

**DATED THIS**

**DAY OF**

**20**

**FACILITY AGREEMENT**

**BETWEEN**

**AMBANK ISLAMIC BERHAD  
(COMPANY NO. 199401009897 (295576-U))**

**AND**

**[CUSTOMER]  
(NRIC NO.\*\*\*)**

**THIS FACILITY AGREEMENT** is made on the day and year stated in Item 9 of the First Schedule of Part A hereto.

**BETWEEN**

**AmBank Islamic Berhad** (Company No. 199401009897 (295576-U)), a company incorporated in Malaysia with its registered office at 22<sup>nd</sup> Floor, Bangunan AmBank Group, No. 55, Jalan Raja Chulan, 50200 Kuala Lumpur (the “**Bank**”);

**AND**

The person(s) whose name and particulars are stated in Item 2 of the First Schedule of Part A hereto (the “**Customer**”).

**PART A**

**GENERAL TERMS**

**ARTICLE I**

**SECTION 1.01 THE FACILITY**

At the Customer’s request, the Bank has agreed to provide to the Customer the banking facilities from time to time as stated in the Letter of Offer issued by the Bank (“**Facility**”) subject to the Availability Period and upon the terms and conditions contained in the Letter of Offer and in this Agreement. It is a key term of this Agreement that the Customer will offer the Property (or by any other name as described in the Letter of Offer) as security to secure the payment of the Facility and payment by the Customer of all amounts from time to time outstanding under the Letter of Offer and this Agreement.

**SECTION 1.02 PURPOSE(S) OF THE FACILITY**

The Customer must use the proceeds of the Facility for the purpose of part finance / financing the acquisition of the Property and/or towards renovation costs incurred in relation to the Property and/or for such other purpose as may be stated in the Letter of Offer

**SECTION 1.03 AGREEMENT**

Subject to the terms and conditions of the Letter of Offer and this Agreement, the Bank has agreed to make available the Facility to the Customer on the basis of and in full reliance upon the warranties, representations and undertakings contained in this Agreement and the Security Documents.

**ARTICLE II****SECTION 2.01 DEFINITIONS**

In this Agreement (Part A, Part B, Part C and Part D inclusive of the Schedules) the following words have the meaning given to them below:

<b>“Agent”</b>	The agent to purchase and/or sell the Commodity.
<b>“AmBank Group”</b>	All the related companies and associate companies of the Bank and its holding company incorporate inside or outside Malaysia whether existing now or in future.
<b>“Availability Period”</b>	Means the period the Facility will be made available for disbursement as set out in the Letter of Offer, subject to the fulfilment of Conditions Precedent.
<b>“Bank”</b>	<b>AmBank Islamic Berhad (Company No. 199401009897 (295576-U))</b> , a company incorporated in Malaysia, having its registered office at 22nd Floor, Bangunan AmBank Group, No. 55, Jalan Raja Chulan, 50200 Kuala Lumpur and having its business address as stated in Item 1 of the First Schedule of Part A includes its successors in title and assigns.
<b>“Bank’s Purchase Price”</b>	The purchase price payable by the Bank for the purchase of the Commodity which in aggregate shall not exceed the limit of the Facility as approved by the Bank in the Letter of Offer, as set out in Item 3(a) of the First Schedule of Part A hereto.
<b>“Bank’s Selling Price”</b>	The amount as agreed by the Bank and the Customer as referred to in the Letter of Offer which comprises of the Bank’s Purchase Price and the Profit Portion payable by the Customer to the Bank as set out in the Letter of Offer and Item 3(b) of the First Schedule of Part A hereto.
<b>“Base Rate/Base Financing Rate”</b>	The rate prescribed by the Bank from time to time for the pricing of floating rate financing facilities, and is computed in accordance with BNM requirements as may be imposed.
<b>“BNM”</b>	Bank Negara Malaysia, its subsidiaries, agencies and bureaus established by it.
<b>“Business Day”</b>	A day when banks are open for general banking business in the state where the Bank is located.

<b>“Ceiling Profit Rate”</b>	Means the contracted profit rate applicable to the Facility as set out in the Letter of Offer or such other rate of profit that the Bank may prescribe at any time.
<b>“Customer”</b>	The person named in this Agreement, the details of which are as stated in Item 2 of the First Schedule of Part A.
<b>“*Commodity”</b>	The commodity as specified in the Letter of Offer or any other Shariah compliant commodities other than ribawi items in the category of medium of exchange such as currencies, gold, silver and debt instruments which is endorsed by the Shariah Committee of the Bank, acceptable to the Bank and traded on trading platform approved by the Bank.
<b>“Commodity Purchaser”</b>	Means the third party commodity purchaser approved by the Bank.
<b>“Commodity Supplier”</b>	Means the commodity supplier as advised by the Bank.
<b>“Conditions Precedent”</b>	Means the conditions precedent as set out in the Letter of Offer that needs to be fulfilled by the Customer before the Bank may release the Facility.
<b>“Developer/ Contractor/ Financier”</b>	<b>Vendor/ Existing</b> The party(ies) whose name(s) and particulars are set out in Item 7 of the First Schedule of the Part A of this Agreement and includes his/her/their/ its, personal representatives, successors in title and permitted assigns as the case may be.
<b>“Differential Sum”</b>	Means the difference between the Sale and Purchase Price of the Property and Customer’s Selling Price(s) which is equivalent to the amount financed by the Bank.
<b>“Early Settlement Charges”</b>	The charges for early settlement of the Facility that reflect a reasonable estimate of the Bank’s initial costs or any other cost that the Bank could not have recovered as a direct result of settlement of the Facility prior to its maturity, as set out in Section 4.03 of Part A.
<b>“Effective Profit Rate”</b>	The effective profit rate applicable to the Facility as set out in the Letter of Offer and as may be revised by the Bank from time to time.
<b>“Event of Default” or “Events of Default”</b>	Any of the events, situations or circumstances set out in Section 7.01 of Part A of this Agreement.
<b>“Facility”</b>	(a) The facility amount shall be the Bank’s Purchase Price as stated in Item 3 of the First Schedule of Part A, that the Bank

	<p>has agreed to provide to the Customer subject to and upon the terms of the Letter of Offer and this Agreement; and</p> <p>(b) Where applicable, “Facility” shall include other subsisting facilities provided and other subsequent of future facility granted from time to time by the Bank pursuant to Section 10.02 of Part A.</p>
<b>“force majeure”</b>	Means any unforeseen events and/or circumstances not within the reasonable control of the Bank, which the Bank is unable to prevent, avoid or remove including but not limited to any fire, earthquake, flood, epidemic, accident, explosion, casualty, lockout, riot, civil disturbance, act of public enemy, natural catastrophe, embargo, war or act of god.
<b>“Ibra (rebate)”</b>	Rebate or waiver of partial or total claim against certain right in relation to payment of debt.
<b>“Indebtedness”</b>	The aggregate facility amount of the Facility (remaining due and payable at any time), together with accrued profit thereon at the Profit Portion and all other sums of money howsoever due (whether present or future) to the Bank under the Security Documents in connection with the Facility.
<b>“Late Payment Charges”</b>	The charges payable by the Customer as set out in the Letter of Offer and Section 4.02 of Part A.
<b>“Letter of Offer”</b>	The Letter of Offer attached in Part D and other letters of offer including any amendments or supplemental thereto issued by the Bank (if any).
<b>“Legal Process”</b>	Means pleadings, all forms of originating processes, interlocutory applications of whatever nature, affidavits, orders and such documents other than the aforesaid which are required to be served under the Rules of Court, 2012.
<b>“Master Agency Agreement”</b>	The master agency agreement and agency notice issued by the Customer to the Bank, as attached in Schedule 2 of Part B of this Agreement.
<b>“Mortgage Reducing Term Takaful/Insurance”</b>	Means the Mortgage Reducing Term policy under a takaful/insurance mortgage plan taken up or to be taken up by the Customer in respect of the Property on behalf of the Bank from a takaful operator/insurance company acceptable by the Bank.

<b>“Monthly Instalment(s)”</b>	Means the monthly amount payable by the Customer to the Bank that shall be as set out in the Letter of Offer and as may be revised by the Bank from time to time in accordance with the terms of this Agreement.
<b>“Murabahah”</b>	Refers to a sale and purchase of the Commodity where the acquisition cost and the mark-up are disclosed to the Customer (as the purchaser).
<b>“Murabahah Sale Contract”</b>	Murabahah sale contract to be entered between the Customer (as represented by the Bank) and the Bank in relation to the <i>Tawarruq</i> .
<b>“Profit Portion”</b>	The profit margin based on the Ceiling Profit Rate as set out in the Letter of Offer.
<b>“Property(ies)”</b>	All that property(ies) identified or described in Item 5 of the First Schedule of Part A and other properties as described in the Letter of Offer comprising the land, building and fixture now or after or from time to time erected including additions and replacement made before or after the date of this Agreement.
<b>“Purchase Request”</b>	A purchase request and undertaking to purchase, issued by the Customer to the Bank, as attached in Schedule 1 of Part B of this Agreement.
<b>“Ringgit Malaysia” “RM”</b>	The lawful currency of Malaysia.
<b>“SAC”</b>	Means the Shariah Advisory Council, established under Section 51 of the Central Bank of Malaysia Act 2009.
<b>“Sale and Purchase Agreement”</b>	Means the sale and purchase agreement made or entered between the Customer with the Developer/ Vendor for the purchase of the Property, and shall include any amendments, variations and/or supplemental made or entered into from time to time.
<b>“Security Documents”</b>	The documents more particularly set out in Item 6 of the First Schedule of Part A.
<b>“Security Interest”</b>	Means and includes any mortgage, charge, lien, pledge, right of set off or any security interests of the Property including but not limited to any revenues or profits of any kind.
<b>“Security Party”</b>	The party whose particulars are more particularly set out in item 8 of the First Schedule of Part A.

<b>“Shariah”</b>	Means the Shariah rulings, principles, parameters and decisions of Islamic law as interpreted, ascertained, determined or pronounced by the SAC and/or the Bank’s Shariah Committee respectively. Accordingly, for the purpose of this Agreement, “subject to Shariah”, “in accordance with Shariah” and “Shariah compliant” shall mean subject to, in accordance with and compliant to such rulings and decisions.
<b>“Shariah Committee”</b>	Means the committee established by the Bank pursuant to Section 30 of the Islamic Financial Services Act 2013 for the purposes of advising the Bank on all Shariah related matters pertaining to Islamic banking.
<b>“Tawarruq”</b>	An arrangement which consists of two separate sale and purchase contracts. The first involves the sale of an asset by the Bank to the Customer on a deferred payment basis. Subsequently, the Customer being the purchaser of the first sale will sell the same Asset to a third party on a cash and spot basis.
<b>“Taxes”</b>	Any taxes, including but not limited to sales and services tax, value added tax, consumption tax, consumer tax, indirect tax, service tax, duties, levies and other taxes which may now be or hereafter imposed by the Government of Malaysia.
<b>“this Agreement”</b>	Means this Facility Agreement and shall include any amendments, variations and/or supplemental made or entered into from time to time.
<b>“Vendor Agreement”</b>	Wherein applicable, the following agreements executed by the Customer for the Property, such as: <ul style="list-style-type: none"> <li>(a) the Sale and Purchase Agreement;</li> <li>(b) the construction / renovation agreement with the contractor for the construction / renovation of the Property; or</li> <li>(c) the existing facility / financing agreement with a financier where the Property is placed as security for facilities granted to the Customer.</li> </ul>

**ARTICLE III****SECTION 3.01 CONDITIONS PRECEDENT TO DISBURSEMENT**

The Bank may not release any part of the Facility unless the Conditions Precedent as set out in the Security Documents shall have been fulfilled. The Bank may waive fulfilment of any of the conditions in this Section without affecting its rights under this Agreement. Such waiver does not prevent the Bank from later demanding the fulfilment of any or all of the waived conditions within any period notified by the Bank to the Customer. No waiver of any Conditions Precedent constitutes a waiver of any other Conditions Precedent except to the extent expressly provided in such waiver.

