

## SECURITIES BORROWING & LENDING AGREEMENT

This Agreement is made this            day of            2018.

**BETWEEN**

**KAF-SEAGROATT & CAMPBELL SECURITIES SDN BHD** (Company No. 134631-U), a company incorporated in Malaysia whose registered office is at 14<sup>th</sup> Floor, Chulan Tower, No. 3, Jalan Conlay, 50450 Kuala Lumpur, Malaysia (**“Lender”**);and

< CLIENT’S NAME & ADDRESS> (“**Borrower**”).

The Lender and the Borrower are together referred to as the **“Parties”** to this Agreement and each of them is referred to as a **“Party”**.

**Whereas:**

- A. The Lender is a stock broking company and participating organization of Bursa Malaysia Berhad (“Bursa Malaysia”) and is licensed by Securities Commission of Malaysia (“SC”) under the Capital Markets and Services Act 2007 to deal in securities.
- B. Pursuant to an arrangement in relation to the proposed IDSS as defined hereunder, the Parties hereby agree to enter into this Agreement to govern their relationship with each other in connection with the Loan as defined below, subject to the terms and conditions hereinafter appearing.

**And the Parties Agree As Follows:**

This Agreement sets forth the terms and conditions under which the Lender may, from time to time, lend to the Borrower certain securities against the pledge of a collateral.

## 1. Definitions and Interpretations

1.1 For the purposes hereof:

“**AMLA**” means Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001.

**“Authorized Person(s)”** means the person(s) authorized by the Borrower to give instructions to the Lender in connection with the Loan, as notified to the Lender from time to time in the manner as the Lender required.

**“Business Day”** means a day (other than Saturdays, Sundays and public holidays) on which banks and securities markets are open for businesses in Kuala Lumpur.

**“Clearing House”** means Bursa Malaysia Securities Clearing Sdn Bhd or any other clearing house approved for the purpose of clearing and settlement of securities.

**“Collateral”** means such securities or financial instruments or transfers of currency as referred to in Schedule 1 as being acceptable or any combination thereof as agreed between the Lender and the Borrower in relation to any Loan and which are delivered by the Borrower to the Lender

in accordance with this Agreement.

**“Close of Business”** shall mean the time at which the relevant banks, Clearing House or depositories close in the business centre in which payment is to be made or Eligible Securities or Collateral is to be delivered.

**“Cut-off Time”** shall mean a time on a Business Day by which a transfer of cash, securities or other property must be made by Borrower or Lender to the other, as shall be agreed by Borrower and Lender.

**“Eligible Securities”** means the securities prescribed by the Clearing House from time to time as approved for lending or borrowing.

**“IDSS”** shall mean IntraDay Short Selling introduced Bursa Malaysia.

**“Loan”** means each transaction constituted by the Lender to the Borrower which shall include the Loan Securities, the meaning of which is as specified hereunder, pursuant to this Agreement.

**“Loan Fee”** means the fee to be paid by the Borrower as indicated in Clause 5.1 hereof.

**“Loan Securities”** means the Eligible Securities which may be borrowed by the Borrower from the Lender pursuant to the terms and conditions in this Agreement.

**“Market Value”** means; in relation to the valuation of Loan Securities or Collateral:-

- (i) such price as is equal to the market quotation for the mid price of such Loan Securities or Collateral as derived from a reputable pricing information service reasonably chosen in good faith by Lender; or
- (ii) if unavailable the market value thereof as derived from the mid price or rate bid by a reputable dealer for the relevant instrument reasonably chosen in good faith by Lender.

**“Parties”** means Lender and Borrower and Party shall be construed accordingly;

## **2. Loans of Securities**

- 2.1 Subject to the terms and conditions of this Agreement, the Borrower or the Lender may, from time to time, orally or in writing seek to initiate a transaction in which the Lender will lend securities to the Borrower. The Borrower and the Lender, shall on the terms of each loan of securities (“Loan”), including the issuer of the securities, ascertain the amount of securities to be lent, the basis of compensation and the amount of Collateral to be transferred by the Borrower, which terms may be amended from time to time at the duration of the Loan.
- 2.2 Notwithstanding any other provision(s) under this Agreement, a Loan hereunder shall not commence and/or occur unless and until the Eligible Securities and the collateral therefore have been transferred in accordance with **Clause 3** of this Agreement.

## **3. Transfer of Eligible Securities**

Unless otherwise agreed, the Lender shall transfer the Loaned Securities to the Borrower on or before the Cut-off Time on the date agreed to by the Parties for the commencement of the Loan.

## **4. Collateral**

- 4.1 Unless otherwise agreed, the Borrower shall, prior to or concurrently with the transfer of the Loaned Securities to the Borrower, but in no case later than the Close of Business on the day of such transfer, transfer to Lender collateral with a market value at least equal to a percentage of

the market value of the Loaned Securities as mutually agreed to by the Parties hereto (which shall be not less than 100% of the market value of the Loaned Securities) (the “Margin Percentage”).

