



## **FACILITIES AGREEMENT**

**BETWEEN**

**UNITED OVERSEAS BANK (MALAYSIA) BHD.  
(Company No. 199301017069 (271809 K))**

**AND**

**Bridging Loan**

## FACILITIES AGREEMENT

**A FACILITIES AGREEMENT** dated the date as stated in Section 1 of Schedule 1 to this Agreement

### BETWEEN

**UNITED OVERSEAS BANK (MALAYSIA) BHD (Company No. 199301017069 (271809 K))** (referred to in this Agreement as **"the Bank"**), which has an address as stated in Section 2 of Schedule 1 to this Agreement,

### AND

**THE PARTY** (referred to in this Agreement as **"the Borrower"**) whose name, particulars and details are as stated in Section 3 of Schedule 1 to this Agreement.

### RECITALS :

- I. The Bank has, at the Borrower's request or upon the Borrower's application, offered to the Borrower the Banking Facilities described in the Letter of Offer addressed to the Borrower and dated the date as stated in Section 4 of Schedule 1 to this Agreement.
- II. The Borrower has accepted the Banking Facilities offered by the Bank to the Borrower in the Letter of Offer.
- III. The Borrower is entering into this Agreement with the Bank to confirm the Borrower's acceptance of the terms and conditions governing the Banking Facilities and to provide for other matters relating to the Banking Facilities.
- IV. The Bank may, at the Borrower's request or upon the Borrower's application, offer further or other banking facilities in letters of offer issued after this Agreement and it is intended that the terms and conditions in this Agreement will also govern such further or other banking facilities offered by the Bank and accepted by the Borrower.

### THE BORROWER THEREFORE AGREES WITH THE BANK AS FOLLOWS:

#### 1. DEFINITIONS AND INTERPRETATION

##### 1.1 Definitions

When used in this Agreement:

- 1.1.1 **"Agreement"** means this Facilities Agreement and includes the Schedules to this Agreement and any Annexure annexed to this Agreement;

- 1.1.2 **“Associated Party”** means any of the following:
- (i) any director of the Borrower;
  - (ii) any shareholder the Borrower;
  - (iii) a company of which any of the Borrower’s directors is a director or a shareholder;
  - (iv) a company of which any of the Borrower’s shareholders is a shareholder or a director;
  - (v) the parent or holding company of the Borrower;
  - (vi) any subsidiary company of the Borrower;
  - (vii) a company of which the Borrower is directly or indirectly a share-holder;
  - (viii) a partnership of which the Borrower is a partner;
  - (ix) a sole-proprietorship of which the Borrower is a proprietor; and/or
  - (x) a company of which the Borrower is a director;
- 1.1.3 **“Authorised Persons”** means any person authorized (either alone or collectively) by the Borrower and notified to and accepted by the Bank, to operate the Borrower’s account, and to act on the Borrower’s behalf in giving instructions, to perform any acts under an agreement between the Bank and the Borrower, or to use any facility, product or service made available by the Bank to the Borrower;
- 1.1.4 **“Availability Period”** means in respect of each of the Banking Facilities, the period stated in the Letter of Offer during which the respective Banking Facilities is or will be available for draw down by the Borrower or such other period as the Bank may at its absolute discretion grant to the Borrower subject to such condition as may be stipulated in the Letter of Offer;
- 1.1.5 **“Bank”** means and refers to United Overseas Bank (Malaysia) Bhd (Company No. 199301017069 (271809 K)) and its successors in title;
- 1.1.6 **“Banking Facilities”** means the banking facility or facilities offered by the Bank to the Borrower in the Letter of Offer and all other banking facilities offered to the Borrower in further or other letters of offer issued after this Agreement and if any of the Banking Facilities is varied and/or substituted in any way by a letter from the Bank to the Borrower, **“Banking Facilities”** will also refer to such Banking Facilities as varied and/or substituted, **“Banking Facility”** means any one of the Banking Facilities;
- 1.1.7 **“Base Lending Rate”** means the rate of interest (fixed by the Bank from time to time based on guidelines issued by Bank Negara Malaysia from time to time) which is reflective of the total cost to the Bank for maintaining the Banking Facilities plus a margin of profit the Bank is allowed to include by Bank Negara Malaysia or any other authority having jurisdiction over the Bank;

- 1.1.8 **“Borrower”** means and refers to the person or the company whose name, particulars and details are as stated in Section 3 of Schedule 1 to this Agreement;
- 1.1.9 **“Business Day”** means a day on which the Bank is open in the state where the place of business of the Bank as stated in Section 2 of Schedule 1 is located for transaction of business of the nature required or contemplated by this Agreement;
- 1.1.9 **“Code”** means the Internal Revenue Code of 1986 issued by the US.
- 1.1.10 **“Development Order”** means such planning permission granted by the relevant authority, comprised in a development order or otherwise under or pursuant to the Town and Country Planning Act 1976 (Act 172) and/or such other relevant laws;
- 1.1.11 **“End Purchasers”** means each and every of the purchasers of Units within the Project;
- 1.1.12 **“Event of Default”** means any of the events or matters specified in Clause 20.1;
- 1.1.13 **“FATCA”** means:
  - (i) the Internal Revenue Code of 1986 issued by the US or any associated regulations or other official guidance;
  - (ii) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (i) above; or
  - (iii) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (i) or (ii) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.
- 1.1.14 **“Group”** means the Bank’s branches, agencies, representative offices, affiliated, associated or related corporations, and their respective officers, servants or agents, whether situated in or out of Malaysia, and includes the Bank;
- 1.1.15 **“HDA”** means the Housing Development (Control and Licensing) Act 1966;
- 1.1.16 **“Indebtedness”** means the aggregate of all monies whether principal, interest, capitalised interest, commission, fees, costs or charges outstanding or payable or agreed to be payable by the Borrower and/or any other Security Party to the Bank from time to time in respect of the Banking Facilities or any account and includes all liabilities incurred by the Borrower to the Bank in respect of:

- (i) cheques, bills, notes, drafts or other negotiable or non-negotiable instruments accepted, paid or discounted for and on behalf of the Borrower; or
- (ii) any other payments, loans, credit or advances made to or for the use or accommodation or on behalf of the Borrower; or
- (iii) any bond, guarantee, indemnity, or letter of credit given, established or opened by the Bank for or at the Borrower's request; or
- (iv) foreign exchange transactions, and any contracts for the forward delivery of goods, bills, or specie; or
- (v) any other banking facilities, trust receipts, or any other security,

whether present or future, actual or contingent, alone or jointly with any other person and in whatever style or name, and whether as principal or surety.

- 1.1.17 **"Land"** means all those pieces of land described in the Letter of Offer on which the Project is to be erected;
- 1.1.18 **"Letter of Offer"** means the letter with the date as stated in Section 4 of Schedule 1 to this Agreement issued by the Bank to the Borrower and will also refer to further or other letters of offer issued by the Bank to the Borrower after this Agreement, whether to grant additional or other banking facilities to the Borrower or to vary and/or to substitute all or any of the Banking Facilities already granted to the Borrower;
- 1.1.19 **"Personal Data"** may include, but is not limited to, the Borrower's name, address, occupation, contact details, information captured on security systems (including a recording of the Borrower's image on Closed Circuit Television (CCTV)), the information contained in any of the Borrower's account(s) the Borrower may have with the Bank either singly or jointly with any other person, the type of products and/or services that the Borrower has subscribed to with the Bank and such other necessary data regarding the Borrower and the Borrower's transaction(s) with the Bank;
- 1.1.20 **"Prescribed Rate"** means such rate prescribed by the Bank from time to time on each Banking Facility and shall also refer to such other rate as changed, varied or substituted by the Bank from time to time;
- 1.1.21 **"Project"** means the development project stated in the Letter of Offer currently provided/to be provided in the Development Order (subject to such changes as the Borrower may require and may be approved by the relevant authority) proposed to be developed by the Borrower on the Land in accordance with the Development Order and building plans approved by the relevant authorities;
- 1.1.22 **"Project Account"** means all accounts opened and maintained by the Borrower with the Bank in respect of the Project or any part of the Project, including but not limited to the housing development

account opened or to be opened by the Borrower with the Bank in respect of the Project and any part thereof under and pursuant to the HDA;

- 1.1.23 **“Sale Proceeds”** means the proceeds of sale of the Units within the Project under the sale and purchase agreements, whether prescribed under the HDA or otherwise, made or to be made between the Borrower and the End-purchasers;
- 1.1.24 **“Sanctions”** means the sanctions, embargoes or restrictive measures administered, enacted or enforced by any government, governmental institutions or agencies, regulator or authority;
- 1.1.25 **“Schedule”** means the Schedules to this Agreement; the Schedules are part of this Agreement;
- 1.1.26 **“Security”** means the security or securities required to be created in favour of the Bank or given to the Bank in consideration for the Bank’s granting or continuing to grant to the Borrower of the Banking Facilities and shall also include the Security more particularly described in the Letter of Offer;
- 1.1.27 **“Security Documents”** means any document relating to the Banking Facilities and the Security and includes the Letter of Offer, this Agreement and any other agreement entered into between the Bank and any Security Party;
- 1.1.28 **“Security Party”** means any person creating or giving the Security and can also mean the Borrower if the Borrower is a person creating or giving any of the Security;
- 1.1.29 **“SPA”** means the sale and purchase agreement entered and to be entered into between the Borrower and an End Purchaser in respect of any Units within the Project;
- 1.1.30 **“Units”** means the units of buildings/parcels of development comprised in the Project to be erected on the Land and shall include all other units as may arise as a result of any amendments or variations to the Development Order and/or the building plans;
- 1.1.31 **“US”** means United States of America.
- 1.1.32 **“Vendor”** means the party, if any who has agreed to sell the Land to the Borrower/Security Party and includes its successors-in-title and persons deriving title thereunder;
- 1.1.31 **“year”** means a period of 365 days;

## 1.2 **Interpretations**

Unless stated otherwise in this Agreement:

- 1.2.1 words and phrases used in this Agreement which are applicable to natural persons (including the word “person”) also apply to non-natural persons such as companies, corporations, partnerships, firms and other bodies whether corporate or unincorporated;

- 1.2.2 references to Clauses are references to the clauses of this Agreement;
- 1.2.3 clause headings have been used for convenience only and shall be ignored in interpreting this Agreement;
- 1.2.4 words denoting the singular number only shall include the plural and vice versa and words importing the neuter gender shall, where appropriate, include the masculine and neuter genders and vice versa;
- 1.2.5 references to any laws, statutes, rules or guidelines include the amendments, if any, to those laws, statutes, rules or guidelines;
- 1.2.6 Where the Borrower is a company, any references relating to bankruptcy will be read as references relating to the winding-up, liquidation, amalgamation or reconstruction of the Borrower;
- 1.2.7 Where there are two or more persons or parties included in the expression "the Borrower", agreements and other matters expressed to be made by or on the part of the Borrower are deemed to be made by or binding upon such persons jointly and severally; and
- 1.2.8 A reference to "principal" includes all sums and monies advanced or paid to or on behalf of the Borrower and/or the Security Party by the Bank or otherwise howsoever payable by the Borrower and/or the Security Party to the Bank under this Agreement and/or any other Security Document (whether or not it forms part of the Banking Facilities), and "interest" includes interest at the relevant Prescribed Rate or at such other rates fixed by the Bank from time to time on all such sums and monies. Accordingly "principal and interest" includes all such sums and monies and interest.

## **2. REPRESENTATIONS AND WARRANTIES**

- 2.1 By signing this Agreement, and in addition to the representations and warranties set out in the Letter of Offer and Schedule 2 to this Agreement, if any, the Borrower further represents and warrants to the Bank as below:
  - 2.1.1 that the Borrower and every Security Party has the power, right and capacity to execute, deliver and perform the terms of this Agreement and the Security Documents;
  - 2.1.2 where the Borrower or any Security Party is a partnership, society, association or company, that the Borrower and/or the Security Party is/are duly registered or incorporated under the laws of Malaysia or, in the case of a foreign entity, incorporated under the laws of the country of registration or incorporation, as the case may be, and has the power, right and capacity to execute, deliver and perform the terms of this Agreement and the Security Documents and to carry on the business which the Borrower or such Security Party conducts and/or proposes to conduct under their own constituent documents;

- 2.1.3 that this Agreement and the Security Documents, when executed, will constitute legal, valid and binding obligations of the Borrower and the Security Party enforceable in accordance with their respective terms;
- 2.1.4 that the execution, delivery and performance of this Agreement and the Security Documents:
  - (i) will not breach any law, regulation, order or decree of any governmental authority, agency or court to which the Borrower and/or the Security Party is/are subject; and
  - (ii) will not breach any provision of any contract, mortgage, undertaking or instrument to which the Borrower and/or the Security Party is/are party or which is binding on them and will not result in the creation or imposition of any obligation to create or impose any mortgage, charge, lien, pledge or other security interest in the Security or in the Security Documents or on the assets or moneys of the Borrower and or the Security Party;
- 2.1.5 that all consents, licences, approvals, authorizations, orders and exemptions of any ministry, agency, department or authority in Malaysia and elsewhere which are required or advisable to be obtained in connection with the execution, delivery and performance, legality and enforceability of this Agreement and the Security Documents have been obtained and are in full force and effect and that no further consent, licence, approval, authorization, order or exemption is required;
- 2.1.6 that the conditions contained in any consent, licence, approval, authorization, order or exemption which are required or advisable to be obtained have been duly complied with;
- 2.1.7 that there are no litigation (whether civil or criminal) arbitration or administrative proceedings, pending, on-going or threatened against the Borrower or any Security Party;
- 2.1.8 where the Borrower and/or the Security Party is/are an individual or an ordinary person, that the Borrower and/or the Security Party has/have not committed any act of bankruptcy and that no bankruptcy proceedings have been commenced or are being threatened against the Borrower and/or the Security Party;
- 2.1.9 where the Borrower and/or the Security Party is/are a company, no steps have been taken or are being taken to appoint a receiver, receiver and/or manager or liquidator to receive and/or manage the assets or undertakings of the Borrower and/or the Security Party or to wind-up or liquidate the Borrower and/or the Security Party;
- 2.1.10 that the Borrower and the Security Party have filed all tax returns which the Borrower and the Security Party are required by law to file and have paid or 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, assets, businesses or incomes;



- 2.1.11 that no Event of Default has occurred or is continuing or will occur as a result of the Bank making any advance or continuing to make available any of the Banking Facilities to the Borrower;
- 2.1.12 that there has been no change in the financial condition, operating environment or management of the Borrower and/or the Security Party which would materially affect in an adverse way the ability of the Borrower and/or the Security Party to perform their respective obligations under this Agreement and the Security Documents to which they are a party;
- 2.1.13 that the financial statements of the Borrower and/or the Security Party which have previously been submitted by the Borrower and/or the Security Party to the Bank are complete and correct and that they fairly and correctly represent the financial condition of the Borrower and/or the Security Party and the results of the operations of the Borrower and/or the Security Party for the period stated in accordance with generally accepted accounting principles applied on a consistent basis;
- 2.1.14 that the Security Party is the legal and beneficial owner of the Security which is being offered to the Bank as security for the Banking Facilities or which are the subject matter of any of the Security Documents;
- 2.1.15 that all the information given by the Borrower and the Security Party to the Bank in connection with the Banking Facilities do not contain any untrue or misleading statement or omit to state any fact and that all expressions of expectation, intention, belief and opinion and all projections contained in such information were honestly made on reasonable grounds after due and careful enquiry;
- 2.1.16 that the Borrower is not aware of and has not intentionally withheld any information or fact which may result in or give rise to the offering or the grant of the Banking Facilities by the Bank breaching any law or regulation including, without limitation, the Financial Services Act 2013, or any lending limits or restrictions that may be imposed upon the Bank from time to time by Bank Negara Malaysia or such other authority having jurisdiction over the Bank;
- 2.1.17 that the Borrower and/or the Security Party are not involved in any illegal activities and all moneys and properties provided to the Bank are not derived in any way from illegal activities; and
- 2.1.18 that the Borrower and the Security Parties are not:-
  - (a) nationals of any country which is subjected to Sanctions;
  - (b) entities incorporated under the laws of or owned or controlled (directly or indirectly) by a person located in or organized under the laws of a country which is subjected to Sanctions; or

- (c) persons listed on or owned or controlled (directly or indirectly) by any person listed on, any sanctioned persons list published by any government, governmental institutions or agencies, regulator or authority or prepared by the Group.
- 2.2 The Borrower acknowledges that the Bank has entered into this Agreement on the basis of and in full reliance of the representations and warranties above and the Borrower agrees, covenants, undertakes and confirms that each of the representations and warranties above shall survive and continue to have full force and effect after the execution of this Agreement and the Security Documents and will be true and correct and fully observed on each and every date that any of the Banking Facilities is utilized and until the Indebtedness has been fully and completely discharged.
- 2.3 The Bank's rights and remedies in relation to any misrepresentation or breach of warranty shall not be affected in any way by any investigation by or on behalf of the Bank into the affairs of the Borrower or the Security Party, by the execution or the performance of this Agreement, or by any other act or thing which may be done by or on behalf of the Bank in connection with this Agreement or which might, apart from this Clause, affect such rights or remedies.

### **3. AGREEMENT TO BORROW AND LEND**

- 3.1 At the request of the Borrower, the Bank has agreed to make available and/or to continue to make available to the Borrower the Banking Facilities upon the terms and conditions in the Letter of Offer and this Agreement.

### **4. NO OBLIGATION TO ADVANCE**

- 4.1 The Bank has no obligation whatsoever to make or to continue to make available the Banking Facilities or any part of the Banking Facilities to the Borrower or to make or to continue to make any advance of the Banking Facilities; nothing in this Agreement shall be read to mean that the Bank has such an obligation whether in law or in equity.
- 4.2 Regardless of whatever else may be contained in this Agreement, the Borrower expressly understands and agrees that the Banking Facilities may be reviewed at any time and from time to time by the Bank.
- 4.3 Upon any review of the Banking Facilities by the Bank, the Bank may, prior notice from the Bank to the Borrower, impose such terms and conditions as the Bank deems fit including, without limitation, reducing the principal amount of the Banking Facilities or requiring payment and repayment of any Indebtedness.

### **5. PURPOSE**

- 5.1 If the Letter of Offer specify that the Banking Facility is to be used for a particular purpose, then the Borrower must use the Banking Facility only for

purpose so specified but the Bank may, at the request of the Borrower and in the Bank's sole discretion allow in writing, the Banking Facility to be used for another purpose.

- 5.2 Without in any way affecting the Borrower's obligation in Clause 5.1, the Bank need not check or concern itself with how the Borrower actually uses the Banking Facilities.

## **6. DRAWINGS / PROGRESSIVE RELEASE**

- 6.1 Subject to the Conditions Precedent set out in this Agreement and the Letter of Offer having been satisfied or if not satisfied, waived by the Bank under the terms of this Agreement, the Borrower may utilize each of the Banking Facilities within their respective Availability Period and upon the following conditions:-
- 6.1.1 the Bank shall have received from the Borrower a notice of drawdown at least three (3) Business Days (or such other longer or shorter period specifically stipulated in the Letter of Offer for the relevant Banking Facilities) prior to the date of drawdown;
  - 6.1.2 upon the expiry of the relevant Availability Period, any portion of the relevant Banking Facilities then remaining undrawn or unutilized shall be deemed to be cancelled by the Borrower;
  - 6.1.3 the aggregate amount released/drawn down and to be released or drawn down shall not exceed the relevant limits of such Banking Facilities as stated in the Letter of Offer;
  - 6.1.4 the amount that can be drawn down progressively shall not exceed such percentage stated in the Letter of Offer of the following:-
    - (i) the value of work done (excluding material on site and retention sum) on earthwork, piling/foundation work, and all general infrastructural costs in relation to the Project and as certified from time to time by the architect/engineer/surveyor; or
    - (ii) the invoiced amount in respect of professional fees in relation to the Project and subject to any sublimit as may be stipulated in the Letter of Offer.
- 6.2 The Bank can, and is expressly authorized by the Borrower to, advance or pay (where applicable) all or part of the Banking Facilities to any authority, the builder, developer, contractor, architect, supplier, service provider or such other persons responsible for or concerned with the construction of any building ("the said building") or the vendor of any land on which the said building is to be erected or said building at such times, on such terms, in such manner, by such amounts, and upon such contingencies and conditions, as the Bank decides in its absolute discretion.
- 6.3 The authorization given by the Borrower is irrevocable. All advances and payments to the said person(s) will be deemed paid to the Borrower and shall form monies secured and owing by the Borrower to the Bank under this Agreement.

- 6.4 The acknowledgement by or receipt of such person(s) will be as good and sufficient and effective as if it had been made or given by the Borrower.
- 6.5 The Borrower irrevocably agrees and confirms that the Borrower will not and cannot object to or to restrain such payments by the Bank.
- 6.6 The Borrower hereby irrevocably authorizes the Bank and if the Bank in reliance on such authority has given or agreed to give its express or implied undertaking, guarantee, or covenant to:
- 6.6.1 any of the persons mentioned in Clause 6.2 ("the Payee") or its solicitors or firm of solicitors purporting to act for the Payee to pay; or
  - 6.6.2 pay the Bank's solicitors to enable the Bank's solicitors to give the Payee or the Payee's solicitors their solicitor's undertaking to pay,
- the balance purchase price payable by the Borrower and/or any Security Party under the agreement of sale of the land or the said building progressively or otherwise in accordance with the terms in the said agreement, the Borrower agrees that:
- 6.6.3 the payment of all monies undertaken, guaranteed, or covenanted to be paid by the Bank to the Payee, the Payee's solicitors, or the Bank's solicitors (as the case may be) will be secured under this Agreement; and
  - 6.6.4 the Borrower will at all times indemnify and keep the Bank indemnified against all actions, proceedings, costs, expenses, claims, and demands which may be taken, incurred, or suffered by the Bank arising from the Bank's aforesaid undertaking given to the Payee, the Payee's solicitors, or the Bank's solicitors (as the case may be).

## **7. CONDITIONS PRECEDENT**

- 7.1 Subject to the terms and conditions contained in this Agreement, the Banking Facilities will be available for utilization by the Borrower only upon the satisfaction or fulfillment of the following conditions precedent:

### **7.1.1 Execution**

This Agreement and the Security Documents must have been duly executed, stamped and registered with such registries as the Bank may consider necessary and copies of those documents must have been delivered to the Bank.

### **7.1.2 Borrower's and/or Security Party's Documents**

The Bank must have received, in form and substance acceptable to the Bank copies (in such quantity as may be requested by the Bank) of the following documents, duly certified as true and correct by an authorized officer of the Borrower or the Security Party, as the case may be:

Where the Borrower/Security Party is a company

- (i) the Memorandum and Articles of Association and the Certificate of Incorporation of the Borrower and/or the Security Party and their latest Forms 24, 44 and 49 and the annual return;
- (ii) all authorizations, approvals, and consents required by law including, without limitation, resolutions of the directors and/or shareholders of the Borrower and/or the Security Party authorizing:
  - (a) the Borrower's acceptance of the Banking Facilities;
  - (b) the execution of this Agreement and, where applicable, the Security Documents;
  - (c) either the affixing of the Borrower's and/or the Security Party's common seal onto this Agreement and, where applicable, the Security Documents or, where appropriate, a named person or persons to sign this Agreement and, where applicable, the Security Documents by hand for and on behalf of the Borrower and/or the Security Party; and
  - (d) a named person or persons (whose specimen signatures must be given to and verified by the Bank) to sign documents and to act and to give instructions on the Borrower's and/or the Security Party's behalf in respect of the Banking Facilities and/or the Security Documents and any changes to the authorized signatories of the Borrower and/or the Security Party;

Where the Borrower is a Society, a Partnership or Other Unincorporated Body

- (iii) all authorizations, approvals, and consents required by law including, without limitation, a resolution or authorization, in form and substance acceptable to the Bank, made under the Borrower's constituent documents approving the matters set out in Clause 7.1.2 (ii)(a) to (d) above; and
- (iv) the certificate of registration of the society, partnership or other type of unincorporated body with the relevant authority and its constituent documents or partnership agreement, as the case may be.

7.1.3 Company Search

If the Borrower and/or a Security Party is a company, searches must have been made by the Bank at the Companies Commission of Malaysia and/or the relevant registry in the country of incorporation of the Borrower and, where applicable, the Security Party, to verify the particulars of the Borrower and/or the Security Party and to confirm that no charges, encumbrances or other

security interests whatsoever have been registered with the Companies Commission of Malaysia or the relevant registry, as the case may be, over any of the assets, properties or undertakings of the Borrower and/or the Security Party to be charged or encumbered in favour of the Bank unless the charge or encumbrance is to be discharged or released using the Banking Facility.

7.1.4 Winding-up/Bankruptcy Search

The Bank must have received from the Director General of Insolvency, Malaysia, or, if the Borrower is not a citizen of Malaysia or is a foreign company, the relevant registry of the country of citizenship/incorporation, the results of the searches made on the Borrower and/or the Security Party confirming that the Borrower and/or the Security Party has not been wound up or adjudged bankrupt and that no petition or order for the winding up or bankruptcy of the Borrower and/or the Security Party has been made or received against the Borrower and/or the Security Party.

7.1.5 Evidence of Ownership

The Bank must have received evidence acceptable to the Bank showing that the Security Party has a valid and legal title to the Security and that the Security Party is entitled or will be able to create or give the Security in favour of or to the Bank.

7.1.6 Lodgment of Form 34

If any of the Security Documents is required by any law to be lodged or registered with the Companies Commission of Malaysia or, in the case of a foreign entity, the relevant registry, the relevant Form 34 or other applicable forms, as the case may be, must have been so lodged or registered.

7.1.7 Approval by Bank Negara Malaysia

If any approval from Bank Negara Malaysia is required for the borrowing by the Borrower of the Banking Facilities under this Agreement, the approval of Bank Negara Malaysia must have been obtained;

7.1.8 Valuation on Security

If any valuation report on any Security is required, such valuation report on the Security shall have been obtained from a valuer approved by the Bank and if the value of the Security is less than the amount required or stated in the Letter of Offer, then the Bank shall be entitled to revise the Banking Facilities and reduces the limit of Banking Facilities;

7.1.9 Issued and paid up share capital

If the issued and paid up share capital of the Borrower is required by the Bank to be increased to an amount not less than the sum stated in the Letter of Offer, then the Bank must be in receipt of

documentary evidence satisfactory to the Bank that the issued and paid up share capital of the Borrower has been increased as required;

7.1.10 Independent assessment and feasibility study

If required by the Letter of Offer, the Bank shall be in receipt of such independent assessment study of the market impact and feasibility of the proposed Project carried out by a professional valuer acceptable to the Bank.

7.1.11 No Misrepresentation or Breach of Warranty

There must not have occurred any misrepresentation or breach of any of the warranties contained in this Agreement.

7.1.12 Payment of Fees, Costs and Expenses

All fees, costs and expenses which are due and payable or which have accrued by virtue of this Agreement or any Security Document must have been fully paid and settled.

7.1.13 No Event of Default

No Event of Default and no event which, with the giving of notice or lapse of time or both, would constitute such an Event of Default must have occurred and/or is continuing.

7.1.14 Receipt of Additional Documents, etc

The Bank must have received such other documents, undertakings, confirmations, opinions, certificates, authorizations or assurances as the Bank may in its sole discretion consider necessary.

7.1.15 Receipt of Solicitors' Advice

The Bank must have received from its solicitors an advice in writing confirming that the security for the Banking Facilities is in place and that the Bank may release the Banking Facilities or any part of the Banking Facilities.

7.1.16 No Change in Ability to Perform

There must not have occurred any extraordinary circumstance, change of law or change in the financial position of the Borrower or the Security Party which, in the sole opinion of the Bank, would affect or prejudice the ability of the Borrower or the Security Party to fully perform and discharge its respective obligations under this Agreement or the Security Documents.

7.1.17 No change in Financial, Economic or Political Situation

There must not have occurred any change in the financial, economic or political conditions in Malaysia which, in the sole

opinion of the Bank, would make it inadvisable or impractical for the Bank to make or to continue to make available the Banking Facilities or any utilization of the Banking Facilities.

7.1.18 Compliance with Operational Requirements

The Borrower must have complied with all the Bank's operational requirements to the satisfaction of the Bank.

7.1.19 Compliance with Additional and/or Other Conditions Precedent

If additional and/or other conditions precedent were set out in the Letter of Offer and/or Schedule 3 to this Agreement, the Borrower must have complied with such additional and/or other conditions precedent.

7.2 The conditions precedent contained in Clause 7.1 are for the sole benefit of the Bank and may be waived wholly or partly by the Bank at the Bank's sole discretion without in any way affecting the rights of the Bank under this Agreement. Any waiver shall not prevent the Bank from insisting on compliance at a later time with any condition precedent waived.

7.3 Until the conditions precedent contained in Clause 7.1 have been satisfied or fulfilled to the satisfaction of the Bank, the Bank may terminate, suspend or cancel the whole or any part of the Banking Facilities.

**8. SEARCHES**

8.1 The Bank may but is not obliged to conduct bankruptcy/winding up searches or credit related searches from any credit reference agencies, database or system on any person before and at any time after the disbursement of any of the Banking Facilities.

8.2 The Borrower consents, and will procure the consent of each Security Party, to the Bank to carry out such searches on the Borrower and/or such Security Party to the extent permitted by the law.

8.3 All charges incurred in connection with the above searches will be borne by the Borrower.

**9. CONVERSION OF FOREIGN CURRENCY FACILITY**

9.1 If the Banking Facility is a foreign currency facility, the Bank may at the Bank's sole discretion convert the Banking Facility to a Ringgit facility upon such terms as the Bank may in the Bank's sole discretion prescribe.

9.2 If the Bank suffers a loss as a result of the said conversion, the Borrower agrees to indemnify the Bank against the loss, and the conversion cost.



## **10. NON-UTILISATION OF BANKING FACILITY**

- 10.1 If the Letter of Offer prescribes a time period during which the Banking Facilities must be fully or partly utilized, and if the Banking Facilities is not fully or partly utilized during that time period, the Bank may in its sole discretion withdraw or cancel the Banking Facilities or any unutilized portion of the Banking Facilities. If the Bank withdraws or cancels the Banking Facilities or any unutilized portion of the Banking Facilities:
- 10.1.1 the Borrower remain liable to pay to the Bank all fees, costs and expenses which may have been incurred by the Bank; and/or
  - 10.1.2 the Bank may vary the Banking Facilities and impose new terms and conditions.

## **11. BANKING FACILITY REPAYABLE ON DEMAND**

- 11.1 Unless the Banking Facility is a Fixed Term Loan or a Bridging Loan, the Borrower agrees that the Banking Facility will be repayable on demand by the Bank at the Bank's sole discretion; this means that the Bank has the right to terminate or cancel the Banking Facility at any time and to require the Borrower to make immediate payment and repayment of all moneys and liabilities owing by the Borrower to the Bank in relation to the Banking Facility regardless whether the moneys and liabilities have become due to be paid or repaid to the Bank. Upon the occurrence of an Event of Default, the entire of the Banking Facility will become repayable to the Bank, whether demanded by the Bank or otherwise.

## **12. INTEREST**

### **12.1 Prescribed Rates**

The Borrower shall pay interest on the Banking Facilities at the rate stated in the Letter of Offer to be calculated and paid in accordance with the provisions of this Agreement.

### **12.2 Calculation of interest**

- 12.2.1 Interest will be calculated in accordance with the Bank's usual practice and at such rates prescribed by the Bank in the Letter of Offer, having regards to, amongst others, the nature of each Banking Facility, up to the date of full payment.
- 12.2.2 Interest will be charged on all amounts outstanding under the Banking Facilities.

### **12.3 Payment of interest**

- 12.3.1 Unless the Bank expressly prescribes otherwise in the Bank's sole discretion, the Borrower agrees that interest on and for the Banking Facilities at the rate stated in the Letter of Offer must be paid to the Bank every month.

- 12.3.2 If the Banking Facility is a non-revolving facility, that is, a facility which cannot be reused once the Borrower has repaid any principal amount of the Banking Facility, the Borrower agrees that before the Borrower begins any repayment to the Bank for the Banking Facility, interest on the amounts of the Banking Facility that the Bank releases from time to time will be calculated on a daily basis and must be paid to the Bank every month in arrears.

12.4 **Capitalization**

- 12.4.1 Subject always to Clause 12.4.3, the interest on any principal monies for the time being secured by this Agreement including capitalized interest will, at the end of each calendar month or such other periods as fixed by the Bank be capitalized and added to the principal sum then owing.
- 12.4.2 The capitalized interest will then bear interest at the relevant Prescribed Rate and/or at any increased rate and be secured and payable accordingly, all the covenants and conditions contained in or implied by this Agreement, all powers and remedies conferred by law or by this Agreement, and all rules of law or equity in relation to the said principal sum and interest will equally apply to such capitalized interest.
- 12.4.3 To determine whether the limit of the principal intended to be secured by this Agreement has been exceeded or not, all accumulated and capitalized interest will be deemed to be interest and not principal sum.

12.5 **Change of interest rate**

- 12.5.1 Regardless of the other provisions relating to the rate of interest in this Agreement, the Bank can, from time to time at its absolute discretion, change the rate of interest by notifying the Borrower in writing of such intention.
- 12.5.2 The amended rate of interest will be effective from the date specified in the notice. Such notice will be binding on the Borrower, and can be served in the manner provided in Clause 54.
- 12.5.3 The Borrower hereby agrees to irrevocably waive the requirement of the service of the notice if the change of interest rate relates only to the change in the Bank's Base Lending Rate.
- 12.5.4 If the rate of interest changes at any time, the amount of interest due will be recalculated such that:
- (i) the interest at the former rate will be charged from the date on which the Banking Facility was advanced or paid, or the first day the former rate of interest takes effect, as case may be, up to the day preceding the date when the new rate of interest takes effect; and
  - (ii) interest at the new rate will be calculated from the date the new rate of interest takes effect up to the day prior to a subsequent change in the interest rate. Interest at the

new rate will be deemed to be due as at the date when the variation takes effect.

- 12.5.5 No part of any payments to be made by the Borrower to the Bank will be deemed to be a repayment of principal until all interest due or deemed to be due to the Bank has been paid.
- 12.5.6 Where repayment is by installment, if and whenever the rate of interest payable by the Borrower or the mode of computation of interest is changed, the Bank may at its absolute discretion make the necessary adjustment, consequent upon any change required by the Bank.
- 12.5.7 The Bank also may (without affecting the above):
  - (i) change the amount of any installment payments; and/or
  - (ii) change the number of any installment payments.

## 12.6 **Interest rates in other security**

- 12.6.1 When the payment of any monies secured or intended to be secured by this Agreement is further secured to the Bank by any bill of exchange, promissory note, draft, trust receipt, or other instrument reserving a higher rate of interest to be paid than that covenanted to be paid in this Agreement, the higher rate of interest will be payable in respect of such monies.
- 12.6.2 Nothing contained in or to be implied from this Agreement will affect the Bank's right to enforce and recover payment of the higher rate of interest or the difference between the higher rate and the rate payable pursuant to this Agreement.

## 12.7 **Additional interest and default rate**

- 12.7.1 Regardless of the other terms and conditions in this Agreement, if the agreed limit on any Banking Facility fixed by the Bank is exceeded, the Bank can at any time levy or impose interest at such rates as stated in the Letter of Offer or such other rates fixed by the Bank at its sole and absolute discretion at any time on any such excess amount in the respective Banking Facility calculated on a daily basis with monthly or other periodic rests in accordance with the type of Banking Facility applicable.
- 12.7.2 In addition to and without affecting the powers, rights, and remedies granted under this Agreement, if the Borrower defaults in the payment on the due date of any money payable by the Borrower to the Bank, the Borrower will pay the Bank interest at the rate as stated in the Letter of Offer or such other rates fixed by the Bank at its absolute discretion from time to time.
- 12.7.3 This interest will be calculated from the date of such default until the date of full payment of the said amount with monthly or other periodic rests, in accordance with the type of Banking Facility applicable, as well after as before any demand or judgment, and regardless of whether or not the banker-customer relationship

between the Bank and the Borrower has ceased or been terminated.

**12.8 Interest where Banking Facilities are withdrawn or revoked**

- 12.8.1 If the Banking Facilities are withdrawn or revoked and/or the said account(s) (current or otherwise) are closed either by demand or by the death of the Borrower (or where the Borrower consists of more than one person, by the death of any one of them) or liquidation of the Borrower, and a balance is owing to the Bank by the Borrower, the Borrower or the personal representative or successors-in-title of the Borrower will, so long as all or any part of the same remains owing, pay to the Bank interest on the sums owing at the rate specified in Clause 12.7.2, or such higher rate prescribed by the Bank from time to time.
- 12.8.2 The interest will be calculated on a daily basis with monthly or such other periodic rests in accordance with the type of Banking Facility applicable, both after as well as before any demand or judgment, and regardless of whether or not the banker-customer relationship between the Bank and the Borrower has ceased or been terminated, when such balance has been ascertained until full payment is received by the Bank.
- 12.8.3 The statement of the manager, acting manager, or any other officer of the Bank as to the amount of such balance will be final and conclusive against the Borrower, its estate executor, administrator, legal representative, or successor-in-title for all purposes, including legal proceedings.

**13. COMMITMENT FEE**

- 13.1 The Bank has the right to charge a commitment fee on any unused portion of the Banking Facilities at the end of every month or at such other time interval as the Bank may stipulate at the rate stated in the Letter of Offer; the commitment fee is payable monthly in arrears. If not paid when due, the commitment fee will be added on to the principal sum then owing and will from that time bear interest at the relevant Prescribed Rate, and be secured and payable accordingly.
- 13.2 All covenants and conditions contained in or implied by this Agreement, and all powers and remedies conferred by law or by the terms and conditions of this Agreement, and all rules of law or equity in relation to the said principal sum and interest will apply equally to the commitment fee, capitalized arrears of the commitment fee, and to interest on such arrears.
- 13.3 To ascertain whether the limit of the principal intended to be secured by this Agreement has been exceeded or not, all accumulated and capitalized commitment fee will be deemed to be interest and not the principal sum.

#### **14. PAYMENT ON DEMAND**

14.1 Regardless of what is stated anywhere else (including the Letter of Offer), the Borrower agrees to pay to the Bank, on demand by the Bank the Indebtedness which shall include the following in addition to those provided in the definition of Indebtedness in Clause 1.1 –

- 14.1.1 liabilities in any currency;
- 14.1.2 liabilities in respect of any account the Borrower has with the Bank regardless whether the account is held by the Borrower alone or with any other person;
- 14.1.3 liabilities owing in connection with:
  - (i) foreign exchange transactions;
  - (ii) the Bank's accepting, endorsing or discounting of any notes or bills; or
  - (iii) any bond, guarantee, indemnity, documentary or other credit, or any instrument whatsoever which may be entered into by the Bank for the Borrower or at the Borrower's request;
- 14.1.4 interest due to the Bank whether or not the Bank has obtained judgment against the Borrower in a court of law and whether or not the Borrower has ceased to be the Bank's customer; and/or
- 14.1.5 commission, fees, charges, legal fees (including the legal fees and expenses of the Bank's solicitors), and all other costs, charges and expenses which may be incurred by the Bank:
  - (i) in relation to the Banking Facilities;
  - (ii) in enforcing or trying to enforce any security which the Bank may hold; or
  - (iii) in getting or trying to get payment of all or any of the Indebtedness which the Borrower is now agreeing the Borrower will pay to the Bank;

so that the Bank will not have incurred any moneys whatsoever of the Bank's own.

14.2 Until demanded by the Bank under and pursuant to the terms of this Agreement, the Borrower must repay to the Bank, the principal sums of the Banking Facilities and all interest thereon in the manner stated in the Letter of Offer or in such other manner as the Bank may prescribe.

14.3 If the Bank is satisfied that any of the Units within the Project is/are sold by the Borrower ("Sold Units") to end purchasers ("End Purchasers") and upon the Bank issuing its undertaking to disclaim the Sold Units from the charges/assignment under the Security Documents ("Letter of Disclaimer"):-

- 14.3.1 the Borrower shall utilise such percentage stated in the Letter of Offer of the Purchase Price of the Sold Units from the progressive claims/billings for redemption of the Sold Units ("Redemption Sums") and all Units are subject to redemption; and

- 14.3.2 all Redemption Sums received shall be utilised to repay the Indebtedness under each of the Banking Facilities in the order stated in the Letter of Offer unless the Bank shall decide otherwise. The Redemption Sums so paid is not to be treated as a prepayment of the Indebtedness or any part thereof under Clause 16.1 and no prepayment fee under Clause 16.1.3 will be payable by the Borrower to the Bank; and
- 14.3.3 upon the Redemption Sum for a Sold Unit is paid in full, the Bank will disclaim or release or discharge the Sold Unit from the charges/assignment created over the Sold Unit under the Security Documents.

Notwithstanding the provision for payment by redemption (i) the Bank shall have the right to vary from time to time the Redemption Sum stated in Clause 14.3.1, in particular if in the opinion of or as estimated by the Bank the total sales value of the Units in the Project may fall below the amount stated in the Letter of Offer; and (ii) the Borrower must repay the Banking Facilities strictly in compliance with the time period stipulated in Clause 14.2 in respect of each of the Banking Facilities and is not entitled to pay the Indebtedness only as and when there are Sold Units.

## **15. PAYMENTS AND REPAYMENTS**

- 15.1 All moneys to be paid or repaid to the Bank under this Agreement and the Security Documents must be paid:
  - 15.1.1 unconditionally and free of any restriction of any kind; and
  - 15.1.2 without any deduction of any kind including, without limitation, deductions for any bank charges or commissions, any kind of withholding tax, and any set-off or counterclaim claimed against the Bank.
- 15.2 If any applicable law requires that there has to be a deduction or withholding from the moneys to be paid or repaid to the Bank under this Agreement and the Security Documents, the Borrower shall pay such additional sum as would be necessary to ensure that, after the making of the deduction or withholding, the Bank will have received on the due date a net amount equal to what the Bank would have received and been entitled to retain had no such deduction or withholding been required.
- 15.3 Without in any way affecting any of the provisions in this Agreement, if any kind of goods and services tax or any tax, charge or levy of a similar nature is required by any law to be paid in respect of any moneys payable or repayable to the Bank under this Agreement or the Security Documents, such tax, charge or levy shall be included in the Indebtedness and shall be paid by the Borrower.
- 15.4 All payments to be made by the Borrower under this Agreement shall be made in Ringgit in immediately available funds on the due dates at the place of business of the Bank set out in Section 2 of Schedule 1 or at any other address which the Bank may specify from time to time. However, for

Banking Facilities in foreign currencies, payments may be made in the currencies in which the Banking Facilities were provided.

- 15.5 If any moneys are due to be paid or repaid to the Bank on a day which is not a Business Day, the payment or repayment shall be made on the Business Day immediately following that day; if the Business Day immediately following that day falls in a different calendar month, the payment or repayment shall be made on the Business Day immediately before that day.

## **16. PREPAYMENT**

- 16.1 Where permitted by the Letter of Offer, the Borrower may prepay the Banking Facilities, that is, to repay to the Bank the full amount (or any lesser amount agreed to by the Bank) owing to the Bank under the Banking Facilities and the Security Documents, at any time before the full amount owing to the Bank is due to be repaid if:
- 16.1.1 all interest, costs, charges, expenses and all other payments then due to the Bank is fully paid up as at the date of the prepayment;
  - 16.1.2 the Borrower has given to the Bank prior written notice of not less than the period stated in the Letter of Offer (or such other period as the Bank may in its sole discretion decide to accept) of the Borrower's intention to prepay, or, if the Borrower does not give such prior written notice to the Bank, the Borrower shall pay an additional interest in lieu of such notice period required upon the prepayment;
  - 16.1.3 the Borrower pays to the Bank a prepayment fee as stated in the Letter of Offer or to be decided upon at the Bank's sole discretion unless such prepayment is made from sale proceeds of units in the Project and the Bank has received from the Borrower and is satisfied with the documentary evidence received that the prepayment is made from such sale proceeds; and
  - 16.1.4 the Borrower pays to the Bank an amount to be decided upon at the Bank's sole discretion to compensate the Bank for any funding loss which the Bank may suffer as a result of the Borrower's prepayment.
- 16.2 If the Banking Facilities is repayable to the Bank by installments, and if the Bank agrees to allow the Borrower to make a prepayment of an amount which is less than the full amount owing to the Bank:
- 16.2.1 the prepayment will not entitle the Borrower to a reduction in the amount payable under any installment; instead, the Borrower will be entitled only to a reduction in the number of installments; and
  - 16.2.2 the amount prepaid by the Borrower will be applied in prepaying installments in inverse order of maturity, that is to say, the installments repaid by the prepayments will be in the opposite order starting from the last installment.

- 16.3 Regardless of what is stated in this Agreement, the Borrower will not have any right to make any prepayment if the whole of the Banking Facilities has not yet been released or advanced by the Bank.
- 16.4 If the Borrower has given to the Bank prior notice in writing of the Borrower's intention to prepay, and if the Borrower does not make prepayment within the period stated in that notice, the Borrower will not be allowed to make any prepayment later on the basis of that notice; if the Borrower still wants to make prepayment, the Borrower will have to give to the Bank a new prior notice in writing of the Borrower's intention to prepay.
- 16.5 If any interest, costs, charges, expenses and other payments due to the Bank has yet to be paid when a payment is made to the Bank, no part of such payment made by the Borrower to the Bank shall be treated as a repayment of principal until all such sums due to the Bank shall have been paid to the Bank.

## **17. SECURITY DOCUMENTS**

### **17.1 Execution of Security Documents**

As security for the Indebtedness, the Borrower will simultaneously with the execution of this Agreement or at such other time directed by the Bank, execute and if necessary cause the Security Party to execute the Security Documents upon terms and conditions acceptable to the Bank.

### **17.2 Covenant to perfect and provided further security**

17.2.1 The Borrower will, whenever required by the Bank, execute or cause the Security Party to execute in favour of the Bank (or as the Bank may direct) legal or other mortgages, charges, assignments, transfers, or agreements as required by the Bank of and on the Borrower's and/or the Security Party's estate, assets, or business, which now or in future will belong to the Borrower and/or the Security Party (including any vendor's lien) and the benefit of all licences held in connection with such estate, assets, or business to secure the Indebtedness.

17.2.2 Such mortgages, charges, assignments, transfers, or agreements will be prepared by or on behalf of the Bank at the Borrower's cost, and will contain all terms and conditions required by the Bank to protect its interest.

### **17.3 Continuing Security**

This Agreement is and will be a continuing security for the Indebtedness, and will continue to be held by the Bank until all amounts outstanding under the Banking Facilities, including contingent liabilities, have been fully settled by the Borrower and/or the Security Party and the Bank has been fully released from all its obligations or contingent liabilities under the Banking Facilities or under any other instrument issued by the Bank for the account



of the Borrower, even if the Borrower and/or the Security Party ceases to be indebted to the Bank for any period(s), and regardless of :

- 17.3.1 any account(s) ceasing to be current or any settlement or closure of account(s) or otherwise;
- 17.3.2 the death, insanity or bankruptcy of the Borrower and/or the Security Party;
- 17.3.3 the voluntary or compulsory liquidation of the Borrower and/or the Security Party;
- 17.3.4 any change by amalgamation, consolidation or otherwise which may be made in the constitution of the company by which the business of the Borrower and/or the Security Party is currently being carried on; or
- 17.3.5 any change in the constitution or composition of the firm by which the Borrower's business is currently being carried on, whether by death, retirement, admission of partners, or any other reason.

#### 17.4 **Security Margin**

If the market value of any Security falls below what the Bank in the Bank's sole discretion considers to be adequate security for the Banking Facilities, the Bank may do any one or more of the following without affecting any other right which the Bank may have:

- 17.4.1 reduce the credit limit of the Banking Facilities;
- 17.4.2 withhold further release or utilization of any part of the Banking Facilities;
- 17.4.3 require the Borrower to make repayment of such amount of the Banking Facilities as the Bank may decide upon;
- 17.4.4 require the Borrower to make prepayment of the Banking Facilities in which case the Bank will not charge the Borrower any prepayment fee;
- 17.4.5 require additional security acceptable to the Bank to be provided for the Banking Facilities; and/or
- 17.4.6 provide cash cover for the Banking Facilities.

#### 17.5 **Discharge of Security**

If monies payable under the Banking Facilities is fully settled by the Borrower, then subject to the Bank's rights of consolidation, the Bank shall at any time after such payment have been so made and upon the request by the Borrower or the relevant Security Party, discharge at the cost and expense of the Borrower, the securities created and release to the Borrower or the relevant Security Party such security or other documents of title to such security provided:-

17.5.1 the Borrower's liabilities and obligations under this Agreement shall not be discharged until the Borrower have received from the Bank a letter of discharge or release duly signed by the Bank; and

17.5.2 any discharge or release of the securities created shall be deemed made subject to the condition that such discharge or release shall be void if any payment received by the Bank in respect of the monies is set aside under any applicable law or process to have been for any reason invalid.

17.6 **Further Assurance**

The Borrower will, whenever required by the Bank, at the Borrower's own cost and expense make, sign, do and perform and cause to be made, signed, done and performed all such further acts, agreements, assignments, assurances, deeds, mortgages, charges and documents of any nature as reasonably required to perfect the security created or intended to be created under this Agreement and the Security Documents.

18. **POSITIVE COVENANTS**

For so long as the Banking Facilities remain available for use by the Borrower and for so long as the Indebtedness remains outstanding, the Borrower undertakes, agrees and covenants with the Bank that the Borrower will:

18.1 if the Borrower is a company:-

18.1.1 deliver or cause to be delivered every year to the Bank the audited balance sheets, annual report and profit and loss account of the Borrower and of any Security Party which is a company within thirty (30) days or such other period stated in the Letter of Offer from the end of the financial year of the Borrower or the Security Party, as the case may be. Such balance sheets and profit and loss account are to be duly audited and certified by qualified independent auditors acceptable to the Bank; and

18.1.2 to prepare semi-annual management accounts in accordance with accounting principles generally accepted in Malaysia and based on the accounting policies consistently applied in all respects and to submit to the Bank within 90 (Ninety) days (or such other period stipulated in the Letter of Offer) from the end of the first and second half of the Borrower's annual financial period for which the accounts of the Borrower have been or are to be made up and audited;

18.2 deliver or cause to be delivered to the Bank any other financial information or such other information relating to the Borrower and any Security Party as may be requested by the Bank from time to time;

18.3 observe and perform the terms and conditions of this Agreement and the Security Documents or to cause to be observed and performed the terms and conditions of the Security Documents;

- 18.4 inform the Bank in writing of any change in the residential or correspondence address and place of business or registered office of the Borrower or of any Security Party;
- 18.5 at the request of the Bank, comply with any of the conditions precedent listed in this Agreement which might previously have been waived;
- 18.6 at the request of the Bank, give or cause to be given to the Bank any further, other or additional Security as the Bank may in its sole discretion require;
- 18.7 allow or cause to be allowed the Bank or its agents and servants, at all times and upon the Bank having given prior notice, to enter upon, inspect or examine any Security, to require repairs or remedial works and to make inventories and records of the Security; if the Bank shall reasonably require, the Borrower shall at his own cost and expense, and wherever applicable:
  - 18.7.1 cause the Security to be valued by a valuer appointed by or acceptable to the Bank;
  - 18.7.2 cause the adequacy of structural and other works, if any, on the Security to be confirmed by the reports of such professional consultants as the Bank may at its sole discretion appoint;
- 18.8 comply with all conditions imposed by any authority in connection with the Borrower's business and the granting of the Banking Facilities and will maintain or cause to be maintained in full force and effect all authorizations, licences, approvals and consents relating to the Borrower's business and the granting of the Banking Facilities;
- 18.9 adequately insure or cause to be adequately insured at all times the Security up to the full insurable value of the Security against loss or damage by fire, lightning, tempest, flood, riot, civil commotion, malicious acts and strikes, land-slides, earth movement, subsistence and such other risks as the Bank may from time to time require with an insurance company acceptable to the Bank in the name of the Borrower or, where applicable, the Security Party, with the Bank endorsed on the insurance policy as loss payee and the Borrower agree that:-
  - 18.9.1 it will also deposit or cause to be deposited with the Bank a certified true copy of the insurance policy together with the evidence of payment of the current premium payable under such policy;
  - 18.9.2 if the Bank in its absolute discretion considers it necessary, the Bank is expressly authorized by the Borrower without affecting the earlier provisions of this Clause (and whether or not the Borrower is in default) to take out, maintain or renew such insurance and all moneys incurred by the Bank with interest thereon at the default rate stated in the Letter of Offer shall form part of the Indebtedness be repayable on demand by the Bank;
  - 18.9.3 for the avoidance of doubt, the Bank shall not be held liable for anything whatsoever in connection with any action taken or any failure to take out, maintain, renew or increase any such insurance;

- 18.9.4 the Bank shall be entitled to retain for the Bank's own use and benefit any commission which may be paid to the Bank as an agent of the insurance company;
- 18.9.5 the Bank may require any insurance proceeds received to be applied in or towards making good any loss or damage in respect of which the money is received or towards discharge of the Indebtedness or any part thereof; if paid to the Borrower, insurance proceeds shall be held in trust by the Borrower in trust for the Bank;
- 18.10 notify the Bank of:-
  - 18.10.1 the occurrence of any Event of Default or of any event of default in relation to any other indebtedness of the Borrower or of the Security Party or of any other change (including, but not limited to, any legal proceedings threatened or commenced against the Borrower or the Security Party) in the condition or performance or nature of the Borrower's business or constitution or any other matter affecting the Borrower or the Security Party which might affect the Borrower's or any Security Party's ability to fully comply with its obligations under this Agreement or any of the Security Documents; and
  - 18.10.2 the Borrower's intention to apply to another bank or financial institution for credit and other banking facilities and if the Borrower is a company, in the event of any change in the composition of the members of the Borrower's board of directors or the shareholders of the Borrower;
- 18.11 fully observe and comply at all times with all relevant laws and regulations which may be applicable from time to time and all the conditions contained in or pertaining to any licence issued to the Borrower;
- 18.12 observe and comply with or to cause to be observed and complied with all conditions, covenants and restrictions governing the Security whether imposed by the Bank or by any governmental authority;
- 18.13 deliver or cause to be delivered to the Bank, within seven (7) days of receipt, any notice from any governmental authority concerning the Security; if paid to the Borrower, any compensation moneys in respect of the Security shall be held in trust by the Borrower in trust for the Bank;
- 18.14 if the Borrower is a company, carry out and operate its business and affairs with due diligence and efficiency and in accordance with sound financial and industrial standards and practices and in accordance with its Memorandum and Articles of Association or constituent document, as the case may be;
- 18.15 if the Borrower is a company, treat or cause to be subordinated, if required by the Bank under the Letter of Offer, all advances now granted and to be granted after the date of this Agreement by the Borrower's shareholders, directors and related companies to the Borrower as ranking below in priority or subordinated to the Indebtedness and the Banking Facilities;

- 18.16 appoint from time to time such auditor or firm of auditors acceptable to the Bank, and authorize such auditor or firm of auditors to supply the Bank with a certified copy of any communication sent by such auditor to the Borrower, to communicate directly with the Bank at any time in respect of any matter connected with the accounts and operations of the Borrower;
- 18.17 appoint the Bank as the preferred end-financier for the Project and direct and refer all purchasers of Units within the Project who need financing to apply to the Bank for end-financing for their purchase of the Units;
- 18.18 to manage, develop and complete the Project in accordance with the requirements, conditions of the relevant authorities and in compliance with all applicable laws, rules and regulations and in accordance with approved plans and in compliance with all approvals, license and permits granted with due care and diligence by employing qualified personnel with the necessary experience and required skills;
- 18.19 to open and maintain with the Bank its main operating account and all other accounts with respect to the Project;
- 18.20 prepare and submit to the Bank such statements, reports and confirmation as the Bank may require in respect of the status and progress of the Project, including but not limited to the construction, completion, sales of Units within the Project and all such other matters as the Bank may require;
- 18.21 in the event the sale proceeds of the Units in the Project are assigned to the Bank, the Borrower must when so requested by the Bank, issue to the following parties the notices of assignment stated below:-
  - 18.21.1 to the End-Purchasers of Units in the Project, notices of assignment in such form and upon such terms as are acceptable to the Bank and deliver to the Bank within 7 (seven) days from the date of request by the Bank, a copy of such notices of assignment duly acknowledged by the End-Purchasers; and
  - 18.21.2 to the end financiers for the End-Purchasers, a notice of assignment in such form and upon such terms as are acceptable to the Bank and deliver to the Bank within 7 (seven) days from the date of request by the Bank, a copy of such notices of assignment duly acknowledged by the end financier;
- 18.22 institute or maintain such proceedings as may be necessary or expedient to preserve or protect the Borrower's interest under any contract agreement or document in relation to the Project; and
- 18.23 comply with the positive covenants stated in Schedule 4.

## **19. NEGATIVE COVENANTS**

For so long as the Banking Facilities remain available for use by the Borrower and for so long as the Indebtedness remains outstanding, the Borrower undertakes, agrees and covenants with the Bank that the Borrower will not, without obtaining the prior written consent of the Bank (the consent may be given or refused at the Bank's sole discretion or may

be given subject to any conditions the Bank deems fit):

- 19.1 create or permit to be created any kind of interest whatsoever over the Security in favour or any other person or entity other than the Bank;
- 19.2 if the Borrower is a company, effect or undertake or permit any form of merger, reconstruction, consolidation or amalgamation by way of a scheme of arrangement or in any other way, or approve or permit any transfer of any part of its issued capital;
- 19.3 if the Borrower is a company, make any loans or advances to any of its shareholders or directors or any person or entity or guarantee any person or entity other than normal trade credit or trade guarantees or loans to staff (under a scheme of service), customers, contractors or suppliers in the ordinary course of business;
- 19.4 incur, take on, guarantee or permit to exist any indebtedness except such loans, credit facilities or accommodation as have been disclosed in writing and consented to in writing by the Bank;
- 19.5 in any way assign, transfer, deal in or part with the possession or permit any such dealing of the Security by the Security Party;
- 19.6 except at the request of the Bank, effect or have in existence any insurance against any risk in respect of the Security when the Bank has effected or has in existence such insurance;
- 19.7 if the Borrower is an entity other than an individual, in any way add to, delete, vary or amend its Memorandum and Articles of Association or constituent documents in any manner which would be inconsistent with the provisions of this Agreement or the Security Documents, or change its financial year, or the nature of its business or permit any such acts by a Security Party if the Security Party is also an entity other than an individual;
- 19.8 sell, transfer, lease or otherwise dispose of all or a substantial part of its assets or permit any such acts by a Security Party (except in the ordinary course of the Borrower's business or the business of the Security Party, as the case may be, on ordinary commercial terms and on the basis of arm's length arrangements);
- 19.9 if the Borrower is a company, reduce or make any alteration to the authorized or issued share capital of the Borrower or permit any such act in relation to the Security Party if the Security Party is also a company, whether by varying the amount, structure or value of the authorised or issued or share capital;
- 19.10 if the Borrower is a company, permit any change of its controlling shareholder, ownership structure and/or management or if the Borrower is a partnership, society or other unincorporated body, permit any change in its constitution or management;
- 19.11 enter into profit sharing or other similar arrangement whereby the Borrower's income or profits are shared with any other person or company unless such arrangement is entered into in the ordinary course of business on ordinary

commercial terms and on an arm's length basis, or enter into any management agreement whereby its business is managed by a third party;

- 19.12 enter into any transaction with any person, firm company except in the ordinary course of business on ordinary commercial terms and on the basis of arm's length arrangements;
- 19.13 establish any exclusive purchasing or sales agency;
- 19.14 comply with the covenants stated in Schedule 5.

## **20. EVENTS OF DEFAULT**

### **20.1 Events of Default**

The following are the Events of Default:

- 20.1.1 if the Borrower fails to pay on any due date any money which the Borrower should be paying to the Bank or if the Borrower fails to discharge any obligation or liability owing to the Bank;
- 20.1.2 if the Borrower, or any Security Party, fails to observe or perform any of the terms and conditions contained in this Agreement or the Security Documents;
- 20.1.3 if any representation, warranty or undertaking made to the Bank by the Borrower and/or any Security Party is or will become incorrect or misleading in a material respect;
- 20.1.4 if the Borrower, or any Security Party, dies or becomes insane;
- 20.1.5 if the Borrower, or any Security Party, becomes bankrupt or insolvent or allows any judgment to remain unsatisfied for a period of twenty-one (21) days;
- 20.1.6 if the Borrower, or any Security Party, commits any act of bankruptcy or is unable to pay the Borrower's or the Security Party's debts, as the case may be, or suspends the Borrower's or the Security Party's debts, as the case may be, or enters into any composition or arrangement with or for the benefit of the Borrower's or the Security Party's creditors, as the case may be;
- 20.1.7 if any resolution is passed, or if a petition is presented against the Borrower or any Security Party:
  - (i) for bankruptcy, liquidation, winding-up or dissolution; or
  - (ii) for the appointment of a liquidator, receiver, trustee or judicial manager;
- 20.1.8 if a liquidator, receiver, trustee, judicial manager or a similar official is appointed for all or a substantial part of the Borrower's assets or the assets of any Security Party;
- 20.1.9 if execution or any form of recovery or enforcement action is levied or taken against any of the Borrower's assets or the assets of any Security Party;



- 20.1.10 if the Borrower, or any Security Party, stops or threatens to stop carrying on the Borrower's or the Security Party's business, as the case may be;
- 20.1.11 if the Borrower, or any Security Party, changes or intends to change the nature or scope of the Borrower's or the Security Party's business as is presently being conducted, as the case may be;
- 20.1.12 if the Borrower, or any Security Party, transfers or disposes of or intends to transfer or dispose of a substantial part of the Borrower's or the Security Party's assets, as the case may be;
- 20.1.13 if, in the Bank's opinion, there is any change or threatened change in:
  - (i) circumstances which would materially and adversely affect the Borrower's or any Security Party's business or financial condition or the Borrower's or any Security Party's ability to perform the Borrower's or the Security Party's obligations under this Agreement or the Security Documents;
  - (ii) the Borrower's status or the status of any Security Party as a resident or resident controlled company, as the case may be;
  - (iii) the Borrower's shareholders, shareholding structure, directors or management, if the Borrower is a company; or
  - (iv) the shareholders, shareholding structure, directors or management of any Security Party, if it is a company;
- 20.1.14 if a notice or proposal for the compulsory acquisition of any of the Borrower's properties or the properties of any Security Party is issued or made under any law;
- 20.1.15 if any of the Borrower or Security Party's cheques is dishonoured;
- 20.1.16 if the Borrower, or any Security Party, is blacklisted pursuant to any guidelines issued by Bank Negara Malaysia or any other authority having jurisdiction over the Bank;
- 20.1.17 if any of the Borrower's accounts with the Bank is re-designated or closed by the Bank for any reason whatsoever;
- 20.1.18 if the Borrower, any Security Party or any Associated Party, fails to discharge any obligation or liability to the Bank or to any other person;
- 20.1.19 if the Borrower, any Security Party or any Associated Party, commits a default in any loan, facility or similar arrangement with any person (including the Bank) which gives the right to the creditor concerned (including the Bank) to demand repayment of the loan, facility or arrangement before its due date, to withdraw the loan, facility or arrangement, or to enforce the security for the loan, facility or arrangement;



- 20.1.20 if there is a default in the payment of any moneys under the account of any other person for whom the Borrower, any Security Party or any Associated Party, is providing security;
- 20.1.21 if there is any litigation (whether civil or criminal) arbitration or administrative proceedings pending, on-going or threatened against the Borrower or any Security Party;
- 20.1.22 if the Borrower's credit rating as determined by the Bank has deteriorated;
- 20.1.23 if the Bank suspects or has reasons to believe that the Banking Facilities or any part of it is used for any unlawful activity;
- 20.1.24 if there is any investigation by the police or regulators pending, on-going or threatened against the Borrower or any Security Party;
- 20.1.25 if the Borrower or any Security Party have been charged or convicted for any criminal offences or have any criminal records;
- 20.1.26 if there is any report lodged against the Borrower or any Security Party under the Anti-Money Laundering and Anti-Terrorism Financing Act 2001;
- 20.1.27 if the Borrower uses the Banking Facilities or any part of the Banking Facilities for a purpose other than that stated in the Letter of Offer;
- 20.1.28 if there is any delay at any time in the construction or completion of the Project for such period which the Bank is of the opinion that it may prejudice or be detrimental to the Project or may adversely affect the Borrower's performance of its obligations under this Agreement or the Project is abandoned or suspended for any reason whatsoever or there occurs any event or development that may affects adversely the Project;
- 20.1.29 if an event of default under any Security Document has occurred;  
or
- 20.1.30 if the Bank decides in the Bank's sole discretion that the continuation of the Banking Facilities could likely be detrimental to the Bank's own position or that the Bank's security position could be in jeopardy; the Bank's discretion is final and is not subject to query by the Borrower.

## 20.2 **Bank's rights upon happening of Events of Default**

When an Event of Default happens:

- 20.2.1 the Bank will not be under any further obligation and/or commitment to the Borrower in relation to the Banking Facilities;
- 20.2.2 all moneys and interest then owing to the Bank under the Banking Facilities and any other moneys then owing to the Bank by the Borrower will immediately become payable on demand by the Bank;

- 20.2.3 the Bank will immediately become entitled to recover all moneys and interest then owing to the Bank with interest thereon at the rate stated in the Letter of Offer with monthly rests or at such other rate and/or other periodic rests as the Bank may at the Bank's sole discretion prescribe from time to time;
- 20.2.4 the Borrower will provide cash cover on demand for all the Borrower's contingent liabilities to the Bank, and for all notes or bills accepted, endorsed, or discounted, and all bonds, guarantees, indemnities, documentary or other credits, or any instruments whatsoever from time to time entered into by the Bank for or at the Borrower's request; and
- 20.2.5 the Bank will be entitled without any previous notice to the Borrower to exercise any right or power:
  - (i) which the Bank may have upon an Event of Default by virtue of this Agreement and the Security Documents; and
  - (ii) which may be available to the Bank in law;

### 20.3 **Proceeds of Recovery**

All monies received by the Bank from any proceedings instituted or steps taken under this Agreement will be applied in the following order:

- 20.3.1 Firstly, to pay the quit rent, rates, taxes, assessments and other outgoings due to the relevant authorities.
- 20.3.2 Secondly, to pay all costs (including the Bank's solicitors' costs on a solicitor and client basis), charges, expenses, and liabilities incurred by the Bank and every receiver or other person appointed by the Bank in realizing the Security or in performing any duties or exercising any powers.
- 20.3.3 Thirdly, to pay the Bank all interests, costs, charges, commission and other monies which are outstanding in connection with the Banking Facilities.
- 20.3.4 Fourthly, to pay all principal monies owing to the Bank in connection with the Banking Facilities.
- 20.3.5 Fifthly, to pay the Bank all other monies due and remaining unpaid under any of the Security Documents.
- 20.3.6 Sixthly, to pay the Bank any of the Borrower's and/or the Security Party's liabilities to the Bank (whether present, future, contingent, primary, secondary, collateral, secured or unsecured, several or joint) under any account, agreement, or contract with the Bank.
- 20.3.7 Seventhly, towards settlement of any monies owing by any other company in the Borrower's and/or the Security Party's group of companies (including holding, subsidiary, and associated companies) to the Bank (if any).
- 20.3.8 Eighthly, to the Borrower and/or the Security Party or any other entitled persons.

The Bank can at its sole and absolute discretion change the order of payment above, or keep such amounts in a non-interest bearing suspense account. However, the change in the order of payment will not affect the Bank's right to receive the full amount to which the Bank would have been entitled to receive if the primary order of payment had been observed, or any lesser amount which the sum ultimately realized from the security may be sufficient to pay.

20.4 **Insufficiency in Proceeds of Recovery**

20.4.1 If the amount recovered or realized by the Bank after deduction and payment from the proceeds of such recovery or realization of all fees, dues, costs, rents, rates, taxes, and other outgoings, is less than the amount due to the Bank (and whether in the process of such recovery or realization the Bank is the purchaser or otherwise) the Borrower must pay the Bank the difference between the amount due and the amount so realized.

20.4.2 Until the payment in the preceding paragraph is made, the Borrower will also pay interest on such balance at the rate fixed by the Bank from time to time with monthly or other periodic rests (as the case may be) in accordance with the type of Banking Facility applicable, both after as well as before any demand or judgment, and regardless of whether or not the banker-customer relationship between the Bank and the Borrower has ceased or been terminated.

20.5 **Application of Moneys**

If any moneys paid to the Bank or recovered by the Bank in respect of the Borrower's liabilities under this Agreement is less than the amount then owing to the Bank, the Bank may at the Bank's sole discretion apply the moneys towards payment of interest, fees, principal or any amount due to the Bank in such proportions and order and generally in such manner as the Bank considers fit; the Bank may also choose to credit the moneys or any part of the moneys into a non-interest bearing suspense account without any obligation to apply the moneys or any part of the moneys in or towards the settlement of the Borrower's liabilities under this Agreement.

21. **CERTIFICATE**

Any certificate or statement issued by the Bank showing the outstanding amount due and owing from the Borrower to the Bank in relation to the Banking Facilities will be conclusive proof as to the outstanding amount due and owing from the Borrower to the Bank in relation to the Banking Facilities; this certificate or statement will be binding on the Borrower for all purposes whatsoever including for the purposes of any legal proceedings.

**22. CONCURRENT PROCEEDINGS**

The Borrower agrees that the obligations to pay and repay the Bank under this Agreement and the Security Documents are separate and independent obligations which give the Bank separate and independent rights and causes of action regardless of any waiver or indulgence which may have been granted by the Bank in respect of any one or more of those obligations; accordingly, the Bank shall have the right to seek remedy in respect of a breach of any one of those obligations independently of or at the same time as any other remedy the Bank may seek in respect of any other breach of those obligations. In particular, the Bank shall have the right to commence any action in respect of any breach of those obligations without having first resorted to any other remedy or having first sold or disposed of any Security.

**23. INVOLUNTARY LOSS**

In exercising or executing any of the Bank's powers given by this Agreement, any Security Document or any law, the Bank will not be liable to the Borrower and/or any Security Party for any loss or damage incurred, or claimed to be incurred, by the Borrower and/or the Security Party; the Bank will also not be obliged to obtain the true or best market value of any Security.

**24. PROCEDURE ON NOTICE OF FURTHER CHARGE**

- 24.1 If the Borrower (or any one or more of them) executes or creates any further or subsequent charge, mortgage, or encumbrance over all or any part of its assets or properties assigned, mortgaged or charged to the Bank in favour of any other corporation or persons, and the Bank receives actual or constructive notice of this, the Bank can immediately open a new or separate account with the Borrower in its books.
- 24.2 If the Bank does not open such new or separate account, the Bank will nevertheless be deemed to have done so at the time when the Bank received or was deemed to have received such notice ("the time of notice").
- 24.3 From the time of notice, all payments in account made by the Borrower and/or any party to the Bank will (regardless of any legal or equitable rule of presumption to the contrary) be placed or deemed to have been placed to the credit of the new or separate account so opened or deemed to have been opened. Such payments will not go towards reducing the amount due by the Borrower to the Bank at the time of notice.
- 24.4 Nothing in this Section will affect the security which the Bank otherwise would have had under this Agreement for the payment of the Indebtedness, even though it may become due or owing or be incurred after the time of notice.

**25. LIENS AND OTHER SECURITY NOT AFFECTED**

- 25.1 Nothing in this Agreement will affect any lien to which the Bank is entitled, or any other security which the Bank may from time to time hold for or on account of the Indebtedness.
- 25.2 Nothing in this Agreement will operate to merge or otherwise affect any bill, note, guarantee, mortgage, or other security which the Bank may for the time being have for any Indebtedness, or any right or remedy of the Bank.

**26. CONSOLIDATION**

Unless the Bank agrees otherwise, this Agreement will not be discharged except on full payment by the Borrower and/or the Security Party of not only all monies secured under the Agreement, but also all monies which may become due or owing to the Bank under any other loans and/or banking facilities granted to the Borrower and/or the Security Party and/or any third parties from time to time (whether such liabilities be present, future, actual, contingent, primary, collateral, several, or joint) and whether secured by any other charge or security created now or in future or from time to time secured by the Borrower and/or the Security Party (or by any person through whom the Borrower and/or the Security Party claims in favour of or vested in the Bank) or otherwise, and the Bank's right of consolidation will apply to this security.

**27. BORROWING AND CHARGING POWERS**

Where any moneys is owing and secured by any Security Document, they will be deemed to be so owing and secured regardless of:

- 27.1 any legal limitation, incapacity or otherwise of the Borrower in respect of the borrowing of the Banking Facilities which might be a defence as between the Borrower and the Security Party;
- 27.2 the Security Party's power to enter into the Security Document; and/or
- 27.3 any legal limitation in the power of any director, attorney, partner, agent or other person purporting to act or acting on behalf of the Borrower and/or the Security Party or any other irregularity in the borrowing or incurring of the liabilities.

**28. AVOIDANCE OF SECURITY**

The Bank's rights to recover from the Borrower and/or the Security Party the whole of the Indebtedness shall not be affected in any way whatsoever:

- 28.1 by any assurance, security or payment which may be avoided under any law relating to winding-up or insolvency; and
- 28.2 by any release, settlement or discharge given or made by the Bank on the basis of such assurance, security or payment;

any such release, settlement or discharge shall be taken to have been made on the condition that it will be void if any payment or Security which the Bank may previously have received or may receive after this Agreement in respect of the Indebtedness is set aside under any applicable law or is found to be not valid for any reason whatsoever.

**29. ASSIGNMENT / TRANSFER OF SECURITY**

- 29.1 The Bank can, at any time at its sole discretion and without notifying the Borrower and/or any Security Party, assign or transfer all or any part of its rights, interests, benefits and obligations under this Agreement and/or any Security Document.
- 29.2 The costs and expenses of the Bank and the assignee or transferee are to be paid by the Borrower and/or the Security Party.
- 29.3 Following any such assignment or transfer, the assignee or transferee will assume and be entitled to the rights, interests, benefits and obligations of this Agreement and/or the Security Document as if the assignee or transferee had been a party to this Agreement and/or the Security Document in place of the Bank.

**30. INDEPENDENT PAYMENT OBLIGATIONS**

The Borrower expressly agrees that each of its obligations to pay or repay under this Agreement or the Security Documents:

- 30.1 constitute separate and independent obligations;
- 30.2 give rise to separate and independent causes of action;
- 30.3 apply regardless of any waiver or indulgence given by the Bank for any other obligation;
- 30.4 remain in full force and effect regardless of any judgment, order, claim or proof for a liquidated amount in respect of any other obligation; and
- 30.5 can be relied upon and enforced by the Bank independently, or together with any other action under such obligations or under the Security Documents, and the Bank does not need to first use any other remedy available to the Bank.

**31. PAYMENT IN GROSS**

- 31.1 All moneys received from or on account of the Borrower and/or any Security Party, or from any other person, from the realization of any Security for the purpose of being applied towards reducing the Indebtedness will be treated for all purposes as payments in gross and not as appropriated or attributable

to any specific part or item of any moneys owing to the Bank, even if appropriated as such by the Bank.

- 31.2 All Securities held by the Bank now or at any time in the future will be treated as security for the general balance of the Indebtedness.
- 31.3 The Borrower, the Security Party, his estate or any other person deriving or claiming title under the Borrower or the Security Party will have no claim to such Securities, or any part of or interest in such Securities, unless the Bank has received the full amount owing to it by the Borrower and/or the Security Party.

## **32. COSTS AND EXPENSES**

- 32.1 The Borrower agrees that the Borrower is to pay for all the costs and expenses of:
  - 32.1.1 preparing, signing, registering and enforcing the Security Documents, including but not limited to all costs and expenses incurred in the appointment of any contractor in completing the Project;
  - 32.1.2 providing, maintaining, protecting, realizing and discharging the Security; and
  - 32.1.3 processing, implementing and recovering the Banking Facilities and the Indebtedness.
- 32.2 The costs and expenses are to be paid on a full indemnity basis so that the Bank will not have incurred any moneys whatsoever of the Bank's own.
- 32.3 Interest at a rate to be prescribed by the Bank is payable on the costs and expenses from the date they are incurred until full payment.
- 32.4 If the Banking Facilities is cancelled for any reason whatsoever before any part of it has been utilized, the Borrower agrees that the Borrower will still have to pay for all costs and expenses which may already have been incurred in relation to the providing of the Banking Facilities and the preparation of the Security Documents.
- 32.5 For the avoidance of doubt, the costs and expenses payable by the Borrower include the costs and expenses of the Bank's solicitors on a full indemnity basis.

## **33. TAXES, DUTIES OR LEVIES**

- 33.1 The Borrower is liable to pay for any goods and services tax or other taxes or levies which as at the date of the Letter of Offer or at any date subsequent to the date of the Letter of Offer, is required by law (including the Goods and Services Tax Act) to be paid to any body or authority having jurisdiction over the Bank, in respect of any moneys charged or incurred by the Bank, during the continuation of the Banking Facilities so long as the Banking Facilities or any part of it remains outstanding and unpaid.

- 33.2 Any goods and services tax or other taxes or levies incurred by the Bank in relation to the Banking Facilities and any other goods or services provided under the Banking Facilities shall be borne by and charged to the Borrower and in the event that the Bank shall effect payment on the Borrower's behalf, the Borrower shall be liable to reimburse the Bank for such amounts paid.

**34. RIGHT TO DEBIT**

- 34.1 Without affecting any other rights that the Bank may have under this Agreement or by law, the Bank may, at any time, at the Bank's sole discretion, and without giving the Borrower any prior notice, debit the Borrower's current account or any other account (including the balance on any overdraft account) which the Borrower may have with the Bank whether alone or with any other person with any moneys whatsoever which are payable by the Borrower to the Bank, including but not limited to costs, expenses, disbursements, taxes, duties or levies.
- 34.2 If the Bank does debit the Borrower's account, the debiting is not to be taken as a waiver of any of the Events of Default.
- 34.3 If any debiting of any of the Borrower's accounts causes that account to be overdrawn, interest at the default rate stated in the Letter of Offer shall be payable to the Bank accordingly.

**35. RIGHT OF SET-OFF**

- 35.1 The Borrower agrees that the Bank has the right, without any notice to the Borrower, to combine, consolidate or merge all or any of the Borrower's accounts and liabilities with and to the Bank whether singly or jointly with any other person. The Bank also has the right, after giving the Borrower seven (7) days' notice, to transfer or set off any sums in credit in such accounts in or towards the satisfaction of any of the Indebtedness, whether actual or dependent upon the occurrence of an event, primary or collateral, or joint or several.
- 35.2 If any of the Indebtedness is dependent upon the occurrence of an event, the Bank has the right to set-off and transfer any sum standing to the credit of any of the Borrower's accounts which the Borrower may have with the Bank whether alone or with any other person towards satisfaction of the Indebtedness and if the Indebtedness is less than the amount set-off by the Bank, the Bank will refund the surplus accordingly.
- 35.3 If any of the Borrower's accounts in credit is maintained in a currency other than the currency of the Indebtedness, the Bank may convert them into the currency of the Indebtedness at the Bank's own prevailing rate.
- 35.4 Upon the issuance of the notice mentioned in Clause 34.1, the Borrower agrees that the Bank has the right to earmark or to place a hold on any monies standing to the credit of all or any of the Borrower's accounts with



the Bank prior to the setting-off, and the Borrower shall not be entitled to withdraw the monies without the Bank's prior written consent.

**36. BANK'S RIGHT TO MAKE ADJUSTMENTS**

The Bank has the right to adjust the entries in its records or the account statement if there is any error or missing entries.

**37. INDEMNITY**

37.1 In addition and without affecting the powers, rights, and remedies granted under this Agreement, the Borrower will indemnify the Bank against any loss or expenses (including legal expenses on a solicitor and client basis) which the Bank sustains or incurs because of:

37.1.1 any cancellation or failure of the Borrower to draw the whole or any part of the Banking Facilities; or

37.1.2 any prepayment of the Banking Facilities or any part of it unless otherwise provided under this Agreement or the Letter of Offer; or

37.1.3 any default in payment by the Borrower of any sum due under this Agreement, including any interest or fees paid or payable on account of, or in respect of, any funds borrowed or deposits from third parties in order to maintain the amount in default, or in liquidating or re-employing such funds or deposits; or

37.1.4 the occurrence of any Event of Default.

37.2 The Bank's certification of the amount of the said loss or expenses will be conclusive and binding upon the Borrower unless there is any obvious mistake.

**38. CURRENCY INDEMNITY**

38.1 Unless otherwise specifically agreed in writing by the Bank in relation to the Banking Facilities:-

(a) The obligation of the Borrower shall be to pay the obligations or liabilities in the same currency in which the said obligations or liabilities are incurred ("Currency of Account").

(b) Any amount received or recovered by the Bank in respect of any sums expressed to be due to it from the Borrower under this Agreement and/or the Security Documents in a currency ("Relevant Currency") other than the Currency of Account (whether as a result of, or arising from the enforcement of, a judgement or order of court of any jurisdiction or the death or bankruptcy of the Borrower or otherwise) shall only constitute a discharge to the Borrower to the extent of the amount in the Currency of Account which the Bank is able, in accordance with its usual practice, to purchase with the Relevant Currency so received or recovered on the date of that

receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If that amount in the Currency of Account purchased with the Relevant Currency is less than the amount of the Currency of Account expressed to be due to the Bank under this Agreement and/or the Security Documents, the Borrower shall indemnify the Bank against any loss sustained by it as a result thereof. In any event, the Borrower shall indemnify the Bank against the cost of making any such purchase.

### **39. SUSPENSE ACCOUNT AND PROOF OF DEBT**

- 39.1 The Bank can place and keep any money paid to it under this Agreement or any Security Document in a non-interest bearing suspense account for as long as the Bank thinks fit, without being obliged to use any part of it towards discharging any liability due or incurred by the Borrower.
- 39.2 Regardless of the payment of any such money, if the Borrower or any Security Party becomes the subject of any bankruptcy, insolvency or similar proceedings, the Bank may prove for and agree to accept any dividend or composition in respect of the whole or any part of such money.
- 39.3 After the Bank has received the ultimate balance in full, any claim on the part of the Borrower and/or a Security Party to any excess or any security remaining with the Bank will be a matter of adjustment between the Bank and the Borrower and/or the Security Party and/or any other person or persons laying claim to the same.

### **40. REORGANISATION WITH BANK'S CONSENT**

The Borrower agrees that the Borrower will not without the Bank's prior written permission undertake or allowed to be undertaken:

- 40.1 any reorganization, amalgamation, reconstruction, takeover or substantial change of the Borrower, the Borrower's shareholders, management or business;
- 40.2 any other corporate schemes or arrangements which may affect the Borrower's present constitution or residential status;
- 40.3 any amendment or alteration to any of the provisions in the Borrower's Memorandum and Articles of Association relating to the Borrower's borrowing powers and principal business activities; and/or
- 40.4 any of the Borrower's partners (applicable to partnership)

### **41. CHANGE IN CONSTITUTION**

- 41.1 If the Borrower is a company, this Agreement and all the provisions governing the Banking Facilities and the Security will continue to be valid and binding on the Borrower even if there is any change in the

Borrower's Memorandum and Articles of Association whether by amalgamation, consolidation, reconstruction or in any other manner.

- 41.2 If the Borrower is a firm, this Agreement and all the provisions governing the Banking Facilities and the Security will continue to be valid and binding on the Borrower even if there is any change in the Borrower's constitution by retirement, expulsion, death, admission, accession or change of any of the partners of the firm or otherwise.

**42. CHANGE IN THE BANK**

The security, liabilities, and/or obligations created by this Agreement or any Security Document will continue to be valid and binding for all purposes, regardless of any transfer or assignment of the Bank's business, operations, assets, or liabilities, or any change by amalgamation, consolidation, reconstruction, or otherwise in the Bank's constitution, or of any company by which the Bank's business is carried on, and will be available by the company carrying on that business.

**43. UNINCORPORATED BODY**

In addition to, and without in any way affecting the other provisions of this Agreement, it is agreed that even if the Borrower and/or any Security Party is a committee, association, or other unincorporated body which has no legal existence or which is under no legal liability to discharge obligations undertaken or purported to be undertaken by it or on its behalf, this Agreement and/or the Security Document will be valid and have effect as though the Borrower and/or the Security Party were the principal debtor.

**44. MODIFICATION AND INDULGENCE**

- 44.1 The Bank may at any time with prior notice from the Bank to the Borrower and without in any way affecting the security created under this Agreement and the Security Documents:
- 44.1.1 terminate, vary or increase the amount of the Banking Facilities or any part of the Banking Facilities or any credit or other facility granted to the Borrower and/or any Security Party and may open and/or continue any account or accounts whatsoever with the Borrower and/or any Security Party at any office of the Bank;
  - 44.1.2 in addition to and without in any way affecting the Bank's right of review under this Agreement vary the provisions of this Agreement and/or the Security Documents;
  - 44.1.3 grant to the Borrower, the Security Party or any other person any time or indulgence;
  - 44.1.4 renew any bills, notes or other negotiable securities;
  - 44.1.5 deal with, exchange, release or modify or abstain from perfecting or enforcing any Security Document or rights the Bank may now or

- at any time after this Agreement have against the Borrower, any Security Party or any other person;
- 44.1.6 enter into any arrangement whatsoever with the Borrower, any Security Party or any other person;
  - 44.1.7 at the request of the Borrower and/or any Security Party, accept payment or repayment of any amounts due or becoming due under this Agreement and/or any Security Document by such increased or reduced installments as the Bank may agree to;
  - 44.1.8 at the request of the Borrower and/or any Security Party, agree to suspend payments to reduce any principal repayable to the Bank under this Agreement and/or any Security Document;
  - 44.1.9 grant further or other banking facilities to the Borrower and/or any Security Party;
  - 44.1.10 reinstate, change, interchange, substitute or convert any of the banking facilities granted by the Bank to the Borrower and/or any Security Party, including, for the avoidance of doubt, the Banking Facilities;
  - 44.1.11 reinstate, change, interchange, substitute or convert the principal limits or sub-principal limits of any of the banking facilities granted by the Bank to the Borrower and/or any Security Party, including, for the avoidance of doubt, the Banking Facilities; and/or
  - 44.1.12 for the purpose of recovering the Indebtedness, resort to all or any of the remedies or means set out in this Agreement and/or any Security Document at any time and in such order or sequence as the Bank may in its sole discretion think fit.
- 44.2 If the Bank at any time and from time to time in its sole discretion, grant additional or further banking facilities or vary or substitute the Banking Facilities (or any of them if more than one) with any other banking facility upon such terms and conditions as may be prescribed by the Bank, all the provisions of this Agreement and the Security Documents, except for those provisions which are inconsistent with the terms and conditions prescribed by the Bank for the additional or further banking facilities or varied or substituted Banking Facilities, shall continue to apply unless otherwise stated by the Bank.

#### **45. MARKET DISRUPTION**

Regardless of whatever is stated in this Agreement or any Security Document, the Borrower agrees that the Bank may at any time and from time to time, at the Bank's sole discretion and without having to give the Borrower any reason, cancel or suspend the Banking Facilities by notice in writing to the Borrower if in the Bank's sole opinion there is any change in national or international monetary, financial, political or economic conditions, or currency exchange rates which would cause the continuation of the Banking Facilities to be temporarily or permanently not practical or not possible from the Bank's point of view.

**46. CIRCUMSTANCES BEYOND THE BANK'S CONTROL**

The Borrower agrees that if the Bank is unable (a) to perform any of the Bank's obligations under this Agreement or any Security Document; (b) to carry out the Bank's usual business operations; or (c) to provide any service due to any reason beyond the Bank's control including, but not limited to those stated below, the Bank will not be in any way liable for any failure to perform or for any inconvenience, loss, injury or damage which the Borrower may directly or indirectly suffer as a result:

- 46.1 any fire, earthquake, flood, epidemic, natural disaster, accident, riot, civil disturbance, industrial dispute, act of terrorism, embargo, war or Act of God;
- 46.2 any failure of or interruption to telecommunications, internet, electricity, water or fuel supply; or
- 46.3 any circumstance in the nature of a force majeure, that is, an unforeseeable event that prevents the Bank from performing any of the Bank's obligations under this Agreement or any Security Document.

**47. INCREASED COSTS**

- 47.1 If the Bank decides in its sole discretion that, as a result of any new law, guideline, directive or regulation, or as a result of any change to any existing law, guideline, directive or regulation any of the following occurs, the Borrower shall comply with Clause 47.2:

- 47.1.1 the Bank would incur increased costs because of having granted the Borrower or continuing to grant the Borrower the Banking Facilities and having to continue to perform the Bank's obligations under the Banking Facilities or the Security Documents;
  - 47.1.2 the Bank would not be able to obtain the rate of return on the Bank's overall capital which the Bank would have been able to obtain if not for the Bank having granted the Borrower or continuing to grant the Borrower the Banking Facilities and having to continue to perform the Bank's obligations under the Banking Facilities or the Security Documents;
  - 47.1.3 any sum received or receivable by the Bank under the Security Documents is reduced;
  - 47.1.4 there is an increase in the costs to the Bank of paying for or maintaining the Borrower's use of the Banking Facilities; or
  - 47.1.5 the Bank have to make any payment or forgo any interest or other payment to the Borrower on the basis of any sum repayable or to be paid to the Borrower under the Banking Facilities or the Security Documents;

- 47.2 If any of the events in Clause 47.1 occurs, the Borrower will have to pay to the Bank upon demand by the Bank an amount sufficient to make good:
  - 47.2.1 the increased costs, the reduced return and the reduced sum suffered by the Bank;

47.2.2 the payment the Bank has to make; and

47.2.3 the interest or other payment which the Bank has to forgo.

**48. ILLEGALITY**

If the Bank deems that it has become unlawful or impractical for the Bank to comply with its obligations under this Agreement, or to continue to make available the Banking Facilities granted to the Borrower or to charge or receive interest at the rate applicable because of any change after the date of this Agreement (a) in applicable law, regulation, or regulatory requirement; or (b) in the way any applicable law, regulation, or regulatory requirement is interpreted or applied by any relevant governmental or other authority, the Bank will notify the Borrower, and following that notification:-

48.1 the Banking Facilities and the Bank's obligations under the Banking Facilities will be suspended immediately; and

48.2 the Borrower must prepay the Banking Facilities to the Bank together with accrued interest and all other amounts payable to the Bank on the date deemed necessary by the Bank to comply with the relevant law; and

48.3 the Bank will have no further obligations under the Banking Facilities, which will be deemed cancelled.

**49. UNAVAILABILITY OF CURRENCY**

If at any time the Bank is of the opinion that the currency offered under any Banking Facilities is not available to the Bank as a result of any change in (a) the international financial and capital markets; (b) any national or international, political or economical conditions; (c) currency availability; or (d) exchange rates or controls:-

49.1 any request given by the Borrower for disbursement in such currency shall be deemed withdrawn; and

49.2 any existing amount disbursed in such currency for an interest period shall not be rolled over and shall be repaid on the last day of the interest period,

and the Borrower may request for alternative currency to be disbursed on terms to be agreed.

**50. ANTI-MONEY LAUNDERING**

50.1 The Borrower must provide and disclose to the Bank within such time prescribed by the Bank, any information which the Bank deemed necessary in order to:

50.1.1 comply with the laws or sanctions of Malaysia or any other country (including but not limited those relating to anti-money laundering or anti-terrorism); and/or

- 50.1.2 manage money-laundering risk or terrorism-financing risk or economic and trade sanctions risk.
- 50.2 Pending the Bank's receipt of the information from the Borrower and until the Bank has verified the information to the Bank's satisfaction, the Bank is not obliged to proceed with any transactions or disbursements.
- 50.3 The Borrower declares and undertakes to the Bank that the processing of any transactions will not breach any laws or sanctions in Malaysia or any other country. The Bank will not be liable for any loss arising from any delay or failure to process any transactions due to inadequate information and documentation provided by the Borrower.

**51. ADDITIONAL TERMS AND CONDITIONS**

If additional terms and conditions are set out in Schedule 6 to this Agreement, such additional terms and conditions shall be considered as part of this Agreement and shall bind the Borrower accordingly.

**52. DISCLOSURE OF INFORMATION**

The Borrower agrees that the Bank (including the Bank's officers, employees, agents or any other persons to whom the Bank may grant access to the Borrower's records, correspondence or any material relating to the Borrower or the Borrower's account) can disclose at any time at the Bank's sole discretion without notifying the Borrower beforehand, any information relating to the Borrower, the Borrower's account and any of the Borrower's Authorized Persons to the following:

- 52.1 any one or more members of the Group for any of the following purposes:
  - 52.1.1 providing the Borrower with banking services;
  - 52.1.2 reporting;
  - 52.1.3 data matching;
  - 52.1.4 improving and furthering the provision of other services by the Bank ;
  - 52.1.5 fraud or crime prevention;
  - 52.1.6 investigating, preventing or otherwise in relation to money laundering or any other criminal activities;
  - 52.1.7 debt collection;
  - 52.1.8 outsourcing the Bank's operations or any part of the Bank's operations;
  - 52.1.9 performance of duties as an officer of the Bank or in connection with the conduct of audit or the performance of risk management;
  - 52.1.10 facilitating the performance of the Bank's or any member of the Group's functions;

- 52.1.11 compliance with the Group's policies, guidelines, directives or requirements;
- 52.1.12 corporate exercise;
- 52.1.13 any legal process initiated by or served on the Bank;
- 52.2 any person, whether in Malaysia or elsewhere, who provides electronic or other services to the Bank for the purpose of providing, updating, maintaining and upgrading the services including, but not limited to, investigating discrepancies, errors or claims;
- 52.3 any person, whether in Malaysia or elsewhere, engaged by the Bank in connection with the performance of services or operational functions which have been out-sourced;
- 52.4 the police or any public officer conducting an investigation in connection with any offence including suspected offences;
- 52.5 credit card companies and financial institutions in connection with credit card enquiries;
- 52.6 other banks, financial institutions, credit bureau or credit reference agents (only for credit information);
- 52.7 the Bank's auditors, solicitors, and professional advisors;
- 52.8 the Bank's stationery printers, vendors of the computer systems the Bank uses, and to such persons installing and maintaining them and other suppliers of goods or service providers the Bank may engage;
- 52.9 any receiver appointed by the Bank or by any other party;
- 52.10 any credit bureau of which the Bank is a member, and any other members and/or compliance committee of such credit bureau;
- 52.11 any rating agency, insurer or insurance broker or direct or indirect provider of credit protection;
- 52.12 any actual or potential participant or sub-participant in relation to any of the Bank's obligations under the banking agreement between the Bank and the Borrower, or assignee, novatee or transferee (or any officer, employee, agent or adviser) of any of them;
- 52.13 for transactions effected or processed with or without the Borrower's authority in or through the automated teller machines of other banks or financial or non-financial institutions or terminals or other card operated machines or devices the Bank approves, to the bank, financial institution or non-financial institution, trader or other party accepting the use of the automated teller machine card and their respective agents or contractors;
- 52.14 any court, tribunal or authority, whether governmental or quasi-governmental with jurisdiction over the Bank or any member of the Group;



- 52.15 any person to whom the Bank, or any member of the Group, is permitted or required to disclose for the purposes of complying with the disclosure requirements of any law, regulation, guidelines or guidance given or issued by any legal, regulatory, governmental, tax, law enforcement or other authorities of any country;
- 52.16 any other person to whom such disclosure is considered by the Bank to be in the Bank's interest, or the interest of any members of the Group (not applicable to strategic alliance for marketing and promotional purpose);
- 52.17 any person intending to settle any moneys outstanding under the Banking Facilities;
- 52.18 any person connected to the enforcement or preservation of any of the Bank's rights under this Agreement and the Security Documents;
- 52.19 the Central Credit Bureau or any other authority or body established by Bank Negara Malaysia or any other authority having jurisdiction over the Bank;
- 52.20 any Security Party; and
- 52.21 any of the Borrower's directors.

**53. COMPLIANCE WITH COURT ORDERS**

The Borrower agrees that the Bank and the Group can act in any way the Bank sees fit, without consulting the Borrower beforehand, if the Bank is served with a court order issued by a court of any jurisdiction. The Borrower agrees that the Borrower will not hold the Bank liable for any loss or damage in connection with the Bank's actions.

**54. DATA PROTECTION**

- 54.1 The Borrower hereby confirms that the Borrower has received, read, understood and agreed to be bound by the Privacy Notice issued by the Bank (which is available at the Bank's branches as well as at the Bank's website at [www.uob.com.my](http://www.uob.com.my)) and the clauses in this Agreement as may relate to the processing of the Borrower's Personal Data. For the avoidance of doubt, the Borrower agrees that the said Privacy Notice shall be deemed to be incorporated by reference into this Agreement.
- 54.2 The Borrower agrees and consents that the Bank may transfer the Personal Data outside of Malaysia. All Personal Data held by the Bank and the Group will be accorded a reasonable level of protection against any loss, misuse, modification, unauthorised or accidental access or disclosure, alteration or deletion.
- 54.3 In the event the Borrower provides Personal Data relating to third parties, including data relating to their next-of-kin and dependents (where the Borrower is an individual) or data relating to their directors, shareholders,

officers, individual guarantors and security providers (where the Borrower is a corporation), for the purpose of the Banking Facilities, the Borrower:

- (a) confirm that the Borrower has obtained their consent or is otherwise entitled to provide this data to the Bank and for the Bank to use it in accordance with this Agreement and/or the Banking Facilities;
- (b) undertakes that the Borrower has informed the said third parties to read the Privacy Notice at the Bank's website [www.uob.com.my](http://www.uob.com.my);
- (c) has informed the said third parties:-
  - (i) that the Bank may collect or verify their personal and financial data with third party sources;
  - (ii) that the Bank may disclose their personal data to classes of third parties described in the Bank's Privacy Notice;
- (d) agrees to ensure that the personal and financial data of the said third parties is accurate;
- (e) agrees to update the Bank in writing in the event of any material change to the said personal and financial data;
- (f) agrees to the Bank's right to terminate the Banking Facilities should such consent be withdrawn by the said third parties.

54.4 Where the Borrower instructs the Bank to effect any sort of cross-border transaction (including to make or receive payments), the details relevant to the cross-border transaction (including data relating to those involved in the said transaction) may be received from or sent abroad, where it could be accessible by overseas regulators and authorities in connection with their legitimate duties (e.g. the prevention of crime). In instructing the Bank and/or the Bank's agents to enter into any cross-border transaction on the Borrower's behalf, the Borrower agrees to the above said disclosures on behalf of the Borrower and others involved in the said cross-border transaction.

54.5 Additionally, but always subject to any laws (including regulations, guidelines and/or obligations) applicable to the Bank or the Group (whether in or outside Malaysia), the Borrower agrees that the Bank and the Group, and the Bank's merchants and strategic partners may contact the Borrower about products, services and offers, which the Bank believes may be of interest to the Borrower or benefit the Borrower financially. Notwithstanding the foregoing, the Bank will only disclose the Borrower's Personal Data (excluding data relating to the Borrower's affairs or account) to the Bank's merchants and strategic partners where the Borrower's express prior consent has been obtained.

54.6 The Borrower may choose not to receive any direct marketing materials from the Bank or the Group by making a request at any of the Bank's branches or by sending a written request via email to [uobcustomerservice@uob.com.my](mailto:uobcustomerservice@uob.com.my) (or such other address notified by the

Bank) and the Bank will abide by the Borrower's latest written instructions to the Bank.

- 54.7 The Borrower acknowledges that certain communications such as statements of account and the Bank's websites contain standard information regarding the Bank's other products and services that cannot be removed without affecting the delivery/provision of the Bank's services and/or products, the operation of the Banking Facilities and/or without imposing additional costs to the Borrower.
- 54.8 The Borrower is entitled to request in writing:
- (a) for any information in relation to the Borrower's Personal Data that the Bank holds or stores, upon payment of a prescribed fee;
  - (b) for any information held or stored by the Bank to be updated, amended and/or corrected;
  - (c) for the Bank to limit the processing of the Borrower's Personal Data held or stored by the Bank; and
  - (d) to make an enquiry or complaint in respect of the Bank's processing of the Borrower's Personal Data.

For requests under (a) or (b), the Borrower may make a request to the Bank via the Bank's Data Access Request Form or Data Correction Request Form respectively. These forms are available at the Bank's branches as well as at the Bank's website at [www.uob.com.my](http://www.uob.com.my).

The Borrower may direct all the Borrower's requests to any of the Bank's branches or by sending a written request via email to [uobcustomerservice@uob.com.my](mailto:uobcustomerservice@uob.com.my) (or such other address notified by the Bank).

The Bank may charge a fee for processing the Borrower's request for access or correction. The Bank may also refuse to comply with the Borrower's request in respect of (a) or (b) above if the information supplied by the Borrower is insufficient (as determined by the Bank) or where such request may breach or violate any law or regulation or any other reason which the Bank deems not to be in the Bank's interest to do so. If the Bank refuses to comply with such request, the Bank will inform the Borrower of the Bank's refusal and reason for the Bank's refusal.

- 54.9 The Borrower is responsible for ensuring that the information the Borrower provides the Bank is accurate, complete and not misleading and that such information is kept up to date.
- 54.10 The Borrower acknowledges that if the Borrower subsequently withdraws the Borrower's consent to process the Borrower's Personal Data as given earlier to the Bank, as the Bank will not be able to process and/or disclose the Borrower's Personal Data in relation to the purposes set out in the Privacy Notice, the Bank will have the right to not provide or discontinue the

provision of any product, service, account and/or facilities that is linked to such Personal Data.

- 54.11 The Bank reserves the right to amend this clause from time to time at the Bank's sole discretion and shall provide prior notification to the Borrower in writing and place any such amendments on the Bank's websites or by placing notices at the banking halls or at prominent locations within the Bank's branches or by such other means of communication deemed suitable by the Bank.
- 54.12 This clause shall be without prejudice to any other clause in this Agreement which provides for the disclosure of data.

## **55 COMPLIANCE WITH FATCA**

- 55.1 The Borrower shall provide all required documentation or information, including but not limited to date of birth, countries of citizenship, countries of permanent residence, countries of tax residency and associated taxpayer identification numbers, that may be required to enable the Bank or any member of the Group to comply with all requirements of FATCA or other agreement by or between governments.

The Borrower shall notify the Bank in writing within thirty (30) days of any change that affects the Borrower's tax status in relation to FATCA under any laws, regulations or other agreement by or between governments.

- 55.2 The Borrower represents and warrants that the Borrower has provided to the Bank all documentation or other information as may be required by the Bank for compliance with FATCA and in connection with change in tax status and shall provide all required documentation or other information within seven (7) days of a request from the Bank in writing or otherwise.

The Borrower further acknowledges that any failure on the Borrower's part to provide accurate and timely information pursuant to requirements and requests by the Bank may result in the Bank having to deem the Borrower recalcitrant and/or reportable and take all necessary action against the Borrower in order for the Bank to be compliant with requirements under FATCA, local legislation in connection with FATCA and any other provision arising out of an agreement between governments pertaining to FATCA.

- 55.3 For individual Borrowers, the Borrower consents to the collection, storage, and disclosure by the Bank or any member of the Group of any Personal Data to persons from whom the Bank or any member of the Group receive or make payments on behalf of the Borrower and to governmental authorities as required by law or other agreement by or between governments. The Borrower's consent shall be effective notwithstanding any applicable nondisclosure agreement. The Borrower represents that the Borrower has secured from any third party whose information is provided to the Bank any consents and waivers necessary to permit the Bank or any member of the Group to carry out the actions described in this Clause 55.3, and that the Borrower will secure such consents and waivers in advance of providing similar information to the Bank in the future.

- 55.4 For Borrowers who are a sole proprietorship, partnerships or other business entity, a corporation, or an association, club or society or trust, the Borrower consents to the collection, storage, and disclosure by the Bank or any member of the Group of any Confidential Information to persons from whom the Bank or any member of the Group receive or make payments on behalf of the Borrower and to governmental authorities as required by law or other agreement by or between governments. Confidential Information includes the Borrower's Personal Data, the Borrower's bank account details, transactional information, and any other information that a reasonable person would consider being of a confidential or proprietary nature. The Borrower's consent shall be effective notwithstanding any applicable nondisclosure agreement. The Borrower represents that the Borrower has secured from any third party whose information is provided to the Bank any consents and waivers necessary to permit the Bank or any member of the Group to carry out the actions described in this Clause 55, and that the Borrower will secure such consents and waivers in advance of providing similar information to the Bank in the future.
- 55.5 The Borrower agrees and acknowledges that the Bank is entitled to take all necessary action to be and remain compliant with FATCA as is required by law or other agreement by or between governments. If some of the Borrower's income is reportable and some is not, the Bank will report all income unless the Bank can reasonably determine the reportable amount. The Borrower hereby authorises the Bank or any member of the Group, where appropriate, to withhold or otherwise collect from any payment any required tax or other government assessment, including but not limited to any requirement to withhold or deduct an amount under the Code and the regulations and other guidance issued under the Code, each as amended from time to time or any other agreement by or between authorities.
- 55.6 The Bank or any member of the Group, may take whatever action the Bank consider appropriate to meet any obligations, either in Malaysia or elsewhere in the world, relating to the prevention of tax evasion. This may include, but is not limited to, investigating and intercepting payments into and out of the Borrower's account(s) (particularly in the case of international transfer of funds), investigating the source of or intended recipient of funds, sharing information and documents with domestic and international tax authorities and withholding income from the Borrower's account(s) and transferring it to such tax authorities. If the Bank is not satisfied that a payment in or out of the Borrower's account(s) is lawful, the Bank may refuse to deal with it.
- 55.7 To the fullest extent as may be permitted by law, the Bank will not be liable to the Borrower for any losses, costs, expenses, damages, liabilities the Borrower may suffer as a result of the Bank complying with legislation, regulations, orders or agreements with tax authorities or by and between tax authorities or if the Bank make an incorrect determination as to whether or not the Borrower should be treated as being subject to tax or tax reporting obligations.
- 55.8 This Clause 55 will override any inconsistent term or consent provided by the Borrower under any agreement with the Bank to the extent that such agreement provides fewer or lesser rights for Bank, whether before or after the date of this Agreement. This Clause 55 shall be without prejudice to any

other clause in this Agreement which provides for the request for information or disclosure of data.

**56. RETENTION OF RECORDS**

The Borrower agrees that the Bank is not obligated to maintain any records of the Borrower's account, including but not limited to the Security Documents, transaction documents, statements of account, correspondences or documents provided to the Bank by the Borrower or any other third party, exceeding any retention period as set out under the Bank's internal policies, guidelines and procedures and/or as provided under any applicable laws or regulations of any country having jurisdiction over the Bank.

**57. NOTICES**

**57.1 Language**

Any demand, request, notice or other communication (collectively "Notices") by or on behalf of the Borrower or the Bank must be in writing in English or Bahasa Malaysia.

**57.2 Notices from Bank**

Notices that the Bank send to the Borrower may be:

- 57.2.1 sent by personal delivery, pre-paid ordinary post, facsimile, electronic mail or short message system (SMS) to the Borrower's address, facsimile number, electronic mail address or mobile phone number last known to the Bank;
- 57.2.2 given by posting on the Bank's website; or
- 57.2.3 given by insertion in any statement of account which the Bank may send to the Borrower.

**57.3 Deemed delivery**

Any Notices that the Bank sends to the Borrower will be deemed to have been received by the Borrower:

- 57.3.1 at the time of delivery at the Borrower's address, if sent by personal delivery;
- 57.3.2 forty-eight (48) hours after posting, if sent by pre-paid ordinary post;
- 57.3.3 at the time the facsimile transmission is completed;
- 57.3.4 at the time the electronic mailing is completed;
- 57.3.5 at the time the sending by short message system (SMS) is completed;
- 57.3.6 at the time of posting on the Bank's website; or

57.3.7 at the time the statement of account is deemed to have been received by the Borrower.

57.4 **Borrower to notify Bank of change in contact details**

The Borrower agrees to notify the Bank in writing of any change in the Borrower's address, facsimile number, electronic mail address and mobile phone number.

57.5 **Bank's right not affected**

The Bank's rights under this Agreement and the Security Documents are not to be affected by any failure on the Borrower's part to notify the Bank of any change in the Borrower's address, facsimile number, electronic mail address or mobile phone number.

57.6 **Advertisement**

The Borrower agrees that the Bank also has the right to serve on the Borrower any notice in connection with the Banking Facilities or the Security by advertisement in any one daily newspaper and such notice will be deemed to have been served on the Borrower on the day the advertisement appears in the newspaper regardless of whether the Borrower has actually seen the advertisement.

57.7 **Notice from the Borrower**

57.7.1 Notices from the Borrower to the Bank may be sent by personal delivery or ordinary mail.

57.7.2 Notices by the Borrower to the Bank must be duly signed by the Borrower or, if permitted by the Bank, the Borrower's authorized signatory. The Notice must be served on the Bank at the address specified by the Bank from time to time. Notices are deemed received by the Bank upon actual receipt of the Notice and any additional documents or information which the Bank may require to verify the source of the Notice.

58. **SUCCESSORS-IN-TITLE**

This Agreement will be binding on the Borrower's heirs, personal and legal representatives, successors in title and permitted assigns (as the case may be) and, if it is signed by more than one party, the liability of each of the parties signing this Agreement and of their respective heirs, personal or legal representatives, successors in title and permitted assigns (as the case may be) to the Bank shall be joint and several and every agreement and undertaking contained in this Agreement will be read and applied accordingly.

59. **TIME OF THE ESSENCE**

Time, wherever referred to in this Agreement, shall be of the essence of this Agreement.

**60. VARIATION**

- 60.1 The Borrower acknowledges and the Borrower agrees that the provisions of this Agreement and the Security Documents, and the availability, limits, interest rates, commission, fees and charges of and relating to the Banking Facilities are subject to:
- 60.1.1 guidelines issued from time to time by Bank Negara Malaysia or any other authority having jurisdiction over the Bank; and
  - 60.1.2 the Bank's review and variation from time to time at the Bank's sole discretion.
- 60.2 If there is a change in any fees and charges, the Bank will give the Borrower twenty-one (21) days' prior notice before the change takes effect.

**61. SEVERABILITY**

If any of the provisions of this Agreement is or becomes invalid or unenforceable, the invalid or unenforceable provision is to be treated as not having been included in this Agreement; the remainder of this Agreement is to continue to be effective and in force and is not to be affected in any way by the invalid or unenforceable provision.

**62. NON-WAIVER**

- 62.1 The Borrower agrees that if the Borrower breaches any of the terms and conditions governing the Banking Facilities or the Security, the Bank may at its sole discretion decide not to exercise any right which the Bank may have in relation to the Borrower's breach.
- 62.2 Any decision of the Bank not to exercise any right which the Bank may have in relation to the Borrower's breach is not to be treated as a waiver of the Bank's rights and the Bank retains the right at any time afterwards to strictly enforce or to insist on the Bank's rights in relation to that breach or any subsequent breach by the Borrower.

**63. NON-ACQUIESCENCE**

The Borrower agrees that, even if the Bank may not have exercised any remedy available to the Bank immediately upon default by the Borrower or even if the Bank may have accepted moneys from the Borrower or any Security Party after such default, the Bank shall not be held to have acquiesced to such default and the Bank may at any time after that exercise all or any of the remedies available to the Bank under this Agreement, the Security Documents and any applicable law. Any delay on the part of the Bank in taking steps to enforce the remedies available to it under this Agreement, the Security Documents or any applicable law shall not in any way affect the Bank's right to take those steps.



**64. CUMULATIVE REMEDIES**

The rights, remedies, powers, and privileges provided under this Agreement are cumulative and are not exclusive of any rights, remedies, and privileges provided by law, in any other agreement between the parties or otherwise.

**65. PRESERVATION OF RIGHTS AND ENTITLEMENT**

The Borrower agrees that, regardless of what is stated anywhere else in this Agreement or the Security Documents, the Bank's rights as stated in this Agreement or the Security Documents will continue to remain in full force and effect and shall survive any cancellation, revocation or suspension of the Banking Facilities by the Bank.

**66. CESSATION OF RELATIONSHIP**

The cessation of the banker-customer relationship between the Bank and the Borrower will not in any circumstances or in any manner affect the Bank's right to capitalize any interest payable on any outstanding balance.

**67. LEGAL ADVICE**

The Borrower confirms that the Borrower has been advised to seek independent legal advice before accepting the Banking Facilities and before signing the Letter of Offer and the Security Documents prepared by the Bank or the Bank's solicitors.

**68. INCONSISTENCIES**

68.1 The provisions of this Agreement are additional to the terms and conditions contained in the Letter of Offer; if there is any inconsistency between any of the provisions of this Agreement and the terms and conditions contained in the Letter of Offer, the terms and conditions contained in the Letter of Offer will prevail, that is, the terms and conditions contained in the Letter of Offer will take precedence.

68.2 Although the Schedules to this Agreement form part of this Agreement, if any of the provisions in any of the Schedules to this Agreement is inconsistent with the provisions contained in the main text of this Agreement, the provision in the Schedule will prevail, that is, the provision in the relevant Schedule will take precedence.

**69. GOVERNING LAW**

This Agreement and the Security Documents are to be governed by and interpreted in accordance with the laws of Malaysia and the Borrower agrees that, upon the Borrower's acceptance of the Banking Facility, the Borrower is deemed to have unconditionally and irrevocably:

- 69.1 agreed that any dispute involving this Agreement and the Security Documents may be submitted to the relevant courts in and outside Malaysia;
- 69.2 agreed not to raise any objection to any dispute being submitted in any particular court on the basis that it is not the correct or most convenient court for the dispute to be submitted to; and
- 69.3 consented to the service on the Borrower of any demand by the Bank and of any court documents by registered mail or by any other manner allowed by the relevant laws.

**70. UPSTAMPING**

- 70.1 If the total moneys advanced to the Borrower or due and owing by the Borrower to the Bank shall at any time exceed the principal limit for which this Agreement and the Letter of Offer is for the time being stamped, the Bank shall have the right at any time without prior notice to the Borrower to up-stamp this Agreement from the date such principal limit is exceeded.
- 70.2 The cost and expenses of up-stamping this Agreement, including any penalty payable, shall form part of the moneys secured by this Agreement and the Security Documents.

**71. PRINCIPAL AND SECONDARY INSTRUMENT**

It is agreed and declared that the Letter of Offer, this Agreement and the Security Documents are instruments employed in one transaction to secure the principal sum or the aggregate principal sums, as the case may be, for which *ad valorem* stamp duty will be paid on the original of this Agreement and more particularly stated in Schedule 7; for the purpose of Section 4(3) of the Stamp Act 1949, this Agreement is deemed to be the primary or principal instrument and the Letter of Offer and the Security Documents are deemed to be the auxiliary or subsidiary instruments.

-----  
(The remaining of this page is intentionally left blank)

Signed by the parties on the day and year stated in Section 1 of Schedule 1.

**Bank**

Signed for and on behalf of       )  
the Bank by its Attorney       )  
in the presence of:       )

**Borrower**

\*Signed by the Borrower       )  
in the presence of:       )

**Borrower**

\*The Borrower's common seal       )  
was affixed to this document       )  
in the presence of:       )

.....  
Director

.....  
Director / Secretary

*\*Delete wherever inappropriate*

**SCHEDULE 1**

**Section 1                      Date of this Agreement**

**Section 2                      Address of the Bank**

**Section 3                      Particulars of the Borrower**

**Section 4                      Date of Letter of Offer**

**SCHEDULE 2**  
**REPRESENTATIONS AND WARRANTIES**

### SCHEDULE 3

#### ADDITIONAL CONDITIONS PRECEDENT

##### 1. If Security is the Land

Before the Bank releases the Banking Facilities or any part of them and:-

1.1 if the Land is charged or assigned to another financial institution:-

- (a) A private caveat must have been lodged over the Land by the Bank; the Borrower is to bear all the fees and expenses relating to the lodgment and subsequent removal of the private caveat.
- (b) The Borrower must have paid:
  - (i) the difference between the relevant Banking Facility granted by the Bank to the Borrower for its purchase of the Land and the purchase price of the Land;
  - (ii) all stamp duties including the stamp duty payable for the transfer or the assignment of the Land in the Borrower's or the Security Party's favour and the stamp duty payable on all the Security Documents;
  - (iii) all fees and expenses payable to any valuer the Bank may have appointed to value the property; and
  - (iv) all fees and expenses payable to any solicitor the Bank may have retained to prepare the Security Documents.
- (c) a statement in writing stating the redemption sum, that is, the sum required to be paid to it to redeem the Land;
- (d) an undertaking in writing to deliver to the Bank:
  - (i) a registrable discharge of charge or a valid and effective deed of receipt and reassignment, as the case may be;
  - (ii) the stamped duplicate charge over the Land;
  - (iii) the original of the issue document of title, if the Land is currently charged to it;
  - (iv) all security documents held by it, including the originals of all previous sale and purchase agreements, deeds of assignments and deeds

of receipts and reassignments, if the property is currently assigned to it; and

- (v) a written undertaking to refund to the Bank the redemption sum paid to it by the Bank if the discharge of charge is not registrable or if the deed of receipt and reassignment is not valid or effective for any reason whatsoever;
  - (e) If the Borrower's sale and purchase agreement for the Land prescribes that certain documents have to be delivered to the Bank, the Bank must have received those documents.
- 1.2 If the Land is currently not charged or assigned to another financial institution, then:
- (a) the land charge executed over the Land must have been presented and accepted for registration by the relevant authorities and/or the assignment of the Land to the Bank must have been signed and stamped;
  - (b) the Bank must have received from the Vendor of the Land:
    - (i) the original of the issue document of title to the Land; and
    - (ii) a written undertaking to refund to the Bank all sums received by it from the Bank if the instrument of transfer over the Land is not registrable in the Borrower's favour for any reason whatsoever or if the deed of assignment in the Borrower's favour is not valid or is not effective for any reason whatsoever, as the case may be
- 1.3 If no document of title has been issued yet in respect of the Land:
- (a) the Bank must have received from the Vendor of the Land or the proprietor of the Land an undertaking in writing:
    - (i) to deliver to the Bank upon the issue of the title the original of the issue document of title together with a memorandum of transfer duly executed by the Vendor or the proprietor in the Borrower's favour; and
    - (ii) not to further charge the land without having previously informed the Bank in writing.
  - (b) The Bank must have received the original sale and purchase agreement relating to the property.
  - (c) The Bank must have received from the chargee of the land if there is such a chargee:

- (i) a disclaimer in writing disclaiming any right, interest and title in respect of the land ; and
- (ii) an undertaking in writing to exclude the land from any foreclosure proceedings it may take in respect of the land.

1.4 If the Borrower's sale and purchase agreement prescribes that certain documents have to be delivered to the Bank, the Bank must have received those documents.



**SCHEDULE 4**  
**ADDITIONAL POSITIVE COVENANTS**

**SCHEDULE 5**  
**ADDITIONAL NEGATIVE COVENANTS**

## SCHEDULE 6

### OTHER TERMS AND CONDITIONS

#### **1. Additional terms and conditions if security is property**

- 1.1 All moneys payable on the property which is charged or assigned to the Bank, such as quit rent, assessment rates and maintenance charges, must be paid up to date; the Borrower must submit proof of payment to the Bank every year.
- 1.2 If the property is charged or assigned to some other party, the Bank has the right to use the Banking Facilities or any part of it to pay the redemption sum to redeem the property. If the Bank exercises this right, the acknowledgement or receipt of that other party will be binding on the Borrower as if it was the Borrower who had received payment from the Bank.
- 1.3 The Bank also has the right to use the Banking Facilities or any part of it to pay the balance of the purchase price of the property to the vendor who sold the Borrower the property. If the Bank exercises this right, the acknowledgement or receipt of that other party will be binding on the Borrower as if it was the Borrower who had received payment from the Bank.

#### **2. Additional Terms Governing Financial Guarantee (FG)/Performance Guarantee (PG) Facility**

- 2.1 The FG/PG facility is available for such period as stated in the Letter of Offer or such other period as may be extended by the Bank from time to time from the date of the Letter of Offer. The undrawn portion of the FG/PG facility shall be deemed to have been cancelled thereafter
- 2.2 The FG/PG issued shall be in the Bank's format.
- 2.3 Even though the FGs/PGs issued has expired, the Bank may at its absolute discretion withhold the release of any security provided in relation to such FGs/PGs issued unless and until the Borrower procure the return of the original copy of all FGs/PGs issued for cancellation by the Bank. In the event that any FG/PG issued by the Bank is not returned to the Bank for cancellation upon expiry, the Bank shall be entitled in accordance with the provisions in the Letter of Offer, to charge a fee in such percentage per month or part of the month and subject to a minimum amount per guarantee from the date of expiry thereof to:-
  - (a) the date of return of the FG/PG; or
  - (b) the date of receipt of notification from the beneficiary that the Bank is no longer liable under the guarantee.
- 2.4 Where the FG/PG Facility is secured by a Standby Letter of Credit (SBLC), if the original copy of the FGs/PGs issued is not returned to the Bank for cancellation by the Bank upon expiry, the Borrower shall ensure that the issuer of the SBLC shall furnish to the Bank a fresh SBLC in form and substance acceptable to the Bank at least 14 business days prior to the

expiry of the SBLC; failing which, the Bank shall have the right to call on the SBLC. The Borrower's obligation to do so shall remain until such time the original copy of the FGs/PGs issued hereunder is returned for cancellation by the Bank.

- 2.5 There shall be no refund of commission upon early cancellation or return of FG/PG.
- 2.6 The tenor of the FG/PG facility is for such period as stated in the Letter of Offer.

**3. Bank's right to withhold release**

- 3.1 The Bank shall cease to be under any obligation or commitment to grant the Banking Facilities if at any time before the release of the Banking Facilities, the Bank decides, at its sole discretion, that the granting of the Banking Facilities would likely to be detrimental to its own position or otherwise undesirable.

**4. Excess Interest**

- 4.1 Interest at the rate of 3.5% per annum above the Bank's Base Lending Rate or such other rate as the Bank may at its sole and absolute discretion prescribe from time to time to be calculated on monthly rests or such other periodic rests as the Bank may prescribe shall be charged on all utilisation in excess of the implemented limit for each facility stated in the Letter of Offer, both before as well as after any demand or judgement and notwithstanding that the banker and customer relationship may have ceased or have been terminated.

**5. Interest for temporary facility**

- 5.1 Interest at the rate of 3.5% per annum above the Bank's Base Lending Rate or such other rate as the Bank may at its sole and absolute discretion prescribe from time to time shall be charged on any temporary facility approved by the Bank.

**SCHEDULE 7****PRINCIPAL AMOUNT SECURED**

This Schedule is a part of /supplemental agreement to the Facilities Agreement and the Borrower confirms that the Banking Facilities secured by the Facilities Agreement will include the banking facilities for the amount stated below:-

**Amount secured by the Facilities Agreement:**

**Date of Letter of Offer:**

**Date of signing:**

**Bank**

Signed for and on behalf of )  
the Bank by its Attorney )  
in the presence of: )

**Borrower**

\*Signed by the Borrower )  
in the presence of: )

**Borrower**

\*The Borrower's common seal )  
was affixed to this document )  
in the presence of: )

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Director

.....  
Director / Secretary

*\*Delete wherever inappropriate*

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