

33. Other terms and conditions :

(a) Utilisation of proceeds : The proceeds from the issuance of the Sukuk Musharakah shall be utilised by the Issuer and/or its subsidiaries, associated companies and/or jointly controlled entities ("**IJM Land Group**") to refinance its existing financing/debt obligations (whether in whole or in part), repayment of intercompany borrowings, and/or to finance working capital requirements, investments, capital expenditure and/or its general corporate purposes (which shall include, without limitation, the payment of fees, costs and expenses relating to the Perpetual Sukuk Programme). In any case, all utilisation of proceeds raised under the Sukuk Musharakah shall be Shariah-compliant.

(b) Upsizing of a sukuk programme : The Issuer has the option to upsize the limit of the Perpetual Sukuk Programme at any time and from time to time subject to the following being fulfilled prior to the exercise of the option to upsize by the Issuer:

- (i) where relevant, the consents from existing financiers/lenders of the Issuer being obtained;
- (ii) the compliance with the relevant requirements under Part 3 of the LOLA Guidelines;
- (iii) confirmation from the Rating Agency that the prevailing rating of the Perpetual Sukuk Programme will not be adversely affected upon the implementation of such upsizing; and
- (iv) the necessary corporate authorisations of the Issuer being obtained,

and the Sukukholders shall be deemed to have consented to such upsizing of the limit of the Perpetual Sukuk Programme in the Trust Deed. No consent is required from the Sukuk Trustee, the Facility Agent and any other party under the Perpetual Sukuk Programme when the upsizing of the limit of Perpetual Sukuk Programme is exercised by the Issuer.

(c) Status : (A) Status of the Sukuk Musharakah

The Sukuk Musharakah shall constitute direct, unsecured, unconditional and subordinated obligations of the Issuer under the laws of Malaysia and shall at all times rank as follows:

- (i) below all present and future creditors of the Issuer;
- (ii) pari passu with the Parity Obligations (as defined below); and
- (iii) above the Junior Obligations (as defined below).

Upon the declaration of an Enforcement Event, the payment obligations of the Issuer under the Sukuk Musharakah shall rank ahead of the holders of Junior Obligations of the Issuer and rank junior to the claims of all other present and future creditors of the Issuer (other than Parity Obligations of the Issuer).

(B) Status of the Subordinated Guarantee

The payment obligations of the Kafalah Provider under the Subordinated Guarantee shall constitute direct, unsecured, unconditional and subordinated obligations of the Kafalah Provider under the laws of Malaysia and shall at all times rank as follows:

- (i) below all present and future creditors of the Kafalah Provider;
- (ii) *pari passu* with the Parity Obligations of the Kafalah Provider (as defined below); and
- (iii) above the Junior Obligations of the Kafalah Provider (as defined below).

Upon the declaration of an Enforcement Event, the payment obligations of the Kafalah Provider under the Subordinated Guarantee shall rank ahead of the holders of Junior Obligations of the Kafalah Provider and rank junior to the claims of all other present and future creditors of the Kafalah Provider (other than Parity Obligations of the Kafalah Provider).

Definitions:

**"Junior Obligations"** means any class of the Issuer's or Kafalah Provider's (as the case may be) share capital including, without limitation, any ordinary shares and preference shares in the capital of the Issuer or the Kafalah Provider, as the case may be, and any other instruments or securities issued, entered into or guaranteed by the Issuer or the Kafalah Provider (as the case may be) whether by its terms or by operation of law, which are subordinated to the Sukuk Musharakah or Subordinated Guarantee (as the case may be).

**"Parity Obligations"** means any instrument or security (other than ordinary shares or preference shares) issued, entered into or guaranteed by the Issuer or the Kafalah Provider (as the case may be) that is expressed to rank, whether by its terms or by operation or law, *pari passu* with the Sukuk Musharakah or Subordinated Guarantee (as the case may be).

(d) Periodic Distribution : The expected profit rate per annum (**"Periodic**

Rate

**Distribution Rate**") for each tranche of the Sukuk Musharakah, which may include reset of benchmark on specific intervals, shall be determined prior to each issuance of the Sukuk Musharakah, subject to the Stepped-Up Distribution Rate under the section entitled *Other terms and conditions – Stepped-Up Distribution Rate and Change of Control Stepped Up* below.

If the Sukuk Musharakah are not redeemed by the First Call Date (as defined below), the Periodic Distribution Rate shall be stepped-up to the Stepped Up Distribution Rate.

