



**BETWEEN**

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

**AND**

**THE ASSIGNOR NAMED HEREIN**  
**(Assignor)**

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**DEED OF ASSIGNMENT (PROPERTY)**

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## DEED OF ASSIGNMENT (PROPERTY)

**THIS DEED OF ASSIGNMENT (PROPERTY)** (this “Assignment”) is made on the date stated in **Section 1 of the First Schedule** between:

- (1) The party named and described in **Section 2A of the First Schedule (“Assignor”)**.
- and
- (2) **UNITED OVERSEAS BANK (MALAYSIA) BHD. [Registration No. 199301017069 (271809-K)]**, a company incorporated in Malaysia and having a place of business as stated in **Section 3 of the First Schedule (“Bank”)**.

### RECITALS

- (a) The party described in **Section 4 of the First Schedule (“Landowner”)** is the registered owner of the piece of land described in **Section 5 of the First Schedule (“Land”)**.
- (b) The party described in **Section 6(a) of the First Schedule (“Developer”)** has, with the Landowner’s consent, agreed to develop and/or has developed the whole/such part of the Land into a project described in **Section 6(b) of the First Schedule (“Project”)**.
- (c) By the agreement bearing the date stated in **Section 7 of the First Schedule (“Sale Agreement”)**, the Developer agrees to sell and/or sold the property described in **Section 8 of the First Schedule (“Property”)** to the person described in **Section 9 of the First Schedule (“First Purchaser”)**.
- (d) The benefits, rights, title and interest in, to and under the Sale Agreement and in the Property has been assigned by the First Purchaser to the various parties and by way of the instruments of assignment described in **Section 10 of the First Schedule (“Assignor’s Documents”)** for which the Assignor has become the ultimate assignor and beneficial owner of the Property.
- (e) A separate document of title to the Property has not yet been issued by the relevant authorities.
- (f) At the request of the Customer, the Bank has agreed to make available and/or to continue to make available to the Customer the Facilities upon the terms and conditions stated in the Letter of Offer, the Facility Agreement and this Assignment.

## 1. DEFINITIONS AND INTERPRETATION

### **1.1 Definitions in the Facility Agreement**

In this Assignment, unless the context otherwise requires and save as specifically defined in the Facility Agreement, words, expressions, and phrases used in the Facility Agreement shall be construed and shall have the same meanings when used herein.

### **1.2 Further Definitions**

In this Assignment, the following expressions have the meanings given below, unless expressly provided otherwise:-

#### Words

“Assignor”

#### Meaning

The party named in **Section 2A of the First Schedule**. Where the Customer and the Assignor are the same person, “the Customer” will be used interchangeably with “the Assignor”.

<b>“Assignor’s Documents”</b>	The documents referred to in Recital D above.
<b>“Associated Party”</b>	Any of the following:- <ul style="list-style-type: none"> <li>(a) The Customer’s director.</li> <li>(b) The Customer’s shareholder.</li> <li>(c) A company in which any of the Customer’s directors is a director or shareholder.</li> <li>(d) A company in which any of the Customer’s shareholders is a shareholder or director.</li> <li>(e) The Customer’s holding company.</li> <li>(f) The Customer’s subsidiary company.</li> <li>(g) A company in which the Customer is directly or indirectly a shareholder.</li> <li>(h) A partnership in which the Customer is a partner.</li> <li>(i) A sole-proprietorship in which the Customer is a proprietor.</li> <li>(j) A company in which the Customer is a director.</li> </ul>
<b>“Bank Negara Malaysia”</b>	The Central Bank of Malaysia, established under the Central Bank of Malaysia Act, 2009.
<b>“Customer”</b>	The person named in <b>Section 2B of the First Schedule</b> . Where the Customer and the Assignor are the same person, <b>“the Customer”</b> will be used interchangeably with <b>“the Assignor”</b> .
<b>“Developer”</b>	The developer of the Property described in <b>Section 6(a) of the First Schedule</b> .
<b>“Event of Default”</b>	Any of the events or matters as specified in Clause 8 herein.
<b>“Facilities”</b>	The Islamic financing facilities granted or made available by the Bank to the Customer in the Letter of Offer and includes all other facilities or accommodation if more than one (1) Islamic financing facilities is granted or made available by the Bank to the Customer; if further or other Islamic financing facilities is granted or made available by the Bank after this Assignment or if any of the Facilities is varied in any way by a letter from the Bank to the Customer, “Facilities” will also refer to such further or other Islamic financing facilities accepted by the Customer and to the Facilities as varied, and reference to “Facility” means any one of the Facilities.
<b>“Facility Agreement”</b>	The facility agreement made between the Customer and the Bank on the date stated in <b>Section 11 of the First Schedule</b> in relation to the Facilities or any additional or further facilities or any variation, restructuring, conversion, interchange or substitution of the Facilities and includes any amendments and supplements thereto.
<b>“FATCA”</b>	Means: <ul style="list-style-type: none"> <li>(a) the Internal Revenue Code of 1986 issued by the US or any associated regulations or other official guidance;</li> <li>(b) any treaty, law or regulation or any other jurisdiction, or relating to an intergovernmental agreement</li> </ul>

between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or

- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

**“Indebtedness”**

The aggregate of all monies whether the Deferred Sale Price as stated in the Letter of Offer, compensation (*Ta'widh*), commission, fees, costs or charges outstanding or payable or agreed to be payable by the Customer, Assignor and/or any other Security Party to the Bank from time to time in respect of the Facilities or any account and includes all liabilities incurred by the Customer to the Bank in respect of:-

- (a) cheques, bills, notes, drafts or other negotiable or non-negotiable instruments accepted, paid or discounted for and on behalf of the Customer;
- (b) any financings, credit, advances or payments made to or for the use, benefit or accommodation or on behalf of the Customer;
- (c) any sukuk, guarantee, indemnity, or letter of credit given, established or opened by the Bank for or at the Customer's request;
- (d) foreign exchange transactions, and any contracts for the forward delivery of goods, bills, or specie; or
- (e) any other financing 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.

**“Group”**

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.

**“Land”**

The parcel of land described in **Section 5 of the First Schedule**.

**“Land Code”**

The National Land Code (Revised 2020), including the Sabah Land Ordinance (Cap. 68) or Sarawak Land Code (Cap. 81), as the case may be.

**“Letter of Offer”**

The letter(s) of offer issued by the Bank and accepted by the Customer from time to time by which the Bank agreed to grant and the Customer agreed to accept the Facilities, including any amendments, additions, supplements, or substitutions.

**“Personal Data”**

Include, but is not limited to, the Assignor's name, address, occupation, contact details, information captured on security systems (including a recording of the Assignor's image on Closed Circuit Television (CCTV)), the information contained in any of the Assignor's account(s) the

Assignor may have with the Bank either singly or jointly with any other person, the type of products and/or services that the Assignor has subscribed to with the Bank and such other necessary data regarding the Assignor and the Assignor's transaction(s) with the Bank.

<b>"Property"</b>	The property described in <b>Section 8 of the First Schedule</b> .
<b>"Sale Agreement"</b>	The written agreement made on the date stated in <b>Section 7 of the First Schedule</b> , including all agreements, assignments and other documents evidencing any title or right in or to the Property.
<b>"Security"</b>	The security or securities or guarantee, required to be created in the Bank's favour or given to the Bank in consideration for the Bank's granting to the Customer the Facilities; the Security is more particularly described in the Letter of Offer.
<b>"Security Documents"</b>	Any document relating to the Facilities and the Security and includes the Letter of Offer, the Facility Agreement, this Assignment and any other agreement entered into between the Bank and the Customer and/or the Security Party.
<b>"Security Party"</b>	Any person creating or giving the Security and can also mean the Customer if the Customer is the person creating or giving the Security.
<b>"Strata Titles Act"</b>	The Strata Titles Act 1985, the Strata Management Act 2013, the Land (Subsidiary Title) Enactment 1972 (Sabah) or the Strata Titles Ordinance (Sarawak) 1995 (Cap. 18), as the case may be.
<b>"US"</b>	United States of America.
<b>"Vendor/Developer"</b>	The seller of the Property and shall mean the vendor and the developer, as the case maybe, including their heirs, liquidators, receivers, personal representatives and successors-in-title.

### 1.3 Interpretation

- (a) In this Assignment, unless the context requires otherwise:
- (i) words referring to the singular include the plural (and vice versa);
  - (ii) words referring to a gender include all genders;
  - (iii) a reference to a person includes its personal representatives, successors-in-title, assigns, and transferees;
  - (iv) words applicable to natural persons include anybody or persons, company, corporation, firm, or incorporated or unincorporated partnership;
  - (v) a reference to **"this Assignment"** or other similar reference refers to this Deed of Assignment as a whole, and not to any particular provision of this Deed of Assignment; and
  - (vi) a reference to **Clauses** is a reference to **Clauses** of this Assignment unless otherwise specified.

- (b) The headings and sub-headings of this Assignment are inserted for convenience only, and are to be ignored when interpreting the provisions of this Assignment.
- (c) The expressions “**month**” and “**year**” mean a calendar month and a period of 365 days respectively.
- (d) Where an act is required to be done within a specified number of days after or from a specified date, the period excludes the specified date. Similarly, a period from the occurrence of an event or the doing of an act excludes the day on which the event happens or the act is done or required to be done.
- (e) References to any statute, rules or regulations made under the statute are references to the statute, rules or regulations as amended or re-enacted from time to time.
- (f) Where the Customer and/or the Assignor is a company, any references relating to bankruptcy will be read as references relating to the winding-up, liquidation, amalgamation or reconstruction of the Customer and/or the Assignor.
- (g) Where there are two or more persons or parties included in the expressions “**the Customer**” and/or “**the Assignor**”, agreements and other matters expressed to be made by or on the part of the Customer and/or the Assignor are deemed to be made by or binding upon such persons jointly and severally (save for limited liability partnership).
- (h) Where the expression “**the Customer and/or the Assignor**” is used, agreements and other matters expressed to be made by or on the part of the Customer and/or the Assignor are deemed to be made by or binding on the Customer and/or the Assignor jointly and severally (save for limited liability partnership).
- (i) The expressions “**including**” or “**for example**” (or other similar words) when introducing an example does not limit the meaning of words to those examples.
- (j) A reference to costs or fees “**on a solicitor and client basis**” means the expenses that a client has to pay his lawyer.
- (k) A reference to “**amount due and payable**” includes all sums and monies advanced or paid to or on behalf of the Customer and/or the Assignor by the Bank or otherwise howsoever payable by the Customer and/or the Assignor to the Bank under this Assignment (whether or not it forms part of the Facilities), and subject to compensation (*Ta’widh*) on all such sums and monies (if any).
- (l) The Schedules to this Assignment will be deemed essential parts of this Assignment.

