

## TERMS AND CONDITIONS

**Important Notice: The Applicant is advised to read and understand these Terms below before subscribing the Banking Services and if the Applicant does not understand any of these Terms, the Applicant may clarify with the Bank. These Terms shall be read together with the Schedule of the Banking Services subscribed by the Applicant.**

### 1.0 DEFINITIONS

Applicable Laws	means all applicable laws, rules, regulations or judicial decisions (including any amendments, re-enactment or replacement of it), including directives, orders, guidelines, sanctions or other similar instruments issued by any competent regulatory authority having the force and effect of law whether within or outside Malaysia.
Applicant	means the person or entity who has applied or is applying for any of the Banking Services.
Application Form	means any subscription, application or maintenance form or such other forms in respect of the Banking Services which may be prescribed by the Bank from time to time for completion and execution by the Applicant.
Authorised Persons	means the person or persons authorised by the Applicant from time to time to apply, use, access, operate and to do all things in connection with the Banking Services.
Bank	means CIMB Bank Berhad [Registration No. 197201001799 (13491-P)] and/or CIMB Islamic Bank Berhad [Registration No. 200401032872 (671380-H)], as the case may be.
Banking Services	means the banking services provided by the Bank which are more particularly set out in the Schedule.
Business Days	means a day, other than Saturday, Sunday or a public holiday, which the Bank is opened for banking business for the provision of the Banking Services.
Charges	means fees, charges, taxes, cost and expenses and other amounts payable by the Applicant for the Banking Services.
Debit Account	means such bank account designated by the Applicant for the payment of the Charges to the Bank for the Banking Services.
Directors' Resolution	means the board of directors' resolution of the Applicant (other than financial institutions or banks (foreign or otherwise)) authorising the subscription or application of the Banking Services and the due observance, compliance and performance by the Applicant and the Authorised Persons of these Terms.
Instructions	means such requests, instructions, directions, communications or authorisations given by the Applicant or its Authorised Persons to the Bank from time to time in accordance with these Terms whether orally, in writing or electronically.
Parties	means the Applicant and the Bank and the term " <b>Party</b> " shall mean anyone of them.

Property Rights	means any graphics, text, scripts, music, sound, photographs, images, art, video and other multimedia work or any of the combination which is available on the Bank's web site and are at all times protected by copyright, trademarks, service marks, patents and any other applicable intellectual property or proprietary rights.
Schedule	means the Schedule(s) annexed to these Terms.
Terms	means these terms and conditions including all applicable Schedule and any amendments, supplemental terms, or variation to these Terms.
Unauthorised Contents	means any materials, data, communication and/or information which is/are abusive, defamatory, infringes another person's rights, constitutes a criminal offence or gives rise to civil liability/liabilities, encourages racism, promotes hatred, contains pornography or pedophilia, contains any viruses or deleterious files and/or is otherwise objectionable to public morals and decency.

## **2.0 INTERPRETATIONS**

- 2.1 Words importing the singular shall include the plural and vice versa and words importing any gender shall include every gender.
- 2.2 The subtitle headings and the division of provisions into sections and clauses in these Terms are for ease of reference only and shall not be considered in the interpretation of the substantive provisions of these Terms.
- 2.3 Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase shall have the corresponding meanings.
- 2.4 Any reference to a Party in these Terms shall include a reference to its successors in title and assigns.

## **3.0 REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS**

The Applicant represents, warrants and undertakes that:

- (a) its subscription or application for the Banking Services, the execution of these Terms and the Application Form will not contravene any Applicable Laws, Shariah or its constitutive documents;
- (b) all transactions to be processed by the Bank are properly authorised, valid and legally enforceable and the Bank is not obliged to make further inquiries on the same;
- (c) all data, information and documents submitted to the Bank in connection with the Banking Services are true, accurate, correct and complete;
- (d) all consents, permits, licenses, authorisations and/or exemptions from any persons or regulatory authorities (if any) required in respect of the Applicant's performance of these Terms and subscription or application for the Banking Services have been obtained and will be maintained accordingly and that all necessary resolutions or corporate actions have been obtained; and
- (e) it shall provide any information or documents as may be requested by the Bank in respect of the Banking Services.