**SECTION 3.02 AVAILABILITY AND CANCELLATION OF THE FACILITY**

- (a) Subject to the fulfilment of the Conditions Precedent, the Facility is to be utilised by Customer for utilisation within the Availability Period. If the Customer does not comply with any condition within the time stated by the Bank and/or upon the expiry of the Availability Period, the Bank is entitled to cancel the Facility.
- (b) If the Bank does not extend the Availability Period, the Bank may treat the Facility as cancelled if the Tawarruq has not been entered into. However, if the Tawarruq has been entered into, any undisbursed portion of the Customer's Selling Price(s) after the Availability Period shall be treated as prepayment of the Bank's Selling Price(s) and the Profit Portion for the undisbursed portion shall be waived as Ibra' as stated in Section 14.

**SECTION 3.03 SECURITY**

The Customer and/or the Security Party(ies) is required to sign the Security Documents as security for the obligation to pay the Indebtedness to the Bank. The security created under the Security Documents is expressly intended to be and shall be a continuing security for the payment of the Indebtedness. If required by the Bank pursuant to Section 17.5, the Customer shall provide further charge or assignment or deposit the documents of title of the Customer's property with the Bank to secure any amount of money due and payable to the Bank.

**SECTION 3.04 REPRESENTATIONS AND WARRANTIES**

The Customer warrants that all representations and warranties (as set out in Section 15 of Part C) are correct and will be complied with so long as any sum remains payable by the Customer under the Security Documents remains in force.



**ARTICLE IV****SECTION 4.01 INDEMNITY**

The Customer shall at all times hereafter keep the Bank save, harmless and indemnified against all actions, claims, direct losses, damages and expenses (including legal costs and expenses incurred on a solicitor and client basis) which may be brought or made against or incurred by the Bank in any nature whatsoever by reason or on account of the Facility except where such actions, claims, direct losses, damages and expenses were directly attributable to the Bank's gross negligence, wilful default or fraud.

**SECTION 4.02 LATE PAYMENT CHARGES**

- (a) In the event of delay or failure to pay any of the monthly payment(s) and/or any other payment(s) on the due date from the date of the first disbursement of the Facility until the final payment date of the Bank's Selling Price, the Customer shall pay to the Bank the late payment charges at the prevailing rate as prescribed in the Letter of Offer. The late payment charges shall be computed as per the table below may comprise *Ta'widh* (compensation).

<b>No.</b>	<b>Applicable Period</b>	<b>Late Payment Charge Rate</b>	<b>Computation on the amount (inclusive of <i>Ta'widh</i> (compensation), if any)</b>
1.	Prior to maturity date	1% per annum calculated on daily basis.	(a) On the overdue instalments, to be calculated after the due date until full settlement of the overdue instalments; and/or (b) On the outstanding balance, to be calculated from the date of cancellation until full settlement of the outstanding balance.
2.	After maturity date	Islamic Interbank Money Market Rate (" <b>IIMM Rate</b> ") per annum calculated on daily basis or any other rate as shall be stipulated by Bank Negara Malaysia from time to time.	On the outstanding balance, to be calculated from the date of cancellation until full settlement of the outstanding balance.

3.	After the Bank had obtained court judgment against the Customer	At IIMM Rate per annum calculated on daily basis from the date of court judgement to the settlement date	On the outstanding balance (excluding legal costs and late payment charges as stated in judgment), to be calculated from the date of judgment until full settlement of the judgment sum.
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Note:

- i. The Late Payment Charges shall not be compounded.
  - ii. Total Late Payment Charges shall not be more than the outstanding principal.
  - iii. The Late Payment Charges and the method of calculation thereof are subject to change as may be prescribed by BNM.
  - iv. Outstanding balance refers to outstanding principal and earned profit.
  - v. The Late Payment Charges are cumulative subject to the applicable period.
- (b) For the purpose of Section 4.02(a), a certificate which is duly certified by an authorised officer or agent of the Bank or computer-generated notices issued by the Bank which do not require signatures as to the amount of such late payment charges due to the Bank. The said certificate shall be binding and conclusive evidence against the Customer for whatever purpose including as being conclusive evidence of any secured amount in a court of law.
- (c) The certificate of the Bank pursuant to section 4.02 (b) shall not, in the absence of error, be disputed on any account whatsoever.
- (d) The payment of the compensation amount for Late Payment Charges by the Customer under this Clause shall be in addition and without prejudice to other powers, rights and remedies of the Bank under this Agreement upon default.
- (e) The Bank's right to charge Late Payment Charges shall subsist until full settlement of the Customer's outstanding balance.

### **SECTION 4.03 EARLY SETTLEMENT OR REDEMPTION OF THE FACILITY**

In the event that the Customer chooses to make early settlement or early redemption of the Facility, the Customer shall give the Bank one (1) month's prior written notice of its intention to prepay the Facility in whole or in part or parts thereof. Further, the Customer shall be bound by the terms and conditions in the Letter of Offer on the same and in accordance with Section 14 of Part B on *Ibra'* (rebate).

**SECTION 4.04 FACILITY STATEMENT**

The Bank will provide a Facility statement to the Customer at least once a year indicating the outstanding balance at the beginning and end of the period covered by the statement, the amount credited and charged, including profit and other non-profit charges, and the dates when those amounts are updated in the Facility account.

**ARTICLE V****SECTION 5.01 PAYMENT**

- (a) Without prejudice to Section 8.01 of Part A, the Bank's Selling Price so far as not otherwise paid or discharged under the provisions of this Agreement shall be paid by the Customer on demand by the Bank in writing upon the occurrence of an Event of Default. Until such demand is made, the Customer shall pay the Bank's Selling Price on its due dates by way of Monthly Instalments in the amount and number stated in the Letter of Offer until the full amount of the Bank's Selling Price and all profit thereon shall have been fully paid and satisfied.
- (b) Payments made by the Customer should first be allocated to clearing any monthly payment(s) in arrears before any fees and charges.
- (c) In the event of any change in the Base Rate/ Base Financing Rate at any time during the payment period resulting in change in the Effective Profit Rate, the Bank shall have the right to revise the Monthly Instalments accordingly and such revision in Monthly Instalments shall be notified to the Customer at least seven (7) calendar days (or such other timeframe as may be prescribed from time to time) prior to the date the revised Monthly Instalments comes into effect. Any revision in the Effective Profit Rate as aforesaid shall not exceed the Ceiling Profit Rate.

**ARTICLE VI****SECTION 6.01 STAMP DUTIES, REGISTRATION FEES AND OTHER COSTS**

The Customer shall bear:

- (i) all costs and expenses (including legal fees, stamp duties, disbursement, taxes, quit rent, assessments, takaful contribution/ insurance premium, fee, commission and any related penalties and/or charges) the Bank incurs in connection with the preparation, execution, registration or perfection of the Security Documents;
- (ii) all costs and expenses (including legal fees on a solicitor-client basis, stamp duties, disbursements, any related penalties, charges, and expenses incurred in legal proceedings, foreclosure proceedings, valuation fees, real estate agents fees and auctioneers fees) the Bank incurs in connection with:

- (1) the enforcement or the preservation of any rights under the Security Documents: and/or
- (2) the Bank's involvement with any legal proceedings to protect, or connected to, the Property or any account(s) of the Customer.

## ARTICLE VII

### SECTION 7.01 EVENTS OF DEFAULT

The following shall constitute event(s) of default:

(a) Non-payment

The Customer and/or the Security Party fails or defaults in the payment of any sum of money owing under this Agreement and/or the Security Documents:

- (i) on its due date, whether formally demanded or not: or
- (ii) (if due on demand) when demanded by virtue of the provisions of the Security Documents: or

(b) Breach of Other Terms and Conditions

The Customer and/or the Security Party (if applicable):

- (i) breaches any term of this Agreement, the Letter of Offer, the Security Documents or in any document delivered under the Facility; or
- (ii) fails to comply with any notice given under this Agreement, any of the Security Documents requiring the Customer and/or the Security Party to remedy any breach of the terms of such terms; or

(c) Breach of Representation and Warranties

Any representation or warranty made or implied under:

- (i) Section 3.04 of Part A or or any other provision of Security Documents, the Letter of Offer or Section 15 of Part C herein, as the case may be, or
- (ii) any notice, certificate, letter or other documents delivered under the Security Documents,

is incorrect or misleading (as determined by the Bank) in a material detail as of the date on which it was made or deemed to have been made; or

(d) Ability of the Customer / Security Party to Perform Terms in Security Documents

Any event(s) has/have occurred, or a situation exists (including changes in the financial condition of the Customer and/or the Security Party), which might, in the opinion of the Bank, affect the ability of the Customer and/or Security Party to perform the Customer's and/or the Security Party's obligations under this Agreement and/or the Security Documents; or

(e) Validity of the Security Documents

The validity of any of the Security Documents is challenged by any person; or

(f) Security in Jeopardy

The Bank is of the opinion that any of the security created pursuant to the Security Documents is in jeopardy or the value of the security created pursuant to the Security Documents is insufficient for the Bank's purpose upon valuation or re-valuation; or

(g) Illegality

It is or will become unlawful for the Customer and/or the Security Party to perform or comply with any one or more of the obligations of the Customer and/or the Security Party under the Security Documents; or

(h) Authorisation and Consents

Any authorisation, approval, action, condition, consent, order, licence or thing at any time required to be taken, fulfilled or done for any of the purposes stated in the Letter of Offer (relating to representations on authorisations and consents).

(i) is not taken, fulfilled or done; or

(ii) ceases to be in full force and effect without modification; or

(i) Cross Default

(i) Any other indebtedness of the Customer and/or the Security Party becomes payable or due prematurely, or becomes capable of being declared payable or due prematurely, by reason of a default by the Customer / Security Party in its obligations with respect to that indebtedness;

(ii) the Customer and/or the Security Party fails to make any payment in respect of that indebtedness on the due date for such payment, or if due on demand when demanded; or

(iii) upon the security for any such indebtedness becoming enforceable; or

(j) Legal Proceedings

Any legal proceedings, suit or action of any kind whatsoever (whether criminal or civil) is instituted against the Customer and/or Security Party; or

(k) Enforcement Proceedings

A distress or execution or other process of a court of competent jurisdiction is levied upon or issued against all or any part of the property of the Customer and/or the Security Party and such distress, execution or other process is not discharged by the Customer and/or the Security Party within five (5) calendar days from the date of such levy or issue; or

(l) Bankruptcy

(i) Any step or action is taken for the bankruptcy of the Customer and/or the Security Party;

(ii) a petition for bankruptcy is presented against the Customer and/or the Security Party;

(iii) if such proceeding or action has been taken by or against the Customer and/or the Security Party, that step or petition is not discharged or stayed within twenty-one (21) calendar days from the date of the taking of the step or petition; or

(iv) if before the Property is fully constructed/renovated and a petition is presented for the winding up or bankruptcy of the Developer/Vendor/Contractor of the Property (where applicable);

(m) Compulsory acquisition

A notice or proposal for compulsory acquisition of all or any of the assets of the Customer and/or the Security Party is issued or made under or by virtue of an Act of Parliament or other statutory provision; or

(n) Death and Insanity

The Customer and/or the Security Party dies or becomes insane; or

(o) Material Adverse Change

Any event or series of events (whether within or outside of Malaysia and whether of a national or international nature) including any act of violence, terrorism,

hostility or war or endemic or epidemic or other calamity occurs which in the Bank's opinion: -

- (i) could or might affect the Customer's and/or the Security Party's ability or willingness to fully comply with all or any of his obligations under any of the Security Documents or make it improbable that the Customer and/or any Security Party would be able to do so;
- (ii) would render it inadvisable or impractical for the Bank to make or continue to make the Facility available or allow any use of the Facility; or
- (iii) could or might jeopardize the Facility or any of its security or the Bank's security position; or

(p) Use of the Facility not for purposes stated

The Facility is not used for the purposes stated or the Facility is used for illegal or speculative purposes; or

(q) Customer's Account re-designated or closed

If the Customer's account is re-designated or closed by the Bank as a result of:-

- (i) any guideline or directive; or
- (ii) the account having been conducted unsatisfactorily; or
- (iii) the account having been suspended due to a court order or at law; or
- (iv) an investigation by the Bank giving rise to negative findings including dishonesty, fraud or suspicious activities; or

(r) Security Documents not perfected

If any of the Security Documents cannot be perfected for any reason whatsoever or if any Security Documents which requires to be registered, cannot be registered or is invalid for any reason whatsoever; or

(s) Breach of Vendor Agreements

If any party to the Vendor Agreements commits or threatens to commit a breach of any term, stipulation, covenant or undertaking contained in the Vendor Agreements; or

(t) Any other Events of Default as stipulated in Part C herein and/or the Letter of Offer.

