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**19.0 SALIENT TERMS OF THE PRINCIPAL AGREEMENTS AND THE BAIDS**

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**19.1 Summary of the Terms of the Concession Agreement**

The following is a summary of the terms of the Concession Agreement, prepared for the purpose of this Prospectus, with the objective of providing information that are relevant to potential investors of the Public Issue Shares. The summary does not purport to be complete. The words and expressions used in this section have the same meanings as are respectively ascribed to them in the Concession Agreement.

**1. Condition Precedent to granting of Concession (Clause 1)**

The grant of the Concession is conditional upon the notification by the Government to SILK that the State Roads (being state roads which are affected by the Concession) have been duly gazetted by the Government under the Federal Roads Act 1959 as Federal Roads, for the purpose of the Concession.

**2. The Concession (Clause 2)****2.1 The Concession and the Concession Period**

The Government grants to SILK, subject to the provisions of the Concession Agreement and the Federal Roads (Private Management) Act, 1984, the right and authority to:

- (a) design and construct the Ring Road (including the upgrading and widening of the existing roads comprised thereof);
- (b) supply and install tolling and other equipment on the Ring Road and to manage, operate and maintain the same during the Concession Period;
- (c) exclusively demand, collect and retain toll for its own benefit from vehicles using the Ring Road or any part thereof during the Concession Period;
- (d) operate and maintain at its own cost and expense (including without limitation, utility charges incurred thereby) the Ring Road during the Concession Period;
- (e) design, construct, manage, operate and maintain the Ancillary Facilities (comprising essentially of laybys and/or rest areas and other amenities which may be constructed and operated on the Ring Road or within road reserve in accordance with the approved design thereon) and the rights thereto including the right to retain the Ancillary Income (being all income derived from the operation, maintenance and management of the Ancillary Facilities) during the Concession Period;
- (f) design, construct, operate and maintain the Administrative Office of SILK forming part of the Ring Road and all other activities incidental to the performance of the works referred to in (a) to (e) above.

The Concession Period shall commence from the date of the Supplemental Concession Agreement and shall subject to the provisions of the Concession Agreement, expire on the 36th anniversary of the date of the Supplemental Concession Agreement.

**2.2 Expiry or Earlier Termination of Concession Period**

On the Termination Date (which is defined to be the earlier of (i) the date of expiry of the Concession Period or (ii) the termination of the Concession Agreement or (iii) the expropriation of the Concession or SILK by the Government), all rights and entitlements of SILK in respect of the Concession and the Concession Area is to revert to, vested in or remain vested in the Government without any other costs to the Government and:

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- (a) in case of termination of the Concession prior to the commencement of physical Construction Works, the Government is entitled to appoint another party to take over, carry out and complete such works on such terms and conditions as the Government may deem fit;
- (b) in the case of termination of the Concession prior to the completion of the Construction Works or any part thereof, SILK is to cease all its Construction Works and remove all its workmen, employees, servants, agents and contractors and its and their equipment, plant and materials from the Concession Area; or
- (c) in the case of termination of the Concession after completion of construction of the Construction Works but prior to the operations of the Ring Road, SILK is to hand over the Ring Road to the Government in a well-maintained and operational condition, remove all its workmen, employees, servants, agents and contractors and its and their equipment, plant and materials from the Concession Area, and is to make good any defects thereto identified during the joint inspection of the Ring Road at SILK's own expense, and thereafter cease to have any liability for maintenance of the same; or
- (d) in the case of termination of the Concession after completion of the Construction Works but prior to expiry of the Concession Period, SILK is to remove from the Concession Area all workmen, employees, servants, agents and contractors and vacate the Ring Road completely and is to hand over the Concession Area to the Government in a well-maintained condition (after making good any defects thereto at SILK's own expense) and thereafter cease to have any liability for maintenance of the same; or
- (e) in the case of expiry of the Concession Period, SILK is to:
  - (i) forthwith cease to operate and maintain the Ring Road and is to remove from the Concession Area all its workmen, employees, servants, agents and contractors and vacate the Ring Road completely. SILK is to, not later than three (3) months prior to the expiry of the Concession Period provide an inventory of all its equipment, materials and fixtures on the Ring Road and shall not remove such equipment and materials or fixtures therefrom without the prior approval of the Government but, subject thereto, is to remove therefrom such equipment and materials and fixtures (including any Toll Plazas) as the Government may then specify; and
  - (ii) hand over the Concession Area to the Government in a well-maintained condition and is to make good any defects thereto at SILK's own expense within one (1) year after the date of handing over,

and in each case all construction contracts, maintenance contracts and contracts relating to Ancillary Facilities entered into by SILK and then subsisting as at the Termination Date is to be determined and the Government is not liable for any termination costs arising thereby and is to be indemnified and held harmless by SILK in respect of the same.

### 2.3 *Joint Inspection*

For the purposes of determining the defects to be made good by SILK under paragraphs 2.2 (d) and (e) above, the Government and SILK or their duly authorised representatives are to, on mutually acceptable dates (such dates shall not be later than twelve (12) months prior to the expiry of the Concession Period or in the event of earlier termination of the Concession Agreement, a date not later than one (1) month after the termination of the Concession Agreement ("the Inspection Dates"), conduct a joint inspection exercise of the Ring Road to determine any defects thereto as at the Inspection Dates.

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**3. Government Auditor and Company Auditor (Clause 5)**

*3.1 Appointment*

The Government is to appoint at its own expense a person or persons as the Government Auditor to provide the joint certificates and other services referred to in paragraph 3.2. SILK is to appoint at its own expense a person or firm as the Company Auditor to provide the joint certificates and other services referred to in paragraph 3.2.

*3.2 Joint Certificates*

The Government and SILK are to respectively require that the Government Auditor and the Company Auditor to jointly provide the certificates and the other services referred to in the Concession Agreement to be provided by the Government Auditor and the Company Auditor (collectively defined as the "Operation Auditors"). Any joint certificates provided by the Government Auditor and the Company Auditor is conclusive as to the matters set out therein and binding on SILK and the Government, in the absence of manifest error. If the Government Auditor and the Company Auditor are unable to agree on any matter to be set out in any joint certificate to be provided by them, upon being notified of such inability to agree on such matter, either party is to refer such matter to the Minister (being the Minister charged with the responsibility for roads) for determination.

*3.3 Determination by the Minister*

When any matter has been referred to the Minister for determination in accordance with Clause 5.5 (in relation to joint certificates) or Clause 5.8 (in relation to payments) of the Concession Agreement, the Government Auditor and the Company Auditor are to promptly deliver a certificate as to the matter referred to the Minister. The determination by the Minister on any matter so referred is to be final and binding on SILK and the Government (subject to the parties' right to seek arbitration as discussed in paragraph 3.4).

