic syndicated loan markets; and
  - (ii) is issued on or after the date of the Letter of Offer and/or the Transaction Documents,
  - (iii) may be made with the mutual agreement of the Bank and the Borrower.

(c) In this Clause 4.8:

**“RFR Replacement Event”** means:

- (i) the methodology, formula or other means of determining the RFR has, in the opinion of the Bank and the Borrower, materially changed;
- (ii) (A)
  - (1) the administrator of the RFR or its supervisor publicly announces that such administrator is insolvent; or
  - (2) information is published in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of the RFR is insolvent,

provided that, in each case, at that time, there is no successor administrator to continue to provide the RFR;

  - (B) the administrator of the RFR publicly announces that it has ceased or will cease, to provide the RFR permanently or indefinitely and, at that time, there is no successor administrator to continue to provide the RFR;
  - (C) the supervisor of the administrator of the RFR publicly announces that the RFR has been or will be permanently or indefinitely discontinued;
  - (D) the administrator of the RFR or its supervisor announces that the RFR may no longer be used;
- (iii) the administrator of the RFR determines that the RFR should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:
  - (A) the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Bank and the Borrower) temporary; or
  - (B) the RFR is calculated in accordance with any such policy or arrangement for a period no less than the period specified as the “RFR Contingency Period” in the Reference Rate Terms; or
- (iv) in the opinion of the Bank and the Borrower, the RFR is otherwise no longer appropriate for the purposes of calculating interest under these Terms.

**“Relevant Nominating Body”** means any applicable central bank, regulator or other supervisory authority or a group of them, or any working group or committee sponsored or chaired by, or constituted at the request of, any of them or the Financial Stability Board.

**“Replacement Reference Rate”** means a reference rate which is:

- (i) formally designated, nominated or recommended as the replacement for the RFR by:
  - (A) the administrator of the RFR (provided that the market or economic reality that such reference rate measures is the same as that measured by the RFR); or
  - (B) any Relevant Nominating Body,

and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the “Replacement Reference Rate” will be the replacement under sub-paragraph (B) above;
- (ii) in the opinion of the Bank and the Borrower, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to the RFR; or
- (iii) in the opinion of the Bank and the Borrower, an appropriate successor to the RFR.

## 5. SECURITY

### 5.1 Undertaking relating to Security

In consideration of the Bank granting the Facility and as continuing security for the payment by the Borrower of the Facility and the Indebtedness, the Borrower shall in addition to other Transaction Documents prior to or contemporaneously with the execution of the other Transaction Documents, and/or as and when required by the Bank, execute and/or provide, or cause the Security Party to execute and/or provide, the Security Documents.

### 5.2 Continuing Security

Any form of security created by or under the Security Documents is intended to be and shall be a continuing security for all monies whatsoever now or hereafter and from time to time owing to the Bank under the Facility and the Indebtedness and is in addition to, and shall not be merged in, or in any way prejudice, any other security which the Bank may now or hereafter hold or have with the Borrower or any other person in respect of the Indebtedness due under the Transaction Documents.

### 5.3 Restriction against Other Security Interest

The Borrower hereby declares that there is no subsisting encumbrance whatsoever upon any of its assets secured by the Security Interest or Security Documents to which it is a party and the Borrower shall not during the Transaction Documents and the Security Interest without the consent in writing of the Bank, execute or grant any form of encumbrances in respect of any of its assets secured by the Security Documents and shall procure that each Security Party similarly does not do so in respect of any assets of that Security Party secured by the Security Documents.

### 5.4 Undertaking to Provide Further Security

If the Bank shall determine that further or additional security is required from the Borrower and/or the Security Party to secure the Facility or Indebtedness for whatever reasons including any increase in the liabilities, commitment and/or obligations of the Bank under the Transaction Documents or there has occurred or is likely to occur any dilution, reduction, decrease or failure in any Security Interest, the Borrower and/or the Security Party, shall upon receipt of prior written notice from the Bank-

- (a) provide and/or execute in favour of the Bank or as the Bank shall direct, any further Security Interest, including but not limited to any charges, mortgages, assignments, transfers or agreements in relation to the estate, assets or business, which now or in future will belong to the Borrower and/or the Security Party and the benefit of all licences held in connection with such estate, assets or business as the Bank shall require, to secure all moneys and liabilities hereby agreed to be paid or intended to be hereby secured, such Security Interest to be prepared by or on behalf of the Bank at the cost of the Borrower and to contain all such terms and conditions for the benefit of the Bank as the Bank may require.
- (b) procure the Security Party to, at any time if and when required by the Bank so to do, deposit with the Bank the documents of title of any or all immovable properties vested in the Borrower or the Security Party for any tenure and all or any debentures shares stocks or other investments or securities to the Borrower or the Security Party. Such deposit may be by way of collateral security for the repayment of moneys and liabilities hereby secured and may also or otherwise be for the purpose of securing any other moneys owing to the Bank by the Borrower and not secured hereunder.

### 5.5 Agreement not to prejudice existing or collateral security.

The Transaction Documents shall be without prejudice to any Security Interest which may already or hereafter be given by the Borrower or a Security Party whether the same be for securing the repayment of the Indebtedness or any part thereof or any other money agreed to be paid and whether such Security Interest is taken as additional or collateral security or otherwise howsoever.



## 6. REPRESENTATION AND WARRANTIES

### 6.1 Representations and Warranties

The Borrower acknowledges that the Bank has entered into the Transaction Documents and granted the Facility in full reliance on representations by the Borrower in the following terms and the Borrower now represents and warrants to the Bank that:

(a) Powers and authorisations

the Borrower and/or the Security Party have the power and/or authority to execute, deliver and perform the terms and conditions of the Transaction Documents, and have taken all necessary corporate and/or other actions to authorise the execution, delivery and performance of the Transaction Documents;

(b) Non-Violation

the Transaction Documents constitute the legal, valid and binding obligations of the Borrower and/or the Security Party, and the execution, signing, delivery and/or performance of the Transaction Documents by the Borrower or the Security Party, do not or will not exceed the power or authority granted to them by or violate the provisions of:

- (i) any law by which they or any of their assets are subject to, bound or affected;
- (ii) their Constitution (where the Borrower and/or the Security Party, as the case may be, has a Constitution); and/or
- (iii) any agreement to which they are parties or by which any of their assets are bound;

(c) Consents

no authorisation, approval, consent, license, exemption, recording, filing or notarisation and no payment of any duty or tax and no other action whatsoever is necessary or desirable to ensure the validity, enforceability or priority of the liabilities and obligations of the Borrower and/or the Security Party, or the rights of the Borrower and/or the Security Party, under the Transaction Documents;

(d) No Default

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 by which the Borrower or the Security Party or any of their 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 Borrower or the Security Party or their ability to perform their obligations under the Transaction Documents to which they are a party;

(e) Litigation

no litigation (whether civil or criminal), arbitration or administrative proceeding or claim, which might by itself or together with any other such proceedings or claims, either have an adverse effect on the Borrower's or the Security Party's business, assets or conditions, or adversely affect their ability to observe or perform their obligations under the Transaction Documents to which they are parties, is presently in progress or pending or, to the best of the knowledge, information and belief of the Borrower, threatened against the Borrower or the Security Party or any of their assets;

(f) Tax Liabilities

all necessary returns have been delivered by or on behalf of the Borrower and/or the Security Party to the relevant taxation authorities and the Borrower is not in default in the payment of any taxes, assessments, fees and other governmental charges assessed against each of them or upon any of their respective properties, assets, business or income, and no claim is being asserted with respect to taxes which is not disclosed in the financial statements referred to in paragraph (g) below;

(g) Accounts

the audited financial statements (including the income statement and balance sheet) of the Borrower if so required by the Bank 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 operations for the period stated and the state of its affairs at that date, and in particular accurately disclose or reserve against all the liabilities (actual or contingent) of the Borrower;

(h) Assets

the Borrower and/or the Security Party are the beneficial owners and have title to all their assets and/or property, and that the assets and/or property provided by the Borrower and/or the Security Party as security for the repayment of the Facility, is free from any other Security Interest and/or any other encumbrances other than those created pursuant to the Transaction Documents;

(i) No Security

save and except as disclosed to the Bank, none of the assets of the Borrower and/or Security Party are affected by any Security Interest, and the Borrower and/or the Security Party are not a party to, nor is it or any of their assets and/or property bound by, any order, agreement or instrument under which the Borrower and/or the Security Party are, or in certain events may be, required to create, assume or permit to arise, any Security Interest, other than those created pursuant to the Transaction Documents or those permitted under Clause 7.1 herein;

(j) Change in Borrower

since the date the Borrower applied for the Facility there has been no material alterations or changes in the constitution, condition, business, operating environment, management or other affairs of the Borrower which could or might adversely affect the ability of the Borrower to perform its obligations under the Transaction Documents to which it is a party;

