

On Rs. 200/- Stamp Paper

**FACILITATION AGREEMENT FOR
TRADING IN GOVERNMENT SECURITIES**

Entered Into
between

[-----Investor-----]

And

[-----Broker-----]

And

Central Depository Company of Pakistan Ltd

Dated [-----]

Karachi

Facilitation Agreement For Trading In Government Securities

This Facilitation Agreement For Trading in Government Securities ('Agreement') is made on this [----] day of _____, 2014, between:

Mr. [-----], son of Mr. [-----], holding CNIC No. [-----], resident of [-----], or [-----] a company incorporated under the laws of the Islamic Republic of Pakistan and having its registered office at [-----] Karachi, acting through its [-----designation----] (hereinafter referred to as the "**Investor**", which expression shall wheresoever the context so permits, includes its successors, legal heirs and executors) of the **First Part**;

And

[-----**Broker**-----], a company incorporated under the laws of the Islamic Republic of Pakistan holding Trading Right Entitlement Certificate issued by Karachi Stock Exchange Limited and registered as a Broker by Securities & Exchange Commission of Pakistan and having its registered office at [-----] Karachi, acting through its [-----designation----] (hereinafter referred to as the "**Broker**", which expression shall wheresoever the context so permits, includes its successors and permitted assigns); and of the **Second Part**;

And

Central Depository Company of Pakistan Ltd, a company incorporated under the laws of Pakistan, having its Registered Office at CDC House Main Shahra e Faisal, Karachi, through its authorized attorneys (hereinafter called as "**CDC**", which expression shall mean and include, its successors-in-interest, legal representative, administrators, executors & assigns) of the **Third Part**.

(Investor, Broker and CDC are individually referred to as 'Party' and collectively as 'Parties').

WHEREAS

- CDC has been approved by the State Bank of Pakistan ('SBP') for provision of Real Time Gross Settlement (RTGS) facility, which enables CDC to provide settlement and custodian services ('CDC IPS Service') of government issued securities, i.e. T-Bills, sukuks, PIBs and any other securities which may be issued by the government from time to time (collective known as "Govt. Bonds") for its clients.
- Investor wishes to trade in Govt Bonds through the Karachi Stock Exchange Limited ('KSE') trading platform, and for which purpose, it wishes to work with the Broker and CDC to enable him to trade in Govt Bonds and obtain custodial services of the same as well.

- The Parties have agreed to formalise this arrangement and CDC has agreed to provide settlement and custodial services whereas the Broker has agreed to act on behalf of Investor for trading in Govt Bonds based on the agreed terms and conditions.

NOW, THEREFORE, in consideration of the mutual benefits to be derived and the representations, warranties and agreements contained herein, the Parties hereby agrees as follows:

SCOPE OF THE AGREEMENT

1. The Investor has already opened a CDC IPS Account No. _____ ('Account') with CDC to enable CDC to provide custodial services of the Govt. Bonds being traded by the Investor.
2. The Investor has already opened Trading Account No. _____() with the Broker, which shall enable the Broker to execute trades for and on behalf of the Investor on the Bond Automated Trading System (BATS) of the KSE.
3. For purchase, the Investor shall deposit funds through proper banking channels and from on its own bank account into CDC's designated bank account (with written intimation to CDC) which shall reflect as a credit balance in the Investor's Account. CDC shall forward the same to KSE, along with the position of the Account (both cash balance and Govt. Bonds) on a daily basis.
4. The Investor would then be eligible to trade in Govt. Bonds vide the Broker to the extent of permitted by the position in his Account, i.e. the Investor would only be allowed to sell such amount of Govt. Bonds which are in his Account and similarly, the Investor would only be allowed to purchase such number of Govt. Bonds which are practically possible considering the amount of funds available with CDC on account of the Investor.
5. Upon receiving the instructions from the Investor, the Broker would execute the trade for and on behalf of the Investor on BATS. The executed trade feed shall be forwarded by KSE to CDC for onward settlement of the trade by CDC.
6. Thereafter, in case of purchase, the relevant Govt. Bonds would be credited in the Account and the cash balance held by CDC on account of the Investor would be debited, whereas in case of sale of Govt. Bonds by the Investor, CDC's account would be credited with cash balance on account of the Investor and the relevant Govt. Bonds would be debited from the Account of the Investor.
7. It is hereby reiterated that only such trades of the Investor would be executed and settled for which good funds or securities are available in the Investors Account (or with CDC on account of the Investor). In case the cash balance held by CDC on account of the Investor is insufficient to settle a purchase order or in case the number of Govt. Bonds in the Investors Account is inadequate to settle a sell order, CDC would reject such an order placed for and on behalf of the Investor.

