

MARGIN FINANCIER CLEARING MEMBER AGREEMENT

(between NCCPL and Margin Financier)

THIS AGREEMENT is made on this ____ day of _____, 20__.

BETWEEN

NATIONAL CLEARING COMPANY OF PAKISTAN LIMITED, a company incorporated under the Companies Ordinance, 1984 and having its registered office at 8th Floor, Pakistan Stock Exchange Building, Stock Exchange Road, Karachi (hereinafter referred to as the “Company”, which expression shall, where the context so admits, include its successors and permitted assigns), of the One Part;

AND

<<Name of the Margin Financier CM>>, >>, having offices at _____ (hereinafter referred to as the “Margin Financier”, which expression shall, where the context so admits, include its successors and permitted assigns, of the Other Part;

WHEREAS:

- (1) The Company has been formed under the authorization of the Securities and Exchange Commission of Pakistan (hereinafter referred to as “SECP”) and, in terms of such authorization, has established a National Clearing and Settlement System (hereinafter referred to as “NCSS”) for the settlement of contracts and transactions in respect of securities and Margin Financing System (NCSS and Margin Financing System are hereinafter collectively referred to as the “NCC Systems”);
- (2) The Company has been registered as an Authorised Intermediary under the Securities (Leverage Markets and pledging) Rules, 2010 (hereinafter referred to as the “Rules”) and pursuant to such registration, has established a platform to facilitate recording of transactions related to Margin Financing System (hereinafter referred to as “MF System”).
- (3) The Margin Financier is eligible to be admitted as a “Clearing Member” by the Company under the National Clearing Company of Pakistan Limited Regulations (hereinafter referred to as the “NCCPL Regulations”, which term shall include all amendments, modifications and additions made therein from time to time and any new Regulations made in substitution therefor).
- (4) The Margin Financier is eligible to be admitted as a “Margin Financier” by the Company under the Rules and NCCPL Regulations, and the Company has agreed to admit the Margin Financier

as a Margin Financier on the condition that the Margin Financier enters into this Agreement pursuant to the Rules and Chapter 7B of the NCCPL Regulations.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the Parties hereto agree and declare as follows:

1. Admission and Accounts

Subject to the terms and conditions of this Agreement, Rules and of NCCPL Regulations and the NCC Procedures made thereunder (which shall include all amendments, modifications and additions made therein from time to time and any new procedures made in substitution therefor), the Company:

- (a) hereby admits the Margin Financier in the capacity of a Margin Financier (as such term is defined in the NCCPL Regulations); and
- (b) agrees to make available to the Margin Financier, and the Margin Financier agrees to the establishment by the Company with NCC Systems in the name of the Margin Financier:
 - (i) a “Clearing Account” under the NCCPL Regulations, bearing such number as shall be assigned thereto by the Company; and
 - (ii) a “Money Account” under the NCCPL Regulations, bearing such number, if any, as shall be assigned thereto by the Company; and
 - (iii) such other or additional accounts, of such nature and bearing such numbers, if any, as shall be assigned to such accounts by the Company, as the Margin Financier may desire to establish in accordance with the NCCPL Regulations.

