

## ISLAMIC HIRE PURCHASE AGREEMENT

**Agreement No.:**

**Agreement Date:**

### SCHEDULE TO THE AGREEMENT OVERLEAF

#### PART I – PARTICULARS OF HIRER

- (i) Full Name : .....
- (ii) ID No./Company No./Registration No. : .....
- (iii) Type of Constitution (\*if it is a company) : .....
- (iv) Address : .....

#### PART II – DESCRIPTION OF GOODS

- (i) Description of Goods : .....
- (ii) New or Secondhand : .....
- (iii) Registration No. : .....
- (iv) Model : .....
- (v) Engine No. : .....
- (vi) Chassis or Serial No. : .....
- (vii) Accessories : .....
- (viii) Goods to be kept at : .....
- (ix) Purpose : .....

#### PART III – TABLE OF PAYMENTS

- |        |  |                     |
|--------|--|---------------------|
| (i)    | Cash Price of Goods  | [ ] .....           |
| (ii)   | Deposit  | [ ] .....           |
|        | Cash   | ([ ] .....)         |
|        | other than Cash  | ([ ] .....)         |
|        | Cash Price Less Deposit  | [ ] ..... [ ] ..... |
| (iii)  | Freight Charges, if any  | [ ] .....           |
| (iv)   | Vehicle Registration Fees, if any  | [ ] .....           |
| (v)    | Takaful for motor vehicle for first 12 months OR<br>takaful for Goods other than motor vehicles, for duration of Agreement | [ ] .....           |
| (vi)   | Total of items (i), (iii), (iv) and (v) less (ii)  | [ ] .....           |
| (vii)  | Term Charges: (a) rate per annum .....% flat<br>(b) total amount of term charges   | [ ] .....           |
| (viii) | BALANCE ORIGINALLY PAYABLE UNDER THIS AGREEMENT<br>[Total of items (vi) and (vii)]   | [ ] .....           |
| (ix)   | Annual Percentage Rate of Term Charges ..... %   |                     |
| (x)    | HIRE PURCHASE PRICE [Total of items (viii) and (ii)]   | [ ] .....           |
| (xi)   | Difference between cash price of goods and the total amount you will have to pay   | [ ] .....           |
| (xii)  | Late Payment Fee at maximum rate of [ ]%   |                     |

#### PART IV – PARTICULARS RELATING TO PAYMENTS

- (i) Date on which the hiring shall be deemed to have commenced  
.....
- (ii) Duration of payment of instalments in the number of months or years (Rental Term)  
.....
- (iii) Number of instalments .....
- (iv) Amount of each instalment (Rental Amount) and one final instalment of [ ] .....  
[ ] .....
- (if applicable)
- (v) Instalments commencing on (shall commence from the point where the lease has the access to the usufruct of the leased asset, regardless of whatever the Hirer has actually used the asset) .....and thereafter on or before the ..... day of succeeding month

AN AGREEMENT made between:

1. ( [ ] ), a company incorporated under the laws of the [ ] of Post Office Box Number ..... , [ ] (hereinafter referred to as the "Owner", which expression shall, where the context so requires, include the Financier's successors in title (whether immediate or derivative) and assigns); and
2. ( [ ] ) of Post Office Box Number ..... , ..... of [ ] (hereinafter referred to as the "Hirer", which expression shall, where the context so requires, include the Customer's personal representatives and permitted assigns).

(hereinafter individually referred to as the "Party" and collectively as the "Parties")

#### **1. AGREEMENT FOR HIRE**

- 1.1 The Owner will let and the Hirer will take on hire based on the Shariah principle of Ijarah upon the following terms and conditions the goods (hereinafter called "the Goods") described in Part II of the Schedule hereto.
- 1.2 Subject to Clause 25 hereto, the hiring shall commence on the date specified in item (i) Part IV of the Schedule hereto and shall continue until determined as hereinafter provided.
- 1.3 The Hirer, at the commencement of the Rental Term, would give the Owner an irrevocable undertaking or commitment to purchase the Goods from the Owner at the expiry of the Rental Term or early settlement of all the Rental Amounts by executing the Purchase Undertaking (Wa'd) in the form as set out in **Appendix 1** herein and the price or the method for calculating the price for the purchase of the Goods shall be determined by the Owner at its absolute discretion.

#### **2. PURCHASE OF GOODS**

- 2.1 For the purpose of this Agreement, the Owner, upon request by the Hirer, shall purchase the Goods from the dealer via its agent subject to the terms and conditions of this Agreement.
- 2.2 The Owner will appoint the Hirer as its agent based on the Shariah principle of Wakalah, in the form as set out in **Appendix 2** herein, to purchase the Goods from the dealer subject to the terms and conditions of this Agreement.
- 2.3 Pursuant to the above Clause, the Hirer hereby undertakes to take on hire the Goods pursuant to Clause 1.3 above from the Owner at the relevant rental amount upon the Owner having purchased the said Goods from dealer.

#### **3. PAYMENT**

- 3.1 The Hirer, having prior to the signing of this Agreement made the initial payment specified in Part III of the Schedule hereto (shall be deemed as part of the Rental Amount paid by the Hirer to the Owner) in consideration of the option to purchase hereby granted to the Hirer shall punctually pay the balance of the hire purchase price in the manner and by the instalments (which shall not be increased unilaterally) specified in Part IV of the Schedule hereto and all other sums due and payable under this Agreement. The time of payment shall be of the essence of this Agreement and the Hirer's failure to pay any sum within seven (7) days of the same becoming due will entitle the Owner to impose compensation to the Hirer, which the rate is specified in item (xii) of Part III of the Schedule hereto. The Owner shall, after deducting an amount to compensate it for any actual costs (not to include any opportunity costs or funding costs), pay the balance amount received by it on behalf of the Hirer to such Shariah compliant charitable organization(s) as approved by a competent Shariah Supervisory Board or Shariah Advisor. All sums payable to the Owner under this Agreement shall be paid to the Owner at such address as specified by the Owner.
- 3.2 The Owner and the Hirer may from time to time, mutually agree to revise the rental of the leased asset.
- 3.3 The Owner and the Hirer may from time to time, mutually agree to vary the period of this Agreement.

