

DIVISION 3

STRUCTURED WARRANT

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Chapter 1

GENERAL

- 1.01 This division shall apply to a prospectus prepared in relation to the issue of, offer for subscription or purchase of, or invitation to subscribe for or purchase of structured warrants.
- 1.02 A prospectus in relation to the issuance of structured warrants may be issued–
- (a) in a single document; or
 - (b) by way of a base prospectus supported by term sheets, in which case, the base prospectus and term sheets should between them comply with these guidelines. The base prospectus should contain information relating to the issuer. The term sheet should contain information concerning the specific issue. The base prospectus and term sheets should each contain a statement that it should be read in conjunction with the other.
- 1.03 In determining what information is required to be included in the prospectus, regard should be given to the following:
- (a) The nature of the structured warrants;
 - (b) Business of the issuer and underlying corporation;
 - (c) The persons likely to consider acquiring the structured warrants; and
 - (d) The fact that certain matters may reasonably be expected to be within the knowledge of professional advisers whom potential investors may reasonably expect to consult.
- 1.04 The cut-off date for information to be disclosed in the prospectus should be as at the latest practicable date available prior to the issue of the prospectus, save for the requirements as set out in Chapter 9. Preparers of prospectuses should strictly observe any significant change or new matter arising that will affect the content of the prospectus and update it via a supplementary prospectus where necessary.

Chapter 2

FRONT COVER

The front cover should contain the following information and statements.

2.01 Particulars of the issuer, including:

- (a) Full name;
- (b) Place of incorporation;
- (c) Statute under which it was incorporated; and
- (d) Registration number;

For a foreign-incorporated issuer, to state, where applicable, that it has been registered as a foreign company in Malaysia under the *Companies Act 1965* together with its registration number.

2.02 The date of the prospectus.

2.03 Details of the structured warrants offering, including–

- (a) issue size and type of structured warrants;
- (b) issue price of structured warrants (if available);
- (c) listing that is sought; and
- (d) underlying financial instrument.

2.04 Name of the principal adviser, custodian and guarantor, where applicable.

2.05 The following statements, to appear in bold:

INVESTORS ARE ADVISED TO READ AND UNDERSTAND THE CONTENTS OF THE PROSPECTUS. IF IN DOUBT, PLEASE CONSULT A PROFESSIONAL ADVISER.

THERE ARE CERTAIN RISK FACTORS WHICH PROSPECTIVE INVESTORS SHOULD CONSIDER. TURN TO PAGE [] FOR “RISK FACTORS”.

Chapter 3

INSIDE COVER/FIRST PAGE

- 3.01 There are certain types of information that are considered essential to identify the prospectus and the status of the prospectus. If not already disclosed on the front cover, the prospectus should contain the following statements on the inside cover or at the very least, on page 1.

Responsibility statements

- (a) The directors of the issuer (and/or guarantor) have seen and approved this prospectus. The directors of the issuer (and/or guarantor) collectively and individually accepts full responsibility for the accuracy of the information contained in this prospectus and confirms, having made all reasonable enquiries, that to the best of its/their knowledge and belief, there are no false or misleading statements or other facts the omission of which would make any statement in this prospectus false or misleading.
- (b) [Name of principal adviser], being the principal adviser, acknowledges that based on all available information, and to the best of its knowledge and belief, this prospectus constitutes a full and true disclosure of all material facts concerning the offer.

Statements of risk

- (c) Investors are warned that the price of the underlying financial instruments and structured warrants may fall in value as rapidly as it may rise and holders may sustain a total loss of their investment. Prospective purchasers should therefore make sure they understand the terms and conditions of the structured warrants offered, the risk factors involved, and where necessary seek professional advice before investing in the structured warrants.
- (d) In the case of non-collateralised structured warrants, the issuer should also disclose the following:

The structured warrants constitute general unsecured contractual obligations of the issuer and of no other person. Therefore, if you purchase the structured warrants, you are relying on the creditworthiness of the issuer (and/or the guarantor) and have no recourse/rights against the underlying corporation."

