

PROCLAMATION OF SALE

**IN THE MATTER OF A LOAN AGREEMENT, DEED OF ASSIGNMENT AND POWER OF ATTORNEY
ALL DATED THE 22ND DAY OF AUGUST, 2019**

BETWEEN

**HAP SENG CREDIT SDN BHD (198201008877 / 88601- H)
AND**

ASSIGNEE/LENDER

**LIONG YUN PING
(NRIC NO. 800601-12-5489)**

ASSIGNOR/BORROWER

**LEE SHUK SHEN
(NRIC NO. 920525-12-5212)**

ASSIGNOR/BORROWER

**LEE SHUCK FUI
(NRIC NO. 970830-12-5396)**

ASSIGNOR/BORROWER

In exercise of the rights and powers conferred upon the Assignee/Lender under **the Loan Agreement, Deed of Assignment and Power of Attorney** all dated the **22nd day of August, 2019** ("the said Agreements") entered into between the Assignee/Lender and the said Assignor/Borrower it is hereby proclaimed that the said Assignee/Lender with the assistance of the under mentioned Auctioneer

**WILL SELL THE PROPERTY DESCRIBED BELOW BY
PUBLIC AUCTION
ON WEDNESDAY, THE 20TH DAY OF DECEMBER, 2023
AT 3.30 P.M.
AT UNIT A-3-6, 3RD FLOOR, BLOCK A, PLAZA TANJUNG ARU,
JALAN MAT SALLEH, 88150 KOTA KINABALU,
SABAH, MALAYSIA**

**Prospective bidders may submit bids for the property online via ebid.auctions.com.my
(For online bidding, please register at least one (1) working day before the auction day for registration & verification purposes)**

ONLINE BIDDERS ARE FURTHER SUBJECT TO THE TERMS AND CONDITIONS ON ebid.auctions.com.my

NOTE: Prospective bidders are advised to:

- (i) Inspect the subject property and check on the issuance of separate individual subsidiary title;
- (ii) Seek independent legal advice on all matter in connection with the auction sale including the Conditions of Sale herein;
- (iii) Conduct an official search on the Parent Title at the relevant land Office and/or other relevant authorities; and
- (iv) Make the necessary enquiries with the Developer and/or other relevant authorities as to whether the sale is open to all races or to Malaysian Citizens who are Bumiputra or Malay only and also on the other terms of consent to the sale herein prior to the auction sale. The successful bidder ("the Purchaser") shall immediately upon the sale undertake to apply for and obtain the consent to transfer (if any) from the Developer and/or the Proprietor and/or State Authorities or relevant bodies.

PARTICULARS OF PROPERTY: -

Description of Property: The subject property is a 3-bedroom condominium unit situated within **Block D** on the **6th Floor** of 18-storey condominium building (**NON-BUMIPUTRA unit**).
(as per Original SPA) Identified as Lot No. D-06-07, Block D, Level 6, Type B, Kingfisher Putatan Condominium Phase 2B, measuring in area of approximately **1,009 sq. ft.** together with **two (2) unit** of car parks.

Postal Address of Unit: **D-06-07, Level 6, Block D, Kingfisher Putatan Condominium, Kg. Ketiau, Jalan Ketiau Tombovo, 88200 Kota Kinabalu, Sabah.**

Master Title No.: **Country Lease No. 265491718.**

District/State: **Kota Kinabalu, Sabah**

Floor Area of Unit: Approximately **1,009 square feet**, more or less.
Tenure : Assumed leasehold - 99 years
Developer/Proprietor: Hap Seng Land Development And JCA Sdn Bhd (Co. No. 1013108-V)
Encumbrance: Assigned to **Hap Seng Credit Sdn Bhd** pursuant to the said Agreements and Subject to all easements, leases, tenancies, occupiers, charges, caveats, previous sale and purchase, previous assignment, covenants, liabilities subsisting thereon or thereover.
Subsidiary Title : Subsidiary title is yet to be issued.

TAX

The sale of the subject property is subject to any such tax implemented under any law now be or hereafter imposed by Government of Malaysia whenever applicable.

The Property will be sold on an “**as is where is**” basis, subject to a reserve price of **RM369,000.00 (Ringgit Malaysia Three Hundred and Sixty Nine Thousand Only)**, subject to the Conditions of Sale and by way of an assignment from the above Assignee/Lender subject to consent being obtained by the successful bidder (“the Purchaser”) from the Developer/Proprietor and relevant authorities if any, including all term, conditions, stipulations and covenants which were and may be imposed by the relevant authority.

All outstanding quit rent and assessment which might be lawfully due to any relevant authorities and/or bodies or the Developer/Proprietor up to the date of auction shall be borne by the **Assignee/Lender** and shall be paid out of the purchase money. Thereafter the same shall be borne by the Purchaser without any obligation arising on the part of the Assignee/Lender or the Legal Firm to define the same respectively.

All outstanding management fee, electricity, water charges, interest and outgoings which might be lawfully due to any relevant authorities and/or bodies or the Developer/Proprietor shall be borne by the **Purchaser**.

All intending bidders are required to deposit 10% of the reserve price by Bank Draft or Cashier’s Order only in favour of **Hap Seng Credit Sdn Bhd** prior to the sale with the under mentioned Auctioneer. **Online bidders are further subject to the Terms and Conditions on ebid.auctions.com.my.**

The balance of the purchase price is to be settled within Ninety (90) days from the date of auction sale by Bank Draft or Cashier’s Order drawn in favour of Hap Seng Credit Sdn Bhd.

For further particulars, please contact Messrs. Shim Pang & Co., Solicitor for the Assignee/Lender herein whose address is at Suite 308-311, 3rd Floor, Wisma Sabah, Jalan Tun Razak, 88000 Kota Kinabalu, Sabah (Reference: **K-SP/III/H-6(28)(b)/SMS/afy2023**, Telephone No. 088-233398, Fax No. 088-233396) or the under mentioned Auctioneer.