## ARTICLE VIII

### SECTION 8.01 RIGHTS OF BANK ON DEFAULT

- (a) If any of the events described in Section 7.01 of Part A occurs,
- (i) the Bank is entitled with notice to the Customer to suspend further utilisation of any or all of the Facility, or to reduce the limit or amount made available under the Facility, without having to make a prior demand; and
  - (ii) the Bank's Selling Price will become and be deemed to be immediately due and payable, regardless of any provision of this Agreement to the contrary.
- (b) If any of the events set out in Section 7.01 of Part A occurs, the Bank is also entitled with notice to the Customer to take such action (whether on its own accord or through its agent(s)) as may be appropriate against the Customer, including:
- (i) action to recall or terminate the Facility or to sue for the recovery of the Bank's Selling Price either before, after or concurrently with the action to enforce any of the Security Documents; and
  - (ii) to apply any credit balance in whatever currency standing to any account of the Customer with any office or branch of the Bank or any member of the Bank's group of companies, towards satisfaction of the Bank's Selling Price.
- (c) Any part of the Facility not disbursed or utilised before the default may be cancelled by the Bank. Upon such cancellation, any part of the Facility already disbursed or utilised will become due and immediately payable on demand, regardless of any provision of this Agreement to the contrary.

### SECTION 8.02 PROCEEDS OF RECOVERY

Subject to statutory priorities (if any), all amounts received by the Bank from any proceedings instituted or step taken under any of the Security Documents are to be applied by the Bank:

- FIRSTLY in payment of any rents, taxes, assessments, fees, lawful outgoings and other fees due and payable to the relevant authorities by the Customer in respect of the Property charged or assigned to the Bank as security for the Facility;
- SECONDLY in the enforcement of any of the Security Documents or in the performance of any duties or the exercise of any powers vested in the Bank, in payment of any costs, charges, expenses and liabilities incurred by the Bank and every person appointed by the Bank under the Security Documents
- THIRDLY in or towards payment to the Bank of all profit then accrued and remaining unpaid in respect of the Facility;



- FOURTHLY in or towards payment to the Bank of the facility sum due and remaining unpaid under the Facility;
- FIFTHLY in or towards payment to the Bank of all other moneys due and remaining unpaid under any or all of the Security Documents;
- SIXTHLY in or towards payment to the Bank of all other moneys due and remaining unpaid;
- SEVENTHLY any surplus will be paid to persons entitled to such surplus.

PROVIDED ALWAYS THAT the Bank may alter the above order of payment or keep such amounts in a non-profit bearing suspense account. Such alteration in the order of payment, or payment into a suspense account, will not affect 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 realised from the security may be sufficient to pay.

### **SECTION 8.03 DEFICIENCY IN PROCEEDS OF SALE**

The parties agree that, regardless of any other provisions contained in this Agreement to the contrary:

- (a) if the actual amount ultimately received by the Bank towards the indebtedness under the terms of this Agreement and/or the Security Documents and /or on a sale or disposal of the assets or properties charged and/or assigned to the Bank under the Security Documents, after deduction of all fees (including but not limited to the Bank's solicitors fees on a solicitor and client basis), costs, rates, taxes and other outgoings on the assets or properties charged and/or assigned to the Bank under the Security Documents in accordance with Section 8.02 hereof, is less than the amount due to the Bank under the Letter of Offer and this Agreement, the Customer will be liable for the amount of such shortfall;
- (b) paragraph (a) applies whether or not the Bank is the purchaser of all assets or properties charged and/or assigned to the Bank under the Security Documents at such sale or disposal;
- (c) until payment is made for the amount of the shortfall, the Customer will (regardless of any foreclosure proceedings taken or sale made by the Bank) also pay Late Payment Charges on the amount of the shortfall at the prevailing IIMM Rate until full settlement of such shortfall and all other moneys due and payable to the Bank.

**SECTION 8.04 TAKAFUL/INSURANCE****(a) Takaful/Insurance on Property**

The Customer shall cover and cause the Property to be covered under a takaful/insurance plan against loss or damage by fire and against such other risks as the Bank may from time to time think expedient with a takaful operator/ insurance company acceptable by the Bank and for an amount acceptable to the Bank and shall keep the same covered throughout the duration of this Agreement to its full coverage value to the satisfaction of the Bank in default whereof the Bank may at its discretion take out such takaful/insurance on the Customer's behalf (with the Customer's consent) and all contribution payable in respect thereto shall be borne and paid by the Customer.

**(b) Mortgage Reducing Term Takaful/Insurance**

Whenever required by the Bank, the Customer shall take up and maintain a takaful/insurance plan or a Mortgage Reducing Term Takaful/Insurance guaranteeing the payment of the Indebtedness by the Customer to the Bank with a takaful operator/ insurance company as acceptable by the Bank.

**(c) Restriction Against Additional Takaful/Insurance**

The Customer shall not except at the request or with the consent in writing of the Bank effect or maintain the takaful/insurance against any risk in respect of the Property when the Bank has effected or maintain the takaful/insurance.

**SECTION 8.05 OBLIGATION TO INFORM THE BANK OF CHANGE OF CORRESPONDENCE ADDRESS, FACSIMILE NUMBER AND/OR EMAIL ADDRESS**

The Customer expressly agrees with the Bank to inform the Bank immediately of any change in the contact information and/or correspondence address, phone number, facsimile number and/or email address of the Customer. Change in the Customer's contact information or address, phone number, facsimile number and/or email address is not binding on the Bank unless the Customer has given notice in writing to the Bank and/or via other channels provided by the Bank and the Customer has received confirmation from the Bank of such change made to the Bank via any channel provided by the Bank.

**SECTION 8.06 NOTICES****(a) Notices by Bank**

Any notice, demand or other communication (including computer generated notice/statement that do not require any signature) from the Bank under this Agreement shall be given in writing to the Customer at the Customer's address, facsimile numbers or electronically (including email) as stated in the Letter of Offer and/or last appearing in the

Bank's records. The notices may be given or made by post, facsimile, electronically (including email), personal delivery or such other mode as may be determined by the Bank.

(b) Delivery

The notices or other communications are taken to be given to the Customer:

- (i) in the case of post, three (3) calendar days after the date of posting;
  - (ii) in the case of facsimile, on the day of transmission;
  - (iii) in the case of electronic mail, on the day it is delivered provided that the Bank has not received a failed or undeliverable message from the host provider on the day of transmission; and
  - (iv) in the case of personal delivery, at the time of delivery.
- (c) The service of any such Legal Process pursuant to any rules of the Rules of Court 2012 shall be taken to have given to the Customer:-
- (aa) if sent by hand, at the time a copy of the legal process is left at the address of the Customer herein stated or at such other address as the Customer may notify the Bank; or
  - (bb) if sent by prepaid registered post (not being AR Registered Post), on the seventh (7th) day (including the day of posting) from the date the legal process is put into post addressed to the Customer at the address of the Customer herein stated or such other address as the Customer may notify to the Bank;

provided there is no change in the address for service of either party. In the event there is a change of address for service by one party, actual notice of such change shall be given by that party to the other party, failure of which, nothing done in reliance on this Section shall be affected or prejudiced by any subsequent change in the address of service by that party as the other party has no actual knowledge of the changes at the time the act or thing was done or carried out.

## **ARTICLE IX**

### **SECTION 9.01 SUCCESSORS AND ASSIGNS**

This Agreement shall be valid and binding upon the Customer and the Bank and their respective successors-in-title, and assigns and in the case of the Bank, its successors-in-title and assignee.

**ARTICLE X****SECTION 10.01      PRINCIPAL AND SECONDARY INSTRUMENT**

The Letter of Offer, this Agreement consisting of Part A, Part B, Part C and Part D inclusive of the Schedules and the Security Documents are instruments employed in one transaction to secure the Indebtedness. Ad valorem stamp duty shall be paid from time to time on the original of this Agreement and/or any supplements thereto and/or the Letter of Offer and/or the Security Documents within the meaning of Section 4(3) of the Stamp Act, 1949. For the purpose of the said Section 4(3) of the Stamp Act, this Agreement shall be deemed the primary or principal instrument and the Letter of Offer and/or Security Documents are deemed the auxiliary or secondary instruments.

**SECTION 10.02      UPSTAMPING**

Where the Bank has agreed to provide any additional financing under the Facility to the Customer such that the indebtedness secured by the Security Documents shall exceed the indebtedness stated in Section 6.02 above, the Security 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 credit is made to the extent that such additional credit is in excess of the indebtedness stated in Section 6.02 above and the Customer shall bear the cost of any additional stamp duty as a result.

### FIRST SCHEDULE OF PART A

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

Item No.	Subject Mater	Particulars
1	<b>Address of Bank and Address for Service</b>	
2	<b>Name and Address of Customer</b>	Name: NRIC No.: Residential Address:
3	<b>Facility:</b>  <b>a. Bank's Purchase Price</b>  <b>b. Bank's Selling Price</b>	As per the Letter of Offer  As per the Letter of Offer
4	<b>Date of the Letter(s) of Offer</b>	Date:
5	<b>Property(ies)</b>	
6	<b>Security Documents</b>	(a) Letter of Offer  (b) this Agreement  (c) <b><u>For Charge of Property (For property with Individual/Strata Title)</u></b>  1 <sup>st</sup> Legal Charge (1 <sup>st</sup> /3 <sup>rd</sup> Party) over the property held under _____ and known as _____; or

		<p>(d) <b><u>For Assignment of Property (For property without Individual/Strata Title)</u></b></p> <p><u>Pending issuance of the individual/strata title, Deed of Assignment*(1<sup>st</sup>/3<sup>rd</sup> Party) of the Sale and Purchase Agreement with Power of Attorney to transfer or otherwise deal with the property held under _____ and known as _____; and</u></p> <p>Subsequently, upon <u>issuance of the individual/strata title, 1<sup>st</sup> Legal Charge (1<sup>st</sup>/3<sup>rd</sup> Party) over the property.</u></p> <p>(e) and such other documents or security documents as the Bank or the Bank's solicitors may advise.</p>
7	<b>Developer/ Vendor/ Contractor/ Existing Financier</b>	
8	<b>Security Party</b>	
9	<b>Date of this Agreement</b>	

**END OF PART A**

**PART B**  
**TAWARRUQ ARRANGEMENT**

**ARTICLE XI****SECTION 11           METHOD OF FINANCING**

Under the arrangement of *Tawarruq* and the Bank's financing procedure, the arrangement is concluded in the following manner:-

(a) Purchase of the Asset by the Bank.

The Customer will issue a Purchase Request to the Bank and the Bank (at its own capacity) will proceed to purchase the Commodity at the price which is equivalent to the Bank's Purchase Price.

(b) Purchase of the Asset by the Customer from the Bank

Thereupon, the Bank will subsequently sell the Commodity to the Customer where the Customer shall pay the Bank's Selling Price on deferred basis.

(c) Execution of the Murabahah Sale Contract

(i) To conclude the sale of the Commodity, Bank and the Customer will execute the Murabahah Sale Contract where the beneficial ownership of the Commodity together with the right to take delivery of the Commodity including all the risks and liability shall immediately pass from the Bank to Customer.

(ii) The Commodity when purchased by the Customer from the Bank shall be on "as is where is" basis where both, the Bank and the Customer are mutually agree to waive any right of warranty and any claim of defect liability in respect of the Commodity against the Bank.

(iii) The Murabahah Sale Contract may be terminated by either the Bank or the Customer upon occurrence of breach of specific terms of the Murabahah Sale Contract or subject to mutually agreed terms between the Bank and the Customer, whereupon, the Commodity will be returned to the bank and the Bank's Selling Price (less *Ibra'* (rebate)) will be returned to Customer. In the event that the Commodity has been sold to the third party, an amount equivalent to the value of the Commodity will be return to the Bank.

(d) Sale of the Commodity by the Customer

If the Customer wished to sell the Commodity to a third party for cash and on spot basis, the Customer may appoint the Bank as agent to undertake such transaction on behalf of the Customer pursuant to Master Agency Agreement.