Statements of disclaimer

- (e) A copy of this prospectus has been registered with the Securities Commission

Malaysia. The registration of this prospectus should not be taken to indicate that the Securities Commission Malaysia recommends the structured warrants offering or assumes responsibility for the correctness of any statement made or opinion or report expressed in this prospectus.

- (f) The Securities Commission Malaysia is not liable for any non-disclosure on the part of the issuer and takes no responsibility for the contents of this document, makes no representation as to its accuracy or completeness and expressly disclaims any liability whatsoever for any loss howsoever arising from or in reliance upon the whole or any part of the contents of this prospectus.

INVESTORS SHOULD RELY ON THEIR OWN EVALUATION TO ASSESS THE MERITS AND RISKS OF THE INVESTMENT. IN CONSIDERING THE INVESTMENT, INVESTORS WHO ARE IN ANY DOUBT AS TO THE ACTION TO BE TAKEN SHOULD CONSULT THEIR STOCKBROKERS, BANK MANAGERS, SOLICITORS, ACCOUNTANTS OR OTHER PROFESSIONAL ADVISERS IMMEDIATELY.

- (g) Approval has been or will be obtained from Bursa Malaysia Securities Bhd for the listing of and quotation of the structured warrants being offered. Admission to the Official List of Bursa Malaysia Securities Bhd is not to be taken as an indication of the merits of the invitation, corporation, or its securities; and
- (h) A copy of this prospectus, together with the form of application, has also been lodged with the Registrar of Companies who takes no responsibility for its contents.

Other statements

3.02 The following additional statements should also be stated:

- (a) Investors are advised to note that recourse for false or misleading statements or acts made in connection with the prospectus is directly available through sections 248, 249 and 357 of the *Capital Markets and Services Act 2007*; and
- (b) Securities listed on Bursa Malaysia Securities Bhd are offered to the public premised on full and accurate disclosure of all material information concerning the issue for which any of the persons set out in section 236 of the *Capital Markets and Services Act 2007*, e.g. directors and advisers, are responsible.

Chapter 4

TIMETABLE/DEFINITIONS/TABLE OF CONTENTS/CORPORATE DIRECTORY

4.01 The prospectus should be properly structured, with the relevant sections and headings, for ease of reference and cross-reference.

Indicative timetable

4.02 The prospectus should disclose the period during which the offering of structured warrants should remain open after the publication of the prospectus which is inclusive of the date of issue of the prospectus and which should be for a reasonable period.

4.03 The prospectus should set out the critical dates for the offering, including-

- (a) opening and closing dates of the issue and/or offer;
- (b) tentative dates of any special events, for example, date for the balloting of applications (day, month and year);
- (c) tentative price determination date (day, month and year);
- (d) tentative date for allotment of securities (day, month and year); and
- (e) tentative listing date (day, month and year).

4.04 The prospectus should state whether the directors of the issuer reserve the right to extend the closing date.

4.05 The prospectus should disclose the method of informing the public if the closing date is extended.

Definitions

4.06 A glossary of abbreviations and technical terms should be provided.

Table of contents

4.07 There should be a table of contents, listing all sections and subsections of the prospectus.

Corporate directory

4.08 The prospectus should contain details of the following persons:

Part II – Contents of Prospectus (Division 3)

- (a) Names, nationalities, addresses and professions of all directors of the issuer (to specify the independent directors);
- (b) Names of the audit committee members;
- (c) Name, address and membership number of the company secretary of the issuer;
- (d) Addresses and telephone numbers of the issuer's registered office, head/management office and the e-mail and website address (if any);
- (e) Names and addresses of the following parties (where applicable):
 - (i) Auditors;
 - (ii) Reporting accountants;
 - (iii) Solicitors;
 - (iv) Principal bankers;
 - (v) Issuing house;
 - (vi) Registrar;
 - (vii) Principal adviser;
 - (viii) Selling/Placement agents;
 - (ix) Rating agency;
 - (x) Trustee;
 - (xi) Custodian;
 - (xii) Guarantors;
 - (xiii) Shariah adviser;
 - (xiv) Paying agent;
 - (xv) Facility agent; and
 - (xvi) Authorised depository institutions;
- (f) Names and addresses of experts whose prepared reports or excerpts or summaries are included or referred to in the prospectus; and
- (g) Names of stock exchanges where the structured warrants and underlying shares are already listed and/or the listing is sought in relation to the prospectus.

