

## **PRINCIPAL TERMS AND CONDITIONS**

### **1.01 Background Information**

#### **(a) Issuer**

- (i) Name : UniTapah Sdn Bhd (“**UniTapah**” or the “**Issuer**”).
- (ii) Address : **Registered Address:**  
14-2, Jalan 4A/27A  
Section 2, Wangsa Maju  
53300 Kuala Lumpur
- Business Address:**  
Penthouse, The Crest, 3 Two Square  
2, Jalan 19/1  
46300 Petaling Jaya  
Selangor Darul Ehsan
- (iii) Business registration number : 846665-X.
- (iv) Date and place of incorporation : 13 February 2009 / Malaysia.
- (v) Date of listing, where applicable : Not applicable.
- (vi) Status on residence, i.e. whether it is a resident controlled company or non-resident controlled company : Resident-controlled company.
- (vii) Principal activities : UniTapah is a single purpose vehicle incorporated to undertake the planning, design, development, construction, landscaping, equipping, installation, completion, testing, commissioning and the maintenance of the facilities and infrastructure on part of a piece of land held by Universiti Teknologi Mara (“**UiTM**”) under HS(D) 15461, PT 4740, Mukim Batang Padang, Daerah Batang Padang, Negeri Perak in accordance with the terms of the concession agreement entered into between the Government of Malaysia (“**the Government**”), UiTM and UniTapah on 4 May 2010 (“**Concession Agreement**”).

(viii) Board of directors : The board of directors of UniTapah as at 31 March 2014 are as follows:

- 1) Sri Rahayu Bt Tajuddin Abdul Rahman
- 2) Vignesh Naidu A/L Kuppusamy Naidu
- 3) Tengku Dato' Sulaiman Shah Bin Tengku Abdul Jalil Shah
- 4) Yong Soon Chow
- 5) Yong Shang Ming

(ix) Structure of shareholdings and names of shareholders or, in the case of a public company, names of all substantial shareholders : The shareholder and structure of shareholding of the Issuer as at 31 March 2014 are as follows:

Name of shareholder	No. of ordinary shares held	%
*Crest Builder International Sdn Bhd (Company No. 644441-T)	510,000	51%
Detik Utuh Sdn Bhd (Company No.722565-A)	490,000	49%

*\*Crest Builder International Sdn Bhd also owns 4,000,000 redeemable preference shares of RM1.00 each in UniTapah.*

(x) Authorised, issued and paid-up capital : The authorised, issued and paid-up capital of the Issuer as at 31 March 2014 are as follows:

Authorised:

Ordinary shares of RM1.00 each	1,000,000
Redeemable preference share of RM1.00 each	4,000,000
Total	5,000,000

Issued and fully paid-up:

Ordinary shares of RM1.00 each	1,000,000
Redeemable preference share of RM1.00 each	4,000,000
Total	5,000,000

(xi) Disclosure of the :  
following

- If the Issuer or its board members have been convicted or charged with any offence under the securities laws, corporation laws or other laws involving fraud or dishonesty in a court of law, for the past five years prior to the date of application; and None.
- If the Issuer has been subjected to any action by the stock exchange for any breach of the listing requirements or rules issued by the stock exchange, for the past five years prior to the date of application. None.

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## 1.02 Principal Terms and Conditions

- (a) Names of parties involved in the proposed transaction (where applicable)
- (i) Principal adviser : Kenanga Investment Bank Berhad (Company No.15678-H) (“**KIBB**”).
  - (ii) Lead arranger : KIBB (“**Lead Arranger**”).
  - (iii) Co-arranger : Not applicable.
  - (iv) Solicitor : Messrs Adnan Sundra & Low (“**Solicitors**”).
  - (v) Financial adviser : Not applicable.
  - (vi) Technical adviser : Not applicable.
  - (vii) Sukuk trustee : Pacific Trustees Berhad (Company No. 317001-A) (“**Trustee**”).
  - (viii) Shariah adviser : Dr. Mohd Daud Bakar.
  - (ix) Guarantor : Not applicable.
  - (x) Valuer : Not applicable.
  - (xi) Facility agent : KIBB (“**Facility Agent**”).
  - (xii) Primary subscriber (under a bought-deal arrangement) and amount subscribed : To be determined prior to issuance (in respect of issuance via bought deal basis only).
  - (xiii) Underwriter and amount underwritten : Not applicable. The Sukuk Murabahah will not be underwritten.
  - (xiv) Central depository : Bank Negara Malaysia (“**BNM**”).
  - (xv) Paying agent : BNM.
  - (xvi) Reporting accountant : Baker Tilly Monteiro Heng.
  - (xvii) Calculation agent : Not applicable.
  - (xviii) Others (please specify) : Security Trustee  
Pacific Trustees Berhad.

Lead Manager  
KIBB.

- (b) Islamic principles used : The issuance of the Sukuk Murabahah (as defined in item 1.02 (c) below) will be based on the Shariah principles of Murabahah via a Tawarruq arrangement, which are the Shariah principles and concepts approved by the Shariah Advisory Council (“**SAC**”) of the Securities Commission Malaysia (“**SC**”).
- (c) Facility description : Issuance of up to RM600.0 million in nominal value of Islamic securities based on the Shariah principles of Murabahah via a Tawarruq arrangement (“**Sukuk Murabahah**”). The Sukuk Murabahah shall be a one-time issuance.

Underlying Transaction

In respect of the issuance of Sukuk Murabahah, the investor(s) (“**Sukukholders**”) shall appoint the Facility Agent as the buying and selling agent (“**Wakeel**”) of Shariah-compliant commodities (“**Commodities**”). UniTapah shall issue a purchase order (“**Purchase Order**”) to the Sukukholders through the Wakeel for the purchase of the Commodities. The Purchase Order constitutes a unilateral binding promise (*Wa’d Mulzim*) by UniTapah to purchase the said Commodities at a sale price to be paid on a deferred payment basis (“**Deferred Sale Price**”). The Deferred Sale Price represents the Purchase Price (as defined herein) and profit portion to be agreed between UniTapah and the Wakeel.

Pursuant to the issuance of Purchase Order by UniTapah, the Sukukholders shall pay the purchase price (“**Purchase Price**”) of the Commodities to the Wakeel which is equivalent to the amount disbursed under the Sukuk Murabahah.

The Issuer shall issue, and the Sukukholders shall subscribe, to the Sukuk Murabahah issued by the Issuer to evidence Sukukholders’ ownership in the Commodities and subsequently, represent the Sukukholders’ entitlement to receive the Deferred Sale Price once the Commodities are sold to UniTapah.

Upon receipt of the Purchase Price, the Wakeel, on behalf of the Sukukholders shall then purchase the Commodities from commodity vendor(s) in the Bursa Suq Al-Sila' commodity market through a Commodity Trading Participant ("CTP"), who will facilitate the buying and selling of the commodities on a spot basis. Bursa Suq Al-Sila' is a commodity trading platform with multiple commodity vendors.

Upon completion of the purchase, the Wakeel, on behalf of the Sukukholders, shall sell the Commodities to UniTapah at the Deferred Sale Price. UniTapah shall pay the Deferred Sale Price via the Wakeel to the Sukukholders.

Subsequently, UniTapah shall sell the Commodities via the same CTP to Bursa Malaysia Islamic Services Sdn Bhd on a spot basis at an amount equivalent to the Purchase Price.

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

(d) Identified assets : Shariah-compliant commodities (which shall, *inter alia*, exclude *ribawi* items in the category of medium of exchange such as currency, gold and silver) which are provided through the commodity trading platform, Bursa Suq Al-Sila'.

