

Bank Islam Malaysia Berhad
Subordinated Sukuk Murabahah Programme
Principal Terms and Conditions

1. BACKGROUND INFORMATION

- (a) **Name** : Bank Islam Malaysia Berhad ("**Bank Islam**" or "**Issuer**")
- (b) **Address** : 32nd Floor, Menara Bank Islam
22, Jalan Perak
50450 Kuala Lumpur
- (c) **Business registration number** : 98127-X
- (d) **Date and place of incorporation** : 1 March 1983 / Malaysia
- (e) **Date of listing** : Not applicable.
- (f) **Status on residence** : Resident controlled company.
- (g) **Principal activities** : Islamic banking business and the provision of related services.
- (h) **Board of directors as at 30 June 2014** : (i) Datuk Zamani Abdul Ghani
(ii) Dato' Sri Zukri Samat
(iii) Tan Sri Ismee Ismail
(iv) Prof. Emeritus Tan Sri Dato' Dr. Abdul Shukor Husin
(v) Johan Abdullah
(vi) Zahari @ Mohd Zin Idris
(vii) Datuk Zaiton Mohd Hassan
(viii) Mohamed Ridza Mohamed Abdulla

- (i) **Structure of shareholdings and names of all substantial shareholders as at 30 June 2014** :

Shareholder	Shareholding	
	No. of Shares	%
BIMB Holdings Berhad	2,298,165,336	100

- (j) **Authorised, issued and paid-up capital as at 30 June 2014** :

Authorised Share Capital

RM2,540,000,000 comprising 2,540,000,000 ordinary shares of RM1.00 each.

Paid-up Share Capital

RM2,298,165,336 comprising 2,298,165,336

ordinary shares of RM1.00 each*.

Note:

- * On 23 July 2014, the Issuer's Board of Directors has proposed a single tier interim dividend of approximately 5.26 sen per ordinary share for the six months ended 30 June 2014, amounting to RM120.884 million. It has also proposed that 50% of the proposed dividend amounting to RM60.442 million be reinvested via subscription of 21,741,664 new ordinary shares of RM1.00 each at RM2.78 per share under a Dividend Reinvestment Plan, which will increase the Issued and Paid Up Share Capital of the Issuer to RM RM2,319,907,000 comprising 2,319,907,000 ordinary shares of RM1.00 each. The aforesaid proposal has been submitted to BNM and is currently pending its approval.

(k) 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 Not applicable as the Issuer is not a listed company.

the stock
exchange, for
the past five
years prior to
the date of
application.

[the remainder of this page has been intentionally left blank]

2. PRINCIPAL TERMS AND CONDITIONS

(a) Names of parties involved in the proposal, where applicable

- | | | |
|---------------|---|---|
| (i) | Principal adviser | : Bank Islam |
| (ii) | Lead arranger | : Bank Islam |
| (iii) | Co-arranger | : Not applicable. |
| (iv) | Solicitor | : Messrs Kadir Andri & Partners |
| (v) | Financial adviser | : Not applicable. |
| (vi) | Technical adviser | : Not applicable. |
| (vii) | Sukuk trustee | : Malaysian Trustees Berhad |
| (viii) | Shariah adviser | : Bank Islam |
| (ix) | Guarantor | : Not applicable. |
| (x) | Valuer | : Not applicable. |
| (xi) | Facility agent | : Bank Islam |
| (xii) | Primary subscriber (under a bought deal arrangement) and amount subscribed | : Not applicable. |
| (xiii) | Underwriter and amount underwritten | : Not applicable. |
| (xiv) | Central depository | : Bank Negara Malaysia (" BNM ") |
| (xv) | Paying agent | : BNM |
| (xvi) | Reporting accountant | : Not applicable. |

(xvii)	Calculation agent	: Not applicable.
(xviii)	Others	: Not applicable.
(b)	Islamic principles used	: Murabahah (via a Tawarruq arrangement(s)).
(c)	Facility description	: A subordinated sukuk (" Subordinated Sukuk Murabahah ") issuance programme of up to RM1.0 billion in nominal value (" Subordinated Sukuk Murabahah Programme ") under the Shariah principle of Murabahah (via a Tawarruq arrangement(s)). Holders of the Subordinated Sukuk Murabahah shall be referred to as " Sukukholders ".

The Subordinated Sukuk Murabahah shall qualify as Tier 2 capital of the Issuer in compliance with BNM's Capital Adequacy Framework for Islamic Banks (Capital Components) ("**CAFIB**") issued on 28 November 2012.

The issuance of each tranche of the Subordinated Sukuk Murabahah under the Subordinated Sukuk Murabahah Programme shall be effected as follows:

1. Under an agency agreement ("**Agency Agreement 1**"), the Sukuk Trustee, for and on behalf of the Sukukholders, shall appoint the Facility Agent to act as its buying and selling agent ("**Wakil**") for the purchase and sale of the Commodities (as defined under 2(d)) from time to time.
2. Under another agency agreement ("**Agency Agreement 2**"), the Issuer shall appoint the Facility Agent to act as its selling agent for the sale of the Commodities from time to time.
3. Pursuant to a commodity murabahah agreement ("**Commodity Murabahah Agreement**"), the Issuer shall request the Wakil to purchase the Commodities by issuing a Form of Transaction Request ("**FTR**") to the Wakil. In the FTR, the Issuer shall irrevocably undertake to purchase the Commodities as stipulated therein from the Wakil, at a selling price ("**Selling Price**") to

be paid on a deferred payment basis. The Selling Price comprises the Purchase Price (as defined below) and the profit portion, based on the yield-to-maturity for the relevant Subordinated Sukuk Murabahah agreed between the Issuer and the Wakil (on behalf of the Sukukholders) at the point of issuance.

4. Pursuant to the FTR issued by the Issuer to the Wakil, the Sukukholders shall pay the purchase price ("**Purchase Price**") of the Commodities to the Wakil, which shall be equivalent to the proceeds of the relevant Subordinated Sukuk Murabahah.
5. Upon receipt of the Purchase Price from the Sukukholders, the Wakil shall then purchase the Commodities from commodity sellers on spot basis.
6. Upon completion of the purchase, the Wakil shall sell the Commodities to the Issuer at the Selling Price on deferred payment basis and the Wakil shall permit the Issuer to take immediate constructive possession of the Commodities.
7. The Issuer shall issue and the Sukukholders shall subscribe to the relevant Subordinated Sukuk Murabahah which will evidence the Sukukholders' entitlement to receive the Selling Price.
8. Subsequently, the Facility Agent, on behalf of the Issuer, shall sell the Commodities to commodity buyers on spot basis at an amount equivalent to the Purchase Price. The proceeds from the sale of the Commodities shall be utilised by the Issuer for the purposes as stipulated in 2(m).
9. Upon conclusion of the sale of the Commodities to the commodity buyers, the Facility Agent shall issue the Confirmation of Transactions to the Issuer (upon request).

During the tenure of the Subordinated Sukuk Murabahah, the Issuer (as part of its obligation to pay the Selling Price) shall make periodic

payments towards the profit portion of the Selling Price to the Sukukholders ("**Periodic Profit Payment**") of an amount calculated based on the Profit Rate (as defined under 2(i)) on each Periodic Profit Payment Date (as defined under 2(j)).

On the Maturity Date (as defined under 2(y)(2)) or on the date of declaration of an Event of Default (as defined under 2(v)) or on the date of early redemption of the relevant Subordinated Sukuk Murabahah pursuant to a Call Option (as defined under 2(g)) or Regulatory Event (as defined under 2(x)(3)) or Tax Event (as defined under 2(x)(4)) ("**Early Redemption Events**"), subject to the provisions under 2(v) and 2(x), the Issuer shall pay all amounts outstanding under the Selling Price as final settlement of the same (subject to Ibra' (as defined under 2(y)(12)) where applicable) upon which the relevant Subordinated Sukuk Murabahah shall be cancelled.

Please refer to the Annexure for the illustrative diagram of the Subordinated Sukuk Murabahah transaction structure.

(d) **Identified assets** : Shariah-compliant commodities (excluding ribawi items in the category of medium of exchange such as currency, gold and silver) ("**Commodities**").

(e) **Purchase and selling price/rental** : **Purchase Price**

The Purchase Price in relation to each purchase of the Commodities shall be equal to the proceeds of the relevant Subordinated Sukuk Murabahah. The Purchase Price shall comply with the Securities Commission ("**SC**")'s Shariah Advisory Council ("**SAC**") asset pricing requirements as provided in the SC's Guidelines on Sukuk effective 8 January 2014 (as may be amended from time to time) ("**Guidelines on Sukuk**").

Selling Price

The Selling Price shall comprise the Purchase Price plus the aggregate Periodic Profit Payments which shall be determined based on the yield-to-maturity for the relevant

Subordinated Sukuk Murabahah agreed between the Issuer and the Wakil (on behalf of the Sukukholders) prior to the sale of the Commodities to the Issuer to be evidenced by the issue of the relevant Subordinated Sukuk Murabahah, and shall be on a deferred payment basis.

(f) **Issue/sukuk programme size** : The aggregate outstanding nominal value of the Subordinated Sukuk Murabahah under the Subordinated Sukuk Murabahah Programme shall not at any point in time exceed RM1.0 billion.

(g) **Tenure of issue/sukuk programme** : **Subordinated Sukuk Murabahah Programme**
The tenure of the Subordinated Sukuk Murabahah Programme shall be up to thirty (30) years from the date of first issue under the Subordinated Sukuk Murabahah Programme.

Subordinated Sukuk Murabahah

The tenure of each issuance of the Subordinated Sukuk Murabahah shall be not less than five (5) years and up to thirty (30) years from the issue date, subject to the Call Option, if applicable, and provided that the Subordinated Sukuk Murabahah mature on or prior to the expiry of the tenure of the Subordinated Sukuk Murabahah Programme.

Call Option

Each tranche of the Subordinated Sukuk Murabahah may have a call option ("**Call Option**") to allow the Issuer, at its option, to redeem the relevant tranche of the Subordinated Sukuk Murabahah (in whole or in part) on any Periodic Profit Payment Date after a minimum period of five (5) years from the issue date of that tranche ("**Call Date**"), subject to the provisions under 2(x)(2).

(h) **Availability period of sukuk programme** : The period from compliance (or waiver, as the case may be) of all conditions precedent for the establishment of the Subordinated Sukuk Murabahah Programme to the satisfaction of the Lead Arranger up to twenty five (25) years from the date of first issue under the Subordinated Sukuk Murabahah Programme.

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

- (i) **Profit/coupon/rental rate** : The profit rate of the Subordinated Sukuk Murabahah shall be determined prior to the issue date of each tranche of the Subordinated Sukuk Murabahah ("**Profit Rate**"). The Profit Rate shall be applicable throughout the tenure of each tranche of the Subordinated Sukuk Murabahah.

For avoidance of doubt, there is no step-up profit rate after the Call Date of the Subordinated Sukuk Murabahah, in the event the Call Option is not exercised by the Issuer or any other incentives for the Issuer to redeem the Subordinated Sukuk Murabahah prior to its maturity.

- (j) **Profit/coupon/rental payment frequency** : The Sukukholders shall receive Periodic Profit Payment at the Profit Rate semi-annually in arrears ("**Periodic Profit Payment Date**") with the first payment commencing six (6) months from the issue date of the relevant tranche of the Subordinated Sukuk Murabahah and the last ending on the Maturity Date or on the date of early redemption of the relevant tranche of the Subordinated Sukuk Murabahah, whichever is earlier.

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

- (l) **Security/collateral** : Unsecured.

- (m) **Details on utilisation of proceeds by issuer** : The proceeds from the Subordinated Sukuk Murabahah shall be utilised by the Issuer to finance its Islamic banking activities, working capital requirements and other corporate purposes and/or, if required, to redeem any outstanding Subordinated Sukuk Murabahah issued under the Subordinated Sukuk Murabahah Programme.

In any case, all utilisation of proceeds under the Subordinated Sukuk Murabahah Programme shall be Shariah compliant.

