

## HO HUP CONSTRUCTION COMPANY BERHAD (14034-W)

### NOTES TO THE INTERIM FINANCIAL REPORT 30 SEPTEMBER 2009

#### 1. Basis of preparation

The interim financial statements are unaudited and have been prepared in accordance with Financial Reporting Standard (“FRS”) 134: Interim Financial Reporting and paragraph 9.22 of the Main Market Listing Requirements (“MMLR”) of Bursa Malaysia Securities Berhad (“Bursa Securities”).

The interim financial statements should be read in conjunction with the audited financial statements for the year ended 31 December 2008. These explanatory notes attached to the interim financial statements provide an explanation of events and transactions that are significant to an understanding of the changes in the financial position and performance of the Group since the year ended 31 December 2008.

#### 2. Changes in accounting policies

The significant accounting policies adopted by the Group in this interim financial statement are consistent with those adopted in the financial statements for the year ended 31 December 2008 except for the following new FRSs and Interpretations:

<b>FRS and Interpretations</b>	<b>Effective for financial periods beginning on or after</b>
FRS 4: Insurance Contracts	1 January 2010
FRS 7: Financial Instruments: Disclosures	1 January 2010
FRS 8: Operating Segments	1 July 2009
FRS 139: Financial Instruments: Recognition and Measurement	1 January 2010
IC Interpretation 9: Reassessment of Embedded Derivatives	1 January 2010
IC Interpretation 10: Interim Financial Reporting and Impairment	1 January 2010

The new FRS and Interpretations above are expected to have no significant impact on the financial statements of the Group and the Company upon their initial application except for the changes in disclosures arising from the adoption of FRS 8.

The Group and the Company are exempted from disclosing the possible impact, if any, to the financial statements upon the initial application of FRS 7 and FRS 139.

### 3. Audit report on preceding annual financial statements

The Company's auditors, Messrs Ernst & Young have expressed a disclaimer opinion in the Company's audited financial statements. As a result from this statement, the Board of Directors of Ho Hup had announced on 31 July 2008 that the Company is an affected listed issuer pursuant to paragraph 2.1 (d) of the PN 17/2005.

The auditors' report on the financial statements for the year ended 31 December 2008 was subjected to qualifications. The auditors reported because of the matters described below in the Basis for Disclaimer of Opinion section, they were not able to obtain sufficient appropriate evidence to provide a basis for an audit opinion.

#### Basis for Disclaimer of Opinion

The auditors' report for the previous financial year ended 31 December 2007 was disclaimed in respect of the following:-

1. The financial statements disclosed the material significant arbitration case between the Company and the Government of Madagascar that was underway in the International Chamber of Commerce, International Court of Arbitration.

Should the outcome of this arbitration case be unfavourable to the Company, it may give rise to significant uncertainty on the ability of the Group and of the Company to continue as going concerns as the liquidity of the Group and of the Company would be adversely affected.

2. The Group and the Company reported a net loss of RM46.16 million and RM19.04 million respectively during the year ended 31 December 2007. As of that date, the Group's current liabilities exceeded its current assets by RM83.62 million.

In addition, the Group and the Company have defaulted in the repayment of bank borrowings totaling RM48.79 million and RM30.94 million respectively as at 31 December 2007.

These factors indicate the existence of material uncertainties which may cast significant doubt on the ability of the Group and the Company to continue as going concerns and therefore they may be unable to realise their assets and discharge their liabilities in the normal course of business. The financial statements of the Group and the Company do not include any adjustments and classifications relating to the recorded assets and liabilities that may be necessary if the Group and the Company are unable to continue as going concerns.

The Directors were of the opinion that the Group would be able to achieve profitable results, generate positive cash flows and obtain the support of their bankers, creditors and shareholders. The Directors' plan included the partial disposal of the land held for property development of its subsidiary, Bukit Jalil Development Sdn Bhd, to generate sufficient cash flows to enable the Group and the Company to repay a portion of their bank borrowings and to continue their property development activities so as to meet their liabilities as and when they fall due. We were unable to obtain sufficient appropriate audit evidence that the above plan was feasible and that the outcome would improve the situation.

