

## 1 Background Information

### Issuer

- (i) Name : Senai-Desaru Expressway Berhad ("**SDEB**" or the "**Issuer**")
- (ii) Address : Registered Address  
39 – 43, Jalan Desa  
Taman Desa  
Off Jalan Klang Lama  
58100 Kuala Lumpur
- Business Address  
32<sup>nd</sup> Floor, Vista Tower  
No. 182, Jalan Tun Razak  
50400 Kuala Lumpur
- Komplek Pejabat Pentadbiran  
KM22 Lebuhraya E22  
81800 Ulu Tiram  
Johor
- (iii) Business Registration Number : 612633-A
- (iv) Date/Place of Incorporation : 18 April 2003 / Malaysia
- (v) Date of Listing (in case of public listed company) : Not applicable
- (vi) Status
- Resident/Non-Resident Controlled Company : Resident Controlled Company
  - Bumiputera/Non-Bumiputera Controlled Company : Bumiputera Controlled Company
- (vii) Principal Activities : Construction, operation and maintenance of highways in Malaysia.

(viii) Board of Directors : The Board of Directors of SDEB as at 15 September 2010 are as follows:-

Name	Resident Status	I/C No.
Tan Sri Hamdan bin Mohamad	Resident	560308-01-5037
Dato' Dr Shahir bin Nasir	Resident	460219-01-5387
Ahmad Zahdi bin Jamil	Resident	531117-01-5859
Amran bin Awaluddin	Resident	690728-10-6125
Dato' Abdul Rahim bin Mokti	Resident	500818-01-5729
Noureen Mohammed Noor A. Shakoor A. Ghafoor (alternate director to Mohammad Alzhrani Saeed A.)	Non-Resident	Passport No.: 1636883
Rauf Diwan	Non-Resident	Passport No.: 448179170
Mohammad Alzhrani Saeed A.	Non-Resident	Passport No.: 1662786
Aidil Bahrin Dato' Hj Mohd Salleh (alternate to Rauf Diwan)	Non-Resident	Passport No.: C0035356

- (ix) Structure of Shareholdings and Names of Shareholders or, in the case of a Public Company, Names of all Substantial Shareholders : The shareholders of SDEB as at 15 September 2010 are as follows:-

Name	No. of Shares Held	% of Share holdings	Bumi putera status
Rancak Bistari Sdn Bhd	17,500,000	70	Yes
YPJ Holdings Sdn Bhd	7,500,000	30	Yes

- (x) Authorised and Paid-up Capital : Authorised Share Capital as at 15 September 2010  
RM1,000,000,000.00 comprising 1,000,000,000 ordinary shares of RM1.00 each.

Issued and Fully Paid-up Share Capital as at 15 September 2010  
RM25,000,000.00 comprising 25,000,000 ordinary shares of RM1.00 each.

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## 2 Principal Terms and Conditions

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

- |        |  |  |
|--------|--|--|
| (i)    | Principal Adviser/Lead Arranger                                | : Maybank Investment Bank Berhad (" <b>Maybank IB</b> " or " <b>LA</b> ")  |
| (ii)   | Arranger(s)  | : Not applicable   |
| (iii)  | Valuers  | : Not applicable   |
| (iv)   | Solicitor  | : Albar & Partners   |
| (v)    | Financial Adviser  | : Not applicable   |
| (vi)   | Technical Adviser  | : Not applicable   |
| (vii)  | Guarantor  | : Not applicable   |
| (viii) | Trustee  | : Malaysian Trustees Berhad (Company No. 21666-V) (" <b>MTB</b> ")   |
| (ix)   | Facility Agent   | : Maybank IB   |
| (x)    | Primary Subscriber(s) and amount Subscribed (where applicable) | : The primary subscribers (applicable under a bought deal arrangement) will be determined prior to the issuance. |
| (xi)   | Underwriter(s) and Amount Underwritten                         | : Not applicable   |
| (xii)  | Syariah Adviser  | : Syariah Committee of Maybank Islamic Berhad (Company No. 787435-M)   |
| (xiii) | Central Depository   | : Bank Negara Malaysia (" <b>BNM</b> ")  |
| (xiv)  | Paying Agent   | : BNM  |
| (xv)   | Reporting Accountant   | : Not applicable   |
| (xvi)  | Others   | : <u>Lead Manager ("<b>LM</b>")</u><br>Maybank IB<br><br><u>Security Trustee</u><br>MTB                          |

Traffic Consultant

Perunding Trafik Klasik Sdn Bhd

Independent Check Engineer ("ICE")

T&T Konsult Sdn Bhd

- (b) Islamic Principle Used : Ijarah principle
- (c) Facility Description : Islamic securities of up to RM5,580 million in nominal value consisting of:-
- i. Senior Islamic medium term notes ("**Senior IMTNs**") of up to RM1,890 million in nominal value pursuant to the Senior IMTN programme ("**Senior IMTN Programme**"); and
  - ii. Junior Islamic medium term notes ("**Junior IMTNs**") of up to RM3,690 million in nominal value pursuant to the Junior IMTN programme ("**Junior IMTN Programme**").

Collectively, the Senior IMTNs and the Junior IMTNs shall be referred to as the "**Sukuk**" and collectively, the Senior IMTN Programme and Junior IMTN Programme shall be referred to as the "**IMTN Programmes**".

The Sukuk shall be issued under the financing principle of Ijarah, which is one of the Syariah principles and concepts approved by the Syariah Advisory Council ("**SAC**") of the Securities Commission Malaysia ("**SC**").

The Trustee on behalf of the holders of the Sukuk ("**Sukukholders**") shall, from time to time, purchase certain Identified Assets (as defined under paragraph 2(t)) from SDEB by way of transfer of the beneficial ownership of the Identified Assets pursuant to a purchase agreement for a mutually agreed purchase price ("**Purchase Price**"). The Purchase Price for the first issuance will be equivalent to the redemption value of the outstanding Islamic debt securities issued by SDEB under the Islamic principle of Bai' Bithaman Ajil Islamic Debt Securities ("**BalIDS**").

The Identified Assets being purchased shall be Syariah-compliant and the values of the Identified Assets are in compliance with the SC's SAC Pricing Guidelines (i.e. Garis Panduan Penetapan Harga

Aset Dalam Penerbitan Bon Islam) issued by the SAC on 31 December 2003, as may be replaced, substituted, amended or revised from time to time ("**SAC Pricing Guidelines**").

The Trustee (acting on behalf of the Sukukholders) as the "**Lessor**" shall then, from time to time, lease the Identified Assets to SDEB, as the "**Lessee**", for a pre-determined rental amount ("**Ijarah Payment**") pursuant to the relevant Ijarah agreement (each an "**Ijarah Agreement**"). During the tenure of the Ijarah Agreements, the Trustee on behalf of the Sukukholders will receive the Ijarah Payment due from the Lessee.

The Issuer shall declare a trust ("**Declaration of Trust**") over the Identified Assets, the present and future rights and interest in all of the Ijarah Agreements, the Purchase Undertaking ("**Purchase Undertaking**") and the proceeds of the foregoing (collectively the "**Trust Assets**") in favour of the Trustee acting for and on behalf of the Sukukholders. The Issuer shall issue the Sukuk to the Sukukholders to represent the Sukukholders' undivided beneficial ownership in the Trust Assets.

Pursuant to a Purchase Undertaking granted by SDEB as the obligor ("**Obligor**") in favour of the Trustee for and on behalf of the Sukukholders, the Obligor shall undertake to purchase the Trust Assets from the Sukukholders at the Exercise Price (as defined in paragraph 2(u)) on either of the following events:-

- (i) Upon any declaration of an Event of Default (as defined in paragraph 2(x)); or
- (ii) Upon the occurrence of an Early Redemption of all the outstanding Sukuk per paragraph 2(z)(13) below.

Pursuant to a sale undertaking ("**Sale Undertaking**"), granted by the Trustee for and on behalf of the Sukukholders in favour of the Obligor, the Trustee for and on behalf of the Sukukholders shall undertake to sell the Trust Assets to the Obligor at the Exercise Price on the maturity of the IMTN Programmes.

In the event of any overdue payments of any amounts due under the Purchase Undertaking or the Sale Undertaking as the case may be, the Obligor shall pay to the Trustee for the benefit of the Sukukholders a compensation ("**Ta'widh**") on such overdue amounts at an amount and manner prescribed by the SC's SAC from time to time in accordance with the Syariah principles.

Upon full settlement of the Purchase Undertaking and Sale Undertaking as the case may be, the Declaration of Trust will be subsequently dissolved and neither the Trustee nor the Sukukholders shall thereafter have further rights and/or obligations to the Trust Assets. For the avoidance of doubt, the Declaration of Trust will only be dissolved if all the series of the Sukuk under the IMTN Programmes have been purchased and fully paid.

SDEB shall enter into a service agency agreement ("**Service Agency Agreement**") with the Trustee (acting on behalf of the Sukukholders) pursuant to which SDEB as the service agent agrees to perform major maintenance and pay ownership expenses in respect of the Identified Assets ("**Ownership Expenses**") on behalf of the Trustee, which are to be reimbursed by the Trustee to SDEB upon the expiry of all of the Ijarah Agreements.

The Trustee shall pay on behalf of the Sukukholders and accumulate all costs of the Ownership Expenses and submit its claim upon the exercise of the Purchase Undertaking or the Sale Undertaking, as the case may be. The Sukukholders will irrevocably agree to reimburse SDEB on the maturity dates the accumulated costs of the Ownership Expenses paid by SDEB. This amount will be set-off against the Exercise Price of the Sukuk. A diagram depicting the facility description is set out in Appendix I.