## 2. **ASSIGNMENT AS SECURITY FOR THE INDEBTEDNESS**

### 2.1 Assignment as security

- (a) In consideration of the Bank agreeing to grant, or continuing to grant or make available to and for the benefit of the Customer, the Facilities as the Bank thinks fit, and as security for the payment of the Indebtedness, the Assignor consents to and do hereby assigns to the Bank the Assignor’s benefits, rights, title, and interest in and to the Sale Agreement and in the Property, together with the Assignor’s right of enforcement, upon the terms and conditions in this Assignment.
- (b) Regardless of this Assignment, the Assignor will continue to be solely responsible for observing all the terms and conditions and obligations of the Assignor in the Sale Agreement.

- (c) For the purpose of this Clause, the Assignor must (if the Sale Agreement does not fall within the Housing Development (Control and Licensing) Act 1966 and all rules and regulations made thereunder (“HDA”) immediately upon the execution of this Assignment procure at the Assignor’s own cost and expense, the consent of the Developer and/or the Landowner, to this Assignment by signing on the Endorsement of Consent annexed to this Assignment or such other form of written consent as is acceptable to the Bank.

## 2.2 Obligations of Assignor under Sale Agreement

Notwithstanding the provisions of this Assignment, the Assignor will continue to be solely responsible for observing and performing:-

- (a) all the terms and conditions and obligations of the Assignor in the Sale Agreement and the Assignor’s Documents; and
- (b) all the terms and conditions of the Deed of Mutual Covenants so long as the Deed of Mutual Covenants is in force if the Assignor had entered into a Deed of Mutual Covenants with the Developer in connection with his purchase of the Property; and
- (c) all laws, rules, regulations, by-laws and the like relating to or affecting the Property or the common property concerned (including guidelines and house rules) to be observed or performed by or complied with by the Assignor as the purchaser or beneficial owner of the Property, including but not limited to those imposed by any joint management body or management corporation.

The Assignor hereby agrees and undertakes to indemnify and keep the Bank indemnified against all claims, demands, actions, proceedings, costs, charges, losses, damages, penalties and other liabilities which may be made or brought against, or incurred, sustained or suffered by, the Bank arising from or due to any breach or failure of the Assignor in his observance, discharge and performance of the terms and conditions of the Sale Agreement, the Assignor’s Documents, the Deed of Mutual Covenants or the laws, rules and regulations, bylaws, guidelines or other similar regulatory and/or legislative provisions stated above.

## 2.3 Covenant to pay

- (a) Unless the Facilities are term financing, the Assignor covenants and undertakes that it will on demand pay the Bank the Indebtedness and all other amounts payable by the Customer and/or the Assignor to the Bank under the Security Documents.
- (b) The Assignor’s covenant and undertaking above is up to aggregate amount as covenanted to be paid under the Letter of Offer and/or the Facility Agreement together with profit and compensation (*Ta’widh*) (after as well as before any demand or judgment, and regardless of whether or not the banker-customer relationship between the Bank and the Customer and/or the Assignor has ceased or been terminated), commission, fees, other banking charges, and all costs, charges, and other expenses the Bank may charge in respect of the Facilities or any of the matters under this Assignment, or which the Bank may pay or incur under this Assignment.

## 2.4 Notice of assignment

The Assignor undertakes to the Bank that, immediately upon the execution of this Assignment, it will:

- (a) give notice of the assignment of the Property in this Assignment to the Developer and/or the Landowner and/or such other parties as the Bank may specify; and
- (b) deliver to the Bank the original acknowledgements from the parties mentioned in Clause 2.4(a).

## 2.5 Continuing security

The security created by this Assignment is and will be a continuing security for the Indebtedness, and will continue to be held by the Bank until:

- (a) all amounts outstanding under the Facilities, including contingent liabilities, have been fully settled by the Customer and/or the Assignor; and
- (b) the Assignor has been fully released from all its obligations or contingent liabilities under the Facilities or under any other instrument issued by the Assignor for the account of the Customer,

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

- (i) any account(s) ceasing to be current or any settlement or closure of account(s) or otherwise;
- (ii) the death, insanity or bankruptcy or insolvency of the Customer and/or the Assignor;
- (iii) the voluntary or compulsory liquidation of the Customer and/or the Assignor;
- (iv) any change by amalgamation, consolidation or otherwise which may be made in the constitution of the company by which the business of the Customer and/or the Assignor is currently being carried on;
- (v) any change in the constitution or composition of the firm by which the Customer's business is currently being carried on, whether by death, retirement, admission of partners, or any other reason.

## 2.6 Restriction against other charges

- (a) The Assignor declares that there is no mortgage, charge, pledge, lien, security assignment, right of set-off, caveats, or other security interests or any other similar agreement or arrangement having priority over, or ranked equal, to the assignment under this Assignment.
- (b) The Assignor agrees not to sell, charge, mortgage, assign, execute any form of debenture (whether fixed or floating), pledge or lien, lease, agree to lease, let, or part with possession of all or part of the Property, or raise money on the security of the Assignor's rights in the Property, or deal with the Property in any manner without the Bank's prior written consent.
- (c) This Assignment will not affect any collateral security now or in future given to the Bank, whether the same is to secure full payment of the Indebtedness, and whether the Security is taken as additional or collateral security or otherwise.

## 2.7 Liens and other security not affected

- (a) Nothing in this Assignment 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.
- (b) Nothing in this Assignment 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.

## 2.8 Procedure on notice of further charge

- (a) If the Assignor (or any one or more of them) executes or creates any further or



subsequent charge, mortgage, or encumbrance over all or any part of the Property 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 Assignor in its books.

- (b) 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**").
- (c) From the time of notice, all payments in account made by the Customer and/or the Assignor 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 Customer and/or the Assignor to the Bank at the time of notice.
- (d) Nothing in this Clause will affect the security which the Bank otherwise would have had under this Assignment for the payment of the Indebtedness, even though it may become due and payable or be incurred after the time of notice.

## 2.9 Covenant to perfect and provide further security

- (a) The Assignor will, whenever required by the Bank, 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 Assignor's estate, assets, or business, which now or in future will belong to the Assignor (including any vendor's lien) and the benefit of all licences held in connection with such estate, assets, or business to secure the Indebtedness.
- (b) Such mortgages, charges, assignments, transfers, or agreements will be prepared by or on behalf of the Bank at the Customer's and/or the Assignor's cost, and will contain all terms and conditions required by the Bank to protect its interest.

## 2.10 License

- (a) Regardless of anything in this Assignment, the Bank has full authority to deal with the Property in such manner it deems fit at its absolute discretion.
- (b) During the continuance of this Assignment, the Assignor retains possession of the Property merely as the Bank's licensee.
- (c) Within seven (7) days after the Assignor's licence to occupy the Property has been terminated by a written notice from the Bank, the Assignor must give immediate vacant possession of the Property to the Bank or to such persons as the Bank may direct.

## 3. THE FACILITIES

### 3.1 Progressive release

- (a) The Assignor agrees that each of the Facility will only be available for utilisation by the Customer during the period as specified by the Bank in the relevant Letter of Offer unless extended by the Bank in writing. Notwithstanding this, any utilisation permitted by the Bank after the said period shall not constitute a waiver by the Bank and shall not prejudice the Bank's right to disallow, stop or cease any further utilisation of the remaining Facility after the said period.
- (b) Where the Facilities is to finance the purchase or construction of any Property, the Assignor acknowledges that the Customer has irrevocably authorised the Bank and

the Bank has the authority to advance or pay all or part of the Facilities to the financial institutions, Vendor, contractor or such other persons responsible for the sale and/or construction of any Property on such terms and in such manner, as the Bank decides.

- (c) All advances and payments made by the Bank to the person in Clause 3.1(a) ("**Third Party**") shall be deemed paid to the Assignor and shall constitute and form part of the monies secured by and payable under the Facility Agreement and the Security Documents. The acknowledgement of receipt of such Third Party will be as good and sufficient and effective as if it had been made or given by the Assignor.
- (d) The Assignor hereby acknowledges that the Customer has irrevocably authorises the Bank and the Bank is entitled:
  - (i) to issue to the Third Party or firm of solicitors purporting to act for the Third Party, an undertaking, guarantee or covenant to release or pay to such Third Party all or such part of the Facilities at such time and in such manner as the Bank may agree;
  - (ii) to release or pay to the financial institutions, firm of solicitors or Vendor all or part of the Facilities; and
  - (iii) where the release of the Facilities is to be made against a schedule of payment in an agreement, to release or pay to the Third Party on or before the due date as stated in the progressive billing submitted by the Third Party to the Bank upon terms that:-
    - (aa) if any sum billed is to be paid on the date the Assignor or the purchaser takes vacant possession of the Property, the Bank shall be entitled to make such payment to the Third Party at any time, whether or not the Assignor has actually taken vacant possession of the Property; and
    - (bb) in making such payment, the Bank shall not be obliged to verify or ascertain whether such progressive billing is in order or otherwise or whether the sums billed is properly due or otherwise,

and the Assignor irrevocably agrees and confirms that the Bank is entitled to release or pay the Facilities to the Third Party notwithstanding any protest or objection from the Customer, the Assignor, the Security Party and/or any other parties to restrain the Bank from making such release or payment. In the event any sum released by the Bank to the Third Party is subsequently found to be not due for payment when paid, the Assignor agree that the Customer and the Assignor shall only claim against such Third Party in respect of such sum released and the Customer and the Assignor shall have no claim and shall not make any claim whatsoever against the Bank arising from such release unless it is due to the Bank's negligence or default.

- (e) If the Bank or its solicitors have given or agreed to give their undertaking, guarantee, or covenant referred to in Clause 3.1(c) such sums payable by the Customer and/or the Security Party under the relevant agreement, whether progressively or otherwise in accordance with the terms in the said agreement, the Assignor agrees (in addition to the Security) that:
  - (i) the payment of all monies undertaken, guaranteed, or covenanted to be paid by the Bank to the Third Party, the Third Party's solicitors, or the Bank's solicitors (as the case may be) will be secured under this Assignment; and
  - (ii) the Assignor will at all times indemnify and keep the Bank or its solicitors indemnified against all actions, proceedings, costs, expenses, claims, and demands which may be taken, incurred, or suffered by the Bank or its solicitors arising from the Bank's or its solicitors aforesaid undertaking given

to the Third Party, the Third Party's solicitors, or the Bank's solicitors, as the case may be.

### **3.2 No obligation to make further advances**

- (a) The Facilities granted or to be granted to the Customer will be reviewed by the Bank from time to time and at any time.
- (b) Nothing in this Assignment will be deemed to impose an obligation on the Bank to make or continue to make any advances or to afford any other accommodation or facility to the Customer.