3. The Secured Bank Guarantees amounting to USD 13,273,849 (equivalent to RM43,406,029) have been called upon by the Government of Madagascar from the Guarantor Bank following the dismissal of the Company's application for leave to the Federal Courts on 8 July 2008. On 25 July 2008, the Guarantor Bank paid RM43,406,029 to the Government of Madagascar. No provision has been made for the amounts of bank guarantees demanded by the Government of Madagascar but the amounts have been disclosed as contingent liabilities in the financial statements. The non-recognition of the liability arising from the demand of bank guarantees by the Government of Madagascar is not in accordance with Financial Reporting Standards in Malaysia. We are unable to perform sufficient appropriate audit procedures to ascertain whether the corresponding debit represented a recoverable amount or an expense in the income statement.
4. Included in the trade receivables of the Group as at 31 December 2007, is an amount of RM4.48 million (2006: RM4.48 million), being the amounts due from Khoo Soon Lee Realty Sdn Bhd to Ho Hup Jaya Sdn Bhd ("HH Jaya"), a subsidiary of the Company. HH Jaya is taking legal action to recover the disputed amounts owing. We draw attention to the disclosed note which describes the uncertainty related to the outcome of the legal action.
5. As at the date of our previous report, management financial statements for the periods subsequent to the financial year end of the Company and certain subsidiaries have not been prepared. In the absence of the latest management financial statements as mentioned in the preceding paragraph, the subsequent events review procedures required by Approved Standard on Auditing AI 560 Subsequent Events to be performed by us were limited.
6. Included in the Group's and the Company's investment in associates are the carrying amounts of investment in Shanghai San Ho Hup Pile Co Ltd of RM10.25 million and RM10.31 million respectively. The associate has been incurring losses for the previous three financial years which indicates that the asset may be impaired. The Directors have informed us of their intentions to dispose of this investment and are confident that the fair value less costs to sell would exceed the carrying amount of the investment. In the absence of appropriate documentary evidence, we are unable to ascertain whether the carrying amount of the investment has been measured in accordance with FRS 136 Impairment of Assets.

The auditors' report on the financial statements for the year ended 31 December 2008 was subjected to qualifications. The auditors reported because of the matters described below in the Basis for Disclaimer of Opinion section, they were not able to obtain sufficient appropriate evidence to provide a basis for an audit opinion.

#### Basis for Disclaimer of Opinion

The auditors' report for the previous financial year ended 31 December 2008 was disclaimed in respect of the following:-

1. Note 41(g) to the audited financial statements, the arbitration case between the Company and the Government of Madagascar, which was one of the matters included in our audit report on the financial statements for the year ended 31 December 2007, is presently still ongoing in the International Chamber of Commerce, International Court of Arbitration.

Should the outcome of this arbitration case be unfavourable to the Company, additional provisions arising from claims made may be required and certain property, plant and equipment and receivables relating to the Company's operations in Madagascar may need to be impaired. We are unable to determine as to the nature and quantum of such claims and the extent of the impairment required, if any, for the corresponding and the current financial year.

2. The Group and the Company reported a net loss of RM56.163 million and RM68.648 million respectively during the year ended 31 December 2008. As of that date, the Group's current liabilities exceeded its current assets by RM132.519 million.

In addition, the Group and the Company has defaulted in the repayment of its bank borrowings as at 31 December 2008 and certain creditors have also filed winding up petitions against certain subsidiaries and the Company.

These factors indicate the existence of material uncertainties which may cast significant doubt on the ability of the Group and the Company to continue as going concerns and therefore they may be unable to realise their assets and discharge their liabilities in the normal course of business.

The financial statements of the Group and of the Company do not include any adjustments and classifications relating to the recorded assets and liabilities that may be necessary should the Group and the Company be unable to continue as going concerns.

At the date of this report, the Directors are of the opinion that the Group would be able to achieve profitable results, generate positive cash flows and obtain the support of their bankers, creditors and shareholders.

The Directors are currently formulating a plan that could include the partial disposal of the land held for property development of its subsidiary, Bukit Jalil Development Sdn Bhd to generate sufficient cash flows to enable the Group and the Company to repay a portion of their bank borrowings and to continue their property development activities so as to meet their liabilities as and when they fall due.

3. As at the date of this report and that of our report on the financial statements of the Group and of the Company for the year ended 31 December 2007, management financial statements for the periods subsequent to the respective financial year end of the Company and certain subsidiaries have not been prepared. In the absence of the latest management financial statements, the subsequent events review procedures required by Approved Standard on Auditing AI 560 Subsequent Events to be performed by us were limited. As such, we are also unable to satisfy ourselves as to the completeness of the recorded liabilities of the Group and of the Company as at 31 December 2008 and as at 31 December 2007.