(e) Purchase and selling price/ rental (where applicable) : Purchase Price  
The Purchase Price in relation to the purchase of the commodities shall be equal to the proceeds of the Sukuk Murabahah.

The value of the commodities shall be in compliance with the asset pricing requirements set out in the Guidelines on Sukuk effective on 8 January 2014 (as may be amended from time to time) ("**Sukuk Guidelines**").

Deferred Sale Price

The Deferred Sale Price shall comprise the Purchase Price plus the aggregate profit portion and will be determined prior to the sale of the commodities to the Issuer and to be evidenced by the issue of the Sukuk Murabahah.

(f) Issue /sukuk programme size : Up to RM600.0 million in nominal value.

- (g) Tenure of issue / sukuk programme : The Sukuk Murabahah shall be a one-time issuance and in tranches with tenure of up to twenty one (21) years.

The one-time issuance of the Sukuk Murabahah shall be made within one (1) year from the date of the approval by the SC or such other later date as may be approved by the SC.

- (h) Availability of sukuk programme period : Not applicable.

- (i) Profit / coupon / rental rate : The profit rate will be determined and agreed prior to the issuance of the Sukuk Murabahah.

- (j) Profit / coupon / rental payment frequency : The profits are payable in arrears semi-annually, or such other period to be agreed between the Issuer and the Lead Arranger prior to the issuance of the Sukuk Murabahah.

- (k) Profit / coupon / rental payment basis : Actual/365 days.

- (l) Security / collateral, where applicable :
- (i) Debenture evidencing a fixed and floating charge over UniTapah's present and future assets;
  - (ii) First ranking charge and assignment of the Designated Accounts and the credit balances therein (as defined in item 1.02(n) below); and
  - (iii) First ranking assignment of takaful policies, if any, in relation to the Concession Agreement with the Security Trustee designated as loss payee/mortgagee, to the extent permitted by prevailing laws.

The security above shall be created on a first ranking basis in favour of the Security Trustee.

For the avoidance of doubt, prior to the discharge of the existing securities in favour of Bank Pembangunan Malaysia Berhad ("**BPMB**") under the *Bai' Istisna* ("**BIS**") facilities, the securities under paragraphs (i) and (iii) above shall rank after the securities created under the BPMB's BIS facilities.

- (m) Details on utilisation of proceeds by issuer/obligor and originator (in the case of ABS). If proceeds are to be utilised for project or capital expenditure, description of the project or capital expenditure, where applicable : The Issuer shall utilise the proceeds for the following Shariah-compliant purposes:

Purpose		*Estimated Amount (RM)
(i)	To refinance the amount outstanding under the existing BIS facilities granted by BPMB.	300,000,000
(ii)	To repay the advances and other related costs due to its related company, Crest Builder Sdn Bhd which is in relation with the construction works under the Concession Agreement.	45,000,000
(iii)	To set aside in the FSRA (as defined in item 1.02(n) below) for the purpose of meeting the FSRA Minimum Required Balance (as defined in item 1.02(n) below).	15,000,000
(iv)	To set aside in the Revenue Account (as define in item 1.02(n) below).	Up to 30,000,000
(v)	To set aside in the Maintenance Account 2 (as defined in item 1.02(n) below) for the purpose of meeting the MA 2 Minimum Required Balance (as defined in item 1.02(n) below).	5,000,000
(vi)	To fund the Trustees' Reimbursement Account (as defined in item 1.02(y)(i) below).	30,000



(vii)	The balance, if any, shall be utilised for UniTapah's Shariah-compliant general corporate purposes which are to defray expenses incurred in relation to the Sukuk Murabahah and to make advances to its shareholders and/or ultimate holding company (" <b>Internal Transfer</b> ")#.	the balance
	<b>Total</b>	<b>Up to 600,000,000</b>

*Note:*

*\*These figures are merely an estimation and the exact figures may be different from the above estimates.*

*#The Internal Transfer will be one-off and the amount will not be more than RM180.0 million from the proceeds of the Sukuk Murabahah.*

(n) Sinking fund and designated accounts, where applicable : The Issuer is required to open and maintain five (5) Shariah-compliant designated accounts with a financial institution (with a minimum rating of A2/P1 or its equivalent) acceptable to the Lead Arranger:

- (i) Disbursement Account;
- (ii) Revenue Account;
- (iii) Financial Service Reserve Account ("**FSRA**");
- (iv) Maintenance Account 1; and
- (v) Maintenance Account 2;

(collectively, the "**Designated Accounts**". The Disbursement Account, Revenue Account, FSRA and Maintenance Account 2 shall hereinafter be referred to as the "**Security Trustee Designated Accounts**").

**Disbursement Account**

The Issuer shall open and maintain a Shariah-compliant bank account designated as "Disbursement Account" in which all proceeds raised from the issuance of Sukuk Murabahah are to be deposited therein.

The funds in the Disbursement Account shall be utilised in accordance with item 1.02(m) above.

The Disbursement Account shall be operated solely by the Security Trustee. All withdrawals from the Disbursement Account shall be accompanied by relevant supporting documents in form and substance satisfactory to the Security Trustee. The Disbursement Account shall be closed when the funds in the account are fully utilised.

### **Revenue Account**

UniTapah shall open and maintain a Shariah-compliant bank account designated as the "Revenue Account" in which the proceeds of the Junior Sukuk (as defined in item 1.02(t)(xix) below) and all the payments received from UiTM pursuant to the Concession Agreement ("**Concession Payments**") (including Availability Charges (as defined in item 1.02(y)(xvii) below) but excluding Maintenance Charges (as defined in item 1.02(y)(xv) below) and the Maintenance Reserve Fund (as defined in item 1.02(y)(xvi) below)) and all other income, revenue, takaful proceeds and other proceeds received by UniTapah (including any shareholders' advances for shortfall for the Availability Charges but excluding any shareholders' advances for shortfall for providing maintenance services and any compensation received from UiTM under the Concession Agreement) are to be deposited. The Revenue Account will also capture the amount set-aside from the Disbursement Account. Upon the refinancing of the BPMB's BIS facilities, all monies remaining in the designated accounts in respect of the BPMB's BIS facilities will be transferred and deposited into the Revenue Account and such designated accounts shall be closed when the funds in the accounts are fully transferred to the Revenue Account.

Funds in the Revenue Account shall be utilised based on the following order of priority:

- (i) Tax and other statutory obligations;
- (ii) Administrative expenses of UniTapah including payment of annual recurring fees to the relevant agents/advisers under the Sukuk Murabahah and payment of fees to its auditors and tax agents, up to a maximum of

- RM1,200,000 in any financial year\*;
- (iii) Any transfer to the FSRA in order to maintain the FSRA Minimum Required Balance;
  - (iv) Profit payments under the Sukuk Murabahah falling due and payable;
  - (v) Principal payments under the Sukuk Murabahah falling due and payable; and
  - (vi) Purchase of the Sukuk Murabahah (if UniTapah so elects) under item 1.02(x) below.

*\*Note: If the administrative expenses of UniTapah exceeds the maximum of RM1,200,000, the Issuer will procure from its shareholder/(s) to fund the excess.*

The Revenue Account shall be operated solely by the Security Trustee. All withdrawals from the Revenue Account shall be accompanied by relevant supporting documents (in form and substance satisfactory to the Security Trustee).

#### **Finance Service Reserve Account**

The Issuer shall open and maintain a Shariah-compliant bank account designated as the "FSRA". The Issuer shall ensure that the FSRA contains an amount equivalent to an amount payable in respect of any profit and principal payment of the Sukuk Murabahah for the next six (6) months. The FSRA shall be solely operated by the Security Trustee.

