

BESRAYA (M) SDN BHD
PRINCIPAL TERMS AND CONDITIONS FOR THE PROPOSED ISSUANCE OF UP TO
RM700.0 MILLION SUKUK MUDHARABAH

BACKGROUND INFORMATION

1. Issuer

- (i) **Name** Besraya (M) Sdn Bhd ("**Besraya**")
- (ii) **Address** Plaza Tol Mines, KM 15
Lebuhraya Sungai Besi
43300 Seri Kembangan
Selangor Darul Ehsan
- (iii) **Business Registration No.** 342223-A
- (iv) **Date/Place of Incorporation** 29 April 1995 / Malaysia
- (v) **Date of listing (in case of a public listed company)** Not listed
- (vi) **Status Resident/non-resident controlled company (where applicable) (as at 20 March 2011)** Resident controlled company
- Bumiputera/non-Bumiputera controlled company (where applicable)** Non-Bumiputera controlled company
- (vii) **Principal Activities** Besraya is principally engaged in toll road operation under a privatisation project awarded by the Government of Malaysia ("**GOM**")

(viii) **Board of Directors (as at 20 March 2011)**

Name of Directors	Nationality
Tengku Tan Sri Dato' Seri Ahmad Rithauddeen bin Tengku Ismail	Malaysian
Dato' Sri Haji Abd Rahim bin Abdul	Malaysian
Dato' David Frederick Wilson	British
Neoh Soon Hiong	Malaysian
Tan Gim Foo	Malaysian

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- (ix) **Structure of shareholdings and names of shareholders or, in the case of public company, names of all substantial shareholders (as at 20 March 2011)**

The shareholding structure of Besraya as at 20 March 2011 is as follows:-

Name of Shareholder	No. of RM1.00 ordinary shares / %	
	Direct	Indirect
Road Builder (M) Holdings Bhd ("RBH")	18,000,000 / 60%	12,000,000* / 40%
HMS Resource Sdn Bhd ("HMS")	10,500,000 / 35%	-
Gagah Garuda Sdn Bhd ("Gagah Garuda")	1,500,000 / 5%	-

Notes:

* Deemed interested by virtue of HMS and Gagah Garuda being wholly-owned subsidiaries of RBH

Name of Shareholder	No. of RM1.00 preference shares / %	
	Direct	Indirect
RBH	53,500,000 / 100%	-

- (x) **Authorised and paid-up capital (as at 20 March 2011)**

Authorised share capital

RM100,000,000 comprising 100,000,000 ordinary shares of RM1.00 each

Paid-up share capital

RM30,000,000 comprising 30,000,000 ordinary shares of RM1.00 each

2. PRINCIPAL TERMS AND CONDITIONS

(a) Names of parties involved in the proposed transaction

- | | | |
|-------|--|---|
| (i) | Principal Adviser(s)/ Lead Arranger(s) | AmInvestment Bank Berhad (" AmInvestment Bank ") |
| (ii) | Arranger(s) | Not applicable |
| (iii) | Valuer(s) | Not applicable |
| (iv) | Solicitors | Messrs Shearn Delamore & Co |
| (v) | Financial Adviser | Newfields Advisors Sdn Bhd |
| (vi) | Technical Adviser | Not applicable |
| (vii) | Guarantor | Not applicable |

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(viii)	Trustee / Security Trustee	Malaysian Trustees Berhad
(ix)	Facility Agent	AmInvestment Bank
(x)	Primary Subscriber(s) and amount subscribed (where applicable)	Where applicable, AmIslamic Bank Berhad and/or AmBank (M) Berhad will fully subscribe any issuance of the Sukuk Mudharabah (as defined herein), subject to pricing to be agreed prior to issuance.
(xi)	Underwriter(s) and amount underwritten	Not applicable
(xii)	Shariah Adviser	Dr Mohd Daud Bakar
(xiii)	Central Depository	Bank Negara Malaysia (" BNM ")
(xiv)	Paying Agent	BNM
(xv)	Reporting Accountant	GEP Associates
(xvi)	Others	<u>Lead Manager</u> AmInvestment Bank <u>Project Monitoring Agent</u> AmInvestment Bank <u>Independent Consulting Engineer</u> MMSB Consult Sdn Bhd <u>Independent Traffic Consultant</u> Perunding Atur Sdn Bhd <u>Independent Insurance Consultant(s)</u> To be determined <u>Roles undertaken by Besraya in respect of the Mudharabah transaction</u> - <u>Mudarib</u> As the Issuer of the Sukuk. - <u>Obligor</u> As the Obligor, who undertakes to purchase the Trust Assets (as defined herein) from the Trustee at the Exercise Price (as defined herein).

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(b) Islamic Principle Used	Mudharabah
(c) Facility Description	<p>An issuance of Islamic securities ("Sukuk" or "Sukuk Mudharabah") based on the Shariah principles of Mudharabah.</p> <p>Under the Mudharabah transaction, the Issuer (as "Mudarib") shall enter into a Mudharabah contract with the Trustee, acting on behalf of the investors (as "Rabbulmal").</p> <p>The investors (hereinafter referred to as the "Sukukholders") shall participate in the Issuer's Shariah-compliant business activities including the toll operations, maintenance and management of the Existing Project and the BEE Project (both terms as hereinafter defined) and the construction of the BEE Project (the "Mudharabah Venture").</p> <p>The Sukukholders shall participate in the Mudharabah Venture by subscribing to the Sukuk Mudharabah, which Sukuk Mudharabah may be issued in series. Proceeds from the Sukuk represent 100% of the Sukukholders' capital contribution ("Mudharabah Capital") in the Mudharabah Venture. The Issuer on the other hand, as the Mudarib shall have the absolute entrepreneurial authority to manage the Mudharabah Venture and administer the collection of income from the Mudharabah Venture.</p> <p>The Issuer shall make a declaration of trust over the rights and entitlements under the Mudharabah Venture ("Trust Assets") for the benefit of the Sukukholders and itself. The Sukuk hence represent each of the Sukukholders' undivided proportionate beneficial interests in the Mudharabah Venture.</p> <p>Profits generated from the Mudharabah Venture will be shared between the Rabbulmal and the Mudarib according to the pre-agreed profit sharing ratio ("PSR") of 99:1 while losses will be borne solely by the Rabbulmal. Payment of profits (the "Periodic Payment(s)") shall be based on the income (if any) generated from the Mudharabah Venture which shall be distributed to the Sukukholders semi-annually on the date falling on the expiry of each semi-annual period ("Periodic Payment Date").</p> <p>For the avoidance of doubt, whenever a Periodic Payment is made on a particular scheduled Periodic</p>

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Payment Date, such payment shall comprise the distributable income generated from the Mudharabah Venture ("**Periodic Distribution(s)**") and **Advance Profit Payment(s)** (as defined below), if any.

The Rabbulmal's share of profits shall be the return expected by the Sukukholders from the Mudharabah Venture ("**Expected Return**") which shall be the yield of the Sukuk up to the respective maturity dates or the date of declaration of an event which dissolves the Mudharabah Venture ("**Dissolution Event**"), as the case may be.

Under the Mudharabah Venture, the Sukukholders shall agree upfront that they shall receive profits up to the Expected Return.

If, on any Periodic Payment Date, the income generated from the Mudharabah Venture is insufficient to meet the expected Periodic Payments, the Issuer shall make advance profit payments during the tenor of the Sukuk ("**Advance Profit Payments**") equal to such deficiency. For the avoidance of doubt, any Advance Profit Payments made by the Issuer shall be off-set against the Exercise Price (as defined herein). Any amounts in excess of the Expected Return shall be given to the Mudarib as an incentive fee for successfully managing the business.