2. Undertakings and Covenants

2.1 It is agreed between the Parties hereto that:

- (a) the Clearing Account, the Money Account, and the other accounts as are referred to in clause 1 (b) (i)(ii)(iii) above, shall be made available and established in accordance with the NCCPL Regulations and the NCSS Procedures;
- (b) the admission of the Margin Financier in the capacity of a Margin Financier shall be governed by and be subject to this Agreement, Rules, the NCCPL Regulations and the NCSS Procedures;
- (c) the Margin Financier shall, during the tenure of this Agreement, abide by and comply with the requirements of the Rules, NCCPL Regulations and the NCSS Procedures and shall be bound by all of the provisions and any amendments thereof; provided that if the Margin Financier shall cease to be a Margin Financier, the Margin Financier shall nonetheless continue to be bound by the Rules, NCCPL Regulations and the NCSS Procedures as to all matters and transactions occurring while the Margin Financier was admitted in the capacity of a Margin Financier and for so long as its liabilities to the Company are not fully discharged;
- (d) the Rules, NCCPL Regulations and the NCSS Procedures shall form a contract between the Margin Financier and the Company as if all of the terms of the Rules, NCCPL Regulations and the NCSS Procedures were set forth in full herein;
- (e) the Company shall have all the rights and remedies contemplated by the Rules, NCCPL Regulations and NCSS Procedures;
- (f) subject to the proviso to Clause 2(c) above, this Agreement shall terminate forthwith upon the termination, in accordance with the NCCPL Regulations, of the admission of the Margin Financier in such capacity, provided that such termination shall be without

prejudice to the rights accrued to the Company upto the date of termination of this Agreement or arising from or as a consequence of such termination; and

- (g) any contravention by the Margin Financier of its obligations under this Agreement shall be deemed to be a contravention of the Rules, NCCPL Regulations and of the NCSS Procedures.

2.2 The Margin Financier hereby agrees and undertakes:

- (a) to open, within seven (7) days after the date of this Agreement (or within such longer period as may be allowed by the Company in writing at the request of the Margin Financier), a bank account with the _____ Branch (hereinafter referred to as the “Designated Branch”) of _____ (hereinafter referred to as the “Settling Bank”), unless the Margin Financier already has a bank account with the Designated Branch, to facilitate money settlement services to be provided by the Settling Bank for the Margin Financier in terms of the NCCPL Regulations and the NCSS Procedures;
- (b) to enter into a Tripartite Agreement between the Company, the Margin Financier and the Settling Bank (hereinafter referred to as the “Tripartite Agreement”) within seven (7) days after the date of this Agreement (or within such longer period as may be allowed by the Company in writing at the request of the Margin Financier), in the form, or mutatis mutandis in the form, attached to this Agreement as Exhibit I;
- (c) to always meet its monetary obligations to the Company or otherwise under the NCCPL Regulations and the NCSS Procedures and to maintain and have available at all times sufficient resources for this purpose;
- (d) to regularly and timely pay to the Company the fee and charges prescribed in the Fees, Charges and Security Deposit Schedule of the Company for the time being in force and shall pay to the Company such fines and penalties as may be imposed by the Company on the Margin Financier;
- (e) to maintain any Security Deposit and any contribution that may be required to be made by the Margin Financier in that regard in accordance with the NCCPL Regulations;
- (f) that the determination of the Company of all questions affecting the fee and charges payable by the Margin Financier or the Security Deposit to be maintained by the Margin Financier shall be final and conclusive;
- (g) to procure that the Rules, NCCPL Regulations and NCSS Procedures shall be a part of every transaction which is to be cleared and settled through NCC System; and
- (h) to enter into such supplemental or supplementals to this Agreement with the Company if so required by the Company under or in conformity with the Rules or NCCPL Regulations or NCSS Procedures.

3. CDC Accounts

3.1 The Margin Financier shall cause to be maintained, during the tenure of this Agreement, with CDC under the Central Depository Company of Pakistan Limited Regulations (hereinafter referred to as the “CDC Regulations”) a Main Account (as described in the CDC Regulations) in the name of the Margin Financier and, if required, one or more CDC Accounts (as described in the NCCPL Regulations) in compliance with all applicable laws and rules and the requirements of the CDC Regulations, as the same may be in force from time to time, and of the procedures made thereunder.

3.2 The Margin Financier hereby irrevocably and unconditionally authorises and empowers the Company to move any MF Eligible Securities from any CDC Account of the Margin Financier to any Account of the Company with CDC for the purposes set out in the NCCPL Regulations, the NCSS Procedures and the CDC Regulations.