MESSRS PROPERTY AUCTION HOUSE SDN BHD

Unit A-3-6, 3rd Floor, Block A,
Plaza Tanjung Aru, Jalan Mat Salleh,
88150 Kota Kinabalu,
Sabah, Malaysia.
Tel No. 088-221266/ 221262
Fax No. 088-210266

CONDITIONS OF SALE

1. This sale by Public Auction is made by **HAP SENG CREDIT SDN BHD** in exercise of the rights and powers conferred upon the Assignee/Lender pursuant to the **Loan Agreement / Deed of Assignment / Power of Attorney dated 22nd day of August 2019** and such other documents and executed by “the Assignor/Borrower” as stipulated in the Proclamation of Sale (POS) and Contract of Sale in favour of the Assignee/Lender and is made subject to all conditions and category of land use, express or implied or imposed upon or relating to or affecting the property.
2. All intending bidders (with the exception of the Assignee/Lender) are required to deposit with the Auctioneer the sum as stipulated in the Proclamation of Sale (POS) for the Property by **bank draft or cashier's order** only made in favour of **HAP SENG CREDIT SDN BHD** prior to the auction sale.
3. Immediately after the fall of the hammer, the Purchaser (other than the Assignee/Lender if it is the Purchaser) shall pay to the Assignee/Lender, the difference between the deposit pursuant to Clause 2 above and the sum equivalent to **the deposit percentage (as stipulated in the POS) of the successful bid** either in **CASH or BANK DRAFT** in favour of **HAP SENG CREDIT SDN BHD** and shall sign the Memorandum at the foot of these conditions. The sums paid by the Purchaser under Clause 2 and this Clause shall be payment of deposit and towards part payment of the purchase price and will be held by the Assignee/Lender subject to the provisions of Clauses 2, 11 and 16.
4. a) The balance of the purchase price shall be paid in full by the Purchaser to the Assignee/Lender or to the Solicitors within the time frame as stipulated in the POS from the date of the auction sale (“the Completion Date”) by bank draft or cashier's order only drawn in favour of **HAP SENG CREDIT SDN BHD**.

(b) The period of ninety 90 days will not be extended by the Assignee/Lender unless the Purchaser shall have, prior to the expiry of the said period, issued a written request to the Assignee/Lender applying for an extension of time and the Assignee/Lender may in its absolute discretion ;
 - (i) agree to grant the extension of time unconditionally, or
 - (ii) refuse the request, in which case the 10% of the successful bid shall be forfeited, or
 - (iii) agree to grant an extension of time subject to conditions (including but not limited to imposition of late payment charges/compensation at such rate/amount as the Assignee/Lender shall determine) without assigning any reasons whatsoever and such decision shall be binding on the Purchaser.
(c) In amplification thereto, the Assignee/Lender in extending the Completion Date may impose such further condition(s) as the Assignee/ Lender deems fit at the Assignee/Lender’s absolute discretion (including and not limited to payment of interest).
5. (a) **All outstanding quit rent and assessment** which might be lawfully due to any relevant authorities and/or bodies or the Developer/Proprietor up to the date of auction shall be borne by the **Assignee/Lender** and shall be paid out of the purchase money. Thereafter the same shall be borne by the Purchaser without any obligation arising on the part of the Assignee/Lender or the Legal Firm to define the same respectively.

(b) **All outstanding management fee, electricity, water charges, interest and outgoings** which might be lawfully due to any relevant authorities and/or bodies or the Developer/Proprietor shall be borne by the **Purchaser**.
6. The Purchaser shall within the time frame as stipulated in the POS from the date of the auction sale, if prior confirmation and/or consent as the case may be of the Developer/Proprietor and/or the relevant authorities or bodies for the sale and purchase, the assignment and/or the transfer of the Property to the Purchaser is applicable and necessary, apply to and obtain the said confirmation and/or consent as the case may be from the Developer/Proprietor and/or the relevant authorities or bodies. It shall be the sole and absolute responsibility of the Purchaser to apply for, to obtain and to comply with the confirmation and/or consent at the Purchaser’s sole costs and expense. The Assignee/Lender shall not in any way be responsible or liable in connection with any of the aforesaid. The Purchaser shall comply with all the terms and conditions that may be imposed by the Developer/Proprietor and/or the relevant authorities or bodies as the case may be in granting and/or in the said confirmation and/or consent to the sale and purchase, the assignment and/or the transfer to the Purchaser within whichever is the shorter of the said time frame as stipulated in the POS from the date of the auction sale or such period as may be specified by the Developer/Proprietor and/or relevant authorities or bodies and shall keep the Assignee/Lender and the Assignee/Lender’s solicitors informed at all times of the development in that respect. All fees, administrative costs and expenses in

connection with or incidental to the application for, the attainment of and the compliance with the terms and conditions of the said confirmation and/or consent shall be borne by the Purchaser.

7. Any intending bidder who intends to bid on behalf of another person, body corporate or firm is required to deposit with the Auctioneer prior to the auction sale an authority letter to state that he/she is acting on behalf of another person, body corporate or firm and he/she is authorised to sign all the necessary documents including the Memorandum of Sale. All intending bidders shall be required to verify their identities by showing to the Auctioneer their identity cards prior to the commencement of the auction, failing which, they shall not be entitled to bid.
8. Subject to the reserve price, the highest bidder being so allowed by the Auctioneer shall be the Purchaser but the Auctioneer reserves the right to regulate the bidding and the conduct of the auction sale and shall have the sole right to refuse any bid or bids without giving any reason for such refusal. In the case of any dispute as to any bid or any dispute arising prior to, during or resulting from the auction sale, the Auctioneer may at his own option forthwith determine the dispute or put the Property up again for sale or put the Property at the last undisputed bid or withdraw the Property from auction sale, and the decision of the Auctioneer shall be final and binding in all respects and for all purpose whatsoever.
9. If it is deemed expedient, the Assignee/Lender may but without any obligation to do so, apply to and obtain from the Developer/Proprietor and/or relevant authorities or bodies the outstanding charges payable or the confirmation and/or consent (if applicable and necessary) to the sale and purchase, the assignment and/or the transfer of the Property to the Purchaser. For avoidance of doubt and notwithstanding the foregoing, the responsibility and the onus to apply and obtain from the Developer/Proprietor and/or the relevant authorities or bodies the outstanding charges payable and the confirmation and/or consent (if applicable and necessary) shall rest and remain solely and absolutely with the Purchaser.
10. In the event there is any restriction-in-interest on the property it is the duty of the Purchaser to comply with the restriction-in-interest and ensure that the sale is completed within the time frame stipulated in the POS from the date of the auction sale subject to Clause 4 above.
11. In the event the Purchaser fails to pay a deposit as stipulated in the POS of the successful bid or fails to sign the Memorandum, the deposit paid pursuant to Clauses 2 and 3 herein shall be forfeited by the Assignee/Lender and the property may be put up for sale again at a time to be fixed by the Assignee/Lender and the cost of such resale together with the deficiency in price (if any) which may result from the resale or the balance of the purchase price if there is no resale (as the case may be) shall be recoverable from the defaulting Purchaser. A certificate signed by an officer of the Assignee/Lender as to the costs of and in connection with the resulting resale (or resales if more than one resale attempt) and the shortfall in the sale price (if any) shall be deemed and accepted as correct and conclusive for all purpose whatsoever.
12. No bid shall be less than the last previous bid and the sum to be fixed by the Auctioneer at the time the Property is put up for sale and no bid shall be retracted. Should there be any retraction from the bidder(s) before the fall of the hammer, the deposit as stipulated in the POS shall be forfeited to the Assignee/Lender and the Property shall at the option of the Assignee/Lender, be put up for sale again or the Assignee/Lender may decide to adjourn the auction sale to another date.
13. The Assignee/Lender be and is hereby at liberty to bid for the Property at the sale (without having to pay any deposit whatsoever). In the event the Assignee/Lender becomes the Purchaser, the Assignee/Lender is at liberty to set off the purchase price against the amount due and owing under the said Loan Agreement and Deed of Assignment on the date of sale, plus the costs and expenses of the sale and all other costs and expenses whatsoever in connection with this matter.
14. Without prejudice to any of the rights of the Assignee/Lender, the Assignee/Lender shall be entitled at the Assignee/Lender's sole and absolute discretion to forfeit the Deposit paid and to put the Property up for auction sale again in the following circumstances: -
 - (a) In the event that a bankrupt (whether acting in his personal capacity or as agent) or a wound-up company successfully bids for the Property;
 - (b) In the event a foreign citizen or company without the prior written consent of the Foreign Investment Committee successfully bids for the Property;

- (c) In the event that a non-Bumiputra successfully bids for the Property whether being aware or not that the Property is reserved for Bumiputra only, and the non-Bumiputra Purchaser is unable to obtain the consent of the Developer/Proprietor (if required) and/or relevant authorities to the assignment and/or transfer of the Property on or before the completion date as hereinafter defined;
 - (d) In the event that the Property is a low-cost property and the Purchaser is not eligible and does not qualify to purchase the same; or
 - (e) In the event the Purchaser becomes bankrupt or dies or wound up (in case of a company) during the period of the time stipulated in the POS or any extended period.
15. In the event the consent from the relevant authorities is granted subject to conditions not acceptable to the Assignee/Lender then the Assignee/Lender shall be entitled to terminate the sale at its absolute discretion whereupon the sale shall be terminated and the Assignee/Lender shall refund all monies paid by the Purchaser towards the account of the purchase price free of interest less all costs and fees incurred by the Assignee/Lender, in connection with or in relation to the sale herein and the Purchaser shall not be entitled to and hereby expressly and irrevocably waives any claims, demands, rights and/or cause of action whatsoever against the Assignee/Lender, its Solicitor, the Auctioneer or their respective servants or agents.
16. In default of such payment of the balance of the purchase price and interests payable (if any) within the time and in the manner stipulated in Clause 4 above or in the event the Purchaser becomes a bankrupt or dies or wound up (for company) prior to the payment of the balance purchase price and interest payable (if any), the deposit paid pursuant to Clauses 2 and 3 above shall be forfeited by the Assignee/Lender and the Property may be put up for re-sale at a time, place and reserve price to be fixed by the Assignee/Lender at its sole discretion. The cost of such resale together with either the deficiency in price (if any) which may result from a resale or the balance of the purchase price if there is no re-sale, (as the case may be), shall be recoverable from the defaulting Purchaser. A certificate signed by an officer of the Assignee/Lender as to the costs and expenses of, in connection with and resulting from such resale (or resales if more than one resale attempt) and the shortfall in the sale price (if any) shall be deemed and accepted as correct and conclusive for all purpose whatsoever.
17. Upon full payment of the balance purchase price in accordance with Clause 4 above and all other moneys (if any) payable by the Purchaser in accordance with the terms and conditions herein contained:
- (a) The Assignee/Lender shall execute or cause to be executed as soon as possible at the Purchaser's cost and expense (including but not limited to legal fees, stamp duty, registration fees and such moneys payable and/or owing to the Developer/Proprietor and/or such relevant authorities and/or bodies) an Assignment to be prepared by the Purchaser's Solicitors in favour of the Purchaser of all the rights and benefits in the Property and under the Principal Sale and Purchase Agreement upon the terms and conditions stipulated by the Assignee/Lender at its absolute discretion. Thereafter and upon the Purchaser's payment of all such costs and expenses of the Assignment, the Assignee/Lender shall deliver to the Purchaser or his Solicitor the duly executed Assignment, the original or certified true copy of the Principal Sale and Purchase Agreement and the previous Assignment.
 - (b) If the Property is a housing accommodation under the Housing Development (Control and Licensing) (Amendment) Act 2007, the Purchaser shall forward to the **Assignee/Lender's** solicitors a letter of undertaking by the Purchaser or the Purchaser's financier in favour of the Developer/Proprietor to deliver to the Developer/Proprietor the duly stamped Assignment within fourteen (14) days after the same has been stamped and the certified true copy of the Developer/Proprietor's official receipt evidencing the Purchaser's payment of the Developer's outgoing charges.
18. Upon the signing of the Memorandum (as contained at the end of this document), the Property shall be at the sole risk of the Purchaser as regards to any loss or damage of whatsoever nature or howsoever occurring to the Property before, at or subsequent to the sale of the Property.
19. The Purchaser shall be deemed to have inspected the Property and therefore admit the identity of the Property purchased by the Purchaser with that comprised in the muniments offered by the Auctioneer as the title of the Property upon the evidence afforded by the comparison of the description in the particulars and muniments respectively.

