

Ref No: \_\_\_\_\_

## WAKALAH AGREEMENT

THIS WAKALAH AGREEMENT is made on the day and year stated in **Section 1 of the Appendix**,

BETWEEN

Name: \_\_\_\_\_

ID/Registration No.: \_\_\_\_\_

Country of Issuance/Incorporation: \_\_\_\_\_

and includes his/her successors in title, heirs, personal representatives and permitted assigns (hereinafter referred to as the **“Investor”**)

AND

PT Sentosa Membangun Bangsa (Registration No.: AHU-0250071.AH.01.11/2019), a company incorporated in and existing under the laws of Indonesia, with its address at Rukan Puri Mansion Blok B no 7, Jl. Lingkar Luar Barat Raya, Kembangan - Jakarta Barat 11610, Indonesia (hereinafter referred to as the **“Company”**).

Each Investor and Company may be referred to in this Agreement individually as a **“Party”** and collectively as the **“Parties.”**

WHEREAS

- A. The Investor desires to appoint the Company as its Agent to represent the Investor in a Murabahah transaction with the Issuer in the Project, as defined below, under the terms and conditions set forth in this Agreement; and
- B. The Company desires to represent the Investor in a Murabahah transaction with the Issuer in the Project, as defined below, under the terms and conditions set forth in this Agreement.

IT IS AGREED as follows:

## 1. DEFINITIONS

1.1 In this Agreement, the following words and expressions shall save where the context otherwise requires, have the following meanings:

Commitment Amount : means the amount that the Investor has agreed to contribute to the Project as described in **Section 4 of the Appendix**;

Company means PT Sentosa Membangun Bangsa (Registration No.: AHU-0250071.AH.01.11/2019);;

Issuer : means PT Bina Tiga Putra (Registration No.: 1255000332424);

Investor means unless clearly stated in this Agreement, the word Investor shall refer to each of the investors or all of the investors, as the context may require;

Investor Group : means a group of investors (including their respective successors in title and assigns and any successors), who agree to participate in the Project to provide the Commitment Amount based on agreed proportion amounts, and where any references to an "Investor" includes all investors in this group;

Murabahah : means a shariah-compliant contract, whereby a party is selling a commodity or assets as per the purchasing price with a defined and agreed profit mark-up. This mark-up may be a percentage of the selling price or a lump sum. This transaction may be concluded either with or without a prior

promise to buy.

Murabahah Assets means the assets purchased and sold on behalf of the Investor Group as described in **Section 3 of the Appendix**

Murabahah Transaction means the various actions, agreements, and documents required for the execution of the Murabahah

Issuer's Fees means the fees charged by the Issuer from the gross Return On Investment for the Investor upon profit realisation as described in **Section 5 of the appendix**;

Service Fees means the fees charged by the Company for organising the engagement of the Parties as described in **Section 5 of the Appendix**;

Project : shall have the meaning ascribed to in **Section 2 of the Appendix**;

Project Milestones : means the events in the Project, as identified by the Issuer and described in **Section 7 of the Appendix**, which upon successful fulfilment will result in the successful completion of the Project;

Project Tenure : means the total tenure of the Project as described in **Section 8 of the Appendix**, commencing from the date of the first disbursement of the Commitment Amount to the Issuer. The Investor will be notified by email about the date of commencement.

Projected Gross Return : means the total gross return projected on the Commitment Amount as described in **Section 5 of the Appendix**;

- SGD : means Singapore Dollar;
- IDR : means Indonesian Rupiah;
- Shariah-compliant : means adherence to the principles of Islamic Jurisprudence for financial transactions, specifically the Shariah Standards issued by Bahrain based Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI);
- Wakalah : means a Shariah-compliant agency agreement through which an agent is appointed by a principal to carry specific tasks with or without fees;