(k) Change in Law

no extraordinary circumstances or change of law or other government action has occurred which shall make it improbable that the business of the Borrower can be carried out or that the Borrower will be able to observe and perform the undertakings and obligations on its part to be performed and observed under the Transaction Documents to which it is a party;

(l) Information

the information furnished and declarations made by the Borrower in connection with the Facility does not contain any untrue statements or omit to state any fact the omission of which makes the statements therein, in the light of the circumstances under which they were made, misleading, and all expressions of expectation, intention, belief and opinion contained therein were honestly made on reasonable grounds after due and careful enquiry by the Borrower;

(m) Disclosure

the Borrower has fully disclosed in writing to the Bank all facts relating to the Borrower which the Borrower knows or should reasonably know and which are material for disclosure to the Bank in the context of the Facility;

(n) No Event of Default

that no Event of Default has occurred or will occur as a result of the Bank making available or continuing to make available the Facility;

(o) Receivership/Winding Up

no petition has been filed and no steps have been taken or any order made, for any voluntary arrangement, judicial management, scheme of compromise, arrangement, reorganization, reconstruction, amalgamation, bankruptcy, insolvency, winding up or liquidation of the Borrower and/or Security Party as the case may be, and/or to appoint a trustee, nominee, supervisor, judicial manager, manager, administrator, receiver, receiver and manager or similar officer to take over the assets of the Borrower and/or the Security Party, and/or to appoint a liquidator and/or provisional liquidator of the Borrower or Security Party;

(p) Illegality

that neither the Borrower nor any Security Party is involved in any illegal activities and all moneys and properties provided to the Bank are not derived in any way from illegal activities.

(q) Connected Persons

none of the directors, partners, executive officers, agents and/or guarantors of the Borrower and/or the other Security Party (including their respective close relatives) is a director, controlling shareholder, influential shareholder, executive officer and/or officer of the Bank or is in any way otherwise connected with the Bank in accordance with the BNM's regulations. Close relatives mean those family members who may be expected to influence or be influenced by the individual, as well as dependents of the individual. This includes the individuals' respective spouse and dependents of the spouse, child (including step children and adopted children) and spouse of the child, parent and brother or sister and their spouses.

(r) Sanctions

neither it nor any of its related corporations, nor any of their respective directors, officers or employees nor, to its knowledge, any persons acting on any of their behalf:

- (i) is a Restricted Party;
- (ii) has received notice of or is aware of any claim, action, suit, proceeding or investigation against it with respect to Sanctions by any Sanctions Authority; or
- (iii) deals with prohibited, restricted or controlled and dual goods or services, business, countries, currencies or vessels, without appropriate approvals, permits or consent.

## 6.2 Repetition

Each of the above representations and warranties will be correct and complied with by the Borrower in all material respects on (a) each date on which a utilisation or disbursement is requested or to be made, (b) each interest payment date, (c) the Repayment Date, and (d) in any case, on each day on which the Facility are utilised, as if repeated then by reference to the then existing circumstances, except that each reference to financial statements in Clause 6.1(g) above shall be construed as a reference to the then latest available audited financial statements.

## 6.3 Survival

The representations and warranties of the Borrower set out in the Transaction Documents shall survive and continue to have full force and effect after the execution and delivery of the Transaction Documents and in spite of any investigation by or on behalf of the Bank or any disclosure made by the Borrower or a Security Party.

# 7. UNDERTAKINGS

## 7.1 Affirmative Undertakings

The Borrower agrees and undertakes with the Bank as follows:

(a) Ranking

the Borrower will ensure that the liabilities of the Borrower under the Transaction Documents rank and will rank (and would rank if the Security Documents 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 such secured liabilities permitted to be created under the Transaction Documents;

(b) Preparation of Accounts

the Borrower will prepare the financial statements referred to in Clause 6.1(g) 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 Borrower 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 or reserve against all the liabilities (actual or contingent) of the Borrower;

(c) Information

the Borrower will deliver to the Bank in sufficient copies:

- (i) as soon as they become available (and in any event within 6 months after the end of each of its financial periods), copies of its and the Security Party's financial statements for that period which shall include but not limited to an income statement and a balance sheet which are audited and certified without qualification by a firm of independent accountants acceptable to the Bank;
- (ii) within 90 days after the end of each half year of the relevant financial year, copies of its and the Security Party's unaudited financial statements for that period which shall include but not limited to an income statement and a balance sheet which are duly certified by any one of its directors;
- (iii) promptly, such financial or other information relating to the Borrower, its subsidiaries and the Security Party as the Bank may require from time to time or required for ESG Due Diligence, in addition to that expressly provided for herein; and
- (iv) promptly, all notices or other documents received by the Borrower from any of its shareholders or its creditors which contents may adversely affect the interests of the Bank, and a copy of all documents dispatched by the Borrower to its shareholders (or any class of them) in their capacity as shareholders or its creditors generally at the same time as these documents are dispatched to these shareholders or creditors;



(d) Notification of ESG Claim and Disputes

the Borrower will, and will cause each of its subsidiaries and the Security Party to immediately, by written notice, inform the Bank of:-

- (i) any dispute or ESG Claim which is current, pending or threatened against the Borrower, any of its subsidiaries, the Security Party and/or any of their respective business, operation and/or assets;
- (ii) any labour, human rights or ESG controversy which might adversely affect the business, operations and/or assets of or result in revocation of ESG Permits or operating license, or a strike against, the Borrower, any of its subsidiaries and/or the Security Party, as the case may be;
- (iii) any violation or non-compliance of ESG Law or any terms and conditions or requirements contained in any ESG Permits by the Borrower, any of its subsidiaries and/or the Security Party, as the case may be; and/or
- (iv) any facts or circumstances which would reasonably be expected to result in the Borrower, any of its subsidiaries or any Security Party being in breach of any ESG Law (if to the extent applicable to either of them) or any ESG Claim being initiated, taken or threatened against the Borrower, any of its subsidiaries and/or the Security Party;

(e) ESG Policies and Procedures (if required)

the Borrower will, and will cause each of its subsidiaries and the Security Party to, obtain, renew, maintain and ensure compliance with the terms and conditions or requirements of all relevant ESG Permits and implement necessary policies and procedures for monitoring the compliance with relevant ESG Permits and ESG Laws;

(f) Consent

the Borrower will obtain and promptly renew from time to time, and will promptly deliver to the Bank certified copies of, any authorisation, recording, filing or notarisation as may be necessary or desirable to ensure the validity, enforceability or priority of the liabilities and obligations of the Borrower or the rights of the Bank under the Transaction Documents, and the Borrower shall comply with the terms and/or conditions of the same;

(g) Default

if the Borrower becomes aware of the occurrence of an Event of Default, it will forthwith notify the Bank and 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 the delay or suspension or otherwise in connection therewith;

(h) Insurances

the Borrower shall maintain such insurances as reasonably required by the Bank and such additional insurances in respect of its assets and business against all risks (including third party risks and workmen's compensation) which a prudent company carrying on a similar business would normally insure, and all such insurances shall be in amounts, on such terms and/or conditions and/or with policies and/or insurers acceptable to the Bank, and the Borrower will not do or omit to do anything or suffer anything to be done which might render any such insurance policies to be void or avoidable;

(i) Conduct of Business

the Borrower will carry out and operate its business and affairs with due diligence and efficiency and in accordance with its Constitution (if the Borrower has a Constitution) and sound financial and industrial standards and practices and will keep or cause to be kept all its properties and assets in a good state of repair and condition in accordance with good commercial practice;

(j) Notification of Disputes

the Borrower will, by written notice, inform the Bank of:

- (i) any legal proceeding, litigation or claim, involving the Borrower or any of the Security Party;
- (ii) any dispute between the Borrower or the Security Party and the government or any statutory body in respect of any of the Borrower's assets and/or property;
- (iii) any labour controversy which might result in a strike against the Borrower; and/or
- (iv) any matter which has adversely affected or may adversely affect the Borrower's ability to fulfil its obligations under these the Transaction Documents, its financial position or its ability to repay the Facility;

(k) Payment of Outgoings

the Borrower will punctually pay all quit rents, assessments, rates, licence fees, taxes, utility charges, premiums and all other outgoings whatsoever payable from time to time in respect of its business and assets as and when the same shall become due and payable and produce the receipts to the Bank as and when so requested by the Bank;

(l) Valuation of Assets and/or Properties

the Borrower will, if the Bank shall from time to time deem necessary for the Bank's commitment under the Facility, have the assets and/or properties valued at the expense of the Borrower by a valuer or firm of valuers acceptable to the Bank;

(m) Security Coverage

the Borrower shall at all times maintain a security coverage of not less than such number of times of the total amount of moneys owing under the Facility as may be determined by the Bank from time to time at its discretion, by notice to the Borrower;

(n) Notification of Employment

the Borrower will, by written notice, inform the Bank forthwith upon it becoming aware of any director or shareholder or any of the director's or shareholder's parents, spouse or children becoming a director, officer employee of the Bank;

(o) Consent of Bank on Investment

the Borrower shall:

- (i) inform the Bank in the event of any acquisition of assets of a substantial amount;
- (ii) obtain the Bank's prior consent in respect of any investment to be made by the Borrower with the Facility;
- (iii) supply details and all information required by the Bank in relation to any investment to be made by the Borrower with the Facility; and
- (iv) obtain the Bank's written consent before selling or purporting to sell any of the properties acquired with the Facility;

(p) Directive

the Borrower shall comply with any directive of the Bank which may be issued from time to time in connection with the Transaction Documents or the Facility which the Bank deems necessary to preserve the rights of the Bank under the Facility and/or the Transaction Documents;

(q) Entry

the Borrower, upon receipt of not less three (3) days' written notice from the Bank, will permit the Bank and the Bank may enter into and upon any property or premises belonging to or in the control of the Borrower and in respect of the same, to inspect all accounts, books, records and statements of the Borrower wherever the same may be situate, and the Borrower shall pay all costs, fees and other expenses whether legal or otherwise in respect of such inspection;

(r) Access

the Borrower shall give to the Bank such written authorities or directions and access as the Bank may require for the aforesaid inspection;

(s) Licences

the Borrower will obtain all necessary licences and approvals and comply with all regulations relating to the carrying on of its business;

(t) Terms and Conditions

the Borrower shall, and/or shall cause the Security Party to, observe and perform all the terms and conditions contained in the Security Documents and/or in any agreements which may constitute or form the basis of any Security Interest to be provided by the Borrower and/or the Security Party to the Bank under the Transaction Documents;

(u) Auditors

the Borrower 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 Borrower and further to communicate directly with the Bank at any time in respect of any matter connected with the accounts and operations of the Borrower;

(v) Annual Return, Return of Allotment of Shares and Register of Beneficial Owners

the Borrower will submit to the Bank a certified true copy of the following documents as submitted to the Companies Commission of Malaysia:

- (i) its annual return;
- (ii) its return of allotment of shares; and
- (iii) its register of beneficial owners;

(w) Authorised Signatories

the Borrower will forthwith notify the Bank in the event that any of its authorised signatories are no longer authorised to sign any documents or to otherwise act on the Borrower's behalf thereunder;

(x) Change in Residential Status

the Borrower will promptly notify the Bank in the event of any change in its residential status or tax jurisdiction;

(y) Operation of Accounts

the Borrower will ensure that the operation of the current account or any other accounts of the Borrower with the Bank is active and satisfactory and that the approved limit of the Facility is observed at all times;

(z) Adverse Changes

the Borrower will promptly notify the Bank of any material event or adverse change in the condition (financial or otherwise) of the Borrower or any of the Borrower's related corporations or of the Security Party, and of any litigation or other proceedings of any nature whatsoever being threatened or initiated against the Borrower or any of the Borrower's related corporations or the Security Party, before any court, tribunal or administrative agency, which may materially affect the operations or financial condition of the Borrower or any of the Borrower's related corporations or the Security Party; and the amount of any contingent liability if such amount is ascertainable, and such notification shall be given to the Bank not later than fourteen (14) days after the Borrower has knowledge of the change or of the litigation or other proceedings or threat thereof;

(aa) Subordination of Loans

the Borrower will procure and ensure that all present and future loans granted to it by related corporations and/or associated companies or shareholders will be subordinated to the Indebtedness and such loans will not be repaid in full or in part without the prior written consent of the Bank until all moneys owing to the Bank under the Transaction Documents have been paid up in full; and.

(bb) Change of Contact Details

the Borrower is to notify the Bank promptly of any change of correspondence address, electronic mail (e-mail) address and/or telephone number(s).

## 7.2 Negative Undertaking

The Borrower further agrees and undertakes with the Bank, it will first obtain the prior written consent of the Bank to:

(a) Loans to others

make any loans to, or provide any guarantee or financial assistance in favour of, any person;

(b) Dividends

declare, make or pay any dividend or other distribution to its shareholders as long as there are monies outstanding under the Facility;

(c) Liability to others

incur any other form of borrowing or indebtedness from other financial institutions or liability or enter into any guarantee in respect of any liability of any person, apart from the Indebtedness arising out of the provisions of the Transaction Documents, unless such liability is a short-term debt owing to a non-financial institution and payable on demand or maturing by its term within twelve (12) months after the date on which it is originally incurred; and regarded by the Borrower to be necessary for the normal course and conduct of its operations and the Borrower shall have evidenced the necessity thereof to the satisfaction of the Bank;

(d) Alteration to Constitution

alter its Constitution (where the Borrower has a Constitution);

(e) Change in Shareholdings and/or Management and/or Auditors

allow any change in its existing shareholders or their shareholdings and/or its directors and/or its management line-up and/or its auditors;

(f) Change of Business, Divestment of Assets, and Mergers

change the nature of its existing business, or sell, transfer or otherwise dispose of, or in any way cease to exercise control over, whether by a single transaction or a number of transactions, related or not, the whole or part (being in the aggregate a substantial part in relation to the Borrower) of its undertaking, business or assets, (except by the disposal of assets in the ordinary course of business), or undertake or permit any merger, amalgamation, reconstruction, consolidation or reorganisation;

(g) Share Capital

alter (other than by way of an increase), its issued shares in existence at the date hereof whether by varying the amount, structure or value thereof or the rights attached thereto, or by way of any alteration or variation of its share capital into stock, or by consolidating, dividing or subdividing all or any of its shares;

(h) Restriction on Transactions

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 Borrower might pay more than the ordinary commercial price for any purchase or might receive less than the full commercial price for its products; or

(i) Negative pledge

create or permit to exist over all or any part of its business or assets any Security Interest other than those created pursuant to the Transaction Documents or any arising from the following:

- (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 other Security Interest created or outstanding with the prior written consent of the Bank,

provided always that in spite of the above, neither the Borrower nor the Security Party shall during the term of the Transaction Documents and the Security Interest, execute or grant any form of encumbrances in respect of any of its assets secured by the Security Documents.

(j) Sanctions

the Borrower shall not, and shall not permit or authorize any other person to, directly or indirectly, use, lend, make payments of, contribute or otherwise make available, all or any part of the proceeds of Facility or other transaction(s) contemplated by the Transaction Documents to fund any trade, business or other activities:

- (i) involving or for the benefit of any Restricted Party;
- (ii) in any other manner that would reasonably be expected to result in the Borrower or the Bank being in breach of any Sanctions (if and to the extent applicable to either of them) or becoming a Restricted Party; or
- (iii) deals with prohibited, restricted or controlled and dual goods or services, business, countries, currencies or vessels, without appropriate approvals, permits or consent.

## **8. CHANGES IN CIRCUMSTANCES**

### **8.1 Illegality**

Where the application, introduction, imposition or variation of any law or any change in the interpretation or application of any law makes it unlawful or impractical without breaching such law for the Bank to allow all or part of the Facility to remain outstanding or to fund all or part of a utilisation or disbursement or the Facility or to carry out all or any of its other obligations under the Transaction Documents or to charge or receive interest at the rate applicable, upon the Bank notifying the Borrower:

- (a) the Bank's obligation to fund any future utilisation or disbursement shall forthwith be suspended and the Facility shall be suspended to such extent; and
- (b) the Borrower shall, upon being so notified, prepay to the Bank all of the Facility in accordance with Clause 8.3 on such date as the Bank shall certify to be necessary to comply with the relevant law and the Bank's obligation to fund any future utilisation or disbursement shall terminate and the Facility shall be cancelled to such extent.

## 8.2. Increased Costs

Where the Bank determines that, as a result of the application, introduction, imposition or variation of any law or any change in the interpretation or application of any law, or compliance with any request (whether or not having the force of law) from any central bank or other fiscal, monetary or other authority or agency, the cost to the Bank of making or maintaining or funding its participation in the Facility is increased or the amount of any sum received or receivable by it in respect of its granting the Facility or the effective return to it under the Transaction Documents is reduced or it is obliged to make any payment (except in respect of tax on its overall net income) or foregoes any interest or other return on, or calculated by reference to, the amount of any sum received or receivable by it from the Borrower under the Transaction Documents, then:

- (a) the Bank may notify the Borrower of such event;
- (b) the Borrower shall pay to the Bank on such date as the Bank shall specify (including after a prepayment of the Facility), such amounts to compensate the Bank for such increased cost, reduction, payment or foregone interest or return;
- (c) at any time thereafter, so long as the circumstances giving rise to the obligation to make the compensating payment continues:
  - (i) at the Borrower's irrevocable election (by giving notice in writing to the Bank), the Bank's obligation to fund any further utilisation or disbursement shall terminate and the Facility shall be cancelled to such extent; and
  - (ii) the Borrower may, upon giving the Bank not less than thirty (30) days' prior written notice which shall be irrevocable, prepay to the Bank all the Facility in accordance with Clause 8.3.

