

Charge Annexure (1P3P) - Business Premises Smart-i Facility

**LAMPIRAN
(ANNEXURE)**

I/We, the abovenamed Chargor and whose particulars are set out in Item 2(a) of the First Schedule hereto have this day charged the Property described in the Schedule above and hereinafter defined to HSBC Amanah Malaysia Berhad (Company No: 807705-X), a licensed Islamic bank having its registered office at No. 2 Leboh Ampang, 50100 Kuala Lumpur and includes its successors in title and assigns (hereinafter referred to as “the Bank”) as security for the payment by me/us of the Indebtedness as hereinafter defined upon the terms and conditions hereinafter contained.

ARTICLE I

DEFINITIONS AND INTERPRETATION

1.01 DEFINITIONS

In this Charge, unless the context otherwise requires or unless it is otherwise expressly assigned to them hereunder, the words and expressions defined in the Business Premises Smart-i Facility Agreement shall have the same meanings herein:-

Address for Service	means: (a) For the Bank: The address as stated in Item 3(a) of the First Schedule hereto; and (b) For the Chargor: The address as stated in Item 3(b) of the First Schedule hereto.
Bank	means HSBC Amanah Malaysia Berhad (Company No.: 807705-X), a company incorporated in Malaysia with its registered office at No. 2 Leboh Ampang, 50100 Kuala Lumpur and includes its successors in title and assigns.
Business Premises Smart-i Facility Agreement	means the agreement of even date entered into by the Bank and the Customer prior to this Charge under which the Bank and the Customer has agreed to jointly invest in the acquisition of the Property based on the Shariah principle of Diminishing Musharakah and includes any amendments, variations and/or supplementals made or entered into from time to time.
Charge	means the statutory form to which this annexure is attached and this annexure and includes any variations and amendments which may be made thereto or hereto at any time and from time to time.
Chargor	means the name of the person or persons as set out in Item 2(a) of the First Schedule hereto and includes his or their heirs personal representatives and permitted assigns.

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Customer	means the name of the person or persons as set out in Item 2(b) of the First Schedule hereto and includes his or their heirs personal representatives and permitted assigns.
Events of Default	means any one or more of the events of default enumerated in Clause 11.1 of the Business Premises Smart-i Facility Agreement or enumerated in Clause 6.01 hereof or any other event which, with the giving of notice or the lapse of time, or both, would constitute an event of default.
Facility	means the Islamic financing facility based on the Shariah principle of Diminishing Musharakah for the sum as stated in Item 5 of the First Schedule hereto made available to the Customer by the Bank under the Business Premises Smart-i Facility Agreement.
Indebtedness	<p>means all amounts due and payable together with all other sums of money howsoever due to the Bank under the Facility and the Security Documents or generally pursuant to the terms herein or pursuant to any other documents executed now or hereafter. A statement in writing signed by a duly authorised officer of the Bank of the Indebtedness shall be conclusive evidence of such indebtedness.</p> <p>For the avoidance of doubt, this would include fees, charges and expenses expended on legal proceedings and foreclosure proceedings (including but not limited to legal fees, valuation fees (to the extent not restricted by any laws or regulations), real estate agent fees and/or auctioneer fees).</p>
Legal Process	means pleadings, all forms of originating processes, interlocutory applications of whatever nature, affidavits, orders and such documents other than the aforesaid which are required to be served under the Rules of Court, and notices required to be given to the other party under the Security Documents.
Non-Permitted Purpose	means use (a) for illegal or immoral purpose; or (b) for any business primarily involving gambling or gaming; the manufacture or sale of pork, alcohol and/or tobacco; the provision of non-Islamic financial services, insurance and/or stockbroking; or entertainment activities that are non-permissible according to Shariah;
Property	means the land and/or building constructed or to be constructed on the land as more particularly described in Item 4 of the First Schedule hereto and includes any part thereof and all improvements, additions and/or modifications whatsoever thereto from time to time. The term "Property" as used herein is a reference to the property or asset that is being charged by the Chargor to the Bank hereunder, whether landed property, condominium, apartment, commercial or residential premises or otherwise.
Security Documents	means collectively the Letter of Offer, the Business Premises Smart-i Facility Agreement, the Purchase Undertaking, the Deed of Trust (applicable for third party financing), this Charge and such other security

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	documents executed now and hereafter, including without limitation those referred to in the Business Premises Smart-i Facility Agreement.
Security Party	means any party providing any other form of security other than this Charge, if any, under any of the Security Documents.
Takaful	means all certificates/plans and contracts of takaful of whatever nature (including but not limited to Takaful Mortgage Plans/ Takaful Fire Commercial certificates) which are now, or may from time to time be taken out by the Chargor in accordance with the terms of this Charge.

1.02 INTERPRETATION

- (a) Words importing the masculine gender include the feminine and neuter genders and vice versa.
- (b) Words importing the singular number include the plural number and vice versa.
- (c) No rule of construction shall apply to the disadvantage of a party because that party was responsible for the preparation of this Charge or any part of it.
- (d) References to the Customer, the Chargor, the Bank and any other party defined herein include their respective heirs, assigns, personal representatives, successors in title and any person deriving title from them.
- (e) References to Clauses, Items, Articles and Schedules shall unless otherwise expressly provided be references to the clauses, items, articles and schedules of this Charge.
- (f) References to this Charge and any other agreement or document related hereto are references to the same as from time to time varied or novated in any manner or respect whatsoever.
- (g) Where there is more than one party as Customer/Chargor, the reference to Customer/Chargor shall be to all and the liability of each Customer/Chargor is hereby agreed as joint and several.
- (h) Where the Chargor is an individual, the provisions contained herein shall be construed to include and bind all estate and successors-in-title.
- (i) Where the Chargor is a company, the provisions contained herein which are primarily and literally applicable to the case of natural persons shall be construed and take effect as if the Chargor were a natural person, and shall bind all of its assigns and successors-in-title. Accordingly, any references herein relating to death or bankruptcy shall thereafter be references relating to winding-up, liquidation, amalgamation or reconstruction, as the case may be, of the Chargor.
- (j) Any expression not specifically defined herein but defined in the Business Premises Smart-i Facility Agreement shall have the same meaning when used herein unless repugnant to the context thereof.

- (k) In the event of any conflict or inconsistency between the provisions of the Security Documents (as herein defined) and this Charge, the provisions of this Charge shall prevail for purposes of interpretation and enforcement of this Charge.
- (l) Headings and the table of contents are for ease of reference only.

ARTICLE II

BUSINESS PREMISES SMART-i FACILITY AGREEMENT

2.01 BUSINESS PREMISES SMART-i FACILITY AGREEMENT

The Bank and the Customer have agreed to enter into the Business Premises Smart-i Facility Agreement based on the Shariah principle of Diminishing Musharakah for the purpose of acquiring the Property (applicable for financing the purchase of property) or for the provision of the Facility by the Bank to the Customer to be used for any purpose which does not contravene Shariah principles (applicable for financing of unencumbered property) whereby the Bank and the Customer respectively have agreed to provide capital contribution for the Diminishing Musharakah Arrangement.

2.02 EXECUTION OF THIS CHARGE

It is a term of the Business Premises Smart-i Facility Agreement that the Chargor executes this Charge as security for the payment of the Indebtedness, and the Chargor hereby unconditionally charges the Property to the Bank as security for the payment of the Indebtedness.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

3.01 REPRESENTATIONS AND WARRANTIES

The Chargor hereby represents and warrants to and undertakes with the Bank as follows:-

- (a) that the Chargor has the power to execute, deliver and perform the terms of this Charge;
- (b) that this Charge constitutes the legal, valid and binding obligations of the Chargor in accordance with its terms and do not contravene Sections 224¹ and/or 225² of the Companies Act 2016 (as applicable);
- (c) that the execution, delivery and performance of this Charge by the Chargor do not and will not exceed the power granted to the Chargor (where applicable) or violate or contravene the provisions of:-

¹ Section 224 of the Companies Act 2016 provides that, unless otherwise exempted under the provision, a company shall not make a loan to a director of the company or its related company or enter into any guarantee or provide any security in connection with a loan made to such director by any other person.

² Section 225 of the Companies Act 2016 provides that, unless otherwise exempted under the provision, a company other than an exempt private company shall not make a loan to a person connected with a director of the company or of its holding company or enter into any guarantee or provide any security in connection with a loan made to such person by any other person.

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- (i) any law, or regulation, or any order, or decree of any governmental authority, agency or court to which he is subject; or
 - (ii) any contract of whatever nature, or other undertaking, or instrument, to which the Chargor is a party or which are binding upon the Chargor or any of his or its assets and will not result in the creation, imposition of, or any obligation to create, or impose, any mortgage, lien, pledge or charge on any of his assets pursuant to the provisions of any such contract, or other undertaking, or instrument;
- (d) that all consents, or licences, or approvals or authorisations, or orders and exemptions of any Ministry, agency, department or authority in Malaysia which are required or advisable to be obtained in connection with the execution, delivery, performance, legality or enforceability of this Charge have been obtained and are in full force and effect and no further consent, license, approval, authorization, order or exemption is required therefor;
- (e) that the Chargor is not in default under any agreement to which he or it is a party or by which he or it may be bound and no litigation, arbitration, or administrative proceedings are presently current, or pending, or threatened and which default, litigation, arbitration or administrative proceedings (as the case may be) might materially affect his or its solvency or might affect his or its ability to perform his or its obligations under this Charge;
- (f) that Section 57 of the Islamic Financial Services Act 2013 read together with the Bank Negara Guidelines on Credit Transactions and Exposure with Connected Parties for Islamic Banks³ and Part 8 of the Banking (Exposure Limits) Rules (Cap. 155S) of the Hong Kong Special Administrative Region⁴ being the law of the place in which the holding company of the Bank's parent company is located would not be contravened by the entering into this Charge and/or any one or more of the Security Documents by the relevant parties thereto;
- (g) that as at the date of this Charge, no other charge assignment mortgage pledge or lien exists on the Property as security for any debt;
- (h) that the Chargor is not a judgment debtor or a bankrupt or there are no bankruptcy and/or where applicable, winding up proceedings pending against the Chargor and the Chargor has not commenced any action for the voluntary winding up of the Chargor;
- (i) that, where applicable, the Chargor is a corporation duly established and subsisting under the laws of Malaysia and has the power and authority to own properties and assets and carry on business as it is now being conducted;
- (j) that, where applicable, all financial statements information and other data furnished by the Chargor to the Bank are complete and correct, have been prepared in accordance with

³ Bank Negara Malaysia (BNM) imposes on the Bank certain limitations, restrictions and requirements on credit transactions with persons (including firms, partnerships or any legal entities) connected to the Bank or any of its directors, controlling or influential shareholders, executive directors, officers who have authority to appraise, approve or review credit transactions. Please get the latest guidelines on this topic from the website of BNM at <http://www.bnm.gov.my>.

⁴ Part 8 of the Banking (Exposure Limits) Rules (Cap. 155S) (which has replaced Section 83 of the Hong Kong Banking Ordinance as at 1 July 2019 (with six (6) months implementation grace period)) imposes on the Bank certain limitations and restrictions on advances to persons (including firms, partnership and non-listed companies) related to the Bank or any of its directors, employees with lending authority or controllers. The said Banking (Exposure Limits) Rules may be assessed or downloaded from the website of Hong Kong Monetary Authority at <https://www.hkma.gov.hk> or the website of Hong Kong Legal Information Institute at <http://www.hklii.org/eng/hk/legis/reg/155S/>

generally accepted accounting principles and practices consistently applied and accurately and fairly represent the financial condition and results or operations of the Chargor as at the date or dates to which they were made up. Since such date or dates there has been no change in the Chargor's financial condition or results of operations sufficient to impair the Chargor's ability to pay the Indebtedness in accordance with the terms hereof;

- (k) that neither the Chargor nor any of his/their partners/directors, officers, servants, agents or employees (as the case may be), whether during his tenure of office or during his employment or thereafter who for any reason has by any means access to any information, record (stored in a computer or otherwise), diskette, hard disk, thumbdrive, book, register, correspondence or other document whatsoever, or material, relating to the affairs or account of the Customer obtained from the Bank shall give, produce, divulge, reveal, publish or otherwise disclose to any person or make a record for any person, of any information or document whatsoever relating to the affairs or account of the Customer irrespective of whether it is financial or personal in nature and in the event of such giving, production, divulgence, revelation, publication or otherwise, the Chargor shall indemnify, keep indemnified and save harmless the Bank against all claims, losses, liabilities, damages, demands, expenses and costs (on a solicitor and client basis) which the Bank may incur or sustain by reason thereof and the indemnity herein provided shall survive the termination of this Charge.

ARTICLE IV

SECURITY

4.01 CONTINUING SECURITY

The Chargor hereby agrees and declares that this Charge is expressly intended to be and shall be a continuing security for the payment of the Indebtedness and all other moneys and liabilities now or hereafter from time to time owing or payable by the Chargor or the Customer to the Bank under the provisions of this Charge and the other Security Documents and any other documents executed between the Chargor and/or the Customer and the Bank.

4.02 RESTRICTION AGAINST OTHER CHARGES

The Chargor hereby declares, covenants, warrants and undertakes that there is no mortgage, charge, assignment, pledge or lien over the Property having priority to this Charge and that:

- (a) the Chargor shall not during the subsistence of this Charge without the consent in writing of the Bank, execute any form of charge, mortgage, assignment, debenture, pledge, lien or permit to exist any caveat or prohibitory order or both in respect of the Property;
- (b) this Charge shall be without prejudice to any security already given by the Chargor or the Customer or any other party or any other security which may hereafter be given by the Chargor or the Customer or any other party to the Bank, whether the same shall be for securing payment of the Indebtedness or any other moneys covenanted to be paid herein, or under the other Security Documents, or any other documents, and whether such security is taken as additional or collateral security or otherwise howsoever.

4.03 COVENANT TO PROVIDE FURTHER SECURITY

- (a) The Chargor shall forthwith at the request of the Bank, do all acts and execute all necessary documents in such form and content, and at such time as may be requested by the Bank, for the purpose of perfecting the security hereby created, and shall at any time and when required by the Bank so to do, execute in favour of the Bank or as the Bank shall direct, such legal or other mortgages, charges, assignments, transfers or agreements as the Bank shall require, and on all the Chargor's estate right, title and interest in any property or assets or business now belonging to or which may hereafter be acquired by or belong to the Chargor (including any vendor's lien) and the benefit of all licences held in connection therewith, to secure the Indebtedness, and such mortgages, charges, assignments, transfers or arrangements shall be prepared by or on behalf of the Bank at the cost and expense of the Chargor and shall contain all such terms and conditions for the benefit of the Bank as the Bank may require.
- (b) The Chargor shall, at any time if and when required by the Bank, deposit with the Bank the documents of title to any or all immovable properties vested in the Chargor for any tenure, and all or any debenture, shares, stocks or other investments, or securities registered in the name of the Chargor, or otherwise belonging to the Chargor. Such deposit may be by way of collateral security for the payment of the moneys and liabilities hereby secured, and may also or otherwise be for the purpose of securing any other moneys owing to the Bank and not hereby secured.

4.04 IRREGULARITY IN DIMINISHING MUSHARAKAH ARRANGEMENT (IF ANY)

The Charge created herein shall continue to be valid and binding for all purposes notwithstanding that the participation of the Customer in the Diminishing Musharakah Arrangement may be invalid or in excess of the powers of the Customer, or of any director, attorney, partner, agent or other person purporting to act on behalf of the Customer, and notwithstanding any other irregularity in such participation of the Customer in the Diminishing Musharakah Arrangement.

