

## 1. BACKGROUND INFORMATION

### a. Issuer

- (i) **Name** TNB Northern Energy Berhad (“**TNB Northern Energy**”, “**TNB NE**” or the “**Issuer**”)
- (ii) **Address** Company Secretary’s Office, Level 2, Tenaga Nasional Berhad Headquarters, No. 129 Jalan Bangsar, 59200 Kuala Lumpur
- (iii) **Business registration no.** Company No. 1024796-X
- (iv) **Date and place of incorporation** 19 November 2012 / Malaysia
- (v) **Date of listing** Not listed
- (vi) **Status on residence** Resident controlled company
- (vii) **Principal activities** Generating and supplying electricity and handling other matters relating to electricity in Malaysia
- (viii) **Board of directors** As at 30 March 2013, the members of the Board of Directors of TNB NE are as follows:
- (a) Mustaffa bin Ja’afar (NRIC: 590223-01-5633)
  - (b) Jamel bin Ibrahim (NRIC: 641204-07-5689)
  - (c) Ahmad Faraid Bin Mohd Yahaya (NRIC: 591024-07-5873)

- (ix) **Structure of shareholdings and names of shareholders or, in the case of a public company, names of all substantial shareholders** As at 30 March 2013, the substantial shareholders and structure of their shareholdings of the Issuer are as follows:

<b>Name</b>	<b>No. of ordinary shares of RM1.00 each held</b>	<b>Shareholding (%)</b>
TNB Prai Sdn Bhd	2	100

- (x) **Authorised, issued and paid-up capital** **Authorised Share Capital as at 30 March 2013**  
RM10,000,000.00 divided into 2,000,000 ordinary shares of RM1.00 each and 8,000,000 Redeemable Preference Shares of RM1.00 each

**Issued and Fully Paid-up Share Capital as at 30 March 2013**

RM2.00 divided into 2 ordinary shares of RM1.00 each

(xi) **Disclosure of the following**

- if the Issuer or its board of 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 Not applicable as the Issuer is not a listed company

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## 2. INDICATIVE PRINCIPAL TERMS AND CONDITIONS

### a. Name of parties involved in the proposed transactions (where applicable)

(i)	<b>Joint principal advisers</b>	HSBC Amanah Malaysia Berhad (“ <b>HSBC Amanah</b> ”) and KAF Investment Bank Berhad (“ <b>KAF</b> ”)
(ii)	<b>Joint lead arrangers</b>	HSBC Amanah and KAF (jointly known as the “ <b>JLAs</b> ”)
(iii)	<b>Co- arranger</b>	Not applicable
(iv)	<b>Solicitors</b>	Messrs Zaid Ibrahim & Co., acting for the Issuer  Messrs Adnan Sundra & Low, acting for the JLAs
(v)	<b>Financial adviser</b>	HSBC Bank Malaysia Berhad
(vi)	<b>Technical adviser / Environmental Adviser</b>	Mott MacDonald Singapore Pte Ltd
(vii)	<b>Sukuk Trustee</b>	AmTrustees Berhad
(viii)	<b>Shariah adviser</b>	HSBC Amanah
(ix)	<b>Guarantor</b>	Tenaga Nasional Berhad (“ <b>TNB</b> ”, the “ <b>Sponsor</b> ” or the “ <b>Guarantor</b> ”)
(x)	<b>Valuer</b>	Not applicable
(xi)	<b>Facility Agent</b>	KAF
(xii)	<b>Primary subscriber(s) (under a bought-deal arrangement) and amount subscribed</b>	To be determined prior to issuance
(xiii)	<b>Underwriter(s) and amount underwritten</b>	Not applicable
(xiv)	<b>Central depository</b>	Bank Negara Malaysia (“ <b>BNM</b> ”)
(xv)	<b>Paying agent</b>	BNM
(xvi)	<b>Reporting accountant</b>	PricewaterhouseCoopers (“ <b>PwC</b> ”)
(xvii)	<b>Calculation agent</b>	Not applicable

(xviii) Others (please specify)	<p><u>Joint Lead Managers (“JLMs”)</u> HSBC Amanah and KAF</p> <p><u>Joint Bookrunners (“JBs”)</u> HSBC Amanah and KAF</p> <p><u>Insurance Adviser</u> Sterling Insurance Broker Sdn Bhd</p> <p><u>Project Company</u> TNB Prai Sdn Bhd (“<b>TNB Prai</b>” or the “<b>Project Company</b>”)</p> <p><u>Security Agent</u> KAF</p> <p><u>Account Bank</u> HSBC Amanah</p>
b. Islamic principles used	Ijarah and Wakalah
c. Facility description	<p><b><u>Issue of Sukuk</u></b></p> <p>Issuance of up to RM2.0 billion in nominal value of Islamic securities under the Islamic principles of Ijarah and Wakalah (“<b>Sukuk TNB NE</b>”).</p> <p><b><u>Grant of Right Agreement</u></b></p> <p>Pursuant to a Land Lease Agreement (the “<b>LLA</b>”) entered into between TNB Prai and TNB as Land Lessor, the Ijarah Project Lands (as defined below) are leased to TNB Prai for a duration of 24 years.</p> <p>TNB Prai (in its capacity as grantor (“<b>Grantor</b>”)) shall enter into a grant of right agreement (the “<b>Grant of Right Agreement</b>”) with TNB NE (in its capacity as grantee (“<b>Grantee</b>”)) acting on behalf of subscribers of the Sukuk TNB NE (“<b>Sukukholders</b>”), which term shall include any holders of the Sukuk TNB NE from time to time, to grant the right over the use of the Ijarah Project Lands and to derive the benefits of the usufruct rights over the use of the Ijarah Project Lands (the “<b>Asset</b>”) for a duration of 24 years or such period as corresponding to the lease term in the LLA with an option to be extendable for another 24 years subject to the PPA term being extended as set out in the LLA (“<b>Grant of Right</b>”). The Grantee will make a single upfront rental payment (“<b>One-off Rental</b>”) to</p>

the Grantor, which amount shall be equivalent to the aggregate proceeds to be raised from the issuance of the Sukuk TNB NE.

### **Declaration of Trust and issuance of Sukuk TNB NE**

Pursuant to a Declaration of Trust, the Issuer (in its capacity as trustee) shall declare a trust over the Asset including the rights, title, interest and benefit, present and future, in and to under the Grant of Right Agreement, the Ijarah Lease Agreement (as defined below), the Service Agency Agreement and the Purchase Undertaking (the "**Trust Asset**") for the benefit of the Sukukholders. The Issuer shall issue Sukuk TNB NE to the Sukukholders which shall represent the Sukukholders' undivided proportionate beneficial ownership interest, rights and entitlements under the Trust Asset. The Sukuk TNB NE proceeds shall be utilised to pay the Grantor the One-off Rental under the Grant of Right Agreement.

### **Ijarah Lease**

With the Asset held by the Issuer (in its capacity as Grantee), acting on behalf of the Sukukholders, the Issuer (in its capacity as Lessor) shall enter into an Ijarah Lease Agreement (the "**Ijarah Lease Agreement**") with TNB Prai (as Lessee), to lease the Asset to the Lessee, for a tenor corresponding to the maturity of the final series ("**Series**") of the Sukuk TNB NE, i.e. more than 4 years and not exceeding 23 years (the "**Lease Period**"), in consideration for pre-determined Ijarah rental payments (the "**Lease Rentals**") which shall be the sum equivalent to the aggregate of all Periodic Distribution Amounts (as defined below) to be channeled by the Issuer to the Sukukholders as periodic distributions ("**Periodic Distribution Amounts**") in proportion to their sukukholdings on each periodic distribution date.

Under the Ijarah Lease Agreement, the Lessor shall be responsible for procuring takaful/insurance in respect of the Asset, and the Lessee has acknowledged that the Lessor may procure the Servicing Agent or

its representative, in accordance with the terms and conditions set out in the Service Agency Agreement, to perform or to procure the payment of takaful/ insurance of the Asset under a Total Loss Event (as defined below).

To the extent that the Servicing Agent incurs any cost and expenses in relation to the procurement of takaful/insurance (the “**Service Charge Amount**”), the Lease Rentals under the Ijarah Lease Agreement will provide for supplementary rental (forming part of the rental payments), which will be an amount equal to the Service Charge Amount incurred in the previous period (the “**Supplementary Lease Rentals**”).

The Supplementary Lease Rentals due from the Lessee will be set off against the obligation of the Issuer to pay the Service Charge Amount to the Servicing Agent.

#### **Wakalah Arrangement**

Pursuant to a Wakalah Agreement, TNB Prai shall appoint the Issuer as its agent (“**Wakeel**”) for the provision of certain services for a wakalah fee of RM100.00, for a period corresponding to the period for the construction and delivery of the Plant to TNB Prai under the Turnkey Contract (referred to below). The Wakeel shall be responsible to:

- (i) Safe-keep the One-off Rental paid to TNB Prai as Grantor on a *Wadiah* basis; and
- (ii) To make payments including (a) payment on behalf of TNB Prai (as lessee) of the Lease Rentals to the Lessor; (b) any payments as set out paragraph (2)(m) below (Details on Utilisation of Proceeds) items (1) to (3); and (c) any other payments or cost in relation to and associated with the Project (as defined below) comprising those set out in the said paragraph (2)(m) items (4) to (6).

The Wakalah Agreement will cease upon the completed Plant being delivered to TNB Prai under the Turnkey Contract. Thereafter, TNB Prai as Lessee will pay the Lease Rentals directly to the Lessor, who in turn will channel to Sukukholders as Periodic Distribution Amounts.

### **Service Agency Agreement**

Pursuant to a Service Agency Agreement, the Issuer (in its capacity as Lessor), acting on behalf of the Sukukholders, shall appoint TNB Prai as the “**Servicing Agent**” for a servicing agent fee of RM100.00, throughout the Lease Period to carry out certain of its obligations. The Servicing Agent shall be responsible to procure takaful/insurance in respect of the Asset that provides sufficient proceeds for the redemption of the Sukuk TNB NE under a Total Loss Event (as defined below). If the takaful/insurance proceeds are insufficient to cover the redemption amount due under the Sukuk TNB NE under a Total Loss Event (the “**Redemption Amount**”), the Servicing Agent shall be liable to make good the difference. Any excess from the takaful/insurance proceeds over the Redemption Amount, if any, shall be paid to the Servicing Agent as an incentive fee.

“**Total Loss Event**” is the total loss or destruction of, or damage to the whole (and not part only) of the Asset under the Grant of Right Agreement and Ijarah Lease Agreement or any event or occurrence that renders the whole (and not part only) of the Asset permanently unfit for any economic use and the repair or remedial work in respect thereof is wholly uneconomical.

For the avoidance of doubt, “**Redemption Amount**” shall be equal to the nominal value of all outstanding Sukuk TNB NE plus an amount equal to any Service Charge Amount payable in respect of the Asset and provided that an amount equal to such Service Charge Amount has not already been paid by way of Supplementary Lease Rentals plus all accrued but unpaid Lease Rentals up to the date of the declaration of the Total Loss Event.

