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**ATTACHED PLEASE FIND AN ELECTRONIC COPY OF THE INFORMATION MEMORANDUM (THE “INFORMATION MEMORANDUM”), IN RELATION TO THE PROPOSED ISSUANCE OF SUKUK MURABAHAH FOR AGGREGATE NOMINAL AMOUNT OF UP TO RM575,000,000.00 BY SEPANGAR BAY POWER CORPORATION SDN BHD (THE “ISSUER”).**

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**THE FOREGOING IS IN ADDITION TO AND WITHOUT PREJUDICE TO ALL OTHER DISCLAIMERS AND AGREEMENTS WHICH A RECIPIENT OF THE INFORMATION MEMORANDUM SHALL BE DEEMED TO HAVE AGREED TO OR BE BOUND BY AS SET OUT IN THE INFORMATION MEMORANDUM.**

*Strictly Private & Confidential*



**SEPANGAR BAY POWER CORPORATION SDN BHD**  
(Company No. 427649-X)

**INFORMATION MEMORANDUM  
IN RELATION TO THE**

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**PROPOSED ISSUANCE OF UP TO RM575 MILLION IN NOMINAL VALUE OF SUKUK  
TO BE ISSUED UNDER THE SHARIAH PRINCIPLE OF MURABAHAH**

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**PRINCIPAL ADVISER / LEAD MANAGER**



**Hong Leong Investment Bank Berhad (10209-W)**

**JOINT LEAD ARRANGERS**



**Bank Muamalat Malaysia Berhad**  
(6175-W)



**Hong Leong Investment Bank Berhad**  
(10209-W)



**Hong Leong Islamic Bank Berhad**  
(686191-W)

**23 June 2014**

## IMPORTANT NOTICE

### Responsibility Statements

This information memorandum (“**Information Memorandum**”) has been approved by the directors of Sepangar Bay Power Corporation Sdn Bhd (“**SBPC**” or “**Issuer**”) and they collectively and individually accept full responsibility for the accuracy of the information contained in this Information Memorandum and confirm that, after having made all reasonable enquiries, and to the best of their information and belief, there are no false or misleading statements or information in this Information Memorandum and that there are no statements or information in this Information Memorandum from which there is a material omission.

### Important Notice and General Statement of Disclaimer

The Issuer has issued this Information Memorandum, which is being provided on a confidential basis to potential investors, who fall within one or more of the categories of persons or in the circumstances falling within the categories set out in Section 4(6) of the Companies Act, 1965 (as amended or substituted from time to time), Schedule 6 (or Section 229(1)(b)), Schedule 7 (or Section 230(1)(b)) read together with Schedule 9 (or Section 257(3)) of the Capital Markets and Services Act, 2007 (as amended or substituted from time to time) (“**CMSA**”) at issuance and thereafter Section 4(6) of the Companies Act, 1965, Schedules 6 (or Section 229(1)(b)) read together with Schedule 9 (or Section 257(3)) of the CMSA, where applicable and are subject to certain restrictions on resale as described under the ‘Selling Restriction’ section as referred to in this Information Memorandum, for the sole purpose of assisting the said potential investors to decide whether to subscribe or purchase the sukuk (“**Sukuk Murabahah**”) of up to RM575.0 million in nominal value to be issued under the Shariah principle of Murabahah (“**Proposed Issue**”).

None of the information or data contained in this Information Memorandum has been independently verified by Hong Leong Investment Bank Berhad (“**HLIB**”) as the principal adviser (“**Principal Adviser**”) and lead manager (“**Lead Manager**”) and Bank Muamalat Malaysia Berhad (“**BMMB**”), HLIB and Hong Leong Islamic Bank Berhad (“**HLISB**”) as the joint lead arrangers in respect of the Sukuk Murabahah (collectively, the “**Joint Lead Arrangers**”). Accordingly, no representation, warranty or undertaking, express or implied, is given or assumed by the Principal Adviser, Joint Lead Arrangers and the Lead Manager as to the authenticity, origin, validity, accuracy or completeness of such information and data or that the information or data remains unchanged in any respect after the relevant date shown in this Information Memorandum. The Principal Adviser, the Joint Lead Arrangers and the Lead Manager have not accepted and will not accept any responsibility for the information and data contained in this Information Memorandum or otherwise in relation to the Proposed Issue and shall not be liable for any consequences of reliance on any of the information or data in this Information Memorandum.

No person is authorised to give any information or data or to make any representation not contained in this Information Memorandum and any information or representation not contained in this Information Memorandum must not be relied upon as having been authorised by or on behalf of the Issuer, the Principal Adviser, the Joint Lead Arrangers, the Lead Manager or any other person. The delivery of this Information Memorandum at any time does not imply that the information contained in this Information Memorandum is correct at any time subsequent to its date.

This Information Memorandum has not been and will not be made to comply with the laws of any jurisdiction outside Malaysia (“**Foreign Jurisdiction**”), and has not been and will not be lodged, registered or approved pursuant to or under any legislation of (or with or by any regulatory authorities

or other relevant bodies of) any Foreign Jurisdiction and it does not constitute an offer of, or an invitation to subscribe for or purchase the Sukuk Murabahah, or any other securities of any kind by any party in any Foreign Jurisdiction.

The distribution or possession of this Information Memorandum in or from certain Foreign Jurisdictions may be restricted or prohibited by law. Each recipient is required by the Issuer, the Principal Adviser, the Joint Lead Arrangers and the Lead Manager to seek appropriate professional advice regarding, and to observe, any such restriction or prohibition. Neither the Issuer, the Principal Adviser, the Joint Lead Arrangers nor the Lead Manager accept any responsibility or liability to any person in relation to the distribution or possession of this Information Memorandum in or from any Foreign Jurisdiction.

By accepting delivery of this Information Memorandum, each recipient agrees to the terms upon which this Information Memorandum is provided to such recipient as set out in this Information Memorandum, and further agrees and confirms that: (a) it will keep confidential all of such information and data, (b) it is lawful for the recipient to subscribe for, purchase or in any other way to receive the Sukuk Murabahah under all jurisdictions to which the recipient is subject, (c) the recipient will comply with all the applicable laws in connection with such subscription, purchase or acceptance of the Sukuk Murabahah, (d) the Issuer, the Principal Adviser, the Joint Lead Arrangers, the Lead Manager and all other parties involved in the preparation of this Information Memorandum and their respective directors, officers, employees and professional advisers are not and will not be in breach of the laws of any jurisdiction to which the recipient is subject as a result of such subscription, purchase or acceptance of the Sukuk Murabahah and they shall not have any responsibility or liability in the event that such subscription or acceptance of the Sukuk Murabahah are or shall become unlawful, unenforceable, voidable or void, (e) it has sufficient knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of subscribing for or purchasing the Sukuk Murabahah and is able and prepared to bear the economic and financial risks of investing in or holding the Sukuk Murabahah and (f) it is subscribing or accepting the Sukuk Murabahah for its own account, and (g) it falls within one or more of the categories of persons specified under Section 4(6) of the Companies Act, 1965 (as amended or substituted from time to time), Schedules 6 (or Section 229(1)(b)), Schedule 7 (or Section 230(1)(b)) read together with Schedule 9 (or Section 257(3)) of the CMSA at issuance and Section 4(6) of the Companies Act, Schedules 6 (or Section 229(1)(b)) read together with Schedule 9 (or Section 257(3)) of the CMSA thereafter. Each recipient is solely responsible for seeking all appropriate expert advice as to the laws of all jurisdictions to which it is subject to. For the avoidance of doubt, this Information Memorandum shall not constitute an offer or invitation to subscribe or purchase the Sukuk Murabahah in relation to any recipient who does not fall within item (g) above.

This Information Memorandum is not, and should not be construed as, a recommendation by the Issuer, the Principal Adviser, the Joint Lead Arrangers, the Lead Manager or any other party to participate in the Sukuk Murabahah. Further, neither the Issuer, the Principal Adviser, the Joint Lead Arrangers, the Lead Manager nor any of their respective directors, employees or agents makes or gives or purports to make or give any representation or warranty, expressed or implied, as to the merits of the Sukuk Murabahah, or the purchase or acquisition thereof, the creditworthiness or financial condition or otherwise of the Issuer or any other person mentioned in this Information Memorandum. This Information Memorandum is not a substitute for, and should not be regarded as, an independent evaluation and analysis and does not purport to be all-inclusive. Each recipient should perform and is deemed to have made its own independent investigation and analysis of the Issuer, the Sukuk Murabahah, the Proposed Issue and all other relevant matters, including but not limited to the information and data set out in this Information Memorandum, and each recipient should consult its own professional advisers.

This Information Memorandum includes certain historical information, estimates or reports thereon derived from sources prepared by the Issuer and other publicly available information with respect to the Malaysian economy and certain other matters. Such information, estimates or reports have been

included solely for illustrative purposes. No representation or warranty is made by the Issuer or its advisers as to the accuracy or completeness of any information, estimates and/or report thereon derived from such and other third party sources and nothing contained herein shall be relied upon as a promise or representation by the Issuer or its advisers as to the past or the future.

All statements contained in this Information Memorandum that are not statements of historical facts constitute 'forward looking statements'. These statements include, among other things, discussion of the Issuer and its business strategies and expectation concerning its position in the Malaysian economy, future operations, profitability, liquidity, capital resources, financial position and settlement of indebtedness. All these statements are based on estimates and assumptions made by the Issuer that, although believed to be reasonable, are subject to risks and uncertainties that may cause actual events and the future results of the Issuer to be materially different from that expected or indicated by such statements and estimates, and no assurance is given that any of such statements or estimates will be realised. In light of these and other uncertainties, the inclusion of a forward-looking statement in this Information Memorandum is not a representation or warranty by the Issuer or any other person that the plans and objectives of the Issuer will be achieved.

All discrepancies in the tables included in this Information Memorandum between the amounts stated therein and totals thereof are due to rounding, and certain numbers appearing in this Information Memorandum are shown after rounding.

This Information Memorandum is not a prospectus and is not intended to be a prospectus. However, a copy of this Information Memorandum will be lodged and deposited with the Securities Commission, pursuant to Sections 229 and 230 of the Capital Markets and Services Act, 2007.

Unless otherwise specified in this Information Memorandum, the information contained in this Information Memorandum is current as at the date hereof.

### **Statements of Disclaimer by the Securities Commission**

A copy of this Information Memorandum has been deposited with the Securities Commission of Malaysia (“**Securities Commission**”), which takes no responsibility for its contents.

The issue, offer or invitation in relation to the Sukuk Murabahah in this Information Memorandum or otherwise are subject to the fulfilment of various conditions precedent including but not limited to the authorisation / approval from the Securities Commission, which was obtained via its letters to the Principal Adviser dated 6 February 2014 and 9 June 2014. The authorisation / approval of the Securities Commission shall not be taken to indicate that the Securities Commission recommends the subscription for or purchase of the Sukuk Murabahah.

The Securities Commission takes no responsibility for the contents of this Information Memorandum and shall not be liable for any non-disclosure on the part of the Issuer and assumes no responsibility for the correctness of any statements made or opinions or reports expressed in this Information Memorandum.

The documents published or issued from time to time after the date hereof shall be deemed to be incorporated in, and to form part of, this Information Memorandum including the most recently published audited annual financial statements and, if published later, the most recently published interim financial statements of the Issuer (if any) and all supplements or amendments to this Information Memorandum circulated by the Issuer, if any, save that any statement contained herein or in a document which is deemed to be incorporated by reference herein shall be deemed to be modified or superseded for the purpose of this Information Memorandum to the extent that a statement contained in any such subsequent document which is deemed to be incorporated by reference herein modifies or supersedes such earlier statement (whether expressly, by implication or otherwise). Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Information Memorandum.

**INVESTORS SHOULD RELY ON THEIR OWN EVALUATION TO ASSESS THE MERITS AND RISKS OF THE INVESTMENT.**

**IT IS RECOMMENDED THAT PROSPECTIVE INVESTORS CONSULT THEIR FINANCIAL, LEGAL AND OTHER ADVISERS BEFORE PURCHASING OR ACQUIRING OR SUBSCRIBING FOR THE SUKUK MURABAHAH.**

### **Shariah Adviser**

The transaction structure relating to the Sukuk Murabahah has been approved by Dr Mohd Daud Bakar, as the Shariah Adviser (the “**Shariah Adviser**”). Prospective holders of the Sukuk Murabahah should not rely on the approval referred to above in deciding whether to make an investment in the Sukuk Murabahah and should consult their own Shariah advisers as to whether the proposed transaction described in the approval referred to above is in compliance with Shariah principles.

### **Documents Incorporated by Reference**

The following documents published or issued from time to time after the date hereof shall be deemed to be incorporated in, and to form part of, this Information Memorandum:

- (i) the most recently published audited consolidated and/or non-consolidated annual financial statements and, if published later, the most recently published interim consolidated and/or non-consolidated financial statements (if any) of the Issuer; and
- (ii) all supplements or amendments to this Information Memorandum circulated by the Issuer, if any, save that any statement contained herein or in a document which is deemed to be incorporated by reference herein shall be deemed to be modified or superseded for the purpose of this Information Memorandum to the extent that a statement contained in any such subsequent document which is deemed to be incorporated by reference herein modifies or supersedes such earlier statement (whether expressly, by implication or otherwise). Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Information Memorandum.

## **Confidentiality**

### ***To the recipient of this Information Memorandum:***

This Information Memorandum and its contents are strictly confidential and are provided strictly on the basis that the recipient will ensure the same remains confidential. Accordingly, this Information Memorandum and its contents, and/or any information which is made available in connection with any further enquiries, must be held in complete confidence.

THIS INFORMATION MEMORANDUM IS SUBMITTED TO SELECTED PERSONS SPECIFICALLY TO WHOM AN ISSUE, OFFER, SALE OR INVITATION TO SUBSCRIBE OR PURCHASE THE SUKUK MURABAHAH WOULD CONSTITUTE AN EXCLUDED OFFER OR EXCLUDED ISSUE AS SPECIFIED IN SECTION 4(6) OF THE COMPANIES ACT, 1965, SCHEDULE 6 (OR SECTION 229(1)(B)) OF THE CMSA AND SCHEDULE 7 (OR SECTION 230(1)(B)) OF THE CMSA READ TOGETHER WITH SCHEDULE 9 (OR SECTION 257(3)) OF THE CMSA AT ISSUANCE AND SECTION 4(6) OF THE COMPANIES ACT, 1965, SCHEDULE 6 (OR SECTION 229(1)(B)) OF THE CMSA READ TOGETHER WITH SCHEDULE 9 (OR SECTION 257(3)) OF THE CMSA THEREAFTER AND MAY NOT BE REPRODUCED OR USED, IN WHOLE OR IN PART, FOR ANY PURPOSE, NOR FURNISHED TO ANY PERSON OTHER THAN THOSE TO WHOM COPIES HAVE BEEN SENT BY THE PRINCIPAL ADVISER, THE JOINT LEAD ARRANGERS, THE LEAD MANAGER. ANY FORWARDING, DISTRIBUTION OR REPRODUCTION OF THIS DOCUMENT IN WHOLE OR IN PART IS UNAUTHORISED. FAILURE TO COMPLY WITH THIS DIRECTIVE MAY RESULT IN A VIOLATION OF APPLICABLE LAWS. IF YOU HAVE RECEIVED THIS INFORMATION MEMORANDUM CONTRARY TO ANY OF THE FOREGOING RESTRICTIONS, YOU ARE NOT AUTHORISED AND WILL NOT BE ABLE TO PURCHASE ANY OF THE SECURITIES DESCRIBED THEREIN.

In the event that there is any contravention of this confidentiality undertaking or there is reasonable likelihood that this confidentiality undertaking may be contravened, the Issuer, the Principal Adviser, the Joint Lead Arrangers and/or the Lead Manager may, at their discretion apply for any available remedy whether at law or equity, including without limitation, injunctions. The Issuer, the Principal Adviser, the Joint Lead Arrangers and/or the Lead Manager are entitled to fully recover from the contravening party all costs, expenses and losses incurred and/or suffered, in this regard on a full indemnity basis. For the avoidance of doubt, it is hereby deemed that this confidentiality undertaking shall be imposed upon the recipient, the recipient's professional advisors, directors, employees and any other persons who may receive this Information Memorandum (or any part of it) from the recipient.

The recipient must return this Information Memorandum and all copies whether in whole or in part and any other information in connection therewith to any of the Principal Adviser, the Joint Lead Arrangers, or the Lead Manager promptly upon the Principal Adviser's, the Joint Lead Arrangers', the Lead Manager's or the Issuer's request.

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## GLOSSARY OF DEFINITIONS AND ABBREVIATIONS

|   |   |   |
|---|---|---|
| “Board”   | : | Board of Directors of the Issuer.   |
| “BNM”   | : | Bank Negara Malaysia, a body corporate established under the Central Bank of Malaysia Act, 1958 (as repealed and substituted by the Central Bank of Malaysia Act, 2009).  |
| “CMSA”  | : | Capital Markets and Services Act, 2007 (as amended or substituted from time to time).   |
| “Energy Commission”                                     | : | The Energy Commission Malaysia, including successors thereof.   |
| “Existing Facilities”                                   | : | Syndicated Islamic facilities and conventional term loan facilities of up to RM450 million granted to the Issuer with HLIB as the security agent, the common terms agent, the BBA facility agent, the Ijarah facility agent and the term loan facility agent which comprise (i) a Bai Bithaman Ajil (“ <b>BBA</b> ”) facility of up to RM50 million; (ii) an Ijarah facility of up to RM280 million; and (iii) a term loan facility of up to RM120 million. |
| “Fuel Supply Agreement”                                 | : | The fuel supply agreement as referred to in Section 6.3 of this Information Memorandum.   |
| “Gas Supply Agreement”                                  | : | The agreement for the sale and purchase of natural gas as referred to in Section 6.2 of this Information Memorandum.  |
| “HLBB”  | : | Hong Leong Bank Berhad (Company No. 97141-X).   |
| “IPP”   | : | Independent Power Producer.   |
| “IPP Licence”   | : | The licence granted by the Energy Commission to the Issuer dated 18 May 2006.   |
| “Issuer” or “SBPC”                                      | : | Sepangar Bay Power Corporation Sdn Bhd (Company No. 427649-X).  |
| “K.K.I.P. Sdn Bhd”                                      | : | K.K.I.P. Sdn Bhd (Company No. 281566-D).  |
| “Malaysian Trustees” or “Trustee” or “Security Trustee” | : | Malaysian Trustees Berhad (Company No. 21666-V), as the Sukuk Trustee and Security Trustee for the Sukukholders.  |
| “MW”  | : | Megawatts.  |
| “Operations and Maintenance Agreement”                  | : | The operations and maintenance agreement as referred to in Section 6.4 of this Information Memorandum.  |
| “Petronas”  | : | Petroliaam Nasional Berhad (Company No. 20076-K).   |
| “Petronas Carigali”                                     | : | Petronas Carigali Sdn Bhd (Company No. 39275-U).  |
| “Power Plant”   | : | The 100 MW power plant owned and operated by the Issuer on the Said Site.   |

|                          |   |   |
|--------------------------|---|---|
| “PPA”                    | : | The power purchase agreement as referred to in Section 6.1 of this Information Memorandum.  |
| “Project”                | : | The operation and maintenance of the Power Plant and all related ancillary works.   |
| “Project Documents”      | : | The PPA, the Operations and Maintenance Agreement, the Gas Supply Agreement and the Fuel Supply Agreement.  |
| “Proposed Issue”         | : | Issuance of the Sukuk Murabahah.  |
| “RAM” or “Rating Agency” | : | RAM Rating Services Berhad (Company No. 763588-T).  |
| “Said Land”              | : | The land described as Lot 18, within Industrial Zone 3 at the Kota Kinabalu Industrial Park, Kota Kinabalu, Sabah, which has been purchased by SESB from K.K.I.P. Sdn Bhd through a sale and purchase agreement dated 2 June 2005 made between SESB and K.K.I.P. Sdn Bhd. |
| “Said Site”              | : | the portion of the Said Land shown as the Power Plant area in the layout plan (Area B) in the Site Lease Agreement.   |
| “SESB”                   | : | Sabah Electricity Sdn Bhd (Company No. 462872-W).   |
| “Shell Timur”            | : | Shell Timur Sdn Bhd (Company No. 113304-H).   |
| “Site Lease Agreement”   | : | The site lease agreement as referred to in Section 6.5 of this Information Memorandum.  |
| “Sukukholders”           | : | Holder of the Sukuk Murabahah.  |
| “Sukuk Murabahah”        | : | Sukuk of up to RM575.0 million in nominal value based on the Shariah principle of Murabahah.  |
| “Support Symphony”       | : | Support Symphony Sdn Bhd (Company No. 700821-K).  |

## SECTION 1.0 EXECUTIVE SUMMARY

### 1.1 The Issuer

The Issuer was incorporated in Malaysia under the Companies Act, 1965 on 14 April 1997 as a private company limited by shares under the name of Sepangar Bay Power Corporation Sdn Bhd. The Issuer's registered office is located at Suite 2A-12-1, Block 2A, Level 12, Plaza Sentral, Jalan Stesen Sentral 5, 50470 Kuala Lumpur.

The Issuer's principal activity is that of design, construction, operation and maintenance of a combined cycle power plant, generation and sale of electrical energy and generating capacity of power plants.