- (n) **Sinking fund and designated accounts** : Not applicable.

(o) **Rating**

- **Credit ratings assigned** : A₁ (final)
- **Name of credit rating agencies** : RAM Rating Services Berhad ("**RAM Ratings**").

(p) **Mode of issue**

: The Subordinated Sukuk Murabahah may be issued via direct/private placement or book building on a best effort basis without prospectus.

The Subordinated Sukuk Murabahah shall be issued in accordance with (1) the Participation and Operation Rules for Payments and Securities Services issued by Malaysian Electronic Clearing Corporation Sdn Bhd ("**MyClear**") ("**MyClear Rules**") and (2) the Operational Procedures for Securities Services and the Operational Procedures for Real Time Electronic Transfer of Funds and Securities (RENTAS) (collectively the "**MyClear Procedures**"), or their replacement thereof applicable from time to time (collectively the "**MyClear Rules and Procedures**").

(q) **Selling restriction, including tradability**

: The Subordinated Sukuk Murabahah are tradable and transferable subject to the Selling Restrictions below.

Selling Restrictions at Issuance

The Subordinated Sukuk Murabahah shall not be offered, sold, transferred or otherwise disposed, directly or indirectly, other than to persons to whom an offer or invitation to subscribe to the Subordinated Sukuk Murabahah would fall within any of the categories of persons or in the circumstances specified under:

- (i) Schedule 6 (or Section 229(1)(b)); or
- (ii) Schedule 7 (or Section 230(1)(b)); read together with
- (iii) Schedule 9 (or Section 257(3)),

of the Capital Markets and Services Act, 2007, as amended from time to time ("**CMSA**").

Selling Restrictions after Issuance

The Subordinated Sukuk Murabahah shall not be offered, sold, transferred or otherwise disposed, directly or indirectly, other than to persons to whom an offer or invitation to subscribe to the Subordinated Sukuk Murabahah would fall within any of the categories of persons or in the circumstances specified under:

- (i) Schedule 6 (or Section 229(1)(b)); read together with
- (ii) Schedule 9 (or Section 257(3)),

of the CMSA.

- | | | |
|--|---|--|
| (r) Listing status and types of listing | : | The Subordinated Sukuk Murabahah shall not be listed on any 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 | : | BNM's approval for the establishment of the Subordinated Sukuk Murabahah Programme and the issuance of the Subordinated Sukuk Murabahah thereunder was obtained on 10 June 2014. |
| (t) Conditions precedent | : | Conditions precedent usual and customary for an issuance of such nature, including but not limited to the following, all of which shall be in form and substance acceptable to the Lead Arranger:- |

A. Main Documentation

- (i) The Transaction Documents (as defined under 2(y)(16)) shall have been signed and, where applicable, stamped or endorsed as exempted from stamp duty under the relevant legislation and presented for registration.

B. The Issuer

- (i) Certified true copies of the Certificate of Incorporation and the Memorandum and Articles of Association of the Issuer;
- (ii) Certified true copies of the latest Forms 24, 44 and 49 of the Issuer;

- (iii) A certified true copy of a board resolution of the Issuer, authorising, amongst others, the establishment of the Subordinated Sukuk Murabahah Programme and the execution of the Transaction Documents;
- (iv) A list of the Issuer's authorised signatories and their respective specimen signatures;
- (v) A report of the relevant company search of the Issuer; and
- (vi) A report of the relevant winding up search or the relevant statutory declaration of the Issuer signed by a director of the Issuer declaring that the Issuer is not wound up and that no winding up petition has been presented against the Issuer.

C. General

- (i) The approval from SC for the establishment of the Subordinated Sukuk Murabahah Programme and, where applicable, all other regulatory authorities;
- (ii) The approval from BNM for the establishment of the Subordinated Sukuk Murabahah Programme;
- (iii) The Subordinated Sukuk Murabahah Programme has been accorded a minimum long-term rating of A₁ or its equivalent by the rating agency.

Where a tranche of the Subordinated Sukuk Murabahah is to be recognised as capital in the consolidated total capital of BIMB Holdings Berhad group, which shall be decided by the Issuer prior to the issuance of such tranche ("**Consolidated Capital Recognition Option**"), it is a condition precedent to the issuance of such tranche that the Issuer has procured a written confirmation from the rating agency that the rating assigned to such tranche or the rating of the Subordinated Sukuk Murabahah Programme (where applicable) remains unchanged from the prevailing rating of the Subordinated Sukuk Murabahah Programme notwithstanding

the adoption of the Consolidated Capital Recognition Option in respect of such tranche, which confirmation shall be in form and substance acceptable to the Facility Agent;

- (iv) The approval and confirmation from the Shariah Adviser that the structure and mechanism together with the Transaction Documents of the Subordinated Sukuk Murabahah Programme are in compliance with Shariah principles;
 - (v) The opening and deposit of the required sum into the Sukuk Trustee's Reimbursement Account (as defined under 2(y)(13));
 - (vi) Satisfactory legal opinion from the Solicitor with respect to, amongst others, the legality, validity and enforceability of the Transaction Documents and a confirmation that all conditions precedent have been fulfilled; and
 - (vii) Such other conditions precedent as may be advised by the Solicitor and agreed by the Issuer and the Lead Arranger to be incorporated in the Transaction Documents.
- (u) **Representations and warranties** : Representations and warranties usual and customary for an issuance of such nature, including but not limited to the following:-
- (i) The Issuer (a) has been duly incorporated and validly exists under the Companies Act 1965 of Malaysia, (b) has full power and authority to engage in the business of Islamic banking in Malaysia and each other jurisdiction where it is so engaged and otherwise to own its properties and conduct its business, and (c) is duly qualified to transact business under the laws of Malaysia and each other jurisdiction in which it owns or leases properties, or conduct any business, so as to require such qualification, other than where the failure to be so qualified would not have a Material Adverse Effect (as defined under 2(y)(17));