ARTICLE V

COVENANTS

5.01 POSITIVE COVENANTS

The Chargor hereby expressly covenants with the Bank that the Chargor shall at all times during the continuance of this Charge:-

- (a) keep all structures and fixtures now or at any time hereafter erected on or affixed to the Property in tenable repair and condition. The Chargor shall upon notice from the Bank, procure and arrange the necessary maintenance and/or repair of the Property to the satisfaction of the Bank within such stipulated timeline therein, failing which it shall be lawful for (but not obligatory upon) the Bank to carry out such repairs and if the Bank were to carry out such repairs, the costs and expenses thereof shall be for the account of the Chargor and shall be repayable on demand failing which the same shall form part of the Indebtedness;

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- (b) permit the Bank and its agents and workmen at all reasonable times of the day to enter upon the Property and have access to any fixture thereon and to view and inspect the condition or repair thereof;
- (c) comply with and observe all the conditions restrictions and category of use, express or implied, imposed upon, relating to, or affecting the Property or to which the Property is subject, as well as the provisions of any Act of Parliament (“Act”) ordinance or enactment for the time being in force and of any rule or order made thereunder affecting the Property;
- (d) pay the quit rent, assessment, rates, stamp duty, taxes, registration charges, service charges, maintenance fees and all other outgoings whatsoever payable from time to time in respect of the Property as and when the same shall become due and payable. In default whereof, it shall be lawful for (but not obligatory upon) the Bank to pay the same or any part thereof, And upon such payments by the Bank, all sums so paid shall be for the account of the Chargor, and shall be repayable on demand failing which the same shall form part of the Indebtedness;
- (e) inform the Bank of any application, demand, notice, order whatsoever, or any other notice, document or transaction in any way affecting or concerning the Property or any part thereof forthwith upon its issue, publication or service (time being of the essence in respect thereof), and produce the same to the Bank whether demanded or not AND the Chargor shall do all acts and take all steps necessary or expedient to safeguard and preserve the Property or any part thereof or the title thereto or ownership thereof AND the Chargor shall upon notice from the Bank, do all such acts and employ all such persons as the Bank shall deem fit for the purpose of safeguarding and preserving the Property to the satisfaction of the Bank within such stipulated timeline therein, failing which the Bank may if it thinks fit and on behalf of or in the name and at the expense of the Chargor do all such acts and employ all such persons as the Bank shall deem fit for the purpose of safeguarding and preserving the Property and all charges, costs and expenses incurred in respect thereof shall be for the account of the Chargor and shall be repayable on demand failing which the same shall form part of the Indebtedness;
- (f) give full particulars in writing within seven (7) days to the Bank upon receipt of any notice or order or proposal given issued or made to the Chargor in respect of the Property by or on behalf of any planning, local government, public health, sanitary, housing or other authority, and if so required by the Bank, without delay and within the period prescribed by such notice, take all reasonable or necessary steps to comply with the provisions of such notice or order and also at the request of the Bank, the Chargor shall make or join with the Bank in making such objections or representations against or in respect of any such notice or order or proposal as the Bank may deem expedient;
- (g) observe and perform all the terms and conditions contained in the Security Documents, and on the part of the Chargor to be observed and performed and in addition thereto any condition and covenant binding upon the Property, and not do or omit to do any act matter or thing on or in respect of the Property which shall contravene the provisions of the Security Documents, or of any act, ordinance, enactment, order, rule or regulation now or hereafter affecting the same; AND at all times hereafter indemnify and keep indemnified the Bank against all actions, proceedings, costs, expenses, claims and demands in respect of such act matter or thing done, or omitted or suffered to be done in contravention of the said provisions;

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- (h) unconditionally agree, whenever required by the Bank, to have the Property valued by such registered valuers as may be appointed by the Bank for the purpose of determining the current value of the Property and to pay all costs and fees in relation thereto (to the extent not restricted by any laws or regulations);
- (i) on receipt of a notice in writing from the Bank that in the opinion of the Bank any use by the Chargor of the Property or any part thereof or any building thereon whether by reason of over-crowding or for any other reason whatsoever is calculated to affect adversely the security of the Bank, discontinue such use forthwith;
- (j) in addition to and not in derogation of the agreements and stipulations implied, the obligations imposed and the rights created by law, custom and this Charge, and to the extent applicable, do or permit or procure the following:-
 - (i) during the term of this Charge, the Chargor will continue to maintain and cultivate the Property in a proper and workmanlike manner and following the methods of good husbandry and until this Charge be discharged, the Bank shall at all reasonable times be at liberty to enter upon the Property to view and inspect the state of maintenance or cultivation;
 - (ii) the Bank shall be at liberty to employ a visiting agent or agents or any other person or persons from time to time to enter into and inspect the Property and into any building or structure now or at any time hereafter erected thereon and may have access to any fixture thereon and to view and inspect the condition of repair thereof and to make a report thereon to the satisfaction of the Bank within such stipulated timeline therein at the cost and expense of the Chargor (to the extent not restricted by any laws or regulations) provided however that if the Bank should enter and repair the same, it shall not be liable as a chargee in possession;
 - (iii) during the term of this security, the Chargor will keep the Property clean, weeded and free from lalang and other undergrowth, and shall do the same upon receipt of any notice from the Bank to the satisfaction of the Bank within such stipulated timeline therein. In default whereof, it shall be lawful for (but not obligatory upon) the Bank to employ labourers, or workmen, for the purpose of keeping the Property clean weeded and free from lalang and other undergrowth PROVIDED ALWAYS that nothing in this Clause contained and no act of the Bank its servants or agents done in pursuance of the provisions of this Clause shall render the Bank liable as a chargee in possession.
- (k) deliver vacant possession of the Property to the Bank upon the expiration of the notice referred to in Clause 6.01 hereunder if the breach or default complained of in the said notice has not been rectified to the satisfaction of the Bank; and
- (l) observe and perform all the terms and conditions in the Security Documents.

5.02 NEGATIVE COVENANTS

The Chargor hereby covenants with the Bank that during the continuance of this Charge, the Chargor will not:

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- (a) assign, transfer, sell, charge or otherwise howsoever deal with the Chargor's rights, title and interest under the Property or any interest therein, or make the same subject to any charge, encumbrance, liability or lien whatsoever, or rescind, remove or amend any condition or restriction affecting the Property, without the written consent of the Bank first having been obtained;
- (b) lease, or agree to lease, or let out, or part with the possession of the Property, or grant any license or otherwise howsoever part with the possession, or make or accept the surrender of any lease whatsoever of, or in respect of the Property or any fixture, structure or any part thereof, to any person, firm, or company without the consent in writing of the Bank first having been obtained and it is hereby expressly agreed and declared that the provisions of Section 251 of the National Land Code⁵ (or any other provision of any land code or legislation similar in purpose and effect) shall not apply to this Charge;
- (c) alter, pull down, or remove any building or fixture now or at any time hereafter erected on or affixed to the Property or any part thereof, without the consent in writing of the Bank first having been obtained, and will forthwith replace or make good the same in the event of such alteration, pulling down or removal. Where it is intended that there is to be erected any building or buildings on the Property or that the Facility, or any part thereof, is to be utilised for the purpose thereof, the Chargor shall complete the erection of such building or buildings in accordance with the relevant approved plans of such competent authority or authorities necessary for the obtaining of and shall obtain a Certificate of Fitness for Occupation or Certificate of Completion and Compliance, as the case may be, not later than such date as the Bank may stipulate.

ARTICLE VI

REMEDIES OF THE BANK

6.01 EVENTS OF DEFAULT

The Chargor is deemed to have committed default if the Chargor commits, or threatens to commit, a breach of any of the covenants, undertakings, stipulations, terms, conditions, or provisions herein stipulated and without prejudice to the generality of the foregoing, upon the happening of any one or more of the following events:

- (a) the Chargor or the Customer defaults in the payment of any monies payable hereunder or any one or more of the Monthly Payments or any part thereof, or any other sums or moneys, or in the opinion of the Bank the conduct of the Chargor's or the Customer's account has been unsatisfactory; or
- (b) any of the Chargor's or the Customer's other indebtedness to the Bank or HSBC Bank Malaysia Berhad, or to any third party or parties becomes capable in accordance with the relevant terms thereof, of being declared due prematurely by reason of the Chargor's or the Customer's default, or the Chargor's or the Customer's failure to make any payment in respect thereof on the due date for each payment, or if due on demand when demanded, or

⁵ Section 251 of the National Land Code provides that, in respect of any charges created under the National Land Code, there shall be an implied agreement by the chargee that it will not (without reasonable cause) withhold its consent to the granting of any lease or tenancy by the chargor. There is no equivalent provision under the Sarawak Land Code (Sarawak Cap. 81) or the Sabah Land Ordinance (Sabah Cap. 68).