- 4.2 The collateral transferred by the Borrower to the Lender, as adjusted pursuant to **Clause 11** of this Agreement, shall be the security for the Borrower’s obligations in respect of such Loan and for any other obligations of the Borrower to the Lender. The Borrower hereby pledges with, assigns to, and grants Lender a continuing first security interest in, and a lien upon, the collateral, which shall attach upon the transfer of the Loaned Securities by Lender to Borrower and which shall cease upon the transfer of the Loaned Securities by Borrower to Lender. It is understood that the Lender may use or invest the collateral, if such consists of cash, at the Borrower’s own risk and the Borrower shall therefore execute an acknowledgement of receipt of the IDSS Disclosure Statement pursuant to this Agreement. The Lender may pledge, repledge, hypothecate, rehypothecate, lend, relend, sell or otherwise transfer the collateral in any name other than the Borrower.
- 4.3 Except as otherwise provided herein, upon transfer to the Lender of the Loaned Securities on the day a Loan is terminated pursuant to **Clause 9(b)**, the Lender shall be obligated to transfer the collateral (as adjusted pursuant to **Clause 11**) to the Borrower no later than the Cut-off Time on such day or, if such day is not a day on which a transfer of such collateral may be effected, the next day on which such a transfer may be effected.
- 4.4 If the Borrower transfers collateral to the Lender, as provided in **Clause 4.1**, and the Lender does not transfer the Loaned Securities to the Borrower, the Borrower shall have the absolute right to the return of the collateral; and if the Lender transfers Loaned Securities to the Borrower and the Borrower does not transfer collateral to the Lender as provided in **Clause 4.1**, the Lender shall have the absolute right to the return of the Loaned Securities.
- 4.5 The Borrower may, upon reasonable notice to the Lender, substitute collateral for collateral securing any Loan or Loans; provided, however, that such substituted collateral shall:-
- (a) consist only of cash, securities or other property that the Borrower and the Lender agreed would be acceptable collateral prior to the Loan or Loans and;
  - (b) have a market value such that the aggregate market value of such substituted collateral, together with all other collateral for the Loans in which the party substituting such collateral, shall equal or exceed the agreed upon Margin Percentage of the market value of the Loaned Securities.

## **5. Fees for Loan**

- 5.1 Unless otherwise agreed:-
- (a) the Borrower agrees to pay the Lender a loan fee (a “Loan Fee”), to be computed on each Loan on a daily basis. The Loan Fee shall accrue from and including the date on which the Loaned Securities are transferred to the Borrower to, but excluding, the date on which such Loaned Securities are returned to the Lender; and
  - (b) any Loan Fee payable hereunder shall be payable upon the earlier of the tenth day of the month following the calendar month in which such fee was incurred.

## **6. Representations and Warranties**

- 6.1 The Borrower represents and warrants to the Lender as follows:-
- (a) that the Borrower is not now nor will it be by executing this Agreement and utilising the Loan be in default under this Agreement or any other existing collateral, mortgage,

indenture, contract or debenture binding (as the case may be) on the Borrower or to which it is subject;

- (b) that there is no order of any Court or any governmental agency or any provision of any existing agreement binding on the Borrower or to which it is subject which would be contravened or breached by the execution delivery and performance of this Agreement;
- (c) that no lawsuits or investigations by any Government agency, body or other regulatory authority are pending or are to be instituted against the Borrower;
- (d) that no violation of any provisions of the applicable law, regulations, directives, legislation, Court orders, judgment and others has been committed by the Borrower and the Borrower undertakes not to conduct any short selling by using the Lender's Loan unless it complies with the applicable laws, regulations, directives and market requirements governing short selling issued by the relevant authorities from time to time;
- (e) that it/he shall ensure that all relevant laws, regulations, directives of the relevant market requirements and the Lender's terms and conditions regarding the use of services are complied with at all times throughout the duration of the Agreement;
- (f) **Corporation:** in the event that the Borrower is a corporation, it represents and warrants:
  - (i) that the Borrower has full legal right, authority and power to accept the Loan and to enter into and bind itself by this Agreement; all appropriate and necessary action has been taken to authorise the execution of this Agreement and the execution thereof does not exceed the power and authority of the officers executing the same;
  - (ii) that this Agreement and the guarantee constitutes the legal, valid and binding obligations of the Borrower enforceable in accordance with its own terms and the obligations of the Borrower hereunder in respect of the payment of the Loan, fees and other expenses and charges does not contravene any legislation or regulation binding on the Borrower;
  - (iii) that the Borrower is a duly incorporated company with limited liability in accordance with the Companies Act 2016 and validly existing under the laws of Malaysia;
  - (iv) that there are no winding-up proceedings pending against the Borrower and the Borrower has not commenced any action for voluntary winding-up of the Borrower (in the case of a company);
  - (v) that every consent, licence, approval or authorisation of any governmental authority in Malaysia which is required in connection with the execution performance validity or enforceability of this Agreement has been obtained and is in full force and effect.
- (g) **Individual:** in the event that the Borrower is an individual, the Borrower represents and warrants:
  - (i) that there are no bankruptcy proceedings pending against the Borrower;
- (h) that the Lender has the right to set-off all available balances in the Borrower's account including the Borrower's accounts, investment accounts and other accounts towards settlement of any outstanding banking facility granted by the Lender to the Borrower.

