



**Privatisation Commission  
Government of Pakistan**

**FINANCIAL ADVISORY SERVICES AGREEMENT**

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## **FINANCIAL ADVISORY SERVICES AGREEMENT**

This Agreement (hereinafter called the “Financial Advisory Services Agreement”) is made on the \_\_\_\_\_ day of the month of \_\_\_\_\_, 2023:

Between

The Privatisation Commission, Government of Pakistan, having its office at Constitution Avenue, Islamabad (hereinafter called the “Client”) on the one hand;  
and

(name & address of the Party) (hereinafter called the “Financial Adviser”) on the other hand.

[The Client and the Financial Adviser are individually referred as Party and collectively as Parties]

WHEREAS

- (a) The Client has published the “Request for Proposal” to engage the Financial Adviser to provide certain services as defined in Appendix ‘A’ of this Agreement (hereinafter called the “Services”);
- (b) In response to the Request for Proposal, the interested parties submitted their technical and financial proposals on the basis of which the Client selected the Financial Adviser;
- (c) The Parties represent that this Agreement constitutes binding legal obligations and the persons signing this agreement are competent and legally authorized to bind the Parties; and
- (d) The Financial Adviser represents to the Client that it, along with its sub-contractors, has the required professional skills, personnel, expertise and technical resources to provide the Services to perform this Agreement.

NOW THEREFORE, the Parties agree as follows:

1. The following documents attached to this Agreement shall form an integral part of the Agreement:
  - I. The General Conditions of the Agreement;
  - II. The Special Conditions of the Agreement;

- III. Appendices:  
Appendix A: Terms of Reference or Services;  
Appendix B: Implementation Schedule;  
Appendix C: Integrity Pact.

2. The General Conditions of the Agreement shall not be changed and any permissible change required in the General Conditions shall be effected through Special Condition of the Agreement.
3. The mutual rights and obligations of the Client and the Financial Adviser shall be as set forth in the Agreement, in particular:
- (a) the Financial Adviser shall carry out the Services in accordance with the provisions of the Agreement; and
  - (b) the Client shall make payments to the Financial Adviser in accordance with the provisions of the Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed in their respective names as of the day and year first above written.

For and on behalf of Privatisation Commission

\_\_\_\_\_  
*(Name & Designation)*

For and on behalf of (name of the Financial Adviser)

\_\_\_\_\_  
*(Name & Designation)*

**Witnesses:**

1. \_\_\_\_\_

2. \_\_\_\_\_

# I. GENERAL CONDITIONS OF THE AGREEMENT

## A. GENERAL PROVISIONS

### 1. Definitions:

1.1 The terms used in this Agreement shall have the following meanings:

- (a) "Affiliate" means, as to any person or entity, any other individual or entity who directly or indirectly controls, is under common control with, or is controlled by such person. As used in this definition 'control' shall mean possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests), by contract.
- (b) "Agreement" means the Financial Advisory Services Agreement signed between the Client and the Financial Adviser.
- (c) "applicable law" means the laws and any other instruments having the force of law in the Islamic Republic of Pakistan;
- (d) "Client" means Privatisation Commission (the "PC") established under section 3 of Privatisation Commission Ordinance, 2000.
- (e) "consideration price" means the same as defined in SCA.
- (f) "day" means a working day of the Client unless indicated otherwise in SCA.
- (g) "effective date" means the date on which this Agreement comes into force and effect pursuant to Clause GCA 9.
- (h) "Federal Government" means the Government of Pakistan.
- (i) "Financial Adviser" means the external adviser hired by the Client under the Agreement.
- (j) "financial closure" means the the same as defined in SCA.
- (k) "GCA" means these General Conditions of Agreement.
- (l) "Party" means the Client or the Financial Adviser, and "Parties" mean both of them.
- (m) "SCA" means the Special Conditions of Agreement by which the GCA may be amended or supplemented but not over-written.
- (n) "Services" means the work to be performed by the Financial Adviser pursuant to the Agreement described in Appendix-A.

- (o) “sub-contractor” means an entity to whom the Financial Adviser sub-contracts any part of the Services while remaining solely liable for the execution of the Agreement.
- (p) “success fee” means the amount to be paid by the Client to the Financial Adviser upon a financial closure based on the fixed percentage of the consideration price.
- (q) “third party” means any person or entity other than the Federal Government, the Client, the Financial Adviser or a sub-contractor.
- (r) “transaction” means the privatisation transaction as envisaged in the Services (**Appendix-A**).

