

## **MUDARABAH AGREEMENT**

Dated [ ]

Between

**[INSERT NAME OF BANK]**  
(as the “Rab Al Mal”)

And

**[INSERT NAME OF CUSTOMER]**  
(as the “Mudareb”)

## **MUDARABA AGREEMENT**

This Mudarabah Agreement is made and entered into this \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 20\_\_\_\_\_, by and between:

1. [Insert name of the Bank] (Company No. ●), a company incorporated in ● (●) under the relevant law with a registered address at [Insert the registered address of the Bank] (hereinafter referred to as the “Bank” or the “Rab Al Mal”)

And

2. [Insert name of the Customer], a company incorporated in ● (●) under the relevant law with a registered address at [Insert the registered address of the Customer] (hereinafter referred to as the “Customer” or the “Mudareb”).

This Mudarabah Agreement shall be hereinafter referred to as “Agreement”.

### **RECITALS:**

- A. The Rab Al Mal agrees to participate in a Mudarabah based joint-venture with the Mudareb by providing all the capital and the Mudareb will undertake the management of the joint-venture.
- B. At the end of the joint venture period, the Rab Al Mal will recover his investment will share the profits if any, arising from the joint venture in an agreed ratio, with the Mudareb, subject however to the Mudareb having performed his obligations fully and properly, wholly bearing the losses, if any, incurred in the joint venture.
- C. This Agreement and any transaction entered into pursuant to this Agreement shall be in conformity with the requirements of Shariah principles and law.
- D. The Rab Al Mal and the Mudareb intend to regulate their rights, duties and obligations with respect to the management and operation of the said Project in accordance with the terms and conditions as set out in this Agreement.

**NOW THIS AGREEMENT WITNESSETH as follows:**

**1. Definitions and Interpretations**

**1.1 Definition**

Bank or Rab Al Mal	means [Insert name of the Bank] (Company No ●) having its registered address at [Insert the registered address of the Bank] and shall, where the context so admits, include its successors in title and permitted assigns as the case may be;
Business Day	means any day from Monday to Friday but excluding any day which is a public holiday or bank holiday in ●(●);
Compensation	means the compensation fee as provided for in Clause 20 herein;
Customer or Mudareb	means [Insert name of the Customer], a company incorporated under the relevant law and having its registered address at [Insert the registered address of the Customer] and shall, where the context so admits, include its successors in title and permitted assigns as the case may be;
Events of Default	means any of the events or state of affairs specified in Schedule C of this Agreement;
Farmers	mean any farmer who possesses the necessary expertise, skills, and capabilities to execute the Project (as defined herein) during the Mudarabah Period, in accordance with the terms and conditions set forth in this Agreement, and who is appointed, employed, or engaged by the Mudareb;
Material Adverse Effect	means in relation to an event or circumstance, the occurrence or effect of which (in the reasonable opinion of the Rab Al Mal) is or will be likely to have a material adverse effect on:  (a) the constitution, financial condition, business or operations of the Mudareb; or

(b) the Mudareb's ability to perform its obligations under any provision of this Agreement,

and references in this Agreement to an event or circumstance which "has" or which "would have" a Material Adverse Effect shall be construed accordingly;

Mudarabah	means the joint venture between the Rab Al Mal and the Mudareb to execute the Project (as defined herein);
Mudarabah Account	means a designated account specified in Clause 4 hereof to be opened and maintained by the Mudareb with the Rab Al Mal for the placement of the Mudarabah Capital by the Rab Al Mal in relation to the Mudarabah;
Mudarabah Assets	means all assets under the Mudarabah in relation to the Project as may be agreed by the Rab Al Mal and the Mudareb during the Mudarabah Period;
Mudarabah Capital	means the amounts of funds actually to be utilized or withdrawn from the Mudarabah Account by the Mudareb pursuant to Clause 3 herein;
Mudarabah Ceiling	means the limit of utilization of or withdrawal from the Mudarabah Account by the Mudareb as permitted by the Rab Al Mal pursuant to Clause 3 herein;
Mudarabah Period	means the period of Mudarabah as set out in the Clause 9 hereof;
Mudarabah Profit	means the profit share of the Mudarabah as determined by the Rab Al Mal and the Mudareb pursuant to the Clause 8 hereof;
Mudarabah Termination Notice	means a notice in Schedule B hereof issued by the Rab Al Mal to the Mudareb, terminating the Mudarabah upon expiry of the Mudarabah Period or upon occurrence of Event of Default;
Project	means the project of cattle fattening business between the Rab Al Mal and the

	Mudareb based on the Shariah principles of Mudarabah;
Purchase Undertaking Letter	means an undertaking by the Mudareb to purchase the Rab Al Mal's shares in the Mudarabah Assets from the Rab Al Mal at the Termination Amount as defined therein following the issuance of Mudarabah Termination Notice by the Rab Al Mal upon expiry of the Mudarabah Period or upon occurrence of Event of Default;
ZeroH Platform	means an online platform which enables smart contract, identity verification, and automated compliance with Islamic finance principles and it shall be used by the Parties of the Agreement to perform and/or execute the Project based on the Shariah principles of Mudarabah.

## 1.2 Interpretations

In this Agreement unless the context requires otherwise;

- (a) words importing the singular number include the plural and vice versa;
- (b) words importing the masculine gender include the feminine and neuter gender;
- (c) the words “hereof”, “herein”, “hereon”, “hereinafter” and “hereunder” and words of similar import shall where the context requires or allows, refer to this Agreement as a whole and not to any particular provision of this Agreement;
- (d) references herein to Articles, Clauses and Schedules herein are references to Articles, Clauses and Schedules herein of this Agreement unless otherwise specified;
- (e) the headings and sub-headings in this Agreement are inserted for convenience only and are to be ignored when construing the provisions of this Agreement;
- (f) where an act is required to be done within a specified number of days after or from a specified date, the period is inclusive of and begins to run from the date so specified;
- (g) the word “law” includes common or customary law and any constitution, decree, judgement, legislation order, ordinance, regulation, statute, treaty or other legislative measure in any jurisdiction or any present or future directive, regulation, request or requirement (in each case, whether or not having the force of law but, if not having the force

of law, the compliance with which is in accordance with the general practice of persons to whom the directive, regulation, request or requirement is addressed);

- (h) the word “month” is a reference to a period starting on one (1) day in a calendar month and ending on a numerically corresponding day in the next succeeding calendar month save that, where any such period would otherwise end on a day which is not a Business Day, it shall end on the next succeeding Business Day, unless that day falls in the calendar month succeeding that in which it would otherwise have ended, in which case it shall end in the immediately preceding Business Day provided that, if a period starts on the last Business Day in a calendar month or if there is no numerically corresponding day in the month in which that period ends.

## **2. Purpose of the Mudarabah**

- 2.1 The Parties hereto agree to form an unincorporated integrated joint venture based on the Shariah principles of Mudarabah for the execution of the Project in accordance with the rules and/or regulations and/or requirements as set out by the relevant law.
- 2.2 The Rab Al Mal shall the Mudareb and the Mudareb shall accept the appointment by the Rab Al Mal to execute the Project in accordance with the Shariah principles of Mudarabah.
- 2.3 The rights and obligations of the Parties in respect of the works to be undertaken under the Project shall be contained in this Agreement. The Parties hereby agree this Agreement determine roles, responsibilities and obligations of the Parties which shall include any relevant and appropriate provisions and shall give continuity to them unless it is agreed between the Parties in writing that some provisions should be set aside, amended or altered.

