

MURABAHAH SALE CONTRACT
(Commodity Murabahah Financing Facility)

Date: As stated in the e-certificate as attached

THIS MURABAHAH SALE CONTRACT (“Contract”) is made between:

Parties:

- (A) **Small Medium Enterprise Development Bank Malaysia Berhad** (Company No. 49572-H) (“**Bank**”); and
- (B) The party as stated in **Section 1 of the Appendix** hereto (“**Customer**”).

Recital:

Pursuant to the Notification Letter on the offer for Indulgence issued by the Bank to the Customer (“**Notification Letter**”), the Bank has agreed at the request of the Customer, to make available or continue to make available the Commodity Murabahah Financing Facility (“**Facility**”) subject to the terms and conditions therein contained.

IT IS HEREBY AGREED as follows:

1. Agreement to Sell

The Bank hereby sells and the Customer hereby purchases the commodity (the description of which is as stated in **Section 2 of the Appendix** hereto) (“**the Commodity**”) at the sale price stated in **Section 3 of the Appendix** hereto (“**Bank’s Sale Price**”) which includes the purchase price as stated in **Section 4 of the Appendix** hereto (“**Bank’s Purchase Price**”) and the Bank’s profit (as stated in **Section 4A of the Appendix** hereto) upon deferred payment terms and subject to terms and conditions in the Notification Letter.

2. Transfer of Ownership

- (a) Notwithstanding that the registration of the legal ownership to the Customer has yet to take place, upon execution of this Contract, all rights, liabilities, title, ownership, interests and benefits (including the risk) to the Commodity shall immediately pass to the Customer.
- (b) The transfer of ownership of the Commodity to the Customer shall be evidenced by certificate and the delivery order issued by the commodity trader as stated in **Section 2 of Appendix** hereto.
- (c) The Bank hereby passes the constructive possession of the Commodity to the Customer. However, the Customer must notify the Bank its decision whether to take the physical possession of the Commodity (“**Disbursement Request**”).
- (d) Should the Customer decides to take physical possession of the Commodity, at a cost to be borne by the Customer before the Commodity is being delivered, the Commodity shall be available for collection at the address stipulated in **Section 6 of the Appendix** hereto. In such event, the parties thereby confirm that event as set out under Clause 2(f) of this Contract has taken place.
- (e) In the event that the Customer decides not to take physical possession of the Commodity, the Bank shall retain the relevant certificate relating to the

Commodity in its custody as trustee for the benefit of the Customer for the purpose of subsequent sale of the Commodity to a commodity trader pursuant to the appointment of agency between the Customer and the Bank. The Customer shall have the right to inspect the said certificate at the premise of the Bank or to require the Bank to furnish the Customer with a photocopy of the said certificate by written notification to the Bank.

- (f) The Customer shall also have the absolute right to choose not to appoint the Bank as his/ her agent to sell the Commodity and thus proceed to sell the Commodity to any third party purchaser at his/ her own will, means and costs. In such situation, the Customer shall notify the Bank of his decision in the Disbursement Request. In such situation, the Customer must take physical possession of the Commodity as per Clause 2 (d) hereinbefore.
- (g) The Bank shall be liable for any loss or damage of the asset before the Customer takes possession of the Commodity under Clause 2(c) and 2(d) accordingly.
- (h) Any defect in the Commodity which occurred before entering into this Contract which is discovered by the Customer after the execution of this Contract shall entitle the Customer to the defect option.
- (i) Under the defect option, the Customer has the right to:
 - (i) terminate this Contract;
 - (ii) continue with mutually agreed variation of the terms of this Contract as a result of the defect discovered; or
 - (iii) continue with this Contract as it is.
- (j) Any defect in the Commodity which is discovered and consented to by the Customer at the time of entering into this Contract shall disentitle the Customer from the defect option.
- (k) The period of defect option mentioned in Clause 2(h) and Clause 2(i) above shall commence immediately after the completion of this Contract and shall lapse at the expiry of twenty four (24) hours therefrom.
- (l) This Contract is dissolved when:
 - (a) the Customer exercises the defect option to terminate this Contract; or
 - (b) any of the contracting parties exercises mutually agreed options to terminate this within the agreed time period; or
 - (c) any of the contracting parties exercises the option to terminate this Contract due to breach of the specified terms; or
 - (d) both contracting parties mutually agree to terminate this Contract.
- (m) In the event that this Contract is dissolved for whatsoever reason and the Commodity has not been sold to any third party, the Commodity shall be returned to the Bank. The Bank shall therefrom refund to the Customer any of

the Bank's Sale Price so paid by the Customer. Such refund is to be done only when the return of the same is commercially feasible and possible. Otherwise, the Bank shall be entitled to the contract value of the same.

- (n) The parties agree that the Commodity shall not be the subject matter of any other *tawarruq* transaction at any one time.
- (o) This Contract and all obligations under it, is completed upon fulfilment of the obligations of the parties which include the following:
 - i. full settlement of the Bank's Sale Price under this Contract;
 - ii. transfer of the obligation to pay the Bank's Sale Price under this Contract to a third party through any *hiwalah al-dayn*;
 - iii. waiving of the right to receive the remaining or outstanding Bank's Sale Price under this Contract through a rebate by the Bank; or
 - iv. full *muqassah* (set-off) of debt obligations between the parties.
- (p) Upon completion of this *Contract*, the parties are free from any contractual obligations under this Contract.

3. Payment of the Bank's Sale Price

The payment of the Bank's Sale Price by the Customer to the Bank shall be by way of deferred payments in the amount and in the manner as specified in **Section 5 of the Appendix**.

4. Terms and Conditions

The terms and conditions set out in the Notification Letter are hereby repeated and shall be binding on the Customer (including its successors in title) and the Bank (including persons deriving title there under and its successors in title and assigns).

In this Contract unless otherwise stated, all the terms and references shall bear the same meaning as designated to them in the Notification Letter.

5. Declaration of Stamp Duty

- (a) For the purpose of Section 4(3) of the Stamp Act 1949, IT IS HEREBY DECLARED THAT this Contract is an instrument employed in one transaction as security for payment of any amount due and payable under the Facility and for the purpose of that section, this Contract shall be deemed as subsidiary instrument.
- (b) Pursuant to Paragraph 6 of the General Exemptions of the First Schedule of the Stamp Act 1949 wherein this Contract is an additional instrument strictly required for the purpose of compliance with the *Shariah* principles, this Contract is exempted from stamp duty.

[End of clauses]

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and/or seal the day and year first above written.

SIGNED for and on behalf of)
Small Medium Enterprise)
Development Bank Malaysia)
Berhad)
(Company No. 49572-H))
in the presence of:)
)
)
)

Small Medium Enterprise
Development Bank Malaysia Berhad
By its representative

Name:
NRIC No.:
Designation:

*Signed by the Bank for the Customer,)
as agent (*wakeel*) of the Customer)
in the presence of:)
)
)

| Section | Item | Particulars |
|----------------|--|--|
| 1. | Customer | As per the Notification Letter |
| 2. | Commodity (with specific identification) | As per the e-certificate attached in the Annexure hereof |
| 3. | Bank's Sale Price (Selling Price) | As per the Notification Letter |
| 4. | Bank's Purchase Price (Amount to be Restructured) | As per the Notification Letter |
| 4A. | Bank's Profit (Prevailing Rate) | As per the Notification Letter |
| 5. | Payment of Bank's Sale Price (Instalments Amount) | As per the Notification Letter |
| 6. | Address to deliver the Commodity | |

Annexure

Details of the Commodity