## 8.3 Prepayment in the Event of Changes in Circumstances

Where there is any prepayment of any Facility pursuant to Clauses 8.1 and/or 8.2 above;

- (a) the Borrower shall provide the Bank with satisfactory evidence that all authorisations necessary for the prepayment have been unconditionally obtained;
- (b) the amount of the prepayment shall become due on expiry of any period specified in any notice of prepayment to the Bank;
- (c) the Bank's obligations to fund further utilisation or disbursement shall terminate and the Facility shall be cancelled to such extent; and
- (d) on any prepayment of any Facility, the Borrower shall pay to the Bank any accrued interest on the Facility together with all other amounts due to the Bank.

## 9. REPAYMENT OF FACILITY

### 9.1 Payments by the Borrower

Any payments to be made by the Borrower pursuant to the Transaction Documents shall be made in immediately available funds in Ringgit Malaysia (or in the case of foreign currency facilities taken by the Borrower, in the relevant currency of the Facility) on the date the same shall become due and payable unless the day on which such payment would otherwise be due is not a Business Day, in which case it shall be due on the next succeeding Business Day. All payments by the Borrower whether in respect of principal, interest, fees or any other item shall be made in full, without any deduction or withholding (whether in respect of set-off, counterclaim, duties, taxes, charges, or otherwise whatsoever) unless the Borrower is compelled by law to do so, in which event the Borrower shall forthwith pay to the Bank such additional amount so that the net amount receivable by the Bank will equal the full amount which would have been received by the Bank had no such deduction or withholding been made.

### 9.2 Payment in Gross

All monies received by the Bank from any person or estate capable of being applied in reduction of the Indebtedness shall be regarded for all purposes as payment in gross, and if a receiving order shall be made against any person liable to the Bank or any order be made or any effective resolution be passed for the winding up of any company liable to the Bank, the Bank may prove for the whole of the monies then owing, and no money received under such proof shall be considered as having been received and the full amount owing shall remain payable, until the Bank has received from all sources One Hundred Sen in the Ringgit Malaysia (or in the case of foreign currency facilities taken by the Borrower, the relevant foreign currency equivalent).

### 9.3 Date of Payment

If any payment would otherwise be due on a day which is not a Business Day, it shall be due on the next succeeding Business Day or, if that Business Day falls in the following month, on the preceding Business Day.

### 9.4 Default Interest

- (a) If the Borrower defaults in the payment of any amount in accordance with the Transaction Documents on the relevant due date or on demand (if expressed to be so payable), the Borrower shall pay default interest on that amount from the date of default up to the date of actual payment (as well after as before judgment) at the Default Rate, or such other rate as shall be imposed by the Bank from time to time by notice to the Borrower as set out in the Letter of Offer.
- (b) Default interest under this Clause 9.4 shall accrue from day to day (both before and after any demand for repayment of the Indebtedness or any judgment in respect thereof) and such interest remaining unpaid shall be debited to the account of the Borrower at the end of every month or such other period as selected by the Bank, and shall bear interest at the rates provided in sub-paragraph (a) above or such other rates as determined by the Bank from time to time by notice to the Borrower.
- (c) Default interest as set out herein shall continue to be payable in spite of the fact that the relationship of banker and customer between the Bank and the Borrower may cease for any reason whatsoever.

### 9.5 Other terms for Prepayment

Notwithstanding anything stated herein, the Borrower may prepay any Facility based on the terms and conditions contained in the Letter of Offer and subject to reasonable terms and/or conditions as the Bank may impose from time to time.

## 10. DEFAULT

### 10.1 Events of Default

If any of the following events shall occur:

- (a) Non-payment

the Borrower fails to pay the whole or any part of the Indebtedness on the due date or upon demand from the Bank; or

(b) Breach of obligations

the Borrower or any of the Security Party breaches any of the terms and/or conditions in the Transaction Documents, and/or fails to observe or perform any of their respective obligations under the Transaction Documents or under any other undertaking or arrangement entered into in connection herewith or therewith; or

(c) Misrepresentation

any representation, warranty, declaration or statement which is made (or acknowledged to have been made) by the Borrower or any of its shareholders in the Transaction Documents to which it is a party or which is contained in any certificate, statement, legal opinion or notice provided under or in connection herewith or therewith, proves to be incorrect in any material respect, or if repeated at any time with reference to the facts and circumstances subsisting at such time, would not be accurate in all material respects; or

(d) Invalidity

any provision of the Transaction Documents, is or becomes, for any reason, illegal, invalid or unenforceable in any way, and/or if any Security Documents are not perfected, becomes imperfect in any way, and/or if the Bank cannot recover from any Security Documents, and/or if the Bank is of the opinion that any of the Security Interest created pursuant to the Security Documents is in jeopardy; or

(e) Disposal of Assets

the Borrower transfers or disposes of, or threatens to transfer or dispose of, a substantial part of its business or assets and the result of any of the foregoing may, in the opinion of the Bank adversely affect the Borrower's financial condition or its ability to observe or perform its obligations under the Transaction Documents to which it is a party; or

(f) Cessation of Business

the Borrower or any of the Security Party, change or threaten to change the nature or scope of their business, cease or threaten to cease to carry on their business, or any governmental authority expropriates or threatens to expropriate all or part of their assets, and the result of any of foregoing may, in the opinion of the Bank adversely affect their financial condition or their ability to observe or perform their obligations under the Transaction Documents to which they are a party; or

(g) Cross-Default

any Indebtedness of the Borrower and/or indebtedness of the Borrower's related corporations and/or associated companies and/or any of the Security Party (collectively, "**the Obligors**") to the Bank or any third party from time to time or at any time becomes due or if any of the Obligors may be or become liable to the Bank or any third party anywhere on any banking, loan, any other credit facilities or any other account current or otherwise ("**the account(s)**") or in any other manner whatsoever including but not limited to liability of any of the Obligors as sureties or guarantors or if default is made in relation to any provisions of the account(s); or

(h) Appointment of Receiver, Legal Process

an encumbrancer takes possession of, or any nominee trustee, supervisor, judicial manager, manager, administrator, receiver, receiver and manager, liquidator, or other similar officer is appointed in respect of, all or any part of the business or assets of the Borrower or any of the Security Party, or distress or any form of execution is levied or enforced upon or sued out against any such business or assets and is not discharged within seven (7) days after being levied, enforced or sued out, or any Security Interest which may for the time being affect any of such business or assets becomes enforceable; or

(i) Insolvency

the Borrower is deemed unable to pay its debts within the meaning of Section 466 of the Companies Act, or becomes unable to pay its debts as they fall due; or

(j) Suspension of Payments

the Borrower or any of the Security Party suspends or threatens to suspend making payments (whether of principal or interest) with respect to all or any class of their debts and the result of any of the foregoing may, in the opinion of the Bank (which opinion shall be final and conclusive), adversely affect their financial condition or their ability to observe or perform their respective obligations under the Transaction Documents; or

(k) Composition, Winding-Up, Bankruptcy

the Borrower and/or any Security Party convenes a meeting of its creditors, or proposes or makes any corporate, voluntary arrangement, judicial management, scheme of compromise, arrangement, reorganisation, reconstruction, amalgamation, assignment or composition, for the benefit of its creditors, and/or if a meeting is convened for the purpose of considering a resolution, or a petition is presented or any other steps are taken, for making an administration order against or for insolvency, winding up or liquidation of the Borrower and/or any of its corporate shareholders and/or any Security Party, and/or if there is any petition presented or any order made, for the bankruptcy of the Borrower and/or any of the Borrower's directors and/or any Security Party; or

(l) Analogous Proceedings

anything analogous to any of the events specified in this Clause 10.1 occurs under the laws of any applicable jurisdiction; or

(m) Legal Proceedings

any legal proceedings, suit or action shall be instituted against the Borrower or any of the Security Party and the Bank is of the opinion that this will adversely affect the Borrower's or such Security Party's ability to observe or perform their respective obligations under the Transaction Documents; or

(n) Judgement Outstanding

the Borrower or any of the Security Party shall fail to satisfy any judgement passed against the Borrower or such Security Party by any court of competent jurisdiction and no appeal against such judgement has been made to any appropriate appellate Court within the time prescribed by law or such appeal has been dismissed and in the case of any judgement obtained in default of appearance no application has been made to set such judgement aside within one (1) month of the Borrower or such Security Party (as the case may be) becoming aware of the judgement; or

(o) Change in Law

any law is brought into effect which purports to render ineffective or invalid any provision of the Transaction Documents or which would prevent the Borrower or any of the Security Party from performing any of their respective obligations hereunder or thereunder; or

(p) Damage to Assets and/or Property

any part of the assets and/or property or any structures thereon is damaged or destroyed and the result, whether by reason of the insurance over the assets and/or property or structure proving to be invalid or unenforceable or for any other reason is, in the determination of the Bank adversely to affect the financial condition of the Borrower or the Borrower's ability to observe or perform its obligations under the Transaction Documents; or

(q) Abandonment of Construction Project

where there is any housing development construction project, and/or any construction of any property and/or building, and/or any other form of construction project, and the Facility are financing such construction project, there is any suspension or abandonment of such construction project; or

