

PRINCIPAL TERMS AND CONDITIONS OF THE PROPOSAL

BACKGROUND INFORMATION

(a) Issuer

- (i) **Name** : TSH Sukuk Musyarakah Sdn Bhd (“Issuer” or “SPV”)
- (ii) **Address** : Level 10, Menara TSH
No. 8, Jalan Semantan
Damansara Heights
50490 Kuala Lumpur
- (iii) **Business Registration No.** : 921869-V
- (iv) **Date/Place of Incorporation** : 12 November 2010 / Malaysia
- (v) **Date of Listing (in case of a public listed company)** : Not applicable
- (vi) **Status** : Resident controlled company / Non-Bumiputra controlled company
- (vii) **Principal Activities** : To act as a special purpose vehicle for the purpose of undertaking the IMTN Programme (as defined herein)
- (viii) **Board of Directors** : Board of Directors as at 12 November 2010:
(1) Tan Aik Sim;
(2) Lim Fook Hin; and
(3) Tan Aik Yong.
- (ix) **Structure of shareholdings and names of shareholders** : The structure of the shareholdings is as follows:
- | Shareholder | Number of shares held and percentage |
|-----------------------------------|--------------------------------------|
| TSH Resources Berhad
(49548-D) | 2 (100%) |
- (x) **Authorised and paid up capital** : **Authorised Share Capital as at 12 November 2010**
RM100,000 comprising 100,000 ordinary shares of RM1.00 each

**Issued and Fully Paid-up Share Capital as
at 12 November 2010**

RM2.00 comprising 2 ordinary shares of
RM1.00 each

PRINCIPAL TERMS AND CONDITIONS

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

- (i) Principal Adviser(s)/ Lead Arranger(s)** : OCBC Bank (Malaysia) Berhad (“OCBC”) (295400-W)
- (ii) Arranger(s)** : Not applicable
- (iii) Valuers** : Not applicable
- (iv) Solicitors** : Messrs Wong & Partners
- (v) Financial Adviser** : Not applicable
- (vi) Technical Adviser** : Not applicable
- (vii) Guarantor** : Danajamin Nasional Berhad (“Danajamin”)
- (viii) Trustee** : Malaysian Trustees Berhad
- (ix) Facility Agent** : OCBC
- (x) Primary Subscriber(s) and amount subscribed (where applicable)** : The Primary Subscriber(s) (if any) shall be determined prior to each issuance of the relevant IMTN (as defined herein)
- (xi) Underwriter(s) and amount underwritten** : Not applicable
- (xii) Shariah Adviser** : OCBC Al-Amin Bank Berhad
- (xiii) Central Depository** : Bank Negara Malaysia (“BNM”)

- (xiv) **Paying Agent** : BNM
- (xv) **Reporting Accountant** : Not applicable
- (xvi) **Others (please specify)** :
- **Lead Manager** : OCBC
 - **Calculation Agent** : OCBC
- (b) **Islamic principle used** : Musyarakah
- (c) **Facility description** : The Islamic Medium Term Notes (“**IMTN**” or “**Sukuk**”) of up to RM100.0 million in nominal value to be issued under an Islamic Medium Term Notes Programme (“**IMTN Programme**”) under the Shariah principle of Musyarakah.

Pursuant to a Wakalah Agreement (as defined below), TSH Resources Berhad (“TSH”) shall firstly appoint the Issuer as its agent with the relevant power of attorney to undertake the Musyarakah Venture with the investors.

Thereafter, under the Musyarakah structure, the Issuer and the Trustee (for and on behalf of the investors) will from time to time, enter into a Musyarakah Agreement as partners (collectively the “**Musyarakah Partners**”) for the purpose of undertaking a Musyarakah Venture to invest directly into the Shariah-compliant business (“**Trust Business**”) identified by TSH (“**Musyarakah Venture**”).

The Issuer will from time to time, issue Sukuk under the IMTN Programme, to be subscribed by the investors (“**Sukukholders**”). Proceeds raised from the Sukuk shall be used as capital contribution of the Sukukholders in the Musyarakah Venture. Meanwhile, TSH through the Issuer will from time to time contribute or cause its wholly owned subsidiaries to contribute identified Trust Business as capital contribution into the Musyarakah Venture.

Each Sukuk shall represent the respective Sukukholders’ undivided beneficial ownership

in the Musyarakah Venture and will rank pari passu, without any preference, with the other Sukuk issued under the IMTN Programme. Simultaneously, the Issuer/TSH will make a declaration of trust ("**Declaration of Trust**") in favour of the Trustee (for the benefit of the investors), evidencing, inter alia:-

- i. the creation of the trust relationship between the Issuer/TSH and the Trustee (for and on behalf of the investors) under which the Issuer/TSH shall hold the Trust Business on trust for the benefit of the Sukukholders;
- ii. the Issuer/TSH's obligations under the Musyarakah Venture; and
- iii. all the Issuer/TSH's rights in the Trust Business.

The investors' participation in the Musyarakah Venture is via the subscription of the Sukuk issued by the Issuer whilst TSH, through the Issuer, will from time to time contribute or cause its wholly owned subsidiaries to contribute, identified Trust Business as capital contribution into the Musyarakah Venture.

The Issuer shall be appointed as manager ("**Manager**"), pursuant to a Management Agreement (as defined below) to be entered into between the Issuer and the Trustee (for and on behalf of the Sukukholders), for the Manager to provide services to the Musyarakah Venture which amongst others, include receiving the Musyarakah capital from the Sukukholders and applying the same towards the Trust Business as well as management of the Trust Business.

Determination of the distributable profits derived from the Musyarakah Venture will be based on a pre-agreed profit sharing ratio to be determined prior to issuance of the respective IMTN. The amount of profit payment payable at each profit payment date ("**Periodic Distribution Date**") shall be based on an Expected Return (as defined below) to be agreed between the Issuer and the Sukukholders prior to the execution of the relevant Transaction Documents and issuance of the relevant Sukuk from time to time during the tenure of the IMTN Programme. Any losses

shall be shared based on and limited to each Musyarakah Partners' respective capital contribution in the Musyarakah Venture.