As at 23 May 2014, the shareholders of the Issuer and their respective shareholdings are as follows:-

| Name of shareholders            | Ordinary shares   |            |           |                    |
|---------------------------------|-------------------|------------|-----------|--------------------|
|                                 | Direct            | %          | Indirect  | %                  |
| Kontek Abadi Sdn Bhd            | 27,500,000        | 55         | -         | -                  |
| Juara Jernih Sdn Bhd            | 12,500,000        | 25         | 3,296,703 | 6.6 <sup>(1)</sup> |
| Konsortium Usukan Power Sdn Bhd | 10,000,000        | 20         | -         | -                  |
| <b>Total</b>                    | <b>50,000,000</b> | <b>100</b> |           |                    |

Note:

(1) By virtue of its deemed interest in Konsortium Usukan Power Sdn Bhd.

### 1.2 Description of the Proposed Issue

The Securities Commission Malaysia has authorised the Proposed Issue of up to Ringgit Malaysia Five Hundred and Seventy Five Million (RM575,000,000.00) in nominal value with tenures of between one (1) year and fifteen (15) years commencing from the date of issuance ("Issue Date").

The Sukuk Murabahah will have an issue size of Ringgit Malaysia Four Hundred and Sixty Eight Million (RM468,000,000.00) and will be issued with tenures of between one (1) year and twelve (12) years in the following series:

| <u>Series</u> | <u>Nominal value (RM' million)</u> | <u>Maturity from Issue Date (in years)</u> |
|---------------|------------------------------------|--|
| 1             | 30.0                               | 1  |
| 2             | 35.0                               | 2  |
| 3             | 40.0                               | 3  |
| 4             | 40.0                               | 4  |
| 5             | 40.0                               | 5  |
| 6             | 40.0                               | 6  |
| 7             | 40.0                               | 7  |

|              |              |    |
|--------------|--------------|----|
| 8            | 40.0         | 8  |
| 9            | 40.0         | 9  |
| 10           | 40.0         | 10 |
| 11           | 40.0         | 11 |
| 12           | 43.0         | 12 |
| <b>Total</b> | <b>468.0</b> |    |

For such series of Sukuk Murabahah where an early redemption option is applicable, if any, which shall be determined prior to the Issue Date, the Issuer may redeem the Sukuk Murabahah at the Early Redemption Amount (as defined below) prior to its maturity in accordance with the procedures set out in the legal documentation for the Sukuk Murabahah and subject to:

- (a) the Sukuk Murabahah being redeemed on a Profit Payment Date (the “**Early Redemption Date**”) at the Early Redemption Amount;
- (b) the Issuer providing the Sukuk Trustee, the Facility Agent and the Paying Agent with at least fourteen (14) Business Days’ prior written notice of its intention to redeem the relevant Series prior to the Maturity Date;
- (c) the Issuer paying all accrued profit and all other amounts due prior to the Early Redemption Date;
- (d) the finance service cover ratio of at least 1.80 times being met prior to and after such early redemption;
- (e) no event of default, dissolution event or enforcement event (“**Dissolution Event**”) occurring prior and after such early redemption; and
- (f) confirmation from the Rating Agency that such early redemption will not adversely affect the rating of the remaining series of the Sukuk Murabahah.

The Early Redemption Amount (the “**Early Redemption Amount**”) shall be the higher of (i) the Nominal Value of such Sukuk Murabahah to be redeemed or (ii) the Early Redemption Price (“**ERP**”).

The ERP shall be calculated by the Facility Agent based on the following formula and the calculation of the Facility Agent shall be final and binding:

$$\text{ERP} = \frac{\text{NV} \times \text{ERF}}{100}$$

Where:

**NV** means the aggregate Nominal Value of the Sukuk Murabahah to be redeemed; and

**ERF** means the early redemption factor per RM100.00 (rounded to 2 decimal places) subject to a minimum of RM100.00, calculated as follows:

$$ERF = \left[ \frac{100}{\left[ 1 + \left( \frac{MktYTM}{2} \right)^{\left( N-1 \right) + \left( \frac{T}{E} \right)} \right]} \right] + \left[ \sum_{k=1}^N \frac{\left[ 100 \times \left( \frac{PPR}{2} \right) \right]}{\left[ 1 + \left( \frac{MktYTM}{2} \right)^{\left( k-1 \right) + \left( \frac{T}{E} \right)} \right]} \right] - \left[ \frac{5}{365} \times PPR \times 100 \right]$$

Where:

N = Number of Profit Payment Date(s) between the original Maturity Date and the Early Redemption Date

T = Number of days from the Early Redemption Date to the Profit Payment Date immediately following the Early Redemption Date

E = Number of days between the Profit Payment Date immediately preceding the Early Redemption Date to the next Profit Payment Date immediately following the Early Redemption Date

Mkt YTM = Reference MGS plus Spread

S = Number of days from the Profit Payment Date immediately preceding the Early Redemption Date to the Early Redemption Date

For the purposes of calculating the ERF, the following variables shall be used:

- (1) **“Reference MGS”** shall be the Malaysian Government Securities rate for the tenure which is equal to the remaining tenure of the Sukuk Murabahah and shall be determined from:
  - (i) the latest consolidated Government Securities Rates (Islamic) published by BNM daily, two (2) Business Days prior to the date of the Early Redemption Notice; or
  - (ii) if (i) above is unavailable, the arithmetic average of the mid-rates quoted by any five (5) principal dealers, two (2) Business Days prior to the date of the Early Redemption Notice;

PROVIDED ALWAYS THAT if the tenure of the Series is not an integer or is not a readily quoted tenure, the Reference MGS shall be interpolated on a linear basis using the rates derived from (i) or (ii) above.

- (2) **“PPR”** means the Profit Rate for the Sukuk Murabahah expressed as a percentage per annum.
- (3) **“Spread”** shall be zero point three percent (0.30%).

A rebate (Ibra’) may be granted at the absolute discretion of the Sukukholders. The Sukukholders in subscribing or purchasing the Sukuk Murabahah, consent to grant a rebate (Ibra’), if the Sukuk Murabahah is redeemed before the maturity date.

The rebate (Ibra’) shall be the unearned profit payments due to the Sukukholders from (and including) the date of full payment by the Issuer of all accrued and unpaid Sale Price then due in respect of that series up to the maturity date applicable to that series.

The first Profit Payment Date of the Sukuk Murabahah shall be determined by the Issuer prior to the Issue Date, and each Profit Payment Date shall be on a semi-annual basis thereafter. The last Profit Payment Date shall fall on the applicable maturity date of such Sukuk Murabahah.

### 1.3 Utilisation of Proceeds

The proceeds raised from the issuance of Sukuk Murabahah shall be utilised by the Issuer to:

- (a) pay upfront fees and expenses incidental to the Sukuk Murabahah;
- (b) fund the amount required to meet at least the next six (6) months of profit payment obligations (the “**Minimum Required Profit Balance**”) in the Finance Service Reserve Account (as described under item 2(n) of the Principal Terms and Conditions)\*;
- (c) repay the Existing Facilities\*\*;
- (d) pay the outstanding amounts of the Muamalat cash line (Tawarruq-i) made available by BMMB\*\* (*Note: for avoidance of doubt, this does not constitute refinancing of the Muamalat cash line (Tawarruq-i) facility*);
- (e) repay shareholders advances;
- (f) pay dividends to the shareholders\*.

Any balance post utilisation of item (a) to (e) may be used for payment of dividends. The monies will be placed into the Revenue Account (as described under item 2(n) of the Principal Terms and Conditions) pending declaration and distribution of the dividends.

*\* In the event that the Minimum Required Profit Balance is more than RM15.0 million, such additional amounts will be obtained from the amounts earmarked under item (f) above.*

*\*\* Amount may vary depending on the issuance date. Any amount in excess of the redemption sum to fully settle the Existing Facilities shall be used under item (f) above.*

### 1.4 Rating

The Sukuk Murabahah have been accorded a preliminary rating of AA<sub>1</sub> by RAM pursuant to their letter to the Issuer dated 3 December 2013.

### 1.5 Selling Restrictions

The Sukuk Murabahah shall be tradable and transferable subject to the following selling restrictions:

- (1) selling restrictions at issuance:

the Sukuk Murabahah shall not be offered, sold or delivered, directly or indirectly, nor may any document or other material in connection therewith be distributed in Malaysia, other than to persons, whether as principal or agent, falling within any one of the categories of persons specified in:-

- (i) Section 4(6) of the Companies Act, 1965, as amended or substituted from time to time; and

(ii) Schedule 6 (or Section 229(1)(b)) of the CMSA, Schedule 7 (or Section 230(1)(b)) of the CMSA read together with Schedule 9 (or Section 257(3)) of the CMSA;

(2) selling restrictions thereafter:

the Sukuk Murabahah shall not be offered, sold or delivered, directly or indirectly, nor may any document or other material in connection therewith be distributed in Malaysia, other than to persons, whether as principal or agent, falling within any one of the categories of persons specified in:-

(i) Section 4(6) of the Companies Act, 1965; and

(ii) Schedule 6 (or Section 229(1)(b)) of the CMSA read together with Schedule 9 (or Section 257(3)) of the CMSA.

## 1.6 Approvals Required

The Proposed Issue has been authorised / approved by the Securities Commission via its letters dated 6 February 2014 and 9 June 2014. Please note that the Securities Commission's authorisation / approval for the Proposed Issue should not be taken to indicate that the Securities Commission recommends the subscription or purchase of the Sukuk Murabahah.

## 1.7 Shariah Adviser's Confirmation

The Shariah Adviser has confirmed that the Shariah principles, terms and conditions, documentation and structure of the Proposed Issue comply with the relevant Shariah guidelines formulated by the Securities Commission to regulate the issuance of Islamic securities or sukuk by his letters dated 24 January 2014, 11 May 2014 and 12 June 2014.

## 1.8 Key Financial Highlights

The summarised key financial figures of the Issuer are as follows:-

| <b>Audited Financial Information for Year Ended ("FYE") 31 December</b> | <b>FYE 2010</b> | <b>FYE 2011</b> | <b>FYE 2012</b> |
|---|-----------------|-----------------|-----------------|
| Revenue   | RM117,104,632   | RM116,354,648   | RM120,811,568   |
| Profit before tax   | RM32,044,212    | RM28,046,610    | RM30,638,716    |
| Profit after tax  | RM31,904,212    | RM27,880,923    | RM30,463,577    |
| Total equity  | RM120,490,533   | RM148,371,456   | RM170,835,033   |
| Total assets  | RM532,050,822   | RM511,697,444   | RM498,343,105   |
| Total liabilities   | RM411,560,289   | RM363,325,988   | RM327,508,072   |

|                            |               |               |               |
|----------------------------|---------------|---------------|---------------|
| Total loans and borrowings | RM405,446,816 | RM360,018,121 | RM320,389,750 |
|----------------------------|---------------|---------------|---------------|

The audited financial statements of the Issuer for FYE 31 December 2012 is attached in this Information Memorandum as Appendix 1.

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The following is a summary of certain investment considerations of the Sukuk Murabahah which prospective investors should be aware of. However this summary is not intended to be exhaustive and the investors should read the detailed information set out elsewhere in this Information Memorandum. Prospective investors should undertake their own investigations and analysis on the Issuer, its business and the risks associated with the issue and should consider carefully, in light of their own financial circumstances and investment objectives, the investment considerations set forth below along with other information set forth in this Information Memorandum before making an investment decision.

## **2.1 Risks relating to the Issuer**

### **2.1.1 Political, economic, social developments and regulatory considerations**

The business, prospects, financial condition and results of operations of the Issuer may be adversely affected by political, economic, social developments and regulatory conditions in Malaysia. Political, economic, social and regulatory uncertainties include but are not limited to the risks of war, terrorism, riots, expropriation, nationalism, renegotiation or nullification of existing contracts, introduction of new regulations, changes in inflation, interest rates and methods of taxation.

Although measures may be taken by the Issuer to address and/or mitigate such developments, no assurance can be given that such measures would be sufficient or effective in the circumstances.

### **2.1.2 Issuer's ability to meet its obligations under the Sukuk Murabahah**

The Sukuk Murabahah represent the direct obligations of the Issuer. Under the terms of the Sukuk Murabahah, payment under the Sukuk Murabahah will not be the obligations or responsibilities of any other person other than Issuer. In particular, the Sukuk Murabahah will not be the obligations or responsibilities of the Principal Adviser, Joint Lead Arrangers, Lead Manager, HLIB as the facility agent for the Proposed Issue (the "**Facility Agent**"), the Trustee or any subsidiary or affiliate thereof, and any other person involved or interested in the transactions envisaged under the Sukuk Murabahah.

### **2.1.3 Force majeure**

An event of force majeure is an event which is not within the control of the party affected, which that party is unable to prevent, avoid or remove and includes war and acts of terrorism, riot and disorders, natural catastrophes and others. The occurrence of a force majeure event may have a material impact on the Issuer's business. However, under the PPA, any obligation required to be completely performed by the parties thereto prior to the occurrence of a force majeure event, or obligation to pay money due prior to such occurrence of the force majeure event, shall not be excused as a result of such force majeure event. Further, SESB shall pay to the Issuer, the debt service portion (which is the amount of financing undertaken by the Issuer including interest / profit thereon) under any document in respect of any financing or refinancing undertaken by the Issuer in relation to the construction, ownership, operation and maintenance of the Power Plant, which shall comprise a component of the capacity payment payable by SESB during the occurrence of a force majeure event to the extent that the Power Plant is available for electricity generation, and the

term of the PPA shall be extended by a period equal to the duration of the force majeure event.

#### **2.1.4 Payment risk**

The primary source of the payment on the Sukuk Murabahah will be the operating cash flows from the Power Plant. The Issuer may not be able to generate sufficient operating cash flows in time to meet the Issuer's payment obligations under the Sukuk Murabahah in the event that there are any delays in payment by SESB under the PPA.

Upon maturity of the Sukuk Murabahah, in the event the Issuer's cashflow is insufficient to redeem such Sukuk Murabahah, there is uncertainty as to whether the Issuer will be able to obtain refinancing to settle the outstanding Sukuk Murabahah and, there is also uncertainty whether SESB will exercise its option under the PPA to purchase the Power Plant. The PPA expires on 11 August 2029.

## **2.2 Risks relating to the Sukuk Murabahah**

### **2.2.1 Rating of the Sukuk Murabahah**

The Sukuk Murabahah has been accorded a preliminary rating of AA<sub>1</sub> by the Rating Agency.

A rating addresses the likelihood of full and timely payment of profit and principal to the holders of the Sukuk Murabahah. A rating is not a recommendation to buy, hold or sell the Sukuk Murabahah and there can be no assurance that such a rating will not be revised on a periodic review basis by the said rating agency during the tenure of the Sukuk Murabahah or that such a rating will not be withdrawn entirely if circumstances in the future so warrant.

Further, such a rating is not a guarantee of payment or that there will be no default by the Issuer under the Sukuk Murabahah. In the event that the rating initially assigned to the Sukuk Murabahah are subsequently lowered or withdrawn for any reason, no person or entity will be obligated to provide any additional credit enhancement with respect to the Sukuk Murabahah. Any downgrade or withdrawal of a rating will not necessarily constitute a Dissolution Event but may have an adverse effect on the liquidity and the market price of the Sukuk Murabahah.

### **2.2.2 Liquidity of the Sukuk Murabahah**

The Sukuk Murabahah comprise a new issue of securities for which there is currently no secondary market. The Sukuk Murabahah will not be listed on Bursa Malaysia Securities Berhad or any other stock exchange. In other words, there can be no assurance that such secondary market for the Sukuk Murabahah will develop or, if it does develop, that it will provide the Sukukholders with the liquidity of investments or will continue for the tenure of the Sukuk Murabahah. Accordingly, the purchase or subscription of the Sukuk Murabahah is suitable only for investors who can bear the risks associated with a lack of liquidity in the Sukuk Murabahah apart from the financial and other risks associated with an investment in the Sukuk Murabahah. Notwithstanding the above, as the Sukuk Murabahah are assigned a preliminary rating of AA<sub>1</sub> by the Rating Agency, where typically there is a demand for highly rated papers.

### **2.2.3 The market value of the Sukuk Murabahah may be subject to fluctuation**

Trading prices of the Sukuk Murabahah may be influenced by numerous factors, including the general political, economic, financial and any other factors that can affect capital markets in general. Any adverse economic and financial developments could have an effect on the market value of the Sukuk Murabahah.

### **2.2.4 An investment in the Sukuk Murabahah is subject to interest rate risk**

The Sukuk Murabahah are fixed income securities and may therefore see their prices fluctuate due to movements in interest rates. Generally, a rise in interest rates may cause a fall in the price of the Sukuk Murabahah. The Sukuk Murabahah may be similarly affected resulting in a capital loss for the Sukukholders. Conversely, when interest rates fall, the prices of the Sukuk Murabahah and the price at which the Sukuk Murabahah trade may rise. Sukukholders may enjoy a capital gain but profit received may be reinvested for lower returns.

### **2.2.5 An investment in the Sukuk Murabahah is subject to inflation risk**

The Sukukholders would have an anticipated rate of return based on expected inflation rates on the purchase of the Sukuk Murabahah. An unexpected increase in inflation could reduce the real rate of return to the Sukukholders.

### **2.2.6 Change of law**

The structure of the transaction and, *inter alia*, the issue of the Sukuk Murabahah are based on Malaysian law, tax and administrative practice in effect as at the date of this Information Memorandum and having due regard to the expected tax treatment of all relevant statutes under such law and practice. No assurance can be given that Malaysian law, tax or administrative practice will not change after the Issue Date or that such change will not adversely impact the structure of the transaction and the treatment of the Sukuk Murabahah.

### **2.2.7 There is no assurance that the Sukuk Murabahah will be Shariah compliant**

The Shariah Adviser has confirmed that the Sukuk Murabahah are Shariah compliant. However, the interpretation and application of Islamic Shariah is a matter of opinion and debate, and may be subject to differing interpretations by Shariah scholars, Shariah supervisory and advisory boards and the courts (or any arbitral tribunal). Therefore, there can be no assurance that the transaction structure or issue and trading of the Sukuk Murabahah will be deemed to be Shariah compliant by any other Shariah board or Shariah scholars. None of the Issuer, the Joint Lead Arrangers, the Principal Adviser, the Lead Manager or the Trustee makes any representation as to the Shariah compliance of the Sukuk Murabahah and potential investors are reminded that, as with any Shariah views, differences in opinion are possible. Potential investors should obtain their own independent Shariah advice as to the compliance of the structure and the issue and trading of the Sukuk Murabahah with Shariah principles, if required.

### **2.2.8 Modification, waivers and substitution**

The conditions of the Sukuk Murabahah contain provisions for calling meetings of the Sukukholders to consider matters affecting their interests generally. These provisions permit defined majorities to bind all the Sukukholders, including the

Sukukholders who did not attend and vote at the relevant meeting and the Sukukholders who voted in a manner contrary to the majority.

The conditions of the Sukuk Murabahah also provide that the Trustee may, without the consent of the Sukukholders, agree to certain modifications to the Trust Deed.

### **2.2.9 Suitability of investment**

Each potential investor in any Sukuk Murabahah must determine the suitability of that investment in light of its own circumstances. In particular, each potential investor should:

- (i) have sufficient knowledge and experience to make a meaningful evaluation of the relevant Sukuk Murabahah, the merits and risks of investing in the relevant Sukuk Murabahah and the information contained or incorporated by reference in this Information Memorandum or any applicable supplement;
- (ii) have access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation, an investment in the relevant Sukuk Murabahah and the impact such investment will have on its overall investment portfolio;
- (iii) have sufficient financial resources and liquidity to bear all of the risks of an investment in the relevant Sukuk Murabahah, including where, if applicable, the currency for the nominal value of the Sukuk Murabahah or profit payments is different from the potential investor's currency;
- (iv) understand thoroughly the terms of the relevant Sukuk Murabahah and be familiar with the behaviour of any relevant indices and financial markets; and
- (v) be able to evaluate (either alone or with the help of a financial advisor) possible scenarios for economic, profit rate and other factors that may affect its investment and its ability to bear the applicable risks.

### **2.2.10 The Sukuk Murabahah may be subject to early redemption**

For such series of Sukuk Murabahah where an early redemption is applicable, if any, which shall be determined prior to the Issue Date, the Issuer may redeem the Sukuk Murabahah prior to its maturity date. An early redemption feature of any Sukuk Murabahah may be likely to limit its market value. During any period when the Issuer may elect to redeem Sukuk Murabahah, the market value of those Sukuk Murabahah generally will not rise substantially above the redemption amount payable. This also may be true prior to any redemption period. The Issuer may be expected to redeem the Sukuk Murabahah when the cost of financing is lower than the yield (including all additional amounts) payable on the Sukuk Murabahah. At those times, an investor generally would not be able to reinvest the redemption proceeds at an effective profit rate as high as the profit rate on the Sukuk Murabahah and may only be able to do so at a significantly lower rate. Potential investors should consider re-investment risk in light of other investments available at that time.

### **2.2.11 Utilisation of proceeds in revenue account for buyback and/or early redemption**

The proceeds in the Revenue Account (as defined under item 2(n) of the Principal Terms and Conditions set out in Section 3) of the Issuer may be utilised by the Issuer to buyback any outstanding Sukuk Murabahah and/or pay the redemption proceeds of

early redemption of any series of Sukuk Murabahah provided that the priority of payment in relation to the revenue account is complied. In such event, the funds in the revenue account will be reduced accordingly, and any top up will be dependent on the payments received by the Issuer from SESB under the PPA. The Sukuk Murabahah still outstanding will be redeemed from the available funds in the Revenue Account.