- (ii) The establishment of the Subordinated Sukuk Murabahah Programme has been duly authorised, and when issued and delivered pursuant to the Transaction Documents, shall have been duly executed, authenticated, issued and delivered and shall constitute valid and binding obligations of the Issuer entitled to the benefits provided by the Transaction Documents;
- (iii) No event has occurred which would constitute an Event of Default under the Subordinated Sukuk Murabahah Programme or which with the giving of notice or the lapse of time or other condition would constitute an Event of Default;
- (iv) The Issuer is not in breach of any provisions of any law or regulations governing any approvals, consents, authorisation and/or any licenses and, after due and careful consideration, the Issuer is not aware of any reason that any approval, consent, authorisation and/or license should be withdrawn or cancelled or any conditions attached thereto adversely altered, other than where the absence of such approval, consent, authorisation and/or license would not have a Material Adverse Effect;
- (v) There are no legal or governmental proceedings pending or, to the knowledge of the Issuer, threatened, to which the Issuer is or may be a party or to which any property or asset of the Issuer is or may be the subject which, if determined adversely to the Issuer, could individually or in the aggregate reasonably be expected to have a Material Adverse Effect;
- (vi) The Issuer has all licenses, franchises, permits, authorisations, approvals, orders and other concessions of and from all governmental and regulatory officials and bodies that are required to own or lease its properties and conduct its business, other than where the failure to obtain such licenses, franchises, permits,

authorisations, approvals, orders and other concessions would not have a Material Adverse Effect;

- (vii) The Issuer's audited financial statements are prepared in accordance with applicable approved accounting principles and standards in Malaysia and fairly represent the Issuer's financial position as at the date of the financial statements;
 - (viii) The Issuer and its obligations under the Transaction Documents and the Subordinated Sukuk Murabahah are subject to commercial law and to suit in Malaysia and neither the Issuer nor any of its properties, assets or revenues has any right of immunity, on the grounds of sovereignty or otherwise, from any legal action, suit or proceeding, from the giving of any relief in any court, from set off or counterclaim, from the jurisdiction of any court, or other legal process or proceeding for the giving of any relief or for the enforcement of judgment, with respect to its obligations, liabilities or any other matter under or arising out of or in connection with the Transaction Documents and the Subordinated Sukuk Murabahah; and
 - (ix) Such other representations and warranties as may be advised by the Solicitor and agreed by the Issuer to be incorporated in the Transaction Documents.
- (v) **Events of default, dissolution event and enforcement event, where applicable** : The events of default ("**Events of Default**") shall comprise the following:-
- (i) The Issuer defaults in payment of any principal or profit or any other amount under the Subordinated Sukuk Murabahah and such default continues for a period of seven (7) business days; or
 - (ii) An order is made for the winding-up of the Issuer and such order is not stayed or set aside within thirty (30) days of such order being made or, where so stayed, such stay lapses, or an effective resolution is passed for the winding-up of the Issuer except where such order is made or such

resolution is passed for the purpose of a reconstruction or amalgamation the terms of which have been approved by the Sukukholders by way of a special resolution.

Upon the occurrence of Event of Default (i) above, subject to the terms of the Trust Deed, the Sukuk Trustee may or shall (if directed to do so by a special resolution of the Sukukholders) institute proceedings to enforce the payment obligations under the relevant tranche of the Subordinated Sukuk Murabahah and may institute proceedings in Malaysia for the winding-up of the Issuer, provided that neither the Sukuk Trustee nor any of the Sukukholders of that tranche of the Subordinated Sukuk Murabahah shall have the right to accelerate payment of that tranche of the Subordinated Sukuk Murabahah in the case of such default in the payment of amount owing under that tranche of the Subordinated Sukuk Murabahah or any default in the performance of any condition, provision or covenant under that tranche of the Subordinated Sukuk Murabahah or the Trust Deed.

Upon the occurrence of Event of Default (ii) above, subject to the terms of the Trust Deed, the Sukuk Trustee may or shall (if directed to do so by a special resolution of the Sukukholders) declare (by giving written notice to the Issuer) that the Subordinated Sukuk Murabahah together with all other sums payable under the Subordinated Sukuk Murabahah shall immediately become due and payable notwithstanding the stated maturity of the Subordinated Sukuk Murabahah.

For avoidance of doubt, the occurrence of Event of Default (i) above for any tranche of the Subordinated Sukuk Murabahah will not trigger an Event of Default for other tranches of the Subordinated Sukuk Murabahah outstanding. However, the occurrence of Event of Default (ii) above will trigger an Event of Default for all tranches of the Subordinated Sukuk Murabahah outstanding.

For avoidance of doubt, any payment by the Issuer upon the occurrence of an Event of

Default shall be subject to the provisions of CAFIB.

(w) Covenants

- : Positive covenants usual and customary for an issuance of such nature and/or which are required in order to comply with the SC's Trust Deeds Guidelines, including but not limited to the following:
- (i) At all times comply with the provisions of the Trust Deed and the terms and conditions of the Transaction Documents;
 - (ii) Redeem in full all outstanding Subordinated Sukuk Murabahah in accordance with the terms and conditions of the Transaction Documents;
 - (iii) At all times provide the Sukuk Trustee such information as it may reasonably require in order to discharge its duties and obligations as trustee to the extent as permitted by law;
 - (iv) At all times maintain a paying agent in Malaysia;
 - (v) Procure that the paying agent shall notify the Sukuk Trustee in the event that the paying agent does not receive payment from the Issuer on the due dates as required under the Transaction Documents;
 - (vi) At all times keep proper books and accounts and to provide the Sukuk Trustee and any person appointed by it access to such books and accounts to the extent permitted by law and at all times 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 licences are obtained and maintained;
 - (vii) Notify the Sukuk Trustee in the event that the Issuer becomes aware of the following:
 - (a) any Event of Default or that such other right or remedy under the terms, provisions and covenants of the

Subordinated Sukuk Murabahah and Trust Deed have become immediately enforceable;

- (b) any circumstance that has occurred that would materially prejudice the Issuer or any security included in or created by the Subordinated Sukuk Murabahah Programme or the Trust Deed;
 - (c) any substantial change in the nature of the business of the Issuer;
 - (d) any change in the utilisation of proceeds from the Subordinated Sukuk Murabahah other than for the purpose stipulated in the Transaction Documents;
 - (e) any change in the withholding tax position of the Issuer; and
 - (f) any other matter that may materially prejudice the interest of the Sukukholders.
- (viii) Deliver to the Sukuk Trustee a copy of its annual audited accounts within 180 days after the end of each financial year, and any other accounts, reports, notices, statements or circulars issued to shareholders;
- (ix) Deliver to the Sukuk Trustee annually a certificate that the Issuer has complied with its obligations under the Trust Deed and the terms and conditions of the Subordinated Sukuk Murabahah Programme and that there did not exist or had not existed, from the date the first tranche of the Subordinated Sukuk Murabahah were issued or from the date of the last certificate, any Event of Default and if such is not the case, to specify the same; and
- (x) Such other positive covenants as may be advised by the Solicitor and agreed by the Issuer to be incorporated in the Transaction Documents.

