

# **NON-DISCLOSURE AGREEMENT**

**BETWEEN**

**PELABURAN HARTANAH BERHAD**  
**(Registration Number: 200601013065 (732816-U))**

**AND**

**Company Name: .....**  
**(Registration Number.: .....)**

THIS **NON-DISCLOSURE AGREEMENT** (hereinafter referred as this “**Agreement**”) is made on this ..... day of ..... 2024

**BETWEEN**

**PELABURAN HARTANAH BERHAD (Registration Number: 200601013065 (732816-U))**, a company incorporated in Malaysia and having its registered office at Level 6, Block E, Dataran PHB, Saujana Resort, Section U2, 40150, Shah Alam, Selangor Darul Ehsan (hereinafter referred to as “**PHB**”).

**AND**

..... (**Registration Number:** .....), a company incorporated in Malaysia and having its registered office at ..... (hereinafter referred to as “**Recipient**”).

(**PHB** and the **Recipient** are hereinafter collectively referred to as “**the Parties**” and individually as a “**Party**”).

**WHEREAS:**

- A. PHB is a real estate investment holding company. Its core business is to acquire, develop and manage properties at prime locations in Malaysia and to inject such properties to PHB’s licensed trust fund known as Amanah Hartanah Bumiputra.
- B. The Recipient is a company established under the laws of Malaysia.
- C. PHB intends to offer lands for sale vide an open tender exercise and the Recipient is interested to participate in such open tender exercise to purchase the identified lands (hereinafter referred as “**the Purpose**”).
- D. PHB may disclose Confidential Information to the Recipient to facilitate the discussions between the Parties in relation to the Purpose subject to the terms agreed by the Parties under this Agreement.
- E. This Agreement shall bind the Recipient in confidence and prevent the Recipient from disclosing the Confidential Information (as hereinafter defined) except in accordance with this Agreement, or from using the Confidential Information for reasons other than carrying out the Purpose.

**NOW THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATIONS**

**1.1 Definitions**

Unless the context otherwise requires, for the purposes of this Agreement, the following terms and expressions shall have the meanings set forth below:

“**Agreement**” means this Non-Disclosure Agreement and the terms and conditions contained herein.

**“Confidential Information”** shall include but not be limited to:

- a) all information and documents, related processes, methodologies, trade secrets, know how, drawings, designs, technical data, test, market reports and research reports, and other information of whatever nature, and all copies, reproductions, reprints and translations thereof, relating to PHB and/or any of its Group Companies and/or any of its Related Persons where applicable, and supplied to the Recipient or any of Recipient’s Related Persons in connection with or in the course of the Purpose;
- b) any information and/or material demonstrated and furnished verbally or in any other mode which may reasonably be regarded by PHB and/or any of its Group Companies and/or any of its Related Persons as confidential regardless of whether these have been explicitly or tacitly identified as being a secret or confidential. Any information which was expressly named or marked as being confidential and any orally or visually disclosed information which was confirmed in writing the fact and general nature of each disclosure within thirty (30) days after it is made, shall in any case be deemed to be Confidential Information for the purposes of this Agreement;
- c) information of whatever nature relating to the business of PHB and/or any of its Group Companies obtained by observation during visits (if any) to its premises in connection with or in the course of the Purpose;
- d) all information, documents, records and other material which from time to time are contained in the data room of information relating to the Purpose, if applicable;
- e) the contents of this Agreement and/or the fact that the Purpose is or may be contemplated by each Party or any of their respective Group Companies, irrespective of whether such information is disclosed before or after the Effective Date; and
- f) any reports, analyses, compilations, studies, forecasts or other documents or data prepared by, or on behalf of, or for, the Recipient and the Recipient’s Related Persons which contains, derived from or otherwise reflect any information described in item (a) to (e) of this Clause which PHB or any its Group Companies or Related Persons had disclosed to the Recipients or any of its Related Persons in order to facilitate the Purpose of this Agreement.