## **4.0 CONDITIONS PRECEDENT**

The availability of the Banking Services is subject to the Applicant having:

- (a) accepted these Terms, signed and completed the Application Form, where required by the Bank;
- (b) provided the Bank with the Board Resolution or such authorisation documents or Instructions as may be acceptable to the Bank; and
- (c) delivered such other documents as may be required by the Bank.

## **5.0 CHARGES**

Subject to any applicable taxes pursuant to Clause 31 (*Tax*) of these Terms, the Applicant shall pay the Charges to the Bank. The Applicant acknowledges that the Bank shall be entitled to deduct or set-off any Charges payable by the Applicant from the Debit Account and where there is insufficient amount, then from such other account of the Applicant with the Bank. The Bank may review the Charges from time to time and any such revision shall be notified to the Applicant at least twenty-one (21) days prior to the effective date of the revision in Charges in any of the ways referred to in Clause 13 (*Notices*).

## **6.0 DISCRETION TO REJECT OR SUSPEND**

The Bank is entitled to reject or suspend the whole or part of any of the Banking Services by notice to the Applicant including but not limited to the following circumstances:

- (a) if any amount of the Charges payable by the Applicant to the Bank is not paid;
- (b) the Bank has reason to believe or suspect that the provision of the Banking Services is illegal, fraudulent or related to any activity that may be in violation of any Applicable Laws; or
- (c) if the information or any of the documents given by the Applicant to the Bank is erroneous, insufficient or incomplete, or not in the format and content as prescribed by the Bank.

## **7.0 RELIANCE BY THE BANK**

The Applicant:

- (a) acknowledges that the Bank has accepted the Applicant's subscription or application on the basis of and in full reliance upon, the representations above; and
- (b) agrees that the Bank:
  - (i) is entitled to rely and act upon all Instructions, genuineness of all signatures and seals on any documents submitted to the Bank and to presume that the aforesaid have been duly authorised by the Applicant;
  - (ii) is entitled to rely on the correctness, completeness and accuracy of all or any Instructions, information, or documents provided and/or communicated by the Applicant to the Bank; and
  - (iii) may but is not obliged nor shall it be liable to check, verify, authenticate, re-confirm or ensure the correctness, completeness or accuracy of any Instructions, information or documents provided by the Applicant.

## **8.0 NON-LIABILITY**

- 8.1 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 willful breach of its obligations under these Terms.
- 8.2 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 Applicant or any third party directly or indirectly, even if the Bank has been notified of the possible damages or any claim against the Applicant or the third party.

## **9.0 INDEMNITY**

The Applicant undertakes to fully indemnify the Bank against all claims, actions, liabilities, demands, proceedings and judgements brought or established against the Bank and all losses, cost, charges, taxes and expenses (including legal expenses on a solicitor and own client expense) which the Bank may suffer or incur, in any way arising from or in relation to the provision of the Banking Services by the Bank to Applicant and/or any transactions processed in accordance with these Terms arising from or in connection with the Instructions, unless the same is caused directly by the Bank's fraud, gross negligence or willful breach of its obligations under the Terms.

## **10.0 UNAUTHORISED USE AND ACCESS**

10.1 The Applicant shall not attempt or assist any other person to transmit any Unauthorised Contents. If at any time the Applicant discovers or suspects the occurrence of any of these activities, the Applicant is required to notify the Bank immediately.

10.2 The Bank may but is not obliged to monitor, supervise or review the Applicant's use and access of the Bank's website. The Bank reserves the right to edit or delete any Unauthorised Contents which violate any of the provisions in these Terms without notice and without any liability whatsoever to the Applicant for doing so.

## **11.0 DISCLAIMER**

11.1 While the Bank will make reasonable efforts to ensure that all information and materials in respect of the Banking Services are accurate and current, such information and materials are provided on an "as is" and "as available" basis without warranties of any kind and they are not to be taken as investment, financial, commercial or business advice or recommendations. Such information and materials are provided for general information only and the Applicant should seek its own professional advice at all times and obtain independent verification of the information and materials before making any decision based on any such information or materials.

11.2 Due to the risks and problems inherent in the internet and other electronic means, the Bank also does not warrant that: (a) the Banking Services will meet the Applicant's requirements; (b) the access will be uninterrupted or timely; (c) there will be no omissions or loss of transmitted information; or (d) no viruses, intrusion, interference, hijacking or attack will be transmitted or occur to the Applicant's computer system and mobile device.

