



## WAKALAH AGREEMENT

### KFH INTERNATIONAL COMMODITY MURABAHAH DEPOSIT-I

We, wish to place deposit such sums of monies from time to time with Kuwait Finance House (Malaysia) Berhad (672174-T) (“KFHMB”) pursuant to or under the **KFH International Commodity Murabahah Deposit-i Programme (“Deposit Programme”)** and we understand that the Deposit Programme would involve:-

- a) The appointment of KFHMB as our agent to purchase Shariah compliant goods and commodities which include but not limited to palm oil products, oleo chemical products, rubber products, cocoa products or soya products in the local/international markets as determined by KFHMB (“Merchandise”) and subsequently to sell the Merchandise. KFHMB shall use such monies that we have deposited with KFHMB for the purpose of the said Deposit Programme;
- b) Immediately upon the purchase of the Merchandise referred to in (a) above, KFHMB on behalf of us shall sell the Merchandise to itself at a price (“Sale Price”) and on deferred payment terms as mutually agreed between KFHMB and us;
- c) The Sale Price and the deferred payment terms referred to in (b) above shall be agreed between KFHMB and us prior to us making the deposit referred to above; and
- d) The appointment of KFHMB as our agent referred to in (a) above and the purchase and sale of the Merchandise referred to in (b) above shall be subject to terms and conditions (“Terms and Conditions”) under the Deposit Programme.

We hereby also agree and acknowledge that for every deposit placement that we make with KFHMB pursuant to or under the Deposit Programme, KFHMB is authorised to act as our agent and utilise such deposits for the purposes of purchasing and selling the Merchandise on our behalf as stated in (a) above.

We hereby indemnify KFHMB against all losses, claims, actions, proceedings, damage, costs and expenses whatsoever brought or claimed by any party and/or incurred or sustained by KFHMB as a result of the purchase and sale of the Commodities under any transactions entered pursuant to the Deposit Programme as our agent or a breach of any of our obligations herein. The indemnity shall survive termination of our participation under the Deposit Programme and any sums payable thereto shall not be subject to any deduction whether by way of set-off, counter claim or otherwise.

We shall deliver to KFHMB a certified true copy or extract of our board of directors’ resolutions or equivalent management body approving the execution, delivery and performance of this Deposit Programme and the documents and arrangements contemplated by it together with a list of signatories, with specimen signatures, of those persons authorised to give instructions to KFHMB as per time and format prescribed by KFHMB.

**TERMS AND CONDITIONS**  
**KFH INTERNATIONAL COMMODITY MURABAHAH DEPOSIT-i**

- (i) KFHMB's actions as agent of the Principal is limited only to the purchase of the Merchandise on behalf of the Principal and save where KFHMB has acted grossly negligent or with willful misconduct, KFHMB's actions on behalf of the Principal are for the Principal's account and risk.
- (ii) In the event that the Merchandise is either not delivered to KFHMB or KFHMB is unable to purchase the Merchandise by reason of such purchase being in contravention of any applicable laws or regulations, KFHMB shall refund such sum deposited by the Principal with KFHMB to the Principal upon receiving notice thereof, for value the same day or if not reasonably practicable, the next following Business Day.

For the purposes of this Terms and Conditions, in the event the currency for payment by the Parties is Ringgit Malaysia, the expression "Business Day" shall mean a day (excluding Saturday and Sunday) on which commercial banks are open for business in Kuala Lumpur. In the event the currency for payment is other than Ringgit Malaysia, the expression "Business Day" shall mean a day (excluding Saturday and Sunday) on which commercial banks are open for business in the principal financial centre for foreign exchange dealings in such currency.

- (iii) In respect of the purchase of the Merchandise by KFHMB from the Principal ("Sale Transaction"), title to the Merchandise shall pass to KFHMB as purchaser thereof immediately following the passing of such title to the Principal pursuant to the purchase of the Merchandise by KFHMB as agent of the Principal.
- (iv) The Sale Transaction is on the basis that:-
  - a) all payments to be made by KFHMB pursuant to a Sale Transaction shall be made without any set-off or counterclaim, and in immediately available and transferable funds for good value on the due date thereof to the account of the Principal that the Principal shall from time to time notify KFHMB; and
  - b) all payments to be made by KFHMB pursuant to a Sale Transaction shall be without deduction for and free from any present or future taxes, levies, imposts, duties, charges, fees, deductions, withholdings, restrictions or conditions of any nature imposed, levied, collected or assessed by any taxing authority unless KFHMB is compelled by law to make any such deduction or withholding. In that event KFHMB is compelled by law to make such deduction or withholding, it will ensure that such deduction or withholding does not exceed the minimum legal liability thereof and will pay to the appropriate authorities the amount deducted or withheld and supply a tax deduction certificate to the Principal.
- (v) If any payment due from KFHMB to the Principal pursuant to a Sale Transaction falls on a day which is not a Business Day, the payment shall be made on the next succeeding Business Day save where the next succeeding Business Day falls in the next calendar month in which event the payment shall be due and made on the day immediately preceding the Business Day.