Besraya, in its capacity as the Obligor, shall grant to the Trustee (acting on behalf of the Sukukholders) a Purchase Undertaking whereby the Obligor shall undertake to purchase the Trust Assets from the Trustee at the Exercise Price upon the occurrence of the earlier of the respective maturity dates of the Sukuk or declaration of a Dissolution Event, subject to the terms and conditions as set out in item 2(z)(vi) herein.

Upon the exercise of the Purchase Undertaking and the payment of the Exercise Price, the Mudharabah Venture and declaration of trust shall be dissolved and the Sukuk Mudharabah shall be cancelled.

Please refer to Appendix I for the illustrative diagram of the Sukuk Mudharabah transaction structure.

(d) Issue Size (RM)

Nominal value of up to RM700.0 million.

(e) Issue Price (RM)

Issued at par ("**Par Sukuk**") or at a discount ("**Discounted Sukuk**") at an issue price to be determined prior to issuance.

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| (f) Tenor of the Facility/
Issue | <p>The Sukuk Mudharabah shall be issued within six (6) months from the date of approval by the Securities Commission (“SC”) or such other later date as may be approved by the SC and agreed with the Primary Subscriber(s), where applicable.</p> <p><u>Tenor of the Sukuk Mudharabah</u>
 More than one (1) year and up to eighteen (18) years as the Issuer may select.</p> |
| (g) Profit Rate (%)
(please specify) | <p><u>Periodic Payment Rate</u>
 The expected Periodic Payment Rate(s) shall be determined prior to the issuance of the Sukuk Mudharabah.</p> |
| (h) Profit Payment
Frequency/basis | <p>The Periodic Payment(s) shall be made on a semi-annual basis with the first payment to be made six (6) months from the date of the issuance of the Sukuk Mudharabah and the last payment payable on the respective maturity dates of the Sukuk Mudharabah or the date of declaration of a Dissolution Event, as the case may be.</p> <p>The Periodic Payment(s) shall be calculated on the basis of actual number of days elapsed and actual days (actual days / actual days)</p> |
| (i) Yield to Maturity
("YTM") (%) | <p>The YTM shall be the Expected Return to the Sukukholders up to the respective maturity dates under the Mudharabah Venture and which shall be determined prior to issuance of Sukuk Mudharabah.</p> |
| (j) Security/Collateral | <p>The Sukuk Mudharabah shall be secured by the following (collectively, the “Sukuk Mudharabah Security”) pursuant to the financial obligations under the Purchase Undertaking:-</p> <ul style="list-style-type: none"> (i) a debenture creating a first ranking fixed and floating charge over all present and future assets, rights and interests of the Issuer (ii) a first ranking assignment of all of the Issuer's rights, interests, titles and benefits under the Project Agreements (as defined herein), including without limitation the right to demand, collect and retain toll, liquidated damages and all proceeds arising therefrom; (iii) an assignment of all rights, interests, titles and benefits in all performance and/or maintenance bonds issued to and/or in favour of the Issuer, save for those assigned or to be assigned to the |

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GOM pursuant to the Concession Agreement;

- (iv) a first ranking assignment of all rights, interests, titles and benefits in all relevant insurance / takaful policies of the Issuer and/or in respect of the BEE Project (as defined herein), subject to the insurance provisions under the Concession Agreement and the Supplemental Concession Agreement;
- (v) a first ranking charge and assignment of all rights, interests, titles and benefits in all Designated Accounts (as defined herein) and the credit balances therein; and
- (vi) such other security as may be advised by the Solicitors and agreed by the Issuer.

(k) Details on Utilisation of Proceeds

The proceeds of up to RM700.0 million from the Sukuk Mudharabah shall be utilised by the Issuer for the following Shariah-compliant purposes:-

Utilisation of Proceeds		Amount (Up to RM Mil)
(a)	To finance all costs associated with the construction, pre-operating expenses and contingencies of the BEE Project (" Project Cost ")	640.0
(b)	To make Advance Profit Payments, finance fees, expenses and such other amounts payable under the Sukuk Mudharabah during the BEE Project construction period and to finance the working capital requirements of the Issuer	60.0
Total		700.0

(l) Sinking fund (if any) Not applicable.

(m) Rating

- **Rating assigned** Long-term rating of AA3
- **Rating Agency** RAM Rating Services Berhad ("**RAM Ratings**")

(n) Form and Denomination

Form
The Sukuk Mudharabah shall be represented by Global

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Certificates in bearer form (exchangeable for definitive certificates in limited circumstances) in accordance with the Operational Procedures for Securities Services issued by Malaysian Electronic Clearing Corporation Sdn Bhd (“**MyClear**”) dated 17 February 2011, as amended and substituted from time to time (“**MyClear OPSS**”) and/or any other procedures/ guidelines issued by the relevant authority(ies). No physical delivery of the Sukuk is permitted. The Global Certificates will be deposited with BNM acting as the Central Depository.

Denomination

RM1,000 (unless required to be in such other denominations in accordance with MyClear OPSS and/or any other relevant guidelines).

(o) Mode of Issue

The Sukuk Mudharabah shall be issued via private placement on a best efforts basis or bought deal basis or book building on a best efforts basis.

(p) Selling Restriction

The Sukuk Mudharabah may 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 falling within any of the following categories of persons :-

At Issuance

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

After the issuance

- (i)* Section 4 (6) of the Companies Act, 1965, as amended from time to time; and
- (ii) a. Schedule 6 or Section 229(1)(b); and
b. Schedule 9 or Section 257(3) of the CMSA.

* In the event the Issuer is converted into a public limited company, the Selling Restriction under item (i) above shall not be applicable.

(q) Listing Status

The Sukuk Mudharabah may be listed on Bursa Malaysia Securities Berhad under an Exempt Regime pursuant to Chapter 4B of Bursa Malaysia Securities Berhad’s Main Market Listing Requirements. The SC will be notified accordingly in the event of such listing.

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- | | |
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| (r) Minimum Level of Subscription (RM or %) | <u>Issuance via bought-deal or direct placement</u>
100%

<u>Issuance via book building</u>
5% |
| (s) Other regulatory approvals required in relation to the issue, offer or invitation and whether or not obtained | Not applicable. |
| (t) Identified Assets/Trust Assets | <u>Identified Assets</u>
Not applicable.

<u>Trust Assets</u>
The Trust Assets shall comprise the rights and entitlements under the Mudharabah Venture. |
| (u) Purchase and Selling Price/ (where applicable) | Not applicable under the contract of Mudharabah. |
| (v) Conditions Precedent | <p>To include but not limited to the following conditions precedent (which may be waived at the discretion of the Lead Arranger/Lead Manager) and receipt by the Lead Arranger/Lead Manager of the following documents or evidence (all in the form and substance acceptable to the Lead Arranger/Lead Manager):</p> <ul style="list-style-type: none"> (i) The facility agreement, trust deed and other relevant documents pertaining to the Sukuk (collectively referred to hereafter as the “Sukuk Agreements”) shall have been executed and where applicable, stamped and endorsed as exempted from stamp duty and presented for registration; (ii) The Sukuk shall be subject to the prior approval from the SC and/or any other authorities having jurisdiction over matters pertaining to the Sukuk; (iii) The Issuer shall have obtained a minimum long term rating of AA3 from RAM Ratings for the Sukuk Mudharabah; (iv) Receipt of endorsement from the Shariah Adviser in respect of the Sukuk Mudharabah and the Sukuk Agreements which shall be in compliance with the Shariah principles; |