The Issuer shall at all times thereafter maintain an amount equivalent to an amount payable in respect of any profit and principal payment of the Sukuk Murabahah for the next six (6) months, until the Sukuk Murabahah are fully repaid ("**FSRA Minimum Required Balance**").

Notwithstanding the FSRA Minimum Required Balance, the Issuer can utilise the FSRA for profit and principal payments after fully utilising balance in Revenue Account.

In the event that the balance held in the FSRA is less than the FSRA Minimum Required Balance, the shortfall shall be topped up from the Revenue Account. The Issuer shall top up the FSRA so as to comply with the FSRA Minimum Required Balance within thirty (30) days from the date of the balance held in FSRA is less than the FSRA

#### Minimum Required Balance.

In the event that the balance held in the FSRA exceeds the FSRA Minimum Required Balance, the excess shall be released to the Revenue Account or any such other Security Trustee Designated Accounts mutually agreed between the Issuer and the Security Trustee.

For the avoidance of doubt, any non-compliance in relation to meeting the FSRA Minimum Required Balance shall constitute an Event of Default (as defined in item 1.02(v) below) if such non-compliance is not remedied within thirty (30) days from the date of any shortfall in the FSRA to meet the FSRA Minimum Required Balance.

#### **Maintenance Account 1**

UniTapah shall open and maintain a Shariah-compliant bank account designated as the "Maintenance Account 1" in which Maintenance Charges from UiTM pursuant to the Concession Agreement and the shareholders' advances (as the case may be) for providing maintenance services are to be deposited.

The Maintenance Account 1 shall be solely maintained and operated by the Issuer who shall be the sole signatory of the account prior to an Event of Default. Upon written notification is being made to the Security Trustee on the occurrence and the subsistence of an Event of Default, the Security Trustee shall be the sole signatory to operate the Maintenance Account 1.

#### **Maintenance Account 2**

UniTapah shall open and maintain a Shariah-compliant bank account designated as the "Maintenance Account 2". The Issuer shall ensure that the Maintenance Account 2 contains an amount equivalent to RM5,000,000.00.

The Issuer shall at all times thereafter maintain an amount equivalent to RM5,000,000.00 until the Sukuk Murabahah are fully repaid ("**MA 2 Minimum Required Balance**").

Notwithstanding the MA 2 Minimum Required Balance, the Issuer can utilise the monies in the Maintenance Account 2 to pay for any shortfall in relation to the maintenance services to be

provided under the Concession Agreement in the event that there are insufficient funds in the Maintenance Account 1.

In the event that the balance held in the Maintenance Account 2 is less than the MA 2 Minimum Required Balance, the shortfall shall be topped up from the Maintenance Account 1 and/or shareholders' advances within thirty (30) days from the date when the balance held in Maintenance Account 2 is less than the MA 2 Minimum Required Balance, failing which, an Event of Default would have occurred at the expiry of the thirty (30) days period.

The Maintenance Account 2 shall be operated solely by the Security Trustee. All withdrawals from the Maintenance Account 2 shall be accompanied by relevant supporting documents (in form and substance satisfactory to the Security Trustee).

Monies in any of the Designated Accounts may be invested in Permitted Investments (as defined in item 1.02(y)(vii) below). Funds invested in Permitted Investments and income received from such Permitted Investments shall be remitted into the Revenue Account or any such other Security Trustee Designated Accounts mutually agreed between the Issuer and the Security Trustee in a timely manner to meet any payment obligations of the Issuer when due and payable.

Immediately after the last maturity date of the Sukuk Murabahah and all payment obligations under the Sukuk Murabahah have been fully settled, the Designated Accounts shall be closed and any credit balance shall be transferred to the Issuer.

(o) Rating

- Credit rating assigned and whether the rating is final or indicative. In the case of a sukuk programme where the credit rating is not : The Sukuk Murabahah has been accorded a preliminary rating of AA<sub>2</sub>.

assigned for the full amount, disclosures set out in paragraph 9.04 of these Guidelines must be made; and

- Name of credit rating agencies : RAM Rating Services Berhad (“**RAM Ratings**”).

- (p) Mode of issue : The Sukuk Murabahah may be issued via direct/private placement, bought deal basis or book running on a best effort basis all without prospectus.

The issuance of Sukuk Murabahah shall be in accordance with (i) the Participation and Operation Rules for Payments and Securities Services issued by Malaysian Electronic Clearing Corporation Sdn Bhd (“**MyClear**”)(“**MyClear Rules**”); and (ii) the Operational Procedures for Securities Services issued by MyClear (“**MyClear Procedures**”) or their replacement thereof (collectively referred to as “**MyClear Rules and Procedures**”) applicable from time to time.

- (q) Selling restrictions, including tradability, i.e. whether tradable or non-tradable : **Selling Restrictions at Issuance**  
The Sukuk Murabahah may only be offered, sold, transferred or otherwise disposed directly or indirectly to persons falling within the relevant category of the persons specified in Section 4(6) of the Companies Act 1965, as amended from time to time, and persons to whom an offer or invitation to subscribe the Sukuk Murabahah may be made and to whom the Sukuk Murabahah are issued would fall within Schedule 6 or Section 229(1)(b) and Schedule 7 or Section 230(1)(b) read together with Schedule 9 or Section 257(3) of the Capital Markets and Services Act 2007 (“**CMSA**”).

**Selling Restrictions Thereafter**

The Sukuk Murabahah may only be offered, sold, transferred or otherwise disposed directly or indirectly to persons falling within the relevant category of the persons specified in Section 4(6) of the Companies Act 1965, as amended from time to time and persons to whom an offer or invitation to purchase the Sukuk Murabahah would fall within Schedule 6 or Section 229(1)(b) read together with Schedule 9 or Section 257(3)

of the CMSA.

The Sukuk Murabahah are tradable and transferable subject to the Selling Restrictions above.

- (r) Listing status and types of listing, where applicable : The Sukuk Murabahah shall not be listed on Bursa Malaysia Securities Berhad or any other stock exchange.
- (s) Other regulatory approvals required in relation to the issue, offer or invitation to subscribe or purchase sukuk, and whether or not obtained : None.
- (t) Conditions precedent : The issuance of the Sukuk Murabahah shall be subject to the following conditions (each in form and substance acceptable to the Lead Arranger) which is including but not limited to:
- (i) the Transaction Documents (as defined in item 1.02(y)(vi) below) shall have been duly approved, authorised, executed, where applicable stamped or endorsed as exempted from stamp duty and presented for registration with the relevant authorities;
  - (ii) All relevant notices and acknowledgements (where applicable) and approvals/consents as may be required by the Lead Arranger and as advised by the Solicitors shall have been made or received, as the case may be, including the requisite written consent of the Government approving, amongst others, the refinancing of the BIS facilities granted by BPMB on the issuance of the Sukuk Murabahah of which the proceeds will be used to repay the facility taken by the Issuer from BPMB;
  - (iii) Receipt from the Issuer of the following:
    - (a) Certified true copy of its Certificate of Incorporation and Memorandum and Articles of Association;