Each utilisation shall constitute and each payment of Loan and/or interest shall unless the Borrower

notifies the Lender in writing to the contrary constitute a representation and warranty by the Borrower that at the time of each utilisation or payment 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 that the representations and warranties contained herein are true and correct as the date of each utilisation or payment.

## **7. Events of Default**

### **7.1 Repayment on Demand**

The whole of the Loan amount thereon and all other moneys covenanted to be paid by the Borrower under this Agreement shall become due and immediately repayable on demand:-

- (a) if the Borrower shall default in the payment to the Lender of the Loan amount or any other moneys herein covenanted to be paid after the same shall have become due by the Borrower to the Lender whether formally demanded or not;
- (b) if any legal proceedings suit or action shall be instituted against the Borrower and if after the Lender has reviewed the matter with the Borrower, the Lender is of the opinion that this will materially affect the Borrower's ability to repay the Loan thereon;
- (c) if the Borrower shall make any assignment for the benefit of its creditors or enter into any arrangement or composition for the benefit of its creditors or if it shall enter into liquidation whether compulsorily or voluntarily or if a receiver shall be appointed of its undertaking or property or any part thereof;
- (d) if the Borrower ceases or threaten to cease to carry on its business(es)(where applicable);
- (e) if a petition shall be presented or an order be made or a resolution be passed for winding up the Borrower except that this event shall not apply if the resolution is passed for a voluntary winding-up of the Borrower for the purpose or reorganisation thereof with the consent of the Lender;
- (f) if a Receiver and/or Manager of the Borrower's undertaking or property or any part thereof shall be appointed;
- (g) if the Borrower shall have furnished false financial statements and or other data required by the Lender;
- (h) if any loan debt guarantee or other obligation whatsoever constituting indebtedness of any of the Borrower becomes due prior to its scheduled maturity (by demand acceleration or otherwise) or such indebtedness shall not be paid at the maturity thereof or within any period of grace allowed for payment thereof or if the Borrower is otherwise in breach of or default under any agreement deed or mortgage pursuant to which such indebtedness was created, incurred or assumed;
- (i) if the Borrower shall fail to satisfy any judgment passed against that Borrower by any Court of competent jurisdiction, and no appeal against such judgment is pending in any appropriate Appellate Court;
- (j) if any authorisation, exemption or undertaking referred to in this Agreement shall be revoked, terminated, restricted or modified in a manner unacceptable to the Lender or an event or events shall have occurred which in the opinion of the Lender (which opinion shall be conclusive and binding on the Borrower) makes it improbable that the Borrower will be able to perform or indicates that the Borrower is unwilling to perform its obligations under this Agreement;

- (k) if any of the property and assets of any of the Borrower shall become the subject matter of any seizure, forfeiture, confiscation or expropriation by any authority, Government or otherwise;
- (l) if any distress or execution or other process of a court of competent jurisdiction be levied upon issued against any property of the Borrower and such distress execution or other process as the case may be is not satisfied by the Borrower within fourteen (14) days from the date thereof and if after the Lender is of opinion that this will materially affect that Borrower's ability to repay the Loan together with the commission and profit margin thereon;
- (m) if the Borrower commits or threatens to commit a breach of any term, stipulation, covenant or undertaking contained herein to be observed and performed by the Borrower and in the opinion of the Lender, has failed to remedy or take adequate steps to remedy the same within fourteen (14) days after notice from the Lender;
- (n) if in the opinion of the Lender (which shall be final and binding) that the Borrower is not carrying on the Borrower's business and affairs in accordance with sound and prudent financial standards and practices;
- (o) if any representation or warranty or statement made in connection with the execution and delivery of this Agreement or in connection with any request for utilization hereunder shall be found to have been incorrect in any material respect and shall continue to be incorrect for a period of thirty (30) days after written notice thereof shall have been given to the Borrower by the Lender;
- (p) if any security given pursuant to this Agreement is terminated or becomes unenforceable or is in jeopardy for any reason whatsoever or if any of the terms and conditions of any other document for the time being constituting or relating to security for any of the obligations of the Borrower under this Agreement is breached;
- (q) if any event or events occur or a situation exists which could or might in the opinion of the Lender materially and adversely affects the conditions financial or otherwise of the Borrower or the ability of the Borrower to observe or perform its obligations under this Agreement; or
- (r) if any license, authorization, approval, consent, order or exemption or filing with any governmental authority with respect to this Agreement shall cease to be in full force and effect;

then the obligations of the Lender to allow any utilization of the Loan during the continuance of such default shall be immediately suspended and the Lender shall by written notice to the Borrower declare all amounts outstanding under this Agreement to be immediately due and payable and the Borrower hereby waives any necessity for the presentment of demand notice of dishonour or protest and the same shall thereupon become so payable together with the interest accrued thereon. Provided that any action taken by the Lender shall be without prejudice to the rights of the Lender to enforce any other claim against the Borrower.