## **2.3 Risks relating to the Project**

### **2.3.1 Demand risk**

SESB is the Issuer's sole customer and source of funds. A decision by SESB to change its source of power supply could adversely affect the Issuer's ability to meet its payment obligations under the Sukuk Murabahah.

Provided that the Issuer complies with all obligations under the PPA, including meeting all availability and capacity electrical energy thresholds, SESB would not be permitted under the PPA to terminate the PPA unilaterally and regardless of the amount of electricity generated, the Issuer will be entitled to receive all capacity payments under the PPA.

### **2.3.2 Revocation of the IPP Licence**

The IPP Licence granted by the Energy Commission may be revoked by the Energy Commission where any of the conditions imposed in the IPP Licence is breached. The Issuer will take all the necessary steps and measures to be in compliance with all conditions of the IPP Licence to mitigate the risk of having the IPP Licence suspended or revoked. The governing laws are subject to change from time to time which is not within the control of the Issuer. Notwithstanding this, the Issuer will take all steps necessary to be in compliance with the applicable governing laws.

### **2.3.3 Operations and maintenance risk**

The Issuer faces the ongoing risk of operation which includes but not limited to meet technical parameters such as heat rate, system availability, system reliability, breakdown, failure of equipment or the aging of equipment. Any of the foregoing could increase the costs of operating the plant including maintenance and repair costs, hence reducing the net income and cashflow to the Issuer.

These risks are addressed to a certain extent via the appointment of Support Symphony through the Operations and Maintenance Agreement to undertake the operations and maintenance of the Power Plant. In addition, Support Symphony receives technical support from General Electric Company with respect to the gas turbines, and operation and maintenance support from GE Energy Parts Inc and GE Power Systems (Malaysia) Sdn Bhd through contractual services agreement.

Under the Operations and Maintenance Agreement, Support Symphony will guarantee the Power Plant's performance. Under the Operations and Maintenance Agreement, in the event that Support Symphony fails to achieve or in breach of any of the performance guarantees set out in the Operations and Maintenance Agreement, Support Symphony shall pay to the Issuer liquidated damages as set out in the Operations and Maintenance Agreement. In addition, Support Symphony receives technical support from General Electric Company with respect to the gas turbines, and operation and maintenance support from GE Energy Parts Inc and GE Power Systems (Malaysia) Sdn Bhd through contractual services agreement ("CSA"). In the event General Electric Company is unable to fulfil the performance guarantees on the

Power Plant's availability and the heat rates stipulated in the CSA, Support Symphony will be entitled to claim liquidated damages.

As the majority of parts and services are sourced from overseas, the Issuer is subject to foreign currency fluctuation risk. However, most of this risk has been passed through to Support Symphony as the majority of the spare parts cost will be borne by Support Symphony. Replacement of parts not covered under the Operations and Maintenance Agreement is covered under the insurance/takaful policies taken by the Issuer.

#### **2.3.4 Gas and Fuel Supply Risk**

The Issuer is solely reliant on the supply of gas from Petronas and Petronas Carigali and as a backup source, the supply of fuel from Shell Timur in order to generate electricity. Any curtailment of the supply of gas or fuel would affect the operations of the Power Plant and subsequently the distribution to SESB.

To safeguard against any interruption in fuel supply, the Issuer has a back-up of diesoline tankers on site with storage that is sufficient for 4 days' full-load operations.

There is also a risk that the price of gas or fuel may increase or that gas subsidies could be reduced which would cause the Issuer to have higher costs thus affecting the Issuer's available cashflow and accordingly, the ability for the Issuer to meet its payment obligations under the Sukuk Murabahah. The PPA however, does provide for an adjustment to energy payment payable by SESB to the Issuer in the event of an increase in the cost of natural gas and fuel used for power generation.

The power generation capabilities of the Power Plant are sensitive to, inter alia, the quantity and quality of the gas or fuel supplied. In the event the gas or fuel does not meet the required specifications as set out in the Gas Supply Agreement and the Fuel Supply Agreement, the Issuer could refuse to accept delivery of the gas or fuel and may purchase the gas or fuel from the open market as an alternative. This in turn will have an effect on the operations of the Power Plant and the distribution to SESB.

A force majeure under the PPA includes a force majeure under the Gas Supply Agreement. Thus, if a force majeure occurs under the Gas Supply Agreement, the safeguards and provisions in place in the PPA will also be triggered.

#### **2.3.5 The Site Lease Agreement**

The Issuer has taken a site lease over the Said Site for a period of twenty seven (27) years. The Power Plant is situated on the leased land. This lease is based on contractual arrangements as provided in the Site Lease Agreement. Any adverse change in the provisions of the Sabah Land Ordinance, may affect the requirements for the Site Lease Agreement to be registered on the Said Land upon issuance of the individual title for the Said Land. This could affect the Issuer's ability to maintain and operate the Power Plant which is constructed on the Said Site, thus affecting the Issuer's business and consequently affecting the Issuer's payment obligations under the Sukuk Murabahah.

The individual title for the Said Land has yet to be issued and SESB's right and title to the Said Land is subject to the sale and purchase agreement dated 2 June 2005 between SESB and K.K.I.P. Sdn Bhd, which include a provision of termination by K.K.I.P. Sdn Bhd in the event SESB is wound up. In the event the sale and purchase agreement is terminated, this will affect the Site Lease Agreement as well as the

Issuer's ability to maintain and operate the Power Plant which is constructed on the Said Site, thus affecting the Issuer's business and consequently affecting the Issuer's payment obligations under the Sukuk Murabahah.

However, interruption risk arising from the land issues is not likely given the importance of the Issuer's electricity output to the Sabah grid, and the common shortage of electricity in Sabah. In addition, K.K.I.P. Sdn Bhd, the State Government of Sabah and SESB are closely linked government bodies.

#### **2.3.6 Insurance/Takaful**

The operation of the Power Plant may be affected by many factors such as the breakdown of equipment, financial loss resulting from interruption of business, damage to plant, machinery and equipment, fire and lightning. The management has taken steps to ensure that the Issuer's business and assets are adequately insured. However, there can be no assurance that the insurance/takaful cover would be sufficient to pay for the replacement cost of all its assets, businesses or any consequential costs arising therefrom.

Any loss in excess of insured/covered limits would result in the loss of future revenue and the Issuer may be required to fund the repair or replacement of any asset damaged or lost. Any such loss may adversely affect the results of operations and financial conditions of the Issuer.

#### **2.3.7 Cash flow projections**

The cash flow projections of the Issuer are based on reasonable assumptions made by the Issuer that are nevertheless subject to uncertainties and contingencies. Owing to the subjective judgments and inherent uncertainties of the forecast/projections and given that events and circumstances may not occur as expected, there can be no assurance that the forecast/projections contained herein will be achieved, or, that actual results may be materially different from those forecast/projected. A fluctuation in the demand profile or reduction of load by SESB resulting in a lower demand of electricity may adversely affect the cash flow projections of the Issuer.

#### **2.3.8 Capital and operational expenditure**

The operations of the Issuer may be affected by unexpected capital and operational expenditure resulting from unbudgeted items, damage to equipment and such damage has not been insured or major purchases which have not been budgeted for. Although the Issuer has insured the Power Plant against damage, there can be no assurance that all events and damages are insured. The PPA provides that the Issuer shall maintain a maintenance reserve amount of RM1,500,000.00 which shall be used exclusively to pay for maintenance expenses for the Power Plant, including repairs and replacements that are necessary. The amounts insured are based on the provisions of the PPA. The maintenance reserve amount and the insurance may be insufficient to pay for the damage.

#### **2.3.9 Regulatory considerations**

Changes in law and regulations are unpredictable and beyond the Issuer's control and may affect the way the Issuer conducts its business. Such changes may be more restrictive or result in higher costs than current requirements or otherwise materially impact its businesses, results of operations or financial condition.

### **2.3.10 Environmental considerations**

All power stations are subject to environmental legislation and regulations imposed by the Department of Environment. The Power Plant has been designed, constructed and operated in accordance with Malaysian environmental regulations. Any breach of environmental law or regulations could result in the Issuer paying fines or being directed to stop the operations of the Power Plant until such time that the authorities determine. This will effect the Issuer's ability to distribute electricity to SESB and accordingly, will affect its cashflow.

### **2.3.11 Non-performance by counterparties and/or termination of the Project Documents or the Site Lease Agreement**

The Issuer has subcontracted the operations and maintenance works to Support Symphony vide the Operations and Maintenance Agreement and has entered into the other Project Documents and the Site Lease Agreement with Petronas, Petronas Carigali, Shell Timur and SESB. There is no assurance that there will be no disruption to the counterparties' performance obligations under their respective agreements or contracts in the future. Breach of obligations by the Issuer under the Project Documents and/or the Site Lease Agreement, may entitle the counterparties to terminate the Project Documents or the Site Lease Agreement, as the case may be. Further, if a force majeure event occurs, this too may entitle the counterparties to terminate the Project Documents.

### **2.3.12 Other licences**

The Issuer has obtained various licences, permits and certificates that govern the operations of the Power Plant, including licenses under the Factories and Machinery Act, 1967, the Fire Service Act, 1988 and the Control of Supplies Act, 1961. Any failure to renew any of these licences, permits or certificates will result in the Issuer being in breach of the relevant regulation and the ability of the Issuer to operate the Power Plant, thus affecting the Issuer's payment obligations under the Sukuk Murabahah.

## **2.4 Risks relating to the Malaysian Energy Industry**

### **2.4.1 Change in Policies**

Any adverse changes in government policies or the imposition of any new environmental regulations could effect the Malaysian energy industry and the business of the Issuer thus effecting the Issuer's payment obligations under the Sukuk Murabahah.

The PPA caters for certain changes in law and provides for certain adjustment to costs and payments in accordance with the PPA.

## **2.5 Forward Looking Statements**

Certain statements and information in this Information Memorandum are based on historical data, which may not be reflective of future results, and others are forward-looking in nature, which are subject to uncertainties and contingencies. All forward-looking statements are based on estimates and assumptions made by the Issuer, and although the Board of the Issuer believes that these forward-looking statements are reasonable, the statements are nevertheless subject to known and unknown risks, uncertainties and other factors which may cause the actual results, performance or achievements to differ materially from future results,

performance or achievements expressed or implied in such forward-looking statements and no assurance can be given that any of such forward-looking statements or estimates will be realized. In light of these and other uncertainties, the inclusion of forward-looking statements in this Information Memorandum should not be regarded as a representation or warranty by the Issuer, the Principal Adviser, the Joint Lead Arrangers or the Lead Manager that the plans and objectives of the Issuer will be achieved.

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## SECTION 3.0 PRINCIPAL TERMS AND CONDITIONS

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The principal terms and conditions of the Proposed Issue as approved by the Securities Commission are set out below. Words and expression used and defined in this Section 3.0 shall, in the event of inconsistency with the definitions section of this Information Memorandum, only be applicable for this Section 3.0.

### PRINCIPAL TERMS AND CONDITION

#### (a) Names of parties involved in the proposed transaction, where applicable

- (i) **Principal Adviser** : Hong Leong Investment Bank Berhad (Company No. 10209-W) (“**HLIB**”).
- (ii) **Lead Arranger** : i) Bank Muamalat Malaysia Berhad (Company No.6175-W);  
ii) HLIB;  
iii) Hong Leong Islamic Bank Berhad (Company No.686191-W),  
  
(collectively, “**Joint Lead Arrangers**”)
- (iii) **Co-Arranger** : Not applicable.
- (iv) **Solicitor** : Messrs Zul Rafique & partners (as Solicitors for the Principal Adviser/Joint Lead Arrangers/Lead Manager).
- (v) **Financial Adviser** : Not applicable.
- (vi) **Technical Adviser** : Not applicable.
- (vii) **Sukuk Trustee** : Malaysian Trustees Berhad (the “**Trustee**”).
- (viii) **Shariah Adviser** : Dr Mohd Daud Bakar.
- (ix) **Guarantor** : Not applicable.
- (x) **Valuer** : Not applicable.
- (xi) **Facility Agent** : HLIB.
- (xii) **Primary Subscriber (under a bought-deal arrangement) and amount subscribed** : To be determined, if applicable, at the point of issuance of the Sukuk Murabahah (as defined under item 2(c)).
- (xiii) **Underwriter and amount underwritten** : The Sukuk Murabahah will not be underwritten.
- (xiv) **Central** : Bank Negara Malaysia (“**BNM**”).

## Depository

- (xv) **Paying Agent** : BNM.
- (xvi) **Reporting Accountant** : Messrs. Afrizan Tarmili Khairul Azhar.
- (xvii) **Calculation Agent; and** : Not applicable.
- (xviii) **Others (please specify)** :
- i) **Lead Manager** : HLIB and/or any other financial institution to be appointed.
- ii) **Security Trustee** : Malaysian Trustees Berhad.
- iii) **Tax Adviser** : Aftaas Taxation Services Sdn Bhd.
- (b) **Islamic Principles Used** : Murabahah (Cost-Plus Sale)

A contract that refers to the sale and purchase transaction for the financing of an asset whereby the cost and profit margin (mark-up) are made known and agreed by all parties involved.

- (c) **Facility Description** : Proposed issuance of sukuk of up to RM575.0 million in nominal value based on the Shariah principle of Sukuk Murabahah (via a Tawarruq arrangement) based on the following Commodity Murabahah structure (the “**Sukuk Murabahah**”).

The Shariah principles of Murabahah and Tawarruq are both listed in Appendix I of the SC’s Guidelines on Sukuk (revised on 28 December 2012 and effective on 28 December 2012) (the “**Sukuk Guidelines**” as may be revised or substituted from time to time) as Shariah principles which have been approved by the SC’s Shariah Advisory Council (“**SAC**”).

### Commodity Murabahah

The investors (the “**Sukukholders**”) will appoint the Issuer (in such capacity, the “**Purchase Agent**”) as its agent (wakeel) to buy Shariah-compliant commodities, which shall mean Shariah-compliant commodities which exclude ribawi items in the category of medium of exchange such as currency, gold and silver (the “**Commodities**”). The Purchase Agent will then appoint the Facility Agent as the sub-agent (in such capacity, the “**Sub-Purchase Agent**”) to purchase the Commodities. The Purchase Agent will also appoint the Facility Agent (in such capacity, the “**Selling Agent**”) as its agent (wakeel) to sell the Commodities to the Issuer on behalf of

the Purchase Agent.

The Issuer (in such capacity, the “**Purchaser**”) will issue a purchase order (the “**Purchase Order**”) to the Purchase Agent, Sub-Purchase Agent and Selling Agent. In the Purchase Order, the Purchaser will irrevocably undertake based on unilateral binding promise to purchase (the “**Undertaking to Purchase**”), the Commodities from the Sukukholders at the deferred sale price (“**Sale Price**”) which shall be the aggregate of the Purchase Price (as defined below in this item 2(c)), the profit payment (if applicable) and the Discounted Amount (as defined below in this item 2(c)), payable on a deferred payment basis.

“**Discounted Amount**” means the difference between (i) the nominal value of the relevant Sukuk Murabahah and the Sukuk Murabahah proceeds.

Pursuant to the Purchase Order, the Sub-Purchase Agent will purchase on a spot basis, the Commodities from commodity vendor(s) in the Bursa Suq Al-Sila’ commodity market (through a Commodity Trading Participant (“**CTP**”)) at a purchase price which shall be an amount equivalent to the Sukuk Murabahah proceeds (the “**Purchase Price**”). The Purchase Price shall be in compliance with the SC’s SAC asset pricing requirements as set out in the Sukuk Guidelines.

The Issuer shall subsequently, issue the Sukuk Murabahah to the Sukukholders to evidence the Sukukholders’ ownership of the Commodities and all rights thereto (including all rights against the Issuer under the Purchase Order) and subsequently once the Commodities are sold to the Purchaser, the entitlement to receive the Sale Price. The Sukuk Murabahah proceeds received from the Sukukholders will be used to pay the Purchase Price of the Commodities.

Thereafter, pursuant to the Undertaking to Purchase, the Selling Agent (acting on behalf of the Purchase Agent who in turn acts on behalf of the Sukukholders) shall sell the Commodities to the Purchaser at the Sale Price. Upon completion of such sale, the Purchaser shall appoint the Selling Agent to sell the Commodities to Bursa Malaysia Islamic Services Sdn. Bhd. through a CTP on a spot basis for cash consideration for an amount equal to the Purchase Price.

During the tenure of the Sukuk Murabahah, the Issuer (as part of its obligation to pay the Sale Price) shall make periodic profit payments to the Sukukholders. Each such payment shall pro tanto reduce the obligation of the Issuer on the Sale Price payable for the Commodities.

At (i) the maturity date of the relevant Sukuk Murabahah; or (ii) upon the declaration of a Dissolution Event (as defined under item 2(v)), whichever is earlier, the Issuer (as part of its obligation to pay the Sale Price) will pay the Sukukholders all amounts then outstanding on the Sale Price as final settlement of the same, upon which the Sukuk Murabahah will be cancelled.

Please refer to Appendix 1 for a diagrammatic illustration of the transaction structure above.

- (d) **Identified Assets** : Shariah-compliant commodities, which shall include but is not limited to crude palm oil or such other acceptable commodities (excluding ribawi items in the category of medium of exchange such as currency, gold and silver).
- (e) **Purchase and Selling Price/ Rental (where applicable)** : **Purchase Price**  
The Purchase Price in relation to each purchase of the Commodities shall be equal to the proceeds of the Sukuk Murabahah. The Purchase Price shall comply with the SC's SAC asset pricing requirements as provided in the Sukuk Guidelines (as may be revised from time to time).

**Sale Price**

The Sale Price shall be the aggregate of the Purchase Price, the profit payment (if applicable) and the Discounted Amount and will be determined prior to the sale of the Commodities to the Issuer to be evidenced by the issuance of the Sukuk Murabahah.

- (f) **Issue / Sukuk Programme Size** : The issuance of the Sukuk Murabahah shall not exceed RM575.0 million in nominal value. The final issue size shall be determined prior to issuance.
- (g) **Tenure of Issue/ Sukuk Programme** : The Sukuk Murabahah shall be issued in a single issuance with tenures of between one (1) year and fifteen (15) years commencing from the date of issuance (the “**Issue Date**”) and with the following series:

| <b><u>Series</u></b> | <b><u>Nominal value (RM' million)</u></b> | <b><u>Maturity from Issue Date (in years)</u></b> |
|----------------------|---|---|
| 1                    | 20.0                                      | 1   |
| 2                    | 35.0                                      | 2   |
| 3                    | 40.0                                      | 3   |
| 4                    | 40.0                                      | 4   |
| 5                    | 40.0                                      | 5   |
| 6                    | 40.0                                      | 6   |
| 7                    | 40.0                                      | 7   |
| 8                    | 40.0                                      | 8   |
| 9                    | 40.0                                      | 9   |
| 10                   | 40.0                                      | 10  |
| 11                   | 40.0                                      | 11  |

|    |              |    |
|----|--------------|----|
| 12 | 40.0         | 12 |
| 13 | 40.0         | 13 |
| 14 | 40.0         | 14 |
| 15 | 40.0         | 15 |
|    | <b>575.0</b> |    |

Note: For each series, the corresponding nominal value and maturity date shall be determined prior to issuance. Such changes shall be subject to no change in rating by RAM.

- (h) **Availability Period of Sukuk Programme** : Not applicable.
- (i) **Profit/Coupon/Rental Rate** : To be determined prior to issuance.
- (j) **Profit/Coupon/Rental Payment Frequency** : Semi-annual basis in arrears.
- (k) **Profit/Coupon/Rental Payment Basis** : The profit shall be calculated based on the actual number of days elapsed over 365 days basis (actual / 365) or in any event, in accordance with MyClear Rules and Procedures (as defined under item 2(p)).
- (l) **Security / Collateral, where applicable** : The Sukuk Murabahah will be secured by the following, in favour of the Trustee, for the benefit of the Sukukholders (the “**Security Documents**”):
1. Upon the issuance of a separate issue document of title for Lot 18, Industrial Zone 3 at Kota Kinabalu, Sabah upon which the Power Plant is situated (the “**Said Land**”) and registration of the lease over the parcel of land known as Area B in the Said Land granted to the Issuer by Sabah Electricity Sdn Bhd (“**SESB**”) pursuant to the Site Lease Agreement dated 27 June 2005 (the “**Lease**”), a first fixed legal charge over the Lease (the “**Lease Charge**”) subject to consent being granted by the relevant local land authority and SESB, if required. For avoidance of doubt, failure of registration of the Lease Charge for reason not attributable to the Issuer shall not be deemed as a Dissolution Event;
  2. A debenture creating fixed and floating charges over all present and future assets of SBPC;
  3. Assignment of :-
    - (i) All of SBPC’s rights, title, interest under the Project Documents (as defined below under this item 2(l)) (including but not limited to the PPA (as defined below in this item 2(l)), GSA (as defined below in this item 2(l)), O&M (as defined below in this item 2(l)) and FSA (as defined below in this item 2(l))); and
    - (ii) All insurance policies/takaful taken out pursuant

to the PPA (where applicable), endorsement of the Security Trustee as co-insured and/or loss payee of the insurances/takaful;

**“Project Documents”** means the following documents:

- (a) Power Purchase Agreement (**“PPA”**) – Power Purchase Agreement between SESB and SBPC dated 28 January 2005 for SBPC to design, construct, own, operate and maintain a 100 MW Gas-Fired Power Plant (the **“Power Plant”**) on the Said Land.
  - (b) Gas Supply Agreement (**“GSA”**) – Gas Supply Agreement for Sale and Purchase of natural gas dated 28 November 2005 between SBPC, Petrolia Nasional Berhad and Petronas Carigali Sdn Bhd where Petrolia Nasional Berhad and Petronas Carigali Sdn Bhd are joint sellers of natural gas.
  - (c) Operations & Maintenance Agreement (**“O&M”**) – Operations and Maintenance Agreement dated 3<sup>rd</sup> October 2005 between SBPC and Support Symphony Sdn Bhd wherein Support Symphony Sdn Bhd is to provide operation and maintenance services to SBPC with respect to the power plant.
  - (d) Fuel Supply Agreement (**“FSA”**) – Fuel Supply Agreement dated 21<sup>st</sup> August 2006 between SBPC and Shell Timur Sdn Bhd for the sale and delivery of Shell diesoline.
4. Charge and assignment over all Designated Accounts (as defined under item 2(k));
  5. Such other security to be agreed between the Principal Adviser and the Issuer.