*3.4 Arbitration*

If SILK is dissatisfied with any determination by the Minister (other than any determination in relation to Toll, for which there is to be no recourse to arbitration), SILK may refer such matter to arbitration within six (6) months from the date of such determination by the Minister and is to promptly inform the Government of any such reference. If any matter so referred to arbitration is settled pursuant to clause 29.2 of the Concession Agreement, the settlement by the arbitrator of a matter referred to it is binding on SILK and the Government.

*3.5 Dispute in Payment*

If the Government Auditor and the Company Auditor are unable to agree on matters relating to the payment of money, the Government Auditor and the Company Auditor are to issue a joint certificate stipulating any agreed amounts and any disputed amounts. Consequently, all agreed amounts and in respect of the disputed amounts, fifty percent (50%) of the amounts determined by the Government Auditor will be payable.

Further, the disputed amount is to be referred to the Minister for determination. Following the determination of the matter by the Minister, the balance (if any) of the payment or any overpayment, is to become payable or repayable (in the case of overpayment by the Government with interest thereon at the rate of ten percent (10%) per annum), within ninety (90) days from the Minister's determination.

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**4. Land and Frontage Road (Clause 6)**

*4.1 Grant of Land Right and Licence*

Subject to the Government's right to require SILK to allow access to any part of the Concession Area for installation of new or additional services or to any contractor for the removal of squatter buildings and construction of certain works, the Government is to grant to the Concession Company throughout the Concession Period the right and licence to enter upon and to occupy land required for the Concession.

SILK shall bear any premium, rates, assessment, rent, taxes or other costs, expenses and charges that may be payable in respect of all or any land within the Concession Area.

Any land required for the purposes of the Concession is to be made available to SILK in a condition which permits SILK to commence the relevant part of the Construction Works on such land, free of encumbrances (other than transplanting, removal or relocation of trees and structures) and without any squatters or other occupiers.

*4.2 Land not subject to Acquisition*

SILK is to submit to the Government within fourteen (14) days from the date of the Supplemental Concession Agreement, land acquisition plans for those land comprised in the Concession Area. In respect of land which is not subject to land acquisition, the Government is to make available the relevant land to SILK in a condition enabling SILK to commence the Construction Works:

- (a) in the case of land which is not subject to encumbrances, within six (6) months from the submission of the accepted land acquisition plans; and
- (b) in the case of land which is subject to encumbrances, within nine (9) months from the submission of the accepted land acquisition plans.

*4.3 Compulsory Acquisition of Land*

SILK is to submit to the Government within fourteen (14) days from the date of the Supplemental Concession Agreement land acquisition plans for those land comprised in the Concession Area which are to be compulsorily acquired by the Government under the Land Acquisition Act, 1960 for the purpose of the Concession. The Government is to make available the land to SILK in a condition enabling SILK to commence the Construction Works:

- (a) in the case of land which is not subject to encumbrances, within nine (9) months from the submission of the accepted land acquisition plans; and
- (b) in the case of land which is subject to encumbrances within twelve (12) months from the submission of the approved land acquisition plans.

In the event there are amendments to the land acquisition plans as directed by the Government, the Government is to use its best endeavours to make available such land within six (6) months from the date of re-submission of such plans by SILK.

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**4.4 Partial Availability of Land**

If all the land to be made available by the Government has not been made available to SILK by the scheduled date for commencement of the Construction Works for a particular Section, SILK is to enter into those parts of the land which have been made available, and is to commence the relevant Construction Works, if at least fifty per cent (50%) in area of the land to be made available by the Government for that Section has been made available. The Government is to use its best endeavours to make available the remainder of the land by the time SILK completes the Construction Works for the first such fifty percent (50%) of land.

**4.5 Cost and Expenses**

SILK is to bear all costs, expenses or charges incurred in making available the land falling within the alignment of the SILK Funded Stretch including any compensation required to be paid for the acquisition (inclusive of any additional amount of compensation awarded by a court of law, if any), or for the removal or resettling of squatters or other occupiers.

The Government is to bear all costs, expenses or charges incurred in making available the land within the alignment of the Government Funded Stretches including any compensation required to be paid for the acquisition (inclusive of any additional amount of compensation awarded by a court of law, if any). However, all costs, expenses or charges incurred for the removal or resettling of squatters or other occupiers on the lands falling within the alignment of the Government Funded Stretches shall be borne by SILK.

As part of the Land Use Payments, SILK is to bear the costs to be incurred for the construction of low cost flats for the purposes of resettling squatters or other occupiers (excluding illegal immigrants) affected by the Construction Works PROVIDED THAT:

- (a) the provision of such low-cost flats together with the necessary infrastructure is to not exceed the sum of Ringgit Malaysia Forty Two Thousand (RM42,000) per unit. SILK is to provide one (1) unit of low cost flat per squatter dwelling for squatters or other occupiers and who have not previously received any compensation from the Government or the relevant State government; and
- (b) the Government is to provide, or seek the assistance of the relevant State governments as the case may be, to provide the land for such low cost flats together with the primary infrastructure at its own cost and expense, where required. Alternatively, the Government may procure SILK to purchase the aforesaid low cost flats from third parties.

**4.6 Delay in Obtaining Land**

In the event of any delay by the Government in making available the land required for the Concession, and:

- (a) the delay is not more than eighteen (18) months after the submission of accepted land acquisition plans by SILK, the Concession Period will be extended to adequately compensate SILK by giving written notification to SILK; or
- (b) if the delay is more than eighteen (18) months after the submission of accepted land acquisition plans by SILK, the Government will at its own election by notification to SILK:
  - (i) extend the Concession Period as is necessary to adequately compensate SILK; or
  - (ii) provide SILK with such remedy or relief as mutually agreed to enable SILK to meet any loss, cost or expense incurred or suffered by SILK as a consequence of such delay or interruption to the Works.

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Such period of extension (if any) is to be mutually agreed by SILK and the Government or, in the absence of such agreement, is to be determined by the Minister. The amount of any such compensation, if agreed by the parties to be provided, is to be determined by the Operation Auditors and is to be paid within ninety (90) days after the date of receipt by the Government of the joint certificate from the Operation Auditors. The Government is to further allow an extension of the period of the completion of construction of the Works. SILK is not entitled to any form of compensation either by extension of the Concession Period or compensation if the delay by the Government does not result in delay of completion of the whole Ring Road.

**4.7 Land for Administrative Office and other purposes**

In respect of those parts of the Concession Area upon which the Administrative Office and other buildings are to be constructed (other than the Toll Plazas) the Government, through the Federal Land Commissioner, may execute all necessary documents and take all necessary action to grant to SILK leases, in which case, SILK is to bear:

- (a) in respect of the land comprised within the leases for the Administrative Office, nominal lease rentals; and
- (b) in respect of the land to be used for purposes other than the Administrative Office, such lease rentals at such rates to be determined by the Government; and
- (c) premiums, quit rent, assessments, rates, taxes or other costs and expenses in respect of the land comprised within such leases, for the duration of the Concession Period.

