

**Tawarruq Terms and Conditions to Facilitate Payment Deferment  
for Matured Trade Bills (“Facility”)**

**1. Purpose of Facility**

To facilitate payment deferment of matured Trade bills.

**2. Financing Mechanism**

- (a) In accordance with the Shariah concept of **Murabahah via Tawarruq** arrangement and pursuant to the Bank’s Financing Deferment Program to assist customers experiencing temporary financial constraints due to the COVID-19 outbreak and pursuant to the Purchase Undertaking stated herein, the Bank shall in its own capacity purchase the commodity(ies) from commodity supplier(s) registered with Bursa Suq Al-Sila’ (“**BSAS**”) or from such other supplier(s) or at such other exchange acceptable to the Bank, of up to an aggregate sum not exceeding the Facility limit (matured trade bills due), which represents the Bank’s cost(s) of acquiring the commodity(ies) (“**Commodity Purchase Price**”).
- (b) Upon the Bank’s purchase of the commodity(ies) from the commodity supplier(s), the Bank shall subsequently, sell the commodity(ies) to the Customer or third party authorised by Customer at the commodity sale price which shall comprise of the Commodity Purchase Price plus agreed profit sum of the Bank (“**Commodity Sale Price**”) evidenced by an electronic sale certificate (“**Electronic Sales Certificate**”), upon this terms and conditions or as determined by the Bank at its discretion which shall be payable by the Customer or third party authorised by Customer to the Bank on deferred payment basis.
- (c) The Customer or third party authorised by Customer may take delivery of the commodity(ies), at its own cost and expenses if desired or subsequently the Bank as agent for and on behalf of the Customer, pursuant to the Appointment as Agent stated herein, shall sell the commodity(ies) to any third party at an agreed price equivalent to the Commodity Purchase Price of the commodity(ies) on cash payment basis, whereby the proceeds thereof shall be made available by the Bank for utilisation into a designated current account for the Customer or any other account with the Bank or in the manner agreed between the parties from time to time in accordance to the terms and conditions herein.

**3. Asset**

The type of asset to enable the transactions of the kind as contemplated under the Facility to be concluded comprise any Shariah compliant commodity(ies) acceptable to the Bank, including but not limited to, commodities tradable under BSAS or such other exchange acceptable to the Bank.

**4. Purchase Undertaking (“PU”)**

- (a) Upon the Customer’s request for utilisation and in consideration of the Bank making available the Facility, the Customer irrevocably agrees and undertakes to purchase the

Asset from the Bank at the Commodity Sale Price in the manner determined or notified by the Bank at its discretion.

- (b) The Asset will be sold to the Customer on an “as is where is” basis without any representation or warranty in respect thereof and upon the issuance of the Electronic Sales Certificate, all risk shall pass to the Customer and save and except for damages arising directly from the Bank’s wilful default or gross negligence, the Bank shall be freed from any liabilities, responsibilities or obligations relating to the Asset in any form or manner whatsoever.
- (c) Any defects or non-delivery or any disputes whatsoever in relation to the Asset shall not in any way affect or absolve the Customer’s obligations or undertakings hereunder, or under the Letter of Offer and the Electronic Sales Certificate.
- (d) The Bank shall not be obligated in any manner whatsoever, to purchase the Asset unless and until the conditions (“**Conditions Precedent**”) determined by the Bank are duly fulfilled in a manner satisfactory to the Bank. Pending the fulfilment in the manner satisfactory to the Bank of the Conditions Precedent herein stipulated, the Bank may at its discretion withhold the payment of the Commodity Purchase Price.
- (e) The Bank shall not be obligated in any manner whatsoever, to accept any other disbursement request from the Customer to purchase the Asset until and unless the Customer has made full payment of the Asset at the Commodity Sale Price and in accordance with the terms and conditions determined by the Bank.
- (f) This PU shall be irrevocable (except with prior written consent of the Bank) and binding on the Customer and its successors in title, permitted assigns and personal representatives.
- (g) Save and except for damages arising directly from the Bank’s wilful default or gross negligence, the Customer undertake to fully indemnify and to keep the Bank indemnified from or against any expenses, loss, damages or liabilities resulting from any defect, malfunction and/or lack of merchantable quality of the Asset or lack of fitness for use of the Asset or otherwise howsoever in connection with this PU including against any loss in any manner whatsoever which the Bank may suffer as a result of the Bank agreeing to participate in the Murabahah via Tawarruq arrangement save and except where it is due to gross negligence, fraud or wilful misconduct by the Bank or its agents.

## 5. Appointment As Agent

- (a) The Customer hereby irrevocably and unconditionally appoints the Bank to be its absolute and undisclosed agent to perform the duties as set out below:
  - (i) to purchase the Asset from the Bank (in its capacity as seller) on deferred payment terms at the Commodity Sale Price in a manner and terms as determined by the Bank at its discretion;
  - (ii) to take possession (physical or constructive) of the Asset;

- (iii) upon the Customer's request, to allow the Customer to obtain possession of the Asset at the Customer's own costs and expenses subject to the condition that the Bank has yet to sell the Asset on the Customer's behalf to any third party;
  - (iv) to sell the Asset to any third party commodity purchaser at the Bank's discretion on behalf of the Customer at a price equivalent to the Commodity Purchase Price;
  - (v) to receive the sale proceeds on the Customer's behalf from the third party purchaser of the Asset, to hold the sale proceeds on trust for the Customer and to remit the sale proceeds or any part thereof to the Customer into the Customer's account with the Bank or in the manner mutually agreed by the Customer and the Bank;
  - (vi) to deliver possession of and title in and to the Asset to the third party purchaser of the Asset; and
  - (vii) to do all acts incidental to the above including but shall not be limited to the execution of the Electronic Sales Certificate or any document or instrument required thereof, delivery, possession and retention of the Asset in any manner as the Bank deem fit.
- (b) The Customer shall recognise that the Bank as its absolute and undisclosed agent shall at all times be:
- (i) authorised to sign and execute all documents and do all acts and observe and perform all obligations required to be done in connection with its appointment as the Customer's agent, or imposed under any sale transaction to the third party purchaser of the Asset; and
  - (ii) authorised to delegate its rights and duties as an agent to any third party to do all acts necessary for the completion of the required transactions; and
  - (iii) required to do all the administrative duties regarding the holding and the sale of the Asset as well as takaful coverage thereof where applicable.
- (c) Notwithstanding any sale of the Asset or by the Bank as agent of the Customer and/or any defects and/or any non-delivery and/or any dispute whatsoever in relation to the Asset that the Customer may have with the third party purchaser pursuant to the sale by the Bank as agent on behalf of the Customer subsequent to the Customer purchasing the Asset from the Bank but prior to the full settlement of the Commodity Sale Price and the indebtedness created under the said Electronic Sales Certificate, it shall not in any way impair or absolve the Customer's obligations as arising out in the Electronic Sales Certificate.
- (d) The Customer shall be bound by any contract or agreement that the Bank enters into on its behalf with any third party pursuant to the Bank's appointment as agent.
- (e) The Customer does not deem the Bank's appointment as agent to create a partnership or a joint venture, nor does it establish a relationship of principal or agent in any other relationship between the Customer and the Bank.

- (f) This appointment shall cease immediately upon expiry or termination of the Facility.
- (g) The Customer hereby undertakes to indemnify the Bank from any losses, costs, expenses or damage that the Bank may suffer or incur as a result of fulfilling the Bank's agency function as set out above unless such losses, costs, expenses or damages are due to the gross negligence, fraud and wilful misconduct of the Bank or its agents.

## **6. Profit Rate**

Profit Rate is fixed upfront for each utilisation. The profit to be charged depends on the relevant trade products and calculated based on the IFR or three (3) months I-COF plus the approved margin stipulated in the Letter of Offer (LO). The details are as per stated in the Letter of Notification.

## **7. Tenure**

Six (6) months from the original bill due date or up to 31<sup>st</sup> December 2020, whichever is earlier.

## **8. Additional Term and Condition**

The utilisation of the Facility shall be subject to all other requirements and conditions which may be prescribed by BNM from time to time.