**“Effective Date”** shall mean the date of this Agreement.

**“Group Companies”** means a Party’s holding company, subsidiaries, associated and affiliated companies, and Group Company shall mean any one of the foregoing.

**“PDPA”** means the Personal Data Protection Act 2010, the applicable regulations, subsidiary legislation, guidelines, orders related thereto and any statutory amendments or re-enactments made of the PDPA from time to time;

**“Related Persons”** means, in respect of a Party, its Group Companies and its and each of their respective directors, employees, advisers, agents and consultants retained by such Party in relation to the Purpose at any time during the period in which the provisions of this Agreement apply.

## 1.2 Interpretations

In this Agreement, unless the context otherwise requires:

- 1.2.1 any reference to a “Clause” is a reference to a clause of this Agreement and, unless otherwise indicated, includes all the sub-clauses of the clause;
- 1.2.2 words importing the singular include the plural and vice versa, words importing gender or the neuter include both genders and the neuter;
- 1.2.3 the headings in this Agreement are for convenience only and shall neither affect the construction or interpretation of any provision in this Agreement nor affect any of the rights or obligations of the Parties hereto;
- 1.2.4 the words “**include**”, “**includes**” and “**including**” shall be construed without limitation;
- 1.2.5 the word “**company**” includes any body corporate;
- 1.2.6 where a word or phrase is given a defined meaning in this Agreement, any other part of speech or other grammatical form in respect of such word or phrase has a corresponding meaning;
- 1.2.7 any reference to a date or time is a reference to that date or time in Malaysia;
- 1.2.8 if any period of time is specified from a given day, or the day of a given act or event, it is to be calculated exclusive of that day and if any period of time falls on a day which is not a Business Day, then that period is to be deemed to only expire on the next Business Day.

## **2. EFFECTIVE DATE**

This Agreement shall be deemed to have come into force on the Effective Date. The provisions of this Agreement shall however apply retrospectively to any Confidential Information, which may have been disclosed in connection with the Purpose prior to the Effective Date.

## **3. DUTY OF CONFIDENTIALITY**

- 3.1 In consideration of PHB agreeing to disclose Confidential Information to the Recipient, the Recipient undertakes to PHB that the Recipient shall:
  - 3.1.1 take all steps and precautions necessary to preserve the secrecy and confidentiality of the Confidential Information including preventing access and/or use of the Confidential Information by persons not authorised by this Agreement;
  - 3.1.2 use the Confidential Information only in connection with the Purpose (the “**Permitted Use**”) and shall not make any other use of such Confidential Information for any purpose other than the Permitted Use, nor sell, exchange or publish the Confidential Information or otherwise disclose the Confidential Information to anyone in any manner whatsoever unless a prior written approval had first been obtained from PHB;
  - 3.1.3 ensure proper and secure storage of all Confidential Information;
  - 3.1.4 not directly or indirectly at any time without the prior written consent of PHB and subject to Clause 3.3, disclose the Confidential Information to anyone, other than Related Persons of the Recipient and then only in confidence and only to the extent as are strictly necessary for the Purpose;

- 3.1.5 not to reverse engineer, disassemble or decompile any prototypes, software or other tangible objects which embody PHB's Confidential Information;
- 3.1.6 to refrain from copying, reproducing and reducing to writing or any other form of recording any part thereof except as may be reasonably necessary for the Purpose provided that the Recipient has obtained the prior written consent from PHB;
- 3.1.7 ensure that each person to whom Confidential Information is disclosed is fully aware of the Recipient's obligations under this Agreement and procure that each such person complies with such obligations as though such person were a party to this Agreement; and
- 3.1.8 the Recipient shall ensure that save for its respective directors and employees, all other Related Persons of the Recipient enter into a separate written non-disclosure agreement with the Recipient on terms which are no less stringent than this Agreement prior to the disclosure and receipt of any Confidential Information.

3.2 The Recipient may disclose Confidential Information to the extent required: -

- 3.2.1 by any order of any court of competent jurisdiction or any competent judicial, governmental, regulatory or supervisory body;
- 3.2.2 by the rules of any listing authority, stock exchange or any regulatory or supervisory body with which the Recipient or its Related Persons is or are bound to comply; or
- 3.2.3 by the laws or regulations with jurisdiction over the affairs of the Recipient or its Related Persons;

in which case before it discloses any Confidential Information the Recipient shall (to the extent permitted by laws or regulations) inform PHB in writing or procure that PHB is informed in writing of the full circumstances and the information required to be disclosed and consult with PHB as to possible steps to avoid or limit disclosure and take such steps as PHB may reasonably require.

3.3 Exceptions

3.3.1 Further to Clause 3.2 above, there shall be no obligation of non-disclosure and confidentiality with respect to information which: -

- (a) is in the public domain at the time of disclosure or comes into the public domain through no act of unauthorised disclosure by the Recipient; or
- (b) after such disclosure, through no fault or negligence of the Recipient, becomes generally available to third parties by publication or otherwise; or
- (c) was lawfully in the possession of the Recipient from a third party (prior to disclosure by PHB) under no obligations of confidentiality; or
- (d) is disclosed with the prior written approval of PHB.

3.4 If the Recipient or any of its Group Companies becomes aware of any announcement or any disclosure of Confidential Information which is or is reasonably likely to constitute a breach of any of the provisions of this Agreement, the Recipient shall immediately inform PHB of the full circumstances of any disclosure and, without prejudice to any rights or remedies PHB may

have, the Recipient shall take such steps as PHB may reasonably require in order to remedy or mitigate the effects of such actual or threatened breach.

- 3.5 Notwithstanding anything to the contrary contained elsewhere in this Agreement, nothing in this Agreement shall be construed as creating any obligation on the part of any Party to disclose any Confidential Information whatsoever.

#### **4. TERM AND DURATION**

- 4.1 Unless the Parties enter into a definitive agreement with regard to the Purpose, upon which Parties shall adopt terms that are no less onerous of this Agreement as part of its confidentiality provision under the definitive agreement, the Recipient's obligations under this Agreement shall survive the expiration and/or termination of this Agreement, as the case may be.

#### **5. CONSEQUENCES OF TERMINATION AND RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION**

- 5.1 Unless otherwise agreed by the Parties, upon the expiry/termination of this Agreement or where PHB so requests in writing, the Recipient shall:

- 5.1.1 return to PHB all original and copy documents containing Confidential Information;
- 5.1.2 destroy all original and copy documents containing analyses, studies, compilations and other materials derived from the Confidential Information;
- 5.1.3 permanently remove all Confidential Information from any computer, disk or other device containing Confidential Information; and
- 5.1.4 provide a written confirmation signed by the authorised representative of the Recipient confirming compliance with the obligations contained in this Clause 5.1.

- 5.2 Notwithstanding Clause 5.1, any Confidential Information retained in the Recipient's or its Related Persons' computer back-up systems shall be destroyed in accordance with the relevant person's regular ongoing retention process and the Recipient and its Related Persons may retain for corporate secretarial, good governance purposes or where required to do so by the rules of any regulatory or supervisory body with which such person is required to comply, one (1) copy of the Confidential Information, which shall remain confidential and subject to this Agreement.

#### **6. ANNOUNCEMENTS**

The Recipient further agree not to make or procure or permit another person to make any public announcement in respect of the Confidential Information without the prior written consent of PHB.

#### **7. INDEMNITY**

The Recipient agrees to indemnify and keep indemnified PHB and each of its Related Persons against any and all costs, claims, demands, losses or liabilities whatsoever arising as a direct or indirect result of any breach by the Recipient or its Related Persons of any obligations under this Agreement.

## **8. NO REPRESENTATIONS OR WARRANTIES**

- 8.1 No representation or warranty is made or given as to the accuracy or the completeness of the Confidential Information or any other information supplied or as to the reasonableness of any assumptions on which any of the same is based, and the Recipient agrees, for itself and on behalf of its Related Persons, with PHB, for itself and for each of its Related Persons, that (without prejudice to any liability for fraud) neither PHB nor any of its Related Persons shall have any liability to the Recipient or to any of its Related Persons resulting from the use of Confidential Information or any other information supplied, or for any opinions expressed by any of them, or for any errors, omissions or misstatements made by any of them in connection with the Purpose.
- 8.2 The disclosure by PHB of the Confidential Information to the Recipient is non-exclusive. PHB retains the exclusive right to sell, trade, use or otherwise make available to third parties all or any portion of the Confidential Information disclosed under this Agreement.

## **9. NO PARTNERSHIP**

Nothing in this Agreement or in any document referred to in it or any arrangement contemplated by it shall:

- (a) constitute either Party a partner of the other nor shall the execution, completion and implementation of this Agreement confer on any Party any power to bind or impose any obligations to any third parties on the other Party or to pledge the credit of the other Party; and
- (b) be construed as creating any obligation or an expectation on the part of either Party to enter into a business relationship with the other Party, or an obligation to refrain from entering into a business relationship with any third party.

## **10. NO WAIVER**

No failure by PHB in exercising any right, power or privilege hereunder shall constitute a waiver by it of any such right, power or privilege, nor shall any single or partial exercise thereof preclude any further exercise of any such right, power or privilege.

## **11. EQUITABLE REMEDIES**

Without prejudice to any other rights or remedies that any Party may have, the Recipient acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the provisions of this Agreement by the Recipient or any of its Related Persons, and that PHB shall be entitled to seek and obtain injunctive relief and any other equitable relief for any breach or threat of breach of this Agreement by the Recipient or any of Recipient's Related Persons, without prejudice to any other rights it may have and the Parties further acknowledge that the Confidential Information is valuable and unique and that disclosure in breach of this Agreement may result in irreparable injury to PHB and/or PHB's Group Companies.

## **12. PROPRIETARY RIGHTS**

The Parties recognise and agree that all Confidential Information in relation with the purpose shall at all times remain the property of PHB. The Recipient hereby acknowledges and agrees that neither it nor any of its Related Persons shall acquire, by implication or otherwise, any right, title, interest or license in or to any Confidential Information supplied by or on behalf of or relating to PHB and/or its Group Companies or to any intellectual property rights, if any, embodied in such Confidential Information.

### **13. ENTIRE AGREEMENT AND SEVERANCE**

- 13.1 Each Party confirms that this Agreement represents the entire understanding, and constitutes the whole agreement, in relation to its subject matter and supersedes any previous agreement between the Parties with respect thereto.
- 13.2 Each Party confirms that in entering into this Agreement it has not relied on any representation, warranty, assurance, covenant, indemnity, undertaking or commitment which is not expressly set out or referred to in this Agreement.
- 13.3 In the event that any part (including any sub-clause or part thereof) of this Agreement shall be void or unenforceable by reason of any applicable law, it shall be deleted and the remaining parts of this Agreement shall continue in full force and effect and if necessary, both Parties shall use their best endeavours to agree on any amendments to this Agreement necessary to give effect to the spirit of this Agreement.

### **14. COSTS AND EXPENSES**

Each Party shall bear its own costs and expenses incurred in the preparation, execution and implementation of this Agreement. The stamp duty shall be borne by the Recipient.

### **15. NO VARIATION**

No amendment or variation of this Agreement shall be effective unless it is made in writing and signed by the Parties.

### **16. LIMITATION OF LIABILITY**

Notwithstanding anything contained to the contrary in this Agreement, neither Party shall be liable to the other Party under this Agreement for or in respect of any indirect, incidental or consequential losses and/or damages arising or alleged to arise out of either Party's failure to properly carry out its obligations under this Agreement.

### **17. ASSIGNMENT**

This Agreement and the benefit of this Agreement shall not be assignable in part or in whole by either Party without the other Party's prior written consent, the consent of which shall not be unreasonably withheld or delayed.