1.2 An expression used but not defined in this Agreement shall mean the same as defined in the Privatisation Commission Ordinance 2000.

**2. Relationship between the Parties**

2.1. Nothing contained in the Agreement shall be construed as establishing a relationship of master and servant or of principal and agent as between the Client and the Financial Adviser. The Financial Adviser, subject to the Agreement, has complete charge of the professional staff and sub-contractors performing the Services and shall be fully responsible for the Services performed by them.

**3. Law Governing Agreement**

3.1. The Agreement, its meaning and interpretation, and the relation between the Parties shall be governed by the applicable law.

**4. Language**

4.1. This Agreement has been executed in the language specified in the SCA, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of the Agreement.

**5. Headings**

5.1. The headings shall not limit, alter or affect the meaning of this Agreement.

**6. Communications**

6.1. Any communication required or permitted to be given or made under the Agreement shall be in writing in the language specified in Clause GCA 4. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SCA.

6.2. A Party may change its address for notice under the Agreement by giving the other Party notice of such change at the address specified in the SCA.

**7. *Authorized Representatives***

7.1 Any document required or permitted to be executed under this Agreement by the Client or the Financial Adviser shall be executed by the individuals in accordance with the SCA.

**8. *Corrupt and Fraudulent Practices***

8.1 The Client requires compliance with its policy in regard to corrupt and fraudulent practices. In pursuance of this policy, the Client:

- (a) defines, for the purpose of this paragraph, the term ‘corrupt and fraudulent practice’ as follows:

“corrupt and fraudulent practice” includes the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official or the supplier or contractor in the procurement process or in contract execution to the detriment of the Client; or misrepresentation of facts in order to influence a procurement process or the execution of a contract, collusive practices among bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Client of the benefits of free and open competition and any request for, or solicitation of anything of value by any public official in the course of the exercise of his duty;

- (b) may terminate the Agreement if it determines that the Financial Adviser has, directly or through an agent, engaged in a corrupt or fraudulent practice, or any collusive or coercive practice in competing for the Agreement; and

- (c) may sanction, including declaring the Financial Adviser ineligible, either indefinitely or for a stated period of time, to be awarded any agreement of the Client if, at any time, it determines that the Financial Adviser has, directly or through an agent, engaged in corrupt or fraudulent practice, or collusive or coercive practice in competing for, or in executing, the Agreement.

**B. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF AGREEMENT**

**9. *Effectiveness of Agreement***

9.1 This Agreement shall come into force and effect on the date (the “effective date”) mentioned in the SCA.

**10. *Termination of Agreement for Failure to***

10.1 If this Agreement has not become effective within such time after the date of signature as specified in the SCA, either Party may, by not less than twenty two (22) days written notice to the other Party, declare the Agreement to be null and void, and in the event of such a declaration by either Party, neither Party shall

***Become Effective***

have any claim against the other Party with respect to the Agreement.

***11. Commencement of Services***

11.1 The Financial Adviser confirms availability of key professional staff and is ready to begin carrying out the Services not later than the number of days after the effective date specified in the SCA.

***12. Expiration and Duration of Agreement***

12.1 Unless terminated earlier pursuant to Clause GCA 17, this Agreement shall remain valid till such time period as specified in SCA.

12.2 The Financial Adviser shall perform the Services within the time set out in the implementation schedule **(Appendix-B)**.

***13. Entire Agreement***

13.1 This Agreement contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth in the Agreement.

***14. Modifications or Variations***

14.1 Any modification or variation of the terms and conditions of the Agreement, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties.

## **15. Force Majeure**

### **a. Definition**

15.1 For the purposes of Clause GCA 15, "Force Majeure" means an event which is beyond the control of a Party, is not foreseeable, is unavoidable, and makes a Party's performance of its obligations under the Agreement impossible or so impractical as to be considered impossible under the circumstances, and subject to those requirements, includes war, riots, civil disorder, earthquake, fire, explosion, unexpected flood or other unusual adverse weather conditions, strikes, lockouts or other industrial action, confiscation or any other action by a Government agency.