(r) Satisfactory Conduct of Business and Accounts

if in the opinion of the Bank (which opinion shall be final and conclusive), the business and/or affairs of the Borrower are not carried out or conducted satisfactorily in accordance with sound financial and/or business standards and/or practices, and/or if any of the Borrower's accounts with the Bank are not operated satisfactorily; or

(s) License

any license, authorisation, approval, consent, order, exemption, registration, filing or notarisation referred to herein is revoked or withheld or modified is or is otherwise not granted or fails to remain in full force and effect; or

(t) Nationalisation

all or a material part of the property or assets of the Borrower shall be condemned, seized or otherwise appropriated or nationalised, or custody or control of such property or assets shall be assumed and retained by any person acting or purporting to act under the authority of the government, or the Borrower shall have been prevented from exercising normal managerial control over all or any substantial part of its or their property or assets; or

(u) Moratorium

the Borrower or the Security Party enters into or proposes to enter into or there is declared by any competent court or authority, a moratorium on the payment of indebtedness or other suspension of payments generally; or

(v) Adverse Events

any event or events has or have occurred or a situation exists which could or might, in the opinion of the Bank prejudice the ability of the Borrower or any of the Security Party to perform any of their respective obligations under the Transaction Documents and/or under any other undertaking or arrangement entered into in connection herewith or therewith in accordance with the terms and/or conditions hereof or thereof; or

(w) Breach of Applicable Laws

in the event of a breach or contravention of any Applicable Laws by the Borrower or any of the Security Party; or

(x) Repudiation

the Borrower or the Security Party repudiates any of the Transaction Documents or does or causes to be done or omits to do any act or thing evidencing an intention to repudiate any of the Transaction Documents; or

(y) Takeover of Financial Management

any creditor of the Borrower or its subsidiaries or the Security Party exercises a contractual right to take over any of its financial management; or

(z) Breach under other Contracts

there has been a breach by the Borrower or any of its subsidiaries or the Security Party of any obligation under any of its contractual obligations; or

(aa) Intended Purpose

the Facility or any part thereof are not utilised for its intended purpose; or

(bb) Security

the Bank determines that any Security Interest provided by the Borrower or the Security Party is different from that which was agreed to be provided; or

(cc) Criminal Investigations

the Borrower or the Security Party or its respective shareholders or directors are subject to any investigation, actions or proceedings (whether civil, criminal, administrative or otherwise) by any regulatory, statutory or enforcement authorities, bodies or agencies; or

(dd) Sanctions

the Borrower or the Security Party permits or authorises any other person to, directly or indirectly, use, lend, make payments of, contribute or otherwise make available, all or any part of the proceeds of any Facility to fund any trade, business or other activities:

(i) involving or for the benefit of any Restricted Party; or

(ii) in any other manner that would reasonably be expected to result in the Borrower or the Security Party being in breach of any Sanctions (if to the extent applicable to either of them) or becoming a Restricted Party; or

(ee) Suspension of Trading of Pledged Securities

any securities listed and publicly quoted on the Bursa Malaysia Securities Berhad or any other stock exchange which are the subject of a Security Document or secure the Facility, have been suspended from trading by the respective stock exchange whether or not at the request of the company and the period of such suspension has exceeded fourteen (14) consecutive days; or

(ff) Death/Unsound Mind

the Borrower or a Security Party dies or suffers any form of incapacity or is of unsound mind which would or could, in the opinion of the Bank affect the Borrower's or the Security Party's (where applicable) ability to perform his obligations under the Transaction Documents; or

(gg) Discontinuance of Obligations

any Security Party withdraws from any security under the Security Documents or gives notice to the Bank of discontinuance of its obligations and liabilities under the security as to future transaction; or

(hh) Market adverse conditions

there shall have occurred, happened or come into effect, any circumstance which, in the opinion of the Bank would be likely to have a material adverse effect on the condition (financial or otherwise), prospects, results of operations, properties or assets of the Borrower, or be commercially impracticable for the Bank to provide or continue providing the Facility on the terms and in the manner stated in the Transaction Documents,

then, at once or at any time thereafter the Bank:

- (i) may declare the Facility and any other amounts owing under the Transaction Documents to be immediately due and payable together with accrued interest thereon;
- (ii) the Bank may not to allow any further utilisation or disbursement and/or any form of drawdown of the Facility, and/or to treat the Facility as cancelled; and/or
- (iii) the Bank may but is not obligated to enforce the security created in favour of the Bank, and to exercise all its rights under these Terms and the Security Documents.

## 11. BANK'S RIGHTS

### 11.1 Bank's Right to Exercise Remedies Concurrently

The Bank is entitled to exercise any rights, powers, discretions and remedies concurrently, including pursuing all remedies of sale or realisation of security pursuant to the Transaction Documents, and civil suit to recover the Indebtedness due and owing to the Bank.

### 11.2 Application of Proceeds

All moneys received from the Borrower, Security Party or from the enforcement of any Security Interest, be applied as follows:

- First, in or towards the payment of all costs expended or incurred by the Bank in the enforcement of the Transaction Documents or any part thereof (including court costs and solicitors' fees);
- Second, in or towards the payment of all amounts payable under the Transaction Documents other than principal and interest;
- Third, in or towards the payment in full of the aggregate accrued but unpaid interest pursuant to the Transaction Documents;
- Fourth, in or towards the payment of the principal amount outstanding to the Bank; and
- Fifth, the balance to the Borrower or to such other persons as may be lawfully entitled thereto,

PROVIDED ALWAYS THAT if the Bank shall be of the opinion that the moneys received may prove deficient, payments may be made to the Bank on account of principal before interest but such alteration in the order of payment shall not prejudice the right of the Bank to receive the full amount to which it would have been entitled if the primary order had been observed, or any lesser amount which the sum ultimately received from the security may be sufficient to pay.

### 11.3 Payment of Short Fall

If the amount realised by the Bank in any sale of the properties and assets secured under the Security Documents, after the deduction and payment from the proceeds of such sale of all fees, dues, costs, rates taxes and other sale is less than the Indebtedness, whether at such sale the Bank is the purchaser or otherwise, the Borrower shall pay to the Bank the difference between the Indebtedness due and the amount so realised and until payment will also pay interest on such balances at the Prevailing Interest Rate and Default Rate or at such other rates specified from time to time by the Bank (as well after as before judgement).

### 11.4 Legal Proceedings

It is hereby declared and agreed that if the Bank takes legal action to recover any Indebtedness due to it from the Borrower or to enforce any term or condition of the Transaction Documents, then the Bank shall have the right:

- (a) to claim for the amount outstanding and the interest and other moneys due from the Borrower in the same or separate proceedings; and
- (b) to proceed simultaneously in the same or separate proceedings against the Borrower and any of the Security Party and all other parties liable to satisfy the Indebtedness to the Bank and to claim and execute judgement for moneys due to the Bank.

### 11.5 Opinion of the Bank

Despite anything herein contained, any right, entitlement, discretion, or power which may be exercised by the Bank under the Transaction Documents or any opinion of the Bank as to the determination of any of the matters set out in the Transaction Documents may be exercised or made by the Bank for the purpose of facilitating its business, operations, services and/ or such other things as the Bank may reasonably determine. A written statement of the Bank as to the Indebtedness due and owing to the Bank at any time and all other matters referred to in the Transaction Documents, shall in the absence of manifest error be conclusive and binding on the Borrower.

Any determination or notification by the Bank concerning any Indebtedness, in the absence of manifest error, shall be conclusive evidence as to the matter and shall be binding on the Borrower.

### 11.6 Bank May Open New Account

It is hereby agreed that if the Borrower shall execute or create any further or subsequently charge, mortgage or encumbrance over any of its assets or properties which are subject to the Security Documents or any part thereof in favour of any other corporation or person, or in the event the Bank restructures and/or varies the Facility, the Bank may but shall not be obliged to open a new or separate account with the Borrower, and the Bank may but is not obliged to place to the credit of the new or separate account so opened, any payments made by the Borrower to the Bank. PROVIDED ALWAYS that nothing in this Clause shall prejudice the security which the Bank otherwise would have had hereunder or under the Security Documents for the payment of the monies costs charges and expenses therein the Transaction Documents referred to in spite of the fact that the same may become due or owing or be incurred after the time of notice.

### 11.7 Suspense Account

Any money received hereunder or pursuant to the Security Documents may be placed or kept to the credit of a suspense account for such a period as the Bank shall deem fit pending the determination by the Bank as to how the monies are to be applied towards the discharge of any money or liabilities due hereunder or pursuant to the Security Documents. Despite any such payment, in the event of any proceedings in or analogous to bankruptcy, liquidation, insolvency, winding



up, 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 money and liabilities in the same manner as if the Security Interest under the Security Documents have not been created.