**4.8 Limit of Rights**

The rights given in the Concession Agreement to SILK in respect of the land made available to it do not confer upon SILK any proprietary right, title or interest in or over such land.

**4.9 Reversion of Unutilised Land**

Any land made available to SILK by the Government which is not utilised for the purposes of the Concession is to revert to the Government within three (3) months from receipt of a request from the Government requiring such land, at no cost to the Government.

**5. Design (Clause 7)****5.1 Design Requirement**

SILK is to assume all liabilities and responsibilities for the Approved Design (being collectively the design brief approved by the Government and the detailed design approved by the Government, in each case prepared by SILK), in particular the functional adequacy, structural integrity and safety of the aforesaid design. SILK is to save the Government harmless from any defect or inadequacy in the design throughout the Concession Period notwithstanding the approval of the design by the Government.

**5.2 Design Approvals**

SILK is to submit to the Government for its approval a design brief for the Construction Works which comply with and is in accordance with the Appendices to the Concession Agreement and in particular the design requirements as set out in Appendix C to the Concession Agreement. The preparation of the design brief is to be carried out at SILK's expense by qualified consulting engineering firms who meet the requirements of Clause 8.1 of the Concession Agreement and are covered by professional indemnity insurance.

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Unless SILK receives written objections from the Government within four (4) weeks from the date the Government receives the submission by SILK of the design brief for approval, the design brief is deemed approved and SILK may carry out works on the detailed design covered by such approved design brief. The Government has four (4) weeks to object to any re-submission of design brief by SILK.

After approval of the design brief, a detailed design for the Construction Works is to be prepared and submitted to the Government for approval, such approval not to be unreasonably withheld. Unless SILK receives written objections thereto from the Government within six (6) weeks after the date of receipt by the Government of the detailed design from SILK, that detailed design is to be deemed approved and SILK may carry out the Construction Works covered by that detailed design. The Government has four (4) weeks to object to any re-submission of the detailed design by SILK.

The Government is entitled to use the design drawing to complete the Works in the event of termination of the Concession Agreement.

**5.3 *Amendments to the Approved Design by SILK***

SILK is not permitted to make any amendments to the Approved Design without the prior written approval of the Government, which approval is not to be unreasonably withheld.

SILK may propose further amendments to the Approved Design to reduce cost of construction or to improve the design or to make the construction of a particular aspect of the Ring Road more practical. Such proposals must be in accordance with the terms and conditions of this Agreement provided that the proposed amendments shall not result in the reduction in the capacity and safety of the Ring Road. SILK is to submit to the Government a brief outline of the proposed amendment to the Approved Design and the reasons for such amendment. The Government is to, within four (4) weeks after the date of receipt of the proposed amendment, give a written reply whether such proposed amendment is approved or otherwise. If the proposed amendment is approved, SILK is to then proceed to prepare the detailed design for further submission to, and approval by the Government in accordance with Clause 7.2.

SILK is to pay for the costs and expenses of the amendment to the Approved Design or for any additional construction cost that results from such amendment and to indemnify the Government for any defect in such Approved Design notwithstanding its approval by the Government.

Where possible, the amendment to the Approved Design by SILK should not cause any additional land acquisition by the Government. In the event additional land acquisition is necessary in order for SILK to implement any amendment to the Approved Design requested by SILK then, all costs in relation thereto including the removal of any encumbrances is to be borne by SILK and SILK is not entitled to claim for any extension of the Concession Period on account of delay caused by the additional acquisition. The additional land is deemed to be part of the Concession Area.

**5.4 *Amendment to Approved Design and Additional Works by the Government***

The Government may make changes to the Approved Design or request for additional works or for the omissions of some parts of the design in accordance with the procedures set out in Appendix D of the Concession Agreement. SILK is to comply with such request and is not entitled to any compensation whatsoever for design changes or additional works requested by the Government which:

- (a) does not increase the Scope of Works undertaken by SILK; or
- (b) does not result in the overall cost of construction to exceed the original contract cost of construction (excluding the design costs and project management fees) if carried out in accordance with the Approved Design; or
- (c) is required due to soil conditions.

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Where any additional land is necessary in order for SILK to carry out any additional works at the request of the Government or implement any amendment to the Approved Design requested by the Government, the Government is to make available to SILK such additional land as soon as reasonably practicable and the Government is to bear the costs and expenses to be incurred thereby. Any such additional land is to be deemed to be part of the Concession Area.

**5.5 *Reimbursement for Works Variation***

Subject to paragraph 5.4, the Government is to reimburse or compensate SILK for the additional costs of construction and/or any consequential loss, cost or expense incurred or suffered by SILK arising out of or as a result of any additional works or changes to the Approved Design requested by the Government. In addition, if there is resulting delay to the Construction Works then:

- (a) the Concession Period and the period for commencement or completion of any part of the Construction Works is to be extended (the period of such extension is to be agreed by SILK and the Government or, in the absence of such agreement, is to be determined by the Minister); and/or
- (b) any other forms of compensation or relief is to be provided to SILK to enable SILK to meet any loss, cost or expense incurred or suffered as is necessary to compensate SILK for the consequences of such delay.

The additional cost of construction and any compensation or reimbursement (as the case may be) is to be ascertained and certified by the Operation Auditors, and is to be payable within ninety (90) days after the date of receipt by the Government of such joint certificate.

**5.6 *Additional Work in lieu of omissions from Approved Design***

If the Government requests for the omissions of certain parts of the Approved Design (save and except for the Approved Design in respect of the works relating to the Government Funded Stretches) and such omissions result in a reduction of the overall cost of construction, at the written instructions of the Government (such instructions to be issued not later than twelve (12) months from the date when the receipt of the request for omissions for the Approved Design has been made), SILK is to undertake to perform additional work which is equivalent in value to the reduction in the overall cost of construction. However, such requests for omissions of the Approved Design shall not apply to omissions requested by the Government in respect of works related to the Government Funded Stretches.

**5.7 *Government's Rights On Other Works***

The Government reserves the right to carry out works within the Concession Area which SILK is not obliged to do under the Concession Agreement by using other contractors as it may from time to time appoint. The Government is to notify SILK prior to the commencement of such works and SILK is to give its full co-operation to such contractors in the carrying of such works. The Government is to compensate SILK for any cost, loss or expense incurred or suffered by SILK by reason of such works. In addition, if as a result of such works undertaken by the Government there is a delay caused to construction of the Ring Road then, the period for commencement or completion of any part of the Works is to be correspondingly extended and the Concession Period is to also be extended for such period as is necessary to compensate SILK for the consequences of such delay. The period of such extension is to be agreed by SILK and the Government or, in the absence of such agreement, is to be determined by the Minister. The amount of any such reimbursement or compensation shall be jointly determined and rectified by the Operations Auditor and shall be payable within ninety (90) days after the date of receipt of the joint certificate from the Operations Auditor by the government.



