

**PRIVATE AND CONFIDENTIAL**

Our Ref: **Branch mnemonic code and customer number**

Date :

Name, Business Registration No / Company No (xxxx)

Mailing Address

Dear Sir/Madam,

**BUSINESS PREMISES SMART-i (DIMINISHING MUSHARAKAH) ("FACILITY")**

We, HSBC Amanah Malaysia Berhad (the "**Bank**"), are pleased to inform you that your application for the above Facility has been approved wherein you (if you comprise more than one person/party or are a partnership, then reference to "you" and "your" shall be to all persons/parties/partners and the respective liability hereunder shall be joint and several) and the Bank (collectively, the "**Co-Owners**" and individually, the "**Co-Owner**") shall enter into a Diminishing Musharakah arrangement (the "**Arrangement**") by executing a facility agreement (the "**Facility Agreement**") for the purpose as stated in Clause 2 herein subject to the following terms and conditions:-

**1. FACILITY**

- (a) **Facility Amount:** RM\_\_\_\_\_ Total Facility comprising\*of  
\* RM\_\_\_\_\_ (Property)  
\* RM\_\_\_\_\_ (TTP)  
\* RM\_\_\_\_\_ (Legal and/or Valuation Fees)

*\*(Please delete if not applicable)*

- (b) The details of the Arrangement are set out in paragraph 7 of the Annexure.

**2. PURPOSE AND UTILISATION**

(a) **Purchase**

The Facility Amount shall constitute the Bank's initial capital contribution for the Arrangement which shall be utilised for the Co-Owners' acquisition of a specific property **which is under construction** more particularly described in Clause 4 below ("**Property**") from the vendor whose name is stated in Clause 4 below (the "**Vendor**") via the Co-Owners jointly purchasing from you in your separate capacity as "Seller and Procurement Party" the procurement of the construction up to completion and delivery of the Property in accordance with the terms and conditions of the Istisna' Agreement to be entered into between you and the Musharakah Parties as defined in the Istisna' Agreement, and thereafter the Bank will lease the Bank's undivided portion of beneficial ownership in the Property to you under an Ijarah (leasing) contract. If the Facility Amount or any part thereof is required for any other purpose, you shall obtain the Bank's prior written consent and shall comply with such conditions as the Bank may impose in the event the Bank grants its consent.

*<The above clause 2(a) is only applicable for under construction property financing>*

(a) **Purchase**

The Facility Amount shall constitute the Bank's initial capital contribution for the Arrangement which shall be utilised for the Co-Owners' acquisition of a specific property more particularly described in Clause 4 below ("**Property**") from the vendor whose name is also stated in Clause 4 below (the "**Vendor**") in accordance with the terms and conditions of the sale and purchase agreement entered into between you and the Vendor ("**Sale & Purchase Agreement**"), and thereafter the Bank will lease the Bank's undivided portion of beneficial ownership in the Property to you under an Ijarah (leasing) contract. If the Facility Amount or any part thereof is required for any other purpose, you shall obtain the Bank's prior written consent and shall comply with such conditions as the Bank may impose in the event the Bank grants its consent.

*<The above clause 2(a) is only applicable for completed property >*

(a) **Refinancing**

To facilitate the required refinancing, the Facility Amount shall constitute the Bank's initial capital contribution for the Arrangement which shall be utilised for the Co-Owners' acquisition of a specific property more particularly described in Clause 4 below ("**Property**"), and thereafter the Bank will lease the Bank's undivided portion of beneficial ownership in the Property to you under an Ijarah (leasing) contract. If the Facility Amount or any part thereof is required for any other purpose, you shall obtain the Bank's prior written consent and shall comply with such conditions as the Bank may impose in the event the Bank grants its consent.

*<The above clause 2(a) is only applicable for completed property – refinancing>*

(a) **Financing**

To facilitate the required financing which you undertake shall not be used for any purpose against Shariah principles, you shall sell and the Bank shall purchase such proportion of undivided beneficial ownership in the Property described in Clause 4 below ("**Property**") for the Facility Amount which shall constitute the Bank's initial capital contribution for the Arrangement. You undertake to lease the Bank's proportion of beneficial ownership in the Property under an Ijarah (leasing) contract.

*<The above clause 2(a) is only applicable for unencumbered property financing>*

- (b) Any dealings in respect of the Property shall be subject to the terms of the Arrangement between you and the Bank. The Bank shall at all times have custody of the original issue document of title of the Property.
- (c) The Property shall not be used for any illegal or immoral purpose; or 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.

**3. INITIAL CAPITAL CONTRIBUTION**

<b>Co-Owners</b>	<b>Bank</b>	<b>Customer</b>
Initial Capital Contribution (RM)	<i>Facility Amount</i>	<i>CICC</i>
Proportion of the Bank's and your initial capital contribution for the Diminishing Musharakah arrangement in percentage terms (%)	<i>A%</i>	<i>B%</i>

*CICC = SPA – Facility Amount – (Takaful & LVFF) [for under construction / sub-sale]*

*CICC = OMV – Facility Amount – (Takaful & LVFF) [for re-financing]*

*A% = The Facility Amount / [ Facility Amount + CICC ] x 100*

*B% = CICC / [ Facility Amount + CICC ] x 100*

**4. PARTICULARS OF VENDOR\* AND PROPERTY**

\*Name of Vendor :

\*to be deleted for refinancing cases

Title No. :

Lot No. :

Mukim :

District :

State :

Property Address :

Property Purchase Price : RM< >

Current Market Value : RM< >

Name of Purchaser(s) : [insert name] (Business Registration No. / Company No. insert) and [insert name]  
(Business Registration No. / Company No. insert)

# Name of Settlor(s) :[insert name] (Business Registration No. / Company No. insert) and [insert name]  
(Business Registration No. / Company No. insert)

# Please see "Accompanying Instructions" on how to determine who are the Settlor(s).

## 5. SECURITY DOCUMENTS

Your obligations and performance of the duties as a Co-Owner under the Arrangement, including the amounts payable by you to the Bank are to be secured by the Security Documents, and you and each security party/guarantor represent and warrant to the Bank that the security/guarantee will not contravene Sections 224<sup>1</sup> and/or 225<sup>2</sup> of the Companies Act 2016 (if applicable). The security granted herein shall not in any way be construed as a guarantee of any return of capital or any promise of profit of the Arrangement.