### **3.3 Discontinuance of progressive release**

Regardless of anything in this Assignment, the Bank can and without discharging or affecting the Security created by this Assignment, refuse and/or discontinue the progressive release of all or any part of the Facilities for the Customer's and/or the Assignor's use or benefit if:

- (a) the Customer and/or the Assignor fails and/or refuses and/or neglects to promptly pay any amount (including profit) due on any of the progressive releases in accordance with the terms and conditions in any other security document, or any other charges, expenses, or outgoings due by the Customer and/or the Assignor under this Assignment; or
- (b) the Customer and/or the Assignor breaches any of the express or implied terms and conditions in this Assignment.

### **3.4 Compensation (Ta'widh)**

The Bank shall be entitled to demand a compensation (*Ta'widh*) from the Customer for the failure of the Customer to make payment of any instalment due and/or sum covenanted to be paid by the Customer to the Bank herein at the rate and in the manner as stated in the Letter of Offer and/or the Facility Agreement or such other rate and manner as may be prescribed by the Shariah Advisory Council of Bank Negara Malaysia.

### **3.5 Where the Facilities are withdrawn or revoked**

- (a) If the 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 Assignor (or where the Customer and/or the Assignor consists of more than one person, by the death of any one of them) or liquidation of the Customer and/or the Assignor, and a balance is due and payable to the Bank by the Customer and/or the Assignor, the Customer and/or the Assignor or the personal representative or successors-in-title of the Customer and/or the Assignor will, so long as all or any part of the same remains due and payable, pay to the Bank the Indebtedness due and payable hereunder together with the compensation (*Ta'widh*) as covenanted to be paid under the terms of this Assignment and the Facility Agreement at the rate prescribed therein.
- (b) 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 Customer and/or the Assignor, its estate executor, administrator, legal representative, or successor-in-title for all purposes, including legal proceedings, save for manifest error (for example, fraudulent entries).

## **4. THE PROPERTY**

### **4.1 Custody of documents**

During the continuance of this Assignment, and as long as any amount is payable by the

Customer and/or the Assignor and/or any Security Party to the Bank, the Bank will have custody or possession of the original, signed and stamped copy of the Sale Agreement.

#### 4.2 Execution of charge

- (a) When the relevant authorities have issued the separate document of title to the Property, the Assignor must immediately at its own cost and expense:
  - (i) sign the necessary Memorandum of Transfer and all other documents needed to take a transfer of the Property (collectively “**Transfer Documents**”);
  - (ii) deliver and deposit with the Bank or its solicitors :
    - (aa) the relevant document of title;
    - (bb) the Transfer Documents; and
    - (cc) all other documents and fees needed to register the transfer of the Property free from encumbrances;
  - (iii) execute a charge under the Land Code over the Property to secure the Indebtedness, which must be in such form and contain such terms and conditions required by the Bank.
- (b) The Assignor must reimburse the Bank all money paid by the Bank to facilitate the delivery of the required documents to register the transfer of the Property in the Assignor's name.
- (c) This Assignment will, regarding any antecedent default by the Assignor, remain in full force and effect irrespective of the completion and perfection of the said charge.

#### 4.3 Payment of outgoings

- (a) The Assignor will punctually pay all quit rents, assessment, rates, taxes, and all other outgoings payable from time to time in connection with the Property.
- (b) The Assignor must produce to the Bank the receipts for all such payments. If the Assignor fails to pay any of the said monies, the Bank can (but is not obliged to) pay all or any part of the said monies.

#### 4.4 Repairs

- (a) The Assignor will:
  - (i) keep the Property, including all fixture and additions, in good and substantial repair and condition to the satisfaction of the Bank;
  - (ii) permit the Bank or its agent with or without workmen and others at any time at convenient daytime hours to enter into or upon the Property and examine its state and condition; and
  - (iii) immediately repair and make good all defects and want of repair which are notified in writing by the Bank to the Assignor.
- (b) If the Assignor fails to do so:
  - (i) the Assignor will permit the Bank to enter the Property and effect such repairs as the Bank considers necessary; and
  - (ii) the Assignor shall bear the cost and expense of such repairs.

- (c) Nothing in this Clause and no act of the Bank or its servants or agents done pursuant to the provisions of this Clause will render the Bank liable as chargee in possession.

#### **4.5 Maintenance**

- (a) The Assignor will not:
  - (i) pull down or remove any building or fixture now or in future erected on or affixed to the Property or any part of the Property; or
  - (ii) make any alterations or erect any addition, or execute any improvement to the Property without the prior written consent of the Bank.
- (b) The Assignor will immediately replace and make good the same if such alteration, pulling down or removal, or any alteration or erection of any additional improvement occurs. If the Assignor fails to do so, the Bank can (but is not obliged to) replace and make good the same and the Assignor shall bear the cost and expense of such replacement or action.
- (c) Nothing in this Clause and no act of the Bank or its servants or agents done pursuant to the provisions of this Clause will render the Bank liable as chargee in possession.

#### **4.6 Compliance with land title conditions**

- (a) The Assignor will observe and comply with any express or implied conditions, covenants, restrictions, and category of land use binding on the Property, and will not do, omit to do, or suffer to be done or omitted, any act, matter, or thing in or in respect of the Property, which will contravene the provisions of any law.
- (b) The Assignor will at all times indemnify and keep the Bank indemnified against all claims, demands, actions, proceedings, costs, and expenses in respect of any such act, matter, or thing done or omitted to be done which contravenes such provisions.

#### **4.7 Information on matters affecting security**

- (a) The Assignor must inform the Bank of any application, demand, notice, order or any other document or transaction which in any way affects, concerns, or touches the Property or any part of the Property immediately upon the issuance, publication, service, or occurrence of the same, and produce the same to the Bank if requested.
- (b) The Assignor must do all acts and take all steps to safeguard and preserve all or any part of the Property, or the title or ownership of the Property.
- (c) The Assignor agrees that the Bank may on behalf or in the name and at the expense of the Assignor, do any acts and employ any persons as the Bank deems fit for the purpose of safeguarding and preserving the Property and every part of the Property.

#### **4.8 Use of Property**

- (a) The Assignor will not:
  - (i) use, or allow to be used, any building on the Property for purposes other than those for which it was built;

- (ii) store or bring any articles of a combustible, inflammable, or dangerous nature into the Property; or
- (iii) do or allow to be done anything which may cause any takaful certificates/insurance policies to be void or voidable.
- (b) If required by the Bank via a written notice, the Assignor will discontinue any use of the Property or part of the Property, or any building on it, that in the Bank's opinion affects the Bank's security.

#### 4.9 Dealings with security

- (a) The Assignor will not, without the Bank's prior written consent:
  - (i) sell, transfer, charge or otherwise deal in any way with all or any part of the Property or any interest in the Property; or
  - (ii) make the same subject to any burden, charge, encumbrance, liability, or lien; or
- (b) make any application for the alteration of the category of land use or for the imposition of any fresh category of land use in respect of the Property, or for rescission removal or amendment of any condition or restriction affecting the Property.

#### 4.10 Leasing and possession

- (a) The Assignor will not lease, let out, or grant any licence or otherwise in any manner part with the possession or make or accept the surrender of any lease of or in respect of the Property or any part of the Property to any person, firms, or companies without the prior written consent of the Bank.
- (b) The Assignor assigns and covenants to assign absolutely to the Bank all the present and future rent, licence fees, rights and benefits accruing to the Assignor under any lease, tenancy, grant or licence in respect of the Property.

#### 4.11 Cultivation

- (a) So long as this Assignment has not been satisfied or released or reassigned, the Assignor will continue to maintain the Property in a proper and workmanlike manner. The Bank can at all reasonable times enter the Property to view and inspect the state of the Property.
- (b) The Bank can employ visiting agents or any other persons from time to time to inspect the Property, and to produce a report. All costs and expenses charged by the visiting agents or any other persons authorised to inspect the Property shall be borne by the Assignor:-
  - (i) in the event such inspection is conducted for the purpose of disposing, selling or foreclosing the Property; or
  - (ii) in any other circumstances as provided in the Letter of Offer.
- (c) So long as of this Assignment has not been satisfied or released or reassigned, the Assignor will keep the Property clean, weeded, and free from lallang and other undergrowths.
- (d) If the Assignor fails to do the above, the Bank can (but is not obliged to) employ labourers or workmen to keep the Land and/or the Property clean, weeded, and free from lallang and other undergrowths.

- (e) Nothing in this Clause and no act of the Bank its servants or agents done pursuant to the provisions of this Clause will render the Bank liable as chargee in possession.

#### **4.12 Right of inspection**

- (a) The Bank and its agents and workmen can, at all reasonable times of the day enter the Property and access and inspect any fixture on the Property.
- (b) Such access and inspection will not deem the Bank liable as chargee in possession.

#### **4.13 Valuation**

- (a) The Assignor authorises the Bank to value the Property at such interval as the Bank decides by any valuer or qualified person chosen by the Bank. All costs and expenses charged by valuer or such qualified person shall be borne by the Assignor:-
  - (i) in the event such valuation is conducted for the purpose of disposing, selling or foreclosing the Property; or
  - (ii) in any other circumstances as provided in the Letter of Offer.
- (b) If the valuation reveals that the sale value of the Property is lower than that at the date of this Assignment, the Bank can :-
  - (i) terminate the Facilities; or
  - (ii) require the Customer and/or the Assignor to provide further security within fourteen (14) days from the date of the Bank's written notice.

#### **4.14 Power of Attorney**

Together with the execution of this Assignment, the Assignor will execute an irrevocable power of attorney in the form required by the Bank to enable the Bank to exercise the rights, remedies and powers conferred upon the Bank in respect of the Property.

#### **4.15 The Assignor's liabilities and obligations under the Sale Agreement**

- (a) Regardless of this Assignment, the Assignor undertakes to comply with its obligations in the Sale Agreement.
- (b) The Assignor will indemnify the Bank against all claims, demands, actions, fines, penalties and legal proceedings made against the Bank in respect of the Property and the Sale Agreement.

#### **4.16 Payment of service charges**

The Assignor must punctually pay the Developer or the Management Corporation constituted under the Strata Titles Act all service charges and maintenance fees payable in respect of the Property, and pay and contribute towards the takaful contribution/insurance premium, if any, mentioned in the Sale Agreement, and other fees, costs, and outgoings, and all sums of money mentioned in the Sale Agreement, and to pay such deposits required as security for such payments. If the Assignor fails to do so, the Bank can (but is not obliged to) pay all or any part of the said monies.

#### **4.17 Payment of balance purchase price**

The Assignor will be responsible for and will pay any money payable by the Assignor in respect of the Property. In particular, the Assignor undertakes to pay the balance of the purchase price for the Property if it has not been paid for in full at the date of this Assignment.