8. All trade settlement on RTGS would be subject to counter party initiation/affirmation. and it is hereby clarified that CDC shall not be responsible in any way if the transaction could not be successfully settled due to non-initiated/non-confirmed by the counter-party
9. It is further clarified that the Investor would have to place his orders through the Broker only under the terms of this Agreement. If the Investor wishes to trade in Govt Bonds through some other broker, then a similar agreement would need to be in place between the Investor, the CDC and such other broker.
10. CDC would assume all decisions regarding the sale/purchase of Govt. Bonds (as provided to CDC via the KSE trade feed) are of the Investor himself and is going to settle all trades which appear to emanate from the Investor prima facie. Consequently, the Investor would not be allowed to claim any relief or reject any trade executed/settled in his Account by CDC.
11. The Investor hereby authorizes the Broker to pledge, from time to time, Govt Bonds held by the Investor in the Account in favour of National Clearing Company of Pakistan Limited (“NCCPL”) to meet the initial and minimum margin requirements applicable for availing settlement and clearing services of NCCPL (“Pledge”).

CONSIDERATION

12. For the services being rendered by CDC, the Investor shall pay to CDC the charges as prescribed/ notified and in the manner and time line specified by CDC from time to time. .

REPRESENTATIONS AND WARRANTIES

13. CDC hereby represents and confirms to the other Parties that:
 - a. It shall provide requisite and required information to KSE to enable the Broker to execute trades on behalf of the Investor on the BATS platform.
 - b. It shall settle all trades provided to it via the KSE feed if (in case of sale transaction) sufficient securities are available in the Investors Account or (in case of purchase transaction) if sufficient cash balance is available with CDC on account of the Investor.
 - c. By entering into this Agreement, CDC will not:
 - i. be in violation with the provisions of its Articles or Memorandum of Association;
 - ii. contravene any applicable law, rule, regulation or any order, judgment, decree or directive of any court or tribunal to which CDC or any of its properties and businesses are subject;
14. The Investor hereby represents and warrants to the other Parties that:

- a. All information furnished by him is or shall be accurate and that he has not omitted or concealed and shall not omit or conceal any material facts which would render such information incorrect, misleading or inaccurate.
- b. No extraordinary circumstances and no change of law has occurred which would make it impossible for him to fulfill his obligations under this Agreement.
- c. He will comply with all formalities and requirements for maintaining an Account with CDC as well as comply with all formalities for maintaining a trading account with the Broker.
- d. He will not hold the other Parties liable for any losses which he may suffer due to a trade which has been executed on his request.
- e. He will be liable and responsible for all trades which have been settled by CDC in his Account based on the KSE feed received by the CDC. Any and all claims and disputes in this regard will be settled between the Investor and the Broker with no reference or resort to CDC.
- f. He will ensure that he has sufficient securities in his Account or cash with CDC on his account before placing a trade through the Broker on the BATS.
- g. He will comply with all rules and regulations pertaining to (i) trading and settlement of Govt. Bonds as prescribed by KSE, SBP and/or any other regulatory authority and (ii) all regulations, rules, procedures and the overall framework pertaining to CDC IPS Services and CDC IPS Accounts as prescribed by CDC from time to time.
- h. He shall pay to the CDC and the Investor their consideration as per the rate/formula given above for the services being rendered by them under this Agreement.