(d) Issue Size

: Senior IMTNs

The outstanding nominal value of the Senior IMTNs issued under the Senior IMTN Programme at any point in time shall not exceed RM1,890 million in nominal value subject to the Senior IMTN reduction schedule which will be determined by the LA in consultation with the Issuer prior to issuance.

Junior IMTNs

The outstanding nominal value of the Junior IMTNs issued under the Junior IMTN Programme at any point in time shall not exceed RM3,690 million in nominal value subject to the Junior IMTN reduction schedule which will be determined by the LA in consultation with the Issuer prior to issuance.

- (e) Issue Price : The Sukuk are to be issued at a discount. The issue price shall be computed in accordance with the formula specified in the Fully Automated System for Issuing/Tendering ("FAST") rules ("FAST Rules") issued by BNM and shall be governed by guidelines pertaining thereto issued by BNM from time to time.

- (f) Tenure of the Facility/Issue : **Tenure of the Facility**

**Senior IMTN Programme**

Twenty and a half (20.5) years from the date of first issuance of the Senior IMTNs under the Senior IMTN Programme.

**Junior IMTN Programme**

Twenty eight (28) years from date of first issuance of the Junior IMTNs with the final maturity date not exceeding 30 June 2038.

Wherein the first issuance of the Sukuk shall be made within two (2) years from the date of the SC's approval.

**Tenure of the Issue**

**Senior IMTNs**

The Senior IMTNs can be issued for tenures of more than one (1) year but not exceeding twenty and a half (20.5) years as the Issuer may select in consultation with the LM, subject to (i) the Senior IMTN reduction schedule; and (ii) the maturity date of the respective Senior IMTNs not extending beyond the expiry of the Senior IMTN Programme.

**Junior IMTNs**

The Junior IMTNs can be issued for tenures of more than one (1) year but not exceeding twenty eight (28) years as the Issuer may select in consultation with the LM, subject to (i) the Junior IMTN reduction schedule; and (ii) the maturity date of the respective Junior IMTNs not extending beyond the expiry of the Junior IMTN Programme.



- (g) Profit Rate (%) : Senior IMTNs  
Shall be determined by the LA in consultation with the Issuer prior to each issuance of the respective Senior IMTNs.

Junior IMTNs

The Junior IMTNs will be issued without periodic distribution.

- (h) Profit Payment Frequency and Basis : Senior IMTNs  
The profit payments are payable on semi-annual basis in arrears from the date of issue of the relevant Senior IMTNs with the last profit payment payable on the relevant maturity dates (if applicable) or such other period to be agreed between the Issuer and the LA prior to the issuance of the relevant Senior IMTNs.

The profit payment basis is Actual/365 days.

Junior IMTNs

Not applicable as the Junior IMTNs will be issued without periodic profit payments.

- (i) Yield to Maturity (%) : To be determined upon each issuance of Senior IMTNs or Junior IMTNs, as the case may be.

- (j) Security/Collateral : The Obligor will grant in favour of the Security Trustee the following security arrangement:-

A debenture creating a fixed and floating charge over all assets, rights and interests, both present and future of the Issuer and which includes, but not limited to:-

- (a) Assignments of all the Issuer's rights, interest and benefit in the Project Agreements (as defined under paragraph 2(z)(5)), including but not limited to, all performance bonds thereunder (ranking second in priority and security after the interest of Government of Malaysia ("**Government**") thereunder), other security deposits and all proceeds under the Project Agreements (the counterparties to the respective Project Agreements shall duly acknowledge all the assignments);

- (b) A charge and assignment of all the Issuer's

rights, interest and benefit in and to the Designated Accounts (as referred to in paragraph 2(z)(4)) into which proceeds are deposited and over all Permitted Investments (as defined under paragraph 2(z)(5)) out of such accounts including monies standing to the credit of the Issuer;

- (c) An assignment of all the Issuer's rights, interest and benefit in and to all relevant Insurances (as defined in paragraph 2(z)(1)) required to be undertaken in respect of the Project (as defined herein paragraph 2(z)(5)) (subject to the Government and the Security Trustee being named as additional loss payees under the Insurances); and
- (d) Such other securities to be advised by the Solicitor.

The Senior IMTNs shall rank in point of priority of the Junior IMTNs.

- (k) Details on Utilisation of Proceeds : The proceeds raised from the issuance under the Sukuk will be utilized to early redeem the BaIDS of up to RM1,460.0 million in nominal value in full.
- (l) Sinking fund (if any) : Not applicable
- (m) Rating
  - Credit Rating Assigned : Senior IMTNs  
The Senior IMTNs have been assigned an indicative rating of A+.
  - Junior IMTNs  
The Junior IMTNs have been assigned an indicative rating of A-.
  - Name of Rating Agency : Malaysian Rating Corporation Berhad ("**MARC**")
- (n) Form and Denomination : The Sukuk shall be issued in accordance with (i) the "**Code of Conduct and Market Practices for the Malaysian Corporate Bond Market**" issued by the Institut Peniaga Bon Malaysia and approved by BNM ("**IPBM Code**") and (ii) the "**Rules on the Scriptless Securities**" under the Real Time Electronic Transfer of Funds and Securities ("**RENTAS**") system issued by BNM, as amended or substituted from time to time

("RENTAS Rules") and (iii) FAST Rules, or their replacement thereof (collectively the "**Codes of Conduct**") applicable from time to time. The RENTAS Rules shall prevail to the extent of any inconsistency between the RENTAS Rules and the IPBM Code.

The Sukuk shall be represented by a global certificate to be deposited with BNM, and is exchanged for definitive bearer form only in certain limited circumstances. No physical delivery of the Sukuk is permitted. The denomination of the Sukuk shall be RM1,000 or in multiples of RM1,000 at the time of issuance if issued through FAST or such other denominations as shall be agreed between the LM and the Issuer for private placement.

- (o) Mode of Issue : The Sukuk shall be issued via direct placement on a bought deal basis.
- (p) Selling Restriction : The Sukuk may not be offered, sold, transferred or otherwise disposed, directly or indirectly, nor may any document or other material in connection therewith be distributed to a person to whom an offer or invitation to subscribe the Sukuk and to whom the Sukuk are issued except to a person who falls within (i) Schedule 6 or Section 229(1)(b); or (ii) Schedule 7 or Section 230 (1)(b); or Schedule 9 or Section 257(3) of the Capital Markets and Services Act, 2007, as amended from time to time ("**CMSA**").
- (q) Listing Status : The Sukuk will not be listed on the Bursa Malaysia Securities Berhad or on any other stock exchanges.
- (r) Minimum Level of Subscription : The minimum level of subscription for the Sukuk shall be 100%.  
  
In the event any issue, offer or invitation is under-subscribed and cannot meet the minimum level of subscription, the same shall be aborted and where applicable, any consideration received for the purpose of subscription must be immediately returned to the respective subscribers.
- (s) Other Regulatory Approvals Required in relation to the Issue, Offer or Invitation and whether or not Obtained : None.

- (t) Identified Assets : The Identified Assets refer to certain Shariah-compliant assets of the Issuer which will be identified, from time to time, at or around the time of issuance of the Sukuk.

For purposes of the first issuance, Package 1 and Package 2 of the Expressway (as defined under 2(z)(5)) will be utilised as the Identified Assets.

The Issuer shall have the right to exchange the Identified Assets with qualified asset(s) ("**Qualified Asset(s)**") in accordance with the Ijarah Agreement or purchase the whole or any part of the Identified Assets pursuant to an exchange agreement and/or deferred payment sale agreement. Qualified Asset(s) shall mean assets which have been pre-approved by the Syariah Adviser.

For the avoidance of doubt, the total value of the Identified Assets shall at all times be in compliance with the SC's SAC Pricing Guidelines. In case of any exchange of the Identified Assets, the value of the Qualified Asset(s) to be injected must be at least equivalent to the value of the Identified Assets to be replaced.

- (u) Purchase and Selling Price/  
Rental (where applicable) : Purchase Price

It refers to the price payable by the Sukukholders to SDEB for the acquisition of the beneficial ownership of the Identified Assets.

The Purchase Price shall be determined prior to the proposed issue date of the Sukuk, and shall be in compliance with the SAC Pricing Guidelines.

Ijarah Payment

The Ijarah Payments are lease payments which the Lessee are obliged to pay to the Sukukholders pursuant to the relevant Ijarah Agreement. The Ijarah Payments shall be any or a combination of the following:-

- i. Principal  
The Principal is the nominal value of the Sukuk due from the Lessee, which shall be determined under the terms and conditions of the relevant Ijarah Agreement at the relevant maturity dates

for Senior IMTNs and Junior IMTNs under the Senior IMTN reduction schedule and Junior IMTN reduction schedule respectively.

ii. Profit Payment

The Profit Payments are payable semi-annually in arrears as explained under paragraph 2(h). The Profit Payments shall be made without any set-off, deduction, or counter claims.

The Profit Payments will be determined prior to the issuance of the Senior IMTNs once the profit rate and tenure of the respective Senior IMTNs to be issued are agreed upon.

iii. Early Partial Redemption Amount

The Early Partial Redemption Amount will be in accordance to the Early Partial Redemption Events, as defined under paragraph 2(z)(14).

