



## GENERAL TERMS AND CONDITIONS OF THE LOAN AGREEMENT

### 1. LOAN FACILITY

#### 1.1 Currency

The Borrower shall be entitled to make drawdown of each Loan Facility only in Vietnamese Dong. Each Loan Facility shall, at all times, be maintained in Vietnamese Dong.

#### 1.2 Maturity Date

For the purpose of clarity, the “**Maturity Date**” stipulated herein shall not be longer than \_\_\_\_\_ (\*\*\*) months from the day of the Utilization Date under this Agreement. The Borrower agrees that, unless otherwise agreed by the Bank, any and all indebtedness incurred under this Agreement shall be fully repaid to the Bank by no later than the Maturity Date.

### 2. UTILIZATION

#### 2.1 Availability Period

Each Loan Facility shall be made available for the Borrower to make drawdown only during the Availability Period as specified in the Notice of Utilization and Debt Assumption. For the purpose of clarity, the “**Availability Period**” stipulated herein shall mean the period commencing on the Effective Date and ending on the date falling sixty (60) days from the date of the approval letter of the Loan Facility which was issued by the Bank on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (“**Loan Approval Letter**”).

#### 2.2 Method of Utilization

Unless otherwise agreed by the Bank, subject to conditions precedent stipulated under Clause 2.3 below and at the sole discretion of the Bank, the Loan utilization shall be one-time utilization. The utilization of such Loan Facility shall be applicable for the Loan’s purposes in which the Borrower requests by submitting the Notice of Utilization and Debt Assumption in a form and substance satisfactory to the Bank by the Borrower for the Bank’s consideration and approval. The Borrower agrees that, for one-time utilization, in case that the Borrower, for any reason, fails to withdraw the entire approved Loan Amount on the Utilization Date, the Borrower shall not be allowed to make any other utilization thereafter.

In any cases, the Bank may decide, at its own discretion, to approve an utilization and make disbursement of the utilization of the Loan on the proposed Utilization Date based on the conditions of the submission of the Notice of Utilization and Debt Assumption which is given in accordance with the terms and conditions stated in the Sale and Purchase Agreement and/or the Cooperation Agreement (if any), this Agreement and the Bank’s internal regulations.

#### 2.3 Conditions Precedent



2.3.1 The Borrower shall not submit the Notice of Utilization and Debt Assumption to the Bank unless the Bank has duly received all information and/or documents as listed in the Pre-Utilization Conditions under the Loan Approval Letter and any amendment and/or supplementation thereto. For the purpose of clarity, the “**Pre-Utilization Conditions**” are the Pre-Utilization Conditions set forth and stipulated in the Loan Approval Letter and/or the conditions precedent as specified in this Agreement.

2.3.2 Both the first utilization and the subsequent utilizations (if any) to be made under this Agreement are subject to the completion of the conditions precedent stipulated herein and the satisfaction of the Bank.

## 2.4 Conditions Subsequent / Other Conditions

2.4.1 In the case where the Loan is granted for the purpose of refinancing an existing loan with the Existing Bank, the Borrower shall comply with clauses 2.4.2 to 2.4.7, and clause 2.4.9 (if required).

2.4.2 The Borrower shall:

- (a) immediately and unconditionally use the Loan Amount disbursed by the Bank for the sole purpose of repayment of the outstanding loan owed to the Existing Bank;
- (b) procure that the Existing Bank accepts such repayment and releases all security interests, including but not limited to the mortgage over the Secured Asset (If applicable); and
- (c) provide the Bank with written evidence of such repayment and release, in a form satisfactory to the Bank, without undue delay.

2.4.3 The Borrower acknowledges and agrees that:

- (a) the Bank shall not be responsible for all costs, expenses, and legal fees related to the de-registration and/or registration of mortgage over the Secured Asset (including fees imposed by the relevant competent authorities) unless otherwise agreed; and
- (b) the Borrower shall and procure that the Security Provider shall, upon request, execute any documents and perform any acts as reasonably required by the Bank or the Bank's legal representative to complete the mortgage over the Secured Asset in favor of the Bank.

2.4.4 The Loan can be drawdown up to 100% (one hundred percent) of the principal amount payable stated in the notification letter (or a similar document) from the Existing Bank to the Borrower for the discharge of the Existing Bank Loan.

2.4.5 In case where the Loan is for:

- (i) construction; and/or
- (ii) renovation; and/or



- (iii) decoration; and/or
- (iv) consumption,

the Borrower shall submit the following additional document(s), as the case maybe, in a form and substance satisfactory to the Bank as listed below prior to the drawdown of the Loan:

- (a) the service agreement (or a similar agreement) with contractor;
- (b) the sale and purchase agreement of materials;
- (c) related invoices, quotations, purchase orders; and/or
- (d) other document(s) as may be required from time to time by the Bank.

2.4.6 The Loan shall be transferred to the account as designated by the Existing Bank as the beneficiary's account in accordance with applicable laws and regulations. If the Loan is transferred to the Borrower's account (to the extent that it is permitted by applicable laws and regulations), the Borrower shall procure that the Loan is used for the purpose(s) under this Agreement and submit to the Bank the swift message or debit note as evidence of payment to beneficiary within seven (7) Business Days from the date of payment upon request by the Bank.

2.4.7 The Borrower further agrees not to interfere with, delay, or otherwise hinder the mortgage registration process of the Secured Asset, and acknowledges that failure to comply with clauses 2.4.1 to 2.4.7 shall constitute an Event of Default under this Agreement.

2.4.8 Other conditions (if any) as specified in Loan Approval Letter.

### **3. RELEASE OF THE LOAN**

3.1 The Bank may make the disbursement of the Loan to the Borrower by direct transferring to the Loan Account upon the completion and satisfaction of the conditions precedent stipulated hereinabove, and the Borrower has duly submitted to the Bank a duly executed Notice of Utilization and Debt Assumption.

3.2 The Borrower acknowledges that the Borrower has (or will have) received in full the Utilization or the Loan immediately when the utilized amount is credited to the Loan Account.