## **2. THE WAKALAH**

- 2.1 Under the Shariah principle of Wakalah, the Investor hereby irrevocably and unconditionally appoints the Company as its agent and the Company hereby accepts this appointment to represent the Investor in a Murabahah Transaction with the Issuer in the Project via this Agreement, for the purpose of investing in the Project.
- 2.2 The Company shall exercise due diligence to the best of its expertise, knowledge and skills to ensure that all the transactions in the Murabahah are Shariah-compliant.
- 2.3 The Commitment Amount by the Investor or Investor Group, whichever the case may be, shall be the amount stipulated in **Section 4 of the Appendix**.
- 2.4 The fixed Wakalah fee of the Company shall be the amount described in **Section 5 of the Appendix**.
- 2.5 In consideration to being an agent of the Investor, the Company shall be paid a service fee for facilitating the Murabahah Transaction between the Investor and the Issuer, as stipulated under **Section 5 of the Appendix**. The service fees shall be charged and paid in full upfront, and shall be considered as a separate cost for the Project. For the avoidance of doubt, the service fee shall not reduce the expected ROI of the Investor or Investor Group, whichever the case may be, in the Project.

- 2.6 The Issuer's Fees shall be charged from the Projected Gross Return (if any) on Commitment Amount as described in **Section 5 of the Appendix**. In the event that no returns are realised, the Issuer shall not charge any fee on the Investor. This clause shall only apply only in the event the Murabahah Assets are not sold to the Issuer.
- 2.7 The Investor hereby agrees to make a capital contribution in accordance to the capital contribution ratio stipulated in **Section 9 of the Appendix**.
- (a) In the event the Project experiences a loss, the Investor or the Investor Group, whichever the case may be, shall bear the loss in proportion to the capital contribution ratio of each Party.
  - (b) Notwithstanding the above, the Issuer shall be solely liable for any loss attributed to negligence, misconduct or breach of contractual terms by the Issuer.

### **3. RIGHTS AND RESPONSIBILITIES**

- 3.1 The responsibilities of the Company shall be as follows:
- (a) To do and execute all acts with respect to executing the Murabahah Transaction and to negotiate with the Issuer on behalf of the Investor in relation thereto, in accordance with the clauses of this Wakalah Agreement;
  - (b) To receive the capital and profit (if any) upon maturity of the Project from the Issuer on behalf of the Investor;
  - (c) To disburse the capital and profit (if any) received from the Issuer to the Investor upon maturity of the Project;
  - (d) To negotiate in good faith and in the best interests of the Investor Group, in the event this Project does not meet the expected returns or the Project Tenure.
  - (e) To monitor the Project and provide periodic reports, upon the request of the Investor, on the progress in relation to the Project Milestones as defined in **Section 7 of the Appendix**, based on information provided to the Company by the Issuer.
  - (f) To facilitate and process contracts with the Investor Group and provide other services related to managing the investment process and attending to the investor needs.

- 3.2 The Company shall not be obliged to extend services except for the responsibilities specified above. As such, the Company shall not be liable for any loss of capital and/or profit in any circumstances, including in the event the Project delays or fails.
- 3.3 The Company may perform all or part of its duties under this agreement through a sub-agent appointed by the Company.
- 3.4 The Investor shall not be obliged to agree to any request from the Company if the Investor believes that the request is in contravention of any law, policy, rules or regulations.
- 3.5 Except for the specific purposes of this appointment and as expressed in the Agreement, this appointment shall not create or be deemed to create any other form of partnership or joint venture between the Investor and the Company.
- 3.6 No failure to exercise, nor any delay in exercising, on the part of the Company, any right or remedy under the Agreement shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies under the Agreement are cumulative and not exclusive of any rights or remedies provided by law.