### **Purchase Undertaking**

TNB Prai (as the “**Purchaser**”) will grant a purchase undertaking (the “**Purchase Undertaking**”) to the Issuer, whereby the Purchaser irrevocably undertakes to purchase the proportionate undivided ownership in the remaining period of the

Grant of Right from the Sukukholders of the relevant series of the Sukuk TNB NE, upon declaration of a Dissolution Event (save for a Dissolution Event due to a Total Loss Event) or upon the Maturity Date whichever is earlier, at the relevant Exercise Price (defined below). The proceeds therefrom shall be utilised by the Issuer for the redemption of such relevant Sukuk TNB NE held by the Sukukholders which shall then be cancelled.

In relation to the Purchase Undertaking, the “**Exercise Price**” is as follows:

- (a) upon declaration of a Dissolution Event (save for a Dissolution Event due to a Total Loss Event), the Exercise Price shall be equal to the nominal value of all outstanding Sukuk TNB NE plus an amount equal to any Service Charge Amount payable in respect of the Asset and provided that an amount equal to such Service Charge Amount has not already been paid by way of Supplementary Lease plus all accrued but unpaid Lease Rentals up to the date of the declaration of the Dissolution Event; or
- (b) upon maturity of the relevant series of the Sukuk TNB NE, the Exercise Price shall be equal to the nominal value of such series of the Sukuk TNB NE plus an amount equal to any Service Charge Amount payable in respect of the Asset and provided that an amount equal to such Service Charge Amount has not already been paid by way of Supplementary Lease Rentals plus all accrued but unpaid Lease Rentals up to the date of maturity.

In the event there is a Mandatory Redemption event as set out in paragraph (2)(y)(xvii), TNB Prai (as the “**Purchaser**”) will, pursuant to the Purchase Undertaking, purchase the relevant proportionate undivided ownership in the remaining period of the Grant of Right from the Sukukholders of the relevant series of the Sukuk TNB NE, at the relevant Mandatory Redemption Exercise Price (defined below). The proceeds therefrom shall be utilised by the

Issuer for the redemption of such relevant Sukuk TNB NE held by the Sukukholders which shall then be cancelled.

In relation to the Purchase Undertaking, the “**Mandatory Redemption Exercise Price**” is equal to the percentage of the Mandatory Redemption Amount allotted to the respective series as set out in paragraph (2)(y)(xvii)(a) and (b).

“**Turnkey Contract**” means the contract between the Project Company and the Issuer, whereby the Issuer will procure the execution of the Project on a turnkey basis and administer and manage the development of the Project on behalf of the Project Company.

“**Project**” means, the financing, design, engineering, procurement, construction, installation, testing, commissioning, ownership, operation and maintenance of a 1071.43MW combined cycle gas-fired power plant (“**Plant**”) in Prai, Pulau Pinang.

A diagrammatical illustration for Sukuk TNB NE is set out in Appendix 1.

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| <b>d.</b> | <b>Identified assets</b>                                    | The “ <b>Ijarah Project Lands</b> ”, which are part of the 2 pieces of lands held under titles HSD 50349 Lot PT 10 and HSD 55959 Lot PT 13, both in Bandar Prai, Seberang Perai Tengah, measuring approximately 77,610 sq m and 12,360 sq m respectively, where the Plant will be situated. |
| <b>e.</b> | <b>Purchase and selling price/rental (where applicable)</b> | <b>Purchase and selling price</b><br>Not applicable<br><b>Rental</b><br>To be determined at the point of issuance of the Sukuk TNB NE.  |
| <b>f.</b> | <b>Issue/Sukuk Size</b>                                     | Sukuk of up to RM2 billion in nominal value, one-off issuance based on the Shariah principles of Ijarah and Wakalah (“Sukuk TNB NE”)  |
| <b>g.</b> | <b>Tenure of issue/Sukuk</b>                                | The tenor of each Series of the Sukuk TNB NE shall be more than four (4) years and up to twenty three (23) years (subject to  |

finalisation of cashflow projections and comments by the relevant rating agency) from the issue date.

For the avoidance of doubt, there will only be a one-off issuance of the Sukuk TNB NE, accordingly, all the Series of Sukuk TNB NE will have the same issue date.

It is expected that the Sukuk TNB NE will consist of 39 Series, with tenors ranging from 4 years to 23 years.

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| h. | <b>Availability period of Sukuk</b>           | The period starting from the day all conditions precedent are complied with (or waived, as the case may be) to the satisfaction of the JLAs, up to the date falling one (1) year from the date of approval by the Securities Commission (“ <b>SC</b> ”).   |
| i. | <b>Profit/coupon/rental rate</b>              | To be determined prior to issuance of the Sukuk TNB NE (“ <b>Periodic Distribution Rate</b> ”).  |
| j. | <b>Profit/coupon/rental payment frequency</b> | The frequency of the periodic distribution amounts (“ <b>Periodic Distribution Amounts</b> ”) for the Sukuk TNB NE shall be on a semi-annual basis. The periodic distribution dates (“ <b>Periodic Distribution Dates</b> ”) shall be the date for payment of each of the Periodic Distribution Amount, being each date falling at the end of consecutive six (6) month periods commencing from the Issue Date.                      |
| k. | <b>Profit/coupon/rental payment basis</b>     | The Periodic Distribution Amounts shall be calculated based on the actual number of days elapsed and 365 days basis (actual/365).  |
| l. | <b>Security/collateral, where applicable</b>  | <p>The Sukuk TNB NE shall be secured by:</p> <p>(1) A first ranking assignment of all of the Issuer and Project Company’s rights, interests, titles and benefits under the Project Documents (as defined below) including all the performance and/or maintenance bonds issued or to be issued to the Issuer and/or the Project Company in relation to the Project, and the proceeds therefrom, excluding the generation license;</p> |

- (2) A first ranking assignment and charge of all Designated Accounts (as defined below) and the credit balances therein save for the Distribution Account and the credit balances in the Distribution Account;
- (3) A debenture incorporating a first ranking fixed and floating charge on the assets of the Project Company (excluding the Distribution Account and the credit balances in the Distribution Account) and the Issuer in relation to the Project, both present and future;
- (4) A first ranking assignment of all relevant material insurance policies/ Takaful contracts of the Project Company and the Issuer in respect of the Project;
- (5) Sponsor's Completion Support (as referred to below);
- (6) Sponsor's Rolling Guarantee (as referred to below);
- (7) Security to be granted as conditions subsequent pursuant to subparagraphs 2(y)(ii)(f) and 2(y)(ii)(h) below;

Such other security as may be required by the rating agency to achieve the requisite rating for the Sukuk TNB NE or advised by the legal counsel of the Joint Lead Arrangers as are mutually agreed between the Joint Lead Arrangers and the Issuer.

#### **Sponsor's Completion Support**

The Sponsor shall provide an unconditional and irrevocable guarantee for the period ("**Guarantee Period**") commencing from (and including) the issue date of the Sukuk TNB NE and expiring on the date falling 12 months from the Scheduled COD (as defined below) or the date upon the declaration of a Dissolution Event (whichever is earlier) to:

- (1) fund any cost overruns incurred

relating to the Project for up to a cap of 10% of the Project cost as reflected in the Base Case Financial Model (as defined below); and

- (2) fund any principal obligations and Periodic Distribution Amounts under the Transaction Documents (as defined below) (“**Finance Service**”) for up to 12 months post the Scheduled COD (as defined below).

The Sponsor shall have the right, but not the obligation, to increase the guaranteed amount and/or extend the period of the guarantee at its sole discretion.

For the avoidance of doubt, the Sponsor’s Completion Support shall not include any accelerated payments upon a declaration of a Dissolution Event.

The Sponsor’s Completion Support shall cease and have no further effect on the earlier of the expiry of the Guarantee Period and the date on which the following having been fulfilled to the reasonable satisfaction of the Security Agent:

- (i) certification has been received from the Technical Adviser confirming the date specified in the Taking Over Certificate issued by the Issuer’s engineer under the EPCC as the date on which the Works (as defined in the EPCC) are completed in accordance with the EPCC;
- (ii) all costs incurred or payable prior to Commercial Operation Date (as defined in the PPA) in relation to the Project have been paid (including any cost overruns); and
- (iii) all Conditions Subsequent have been satisfied.

#### **Sponsor’s Rolling Guarantee**

Upon cessation of the Sponsor’s Completion Support and until the final maturity date of the Sukuk TNB NE or the date upon the declaration of a Dissolution Event (whichever is earlier), the Sponsor shall provide a rolling, unconditional and irrevocable guarantee in an amount equivalent to the next 6-month

Finance Service. The Sponsor's Rolling Guarantee shall automatically be renewed at every Periodic Distribution Dates or when drawn.

For the avoidance of doubt, the Sponsor's Rolling Guarantee shall not include any accelerated payments upon a declaration of a Dissolution Event.

28 calendar days prior to each Periodic Distribution Date, in the event that the cash balance in the Issuer MYR RA is less than the upcoming scheduled Finance Service amount payable ("**Upcoming Finance Service**"), the Sponsor's Rolling Guarantee will be drawn to fund the Issuer MYR RA, via the ProjCo MYR RA, up to an amount equivalent to the Upcoming Finance Service.

**m. Details on utilisation of proceeds by Issuer. If proceeds are to be utilised for project or capital expenditure, description of the project or capital expenditure, where applicable**

The Issuer and Project Company shall undertake to use the proceeds only for the following Shariah-compliant utilisations in connection with the Project:

- (1) pay and/or towards reimbursement of all costs associated with the Project including but not limited to site acquisition, development, design, construction, compensation payments, start-up, initial operations of the Project pursuant to the Project Documents;
- (2) pay and/or towards reimbursement of all rentals, fees, expenses, commissions and all other amounts payable in connection with the Sukuk TNB NE (including fees and costs incurred for the establishment of the Sukuk TNB NE facility and issuances thereunder, if any) prior to the COD of the Project;
- (3) pay and/or towards reimbursement of any other Project related costs, including consultant fees, takaful contribution and contingencies;
- (4) meet the working capital requirements of the Issuer/Project Company in relation to the Project;
- (5) inter-company advances between the Issuer and Project Company for payments of any costs associated to



The Sukuk TNB NE may only be offered, sold, transferred or otherwise disposed directly or indirectly to a person to whom an offer or invitation to purchase the Sukuk TNB NE would fall within Schedule 6 or Section 229(1)(b) of the CMSA, read together with Schedule 9 or Section 257 of the CMSA.

- r. **Listing status and types of listing, where applicable** The Sukuk TNB NE will 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** None.
- t. **Conditions precedent** To include but not limited to the following:
- A. Main Documentation
- (a) The Project Documents and Transaction Documents (as defined below) have been signed and where applicable stamped or endorsed as being exempted from stamp duty and presented for registration with the relevant registries (where applicable) including the High Court of Malaya in respect of the power of attorneys. For the avoidance of doubt, “Transaction Documents” in context of this condition precedent only, excludes the security documents required to be perfected under paragraph 2(y)(ii) (Conditions Subsequent) below; and
- (b) All relevant notices and acknowledgements (where applicable) shall have been made or received as the case may be, other than those set out in paragraph 2(y)(ii) (Conditions Subsequent).
- (c) Receipt from the Issuer and Project Company, as the case may be, certified true copies of all the executed and where applicable, stamped Project Documents and any other supplemental documentation in relation thereto.