## **7.2 Consequences of an Event of Default**

If an Event of Default under **Clause 7.1** occurs in relation to the Borrower, then the terms under this **Clause 7.2** to **Clause 7.7** below shall apply:

- (a) The Borrower's delivery and payment obligations (and any other obligations they have under this Agreement) shall be accelerated so as to require performance thereof at the time such Event of Default occurs (the date of which shall be the **Termination Date**) so that performance of such delivery and payment obligations shall be effected only in accordance with the following provisions:-
- (i) The **Default Market Value** of the equivalent Loan Securities to be delivered and the amount of any cash Collateral (including sums accrued) to be repaid and any other cash (including interest accrued) to be paid by the Borrower shall be established by the Lender and deemed as at the Termination Date.
  - (ii) On the basis of the sums so established, an account shall be taken (as at the Termination Date) of what is due from the Borrower to the Lender under this Agreement (on the basis that the Lender's claim against the Borrower in respect of delivery of equivalent Loan Securities equal to the **Default Market Value** thereof) and the sums due from the Borrower shall be set off against the sums due from the Lender and only the balance of the account shall be payable (by the party having the claim valued at the lower amount pursuant to the foregoing) and such balance shall be payable on the next following Business Day after such account has been taken and such sums have been set off in accordance with this paragraph. For the purposes of this calculation, any sum not denominated in the **Base Currency** shall be converted into the **Base Currency** at the Spot Rate prevailing at such dates and times determined by the non-defaulting party acting reasonably.
- (b) For the purposes of this Agreement, the **Default Market Value** of any equivalent Loan Securities shall be determined by the Lender in accordance with **Clause 7.2 (c) and Clause 7.3** below, and for this purpose:
- (i) **Deliverable Securities** means equivalent Loan Securities to be delivered by the Borrower;
  - (ii) **Net Value** means at any time, in relation to any Deliverable Securities or Receivable Securities, the amount which, in the reasonable opinion of the non-defaulting party, represents their fair market value, having regard to such pricing sources and methods (which may include, without limitation, available prices for securities with similar maturities, terms and credit characteristics as the relevant Equivalent Securities) as the Non-Defaulting Party considers appropriate, less, in the case of Receivable Securities, or plus, in the case of Deliverable Securities, all Transaction Costs incurred or reasonably anticipated in connection with the purchase or sale of such securities;
  - (iii) **Receivable Securities** means equivalent Loan Securities to be delivered to the Borrower; and
  - (iv) **Transaction Costs** in relation to any transaction contemplated in **Clause 7.2 (c)** means the reasonable costs, commissions (including internal commissions), fees and expenses (including any mark-up or mark-down or premium paid for guaranteed delivery) incurred or reasonably anticipated in connection with the purchase of Deliverable Securities or sale of Receivable Securities, calculated on the assumption that the aggregate thereof is the least that could reasonably be expected to be paid in order to carry out the transaction.
- (c) If, acting in good faith, either (A) the Lender has endeavoured but been unable to sell or purchase securities or to obtain quotations (or both) or (B) the Lender has determined that it would not be commercially reasonable to sell or purchase securities at the prices

bid or offered or to obtain such quotations, or that it would not be commercially reasonable to use any quotations which it has obtained, the Lender may determine the Net Value of the relevant equivalent Loaned Securities (which shall be specified) and the Lender may elect to treat such Net Value as the Default Market Value of the relevant equivalent Loaned Securities.

**7.3 Other costs, expenses and interest payable in consequence of an Event of Default**

The Borrower shall be liable to the Lender for the amount of all legal and other professional expenses incurred by the Lender in connection with or as a consequence of an Event of Default, together with interest thereon at such rate to be determined by the Lender.

**7.4 Cross Default**

It is hereby agreed and declared that any breach by the Borrower of the terms and conditions stipulations and agreements contained herein shall be deemed to be a breach hereunder and shall entitle the Lender to enforce all or any of the remedies herein before mentioned.

**7.5 Right of Set-Off and Counter-Claim**

In addition to and without prejudice to the powers rights and remedies by these presents conferred, if any amount payable hereunder is not paid as and when due, the Borrower authorizes the Lender to proceed without prior notice, by right of set-off the Lender's lien or counter claim against any asset of the Borrower in any currency which may at any time be in the possession of the Lender or any of its affiliates, at any branch or office to the full extent of all amounts payable to the Lender hereunder

**7.6 Suspense Account**

Any moneys received hereunder may be place and kept to the credit of a suspense account for so long as the Lender thinks it without any obligation in the meantime to apply the same or any part thereof in or towards discharge of any money or liabilities due or incurred by the Borrower to it. Notwithstanding any such payment in the event of any proceedings in or analogous to bankruptcy liquidation composition or arrangement the Lender may prove for and agree to accept any dividend or composition in respect of the whole or any part of such money or liabilities in the same manner as if this security had not been created.