In the event that the distributable profits generated from the Musyarakah Venture are greater than the Expected Return, pursuant to "Tanazul" (waiver) granted from the onset, the Trustee (for and on behalf of the Sukukholders) shall undertake to waive its right on the excess distributable profits from the Musyarakah Venture to the Issuer. In addition, pursuant to the Wakalah Agreement, TSH (through the Issuer) has the right at its sole discretion, to decide the usage of such excess distributable profits, including to utilise such excess or part thereof to pay dividends to TSH. However, should the distributable profits generated from the Musyarakah Venture fall short of the Expected Return, the Issuer at its sole discretion, is permitted to make payment to top-up the difference up to the amount equivalent to the Expected Return of the relevant Sukuk due to the Sukukholders ("Top-up Payment"). Where the Issuer has made the Top-up Payment, the Issuer will be entitled to deduct the aggregate of such Top-up Payment from the Exercise Price.

Pursuant to the purchase undertaking by the Issuer in favour of the Trustee (for and on behalf of the Sukukholders) ("**Purchase Undertaking**"), the Issuer shall undertake to purchase all the outstanding Sukuk at the Exercise Price equivalent to the nominal value of the Sukuk plus Expected Return which is due and outstanding (if any) on the relevant Exercise Date (as defined below). Under a separate arrangement from the Musyarakah arrangement, the Issuer shall enter into a Kafalah Facility Agreement with Danajamin wherein Danajamin shall unconditionally and irrevocably guarantee the Issuer's obligation under the Purchase Undertaking (except payment obligation on Ta'widh (as defined below) upon the terms and subject to the conditions therein contained.

Concurrently, pursuant to the sale undertaking ("**Sale Undertaking**") granted by the Trustee (for and on behalf of the Sukukholders) in favour of the Issuer, the Trustee shall

undertake to sell all the outstanding Sukuk at the Exercise Price equivalent to the nominal value of the Sukuk plus Expected Return which is due and outstanding (if any) on the relevant Exercise Date. Exercise Date refers to the occurrence of the declaration of a Dissolution Events or Early Dissolution Events (as defined below) or Scheduled Dissolution Events (as defined below) of the Musyarakah Venture.

At the relevant Exercise Date and upon exercise of the Purchase Undertaking or the Sale Undertaking, the Musyarakah Venture and Declaration of Trust will be dissolved.

In the event of overdue payments of any amounts, pursuant to the Purchase Undertaking or Sale Undertaking, the Issuer shall pay compensation (“**Ta’widh**”) on such overdue amounts at the rate and manner prescribed by the Shariah Advisory Council of the SC or such other relevant authority from time to time in accordance with the Shariah principle.

A diagram depicting the facility description is annexed in Annexure A.

Early Dissolution Events

Shall mean the redemption of the Sukuk in a specific series in any order of maturity before their respective maturity date. A series of Sukuk is defined as Sukuk with the same issue date and maturity date. Each series of Sukuk shall be redeemed (in whole but not in part), subject to the Guarantor’s prior written approval being obtained, on a Periodic Distribution Date at the Early Redemption Proceeds (as detailed under Annexure B herein).

Exercise Date

Exercise Date refers to the occurrence of the declaration of a Dissolution Event(s) or an Early Dissolution Event(s) or a Scheduled Dissolution Events of the Musyarakah Venture, whichever is the earliest.

Exercise Price

The Exercise Price for the Sukuk is equivalent to the nominal value of the Sukuk plus Expected Return less aggregate Periodic Payments made and received and provided

always that all amount due and outstanding shall have been fully settled by the Issuer, less Unearned Return (as defined below) (if any).

Where the Issuer has made the Top-up Payment, the Issuer will be entitled to deduct the aggregate of such Top-up Payment from the Exercise Price.

Expected Return

In relation to each Sukuk, the total Ringgit amount of the return on such Sukuk (as computed by the Calculation Agent at the point of issuance) calculated by reference to the yield to maturity in respect thereof.

Management Agreement

The agreement entered into between the Issuer and the Trustee (for and on behalf of the Sukukholders) in relation to the appointment of the Issuer as the manager of the Musyarakah Venture including the Trust Business.

Guarantor

Upon the occurrence of an Early Dissolution Event(s) or a Scheduled Dissolution Event(s) or a Dissolution Event(s) has been declared, the Guarantor will undertake to honour the Issuer's payment obligation under the Purchase Undertaking (except payment obligation on Ta'widh) at the relevant Exercise Price on the relevant Exercise Date, if the Issuer has not made such payment.

Periodic Payments

Means, in relation to such Sukuk that carries the right to Periodic Payments, the right of the Sukukholders thereof to receive payments on each Periodic Distribution Date.

Scheduled Dissolution Events

Shall mean the scheduled maturity of the Sukuk.

Unearned Return

The aggregate amount of all Periodic Payments falling due after the declaration of a Dissolution Event(s) and shall exclude the Periodic Payment(s) falling due immediately after the date of declaration of a Dissolution Event(s).

Wakalah Agreement

The agreement entered into between TSH and the Issuer in relation to the appointment of the Issuer as its agent with the relevant power of attorney to undertake the Musyarakah Venture with the investors. In that regards, the Issuer as agent shall not be entitled to any Wakalah fee.

(d) Issue size : The outstanding nominal value of the IMTNs issued under the IMTN Programme at any point in time shall not exceed RM100 million.

The IMTNs may be issued in multiples of RM1,000,000 but subject to the Fully Automated System for Issuing/Tendering ("FAST") Rules and other standard conditions including, without limitation, the following:

- 1) a minimum issue size of RM5 million for each issue; and
- 2) the issue notice shall be given to the Facility Agent at least 6 business days prior to and excluding the date of proposed issue; and
- 3) no reissuance is allowed.