(e) Effect Nature and Scope of agency

- (i) The Customer may appoint the Bank to be its agent to execute the Murabahah Sale Contract and/or sell the Commodity for and on its behalf
- (ii) The Customer may requests the Bank to provide several quotations as to the price of the Commodity prior to the Bank selling or purchasing the Commodity as an agent for the Customer.
- (iii) The Customer is bound by all acts and transactions from time to time entered into by the Bank as its agent and undertakes to indemnify the Bank from each and all claims, losses, costs, expenses or damage that the Bank may suffer or incur as a result of executing and performing the Bank's agency function save and except and to the extent of any *ta'addi* (misconduct), *taqsir* (negligence) or *mukhalafah al-shurut* (breach of specified terms) on part of the Bank;
- (iv) The Bank may at any time prior to its appointment as agent, to refrain and/or refuse to act as agent of the Customer for any reasons whatsoever and the Bank shall not be liable for any consequences of whatsoever nature arising from or due to the inaction as aforesaid.

(f) Delivery of the Asset

- (i) In the event Customer intends to take delivery of the Commodity, Customer will bear all cost and expenses for the delivery of the Commodity.
- (ii) The Customer however may opts not to take delivery of the Commodity and allow the Bank to retain custody of the Commodity in trust pending subsequent sale to the third party.

(g) Proceeds from the Sale of the Commodity

The Bank on behalf of the Customer will sell the Commodity to a third party purchaser on cash basis at an amount equivalent to the Bank's Purchase Price and the proceeds will be paid to or for the benefit of the Customer in accordance with terms of this Agreement;

The Bank then, is hereby irrevocably instructed and authorised by the Customer to release the Facility towards the Purpose as specified in the Letter of Offer unless otherwise agreed in writing by the Customer.



**ARTICLE XII****SECTION 12 THE BANK'S OBLIGATION**

- (a) The Facility shall only be disbursed by the Bank upon fulfilment to the Bank's satisfaction of the Conditions Precedent including any other conditions as the Bank may impose.
- (b) Pending fulfilment of the Bank's Conditions Precedent including any other conditions as Bank may impose, the Bank may upon reasonable notice to the Customer, terminate the Facility or suspend the payment of the Facility.
- (c) The Bank's obligation to disburse the Facility shall be limited to and not exceed the aggregate amount of the proceeds of sale of the Commodity. Any monies payable by the Customer to any party which exceed the facility mount shall be borne and paid by the Customer.

**ARTICLE XIII****SECTION 13 PAYMENT BY THE CUSTOMER**

- 13.1 The Customer shall pay to the Bank the Bank's Selling Price on its due dates by way of monthly instalments in the amount and number stated in the manner as specified in the Letter of Offer.
- 13.2 Where applicable, the Bank may, with prior written notice to the Customer at least twenty-one (21) calendar days (or such other timeframe as may be prescribed from time to time), vary the terms of payment set out in the Letter of Offer so as to ensure that the Bank's Selling Price and other charges (if any) are paid in full upon the maturity date.
- 13.3 Upon request of the Customer, the Bank may extend the duration for the payment of the Bank's Selling Price to a further term on such terms and conditions as determined by the Bank provided that the Bank's Selling Price remain unchanged.
- 13.4 In the event of early settlement of the financing, the Bank shall grant to the Customer an *Ibra'* (rebate) in accordance with the provisions of this Agreement, the *Shariah* principle and in accordance with any applicable laws or guidelines of Malaysia.

**ARTICLE XIV****SECTION 14      *IBRA*' (REBATE)**

The Bank will grant *Ibra*' (rebate), if any, on such amount of the balance Bank's Selling Price(s) and / or other monies remaining unpaid by the Customer based on the following situations:-

- (a) For variable rate financing, the difference between the Ceiling Profit Rate and the Effective Profit Rate.
- (b) Upon early settlement of the Facility by the Customer in the following scenario:-
  - (i) redemption or early settlement of the Facility;
  - (ii) due to restructuring exercise;
  - (iii) in the case of default by the Customer; and
  - (iv) in the event of termination or cancellation of the Facility before the expiry date.

*Ibra*' (rebate) will be calculated based on the following formula or any other calculation method or formula as may be prescribed by BNM:-

$$\textit{Ibra}' (\textit{rebate}) = \textit{deferred profit} - \textit{early settlement charges}$$

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**SCHEDULE 1 OF PART B****FORM OF PURCHASE REQUEST AND UNDERTAKING  
(which is to be taken read and construed as an essential part of this Agreement)**

From: (The Customer)

To: **AMBANK ISLAMIC BERHAD** (the “Bank”)

Dated:

Dear Sirs,

**Re: FACILITY AGREEMENT DATED [XXXX] (“Facility Agreement”)  
Purchase Request  
Facility Amount: [RM]**

I/We refer to the Facility and the Facility Agreement above entered into between me/us and the Bank.

I/We hereby issue this Purchase Request subject to and upon the terms of the Facility Agreement.

Unless otherwise defined in this Purchase Request, all the terms and references of the Facility Agreement shall have the same meanings when used herein.

1. **Purchase Request**

We hereby request to purchase the Commodity from the Bank and undertake as follows:-

- (a) to purchase the Commodity from the Bank at the Bank’s Selling Price as soon as is reasonable upon the Bank’s purchase of the Commodity from a Commodity Supplier including purchases made through *Bursa Suq Al-Sila*’; and
- (b) for the purpose of our said purchase of the Commodity from the Bank, to enter into the Murabahah Sale Contract with the Bank upon the terms as stated under the Schedule herein.

Breach of any of the terms of our undertaking herein given shall constitute an Event of Default under the Agreement. We hereby undertake to indemnify the Bank (forthwith upon demand by the Bank) for any actual loss that shall have been suffered by the Bank as a result of such breach Provided Always that in such event of breach the Bank shall have invoked its rights under this undertaking within two (2) calendar days from the date of discovery of the breach failing which this Purchase Request shall be deemed as revoked and shall be of no force and effect. For the purpose of this paragraph, reference to “actual loss” shall be determined based on the actual costs incurred by the Bank which is directly attributable to our breach of any of the terms of our undertaking herein such as the cost of legal action (on a solicitor and client basis), storage cost of the Commodity (if applicable) and, without imposing any obligation on the part of the Bank to sell

the Commodity to other third party, any shortfall between the disposal price receives by the Bank for the sale of the Commodity to other third party (due to our breach herein) and the Bank's Purchase Price. Such actual loss shall not include indirect costs such as allocated overhead costs or salary or opportunity costs such as cost of funds.

Upon fulfilment of our undertaking herein and in accordance with the terms herein given, this Purchase Request shall be of no further force and effect whereupon we shall be deemed to have been discharged of our undertaking herein given.

This Purchase Request shall be irrevocable (in the absence of any prior written consent of the Bank), binding on me/us and my/our successors in title, permitted assignees, heirs and personal representatives and shall be construed in accordance with the laws of Malaysia.

With the issuance of this Purchase Request, we acknowledge that we understand the nature and contents of this Purchase Request.

**IMPORTANT REMINDER: The Customer is hereby reminded to read and understand the terms and conditions of this Purchase Request before signing.**

**In the event there are any terms and conditions in this Purchase Request that the Customer do not understand, the Customer is hereby advised to discuss further with the Bank's authorised representative before signing below.**

Yours faithfully,

[\*]

SIGNED  
By the Customer  
in the presence of :-

}

\_\_\_\_\_  
Name:  
NRIC No./Passport No.:

***[The remaining space of this page has been intentionally left blank]***

**SCHEDULE**

(to be read and construed as an integral part of the Purchase Request)

<b>Section s</b>	<b>Items</b>	<b>Particulars</b>
<b>1.</b>	<b>Type of Commodity</b>	<b>Any Commodity as defined in the [Facility Agreement/Letter of Offer]</b>
<b>2.</b>	<b>Bank's Selling Price</b>	<b>An amount equivalent to the Bank's Purchase Price plus the Bank's Profit.</b>
<b>3.</b>	<b>Bank's Purchase Price</b>	<b>Being the cost price of the Commodity</b>
<b>4.</b>	<b>Payment mechanism of the Bank's Selling Price</b>	<b>As per the Bank's Payment Advice</b>

**SCHEDULE 2 OF PART B****FORM OF MASTER AGENCY AGREEMENT  
(which is to be taken read and construed as an essential part of this Agreement)**

**THIS MASTER AGENCY AGREEMENT** is made on the date as stated in **Section 1 of Schedule 1** hereto.

BETWEEN

The party whose name and description are stated in **Section 2 of Schedule 1** (the “**Principal**”) of the one part;

AND

**AmBank Islamic Berhad (Company No. 199401009897 (295576-U))**, a company incorporated in Malaysia and having its registered office at 22<sup>nd</sup> Floor, Bangunan AmBank Group, 55 Jalan Raja Chulan, 50200 Kuala Lumpur and having a place of business at the address stated in Section 3 of Schedule 1 (the “**Bank**”) of the other part.

(“**Party**” shall refer to either the Principal or the Bank and “**Parties**” shall collectively refer to both of them).

WHEREAS:-

1. RECITALS

- 1.1 By the letter of offer issued by the Bank to the Customer dated the date as stated in **Section 5 of Schedule 1** (the “ Letter of Offer) and the Facility Agreement made between the Bank and the Customer, dated the date as stated in **Section 4 of Schedule 1** ( “**Facility Agreement**” and which expression shall include any amendment, modification or supplemental thereto), the Bank has at the request of the Customer, agreed to grant, or make available or continue to grant or to continue to make available to the Customer, banking facility(ies) based on *Tawarruq*, as stated in **Section 6 of Schedule 1** (the “**Facility**”)upon the terms and subject to the conditions in the Facility Agreement.
- 1.2 Pursuant to the terms of the Facility Agreement, the Principal wishes to appoint the Bank to act as its agent to perform roles, functions and duties for the purpose of *Tawarruq* transactions as required under the Facility and throughout the entire tenure of the Facility (the “**Tenure**”) in accordance with the terms and conditions hereinafter appearing.

**NOW THIS MASTER AGENCY AGREEMENT WITNESSES** as follows:-

## **2. INTERPRETATIONS AND DEFINITIONS**

### **2.1 Interpretation:**

Unless the context requires otherwise or it is repugnant thereto and/or save as specifically otherwise defined:-

- (i) references to clauses and schedules are references to clauses and schedules of this Master Agency Agreement.; and
- (ii) the headings, sub-headings in this Master Agency Agreement are for the purpose of reference only and shall not affect the interpretation of this Master Agency Agreement.

### **2.2 Incorporated Definitions**

All terms and expression defined in the Facility Agreement shall unless otherwise defined herein or repugnant to the context hereto have the same meanings when used or referred to herein.

## **3. AGREEMENT TO APPOINT THE BANK AS AGENT**

3.1 The Principal hereby agrees to unconditionally and irrevocably appoint the Bank as its agent to act for and on behalf of the Principal which such appointment shall be evidenced by the notice issued by the Principal to the Agent from time to time in the form substantially set out in Schedule 2 hereto (“**Agency Notice**”) namely for the Agent to execute and perform the roles, duties and functions stipulated under Clause 3.2 (*Bank as Execution Agent*) and/or Clause 3.3 (*Bank as Sale Agent*) of this Master Agency Agreement:-

### **3.2 Bank as an Execution Agent**

Under each of the Agency Notice, in the event that the Principal appoint the Bank as its execution agent to purchase and execute the *Murabahah* Sale Contract for the purpose of purchasing the Commodity from the Bank (in its capacity as seller) on deferred payment terms at the Bank’s Selling Price whereby the Bank shall at all times act as the Principal’s agent in connection thereto and the Bank shall be authorised to:-

- (a) sign and execute all documents and do all acts and observe and perform all obligations required to be done in connection with or imposed under any agreement for the purchase of the Commodity;
- (b) delegate its rights and duties as an agent herein to any third party to do all acts necessary for the completion of the required transactions; and

- (c) do all the administrative duties regarding the purchasing of Commodity and subsequently holding the Commodity.