For the purposes of this PTC, “**Transaction Documents**” means the transaction documents executed or to be executed in connection with the proposed issue of the Sukuk TNB NE, which term includes issue documents, Shariah required documents and security documents relating to the Sukuk TNB NE.

B. The Issuer / Project Company

- (a) Certified true copies of the Certificate of Incorporation and the Memorandum and Articles of Association of the Issuer and Project Company;
- (b) Certified true copies of the Forms 24 and 49 of the Issuer and Project Company;
- (c) A certified true copy of a board resolution of the Issuer and Project Company authorising, among others, the execution of the relevant Transaction Documents;
- (d) A list of the Issuer and Project Company’s authorised signatories and their respective specimen signatures;
- (e) A report of the relevant company search of the Issuer and Project Company;
- (f) A report of the relevant winding-up search or the relevant statutory declaration of the Issuer and Project Company; and
- (g) Evidence satisfactory to the Joint Lead Arrangers that the Project Company has an issued and paid-up share capital of not less than RM5m.

C. General

- (a) The approval from the Securities

Commission (“**SC**”);

- (b) The Sukuk TNB NE shall have received a rating of at least AAAs from the Rating Agency;
- (c) Evidence that all the Designated Accounts have been opened and in accordance with the provisions of this PTC;
- (d) Evidence that the Forms 34 (as prescribed under the Companies Act), where applicable, in respect of the charges created pursuant to the relevant Transaction Documents (for the purpose of registration of such charges with the Companies Commission of Malaysia (“**CCM**”) in accordance with Section 108 of the Companies Act 1965) have been duly lodged with the CCM and that immediately prior to the lodgement of such Forms 34, a search conducted on such company in respect of which the Form 34 is filed, revealed that there are no other charges that have been registered by it with the CCM;
- (e) The Joint Lead Arrangers have received a satisfactory legal opinion from the Issuer’s solicitors addressed to them advising with respect to, among others, the legality, validity and enforceability of the Project Documents (excluding the generation license) against the Issuer/Project Company and confirming to the Joint Lead Arrangers that all the conditions precedents in relation to the Project Documents (if applicable) have been fulfilled;
- (f) The Joint Lead Arrangers have received a satisfactory legal opinion from their legal counsel addressed to them and the Trustee advising with respect to, among others, the legality, validity and enforceability of the Transaction Documents and a confirmation from the legal counsel addressed to the Joint Lead

Arrangers confirming that all the conditions precedent in relation to the Transaction Documents have been fulfilled;

- (g) A written report from the Technical Adviser in form and substance satisfactory to the Joint Lead Arrangers;
- (h) A written report from the Insurance Adviser in form and substance satisfactory to the Joint Lead Arrangers;
- (i) A written report from the Environmental Adviser in form and substance satisfactory to the Joint Lead Arrangers;
- (j) Receipt of a certified true copy of the environmental impact assessment report ("**EIA**") and environmental management plan ("**EMP**") in respect of the Project and evidence that all conditions in the EIA and EMP reports (which are required to have been met at such time) have been met and approved by the Department of Environment ("**DOE**");
- (k) Evidence of the confirmation from the Shariah Advisers that the structure and mechanism together with the Transaction Documents of the Sukuk TNB NE are in compliance with Shariah principles;
- (l) Delivery of a financial model, showing a minimum projected base case FSCR of at least 1.25x ("**Base Case FSCR**") and a FE Ratio not exceeding 70:30, satisfactory to the Joint Lead Arrangers (the "**Base Case Financial Model**");
- (m) All transaction fees, costs and expenses have been fully paid or documentary evidence that it will be paid from the issue proceeds; and

- (n) Such other conditions precedent as may be advised by the legal counsel of the Joint Lead Arrangers and to be mutually agreed between the Joint Lead Arrangers and the Issuer.

**u. Representations and warranties**

Each of the Issuer and Project Company represents and warrants to all the counterparties of the facility agreement as follows:

- (a) it is a company with limited liability duly incorporated and validly existing under the laws of Malaysia, has full power to carry on its business and to own its property and assets;

- (b) subject to the perfection requirements referred to in the legal opinion delivered under paragraph 2(t) (*Conditions Precedent*) and paragraph 2(y)(ii) (*Conditions Subsequent*) and upon taking all necessary actions and obtaining the consents and approvals referred to under paragraph 2(t) (*Conditions Precedent*) and paragraph 2(y)(ii) (*Conditions Subsequent*), its memorandum and articles of association incorporate provisions which authorise, and all necessary corporate and other relevant actions have been taken to authorise, and all relevant consents and approvals of any administrative, governmental or other authority or body in Malaysia have been duly obtained and are in full force and effect which are required to authorise it to execute and deliver and perform the transactions contemplated in the Transaction Documents in accordance with their terms;

- (c) subject to any general principles of law limiting its obligations referred to in the legal opinion delivered under paragraph 2(t) (*Conditions Precedent*) and paragraph 2(y)(ii) (*Conditions Subsequent*) and upon taking all necessary actions and obtaining the consents and approvals referred to under paragraph 2(t) (*Conditions Precedent*) and paragraph 2(y)(ii) (*Conditions Subsequent*), the Sukuk TNB NE and each of the other Transaction

Documents, is or will be when executed and/or issued, as the case may be, in full force and effect and constitutes, or will when executed or issued, as the case may be, constitute, its valid and legally binding obligations enforceable in accordance with the terms of the Sukuk TNB NE and each such Transaction Document;

(d) subject to the perfection requirements referred to in the legal opinion delivered under paragraph 2(t) (*Conditions Precedent*) and paragraph 2(y)(ii) (Conditions Subsequent) and upon taking all necessary actions and obtaining the consents and approvals referred to under paragraph 2(t) (*Conditions Precedent*) and paragraph 2(y)(ii) (Conditions Subsequent), neither the execution and delivery of any of the Transaction Documents by the Issuer, nor the performance of any of the transactions contemplated by the Transaction Documents by the Issuer, did or does as at the date the representation and warranty is made or repeated (i) contravene or constitute a default under any provision contained in any financing agreement, instrument, law, ordinance, decree, judgment, order, rule, regulation, licence, permit or consent by which it or any of its assets are bound or which is applicable to it or any of its assets, (ii) cause the powers of its directors, whether imposed by or contained in its memorandum and articles of association or in any agreement, instrument, law, ordinance, decree, order, rule, regulation, judgment or otherwise, to be exceeded, or (iii) cause the creation or imposition of any security interest or restriction of any nature on any of its assets (other than the securities as contemplated under this PTC); which will have a Material Adverse Effect or a material adverse effect on the validity or enforceability of the Transaction Documents or the right or remedies of a party (other than the Issuer) under the Transaction Documents;

(e) save for the perfection requirements referred to in the legal opinion delivered

under paragraph 2(t) (*Conditions Precedent*) for Issuance and paragraph 2(y)(ii) (Conditions Subsequent) and upon taking all necessary actions and obtaining the consents and approvals referred to under paragraph 2(t) (*Conditions Precedent*) and paragraph 2(y)(ii) (Conditions Subsequent), no authorisation, approval, consent, licence, exemption, registration, recording, filing or notarisation and no payment of any duty or tax and no other action whatsoever is necessary to ensure the legality, validity, enforceability of its liabilities and obligations or the rights of the Sukukholders under the Transaction Documents or the Sukuk TNB NE;

- (f) save for the CIDB Licence which the Issuer will obtain within 6 months after issuance of the Notice to Proceed (as defined in the EPCC) Sukuk TNB NE, all consents, licences, approvals or authorisations of governmental authorities in Malaysia which are required for it to own its assets and carry on its business as it is being conducted have been duly obtained and complied with and are in full force and effect where failure to do so would have a Material Adverse Effect;
- (g) except as disclosed to the Trustee in writing, no litigation, arbitration or administrative proceeding or claim is current, presently in progress or pending against it or any of its assets which would have a Material Adverse Effect;
- (h) the information memorandum issued in connection with the Sukuk TNB NE ("**Information Memorandum**" which term shall include the Information Memorandum as amended or supplemented from time to time) does not contain any statements or information which are false or misleading in any material respect, or from which there is a material omission which makes the statement therein, in light of the circumstances under which they are made, misleading in any material respect as at the date of the Information Memorandum or such other date

specified therein and all expressions of expectation, intention, belief and opinion contained therein were honestly made on reasonable grounds after due and careful inquiry by the Issuer based on facts existing as at the date of the Information Memorandum or such other dates specified therein;

- (i) there has been no material adverse change in the financial condition of the Issuer since the date of its incorporation (where no audited financial statements have been prepared) or since its last audited financial statements, which would have a Material Adverse Effect;
- (j) no Dissolution Event has occurred and continuing.
- (k) unless otherwise disclosed, its latest audited financial statements (including the cashflow statements, income statements and balance sheet) have been prepared in accordance with approved accounting standards in Malaysia and give a true and fair view of its financial position for that year and the state of its affairs at that date, as the case may be;
- (l) all necessary returns have been delivered to the relevant taxation authorities and there has not been default in the payment of any tax;
- (m) it has fully disclosed in writing to the Facility Agent, the Security Agent and the Joint Lead Managers all facts relating to it which it knows or should reasonably know and which are material for disclosure to the Trustee or the Sukukholders in the context of the Transaction Documents;
- (n) the Sukuk TNB NE constitute direct, unconditional and secured obligations of the Issuer and at all times rank: (i) pari passu, without discrimination, preference, priority amongst themselves; (ii) at least pari passu with all other present and future unsecured and unsubordinated

obligations of the Issuer, subject to those preferred by law;

- (o) Each copy of the Project Documents delivered to the Trustee/Security Agent is true and complete;
- (p) Save for the Project Documents delivered to the Trustee/Security Agent there is no other agreement in connection with the Project, or arrangements which amend, supplement or change the effect of any Project Document in any material respect; and
- (q) all takaful/insurances required under the Project Documents have been effected and are valid and binding and all takaful contributions/ premiums due have been paid and, so far as the Issuer is aware, nothing has been done or omitted to be done which has made or could make any such policy void or voidable.

**“Material Adverse Effect”** means, in relation to any event, the occurrence of which materially and adversely affect the ability of the Issuer, Project Company or Sponsor to perform its respective obligations under the Sukuk TNB NE and/or any of the Transaction Documents to which it is a party.

The representations and warranties are given on the date of the relevant agreements and repeated on the date of the issue request and the issue date of the Sukuk TNB NE only with respect to the facts and circumstances then subsisting, as if repeated by reference to the then existing circumstances.

