

**Company Name : PBA HOLDINGS BHD**

**Subject : (a) MASTER AGREEMENT BETWEEN THE GOVERNMENT OF MALAYSIA, THE STATE GOVERNMENT OF PENANG PERBADANAN BEKALAN AIR PULAU PINANG SDN BHD (PBAPP), & PENGURUSAN ASET AIR BERHAD (PAAB) (“MASTER AGREEMENT”)**

**(b) FACILITY AGREEMENT & LEASE AGREEMENT BETWEEN PBAPP & PAAB**

Announcement Details:

## **1.0 INTRODUCTION**

PBA Holdings Bhd. (“PBAHB” or “Company”) wishes to announce that its wholly owned subsidiary, Perbadanan Bekalan Air Pulau Pinang Sdn Bhd (“PBAPP”) has on 2<sup>nd</sup> of June 2011 entered into a Master Agreement with the Government of Malaysia, the State Government of Penang and Pengurusan Aset Air Berhad (“PAAB”) (Collectively known as “Parties”).

PBAPP has also on the same date entered into a Facility Agreement and Lease Agreement with and PAAB.

(Collectively known as “Agreements”)

## **2.0 EVENTS LEADING TO THE EXECUTION OF THE AGREEMENTS**

2.1 The State Government of Penang (“State Government”) is the owner of the Water Assets and a substantial shareholder of PBAHB, of which its shares are held through State Secretary Penang in PBAHB.

2.2 PBAPP is a wholly owned subsidiary of PBAHB and the water operator for Penang State, which operates and maintains the treatment, distribution and supply of treated water in the State of Penang. PBAPP is a company incorporated in Malaysia under the Companies Act, 1965 and having its registered office at Level 32, Komtar, 10000 Penang. PBAPP has an authorised share capital of RM300,000,001.00 divided into 300,000,000 ordinary shares of RM1.00 each and 1 special rights redeemable preference share of RM1.00 each, of which 165,114,082 ordinary shares of RM1.00 each and 1 special rights redeemable preference share of RM1.00 each have been issued and fully paid-up.

2.3 The State Government had executed two (2) lease agreements with PBAPP dated 1<sup>st</sup> March 1999 and 1<sup>st</sup> January 2000 (“State Lease Agreements”) for the purpose of leasing some of the Water Assets.

2.4 The Federal Government has enacted the Water Services Industry Act 2006 (“WSIA”) with the objective amongst others to establish a regulatory environment that facilitates financial self-sustainability amongst the operators in the water services industry.

- 2.5 In order to assist the State Government to achieve financial self-sustainability in its operation, maintenance, treatment, distribution and supply of treated water, the Federal Government and the State Government have agreed to enter into the Master Agreement for PAAB to accept the novation of the loans which had been disbursed by the Federal Government to the State Government pursuant to its loan agreement (“Federal Loans”) as well as to regulate the relationship of the Parties.

### 3.0 **KEY SALIENT TERMS OF THE AGREEMENTS**

#### 3.1 Master Agreement

- 3.1.1 In consideration of their mutual promises and covenants, below are the scopes of the Master Agreement:

- (a) the Federal Government consenting to the novation of the Federal Loans from the State Government to PAAB;
- (b) PAAB accepting the novation of the Federal Loans from the State Government;
- (c) the State Government procuring the alienation of identified Lands (“Land”) for use as the treatment of water abstracted from watercourses and the distribution and supply of treated water to consumers and includes the operation and maintenance of Water Assets and New Water Assets (“Water Supply Services”) directly to PAAB;
- (d) PAAB thereafter leasing the Land to PBAPP;
- (e) PAAB and PBAPP executing the Facility Agreement for the purpose of amongst others, granting the rights to PAAB but subject to clause 3.1.2 herein, to undertake the construction, upgrading, and refurbishment of the Water Assets and receiving the Monthly Rental for the lease of the Land in first rank and priority over all other payments and liabilities of PBAPP;
- (f) PBAPP constructing, upgrading, refurbishment of the New Water Assets subject to clause 3.1.2 herein and the Facility Agreement; and
- (g) PAAB constructing, upgrading and refurbishment of the Water Assets but subject to the terms and conditions of the Facility Agreement

It was also agreed that simultaneously with the execution of the Master Agreement, the relevant Parties shall also execute the Facility Agreement and Lease Agreement thereon.

- 3.1.2 Pursuant to the Master Agreement, PBAPP shall at its own cost and expenses undertake the following:-

(a) **Application of Relevant Licenses**

Submit the necessary application to the relevant authority for the issuance of the relevant licenses as the owner and operator of the Water Supply Services.

(b) **Maintain Present Shareholding**

Ensure that at least Seventy Five per centum (75%) of its shares is being held by PBAHB.

(c) **Construction, Upgrading and Refurbishment of Water Assets and New Water Assets**

Upon being notified by PAAB and subject to PBAPP's ability to secure the costs of fund equivalent or lower than that secured by PAAB and provided the approval of Suruhanjaya Perkhidmatan Air Negara ("SPAN") has been obtained, PBAPP shall have the first right to construct, upgrade, and refurbish at its own costs and expense the Water Assets and New Water Assets for Water Supply Services.

(d) **Termination of State Lease Agreement**

Terminate the State Lease Agreements with the State Government.

