

BIBD TAWARRUQ TRANSACTIONS (TERMS AND CONDITIONS OF SALE)

These "BIBD Tawarruq Transactions - Terms and Conditions of Sale" shall apply severally and independently to all agreements entered into -

BETWEEN:

- (i) **BANK ISLAM BRUNEI DARUSSALAM BERHAD**, a company incorporated in Brunei Darussalam and having its registered office at Lot 159, Jalan Pemancha, Bandar Seri Begawan BS8711, Brunei Darussalam (hereinafter referred to as "the Bank") of the one part

AND

- (ii) the several parties who severally and independently enter into BIBD Commodity Sale and Purchase Agreements with the Bank on different dates of the other part,

for the sale of commodities by the Bank to the Customers to meet their respective financial needs.

The particulars of each of the several parties (each a "Customer") are stated in the respective BIBD Commodity Sale and Purchase Agreement ("BIBD CS&PA").

1. Reference is made in each BIBD CS&PA to these Terms and Conditions of Sale (BIBD T&CS) which are made applicable to each of those BIBD CS&PA. Each of the BIBD CS&PAs is entered into between the parties thereto on the Islamic principle of Tawarruq which in this instance is used to facilitate the Customer obtaining finance to meet his personal needs. In a Tawarruq transaction, the Bank buys a commodity from a third party (A) at a certain purchase price and sells the same to the Customer and the Customer purchases it at the sale price, which is the sum of the Bank's purchase price and its profit. The Customer, having bought the commodity, may at his option take delivery and sell the same to another third party himself or appoint the Bank as its agent under a Wakalah Agreement (the BIBD Wakalah Agreement) to sell the commodity to a different third party. The net proceeds of the sale (the sale price less any commission and other expenses payable by the Customer) will be the amount available to the Customer.
2. In order to provide the financing to each Customer the Bank will make available to the Customer the BIBD Tawarruq Financing Facility (which will be equal to the Sale Price stated in the BIBD CS&PA) to enable the Customer to purchase the commodity from the Bank upon deferred payment terms. Upon purchase of the commodity the Customer will have the option to take delivery of the commodity, in which event the Bank will make arrangements for the Customer to take delivery at the place where the commodity is kept at the Customer's cost and expense. Alternatively, the Customer may appoint the Bank as its agent under the BIBD Wakalah Agreement to sell the commodity to a third party. The net proceeds of the sale will be the amount that would be available to the Customer for the Customer's use.
3. The Customer shall pay the Sale Price to the Bank in the manner set out in the BIBD CS&PA.
4. For better securing the payment of the Sale Price or any part thereof as shall be outstanding together with all monies whatsoever due to be paid by the Customer to the Bank, the Customer shall execute or cause to be executed the security documents stated in the Facility Letter issued by the Bank to the Customer (as more particularly described in BIBD CS&PA) ("the Facility Letter") and or as otherwise required by the Bank ("the Security Documents") in such form and substance as shall be acceptable to the Bank and deliver the same to the Bank. The Security Documents shall be a continuing security for as long as the Sale Price shall not have been paid in full to the Bank in the manner provided in BIBD CS&PA or in such other manner as agreed to by the Bank.
5. The Customer undertakes and agrees with the Bank that as long as any amount of the Sale Price or any other monies and liabilities remain payable by the Customer under BIBD CS&PA:-
 - (a) the Customer will promptly advise the Bank on becoming aware of the occurrence of any material adverse event which may inhibit the Customer in the performance of his obligations under BIBD CS&PA, this BIBD T&CS or under any of the Security Documents; and