Exercise Price

The computation of the Exercise Price shall be as follows:-

- i. In relation to a Sale Undertaking upon maturity, the Exercise Price shall be equal to nominal value of RM1 plus the relevant Ownership Expenses to be reimbursed by the Sukukholders to SDEB under the Service Agency Agreement;
- ii. In relation to a Purchase Undertaking upon occurrence of the Early Redemption, the Exercise Price shall be equal to the Senior IMTNs Accreted Value or Junior IMTNs Accreted Value (as defined under 2(z)(5)), whichever applicable plus the relevant Ownership Expenses to be reimbursed by the Sukukholders to SDEB under the Service Agency Agreement; and
- iii. In relation to a Purchase Undertaking upon any declaration of an Event of Default, the Exercise Price shall be equal to the Senior IMTNs Accreted Value or Junior IMTNs Accreted Value, whichever applicable, plus Ownership Expenses to be reimbursed by the Sukukholders to SDEB under the Service Agency Agreement.

- (v) Conditions Precedent : Conditions precedent to be satisfied prior to the establishment of the IMTN Programmes (which may be waived at the discretion of the LA) shall include but not be limited to receipt by the LA of the following documents or evidence (in each case, in form and substance acceptable to the LA):-
- i. A letter from MARC confirming a minimum rating of A+ and A- for the Senior IMTN Programme and the Junior IMTN Programme respectively;
  - ii. The approval from the SC and all other regulatory authorities;
  - iii. Evidence that the Transaction Documents (as defined under paragraph 2(z)(5)) to or in connection to the Sukuk shall have been executed and all associated notices of assignments shall have been served on the relevant counterparties;
  - iv. A certified true copy of the resolution of the Board of Directors of the Issuer, authorising the issuance of the Sukuk;
  - v. A list of the Issuer's authorized signatories who are authorised to accept and operate the IMTN Programmes and to execute the relevant documents relating thereto and their respective specimen signatures;
  - vi. A certified true copy of the memorandum and articles of association, forms 24 and 49 of the Issuer;
  - vii. Originals of all Project Agreements;
  - viii. Confirmation by the LA's solicitor that the security interests granted under the relevant security documents shall have been perfected by all appropriate actions;
  - ix. Receipt by the LA of the letter of undertaking from the trustee of BaIDs to release the security created pursuant to the BaIDs upon full redemption of the BaIDs;
  - x. Evidence that all the approvals from

Government pursuant to the Concession Agreement dated 31 July 2004 between the Government and SDEB ("**Concession Agreement**") and the Federal Roads (Private Management) Act 1984 shall have been duly obtained;

- xi. Confirmation that the Designated Accounts have been established and the mandates are in accordance with the terms of the Issuer's Board of Directors' resolution;
- xii. A report from the ICE addressing matters as set forth in the ICE' scope of work to be approved by the Issuer and the LA, the feasibility of completing Package 3 (as defined under 2(z)(5)) and the estimated cost to complete Package 3;
- xiii. Legal opinion from the LA's solicitor advising with respect to, among others, the legality, validity and enforceability of the Transaction Documents and a written confirmation that all the Conditions Precedent have been fulfilled;
- xiv. Certified copies of all material licenses and permits (if any) required for the Expressway together with (i) evidence that all such licenses and permits are final and full in force and effect; and (ii) confirmation of the Issuer that, to the best of its knowledge and after due enquiries, there are no events or circumstances which may prejudice the continuance or renewal of such licences and permits;
- xv. The budget which details out all the costs to be incurred to complete Package 3 of the Expressway and sources of funds therefore prepared by the Issuer ("**Development Budget**") as confirmed by the Facility Agent (upon receipt of ICE's certification);
- xvi. The certificate of the Insurance Consultant (as defined in paragraph 2(z)(1) to the Issuer to the effect that all Insurances are not subject to cancellation without prior notice and otherwise conform with the requirements specified in the Transaction Documents and Concession Agreement;

- xvii. The latest financial statements of the Issuer, together with certificates issued by two (2) directors of the Issuer to the effect that no material adverse change has occurred since the date of such financial statements;
  - xviii. Certification issued by the Issuer confirming the accuracy of the representations and warranties contained in the Transaction Documents and Project Agreements in all material respects and that the conditions precedent contained in any of the Project Agreements, to the extent the same have to be fulfilled by the Issuer prior to the issuance of the Sukuk, have been fulfilled by the Issuer;
  - xix. Evidence of the Issuer having paid all fees and expenses, including financing fees, legal fees, recording fees, stamp taxes, and other transaction costs in relation to the Sukuk;
  - xx. Evidence of the confirmation from the Syariah Adviser that the structure and the Transaction Documents (as defined under paragraph 2(z)(5)) are in compliance with Syariah principles;
  - xxi. Due diligence exercise deemed necessary in relation to the IMTN Programmes have been undertaken/conducted to the satisfaction of the LA; and
  - xxii. Such other conditions precedent as may be advised by the solicitor to the LA.
- (w) Representations and Warranties : Shall include but not limited to the following:-
- i. The Issuer is a company duly incorporated with limited liability and validly existing under the laws of Malaysia;
  - ii. The memorandum and articles of association of the Issuer incorporate provisions which authorise, and all necessary corporate action has been taken to authorise, and all authorisations of governmental or other authority have been duly and unconditionally obtained are in full force and effect to authorise,



the Issuer to own its assets, carry on its business and operations as it is now being conducted and sign and deliver and perform the transaction contemplated in the Transaction Documents, to issue the Sukuk and to perform its obligations specified under the Transaction Documents and the Project Agreements to which it is a party constitutes legal valid and binding obligations of the Issuer enforceable in accordance with their respective terms;

- iii. Neither the execution nor the delivery of the Transaction Documents or the Project Agreements nor the performance of any of the transaction contemplated in the Transaction Documents or the Project Agreements will:-
  - (a) Contravene or constitute a default under any provision contained in any agreement, instrument, law, judgment, order, licence, permit or consent by which the Issuer or any of its assets is bound or affected; or
  - (b) Cause any limitation on the Issuer or the powers of its directors, whether imposed by or contained in its memorandum and articles of association or in any other law, order, judgment, agreement, instrument or otherwise, to be exceeded;
- iv. The Issuer being in compliance and will comply with all applicable laws, regulations and governmental approvals;
- v. No litigation, arbitration or administrative proceeding or claim or lawsuits by a governmental agency or body or other regulatory authority which would by itself or together with any other such proceedings or claims have a Material Adverse Effect (as defined under paragraph 2(z)(5)) is presently in progress or pending or threatened or to be instituted against the Issuer or any of its assets;
- vi. Effectiveness and priority of the relevant security documents with respect to the Issuer's assets, subject to Permitted Encumbrances (as defined under paragraph 2(z)(5));

- vii. All Insurances in relation to the Project and required to be obtained under Transaction Documents and Project Agreements which a prudent company carrying on a business similar to that of the Issuer and owning similar properties in the same general areas and governed in the same manner as the Issuer would normally insure have been procured and are in full force and effect;
- viii. All necessary returns (if any) have been delivered by or on behalf of the Issuer to the relevant taxation authorities and save for the amounts contested in good faith and for which adequate reserves are established and the Issuer is not in default in the payment of any taxes, and no claim is being asserted with respect to taxes which is not disclosed in the financial statements;
- ix. The Issuer does not engage in any business other than the design, development, construction, management, operation and maintenance of the Expressway and all activities related thereto;
- x. All necessary permits, approvals, and licenses required as of the relevant stage of construction or operation required to be obtained by the Issuer have been obtained and are in full force and effect;
- xi. Information supplied do not contain any untrue statement or omit to state any fact, the omission of which makes the statements therein, in the light of the circumstances under which they were made, misleading, and all expressions of expectation, intention, belief and opinion were honestly made on reasonable grounds after due and careful enquiry by the Issuer;
- xii. The audited financial statements of the Issuer have been prepared on a basis consistently applied and in accordance with generally accepted accounting principles 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 and in particular disclose all material liabilities (actual or contingent) of the

Issuer;

- xiii. Construction of Package 3 of the Expressway is proceeding in accordance with all the relevant Project Agreements and relevant supplemental revised work plans approved or as may be approved by the BalDS holders; and
- xiv. Such other representations and warranties as may be advised by solicitor to the LA.

- (x) Events of Default : Shall include but not limited to the following:-
- i. The Issuer fails to pay any amount due under the Sukuk on the due date or, if so payable, on demand;
  - ii. The Issuer fails to observe or perform or commits a breach of a covenant or any of its obligations under any of the Transaction Documents or under any undertaking or arrangement entered into in connection therewith other than an obligation of the type referred to in item (i) above and in the case of a failure which in the reasonable opinion of the Trustee is capable of being remedied, the Issuer does not remedy the failure to the Trustee's satisfaction within a period of thirty (30) days after the Issuer has been notified by the Trustee to remedy the failure;
  - iii. Any step is taken for the winding up, dissolution or liquidation of the Issuer or a resolution for the winding up of the Issuer is passed or a petition for the winding up of the Issuer is presented against the Issuer;
  - iv. The Issuer or the counterparty to any of the Project Agreements (other than the Government) convenes a meeting of its creditors or proposes or makes any arrangement including any scheme of arrangement or composition or begins negotiation with its creditors, or takes any proceedings or other steps, with a view to rescheduling or deferral of all or a material part of its indebtedness or a moratorium is agreed or declared by a court of competent jurisdiction in respect of or affecting all or any material part

of its indebtedness or any assignment for the benefit of its creditors (other than those previously approved in writing by the Trustee) or where a scheme of arrangement under Section 176 of the Companies Act has been instituted against the Issuer;