There shall be no restrictive covenants applicable to the Subordinated Sukuk Murabahah.

(x) Provisions on buy-back and early redemption of sukuk:

- (1) Purchase and cancellation** : Subject to the prior written approval from BNM (but which approval shall not be required for a purchase done in the ordinary course of business), the Issuer, the Issuer's subsidiaries or the Issuer's related corporations may at any time purchase the Subordinated Sukuk Murabahah at any price in the open market or by private treaty provided that a Non-Viability Event (as defined under 2(y)(10)) has not occurred prior to the date of such purchase. If purchase is made by tender, such tender must (subject to any applicable rules and regulations) be made available to all Sukukholders equally.

Subject to the prior written approval from BNM (but which approval shall not be required for a purchase done in the ordinary course of business), the Subordinated Sukuk Murabahah purchased by the Issuer or the Issuer's subsidiaries or by agents of the Issuer shall be cancelled and shall not be resold. The Subordinated Sukuk Murabahah purchased by the Issuer's related corporations (other than the Issuer's subsidiaries) or any interested person of the Issuer, which includes the directors, major shareholders and chief executive officer, is not required to be cancelled but such related corporations or interested persons shall not be entitled to vote under the terms of the Subordinated Sukuk Murabahah subject to any exceptions in the Trust Deeds Guidelines.

For the purpose of this clause, the term "ordinary course of business" includes those activities performed by the Issuer, the Issuer's subsidiaries or the Issuer's related corporations for third parties (such as clients of the Issuer, the Issuer's subsidiaries' and the Issuer's related corporations) and excludes those performed for the own account of the Issuer, the Issuer's subsidiaries or the Issuer's related corporations.

(2) Call option : For each tranche of the Subordinated Sukuk Murabahah, where Call Option is applicable, the Issuer may, at its option, redeem that tranche of Subordinated Sukuk Murabahah (in whole or in part) prior to its Maturity Date, on the Call Date at the Redemption Amount (as defined under 2(y)(5)), subject to the Early Redemption Conditions (as defined under 2(y)(4)) being satisfied.

(3) Regulatory redemption : The Issuer may, at its option, redeem the Subordinated Sukuk Murabahah (in whole or in part) at the Redemption Amount, subject to the Early Redemption Conditions being satisfied if a Regulatory Event (as defined below) occurs.

For the avoidance of doubt, redemption of any tranche of the Subordinated Sukuk Murabahah pursuant to a Regulatory Event shall not trigger redemption of other tranches of the Subordinated Sukuk Murabahah.

"Regulatory Event" means any time there is more than an insubstantial risk, as determined by the Issuer, that:

- (i) all or any part of the Subordinated Sukuk Murabahah will, either immediately or with the passage of time or upon either the giving of notice or fulfilment of a condition, no longer qualify as Tier 2 capital of the Issuer for the purposes of BNM's capital adequacy requirements under any applicable regulations; or
- (ii) changes in law will make it unlawful for the Issuer to continue performing its obligations under all or any part of the Subordinated Sukuk Murabahah.

(4) Tax redemption : The Issuer may, at its option, redeem the Subordinated Sukuk Murabahah (in whole or in part) at the Redemption Amount, subject to the Early Redemption Conditions being satisfied if a Tax Event (as defined below) occurs.

For the avoidance of doubt, redemption of any tranche of the Subordinated Sukuk Murabahah pursuant to a Tax Event shall not trigger redemption of other tranches of the Subordinated Sukuk Murabahah.

"Tax Event" means any time there is more than an insubstantial risk, as determined by the Issuer, that:

- (i) the Issuer has or will become obliged to pay any additional taxes, duties, assessments or government charges of whatever nature in relation to the Subordinated Sukuk Murabahah; or
- (ii) the Issuer would no longer obtain tax deductions for the purposes of Malaysian corporation tax for any payment in respect of the Subordinated Sukuk Murabahah;

as a result of a change in, or amendment to, the laws or regulations of Malaysia or any political subdivision or any authority thereof or therein having power to tax, or change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the issue date and the Issuer cannot, by taking reasonable measures available to it, avoid such obligations.

- (5) Partial redemption** : In the case of partial redemption of a tranche of the Subordinated Sukuk Murabahah pursuant to the Early Redemption Events, the selection of the Subordinated Sukuk Murabahah to be redeemed shall be made by the Sukuk Trustee on a pro rata basis, by lot or by such other method as the Sukuk Trustee (with the agreement of the Issuer) shall deem to be fair and appropriate, although no Subordinated Sukuk Murabahah of RM10,000,000 in original nominal value or less shall be redeemed in part.
- (y) Other principal terms and conditions for the proposal:**
- (1) Issue price** : The Subordinated Sukuk Murabahah shall be issued at par or at a premium to nominal value and the issue price shall be calculated in accordance with MyClear Rules and Procedures.
- (2) Maturity date** : **"Maturity Date"** means the date specified as the maturity date on the Global Certificate or Definitive Certificates (as the case may be) of

the Subordinated Sukuk Murabahah for payment of the face value of the Subordinated Sukuk Murabahah, provided that it is construed in accordance with the MyClear Rules and Procedures.

(3) Redemption

: Unless previously redeemed pursuant to the Early Redemption Events, or purchased from the market and cancelled, the Subordinated Sukuk Murabahah shall be redeemed at the Redemption Amount (as defined under 2(y)(5)) on the Maturity Date.