**v. Events of default, dissolution event and enforcement event, where applicable**

The following events:

- (a) the Issuer fails to pay any principal or profit under the Sukuk TNB NE and such failure is not remedied within five (5) business days from its due date;
- (b) the Issuer, Project Company and/or Sponsor fails to observe or perform any of its obligations under any of the

Transaction Documents or under any undertaking or arrangement entered into in connection therewith (other than an obligation of the type referred to in paragraph (a) above) where such failure would have a Material Adverse Effect, and in the case of a failure which in the reasonable opinion of the Trustee is capable of being remedied, the Issuer does not remedy the failure within 30 days after the Issuer became aware or having been notified by the Trustee in writing of the failure to comply;

(c) any representation or warranty made or given by the Issuer and/or Project Company under the Transaction Documents or which is contained in any certificate, document or statement furnished at any time pursuant to the terms of the Sukuk TNB NE and/or any of the Transaction Documents proves to have been incorrect or misleading in any material respects on or as of the date made or given or deemed made or given, where such event would have a Material Adverse Effect and in the case of a failure which in the reasonable opinion of the Trustee is capable of being remedied, the Issuer and/or Project Company do not remedy the failure within 30 days after the Issuer and/or Project Company become aware of such misrepresentation or has been notified by the Trustee in writing of such misrepresentation;

(d) any of the Project Documents is terminated or there has been a breach of any material obligations by the Issuer, Project Company and/or project counterparties under any of such documents which would have a Material Adverse Effect and which, if capable of remedy, has not been remedied to the reasonable satisfaction of the Trustee within a period of 30 days after the Issuer and/or Project Company became aware or having been notified by the Trustee in writing of such breach;

(e) any financial indebtedness (other than the Sukuk TNB NE) of the Issuer and/or Project Company becomes due or

payable or capable of being declared due or payable prior to its stated maturity, or any guarantee or similar obligations of any of the Issuer and/or Project Company for financial indebtedness is not discharged at maturity or when called and such declaration of financial indebtedness being due or payable or such call on the guarantee or similar obligations would have a Material Adverse Effect unless within 90 days:

- (i) it is contested in good faith by the Issuer and/or Project Company; or
- (ii) the Trustee is furnished with evidence that the relevant creditors' agreement has been obtained not to declare due or not to call on the guarantee or similar obligations or to waive such default or not to take any further action in relation thereto.

For the purpose of this paragraph, "financial indebtedness" shall mean, without duplication or double counting, whether Islamic or conventional:

- a. all indebtedness for borrowed money in respect of which interest and profit charges are customarily paid and other indebtedness under or pursuant to Islamic financing;
- b. all indebtedness for or in respect of any amount raised pursuant to the issue of bonds, notes, debentures, loan stock or any similar instrument;
- c. all financial guarantees by the Issuer and/or Project Company of financial indebtedness of others; and
- d. all hire purchase and finance lease obligations of the Issuer and/or Project Company,

provided that notwithstanding the foregoing, the term "financial indebtedness" shall not include subordinated shareholders loans or advances, redeemable preference shares, vendor financing, trade credits in the ordinary course of business or security or refundable deposits taken in the ordinary course of business.

- (f) an encumbrancer takes possession of, or a trustee, receiver, receiver and manager or similar officer is appointed in respect of the whole or any part of the assets of the Issuer and/or Project Company, or distress, legal process, sequestration or any form of execution is levied or enforced or sued out against such assets which would have a Material Adverse Effect and is not discharged within 90 days, or any security interest which may for the time being affect any of such assets becomes enforceable and which would have a Material Adverse Effect.
  
- (g) the Issuer and/or Project Company fails to satisfy any judgement involving material liabilities passed against it by any court of competent jurisdiction (excluding those liabilities in which it is confirmed that insurance coverage can be claimed) which would have a Material Adverse Effect provided that no Dissolution Event shall occur under this paragraph (g) if:
  - (i) an appeal against such judgement has been made to any appropriate appellate court within the time prescribed by law; or
  - (ii) an application is made to discharge or stay such judgment within the time prescribed by law;
  
- (h) unless for the purposes of and followed by a reconstruction previously approved in writing by the Trustee where during or following such reconstruction the Issuer and/or Project Company becomes or is declared to be insolvent, a winding-up order has been made against the Issuer and/or Project Company or any step is taken for the winding-up, dissolution or liquidation of the Issuer and/or Project Company or a resolution is passed for the winding-up of the Issuer and/or Project Company or a petition for winding-up is presented against the Issuer and/or Project Company (unless such petition is frivolous or vexatious or related to a claim to which the Issuer has a good defence or which is being contested in good faith by the Issuer) and the Issuer and/or Project Company has not taken any action in

good faith to set aside such petition or the petition is not withdrawn or discharged within 90 days from the date of service of such winding-up petition or a winding-up order has been made against the Issuer and/or Project Company;

(i) unless for the purposes of and followed by a reconstruction previously approved in writing by the Trustee and where during or following such reconstruction the Issuer and/or Project Company becomes or is declared to be insolvent, the Issuer and/or Project Company:

(i) convenes a meeting of its creditors or proposes or makes any arrangement (including any scheme of arrangement under Section 176 of the Companies Act, 1965) or composition or begins negotiations with its creditors, or takes any proceedings or other steps, with a view to a rescheduling or deferral of all or a part of its indebtedness; or

(ii) a moratorium is agreed or declared by a court of competent jurisdiction in respect of or affecting all or a part of its indebtedness; or

(iii) makes any assignment for the benefit of its creditors in respect of or affecting all or a part of its indebtedness,

which, would have a Material Adverse Effect;

(j) where there is a revocation, withholding, invalidation or modification of any license, authorisation, approval or consent necessary for the Issuer and/or Project Company to carry on its business which would have a Material Adverse Effect;

(k) any creditor of the Issuer and/or Project Company exercises a contractual right to take over the financial management of the Issuer and/or Project Company and such event would have a Material Adverse Effect;

(l) the Issuer and/or Project Company

repudiates any of the Transaction Documents or Project Documents to which it is a party;

- (m) all or a part of the assets, undertakings, rights or revenue of the Issuer and/or Project Company are seized, nationalised, expropriated or compulsorily acquired by or under the authority of any governmental body which would have a Material Adverse Effect;
- (n) any event or events has or have occurred or a situation exists which would have a Material Adverse Effect and in the case of the occurrence of such event or situation which in the reasonable opinion of the Trustee is capable of being remedied, the Issuer and/or Project Company does not remedy it within 60 days after the Issuer and/or Project Company became aware or having been notified in writing by the Trustee of the event or situation;
- (o) the occurrence of Total Loss Event;
- (p) COD does not occur within 6 months of the Scheduled COD in the manner set out in the PPA (unless otherwise excused or extended under the PPA);
- (q) the Issuer and Project Company ceases to be 100% owned by the Sponsor directly or indirectly;
- (r) the Issuer and/or Project Company changes in a material manner the nature or scope of its business, or suspends the operation of any part of its business which it now conducts directly or indirectly;
- (s) At any time: (aa) it is illegal or unlawful for the Issuer and/or Project Company to perform any of its obligations under the Transaction Documents or at any time any of the provisions of the Transaction Documents is or becomes illegal, void, voidable or unenforceable; and  
(bb) any of the provisions of the Project Documents, in so far as it relates to material obligations under the Project

Documents that remain undischarged is or becomes illegal, void, voidable or unenforceable and has a Material Adverse Effect, unless such Project Document has been sufficiently replaced to the satisfaction of the Trustee;

- (t) For whatever reason any of the Security Interests created under any of the Transaction Documents is rendered invalid generally or defective in any material way or ceases to have first ranking priority (save and except for those which are preferred by law);
- (u) Where the generation licence is:
  - (i) terminated, revoked or ceases to be in full force and effect without a substitute licence being issued therefor within 180 days of such termination, revocation or cessation; or
  - (ii) modified and the effect of such modification would be to prevent the implementation or carrying out of all or a substantial part of the Project
- (v) Such other Dissolution Events as may be advised by the legal counsel of the Joint Lead Arrangers and which have been mutually agreed between the Joint Lead Arrangers and the Issuer.

Upon the occurrence of a Dissolution Event which is continuing, the Trustee may, at its sole and absolute discretion and shall, if so directed by an extraordinary resolution of the Sukukholders (subject to its rights to be indemnified to its satisfaction against all reasonable costs and expenses thereby occasioned), declare (by giving notice to the Issuer) that a Dissolution Event has occurred whereupon the Trustee shall be entitled to accelerate the nominal value of the Sukuk TNB NE and the Periodic Distribution Amounts accrued until the date of such declaration by way of exercising the Purchase Undertaking and thereupon, the Exercise Price shall be due and payable, and enforce its rights under the Transaction Documents.

**w. Covenants**

**Positive Covenants**

- (a) The Issuer covenants that so long as the Sukuk TNB NE are outstanding: it shall maintain a paying agent who is based in Malaysia;
- (b) during the construction period prior to the COD, the Issuer shall submit a progress report every quarter to the Technical Adviser for verification and to the Trustee, and which shall contain (i) a summary of progress towards achieving the COD, (ii) estimated date of COD, (iii) confirmation of construction and other costs paid up to the date of the then quarterly progress report and estimated remaining capital expenditure/ construction-related costs and pre-operational expenditure to be incurred towards the implementation of the COD and (iv) details of actual or likely cost overruns; and
- (c) during the construction period prior to the COD, the Issuer shall procure the EA to provide a report every quarter to the Trustee confirming the Issuer's compliance with the EMP and all relevant material environmental laws, permits, guidelines and regulations.