20. The property is sold **on an "as is where is"** basis subject to all existing easements, leases, tenancies, occupiers, charges, caveats, previous sale and purchase, previous assignment, covenants, rights and liabilities subsisting thereon or there over, express conditions and restrictions-in-interest and the Purchaser shall be deemed to have full knowledge of the state and condition of the property.
21. The Assignee/Lender has no notice or knowledge of any encroachment or that the Government or other authority has any immediate intention of acquiring the whole or any part of the Property for roads or any improvement schemes and if such encroachment shall be found to exist or if the Government or any local authority has any such intention, the same shall not annul the sale nor shall any abatement or compensation be allowed in respect thereof.
22.
 - a) The Property is believed to be and shall be taken to be correctly described and is sold on an "as is where is" basis subject to all expressed and implied category of land use, conditions, restriction-in-interest, easements, leases, tenancies, occupiers charges, caveats, previous sale and purchase agreements, previous assignment, covenants, liabilities (including and not limited to liabilities to local authorities incurred but not ascertained and any rates imposed but not demanded), encumbrances and right, (if any), subsisting thereon or thereover whether prior to, during and/or after the auction sale, without any obligation on the Assignee/Lender or the Auctioneer to define the same herein respectively and the Purchaser shall be deemed to have full knowledge of the same and to be bound thereby. No error, misstatement, omission or mis-description of the Property or any matters in connection with the Property howsoever and whensoever arising, shall annul the sale nor shall any compensation be allowed in respect thereof. In furtherance thereto, any payment which may be imposed by the relevant authorities and/or the Developer/Proprietor shall be solely and absolutely borne and paid by the Purchaser.
 - (b) If the land or floor area of the Property is found to exceed that as described and additional payment is imposed for the excess area by the Developer and/or relevant authorities, then such additional payment shall be solely and absolutely borne and paid by the Purchaser.
 - (c) If the land or floor area of the Property is found to be less than that as described, any claim for the reduced area shall be undertaken solely by the Purchaser against the Developer/Proprietor and/or such other party and neither the Assignee/Lender, the Assignee/Lender's Solicitors nor the Auctioneer shall in any way be responsible or liable for such claim. The auction sale herein shall not be annulled and there shall not be any adjustment of the Purchase Price as a result of such shortfall in the area of the Property.
23. It is the sole and absolute responsibility of and the onus is on all intending bidders to at their own costs and expense, seek and obtain from the Developer/Proprietor and/or the relevant authorities or bodies, all confirmations and/or consents as may be required or as may be applicable in respect of the Property and the auction sale of the Property, and to satisfy themselves on the same and all matters in connection with the Property prior to the bidding (including and not limited to verifying the identity, particulars, state and conditions of the Property and the terms of the conditions and restrictions affecting the Property if any, whether or not the Property is reserved for Bumiputra or Malay only and/or is a low cost property, and matters relating to the ownership of the Property, the status of the separate document of title to the Property and its particulars, the liabilities including amounts owing and obligations pertaining to the Property, and the Purchaser's eligibility and qualification to purchase the Property). The Purchaser shall be deemed to have full knowledge of all of the matters aforesaid. The Assignee/Lender, the Assignee/Lender's solicitors, the Auctioneer and their respective agents or servants do not in any way make any representation or warranty in respect of any of the aforesaid and shall not in any way be responsible or liable to the Purchaser in respect of any of the aforesaid.
24. In the event that the separate document of title to the Property has been or is issued whether prior to, on or after the auction sale: -
 - (a) The Assignee/Lender shall not be required to register its charge(s) nor to procure a Memorandum Of Transfer in favour of the Purchaser from the Developer or the Proprietor (as the case may be);
 - (b) If there are any restrictions in interests affecting the Property, the Purchaser shall comply with the restrictions in interests and ensure that the sale is completed within the time period as stipulated in Clause 4 above; and
 - (c) Upon and subject to the payment in full of the Balance Purchase Price in accordance with Clause 4 above and all other moneys (if any) payable by the Purchaser in accordance with the terms and conditions contained herein this Conditions Of Sale and upon and subject to the Purchaser at the Purchaser's own

absolute responsibility and costs and expenses obtaining the confirmation and/or consent as applicable from the Developer and/or the Proprietor, the relevant authorities and/or bodies, as the case may be, for the sale and purchase and/or the transfer of the Property from the Assignee/Lender to the Purchaser as may be required :-

- (i) Where the Developer (and/or the Proprietor as the case may be) and/or the relevant authorities and/or bodies is/are agreeable to a direct transfer the title in the Property to the Purchaser, it shall be the Purchaser's own absolute responsibility and at the Purchaser's sole and absolute costs and expense (including and not limited to legal fees, stamp duty, registration fees and such moneys payable and/or owing to the Developer and/or such relevant authorities and/or bodies) to prepare and obtain from the Developer, the Proprietor or such relevant authority or body, the Developer's, the Proprietor's or such relevant authority's or body's execution of the Memorandum of Transfer in respect of the Property as a direct transfer in favour of the Purchaser as transferee and all relevant documents in support for the registration of the said Memorandum Of Transfer. The Assignee/Lender, the Assignee/Lender's solicitors, the Auctioneer and their respective servants or agents do not in any way, form or manner make any representation or warranty whatsoever in respect of any of the aforesaid and shall not in any way be responsible or liable to the Purchaser for any of the same (including and not limited to obtaining the said Memorandum of Transfer and/or documents in favour of the Purchaser and/or any delay in obtaining any of the same); and
- (ii) Where the Developer (and/or the Proprietor as the case may be) and/or the relevant authorities and/or bodies is/are not agreeable to a direct transfer of the title in the Property to the Purchaser, it shall be the Purchaser's own absolute responsibility and at the Purchaser's sole and absolute costs and expense (including and not limited to legal fees, stamp duty, registration fees and such moneys payable and/or owing to the Developer and/or such relevant authorities and/or bodies) to prepare and submit to the Assignee/Lender's solicitors for the Assignee/Lender's execution, the Memorandum of Transfer in respect of the Property in favour of the Purchaser as transferee. In such situation, the Purchaser acknowledges and admits that the Purchaser shall not be entitled to and shall not present the Memorandum of Transfer in favour of the Purchaser as transferee for registration at the relevant land office / registry until and unless the Memorandum of Transfer in respect of the Property in favour of the Assignor as transferee shall have first been duly executed by the relevant persons and delivered to the Assignee/Lender's Solicitors for the Assignee/Lender's or the Assignee/Lender's Solicitors' further action. The Purchaser shall be absolutely responsible for and shall be solely and absolutely liable for all fees, costs and expenses in connection with the preparation, stamping and registration of the Memorandum Of Transfer in favour of the Assignor as transferee (including and not limited to the payment of any moneys payable or owing to the Developer, the Proprietor and/or the relevant authorities and/or bodies). The Memorandum of Transfer in favour of the Assignor as transferee shall only be delivered to the Purchaser or the Purchaser's Solicitors upon full payment of the Balance Purchase Price in accordance with the provisions of Clause 10 above and all other moneys (if any) payable by the Purchaser in accordance with the terms and conditions contained herein these Conditions Of Sale. The Assignee/Lender, the Assignee/Lender's Solicitors, the Auctioneer and their respective servants or agents do not in any way, form or manner make any representation or warranty whatsoever in respect of any of the aforesaid matters and shall not in any way be responsible or liable to the Purchaser for any of the same (including but not limited to any delay that may arise in the delivery to the Purchaser or the Purchaser's Solicitors the Memorandum Of Transfer in favour of the Assignor as transferee and/or the Memorandum Of Transfer in favour of the Purchaser as transferee).

