

**STANDARD TERMS & CONDITIONS GOVERNING BIZFINANCING-i FACILITY**

**PLEASE READ AND UNDERSTAND THE TERMS AND CONDITIONS STATED IN THIS DOCUMENT. IF YOU DO NOT UNDERSTAND ANY PART OF THIS DOCUMENT YOU MUST SEEK FURTHER CLARIFICATION FROM THE BANK'S OFFICER.**

**1. DEFINITIONS**

- (a) **"Early Settlement Charges"** means costs incurred by the Bank due to early settlement or early redemption of the Facility prior to maturity, whether in full or partially, including without limitation to initial costs that have not been recovered by the Bank, costs that have not been recovered because a financing contract has a structure with discount elements at the initial period of financing and any other charges as may be approved by Bank Negara Malaysia ("BNM") and Shariah Advisory Committee of the Bank from time to time and notified to the Customer.
- (b) **"Facility Amount"** refers to the proceeds from the sale of the Commodity in the Agency transaction. **"Facility amount"** also is equivalent to the **"Purchase Price"**.
- (c) **"Kafalah"** means a contract where the guarantor conjoins the Customer as the guaranteed party to guarantee the liability of the Customer under the facility either jointly or severally.
- (d) **"Late Payment Compensation/Ta'widh"** means costs and expenses incurred by the Bank calculated based on the BNM Guidelines on Late Payment Compensation for Islamic Banking Institutions (including any alteration, modification, supplement and substitution thereof) due to late payment by Customer of the Instalment/Payment due.
- (e) **"Commodity Murabahah"** means the Shariah concept of cost plus sale where it involves the Customer purchasing commodity from the Bank at the cost plus profit and then selling it at cost price for the purpose of obtaining cash. The customer will make payment for the purchase of commodity on deferred terms
- (f) **"Ceiling Profit Rate (CPR)"** means the profit rate stated in the Letter of Notification for the financing.
- (g) **"Effective Profit Rate (EPR)"** means the actual rate used to compute the Profit Credited and calculated based on the Bank's Base Financing Rate ("BFR") plus margin.
- (h) **"Purchase Price"** refers to the cost of purchase/principal of the Commodity Murabahah transaction.
- (i) **"Wakalah"** means the contract where the Customer authorises the Bank as his agent/wakil to perform the Commodity Transaction
- (j) **"Wakil"** means the Bank acting as an agent for the Customer for the Commodity Murabahah transaction

**2. CONDITIONS PRECEDENT TO APPLICATION FOR AND DISBURSEMENT OF FACILITIES**

**(A) Application for Facilities**

- (a) The Bank will only commence processing the Customer's application for BizFinancing-i (the "Facility") when the following shall have been received by the Bank and found to be satisfactory:-
  - (i) the duly signed by the Customer's authorised signatory(ies) and fully completed BizFinancing-i Application Pack; and
  - (ii) a certified true copy each of your certificate of incorporation/business registration, other related constituent documents or the equivalent thereof for businesses or companies set up or incorporated under the relevant laws of the country of incorporation in form and substance satisfactory to the Bank.
- (b) The approval on the Facility may be higher or lower than the amount applied for and subject to the Bank's credit assessment and discretion. The Bank's approval of the Facility will be communicated to the Customer through a telephone call, in writing or any other method as approved by the Bank. If the Customer's application is for restructuring or settlement of the outstanding in the Customer's existing BizFinancing-i, the Customer must still continue to pay the existing monthly instalment until informed by the Bank of the approval of the Customer's restructuring application.
- (c) If the Customer's application is not approved, all authorisation and instruction provided in the BizFinancing-i Application Pack will immediately be revoked and consider as null and void.
- (d) If the Customer's application is for the restructuring or settlement of the outstanding in the Customer's existing BizFinancing-i and it is not approved, the terms of the existing BizFinancing-i remains to be valid and effective until full settlement.
- (e) The Bank's decision is final and the Bank further reserves the right to reject applications by notifying the Customer with a notice

**(B) Disbursement of Facilities**

The Facility will only be available for disbursement upon the fulfilment of the following to the satisfaction of the Bank:-

- (a) where required, the Bank is in receipt of a legal opinion from a solicitor appointed by the Bank in the form and substance acceptable to the Bank, confirming:

- (i) the Customer's financing capacity, the validity and enforceability of your obligations in respect of the Facility;
  - (ii) the capacity of the security party(ies) to charge, assign, pledge and/or create any form of security interest, the validity and enforceability of the obligations of the security party(ies) in respect of the security documents; and
  - (iii) it is in order for the Bank to release the Facility.
- (b) execution of relevant guarantee and/or security documents on terms acceptable to the Bank and perfection of the security;
  - (c) execution of the trade transaction, either verbally or in writing;
  - (d) all fees and charges payable in connection with the Facility shall have been paid;
  - (e) all necessary searches shall have been conducted and the Bank is satisfied with the results thereof;
  - (f) all approvals, consents and authorisations for the Customer to enter into and perform the obligations under the BizFinancing-i Application Pack and in respect of the Facility have been obtained and provided to the Bank;
  - (g) all approvals, consents and authorisations for the security party to issue and perform the guarantee and/or security documents have been obtained and provided to the Bank;
  - (h) if the Customer and/or the security party is/are not formed or incorporated in Malaysia, documentary evidence acceptable to the Bank that agent has been appointed by the Customer and/or the security party to receive service of process in Malaysia ("Service Agent");
  - (i) no Event of Default and no event which with the giving of notice or lapse of time or both would constitute an event of default shall have occurred and continuing;
  - (j) that there are no material changes affecting the financial condition, operation environment, management or directorship of the Customer after acceptance of the Facility;
  - (k) there is no change in the financial, economic or political conditions in Malaysia which in the opinion of the Bank (which opinion of the Bank shall be final and binding) would render it inadvisable or impractical for the Bank to continue to make available the Facility(ies); and
  - (l) such other conditions as may be imposed by the Bank.

The above conditions in (A) and (B) may be waived wholly or in part by the Bank without prejudicing its rights under the offering of the Facility to the Customer. Any such waiver will not preclude the Bank from insisting on compliance of the waived condition(s) at a subsequent time.

**Note:** "security party" referred to in this Standard Terms and Conditions shall mean the parties executing the security documents including the guarantee.

### 3. COMMODITY MURABAHAH FINANCING

- (a) BizFinancing-i is a financing arrangement based on the Shariah concept of Commodity Murabahah and will be made available to the Customer by the Bank subject to the terms contained in the BizFinancing-i Application Pack and this Standard Terms and Conditions.
- (b) For the purposes of this Standard Terms and Conditions, "Commodity" means any Shariah-compliant commodity which has been endorsed by the Bank's Shariah Committee and as specified in the application form.
- (c) **Commodity Murabahah Arrangement**

#### I. FOR NEW FINANCING

In relation to the trade transaction under the Shariah concept of Commodity Murabahah entered between the Bank and the Customer to facilitate the financing of the Facility, it is hereby agreed as follows:

- (i) The effective date of the sale of the Commodity from the Bank to the Customer shall be the date as determined by the Bank.
- (ii) Via the application form, the Customer has appointed the Bank as Agent/Wakeel for purchase and sale of the Commodity.
- (iii) Upon the Bank having completed its approval process, the Bank has to provide the Customer with this financing through the following Commodity Murabahah transactions:
  - (a) The Customer via the Bank as agent purchase Shariah compliant commodities from the Bank at the Bank's Selling Price (Cost Price plus profit at the Profit Rate p.a.).
  - (b) The Customer via the Bank as agent sells his Shariah compliant commodities through any commodity trader at the Cost Price (Facility Amount). The Cost Price (Facility Amount) shall be paid to the Customer by a credit into the Customer's designated account maintained with the Bank.
- (iv) Upon completion of its approval process, the Bank will proceed to complete the Commodity Murabahah transaction.
- (v) Upon conclusion of the sale of the Commodity to a third party as stated in item 3(c)(I)(v) above, the Bank will credit the proceeds of the Facility amount into the Customer's designated current account maintained with the Bank. This

designated account will be the same standing instruction account mentioned in clause 4 of this Standard Terms and Conditions.