(e) Issue price : The IMTNs are to be issued at discount, at par or at a premium and the issue price is to be calculated in accordance with the FAST Rules.

(f) Tenor of the facility/issue : The IMTN Programme shall be for a period of eleven (11) years from the date of first issuance under the IMTN Programme.

The IMTNs may be issued in series and shall have maturity of more than one (1) year to a maximum tenure of ten (10) years at the option of the Issuer, provided that the IMTNs shall mature prior to the expiry of the IMTN Programme.

(g) Coupon/profit or equivalent rate (%) (please specify) : To be determined at the point of issuance of the relevant IMTNs.

(h) Coupon/profit payment frequency and basis : **Profit Payment Frequency**
Semi-annual or such other period as the Issuer and the Facility Agent may agree at the point of issuance of the relevant IMTNs.

Profit Payment Basis

Actual/Actual day count basis.

(i) **Yield to maturity (%)** : The Expected Return to the Sukukholders under each Musyarakah Venture which shall be determined at the point of issuance of the respective Sukuk.

(j) **Security/collateral (if any)** : Clean
(Please see Clause (Z)(a) on the Kafalah Guarantee)

(k) **Details on utilisation of proceeds by issuer and originator (in the case of asset-backed securities)** : The proceeds from the IMTN Programme shall be utilised by the Issuer as follows:

Utilisation of Proceeds	Amount (RM' Million)
To finance the redemption of TSH Sukuk Ijarah Sdn Bhd's existing outstanding Sukuk Ijarah Medium Term Notes Programme ¹ of up to RM300 million and/or to reimburse shareholders' advances/loan in relation to the abovementioned redemption.	100.0
TOTAL	100.0

¹ *Sukuk Ijarah was issued in 2009 to finance TSH Resources Berhad's palm oil and bio-integration operations. TSH Sukuk Ijarah Sdn Bhd is a wholly owned subsidiary of TSH Resources Berhad.*

(l) **Sinking fund (if any)** : Not applicable

(m) **Rating** : **Credit rating(s) assigned (Please specify if this is an indicative rating)**
The IMTN Programme has been accorded a final rating of AAA_{IS(fg)}.

Name of Rating Agency

Malaysian Rating Corporation Berhad ("MARC").

(n) **Form and denomination** : The Sukuk shall be issued in accordance with the following:-

- (i) the "Code of Conduct and Market Practices for the Malaysian Corporate Bond Market" issued by the Institute

- Peniaga Bon Malaysia and approved by BNM (“IPBM Code”);
- (ii) the “Rules on the Scripless Securities” under Real Time Electronic Transfer of Funds and Securities (“RENTAS”) system issued by BNM (“RENTAS Rules”); and
- (iii) the 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.

Each series of the Sukuk shall be represented by a global certificate to be deposited with the Central Depository, and is exchanged for definitive bearer form only in certain limited circumstances. The denomination of the Sukuk shall be RM1,000 or in multiples of RM1,000 at the time of issuance.

The Sukuk shall be deposited with the Central Depository and are exchangeable for definitive certificates only in certain limited circumstances.

(o) Mode of issue : Private placement or book building or bought deal basis without prospectus.

The IMTN shall be issued in accordance to the Rules on FAST and will be issued and traded through RENTAS.

(p) Selling restriction : The IMTNs may not be offered or sold, directly or indirectly, nor any document or other material in connection therewith be distributed in Malaysia or anywhere else, 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 amended from time to time; and
- (ii) a. Schedule 6; or
 - b. Schedule 7; and
 - c. Schedule 9, of the Capital Markets and Services Act 2007 (“CMSA”).

After the issuance

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

(ii) a. Schedule 6; and
b. Schedule 9, of the CMSA.

(q) Listing status : The IMTNs will not be listed on the Bursa Malaysia Securities Berhad or on any other stock exchange.

(r) Minimum level of subscription (RM or %) : The minimum level of subscription for each issue that is not issued on a bought deal basis (which shall be fully subscribed) under the IMTN Programme shall be 5% of the size of a particular issue or a minimum of RM5 million, whichever is higher.

In the event that the IMTNs are under-subscribed and cannot meet the minimum level of subscription, the said issue, offer or invitation shall be aborted and where applicable, any consideration received for the purpose of subscription shall 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 (please specify) : Not applicable

(t) Identified assets : The list of Trust Business is attached to this Principal Terms and Conditions under Annexure C.

(u) Purchase and selling price/rental (where applicable) : Not applicable.

(v) Conditions precedent : **(i) Main Documentation**
(a) Satisfactory completion and execution of all legal documentation, including but not limited to the Transaction Documents and any other necessary documents and stamped or duly endorsed as exempted from stamp duty.

(ii) Issuer

- (a) Certified true copies of the Certificate of Incorporation, Memorandum and Articles of Association, latest Forms 24, 44 and 49 of the Issuer;
- (b) A certified true copy of board resolution of the Issuer authorising, among others, the execution of the Transaction Documents;
- (c) A list of the Issuer's authorised signatories and their respective specimen signatures;
- (d) A report of the relevant company search of the Issuer; and
- (e) A report of the relevant winding-up search or the relevant statutory declaration of the Issuer.

(iii) General

- (a) The approval from the SC in respect of the IMTN Programme and the compliance with all conditions of such approval;
- (b) Evidence of the confirmation from MARC that the Sukuk has been assigned a final rating of AAA_{IS(fg)};
- (c) Written confirmation from the Shariah Adviser that the Sukuk is in compliance with Shariah principles;
- (d) Receipt of satisfactory legal opinion from the Legal Counsel, to be addressed to the Lead Arranger, advising with respect to, among others, the legality, validity and enforceability of the Transaction Documents and confirmation that all conditions precedent have been duly fulfilled or waived;
- (e) Satisfactory execution of the Al-Kafalah Agreement between the Issuer and Danajamin;
- (f) Any other conditions as may be advised by the Legal Counsel.