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the security for such indebtedness becomes enforceable, including the Chargor's or the Customer's failure to pay within the required period any credit/charge card debts incurred; or

- (c) any present or future security on or over the assets of the Chargor or the Customer or, where applicable, any Security Party becomes enforceable; or
- (d) if any one or more of the events of default enumerated in Clause 11.1 of the Business Premises Smart-i Facility Agreement shall occur; or
- (e) if the Chargor or the Customer commits a default of any term or condition, or provision of any of the Security Documents or any agreement, or security documents, or both (as the case may be) relating to other accounts maintained with the Bank, or financing facilities granted by the Bank to the Chargor, or the Customer or any other party in which the Chargor or the Customer is a guarantor or provider of any form of security; or
- (f) if any of the Security Documents shall be challenged with regards to its or their validity by any person, or if the Bank shall be of the opinion that its security created pursuant to this Charge is in jeopardy; or
- (g) if the Chargor or the Customer commits, or threatens to commit, a default under any of its contractual obligations with any other parties including the Bank with regard to his or its financing howsoever; or
- (h) if the Chargor or the Customer becomes insane, or shall die or be imprisoned; or
- (i) any representation or warranty made, whether express or implied, by the Chargor, or the Customer or the Security Party under this Charge, or under the Security Documents or any other agreement, notice, certificate, letter or other document is incorrect or misleading (as determined by the Bank) in a material way as of the date on which it was made, or deemed to have been made, or any of the agreements, covenants, stipulations, terms and conditions to be observed or performed; or
- (j) if the Chargor or the Customer fails to comply with any notice given under this Charge requiring him to remedy any breach of the terms of this Charge within the time stipulated therefor; or
- (k) if any representation or warranty made or implied pursuant to any provisions of Article III herein or any other provision of this Charge or the other Security Documents or pursuant to any notice, certificate, letter or other document delivered pursuant to the terms of this Charge is incorrect or misleading in a material way as of the date at which it was made or deemed to have been made; or
- (l) for any reason any guarantee or security given to the Bank for the payment of the Facility shall be terminated, or shall lapse for any reason whatsoever, or if the guarantor and/or the Security Party shall be in default under the terms of the guarantee and/or security document, or dies, or becomes of unsound mind, or is wound-up or commits any act of bankruptcy; or
- (m) in the Bank's opinion, there is any change or threatened change in circumstances which would materially and adversely affect the Chargor's or the Customer's business or financial

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condition, or the Chargor's or the Customer's ability to perform the Chargor's or the Customer's obligations under this Charge, or any other agreement with the Bank; or

- (n) by reason of any change after the date of this Charge or other Security Documents in circumstances, applicable law, regulation or regulatory requirement or, in the interpretation or application thereof of any governmental or other authority charged with the administration thereof, it shall become unlawful for the Bank to comply with its obligations herein or to continue to make available the Facility; or
- (o) an event has, or events have occurred, or a situation exists, which could or might, in the opinion of the Bank, prejudice the ability of the Chargor or the Customer or the Security Party to perform its obligations under this Charge or the Security Documents in accordance with their respective terms; or
- (p) the Chargor or the Customer or the Security Party ceases, or threatens to cease carrying on its business, or transfer, or dispose, or intend to so transfer or dispose of a substantial part of its assets, or change or intend to change the nature or scope of its business as now conducted, or there shall occur a material adverse change in the business, assets, financial position of the Chargor or the Customer or any of the Security Party; or
- (q) it is, or will become unlawful for the Chargor, or the Customer or any Security Party to perform or comply with any one or more of the obligations of the Chargor or the Customer or the Security Party, as the case may be, under this Charge or the Security Documents; or
- (r) a notice or proposal for compulsory acquisition of the Property, or any other asset or property that is the subject matter of any one or more of the Security Documents, or any part thereof, shall be issued or made under or by virtue of any act or other statutory provision; or
- (s) where applicable, the Chargor, or the Customer or any Security Party shall enter into liquidation, whether compulsorily or voluntarily, or if a liquidator or a receiver and/or manager or judicial manager shall be appointed in respect of the undertaking or property of the Chargor, or the Customer or such Security Party or any part thereof; or
- (t) if a distress or execution or other process of a court of competent jurisdiction is levied upon or issued against any property of the Chargor or the Customer, and such distress, execution or other process, as the case may be, is not satisfied by the Chargor or the Customer within fourteen (14) days from the date thereof; or
- (u) if a receiver, judicial manager, nominee, trustee, manager or other similar officer shall be appointed on the whole or any part or parts thereof on the Chargor's or the Customer's assets, or undertakings or properties pursuant to any debenture or other document, where applicable; or
- (v) where applicable, if the Chargor or the Customer is unable to pay his debts within the meaning of Section 466 of the Companies Act, 2016 or any statutory modification or re-enactment thereof, or suspend payments thereof, or the Chargor or the Customer or the Security Party commits any act of bankruptcy or, where applicable, has a winding up petition presented against it or is adjudged a bankrupt or, where applicable, is wound up or is declared a bankrupt or enters into any composition or arrangement with or for the benefit

of the creditors of the Chargor or the Customer or allows any judgment against the Chargor or the Customer to remain unsatisfied for a period of fourteen (14) days; or

- (w) if default is made in effecting, maintaining or renewing any takaful certificates or plans required to be effected, maintained or renewed by the Chargor or the Customer; or
- (x) if the Chargor or the Customer allows any subsequent charge to be registered against the Property without the prior written consent of the Bank; or
- (y) if the Chargor or the Customer is/are using or allowing the Property to be used for any Non-Permitted Purpose.

6.02 RIGHTS OF THE BANK ON CHARGOR'S DEFAULT

If the Chargor shall commit a default pursuant to Clause 6.01 hereof, or if any of the events stipulated in Clause 6.01 hereof shall happen, and which is capable of remedy is not remedied within a period of one (1) month from the date of notice by the Bank requesting remedy of the same, or is not remedied within the time specifically stipulated therefor which shall not be less than one (1) month (if any) in respect of the event in question, the Indebtedness shall become and be deemed to be, notwithstanding anything contained herein to the contrary, forthwith due and payable and whereupon, the Bank shall be entitled forthwith to take such action as may be appropriate against the Chargor.

Upon the expiry of the aforesaid period of one (1) month, the Bank shall be entitled to serve the relevant statutory notice of demand giving the Chargor a period of one (1) month to remedy the breach or default in question, PROVIDED ALWAYS THAT in the event a longer notice period is required under the law for the time being, such longer notice period shall be given.

6.03 PROCEEDS OF SALE

All moneys received or recovered by the Bank arising from the sale of the Property, and/or other proceedings instituted or steps taken under this Charge shall, subject to statutory priorities (if any), be applied in the following manner and order-

- FIRSTLY in payment of all costs, charges, expenses, taxes of and incidental to the enforcement of this Charge or any Security Documents;
- SECONDLY in or towards payment to the Bank of all Lease Rentals then accrued and remaining unpaid from the Customer under the Business Premises Smart-i Facility Agreement;
- THIRDLY in or towards payment to the Bank of all the balance of the Purchase Price remaining unpaid from the Customer under the Business Premises Smart-i Facility Agreement;
- FOURTHLY in or towards payment to the Bank of all monies due and payable under any other facility granted by the Bank to the Customer, the Chargor or any Security Party,
- FIFTHLY to pay to such persons entitled thereto the surplus, if any.

PROVIDED ALWAYS THAT if the Bank shall be of the opinion that the sum so recovered may prove deficient, payment may be made on account of the Indebtedness or any part thereof before any other sum or sums owing to the Bank has or have been paid but such alteration in the order of payment shall not prejudice the right of the Bank to receive the full amount to which it would have been entitled if the primary order of payment had been observed or any such amount which the sum ultimately realised may be insufficient to pay.

6.04 DEFICIENCY IN PROCEEDS OF SALE

If the amount realised by the Bank pursuant to the proceedings referred to in Clause 6.03 hereof after the deductions thereof is less than the amount due and payable to the Bank, and whether at such sale the Bank is the purchaser or otherwise, the Chargor shall pay to the Bank the difference between the amount due and the amount so realised.

6.05 BANK'S RIGHT TO COMMENCE FORECLOSURE AND LEGAL PROCEEDINGS CONCURRENTLY

Notwithstanding any provision hereof, it is hereby expressly agreed that upon the occurrence of an Event of Default, the Bank shall thereafter have the right to exercise all or any of the remedies available, whether under this Charge, the Business Premises Smart-i Facility Agreement or the other Security Documents, or by statute or otherwise and shall be entitled to exercise such remedies concurrently, including pursuing all remedies of sale or possession pursuant to the relevant land code or legislation and civil suits to recover all monies due and owing to the Bank.