15.2 Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's professional staff, sub-contractor or agent or employee, nor (ii) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Agreement, and avoid or overcome in the carrying out of its obligations under the Agreement.

15.3 Force Majeure shall not include insufficiency of funds or failure to make any payment required under the Agreement.

### **b. No breach of Agreement**

15.4 The failure of a Party to fulfill any of its obligations under the Agreement shall not be considered to be a breach of, or default under, the Agreement in so far as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of fulfilling the terms and conditions of the Agreement.

### **c. Measures to be Taken**

15.5A Party affected by an event of Force Majeure shall continue to perform its obligations under the Agreement as far as it is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

15.6A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than seven (07) days following the occurrence or first occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible and in any case not later than three (03) days following the restoration of normal conditions.

15.7 Any period within which a Party shall, pursuant to this Agreement, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

15.8 During the period of their inability to perform the Services as a result of an event of Force Majeure, the Financial Adviser, upon instructions from the Client, shall either:

- (a) demobilize; or
- (b) continue with the Services to the extent reasonably possible, in which case the Financial Adviser shall continue to be paid under the terms of the Agreement.

15.9 In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clauses GCA 33 & 34.

## ***16.Suspension***

16.1 The Client may, by written notice of suspension to the Financial Adviser, suspend all payments if the Financial Adviser fails to perform any of its obligations under the Agreement, including the carrying out of the Services. The notice of suspension shall: (i) specify the nature of the failure; and (ii) request the Financial Adviser to remedy such failure within a period not exceeding fifteen (15) days after receipt by the Financial Adviser of such notice of suspension.

## ***17.Termination***

17.1 A Party may terminate the Agreement as per provisions set out below.

### **a. By the Client**

17.1.1. The Client may terminate this Agreement in case of the occurrence of any of the events specified in paragraphs (a) to (f) of this Clause. In such an occurrence, the Client shall give prior written notice of termination to the Financial Adviser: (i) in case of the events referred to in paragraphs (a) to (d); at least thirty (30) days' written notice; (ii) in case of the event referred to in paragraph (e); and (iii) at least five (5) days' written notice in case of the event referred to in paragraph (f).

- (a) If the Financial Adviser fails to remedy a failure in the performance of its obligations under the Agreement, as specified in a notice of suspension pursuant to Clause GCA 17.
- (b) If the Financial Adviser becomes (or, if the Financial Adviser consists of more than one entity, if any of its members becomes) insolvent or bankrupt or enter into any agreement with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary.

- (c) If the Financial Adviser fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCA 34.
- (d) If, as the result of Force Majeure, the Financial Adviser is unable to perform a material portion of the Services for a period of not less than thirty (30) days.
- (e) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate the Agreement.
- (f) If the Financial Adviser fails to confirm availability of Key professional staff as required under Clause GCA 11.

17.1.2. If the Client determines that the Financial Adviser has engaged in corrupt or fraudulent practice, or collusive, coercive or obstructive practice, in competing for or in executing the Agreement, the Client may, after giving fourteen (14) days written notice to the Financial Adviser, terminate the Agreement.

**b. By the Financial Adviser**

17.1.3. The Financial Adviser may terminate this Agreement, by not less than thirty (30) days' written notice to the Client, in case of the occurrence of any of the events specified in paragraphs (a) to (d) of this Clause.

- (a) If the Client fails to pay any money due to the Financial Adviser pursuant to the Agreement and not subject to dispute pursuant to Clause GCA 34 within forty-five (45) days after receiving written notice from the Financial Adviser that such payment is overdue.
- (b) If, as the result of Force Majeure, the Financial Adviser is unable to perform a material portion of the Services for a period of not less than sixty (60) days.
- (c) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCA34.
- (d) If the Client is in material breach of its obligations pursuant to the Agreement and has not remedied the same within forty-five (45) days.

**c. Cessation of Rights and Obligations**

17.1.4. Upon termination of the Agreement pursuant to Clause GCA 10 or GCA 17, or upon expiration of this Agreement pursuant to Clause GCA 12, all rights and obligations of the Parties under the Agreement shall cease, except: (i) such rights and obligations as may have accrued on the date of termination or expiration; (ii) the obligation of confidentiality set forth in Clause GCA 20; (iii) the Financial Adviser's obligation to permit inspection, copying and

auditing of their accounts and records set forth in Clause GCA 24; and (iv) any right which a Party may have under the applicable law.