**"First Call Date"** for each relevant tranche of the Sukuk Musharakah shall be determined prior to each issue date and First Call Date refers to the date where the Optional Redemption may first be exercised by the Issuer. The First Call Date for each tranche of the Sukuk Musharakah shall be no earlier than the 7<sup>th</sup> anniversary from the Issue Date.

For avoidance of doubt, the Periodic Distribution Rate will be on fixed basis.

- (e) Periodic Distribution Frequency : The Issuer shall pay the Expected Periodic Distribution Amount on semi-annual basis, or such other period to be agreed, in arrears from the issue date (each a **"Periodic Distribution Date"**), subject to the Optional Deferral of Distribution as set out below in the section entitled *Other terms and conditions – Optional Deferral of Distribution* .
- (f) Periodic Distribution Basis : Actual/365 days.
- (g) Intention to Replace : It is the intention of the Issuer, from the issue date of the first tranche of Sukuk Musharakah (**"First Issue Date"**) until thirty (30) years after the First Issue Date, that:
- a) the Issuer maintains the relevant Sukuk Musharakah (or such other instrument that is of the same ranking or junior to such Sukuk Musharakah that provides at least the equivalent equity credit) in its capital structure; and
  - b) any redemption pursuant to any of the Redemption Events or purchase of the relevant Sukuk Musharakah will be refinanced with such other instrument that is of the same ranking or junior to such Sukuk Musharakah that provides at least the equivalent equity credit.
- (h) Stepped-Up Distribution Rate and Change of Control Stepped Up : (a) Stepped-Up Distribution Rate:  
The rate(s) to be determined prior to the issuance of each relevant tranche of the Sukuk Musharakah, which shall be

of a certain percentage above the prevailing Periodic Distribution Rate of the Sukuk Musharakah, commencing from the Stepped-Up Distribution Date, calculated based on the Periodic Distribution Basis. Such Stepped-Up Distribution Rate shall be capped at one percent (1.0 %).

**"Stepped-Up Distribution Date"** means the date(s) where such applicable Stepped-Up Distribution Rate applies to the Periodic Distribution Rate, as determined prior to the issuance of the Sukuk Musharakah. For the avoidance of doubt, the Stepped-up Distribution Date for all issuances shall be the periodic distribution date falling seven (7) years or more after the applicable issue date.

(b) Change of Control Stepped Up

In the event that a Change of Control (as defined in the section entitled *Other terms and conditions – Change of Control* below) has occurred, and if the Issuer does not elect to redeem the Sukuk Musharakah within 30 days of the occurrence of such Change of Control in accordance with the section entitled *Other terms and conditions – Change of Control Redemption* below, then the prevailing Periodic Distribution Rate shall be increased by three (3) per cent per annum with effect from (and including) the expiry of the 30 days of the occurrence of such Change of Control.

(i) Optional Deferral of Distribution

: The Issuer at its sole discretion, may opt to defer payment (in whole or in part) of the Expected Periodic Distribution Amount which is otherwise scheduled to be paid on a Periodic Distribution Date, to the next Periodic Distribution Date by giving an optional deferral notice in writing ("**Optional Deferral Notice**") signed by the Issuer not more than fifteen (15) nor less than five (5) business days prior to the relevant Periodic Distribution Date, to the Facility Agent and the Sukuk Trustee (for and on behalf of the Sukukholders), provided that no Issuer's Compulsory Periodic Distribution Payment Event AND no Kafalah Provider's Compulsory Periodic Distribution Payment Event has occurred.

The Issuer may at its sole discretion, elect to further defer any outstanding Arrears of Deferred Periodic Distribution by complying with the foregoing notice requirement. The Issuer is not subject to any limit as to the number of times the Expected Periodic Distribution Amount and the Arrears of Deferred Periodic Distribution can be deferred except that the provisions on the Dividend and Capital Stopper shall be complied with until all outstanding Arrears of Deferred Periodic Distribution have been paid in full.

For this purpose, each Optional Deferral Notice shall be accompanied by a certificate signed by a director and the

company secretary OR a director and an authorised signatory OR two authorised signatories, as the case may be, of the Issuer and Kafalah Provider, confirming that no Issuer's Compulsory Periodic Distribution Payment Event and no Kafalah Provider's Compulsory Periodic Distribution Payment Event has occurred. Any such certificate shall be conclusive evidence that no Issuer's Compulsory Periodic Distribution Payment Event and no Kafalah Provider's Compulsory Periodic Distribution Payment Event has occurred and the Facility Agent and the Sukuk Trustee shall be entitled to rely without any obligation to verify the same and without liability to any Sukukholder or any other person on any such Optional Deferral Notice or any certificate as aforementioned. Each Optional Deferral Notice shall be conclusive and binding on the Sukukholders.

