

## ANNEXURE E: TAX CONSULTANT'S LETTER IN RESPECT OF THE TAXATION OF PROLINTAS INFRA BT AND THE UNITHOLDERS

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### Taxation adviser's letter in respect of the taxation of the business trust and the unit holders (prepared for inclusion in this Prospectus)

Ernst & Young Tax Consultants Sdn Bhd  
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50490 Kuala Lumpur

27 September 2023

The Board of Directors  
Prolintas Managers Sdn. Bhd.  
21st Floor, Menara PNB  
201-A, Jalan Tun Razak  
50400 Kuala Lumpur

Dear Sirs

#### Taxation of the Business Trust and unit holders

This letter has been prepared for inclusion in the Prospectus in connection with the offer of units in the business trust known as Prolintas Infra Business Trust (hereinafter referred to as "Prolintas Infra BT").

The purpose of this letter is to provide prospective unit holders with an overview of the impact of taxation on Prolintas Infra BT and the unit holders.

#### Taxation of Prolintas Infra BT

The taxation of Prolintas Infra BT is subject to the provisions of the Malaysian Income Tax Act 1967 (MITA). For income tax purposes, the definition of a "company" includes a business trust<sup>1</sup>. The Malaysian Inland Revenue Board (MIRB) has also clarified in its Public Ruling No.10/2013, "Taxation of Business Trust" issued on 3 July 2013 that a business trust would be given the same income tax treatment as a company.

Subject to certain exemptions, the income of the Prolintas Infra BT comprising profits and other investment income derived from or accruing in Malaysia, is subject to Malaysian income tax at the rate of 24% after deducting tax allowable expenses.

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<sup>1</sup> Pursuant to Section 2 of the MITA, "company" means a body corporate and includes any body of persons established with a separate legal identity by or under the laws of a territory outside Malaysia and a business trust.



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Tax deductible expenses would comprise expenses falling under Section 33(1) of the MITA and which are not prohibited as a deduction under any other section of the MITA. Section 33(1) provides for a tax deduction for expenses that are wholly and exclusively incurred in the production of gross income.

Notwithstanding the above, in the event Prolintas Infra BT falls under the scope of Section 60FA of the MITA, different or additional tax considerations apply. Section 60FA prescribes the tax treatment for investment holding companies<sup>2</sup> that are tax-resident in Malaysia and listed on Bursa Malaysia. The income derived from the holding of investments (e.g. rental, dividends and interest) shall be treated as income from a business source and each investment source of income will be assessed as a separate business source. In ascertaining the adjusted income and statutory income of Prolintas Infra BT for a year of assessment:

- ▶ Direct expenses incurred in producing investment income from a source are deductible against income from that source.
- ▶ Common expenses incurred in producing the different sources of investment income will be allocated accordingly to the relevant sources of income for income tax deduction purposes.
- ▶ Where a source of investment income does not produce any income for a year of assessment, any tax deduction in respect of that source for that year of assessment will be disregarded for tax purposes. Likewise, if tax-deductible expenses for any source exceed the gross income from the relevant source, the excess shall be disregarded and cannot be carried-forward to be deducted in future years of assessment.

As the investment sources are treated as business sources of income, where relevant, capital allowances can be claimed against the adjusted income from each source to arrive at statutory income. Any excess of capital allowances over statutory income would be disregarded and cannot be carried forward to be utilised in future years of assessment.

#### **Exempt income**

All Malaysian-sourced dividends should be exempt from income tax. Any deductions in respect of such dividends will be disregarded and cannot be claimed against any other sources of income or carried forward to be utilised in future years of assessment.

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<sup>2</sup> Pursuant to Section 60F(2), an "investment holding company" means "a company whose activities consist mainly in the holding of investments and not less than 80% of its gross income other than gross income from a source consisting of a business of holding of an investment (whether exempt or not) is derived therefrom".



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### **Foreign-sourced income (FSI)**

Pursuant to the Finance Act 2021, income derived by a resident person from sources outside Malaysia and received in Malaysia from 1 January 2022 will no longer be automatically exempt from tax.