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**6. Design, Supervision and Management (Clause 8)**

*6.1 Consulting Engineering Firm*

SILK is to appoint at its own expense one or more Malaysian consulting engineering firm(s):

- (a) to design and/or supervise the Construction Works on a full time basis;
- (b) to ensure that the Construction Works is in accordance with the Concession Agreement; and
- (c) to ensure that the Construction Works is in accordance with the relevant statutory requirements.

The appointment of the consulting engineering firm(s) is to be made by SILK after consultation with the Government. SILK may delegate the appointment of the Malaysian consulting engineering firm(s) to such person or entity appointed to undertake the management of the Construction Works. Any appointment or replacement of the consulting engineering firm(s) subsequent to the Effective Date is to be made with the prior approval of the Government.

Further, no consulting engineering firm(s) is to be appointed by SILK unless:

- (a) the firm(s) is registered with the Ministry of Finance Malaysia and with the Board of Engineers, Malaysia;
- (b) the firm(s) acknowledges in writing to SILK and the Government that:
  - (i) foreign engineers and other professionals will only be employed by the firm(s) for the purpose of its supervisory services if the firm(s) has demonstrated to the satisfaction of the relevant authorities that such expertise is not available in Malaysia; and
  - (ii) such employment is to be in accordance with all laws in force at the relevant time. Foreign engineers and other professionals shall be required by SILK to impart as much of their expertise to their Malaysian understudies;
- (c) the employment of foreign engineers and other professionals is to be made only with the written consent of the Government;
- (d) the firm(s) gives a written undertaking to SILK to maintain a minimum number of 30% Bumiputra professionals after the appointment;
- (e) the firm(s) and its professional employees have sufficient experience in work of similar nature; and
- (f) the firm(s) employs an adequate number of qualified Malaysian engineers and other Malaysian professionals.

If SILK appoints foreign professionals, SILK is to ensure that its local employees are trained or exposed to such expertise of such foreign professionals pursuant to a program for technology transfer.

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**6.2 Project Management Company**

SILK may appoint at its own expense a Malaysian project management company to manage the Works. The Project Management Company shall:

- (a) advise SILK on design criteria, detail design, terms of construction contracts and contract procedures;
- (b) monitor the Works carried out by construction contractors;
- (c) ensure that design and construction are being carried out within the relevant cost projections and construction schedules and in conformity with the requirements of the Concession Agreement; and
- (d) comply with the provisions of the Concession Agreement with respect to its employees.

**7. Construction (Clause 9)**

**7.1 Compliance with Government Policy**

SILK is to ensure that as far as possible only local contractors and suppliers are appointed to undertake the Construction Works and only local materials are used unless SILK proves to the satisfaction of the Government that such part of the Construction Works cannot be satisfactorily undertaken or such materials cannot be satisfactorily supplied by the local contractors or suppliers. SILK is to at all times employ personnel, labour and equipment of Malaysian origin for the Works, provided that the Government is to grant exemption where SILK is able to demonstrate that such personnel, labour or equipment are not available locally.

SILK is to execute the Construction Works in proper workmanlike manner in accordance with the terms and conditions of the Concession Agreement and is to use materials, plant and equipment of good quality.

**7.2 Construction Programme and Progress Reports**

- (a) Within fourteen (14) days from the date of the Supplemental Concession Agreement; or
- (b) in the case of the Upgrading Works (being the widening of such part of the Ring Road as set out in Appendix A.1.11), within ninety (90) days of the earlier of:
  - (i) achieving Level of Service C (being the achievement of annual average daily traffic of 93,000 vehicles (including motorcycles) per day for a dual three lane carriageway or of annual average daily traffic of 62,000 vehicles (including motorcycles) per day for a dual two lane carriageway, in relation to operating conditions of any Section of the Ring Road); or
  - (ii) the seventh (7th) Anniversary of the Commencement Date (being the date SILK first commences the demand, collection and retention of Agreed Toll or such other Toll in respect of the whole Ring Road),

SILK is to submit to the Government:

- (i) a Construction Works programme showing in reasonable detail the activities and sequences planned to achieve completion of the Construction Works or the Upgrading Works (as the case may be) in accordance with the Construction Programme; and

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- (ii) a report on the progress of the Construction Works or the Upgrading Works (as the case may be) carried out to the date of the report.

SILK is to respond promptly to any queries from the Government from time to time in respect of progress of the Construction Works or the Upgrading Works (as the case may be) and other matters in relation thereto by such means as are agreed from time to time between SILK and the Government.

SILK is to submit to the Government monthly reports on the progress of the Construction Works or the Upgrading Works (as the case may be) on or before the seventh (7th) day of each subsequent month.

**7.3 Commencement of Construction and Construction Period**

SILK is to commence the Construction Works:

- (a) not later than the proposed date for the commencement of those Construction Works as set out in the Construction Works programme; or
- (b) if later, the date which is three (3) months after the date on which the land comprised in the Concession Area has been made available to SILK; and
- (c) in the case of Upgrading Works within six (6) months of achieving Level of Service C or the seventh (7th) Anniversary of the Commencement Date, whichever is the earlier.

Subject as aforesaid, SILK is to diligently complete each part of the Construction Works within the relevant period set out in Appendix G of the Concession Agreement or within such longer periods as the Government may approve. If any part of the Construction Works or Upgrading Works is delayed or interrupted in any of the circumstances as provided in the Concession Agreement, then the period in which SILK is to complete the part of the Construction Works or Upgrading Works as the case may be, is to be extended by a period of such delay or interruption as provided in accordance with the provisions of the Concession Agreement.

**7.4 Completion of Construction Works and Upgrading Works**

Upon completion of the Construction Works and the Upgrading Works as the case may be SILK is to clear away and remove all construction plant, surplus materials, rubbish and temporary works of every description and is to leave the site clean and in a condition satisfactory to the Government provided that SILK is to be permitted to maintain and have access to offices and maintenance yards for the purposes of the Concession on sites in the Concession Area to be agreed with the Government and the Government is to be entitled to have reasonable access to such offices and yards.

**7.5 Construction Costs**

All costs and expenses or charges arising from the Construction Works ("Construction Costs") shall be borne by SILK. However, all Construction Costs arising from the works relating to the Government Funded Stretches shall be borne by the Government.