- v. The Issuer or any of the counterparties to the Project Agreements (other than the Government) shall fail to satisfy any judgment passed against the Issuer or any of the counterparties to the Project Agreements (other than the Government) by any court of competent jurisdiction and no appeal or stay of proceedings against such judgment has been made to any appropriate appellate court within the time prescribed by law or such appeal or stay of proceedings has been dismissed or set aside within the appropriate time period;
- vi. That:-
  - (a) The Issuer fails to obtain, renew, maintain or comply in all respects with all governmental approvals; or
  - (b) Any governmental approval required for the operation of the Project is revoked, suspended, terminated, withdrawn, or expires and is not renewed or otherwise ceases to be in full force and effect;
- vii. Any of the Project Agreements ceases to be to be in full force and effect prior to its stated termination date or has been lawfully terminated;
- viii. The Government has failed to gazette the right of the Issuer to collect toll for Package 3 pursuant to the Federal Roads (Private Management) Act 1984 within two (2) months after the completion of Package 3;
- ix. Any part of the security interests granted under the relevant security documents is or shall become for any reason invalid, void or unenforceable or at any time the security interest does not rank first in priority over all other unsecured and subordinated

indebtedness of the Issuer;

- x. Occurrence of an event of default under any Project Agreements by the Issuer which if capable of remedy, has not been remedied within such grace period as may be provided in the relevant Project Agreements and the foregoing, would have a Material Adverse Effect;
- xi. Any representation, warranty or statement which is made (or acknowledge to have been made) by the Issuer in the Transaction Documents or which is contained in any certificate, statement, opinion or notice provided hereunder or in connection therewith proves to be incorrect in any material respect, or if repeated at any time with reference to the facts and circumstances subsisting at such time would not be accurate in all material respects;
- xii. Any indebtedness of the Issuer and/or its subsidiaries arising from borrowed monies becomes due or capable of being declared due before its stated maturity or the Issuer and/or its subsidiaries goes into default under, or commits a breach of, any agreement or instrument relating to any such indebtedness;
- xiii. Any indebtedness (other than indebtedness arising from borrowed monies as provided in item (xii) above) of the Issuer and/or its subsidiaries becomes due or capable of being declared due before its stated maturity or the Issuer and/or its subsidiaries goes into default under, or commits a breach of, any agreement or instrument relating to any such indebtedness, guarantee or other obligation or if any security given by the Issuer and/or its subsidiaries for any other indebtedness becomes enforceable and any of the foregoing would have a Material Adverse Effect;
- xiv. The occurrence of actual or constructive total loss to the Expressway or the destruction or damage beyond repair, condemnation, expropriation or any confiscation, requisition, seizure, forfeiture or other taking of title to or use of the Expressway;

- xv. At any time there shall occur any change in any applicable law, order, decree or regulation (including but not limited to any environmental laws taking into account any moratorium, waiver or grace period granted in respect of such change, laws relating to tax and the operation of the Issuer) and any of the foregoing would reasonably have a Material Adverse Effect;
- xvi. All or a material part of the assets, undertakings, rights or revenues of, or shares or other ownership interest in the Issuer are seized, nationalised, expropriated or compulsorily acquired by or under the authority of any governmental body;
- xvii. At any time it is illegal or unlawful for the Issuer to perform any of its obligations under the Transaction Documents or the Project Agreements or at any time any of the provisions of the Transaction Documents or the Project Agreements is or becomes, for any reason, illegal, void, voidable, invalid or unenforceable;
- xviii. The Issuer repudiates any of the Transaction Documents or Project Agreements or the Issuer does or causes to be done any act or thing evidencing an intention to repudiate any of the Transaction Documents or Project Agreements;
- xix. The Issuer changes or threatens to change the nature or scope of its business, suspends or threatens to suspend a substantial part of the present business operations which it now conducts directly or indirectly; and
- xx. Any other events as may be advised by the LA's solicitor.

Upon occurrence of Event of Default under the IMTN Programmes, the Trustee based on instructions from the Sukukholders and subject to cure rights and cure periods, shall declare that the outstanding Senior IMTNs and Junior IMTNs are immediately due and repayable, and exercise all its rights of enforcement on the security in accordance with the provisions available under the Transaction Documents.

The Junior IMTNs, which are subordinated to the Senior IMTNs, shall not call an Event of Default of the Senior IMTNs.

- (y) Principal Terms and Conditions for Warrants (where applicable) : Not applicable
- (z) Other Principal Terms and Conditions for the Issue
  - (1) Positive Covenants : Shall include but not limited to the following:-
    - i. The Issuer shall, so long as the Senior IMTNs remain outstanding, maintain in the FSRA (as defined under paragraph 2(z)(4)) a balance equal to the Finance Service Reserve Requirement (as defined under paragraph 2(z)(4));
    - ii. The Issuer shall exercise reasonable diligence in carrying out its business and affairs in a proper and efficient manner and in accordance with the practices of the industry and in accordance with its memorandum and articles of association;
    - iii. The Issuer shall, maintain its corporate existence, its rights to carry on operations of its business and franchises;
    - iv. The Issuer shall, maintain its records and prepare its financial statements on a basis consistently applied in accordance with the generally accepted accounting principles in Malaysia and those financial statements shall give a true and fair view of the results of the operations of the Issuer for the period in question and the state of its affairs for the period to which the financial statements are made up and shall disclose all material liabilities (actual or contingent) of the Issuer;
    - v. The Issuer shall:-
      - (a) Upon prior written notice given by the Trustee to the Issuer, make available for the inspection by the Trustee or any of its

authorised agents the whole of the accounting or other records of the Issuer in connection with the Project; and

- (b) Give to the Trustee or any of its agents such information as the Trustee or any of its authorised agents requires with respect to all matters relating to the accounting or other records of the Issuer;
- vi. The Issuer shall operate and maintain the Expressway in accordance with standard industry practices;
- vii. The Issuer shall duly perform and observe all the covenants, conditions, provisions and obligations under, and maintain in full force and effect, the Transaction Documents and Project Agreements;
- viii. The Issuer shall issue, on an annual basis, a certificate to the Trustee confirming that it has complied with all covenants, representations and warranties under the Transaction Documents, and that it is not in breach of any of them and is not in default of any of the Transaction Documents;
- ix. The Issuer shall deliver to the Trustee:-
  - (a) As soon as they become available (and in any event within one hundred and eighty (180) days after the end of each of its financial year) copies of its audited financial statements prepared in accordance with the generally accepted accounting practices in Malaysia for that financial year which shall contain its consolidated income statements and balance sheets duly audited and certified by a firm of independent certified public accountants;
  - (b) As soon as they become available (and in any event within ninety (90) days after the end of the first half of its financial year) copies of its unaudited half yearly financial statements for that financial year which shall contain an income statement and a



balance sheet;

- (c) At least sixty (60) days in advance of the beginning of each financial yearly period, the Operating Budget (as defined under paragraph 2(z)(5)) that is acceptable to the Trustee;
  - (d) On a monthly basis, the bank statements of the Designated Accounts to the Trustee;
  - (e) For the duration of the construction period of the Expressway, within ten (10) business days of the Issuer's receipt, such reports as the ICE shall prepare on a monthly basis;
  - (f) Within thirty (30) days from the end of each half-year for the duration of the Sukuk, such reports as the Issuer shall prepare on a half-yearly basis reporting on the collection of toll and traffic volume; and
  - (g) Promptly, such additional financial or other information as the Trustee may from time to time reasonably request in order to discharge its duties and obligations as trustee under this Deed relating to the Issuer's affairs to the extent permitted by law;
- x. The Issuer shall maintain adequate insurance which a prudent company carrying on a like-minded business would normally have and as required under the Project Agreements, insure and/or cause to be insured the Expressway, the Project Assets (as defined under paragraph 2(z)(5)) and all other property and assets against all usual risks of loss or damage for projects in the nature of the Project (including third party liability insurance) and against such other insurable risks as may be maintained by companies engaged in similar business and owning similar properties in the same general areas and financed in a similar manner or otherwise as the Trustee may (acting on the advice of

the insurance adviser as may be appointed by the Trustee from time to time ("**Insurance Consultant**") from time to time reasonably consider commercially prudent ("**Insurances**"), for a sum and value to be certified as adequate by the Insurance Consultant and in any case in a manner approved by the Trustee (acting on advice from the Insurance Consultant) and shall keep the same so insured for as long as there are monies outstanding under the Sukuk on such basis with an insurance company or with a broker reasonably acceptable to the Trustee require;

- xi. The Issuer shall furnish copies to the Trustee of all documents furnished to the Issuer by any Government authority or the construction contractor or furnished to any of them by the Issuer which are material to the Expressway;
- xii. The Issuer shall pay all taxes, other Government charges and other liabilities before they become delinquent except those being contested in good faith and for which adequate reserves are established;
- xiii. The Issuer shall upon reasonable prior written notice given by the Trustee to the Issuer, at all times permit and/or cause to permit the Trustee or its representatives at any reasonable time from time to time to have access to visit and inspect the Project;
- xiv. The Issuer shall maintain title to its assets, preserve the security interests granted under the relevant security documents with respect to all the Issuer's assets and not permit any encumbrances on any of the Issuer's assets other than Permitted Encumbrances;
- xv. The Issuer shall remain as a single-purpose vehicle;
- xvi. The Issuer shall use proceeds raised from the IMTN Programmes solely for the purposes as set out in paragraph 2(k);
- xvii. The Issuer shall execute all such further

documents and do all such further acts and things as are reasonably necessary to give effect to the terms and conditions of the Transaction Documents and the Project Agreements;

- xviii. The Issuer shall maintain at all times a paying agent in Malaysia in respect of payments in relation to the Sukuk in accordance with the relevant laws and regulations; and
- xix. The Issuer shall comply with such other covenants as may be advised by the solicitor to the LA.

