

sukuk-musharaka-structure-memo

Sukuk al-Musharaka – Structure Memorandum (Anchor Tranche)

Transaction: Innov8 Program 2 – Wells 16-20 Anchor Financing **Onshore Issuer / Operating Partner:** Innov8 Program 2 Sukuk LLC (Delaware, to be formed as CP to first close) **Offshore Certificate Issuer:** TBD (Cayman exempted company or DIFC SPV) **Structurer / Trustee (candidate):** Capital Custody Trust ("CCT," David Watts) **Drafted by:** Martin / Meridian **Status:** DRAFT v1 – for Shariah board, CCT counsel, and institutional investors **Date:** 2026-05-27 **Epic:** GH#3058 · **Workstream:** GH#3059 (Structuring & Legal)

1. Executive Summary

This memorandum describes the proposed **Sukuk al-Musharaka** (partnership-based Sukuk) structure for the anchor financing of Innov8 Resources Program 2, Wells 16-20. The structure is intentionally **not Ijara** (lease-based Sukuk). Investors subscribe for certificates representing a beneficial interest in a **Musharaka partnership** between (i) the offshore Sukuk issuance vehicle as **capital partner (Rabb al-Mal)** and (ii) the Anchor Issuer as **managing partner (Mudarib / working partner)** holding and developing the working interests.

Target raise: **USD 60,000,000 – 125,000,000**. Target investor return: **12% – 15% IRR** (indicative, **not guaranteed**). U.S. component: **Regulation D, Rule 506(b)** to accredited investors. GCC component: institutional private placement per offshore counsel guidance.

Galileo Capital Advisors SA acts as capital markets advisor to the Sponsor GPs. **CCT** is the Sukuk structurer – not Galileo.

2. Shariah Rationale – Musharaka vs Ijara

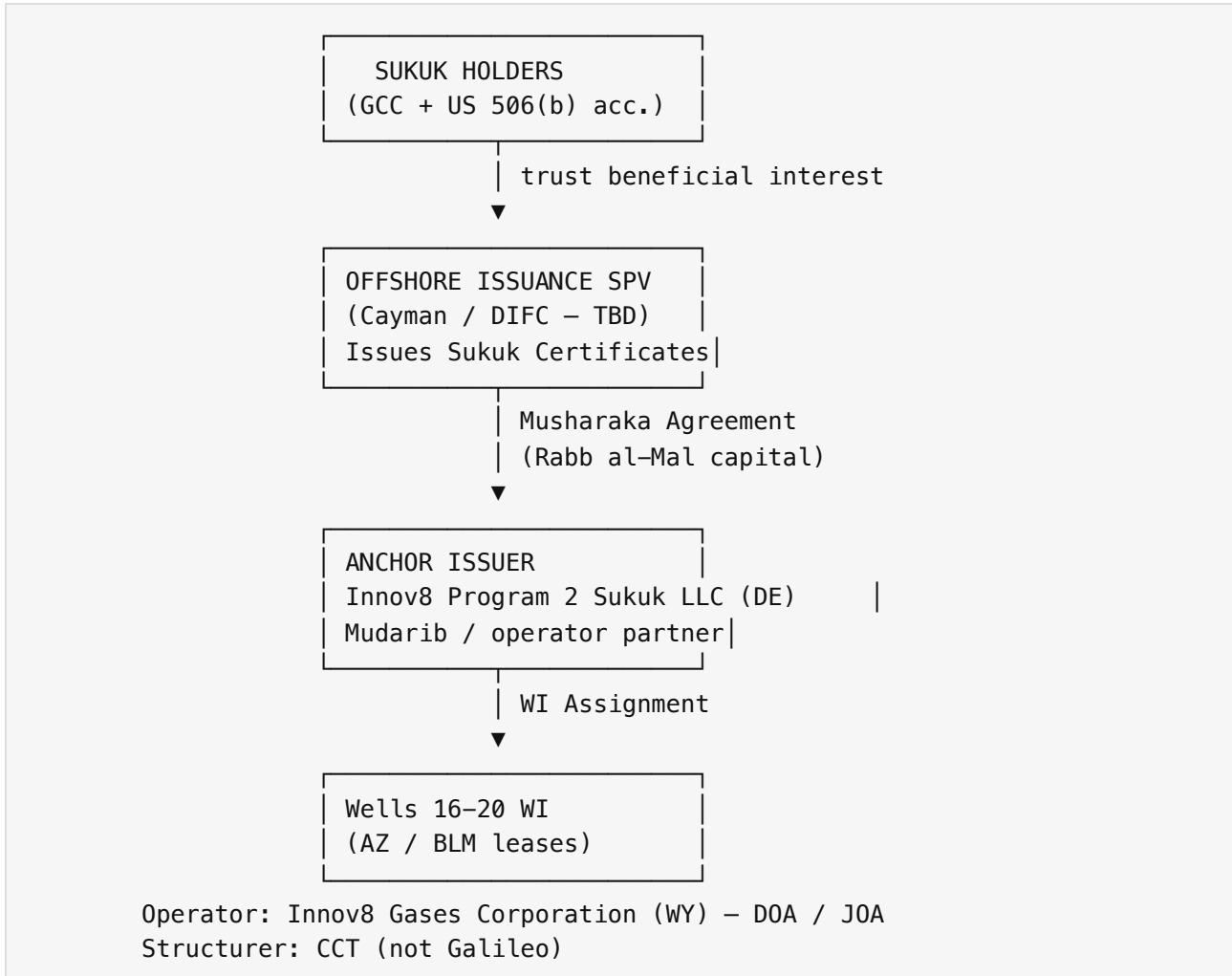
Criterion	Musharaka (selected)	Ijara (rejected)
Asset nature	Shared ownership of WI and development venture	Lease of identifiable tangible asset
Return profile	Profit-sharing from operating results	Fixed rental tied to asset lease
Risk sharing	Partners share profit and loss per agreed ratios	Lessor/asset owner bears asset risk; lessee pays rent
Development phase	Suitable for pre-production and drilling capex	Difficult before stable identifiable leased asset
Helium / H ₂ WI	Partnership in extraction venture fits scholar guidance	Lease-back of mineral interests often challenged