#### Payment of the Arrears of Deferred Periodic Distribution

The Issuer may satisfy any Arrears of Deferred Periodic Distribution (in whole or in part) at any time calculated up to the date of payment of such Arrears of Deferred Periodic Distribution by giving notice of such election to the Facility Agent and the Sukuk Trustee (for and on behalf of the Sukukholders) not less than five (5) business days prior to the relevant payment date specified in such notice (which notice is irrevocable and shall oblige the Issuer to pay the relevant Arrears of Deferred Periodic Distribution on the payment date specified in such notice).

In any event the Issuer shall satisfy any outstanding Arrears of Deferred Periodic Distribution (in whole but not in part) on the earliest of:

- (a) the date of redemption of the Sukuk Musharakah pursuant to any Redemption Event;
- (b) within fifteen (15) days after the occurrence of a breach of the Dividend and Capital Stopper (as defined below); and
- (c) the date such amounts becomes due under an Enforcement Event.

Any partial payment of outstanding Arrears of Deferred Periodic Distribution by the Issuer shall be shared by the Sukukholders on a pro-rata basis.

The deferral of any Expected Periodic Distribution Amount payment or any Arrears of Deferred Periodic Distribution payment in accordance with this paragraph shall not constitute a dissolution event or an Enforcement Event for any purpose.

- (j) Issuer's Compulsory Periodic Distribution Payment Event : If, during the six (6) month period ending on the day before the relevant scheduled Periodic Distribution Date, either or both of the following have occurred:
- (a) a dividend, distribution or other payment has been declared or paid by the Issuer in respect of any of the Issuer's Junior Obligations, or Parity Obligations (except on a pro-rata basis with the Sukuk Musharakah); and
  - (b) the Issuer's Junior Obligations, or Parity Obligations (except on a pro-rata basis with the Sukuk Musharakah) have been purchased, redeemed, reduced, cancelled, bought-back or acquired by the Issuer,
- an Issuer's Compulsory Periodic Distribution Payment Event shall have occurred.
- (k) Kafalah Provider's Compulsory Periodic Distribution Payment Event : If, during the six (6) month period ending on the day before the relevant scheduled Periodic Distribution Date, either or both of the following have occurred:
- (a) a dividend, distribution or other payment has been declared or paid by the Kafalah Provider in respect of any of the Kafalah Provider's Junior Obligations, or Parity Obligations (except on a pro-rata basis with the Sukuk Musharakah); and
  - (b) the Kafalah Provider's Junior Obligations, or Parity Obligations (except on a pro-rata basis with the Sukuk Musharakah) have been purchased, redeemed, reduced, cancelled, bought-back or acquired by the Kafalah Provider,
- a Kafalah Provider's Compulsory Periodic Distribution Payment Event shall have occurred.
- (l) Dividend and Capital Stopper : So long as (a) any Expected Periodic Distribution Amount has been deferred and any Arrears of Deferred Periodic Distribution is outstanding, or (b) where: a final and effective order is made or an effective resolution is passed for the liquidation, winding-up or dissolution of the Issuer (i.e. Issuer's Winding Up Event), the Issuer and the Kafalah Provider shall not:
- (1) declare or pay any dividends, distributions or other payments on, and will procure that no dividend, distribution or other payment is made on any of its Junior Obligations, or its Parity Obligations (except on a pro-rata basis with the Sukuk Musharakah); or
  - (2) redeem, reduce, cancel, or acquire and will procure that no redemption, reduction, cancellation, or acquisition is made in respect of any of its Junior

Obligations, or its Parity Obligations (except on a pro-rata basis with the Sukuk Musharakah),

Until, in the case of (a) above, all Expected Periodic Distribution Amount due and payable, and any outstanding Arrears of Deferred Periodic Distribution has been paid in full; and in the case of (b) above, the completion of the issuance of Replacement Perpetual Sukuk

