

THIRD ADDENDUM TO THE AGREEMENT
executed between NCCPL and Clearing Member

THIS THIRD ADDENDUM TO THE 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

_____ having offices at _____
_____ (hereinafter referred to as the “Clearing Member”, which expression shall, where the context so admits, include its successors and permitted assigns, and, where the Clearing Member is an individual, his heirs, executors, administrators and personal representatives), of the Other Part;

WHEREAS:

- (1) The Company has been formed under the authorization of the Securities and Exchange Commission of Pakistan 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 (hereinafter referred to as “MF System”) to facilitate financing for MF Eligible Securities (NCSS and MF 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, 2011 (hereinafter referred to as the “Rules”) and pursuant to such registration, has established a platform to facilitate transactions related to Margin Financing System (hereinafter referred to as “MF System”)
- (3) The Clearing Member has already been 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 therefore);

- (4) The Clearing Member is entitled to avail financing in MF System as a “Margin Finantee” and pursuant to Regulation 7B.2.4(4) is required to enter into this Addendum to the Agreement already executed between the Company and the Clearing Member (as amended the “Agreement”).

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

1. Amendments

All references to “Clearing Member” shall henceforth be read to include its capacity as the Margin Finantee in respect of Margin Financing System, unless the context requires otherwise.

2. Margin Financing System

Subject to the compliance with all requirements of Rules and NCCPL Regulations, MF Module will be made available by the Company to the Clearing Member and access to all MF Transactions and MF (R) Transactions for MF Eligible Security for the purpose of availing financing in the MF System shall only be through the MF Module.

3. Company’s functions and liability

3.1 Subject to Clause 3.2 to 3.7, 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 principal or as agent, fiduciary or trustee to the Clearing Member or his clients.

3.2 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. Clearing Member 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.

3.3 Clearing Member 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.

- 3.4. The Company's obligation to make payments to Clearing Member is conditional upon it receiving the applicable payment and the Clearing Member 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 Clearing Member that the credit risk assumed by the Clearing Member in relation to its participation in the MF System is that of the counterparties of the respective MF Transaction or MF (R) Transaction.
- 3.5. The Company's obligation to deliver securities to Clearing Member is conditional upon it receiving such securities and the Clearing Member 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 Clearing Member that the performance risk assumed by the Clearing Member in relation to its participation in the MF System is that of the counterparties of the respective MF Transaction or MF (R) Transaction.
- 3.6. The Clearing Member hereby agrees and acknowledges that all Margin Financing Transactions shall be facilitated by the Company by acting as an Authorised Intermediary for the respective MF Participants, which are underlying parties to all Margin Financing Transactions.
- 3.7. The Clearing Member hereby agrees and acknowledges that:
- (a) notwithstanding the Company's role as an Authorised Intermediary, liability of the Company in acting in its capacity as the Authorised Intermediary is limited to the performance of its obligations under the NCC Regulations and the Company shall have no liability towards the Clearing Member or any other MF Participant for any losses that may remain outstanding after the completion of the closing out procedure in accordance with NCC Regulations or any other losses or expenses that the Clearing Member may incur in connection with its participation in the MF System.
 - (b) the Company is entitled to withhold or defer payments due to the Clearing Member in order to facilitate the clearing and settlement of all Margin Financing Transactions in case of default by any MF Participant.
 - (c) the Company is entitled to allocate losses as contemplated by NCCPL Regulations and the Clearing Member 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 Financee) 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. Upon such cancellation, the respective Margin Financee shall continue to remain responsible for and shall ensure the settlement of its entire ready market purchases.
- 3.8. The representations, warranties and confirmations of the Clearing Member 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 Clearing Member is a party.
- 3.9. Clearing Member acknowledges that the Company has entered into this Agreement in reliance on the representations, warranties, confirmations and covenants set out in this Agreement.

4. Effectiveness

This Addendum shall become effective with effect from the implementation of MF System as notified by the Company.

5. Representations and Warranties

The Clearing Member hereby represents and warrants that:

- (a) all representation and warranties contained in the Agreement true and correct as at the date hereof;
- (b) it has the power and authority to execute and deliver this Addendum and to consummate the transactions contemplated hereby. The execution and delivery by it of this Addendum, and the consummation by it of the transactions contemplated hereby, have been duly authorized by all necessary corporate action and do not require the consent or authorization of any governmental entity or other person. Each of the representatives of the Clearing Member signing this Addendum has full power and authority to execute this Addendum in such representative's indicated capacity. Upon its execution and delivery, this Addendum will be duly executed and delivered and will constitute a valid and binding obligation of the Clearing Member, enforceable in accordance with its terms.

6. Miscellaneous

- 6.1 Except as expressly provided herein, no other provision of the Agreement is amended; the Agreement (as hereby amended) remains in full force and effect; and any reference to the Agreement, whether in the Agreement or in any other agreement to which the Clearing Member and the Company are parties, shall be construed as a reference to the Agreement as amended by this Addendum.
- 6.2 Nothing in this Agreement shall be construed or interpreted as operating as a novation with respect to the Agreement.
- 6.3 This Addendum shall be governed by the laws of Pakistan and the courts at Karachi shall have the jurisdiction to adjudicate upon all the disputes arising in connection with this Addendum.

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

For: NATIONAL CLEARING
COMPANY OF PAKISTAN LIMITED

For: MARGIN FINANCEE
CLEARING MEMBER

Mr. _____

Mr. _____

Witnesses:

Witnesses:

1. _____
NIC# _____
Name: _____

1. _____
NIC# _____
Name: _____

2. _____
NIC# _____
Name: _____

2. _____
NIC# _____
Name: _____