**7.7 Statement of Account**

It is hereby agreed and declared that a statement of account in writing stating the amount payable by the Borrower under this Agreement and indicating over the account has been calculated and duly certified by any authorized officer of the Lender shall, in the absence of manifest error, be conclusive evidence that such amount is in fact due and payable by the Borrower.

**8. Notice to Remedy Breach**

At any time after any of the events specified in **Clause 7.1** hereof shall have occurred, it shall be lawful but not obligatory upon the Lender to give notice to the Borrower requiring the Borrower to remedy the said breach within a period of not more than fourteen (14) days and service of such notice shall be effected in the same manner as provided in **Clause 27** hereof. If at the expiry of the period specified in such notice as aforesaid the Borrower shall fail to remedy the breach specified therein the Lender shall be entitled forthwith to enforce any or all of the remedies available to the Lender under this Agreement, collateral and the other security documents.

## 9. Termination

(a) Termination due to the Borrower's default

If the Borrower shall fail to repay the Loan or the whole balance thereof outstanding after a demand for repayment of the Loan together with the interest thereon or the balance outstanding has been made by the Lender under the provisions of **Clause 7.1** hereof, the Lender shall be entitled to terminate this Agreement and thereafter to enforce any or all of the remedies available to the Lender under this Agreement.

(b) Termination by either Party

Unless otherwise agreed,

- (i) the Borrower may terminate a Loan on any Business Day by giving notice to the Lender and transferring the Loaned Securities to the Lender before the Cut-off Time on such Business Day; or
- (ii) the Lender may terminate a Loan on a termination date established by notice given to Borrower prior to the Close of Business on a Business Day. The termination date established by a termination notice given by the Lender to the Borrower shall be a date no earlier than the standard settlement date for trades of the Loaned Securities entered into on the date of such notice; and
- (iii) the Borrower shall, on or before the Cut-off Time on the termination date of a Loan, transfer the Loaned Securities to the Lender; provided, however, that upon such transfer by the Borrower, the Lender shall transfer the Collateral (as adjusted pursuant to ~~7~~ **Clause 11** to Borrower in accordance with Clause 4.3.

(c) Any termination of this Agreement whether or not following any default of the Borrower, shall be without prejudice to the right of the Lender to settle any transactions entered into or to settle any liability incurred by the Borrower under this Agreement or by the Lender on behalf of the Borrower prior to termination and/or at its discretion, to cancel unexecuted instructions, for which the Borrower will remain liable for all cost and expense incurred as a result of the Lender settling such transactions providing always that all outstanding fees, charges including those referred to in this sub-clause, shall be set-off and/or debited to any account(s) standing in the name of Borrower.

## 10. Distributions and Corporate Actions

- 10.1 The Lender shall be entitled to receive all distributions made on or in respect of the Loaned Securities which are not otherwise received by the Lender, to the full extent it would be so entitled if the Loaned Securities had not been lent to Borrower.
- 10.2 Any cash distributions made on or in respect of the Loaned Securities, which the Lender is entitled to receive pursuant to **Clause 10.1**, shall be paid by the transfer of cash to the Lender by the Borrower, on the date any such distribution is paid, in an amount equal to such cash distribution. Non-cash distributions received by the Borrower shall be added to the Loaned Securities on the date of distribution and shall be considered such for all purposes, except that if the Loan has terminated, the Borrower shall forthwith transfer the same to the Lender.
- 10.3 The Borrower shall be entitled to receive all cash distributions made on or in respect of non-cash collateral which are not otherwise received by the Borrower, to the full extent it would be so entitled if the collateral had not been transferred to the Lender. Any distributions of cash made on or in respect of such collateral which the Borrower is entitled to receive hereunder shall be

paid by the transfer of cash to the Borrower by the Lender, on the date any such distribution is paid, in an amount equal to such cash distribution.