#### **4. COVENANTS BY HIRER**

The Hirer hereby covenants that the Hirer shall:

- (a) punctually pay all sums payable under this Agreement and any payments to the Owner by post shall be at the risk of the Hirer. The date of such payments shall be the actual date of the receipt by the Owner, PROVIDED ALWAYS THAT the Owner shall be entitled to appropriate first from any payment or payments received from the Hirer any sums due from the Hirer under any of

the Clauses herein notwithstanding that any such payment or payments may be made by way of or the Hirer may purport to appropriate them as a payment or payments of monthly instalments. The rights given by this Clause shall be irrevocable and without prejudice to any other rights conferred upon the Owner by this Agreement in the event of any default by the Hirer in payment of any sums due under any of the Clauses herein;

- (b) keep the Goods in good condition and replace any missing or damaged parts with parts of equal quality and value;
- (c) punctually pay all licenses, dues, registration, charges, taxes, fees, and other outgoings payable in respect of the Goods or the user thereof and produce to the Owner on demand the last receipts for all such payments and in the event of the Hirer making default under this sub-clause the Owner shall be at liberty to make all or any of such payments and to recover the amount thereof from the Hirer forthwith;
- (d) permit the Owner and any person authorized by the Owner at all times to enter upon the premises in which the Goods are for the time being placed or kept for the purpose of inspecting and examining the condition of the Goods;
- (e) keep the Goods at all times in his possession or control and not remove the Goods or cause or allow the same to be removed from the location indicated in Part II of the Schedule hereto without the prior written consent of the Owner;
- (f) notify the Owner of any change in the Hirer's address and other particulars in this Agreement and upon request by the Owner promptly inform the Owner of the whereabouts of the Goods;
- (g) indemnify the Owner against all claims and demands that maybe made upon the Owner by reason of any loss, injury or damage suffered by any person from the presence of the Goods or the use thereof;
- (h) punctually pay for all work done to the Goods and for spare parts and accessories thereto and keep the Goods free from any distress execution or other legal process;
- (i) not sell, let, pledge, mortgage, charge, encumber or part with the possession of or otherwise deal with the Goods or to any interest therein or in this Agreement or the option to purchase herein contained or create or allow to be created any lien on the Goods whether for repair or otherwise and in the event of any breach of this sub-clause by the Hirer the Owner shall be entitled (but shall not be bound) to pay to any third party such sums as is necessary to procure the release of the Goods from any encumbrance, charge or lien and shall further be entitled to recover such sums from the Hirer forthwith;
- (j) immediately after the signing of this Agreement insure the Goods and keep the same insured during the continuance of the hiring against loss or damage howsoever arising to the full replacement value thereof under a comprehensive policy of takaful free from restriction or excess in the name of the Hirer bearing an endorsement recording the Owner's interest in the Goods and stating that no payment is to be made to the Hirer under the policy until that interest has been discharged and in default of the Hirer so doing the Owner may insure as aforesaid and recover the cost thereof from the Hirer forthwith. The Hirer hereby irrevocably appoints the Owner his agent for the purpose of receiving all monies payable under the said policy (which monies shall be applied as provided in Clause 32 hereto) and giving a discharge therefrom;
- (k) immediately after the signing of this Agreement to put in force in relation to the use of the Goods by the Hirer and all its agents or servants a policy of takaful in respect of injury to any third party or damage to the chattels or realty of any third party arising from the use of the Goods and the Hirer shall indemnify the Owner against any claim by any third party for such injury or damage;
- (l) irrevocably appoint the Owner the agent of the Hirer for the purpose of negotiating with the operators on any claim under any policy taken out pursuant to sub-clauses (i) and (j) above and for the purpose of receiving all monies payable under the said policy and giving a discharge therefore;
- (m) not change the operators for the Goods without prior written consent of the Owner;
- (n) punctually pay all premiums and other sums required to keep all policies of takaful effective and to deliver up the policies of takaful and all receipts for

premiums to the Owner or its authorized agents and do everything necessary to maintain all policies of takaful in full effect and not to do anything whereby the policies of takaful will or maybe vitiated;

PROVIDED ALWAYS THAT the Owner shall be under no duty to examine any such policies of takaful or to advise the Hirer in the event that the policies of takaful obtained are not in compliance with this Agreement and PROVIDED FURTHER THAT failure to recover any sum from the insurers shall not relieve the Hirer from any of its duties and covenants in this Agreement;

- (o) without detracting in any way from the Hirer's primary duties to insure the Goods and maintain and pay for such takaful as set out in sub-clauses (j), (k) and (n) above, the Hirer agrees that the Owner may on its own or some other agency and at the expense of the Hirer take out and maintain such takaful at all times during the continuance of this Agreement PROVIDED ALWAYS THAT the Hirer will pay every sum from time to time paid by the Owner for effecting or keeping in force such takaful;
- (p) obtain all necessary licenses permits and permissions for the use of the Goods and not use the Goods or permit the same to be used contrary to law or any regulation or by-law for the time being in force and permit the same to be used contrary to law or any regulation or bye-law for the time being in force and to indemnify the Owner against fire forfeiture or any claims and costs whatsoever arising out of the use, operation or keeping of the Goods or in any manner relating thereto;
- (q) pay the Owner all expenses (including legal costs on a full indemnity basis) incurred by or on behalf of the Owner in ascertaining the whereabouts of taking possession of preserving, repairing, insuring and storing the Goods and any legal proceedings taken by or on behalf of the Owner to enforce this Agreement. If the Owner, pursuant to Clause 8 hereto, shall have taken steps to repossess the Goods and shall in consequence have incurred costs and expenses the Hirer shall forthwith pay to the Owner all such costs and expenses including legal costs on a solicitor and client basis. PROVIDED ALWAYS THAT should the Owner thereafter allow the Hirer to retake possession of the Goods, the Hirer shall as a condition precedent thereto pay to the Owner such costs and expenses mentioned herein together with all arrears of monthly instalments, all other sums due and payable under this Agreement plus overdue interest thereon as mentioned in sub-clause (a) above;
- (r) as may be appropriate to the Goods, deliver up to the Owner the necessary registration book and/or all documents relating to the registration of the Goods including a blank transfer form duly, signed by the Hirer;
- (s) inform the Owner immediately if the Goods are the subject-matter of any litigation, legal execution, distress action or lien by any person and shall bear all costs and expenses (including legal Costs on a solicitor and client basis) to have the Goods released therefrom;
- (t) not to suffer or permit any person to conceal the Goods or part with personal possession or control of the same or to remove alter erase deface or otherwise interfere with the Goods or any identifying number mark or description upon the Goods or any part thereof;
- (u) warrant that the Hirer has not (apart from this Agreement) any rights in the Goods other than as a bailee thereof and it is hereby agreed that the Goods shall at all times remain the sole and exclusive property of the Owner during the period of hire;
- (v) not without the written consent of the Owner make any additions, improvements or alterations to the Goods or change the working order function and quality thereof. If the Hirer does make additions or alterations to the Goods with or without the prior written consent of the Owner, the hirer shall immediately upon being required so to do by the owner remove the same reinstate the Goods to its original state at the Hirer's cost and expense. Any additions or improvements made to the Goods whether with or without the Owner's consent shall be deemed to form part of the Goods;
- (w) agree that this Agreement embodies the entire understanding between the parties hereto and no variation of the terms herein shall be valid or binding on

- the Owner unless the Owner's prior written consent of such variation is obtained and that there are no promises terms conditions warranties or obligations oral or written express or implied whether by law or statute or in any way other than those contained herein;
- (x) agree that all actions or legal proceedings in respect of the obligations and liabilities of the parties hereto arising out of the terms set out herein shall be commenced and/or instituted in the following manner-
    - (i.) where this Agreement was executed in the states of [ ], all actions or legal proceedings shall be commenced and/or instituted in the appropriate courts of law.