*<The above clause only applicable for completed property financing>*

Your obligations and performance of the duties as a Seller and Procurement Party under the Istisna' Agreement as well as a Co-Owner under the Arrangement, including the amounts payable by you to the Bank are to be secured by the Security Documents, and you and each security party/guarantor represent and warrant to the Bank that the security/guarantee will not contravene Sections 224 and/or 225 of the Companies Act 2016 (if applicable). The security granted herein shall not in any way be construed as a guarantee of any return of capital or any promise of profit of the Arrangement.

*<The above clause only applicable for under construction property financing>*

### (a) Type of Security

*<For completed property financing>*

\*Property with individual title :A Business Premises Smart-i Facility Agreement, Purchase Undertaking, Deed of Trust and a Third Party Registered Charge over the Property, Power of Attorney and any other security documents as the Bank's solicitor shall advise as appropriate to obtain..

\*Property without individual title : A Business Premises Smart-i Facility Agreement, Purchase Undertaking, Deed of Trust and a Deed of Assignment over the Property, Power of Attorney and any other security documents as the Bank's solicitor shall advise as appropriate to obtain.

*<For under construction property financing>*

\*Property with individual title :A Business Premises Smart-i Facility Agreement, Istisna' Agreement, Purchase Undertaking, Deed of Trust and a Third Party Registered Charge over the Property, Power of Attorney and any other security documents as the Bank's solicitor shall advise as appropriate to obtain..

\*Property without individual title : A Business Premises Smart-i Facility Agreement, Istisna' Agreement, Purchase Undertaking, Deed of Trust and a Deed of Assignment over the Property, Power of Attorney and any other security documents as the Bank's solicitor shall advise as appropriate to obtain.

\*(b) Monetary Deposit :Time Deposit / Term Deposit-i for the sum of RM\_\_\_\_\_ to be supported by Security Over Deposit / Letter of Set Off, and/or any other security documents, whichever is applicable at the Bank's discretion.

\*(c) Guarantee : Guarantee by (name) (NRIC No:\_\_\_\_\_)

*<To insert Monetary Deposit clause only if there are Time Deposit/Term Deposit-i lien>*

*\*(Please delete where applicable)*

## 6. FACILITY TENURE

Subject to earlier termination, the Facility tenure shall be \_\_\_\_ months, commencing from the full disbursement of the Facility or upon the expiry of the Availability Period (as set out in Clause 12 herein), whichever is earlier ("Tenure"). For the avoidance of doubt, the Arrangement shall commence from the first disbursement of the Facility.

<sup>1</sup> 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.

<sup>2</sup> 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.

**7. MONTHLY PAYMENTS TO THE BANK**

- (a) Your monthly payments to the Bank under the Facility shall comprise of the lease rentals under the Ijarah contract which is calculated on daily rests on the outstanding Facility Amount which shall be payable by you to the Bank in accordance with the Ijarah arrangement under the Facility Agreement (“**Lease Rentals**”) and the amount equivalent to the Facility Amount which shall be payable progressively by you to the Bank for the purchase of the Bank’s entire undivided portion of beneficial ownership in the Property (“**Purchase Price**”) as stated in the Facility Agreement (“**Monthly Payments**”), and shall commence one (1) month from full disbursement of the Facility or upon the expiry of the Availability Period (as set out in Clause 12 herein), whichever is earlier.
- (b) The Monthly Payments payable to the Bank are as stated below. The minimum monthly Lease Rental shall be calculated and accrued on a monthly basis at the Lease Rental Rate multiplied by the daily outstanding Facility Amount; and the difference between the Monthly Payment amount and the Lease Rental represents the Purchase Price amount payable for your progressive purchase of the Bank’s undivided portion of beneficial ownership in the Property. The maximum monthly Lease Rentals shall not exceed the Facility Amount.

*(insert for fixed lease rental rate)*

Lease Rental Rate	Tenure	Monthly Payment
BFR – % per annum	months	RM -00

*(insert for tiered lease rental rate)*

	Lease Rental Rate	Period	Monthly Payment
First Rental Period	BFR – % per annum	12 months starting from the date of first disbursement or from the expiry of 3 months after the date of this Letter of Offer, whichever is earlier.	RM -00
Second Rental Period	BFR – % per annum	Months	RM -00
Third Rental Period	BFR – % per annum	Months	RM -00
Subsequent months	BFR – % per annum	Months	RM -00

The Bank’s Base Financing Rate (“**BFR**”) is currently at \_\_\_\_% per annum, subject to fluctuations at the Bank’s discretion.

Notice as to changes in the BFR, fees and all other charges may be effected by a notification in the periodic statements furnished to you from time to time or by way of an unsigned notice or letter produced by the Bank’s computer or by way of advertisement in any newspaper or by notification at any of the Bank’s premises or in such manner as the Bank deems fit and such variation shall take effect from the date stipulated therein.