The assets and rights to be secured under the Security Documents listed in items 2 and 3 are currently securities (**“Existing Securities”**) for the existing Syndicated Transferable Islamic Term Facility of up to RM450 million (the **“Syndicated Facility”**). Upon the redemption in full of the Syndicated Facility, the Security Documents under items 2 and 3 shall be executed and perfected. The Security Documents under items 2 and 3 shall be perfected within fourteen (14) business days or such other period as may be agreed to by Trustee. The failure to perfect the securities within the stipulated period shall constitute a Dissolution Event.

The Syndicated Facility comprises of (i) RM50 million Bai Bithaman Ajil facility; (ii) RM280 million Ijarah

facility; and (iii) RM120 million term loan facility.

- (m) **Details on Utilisation of Proceeds by Issuer** : The proceeds arising from the issuance of the Sukuk Murabahah will be utilised for the following Shariah-compliant purposes :-

|       | <b>Purpose of Utilisation</b>   | <b>Amount in nominal value (RM'million)</b> |
|-------|---|---|
| (i)   | To pay the upfront fees and expenses incidental to the Sukuk Murabahah  | Up to 1.5                                   |
| (ii)  | To fund one (1) Minimum Required Profit Balance (as defined under item 2(n)) in the FSRA (as defined under item 2(n))   | Up to 15.0*                                 |
| (iii) | To repay the Syndicated Facility  | Up to 275.0**                               |
| (iv)  | To pay the outstanding amounts of the Muamalat Cash Line (Tawarruq-i) made available by Bank Muamalat Malaysia Berhad<br><i>(Note: for avoidance of doubt, this does not constitute refinancing of the Muamalat Cash Line (Tawarruq-i))</i> | Up to 13.0**                                |
| (v)   | To repay shareholders advances  | Up to 25.0                                  |
| (vi)  | To pay dividends to the shareholders.<br><br>Any balance post utilisation of item (i) to (v) may be used for payment of dividends. The monies will be placed into the RA  | Up to 245.5*                                |

|  |   |              |
|--|---|--------------|
|  | (as defined under item 2(n)) pending declaration and distribution of the dividends. |              |
|  | <b>Total</b>  | <b>575.0</b> |

\* In the event that the Minimum Required Profit Balance is more than RM15.0 million, such additional amounts will be obtained from the amounts earmarked under item (vi) above.

\*\* Amount may vary depending on the issuance date. Any amount in excess of the redemption sum to fully settle the Syndicated Facility shall be used under item (vi) above.

(n) **Sinking Fund and Designated Accounts, where applicable** : **Sinking Fund**  
Not applicable.

**Designated Accounts**

The Issuer shall open and maintain the following accounts with such financial institution acceptable to the Principal Adviser which has a minimum rating of A3/P1 by RAM (as defined under item 2(o)) or its equivalent:-

- (i) Revenue Account (“**RA**”);
- (ii) Operating Account (“**OA**”);
- (iii) Finance Service Reserve Account (“**FSRA**”);
- (iv) Maintenance Reserve Account (“**MRA**”).

The RA, OA, FSRA and MRA collectively shall be referred to as the “**Designated Accounts**”.

**RA**

The Issuer shall open and maintain a Shariah compliant bank account designated as “**RA**” for the purposes of depositing the following:-

- (i) Issuance proceeds;
- (ii) all of the Issuer’s revenue to be received;
- (iii) existing cash balances in the revenue account under the Syndicated Facility after the redemption in full of the Syndicated Facility and execution of the discharge documents in relation to the securities created over the revenue account in respect of the Syndicated Facility;
- (iv) equity contribution from the shareholders of SBPC, including but not limited to ordinary shares, preference shares and/or subordinated shareholder’s loans (in the form of loan stocks, subordinated debt or otherwise);
- (v) investment income arising from Permitted Investments from the Designated Accounts (other than the MRA) ;
- (vi) income arising from the fixed deposits relating to the MRA;
- (vii) insurance/takaful proceeds (save for those proceeds

- from insurance/takaful which are to be paid to third parties);
- (viii) warranty proceeds;
  - (ix) liquidated damages or any other compensation received;
  - (x) monies released from the FSRA and/or OA and/or MRA; and
  - (xi) other cash receipts from any sources.

Pursuant to the above, the Issuer shall issue an irrevocable letter of instruction to SESB to remit all payments due to the Issuer under the PPA into the RA.

The funds in the RA will be applied to meet the following permitted expenditure and in the following order of priority:-

- (i) Taxes and such other statutory payments as may be required as and when due;
- (ii) Upfront fees and expenses incidental to the Sukuk Murabahah;
- (iii) Payment obligations under the Sukuk Murabahah;
- (iv) Transfer to FSRA to meet the Minimum Required Profit Balance (as defined below in this item 2(n)) and the Minimum Required Principal Balance (as defined below in this item 2(n));
- (v) Contributions to the OA at the start of each month for payment of operating expenditure based on certified true copies of relevant invoices and/or documentary evidences in the form and substance acceptable to the Security Trustee;
- (vi) Contributions to the OA as a result of Variance Sum (as defined below in this item 2(n)), subject to the conditions set out herein;
- (vii) Contributions to the MRA to meet the Minimum MRA Balance (as defined below in this item 2(n));
- (viii) Payment of dividends or advances or other distributions to shareholders, subject to compliance of the Financial Covenants (as defined under item 2(w)(iii)); and
- (ix) Buy-back and/or Early redemption by the Issuer of Sukuk Murabahah subject to compliance of item 2(x) below.

The Issuer shall provide an annual budget which shall be submitted to the Trustee and Security Trustee (“**Annual Budget**”) within seven (7) business days before the start

of every financial year. The Annual Budget shall include all estimated income receivable and expenses payable in connection with the Power Plant within the financial year as approved by the Issuer's board of directors.

The Issuer shall provide updates to the Annual Budget on a quarterly basis which shall be submitted to the Trustee and Security Trustee ("**Updated Budget**") within five (5) business days at the start of every quarter. The Updated Budget shall include all income received and operating expenditure incurred by the Issuer in the preceding quarter.

The RA shall be operated solely by the Security Trustee.

#### **OA**

The Issuer shall open and maintain a Shariah compliant bank account designated as "**OA**" for the purposes of managing its operating expenditure.

The Issuer shall deposit and/or cause to be credited into the OA the following:-

- (i) existing cash balances from the existing operating account under the Syndicated Facility after the redemption in full of the Syndicated Facility and execution of the discharge documents in relation to the securities created over the operating account in respect of the Syndicated Facility; and
- (ii) contributions from the RA.

The funds in this account will be applied to meet the operating, management, maintenance and capital expenditure on upgrading/enhancement expenses required for the running of the Power Plant in accordance to the Annual Budget and/or Updated Budget as the case may be.

In the event the expenses to be incurred by the Issuer exceed the Annual Budget with a variation of up to 10% in aggregate per annum (the "**Variance Sum**"), the Security Trustee shall transfer such Variance Sum from the RA to the OA in accordance to the operations of the RA based on certified true copies of relevant invoices and/or documentary evidence in the form and substance acceptable to the Security Trustee. Any surplus in the OA on a yearly basis shall be net off against the succeeding yearly contributions to the OA.

For the avoidance of doubt, any variations exceeding the Variance Sum would be subject to the Trustee's approval.

The OA shall be operated by the Issuer who shall be the sole signatory of the account.

Upon occurrence of a Dissolution Event, the OA shall be

solely operated by the Security Trustee.

**FSRA**

The Issuer shall open and maintain a Shariah compliant bank account designated as “**FSRA**”. This account shall be for the setting aside of the following:-

- (i) such amounts equal to at least the next six (6) months profit payment obligations (the “**Minimum Required Profit Balance**”) six (6) months prior to the profit payment date.

The Issuer shall maintain the Minimum Required Profit Balance at all times throughout the tenure of the Sukuk Murabahah. In the event the balance held in the RA is insufficient to meet the profit payment, the Minimum Required Profit Balance may be withdrawn to meet the profit payment when due and payable. The shortfall shall forthwith be topped up by the Issuer via a transfer from the RA, in one lump sum within fourteen (14) days (or such other period as may be agreed to by the Issuer and Trustee) from the date of notice of shortfall to be given by the Security Trustee to the Issuer (“**Shortfall Notice**”). In the event that the balance in the FSRA exceeds the Minimum Required Profit Balance, the excess may be transferred to the RA; and

- (ii) such amounts equal to at least the next six (6) months principal repayment obligation (the “**Minimum Required Principal Balance**”) six (6) months prior to the principal repayment date.

The amount equivalent to the Minimum Required Principal Balance shall be built-up progressively on a monthly basis in accordance with the table as follows:-

| Series | Nominal Value (RM' million) | Maturity from Issue Date (in years) | Commencement of build up prior to respective maturity date | Build-up Instalments |
|--------|-----------------------------|-------------------------------------|--|----------------------|
| 1      | 20.0                        | 1                                   | 11 <sup>th</sup> month                                     | 5 equal instalments  |
| 2      | 35.0                        | 2                                   | 12 <sup>th</sup> month                                     | 6 equal instalments  |
| 3      | 40.0                        | 3                                   | 12 <sup>th</sup> month                                     | computed             |
| 4      | 40.0                        | 4                                   | 12 <sup>th</sup> month                                     | based on             |
| 5      | 40.0                        | 5                                   | 12 <sup>th</sup> month                                     | the                  |
| 6      | 40.0                        | 6                                   | 12 <sup>th</sup> month                                     | difference           |
| 7      | 40.0                        | 7                                   | 12 <sup>th</sup> month                                     | between the          |
| 8      | 40.0                        | 8                                   | 12 <sup>th</sup> month                                     | nominal              |
| 9      | 40.0                        | 9                                   | 12 <sup>th</sup> month                                     | value of the         |
| 10     | 40.0                        | 10                                  | 12 <sup>th</sup> month                                     | respective           |
| 11     | 40.0                        | 11                                  | 12 <sup>th</sup> month                                     | series and           |
| 12     | 40.0                        | 12                                  | 12 <sup>th</sup> month                                     |                      |

|    |      |    |                        |            |
|----|------|----|------------------------|------------|
| 13 | 40.0 | 13 | 12 <sup>th</sup> month | the then   |
| 14 | 40.0 | 14 | 12 <sup>th</sup> month | prevailing |
| 15 | 40.0 | 15 | 12 <sup>th</sup> month | balance in |
|    |      |    |                        | the FSRA   |
|    |      |    |                        | designated |
|    |      |    |                        | for        |
|    |      |    |                        | principal  |
|    |      |    |                        | repayment  |
|    |      |    |                        | purposes   |

Note: For each series, the corresponding nominal value and maturity date shall be determined prior to issuance.

In the event the balance held in the RA is insufficient to meet the principal repayment, the Minimum Required Principal Balance may be withdrawn to meet the principal repayment when due and payable. The shortfall shall forthwith be topped up by the Issuer via a transfer from the RA, in one lump sum within fourteen (14) days (or such other period as may be agreed to by the Issuer and Trustee) from the Shortfall Notice.

The FSRA shall be operated solely by the Security Trustee.

Any non-compliance in relation to meeting of the Minimum Required Profit Balance or Minimum Required Principal Balance not remedied by the Issuer shall constitute a Dissolution Event.

**MRA**

The Issuer shall open and maintain a Shariah compliant bank account designated as “**MRA**”. This account shall be for the setting aside such amount as required under the PPA (the “**Minimum MRA Balance**”). The Issuer shall deposit the existing cash balances from the existing maintenance reserve account under the Syndicated Facility after the redemption in full of the Syndicated Facility and execution of the discharge documents in relation to the securities created over the maintenance reserve account in respect of the Syndicated Facility.

The funds in the MRA will be applied to pay for maintenance expenses for the Power Plant including any repair and replacements that are necessary in order to ensure the Power Plant will continue to be operated and maintained in accordance with the prudent utility practices and the performance standard as required under the PPA.

In the event the funds are withdrawn from the MRA, the Security Trustee shall transfer such funds from the RA to the MRA in accordance to the operations of the RA for the purpose of maintaining the Minimum MRA Balance in this account.

The MRA shall be operated by the Issuer who shall be the

sole signatory of the account.

Upon occurrence of a Dissolution Event, this account shall be solely operated by the Security Trustee, and for avoidance of doubt, shall be subject to the terms of the PPA.

For avoidance of doubt, the Issuer shall have the option to replace the MRA with a maintenance bond from a financial institution which has a minimum rating of AA<sub>1</sub>/P1 by RAM in accordance to the terms under the PPA, whereupon the Issuer shall no longer be required to maintain the MRA and any surplus in the MRA will then be remitted back to the RA.

Monies held in the Designated Accounts (save for the MRA) may be utilised for investments in Permitted Investments (as defined under item 2(y)(iii)).

Monies in the MRA may be kept in Shariah compliant fixed deposits.

**(o) Rating**

**(i) Credit Ratings Assigned and whether the Rating is Final or Indicative. In the case of a Sukuk Programme where the Credit Rating is not Assigned for the Full Amount, Disclosures set out in Paragraph 9.04 of the Sukuk Guidelines must be made; and** : The indicative rating for the Sukuk Murabahah is AA<sub>1</sub>.

**(ii) Name of Rating Agency** : RAM Rating Services Berhad (“**RAM**”).

**(p) Mode of Issue** : The Sukuk Murabahah will be issued via private placement or a bought deal basis or book running on best effort basis, as the Issuer may elect, without prospectus.

The Sukuk Murabahah will be issued in accordance with the:-

- (i) The Participation and Operation Rules for Payment and Securities Services issued by Malaysian Electronic Clearing Corporation Sdn Bhd (“**MyClear**”) dated 10 October 2013 (“**MyClear Rules**”); and
- (ii) The Operational Procedures for Securities Services issued by MyClear dated 10 October 2013 (“**MyClear**”).

**Procedures”).**

(MyClear Procedures and MyClear Rules are collectively referred to as the “**MyClear Rules and Procedures**”), subject to such exemptions (if any) granted from time to time.

- (q) **Selling Restriction, Including Tradability (i.e. Tradable or Non-tradable)** : The Sukuk Murabahah is tradable and transferable. The selling restrictions are as follows: -

**Selling Restrictions at Issuance**

The Sukuk Murabahah shall not be offered, sold or delivered, directly or indirectly, nor may any document or other material in connection therewith be distributed in Malaysia, other than to persons, whether as principal or agent, falling within any one of the categories of persons specified in:-

- (i) Section 4(6) of the Companies Act 1965, as amended or substituted from time to time (the “**Companies Act**”); and
- (ii) Schedule 6 (or Section 229(1)(b)) of Capital Markets and Services Act 2007 as amended or substituted from time to time (the “**CMSA**”), Schedule 7 or (Section 230(1)(b)) of the CMSA read together with Schedule 9 (or Section 257(3)) of the CMSA.

**Selling Restrictions Thereafter**

The Sukuk Murabahah shall not be offered, sold or delivered, directly or indirectly, nor may any document or other material in connection therewith be distributed in Malaysia, other than to persons, whether as principal or agent, falling within any one of the categories of persons specified in:-

- (i) Section 4(6) of the Companies Act; and
- (ii) Schedule 6 (or Section 229(1)(b)) of the CMSA read together with Schedule 9 (or Section 257(3)) of the CMSA.

- (r) **Listing Status and Types of Listing, where applicable** : The Sukuk Murabahah will not be listed on the Bursa Malaysia Securities Berhad or on any other stock exchange.

- (s) **Other Regulatory Approvals Required in Relation to the Issue, Offer or Invitation to Subscribe or Purchase Sukuk, and Whether or Not Obtained** : Not applicable.

- (t) **Conditions Precedent** : Conditions precedent typical and customary for a transaction of this nature which shall include but not limited to the following:-

**(i) Main Documentation**

All documents in relation to the Sukuk Murabahah and the legal documentation (as defined in item 2(y)(vi)) (“**Transaction Documents**”) have been duly executed (save for the relevant Security Documents not required to be executed prior to the issuance of the Sukuk Murabahah or which can only be presented for registration or perfection after the discharge or reassignment of the Existing Securities), and where applicable, stamped (unless otherwise exempted) and presented for registration with the relevant authorities.

**(ii) The Issuer**

- (a) Certified true copies of the Certificate of Incorporation, Memorandum and Articles of Association, latest Forms 24, 44 and 49 of the Issuer;
- (b) A certified true copy of board resolutions of the Issuer authorising, among others, the execution of the Transaction Documents and issuance of the Sukuk Murabahah;
- (c) A list of the Issuer’s authorised signatories and their respective specimen signatures;
- (d) A report of the relevant company and winding-up search of the Issuer which revealed that no winding-up order has been made against the Issuer; and
- (e) Receipt of consent and redemption statement from existing facility agent and/or security agent and/or participating institutions of the Syndicated Facility on the redemption amount and undertaking to transfer the monies standing to the credit of relevant Syndicated Facility designated accounts into the Designated Accounts (in the form and substance acceptable to the Principal Adviser);

**(iii) General**

- (a) The authorisation from the SC in respect of the Sukuk Murabahah and the compliance with all conditions of such authorisation, where applicable;
- (b) Receipt of satisfactory legal opinion from the Solicitors, to be addressed to the Principal Adviser, Joint Lead Arrangers and Facility Agent, advising with respect to, among others, the legality, validity and enforceability of the Transaction Documents and written confirmation that all conditions precedent have been duly fulfilled or waived;
- (c) Documentary evidence that the Trustee’s

Reimbursement Account (as defined under item 2(y)) has been established and the deposit of RM30,000 has been made;

- (d) Opening of the Designated Accounts and corresponding certified true copies of the board resolution of the Issuer, authorising the opening of the Designated Accounts and (i) the Security Trustee as the sole signatory for the RA and FSRA and (ii) the Security Trustee as the sole signatory for the OA and MRA upon occurrence of a Dissolution Event;
- (e) The Sukuk Murabahah being accorded a long term rating of at least AA<sub>3</sub> from RAM;
- (f) The Principal Adviser shall have received from the Shariah Adviser, the Shariah pronouncement confirming that the structure and mechanism together with the Transaction Documents of the Sukuk Murabahah is in compliance with Shariah principles;
- (g) Receipt of a certified true copy of the first Annual Budget for the period upon the issuance of the Sukuk Murabahah up to the succeeding financial year from the Issuer;
- (h) Receipt of a certified true copy of the irrevocable letter of instruction from the Issuer to SESB to remit all payments due to the Issuer under the PPA into the RA and the acknowledgement from SESB of such instruction;
- (i) Receipt of a certified true copy of the irrevocable letter of instruction from the Issuer to the account bank of, the operating account and the maintenance reserve account under the Syndicated Facility to withdraw all monies in the abovementioned accounts and deposit such monies into the OA and MRA that together with the acknowledgement on such instructions from such account bank;
- (j) Receipt of documentary evidence satisfactory to the Principal Adviser that all transaction fees, costs and expenses in relation to the Sukuk Murabahah have been fully paid or will be paid in full;
- (k) Receipt of all relevant documents in relation to the discharge of the Existing Securities, duly executed by the Issuer and deposited with the Solicitors, and a letter of undertaking from the Issuer to cause and ensure the perfection of the relevant documents in relation to the discharge of the Existing Securities within the time stipulated;
- (l) All required approvals and consents for the issuance of

the Sukuk Murabahah and the execution of the Transaction Documents have been obtained; and

Such other Conditions Precedent to be advised by the Solicitors and mutually agreed between the Principal Adviser and the Issuer.