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**8. Performance Bond (Clause 10)**

**8.1 Procurement of Performance Bond**

Before the commencement of any part of the Construction Works, SILK is to procure that:

- (a) a performance bond(s) for five percent (5%) of the contract value of the relevant part of the Construction Works is issued to the Government; or
- (b) if SILK appoints any contractor or contractors to carry out the Construction Works, such contractors procure that a similar performance bond is issued to the Government or SILK (in which case all rights, title and interest under the performance bond(s) is to be assigned to the Government),

by a bank(s) established in Malaysia and acceptable to the Government, to guarantee the due performance of the Construction Works.

At all times, the Government shall hold a performance bond or bonds having an aggregate value of not less than five per cent (5%) of the contract value of the Construction Works at that time remaining to be performed.

SILK may grant security to its lenders over such performance bonds provided that such security is to rank behind the security interest of the Government over such performance bonds set out in Clause 10.1.

**9. Rights and Obligations of the Government (Clause 11)**

The Government shall as soon as practicable but not later than thirty (30) days issue a Sectional Sijil Kesempurnaan Pembinaan Lebuhraya for that Section to certify that the relevant Section is capable of carrying traffic in accordance to the terms and conditions of the Concession Agreement, after such Section has been satisfactorily tested and inspected by the Government. The date of the relevant Sectional Sijil Kesempurnaan Pembinaan Lebuhraya shall be the Availability Date for the relevant Section of the Ring Road.

The Government shall, as soon as practicable but not later than thirty (30) days issue a Sijil Kesempurnaan Pembinaan Lebuhraya for the whole of the Ring Road to certify the date that the whole of the Ring Road is capable of carrying traffic in accordance with the terms and conditions of the Concession Agreement, after the completion of the last Section of the Ring Road. The parties agree that upon the issuance of the Sijil Kesempurnaan Pembinaan Lebuhraya, SILK shall be deemed to have completed all Construction Works for the whole of the Ring Road. The date of such certificate shall be the Availability Date of the whole of the Ring Road.

The Government shall be entitled at all times to monitor the Construction Works and such other rights and obligations in relation thereto as provided in the Concession Agreement.

If the Government reasonably considers that:

- (a) materials which are not in accordance with the terms and conditions of the Concession Agreement are being used for the carrying out of the Construction Works; or
- (b) the execution of a particular part of the Construction Works has not been carried out in accordance with the terms and conditions of the Concession Agreement;

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**19.0 SALIENT TERMS OF THE PRINCIPAL AGREEMENTS AND THE BAIDS (Cont'd)**

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it may notify SILK and SILK as soon as reasonably practicable after such notification, shall ensure tests which are in the opinion of the Company, appropriate and in accordance with the relevant standards and inspections are carried out. If the relevant materials are not in accordance with the terms of the Concession Agreement, SILK shall ensure that those materials are promptly replaced with suitable materials, and if the relevant part of the Construction Works has not been carried out in accordance with the terms and conditions of the Concession Agreement, SILK shall ensure that those Construction Works are promptly remedied or re-executed in accordance with the terms and conditions of the Concession Agreement, at no cost and expense to the Government.

**10. Assignment (Clause 14)**

Subject to any necessary authorisation under Section 7 of the Federal Roads (Private Management) Act 1984 being obtained, SILK may assign its rights under the Concession Agreement to the Lenders as security for the repayment of any financing provided or to be provided by the Lenders. However, SILK shall not enter into any arrangement for refinancing of the Loan without the prior written approval of the Government.

**11. Maintenance (Clause 15)**

SILK shall maintain:

- (a) from the commencement and throughout the duration of the execution of the Construction Works, the existing roads comprised within the Ring Road which may be accessible to the public;
- (b) the Ring Road or any part thereof after it is completed;

in good repair and condition and in accordance with the Concession Agreement and sound engineering practices including the provision of routine Maintenance. For aspects of Maintenance for which the Government has not prepared any manual, SILK shall prepare manuals for approval by the Government based on the Government's requirements.

**11.1 Structural Overlays**

SILK will carry out the addition of bituminous structural overlays (hereinafter referred to "structural overlays") to the Ring Road governed by a detailed programme submitted by SILK and approved by the Government.

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**19.0 SALIENT TERMS OF THE PRINCIPAL AGREEMENTS AND THE BAIDS (Cont'd)**

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**11.2 Failure to Maintain**

If, in the opinion of the Government, SILK fails to perform its Maintenance or structural overlay obligations in accordance with the Concession Agreement, the Government may give notice to SILK of the failure setting out in detail the obligation which the Government considers has not been performed, and SILK shall respond within a period of four (4) weeks and shall either agree to perform the Maintenance or structural overlay or give justification for not carrying out the Maintenance or structural overlay to the Government. If SILK agrees to perform the Maintenance or structural overlay or if its justification for not carrying out the Maintenance or structural overlay is rejected by the Government and in either case SILK fails to proceed within a further four (4) weeks, the Government shall give notice to SILK that it will carry out that Maintenance or structural overlay. The costs of carrying out that Maintenance or structural overlay shall be borne by SILK and, without prejudice to the foregoing, the Government may obtain payment out of the Maintenance Bond provided to it pursuant to Clause 16 provided that if the amount paid to the Government out of any Maintenance Bond in respect of a Maintenance or structural overlay obligation exceeds the actual costs and expenses incurred by the Government in so carrying out that Maintenance or structural overlay, the Government shall reimburse SILK for the excess.

**11.3 Failure of the Ring Road and Detour**

If any failure of any part of the Ring Road or when any Maintenance Work is to be carried out by SILK, SILK shall ensure that at all times minimal disruption is experienced by its users. If the traffic flow is disrupted for a period which in the opinion of the Government requires detours to be constructed in order to maintain the free flow of traffic on the Ring Road, the Government may direct and SILK shall agree to provide the said detours and bear all expenses related to the same. SILK shall procure the approval of the Government before commencing any Maintenance works which require the temporary closure of any part of the Ring Road.

**12. Maintenance Bond (Clause 16)**

SILK shall procure that maintenance bonds, in the form as set out in the Concession Agreement, be issued to the Government as security for the due performance of SILK's maintenance and structural overlay obligations in respect of the Ring Road under the Concession Agreement to the intent that:

- (a) if a payment is made to the Government under the Maintenance Bond, a further security in the form of a further Maintenance Bond for an amount equal to the amount so paid to the Government shall be issued to the Government immediately; and
- (b) if a Maintenance Bond is to expire, a replacement Maintenance Bond shall be issued to the Government on or prior to the date of expiry of the first mentioned Maintenance Bond for an amount equal to the amount of that expiring Maintenance Bond.