- (c) The Monthly Payments are subject to adjustment in the event of any adjustment in the Facility Amount or variation in the Lease Rental Rate or deferment of any Monthly Payments or otherwise.
- (d) You hereby agree that in the event there is a change in the Bank’s BFR at any time after the commencement of the Arrangement, the Lease Rentals shall be revised accordingly.
- (e) Subject to paragraph 3(c) of the Annexure, the Monthly Payments may be re-adjusted based on the outstanding Facility Amount and tenure at the request of either party subject to one (1) month’s written notice.

(f) Advance Lease Rentals

From the first disbursement of the Facility until full disbursement, you are required to pay to the Bank **Advance Lease Rentals** to be advised by the Bank to you, and the total Advance Lease Rentals paid by you to the Bank shall form part of the first Lease Rental under the Ijarah contract.

(g) Lease Rentals and Advance Lease Rentals will be charged by the Bank at the Lease Rental Rate/s per annum (as stated above) calculated on a monthly basis based on the daily outstanding Facility Amount.

\* (h) In the event that the construction of the Property has been abandoned as may be determined by the Bank, resulting in you as the Seller and Procurement Party breaching the Istisna' Agreement, the Bank shall have the right to claim for the damages as stipulated in the Istisna' Agreement.  
<The clause 4(h) only applicable for under construction property>

## 8. COMPENSATION (TA'WIDH)

The Bank shall have the right to be compensated on late Monthly Payments and any default in payment, based on the following rates calculated on a daily basis:-

- (a) at the rate of one per centum (1%) per annum on the outstanding Monthly Payments due or total outstanding balance, as applicable during the Tenure calculated on daily rests;
- (b) at such rate per annum as determined by the Bank from time to time (before as well as after judgment) provided that such rate shall not at any time exceed the prevailing "IIMM-rate" (namely the daily weighted average overnight rate for Mudharabah interbank investment quoted in Malaysia's Islamic interbank money market) on the total outstanding balance, calculated on daily rest basis after expiry of the Tenure or after judgment is obtained (whichever is earlier);

or by any other method approved by the Shariah Advisory Council of Bank Negara Malaysia and such compensation (ta'widh) shall not be compounded. The right to compensation (ta'widh) shall not prejudice any of the Bank's other rights.

## 9. FEES AND CHARGES

- (a) **\*\***The Business Premises Smart-i account is made available to you together with cheque book and ATM facilities and is subject to a monthly service fee of Ringgit Malaysia Ten (RM10.00) starting from the date of first disbursement and shall be debited to such account. An annual fee of Ringgit Malaysia Eight (RM8.00) (or such other amount as we may charge from time to time) is charged for the ATM/debit card issued.
- (b) In the event that you cancel the Facility at any time after the date of acceptance of this Letter of Offer, you shall unless otherwise waived partially or fully by the Bank, reimburse the Bank on demand such amount as the Bank determines as necessary to compensate it for any liquidity damages or expenses incurred or to be incurred by it on the funds committed to make available or maintain the Facility.
- (c) Facilities Arrangement Fee of RM [ ] will be debited from your account after your acceptance of this Letter of Offer.

## 10. COVENANTS, REPRESENTATIONS AND WARRANTIES

The Facility Agreement shall contain covenants, representations and warranties from you that are usually required in Islamic business premises and property financing facilities of this nature.

## 11. AMENDMENTS AND/OR ADDITIONAL TERMS AND CONDITIONS

- (a) Save for Clauses 7(d) above, 11(b), 11(c) and 12 below, the terms and conditions of the Arrangement shall be amended or waived only in writing, executed by you and persons duly authorised by the Bank.
- (b) You shall be bound by any decision or conclusion related to Shariah matters pronounced or made by the Bank's Shariah Committee and/or by the Shariah Advisory Council of Bank Negara Malaysia in respect of the

Arrangement.

- (c) If any change in the applicable law, rules, regulation or official requirement or in the interpretation or application thereof by any government authority or court or tribunal or other authority charged with the administration thereof or compliance by the Bank with any request from Bank Negara Malaysia or other fiscal, monetary or other authority (whether or not having the force of law) will cause or result in additional cost burden liability or obligation on the Bank to make or maintain the Facility, the Bank reserves the right to vary any terms and conditions in respect of the Facility.

## 12. AVAILABILITY PERIOD

This Facility must be disbursed within [\*12/24/36] months (“**Availability Period**”) from the date of this Letter of Offer and any portion of the Facility which has not been disbursed by that date shall be automatically cancelled and be of no further effect whereby the Facility Amount for the Arrangement shall be accordingly varied **PROVIDED ALWAYS** that the Bank is entitled (but not obligated) to grant any extension of the Availability Period from time to time as it deems fit.

*\*(Please select and delete what is not applicable)*

Notwithstanding the above, where the security documentation is not perfected for any reason whatsoever within a period of three (3) months from the date of acceptance of this Letter of Offer, the Facility shall be automatically cancelled and be of no further effect unless the Bank grants extension of time for the same.

## 13. LEGAL & VALUATION FEES AND EXPENSES

- (a) The following fees and expenses incurred shall be paid by you:
- (i) The legal fees for preparation of and attending to the security documentation of the Facility;
  - (ii) Stamp duty, registration fees and any related cost for the preparation and attending to the security documentation of the Facility;
  - (iii) Valuation fees and expenses incurred by the valuer approved by the Bank for the preparation of the formal valuation report of the Property. For property under construction, a formal valuation report on the Property must be prepared and completed by a valuer approved by the Bank within 60 days from the issuance of the Certificate of Completion and Compliance.

*<This clause is applicable where Customer bears legal and valuation fees>*

- (a) # The following costs incurred in connection with the Facility shall be borne by the Bank:-

- (i) the Bank’s legal fees for preparation of and attending to the security documentation;
- (ii) stamp duty, registration fees and other disbursements in relation to (i) above; and
- (iii) valuation fees of the valuer approved by the Bank.