3.3 The Borrower acknowledges that the Bank is not obliged to make disbursement of the Utilization or the Loan in the following cases:

- (i) In any event that the Bank is unable to raise the required funds for releasing the Utilization or the Loan;
- (ii) The Bank is unable to continue its release of the Utilization or the Loan due to the policies, decisions of the relevant State/central bank or the related government authorities; or



- (iii) Any other cases as stipulated by relevant laws and regulations.

For any case as stipulated above, the Bank shall not be liable to compensate for any loss and/or damage which may be suffered by the Borrower.

#### 4. BANK'S DISCRETION

Notwithstanding anything contained in this Agreement, the Borrower acknowledges and agrees that at any time upon the Borrower's request to utilize the Loan Facility, the Bank shall not be obligated to allow the Borrower to make such Utilization if the Bank deems inappropriate, subject to the Bank's sole discretion in accordance with this Agreement or the applicable laws and regulations. The Bank reserves the rights to review or cease, whether in whole or in part, or terminate the Loan Facility granted by the Bank whenever the Bank deems appropriate in accordance with this Agreement or the applicable laws and regulations. The Borrower also agrees that such actions of the Bank do not cause any loss and/or damage to the Borrower and the Borrower will not claim, complain and/or challenge such actions of the Bank in whatever manner. The Borrower is only able to utilize the Loan Facility pursuant to the terms, conditions, period of time and methods as stipulated by the Bank for each Utilization.

#### 5. INTEREST AND FEES

##### 5.1 In-term loan interest rate of each Loan ("**Loan Interest Rate**"):

The Loan Interest Rate under this Agreement on the Effective Date shall be determined as follows:

(i) Preferential Loan Interest Rate Package:

Fixed Loan Interest Rate applicable to the first \_\_\_\_\_ months intervals of the Loan: \_\_\_\_\_%/year (\_\_\_\_\_percent per year)

(ii) Common Loan Interest Rate Package:

a. Loan Interest Rate applicable after the first \_\_\_\_\_ months intervals of the Loan is determined as \_\_\_\_\_ plus/minus \_\_\_\_\_ %/year (\_\_\_\_\_percent per year) ("**Interest Rate Margin**").

b. Common Loan Interest Rate Package shall be applied in accordance with Clause 5.2 herein.

##### 5.2 Adjustment of the Loan Interest Rate.

- (i) The Common Loan Interest Rate, specifically the Funding Cost index, for the Utilization or the Loan (as applicable) shall be reviewed and adjusted every



\_\_\_\_\_ months. The Common Loan Interest Rate shall be re-determined and effective by the first Business Day of the month.

- (ii) The Interest Rate Margin shall not be changed in each applicable period of such Interest Rate Margin.
- (iii) The Funding Cost may be changed at the start of an interest calculating period. When the change of the Funding Cost leads to changes of the Loan Interest Rate and the Monthly Repayment Amount, the Bank shall notify the Borrower of the changed Loan Interest Rate together with the new Monthly Repayment Amount, and such notice shall be binding to the Borrower. The Borrower clearly understands and accepts that when the Funding Cost changes, the value of the Monthly Repayment Amount will change accordingly.
- (iv) The Preferential Loan Interest Rate Package shall be maintained for this Loan when the post-utilization conditions and/or the terms stated in this Agreement, its schedules and the Loan Approval Letter are properly and timely implemented by the Borrower. When the specified conditions are not satisfied by the Borrower, the applicable Loan Interest Rate shall equal the Common Loan Interest Rate from the next payment interval. The Preferential Loan Interest Rate may only be applied to the Loan in the next payment interval if it is confirmed by the Bank that the Borrower has satisfied all the required conditions.

### 5.3 Interest rate applicable to default payment:

- (i) When the Utilization or the Loan is transferred to overdue debt as stipulated in Clause 8.2, the Borrower must pay interest on the overdue principal balance at the rate equal to 150% (one hundred and fifty percent) of the Loan Interest Rate at the time of the overdue debt transfer starting from the default payment date to and inclusive of the actual full payment date.
- (ii) When the Borrower fails to pay in full and timely any due interest under this Agreement (including the case when the Borrower is accepted by the Bank for restructuring of debt payment schedule in pursuance to Clause 8.1), the Borrower must pay the default interest at the rate of up to **10%/year (ten percent per year)** or at another highest interest rate stipulated or permitted by law at the time of application, on the default interest balance, starting from the default payment date to and inclusive of the actual full payment date.

### 5.4 The prepayment fee for prepayment of the entire or part of the Loan balance shall be as follows:

- In the first year starting from the Utilization Date: 2.5% (two point five percent) of the prepaid amount.



- In the 2<sup>nd</sup> year starting from the Utilization Date: 1.5% (one point five percent) of the prepaid amount.
- In the 3<sup>rd</sup> year starting from the Utilization Date: 1% (one percent) of the prepaid amount.
- From the 4<sup>th</sup> year onward starting from the Utilization Date: Free of prepayment fee.

5.5 Interest shall be calculated on the actual debt balance at the end of the day of each Utilization or the Loan (as applicable) for the period starting from the Utilization Date to (but exclusive of) the date of actual payment by the Borrower of all obligations under the Facility Documents to the Bank.

5.6 Interest shall accrue with the number of the actual debt balance maintaining days and shall be calculated on the basis of three hundred and sixty-five (365) days a year. Interest shall be calculated by the following formula:

Interest = (actual debt balance x the number of actual debt balance maintaining days x the applicable interest rate)/365

Of which:

- (i) The actual debt balance: means the day-end balance of the in-term principal balance, the default principal balance or the actual interest default balance payable by the Borrower to the Bank;
- (ii) The number of actual debt balance maintaining days: means the number of the days in which the actual day-end debt balance remains unchanged; and
- (iii) Interest rate: means the applicable Loan Interest Rate or the rate stipulated in Clause 5.3 (as applicable) of this Agreement.

The Loan Interest Rate specified in Clause 5.1 shall only apply to the Utilization before or on \_\_\_\_\_. For the Utilization after that date, the actual Loan Interest Rate shall be the interest rate quoted by the Bank applicable at the time of the Utilization as specified in the Notice of Utilization and Debt Assumption.