- (m) Dividend and Capital Pusher : The payment by the Issuer or the Kafalah Provider, as the case may be, of any Arrears of Deferred Periodic Distribution (if any) will become due and payable within fifteen (15) days from any of the following date:
- (1) if the Issuer or the Kafalah Provider, as the case may be, has on such date declared or paid any dividends, distributions or other payments on any of its Junior Obligations, or its Parity Obligations (except on a pro-rata basis with Sukuk Musharakah); or
  - (2) if the Issuer or the Kafalah Provider, as the case may be has on such date redeemed, reduced, cancelled, or acquired any of its Junior Obligations, or its Parity Obligations (except on a pro-rata basis with Sukuk Musharakah).
- (n) Optional Redemption : The Issuer may, at its sole discretion, redeem at par, all (and not some only) of the Sukuk Musharakah at the relevant Exercise Price on the First Call Date or any Call Date thereafter.
- The Issuer shall give not less than thirty (30) days and not more than sixty (60) days prior written notice (which notice shall be irrevocable) to the Facility Agent and the Sukuk Trustee (for and on behalf of the Sukukholders) for the Optional Redemption.
- "Call Date"** means the First Call Date and each Periodic Distribution Date thereafter.
- (o) Accounting Event : If as a result of any changes or amendments to the Malaysian Financial Reporting Standards ("**MFRS**") in Malaysia or any other accounting standards that may replace MFRS for the purposes of the Issuer's consolidated financial statements ("**Relevant Accounting Standard**"), the Sukuk Musharakah are no longer recorded, or will no longer be recorded entirely as "equity" pursuant to the Relevant Accounting Standard, an Accounting Event shall have occurred.
- (p) Accounting Event Redemption : If at any time an Accounting Event has occurred and is continuing and the Issuer may elect to deliver to the

Facility Agent and the Sukuk Trustee: -

- (i) a certified true copy of the opinion issued by the independent auditor of the Issuer opining that an Accounting Event has occurred; and
- (ii) a certificate signed by a director and the company secretary OR a director and an authorised signatory OR two authorised signatories, as the case may be, of the Issuer stating that the Issuer is entitled to effect the Accounting Event Redemption and setting forth a statement of facts showing that an Accounting Event has occurred,

And thereafter the Issuer may at its sole discretion, redeem the Sukuk Musharakah (in whole, but not in part) at the relevant Exercise Price.

The Issuer shall give not less than thirty (30) days' and not more than sixty (60) days' prior written notice (which notice shall be irrevocable) to the Facility Agent and the Sukuk Trustee (for and on behalf of the Sukukholders) for the Accounting Event Redemption.

(q) Tax Event

: If:-

- (a) the Issuer has or will become obliged to pay additional amounts of tax ("**Additional Amounts**") or increase the payment of such Additional Amounts; or
- (b) the Expected Periodic Distribution Amount made by the Issuer would not in the immediately following Periodic Distribution Date be fully tax deductible by the Issuer for Malaysian income tax purposes,

as a result of:-

- (i) any change in, or amendment to, the laws (or any regulations, rulings or other administrative pronouncements of Malaysia) or any political subdivision or any authority thereof or therein having power to tax, or
- (ii) any change in the application or official interpretation of such laws, regulations, rulings or other administrative pronouncements,

which change or amendment is made public on or after the issue date of the relevant Sukuk Musharakah; and such obligations cannot be avoided by the Issuer taking reasonable measures available to it, then a Tax Event shall have occurred.

(r) Tax Event Redemption

: If at any time a Tax Event has occurred and is continuing and the Issuer may elect to deliver to the Facility Agent



and the Sukuk Trustee: -

- (i) a certified true copy of the opinion issued by an independent tax adviser of reputable standing opining that a Tax Event has occurred; and
- (ii) a certificate signed by a director and the company secretary OR a director and an authorised signatory OR two authorised signatories, as the case may be, of the Issuer stating that the Issuer is entitled to effect the Tax Event Redemption and setting forth a statement of facts showing that a Tax Event has occurred,

And thereafter the Issuer may, at its sole discretion, redeem the relevant Sukuk Musharakah (in whole, but not in part) at the relevant Exercise Price.

The Issuer shall give not less than thirty (30) days' and not more than sixty (60) days' prior written notice (which notice shall be irrevocable) to the Facility Agent and the Sukuk Trustee (for and on behalf of the Sukukholders) for the Tax Event Redemption provided that no such notice shall be given earlier than ninety (90) days prior to the earliest date on which the Issuer would be obliged to pay such Additional Amounts.

(s) Rating Event : If, as a result of any amendment, clarification or change in the rating methodology by the Rating Agency that results in a lower equity credit for the relevant tranche of the Sukuk Musharakah, as compared to the equity credit which was first assigned on the relevant issue date by the Rating Agency or, if equity credit is not assigned for the relevant tranche of the Sukuk Musharakah on the relevant issue date, at the date when equity credit is assigned for the first time, a Rating Event shall be deemed to have occurred.