The Guidelines issued by the Malaysian Inland Revenue Board on 29 September 2022 (amended on 29 December 2022) define the term "received in Malaysia" to mean transferred or brought into Malaysia, either by way of cash<sup>3</sup> or electronic funds transfer<sup>4</sup>.

From 1 July 2022 onwards, FSI received in Malaysia will be taxed at the prevailing tax rate(s) of the taxpayer and based on applicable tax rules. Bilateral or unilateral tax credits may be allowed if the same income has suffered foreign tax, and where relevant conditions are met.

### **Gains from the realisation of investments**

Gains of a capital nature from the realisation of investments (which do not arise from a trading activity or adventure in the nature of trade) will not be subject to income tax. Such gains may however be subject to real property gains tax (RPGT) under the Real Property Gains Tax Act 1976 (RPGT Act), if the gains are derived from the disposal of chargeable assets, as defined in the RPGT Act.

### **Implementation of Sales and Service Tax (SST)**

SST was re-introduced effective 1 September 2018. Sales Tax of 10% (which is the more common rate) or 5% is charged by Malaysian manufacturers of taxable goods or upon importation into Malaysia of such taxable goods, unless specifically exempted under the Sales Tax (Goods Exempted From Tax) Order 2018. Service Tax at the rate of 6% is charged on certain prescribed taxable services performed by taxable persons as stipulated under Service Tax Regulations 2018. The input tax recovery mechanism under the previous Goods and Services Tax regime does not apply to SST. Therefore, any SST incurred is not recoverable and will form a cost element for businesses.

Based on the Service Tax Regulations 2018, a business trust is neither regarded as a taxable person nor as providing taxable services and is therefore not liable for SST registration. Where the Prolintas Infra BT incurs management fee expenses, the management services provided by asset and fund managers who are licensed or registered with the Securities

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<sup>3</sup> "Cash" means notes, coins and cheques.

<sup>4</sup> "Electronic funds transfer" means bank transfers (e.g., credit or debit transfers), payment cards (debit card, credit card and charge card), electronic money, privately-issued digital assets (e.g., crypto-assets, stablecoins) and central bank digital currency.



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Commission Malaysia for carrying out the regulated activity of fund management under the Capital Markets and Services Act 2007, are specifically excluded from the scope of Service Tax. As for other fees, such as trustee fees and other administrative charges, these may be subject to 6% service tax provided they fall within the scope of service tax (i.e. are provided by a "taxable person", who exceeds the required annual threshold (in most cases RM 500,000 per annum) and the services qualify as "taxable services").

**Taxation of unit holders**

For Malaysian income tax purposes, distributions received from Prolintas Infra BT will be exempted from Malaysian income tax in the hands of the unit holders.

In addition, unit holders may also realise a gain from the sale of units. Gains arising from the realisation of investments (which do not arise from a trading activity or adventure in the nature of trade) will generally not be subject to income tax in the hands of unit holders. Different considerations apply to insurance companies, financial institutions, traders / dealers in securities.

Please note that non-resident unit holders may be subject to tax in their respective countries depending on the provisions of the tax legislation in the respective countries and any existing double taxation arrangements with Malaysia.

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We hereby confirm that, as at the date of this letter, the statements made in this letter correctly reflect our understanding of the tax position under current Malaysian tax legislation and the related interpretation and practice thereof, all of which are subject to change, possibly on a retrospective basis. We have not been retained (unless specifically instructed hereafter), nor are we obligated to monitor or update the statements for future conditions that may affect these statements.

The statements made in this letter are not intended to be a complete analysis of the tax consequences relating to an investor in Prolintas Infra BT. As the particular circumstances of each investor may differ, we recommend that investors obtain independent advice on the tax issues associated with an investment in Prolintas Infra BT.

Yours faithfully  
Ernst & Young Tax Consultants Sdn Bhd

A handwritten signature in black ink, appearing to read 'Farah', is written over a horizontal line.

Farah Rosley  
Partner

Ernst & Young Tax Consultants Sdn Bhd has given its consent to the inclusion of the Taxation Adviser's Letter in the form and context in which it appears in this Prospectus and has not withdrawn such consent before the date of issue of this Prospectus.