11.3 The Applicant shall ensure that adequate protection measures are taken to safeguard its own computer system and mobile device and the Bank shall not be liable for any loss or damages arising from any interruption or unavailability of the Banking Services due to risks and problems in Clause 11.2 above other than due to the Bank's gross negligence or willful default.

## **12.0 INSTRUCTIONS**

12.1 The Bank may treat and accept all Instructions and mandates received by the Bank as properly authorised by the Applicant and shall be entitled to take such steps in reliance upon such Instruction. The Bank shall not be liable for any fraudulent, conflicting or unauthorised Instructions or mandates given by the Applicant or the Authorised Persons including the accounts or affairs of the Applicant. The Bank shall be under no obligation to check the authenticity of the Instructions or the authority of the person(s) giving them.

12.2 Where the Bank has reason to believe that an Instruction may not have been properly authorised or that a breach of security has occurred in relation to the use and access of the Banking Services, the Bank reserves the right not to act, or to delay acting on the Instruction without being liable to the Applicant.

- 12.3 The Applicant is solely responsible for the accuracy, correctness, authenticity and completeness of the Instructions.
- 12.4 If Instructions are given after any prescribed time given by the Bank, the Bank may but is not obliged to carry out or execute such Instructions.
- 12.5 The Bank may but is not obliged to cancel or change any Instructions after Bank has received such Instructions.
- 12.6 The Bank shall not be responsible for any delay or non-processing of any Instructions of the Applicant which is due to or caused by any third party or events which is not within the control of the Bank.

### **13.0 NOTICES**

- 13.1 Unless otherwise provided in these Terms, all notices and communications by the Bank given pursuant to these Terms shall be given in any one of the following manners and shall be deemed received and/or deemed effective:
- (a) if sent by hand, upon delivery;
  - (b) if sent by ordinary or registered post to the Applicant's last address in the Bank's records, on the second (2nd) Business Day after posting save where such communication is returned undelivered to the Bank;
  - (c) if sent by courier, upon acknowledgement on the courier consignment note;
  - (d) if displayed at the Bank's premises and/or website, upon such display being made; and/or
  - (e) if sent by electronic transmission or mail or other forms of instantaneous communication (including short messaging system (SMS) and voice recording), at the time they are sent.
- 13.2 Any change in the address and contact details of the Applicant must be notified in writing to the Bank and will only take effect after the Bank has a reasonable opportunity to act on the change of address and contact details.
- 13.3 Unless otherwise specified, all notices and communications to the Bank shall be in writing and signed by the Applicant, and sent to the Bank's address as may be notified from time to time and all notices from the Applicant shall take effect only upon the Bank receiving the same and evidence by acknowledgement of the Bank.

### **14.0 SEVERABILITY**

If any one or more provisions of these Terms shall be invalid, void, illegal or unenforceable in any aspect by operation of any Applicable Laws or otherwise, the validity, legality, or enforceability of the remaining provisions shall not in any way whatsoever be affected or impaired thereby.

### **15.0 TIME**

Time wherever mentioned shall be of the essence of these Terms.

### **16.0 WAIVER**

Knowledge or consent by the Bank of any breach of any terms, conditions or obligations in these Terms shall not operate as or be deemed to be a waiver of such terms, conditions or obligations or any of them. Notwithstanding such knowledge or consent, the Bank shall be entitled to exercise its rights under these Terms and to require strict performance by the Applicant of the other terms, conditions and obligations in these Terms.

## **17.0 VARIATIONS**

The Bank may from time to time vary or amend any of the terms and conditions in these Terms (amongst other things, to facilitate the business, operations and services provided by the Bank) by prior notice of at least twenty-one (21) days to the Applicant. The notice can be given in any of the ways referred to in Clause 13 (*Notices*). The amendments shall take effect twenty-one (21) days from the date of notification or earlier if agreed by the Applicant and any variation and/or amendment (where applicable and relevant) made must always in compliant with the Shariah.

## **18.0 SUCCESSORS BOUND**

These Terms shall be binding upon the Parties' successors-in-title and the assignee or transferee of the Bank.