## **11. Mark to Market**

- 11.1 The Lender shall on a daily basis, mark to market any Loan hereunder and in the event that at the close of trading on any Business Day the market value of the collateral for any Loan to the Borrower shall be less than 100% of the market value of all the outstanding Loaned Securities subject to such Loan, the Borrower shall transfer additional collateral no later than the close of the same Business Day so that the market value of such additional collateral, when added to the market value of the other collateral for such Loan, shall equal 100% of the market value of the Loaned Securities.
- 11.2 In addition to any rights of the Lender under **Clause 10.1**, in the event that at the close of trading on any Business Day, the aggregate market value of all collateral for Loans by the Lender shall be less than the Margin Percentage of the market value of all the outstanding Loaned Securities subject to such Loans (a "Margin Deficit") or under such circumstances that the Lender deems necessary, the Lender may, by notice to the Borrower, demand that the Borrower transfer to the Lender additional collateral so that the market value of such additional collateral, when added to the market value of all other collateral for such Loans, shall equal or exceed the agreed upon Margin Percentage of the market value of the Loaned Securities. Unless otherwise agreed, such transfer is to be made no later than the close of the same Business Day following the Lender's notice to the Borrower.
- 11.3 In the event that at the close of trading on any Business Day the market value of all collateral for Loans to the Borrower shall be greater than the Margin Percentage of the market value of all the outstanding Loaned Securities subject to such Loans (a "Margin Excess"), the Borrower may, by notice to the Lender, transfer to the Borrower such amount of the collateral to the Borrower so that the market value of the collateral for such Loans, after deduction of such amounts, shall thereupon not exceed the Margin Percentage of the market value of the Loaned Securities. Unless otherwise agreed, such transfer is to be made no later than the close of the same Business Day following the Borrower's notice to the Lender.

## **12. Limitation on Liability and Indemnity**

- 12.1 The Lender shall have no or other obligations in respect of the Loan except those contained in this Agreement.
- 12.2 The Lender shall not be liable for any taxes, duties or penalties payable on or in respect of the Loan nor for any diminution in the value of the Eligible Securities.
- 12.3 The Lender shall not be liable for losses of any kind which may be incurred by the Borrower as a result of the provision of the Loan by the Lender under this Agreement.
- 12.4 Subject to **Clause 12.5** hereof, the Borrower shall indemnify the Lender and any other person appointed by it and their respective officers and employees against all claim, liabilities, damages, costs and expenses of any kind which may be incurred by them and all actions or proceedings which may be brought by or against them in connection with the provision of the Loan and/or the enforcement of this Agreement and this indemnity shall continue notwithstanding the termination of this Agreement.
- 12.5 Notwithstanding anything contained herein, the Lender shall not be liable for losses of any kind which may be incurred by the Borrower unless such losses, including but not limited to any

negligence, wilful default, fraud, computer errors and other irregularities of whatsoever nature and howsoever arising as a result of participating in the Eligible Securities referred to in **Clause 3** above.

- 12.6 The Borrower acknowledges that there are particular difficulties in establishing the authenticity of Eligible Securities (including, without limitation, corporate and Government bonds, bills of exchange, certificates of deposit, floating rate notes, treasury bills, commercial paper, of such other relevant documents in relation thereto, as the case may be) settled in Malaysia. Accordingly, although the Lender will endeavour to check that, on its face, an instrument appears genuine, it will not be responsible for verifying the validity or authenticity of any such instrument and will not be liable for any defect in such validity or authenticity.

### **13. The Borrower's Instructions**

- 13.1 In a case where this Agreement requires the instructions of the Borrower to be given, the Lender is authorised to act on the written instructions of the Authorised Person(s). Instructions received by the Lender outside working hours ie. after 5.15 pm or at any particular time as may be stipulated by the Lender from time to time. and/or on a non-working day shall be deemed to have been received on the next working day.
- 13.2 The Lender may, at its discretion, accept instructions believed by it to have emanated from the Authorised Person(s) in which case, if it acts in good faith on such instructions that followed by an authorised letter, such instructions shall be binding on the Borrower and the Lender shall not be liable for doing so.
- 13.3 The Lender reserves the right to refuse to act on the instructions of the Borrower if, in its opinion, there are reasonable grounds for doing so.

### **14. Expenses (Where Applicable)**

- 14.1 The Borrower shall pay all expenses to the Lender in relation to the Loan.
- 14.2 The Borrower shall also pay to the Lender all other expenses incurred by the Lender or any other person appointed by it in the provision of the services. A certificate as to the nature and amount of such expenses signed by any duly authorised officer of the Lender shall be conclusive evidence against the Borrower of the expenses.
- 14.3 If any of the expenses referred to in **Clause 14.1** and **Clause 14.2** remain outstanding after they have become due and payable:-
- (a) the Lender shall be entitled to debit automatically and/or set off against any account of the Borrower with the Lender in or towards settlement;
  - (b) the Lender shall have a lien and/or Collateral over the Loaned Securities with power to sell any of such securities in or towards settlement; and
  - (c) the relevant securities and/or the collateral shall automatically stand as security to KAF for such expenses and KAF is hereby authorised to sell, by public or private sale, all or any of the Eligible Securities which stands as security, on such terms and conditions as it thinks fit, without liability to the Borrower for any loss whatsoever and to apply the proceeds of sale, after deduction of expenses, in or towards settlement.

### **15. Appointment of the Lender As Agent**

The Borrower authorised the Lender and any person appointed by it, without any reference or consent, to execute all documents and to do all things deemed necessary by the Lender and/or any such person, for the full exercise of all or any of the powers conferred on the Lender hereunder this Agreement.

