

Dated

By

•

(the “**Customer**”)

PURCHASE UNDERTAKING

In relation to the **Business Premises Smart-i** Facility based on the Shariah principle of **Diminishing Musharakah** provided by HSBC Amanah Malaysia Berhad (Company No. 807705-X) (the “**Bank**”) to the Customer

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THIS PURCHASE UNDERTAKING is made the day and year stated in Item 1 of the Schedule hereto by the party whose name and other particulars are stated in Item 2 of the Schedule hereto and includes its successors in title and permitted assigns (hereinafter referred to as the “**Customer**”).

Recitals

- (A) The Customer has been granted by HSBC Amanah Malaysia Berhad (Company No. 807705-X) (the “**Bank**”) an Islamic financing facility based on the Shariah principle of Diminishing Musharakah in accordance with the terms and conditions of the Business Premises Smart-i Facility Agreement (as defined herein).
- (B) Pursuant to the Business Premises Smart-i Facility Agreement, the Customer and the Bank are entering into a Diminishing Musharakah arrangement for the purpose of acquiring the Property.
- (C) Pursuant to the terms of the Business Premises Smart-i Facility Agreement, the Bank and the Customer shall respectively have an undivided portion of beneficial ownership in the Property commensurate with their respective capital contribution for the Diminishing Musharakah arrangement and the Customer hereby promises and undertakes to purchase the Bank’s undivided portion of beneficial ownership in the Property in accordance with the terms and conditions of this Purchase Undertaking.
- (D) The Bank and the Customer hereby agree and acknowledge that their respective rights and obligations under this Purchase Undertaking are intended to be subject to and in conformity with Shariah principles.

NOW IT IS HEREBY AGREED as follows:

1 Definitions and Interpretations

1.1 Incorporated Definitions

In this Purchase Undertaking, unless the context otherwise requires or unless it is otherwise expressly provided, the expressions herein shall have the meaning respectively assigned to them in the Business Premises Smart-i Facility Agreement.

Business Premises Smart-i Facility Agreement means Business Premises Smart-i Facility Agreement dated as stated in Item 4 of the Schedule hereto entered into and executed between the Bank and the Customer as may be amended, supplemented, varied or substituted from time to time; and

this Purchase Undertaking means this Purchase Undertaking dated as stated in Item 1 of the Schedule hereto executed by the Customer, in favour of the Bank relating to Customer’s undertaking to purchase the undivided portion of beneficial ownership owned by the Bank in the

Property and includes any amendment(s) or variation(s) thereof and addition(s) thereto from time to time executed in supplemental thereto or in substitution thereof.

1.2 Incorporated Construction and Interpretation

- (a) In this Purchase Undertaking, unless the context otherwise requires and save as specifically defined in this Purchase Undertaking, words, expressions and phrases used in the Business Premises Smart-i Facility Agreement shall be construed, interpreted and shall have the same meanings when used herein.
- (b) Where the Customer 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 Customer were a natural person, and shall bind all of its permitted assigns and successors-in-title. Accordingly, any references herein relating to death or bankruptcy shall thereafter be references relating to the winding-up, liquidation, amalgamation or reconstruction, as the case may be, of the Customer.
- (c) Where there is more than one party as Customer, the reference to Customer shall be to all and the liability of each Customer is hereby agreed as joint and several.

2 Purchase Undertaking

2.1 Purchase Undertaking

In consideration of the Bank entering into the Diminishing Musharakah Arrangement with the Customer pursuant to the Business Premises Smart-i Facility Agreement, the Customer hereby irrevocably and unconditionally promises, covenants and undertakes:

- (a) to purchase the Bank's entire undivided portion of beneficial ownership in the Property from the Bank progressively at the Purchase Price; and/or
- (b) to purchase the Bank's entire undivided portion of beneficial ownership in the Property at the Settlement Amount in any of the following circumstances:
 - (i) upon the occurrence of an Event of Default; or
 - (ii) upon the Bank's receipt of any notice, notification or declaration relating to any acquisition of the Property by the government or any government authority from the Customer under Clause 13.1 of the Business Premises Smart-i Facility Agreement; or
 - (iii) upon expiry of the Tenure;

in accordance with and upon the terms and conditions of the Business Premises Smart-i Facility Agreement.