Both Issuer and Project Company covenants that so long as the Sukuk TNB NE are outstanding:

- (a) it:
  - (i) has at all times observed, performed and complied with all its covenants, representations, warranties and other relevant obligations under the Transaction Documents to which each is a party and shall provide to the Trustee at least on an annual basis, a certificate confirming the same, and confirming that there does not exist or had not existed, from the date the Sukuk TNB NE were issued or the date of the last certificate, as the case may be, any Dissolution Event, and if such is not the case, to specify the same; and

- (ii) is in material compliance with the EMP and all relevant material environmental laws, permits, guidelines and regulations;
- (b) it shall deliver to the Trustee the following:
  - (i) as soon as they become available (and in any event within a period to be mutually agreed in the Transaction Documents after the end of its financial year) copies of its financial statements for that year which shall contain the income statement and balance sheet, and which are audited by a firm of independent certified public accountants acceptable to the Trustee ("**Auditors**");
  - (ii) as soon as they become available (and in any event within a period to be mutually agreed in the Transaction Documents after the end of the first half of its financial year) copies of its unaudited financial statements for that half-yearly period which shall contain the income statement and balance sheet;
  - (iii) promptly, such additional financial or other information or reports as the Trustee may from time to time reasonably request including without limitation, such information as the Trustee may require in order for the Trustee to discharge its duties and obligations to the extent permitted by law and would not result in the Issuer breaching any stock exchange requirements, duty of confidentiality or confidentiality obligations;
- (c) it shall promptly notify the Trustee of any litigation or other proceedings of any nature whatsoever being initiated against it before any court or tribunal or administrative agency which would have a Material Adverse Effect;
- (d) it shall promptly give notice to the Trustee of:
  - (i) any change in the utilisation of proceeds from the Sukuk TNB NE from that set out in the Transaction

Documents;

- (ii) the occurrence of any Dissolution Event ;
  - (iii) any substantial change in the nature of its business;
  - (iv) any change in the withholding tax position or taxing jurisdiction of the Issuer; or
  - (v) any amendments or variations made to any of the Project Documents and provide a certified true copy thereof.
- (e) it shall maintain in full force and effect all relevant authorisations, consents, rights, licences, approvals and permits (governmental and otherwise) and will promptly obtain any further authorisations, consents, rights, licences, approvals and permits (governmental and otherwise) which is or may become necessary to enable it to own its assets, to carry on its business or for the Issuer to enter into or perform its obligations under the Transaction Documents or to ensure the legality, validity, enforceability, admissibility in evidence of its obligations or the priority or rights of the Trustee/the Facility Agent/the Security Agent or the Sukukholders under the Transaction Documents where failure to do so would have a Material Adverse Effect;
- (f) it shall at all times on demand by the Trustee (acting reasonably) 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 and Project Documents;
- (g) it shall exercise reasonable diligence in carrying out its business and affairs and in accordance with sound financial and commercial standards and practices and its Memorandum and Articles of Association;
- (h) it shall prepare its financial statements on a basis consistently applied in accordance with approved accounting standards in Malaysia (unless otherwise disclosed) and those financial statements

shall give a true and fair view of its results of the operations for the period to which the financial statements are made up;

- (i) it shall maintain an accounting system and records in compliance with applicable statutory requirements and in accordance with generally accepted accounting principles in Malaysia which are adequate to record and reflect its operations and financial condition and it will permit upon reasonable request by the Trustee or its agent and servants and any person appointed or authorised by it with prior notice and at all reasonable times to have access to and to inspect its books of accounts and records relating to its business at any office, branch or place of business of the Issuer and all records kept by any other persons subject to such parties executing confidentiality undertakings as prescribed by the Issuer/Project Company and provided further that such access and disclosure does not result in any contravention of any laws, regulations or directives by the Issuer/Project Company and would not result in the Issuer breaching any stock exchange requirements, duty of confidentiality or confidentiality obligations;
- (j) it shall promptly comply with all applicable laws (including the provisions of the Capital Markets and Services Act 2007 and all circulars, conditions or guidelines issued by the Securities Commission from time to time) as may be applicable to it;
- (k) the Issuer and Project Company shall provide the Trustee and its representatives reasonable access to the Project site and inspection of all relevant Project Documents at all reasonable times provided prior notice has been given to the Issuer and Project Company and subject to such parties executing confidentiality undertakings as prescribed by the Issuer and Project Company and provided further that such access and disclosure does not result in any contravention of any laws, regulations or

directives by the Issuer and would not result in the Issuer/Project Company breaching any stock exchange requirements, duty of confidentiality or confidentiality obligations;

(l) it shall open and maintain each of the required Designated Accounts and pay all relevant amounts into such accounts and make all payments from such accounts, only as permitted under the Transaction Documents;

(m) it shall ensure that the Sukuk TNB NE will at all times rank at least pari passu with all other present and future unsecured and unsubordinated obligations of the Issuer and/or Project Company;

(n) it shall deliver to the Trustee the following:

(i) Distribution FSCR calculation (certified by at least one director of each of the Issuer and the Project Company) for the balance sheet closing date of the relevant financial statements on a semi-annual basis;

(ii) FE Ratio calculation (certified by at least one director of each of the Issuer and the Project Company) for the balance sheet closing date of the relevant financial statements on a semi-annual basis;

(iii) promptly, such additional financial or other information or reports as the Trustee may from time to time reasonably request including without limitation, such information as the Trustee may require in order for the Trustee to discharge its duties and obligations to the extent permitted by law and would not result in the Issuer breaching any stock exchange requirements, duty of

confidentiality or confidentiality obligations; and

- (o) Such other Positive Covenants as may be advised by the legal counsel of the Joint Lead Arrangers and which have been mutually agreed between the Joint Lead Arrangers and the Issuer.

### **Negative Covenants**

Both Issuer and Project Company covenant that, for so long as any Sukuk TNB NE is outstanding, it will not:

- (a) not add, delete, amend or substitute its Memorandum or Articles of Association in a manner inconsistent with the provisions of the Transaction Documents unless required by law;
- (b) reduce its authorised or paid-up share capital (except by way of purchase, acquisition or reduction permitted under the law or redemption of redeemable preference shares permitted under the Transaction Documents) whether by varying the amount, structure or value thereof or the rights attached thereto or by converting any of its share capital into stock, or by consolidating, dividing or subdividing all or any of its shares which would have a Material Adverse Effect;
- (c) change in a material manner the nature or scope of its existing business nor suspend a substantial part of its business where such change or suspension would have a Material Adverse Effect;
- (d) obtain or permit to exist any financial indebtedness other than the following:
  - (i) the Sukuk TNB NE;
  - (ii) financing facilities from related corporations of the Issuer that are subordinated to the Sukuk TNB NE;
  - (iii) the financing facilities ("**Permitted Facilities**") arising from or in connection with the Issuer's

- obligations under the Project Documents (including the PPA) to any provision of bonds/performance guarantee or in the ordinary course of business, up to an amount to be agreed with the Joint Lead Arrangers in the Transaction Documents;
- (iv) financing which repayment or redemption are subordinated to the Sukuk TNB NE;
  - (v) working capital facilities (“**Working Capital Facilities**”) up to an amount to be agreed with the Joint Lead Arrangers in the Transaction Documents; and
  - (vi) any hedging arrangements entered into by the Issuer or the Project Company in connection to the Project to hedge against not more than one hundred per centum (100%) of its foreign currency exposure in relation to payments under the EPCC and LTMP.
- (e) create or permit to exist any security interest over its assets, except for:
- (i) liens arising in the ordinary course of business by operation of law and not by way of contract;
  - (ii) those security as contemplated in this PTC;
  - (iii) securities given for the Permitted Facilities and Working Capital Facilities;
  - (iv) securities given as an alternative (whether in whole or in part) to the Permitted Facilities and Working Capital Facilities (“**Alternative Securities**”);
  - (v) any netting or set-off arrangement entered into in the ordinary course of banking arrangements for the purpose of netting debit and credit balances;
  - (vi) security created in relation to documentary credits, trust receipts and bankers acceptances opened in the ordinary course of business;
  - (vii) security arising under retention of title, leases, hire purchase or conditional sale arrangements in respect of any assets or goods supplied in the

- ordinary course of business;
- (viii) security created in respect solely of indebtedness incurred or assumed for the purpose of financing the purchase price of any asset (including but not limited to shares), in each case, created solely over such assets;
  - (ix) security created in respect of liabilities which exist on any property or asset prior to its acquisition or arising after such acquisition pursuant to contractual commitments entered into prior to, but not in connection with or in contemplation of, such acquisition;
  - (x) security existing as at the date of the Transaction Documents and disclosed to the Trustee;
  - (xi) security created with the prior written consent of the Trustee; and
  - (xii) security which equally and rateably secures the obligations under the Sukuk TNB NE.
- (f) sell, transfer or lease or otherwise dispose of or in any case cease to exercise control over, whether by a single transaction or a number of transactions, related or not, the whole or part of the Issuer's undertaking, business or assets, except:
- (i) sale or disposal of the Issuer's undertaking, business or assets which is in the ordinary course of business and on ordinary commercial terms on the basis of arm's length transaction; or
  - (ii) disposal of any of the Issuer's undertaking, business or assets due to obsolescence, deterioration, surplus, redundant, damaged and/or defective; or
  - (iii) as permitted under the Sukuk TNB NE; or
  - (iv) solely for the purpose of facilitating any Islamic financing in connection with any of the financing facilities allowed under the Sukuk TNB NE; or
  - (v) sale or disposal pursuant to security permitted under the Sukuk TNB NE; or

- (vi) sale or disposal which would not have a Material Adverse Effect; or
  - (vii) sale or disposal constituted by creation of permitted security; or
  - (viii) sale or disposal in exchange for other assets comparable or superior as to value.
- (g) use the proceeds of the issue of the Sukuk TNB NE for any purpose other than as stated in the Transaction Documents;
- (h) 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;
- (i) enter into any contract, transaction or engage in any business or activity other than:
- (i) the Transaction Documents to which it is a party (or any amendment or supplemental agreement thereto);
  - (ii) as provided for or permitted in the Transaction Documents;
  - (iii) such matters as incidental to the Sukuk TNB NE or the Transaction Documents; or
  - (iv) in the ordinary course of its business
- (j) make any transfers to the Distribution Account in order to declare or pay any dividends or make any distribution whether income or capital in nature to its shareholders or redeem any preference shares ("**Restricted Payments**") if:
- (i) the Distribution FSCR on the most recent scheduled principal repayment date (as defined below) falls below 1.50 times before and after such payment or distribution;
  - (ii) in respect of distributions declared or made after Commercial Operations Date, the FE Ratio will not exceed 75:25 after such payment or distribution;

- (iii) COD (as defined in the PPA) has not occurred;
- (iv) first repayment of the Sukuk TNB NE has not been made; and
- (v) a Dissolution Event has occurred and is continuing or if following such payment or distribution, a Dissolution Event would occur.

For the purposes of this paragraph, the distribution finance service cover ratio ("**Distribution FSCR**") is, on the most recent scheduled principal repayment date of the Sukuk TNB NE, the ratio of aggregate Net Available Cash (as defined below) for the relevant 6 month period of the Issuer and Project Company to Total Finance Service (as defined below) to be paid for such period of the Issuer and Project Company, where:

- (A) net available cash ("**Net Available Cash**") for any period is the aggregate of:
  - (i) the net operating cash flow generated during the previous 6 months period; and
  - (ii) income on cash balances during the previous 6 months; and
  - (iii) all cash balances (including those of the Designated Accounts) at the end of the 6 month period; and
  - (iv) the amount guaranteed by the Sponsor's Rolling Guarantee at the beginning of the 6 month period; less
  - (v) all Restricted Payments, intercompany facilities from related corporations of the Issuer, and any other subordinated payments during the previous 6 months.

For the avoidance of doubt, such amounts will also include the nominal value of any Permitted Investments; and

- (B) Total Finance Service refers to the aggregate amount that is required to be paid (relating to outstanding principal obligations and periodic

distribution amounts, and all other corresponding amounts) in connection with all financing facilities of the Issuer and Project Company (except in relation to intercompany facilities from related corporations of the Issuer/Project Company) for the next 6 months period.

In this regard, the net operating cash flow generated means (a) with respect to inflow, all the deposits received under the respective revenue accounts below and (b) with respect to outflow, the item (a) listed under the heading "Issuer Priority of Cashflow" and "ProjCo Priority of Cashflow" below.

For the avoidance of doubt: (aa) any double counting shall be disregarded; and (bb) any payments of dividends or distributions (whether income or capital in nature) or redemption of any preference shares shall only be made from the Distribution Account and not from any other account.