- 3.3 The Margin Financier hereby irrevocably and unconditionally authorizes and empowers the Company to retrieve any MF Eligible Securities delivered under Blocked Status from its CDC Account upon his failure to discharge money obligations on settlement date by Designated Time.
4. Company's Functions and liability
- 4.1 Subject to Clause 4.2 to 4.6, the Company shall act as the MF Module provider for recording of MF Transactions and MF (R) Transactions between the MF Participants and for delivering Securities to and receiving Securities from and for receiving or paying any amounts payable to or payable by such MF Participants on account of MF Transaction Value in connection with MF Transactions and MF (R) Transactions and to perform such other functions as specified in the NCCPL Regulations as are necessary or proper for carrying out the foregoing purposes without incurring any liability or obligations either as a principal or as agent, fiduciary or trustee of the Margin Financier or his clients.
- 4.2 The only obligation of the Company with regard to the settlement of the MF Transactions and MF (R) Transactions shall be to facilitate the delivery and payment in respect of such transactions between the MF Participants in accordance with the NCCPL Regulations. Margin Financier acknowledges and confirms that the Company shall not be responsible for:
- (a) the title, ownership, genuineness, regularity or validity of any security or any other documents or instrument passing through the NCSS;
 - (b) the execution, genuineness, validity, enforceability or sufficiency of any agreement or any other document relating thereto;
 - (c) the collectability of amounts payable in respect of Margin Financing;
 - (d) the financial condition of any MF Participant;
 - (e) the performance and observance by MF Participants of their obligations under the agreements or any other documents executed between them in respect of Margin Financing; or
 - (f) the accuracy of any statements (whether written or oral) made by an MF Participant in or in connection with any agreement or documents in respect Margin Financing.
- 4.3 Margin Financier confirms to the Company that it:-
- (a) has made its own independent investigation and assessment of the financial condition and affairs of the concerned MF Participants in connection with its participation in the Margin Financing and has not relied on any information provided to it by the Company in connection with the Margin Financing; and
 - (b) will continue to make its own independent appraisal of the creditworthiness of the MF Participants with which it executed any MF Transaction or MF (R) Transaction.
- 4.4 The Company's obligation to make payments to Margin Financier is conditional upon it receiving the applicable payment and the Margin Financier shall not have any recourse to the Company if the Company has not received the corresponding payment. The Company shall have no obligation to pay any amount except to the extent that the Company has received such corresponding payment, it being acknowledged and agreed by the Margin Financier that the credit risk assumed by the Margin Financier in relation to its participation in the MF System is that of the counterparties of the respective MF Transaction or MF (R) Transaction.
- 4.5 The Company's obligation to deliver securities to Margin Financier is conditional upon it receiving such securities and Margin Financier shall not have any recourse to the Company if the Company has not received such securities. The Company shall have no obligation to deliver

any securities except to the extent that the Company has received such securities, it being acknowledged and agreed by the Margin Financier that the performance risk assumed by the Margin Financier in relation to its participation in the MF System is that of the counterparties of the respective MF Transaction or MF (R) Transaction.

4.6 Margin Financier hereby agrees and acknowledges that all MF Transactions and MF (R) Transactions shall be facilitated by the Company by acting as an Authorised Intermediary and the respective MF Participants are underlying parties to the MF Transactions and MF (R) Transactions and therefore such MF Participants remain responsible for performing their respective obligations in respect of each MF Contract to which they are a party.

4.7 Margin Financier hereby agrees and acknowledges that:

- (a) notwithstanding the Company's position as an Authorised Intermediary, liability of the Company in acting in its capacity as the Authorized Intermediary is limited to the performance of its obligations under the NCCPL Regulations and the Company shall have no liability towards the MF Financier or any other MF Participant for any losses that may remain outstanding after the completion of the closing out procedure in accordance with NCCPL Regulations or any other losses or expenses that the MF Financier may incur in connection with its participation in the MF System.
- (b) the Company is entitled to withhold or defer payments due to the Margin Financier in order to facilitate the clearing and settlement of MF Transactions and MF (R) Transactions Transaction in case of default by any MF Participant.
- (c) the Company is entitled to allocate losses as contemplated by NCCPL Regulations and the Margin Financier shall have no recourse against the Company in this regard.
- (d) any failure, inability or refusal to fulfill a settlement obligation in respect of an MF Transaction in accordance with the Regulations by any MF Participant (Margin Financier and Margin Finantee) that is a party to such MF Transaction will result in cancellation of all MF Transactions between MF Participants who are party to such MF Transaction.

4.8 The representations, warranties and confirmation of the Margin Financier set out in this Agreement:

- (a) are made on the date of this Agreement; and
- (b) are deemed to be repeated by the Customer on the date of each MF Transaction and MF(R) Transaction to which the Margin Financier is a party.

4.9 Margin Financier acknowledges that the Company has entered into this Agreement in reliance on the representations, warranties, confirmation and covenants set out in this Agreement.

5. NCSS Procedures

The Margin Financier undertakes to comply with all the requirements of the NCSS Procedures to the extent applicable to the Margin Financier including, without limitation, regarding:

- (a) the manner of obtaining access to NCC Systems;
- (b) the allocation and use of and maintenance of confidentiality in respect of passwords for obtaining access to NCC Systems;
- (c) the authorisation by the Company of the workstation(s) of the Margin Financier for obtaining access to NCC Systems; and
- (d) the protection and proper use of "user ids" by each Authorised Person appointed by the Margin Financier. For the purpose of this Agreement, an "Authorised Person" shall be a person who has the actual authority of the Margin Financier to communicate

electronically or otherwise with NCC Systems, to act on behalf of the Margin Financier and to bind the Margin Financier for the purpose of this Agreement.

6. Information

6.1 The Margin Financier hereby undertakes to:

- (a) forthwith inform the Company of any financial distress faced or likely to be faced by the Margin Financier in future, or if it or any company, firm or other business with which it may be associated as a director, partner or otherwise is placed or is likely to be placed on defaulters list by the State Bank or any other bank;
- (b) forthwith inform the Company of any order of restrictions or suspension, termination or censure by any stock exchange of which the Margin Financier is a member or by SECP or CDC;
- (c) inform the Company forthwith if any claim is made or legal proceedings (including arbitration proceedings) are instituted which if upheld or decided against the Margin Financier will have a material adverse affect on the business or financial condition of the Margin Financier; and

6.2 The Margin Financier hereby:

- (a) authorizes the Company to obtain from Central Depository Company of Pakistan Limited (hereinafter referred to as "CDC") all such information as relate to the Registration Details and other information set out in the Application Form submitted by the Margin Financier to CDC, including any update of such information submitted by the Margin Financier to CDC. This authorisation to the Company will also be an authorisation and instructions from the Margin Financier to CDC to supply the said information to the Company at its request;
- (b) agrees that its books and records shall at all times be open for inspection by the duly authorised representatives of the Company and that the Company shall be furnished with all such information in respect of its business and transactions as the Company may require, provided that if it ceases to be an Margin Financier the Company shall have no right to inspect its books and records or require information relating to the period subsequent to the time when it ceased to be an Margin Financier.

6.3 The Margin Financier hereby represents and warrants to the Company that the information supplied in its application for admission as a Clearing Member and an Margin Financier to the Company is true and correct and that the Margin Financier satisfies the Technical Requirements to be satisfied by each Margin Financier in terms of the NCCPL Regulations and shall continue to satisfy the said requirements for so long as the Margin Financier remains an Margin Financier under the NCCPL Regulations.