## **19.0 CONFIDENTIALITY**

The Applicant consents to the disclosure of any information in respect of the Applicant, these Terms and the Banking Services:

- (a) to any of the Bank's related corporations, branches, affiliates, business partners and/or any of other persons in or outside Malaysia where the Bank deems disclosure necessary to give effect, complete, verify or restrict a transaction or Instruction;
- (b) to Bank Negara Malaysia or other regulatory authorities in or outside Malaysia including court orders and requests where disclosure is required pursuant to any one of them;
- (c) to protect and/or defend the Bank's rights including Property Rights;
- (d) to the Bank's professional advisers, auditors or solicitors for facilitating or protecting the business, operations and services provided by the Bank;
- (e) to protect the interests of the public including but not limited to the detection of crimes and the apprehension of criminals;
- (f) where disclosure is required or permitted by Applicable Laws; and/or
- (g) to the service providers and third parties engaged by the Bank for the purpose of the third party system integration with the Banking Services, as subscribed by the Applicant.

## **20.0 TERMINATION**

20.1 Either Party shall be entitled to terminate these Terms or any of the Banking Services by providing at least thirty (30) days' prior written notice to the other Party.

20.2 Notwithstanding the aforesaid, the Bank may immediately terminate all or any of the Banking Services which termination will take effect immediately to the Applicant in the event:

- (a) the Applicant breaches or fails to observe any of its covenants or obligations under these Terms or the Banking Services have been unsatisfactorily conducted by the Applicant;
- (b) the Applicant fails or defaults or delays in the payment of the Charges;
- (c) a receiver, manager, statutory manager, administrator, or similar official is appointed over the Applicant or any of its assets or any petition is presented for the winding up of the Applicant or any resolution is passed for the winding up of the Applicant or any similar step is taken in any other jurisdiction; or
- (d) the provision of the Banking Services may in the Bank's opinion result in the breach of any Applicable Laws.

20.3 Any rights and obligations under these Terms which by their term and sense would survive the termination of these Terms in any way shall continue to be in full force and effect after termination.

## **21.0 FORCE MAJEURE**

Neither Party shall be liable in damages for any delay or default in performing under these Terms (other than the obligation to make payment of the Charges) if such delay or default is caused by conditions beyond its control including, but not limited to equipment, system or transmission link malfunction or failure, fire, flood, explosion, acts of God, acts of terrorism, war (declared or undeclared), accidents, epidemics, strikes, lockouts, power blackouts or failure, labour disputes, acts, demands or requirements of the Malaysian Government or as a result of any international or supranational sanctions and/or any other cause beyond the control of the Party whose performance is affected.

## **22.0 PROPERTY RIGHTS**

The Applicant acknowledges that all Property Rights shall at all times belong to the Bank or the relevant third-party vendors, advertisers, affiliates, where applicable. The Applicant shall not attempt or reproduce, copy, transmit, publish, perform, broadcast, adapt, store, distribute, display, license, alter and/or hyperlink the Property Rights without the Bank's prior written consent.

## **23.0 RIGHT TO DEBIT**

The Applicant authorises and consents to: (a) CIMB Bank Berhad debiting its accounts at the instructions of CIMB Islamic Bank Berhad and to remit the moneys to CIMB Islamic Bank Berhad for payment of any of the Charges in respect of the Banking Services provided by CIMB Islamic Bank Berhad; and (b) CIMB Islamic Bank Berhad debiting its accounts at the instructions of CIMB Bank Berhad and to remit the moneys to CIMB Bank Berhad for payment of any of the Charges in respect of the Banking Services provided by CIMB Bank Berhad.

## **24.0 STANDARD TERMS AND CONDITIONS OF ACCOUNTS**

24.1 Unless expressly provided for in these Terms or agreed in writing between the Parties, all accounts of the Applicant shall be operated in accordance with the Bank's standard terms and conditions of Accounts ("**Account Terms**") to the extent that such Account Terms do not conflict with these Terms (which in the event of any conflict, the Account Terms shall prevail).

24.2 These Terms shall not: (a) affect any rights including set-off, combination or consolidation of accounts or security of the Applicant to which the Bank may be entitled to from time to time; and (b) vary or waive any rights that the Bank may have pursuant to any mandate of the Applicant's accounts or Account Terms.

## **25.0 HYPERLINKS**

The Banking Services may contain hyperlinks to third parties' websites, which are not under the Bank's control and are provided for the Applicant's reference only and do not represent the Bank's endorsement, recommendation or sanction of the same. The Bank shall not be responsible for:

- (a) the Applicant's use and access of such third parties' website or any information or materials available in such website; or
- (b) any form of transmission or communication between the Applicant and the said third parties or the Applicant's participation or use of their information, materials, services or promotion.