4. As at the date of this report, replies relating to certain bank confirmation requests are outstanding. We are unable to perform such appropriate alternative audit procedures to satisfy ourselves as to the completeness of the recorded liabilities, contingent liabilities and disclosure matters of the Group and of the Company for the year ended 31 December 2008.
5. As disclosed in Note 20 to the financial statements, the audited financial statements for the year ended 31 December 2008 of the indicated subsidiaries and the foreign branch operations in Madagascar were not available and accordingly management financial information of these entities were use for the preparation of the consolidated financial statements of the Group. We are unable to satisfy ourselves as to whether the financial information used for consolidation is appropriate.
6. Certain solicitors' response to management request on the material litigation cases as disclosed in Note 41 to the financial statements have not been received. Accordingly, we are unable to satisfy ourselves as to the nature, quantum and extent of the cases disclosed and as to its completeness.
7. In our audit report on the financial statements for the year ended 31 December 2007, we reported that the Secured Bank Guarantees amounting to USD 13,273,849 (equivalent to RM43,406,029) have been paid by the Guarantor Bank to the Government of Madagascar on 25 July 2008. We reported that this amount should have been recognised as a liability by the Group and the Company in their respective balance sheets as at 31 December 2007. During the year ended 31 December 2008, the Group and the Company recognised this liability with the corresponding RM8,933,563 and RM34,472,466 taken to the income statements and against the advances from Government of Madagascar respectively. The above liability amount should have been recognised in the corresponding year. However, due to the lack of relevant available information, we are not able to fully satisfy ourselves as to whether the RM8,933,563 taken to the income statements is appropriate.
8. In our audit report on the financial statements for the year ended 31 December 2007, we reported that the Group and the Company's investment in an associated company, Shanghai San Ho Hup Pile Co Ltd of RM10.25 million and RM10.31 million respectively may have been impaired. However, no provision for impairment was made for the year ended 31 December 2007. During the current financial year ended 31 December 2008, the Group and the Company provided for impairment of the entire carrying values. In our opinion, such impairment amounts should have been recognised in the corresponding year.

#### 4. Segment information

By industry segment:	Revenue		Results	
	30.09.09 RM'000	30.09.08 RM'000	30.09.09 RM'000	30.09.08 RM'000
Construction	26,922	35,715	(23,623)	(15,170)
Property development	20,003	-	1,175	(12,034)
Ready mixed concrete	16,174	26,866	(1,460)	(917)
Others	-	42	(5)	15,157
Total revenue including inter-segment	63,009	62,623	(23,913)	(12,964)
Eliminations	(4,061)	(1,493)	-	(4,500)
Associates	-	-	-	(1,537)
Total from continuing operations	59,038	61,130	(23,913)	19,001

#### 5. Unusual items due to their nature, size or incidence

There were no unusual items affecting the assets, liabilities, equity, net income, or cash flows during the financial period ended 30 September 2009, except for the significant charges following the settlement of the dispute with the Government of Madagascar as disclosed in Note 1 on Explanation Note Pursuant to Appendix 9B of the MMLR of Bursa Securities.

#### 6. Material changes in estimates

There were no changes in estimates that have had a material effect in the current quarter result.

#### 7. Seasonal or cyclical factors

The Group's performance was not materially affected by any seasonal or cyclical factors save for unfavourable weather conditions, shortage of construction workers and increase in the cost of construction materials.

#### 8. Dividends paid

No dividends have been paid since the beginning of the current financial period.

#### 9. Carrying amount of revalued assets

The valuations of property, plant and equipment are stated at cost less accumulated depreciation and impairment loss. No valuations have been undertaken in prior year.

#### 10. Debt and equity securities

There were no issuances, cancellations, repurchases, resale and repayments of debt and equity securities for the current financial period to date.

**11. Changes in composition of the Group**

There were no changes in the composition of the Group for the current quarter.

**12. Changes in contingent liabilities or contingent assets**

There were no changes in contingent liabilities (other than the material litigation disclosed in Note 11 on Explanatory Notes Pursuant to Appendix 9B of the MMLR of Bursa Securities) since the last annual balance sheet date as at 31 December 2008, except for the net decrease in guarantees in respect of discharge of performance bonds, security and tender deposits issued by financial institutions in favour of third parties for construction works.

**13. Subsequent events**

Save and except for announcement made by the Company on 30 October 2009, and the material litigation as disclosed herein from page 16 to page 22 and matters as set out herein, in the opinion of the Directors, the financial statements for the interim period have not been affected by any material event that has occurred between the end of the interim period and the date of this report.

## **HO HUP CONSTRUCTION COMPANY BERHAD (14034-W)**

### **EXPLANATORY NOTES PURSUANT TO APPENDIX 9B OF THE MMLR OF BURSA SECURITIES**

**30 SEPTEMBER 2009**

#### **1. Performance review**

For the quarter ended 30 September 2009, the Group recorded a pre-tax loss of RM 14.8 million on revenue of RM 28.5 million compared to a pre-tax loss of RM 19.7 million on revenue of RM 30.8 million registered in the corresponding period last year. The loss for the current financial period was due to the write off of irrecoverable receivable from the Government of Madagascar (RM 5.3 million) and incidental expenses (RM 5.2 million). These charges is reduced by the gain of RM 3.8 million from the disposal of a 5.5 acres land in Bukit Jalil as further elaborated in note 6.

During the 9 months period, the construction division registered a pre-tax loss of RM 23.6 million on the back of RM 26.9 million revenue compared with a pre-tax loss of RM 15.2 million on revenue of RM 35.7 million for the corresponding period last year. The increase in losses is attributable to the charges following the settlement of dispute with Government of Madagascar amount to RM 10.5 million.