Chapter 5

DETAILS OF STRUCTURED WARRANTS OFFERING

Information on the issuer

- 5.01 The prospectus should contain a description of the issuer, its subsidiaries or affiliates and, where applicable, the guarantor and/or the risk manager, including its history and business, its place of incorporation and business, its directors and management, its experience in the issuance and management of warrants and other equity derivatives.
- 5.02 In the case of a non-collateralised structured warrants issue, disclose the published audited consolidated financial statements for the past three financial years. Where there is a performance guarantee for the structured warrants issue, disclose the guarantor's published audited consolidated financial statements and auditor's report for the past three financial years. In the case of a fully-collateralised call warrants issue, provide the published audited financial statements for the past one financial year.
- 5.03 Where the date of a prospectus is within 15 months of the last audited financial statements of the issuer, disclose the last audited financial statements together with the latest quarterly and quarterly cumulative financial statements, including the explanatory notes.
- 5.04 Where the issue is non-collateralised, provide a description of the issuer's activities on its use of the securities, e.g. structured warrants, options and futures, swaps and similar instruments, covering the following:
- (a) The purpose for which such instruments are used;
 - (b) The hedging strategy to be employed and its internal risk management set up to mitigate the risk arising, such as market risk, credit risk, concentration risk and operational risk. If an outside risk manager has been appointed to supervise the risk management process, the terms and conditions of the agreement or guarantee should be clearly specified;
 - (c) The role of senior management in the supervision of the risk management process, including the functions and independence of its risk management, credit, finance, internal audit and compliance units; and
 - (d) The imposition and monitoring of trading and credit limits, including the procedures and authorisations necessary for such limits to be exceeded and the procedures in relation to and action which would be taken if such limits are exceeded without due authority.

- 5.05 Where the issue is fully collateralised, the issuer should disclose the security arrangement and the identity of the trustee or custodian of the underlying financial instruments.
- 5.06 On matters regarding material litigation and arbitration, disclose any litigation, arbitration or claims of material importance pending or threatened against the issuer or any member of the issuer's group which has or will have a material effect on the ability of the issuer to meet its obligations. Where the issuer is an eligible broker or licensed institution, disclose only the material litigation which is outside the ordinary course of business.
- 5.07 If the issuer or guarantor is regulated by a regulator, disclose a statement on that fact and identify the relevant regulatory body. If otherwise, provide an appropriate negative statement.
- 5.08 If the issuer or guarantor was rated by a rating agency, disclose a statement on that fact and identify the rating agency (including the rating and when it was awarded). If otherwise, provide an appropriate negative statement.
- 5.09 The prospectus should contain the salient details of underwriting/undertaking arrangements and guarantee agreements, if any.

Market making

- 5.10 Disclose whether the issuer intends to fulfil the spread requirement or provide liquidity for a structured warrant issue via market making, or both.
- 5.11 Where the issuer appoints a market maker for its issue of structured warrants, it should disclose the identity of the market maker for the issue of the structured warrants and an explanation of the relationship between the issuer and the market maker emphasising that that market maker is acting as agent for the issuer.
- 5.12 Disclose the minimum quantity of structured warrants for which liquidity will be provided.
- 5.13 Where the issuer provides liquidity via market making, disclose the circumstances under which the market maker will not be able to, and should not be obliged to provide liquidity in its structured warrants.
- 5.14 Disclose the daily market presence of the market maker.
- 5.15 Disclose the maximum spread between the bid and offer prices when liquidity is provided.
- 5.16 Disclose whether the issuer has any intention to undertake a further issue of the structured warrants.