2.2 Effect of failure to comply with the Purchase Undertaking

The Customer hereby agrees and acknowledges that if the Customer fails to comply and fulfill the terms of the purchase undertaking as set out in Clause 2.1 herein and thus causing the Bank to suffer loss of the Settlement Amount and any other amount under this Purchase Undertaking, the Bank has the right to claim for damages from the Customer for such pecuniary loss in addition to the compensation (Ta`widh) as set out in Clause 5 herein.

3 Transfer of Undivided Portion of Beneficial Ownership

The Bank's undivided portion of beneficial ownership in the Property that is to be acquired by the Customer pursuant to this Purchase Undertaking shall pass to the Customer upon full payment of the Purchase Price or the Settlement Amount (as the case may be).

4 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 Customer may be given by hand, ordinary registered post (either AR or non-AR registered post) sent to the Customer's Address for Service (as defined in the Business Premises Smart-i Facility Agreement) or to the Customer'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 Customer 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 Purchase Undertaking is admissible as prima facie proof of the service, giving or sending of the notice or document.
- (d) In the case of the death of the Customer 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 Purchase Undertaking to the aforesaid address to the deceased or his personal representatives at the deceased's last known address or as stated herein this Purchase Undertaking 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.

5 Compensation (Ta`widh)

- (a) The Customer hereby agrees that in the event of late payment/default payment under this Purchase Undertaking, the Bank shall be entitled to be paid compensation (Ta`widh) by the Customer as follows:
- (i) for failure to pay any part of the Monthly Payment or the Settlement Amount (as the case may be) within the Tenure, compensation (Ta`widh) at the rate of one per centum (1%) per annum of the outstanding Monthly Payments or total outstanding balance from the due date until date of full payment during the Tenure or until judgment date (whichever is earlier); and
 - (ii) for failure to pay any Monthly Payment which continues beyond the Tenure or after judgment (whichever is earlier), compensation (Ta`widh) at such rate per annum as determined by the Bank from time to time 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 after expiry of the financing tenure or after judgment date (whichever is earlier) or the Settlement Amount (as the case may be calculated) on daily rests;

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

6 Applicable Laws

This Purchase Undertaking is governed by and shall be construed in accordance with the laws of Malaysia and the parties hereby submit to the jurisdiction of the courts of Malaysia.

7 Provisions of the Business Premises Smart-i Facility Agreement Incorporated

All provisions of the Business Premises Smart-i Facility Agreement are incorporated herein whether or not repeated herein and shall form part of this Purchase Undertaking. Subject to such alterations or variations where necessary to make the provisions of the Business Premises Smart-i Facility Agreement consistent with the provisions of this Purchase Undertaking, in the event of any conflict or discrepancy between the provisions of the Business Premises Smart-i Facility Agreement and this Purchase Undertaking, the provisions of this Purchase Undertaking will prevail for the purpose of interpretation and enforcement of this Purchase Undertaking.

SCHEDULE

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

Item	Matter	Particulars
1.	Date of this Purchase Undertaking	
2.	Particulars of the Customer	
3.	Particulars of the Bank	
4.	Date of the Business Premises Smart-i Facility Agreement	

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Execution

Executed as a Purchase Undertaking on the day and year as set out in Item 1 of the Schedule hereto.

THE CUSTOMER

Signed by

(NRIC No. ●)

*for and on behalf of:

in the presence of:



.....

Witness

Name:

NRIC No:

** To cancel if not applicable*

.....

Signatory

Name:

Designation:

NRIC No: