

Bank Islam Malaysia Berhad (“Bank Islam” or “Issuer”)

Sukuk programme of RM10.0 billion in nominal value under the Shariah principle of Murabahah (via Tawarruq arrangement(s)) for the issuance of Subordinated Sukuk Murabahah (as defined below) and Senior Sukuk Murabahah (as defined below)

Other terms and conditions

(a) Identified Assets : Shariah-compliant commodities (excluding ribawi items in the category of medium of exchange such as currency, gold and silver) (“**Commodities**”).

(b) Purchase and Selling Price : **Purchase Price**

The Purchase Price in relation to each purchase of the Commodities shall be equal to the proceeds of the relevant Sukuk Murabahah. The Purchase Price shall comply with the asset pricing requirements as stipulated under Section C of the LOLA Guidelines.

Selling Price

The Selling Price shall comprise the Purchase Price plus the aggregate Periodic Profit Payments which shall be determined based on the yield-to-maturity for the relevant Sukuk Murabahah agreed between the Issuer and the Wakil 1 (on behalf of the Sukukholders) prior to the sale of the Commodities to the Issuer to be evidenced by the issue of the relevant Sukuk Murabahah, and shall be on a deferred payment basis.

(c) Tenure of the Sukuk Murabahah : **Subordinated Sukuk Murabahah**

The tenure of each issuance of the Subordinated Sukuk Murabahah shall be not less than five (5) years from the issue date, subject to the Call Option.

Senior Sukuk Murabahah

The tenure of each issuance of the Senior Sukuk Murabahah shall be not less than one (1) year from the issue date, subject to the Call Option.

(d) Details on utilisation of proceeds by Issuer : The proceeds from the Sukuk Murabahah shall be utilised by the Issuer to finance its Islamic banking activities, working capital requirements and other corporate purposes and/or, if required, to redeem any outstanding Sukuk Murabahah issued under the Sukuk Murabahah Programme and the Issuer’s existing Subordinated Sukuk Murabahah Programme of up to RM1.0 billion.

In any case, all utilisation of proceeds under the Sukuk Murabahah Programme shall be Shariah compliant.

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- (e) Upsizing Conditions : The Issuer shall have the option to upsize the Sukuk Murabahah Programme provided that:-
- (a) Such increase will not result in any adverse impact on the rating of the Sukuk Murabahah Programme;
 - (b) The relevant requirements under the LOLA Guidelines in relation to such upsizing have been complied with; and
 - (c) The relevant regulatory approvals have been obtained (if applicable).
- No consent will be required from the Sukukholders, the Sukuk Trustee or from any other party under the Sukuk Murabahah Programme for the Issuer to exercise the option to increase the limit of the Sukuk Murabahah Programme from time to time.
- (f) Profit rate : The profit rate of the Sukuk Murabahah shall be on a fixed rate basis and shall be determined prior to the issue date of each tranche of the Sukuk Murabahah ("**Profit Rate**"). The Profit Rate shall be applicable throughout the tenure of each tranche of the Sukuk Murabahah.
- For avoidance of doubt, in the case of Subordinated Sukuk Murabahah, there is no step-up profit rate after the Call Date of the Subordinated Sukuk Murabahah, in the event the Call Option is not exercised by the Issuer or any other incentives for the Issuer to redeem the Subordinated Sukuk Murabahah prior to its maturity.
- (g) Profit payment frequency : The Sukukholders shall receive Periodic Profit Payment at the Profit Rate semi-annually in arrears ("**Periodic Profit Payment Date**") with the first payment commencing six (6) months from the issue date of the relevant tranche of the Sukuk Murabahah and the last ending on the Maturity Date or on the date of early redemption of the relevant tranche of the Sukuk Murabahah, whichever is earlier.
- (h) Profit payment basis : Actual/365 days
- (i) Yield to Maturity : To be determined prior to the issue date of each tranche of the Sukuk Murabahah
- (j) Issue Price : The Sukuk Murabahah shall be issued at par to nominal value and the issue price shall be calculated in accordance with PayNet Rules and Procedures.
- (k) Maturity Date : "**Maturity Date**" means the date specified as the maturity date on

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the Global Certificate or Definitive Certificates (as the case may be) of the Sukuk Murabahah for payment of the face value of the Sukuk Murabahah, provided that it is construed in accordance with the PayNet Rules and Procedures.

(l) Listing Status and types of listing, where applicable : The Sukuk Murabahah shall not be listed on any stock exchange.

(m) Status : **Subordinated Sukuk Murabahah**

The Issuer's obligations under the Subordinated Sukuk Murabahah will constitute direct, unconditional and unsecured obligations of the Issuer, subordinated in right and priority of payment, to the extent and in the manner provided for in the Subordinated Sukuk Murabahah, to all deposit and investment accounts liabilities and general liabilities of the Issuer except liabilities of the Issuer which by their terms rank *pari-passu* in right and priority of payment with or which are subordinated to the Subordinated Sukuk Murabahah.

The obligation of the Issuer under the Subordinated Sukuk Murabahah will, in the event of a winding-up or liquidation of the Issuer, be subordinated in right of payments to the claims of Senior Creditors (as defined below).

"**Senior Creditors**" means depositors, investment account holders and all general creditors of the Issuer other than those creditors whose claims are expressed to rank *pari passu* with or subordinated to the claims of the Subordinated Sukukholders.

Senior Sukuk Murabahah

The Issuer's obligations under the Senior Sukuk Murabahah will constitute direct, unconditional, unsubordinated and unsecured obligations of the Issuer, ranking *pari-passu* without any preference amongst themselves and *pari-passu* with all other present and future unsecured and unsubordinated obligations of the Issuer, except preferred by law.

(n) Transaction Documents : The Sukuk Murabahah shall be evidenced by, inter alia, the following ("**Transaction Documents**"):

- (i) Programme Agreement;
- (ii) Subscription Agreement;
- (iii) Commodity Murabahah Agreement;

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- (iv) Securities Lodgement Form for Central Securities Depository and Paying Agency Services;
 - (v) Trust Deed;
 - (vi) Agency Agreement 1;
 - (vii) Agency Agreement 2;
 - (viii) Form of Transaction Request;
 - (ix) Confirmation of Transactions; and
 - (x) Any other relevant documents that may be required to complete the Sukuk Murabahah as may be advised by the Solicitors and mutually agreed between the LA and the Issuer.
- (o) Taxation : All payments by the Issuer shall be made without withholding or deductions for or on account of any present or future tax, duty, or charge of whatsoever nature imposed or levied by or on behalf of the Government of Malaysia, or any other applicable jurisdictions, or any authority therein having power to tax, unless such withholding or deduction is required by law, in which event the Issuer shall be required to make such additional amount so that the payee(s) would receive the full amount which the payee would have received if no such withholding or deductions are made.
- (p) Redemption : Unless previously redeemed or purchased and cancelled, the Sukuk Murabahah shall be redeemed at the Redemption Amount on the Maturity Date.
- (q) Partial Redemption : In the case of partial redemption of a tranche of the Sukuk Murabahah, the selection of the Sukuk Murabahah to be redeemed shall be made by the Sukuk Trustee on a pro rata basis, by lot or by such other method as the Sukuk Trustee (with the agreement of the Issuer) shall deem to be fair and appropriate, although no Sukuk Murabahah of RM10,000,000 in original nominal value or less shall be redeemed in part.
- (r) Sukuk Trustee’s Reimbursement Account : The Sukuk Trustee shall open and maintain, throughout the tenure of the Sukuk Murabahah, a Shariah-compliant account to be named the "Sukuk Trustee's Reimbursement Account for Sukukholders' Actions" ("**Sukuk Trustee's Reimbursement Account**") with a bank which is acceptable to the Issuer with a sum of Ringgit Malaysia Thirty Thousand (RM30,000.00).

The Sukuk Trustee's Reimbursement Account shall be operated solely by the Sukuk Trustee and the money shall be used strictly by the Sukuk Trustee in carrying out its duties in relation to the declaration of an Enforcement Event/Event of Default in the manner as provided in the Trust Deed.

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The moneys in the Sukuk Trustee's Reimbursement Account may be invested in Shariah compliant bank deposits or Shariah compliant instruments or securities in the manner as provided in the Trust Deed, with profit from the investment to be accrued to the Issuer. The moneys in the Sukuk Trustee's Reimbursement Account shall be returned to the Issuer upon full redemption of the Sukuk Murabahah in the event there is no declaration of an Enforcement Event/Event of Default.

- (s) Material Adverse Effect : **“Material Adverse Effect”** means the occurrence of any event which in the reasonable opinion of the Sukukholders materially and adversely affects the ability of the Issuer to perform any of its obligations under any of the Transaction Documents or which materially and adversely affects the business, financial position, shareholders' funds or results of the operations of the Issuer.
- (t) Non-Viability Event (applicable to the Subordinated Sukuk Murabahah only) : **“Non-Viability Event”** means the earlier to occur of the following:
- (i) BNM, jointly with the Malaysia Deposit Insurance Corporation (“PIDM”), notify the Issuer in writing that BNM, jointly with PIDM, are of the opinion that a write-off of the Subordinated Sukuk Murabahah is necessary, without which the Issuer or BHB group (if the Consolidated Capital Recognition Option has been adopted in respect of any tranche of the Subordinated Sukuk Murabahah) would cease to be viable; or
 - (ii) BNM, jointly with PIDM, publicly announce that a decision has been made by BNM, PIDM, or any other federal or state government in Malaysia, to provide a capital injection or equivalent support to the Issuer, without which the Issuer or BHB group (if the Consolidated Capital Recognition Option has been adopted in respect of any tranche of the Subordinated Sukuk Murabahah) would cease to be viable.

A Non-Viability Event shall be deemed to have occurred on the day on which the Issuer receives the relevant notification from, or the relevant public announcement is made by, BNM, jointly with PIDM.

- (u) Non-viability Loss Absorption (applicable to the Subordinated Sukuk Murabahah only) : Upon the occurrence of a Non-Viability Event, BNM, jointly with PIDM, shall have the option to require the entire or part of the nominal value of the outstanding Subordinated Sukuk Murabahah, and all other amounts owing under the Subordinated Sukuk Murabahah, to be written off. If BNM, jointly with PIDM, elects to exercise such option, the Issuer is required to give written notice to

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the Subordinated Sukukholders and the rating agency in accordance with the terms of the Subordinated Sukuk Murabahah and each of the Subordinated Sukukholders, via the Sukuk Trustee, agrees that, as of the relevant write-off date, the write-off shall extinguish the claim of the Subordinated Sukuk Murabahah by the Subordinated Sukukholders in liquidation, in which case the Subordinated Sukukholders will irrevocably waive their right to receive, and no longer have any rights against the Issuer with respect to, payment of the aggregate nominal value of the relevant Subordinated Sukuk Murabahah written-off, the amount paid when a Call Option is exercised and the Periodic Profit Payments on the relevant Subordinated Sukuk Murabahah written-off.

The write-off shall be permanent and the full nominal value of the Subordinated Sukuk Murabahah together with all unpaid Periodic Profit Payments thereon that are or would be payable on the Maturity Date, or on the date of declaration of an Enforcement Event or on the date of early redemption pursuant to the Early Redemption Events for Subordinated Sukuk Murabahah, will automatically be written-off and such Subordinated Sukuk Murabahah and all unpaid Periodic Profit Payments will be immediately and fully cancelled as of such write-off date.

For the avoidance of doubt, (i) BNM, jointly with PIDM, shall have full discretion to require or not to require a write-off upon the occurrence of a Non-Viability Event; (ii) the write-off of the respective Subordinated Sukuk Murabahah shall not constitute an Enforcement Event, Event of Default (in the case of Senior Sukuk Murabahah) or trigger any cross-default clauses; and (iii) the requirement for a write-off following the occurrence of a Non-Viability Event involving BHB group shall only apply to such tranche of the Subordinated Sukuk Murabahah in respect of which the Consolidated Capital Recognition Option has been adopted and shall not apply to other tranches of the Subordinated Sukuk Murabahah in respect of which the Consolidated Capital Recognition Option has not been adopted.

In the event that part of the nominal value of the outstanding Subordinated Sukuk Murabahah is written off, the remaining Subordinated Sukuk Murabahah not written-off shall remain outstanding until maturity and would still be considered as Tier 2 capital subject to compliance with the criteria under the CAFIB. Any write-off of the Subordinated Sukuk Murabahah shall not constitute an Enforcement Event under the Subordinated Sukuk Murabahah.

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No Conversion into Equity

For avoidance of doubt, the Subordinated Sukuk Murabahah shall under no circumstances be converted into equity of the Issuer and the Subordinated Sukukholders will have to absorb losses pursuant to the terms specified herein.

- (v) Early Redemption Conditions of the Subordinated Sukuk Murabahah : **"Early Redemption Conditions of the Subordinated Sukuk Murabahah"** means:-
- (i) The Issuer must have received a written approval from BNM prior to redemption of any tranche of the Subordinated Sukuk Murabahah;
 - (ii) The Issuer is solvent at the time of redemption of such tranche of the Subordinated Sukuk Murabahah and immediately thereafter;
 - (iii) The Issuer is not in breach of BNM's minimum capital adequacy requirements and capital buffer requirements applicable to the Issuer after redemption of such tranche of the Subordinated Sukuk Murabahah; and
 - (iv) In respect of a Call Option only, the Issuer shall:-
 - (a) Replace the called tranche of the Subordinated Sukuk Murabahah with capital of the same or better quality and the replacement of this capital shall be done at conditions which are sustainable for the income capacity of the Issuer; or
 - (b) Demonstrate that its capital position is well above the minimum capital adequacy requirements and capital buffer requirements as outlined in CAFIB after the tranche of the Subordinated Sukuk Murabahah is called.
- (w) Redemption Amount : **"Redemption Amount"** means Selling Price of the relevant Sukuk Murabahah less the aggregate of Periodic Profit Payments paid (if any) in respect of such Sukuk Murabahah less Ibra' (if any).

The Redemption Amount payable by the Issuer on the Maturity Date, or on the date of declaration of an Enforcement Event/Event of Default or on the date of early redemption pursuant to the Early Redemption Events, is an amount as determined by the Facility Agent, which shall be calculated in accordance with the above formula.

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- (x) Rights to participate in profits and assets : The Sukukholders shall have no right or claim and shall not be conferred any right or claim as regards to participation in the profits and assets of the Issuer.
- (y) Voting rights : Sukukholders shall not be entitled to receive notice of or attend or vote at any meeting of the ordinary shareholders of the Issuer or participate in the management of the Issuer. No company-shareholder relationship is intended or has been contemplated between the Issuer and the Sukukholders and as such the relationship between the Issuer and the Sukukholders shall not be governed by the Memorandum and Articles of Association of the Issuer.
- (z) No payment of interest : For the avoidance of doubt and notwithstanding any other provision to the contrary herein, it is hereby agreed and declared that nothing in these principal terms and conditions and the Transaction Documents shall oblige or entitle any party nor shall any party pay or receive or recover interest on any amount due or payable to another party pursuant to the principal terms and conditions or the Transaction Documents and the parties hereby expressly waive and reject any entitlement to recover such interest.
- (aa) Other Conditions : The Sukuk Murabahah Programme shall at all times be governed by the guidelines issued and to be issued from time to time by the SC, BNM and PayNet having jurisdiction over matters pertaining to the Sukuk Murabahah Programme.