**\*PROVIDED ALWAYS** that the fees/charges (as per items (i), (ii) and (iii) above) to be borne by the Bank is capped at \_\_\_\_% of the Facility Amount. The difference between the actual costs and the costs borne by the Bank shall be paid by you.<sup>2</sup>

Notwithstanding the above, you are required to reimburse the Bank the above costs on demand from the Bank in the event that you opt to abort/cancel the Facility after having accepted this Letter of Offer **but** prior to:-

- (1) the execution of all the requisite Facility and/or security documentation; or
  - (2) disbursement of the Facility;
- whichever is later.

*(\*\* Note : This clause is only applicable for BPS-i with flexi feature)*

*(# Note : This clause is only applicable if the Customer opts for the Moving Cost Package).*

*(\* Note : This clause is only applicable if the moving cost is capped at a certain %.)*

## 14. ADDITIONAL CONDITIONS

The availability of this Facility is subject to the following conditions being met by you and all the necessary documentation having been completed to our satisfaction:-

- (a) That the original copies of the following documents are submitted to the Bank and are true and correct:
- Sale & Purchase Agreement
  - A suitable Board Resolution (or similar corporate authorisation) authorising the acceptance of the Facility and creation of security upon the terms and conditions in this Letter of Offer
  - Forms 24, 44 and 49 of the Companies Act 1965 and the Memorandum and Articles of Association; or equivalent statutory documents under the Companies Act 2016 for you and the security provider (if applicable), i.e. i.e. Constitution of the company, Notice of Registration, Return of Allotment of Shares, Notification of change in the Register of Directors, Managers and Secretaries
  - A statutory declaration that the Property will be for your own business use and occupation / investment
  - \*Valuation report confirming the current market value of the Property is not less than RM\_\_\_\_\_ [to insert indicative current market value of the Property as quoted in the application form] (with valuation fees duly paid by you unless otherwise specifically stated herein). \*If under construction please delete.
  - (branch to specify any other documents as required for the particular financing situation)
- (b) Upon acceptance of this Letter of Offer and at any time prior to the disbursement (in full or in part) of the Bank's initial capital contribution, you are to open a demand deposit account to facilitate the disbursement of the Facility ("Business Premises Smart-i account").
- (c) \* RM\_\_\_\_\_ from the Facility Amount will be utilised to settle all outstanding sums of your existing financing facility before the balance thereof be used for the purpose of making improvements to the Property.
- \*[Clause 14(c) is only applicable for refinancing facilities]*
- (c) \* On completion of the Property, a formal valuation report on the Property must be prepared and completed by a valuer approved by the Bank within 60 days from the issuance of the Certificate of Completion and Compliance.  
*\*This clause is applicable for properties under construction only.*

Notwithstanding your acceptance of this offer, or before the disbursement of the Facility, the Bank reserves the right to withdraw this offer upon notice.

The terms and conditions set out in the Annexure form an integral part of this Letter of Offer. In the event of any conflict or discrepancy between the Letter of Offer and the Annexure and the Facility Agreement and/or Charge/Deed of Assignment, the terms and conditions of the Letter of Offer and the Annexure (except with regard to the description of the Property) shall prevail.

Please indicate your acceptance by signing and returning the Letter of Offer to the Bank together with the required documents not later than thirty (30) days from the date of this Letter of Offer or such other date as the Bank may determine after which date this offer will be deemed to have lapsed. We are pleased to be of assistance to you. For any enquiries with regard to the above Facility, please call \_\_\_\_\_ at \_\_\_\_\_.

We thank you for giving the Bank the opportunity to be of service to you.

Yours faithfully,  
**for HSBC AMANAH MALAYSIA BERHAD**

**To : HSBC AMANAH MALAYSIA BERHAD (Company No. 807705-X)**

*(to delete if applicant is a resident of Malaysia)*

I am/We are non-resident. I/We confirm that, at any one time and in accordance with Foreign Exchange Administration Rules<sup>3</sup> and/or other applicable rules and regulations issued by Bank Negara Malaysia, as the same may be amended from time to time:

- (i) this Facility in Ringgit Malaysia is to finance activities in the real sector in Malaysia; or
- (ii) this Facility in Ringgit Malaysia shall only be utilised for the purpose of financing or re-financing the purchase or construction of immovable properties in Malaysia, and not solely for the purchase of land only.

In the event that this Facility in Ringgit Malaysia does not satisfy the above criteria, I/we undertake to inform the Bank and also to obtain the necessary approval from the relevant authority.

#### **ACCEPTANCE**

**To : HSBC AMANAH MALAYSIA BERHAD (Company No. 807705-X)**

I/We, the undersigned hereby:

- (i) I/We understand and accept this Letter of Offer and the terms stated in the Annexure and also acknowledge that I/we have been briefed by your staff or representative on the features of the Facility.
- (ii) I/We further agree that this Letter of Offer embodies in writing the salient terms for the Facility to be granted to me/us and hereby confirm that any warranties, promises, representations, collateral agreements that may have been made or made to me/us, orally or otherwise by the Bank in the course of the pre-contractual negotiations that have not now been included in the Bank's Letter of Offer shall hereafter be deemed by me/us to have lapsed and not legally binding upon the Bank nor shall it be raised by me/us as a defence or to support any claim by me/us in any legal proceedings.
- (iii) I/We confirm that each disbursement/utilisation of the Facility, whether partial or otherwise, is subject to the conditions set by Bank Negara Malaysia from time to time and I/we will continue to adhere to the conditions thereof.
- (iv) I/We hereby irrevocably and unconditionally authorise the Bank to debit my/our facility account or any other account with the Bank for lease rentals/Advance Lease Rentals due and payable to you, takaful contribution, service charges and all other monies due and arising out of the Facility extended and/or security given.
- (v) I/We agree that the Facility granted to me/us is in conformity with the Shariah principle of Diminishing Musharakah and confirm that I/we do not have and will not raise, any objections as to matters of Shariah compliance in respect of the Facility.
- (vi) I/We note that if in doubt, I/we should seek independent legal and/or Shariah advice before signing this Letter of Offer and the security documentation.
- (vii) I/We acknowledge that we have received, read and understand the Product Disclosure Sheet provided by the Bank.