Shariah board must confirm: (a) asset eligibility of working interests; (b) profit calculation methodology; (c) loss sharing on capital vs labor; (d) governance and Shariah audit rights; (e) permitted hedging (if any) via Shariah-compliant mechanisms only.

3. Transaction Parties

Party	Role
Sukuk Holders	Subscribe for certificates; beneficial owners via trust
Offshore Issuance SPV	Issues Sukuk; enters Musharaka as Rabb al-Mal
CCT	Structurer, trustee, calculation agent, paying agent (roles per definitive docs)
Anchor Issuer (Innov8 Program 2 Sukuk LLC)	Mudarib / operating partner; holds WI in Wells 16-20
Program 2 Parent	100% member of Anchor Issuer
Holdco	Ultimate corporate sponsor (non-recourse)
Innov8 Gases Corporation (WY)	Agent Operator; assignor of WI
Sponsor GPs	Helium Hydrogen Holdings; Galileo Capital Advisors SA; Bitkove; Covault

4. Structural Diagram



Corporate stack detail: [legal-corporate-structure.md](#). Collateral: [security-collateral-package.md](#).

5. Document Architecture (Definitive Package)

#	Document	Governing law (indicative)
1	Sukuk Certificate Terms and Conditions	Offshore SPV jurisdiction
2	Trust Deed / Agency Agreement	Offshore
3	Musharaka Agreement (Offshore SPV + Anchor Issuer)	Offshore + DE conflict provisions
4	Investment Agency / Wakalah (if used for cash deployment)	Offshore
5	Shariah Undertakings and Audit Covenant	Offshore
6	Security Agreement / Pledge over Musharaka interest	Offshore
7	Subscription Agreement (506(b))	Delaware / offshore
8	Operating Agreement amendment (Anchor Issuer)	Delaware
9	Assignment of Working Interests	Arizona (recording)
10	Account Control Agreement	Bank choice (NY/DE)
11	Intercreditor Agreement (if parallel debt)	Delaware
12	CCT Engagement / Exclusivity	Delaware (exclusivity-carveout.md)

6. Musharaka Economics

6.1 Capital Contributions

Partner	Contribution	Timing
Rabb al-Mal (Offshore SPV / certificate proceeds)	Up to USD 125M (target band 60-125M)	At closing and drawdown schedule
Mudarib (Anchor Issuer)	WI in Wells 16-20; pre-invested land, permits, data	At closing (in-kind)

In-kind contribution value subject to independent engineer / Shariah fairness review. Any shortfall remedied by Sponsor GP support letter (non-binding at term sheet) or additional equity.