## 5 TAKAFUL/INSURANCE

### 5.1 Takaful/Insurance on the Property

- (a) The Assignor shall adequately cover or insure or caused to be adequately covered or insured at all times any landed property assigned to the Bank on a full reinstatement value basis up to its full cover/insurable value and will cover loss and damage by fire, lightning, tempest, flood, explosions, riot, malicious acts and strikes, landslides, earth movement, subsistence and other perils as the Assignor consider necessary by reputable takaful operator/insurance company acceptable to the Bank in name of the Assignor or, where applicable, the Security Party, with the Bank endorsed on the takaful certificate/insurance policy as chargee, assignee or loss payee and deposit or cause to be deposited with the Bank a certified true copy of the takaful certificate/ insurance policy effected under this clause together with the evidence of payment of the current contribution/premium payable under such certificate/policy.
- (b) If the property assigned to the Bank is:
  - (i) landed residential property, a House owner's Certificate/Policy shall be effected by the Assignor;
  - (ii) landed commercial or industrial property, a Fire Certificate/Policy shall be effected by the Assignor; and
  - (iii) covered by the Strata Titles Act 1985, the Assignor shall give to the Bank proof that the building comprising and including the property is covered/insured against fire and such other risks as prescribed in the Strata Titles Act 1985 for its full reinstatement value and if the Bank is not in receipt from of such proof, a House owner's Certificate/Policy shall be effected by the Assignor.
- (c) Without affecting the provisions in Clause 5.1(a) above (and whether or not the Assignor is in default), the Assignor agrees that if the Bank considers necessary, the Assignor authorizes the Bank to take out, maintain or renew the takaful/insurances referred to in Clause 5.1(a) or (b) above. If the Assignor fails to do so within the time stipulated, the Assignor further agree that in such situation the Assignor has consented and are deemed to have appointed the Bank as its agent to effect it on behalf of the Assignor and:-
  - (i) all moneys and expenses incurred by the Bank shall be payable to the Bank on demand; and
  - (ii) any commission which may be paid to the Bank as an agent of the takaful operator/insurance company belongs to the Bank.

For the avoidance of doubt, in default whereof it shall be lawful but not obligatory for the Bank to pay the same or any part thereof on behalf of the Assignor and the Bank shall not be held liable to the Assignor and/or the Security Party for anything whatsoever if the Bank took out or fails to take out, maintain, renew or increase any such takaful/insurance.

- (d) The Assignor and/or the Security Party shall ensure that all takaful/insurance proceeds received pursuant to the certificate/policy referred to in Clauses 5.1(a), (b) or (c) above are applied for or towards making good any loss or damage in respect of which the money is received or towards discharge of the Facilities or any part thereof unless the Bank shall decide otherwise. If the takaful/insurance proceeds is paid to or received by the Assignor or the Security Party, such takaful/insurance proceeds shall be held by the Assignor and/or the Security Party in trust for the Bank.
- (e) The Assignor must not renovate or refurbish the property without first obtaining the Bank's written consent. The Bank has the right not to give its consent but if the Bank give its consent, the Bank has the right to impose such terms and conditions as the



Bank deems fit which may include the Assignor taking up of a Contractors' All Risk Certificate/Policy for the renovation or refurbishment work before the start of the work with a reputable takaful operator/insurance company appointed by the Assignor and with the Bank named as chargee, assignee and loss payee. If the Assignor does not give the Bank proof acceptable to the Bank that the Assignor has taken up the certificate/policy, the Assignor is deemed to have consented and appointed the Bank as its agent where, it shall be lawful but not obligates for the Bank to arrange for takaful contribution/insurance coverage at the Assignor's expense by debiting the Assignor's account.

## 5.2 Conflicting takaful/insurance

Unless requested or consented to by the Bank, the Assignor will not effect or keep on foot any takaful/insurance against any risk in respect of the Property, fixture, structures, premises, and effects where the Bank or the Assignor has effected or kept on foot any such takaful/insurance.

## 5.3 Application of takaful/insurance money

- (a) The Bank may require all monies received on any takaful/insurance of the Property and effects, whether effected by the Bank or by the Assignor, to be applied:
  - (i) in or towards making good the loss or damage in respect of which the money is received; or
  - (i) at the option of the Bank, in or towards the discharge of any Indebtedness.
- (b) The Assignor will hold all monies so received on such takaful/insurance in trust for the Bank, and the Bank may receive and give a good discharge for all such monies.

## 5.4 Other certificate/policy

- (a) The Bank can at any time may require the Customer and/or the Assignor to take up and maintain a family takaful certificate/life assurance policy/ general takaful and/or any other certificate/policy guaranteeing the payment of the Indebtedness, whether absolute and/or on the happening of a contingency, and to assign the certificate/policy and all connected benefits and advantages to the Bank as further security for the Indebtedness, if this is required pursuant to the terms of the Letter of Offer.
- (b) If the Customer and/or the Assignor fails to take up and maintain the said certificate/policy and assigning the same in accordance with terms of the Letter of Offer, the Bank can take up and maintain a certificate/policy guaranteeing the payment of the Indebtedness on such terms the Bank thinks fit. In such case, all costs and expenses for taking out and maintaining the certificates/policies will be payable on demand by the Customer and/or the Assignor to the Bank and will form part of the Indebtedness.
- (c) The Customer and/or the Assignor will allow all takaful certificates/insurance policies and the receipts or other evidence of payment paid by the Customer and/or the Assignor to be kept by the Bank. The Customer and/or the Assignor will when required deliver or produce to the Bank or to such persons designated by the Bank, any takaful certificates/insurance policies effected by the Customer and/or the Assignor and the receipt or other evidence of payment of the current contribution/premium for the certificate/policy.

## 6 GOVERNMENT ACQUISITION

6.1 If:

- (a) all or any part of the Property at any time becomes the subject matter of, or is included in any notice, notification, or declaration concerning or relating to an acquisition by the government or any governmental authority, or any enquiry or proceedings in respect of the same; or
- (b) any government or governmental authority condemns, nationalises, seizes, or otherwise expropriates all or any part of the Land or assumes custody or control of all or part of the Property,

the Assignor must immediately inform the Bank, and send the Bank copies of any such notice, notification, or declaration as soon as it is delivered to or served on the Assignor.

6.2 The Bank can, at the Customer's and/or the Assignor's expense, engage such advisors and agents (including solicitors and valuers) as it thinks fit to appear at, attend, or advise on any enquiry or proceedings relating to any acquisition, expropriation, or any of the matters in Clause 6.1 above.

6.3 All monies received as or by way of compensation in respect of any of the matters in Clause 6.1 above will be applied in or towards the discharge or payment of any monies or liability secured by this Assignment, and the Assignor will and hereby declares that it will hold all such monies so received in trust for the Bank, and the Assignor agrees and confirms that the Bank may receive and give a good discharge for all such monies.

6.4 If all such monies are less than the amount due to the Bank under this Assignment, including profit and all monies and other charges due and payable by the Customer and/or the Assignor to the Bank under this Assignment, the Assignor will immediately pay the Bank the difference between the amount due and the amount received, and until such payment will pay the compensation (*Ta'widh*) on such balance (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 Customer has ceased or been terminated.

## 7 REPRESENTATIONS AND WARRANTIES

### 7.1 General Representations and Warranties

The Assignor represents and warrants to and undertakes with the Bank as follows:

- (a) **Capacity.** The Assignor has the power or capacity to execute, deliver and perform the terms of this Assignment, and that all necessary action has been taken to authorise the execution, delivery and performance of this Assignment.
- (b) **Contractual obligations.** This Assignment constitutes, or when executed will constitute, legal, valid and binding obligations on the Assignor in accordance with its terms.
- (c) **Authorisations and consents.** All consents, licences, approvals, authorisations, orders, and exemptions of any Ministry, agency, department, or authority in Malaysia and elsewhere which may be required or advisable for or in connection with the Facilities, the execution, delivery, performance, legality, or enforceability of this Assignment, have been obtained, and are in full force and effect.
- (d) **Proceedings.** Neither the Customer, the Assignor nor any Security Party is in default under any agreement to which it is a party, or by which it is bound, and no litigation, arbitration, or administration proceedings are presently current, pending, or threatened, which might materially affect its solvency or its ability to perform its obligations.

- (e) **Material adverse change.** There has been no material adverse change in the financial condition or operations of the Customer and/or the Assignor and/or any Security Party since the Customer first applied for the Facilities.
- (f) **Assignor's title to Property.** The Assignor's title to the Property is regular, and the Assignor's beneficial interests in the Property are free from all defects and encumbrances.
- (g) **Compliance with laws.** The financing by the Bank under this Assignment, and the Bank's agreement to make and continue to make available the Facilities to the Customer will not contravene or breach of any Act of Parliament, Ordinance, enactment, rule or law, regulation, order, or other statutory provision in force now or in future, including the provisions of the Financial Services Act, 2013, the Islamic Financial Services Act 2013, the Companies Act, 2016, any financing limit or restriction imposed on the Bank, guidelines, directives, or policies introduced from time to time by Bank Negara Malaysia or such other authority having jurisdiction over the Bank.
- (h) **No default.** No Event of Default has occurred, is continuing, or will occur as a result of the Bank making any advance or continuing to make the Facilities available to the Customer.
- (i) **Information.** All information furnished by the Customer and/or the Assignor and/or any Security Party in connection with the application for the Facilities do not contain any untrue statement, or omit to state any fact (the omission of which makes any statement made in those circumstances misleading), and the Customer and/or the Assignor and/or any Security Party are not aware of any material facts or circumstances that have not been disclosed to the Bank which might, if disclosed, adversely affect the Bank's decision to grant the Facilities (or part of the same), or to take the security.
- (j) **Incorporation.** Where the Assignor is a corporation, that the Assignor is duly incorporated and validly existing under the laws of the country of its incorporation, and has full power and authority to own its assets and carry on its business.
- (k) **No conflict or limitation.** Where the Assignor is a corporation, that neither:-
  - (i) the execution and delivery of this Assignment by the Assignor; nor
  - (ii) the performance or observance of any of the Assignor's obligations under this Assignment or any security document;
 Will:-
  - (iii) conflict with, or result in a breach of its Constitution, any law, statute, regulation, judgment, order, mortgage, contract, agreement, trust deed, or other instrument, arrangement, obligation, or duty by which it is bound; or
  - (iv) cause any limitation on any of its powers, howsoever imposed, or on the right or ability of its directors to exercise such powers, to be exceeded.
- (l) **Accounts.** Where the Assignor is a corporation that the Assignor's accounts provided to the Bank:-
  - (i) were prepared in accordance with accounting principles and practices generally accepted in Malaysia, and consistently applied, and have been prepared, examined, reported on, and approved in accordance with all procedures required by law and the Constitution of the Assignor;

- (ii) together with the notes to the accounts, give a true and fair view of the financial condition and operations of the Assignor as at the date of such accounts and for the period then ended; and
- (iii) together with those notes, disclose or reserve against the liabilities (contingent or otherwise) of the Assignor as at the date of the said accounts and all material unrealised or anticipated losses from any commitment entered into by it and which existed on such date.
- (m) **Conviction.** Where the Assignor is an individual, the Assignor has not been charged or convicted for any criminal offences or have any criminal records.
- (n) **Repeated at utilisation.** Prior to and on each of the dates of the utilisation of the Facilities, the above representations and warranties are true and accurate in all respects as if made on each such date, and as if repeated by reference to the then existing circumstances, except that each reference to accounts in paragraph (xii) above will be construed as a reference to the then latest available annual accounts of the Assignor.