#### **4. REPRESENTATIONS AND WARRANTIES**

- 4.1 The Parties represent and warrant to each of the other parties to this Agreement that:
- (a) they each have the power to enter into, exercise their rights, perform and comply with their respective obligations under this Agreement;
  - (b) all actions, conditions and things required to be taken, fulfilled and done (including the obtaining of any necessary consents) in order to enable each of the respective Parties to lawfully enter into, exercise its rights, perform and comply with its respective obligations under this Agreement have been taken, fulfilled and done;
  - (c) each of their respective obligations under this Agreement is valid, binding and enforceable in accordance with their respective terms;
  - (d) the execution, delivery and performance of this Agreement by the Parties and the matters contemplated hereby shall not violate the provisions of:

- (i) any law or any rule made pursuant to any law of agency, or any order of any court and that all requirements of any such law or order have been fully complied with and satisfied; and
- (ii) any contract or other undertaking or instrument to which each Party is a party or which is binding upon the said Party;

4.2 The Company represents and warrants to the Investor that:

- (a) It is duly incorporated and validly existing under the laws of Indonesia as a legal entity and has full power and authority to own its assets and carry on its business as is now being carried on;
- (b) It has the power to enter into, exercise its rights, perform and comply with its respective obligations under this Agreement;
- (c) The fulfilment of the responsibilities does not violate or conflict with any applicable law or regulation, any provision of its constitutional documents, order or judgement of any court applicable to it, or any contractual restriction binding on it;

4.3 The Investor shall indemnify and hold the Company harmless from and against any and all damages, deficiencies, judgments, actions, suits, proceedings, arbitration, assessment, costs and expenses suffered or paid by the Investor, directly, or indirectly, as a result of or relating to or in respect of any misrepresentation of the matters or breach of any representation or warranty by the Company in this Agreement.

4.4 All or any portion of the Investor's rights, interest and obligations under this Agreement may be transferred and assigned to the nominee(s) stipulated in **Section 12 of the Appendix, if any. The right to make a joint investment is deemed to have been considered exercised by filling the details of the additional Investor under this Agreement.**

4.5 The Agreement contains the entire understanding between the Parties relating to the transactions contemplated by the Agreement and shall supersede any prior expressions of intent or understandings with respect to the said transaction. All prior or contemporaneous agreements, understandings, representations and statements, oral and written, are merged in the Agreement and shall be of no further force or effect.

- 4.6 The Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Agreement.
- 4.7 The Investor agrees to waive any profit above the Projected Gross Profit Return on Investment (ROI) as specified in **Section 5 of the Appendix**. The waived amount shall be deemed as the Issuer's Fees.
- 4.8 The Investor agrees to keep all information relating to the Agreement confidential, and not disclose it to anyone, save with the prior written consent of the Company or as required by any applicable laws or regulations.
- 4.9 The Agreement is intended to be Shariah-compliant. The parties hereby agree and acknowledge that their respective rights and obligations under the Agreement are intended to, and shall, be in conformity with Shariah principles. To the extent permitted by law, each of the Parties hereby agree the Shariah-compliant nature of this Agreement.
- 4.10 Notwithstanding the above and to the extent permitted by law, each party represents to the other that it shall not raise any objections or claims against the other on the basis of Shariah-compliance or any breach of Shariah principles in respect of or otherwise in relation to any part of any provision of the Agreement.
- 4.11 Each of the above representations and warranties shall survive the signing and delivery of this Agreement and the Parties shall be deemed to represent and warrant to each of the other parties that the representations and warranties set out in this Section are true and correct in all respects.

## **5. TERMINATION**

- 5.1 The appointment of the Company herein shall cease upon the transfer of the Investor's portion of the profit actualised in the Project to the Investor, or upon sending a written notice to the email address of the Investor in other circumstances that may be specified in the notice, and that shall serve as sufficient notice.
- 5.2 No provision of the Agreement may be amended, waived, discharged or terminated orally nor may any breach of or default under any of the provisions of the Agreement be waived or discharged orally but (in each case) only by an instrument in writing signed by or on behalf of the Parties. Any amendments or variations to the Agreement shall be Shariah-compliant.