## 6. PRINCIPAL REPAYMENT

Unless otherwise agreed by the Bank, the Borrower shall repay the principal amount of each Loan drawdown from the Bank under this Agreement to the Bank on an installment basis as stipulated in the Loan Approval Letter. Provided always that, the Bank shall reserve rights to adjust the Monthly Repayment Amount as the Bank deems appropriate in accordance with this Agreement and the applicable laws and regulations.



The Borrower is obligated to make full repayment of the principal amount of the Loan together with accrued interest thereon and any and all other financial liabilities under this Agreement on the Maturity Date.

## **7. REPAYMENT, PREPAYMENT AND OVERDUE PAYMENT**

7.1 The Loan shall be repaid in the currency of the Utilization or the Loan which is Vietnamese Dong.

7.2 Repayment:

- (i) The Monthly Repayment Amount and other Payment Obligations payable by the Borrower (if any) shall be due on the Monthly Repayment Date and paid in full and timely by the Borrower to the Bank until the Borrower's complete discharge of all its Payment Obligations toward the Bank.
- (ii) The Payment Obligations of each Borrower (in case of co-borrowing) are joint and several. On each Monthly Repayment Date, the Bank shall automatically deduct money from the Repayment Account to set-off against the due payment amount.
- (iii) With respect to the due Monthly Repayment Amount, the Bank shall collect debts in the order of principal first, interest later.
- (iv) With respect to the overdue Monthly Repayment Amount when the Borrower are incapable of paying the entire Monthly Repayment Amount, the Bank shall collect debts in the following order: (i) overdue principal, (ii) interest on the overdue principal (iii) principal (on due), (iv) unpaid interest on the due principal, (v) default interest on overdue interest and overdue principal, or in another order as stipulated by law at the collection time.

Fees (including that for debt collecting for payment to a third party or for payment of insurance premium) and penalties (if any) shall be collected last by the Bank after the above principals and interests are fully collected.

When the Bank receives the proceeds from the enforcement of the Secured Asset, the payment order of the proceeds shall be stipulated in the Security Agreement.

7.3 Prepayment:

- (i) Should the Borrower wish to prepay the entire or part of the Loan balance before due date, the Borrower shall notify the Bank thereof at least five (5) Business Days before the proposed prepayment date.
- (ii) The Bank shall consider the Borrower's proposal and may accept for the Borrower





to prepay the entire or part of the Loan balance in the terms and conditions set out by the Bank.

- (iii) If the Bank allows the Borrower to prepay the entire or part of the Loan balance, the Borrower shall pay to the Bank the prepayment fee as stipulated in Clause 5.4 of this Agreement.
- (iv) When prepayment is accepted as provided in the foregoing Paragraph (iii), the Bank shall decide to collect it in the payment priority order applicable to the Borrower's Payment Obligations and notify the same to the Borrower for acceptance.

#### 7.4 Overdue payment:

Any overdue Payment Obligations shall incur interest at the rate stipulated in Clause 5.3 of this Agreement.

### 8. RE-STRUCTURING DEBT PAYMENT SCHEDULE, TRANSFER TO OVERDUE DEBT

- 8.1 When the Borrower wishes to request re-structuring of the debt payment schedule for any amount of the principal and/or interest balance that will be due on any Monthly Repayment Date, the Borrower shall send a written request to the Bank not later than thirty (30) Business Days before such Monthly Repayment Date, stating therein the reason for requesting restructuring of the debt payment schedule and the capacity, time and source for debt payment accompanied with supporting evidence. The Bank shall consider the request and may either reject or accept for such restructuring of debt payment schedule. If the Bank accepts for restructuring of debt payment schedule, its acceptance shall be given in writing.
- 8.2 Should the Borrower fail to pay timely any due principal balance on each Monthly Repayment Date as stipulated under this Agreement and the Bank rejects restructuring of debt payment schedule, the Bank shall transfer such due principal balance to overdue debt in accordance with the applicable laws and regulations and shall notify the Borrower of the same.

### 9. SECURED ASSET

- 9.1 As security for payment of debts and/or other obligations of the Borrower under this Agreement, unless otherwise agreed by the Bank, the Borrower's Payment Obligations shall be secured by the secured asset(s) ("**Secured Asset**") under the relevant Security Agreement (s) created or to be created after the Effective Date of this Agreement. The Secured Asset shall include the security interest as agreed by the Bank and any of its amendment, supplement or replacement from time to time.





- 9.2 In case the proceeds from the enforcement of the Secured Asset is insufficient to repay its Payment Obligations, the Borrower must be responsible for the shortfall until such Payment Obligations have been fully and timely discharged.
- 9.3 The Borrower shall not (and ensure the Security Provider shall not) cause the Secured Asset to have less value or become depreciated, or to use its as security for another obligation, or create preferential right or any other encumbrance whatsoever on the said asset except when the Borrower and/or the Security Provider has received a prior written consent from the Bank.
- 9.4 The Borrower agrees to and/or cause the relevant Security Provider to allow the Bank or a person assigned by the Bank to carry out the survey and evaluation of the Secured Asset. With the facilitation of and the costs incurred by the Borrower and/or the Security Provider, the Bank will, but not obligated to, carry out a survey on annual basis, or at other intervals as the Bank may think fit, and notify the Borrower and/or the Security Provider of the same in advance.
- 9.5 If the Bank finds that the value of the Secured Asset has reduced from the Effective Date according to the Bank's absolute decision, the Borrower agrees and accepts the following requirements from the Bank (at its sole decision):
- (i) that the Borrower to immediately reduce its liabilities to the Bank to the extent corresponding to the exceeded ratio and in a manner suitable with the Borrower's conditions, and/or set off or prepay the Loan, whether in part or in full, in order to ensure the loan-to-value ratio is satisfactory to the Bank; and/or
  - (ii) that the Borrower to furnish to the Bank a deposit or any other security satisfactory to the Bank in the form, procedure, method and within a period of time as stipulated by the Bank; and/or
  - (iii) fully compensate the Bank against any losses and damages, expenses from being deprived of any right as a consequence of the reduction in value of the Secured Asset.