3.1.3 The obligations of PAAB as set out in the Master Agreement are as follows:

(a) **Federal Loans**

- (i) PAAB shall assume all the rights, liabilities, benefits and obligations on the Federal Loans in every way as a debtor in lieu of the State Government;
- (ii) Pay and discharge the liabilities and obligations of the State Government in respect of the Federal Loans and be bound by the terms and conditions as therein contained as if it was a party thereto or upon the terms as may be mutually varied with the Federal Government pursuant to clause 3.1.4 as stated hereinunder.

(b) **Land**

Subject to any provisions of any relevant statutes, regulations, by-laws or rules and PROVIDED THAT it has been registered as the registered owner of the Land, PAAB shall lease all those Lands, comprising alienated and non alienated land, gazetted and/or reserved land for use in the water supply services industry all things attached to the Land or permanently fastened to anything attached to the land, whether on or below the surface and below limited to the Water Assets only ("Land") to PBAPP by registering the same at the costs and expense of PBAPP but subject always to the terms and conditions as contained in the Lease Agreement.

Pending registration of such Lease, PAAB shall grant PBAPP access onto the Land for the purpose of carrying out the Water Supply Services.

3.1.4 Pursuant to the Master Agreement, the Federal Government also agrees to undertake the following:-

- (a) release and discharge the State Government from all obligations, claims and demands whatsoever in respect of the Federal Loans and accepts the liability of PAAB in every way as if PAAB is the debtor under the Federal Loans; and
- (b) grant PAAB a grace period for repayment of the Federal Loans until such time that both the Federal Government and PAAB have reached mutually acceptable terms and conditions in a separate agreement.

### 3.1.5 Dispute Resolution

- (i) Any dispute and/or differences arising between the Parties pursuant to the terms of the Master Agreement shall be resolved by the Parties in good faith and at their best endeavors respectively. If the Parties fail to reach an amicable resolution to such dispute and/or differences within thirty (30) days from the date when one Party first gives written notice of such dispute and/or differences to the other, the dispute and/or differences shall be dealt with in accordance with the provisions under this clause.
- (ii) Any dispute and/or differences between the Parties in respect of any matter of substance under the Master Agreement may be referred to a dispute resolution committee ("Dispute Resolution Committee") comprising: -
  - (a) the Secretary General of the Ministry of Finance or any officer authorised by him, as the Chairman;
  - (b) one (1) representative to be appointed by the State Government;
  - (c) one (1) representative to be appointed by PAAB; and
  - (d) one (1) representative to be appointed by PBAPP.
- (iii) The Dispute Resolution Committee may appoint independent experts to advice on any matter referred to it. The fees and expenses of any independent expert so appointed shall be borne equally by the Parties.
- (iv) The Dispute Resolution Committee shall determine his own procedures and endeavour to achieve an amicable settlement between the Parties in respect of any dispute referred to it.

## 3.2 Lease Agreement

3.2.1 Pursuant to the Master Agreement, PAAB will be granted by the State Government with the leasehold title on the Lands and at the same time, PAAB will lease the Lands to PBAPP to operate, maintain, treat, distribute and supply treated water in the State of Penang ("Lease").

3.2.2 In consideration of the said Lease, PBAPP will pay an annual rental for the said Lands at the agreed lease payment of RM14.56 million per annum over 45 years lease period. The basis in arriving the said lease payment is based on the cost of Water Assets transferred by the State Government to PAAB for a period of 45 years.

### 3.3 Facility Agreement

3.3.1 The key objectives for entering into the Facility Agreement between PBAPP and PAAB are mainly for PAAB to:

- (a) upgrade and refurbish the Water Assets which shall be deemed as the New Water Assets (as defined in the Agreement);
- (b) construct, upgrade and refurbish New Water Assets; and
- (c) receive the Monthly Rental in respect of the lease of the Land to PBAPP in first rank and priority over all other payments and liabilities of PBAPP in the manner as specified in the Agreement.

## 4.0 **RATIONALE**

The execution of the Agreements are in line with the restructuring of water services industry in Penang which aims to solve the problem to get funding for the costs of water resources and infrastructure upgrading and rehabilitation of water supply systems.

A large capital expenditure is required for water supply system for the state of Penang and the restructuring need to be implemented so as to ensure sustainable operations and distribution of water supply.

With the signing of the Agreements, it will enable PBAPP being the water operator to focus solely on providing water treatment and distribution services, while the Federal Government will be fully responsible for the source work of water supply projects.

## 5.0 **FINANCIAL EFFECT**

### 5.1 Issued and Paid-up Share Capital, net assets and gearing

The Agreements will not have any effect on the share capital and substantial shareholders' shareholdings, net assets and gearing of PBAHB Group.

### 5.2 Earnings and earnings per share

The Agreements will not have any material effect on the earnings and earnings per share of PBAHB Group for the year ending 31 December 2011.

## **6.0 APPROVAL REQUIRED**

The Agreements are not subject to the approval of the shareholders of PBAHB and any other relevant authorities as the highest percentage ratio applicable to the above transaction is 2.23% only (based on the annual lease payment to be payable by PBAPP with comparison to the latest audited net assets of the Group for the year ended 31 December 2010).

## **7.0 DIRECTORS' AND SUBSTANTIAL SHAREHOLDERS' INTERESTS**

Save as the above mentioned, none of the Directors or substantial shareholders of PBAHB or persons connected to them have any interest, direct or indirect, in the above transaction.

## **8.0 DOCUMENTS AVAILABLE FOR INSPECTION**

The Agreements are available for inspection during normal business hours on Mondays to Fridays (except public holidays) at the Registered Office of the Company at level 32, Komtar, 10000 Penang for a period of three (3) months from the date of this announcement.

This announcement is dated 2 June 2011.