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- (v) Satisfactory financial and legal due diligence as required under the CMSA;
- (vi) All notices of assignment and their respective acknowledgements, including those in respect of the Project Agreements and the Designated Accounts shall have been made and/or received, as the case may be;
- (vii) Security interests and liens in respect of the security shall have been created, filed, presented for registration, powers of attorney (if any) lodged with the High Court, as applicable, and all necessary consents shall have been obtained and are in full force and effect;
- (viii) Receipt of certified true copies of all duly executed Project Agreements;
- (ix) Receipt of certified true copies of the extracts from the Issuer's board of directors' resolution(s) authorising inter alia, acceptance of the Sukuk Mudharabah, execution of the Sukuk Agreements and such other documents as advised by the Solicitors;
- (x) Receipt of certified true copies of the Issuer's Forms 24, 44 & 49, Memorandum of Articles of Association and a list of the Issuer's authorised signatories and their respective specimen signatures;
- (xi) Receipt of search results and winding up search results on the Issuer confirming that the Issuer is not and/or has not been wound up;
- (xii) Receipt of certified true copies of all licenses and permits required for the Existing Project and the BEE Project with evidence that all such licenses and permits are final and in full force and effect;
- (xiii) Receipt of satisfactory legal opinion from the Solicitors confirming amongst others:-
 - a. all approvals/ consents (be it regulatory or contractual) which are required shall have been duly obtained for the Sukuk Mudharabah and for the execution of the Sukuk Agreements;
 - b. the Project Agreements are legally valid, binding and enforceable and that all

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conditions precedent in relation to the Project Agreements have been fulfilled or waived, as the case may be; and

- c. the Sukuk Agreements are legally valid, binding and enforceable and that all conditions precedent in relation to the Sukuk Agreements have been fulfilled or waived, as the case may be;
- (xiv) Receipt of a letter from the Reporting Accountant stating among others, the assumptions adopted in the cashflow projections and the accuracy of the mathematical calculations of the cashflow projections based on the underlying assumptions;
- (xv) Receipt of a satisfactory report from the Independent Consulting Engineer addressing matters set forth in the Independent Consulting Engineer's scope of work as approved by the Issuer and the Lead Arranger;
- (xvi) Receipt of a report from the Independent Traffic Consultant confirming, among others, the traffic projections and its assumptions thereto;
- (xvii) Certification from the Independent Insurance Consultant(s) that all policies are in full force and effect, are adequate for this project at the relevant time and that the Security Trustee has been endorsed as loss-payee;
- (xviii) Satisfactory evidence that all governmental or contractual approvals shall have been duly obtained in respect of the issuance and the terms and conditions of the Sukuk;
- (xix) Evidence that all the Designated Accounts have been opened in accordance with the provisions of the Sukuk Agreements;
- (xx) Evidence that all transaction fees, costs and expenses have been paid in full or that they will be paid in a manner agreed by the relevant adviser(s);
- (xxi) Receipt of the Issuer's certification that it is in compliance with all representations and warranties; and
- (xxii) Such other terms and conditions as advised by the Solicitors and/or Shariah Adviser and agreed by

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the Issuer.

(w) Representations and Warranties

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

- (i) The Issuer is a company duly incorporated and validly existing under the laws of Malaysia, has full power to carry on its business and to own its property and assets and has full beneficial ownership of all its assets;
- (ii) The memorandum and articles of association of the Issuer incorporates provisions which give power, capacity and all necessary authority has been obtained and action taken for the Issuer to enter into, exercise its rights under and perform its obligations under the Transaction Documents (as defined herein);
- (iii) The Issuer's entry into, exercise of its rights under and performance of the Transaction Documents shall not:
 - a. Violate any existing laws or agreements to which it is a party;
 - b. Cause any limitation on the Issuer or the powers of its directors to be exceeded; or
 - c. Cause the creation or imposition of any security interest or restriction of any nature on any of the Issuer's assets;
- (iv) All necessary actions, authorisations and consents required under the Transaction Documents have been taken, fulfilled and obtained (as the case may be) and remain in full force and effect;
- (v) The Transaction Documents shall be in full force and effect and constitute legal, valid and binding obligations which are enforceable on and against the Issuer;
- (vi) The Issuer's audited financial statements are prepared in accordance with generally accepted accounting principles and standards in Malaysia and they give a true and fair view of the results of the Issuer's operations for the period to which the financial statements are made up;
- (vii) There is no litigation or arbitration which is current

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or threatened, which if adversely determined, would have a Material Adverse Effect (as defined herein);

(viii) No event has occurred or is continuing which constitutes, or which with the giving of notice and/or lapse of time would constitute a Dissolution Event under the Transaction Documents; and

(ix) Such other representations and warranties as may be advised by the Solicitors and agreed by the Issuer.

**(x) Dissolution
Events/Events of
Default**

Standard dissolution events shall apply and shall include, but not be limited to: -

(i) The Issuer fails to pay any amount due under the Sukuk on the due date or on demand, if so payable;

(ii) Any representation or warranty made or given by the Issuer under the Transaction Documents or which is contained in any certificate, document or statement furnished at any time pursuant to the Sukuk and/or any of the Transaction Documents proves to have been incorrect or misleading in any material respect, and in the case of a failure which in the opinion of the Trustee is capable of being remedied, the Issuer does not remedy the failure within a period of thirty (30) days after the Issuer became aware or having been notified by the Trustee of the failure, whichever is the earlier;

(iii) The Issuer breaches or fails to observe or perform any of the terms or conditions in the Sukuk or any provision of any of the Transaction Documents or of any other document relating to the issue, offer or invitation in respect of the Sukuk or any of its obligations under the Sukuk or 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 (i) above) and, in the case of a failure which in the opinion of the Trustee is capable of being remedied, the Issuer does not remedy the failure within thirty (30) days after the Issuer becomes aware or having been notified by the Trustee of the failure, whichever is the earlier;

(iv) There has been a breach by the Issuer of any obligation under any of the Issuer's existing contractual obligations which may materially and

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adversely affect the Issuer's ability to perform its obligations under any of the Transaction Documents and, if in the opinion of the Trustee is capable of being remedied, the Issuer does not remedy the breach within a period of thirty (30) days after the Issuer became aware or having been notified by the Trustee of the breach, whichever is the earlier;

- (v) Any indebtedness of the Issuer becomes due or repayable or capable of being declared due or payable prior to its stated maturity by reason of default or any amount owing thereunder is not repaid on its due date or becomes due and payable prior to its stated maturity or if any security for any debenture, moneys borrowed, guarantee or indemnity becomes enforceable;
- (vi) An encumbrancer takes possession of, or a trustee, receiver and manager or similar officer is appointed in respect of the whole or substantial part of the business or assets of the Issuer, or distress, legal process, sequestration or any form of execution is levied or enforced or sued out against the Issuer or any security interest which may for the time being affect any of its assets becomes enforceable;
- (vii) The Issuer fails to satisfy any judgement passed against it by any court of competent jurisdiction and no appeal against such judgement or no application for stay of execution has been made to any appropriate appellate court within the time prescribed by law or such appeal or application for a stay of execution has been dismissed;
- (viii) Any license, authorisation, approval, consent, order or exemption is revoked, withheld or modified or is otherwise not granted or ceases for any reason to remain in full force and effect and that such revocation, withholding, modification, non-granting or cessation may impair or prejudice the Issuer's ability to comply with the terms and conditions of the Sukuk or the provisions of any of the Transaction Documents and/or any other documents relating to the issue, offer or invitation in respect of the Sukuk;
- (ix) Any steps are taken for the winding-up, dissolution or liquidation of the Issuer or a resolution is passed for the winding up of the Issuer or a petition for winding up is presented against the