(4) Early redemption conditions

: "**Early Redemption Conditions**" means:-

- (i) the Issuer must have received a written approval from BNM prior to redemption of any tranche of the Subordinated Sukuk Murabahah;
- (ii) the Issuer is solvent at the time of redemption of such tranche of the Subordinated Sukuk Murabahah and immediately thereafter;
- (iii) the Issuer is not in breach of BNM's minimum capital adequacy requirements and capital buffer requirements applicable to the Issuer after redemption of such tranche of the Subordinated Sukuk Murabahah; and
- (iv) in respect of a Call Option only, the Issuer shall:-
 - (a) replace the called tranche of the Subordinated Sukuk Murabahah with capital of the same or better quality and the replacement of this capital shall be done at conditions which are sustainable for the income capacity of the Issuer; or
 - (b) demonstrate that its capital position is well above the minimum capital adequacy requirements and capital buffer requirements as outlined in CAFIB after the tranche of the Subordinated Sukuk Murabahah is called.

- (5) **Redemption amount** : **"Redemption Amount"** means Selling Price of the relevant Subordinated Sukuk Murabahah less the aggregate of Periodic Profit Payments paid (if any) in respect of such Subordinated Sukuk Murabahah less Ibra' (if any).

The Redemption Amount payable by the Issuer on the Maturity Date, or on the date of declaration of an Event of Default or on the date of early redemption pursuant to the Early Redemption Events, is an amount as determined by the Facility Agent, which shall be calculated in accordance with the above formula.

- (6) **Ta'widh (Compensation)** : In the event of any delay in payment of the Selling Price under the Subordinated Sukuk Murabahah, the Issuer shall pay to the Sukuk Trustee, for the benefit of the Sukukholders, Ta'widh (compensation) on such overdue amounts at an amount and manner prescribed by the SAC of the SC from time to time in accordance with Shariah principles.

- (7) **Status** : The Issuer's obligations under the Subordinated Sukuk Murabahah will constitute direct, unconditional and unsecured obligations of the Issuer, subordinated in right and priority of payment, to the extent and in the manner provided for in the Subordinated Sukuk Murabahah, to all deposit and investment accounts liabilities and general liabilities of the Issuer except liabilities of the Issuer which by their terms rank *pari-passu* in right and priority of payment with or which are subordinated to the Subordinated Sukuk Murabahah.

The obligation of the Issuer under the Subordinated Sukuk Murabahah will, in the event of a winding-up or liquidation of the Issuer, be subordinated in right of payments to the claims of Senior Creditors (as defined below).

"Senior Creditors" means depositors, investment account holders and all general creditors of the Issuer other than those creditors whose claims are expressed to rank *pari passu* with or junior to the claims of the Sukukholders.

- (8) **Rights to participate in profits and assets** : The Sukukholders shall have no right or claim and shall not be conferred any right or claim as regards to participation in the profits and assets of the Issuer.
- (9) **Voting rights** : Sukukholders shall not be entitled to receive notice of or attend or vote at any meeting of the ordinary shareholders of the Issuer or participate in the management of the Issuer. No company-shareholder relationship is intended or has been contemplated between the Issuer and the Sukukholders and as such the relationship between the Issuer and the Sukukholders shall not be governed by the Memorandum and Articles of Association of the Issuer.
- (10) **Non-viability event** : **"Non-Viability Event"** means the earlier to occur of the following:
- (i) BNM, jointly with the Malaysia Deposit Insurance Corporation ("**PIDM**"), notify the Issuer in writing that BNM, jointly with PIDM, are of the opinion that a write-off of the Subordinated Sukuk Murabahah is necessary, without which the Issuer or BIMB Holdings Berhad group (if the Consolidated Capital Recognition Option has been adopted in respect of any tranche of the Subordinated Sukuk Murabahah) would cease to be viable; or
 - (ii) BNM, jointly with PIDM, publicly announce that a decision has been made by BNM, PIDM, or any other federal or state government in Malaysia, to provide a capital injection or equivalent support to the Issuer, without which the Issuer or BIMB Holdings Berhad group (if the Consolidated Capital Recognition Option has been adopted in respect of any tranche of the Subordinated Sukuk Murabahah) would cease to be viable.

A Non-Viability Event shall be deemed to have occurred on the day on which the Issuer receives the relevant notification from, or the relevant public announcement is made by, BNM, jointly with PIDM.

(11) Non-viability loss absorption

: Upon the occurrence of a Non-Viability Event, BNM, jointly with PIDM, shall have the option to require the entire or part of the nominal value of the outstanding Subordinated Sukuk Murabahah, and all other amounts owing under the Subordinated Sukuk Murabahah, to be written off. If BNM, jointly with PIDM, elects to exercise such option, the Issuer is required to give written notice to the Sukukholders and the rating agency in accordance with the terms of the Subordinated Sukuk Murabahah and each of the Sukukholders, via the Sukuk Trustee, agrees that, as of the relevant write-off date, the write-off shall extinguish the claim of the Subordinated Sukuk Murabahah by the Sukukholders in liquidation, in which case the Sukukholders will irrevocably waive their right to receive, and no longer have any rights against the Issuer with respect to, payment of the aggregate nominal value of the relevant Subordinated Sukuk Murabahah written-off, the amount paid when a Call Option is exercised and the Periodic Profit Payments on the relevant Subordinated Sukuk Murabahah written-off.

The write-off shall be permanent and the full nominal value of the Subordinated Sukuk Murabahah together with all unpaid Periodic Profit Payments thereon that are or would be payable on the Maturity Date, or on the date of declaration of an Event of Default under 2(v)(ii) or on the date of early redemption pursuant to the Early Redemption Events, will automatically be written-off and such Subordinated Sukuk Murabahah and all unpaid Periodic Profit Payments will be immediately and fully cancelled as of such write-off date.