#### 11.8. Modification and Indulgence

The Bank may by giving not less than twenty- one (21) days' prior written notice to the Borrower and without in any way affecting the obligations of the Borrower herein and under the Security Documents:

- (a) review the Facility or hereby granted and determine, vary, reduce and/or increase the amount of the Facility and/or any other credit or loan facilities granted to the Borrower and may open and/or continue any accounts current or otherwise with the Borrower at any branch or branches of the Bank at such times as the Bank shall in its discretion determine;
- (b) vary the terms and/or conditions in any of the Transaction Documents, and/or the terms and/or conditions of any other credit or loan facility granted to the Borrower, in such manner and at such times as the Bank shall in its discretion determine; and/or
- (c) modify or restructure or alter the nature of the Facility herein granted in such manner and at such times as the Bank shall in its discretion determine.

#### 11.9 All Payments Received to be Payments in Gross

All moneys received from or on account of the Borrower or from any other person (including but not limited to any surety) or from the realisation of the Security Documents or any Security Interest or otherwise for the purpose of being applied in the reduction of the account of the Borrower or of the moneys agreed to be paid under the Transaction Documents shall be treated for all purposes as payments in gross and not as appropriated or attributable to any specific part or item of the said moneys agreed to be paid to the Bank. All Security Interest now or at any time held by the Bank shall be treated as security for the said general balance. The Borrower or any other person or persons claiming under the Borrower shall have no claim to such Security Interest or to any part thereof or any interest therein unless and until the Bank has received the full amount owing to the Bank by the Borrower.

#### 11.10 Rights Cumulative, Waivers

The Bank may exercise its rights under the Transaction Documents as often as the Bank considers appropriate, and are in addition to the Bank's rights under any Applicable law. The rights of the Bank in relation to the Facility arising under the Transaction Documents or under any applicable law shall not be capable of being waived or varied otherwise than by an express waiver or variation in writing from the Bank; and in particular, any failure to exercise or any delay in exercising any of such rights shall not operate as a waiver or variation of that or any other such right; any defective or partial exercise of any such rights shall not preclude any other or further exercise of that or any other such right; and no act or course of conduct or negotiation on the Bank's part or on its behalf shall in any way preclude it from exercising any such right or constitute a suspension or variation of any such right.

#### 11.11 Right to Outsource Debt Collection and Visit

The Bank may appoint and authorise an agent ("**Debt Collector**") to collect all and any of the Indebtedness due to the Bank from the Borrower. Such appointment and authorisation must be made known to the Borrower at least seven (7) days in advance if the collection of the Indebtedness due for the account is to be outsourced to the Bank's Debt Collector. The Bank will inform the Borrower the impact on the Borrower's rights and obligations after the account has been transferred to a third party debt collection agency or sold to a third party. Under specific circumstances, the Bank or its Debt Collector may visit the Borrower at his workplace if the Borrower has failed to respond to other means of communication by the Bank, or the Borrower (who is an individual) is not contactable at his/her place of residence or the Bank and the Debt Collector do not have the Borrower's latest residential address, or the Borrower has specifically requested or agreed to the visit either orally or in writing. The Bank is considered to have fulfilled the obligation if such notice has been sent to the Borrower's last known address of the Borrower at least seven (7) days' in advance. The Bank shall provide the Borrower with the name and contact details of the appointed Debt Collector to whom the Bank has outsourced the collection of all and any sums due to the Bank from the Borrower.

### 12. INDEMNITY

#### 12.1 General Indemnity

The Borrower shall fully indemnify the Bank from and against any cost and expense, loss, taxes, damage or liability (as to the amount of which the certificate of the Bank shall, in the absence of manifest error, be conclusive) which the Bank incurs in respect of and in connection of this Facility, the Transaction Documents or any failure to borrow in accordance with a notice of utilisation or disbursement or any Indebtedness amount due or to become due including any utilisation or disbursement of the Facility by third parties .

#### 12.2 Currency Indemnity

Unless otherwise specifically agreed in writing by the Bank in relation to the Facility:

- (a) the obligation of the Borrower shall be to pay the obligations or liabilities in the same currency in which the said obligations or liabilities are incurred ("**Currency of Account**"); and
- (b) any amount received or recovered by the Bank in respect of any sums expressed to be due to it from the Borrower under the Transaction Documents in a currency ("**Relevant Currency**") other than the Currency of Account (whether as a result of, or arising from the enforcement of, a judgement or order of court of any jurisdiction or the death or bankruptcy of the Borrower or otherwise) shall only constitute a discharge to the Borrower to the extent of the amount in the Currency of Account which the Bank is able, in accordance with its usual practice, to purchase with the Relevant Currency so received or recovered on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If that amount in the Currency of Account purchased with the Relevant Currency is less than the amount of the Currency of Account expressed to be due to the Bank under the Transaction Documents, the Borrower shall indemnify the Bank against any loss sustained by it as a result thereof. In any event, the Borrower shall indemnify the Bank against the cost of making such purchase.

### 13. FEES, COSTS AND EXPENSES

#### 13.1 Expenses

The Borrower shall on demand by the Bank pay to the Bank, in each case on the basis of full indemnity:

- (a) all costs and expenses (including legal, printing and out-of-pocket expenses) incurred in connection with the negotiation, preparation, completion or perfection of the Transaction Documents and any related documents or the discharge of any Security Interest created in the Bank's favour under the Transaction Documents or any related documents; and
- (b) all costs and expenses (including legal and out-of-pocket expenses) incurred in connection with any variation, consent or approval relating to the Transaction Documents or any related documents, or in connection with defending claims made by any person against either the Bank or any asset provided as Security Interest to the Bank or the preservation or enforcement or the attempted preservation or enforcement of any of the Bank's rights under the Transaction Documents or any related documents.

### 13.2 Stamp Duty

The Borrower shall pay all stamp, documentary and other duties to which the Transaction Documents may be subject or give rise, and shall fully indemnify the Bank from and against any losses or liabilities which the Bank may incur as a result of any delay or omission by the Borrower to pay any such duties or taxes.

### 13.3 Tax

The Borrower shall pay and be responsible for any tax including sales and services tax payable in connection with or arising out of the Transaction Documents or the Facility or any services in connection therewith. The Borrower shall indemnify and keep the Bank indemnified in respect of the payment of such sales and services tax.

## 14. ACCOUNT

### 14.1 Facility Account

The Bank may designate a facility account for each respective Facility and the said facility account shall evidence the Indebtedness due to the Bank from time to time.

### 14.2 Lien, Right to Debit and/or to Set Off from Account

The Borrower acknowledges that the Bank shall have a lien and/or right of set off over any assets movable or immovable of the Borrower now or hereafter in the possession or control of the Bank, branches or offices, and the Bank upon giving the Borrower not less than seven (7) days' prior written notice, may at its discretion to debit and/or to set off from, any account or accounts which the Borrower maintains with the Bank, in order to effect repayment of any Indebtedness, including but not limited to any duties, taxes, costs and expenses, quit rent, assessment, premium, fee, commission, legal costs (both party and party costs and solicitor and client costs) and all other charges due and payable hereunder or under the Security Documents.

### 14.3 Evidence of Indebtedness

In any proceeding relating to the Indebtedness, a statement as to the amount due to the Bank which is certified as being correct by an officer of the Bank, shall (in the absence of manifest error), be conclusive evidence that such amount is in fact due and payable.

## 15. OTHER MATTERS

### 15.1 Notice

Any notice required to be issued shall be in writing and shall be deemed to have been sufficiently served on the Borrower if it notified via the Bank's website, displayed on the Bank's premises, is left at the usual or last known address of the Borrower in accordance with the records kept by the Bank, or at the address above stated of the Borrower, or sent by ordinary mail to any of such addresses or facsimile or sent by email or other electronic or internet communication including short messaging service (SMS) or such other means as the Bank may determine from time to time. Proof of posting or despatch of any notice or communication to the Borrower shall be deemed to be proof of receipt by the Borrower:

- (a) if it is personally delivered, at the time of delivery;
- (b) in the case of ordinary post, seven (7) days after date of posting (save where such notice or communication is return undelivered to the Bank);
- (c) if displayed at the Bank's premises and/ or Bank's website, and deemed effective upon such display being made;
- (d) in the case of an, email or other forms of electronic or internet communication (including short messaging system (SMS) and voice recording, at the time they are sent, and/or
- (e) in the case of facsimile, on the Business Day immediately after transmission, provided that the sender has received an answer back confirmation.

No change in the address for service of the Borrower howsoever brought about shall be effective or binding on the Bank unless actual notice in writing of such change has been received by the Bank.

### 15.2 Consolidation

The Bank upon giving not less than seven (7) days' prior written notice to the Borrower may withhold, combine, consolidate and/or merge any or all accounts of the Borrower and the Obligors, with any of the Borrower's and/or Obligors' liabilities to the Bank, with such right to be exercised at the Bank's discretion and it is hereby expressly agreed and declared that unless the Bank otherwise agrees the obligations of the Borrower under the Transaction Documents shall not be satisfied except on payment by the Borrower of not only the Facility outstanding amounts but also all monies secured and/or all monies secured by any other Security Interest created by the Borrower and/or the Security Party in favour of or vested in the Bank.