- (b) Certified true copy of its Board of Directors' resolution authorising, amongst others, (i) the undertaking and implementation of the Sukuk Murabahah, (ii) the execution of the Transaction Documents and (iii) the appointment of authorised signatory(ies) of the Issuer to accept, undertake and implement the issuance of the Sukuk Murabahah;
- (c) Certified true copies of the Issuer's latest Form 24, Form 44 and Form 49 and any other statutory forms as may be required by the Lead Arranger and the Solicitors; and
- (d) Specimen signatures of its authorised signatories;
- (iv) Evidence of authorisation from the SC in respect of the Sukuk Murabahah;
- (v) Receipt of redemption statement cum undertaking to refund the redemption amount and to discharge the existing security provided to BPMB addressed to the Sukuk Trustee;
- (vi) Evidence that a supplemental concession agreement between Government, UiTM and Issuer ("**Supplemental Concession Agreement**") has been executed;
- (vii) Evidence that the Sukuk Murabahah have been accorded a minimum rating of AA<sub>3</sub> by RAM Ratings;
- (viii) Documentary evidence that the Trustees' Reimbursement Account and the Designated Accounts have been opened for the purpose stated in the Transaction Documents and the mandate for operating the Security Trustee Designated Accounts has been issued in favour of the Security Trustee as the sole signatory of those accounts and the mandate for operating the Trustees' Reimbursement Account has been issued in favour of the Trustee as the sole signatory;



- (ix) Evidence of payment or arrangement for payment of all relevant upfront transaction fees, costs and expenses relating to the Sukuk Murabahah;
- (x) The Lead Arranger shall have received a legal opinion from the Solicitors addressed to the Lead Arranger and the Trustee advising them with respect to the legality, validity and enforceability of the Transaction Documents;
- (xi) The Lead Arranger shall have received from the Solicitors, a confirmation addressed to the Lead Arranger that all conditions precedent have been fulfilled or waived, as the case may be;
- (xii) Receipt of the tax opinion from UniTapah's tax consultant in the form and substance acceptable to the Lead Arranger;
- (xiii) Evidence of confirmation from the Shariah Adviser that the structure, mechanism and Transaction Documents of the Sukuk Murabahah are in compliance with Shariah;
- (xiv) Receipt of a joint letter of undertaking (in the form and substance acceptable to the Lead Arranger) executed by Crest Builder International Sdn Bhd and Detik Utuh Sdn Bhd ("**Joint Letter of Undertaking**") whereby each of them undertakes to, amongst others, procure UniTapah to issue and deliver invoices in respect of the Concession Payments to UiTM in a timely manner and as prescribed under the Concession Agreement;
- (xv) Receipt of certified true copy of the acknowledgement from UiTM that payment of Concession Payments (including the Availability Charges and/or any amount payable to the Issuer as a result of the early termination of the Concession Agreement) by UiTM will be made directly into the Revenue Account, and the Maintenance Charges into the Maintenance Account 1;

- (xvi) A report of the relevant winding up search of the Issuer;
  - (xvii) A report of the relevant company search of the Issuer;
  - (xviii) Receipt of Certificate of Acceptance (as defined in item 1.02(y)(xiv) below) and other relevant documents to confirm that the construction works under the Concession Agreement had been completed and the facilities and infrastructures had been accepted by UiTM;
  - (xix) Documentary evidence satisfactory to the Lead Arranger that a subordinated sukuk in a sum not less than RM45,000,000.00 had been issued by the Issuer (“**Junior Sukuk**”) and has been subscribed by the shareholder of the Issuer with the issuance proceeds from the Junior Sukuk having been deposited into the Revenue Account;
  - (xx) Confirmation that the Issuer has no other borrowings other than the Sukuk Murabahah and the Junior Sukuk;
  - (xxi) Documentary evidence that a deed of subordination has been entered into between the Issuer and the shareholders of the Issuer in relation to the subordination of shareholders’ present and future advances and the Junior Sukuk; and
  - (xxii) Such other conditions precedent as may be advised by the Solicitors and mutually agreed by the Issuer and the Lead Arranger.
- (u) Representations and warranties : Customary representations and warranties for transactions of this nature including but not limited to the following:
- (i) The Issuer is duly incorporated under the laws of Malaysia and validly existing;
  - (ii) The Issuer has the power and authority to conduct the business in which it is engaged, and has the power and

authority to enter into, exercise its rights under and perform its obligations under the Transaction Documents;

- (iii) All necessary corporate actions have been taken to authorise, and all authorisations of any governmental or other authority have been duly and unconditionally obtained and are in full force and effect which are required to authorise the Issuer to own its assets, carry on its business as it is being conducted, and sign, deliver, and perform the transactions and obligations contemplated in the Transaction Documents;
- (iv) No authorisation, approval, consent, licence, exemption, registration, recording, filing or notarisation and no payment of any duty or tax and no other action whatsoever which has not been duly and unconditionally obtained, made or taken is necessary or desirable to ensure the legality, validity, enforceability of the Issuer's liabilities and obligations or the rights of the Trustee under the Transaction Documents or the rights of the Sukukholders;
- (v) Neither the signing and delivery of the Transaction Documents nor the performance of any of the transactions contemplated in the Transaction Documents will:
  - (a) contravene or constitute a default under any provision contained in any agreement, instrument, law, judgement, order, licence, permit or consent by which the Issuer or any of its assets are bound or affected;
  - (b) cause any limitation on the Issuer or the powers of its directors, imposed by or contained in its Memorandum and Articles of Association, or in any agreement,

instrument, law, ordinance, decree, order, rule, regulation, judgement or otherwise to be exceeded; or

- (c) cause the creation or imposition of any security interest or restriction of any nature on any of its assets (other than the security as contemplated under the Transaction Documents);
- (vi) The Issuer has no subsidiaries or shareholdings in other companies and does not engage in any business other than its principal activity;
- (vii) No step has been taken by the Issuer nor has any legal proceeding, including winding up proceedings been commenced, instituted or threatened for the dissolution of the Issuer or for the appointment of a receiver, receiver and manager, liquidator, judicial manager or such similar officer over the Issuer;
- (viii) No event has occurred which constitutes, or which with the giving of notice and/or the lapse of time and/or a relevant determination would constitute, a contravention of, or default under, any agreement or instrument by which the Issuer or any of its assets are bound or affected, being a contravention or default which would have a Material Adverse Effect (as defined in item 1.02(v) below);
- (ix) No litigation, arbitration or administrative proceeding or claim which would by itself or together with any other such proceedings or claims have a Material Adverse Effect is presently in progress or pending or, to the best of the knowledge, information and belief of the Issuer, threatened against it or any of its assets;
- (x) All necessary returns have been delivered by or on behalf of the Issuer to the relevant taxation authorities (if any) and the Issuer is not in default in the payment of any taxes;

- (xi) The audited financial statements of the Issuer have been prepared in accordance with approved accounting principles and standards in Malaysia and give a true and fair view of the results of its operations for each respective financial year and the state of the Issuer's affairs as at that date, and all of its material liabilities (actual or contingent);
- (xii) There has been no material adverse change in the financial condition of the Issuer since the date of its latest audited financial statements;
- (xiii) The Transaction Documents are in full force and effect and create valid and binding obligations which are enforceable on and against the Issuer;
- (xiv) All information furnished in connection with the Issuer, to the best of its knowledge and belief, do not contain any untrue statement or omit to state any fact the omission of which makes any statement made therein misleading, and the Issuer is not aware of any material facts or circumstances that have not been disclosed to the Lead Arranger which might, if disclosed, adversely affect the decision of a person considering whether or not to provide finance to the Issuer;
- (xv) Information furnished or to be furnished by the Issuer in connection with the Transaction Documents, information memorandum and application to the SC, do not contain any statement or information that is false or misleading and there is no material omission in respect thereof, and all expressions of expectation, intention, belief and opinion contained therein were honestly made on reasonable grounds after due care and careful enquiry by the relevant entity;
- (xvi) The Issuer has fully disclosed in writing to the Lead Arranger all facts relating to them which they know or should reasonably know and which are material for disclosure to the Lead Arranger in the context of the Sukuk Murabahah;