25. Notwithstanding Clauses 17 and 24 above and notwithstanding there being no default or breach on the part of the Purchaser, the Assignee/Lender shall be entitled whether before, during or after the execution and/or delivery as the case may be of the Deed Of Assignment or the Memorandum Of Transfer in favour of the Purchaser as transferee or the Memorandum of Transfer in favour of the Assignor as transferee, to terminate the sale of the Property to the Purchaser at the Assignee/Lender's sole and absolute discretion without the need to provide any reason thereto. In such an event the sale shall be terminated and be null and void and the Assignee/Lender shall refund free of interest and without any compensation whatsoever to the Purchaser, such moneys as may have been received by the Assignee/Lender from the Purchaser being payment towards the account of the purchase price of the Property. The Auctioneer, the Assignee/Lender, the Assignee/Lender's Solicitors and their respective servants and agents shall not in any way be liable to the Purchaser for any compensation or damages whatsoever and the Purchaser hereby expressly and irrevocably waives any and all claims, demands, rights and causes of action whatsoever and howsoever arising that the Purchaser may have against any one or more of them in respect of and/or howsoever in connection with the auction sale and the Property.
26. In the event the sale being set aside for any reasons whatsoever whether by the Assignee/Lender or by an Order of Court or consent not being obtained by the Purchaser from the relevant authorities, (other than that due to any act of default and/or omission by the Purchaser), this sale shall become null and void and be of no further effect and the Assignee/Lender shall refund the deposit and other monies (if any, paid herein towards account of the purchase price by the Purchaser to the Assignee/Lender) to the Purchaser, free of interest less costs, expenses and/or fees incurred by the Assignee/Lender in connection with or relating to the sale and the Purchaser shall not be entitled to any claim and demand whatsoever against the Assignee/Lender, its Solicitor, the Auctioneer or any other party on account thereof. A certificate by an officer of the Assignee/Lender verifying such expenses and/or fees shall be final and conclusive and shall be binding on the Purchaser. Upon payment by the Assignee/Lender under this clause, the Purchaser shall have no other or further claims and/or demands whatsoever in nature and howsoever caused against the Assignee/Lender, its Solicitor and the Auctioneer or their respective servants or agents.
27. The Purchaser shall at his/her own costs and expenses take possession of the Property after the payment of the Balance of Purchase Price. The Assignee/Lender or its agents have no obligation to deliver vacant possession of the Property and the Purchaser is **PROHIBITED** from entering the Property before the payment of the Balance of Purchase Price and/or late payment interest (if any).
28. Subject to Clauses 3 and 4 hereof, in the event there is any balance of moneys due to the Developer/Proprietor by the Assignor or the Assignee/Lender under the Principal Sale and Purchase Agreement, the Purchaser shall be liable to pay to the Developer such balance moneys. In the event that the balance moneys payable is/are outstanding progressive payment(s) due to the Developer/Proprietor in respect of the Property, the Purchaser shall: -
- (a) In the event that the Purchaser requires a loan to enable the Purchaser to complete the purchase herein, the Purchaser shall within the time stipulated in Clause 10 hereof, cause the Purchaser's financier to issue a letter of undertaking in favour of the Developer/Proprietor to pay the balance progressive payment according to the schedule of payment in the Principal Sale And Purchase Agreement and to release the Assignee/Lender from all obligations and liability of payment;
 - (b) In the event that the Purchaser does not require a loan to enable the Purchaser to complete the purchase herein, the Purchaser shall within the time stipulated in Clause 10 hereof, procure a bank guarantee to pay the balance progressive payment according to the schedule of payment in the Principal Sale And Purchase Agreement made in favour of the Developer/Proprietor and to release the Assignee/Lender from all obligations and liability of payment;
 - (c) Any payment due and payable to the Developer/Proprietor after the date of the auction sale, including the balance progressive payment according to the schedule of payment in the principal Sale And Purchase Agreement, charges, interest and penalty as a result of the delay by the Purchaser in giving any undertaking/Lender guarantee stated in Clause 28 (a) and (b) hereof, shall be borne by the Purchaser absolutely; and