- (vi) Neither party hereto shall be liable to the other in respect of a failure to make a delivery of the Merchandise or payment on the due date if such failure is caused (directly or indirectly) by an error or omission of an administrative or operational nature, and funds or the Merchandise (as the case may be) were available to such party to enable it to make the relevant payment or delivery when due, provided that such error or omission is remedied within three (3) Business Days of notice of default being received.
- (vii) Any notice to be given in relation to the purchase and/or sale of the Merchandise shall, except where communication by telephone is expressly agreed and contemplated, be given in writing. All mail and notices may be given by such modes and subject to such additional terms and conditions as may be agreed between the Parties at their respective addresses, telephone/ facsimile and e-mail addresses as formally communicated by the Parties and will be deemed to be received:-
- a. if in writing and delivered in person or by courier on the date it is delivered;
  - b. if sent by facsimile transmission, on the date that transmission is received by the recipient in legible form and confirmed by a transmission report generated by the sender's facsimile machine;
  - c. if sent by ordinary or registered mail, (unless there is evidence of earlier receipt) three (3) days after posting;
  - d. if sent by electronic messaging system (email, SWIFT, Bloomberg, Reuters Dealing, facsimile), on the date that electronic message is received, unless the date of that delivery or that receipt as applicable is not a Business Day or that communication is delivered or received as applicable after the close of business on a Business Day, in which case that communication shall be deemed given on the first following day that is a Business Day.
  - e. when closing a transaction via telephone or email or any other acceptable mode of transaction, the communication must clearly state the party to the transaction, the agreed amount of funds or money transacted and the agreed tenure of the transaction.
- (viii) (a) KFHMB is authorised to rely upon and act on all instructions and correspondences ("Instruction") from the Principal communicated by telephone or transmitted by facsimile or other electronic mode of communication as may be mutually agreed upon by the parties.
- (b) The Principal releases KFHMB who has relied upon or acted on the Instruction from the Principal and indemnifies and holds KFHMB harmless from and against all actual and direct actions, suits, proceedings, costs (including reasonable legal costs), claims, demands, charges, expenses, losses and liabilities however arising (unless due to the gross negligence, willful default or fraud of KFHMB) in consequence of, or in any way related to: -

- i. KFHMB having acted in good faith in accordance with the Principal's Instruction, notwithstanding that such Instruction(s), as above have been initiated or transmitted in error or fraudulently altered, misunderstood or distorted in the lines of communication or transmission; and/or
- ii. KFHMB having refrained from acting in accordance with the Principal's Instruction by reason of failure of either actual transmission thereof to the Recipient, whether connected to the fault or failure or other cause connected to the sending or receiving machine; and/or
- iii. the Principal's failure to forward all original copies of Instruction to KFHMB within such period as KFHMB may specify.

(c) The Principal agrees that it will not raise any objection in respect of the agreed mode of communication in respect of or in relation to the Instruction nor will it challenge the authenticity of the Instruction given to KFHMB in the courts of law.

(ix) (a) Each Party ("Recipient") is authorised, but not obliged, to rely upon and act on all instructions and correspondences ("Instructions") from the other Party ("Sender") communicated by telephone or transmitted by facsimile or other electronic mode of communication as may be mutually agreed upon by the Parties.

(b) The Sender releases the Recipient which has relied upon or acted on the Instructions from the Sender and indemnifies and holds the Recipient harmless from and against all actions, suits, proceedings, costs (including legal costs), claims, demands, charges, expenses, losses and liabilities however arising (unless due to the gross negligence or willful default of the Recipient) in consequence of, or in any way related to:-

- i. the Recipient having acted in good faith in accordance with the Sender's Instruction, notwithstanding that such instruction(s), as above have been initiated or transmitted in error or fraudulently altered, misunderstood or distorted in the lines of communication or transmission;
- ii. the Recipient having refrained from acting in accordance with the Sender's Instruction by reason of failure of either actual transmission thereof to the Recipient or receipt by the Recipient for whatever reason, whether connected to the fault or failure or other cause connected to the sending or receiving machine or otherwise; or
- iii. the Sender's failure to forward all original copies of Instruction to the Recipient within such period as the Recipient may specify.

(x) KFHMB and the Principal shall be entitled to record all telephone conversations and instructions received from the other Party and such recordings and transcripts thereof shall be used by the Parties as evidence in any dispute. Each Party's recordings shall be and remain the sole property of such Party. When closing a transaction via telephone or email or any other acceptable mode of transaction communication, the communication must clearly state the party to the transaction, the agreed amount of funds or money transacted and the agreed tenor of the transaction.

- (xi) KFH International Commodity Murabahah Deposit-i is an approved deposit product by Bank Negara Malaysia and any deposits made pursuant to or under it is protected by the Malaysia Deposit Insurance Corporation established under the Malaysia Deposit Insurance Corporation Act 2005.
- (xii) The contents of this Terms and Conditions and the transactions contemplated by this Terms and Conditions shall be kept confidential by the parties hereto save to the extent that any such matter shall become a matter of public knowledge other than through the fault of either party hereto and save as required by an order of a court of a competent jurisdiction or a competent administrative authority.
- (xiii) This Terms and Conditions and the transactions contemplated by it is personal to the parties hereto and their respective rights and obligations hereunder shall not be assignable or transferable except with the prior written consent of the other.
- (xiv) This Terms and Conditions are intended to be wholly Shariah-compliant. Both KFHMB and the Principal hereby agree and acknowledge that their respective rights and obligations under this Terms and Conditions are intended to be subject to and in conformity with Shariah principles (such Shariah principles as are determined by the Shariah Committee /Shariah Supervisory Board of KFHMB with concurrence of the Shariah Advisory Council of Bank Negara Malaysia).
- (xv) The illegality, invalidity, or unenforceability of any provision of this Terms and Conditions under the laws of any jurisdiction or under any Shariah ruling or resolution shall not affect the validity or enforceability of any other provision of this Terms and Conditions or other agreements and/or documents to be entered into pursuant hereto.
- (xvi) This Terms and Conditions shall be governed by and construed in accordance with the laws of Malaysia and each of the parties hereto irrevocably agrees that the Courts of Malaysia shall have jurisdiction for the purpose of any proceedings arising out of or in connection with this Terms and Conditions and, for such purposes, irrevocably submits to the jurisdiction of such courts.
- (xvii) Time wherever mentioned shall be of the essence.