## **3. Mudarabah Capital**

- 3.1 Subject to the prior fulfillment of the conditions precedent as set out in Schedule D hereof by the Mudareb and following the full reliance of the Rab Al Mal on the representations and warranties and affirmative and negative covenants by the Mudareb as set out in Schedule E and F hereof respectively, the Rab Al Mal shall provide the Mudarabah Capital and the Mudareb shall be allowed to utilize or withdraw the Mudarabah Capital from the Mudarabah Account within the Mudarabah Ceiling on a daily basis in accordance with the funding requirements of the Project as may be determined by the Rab Al Mal from time to time. The Mudarabah Ceiling in relation to the Mudarabah at any time during the Mudarabah Period shall be an amount not exceeding • (•) only.
- 3.2 The Mudarabah Capital within the Mudarabah Ceiling shall be provided by the Rab Al Mal to the Mudareb at the Mudareb’s request (in accordance with the funding requirements of the Project) from time to time during the Mudarabah Period.

#### **4. Mudarabah Account**

- 4.1 Pursuant to clause 3 of this Agreement, the Mudareb shall maintain independent account with Rab Al Mal from which the Mudareb will be allowed to withdraw the Mudarabah Capital at the amount up to the Mudarabah Ceiling thereof.
- 4.2 The Rab Al Mal shall have the right to inspect or audit the Mudarabah Account through its nominated representative and/or agent at any time by giving three (3) working days' notice to the Mudareb prior to the inspection or audit, who shall extend its full cooperation to the Rab Al Mal and/ or its nominated representatives or agent to carry out such inspection or audit.
- 4.3 The Mudareb shall provide all the necessary information in respect to the Mudarabah Account within three (3) working days to the Rab Al Mal upon its request.

#### **5. The Responsibilities of the Mudareeb**

- 5.1 The Mudareb shall be the trustee to the Mudarabah Assets and shall safeguard and protect the Mudarabah Assets in a judicious manner as it would safeguard and protect its own assets.
- 5.2 The Mudareb shall be the operator of the Project and shall manage the Mudarabah Capital in accordance with the terms of this Agreement and any other terms as may be determined by the Rab Al Mal from time to time throughout the Mudarabah Period.
- 5.3 As the operator of the Project, the Mudareb shall be responsible to appoint and/or employ and/or engage the Farmers to execute the Project during the Mudarabah Period. The Mudareb shall be fully responsible to oversee and ensure the performance and/or the services provided by the Farmers are in accordance with the purpose of the Mudarabah and with the terms and conditions as prescribed in this Agreement.
- 5.4 The Mudareb shall be responsible for the registration of the Mudarabah Assets based on muzzle print technology and unique identification, details of the Farmers and the Farmers' insurance eligibility.
- 5.5 The Mudareb shall utilize the ZeroH Platform for the purpose of executing and/or operating and/or managing the Project, including providing and/or submitting all true and accurate information and documentation as required by the Rab Al Mal from time to time, in respect of the Project, in accordance with the provisions of this Agreement and in the manner as prescribed in the ZeroH Platform.
- 5.6 On or before the last day of any month throughout the Mudarabah Period, the Mudarib shall provide monthly update on the progress of the Project to the Rab Al Mal by providing the relevant document and information as required by Rab Al Mal through the ZeroH Platform, in accordance with the manner and rules as prescribed in the ZeroH Platform.

- 5.7 For avoidance of doubt, all information and documentation provided by the Mudareb in the ZeroH Platform shall be deemed as true and accurate. If proven otherwise, the Mudareb shall be responsible to rectify such inaccuracy within fourteen (14) days from the date of notice issued by the Rab Al Mal vide the ZeroH Platform.
- 5.8 The Mudareb shall be fully responsible towards the Rab Al Mal for any willful misconduct, dishonesty, negligence and default in executing and/or in operating and managing the Project.
- 5.9 The Mudareb shall not utilize the Mudarabah Capital for any other purpose, except that permitted by Shariah and in the manner as permitted under this Agreement.
- 5.10 The Mudareb is obliged to adhere to the Shariah principles governing a Mudarabah transaction in general and the terms and conditions of this Agreement in particular.
- 5.11 Pursuant to Clause 12 herein, the Mudareb shall compensate (on full indemnity basis) the Rab Al Mal for any actual loss arising out of its deviation from its obligations, duties and responsibilities, as stated in this Clause 5.

In addition to the foregoing responsibilities, the Mudareb shall agree to comply with the affirmative undertakings contained in Schedule F hereof and any other requirements as may be prescribed by the Rab Al Mal through the ZeroH Platform.

## **6. Limitation and Discretion of Mudareb**

- 6.1 The Mudareb is not authorized to enter into any other Mudarabah contract with a third party concerning the Project, and for the transactions to be undertaken by the Mudareb under this Agreement.
- 6.2 The Mudareb is not allowed to borrow additional funds for the purpose of this Agreement. If the Mudareb does so, it shall be at its own risk and responsibility and the Rab Al Mal shall not be liable for it.
- 6.3 The Mudareb is forbidden from lending the Mudarabah Capital or part thereof to a third party with or without interest, making a gift out of the Mudarabah Capital, donating part of the Mudarabah Capital or disposing it off in any manner whatsoever beyond the scope of the terms and conditions stated in this Agreement.
- 6.4 If the Mudareb purchases any Mudarabah Assets over and above the prevalent market price or sells any Mudarabah Assets below the prevalent market price at the time, the Mudareb shall be fully responsible to compensate (on full indemnity basis) the Mudarabah for the difference in either case.
- 6.5 Without prior approval from the Rab Al Mal and unless permitted by the provisions of this Agreement, the Mudareb will not delegate to another person any matter relating to the Mudarabah. If he does so, the Mudareb will be at its own risk and responsibility.

- 6.6 The Mudareb shall ensure that the execution and performance by it of, and the transaction contemplated by, and the exercise of the Mudareb's rights and performance of its obligations under, this Agreement does not conflict with or put the Mudareb in breach of any of the Shariah principles, any law or regulation or judicial or official order applicable to the Mudareb, or any constitutive documents and rules and regulations, any agreement, mortgage or other instruments or treaty to which it is a party or any document that is binding on the Mudareb or any of its assets

In addition to the foregoing limitations and discretions, the Mudareb shall agree to comply with the negative undertakings contained in Schedule F hereof.

## **7. Responsibilities of the Rab Al Mal**

- 7.1 Subject to the compliance of the terms and conditions of this Agreement by the Mudareb, the Rab Al Mal shall provide the Mudarabah Capital or parts thereof to the Mudareb within the Mudarabah Ceiling, as and when, the Mudareb requires it for the purpose of the execution of the Project.
- 7.2 The Rab Al Mal shall not be involved in the day to day running of the Mudarabah affairs by the Mudareb.

## **8. Distribution Mudarabah Profit**

- 8.1 The Mudarabah Profit shall be paid in two (2) cycle per calendar year and it shall be distributed in the following manner:
- (a) The Rab Al Mal : 50%
  - (b) The Mudareb : 30%
  - (c) The Farmers : 20%
- 8.2 Notwithstanding anything to the contrary, the Rab Al Mal agrees that its entitlement to the Mudarabah Profit shall be capped at 5% per annum, and any profit in excess of this amount shall be given as a Hibah (gift) to the Mudareb and the Farmers, in accordance with the profit-sharing ratio set out in Clause 8.1 above.
- 8.3 If the Mudarabah has not made any profit, the Mudareb and the Farmers will not be entitled to any remuneration for its efforts and services.
- 8.4 If the Mudarabah suffers a loss caused by the Mudareb due to its willful misconduct, dishonesty, negligence, default, breach of any terms or conditions of this Agreement or due to misrepresentation of the facts and figures in the Project, then the Mudareb shall be responsible for the actual loss suffered by the Mudarabah and shall indemnify the Mudarabah (Rab Al Mal) to the extent of such loss.
- 8.5 For the avoidance of doubt, the Parties agree that the Mudarabah Profit shall be calculated based on the revenues generated in a calendar year after deducting

the operating cost for the management and maintenance of the Project by the Mudareb.