6.06 CUSTODY OF DOCUMENT

The Bank shall have the custody or possession of the issue document of title in respect of the Property for as long as the Indebtedness remains payable.

ARTICLE VII

TAKAFUL

7.01 TAKAFUL ON PROPERTY

The Chargor shall, so long as the Indebtedness has not been paid in full, procure takaful protection over the Property and any building or fixture or structure whatsoever, now or at any time thereafter erected on or affixed to the Property in the name of the Chargor, against loss or damage by fire, lightning, riot and strike, malicious damage, explosion and other relevant risks up to the replacement cost in the name of the Chargor, with the interest in the takaful certificate and all future certificates vested in the name of the Bank as chargee and lost payee, and shall from time to time pay the contribution thereon and deliver the receipts for the same to the Bank.

The Chargor shall not, except at the request or with the consent in writing of the Bank, effect or keep on foot any takaful against any risk in respect of the Property when the Bank has effected or has kept on foot such takaful.

7.02 TAKAFUL MORTGAGE PLAN

Whenever required by the Bank, the Chargor shall take up and maintain a takaful mortgage plan as the Bank may decide, or any other plan guaranteeing the payment of the Indebtedness.

7.03 TERMS AND FORM OF TAKAFUL

Takaful certificates or plans taken out or effected under this Charge shall be generally in form and upon terms acceptable to the Bank, and without limitation, shall be subject to the following:

- (a) all takaful certificates or plans shall be taken out in the name of the Chargor and shall be expressly and specifically assigned to and for the benefit of the Bank;
- (b) the Chargor shall obtain takaful certificates or plans from a licensed and reputable takaful operator. All takaful certificates or plans shall be valued certificates or plans and shall provide that they are payable in Ringgit Malaysia.

7.04 ASSIGNMENT OF TAKAFUL

The Chargor hereby irrevocably assigns to the Bank all the Chargor's rights, title and interest in, to and under all takaful certificates or plans aforesaid, including all proceeds and all the benefits thereof and all claims of whatsoever nature thereunder and the rights under such certificates or plans.

7.05 EVIDENCE OF TAKAFUL

On the date of execution of this Charge or at such later date as the Bank may require, the Chargor shall furnish the Bank with the originals of all relevant takaful certificates or plans assigned hereunder and all binders and certified copies of cover notes or other written evidence satisfactory to the Bank, showing that the required takaful of each type has been taken out. No changes shall be made in any takaful certificate without the Bank's prior written consent. The Chargor shall promptly furnish the Bank with the duplicate of all certificates or plans assigned hereunder, cover notes and renewals thereof.

7.06 THE BANK'S RIGHT TO COLLECT PROCEEDS AND PROCURE TAKAFUL

The Bank is hereby authorised (but not required to), in its own name or in the name of the Chargor, to demand, collect, give receipts for and prosecute all necessary actions in the courts to recover any and all takaful contributions that may become due and payable under any relevant takaful certificates or plans. If the Chargor at any time fails to pay or cause to be paid when due any takaful contributions or other costs related to obtaining or maintaining the takaful certificates or plans required hereunder, or to obtain any required takaful certificates or plans, or to deliver to the Bank all certificates, plans, contracts of takaful, binders and cover notes and all renewals thereof as required by the provisions of this Charge, the Bank may (but is not required to) procure such takaful or pay unpaid contributions, and other costs. All expenditure incurred thereby shall be for the account of the Chargor and shall be deemed to be and form part of the Indebtedness.

7.07 COMPLIANCE WITH TAKAFUL TERMS, LAWS, REGULATIONS ETC.

The Chargor shall not do any act, allow or permit any act to be done (whether by omission or commission), whereby any relevant takaful certificates or plans may become void or voidable, or

which may become a ground of repudiation by the takaful operators or allow the Property to be used in any manner not permitted under the relevant takaful certificates or plans.

7.08 APPLICATION OF TAKAFUL PROCEEDS

The Bank may require any money received on any takaful relating to the Property, whether effected by the Bank or by the Chargor to be applied in or towards making good the loss or damage in respect of which the money is received or receivable or in or towards the discharge of the Indebtedness or any other moneys secured hereby, and the Chargor shall hold any money received on such takaful in trust for the Bank, and the Bank may receive and give a good discharge for any such moneys. In the event of all such moneys as abovesaid being less than the amount due to the Bank hereunder, the Chargor shall forthwith pay to the Bank the difference between the amount due and the amount so received.

ARTICLE VIII

GOVERNMENT ACQUISITION

8.01 GOVERNMENT ACQUISITION

In the event that the Property, or any part thereof, shall at any time become the subject matter of, or be included in, any notice, notification or declaration concerning or relating to acquisition by government, or any governmental authority or any enquiry or proceedings in respect thereof, or if any government or governmental authority shall condemn, nationalise, seize or otherwise expropriate all or any substantial part of the Property or other assets of the Chargor, or any action that would prevent the Chargor or its officers from carrying on the operations of the Chargor, as the case may be, the Chargor shall forthwith inform the Bank of the same and shall forward to the Bank a copy or copies of any such notice, notification or declaration as soon as the same shall be delivered to or served on the Chargor.

8.02 POWER TO ENGAGE ADVISERS

The Bank shall be entitled to engage such advisers and agents (including solicitors and valuers) as it may think fit for the purpose of appearing or attending at or advising upon any enquiry or proceedings affecting concerning or relating to any such acquisition, expropriation or any of the matters referred to in Clause 8.01 hereof at the expense of the Chargor.

8.03 APPLICATION OF COMPENSATION PROCEEDS

All moneys received as or by way of compensation in respect of any of the matters referred to in Clause 8.01 hereof shall be applied in or towards the discharge or payment of any money or liability secured by this Charge and the Security Documents and the Chargor shall, and hereby declares that it will hold all such moneys if paid to and received by it hereunder in trust for the Bank and the Chargor agrees and confirms that the Bank may receive and give a good discharge for all such moneys. In the event of all such moneys as abovesaid being less than the amount due to the Bank hereunder, the Chargor shall forthwith pay to the Bank the difference between the amount due and the amount so received.

ARTICLE IX

DISCHARGE

9.01 DISCHARGE OF INDEBTEDNESS

Subject to Clause 10.06 hereof, it is hereby agreed that upon satisfaction or discharge by the payment or otherwise of the whole of the Indebtedness all the provisions herein contained shall cease to be of any effect but without prejudice to the Bank's rights and remedies against the Chargor in respect of any antecedent claim or breach of covenant.

ARTICLE X

GENERAL/MISCELLANEOUS

10.01 TIME

Time shall be of the essence of this Charge, but no failure or delay on the part of the Bank in exercising nor any omission to exercise any right, power, privilege or remedy accruing to the Bank under this Charge or any of the Security Documents shall impair any such right, power, privilege, or remedy or be construed as a waiver thereof or an agreement to any such default, nor shall any action by the Bank in respect of any default or any acquiescence in any such default, affect or impair any right, power, privilege or remedy of the Bank in respect of any other or subsequent default.

10.02 RECONSTRUCTION OF THE BANK OR THE CHARGOR OR THE CUSTOMER

The security, liabilities and obligations created by this Charge shall continue to be valid and binding for all purposes whatsoever, notwithstanding any change by amalgamation, reconstruction or otherwise which may be made in the constitution of the Bank or the Chargor or the Customer, or any one or more of them, and it is expressly declared that no change whatsoever in relation to or affecting the Bank or the Chargor or the Customer, or any one or more of them, shall in any way affect the security, liabilities and obligations created hereunder in relation to any transaction whatsoever whether past present or future.

10.03 GENERAL INDEMNITY

The Chargor shall at all times hereafter save harmless and keep the Bank indemnified against all actions, proceedings, claims, demands, penalties, costs and expenses which may be brought or made against, or incurred by the Bank by reason or on account of the non-observance of all or any of the stipulations on the part of the Chargor contained in this Charge or otherwise howsoever.