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Issuer, and the Issuer has not taken any action to set aside such petition within thirty (30) days or any order is made for the winding up of the Issuer;

- (x) The Issuer convenes a meeting of its creditors or proposes or makes any arrangement including any scheme of arrangement (whether or not pursuant to section 176 of the Companies Act 1965) or composition or begins negotiations with its creditors, or takes any proceedings or other steps, with a view to a rescheduling or deferral of all or any 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 part of its indebtedness or any assignment for the benefit of its creditors (other than for the purposes of and followed by a reconstruction previously approved in writing by the Trustee, unless during or following such reconstruction the Issuer becomes or is declared to be insolvent);
- (xi) The Issuer is for the purposes of section 218(2) of the Companies Act 1965 deemed to be unable to pay its debts as they fall due or threaten to suspend making payments with respect to all or any class of its debts;
- (xii) Any creditor of the Issuer exercises a contractual right to take over the financial management of the Issuer and such event in the opinion of the Trustee may have a Material Adverse Effect;
- (xiii) The Issuer changes or threatens to change the nature or scope of all or a substantial part of its business, or suspends or threatens to suspend or cease or threatens to cease the operation of all or a substantial part of its business which it now conducts directly or indirectly and such change or suspension or cessation in the opinion of the Trustee may have a Material Adverse Effect;
- (xiv) At any time any of the provisions of the Transaction Documents is or becomes illegal, void, voidable or unenforceable;
- (xv) The Issuer repudiates any of the Transaction Documents or the Issuer does or causes to be done any act or thing evidencing an intention to repudiate any of the Transaction Documents;
- (xvi) Any of the Project Agreements is terminated (except due to lapse of time) or there has been a

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breach of any obligations by the Issuer and/or the relevant counterparties under any of the Project Agreements which would in the opinion of the Trustee have a Material Adverse Effect and which, if capable of remedy, has not been remedied within thirty (30) days after the Issuer became aware or having been notified by the Trustee of such breach, whichever is the earlier;

- (xvii) Any of the assets, undertakings, rights or revenue of the Issuer are seized, nationalised, expropriated or compulsorily acquired by or under the authority of any governmental body which in the opinion of the Trustee may have a Material Adverse Effect;
- (xviii) Save and except for the suspension of work due the occurrence of an event which is beyond the Issuer's control, suspension of work on the whole or any substantial part of the BEE Project which in the opinion of the Trustee may have a Material Adverse Effect and such suspension continues uncured or is not remedied within the period as may be allowed under the relevant Project Agreements but in any case not longer than one hundred and eighty (180) days;
- (xix) Occurrence of a Dissolution Event under the Concession Agreement and/or Supplemental Concession Agreement;
- (xx) Any event or events has or have occurred or a situation exists which in the opinion of the Trustee may have a Material Adverse Effect and in the case of the occurrence of such event or situation which in the opinion of the Trustee is capable of being remedied, the Issuer does not remedy it within a period of thirty (30) days after the Issuer became aware or having been notified by the Trustee of the event or situation, whichever is the earlier; or
- (xxi) Such other events as may be advised by the Solicitors and agreed by the Issuer.

Upon the occurrence of any of the events above, the Trustee may, or shall if directed to do so by the Sukukholders pursuant to a special resolution, declare that a Dissolution Event has occurred in respect of the Sukuk whereupon:-

- (a) The Exercise Price under all the Purchase Undertakings shall become immediately due and

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- payable;
- (b) The Trust Assets in respect of the Mudharabah Venture shall be immediately purchased by the Obligor; and
 - (c) The Trustee and the Security Trustee shall have the right to institute such proceedings and to take such steps as it/they think fit including enforcing remedies under each of the Sukuk Agreements.
- (y) Principal terms and conditions for warrants, (where applicable)** Not applicable
- (z) Other Principal Terms and Conditions for the issue**
- (i) Positive Covenants Including but not limited to:-
 - (a) The Issuer shall comply in all respects with all applicable laws, regulations and guidelines;
 - (b) The Issuer shall maintain in full force and effect all necessary approvals or relevant authorisations, consents, rights, licenses and permits (governmental or otherwise) and will promptly obtain any further authorisations, consents, rights, licenses, approvals and permits (governmental or otherwise) which is or may become necessary to enable it to own its assets and/or carry on its business or for the Issuer to enter into or perform its obligations under the Transaction Documents;
 - (c) The Issuer shall promptly perform and carry out all its obligations under the Transaction Documents and comply with the provisions of the Transaction Documents and terms and conditions of the Sukuk;
 - (d) The Issuer shall at all times on demand execute all such further documents and do all such further acts reasonably necessary at any time or times to give further effect to the terms and conditions of the Transaction Documents;
 - (e) The Issuer shall exercise reasonable diligence in carrying out its business and affairs in a proper and efficient manner and in accordance with

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sound financial and commercial standards and practices;

- (f) The Issuer shall immediately notify the Facility Agent/ Trustee in writing in the event that it becomes aware of any of the following:-
1. any Dissolution Event or potential Dissolution Event or that such other right or remedy under the terms, provisions and covenants of the Sukuk Agreements have become immediately enforceable;
 2. the occurrence of any event that has caused or could cause, one or more of the following:
 - (i) any amount secured or payable under the Sukuk to become immediately payable;
 - (ii) the Sukuk to become immediately enforceable; or
 - (iii) any other right or remedy under the terms, provisions or covenants of the Sukuk or the Transaction Documents to become immediately enforceable;
 3. any circumstance that has occurred that would materially prejudice the Issuer or any security included in or created by the Sukuk Agreements;
 4. any substantial change in the nature of the business of the Issuer;
 5. any litigation or other proceedings of any nature whatsoever being threatened or initiated against the issuer before any court or tribunal or administrative agency which may have a Material Adverse Effect;
 6. any change in withholding tax position or taxing jurisdiction of the Issuer (where applicable);
 7. periodic update on progress made in the utilisation of proceeds from the Sukuk where the information memorandum or any Sukuk Agreement or any other agreements entered into in connection with the issue, offer or invitation sets out a specific purpose for

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which proceeds are to be utilised; or

8. any other matter that may materially prejudice the interests of the Sukukholders;
- (g) The Issuer shall provide to the Trustee at least on an annual basis, a certificate confirming that it has complied with all its obligations under the Sukuk Agreements and the terms and conditions of the Sukuk and that there does not exist or had not existed, from the date the Sukuk were issued or the date of the previous certificate, as the case may be, any Dissolution Event or enforcement, and if such is not the case, to specify the same;
- (h) The Issuer shall promptly exercise its rights under the Project Agreements so as to procure that the contractors, subcontractors and consultants appointed in connection with any works are properly skilled, qualified and experienced to undertake the awarded contracts and to ensure that these contractors, subcontractors and consultants promptly perform their respective obligations under these Project Agreements;
- (i) The Issuer shall provide half-yearly consolidated financial statements (including income statements and balance sheets) within 90 days from the end of each half-year end and year-end audited consolidated financial statements (including income statements and balance sheets) within 180 days from its financial year end;
- (j) The Issuer shall prepare its financial statements on a basis consistently applied in accordance with approved accounting standards in Malaysia and such financial statements shall give a true and fair view of the results of the operations of the Issuer for the period to which the financial statements are made up and shall disclose or provide against all liabilities (actual or contingent) of the Issuer;
- (k) The operation of the Sukuk Mudharabah shall at all times be governed by guidelines issued and to be issued by the SC and/or other authorities having jurisdiction over matters pertaining to the Sukuk;
- (l) The Issuer shall preserve and maintain good and valid title to its properties and assets;
- (m) The Issuer shall pay and discharge all taxes