## **9. Period of Mudarabah**

- 9.1 The period of the Mudarabah is • (•) years/months from the date of this Agreement and will expire on [Insert date] (the “Mudarabah Period”), when the Mudareb shall return the unutilized Mudarabah Capital that has been withdrawn from the Mudarabah Account to the Rab Al Mal, along with the Rab Al Mal’s share of unpaid profits earned by the Mudarabah (if any), supported by a statement of account to be submitted by the Mudareb to the Rab Al Mal at that time.
- 9.2 Upon expiry or termination of the Mudarabah Period and subject to the terms and conditions of the Purchase Undertaking Letter, the Mudareb shall be obliged to sell, on behalf of the Mudarabah, the Mudarabah Assets to a third party at the Termination Amount as determined in the Purchase Undertaking Letter. Pursuant thereto, both the Rab Al Mal and the Mudareb and the Farmers will have their respective proportionate shares in the Mudarabah Assets divided in the same manner and in accordance with their profit-sharing ratio.
- 9.3 In case where the Mudareb is unable to sell the Mudarabah Assets to a third party at the Termination Amount by the end of the Mudarabah Period, the Mudareb hereby irrevocably undertakes to purchase from the Rab Al Mal, the share belonging to the Rab Al Mal in the Mudarabah Assets at the end of the Mudarabah Period or at any time during the Mudarabah Period acceptable to the Rab Al Mal, by paying a purchase price to the Rab Al Mal which will be equal to the Termination Amount as determined in the Purchase Undertaking Letter.
- 9.4 In case where the Mudareb is able to sell the Mudarabah Assets to a third party at the Termination Amount by the end of the Mudarabah Period (“Ability to Sell”), the Mudareb shall issue a notice to the Rab Al Mal stating on the Ability to Sell. Subsequently thereafter, the Rab Al Mal shall issue the Mudarabah Termination Notice to the Mudareb whereby pursuant thereto, the Mudareb shall forward to the Rab Al Mal the Termination Amount which equals to the value of the Rab Al Mal’s shares in the Mudarabah Asset. It is hereby agreed that the beneficial ownership belonging to the Rab Al Mal in the Mudarabah Assets shall immediately pass to the Mudareb upon the Rab Al Mal’s receipt of the Termination Amount from the Mudareb.

## **10. Events of Default**

- 10.1 The Rab Al Mal shall have the rights for immediate termination or liquidation of the Mudarabah if the Mudareb breaches any of the conditions of this Agreement if there occurs an Event of Default as per Schedule ‘C’ (the “Events of Default”).
- 10.2 Upon receipt of the Mudarabah Termination Notice, as per Schedule ‘B’, the Mudareb shall immediately return to the Rab Al Mal the Mudarabah Capital that has been withdrawn from the Mudarabah Account along with the Rab Al

Mal's share of the net profits earned by the Mudarabah from the date of this Agreement till one (1) day prior to the date of occurrence of an Event of Default, and/or occurrence of the breach by the Mudareb of its obligations under this Agreement and following such Event of Default or breach by the Mudareb, the terms of the Purchase Undertaking Letter shall immediately take effect.

- 10.2 Following the termination of the Agreement, the Mudareb authorises the Rab Al Mal to apply any credit balance to which the Mudareb is entitled or any amount which is payable by the Rab Al Mal to the Mudareb at any time in or towards satisfaction in full or in part of any sum which may be due and payable from the Mudareb to the Rab Al Mal under this Agreement.

## **11. Exclusive Jurisdiction**

- 11.1 The parties hereto agree to submit to the exclusive jurisdiction of the Courts of **• (•)** in connection with any disputes or proceedings arising out of or in connection with this Agreement or the transactions contemplated hereunder.

## **12. Indemnity**

- 12.1 The Mudareb shall indemnify and hold harmless the Rab Al Mal and its officers, directors, employees, representatives and agents (collectively, the "Indemnified Persons", and each an "Indemnified Person") from and against, and reimburse the Indemnified Persons, for any and all losses, liabilities, expenses and claims arising (other than with respect to consequential, punitive, incidental, indirect or special damages) by reason of their participation in this Agreement, provided that the such losses, liabilities, expenses and claims have arisen due to Mudareb's or the Farmers' willful misconduct, dishonesty, negligence, default, breach of any terms or conditions of this Agreement or due to misrepresentation of the facts and figures provided in the Project.

## **13. Illegality**

- 13.1 If at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any relevant jurisdiction, that illegality, invalidity or unenforceability shall not affect:

- (a) the legality, validity or enforceability in that jurisdiction of the remaining provisions of this Agreement; or
- (b) the legality, validity or enforceability in other jurisdictions of the Agreement .

- 13.2 The Parties hereby agree that if, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, they shall endeavour in good faith to amend this Agreement or the relevant provision to remove such illegality, invalidity or unenforceability in a manner which brings the party to their respective positions on which they had been under this Agreement prior to the illegality, invalidity or unenforceability of that provision or this Agreement.

## **14. Governing Law**

14.1 This Agreement shall be governed by the provisions of, and construed and interpreted in accordance with, • (•) laws.

## **15. Originals**

15.1 This Agreement is made in two (2) originals whereby one (1) original copy is meant for Rab Al Mal and the other original copy is meant for the Mudareb for necessary action at their respective ends and the Schedules referred to herein shall be an integral part of both the originals and shall be read and construed with the provisions and conditions thereof.

## **16. No Partnership**

16.1 Nothing contained in this Agreement whether express or implied shall be required and construed so as to operate to place the Parties hereto in the relationship of a partnership and it is hereby expressly agreed and acknowledge by the Parties hereto that the relationship constituted by this Agreement between the Parties hereto is that of a joint venture (and not that of a partnership) that the obligation and liabilities imposed and the rights and benefits conferred on the Parties hereto under and/or arising out of this Agreement and/or relationship constituted by this Agreement shall only extend to and include each of the Parties hereto severally and jointly or collectively that each of the Parties hereto is independent contracting Parties; that neither of the Parties hereto shall have any authority or power for or on behalf of the other party hereto to enter into any contract, to pledge any credit, to incur any liabilities, to assume any obligations or to make any warranties or representative whatsoever.

## **17. Confidential Information**

17.1 The Parties herein acknowledge that they have been informed that it is the policy of both Parties to maintain as secret and confidential all information relating to this Agreement.

17.2 The Parties agree that all information acquired by the Parties relating to the Project including but not limited to, any trade secrets, planned operation methods, know-how, process or any other information whatsoever concerning the organization, management and finance of the Joint Venture shall be treated as confidential and shall not be divulged to any third party without the written consent of the Parties.

17.3 Notwithstanding the foregoing, the restrictions contained in this provision shall not apply to any Confidential Information or portion thereof which:

17.3.1 At the time of disclosure is generally and readily available to the public other than by an act or omission on the part of any Parties; or

17.3.2 any Parties is required to disclose pursuant to any state or federal law, rule or regulation or by an applicable judgment, order or decree of any court or government body or agency having jurisdiction over such matter. However, at

least twenty-one (21) days prior written notice of such required disclosure shall be served on the Parties before such disclosure is made to enable the Parties to seek an appropriate protective order or to take such other actions as it deems necessary or appropriate; or

17.3.3 in relation to any court action by any Parties to enforce the terms hereof

## **18. Notices**

18.1 Any notice or communication under or in connection with this Agreement shall be in writing and shall be delivered personally, or by prepaid post, or facsimile or by electronic mail to the addresses given in this Agreement or at such other address or facsimile number as the recipient may have notified to the other party herein in writing. Any notice or communication given as provided in this section shall be deemed received by the party to whom it is addressed:

- (i) if delivered by hand, when so delivered;
- (ii) if sent by pre-paid post, on the third (3rd) Business Day after posting; by 5 p.m. on a Business Day, on that Business Day, and if later, on the next Business Day;
- (iii) if by facsimile, upon the issue to the sender of a transmission control or other like report from the despatching facsimile machine which shows the relevant number of pages comprised in the notice have been successfully transmitted by 5 p.m. on a Business Day, on that Business Day, and if later, on the next Business Day; and
- (iv) in the case of electronic mail, at the time when actually received in readable form by 5 p.m. on a Business Day, on that Business Day, and if later, on the next Business Day. Such communication via e-mail shall not apply to the Mudarabah Termination Notice in relation to Event of Default as specified under Schedule B hereof.