PROVIDED ALWAYS THAT the Owner may at its absolute discretion initiate any action or legal proceedings in any court within [ ] as it deems fit to protect its interest herein.
  - (y) agree the service of any Writ of summons or legal process in respect of any action arising out of or connected with any matter herein on the Hirer may be affected by forwarding a copy of the writ of summons and statement of claim or other legal process by prepaid ordinary post to the Hirer's address(es) herein mentioned or such other address(es) as may be made known by notice in writing given by the Hirer to the Owner.
  - (z) The Hirer shall use the Goods solely for the purpose that has been specified in item (viii) of Part II of the Schedule which does not in contravention with Shariah principles
    - (i) if this Agreement does not specify the purpose for which the Goods may be used, the Hirer shall use the Goods for any purpose in accordance with the usage of the Goods ('urf) so long it does not contravene Shariah principles.
    - (ii) if the Hirer intends to use the Goods for purposes other than the purposes set out in paragraph (i) above, the Hirer shall obtain a prior permission from the Owner
    - (iii) in relation to the paragraph (ii) above, the Owner shall only permit the lessee to use the leased asset for purposes that is in line with Shariah
  - (aa) appoint the Hirer as its agent in all matters pertaining to the Goods and in particular but not exclusively confined to the repairs, replacements, acts and maintenance and upkeep works required for the general usage and operation of the Goods and to keep, repair, maintain and preserve the Goods in good order and condition and in compliance with such maintenance, repair and upkeep standards and procedures generally expected in the ordinary course of business.

## **5. FIXTURE AND FITTINGS**

In so far as the Goods are to be attached to any land or building the Hirer:

- (a) shall ensure that the Goods can be affixed to and removed without material injury to the said land or building or Goods and shall indemnify the Owner against any claim made in respect of such damage, whether such affixing or removal be effected by the Owner or the Hirer;
- (b) shall punctually pay all rents and/or other outgoings in respect of the said land or building where the Goods may for the time being be placed;
- (c) shall take or cause to be taken are necessary to prevent title of the Goods from passing to the proprietor of the said land or building or any other person and at the Owner's request shall produce a written acknowledgement from the proprietor of the said land or building that the Goods are the property of the Owner and that he agrees not to treat the Goods as a fixture or fitting forming a part of the said land or building PROVIDED THAT in the event the proprietor of said land or building or any other person obtains title to the Goods, the Hirer shall fully indemnify the Owner for all losses incurred without prejudice to the rights of the Owner to claim from the Hirer any other sum for breach of the hiring and this Agreement.

## **6. LOSS THEFT DESTRUCTION OR DAMAGE TO GOODS**

- (a) In the event the Goods are lost, stolen, destroyed or damaged by the negligence or wrongful act of a third party the Hirer shall immediately notify the Owner thereof and shall not compromise any claim without the consent of the Owner and shall allow the

Owner to take over the conduct of any negotiations (except in relation to claims of the Hirer for personal injuries loss of use of the Goods or loss of or damage to the property of the Hirer unconnected with the Goods) and shall at the Hirer's own expense take such proceedings (in the Hirer sole name or jointly with the Owner) as the Owner shall direct, holding all sums recovered (together with any monies received by the Hirer under any policy of takaful taken out by the Hirer pursuant to the provisions of this Agreement) in trust for the Owner and paying or applying as the Owner directs such part thereof as is necessary to discharge the Hirer's liability under this Agreement to the Owner at the date of such payment and to compensate the Owner for the loss from destruction of or damage to the Goods.

- (b) The Hirer shall indemnify the Owner against destruction, loss or damage to the Goods or any part thereof from whatever cause including legal forfeiture. This liability of the Hirer shall subsist independently and shall not be affected by the recovery or otherwise of any takaful monies under Clause 32 hereof unless the Owner has been paid the amount set out in sub-clause (c) below.
- (c) The amount of such indemnity in the event of destruction, forfeiture loss or damage of the Goods shall be the unpaid balance of the hire purchase price less rebate (if any) plus all sums due and payable by the Hirer under this Agreement together with all overdue interest under Clause 4 (a) hereof.
- (d) The Hirer hereby expressly agrees that any damage to, loss or destruction of the Goods shall not affect the continuance of the hiring created under this Agreement or the Hirer's liability to pay the monthly instalments hereunder until such time as the Hirer has indemnified the Owner in the manner set out in sub-clause (c) above whereupon this Agreement shall terminate.
- (e) This Agreement shall dissolve if the Goods are permanently incapable of being used at any time during the Rental Term.
- (f) The Owner shall, as from the date of signing this Agreement, bear the risk associated with the ownership of the Goods including any loss or impairment relating to the Goods.
- (g) In case of any loss, damage or impairment to the Goods which takes place due to force majeure and/or not due to breach of the specified terms, misconduct or negligence of the Hirer, the Owner shall at its own costs be responsible to restore the usufruct of the Goods.
- (h) In furtherance of sub-clause (g) above, the Owner shall only be responsible to restore the usufruct of the Goods if the Hirer manages to prove against his negligence. The burden of proof shall be upon the Hirer to prove against his negligence
- (i) The Hirer shall, as from the date of signing this Agreement, bear the risk and responsibility associated with the usage of the Goods or any part thereof from whatever cause (ordinary wear and tear), including expenses incurred in maintaining the availability and accessibility of the usufruct of the Goods and legal forfeiture and shall indemnify the Owner against the same. The liability of the Hirer shall subsist independently and shall not be affected by recovery of any takaful monies until the Hirer has paid any payment due and payable by the Hirer to the Owner under this Agreement.
- (j) In the event that the Goods or any part thereof is stolen, destroyed, indefinitely detained, confiscated or lost from whatsoever cause due to the breach of specified terms, misconduct or negligence of the Hirer, the Hirer shall be responsible to restore the Goods. All costs and expenses related to such restoration shall be borne by the Hirer.
- (k) The Hirer hereby expressly agrees that any damage or loss or destruction of the Goods or any part thereof, due to the breach of specified terms, misconduct or negligence of the Hirer shall not affect the continuance of this Agreement or the Hirer's liability to pay rental hereunder for such period.