For this purpose, the Applicant agrees to be solely responsible for the Applicant's own use and access of any of the above. Accordingly, the Applicant is therefore advised to obtain independent professional advice at all times.



## **26.0 ASSIGNMENT/TRANSFER**

The Applicant shall not assign or transfer any of its rights and/or obligations under these Terms. The Bank shall be entitled to assign and/or transfer its rights and obligations under these Terms with written notification to the Applicant.

## **27.0 COMPLIANCE WITH APPLICABLE LAWS**

The Bank, in complying with all Applicable Laws, is entitled to take or omit taking any action in the Bank's discretion to ensure compliance with such Applicable Laws including but not limited to intercepting and investigating payment message and other information or communication sent to, by or on behalf of the Applicant and the Bank and/or any of its related corporation shall not be liable to the Applicant whatsoever for any delay or failure in processing any such payment messages, information or communication or taking such steps to comply with such Applicable Laws.

## **28.0 DISPUTES**

The Parties shall use all reasonable efforts to negotiate with each other in good faith and settle amicably any disputes relating to the Banking Services. If such disputes(s) cannot be resolved, at the election of either Party, such dispute may be submitted to a court of competent jurisdiction in Malaysia.

## **29.0 SCHEDULE AND ENTIRE TERMS**

29.1 These Terms shall be read together with the Schedule of the Banking Services. In the event of any inconsistency, the terms and conditions of the applicable Schedule shall prevail in respect of the respective Banking Services.

29.2 These Terms together with the applicable Schedule form the entire agreement between both the Parties and they shall supersede and replace any previous agreements between the Parties in respect of the Banking Services.

## **30.0 PRIVACY CLAUSE**

30.1 The Applicant confirms that it has duly obtained its directors, shareholders, officers and guarantors' consent (including such other relevant persons required for Applicant's subscription and maintenance of the Banking Services, if applicable) ("**Relevant Person**") for the Bank to:

- (a) be provided the personal data as may be required by the Bank for processing (as defined in the Personal Data Protection Act 2010) and for the purpose of the Banking Services;
- (b) carry out the necessary reference checks including credit reference to further ascertain the status of the Applicant and the Relevant Person; and
- (c) disclose personal data of the Relevant Person 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)).

30.2 The Applicant agrees to update the Bank in writing should there be any change to the personal data relating to the Relevant Person and any revocation of such consent. Should the consent and/or authority be subsequently revoked by any of the Relevant Person, the Bank shall have the right to terminate the Banking Services.

30.3 This clause shall be without prejudice to any other clause in these Terms which provide for the disclosure of information.

## **31.0 TAX**

31.1 Without prejudice to any other provision in these Terms, the Applicant shall be liable for all or any taxes including but not limited to any sales and service tax, goods and services tax, value added tax,



deduction and/or withholding tax payable in connection with the Banking Services, these Terms and/or any services relating to them.

- 31.2 If the Bank is required to make any payment on account of tax in relation to any amount paid, transferred or received, or payable, transferable or receivable, pursuant to the Banking Services, these Terms or any services relating to them, or any liability in respect of any such payment is asserted, imposed, levied or assessed against the Bank, the Applicant shall, to the extent that all or any part of such payment or liability is in the Bank's opinion referable to the Applicant, promptly indemnify the Bank against such payment or liability, together with any late payment charges, penalty, cost or expense payable or incurred.
- 31.3 If any payment to be made under these Terms is subject to the deduction or withholding of tax, the sum payable shall be increased to the extent necessary to ensure that, after the making of the required deduction or withholding, the Bank receives and retains a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.
- 31.4 The Applicant shall furnish the Bank, with such documents and other information as the Bank may require concerning the tax consequences of the Banking Services or for the purpose of complying with tax laws in any applicable jurisdictions.
- 31.5 The Applicant shall continue to be bound by the provisions of this Clause 31 despite the termination of the Banking Services.

## **32.0 GOVERNING LAW AND JURISDICTION**

These Terms shall be governed by and construed in accordance with the Applicable Laws of Malaysia. The Parties agree to submit to the exclusive jurisdiction of the Courts of Malaysia.