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imposed upon it or its assets within the time period allowed without incurring penalties save to the extent that (i) payment is being contested in good faith, (ii) adequate reserves are being maintained for those taxes, or (iii) payment can be lawfully withheld;

- (n) The Issuer shall promptly pay and discharge all indebtedness payable by it;
 - (o) The Issuer shall open and maintain the Designated Accounts for the purposes stated and make payments from such accounts only as permitted under the Sukuk Agreements, and comply with the terms and conditions of the Sukuk Agreements in all matters concerning the Designated Accounts;
 - (p) IJM Corporation Berhad shall at all times remain the majority shareholder (whether directly or indirectly) of the Issuer provided that any change to the shareholding structure of the Issuer as at the date of the Sukuk Agreements shall be in accordance with the provisions of the Project Agreements; and
 - (q) Such other covenants as may be advised by the Solicitors and agreed by the Issuer.
- (ii) Negative covenants Including but not limited to:-
- (a) The Issuer shall not reduce its authorised and/or issued ordinary shares save and except for:-
 - 1. redemption of preference share capital; or
 - 2. capital redemption, provided no Dissolution Event has occurred or is continuing or would occur if such redemption is made;
 - (b) The Issuer shall not add, supplement, delete, amend, vary or substitute its Memorandum or Articles of Association or permit any addition, supplement, deletion, amendment, variation or substitution of its Memorandum or Articles of Association, in a manner inconsistent with the provisions of the Transaction Documents or which may be materially prejudicial to the interests of the Sukukholders;
 - (c) Save and except for any transactions which have been disclosed to the Trustee prior to the date of

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execution of the Sukuk Agreements, the Issuer shall not enter into any transaction, whether directly or indirectly with interested persons unless:

1. 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
2. with respect to transactions involving an aggregate payment or value equal to or greater than 15% of the net assets or shareholders' equity (whichever is the lower) (based on the latest audited annual accounts) of the Issuer, 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 sub-clause (1) above, that the Issuer has received the certification referred to in sub-clause (2) (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) The Issuer shall not agree to amend, vary or terminate, replace or supplement any of the Project Agreements;
- (e) The Issuer shall not agree to waive any breach or proposed breach in any of the Project Agreements by its counterparty(ies) which would have a Material Adverse Effect;
- (f) The Issuer shall not do or omit to do any act, or execute or omit to execute any document which may render any of the Project Agreements or any insurance to be illegal, void, voidable or unenforceable;
- (g) The Issuer shall not dispose of any such assets which will materially and adversely affect the business operations of the Issuer;
- (h) The Issuer shall not incur, assume, guarantee or permit to exist any debt other than the Sukuk, Reimbursable Land Cost (as defined below) (if

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applicable), any other loans to be provided by GOM to the Issuer under the Project Agreements and other unsecured financing including guarantees, capital leases and hire purchase not exceeding an aggregate amount of RM20.0 million incurred in the ordinary course of business ("**Other Unsecured Financing**");

- (i) The Issuer shall not create or permit to exist any encumbrance, mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, assignment by way of security, trust arrangement for the purpose of providing security or other security interest of any kind including, without limitation, title transfer and/or retention agreements having a similar effect of 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;
 - (j) Save as previously disclosed to the Lead Arranger, the Issuer shall not obtain or permit to exist any loans or advances from its shareholders unless these loans are subordinated to the Sukuk;
 - (k) Save as previously disclosed to the Lead Arranger and bank guarantees that are required under the ordinary course of business of the Issuer, the Issuer shall not provide or permit to exist any guarantee where the Issuer is a guarantor or is liable to pay for the same thereunder;
 - (l) The Issuer shall not open or maintain any accounts other than the Designated Accounts; and
 - (m) Such other covenants as may be advised by the Solicitors and agreed by the Issuer.
- (iii) Financial Covenants Including but not limited to:-
- (a) The Issuer shall maintain at all times a Debt to Equity Ratio ("**DE Ratio**") not exceeding 80:20 throughout the tenor of the Sukuk;
 - (b) The Issuer shall maintain a Finance Service Cover Ratio ("**FSCR**") of not less than 1.25 times at all times;
 - (c) The Issuer shall not declare or pay dividends or make any distribution, whether income or capital in nature, including principal and/or interest of any shareholders' loans, or provide advances to its shareholders (such payments and distributions

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shall be referred to collectively as “**Distributions**” and singularly as “**Distribution**”) if:-

1. the DE Ratio is breached or if following any such Distributions, the DE Ratio will be breached;
2. a Dissolution Event has occurred or is continuing or if following any such Distributions, a Dissolution Event would occur;
3. the Projected FSCR (to be calculated on each Distribution Date as defined below) falls below 2.00 times after any such Distributions; or
4. the Minimum FSRA Balance (as defined herein) has not been met.

For the avoidance of doubt, DE Ratio, FSCR and Projected FSCR shall be defined as follows:-

DE Ratio

The DE Ratio is the ratio of indebtedness of the Issuer represented by:

- a) all principal amounts outstanding under the Sukuk; and
- b) all other indebtedness for borrowed moneys (be it actual or contingent), hire purchase obligations, finance lease obligations, irredeemable convertible unsecured loan stocks of the Issuer (if any), net exposure determined on a marked to market basis under any derivative instrument and obligations/ contingent liabilities under guarantees/ call or put options of the Issuer;

to the shareholders’ funds of the Issuer, including, if any, preference equity, subordinated shareholders’ advances/ loans, minority interests of the Issuer (if any) and retained earnings/ losses less goodwill (if any). For the avoidance of doubt, the indebtedness of the Issuer as defined above shall exclude any loans from GOM and Reimbursable Land Cost and such amounts owing to trade and other creditors and arising from the ordinary course of business.

FSCR

The ratio of Net Available Cash to the Total Finance Service paid, where:-

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- a) **“Net Available Cash”** is the aggregate of all cash balances in the Designated Accounts before Total Finance Service including Permitted Investments (as defined herein), where applicable, during the previous twelve (12) months’ period; and
- b) **“Total Finance Service”** is the aggregate of all principal and profit payments made by the Issuer under the Sukuk during the previous twelve (12) months.

The DE Ratio and FSCR shall be calculated for each financial year during the tenor of the Sukuk based on the latest audited accounts of the Issuer and duly confirmed by the Issuer’s external auditors. For the avoidance of doubt, any double counting shall be disregarded.

Projected FSCR

Following any Distribution, the Projected FSCR shall be calculated for the next principal payment date as follows:-

$$\frac{A + B + C}{A + D}$$

Where:-

- A = the actual total principal and profit payments made after the previous principal payment date up to the date the Distribution is made (**“Distribution Date”**);
- B = the actual closing cash balances in the Designated Accounts (net of the Distribution) including Permitted Investments as at the Distribution Date;
- C = the projected net cashflow before financing from the Distribution Date up to the next principal payment date; and
- D = the projected total principal and profit payments due and payable from the Distribution Date up to and including the next principal payment date.

For the avoidance of doubts, for purposes of calculating the Projected FSCR, (i) the closing cash balances as at the Distribution Date shall exclude balances in the Compensation Account; and (ii) if no Distribution is made in any 12-month period between one principal payment date and the next principal payment date, the Projected FSCR need not be calculated; and (iii) the Projected FSCR shall be calculated solely by the Issuer

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without confirmation from any third party (including, without limitation, the Issuer's external auditors).