- (vi) The Customer agrees that if the Customer has not utilised the Facility amount disbursed into the above stated account within the agreed cooling-off period of 20 days from the date of its remittance, the Bank has the right to close the designated current account mentioned in item 3(c)(l)(vi) above and to terminate or rescind the Facility through early settlement of the outstanding amount using the Facility amount at no further cost to the Customer. In respect of the agreed cooling-off period, time is of the essence.
- (vii) It is expressly agreed between the Bank and the Customer, that the delivery of the Commodity shall be on an "as is where is" basis and the Bank shall not be responsible in relation to the nature, quality and specification of the Commodity. The customer may inspect the Commodity at his/her own cost prior to the delivery thereof. Upon delivery of the Commodity, all rights (if any) of the Bank against the commodity trader relating to warranties in respect of the Commodity shall stand assigned to the Customer. As a consequence, the customer shall be entitled to seek remedies (if any) against the commodity trader as appropriate. The customer also agrees that the Bank shall be under no further liability for any warranty relating to the Commodity.
- (viii) The Customer shall be irrevocably and unconditionally obliged to pay the Bank the Sale Price of the Commodity by means of the BizFinancing-i Monthly Instalments on the payment dates.
- (ix) The Sale Price of the Commodity is accepted as valid and fair consideration for the Commodity, irrespective of the Purchase Price for the Commodity on the actual date of the sale of the Commodity.
- (x) In the case of any amount being due on a day other than a business day which means a day, other than Saturday, Sunday and public holidays, on which the Bank is open in the relevant states in Malaysia ("**Business Day**"), such amount shall be due on the immediately preceding Business Day.
- (xi) All payments to be made by the Customer in terms of the trade transaction shall be made free from any set-off, deduction, withholding or counterclaim and in immediately available and freely transferable funds for good value on each of the payment dates.
- (xii) The Bank is authorised by the Customer to debit the Customer's designated current account for the amounts equal to the instalments due on the payment dates, or (in the event of insufficient funds in such account of the Customer) any other account of the Customer held at the Bank that has a credit balance at the time.

## II. FOR RESTRUCTURING AND/OR SETTLEMENT OF EXISTING BIZFINANCING-i FACILITY

In relation to the trade transaction under the Shariah concept of Commodity Murabahah entered between the Bank and the Customer to facilitate the financing of the Facility for the purpose of restructuring or settlement of an existing outstanding facility, it is hereby agreed as follows:

- (i) The effective date of the sale of the Commodity from the Bank to the Customer shall be the date as determined by the Bank.
- (ii) Via the application form, the Customer has appointed the Bank as Agent/Wakeel for purchase and sale of the Commodity.
- (iii) Upon the Bank having completed its approval process, the Bank has to provide the Customer with this financing through the following Commodity Murabahah transactions:
  - (a) The Customer via the Bank as agent purchase Shariah compliant commodities from the Bank at the Bank's Selling Price (Cost Price plus profit at the Profit Rate p.a.).
  - (b) The Customer via the Bank as agent sells his Shariah compliant commodities through any commodity trader at the Cost Price (Facility Amount). The Cost Price (Facility Amount) shall be paid to the Customer by a credit into the Customer's designated account maintained with the Bank.
- (iv) Upon completion of its approval process, the Bank will proceed to complete the Commodity Murabahah transaction.
- (v) Upon conclusion of the sale of the Commodity to a third party, the Bank will credit the Facility amount for the purpose of restructuring or settlement of the outstanding in the existing facility. Any excess amount resulting from the settlement of the outstanding in the existing facility will be credited into the Customer's designated current account maintained with the Bank. This designated account will be the same standing instruction account mentioned in clause 4 of this Standard Terms and Conditions.
- (vi) It is expressly agreed between the Bank and the Customer, that the delivery of the Commodity shall be on an "as is where is" basis and the Bank shall not be responsible in relation to the nature, quality and specification of the Commodity. The customer may inspect the Commodity at his/her own cost prior to the delivery thereof. Upon delivery of the Commodity, all rights (if any) of the Bank against the commodity trader relating to warranties in respect of the Commodity shall stand assigned to the Customer. As a consequence, the customer shall be entitled to seek remedies (if any) against the commodity trader as appropriate. The customer also agrees that the Bank shall be under no further liability for any warranty relating to the Commodity.
- (vii) The Customer shall be irrevocably and unconditionally obliged to pay the Bank the Sale Price of the Commodity by means of the BizFinancing-i Monthly Instalments on the payment dates.
- (viii) The Sale Price of the Commodity is accepted as valid and fair consideration for the Commodity, irrespective of the Purchase Price for the Commodity on the actual date of the sale of the Commodity.

- (ix) In the case of any amount being due on a day other than a Business Day, such amount shall be due on the immediately preceding Business Day.
- (x) All payments to be made by the Customer in terms of the trade transaction shall be made free from any set-off, deduction, withholding or counterclaim and in immediately available and freely transferable funds for good value on each of the payment dates.
- (xi) The Bank is authorised by the Customer to debit the Customer's designated current account for the amounts equal to the instalments due on the payment dates, or (in the event of insufficient funds in such account of the Customer) any other account of the Customer held at the Bank that has a credit balance at the time.
- (xii) This Murabahah contract shall not be terminated unilaterally by either Party. If a Party intends to terminate this Agreement, it may do so with the mutual consent of the other Party and by providing the other Party with a written notice at least 30 days prior to the date of termination.

### III. FOR CONVERSION OF FIXED RATE ACCOUNT TO VARIABLE RATE ACCOUNT

In relation to the trade transaction under the Shariah concept of Commodity Murabahah entered between the Bank and the Customer to facilitate the financing of the Facility, it is hereby agreed as follows:

- (i) Upon the conversion of Customer's account from fixed rate account to variable rate account, the Customer agrees to appoint the Bank as an agent for purchase and sale of the commodity.
- (ii) Subsequently, the Bank will proceed to complete the Commodity Murabahah transactions based on the following:
  - (a) to purchase (on behalf of the Customer) a new commodity that which the Bank has purchased for itself through any commodity trader based on the outstanding Principal Portion under existing outstanding Sale Price entered into prior to the conversion to variable rate account (new Cost Price), plus the profit of a Ceiling Profit Rate (CPR) of 18% (new Sale Price);
  - (b) to sell the new Commodity purchased (on behalf of the Customer) through any commodity trader at the new Cost Price.
- (iii) It is expressly agreed between the Bank and the Customer, that the delivery of the Commodity shall be on an "as is where is" basis and the Bank shall not be responsible in relation to the nature, quality and specification of the Commodity. The customer may inspect the Commodity at his/her own cost prior to the delivery thereof. Upon delivery of the Commodity, all rights (if any) of the Bank against the commodity trader relating to warranties in respect of the Commodity shall stand assigned to the Customer. As a consequence, the customer shall be entitled to seek remedies (if any) against the commodity trader as appropriate. The customer also agrees that the Bank shall be under no further liability for any warranty relating to the Commodity.
- (iv) Subject to the availability of the variable rate product in 2nd half of 2021 and upon being notified in writing or any other method by the Bank, the outstanding Murabahah Contract will become due and payable by the Customer.
- (v) In such event, the Customer promises (Wa`d) or undertakes to enter into new Murabahah Contract at a CPR which shall, unless the Bank decides otherwise, be calculated.
- (vi) The new Cost Price will be utilised by the Bank to settle by way of set-off (Muqasah) the unpaid Principal Portion in the existing outstanding Sale Price of the Murabahah Contract entered prior to the conversion.
- (vii) Subject to the procedure outlined in paragraphs (v), (vi) and (vii) above, the promise (Wa`d) is fulfilled and the new Sale Price shall be the applicable Sale Price for this facility under the variable rate account, and the Customer's continued payments under the variable rate account shall be payments towards the outstanding balance of the new Sale Price.
- (viii) The Bank in our reasonable discretion as promisee of the promise (Wa`d) may decide not to invoke and complete the new Murabahah Contract which shall not in any way affect the Customer's obligation and promise (Wa`d) for subsequent Murabahah Contract.
- (ix) Any disagreement by Customer to enter or after the Bank has entered into a new Murabahah Contract shall be a breach of promise (Wa`d) entitling the Bank to review the account including to terminate the account and the acceleration of the outstanding Sale Price (subject to rebate (Ibra`)).
- (x) All costs (if any) incurred in connection with a breach of promise (Wa`d) by the Customer shall be borne by the Customer. No promise (Wa`d) shall be revoked without the Bank's prior agreement.