**(u) Representations and Warranties**

: Representations and warranties typical and customary for transaction of this nature which shall include but not limited to the following:-

- (a) The Issuer is a company duly incorporated and validly existing under the laws of Malaysia and has full power and authority to own assets and to carry on its business;
- (b) The Issuer has the power to enter into, exercise its rights and perform its obligations under the Transaction Documents and the Project Documents;
- (c) All necessary actions, authorisations and consents required under the Transaction Documents and the Project Documents have been taken, fulfilled and obtained and remain in full force and effect;
- (d) The Transaction Documents and the Project Documents constitute valid, binding and enforceable obligations of which are enforceable on and against the Issuer;
- (e) No registration and no payment of any duty or tax or other action is necessary to ensure the validity, enforceability or admissibility in evidence in Malaysia of the Transaction Documents and the Project Documents;
- (f) The Issuer's entry into, exercise of its rights and performance of its obligations under the Transaction Documents and the Project Documents do not and will not violate any existing law or agreements to which it is a party;
- (g) To the Issuer's knowledge, there are no change of law or other governmental action has occurred which shall make it improbable for the Issuer to perform covenants and obligations on its part to be performed under the Transaction Documents and the Project Documents;
- (h) The audited financial statements of the Issuer have been prepared on a basis consistently applied in accordance with the approved accounting standards in Malaysia and give a true and fair view of the results of its operations for that year and the state of its affairs at that date;

- (i) There has been no event or occurrence which constitutes a violation of any applicable law or contravention of or default under any agreement of which the Issuer is a party or is bound by, which will have a Material Adverse Effect;
  - (j) There is no change in the business condition (financial or otherwise), performance or results of the operations of the Issuer which may have a Material Adverse Effect;
  - (k) There is no winding-up petition or any litigation or arbitration which may have a Material Adverse Effect which has occurred or is continuing;
  - (l) There has been no breaches or contravention of any of the provisions of the Project Documents;
  - (m) The insurance/takaful obtained by the SBPC in relation to the Power Plant and the PPA are adequate and complies with the provisions and requirements of the PPA, and all insurances/takaful are in full force and effect; and
  - (n) Such other representations and warranties as may be advised by the Solicitors and mutually agreed between the Principal Adviser and the Issuer.
- (v) **Events of default, Dissolution Event and Enforcement Event, where applicable (“Dissolution Event”)** : Dissolution Events normal for a transaction of this nature as advised by the Solicitors including but not limited to the following:
- (i) any default in payment of any principal or profit under the Sukuk Murabahah or the Transaction Documents;
  - (ii) any breach of covenants or any terms or conditions under the Sukuk Murabahah or the Transaction Documents and the Project Documents;
  - (iii) any representation or warranty made or implied under any provision of the Transaction Documents and the Project Documents or any information, notice, opinion or certificate or other document delivered pursuant to the terms of the Transaction Documents and the Project Documents proves to have been incorrect or misleading in any material respect from the date on which the representation or warranty was made or was deemed made;
  - (iv) any consent referred to in the Transaction Documents and the Project Documents is revoked or withheld or modified to the extent that the modification shall have a Material Adverse Effect, or is otherwise not granted or fails to remain in full

force and effect;

- (v) the Issuer enters into or proposes to enter into, or there is declared by any competent court or authority, a moratorium on the payment of indebtedness or other suspensions of payments generally;
- (vi) any provision of the Transaction Documents and the Project Documents is or becomes illegal, void, voidable or unenforceable or any of the Transaction Documents is or becomes illegal, void, voidable or unenforceable;
- (vii) any step or action is taken for the winding up, dissolution or liquidation of the Issuer (including, without limitation, the presentation of a petition for the winding up against the Issuer or the making of any order or the passing of any resolution for the winding up, dissolution or liquidation of the Issuer unless it is contested in good faith and set aside within thirty (30) days);
- (viii) a receiver, manager, liquidator, trustee, administrator or similar officer is appointed in respect of the Issuer or in respect of all or any part of the respective assets, properties or undertaking of the Issuer;
- (ix) the Issuer ceases or threatens to cease to carry on all or a substantial part of its respective business;
- (x) the Issuer becomes insolvent or commits an act of insolvency or is unable to pay its debts as they fall due or any final judgment or judgments is or are obtained against the Issuer;
- (xi) the Issuer stops, suspends or threatens to stop or suspend payment of all or any part of its debts, begins negotiations or takes any proceedings or other steps with a view of readjustment, rescheduling or deferral of all of its indebtedness (or of any part of its indebtedness which it will or might otherwise be unable to pay when due) or proposes or makes a general assignment or any arrangement or composition with or for the benefit of its creditors save for those already disclosed to the Principal Adviser;
- (xii) the Issuer defaults on any other provision of the Transaction Documents and the Project Documents which is not capable of remedy or which, being capable of remedy, is not remedied within such remedy period as may be agreed between the Trustee and the Issuer;

- (xiii) cross default to other indebtedness of the Issuer;
- (xiv) any of the Security Documents executed as a condition subsequent is not perfected within such time stipulated in the Transaction Documents (or such other period as may be agreed to by the Issuer and Security Trustee) or any of the securities provided under any Security Document are in jeopardy or rendered invalid or defective in any way;
- (xv) any event or circumstance having a Material Adverse Effect occurs;
- (xvi) any consent, authorisation, license, concession and approval from the relevant authorities granted to the Issuer and/or any of its subsidiaries for the purposes of their respective business is revoked, expired or suspended for any reason whatsoever and such revocation, expiration or suspension has a Material Adverse Effect; and
- (xvii) such other dissolution events as may be advised by the Solicitors and mutually agreed by the Principal Adviser and the Issuer or as may be required under the Sukuk Guidelines or the Trust Deeds Guidelines (as defined under item 2 (w)).

Upon the declaration of a Dissolution Event, all amounts then outstanding on the Sale Price payable by the Issuer under the Sukuk Murabahah shall become immediately due and payable in full whereupon the Trustee may or shall (acting upon the instructions of the Sukukholders by special resolution) enforce the rights accruing to it under the Security Documents.

- (w) **Covenants** : Such covenants as are customary for a transaction of this nature and required in order to comply with the Trust Deeds Guidelines (revised on 12 July 2011 and effective on 12 August 2011) (the “**Trust Deeds Guidelines**”) issued by the SC including but not limited to the following:-
  - (i) **Positive Covenants** : So long as any of the Sukuk Murabahah remains outstanding, the Issuer hereby covenants and undertakes, inter-alia, that it will:
    - (a) give to the Trustee any information which the Trustee may reasonably require in order to discharge its duties and obligations under the Transaction Documents relating to the Issuer’s affairs to the extent permitted by law;
    - (b) exercise reasonable diligence in carrying out its business in a proper and efficient manner which should ensure, amongst others that all necessary

approvals or relevant licenses are obtained;

- (c) maintain and keep proper respective books and accounts at all times in compliance with applicable statutory requirements and in accordance with generally accepted accounting principles in Malaysia and subject to reasonable advance written notice being given to the Issuer, provide the Trustee and any person appointed by it e.g. auditors access to such books and accounts to the extent permitted by law;
- (d) maintain a paying agent, or its equivalent, who is based in Malaysia;
- (e) procure the Paying Agent to notify the Trustee, through the Facility Agent, in the event that the Paying Agent does not receive payment from the Issuer on the due dates as required under Transaction Documents and the terms and conditions of the Sukuk Murabahah;
- (f) ensure that the terms in the Trust Deed do not contain any matter which is inconsistent with the provisions of an information memorandum relating to the Sukuk Murabahah;
- (g) ensure compliance with all terms and provisions of the Transaction Documents and Project Documents, and the conditions of all licenses and consents in relation thereto;
- (h) ensure any financing or loans or advances obtained by it from its shareholders permitted under this transaction are subordinated to the obligations of the Sukuk Murabahah at all times and no prepayment or repayment is to be made throughout the tenure of the Sukuk Murabahah;
- (i) notify Trustee upon any non-compliance or occurrence of Dissolution Events;
- (j) provide the Trustee with a quarterly report on the status and operations of the Power Plant;
- (k) promptly notify the Sukuk Trustee upon its receipt of any notification from SESB or its agent (where applicable) in relation to the Site Lease Agreement or the registered lease; and
- (l) such other covenants as may be advised by the Solicitors and mutually agreed between the Principal Adviser and the Issuer.

**(ii) Negative Covenants** : The Issuer undertakes that it shall not, unless with the prior written consent of the Trustee:-

- (a) permit any amendment, supplement or variation to its Memorandum and Articles of Association in a manner inconsistent with the Transaction Documents and the Project Documents to which it is a party and/or which may be materially prejudicial to the interests of the Sukukholders;
- (b) change the utilisation of proceeds from the Sukuk Murabahah where the information memorandum or any agreement entered into in connection with the issue, offer or invitation sets out a specific purpose for which the proceeds of the Sukuk Murabahah are to be utilised;
- (c) enter into a transaction, whether directly or indirectly with interested persons unless:
  - (i) such transaction shall be on terms that are no less favourable to the Issuer than those which could have been obtained in a comparable transaction from persons who are not interested persons; and
  - (ii) with respect to transactions involving an aggregate payment or value equal to or greater than RM500,000.00, the Issuer obtains certification from an independent adviser that the transaction is carried out on fair and reasonable terms; provided

that the Issuer certifies to the Trustee that the transaction complies with paragraph (i) above, that the Issuer has received the certification referred to in paragraph (ii) (where applicable) and that the transaction has been approved by the majority of the board of directors or shareholders in a general meeting as the case may require;

- (d) except for those already existing and/or disclosed to the Principal Adviser prior to the execution of the Transaction Documents and as permitted by the Transaction Documents, create or permit to exist on any of the Issuer's assets, properties, business or undertakings, any encumbrance, mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, assignment by way of security, trust arrangement for the purposes of providing security or other security interest of any kind including, without limitation, title transfer and/or retention arrangements having a similar effect or any agreement to create any of the foregoing, but excluding liens arising in the ordinary course of business by operation of law and not by way of contract;

- (e) incur further indebtedness;
- (f) provide any guarantee to any party save and except for those as required under the GSA;
- (g) open or maintain any account other than the Designated Accounts, the Trustees' Reimbursement Account and the current account opened with Bank Mualamat Malaysia Berhad as required under the Muamalat Cash Line (Tawarruq-i) made available to the Issuer by Bank Mualamat Malaysia Berhad;
- (h) do or omit to do anything which may adversely affect its rights under the Project Documents;
- (i) vary, terminate, replace, supplement or modify the Project Documents and/or the Site Lease Agreement, or waive any breach or proposed breach in the Project Documents and/or the Site Lease Agreement by the counterparties;
- (j) consent as lessee to any dealings in relation to the Said Land; and
- (k) such other negative covenants as may be advised by the Solicitors and mutually agreed between the Principal Adviser and the Issuer.

**(iii) Financial Covenants : FSCR**

The Issuer shall maintain a minimum Finance Service Cover Ratio (with cash balances) of 1.25 times at all times ("**FSCR**").

FSCR shall be calculated on a yearly basis based on the corresponding audited accounts of the Issuer and shall be the ratio of A/B, whereby:-

A= "**Net Available Cash**" is the aggregate of all cash in the Designated Accounts before payment of the Total Finance Service (as defined below) during the corresponding 12 months.

B= "**Total Finance Service**" is the aggregate of all profit payments paid during the corresponding 12 months.

Such FSCR calculation shall be confirmed by the authorised officers of the Issuer and shall be submitted to the Trustee and Security Trustee no later than seven (7) business days after the availability of the corresponding annual audited accounts. For the avoidance of doubt, any double counting shall be disregarded.

### **Debt to Equity Ratio**

The Issuer shall maintain a debt to equity ratio (“**DE Ratio**”) of not more than 95:5 for first year, second year and third year from the issuance date of the Sukuk Murabahah and thereafter the Issuer shall maintain a DE Ratio of not more than 90:10 for the remaining tenure of the Sukuk Murabahah. The DE Ratio is the ratio of indebtedness of the Issuer represented by:

- (i) outstanding obligations in relation to the Sukuk Murabahah; and
- (ii) outstanding obligations under all other indebtedness for borrowed monies (be it actual or contingent);

to the Issuer’s shareholders’ funds which include the Issuer’s common equity in the form of ordinary shares, preference shares, reserves (including any retained earnings or losses), and/or subordinated shareholder’s loans (in the form of loan stocks, subordinated debt or otherwise).

The DE Ratio shall be calculated yearly based on the latest audited financial statements of the Issuer. Such DE Ratio calculation shall be confirmed by the authorised officers of the Issuer and shall be submitted to the Trustee and Security Trustee no later than seven (7) business days after the availability of the corresponding annual audited accounts. For the avoidance of doubt any double counting shall be disregarded.

### **Dividend Payment Covenant**

The Issuer is allowed to declare or pay any dividends or other forms of distribution of no more than RM150 million for the first year and RM37m in aggregate for the second and third year from the issuance date of the Sukuk Murabahah. Thereafter, maximum dividend payment of RM15.0 million per annum is allowed subject to:

- (a) the Dividend Payment Covenant of at least 1.80 times being met prior to and after such payment;
- (b) The DE Ratio being met prior to and after such payment;
- (b) no Dissolution Event occurring prior and after such payment; and
- (c) confirmation from the rating agency that such payment will not adversely affect the rating of the Sukuk Murabahah,

Dividend Payment Covenant is to be calculated on the date when dividend or other form of distribution (“**Distribution**”) is proposed to be declared by the Issuer

(“**Proposed Date**”) and shall be calculated based on the ratio of  $(C+D+E)/(C+F)$ , whereby:-

C= “**Actual Total Finance Service**” is the actual aggregate of all principal and profit payments made by the Issuer after the previous principal payment obligation date up to the Proposed Date:

D= “**Closing Balances**” is the closing cash balances in the Designated Accounts as at the end of the Proposed Date;

E= “**Projected Pre-financing Cashflow**” is the projected cashflow before financing (net of the Distribution) from the Proposed Date up to the next principal payment obligation date;

F= “**Projected Total Finance Service**” is the projected aggregate of all principal and profit payments to be made by the Issuer from the Proposed Date up to and including the next principal payment obligation date.

Such Dividend Payment Covenant shall be confirmed by the authorised officers of the Issuer and shall be submitted to the Trustee and Security Trustee within two (2) business days from the Proposed Date. For the avoidance of doubt, any double counting shall be disregarded and such Distribution shall be paid before the next principal payment obligation date.

**(iv) Information Covenants**

- : (a) The Issuer shall without any prior demand, deliver to the Trustee the following:
- (i) Semi-annual unaudited management accounts within ninety (90) days from the end of each half year;
  - (ii) Annual audited financial statements within one hundred and eighty (180) days from the end of its financial year;
  - (iii) Promptly and in any event no later than thirty (30) days after receipt of such request from the Trustee, any other information relating to its business, affairs and financial condition as may from time to time be reasonably requested by the Trustee in order to discharge its duties and obligations as Trustee to the Sukukholders to the extent permitted by law;
  - (iv) Promptly, any notices, circulars and other documents dispatched by the Issuer to its shareholders; and

- (v) Within one hundred and eighty (180) days after the end of each of its financial year, a certificate confirming that the Issuer has complied with all its obligations under the Transaction Documents and the terms and conditions of the Sukuk Murabahah and that there did not exist or had not existed, from the date the Sukuk Murabahah were issued or date of the previous certificate, as the case may be, any Dissolution Event, where applicable and if such is not the case, to specify the same with details of the same.
- (b) The Issuer shall notify the Trustee in writing immediately of:-
- (i) The occurrence of a Dissolution Event;
  - (ii) Any circumstances that has occurred that would materially prejudice the Issuer or any security included in or created by the Security Documents;
  - (iii) Any claims against it which could have Material Adverse Effect upon the ability of the Issuer to perform its obligations under the Transaction Documents to which it is a party and shall defend itself against such claims;
  - (iv) Any change in the withholding tax position or taxing jurisdiction of the Issuer insofar as it affects the payment obligations of the Issuer;
  - (v) Any change in the utilisation of proceeds from the Sukuk Murabahah where the Transaction Documents sets out a specific purpose for which proceeds are to be utilised;
  - (vi) Any substantial change in the nature of the business of the Issuer;
  - (vii) Any material change in the directorship, management and shareholder or any other changes that may materially and adversely affect its business condition (financial or otherwise);
  - (viii) The occurrence of any event that has caused or could cause, one or more of the following:
    - (aa) any amount payable under the Sukuk Murabahah to become immediately payable;
    - (bb) the Sukuk Murabahah to become

immediately enforceable pursuant to the occurrence of a Dissolution Event; or

(cc) any other right or remedy under the terms, provisions or covenants of the Sukuk Murabahah or the trust deed to become immediately enforceable; and

(ix) Any other matter that may materially prejudice the interests of the Sukukholders.

**(x) Provision on Buy-back and Early Redemption of Sukuk : Buy-back**

The Issuer or its subsidiaries (if any) or its agent(s), acting on behalf of the Issuer, may at any time, purchase the Sukuk Murabahah by private treaty or in the open market.

The Sukuk Murabahah purchased by the Issuer, its subsidiaries or by its agent(s) acting on behalf of the Issuer for such purchase, shall be cancelled and cannot be resold or reissued.

**Early redemption**

For such series of Sukuk Murabahah where early redemption option is applicable, if any, which shall be determined prior to the Issue Date, the Issuer may redeem the Sukuk Murabahah prior to its maturity in accordance with the procedures set out in the Transaction Documents and subject to:

(a) the Finance Service Cover Ratio of at least 1.80 times being met prior to and after such early redemption;

(b) no Dissolution Event occurring prior and after such early redemption; and

(c) confirmation from the rating agency that such early redemption will not adversely affect the rating of the remaining series of the Sukuk Murabahah.

**Redemption at maturity**

Unless previously redeemed and cancelled, the Sukuk Murabahah shall be redeemed by the Issuer at its nominal value on the respective maturity dates.

**(y) Other Principal Terms and Conditions for the proposal**

(i) **Status of the Sukuk Murabahah** : The Sukuk Murabahah constitute direct, secured and unsubordinated obligations of the Issuer and shall at all times rank *pari passu* and without any preference among themselves and at least *pari passu* to all present and future

unsecured obligations of the Issuer from time to time (subject to those preferred by law).

- (ii) **Form and Denomination** : The Sukuk Murabahah shall be issued in accordance with and shall comply with all notices and requirements set out under the MyClear Rules and Procedures as applicable from time to time.

The Sukuk Murabahah 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.

Denomination

The denomination of the Sukuk Murabahah will be issued at RM1.0 million or in multiples of RM1.0 million thereof or such other denominations as may be allowed by MyClear / BNM at the time of issuance.

- (iii) **Permitted Investments** : The monies standing to the credit of the Designated Accounts may be invested by the Issuer and/or the Security Trustee, as the case may be, in Permitted Investments:

Permitted Investments shall comprise investment products approved by the SC's SAC, BNM's Shariah Advisory Council and/or other recognised Shariah authorities from time to time. Permitted Investments are as follows:

- (i) Islamic treasury bills, Islamic money market instrument and Sukuk issued by the Government of Malaysia or BNM;
- (ii) Islamic money market instruments (including dedicated sole purpose unit trust funds which invest in Islamic money market establish in Malaysia and regulated by the SC. Investment in such unit trust funds shall be subject to RAM's review (if applicable)) where there is the flexibility of early withdrawal including without limitation bankers' acceptance or promissory notes or certificates of deposit issued by any financial institution pursuant to the Islamic Financial Services Act 2013 ("IFSA") and having a minimum long term rating of AA<sub>1</sub> and/or short term rating of P1 by RAM or its equivalent; and
- (iii) Deposits with any financial institution licensed pursuant to the IFSA and having a minimum long term rating of AA<sub>1</sub> and/or short term rating of P1 by RAM or its equivalent,

subject to the following:

1. the maturity of the Permitted Investments shall fall

on a date, which is at least three (3) business days before the next profit payment date and/or the principal maturity date, whichever is earlier and shall be remitted back into the original account from which such monies relating to such Permitted Investments were obtained from;

2. the Permitted Investments being denominated in Ringgit Malaysia;
3. investments in sukuk which are equities in nature or incorporate loss-sharing mechanism shall not be allowed.