## 10. INSURANCE

- 10.1 The Borrower agrees that, at the Bank's discretion, the Bank may take out or require the Borrower to take out insurance for the loss of or damage to any Secured Asset which requires compulsory insurance. The Borrower shall be responsible for all costs, expenses, and insurance premiums relating to such policy except the case where such responsibility is waived by the Bank from time to time.
- 10.2 The Bank shall be entitled, at its sole discretion, to determine the method of premium payment, whether in full at one time or by monthly partial deduction from the Borrower's account or loan proceeds, as the Bank deems appropriate. The Borrower hereby authorizes the Bank to debit any of the Borrower's accounts maintained with the Bank for such payment without further notice.
- 10.3 In the event that (i) the Borrower fails to pay any insurance premium when due, (ii) there are insufficient funds for the Bank to deduct such premium, or (iii) the insurance policy expires, is terminated, or otherwise ceases to be in effect with respect to the Secured Asset for any reason, such event shall constitute an Event of Default under this



Agreement. In such case, the Bank may, at its discretion, (a) pay the premium on behalf of the Borrower and add such amount to the Borrower's outstanding debt, or (b) exercise any of its rights or remedies provided under this Agreement.

- 10.4 The Bank must be named in the insurance policy(ies) as the first beneficiary of the insurance for an insured sum which covers at least the amount of the Loan Facility or equivalent to the value of the Secured Asset or the value of the secured buildings and/or structures on the land of the Secured Asset, whichever is lower, unless accepted otherwise by the Bank.
- 10.5 In the event that the Borrower and/or any organization or individual wishes to take out insurance for the loss of, or damage to, any Secured Asset as required, authorized or allowed by the Bank, the Borrower and/or such organization or individual must first notify the Bank thereof and obtain the Bank's approval in accordance with the terms and conditions set out by the Bank, including but not limited to the condition that the Bank must be named in the insurance policy(ies) as the first insurance beneficiary. Any amounts received from the insurance policy(ies) shall be transferred by the insurer(s) to the Bank and used to satisfy the Payment Obligations at the Bank's sole discretion.

## **11. PENALTY AND COMPENSATION FOR A BREACH AND DEDUCTION**

### **11.1 Penalty and compensation for a breach:**

- (i) The Borrower agrees that should the Borrower fail to comply with any of its obligations, representations, warranties or undertakings, it shall be subject to a penalty at 8% (eight percent) of the value of the breached obligation. For the avoidance of doubt, the penalty provided in this Clause 11.1 shall not apply in the case when the Borrower fails to pay in time the principal and/or interest resulting in its obligation to pay default principal interest and the interest default interest prescribed in Clause 5.
- (ii) When the breach is the Borrower's fault, the Borrower agrees and undertakes to compensate the Bank and/or its Authorized Party against all liabilities (including those to third parties), losses, damages, claims for or in relation to payments, costs, charges, expenses, and litigations and proceedings (including legal costs and fees) whether of civil, commercial, administrative or criminal nature, initiated by any party that involves the Bank and/or its Authorized Party in connection with the Facility Documents.

The Borrower's liabilities under this Clause 11.1 shall survive the termination of this Agreement.

### **11.2 Deduction:**

In order to immediately repay the Loan, interest, default interest, service charges, fees, expenses, insurance premium and/or any other payable amounts and/or to compensate the Bank from loss or damage arising payable by the Borrower to the Bank under this Agreement, the Borrower hereby expressly agrees and authorizes the Bank, without having to send a prior notice to the Borrower, to debit any amount from the Borrower's current account and/or any other types of accounts maintaining with the Bank and/or any money and/or all amount shall be received by the Borrower and/or the Borrower has the right to receive but in the possession of



the Bank and/or under the authorization for instruction of the Bank, whether the Bank has obtained such amount and/or such possession and/or such authorization for instruction in whatsoever lawful method. After deduction, the Bank may send the Borrower a notice to notify the Borrower of the same.

In case the account(s) of the Borrower mentioned in the preceding paragraph is in foreign currency, the Borrower agrees that the Bank, at its sole discretion, may immediately convert such amount in the account into Vietnamese Dong by using the T/T buying rate announced by the Bank in the first round on the date of conversion in the Bank's normal course of business, with or without any further notice to the Borrower.

## **12. REPRESENTATIONS AND WARRANTIES**

The Borrower hereby represents and warrants to the Bank that:

- 12.1 The Borrower has full civil act capacity to enter into and to fully perform the Facility Documents and any and all other relevant documents and papers.
- 12.2 All information and documents provided to the Bank in connection with the Facility Documents (and the transactions contemplated in the Facility Documents) are true, accurate and up-to-date at the time of their provision.
- 12.3 The execution and performance of this Agreement does not violate (i) any applicable laws, regulations, or Vietnamese judicial or governmental orders; or (ii) any contract, undertaking or other arrangement to which the Borrower is a party or which purports to be binding upon it or any of its assets.
- 12.4 In case there are more than one Borrowers, each Borrower shall jointly perform its obligations and liabilities under this Agreement. Notwithstanding any provision stipulated herein, the Bank may require any Borrower to perform any or all of the Borrowers' obligations or liabilities under this Agreement.
- 12.5 The Borrower has sufficient finance and/or assets to perform its obligations and liabilities under this Agreement.
- 12.6 The Payment Obligations of the Borrower under this Agreement rank and will rank above all its other unsecured indebtedness, unless otherwise provided by applicable laws and regulations (if any).
- 12.7 All agreements and documents provided to the Bank in connection with the Facility Documents, including but not limited to the Sale and Purchase Agreement and the Assignment Document, are legal valid, binding and enforceable in accordance with the applicable laws.
- 12.8 Other than the Loan under this Agreement, the Borrower does not have any other financial liabilities (save those already notified in writing to the Bank on or prior to the Effective Date) and there is no Material Adverse Change from the date of submission of the relevant Facility Application Form to the date of Loan utilization.
- 12.9 No proceedings are pending or likely to be initiated before any court or administrative authority which adversely affect or would adversely affect the Borrower's payment of the Loan or the Secured Asset.