- (d) In the event that the Purchaser shall fail, neglect and/or refuse to procure a letter of undertaking/Lender guarantee in accordance with Clause 28 (a) and (b) hereof, the Assignee/Lender shall be entitled to terminate the sale by notice in writing to the Purchaser whereon the Deposit shall be forfeited by the Assignee/Lender and the Assignee/Lender shall be entitled at the Assignee/Lender's absolute discretion to put the Property up for sale at a date, time and reserve price to be fixed by the Assignee/Lender. The costs and expenses of, in connection with and resulting from such resale (or resales if more than one resale attempt) together with any deficiency in the price obtained in the resale compared to the price obtained in the earlier auction sale shall be a debt due and owing from the Purchaser to the Assignee/Lender and shall be recoverable by the Assignee/Lender from the defaulting Purchaser. A certificate by an officer of the Assignee/Lender as to the costs and expenses of, in connection with and resulting from such resale (or resales if more than one resale attempt) and the shortfall in the sale price (if any) shall be deemed and accepted as correct and conclusive for all purpose whatsoever.
29. The Assignee/Lender makes no representation as to the ownership of furniture, fittings and fixtures situated at the Property which items may be on hire purchase, lease or deferred sale from third parties. In such cases, the Assignee/Lender accepts no liability for any payments which may be outstanding in respect thereof and the property is sold subject thereto.
 30. All necessary inquiries and investigations required by the intending bidders for their purpose shall be made by the intending bidders themselves who shall bear all costs and expenses relating thereto. All intended bidders including the Purchaser shall be deemed to have read, understood and accepted these Conditions of Sale prior to the auction.
 31. In the event of any dispute whatsoever in respect of the sale, the Purchaser hereby expressly agrees to resolve the same with the Assignee/Lender.
 32. Unless expressly provided herein, the Assignee/Lender, the Assignee/Lender's Solicitor and the Auctioneer or either of them or their respective agents or servants shall under no circumstances be liable to any bidders or the Purchaser, including but not limited to liability in tort or in contract, in relation to any dispute or issues arising out of, in connection with, or in respect of the sale of the Property whatsoever and howsoever caused or arising before, at or subsequent to the sale of the Property. The Purchaser hereby expressly and irrevocably waives any and all rights, claims and remedies that the Purchaser may have contrary to the foregoing.
 33. All statements made in the Proclamation of Sale and Conditions of Sale or otherwise relating to the Property are made without responsibility on the part of the Assignee/Lender, the Assignee/Lender's Solicitor and the Auctioneer or any of them. No such statement may be relied upon as a statement or representation of fact. All intending bidders must satisfy themselves by inspection or otherwise as to the accuracy and correctness of any such statements and neither the Assignee/Lender, Assignee/Lender's Solicitors, the Auctioneer nor any person in their employment have any authority to make or give any representation or warranty whatsoever in relation to the Property.
 34. In the event the sale is terminated for any reasons whatsoever, the Purchaser, if vacant possession of the Property is delivered, shall immediately upon such termination, redeliver vacant possession of the Property to the Assignee/Lender at the costs of the Purchaser.
 35. The Assignee/Lender and the Auctioneer shall be and are hereby at liberty to postpone, call off, adjourn, stand down or vacate the auction sale at any time before the fall of the hammer with or without notice.
 36. Time whenever mentioned shall be of essence of this Conditions of Sale.
 37. The Successful Purchaser is advised to seek independent legal advice and/or appoint a Solicitor to act for the successful Purchaser and in the event no Solicitor is appointed, the successful Purchaser shall be deemed to have elected to be unrepresented in this sale.
 38. The Conditions of Sale and Deed of Assignment to be executed by the Assignee/Lender and the Successful Purchaser and the Memorandum of Transfer by the Developer/Proprietor to the Successful Purchaser are documents evidencing a single transaction. For the purpose of Section 4(3) of the Stamp Act 1949, the Deed of Assignment shall be deemed the principal instrument.

39. Pursuant to Section 18 & 33 of the Stamp Act, 1949 any stamp duty payable shall be borne by the successful Purchaser alone and shall not be paid out of the proceeds of sale. The successful bidder shall also pay the registration fee for the eventual transfer of the said Property.
40. The Purchaser shall bear and pay all fees and expenses including but not limited to all legal fees, stamp duty and registration fees in connection with, incidental to or pursuant to the Assignment and all other documents necessary for effecting the transfer of the beneficial ownership in the Property to the Purchaser.
41. All risk, loss or damage, including but not limited to loss or damage by fire, storm, earthquake, malicious damage, any loss or damage of whatsoever nature or howsoever occurring to the Property shall pass to the Purchaser on the date of auction sale.
42. No Officer employed in the Assignee/Lender or having any duty to perform in connection with the sale shall either directly or indirectly bid for, acquire or attempt to acquire any interest in the Property offered at such sale.
43. In the event of any discrepancy, mis-statement, misrepresentation, omission or error appearing in the various translations on the particulars and conditions, the English Language version shall prevail.
44. The Proclamation of Sale and the terms of this Conditions of Sale shall be read together and shall collectively constitute part of the Memorandum of Sale.
- 45. The Assignee/Lender reserves its right to vary add delete and/or amend any of the terms and conditions herein at any time and from time to time at its absolute sole discretion.**
46. If any term contained herein shall be in whole or in part held to be void, illegal or unenforceable under any rule of law, that term shall be to that extent be deemed not to form part of this Conditions of Sale and the sale shall not be in any way be affected thereby.
47. The sale of the subject property is subject to any such tax implemented under any law now be or hereafter imposed by Government of Malaysia whenever applicable.

CONTRACT

MEMORANDUM:- At the sale by Public Auction this **20TH Day Of December, 2023**, of the Property comprised in the foregoing particulars that is to say the rights, title, interest and benefits in relation to the property identified as **Developer's Parcel Lot No. D-06-07, Block D, Level 6, Type B, Kingfisher Putatan Condominium Phase 2B**, measuring in area of approximately **1,009 sq. ft.** together with two (2) unit of car parks **held under Master Title No. Country Lease No. 265491718, District of Kota Kinabalu, In the State of Sabah**, and bearing postal address **at D-06-07, Level 6, Block D, Kingfisher Putatan Condominium, Kg. Ketiau, Jalan Ketiau Tombovo, 88200 Kota Kinabalu, Sabah**, developed by the Developer/Proprietor as stated in the Proclamation of Sale, the highest bidder stated below has been declared as the Purchaser(s) of the said Property for the sum of **RM**_____, and a sum of **RM**_____ has been paid to the Assignee/Lender by way of deposit by the Purchaser(s) who agrees to pay the balance of the purchase money and complete the purchase according to the conditions aforesaid. The said Auctioneer hereby confirms the said purchase and the Solicitors acknowledge receipt of the said Deposit on behalf of the Assignee/Lender.

PURCHASER'S PARTICULARS: -

PURCHASE MONEY RM_____

DEPOSIT MONEY RM_____

BALANCE DUE RM_____

ADDRESS _____

TELEPHONE NO. _____

SIGNED BY THE ABOVENAMED PURCHASER(S)

)
)
)_____

**SIGNED BY M/S SHIM PANG & CO
SOLICITORS FOR THE ASSIGNEE/LENDER**

)
)
)
)_____

NAME: _____

**SIGNED BY M/S TAY SU MEI
LICENSED AUCTIONEER**

)
)_____

ONLINE PUBLIC AUCTION TERMS AND CONDITIONS

The Terms and Conditions specified herein shall govern all users of ebid.auctions.com.my. (PAH Website)

IMPORTANT

These terms and conditions apply to all online bidding at auction sales conducted by or in conjunction with HAP SENG CREDIT SDN BHD [198201008877 / 88601- H] ("Online Public Auction"). By registering to participate, bidding or purchasing in a HAP SENG CREDIT SDN BHD [198201008877 / 88601- H] auction sale via Online Public Auction, you expressly agree to be bound by these terms and conditions in full.