(2) Negative Covenants : The Issuer will not without prior written consent of the Trustee (subject to the instruction of the Sukukholders by way of an extraordinary resolution, as applicable):-

- i. Sell, transfer, lease or otherwise dispose of or in any case cease to exercise control over, whether by a single transaction or a number of transactions, related or not, the whole or part of the Issuer's undertaking, business or assets save and except for:-
  - (a) Any sale or disposal of the Issuer's undertaking, business or assets which is in the ordinary course of business and on ordinary terms on the basis of arm's length transaction; or
  - (b) Any disposal of any of the Issuer's undertaking, business or assets for assets which are to be replaced and the value of such disposal shall not be more than Ringgit Malaysia Two Million (RM2,000,000.00) per transaction or not more than an aggregate amount of Ringgit Malaysia Ten Million (RM10,000,000.00) over a continuous twelve (12) months period;
- ii. Save and except the Permitted Change Orders (as defined under paragraph 2(z)(5)), amend, modify, vary, terminate, replace, supplement the terms and conditions of the Project Agreements (including all work plans

in connection thereto) or waive timely performance, unless such amendment, modification, variation, termination, replacement or supplementation is necessary to correct a manifest error or is of a minor or technical nature or is to comply with or to be made consistent with the guidelines applicable to the Sukuk or mandatory provision of any law or requirement imposed by any regulatory authority and such amendment, modification, variation, termination, replacement or supplementation would not have a Material Adverse Effect;

- iii. Consolidate or merge with any other person, firm or company or acquire all or substantially all of the assets or stock or any class of or enter into any partnership, joint venture, profit sharing or royalty agreement or other similar arrangement whereby the Issuer's income or profits are or might be shared with any other person, firm or company or enter into any management contract or similar arrangement whereby the Issuer's business or operations are managed by any other person, firm or company or create or acquire any subsidiary save for except with the consent from the Sukukholders;
- iv. Engage in any business other than the Project and its related activities as required under the Concession Agreement;
- v. Make any capital expenditures or enter into any transaction with person, firm or company other than:-
  - (a) Expenditures contemplated by the plans and specifications for Package 3 of the Expressway as identified in the Development Budget;
  - (b) Expenditures identified in the annual Operating Budget;
  - (c) Expenditures identified in the Deferred Capital Expenditure Budget (as defined in paragraph 2(z)(5)); and

- (d) Expenditures required by law or necessary to prevent or mitigate emergency situations;
- vi. Declare and pay any dividend on share capital or bonus issue or make any distributions (be it income or capital in nature) to equity investors or payments on any subordinated debt except as provided in accordance with the Transaction Documents and subject to conditions stipulated under Other Distributions (as explained under paragraph 2(z)(15));
- vii. Incur, assume, guarantee, provide security or permit to exist any indebtedness (be it secured or unsecured) (including any overdraft or other form of borrowing from any other financial institutions) except as provided under Permitted Indebtedness;
- viii. Create or permit to exist over all or any part of its business or assets any security interest (other than permitted under the security documents to the Sukuk) except as provided under Permitted Encumbrances;
- ix. Enter into agreements with its shareholders, subsidiaries or associated companies (if any) other than in the ordinary course of business on an arms-length basis and will not have a Material Adverse Effect on the Issuer;
- x. Make any loans or advances, or guarantee or grant any credit to any interested persons (including a director or shareholder of the Issuer or any director or shareholder of any related company or associated company of the Issuer or persons connected with them) or any company or person or firm or organisation or purchase or otherwise acquire the capital stock, assets or obligation of any of the said interested persons or any company or person or firm or organisation save and except for advances or loans made to the Issuer's directors, management or employees as part of their terms of employment and any other trade credit given in the ordinary course of business of not

more than an aggregate amount of Ringgit Malaysia Two Million (RM2,000,000.00) at any one time;

- xi. Cause or allow the shareholders and shareholding structure in the Issuer to be changed save and except for any change (which shall be notified to the Trustee prior to such change taking effect) arising from the conversion of the Irredeemable Convertible Unsecured Loan Stocks ("**ICULS**") into ordinary shares of SDEB as stipulated under the ICULS agreement or with prior consent from the Sukukholders;
- xii. Other than the Transaction Documents, enter into any other contracts, agreements or other arrangements or commitments, except in the ordinary course of business;
- xiii. Save and except for the Permitted Change Orders, agree to any variation orders to Package 3 of the Expressway which will result in the costs to complete Package 3 exceeding the budget detailed in the Development Budget unless not objected by the ICE; and
- xiv. Such other covenants as may be advised by the solicitor to the LA.

(3) Financial Covenants : Senior IMTN Programme  
The Issuer shall maintain a Finance Service Cover Ratio ("**FSCR**") of at least 1.50 times throughout the tenure of the Senior IMTNs.

The FSCR is the ratio of Available Cashflow (as defined below) to the aggregate of the Principal and Profit Payments of the Senior IMTNs payable in the next twelve (12) months.

The Available Cashflow shall include:-

- i All toll revenue and other income received by the Issuer and any other receipt of capital or revenue in nature under any contract or agreement;
- ii All other amounts which should be credited to the

profit and loss and which are actually received by the Issuer during such period;

- iii All distribution, returns and realised gains received by the Issuer;
- iv All advances/loan/equity received by the Issuer from its shareholders and/or other Permitted Indebtedness during such period;
- v All credit balances in the Designated Accounts including amount utilised from the Designated Accounts for Permitted Investments at the beginning of the financial year;
- vi Opening cash balance for the financial year; and
- vii Proceeds of Insurance claims and toll revenue compensation received by the Issuer.

Less:-

- i The total amount spent on management, administration, operation, maintenance and heavy repairs;
- ii Taxes paid or such other contributions paid by the Issuer to the Government;
- iii Capital expenditure incurred; and
- iv Any payments made by the Issuer under any contract or agreement.

Available Cashflow shall be computed based on the Issuer's latest audited accounts and confirmed by its external auditor on annual basis.

For the avoidance of doubt, any double counting shall be disregarded.

#### Junior IMTN Programme

The Issuer shall maintain a FSCR of at least 1.15 times throughout the tenure of the Junior IMTNs.

The Junior FSCR is the ratio of Available Cashflow after deducting the Senior IMTN Principal and Profit Payments paid by the Issuer in the financial year divided by the Junior IMTN scheduled principal

payment due in the next twelve (12) months.

- (4) Designated Accounts : The Issuer shall open, transfer from the BalDS' corresponding accounts and maintain the following accounts under Islamic principles:-

Revenue Account ("RA")

The RA shall be maintained for the purpose of remitting and/or depositing the following:-

- i. Amount transferred from the BalDS' Revenue Account, Disbursement Account and Deferred Capital Expenditure Reserve Account;
- ii. Amount received pursuant to the issue of any ordinary shares, ICULS and all other forms of equity contribution;
- iii. All revenues received by the Issuer save and except for the toll revenue which is to be deposited into the RRA (as defined below) (if any); and
- iv. Amount transferred from the RRA upon its closure.

The Issuer may only withdraw sums from the RA for the following payments in accordance with the order of priority as follows:-

- i. Capital expenditure for the construction of Package 3 up to the amount equal to the sum transferred from the Disbursement Account of the BalDS;
- ii. On a six monthly basis, transfer of a sum to the OA (as defined below) for Operating Costs (as defined under paragraph 2(z)(5) and deferred capital expenditure in accordance with the Issuer's Operating Budget and Deferred Capital Expenditure Budget respectively;
- iii. Transfer of a sum to the OA for capital expenditures of a non-recurring nature for the Project not exceeding a sum to be agreed between the Issuer and the Trustee in any financial year;
- iv. Transfer of such sum to the OA for



expenditures incurred or to be incurred by the Issuer during emergency situation subject to documentary evidence satisfactory and acceptable to the Trustee;

- v. Required payments to cause the balance standing to the credit of the FSRA to be equal to the Finance Service Reserve Requirement required at such time;
- vi. Payment of Junior IMTNs' scheduled principal payment;
- vii. Mandatory prepayment of Junior IMTNs;
- viii. Transfer of a sum to DA (as defined below) for any payment obligations under ICULS, shareholder's loan/advances and/or any distributions or payments to equity investors, subject to relevant distribution restrictions;
- ix. Payment of any amounts under Permitted Indebtedness;
- x. For Permitted Investments; and
- xi. Towards any other payment as agreed or permitted by the Trustee.

Drawing from the RA may only be made by the Issuer by giving five (5) business days' written notice to the Trustee.

Operating Account ("OA")

The OA shall be maintained for the purpose of remitting and/or depositing the following:-

- i. Amount transferred from the BaIDS' Operating Account;
- ii. Transfer of such sums from RA on a six monthly basis; and
- iii. Proceeds from other unsecured financing as stipulated under the Permitted Indebtedness.

The Issuer may only withdraw sums from OA for the following payments:-

- i. Payment of Operating Costs in accordance with the Operating Budget;
- ii. Payment of deferred capital expenditures in accordance with the Deferred Capital Expenditure Budget;
- iii. Expenditures incurred by the Issuer during emergency situation;
- iv. Payments in respect of any unsecured financing; and
- v. For Permitted Investments.

Finance Service Reserve Account ("FSRA")

The FSRA shall be maintained for the purpose of remitting and/or depositing the following:-

- i. Amount transferred from the BaIDS' Finance Service Reserve Account; and
- ii. Such amount to cause the balance standing to the credit of the FSRA to be equal to the Finance Service Reserve Requirement required at such time.