#### 4. WAKALAH

- (a) The Bank agrees to accept the Customer's appointment of the Bank as Agent/Wakil subject to the following:-
- (i) The Bank reserves the right not to disclose to any third party that it is acting as an Agent/wakil of the Customer;
  - (ii) The Customer irrevocably authorises the Bank to sign and execute all documents and do all acts for performance of all obligations required to complete the sale and purchase transaction under the Commodity Murabahah arrangement described in sub-paragraph (c) above.
  - (iii) The appointment of the Bank as Agent/Wakil shall not create or be deemed to create a partnership or a joint venture between the parties. The appointment will not establish a relationship of principal or agent in any other relationship between the parties.
  - (iv) In the execution of the Bank's appointment as the Customer's Agent/Wakil, the Bank shall endeavour to act as if acting for its own account and shall take all necessary measures to protect the Customer rights and interests and will not do or omit to do anything which would be inconsistent with the Bank's obligations and responsibilities under these Standard Terms and Conditions.
  - (v) The Bank's appointment as Agent/Wakil under this Commodity Murabahah arrangement shall be limited to a single transaction. This would mean that the Commodity will be sold in its entirety in a once-off transaction and not in part. The Bank's appointment as Agent/Wakil will cease with immediate effect once the commodity is sold off to the third party and the Agency shall be deemed completed and both the Bank and me/us are free from any contractual obligations under the Agency.
  - (vi) The Bank is indemnified from and against all actions, claims, proceedings, direct actual costs, liabilities and/or expenses whatsoever and howsoever arising as a consequence of it acting as the Customer's undisclosed agent/wakil and such costs, liabilities and/or expenses shall be immediately paid by the Customer upon the Bank's demand.
- (b) In the event of misconduct, negligence or breach of specified terms contained herein made by the Bank acting as Agent/Wakil, the Bank shall be liable and shall compensate for loss or damage including any actual cost suffered by the Customer. Termination of the Bank's responsibilities as Agent/Wakil shall occur under any of the following circumstances;
- (i) dissolution or loss of legal capacity of the Bank;
  - (ii) the Bank and Customer mutually agree to terminate the Wakalah contract;
  - (iii) the Customer exercises the option to terminate the Wakalah contract due to misconduct, negligence or breach of specified terms of the contract by the Bank; or
  - (iv) the Bank withdraws from the Wakalah contract due to breach of specified terms by the Customer.
- (c) Upon dissolution of the Wakalah contract, any Commodity entrusted with the agent/wakil shall be returned to the Customer.

#### 5. **STANDING INSTRUCTION**

- (a) The Customer irrevocably authorizes the Bank to debit the Customer's designated current account for the amounts equal to the monthly instalments due on the payment dates. Customer shall ensure that there are sufficient funds in the Customer's designated current account to effect a payment in full on each payment date and such funds must be credited into the designated current account before each payment date.
- (b) If funds in the Customer's designated current account are insufficient on any payment dates:
- (i) the Customer is to make alternative arrangement to effect the overdue payment; or
  - (ii) where the Customer's other account held at the Bank has a credit balance at the time, the Bank is authorised to debit from this other account to effect the overdue payment.
- (c) The Bank is allowed by the Customer at any time to debit any of the Customer's accounts held at the Bank for fees, banking charges and professional charges, stamp duties, costs and expenses (including costs of wire, remittance cost and all other similar expenses) incurred or payable by you in relation to the Facility in addition to any other right of set-off, other general lien or similar right to which the Bank may be entitled in law and/or equity.
- (d) The Customer is solely responsible for ensuring that the Customer's personal details are stated accurately in the BizFinancing-i Application Pack. The Bank is not liable if the Facility is deposited into a wrong account as a result of any inaccurate, misleading or lack of information and/or misrepresentation provided by the Customer in the application form.

#### 6. **PAYMENT OF FACILITY**

- (a) Payment of the Facility, together with the profit payable, will be paid in equal monthly instalments according to the tenure chosen by the Customer in the BizFinancing-i Application Pack. The monthly instalment amount cannot be altered, unless the Customer requests this in writing and the Bank consents to it.

- (b) Payment of the monthly instalment commences one month after the disbursement of the Facility and must be paid to the Bank on or before the due dates stated in the notification letter sent to the Customer.
- (c) The monthly instalment will become payable even if the Facility may not be fully withdrawn and/or utilised by the Customer.
- (d) Any unpaid payments due from a previous month will be carried forward to the following month. The Customer must settle the monthly instalment due on that particular month together with the outstanding amount due from the previous month plus any profit margin and Ta'widh.
- (e) Any amount under the Facility which has been paid will not be re-disbursed or be available for subsequent financing.

#### 7. PREPAYMENT/EARLY SETTLEMENT

- (a) The Customer may prepay the whole of the Facility(ies) or such lesser amount thereof with one (1) month's prior written notice as specified by the Bank, subject to applicable early settlement charges as permitted by Bank Negara Malaysia.
- (b) All prepayments received by the Bank shall be applied by the Bank in or towards payment and satisfaction of the Facility in the inverse order of maturity.
- (c) Unless notified otherwise by the Bank to the Customer, no amount prepaid may be redrawn for subsequent financing.
- (d) If the amount prepaid may be redrawn, such amount redrawn shall be subject to the available limit of the Facility, and subject to such further reduction or revision as solely decided by the Bank.

#### 8. IBRA' (REBATE)

- (a) For all sale-based financing contracts, the Bank will grant rebate to be calculated in the manner specified in sub-paragraph (b) below to the Customer if any of the following events shall occur:
  - (i) the Customer early settles or redeems the Facility by prepaying the Sale Price;
  - (ii) the Facility is early settled or redeemed through a restructuring exercise over the Facility;
  - (iii) the Facility is early terminated or cancelled due to occurrence of an event of default specified in the terms and conditions applicable to the Facility; and
  - (iv) the Facility is early terminated or cancelled (not due to occurrence of an event of default) before the maturity date of the Facility.
- (b) The Bank shall provide rebate on the outstanding Sale Price upon full settlement by the Customer of the Purchase Price based on the formulas provided in the Annexure to this Standard Terms and Conditions.
- (c) The Customer hereby acknowledged and agreed that the rebates referred to herein shall not be construed in any manner whatsoever as cash rebate payable to the Customer but shall be reflected as a reduction in the profit element of the monthly instalments of the Facility.
- (d) For Financing under conversion from fixed rate to variable rate the Customer agrees as follows;
  - (i) the Bank will grant a rebate (ibra') on the unearned profit from the profit amount of the remaining Sale Price. Any earned profit from the Profit shall remain payable by the Customer with any applicable late payment charge until full settlement.
  - (ii) the Bank shall also grant a rebate (ibra') in the event the amount of profit calculated based on a margin above the Bank's the Base Financing Rate (BFR) (Effective Profit Rate (EPR)) is lower than the amount of profit calculated based on the CPR. The rebate (ibra') will be provided on monthly basis.
  - (iii) the Bank shall grant a rebate (ibra') to the Customer that is calculated in accordance to the following formula:  
$$\text{Rebate (Ibra') Rate (\%)} = \text{CPR (\%)} - \text{EPR (\%)}$$

If the EPR is equal to or more than CPR, the CPR will be used to calculate the monthly instalment amount and the rebate (ibra') will be zero.
  - (iv) that the rebate referred to herein shall not be construed in any manner whatsoever as cash rebate payable to the Customer but shall be reflected as a reduction in the profit element of the monthly instalments of the financing account.