**To : HSBC BANK MALAYSIA BERHAD (Company No. 127776-V)**

#### **Debiting of Accounts with HSBC Bank Malaysia Berhad**

If I/we have current or deposit account(s) with HSBC Bank Malaysia Berhad ("HBMB"), I/we irrevocably authorise HBMB to debit my/our HBMB account(s) and pay such proceeds for any amount due from me/us to the Bank hereunder even if such debiting causes an overdrawn position or any existing overdraft limit to be exceeded due to insufficient funds in my my/our HBMB account(s), and I/we agree to bear the financial consequences of such overdrawn or excess according to the terms and conditions imposed by HBMB. I/We acknowledge that the manner of debiting shall be in accordance with HBMB's Generic Terms & Conditions applicable to the relevant account.

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<sup>3</sup> 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/>.



**SALE CONTRACT**

*<This Sale Contract is only applicable for unencumbered property financing>*

**THIS SALE CONTRACT IS BETWEEN:**

- (1) The Bank of the one part; and
- (2) The addressee(s) of this Letter of Offer of the other part.

In accepting this Letter of Offer, I/we hereby agree as follows:

1. I/We have requested the Bank to purchase part of my/our existing undivided portion of beneficial ownership in the Property on the terms stated in this Letter of Offer.
2. The Bank is agreeable to my/our request and therefore offers to purchase from me/us, part of my/our existing undivided portion of beneficial ownership in the Property at the price equivalent to the Facility Amount (as specified in Clause 1 of the Letter of Offer) subject to the terms and conditions herein contained.
3. The price equivalent to the Facility Amount shall be paid by the Bank to me/us in the manner as specified in the Letter of Offer. If the Facility Amount is not paid by the Bank to me/us within the Availability Period stated in the Letter of Offer, this Sale Contract will be deemed null and void.

This Sale Contract is deemed signed on behalf of the Bank by the same signature which appears on the prior page.

Agreed and accepted by:

.....  
**Name of Authorised Signatory** :  
**Date** :

## ANNEXURE

The terms and conditions contained in this Annexure form part of the terms and conditions of the Facility granted to you.

### 1. Conditions precedent to disbursement

- (a) The Bank shall have received your acceptance of this Letter of Offer within the time prescribed or has granted to you the relevant extension accordingly.
- (b) All Security Documents which are required herein and/or such other documents as may be required by the Bank and/or its solicitors shall have been executed by you and/or the relevant security parties within the time prescribed, and duly stamped and registered at such registries as the Bank may deem necessary or expedient.
- (c) Where the Property is free from encumbrance or the redemption sum for the Property has been released by the Bank, the Bank or the Bank's solicitors shall have received the original title or other documents evidencing ownership of the Property free from encumbrance, to the Bank's satisfaction.
- (d) Letters of undertaking / indemnity / confirmation / consents / approvals/ authorisations from all relevant parties being obtained to the Bank's satisfaction, including where applicable from government, statutory or regulatory authorities, creditors or any other party which are necessary or expedient for the acquisition of the Property, the purpose of the Facility, the granting of the Facility and/or the execution and registration of all security documents relating to the Facility, have been obtained.
- (e) You shall have paid all fees or charges payable or agreed to be paid by you to the Bank for or in connection with the Facility including legal and valuation fees and expenses, unless otherwise stated in the Letter of Offer.
- (f) No extraordinary circumstances or change of law or other governmental action shall have occurred which makes it improbable that you will be able to observe or perform the covenants and obligations herein.
- (g) The Bank's solicitors shall have conducted a search on you and/or your security providers at the Director-General of Insolvency's Office and/or Companies Commission of Malaysia and/or any relevant authority/office having jurisdiction over you and/or your security provider and the results thereof shall have been satisfactory to the Bank.
- (h) The Bank and the Bank's solicitors are satisfied with the results of any search conducted at the land office/ registry in respect of the Property.
- (i) An inspection and valuation is to be carried out on the Property by the Bank's approved valuer to confirm that the current market value of the Property is as stated in the Letter of Offer.
- (j) If financing is for the purchase of a Property under construction, disbursement of the Facility progressively is:
  - (i) against production of Architect's Certificate for work done; and
  - (ii) subject to our receipt of written confirmation from the developer/vendor that you have settled the difference between the purchase price and this Facility.
  - (iii) subject to our receipt of satisfactory evidence that the developer has obtained the relevant approvals for the development of the project and other regulations (if applicable). The Bank must have received satisfactory evidence that the relevant approvals has been obtained within 6 months from the date of this Letter of Offer failing which the Bank shall be entitled to cancel/withdraw this Facility with notice.
- (k) If financing is for the purchase of the Property under construction, notwithstanding the Availability Period stated in the Letter of Offer, the Availability Period shall follow the time for delivery of vacant possession in the Sale and Purchase Agreement.
- (l) Any other condition as may be deemed necessary, expedient or advisable by the Bank and/or the Bank's solicitors.