- (iv) Designated Accounts The Issuer shall open and maintain the following Shariah-compliant designated accounts with a bank acceptable to the Lead Arranger as follows:-

- (a) Disbursement Account ("**DA**");
- (b) Revenue Account ("**RA**");
- (c) Operating Account ("**OA**");
- (d) Finance Service Reserve Account ("**FSRA**"); and
- (e) Compensation Account ("**CA**").

Operations of Designated Accounts

Solely by the Project Monitoring Agent
DA, RA and FSRA

Solely by the Issuer
OA

Jointly by the Project Monitoring Agent and the Issuer
CA

For the avoidance of doubt, upon occurrence of a Dissolution Event, the Project Monitoring Agent shall have the discretion to (and if so instructed by the Security Trustee, shall) replace the Issuer as the signatory for the purpose of controlling the OA.

- (a) DA
The Issuer shall open a DA for the purpose of remitting and/or depositing all proceeds of the Sukuk.

Funds in the DA shall be applied in the following order of priority to the extent applicable ("**Order of Priority of the DA**"):-

1. Payments to the OA to meet the Project Cost against (a) certificates of billings issued under the Project Agreements and certified by the Independent Consulting Engineer and/or other documentary evidence acceptable to the Project Monitoring Agent OR (b) in accordance with the Issuer's annual budget (as certified by any qualified auditors and provided to the Project Monitoring Agent) ("**Annual Budget**") with payments to be made to the OA at such intervals as may be agreed

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between the Issuer and the Project Monitoring Agent;

2. Advance Profit Payments, finance fees, expenses and such other amounts payable under the Sukuk Mudharabah during the BEE Project construction period;
3. Payments to the OA to finance the working capital requirements of the Issuer (other than for purposes of meeting payment obligations under Other Unsecured Financing) in accordance with the Annual Budget with payments to be made to the OA at such intervals as may be agreed between the Issuer and the Project Monitoring Agent;
4. If there is any shortfall in the RA for purposes of funding the FSRA, to transfer to the RA an amount up to such shortfall;
5. Payments to the OA for purposes of meeting payment obligations under Other Unsecured Financing);
6. Investments in Permitted Investments; and
7. Within three (3) months after the commencement of the BEE tolling or upon full settlement of the construction claim whichever is later, any amounts standing to the credit of the DA shall be transferred to the RA and the DA shall thereafter be closed.

(b) RA

The Issuer shall open an RA for the purpose of remitting and/or depositing the following:

- i All income received by the Issuer pursuant to the Project Agreements (other than such compensation required to be deposited into the CA);
- ii Proceeds from insurance / takaful, third party performance bonds, maintenance bonds, guarantees or any other compensation (other than such compensation required to be deposited into the CA) received by the Issuer;
- iii All proceeds from any equity contribution;
- iv Any amounts released from the FSRA and the CA;
- v All other receipts or income of the Issuer; and
- vi All amounts standing to the credit of the DA upon closure of the DA.

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Funds in the RA shall be applied in the following order of priority to the extent applicable ("**Order of Priority of the RA**"):-

1. If there are insufficient funds in the DA, to make payments in accordance with the Order of Priority of the DA save and except for the Advance Profit Payments;
2. Payments to the OA for taxes and duties;
3. Payments to the OA to finance the working capital requirements of the Issuer (other than for purposes of meeting payment obligations under Other Unsecured Financing) in accordance with the Annual Budget with payments to be made to the OA at such intervals as may be agreed between the Issuer and the Project Monitoring Agent;
4. To meet payment obligations under the Concession Agreement, Supplemental Concession Agreement and/or Land Cost Supplemental Agreement;
5. Payment of Periodic Payments on the Sukuk, fees, expenses and such other amounts payable under the Sukuk Mudharabah;
6. Payment of the Exercise Price under the Purchase Undertaking;
7. Payments to fund the FSRA;
8. Payments to the OA for capital expenditure;
9. Payments to the OA for purposes of meeting payment obligations under Other Unsecured Financing;
10. Subject to compliance with the Financial Covenants as set out herein, for payment of dividends, redemption of preference shares or other distributions to the Issuer's shareholders; and
11. Investments in Permitted Investments.

(c) OA

The Issuer shall open an OA for the purpose of remitting and/or depositing the following:

- i Transfer of funds from the DA and/or the RA; and
- ii Proceeds from Other Unsecured Financing.

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All funds deposited into the OA shall be applied as follows:-

1. Funding the Project Cost;
2. Payment of taxes and duties;
3. Payment for the working capital requirements of the Issuer (other than for purposes of meeting payment obligations under Other Unsecured Financing) which shall include but are not limited to payroll, fees, insurances and other administrative expenses; and maintenance of the Existing Project and BEE Project;
4. Payment for capital expenditure;
5. Meeting payment obligations under Other Unsecured Financing; and
6. Investments in Permitted Investments.

(d) FSRA

For so long as any Sukuk shall remain outstanding, the Issuer shall at all times maintain a minimum balance in the FSRA that is equivalent to the total principal and profits due and payable under the Sukuk within the next six (6) months ("**Minimum FSRA Balance**").

The Issuer may withdraw sums from the FSRA for the following purposes:

1. towards payments due under the Sukuk in the event of insufficient funds in the RA, provided that any amount withdrawn for such purpose shall be replenished from the RA within thirty (30) days from the date of withdrawal;
2. to transfer any excess amount back to the RA should the credit balance in the FSRA exceed the Minimum FSRA Balance; and
3. investments in Permitted Investments.

(e) CA

Any Compensation (as defined herein) paid to the Issuer shall be deposited into the CA and may only be transferred into the RA in equal amounts over the number of years that the Compensation was meant for.

For the avoidance of doubt, any sums transferred/ released into the RA shall be utilised in

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accordance to the Order of Priority of the RA as set out herein (to the extent applicable). Any balance standing to the credit of the CA may be utilised by the Issuer for investments in Permitted Investments.

“Compensation” shall refer to any lump sum payment received from GOM to compensate the Issuer pursuant to the terms of the Concession Agreement. For the avoidance of doubt, it shall exclude any compensation received from GOM in respect of a particular operating year, i.e. compensation received from GOM in previous year(s) which is in respect of any particular operating year shall be deposited into the RA.

- (v) Permitted Investments The Issuer shall be permitted from time to time to utilise funds held in the Designated Accounts to make Permitted Investments or make other investments acceptable under Shariah principles provided such funds utilised for the Permitted Investments shall be remitted to the respective Designated Accounts at least three (3) business days before the next payment obligation of the Issuer is due and payable.

Permitted Investments shall comprise the following:-

- (a) Sukuk guaranteed by GOM;
- (b) Sukuk issued in Malaysia by any authority established by GOM or any state government;
- (c) Mudharabah deposits, Islamic acceptance bills, bankers' acceptance or promissory notes or certificates of deposit issued by any bank licensed pursuant to the Banking and Financial Institutions Act 1989 or the Islamic Banking Act, 1983 (the banks must have a long-term rating of at least A3 or its equivalent and a short-term rating of at least P1 or its equivalent), and investment in money market instruments;
- (d) Other Islamic capital market instruments of private entities having a rating of at least a long term rating of AA3 and short term rating of P1 as determined by RAM Ratings or its equivalent; and
- (e) Islamic funds with investments in any of the abovementioned instruments, as approved by the SC.