### **18. NO LICENSE**

- 18.1 No license, whether express or implied, in the Confidential Information is granted by either Party to the other to use the Confidential Information other than in the manner and to the extent authorised by this Agreement.
- 18.2 The Recipient understands and agrees that it is not allowed to sell, develop or otherwise exploit any parts, products, services, documents or information which are embodied in whole or in part any Confidential Information, except as contemplated by this Agreement.

### **19. THIRD PARTIES**

This Agreement does not create any right enforceable by any person not a party to it.



## **20. GOVERNING LAW**

This Agreement shall be governed and construed in accordance with the laws of Malaysia and the Parties shall submit themselves to the exclusive jurisdiction of the courts of Malaysia.

## **21. ANTI-MONEY LAUNDERING, ANTI-TERRORISM FINANCING AND PROCEEDS OF UNLAWFUL ACTIVITIES ACT 2001 (ACT 613) (“AMLAFTPUAA”)**

Both Parties are prohibited to commit any illegal and unlawful activities as stipulated under the AMLAFTPUAA. Either Party has the absolute right to obtain all information required related to the other Party. Either Party has also the right to lodge a report to the relevant authorities and to extend full cooperation in order for the authorities to carry out their duties under AMLAFTPUAA. If it is found that a Party is in violation of AMLAFTPUAA, the other Party is entitled forthwith to exercise all of its rights contained herein.

## **22. ANTI-CORRUPTION, UNLAWFUL OR ILLEGAL ACTIVITIES**

- (a) Both Parties represents and warrants that it will comply with all applicable anti-corruption, anti-money laundering or other criminal laws, rules or regulations in respect of the activities contemplated by this Agreement. Both Parties also hereby represents and warrants that there is no suit or action before any court, or other proceedings or investigation pending against it and it has not been convicted by a court of law in relation to anti-corruption, anti-money laundering or other criminal laws, rules or regulations and it has not done any act or attempt to corruptly solicit or receive or agree to receive, or give, promise or offer, or agreed to give or offer, accept or obtain, or agreed to accept or attempt to obtain, any gratification from and/or to any person, which includes but not limited to, any officer of a public body or foreign public official, in connection with this Agreement as an inducement or reward for doing or forbearing to do any act or to secure any improper advantage or benefit in relation to the matters contemplated by this Agreement, either directly or indirectly through a third party, and further, both Parties represent that it will not so act in the future.
- (b) Both Parties shall not offer or give or agree to give to any employee of the other Party, any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the procurement or performance of this Agreement or for showing or forbearing to show favour or disfavour to any person or to secure any improper advantage or benefit in relation to the matters contemplated by this Agreement.
- (c) Without prejudice to any other rights of the Parties, in the event a Party is convicted by a court of law for corruption or unlawful or illegal activities in relation to this Agreement or any other agreement that the Parties may have with each other, the other Party shall be entitled to terminate this Agreement at any time by giving immediate written notice to that effect to the Party. Upon such termination, the other Party shall be entitled to all losses, costs, damages and expenses (including any incidental costs and expenses) incurred by the other Party arising from such termination.

## **23. PERSONAL DATA PROTECTION**

23.1 During the ordinary course of dealings between the Parties and in connection with the performance of this Agreement, the Parties acknowledge that they need to process Personal Data belonging to or supplied by each Party or from authorized third parties or any other persons from time to time by electronic or paper-based means.

23.2 By entering into this Agreement, the Parties expressly and explicitly acknowledge and consent to:

- (a) the processing of such Personal Data by each Party for the purpose of performance of this Agreement and for all other purposes that are necessary, incidental or related to the performance of this Agreement;
- (b) the processing of such Personal Data within and, where necessary, outside Malaysia;
- (c) the transfer and disclosure of such Personal Data to third parties authorised by each Party within and, where necessary, outside Malaysia, provided that these third parties undertake to keep such Personal Data confidential, or to any persons, authorities or regulators to whom the Parties are compelled, permitted or required under the law to disclose to.

