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| **AGENCY AGREEMENT**  Dated\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **AL HILAL BANK**  **(AS PRINCIPAL)**  **AND**  **[CUSTOMER]**  **(AS AGENT)** |

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This Agency Agreement is dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2012 (the “**Agency Agreement**”)

Between:

1. **Principal:**

**Al Hilal Bank**, a company, established and existing under the laws of United Arab Emirates, with address at [●], (hereinafter referred to as the "**Principal**" or the “**Bank**”, which expression shall include his successors, legal representatives, transferees and assigns); and

1. **Agent[[1]](#footnote-2):**

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| For Individuals: | [●], [●] national, aged about [●] years, holding passport number [●], and residing at [●] |
| For Corporate Entity: | [●], a [●] company, established in accordance with the laws of the [●], having its registered address as P.O. Box [●], represented by its authorized signatory [●] |

(hereinafter to be referred as the "**Agent**", which term shall be construed so as to include its successors in title, permitted assigns and permitted transferees);

(each a “**Party**” and together the “**Parties**”).

**Recitals**

Whereas

the Parties have signed a Common Terms Agreement dated as of the date of this Agreement (the “**Common Terms Agreement**”);

the Principal has entered into the Asset Purchase Agreements; and

the Principal is the part owner of the Asset and would like to appoint the Agent to perform the Services (as defined hereunder), in accordance with the terms and conditions of this Agency Agreement.

**NOW THEREFORE**, in consideration of the foregoing and the provisions set forth below, and subject to the terms and conditions set forth herein, the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATION
   1. **Definitions**

Except as otherwise expressly provided in this Agreement, capitalised terms used in this Agency Agreement and not otherwise defined herein shall have the meanings given to such term in the Common Terms Agreement. In addition, the following terms have the meanings given below:

"**Expected Income Amount**" means, in respect of each Income Payment Period the aggregate of the following:

An amount equal to the product of (A) [●] month EIBOR plus the Margin, subject to a minimum floor of [●] % per annum; (B) Outstanding AHB Share; and (C) the actual number of days in that Income Payment Period, divided by (D) 360 days.

**“Expected Income Calculation Day”** means, in respect of an Income Payment Period, two (2) Business Days prior to the commencement of the relevant Income Payment Period, being the date on which the Expected Income Amount shall be calculated and the Expected Income Amount Notice shall be sent to the Agent.

**"Margin”** means [●][[2]](#footnote-3) basis points.

**"Services"** means the services agreed to be provided by the Agent under this Agency Agreement as set out under Clause 3.2 herein in accordance with the provisions of this Agency Agreement.

* 1. **Interpretation**

Unless a contrary indication appears, the Interpretation set out in the Common Terms Agreement shall mutatis mutandis apply to this Agency Agreement as if expressly set out herein.

1. APPOINTMENT AND FEE
   1. **Appointment**
      1. Principal hereby appoints the Agent, and the Agent accepts such appointment, to provide the Services outlined under this Agency Agreement.
      2. The Agent has no right or authority, express or implied, to impose any obligation or liability on Principal in connection with the provision of the Services, other than as expressly set out in this Agency Agreement.
   2. **Fees**

In consideration of the Agent acting in its capacity as such:

* + 1. Principal shall pay to the Agent a fee of AED 100 (One hundred Dirham) on the date of this Agency Agreement (the receipt and adequacy of which the Agent hereby acknowledges); and
    2. The Agent shall be entitled to any amount standing to the credit of the Income Reserve Account on the Maturity Date as an incentive payment (the "**Incentive**") subject to the provisions of Clause 6 of this Agency Agreement.

1. SERVICES
   1. **Provision of Services**
      1. During the period commencing on the date of this Agency Agreement and until the latter of the following (the “**Agency Period**”):

(1) Maturity Date; and

(2) the date on which Principal no longer has any undivided ownership interest in the Asset,

the Agent undertakes to Principal that it shall provide the Services set out under Clause 3.2 herein.

* + 1. The Agent shall not be entitled to appoint or delegate the Services to any third party without the prior written consent of Principal. If such consent is given, the Agent shall appoint a reputable party at its own costs and expenses provided that it shall be directly responsible to Principal and such appointee or delegate shall have no recourse against Principal in any manner whatsoever.
  1. **Scope of Services**

During the Agency Period commencing the Agent irrevocably and unconditionally undertakes to Principal that it shall provide the following Services under the provisions of the Agency Agreement (the “**Services**”):