(w) Representations and warranties : Representations and warranties typical and customary for IMTN Programme 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 and have full power and authority to own their respective assets and to enter into their respective businesses;
- (ii) The Issuer has the power to enter into, exercise its rights under and perform its obligations under the respective Transaction Documents;
- (iii) All necessary actions, authorisations and consents required under the respective Transaction Documents have been taken, fulfilled and obtained and remain in full force and effect;
- (iv) The Transaction Documents constitute a valid, binding and enforceable obligations of the Issuer in accordance with their respective terms;
- (v) The Issuer's entry into, exercise of its rights under and performance of its obligations under the respective Transaction Documents do not and will not violate any existing law or agreements to which it is a party;
- (vi) No dissolution event has occurred and there is no encumbrance on the assets of the Issuer;
- (vii) There is no litigation or arbitration that will materially and adversely affect the ability of the Issuer to perform its obligations under the Transaction Documents to which it is a party;
- (viii) The audited financial statements of the Issuer of each of its financial year have been prepared on a basis consistently applied in accordance with the approved accounting standards in Malaysia and give a true and fair view of the results of its operations for that year and the state of its affairs at that date;

(ix) The Issuer is in compliance and will comply with any applicable laws and regulations; and

(x) Such other representations and warranties as may be advised by the Legal Counsel.

(x) Events of Default/Dissolution Events

: Dissolution Events under the Sukuk shall be as follows:-

(i) **Non-Payments:**

(1) the Issuer fails to pay any amount due from it under any series of the IMTN. For the purposes of this clause (i)(1), failure by the Issuer to pay any amount due from it under a series of the IMTN shall not constitute a dissolution event in respect of the other series of the IMTN issued under the IMTN Programme unless the Issuer has also failed to pay any amount due from it under the other series of the IMTN; or

(2) the Issuer fails to pay any amount due from it under any of the Transaction Documents to which it is a party (other than under clause (i)(1)) on the due date or date of demand, if so payable;

(ii) **Other Breaches:**

the Issuer breaches any of its obligations or terms and conditions under any of the Transaction Documents to which it is a party (other than under clause (i)) which has a Material Adverse Effect and, if such breach in the reasonable 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 earlier;

(iii) **Misrepresentation:**

any representation, warranty or statement which is made by the Issuer in

the Transaction Documents is or proves to be incorrect or misleading in any material respect, which will in the reasonable opinion of the Trustee have a Material Adverse Effect;

(iv) **Invalidity:**

any provision of the Transaction Documents is or becomes, for any reason, invalid, illegal, void or unenforceable which would prevent the Issuer from or entitle the Issuer to refrain from performing any of its obligations thereunder;

(v) **Cessation of Business:**

the Issuer ceases to carry on all or a substantial part of its business operation as at the date of the Trust Deed, which will in the reasonable opinion of the Trustee have a Material Adverse Effect;

(vi) **Appointment of Receiver, Legal Process:**

an encumbrancer takes possession of, or a trustee, liquidator, receiver or similar officer is appointed in respect of, all or a substantial part of the business, assets or undertaking of the Issuer and is not paid out, withdrawn or discharged within thirty (30) days of such appointment, and which will have a Material Adverse Effect;

(vii) **Insolvency:**

the Issuer is unable to pay its debt within Section 218(2) of the Companies Act, 1965 and the Issuer has not taken any action in good faith to set aside such claims within twenty one (21) days from the date of service of such claims for payment;

(viii) **Winding-up:**

a resolution is passed or an order of court is made that the Issuer be wound up or similar proceedings which are

reasonably determined by the Trustee to be analogous in effect being instituted (other than for the purposes of an intra Group reorganization on a solvent basis or an amalgamation, merger or reconstruction the terms whereof have previously been approved by the Trustee unless during or following such reconstruction the Issuer becomes or is declared to be insolvent); or a bona fide petition (which for the avoidance of doubt, excludes frivolous or vexatious petition) is presented for the winding-up or dissolution of the Issuer by an order of a court of competent jurisdiction unless such petition is stayed, withdrawn or dismissed within sixty (60) days (or such extended period as the Trustee may consent, such consent not to be unreasonably withheld) of its presentation; or the Issuer undergoes any scheme of reconstruction, arrangement or compromise pursuant to Section 176 of the Companies Act or the same has been instituted against it. For purposes of this clause, "Group" shall mean TSH, the Issuer and its subsidiaries, if any;

(ix) **Assets:**

all or a material part of the property or assets of the Issuer shall be condemned, seized or otherwise appropriated, nationalised or compulsorily acquired by any person acting under the authority of the governmental body, which will in the reasonable opinion of the Trustee have a Material Adverse Effect;

(x) **Kafalah Guarantee (as defined in Clause (z)(a)):**

the Guarantor has served a notice to require the Trustee to make a demand or claim on any Kafalah Guarantee pursuant to and in accordance with the terms of the Kafalah Facility and the Kafalah Guarantee. For the purpose of this clause (x), such notice by the Guarantor requiring the Trustee to demand or claim on a Kafalah Guarantee

issued in relation to a series of IMTN shall not constitute a Dissolution Event in respect of the other series of IMTN unless the Guarantor has also served a notice to the Trustee to make a demand or claim on the Kafalah Guarantees issued in relation to other series of IMTN;

(xi) **Composition:**

the Issuer makes a general assignment or enters into an arrangement or composition with or for the benefit of its creditors in respect of all or a material part of (or a particular type of) its indebtedness;

(xii) **Repudiation:**

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;

(xiii) **Cross Default:**

save for such indebtedness which are being contested in good faith by the Issuer, any indebtedness of any member of the Group for monies borrowed becomes due or payable or capable of being declared due or payable prior to its stated maturity by reason of a default by any member of the Group in its obligations in respect of the same, or any member of the Group fails to make any payment in respect thereof on the due date for such payment or if due on demand when demanded or the security for any such indebtedness becomes enforceable or any guarantee or similar obligations of any member of the Group for any such indebtedness is not discharged at maturity or when called provided that no Dissolution Event under this clause (xiii) shall occur if the aggregate amount of indebtedness for monies borrowed is less than fifty per centum (50.0%) of the Group's total borrowed monies (including Islamic financing but excluding the IMTN) or

Ringgit Malaysia One Hundred Million (RM100.0 Million), whichever is the higher.