For the purpose of this clause, "third parties" include but not limited to each Party's Group Companies, vendors, suppliers, business partners, professional advisers, agents, contractors, third party service providers, insurance companies, banks and financial institutions.

23.3 The Parties expressly and explicitly agree to process such Personal Data in accordance with the requirements of the PDPA or such other applicable data protection laws and regulations.

## **24. NOTICE**

24.1 Any notice (including any approval, consent or other communication) in connection with this Agreement shall be:

24.1.1 made in writing in the English language;

24.1.2 delivered by hand or sent by registered post or prepaid courier to the address of the addressee and marked for the attention of the person so specified, or to such other address or facsimile number, and/or marked for the attention of such other person or to the email address as the relevant Party may from time to time specify by notice given in accordance with this Clause.

The relevant details of each Party at the date of this Agreement are:

### For PHB

Address : Level 6, Block E, Dataran PHB, Saujana  
Resort, Section U2, 40150, Shah Alam,  
Selangor Darul Ehsan

Telephone No : 03-7711 3000

E-Mail Address : mohammadsaid@phb.com.my

Attention to : Mohammad Said Ismail  
Designation : Senior Manager, Investment

For the Recipient

Address :

Telephone No :

E-Mail Address :

Attention to :

Designation :

- 24.2 In the absence of evidence of earlier receipt, any notice shall take effect from the time that it is deemed to be received in accordance with Clause 24.3 below.
- 24.3 Save as otherwise expressly provided under any other provisions of this Agreement, a notice shall be deemed to have been sufficiently given or made:-
- (a) if delivered by hand, at the time of delivery and duly acknowledged;
  - (b) in the case of a letter, by registered post or prepaid courier and upon seventy-two (72) hours after posting;
  - (c) in the case of facsimile, at the time the transmission report is received by the sender which purports to confirm that the addressee has received such facsimile; and
  - (d) in the case of e-mail, at the time the e-mail is sent by the sender unless a non-delivery notice is received within one (1) day of sending the message.
- 24.4 A notice received or deemed to be received in accordance with Clauses 24.3 and 24.7 on a day, which is not a Business Day, or after 5 p.m. on any Business Day according to local time in the place of receipt, shall be deemed to be received on the next following Business Day.
- 24.5 For the purposes of this Clause 24, "Business Day" shall mean a day not being a Saturday, Sunday or gazetted public holiday in the place where the notice is received.
- 24.6 Each Party undertakes to notify the other Party by notice served in accordance with this Clause if the address specified herein is no longer an appropriate address for the service of notices and/or formal correspondence.
- 24.7 Electronic communication

Any communication to be made between any Parties under or in connection with this Agreement may be made by electronic mail or other electronic means, to the extent that the Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if the Parties:

- a) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means;
- b) notify each other of any change to their address or any other such information supplied by giving them not less than five (5) Business Days' notice; and
- c) any electronic communication made between the Parties will be effective only when it is actually received in a readable form.

**25. COUNTERPARTS**

This Agreement may be executed in counterparts all of which shall constitute one agreement binding on both Parties and shall have the same force and effect as an original instrument notwithstanding that both Parties may not be signatories to the same original or the same counterpart.

**26. TIME IS OF ESSENCE**

Time wherever mentioned in this Agreement shall be of the essence.

[End of Clauses]

**IN WITNESS WHEREOF** the Parties have hereunto set their hand the day and year first above written

For and on behalf of  
**PELABURAN HARTANAH BERHAD**  
**(Registration Number: 200601013065**  
**(732816-U))**

By : .....  
Name : .....  
Designation : .....

In the presence of : .....  
Name : .....  
Designation : .....

For and on behalf of

.....  
**(Registration Number: .....**  
.....

By : .....  
Name : .....  
Designation : .....

In the presence of : .....  
Name : .....  
Designation : .....