The property development division registered a pre-tax profit of RM 1.2 million in the current period compared to pre-tax loss of RM 12.0 million for the corresponding period last year. The improvement was due to improvement on delivery of the abandoned project in Bandar Bukit Jalil's houses, namely Phase 4 to 7A of Jalil Sutera. Furthermore there was no additional provision for liquidated ascertained damages and a gain of RM3.8 million from the disposal of land mentioned above.

The ready mixed concrete division registered a pre-tax loss of RM 1.5 million for the current 9 months period compared to RM 0.9 million loss for the corresponding period last year as a result of the decline in sales by RM 10 million.

#### **2. Explanatory comments on any material change in the profit before taxation for the quarter reported as compared with the immediate preceding quarter**

The Group recorded a pre-tax loss of RM 14.8 million for the current quarter as compared to a pre-tax loss of RM 2.3 million registered in the immediate preceding quarter mainly due to the significant charges following the settlement of dispute with Government of Madagascar amounting to RM 10.5 million.



### 3. Prospects for the forthcoming financial period

As announced on 30 October 2009, the group has submitted its PN17 Regularisation Plan to Bursa Securities and we are now waiting for the approval from Bursa Securities.

Moving forward, the Group is geared to actively pursue projects from the 9MP and intensify its property development activities. The board is confident that the development of 60 acres commercial land in Bandar Bukit Jalil with a gross development value of RM 1.6 billion will result in the turn-around of the Group's financial performance. The launching of 20 units of semi detached houses is expected to take place before end of 2010.

In the meantime, as announced on 24 September 2009 and as part of our Regularisation Plan we will be disposing non-core land bank to alleviate our cash flow position in order to meet our working capital and development requirements.

### 4. Variance of actual profit from forecast profit and shortfall in profit guarantee

This note is not applicable.

### 5. Taxation

The taxation charge comprises of:

	Current Quarter	Cumulative Quarter
	RM'000	RM'000
Income tax:		
Under-provision for prior year Malaysian income tax	78	(1,330)
Deferred tax	6	
	<u>84</u>	<u>(1,330)</u>

The effective tax rate for the cumulative quarter is higher than the statutory tax rate because the tax charge for the period is with respect to under provision for prior year.

### 6. Profits/(losses) on the sale of unquoted investment and/or properties

Pursuant to the Sale and Purchase Agreement with Santari Sdn Bhd for the disposal of a parcel of freehold land held under Geran 55267, Lot 38474, Mukim of Petaling, District of Kuala Lumpur, state of Wilayah Persekutuan Kuala Lumpur Propose of Disposal, the original title of the said land together with the duplicate discharge of charge had been presented for registration with the relevant land registry on 7 September 2009, thus marking the completion of the Proposed Disposal. The profit before taxation for this transaction is RM 3.8 million.

Except as disclosed in the preceding paragraph, there were no other profits or losses on the sale of unquoted investments and/or properties outside the ordinary course of the Group's business for the current quarter and financial period to-date.

## **7. Quoted securities**

There were no purchases and disposal of quoted securities for the current quarter and financial period to-date.

## **8. Status of corporate proposals**

There were no other corporate proposals announced but not completed as at the date of this announcement, being the latest practicable date from the date of the issue of this quarterly report, other than the followings:

1. On 2 March 2009, Bukit Jalil Development Sdn Bhd (“BJD”), a 70% owned subsidiary of the Company, entered into the following:-
  - a. Sale and Purchase Agreement with Santari Sdn Bhd and as mentioned in note 6, the transaction was completed on 7 September 2009.
  - b. A conditional Sale and Purchase Agreement with Permata Juang (M) Sdn Bhd (“PJSB”), a wholly owned subsidiary of Magna Prima Berhad for the disposal of a parcel of freehold land held under Geran 55268, Lot 38476, Mukim of Petaling, District of Kuala Lumpur, state of Wilayah Persekutuan Kuala Lumpur ("Property 2") for a cash consideration of RM 19.41 million ("Proposed Property 2 Disposal").

However on 7 July 2009 the motion on Proposed Property 2 Disposal was withdrawn during the EGM due to the lack of support for the proposal based on proxy forms received prior to the EGM.

On 16 October 2009, the Company had announced that the Court had on 14 October 2009 granted an interim injunction to PJSB to stop and / or restrain BJD from disposing Property 2 to any party vide a tender or in any other manner. BJD had instructed its lawyers to challenge and seek to dismiss the interim injunction. Further details on the legal matters are disclosed in note 11.

The Board is of the opinion that, on a worst case scenario, there may only be a delay in the recognition of the gains on disposal.