For the avoidance of doubt, (i) BNM, jointly with PIDM, shall have full discretion to require or not to require a write-off upon the occurrence of a Non-Viability Event; (ii) the write-off of the respective Subordinated Sukuk Murabahah shall not constitute an Event of Default or trigger any cross-default clauses; (iii) the requirement for a write off following the occurrence of a Non-Viability Event involving BIMB Holdings Berhad group shall only apply to such tranche of the Subordinated Sukuk Murabahah in respect of which the

Consolidated Capital Recognition Option has been adopted and shall not apply to other tranches of the Subordinated Sukuk Murabahah in respect of which the Consolidated Capital Recognition Option has not been adopted.

No Conversion into Equity

For avoidance of doubt, the Subordinated Sukuk Murabahah shall under no circumstances be converted into equity of the Issuer and Sukukholders will have to absorb losses pursuant to the terms specified herein.

(12) Ibra'

: Ibra' refers to an act of releasing absolutely or conditionally one's rights and claims on any obligation against another party which would result in the latter being discharged of his/its obligation or liabilities towards the former. The release may be either partially or in full.

As the Selling Price is calculated based on the Purchase Price and profit portion up to (and excluding) the Maturity Date, Ibra' shall be granted if the relevant Subordinated Sukuk Murabahah is redeemed prior to its Maturity Date upon declaration of an Event of Default or pursuant to the Early Redemption Events, or is written-off upon occurrence of a Non-Viability Event.

The Sukukholders in subscribing or purchasing the Subordinated Sukuk Murabahah consent to grant Ibra' in the following scenarios:

- (i) Upon declaration of an Event of Default or early redemption pursuant to the Early Redemption Events.

The amount of Ibra' in this instance shall be the difference between the aggregate Periodic Profit Payments due to the Sukukholders calculated up to (and excluding) the Maturity Date and the aggregate Periodic Profit Payments due to the Sukukholders calculated up to (and excluding) the date of declaration of an Event of Default or date of early redemption pursuant to the Early Redemption Events.

The Ibra' clause and the formula for computation of early redemption may be stated in the main agreement of the Subordinated Sukuk Murabahah Programme which is based on Uqud Mu'awadhat. However, the Ibra' clause in the main agreement shall be separated from the part related to the price of the transacted asset. The Ibra' clause shall only be stated under the section for mode of payment or settlement in the said agreement.

- (ii) Upon occurrence of a Non-Viability Event.

The amount of Ibra' in this instance shall be the outstanding Selling Price of the Subordinated Sukuk Murabahah that are written-off.

(13) Sukuk trustee's reimbursement account

: The Sukuk Trustee shall open and maintain, throughout the tenure of the Subordinated Sukuk Murabahah, an account to be named the "Sukuk Trustee's Reimbursement Account for Sukukholders' Actions" ("**Sukuk Trustee's Reimbursement Account**") with a bank which is acceptable to the Issuer with a sum of Ringgit Malaysia Thirty Thousand (RM30,000.00).

The Sukuk Trustee's Reimbursement Account shall be operated solely by the Sukuk Trustee and the money shall be used strictly by the Sukuk Trustee in carrying out its duties in relation to the declaration of an Event of Default in the manner as provided in the Trust Deed.

The moneys in the Sukuk Trustee's Reimbursement Account may be invested in Shariah compliant bank deposits or Shariah compliant instruments or securities in the manner as provided in the Trust Deed, with profit from the investment to be accrued to the Issuer. The moneys in the Sukuk Trustee's Reimbursement Account shall be returned to the Issuer upon full redemption of the Subordinated Sukuk Murabahah in the event there is no declaration of an Event of Default.