In the case of any instruction, notice or communication from the Mudareb made by facsimile to the Rab Al Mal, the Mudareb shall indemnify the Rab Al Mal against any claim, loss and liability arising from the Rab Al Mal relying upon such instruction, notice or communication.

## **19. Service of Legal Process**

- 19.1 The service of any legal process may be given by prepaid registered post sent to the respective address for service of the parties herein and such legal process shall be deemed to have been duly served after the expiration of five (5) days from the date it is posted and if delivered by hand on the day when it is delivered and duly acknowledged.
- 19.2 No change in the address of service howsoever brought about shall be effective or binding on the Rab Al Mal unless the Mudareb has given to the Rab Al Mal actual notice of the change of address for service and nothing done in reliance on Clause 19.1 hereof shall be affected or prejudiced by any subsequent change

in the address of service over which the Rab Al Mal have no actual knowledge of at the time the act or thing was done or carried out.

## **20. Compensation Fee**

20.1 The Rab Al Mal shall be entitled to impose non-compoundable compensation fee (ta'widh) as follows:

(a) For failure by the Mudareb to meet its payment obligation to the Rab Al Mal under this Agreement until the date of expiry of the Mudarabah Period, the compensation rate shall be applied is in accordance with the method approved **• (•)**; and

(b) For failure to pay of any amount overdue under this Agreement and which failure continues beyond the expiry of the Mudarabah Period, the compensation rate that shall be applied is in accordance with the method approved by **• (•)**.

## **21. Force Majeure**

21.1 For the purposes of this Agreement "Force Majeure" means any unforeseeable circumstances beyond the reasonable control of either party (including without limitation, any strike, lock-out or other form of industrial action or war, natural disaster, firm, arson, acts of God, tree diseases, economic recession and pandemic).

21.2 If any party is unable to comply with any of its obligations under this Agreement because of Force Majeure it shall forthwith notify the other Parties of the nature and extend of the Force Majeure.

21.3 No party shall be deemed to be in breach of this Agreement, or otherwise be liable to any other party, by reason of any delay in performance, or the non-performance, of any of its obligations under this Agreement, to the extent that the delay or non-performance is due to any Force Majeure of which it has notified the other Parties, and the time for performance of that obligation shall be extended accordingly at a period to be mutually agreed upon by both Parties.

21.4 If the performance of any party of any of its obligations under this Agreement is affected by the Force Majeure for a continuous period in excess of NINETY (90) DAYS, the Parties shall enter into a bona fide discussion with a view to alleviating its effects, or to agreeing upon such alternatives arrangements as may be fair and reasonable.

## **22. Further Assurance**

22.1 The Parties covenant with each other that they will respectively sign execute and do and procure all other persons or companies, if necessary, to execute and do all such further deeds, assurance, acts and things as may be necessary to give valid effect to the terms and conditions of this Agreement.

**23. Extent of the Agreement**

23.1 This Agreement binds the heirs, personal representatives; successors-in-title permitted assigns or nominees of each party.

**24. Entire Agreement**

24.1 This agreement contains the entire understanding between the Parties with respect to the subject matter and supersedes any prior written or oral agreement between them relating to it and may not be modified except by written consent of all Parties.

**25. Remedies**

25.1 No remedy conferred by any of the provisions of this Agreement is intended to be exclusive of any other remedy which is otherwise, and each and every other remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity, by statute or otherwise. The election of any one or more of such remedies by any of the Parties shall not constitute a waiver by such party of the right to pursue any other available remedies.

**26. Assignment**

26.1 Save as expressly provided in this Agreement, the respective rights and obligations of the Parties under this Agreement shall not be assignable or transferable without the prior consent of the other Parties.

**27. Time**

27.1 Time whenever mentioned shall be deemed to be of the essence for the purpose of any provision of this Agreement.

**28. Waiver**

28.1 Knowledge or acquiescence by either party hereto of any breach of any of the conditions or covenants herein contained will not operate as or be deemed to be a waiver of such conditions or covenants or any of them and notwithstanding such knowledge or acquiescence, each party hereto will be entitled to exercise its respective rights under this Agreement and to require strict performance by the other of the terms and conditions herein.

28.2 The rights and remedies provided in this Agreement are cumulative and are not exclusive of any rights or remedies of the Parties provided at law, and no failure or delay in the exercise or the partial exercise of any such right or remedy or the exercise of any other right or remedy shall affect or impair any such right or remedy.

**29. Amendments**

29.1 This Agreement may be amended or varied by the Parties agreeing in writing to such amendment or variation. Such agreement may be in the form of written

communication between the duly authorized officers of the Parties or their solicitors.

**30. Counterparts**

- 30.1 This Agreement may be executed in any number of counterparts all of which taken together constitute one instrument.

**31. Cost**

- 31.1 The Mudareb shall bear its own costs of or in connection with the preparation and execution of this Agreement.

**32. Rights of Parties on Expiry or Termination of Agreement**

- 32.1 The expiry or termination of this Agreement shall be without prejudice to any rights which have already accrued to either of the Parties under this Agreement.

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## **Execution**

Executed as the Agreement the day and year first stated above

### **The Rab Al Mal**

Signed for and on behalf of [Insert  
**name of the Bank**] (Company No. •)  
in the presence of:

By its Attorney,

-----  
Witness

Name:

NRIC No:

-----  
Signatory

Name:

Designation:

NRIC No:

**The Mudareb**

The Common Seal of [Insert name of the Customer] (Company No. •) was affixed here in the presence of:



.....  
Designation:

Name:

NRIC No:

.....  
Designation:

Name:

NRIC No:

**Schedule ‘A’**  
**(Purchase Undertaking Letter)**

[On the letterhead of the Mudareb]

[Insert date]

[Insert address of the Bank]

Dear Sirs,

**Mudarabah Agreement dated [dd] of [mm] [yy] between [Insert name of the Bank] and [Insert name of the Customer] relating to the Mudarabah Assets (the “Agreement”)**

We refer to the Agreement entered into and executed between us, [Insert name of the Bank] and [Insert name of the Customer] on [Insert date of the Agreement] relating to the Mudarabah Assets.

Words and expressions defined in the Agreement shall have the same meaning when used herein.

Upon the issuance of the Mudarabah Termination Notice by you due to the occurrence of an Event of Default as stipulated in the Agreement, we hereby irrevocably undertake as follows:

1. Within fourteen (14) days from the date of the Mudarabah Termination Notice, we shall purchase your shares as the Rab Al Mal in the Mudarabah Assets at the Termination Amount which must be paid to you upon the terms and subject to the conditions of the Agreement;
2. The Termination Amount shall be equivalent to the value of your shares in the Mudarabah Assets;
3. We shall provide all necessary, true, and accurate information and supporting documentation to facilitate the accurate determination of your shares in the Mudarabah assets; and
4. If we are unable to purchase your share in the Mudarabah Assets within the stipulated time as mentioned in this letter, you shall have the rights to recover the Termination Amount and all costs incidental to it from us where we shall be liable to pay the same to you within seven (7) days from the date of notification by you in writing.

Thank you.

Yours sincerely,

For and on behalf of [Insert name of the Mudareb]

.....

[Insert name of the Authorized Signatory of the Mudareb]

## Schedule ‘B’

### (Mudarabah Termination Notice)

[Insert date]

[Insert address of the Customer]

Dear Sirs,

**Mudarabah Agreement dated [dd] of [mm] [yy] between [Insert name of the Bank] and [Insert name of the Customer] relating to the Mudarabah Assets (the "Agreement")**

We refer to the Agreement entered into and executed between us, [Insert name of the Bank] and [Insert name of the Customer] on [Insert date of the Agreement] relating to the Mudarabah Assets.