 - (b) the Customer will from time to time on request by the Bank do or procure the doing of all such acts deeds and things and will execute or procure the execution of all such documents as the Bank may consider necessary or desirable for giving full effect to BIBD CS&PA and/or the Security Documents to which the Customer is a party.
6. In the event that the Customer (or where the Customer shall be more than one person, any one or more of them, as the case may be) shall:-
 - (a) make default in the payment of any one or more of the monthly instalments of the Sale Price when due, or
 - (b) fail to make payment of any other monies under this Agreement and/or any of the Security Documents as and when they fall due or if no date is specified, then on demand; or
 - (c) fail to observe or perform any of the agreements, covenants, stipulations, terms and conditions on the part of the Customer herein contained and/or in the BIBD CS&PA and/or under any of the Security Documents and on the part of the Customer to be observed and performed; or
 - (d) become insolvent and be unable to pay the Customer's debts or commit an act of bankruptcy or becomes bankrupt or shall enter into statutory or other composition or arrangement with the Customer's creditors generally or shall make a general charge for the benefit of the Customer's creditors or suffer any distress or attachment on the Customer's goods or property or any one or more of them; or
 - (e) die or be dismissed, terminated or retire from the Customer's employment or shall become unemployed or if the Customer is a partner in a firm and that firm shall cease to carry on business; or
 - (f) have a distress or execution levied upon or issued against any of the Customer's properties or assets or the properties or assets of any guarantor of the Customer in respect of the Financing Facility and the amount claimed is not paid off or discharged within five (5) days from the date of commencement of such distress or execution or an application is made for an order for the Customer and/or the said guarantor to be placed under judicial management and for the appointment of a judicial manager; or
 - (g) have a receiver and/or manager appointed in respect of the Customer's or the Customer's guarantor's properties, assets or undertaking or any part thereof; or if there are any legal proceedings which in the opinion of the Bank would materially and adversely affect the Customer or the said guarantor's ability to perform and observe the Customer's obligations herein to the Bank; or
 - (h) have a notice or proposal for compulsory acquisition of any property comprised in the Security Documents or any part thereof issued or made under or by virtue of any Act, Order, Enactment or other statutory provisions or regulations; or
 - (i) have any property comprised in the Security Documents or any part thereof partially or substantially destroyed; or if in the opinion of the Bank any security given to secure the Sale Price is in jeopardy and notice thereof has been given to the Customer; then and in any of such case, an event of default shall be deemed to have occurred and the Sale Price or the full balance thereof, as the case may be, and all other monies and liabilities and other dues covenanted to be paid by the Customer shall immediately become payable by the Customer to the Bank and the Bank shall forthwith become entitled to recover the same and to exercise the rights and powers upon default under the CS&PA and/or the Security Documents and as provided by the law without concurrence on the part of the Customer.
7. Notwithstanding anything herein contained to the contrary, the Customer hereby expressly agrees that if the Customer shall commit any default or be subject to any legal proceedings in respect of any other financing facility granted to the Customer by the Bank anywhere or by any other banks or financial institutions (whether such other banks or financial institutions carry on banking business in accordance with Shariah principles or not) then in any such event, the Sale Price or the full balance thereof outstanding as of that date, as the case may be, and all other monies and liabilities and other dues herein covenanted to be paid by the Customer shall immediately become payable by the Customer to the Bank and the

