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THIS MURABAHA FACILITY AGREEMENT

(this "Agreement") is made at _____ on ____ day of _____ by and

BETWEEN

_____, (hereinafter referred to as the "Client" which expression shall where the context so permits mean and include its successors in interest and permitted assigns) of the one part

AND

_____, (hereinafter referred to as the "Institution" which expression shall where the context so permits mean and include its successors in interest and assigns) of the other part.

IT IS AGREED BY THE PARTIES as follows:

1. PURPOSE AND DEFINITIONS

1.01 This Agreement sets out the terms and conditions upon and subject to which the Institution has agreed to purchase the Goods from time to time from the Suppliers and upon which the Institution has agreed to sell the same to the Client from time to time by way of Murabaha facility.

1.02 In this Agreement, unless the context otherwise requires:

"Act" means the Banking Companies (Recovery of Loans, Advances, Credits and Finances) Act, 1997 or any statutory modification or re-promulgation thereof;

"Agent" means the person appointed under the terms of the Agency Agreement;

"Agency Agreement" means the Agency Agreement between the Institution and the Client as provided in the Murabaha Document # 2;

"Business Day" means a day on which banks are open for normal business in Pakistan;

"Cost Price" means the amount which may be incurred by and/or on behalf of the Institution for the acquisition of Goods plus all costs, duties, taxes and charges incidental to and connected with acquisition of Goods;

"Contract Price" means aggregate of Cost Price and a Profit of ____ per cent calculated thereon payable by the Client to the Institution for Goods as stipulated in Part-III of the Declaration (Murabaha Document # 5) to be issued by the Institution from time to time;

"Declaration" means Declaration as set out in Murabaha Document # 5;

"Event of Default" means any of the events or circumstances described in Clause 9 hereto;

"Goods" means the Goods as may be specified in the Purchase Requisition(s) to be issued by the Client from time to time;

"Indebtedness" means any obligation of the Client for the payment or any sum of money due or, payable under this Agreement;

"License" means any license, permission, authorization, registration, consent or approval granted to the Client for the purpose of or relating to the conduct of its business;

"Lien" shall mean any mortgage, charge, pledge, hypothecation, security interest, lien, right of set-off, contractual restriction (such as negative covenants) and any other encumbrance;

"Ordinance" means {insert description of Ordinance};

"Payment Date" or **"Payment Dates"** means the respective dates for the payment of the installments of the Contract Price or part thereof by the Client to the Institution as specified in Murabaha Document # 6 hereto, or, if such respective due date is not a Business Day, the next Business Day;

"Profit" means any part of the Contract Price which is not a part of the Cost Price;

"Parties" mean the parties to this Agreement;

"Principal Documents" means this Agreement, the Agency Agreement; and the Security Documents;

"Promissory Note" is defined in Clause 3.02 and is negotiable only at the face value, if required;

"Prudential Regulations" means Prudential Regulations or other regulations as are notified from time to time by SBP;

"Purchase Requisition" means a request from time to time by the Client to the Institution as per Murabaha Document # 3/1;

"Receipt" means a confirmation by the Client (as Agent of the Institution) of receipt of funds by the Supplier for the supply of Goods Murabaha Document # 4.

"Security Documents" and "Security" is defined in Clause 3;

"Supplier" means the supplier from whom the Institution acquires Title to the Goods;

"Secured Assets" means (insert description of assets in respect of which charge/mortgage may be created) offered as security by the Client;

"Rupees" or "Rs." means the lawful currency of Pakistan;

"SBP" means the State Bank of Pakistan;

"Title" means such title or other interest in the Goods as the Institution receives from the Supplier;

"Taxes" includes all present and future taxes (including central excise duty and sales tax), levies, imposts, duties, stamp duties, penalties, fees or charges of whatever nature together with delayed payment charges thereon and penalties in respect thereof and

"Taxation" shall be construed accordingly;

"Value Date" means the date on which the Cost Price will be disbursed by the Institution as stated in the Purchase Requisition.

1.01 Clause headings and the table of contents are inserted for convenience of reference only and shall be ignored in the interpretation of this Agreement. In this Agreement, unless the context otherwise requires, references to Clauses and Murabaha Documents are to be construed as references to the clauses of, and Murabaha Documents to, this Agreement and references to this Agreement include its Murabaha Documents; words importing the plural shall include the singular and vice versa and reference to a person shall be construed as including references to an individual, firm, Institution, corporation, unincorporated body of persons or any state or any Agency thereof.

1.02 The recitals herein above and Murabaha Documents to this Agreement shall form an integral part of this Agreement.

2. SALE AND PURCHASE OF THE GOODS

2.01 The Institution agrees to sell the Goods to the Client to a maximum amount of Rs _____ and the Client agrees to purchase the Goods from the Institution from time to time at the Contract Price. Upon receipt by the Institution of the Client's Purchase Requisition advising the Institution to purchase the Goods and making payment therefor, the Institution shall acquire the Goods either directly or through the Agent, the payment for which shall be made by the institution to the Supplier. The Receipt for such payment shall be acknowledged by the Client in his capacity as an Agent to the Institution, should he be so appointed as an Agent of the Institution. The said Receipt shall be substantially in a form given in Murabaha Document # 4.

2.02 Upon purchase of Goods by the Institution, directly or through an Agent, from the Supplier, the Goods shall be at the risk and cost of the Institution until such time that these Goods are sold to the Client, to be evidenced by the acceptance, duly signed and endorsed by the Institution in Part-III of the Declaration.

2.03 After the purchase of Goods by the Institution, the Client shall offer to purchase the Goods from the Institution at the Contract Price in the manner provided in the Part-II of the Declaration.

2.04 The Client's purchase of Goods from the Institution shall be effected by the exchange of an offer and acceptance between the Client and the Institution as stipulated in the Declaration.

3. SECURITY

3.01 As security for the indebtedness of the Client under this Agreement, the Client shall:-

- (a) Furnish to the Institution collateral(s)/security(ies), substantially in the form and substance attached hereto as Murabaha Document # 7;
- (b) Execute such further deeds and documents as may from time to time be required by the Institution for the purpose of more fully securing and or perfecting the security created in favour of the Institution; and
- (c) Create such other securities to secure the Client's obligations under the Principal Documents as the parties hereto, may by mutual consent agree from time to time.
(The above are hereinafter collectively referred to as the "Security").

3.02 In addition to above, the Client shall execute a demand promissory note in favour of the Institution for the amount of the Contract Price (the "Promissory Note");
(The Security and the Promissory Note are hereinafter collectively referred to as the "**Security Documents**").

4. FEES AND EXPENSES

The Client shall pay to the Institution on demand within 15 days of such demand being made, all expenses (including legal and other ancillary expenses) incurred by the Institution in connection with the negotiation, preparation and execution of the Principal Documents and of amendment or extension of or the granting of any waiver or consent under the Principal Documents.

5. PAYMENT OF CONTRACT PRICE

5.01 All payments to be made by the Client under this Agreement shall be made in full, without any set-off, roll over or counterclaim whatsoever, on the due date and when the due date is not a Business Day, the following Business Day and save as provided in Clause 5.02, free and clear of any deductions or withholdings, to a current account of the Institution as may be notified from time to time, and the Client will only be released from its payment obligations hereunder by paying sums due into the aforementioned account.

5.02 If at any time the Client is required to make any non refundable and non-adjustable deduction or withholding in respect of Taxes from any payment due to the Institution under this Agreement, the sum due from the Client in respect of such payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Institution receives on the Payment Date, a net sum equal to the sum which it would have received had no such deduction or withholding been required to be made and the Client shall indemnify the Institution against any losses or costs incurred by the Institution by reason of any failure of the Client to make any such deduction or withholding. The Client shall promptly deliver to the Institution any receipts, certificates or other proof evidencing the amounts (if any) paid or payable in respect of any deduction or withholding as aforesaid.