10.04 STAMP DUTIES AND REGISTRATION FEES

Save and except provided otherwise, the Chargor shall pay all stamp duties, legal fees, expenses or other charges payable on or incidental to the execution of this Charge, and the subsequent discharge of this Charge shall be prepared by the Bank's solicitors, at the relevant time, (including any penalties for late payment thereof attributable to default by the Chargor), including any documents related thereto, and the Chargor shall reimburse the Bank for any such duties, fees or other charges paid by the Bank.

10.05 MODIFICATION AND INDULGENCE

The Bank may at any time and without in any way affecting the security hereby created, with notice (where applicable) to the Chargor :

- (a) vary, modify, restructure, reduce, increase, suspend, cancel or terminate the Facility or any other facility granted to the Customer, and may open and/or continue any accounts with the Customer at any branch or branches of the Bank, Provided Always that the Bank may charge different Lease Rental rates other than the rates contained herein and all covenants as to the Lease Rental rates hereunder shall apply to the varied or increased Facility or other credit or facility;
- (b) grant to the Chargor, any party to the Security Documents, or any other surety or guarantor any time or indulgence or waiver or consent or release;
- (c) deal with, exchange, release, modify or abstain from perfecting or enforcing any security or other guarantee or right it may now or at any time hereafter or from time to time have from or against the Customer, the Chargor and/or any other party;
- (d) release or discharge or compound or enter into any scheme of arrangement or deed of composition with the Customer and/or the Chargor and/or any other party; and

10.06 CONSOLIDATION AND COMBINATION OF ACCOUNTS

- (a) Any provisions under the relevant land code or other legislation which has the effect of restricting the right of consolidation shall not apply to this Charge.
- (b) It is expressly agreed and declared that, unless the Bank otherwise agrees, the Chargor shall not be entitled to redeem or require the release or discharge of any security given by the Chargor to the Bank and whether given now or hereafter, except on payment by the Chargor of not only all moneys referred to herein but also all moneys whatsoever and howsoever due and owing from the Customer or the Chargor to the Bank under any other account whether as a customer, guarantor, assignor or howsoever or otherwise with the Bank, and without prejudice to the generality of the foregoing, it is hereby expressly agreed and declared that unless the Bank otherwise agrees in writing, this Charge created herein shall not be terminated except on payment:
 - (i) of all the Indebtedness; and
 - (ii) of all other moneys due and owing to the Bank by the Customer and/or the Chargor under any account with the Bank whether or not and howsoever secured; and
 - (iii) of all moneys secured by any other security created by the Chargor or by any person through whom the Chargor claims in favour of or vested in the Bank.
- (c) The Bank further reserves the right at any time, with notice to the Chargor, to combine or consolidate all or any of the Chargor's accounts including jointly with others (of any nature whatsoever and wheresoever situate, whether in Ringgit Malaysia or any other currency) with the Bank, to place a hold on the credit balances in such accounts which the Bank estimates in good faith to be sufficient, including taking into account exchange rate

fluctuations (if applicable) up to the amount due and payable by the Chargor to the Bank hereunder and under the Security Documents, and after seven (7) days' prior notice to the Chargor, to set-off or apply and transfer such credit balance (even if it involves uplifting and withdrawing any deposit/investment before maturity date and where necessary, converting the same into Ringgit Malaysia at the prevailing spot rate of exchange on the day of conversion) in or towards satisfaction of money, obligations and liabilities due and payable to the Bank.

10.07 COSTS

Save and except provided otherwise, the Chargor shall be liable to pay all fees and expenses in connection with or incidental to this Charge (and the subsequent discharge of this Charge to be prepared by the Bank's solicitors, at the relevant time) including the Bank's solicitors' fee (on a solicitor and client basis) in connection with the preparation and execution of this Charge and the documents related thereto. If the Indebtedness or any part thereof shall be required to be recovered through any process of law, or if the Indebtedness or any part thereof shall be placed in the hands of solicitors for collection, the Chargor shall pay (in addition to the moneys then due and payable hereunder) the Bank's solicitors' fees (on a solicitor and client basis) and any other fees and expenses incurred in respect of such collection and the account of the Chargor shall be debited accordingly.

10.08 CUMULATIVE REMEDIES

The remedies provided herein are cumulative and are not exclusive of any other remedies provided by law.

10.09 EXPENDITURE INCURRED BY THE BANK FOR AND ON BEHALF OF THE CHARGOR

All moneys expended by the Bank hereunder from time to time for and on behalf of the Chargor (relating to takaful, quit rent, assessment, rates, taxes, repairs, valuation, legal costs, stamp duties, registration fees and all other outgoings including any expenses incurred by the Bank in visiting, inspecting or reporting on the business of the Chargor by the Bank's agent and or consultants) shall be recoverable and be repaid by the Chargor on demand by the Bank (to the extent not restricted by any laws or regulations). In default of such repayment, such moneys shall be deemed to form part of the Indebtedness and to be secured accordingly hereunder and the account of the Chargor shall be debited accordingly.

10.10 RESTRICTION ON PRODUCTION OF DOCUMENTS

Insofar as the laws shall permit the application of Section 244(2) of the National Land Code 1965⁶ (or any other provision of any land code or legislation similar in purpose and effect) shall be restricted to instances where the production of any document is required for purposes of any act or matter initiated or instituted by the Government or any government authority department or officer, and not where such document is required for any purpose or to effect any transaction conducted or initiated by the Chargor, AND nothing contained or expressed in the said Section 244(2) (or any

⁶ Under Section 244(2) of the National Land Code 1965, a Chargee having the custody of any issue document of title or duplicate lease shall, on the written request of the proprietor or lessee and within such reasonable period as specified in the request, produce the issue document of title or duplicate lease at any Registry or Land Office so specified for any purpose required under the National Land Code. There is no equivalent provision under the Sarawak Land Code (Sarawak Cap. 81) or the Sabah Land Ordinance (Sabah Cap. 68).

other relevant provision) shall be construed as or deemed to be consent by the Bank (whether express or implied) to any act or transaction requiring the consent of the Bank.

10.11 TRANSFER OF SECURITY

- (a) The Bank shall be at liberty at any time (with notice to the Chargor, to the extent it is required by law) transfer the benefit of this Charge to any person at any time as the Bank deems fit provided always that the interests and obligations of the Chargor are not adversely affected in any material respect by such transfer as of the date of transfer.
- (b) Any statement or recital in the documents of transfer of the amount then due under and by virtue of this Charge shall be prima facie evidence⁷ that such amount is in fact due and shall be conclusive and binding on the Chargor.

10.12 CERTIFICATE OF INDEBTEDNESS

It is hereby agreed that any admission or acknowledgement in writing by the Customer and/or Chargor, or by any person authorised on behalf of the Customer and/or Chargor, or a judgment (by default or otherwise obtained against the Customer and/or Chargor), or a certificate/statement of account in writing showing the Indebtedness of the Customer and/or Chargor which is duly certified by an authorised officer of the Bank, shall be binding and conclusive evidence against the Chargor for whatever purpose including as being conclusive evidence of the Chargor's indebtedness in a court of law.

10.13 SEVERABILITY

Any term, condition, stipulation, provision, covenant or undertaking contained herein which is illegal, prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such illegality, prohibition or unenforceability without invalidating the remaining provisions hereof and such illegality, prohibition or unenforceability in any jurisdiction shall not invalidate or render illegal, void or unenforceable any such term, condition, stipulation, provision, covenant or undertaking in any other jurisdiction.

10.14 CROSS-DEFAULT

Notwithstanding any other provisions herein:

- (a) if there shall be a default of any sums payable by the Customer, the Chargor and/or by a Security Party for any other facilities granted to either the Customer, the Chargor or the Security Party by the Bank or by HSBC Bank Malaysia Berhad; or
- (b) if there shall be a default by the Customer, the Chargor and/or such Security Party for any banking or financing facilities granted to the Customer, the Chargor or the Security Party by any other financial institution or other party;

whether such sums are due jointly or individually by the Customer, the Chargor or such Security Party, then in such event, the Bank shall be entitled to exercise its rights under Clause 6.02 herein.

⁷ "Prima facie evidence" means sufficient proof.