Conflicts of interest

- 5.17 The issuer should disclose any agreement, arrangement or understanding (direct or indirect) in place at the latest practicable date between the issuer and any member of the issuer's group, and any substantial shareholder of the underlying corporation, where such agreement, arrangement or understanding will have an effect on the issuance of the structured warrants.
- 5.18 There should be disclosed a declaration of any party's existing and potential interests/ conflicts of interest in an advisory capacity (if any) vis-à-vis the issuer/group. Such parties should include advisers, firms of public accountants, law firms, experts and such other parties which provide advice to the issuer/group.

Information on the terms and conditions of the structured warrants

- 5.19 The prospectus should set out in detail the terms and conditions of the structured warrants, including but not limited to the following:
- (a) The issue size;
 - (b) A full description of the nature of the structured warrants, e.g. single or basket, exercise style (American or European), underlying financial instruments and settlement method; and
 - (c) A summary of the terms of the structured warrants, including the issue price, strike price, exercise period, expiry date, the implied volatility, gearing, effective gearing and premium. In the case of equity-linked structures, the yield of the instrument and for other structured warrants, such information as required.
- 5.20 Where the underlying financial instrument is a basket of shares, the prospectus should disclose the relevant weightings of each underlying share in the basket.
- 5.21 A description of all applicable exercise rights should be made including:
- (a) Automatic exercise at the expiry of the exercise of the structured warrants;
 - (b) For a physical settlement, the delivery of an exercise notice and payment of the exercise price, and state the period in which the issuer may deliver the underlying by electronic transfer to the holder following a valid exercise;
 - (c) The maximum number of underlying shares which the issuer is obliged to transfer upon exercise of the structured warrants;
 - (d) For a cash settlement, state clearly the method of calculating the settlement amount and the period in which the issuer may deliver the requisite cash settlement amount. Also state the issuer's obligation to provide for automatic exercise upon expiry or maturity of the structured warrants; and

- (e) The period during which the structured warrants in issue may be exercised and the date when the structured warrants mature or expire.
- 5.22 A prospectus should disclose the rights of the holders of the structured warrants in the event of a take-over, merger, liquidation, dissolution or winding-up of the issuer or a scheme of arrangement involving the shareholders of the issuer.
- 5.23 Provide a description of any other rights other than those stipulated in any of the paragraphs above conferring rights on the holder of the structured warrants.
- 5.24 The issuer is required to publish a notice on the final issue price and exercise price in a widely circulated English newspaper. A copy of the notice should be furnished to the SC on the date of publication.

Information on the underlying financial instrument

- 5.25 Where the underlying financial instrument is listed shares, the prospectus should include the following information in respect of each of the underlying corporation:
 - (a) Description of the underlying corporation, its subsidiaries, its history and business, its directors, key management and substantial shareholders;
 - (b) The published audited consolidated financial statements for the past three financial years and the latest quarterly results (where relevant);
 - (c) The date of and arrangement for adjusting the amount payable on the exercise of such rights or the entitlement due upon exercise (where applicable) to take account of any rights issue, bonus issue, sub-division, consolidation or other alteration to the share capital of the underlying corporation;
 - (d) The rights (if any) of the holders of the structured warrants to participate in any distribution and/or offers of further securities made by the underlying corporation;
 - (e) The rights (if any) of the holders of the structured warrants in the event of a take-over, merger, liquidation, dissolution or winding-up of the underlying corporation or a scheme of arrangement involving the shareholders of the underlying corporation;
 - (f) Market statistics of the underlying shares quoted on a securities exchange outside Malaysia:
 - (i) The quarterly highest and lowest market prices of the underlying shares and the composite index of the relevant stock exchange for the past three years;
 - (ii) The closing price and five-day volume-weighted average price preceding the date of the issue of the prospectus;