Words and expressions defined in the Agreement shall have the same meaning when used herein.

Pursuant to the expiry of the Mudarabah Period whereby you have been given the option to sell the Mudarabah Assets to a third party at the Termination Amount / the occurrence of (please specify the event) which is an Event of Default under the Agreement, we hereby exercise our right to terminate the Agreement and instruct you, within fourteen (14) days of this Notice, to:

- (i) provide to us the Termination Amount of ● (●) which equals to the value of our shares as Rab Al Mal in the Mudarabah Assets, following your ability to sell the Mudarabah Assets to a third party at the Termination Amount; or
  - (ii) purchase our shares as the Rab Al Mal in the Mudarabah Assets at the price of ● (●) which must be paid to us upon the terms and subject to the conditions of the Agreement due to the occurrence of Event of Default as stated above and/or following your inability to sell the Mudarabah Assets to a third party at the Termination Amount; and
  - (iii) return immediately to us, as the Rab Al Mal in the Mudarabah, our share of the net profits earned by the Mudarabah from the date of the Agreement till one (1) day prior to the date of occurrence of an Event of Default which remains unpaid to us as at the termination date of the Agreement (if any).

Thank you.

Yours sincerely,

For and on behalf of [Insert name of the Bank]

.....

[Insert name of the Authorized Signatory of the Bank]

**Schedule ‘C’**  
**(Events of Default)**

The Mudareb is deemed to have committed a default and the indebtedness under the Agreement shall immediately become due and payable if the Mudarib commits or threatens to commit a breach of any of the covenants, undertaking, stipulations, terms, conditions, or provisions herein stipulated and without prejudice to the generality of the foregoing, upon the happening of any one or more of the following events, if:

(a) **Non-payment**

The Mudareb fails to pay and/or ensure the payment of any amount due under this Agreement is made on the due date or on demand for any reason whatsoever; or

(b) **Breach of Obligations**

The Mudareb fails to observe or perform any of their respective obligations under this Agreement or under any undertaking or arrangement entered into in connection herewith or therewith, in the case of a failure capable of being remedied, the Rab Al Mal does not determine, within (7) days after the Rab Al Mal became aware of the failure, that it has been remedied to the Rab Al Mal's satisfaction; or

(c) **Misrepresentation**

Any representation, warranty or statement which is made (or acknowledged to have been made) by the Mudareb in this Agreement or which is contained in any certificate, statement, legal opinion or notice provided under or in connection herewith or therewith prove to be incorrect in any material respect, or if repeated at any time with reference to the facts and circumstances subsisting at such time, will not be accurate in all material respects; or

(d) **Disposal of Assets**

The Mudareb or any of their subsidiaries transfers or disposes of or threatens to transfer or dispose of, a substantial part of its business or assets without the prior written consent of the Rab Al Mal; or

(e) **Cessation of Business**

The Mudareb or any of their subsidiaries changes or threatens to change the nature or scope of its business, suspends or threatens to suspend a substantial part of the present business operations which it now conducts directly or indirectly, or any governmental authority expropriates or threatens to expropriate all or part of its assets and the result of any of the foregoing is, in the determination of the Rab Al Mal, adversely to affect the financial condition or the ability of the Mudareb to observe or perform their respective obligations under the Agreement; or

(f) Cross-Default

Any indebtedness of the Mudareb or any of their subsidiaries becomes due or capable of being declared due before its stated maturity, any guarantee of the Mudareb or any of their subsidiaries is not discharged at maturity or when called or the Mudareb or any of their subsidiaries goes into default under, or commits a breach of, any instrument or agreement relating to any such indebtedness or guarantee; or

(g) Appointment of Receiver, Legal Process

Any encumbrance takes possession of, or a trustee, administrator or receiver or similar officer is appointed in respect of all or any part of the business or assets of the Mudareb or any of their subsidiaries or distress or any form of execution is levied or enforced upon or sued out against any such assets and is not discharged within seven (7) days after being levied, enforced or sued out, or any Security Interest which may for the time being affect any of its assets becomes enforceable; or

(h) Legal Proceedings

Any legal proceedings, suits, actions, litigation, arbitration or administrative proceedings is commenced or threatened against the Mudareb or any of their subsidiaries and which, in the opinion of the Rab Al Mal, will affect the ability of the Mudareb to observe or perform its obligations under this Agreement; or

(i) Insolvency

The Mudareb or any of their subsidiaries is deemed unable to pay its debts within the meaning of the relevant applicable law or becomes unable to pay its debts as they fall due or suspends or threatens to suspend making payments with respect to all or any, class of its debt; or

(j) Composition, Winding up

The Mudareb or any of their subsidiaries convenes a meeting of its creditors or proposes or makes any arrangement or composition with, or any assignment for the benefit of, its creditors or a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for making an administration order against or for winding up, of the Mudareb or any of their subsidiaries (other than for the purposes of and followed by a reconstruction previously approved in writing by the Rab Al Mal, unless, during or following such reconstruction, the Mudareb or the relevant subsidiary (as the case may be) becomes or is declared to be insolvent); or

(k) Judgment Outstanding

The Mudareb or any of their subsidiaries shall fail to satisfy any judgment passed against them by any court or any competent jurisdiction and no appeal against such judgement has been made to any appropriate appellate court within the time prescribed by law or such appeal has been dismissed and in the case of any judgment obtained in default of appearance no application has been made

to set such judgment aside within thirty (30) days of the date the party against whom judgment was obtained becoming aware of the judgment; or

(l) Change in Law

Any law is brought into effect which purports to render ineffective or invalid any provision of this Agreement or which would prevent the Mudareb from performing any of their respective obligations under the Agreement; or

(m) Licence

Any licence, authorisation, approval, consent, order, exemption, registration, filing or notarisation referred to herein is revoked or withheld or modified or is otherwise not granted or fails to remain in full force and effect; or

(n) Adverse Event or Events

Any other event or series of events whether related or not has or have occurred which in the opinion of the Rab Al Mal (which opinion shall be final and binding upon the Client) could or might affect or prejudice the ability or willingness of the Mudareb to comply with all or any of its respective obligations hereunder; or

then at once or at any time thereafter the Factor may at its sole discretion, by notice to the Client declare that an Event of Default shall have occurred whereupon notwithstanding anything to the contrary provided in this Agreement, the Client shall be obligated to pay forthwith on demand the Indebtedness or any part thereof remain outstanding.

For the purpose of this clause, each of the above paragraphs is to be construed independently and no one Event of Default limits the generality of any other Event of Default.

## Schedule ‘D’

### (Conditions Precedent for utilization of the Mudarabah Capital)

This Agreement and the first utilization of the Mudarabah Capital by the Mudareb are subject to and conditional upon the fulfilment of the following conditions precedent (“Conditions Precedent”):

- (a) The Mudareb shall have duly accepted the Letter of Offer and the Solicitors shall have confirmed that this Agreement, the Security Documents (if any) and all other documents under this Agreement as may be required by the Rab Al Mal to be executed, have been duly executed and stamped by the Mudareb and where deemed necessary, have been presented for registration at the relevant registries.
- (b) A winding-up search shall have been conducted on the Mudareb wherein the Director-General of Insolvency confirms that the Mudareb has not been wound up, whereas pending the same, the Rab Al Mal shall have received a statutory declaration respectively (in form and substance acceptable to the Rab Al Mal) from a director of the Mudareb confirming that no winding-up petition has been presented against the Mudareb.
- (c) For the purpose of the execution of this Agreement, the Rab Al Mal is duly satisfied that the due diligence exercise on the Mudareb has been completed.
- (d) The Rab Al Mal is duly satisfied that no Event of Default has occurred and no default or breach shall have occurred under this Agreement and be continuing.
- (e) The Solicitors shall have confirmed that searches have been conducted on the Mudareb at the relevant authorities.
- (f) The Mudareb shall have settled in full all costs, duties, expenses, fees and disbursements incurred or paid by the Rab Al Mal in connection with the preparation and execution of this Agreement and the Security Documents (if any). For the avoidance of doubt, the Rab Al Mal’s solicitor’s remuneration shall be paid by the Mudareb.
- (g) The Mudareb has complied with all the requirements as prescribed by the Rab Al Mal through the ZeroH Platform.