6.4 The Margin Financier hereby agrees to indemnify the Company if any losses, damages, costs or expenses are suffered or incurred as a result of any inaccuracy contained in the information supplied in the Application Form referred to in Clause 6.2(a) and the information obtained by the Company from CDC under Clause 6.2(b);

7. NCC Systems

7.1 The Margin Financier shall maintain its interface with NCC Systems established by the Company in accordance with the NCCPL Regulations and NCSS Procedures and shall ensure that no person other than an Authorised Person appointed by the Margin Financier under the NCCPL Regulations has access to that interface with NCC Systems.

7.2 The Margin Financier undertakes to the Company that the Margin Financier shall, at the Margin Financier's own expense, undergo testing as and when desired by the Company to determine if the Margin Financier meets the Technical Requirements of the NCCPL Regulations. The failure of the Margin Financier to meet with the Technical Requirements as determined during such

testing shall entitle the Company to proceed in accordance with Regulation 5.8 of the NCC Regulations.

7.3 The Company may suspend, add to or modify NCC Systems from time to time by notice to the Margin Financier. While advance notice of maintenance work likely to affect the availability of NCC Systems shall be given by the Company to the Margin Financier where possible, the Company reserves the right to suspend, without notice, access to NCC Systems or the provision of all or any of the facilities of NCC Systems at any time if the Company deems it necessary to do so for reasons of security or maintenance work. The Margin Financier acknowledges that the computer system comprised in NCC Systems is of an advanced, complex and sensitive nature and minor failure of the computer system, beyond the reasonable control of the Company, may result in temporary suspension of NCC Systems. In such eventuality, the Company's responsibility shall be limited to making best efforts for the early resumption of NCC Systems. The Margin Financier, on its part, undertakes to notify the Company immediately of any failure, delay or defect relating to NCC Systems.

7.4 The Company shall not be liable to the Margin Financier for any delay or non-performance of the Company or of NCC Systems arising from the occurrence of any event of Force Majeure, as defined in the NCCPL Regulations, or due to the occurrence of any other event beyond the control of the Company which delays or prevents the operations of the Company or of NCC Systems.

8. Reliance by the Company

The Company shall be entitled to accept (without investigating or verifying the authenticity thereof) any notice received from or on behalf of the Margin Financier given pursuant to the NCCPL Regulations or the NCSS Procedures or any agreement between the Margin Financier and the Company as a notice which has been duly authorised by the Margin Financier; provided that the Company may reject any such notice if it is of the opinion that such notice has not been duly authorised by the Margin Financier; provided further that if any notice is capable of being acted upon by the Company in more ways than one, the Company may act upon such notice in any of the said ways at its sole discretion.

9. Acknowledgement of NCCPL Regulations

The Margin Financier acknowledges receipt from the Company of a copy of the NCCPL Regulations and the NCSS Procedures as in effect at the time of the execution of this Agreement.

10. Successors

This Agreement shall be binding on, and shall inure to the benefit of, the Parties to it and their respective successors and permitted assigns, provided that none of the Parties shall be entitled to assign this Agreement or any of that Party's rights and obligations under this Agreement without the consent in writing of the other (which consent such other Party may in its absolute discretion withhold).

11. Waiver and remedies

11.1 No exercise or failure to exercise or delay in exercising any right, power or remedy vested in any Party under or pursuant to this Agreement shall constitute a waiver by that Party of that or any other right, power or remedy.

11.2 The rights and remedies of the Company under this Agreement:-

- (a) may be exercised as often as necessary;
- (b) are cumulative and not exclusive of its rights and remedies under the general law.

12. Entire Agreement

This Agreement, together with the Rules, NCCPL Regulations and NCSS Procedures, constitute the entire agreement between the Parties in relation to its subject matter and supersedes all prior agreements and understandings whether oral or written with respect to that subject matter and no variation of this Agreement shall be effective unless reduced to writing and signed by or on behalf of a duly authorised representative of each of the Parties, provided that the Company shall be free to amend, vary, modify or substitute any or all provisions of the NCCPL Regulations and the NCSS Procedures.

13. Severability

13.1 In the event that any term, condition or provision of this Agreement is held to be in violation of any applicable law, the Rules, statute or regulation, the same shall be deemed to be deleted from this Agreement and shall be of no force and effect and this Agreement shall remain in full force and effect as if such term, condition or provision had not originally been contained in this Agreement. Notwithstanding the foregoing, in the event of any such deletion, the Parties shall negotiate in good faith in order to agree the terms of a mutually acceptable and satisfactory alternative provision in place of the provision so deleted.

13.2 If, at any time, any provision hereof is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of such provision under the law of any other jurisdictions shall in any way be affected or impaired thereby; provided, however, that where the provisions of any applicable law which renders any provisions hereof illegal, invalid or unenforceable may be waived, they are hereby waived by the Parties hereto to the fullest extent permitted by such law such that this Agreement shall be a valid and binding agreement enforceable in accordance with its terms.

14. Counterparts

This Agreement may be executed in any number of counterparts or duplicates each of which shall be an original but such counterparts or duplicates shall together constitute but one and the same Agreement.

15. Notices

Any notice to be given by any Party to the other shall be given in the manner set out in Regulation 2.6 of the NCCPL Regulations at the address or (as the case may be) the facsimile number of that other Party set opposite its name below:

To: Chief Executive Officer
National Clearing Company of Pakistan Limited
Address: 8th Floor, Pakistan Stock Exchange Building, Stock Exchange Road, Karachi-74000, Pakistan
Facsimile Number: (92-21) 3246-0827

To: «Name_of_the_ Margin Financier
Address: «Address»
Facsimile Number: (92-«CC») Nil

Mr. _____
[Marked for the attention of (name)]

or at such other address (or facsimile number) as the Party to be served may have notified (in accordance with the provisions of this Clause) for the purposes of this Agreement.

16. Term and termination

This Agreement shall remain in full force and effect for so long as the Margin Financier remains an Margin Financier in terms of the NCCPL Regulations, provided that the Company shall have the right to terminate this Agreement by notice to the Margin Financier in case the Margin

Financier is in breach of this Agreement or in case the admission of the Margin Financier is terminated, provided that the termination of this Agreement, whether as a result of the Margin Financier ceasing to be a Margin Financier or as a result of termination by the Company, shall be without prejudice to the rights and obligations of the Parties accrued up to the date of termination or arising from or as a consequence of such termination. The Company shall have no obligation whatsoever to the Margin Financier for the termination of this Agreement or for termination by the Company of the Margin Financier's admission to the NCC Systems, and especially for any indirect loss or damages or loss of profit or business alleged by the Margin Financier.

17. Governing law

This Agreement shall be governed by and construed in all respects in accordance with Laws of Pakistan.

18. Representations and Warranties

18.1 The Margin Financier represents and warrants to the Company that (i) the Margin Financier has full power, authority and legal right to incur the obligations, to execute and deliver and to perform and observe the terms and provisions of this Agreement, (ii) this Agreement has been duly authorised, executed and delivered by it, and (iii) this Agreement constitutes the legal, valid and binding obligations of the Margin Financier.

18.2 The Company represents and warrants to the Margin Financier that (i) the Company has full power, authority and legal right to incur the obligations, to execute and deliver and to perform and observe the terms and provisions of this Agreement, (ii) this Agreement has been duly authorised, executed and delivered by it, and (iii) this Agreement constitutes the legal, valid and binding obligations of the Company.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year above written.

For: NATIONAL CLEARING
COMPANY OF PAKISTAN LIMITED

For: «Name_of_the_Margin Financier »

Mr. _____ Mr. _____

Witnesses:

Witnesses:

1. _____
NIC# _____
Name: _____

1. _____
NIC# _____
Name: _____

2. _____
NIC# _____
Name: _____

2. _____
NIC# _____
Name: _____