## 9. FACILITY GUARANTEED BY A GUARANTEE SERVICE PROVIDER

- (a) Where application for the Facility is to be guaranteed by a Guarantee Service Provider under a Guarantee scheme ("the Scheme") based on Kafalah contract, the Facility will only be made available upon the Guarantee Service Provider's confirmation that the application is approved to be included under the Scheme.
- (b) If the Guarantee Service Provider approves the Facility under the Scheme, the guarantee fee charged (if any) by the Guarantee Service Provider will be payable by the Customer. The Bank will include this fee into the profit rate on equal monthly instalment basis.
- (c) The Facility may be redeemed in full subject to one month notice in writing being given by the Customer to the Bank. In the event of early redemption, you are required to reimburse the Bank the guarantee fees paid in full which the Bank has paid in advance to the Guarantee Service Provider on a yearly basis. This amount will be added onto the total settlement amount.
- (d) Any request by the Customer to restructure the Facility granted under the Scheme is subject to the approval of the Bank and Guarantee Service Provider.
- (e) The termination or withdrawal of the Scheme is at the discretion of the Bank and/or the Guarantee Service Provider. Bank will be giving the Customer a notice in writing of at least 30 days prior to the date of intended for termination or withdrawal. In the event of termination or withdrawal of the Scheme by the Bank and/or the Guarantee Service Provider, the Bank may at its discretion restructure or convert the Facility.
- (f) In the event of default, the Bank has the right to subrogate your Facility with the Bank and all security documents to the Guarantee Service Provider for any recovery action. You hereby agree that in such event, details of your Facility will be communicated to the Guarantee Service Provider.
- (g) Guarantee provided by a Guarantee Service Provider shall be completed and the Guarantee Service Provider shall be discharged from the specified liability under the guarantee upon the occurrence of any of the following circumstances:
  - (i) full settlement of the guaranteed liability by the Customer, his agent (*wakil*), or the Guarantee Service Provider;
  - (ii) set-off of full debt obligations between the Bank and the Customer;
  - (iii) the Bank waives its right to claim the whole of the guaranteed liability from the Customer; or
  - (iv) expiry of the guarantee period or period to claim the guaranteed liability by the Bank.
- (h) The Guarantee Service Provider under the guarantee is entitled to recourse against the Customer up to the amount that was paid to the Bank as a result of the Guarantee Service Provider providing guarantee for the Customer's facility under the scheme.

## 10. APPLICATION OF MONIES

- (a) The Bank is entitled to apply any payments received from the Customer or from any person making payments on behalf of the Customer towards satisfaction in whole or part of any amount under the Facility (either principal or profit or other sums of monies owing from the Customer) in the order as per the Bank's usual practise or process..
- (b) Regardless of any payment as stated in clause 7(a) above, if there is proceeding in or analogous to bankruptcy, liquidation, composition or arrangement, the Bank may prove for and agree to accept any dividend or composition in respect of the whole or any part of such money and liability in the same manner as if the Facility had not been created.

## 11. REVIEW AND TERMINATION

- (a) The Bank reserves the right and is entitled to review the Facility at any time whether any Event of Default has occurred. Nothing contained in the BizFinancing-i Application Pack and this Standard Terms and Conditions shall be taken to impose on the Bank any obligation at law or in equity, to make or continue to make available the Facility. The Customer will be notified in writing prior to such actions.
- (b) The Bank is allowed by the Customer at all times to have the right to:
  - (i) terminate, cancel, suspend or reduce the limit of all or any part of the Facility(ies); and/or
  - (ii) require immediate payment, any form of additional security and/or cash collateralisation of all or any part of the sums actually or contingently owing to it.
- (c) Regardless of any provision contained here, upon the occurrence of:
  - (i) the Customer's designated current account has insufficient funds and/or is closed and/or subject to a freeze, for whatever reason;
  - (ii) the Customer's Standing Instructions has been revoked and/or cannot be effected due to insufficient funds or any other reason;
  - (iii) an Event of Default; or
  - (iv) any events which in the opinion of the Bank have a material adverse effect on the Customer's ability to pay any amount due and outstanding,

the Bank is entitled to terminate the Facility and all amounts due under the Facility are immediately payable, and the Bank is entitled to do all acts necessary to recover such amounts.

- (d) Regardless of anything stated to the contrary, the Customer must pay the Bank the Facility and any sums owing to it under the Facility upon the Bank's DEMAND (which may be made at any time without the need to give reasons for doing so). The Customer is liable to pay the Bank such amounts notified by the Bank as the sum owing and payable to the Bank within the time stated by the Bank.
- (e) The Bank shall not be liable for any loss or damage in connection with dishonour of any cheques or notes drawn or bills accepted by the Customer as a result of the foregoing actions by the Bank.

## 12. POSITIVE COVENANTS

So long as the Facility remain in effect and any money remains payable, the following covenants shall be complied by the Customer and/or security party at all times:-

- (a) carry out and operate its business and affairs with due diligence and efficiency and in accordance with sound financial and industrial standards and practices and:
  - (i) if it is a company, in accordance with its Constitution;
  - (ii) if it is a partnership or a limited liability partnership, in accordance with its partnership agreement.
- (b) provide to the Bank or :
  - (i) statements, information, materials and explanation in respect of the Customer's and/or security party's business, operations, properties and assets, as may be required by the Bank at any time;
  - (ii) the annual audited balance sheets and profit and loss accounts;
  - (iii) if it is a company, the annual audited accounts together with directors reports; and
  - (iv) supporting accounts of the Customer and/or security party immediately upon their issue but in any case not later than 6 months after the close of the respective financial year.
- (c) furnish to the Bank at any time all such information as the Bank shall reasonably request relating to the Customer, the security party, the Facility and/or any factors which in the view of the Bank may materially affect the Customer's and/or security party's business, operations and/or financial condition;
- (d) keep full particular account of the carrying on of its business or businesses and the financial condition of the Customer and/or security party in accordance with generally accepted accounting standards;
- (e) obtain and comply with all governmental, corporate, creditors, or other necessary licences, approval and consent for the financing hereunder, the carrying on of its business and the due observance and performance of all its obligations and covenants hereunder;
- (f) punctually pay all its indebtedness under the Facility when due and payable;
- (g) allow or cause to allow the Bank or its agents and servants to inspect all records at Customer's and/or security party's place of business or elsewhere and all records kept by any other authorities or persons so far as such records relate to or affect the Customer, security party and/or their business;
- (h) comply with any directive of the Bank which may be issued from time to time provided always that such directive shall be pursuant to this Standard Terms and Conditions, guarantee and/or security documents;
- (i) maintain such insurance/ takaful in respect of its assets and business against all risks (including third party risks and workmen's compensation) which a prudent company carrying on a business similar to that of the Customer and/or security party would normally cover/insure and shall punctually pay all contributions/premiums necessary for maintaining such insurance/takaful;
- (j) notify the Bank of the occurrence of any Event of Default not later than 3 Business Days upon becoming aware of it;
- (k) promptly notify the Bank of:-
  - (i) any material event of adverse change in the condition (financial or otherwise) of the Customer, security party or any of their related companies; and
  - (ii) any litigation or other proceedings of any nature whatsoever being threatened or initiated against the Customer, security party or any of their related companies before any court, tribunal or administrative agency and/or authority which may materially affect their operations and/or financial condition.
- (l) All such notification to be given to the Bank must not later be than 14 days after the Customer and/or security party has knowledge of the change or of the litigation or other proceedings or threat thereof and the amount of any contingent liability if such amount is ascertainable;
- (m) maintain all authorisations, approvals, consents and licenses and do all such other acts which may from time to time be necessary for the continued operation of the business of the Customer, security party and their related companies;
- (n) Customer to maintain the designated current account with the Bank throughout the tenure of the Facility;
- (o) immediately notify the Bank if any of its and any security party's and guarantor's authorised signatories are no longer



authorised to sign any documents or act on the Customer's and any security party's and guarantor's behalf;

- (p) the liabilities of the Customer to the Bank under the Facility shall continue to rank at least equally and rateably (pari passu) with all the Customer's other unsecured and unsubordinated liabilities (both actual and contingent);
- (q) involve in business or use the Facility only for activities and purposes allowed in Islam; and
- (r) obtain the Bank's prior written consent for:
  - (i) obtaining additional financing and/or incurring additional financings from other financial Institutions;
  - (ii) declaring any dividends.

### 13. NEGATIVE COVENANTS

So long as the Facility remain in effect and any money remains payable under this Standard Terms and Conditions, the Customer will not without the Bank's prior written consent (which consent shall not be unreasonably withheld):-

- (a) create or permit to subsist any further security interest over any part of the properties, assets, business or undertaking (both present or future) of the Customer which has been charged or is offered as security to the Bank, except:
  - (i) liens arising by operation of law and securing obligations not more than 30 days overdue;
  - (ii) liens or rights of set off arising in the normal course of trading, which relates to a total of liabilities which is in the Bank's opinion (which is final and binding), not material;
  - (iii) security interest(s) which the Bank may consent to in writing.

For the purposes of this paragraph, "assets" includes any revenues and property moveable and immovable of any kind.

- (b) incur or assume additional indebtedness or guarantee any indebtedness except in the ordinary course of business;
- (c) extend loans/financing and advances to your partners/owners or related companies other than normal trade credit or temporary loans/financing to staff as part of employee benefit scheme;
- (d) effect any change in the ownership/shareholding of the Customer and its related corporations (as defined in the Companies Act, 2016);
- (e) undertake or permit any arrangement or reconstruction of any of its present constitution;
- (f) alter the Customer's Constitution relating to the financing powers or the principal trading business;
- (g) dispose of any material assets or assume significant liabilities beyond those normally undertaken in the ordinary course of business; and
- (h) liquidate, wind up or dissolve the Customer's firm or company.

### 14. REPRESENTATIONS AND WARRANTIES

By accepting the Facility, the Customer represents and warrants to the Bank that:

- (a) the Customer and security party are validly existing under the laws of its country of incorporation and have full power and authority to:
  - (i) own their assets;
  - (ii) carry on their business and operations as they are now being conducted; and
  - (iii) execute, deliver and perform its obligations under the Facility, guarantee and security document to which they are the party;
- (b) that the execution, delivery and performance by the Customer and/or the security party of any of the relevant documents and transactions contemplated under the Facility, guarantee and security document are within the Customer and/or the security party's powers/corporate powers contained in the provisions of:
  - (i) any law, regulation, order or decree of any governmental authority, agency or court to which they are subjected to;
  - (ii) their Constitution, partnership agreement or By-laws (if applicable); or
  - (iii) any contract, other undertaking, or instrument to which the Customer is a party or which are binding upon them or any of their assets and shall not result in the creation, imposition of, or any obligation to create or impose any mortgage, lien, pledge or charge on any of their assets pursuant to the provision of any such contract, undertaking or instrument;
- (c) that the audited financial statements (including the income statement and balance sheet) of the Customer and any security party for the relevant year:
  - (i) have been prepared in accordance with generally accepted accounting principles in Malaysia;
  - (ii) give a true and fair view of the results of its operation for that year and the state of its affairs at that date; and
  - (iii) accurately discloses or reserves against all the liabilities of the Customer and any security party or guarantor;

- (d) that there are no litigation, arbitration, bankruptcy or administrative proceeding or claim commenced, presently in progress or pending to the best of the knowledge, information and belief of the Customer or any security party, which might have a material adverse effect on:
- (i) its business, assets or condition;
  - (ii) its ability to observe or perform its obligations under the Security Document to which it is a party;
- (e) that no:
- (i) step has been taken;
  - (ii) meeting has been convened; or
  - (iii) resolution has been made;
- for the liquidating, dissolution or winding up of the Customer or any security party;
- (f) that the Customer and any security party:
- (i) have filed all tax returns which are required by law to be filed;
  - (ii) are not in default or have made adequate provision for the payment of all taxes, assessments, fees and other governmental charges assessed against each of them or upon any of their respective properties or assets, income or franchise or any of them; and
  - (iii) no claim is being asserted with respect to taxes which is not disclosed in the financial statements referred to in clause 11 (e) above;
- (g) that the information furnished by the Customer or any security party in connection with the Facility:
- (i) does not contain any untrue statement(s) or omit to state any fact(s) which makes any statements made in the Facility, in the light of the circumstances under which they are made, misleading;
  - (ii) all expressions of expectation, intention, belief, opinion and all projections are honestly made on reasonable grounds after due and careful inquiry by the Customer and any security party; and
  - (iii) the Customer will notify the Bank within 30 calendar days if there is a change in any information which the Customer has provided to the Bank;
- (h) that the Customer and any security party has fully disclosed in writing to the Bank all facts relating to the Customer and any security party which the Customer and any security party knows or should reasonably know, which are material for disclosure to the Bank in the context of the Facility;
- (i) that the Customer and any security party are:
- (i) subject to civil and commercial law with regard to their respective obligations under the Facility;
  - (ii) the execution, delivery and performance of the obligations created under these Terms and Conditions constitute private and commercial acts rather than governmental or public acts;
  - (iii) neither the Customer or any security party nor any of its properties enjoy any immunity on the grounds of sovereignty or otherwise in respect of their obligations arising under the Facility;
- (j) that no bankruptcy or winding up proceedings have been commenced against the Customer and any security party;
- (k) that the Customer and any security party are not in default of any agreement (whether in relation to payment, performance or otherwise) to which the Customer and any security party are parties or by which the Customer and any security party is bound;
- (l) that there is no material adverse change in:
- (i) the financial condition of the Customer and any security party;
  - (ii) the operating environment or management of the Customer's and any security party's business which will materially affect the Customer's and any security party's ability to perform its respective obligations under the Facility;
- (m) that the Customer and any security party
- (i) has not failed to:
    - (aa) comply with any environmental law binding on the Customer and any security party; or
    - (bb) to obtain, maintain or comply with any permit, licence or other approval required under any environmental law binding on the Customer and any security party
 which, if not complied with or obtained, may have a material adverse effect;
  - (ii) has not become subject to any environmental claim which may have a material adverse effect;
  - (iii) has not received notice of any claim with respect to any liability under any environmental law which may have a material adverse effect; and
  - (iv) is not aware of any basis for any environmental claim against it which may have a material adverse effect;
- (n) that the Customer and any security party do not carry out any illegal or unethical, activities which may be contrary to the social, economic and/or political environment in which it/ they operate; and;

- (o) that the main business activities of the Customer and any security party are not involving in any haram (prohibited in Islam) activities and that the Facility will not be used for haram activities.

The representations and warranties set out above survive the signing and delivery of these Terms and Conditions until final settlement of the Facility.

## 15. EVENTS OF DEFAULT

Regardless of the Customer's obligation to pay all outstanding amounts on the Bank's demand, all the outstanding amounts under the Facility are immediately due and payable, the Facility will be cancelled, no further disbursement will be permitted and the Bank is allowed by the Customer to have the right to set off the Customer's account with the Bank to settle any amount due and payable, upon the occurrence of any of the Events of Default listed below:

- (a) the Customer or any security party fails to pay to the Bank any monies due and payable under the Facility or there is any breach of the terms and conditions of the Facility;
- (b) legal proceedings, suits or actions of any kind (civil or criminal) are instituted against the Customer or any security party;
- (c) the Customer or any security party commits an act of bankruptcy, declared as bankrupt or wound up, become insane or has passed away;
- (d) the Customer, any security party breaches or threatens to breach any covenant, undertaking, term, conditions or provisions of the Facility and fails to remedy the breach within 7 days of notice from the Bank or such other period stipulated by the Bank;
- (e) any representation or warranty made or implied to the Bank is incorrect or misleading in a material particular;
- (f) documents (such as bank statements, accounts, income statements, proposal papers etc) or information received by or given to the Bank in connection with the Customer's application for the Facility or with the Customer's business are falsified, incorrect or cannot be verified;
- (g) if any cheque(s) issued by the Customer are frequently dishonoured;
- (h) the Customer and any security party fails to operate their respective account(s) with the Bank in a satisfactory manner;
- (i) any event occurs which, in the sole opinion of the Bank, could or might affect or prejudice the Customer's and any security party's ability or willingness to comply with all or any of their respective obligations under the Facility;
- (j) any encumbrancer takes possession of or a trustee or administrative or any receiver or similar officer is appointed in respect of all or any part of the business or assets of the Customer or any of their subsidiaries or distress or any form of execution is levied or enforced upon or sued out against any such business or assets;
- (k) the Customer or any of their subsidiaries is deemed unable to pay its debts within the meaning of Section 466 of the Companies Act 2016 or becomes unable to pay its debts as they fall due or suspends or threatens to suspend making payments with respect to all or any class of its debt;
- (l) the Customer or any of the subsidiaries and any security party:
  - (i) convenes a meeting of its creditors to propose, make or enter into composition, moratorium or arrangement with, or makes a general assignment for the benefit of their respective creditors; or
  - (ii) a petition is presented or a meeting is convened for the purpose of considering a resolution or
  - (iii) other steps are taken for making an administration order against or for winding up of the Customer or any of their subsidiaries which is not for the purpose of and followed by a reconstruction which has previously been approved by the Bank in writing, unless during or following such reconstruction, the Customer or the relevant subsidiary becomes or is declared to be insolvent;
- (m) any demand is made on the Customer or any of the subsidiaries under section 466(1)(a) of the Companies Act 2016 or any enquiry is sent by the Registrar of Companies to the Customer or any of the subsidiaries under section 551 of the Companies Act 2016;
- (n) the Customer or any of the subsidiaries has been declared to be a company to which Section 590 of the Companies Act 2016 applies pursuant to section 590(2) of the Companies Act 2016;
- (o) If:
  - (i) the Customer and any security party;
  - (ii) any of the Customer's related corporations (as defined in the Companies Act, 2016);
  - (iii) any companies deemed by the Bank to be associated to the Customer (by way of effective equity, interest, common shareholding and/or management control);
  - (iv) any individual deemed by the Bank to hold a controlling interest in the Customer (whether by way of shareholding, or whether it is by reason that the Customer is accustomed or is under an obligation to act in accordance with the directions, interest or wishes of that person);fail(s) to pay on due date any monies payable by the Customer and/or their related corporations and/or such companies deemed by the Bank to be associated to the Customer and/or such individual, under any agreement or arrangement with the Bank or any other lender/creditor;
- (p) the Customer ceases or threatens to cease to carry on his/its business;

- (q) a distress or execution is levied upon or issued against any of the property or assets of the Customer and is not paid off or discharged within 5 days from date of commencement of such distress or execution;
- (r) a notice or proposal for compulsory acquisition of any of the assets (in whole or part) of the Customer, any security party or guarantor shall be issued or made under or by virtue of an Act of Parliament or law;
- (s) in the opinion of the Bank the security (if any) in favour of the Bank or business of the Customer or any security party or guarantor is in jeopardy.

## 16. RIGHTS OF DISCLOSURE

- (a) The Customer gives consent to the Bank, its officers and agents, and all persons to whom the law allows, to disclose any information (including any personal data) relating to the Customer's account or accounts and/or dealing relationship or relationships with the Bank, Standard Chartered Bank Malaysia Berhad ("SCBMB"), Standard Chartered Saadiq Berhad ("**SCSB**") and Standard Chartered Bank (including all of its branches) ("**SCB**"), including details of any of the Customer's banking facilities or other accommodation, including these Terms and Conditions, any security taken in respect of any of them, transactions undertaken and balances and positions with or by the Bank, SCBMB and SCB to all or any of the following (whether in or outside Malaysia), without the need to obtain the Customer's further consent:
  - (i) any Bank Member;
  - (ii) professional advisers and service providers of the Bank Members who are under a duty of confidentiality to the Bank Members;
  - (iii) any actual or potential participant or sub-participant in relation to any of the Bank's rights and/or obligations under any agreement between the Bank and the Customer, or assignee, novatee or transferee (any agent or adviser of any of the foregoing);
  - (iv) any rating agency or any insurer/takaful or insurance broker/takaful of, or direct or indirect provider of credit protection to, any Permitted Party;
  - (v) any court or tribunal or regulatory, supervisory, governmental or quasi-governmental authority with jurisdiction over the Permitted Parties;
  - (vi) any financial institution with which the Customer has or proposes to have dealings;
  - (vii) the Central Credit Bureau, Bank Negara Malaysia ("**BNM**") (including the Central Credit Reference Information System (CCRIS), the Financial Institutions Statistical System or any other database or system established by BNM) or any person to whom the Bank may disclose or is under an obligation to make disclosure under the requirements of any law binding on the Bank or any of its branches or any other authority which has jurisdiction over the Bank;
  - (viii) any domestic or overseas regulators or tax authorities where necessary to establish the Customer's tax liability in any jurisdiction; and
  - (ix) any Security Party.
- (b) The Bank may disclose this information to the parties specified above for the purposes of:
  - (i) understanding the Customer's needs;
  - (ii) risk management;
  - (iii) outsourcing or consolidating the Bank's operations;
  - (iv) any sale of assets or corporate exercise;
  - (v) procuring credit protection; or
  - (vi) undertaking any issue of securities.
- (c) To comply with applicable Laws and in the course of providing products and services to you, the Bank will need to collect, hold, use and share Personal Information of your Data Subjects.
  - (i) The Bank's Privacy Statement on our website outlines how the Bank and SCB Group processes Personal Information. You agree to make your Data Subjects aware of the Bank's Privacy Statement.
  - (ii) "**Bank Member**" means Standard Chartered PLC or any of its subsidiaries, holding companies or any other subsidiary of any such holding company, including (where applicable) any of their representative and branch offices in any jurisdiction.
  - (iii) "**Data Subjects**" means all individuals whose Personal Information the Bank receive in the course of our banking relationship with you, including your direct and indirect beneficial owners, directors, officers and authorized persons.
  - (iv) "**Personal Information**" means any information relating to Data Subjects.
  - (v) "**SCB Group**" means each of Standard Chartered PLC and its Affiliates (including each branch or representative office).

## 17. SET OFF AND CONSOLIDATION OF ACCOUNTS

- (a) The Bank is entitled (but not obliged) at any time and with notice to the Customer, to combine or consolidate any of the Customer's accounts and liabilities with and to the Bank (whether in or outside Malaysia and whether singly or jointly or jointly with any other person) and may transfer or set off any sums in credit in such accounts to satisfy any of the Customer's liabilities (whether actual or contingent, primary or collateral), even if the credit balances on such accounts and the liabilities on any other accounts are not expressed in the same currency.
- (b) The Bank is authorised to effect any necessary conversions at the Bank's own prevailing rate of exchange. The Bank is not liable for any damages and/or loss incurred by the Customer due to the operation of this arrangement.

## 18. STATEMENT BY BANK

- (a) A statement or notice by the manager or any duly authorised officer or agent of the Bank for the time being or computer generated notices issued by the Bank which do not require signatures as to the amount of such balance and liabilities incurred or due to the Bank or as to the profit margin or the amount of profit due and payable, shall be conclusive evidence for all purposes.
- (b) If the Customer fail to report any error therein to the Bank within such period as prescribed by the Bank, such statement or notice shall be conclusive evidence of the Customer's liability to the Bank of the amount stated therein.

## 19. WAIVER NOT TO PREJUDICE BANK'S RIGHT

The Bank may in accordance with Shariah, at any time and without in any way affecting the rights, powers and remedies conferred upon the Bank under these Standard Terms and Conditions and/or the security documents:

- (a) neglect or forbear to enforce any of the terms in any agreement between the Customer and the Bank or waive such terms as it deems fit or any breach by the Customer of the same without prejudice to its right at any time afterwards to act or insist to act strictly in accordance with the originally agreed terms in respect of the existing or subsequent breach;
- (b) determine vary or increase any credit or other facility granted to the Customer and may open or continue any account or accounts (or both) with the Customer, at any branch or branches of the Bank;
- (c) vary the number and or the amount of the instalments to be paid by the Customer;
- (d) grant the Customer, any time or indulgence or waiver or consent or release;
- (e) release or discharge or compound or enter into any deed of composition with the Customer;
- (f) vary or amend any of the terms of any of the Facility(ies) or any of the security documents; or
- (g) renew any bills or negotiable securities.

The Customer will be notified in writing prior to such actions.

## 20. CHANGE IN CONSTITUTION

- (a) Any security, agreement, obligation given or undertaken by the Customer and any security party shall continue to be valid and binding regardless of any change:
  - (i) in the name or style of the Customer and security party;
  - (ii) in the constitution of the Customer and the security party by amalgamation, liquidation, consolidation, reconstruction or new shareholding;

and it is expressly declared that no change of any sort whatsoever in relation to or affecting the Customer, security party or the Bank shall in any way affect the security, liabilities and/or obligation created hereunder in relation to any transaction whatsoever whether past, present or future.

- (b) The security, agreement, obligation given or undertaken by the Customer and any security party shall continue to bind the Customer and the security party notwithstanding:
  - (i) any amalgamation or merger that may be effected by the Bank with any other company or companies;
  - (ii) any reconstruction by the Bank involving the formation of and transfer of the whole or any part of its undertaking and assets to a new company;
  - (iii) the sale and transfer of the whole or any part of the undertaking and assets of the Bank to another company, whether:
    - (aa) the company or companies with which the Bank may amalgamate or merge; or
    - (bb) the company to which the Bank may transfer the whole or any part of its undertaking and assets either on a reconstruction or sale or transfer as stated above shall or shall not differ from the Bank in their or its objects, character or constitution,

and at all times, it is agreed by the Customer that the Facility(ies) shall remain valid and effectual in all respects in favour of, against and with reference to, and that the benefit of the Facility(ies) and all rights conferred upon the Bank by the Facility(ies) may be assigned to and enforced by, any such company or companies and proceeded on in the same manner to all intents and purposes as if such company or companies had been named in this terms and conditions instead of and/or in addition to the Bank.
- (c) In the case of the Customer being sole proprietor, a partnership or limited liability partnership:
  - (i) all security(ies), agreement(s), obligation(s) given or undertaken by the Customer shall continue to be valid and binding notwithstanding any change in the constitution of the sole proprietorship / partnership or a limited liability partnership, whether by retirement, expulsion, death, admission, accession or change of any partners or otherwise;

- (ii) the Customer shall not permit any arrangement or reconstruction of the present constituents without the prior written consent of the Bank, save where such arrangement or reconstruction occurs by mandatory operation of law;
- (iii) the Customer shall obtain the written consent of the Bank before effecting any alteration in the Customer's partnership agreement relating to the financing powers or the principal trading business; and
- (v) the Customer shall not dispose any material assets or assume significant liabilities beyond those normally undertaken in the ordinary course of the Customer's business without the prior written consent of the Bank.

## 21. ASSIGNMENT/TRANSFER

- (a) The Bank may disclose to a potential assignee or transferee or to any other person who may propose entering into contractual relations with the Bank in relation to these Standard Terms and Conditions such information about the Customer as the Bank shall consider appropriate.
- (b) The customer acknowledges and agrees that the Bank may at any time transfer, sell, participate in secondary debt markets or assign all or any part of its rights, benefits and obligations under these Standard Terms and Conditions and/or any security document by assigning to any other party all or any part of the Bank's rights and benefits under these Standard Terms and Conditions and/or any security document by notice to the Customer. The Bank may at any time assign or transfer any of its rights and obligations under any Finance Document to any Islamic financial institution or any entity as may be approved by the Bank's Shariah Committee. Such transfer, sell, participation in secondary debt markets or assignment by the Bank will not prejudice the Customer's rights and obligations under this Standard Terms and Conditions.
- (c) The Customer may not transfer or assign any of its rights, benefits and obligations under these Standard Terms and Conditions and/or any security document without the prior written consent of the Bank and any purported assignment without such consent shall be null and void.

## 22. GOVERNING LAW

- (a) These Standard Terms and Conditions shall be construed and have effect in all respects in accordance with the laws of Malaysia and the Customer hereby submits to the jurisdiction of the Malaysian Courts but such submission shall not be construed so as to limit the right of the Bank to commence proceedings in the courts of any other country.
- (b) The Facility(ies) shall at all times be governed by such rules, regulations and/or directives (whether or not having the force of law) required of or imposed upon the Bank from time to time and at any time by BNM or any authority having jurisdiction over the Bank.
- (c) Without prejudice to the generality of the above, the Customer hereby expressly agrees:

- (i) Central Credit Bureau

The Customer accepts that information regarding the Facility(ies) will be given to any credit bureau including the Central Credit Unit and to the Central Credit Reference Information System (CCRIS), the Financial Institutions Statistical System or any other database or system established by BNM or such other authority having jurisdiction over the Bank for the use of such bureau and the participating banks. This information is kept strictly confidential between such bureau and the participating banks.

- (ii) Guidelines on Dishonoured Cheques Information System (DCHEQS)

Subject to the provisions of DCHEQS Guidelines or such other relevant guidelines as may be issued by BNM from time to time, the Bank reserves the right to close the current account or accounts of the Customer due to the issuance of dishonoured cheques.

- (iii) Foreign Exchange Administration Rules issued by BNM

The Customer shall comply with the provisions of the Exchange Control Act, 1953 and the Foreign Exchange Administration Rules issued by BNM, regulations and guidelines thereto and shall arrange, coordinate, manage and obtain all the necessary consents, licences, approvals or authorisations required in connection with the execution, performance, validity or enforceability of these Standard Terms and Conditions, the guarantee and the security documents.

## 23. SERVICE OF LEGAL PROCESS

The service of any writ or summons or any legal process in respect of any actions or proceedings may be effected on the Customer by forwarding a copy of the writ or summons or statement of claim or other legal process by prepaid registered post (or such other mode as stipulated by law) to the Customer's address for the time being. Where served by post, such writ, summons, statement of claim or such other legal process shall be deemed to have been served on the Customer 2 days after the date of posting.

## 24. ILLEGALITY

- (a) If the Bank determines that the introduction or variation of any law, regulation or official directive (whether or not having the force of law) or any change in the interpretation or application thereof makes it unlawful for the Bank to maintain, fund or give effect to its obligations in these Standard Terms and Conditions:



- (i) the Bank shall forthwith give notice of such termination to the Customer whereupon the Facility to such extent shall be cancelled; and
  - (ii) the Customer will immediately upon notice from the Bank pay all monies payable under the Facility together with profit margin thereon and all other monies agreed to be paid by the Customer hereunder.
- (b) Without prejudice to the generality of the foregoing, the offer and availability of the Facility is conditional upon the Customer representing and undertaking that the financing by the Bank herein and the Bank's agreement to grant or make or continue to make available the Facility(ies) to the Customer will not contravene nor be in breach of any prevailing laws or regulatory requirements or terms and conditions or provisions prescribed by or stipulated in the directives or guidelines that are or may from time to time be issued by BNM, the Association of Banks in Malaysia and/or any governmental authority (the "**Applicable Laws and Regulations**").
- (c) The Applicable Laws and Regulations to which the Facility are subject shall include but are not limited to (i) all prevailing provisions of the Islamic Banking Act 1983 and all prevailing BNM's guidelines and directives issued in respect thereof and all prevailing BNM's guidelines issued pertaining or applicable to grant of Facility to persons connected to the Bank (ii) any financing limits or restrictions that may be imposed upon the Bank from time to time by BNM or any other governmental authority.

## 25. SEARCHES

- (a) The Bank may but is not obliged to conduct bankruptcy searches (as the case may be) and searches from the Central Credit Reference Information System (CCRIS), CTOS Sdn. Bhd. or any other credit reference agencies or database on the Customer prior to the disbursement of the Facility(ies) and at any time from time to time hereafter.
- (b) The Customer consents, to the Bank to carry out searches on the Customer from the Central Credit Reference Information System (CCRIS), CTOS Sdn. Bhd. or any other credit reference agency or database from time to time to the extent permitted by the law.
- (c) All charges incurred with regards to these searches are to be borne by the Customer. In the event that any of the searches confirm that the Customer are an adjudged bankrupt or have been wound up, or if there are any legal proceedings suits or actions of any kind whatsoever, be it civil or criminal, instituted against the Customer, the Bank reserves the right to withdraw, cancel and or terminate the Facility(ies).

## 26. VARIATION OF TERMS

The Customer acknowledges and agrees that the Bank may in accordance with Shariah principles, at any time and without in any way affecting the rights, powers and remedies conferred upon the Bank under the Facility:

- (a) Neglect of forbear to enforce any of the terms and conditions of the Facility or any agreement made between the Customer and the Bank, or waive such terms as it deems fit or any breach by the Customer of the same. This does not affect the Bank's right at any time afterwards to act or insist to act strictly in accordance with the originally agreed terms in respect of the existing or subsequent breach;
- (b) Determine, vary or increase any credit or other facility granted to the Customer and may open or continue any account or accounts (or both) with the Customer at any branch or branches of the Bank;
- (c) Vary the number and/or amount of the instalments to be paid by the Customer;
- (d) Grant the Customer any time or indulgence or waiver or consent or release;
- (e) Deal with, exchange, release or modify or abstain from perfecting or enforcing any right it may now or at any time hereafter or from time to time have from or against the Customer;
- (f) Release or discharge or compound or enter into any deed of composition with the Customer;
- (g) Vary or amend any of the terms of the Facility; or
- (h) Withdraw the Facility by giving notice in accordance with our usual practice and in accordance with any applicable law.

The Customer will be notified in writing prior to such actions taken by the bank as stated above.

## 27. INTERCHANGE OR SUBSTITUTION OF FACILITY

- (a) The Bank may in accordance with Shariah and without affecting the security created pursuant to these Standard Terms and Conditions or any security document:
- (i) grant further facilities;
  - (ii) convert, vary, interchange, appropriate or substitute partly or wholly any of the Facility with other banking facilities to be granted to the Customer;

and these Standard Terms and Conditions shall, so far as is applicable and subject to any further conditions which the Bank may require from time to time, secure such further or interchanged or substituted facilities.