(t) Rating Event Redemption : If at any time a Rating Event has occurred and is continuing and the Issuer may elect to deliver to the Facility Agent and the Sukuk Trustee: -

- (i) a written confirmation that a Rating Event has occurred issued by the Rating Agency; and
- (ii) a certificate signed by a director and the company secretary OR a director and an authorised signatory OR two authorised signatories, as the case may be, of the Issuer stating that the Issuer is entitled to effect the Rating Event Redemption,

And thereafter the Issuer may, at its sole discretion, redeem the relevant Sukuk Musharakah (in whole, but not in part) at the Exercise Price.

The Issuer shall give not less than thirty (30) days' and not more than sixty (60) days' prior written notice (which notice shall be irrevocable) to the Sukuk Trustee (for and on behalf of the Sukukholders) for the Rating Event Redemption.

(u) Change of Control : Means IJM Corp cease to hold more than fifty per cent (50%) of voting shares in IJM Land or when IJM Land cease to be a subsidiary of IJM Corp, through disposal, restructuring, transfer or otherwise ("**Change of Control Event**").

(v) Change of Control Redemption : The Sukuk Musharakah may be redeemed, in whole but not in part, at the Issuer's option, upon giving not more than sixty (60) days nor less than thirty (30) days' notice (of which such notice shall be irrevocable) to the Sukukholders following the occurrence of a Change of Control Event.

(w) Exercise Price : Exercise Price in relation to the Purchase Undertaking

In relation to the Purchase Undertaking pursuant to the following events, the Exercise Price is calculated as follows:

**(1) Enforcement Event**

The Exercise Price shall be equal to:

- (a) the nominal value of the Sukuk Musharakah; plus
- (b) any Expected Periodic Distribution Amount payable and unpaid up to the date of winding-up of the Issuer (including any Arrears of Deferred Periodic Distribution and any Additional Periodic Distribution Amount); plus
- (c) any Liquidity Facility.

IJM Land as the Purchase Undertaking Obligor is entitled to set-off the Exercise Price with any Liquidity Facility to be repaid to IJM Land as the Manager.

**(2) Deferral Dissolution / Non-payment of the Expected Periodic Distribution Amount**

The Exercise Price shall be equal to:

- (a) the nominal value of the Sukuk Musharakah;

plus

- (b) any Expected Periodic Distribution Amount payable and unpaid up to the date of dissolution (including any Arrears of Deferred Periodic Distribution and any Additional Periodic Distribution Amount).

The Manager is authorised by the Sukukholders to apply such part or all of the Exercise Price towards investment in a new Musharakah Venture for and on behalf of the Sukukholders as capital contribution from the Sukukholders to the new Musharakah Venture.

The book entries associated with the dissolution of the Musharakah Venture and investment into a new Musharakah Venture shall be made in the books of the Issuer. For avoidance of doubt, (i) a dissolution of the Musharakah Venture in this manner will not result in redemption of the Sukuk Musharakah and (ii) any investment into a new Musharakah Venture shall not increase the nominal value of the relevant Sukuk Musharakah.

#### Exercise Price in relation to the Sale Undertaking

In relation to the Sale Undertaking pursuant to the following events, the Exercise Price is calculated as follows:

#### **(1) Optional Redemption and Change of Control Redemption**

The Exercise Price shall be equal to:

- (a) the nominal value of the Sukuk Musharakah;  
plus
- (b) any Expected Periodic Distribution Amount payable and unpaid up to the date of full redemption (including any Arrears of Deferred Periodic Distribution and any Additional Periodic Distribution Amount); plus
- (c) any Liquidity Facility.

IJM Land as the Issuer, is entitled to set off the Exercise Price with any Liquidity Facility to be repaid to IJM Land as the Manager.

#### **(2) Redemption Event (other than Optional Redemption and Change of Control Redemption)**

Prior to the First Call Date

The Exercise Price shall be equal to:

- (a) the higher of (a) the nominal value of all outstanding Sukuk Musharakah or (b) the Make-Whole Amount (as defined below); plus
- (b) any Expected Periodic Distribution Amount payable and unpaid up to the date fixed for redemption (including any Arrears of Deferred Periodic Distribution and any Additional Periodic Distribution Amount); plus
- (c) any Liquidity Facility.

IJM Land as the Issuer, is entitled to set off the Exercise Price with any Liquidity Facility to be repaid to IJM Land as the Manager.