6. REPRESENTATIONS AND WARRANTIES

- a. The Client warrants and represents to the Institution that in addition to the conditions set out in the Ordinance that:
- b. The execution, delivery and performance of the Principal Documents by the Client will not
 - (i) contravene any existing law, regulations or authorization to which the Client is subject
 - (ii) result in any breach of or default under any agreement or other instrument to which the Client is a party or is subject to, or (iii) contravene any provision of the constitutive documents of the Client or any resolutions adopted by the board of directors or members of the Client;
- c. The financial statements submitted together with the notes to the accounts and all contingent liabilities and assets that are disclosed therein represent a true and fair financial position of the business and to the best of the knowledge of the client, its directors and principal officers, there are no material omissions and/or mis-representations;
- d. All requisite corporate and regulatory approvals required to be obtained by the Client in order to enter into the Principal Documents are in full force and effect and such approvals permit the Client, inter alia, to obtain financial facilities under this Agreement and perform its obligations hereunder and that the execution of the Principal Documents by the Client and the exercise of its rights and performance of its obligations hereunder, constitute private and commercial acts done for private and commercial purposes;
- e. No material litigation, arbitration or administrative proceedings is pending or threatened against the Client or any of its assets;
- f. It shall inform the Institution within ____ business days of an event or happening which may have an adverse effect on the financial position of the company, whether such an event is recorded in the financial statements or not as per applicable International Accounting Standards.

7. UNDERTAKING

The Client covenants to and undertakes with the Institution that so long as the Client is indebted to the Institution in terms of this Agreement:

- (a) It shall inform the Institution of any Event of Default or any event, which with the giving of notice or lapse of time or both would constitute an Event of Default forthwith upon becoming aware thereof;
- (b) It shall provide to the Institution, upon written request, copies of all contracts, agreements and documentation relating to the purchase of the Goods;
- (c) The Client shall do all such things and execute all such documents which in the judgment of the Institution may be necessary to; (i) enable the Institution to assign or otherwise transfer the liability of the Client in respect of the Contract Price to any creditor of the Institution or to any third party as the Institution may deem fit at its absolute discretion; (ii) create and perfect the Security; (iii) maintain the Security in full force and effect at all times including the priority thereof; (iv) maintain, insure and pay all Taxes assessed in respect of the Secured Assets and protect and enforce its rights and title, and the rights of the Institution in respect of the Secured Assets, and; (v) preserve and protect the Secured Assets. The Client shall at its own expense cause to be delivered to the Institution such other documentation and legal opinion(s) as the Institution may reasonably require from time to time in respect of the foregoing;
- (d) It will satisfactorily insure all its insurable assets with reputable companies offering protection under the Islamic concept of Takaful. The Secured Assets shall be comprehensively insured (with a reputable insurance company to the satisfaction of the Institution) against all insurable risks, which may include fire, arson, theft, accidents, collision, body and engine damage, vandalism, riots and acts of terrorism, and to assign all policies of insurance in favour of the Institution to the extent of the amount from time to time due under this Agreement, and to cause the notice of the interest of the Institution to be noted on the policies of insurance, and to punctually pay the premium due for such insurances and to contemporaneously therewith deliver the premium receipts to the Institution. Should the Client fail to insure or keep insured the Secured Assets and/or to deliver such policies and premium receipts to the Institution, then it shall be lawful for the Institution, but not obligatory, to pay such premia and to keep the Secured Assets so insured and all cost charges and expenses incurred by it for the purpose shall be charged to and paid by the Client as if the same were part of the Indebtedness. The Client expressly agrees that the Institution shall be entitled to adjust, settle or compromise any dispute with the insurance company(ies) and the insurance arising under or in connection with the policies of insurance and such adjustments/compromises or settlements shall be binding on the Client and the Institution shall be entitled to appropriate and adjust the amount, if any received, under the aforesaid policy or policies towards part or full satisfaction of the Client's indebtedness arising out of the above arrangements and the Client shall not raise any question or objection that larger sums might or should have been received under the aforesaid policy nor the Client shall dispute its liability(ies) for the balance remaining due after such payment/adjustment;
- (e) Except as required in the normal operation of its business, the Client shall not, without the written consent of the Institution, sell, transfer, lease or otherwise dispose of all or a sizeable part of its assets, or undertake or permit any merger, consolidation, dismantling or reorganization which would materially affect the Client's ability to perform its obligations under any of the Principal Documents;
- (f) The Client shall not (and shall not agree to), except with the written consent of the Institution, create, incur, assume or suffer to exist any Lien whatsoever upon or with respect to the Secured Assets and any other assets and properties owned by the Client which may rank superior, pari passu or inferior to the security created or to be created in favour of the Institution pursuant to the Principal Documents;
- (g) It shall forthwith inform the Institution of:
 - (i) Any event or factor, any litigation or proceedings pending or threatened against the Client which could materially and adversely affect or be likely to materially and adversely affect:
 - (a) the financial condition of the Client;
 - (b) business or operations of the Client; and
 - (c) the Client's ability to meet its obligations when due under any of the Principal Documents;
 - (ii) Any change in the directors of the Client;
 - (iii) Any actual or proposed termination, rescission, discharge (otherwise than by performance), amendment or waiver or indulgence under any material provision of any of the Principal Documents;
 - (iv) Any material notice or correspondence received or initiated by the Client relating to the License, consent or authorization necessary for the performance by the Client of its obligations under any of the Principal Documents