### 2. Maintenance and Takaful Obligations

- (a) Homeowner/Fire Takaful
  - (i) As the Co-Owners' agent, you shall during the Tenure of the Facility be responsible to procure takaful protection against loss or damage by fire, lightning, riot and strike, malicious damage, explosion and other relevant risks up to the replacement cost from a licensed and reputable takaful operator in respect of the Property.
  - (ii) If you take up takaful on your own, the original takaful certificate and all future takaful certificates together with the contribution receipts are to be forwarded to us before the expiry date.
  - (iii) If we do not receive a renewed certificate within 2 weeks before the expiry date, or such other period as notified to you by us, you expressly agree that the Bank may but is not obliged to take up takaful on your behalf. All charges therein will be for your account. In such an event, we will not subsequently accept any takaful certificate presented by you or any other party, notwithstanding that it is presented to us before the expiry date. You are advised to cancel your certificate and obtain the refund from your takaful operator directly.
  - (iv) You may at your option, take up homeowner insurance in which case, all the obligations above shall apply equally to you.
- (b) As the Co-Owners' agent, you shall during the Tenure of the Facility be responsible to carry out all maintenance and repair in relation to the whole Property for and on behalf of the Co-Owners.

### 3. Payment Terms

- a) Lease rentals/advance lease rentals will be charged by us on daily rest basis at the rate stated in the Letter of Offer on the outstanding Facility Amount and is payable monthly to the Bank by debiting your account.
- b) The lease rentals/advance lease rentals will be debited to your account 1 month from the date of the first disbursement of the Facility and thereafter on the same day of each subsequent month.
- c) The Monthly Payments shall commence one month from the date of full disbursement of the Facility or the expiry of the Availability Period, whichever is the earlier, and thereafter on the same day of each subsequent month or on such other date as shall be fixed from time to time by the Bank.
- d) Notwithstanding the right of the Bank to debit your account(s) as abovesaid and the charging of additional lease rental, you are obliged to service lease rentals/advance lease rentals as stipulated; the failure and/or refusal to so service lease rental shall constitute an event of default which will entitle the Bank to recall the Facility or take other appropriate action.

### 4. Facility Payment and Standing Instruction

- a) You shall undertake to ensure that sufficient funds are kept in your account to meet the payments in relation to this Facility.
- b) The onus of ensuring that such periodical payments are made is on you and accordingly we agree that the Bank would not incur any liability through any refusal or omission to make all or any of the payments.
- c) In the unlikely event of an incorrect posting, the Bank reserves the right to rectify the same without prior notice and consent.
- d) The Bank shall be entitled to conclusively determine the order of priority of payment of any moneys pursuant to this or any order, or cheque drawn on your account or instructions (whether written or otherwise) which you have or may hereafter give to the Bank.
- e) This Monthly Payments will remain effective for the protection of the Bank in respect of payment made in good faith notwithstanding your death/bankruptcy and/or insolvency until notice in writing of your death(s)/bankruptcy(ies) and/or winding-up is/are received by the Bank.
- f) The Bank may at its discretion levy a charge on each standing instruction payment not effected for lack of funds.

### 5. Prepayment and Redrawal Facility

You may make prepayment to your account subject to the following conditions:

- (a) Amount paid to the account will be firstly applied towards settlement of all payment due, which may include Monthly Payment, compensation (ta'widh), takaful contribution, service fee and charges. Any surplus will then be applied as prepayment to reduce the outstanding Facility Amount.
- (b) All prepaid amounts may be redrawn at any time, subject to the Available Facility Limit (which is reduced monthly on the Monthly Payment date) and the following:
  - (i) The redrawal will not cause a breach of any term hereunder or a non-compliance with any guidelines/directives/laws/regulations in force from time to time including those issued by Bank Negara Malaysia.
  - (ii) The lease rental rate payable at the date of the amount utilised shall be as stipulated in the Letter of Offer.
  - (iii) All security documentation are completed to the Bank's satisfaction.
  - (iv) No event of default has occurred and is continuing.
  - (v) The redrawn amount shall be added to the outstanding Facility Amount, where lease rentals shall be charged at the rate as stated in the Letter of Offer.

*(\*Clause 5 here is only applicable for BPS-i with flexi feature/enhanced redraw feature)*

### 6. Additional Terms & Conditions

- (a) All terms and conditions including lease rental rates, fees and charges stipulated are current and subject to changes from time to time at the Bank's discretion and/or as per legislative requirements and/or Bank Negara Malaysia (BNM)'s directives/guidelines.
- (b) The Bank retains the right to reduce the Facility Limit at any point of time within the Facility Tenure provided that a 1 months' notice is issued to you.
- (c) The Bank may at its discretion (subject to there being no arrears in payment of the Purchase Price and/or lease rental) allow you up to a maximum of 3 requests to restructure your Monthly Payment during the Tenure of your Facility.
- (d) This Facility is subject to review at any time at the Bank's discretion and in any event of default, and subject to the Bank's customary overriding right of suspension, withdrawal and payment/acceleration of payment on demand and subject to there being no breach of applicable guidelines issued by Bank Negara Malaysia and/or the policies of the Bank and/or other financial institutions governing continued operations of current accounts (which include all accounts for which cheques may be drawn against, howsoever described and regardless of whether any overdraft/cash line has been granted or otherwise) which you have with the Bank and/or with other financial institutions which may result in closure of the current account(s) (whether conventional or Islamic, howsoever described).
- (e) Inspection and valuation of the Property may be obtained by the Bank from time to time (at least once in every three years) by a firm on the Bank's panel, and you shall provide all relevant assistance to the Bank for such purpose, including but

not limited to granting the Bank's officers and/or representatives access to the Property and the relevant documents and information. All costs and expenses incurred relating to this inspection and valuation shall be borne by you (to the extent not restricted by any laws or regulations) and such amount will be charged to your account and may be debited from any of your accounts with the Bank.