It is hereby expressly acknowledged and declared that the conditions hereinbefore contained are inserted for the sole benefit of the Rab Al Mal and may therefore be waived wholly or in part by the Rab Al Mal at the sole and absolute discretion of the Rab Al Mal without prejudicing the rights of the Rab Al Mal under any document entered into between the Rab Al Mal and the Mudareb and such waiver shall not prejudice the rights of the Rab Al Mal from insisting on the Mudareb’s compliance with any such waived conditions at any subsequent time.

Utilization of the Mudarabah Capital is subject to the Mudareb complying with the Conditions Precedent within the availability period of the Mudarabah Capital.

In the event that there has been Material Adverse Effect on the Mudareb's conditions, financially or otherwise after the issuance of the Letter of Offer, the Mudareb shall not be entitled to the Mudarabah Capital and the Rab Al Mal shall be entitled to refuse the grant of the Mudarabah Capital with or without any prior notice and the Mudareb shall be liable to reimburse and/or indemnify the Rab Al Mal for all costs and expenses (including legal cost and expenses) incurred by the Rab Al Mal in relation to the grant of the Mudarabah Capital to the Mudareb subject to the Rab Al Mal providing documentary evidence thereof.

## **Schedule ‘E’**

### **(Representations and Warranties)**

The Mudareb acknowledges that the Rab Al Mal has entered into this Agreement and the Rab Al Mal has agreed to make available the Mudarabah Capital in full reliance of the representations and warranties by the Mudareb on the following terms and the Mudareb now represents and warrants to the Bank that as at the date hereof:

**(a) Status**

The Customer is duly established and validly existing under **• (•)** law and it has the power and authority to enter into the business in which it is or proposes to be engaged.

**(b) Powers and Authorisations**

The constitution of the Mudareb include provisions which give power, and all necessary corporate authority has been obtained and action taken, for the Mudareb to own its assets, carry on its business and operations as they are now being conducted, and execute and deliver, and perform the transactions contemplated in this Agreement to which the Mudareb is a party and this Agreement to which the Mudareb is a party when executed by the parties thereto constitute valid and binding obligations of the Mudareb enforceable in accordance with their respective terms.

**(c) Non-Violation**

Neither the signing and delivery of this Agreement to which the Mudareb is a party nor the performance or any of the transactions contemplated herein or therein does or will contravene or constitute a default under, or cause to be exceeded any limitation on it or the powers of its directors imposed by or contained in, (i) any law by which it or any of its assets is bound or affected, (ii) its memorandum or articles or association or (iii) any contract to which it is a party or by which any of its assets is bound and that the execution, delivery and performance of each of the Security Documents (if any) by the Mudareb (i) will not violate the provisions of any law or regulation or any order or decree of any governmental authority, agency or court to which they are subject and (ii) will not violate the provisions of any mortgage, contract or other undertaking or instrument to which they are a party or which are binding upon them.

**(d) No Default**

No event has occurred which constitutes, or which with the giving of notice and/or the lapse of time and/or a relevant determination would constitute, a contravention of, or default under, any contract or instrument by which the Mudareb is bound or affected, being a contravention or default which might either have a Material Adverse Effect on the business, assets or condition of the Mudareb or on the ability of the Mudareb to perform its payment obligations

under this Agreement or the Security Documents (if any) to which the Mudareb is a party.

(e) Litigation

No litigation, arbitration or administrative proceeding or claim which might by itself or together with any other such proceedings or claims either have a Material Adverse Effect on the business, assets or conditions of the Mudareb or on the Mudareb's to observe or perform its payment obligations under this Agreement to which it is party, is presently in progress or pending or, to the best of the knowledge, information and belief of the Mudareb, threatened against the Mudareb.

(f) Accounts

The audited financial statements (including the income statement and balance sheet) of the Mudareb for the relevant year delivered to the Rab Al Mal have been prepared on a basis consistently applied in accordance with approved accounting standards in **● (●)** and give a true and fair view of the results of its operations for that year and the state of its affairs at that date, and in particular accurately discloses or reserves against all the liabilities (actual or contingent) of the Mudareb in accordance with the applicable approved accounting standards.

(g) Change in the Mudareb

Since the date the Mudareb approached Rab Al Mal to form the Mudarabah, there has been no material alterations or changes in the constitution, condition and business or other affairs of the Mudareb which could or might have a Material Adverse Effect on the ability of the Mudareb to perform its payment obligations under this Agreement to which the Mudareb is a party.

(h) Information

The information furnished by the Mudareb in connection with the Mudarabah do not contain any untrue statements or omit to state any fact the omission of which makes the statements therein, in the light of the circumstances under which they were made, misleading in any material adverse respect, and all expressions of expectation, intention, belief and opinion contained therein were honestly made on reasonable grounds after due and careful enquiry by the Mudareb.

(i) Disclosure

The Mudareb has fully disclosed to the Rab Al Mal all facts relating to the Mudareb which the Mudareb should reasonably know and which are material for disclosure to the Rab Al Mal in the context of this Agreement to which the Mudareb is a party and the information (be it in writing or otherwise) furnished by the Mudareb in connection with the Agreement to which the Mudareb is a party does not contain any untrue statement or omit to state any material fact the omission of which makes the statements therein, in the light of the

circumstances under which they were made, misleading in a material adverse respect, and all expressions, intention, belief and opinion contained therein were honestly and carefully made on reasonable grounds.

(j) Receivership

No steps have been taken to appoint a receiver and/or manager to take over the assets of the Mudareb or appoint a liquidator or provisional liquidator.

(k) Winding-up

The Mudareb has not been subjected to any liquidation or winding-up proceedings, whether voluntary or compulsory, and neither has the Mudareb been subjected to circumstances in which a receiver, administrator or administrative receiver sought to be appointed of the whole or any part of its undertaking, assets or properties nor has any petition for the appointment of an administrator of the Mudareb been presented or a voluntary arrangement been approved in relation to the Mudareb where any of the foregoing would have a material adverse effect on the ability of the Mudareb to perform its payment obligations hereunder.

(l) No default in payment

The Mudareb is not in default in the payment or performance of any of its obligations including in respect of monies advanced by any third party and such default is not continuing.

(m) Utilisation of the Mudarabah Capital

Disbursement and/or any utilisation of the Mudarabah Capital by the Mudareb shall constitute a representation that no Event of Default or event which with the giving of notice or passing of time, or both, would constitute an Event of Default, has occurred and the representations and warranties contained herein are true and correct as at the date of the disbursement.

(n) Purpose of the Mudarabah Capital

The Mudarabah Capital shall be exclusively applied towards the purpose stated in this Agreement.

(o) Consents

All consents, approvals or authorizations of any relevant authority which are required on the part of the Mudareb, for or in connection with the execution, delivery, performance, legality and enforceability of the Security Documents (if any) have been obtained and are in full force and any conditions contained therein or otherwise applying thereto have been complied with.

(p) Tax Liabilities

All necessary returns have been delivered by or on behalf of the Mudareb to the relevant taxation authorities and the Mudareb is not in default in the payment

of any taxes of a material amount, and no material claim is being asserted with respect to taxes which is not disclosed in the financial statements referred to in Schedule F hereof.

(q) No Immunity

The Mudareb is subject to civil and commercial law with regard to their respective obligations under this Agreement, and the execution, delivery and performance of this Agreement constitute private and commercial acts rather than governmental or public acts and the Mudareb or any of their respective assets do not enjoy any immunity on the grounds of sovereignty or otherwise in respect of their respective obligations under this Agreement.

(s) Conduct of Business

The Mudareb is conducting its business and operations in compliance with all applicable laws and regulations and all directives of governmental authorities having the force of law.

(t) Illegal Business

The Mudareb does not carry out or implement any illegal or other activities as may be contrary to the **• (•)** laws and the Shariah principles.

The disbursement of the Mudarabah Capital made under the provisions of this Agreement shall, unless the Mudareb notifies the Rab Al Mal to the contrary, be deemed to be made on the basis of a representation and warranty by the Mudareb that at the time of disbursement, no Event of Default has occurred under this Agreement and that the representations and warranties contained herein are true, accurate and correct in all respects and will be correct and complied with in all respects as at the date of such disbursement.

**Schedule ‘F’**  
**(Undertakings)**

**A. Affirmative Undertakings**

The Mudareb undertakes with the Rab Al Mal that, from the date of this Agreement until all its liabilities under this Agreement have been discharged:

(a) Ranking

The liabilities of the Mudareb under this Agreement rank and will rank in priority above all its other unsecured liabilities (both actual and contingent) except:

- (i) liabilities which are subject to liens or rights of set off arising in the normal course of trading and the aggregate amount of which is not material; and
- (ii) liabilities which are preferred solely by [●] law and not by reason of any security interest;

(b) Preparation of accounts

It will prepare the financial statements referred to in clause (c) hereof on a basis consistently applied in accordance with generally accepted accounting principles in [●] (●) and those financial statements shall give a true and fair view of the results of the operations of the Mudareb for the period in question and the state of its affairs for the period to which the financial statements are made up and shall disclose or shall have expressly made provision for all the liabilities (actual or contingent) of the Mudareb as at the expiry of the period in question and all material unrealised or anticipated losses from any commitment entered into by it and which existed on the expiry of the period in question;

(c) Information

It will deliver to the Rab Al Mal:

- (i) as soon as they become available (and in any event within one hundred and eighty (180) days after the end of each of its financial periods) copies of its audited financial statements for that period which shall contain a balance sheet, profit and loss account and report to be audited and certified by a qualified independent auditor or firm of auditors;
- (ii) as soon as they become available (and in any event within ninety (90) days after the end of each quarter year of each financial year) its management financial statements for that period certified by two (2) of its directors confirming that such statements represent a true and fair view of the financial condition of the Mudareb;
- (iii) immediately when requested by the Rab Al Mal, information relating to the business of the Mudareb, including but not limited to any change in the directors of the Mudareb;

- (iv) immediately, information on the occurrence of any event of default in relation to any of the Mudareb's other indebtedness; and
- (v) promptly, such additional financial or other information as the Rab Al Mal may from time-to-time reasonably request;

(d) Authorisations

The Mudareb will:

- (i) maintain in full force and effect all relevant authorisations (governmental and otherwise) and will promptly obtain any further authorisations which may become necessary to enable it to own its assets, carry on its business and perform its obligations under, and any of the transactions contemplated by this Agreement and pay all taxes levied on the Mudareb by the due date thereof; and
- (ii) timely carry out any registration, filing or notarisation of this Agreement, pay any duty or tax and take any action whatsoever which may be necessary or desirable to ensure the legality, validity or enforceability in ● (●) of the liabilities and obligations of the Mudareb or the rights of the Rab Al Mal under this Agreement in accordance with their terms;

(e) Consents

The Mudareb will obtain and promptly renew from time to time, and will promptly deliver to the Rab Al Mal certified copies of, any authorisation, approval, consent, licence, exemption, registration, recording, filing or notarisation as may be necessary to ensure the validity, enforceability or priority of the liabilities and obligations of the Mudareb or the rights of the Rab Al Mal under this Agreement and the Mudareb shall comply with the terms of the same;

(f) Licences

The Mudareb will obtain all necessary licences and approvals relating to the carrying on of its business and comply with all relevant regulations that may have a Material Adverse Effect relating to the carrying on of its business;

(g) Default

If the Mudareb becomes aware of the occurrence of an Event of Default it will forthwith notify the Rab Al Mal and provide the Rab Al Mal with full details of any steps which it is taking, or is considering taking, in order to remedy or mitigate the effect of the Event of Default or otherwise in connection with it;

(h) Records

The Mudareb will maintain records adequate to record and reflect in accordance with generally accepted accounting principles in ● (●), the operations and financial condition of the Mudareb and it will, permit the Rab Al Mal or its agents and servants at all reasonable times with prior written notice to have access to and to inspect its books of accounts and records relating to its business at any office, branch or place of

business of the Mudareb elsewhere, all records kept by any other persons so far as such records relate to or affect this Agreement and the Mudareb shall give to the Rab Al Mal or any person authorized by them to inspect such records, such written authorisations as may be required to enable the Rab Al Mal and/or such authorized persons to inspect the said records. Where such authorised person is not an employee of the Rab Al Mal then such person shall give confidentiality undertakings acceptable to the Mudareb;

(i) Litigation

The Mudareb will within fourteen (14) days after becoming aware of the same, promptly notify the Rab Al Mal of:

- (i) any default or event of default under any other contractual obligation of the Mudareb; or
- (ii) any litigation, investigation, arbitration or proceeding before any court or governmental regulatory agency affecting the Mudareb or between the Mudareb and any third party,

which will have a Material Adverse Effect on the Mudareb.

Each notice pursuant to this sub-clause shall be accompanied by a statement of a director of the Mudareb setting forth details of the occurrence referred to therein and stating what action the Mudareb proposes to take with respect thereto;

(j) Indebtedness

The Mudareb will punctually pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all of its indebtedness and other obligations of whatever nature except for any indebtedness or other obligation which is being contested in good faith and by proper proceedings;

(k) Obligations

The Mudareb will timeously perform and carry out any and all of its obligations under this Agreement;

(l) Share Capital

The Mudareb shall keep and maintain its present paid up share capital and promptly inform the Rab Al Mal of any increases thereof, however, the Mudareb shall seek the Rab Al Mal's consent for any reduction in the Mudareb's share capital;

(m) Takaful/Insurances

- (i) The Mudareb shall cause the Mudarabah Assets to be insured by way of takaful policy (or where such takaful policy is unavailable, such conventional insurance policy) as approved by the Rab Al Mal against loss or damage by fire, explosion, lightning, tempest flood, riot, civil commotion, strike and malicious acts, third party liability and any other risks as the Rab Al Mal may require from time to time require for its or their full insurable value and in any event for a sum acceptable to the Rab Al Mal and with a takaful company approved by the

Rab Al Mal and in the name of the Mudareb with the Rab Al Mal's interest as chargee and loss payee endorsed on the takaful policies so taken out and shall have deposited with the Rab Al Mal the original of all receipts or evidence of payment of the current premium payable thereon;

(ii) The Mudareb shall punctually pay all premiums necessary for maintaining such takaful and shall permit the original takaful policy to be deposited with and retained by the Rab Al Mal;

(n) Inspection of books

If the Rab Al Mal deems it necessary to have information of the Mudareb with respect of any matters relating to the accounting or other records of the Mudareb which have a Material Adverse Effect, the Mudareb will cause its auditors (at the Mudareb's costs and expense) to conduct an audit of its accounts within such time as may be stipulated by the Rab Al Mal and to provide the Rab Al Mal with such information as the Rab Al Mal may require;

(o) Material Adverse Effect

The Mudareb will take all steps as may be necessary to ensure that there is no material adverse effect on its financial position;

(p) Auditors

The Mudareb will appoint such reputable auditor or firm of auditors in respect of any matter connected with the accounts of the Mudareb and authorizes such auditor or firm of auditors to supply the Rab Al Mal with a certified copy of any communication sent by such auditor to the Mudareb and further to communicate directly with the Rab Al Mal at any time in respect of any matter connected with the accounts and operations of the Mudareb. The Mudareb further authorizes the Rab Al Mal to communicate directly with such auditors in respect of any information required to be furnished by the Mudareb to the Rab Al Mal under this Agreement;

(q) Annual Return

The Mudareb will submit to the Rab Al Mal a certified true copy of its annual return and return of allotment of shares as submitted to the **• (•)**;

(r) Subordination advances

Where applicable, the Mudareb will cause and ensure that all and any advances for borrowed money by its directors or the shareholders to it or any inter-company advances for borrowed money permitted hereunder are to be subordinated to its liabilities to the Rab Al Mal and that no repayment and/or prepayment of such advances for borrowed money shall be made so long as any amount under the Mudarabah remains owing or any obligation of the Mudareb remains outstanding;

(s) Conduct of Business

The Mudareb will conduct its business and affairs with due diligence and efficiency and in accordance with sound financial and commercial standards and practices and in accordance with its memorandum and articles of association as amended from time to time and allowable by the Shariah law as amended from time to time;

(t) Authorised Signatories

The Mudareb will forthwith notify the Rab Al Mal if any of its authorised signatories are no longer authorised to act on the Mudareb's behalf hereunder;

(u) Taxes and Outgoings

The Mudareb will comply with all applicable laws and regulations and will punctually pay and discharge all taxes, quit rents, rates, outgoings, assessments and governmental charges or levies imposed on it or on its income or profits or any of its assets or properties (including without limitation to the premises on which the business of the Mudareb is carried on) prior to the date on which penalties attach thereto if requested in writing by the Rab Al Mal and deliver certified true copies of the relevant receipts requested to the Rab Al Mal promptly on receipt of such receipts, except that the Mudareb shall not be required hereby to pay such tax, assessment, charge or levy the payment of which is being contested in good faith and by proper proceedings;

(v) Other Banking facility

The Mudareb shall promptly furnish to the Rab Al Mal all such information as the Rab Al Mal shall request as and when the Mudareb obtains banking facilities from any other institutions;

(w) Verification of Accounts

The Mudareb shall within fourteen (14) days verify all statements of accounts issued to it by the Rab Al Mal and shall upon discovery of any discrepancy in the statements of accounts, promptly revert to the Rab Al Mal failing which they shall be deemed to be conclusive and binding against the Mudareb;

(x) Compliance with Conditions Precedent

The Mudareb shall deliver to the Rab Al Mal any documents or evidence under Schedule D hereof the production of which has been temporarily waived and to comply with all the terms and conditions of Schedule D hereof which have been temporarily waived, such delivery of the documents and evidence and compliance of terms and conditions shall be within the time period granted by the Rab Al Mal to the Mudareb pursuant to such waiver;

(y) Substantial Acquisition

The Mudareb shall inform the Rab Al Mal in the event of any acquisition of the Mudareb's capital assets of a substantial amount of **• (•)** and above, other than those included in the Business Activities; and

(z) Change in status

The Mudareb shall immediately inform the Rab Al Mal in the event there is a change in the Mudareb's residential status (where applicable) and/or the residential status of the Mudareb's directors or office bearers as the case may be.

**B. Negative Undertakings**

The Mudareb covenants with the Rab Al Mal that, from the date of this Agreement until all its liabilities under this Agreement have been discharged that it will not without the prior written consent of the Rab Al Mal, the consent of which shall not be unreasonably withheld:

(a) Negative Pledge

Create or permit to exist over all or any part of its business or assets or undertakings any Security Interests other than those permitted under the Agreement;

(b) Loans/Financing

Save and except in the ordinary course of business and on the basis of arm's length transaction, make any loans or provide any financings or advance or guarantee or grant any credit to any of its directors, shareholders or related companies or any company or person or firm or organisation or purchase or otherwise acquire the capital stock, assets or obligation of any of its directors, shareholders or related companies or any company or person or firm or organization;

(c) Constitutional documents

Add to, delete, vary, amend or change or cause the change in its subsidiaries, as the case may be, memorandum and articles of association in any manner which is inconsistent with the performance of the Mudareb's obligations hereunder;

(d) Alteration of Paid Up Capital

Decrease or in any way whatsoever alter (other than by way of increase) the authorised or issued capital of the Mudareb whether by varying the amount, structure or value thereof or the rights attached thereto or converting any of its share capital into stock, or by consolidation dividing or sub-dividing all or any of its shares;

(e) Dividends

Declare or pay any dividend or bonus issue or make any distribution (be it income or capital in nature);

(f) Key Management Personnel

Inform the Rab Al Mal, without the requirement to obtain consent from the Rab Al Mal, of any change in the Mudareb's directors;

(g) Enter into partnership

Enter into any partnership, profit-sharing or royalty contract or other arrangement of whatsoever nature whereby the Mudareb's income or profits are, or might be, shared with any other person, firm or company or enter into any management contract or other arrangement of whatsoever nature whereby the Mudareb's business or operations are managed by any other person, firm or company, other than in the ordinary course of business;

(h) Disposal

Save and except in the ordinary course of business and on ordinary commercial terms on the basis of arm's length transaction, sell transfer encumber lease or otherwise dispose of or in any case cease to exercise control over, whether by single transaction or a number of transactions, related or not, the whole or substantial part of the Mudareb's undertaking business or assets or undertake or permit any merger, consolidation or reorganisation;

(i) Restriction on transactions

Enter into any transaction (including merger, consolidation or reorganisation) with any person, firm or company except in the ordinary course of business on ordinary commercial terms and on the basis of arm's length arrangements or establish any exclusive purchasing or sales agency, or enter into any transaction whereby the Mudareb might pay more than the ordinary commercial price for any purchase or might receive less than the full commercial price for its products (subject to normal trade discounts) for its products;

(j) Indebtedness by others

Except in the ordinary course of business on ordinary commercial terms and on the basis of arm's length arrangements, enter into any transaction or arrangement whereby any director or shareholders of the Mudareb or any related corporation or associated company of the Mudareb incurs in the Mudareb's favour any indebtedness. For the purpose of this sub-clause, the expression "director" or "shareholder" includes a spouse, parent, child, brother or sister of the director or shareholder;

(k) Alteration

Make any alteration to the general purpose in its application for the Mudarabah Capital;

(l) Invest Acquire Shares or Debentures

Invest, acquire shares or debentures in or with or lend money to any person or company other than in the normal course of business;

(m) Change in its present business and financial year

Carry on any business other than its existing business or change its financial year other than its existing financial year;

(n) Dissolution

Dissolve its affairs or consolidate with or merge with any other person;

(o) Acquisition

Make any substantial acquisition of assets other than the Mudarabah Assets;

(p) Surrender Rights

Surrender, transfer, assign, relinquish or otherwise dispose of any of its rights and interest under this Agreement;

(q) Insurance

Do or suffer to be done any act, matter or thing whereby any takaful/insurance may be rendered void, voidable or incapable of being effected, maintained or renewed;

(r) Conflicting Takaful/Insurance

Save and except at the request of the Rab Al Mal, effect or keep on foot or permit to effect or keep on foot any takaful or insurance against any risk in respect of any property charged or secured to the Rab Al Mal when the Rab Al Mal has effected or has kept on foot such insurance;

(s) Indebtedness

Incur, assume, guarantee or permit to exist or guarantee any indebtedness other than:

(i) the Mudarabah Capital;

(ii) any debt or guarantee which has been disclosed by the Mudareb to the Rab Al Mal prior to the date of this Agreement; and

(iii) debts incurred or obtained in the ordinary course of business on commercial terms and on the basis of arm's length transaction.

For the purpose of this paragraph, a short-term debt is deemed to be any debt payable on demand or maturity by its terms within twelve (12) months after the date on which it was originally incurred;

(t) Prepayment

Make any prepayment or payment of any advance made by its shareholders, directors or related corporations or any other loans or indebtedness other than permitted under sub-clause (s) hereinabove if there are any monies outstanding under the Mudarabah which is due and unpaid.