10.15 SUSPENSE ACCOUNT

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

10.16 ALL PAYMENTS RECEIVED TO BE PAYMENT IN GROSS

All moneys received by the Bank from any person or estate capable of being applied in reduction of the Indebtedness shall be regarded for all purpose as payments in gross, and if a receiving order shall be made against any person liable to the Bank, the Bank may prove for the whole of the moneys then owing and no money received under such proof shall be considered as having been received, and the full amount owing shall be payable until the Bank has received from all sources one hundred sen in the Ringgit Malaysia, and if the amount ultimately received by the Bank exceeds the amount of the ultimate balance owing to the Bank, the excess only over such ultimate balance shall be repaid to the person or party on whose account the same shall have been received by the Bank.

10.17 VALUATION OF THE PROPERTY

The Chargor hereby authorises the Bank to value the Property annually or at such intervals as the Bank shall decide, by any valuer or any officer of the Bank or any person of the Bank's choice, and the Chargor shall provide all assistance to the bank for such purposes, including but not limited to granting access to the Property and any related documents required by the Bank to the Bank's officers and/or representatives. In the event such valuation reveals that the forced sale value of the Property is lower than the value at the date hereof, the Bank shall be entitled to require the Chargor within fourteen (14) days from the date of the notice from the Bank to charge, pledge, mortgage or deposit with the Bank, the Chargor's stock and shares, assets, movable property and/or the issue document of title, if any, of all immovable properties vested in the Chargor of such value as the Bank may from time to time require for such tenure as the Bank so requires by way of further and additional security for the total amount owing for the time being under this Charge.

All costs and expenses incurred relating to this valuation shall be borne by the Customer and/or the Chargor (to the extent not restricted by any laws or regulations) and shall be repaid by the Customer and/or the Chargor on demand by the Bank. In default of such repayment, such moneys shall be deemed to form part of the Indebtedness and to be secured accordingly hereunder and the account of the Customer and/or the Chargor shall be debited accordingly.

10.18 EXTENT OF CHARGE

This Charge binds the heirs, assigns, personal representatives and successors-in-title, as the case may be, of the parties hereto.

10.19 EFFECTIVE DATE

The parties hereto agree that this Charge shall come into force on the date as stated above irrespective of the diverse dates upon which they may have each executed this Charge.

10.20 SECTION 57 OF THE ISLAMIC FINANCIAL SERVICES ACT 2013 AND OTHER LAWS AND GUIDELINES

The Chargor understands and accepts that the granting of the Facility under this Charge is subject to legislation which have imposed certain restrictions and prohibitions on the Bank providing banking facilities (i) to persons related to officers, directors or employees of the Bank and that of the holding company of the Bank's parent company, The Hongkong And Shanghai Banking Corporation Limited, or (ii) to directors of any entity within the HSBC Group. These are (i) Section 57 of the Islamic Financial Services Act, 2013 ("IFSA") read with the Guidelines on Credit Transactions and Exposure with Connected Parties⁸ issued by Bank Negara Malaysia or in accordance with the prevailing guidelines, as the same may be replaced, amended or updated from time to time (the "Restrictions"), (ii) Part 8 of the Banking (Exposure Limits) Rules (Cap. 155S) of the Hong Kong Special Administrative Region⁹, the law of the place in which the holding company of the Bank's parent company is located, and (iii) Sections 224 and 225 of the Companies Act 2016¹⁰, as the same may be amended, re-enacted or replaced (collectively, the "Prohibitions").

The Chargor represents and warrants to the Bank that the Chargor : (a) is/are not in any way connected to any of the officers, directors, shareholders or service providers (including professional services) or landlords/lessors/vendors or purchasers of real estate or capitalised leases of the Bank and/or the Bank's parent company and/or the holding company of the Bank's parent company or if the Chargor is so connected, that the Chargor has informed the Bank of the same, and (b) do(es) not hold directorships within the meaning of the Restrictions and/or Prohibitions. The Chargor shall immediately inform the Bank if the Chargor becomes an individual so connected or prohibited under paragraphs (a) and/or (b). The Chargor further agrees that it shall be an Event of Default in the event the Facility should at any time, whether at the time of granting or after the time of granting, be in contravention of the Prohibitions, and that the Bank reserves the right to cancel the Facility if it contravenes the Restrictions and/or Prohibitions.

Explanatory Notes:

- 1. Please note that for the purposes of the IFSA, "officer" encompasses "any employee or the chief executive officer of the body corporate or unincorporated" and relative to an individual includes, "(a) the spouse of the individual; (b) the brother or sister of the individual, or of the spouse of the individual; (c) any lineal ascendant or descendant of the individual, or of the spouse of the individual; (d) the spouse of any individual referred to in paragraph (b) or (c); (e) any lineal descendant of an individual referred to in paragraph (b) or (d); (f) any uncle, aunt or cousin of the individual, or of the spouse of the individual; or (g) any spouse, or any lineal ascendant or descendant, of an individual referred to in paragraph (f)."*

"HSBC Group" refers to HSBC Holdings plc and its subsidiaries, and companies in which any of the aforesaid has an associate interest.

⁸ See Footnote 3 above

⁹ See Footnote 4 above

¹⁰ See Footnotes 1 and 2 above for provisions on Sections 224 and 225 of the Companies Act 2016

10.21 COLLECTION, PROCESSING AND SHARING OF CUSTOMER INFORMATION

- (a) The Bank's Generic Terms & Conditions ("GTC") (available at www.hsbcamanah.com.my or upon request) on "Collection, Processing and Sharing of Customer Information" and any subsequent alteration, variation or substitution to the same, shall be incorporated herein.
- (b) The Customer hereby also agrees to the following:-
- (i) the Bank carrying out credit checks and obtaining credit reports and information on the Customer and also on all guarantors and Security Party (as applicable) (collectively, "Data Subjects") from time to time from the Credit Bureau Malaysia and any other registered credit reporting agencies registered under the Credit Reporting Agencies Act 2010 (as listed on the Bank's website at www.hsbcamanah.com.my);
 - (ii) the Credit Bureau Malaysia and any other credit reporting agencies registered under the Credit Reporting Agencies Act 2010 (as listed on the Bank's website at www.hsbcamanah.com.my) sourcing and retaining information on the Customer and all Data Subjects from any available data source, and disclosing to the Bank any such information as may be requested by the Bank.

The Customer warrants that the Customer has been irrevocably authorised by the Data Subjects to give this consent on their behalf.

- (c) The Bank may appoint a debt collection agency to collect the amount due and payable by the Customer hereunder and under the Security Documents, and/or to sell any non-performing financing to third parties and thereby reserves the right at any time in its absolute discretion, without further notice or reference to the Customer to disclose any relevant information relating to the Facility to the said agency and/or third parties.

10.22 CHANGES IN LAW

Notwithstanding any provision to the contrary herein, in the event that by reason of the enactment of, or the making of any new law, or any change in any applicable law, regulation or regulatory requirement or in the interpretation or application thereof, or the making of any request or direction from or requirement of Bank Negara Malaysia or other fiscal or monetary authority (whether or not having the force of law), the Bank shall be of the opinion that it has or will become unlawful or it is otherwise prohibited or prevented for it to maintain or give effect to all or any of its obligations as contemplated by this Charge and or any of the other Security Documents then, notwithstanding any other provisions herein, the Chargor shall on demand forthwith pay the Indebtedness in full together with any other amount payable thereunder to the Bank.

10.23 INDEPENDENT PAYMENT OBLIGATIONS

It is hereby expressly agreed and declared by the Chargor that each of its obligations to pay under any of the provisions of this Charge, or where appropriate, any of the Security Documents shall constitute separate and independent obligations, shall give rise to separate and independent causes of action, and shall apply irrespective of any waiver or indulgence granted by the Bank in respect of any other obligation, and shall remain in full force and effect despite any judgment, order, claim

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or proof for a liquidated amount in respect of some other obligation and may be relied upon and enforced by the Bank independently of or simultaneously with or without having to commence any other action under such obligations or under any of the Security Documents, or without having first exhausted any remedy or without having first sold or disposed of any assets, properties or undertaking which may be provided as security to the Bank from time to time.

10.24 CONDITION OF DISCHARGE OR RELEASE OF CHARGOR

Any settlement or discharge between the Bank and the Chargor shall be conditional upon no security or payment to the Bank by the Chargor or any other person being invalidated for any reason whatsoever, or being avoided or refused or set aside by virtue of any provision or enactment or laws relating to bankruptcy, insolvency or liquidation for the time being or from time to time in force, or by virtue of any obligation to give effect to any preference or priority, and the Bank shall be entitled to recover the value or amount of any such security or payment from the Chargor subsequently as if such settlement or discharge had not occurred.