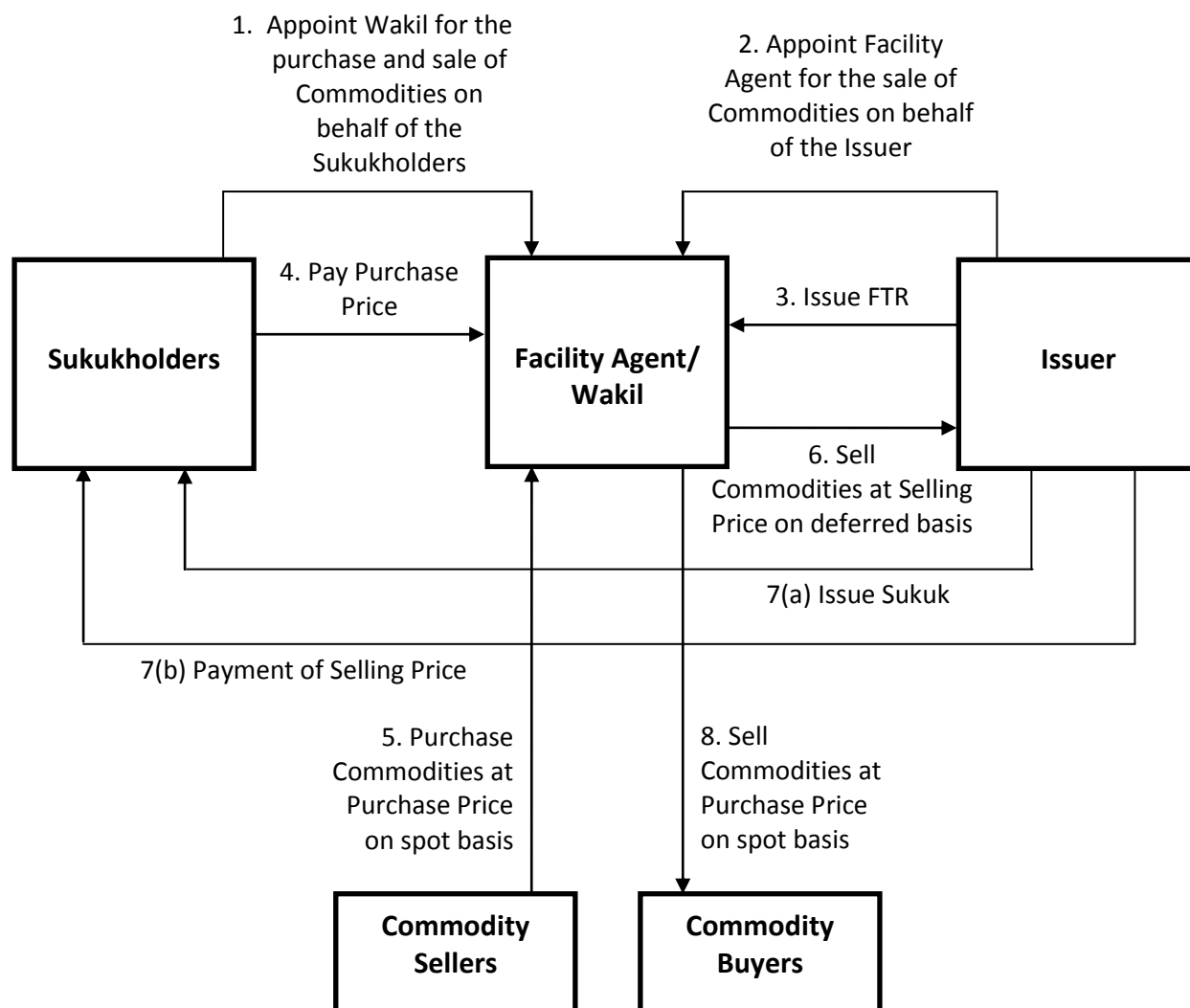
- (14) **Taxation** : All payments by the Issuer shall be made without withholding or deductions for or on account of any present or future tax, duty, or charge of whatsoever nature imposed or levied by or on behalf of the Government of Malaysia, or any other applicable jurisdictions, or any authority therein having power to tax, unless such withholding or deduction is required by law, in which event the Issuer shall be required to make such additional amount so that the payee(s) would receive the full amount which the payee would have received if no such withholding or deductions are made.
- (15) **No payment of interest** : For the avoidance of doubt and notwithstanding any other provision to the contrary herein, it is hereby agreed and declared that nothing in these principal terms and conditions and the Transaction Documents shall oblige or entitle any party nor shall any party pay or receive or recover interest on any amount due or payable to another party pursuant to the principal terms and conditions or the Transaction Documents and the parties hereby expressly waive and reject any entitlement to recover such interest.
- It is further acknowledged that the principle of the payment of interest is repugnant to Shariah and accordingly, to the extent that any legal system would (but for the provisions of this item) impose (whether by contract, statute or court order) any obligation to pay interest, the relevant parties shall agree to waive and reject any entitlement to recover interest from each other. It is further agreed that any payment pursuant to the principal terms and conditions or the Transaction Documents shall not be construed as payments of interest.
- (16) **Transaction documents** : The Subordinated Sukuk Murabahah shall be evidenced by, inter alia, the following ("**Transaction Documents**"):
- (i) Programme Agreement;
 - (ii) Subscription Agreement;
 - (iii) Commodity Murabahah Agreement;
 - (iv) Securities lodgement for Central Securities Depository and Paying Agency Service;
 - (v) Trust Deed;

- (vi) Agency Agreement 1;
- (vii) Agency Agreement 2;
- (viii) Confirmation of Transactions; and
- (ix) Any other relevant documents that may be required to complete the Subordinated Sukuk Murabahah as may be advised by the Solicitor and agreed by the Issuer.

- (17) **Material adverse effect** : "**Material Adverse Effect**" means the occurrence of any event which in the reasonable opinion of the Sukukholders materially and adversely affects the ability of the Issuer to perform any of its obligations under any of the Transaction Documents or which materially and adversely affects the business, financial position, shareholders' funds or results of the operations of the Issuer.
- (18) **Other conditions** : The Subordinated Sukuk Murabahah Programme shall at all times be governed by the guidelines issued and to be issued from time to time by the SC, BNM and MyClear having jurisdiction over matters pertaining to the Subordinated Sukuk Murabahah Programme.
- (19) **Governing law** : Laws of Malaysia and submission to the exclusive jurisdiction of the courts of Malaysia.

[the remainder of this page has been intentionally left blank]

ANNEXURE



Step	Description
1	Under an agency agreement (" Agency Agreement 1 "), the Sukuk Trustee, for and on behalf of the Sukukholders, shall appoint the Facility Agent to act as its buying and selling agent (" Wakil ") for the purchase and sale of the Commodities from time to time.
2	Under another agency agreement (" Agency Agreement 2 "), the Issuer shall appoint the Facility Agent to act as its selling agent for the sale of the Commodities from time to time.
3	Pursuant to a commodity murabahah agreement (" Commodity Murabahah Agreement "), the Issuer shall request the Wakil to purchase the Commodities by issuing a Form of Transaction Request (" FTR ") to the Wakil. In the FTR, the Issuer shall irrevocably undertake to purchase

Step	Description
	the Commodities as stipulated therein from the Wakil, at a selling price (" Selling Price ") to be paid on a deferred payment basis. The Selling Price comprises the Purchase Price (as defined below) and the profit portion, based on the yield-to-maturity for the relevant Subordinated Sukuk Murabahah agreed between the Issuer and the Wakil (on behalf of the Sukukholders) at the point of issuance.
4	Pursuant to the FTR issued by the Issuer to the Wakil, the Sukukholders shall pay the purchase price (" Purchase Price ") of the Commodities to the Wakil, which shall be equivalent to the proceeds of the relevant Subordinated Sukuk Murabahah.
5	Upon receipt of the Purchase Price from the Sukukholders, the Wakil shall then purchase the Commodities from commodity sellers on spot basis.
6	Upon completion of the purchase, the Wakil shall sell the Commodities to the Issuer at the Selling Price on deferred payment basis and the Wakil shall permit the Issuer to take immediate constructive possession of the Commodities.
7(a) and 7(b)	The Issuer shall issue and the Sukukholders shall subscribe to the relevant Subordinated Sukuk Murabahah which will evidence the Sukukholders' entitlement to receive the Selling Price.
8	Subsequently, the Facility Agent, on behalf of the Issuer, shall sell the Commodities to commodity buyers on spot basis at an amount equivalent to the Purchase Price. The proceeds from the sale of the Commodities shall be utilised by the Issuer for the purposes as stipulated in the Principal Terms and Conditions.

[the remainder of this page has been intentionally left blank]