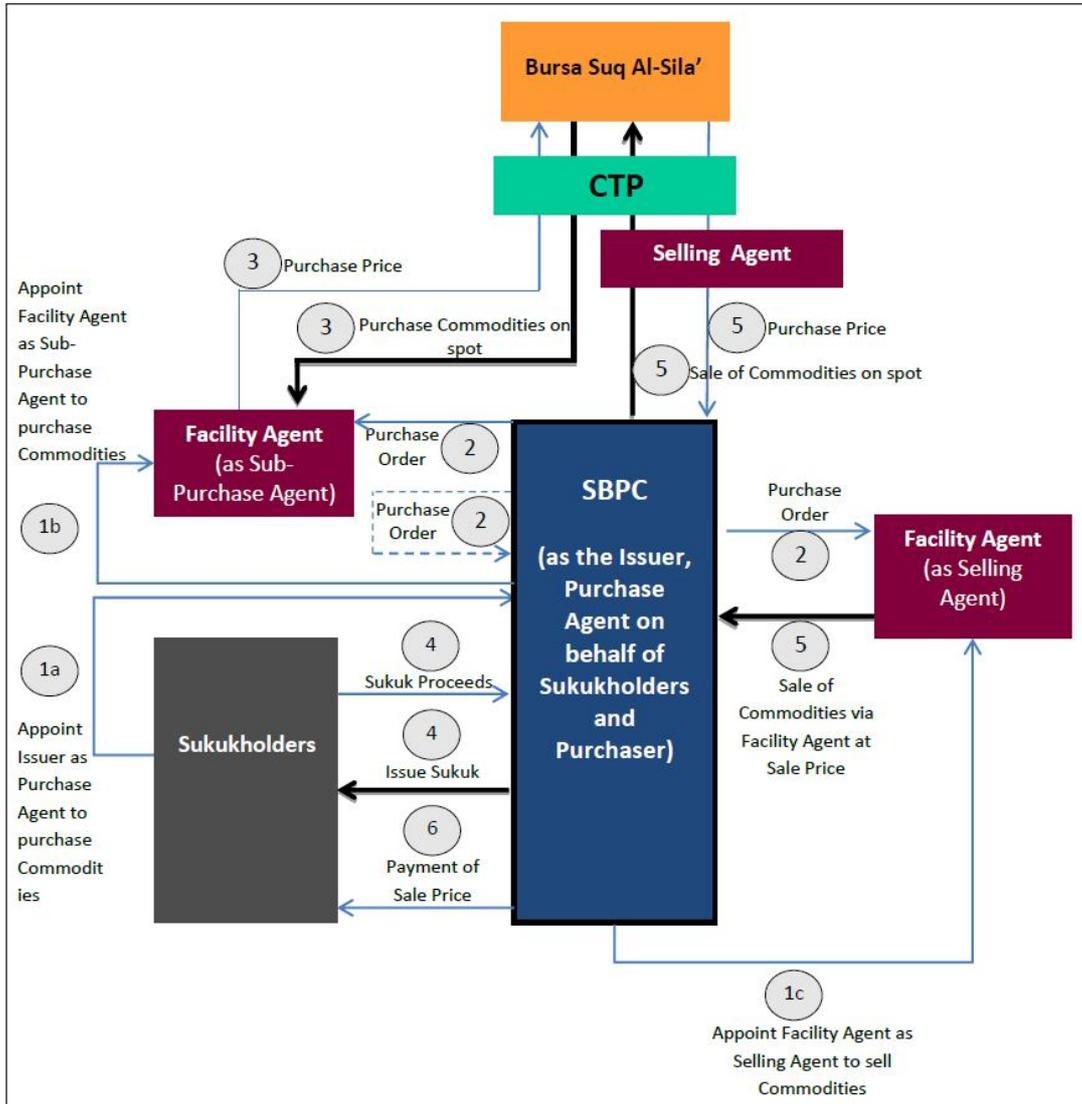
- (iv) **Trustee's Reimbursement Account** : The Issuer shall open and maintain an account designated as "**Trustees' Reimbursement Account for Sukukholders' Actions**" (as required under the Trust Deeds Guidelines), in which a sum of RM30,000.00 is to be deposited ("**Trustees' Reimbursement Account**"). The Trustees' Reimbursement Account shall be operated by the Trustee and the monies shall only be used strictly by the Trustee in carrying out its duties in relation to the occurrence of Dissolution Events or enforcement events which are provided in the Trust Deed. The sum of RM30,000.00 in the Trustees' Reimbursement Account shall be maintained at all times throughout the tenure of the Sukuk Murabahah.
- (v) **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 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 Issuer 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.
- (vi) **Documentation** : The terms and conditions of the Sukuk Murabahah shall be set out in various agreements in form and substance acceptable to the Principal Advisor, Joint Lead Arrangers, Trustee and the Issuer and as deemed necessary by the Solicitors.

The Transaction Documents shall include *inter-alia* the following:-

- (i) Commodity Murabahah Master Agreement;
- (ii) Trust Deed;
- (iii) Security Documents;
- (iv) Sukuk Murabahah;
- (v) Any other legal documentation as advised by the Solicitors.

- (vii) **Legal Fees, Stamp Duty and Other Expenses** : All costs and expenses including but not limited to legal and other professional fees, stamp duty (if any), out-of-pocket expenses, fees for BNM and Paying Agent, Shariah Adviser, Trustee, Facility Agent, SC and other regulatory fees (if any), and other costs and expenses, shall be for the account of the Issuer and on a full indemnity basis.
- (ix) **Governing Laws** : The Sukuk Murabahah and Transaction Documents shall be governed by the laws of Malaysia and be subject to the non-exclusive jurisdiction of the courts of Malaysia.
- (x) **Other Conditions** : The Sukuk Murabahah shall at all times be subject to such guidelines, rules and directives to be issued from time to time by the SC and/or BNM having jurisdiction over matters pertaining to the Sukuk Murabahah.
- (xi) **Compensation for late and default payments (“Ta’widh”)** : In the event of any delay in payments of the Sale Price in relation to the Sukuk Murabahah, the Issuer shall pay the compensation on such delayed payments at the rate and manner prescribed by the SC’s SAC from time to time in accordance with Shariah.
- (xii) **Ibra (“Rebate”)** : A Rebate may be granted at the absolute discretion of the Sukukholders. The Sukukholders in subscribing or purchasing the Sukuk Murabahah, consent to grant a Rebate, if the Sukuk Murabahah is redeemed before the maturity date.
- The Ibra’ (Rebate) shall be based on a formula which is to be mutually agreed by the Sukukholders and the Issuer prior to issuance.
- (xiii) **Material Adverse Effect** : Any material adverse effect on (i) the business or condition (financial or otherwise) or results of the operations of the Issuer or their prospects; or (ii) the ability of the Issuer to perform any of its obligations under any of the Transaction Documents; or (iii) the validity or enforceability of the Transaction Documents or the right of remedies of the Trustee or the Sukukholders under the Transaction Documents.

**Annexure 1**



|                |   |
|----------------|---|
| <i>Step 1a</i> | The investors (the “ <b>Sukukholders</b> ”) will appoint the Issuer (in such capacity, the “ <b>Purchase Agent</b> ”) as its agent (wakeel) to buy Shariah-compliant commodities, which shall mean Shariah-compliant commodities which exclude ribawi items in the category of medium of exchange such as currency, gold and silver (the “ <b>Commodities</b> ”).   |
| <i>Step 1b</i> | The Purchase Agent will then appoint the Facility Agent as the sub-agent (in such capacity, the “ <b>Sub-Purchase Agent</b> ”) to purchase the Commodities.   |
| <i>Step 1c</i> | The Purchase Agent will also appoint the Facility Agent (in such capacity, the “ <b>Selling Agent</b> ”) as its agent (wakeel) to sell the Commodities to the Issuer on behalf of the Purchase Agent.   |
| <i>Step 2</i>  | <p>The Issuer (in such capacity, the “<b>Purchaser</b>”) will issue a purchase order (the “<b>Purchase Order</b>”) to the Purchase Agent, Sub-Purchase Agent and Selling Agent. In the Purchase Order, the Purchaser will irrevocably undertake based on unilateral binding promise to purchase (the “<b>Undertaking to Purchase</b>”) the Commodities from the Sukukholders at the deferred sale price (“<b>Sale Price</b>”) which shall be the aggregate of the Purchase Price (as defined under Step 3), the profit payment (if applicable) and the Discounted Amount (as defined below) payable on a deferred payment basis.</p> <p>“<b>Discounted Amount</b>” means the difference between (i) the nominal value of the relevant Sukuk Murabahah and the Sukuk Murabahah proceeds.</p> |
| <i>Step 3</i>  | Pursuant to the Purchase Order, the Sub-Purchase Agent will purchase on a spot basis, the Commodities from commodity vendor(s) in the Bursa Suq Al-Sila’ commodity market (through a Commodity Trading Participant (“ <b>CTP</b> ”)) at a purchase price which shall be an amount equivalent to the Sukuk Murabahah proceeds (“ <b>Purchase Price</b> ”). The Purchase Price shall be in compliance with the SC’s SAC asset pricing requirements as set out in the Sukuk Guidelines.  |
| <i>Step 4</i>  | The Issuer shall subsequently issue the Sukuk Murabahah to the Sukukholders to evidence the Sukukholders’ ownership of the Commodities and all rights thereto (including all rights against the Issuer under the Purchase Order) and subsequently once the Commodities are sold to the Purchaser, the entitlement to receive the Sale Price. The Sukuk Murabahah proceeds received from the Sukukholders will be used to pay the Purchase Price of the Commodities.   |
| <i>Step 5</i>  | Thereafter, pursuant to the Undertaking to Purchase, the Selling Agent (acting on behalf of the Purchase Agent who in turn acts on behalf of the Sukukholders) shall sell the Commodities to the Purchaser at the Sale Price. Upon completion of such sale, the Purchaser shall appoint the Selling Agent to sell the Commodities to Bursa Malaysia Islamic Services Sdn. Bhd. through a CTP on a spot basis for cash consideration for an amount equal to the Purchase Price.  |

During the tenure of the Sukuk Murabahah, the Issuer (as part of its obligation to pay the Sale Price) shall make periodic profit payments to the Sukukholders. Each such payment shall pro tanto reduce the obligation of the Issuer on the Sale Price payable for the Commodities.

***Step 6***

At (i) the maturity date of the relevant Sukuk Murabahah; or (ii) upon the declaration of a Dissolution Event (as defined under item 2(v) of the Principal Terms and Conditions), whichever is earlier, the Issuer (as part of its obligation to pay the Sale Price) will pay the Sukukholders all amounts then outstanding on the Sale Price as final settlement of the same, upon which the Sukuk Murabahah will be cancelled.

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**SECTION 4.0****BACKGROUND INFORMATION OF THE ISSUER****4.1 Corporate History and Principal Activities**

The Issuer was incorporated in Malaysia under the Companies Act 1965 on 14 April 1997 as a private company limited by shares under the name of Sepangar Bay Power Corporation Sdn Bhd. The Issuer's registered office is located at Suite 2A-12-1, Block 2A, Level 12, Plaza Sentral, Jalan Stesen Sentral 5, 50470 Kuala Lumpur.

The principal activity of the Issuer is that of design, construction, operation and maintenance of a combined cycle power plant, generation and sale of electrical energy and generating capacity of power plants.

**4.2 Share Capital**

The authorised, issued and paid-up share capital of the Issuer as at 23 May 2014 are as follows:-

|                           |   |
|---------------------------|---|
| <b>Authorised</b>         | RM100,000,000.00 comprising of 100,000,000 shares of RM1.00 each.     |
| <b>Issued and Paid-up</b> | RM50,000,000.00 comprising 50,000,000 ordinary shares of RM1.00 each. |

**4.3 Shareholding Structure / Substantial Shareholders**

As at 23 May 2014, the shareholders of the Issuer and their respective shareholdings are as follows:-

| Name of shareholders            | Ordinary shares   |            |           |                    |
|---------------------------------|-------------------|------------|-----------|--------------------|
|                                 | Direct            | %          | Indirect  | %                  |
| Kontek Abbadi Sdn Bhd           | 27,500,000        | 55         | -         | -                  |
| Juara Jernih Sdn Bhd            | 12,500,000        | 25         | 3,296,703 | 6.6 <sup>(1)</sup> |
| Konsortium Usukan Power Sdn Bhd | 10,000,000        | 20         | -         | -                  |
| <b>Total</b>                    | <b>50,000,000</b> | <b>100</b> |           |                    |

*Note:*

(1) By virtue of its deemed interest in Konsortium Usukan Power Sdn Bhd.

As at 23 May 2014, the Issuer does not have any subsidiaries.

#### **4.4 Profile of the Board of Directors**

The directors of SBPC and their respective profiles as at 23 May 2014 are as set out below:

##### **Lt. Gen (R) Dato' Seri Panglima Zaini Bin Hj Mohd Said Director**

Lt. Gen. (R) Dato' Seri Panglima Zaini Bin Hj Mohd Said was born on 15 August 1946 in Ulu Lenggeng, Negri Sembilan Darul Khusus.

He had his early education in Kuala Lumpur and joined the Army as a Cadet Officer on 20 February 1965. He was later commissioned as Second Lieutenant of the 7th Battalion Royal Malay Regiment on 5 August 1965 and in 1967, joined the Malaysia Special Service Unit.

Lt. Gen. Dato' Seri Panglima Zaini has held many key appointments throughout his career. Among his major appointments were the Brigade Major in HQ 2 Malaysian Infantry Brigade, Chief of Staff and Deputy Commander of the 21st Special Service Group and Chief of Staff of HQ 3rd Malaysian Infantry Division. In August 1993, he was promoted to Brigadier General and took over the command of 10 Para Brigade, an Army component of Rapid Deployment Force. In August 1994, he attended the National Defence College in Rawalpindi, Pakistan and on his return in August 1995, was appointed as Assistant Chief of Staff of Operations and Training at the Army HQ.

In July 1996, he was promoted to Major General and took command of 3rd Malaysian Infantry Division for 3 years. In September 1999, he was promoted to Lt. Gen. and took over command of the country's Army Field.

His overseas military training encompasses mainly Special Forces skills. He attended and qualified in the Airborne, Ranger and Pathfinder Courses in Fort Benning USA in 1967 followed by Small Craft and Small Scale amphibious Raids Courses in Australia in 1970. In 1975, he attended the US Special Forces Officer and the Psychological Operations Officer Courses in the USA and qualified.

His higher level military education started with the US Marine Corps Command and Staff College Course in 1978/79, followed by the Malaysian Armed Forces Defence College Course in Kuala Lumpur in 1985, National Defence College Course in Pakistan in 1994/1995, Top Management Course in Phuket, Thailand run by Asian Institute of Management in 1997 and Senior Executive in National and International Security Course at Harvard University in August 2000. Currently, Lt. Gen. (R) Dato' Seri Panglima Zaini is a director of Opcom Berhad and a number of local private companies.

##### **Dato' Noorashikin Binti Tan Sri Abdul Rahim Director**

Dato' Noorashikin is qualified as a Barrister-at-Law from Gray's Inn, London and has graduated with Bachelor of Science (Chemistry) from University of Northern Illinois. She spent over 20 years in judicial & legal service in Malaysia and has held various posts at different level of courts. Dato' Noorashikin served as a legal counsel, and subsequently as the Director of Kuala Lumpur Regional Centre for Arbitration (KLRCA). She was responsible for drafting the rules for resolving disputes for "Domain Name.my", and the KLRCA Rules of Arbitration for Islamic Banking.

Dato' Noorashikin frequently presented talks on alternative dispute resolution in Malaysia, Singapore, Hong Kong, Vietnam, India, Australia and France. She was a member of the Working Group II on Arbitration at the United Nations. Selected by the United Nations to

teach drafting of international commercial contract in Ho Chih Min City, Vietnam, Dato' Noorashikin was subsequently conferred the "International Woman of the Year 2009" Award by the American Bar Association.

**Colonel Prof Dato' Dr Hj Kamarudin Bin Hj Kachar  
Director**

Colonel Prof Dato' Dr Hj Kamarudin Bin Hj Kachar is an honours graduate of Economics and Sociology from the London School of Economics and Political Science, University of London. He received his Diploma in Educational Studies, specializing in the Administration of Primary Education from the Institute of Education, University of Leeds. He attained his Master of Philosophy with special reference to the Administration of Secondary Education from the Institute of Education, University of London. His field of research for his Doctorate Degree from the University of New England, Australia was the administration of higher education.

He is currently the president of the Pertubuhan Pemikir Profesional Melayu Malaysia, Chairman and Chief Consultant of Prished Consultants International, Kuala Lumpur and also an Adjunct Professor and Senior Representative (Southeast Asia) of Troy State University, Alabama.

Colonel Professor Dato' Dr. Hj. Kamarudin has an illustrious career in the academia having served in numerous government agencies in various capacities at primary, secondary and tertiary level, from being a teacher to assuming the post of headmaster, principal, dean, professor and vice-chancellor, as well as director and director general. His involvement in voluntary organisations is diverse and of great weight. This includes the Malaysian Scout Movement, having risen to the rank of National Chief Scout Commissioner of Malaysia, and the Malaysian Territorial Army, having commanded Regiment 510 and 512, respectively. He is also a member of the University of New England (Australia) Alumni.

**4.5 Profile of the Management**

**Datuk Low Siak Wei  
Chief Executive Officer**

Datuk Low is a Chartered Accountant by profession and a Certified Financial Planner who has extensive experience and expertise in the following areas:

- (i) investment advisory services;
- (ii) corporate advisory functions on fund raising;
- (iii) merger and acquisition deals; and
- (iv) capital market activities.

Datuk Low holds a Master in Business Administration and is an alumni member of Harvard Business School, United States of America. He also holds a Capital Market Services Representative Licence under Securities Commissions of Malaysia.

Datuk Low spent numerous years in top three international accounting firms in Malaysia before joining a financial institution in Malaysia where he helped to establish the capital market operations of the financial institution. Later, he founded AsiaPacific Advisory Services Sdn Bhd and sits on board as the Managing Director. He also serves the board and oversees the operations of the following companies:

- (i) AsiaPacific Advisory Services Sdn Bhd – Director  
Main responsibilities: Corporate brokerage functions on fund raising, merger and deals and capital market activities.

- (ii) Anjung Bahasa Sdn Bhd – Finance and Corporate Director  
Main responsibilities: Assist and act as Corporate Advisor to its immediate holding company, Pustaka Panglima Sdn Bhd in the acquisition and fund raising exercise of Anjung Bahasa Sdn Bhd, which is a concession holder of a building leased to Malaysia Government (new office complex known as Dewan Bahasa dan Pustaka) for 17 years. Datuk Chris leads the group's privatization team of Panglima Capital Group (which is the ultimate holding company of Anjung Bahasa Sdn Bhd).

**Bala Chandran A/L Vajtam**  
**Project Director**

As a Director in the Power and Energy division, Mr. Bala Chandran A/L Vajram is responsible for work carried out by the company relating to project planning and management, project feasibility studies, due diligence exercise, technical review and financial analysis for power / energy generation plants. Mr. Bala Chandran is competent both in coal and gas fired combined cycle power plant development and operation inclusive of construction and commissioning works.

Mr. Bala Chandran has travelled worldwide to plants in order to be updated with the latest technology advancement within this sector. In Malaysia, he was involved in the following projects:

- (i) development of a 3 x 700MW coal fired power plant in Tanjung Bin, Johor, inclusive of operational responsibility upon successful implementation of the plant;
- (ii) development of a 350MW combined cycle single shaft 9FA machine in an IPP which is Malaysia's first, includes handling tenders for the EPC contracts, Operation and Maintenance contracts and evaluations, as well as project implementation;
- (iii) rehabilitation of existing 4 x 60MW thermal plant and a new single block of combined cycle plant of 750MW in Prai, Penang; and
- (iv) project management of Sutera Harbour's co-generation plant 4 x 9.5MW in Sabah, during defect liability period.

**Liew Fatt Hian**  
**Vice President, Operation**

Mr Liew Fat Hian, was appointed as Vice President of the Issuer in May 2009 and manages the maintenance of the power plant and monitors the performance of the Support Symphony.

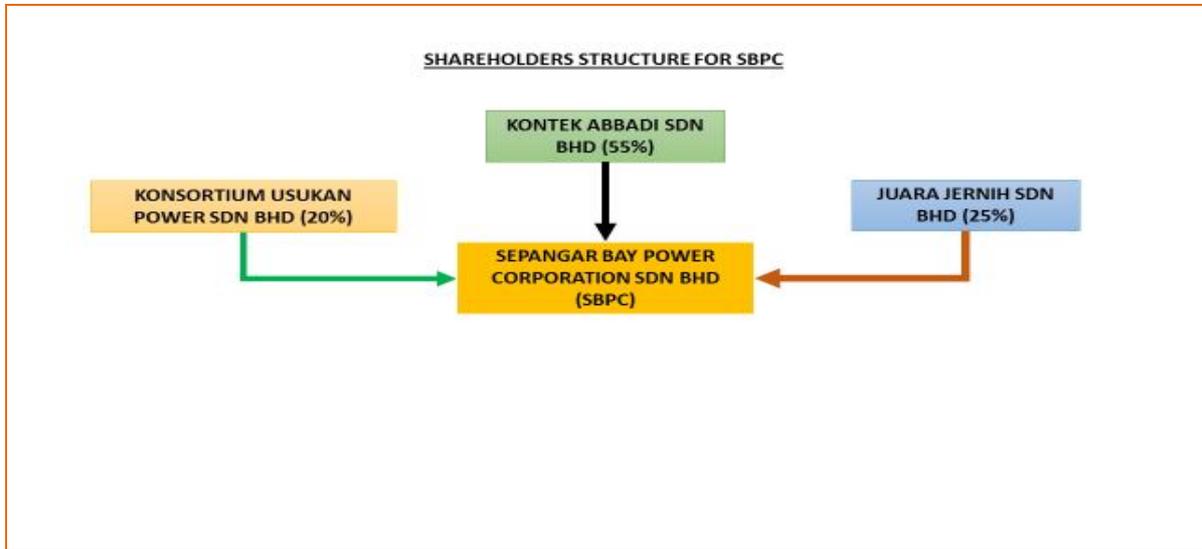
He has more than 30 years of direct working experience in the power generation industry ranging from project planning and implementation, operation, consulting and contracting. At present, his major role is to oversee the general management of the operation and maintenance of the Power Plant.

Prior to joining the Issuer, he was the Lead Mechanical Engineer of Worley Parsons Services Sdn Bhd, a company providing professional services to the energy, resource, and complex process industries. He holds a first class degree in Marine Engineering-Diesel Motor from Singapore Polytechnic.

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#### 4.6 Corporate Structure

The corporate structure of the Issuer as at 23 May 2014 is as set out in the diagram below:



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## **SECTION 5.0 PROJECT DESCRIPTION**

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### **5.1 Overview**

The Issuer has been granted the IPP Licence under Section 9 of the Electricity Supply Act, 1990 by the Energy Commission on 7 March 2006, to use, work or operate any electrical installation constructed at Lot 18 (Industrial Zone 3), Kota Kinabalu Industrial Park, Kota Kinabalu, Sabah and to supply electricity to or for the use of, inter alia, SESB. The IPP Licence shall expire twenty-three (23) years from the date of issue of 18 May 2006.

On the 28 January 2005, SBPC entered into the PPA with SESB for the sale and purchase of the electricity generated upon the terms and conditions therein contained. The tenure of the PPA is for twenty one (21) years from the commercial operation date of Phase 2 of the Project. The Phase 2 commissioning of the Power Plant was achieved on 12 August 2008.