10.25 AMENDMENTS AND ADDITIONAL TERMS

The terms of this Charge may from time to time be varied or amended in writing by the Bank and shall be effective without the necessity of having to enter into any formal instrument or supplemental document, and the relevant provisions of this Charge shall be deemed to have been amended or varied accordingly and read and construed as if such amendments or variations had been incorporated in and had formed part of this instrument at the time of execution hereof upon notice to the Chargor.

ARTICLE XI

LAW, NOTICE AND LEGAL PROCESS

11.01 LAW

The parties hereto agree that this Charge shall be governed by the laws of Malaysia and agree to submit to the jurisdiction of the Courts of Malaysia and further agree that service of any Legal Process may be effected in the manner set out in Clause 11.02 hereof.

11.02 SERVICE OF NOTICES/LEGAL PROCESS

- (a) The service of any notice to be given or issued hereunder; or any Legal Process by the Bank to the Chargor may be given by hand, ordinary registered post (either AR or non AR registered post) sent to the Chargor's Address for Service hereto or to the Chargor's address last known to the Bank, and such notice or Legal Process shall be deemed to have been duly served three (3) days after posting or despatch to the courier service provider (as the case may be) and if delivered by hand, on the day it was delivered.
- (b) No change in the Address for Service howsoever brought about shall be effective or binding on the Bank unless the Chargor has given to the Bank actual notice of the change of Address for Service and nothing done in reliance above shall be affected or prejudiced by any subsequent change in the Address for Service over which the Bank has no actual knowledge of at the time the act or thing was done or carried out.

- (c) The affidavit or oral evidence of the Bank or his servant or agent, as to the delivery, posting or service of any notice or document required or authorised to be served, given or sent by this Charge is admissible as ¹¹*prima facie* proof of the service, giving or sending of the notice or document.
- (d) In the case of the death of the Chargor and until receipt by the Bank of notice in writing of the grant of probate of the will or administration of the estate of the deceased any notice or demand by the Bank sent in the manner provided for in this Charge to the aforesaid address to the deceased or his personal representatives at the deceased's last known address or as stated herein this Charge shall for all purposes be deemed to be sufficient notice or demand by the Bank to the deceased and his personal representatives and shall be as effectual as if the deceased was still living.

11.03 FINANCIAL CRIME RISK MANAGEMENT ACTIVITY

- (a) At all times during the Tenure, the Customer shall ensure that the Customer has never and would not:
 - (i) engage, directly or indirectly, in a transaction that involves proceeds of any unlawful activity;
 - (ii) acquire, receive, possess, disguise, transfer, convert, exchange, carry, dispose, use, remove from or bring into Malaysia proceeds of any unlawful activity; or
 - (iii) conceal, disguise or impede the establishment of the true nature, origin, location, movement, disposition, title of, rights with respect to, or ownership of, proceeds of any unlawful activity.
- (b) In any event, the Customer shall ensure that the Facility shall not be used for any purpose that may contravene any Shariah principles or for any illegal activities as stipulated under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001¹².
- (c) The operations of the Chargor's company/ business, and of the Chargor's subsidiaries and their affiliates, are and have been conducted at all times in material compliance with applicable financial recordkeeping and reporting requirements, and the money laundering statutes, and the rules and regulations thereunder, and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency having jurisdiction over the Chargor, any of the Chargor's subsidiaries or any of their affiliates (collectively, the "Money Laundering Laws"), and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Chargor, any of the Chargor's subsidiaries or any of their affiliates with respect to the Money Laundering Laws is pending or, to the best of the Chargor's knowledge, threatened.
- (d) The Bank's GTC (available at www.hsbcamanah.com.my or upon request) on "Financial Crime Risk Management Activity" or any equivalent and/or relevant clause(s) which may be subsequently inserted to alter, modify, supplement, vary or substitute the same, shall be incorporated into this Charge.

¹¹ "Prima facie proof" means sufficient proof.

¹² For more information, please visit the website of BNM on this topic at <http://amlcft.bnm.gov.my/>). The latest Act may also be downloaded from the said website.

Reference to “Customer” in the GTC shall be taken and read as referring to the Chargor in this Charge.

11.04 TAX COMPLIANCE

The Bank’s GTC (available at www.hsbcamanah.com.my or upon request) on “Tax Compliance” or any equivalent and/or relevant clause(s) which may be subsequently inserted to alter, modify, supplement, vary or substitute the same, shall be incorporated into this Charge.

Reference to “Customer” in the GTC shall be taken and read as referring to the Chargor in this Charge.

11.05 ANTI-BRIBERY

Neither the Chargor and/or any of its affiliates, nor, to the Chargor’s knowledge, any director, partner, officer, agent, employee or other person acting on behalf of the Chargor or any of its affiliates is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of any applicable anti-bribery law, including but not limited to, the Malaysian Anti-Corruption Commission Act 2009¹³ (the “**MACCA**”), the United Kingdom Bribery Act 2010¹⁴ (the “**UK Bribery Act**”) and the U.S. Foreign Corrupt Practices Act of 1977¹⁵ (the “**FCPA**”). Furthermore, the Chargor and, to the Chargor’s knowledge, its affiliates have conducted their businesses in compliance with the MACCA, the UK Bribery Act, the FCPA and similar laws, rules or regulations and have instituted and maintained policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

11.06 SANCTIONS

Neither the Chargor and/or any of its subsidiaries, nor, any of the Chargor’s/its subsidiaries’ director or partner or officer or employee, agent, or affiliate, is/are an individual or entity (“Person”) that is, or is owned or controlled by Persons that are, (i) the target or subject of any sanctions administered or enforced by the US Department of the Treasury’s Office of Foreign Assets Control, the US Department of State, the United Nations Security Council, the European Union, Her Majesty’s Treasury and/or Bank Negara Malaysia (collectively, “**Sanctions**”), or (ii) located, organised or resident in a country or territory that is, or whose government is, the target or subject of Sanctions, including, without limitation, currently the Crimea region, Cuba, Iran, North Korea, Sudan and Syria.

11.07 FOREIGN EXCHANGE ADMINISTRATION RULES

The Chargor confirms and warrants that the Chargor shall, at all material times, be in compliance with the Foreign Exchange Administration Rules¹⁶ and/or other applicable rules and regulations

¹³ Please get the latest MACCA from the website of Malaysia Anti-Corruption Commission (<https://www.sprm.gov.my>) by clicking on the “Education” tab.

¹⁴ Please get the latest Bribery Act 2010 and Bribery Act 2010 Guidance from the website of the United Kingdom Ministry of Justice (<https://www.gov.uk/government/organisations/ministry-of-justice>).

¹⁵ Please get the latest U.S. Foreign Corrupt Practices Act 1977 and the FCPA Guide from the website of the United States Department of Justice (<https://www.justice.gov/>).

¹⁶ Foreign Exchange Administration (“FEA”) rules are a set of rules administered by Bank Negara Malaysia to safeguard the value of the Malaysian currency. Residents who are dealing in foreign currencies and non-residents who are dealing in Malaysian Ringgit are required to comply when performing remittance transaction, invest in foreign currency asset or transact through External Account or Foreign Currency Accounts. Penalties may be imposed if FEA rules are not complied with. Please get the latest FEA rules from BNM’s website at <http://www.bnm.gov.my/>.

Charge Annexure (1P3P) - Business Premises Smart-i Facility

issued by Bank Negara Malaysia from time to time (collectively, “**the Rules**”) that may be relevant for purpose of, or incidental to, the granting and utilisation of the Facility and/or the giving and creation of the Charge over the Property, or any other security, by the Chargor in relation to the Facility. The Chargor undertakes to register with, and/or obtain the approval of, Bank Negara Malaysia and/or the appropriate authority or regulator within such time frame as may be required by the Rules, where applicable, and to furnish the required document(s) evidencing compliance of the same to the Bank immediately thereafter.

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FIRST SCHEDULE

(which shall be taken and construed as an integral part of this Charge)

Item	Matter	Particulars
1	The day and year of this Charge	
2(a)	Chargor:	
2(b)	Customer:	
3(a)	Bank's address for service:	
3(b)	Chargor's address for service	
4	Particulars of the Property:	
5	Facility	Ringgit Malaysia