- (f) If the market value of the Security falls below what the Bank considers to be an adequate security margin, the Bank shall be entitled with notice to the Customer, without prejudice to any other rights that the Bank may have, to reduce the Facility Limit and/or withhold any further disbursements and/or require payment of such amount as the Bank may specify including prepayment of any facility, to require additional security acceptable to the Bank to be furnished.
- (g) You are advised to seek independent legal and/or Shariah advice in respect of the facility and security documentation.
- (h) Subject to the provisions of the security documents (if any), if any amount received or recovered in respect of your liabilities hereunder or any part thereof is less than the amount then due, the Bank shall apply that amount to the Purchase Price, lease rentals, fees or any other amount then due and payable hereunder in such proportions and order of priority and generally in such manner as the Bank may determine.
- (i) If the effect of any, or a change in any law or regulation is to increase the cost to us of advancing, maintaining or funding this Facility or to reduce the effective return to us, we reserve the right to require payment on demand of such amounts as we consider necessary to compensate us therefore.
- (j) Other terms and conditions as contained in the Bank's legal or security documentation shall apply in addition to any other terms and conditions that our solicitors will think fit to impose when formalising such documentation on our behalf.
- (k) The Bank reserves the right to recall the Facility if not used for the purpose granted or if used for an illegal or speculative purpose, or for a purpose not in compliance with Shariah principles as the Bank shall determine.
- (l) In the event that the construction of the Property purchased is suspended or abandoned for any reason whatsoever, you undertake to service the lease rentals and pay the Purchase Price amount disbursed by us on your behalf on demand.
- (m) Notwithstanding that you may have accepted this offer and/or that all agreements and security documents relating thereto have been executed by all concerned, we reserve the right with no liability whatsoever shall attach to the Bank in so doing, to abrogate or withdraw this offer and/or to withhold the disbursement or the release of the Facility in any of the following events:
  - (i) if it is subsequently discovered that there are restrictive covenants or conditions on the title deed of the Property charged or to be charged and/or that there are restrictive clauses in the Sale and Purchase Agreement and which in our opinion is deemed to be unfavourable to us or which may jeopardise, endanger or threaten our eventual recovery of the Facility;
  - (ii) if you have either failed or are unable to fulfil any condition precedents as set out herein or in any other security documents;
  - (iii) if we are of the opinion that the Facility, if released, will not for any reason whatsoever be adequately secured; and
  - (iv) if any legal proceedings, suit or action of any kind whatsoever (whether criminal or civil) is instituted against you and/or any of the security providers.
- (n) You consent and agree that the Bank may disclose and process your information for purposes as provided for in the Bank's Notice to Customers relating to the Personal Data Protection Act 2010 and the facility account and/or any account maintained for the Facility will be subject to the provisions in the Bank's Generic Terms and Conditions.
- (o) The Bank may appoint a debt collection agency to collect the monies due and owing hereunder and/or to sell any non-performing financing to third parties and thereby reserves the right at any time in its absolute discretion, to disclose any relevant information relating to the Facility to the said agency and/or third parties.
- (p) If any tax ("**Tax**") is chargeable by law on any amount paid, transferred or received, or payable, transferable or receivable hereunder, by whatever name called, you shall promptly pay such Tax and shall fully indemnify the Bank against such payment or liability (together with any interest, penalty, costs or expenses payable or incurred thereon) if the Bank is required by law to collect and make payment in respect of such Tax. The Bank may apply all or part of the balance standing to the credit of any of your account(s) in or towards the discharge of any amount so payable by you to the Bank.
- (q) Other terms and conditions as contained in the Bank's legal or security documentation shall apply in addition to any other terms and conditions that the Bank's solicitors will think fit to impose when formalising such documentation on behalf of the Bank.

## **7. Diminishing Musharakah Arrangement**

- (a) Prior to the commencement of the Arrangement, you are to procure the Settlor(s) to appoint you to hold the Settlor(s)' undivided portion of beneficial ownership in the Property as trustee for the benefit of the Settlor(s) under a deed of trust ("Deed of Trust") in order to facilitate your entry into the Arrangement with the Bank under the Facility Agreement. You and the Settlor(s) represent and warrant to the Bank that the entry into the Deed of Trust will not contravene Sections 224 and/or 225 of the Companies Act 2016 (if applicable).
- (b) The Arrangement between the Bank and you (in your personal capacity and/or as trustee under the Deed of Trust) is a co-ownership arrangement under the Shariah principle of Diminishing Musharakah where you have the right to acquire the Bank's undivided portion of beneficial ownership in the Property from time to time. Subject to terms and conditions, the Bank may also acquire your undivided portion of beneficial ownership in the Property from time to time.

- (c) No partnership consequence or relationship coming within the purview of the Partnership Act 1961 is contemplated nor intended under the Arrangement. No registrable ownership interest in the Property is deemed or intended or contemplated to be transferred, transmitted, vested, conveyed and/or created in favour of the Bank within the purview of the National Land Code 1965/ Sarawak Land Code (Sarawak Cap. 81) / Sabah Land Ordinance (Sabah Cap. 68) (as the case may be, according to where the Property is located) and neither is the Ijarah contract registrable under the same as a consequence of the Arrangement hereby contemplated.
- (d) The beneficial co-ownership of the Property under the Arrangement shall be held by the Bank and you in accordance with the prevailing proportion of the Bank's and your capital contribution.
- (e) Profit & Loss Sharing Ratio

Bank : Customer = In accordance with the ratio of the Bank's and your respective prevailing capital contribution for the Arrangement.