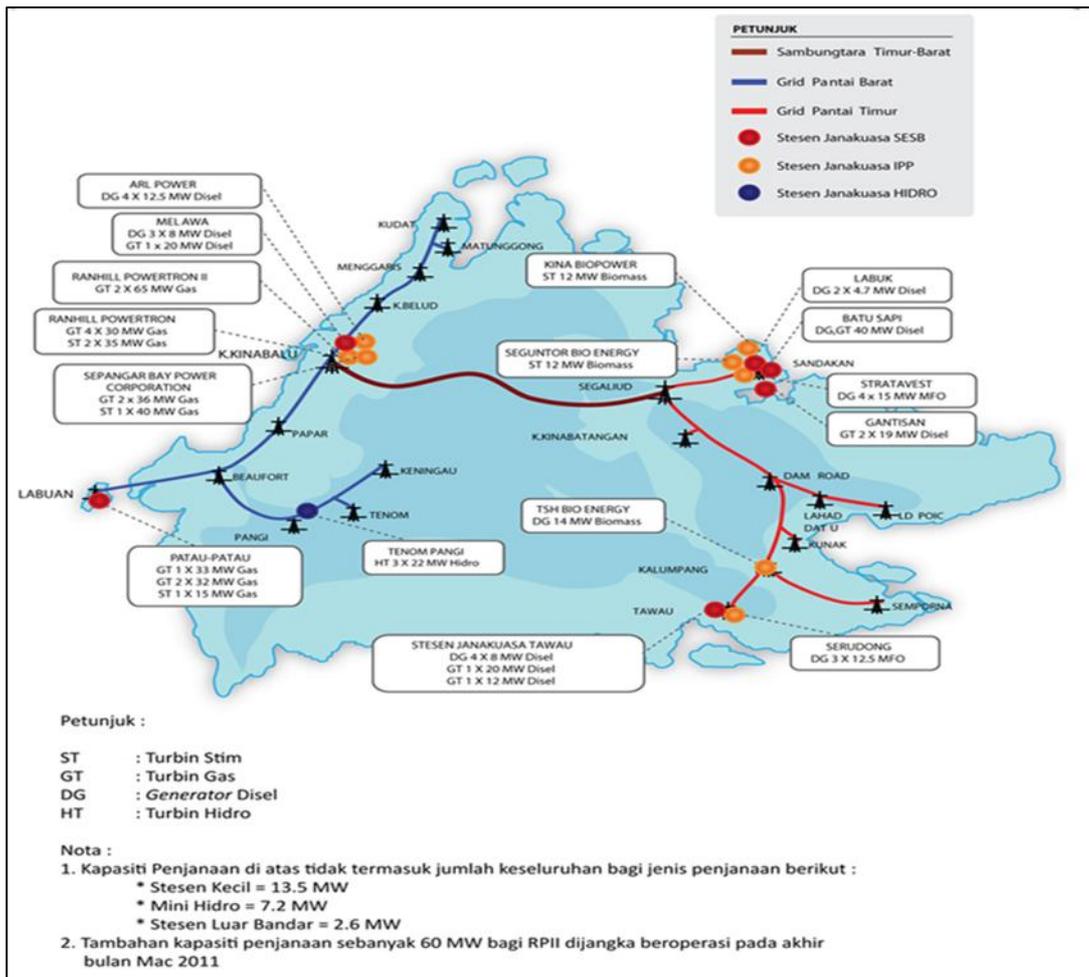
The Power Plant consist of two (2) units of GE PG6581B combustion gas turbines unit, two (2) heat recovery steam generators, one (1) steam turbine generator and together with all other necessary ancillaries equipment of the combined cycle facility with a dependable capacity of 100MW. The project are being completed in two phases, where Phase 1 consists of two (2) units combustion gas turbines with all the necessary ancillaries with dependable capacity of 66MW for operation on open cycle mode which was completed in November 2006. Whereas the Phase 2 consists of two (2) steam generators, one (1) steam turbine together with all other necessary ancillaries and equipment to the Phase 1 of the facility to provide a total dependable capacity of 100MW.

A revision of additional 5MW of dependable capacity from 1 September 2012 to 31 August 2014 was agreed by SESB and the Issuer.

The current dependable capacity of the Power Plant stands at 105MW.

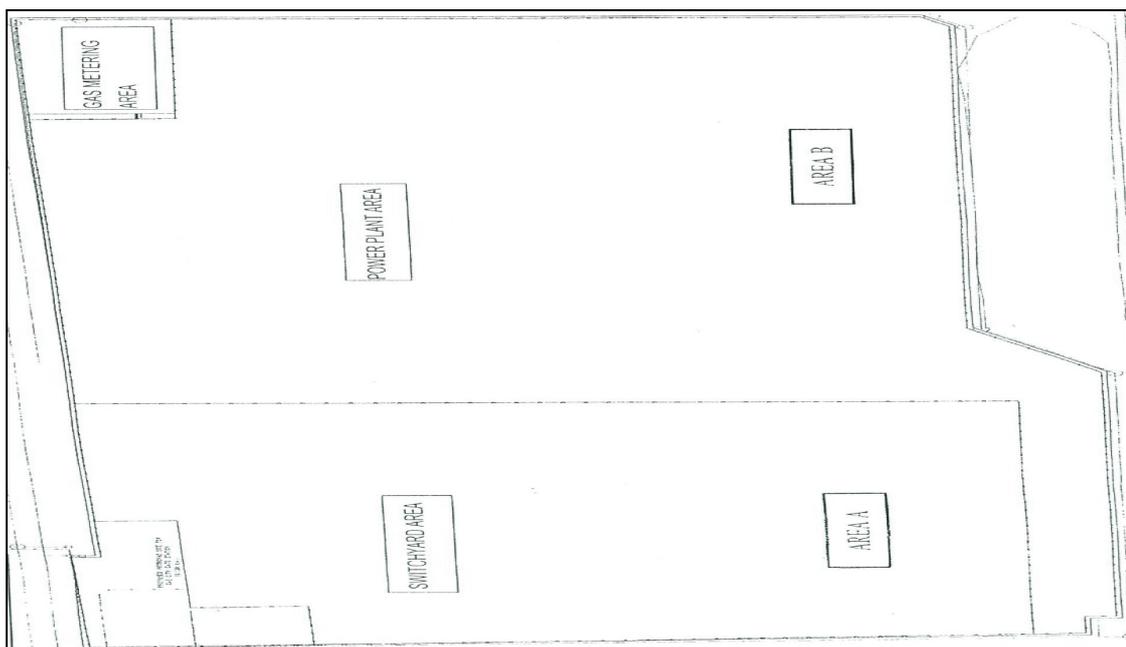
### **5.2 Power Plant Location**

The Power Plant is located at KKIP Selatan Industrial Zone 3, within Kota Kinabalu Industrial Park, approximately 30 km north of Kota Kinabalu. The site is accessible via Jalan Sepangar. The site is located in an existing industrial park where the entire infrastructure is readily available, and is further described as located on the portion of the Said Land shown as the Power Plant area in the layout plan (Area B) in the Site Lease Agreement.



### 5.3 Power Plant Layout

The Power Plant is located on a portion of the Said Land as shown as the Power Plant Area (Area B) in the layout below.



## 5.4 Power Plant Technical Overview

The following is the brief description of the main equipment and system of the Power Plant:-

### 5.4.1 Gas Turbines

The Power Plant is installed with two (2) gas turbines. The gas turbines are the General Electric type PG6518B which are capable of producing 66MW as required under the PPA. The gas turbines can be operated both on natural gas and also distillate fuel.

### 5.4.2 Gas Turbines Electrical Generator

The generator for the gas turbines is coupled to the rotor shaft of each of the two gas turbines. Each of the generators is capable of generating 46 megavolt-ampere of electricity energy at 11.5 kilovolt-ampere. The generator is a water cooled type where the resultant hot air is cooled in a water to air heat exchanger. The water is fed from a closed cooling water system.

### 5.4.3 Heat Recovery Steam Generator (“HRSG”)

Two (2) units of MHI-made HRSGs (one per gas turbine) is provided along with the auxiliaries to extract energy contained in the exhaust gas from each gas turbines and produce steam at rated parameters. The HRSGs is unfired, 2-pressures type and a non-reheat design. The steam from each individual HRSG are is combined in a manifolds and piped high and lower pressure pipe to the steam turbine.

### 5.4.4 Steam Turbine

One (1) unit of steam turbine of single cylinder, mixing condensing type combined with high pressure and low pressure turbine is provided. The steam turbine is capable to produce 34MW as required in the PPA. 100% capacity steam bypass system for both HP and LP steam line is provided. The bypass system will operate during start-up and also during trip condition.

### 5.4.5 Steam Turbine Electrical Generator

The steam turbine is coupled to an electrical generator which produces electrical energy at a voltage of 11.5 kV and 50.25 MVA. The resultant hot air is cooled in water to air heat exchanger which is fed from a closed cooling water system.

### 5.4.6 Air Cooled Condenser

Air cooled condenser system is provided for condensing the exhaust steam from the steam turbine. The exhaust steam from the steam turbine flows to the air cooled condenser via large ducts. Steam distribution manifolds guide the steam to the steam condenser heat exchanger bundles, which consist of finned tube, where the steam is condensed against ambient air which is blown across the finned tubes by large axial fans.

#### 5.4.7 Water Treatment

Water for the facility is supplied through a pipeline from the local water authority and stored at site. The stored water is converted into demineralised water at the water treatment plant and this demineralised water is used for the production of steam.

#### 5.4.8 Fire Protection System

The fire protection systems available at the Power Plant are as follows:-

- (i) yard fire hydrants and header system;
- (ii) internal sprinklers;
- (iii) foam discharge;
- (iv) carbon dioxide discharge;
- (v) automatic fire monitoring and detection system.

#### 5.4.9 Diverter and Isolation Dampers

The isolation system consists of a diverter damper and an isolation damper to isolate the bypass stack shall is provided for each HRSG unit. This is a key determinant of overall plant availability and flexibility to operate in either open or combined cycle modes.

### **5.5 Operations and Maintenance Overview**

The operation and maintenance of the Power Plant is undertaken by Support Symphony, which has a common director as the Issuer, vide the Operations and Maintenance Agreement. Support Symphony receives technical support from General Electric Company with respect to the gas turbines, and operation and maintenance support from GE Energy Parts Inc and GE Power Systems (Malaysia) Sdn Bhd through contractual services agreement.

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## **SECTION 6.0 PROJECT DOCUMENTS AND THE SITE LEASE AGREEMENT**

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### **6.1 Salient terms of the Power Purchase Agreement (“PPA”)**

The PPA was executed between the Issuer as the seller and SESB on 28 January 2005 for the Issuer to design, construct, own, operate and maintain a Power Plant on the Said Site as well as to sell up to 100MW of electricity generated by the Power Plant to SESB for a period of twenty-one (21) years commencing from 12 August 2008, with a revision of additional 5MW of dependable capacity from 1 September 2012 to 31 August 2014. The current dependable capacity of the Power Plant stands at 105MW.

SESB will, in consideration of the sale of electricity by SBPC under the PPA, pay to SBPC, capacity payment and energy payment pursuant to the terms of the PPA.

In the event of an event of default which is not remedied, the non-defaulting party has the right to terminate the PPA. In the event of such termination, the PPA provides an option to SESB to purchase the Power Plant. Additionally, the security documents under the Proposed Issue permit the Security Trustee to enforce its step-in-rights so that the Security Trustee, or a person or entity nominated by it, assumes all the Issuer’s rights, interests, title and benefits in and to the PPA.

Extract of selected provisions of the PPA is attached in this Information Memorandum as Appendix 2.

### **6.2 Salient terms of the Gas Supply Agreement**

In order to secure the necessary fuel for its operations, the Issuer has entered into the Gas Supply Agreement on 28 November 2005 with the joint sellers, Petronas and Petronas Carigali for the supply of natural gas to the Power Plant until 31 March 2028 with an extension of an additional eight (8) months. Under the Gas Supply Agreement, the Issuer is subject to a ‘take-or-pay’ clause pursuant to which the Issuer needs to accept delivery of 75% of the Issuer’s net annual contracted quantity regardless of the actual amount needed for operations. However, the Gas Supply Agreement allows any unused gas to be carried forward and utilized the following year.

### **6.3 Salient terms of the Fuel Supply Agreement**

SBPC has also entered into the Fuel Supply Agreement on 21 August 2006 with Shell Timur for the sale and delivery of diesoline for a term of twenty-one (21) years effective from 1 August 2006 to 31 July 2027. SBPC will use such diesoline as a backup fuel in the event of gas supply disruption.

### **6.4 Salient terms of the Operations and Maintenance Agreement**

An operations and maintenance (“O&M”) operator, Support Symphony has been appointed by the Issuer pursuant to the Operations and Maintenance Agreement to conduct routine maintenance on the Power Plant. For scheduled maintenance throughout the tenure of the PPA, Support Symphony has entered into contractual services agreements with GE Energy Parts Inc and GE Power Systems (Malaysia) Sdn Bhd.

### **6.5 Salient terms of the Site Lease Agreement**

The Issuer, as the lessee, has entered into the Site Lease Agreement with SESB as the lessor dated 27 June 2005 pursuant to which the Issuer has taken a site lease over the Said Site for a

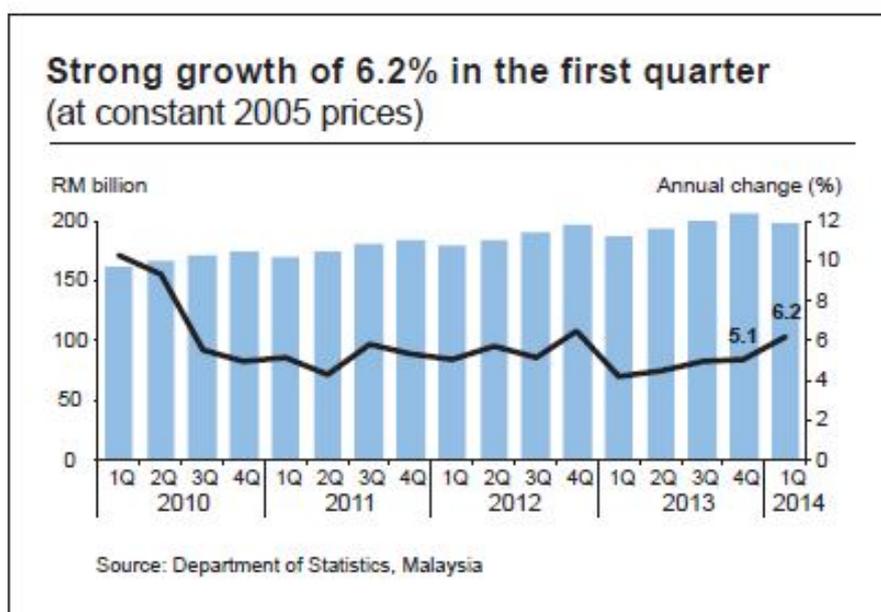
period of twenty seven (27) years commencing from the date of the Site Lease Agreement or at the expiry of the PPA, whichever is earlier. The tenure of the Site Lease Agreement is linked to the PPA. Any extension of the PPA will result in the same for the Site Lease Agreement. In the event the PPA is terminated early, the Issuer has an option to terminate the Site Lease Agreement. The intent of the Site Lease Agreement is to facilitate the construction, operation and maintenance of the Power Plant for the generation of electricity and the sale of electrical energy to SESB as well as matters ancillary thereto as set out in the PPA. The Issuer has granted SESB an option to purchase the Power Plant prior to the end of the tenure of the PPA or upon early termination of the PPA. A separate land title for the land on which the Power Plant sits has yet to be issued. Therefore the Issuer's interest has not been registered under the Sabah Land Ordinance. The Issuer's interests are currently governed by contract. Subject to the consent of the relevant land authorities and SESB, if required, a charge will be created for the benefit of the Sukukolders once the separate land title has been issued.

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## 7.1 Overview of the Malaysian Economy

### 7.1.1 The Malaysian economy expanded by 6.2% in the first quarter of 2014

The Malaysian economy registered a strong growth of 6.2% in the first quarter of 2014 (4Q 2013: 5.1%), driven by a stronger expansion in domestic demand and a turnaround in net exports. On the supply side, the major economic sectors grew further, supported by both domestic and trade activities. On a quarter-on quarter seasonally-adjusted basis, the economy grew by 0.8% (4Q 2013: 1.9%).



Private consumption growth remained strong at 7.1% (4Q 2013: 7.4%) in the first quarter, supported by stable employment conditions and continued wage growth. Growth in public consumption increased to 11.2% (4Q 2013: 5.2%), reflecting higher Government spending on supplies and services. Gross fixed capital formation grew by 6.3% (4Q 2013: 6.5%) driven by robust private sector capital spending amidst a decline in public investment growth. Growth in private investment remained strong at 14.1% (4Q 2013: 16.6%), underpinned by capital spending in the manufacturing and services sectors. Public investment declined by 6.4% (4Q 2013: -1.4%), reflecting the contraction in capital spending by both the Federal Government and the public enterprises.

On the supply side, growth was supported by the major economic sectors. The services sector expanded further, driven by the improvement in finance and insurance and sustained growth in consumption- and production-related services. Growth in the manufacturing sector was underpinned by the stronger performance in the export-oriented industries. The construction sector recorded stronger growth, driven mainly by the residential sub-sector. Meanwhile, the agriculture sector registered higher growth, underpinned by the production of food crops while the mining sector registered a lower decline due to a smaller contraction in the output of crude oil.

The headline inflation rate, as measured by the annual change in the Consumer Price Index (CPI), averaged at 3.4% in the first quarter of 2014 (4Q 2013: 3%). The increase was on account of higher inflation in the housing, water, electricity, gas and other fuels and transport categories.

The trade surplus amounted to RM26.4 billion in the first quarter of 2014 (4Q 2013: RM27.5 billion). Gross exports grew at a stronger pace of 10.9% (4Q 2013: 10.2%), reflecting the continued expansion of global economic activity while gross imports expanded at a more moderate pace of 5.5% (4Q 2013: 11.6%).

The international reserves of Bank Negara Malaysia (BNM) amounted to RM424.6 billion (equivalent to USD130.2 billion) as at 31 March 2014. This reserve level has taken into account the quarterly adjustment for foreign exchange revaluation changes. As at 30 April 2014, the reserves position amounted to RM427.8 billion (equivalent to USD131.2 billion), sufficient to finance 9.4 months of retained imports and is 1.3 times the redefined short-term external debt.

With effect from the first quarter of 2014, Malaysia has redefined its external debt. This is in recognition of the significant development in the depth and breadth of Malaysia's financial markets and the consequent increase in the participation of non-resident investors in ringgit-denominated domestic debt securities in recent years. Following this redefinition, non resident holdings of ringgit-denominated debt securities, non-resident deposits, trade credits provided by foreign trade counterparts and other debt liabilities will now be included as part of Malaysia's external debt. As at end-March 2014, Malaysia's redefined external debt stood at RM700.1 billion, equivalent to USD212.5 billion or 65.2% of GDP (end-December 2013: RM694.6 billion or USD209.2 billion, equivalent to 70.4% of GDP). The increase in the external debt is due mainly to higher offshore borrowing by the private sector and non-resident holdings of ringgit-denominated debt liabilities. More than half of the total external debt has a long term maturity profile. The short-term debt remained manageable with reserves coverage of 1.3 times as at end-March 2014. Malaysia's external position remains resilient, underpinned by sound domestic economic fundamentals. In addition, well-developed capital markets, strong financial intermediaries, and the presence of large domestic institutional investors have provided the financial system with greater resilience to effectively manage any external shocks (see Box Article on 'The Redefinition of External Debt').

*(Source: 1st Quarter 2014 Quarterly Bulletin, Bank Negara Malaysia)*

### **7.1.2 Interest rates remained stable**

The Overnight Policy Rate (OPR) was maintained at 3.00% during the first quarter of 2014. At the prevailing level of the OPR, monetary conditions remain supportive of economic activity. The 3-month interbank rate was higher during the quarter following the absence of trades with BNM at the 3-month tenure as a result of the reduction in the maximum tenure of BNM's Range Maturity Auction (RMA) from 3 months to 2 months.

The average interbank rate for other maturities remained relatively stable. Retail deposit rates were stable during the period. The average quoted fixed deposit (FD) rates of commercial banks were relatively unchanged. Borrowing costs were also stable. The average base lending rate (BLR) of commercial banks remained unchanged at 6.53% while the weighted average lending rate (ALR) on outstanding loans was stable during the period (end-March 2014: 5.39%; end-December 2013: 5.36%).

The monetary aggregates expanded at a slower pace in the first quarter of 2014. M1, or narrow money, decreased slightly by RM0.6 billion during the quarter. On an annual basis, M1 expanded by 11.4% as at end-March 2014 (end-December 2013: 13%). M3, or broad

money, increased by RM19.5 billion on a quarter on-quarter basis to record an annual growth rate of 5.9% as at end-March 2014 (end-December 2013: 8.1%). The expansion of M3 during the quarter was mainly on account of credit extended to the private sector by the banking system and higher net claims on the Government.

Total gross financing raised by the private sector through the banking system and the capital market amounted to RM282.2 billion in the first quarter (4Q 2013: RM302.8 billion). On a net basis, outstanding banking system loans and PDS expanded at an annual growth rate of 9.6% as at end-March 2014 (end-December 2013: 9.8%). Net funds raised in the capital market were higher at RM39.4 billion in the first quarter (4Q 2013: RM33.7 billion). The steady growth in net financing has continued to provide support to economic growth.