- 12.10 The Borrower has provided the Bank with full information and documents relating to the Loan Facility, including but not limited to the information and documents on the status of the Borrower, including financial status and any other documents required by the Bank. The Borrower hereby also represents and warrants to the Bank that it is not in the insolvent status and/or in any kind of an incapability status, and it has full capacity in entering into this Agreement. The Borrower further represents and warrants that all information given by the Borrower is true and accurate in all aspects and no information was or is misleading by omission or otherwise as at the date such information is given.
- 12.11 The Borrower has understood and received from the Bank all necessary information and clarifications on the interest rate; the principles, factors and time for determining the interest rates, the default principal interest rate, the interest on default interest together with the interest calculating method; the types and rates of the fees applicable to the Loan; the information on standard-form contracts and relevant general conditions for transactions; and other relevant information related to this Agreement and the Facility Documents.
- 12.12 The Borrower has complied with all laws and regulations of Vietnam on taxation and have paid all due and payable taxes.
- 12.13 The Borrower confirms that it shall perform in full all Payment Obligations. The Borrower further agrees that it shall promptly notify the Bank in writing within five (5) calendar days of becoming aware of any representations or warranties stated under this Agreement which are no longer accurate.
- 12.14 In the case where the Loan is granted for the purpose of refinancing, the Borrower will not enter into any agreement or take any other action whatsoever that may delay, prevent, or frustrate the de-registration of the Existing Bank's mortgage or registration of the Bank's mortgage over the Secured Asset.
- 12.15 The representations and warranties in Clause 12 are made as of the date of this Agreement and will be repeated on each day of the period until all indebtedness, obligations and liabilities of the Borrower under the Facility Documents have been discharged in full.

### **13. UNDERTAKINGS**

- 13.1 The Borrower hereby undertakes with the Bank that, until its full and timely discharge of all Payment Obligations, the Borrower shall:
- 13.1.1 comply with all terms and conditions of this Agreement and the Facility Documents;
  - 13.1.2 use each Loan for the purpose as stated in this Agreement and not for any other purposes;
  - 13.1.3 promptly notify the Bank of any events or circumstances which may cause delay to or adversely affect the Borrower's use and repayment of the entire or part of the Loan;



- 13.1.4 cooperate in full with the Bank in the notarization of the Security Agreement at a notary office when it is so required by the applicable laws or the Bank, and register the security created under the Security Agreement with a registration authority;
- 13.1.5 notify the Bank of any changes in its registered address, telephone number, details of business operations or occupation and other relevant information at least three (3) Business Days before the day such changes take place;
- 13.1.6 notify the Bank of any event affecting the Borrower's capacity to repay the Loan or any other Payment Obligations within ten (10) Business Days after the occurrence of such event;
- 13.1.7 at any time upon request by the Bank, submit to the Bank original or copy of documents for verification of the utilization of the Loan or for any other purposes;
- 13.1.8 where a condition precedent under this Agreement is accepted by the Bank as a condition subsequent, the Borrower shall satisfy such condition in accordance with the terms and conditions set out by the Bank;
- 13.1.9 implement and perform all agreements, documents, statements and other undertakings as requested by the Bank at any time in accordance with the terms of this Agreement;
- 13.1.10 undertake to inform the Bank as soon as the Borrower is aware of the decease of the mortgagor and/or the Security Provider;
- 13.1.11 procure and maintain the insurance(s) for the loss of, or damage to, any Secured Asset as required by the Bank;
- 13.1.12 In the case where the Loan is granted for the purpose of refinancing, the Borrower shall (and procure that the Security Provider shall):
  - (a) cooperate with and provide all necessary assistance to the Bank and/or its legal representative in carrying out the mortgage de-registration and/or re-registration over the Secured Asset;
  - (b) refrain from taking any action that may delay or obstruct such procedures; and/or
  - (c) not attempt to retrieve, withhold, or alter any ownership or mortgage documents.

13.2 The Borrower hereby undertakes with the Bank that (and shall govern/direct the Security Provider), until its full and timely discharge of all Payment Obligations, the Borrower shall not:

- 13.2.1 engage in any transactions related to, sell, or otherwise dispose or cease to possess, the Secured Asset; create, allow, permit to exist or agree to set up



interests or restrictions to any Secured Asset other than those reserved for the Bank under the Facility Documents;

- 13.2.2 incur any financial debt with a third party for the same financing purpose of this Agreement; or provide any loan or any guarantee to any third party

## 14. EVENTS OF DEFAULT AND CONSEQUENCES

### 14.1 Events of Default

Any of the following events shall constitute an event of default ("**Event of Default**"):

- 14.1.1 If the Borrower deceases, is declared dead by the court, is declared missing by the court or is incapacitated, the Bank shall have the right to demand payment until the debts are repaid in full from the legal heir or successor of the Borrower, to the extent permitted by the applicable laws and regulations;
- 14.1.2 If the Bank considers, in its sole and absolute discretion, that the Borrower is or deemed, for the purposes of any applicable law or regulation, to be unable to pay its debts as they fall due or bankrupt, or to suspend making payments on any of its debts or by reason of actual or anticipated financial difficulties, or to commence negotiations with one or more of its creditors for a reschedule any of its indebtedness, or the Borrower admits its inability to pay its debts as they fall due or a change in the classification of bad debt groups, or the Borrower's credit status is no longer compliant or appropriate with the Bank's internal policies from time to time, or the Borrower is only able to make partial repayment of its due payment obligation;
- 14.1.3 The Borrower fails to pay on due any amount payable pursuant to any agreement with the Bank (including this Agreement) or is in default of any obligation to any of his/her creditor(s) including but not limited to credit institutions, foreign bank branches or financial institutions, or has made arrangements to reschedule debts with them;
- 14.1.4 The Borrower fails to pay on the due date any Payment Obligations under any Facility Documents;
- 14.1.5 The Borrower breaches any other obligations under any Facility Documents and/or other agreements (if any) with the Bank;
- 14.1.6 If any facts, certifications and/or confirmations and/or information given by the Borrower to the Bank under this Agreement and/or any other documents/information provided by the Borrower are untrue, incorrect or may be misleading in any material respects;
- 14.1.7 Any act that causes the Loan to be due and prematurely recovered under a Facility Document, or causes such Facility Document to be terminated;