## 7. TERMINATION BY THE HIRER

- 7.1 The Hirer may at any time before the final instalment payment hereunder falls due determine this Agreement by giving the Owner one month's notice in writing and on expiry thereof deliver up the Goods to the Owner at the Owner's address stated herein or at such other address as may be specified by the Owner and in that event the Hirer shall pay to the Owner the amounts specified in Clause 10 herein.
- 7.2 Subject to the mutual agreement of the contracting parties, the Hirer is allowed to discontinue this Agreement and transfer all his rights and liabilities to another party,

## **8. DEFAULT BY HIRER**

- (a) (i) If the Hirer shall make default in payment of any monthly instalments or any sums due and payable under this Agreement hereof, or
- (ii) If the Hirer shall fail to observe or perform any of the terms and conditions of this Agreement whether expressed or implied, or
- (iii) If the Owner shall on any ground consider the Hirer no longer a good business risk or feel itself insecure, or
- (iv) If the Owner discovers that the Hirer has made a false statement in the Hire Purchase Proposal Form or in relation to any particulars contained in this Agreement, or
- (v) If any cheque given to the Owner as payment or part payment of any sums payable under this Agreement is dishonoured, or
- (vi) If any goods traded in by the Hirer are overvalued or are found not to be his absolute unencumbered property, or
- (vii) If the Hirer shall do any act or thing which in the Owner's opinion may prejudice or jeopardize the Owner's ownership of the Goods or the continuation of this Agreement then and in such event and without prejudice to the Owner's right to claim for damages for breach of this Agreement or to any pre-existing liability of the Hirer under this Agreement, the Owner may either:
  - (1) forthwith become entitled to immediate possession of the Goods and may without notice retake possession of the Goods or;
  - (2) by a notice to the Hirer (sent by prepaid ordinary post or otherwise or left at the Hirer's address stated herein) state that the Hirer is no longer in possession of the Goods with the Owner's consent and that the Owner shall be taking possession thereof;

Provided that if the Goods are on the Hirer's property, the Owner is hereby given an irrevocable license by the Hirer to go on to the Hirer's property to retake possession of the Goods,

- (b) If the Hirer being an individual is now or hereafter a convicted person or shall commit an act of bankruptcy or have a receiving order made against him or being a company winding-up proceedings are initiated against the Hirer or shall make any arrangement with his creditors or any assignment for the benefit of such creditors or if distress or execution shall be levied or threatened upon any of the Hirer's property or any judgment against the Hirer shall remain unsatisfied for more than fourteen (14) days or if the Hirer shall abandon the Goods or if the Goods are in the Owner's sole opinion damaged beyond economic repair or are destroyed or are lost or seized confiscated by any authority or are stolen whether or not any of the events above said is caused by the Hirer or the Hirer's negligence then this Agreement shall automatically and without notice determine and thereafter the Hirer shall no longer be in possession of the Goods with the Owner's consent and subject to the provisions of Clause 10 hereof and any pre-existing liabilities of the Hirer under this Agreement, neither party shall have any rights against the other.

## **9. TERMINATION BY OWNER**

- (a) Upon the Owner taking possession of the Goods pursuant to Clause 8(a) hereto, the Owner may by written notice or otherwise and at its absolute discretion give such time as the Owner may deem fit to the Hirer to remedy the Hirer's breaches under this Agreement.
- (b) If the Hirer for any reason whatsoever be unable or unwilling to remedy all the Hirer's breaches under the Agreement within the time stipulated in sub-clause (a) above the Owner may by a written notice or otherwise to the Hirer determine this Agreement absolutely and hiring thereby constituted shall for all purposes determine but without prejudice to the provision of Clause 10 hereof and any pre-existing liabilities of the Hirer under this Agreement.

## **10. DAMAGES PAYABLE BY HIRER ON TERMINATION**

- (a) Upon the termination of this Agreement pursuant to Clause 7, 8(b) and 9 hereof the Hirer shall return to the Owner all registration books certificates policies of takaful and licenses relating to the Goods and shall pay to the Owner:
  - (i.) all arrears of monthly instalments due under this Agreement up to the date of termination,
  - (ii.) all other sums due and payable under this agreement hereof and,

- (iii.) agreed compensation for the Owner's loss of profit which shall be computed by deduction from the Hire Purchase Price of the Goods mentioned in Part III of the Schedule hereto, the aggregate of the following:
  - 1. initial payment plus all monthly instalments previously paid under this Agreement;
  - 2. all arrears of monthly instalments due under this Agreement up to the date of termination;
  - 3. the net proceeds of the sale of the Goods if repossessed and sold and if not sold, their value as determined by the Owner PROVIDED ALWAYS THAT the net proceeds of sale of the Goods or their value as determined by the Owner shall be prima facie evidence of the market value of the Goods and shall be accepted by the Hirer as final and conclusive;
  - 4. a discount for the acceleration of payment computed according to the "Rule 78" method.
- (b) "net proceeds of sale" shall be the sale price of the Goods less all costs and expenses including storage and any expenses which the Owner may incur by reason of its tracing or endeavoring to trace the whereabouts of or retaking or recovering or attempting to retake or recover possession of the Goods including but not limiting the generality of the foregoing any monies paid by the Owner in releasing any lien claimed over the Goods and in dismantling and removing them from any premises and in making any consequent repair or renovation to any such premises.
- (c) If the Owner shall for any reason whatsoever be unable or unwilling to resume possession of the Goods the Owner shall be entitled at its option, in lieu of resuming possession of the Goods, to recover from the Hirer the unpaid balance of the hire purchase price less rebate (if any) plus all other sums payable by the Hirer under this Agreement.

## **11. ARTICLES LEFT IN OR ATTACHED TO GOODS**

The Owner shall not be responsible for any articles or property (whether of the Hirer or otherwise) left in or attached to the Goods repossessed by the Owner. Any articles or property so found may be sold or otherwise disposed of by the Owner unless the said articles or property shall have been previously collected by the Hirer and the net proceed of sale or disposition shall be credited to the Hirer against any liability of the Hirer to the Owner under this Agreement. The Hirer shall indemnify the Owner against any claims by a third party to any articles or property so sold or disposed of as aforesaid in which such third party has or claims an interest.

## **12. OPTION TO PURCHASE**

Upon the expiry of the Rental Term or on early settlement of all the Rental Amounts and subject to the full settlement of all other fees, charges and outstanding amount under this Agreement, no Event of Default is occurring or continuing and such other terms and conditions under this Agreement, the Goods shall be sold by the Owner to the Hirer in the form as maybe determined by the Owner.