- (f) Lease and Usage of the Property

You will enter into an Ijarah contract with the Bank where the Bank agrees to lease the Bank's undivided portion of beneficial ownership in the Property to you in consideration of your payment of Lease Rentals to the Bank, subject to the terms and conditions of the Ijarah contract under the Facility Agreement and the Property not being used for any illegal or immoral purpose; or 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.

- (g) Purchase of the Bank's undivided portion of beneficial ownership in the Property

- (i) In addition to the Lease Rentals, you shall pay to the Bank for the Bank's own account from time to time, the Purchase Price.
- (ii) When you make progressive payment of the Purchase Price, such payment will be treated as an offer by you to acquire the Bank's undivided portion of beneficial ownership in the Property pro rata with the proportion of your progressive payment of the Purchase Price. Unless the Bank notifies you that the progressive payment of the Purchase Price is not accepted by the Bank as an offer by you to acquire the Bank's undivided portion of beneficial ownership in the Property within three (3) business days of the Bank receiving such payment, the offer shall be treated as accepted (unless the payment is dishonoured or returned unpaid) and pursuant thereto a proportion of the Bank's undivided portion of beneficial ownership in the Property shall be transferred to you which commensurate with your progressive payment of the Purchase Price, and the Bank's undivided portion of beneficial ownership in the Property shall be proportionately reduced and your undivided portion of beneficial ownership in the Property shall be proportionately increased.

- (h) Buy Back Scheme/Early Settlement/Sale Undertaking

After the commencement of the Arrangement, you may negotiate with the Bank but subject to the Bank's approval, regarding the transfer of undivided portion of beneficial ownership in the Property, including but not limited to the following circumstances:-

- (i) The Bank may buy back from you, your undivided portion of beneficial ownership in the Property at any time in order to provide cash flow assistance to you for the purpose of making improvements to the Property, whereby the Bank shall be entitled to revise the structure and/or schedule for the Lease Rentals and/or the Purchase Price subject to the revised quantum of the Lease Rentals and/or the Purchase Price being informed to you upfront prior to the commencement of the revised structure and/or schedule.
- (ii) You may effect early settlement of the Facility and dissolve the Arrangement by giving the Bank one (1) month's prior written notice, clearly stating your intention to dissolve the Arrangement by acquiring all the Bank's remaining undivided portion of beneficial ownership in the Property and making full payment of the total outstanding Facility Amount ("Settlement Amount").

*(\*Paragraph 7(h)(i) is only applicable for BPS-i with flexi feature/enhanced redraw feature)*

(i) Purchase Undertaking

- (i) You shall grant to the Bank the right but not the obligation to put to you to purchase the Bank's remaining undivided portion of beneficial ownership in the Property upon the occurrence of an event of default or such other circumstances as may be stipulated by the Bank, upon the Bank's exercise of which you shall purchase the Bank's remaining undivided portion of beneficial ownership in the Property at the Settlement Amount (described in paragraph 7(h)(ii) above), which shall without any demand be immediately due and payable.
- (ii) Upon payment of the Settlement Amount together with all fees and charges pursuant to the exercise of the Purchase Undertaking, the Bank's entire beneficial ownership in the Property shall immediately pass to you at your cost and expense.

(j) Dissolution Of The Arrangement

It is agreed that:-

- (i) the Arrangement will be dissolved when you have acquired one hundred per centum (100%) of the Bank's undivided portion of beneficial ownership in the Property by having paid all sums due and payable by you under this Letter of Offer, the Facility Agreement and the other Security Documents, whereupon the Bank will transfer all of the Bank's undivided portion of beneficial ownership in the Property to you at your cost and expense Provided Always the Arrangement shall not be dissolved if your acquisition of one hundred per centum (100%) of the Bank's undivided portion of beneficial ownership in the Property was made in accordance with paragraph 5(b) above and no notice in accordance with paragraph 7(i)(ii) above was given by you to the Bank; or
- (ii) if you have not acquired one hundred per centum (100%) of the Bank's undivided portion of beneficial ownership in the Property upon expiry of the Tenure, you may purchase the Bank's remaining undivided portion of beneficial ownership in the Property by paying all sums payable under this Letter of Offer, the Facility Agreement and the other Security Documents, whereupon the Bank will transfer all of the Bank's undivided portion of beneficial ownership in the Property to you at your cost and expense and thereafter the Arrangement shall be dissolved. If you do not wish to purchase the Bank's remaining undivided portion of beneficial ownership in the Property, the Bank shall have the right to exercise its rights as stipulated in paragraph 7(j)(i) above; or
- (iii) if you have become incapable of effecting commercial transactions in accordance with Shariah, or upon your death or insolvency/winding-up, the Bank shall have the right to exercise its rights as stipulated in the Facility Agreement and the Arrangement will be dissolved accordingly.

**8. Early Termination Events**

- (a) If in the Bank's opinion, circumstances have arisen which materially and adversely affect the reputation of, and/or otherwise bring negative publicity to, the Bank or HSBC Group, by reason of the provision or continued provision of the Facility, the Bank is entitled to exit the Facility and to require you to fully pay and discharge all its outstanding obligations under the Facility within such period of time as stated in the Bank's written notice to you, failing which the Bank is entitled to call an event of default for non-payment by you.
- (b) If you or your shareholder (whether direct or indirect, legal or beneficial) is a company incorporated in a country that permits issuance of bearer shares, you confirm and warrant that neither you or such shareholder has issued any bearer shares and further undertake that neither you or such shareholder will issue or convert any of its shares or such shareholder's shares (as the case may be) to bearer form without the prior written consent of the Bank, otherwise the Bank is entitled to exit the Facility and to require you to fully pay and discharge all its outstanding obligations under the Facility within such period of time as stated in the Bank's written notice to you, failing which the Bank is entitled to call an event of default for non-payment by you.