In the event there is a dispute and the Trustee requires certification from any external party (choice of such party must be acceptable to the Trustee) in relation to the calculation of the said Distribution FSCR, the Issuer shall promptly procure such certification prior to the relevant periodic distribution amount date.

Such external party's certification shall be provided to the Trustee before the Trustee gives any confirmation as required above and such external party's certification is final.

(k) amend, vary, terminate (except due to lapse of time), replace or supplement (or agree to do so) any of its Project Documents which would have a Material Adverse Effect;

(l) waive, or agree to waive any breach or proposed breach in any of the Project Documents by any of its counterparties which would have a Material Adverse

Effect;

(m) do any act or omit to do any act, or execute or omit to execute any document which may render any of the Project Documents to be illegal, void, voidable or unenforceable which would have a Material Adverse Effect;

(n) enter into any agreement with its related corporations or associated companies if it has a Material Adverse Effect;

(o) provide any financing facility to any party other than in compliance with the Listing Requirements;

(p) open any bank accounts other than Designated Accounts, other than any accounts permitted under the Transaction Documents or approved by the Trustee; and

(q) Such other Negative Covenants as may be advised by the legal counsel of the Joint Lead Arrangers and to be mutually agreed between the Joint Lead Arrangers and the Issuer.

**x. Provisions on buy-back and early redemption of sukuk**

The Issuer and its related corporations may at any time purchase the Sukuk TNB NE in the open market at any price, but any Sukuk TNB NE repurchased by the Issuer and its subsidiaries shall be cancelled and cannot be resold.

**y. Other principal terms and conditions for the proposal**

**(i) Conditions Precedent to Each Disbursement**

Conditions precedent to each disbursement from the Escrow Accounts to include but not limited to the following:

(a) All representations and warranties are true and correct in all material respects by reference to the facts and circumstances subsisting at such time;

(b) No Events of Default/ Dissolution Events have occurred and are continuing;

- (c) Such drawdown would not cause the FE Ratio to exceed the FE Ratio set out in the Base Case Financial Model after such drawdown;
- (d) Receipt of a drawdown certificate, including certification by the Technical Adviser, if applicable, in accordance with the Transaction Documents; and
- (e) Such other conditions precedent as may be advised by the legal counsel of the Joint Lead Arrangers and to be mutually agreed between the Joint Lead Arrangers and the Issuer.

**(ii) Conditions Subsequent**

To include the following:

- (a) No later than the COD, evidence and confirmation from the Project Company that all operational period insurance cover has been effected and is in full force and effect. For the avoidance of doubt, if item (ii)(b) below is met no later than COD, this item (ii)(a) is considered satisfied;
- (b) No later than 1 month after COD, receipt of a confirmation from the Insurance Adviser that the agreed operational phase insurance cover has been effected, in line with the requirements of the Transaction Documents;
- (c) No later than 9 months after issuance of the Sukuk TNB NE, receipt of a certified true copy of the generation license from the Energy Commission;
- (d) No later than 6 months after issuance of the Notice to Proceed (as defined in the EPCC), the Issuer has obtained the Construction Industry Development Board licence ("**CIDB Licence**") and have provided a certified true copy of the same to the Security Agent/Trustee;
- (e) No later than 12 months after issuance of the Sukuk TNB NE, presentation for registration in the name of the Project Company of the lease of the Ijarah

Project Lands (as defined below) and the Issuer or the Project Company shall have provided the original title to the lease to the Security Agent;

- (f) No later than 12 months after issuance of the Sukuk TNB NE, presentation for registration of a charge over the lease of the Ijarah Project Lands in favour of Security Agent and the Project Company shall have provided the Security Agent with: (i) the receipt of such presentation from the relevant land authority; (ii) evidence that the Form 34 (as prescribed under the Companies Act) in respect of such charge has been lodged with the CCM; and (iii) a legal opinion satisfactory to the Security Agent (from legal counsel approved by the Security Agent), and addressed to the Security Agent advising with respect to, among others, the legality, validity and enforceability of such charge;
- (g) No later than 12 months after issuance of the Sukuk TNB NE, alienation in favour of TNB of a third piece of land to be identified in the Transaction Documents ("**Additional Land**") and the Issuer or the Project Company shall have provided the original title to the lease to the Security Agent for safekeeping together with: (i) a lease agreement made between TNB and the Project Company in respect of the Additional Land; and (ii) a legal opinion satisfactory to the Security Agent (from legal counsel approved by the Security Agent), and addressed to the Security Agent advising with respect to, among others, the legality, validity and enforceability of such lease against the Issuer/Project Company;
- (h) No later than 12 months after issuance of the Sukuk TNB NE, presentation for registration of (i) the lease over the Additional Land in favour of the Project Company together with (ii) the charge over such lease in favour of Security Agent and the Project Company shall have provided the Security Agent with: (aa) certified true copies of the receipts

of such presentations from the relevant land authority; (bb) evidence that the Form 34 (as prescribed under the Companies Act) in respect of such charge has been lodged with the CCM; and (cc) a legal opinion satisfactory to the Security Agent (from legal counsel approved by the Security Agent), and addressed to the Security Agent advising with respect to, among others, the legality, validity and enforceability of such charge against the Issuer/Project Company; and

- (i) Such other conditions subsequent as may be advised by the legal counsel of the Joint Lead Arrangers and to be mutually agreed between the Joint Lead Arrangers and the Issuer.

**“Ijarah Project Lands”** has the meaning ascribed to it above.

The Additional Land and the Ijarah Project Lands shall collectively be referred to as the **“Project Lands”**.

**(iii) Form and Denomination**

The Sukuk TNB NE shall be issued in accordance with (1) the “Participation and Operation Rules for Payment and Securities Services (**“MyClear Rules”**) issued by Malaysian Electronic Clearing Corporation Sdn Bhd (**“MyClear”**), and (2) Operational Procedures for Securities Services issued by MyClear (**“MyClear Procedures”**) or their replacement thereof (collectively the **“MyClear Rules and Procedures”**) applicable from time to time.

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

**(iv) Finance to Equity Ratio (“FE Ratio”)**

The Finance to Equity Ratio will be defined as:

- (a) the aggregate outstanding principal obligations of the Issuer and Project

Company under all financing facilities (except in relation to intercompany facilities from related corporations of the Issuer), hire purchase obligations and finance lease obligations; to

(b) Sponsor's Equity Contribution.

For the avoidance of doubt, outstanding principal obligations under the Sukuk TNB NE shall be deemed equivalent to the aggregate amounts disbursed from the Escrow Accounts into the Disbursement Accounts as at such date.

**(v) Base case finance service cover ratio ("Base Case FSCR")**

The Base Case FSCR is the ratio of:

(a) the aggregate net operating cash flow generated for the 6-monthly period ending on each repayment date of the Issuer and Project Company; to

(b) the aggregate amount that is required to be paid (relating to outstanding principal obligations and periodic distribution amounts, and all other corresponding amounts) in connection with all financing facilities of the Issuer and Project Company (except in relation to intercompany facilities from related corporations of the Issuer) for the current 6-month period.

In this regard, the net operating cash flow generated means (a) with respect to inflow, all the deposits received under respective revenue accounts below and (b) with respect to outflow, the item (a) listed under the heading "Issuer Priority of Cashflow" and "ProjCo Priority of Cashflow" below.

**(vi) Transferability**

Transferable but subject to the Selling Restrictions.

**(vii) Governing Laws and Jurisdiction**

The Sukuk TNB NE and the Transaction Documents shall be governed by the laws of Malaysia.

The Issuer and Project Company shall unconditionally and irrevocably submit to the

exclusive jurisdictions of the courts of Malaysia.

**(viii) Taxation**

All payments by the Issuer shall be made without withholding or deductions for or on account of any present or future tax, duty or charge of whatsoever nature imposed or levied by or on behalf of Malaysia or any other applicable jurisdictions, or any authority thereof or therein having power to tax, unless such withholding or deduction is required by law, in which event the payer shall not be required to make such additional amount so that the payee would receive the full amount which the payee would have received if no such withholding or deductions are made.

**(ix) 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 this indicative 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 indicative principal terms and conditions or the Transaction Documents and the parties hereby expressly waive and reject any entitlement to recover such interest.

**(x) Other Conditions**

The Sukuk TNB NE shall at all times be governed by the guidelines issued and to be issued from time to time by Securities Commission, BNM, MyClear having jurisdiction over matters pertaining to the Sukuk TNB NE.

**(xi) Designated Accounts**

The Issuer and Project Company shall open and maintain the following Shariah compliant designated accounts ("**Designated Accounts**") with the Account Bank:

**Issuer Accounts**

- (a) Sukuk MYR Escrow Account;
- (b) Sukuk USD Escrow Account;
- (c) Sukuk EUR Escrow Account;

(The Sukuk MYR Escrow Account, Sukuk USD Escrow Account and

Sukuk EUR Escrow Account will be collectively known as the **Escrow Accounts**”).

- (d) Issuer MYR Disbursement Account;
- (e) Issuer USD Disbursement Account;
- (f) Issuer EUR Disbursement Account;

(The Sukuk MYR Disbursement Account, Sukuk USD Disbursement Account and Sukuk EUR Disbursement Account will be collectively known as the **“Disbursement Accounts”**).

- (g) Issuer MYR Revenue Account; and
- (h) Issuer MYR Operating Account.

#### **Project Company Accounts**

- (i) Project Company MYR Disbursement Account;
- (j) Project Company MYR Revenue Account;
- (k) Project Company MYR Operating Account;
- (l) Project Company EUR Operating Account;
- (m) Maintenance Reserve Account; and
- (n) Distribution Account.

The Issuer and Project Company shall not have any bank accounts other than the Designated Accounts so long as any of the Sukuk TNB NE is outstanding, unless otherwise agreed by the Trustee (acting reasonably).

Upon enforcement of security, the Security Agent shall be the sole signatory of all Designated Accounts, except Distribution Account.

#### **Sukuk MYR Escrow Account (“MYR EA”)**

The Issuer shall open a Shariah compliant MYR Sukuk escrow account for the purpose of depositing and/or remitting the issuance proceeds of the Sukuk TNB NE. The Issuer shall use the credit balances in the MYR EA for the payments into the Issuer MYR DA,

subject to the Conditions Precedent to each Utilisation having been satisfied or transfers to the USD EA and EUR EA, up to one hundred per centum (100%) of its foreign currency exposure in relation to payments under the EPCC.

Any credit balance remaining in the MYR EA after the COD of the last Generating Block shall be deposited into the Issuer MYR RA and the MYR EA will thereafter be closed.

The MYR EA shall be jointly operated by the Security Agent and the Issuer.

Sukuk USD Escrow Account (“USD EA”)

The Issuer shall open a Shariah compliant USD Sukuk escrow account for the purpose of depositing and/or remitting the proceeds from foreign exchange conversions between the Escrow Accounts. The Issuer shall use the credit balances in the USD EA for the payments into the Issuer USD DA, subject to the Conditions Precedent to each Utilisation having been satisfied.