15. The Broker hereby represents and warrants to the other Parties that:

- a. All information furnished by it is or shall be accurate and that it has not omitted or concealed and shall not omit or conceal any material facts which would render such information incorrect, misleading or inaccurate.
- b. No extraordinary circumstances and no change of law has occurred which would make it impossible for it to carry on its business or fulfill its obligations under this Agreement.
- c. It will only process such orders for and on behalf of the Investor for which good securities are available in the Account of the Investor or good cash balance is available with CDC on account of the Investor, as per the data provided by the CDC to the KSE.
- d. It will post only such trades over BATS for and on behalf of the Investor which have been specifically authorized by the Investor.
- e. It will resolve all disputes and claims pertaining to a trade executed over BATS with the Investor itself without any reference or resort to CDC.
- f. It shall comply with all rules and regulations pertaining to (i) trading and settlement of Govt. Bonds as prescribed by the KSE, SBP and/or any other regulatory authority and (ii) all regulations, rules, procedures and the overall framework pertaining to CDC IPS Services and CDC IPS Accounts as prescribed by CDC from time to time.
- g. By entering into this Agreement, the Broker will not:

- i. be in violation with any of the conditions imposed upon it under any agreement, contract or document that it is a party to;
- ii. be in violation with the provisions of its Articles or Memorandum of Association;
- iii. contravene any applicable law, rule, regulation or any order, judgment, decree or directive of any court or tribunal;

INDEMNITY AND LIMIT OF LIABILITY

16. Under no circumstances will CDC be responsible for:
 - a. Any actions of the Investor or the Broker carried out in breach of the terms of this Agreement;
 - b. Any losses to third parties, Investor or Broker caused due to misrepresentation, wrong commitment, negligence, fraud or wilful misconduct by any such third party, the Investor or Broker, as the case may be;
 - c. Any loss or claim that has arisen due to a breach of any other term of this Agreement by the Broker and/or the Investor.
 - d. Any trade settled by CDC which appears to be emanating from the Investor through the Broker as depicted on the KSE trade feed send to the CDC.
 - e. Rejection and/or refusal by CDC to settle and close any/all trades posted for and on behalf of the Investor for which the cash/securities balance in the Account of the Investor is insufficient to cover the particular trade.
 - f. Any effect on the Investor's ability to carry out trading in Govt. Bonds due to the position of his Account as given by CDC to KSE on a daily basis.
 - g. Any effect on the Investor's ability to carry out trading in Govt. Bonds due to a Pledge created on the Govt. Bonds in the Account by the Broker or the inability of the Investor to meet the margin requirements prescribed by NCCPL.
17. The Broker and the Investor hereby unconditionally and irrevocably indemnifies and agrees to hold CDC and officers and directors harmless from and against all actions from and against claims, demands, liabilities, losses, damages, costs, charges and expenses of whatsoever nature, including legal fees (collectively the "Losses") which may result or which CDC (or any of its directors, officers, advisors, agents or shareholders) may sustain, suffer or arising out of any objections, notices, actions, suits, proceedings (civil and criminal), inquiries, investigations or otherwise that may be initiated by (i) any party who may claim to have suffered a loss as a result of any action/inaction by the Broker and/or the Investor (ii) any regulators, such as the Securities and Exchange Commission of Pakistan, the KSE, the NCCPL or the SBP, etc. and/or (iii) any investigating agencies, such as Federal Investigation Agency, National Accountability Bureau, Anti-Narcotic Agency, Anti-Money Laundering Cell and such other authorities, or (iv) any Losses generally incurred by CDC in connection with or arising in any way whatsoever as result of any action/inaction, negligence or wilful misconduct of the Broker/Investor.
18. The Investor hereby further confirms to hold CDC harmless for any losses, claims, demands, liabilities, damages, costs, expenses and charges suffered by the Investor as a result of:

- a. Any trade posted on the BATS by the Broker for any on behalf of the Investor;
 - b. Any trade settled by CDC for and on behalf of the Investor which has been provided to CDC by the KSE feed;
 - c. Refusal to close and settle any trade by the CDC as a result of insufficient or inadequate good funds and/or securities in the Account of the Investor;
 - d. Inability of the Investor to carry on trading due to any restrictions placed on the Investor as a result of CDC disclosing the Investors Account balance to KSE.
 - e. The Broker exceeding his authority and/or posting trades for and on behalf of the Investor which were not authorised by the Investor, but have been settled by CDC as such trades appeared on the trade feed dated provided to the CDC by KSE.
 - f. Inability of the Investor to trade in any Govt. Bonds due to Pledging of Govt. Bonds in the Account by the Broker or failure of the Investor to meet the margin requirements prescribed by the NCCPL.
19. The Broker and the Investor hereby further agree to hold CDC harmless from and agree to resolve amongst themselves (without any reference or resort to CDC) any and all disputes which may have arisen between them.

CONFIDENTIALITY

20. All Parties shall keep all information pertaining to this Agreement and the consequent business dealings between the Parties as confidential and shall not divulge such information to any third party except to the extent that the disclosure of information is required to any regulatory/governmental authority, KSE, SBP, under law or through an order of the Court of law.
21. Notwithstanding anything contained to the contrary above, CDC will be entitled to disclose in full the position of the Investor's Account to KSE on a daily basis to enable KSE/Broker to allow/deny any trade intended to be executed by the Investor based on the position of the Investors Account.

TERMINATION

22. This Agreement may be terminated by either Party on three (3) day's written notice in writing in advance.
23. In case any Party commits breach of any of the terms and conditions of this Agreement, then the non-defaulting Party shall be free to terminate this Agreement without prejudice to the right of CDC to recover any and all losses and damages that may be suffered or sustained by CDC as a consequence of such a breach done by Investor/Broker.
24. This Agreement shall terminate automatically upon occurrence of any of the following events:

- i. The insolvency or bankruptcy of any Party.
- ii. If it is found that any Party has made any misrepresentation or false commitment to the other Parties.
- iii. CDC is removed from, or decides to voluntarily discontinue the provisions of RTGS facility, or if CDC decides not to provide the CDC IPS Service any further.
- iv. The Investor closing his Account with the CDC.
- v. Upon suspension/cancellation of the Broker's license as given by SECP.
- vi. Upon suspension/cancellation/revocation of Broker's Debt TREC certificate as given by KSE.

PARTNERSHIP

25. This Agreement shall not be deemed to constitute a partnership or joint venture or contract of employment between the Parties or a contract between principal and agent and there shall be no relationship of *employer-employee* or *principal-agent* between the Parties at any time during or after the currency of this Agreement.

MISCELLANEOUS

26. The above terms and condition may be varied / amended in writing from time to time upon mutual consultation of the Parties.
27. In case of any disputes, such dispute, if not resolved amicable between the Parties, shall be settled through arbitration to be held in Karachi under the provisions of the Arbitration Act, 1940.
28. The Broker and Investor agree to settle all disputes that may have arisen amongst themselves only without any reference, recourse or resort to CDC under any circumstances whatsoever.
29. If any provision or condition of this Agreement shall be held to be invalid or unenforceable by any court, or regulatory or self-regulatory agency or body, such invalidity or unenforceability shall attach only to such provision or condition. The validity of the remaining provisions and conditions shall not be affected thereby and this Agreement shall be carried out as if any such invalid or unenforceable provision or condition were not contained.
30. This Agreement shall continue to be valid unless terminated in accordance with provisions of this Agreement.
31. This Agreement shall be governed under the laws of the Islamic Republic of Pakistan.
32. This 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 this Agreement.

IN WITNESSES WHEREOF the Parties set their respective hands before the witnesses here at the day, month, and the year first above mentioned.

Signed and Delivered for and on behalf of:

Signed and Delivered by:
[-----Investor-----]

[Name]
[Designation]

[Name]
[Designation]

Signed and Delivered for and on behalf of:
[-----Broker-----]

[Name]
[Designation]

[Name]
[Designation]

Signed and Delivered for and on behalf of:
Central Depository Company of Pakistan Limited

[Name]
[Designation]

[Name]
[Designation]

Witnesses To The Agreement

1. _____
Name
CNIC #
Address

2. _____
Name
CNIC #
Address