On or after the First Call Date

The Exercise Price shall be equal to:

- (a) the nominal value of the Sukuk Musharakah; plus
- (b) any Expected Periodic Distribution Amount payable and unpaid up to the date fixed for redemption (including any Arrears of Deferred Periodic Distribution and any Additional Periodic Distribution Amount); plus
- (c) any Liquidity Facility.

IJM Land as the Issuer, is entitled to set off the Exercise Price with any Liquidity Facility to be repaid to IJM Land as the Manager.

**"Make-Whole Amount"** means the amount, equal to the sum of (a) the present value of the nominal value of the outstanding Sukuk Musharakah to be redeemed discounted from the First Call Date to the redemption date, and (b) the present value of all Expected Periodic Distribution Amount payable from the redemption date up to and including, the First Call Date, discounted to the redemption date on a semi-annual basis (assuming a 365 day year) at the relevant discount rate being the Relevant MGS Rate plus the relevant margin to be agreed between the Issuer and the PA/LA prior to the issue date of the relevant series of Sukuk Musharakah.

**"Relevant MGS Rate"** means the rate in per cent per annum equal to the relevant Malaysian Government Securities ("**MGS**") rate for a tenure corresponding to the period between the relevant redemption date up to the First Call Date, or in the absence of such MGS rate, the interpolated rate based on the arithmetic mean of the 2 available closest MGS rates corresponding to the period between the relevant redemption date up to the First Call Date.

(x) Issue Price : The Sukuk Musharakah shall be issued at par, at a premium or at a discount to the nominal value (to be determined prior to each issuance) and the Issue Price shall be calculated in accordance with PayNet Procedures and Rules (as defined below).

(y) Form and denomination : **Form**

The Sukuk Musharakah shall be issued in accordance with the:

- (1) Operational Procedures for Securities Services and Operational Procedures for Ringgit Settlement in the Real Time Electronic Transfer of Funds and Securities System issued by PayNet or its successor-in-title or successor in such capacity ("**PayNet Procedures**"); and
- (2) Participation and Operation Rules for Payment and Securities Services issued by PayNet or its successor-in-title or successor in such capacity ("**PayNet Rules**") (PayNet Procedures and PayNet Rules are collectively referred to as "**PayNet Procedures and Rules**" as amended and/or substituted from time to time).

The Sukuk Musharakah shall be represented by a global certificate (exchangeable for definitive certificates on the occurrence of certain limited events). The global certificate shall be deposited with BNM and shall be in bearer form.

### **Denomination**

The denomination of the Sukuk Musharakah shall be Ringgit Malaysia One Thousand (RM1,000.00) or in multiples of Ringgit Malaysia One Thousand (RM1,000.00) thereof or such other denominations to be mutually agreed by the Issuer and the LA as may be allowed under the PayNet Procedures and Rules at the time of issuance.

(z) Taxation : All payments by the Issuer and/or the Kafalah Provider 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 Malaysia, or any other applicable jurisdictions, or any authority thereof or therein having power to tax, unless such withholding or deduction is required by law, in which event the payer shall be required to make such additional amount so that the payee would receive the full amount which the payee would have received if no such withholding or deductions are made.

(aa) Transaction Documents

: The Transaction Documents shall include the following:

- (1) the Programme Agreement;
- (2) the Trust Deed;
- (3) the Subordinated Guarantee;
- (4) the Securities Lodgement Form;
- (5) the Subscription Agreement;
- (6) the relevant Islamic documents; and
- (7) such other agreements as may be advised by the Solicitor.

(bb) No Set-off

: Subject to applicable law, no Sukukholder may exercise, claim or plead any right of set-off, deduction, withholding or retention in respect of any amount owed to it by the Issuer in respect of, or arising under or in connection with the Sukuk Musharakah, and each Sukukholder shall, by virtue of its holding of any Sukuk Musharakah, be deemed to have waived all such rights of set-off, deduction, withholding or retention against the Issuer. Notwithstanding the above, if any of the amounts due and payable to any Sukukholder by the Issuer in respect of, or arising under or in connection with the Sukuk Musharakah is discharged by set-off, such Sukukholder shall, subject to applicable law, immediately pay an amount equal to the amount of such discharge to the Issuer (or, in the event of its winding-up or administration, the liquidator or as appropriate, administrator of the Issuer) and, until such time as payment is made, shall hold such amount in trust for the Issuer (or the liquidator or as appropriate, administrator of the Issuer) and accordingly any such discharge shall be deemed not to have taken place.