2. 2 conditional Sale and Purchase Agreements for two pieces of freehold vacant land measuring approximately 5.5 acres and 2.6 acres, were entered into by Ho Hup and BJD respectively.
  - a. On 25 September 2009 Company entered into an agreement with Kentlee (M) Sdn Bhd (“KMSB”) to dispose freehold land held under Lot No. PT 4150, H.S.(D) 812 Mukim of Cheras, District of Hulu Langat, State of Selangor measuring approximately 5.5 acres for cash consideration of RM 7.2 million with Net Book Value of RM 1.71 million. The gain of disposal is expected to be RM 5.4 million.

- b. On 24 September 2009 BJD had entered into an agreement with Etnik Masyhur Sdn Bhd ( now known as Lifomax Sdn Bhd ) to dispose freehold land held under Lot No. 39868, Geran 53418 Mukim of Petaling, District of Kuala Lumpur, State of Wilayah Persekutuan Kuala Lumpur measuring approximately 2.6 acres for cash consideration of RM 5.7 million with Net Book Value of RM 2.02 million. The gain of disposal is expected to be RM 3.6 million.
3. With the aim to regularise Ho Hup's financial position, AmInvestment Bank Berhad (a member of AmInvestment Bank Group), on behalf of the Board of Directors of Ho Hup, announced on 30 October 2009 the following which constitutes the proposals by Ho Hup to warrant the continued trading and listing of its shares on the Main Market of Bursa Securities:-
- (a) Proposed Capital Reduction;
- (b) Proposed Consolidation;
- (c) Proposed Restricted Issue;
- (d) Proposed Rights Issue; and
- (e) Proposed Amendments.

#### 9. Group borrowings and debt securities

	30.09.09 RM'000	30.09.08 RM'000
(a) Short Term Borrowings:		
Secured	91,212	86,216
Unsecured	13,803	16,270
	<u>105,015</u>	<u>102,486</u>
(b) Long Term Borrowings:		
Secured	-	538
Total Borrowings	<u>105,015</u>	<u>103,024</u>

#### 10. Off balance sheet financial instruments

There were no financial instruments with off balance sheet risk as at as at the date of this announcement, being the latest practicable date from the date of the issue of this quarterly report.

## 11. Changes in material litigation

- (a) Ho Hup brought a suit against KM Quarry Sdn. Bhd. (“KM Quarry”) for the amount of RM3,433,335.75 for the incomplete joint measurements and RM2,439,294.47 for overlapping claims in Suit No. 22-3-2005. KM Quarry had filed an application to strike out some paragraphs and prayers in Ho Hup’s statement of claim which was allowed by the Deputy Registrar on 26 January 2007. Ho Hup then filed a notice of appeal to the judge in chambers on 5 February 2007 and KM Quarry filed an application to amend their amended Statement of Defence which was allowed by the Court on 14 March 2007. This matter is now fixed for case management on 20 November 2009.

The solicitors are of the opinion that if the judge is convinced of the incomplete measurements at the project site and overlapping claims through the testimony of witnesses and supporting documents, the chance of success in the suit are fairly good.

- (b) Ho Hup pursued by-way of arbitration its claim for amount of RM23,438,498 together with interest at 8% per annum from 29 November 2004 in respect of damages for unlawful termination for road construction works, balance value of work done at the termination and loss and expense as a consequence of extension of time being granted to Ho Hup against Revolutionary Technology Holdings Sdn Bhd (“RTH”) and Seri Siantan Sdn Bhd (“Seri Siantan”) together with Syarikat Pembinaan Al-Joffrie Sdn Bhd (“RSS”). The RSS’ defence is that Ho Hup’s action against RSS is wrongful as RSS is not a proper party to this action.

On 15 September 2008, Ho Hup received an arbitral award for RM11,536,660.95 to be paid within 30 days failing which interest would accrue. In addition costs have also been awarded in favour of Ho Hup.

RSS filed an appeal against the said arbitration decision or award. Ho Hup was served with an originating summons and affidavit in support by RTH and Seri Siantan. RSS appeal was dismissed on 7 August 2009 with cost of RM10,000.00 to Ho Hup. The application to register the award has been fixed for hearing on 2 November 2009. The hearing has been adjourned to 20 November 2009.

- (c) On 2 May 2005, Ho Hup commenced an arbitration claim for damages amounting to Rs2,544,512,230.00 being the unlawful termination of the Development Agreement dated 9 March 2005 by the Andhra Pradesh Housing Board (“Andhra”) in respect of the development of a township in India by Andhra.

The award in Ho Hup’s favour has been published in May 2008 as follows:-

- (i) the Andhra shall pay Ho Hup the sum of Rs16,796,250 together with simple interest at the rate of 12% per annum from 1 February 2006 to the date of payment;

- (ii) the Andhra shall pay compensation of Rs.6 lakhs together with simple interest at the rate of 9% per annum from 6 January 2006 to the date of payment.

An appeal was submitted in the Hyderabad High Court to set aside the award and to date, the parties have yet to be informed of the date for the hearing.