For the purpose of this clause, "Group" shall mean TSH, the Issuer and its subsidiaries, if any;

(xiv) **Judgment Passed:**

the Issuer fails to satisfy any judgment which has a Material Adverse Effect passed against it by any court of competent jurisdiction and no appeal against such judgment has been made to the appropriate appellate court within the time prescribed by law or such appeal has been dismissed;

(xv) **Events Relating to the Guarantor:**

the occurrence of any of the following events in respect of the Guarantor:

- (a) the Kafalah Guarantee ceases to be, or is claimed by the Guarantor not to be, in full force and effect;
- (b) it is or will become unlawful for the Guarantor to perform or comply with any one or more of its obligations under the Kafalah Guarantee;
- (c) a resolution being passed or an order of court is made that the Guarantor be wound up or similar proceedings which are reasonably determined by the Trustee to be analogous in effect being instituted or a bona fide petition (which for the avoidance of doubt, excludes frivolous or vexatious petition) is presented for the winding-up or dissolution of the Guarantor by an order of a court of competent jurisdiction unless an application to stay, withdraw or dismiss such petition has been filed by the Guarantor with the relevant authority within thirty (30) days of its presentation and such petition is

stayed, withdrawn or dismissed within seventy five (75) days of its presentation;

- (d) other than such failure by the Guarantor as described in clause (xv)(f) hereof, the Guarantor stops or threatens to stop payment in respect of its obligations generally or any other debenture of or monies borrowed or any guarantee or indemnity given by the Guarantor is not honoured when due and called upon or any indebtedness of the Guarantor for monies borrowed becomes due or payable or capable of being declared due or payable prior to its stated maturity by reason of a default by the Guarantor in its obligations in respect of the same, or the Guarantor fails to make any payment in respect thereof on the due date for such payment or if due on demand when demanded or the security for any such indebtedness becomes enforceable or any guarantee or similar obligations of the Guarantor is not discharged at maturity or when called provided that the aggregate amount of the Guarantor's obligations in respect of which one or more of the events set out in this clause (xv)(d) has occurred equals or exceeds Ringgit Malaysia One Hundred Million (RM100.0 Million);
- (e) the Guarantor ceases to carry on its business operation;
- (f) the Guarantor fails to pay any amount due from it under any Kafalah Guarantee issued by the Guarantor in relation to the IMTN Programme when due and called upon;
- (g) the Guarantor shall default in the performance of any covenant (other than the covenant to pay) in

the Kafalah Guarantee and, if such default is in the reasonable opinion of the Trustee capable of remedy, such default shall continue for a period of thirty (30) days after written notice thereof shall have been given to the Guarantor by the Trustee and such event is materially prejudicial to the interests of the Sukukholders;

- (h) any representation, warranty or statement which is made by the Guarantor in the Kafalah Guarantee is or proves to be incorrect or misleading in any material respect;
- (i) the Guarantor repudiates the Kafalah Guarantee or does or causes to be done any act or thing evidencing an intention to repudiate the Kafalah Guarantee;
- (j) the Guarantor declares a moratorium on the payment of the principal or profit/interest on its indebtedness;
- (k) the Guarantor is unable to pay its debts within Section 218(2) of the Companies Act, 1965 and the Guarantor has not taken any action in good faith to set aside such claims within twenty one (21) days from the date of service of such claims for payment;
- (l) an encumbrancer takes possession of, or a trustee, liquidator, receiver or similar officer is appointed in respect of, all or a substantial part of the business, assets or undertaking of the Guarantor and is not paid out, withdrawn or discharged within thirty (30) days of such appointment, and which will in the reasonable opinion of the Trustee have a Material Adverse Effect;
- (m) the Guarantor makes a general

assignment or enters into an arrangement or composition with or for the benefit of its creditors in respect of all or a material part of (or a particular type of) its indebtedness.

For purposes of the Dissolution Events, the reference to “Material Adverse Effect” shall mean any event or circumstances the occurrence of which, has resulted in, or will be likely to result in a material adverse effect on:-

- (a) the assets, business or condition (financial or otherwise) of the Issuer or the Guarantor (as the case may be); or
- (b) the Issuer’s or the Guarantor’s (as the case may be) ability to perform or comply with any of its obligations under Transaction Documents or the Kafalah Guarantee respectively; or
- (c) the rights and benefits available to the Sukukholders under any provisions of the Kafalah Guarantee.

Upon the occurrence of any of the events above (other than the Dissolution Event referred to in clauses (i)(1), (x) and (xv)(f)), the Trustee may, or shall if directed to do so by the Sukukholders of all series pursuant to a Special Resolution, declare that a Dissolution Event (other than the Dissolution Event referred to in clauses (i)(1), (x) and (xv)(f)) has occurred in respect of the IMTN of all series, whereupon:

- (a) the Exercise Price under all the Purchase Undertakings shall become immediately due and payable;
- (b) the Issuer shall immediately acquire the Sukukholders’ interest in all the Musyarakah Ventures; and
- (c) if so directed by the Sukukholders pursuant to a Special Resolution, the Trustee shall submit a claim on all the Kafalah Guarantees.

Upon the occurrence of the Dissolution Event referred to in clause (i)(1) in relation to a series

of IMTN (“Affected Series”), the Trustee shall without the need to seek further instructions or directions from the Sukukholders of the Affected Series, declare that such Dissolution Event has occurred in respect of the Affected Series, whereupon:

- (a) the Exercise Price under the Purchase Undertakings of all the Affected Series, shall become immediately due and payable;
- (b) the Issuer shall immediately acquire the Sukukholders’ interest in the Musyarakah Ventures in respect of all the Affected Series; and
- (c) the Trustee shall submit a claim on the Kafalah Guarantee in respect of the Affected Series.

For the avoidance of doubt, apart from the Affected Series, all other series of the IMTN will continue unaffected and will continue to be guaranteed under the Kafalah Guarantees.

Upon the occurrence of the Dissolution Event referred to in clause (x) in relation to a series of IMTN (“Invited Series”), the Trustee shall without the need to seek further instructions or directions from the Sukukholders of the Invited Series, declare that such Dissolution Event has occurred in respect of the Invited Series, whereupon:

- (a) the Exercise Price under the Purchase Undertakings of all the Invited Series, shall become immediately due and payable;
- (b) the Issuer shall immediately acquire the Sukukholders’ interest in the Musyarakah Ventures in respect of all the Invited Series; and
- (c) the Trustee shall submit a claim on the Kafalah Guarantee in respect of the Invited Series.

For the avoidance of doubt, apart from the Invited Series, all other series of the IMTN will continue unaffected and will continue to be

guaranteed under the Kafalah Guarantees.

Upon the occurrence of the Dissolution Event referred to in clause (xv)(f), the Trustee shall without the need to seek further instructions or directions from the holders of all the other series, being the series other than the Affected Series which the Guarantor has failed to pay such amount that is due and called upon it, (such other series is hereinafter referred to as “Unaffected Series”), declare that such Dissolution Event has occurred in respect of all the Unaffected Series, whereupon:

- (a) the Exercise Price under the Purchase Undertakings of all the Unaffected Series, shall become immediately due and payable;
- (b) the Issuer shall immediately acquire the Sukukholders’ interest in the Musyarakah Ventures in respect of all the Unaffected Series; and
- (c) the Trustee shall submit a claim on the Kafalah Guarantee in respect of all the Unaffected Series.

(y) Principal terms and conditions for the issue (where applicable) : Not applicable

(z) Other principal terms and conditions for the issue :

(a) Kafalah Guarantee : In relation to the Sukuk Musyarakah, the Guarantor shall issue an irrevocable and unconditional Kafalah Guarantee in favour of the Trustee to guarantee all payment obligations of the Issuer (except payment obligation on compensation (“Ta’widh”) and other charges in relation to the Sukuk Musyarakah) under each of the Purchase Undertakings relating to and corresponding with the Sukuk Musyarakah belonging to the same series.

Each Kafalah Guarantee shall only allow one (1) demand to be made against the Guarantor.

(b) Covenants : Positive Covenants

The Issuer shall provide covenants which are typical and customary for IMTN Programme of this nature which shall include but not limited to the following:-

- (a) Comply with all provisions of the Transaction Documents to which it is a party;
- (b) Preserve and keep in force and effect all licenses, consents and rights (where applicable) necessary for the conduct of its business;
- (c) Acquire and maintain the necessary insurance policies;
- (d) 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 Trust Deed;
- (e) Comply with all applicable and relevant laws and regulations with regards to the IMTN Programme;
- (f) the Issuer will exercise reasonable diligence in carrying out its business in a proper and efficient manner which should ensure, amongst others that all necessary approvals or relevant licenses are obtained;
- (g) Notify the Trustee immediately of:-
 - (i) Any circumstances that has occurred that would materially prejudice the Issuer;
 - (ii) Any claims against it which could have material adverse effect upon the ability of the Issuer to perform its obligations under the Transaction Documents to which it is a party and any action that the Issuer is taking in relation to such claims;
 - (iii) Any change in the withholding tax position or taxing jurisdiction of the

Issuer insofar it affects the payment obligations of the Issuer under the Trust Deed;

- (iv) Any take-overs, mergers, acquisitions and divestments undertaken by the Issuer which may affect its financial or liquidity position;
 - (v) Any Dissolution Events;
 - (vi) Any substantial change in the nature of the business of the Issuer or the Guarantor;
 - (vii) Any change in the Guarantor;
 - (viii) Any cessation of liability of the Guarantor for the payment of the whole or part of the moneys for which it is liable under the Kafalah Guarantee;
 - (ix) Any change in the utilisation of proceeds of the Sukuk with the Guarantor's prior written consent;
 - (x) Any right or remedy under the terms of the Trust Deed becomes immediately enforceable;
 - (xi) Any other matters that may materially prejudice the interest of the Sukukholders.
- (h) Maintain and keep proper books and accounts at all times in compliance with applicable statutory requirements and in accordance with generally accepted accounting principles in Malaysia and provide the Trustee and any person appointed by it e.g. auditors access to such books and accounts to the extent permitted by law;
- (i) Maintain a paying agent in Malaysia and procure that paying agent to notify the Trustee in the event the paying agent does not receive payment from the Issuer on the due dates as required under the Transaction Documents;

- (j) The Issuer shall ensure such utilisation of the Sukuk proceeds and investment in the Musyarakah Venture at all times be for Shariah compliant business purposes or activities; and
- (k) Such other covenants as may be advised by the Legal Counsel.

Negative Covenants

The Issuer without the prior written consent of the Trustee, shall not do any of the following, which shall include but not limited to:-

- (a) Amend its Memorandum and Articles of Association in a manner inconsistent with the Transaction Documents to which it is a party and/or which have a material adverse effect on the Issuer's ability to perform any of its obligations under the Transaction Documents;
- (b) Incur any further indebtedness for borrowed money whatsoever save and except for the Sukuk;
- (c) Create any security interest over all or any of its assets, business and/or undertakings;
- (d) Reduce or in any way alter (except by way of an increase) its authorised and issued paid-up capital;
- (e) Enter into a transaction whether directly or indirectly with interested persons unless 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
- (f) Such other negative covenants as may be advised by the Legal Counsel.