- (iii) The market capitalisation based on the latest closing price preceding the date of the issue of the prospectus;
 - (iv) The price-earnings multiple based on the latest closing price preceding the date of the issue of the prospectus and the latest published audited results; and
 - (v) The dividend yield based on latest closing price preceding the date of the issue of the prospectus and the latest annual dividend that was declared and paid;
 - (g) Any other information concerning the relevant companies which has been published generally and which is necessary to enable an investor to make an informed assessment of the value of the structured warrants;
- 5.26 Where the underlying is an index, provide the following information:
- (a) A description of the index;
 - (b) A description of the constituent stocks (if applicable);
 - (c) The identity of the party which sponsors and/or calculates the index;
 - (d) A description of the method of calculation;
 - (e) The arrangements for calculation if the index is not published by the normal party;
 - (f) The historic highs or lows for the last three years; and
 - (g) The closing spot level as at the latest practicable date.
- 5.27 In the case of structured warrants for other securities or assets, the prospectus should contain that information which is necessary to enable an investor to make an informed assessment of the value of the structured warrants.
- 5.28 Issuers may fulfil the disclosure requirements under paragraphs 5.02, 5.03, 5.25 and 5.26 by way of reference to a website address.

Additional information

- 5.29 A statement that no securities will be allotted or issued on the basis of the prospectus later than 12 months after the date of issue of the prospectus.

Chapter 6

RISK FACTORS

- 6.01 The prospectus should contain information regarding the risks involved in purchasing the structured warrants. The risks involved include, but are not limited to–
- (a) all risks relating to the structured warrants and underlying financial instruments, such as volatility risk, liquidity risk (especially if no market making is undertaken) and all other risks which are material for an investor to make an informed decision in respect of investing in the structured warrants;
 - (b) risks associated with market disruption and settlement disruption events in relation to the underlying financial instrument;
 - (c) risks associated with events affecting the structured warrants including but not limited to, adjustments of rights/bonus issue of the underlying shares, insolvency, litigation and merger events of the underlying corporation; and
 - (d) risks associated with any termination events of the issue by the issuer.
- 6.02 For a non-collateralised structured warrants issue, the issuer is to state that buyers of the structured warrants are taking on the credit risk of the issuer and to provide its credit rating, if any.
- 6.03 The listing of risk factors in order of priority is encouraged.
- 6.04 Care should be taken in making disclaimers of risk factors to ensure that the disclaimers are not so wide as to cause the risk disclosures to be of little or no beneficial use to investors.

Chapter 7

APPROVALS AND CONDITIONS

- 7.01 The prospectus should disclose the approvals of the relevant authorities in conjunction with the structured warrants offering together with the dates of approvals and any conditions attached and the compliance thereof.
- 7.02 For any waivers from these guidelines that have been approved by the SC, to state the specific paragraph of the guidelines for which the waiver was sought and details of the approval with conditions (if any).

Chapter 8

EXPERTS' STATEMENTS/REPORTS

- 8.01 Where the prospectus includes a statement purporting to be made by an expert, there should be included a statement–
- (a) specifying the qualifications of such an expert and whether such an expert holds any securities in the issuer, any member of the issuer's group or has the right to nominate persons to subscribe for securities in the issuer or any member of the issuer's group and, if so, a full description thereof; and
 - (b) whether such an expert holds any securities in the underlying corporation.
- 8.02 There should be disclosed excerpts from, or summaries of, opinions expressed and conclusions recorded in the reports. The experts should state whether or not the reports were prepared for inclusion in the prospectus.
- 8.03 The experts' reports should be signed and dated within a reasonable time of the issue of the prospectus to ensure that the contents are substantially relevant.
- 8.04 If the expert becomes aware of significant changes affecting the content of the report, either–
- (a) between the date of the report and the issue of the prospectus; or
 - (b) after the issue of the prospectus and before the issue of the structured warrants,
- then the expert has an ongoing obligation to either cause the report to be updated for the changes and, where applicable, cause the issuer to issue a supplementary prospectus, or withdraw the expert's consent to the inclusion of the report in the prospectus. Failure to do so will result in the issuer and the expert being liable for any misleading statements or material omission arising from the outdated report.
- 8.05 Care should be taken by experts in making disclaimers of responsibility in their experts' reports. If the disclaimers are so wide as to cause the report to be of little or no beneficial use to investors, then inclusion of the report in the prospectus may itself be misleading.