## 7.2 Financial Crime Representations and Warranties

- 7.2 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**").
- 7.3 The Assignor understands and agrees that if any activities, conduct or circumstances the Assignor is 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:-
  - (i) exercise all the Bank's rights stated in Clause 9;
  - (ii) close all accounts and terminate all services the Assignor has with the Bank;
  - (iii) make reports and take such other actions as the Bank may deem appropriate.
- 7.4 The Assignor undertakes that it will not initiate, engage in or effect a transaction (directly or indirectly) that may involve Financial Crime and agrees 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 the Assignor of this undertaking.

## 8 DEFAULT

### 8.1 Events of default

- (a) When an Event of Default happens:-
  - (i) the Bank will not be under any further obligation and/or commitment to the Customer in relation to the Facilities;
  - (ii) all moneys and profit due and payable to the Bank under the Facilities and any other moneys then due and payable to the Bank by the Customer or under this Assignment will immediately become payable on demand by the Bank; and

- (iii) the Bank will be entitled to exercise any right or power:-
  - (aa) which the Bank may have upon an Event of Default by virtue of this Assignment and the Security Documents; and
  - (bb) which may be available to the Bank in law.

(b) The following are the Events of Default referred to above:-

- (i) **Non-payment or non-compliance.** The Customer and/or the Assignor fails to pay on the due date any money or discharge any obligation or liability payable by the Customer and/or the Assignor from time to time due to the Bank, or fails to comply with any term or condition of any Facility from the Bank.
- (ii) **Representation, warranty or undertaking.** If any representation, warranty or undertaking made to the Bank by the Customer and/or the Assignor and/or any Security Party is or will become incorrect or misleading in a material respect.
- (iii) **Non-observance or non-performance.** The Customer and/or the Assignor and/or any Security Party fails to observe or perform any of the agreements, covenants, stipulations, terms and conditions on the part of the Customer and/or the Assignor and/or any Security Party contained in this Assignment, or under any other Security Documents.
- (iv) **Cessation of business.** The Customer and/or the Assignor and/or any Security Party ceases or threatens to cease to carry on its business.
- (v) **Death or winding-up.** The Customer and/or the Assignor and/or any Security Party dies, or a petition is presented, an order is made, or a resolution is passed for the winding-up of the Customer and/or the Assignor and/or any Security Party.
- (vi) **Receiver and Manager appointed.** A Receiver and/or Manager is appointed to receive and/or manage all or part of the assets, undertaking or property of the Customer and/or the Assignor and/or any Security Party pursuant to any charge, debenture, security document or otherwise.
- (vii) **Bankruptcy.** The Customer and/or the Assignor and/or any Security Party becomes bankrupt or allows any judgment against the Customer and/or the Assignor and/or any Security Party to remain unsatisfied for twenty-one (21) days.
- (viii) **Inability to pay debts.** The Customer and/or the Assignor and/or any Security Party commits an act of bankruptcy, is unable to pay its debts, or suspends the payment of its debts, or enters into any composition or arrangement with or for the benefit of the creditors of the Customer and/or the Assignor and/or any Security Party.
- (ix) **Compulsory acquisition.** A notice, proposal, or intention for compulsory acquisition of all or part of the Property is issued or made under or by virtue of an Act of Parliament, Ordinance, enactment, or rule of law, regulation, order, or other statutory provision in force now or in future.
- (x) **Bank's security interest.** The Bank may decide that the continuation of the Facilities would be likely to be detrimental to its own position, or is otherwise undesirable, or that its security under this Assignment or under any other security documents is in jeopardy. The Bank's opinion will be final and binding on the Customer and/or the Assignor and/or the Security Party.
- (xi) **Other indebtedness.** Any indebtedness of the Customer and/or the Assignor and/or any Security Party becomes capable, in accordance with its terms, of

being declared due and payable prematurely because:-

- (aa) of a default by the Customer and/or the Assignor and/or any Security Party in its respective obligations;
  - (bb) the Customer and/or the Assignor and/or any Security Party fails to make any relevant payment on its due date, or if due on demand when demanded; or
  - (cc) the security for any such indebtedness becomes enforceable.
- (xii) **Sale Agreement and Charge.** If:-
- (aa) if the Assignor breaches any of the terms and conditions of the Sale Agreement;
  - (bb) if the Developer terminates or threatens to terminate the Sale Agreement; or
  - (cc) if the transfer and/or the charge referred to in Clause 4.2 is not or cannot be registered for any reason.
- (xiii) **Security.** The security created under this Assignment, or any guarantee, indemnity, or any other security for all or part of the Facilities:-
- (aa) fails or ceases to have full force and effect or to be continuing;
  - (bb) is terminated or disputed or jeopardised or invalidated; or
  - (cc) is unenforceable.
- (xiv) **Other events.** Any other event or series of events whether related or not (including any adverse change in the financial condition of the Customer and/or the Assignor and/or any Security Party) could or might affect the ability or willingness of the Customer and/or the Assignor and/or any Security Party to comply with all or any of its obligations under this Assignment, or under any other security documents.
- (xv) **Cross default.** The Customer and/or the Assignor and/or any Security Party and/or any Associated Party fails to discharge any obligation or liability with the Bank or any other party, or default in the payment of any monies to the Bank or any other financial institution or other party.
- (xvi) **Enforcement by creditor.** The Customer and/or the Assignor and/or any Security Party and/or any Associated Party defaults under any financing, facility or accommodation granted to them (whether by the Bank or any other party) which gives the right to the creditor concerned or the holder of the obligation concerned the right to accelerate payment of, withdraw; and/or enforce security for, such financing, facility or accommodation.
- (xvii) **Default in other accounts.** There is a default in the payment of any monies under the accounts of any other party for which the Customer and/or the Assignor and/or any Security Party and/or any Associated Party are providing security or guarantee.
- (xviii) **Facility Agreement.** An event of default has occurred under the Facility Agreement or any Security Document



## 9 REMEDIES

### 9.1 Remedies of the Bank

- (a) Upon demand or upon the occurrence of an Event of Default, the Assignor hereby consents and authorise the Bank to exercise all or any of the following rights and powers to:-
  - (i) enter and take possession of all or part of the Property, and to terminate summarily the Assignor's licence to occupy the Property.
  - (ii) exercise or enforce any of the Assignor's rights under the Sale Agreement.
  - (iii) let or lease all or part of the Property for such term of years, at such rent, and generally on such terms the Bank may decides.
  - (iv) receive rents and profits of the Property.
  - (v) sell the Property by public auction or private treaty at such price, in such manner, and generally on such terms the Bank may decides. The Bank can bid at any such sale.
  - (vi) sue and bring a civil action to recover the Indebtedness.
- (b) The Customer and/or the Assignor must do all things and execute all documents required by the Bank in respect of the above.
- (c) No person dealing with the Bank will be required to check whether the power exercised by the Bank in enforcing this Assignment has become exercisable.

### 9.2 Demands

- (a) Any demand for payment of the Indebtedness required or permitted to be given or made under this Assignment to the Customer and/or the Assignor may be made by a notice in writing requiring payment within seven (7) days from the date of demand.
- (b) The said demand by the Bank may be signed on behalf of the Bank by the manager, acting manager, or any other officer of the Bank or by any solicitor or firm of solicitors purporting to act for the Bank.
- (c) Such demand will be deemed to have been sufficiently served on the Customer and/or the Assignor if it is served in accordance with Clause 13.

### 9.3 Proceeds of sale

- (a) The Assignor agrees that all monies received by the Bank from any proceedings instituted or steps taken under this Assignment will be applied in the following order:
  - (i) Firstly, to pay the quit rent, rates, taxes, assessments and other outgoings due to the relevant authorities.
  - (ii) Secondly, to pay all costs (including the 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 realising the Property or in performing any duties or exercising any powers.
  - (iii) Thirdly, to pay the Bank Indebtedness including all profit, costs, charges, commission, compensation (*Ta'widh*) and other monies which are outstanding in connection with the Facilities.
  - (iv) Fourthly, to pay all principal monies payable to the Bank in connection with

the Facilities.

- (v) Fifthly, to pay the Bank all other monies due and remaining unpaid under any of the Security Documents.
- (vi) Sixthly, to pay the Bank any of the Customer's and/or the Assignor'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.
- (vii) Seventhly, towards settlement of any monies due and payable by any other company in the Customer's and/or the Assignor's group of companies (including holding, subsidiary, and associated companies) to the Bank (if any).
- (viii) Eighthly, to the Customer and/or the Assignor or any other entitled persons.
- (b) The Assignor agrees to the application of the money received by the Bank in the manner stated in Clause 9.3 (a) and any other manner including the change in the order of payment above, or keep such amounts in a non-income bearing suspense account (where applicable). 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 realised from the security may be sufficient to pay.

#### 9.4 Insufficiency in proceeds of sale

- (a) If the amount realised by the Bank in a sale of the Property under the provisions of this Assignment after deduction and payment from the proceeds of such sale of all fees, dues, costs, rents, rates, taxes, and other outgoings on the Property, is less than the amount due to the Bank (and whether at such sale the Bank is the purchaser or otherwise) the Customer and/or the Assignor must pay the Bank the difference between the amount due and the amount so realised.
- (b) Until the payment in the preceding paragraph is made, the Customer and/or the Assignor will also pay the compensation (*Ta'widh*) on such balance (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 Customer has ceased or been terminated.

#### 9.5 Vacant possession

When the powers of sale under this Assignment becomes exercisable by the Bank, the Assignor will deliver vacant possession of the Property to the Bank, or any person authorised by it, immediately on receiving the Bank's written demand.

#### 9.6 Indemnity

- (a) In addition and without affecting the powers, rights, and remedies granted under this Assignment, the Assignor 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:
  - (i) any default in payment by the Customer and/or the Assignor of any sum due under this Assignment, including 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; or
  - (ii) the occurrence of any Event of Default.



- (b) The Bank's certification of the amount of the said loss or expenses will be conclusive and binding upon the Assignor unless there is any obvious mistake.

#### 9.7 **Rights to concurrent remedies**

- (a) Regardless of Clause 9.4, and any contrary provision in this Assignment, it is agreed that, upon the occurrence of an Event of Default or breach of any of the provisions in this Assignment or other Security Documents by the Customer and/or the Assignor and/or any Security Party, the Bank can concurrently exercise all or any of the remedies available under this Assignment or other Security Documents, or by statute or otherwise.
- (b) The remedies referred to in the previous paragraph include pursuing all remedies of sale or possession pursuant to this Assignment or other Security Documents, and a civil suit to recover all Indebtedness.