1. REQUIREMENT ON ELIGIBILITY AND REGISTRATION OF E-BIDDERS

- 1.1. Any interested party who intend to participate in the online public auction ("E-Bidders") auction can register as a user by logging onto **PAH Website**
- 1.2. To participate in the online public auction, the party shall:
 - a) be an individual: 18 years and above, of sound mind and not a bankrupt;
 - b) be a corporate body: incorporated under the laws of Malaysia and must not be in liquidation and be able to take, fulfil and perform all necessary actions, conditions and matters (including obtaining any necessary consents) in terms of law to enable E-bidders to participate in the public auction and complete the purchase in the event of successful bid.
- 1.3. To register as a user, a party is required to submit/upload the following documents through **PAH Website**:
 - a) Individual: Photocopy of NRIC/Passport
 - b) Corporate:
 - i) Memorandum and Articles of Association/Constitution of company
 - ii) Board of Directors Resolution
 - iii) Form 24, Form 44, Form 49 or equivalent under companies Act 2016 or other applicable laws and a duly signed Board of Director's Resolution.
- 1.4. E-Bidders eligibility requirements are also subject to the existing Federal and State legal provisions. Foreign nationals or companies are also advised to take note of restrictions applicable on foreign purchase imposed by the relevant authorities.
- 1.5. E-Bidders only need to register once with true, current and accurate information provided and this registration can be applied for future auctions on **PAH Website**.
- 1.6. E-bidders are responsible to identify the property correctly and to ensure that all the details and description are correct and accurate before bidding.
- 1.7. It is the sole and absolute responsibility of all intending E-Bidders and at the E-Bidders' own costs and expenses, seek and obtain from the Developer and/or the relevant authorities or bodies, all confirmations and/or consents as may be required or as may be applicable in respect of the purchase of the Property and to satisfy themselves on the physical condition of the Property and all matters in connection with the Property prior to the bidding (including and not limited to verifying the identity, particulars, state and condition of the Property and the terms of the conditions and restrictions affecting the Property if any, whether or not the Property is reserved for Bumiputera or Malay Reserved only and/or is a low cost property, and matters relating to the ownership and transfer of the Property, the status of the separate document of title to the Property and its particulars, the liabilities including amounts of outstanding service or maintenance charges owing and other obligations pertaining to the Property and the E-bidders' eligibility and qualification to purchase the Property). E-Bidders shall be deemed to have full knowledge of all of the matters aforesaid. The Auctioneer, the Assignee/Lender, the Assignee/ Lender's solicitors, **PAH website** and their respective agents or servants do not in any way make representation or warranty in respect of any of the aforesaid and shall not in any way be responsible or liable to the E-Bidders in respect of any of the aforesaid.
- 1.8. The registration of an individual or company as an E-Bidder on the **PAH website** shall not be construed as approval of eligibility of the intended bidder to conclude the auction sale.

2. ONLINE PUBLIC AUCTION PROCESS

- 2.1. E-Bidders may browse through the **PAH Website** and select the properties they wish to bid online.
- 2.2. By proceeding with the bid in the Auction, the E-Bidders are deemed to have agreed and accepted the **PAH Website** Terms and Conditions.
- 2.3. The Terms and Conditions shall be read together and formed part of the Conditions of Sale attached to the Proclamation of Sale which is uploaded on **PAH Website** and shall be deemed to have been read and agreed upon by the registered E-Bidders prior to bidding. In the event of any inconsistency between the Online Terms and Conditions stated herein and the Conditions of Sale attached to the Proclamation of Sale, the Conditions of Sale attached to the Proclamation of Sale shall prevail.

- 2.4. E-Bidders must make a necessary deposit payment as required under the Conditions of Sale attached to the Proclamation of Sale i.e. **10%** of the reserve price. Payment of the Required Deposit must be made via an local bank online transfer to **OCBC Bank (Malaysia) Berhad** in favour of **PROPERTY AUCTION HOUSE SDN BHD** **Account No: 7011520709**. Evidence of the transfer must be uploaded and submitted
- 2.5. E-bidders are required to complete the registration process by submitting the relevant details and uploading the relevant documents including evidence of payment of the Required Deposit onto **PAH website** latest by **12.00 noon**, at least **one (1) working day** before the auction date.
- 2.6. Registration of Bidders shall be subject to verification and approval of the **PAH Website** and subject further the Required Deposit payment being cleared by the bank. Approval may take at least **one (1) working day** and any improper, incomplete registration or late registration may be rejected at the sole discretion of the **PAH website**. Neither **PAH Website**, its agents and/or representatives bear any responsibilities or assumes any liability in the event that the registration of an E-bidders is rejected and/or delayed for any reasons whatsoever. In the event that the registration is rejected, the deposit paid (if cleared by the bank) shall be refunded to the same bank account from which the deposit transfer was made within **two (2) working days**.
- 2.7. E-Bidders wishing to authorise any person to execute the Memorandum of Sale upon successful bidding shall do so by furnishing a proper Letter of Authorisation and a copy of the person's NRIC.
- 2.8. Upon approval and verification by **PAH website** and subject to the Required Deposit being cleared by the bank, the registered E-Bidder will receive a notification via an e-mail on their successful registration and allowing the registered E-Bidders to bid for their intended property on the auction day.
- 2.9. E-bidding may be done via a computer, smart phone and any device with internet connection.