### 3.3 Bank as a Sale Agent

Under each of the Agency Notice, in the event that the Principal opts for the Commodity to be sold to the Commodity Purchaser for cash and on spot basis, the Principal will also appoint the Bank as its sale agent to sell the Commodity to any third party Commodity Purchaser on behalf of the Principal whereby the Bank shall at all times act as the Principal's agent (on an undisclosed basis) and in connection thereto the Bank shall be authorised:-

- (a) to sign and execute all documents and do all acts and observe and perform all obligations required to be done in connection with or imposed under any agreement for the sale of the Commodity to any Commodity Purchaser;
- (b) to delegate its rights and duties as an agent herein to any third party to do all acts necessary for the completion of the required transactions;
- (c) to do all the administrative duties regarding the selling of the Commodity;
- (d) to receive proceeds from the sale of the Commodity ("**Sale Proceeds**") on the Principal's behalf and to make payment from the Sale Proceeds in accordance with the terms and conditions and Conditions Precedent listed and stated in the Facility Agreement and/or the Letter of Offer and the Bank has a discretion to make payment in multiple transactions to reflect such terms and conditions and/or Conditions Precedent until the Sale Proceeds has been fully disbursed. The Principal hereby irrevocably instructs and authorises the Bank to safe keep all the Sale Proceeds until full utilisation of the same for the purpose stated in the Facility Agreement; and
- (e) to deliver or cause to deliver possession (physical or constructive) of and title in and to the Commodity to any purchaser of the Commodity.

### 3.4 Acts of Agent

The Principal shall be bound by all acts and transactions from time to time entered into by the Bank as its agent under and in accordance with terms of this Master Agency Agreement save and except and to the extent of any *ta'addi* (misconduct), *taqsir* (negligence) or *mukhalafah al-shurut* (breach of specified terms) on the part of the Bank for which the Bank shall be held liable.



### 3.5 Indemnity

The Principal hereby undertakes to indemnify the Bank from all claims, losses, costs, expenses or damage that the Bank may suffer or incur as a result of fulfilling the Bank's agency function as set out above save and except and to the extent of any *ta'addi* (misconduct), *taqsir* (negligence) or *mukhalafah al-shurut* (breach of specified terms) on part of the Bank in executing and performing the agency herein contained and in such case, the Bank shall be liable and shall compensate for loss or damage including any actual cost suffered by the Principal.

### 3.6 Gains in *Murabahah* Sale Contract

In the event that transaction carried out by the Bank pursuant to its agency role results in gain to the Principal (such as the Bank selling the Commodity at a higher price or buying the Commodity at a lower price than that the Bank is authorised for), the Bank shall disclose this to the Principal and must not retain any portion of the gains without the consent of the Principal

## 4. LIMITED AGENCY

Save and except as expressly stated in this Master Agency Agreement, the appointment of the Bank as agent of the Principal shall not create or be deemed to create a partnership or a joint venture between the Parties nor shall it establish a relationship of principal or agent in any other relationship between the Parties.

## 5. TERMINATION

If any of the following shall have occurred:

- (a) either Party fails to perform any of its obligations under this Master Agency Agreement and where such failure/breach is capable of being remedied, is not being remedied within a period specified in this Master Agency Agreement for such failure/breach to be remedied or where such period is not expressly stipulated, within fourteen (14) Business Days, from the date either Party becomes aware of the failure/breach or having been notified of the failure/breach; or
- (b) any representation, warranty or statement which is made by either Party is incorrect or misleading in a material respect on or as of the date such representation, warranty or statement is made or given or deemed made or given, or if repeated at any time with reference to the facts and circumstances subsisting at such time would have been incorrect; or
- (c) it is or will become unlawful by the laws of Malaysia for either Party to perform or comply with any of its obligations under this Master Agency Agreement; or

- (d) an encumbrancer, or a liquidator, bailiff, nominee, supervisor, or a manager, receiver and manager or judicial manager, trustee or administrator or receiver or similar officer takes possession of, or is appointed in respect of, all or any part of the assets of either Party or distress or any form of execution is levied or enforced upon or sued out against any such assets, or any Security Interest which may for the time being affect any of its assets becomes enforceable;
- (e) either Party who is a natural person is or becomes, or is adjudicated a bankrupt or threatens to suspend or suspends payment of any of its debts (whether of principal, interest or profit) as they fall due;
- (f) either Party who is a natural person dies or becomes incapacitated or of unsound mind or shall have been served with a custodian sentence or be guilty of any offence against any law; or
- (g) any step is taken for the application, order for any corporate voluntary arrangement, judicial management, scheme of compromise, arrangement, reorganization, reconstruction or amalgamation, insolvency, winding-up, dissolution or liquidation or a petition for winding-up or bankruptcy is presented against either Party and/or any one commits an act of bankruptcy;

then and in any of the above events (“**Termination Event**”), the innocent Party may by notice in writing to the breaching Party, terminate this Master Agency Agreement whereupon, any asset or rights of the Principal entrusted with the Bank shall be returned to the Principal, and the Bank shall be entitled to the agreed agency fee. PROVIDED THAT the termination shall not affect or prejudice the rights of any Party which have accrued prior to the date of termination of this Master Agency Agreement (including any subsisting Agency Notice which shall have been issued prior to the termination).

## **6. FEES AND EXPENSES**

- 6.1 In consideration of the appointment of the Bank as agent of the Principal under each Agency Notice, the Principal shall, pay the agency fee of Ringgit Malaysia Twenty (RM20.00) to the Bank. The said agency fee shall be deducted from the Principal’s account which have been provided to the Bank (or such other agreed means of payment). The Principal also hereby acknowledges and understands that the Bank may at its own discretion waive or refund the agency fee so collected upon the completion of the whole transaction and such waiver or refund shall not in any way nullify or defect this Master Agency Agreement.
- 6.2 The Principal shall reimburse the Bank upon demand any out-of-pocket expenses, fees and commissions (including, but not limited to, legal fees, if applicable) incurred by the Bank or any of its agents in the performance of its obligations or tasks referred to under this Master Agency Agreement.

6.3 Brokerage fees in relation to any sale of Commodity pursuant to Clause 3.3 (*Bank as Sale Agent*) incurred by the Bank, if any, shall be solely for the account of the Principal.

## 7. WARRANTIES, REPRESENTATIONS AND INDEMNITY

7.1 The Commodity shall be received and shall be sold on an “as is where is” basis, in each case with no warranty or representation whatsoever to any third Commodity Purchaser.

7.2 The Principal hereby unconditionally and irrevocably waives all and any rights or claims, whether under law, in equity or otherwise howsoever which the Principal may have against the Bank arising from or in connection with the exercise by the Bank of the authority, discretions and powers granted by this Master Agency Agreement save from those resulting from the willful default or gross negligence of the Bank.

7.3 The Bank shall not be liable for any action, authority, discretions and powers exercised by the Bank arising from or pursuant to this Master Agency Agreement save and except and only to the extent of any *ta’addi (misconduct)*, *taqsir (negligence)* or *mukhalafah al-shurut (breach of specified terms)* on part of the Bank in which event the Bank’s liability (if any) to the Principal shall be based on actual loss suffered by the Principal as determined by a court of competent jurisdiction. For the avoidance of doubt, the Bank shall not in any circumstances be liable to the Principal in contract or tort or otherwise for special, punitive, indirect or consequential loss or damage of any kind whatsoever (including but not limited to loss of profit, loss of savings or loss of goodwill) suffered or incurred by the Principal arising from or pursuant to this Master Agency Agreement.

7.4 The Principal acknowledges and agrees that the Bank shall not under any circumstances be liable for the physical delivery of the Commodity to the Commodity Purchaser.

7.5 The Bank shall not in any way be liable, whether wholly or partially, for any failure of the Principal to duly and punctually perform any of its duties or obligations under this Master Agency Agreement.

## 8. MISCELLANEOUS

8.1 Time

Time wherever mentioned shall be of the essence of this Master Agency Agreement.

8.2 Governing Law and Jurisdiction

8.3 This Master Agency Agreement shall be governed by and construed in all respects in accordance with the laws of Malaysia.

8.4 The parties agree that the courts in Malaysia shall have exclusive jurisdiction to hear and determine any suit, action or proceeding, and to settle any disputes which may arise out of

or in connection with this Master Agency Agreement and, for such purpose, irrevocably submit to the exclusive jurisdiction of the Malaysian courts.

**9. INCORPORATION OF THE FACILITY AGREEMENT INTO THIS MASTER AGENCY AGREEMENT**

All the provisions contained in the Facility Agreement applicable and relating to the agency herein contained shall be repeated and deemed incorporated in this Master Agency Agreement and in the event of any conflict or discrepancy between the said provisions in the Facility Agreement and the provisions of this Master Agency Agreement, the provisions of this Master Agency Agreement shall prevail for the purpose of interpretation and enforcement of the terms of this Master Agency Agreement

**10. STAMP DUTY DECLARATIONS**

It is agreed and declared that this Master Agency Agreement is amongst the instruments employed in one transaction within the meaning of Section 4(3) of the Stamp Act 1949 and for the purpose of the said section, this Master Agency Agreement is deemed to be the subsidiary instrument.

*(The remainder of this page is intentionally left blank)*

**IMPORTANT REMINDER: The Principal is hereby reminded to read and understand the terms and conditions of this Master Agency Agreement before signing.**

**In the event there are any terms and conditions in this Master Agency Agreement that the Principal do not understand, the Principal is hereby advised to discuss further with the Bank's authorised representative before signing.**

**IN WITNESS WHEREOF** the parties hereto have hereunto set their hands and/or seal the day and year first above written.

**Principal**

Signed by the Principal )  
in the presence of: )

\_\_\_\_\_  
Name:  
NRIC No.:

\_\_\_\_\_  
Name:  
NRIC No.:

**Bank**

SIGNED for and on behalf of )  
**AmBank Islamic Berhad** )  
)  
(Company No. 199401009897 (295576-U)) )  
in the presence of: )  
)  
)

**AmBank Islamic Berhad**  
  
By its representative

\_\_\_\_\_  
Name:  
NRIC No.:  
Designation:

**SCHEDULE 1**

(to be read and construed as an integral part of this Master Agency Agreement)

<b>SECTION</b>	<b>ITEMS</b>	<b>PARTICULARS</b>
<b>1.</b>	<b>Date of this Master Agency Agreement</b>	
<b>2.</b>	<b>Name and particulars of the Principal</b>	[NAME] <u>NRIC No.</u>  <u>Address</u>  <u>Email Address</u>
<b>3.</b>	<b>Particulars of the Bank</b>	[NAME] <u>Registered Address</u>  <u>Business Address</u>  <u>Email Address</u>
<b>4.</b>	<b>Date of the Facility Agreement</b>	[•]
<b>5.</b>	<b>Date of the Letter of Offer</b>	
<b>6.</b>	<b>Facility</b>	<b>As per the Letter of Offer</b>

**SCHEDULE 2****AGENCY NOTICE**

(to be read and construed as an integral part of this Master Agency Agreement)

From : [Principal]

Date : [●]

To : **AmBank Islamic Berhad (Company No. 199401009897 (295576-U))**  
**22<sup>nd</sup> Floor, Bangunan AmBank Group,**  
**55 Jalan Raja Chulan, 50200 Kuala Lumpur**  
 (as the Bank)

Attention:

RE:

**APPOINTMENT AS AGENT [FACILITY AMOUNT [RMXX]]**

I/We refer to the above matter and the Master Agency Agreement executed between the Principal and the Bank dated [*insert date of the Master Agency Agreement*] and the Purchase Request dated [*insert date of the Purchase Request*] issued by us to you.

Terms and references used in the Master Agency Agreement and the Purchase Request shall be applicable herein.

In connection with the Purchase Request referred to above, I/we, the Principal, hereby irrevocably appoint you, as our agent to execute and perform the role as execution agent as set out in Clause 3.2 (*Bank as Execution Agent*) of the Master Agency Agreement and in particular to execute the *Murabahah* Sale Contract for my/our purchase from the Bank the Commodity at the Bank's Selling Price (comprising the cost price of the Commodity and the Bank's profit) and upon the purchase (but before the sale of the Commodity by the Principal to the Commodity Purchaser), to deal with the Commodity in the following manner:-

- \* ( ) be kept in the warehouse and I/we will bear all the resulting costs and expenses and I/we authorise the Bank to deduct all due amounts from my/our account;
- \* ( ) be delivered to <\*\*\*pls specify> and I/we will bear all the resulting costs and expenses and I/we authorise the Bank to deduct all due amounts from my/our account.