## **6. GOVERNING LAW:**

- 6.1 This Agreement shall be governed by and interpreted in accordance with the laws of Indonesia, and the parties irrevocably agree to:
- (a) submit to the non-exclusive jurisdiction of the Courts in Indonesia;
  - (b) waive any objections on the suitability of venue, jurisdiction or any similar grounds; and
  - (c) consent to the service of the legal process in any manner permitted by this Agreement.
- 6.2 If at any time any one or more of the provisions hereof is or becomes illegal, invalid or unenforceable under Indonesian law, neither the legality, validity or enforceability of the remaining provisions hereof nor the legality, validity or enforceability of such provisions under the laws of any other jurisdiction shall in any way be affected or impaired thereby.
- 6.3 If any provision of the Agreement (or part of it) or the application thereof to any person or circumstance shall be illegal, invalid or unenforceable to any extent, it must be interpreted as narrowly as necessary to allow it to be enforceable or valid and the remainder of the Agreement and the legality, validity or enforceability of such provisions to other persons or circumstances shall not be in any way affected or impaired thereby and shall be enforceable / enforced to the greatest extent permitted by law.

## **7. MISCELLANEOUS**

- 7.1 **Events of Default:** An Event of Default is deemed to have occurred in any of the following circumstances, whether or not arising due to the fault of the Issuer;
- (a) Any representation or warranty given or made by the Issuer proves to be untrue, incorrect or inaccurate in any material respect; or
  - (b) Any step is taken for the winding-up, liquidation or dissolution of the Issuer.
  - (c) Upon the occurrence of any Event of Default, the Investor shall have the right by notice to the Issuer to declare the entire proportion of the capital invested and the actualised profit if any to become immediately due and payable.

7.2 **Communication:** Any communication to be made under or in connection with the Agreement shall be made in writing and may be made by electronic mail, through the Company at [Maryam@Ethis.co](mailto:Maryam@Ethis.co) or at such other address as the Company may notify the Investor from time to time. Any communication made between the Company and the Investor under or in connection with the Agreement shall be made to the address or electronic mail address provided to the Company or its registered address, in the case of the Issuer, and shall be effective when received.

7.3 **Refund Policy:**

- (a) The Commitment Amount may not be refunded or claimed back once it has been received by the Company until the maturity of the Project.
- (b) Where the right to refund is applicable, the Investor agrees to bear all transaction costs and losses due to currency exchange rate fluctuations.

7.4 **Business Risks and Financial Loss:** The Investor acknowledges and agrees that the investment in the Project through the Company is accompanied by all business risks associated with a venture or Project of such nature. Accordingly:

- (a) There is no assurance or guarantee given by the Company or any director of the Company, its affiliates ("**Ethis Group**") or any other person that the Company will obtain the Returns in the amount projected or anticipated or any amount of revenue or profit whatsoever from the Project;
- (b) Investment in the Project comes with a risk of a substantial or total loss, and there is no assurance or guarantee given by the Ethis Group or any other person that the Investor will be able to receive or recover any amount invested under this Agreement or any profit projected by the Company.
- (c) In accordance with the Shariah principle, all actual financial losses incurred or accrued by the Project shall be borne jointly by the Investor Group in proportionate to each Investor's Capital Contribution Ratio. However, if the loss is due to the Issuer's gross negligence or there has been any breach of representation or warranty given by the Issuer or the Issuer has acted in contrary with the terms of the Project which causes loss to the Project, the Issuer shall be liable for the amount of the loss to the Commitment Amount.