- (d) Europlus Corporation Sdn Bhd (“Europlus”) filed a suit in the High Court, Kuala Lumpur vide Civil Suit No. S1-22-241-2004 on 26 February 2004 for the sum of RM4,387,462.92. The claim is in relation to an alleged overpayment under a project known as “Proposed Bukit Beruntung Interchange” including the overpass at CH. 7501.575 of Rawang-Tanjung Malim Expressway, Bukit Beruntung Development, Mukim Serendah, Daerah Ulu Selangor, Selangor.

Ho Hup has filed its defence. No further steps have been taken by Europlus to date.

- (e) Ang Yoke Lian Construction Sdn Bhd (“Ang Yoke Lian”) has filed a claim (“Claim”) at the High Court, Kuala Lumpur against Ho Hup for a sum of RM1,493,040.68 plus continuing interest being the outstanding sum owed for services rendered under a Letter of Award dated 16 March 2004. Ho Hup has filed a Memorandum of Appearance and Statement of Defence against the Claim and the application for summary judgment which was fixed for hearing on 30 July 2008 had been adjourned to 21 October 2008. The Court had dismissed the Ang Yoke Lian’s application for Summary Judgment with costs and the Plaintiff had filed an appeal with the Court of Appeal on 30 October 2008. As of todate, no date has yet been fixed for the said appeal. The solicitors of Ho Hup are of the opinion that if the Court of Appeal agrees with the findings of the High Court that there are triable issues, then the appeal would be dismissed and the case will be fixed for trial.

- (f) Ho Hup sent a notice of demand to PPMS Technologies Sdn Bhd (“PPMS”) claiming for the outstanding sum of RM840,00.00 plus interest for removal of equipment and machines. The Writ of Summons and Statement of Claim dated 16 May 2007 were subsequently filed and served to PPMS on 19 July 2007 and Judgment in Default of Defence was granted on 12 September 2007. The solicitors of Ho Hup had served the notice of judgment to PPMS on 24 September 2007 and are of the opinion that Ho Hup is in a good position to execute the judgment.

- (g) Tee Yoke Chuan (“TYC”) filed an application for leave for judicial review against the decision made by YB Menteri Sumber Manusia for not allowing him to refer his claim for wrongful dismissal to the Industrial Court. TYC’s application for leave for judicial review (ex-parte) was fixed for mention on 11 August 2008 and the Court granted the leave. This matter is now fixed for hearing on 31 January 2013. The solicitors of Ho Hup are of the opinion that if the Court agrees with the finding of YB Menteri Sumber Manusia not to refer the claim to the Industrial Court, the chances of success in the application being dismissed are fairly good.

- (h) Ho Hup was served with a notice under Section 218 of the Act by Liew Soo Chin (trading as Chang Chee Keong Construction) (“CCKC”) for the amount of RM1,242,592.56 on 4 November 2008. Ho Hup applied for an application for an injunction to restrain Liew Soo Chin from presenting a winding-up petition against Ho Hup. The matter has been fixed for hearing on the 2 December 2009. The Solicitors of Ho Hup are of the opinion that Ho Hup ought to succeed, as there are numerous issues to be considered and CCKC has not even obtained a judgment yet. CCKC should pursue his claim in a commercial court and winding-up action should always be the last resort.
- (i) Dato’ Low Tuck Choy and Donatian Felix Dorairaj (“Plaintiffs”) had filed originating summons at the Kuala Lumpur High Court (Originating Summons No. D5-24-14-09) against Chong Kok Weng, Sukumaran A/L Ramadass, Wong Wei Fong, Ho Hup and BJD challenging 2 ordinary resolutions dated 2 December 2008 passed unanimously by the shareholders of BJD pursuant to Section 152A of the Act, to remove the Plaintiffs as BJD’s directors and to appoint Chong Kok Weng and Sukumaran A/L Ramadass instead. Both parties have filed their respective written submissions on 30 March 2009 and the decision for this matter which was previously fixed to be heard on 15 April 2009 is now adjourned to 29 May 2009. The High Court on 30 June 2009 delivered its decision in favour of the Plaintiffs by granting the following orders (“Order”):-
- (i) a declaration that the removals of LTC and Donatian Felix Dorairaj as directors of the Company are null and void and of no effect;
  - (ii) a declaration that the appointments of Mr. Chong Kok Weng and Mr. Sukumaran a/l Ramadass as directors of the Company are null and void and of no effect;
  - (iii) a declaration that the appointment of Wong Wei Fong as company secretary of the Company is null and void and of no effect;
  - (iv) a declaration that Muhammad Ashraf Bin Ahmad is the valid company secretary of the Company;
  - (v) an injunction restraining the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Defendants whether by themselves or by their servants or agents or otherwise howsoever from acting and/or holding themselves out as directors or company/secretary of the Company;
  - (vi) costs of and incidental to the proceedings to be paid by the 1<sup>st</sup> to 4<sup>th</sup> Defendants to the Plaintiffs;
  - (vii) damages to be assessed by the Senior Assistant Registrar of the court and when so assessed to be paid by the 1<sup>st</sup> to 4<sup>th</sup> Defendants to the Plaintiffs.