(cc) Positive covenants in respect of the Kafalah Provider

: To include but not limited to the following:

- (1) the Kafalah Provider shall maintain in full force and effect all relevant authorisations, consents, rights, licences, approvals and permits (governmental and otherwise) and will promptly obtain any further

authorisations, consents, rights, licences, approvals and permits (governmental and otherwise) which is or may become necessary to enable it to own its assets, to carry on its business or for the Kafalah Provider to enter into or perform its obligations under the Transaction Documents or to ensure the validity, enforceability, admissibility in evidence of the obligations of the Kafalah Provider or the priority or rights of the Sukukholders under the Transaction Documents and the Kafalah Provider shall comply with the same;

- (2) the Kafalah Provider shall execute all such further documents and do all such further acts reasonably necessary at any time or times to give effect to the terms and conditions of the Transaction Documents;
- (3) the Kafalah Provider shall exercise reasonable diligence in carrying out its business and affairs in a proper and efficient manner and in accordance with sound financial and commercial standards and practices;
- (4) the Kafalah Provider shall promptly perform and carry out all its obligations under all the Transaction Documents to which it is a party (including but not limited to payment of amounts due under the Sukuk Musharakah on the relevant dates on which such amounts are due and payable, subject to the Optional Deferral of Distribution as defined in the section entitled *Other terms and conditions – Optional Deferral of Distribution*) and ensure that it shall immediately notify the Sukuk Trustee in the event that the Kafalah Provider is unable to fulfil or comply with any of the provisions of the Transaction Documents to which it is a party;
- (5) the Kafalah Provider shall prepare its financial statements on a basis consistently applied in accordance with approved accounting standards in Malaysia and those financial statements shall give a true and fair view of the results of the operations of the Kafalah Provider for the period to which the financial statements are made up in line with the approved accounting standard;
- (6) the Kafalah Provider shall promptly comply with all applicable laws including the provisions of the CMSA and/or the notes, circulars, conditions or guidelines issued by the SC from time to time;
- (7) the Kafalah Provider shall keep proper books and accounts at all times and in the event of a breach of the Kafalah Provider's covenants, obligations or

undertakings under the Perpetual Sukuk Programme or upon the occurrence of an Enforcement Event, to provide the Sukuk Trustee and any person appointed by it (e.g. auditors) access to such books and accounts to the extent permitted by law with a notice of seven (7) business days to be given in writing;

- (8) the Kafalah Provider shall maintain adequate Takaful/insurance where necessary for the business of such nature with reputable Takaful providers/ insurance companies and shall notify the Sukuk Trustee within seven (7) business days of any event which or may give rise to any claim or right of action under any Takaful / insurance, where such event may result in a Material Adverse Effect;
- (9) any other covenants as advised by the Solicitor and mutually agreed between the LA and the Kafalah Provider.

(dd) Negative covenants in respect of the Kafalah Provider

To include but not limited to the following; wherein the Kafalah Provider SHALL NOT, for so long as any liability under the Perpetual Sukuk Programme remains undischarged, without the prior written consent of the Sukuk Trustee (acting on instructions of the Sukukholders):

- (1) other than those disclosed in writing to the PA/LA prior to the execution of the Transaction Documents, create or permit to exist any encumbrance, mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, assignment by way of security, trust arrangement for the purpose of providing security or other security interest of any kind over the whole or any part of its property, assets or revenues (whether present or future), unless the following conditions are complied with:
  - (i) There is no outstanding unpaid Arrears of Deferred Periodic Distribution;
  - (ii) No Enforcement Event has occurred; and
  - (iii) The amount subject to such security interest shall not exceed the aggregate amount of Ringgit Malaysia One Hundred Million (RM100,000,000.00) at any one point in time.

For the avoidance of doubt, the Kafalah Provider is allowed to give any guarantee, indemnity, undertaking, financial assistance or credit support letter including but not limited to letter of comfort or any other similar agreement or arrangement, which are not secured against any of the Kafalah



Provider's property/assets/revenues, in relation to the borrowings/financings/operations of its subsidiaries, associated companies and/or jointly controlled entities ("**IJM Corporation Group**") and/or as required in the ordinary course of business of the IJM Corporation Group;

- (2) add, delete, amend, supplement, vary or substitute its Memorandum or Articles of Association/Constitution in a manner which may have a Material Adverse Effect and/or may be materially prejudicial to the interest of the Sukukholders;
- (3) enter into any transactions, whether directly or indirectly with any of its Interested Persons unless such transactions is entered into:
  - (a) on an arms-length basis and on terms no less favourable to the Kafalah Provider than those which could have been obtained in comparable transactions from persons who are not Interested Persons; and
  - (b) with respect to transactions involving an aggregate payment or value equal to or greater than the agreed percentage ratios as set out in the Main Market Listing Requirements, the Kafalah Provider obtains certification from an independent adviser that the transaction is carried out on fair and reasonable terms,

Provided that the Kafalah Provider certifies to the Sukuk Trustee that the transaction complies with paragraph (a) above, that the Kafalah Provider has received the certification referred to in paragraph (b) (where applicable) and that the transaction has been approved by the board of directors of the Kafalah Provider or shareholders of the Kafalah Provider in a general meeting as the case may require.