Any credit balance remaining in the USD EA after the COD of the last Generating Block shall be converted and deposited into the Issuer MYR RA and the USD EA will thereafter be closed.

The USD EA shall be jointly operated by the Security Agent and the Issuer.

Sukuk EUR Escrow Account (“EUR EA”)

The Issuer shall open a Shariah compliant EUR Sukuk escrow account for the purpose of depositing and/or remitting the proceeds from foreign exchange conversions between the Escrow Accounts. The Issuer shall use the credit balances in the EUR EA for the payments into the Issuer EUR DA, subject to the Conditions Precedent to each Utilisation having been satisfied.

Any credit balance remaining in the EUR EA after the COD of the last Generating Block shall be converted and deposited into the Issuer MYR RA and the EUR EA will thereafter be closed.

The EUR EA shall be jointly operated by the Security Agent and the Issuer.

**Issuer MYR Disbursement Account (“Issuer MYR DA”)**

The Issuer shall open a Shariah compliant MYR disbursement account for the purpose of depositing MYR proceeds of Sponsor’s Equity Contribution, intercompany advances and the Sponsor’s Completion Support Payments (if any), disbursements from the MYR EA, any compensation payments and relevant insurance proceeds received. The Issuer shall use the credit balances in the Issuer MYR DA for the purposes of making Issuer related MYR payments set out under the heading “Details on Utilisation of Proceeds” above and transferring between the Issuer USD DA and Issuer EUR DA only.

Any credit balance remaining in the Issuer MYR DA after the COD of the last Generating Block shall be deposited into the Issuer MYR RA and the Issuer MYR DA will thereafter be closed.

The Issuer MYR DA shall be jointly operated by the Security Agent and the Issuer.

**Issuer USD Disbursement Account (“Issuer USD DA”)**

The Issuer shall open a Shariah compliant USD disbursement account for the purpose of depositing USD proceeds from the Issuer MYR DA, any compensation payments and relevant insurance proceeds received which the Issuer elects at its discretion to keep in USD. The Issuer shall use the credit balances in the Issuer USD DA for the purposes of making USD payments set out under the heading “Details on Utilisation of Proceeds” above and transferring to/from the Issuer MYR DA only.

Any credit balance remaining in the Issuer USD DA after the COD of the last Generating Block shall be converted and deposited into the Issuer MYR RA and the Issuer USD DA will thereafter be closed.

The Issuer USD DA shall be jointly operated by the Security Agent and the Issuer.

**Issuer EUR Disbursement Account (“Issuer EUR DA”)**

The Issuer shall open a Shariah compliant EUR disbursement account for the purpose of depositing EUR proceeds from the Issuer MYR DA, any compensation payments and relevant insurance proceeds received which the Issuer elects at its discretion to keep in EUR. The Issuer shall use the credit balances in the Issuer EUR DA for the purposes of making EUR payments set out under the heading “Details on Utilisation of Proceeds” above and transferring to/from the Issuer MYR DA only.

Any credit balance remaining in the Issuer EUR DA after the COD of the last Generating Block shall be converted and deposited into the Issuer MYR RA and the Issuer EUR DA will thereafter be closed.

The Issuer EUR DA shall be jointly operated by the Security Agent and the Issuer.

**Issuer MYR Revenue Account (“Issuer MYR RA”)**

The Issuer shall open a Shariah compliant MYR revenue account for the purpose of depositing the following:

- (i) all revenues and income received, including all payments from Project Company pursuant to the contract between Project Company and Issuer;
- (ii) proceeds of takaful/insurance claims in respect of takaful and insurance taken and/or maintained in connection with the Project save for payment allowed to be made directly to third parties in accordance with the provisions of the Transaction Documents;
- (iii) any claims received in respect of third party performance bonds/guarantees or any other compensation received by the Issuer;
- (iv) any remaining credit balances in the Escrow Accounts and Disbursements Accounts after the COD; and
- (v) any intercompany advances from Project Company and/or Sponsor’s Equity

Contribution or any claims pursuant to the Sponsor's Rolling Guarantee.

The credit balances in the Issuer MYR RA shall be applied in accordance with the "Issuer Priority of Cashflow" clause below.

The Issuer MYR RA shall be jointly operated by the Security Agent and the Issuer.

Issuer MYR Operating Account ("Issuer MYR OA")

The Issuer shall open a Shariah compliant MYR operating account for the purpose of depositing the amount transferred from the Disbursement Accounts (prior to COD) and the Issuer MYR RA (from COD onwards), for the payment of operating and maintenance, taxes and duties in respect of the Project.

The Issuer MYR OA shall be operated by the Issuer solely.

Project Company MYR Disbursement Account ("ProjCo MYR DA")

The Project Company shall open a Shariah compliant MYR disbursement account for the purpose of depositing MYR proceeds of Sponsor's Equity Contribution, intercompany advances, compensation payments and relevant insurance proceeds received. The Project Company shall use the credit balances in the ProjCo MYR DA for the purposes of making Project Company related MYR payments set out under the heading "Details on Utilisation of Proceeds" above, liquidated damages payments under the PPA and Sponsor's Equity Contribution to Issuer only.

Any credit balance remaining in the ProjCo MYR DA after the COD of the last Generating Block shall be deposited into the ProjCo MYR RA and the ProjCo MYR DA will thereafter be closed.

The ProjCo MYR DA shall be jointly operated by the Security Agent and the Project Company.

Project Company MYR Revenue Account ("ProjCo MYR RA")

The Project Company shall open a Shariah compliant MYR revenue account for the purpose of depositing the following:

- (i) all revenues and income received;
- (ii) proceeds of takaful/insurance claims in respect of takaful and insurance taken and/or maintained in connection with the Project, save for payment allowed to be made directly to third parties in accordance with the provisions of the Transaction Documents;
- (iii) any claims received in respect of third party performance bonds/guarantees or any other compensation received by the Project Company;
- (iv) any remaining credit balances in the ProjCo MYR DA after the COD;
- (v) any Sponsor's Equity Contribution;
- (vi) any claims pursuant to the Sponsor's Rolling Guarantee); and
  
- (vii) any intercompany advances and/or shareholder's distribution from Issuer.

The credit balances in the ProjCo MYR RA shall be applied in accordance with the "ProjCo Priority of Cashflow" clause below.

The ProjCo MYR RA shall be jointly operated by the Security Agent and the Project Company.

Project Company MYR Operating Account ("ProjCo MYR OA")

The Project Company shall open a Shariah compliant MYR operating account for the purpose of depositing the amount transferred from the ProjCo MYR RA, for the payment of MYR operating and maintenance, taxes, duties, capital expenditures (recurring or otherwise) and any other Project Company's payment obligations under the Project Documents.

The ProjCo MYR OA shall be operated by the Project Company solely.

Project Company EUR Operating Account ("ProjCo EUR OA")

The Project Company shall open a Shariah compliant EUR operating account for the

purpose of depositing the amount transferred from the ProjCo MYR RA, for the payment of EUR operating and maintenance, taxes, duties and capital expenditures (recurring or otherwise) and any other Project Company's payment obligations under the Project Documents.

The ProjCo EUR OA shall be operated by the Project Company solely.

#### Maintenance Reserve Account

The Project Company shall open a Shariah compliant MYR maintenance reserve account ("**Maintenance Reserve Account**"), for the purpose of fulfilling its obligations under the PPA. The Maintenance Reserve Account shall be built up to a sum of RM24 million over a three (3) year period, commencing on COD at the rate of RM 8 million per annum.

The Project Company is allowed to draw from the Maintenance Reserve Account to pay for maintenance expenses of the Project, including any repair or replacement, however the balance must be reinstated to the minimum balance over the 3 months following the withdrawal (or such other date as may be agreed between TNB and the Project Company) in accordance with the ProjCo Priority of Cashflow.

The Maintenance Reserve Account shall be operated by the Project Company solely.

#### Distribution Account

The Project Company shall open a Shariah compliant MYR Distribution Account for the purpose of depositing the amount transferred from the ProjCo MYR RA for any Restricted Payments.

For avoidance of doubt, distributions from the Distribution Account are at the sole discretion of the Project Company and shall not be subject to the Negative Covenants item (j) above.

The Distribution Account shall be operated by the Project Company solely.

**(xii) Issuer Priority Cashflow**

Priority application of cash flow from the Issuer MYR RA shall be as follows:

- (a) for transfers to the Issuer MYR OA for payment of operating and maintenance expenses, taxes, duties and compensation payments;
- (b) for payment of Periodic Distribution Amount, fees, costs, expenses, commissions and other financing costs payable in connection with the Sukuk TNB NE;
- (c) for payment of all principal obligations under the Sukuk TNB NE;
- (d) for payment of periodic distribution amount/profit payments, fees, costs, expenses, commissions and other financing costs payable in connection with the other financing facilities as allowed under the Transaction Documents;
- (e) for payment of all principal obligations under the other financing facilities as allowed under the Transaction Documents;
- (f) for intercompany advances to ProjCo MYR RA; and
- (g) for all other payments to the ProjCo MYR RA to be determined at the discretion of the Issuer.

With respect to costs, fees and expenses (including enforcement costs, fees and expenses in connection with the Sukuk TNB NE which in the view of the Facility Agent cannot be attributed solely to any particular Series, such costs, fees and expenses shall be allocated amongst all the Series proportionately based on the then outstanding nominal value of each Series.

**(xiii) ProjCo Priority of Cashflow**

Priority application of cash flow from the ProjCo MYR RA shall be as follows (except where the insurance claims are not related to loss in revenue, business interruption and/or delay in start-up, item (f) of the "ProjCo Priority of Cashflow" shall not apply):

- (a) for transfers to the ProjCo MYR OA and/or ProjCo EUR OA for payment of operating and maintenance, taxes, duties,

recurring capital expenditures in respect of the Project, including the Project Company's compensation payments and other payment obligations under the Project Documents including payments to Issuer due under the Turnkey Contract;

- (b) for compliance with the requirements in connection with the Maintenance Reserve Account and the Alternative Securities;
- (c) for payment of periodic distribution amount/profit payment, fees, costs, expenses, commissions and other financing costs payable in connection with the other financing facilities as allowed under the Transaction Documents;
- (d) for payment of all principal obligations under the other financing facilities as allowed under the Transaction Documents;
- (e) for intercompany advances, claims pursuant to the Sponsor's Rolling Guarantee and/or Sponsor's Equity Contribution to Issuer MYR RA; and
- (f) for transfers to the Distribution Account, subject to compliance with Negative Covenants item (j) above.

**(xiv) Permitted Investments**

Credit balances in the Designated Accounts may be used to invest in Permitted Investments. The Permitted Investments shall comprise investment products approved by the SC Shariah Advisory Council, BNM's Shariah Advisory Council and/or other recognised Shariah authorities from time to time.