The Issuer shall maintain at all times, an amount sufficient to pay all Principal and Profit Payments of Senior IMTNs during the next six (6) month period ("**Finance Service Reserve Requirement**") in FSRA.

The Issuer may only be permitted to withdraw sums from the FSRA for the following payments:-

- i. Towards servicing the Principal and Profit Payments due under the Senior IMTNs; and
- ii. For Permitted Investments.

Where money in the FSRA is utilised to meet the payments as set out in paragraph (i) above, the account balance shall be replenished to the level of the Finance Service Reserve Requirement by transferring funds from the RA not more than one (1) month after the money in the FSRA is utilized.

Distribution Account ("DA")

The DA shall be maintained for the purpose of remitting and/or depositing the following:-

- i. Amount transferred from the BaIDS' Distribution Account; and
- ii. Sum transferred from the RA for any payment obligations under ICULS, shareholder's loan/advances and/or any distributions or payments to equity investors.

The funds in DA may only be withdrawn for the following purposes:-

- i. Payment obligations under ICULS, shareholder's loans/advances and/or any distributions or repayments to equity investors;
- ii. For Permitted Investments.

**Revenue Reserve Account ("RRA")**

In the event that the toll revenue for the financial year (excluding any annual toll revenue compensation) is greater than the corresponding year's toll revenue as stated in Appendix II ("**High Case Toll Revenue**"), the toll revenue over and above the High Case Toll Revenue ("**Super Normal Toll Revenue**") shall be deposited into the RRA.

The Issuer may only be permitted to withdraw sums from the RRA for the purpose of prepaying the Senior IMTNs, subject to the Senior IMTN Prepayment Utilizing the RRA clause.

Upon maturity of the Senior IMTNs, all monies standing to the credit of the RRA shall be transferred to the RA.

The RA, FSRA and RRA shall be operated solely by the Trustee whereas the OA and DA shall be operated by the Issuer except upon the occurrence of an Event of Default, the Trustee shall be the sole signatory.

***Lump Sum Toll Revenue Compensation***

Should there be any one-off exceptional toll revenue compensation by the Government for future losses due to reasons which shall include, but not limited to, revamp of the toll rates as per the Concession

Agreement and abolition of toll plazas, the Lump Sum Toll Revenue Compensation received by the Issuer shall be deposited into the RRA.

(5) Definitions

: Permitted Change Orders

Such variation to the Design and Build Contract which are permitted in the following manner:-

- i. Does not exceed Ringgit Malaysia Five Million (RM5,000,000.00) individually or Ringgit Malaysia Fifteen Million (RM15,000,000.00) in the aggregate for so long as the Sukuk are outstanding; and
- ii. They are not objected to by the ICE on grounds of probable effect on scheduling or performance of the Project or such other grounds as may be determined by the ICE; or

Permitted Investments

The Issuer shall be permitted from time to time to utilise any unutilised amounts standing to the credit of the Designated Accounts to make such investments which are permitted to be made therefrom by the Trustee at the request of the Issuer, namely:-

- i. Mudharabah, wadiah and other deposits in income, bearing accounts and negotiable certificates of deposits with and issued by financial institutions licensed under the Banking and Financial Institutions Act, 1989 or the Islamic Banking Act, 1983;
- ii. Bankers acceptances, bills and repo instruments issued by financial institutions licensed under the Banking and Financial Institutions Act, 1989 or the Islamic Banking Act, 1983;
- iii. Short term or medium term papers, treasury bills and any other finance instruments issued by the Government; and
- iv. Private debt securities of private entities having a rating of at least AA- (or its equivalent) as determined by MARC or any other rating agency as approved by the Trustee;

PROVIDED ALWAYS THAT:-

- i. Such funds utilised for the Permitted Investments shall be remitted to the respective Designated Account in a timely manner to meet any payment obligations when due and in any event in the case of repo instruments, the maturity of which shall be at least twenty four (24) hours prior to any payment obligation becoming due and in the case of such other investments, the maturity of which shall be at least one (1) week prior to any payment obligation becoming due;
- ii. Such Permitted Investments are denominated in Ringgit Malaysia; and
- iii. Such Permitted Investments are Syariah compliant.

Permitted Indebtedness

Permitted Indebtedness shall include:-

- i. Indebtedness arising under the IMTN Programmes;
- ii. Indebtedness arising under the ICULS; and
- iii. Other unsecured financing including working capital facilities including revolving credit facilities, bank guarantee facility, capital leases and hire purchase granted by any financial institution, short term debts not exceeding twelve (12) months, suppliers and normal trade creditors of the Issuer incurred in the ordinary course of business, not exceeding in aggregate the sum of Ringgit Malaysia Twenty Million (RM20,000,000.00 million).

Permitted Encumbrance

Encumbrances created pursuant to the IMTN Programmes; liens or right of set-off arising in the ordinary course of business; or any security interest created in connection with liabilities preferred solely by the laws of Malaysia and not by reason of any security interest.

Expressway

The 77km Senai-Pasir Gudang-Desaru Expressway connecting Senai with Pasir Gudang and Desaru in Johor.

The Expressway is split into 3 packages as below:-

- Package 1 : MSSC Interchange - Ulu Tiram Interchange
- Package 2 : Ulu Tiram Interchange – Cahaya Baru Interchange – Pasir Gudang Interchange
- Package 3 : Cahaya Baru Interchange – Penawar Interchange

Package 1 and Package 2 have been completed and commenced toll collection on 9 October 2009.

#### Project

The implementation of design, construction, management, operation and maintenance of the Expressway upon the terms and subject to the conditions of the Concession Agreement.

#### Project Agreements

The collective reference to the:-

- i. Concession Agreement;
- ii. Design and Build Contract;
- iii. Completion guarantee from Ranhill Berhad in favour of SDEB pursuant to the Design and Build Contract; and
- iv. All other contracts, consents and other documents, if any, entered (or to be entered) into by the Issuer, as are necessary in connection with the Project and are requested by LA or the Trustee for inclusion in the definition of Project Agreements.

#### Project Assets

All assets (including but not limited to land, plant, machinery, buildings and intellectual property rights) wheresoever situate required for the purposes of or in connection with the Expressway, whether owned or to be owned by the Issuer;

Operating Costs

Amounts paid or due and payable by the Issuer for the operation and maintenance of the Project and any other recurring expenditure of a capital nature required, including without limitation, premiums for Insurances, fuel supply and transportation costs, utilities, payments under the Project Agreements, franchise, licensing, property, real estate, income taxes, sales and excise taxes, general and administrative expenses, business management and administrative services fees necessary for the continued operation and maintenance of the Project and the conduct of the business of the Issuer, all of which shall have been identified in, or based on, the Operating Budget.

Operating Budget

An annual operating budget prepared by the Issuer and approved by the Trustee based on the projected financial statements provided to the Trustee in accordance with the order of priority for withdrawal of sums from the RA.

The Issuer shall prepare its operating budget based on the "**Projected Annual Operating Budget**" as detailed out in Appendix IV.

The annual operating budget approved by the Trustee shall not exceed [10%] above the Projected Annual Operating Budget for the budgeted year.

In the event of insufficient funds during the budgeted period, the Issuer shall be entitled to additional funds subject to documentary evidence and reason(s) acceptable to the Trustee.

Deferred Capital Expenditure Budget

A budget prepared by the Issuer and approved by the Trustee for the construction of the deferred interchanges and upgrading works required to be undertaken by the Issuer pursuant to the Concession Agreement.

The budget approved by the Trustee for the above purposes shall be limited to the "**Projected Deferred Capital Expenditure**" as detailed out in Appendix V hereto.

Insufficiency of funds shall be met through capital injection from the Issuer.

Material Adverse Effect

An effect of any event or circumstance that has resulted in, or would:-

- i. Materially and adversely limit the ability of any party to perform their respective obligations under any Transaction Documents or the Project Agreements;
- ii. Delay the progress of construction of Package 3 of the Expressway such that the actual commencement of tolling for Package 3 of the Expressway would reasonably be expected to be delayed beyond a date falling six (6) months after the completion date of Package 3;
- iii. Changes the validity or priority of any security created under the relevant security documents;
- iv. Limits the legality, validity or enforceability of any Transaction Documents or any of the Project Agreements; or
- v. Materially and adversely affects the business, operations or financial condition of the Issuer and/or the construction contractor of the Expressway.

Transaction Documents

Include but not limited to the following:-

- i. Islamic Securities Trust Deed;
- ii. Ijarah Agreement(s);
- iii. Service Agency Agreement;
- iv. Purchase Undertaking;
- v. Sale Undertaking;
- vi. Depository and Paying Agency Agreement;
- vii. Debenture (which shall include, amongst others, the assignment of the rights, title, interests and benefits over the Concession



Agreement, the Project Agreements, the Insurances and the Designated Accounts);

- viii. Priority and Security Sharing Agreement; and
- ix. Any other relevant documents agreed between the parties that may be required to complete this transaction as advised by the solicitor of the LA.

#### Cash Sweep Amount

The Cash Sweep Amount shall be equal to:-

- i. Excess cash available after the Principal and Profit Payments of Senior IMTNs and upon fulfilling all the conditions under Distribution Restrictions; or
- ii. Upon full payment of the Senior IMTNs, the net free cashflow ("**Net FCF**"). For avoidance of doubt, Net FCF shall be net cashflow from operation net of capital expenditure and taxes.