The ringgit and most other regional currencies continued to be affected by global developments in the first quarter of the year. The commencement of the scale-back of US Federal Reserve's (Fed) asset purchase programme, concerns over the growth outlook for several emerging market economies and geopolitical developments in Eastern Europe led to higher risk aversion and an outflow of funds from regional financial markets. Nevertheless, expectations of stimulus measures in PR China and the continued accommodative monetary policy in the US provided support for the ringgit during the quarter. Overall, the ringgit appreciated by 0.4% against the US dollar. The ringgit also appreciated against the euro (0.7%), but depreciated against the pound sterling (-0.5%) and Japanese yen (-1.5%). Performance of the ringgit against regional currencies was mixed.

Between 1 April and 14 May 2014, the ringgit appreciated against the US dollar by 1.4%. The ringgit also appreciated against the euro (1.6%), Japanese yen (0.7%), pound sterling (0.1%) and most regional currencies.

*(Source: 1st Quarter 2014 Quarterly Bulletin, Bank Negara Malaysia)*

### **7.1.3 Financial stability continued to be preserved**

The Malaysian financial system continued to demonstrate resilience throughout the first quarter despite volatility in the global and domestic financial markets. Financial intermediation continued to be supported by sound financial institutions, orderly financial market conditions and sustained confidence in the financial system.

The banking system remained well-capitalised with the common equity tier 1 (CET1) capital ratio, tier 1 capital ratio and total capital ratio well above the minimum regulatory levels, at 12%, 12.8% and 14.4%, respectively. The total capital buffer of the banking system stood at more than RM80 billion. Similarly, the capital adequacy ratio of the insurance sector remained strong at 249.7% (4Q 2013: 246.1%), with an excess capital buffer of RM25 billion.

*(Source: 1st Quarter 2014 Quarterly Bulletin, Bank Negara Malaysia)*

### **7.1.4 Global recovery and the continued strength of domestic demand will underpin growth**

Going forward, recovery in the global economy is expected to continue. International trade will be supported by the continued recovery in the advanced economies. In Asia, while domestic demand is expected to moderate, it will continue to underpin the overall performance of these economies, with additional support coming from the improving external conditions. Continued uncertainty over the monetary policy in key advanced economies, economic developments in both the advanced and emerging market economies, as well as geopolitical developments, are likely to generate continued volatility in the global financial markets.

For the Malaysian economy, growth will remain anchored by domestic demand, with additional support from the improvement in the external environment. Exports will continue to benefit from the recovery in the advanced economies while private domestic demand is expected to remain the key driver of the overall growth. Going forward, the Malaysian economy is therefore expected to remain on a steady growth path.

*(Source: 1st Quarter 2014 Quarterly Bulletin, Bank Negara Malaysia)*

## **7.2 Malaysian Energy Industry**

The Malaysian economy has been making commendable progress since the launch of the national transformation agenda in 2010 and is on track to become a high-income and developed nation by 2020. Gross Domestic Product growth has been strong with low unemployment and manageable inflation. As a result of the transformation agenda as well as other initiatives, domestic demand, particularly private investment and consumption, has increasingly been the driver of growth. Meanwhile, the export structure has become diversified with higher intra-regional trade. With a more balanced economic structure, Malaysia was able to achieve a steady growth of 4.2% in the first half of 2013, despite the increasingly volatile and challenging global economic environment. Given the resilience of the domestic economy and better growth prospects in the US, Japan and China during the second half of the year, the Malaysian economy is expected to expand at a firmer pace in the second half and to achieve 4.5% – 5% in 2013. Growth is supported by strong macroeconomic fundamentals as well as accommodative monetary and fiscal policies.

The 2013 Budget has further strengthened the transformation agenda through various programmes and projects. This agenda, apart from pursuing the objective of a high-income and developed nation by 2020, is also to ensure that the rakyat will reap maximum benefits from the implementation of development projects. Hence, the 2013 Budget focused on sustaining economic growth and improving the well-being of the rakyat. To ensure public finances remain sound over the longer term, the Government set up the Fiscal Policy Committee (FPC) in June 2013.

The utilities sub-sector increased 4% during the first six months of 2013 (January – June 2012: 4.6%) supported by higher electricity consumption. In the first seven months of 2013, electricity consumption rose 7.2% to 69,112 million kilowatt hours (January - July 2012: 6.6%; 64,469 million kilowatt hours), with the industrial, commercial and mining segments contributing 77.5% to total electricity consumption, and domestic and public lighting 22.5%. Electricity generation grew 5.6% (January – July 2012: 5.3%) with the maximum distribution at 11,399 million kilowatt hours in May 2013 (January – July 2012: 10,861 million kilowatt hours; May 2012). Meanwhile, gas sales increased 8% to RM1,299.9 million (January – July 2012: 8.4%; RM1,203.2 million). In addition, water supply production to consumers rose 4.5% to 13,226 million litres per day during the first six months of 2013 (January – June 2012: 2.6%; 12,660 million litres per day). As at end-June 2013, water supply coverage for the urban and rural population stood at 96.9% and 90.8% (end-2012: 96.9%; 90.7%), respectively. The subsector is estimated to grow 5.1% in 2013 (2012: 4.3%) mainly due to rising demand for electricity consumption in the industrial, commercial and mining segments.

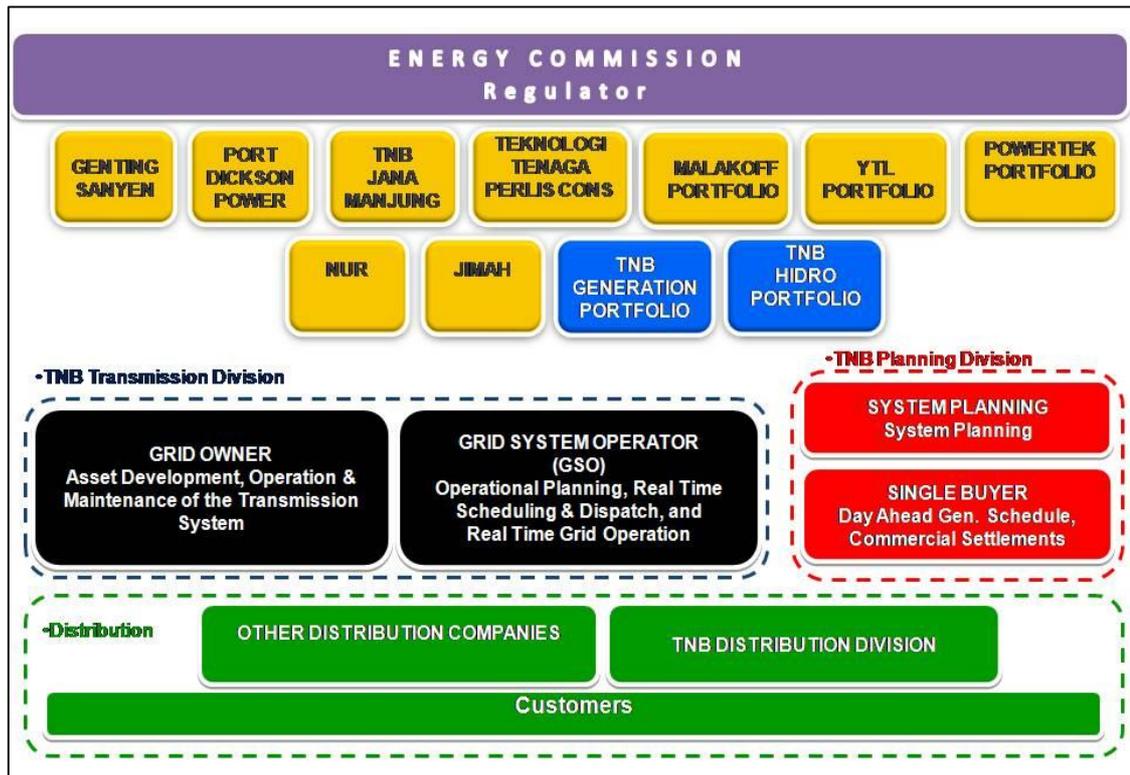
*(Source: Economic Report 2013/2014, Ministry of Finance Malaysia)*

## **7.3 Industry Overview in Malaysia**

The electricity supply industry in Malaysia is dominated by three vertically integrated power utilities, namely Tenaga Nasional Berhad (TNB) in Peninsular Malaysia, Sabah Electricity Sdn. Bhd. (SESB) in Sabah and Syarikat SESCO Bhd. (SESCO) in Sarawak.

The three main utilities undertake electricity generation, transmission, distribution and supply activities in their respective areas and are investor-owned entities with the Government as the major shareholder. In the early 1990s, the generation sector was opened for participation from Independent Power Producers (IPPs) to supply electricity to the utilities through Power Purchase Agreements (PPAs). In the distribution sector, TNB, SESB and SESCO remain as the main distributors of electricity, however the Government of Malaysia also issues licenses to local distributors for designated areas (i.e. hill resorts, shopping complexes, industrial parks etc.) and co-generators.

(Source: Head ASEAN Power Utilities/ Authorities (“HAPUA”), Malaysia Country Report 2013)



In the generation wholesale market, apart from Tenaga Nasional Berhad (TNB) there are also generating plants owned and operated by Independent Power Producers (IPP) and connected to the Grid System. In the distribution sector there are also other distribution licensees besides TNB that buy bulk power from TNB and distribute to customers in a franchise areas. Some of these licensees also operate Distributed Generation.

The Grid System is maintained and operated by TNB Transmission Division, which also includes the Grid System Operator (GSO) who operates the Grid System and coordinates all parties connected to the Grid System. TNB is the Grid Owner who owns and plans the Grid System. TNB is also the Single Buyer for all generation outputs supplied to the Grid System by the Power Stations and other externally interconnected parties. The GSO has a responsibility for operational planning, real-time rescheduling, dispatch and control of the Grid System in compliance with the provisions of the Grid Code.

(Source: Peninsular Malaysia Grid System Operator’s website –<http://gso.org.my/Industry>)

On January 1 2014, Malaysian state-owned utility Tenaga Nasional Berhad hiked retail electricity prices in Peninsular Malaysia by 15.0% and prices in the state of Sabah and the Federal Territory of Labuan by 16.9%. The revision only affects customers using more than 300kWh per month and they represent around 30.0% of electricity users in the country. Long-

term electricity generation in Malaysia is with forecasting growth at average 4.5% per annum between 2014 and 2023 as the development of major power projects in Malaysia remains on schedule.

*(Source: Fast Market Research, Malaysia Power Report, Q3 2014)*

#### **7.4 Industry overview in Sabah**

Electricity started in Sabah as early as 1910 supplied by 3 separate organizations. In 1957, these three organizations combined to form North Borneo Electricity Board. When North Borneo joined Malaysia in 1963 and changed its name to Sabah, this entity was renamed Sabah Electricity Board. On 1st of September 1998, Sabah Electricity Board was privatized and became Sabah Electricity Sdn. Bhd.

Sabah Electricity Sdn. Bhd. is an 80.0% owned subsidiary of TNB and 20% by the State Government of Sabah. It is a vertically integrated utility providing reliable generation, transmission and distribution services in the state of Sabah and the Federal Territory Labuan. SESB generates, transmits and distributes electricity. It is the only power utility company in Sabah supplying electricity distributed over a wide area of 74,000 sq. km.

*(Source: SESB's website- <http://www.sesb.com.my>)*

Sabah is still facing an issue of insufficient supply of electricity. This situation had worsened with the cessation of the Sandakan Power Station Sdn. Bhd. (SPC) with a capacity of 32 MW due to severe damage of its diesel engine, frequent unscheduled outage of ARL Power Station with a capacity of 47.5 MW and due to fuel supply issue faced by Stratavest Power Station. Besides that it also includes problem faced by several SESB's plants due to their low availability and reliability level.

The maximum demand in Sabah stood at 828.4 MW recorded at 24 May 2012, a decrease by 0.2% compared with the previous year.

The total installed generation capacity stood at 1,265 MW, a decrease of 32 MW as a result of the ceased operation of SPC. To overcome the shortage in electricity, several measures had been taken such as by increasing the capacity of existing power plants as well as improving the availability of diesel based power stations owned by SESB. Taking into account of few factors such as deration and constraints of the generation system, the dependable capacity stood at 1,130 MW. Out of the total dependable capacity in Sabah, 673.5 GWh came from the IPPs in Sabah, followed by 417.3 GWh from SESB owned power plants and 39.5 GWh from renewable energy power plants. The total generation in Sabah stood at 5,478 GWh with the share of generation mix as follows: gas at 69.6%, Medium Fuel Oil and diesel at 19.5%, hydro at 7.6% and renewable energy sources at 3.3%.

*(Source: Electricity Supply Industry In Malaysia- Performance and Statistical Information 2012)*

Demand for electricity in Sabah is expected to increase substantially in the following years, reaching about 1,316MW by 2020.

*(Source: Tenaga Nasional Berhad's Annual Report 2013)*

### Independent Power Producer in Sabah

The following are some of the major IPPs, which are in operation in Sabah:

| No. | IPP, location                                       | Type of plant                 | Licensed Capacity (MW) | Status   |
|-----|---|-------------------------------|------------------------|--|
| 1   | ARL Tenaga Sdn Bhd, Melawa, Kota Kinabalu, Sabah    | Diesel Engine                 | 50                     |  |
| 2   | Serudong Power Sdn Bhd, Tawau, Sabah                | Diesel Engine                 | 36                     |  |
| 3   | Stratavest Sdn Bhd, Sandakan, Sabah                 | Diesel Engine                 | 60                     |  |
| 4.  | Ranhill Powertron Sdn Bhd, Kota Kinabalu, Sabah     | Combined Cycle                | 190                    |  |
| 5.  | Sandakan Power Corporation Sdn Bhd, Sandakan, Sabah | Diesel Engine                 | 34.1                   | <i>License was revoked on the 29<sup>th</sup> May 2012</i> |
| 6.  | SBPC, Kota Kinabalu , Sabah                         | Combined Cycle, Steam Turbine | 100                    |  |
| 7   | Ranhill Powertron II Sdn Bhd, Kota Kinabalu, Sabah  | Combined Cycle                | 190                    |  |

*(Source: Energy Supply Industry in Malaysia, Performance and Statistical Information 2012 issued by the Energy Commission)*

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## SECTION 8.0 OTHER INFORMATION

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### 8.1 Material Contracts

Save as disclosed below, the Issuer has not entered into any other material contracts which are still subsisting:

- (a) the PPA;
- (b) the Operations and Maintenance Agreement;
- (c) the Gas Supply Agreement;
- (d) the Fuel Supply Agreement; and
- (e) the Site Lease Agreement.

### 8.2 Material Litigation

The Issuer is not engaged in any litigation or arbitration, either as plaintiff or defendant or as a third party which has a material effect on the financial position, business or reputation of the Issuer and the directors do not know of any proceedings pending or threatened in writing or of any fact likely to give rise to any proceedings which might materially and adversely affect the financial position, business or reputation of the Issuer.

### 8.3 Conflict of Interests and Appropriate Mitigating Measures

Save as disclosed below, there are no other conflict or potential conflict of interest arising from the Sukuk Murabahah:-

#### 8.3.1 Hong Leong Investment Bank Berhad

HLIB is acting as the Principal Adviser, the Joint Lead Arranger and the Lead Manager for the Proposed Issue.

HLIB is also the one of the participating institutions in relation to the Existing Facilities comprising syndicated Islamic facility(ies) and conventional term loan facility(ies) granted by, BMMB, HLBB, HLISB, HwangDBS Investment Bank Berhad, Kuwait Finance House (Malaysia) Berhad and RHB Islamic Bank Berhad to the Issuer.

HLBB and HLISB, related companies of HLIB are, within their ordinary course of business, participating institutions in the Existing Facilities.

The Issuer's shareholder, Kontek Abbadi Sdn Bhd ("**Kontek Abbadi**") has charged the shares held by Kontek Abbadi in the Issuer to HLIB as security for a loan granted by HLIB to Kontek Abbadi, and pursuant to such charge, dividends payable by the Issuer to Kontek Abbadi may be utilized by HLIB to repay such loan.

In order to further mitigate or address the above potential conflict, the following measures have been / will be taken:

- (a) the potential conflict of interest situation has been brought to the attention of the board of directors of the Issuer and it is hence fully informed and aware of the potential conflict of interest and, vide its Board of Directors' Resolutions dated 9 December 2013, is agreeable to proceed with the Proposed Issue based on the present arrangements and terms;

- (b) due diligence review pursuant to the Proposed Issue has been undertaken by the solicitors for the Principal Adviser and the Joint Lead Arrangers, for the Proposed Issue;
- (c) the conduct of HLIB is regulated strictly by the CMSA and the Financial Services Act, 2013 and by its own internal controls and checks;
- (d) HLIB's appointment as the Principal Adviser, the Joint Lead Arranger, the Lead Manager and Facility Agent of the Sukuk Murabahah is in the ordinary course of their business;
- (e) disclosure is made accordingly to all the potential investors.

### **8.3.2 Hong Leong Islamic Bank Berhad**

HLISB is acting as the Joint Lead Arranger for the Proposed Issue.

HLISB is also one of the participating institutions in relation to Existing Facilities.

In order to further mitigate or address the above potential conflict, the following measures have been/will be taken:

- (a) the potential conflict of interest situation has been brought to the attention of the board of directors of the Issuer and it is hence fully informed and aware of the potential conflict of interest and, vide its Board of Directors' Resolutions dated 9 December 2013 is agreeable to proceed with the Proposed Issue based on the present arrangements and terms;
- (b) due diligence review pursuant to the Proposed Issue has been undertaken by the solicitors for the Principal Adviser and the Joint Lead Arrangers for the Proposed Issue;
- (c) the conduct of HLISB is regulated strictly by the CMSA and the Financial Services Act, 2013 and by its own internal controls and checks;
- (d) HLISB's appointment as the Joint Lead Arranger of the Sukuk Murabahah is in the ordinary course of their business;
- (e) disclosure is made accordingly to all the potential investors.

### **8.3.3 Bank Muamalat Malaysia Berhad**

BMMB is acting as the Joint Lead Arranger for the Proposed Issue.

BMMB is also one of the participating institutions in relation to the Existing Facilities.

In order to further mitigate or address the above potential conflict, the following measures have been/will be taken:

- (a) the potential conflict of interest situation has been brought to the attention of the board of directors of the Issuer and it is hence fully informed and aware of the potential conflict of interest and, vide its Board of Directors' Resolutions dated 9 December 2013 is agreeable to proceed with the Proposed Issue based on the present arrangements and terms;

- (b) due diligence review pursuant to the Proposed Issue has been undertaken by the solicitors for the Principal Adviser and the Joint Lead Arrangers for the Proposed Issue;
- (c) the conduct of BMMB is regulated strictly by the CMSA and the Financial Services Act, 2013 and by its own internal controls and checks;
- (d) BMMB's appointment as the Joint Lead Arranger of the Sukuk Murabahah is in the ordinary course of their business;
- (e) disclosure is made accordingly to all the potential investors.

#### **8.4 Contingent Liabilities**

As at 23 May 2014, there are no contingent liabilities incurred or known by the Issuer. The Issuer is not aware of any contingent liabilities that may arise.

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## **APPENDIX 1**

Audited Financial Statements of the Issuer for the Financial Year Ended 31 December 2012

## **APPENDIX 2**

Extract of selected provisions of the Power Purchase Agreement

## ISSUER

### SEPANGAR BAY POWER CORPORATION SDN BHD

(Company No. 427649-X)  
Suite 2A-12-1, Block 2A, Level 12, Plaza Sentral  
Jalan Stesen Sentral 5  
50470 Kuala Lumpur

### PRINCIPAL ADVISER / LEAD MANAGER

#### Hong Leong Investment Bank Berhad

(Company No. 10209-W)  
Level 23, Menara HLA  
No. 3, Jalan Kia Peng  
50450 Kuala Lumpur

### JOINT LEAD ARRANGERS

#### Bank Muamalat Malaysia Berhad

(Company No. 6175-W)  
Ibu Pejabat, Menara Bumiputra  
21 Jalan Melaka  
50100 Kuala Lumpur

#### Hong Leong Investment Bank Berhad

(Company No. 10209-W)  
Level 23, Menara HLA  
No. 3, Jalan Kia Peng  
50450 Kuala Lumpur

#### Hong Leong Islamic Bank Berhad

(Company No. 686191-W)  
Level 1, Wisma Hong Leong  
18 Jalan Perak  
50450 Kuala Lumpur

### FACILITY AGENT

#### Hong Leong Investment Bank Berhad

(Company No. 10209-W)  
Level 23, Menara HLA  
No. 3, Jalan Kia Peng  
50450 Kuala Lumpur

### SUKUK TRUSTEE / SECURITY TRUSTEE

#### Malaysian Trustees Berhad

(Company No. 21666-V)  
8th Floor, Plaza OSK  
Jalan Ampang  
50450 Kuala Lumpur

### REPORTING ACCOUNTANTS

#### Afrizan Tarmili Khairul Azhar

Aftaas, 2, Jalan Rampai Niaga 2  
Rampai Business Park  
53300 Kuala Lumpur

### SOLICITORS TO PRINCIPAL ADVISER / JOINT LEAD ARRANGERS / LEAD MANAGER

#### Zul Rafique & partners

D3-3-8 Solaris Dutamas  
No.1 Jalan Dutamas 1  
50480 Kuala Lumpur

### TAX ADVISERS

#### Aftaas Taxation Services Sdn Bhd

Aftaas, 2, Jalan Rampai Niaga 2  
Rampai Business Park  
53300 Kuala Lumpur