- (xvii) The Issuer is a going concern on the date of the execution of the Transaction Documents; and
  - (xviii) Such other representations and warranties as may be advised by the Solicitors and mutually agreed by the Issuer and the Lead Arranger or as may be required under the Sukuk Guidelines or the Trust Deeds Guidelines.
- (v) Events of default, dissolution event and enforcement event, where applicable :
- Customary events of default for transactions of this nature which shall include, but not limited to the following:
    - (i) The Issuer fails to pay any amount due (including but not limited to nominal value, profit, fees and other charges) under the Sukuk Murabahah or in accordance with the terms of the Transaction Documents when such payment is due and such failure is not remedied within seven (7) business days;
    - (ii) Failure to meet the requirements with respect to the FSRA Minimum Required Balance and such failure is not remedied within thirty (30) days;
    - (iii) Failure to meet the requirements with respect to the MA 2 Minimum Required Balance and such failure is not remedied within thirty (30) days;
    - (iv) The Issuer is in breach of the FSCR Covenant (as defined in item 1.02(w)(a) below) and such breach is not remedied within twenty one (21) days after the Issuer becomes aware of the breach or upon notification of the breach, whichever is earlier;
    - (v) The Issuer fails to observe or perform any of its obligations under the Transaction Documents or any other document relating to the issue, offer or invitation in respect of the Sukuk Murabahah (other than the obligations described in paragraph (i), (ii), (iii) and (iv) above) which may have a Material Adverse Effect and in the case of a failure capable of remedy, such failure is not remedied

within fourteen (14) days of the occurrence of such breach or such other period as may be agreed by the Trustee, to the satisfaction of the Trustee;

- (vi) Any representation or warranty made or given by the Issuer under any of the Transaction Documents or which is contained in any certificate, document or statement furnished at any time pursuant to the terms of the Sukuk Murabahah and/or any of the Transaction Documents proves to have been incorrect or misleading in any material respect on or as of the date made or given or deemed made or given;
- (vii) Any guarantee or indebtedness of the Issuer becomes due or capable of being declared due before its stated maturity, any guarantee or similar obligations of the Issuer is not discharged at maturity or when called or the Issuer goes into default under, or commits a breach of, any instrument or agreement relating to any such indebtedness, guarantee or other obligation or when any security created for any indebtedness of the Issuer becomes enforceable;
- (viii) The Issuer fails to satisfy any judgement exceeding RM5.0 million passed against it by any court of competent jurisdiction and no appeal against such judgement has been made to any appropriate appellate court within the time prescribed by law or such appeal has been dismissed;
- (ix) Any step is 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 Issuer and the Issuer has not taken any action in good faith to set aside such petition within thirty (30) days from the date of service of such winding up petition or a winding up order has been made against the Issuer;

- (x) The Issuer convenes a meeting of its creditors or proposes or makes any arrangement (including any scheme of arrangement pursuant to Section 176 of the Companies Act, 1965) or composition with or begins negotiations or takes any proceeding or other step 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) An encumbrancer takes possession of, or a trustee, liquidator, receiver or similar officer is appointed in respect of, all or any part of the business or assets of the Issuer, and which in the opinion of the Trustee may have a Material Adverse Effect, or any security interest which may for the time being affect any of its assets becomes enforceable;
- (xii) If there should occur any revocation, withholding, invalidation, modification or termination of any licences, authorisation, permits or approvals that impairs or prejudices the ability of the Issuer to comply with the terms and conditions of the Transaction Documents or any other agreements relating to the issue, offer or invitation in respect of the Sukuk Murabahah;
- (xiii) The Issuer is deemed unable to pay any of its debts (as defined under section 218(2) of the Companies Act, 1965) or becomes unable to pay any of its debts as they fall due or suspend or threaten to suspend making payments with respect to all or any class of its debts;
- (xiv) 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;

- (xv) At any time any of the provisions of the Transaction Documents is or becomes illegal, void, voidable or unenforceable;
- (xvi) 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;
- (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) 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 becomes aware or having been notified by the Trustee of the event or situation or such other remedy period as may be allowed under the Transaction Documents for the relevant event or situation;
- (xix) The Issuer changes or threatens to change the nature or scope of a substantial part of its business, or suspends or threatens to suspend or cease or threatens to cease the operation of 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;
- (xx) The Concession Agreement and Supplemental Concession Agreement are suspended, terminated, illegal, invalid or ceases to be in full force and effect; or

- (xxi) Such other events of default as may be advised by the Solicitors and mutually agreed by the Issuer and the Lead Arranger or as may be required under the Sukuk Guidelines or the Trust Deeds Guidelines.

The Trustee may at its discretion and shall, upon the instruction of the Sukukholders by way of extraordinary resolution, subject to it being indemnified to its satisfaction, issue a notice to the Issuer declaring that an Event of Default has occurred and all sums payable by the Issuer under the Sukuk Murabahah shall become immediately due and payable in full whereupon the Trustee shall be entitled to immediately enforce the security created under the security documents, without further notice to the Issuer.

For the purpose of the principal terms and conditions of the Sukuk Murabahah, "**Material Adverse Effect**" means any material adverse effect on: (i) the business or condition (financial or otherwise) or results of the operations of the Issuer, (ii) the ability of the Issuer to perform any of its obligations under any of the Transaction Documents, (iii) the validity or enforceability of any of the Transaction Documents and/or (iv) the rights or remedies of the Trustee or the Sukukholders thereunder.

(w) Covenants : (a) **Financial Covenant**

The Issuer shall maintain a Finance Service Cover Ratio ("**FSCR**") of at least 1.25 times for so long as any Sukuk Murabahah remains outstanding ("**FSCR Covenant**").

The FSCR is the ratio of Available Cashflow (as defined in item 1.02(w)(a) herein) to the aggregate of all principal obligations and profit payments under the Sukuk Murabahah which are due and payable in the preceding twelve (12) months.

For any applicable twelve (12) months period, the "**Available Cashflow**" shall mean the aggregate of:

- (i) all cash balances and cash in the Designated Accounts at the beginning of the relevant twelve (12) months

period;

- (ii) all income and revenue received by the Issuer under the Concession Agreement and any other receipts of capital or revenue in nature under any contract or agreement; and
- (iii) all distributions, returns and realised gains received by the Issuer,

Less:

- (i) the total amount paid on takaful, operations, maintenance, administration, management, overheads and expenses;
  - (A) taxes paid or such other contributions paid by the Issuer; and
  - (B) capital expenditure incurred and paid by the Issuer (if any).

The FSCR calculations shall be duly confirmed by the Issuer's external auditor based on the latest audited financial statements of the Issuer on an annual basis. For the avoidance of doubt, any double counting shall be disregarded.

If the Issuer is in breach of the FSCR Covenant, the Issuer shall after becoming aware of the breach or upon notification of the breach, whichever is earlier, remedy the breach within a period of twenty one (21) days.