**16. Confidentiality**

- 16.1 Neither the Lender nor the Borrower shall at any time from the date of this Agreement disclose or reveal to any third party whatsoever any information transmitted between the Parties pursuant to this Agreement other than to its officers, employees, fund managers, advisors, the trustees of the Loaned Securities and related companies, associated companies of or companies affiliated to it including agents and independent contractors of the aforesaid companies, who in the reasonable opinion of the disclosing party it shall be absolutely necessary to make such disclosure for the purposes of this Agreement.
- 16.2 For avoidance of doubt, each Party may only disclose information mentioned above if and to the extent that:
- (a) it is required by law;
  - (b) it is required to properly execute the terms of the Agreement, including if it is disclosed to the professional advisers, auditors and bankers of such a Party and/or entities of such a Party's Group; provided that such entities assume an obligation of confidentiality equivalent to the present obligation;
  - (c) it is required by a securities exchange or regulatory, judicial or governmental body to which such Party is subject or submitted;
  - (d) the information has come into the public domain through no fault of that Party; or
  - (e) the other Party has given prior written approval to the disclosure, such approval not be unreasonably withheld or delayed.
- 16.3 Subject to applicable laws, the Borrower accepts to notify the Lender prior to the disclosure of the information pursuant to **Clause 16.2** from (a) to (c).
- 16.4 The obligations of confidentiality imposed on the Parties hereto and contained in this **Clause 16** shall survive the termination of this Agreement for a period of six (6) years.

**17. Compliance With Bursa Malaysia, Securities Commission and Other Regulatory Bodies' ("Regulatory Bodies") Guidelines, Rules & Regulations**

- 17.1 The Lender hereby agrees and undertakes to observe, perform and comply with all requirements and conditions imposed on the part of the Lender under the relevant Guidelines, Rules and Regulations of the relevant Regulatory Bodies.
- 17.2 The Borrower hereby agrees and undertakes to observe, perform and comply with all applicable laws and regulations, including but not limited to securities laws, regulations, Bursa Malaysia Rules, SC Guidelines, requirements and conditions imposed on the part of the Borrower.

**18. Mutual Obligations Under the Personal Data Protection Act 2010**

- 18.1 In connection and pursuant to this Agreement, each party hereby irrevocably and unconditionally consents to the collection and processing of its Personal Data as defined under the Personal Data Protection Act 2010 ("**PDPA**") and similarly, each party irrevocably and unconditionally undertakes to obtain consent of its representative(s) and/or signatories who will be involved or participated with the Purpose or otherwise whose Personal Data will be used in connection with the Purpose for the collection and processing of their Personal Data in accordance with the PDPA.
- 18.2 Further, each party hereby irrevocably and unconditionally agrees to comply with all reasonable requests of the other to enable that party to comply with its obligations under the PDPA or other applicable and enforceable laws, regulations and or guidelines.

**19. Compliance with FATCA (Where Applicable)**

The Lender hereby acknowledges that all or part of its business under this Agreement falls within the scope of the FATCA Rules, as applied to the relevant Loan Security. The Lender undertakes to the fullest extent to comply with, and to cooperate with the Borrower, or with its, for this purpose, delegated entity for complying with all requirements set out under the FATCA Rules.

**20. Common Reporting Standard (“CRS”) For the Automatic Exchange of Financial Account Information**

The Parties shall, where applicable, comply with all CRS requirements under the *Income Tax (Automatic Exchange of Financial Account Information) Rules 2016 (“Income Tax Rules”) of the Income Tax Act 1967* (as may be amended from time to time), including but not limited to the due diligence policy and procedures and/or documentation requirements and shall provide each other with such required information, waivers, documentation and/or certificates to comply with the CRS requirements.

**21. AMLA**

The Borrower hereby warrants and represents that any settlement of Loaned Securities by the Borrower shall come from a lawful source of activity and not unlawful activities, as defined under AMLA.

**22. Anti Bribery & Corruption**

22.1 The Lender and the Borrower respectively represent and warrant to the other that it:-

- (a) has never been involved in any acts of corruption, including bribery. Corruption means requesting, offering, giving, promising or soliciting, receiving, accepting, or agreeing to receive or accept, directly or indirectly, a bribe, any gratification as an inducement or reward to do or forebear to do anything, or any other undue advantage or prospect thereof, which distorts the proper performance of any duty or behaviour required of the recipient of the bribe, the gratification, the undue advantage or the prospect thereof,
- (b) is in compliance with applicable laws and regulations in preventing and prohibiting corruption, and does not and will not take part in any act of corruption in the performance of this contract, and
- (c) implements internal programs and monitoring measures that are designed to prevent and detect any risk of corruption concerning persons associated with it or its staff.

22.2 The Borrower may provide the Lender with a summary of its Fraud and Corruption Prevention Policy, upon request and the Lender expressly consents to the receipt of this information in this format.

22.3 In the event the Lender or the Borrower is found to have committed an act of corruption (“defaulting party”), the other party may terminate this Agreement by giving thirty (30) days written notice to the defaulting party subject to the provisions of Clause 27 herein.