- 7.5 **Currency of the Investment:** The Project is located as specified in **Section 2 of the Appendix** and the currency used in the calculation of the capital contribution of the Murabahah Transaction, the Profit Sharing Ratio and any projected return on investment thereof shall be in the Indonesian Rupiah (IDR), the local currency where the Project is located. For the avoidance of doubt, the intention of this clause is to determine the contribution ratio of both the Investors and the Issuer, and to make the calculation of profits based on the determined PSR more accurate.
- 7.6 **Joint Investment:** The Investor may include one additional Investor ("Joint Investor") to invest under this Agreement jointly:
- (a) This Clause on joint investment shall be applicable only to those Investors who invest jointly under this Agreement as specified in **Section 11 of the Appendix**. The right to make a joint investment is deemed to have been exercised by filling the details of the Joint Investor under this Agreement.
  - (b) Each of the Investors and the Joint Investor, if any, shall act as an agent to each other. The appointment shall continue until the termination of this Agreement.
  - (c) Unless otherwise stated, the terms under this Agreement shall be applicable to both the Investor and Joint Investor, Jointly and severally.
  - (d) Each the Investor and the Joint Investor shall contribute to the Commitment Amount in accordance with a mutually agreed portion.
  - (e) Each Investor and Joint Investor shall be entitled to the profits of the investment from the Project, if any, proportionate to their respective contribution to the Commitment Amount therein.
  - (f) The Issuer shall not be liable for the distribution of the profits among the Investor and the Joint Investor.
  - (g) As each the Investor and the Joint Investor is an agent of the other, the actions of one party shall be representative of both the Investor the Joint Investor, and shall be binding on them both. In pursuance to this clause, the signature of either the Investor or the Joint Investor shall amount to an acceptance on behalf of both the Investor and the Joint Investor.

- (h) Each the Investor and the Joint Investor shall indemnify the Issuer against any claims that might arise directly or indirectly as a result of the joint investment arrangement.

7.7 **Nomination:** All or any portion of the Investor's rights, interest and obligations under this Agreement may be transferred and assigned to the nominee(s) designated by the Investor in accordance with the terms and conditions of this Agreement.

- (a) The assignment shall be effective only upon the occurrence of one of the following:
  - (i) The Investor's written notice via an email; or
  - (ii) The Investor's death.
- (b) The Investor hereby grants the Company permission to communicate with the Nominee, if the Investor is unreachable for more than one (1) month.
- (c) In the event of the Investor's death, the Nominee is hereby authorized to receive all amounts due from the Project.
- (d) Investors who profess the religion of Islam hereby acknowledge that Muslims are bound by their religion to distribute their estate in accordance to the Islamic law of inheritance and shall take that into consideration for the purpose of this clause.
- (e) In the event of the death of only one of the Investors in a joint investment in accordance with Clause 7.6, the payouts, if any, shall be transferred to the surviving Investor. In the event of the death of both Investors, the payouts shall be transferred to the Nominee.
- (f) The Investor may from time to time revoke any such nomination and/or to name another nominee with written notification via email duly received and registered by the Company. Other than revocation via written notice, subsequent nomination and death of a nominee during the lifetime of the Investor, a nomination shall not be revoked.

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**IN WITNESS WHEREOF** the Parties hereto have hereunto set their seal and hands the day and year first above written.

SIGNED for and on behalf of )  
THE COMPANY )  
Registration No.: AHU-0250071. )  
AH.01.11/2019 )

\_\_\_\_\_  
Name: Resi Petty Aradia  
ID No.: 3173026706860000  
Designation: Director

SIGNED by )  
THE INVESTOR )  
in the presence of: )

\_\_\_\_\_  
Name: \_\_\_\_\_  
ID No.: \_\_\_\_\_

## APPENDIX

(which shall be read, taken and construed as an essential part of this Agreement)

Section	Matter	Particulars
1.	<b>Date of this Agreement</b>	<p>_____</p> <p>This Agreement shall be effective from this date until such time the Agreement is terminated in accordance with the terms and conditions of this Agreement.</p>
2.	<b>Project</b>	<p>Bina TP, Located in Kendari, Southeast Sulawesi, Indonesia</p> <p>The Issuer is the main distributor of the Conch cement brand in Indonesia. Conch cement is one of the largest building materials company group in China and in the world, established in 1996, The head office is in Wuhu City, China.</p> <p>The main customers of the Issuer are retailers such as Building Materials Stores also Construction Companies. One of the construction companies that become their main customer is CV Mika Konstruksi ("Mika"). The Issuer has successfully received a work order from Mika Konstruksi for the procurement of 20.000 Bags of Cements.</p> <p>Mika is working on a government project to build 1,000 subsidized houses in Kendari, Southeast Sulawesi. In working on the project they needed a steady supply of cement as a material for building houses.</p> <p>To fulfill the cement order from Mika, Ethis entered into a murabahah partnership with the Issuer to buy 20,000 bags of Conch cement for stock needed by the Issuer.</p>
3.	<b>Purpose &amp; Murabahah Assets</b>	<p>The purpose of this Murabahah Transactionp is to direct the transfer of funds from Ethis to vendors for materials purchases and then selling the 20,000 bags to the issuer at a profit markup.</p>