Chapter 9

DIRECTORS' REPORT

- 9.01 The prospectus should contain a report by the directors of the issuer, for the period between the date to which the last audited financial statements of the issuer/group have been made up and a date not earlier than 14 days before the date of issue of the prospectus, stating whether, after due enquiry by them–
- (a) the business of the issuer/group has, in their opinion, been satisfactorily maintained;
 - (b) there have, in their opinion, arisen, since the last audited financial statements of the issuer/group, any circumstances which have adversely affected the trading or the value of the assets of the issuer/group;
 - (c) the current assets of the issuer/group appear in the books at values which are believed to be realisable in the ordinary course of business;
 - (d) there are contingent liabilities by reason of any guarantees or indemnities given by the issuer/group;
 - (e) there have been, since the last audited financial statements of the issuer/group, any default or any known event that could give rise to a default situation, in respect of payments of either interest and/or principal sums in relation to any borrowings in which they are aware of; or
 - (f) there have been, since the last audited financial statements of the issuer/group, any material changes in the published reserves or any unusual factors affecting the profits of the issuer/group.

The report should contain full details of all matters required to be dealt with above.

Chapter 10

CONSENTS

10.01 The prospectus should contain statements of consents from relevant parties, such as advisers, reporting accountants, auditors, issuing houses, registrars, selling/placement agents, solicitors, external company secretaries, bankers, rating agencies and experts or inclusion of their names and (where relevant) statements and reports in the form and context in which such statements and reports appear. A statement that they have not subsequently withdrawn such consents should also be disclosed.

Chapter 11

DOCUMENTS AVAILABLE FOR INSPECTION

- 11.01 Provide a statement that for a period of at least 12 months from the date of issue of the prospectus, the following documents (or copies thereof), where applicable, may be inspected at a specified place in Malaysia:
- (a) The Memorandum and Articles of Association of the issuer;
 - (b) Any trust deed/deed poll;
 - (c) Each material contract or document referred to in the prospectus and, in the case of contracts not in writing, a memorandum which gives full particulars of the contracts;
 - (d) All reports, letters or other documents, and statements by any expert, any part of which is extracted or referred to in the prospectus. Where a summary expert's report is included in the prospectus, the corresponding full expert's report should be made available for inspection;
 - (e) The audited financial statements of the issuer and its subsidiaries for the last three financial years or from the date of incorporation, if less than three years, preceding the date of prospectus;
 - (f) Writ and relevant cause papers of all current material litigation and arbitration disclosed in the prospectus;
 - (g) Latest audited financial statements of the issuer and its subsidiaries for the current financial period (where applicable); and
 - (h) Each consent given under Chapter 10.

Chapter 12

APPLICATION FOR STRUCTURED WARRANTS

- 12.01 The prospectus should contain instructions/procedures on how to apply for the structured warrants and how to complete applications. The instructions/procedures should contain terms and conditions for application, specific steps/measures to be complied with in relation to the various modes of application for structured warrants, e.g. automated teller machines, Internet and/or physical applications and any relevant statements of disclaimers in respect of the application.
- 12.02 The addresses where completed applications should be sent should be set out in the prospectus, as well as a statement as to whom payments should be made payable.
- 12.03 The prospectus should disclose the minimum number of structured warrants that can be applied for and the multiples of additional structured warrants for which investors may apply.
- 12.04 The application form should be identifiable with the prospectus to which it relates and warn investors against signing the form without having read and understood the prospectus. Accordingly, the application form should contain the following statements:
- (a) The name of the issuer and registration number;
 - (b) The date of the prospectus to which it relates;
 - (c) The expiry date of the prospectus;
 - (d) Words to the effect that, in accordance with the requirements of the CMSA, the application form should not be circulated unless accompanied by the prospectus; and
 - (e) Words to the effect that investors should have read the prospectus before completing the application form.
- 12.05 The application form should not contain any investment information that is not also contained in the body of the prospectus.
- 12.06 Where applicable, the issuer should allocate all excess securities in respect of any subscription on a fair and equitable basis. In this respect, the prospectus should contain a statement that the allocation of the excess structured warrants will be made on a fair and equitable manner.