**23. Force Majeure**

23.1 Neither party shall owe any liability to the other for any delay, loss or damage caused wholly or in part by the act of God, governmental restriction, condition or control or by reason of any

other act, matter or thing beyond its reasonable control ("Force Majeure Event").

- 23.2 If any of the Force Majeure Event prevents the party claiming the same from substantially performing any material obligation under this Agreement for a period, which exceeds sixty (60) days from the date of a prompt notice of the Force Majeure Event, the party not claiming the Force Majeure Event may terminate this Agreement by giving a thirty (30) days' notice of termination without liability of either party to the other, except for obligations unaffected by the Force Majeure Event.

**24. Relationship**

Nothing herein contained shall be construed to constitute the relationship of the Parties as a partnership or joint venture. Further this Agreement does not constitute an employer-employee or an agent-principal relationship and save as may be imputed by law; each party is independent of the other.

**25. No Waiver**

No act or omission by the Lender or the Borrower pursuant to this Agreement, shall affect its rights, powers and remedies hereunder or any further or other exercise of such rights, powers or remedies.

**26. Assignment**

Neither the Lender nor the Borrower may assign or transfer any of its rights or obligation hereunder prior to written consent of the other provided this Agreement shall inure for the benefit of the Lender and for the benefit of its successors in title or assignees including any person to which the whole or any part of the operations of the Lender may from time to time be transferred or vested by operation of law or otherwise.

**27. Notices**

- 27.1 Unless expressed otherwise in this Agreement, any notice or demand or other communication required to be given to any party hereunder shall be sent to it at the address, e-mail address or facsimile number, as the case may be, or at such other address or telex or facsimile number as may from time to time be notified by one party to the other for that purpose. Any such notice shall be deemed to have been received if -

- (a) It is sent by post, three (3) days after posting;
- (b) it is dispatched by hand, upon delivery; and
- (c) if faxed or e-mailed, upon completion of transmission and receipt by the sender of a confirmation by the recipient provided Always that if transmission is effected on a day which is not a Business Day, such notice shall be deemed to have been received on the following Business Day.

**28. Severability**

Each of the provisions of this Agreement is severable and distinct from the others and, if one or more of such provisions is or becomes illegal, invalid or unenforceable, the remaining provisions shall not be affected in any way and shall remain in full force and effect.

**29. Amendment**

Any amendments to be made to this Agreement by either party shall be agreed mutually by the Parties hereto and made in writing via supplemental agreement or exchange of letters.



**30. Governing Law and Jurisdiction**

30.1 This Agreement is governed by and shall be construed in accordance with the laws of Malaysia.

30.2 The Depositor submits to the non-exclusive jurisdiction of the Malaysia Courts.

**31. Costs and Stamp Duties**

Each party shall bear its own costs in relation to this Agreement. All stamp duties (including fines, penalties and interests) that may be payable on or in connection with this Agreement and any instrument executed under this Agreement shall be borne by the Borrower.

**32. Time**

Time shall be of essence of this Agreement.

**33. Counterparts**

This Agreement may be signed in any number of counterparts, all of which taken together shall constitute one and the same instrument. Any party may enter into this Agreement by signing any such counterpart and each counterpart may be signed and executed by the Parties and transmitted by facsimile transmission and shall be as valid and effectual as if executed as an original.

**34. Recording**

The Parties agree that all telephone conversations between them may be recorded subject to the terms and conditions under this Agreement.

**35. Entire Agreement**

35.1 In the event of a conflict between any terms of this Agreement and any of the terms of any of the agreements related to the proposed IDSS, the terms of this Agreement shall prevail.

35.2 In respect of any disputes regarding any matters in connection with this Agreement, the Lender's decision shall be final and binding on the Parties.

*(The Remainder of this Page is Intentionally Left Blank)*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first written above.

**Lender**

Signed by )  
for and on behalf of )  
KAF-Seagroatt & )  
Campbell Securities )  
Sdn Bhd (134631-U) )  
in the presence of: )

.....  
Name:  
Designation:

**Borrower**

Signed by )  
in the presence of: )

.....  
Name:  
NRIC No.:

### Schedule 1

(to be read and construed as part of the Securities Lending Agreement)

#### 1. COLLATERAL

The securities, financial instruments and deposits of currency set out in the table below with a cross marked next to them are acceptable forms of Collateral under this Agreement.

Unless otherwise agreed between the Parties, the Market Value of the Collateral delivered pursuant to Clause 4 (*Collateral*) by the Borrower to the Lender under the terms and conditions of this Agreement shall on each Business Day represent not less than the Market Value of the Loan Securities together with the percentage contained in the row of the table below corresponding to the particular form of Collateral, referred to in this Agreement as the ***Margin***.

Security/Financial Instrument/ Deposit of Currency	Mark "X" if acceptable form of Collateral	Margin (%)
Cash Collateral in Malaysian Ringgit	X	30%
Negotiable debt obligations issued by the Government of Malaysia	X	30%
Equities of FBMKLCI constituent stocks	X	30%