- 14.1.8 Any asset of the Borrower, including the Secured Asset, is confiscated or distrained by or on behalf of a creditor, or by bankruptcy procedures, or as stipulated by administrative or criminal laws;
- 14.1.9 The Secured Asset and/or any collateral provided in favour of the Bank as security under this Agreement is damaged or destroyed whether in whole or in part due to whatsoever reasons;
- 14.1.10 Any of the Secured Asset created under the Security Agreement is or becomes unlawful, or ceases to be legal, valid, binding or enforceable or otherwise ceases to be effective;
- 14.1.11 The Borrower is in default of their debts to any third party;
- 14.1.12 The Borrower is, or declares, or is ruled by law as, insolvent or incapable of paying any of their debts;
- 14.1.13 The Borrower takes measures for debt compromise or composition with any of their creditors;
- 14.1.14 The Borrower use the entire or part of the Loan not for the purpose(s) specified herein;
- 14.1.15 Any event that the Bank considers as likely to cause a Material Adverse Change to the Borrower's assets or conditions (financial or otherwise);
- 14.1.16 The Borrower becomes unemployed (applicable to Borrower earning salary income under an employment agreement);
- 14.1.17 Any of the related person(s) of the Borrower (together with the Borrower) have a total outstanding credit balance with the Bank exceeded the limits as specified by the applicable laws and regulations and/or the Bank's internal policies;
- 14.1.18 The Borrower, based on the Bank's internal investigation and/or decision or judgment of competent authorities, has sign(s) whether intentionally or not, to commit a fraudulent act, act of or related to money laundering, terrorism financing, funding proliferation of weapons of mass destruction;
- 14.1.19 The occurrence of one of the events defined as an Event of Default and/or any other event with the same nature specified in the Facility Documents other than this Agreement;
- 14.1.20 In the case where the Loan is granted for the purpose of refinancing, the Borrower fails to: (i) use the disbursed loan proceeds for the purpose of refinancing the outstanding debt with the Existing Bank; or (ii) cooperate with or obstructs the Bank or its legal representative in carrying out any acts necessary for the de-registration of the Existing Bank's mortgage or registration of the Bank's mortgage over the Secured Asset; or





- 14.1.21 (i) the Borrower fails to pay any insurance premium when due, (ii) there are insufficient funds for the Bank to deduct such premium, or (iii) the insurance policy expires, is terminated, or otherwise ceases to be in effect with respect to the Secured Asset for any reason.

The Borrower shall notify the Bank promptly in writing of any actual or contingent occurrence of the Event of Default the Borrower is aware of.

For the avoidance of doubt, a default by the Borrower in relation to any of its obligations under a Sub-Loan shall be considered an Event of Default with the consequences stated below.

## 14.2 Consequence of Event of Default

In the occurrence of any Event of Default, the Bank, at its own discretion and by a written notice to the Borrower, shall have the right to:

- 14.2.1 Immediately cancel the entirety or part of its obligation to grant the Loan under this Agreement on the date of such notice or on another date set out by the Bank in the notice; and/or
- 14.2.2 Declare that the entire or part of the Payment Obligations currently owed by the Borrower in connection with the Facility Documents (being the amount subject to accelerate recovery stated in the above notice) immediately becomes due and payable on the date of such notice or on another date set out by the Bank in the notice; should the Borrower fails to pay the Loan on the date set out in the notice, the principal balance shall be transferred to overdue debt on the same day, and the interest rates applicable to the overdue principal, the default interest and other default amounts (as the case may be) in Clause 5.3 shall be applied to such unpaid amounts starting from such date; and/or
- 14.2.3 Enforce the Secured Asset in pursuant to the Security Agreement to recover debt; and/or
- 14.2.4 Carry out one or several of the actions provided in the Facility Documents or any other actions that the Bank deems necessary to protect its lawful interests.

- 14.3 The notice(s) issued by the Bank to the Borrower in Clause 14.2 shall be in the form and substance as required by the applicable laws and regulations and the Bank's standard forms.

## 15. ADVERSE CHANGES

When the Bank reasonably decides that the application, implementation or modification of law, including, but not limited to, provisions of any codes, laws, orders, ordinances, decrees, resolutions, circulars, decisions, directives, notices, regulations or official letters (whether they are legal documents or not), or any change in the interpretation or application of the above documents, or the compliance with any requests (whether they are legal documents or not) of central, financial, monetary or other authorities:

- 15.1 Make the Bank's maintenance and/or granting of the Loan to the Borrower under this Agreement illegal or impractical;



- 15.2 Increase the Bank's cost in the creation, granting or maintenance of the Loan;
- 15.3 Decrease any amount received or to be received by the Bank in connection with the Loan; or
- 15.4 Without limitation to Clauses 15.1, 15.2 or 15.3 above, impose any taxes, duties or fees on any amount payable by the Bank for or in connection with the Loan,

the Bank shall notify the Borrower of the circumstances leading to the Bank's decision, and the Borrower agrees that they shall:

- (i) At the Bank's request, pay to the Bank the amount stated in the Bank's written notice to compensate the Bank against any additionally incurred costs, decreased amount, payable amount, or amount withheld or deducted, or for the Bank to comply with the provisions of law; or
- (ii) At the Bank's request, carry out early settlement on the next Monthly Repayment Date the entire Loan balance together with any accrued interest and all other Payment Obligations (without any prepayment fee) as provided in the Facility Documents, and this Agreement shall then be terminated.

## 16. DISCLOSURE OF INFORMATION

By executing this Agreement, the Borrower agrees and consents to the Bank for processing the Borrower's data, including personal data (both basic personal data and sensitive personal data) and non-personal data such as financial information, provided to and/or collected by the Bank (as the case may be) for the purpose of entering this Agreement and for providing necessary service/action under this Agreement to the extent permitted by the applicable laws, for the purposes of (i) providing necessary services, (ii) fulfilling the request of the Borrower before providing the services, (iii) assigning third parties to support the services, including but not limited to information technology, communications, debt collection, (iv) assignment of rights and/or obligations, (v) complaint management, (vi) risk management, (vii) business operations of the Bank; and/or (viii) complying with applicable laws and regulations. In addition, the Borrower further agrees and consents to the Bank's disclosure and transfer of the Borrower's data mentioned above locally and/or abroad to (i) KASIKORNBANK PUBLIC COMPANY LIMITED and affiliates/subsidiaries of KASIKORNBANK PUBLIC COMPANY LIMITED, (ii) outsourcing service providers, (iii) the Bank's agents, (iv) business partners, (v) sub-contractors, (vi) co-branding alliances, (vii) prospective rights/obligations assignees, (viii) rights/obligations assignees, and (ix) cloud computing service providers. The Borrower further agrees and consents to the Bank disclosing his/her personal data and/or information and also agrees and consents to the aforementioned third parties processing his/her personal data and/or information for the same purposes. The Borrower has the rights and obligations under the law and the Bank's privacy policy regarding the Borrower's personal information collected and/or processed by the Bank, including but not limited to the right to be informed, right to give consent, right to access, right to withdraw consent (to the extent not affecting contractual obligations under loan agreement), right to delete, right to restrict processing, right to obtain personal data, right to object to processing, right to complain, right to claim damage, and right to self-protection. For more information, please see the Bank's Privacy Policy:



<https://www.kasikornbank.com.vn/EN/about/Pages/Privacy-Policy.aspx>

For the purpose of this clause, “processing” means one or multiple activities that impact on personal data, including collection, recording, analysis, confirmation, storage, rectification, disclosure, combination, access, tracing, retrieval, encryption, decryption, copying, sharing, transmission, provision, transfer, deletion, destruction or any other relevant activities.

The Borrower, by entering this Agreement, hereby acknowledges and agrees that the Borrower voluntarily consents to the processing of his/her personal data pursuant to, and for the specific purposes specified in this clause being fully informed and aware of (i) the data to be processed, (ii) the purposes of such processing, (iii) the persons authorised to process such data, (iv) processing methods, (v) potential unexpected consequences and/or damages, (vi) the start time and the end time of personal data processing and (vii) the Borrower’s rights and obligations under applicable laws in relation to his/her/their own personal data. The Borrower hereby confirms that the Borrower has been informed of that some or all of the personal data to be processed are sensitive personal data under applicable laws. To amend detailed data and/or information, the Borrower must notify the Bank in advance following the procedures provided by the Bank.

In case the Borrower gives the Bank information of other persons for any activities related to the aforementioned purposes, the Borrower hereby certifies that the Borrower has obtained the consent from such other person or has relied on other legal basis in giving information of such other person to the Bank and that the Borrower has informed such other person the details of collection, use and/or disclosure of information in accordance with the Privacy Policy mentioned above.

## 17. ASSIGNMENT AND APPOINTMENT OF THE AUTHORIZED PARTY

- 17.1 The Borrower agrees that the Bank may assign or transfer all or part of its rights and obligations under this Agreement to any third party, including any of its affiliates (each is referred to as the “**Assignee**”). The Borrower confirms that once such assignment or transfer takes effect, the assigned or transferred rights and obligations of the Bank shall become those of the Assignee. The Borrower further agrees that it shall sign and hand over any other agreement or document (if any) and cooperate with the Bank and any Assignee in the filing of application, notarization, registration or amendment of any documents related to the above assignment/transfer, or any other agreement or document that the Bank or the Assignee has notified to the Borrower as necessary or desirable for the above assignment or transfer.
- 17.2 The Bank may appoint one or several Authorized Party to exercise all the powers and rights granted to the Bank under this Agreement on behalf of and for the benefit of the Bank to recover any debt amount still owed by the Borrower to the Bank, and/or to enforce the Secured Asset, and/or for other lawful purposes. For the purpose of this Clause 17.2, when necessary, the Bank may notify the Borrower of its appointment of the Authorized Party.



## 18. NOTICE

- 18.1 All letters, communications, correspondences and notices of the Bank (“**Notice**”) which are sent to the address of the Borrower as specified above, whether sent by hand, or registered or non-registered mail or sent to the email address as given to the Bank by the Borrower, short message service (SMS), and/or K PLUS application, or any channel as the Bank see fits, shall be deemed to have been duly delivered to the Borrower. The Borrower shall immediately notify the Bank in writing any change of its address or e-mail address and send to the address of the Bank as specified below.

KASIKORNBANK PUBLIC COMPANY LIMITED - Ho Chi Minh City Branch

Address to send notice: KASIKORNBANK PUBLIC COMPANY LIMITED - Ho Chi Minh City Branch

Sun Wah Tower, No. 115 Nguyen Hue, Sai Gon Ward, Ho Chi Minh City, Vietnam

Attention division: Branch credit operation

Email: KBankLoanSupport\_Vietnam@kasikornbank.com

- 18.2 Any Notice, including any documents of the Borrower in connection with or required under this Agreement shall be sent to the Bank’s address as specified above, or via electronic means acceptable to the Bank, including emails, to the designated address notified by the Bank to the Borrower from time to time. Any communication or document made or delivered by the Borrower to the Bank under or in connection with this Agreement will only be effective:

- (i) if by way of letter, when it has been delivered to the relevant address of the Bank; or
- (ii) if by way of electronic means such as emails or faxes, when actually received in readable form which will be followed by a hard copy of the Notice and/or document to be delivered to the relevant address of the Bank within five (5) Business Days.

## 19. GOVERNING LAW AND JURISDICTION; ORIGINALS AND LANGUAGES

- 19.1 This Agreement is governed by the laws of Vietnam.
- 19.2 If any provision of this Agreement at any time is or becomes illegal, invalid or unenforceable as stipulated by applicable law, the legality, validity and enforceability of the remaining provisions shall not be thereby affected or impaired.
- 19.3 The parties agree that any dispute arising from or in connection with this Agreement shall be referred to a competent court in Ho Chi Minh City, Vietnam for settlement.
- 19.4 This Agreement is made into two (2) copies in Vietnamese. Each Party shall keep one (1) copy for implementation. When necessary, the Bank may provide copies in English for the parties’ signing. In such circumstance, [the Vietnamese version] shall be legally valid, and [the English version] shall be for reference only.



## 20. NO WAIVER

No delay or failure on the part of the Bank in exercising any right, power or privilege under this Agreement or according to the applicable laws and regulations, and no course of dealing between the Borrower and the Bank shall operate as a waiver by the Bank. Any single or partial exercise by the Bank of any right or remedy under this Agreement shall not preclude any other or further exercise of such right or remedy by the Bank or the exercise of any other right or remedy of the Bank. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

## 21. MISCELLANEOUS

21.1 All amendments and supplementations to this Agreement shall be made in writing, and signed and sealed (when applicable) by the Parties.