* + 1. Collect all realized rentals in connection in respect of AHB Share (on behalf of Principal) (“**Income**”) and ensure that the same is credited into the Income Account;
    2. Manage the AHB Share for and on behalf of Principal;
    3. Lease the AHB Share (or parts thereof) (on behalf of Principal) for Shariah compliant purposes;
    4. Execute and renew lease agreements with the tenants in respect of the AHB Share (or parts thereof) (on behalf of Principal) and collect rentals payments generating therefrom;
    5. File civil and criminal cases against the defaulters in respect of the AHB Share (or parts thereof);
    6. Carry out maintenance that may be required in respect of Asset on behalf of Principal;
    7. Procure Shariah compliant insurance from Al Hilal Takaful or other company agreed by AHB for the extent of the full reinvestment value in respect of Asset on and shall maintain such insurance until the demise of the Agency Period;
    8. Maintain the Income Account and the Income Reserve Account in accordance with clause 4 and shall comply with all its other obligations under the Agency Agreement; and
    9. Obtain all necessary Authorisations in connection with the Asset and its obligations under or in connection with the Agency Agreement.
    10. At all times act in good faith and to manage the Asset in a proper and professional manner and report to Principal and shall carry out all other duties normally coming within the purview of a managing agent’s responsibility for the type and quality of the Asset and to perform its duties as economically and efficiently as possible.
    11. Ensure that all information provided to Principal regarding the Asset is complete and correct.
    12. Provide Principal, on a quarterly basis, an overview of the comparable rental markets and make any recommendations relating to the AHB Share.
    13. Maintain proper accounts in respect of the payments and the payment of outgoings that, if so required by Principal, will be duly audited.
    14. Receive the relevant documents from the tenants and maintain all necessary records including tenancy contracts and passport copy of the Asset’s tenants and deliver them to Principal on its first written demand:
    15. Take appropriate action to recover tenant arrears.
    16. Receive rental payments according to the rental agreements with tenants.
    17. Issue relevant receipts for all payment collected.
    18. Provide tenancy renewal intimation or termination notice (pursuant to the best interest of the Principal) three (3) months prior to the expiry date of the tenancy contracts or according to the applicable laws as may be amended from time to time.
    19. Provide final settlement services on termination of the tenancy contracts including rent and deposit refund as applicable.
    20. Execute all facilities and equipment maintenance contracts and follow up with the contractors for renewal.
    21. Not carry out any legal cases against tenants without obtaining Principal’s approved on the legal fees and if so requested by Principal, to appoint the law firms to be nominated by Principal.
  1. **Standard of Care**

The Agent shall provide the Services:

* + 1. with all due Reasonable Skill and Care and diligence and in accordance with sound internationally recognized professional standards
    2. in accordance with all applicable laws and regulations;
    3. as it deems fit, but with the degree of Reasonable Skill and Care that it would exercise in respect of its own assets; and
    4. in any event, in a manner that is compliant with the principles of Shariah.

1. ACCOUNTS
   1. **Opening**

The Agent shall open the following accounts with the Principal:

* + 1. a current account for the deposit of all Income (the "**Income Account**");
    2. a current account for the purpose of recording reserve Income if required by the Bank (the "**Income Reserve Account**"); and
    3. such other accounts as agreed between the Principal and the Agent in order to eventuate the considerations set out in this Agency Agreement.
  1. **Recording**

The Agent must keep accurate records of all transactions that are made in relation to both the Accounts.

* 1. **Access to books and records**

The Agent shall within five (5) Business Days of receiving a written notice by Principal , provide the Principal with any information or details in relation to the Services, Income, Accounts and the Asset that the Principal reasonably requires.

1. INCOME PAYMENT PERIODS
   1. **Income Payment Periods**

The parties agree that Income due and payable to Principal will be made at the end of each period (each, an "**Income Payment Period**") to be determined as follows:

* + 1. Principal will notify the Agent of the Expected Income Amount in relation to the Income Payment Period set out in a notice substantially in the form set out in Schedule 1 (an “**Expected Income Amount Notice**”).
    2. Each Expected Income Amount Notice will be delivered to the Agent not later than \_\_\_\_\_\_\_\_\_\_\_\_ [Abu Dhabi] time on the Expected Income Calculation Day applicable to that Income Payment Period.
    3. Each Income Payment Period will be for [●] months each commencing from the date of this Agreement.
  1. **Business Day Convention**

If an Income Payment Period would otherwise end on a day which is not a Business Day, that Income Payment Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