**(b) Positive Covenants**

The Issuer covenants, including but not limited to the following:

- (i) The Issuer shall undertake to act in accordance with the Security Trustee's instructions upon the occurrence of an Event of Default;
- (ii) The Issuer shall notify the Trustee of all claims made against it, shall

defend itself against such claims and shall not settle such claims except with the prior written consent of the Trustee;

- (iii) The Issuer shall obtain and maintain in full force and effect all relevant authorisations, consents, rights, licenses, approvals and permits (governmental and otherwise) and will promptly obtain any further authorisations, consents, rights, licenses, approvals and permits (governmental and otherwise) which is or may become necessary to enable it to (i) own its assets, to carry on its business or (ii) for the Issuer to enter into or perform its obligations under the Transaction Documents or to ensure the validity, enforceability, admissibility in evidence of the obligations of the Issuer or the priority or rights of the Sukukholders under the Transaction Documents, and the Issuer shall comply with the same;
- (iv) The Issuer shall open and maintain each of the required Designated Accounts and the Trustees' Reimbursement Account and pay all amounts into such accounts and make all payments from such accounts as required under the Transaction Documents;
- (v) The Issuer shall exercise or cause to be exercised reasonable diligence in carrying on and operating its business and affairs in a proper and efficient manner, in accordance with sound financial and commercial standards and in accordance with its Memorandum and Articles of Association;
- (vi) The Issuer shall perform all its obligations and comply at all times with the provisions under the Transaction Documents and ensure that it shall immediately notify the Trustee in the event that the Issuer is unable to fulfil or comply with any of

the provisions of the Transaction Documents;

- (vii) The Issuer shall keep proper books and accounts at all times and prepare financial statements in accordance with generally accepted accounting principles and to provide the Trustee and any person appointed it (e.g. auditors) access to such books and accounts to the extent permitted by law;
- (viii) The Issuer shall give to the Trustee any information which the Trustee may reasonably require in order to discharge its duties and obligations under the Trust Deed, relating to the Issuer's affairs to the extent permitted by law;
- (ix) The Issuer shall maintain a paying agent or its equivalent in Malaysia;
- (x) The Issuer shall procure the paying agent to notify the Trustee, through the Facility Agent, if the paying agent does not receive payment from the Issuer on the relevant due dates as required under the Transaction Documents and the terms and conditions of the Sukuk Murabahah;
- (xi) The Issuer shall ensure that the terms in the Trust Deed do not contain any matter which is inconsistent with the provisions of an information memorandum relating to the Sukuk Murabahah;
- (xii) The Issuer shall issue and deliver invoices in respect of the Concession Payments to UiTM in a timely manner and as prescribed under the Concession Agreement;
- (xiii) 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;

- (xiv) The Issuer shall cause all advances made by its directors and/or shareholders and/or related companies including the Junior Sukuk subscribed by its shareholders to be subordinated to the Sukuk Murabahah and no repayment and/or prepayment of such advances and the Junior Sukuk shall be made so long as any Sukuk Murabahah remains outstanding;
- (xv) The Issuer shall cause all Concession Payments (including Availability Charges but excluding Maintenance Charges and the Maintenance Reserve Fund) to be remitted directly into the Revenue Account;
- (xvi) The Issuer shall cause all Maintenance Charges to be remitted directly into the Maintenance Account 1;
- (xvii) the Issuer shall provide the Trustee reasonable access to inspect relevant documents in relation to the maintenance services at all reasonable times provided prior notice has been given to the Issuer;
- (xviii) The Issuer shall ensure that the paid-up capital of UniTapah be maintained at least RM5.0 million; and
- (xix) The Issuer shall deliver to the Security Trustee and RAM Ratings a copy of (a) the quarterly statement of the Designated Accounts and (b) the quarterly maintenance reports.

**(c) Reporting Covenants**

- (i) The Issuer shall immediately notify the Trustee if the Issuer becomes aware:
  - (A) of any Event of Default;

- (B) of any change in its conditions (financial or otherwise) which may have a Material Adverse Effect;
- (C) of the happening of any event that has caused or could cause, one or more of the following:
  - (I) any amount secured or payable under the Sukuk Murabahah to become immediately payable;
  - (II) the Sukuk Murabahah to become immediately enforceable; or
  - (III) any other right or remedy under the terms, provisions or covenants of the Transaction Documents to become immediately enforceable;
- (D) of any circumstances that has occurred that would materially prejudice the Issuer or any security included in or created by the Sukuk Murabahah;
- (E) of any substantial change in the nature of the business of the Issuer;
- (F) of any change in the withholding tax position;
- (G) of any change in the utilisation of proceeds from the Sukuk Murabahah where the information memorandum or any agreement entered into in connection with the issue, offer or invitation which sets out a specific purpose for which proceeds are to be utilised;
- (H) of any litigation, arbitration or administrative proceeding or claim, or the occurrence of any other event, which may by itself or together with any other such proceedings, claims or events

have a Material Adverse Effect and provide the Trustee with such details; and

- (l) of any other matter that may materially prejudice the interest of the Sukukholders;
- (ii) The Issuer shall deliver to the Trustee:
  - (A) within one hundred and eighty (180) days after the end of each of its financial year copies of its audited financial statements; and
  - (B) within ninety (90) days after the end of each half of its financial year copies of its unaudited financial statements,

and any other accounts, report, notice, statement or circular issued to its shareholders, and shall provide for the accounts, report, notice, statement or circular to be circulated by the Trustee at its discretion to the Sukukholders as well as the RAM Ratings; and

- (iii) 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 Transaction Documents and that there does not exist or had not existed, from the first date the Sukuk Murabahah were issued or the date of the previous certificate, as the case may be, any Event of Default, and if such is not the case, to specify the same.

**(d) Negative Covenants**

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

- (i) The Issuer shall not carry out any other business or activities other than the authorised business or activities;



- (ii) The Issuer shall not dissolve its affairs or consolidate with or merge into any other entity;
- (iii) The Issuer shall not reduce its authorised or paid-up and issued share capital;
- (iv) The Issuer shall not sell, transfer, assign or otherwise dispose of all or a substantial portion of its assets, property and undertaking (if any);
- (v) The Issuer shall not add to, delete, vary or amend its Memorandum and Articles of Association in any manner whatsoever save as permitted hereunder;
- (vi) The Issuer shall not make, assume or permit to exist any other loans or grant advances to others or provide or extend any credit or accommodation or provide any guarantee, indemnity or assurance against loss to or for the benefit of any person, enterprise or company or act as surety or otherwise voluntarily assume any liability, whether actual or contingent except for (i) the existing advances made to its related companies or shareholders, (ii) as permitted under the Transaction Documents and (iii) the one-off Internal Transfer to its shareholders and/or ultimate holding company in the amount of not more than RM180.0 million from the proceeds of the Sukuk Murabahah;
- (vii) The Issuer shall not create or permit to exist any encumbrance, mortgage, charge (whether fixed or floating), pledge, lien, assignment by way of security, trust arrangement for the purpose of providing security or other security interest of any kind over any of its assets and the Concession Agreement, including, without limitation, title transfer and/or retention arrangements having a similar effect or any agreement to create any of the foregoing, except for those permitted

and to be agreed upon prior to signing of the Transaction Documents, and liens arising in the ordinary course of operations and by operation of law and not by way of contract;

- (viii) The Issuer shall not cancel, surrender, abandon or otherwise change in a material manner the nature or scope of its existing business nor suspend or threaten to suspend a substantial part of its business in any manner which may have a Material Adverse Effect;
- (ix) The Issuer shall not pay any dividends or bonus issue or make any distribution (be it income or capital in nature) for so long as any Sukuk Murabahah remains outstanding, except for the one-off Internal Transfer of not more than RM180.0 million from the proceeds of the Sukuk Murabahah;

Notwithstanding the above, the Issuer may declare dividends to its shareholders subject to the Issuer not exceeding a distribution finance to equity ratio ("**Distribution F:E Ratio**") of 5.67 times prior to the declaration of such dividends and after the declaration of such dividends. For the avoidance of doubt, any dividends declared by the Issuer shall not be payable for so long as any Sukuk Murabahah remains outstanding.

The Distribution F:E Ratio is the ratio of indebtedness of the Issuer represented by principal amounts of all outstanding Sukuk Murabahah to the Issuer's shareholders' funds including, if any, ordinary share, redeemable preference shares, subordinated shareholders' advances, Junior Sukuk and retained earnings/losses. For the avoidance of doubt, any double counting shall be disregarded.