Bank shall forthwith become entitled to recover the same and to exercise the rights and powers upon default under this Agreement and/or the Security Documents and as provided by the law without concurrence on the part of the Customer.

8. Following an event of default as specified hereinabove, the Bank may without notice to the Customer combine consolidate or merge the Customer's Account and any of the Customer's other accounts with the liabilities to the Bank and the Bank may set off of or transfer any sum standing to the credit of any such account towards the satisfaction of any of the Customer's liabilities to the Bank under this Agreement.
9. The Customer shall pay on a full indemnity basis the following:-
 - (a) all takaful contributions, the Bank's processing fees, commission, charges and all costs and expenses (including legal fees on a solicitor and client basis) incurred by the Bank in connection with the preparation and registration of the BIBD CS&PA and the Security Documents required by the Bank for the purposes of carrying into effect the terms of the BIBD CS&PA;
 - (b) all costs and expenses (including court costs and legal fees on a solicitor and client basis) incurred by the Bank in protecting or enforcing its rights or remedies under BIBD CS&PA and/or the Security Documents; and
 - (c) any stamp duty, registration fees or any other payment payable in connection with the entry into, performance, enforcement or admissibility in evidence of BIBD CS&PA, the BIBD T&CS and/or the Security Documents and/or any such amendments or waiver, and shall indemnify the Bank against any liability with respect to or resulting from any delay in paying or omission to make any such payment.
10. The Customer agrees with the Bank that:-
 - (a) the Customer shall not assign or transfer all or any part of the Customer's rights or obligations under BIBD CS&PA without the prior written consent of the Bank; but
 - (b) the Bank may assign or transfer all or part of its rights or novate all or parts of its obligations under BIBD CS&PA and/or the Security Documents to any person or corporation. Any such assignee or transferee shall be entitled to the full benefit of BIBD CS&PA to the same extent as if it were the original party thereto.
11. The BIBD CS&PA shall enure to the benefit of and be binding on the parties thereto and wherever the context so admits their heirs, personal representatives, successors and permitted assigns or transferee of some or all of a party's rights or obligations under the BIBD CS&PA.
12. No failure on the part of the Bank to exercise and no delay on its part in exercising any rights or remedy under the BIBD CS&PA and/or the Security Documents and no indulgence shown by the Bank in whatsoever manner to the Customer will operate as a waiver thereof nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The rights and remedies provided in the BIBD CS&PA and the BIBD T&CS are cumulative and not exclusive of any rights or remedies provided by the law.
13. Any provision of this document may be amended only if the Customer and the Bank agree in writing to do so and any event of default may be waived before or after it occurs only if the Bank agrees in writing. Any such waiver and any consent by the Bank under any provision of the BIBD T&CS must be in writing and may be given subject to any conditions thought fit by the Bank. Any waiver or consent given shall be effective only for that particular instance and for the purpose for which it is given.
14. A statement or certificate signed by the Managing Director, Deputy Chief Executive Officer, Credit Manager, Accountant or any other officer of the Bank authorised by the Bank for that purpose shall be final, conclusive and be binding on the Customer save for computation and/or clerical errors.
15. Time wherever mentioned shall be of the essence of this BIBD T&CS and the BIBD CS&PA in relation to all the provisions of this BIBD T&CS and the BIBD CS&PA and in particular to the payment of the Sale Price or any part thereof and the payment of all monies due by the Customer to the Bank under the BIBD CS&PA and under the Security Documents.
16. If any provision of this Agreement offends any applicable law and/or any Shariah principles and as a consequence is illegal, invalid or unenforceable, then:
 - (a) where the offending provision can be read down so as to give it a valid and enforceable operation of a partial nature it must be read down to the extent necessary to achieve that result; and
 - (b) in any other case, the offending provision must be severed from this T&C and BIBD CS&PA in which event the remaining provisions of this Agreement operate as if the severed provision had not been included.
17. The Customer undertakes that he will not utilize the financing amount or any part thereof to carry on any business or transaction in violation of the applicable law and/or contrary to Shariah principles.
18. This Agreement shall be governed by and construed in accordance with the laws of Brunei Darussalam.
19. The Facility Letter (including its Schedule) containing full particulars of the BIBD Tawarruq Financing Facility shall be read and construed as an essential part of this BIBD T&CS and the BIBD CS&PA. In the event of any conflict between (i) this BIBD T&CS and the Facility Letter or (ii) the BIBD CS&PA and the Facility Letter, the terms of this BIBD T&CS or the BIBD CS&PA, as the case may be, shall prevail.
20. In the BIBD TC&S and the BIBD CS&PA unless there is something in the subject or context inconsistent with such construction or unless it is otherwise expressly provided:-
 - (a) words importing the masculine gender include the feminine and neuter genders;
 - (b) words applicable to natural persons include any partnership, body of persons corporate or unincorporate and any statutory body;
 - (c) words in the singular include the plural and words in the plural include the singular; and
 - (d) where the Customer consists of more than one person, the obligations and liabilities of such persons under the BIBD CS&PA shall be joint and several.
21. Any demand for payment or any other demand or notice in respect of any matter under the BIBD CS&PA shall be made by a notice signed as provided in Clause 14 hereof or any person or firm for the time being acting as solicitor for the Bank and served on the Customer personally or sent by registered post to the Customer's last known address in which case, the same shall be deemed to have been sufficiently served and received by the Customer on the 5th day after posting.