## **13. DISCOUNT FOR ACCELERATION OF PAYMENT**

The Hirer shall be at liberty to accelerate payments under this Agreement and in the event of its paying before the due date such sum or sums as may be necessary to vest the ownership of the Goods in the Hirer pursuant to this Agreement, the Hirer shall be granted a rebate equivalent to the portion of the hire charges attributable to the period of the Agreement, it remains unexpired at the date of such payment computed according to the "Rule 78" method.

## **14. EXCLUSION OF CONDITIONS, WARRANTIES AND REPRESENTATIONS**

It is hereby agreed and declared:

- (a) that the terms and conditions contained in this Agreement in favor of the Owner shall be in addition to and not in substitution for the terms and conditions implied in favor of the Owner under a hire purchase Agreement at common law except in so far as such implied terms and conditions are inconsistent with the terms and conditions of this Agreement;

- (b) that any liability the Owner may otherwise incur and any right or immunity the Hirer may otherwise possess in respect of any conditions warranties or representations relating to the condition of the Goods or their merchantable quality or suitability or fitness for the particular or any purpose for which they are or may be required whether such conditions warranties or representations are expressed or implied and whether arising under this Agreement or under any prior Agreement or in oral or written statements made by or on behalf of any person in the course of negotiations in which the Hirer or his representative may have been concerned prior to this Agreement are hereby excluded;
- (c) that the Owner shall not incur any liability to the Hirer nor shall the Hirer be entitled to rescind this Agreement the Goods which the Hirer takes delivery of do not correspond to their description as contained in this Agreement.
- (d) that no liability shall attach to the Owner either in contract or in the tort for loss injury or damage sustained by reason of any defect in the Goods whether such defect be latent or apparent on examination and the Owner shall not be liable to indemnify the Hirer in respect of any claims made against the Hirer by a third party for any loss or injury or damages;
- (e) that no dealer or supplier or any person through whom this Agreement was negotiated or by whom the Goods were supplied or any person in the employ of any such dealer or supplier or person is or is to be deemed the agent of or acting on behalf of the Owner for any purpose and no liability is to be attached to the Owner for any conditions warranties or representations made by such dealer or supplier or person in the employ of such dealer or supplier.

#### **15. ASSIGNMENT OF OWNER'S RIGHT**

- (a) The Owner shall be entitled to assign whether in writing or otherwise the whole or any part of its rights benefit interest or obligation under this Agreement including the license conferred on the Owner to enter upon premises and inspect and/or repossess the Goods and any assignment of the benefit of this Agreement by the Owner shall be deemed to include an assignment of the Owner's rights to enter premises and to repossess the Goods.
- (b) Any assignment by the Owner pursuant to sub-clause (a) above shall not be invalidated by reason of non-notification by the Owner or its assign to the Hirer of the same.

#### **16. ASSIGNMENT OF THE HIRER'S RIGHTS**

- (a) The Hirer shall not assign the Hirer's rights or obligations under this Agreement without the prior written consent of the Owner.
- (b) The Owner shall have absolute discretion to withhold its consent to any assignment by the Hirer of the Hirer's rights or obligations under this Agreement

#### **17. ACCESSORIES AND RENEWALS, ETC**

In this Agreement the Goods shall include all additions and accessories thereto and all replacements and renewals thereof whether made before or after the date of this Agreement.

#### **18. NOTICE TO HIRER OR OWNER**

- (a) Any notice required or permitted to be given by the Owner to the Hirer under, the Agreement shall be deemed to have been validly given if served on the Hirer by hand or telex or cable or facsimile or by prepaid ordinary post to its address stated in this Agreement or at its existing or last known business or residential address. Any such notice sent by post shall be conclusively deemed to have been received by the Hirer within forty-eight (48) hours after the time of posting.
- (b) Any notice required or, permitted to, be given by the Hirer to the -Owner under this Agreement shall be given in writing and served on the Owner by prepaid registered post to the Owner's address stated in this Agreement PROVIDED ALWAYS THAT unless the notice is received by the Owner, proof of posting by the Hirer shall not constitute proof of notification to the Owner.

#### **19. CERTIFICATE OF INDEBTEDNESS**

A certificate signed by an authorized officer of The Owner as to the amount due from the Hirer under this Agreement at the date of such certificate shall be prima facie evidence that the amount so certified

was in fact due from the Hirer at the date of such certificate and it shall be accepted by the Hirer as final and conclusive.

## **20. EFFECT OF INDULGENCE**

No relaxation forbearance delay or indulgence by the Owner in enforcing any of the terms and conditions of this Agreement or the granting of time by the Owner to the Hirer shall prejudice affect or restrict the rights and powers of the Owner hereunder nor shall any waiver by the Owner of any breach hereof operators as a waiver of any subsequent or any, continuing breach hereof.

## **21. JOINT AND SEVERAL LIABILITY**

Where two or more persons are named as Hirer herein their liability hereunder shall be joint and several.

## **22. SUSPENSION OF COMMENCEMENT OF AGREEMENT**

This Agreement shall not come into force unless and until it has been signed by and/or on behalf of the Hirer and the Hirer has paid the initial payment specified in Part III of the Schedule hereto.

## **23. NAME PLATES**

The Owner shall be at liberty to place his name plates on the Goods marking the same as its property and the Hirer shall not during the hiring alter, remove erase, conceal, deface or otherwise interfere with the same or permit any person to do, so and in the event the name plates or any one of them shall be lost damaged or removed the Hirer shall immediately restore such plates or plate.

## **24. WHEN INSTRUMENT BINDING ON OWNER**

This Agreement shall not be binding upon the Owner until the Owner has executed it and the provision of this clause shall, not be affected or prejudiced by reason of any payment of money by the Hirer or the delivery of the Goods to the Hirer and any such delivery shall, pending execution of this instrument by the Owner, be deemed merely as conditional.

## **25. NON-APPLICATION**

This Agreement shall be governed by and construed in accordance with the laws of [ ] and the parties hereto submit to the exclusive jurisdiction of the courts of [ ].

## **26. CONSENT BY HIRER & GUARANTOR**

The Hirer hereby expressly authorises the Owner, to give, produce, divulge, reveal, publish or otherwise disclose, or make a record of the Hirer's personal and financial particulars as well as particulars of the Hirer's hire purchase account with the Owner,

- (a) to any company related to the Owner within the meaning of the [ ];
- (b) to any credit bureau or agency approved by the [ ] or any other authority or body (governmental or otherwise) as the Owner may be required to under any applicable law, regulations, directives or guidelines (whether having the force of law or otherwise);
- (b) to any party whom the Owner in the Owner's sole judgment considers is making enquiries with a bona fide view to entering into a prospective transaction with the Hirer;
- (c) to any party pursuant to any arrangement, composition, restructuring or any proposed arrangement, composition, restructuring with the Hirer as well as to any collection agency or any other person appointed by the Owner to assist the Owner in collecting or recovering any sums due under this Agreement or repossessing, recovering or disposing of the Goods;
- (d) as otherwise permitted under [ ] law, including without limitation, [ ] and/or its relevant amendments, if any.

## **27. LATE DELIVERY**

- (i) Where the rental is paid in advance and the lessor fails to deliver the leased asset to the Hirer, the Owner shall refund the rental to the Hirer.
- (ii) In the event the Owner fails to deliver the usufruct of the leased asset to the Hirer on the agreed date, any rental paid by the Hirer prior to the delivery of the Goods shall not be earned by the Hirer until the Goods is delivered.
- (iii) In the case of failure to deliver the usufruct of the leased asset on the agreed time, the contracting parties may opt for other arrangements, including:

- (a) to reduce the rental on a pro-rated basis; or
- (b) to extend the lease period by the equivalent period of the late delivery

## **28. THE SCHEDULE**

The Schedule hereto shall be taken read and construed as an integral part of this Agreement.

## **29. COMPLETION**

- 29.1. This Agreement shall be deemed to be completed upon fulfilment of all obligations of the Parties under this Agreement and all consequential obligations arising from the default or breach of this Agreement have been fulfilled(if applicable).
- 29.2 Upon completion of this Agreement, the Parties are free from any contractual obligations under this Agreement.

## **30. DISSOLUTION**

The Agreement shall be dissolved before its maturity period due to the following reasons:

- (a) The Owner or the Hirer exercise the option to terminate the Agreement within an agreed time period; or
- (b) Mutual Agreement between the Owner and the Hirer to terminate the Agreement; or
- (c) Total destruction on the Goods

## **31. SHARIAH COMPLIANCE**

Terms and conditions of this Agreement that have been mutually agreed by the contracting parties, which does not contravene the Shariah principles, shall be binding on the contracting parties.

## **32. TAKAFUL**

### **32.1. Extent of Takaful**

- (a) The Hirer must affect the takaful policy from the signing of this Agreement and maintain that the Goods remains under takaful all subsequent years with a takaful operator approved by the Owner against:
  - (i) loss, damage or destruction caused by accident, fire, theft, strikes, riot and civil commotion;
  - (ii) any insurable risks commonly insured against in regard to motor vehicles; and
  - (iii) such other insurable risks as the Owner may stipulate. The Goods shall be insured for a value acceptable to the Owner in the joint names of the Owner and the Hirer or in the name of the Hirer bearing an endorsement of the Owner's interest and stating that no payment is to be made to the Hirer under the policy until the Owner's interest has been discharged,
- (b) Each takaful policy must:
  - (i) note the Owner's interest as the owner of the Goods; and
  - (ii) provide that the takaful will not be cancelled or any of the terms and conditions be amended without giving the Owner at least thirty (30) Business Days prior written notice (or ten (10) Business Days in the event Of non-payment of premium).

### **32.2 Recovery of Takaful Monies**

Whilst any moneys remain owing by the Owner under the Agreement, the Owner will be entitled to receive all moneys payable to the Hirer or to the Owner and the Hirer by the takaful operator under any relevant takaful policy or by any other person in respect of damage to, or loss of, the Goods. The Hirer hereby irrevocably appoints the Owner and each and every officer of the Owner the Hirer's agent to recover or compromise in the Hirer's and Owner's respective names any claim for loss or damage under any such policy or otherwise and to give effectual releases and receipts for any claim.

### **32.3 No Obligation**

The Owner shall be under no duty or obligation to examine any certificate or policies of takaful or to advise the Hirer in the event that the takaful is not in compliance with the Agreement. Failure to recover under any takaful shall not relieve the Hirer from any of its duties and obligations under the Agreement.

### **32.4 Appropriation of Takaful Proceeds**

It is hereby agreed as follows:

- (a) the Owner is irrevocably authorized to appropriate any takaful or other moneys received by it towards any moneys then due and owing by the Hirer to the Owner under the Agreement,
- (b) any takaful moneys received by the Owner after payment to it in full of the moneys due to the Owner under the Agreement will be paid to the Hirer,
- (c) the Owner may pay any takaful moneys received by it in respect of damage to the Goods either to a repairer to effect the repair of or reinstatement of the Goods or to the Hirer on such conditions as the Owner may deem fit in order that the Hirer shall ensure that the repair or reinstatement is effected. The Hirer must from those moneys and to the extent that those moneys may be insufficient, from its own moneys reinstate and replace and repair and make good the Goods at least as nearly as possible to the condition in which they were immediately prior to such damage.

### **32.5 Protection of Takaful**

The Hirer must not at any time do anything to the Goods or modify it or otherwise affect the Goods so that the takaful attached to the Goods (whether effected and maintained by the Hirer or otherwise) may not be rendered void or voidable or the takaful operator will not reduce or refuse a claim under any such policy. In respect of any takaful effected and maintained by the Hirer in accordance with the Agreement, the Hirer must not, without the Owner's prior written consent, vary the takaful policy in any respect or enforce, conduct or settle any claim in respect of loss or damage to the Goods. The Hirer shall, not less than fourteen (14) days before the expiry of a policy of takaful in respect of a motor vehicle, inform the Owner that the Hirer has renewed the policy of takaful or that the Hirer has caused a fresh policy to be issued.

### **33. Execution**

- 33.1 This Agreement may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument. The Parties agree that this Agreement or any other document necessary for the consummation of the transaction contemplated by this Agreement may be accepted, executed or agreed to through the use of an electronic signature or digital signatures as provided in the ZeroH Platform and as prescribed by the relevant law. Any document accepted, executed or agreed to in conformity with such laws will be binding on both Parties the same as if it were physically executed; and
- 33.2 The Parties further agree that facsimile, documents executed, scanned and transmitted electronically vide any platform as may be determined by the Owner, digital signatures and electronic signatures shall be deemed original signatures for the purposes of the Agreement and all matters related thereto, with such facsimile, scanned, digital signatures and electronic signatures having the same legal effect as original signatures.

### **SIGNATURE OF PARTIES**

I/We the Hirer/s hereby declare that the aforesaid particulars appearing in Part I to IV of the Schedule are correct and that:-

- (a.) The aforesaid particulars have been fully completed before signing this Agreement.
- (b.) I/We have examined the Goods described in Part II of this Schedule and satisfied myself/ourselves that they are in proper condition and suitable for the purpose(s) for which I/we require them.

- (c.) The Goods are of such a size, design, capacity and manufacture selected and negotiated by me/us of my/our accord, and that delivery of the same shall be conclusive evidence that the Goods are in good order and condition.
- (d.) The Goods were not supplied to me/us with or subject to any condition express or implied, statutory or otherwise as to quality, fitness, age or otherwise.
- (e.) No representation or statement whether oral or in writing has been given to me/us with regard to the Good's merchantability, fitness, quality or suitability for any purpose for which they are or may be required by me/us.
- (f.) I/We have examined the Goods and find them free from defects based on my/our own enquiry and independent judgment.
- (g.) I/We understand that my/our liability to pay all sums that may be due under this Agreement shall continue notwithstanding any defects, latent or otherwise in the Goods or the breakdown, loss or damage to the Goods or part thereof.
- (h.) It shall be my/our obligation to obtain delivery of the Goods and all costs and expenses incurred shall be borne by me/us.

IN THE WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the ..... day of .....

SIGNED by :

SIGNED by

.....  
In the presence of :

.....  
in the presence of :

.....  
Name of Witness:  
Identity Card No:

.....  
Name of Witness:  
Identity Card No:

## APPENDIX 1

To: [REDACTED] (“Owner”)

[Date]

### **PURCHASE UNDERTAKING (WA'D)**

Dear Sirs,

We refer to the **Hire Purchase-i Agreement** dated [REDACTED] (“the Agreement”) made between yourselves on the first part and ourselves on the second part and the Facility granted by you to us. Words and expressions defined in the Agreement shall have the same meanings when used herein.

2. In consideration of my/our request to you, [REDACTED] (“Owner”) to grant the *Ijarah* facility (“the Facility”) of the goods (“Goods”) stated in the Agreement to me/ us for my/our account and in accordance with my/our application, I/we irrevocably and unconditionally promise and undertake (*wa'd mulzim*) that after occurrence of any event of default stated in the Agreement (“Events of Default”) or should the Agreement be dissolved before its maturity period due to the following reasons:
  - (a) The Owner or we/us exercise our option to terminate the Agreement within an agreed time period; or
  - (b) I/we return to you the Goods before the maturity of the Agreement; or
  - (c) total destruction on the Goods due to my/our negligence/fault; or
  - (d) the Goods is permanently incapable of being used at any time during the Agreement due to my/our negligence/fault;
  - (e) any of the Events of Default stated in the Agreement happens or occurs; or
  - (f) I/we have breached any of the terms and conditions stated in the Agreement and/or the Letter of Offer and/or the Service Agency Agreement.
3. You may in such instance(s),
  - (a) terminate the Agreement; and
  - (b) You will thereby issue a notice to me/us stating the purchase price payable by me/us (“Purchase Price”) which shall be based on the following computation:
    - (i) total unexpired rental for the Facility less unearned income; and/or
    - (ii) your loss of capital allowances and or any balancing charge under any specific laws of the country should the Agreement be dissolved within two (2) years from the Commencement Date; and/or
    - (iii) all costs and expenses (including but not limited to all legal expenses on a full indemnity basis) incurred by you in tracing or retaking possession or attempting to trace, retake possession or storage of the Goods or sell the Goods; and
  - (c) sell the Goods to me/us. Thereby, I/we must, purchase the Goods from you and pay the Purchase Price within the time frame given; and
  - (d) until full payment by us of the Purchase Price, you will hold the Goods as a collateral to secure all dues and the punctual payments of the Purchase Price.
4. Should I/we fail and default on the obligation to pay the Purchase Price within the timeframe stipulated and as per such notice and any other notices issued by you, you may proceed to sell the Goods to any third party on the agreed price between the third party and you. Upon exercising such option of selling the Goods and upon full payment of the sale proceed by such third party, the Goods shall become the property of such third party (as the case maybe) and I/ we shall not have any right or interest in the Goods;

5. The sale proceed shall net off the rebate (*ibra'*) (if any), the rentals in arrears (if any), and all costs incurred in the sale to any such third party;
6. In such event of sale, notwithstanding the sale proceed, you may still claim the remaining Purchase Price stated in the notice (issued under sub-para (2) above) plus any additional cost and expenses incurred by you (including but not limited to all legal expenses on a full indemnity basis) in tracing or retaking possession or attempting to trace, retake possession or storage of the Goods or sell the Goods;
7. If the Goods is not repossessed or the sale of the Goods or the transfer of ownership of the Goods is unable to proceed or to be performed or to be completed or perfected for any reason whatsoever, you can recover the Purchase Price and all costs incidental to it from me/us.
8. Any excess amount from the sale proceed after deducting all the claims stated in sub-para (5) and (6) above shall be applied to settle any other of my/our outstanding account with you (if any), and thereon any surplus (if any) will be refunded to me/us and
9. If the sale proceeds collected are inadequate to pay off the claims listed in sub para (5) and (6) above, you, as a creditor, may claim the shortfall from me/ us in any legal action you may think fit.
10. As used in this Purchase Undertaking, unless otherwise stated, all the terms and references herein shall bear the same meanings as designated to them in the Letter of Offer and the Agreement.
11. This Purchase Undertaking, once issued, shall be irrevocable and binding on me/us, my/our heirs, successors in title, permitted assigns and legal representatives.
12. By issuing this Purchase Undertaking, I/We hereby acknowledge that I/We fully understand the nature and contents of this Purchase Undertakingand agree that your rights in the Agreement in particular with regard to any Compensation on Late Payment (Ta'widh) is applicable to this Purchase Undertaking.

Your cooperation on the above matter is highly appreciated.

Yours faithfully,  
for and on behalf of,  
(the Hirer)  
(Company No.:..... )

.....  
By its Authorised Signatory(ies)  
(Hirer)

.....  
By its Authorised Signatory(ies)  
(Hirer)

---

**Acknowledgement by [ ] (Company No.: )**

We, [ ] (Company No.: ) hereby acknowledge receiving this Purchase Undertakingand accept and take due notice of its content.

.....  
By its Authorised Signatory(ies)  
(Hirer)

.....  
By its Authorised Signatory(ies)  
(Hirer)

## **APPENDIX 2**

### **LETTER OF AGENCY (WAKALAH)**

We, [ ] (**Company No.:** [ ]) hereby appoint [ ] ("Hirer") as our agent and the Hirer hereby accepts the appointment as the Owner's agent to do and execute all acts with respect to the purchase of the Goods from the dealer and to negotiate with dealer on behalf of the Owner in relation thereto. Each transaction entered or to be entered into by the Hirer as an agent of the Owner shall be on an undisclosed basis.

Details of the Goods:

1. [To insert]

In order to comply with the provisions under the Islamic Hire Purchase Agreement, the Hirer shall pay the deposit sum of not less than ten per centum (10%) of the sale price of the Goods.

Your appointment is at all times be subjected to the terms and conditions stated in the Attachment 1 (Terms and Conditions of the Appointment) attached to this letter.

---

Authorised Signatory(ies)  
[ ] (**Company No.:** [ ])

---

#### **Acceptance of Appointment**

I/We hereby agree to be appointed as an agent for the Owner to purchase the Goods from the dealer.

.....  
Authorised Signatory  
Name :  
NRIC :

**ATTACHMENT 1**  
**TERMS AND CONDITIONS OF THE APPOINTMENT**

The Owner hereby appoints the Hirer as its agent for any and/or all of the roles stated in this Terms and Conditions of the Appointment. The Letter of Agency together with this Attachment 1 are known as the "Agreement".

**1.0 Hirer as a payment Agent**

The Owner hereby appoints the Hirer as the payment agent to do and execute all acts with respect to the purchase of the Goods from the dealer and to negotiate with dealer on behalf of the Owner in relation thereto. The Hirer hereby accepts this appointment and shall act as the Owner's agent and make payment to the dealer accordingly.

**2.0 Appointment of second agent or sub-agent/another agent**

The Owner hereby agrees that the Hirer may:-

- (i) appoint another agent on the Owner's behalf; and
- (ii) appoint another agent (sub-agent) for the Hirer to perform all/any part of the above appointment from the Owner.

**3.0** The Hirer shall not appoint a second agent or delegate his role to a sub-agent except with the consent from the Owner.

**4.0** The Owner hereby undertakes to indemnify the Hirer from all losses, costs, expenses or damage that the Hirer may suffer or incur as a result of fulfilling the Hirer's agency function as set out above.

**5.0** Save for the purpose of this appointment, the appointment of the Hirer shall not create or be deemed to create a partnership or a joint venture between themselves. Also, it shall not establish a relationship of principal or agent in any other relationship between them.

**6.0** When the Hirer enters into a transaction with a third party and discloses that he is acting for the Owner, the rights and responsibilities arising from that transaction must be assumed by the Owner and any intended effect of the transaction entered into by the Hirer shall be binding on the Owner.

**7.0** However, if the Hirer does not disclose that he is acting for the Owner, all of the obligations derived from the transaction must be assumed by the Hirer.

**8.0** The appointment of the Hirer as an agent of the Owner shall cease/dissolve upon:

- i. termination of the Letter of Offer and/or the Facility Agreement and/or the Standard and Specific Terms & Conditions; or
- ii. demise, dissolution or loss of legal capacity of the Owner; or
- iii. demise, dissolution or loss of legal capacity of the Hirer; or
- iv. the Owner loses his/their right to appoint the Hirer as his/their binding agent; or
- v. both the Hirer and the Owner mutually agree to terminate this Agreement; or
- vi. the Owner exercises the option to terminate this Agreement due to misconduct, negligence or breach of specified terms of the contract by the Hirer; or
- vii. the Hirer withdraws from this Agreement due to breach of specified terms of the contract by the Owner.

Upon occurrence of the above, any asset or rights entrusted with the Hirer shall be returned to the Owner.

**9.0** This Agreement shall be deemed complete upon fulfillment of all obligations of the parties under this Agreement.

**10.0** Upon completion of this Agreement, the parties are free from any contractual obligations under this Agreement.

## **11.0 Agency Fees**

No *Wakalah* fee is imposed under this Agreement.

## **12.0 Warranties, Representations and Indemnity**

- (a) The Hirer shall not be liable to remunerate or reimburse the Owner for any sum or have any other obligation arising by reason of the agency relationship mandated hereby. However, for any sums due to the Owner resulting from the *ta'addi* (misconduct), *taqsir* (negligence) or *mukhalafah al-shurut* (breach of specified terms) of the Hirer, the Hirer must, on demand, reimburse or remunerate the Owner immediately.
- (b) The Owner hereby unconditionally and irrevocably waives all and any rights or claims, whether under law, in equity or otherwise howsoever which the Owner may have against the Hirer arising from or in connection with the exercise by the Owner of the authority, discretions and powers granted by this this Agreement. However, the Owner has the absolute rights or claims, whether under law, in equity or otherwise howsoever arising from or in connection with any action and/ or inaction of the Hirer resulting from *ta'addi* (misconduct), *taqsir* (negligence) or *mukhalafah al-shurut* (breach of specified terms) of the Hirer.
- (c) The Owner hereby unconditionally and irrevocably undertakes to the Hirer that the Owner will, on demand, indemnify the Hirer and keep the Hirer harmless from and against all and any actions, proceedings, claims, liabilities, losses, costs and expenses (including, without limitation, all costs and expenses incurred in disputing or defending any of the foregoing on a full indemnity basis which may be made or brought against the Hirer or which the Hirer may suffer or incur as a result of or in connection with the exercise or purported exercise by the Hirer of the authority, discretions and power granted by this Agreement. However, the Owner shall not indemnify the Hirer and keep the Hirer harmless from and against all and any actions, proceedings, claims, liabilities, losses, costs and expenses (including, without limitation, all costs and expenses incurred in disputing or defending any of the foregoing on a full indemnity basis) if the same is due to the *ta'addi* (misconduct), *taqsir* (negligence) or *mukhalafah al-shurut* (breach of specified terms) of the Hirer.
- (d) The Hirer hereby unconditionally and irrevocably undertakes to the Owner that the Hirer will, on demand, indemnify the Owner and keep the Owner harmless from and against all and any actions, proceedings, claims, liabilities, losses, costs and expenses (including, without limitation, all costs and expenses incurred in disputing or defending any of the foregoing on a full indemnity basis, which may be made or brought against the Owner or which the Owner may suffer or incur as a result of or in connection with the *ta'addi* (misconduct), *taqsir* (negligence) or *mukhalafah al-shurut* (breach of specified terms) of the Hirer.
- (e) Where there is a breach of specified terms of the Hirer resulted in gains rather than loss to the Owner, the Hirer must inform the principal and is not allowed to retain any portion of the gains without permission from the Owner.
- (f) In any event of a breach of any terms in this Agreement in which the innocent party (either the Owner or the Hirer) suffer losses, the defaulting party (either the Owner or the Hirer) shall pay damages to the innocent party for all actual losses incurred and provable by the other party.

## **13.0 Transferability**

- (a) The Hirer may not assign or transfer any of its rights or obligation under this Agreement without the consent from the Owner.
- (b) The Owner may assign or transfer any of its rights or obligations under this Agreement.