21.2 The Facility Documents shall form a set of contracts between the Bank and the Borrower in respect of the Loan. If there is any inconsistency between any of the Facility Documents, the following precedence shall apply (from highest to lowest):

1. This Agreement / the Notice of Disbursement;
2. The Loan Approval Letter / the Security Agreement / the Cooperation Agreement; and
3. The Facility Application Form.

## 22. DEFINITIONS

In addition to other terms already defined in this Agreement, the following terms shall have the meaning as follows:

**Assignor:** means the party (individual or corporate) buying (i) a real property having an Ownership Certificate then transfers such property to the Borrower through a Sale and Purchase Agreement; or (ii) a Future Asset from the Developer under a Sale and Purchase Agreement then transfers the rights and obligations under such Sale and Purchase Agreement to the Borrower through an Assignment Document.

**Assignment Document:** in relation to a Future Asset, means the documents for the assignment of all the rights and obligations under a Sale and Purchase Agreement from the Assignor to the Borrower which has been notarized as required by law and acknowledged and accepted by the Developer.

**Authorized Party:** means one (or several) individual(s) or organization(s) authorized by the Bank for the purposes stated in Clause 17.2 or elsewhere in this Agreement.

**Business Day:** means a day (other than a Saturday, Sunday or public holiday) on which the Bank is open for general business in Ho Chi Minh City, Vietnam.

**Cooperation Agreement:** means the agreement entered into among the Bank, the Borrower and the Assignor in which the Bank grants a Loan to the Borrower for the purchase of an apartment or another real property which already has Ownership Certificate under a Sale and Purchase Agreement.



**Developer:** means the developer/investor of investment project(s) for construction of apartment(s) and/or house(s) as defined in the relevant Sale and Purchase Agreement.

**Facility Application Form:** means a Facility Application Form for Home Loan submitted by the Borrower to the Bank.

**Facility Documents:** means this Agreement, the Security Agreement(s), the Facility Application Form, the Cooperation Agreement, the Loan Approval Letter, the Notice of Utilization and Debt Assumption, the Notice of Disbursement, the Valuation Request Form, the Collateral Provider Form, and any of their amendments, supplements or replacements (if any) as well as any other agreements and/or documents required for the purpose of granting of the Loan under the Loan Agreement.

**Funding Cost:** means the annual percentage cost (percent per year) that the Bank must pay from the time to time to raise funds in the market. Funding Cost is calculated by average of the interest rate for a 12-month term deposit (individual) of stated-owned banks (as determined by the Bank from time to time) and supposed to be updated periodically on the first Business Day of a month.

**Future Asset:** means an apartment, house or shop house which is under construction or already constructed but not yet been issued an Ownership Certificate, or as otherwise defined by the laws of Vietnam from time to time.

**Material Adverse Change:** means any event, act, condition, document or change that may adversely and materially affect:

- (i) the Borrower's business, conditions (financial or otherwise), operations, capacity to perform financial obligations or business prospect;
- (ii) the Borrower's solvency or capacity to perform the obligations under this Agreement or other Facility Documents to which the Borrower is a party; or
- (iii) the validity and enforceability of any Facility Documents.

**Monthly Repayment Amount** means the amount provisionally calculated as the principal and interest payable monthly by the Borrower to the Bank via the Repayment Account on the Monthly Repayment Date. The Monthly Repayment Amount shall be notified by the Bank to the Borrower within seven (7) Business Days after the Utilization Date.

**Monthly Repayment Date:** unless otherwise agreed by the parties, means the 15th day of each month as agreed by the Bank and the Borrower and stated in the relevant Notice of Utilization and Debt Assumption.

In the event that the Monthly Repayment Date in a month is not a Business Day, the Monthly Repayment Date in that month shall be the first Business Day immediately after such date.

**Ownership Certificate:** means the "Certificate of Land Use Rights", "Certificate of Land Use Rights and Assets Attached to Land", "Certificate of Land Use Rights, Ownership of Residential House and Other Assets Attached to Land" or a similar document with the same functions in which the relevant state agency certifies, among other things, the lawful land use rights, ownership of the house and/or other land-attached assets (if any) of the land user cum owner of the house and/or other assets attached to the land under Vietnamese laws.





**Notice of Utilization and Debt Assumption:** means the notice of utilization and assumption of debt made in the form stipulated by the Bank, and duly signed and submitted by the Borrower to the Bank for the purpose of, *inter alia*, the Borrower's withdrawal of the Utilization or the Loan.

**Payment Obligations:** means all due or to be due principal, interest, default principal interest, interest on default interest, fees, expenses, charges, penalty, compensation for loss and damage or any other amounts in any currency that the Borrower must pay to the Bank under the Facility Documents or as stipulated by applicable law.

**Repayment Account:** means the Borrower's account(s) opened and maintained with the Bank for the purpose of repayment and/or payment of the Borrower's payment obligations under this Agreement.

**Secured Asset:** means the asset(s) used or to be used as security to secure the performance of the Payment Obligations under a Security Agreement.

**Security Agreement:** means a security agreement in relation to the security created in favour of the Bank under this Agreement.

**Security Provider:** means the owner(s) (or to be owner) of the Secured Asset who grants the mortgage over the Secured Asset to the Bank under the relevant Security Agreement.

**Sale and Purchase Agreement:** means (a) in relation to a real property having an Ownership Certificate, the sale and purchase agreement between the seller/Assignor and the Borrower which has been notarized as required by applicable law; or (b) in relation to a Future Asset, means: (i) the sale and purchase agreement between the Developer and the Borrower; or (ii) the sale and purchase agreement between the Developer and the Assignor which is later assigned by the Assignor to the Borrower under an Assignment Document.

**Transaction Costs:** means the costs which the Borrower must pay to third parties via the Bank for the purposes of this Agreement and other Facility Documents, including but not limited to: (i) the fee or commission for assessment and evaluation of the Secured Asset; (ii) the fees for public notarization and registration of secured transaction; and (ii) the legal fees (if any).

**Utilization:** means an amount of the Loan requested by the Borrower and disbursed by the Bank in accordance with the terms and conditions in this Agreement.

**Utilization Date:** means the utilization date stated in the Notice of Utilization and Debt Assumption.