### 15.3 Reconstruction

The Security Interest, liabilities and obligations created by the Transaction Documents shall continue to be valid and binding for all purposes whatsoever in spite of change by amalgamation, reconstruction, consolidation, merger or otherwise, which may be made under the constitution or Section 370 of the Companies Act or any corresponding provisions of the laws which the Bank or the Borrower or the Security Party is/are subject to and it is expressly declared that no change whatsoever in relation to or affecting the Bank or the Borrower or the Security Party, shall in any way affect the Security Interest, liabilities and obligations created hereunder in relation to any transaction whatsoever whether past present or future.

### 15.4 Disclosure of Information

- (a) The Borrower hereby agrees that the Bank is permitted to disclose any information relating to the Facility, the Security Documents, and/or the Borrower's affairs or accounts ("**Disclosure**"), to such persons under Schedule 11 of the Financial Services Act 2013 of Malaysia including:
  - (i) BNM or other regulatory authorities or enforcement authority or body (governmental or otherwise) under any Applicable Laws in or outside Malaysia;
  - (ii) pursuant to any subpoena or request or order of the courts; and
  - (iii) where disclosure is required or permitted by Applicable Laws.
- (b) The Borrower also agrees, consents to and authorizes the Bank for the Disclosure to:
  - (i) any of the Bank's agents, service providers, auditors, legal counsel and/or professional advisors, in or outside Malaysia for facilitating and/or protecting the business, operations, facilities and services provided by the Bank and CIMB Group (as defined below);

- (ii) any entity within the corporate group of CIMB Group Holdings Berhad, the Bank's ultimate holding company ("CIMB Group") whether such CIMB Group are residing, situated, carrying on business, incorporated or constituted within or outside Malaysia for facilitating the business, operations, provision of the Facility and/or other related services, and performance of the contract by the Bank and CIMB Group;
  - (iii) any tribunal, courts, governmental agencies or bodies or other relevant authorities to whom the Bank is required to make disclosures or have jurisdiction over the Bank whether in or outside Malaysia in order to comply with any order, demand, request or reporting requirement, or for the purposes of potential litigation or litigation involving the Bank as and when required or requested to do so from time to time and at any time;
  - (iv) any financial institution, company and/or organisation that assist or facilitate the processing and/or fulfillment of transactions or instructions that the Borrower has requested and/or given to the Bank;
  - (v) the Security Party, Syarikat Jaminan Pembiayaan Perniagaan Berhad (Registration No. 200901008332 (851317-W)), Credit Guarantee Corporation Malaysia Berhad (Registration No. 97201000831 (12441-M)) and/or any counterparty to any agreements and/or transactions which may constitute or form the basis of any Security Interest to be provided by the Borrower and/or the Security Party to the Bank to secure the Facility;
  - (vi) any potential transferee or assignee with whom the Bank is negotiating the transfer, assignment and novation of the rights or obligations under or by reference to the Facility;
  - (vii) any insurer or takaful provider or insurance/takaful broker or direct or indirect provider of credit protection of the Bank or which is required for the maintenance of the Facility and any of the Transaction Documents; and
  - (viii) agencies including credit reference reporting agencies or governmental agencies or financial institutions for the purpose of conducting searches or credit reference checks on the Borrower or any of the Borrower's directors, shareholders, officers or any other person, individual or entity related to and or associated with the Borrower.
- (c) The Borrower agrees that such consent given above cannot be withdrawn where such Disclosure is necessary for the provision of the Facility or the Bank's performance of the contract with the Borrower or the Bank's compliance with any contractual or legal requirement.
- (d) The Borrower acknowledges that the Disclosure by the Bank to CIMB Group may also be for cross selling purposes provided always that **Disclosure for cross selling purposes shall not be effected if such Disclosure is objected by the Borrower.**

#### 15.5 Cancellation and Demands

Despite any other provision of these Terms relating to the availability of the Facilities or any part of them, the Bank may at its discretion:

- (a) cancel any Facility; and/or
- (b) demand repayment of any Indebtedness;

in each case by the Bank giving the Borrower written notice of the cancellation or demand, whereupon the Facility shall be cancelled and the Indebtedness shall be repayable on the date specified in the notice.

#### 15.6 English Language

All notices or communications under or in connection with the Transaction Documents shall be in the English language or in any other language. In the event of any conflict between the English text and the text in any other language, the English text shall prevail.

#### 15.7 Variation of the Transaction Documents

Unless otherwise required by the Applicable Laws, the terms and/or conditions in the Transaction Documents may from time to time be varied or amended by notice of not less than twenty- one (21) days.

#### 15.8 Appropriation

All and any monies received by the Bank towards payment or repayment or prepayment shall be applied by the Bank in accordance with the terms of the Transaction Documents.

#### 15.9 No Liability

The Bank shall only be liable for direct losses or damages if such losses or damages are caused directly by the Bank's fraud, gross negligence or wilful breach of its obligations under the Transaction Documents.

Notwithstanding anything to the contrary, the Bank and/or any of its officers and employees shall not be liable for any indirect, incidental, consequential and/or secondary loss or damage, including any loss of profits or income, savings, opportunity loss, expectation loss, reliance loss or pure economic loss and any exemplary or punitive damages which may be suffered or incurred by the Borrower or any third party directly or indirectly, even if the Bank has been notified of the possible damages or any claim against the Borrower or the third party.

#### 15.10 Transfer Benefit

The Bank may transfer and/or assign the rights, benefits, interest and/or obligations under the Transaction Documents to any person by notice to the Borrower and/or the Security Party, and:

- (a) the Borrower shall execute such documents as are necessary to give effect to the transfer and/or assignment; and
- (b) all costs and/or expenses relating to this transfer and/or assignment shall be paid by the Borrower,

The Borrower may not transfer and/or assign the rights, benefit, obligations and/or interest of the Transaction Documents unless with the written consent of the Bank.

#### 15.11 Compliance with Legal Requirements and Sanctions

The Borrower will, and will cause each Security Party and each of its subsidiaries to, at all times promptly comply with Legal Requirements and Sanctions and shall immediately notify the Lender in writing if any of the Legal Requirements and Sanctions or any of the terms and conditions of the Transaction Documents ceases to be satisfied or is discovered to have not been satisfied.

#### 15.12 Law and Jurisdiction

The Borrower agree that the Transaction Documents shall be governed by the laws of Malaysia and agree to submit to the exclusive jurisdiction of the Courts of Malaysia.

#### 15.13 Regulatory Compliance

The availability or continued availability of the Facility shall be subject to any rules, regulations, guidelines and/or any other form of directives from, BNM, Exim Bank, Association of Banks in Malaysia, Labuan FSA and/or any other regulatory bodies having authority over the Bank. The Bank may vary the Transaction Documents to give effect to any such rules, regulations, guidelines and/or any other form of directives.

#### 15.14 Severability of Provisions

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

#### 15.15 Time

Time wherever stated in the Transaction Documents shall be of the essence.

#### 15.16 Credit Reporting Agencies Act 2010

Pursuant to the Credit Reporting Agencies Act 2010 of Malaysia (“**CRA Act**”), the Borrower, hereby gives its consent to the Bank and any registered reporting agency under the CRA Act appointed by the Bank, to process its company and personal data. By this consent, the Borrower understands and agrees that:

- (a) the Bank may conduct credit checks on the Borrower, its directors, shareholders, individual guarantors, security party and relevant officers (collectively the “**Parties**”), at any time for as long as the Borrower has a banking relationship with the Bank or where any Facility or Indebtedness remain outstanding with the Bank, for any one or more of the following purposes:
  - (i) opening of an account;
  - (ii) credit/account monitoring, review or evaluation;
  - (iii) debt recovery; and
  - (iv) documentation consequent to any facility granted by the Bank;
- (b) the Bank may disclose any information on the Parties’ conduct of their accounts with the Bank, to any person for bona fide credit review at any time. The Borrower is aware and understands and shall procure that the Parties are also made aware and understand that such information will be provided to a credit reporting agency, who may in turn share such information to subscribers of their service;
- (c) where the Bank require any processing of the Borrower’s application to be processed by any processing centre located outside Malaysia, the Borrower consents and shall procure the Parties to also consent to the Bank and the credit reporting agency to disclose their credit reports to such locations outside Malaysia; and
- (d) apart from the above, the Borrower consents and shall procure the Parties to also consent to the Bank and the credit reporting agency to process their personal data as per the Personal Data Protection Act 2010 of Malaysia.

#### 15.17 Force Majeure

The Bank shall not be responsible to the Borrower for any failure in the performance of any of its obligations or in respect of or arising from the Facility or any claim in respect to any loss, damages or injury to earnings or profit or goodwill or business caused directly or indirectly or any 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, pandemic, accident, explosion, casualty, lock- out, riot, civil disturbance, act of public enemy, natural catastrophe, embargo, war, act of God and/or any mechanical, mechanical, electronic or communications failure.