\* be sold to the Commodity Purchaser for cash and on spot basis and in this regard I/we hereby also irrevocably appoint you as our sale agent as set out in Clause 3.3 (*Bank as Sale Agent*) of the Master Agency Agreement to, inter alia, execute and perform the sale of the Commodity to the Commodity Purchaser at the Bank's Purchase Price and to collect proceeds from such sale and to make payment of such proceeds to us through a designated account for the purpose of this Facility or to a third party on our behalf in accordance with the terms of the Facility Agreement. For the avoidance of doubt, the Bank has the discretion to make payment in multiple transactions until the proceeds have been fully disbursed.

\*Tick () which ever that is applicable

Your appointment as my/our agent shall take effect from the date of your acceptance below and shall automatically terminate upon the completion of the above mentioned *Tawarruq*.

**IMPORTANT REMINDER: The Principal is hereby reminded to read and understand the terms and conditions of this Agency Notice before signing.**

**In the event there are any terms and conditions in this Agency Notice that the Principal do not understand, the Principal is hereby advised to discuss further with the Bank's authorised representative before signing.**

Thank you,

Signed for and on behalf of  
<Principal>

Name:  
NRIC No.:

*(The remainder of this page has been intentionally left blank)*



**Acceptance Form**

*To be read as part of the Agency Notice*

We agree to accept our appointment as your agent for the *Facility* on the terms above.

Signed for and on behalf of  
AmBank Islamic Berhad (**Company No. 199401009897 (295576-U)**)

Name:|-----|  
Designation:|-----|  
Date:|-----|

*(The remainder of this page has been intentionally left blank)*

**SCHEDULE 3 OF PART B**

**FORM OF MURABAHAH SALE CONTRACT**  
**(which is to be taken read and construed as an essential part of this Agreement)**

*[to be inserted by the Bank]*

**SCHEDULE B**

(Ownership Document of the Commodity)

**End of Part B for *Tawarruq***

**PART C****OTHER TERMS****ARTICLE XV****SECTION 15 REPRESENTATION, WARRANTIES, UNDERTAKING AND COVENANTS BY THE CUSTOMER**

- 15.1 The Customer acknowledges that the Bank has granted the Facility in full reliance of the following representation, warranties and undertakings made by the Customer:
- (a) all information and documents provided to the Bank for the application of the Facility are true, accurate, untampered and not forged;
  - (b) that the Facility will be used by the Customer for the purpose as stated in the Letter of Offer and in accordance with all applicable laws;
  - (c) there has been no material adverse change in the financial conditions of the Customer since the date of the audited financial statement furnished to the Bank;
  - (d) the Customer has fully disclosed in writing to the Bank all facts relating to the Customer, the Security Documents which the Customer knows should reasonably be known and which are material for disclosure to the Bank for the granting of the Facility;
  - (e) there is no breach of any law which materially and adversely affects / would affect the value of the Property;
  - (f) no third party has any interest, title, claim / benefit on the Property / any part thereof;
  - (g) the Customer has or will enter into the necessary agreements / arrangements (whether oral / written) to convey, transfer, assign, charge / create the Security Interest over the Property in accordance with the Letter of Offer;
  - (h) that all quit rent, assessment and other outgoings (including utilities) in respect of the Property have been fully paid;
  - (i) where the Property is being developed, the Customer had ascertained from the Vendor that all requisite approvals in respect of the development have been obtained and such approvals are still subsisting at the commencement and throughout the duration development of the Property;
  - (j) where the individual document of title / strata title to the Property have yet to be issued, the Sale Purchase and Agreement for the purchase of the Property evidencing the Customer's interest to the Property are valid and subsisting;
  - (k) the Customer is not aware of any event which may cause the Vendor Agreements to be terminated;
  - (l) the Customer is not in breach of any agreement, covenant / stipulation on its part to be performed in the Vendor Agreements; and

- (m) the Customer will not use the Facility for any money laundering / terrorism financing / fraudulent / criminal activities / for criminal intent and purposes.

15.2 Customer hereby covenants and agrees that so long as the Indebtedness remains owing to the Bank, the Customer shall NOT, without the prior consent of the Bank:

- (a) sell, transfer, charge, assign or any deal with the Property that may in the opinion of the Bank materially and adversely affect the Bank's Security Interest over the Property;
- (b) alter, pull down or remove any building of fixture now or at any time hereafter erected on or affixed to the Property;
- (c) create, incur, assume, guarantee / permit to exist any Indebtedness except for the Facility and unsecured debts;
- (d) make any prepayment of any other loans/ financing /debts, if there are any moneys outstanding under the Facility which is overdue and remains unpaid;
- (e) breach or permit or threaten to breach any other covenants as set out in Schedule 4 hereto;
- (f) do or permit or cause or permitted to occur any act, thing or event whereby any takaful effected in respect of the Property, may be or become avoided, vitiated, discharged or unenforceable; and
- (g) assert any claim or allegation that any provision in or any transaction effected pursuant to the this Agreement and/or Security Documents contravene the Shariah.
- (h) where the individual document of title / strata title to the Property have yet to be issued, to let or cause to let the Bank to have custody of the original stamp of Sale and Purchase Agreement;
- (i) where the individual document of title / strata title to the Property is issued, to let or cause to let the Bank to have custody of the individual document of title / strata title;
- (j) all the monies will be paid to the Bank, all collaterals and/or guarantees in favour of the Bank to secure the Facility shall come from lawful source of activity and not lawful activities including money laundering/terrorism funds
- (k) that all payments for the Facility to be made by the Customer shall originate from lawful sources and activities and not from any illegal / unlawful activities (including any criminal activities) / fraudulent transactions, provided further that the Bank shall be entitled to require the Customer to furnish any documentary evidence / information to validate the same;
- (l) to keep and cause to keep the building now standing or that may thereafter be erected on the Property and all fittings and fixtures therein in tenantable repair and condition;

- (m) observe and comply any conditions covenants restrictions and category of land use express or implied, binding on the Property and will not do or omit to any act matter or thing which shall contravene the provisions of any Act of Parliament, ordinance order rule regulation or law now or hereafter;
  - (n) give or cause to give to the Bank within seven (7) calendar days of the receipt of any notice or order issued or made to the Customer in respect of the Property from the authority
  - (o) to furnish or cause to be furnished to the Bank with any other financial information or such other information relating to the Customer or the business of the Customer or on any asset to be provided to the Bank as security as may reasonably be requested by the Bank from time to time;
  - (p) to observe and perform the terms and conditions of this Agreement and the Security Documents;
  - (q) to inform the Bank of any change in the place of business or registered office or residential address of the Customer and/or the Security Party(ies) (if applicable); and
  - (r) to notify or cause to be notified to the Bank of the occurrence of any event of default or of any other occurrence of which he becomes aware which in his reasonable opinion might adversely affect his ability to fully comply with his obligations in this Agreement and the Security Documents.
- 15.3 The aforesaid representations, warranties, undertakings and covenants shall form the basis of the Bank's offer to make available the Facility to the Customer. If any such representations, warranties, undertakings and covenants made shall at any time hereafter be found to be untrue / incorrect / breached, the Bank shall have the right to suspend the availability / disbursement of / review / recall / terminate the Facility, with prior notice to the Customer.
- 15.4 In addition to the Conditions Precedent to disbursement as stated in the Letter of Offer and the Security Documents, all representations, warranties, undertakings and covenants stated in Section 15 hereof shall be complied with by the Customer at the time the Facility is disbursed.

## **ARTICLE XVI**

### **SECTION 16      DISBURSEMENT OF THE FACILITY & PAYMENT TO DEVELOPER/ VENDOR/ CONTRACTOR/ EXISTING FINANCIER**

- 16.1 Upon compliance of Conditions Precedent and availability of funds, the Bank shall disburse the whole / part of the Facility to Developer/ Vendor/ Contractor/ Existing Financier or the proprietor's respective firm of solicitors, to the existing charge or assignee of the Property (as case may be), courts, takaful operator/ insurance company or to any other person:

- (a) in accordance with the terms / schedule of payment set out in the Vendor Agreement;
  - (b) in accordance with the terms of any letter of undertaking issued by the Bank to the Developer/ Vendor/ Contractor/ Existing Financier;
  - (c) upon receipt by the Bank of the architect's certificate(s) or other documentary evidence satisfactory to the Bank certifying that works on the Property in respect of which claims for payment or payments are requested have been duly carried out and completed;
  - (d) in case of refinancing, sub-sale or auctioned property, upon receipt of satisfactory documentary evidence that Differential Sum is fully settled and valuation report on the Property, as the case maybe;
  - (e) for any purpose and manner approved by the Bank for utilisation by the Customer.
- 16.2 Such payments by the Bank shall constitute utilisation by the Customer of the Facility and the Customer hereby acknowledges that it is indebted to the Bank to the extent of such payment
- The Customer shall indemnify the Bank for all costs, expenses, claims and demand made on the Bank pursuant to the Bank giving an undertaking or covenant to any financial institution or developer or vendor or their solicitors or firm or solicitors purporting to act for any of them save and except and to the extent of any *ta'addi* (misconduct), *taqsir* ( negligence) or *mukhalafah al-shurut* (breach of specified terms) on part of the Bank.
- 16.3 The Bank shall be entitled to put aside such part of the Facility to meet the payment pending the actual disbursement / release of such payment.
- 16.4 The Bank shall at all times be entitled to make any payment under the undertaking issued to the Developer/ Vendor/ Contractor/ Existing Financier whether or not any Event of Default has occurred or whether the Bank has exercised any rights or remedies available to the Bank upon the occurrence of an Event of Default.
- 16.5 The Bank shall be entitled to make the payment to the Developer/ Vendor/ Contractor/ Existing Financier without further investigation/ enquiry and need not concern itself with any issues / claims by the Customer with the Developer/ Vendor/ Contractor/ Existing Financier under the Vendor Agreement. Accordingly, the Customer's obligations under this Agreement shall not be affected / impaired by the fact that the Bank was / might have been justified in refusing payment to the Developer/ Vendor/ Contractor/ Existing Financier. The Customer's liability under this Agreement shall subsist even though the Vendor Agreement is terminated by the Customer or the Developer/ Vendor/ Contractor/ Existing Financier.
- 16.6 In the event the Property is under construction and the Bank is required to release the Facility progressively to the Developer/ Vendor/ Contractor, the Customer shall pay to the Bank the Profit Portion calculated on the amount disbursed progressively to the Developer/ Vendor/ Contractor.

- 16.7 In the event that the Facility / any part thereof shall for whatever reason be unutilised after the expiry of the Availability Period for the Facility, the Bank may at its discretion withdraw the Facility. In such an event, the Customer shall reimburse all costs, fees and expenses (including legal fees) incurred by the Bank.
- 16.8 In the event of any default on the part of Developer/ Vendor/ Contractor/ Existing Financier or such other third parties in their obligations to the Bank and the existing chargee/assignee for the purpose of discharging/reassigning the same in favour of the Bank or in the Bank's opinion that the Developer/ Vendor/ Contractor/ Existing Financier is in breach of the Vendor Agreement, the Bank shall be at liberty to withhold the disbursement of the Bank's Selling Price(s) or any part(s) thereof

## ARTICLE XVII

### SECTION 17 SECURITY

- 17.1 Charge: Where a separate document of title to the Property is issued, the Customer shall execute in favour of and deliver to the Bank the Charge upon the terms and conditions contained therein. All costs and expenses related to the perfection of the Charge shall be borne by the Customer.
- 17.2 Assignment
- (a) Where a separate document of title to the Property has not been issued, the Customer shall assign to the Bank the Property and the full and entire benefit of the Sale and Purchase Agreement, together with all rights, title and interests therein, in the format required by the Bank.
  - (b) The Customer shall also execute a power of attorney in the format required by the Bank, appointing the Bank / any persons authorized by the Bank for the time being as the attorney of the Customer.
  - (c) Upon issuance of an individual/strata title to the Property, the Customer shall at its own cost and expense, immediately execute a memorandum of transfer and execute the Charge over the Property, failing which the Bank shall be entitled to take necessary action, including exercising the rights granted to it under the power of attorney executed by the Customer, to protect the Bank's interest.
  - (d) All costs and expenses related to the perfection of Charge shall be borne by the Customer.
  - (e) In the event the Charge is not executed / perfected for any reasons, the Assignment shall remain in force until the Charge is duly registered against the Property or the Indebtedness due to the Bank hereunder are paid in full, whichever happens first.
- 17.3 Other Security: The Customer shall execute and deliver any other Security Documents as stated in the Letter of Offer to secure the payment to the Bank of the Indebtedness.
- 17.4 Further Security: If required by the Bank at any time, the Customer shall provide further security for the Facility and execute such further security documents for the further security at the costs of the Customer.