SILK shall procure the issuance of and delivery to the Government:

- (i) a Maintenance Bond of an amount of RM250,000, in respect of the existing roads comprised within the Ring Road pursuant to SILK's obligation to maintain pursuant to Clause 15 of the Concession Agreement within fourteen (14) days from the date of the Supplemental Concession Agreement;
- (ii) a Maintenance Bond of an amount of RM500,000, in respect of each Section (other than the last completed Section) within sixty (60) days from the issuance of the Sijil Kesempurnaan Pembinaan Lebuhraya in respect of the completed Section, and where that Section includes the existing roads for which a Maintenance Bond has been provided, the Maintenance Bond envisaged shall be returned to SILK upon the delivery of the relevant Maintenance Bond envisaged herein; and

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**19.0 SALIENT TERMS OF THE PRINCIPAL AGREEMENTS AND THE BAIDS (Cont'd)**

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- (iii) a Maintenance Bond of an amount of RM1,500,000, in respect of the whole of the Ring Road replacing the Maintenance Bond stipulated in paragraph 12 (i) and/or (ii) above (as the case may be) within sixty (60) days from the issuance of the Sijil Kesempurnaan Pembinaan Lebuhraya in respect of the Ring Road pursuant to Clause 11 of the Concession Agreement;

for the due performance of SILK's maintenance and structural overlay obligations as stipulated under Clause 15.1 and 15.3 of the Concession Agreement during the Concession Period and for a further period of twelve (12) months thereafter.

SILK shall ensure that the value of the Maintenance Bonds shall at all times be not less than the amounts stated.

If the Government intends to make a demand, it shall notify SILK of its intention. Such notification shall be in writing and shall be given not less than seven (7) working days prior to the demand being made.

**13. Toll (Clause 17)**

*13.1 Toll Collection*

Subject to the provisions of the Concession Agreement and the Federal Roads (Private Management) Act 1984, the Government authorises SILK to demand, collect and retain toll for its own benefit from each class of vehicle as specified in the Concession Agreement using the Ring Road or any Section thereof other than those person classes of vehicle which may from time to time be exempted by the Government pursuant to an order made under Section 2(1) of the Federal Roads (Private Management) Act 1984.

Subject to the provision for sectional tolling below:

- (a) toll collection may commence from the date specified in the Gazette of the Gazetted Toll; and
- (b) the Government shall publish in the Gazette as soon as practicable but not more than forty-five (45) days from the Availability Date of the Ring Road or any Section thereof, the Ring Road or any section thereof as Federal Road pursuant to the Federal Roads Act 1959 and shall within reasonable time cause to be published in the Gazette pursuant to the Federal Roads (Private Management) Act 1984, the Gazetted Toll for the Ring Road or any Section thereof, as the case may be.

The Government shall as soon as reasonably practicable, after submission by SILK of its application to commence toll collection for any Section for which a Sectional Sijil Kesempurnaan Pembinaan Lebuhraya has already been issued, take all necessary action to enable SILK to commence toll collection at the Toll Plaza within that Section from the date specified in the Gazette of the Gazetted Toll for that Section. If there is any unreasonable delay by the Government in performing its obligations, the Concession Period shall be extended for such period as shall be necessary to compensate SILK for the consequences of such delay.

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**19.0 SALIENT TERMS OF THE PRINCIPAL AGREEMENTS AND THE BAIDS (Cont'd)**


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**13.2 The Agreed Toll and Toll Review Mechanism**

Subject to the terms and conditions of the Concession Agreement, the rate of toll payable by each class of vehicle using the Ring Road as specified in the Concession Agreement shall be:

- (a) for the first Operating Period, the Scheduled Toll as stipulated in Appendix L (1) of the Concession Agreement;
- (b) for the Second Operating Period, Third Operating Period and Fourth Operating Period the Agreed Toll to be determined by comparing the actual cumulative Revenue of SILK with the projected cumulative Revenue as stipulated in Appendix L(5) of the Concession Agreement.

In the event the Company is able to demonstrate that to the satisfaction of the Government that actual cumulative Revenue is less than or equal to the projected cumulative Revenue for the corresponding period up to six (6) months prior to the submission of the application, the Scheduled Toll (as stipulated in Appendices L(2), L(3), L(4) shall become the Agreed Toll for the Second or Third Operating Periods.

In the event that the Company is able to demonstrate to the satisfaction of the Government that the actual cumulative Revenue of SILK up to six (6) months prior to submission of the application for determining the Agreed Toll on the relevant Review Date is more than the projected cumulative Revenue of SILK for the corresponding period, the Agreed Toll shall be calculated in the following manner and the Government shall within 6 months upon submission of the application and the relevant documents by SILK notify SILK of such Agreed Toll:

$$\text{ATR} = T - [E/A \times D]$$

where :

- ATR : Agreed Toll derived for a particular class of vehicle at the Second, Third or Fourth Operating Periods (as the case may be);
- T : the average of the prevailing Gazetted Toll and the next applicable Scheduled Toll;
- D : the difference between the then prevailing Gazetted Toll and the next applicable Scheduled Toll;
- E : A-P
- A : actual Revenue up to 6 months prior to the submission of the application;
- P : projected Revenue up to 6 months prior to the submission of the application.

Provided that if the Agreed Toll determined pursuant to the above formula is lower than the prevailing Gazetted Toll, the then prevailing Gazetted Toll shall continue to be the Gazetted Toll for the succeeding Operating Period. If at any time but not earlier than 18 months after imposing the Gazetted Toll, SILK is able to demonstrate to the reasonable satisfaction of the Government with the support of the relevant documents, that the actual cumulative Revenue of SILK is less than or equal to the projected cumulative Revenue of SILK for the corresponding period, the Government shall allow SILK to impose the applicable Scheduled Toll as the Agreed Toll within three (3) months from the date of application by SILK, without prejudice to the right of SILK to apply for toll review on the following Review Date, if any and in the event of any delay in the submission of the relevant application and documents by SILK, no compensation shall be payable by the Government for the duration of such delay.



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**19.0 SALIENT TERMS OF THE PRINCIPAL AGREEMENTS AND THE BAIDS (Cont'd)**

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**13.3 The Gazetted Toll and Compensation for reduction in Toll by the Government**

If the Gazetted Toll is lower than the Agreed Toll, or if the Government decides to impose a rate of toll for any class of vehicle in respect of any Concession Year which is lower than the Agreed Toll during the First Operating Period, Second Operating Period, Third Operating Period or Fourth Operating Period as stipulated, the Government shall compensate SILK for any reduction in toll collections by SILK in respect of the relevant Concession Year in which such reduction is implemented, and for each Concession Year thereafter during which the decision of the Government continues to apply ("the relevant Concession Year"), until such time SILK is allowed to collect the then prevailing Agreed Toll, by paying to SILK an amount determined and certified by the Operation Auditors (in accordance with a pre-fixed formula), provided always that the amount of compensation payable as determined and certified by the Operation Auditors shall be payable within six (6) months after the date of the joint certificate from the Operation Auditors.