1. INCOME PAYMENT
   1. On the last Business Day of each Income Payment Period (an “**Income Payment Date**”), the Principal shall, subject to this clause 6, debit the Expected Income Amount from the Income Account
   2. If the Income payable to Principal on an Income Payment Date is greater than the Expected Income Amount, that surplus Income will be used as a reserve for the payment of future Income and must be credited to the Income Reserve Account accordingly by the Agent.
   3. If there would be a shortfall of funds to enable the Agent to pay the Expected Income Amount in full on the Income Payment Date, the Agent shall first meet such shortfall from and out of the Income Reserve Account. If the funds standing to the credit of the Income Reserve Account are insufficient then the Agent may (on an on-account basis (subject to claw-back on the Maturity Date)), subject to no Event of Default continuing pay Principal the shortfall of the Expected Income Amount on account of future Income to be received.
   4. If the Agent, at any time, realizes that in respect of an Income Payment Period the Expected Income Amount may not be achievable or the Agent anticipates that the occurrence of certain foreseeable circumstances in the future will have adverse effects on the ability to achieve the Expected Income Amount in respect of an Income Payment Period (as set out in the Relevant Investment Plan) it will immediately inform the Principal.
   5. Subject to Clause 6.4, the Principal shall have the right to terminate this Agency Agreement at any time during its period and without cause upon giving the Agent written notice. In case of termination, Principal shall pay all fees and other amounts due to the Agent up to the date of termination and the Agent shall pay all amounts due to Principal and shall hand over all the documents, deeds, cheques, instruments and agreements related to the Asset and co-operate in good faith to facilitate the delivery and handing over of the Asset to Principal or any other party as may be nominated by Principal. Principal shall be entitled to set-off any amounts owed to the Agent against any amount due to the Bank under the Transaction Documents.
2. LATE PAYMENT AMOUNT

If the Agent fails to pay to the Principal any amount due under this Agreement at the time, in the currency, and in the manner specified herein, the Agent irrevocably and unconditionally undertakes to donate to charity, if the Principal  demands,  a sum at the rate of 1 % per annum over the Marginon the overdue amount which shall be handed over to the Principal to be donated on the Agent's behalf to such charitable foundations or scientific or medical institutions or for any other charitable cause as the Principal may select under the supervision of its Fatwa and Shariah Supervisory Board.

1. GOVERNING LAW AND ENFORCEMENT
   1. **Governing law and dispute resolution**
      1. This Agency Agreement shall be governed by the laws of the United Arab Emirates to the extent that these laws do not conflict with the principles of Shariah as set out in the Shariah Standards published by the AAOIFI and as interpreted by the Fatwa and Shariah Supervisory Board of the Principal, in which case the principles of Shariah shall prevail.
      2. The courts of the United Arab Emirates shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agency Agreement and the Seller submits to the exclusive jurisdiction of such courts. However, the Principal reserves the right to bring any such dispute in any other relevant jurisdiction.
   2. **Waiver of immunity**

The Agent is not entitled to claim for itself or any of its assets immunity from any proceedings, suit, execution, attachment or other legal process in its jurisdiction of incorporation or any other country and the execution of the Transaction Documents by the Agent and the Agent's exercise of its rights and performance of its obligations thereunder will constitute private and commercial acts done and performed for private and commercial purposes and the Agent acknowledges that the transactions contemplated by this Agreement are commercial transactions subject to Law No. 10 of 2005 and Article 247 of Federal Law No. 11 of 1992 and to the extent that the Agent may claim for itself or its assets or revenues immunity from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process and to the extent that such immunity (whether or not claimed) may be attributed to the Agent or its assets or revenues, the Agent agrees not to claim and irrevocably and unconditionally waives such immunity in relation to any proceedings. Further, subject to Law No. 10 of 2005 and Article 247 of Federal Law No. 11 of 1992, the Agent irrevocably and unconditionally consents to the giving of any relief or the issue of any process, including, without limitation, the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgment made or given in connection with any proceedings.

**This Agency Agreement is entered into by the Parties on the date stated at the beginning of this Agency Agreement.**

SCHEDULE 1  
EXPECTED INCOME AMOUNT NOTICE

**From: Al Hilal Bank**

**To: [Customer]**

**Date: [ ]**

**Re: Agency Agreement dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the "Agreement")**

1. We refer to the Agreement. This is an Expected Income Amount Notice. Terms defined in the Agreement have the same meaning in this Notice.
2. This Notice relates to the Income Payment Period from ……….to…………….
3. The Expected Income Amount is AED \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
4. The Expected Income Amount, subject to actual realization and the provisions of the Agreement, shall be debited from your account no \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_with Principal on the Income Payment Date of …………………...

**Best Regards**

....................................................…

**Authorised Signatory**

**Al Hilal Bank**

EXECUTION PAGE OF THE AGENCY AGREEMENT

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| **SIGNED BY**  **THE PRINCIPAL**  **AL HILAL BANK** | **)**  **)**  **)**  **)** |

|  |  |
| --- | --- |
| **SIGNED BY**  **THE AGENT**  **[CUSTOMER]** | **)**  **)**  **)**  **)** |

1. Delete as appropriate. [↑](#footnote-ref-2)
2. [↑](#footnote-ref-3)