3. Bidding Process

- 3.1. Bidding shall generally commence based on the sequence of the lot being shown on the **PAH Website**. However the Auctioneer has the right to vary the sequence without having to give prior notice to the intended bidders.
- 3.2. It shall be the responsibilities of the E-bidders to login through **PAH website** to wait for the turn to bid for the property lot in which they intend to bid.
- 3.3. The Auctioneer has the discretion to set a new reserve price in the event that there is more than one (1) registered bidder.
- 3.4. The amount of incremental bid will appear on the website prior to the commencement of the auction.
- 3.5. Registered online Bidders shall start bidding online by pressing the **BID Button** using their own gadgets with internet connection. If your bid is the highest, it will be denoted by a **Green Coloured Box** otherwise it will be a **Red Coloured Box**. The highest bid shall flash 10 seconds (subject to change) interval for four (4) times " **Calling Once, Calling Twice, Last Call and Sold**". E-bidders may submit their bid at any of these stages of biddings by pressing the **BID button**. The successful bidder's bid will be denoted by a green coloured screen. The highest bidder shall be declared as the successful purchaser upon the fall of the hammer.
- 3.6. In the event that there is no bid after forty(40) seconds from the time of commencement of the auction, the auction shall be aborted.
- 3.7. Any bid once entered by the registered online E-bidders shall be binding and the bid shall not be withdrawn or retracted in any manner whatsoever after the fall of the hammer.
- 3.8. Both the successful and unsuccessful bidders will be notified by the Auctioneer through the website and also via E-mail where further directions are given in order to conclude the sale of the auction property.
- 3.9. In the event of any dispute, the decision of the Auctioneer shall be final and binding on all bidders.
- 3.10. Unsuccessful E-bidders shall have the deposit refunded to the same bank account from which the deposit transfer was made within **two (2) working days** from the date of auction.
- 3.11. The information shown and/or prompted on the screen handled by the PAH website in regards to the auction in particular the increment of the bidding price during the bidding process and the declaration of the successful bidder shall be final and conclusive.

4. POST ONLINE PUBLIC AUCTION PROCEDURES

- 4.1. Successful E-bidders shall and undertake to sign the Memorandum of Sale at the office of the Auctioneer within 3 working days from the date of auction, failing which the deposit paid will be forfeited to the Assignee bank and the sale will be deemed cancelled/terminated and the property may be put up again for subsequent auction without further notice to the said E-Bidders. The Auctioneer shall send the Memorandum of Sale for stamping and thereafter forward the same together with the required deposit paid under Clause 2.4 above and the differential sum paid under this clause (if any) to the Assignee bank.
- 4.2. Any successful E-bidder who is unable to attend to sign the Memorandum of Sale at the Auctioneer's office may do so by authorising another person to sign the same of his/her behalf by inserting the particulars of the authorised person and furnishing a copy of his/her identity card and also a Letter of Authorisation for this purpose.
- 4.3. In the event that there is inconsistency between the personal details and the documents uploaded in the **PAH Website** and the actual documents produced by the successful bidder, the Auctioneer shall have the right to refuse

the successful bidder from signing the Memorandum of Sale and may at its discretion cancel the sale and proceed to put up property up for a new auction and the deposit paid shall be forfeited.

- 4.4. The Memorandum of Sale upon being signed by the Auctioneer, Solicitor for the Assignee bank and the successful Bidder/Authorised agent shall be conclusive evidence of the sale of the property to the successful bidder.

5. OTHER APPLICABLE TERMS & CONDITIONS

- 5.1. All registered E-bidders at **PAH website** shall undertake to fully comply with the Terms and Conditions herein. In addition all successful E-Bidders shall also be bound by the terms and conditions as stipulated in the Proclamation of Sale.
- 5.2. The Auctioneer may from time to time vary, modify or delete any terms and conditions herein without having to give prior notice to the registered E-bidders.
- 5.3. E-bidders are responsible to ensure that their internet access is in good condition during the whole process of public auction until conclusion thereof. Unsatisfactory internet access may disrupt the bidding made by the E-Bidders.
- 5.4. The Auctioneer or the **PAH Website** shall not be held liable for any disruptions delays, failures, errors, omissions or loss of information due to the unsatisfactory internet access or any online interruption that may howsoever occur during the process of the online public auction at **PAH Website**.
- 5.5. **PAH Website** is owned and operated by **PROPERTY AUCTION HOUSE SDN BHD (PAH)**. The E-bidders agree and accept that **PAH** or the Assignee Bank in which **PAH** acts for or their solicitors or any of their respective servants or agents shall not be in any way liable for any claims or loss arising out of the use of the **PAH Website**.

6. GOVERNING LAW

- 6.1. The Terms and Conditions contained in the ebid.auctions.com.my shall be governed and construed in accordance with the laws of Malaysia and all parties hereby agree to submit to the exclusive jurisdiction of the courts of Malaysia.

7. PERSONAL DATA PROTECTION ACT

- 7.1. **PAH** is committed to protecting the privacy, confidentiality and security of all personal data to which it is entrusted.

It has been our policy to ensure your personal information are protected. With the introduction of the Malaysian Personal Data Protection Act 2010 ("PDPA"), we are even committed to ensure the privacy and confidentiality and security of all personal data are protected in line with the PDPA.

We process personal data which you have provided to us voluntarily through our website upon your registration and this includes personal data such as your name, address, NRIC and contact details. In this regards, you have expressly consent to our processing of your personal data.

If you give us personal data or information about another person, you must first confirm that he/she has appointed you to act for him/her, to consent to the processing of his/her personal data and to receive on his/her behalf any data protection notices. We may request your assistance to procure the consent of such persons whose personal data is provided by you to us and you agree to do so. You shall indemnify us in the event we suffer loss and damage as a result of your failure to comply with the same.

We will only retain your personal data for as long as necessary for the fulfilment of the specified purposes or as legislated

- 7.2. E-Bidders shall be responsible for the confidentiality and use of password and not to reveal the password to anyone at any time and under any circumstances whether intentionally or unintentionally.
- 7.3. E-Bidders agree to comply with all the security measures related to safety of the password or generally in respect of the use of the service. In the event that the password is compromised, the E-Bidders shall immediately notify **PAH**.

8. COPY RIGHT AND INTELLECTUAL PROPERTY

- 8.1. All information (inclusive of data, text, image) displayed in ebid.auctions.com.my shall not be used or published in other channels without the express written permission of **PAH**. **PAH** has the right to use any available legal remedies which may include the demand for factual or statutory damages, solicitor's fees and injunctive relief for any violation of **PAH's** intellectual property rights.

9. MISCELLANEOUS

- 9.1. In the event that there is any inconsistency, discrepancy, errors or misstatement appearing in the translation of the particulars and the online terms and conditions to any other language (if any), the terms and conditions in the English version shall prevail.