		The Issuer will purchase the materials from Ethis with 2 months payment terms.
4.	<b>Commitment Amount</b>	<p>The Investor shall contribute IDR _____ equivalent to SGD _____ to the Project . The amount in IDR stipulated in this section over the total Commitment Amount the Issuer received by all Investors represents the share of the Investor individually from the total Capital Contribution of the Investor Group.</p> <p>In the event the Commitment Amount is received in a different currency, the amount shall be converted to IDR because it is the currency of operations.</p>
5.	<b>Projected Gross Return</b>	<p>The Projected Gross Return on Investment would be determined by the following:</p> <ol style="list-style-type: none"> <li>The Projected Gross Return on Investment is ____%.</li> <li>The profit cap, affected by <b>clause “c”</b>, for each type of investor may be different.</li> <li>The Investor Group agrees that any amount above the Projected Gross Return will be paid to the Issuer as the Issuer’s Fees. In the event that no returns are realised or the return is below the Projected Gross Return, the Issuer shall not charge any fee on the Investor. Issuer’s Fees shall apply only when the Murabahah Assets are not sold to the Issuer.</li> <li>The Company shall charge a fixed fee of SGD 1.00 (Singaporean Dollar One) for the Wakalah services.</li> <li>The Company charges 3.02% of the Commitment Amount as service fees.</li> <li>The services fees will not reduce the Projected ROI.</li> </ol>
6.	<b>Projected Net Return On Investment (ROI)</b>	The Net ROI for the Investor under this Agreement is calculated by the Projected Gross Return on Investment under <b>clause “a” of section 5 of this Appendix</b> minus the Issuer’s Fees, when applicable, under <b>clause “c” of section 5 of this Appendix</b> .
7.	<b>Project Milestones</b>	The Project Milestones to be achieved, as set by the Issuer:

		<ul style="list-style-type: none"> <li>- Investors appoint Ethis as Wakeel</li> <li>- Ethis purchase the 20.000 bags of cement from vendor as suggested by the Issuer.</li> <li>- Ethis sells the materials to the Issuer</li> <li>- Ethis receives payment from the Issuer</li> <li>- Ethis pays the investors</li> </ul>
8.	<b>Project Tenure</b>	<b>2 Months</b> , commencing from the date of the first disbursement of the Commitment Amount to the Issuer. The Investor Group will be notified by email about the date of commencement.
9.	<b>Capital Contribution</b>	The amount contributed by the Investor Group, in the Murabahah Transaction is as follows: IDR 1,356,920,000.
10.	<b>Profit Mark-Up</b>	The profit mark-up of the Murabahah Transaction is expected to be 3.02%. In the event the Issuer's Fees apply as stated in this agreement, the total amount of profit of the Investor Group is capped at 3.02% ROI. Any amount exceeding this will solely belong to the Issuer.
11.	<b>Joint Investment Option</b>	<p>Jointly with (if applicable)  Name: _____</p> <p>Passport/ID No.: _____</p> <p>Country of Passport/ID: _____</p>
12.	<b>Nominee</b>	<p>Name: _____</p> <p>Passport/ID No: _____</p> <p>Contact No: _____</p> <p>Relationship: _____</p> <p>The Investor hereby authorises the Company to transfer the payouts entitled under the Agreement (if any) to the Nominee in</p>



		<p>the event of the death of the Investor in accordance with the terms and conditions of this Agreement.</p> <p>The Company is duly discharged from all liabilities upon payment of the entitled payouts (if any) to the Nominee.</p>
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