The calculation of the Distribution F:E Ratio shall be duly confirmed by the Issuer's external auditors and the Issuer's board of directors as and when

such calculations are required to be made under the terms of the Transaction Documents.

- (x) The Issuer shall not make any profit payments for the Junior Sukuk and make any partial or full redemption of the Junior Sukuk for so long as any Sukuk Murabahah remain outstanding;
- (xi) The Issuer shall not do or suffer to be done any act, matter or thing whereby any takaful may be rendered void, voidable or incapable of being effected, maintained or renewed, nor permit any other act to be done whereby any takaful or any provision thereof may be suspended, impaired or defeated;
- (xii) The Issuer shall not incur, assume or permit to exist any indebtedness for borrowed monies, except for the Sukuk Murabahah and Junior Sukuk;
- (xiii) The Issuer shall not terminate or materially amend any material agreement or licence which may have a Material Adverse Effect;
- (xiv) The Issuer shall not enter into a transaction, whether directly or indirectly with interested persons unless (i) such transactions shall be on terms that are no less favourable to the Issuer which could have been obtained in a comparable transaction from persons who are not interested persons; and (ii) with respect to transactions involving an aggregate payment or value equal to or greater than RM5.0 million, the Issuer obtains certification from an independent adviser that the transaction is carried out on fair and reasonable terms; provided that the Issuer certifies to the Trustee that the transaction complies with paragraph (i), that the Issuer has received the certification referred to in paragraph (ii) (where applicable) and that the transaction has been approved by the majority of the board of directors or shareholders in a general meeting as

the case may require;

- (xv) Save for the (i) one-off Internal Transfer in the aggregate amount of RM180.0 million to its shareholders and/or ultimate holding company from the proceeds of the Sukuk Murabahah; (ii) payment of annual management fees to its ultimate holding company; and (iii) any other transactions contemplated hereunder (including the issuance of the Junior Sukuk), the Issuer shall not enter into any other transaction with its shareholders, ultimate holding company and/or related companies;
- (xvi) Except otherwise contemplated in the Transaction Documents, the Issuer shall not enter into any agreement with its shareholders, subsidiaries or associated companies unless such agreement is entered into:
  - (A) in the ordinary course of its business;
  - (B) on an arms-length basis; and
  - (C) will not have a Material Adverse Effect;
- (xvii) The Issuer shall not change the utilisation of proceeds from the Sukuk Murabahah where the information memorandum or any agreement entered into in connection with the issue, offer or invitation sets out a specific purpose for which the proceeds of the Sukuk Murabahah are to be utilised;
- (xviii) The Issuer shall not terminate, revoke, suspend, modify or waive any conditions of the Concession Agreement and Supplemental Concession Agreement or release or vary the liability of any person from time to time liable thereunder;
- (xix) No changes to the shareholding structure of the Issuer resulting in Crest Builder Holdings Berhad not having a

minimum of 51% control (directly or indirectly) over the issuer;

- (xx) The Issuer shall not put to its directors or shareholders any resolution for, or appoint any liquidator for, its winding up or any resolution for the commencement of any bankruptcy or insolvency proceeding with respect to it;
- (xxi) The Issuer shall not open or maintain any account other than the Designated Accounts, Trustees' Reimbursement Account and Maintenance Reserve Fund Account (as defined in item 1.02(y)(xvi) below); and
- (xxii) The Issuer shall not amend, vary, replace or terminate the Concession Agreement and the Supplemental Concession Agreement; without the prior written consent of the Trustee (acting on behalf of the Sukukholders), save for any amendments as may be required by the Government or due to any regulatory or legal requirements whereby the consent of the Trustee shall not be required but the Issuer shall immediately notify the Trustee of such changes/amendments.

**(e) Other Covenants**

Such other covenants as may be advised by the Solicitors and mutually agreed by the Issuer and the Lead Arranger or as may be required under the Sukuk Guidelines or the Trust Deeds Guidelines.

- (x) Provisions on buy-back and early redemption of sukuk : The Issuer or any of its subsidiaries or its agent(s) or any interested person of the Issuer, which includes the directors, major shareholders and chief executive officer, may at any time purchase the outstanding Sukuk Murabahah at any price in the open market or by private treaty. The Sukuk Murabahah purchased by the Issuer or by its subsidiaries or by agent(s) who is acting for the purchase shall be cancelled and may not be resold or reissued.

Any Sukuk Murabahah held by any interested person of the Issuer (who shall include directors, major shareholders and chief executive officer) shall not entitle such interested person to vote at any of the meetings of the Sukukholders and will not be deemed to be outstanding for the purpose of determining the total votes exercisable by the Sukukholders whenever such determination is required under the Transaction Documents.

The Issuer shall not early-redeem any Sukuk Murabahah prior to its maturity.

(y) Other principal terms and conditions for the proposal:

- (i) Trustees' Reimbursement Account : The Issuer shall open and maintain an account designated as "Trustees' Reimbursement Account" (as required under the SC's Trust Deeds Guidelines revised on 12 July 2011 and effective on 12 August 2011 ("**Trust Deeds Guidelines**")), in which a sum of RM30,000.00 from the monies received by the Issuer when the Sukuk Murabahah are issued are to be deposited ("**Trustees' Reimbursement Account**").

The Trustees' Reimbursement Account shall be solely operated by the Trustee and the monies shall only be used strictly by the Trustee in carrying its duties in relation to the occurrence of events of default or enforcement events which are provided in the Trust Deed. The sum of RM30,000.00 in the Trustees' Reimbursement Account shall be maintained for so long as any Sukuk Murabahah remains outstanding.

- (ii) Issue price : The Sukuk Murabahah may be issued, at a premium, at par or at a discount and the issue price shall be calculated in accordance with the MyClear Procedures.

- (iii) Form and denomination : The Sukuk Murabahah shall be issued in accordance with the MyClear Rules and Procedures applicable from time to time.

Each tranche of the Sukuk Murabahah shall be represented by a global certificate to be deposited with BNM, and is exchanged for definitive bearer form only in certain limited circumstances. The denomination of the Sukuk Murabahah shall be RM1,000,000.00 or in multiples of RM1,000,000.00 at the time of issuance or such other denomination as may be mutually agreed between the Issuer and

the Lead Arranger (unless required to be in such other denominations in accordance with the MyClear Rules and Procedures and/or any other relevant guidelines).

(iv) Redemption : The Sukuk Murabahah shall be redeemed at the price of 100% of their nominal amount upon maturity.

(v) Status of the sukuk : The Sukuk Murabahah will, upon issue, constitute direct, secured, unconditional and unsubordinated obligations of the Issuer and shall at all times, rank *pari passu*, without discrimination, preference or priority amongst themselves, rank at least *pari passu* with all other present and future unsecured and unsubordinated obligations of the Issuer, and, in respect of assets subject to security created by the Transaction Documents, in priority to all other present and future unsecured and unsubordinated obligations of the Issuer, except for those obligations preferred by mandatory provisions under applicable Malaysian laws.

(vi) Documentation : Documentation for the Sukuk Murabahah include *inter-alia* the following documents:

- (a) Trust Deed;
- (b) Debenture;
- (c) Subscription Agreement;
- (d) Assignment and Charge over the Designated Accounts;
- (e) Sukuk Murabahah; and
- (f) Such other relevant documentation which may be advised by the Solicitors, including the Islamic documents.