#### 9.8 **Involuntary loss**

- (a) In exercising or executing any of the Bank's powers under this Assignment or by law, the Bank will not be liable to the Customer and/or the Assignor for any loss or damage incurred, or alleged to be incurred, by the Customer and/or the Assignor.
- (b) The Bank is not obliged to obtain the true or best market value of the Property.

### 10. **PREPAYMENT**

Notwithstanding any agreement for payment of any term financing ("**the financing**") by instalments, the Customer and/or the Assignor shall have the right to prepay subject to the provision in the Letter of Offer and/or the Facility Agreement.

### 11. **CONSOLIDATION**

Unless the Bank agrees otherwise, this Assignment will not be released and discharged except on full payment by the Customer and/or the Assignor of not only all monies secured under this Assignment, but also all monies which may become due and payable to the Bank under any other financings and/or banking facilities granted to the Customer and/or the Assignor 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 secured by the Customer and/or the Assignor (or by any person through whom the Customer and/or the Assignor claims in favour of or vested in the Bank) or otherwise, and the Bank's right of consolidation will apply to this security.

### 12. **MODIFICATION AND INDULGENCE**

The Assignor expressly consents and agrees that the Bank may at any time and without in any way affecting the validity of the security, liabilities, and obligations created under this Assignment:

- (a) determine, change, or increase the Facilities granted to the Customer, and open and/or continue any account or accounts current or otherwise with the Customer and/or the Assignor and/or any Security Party at any branch or branches of the Bank;
- (b) grant to the Customer and/or the Assignor and/or any Security Party any time or indulgence;
- (c) renew any bills/Islamic bills, notes/Islamic notes, or other negotiable securities;

- (d) deal with, exchange, release, modify, or abstain from perfecting or enforcing any securities or other guarantees or rights it may now or in future have from or against the Customer and/or the Assignor and/or any Security Party or any other person;
- (e) compound with the Customer and/or the Assignor and/or any Security Party and/or any other person;
- (f) at the request of the Customer and/or the Assignor and/or any Security Party accept payment of any monies due or becoming due under this Assignment by such increased or reduced instalments as may be agreed, or agree to suspend payments in reduction of principal or give such further time for payment or grant such indulgences as may be agreed;
- (g) grant further facilities to the Customer, reinstate, vary, interchange, substitute or convert the Facilities or any of them, or any of the principal limits or sub-principal limits of the Facilities;
- (h) review, amend, or vary the Facilities granted to the Customer or its terms and conditions; and
- (i) have recourse to all or any remedies or means for recovering the monies hereby secured which may be available for such purpose at such time and in such order and manner as the Bank may think fit.

### 13. **NOTICES**

- (a) **Language.** Any demand, request, notice or other communication ("**Notices**") by or on behalf of the Assignor, or the Bank must be in writing in English or Bahasa Malaysia.
- (b) **Notices to Assignor.** Notices can be given by the Bank to the Assignor by:-
  - (i) personal delivery to the usual last known place of residence, or at the last known registered office of the Assignor, or at the address of the Assignor stated in this Assignment, or at the usual or last known place of business of the Assignor;
  - (ii) ordinary mail to any such addresses referred to in Clause 13(b)(i);
  - (iii) facsimile transmission to the Assignor's facsimile number in the Bank's records;
  - (iv) sending an email to the Assignor's email address in the Bank's records;
  - (v) sending a short message system ("**SMS**") to the Assignor's mobile phone number in the Bank's records;
  - (vi) being displayed at the Bank's business premises;
  - (vii) being displayed on the Bank's website; or
  - (viii) insertion in any statement of account sent by the Bank to the Customer.
- (c) **Deemed delivery.** Notices are deemed delivered to the Assignor as follows:-
  - (i) If sent by personal delivery, at the time of delivery.
  - (ii) If sent by ordinary mail, the service will be deemed to be made forty eight (48) hours after posting. In proving service, it will be sufficient to prove that the notice was properly addressed and posted.

- (iii) If sent by facsimile, SMS, email, or displayed at the Bank's business premises or website, the service will be deemed to be made upon the facsimile, SMS or email being sent, or the notice being displayed.

(d) **Notice from the Assignor.**

- (i) Notices from the Assignor to the Bank may be sent by personal delivery or ordinary mail.
- (ii) Notices by the Assignor to the Bank must be duly signed by the Assignor or, if permitted by the Bank, the Assignor's authorised 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.

#### 14. **DISCLOSURE**

The Assignor agrees that the Bank (including the Bank's officials, employees, agents or any other persons who the Bank grants access to their records, correspondence or any material relating to the Customer and/or the Assignor or the Facilities) can disclose at any time without notifying the Customer and/or the Assignor beforehand, any information relating to the Customer and/or the Assignor, the Security Party, the Customer's and/or the Assignor's accounts with the Bank, the Facilities, and this Assignment to the following persons:

- (a) Any members of the Group, for any of the following purposes:-
  - (i) Providing the Customer and/or the Assignor with banking services.
  - (ii) Reporting.
  - (iii) Data matching.
  - (iv) Improving and furthering the provision of other services by the Bank.
  - (v) Fraud or crime prevention.
  - (vi) Investigating, preventing or otherwise in relation to money laundering and criminal activities.
  - (vii) Debt collection.
  - (viii) Outsourcing the Bank's operations.
  - (ix) Performance of duties as an officer of the bank or in connection with the conduct of audit or the performance of risk management.
  - (x) Facilitating the performance of the Bank or any members of the Bank's Group's function.
  - (xi) Compliance with the Bank's Group's policies, guidelines, directives or requirements.
  - (xii) Corporate exercise.
  - (xiii) Any legal process initiated by or served on the Bank.
- (b) 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 said services, including but not limited to investigating discrepancies, errors or claims.
- (c) Any person, whether in Malaysia or elsewhere, which the Bank engages for the purpose of performing or in connection with the performance of services or operational functions which have been out-sourced.
- (d) The police or any public officer conducting an investigation in connection with any offence including suspected offences.

- (e) Other banks, financial institutions, credit bureau or credit reference agents (only for credit information).
- (f) The Bank's auditors, solicitors, and professional advisors including Shariah Committee.
- (g) 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 engages.
- (h) Any receiver the Bank appoints or appointed by any other party.
- (i) Any credit bureau of which the Bank is a member, and any other members and/or compliance committee of such credit bureau.
- (j) Any rating agency, takaful operator/insurer or takaful/insurance broker or direct or indirect provider of credit protection.
- (l) Any actual or potential participant or sub-participant in relation to any of the Bank's obligations under the financing agreement between the Customer and/or the Assignor and the Bank, or assignee, novatee or transferee (or any officer, employee, agent or adviser) of any of them.
- (m) For transactions effected or processed with or without the Customer's and/or the Assignor's authority in or through the ATMs 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 ATM card and their respective agents or contractors.
- (n) Any court, tribunal or authority, whether governmental or quasi-governmental with jurisdiction over the Bank or any members of the Bank's Group.
- (o) The Central Credit Bureau or such other authority or body established by Bank Negara Malaysia, or any other authority with jurisdiction over the Bank.
- (p) Any person to whom the Bank or any members of the Bank's 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.
- (q) Any person in connection with enforcing or protecting any right under this Assignment or any Security Documents.
- (r) Any person intending to settle any monies outstanding under the Facilities.

## 15. **COMPLIANCE WITH FATCA**

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

- 15.2 The Assignor represents and warrants that the Assignor 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 Assignor further acknowledges that any failure on the Assignor'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 Assignor recalcitrant and/or reportable and take all necessary action against the Assignor 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.

- 15.3 For individual Assignors, the Assignor 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 Assignor and to governmental authorities as required by law or other agreement by or between governments. The Assignor's consent shall be effective notwithstanding any applicable nondisclosure agreement. The Assignor represents that the Assignor have 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 15.3, and that the Assignor will secure such consents and waivers in advance of providing similar information to the Bank in the future.
- 15.4 For Assignors who are a sole proprietorship, partnerships or other business entity, a corporation, or an association, club or society or trust, the Assignor consent 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 Assignor and to governmental authorities as required by law or other agreement by or between governments. Confidential Information includes the Assignor's Personal Data, the Assignor's bank account details, transactional information, and any other information that a reasonable person would consider being of a confidential or proprietary nature. The Assignor's consent shall be effective notwithstanding any applicable nondisclosure agreement. The Assignor represents that the Assignor have 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 15, and that the Assignor will secure such consents and waivers in advance of providing similar information to the Bank in the future.
- 15.5 The Assignor 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 Assignor's income is reportable and some is not, the Bank will report all income unless the Bank can reasonably determine the reportable amount. The Assignor 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 FATCA.
- 15.6 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 Assignor'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 Assignor's account(s) and transferring it to such tax authorities. If the Bank is not satisfied that a payment in or out of the Assignor's account(s) is lawful, the Bank may refuse to deal with it.
- 15.7 To the fullest extent as may be permitted by law, the Bank will not be liable to the Assignor for any losses, costs, expenses, damages, liabilities the Assignor 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 Assignor should be treated as being subject to tax or tax reporting obligations.
- 15.8 This Clause 15 will override any inconsistent term or consent provided by the Assignor 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 Assignment. This Clause 15 shall be without

prejudice to any other clause in this Assignment which provides for the request for information or disclosure of data.

## 16. MISCELLANEOUS

### 16.1 Searches

- (a) 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 Facilities.
- (b) The Assignor consent to the Bank carrying out such searches on the Assignor to the extent permitted by law.
- (c) All charges incurred in connection with bankruptcy / winding up searches will be borne by the Assignor.

### 16.2 Payments by the Bank

- (a) All costs, charges, and expenses incurred by the Bank under this Assignment, including:
  - (i) any expenditure incurred in the creation, registration, enforcement, and/or preparation of this Assignment, or in the giving of any notice, or in the making of any demand for any monies secured by this Assignment (including legal fees on a solicitor and client basis);
  - (ii) paying any expenses or outgoings in respect of covering/insuring, repairing, maintaining, managing, or realising the Property and/or any fixtures, crops, or plants on the Property;
  - (iii) all other monies whatsoever paid by the Bank in respect of the said costs, charges, expenses, and expenditure, or otherwise howsoever;
  - (iv) defending, prosecuting, or otherwise taking part in or attending (whether on a watching brief as observer or otherwise) any action, enquiry, hearing, suit, or other proceedings affecting the Property and/or any fixture, crops, or plants on the Property, and all other payments and sums stipulated on a full indemnity basis; and
  - (v) all or any other sums and monies paid or expended by the Bank under or pursuant to the express or implied provisions of the Land Code and/or this Assignment, and other usual banker's charges,

will be payable by the Customer and/or the Assignor to the Bank.

- (b) The said sums together with *Ta'widh* (compensation) will be debited to the Customer's and/or the Assignor's account, and will be deemed to be charged on the Property in addition to the principal amount advanced and will form part of the first payment due under this Assignment.