Ho Hup had on 6 July 2009, filed a notice of appeal at the Court of Appeal (Appeal Suit No. W-02-1325-2009) against the High Court decision on 30 June 2009. The Court of Appeal had on 29 July 2009 granted an Order, inter alia, an injunction restraining the Respondents from taking any action and and/or enter into any transactions, dealings, and/or business and taking any steps to retract and/or withdraw from any transactions, dealings and/or business entered into by Ho Hup during the period from 2 December 2008 to 30 June 2009 without the approval of shareholders of BJD. The matter is pending hearing date for appeal from the Court of Appeal. The solicitors of Ho Hup are of the opinion that there is a fair chance of success.

- (j) On 16 March 2009, BJD filed a suit against Dato' Low Tuck Choy ("LTC") at the Kuala Lumpur High Court (Suit No. D-22-483-2009) for alleged breaches of director's duties. The Writ of Summons dated 16 March 2009 was served on LTC's solicitors on 7 May 2009. The matter is pending the close of pleadings. The solicitors of Ho Hup are of the opinion that there is a reasonable chance of success.
- (k) Tenaga Nasional Berhad ("TNB") had filed a claim under suit no. S5-22-281-2003 ("Suit") in the High Court of Kuala Lumpur against Trans Resources Corporation Berhd ("TRC") and Ho Hup (TRC and Ho Hup are collectively referred to as the "JV") for a sum of RM1.1 million arising from damage caused by the JV to the TNB's cable and sub-station during excavation works performed by the JV.

TNB had rejected the JV's counter proposal of RM700,000.00 and maintained their settlement offer of RM975,000.00.

The JV was earlier notified by the insurer for the project undertaken by the JV, i.e. Overseas Assurance Corporation (M) Berhad ("Insurer") that the maximum insurance coverage limit is RM300,000.00 and the balance of the damages claimed by TNB is to be borne by the JV.

On 22 April 2009, the solicitors for the Insurer notified the JV that the Insurer had ceased their mandate to act for and the Insurer's behalf in the Suit. On 22 April 2009, the solicitors filed an application to discharge themselves as solicitors for the Suit and served the Summons in Chambers together with the Supporting Affidavit of Rohan Arasoo Jeyabalah on the TNB's solicitors. The reason why the Insurer ceased the mandate to its solicitors to act for the JV was because the JV was not able to confirm to the solicitors as to whether or not the JV wanted them to continue representing them in the Suit in light of TNB's rejection of the JV's offer for an out of court settlement of RM740,000.00.

The Suit was heard on 23 April 2009 where the Judge refused to grant an adjournment of the trial to enable the JV to appoint new solicitors and this was notwithstanding that the solicitors had filed an application to discharge themselves as solicitors for the JV. During the trial, three witnesses of TNB testified on the issue of liability and their respective witness statement was admitted as evidence. The solicitors for the JV put it on record that they were unable to cross-examine TNB's witnesses and further proceeded with the trial as they did not have the authority to act for the JV in light of the fact that their mandate to act for the JV had ceased. The Court subsequently directed TNB's solicitors to make their legal submission on the issue of liability before proceeding to enter judgment for TNB with the issue of quantum to be assessed by the Registrar.

As JV is still keen on pursuing an out of court settlement with TNB before TNB proceeds to file its papers in court for issue of quantum to be decided by the Registrar, the solicitors for the JV had advised Ho Hup that the best course of action would be for the JV to negotiate an out of court settlement with the

top management of TNB with the hope of a sum being agreed as an out of court settlement.

Ho Hup had appointed another firm of solicitors for the Suit on 7 May 2009. The matter is now fixed for assessment of damages on 24 November 2009 and pending settlement.

- (l) On 12 August 2009, Ho Hup and its major subsidiary, BJD was served with a Writ of Summons (Civil Suit No. D-22-1561-2009) dated 10 August 2009 by Low Chee & Sons Sdn. Bhd. (“Plaintiff”), a substantial shareholder of Ho Hup in relation to the disposal of a parcel of freehold land measuring approximately 5.503 acres held under Geran 55267, Lot 38474, Mukim of Petaling, District of Kuala Lumpur, State of Wilayah Persekutuan Kuala Lumpur for a cash consideration of RM9.83million by BJD to Santari Sdn. Bhd. (“Proposed Disposal”)

The Plaintiff claimed:-

- (i) A declaration that Magna Prima Berhad is the ‘shadow’ and ultimate purchaser for the Proposed Disposal;
- (ii) A declaration that the Proposed Disposal is caught by the provisions of Section 132E of the Companies Act 1965;
- (iii) A declaration that the Proposed Disposal is void as having failed to comply with the requirements of Section 132E of the Companies Act 1965;
- (iv) An order restraining the Company and BJD from carrying into effect the Proposed Disposal; and
- (v) Damages, costs and any further reliefs that the Court may think fit and just.