Information Covenants

The Issuer shall provide the Trustee and, if

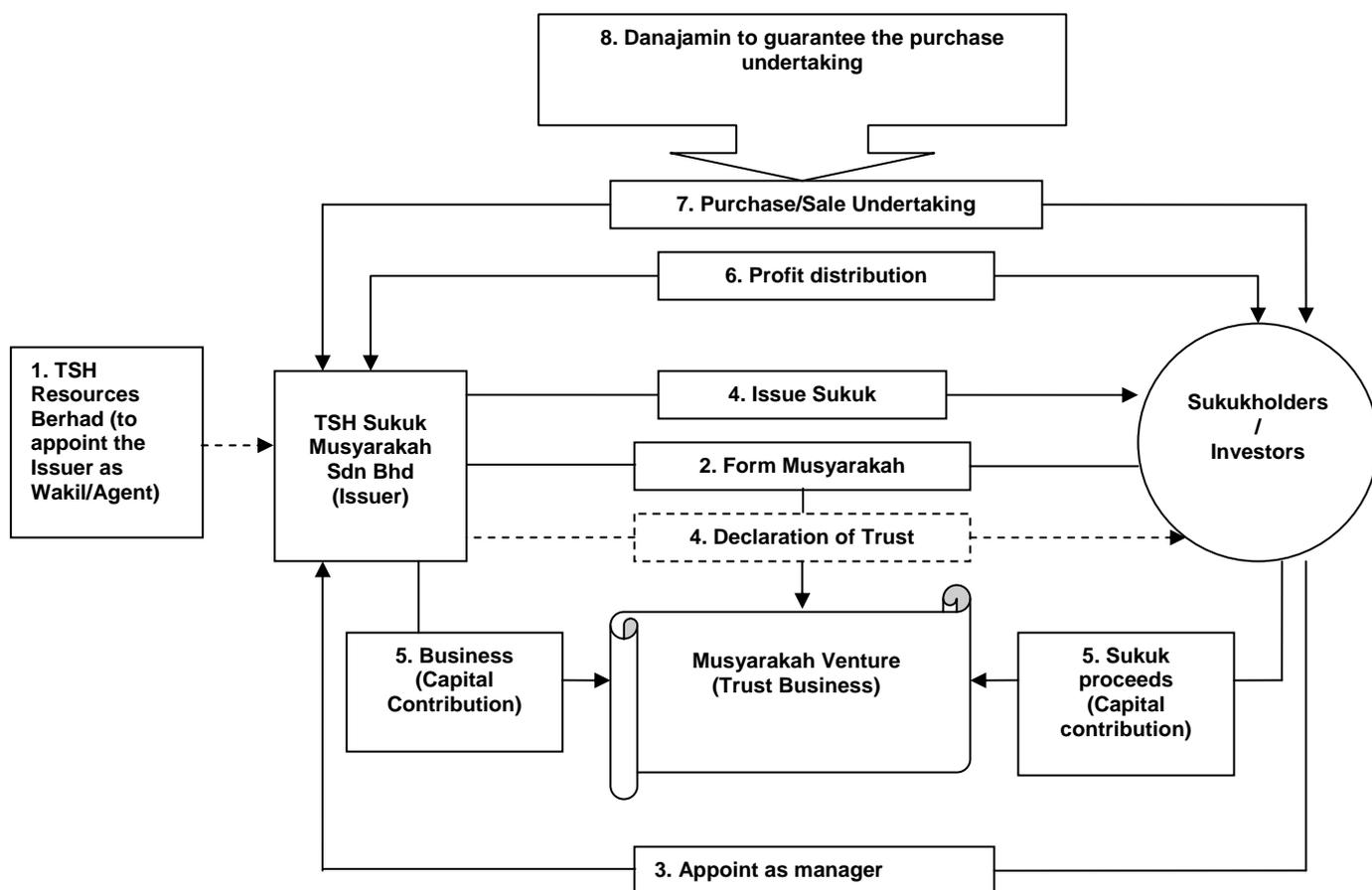
required, the Rating Agency the following:-

- (a) Half-yearly unaudited financial statements/management accounts within 60 days from the end of each half-year;
- (b) Year-end audited financial statements within 120 days from its financial year end, and such other information (financial or otherwise) as the Trustee and Rating Agency may reasonably require from time to time;
- (c) Promptly, after receipt of such request by the Trustee and/or the Rating Agency, any other information relating to its business, affairs and financial condition as may from time to time reasonably requested by the Trustee and/or the Rating Agency in order to discharge its duties and obligations as Trustee and/or the Rating Agency from time to time, to the extent permitted by law;
- (d) Promptly, any notices, circulars and other documents dispatched by the Issuer to its shareholders; and
- (e) Within 120 days after each of its financial year end, a certificate confirming that the Issuer has complied with all its obligations under the Transaction Documents and is not in breach of any of them and no Dissolution Event has occurred since the date of the issue of the Sukuk or the date of the previous certificate, as the case may be.

(c) Taxation : All payments by the Issuer shall be made without withholding or deductions for or on account of any present or future tax, duty or charge of whatsoever nature imposed or levied by or on behalf of Malaysia, or any other applicable jurisdictions, or any authority thereof or therein having power to tax, unless such withholding or deduction is required by law, in which event the payer shall be required to make such additional amount so that the payee would receive the full amount which the payee would have received if no such withholding or deductions are made.

- (d) Transaction Documents** : The Transaction Documents shall include the following:-
- (a) the Programme Agreement;
 - (b) the Trust Deed;
 - (c) the Purchase Undertaking;
 - (d) the Sale Undertaking;
 - (e) the Depository and Paying Agency Agreement;
 - (f) the Musyarakah Agreement;
 - (g) the Management Agreement;
 - (h) the Wakalah Agreement; and
 - (i) such other agreements as may be advised by the Legal Counsels.
- (e) Governing Laws** : The Transaction Documents shall be governed by the Laws of Malaysia and be subject to the exclusive jurisdiction of the courts of Malaysia.
- (f) Other Conditions** : The Sukuk shall at all times be subject to such guidelines, rules and directives to be issued from time to time by SC and/or any other appropriate authority having jurisdiction over matters pertaining to the Sukuk.