(the above documents are collectively referred to as the “**Transaction Documents**”)

(vii) Permitted Investments : The funds standing to the credit of the Designated Accounts may be placed in permitted investments limited to the following (“**Permitted Investments**”) which shall comprise investment products approved by the SAC, BNM’s Shariah Advisory Council and/or other recognised Shariah authorities:

- (a) Accounts maintained with a Shariah compliant financial institution with a minimum credit rating of A3/P1 and/or A+/MARC-1;
- (b) Money market instruments of a Shariah

compliant financial institution with a minimum credit rating of A3/P1 and/or A+/MARC-1; and

- (c) Islamic treasury bills, Islamic money market instruments, and other Islamic instruments or sukuk issued by BNM or the Government,

subject to the following:

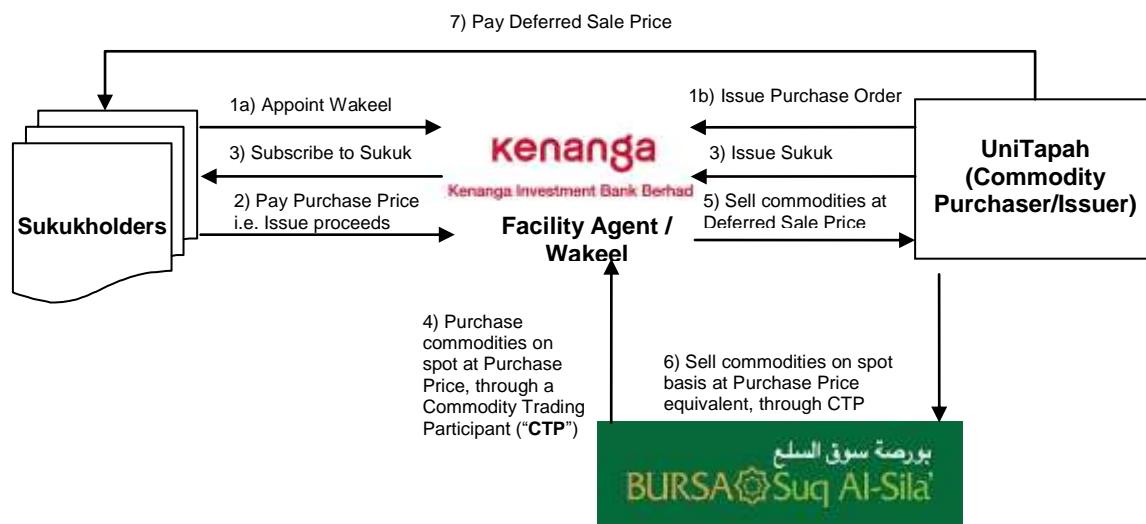
- (i) The maturity of the Permitted Investments in securities shall fall on a date, which is at least five (5) business days before the next profit payment date or the maturity date, whichever is earlier. However, the maturity of the Permitted Investment in money market instruments of a financial institution and accounts maintained with financial institutions shall fall on a date, which is at least two (2) business days before the next profit payment date or the maturity date, whichever is earlier save that this condition shall not apply to any placement of money with the Facility Agent; and
  - (ii) The Permitted Investments being denominated in Ringgit Malaysia.
- (viii) Expenses : All costs, charges and expenses including but not limited to trustee and security trustee fee, legal and other professional fees, abortive fees, rating fees, stamp duties (if any), penalties, SC and BNM fees, and other incidental costs, charges and expenses pertaining and/or related to the issuance of the Sukuk Murabahah shall be borne by the Issuer, even if the transaction contemplated herein is aborted for any reason whatsoever.
- (ix) Other conditions : The Sukuk Murabahah shall at all times be governed by the guidelines issued and to be issued from time to time by the SC, BNM and MyClear over matters pertaining to the Sukuk Murabahah.
- (x) Taxation : All payments by the Issuer in connection with the Sukuk Murabahah shall be made free and clear of all and without deductions for all present and future taxes, duties, levies or withholdings of whatever nature unless such withholding or deduction is required by law, in which event the Issuer shall be required to make payment of such additional amount so that the payee would receive the full amount which the payee would have received if no



such withholding or deduction is made.

- (xi) Jurisdiction : The Issuer shall unconditionally and irrevocably submit to the non-exclusive jurisdictions of the courts of Malaysia.
- (xii) Governing law : The Sukuk Murabahah and the Transaction Documents shall be governed by the laws of Malaysia.
- (xiii) Ta'widh (Compensation) : In the event of any delay in payments of the Deferred Sale Price, the Issuer shall pay the compensation on such delayed payments at the rate and manner prescribed by the SAC from time to time in accordance with Shariah.
- (xiv) Certificate of Acceptance : Certificate issued by UiTM to UniTapah dated 18 January 2014 confirming the acceptance of the availability of the facilities and infrastructure in accordance with the Concession Agreement.
- (xv) Maintenance Charges : Amount payable to UniTapah by UiTM for the provision of the maintenance works as stipulated in Concession Agreement.
- (xvi) Maintenance Reserve Fund : A sinking fund established which shall be jointly managed and controlled and shall be held in a separate bank account opened in joints names of UiTM and UniTapah as stipulated in the Concession Agreement ("**Maintenance Reserve Fund Account**").
- (xvii) Availability Charges : Sub-lease rental payable to the UniTapah by UiTM for the availability of the facilities and infrastructure as stipulated in the Concession Agreement.

**APPENDIX 1**



<p><b>Step 1</b></p>	<p>1a. The investor(s) (“<b>Sukukholders</b>”) shall appoint the Facility Agent to act as the buying and selling agent (“<b>Wakeel</b>”) of Shariah-compliant commodities (“<b>Commodities</b>”).</p> <p>1b. Subsequently, UniTapah (“<b>Issuer</b>”) shall issue a Purchase Order (“<b>Purchase Order</b>”) to the Sukukholders through the Wakeel for the purchase of the Commodities. The Purchase Order constitutes a unilateral binding promise (<i>Wa’d Mulzim</i>) by the Issuer to purchase the commodities at a sale price to be paid on a deferred payment basis (“<b>Deferred Sale Price</b>”). The Deferred Sale Price represents the purchase price (“<b>Purchase Price</b>”) and the profit portion to be agreed between the Issuer and the Wakeel.</p>
<p><b>Step 2</b></p>	<p>Pursuant to the Purchase Order from the Issuer, the Sukukholders shall pay to the Wakeel the Purchase Price of the Commodities which is equivalent to the amount to be disbursed under the Sukuk Murabahah.</p>
<p><b>Step 3</b></p>	<p>The Issuer shall issue, and the Sukukholders shall subscribe, to the Sukuk Murabahah issued by the Issuer to evidence the Sukukholders’ ownership in the Commodities and subsequently represent the Sukukholders’ entitlement to receive the Deferred Sale Price once the Commodities are sold to the Issuer.</p>
<p><b>Step 4</b></p>	<p>Upon receipt of the Purchase Price, the Wakeel, on behalf of the Sukukholders shall then purchase the Commodities from commodity vendor(s) in the Bursa Suq Al-Sila’ commodity market, through a Commodity Trading Participant (“<b>CTP</b>”), who will facilitate the buying and selling of the Commodities on a spot basis. Bursa Suq Al-Sila’ is a commodity trading platform with multiple commodity vendors.</p>

<b>Step 5</b>	Upon completion of the purchase, the Wakeel, on behalf of the Sukukholders shall sell the Commodities to the Issuer at the Deferred Sale Price.
<b>Step 6</b>	Subsequently, UniTapah shall sell the Commodities via the same CTP to Bursa Malaysia Islamic Services Sdn Bhd on a spot basis at an amount equivalent to the Purchase Price.
<b>Step 7</b>	UniTapah shall pay the Deferred Sale Price via the Wakeel to the Sukukholders.

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