- (vi) Purchase Undertaking In respect of each series of the Sukuk, the Obligor shall grant an undertaking to the Trustee (acting on behalf of the Sukukholders) pursuant to which the Obligor shall

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purchase the Trust Assets from the Trustee at the Exercise Price upon the occurrence of the earlier of any of the following events:

- (a) the maturity dates of such series of the Sukuk; or
- (b) the declaration that a Dissolution Event has occurred in respect of such series of the Sukuk.

The Exercise Price shall be determined based on the following formula in accordance with MyClear OPSS:

On the respective maturity dates of each series of the Sukuk (applicable for both Discounted Sukuk and Par Sukuk):

Exercise Price = Mudharabah Capital plus Expected Return less total aggregate Periodic Distribution(s) paid.

On declaration of a Dissolution Event of such series of the Sukuk:

- (a) Discounted Sukuk

Exercise Price = Mudharabah Capital plus Expected Return less aggregate of Periodic Distribution(s) made and received and to be adjusted to be equivalent to the accreted value up to the date of declaration of a Dissolution Event.

- (b) Par Sukuk

Exercise Price = Mudharabah Capital plus Expected Return less total aggregate Periodic Distributions paid.

On any payment of the Exercise Price, the Obligor will be entitled to deduct the aggregate of such Advance Profit Payments in relation to the portion of the Sukuk outstanding from the Exercise Price.

- (vii) Trust Deed

The Sukuk shall be constituted by a trust deed, which shall be administered by the Trustee (acting on behalf of the Sukukholders).

- (viii) Status

The Sukuk will constitute direct, unconditional and secured obligations of the Issuer and shall at all times rank pari passu, without discrimination, preference or priority amongst themselves and shall rank in priority against all other present and future unsecured and unsubordinated obligations of the Issuer, subject to those preferred by law and/or the Transaction Documents.

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|---|---|
| (ix) Compensation for Late and Default Payments ("Ta'widh") (applicable to the Purchase Undertaking only) | In the event of overdue payment of any amounts due under the Purchase Undertaking, the Obligor shall pay to the Trustee for the benefit of the Sukukholders compensation ("Ta'widh") on such overdue amounts at the rate and in the manner prescribed by the Shariah Advisory Council of the SC from time to time in accordance with the Shariah principles. |
| (x) Redemption/ Open Market Acquisition and Cancellation | <p>Unless previously acquired and cancelled, the Sukuk will be redeemed at their nominal value on the respective maturity dates or upon declaration that a Dissolution Event has occurred in respect of such series of the Sukuk, whichever is earlier.</p> <p>The Issuer and/or any of its related corporations (within the meaning of the Companies Act 1965) may at any time acquire the Sukuk in the open market or otherwise, at any price, provided:</p> <ul style="list-style-type: none"> (a) any of the Sukuk so acquired by the Issuer and/or its subsidiaries shall be cancelled and cannot be reissued; or (b) any of the Sukuk acquired by the Issuer's related corporations (other than the Issuer's subsidiaries) need not be cancelled but shall not entitle them to participate in the voting of any Sukukholders' resolution nor form part of the quorum of any meeting. <p>The Issuer shall confirm in writing to the Trustee that (i) the aggregate nominal amount and certificate numbers (if applicable) of those Sukuk which have been acquired and cancelled, and (ii) that such Sukuk have been cancelled, as soon as reasonably possible (and in any event within 14 days after the date of acquisition).</p> |
| (xi) Transaction Expenses | All legal and professional fees, Shariah Adviser fees, the cost of due diligence exercises, stamp duties, taxes and any other out-of-pocket expenses incurred in respect of the Sukuk shall be borne by the Issuer. |
| (xii) Adverse Market Conditions | The obligation of the Lead Arranger/Lead Manager to arrange and the Primary Subscriber(s) to subscribe the Sukuk is subject to , from the date of mandate until prior to issue date, there having occurred no material adverse change in the status (or financial condition, business, assets, operations or prospects) of the Issuer, or in the international or domestic money, or debt, or bank, or capital markets, or in the economic, or socio-political situation in Malaysia, that will affect the successful issuance, syndication and conclusion of the |

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Sukuk.

If, in the reasonable opinion of the Lead Arranger/Lead Manager and the Primary Subscriber(s), there occurs such material adverse change, the Lead Arranger/Lead Manager and Primary Subscriber(s) will have the right to withdraw, or terminate the arrangement (including the bought-deal arrangement) of the Sukuk; or amend and renegotiate the terms and conditions of the Sukuk.

(xiii) Clear Market

From the date of acceptance of the Lead Arranger's mandate letter until ninety (90) days after issuance of the Sukuk, the Issuer shall ensure that there are no other financing facilities or debt instruments or securities issued by the Issuer or its subsidiaries or associated companies which are mandated, placed or syndicated directly or on its behalf without the prior written consent of the Lead Arranger.

(xiv) Variation of Terms

The Lead Arranger shall be entitled at any time prior to submission to the SC to propose changes to the terms, subject always to the Shariah principles and prior written notice to RAM Ratings, and/or pricing of the Sukuk, and if the Lead Arranger determines that prevailing market conditions will not permit a successful completion of the Sukuk Mudharabah and such changes are advisable in order to ensure a successful completion of the issuance of the Sukuk Mudharabah.

The Issuer agrees that the Issuer will consider such proposal in good faith with a view to agreeing to them to ensure a successful financial close. The Lead Arranger's commitment to arrange and/or subscribe hereunder is subject to the agreement in this clause.

(xv) Changes in
Circumstances

If, as a result of any change in applicable law, regulation or regulatory requirement or in the interpretation or application thereof or if compliance by the Lead Arranger/ Facility Agent/ Primary Subscribers/ placee(s)/ investor(s) (collectively, the "**Sukuk Transaction Parties**") with any applicable direction, request or requirement (whether or not having the force of law) will impose on the Sukuk Transaction Parties any condition burden or obligation which will cause material adverse effect on the Sukuk Transaction Parties, the Facility Agent shall promptly inform the Issuer in writing of the relevant circumstances whereupon:-

- (a) the Sukuk shall forthwith be terminated and cancelled;

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- (b) any outstanding obligations of the Sukuk Transaction Parties shall forthwith be terminated and cancelled; and
- (c) all amounts payable by the Issuer to the Sukuk Transaction Parties under the Sukuk shall be paid:-
 - 1. within ninety (90) days from the date of notification; or
 - 2. on such date as the Facility Agent certifies to be necessary for the Sukuk Transaction Parties to comply with the relevant circumstances in accordance with all applicable laws, regulations, regulatory requirements, directions or requests;

whichever is the earlier.

(xvi) Disclosure of Information

The Issuer hereby expressly agrees, confirms and consents that the Sukuk Transaction Parties, the Trustee, the Sukukholders, the Central Depository, the Paying Agent and the Shariah Adviser (collectively, the **"Transaction Parties"**) are authorised by the Issuer to do the following without further notification or concurrence of the Issuer:

- (a) to disclose to the Central Credit Bureau, Central Credit Reference Information System or such other authority or body established by BNM, the SC and any other governmental authority having jurisdiction over the Transaction Parties and RAM Ratings any information relating to the Sukuk including the balance outstanding;
- (b) to disclose information on the Issuer's business (including the Sukuk, its accounts and/or future accounts) to any person(s) within the group of companies of the Transaction Parties and such person(s) within the same group of companies shall be entitled to make such disclosure to each other, the Shariah Adviser and to any person which is a legal, accounting, auditing or other third party providing services to the Transaction Parties provided that the Transaction Parties and such person(s) shall take all reasonable care to ensure that such information shall remain confidential amongst themselves; or
- (c) to such other parties as may be advised by the Solicitors with prior written consent of the Issuer

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and documented in the Sukuk Agreements.