The Cash Sweep Amount shall be applied in the following proportions to repay Junior IMTNs:-

% of Junior IMTNs repaid (on present value basis)	% of Cash Sweep Amount for Junior IMTNs payment
0-64.99%	100%
65-84.99%	85%
85-99.99%	55%
100%	0%

For avoidance of doubt, % of Junior IMTNs paid (on present value basis) shall be determined as below:-

#### **% of Junior IMTNs paid**

= 100% less % of Junior IMTNs Outstanding

#### **% of Junior IMTNs Outstanding = A / B**

Where:-

A : Junior IMTNs opening balance of the financial year

B : Future value of the Junior IMTNs

proceeds as at the first day of the financial year, compounded at 9% per annum from the date of refinancing.

The Cash Sweep Amount for Junior IMTNs shall be applied in the following order of priority:-

- i. Towards scheduled principal payment; and
- ii. Towards mandatory prepayment.

Senior IMTNs Accreted Value

= Price<sub>S</sub> x Senior IMTNs nominal value / 100

Where:-

$$Price_S = \left( \frac{100}{\left(1 + \frac{YTM_S}{Frequency}\right)^{\left(N-1+\frac{S}{E}\right)}} \right) + \left( \sum_{k=1}^N \frac{100 \times \frac{Profit}{Frequency}}{\left(1 + \frac{YTM_S}{Frequency}\right)^{\left(k-1+\frac{S}{E}\right)}} \right)$$

YTM<sub>S</sub> : Yield to Maturity of the relevant series of Senior IMTNs

N : Number of Profit Payments payable between prepayment date and maturity date

S : Number of days from prepayment date to next profit payment date

E : Number of days in profit period in which the prepayment date falls

Junior IMTNs Accreted Value

= Price<sub>J</sub> x Junior IMTNs nominal value / 100

Where:-

$$Price_J = \frac{100}{(1 + YTM_J)^{\frac{D}{365}}}$$

YTM<sub>J</sub> : Yield to Maturity of the relevant series of Junior IMTNs

D : Number of days from the prepayment

date to the maturity date

- (6) Issuer's Undertaking : The Issuer shall undertake to review the need to restructure/refinance the Junior IMTNs in consultation with the Junior IMTNs holders on the fifth, seventh and tenth anniversary from date of first issuance of the Junior IMTNs.

For avoidance of doubt, Junior IMTNs holders shall have the sole discretion in deciding if a restructuring/refinancing is necessary to be undertaken, subject to consent from the Senior IMTNs holder and the relevant authorities.

- (7) Junior IMTNs Restructuring/Refinancing : Senior IMTNs holders' consent shall be required for any restructuring/refinancing to the Junior IMTNs save where the following conditions are met:-

- i. There is no occurrence of Event of Default before or immediately after the restructuring/refinancing;
- ii. Actual toll revenue achieved is higher than the Threshold Toll Revenue;
- iii. A revised traffic study showing that the projected toll revenue is likely to continue to exceed Threshold Toll Revenue; and
- iv. Confirmation from MARC that the restructuring/refinancing will not, on its own, adversely affect the Senior IMTNs' rating nor the rating's outlook.

In the event that the Junior IMTNs are being restructured/refinanced, the Senior IMTNs holders shall have the right and sole discretion to decide if a restructuring/refinancing of the Senior IMTNs is necessary to be undertaken at the same time.

- (8) Subordination : The Junior IMTNs shall be subordinated to the Senior IMTNs and may not call an Event of Default unless consent from the Senior IMTNs holders is obtained.

- (9) Negative pledge : The Issuer shall not create or permit to exist over all or any part of its business or assets any mortgage, charge, pledges, lien, right or set off any other

security interest except for the Permitted Encumbrances or as permitted by the Sukukholders.

- (10) Ranking/ Status of the Sukuk : The Sukuk shall constitute trust obligations of the Issuer in relation to and represent the investors' undivided proportionate interest in the Trust Assets.

The Obligor's obligations under the Purchase Undertaking shall constitute direct, unconditional and secured obligations of the Obligor and shall at all times rank pari-passu, without discrimination, preference or priority amongst themselves and at least pari-passu with all other present and future secured and unsubordinated obligations of the Obligor, save and except for those obligations preferred by law.

- (11) Availability : Upon completion of documentation and compliance of all Conditions Precedent and other applicable conditions to the satisfaction of the LA, the first issuance of the Sukuk shall be made within two (2) years from the date of the SC's approval.

- (12) Redemption : Unless previously redeemed or purchased and cancelled, the Sukuk shall be redeemed by the Issuer at their respective nominal value on their respective maturity dates.

- (13) Early Redemption : The Issuer may at its absolute discretion redeem the Sukuk (in whole) prior to their maturity ("**Early Redemption Date**") provided that the following conditions are fulfilled:-

- i. Notice period of thirty (30) days is given to the Facility Agent and the Trustee;
- ii. Redemption is made on a profit payment date; and
- iii. The Trustee (acting on behalf of the Sukukholders) will exercise the Purchase Undertaking, wherein the Issuer undertakes to purchase the Trust Assets on an Early Redemption Date at the Exercise Price.

All of the Ijarah Agreements will thereafter, be terminated.

- (14) Early Partial : Senior IMTNs Prepayment

Redemption Events

The Issuer shall have the right to prepay the Senior IMTNs on proportionate basis at any point in time at the Senior IMTNs Accreted Value provided that the Issuer notifies the Senior IMTNs holders at least thirty (30) days prior to the event of the intention to prepay.

The prepaid Senior IMTNs shall be cancelled and cannot be reissued.

Senior IMTN Prepayment Utilizing the RRA

Any prepayment of Senior IMTNs utilizing the monies standing to the credit of the RRA shall be on proportionate basis to all outstanding series of the Senior IMTNs, at their respective Senior IMTNs Accreted Values.

Minimum prepayment amount shall be Ringgit Malaysia Fifty Million (RM50,000,000.00). Senior IMTNs holders shall be notified by the Issuer at least thirty (30) days prior to the event of the intention to prepay.

All Senior IMTNs prepaid shall be cancelled and cannot be reissued.

Junior IMTNs Mandatory Prepayment

Prepayment of the scheduled Junior IMTNs is mandatory if the Cash Sweep Amount net of scheduled Junior IMTNs principal payment is greater than zero, subject to meeting relevant distribution restrictions.

Notwithstanding, there shall be no prepayment within the first twenty four (24) months after the date of refinancing.

Prepayment shall be applied towards the scheduled principal payment in inverse order of maturity.

The prepaid Junior IMTNs shall be cancelled and cannot be reissued.

(15) Distribution Restrictions

: Junior IMTNs

There shall be no distribution to Junior IMTNs within the first twenty four (24) months after the date of refinancing. Thereafter, any distribution shall be subject to the following:-

- i. There is no occurrence of Event of Default;
- ii. The toll revenue for the financial year (excluding any annual toll revenue compensation) is equal to or greater than the corresponding year's **Threshold Toll Revenue**;
- iii. Cash balance post-distribution is no less than RM10 million; and
- iv. FSCR pre-distribution is above 2.15 times in the previous two (2) financial years and post-distribution is at least 2.15 times.

For avoidance of doubt, the above shall only apply while the Senior IMTNs are still outstanding.

Other Distributions

Throughout the tenure of the Senior IMTNs, there shall be no distribution to equity holders (inclusive of ICULS holders) within the first twenty four (24) months after the date of refinancing. Thereafter, any distribution shall be subject to the following:-

- i. There being no occurrence of Event of Default;
- ii. The toll revenue for the financial year (excluding any annual toll revenue compensation) is equal to or greater than the corresponding year's Threshold Toll Revenue;
- iii. Cash balance post-distribution is no less than RM10 million; and
- iv. FSCR pre-distribution is above 2.15 times in the previous two (2) financial years and post-distribution is no less than 2.15 times.

Upon the maturity of the Senior IMTNs, distribution is subject to the following:-

- i. There being no occurrence of Event of Default;
- ii. Cash balance post-distribution is no less than RM10 million; and
- iii. The concession does not expire in the next thirty six (36) months.

In the event that the toll revenue for the financial year (excluding any annual toll revenue compensation) is greater than the corresponding year's Threshold Toll Revenue, the ICULS holders shall be entitled to an **"Exceptional ICULS Coupon"** subject to the following restrictions:-

- i. There is no occurrence of Event of Default;
- ii. Cash balance post-distribution is no less than RM10 million; and
- iii. FSCR pre-distribution is above 2.15 times in the previous two (2) financial years and post-distribution is no less than 2.00 times.

Subject always to the maximum Exceptional ICULS Coupon being the lowest of the following:-

- i. The toll revenue over and above the Threshold Toll Revenue for the corresponding year;
- ii. The difference between High Case Toll Revenue and Threshold Toll Revenue for the financial year;
- iii. Maximum ICULS coupon entitled for the financial year (being ICULS coupon rate multiply by the total ICULS outstanding for the year) less any ICULS coupon entitlement under the Cash Sweep Amount; and
- iv. The amount of cash allowed to be distributed such that FSCR drops from 2.15 times pre-ICULS distribution to 2.00 times post-ICULS distribution.

For avoidance of doubt, there shall be no distribution for Exceptional ICULS Coupon within the first twenty four (24) months after the date of refinancing.