**13.4 Payment Pending Resolution of Dispute**

If there is an amount of compensation payable for the relevant Concession Year, the Government shall, within six (6) months from the commencement of the relevant Concession Year, pay to SILK an amount ("the advance") which is equal to fifty per cent (50%) of the projected amount of compensation payable as determined by the Government Auditor.

Upon determination of the actual amount of compensation payable ("the actual amount due"):

- (a) if the advance is greater than the actual amount due, SILK shall repay the Government the difference together with interest thereon at the rate to ten per cent (10%) per annum from the date of the payment of the advance by the Government till the date of full repayment; or
- (b) if the actual amount due is greater than the advance, the Government shall pay the difference to SILK.

**13.5 Compensation as part of Revenue**

Any compensation paid by the Government pursuant to Clause 17.3 of the Concession Agreement shall constitute part of SILK's total Revenue.

**14. The Company (Clause 20)**

SILK covenants and undertakes to the Government that for the duration of the Concession Agreement it will not carry on or undertake any business other than the Concession.

The shareholding structure of SILK shall be as follows:

Party	Percentage in Shareholding
Barisan Minda	50%
SunInc	50%

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**19.0 SALIENT TERMS OF THE PRINCIPAL AGREEMENTS AND THE BAIDS (Cont'd)**

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Except otherwise provided in the Concession Agreement, SILK shall not change the shareholding structure of SILK as set out for a period of three (3) years from the signing of the Concession Agreement. Any intention to change the shareholding structure after the said period of three (3) years shall require the prior written approval of the Government through the EPU of the Prime Minister's Department. Notwithstanding this, a change to its shareholding structure as a result of a change for the purpose of a listing of its shares on the KLSE is permitted any time subject to prior written approval from the Government through EPU.

SILK shall, prior to the date of the Supplemental Concession Agreement, have a paid-up capital of Ringgit Malaysia Twenty Million (RM20,000,000) which shall be progressively increased to Ringgit Malaysia Two Hundred and Twenty Million (RM220,000,000) within a period of three (3) years immediately following thereafter by way of shareholders advances and/or preference shares.

Subject to the prior written approval of the Government, SILK may make any Additional Capital Investment (shall not include additional works requested by the Government or implemented by SILK pursuant to Clause 7 of the Concession Agreement) in relation to the Concession after the date of the publication of the Gazette notification authorising SILK to collect toll.

**15. Finance (Clause 21)**

SILK shall be responsible for obtaining all the finance, both debt and equity, necessary to construct the SILK Funded Stretch and to operate and maintain the Ring Road and the Ancillary Facilities, except for construction of the government funded stretches.

**15.1 Level of Indebtedness**

The liability of the Government to pay the Lenders under Clause 27 will at no time exceed RM580,000,000 (the "Maximum Amount") provided that, whenever SILK repays or prepays any part of the Maximum Amount (not being a repayment or prepayment resulting from the refinancing of such indebtedness) the Maximum Amount shall thereon be reduced by an amount equal to the amount of such indebtedness so repaid or prepaid.

**15.2 Approval by the Government**

SILK shall not execute any Financing Documents unless and until the Government shall have approved the material terms thereof; nor make any material amendments or modifications to the terms of any approved Financing Documents without the approval of the Government. The Government shall, if it has any objections to the material terms of any Financing Documents or any proposed amendment or modification, notify SILK of the same within six (6) weeks of submission by SILK to the Government of the Financing Documents or any proposed amendment or modification, failing which, the Government shall be deemed to have approved the Financing Documents or any proposed amendment or modification. The approval of the Government shall not be unreasonably withheld.

**15.3 Security**

Subject to Clause 14, SILK shall not assign or encumber by way of security any of SILK's rights, licenses and interests hereunder to any party.

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**19.0 SALIENT TERMS OF THE PRINCIPAL AGREEMENTS AND THE BAIDS (Cont'd)**

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**16. Insurance (Clause 23)**

SILK is to effect and maintain the following insurance in the joint names of SILK and the Government:

For the relevant Construction Works in progress until the relevant Availability Date;

- (a) a contractors all risks policy for the full value of the Construction Works to include cover for all goods, equipment, materials, plants and other items necessary for construction of the relevant Construction Works, including when they are in transit to the Concession Area; and
- (b) a policy against any liability including third party liability up to a limit of Ringgit Malaysia One Million (RM1,000,000) for each incident (the number of incidents to be unlimited) which may arise in connection with the relevant Construction Works.

For the period after the relevant Availability Date and throughout the Concession Period;

- (i) for the Ring Road, Toll Plazas, lamp posts, signs, guard-rails and other installations along the Ring Road against loss, break-down, damage or destruction from such risks as are prudent to insure against, having regard to the practice of the industry, any insurable risk, such policy also to cover any property of the Government, if any, in the Concession Area;
- (ii) for Workmen's Compensation or PERKESO as required by law; and
- (iii) for third party liability up to a limit of Ringgit Malaysia One Million (RM1,000,000) for each incident (the number of incidents to be unlimited).

If the Construction Works or any part thereof or any of the temporary works, construction plant, materials or other things in the Concession Area is damaged or lost by any risk insured, the Company shall use the insurance moneys available to repair, replace and make good such damage or loss.

**17. Force Majeure (Clause 24)**

Neither the Government nor SILK shall be in breach of its obligations under the Concession Agreement if it is unable to perform or fulfil any of its obligations due to an Event of Force Majeure. Event of Force Majeure includes war, hostilities, ionising, radiation, pressure waves, natural catastrophe, riots and disorders which causes or which can reasonably be expected to cause, either party to fail to comply with its obligations.

Neither party shall be entitled to rely upon an Event of Force Majeure if both parties reasonably determine that an Event of Force Majeure has not occurred. If either party does not agree that an Event of Force Majeure has not occurred, such dispute shall be referred to arbitration.

If any Event of Force Majeure occurs, the Concession Period may be extended for such period (if any) as the parties hereto may agree, or in the absence of such agreement, as shall be determined by the Minister.

The Company shall ensure that whenever reasonable, practicable insurance is effected (whether by itself or by its construction contractors) to cover the occurrence of Events of Force Majeure. If an Event of Force Majeure occurs and the Concession is not terminated, then in any case where any part of the Ring Road has been destroyed, or substantial damage has been caused to any part of the Ring Road, the Company shall restore that part of the Ring Road at its own cost and expense to the condition in which it was immediately prior to the occurrence of that Event of Force Majeure.