### 16.3 Taxes, Duties or Levies

- (a) The Customer and/or Assignor is liable to pay for any 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 to be paid to anybody or authority having jurisdiction over the Bank, in respect of any moneys charged or incurred by the Bank, during the continuation of the Facilities and/or for so long as the Facilities or any part of it remains outstanding and unpaid.



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

#### 16.4 Waiver

- (a) Time will be the essence of this Assignment.
- (b) No failure or delay by the Bank in exercising, or any omission to exercise, any right, power, privilege or remedy accruing to the Bank upon any default by the Customer and/or the Assignor will:
  - (i) affect or impair any such right, power, privilege, or remedy;
  - (ii) be construed to be a waiver of such right, power, privilege, or remedy; or
  - (iii) be construed as an agreement to such default.
- (c) No waiver or action of the Bank in respect of any default or any agreement to any such default will affect or impair any of the Bank's rights, powers, privileges, or remedies in respect of any other or subsequent default.

#### 16.5 Suspense account and proof of debt

- (a) The Bank can place and keep any money received under this Assignment in a non-income 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 Customer and/or the Assignor.
- (b) Regardless of such payment in the event of any proceedings in or analogous to bankruptcy or insolvency of the Customer and/or the Assignor, the Bank may prove for and agree to accept any dividend or composition in respect of the whole or any part of such money.
- (c) After the Bank has received such ultimate balance in full, any claim on the part of the Customer and/or the Assignor to any excess or any security remaining with the Bank will be a matter of adjustment between the Bank and the Customer and/or the Assignor and/or any other person or persons laying claim to the same.

#### 16.6 Payment in gross

- (a) The Assignor agrees that all monies received from or on account of the Customer and/or the Assignor, from any other persons or estate, from the realisation of this Assignment or any security, or otherwise for the purpose of being applied in the reduction of the Customer's and/or the Assignor's account or of the monies covenanted to be paid under this Assignment, will be treated for all purposes as payments in gross, and not as appropriated or attributable to any specific part or item of the said monies covenanted to be paid, even if appropriated as such by the Bank.
- (b) All securities held by the Bank now or in future will be treated as security for the said general balance.
- (c) The Customer and/or the Assignor, his estate or any other persons deriving or claiming title under the Customer and/or the Assignor will have no claim to such security and any part or interest in such security, unless the Bank has received the full amount due and payable to the Bank by the Customer and/or the Assignor.

### 16.7 Right of set-off

- (i) The Bank can at any time after an Event of Default or in making a demand, regardless of any settlement of account or any other matter, combine or consolidate all or any of the Customer's and/or the Assignor's then existing accounts, including accounts in the Bank's name, or of the Customer and/or the Assignor jointly with others.
- (ii) In addition, the Bank can, after giving seven (7) days' notice to the Customer, set-off or transfer any sum standing to the credit of any one or more such accounts in or towards satisfaction of any Indebtedness.
- (iii) The Bank's right above is applicable to all accounts, whether current, deposit, financing, or of any other nature, whether subject to notice or not, in any currency, and wherever situated.
- (iv) If any of the Customer's and/or the Assignor's liabilities are contingent, the Bank can set-off and transfer any sum standing to the credit of any of the Customer's and/or the Assignor's accounts towards the satisfaction of the Customer's and/or the Assignor's contingent liabilities.
- (v) If the Customer's and/or the Assignor's actual liabilities are less than the amount set-off by the Bank, the Bank will refund the surplus to the Customer and/or the Assignor.
- (vi) Where a combination, set-off or transfer requires the conversion between currencies, the conversion will be calculated at the Bank's then prevailing spot rate of exchange for purchasing the currency for which the Customer and/or the Assignor is liable.
- (vii) Upon the issuance of the notice mentioned in Clause 16.7(ii), the Customer and/or the Assignor 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 Customer and/or the Assignor's accounts with the Bank prior to the setting-off, and the Customer and/or the Assignor shall not be entitled to withdraw the monies without the Bank's prior written consent.

### 16.8 Change in the Bank

The security, liabilities, and/or obligations created by this Assignment 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.

### 16.9 Change in the Customer and/or the Assignor

- (a) The security, liabilities, and/or obligations created by this Assignment will continue to be valid and binding for all purposes, regardless of any change (whether by bankruptcy or insolvency, death, incorporation, amalgamation, liquidation, reconstruction, or otherwise) in the Customer's and/or the Assignor's name, style, constitution, or composition.
- (b) The expressions "**the Customer**" and "**the Assignor**" in this Assignment includes persons for the time being deriving title under the Customer and/or the Assignor respectively, and no change of any sort in relation to or affecting the Customer and/or the Assignor will in any way affect the security, liabilities, and/or obligations created by this Assignment in relation to any transaction, whether past, present, or future.

### 16.10 Assignment or transfer of this Assignment

- (a) The Bank can at any time, assign all or any part of its rights, interests, and obligations in this Assignment, and/or transfer the benefit of this Assignment to any person or corporation.



- (b) The costs and expenses of the Bank and the assignee or transferee will be paid by the Customer and/or the Assignor.
- (c) Following such assignment or transfer, the assignee or transferee will assume and be entitled to the rights, interests, and obligations of the Bank in this Assignment as if the assignee or transferee had been a party to this Assignment in place of the Bank.
- (d) Any recital or statement in this Assignment of the amount due to the Bank under or by virtue of this Assignment will be conclusive and binding for all purposes against the Customer and/or the Assignor.

#### 16.11 Successors bound

- (a) This Assignment will be binding on the Customer's and/or the Assignor's heirs, liquidators, receivers, personal representatives, and successors-in- title, and on the Bank's successors-in-title and assigns of the Bank.
- (b) The Customer and/or the Assignor cannot assign its rights or obligations under this Assignment.

#### 16.12 Severability

If any of the provisions in this Assignment is or becomes invalid or unenforceable, the invalid or unenforceable provision is to be treated as not having been included in this Assignment, and will not affect the remainder of this Assignment, which will continue to be effective and in force.

#### 16.13 Other terms and conditions

- (a) The terms and conditions in this Assignment will be in addition to and not in derogation of any specific agreement or arrangement with regard to each Facility now or from time to time existing between the Bank and the Customer, or any terms and conditions that may be specified in any letters (including letters of offer) given by the Bank to the Customer and/or the Assignor from time to time.
- (b) If there is any inconsistency between the provisions of this Assignment and the Letter of Offer, the Letter of Offer will prevail to the extent of the inconsistency.

#### 16.14 Irrevocable right to debit account

- (a) The Bank can (but is not obliged to) at any time without affecting the Bank's other rights and remedies, debit the Customer's and/or the Assignor's current or other accounts with the Bank with:-
  - (i) all accrued profit;
  - (ii) unpaid instalments of principal and profit;
  - (iii) overdue Islamic trust receipts;
  - (iv) Islamic accepted bills;
  - (v) outstanding in respect of 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 costs and expenses referred to in Clause 16.16 below; and
  - (xv) all other monies due on the Facilities.

- (b) No such debiting will be deemed to be payment of the amount due (except to the extent of any amount in credit in the Customer's and/or the Assignor's current or other accounts) or a waiver of any Event of Default under this Assignment or any other agreement relating to the Facilities.
- (c) If such debiting causes the Customer's and/or Assignor's accounts to be overdrawn and the Customer and/or Assignor fail to regularize the accounts within the period as determined by the Bank, such amount shall be payable to the Bank upon demand.

#### 16.15 Statement by Bank

A certificate signed by the Manager, Acting Manager, or any other officer by the Bank as to the monies or liabilities due, or payable to, or incurred by the Bank on account of the Customer and/or the Assignor will be conclusive evidence that the stated balance or amount is due and payable by the Customer and/or the Assignor for all purposes, including any legal proceedings.

#### 16.16 Costs

- (a) The Assignor will be liable to pay all fees and expense in connection with or incidental to this Assignment, including the solicitor's fees in connection with the preparation and execution of this Assignment and all related documents.
- (b) If any monies payable by the Assignor under this Assignment are required to be recovered by any legal process, or if any such monies are placed with solicitors for collection, the Assignor will pay (in addition to the monies then due and payable under this Assignment) the solicitors fees (on a full indemnity basis) and any other fees and expenses incurred in respect of such collection.

#### 16.17 Release

- (a) Subject to Clause 11 and the Bank's rights under this Assignment, upon payment to the Bank of the Indebtedness, the Assignor can obtain the discharge and release of the Property from the Bank, at the Assignor's sole cost and expense (including the cost of the solicitors acting for the Bank on a solicitor and client basis).
- (b) The discharge and release must be prepared by a firm of solicitors, and must be in the form as the Bank considers appropriate.

#### 16.18 Currency Indemnity

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

- (a) The obligation of the Customer and/or the Assignor 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 Customer and/or the Assignor under this Assignment 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 Customer and/or the Assignor or otherwise) shall only constitute a discharge to the Customer and/or the Assignor 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 Assignment and/or the Security Documents, the Customer and/or the Assignor shall indemnify the Bank against any loss sustained

by it as a result thereof. In any event, the Customer and/or the Assignor shall indemnify the Bank against the cost of making any such purchase.

#### **16.19 Independent payment obligations**

The Customer and/or the Assignor expressly agrees that each of its obligations to pay under this Assignment or the Security Documents:

- (a) constitute separate and independent obligations;
- (b) give rise to separate and independent causes of action;
- (c) apply regardless of any waiver or indulgence given by the Bank for any other obligation;
- (d) 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
- (e) can be relied upon and enforced by the Bank independently or, 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.

#### **16.20 No proof in competition with the Bank**

- (a) Until all the Indebtedness is paid or discharged in full, the Assignor will not:
  - (i) claim any set-off or counterclaim against the Customer in respect of any liability from the Customer to the Assignor;
  - (ii) claim or prove in competition with the Bank in respect of any payment by the Customer; or
  - (iii) be entitled to claim or have the benefit of any set-off, counterclaim, payment, distribution, or security from or on account of the Customer.
- (b) This applies whether or not the Assignor pays off any sum recoverable under this Assignment, or on any other ground.

#### **16.21 Assignor as principal debtor**

- (a) Although as between the Customer and the Assignor, the Assignor is a surety for the Customer, between the Assignor and the Bank, whenever the Customer does not pay the Indebtedness, the Assignor shall immediately on demand pay that amount as if the Assignor is a principal debtor.
- (b) The Assignor and the Property will not be released at any time by any indulgence given to the Customer, or by any act, omission or thing which may release or discharge the Property or the Assignor's position as a surety for the Customer.

#### **16.22 Construction where the Customer and/or the Assignor is not an individual person**

If the Customer's and/or the Assignor's name is that either of a firm, a limited company, or other corporation, committee, association or other unincorporated body, any of the provisions of this Assignment that are primarily and literally applicable to natural persons:

- (a) will be construed and take effect as if the Customer and/or the Assignor was an individual;
- (b) will bind all of the Customer's and/or the Assignor's assigns and successors-in-title; and

- (c) if the Customer and/or the Assignor is a firm, will bind the firm and every member of that firm carrying on business in the name of or in succession to the firm.