8. CONDITIONS PRECEDENT

8.01 The obligation of the Institution to pay the Cost Price shall be subject to the receipt by the Institution (in form and substance acceptable to the Institution) at least ____ Business Days prior to the Value Date of:

- (i) Documentary evidence that:

- (a) This Agreement and the Agency Agreement (should the Institution appoint the Client as its Agent) have been executed and delivered by the

Client;

(b) The Client's representatives are duly empowered to sign the Principal Documents for and on behalf of the Client and to enter into the covenants and undertakings set out herein or which arise as a consequence of the Client entering into the Principal Documents;

(c) The Client has taken all necessary steps and executed all documents required under or pursuant to the Principal Documents or any documents creating or evidencing the Security in favour of the Institution and has perfected the Security as required by the Institution.

(ii) Certified copy of the Memorandum and Articles of Association of the Client.

(iii) Certified copies of the Client's audited financial statements for the last ____ years

(iv) The Purchase Requisition.

8.02 The obligation of the Institution to pay the Cost Price on the Value Date shall be further subject to the fulfillment of the following conditions (as shall be determined by the Institution in its sole discretion):

(a) The payment of Cost Price by the Institution to the Supplier on the Value Date shall not result in any breach of any law or existing agreement;

(b) The Security has been validly created, perfected and is subsisting in terms of this Agreement;

(c) The Institution has received such other documents as it may reasonably require in respect of the payment of the Cost Price;

(d) No event or circumstance which constitutes or which with the giving of notice or lapse of time or both, would constitute an Event of Default shall have occurred and be continuing or is likely to occur and that the payment of the Cost Price shall not result in the occurrence of any Event of Default;

(e) Delivery by the Client to the Institution of a true and complete extract of all relevant parts of the minutes of a duly convened meeting of its Board of Directors approving the Principal Documents and granting the necessary authorizations for entering into, execution and delivery of the Principal Documents which shall be duly signed and certified by the person authorized by the Board for this purpose;

(f) All fees, commission, expenses required to be paid by the Client to the Institution have been received by the Institution.

8.03 Any condition precedent set forth in this Clause 8 may be waived and or modified by the mutual written consent of the parties hereto.

9. EVENTS OF DEFAULT

9.01 There shall be an Event of Default if in the opinion of the Institution

(a) Any representation or warranty made or deemed to be made or repeated by the Client in or pursuant to the Principal Documents or in any document delivered under this Agreement is found to be incorrect;

(b) Any Indebtedness of the Client to the Institution in excess of Rs. _____ (Rupees _____ only) is not paid when due or becomes due or capable of being declared due prior to its stated maturity;

9.02 Notwithstanding anything contained herein, the Institution may without prejudice to any of its other rights, at any time after the happening of an Event of Default by notice to the Client declare that entire amount by which the Client is indebted to the Institution shall forthwith become due and payable.

10. PENALTY

10.1. Where any amount is required to be paid by the Client under the Principal Documents on a specified date and is not paid by that date, or an extension thereof, permitted by the Institution without any increase in the Contract Price, the Client hereby undertakes to pay directly to the Charity Fund, constituted by the Institution, a sum calculated @ -----% per annum for the entire period of default, calculated on the total amount of the obligations remaining un-discharged. The Charity Fund shall be used at the absolute discretion of the Institution, exclusively for the purposes of approved charity.