6.2 Profit-Sharing Ratio (Indicative)

Phase	Rabb al-Mal (Certificates)	Mudarib / Equity
Pre-first production	0% profit share (capital preservation mode)	0%
Post-first production	70% – 85% of net distributable profit	15% – 30%
After target IRR achieved (12-15%)	Step-down or catch-up per Shariah board	Residual incentive slice

Exact ratios subject to Shariah board and market negotiation. **Target IRR 12-15% is not guaranteed** — profit sharing depends on helium/hydrogen prices, production volumes, and opex.

6.3 Loss Sharing

Shariah-compliant loss allocation typically:

- **Capital loss:** borne by Rabb al-Mal up to capital contributed (certificate holders);
- **Labor / negligence loss:** borne by Mudarib if attributable to misconduct or breach of Shariah undertakings;
- **Insurance proceeds:** applied per T&Cs and fatwa.

No penalty interest on defaults — remedy via profit suspension, redemption at net asset value, or partnership dissolution.

6.4 Calculation Agent

CCT (or appointed calculation agent) determines:

1. Gross production revenue (Wells 16-20);
2. Less: royalties, ORRI, taxes, operator opex, G&A allocable to SPV;
3. Less: reserve account contributions;
4. Equals: **Net Distributable Profit** for Musharaka sharing;
5. Certificateholder distribution amount per profit-sharing ratio.

Quarterly calculation certificates posted to VDR and investors.

7. Certificate Terms (Outline)

Term	Provision
Form	Bearer or registered certificates (TBD)
Denominations	USD 100,000 minimum (indicative)
Currency	USD
Issue price	100% of par unless discount approved
Tenor	5 – 7 years from first production (TBD)
Expected return	Target 12% – 15% IRR (not guaranteed)
Periodic distributions	Quarterly from distributable profit
Redemption	At maturity, voluntary early redemption (Shariah-compliant purchase price), or mandatory redemption on event of default / dissolving Musharaka
Transfer restrictions	Reg D 506(b) – resales to accredited investors only; GCC transfers per offshore rules
Listing	Private; no public exchange listing contemplated

8. Use of Proceeds

Certificate proceeds flow: Offshore SPV → Musharaka capital account → Anchor Issuer project accounts.

Use category	Indicative %
Drilling, completion, tie-in (Wells 16-20)	55 – 65%
Gathering / processing / midstream connection	15 – 20%
Operating reserve and WC	10 – 15%
Fees (CCT, legal, Shariah, PE)	5 – 8%
Contingency	5%

No use of proceeds for Program 1, Holdco debt paydown, or unrelated New Entities (per `exclusivity-carveout.md` §3.6).

9. Shariah Compliance Undertakings

Anchor Issuer and Offshore SPV covenant to:

1. Maintain Shariah-compliant business activities (no alcohol, gambling, conventional interest-bearing instruments in SPV accounts without profit-sharing deposit structures);
 2. Appoint Shariah advisor and submit to annual Shariah audit;
 3. Purify non-compliant income (if any) via charity per scholar direction;
 4. Obtain fatwa prior to issuance and upon material change of terms;
 5. Document hedging (if required) via Shariah-approved mechanisms (e.g., Salam, Istisna, or commodity Murabaha where approved — **not** conventional swap without fatwa).
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10. Security and Collateral Integration

Certificateholders benefit from:

1. Pledge of Musharaka partnership interest (offshore);
2. Assignment of production revenue and WI (onshore — see `security-collateral-package.md`);
3. Account Control Agreements;
4. UCC-1 on deposit accounts and fixtures;
5. Loss payee on insurance.

Enforcement: CCT as agent leads remediation; proceeds distributed per Shariah waterfall — no riba penalties.

Intercreditor: Sukuk holders **first priority** on Anchor Issuer assets. Program 1 and Holdco creditors excluded if ring-fence holds.

11. Reg D 506(b) – U.S. Investor Mechanics

Requirement	Approach
Offering type	Rule 506(b) — no general solicitation or advertising
Investor eligibility	Accredited investors (verify per Rule 501)
Information	Private placement memorandum + this VDR subset
Form D	File within 15 days of first sale
Bad actor	Disqualification screening on Sponsor GPs and covered persons
Integration	Separate from any future Reg S offshore tranche (coordination with counsel)

Marketing constraint: Offtake status = **serious interest** only until executed agreements filed. No implied fixed return.