- 17.5 In the event the value of the Property or any other security provided diminishes in value, the Bank shall be entitled at its discretion to require the Customer to provide additional security.

## **ARTICLE XVIII**

### **SECTION 18 MODIFICATION AND INDULGENCE**

- 18.1 The Bank may, at any time without affecting the security provided to the Bank under this Agreement:
- (a) determine, vary, modify, restructure, reduce / increase the Facility, in accordance with the provisions in Section 19 below; and/or
  - (b) grant to the Customer and if the Customer consists of more than one person, to either of the Customer any indulgences; and/or
  - (c) grant to the Security Party / other surety any indulgences; and/or
  - (d) deal with, exchange, release, modify / abstain from perfecting / enforcing any securities / other guarantees / rights it may now or from time to time have from / against the Customer.

## **ARTICLE XIX**

### **SECTION 19 AMENDMENT TO THIS AGREEMENT**

- 19.1 For the purposes of compliance to any new legislation applicable to the Bank / changes in law/ any new guidelines issued by BNM, the Bank subject to compliance with Shariah, shall be entitled to amend any of the terms and conditions of this Agreement through:
- (a) display of the amended terms and conditions in the Bank's branches; and/or
  - (b) uploading the amended terms and conditions on the Bank's website.
- 19.2 Customer agrees that the Bank may provide notice of the amendment of the terms and conditions of this Agreement through any one / more of the following means:
- (a) notice on the notice board / any conspicuous section of the Bank's branches;
  - (b) notice on the display screen of the Bank's electronic terminals;
  - (c) notice on the Bank's website;
  - (d) notice in the periodic statement of account sent to the Customer;
  - (e) notice in writing in the Bank's preferred format to the Customer's address as per the Bank's records; and/or
  - (f) notice by any other means as the Bank deems fit and acceptable to the Customer.
- 19.3 Subject to this Agreement, if the Customer is not agreeable to the amended terms and conditions of this Agreement, the Customer shall notify the Bank in writing of the same within twenty-one (21) calendar days from the date of notice by the Bank and redeem

the Facility by paying the Indebtedness and all sums dues to the Bank in full.

- 19.4 In the event the Customer continues to maintain the Facility, twenty-one (21) calendar days after the notice of any amendment to the terms and conditions of this Agreement by the Bank, the Customer shall be deemed to have accepted the amendments to the terms and conditions of this Agreement.

## **ARTICLE XX**

### **SECTION 20 DISCLOSURE OF INFORMATION**

- 20.1 The Customer provides consent to the Bank to disclose, at the Bank's discretion, all/any information and documents relating to this Agreement, Customer's conduct and affairs in respect of the Facility to:-
- (a) the next of kin / administrator / executor / beneficiary of a deceased Customer/solicitors acting for them in intending to apply for a court order / who had applied for a court order in respect of a deceased Customer's estate;
  - (b) BNM / other relevant authorities acting under powers granted under any applicable law;
  - (c) Takaful operators/insurance companies, brokers, loss adjusters pursuant to any claims to be made by the Bank under such takaful/insurance policy in respect of the Facility / Property;
  - (d) the purposes of any legal suit / proceedings filed against the Bank by any third party in relation to this Agreement/ Facility;
  - (e) the purpose of any legal suit / proceedings filed by the Bank against any third party for the recovery of its losses under this Agreement/ Facility;
  - (f) the police/ other investigative authorities, for the purposes of their investigation into any crime (including any money laundering and terrorism financing activities) whether by the Customer or otherwise;
  - (g) the police/ other investigative authorities for the purposes of lodging of relevant reports by the Bank and investigation thereof, if the Bank is of the view that a crime has been committed/ to prevent/ recover any losses incurred by the Bank/ for prevention of crime;
  - (h) any party who intend to acquire the Property through auction/ sale/ any party who intend to acquire the Bank's interests, assets and obligations under this Agreement;
  - (i) any party which in the future may express intention to acquire any interest/ shareholding in the Bank pursuant to any proposed arrangement, composition, merger, acquisition/ restructuring between the Bank and such parties; and/or
  - (j) external professional advisors of the Bank and AmBank Group.
- 20.2 In the event any legal proceedings is initiated by the Bank against the Customer under this Agreement for the recovery of the Indebtedness, the Customer provides consent to

the Bank to disclose the details and information related to the Customer and the cause papers related to the said legal proceedings to any credit reporting agency in Malaysia.

- 20.3 The Customer is reminded to read and understand the Privacy Notice of AmBank Group (which is available at [www.ambankgroup.com](http://www.ambankgroup.com)) and the sections herein, as may relate to the processing of Customer's personal information.

## **ARTICLE XXI**

### **SECTION 21 RIGHT OF SET-OFF AND CONSOLIDATION**

- 21.1 In the event the Customer defaults in the payment of any part of the Indebtedness, the Bank shall be entitled to freeze the available balance in the Customer's deposit account with the Bank/ AmBank Group that is equivalent to part of the Indebtedness that is due and provide a notice to the Customer to make good the defaulted payment under this Agreement.
- 21.2 In the event the Customer fails to make good the Indebtedness within the notice period (which shall not be less than seven (7) calendar days), the Bank shall be entitled to set off such part of the available balance in the Customer's deposit account with the Bank / AmBank Group with the total sum due to the Bank under this Agreement.
- 21.3 For the avoidance of doubt, the Bank's right of set-off herein can be exercised by the Bank:
- (a) even on a deposit account with the Bank/ AmBank Group held jointly by the Customer with another person; and
  - (b) even in the event of the Customer's demise, bankruptcy/ insolvency, composition with its creditors / any legal proceedings against the Customer.
- 21.4 The Bank may also consolidate this Facility with other facility accounts of the Customer with the Bank, at the Bank's discretion towards the satisfaction of all monies payable to the Bank under all such facility accounts, with prior notice to the Customer.

## **ARTICLE XXII**

### **SECTION 22 DISPUTE RESOLUTION**

- 22.1 Any complaints that the Customer may have against the Bank in relation to any matters arising may be lodged at the following address:-

AmBank Group Service Resolution Department  
Level 22, Menara AmBank  
No. 8, Jalan Yap Kwan Seng  
50450 Kuala Lumpur  
Contact Number : 03-21788888  
Fax Number : 03-27800223

Email Address: [customercare@ambankgroup.com](mailto:customercare@ambankgroup.com)

In the event, the complaint by the Customer is unresolved by the Bank or the Customer is unsatisfied with the Bank's decision in respect of the complaint, the Customer may refer the matter to:

- (a) BNMLINK  
Laman Informasi Nasihat dan Khidmat (LINK)  
Block D, Bank Negara Malaysia  
Jalan Dato' Onn  
50480 Kuala Lumpur  
Tel: 1-300-88-5465  
E-mail: [bnmtelelink@bnm.gov.my](mailto:bnmtelelink@bnm.gov.my)
- (b) Association of Islamic Banking Institutions Malaysia  
4th Floor, Menara Bumiputra  
21, Jalan Melaka  
50100 Kuala Lumpur  
Tel: 03-2026 8002  
E-mail: [staff@aibim.com](mailto:staff@aibim.com)
- (c) Ombudsman for Financial Services  
Level 14, Main Block Menara Takaful Malaysia  
No. 4, Jalan Sultan Sulaiman 50000 Kuala Lumpur  
Tel: 03-2272 2811  
E-mail: [enquiry@ofs.org.my](mailto:enquiry@ofs.org.my)

- 22.2 This Agreement shall be governed by and construed in accordance with the laws of Malaysia and in enforcing this Agreement, the Bank shall be at liberty to initiate and take action / proceeding against the Customer in any courts in any part of Malaysia as the Bank may deem fit.
- 22.3 All originating cause papers for any legal proceedings initiated by the Bank against the Customer under this Agreement shall be served by personal delivery / ordinary post to the Customer's address available in the Bank's records.
- 22.4 All originating cause papers for any legal proceedings initiated by the Customer against the Bank under this Agreement shall be served by personal delivery / A.R registered post to the registered address of the Bank, which for the time being is 22<sup>nd</sup> Floor, Bangunan AmBank Group, No. 55, Jalan Raja Chulan, 50200 Kuala Lumpur; any service other than to the registered address of the Bank shall not be deemed to be valid service on the Bank. The Customer agrees to unconditionally submit to the jurisdiction of the courts in the Federal Territory of Kuala Lumpur, Malaysia, in respect of all legal proceedings filed by the Customer against the Bank.

**ARTICLE XXIII****SECTION 23 INDEMNITY & RESTRICTIONS ON LIABILITY**

- 23.1 The Customer shall keep the Bank fully indemnified on a full indemnity basis against all losses, damages, fees, costs, claims, charges, proceedings, taxes, duties, and expenses (including legal costs) which the Bank may incur and which have arisen either directly / indirectly under the following circumstances:
- (a) any breach of / non-adherence of this Agreement of any applicable law by the Customer;
  - (b) negligent acts / omissions of the Customer; and
  - (c) enforcement by the Bank of its rights under this Agreement.
- 23.2 The indemnity stated in Section 23.1 shall continue notwithstanding any termination of this Agreement.
- 23.3 The Bank shall not be liable to the Customer in the following circumstances:
- (a) any breach of / non-adherence of this Agreement / any applicable law by the Customer;
  - (b) negligent acts / omissions of the Customer;
  - (c) any forgery / fraudulent actions by the Customer;
  - (d) when the Bank adheres to the directives / instructions from BNM and/or other regulatory bodies, authorities, government, court / tribunal / other judicial authority; and
  - (e) when any *force majeure* event occurs.

**ARTICLE XXIV****SECTION 24.1 ACQUISITION OF PROPERTY****24.1.1 Government Acquisition**

In the event that the Property at any time become the subject matter relating to acquisition or inquiry or proceedings by government to condemn, nationalise, seize or otherwise expropriate all or any substantial part of the Property or other assets or of the business or operations of the Customer or shall have taken action for the winding up of the Customer or any action that would prevent the Customer or the Customer's officers from carrying on the operations of the Customer, the Customer shall inform the Bank of the same and shall forward to the Bank a copy(ies) of any such notice notification or declaration as soon as the same shall be delivered to or served on the Customer.

**24.1.2 Powers to Engage Advisers**

The Bank shall be entitled to engage such advisers and agents (including solicitors and valuers) as it may think fit for the purposes of appearing or attending at or

advising upon any enquiry or proceedings affecting concerning or relating to any such acquisition, expropriation or any of the matters referred to in Section 24.1.2 hereof.

#### 24.1.3 Application of Compensation Moneys

- (a) All monies received as or by way of compensation in respect of any of the matters referred to in Section 24.1.3 hereof shall be applied in or towards the discharge or payment of the Indebtedness and any other money or liability secured by this Agreement and the documents creating security for the Facility and the Customer shall and hereby declare that the Customer will hold all such monies if paid to and received by the Customer hereunder in trust for the Bank and the Customer agrees and confirms that the Bank may receive and give a good discharge for all such monies.
- (b) In the event of all such monies as aforesaid being less than the amount due to the Bank hereunder the Customer shall forthwith pay to the Bank the difference between the amount due and the amount so received.

### **SECTION 24.2 ALL PAYMENT RECEIVED TO BE 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 payments in gross. 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 be payable until the Bank has received the whole amount owing. If the amount received by the Bank exceeds the whole amount owing to the Bank the excess shall be repaid to the person or party on whose account the same shall have been received by the Bank.

- (a) All payments to be made under the respective *Tawarruq* documents shall be calculated and be made without (and free and clear of any deductions for) set-off or counterclaim and in immediately available and transferable funds for the Commodity value on the due date thereof.
- (b) All payments by the Customer under this Agreement and the Security Documents shall be made in full without any deduction or withholding (whether in respect of set off, counterclaim, duties, taxes, charges or otherwise whatsoever) unless the deduction or withholding is required by law, in which event the Customer(s) shall:
  - (i) ensure that the deduction or withholding does not exceed the minimum amount legally required;
  - (ii) forthwith pay to the Bank such additional amount so that the net amount received by the Bank will equal the full amount which would have been received by it had no such deduction or withholding been made;

- (iii) pay to the relevant taxation or other authorities within the period for payment permitted by applicable law the full amount of the deduction or withholding (including, but without prejudice to the generality of the foregoing, the full amount of any deduction or withholding from any additional amount paid pursuant to this clause); and

furnish to the Bank, within the period for payment permitted by the applicable law, either an official receipt of the relevant taxation authorities in respect of all amounts so deducted or withheld as aforesaid; or if such receipts are not issued by the relevant taxation authorities on payments to them of amounts so deducted or withheld, a certificate of deduction or equivalent evidence of the relevant deduction or withholding.