Annexure A



The structure of Sukuk Musyarakah as follows:

Wakalah Agreement

1. TSH Resources Berhad (“TSH”) and TSH Sukuk Musyarakah Sdn Bhd (“the Issuer”) will enter into a Wakalah Agreement whereby TSH appoints the Issuer as its agent with the relevant power of attorney to undertake the Musyarakah Venture with the investors.

At inception

2. Under the Musyarakah Venture, the Trustee (for and on behalf of the investors (“Sukukholders”)) and the Issuer will from time to time, enter into a Musyarakah Agreement as partners (collectively “the Musyarakah Partners”) to form a Musyarakah Venture to invest directly into Shariah compliant business identified by TSH (“Trust Business”).
3. The Issuer will be appointed as manager pursuant to a Management Agreement to provide services to the Musyarakah Venture.

At issuance

4. The Issuer will, from time to time, issue Sukuk to the Sukukholders. Sukuk shall represent Sukukholders' undivided proportionate interest in the Musyarakah Venture. Simultaneously, TSH/the Issuer shall make declaration that it holds on trust over all its interest in the Trust Business for the benefit of the Sukukholders.
5. The proceeds raised from the Sukuk shall be used as capital contribution of the Sukukholders in the Musyarakah Venture. Meanwhile, TSH through the Issuer will from time to time contribute or cause its wholly owned subsidiaries to contribute the identified Trust Business as capital contribution into the Musyarakah Venture.

At profit payment date

6. The profits derived from the Musyarakah Venture will be distributed based on a pre-agreed profit sharing ratio to be determined prior to the issuance of the Sukuk on each profit payment date ("Periodic Distribution Date"). In the event that the distributable profits generated from the Musyarakah Venture are greater than the Expected Return, pursuant to "Tanazul" (waiver) granted from the onset, the Trustee (for and on behalf of the Sukukholders) shall undertake to waive its right on the excess distributable profits from the Musyarakah Venture to the Issuer. In addition, pursuant to the Wakalah Agreement, TSH (through the Issuer) has the right at its sole discretion, to decide the usage of such excess distributable profits including to utilise such excess or part thereof to pay dividends to TSH. However, should the profits generated fall short of the Expected Return, the Issuer at its sole discretion, is permitted to make payment to top-up the difference up to the amount equivalent to the Expected Return due to the relevant Sukukholders ("Top-up Payment"). Where the Issuer has made the Top-up Payment, the Issuer will be entitled to deduct the aggregate of such Top-up Payment from the Exercise Price.

At dissolution

7. Pursuant to the Purchase Undertaking issued by the Issuer in favour of the Trustee for and on behalf of the Sukukholders, the Issuer shall undertake to purchase the Sukukholders' interest in the Musyarakah Venture at an Exercise Price on the relevant Exercise Date. Concurrently, pursuant to the Sale Undertaking granted by the Trustee (for and on behalf of the Sukukholders) to the Issuer, the Trustee undertakes to sell all its interest in the Musyarakah Venture at an Exercise Price on the relevant Exercise Date.
8. Under a separate arrangement from the Musyarakah arrangement, the Issuer's obligations under the Purchase Undertaking shall be irrevocably and unconditionally guaranteed by Danajamin as the Guarantor pursuant to the Kafalah Facility.

Annexure B

Early Redemption Proceeds

In the event of an Early Dissolution Event, the amount of the Early Redemption Proceeds (“ERP”) to be paid by the Issuer in redeeming the relevant series of Sukuk shall be given by the following formula:-

$$\text{ERP} = \frac{(\text{ANV} \times \text{RP})}{100}$$

Where:

ANV = aggregate nominal value of the Sukuk to be redeemed

RP = redemption price per RM100 of the nominal value of the Sukuk to be redeemed (rounded to the nearest 2 decimal places) subject to a minimum of RM100 calculated based on the formula set out below:-

$$\text{RP} = \left[\frac{100}{\left[1 + (\text{YTM}/2)\right]^{(N-1)}} \right] + \left[\sum_{k=1}^N \frac{\left(100 \times (\text{Profit}/2)\right)}{\left[1 + (\text{YTM}/2)\right]^{(k-1)}} \right]$$

For the purpose of calculating the RP, the following variables are used:-

- i. Profit = the Profit Rate applicable to the relevant series of Sukuk
- ii. YTM = the lower of
 - a) the Profit ; and
 - b) the yield to maturity of Reference Malaysian Government Securities plus a spread of X basis point (“Spread”).

The Spread shall be mutually agreed and determined by the Lead Arranger and the Issuer, three (3) Business Days prior to the issuance of each series of the Sukuk.

Reference Malaysian Government Securities shall be Malaysian Government Securities for tenures which are equal to the remaining tenure of the series of Sukuk being redeemed and shall be determined from:-

- a) the latest Consolidated Government Securities

Rates published by BNM daily, one (1) Business Day prior to the date of issue of notice of redemption;

or, if that published rate is unavailable:

- b) the arithmetic average of the mid-rates quoted by any five (5) Principal Dealers (being dealers in securities as appointed by BNM from time to time at primary issues of Malaysian Government Securities), one (1) Business Day prior to the date of issue of the notice of redemption.

In the case where the rate for a particular tenure is not available directly, then such a rate shall be extrapolated on a linear basis using the available arithmetic average mid-rates, provided that if the tenure of the series is not an integer, the Reference Malaysian Government Securities shall be the arithmetic mean of the rates of the two (2) nearest tenures derived from (a) or (b) above.

iii. N = number of profit payment to be made between maturity date and the date of redemption.

iv. K = 1,2,3.... N

Annexure C

List of Trust Business

1.	Sabahan Palm Oil Mill, erected on Title No(s). CL245337188, CL245337197, CL245337160, CL245339191, CL245337151, CL245337204, District of Lahad Datu, Locality of Sabahan, KM 38, Lahad Datu-Kunak Highway, Sabah
2.	Lahad Datu Palm Oil Mill, erected on Title No. CL095327218, District of Kinabatangan, Locality of Tenegang-Koyah, 48KM Off Lahad Datu–Sandakan Highway, Sabah