12. Events of Default (Indicative)

1. Failure to pay distributable amounts when due (after cure period);
2. Breach of Shariah undertakings not cured;
3. Loss of material WI title;
4. Unauthorized additional secured debt on SPV assets;
5. Cross-collateralization with Program 1 or Holdco (ring-fence breach);
6. Insolvency of Anchor Issuer or Offshore SPV;
7. Material misrepresentation in VDR;
8. Cessation of operator (Gases Corp) without approved replacement.

Remedies: suspend Mudarib profit share; mandatory redemption; replace Mudarib manager; dissolve Musharaka and sell assets; distribute net proceeds pro rata to capital partners per Shariah principles.

13. Tranche Scaling (Program 2 Series)

Anchor structure replicates for Subsequent Tranches per five-well SPV pattern:

Series	Wells	Size (indicative)	Structurer
Tranche A	16-20	\$60M – \$125M	CCT (exclusive)
Tranche B	21-25	TBD	CCT if >\$25M
Tranche C	26-30	TBD	CCT if >\$25M
Further	31+	Aggregate cap \$300M – \$500M	Per exclusivity memo

Each series: new Musharaka agreement, new certificate ISIN (if applicable), shared Shariah board principles with series-specific fatwa supplement.

Sub-\$25M parallel Sukuk: alternate structurer permitted with notice per `exclusivity-carveout.md` §3.4.

14. Governance and Reporting

Report	Frequency
Production and revenue	Monthly
Musharaka calculation certificate	Quarterly
Shariah compliance certificate	Annual
Reserve engineer update	Annual
Material event notice	Prompt

Investor consent required for: change of Musharaka ratio, sale of Wells 16-20, change of operator, merger of Offshore SPV, amendment adverse to certificateholders.

15. Tax and Accounting (High-Level Flags)

- U.S. tax: Anchor Issuer disregarded entity – flow-through considerations for U.S. holders;
- Offshore SPV: Cayman/DIFC tax neutrality analysis;
- FATCA / CRS: W-8 series and self-certifications in subscription pack;
- Withholding on production royalties: Arizona and federal;

Tax counsel memo required – Martin does not opine on tax.

16. Timeline (Indicative)

Phase	Target date
CCT mandate executed	2026-06-15
Shariah fatwa (concept)	2026-06-30
Definitive docs draft	2026-07-31
First close (anchor)	2026-09-30
First production (operations)	Per engineering schedule

17. Open Items

#	Item	Owner
OI-1	Shariah board appointment and fatwa timeline	CCT
OI-2	Offshore SPV jurisdiction (Cayman exempted co. vs DIFC)	CCT counsel
OI-3	Profit-sharing ratio final terms within 70-85% band	CCT + Shariah
OI-4	In-kind contribution valuation of WI	PE + Shariah
OI-5	Wakalah vs direct Musharaka capital deployment	CCT
OI-6	Reg S / Reg D integration for GCC vs US investors	Offshore + US counsel
OI-7	Confirm not Ijara in all marketing and fatwa materials	Martin + CCT
OI-8	Hedging strategy (if any) – Shariah-compliant only	Treasury + Shariah

18. Martin Flag

Human attorney review required before investor distribution.

Critical confirmations:

1. **Musharaka only** – reject any drift toward Ijara or fixed return disguised as rent;
2. **CCT is structurer** – Galileo is advisor; subscription docs must not blur roles;
3. Target **12-15% IRR is not guaranteed** – all materials must state profit-dependent returns;
4. **506(b)** – no general solicitation; verify accredited status;
5. Offtake = **serious interest** until executed contracts in VDR;
6. Ring-fence must survive counsel review of Program 2 OA and any RBL;
7. Shariah board approval is **condition precedent** – no close without fatwa.

19. Related Documents

- `legal-corporate-structure.md` – entity stack, jurisdictions, governing law matrix
- `security-collateral-package.md` – collateral classes, revenue assignment, intercreditor
- `5-well-spv-term-sheet.md` – Anchor Issuer terms and ring-fencing
- `exclusivity-carveout.md` – CCT exclusive mandate and carveouts

Prepared by Martin / Meridian for Innov8 Resources GP team, Capital Custody Trust, and prospective Sukuk investors. DRAFT v1 – 2026-05-27.