With respect to transactions constituting a recurrent related-party transaction of a revenue or trading nature ("**RRPT**") which are provided for and permitted under the Main Market Listing Requirements, provided that the Kafalah Provider certifies to the Sukuk Trustee that the transaction complies with paragraph (a) above, that the Kafalah Provider has obtained or renewed, where applicable, the shareholders' mandate in accordance with the Main Market Listing

Requirements and that the Kafalah Provider furnishes at least one certificate to the Sukuk Trustee in respect of the RRPT contemplated under one shareholders' mandate;

- (4) take steps to wind-up or dissolve itself;
- (5) lend any money to any party other than : (a) normal trade credit in the ordinary course of business; (b) loans to the Kafalah Provider's directors, officers or employees as part of their terms of employment; and/or (c) inter-company loans or advances to any entity within the IJM Corporation Group; and
- (6) any other covenants as advised by the Solicitor and mutually agreed between the LA and the Kafalah Provider.

(ee) Information covenants in respect of the Kafalah Provider

To include but not limited to the following:

- (1) the Kafalah Provider shall provide to the Sukuk Trustee at least on an annual basis, a certificate confirming, executed by any two directors of the Kafalah Provider, that it has complied with all its obligations under the Transaction Documents and that there does not exist or had not existed, from the date the Sukuk Musharakah were issued or the date of the previous certificate as the case may be, any Enforcement Event, and if such is not the case, to specify the same;
- (2) the Kafalah Provider shall deliver to the Sukuk Trustee the following:
  - (a) as soon as they become publicly available (and in any event within one hundred and eighty (180) days after the end of each of its financial years) copies of its consolidated annual financial statements for that year which shall contain the income statements and balance sheets of the Kafalah Provider and which are audited and certified without qualification by a firm of independent certified public accountants acceptable to the Sukuk Trustee;
  - (b) as soon as they become available (and in any event within ninety (90) days after the end of the first half of each of its financial year) copies of its unaudited half yearly consolidated interim financial statements for that period which shall contain the income statements and balance sheets of the Kafalah Provider which are approved by the board of

directors;

- (c) promptly, any relevant information as the Sukuk Trustee may from time to time reasonably request in writing in order to discharge its duties and obligations as Sukuk Trustee under the Transaction Documents to which it is a party relating to the the Kafalah Provider's affairs to the extent permitted by law; and
  - (d) promptly, (i) all statutory notices or other documents received by the Kafalah Provider from its shareholders which contents may materially and adversely affect the interests of the Sukukholders; and (ii) a copy of all accounts, reports, notice, statement or circular dispatched by the Kafalah Provider to its shareholders generally at the same time as these documents are dispatched to these shareholders, unless they have been made publicly available on the websites of the Kafalah Provider or Bursa Malaysia;
- (3) the Kafalah Provider shall notify the Sukuk Trustee in writing immediately in the event that the Kafalah Provider becomes aware of:
- (a) the occurrence of any Enforcement Event;
  - (b) the happening of any event that has caused or could cause, one or more of the following:
    - (i) any amount payable under the Sukuk Musharakah to become immediately payable;
    - (ii) the Sukuk Musharakah to become immediately enforceable; or
    - (iii) any other right or remedy under the terms, provisions or covenants of the Sukuk Musharakah or the Trust Deed to become immediately enforceable;
  - (c) any circumstance that has occurred that would materially prejudice the Kafalah Provider;
  - (d) any substantial change in the nature of the business of the Kafalah Provider;
  - (e) any cessation of liability of the Kafalah Provider for the payment of the whole or part of the

moneys for which it was liable under the Subordinated Guarantee;

- (f) any change in withholding tax position or taxing jurisdiction of the Kafalah Provider;
- (g) any other matter that may materially prejudice the interests of the Sukukholders ;and

any other covenants as advised by the Solicitor and mutually agreed between the LA and the Kafalah Provider.