The Plaintiff filed the Statement of Claim on 3 September 2009. Statement of Defence has been filed on 29 October 2009 pending the Plaintiff to reply and the matter fixed for mention on 19 November 2009. The above mentioned transaction has been completed. The solicitors of Ho Hup are in view that Ho Hup and BJD have a reasonably good chance to defend themselves.

- (m) On 31<sup>st</sup> July 2009, Ho Hup was served by LTC with a Writ of Summons dated 24<sup>th</sup> July 2009, seeking damages, an injunction that the Defendants and or his agents from stopping the International Court of Arbitration from awarding the arbitral award. Ho Hup has engages solicitors to defend this matter. Statement of Defence filed on 26 October 2009 pending reply from the Plaintiff. No date has been fixed by Court.
- (n) On 30 September 2009, Ho Hup was served by Time Automation & Management Services Sdn. Bhd. (“TAMS”) with a winding-up petition (Petition No: D-28NCC-3-2009) dated 1 September 2009 was served on Ho Hup on 14 September 2009 and the winding petition was presented to the High Court of Malaya at Kuala Lumpur on 1 September 2009. The winding-up petition shall be heard at the High Court of Malaya at Kuala Lumpur on 2 November 2009.

The total amount claimed by TAMS against Ho Hup is RM96,078.49 under the judgment dated 16 May 2008 together with interest at the rate of 8% per



annum calculated from 17 May 2008 till 1 September 2009 which interest is still continuing and the cost of petition of being RM1,629.00.

The winding-up petition was filed arising from alleged non-payment of provision of services in respect of construction works due and owing by the Ho Hup to TAMS. On 8 October 2009, Ho Hup has forwarded 6 post dated cheques for the amount of RM121,141.99 to TAMS' solicitors as full and final settlement. The first post dated cheque dated 15 October 2009 forwarded to TAMS on the 8 October 2009 has been cleared on the 16 October 2009. The next hearing has been fixed on 2 November 2009. Ho Hup and TAMS had agreed for an out-of-court settlement and the winding-up petition has been withdrawn on 2 November 2009 with liberty to file afresh.

- (o) On 27 July 2009, Ho Hup was served with a Writ of Summons and Statement of Claim dated 13 July 2009 by Dorairaj, Low & Teh ("Plaintiff") (Civil Suit No. S-22-492-2009) in relation to unpaid legal fees amounting to RM2,566,738.65 owing by Ho Hup to the Plaintiff. Ho Hup has filed a statement of defence on 14 August 2009. The Plaintiff has filed summary judgment application on 15 October 2009. The solicitors in the midst of preparing an affidavit to reply to the said application.
- (p) BJD has been served with writ summons and statement of claim dated 5 October 2009 and affidavit affirmed on 2 October 2009 by PJSB. PJSB has claimed for, *inter alia*: -
  - (i) specific performance of the Sale and Purchase Agreement dated 2 March 2009; and
  - (ii) an injunction to immediately stop and/or restrain BJD from continuing with the tender exercise with the intention of selling the land held under Geran 55268 Lot 34876 in the Mukim of Petaling, District of Kuala Lumpur and State of Wilayah Persekutuan;

alternatively, in lieu of specific performance:-

- (i) BJD to refund all monies paid by PJSB to BJD i.e. RM6,636,981.00; and
- (ii) general damages at the rate of 8% per annum calculated on a daily basis on the sum RM6,636,981.00 and further sum paid by PJSB to BJD.

On 14 October 2009, the court granted an ad interim injunction to PJSB. BJD has filed the affidavit in reply and the matter has been fixed for hearing on 25 November 2009. The Solicitors of Ho Hup are of the opinion that if the court takes the view that the Sale & Purchase Agreement had lapsed, the chances of defecting the Plaintiff's claim is good.

Except as disclosed above, there were no other material changes in material litigation since the last annual balance sheet date and made up to 24 November 2009, being the latest practicable date from the date of the issue of this quarterly report.

## 12. Dividends paid

No interim dividends have been recommended in respect of the financial period ended 31 December 2008.

## 13. Earnings per share

### *Basic earnings per share*

Basic earnings per share for the financial period to-date are calculated by dividing the net profit attributable to the equity holders of the parents by the weighted average number of ordinary shares in issue.

	Current quarter 30/09/09	Preceding year corresponding quarter 30/09/08	Financial period to- date 30/09/09	Preceding year corresponding period to-date 30/09/08
(Loss) attributable to the equity holders of the parent (RM'000)	(14,682)	(19,433)	(23,787)	(19,093)
Weighted average number of ordinary shares ('000)	102,000	102,000	102,000	102,000
Basic earnings per share (sen)	(14.39)	(19.05)	(23.32)	(18.72)