- | | |
|---|---|
| (xvii) Documentation | Standard documentation satisfactory to all parties concerned incorporating clauses normal and customary for a financing of this nature and/or as advised by the Solicitors and/or Shariah Adviser. |
| (xviii) Currency | Ringgit Malaysia (" RM ") |
| (xix) Taxation | All payments by the Issuer in respect of the Sukuk shall be made free and clear of any present and future taxes, withholding taxes, stamp duties, levies, deductions and charges of whatever nature. In the event that any such taxes, withholding taxes, stamp duties, levies, deductions or charges are imposed, the Issuer will make such additional payments (or gross up) as are necessary to cause the Sukukholders to receive a net sum equal to what they would have received had not such deduction, withholding or payment been required or made. |
| (xx) Governing Law | The Laws of Malaysia. |
| (xxi) Definitions | |
| <ul style="list-style-type: none"> - Material Adverse Effect | <p>In relation to any event or circumstances the occurrence of which has resulted in, or will be likely to result in a material adverse effect on:</p> <ul style="list-style-type: none"> (a) the assets, business or condition (financial or otherwise) of the Issuer; (b) the Issuer's ability under any Project Agreement, to perform or comply with any of its obligations under the Transaction Documents; (c) the BEE Project or the Existing Project or any rights or benefits of the Issuer thereunder; or (d) the rights and benefits available to the Sukukholders under any provisions of the Sukuk Agreements. <p>Any reference in the Transaction Documents to any event or circumstance which "has" or which "would have" a Material Adverse Effect shall be construed accordingly.</p> |
| <ul style="list-style-type: none"> - BEE Project | <p>Refers to the development, design, construction, management, operation and maintenance of the 12.3km Besraya Eastern Extension.</p> |

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- Existing Project Refers to the existing 16.7km Sungei Besi Highway in Kuala Lumpur ("**Highway**") for which Besraya is the toll concessionaire.

- Concession Agreement Refers to the existing concession agreement dated 9 May 1996 (as amended by the supplemental concession agreement dated 30 September 1999 and the second supplemental concession agreement dated 18 August 2004) made between Besraya and GOM in respect of the Highway, wherein Besraya has been awarded a 30-year concession to construct, operate, maintain and collect toll on the Highway.

- Land Cost Supplemental Agreement The land cost supplemental agreement dated 9 May 1996 made between the Issuer and GOM.

- Supplemental Concession Agreement Refers to the supplemental concession agreement dated 27 January 2011 made between Besraya and GOM in respect of the BEE Project.

- BEE Project Agreements Including but not limited to the Supplemental Concession Agreement, the construction contract and any other material agreements entered and/or to be entered into from time to time in relation to the BEE Project.

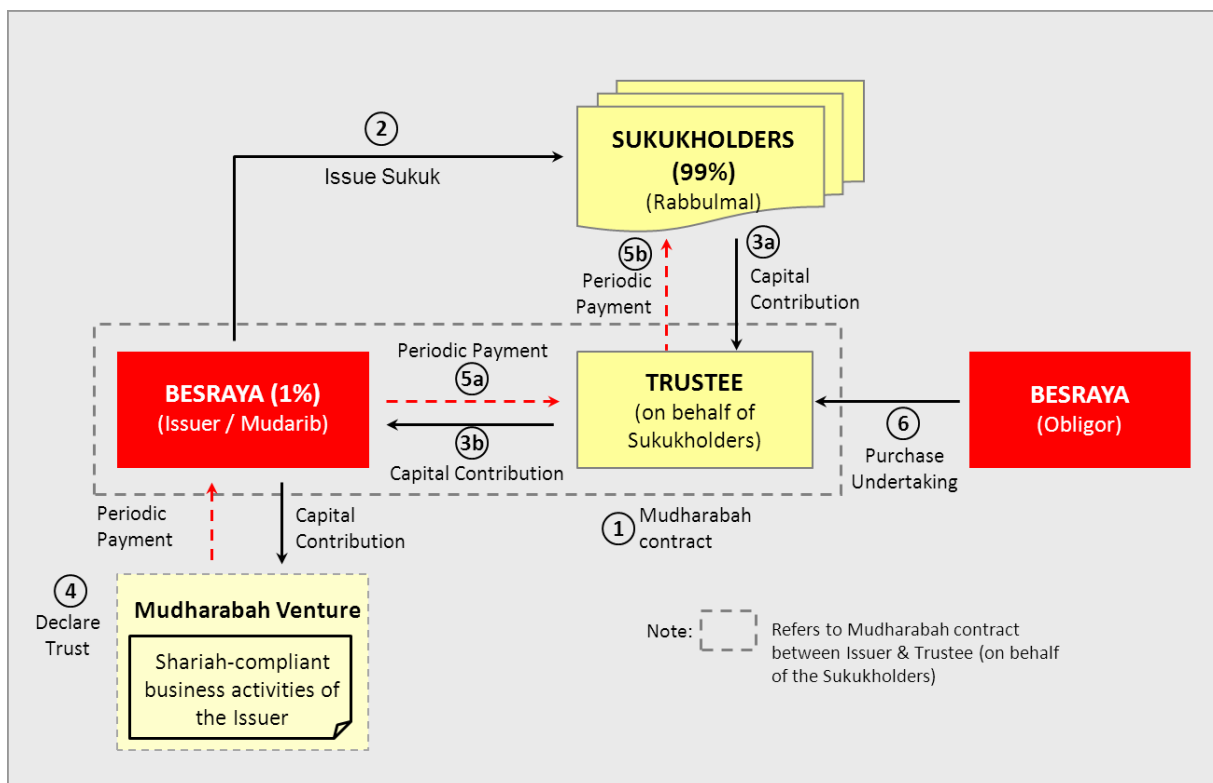
- Project Agreements Including but not limited to the Concession Agreement and the BEE Project Agreements, the service provider agreement and such other material agreements entered and/or to be entered into from time to time in relation to the Existing Project and/or the BEE Project.

- Reimbursable Land Cost The amount by which GOM has agreed to pay, and which shall be reimbursed by the Issuer in accordance with Clause 6.5.3 of the Concession Agreement and the Land Cost Supplemental Agreement.

- Transaction Documents Collectively, the Project Agreements and the Sukuk Agreements.

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APPENDIX I



1	The Issuer (as Mudarib) will enter into a Mudharabah contract with the Trustee on behalf of the Investors (as Rabbulmal) to participate in the Issuer's Shariah-compliant business activities including the toll operations, maintenance and management of the Existing Project and the BEE Project and the construction of the BEE Project. (" Mudharabah Venture ").
2, 3(a) & 3(b)	The Issuer will issue the Sukuk to the Sukukholders who shall make 100% capital contribution in the said Mudharabah Venture.
4	The Issuer shall declare a trust over the rights and entitlements under the Mudharabah Venture (" Trust Assets ") for the benefit of the Sukukholders. The Sukuk hence represent the Sukukholders' undivided proportionate beneficial interests in the Mudharabah Venture.
5(a) & 5(b)	Any income generated from the Mudharabah Venture will be shared and distributed between the Rabbulmal and the Mudarib according to the pre-agreed profit sharing ratio (" PSR ") of 99:1, while losses will be solely borne by the Rabbulmal. The Rabbulmal's share of the profits shall be distributed semi-annually to the Sukukholders.
6	Besraya, as the Obligor, shall undertake to purchase the Trust Assets from the Trustee via a Purchase Undertaking upon occurrence of the earlier of the respective maturity dates of the Sukuk or declaration of a dissolution event.