**SECTION 24.3 ANTI-MONEY LAUNDERING AND ANTI TERRORISM FINANCING AND PROCEEDS OF UNLAWFUL ACTIVITIES ACT 2001 (“AMLATFA”) AND THE STRATEGIC TRADE ACT 2010**

- (a) The Customer represents and warrants that:
  - (i) unless and until the Customer notifies the Bank to the contrary in writing:
    - (aa) the Customer is the principal in relation to the Facility;
    - (bb) no person other than the Customer has or will have any interest in the Facility; and
    - (cc) all monies which will be paid to the Bank, all collateral and/or guarantees in favour of the Bank to secure the Facility shall come from a lawful source of activity and not unlawful activities or instrumentalities of an offence under the AMLATFA or in contravention of the Strategic Trade Act 2010.
  - (ii) on notification that the Customer is an intermediary for other persons:
    - (aa) the Bank may require, and the Customer 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 Customer, which copies may thereafter be retained by the Bank;
    - (bb) the Customer further declares and certifies that the necessary “know-your-client” checks have been conducted including but not limited to the identity, existence, address and nature of the business of the beneficiary, it being confirmed by the Customer that the monies, funds or collateral are from a lawful source of activity and not unlawful activity or

instrumentalities of an offence under the AMLATFA or in contravention of the Strategic Trade Act 2010; and

- (cc) it is further hereby clearly agreed and understood that the provision of details of the Customer's beneficiary shall not make the Customer's beneficiary a client of the Bank and the Bank shall be entitled to hold the Customer as the principal.
- (b) In addition to Section 24.3(a) and (b) hereof, the Customer hereby agrees and undertakes irrevocably and unconditionally that:
- (i) the Customer shall disclose and furnish to the Bank any information required or deemed necessary and to the satisfaction of the Bank in a timely manner within the period specified by the Bank;
  - (ii) pending receipt of information by the Bank from the Customer 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 transactions or disbursements 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) to retain the Assets for the time being; any Assets requested to be returned to the Customer or any Security Party shall be returned to the Customer or Security Party after the Bank receives satisfactory clearance from the relevant authorities;
  - (iii) the Customer will not use the Facility for money laundering or violate any laws relating to money laundering under the AMLATFA or in contravention of the Strategic Trade Act 2010; and
  - (iv) in no event shall the Bank or companies within the AmBank Group of Companies 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 the laws for the time being in force, in particular but not limited to its statutory duties under the AMLATFA.
- (c) In the event the payment of the Indebtedness by the Customer is at any time or from time to time after the release and discharge of the Customer's obligations in this Agreement by the Bank, found to be from an unlawful source of activity or instrumentalities of an offence or instrumentalities of an offence under the AMLATFA or in contravention of the Strategic Trade Act 2010, the Customer agrees and acknowledges that:-
- (i) the release and the discharge of the Customer's obligations under this Agreement shall be automatically deemed to be invalid from the date it is established that the source of payment of the Indebtedness or any part of it falls within the ambit of the AMLATFA or in contravention of the Strategic Trade Act 2010 and the Customer shall continue to be liable to the Bank under the terms of this Agreement and the Security Documents (where applicable)



notwithstanding any document issued and/or executed by the Bank to release and discharge the Customer; and

- (ii) the Customer shall indemnify and shall cause the Security Party to indemnify the Bank for any losses, damages, costs, fees and charges incurred by the Bank as a result of contravention by the Customer and/or any Security Party of the provisions of the AMLATFA and/or the Strategic Trade Act 2010.

### **SECTION 24.3A MALAYSIAN ANTI-CORRUPTION COMMISSION ACT 2009**

- (a) The Customer hereby acknowledges that AmBank Group has zero tolerance towards all forms of bribery and corruption. The Customer further undertakes to the Bank that it shall not directly or indirectly offer, promise, request from and/or authorize any form of improper payments, financial benefits, rewards or any valuable consideration (“Gratifications”) to or from any of the Bank’s directors, officers, employees, representatives, agents or other persons associated with or controlled by or acting on behalf of any of them (the “Bank’s Agents”) from any of the Customer’s family members or any parties acting for or representing the Customer in exchange for business favors, information, favorable treatment, improper benefits or advantage or inducement to do or not to do something.
- (b) The Customer shall undertake to immediately notify the Bank of any attempt by any parties to solicit or to give any Gratifications or solicit or give any advantage (financial or otherwise) to or from the Bank and the Bank’s Agents. In furtherance to the above, the Customer agrees and undertakes that:-
  - i) The Customer has read, understood and shall fully comply with the Bank’s Anti-Bribery and Corrupt Practices Policy (“ABCP Policy”) and shall promptly notify the Bank of any breach and/or suspected breach of the ABCP Policy. The ABCP Policy is available at <https://www.ambankgroup.com/eng/Pages/AntiBriberyCorruptPracticesPolicy.aspx>;
  - ii) Pursuant to the ABCP Policy, the Customer has and/or shall fully execute the Bank’s anti-bribery and corruption declaration form and return the duly executed copy to the Bank for its record;
  - iii) The Customer shall strictly comply with current laws and regulations in Malaysia relating to anti-bribery or anti-corruption including but not limited to the Malaysian Anti-Corruption Commission Act 2009 including all its amendments acts (“MACCA”); and
  - iv) Notwithstanding anything stated herein, if at any time the Customer or other third party(ies) acting for or representing the Customer is involved in the transaction contemplated in this matter breaches this clause and/or is being investigated for bribery or corruption, then the Bank shall be entitled to terminate this Agreement with immediate effect without any liability with written notice to the Customer. When this happens, the Customer shall be

liable to fully indemnify and hold the Bank and/or any of the Bank's Agent harmless from and against any and all claims, losses, liabilities, damages, penalties, costs and expenses howsoever arising as a result thereto.

#### **SECTION 24.4      SUSPENSE ACCOUNT**

Any money received hereunder may be placed and kept to the credit of a non-income bearing suspense account for so long as the Bank thinks fit without any obligation to apply the same or any part towards the discharge of any money or liability due or incurred by the Customer to the Bank. Notwithstanding any such payment, in the event of bankruptcy, liquidation, composition or arrangement, the Bank may prove for and agree to accept any dividend or composition in respect of the money and liability in the same manner as if this security had not been created.

#### **SECTION 24.5      MISCELLANEOUS**

- (a) The security, liabilities and/or obligations created by this Agreement shall continue to be valid and binding notwithstanding any change whether by reason of bankruptcy, death, insanity or otherwise howsoever in the name, style or composition of the Customer.
- (b) The Bank, shall not be liable for any claims in respect of any defects, shrinkage or other faults affecting the Property which are due to defective workmanship or materials or any other causes whatsoever or the Property not having been constructed in accordance with the specifications and plans approved by the appropriate authority
- (c) Notwithstanding anything to the contrary contained herein, it is hereby agreed that on the satisfaction of the whole of the Indebtedness and other monies due under this Agreement and the other documents creating security for the Facility all the provisions herein contained shall cease to be of any effect but without prejudice to the Bank's rights and remedies against the Customer in respect of any antecedent claim or breach of covenant.
- (d) if any sums shall be due from the Customer to the Bank from time to time or at any time or if the Customer may be or become liable to the Bank anywhere on a banking account or any other current account or otherwise or in any manner whatsoever or if default is made in any provisions of such accounts or in any other facilities granted by the Bank or any company(ies) within the AmBank Group to the Customer or in any of the provisions herein, then and on such event, the Indebtedness together with all monies payable under such accounts or other facilities as aforesaid shall immediately become due and payable and the security herein become immediately enforceable.
- (e) Time wherever stated in this Agreement shall be of the essence of the contract.
- (f) The Customer hereby authorises the Bank to value the Property annually/ at such interval as the Bank shall decide by any valuer of the Bank's choice at the Bank's sole

cost and expense. In the event such valuation reveals that the forced sale value of the Property is lower than the amount owing under this Agreement, the Bank shall be entitled to request the Customer to within fourteen (14) calendar days from the date of a notice from the Bank to provide additional security for the Facility.

- (g) All costs, charges and expenses incurred / extended by the Bank under this Agreement and/or the Security Documents, whether express or implied shall be payable by the Customer to the Bank on demand and the Customer shall pay any Late Payment Charges on any amount incurred /extended by the Bank if not paid by the Customer within its due date.
- (h) All monies expended by the Bank for and on behalf of the Customer (relating to takaful/ insurance, quit rents, assessments, rates, taxes, repairs, legal costs, stamp duties, registration fees and all other outgoings relating to the Property and/or arising out of the Facility and/or the Security Documents) shall be recoverable and be repaid by the Customer on demand by the Bank. In default of such payment, such monies shall be deemed to form part of the Indebtedness and to be secured accordingly hereunder and the account of the Customer shall be debited accordingly
- (i) No failure/ delay by the Bank in exercising any rights, entitlement, authority/ power granted to the Bank herein shall operate as a waiver thereof.
- (j) Any terms, conditions, stipulations, provisions, covenants, undertakings or representations contained in this Agreement which is held to be illegal, prohibited or unenforceable by any tribunal / court of competent jurisdiction or pronounced by SAC shall be ineffective to the extent of such illegality, voidness, prohibition or unenforceability, without invalidating the remaining provisions hereof.
- (k) The Bank may assign and/or transfer its rights and obligations under this Agreement or any part thereof, in its discretion deem fit, to a potential assignee/ transferee. The Customer cannot assign any of its rights under this Agreement. In the event such assignment and/or transfer is to the detriment of the Customer (whether financial or otherwise), the Bank shall obtain a prior written consent from the Customer.
- (l) In any legal proceedings relating to this Agreement, a letter of demand, notice, statement, reminder or certificate that is:
  - (a) signed by an officer or solicitor or other agents appointed by the Bank; or
  - (b) in the form of a computer generated document from the Bank which requires no signature;

shall be conclusive and binding on the Customer as conclusive evidence of the Indebtedness in a court or tribunal, save for any error.

- (m) In the event the Customer request for an additional facility from the Bank, the Customer shall obtain relevant consent from the Security Party for the additional facility. In such event, the Bank shall have the right to upstamp this Agreement.
- (n) Unless expressly stated otherwise in this Agreement, the parties agree that the fees, price, value, revenue or similar amount to be used in the calculation of such fees, price, value or revenue (“**Fee**”) is exclusive of Taxes and as may be applicable and such Taxes shall be borne by the Customer.
- (o) The Customer agrees that the Bank shall have the right at any time with prior notice given to the Customer, to debit the Customer’s deposit account / Facility account with

the Bank for any charges, fees and outgoings, If such debiting causes the Customer' deposit account / Facility account to be overdrawn, then the applicable Late Payment Charges shall be payable accordingly.

**ARTICLE XXV**

**SECTION 25 INDEPENDENT LEGAL ADVICE**

The Customer is hereby reminded to seek and obtain its own independent legal advice.

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**PART D**

**LETTER OF OFFER**

*(which is to be taken read and construed as an essential part of this Agreement)  
[to be inserted]*

**IMPORTANT REMINDER: The Customer is hereby reminded to read and understand the terms and conditions of this Agreement before signing.**

**In the event there are any terms and conditions in this Agreement that the Customer do not understand, the Customer is hereby advised to discuss further with the Bank’s authorised representative before signing.**

IN WITNESS WHEREOF the Customer and the Attorney for the Bank have executed this Agreement the day and year first above written.

SIGNED by )  
as Attorney for and on behalf )  
the Bank )  
in the presence of:- )  
)

**AmBank Islamic Berhad**  
**(Company No. 199401009897 (295576-U) )**  
by its Attorney:-

.....  
Name:  
NRIC No./Passport No.:

Signed by the )  
Customer )  
in the presence of:- )  
)

.....  
Name:  
NRIC No./Passport No.: