



**MADE IN FAVOUR OF**

**UNITED OVERSEAS BANK (MALAYSIA) BHD  
[Registration No. 199301017069 (271809-K)]  
(Bank)**

**BY**

**THE CHARGOR NAMED HEREIN  
(Chargor)**

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**MEMORANDUM OF LEGAL CHARGE / ASSIGNMENT OVER  
DESIGNATED ACCOUNTS AND/OR DEPOSITS**

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**MEMORANDUM OF LEGAL CHARGE / ASSIGNMENT OVER DESIGNATED ACCOUNTS  
AND/OR DEPOSITS**

(bearing the date stated in Section 1 of the First Schedule)

TO: **UNITED OVERSEAS BANK (MALAYSIA) BHD.**  
[Registration No. 199301017069 (271809-K)]

In consideration of You:-

- (a) having made available, making available or continuing to make available the Islamic financing facilities or other accommodation (referred to in this Memorandum as “**Facilities**”); and/or
- (b) having granted, granting or continuing to grant from time to time;

to the party whose particulars are stated in Section 2 of First Schedule (who is referred to in this Memorandum individually and collectively as “**Customer**”) and/or to Us (whether singly or jointly or jointly and severally with any other person) at Our request, in any manner and for as long as You may at Your sole discretion consider fit, including in accordance with the letter of offer and/or facility agreement particularized and bearing the date(s) as stated in Section 3 of the First Schedule (“**Facilities Documents**” which shall include any supplemental and revision thereto), we hereby agree with You as follows:-

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 In this Memorandum, unless the context otherwise requires words, expressions, and phrases used in the Facility Agreement shall be construed and shall have the same meanings when used here.
- 1.2 In this Memorandum, unless expressly provided herein or defined elsewhere in this Memorandum or the context otherwise requires, the following expressions shall have the meanings set forth below:-
  - 1.2.1 “**Authorised Persons**” means any person we authorise (either alone or collectively), and approved by you, to operate any account We may have with you, and to act on our behalf in giving instructions, to perform any acts under any agreement between you and us, or to use any facility, product or service you make available to us;
  - 1.2.2 “**this Memorandum**” means this Memorandum of Legal Charge / Assignment over Designated Accounts and/or Deposits;
  - 1.2.3 “**Credit Balance**” means all moneys in whatsoever currency, now or at any time after the date of this Memorandum standing to the credit of the Designated Accounts and where applicable, all gift (*hibah*) and profit accruing and/or paid thereon;
  - 1.2.4 “**Deposits**” means the total of all moneys, in whatsoever currency, now or at any time after the execution of this Memorandum which are held in or earned on any of Our accounts whatsoever with you in Malaysia or elsewhere whether singly or jointly or jointly and severally with any other person (including accounts opened in Your name);

- 1.2.5 “**Designated Accounts**” means such account or accounts stated in Section 5 of the First Schedule opened and/or to be opened and maintain by us with you in Malaysia or elsewhere whether singly or jointly or jointly and severally with any other person (including accounts opened in your name) which shall include any other account or accounts opened in addition to or in substitution of the existing account or accounts subject to your approval and “Designated Accounts” shall include any one or more accounts;
- 1.2.6 “**Group**” means Your 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 You;
- 1.2.7 “**Facilities**” means the Islamic financing facilities granted or made available by You to the Customer and/or Us and includes all other facilities or accommodation granted or made available or agreed to be granted or made available or to be continued to be made available by You to the Customer and/or Us now or hereafter in accordance with the Letter of Offer and/or the Facility Agreement and where relevant “**Facilities**” will include any part of such Islamic financing facilities and the outstanding balance from time to time and reference to “**Facility**” includes reference to any one of them;
- 1.2.8 “**Indebtedness**” means the aggregate of all monies (whether principal, profit, compensation (*Ta'widh*), commission, fees, costs or charges) outstanding or payable or agreed to be payable by the Customer and/or Us and/or any other Security Party to You from time to time in respect of the Facilities or any account and includes all liabilities and obligations incurred by the Customer and/or Us and/or any other Security Party to You 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;
- 1.2.9 “**Security Interest**” means any mortgage, charge, pledge, lien, assignment, hypothecation, right of set-off or security interest or other encumbrance whatsoever or other security arrangement or agreement or any right, including the Facilities Documents conferring a priority of payment howsoever created or arising;
- 1.2.10 “**We / Our / Ours / Us**” means and refers to the person or persons whose particulars as described in Section 4 of the First Schedule; if this Memorandum is signed by more than one person, “**We / Our / Ours /Us**” refers to all those persons jointly and severally so that the obligations and liabilities of those persons are also joint and several; and
- 1.2.11 “**You / Yours**” means and refers to United Overseas Bank (Malaysia) Bhd. [Registration No. 199301017069 (271809-K)].
- 1.3 Interpretation
- 1.3.1 Words referring to the singular number include the plural number and vice versa and all plural nouns shall include the singular and vice versa and in particular, “We”, “us”, “our”, “ours” and cognate expressions of those words, wherever used, mean all of us and any or each of us and includes the singular number so that if this Memorandum is signed by only one person, “We”, “us”, “our” and “ours” are to be read as “I”, “me”, “my” and “mine” respectively.
- 1.3.2 A reference to “this Memorandum” or other similar reference refers to this Memorandum as a whole, and not to any particular provision of this Memorandum but shall include any supplemental agreements, amendments, variations and changes made to this Memorandum.

- 1.3.3 Words importing the masculine gender include feminine and neuter genders and vice versa.
- 1.3.4 References and words applicable to natural persons include any body of persons, company, corporation, firm or partnership corporate or unincorporated and vice versa.
- 1.3.5 The headings to the Clauses of this Memorandum are for ease of reference only and should not be taken into account when interpreting anything in this Memorandum.
- 1.3.6 References to Credit Balance and Indebtedness include any part of them.

## **2 PAYMENT ON DEMAND**

- 2.1 We will on demand pay to You the Indebtedness and until demanded, we shall pay and/or cause to be paid the Indebtedness in accordance with the terms and condition contained in the Facilities Documents.

## **3 THE DESIGNATED ACCOUNTS, THE CREDIT BALANCE AND THE DEPOSITS FREE FROM CLAIMS AND ENCUMBRANCES**

We represent and warrant to You that:-

- 3.1 we are the sole legal and beneficial owner of the Designated Accounts and the Credit Balance, and/or the Deposits, including gift (*hibah*) and/or profit distributed or to be distributed on the Deposits;
- 3.2 no person, firm, company, corporation or other body corporate other than us have any claim, right, title or interest whatsoever whether legal or equitable in and to the Designated Accounts, the Credit Balance and/or the Deposits, including gift (*hibah*) and/or profit distributed or to be distributed on the Deposits;
- 3.3 the Designated Accounts, the Credit Balance and/or the Deposits, including gift (*hibah*), profit distributed or the be distributed on the Deposits are and will be free from all encumbrances and claims whatsoever by any person or persons whomsoever (except by Yourself);
- 3.4 we will sign, do and execute all such documents, acts and things to give effect to this Memorandum and/or as may be necessary or required by you for the performance by us of our obligations under this Memorandum and all costs and expenses (including but not limited to solicitors' fees and expenses on a full indemnity basis, stamp duty and registration fees) incurred or payable therefor shall be borne by us;
- 3.5 this Memorandum constitutes our legal, valid and binding obligations to you in respect of the Designated Accounts, the Credit Balances, the Deposits and including gift (*hibah*), profit distributed or to be distributed on the Deposits, and the Indebtedness;
- 3.6 we consent to your utilisation of moneys in the Designated Accounts, the Credit Balances and/or the Deposits whether or not arising from incidental *Qard* (loan) contract or otherwise.

#### **4 ASSIGNMENT / CHARGE OF DESIGNATED ACCOUNTS AND CREDIT BALANCE AND/OR DEPOSITS**

On or before the execution of this Memorandum or at such other date as you may allow, we as the sole legal and beneficial owner of the Designated Accounts, the Credit Balance and/or the Deposits hereby consent and agree that, as a continuing security for the payment of the Indebtedness:-

- 4.1 to deposit or cause to be immediately deposited with you, and authorise you to debit our account from time to time for the same, the Deposits;
- 4.2 to assign absolutely to you the Designated Accounts and the Credit Balance and all rights, interests, entitlements and benefits accruing to or arising in connection with the Designated Accounts and the Credit Balance; and
- 4.3 to charge to you by way of a first fixed charge on:-
  - 4.3.1 the Deposits, including gift (*hibah*) and profit accruing earned or to be earned on the Deposits and all rights, interests, entitlements and benefits accruing to or arising in connection with the Deposits and all gift (*hibah*) and profit accruing earned or to be earned.
  - 4.3.2 the Credit Balance and all rights, interests, entitlements and benefits accruing to or arising in connection with the Designated Accounts and/or the Credit Balance which is not or cannot be assigned under Clause 4.2

#### **5 RIGHT OF SET-OFF**

- 5.1 Over and above, and without in any way affecting, any prior or other right which You may have or are entitled to in law as financiers, including but not limited to any general lien or right of set-off, We hereby agree and consent that You also have a continuing right at any time and from time to time at your sole discretion and save as specifically mentioned, without any prior notice or demand to Us:-
  - 5.1.1 after You giving seven (7) days' notice to Us, to set-off and transfer all or any of the Credit Balance and apply them towards the satisfaction of the Indebtedness;
  - 5.1.2 to retain the Deposits held for the time being or may from time to time be held by you;
  - 5.1.3 to renew or redeposit from time to time with you, the Deposits or such part/balance thereof for such periods and upon such terms as you deem fit including the payment of gift (*hibah*) and profit, if any on the Deposit at such rate as may be offered by you from time to time; and
  - 5.1.4 to terminate or uplift the Deposit prior to its maturity date (upon such terms then applicable to the termination prior to maturity) without being liable to us for any loss arising from such termination or uplifting of the Deposits or any gift (*hibah*) and profit earned thereon.
- 5.2 You may exercise the right of set-off described above even if:
  - 5.2.1 You have not resorted to any remedies against Us, the Customer or any other party; and/or
  - 5.2.2 all or any of the Deposits have not matured; and/or
  - 5.2.3 all or any of the Indebtedness are in a currency which is different from the Credit Balance or that of the Deposits.

- 5.3 In exercising Your right of set-off, You are free to combine or consolidate any of Our accounts with You as you may think fit.
- 5.4 If all or any of the Indebtedness are in a currency which is different from the Credit Balance and/or the Deposits, You may use all or any of the Credit Balance and/or the Deposits to buy the currency of the Indebtedness at Your own rate of exchange then prevailing.
- 5.5 Even if the Indebtedness have not yet become due and payable to you by us or the Customer, we hereby consent and acknowledge that you are entitled to set-off and transfer all or any of the Credit Balance and/or the Deposits towards the satisfaction of such Indebtedness; if it later turns out that such Indebtedness are:-
- 5.5.1 less than the amount of the Credit Balance and/or the Deposits which you have set-off, you are to refund the surplus amount to us free of interest; or
- 5.5.2 more than the amount satisfied, you shall continue to be liable to us for the amount remaining outstanding and unpaid together with profit payable on the Deposits at such rate then applicable to such Deposits.
- 5.6 We hereby agree that all monies received by You pursuant to Clause 5.1.1 above will be applied in the following order:-
- 5.6.1 Firstly in payment of all costs, charges, expenses and liabilities incurred by You in realising the security created under this Memorandum, and to pay all other parties appointed in respect of such realisation;
- 5.6.2 Secondly in or towards payment to You all costs, charges, commission, compensation (*Ta'widh*) due and payable;
- 5.6.3 Thirdly in or towards payment to You all profit remaining unpaid in respect of the Facilities;
- 5.6.4 Fourthly in or towards payment to the principal monies owing to You in connection with the Facilities;
- 5.6.5 Fifthly any surplus shall be paid to Us and/or the Customer and/ or any other person or persons legally entitled thereto after discharging all the liabilities and monies due to You.

## **6 RESTRICTIONS ON DESIGNATED ACCOUNT AND THE CREDIT BALANCE AND THE DEPOSITS**

- 6.1 Until all the Indebtedness have been unconditionally and irrevocably paid and discharged in full and the Facilities are no longer available for Our or the Customer's use, We agree that We shall not be entitled to:-
- 6.1.1 withdraw or use any of the Credit Balance and/or the Deposits, including gift (*hibah*) and profit earned or to be earned on the Deposits and no part of the Credit Balance and/or the Deposits, including gift (*hibah*) and/or profit distributed or to be distributed on the Deposits, shall be payable to Us or withdrawn or used by Us in any manner except with Your prior written consent which You may withhold or grant conditionally or unconditionally at Your absolute discretion; and/or
- 6.1.2 close or attempt to close the Designated Accounts and/or uplift the Deposits or any of them.

6.2 We:-

6.2.1 will not assign, transfer, mortgage, charge, encumber or attempt to assign, transfer, mortgage, charge or encumber or in any other way deal with the Designated Accounts, the Credit Balance and/or the Deposits and/or our rights, title or interest in the Designated Accounts or the Credit Balance or the Deposits unless it is in your favour and if it is in favour of another party, we have your prior written consent which you may withhold or grant conditionally or unconditionally at your absolute discretion;

6.2.2 agree that any assignment, transfer, encumber or other dealing in respect of the Designated Accounts, the Credit Balance, the Deposits or our rights, title or interest in the Designated Accounts, the Credit Balance or the Deposits will be void and of no effect; we similarly agree that any attempt to assign, transfer, mortgage, charge, encumber or in any other way deal with the Designated Accounts, the Credit Balance or the Deposits or our rights, title or interest in the Designated Accounts, the Credit Balance or the Deposits will be void and of no effect.

6.3 Subject to the terms of any other agreement which We may have with You, We agree We may withdraw or deal with the Designated Accounts and/or the Credit Balance and/or the Deposits and any gift (*hibah*) and profit earned thereon only when all the Indebtedness have been unconditionally and irrevocably paid and discharged in full and the Facilities are no longer available for Our or the Customer's use.

6.4 If you receive any notice of any subsequent charge, assignment, other disposal or Security Interest (except that which is in Your favour) affecting the Credit Balance and/or the Deposits or any any gift (*hibah*) and profit accruing earned or to be earned thereon, You may open a new account for the Customer or Us. If You do not open a new account, it will be deemed that you have in fact opened such new account at the time when You received such notice and, as from that time, all payments made by or on behalf of the Customer or Us to You will be credited or be treated as having been credited to the new account and will not operate to reduce the amount secured by this Memorandum at the time when You received the notice. All amounts credited or deemed to have been credited to the new account will be deemed charged in Your favour in addition to the Credit Balance and/or the Deposits as security for the Indebtedness.

6.5 For the avoidance of doubt, during the tenure of the Facilities, We hereby consent to the utilisation of the Credit Balance and/or the Deposits in any manner and for any purpose that You deem fit subject to compliance with Shariah principles.

## 7 PRINCIPAL DEBTOR

7.1 Although, as between Us and the Customer, We are sureties, that is, persons who have agreed to be responsible for the Indebtedness, We agree that, as between You and Us, whenever the Customer fails to pay the Indebtedness, We shall immediately on demand pay that amount as if We are the principal debtors in respect of all the Indebtedness guaranteed by this Memorandum. We therefore also agree that Our liability under this Charge shall not be discharged or affected in any way whatsoever by anything whatsoever which would not discharge Our liability if We had in fact been the principal debtors.

## 8 NON-COMPETITION

8.1 We undertake with You, from the date of this Memorandum until the Indebtedness have fully been discharged and the Facilities are no longer available for Our or the Customer's use, that:

- 8.1.1 We shall not take or accept any Security Interest from the Customer or from any third party without first obtaining Your written consent;
- 8.1.2 We shall not, without first obtaining Your written consent do or carry out any of the following in respect of any sum which may be or become due to us for any reason whatsoever by the Customer or from any third party:
- (a) seek to recover, whether directly or by set-off, lien, counterclaim or in any other manner;
  - (b) accept any moneys or other property; or
  - (c) exercise any right;
- 8.1.3 We shall not without first obtaining Your written consent, claim, prove for or accept any payment in any composition by or any winding-up of the Customer or any third party; and
- 8.1.4 if We do hold or receive any such Security Interest, moneys or other property despite Clauses 8.1.1, 8.1.2 and 8.1.3 above, We shall immediately pay or transfer the same to You.

## **9 PERFECTION OF THE SECURITY / PRESERVATION OF THE DEPOSITS**

- 9.1 We will on demand, and at Our own cost and expense, execute any document and do any other act or thing which You may specify:
- 9.1.1 for perfecting any Security created or intended to be created by this Memorandum;
  - 9.1.2 for preserving or protecting all or any of the Credit Balance and/or the Deposits; and
  - 9.1.3 for Your realisation of or access to the Credit Balance and/or the Deposits.

## **10 REASSIGNMENT / DISCHARGE OF CHARGE**

- 10.1 Our liabilities and obligations under this Memorandum shall only be reassigned and/or discharged by the proper and valid payment of all the Indebtedness and, subject to Clause 10.2 below, by an absolute reassignment and/or discharge or release signed by You.
- 10.2 Any reassignment or discharge or release referred to in Clause 10.1 above and any composition or arrangement which We may enter into with You shall be deemed to have been made subject to the condition that it will be void if any payment or security which You may previously have received or may after the date of this Memorandum receive from any person in respect of the Indebtedness is set aside under any applicable law or is not valid for any reason whatsoever.

## **11 INDEMNITY**

- 11.1 As a separate, additional and continuing obligation, We unconditionally and irrevocably undertake with You that, should the Indebtedness not be recoverable from Us or the Customer for any reason whatsoever, then, even if that reason may have been known to You, We will, as a sole, original and independent obligor and upon Your demand, fully indemnify You in respect of:-



11.1.1 the Indebtedness in the currency and in the manner agreed upon for the Facilities; and

11.1.2 all losses, costs, charges and expenses which you may suffer or incur in doing anything whatsoever under this Memorandum or in connection with the Facilities.

11.2 Our indemnity given to You in Clause 11.1 above shall be considered satisfied and discharged only when Our liabilities and obligations under this Memorandum have been discharged in accordance with Clause 10.1 above.

## **12 CHANGE IN CONSTITUTION OF THE CUSTOMER**

12.1 The security created by this Memorandum will continue and will not be terminated or affected in any way by any change in the Customer or the person or persons signing this Memorandum, whether by reason of bankruptcy, death, insanity or other disability, incorporation, amalgamation, liquidation, reconstruction or anything whatsoever in name, style, constitution or composition, or by reason of retirement, expulsion, death or admission of any partner or partners; this Memorandum will continue to be of full force and effect as if the resulting firm, company or entity had been the one whose obligations were originally secured by this Memorandum.

## **13 CHANGE IN YOUR CONSTITUTION**

13.1 This Memorandum will not be terminated or affected in any way by any amalgamation, merger, consolidation or anything else that You may undergo with any other company or companies, any reconstruction by You involving the formation of a new company, or any transfer of all or any of Your obligations and assets to a new company, or any transfer of all or any of your obligations and assets to a new company, or the sale or transfer of all or any of Your obligations and assets to another company, whether or not the company or companies with which You amalgamate or merge or the company to which You transfer all or any of Your obligations and assets (whether in connection with a reconstruction or sale or transfer as stated above) is completely different from You in terms of objects, character or constitution.

13.2 It is Our express intention that this Memorandum will remain valid and effective in all respects in favour of such company or companies so that all the rights which You have under this Memorandum may be assigned to and enforced by any such company or companies as if such company or companies had been named in this Memorandum instead of or in addition to You.

## **14 RIGHTS CUMULATIVE**

14.1 The rights, powers, privileges and remedies provided in this Memorandum are cumulative and not exclusive of any rights, powers, privileges or remedies provided by law.

## **15 EXERCISE OF AUTHORITY**

15.1 Nothing done or omitted by You in accordance with any authority, discretion or permission given to You in this Memorandum will reduce, affect or discharge Our liabilities under this Memorandum. In exercising or executing any of your powers given by this Memorandum or any law, you will not be liable to us for any loss or damage incurred, or claimed to be incurred, by us.

- 15.2 The rights and remedies provided in this Memorandum are cumulative and not exclusive of any rights or remedies provided by law. You are entitled at any time, whether before or simultaneously with or after the exercise by you of any of your powers provided in this Memorandum, to take or to initiate or institute any action or proceedings to recover the Indebtedness notwithstanding that you may or may not have availed yourself of any of your remedies or rights against us or any security or right given to or conferred on or otherwise available to you or provided by law or against any other person or against any other security, guarantee or right whatsoever.
- 15.3 No delay or omission by you in exercising any of your rights, powers, privileges or remedies under or in respect of this Memorandum will in any way affect, weaken, damage or prejudice such rights, powers, privileges or remedies or be construed as a waiver of all or any of them; neither will any single or partial exercise of any of such rights, powers, privileges or remedies stop you from any further exercise of any of them or the exercise of any other right, power, privilege or remedy.

## **16 NOT TO AFFECT OTHER SECURITY**

16.1 This Memorandum:-

16.1.1 is in addition to;

16.1.2 will not merge with; and/or

16.1.3 will not in any way affect;

any other right, remedy, guarantee, indemnity or any other form of Security whatsoever which You may hold or call upon now or at any time after the execution of this Memorandum in respect of the Indebtedness.

- 16.2 No assurance, security or payment which may be avoided under Sections 528 or 529 of the Companies Act 2016 (as may be revised or amended by any statutory modifications) or by any provisions of the Insolvency Act 1967 (as may be revised or amended by any statutory modifications) and no release, settlement or discharge which may have been given on the faith of any such assurance, security or payment will prejudice or affect your right to recover from us to the full extent of this Memorandum as if such assurance, security, payment, release, settlement or discharge (as the case may be) had never been guaranteed, given or made.
- 16.3 Nothing done or omitted by you in accordance with any authority, discretion or permission given to you in this Memorandum will reduce, affect or discharge our liabilities under this Memorandum.

## **17 CERTIFICATE**

- 17.1 Any certificate or statement issued by You showing the outstanding amount due and owing to You from Us or the Customer will be conclusive proof against Us as to the outstanding amount due and payable to You from Us or the Customer; this certificate or statement will be binding on Us for all purposes whatsoever including for the purposes of any legal proceedings.

## **18 MODIFICATION AND INDULGENCE**

- 18.1 This Memorandum will not be affected in any way and We will not be released or excused from any of Our liabilities or obligations under this Memorandum by any of the following:

- 18.1.1 any termination of or increase or variation to any Facility to the Customer whether or not You have given Us any prior notice or obtained Our prior consent;
- 18.1.2 any Security whatsoever which You may now or at any time after the execution of this Memorandum hold in respect of Us or the Customer whether or not the security is given by Us or by any other person for any moneys whatsoever and whether or not the moneys are secured by this Memorandum;
- 18.1.3 any variation, exchange, renewal, release or modification of any security whatsoever which You may now or at any time after the execution of this Memorandum hold in respect of Us or the Customer;
- 18.1.4 any refusal or neglect by You to complete, enforce or assign any judgment or security whatsoever whether or not any moneys due to You under the judgment or security have been fully paid;
- 18.1.5 any extension of time, concession, waiver or other indulgence given to the Customer and/or to any other person, including Ourselves and any party whether or not You have given notice to Us or obtained Our consent;
- 18.1.6 any failure by You to enforce any of Your rights, whether intentionally or unintentionally, against the Customer and/or any other person, including Ourselves and any Security Party whether or not You have given notice to Us or obtained Our consent;
- 18.1.7 any compromise, composition or arrangement which You may make with the Customer and/or any other person, including Ourselves and any party whether or not You have given notice to Us or obtained Our consent;
- 18.1.8 the continuing and/or the opening and operation of any other account whatsoever with the Customer and/or with Us at any of Your offices or branches;
- 18.1.9 the granting of any other facility whatsoever to the Customer and/or to Us and/or the variation in any way of any Facility granted to the Customer and/or to Us including, but not limited to, any variation to the terms and conditions governing such Facility and the replacement, conversion, interchanging, reinstatement, adding to, increase or reduction of such Facility in any way whatsoever;
- 18.1.10 any release or discharge given to any one or more persons giving You any security whatsoever, including Us if this Memorandum is signed by more than one person, whether or not You have given notice to Us or obtained Our consent;
- 18.1.11 the renewal of any bills, notes or other negotiable securities;
- 18.1.12 the acceptance of any early or part-payment towards settlement of the Indebtedness or payment of any moneys due or becoming due under this Memorandum by such increased or reduced instalments as may be agreed or as may be requested by Us, the Customer and/or any third party;
- 18.1.13 any agreement to suspend payments or reduce any sum due and payable; and
- 18.1.14 any recourse to any remedy or means for recovering the moneys secured by this Memorandum which may be available to You.

## 19 APPLICATION OF MONEYS

- 19.1 If any sum paid to or recovered by You in respect of the moneys and obligations due and payable by Us and/or the Customer is less than the amount then due, You may apply that sum to profit, fees, principal or any other amount due in such proportion and order and generally in such manner as You may in your sole discretion deem fit.

## 20 FUTURE LIABILITIES

- 20.1 This Memorandum shall be binding on Us as a continuing security and may not be terminated except in respect of future Indebtedness by Us jointly giving You at least ninety (90) days' prior written notice to terminate this security as to Indebtedness arising after the expiry of the notice.
- 20.2 From the issuance date of the notice until the expiry of the notice, You may give Us and/or the Customer any further accommodation as if You had not received the notice.
- 20.3 The notice shall not affect the security created by this Memorandum in respect of Indebtedness incurred or arising prior to the expiry of the notice even if the Indebtedness, as at the time of the expiry of the notice, are future, contingent or conditional in nature or are in respect of any profit, fees, commissions and/or other charges, costs, and expenses (including legal costs on a solicitor and client basis) relating to the Indebtedness, whenever arising.

## 21 SEVERABILITY

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

## 22 BINDING ON HEIRS & SUCCESSORS IN TITLE

- 22.1 This Memorandum will be binding on Our respective heirs, personal and legal representatives and successors in title (as the case may be) and, if it is signed by more than one party, the liability of the parties signing this Memorandum and of their respective heirs, personal or legal representatives and successors in title (as the case may be) to You shall be joint and several and every agreement and undertaking contained in this Memorandum will be read and applied accordingly.

## 23 NOTICES, LEGAL PROCESS AND PROCESS SERVICE AGENT

### 23.1 Notice

#### 23.1.1 Notice by you

- (i) Any demand, request, notice (including a notice or statement generated by your computer which need not be signed) or communication (collectively the "**Notices**") by or on your behalf must be in writing in English or Bahasa Malaysia.
- (ii) Any Notices that you send to us may be delivered, sent or made in such manner as provided in the Facility Agreement to us at our address, facsimile, electronic mail or mobile phone as stated in Section 4 of the First Schedule hereto or at our usual or last known place of business, as

the case may be and shall also include such Notice being delivered, sent or made to the Customer in the manner as stated in the Facility Agreement;

- (iii) the Notices will be deemed to have been received by us at the time as stipulated in the Facility Agreement.

#### 23.1.2 Notice by us

- (i) Notices by us to you must be duly signed by us or, if permitted by you, our authorised signatories. The Notices must be served on you at the address specified by you from time to time. Notices are deemed received by you / you're / your actual receipt of the Notices and any additional documents or information which you may require to verify the source of the Notice. Notices from us to you may be sent by personal delivery or ordinary mail.
- (ii) We shall notify you in writing immediately on any change in our address, facsimile number, electronic mail address or mobile phone number.
- (iii) If we do not inform you of any change in our address, facsimile number, electronic mail address or mobile phone number, we agree that you may at your absolute discretion rely on:-
  - (a) any address as stated in this Memorandum; or
  - (b) any address, facsimile number, electronic mail address or mobile phone number that you obtain from any communication purportedly issued by the Customer to you or last known to you.
  - (c) Your rights under this Memorandum are not to be affected by any failure on our part to notify you of any change in our address, facsimile number, electronic mail address or mobile phone number.

#### 23.2 Legal Process

In addition to and not in substitution of any mode of service that may be permitted or prescribed by any written law in force for the time being, any service of Legal Process by or on your behalf can be effected on us: –

23.2.1 by leaving a copy at the address as stated in this Memorandum or in any communication purportedly issued by us to you or last known to you and it shall be deemed to have been duly received by us on the day it was left at the address; or

23.2.2 by sending a copy via prepaid registered or ordinary post to our address as stated in this Memorandum or in any communication purportedly issued by us to you or last known to you and it shall be deemed to have been duly received by us on the third (3<sup>rd</sup>) day (including the day of posting) from the date it is posted even if it is undelivered or returned.

#### 23.3 Agent for Service of Legal Process

23.3.1 If we reside outside Malaysia or does not have a permanent address in Malaysia (for individuals) or primarily conduct our business outside Malaysia or is a

company incorporated outside Malaysia, we are required at all times to appoint and maintain a Process Service Agent in Malaysia to accept service of all Legal Process on our behalf arising out of or connected to this Memorandum. We shall not revoke, cancel or withdraw the authority of the Process Service Agent without having first appointed a new Process Service Agent and notified you in writing of such appointment and promptly delivering to you a copy of the acceptance by the new Process Service Agent of its appointment.

23.3.2 If for any reason whatsoever the Process Service Agent no longer serves as our Process Service Agent, we shall be required to immediately appoint another Process Service Agent and notify you in writing of such appointment and promptly delivering to you a copy of the acceptance by the new Process Service Agent of its appointment.

23.3.3 Service on the Process Service Agent shall be effected in the same manner specified in Clause 23.

## **24 DISCLOSURE OF INFORMATION**

24.1 We agree that You (including Your officials, employees, agents or any other persons whom You grant access to Your records, correspondence or any material relating to Us and the Facilities) can disclose at any time at Your discretion without notifying Us, any information relating to Us, a Security Party, Our accounts with You, the Facilities, and this Memorandum to the following persons:

24.1.1 any members of the Group for any of the following purposes:

- (a) providing Us or the Customer with banking services;
- (b) reporting;
- (c) data matching;
- (d) improving and furthering the provision of other services by You;
- (e) fraud or crime prevention;
- (f) investigating, preventing or otherwise in relation to money laundering or any other criminal activities;
- (g) debt collection;
- (h) outsourcing Your operations;
- (i) performance of duties as an officer of the bank or in connection with the conduct of audit or the performance of risk management;
- (j) facilitating Your performance or any member of the Group's functions;
- (k) compliance with the Group's policies, guidelines, directives or requirements;
- (l) corporate exercise;
- (m) any legal process initiated by or served on You;

24.1.2 any person, whether in Malaysia or elsewhere, who provides electronic or other services to You for the purpose of providing, updating, maintaining and upgrading the services including, but not limited to, investigating

discrepancies, errors or claims;

- 24.1.3 any person, whether in Malaysia or elsewhere, engaged by You in connection with the performance of services or operational functions which have been out-sourced;
- 24.1.4 the police or any public officer conducting an investigation in connection with any offence including suspected offences;
- 24.1.5 other banks, financial institutions, credit bureau or credit reference agents (only for credit information);
- 24.1.6 Your auditors, solicitors, and professional advisors;
- 24.1.7 Your stationery printers, vendors of the computer systems You use, and to such persons installing and maintaining them and other suppliers of goods or service providers You engage;
- 24.1.8 any receiver appointed by You or by any other party;
- 24.1.9 any credit bureau of which You are a member, and any other members and/or compliance committee of such credit bureau;
- 24.1.10 any rating agency, takaful operator/insurance company or takaful/insurance broker or direct or indirect provider of credit protection;
- 24.1.11 any actual or potential participant or sub-participant in relation to any of Your obligations under any financing agreement between You and the Customer or Us, or assignee, novatee or transferee (or any officer, employee, agent or adviser) of any of them;
- 24.1.12 for transactions effected or processed with or without Our authority in or through the automated teller machines (“**ATM**”) of other banks or financial or non-financial institutions or terminals or other card operated machines or devices You approve, to the bank, financial institution or non-financial institution, trader or other party accepting the use of the ATM card and their respective agents or contractors;
- 24.1.13 any court, tribunal or authority, whether governmental or quasi- governmental with jurisdiction over You or any member of the Group;
- 24.1.14 the Central Credit Bureau or any other authority or body established by Bank Negara Malaysia or any other authority having jurisdiction over You;
- 24.1.15 any person to whom You, or any member of the Group, are 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;
- 24.1.16 any person in connection with enforcing or protecting of any rights under this Guarantee or any Security Documents ;and
- 24.1.17 any person who has given You any security for the Facilities.

## **25 IRREVOCABLE RIGHT TO DEBIT ACCOUNT**

- 25.1 You can (but is not obliged to) at any time without prior notice and without affecting our other’s rights and remedies, debit Our current account or other account or accounts with You with the following:-

- (i) all accrued profit;
- (ii) unpaid instalment of principal and profit;
- (iii) overdue Islamic trust receipts;
- (iv) Islamic accepted bills;
- (v) outstanding in respect or performance guarantees;
- (vi) indemnities;
- (vii) sukuk/bonds;
- (viii) valuation fees;
- (ix) takaful contribution/insurance premium;
- (x) Fees;
- (xi) commissions;
- (xii) charges;
- (xiii) taxes, duties, levies;
- (xiv) the cost and expenses; and
- (xv) all other monies due on the Facilities.

25.2 No such debiting will be deemed to be payment of the amount due (except to the extent of any amount in credit in Our current or other accounts) or a waiver of any event of default under this Memorandum or any other agreement relating to the Facilities.

25.3 If such debiting causes Our accounts to be overdrawn and We fail to regularize the accounts within the period as determined by You, such amount shall be payable to You upon demand.

## **26 COMPLIANCE WITH COURT ORDERS**

26.1 You and the Group can act in any way You see fit, without consulting the Customer and/or Us beforehand, if You are served with a court order issued by a court of any jurisdiction. The Customer and/or us agree that not to hold You or the Group liable for any loss or damage in connection with their respective actions.

## **27 SEARCHES**

27.1 You 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 Facilities.

27.2 We hereby consent to you carrying out such searches on us to the extent permitted by law.

27.3 All charges incurred in connection with bankruptcy / winding up searches will be borne by the Customer and/or us.

## **28 INDEMNITY**

28.1 In addition and without prejudice to the powers, rights and remedies by these presents conferred, unless it is due to Your' negligence or misconduct, We shall indemnify You against any loss or expenses (including legal expenses on solicitor and client and full indemnity basis) which You may sustain or incur as a consequence of any default in Our payment of any sum due hereunder, including (but not limited to) any profit or fees paid or payable on account of or in respect of, any funds financed or deposits from third parties in order to maintain the amount in default or in liquidating or re-employing such funds or deposits.



## 29 TAXES, DUTIES AND LEVIES

- 29.1 The Customer and/or us are liable to pay for any sales and services tax or any other taxes or levies which as at the date of this Memorandum or at any date subsequent to the date of this Memorandum, is imposed, levied or is required by law to be paid to anybody or authority having jurisdiction over You, in respect of any moneys charged or incurred by You or services provided in connection with the Facilities during the continuation of the Facilities and/or for so long as the Facilities or any part of it remains outstanding and unpaid.
- 29.2 Any taxes or levies incurred by You in relation to the Facilities and any other services provided under the Facilities shall be borne and charged to Us and in the event that You shall effect payment, We shall be liable to reimburse You for such amounts paid.

## 30 DATA PROTECTION

- 30.1 We hereby confirm that we have received, read, understood and agreed to be bound by the Privacy Notice issued by You (which is available at Your branches as well as at Your website at [www.uob.com.my](http://www.uob.com.my)) and the clauses in this Memorandum as may relate to the processing of Our Personal Data. For the avoidance of doubt, We agree that the said Privacy Notice shall be deemed to be incorporated by reference into this Memorandum.

We agree and consent that You may transfer the Personal Data outside of Malaysia. All Personal Data held by You 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.

- 30.2 In the event We provide Personal Data relating to third parties, including data relating to Our next-of-kin and dependents (where We are individuals) or data relating to Our directors, shareholders, officers, individual guarantors and security providers (where We are a corporation), for the purpose of the Facilities, We:
- (a) confirm that We have obtained their consent or are otherwise entitled to provide this data to You and for You to use it in accordance with this Memorandum and/or the Facilities;
  - (b) undertake that We have informed the said third parties to read the Privacy Notice at Your website [www.uob.com.my](http://www.uob.com.my);
  - (c) have informed the said third parties:-
    - (i) that You may collect or verify their personal and financial data with third party sources;
    - (ii) that You may disclose their personal data to classes of third parties described in Your Privacy Notice;
  - (d) agree to ensure that the personal and financial data of the said third parties is accurate;
  - (e) agree to update You in writing in the event of any material change to the said personal and financial data; and
  - (f) agree to Your right to terminate the Facilities should such consent be withdrawn by the said third parties.

- 30.3 Where We instruct You 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 You and/or Your agents to enter into any cross-border transaction on Our behalf, We agree to the above said disclosures on behalf of Us and others involved in the said cross-border transaction.
- 30.4 Additionally, but always subject to any laws (including regulations, guidelines and/or obligations) applicable to You or the Group (whether in or outside Malaysia), We agree that You and the Group, and Your merchants and strategic partners may contact Us about products, services and offers, which You believe may be of interest to Us or benefit Us financially. Notwithstanding the foregoing, You will only disclose Our Personal Data (excluding data relating to Our affairs or account) to Your merchants and strategic partners where Our express prior consent has been obtained.
- 30.5 We may choose not to receive any direct marketing materials from You or 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 You) and You will abide by Our latest written instructions to You.
- 30.6 We acknowledge that certain communications such as statements of account and Your websites contain standard information regarding Your other products and services that cannot be removed without affecting the delivery/provision of Your services and/or products, the operation of the Facilities and/or without imposing additional costs to Us.
- 30.7 We are entitled to request in writing:
- (a) for any information in relation to Our Personal Data that You hold or store, upon payment of a prescribed fee;
  - (b) for any information held or stored by You to be updated, amended and/or corrected;
  - (c) for You to limit the processing of Our Personal Data held or stored by You; and
  - (d) to make an enquiry or complaint in respect of Your processing of Our Personal Data.

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

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

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

- 30.8 We are responsible for ensuring that the information We provide You is accurate, complete and not misleading and that such information is kept up to date.
- 30.9 We acknowledge that if We subsequently withdraw Our consent to process Our Personal Data as given earlier to You, as You will not be able to process and/or disclose Our Personal Data in relation to the purposes set out in the Privacy Notice, You 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.

- 30.10 You reserve the right to amend this clause from time to time at Your sole discretion and shall provide prior notification to Us in writing and place any such amendments on Your websites or by placing notices at the banking halls or at prominent locations within Your branches or by such other means of communication deemed suitable by You.
- 30.11 This clause shall be without prejudice to any other clause in this Memorandum which provides for the disclosure of data.

### **31 RETENTION OF RECORDS**

We agree that you are not obligated to maintain any records of our account, including but not limited to the Facilities Documents, transaction documents, statements of account, correspondences or documents provided to you by us or any other third party, exceeding any retention period as set out under your internal policies, guidelines and procedures and/or as provided under any applicable laws or regulations of any country having jurisdiction over you.

### **32 INCORPORATION OF THE FACILITIES DOCUMENTS**

All the provisions of the Facilities Documents shall unless they are inconsistent with the provisions of this Memorandum are hereby incorporated into this Memorandum (with such modifications as are required to render the same applicable to us) by reference as though all such provisions are set out herein at length and shall apply mutatis mutandis hereto. In the event of any conflict between the provisions of the Facilities Documents and the provisions of this Memorandum, the provisions of this Memorandum shall prevail.

### **33 GOVERNING LAW**

- 33.1 This Memorandum will be governed by and construed in accordance with the laws of Malaysia and We hereby irrevocably:-
- (a) submit to the non-exclusive jurisdiction of the courts in Malaysia;
  - (b) waive any objections on the ground of venue, or unsuitability of forum jurisdiction or any similar grounds;
  - (c) consent to the service of Legal Process in any manner permitted by the relevant law and/or any applicable laws; and
  - (d) be bound by any decision or conclusion related to Shariah matters pronounced by Shariah Advisory Council of Bank Negara Malaysia or made by Your Shariah Committee in respect of the Facilities.

### **34 STAMP DUTY**

This Memorandum will secure the payment by the Customer and/or us to you of the Banking Facilities in such sum for principal as the ad valorem stamp duty paid and endorsed from time to time on the original of the principal instruments described in Section 6 of the First Schedule together with profit and all other monies payable by the Customer and/or us under this Memorandum and we undertake to pay all fees and expenses incurred in connection with or incidental to the stamping of this Memorandum including your solicitors' fees (on a solicitor and client basis).

**35 FINANCIAL CRIME REPRESENTATIONS AND WARRANTIES**

- 35.1 The Bank shall be entitled to take all actions the Bank considers appropriate in order for the Bank to meet any obligation or requirement, either in Malaysia or elsewhere, in connection with the detection, investigation and prevention of financial crime including fraud, money laundering, terrorism financing, bribery, corruption, or tax evasion or the enforcement of any economic or trade sanction ("**Financial Crime**").
- 35.2 You understand and agree that if any activities, conduct or circumstances the you are involved in (directly or indirectly) may expose the Bank to legal or reputational risk, or actual or potential regulatory or enforcement actions, the Bank shall at any time, without giving any reason, have the right to immediately:-
- (a) close all accounts and terminate all services you have with the Bank;
  - (b) make reports and take such other actions as the Bank may deem appropriate.
- 35.3 You undertake that you will not initiate, engage in or effect a transaction (directly or indirectly) that may involve Financial Crime and agree to hold the Bank harmless, indemnify the Bank and keep the Bank indemnified from and against any and all liabilities, claims, obligations, losses, damages, penalties, actions, judgments, suits, costs (including, but not limited to, legal costs on a full indemnity basis), expenses and disbursements of any kind whatsoever which the Bank may suffer or incur in connection with or arising from any breach by you of this undertaking.

- End of Page -



**EXECUTION BY INDIVIDUAL(S)**

SIGNED BY:

WITNESSED BY:

.....  
Signature  
Name:  
NRIC/Passport No:  
Address:

.....  
Signature  
Name:  
NRIC No:  
Address:

.....  
Signature  
Name:  
NRIC/Passport No:  
Address:

.....  
Signature  
Name:  
NRIC No:  
Address:

**FIRST SCHEDULE**

- Section 1** : **Date of this Memorandum**
- Section 2** : **Particulars of the Customer** (First Paragraph)
- Section 3** : **Particulars of the Facilities Documents** (First Paragraph)
- (a) the letter of offer dated \_\_\_\_\_ bearing reference no.
  - (b) the facility agreement dated \_\_\_\_\_ made between the Bank and the Customer ("**Facility Agreement**")
- Section 4** : **Particulars of the Chargor(s) / Assignor(s)**
- Section 5** : **Particulars of the Designated Accounts** (Clause 1.2.5)
- (a) **Proceeds Account** into which the following are to be deposited:-
    - (i) all proceeds arising from\*
    - (ii) any gift (*hibah*), dividends and other monies arising from\*
    - (iii)
  - (b) **Finance Service Reserve Account No:** \*
  - (c) **Project Account No:-** \*
  - (d) \*
- Section 6** : **Description of the Principal Instruments** (Clause 34)

\* Please fill in appropriately