### 16. UPSTAMPING

Where the Bank has agreed to provide any additional advance or credit under any of the Facility to the Borrower such that the principal secured by the Transaction Documents shall exceed the Facility amount, the Transaction Documents shall for the purpose of stamp duty be deemed to be a new and separate instrument bearing date on the day on which such advance or credit is made to the extent that such additional advance or credit is in excess of the principal sum stated and the Borrower shall bear the cost of any additional stamp duty as a result.

### 17. PRIVACY CLAUSE

#### 17.1 Where the Borrower is a corporation, the Borrower hereby:-

- (a) confirms that it has duly obtained the consent of its directors, shareholders, individual guarantors, security party and relevant officers (“**the Relevant Individuals**”) and has notified the Relevant Individuals:
  - (i) for the Borrower to provide their personal data to the Bank for processing pursuant to the Personal Data Protection Act 2010 of Malaysia;
  - (ii) that reference checks including but not limited to credit reference/reporting checks (“**Reference Checks**”) may be conducted by the Bank on the Relevant Individuals; and
  - (iii) of the disclosure of the Relevant Individuals’ personal data to the classes of parties described in the CIMB Group Privacy Notice (which is available at [www.cimb.com.my](http://www.cimb.com.my));
- (b) undertakes to update the Bank in writing should there be any changes to the personal data of any of the Relevant Individuals and any revocation of such consent;
- (c) agrees that the Bank may review or terminate any banking, loan or credit facilities granted or to be granted to the Borrower should the said consent be revoked by any of the Relevant Individuals;
- (d) gives consents to the Bank to carry out Reference Checks on the Borrower; and
- (e) consents to the disclosure by the Bank of the personal data of the Relevant Individuals and the results of the Reference Checks to third parties as specifically identified and for the purpose(s) as stated in the CIMB Group Privacy Notice on a need to know basis in respect of the granting of the banking, loan or credit facilities to the Borrower.

- 17.2 Where the Borrower are individuals (including but not limited to sole proprietors, partnerships, registered businesses and associations, this Clause 17.2 shall apply:-
- (a) The Borrower hereby confirms that the Borrower has read, understood and agreed to be bound by the CIMB Group Privacy Notice (which is available at [www.cimbbank.com.my](http://www.cimbbank.com.my) and [www.cimbislamic.com](http://www.cimbislamic.com)) and the clauses herein, as may relate to the processing of the Borrower's personal information. For the avoidance of doubt, the Borrower agrees that the said Privacy Notice shall be deemed to be incorporated by reference into these Terms.
  - (b) In the event the Borrower provides personal and financial information relating to third parties, including information relating to the Borrower's next-of-kin and dependents (where the Borrower is an individual) or information relating to its directors, shareholders, officers, individual guarantors and security providers (where the Borrower is a corporation), for the purpose of opening or operating the Borrower's account(s)/Facility with the Bank or otherwise subscribing to the Bank products and services, the Borrower:
    - (i) confirms that the Borrower has obtained their consent or is otherwise entitled to provide this information to the Bank and for the Bank to use it in accordance with these Terms;
    - (ii) agrees to ensure that the personal and financial information of the said third parties is accurate;
    - (iii) agrees to update the Bank in writing in the event of any material change to the said personal and financial information; and
    - (iv) agrees to the Bank's right to terminate this Facility should such consent be withdrawn by any of the said third parties.
  - (c) Where the Borrower instructs the Bank to effect any sort of cross-border transaction (including to make or receive payments), the details relevant to the cross-border transaction (including information relating to those involved in the said transaction) may be received from or sent abroad, where it could be accessible (whether directly or indirectly) by overseas regulators and authorities in connection with their legitimate duties (e.g. the prevention of crime). In instructing the Bank and/or the Bank's agents to enter into any cross-border transaction on behalf of the Borrower, the Borrower agrees to the above said disclosures on behalf of the Borrower and others involved in the said cross-border transaction.
  - (d) The Bank may carry out the necessary reference checks including credit reporting/reference checks with credit reporting/reference agencies, including but not limited to CCRIS, FIS and/or any other agencies and/or from any financial institution to enable the Bank to ascertain the Borrower's status as may be required to help make decisions, for example when the Bank need to (a) check details on applications for credit and credit-related or other facility; (b) manage credit and credit-related accounts or facility, including conducting reviews of the Borrower's portfolio(s); recover debts; and/or any purpose related to or in connection with the account/Facility under these Terms. The Borrower will be linked by credit reporting/reference agencies to any other names the Borrower use or have used, and any joint and several applicants. The Bank may also share information about the Borrower and how the Borrower manages the Borrower's account(s)/Facility with relevant credit reporting/reference agencies and for any of these credit reporting/reference agencies to disclose your credit information to its subscribers for purposes of fraud detection and fraud prevention.
  - (e) Even after the Borrower has provided the Bank with any information, the Borrower will have the option to withdraw the consent given earlier, except where such disclosure of the Borrower's information is necessary for the provision of the Facility or the performance of the contract with the Borrower or the Bank's compliance with any contractual or legal requirement.
- 17.3 The Bank reserves the right to amend this Clause 17 from time to time at the Bank's discretion and shall provide prior notification to the Borrower in writing and place any such amendments on the Bank's websites and/or by placing notices at the banking halls or at prominent locations within the Bank's branches.
- 17.4 For the purposes of Clauses 17.1 and 17.2, the CIMB Group consists of CIMB Group Holdings Berhad and all its related corporations as defined in Section 7 of the Companies Act and jointly controlled companies that provide financial and other regulated services, excluding companies, branches, offices and other forms of presence operating outside Malaysia and the use of the words "the Bank", and "the Bank's" are to be read as references to the CIMB Group.
- 17.5 This Clause 17 shall be without prejudice to any other clause in these Terms which provides for the disclosure of information.

## **18. ANTI-MONEY LAUNDERING, ANTI-TERRORISM FINANCING AND PROCEEDS OF UNLAWFUL ACTIVITIES ACT**

The Borrower acknowledges that the Bank has entered into the Transaction Documents and have agreed to make available the Facility in full reliance on the representations and warranties by the Borrower on the following terms; and the Borrower now represents and warrants to the Bank that:

- (a) unless and until the Borrower notifies the Bank to the contrary in writing:
  - (i) the Borrower is the principal in relation to the Facility;
  - (ii) no person other than the Borrower has or will have any interest in the Facility; and
  - (iii) all monies which will be paid to the Bank shall come from a lawful source of activity and not unlawful activities, as defined under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 of Malaysia ("AMLA").
- (b) on notification that the Borrower is an intermediary for other persons:
  - (i) the Bank may require, and the Borrower agrees and undertakes to provide, verification of the identity of the beneficiary and such other information as the Bank may require, including but not limited to certified true copies of any authorisation to act or documents that may be required for the purposes of verifying the information provided by the Borrower, which copies may thereafter be retained by the Bank;
  - (ii) the Borrower will confirm that the monies, funds or collateral are from a lawful source of activity and not unlawful activity as defined under AMLA; and
  - (iii) it is further hereby agreed and understood that the provision of details of the Borrower's beneficiary shall not make the Borrower's beneficiary a client of the Bank and the Bank shall be entitled to hold the Borrower as the principal.
- (c) in addition to paragraphs (a) and (b) above, the Borrower hereby agrees and undertakes irrevocably and unconditionally that:
  - (i) the Borrower shall disclose and furnish to the Bank any information required or deemed necessary (acting reasonably) and to the satisfaction of the Bank in a timely manner within the period specified by the Bank, for purposes of complying with laws and regulations of BNM;
  - (ii) pending receipt of information by the Bank from the Borrower and until received and verified thereof to the satisfaction of the Bank and or the relevant authorities, the Bank shall neither be obliged to proceed with any transaction or disbursement nor accept any monies, funds or collateral ("Assets"). In relation to Assets already in the possession of the Bank, the Bank shall be entitled (and authorised) if so required by the relevant authorities to retain the Assets for the time being; any Assets requested to be returned to the Borrower shall be returned to the Borrower after the Bank receives satisfactory clearance from the relevant authorities;
  - (iii) the Borrower shall not use the Facility (or any part thereof) for money laundering or violate any laws relating to money laundering as defined under AMLA;

- (iv) in no event shall the Bank be liable for any direct, indirect, consequential or any losses whatsoever or howsoever arising or by reason of the Bank's exercise of its duties under AMLA;
- (v) the Borrower shall not engage, directly or indirectly, in a transaction that involves proceeds of any unlawful activity;
- (vi) the Borrower shall not acquire, receive, possess, disguise, transfer, convert, exchange, carry, dispose, use, remove from or bring into Malaysia proceeds of any unlawful activity; and/or
- (vii) the Borrower shall not conceal, disguise or impede the establishment of the true nature, origin, location, movement, disposition, title, rights with respect to, or ownership of, proceeds of any unlawful activity.