### 16.23 Unincorporated body

In addition to, and without affecting the other provisions of this Assignment, it is agreed that even though the Customer and/or the Assignor is a committee, an 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 Assignment will be valid and have effect as though the Assignor were the principal debtor.

### 16.24 Power to Obtain Financing and to Assign

Where any monies are due and secured by this Assignment, they will be deemed to be so due and secured regardless of:

- (a) any legal limitation, incapacity or otherwise of the Customer in respect of the Facilities which might be a defence as between the Customer and the Bank;
- (b) the Assignor's power to enter into this Assignment; or
- (c) any legal limitation in the power of any director, attorney, partner, agent or other person purporting to act or acting on behalf of the Customer and/or the Assignor or any other irregularity in such borrowing, financing or incurring of such liabilities.

### 16.25 Circumstances beyond the Bank's control

If the Bank is unable to perform any of its obligations under this Assignment, or carry out any operations or provide any service due to any reason beyond the Bank's control, including:

- (a) fire, earthquake, flood, epidemic, natural disaster, accident, riot, civil disturbances, industrial disputes, acts of terrorism, embargo, war, act of God;
- (b) any failure or disruption to telecommunications, internet, electricity, water, fuel supply; or
- (c) any circumstance in the nature of a force majeure (an unforeseeable event that prevents the Bank from performing its obligations under this Assignment or any Security Document),

the Bank will not be in any way liable for any failure of performance or for any inconvenience, loss, injury, and damages suffered or incurred by the Customer and/or the Assignor directly or indirectly as a result.

### 16.26 Market disruption

Regardless of what is stated in this Assignment or any Security Document, if in the Bank's opinion there is any change in the national or international monetary, financial, political or economic conditions, or currency exchange rates, which would cause the continuation of the Facilities to be temporarily or permanently impractical or not commercially possible, the Bank can:-

- (a) at any time; and
- (b) upon notification in writing to the Customer and/or the Assignor,

if the notification is given prior to any disbursement, no drawdown will be made and if such notification is given after a partial disbursement, the Bank may explore with the Customer an alternative arrangement, failing which:-

- (i) the Facilities shall be cancelled;
- (ii) the Indebtedness under the Facilities and all other sums payable under this Assignment will immediately become due and payable on demand; and
- (iii) the Bank's obligations under this Assignment or any Security Document shall terminate.

#### 16.27 Illegality

If the Bank deems that because of:

- (a) any change after the date of this Assignment 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,

it becomes unlawful or impractical for the Bank to comply with its obligations under this Assignment, or to continue to make available the Facilities granted to the Customer or to charge or receive profit at the rate applicable:

- (i) the Bank will notify the Customer, and following that notification the Facilities and the Bank's obligations under the Facilities will be suspended immediately;
- (ii) following such notification, the Customer must pay the Facilities to the Bank, and any other moneys then due and payable to the Bank by the Customer or under this Assignment will immediately become payable on demand by the Bank, together with all other amounts payable to the Bank on the date deemed necessary by the Bank to comply with the relevant law; and
- (iii) the Bank will have no further obligations under the Facilities, which will be deemed cancelled.

#### 16.28 Data protection

- (a) The Assignor hereby confirms that the Assignor 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 Assignment as may relate to the processing of the Assignor's Personal Data. For the avoidance of doubt, the Assignor agrees that the said Privacy Notice shall be deemed to be incorporated by reference into this Assignment.
- (b) The Assignor 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.
- (c) In the event the Assignor provides Personal Data relating to third parties, including data relating to their next-of-kin and dependents (where the Assignor is an individual) or data relating to their directors, shareholders, officers, individual guarantors and security providers (where the Assignor is a corporation), for the purpose of the Facilities, the Assignor:
  - (i) confirms that the Assignor 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 Assignment and/or the Facilities;
  - (ii) undertakes that the Assignor 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);

- (iii) has informed the said third parties:-
  - (aa) that the Bank may collect or verify their personal and financial data with third party sources;
  - (bb) that the Bank may disclose their personal data to classes of third parties described in the Bank's Privacy Notice;
- (iv) agrees to ensure that the personal and financial data of the said third parties is accurate;
- (v) agrees to update the Bank in writing in the event of any material change to the said personal and financial data; and
- (vi) agrees to the Bank's right to terminate the Facilities should such consent be withdrawn by the said third parties.
- (d) Where the Assignor 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 Assignor's behalf, the Assignor agrees to the above said disclosures on behalf of the Assignor and others involved in the said cross-border transaction.
- (e) 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 Assignor agrees that the Bank and the Group, and the Bank's merchants and strategic partners may contact the Assignor about products, services and offers, which the Bank believes may be of interest to the Assignor or benefit the Assignor financially. Notwithstanding the foregoing, the Bank will only disclose the Assignor's Personal Data (excluding data relating to the Assignor's affairs or account) to the Bank's merchants and strategic partners where the Assignor's express prior consent has been obtained.
- (f) The Assignor 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 Assignor's latest written instructions to the Bank.
- (g) The Assignor 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 Facilities and/or without imposing additional costs to the Customer and/or Assignor.
- (h) The Assignor is entitled to request in writing:
  - (i) for any information in relation to the Assignor's Personal Data that the Bank holds or stores, upon payment of a prescribed fee;
  - (ii) for any information held or stored by the Bank to be updated, amended and/or corrected;
  - (iii) for the Bank to limit the processing of the Assignor's Personal Data held or stored by the Bank; and
  - (iv) to make an enquiry or complaint in respect of the Bank's processing of the

#### Assignor's Personal Data.

For requests under (i) or (ii), the Assignor 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 Assignor may direct all the Assignor'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 address notified by the Bank).

The Bank may charge a fee for processing the Assignor's request for access. The Bank may also refuse to comply with the Assignor's request in respect of (i) or (ii) above if the information supplied by the Assignor 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 Assignor of the Bank's refusal and reason for the Bank's refusal.

- (i) The Assignor is responsible for ensuring that the information the Assignor provides to the Bank is accurate, complete and not misleading and that such information is kept up to date.
- (j) The Assignor acknowledges that if the Assignor subsequently withdraws the Assignor's consent to process the Assignor's Personal Data as given earlier to the Bank, as the Bank will not be able to process and/or disclose the Assignor'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.
- (k) 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 Assignor 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.
- (l) This clause shall be without prejudice to any other clause in this Assignment which provides for the disclosure of data.

#### 16.29 Retention of Records

The Assignor agrees that the Bank is not obligated to maintain any records of the Assignor's account, including but not limited to the Security Documents, transaction documents, statements of account, correspondences or documents provided to the Bank by the Customer, the Assignor 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.

#### 16.30 Laws applicable

This Assignment will be governed by and interpreted in accordance with the laws of Malaysia, and the Customer and/or the Assignor irrevocably agrees to:

- (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 or any similar grounds;
- (c) consent to the service of process by registered mail or in any manner permitted by the relevant law; 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 the Bank's Shariah Committee in respect of the Facilities.

#### **16.31 Compliance with court orders**

The Bank and the Group can act in any way they see fit, without consulting the Customer and/or the Assignor beforehand, if they are served with a court order issued by a court of any jurisdiction. The Customer and/or Assignor agrees not to hold the Bank or the Group liable for any loss or damage in connection with their actions.

#### **16.32 Principal and Secondary Instruments**

This Assignment and the Security Documents are instruments employed in one transaction to secure the payment of the Indebtedness within the meaning of Section 4(3) of the Stamp Act 1949, and for the purpose of the said section, the Facility Agreement is the principal instrument and this Assignment is deemed to be a secondary or collateral instrument.

- End of Page -



**NOTICE TO THIRD PARTY ASSIGNORS**

1. By signing this document, you may be liable instead of or as well as the Customer for all monies due and payable by the Customer to the Bank from time to time.
2. You are advised to seek independent legal advice before signing this document.

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

**Assignor**

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

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

.....  
Director

.....  
Director/Secretary

**Bank**

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

*\*Delete wherever inappropriate*

**CONSENT BY DEVELOPER/LANDOWNER**

To: **UNITED OVERSEAS BANK (MALAYSIA) BHD.**

We hereby:

1. consent to the above Assignment and confirm that the Assignment has been entered in our records;
2. confirm with you that there is no assignment or agreement to assign prior to the Assignment;
- \*3. confirm that we have taken all steps necessary and applied for the separate issue document of title or strata title (as applicable) to the Property;
- \*3. undertake to take all necessary steps to apply for the separate issue document of title or strata title (as applicable) to the Property;
4. undertake to deliver to you the separate issue document of title or strata title (as applicable) to the Property together with a memorandum of transfer in accordance with the Sale Agreement duly executed in favour of the Assignor, or in your favour, or in favour of your nominee(s) (as applicable) free from all encumbrances and all other documents necessary to register the transfer, upon the issuance of the said issue document of title or strata title (as the case may be) by the relevant authority;
- #5. undertake to immediately refund to you all sums which have been released by you to us if the transfer of the Property in favour of the Assignor and the charge in your favour cannot be registered free from encumbrances for any reason;
6. confirm that, if we intend to further encumber the Land on which the Property is situated, we undertake to obtain from the chargee and/or encumbrancer of the Land and deliver to you:
  - (a) a letter of disclaimer of interest in respect of the Property; and
  - (b) an undertaking from the chargee/encumbrancer that it will exclude the Property from any application made by it for an order for sale of the Land; and
7. undertake to immediately inform you upon notification by the relevant authority that the separate issue document of title or strata title (as applicable) to the Property is ready for issue, and the particulars of the same.

*\*Delete wherever inappropriate*

*#Delete if the Bank is NOT releasing any monies to the Developer/Landowner*

Signed by )  
 )  
for and on behalf of the Developer )  
in the presence of )

\*Signed by the Landowner )  
in the presence of )

\*Signed by )  
 )  
for and on behalf of the Landowner )  
in the presence of )

*\*Delete wherever inappropriate*

**FIRST SCHEDULE**

**Section 1:      Date of this Assignment:**

**Section 2A:    Particulars of the Assignor:**

**Section 2B:    Particulars of the Customer:**

**Section 3:      Place of business of the Bank:**

**Section 4:      Particulars of the Landowner:**

**Section 5:      Particulars of the Land:**

**Section 6 (a):   Particulars of the Developer:**

**Section 6 (b):   Description of the Project:**

**Section 7:      Date of the Sale Agreement:**

**Section 8:      Particulars of the Property\*:**

**Section 9:      Particulars of the First Purchaser:**

**Section 10:     \*\*Details of series of assignments of the Property subsequent to the  
Sale Agreement (Assignor's Documents):**

**Section 11:     Date of the Facility Agreement:**

*\*Please include particulars of accessory parcels, if any*

*\*\*Delete whichever is not applicable*