- |   |   |  |
|---|---|--|
| (16) Transferability  | : | The Sukuk are transferable but subject to the Selling Restrictions described in paragraph 2(p) above.  |
| (17) Purchase Undertaking and Sale Undertaking Compensation | : | In the event of any overdue payments of any amounts due under the Purchase Undertaking or Sale Undertaking as the case may be, the Obligor shall pay to the Trustee for the benefit of the |

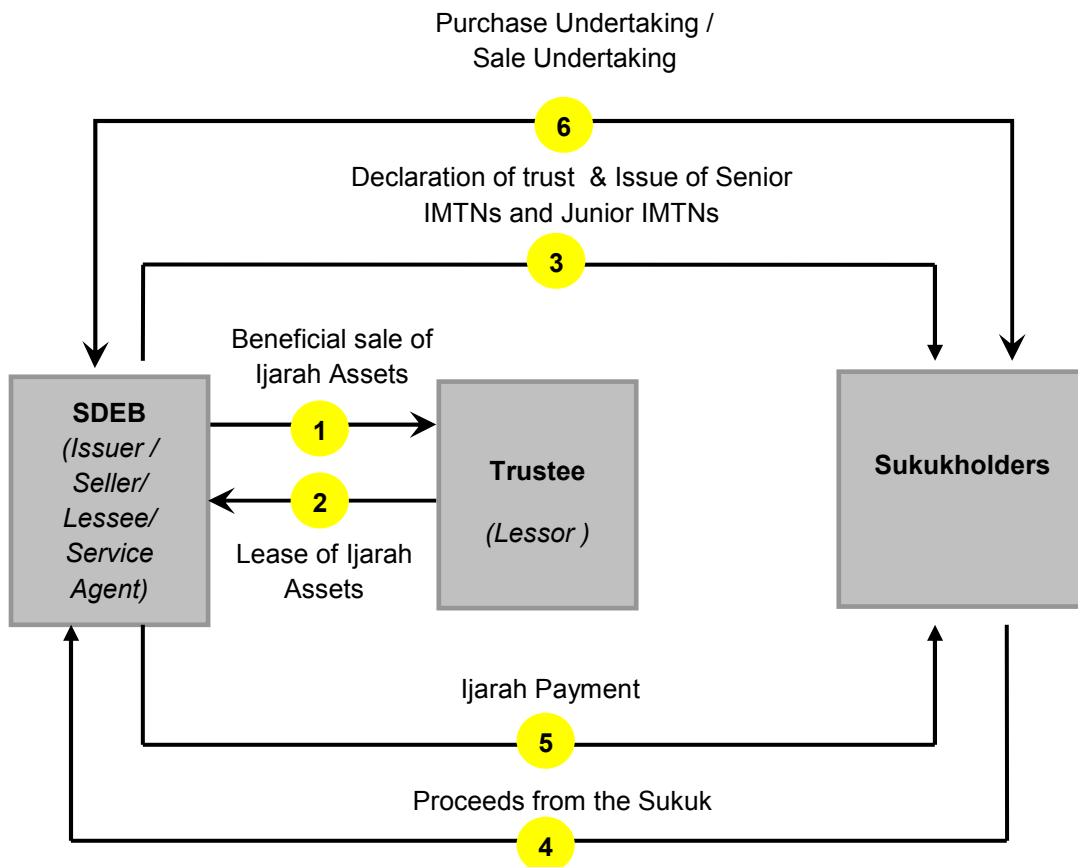
Sukukholders Ta'widh on such overdue amounts at an amount and manner prescribed by the SC's SAC or such other relevant regulatory authority from time to time in accordance with the Syariah principles.

- (18) 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 authority thereof or therein having power to tax unless such withholding or deduction is required by law. In the event that such withholding or deduction is required by law, the Issuer shall not be obliged to gross up for such withholdings or deductions.
- (19) Governing Laws and Jurisdiction : Laws of Malaysia and submission to the exclusive jurisdiction of the courts of Malaysia.
- (20) Other Conditions : The Sukuk shall at all times be governed by the guidelines issued and to be issued from time to time by the SC, BNM and/or any other authority in Malaysia having jurisdiction over matters pertaining to the Sukuk and the Codes of Conduct.



## Appendix I

### Illustration of the Facility based on Ijarah Principle



## Appendix I

### Illustration of the Facility based on Ijarah Principle

No	Description
1	The Trustee on behalf of the Sukukholders shall purchase the Identified Assets from SDEB by way of transfer of the beneficial ownership of the Identified Assets pursuant to a purchase agreement for the Purchase Price. The Purchase Price will be equivalent to the redemption value of the BaIDS.
2	The Trustee (acting on behalf of the Sukukholders) as the "Lessor" shall lease the Identified Assets to SDEB, as the "Lessee", for the Ijarah Payment pursuant to the relevant Ijarah Agreement.
3	The Issuer shall declare a trust over the Identified Assets, the present and future rights and interest in all of the Ijarah Agreements, the Purchase Undertaking and the proceeds of the foregoing (collectively the "Trust Assets") in favour of the Trustee acting for and on behalf of the Sukukholders. The Issuer shall issue the Sukuk to the Sukukholders to represent the Sukukholders' undivided beneficial ownership in the Trust Assets.
4	Proceeds from the Sukuk will be utilized to pay the Purchase Price.
5	During the tenure of the relevant Ijarah Agreement, the Trustee on behalf of the Sukukholders will receive the relevant Ijarah Payment due from the Lessee.
6	Pursuant to a Purchase Undertaking granted by SDEB as the Obligor in favour of the Trustee acting for and on behalf of the Sukukholders, the Obligor shall undertake to purchase the Trust Assets from the Sukukholders at the Exercise Price on either of the following events:- <ul style="list-style-type: none"> <li>i. Upon any declaration of an Event of Default; or</li> <li>ii. Upon the occurrence of an Early Redemption of all the outstanding Sukuk.</li> </ul>

Pursuant to a Sale Undertaking, granted by the Trustee for and on behalf of the Sukukholders in favour of the Obligor, the Trustee acting for and on behalf of the Sukukholders shall undertake to sell the Trust Assets to the Obligor at the Exercise Price on the maturity of the IMTN Programmes.

Upon full settlement of the Purchase Undertaking and Sale Undertaking as the case may be, the Declaration of Trust will be subsequently dissolved and neither the Trustee nor the Sukukholders shall thereafter have further rights and/or obligations to the Trust Assets. For the avoidance of doubt, the Declaration of Trust will only be dissolved if all the series of the Sukuk under the IMTN Programmes have been purchased and fully paid.

## Appendix II

### High Case Toll Revenue: Total Toll Revenue<sup>1</sup> as per High Case Traffic Forecast by PTK<sup>2</sup>

Financial Year Ended 30 June	Toll Revenue (RM '000)
2013	60,318
2014	66,593
2015	78,643
2016	98,361
2017	116,131
2018	135,111
2019	161,756
2020	186,370
2021	212,161
2022	244,411
2023	276,748
2024	311,026
2025	350,840
2026	394,324
2027	438,642
2028	484,867
2029	538,007
2030	594,723
2031	653,220
2032	724,037
2033	800,521
2034	876,572
2035	923,589
2036	958,257
2037	1,014,640
2038	1,074,347

Note:

1. Total of cash and electronic toll collections.
2. Perunding Trafik Klasik Sdn Bhd's traffic study report dated 11 May 2010.

**Appendix III****Threshold Toll Revenue: Total Toll Revenue<sup>1</sup> as per Base Case Traffic Forecast by PTK<sup>2</sup>**

<b>Financial Year Ended 30 June</b>	<b>Toll Revenue (RM '000)</b>
2013	58,825
2014	64,320
2015	73,475
2016	86,884
2017	99,344
2018	114,701
2019	138,296
2020	159,777
2021	182,200
2022	210,088
2023	235,738
2024	262,516
2025	293,554
2026	326,862
2027	360,182
2028	394,565
2029	433,660
2030	474,870
2031	516,879
2032	567,464
2033	621,501
2034	674,367
2035	703,922
2036	723,232
2037	758,577
2038	795,646

Note:

3. Total of cash and electronic toll collections.

4. Perunding Trafik Klasik Sdn Bhd's traffic study report dated 11 May 2010.

## Appendix IV

## Projected Annual Operating Budget

Financial Year Ended 30 June	Operating Expenses (RM '000)	Recurring Maintenance Cost (RM '000)	Total (RM '000)
2011	18,353	-	18,353
2012	19,588	-	19,588
2013	20,176	-	20,176
2014	20,781	-	20,781
2015	21,405	-	21,405
2016	22,047	-	22,047
2017	22,708	28,851	51,559
2018	23,390	6,435	29,824
2019	24,091	-	24,091
2020	24,814	-	24,814
2021	25,558	-	25,558
2022	26,325	-	26,325
2023	27,115	-	27,115
2024	27,928	35,483	63,411
2025	28,766	7,914	36,680
2026	29,629	-	29,629
2027	30,518	-	30,518
2028	31,434	-	31,434
2029	32,377	-	32,377
2030	33,348	-	33,348
2031	34,348	43,639	77,987
2032	35,379	9,733	45,112
2033	36,440	-	36,440
2034	37,533	-	37,533
2035	38,659	-	38,659
2036	39,819	-	39,819
2037	41,014	-	41,014
2038	42,244	53,670	95,915

## Appendix V

### Projected Deferred Capital Expenditure

Deferred Capital Expenditure	Details	Cost in Year 2010 <sup>1</sup> (RM '000)
Johor Lama deferred interchange	To be constructed in year 2017 and subject to traffic volume	25,000
Ulu Tebrau deferred interchange	To be constructed in year 2019 and subject to traffic volume	25,000
Upgrading work from 2-lane single carriageway to 2-lane dual carriageway	To be constructed if traffic volume reaches 30,000 vehicles a day	6,000 per KM
Upgrading work from 2-lane dual carriageway to 3-lane dual carriageway	To be constructed if traffic volume reaches 70,000 vehicles a day	6,000 per KM

Note:

1. The maximum nominal cost to be approved by Trustee shall be calculated based on the cost in year 2010, escalated at 3% per annum up to the year of construction.