The Permitted Investments are as follows:

- (a) Mudharabah, Wadiah and other deposits under Shariah principles with licensed financial institutions;
- (b) Islamic bankers acceptances, Islamic bills and other Islamic money market instruments by licensed financial institutions with a short term rating of P1 or MARC-1 or a minimum long term rating of AA3 or AA-;
- (c) Islamic treasury bills, Islamic money market instruments, and other sukuk or sukuk issued by BNM or the Government of Malaysia;

- (d) Sukuk or sukuk issued by quasi government or government related corporations with a short term rating of P1 or MARC-1 or a minimum long term rating of AA3 or AA- or Sukuk or sukuk guaranteed by the Government of Malaysia or BNM;
- (e) Sukuk or sukuk issued by corporations with a short term rating of P1 or MARC-1 or a minimum long term rating of AA3 or AA- or by financial institutions with a short term rating of P1 or MARC-1 or a minimum long term rating of AA3 or AA-; or
- (f) any Islamic fund approved by the SC which invests in any of the instruments above.

**(xv) Project Documents**

The following:

- (a) Power Purchase Agreement ("**PPA**");
- (b) Gas Sales Agreement ("**GSA**");
- (c) Land Lease Agreement ("**LLA**");
- (d) EPC Contract and associated bonds and guarantees from or on behalf of the EPC contractor ("**EPCC**");
- (e) Operation & Maintenance Agreement ("**OMA**");
- (f) Long Term Maintenance Program Contract ("**LTMP**");
- (g) Material Takaful/insurances relating to the Project issued in favour of or for the benefit of the Issuer;
- (h) Turnkey Contract;
- (i) when issued, the generation license; and
- (j) Any other permit, license, agreement and/or document that is issued to the Issuer or to which the Issuer is a party which is material to the Project as may be reasonably determined by the Joint Lead Managers and agreed with the Issuer to be designated as a Project Document.

**(xvi) Transaction Documents**

All documents relating to the Sukuk TNB NE and the Security/Collateral.

**(xvii) Mandatory Redemption**

The Issuer shall use the proceeds from any performance liquidated damages received from the EPC contractor to pay the Mandatory Redemption Amount (as defined below). The total amount to be applied to the mandatory redemption (the "**Mandatory**

**Redemption Amount**”) will be the lower of:

- (i) total proceeds relating to performance liquidated damages received from the EPC contractor; and
- (ii) such amount necessary (following the mandatory partial redemption) to restore the projected minimum Base Case FSCR at such time to 1.25x, after adjusting only assumptions regarding net electrical output of the Plant, and/or net heat rate of the Plant in the Base Case Financial Model to reflect the relevant reduced net electrical output of the Plant and/or increased net heat rate of the Plant.

The Issuer shall apply the Mandatory Redemption Amount towards the redemption of the Sukuk TNB NE in the following manner:

- a) If the projected minimum Base Case FSCR can be restored to 1.25x following such partial redemption, the Issuer shall partially redeem each Series of the Sukuk TNB NE in inverse order of maturity;
- b) If partial redemption in inverse order of maturity does not restore the projected minimum Base Case FSCR to 1.25x, the Issuer shall partially redeem all Series of the Sukuk TNB NE on a pro-rata basis.

Following the payment of the Mandatory Redemption Amount, the Issuer may use the remaining proceeds from performance liquidated damages received from the EPC contractor (if any) to make distributions.

**(xviii) Scheduled Commercial Operation Date (“Scheduled COD”)**

1 January 2016 or as extended in accordance with the PPA.

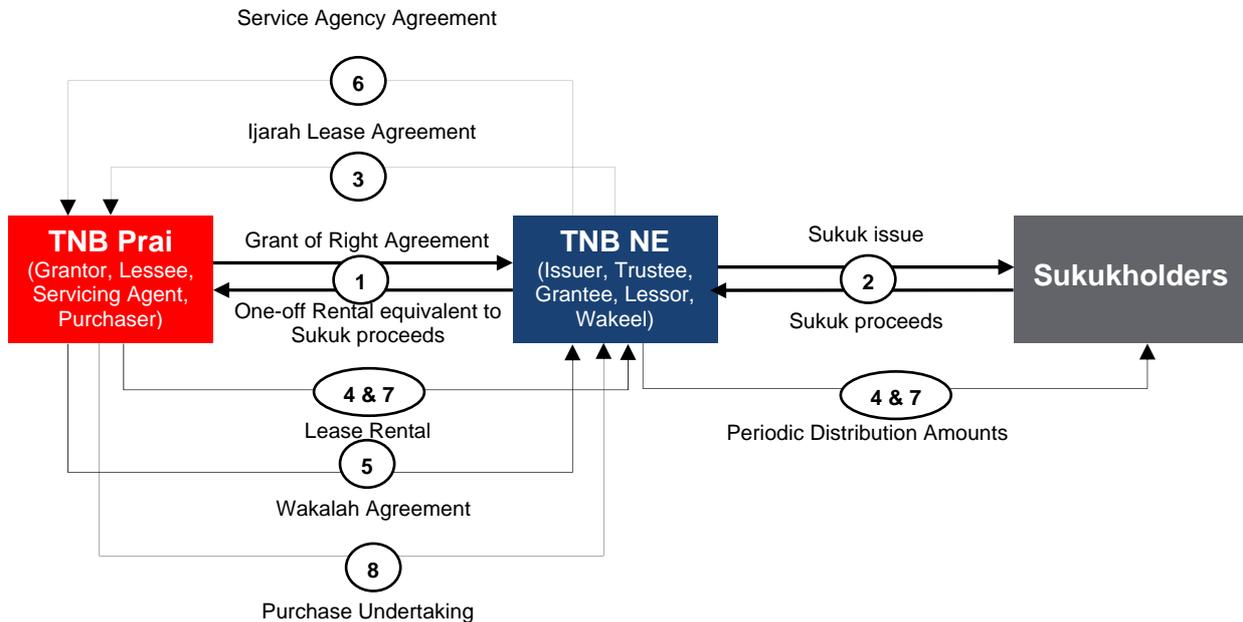
**(xix) Sponsor’s Equity Contribution**

Refers to all shareholders’ equity contribution made directly or indirectly by the Sponsor, whether in the form of ordinary share capital, preferred shares or subordinated shareholder loans, and including any equity bridge loan undertaken by the Issuer and/or Project Company but guaranteed by the Shareholder.

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## Appendix 1

### Diagrammatical Illustration for Sukuk TNB NE



- Step 1** TNB Prai (in its capacity as grantor (“Grantor”)) shall enter into a grant of right agreement (the “Grant of Right Agreement”) with TNB NE (in its capacity as grantee (“Grantee”)) acting on behalf of subscribers of the Sukuk TNB NE (“Sukukholders”), which term shall include any holders of the Sukuk TNB NE from time to time, to grant the right over the use of the Ijarah Project Lands and to derive the benefits of the usufruct rights over the use of the Ijarah Project Lands (the “Asset”) for a duration of 24 years or such period as corresponding to the lease term in the LLA with an option to be extendable for another 24 years subject to the PPA term being extended as set out in the LLA (“Grant of Right”). The Grantee will make a single upfront rental payment (“One-off Rental”) to the Grantor, which amount shall be equivalent to the aggregate proceeds to be raised from the issuance of the Sukuk TNB NE
- Step 2** Pursuant to a Declaration of Trust, the Issuer (in its capacity as trustee) shall declare a trust over the Asset including the rights, title, interest and benefit, present and future, in and to under the Grant of Right Agreement, the Ijarah Lease Agreement (as defined below), the Service Agency Agreement and the Purchase Undertaking (the “Trust Asset”) for the benefit of the Sukukholders.
- The Issuer shall issue Sukuk TNB NE to the Sukukholders which shall represent the Sukukholders’ undivided proportionate beneficial ownership interest, rights and entitlements under the Trust Asset. The Sukuk TNB NE proceeds shall be utilised to pay the Grantor the One-off Rental under the Grant of Right Agreement.
- Step 3** With the Asset held by the Issuer (in its capacity as Grantee), acting on behalf of the Sukukholders, the Issuer (in its capacity as Lessor) shall enter into an Ijarah Lease Agreement (the “Ijarah Lease Agreement”) with TNB Prai (as Lessee), to lease the Asset to the Lessee, for a tenor corresponding to the maturity of the final series (“Series”) of the Sukuk TNB NE, i.e. more than 4 years and not exceeding 23 years (the “Lease Period”).
- Step 4** Pursuant to the Ijarah Lease Agreement, the Lessee shall pay the ijarah rental payment (“Lease Rentals”) to the Lessor which shall be the sum equivalent to the aggregate of all Periodic Distribution Amounts (as defined below) to be channeled by the Issuer to the Sukukholders as periodic distributions (“Periodic Distribution Amounts”) in proportion to the Sukuk TNB NE they hold on each periodic distribution date.
- Step 5** Pursuant to a Wakalah Agreement, TNB Prai shall appoint the Issuer as its agent

("Wakeel") for the provision of certain services for a wakalah fee of RM100.00, for a period corresponding to the period for the construction and delivery of the Plant to TNB Prai under the Turnkey Contract. The Wakeel shall be responsible to:

(i) Safe-keep the One-off Rental paid to TNB Prai as Grantor on a Wadiah basis; and

(ii) To make payments including (a) payment on behalf of TNB Prai (as lessee) of the Lease Rentals to the Lessor; (b) any payments as set out paragraph 2(m) of the PTC (Details on Utilisation of Proceeds) items (1) to (3); and (c) any other payments or cost in relation to and associated with the Project comprising those set out in the said paragraph 2(m) items (4) to (6).

**Step 6** Pursuant to a Service Agency Agreement, the Issuer (in its capacity as Lessor), acting on behalf of the Sukukholders, shall appoint TNB Prai as the "Servicing Agent" for a servicing agent fee of RM100.00, throughout the Lease Period to carry out certain of its obligations. The Servicing Agent shall be responsible to procure takaful/insurance in respect of the Asset that provides sufficient proceeds for the redemption of the Sukuk TNB NE under a Total Loss Event. If the takaful/insurance proceeds are insufficient to cover the redemption amount due under the Sukuk TNB NE under a Total Loss Event (the "Redemption Amount"), Service Agent shall undertake to pay shortfall amount. Thereafter any proceeds from the takaful/insurance proceeds shall be for the account of Service Agent.

**Step 7** The Wakalah Agreement will cease upon the completed Plant being delivered to TNB Prai under the Turnkey Contract. Thereafter, TNB Prai as Lessee will pay the Lease Rentals directly to the Lessor, who in turn will channel to Sukukholders as Periodic Distribution Amounts.

**Step 8** TNB Prai (as the "Purchaser") will grant a purchase undertaking (the "Purchase Undertaking") to the Issuer, whereby the Purchaser irrevocably undertakes to purchase the proportionate undivided ownership in the remaining period of the Grant of Right from the Sukukholders of the relevant series of the Sukuk TNB NE, upon declaration of a Dissolution Event (save for a Dissolution Event due to a Total Loss Event), upon the occurrence of the Mandatory Redemption event or upon the Maturity Date whichever is earlier, at the relevant Exercise Price or Mandatory Redemption Exercise Price (where relevant). The proceeds therefrom shall be utilised by the Issuer for the redemption of such relevant Sukuk TNB NE held by the Sukukholders which shall then be cancelled.