10.2. In case (i) any amount(s) referred to in clause 10.01 above, including the amount undertaken to be paid directly to the Charity Fund, by the Client, is not paid by him, or (ii) the Client delays the payment of any amount due under the Principal Documents and/ or the payment of amount to the Charity Fund as envisaged under Clause 10.01 above, as a result of which any direct or indirect costs are incurred by the Institution, the Institution shall have the right to approach a competent Court (i) for recovery of any amounts remaining unpaid as well as (ii) for imposing of a penalty on the Client. In this regard the Client is aware and acknowledges that in terms of the Ordinance and notwithstanding the amount paid by the Client to the Charity Fund of the Institution, the Court has the power to impose penalty, at its discretion, and from the amount of such penalty, a smaller or bigger part, depending upon the circumstances, can be awarded as solatium to the Institution, determined on the basis of direct and indirect costs incurred, other than the opportunity cost.

11. INDEMNITIES

The Client shall indemnify the Institution against any expense which the Institution shall prove as rightly incurred by it as a consequence of

(a) the occurrence of any Event of Default,

(b) the purchase and sale of Goods or any part thereof by the Client or the ownership thereof, and

(c) any mis-representation.

12. SET-OFF

The Client authorizes the Institution to apply any credit balance to which the Client is entitled or any amount which is payable by the Institution to the Client at any time in or towards partial or total satisfaction of any sum which may be due or payable from the Client to the Institution under this Agreement.

13. ASSIGNMENT

13.01 This Agreement shall be binding upon and inure to the benefit of and be enforceable by the Institution, the Client, and respective successors permitted assigns and transferees of the parties hereto, provided that the Client shall not assign or transfer any of its rights or obligations under this Agreement without the written consent of the Institution. The Institution may assign all or any part of its rights or transfer all or any part of its obligations and/or commitments under this Agreement to any Institution, or other person. The Client shall not be liable for the costs of the assignment and/or transfer of commitments hereunder by the Institution. If the Institution assigns all or any part of its rights or transfers all or any part of its obligations and commitments as provided in this Clause, all relevant references in this Agreement to the Institution shall thereafter be construed as a reference to the Institution and/or its assignee(s) or transferee(s) (as the case may be) to the extent of their respective interests.

13.02 The Institution may disclose to a potential assignee or transferee or to any other person who may propose entering into contractual relations with the Institution in relation to this Agreement such information about the Client as the Institution shall consider appropriate.

14. FORCE MAJEURE

Any delays in or failure by a Party hereto in the performance hereunder if and to the extent it is caused by the occurrences or circumstances beyond such Party's reasonable control, including but not limited to, acts of God, fire, strikes or other labor disturbances, riots, civil commotion, war (declared or not) sabotage, any other causes, similar to those herein specified which cannot be controlled by such Party. The Party affected by such events shall promptly inform the other Party of the occurrence of such events and shall furnish proof of details of the occurrence and reasons for its non-performance of whole or part of this Agreement. The parties shall consult each other to decide whether to terminate this Agreement or to discharge part of the obligations of the affected Party or extend its obligations on a best effort and on an arm's length basis.

15. GENERAL

15.01 No failure or delay on the part of the Institution to exercise any power, right or remedy under this Agreement shall operate as a waiver thereof nor a partial exercise by the Institution of any power, right or remedy preclude any other or further exercise thereof or the exercise of any other power right or remedy. The remedies provided in this Agreement are cumulative and are not exclusive of any remedies provided by law;

15.02 This Agreement represents the entire agreement and understanding between the Parties in relation to the subject matter and no amendment or modification to this Agreement will be effective or binding unless it is in writing, signed by both Parties and refers to this Agreement;

15.03 This Agreement is governed by and shall be construed in accordance with Pakistan law. All competent courts at _____ shall have the non-exclusive jurisdiction to hear and determine any action, claim or proceedings arising out of or in connection with this Agreement.

15.04 Nothing contained herein shall prejudice or otherwise affect the rights and remedies that may otherwise be available under law to the parties.

15.05 Any reconstruction, division, re-organization or change in the constitution of the Institution or its absorption in or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person shall not in any way prejudice or affect its rights hereunder.

15.06 The two parties agree that any notice or communication required or permitted by this agreement shall be deemed to have been given to the other party seven days after the same has been posted by registered mail or the next Business Day if given by a facsimile message or telex or by any other electronic means, or the next Business Day as counted from the date of delivery if delivered by courier mail;

IN WITNESS WHEREOF, the Parties to this Agreement have caused this Agreement to be duly executed on the date and year first aforementioned.

WITNESSES:

For and on behalf of [insert name of the Institution]

1. _____
2. _____

For and on behalf of

1. _____
2. _____