- (b) The Bank retains the right to allocate a new account number or to transfer and/or consolidate the Customer's existing accounts with the Bank to a new account upon such variation, interchange or substitution without affecting the Bank's rights under these Standard Terms and Conditions or any security document.
- (c) The Customer shall do everything necessary and expeditiously at the request of the Bank to enable the provisions of this clause 24 to be carried out by the Bank.

## 28. NOTICES & COMMUNICATION

- (a) Any demand, request, notice or other communication (collectively referred to as "Notices") by or on behalf of the Bank or the Customer, unless otherwise expressly specified herein, shall be in writing.
- (b) Notices may be given or made by post, facsimile, personal delivery or such other mode as may be allowed by the Bank. Notices shall be issued by or on behalf of the Bank (including computer generated notices/statements that do not require any signature) to the Customer at the Customer's address, facsimile number or electronic mail address as stated in the Facility application form or the last known address, facsimile number or electronic mail address notified by the Customer in writing. The Notices are deemed delivered to the Customer:-
  - (i) in the case of post, 2 days after the date of posting notwithstanding the Notices are returned undelivered or unclaimed;
  - (ii) in the case of facsimile on the day of transmission;
  - (iii) in the case of electronic mail or SMS, 4 hours after the Bank sends it that the Bank has not received a failed or undeliverable message from the host provider of the recipient within the day of transmission;
  - (iv) if delivered via the online banking inbox, 24 hours after the Bank sends it;
  - (v) if published in daily newspapers, posted at any of the Bank's branches, the Bank's ATMs or on the Bank's website, at the time of publication or posting;
  - (vi) in the case of personal delivery, at the time of deliver.
- (c) Notices by the Customer to the Bank shall be duly signed by the Customer or where permitted by the Bank, by the Customer's duly authorised signatory and served on the Bank at the address or facsimile number as notified in writing by the Bank from time to time.
- (d) Notices are deemed received by the Bank upon actual receipt of the same except where it is deemed necessary by the Bank to verify the Customer's identity or the source of the Notices. The Customer may be required to deliver at the Customer's own cost to the Bank such documentary evidence (including the actual or original Notices) as may be required by the Bank.
- (e) Where such verification is required by the Bank, the Notices are deemed received by the Bank only upon receipt by the Bank of such additional documentary evidence requested by it.
- (f) The Customer agrees that the Bank may, record and monitor all oral and written communication with the Customer in such manner and at such times as the Bank deems fit.
- (g) Any notice served pursuant to the Facility on any relevant party comprising the Customer shall be deemed to have been duly served on all the parties comprising the Customer.
- (h) The Bank may make a demand under the Facility on any one or more of the relevant persons comprising the Customer without being required to make a demand at the same time or at any other time on any other person comprising the Customer.
- (i) For Customer who has subscribed to the SMS Alert Service which provides periodical updates on the balance outstanding, arrears, and personal information regarding the Facility, the Customer agrees that the Bank is not liable for any loss or damage arising directly or indirectly (including special, incidental or consequential loss or damage) from the SMS Alert Service, howsoever arising, and including any loss, damage or expense arising from, but not limited to:
  - (i) any defect, error, imperfection, fault, mistake or inaccuracy in any information from the SMS Alert Service, its contents or associated services; or;
  - (ii) due to any unavailability of the SMS Alert Service or any contents or associated services.
- (j) The Customer is solely responsible for ensuring that the Customer's personal details (including but not limited to the mobile phone number) are set out in the application form truthfully and accurately;
- (k) The Bank shall not liable if the information or message is sent into a wrong mobile phone number due to and / or as result of any negligence, omission, fraud, inaccurate and/ or incorrect information and / or misrepresentation provided and / or set forth by the Customer;
- (l) Customer who is dissatisfied with the Bank's service may lodge a complaint to the Bank accordingly. Details on how and where to make a complaint can be obtained from any of the Bank's branches or at the Bank's website: [www.sc.com/my](http://www.sc.com/my).

## 29. INDEMNITY

(a) The Customer shall indemnify the Bank and hold the Bank harmless from and against:

- (i) any losses;
- (ii) damages;
- (iii) expenses;
- (iv) legal costs incurred by the Bank on a solicitor and client basis

which the Bank may sustain, suffer or incur as a consequence of any default in the payment of the Facility(ies) and profit margin thereon or any portion thereof, or any other amounts payable hereunder, or on account of the non-observance of all or any of the terms stipulations agreements and provisions on the part of the Customer.

(b) The losses, damages and expenses and legal cost under Clause 27(b) shall include but not be limited to such amount as the Bank shall certify (such certification being accompanied by the basis and calculation of such amount and being conclusive and binding upon the Customer save for any manifest error).

## 30. GROSSING-UP OF PAYMENTS

Where:

- (a) the Customer is required by law to make any deduction or withholding on account of any such tax or any other amount from any sum paid or payable by the Customer to the Bank under the Facility; or
- (b) the Bank (or any person on its behalf) is required by law to make any deduction or withholding from (except on account of tax on the overall net income of the Bank) any payment or calculated by reference to the amount of any sum received or receivable by the Bank under the Facility,

the Customer shall notify the Bank of any such requirement or any change in any such requirement as soon as the Customer becomes aware on it and shall:-

- (i) pay any such tax or other amount before the date on which penalties attach thereto, such payment to be made (if the liability to pay is imposed on the Customer) for the account of the Customer or (if that liability is imposed on the Bank) on behalf of and in the name of the Bank;
- (ii) pay such additional sum to the extent necessary to ensure that after the making of that deduction, withholding or payment the Bank receives on the due date and retains (free from any liability in respect of any such deduction, withholding or payment) a net sum equal to what the Bank would have received and so retained had no such deduction, withholding or payment been required or made; and
- (iii) as soon as the Customer is required by law to do so, pay over to the relevant taxation or other authorities the full amount of the deduction or withholding which shall have been made by the Customer and as soon as possible thereafter, furnish to the Bank a copy of the official receipt in respect thereof in the name of the Bank, issued by the relevant taxation or other authorities and such other documentation as the Bank may reasonably require for the purpose of the taxation authorities of the Bank.

Where required by domestic or overseas regulators or tax authorities, the Customer consents and agrees that the Bank may withhold and pay out from the Customer's account(s) such amounts as may be required according to applicable laws, regulations, agreements with regulators or authorities and directives.

## 31. SUCCESSORS BOUND

The Facility shall be binding upon the heirs estate personal representatives and successors in title of the Customer and on the successors in title and assignees of the Bank.

## 32. TA'WIDH

(a) The Customer shall pay Ta'widh of 1% per annum on the amount due accruing from the due date up to the date of settlement or such other rate as shall be stipulated by BNM from time to time.

(b) In the event of non-payment (whether principal and/or profit) upon expiry of the tenor of the Facilities, the Bank reserves the rights to impose the current prevailing rate based on the Islamic Interbank Money Market (IIMM) or any other rate as shall be stipulated by BNM from time to time on the amount(s) overdue, accruing from the due date up to the date of full settlement. Notwithstanding the above, the amount of ta'widh shall not be compounded.

## 33. PAYMENT PROVISIONS

(a) All payments to be made by the Customer to the Bank in respect of the Facility shall be made in full without set-off or counterclaim and free and clear of and without deduction for any taxes, levies, imposts, duties, charges, fees, deductions, withholdings, restrictions or conditions of any description.

(b) Place of Payment: All payments to be made hereunder by the Customer shall be made by the Customer in immediately available funds on the due date or dates to the Bank at the place of business of the Bank which the Bank may specify in writing from time to time, save and except for banking facility granted to the Customer in foreign currency in which case

the payments may be made in the currency in which such banking facility(ies) was given, subject to the compliance of any foreign exchange laws and regulations to which the Bank and the Customer are subject.

- (c) Business Day: If any sum becomes due for payment under or pursuant to the Facility on a day which is not a Business day such payment shall be made on the next succeeding Business Day unless such next succeeding Business Day falls in another calendar month in which event such payment shall be made on the Business day preceding the due date.
- (d) For the purpose of the Facility, references to "Business Day" shall mean a day on which the Bank is open in the state where its place of business is located for the transaction of business of the nature required or contemplated by the Facility.

#### **34. INCONSISTENCY AND PREVAILING TERMS**

If there is any inconsistency between these terms and conditions and those stated in the application form, these terms and conditions prevail.

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