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**19.0 SALIENT TERMS OF THE PRINCIPAL AGREEMENTS AND THE BAIDS (Cont'd)**

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**18. Termination/Expropriation by Government (Clause 25)**

*18.1 Default by SILK*

The Government shall give notice in writing to SILK specifying the default and requiring SILK within one (1) month to remedy the default stipulated in (a) or (b) below, or within three (3) months to remedy the default stipulated in (c) or (d) below, and within six (6) months for other events of default after the date of the notice or such other period as may be agreed by the parties hereto, if:

- (a) SILK without reasonable cause fails to commence the Construction Works within the period of three (3) months from the date of the Supplemental Concession Agreement or such period as specified in the Construction Programme, whichever is later; or
- (b) SILK fails to show satisfactory progress in the Construction Works or fails to complete the same within the period specified in the Construction Programme; or
- (c) SILK without reasonable cause fails to commence the Upgrading Works or fails to complete the same within the period specified in the Construction Programme; or
- (d) SILK is in breach of any of its material obligations under the Concession Agreement; or
- (e) an order is made or a resolution is passed for the winding up of SILK (except for the purposes of reconstruction or amalgamation not involving the realisation of assets in which the interest of creditors are protected); or
- (f) SILK goes into liquidation or a receiver is appointed over the assets of SILK or SILK makes an assignment for the benefit of or enters into an arrangement or composition with its creditors or stops payment or is unable to pay its debts; or
- (g) execution is levied against a substantial portion of SILK's assets, unless it has instituted proceedings in good faith to set aside such execution.

The Government may, for so long as the relevant default or event is continuing, terminate the Concession and the contract of award of the Government Funded Stretch 2 at any time thereafter by giving notice to that effect to SILK, if:

- (i) SILK fails to remedy the relevant default within the relevant periods; or
- (ii) the Construction Works (or any part of them) have been delayed or interrupted by reason of an Event of Force Majeure for a continuous period of more than six (6) months.

*18.2 Expropriation by Government*

Notwithstanding any provision in the Concession Agreement, the Government may terminate the Concession Agreement by expropriating the Concession or SILK by giving not less than three (3) months notice to that effect to SILK if it considers that such expropriation is in the national interest.

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**19.0 SALIENT TERMS OF THE PRINCIPAL AGREEMENTS AND THE BAIDS (Cont'd)**

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**19. Termination by SILK (Clause 26)**

*19.1 Default by the Government*

If the Government without reasonable cause fails to perform or fulfil any of its obligation which adversely affects the right and authority of SILK to collect and retain toll, then SILK may give notice to the Government of its intention to terminate the Concession by giving six (6) months notice (or such other period as may be agreed by the parties hereto) to that effect to the Government.

*19.2 Termination*

SILK may, for so long as the relevant default or event is continuing, terminate the Concession at any time thereafter by giving notice to that effect to the Government, if:

- (a) the Government fails to remedy the relevant event of default within such period of six (6) months (or within such other period as may be agreed by the parties hereto); or
- (b) the Construction Works (or any part of them) have been delayed or interrupted by reason of an Event of Force Majeure for a continuous period of more than six (6) months.

*19.3 Compensation*

If SILK does not terminate the Concession then, SILK shall, inform the Government in writing whereupon the Concession Period shall be extended for such period (if any) as shall be necessary, to compensate SILK for the consequences of such matter or event giving rise to the right to terminate the Concession provided that if SILK is able to demonstrate that, for financial reasons it is necessary for SILK to be reimbursed, the Government shall reimburse SILK for any losses, claims, costs or expenses reasonably and properly paid, incurred, or reimbursed by SILK arising directly out of, or resulting directly from, the relevant default or event, or shall compensate SILK in such other manner as may be agreed by the parties.

**20. Payments on Termination (Clause 27)**

*20.1 Payments to Lenders*

The Government shall pay to the Lenders (subject to the amount not exceeding the Maximum Amount i.e. RM580,000,000) within six (6) months after the Termination Date or date of expropriation an amount equal to the aggregate amount owing to the Lenders at the date of payment (after deducting therefrom the value of any security, including any toll, at that time held by the Lenders) or shall otherwise assume the liabilities and obligations of the Company to the Lenders within such period as aforesaid if the Concession is terminated;

- (i) by the Government due to SILK's default and failure to remedy such default by SILK within the relevant period; or
- (ii) by SILK due to the Government's default and failure to remedy such default within the relevant period; or
- (iii) expropriation by the Government.

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**19.0 SALIENT TERMS OF THE PRINCIPAL AGREEMENTS AND THE BAIDS (Cont'd)**

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*20.2 Payments by SILK*

- 20.2.1 If SILK fails to remedy its failure to commence the Construction Works as stipulated in paragraph 18.1 (a), the Government shall have the right to terminate the Concession without any compensation, provided that in the event that SILK has expended any costs or expenses in respect of the Land Use Payments in relation to the SILK Funded Stretches, the Government shall reimburse SILK the actual costs and expenses so incurred.
- 20.2.2 If the Concession is terminated by the Government due to SILK's default pursuant to paragraph 18.1(b) to (g) at any time prior to the completion of the Construction Works and the Government completes the Construction Works being carried out by SILK as at the Termination Date, SILK shall pay to the Government the aggregate of;
- (a) all amounts at that time which may be owing to the Government by SILK under the Concession Agreement; and
  - (b) any additional costs and expenses incurred by the Government in so completing those Construction Works in excess of the costs and expenses which would have been incurred by SILK in so completing those Construction Works; less
    - (i) the amount (if any) by which the Value of Completed Works exceeds the aggregate of the amounts paid or the liabilities and obligations to the Lenders assumed by the Government,

Provided that, if the sum in paragraph 20.2.2(b) (i) above is greater than the aggregate sum stated in paragraph 20.2.2(a) and (b), the Government shall pay such difference to SILK.

- 20.2.3 If the Concession is terminated by the Government pursuant to paragraph 18.1 (a) at any time after the completion of the Construction Works but before the expiry of the Concession, then the Government shall pay to SILK the amount (if any) by which the Value of Completed Works exceeds all amounts which may be owing to the Government by SILK under the Concession agreement as at the Termination Date.

*20.3 Payment by the Government*

If the Concession is terminated by SILK pursuant to paragraph 19.2(a), the Government shall pay to SILK within six (6) months after the Termination Date;

- (i) the amount (if any) by which the Value of Completed Works exceeds the aggregate of the amounts paid or the liabilities and obligations to the Lenders assumed by the Government and all amounts as at the Termination Date which may be owing to the Government by SILK under the Concession Agreement; and
- (ii) an amount equal to:
  - (a) the amount of interest which would have accrued on the subscription moneys paid to SILK in respect of its paid up share capital if interest had accrued on such amounts from the relevant dates of payment to the date of payment by the Government on an annual basis at an annual rate equal to the weighted average Bank Deposit Rate for each relevant Concession Year; less
  - (b) any net dividends received by the shareholders of SILK, all retrenchment costs of employees (if any) and all costs of terminating third party contracts resulting from the expropriation;