- d. Cessation of Services** 17.1.5. Upon termination of the Agreement by notice of either Party to the other Party pursuant to Clause GCA 17.1a or GCA 17.1b, the Financial Adviser shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum.
- e. Payment upon Termination** 17.1.6. Upon termination of the Agreement, the Client shall make the payments to the Financial Adviser for Services satisfactorily performed prior to the effective date of termination.

### **C. OBLIGATIONS OF THE FINANCIAL ADVISER.**

#### ***18. General***

- a. Standard of Performance** 18.1 The Financial Adviser shall perform and carry out the Services with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices. The Financial Adviser shall always act, in respect of any matter relating to the Agreement or to the Services, as a fiduciary adviser to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with the third parties.

18.2. The Financial Adviser shall employ and provide such qualified and experienced professional staff and sub-contractors as are required to carry out the Services.
- b. Law Applicable to Services** 18.3. The Financial Adviser shall perform the Services in accordance with the Agreement and the applicable law and shall take all practicable steps to ensure that its professional staff and sub-contractor comply with the applicable law.

#### ***19. Conflict of Interests***

- 19.1. The Financial Adviser shall hold the Client's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or its own corporate interests.

  - a. Prohibition of Conflicting Activities** 19.1.1 The Financial Adviser shall not engage, and shall cause its professional staff and sub-contractors not to engage, either directly or indirectly, in any business or

professional activities that would conflict with the activities assigned to them under the Agreement.

**b. Strict Duty to Disclose Conflicting Activities**

19.1.2 The Financial Adviser has an obligation and shall ensure that its professional staff and sub-contractors shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the Client, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Financial Adviser or the termination of the Agreement.

**20. Confidentiality**

20.1 Except with the prior written consent of the Client, the Financial Adviser and its professional staff and sub-contractors shall not, at any time, communicate to any person or entity any confidential information acquired in the course of the Services from the Client or from an entity of the Federal Government, nor shall the Financial Adviser, affiliates, the professional staff and sub-contractors make public the recommendations formulated in the course of, or as a result of, the Services.

20.2 In consideration of the Client or from an entity of the Federal Government providing the Financial Adviser with Confidential Information, the Financial Adviser agrees that all Confidential Information will be held and treated by the Financial Adviser, its affiliates, and it and its affiliates' agents, sub-contractors, attorneys and employees (collectively "Financial Adviser Representatives") in confidence and will not, except as hereinafter provided or as mandated and/or required by law, without the Client's prior written consent be disclosed by the Financial Adviser or Financial Adviser Representatives and will not be used by the Financial Adviser or Financial Adviser Representatives other than in connection with the purpose described in this Agreement.

20.3 The term "Confidential Information" does not include information which (i) was already in the Financial Adviser's possession, (ii) was or becomes generally available to the public, or (iii) becomes available to the Financial Adviser from a third person who, in so far as is known to the Financial Adviser, is not prohibited from transmitting the information to the Financial Adviser by a contractual, legal or fiduciary obligation to the Client or the Federal Government.

20.4 Nothing contained herein shall prevent the Financial Adviser to disclose in confidence any Confidential Information to a sub-contractor, key professional staff or to an affiliate of the Financial Adviser.

20.5 This confidentiality obligation shall terminate 18 months from the date of termination of this Agreement.

- 21. Liability of the Financial Adviser** 21.1 Subject to additional provisions, if any, set forth in the SCA, the Financial Adviser liability under the Agreement shall be governed by the applicable law.
- 22. Reporting Obligations** 22.1 The Financial Adviser shall submit to the Client the reports, documents and information as specified in **Appendix-A**.
- 23. Proprietary Rights of the Client in Reports and Records** 23.1 Unless otherwise indicated in the SCA, all reports and relevant data and information such as plans, databases, other documents and software, supporting records or material compiled or prepared by the Financial Adviser for the Client in the course of the Services shall be confidential (for Financial Adviser) and become and remain the absolute property of the Client.

#### **D. SUB-CONTRACTORS AND PROFESSIONAL STAFF**

- 24. Replacement of Key Professional Staff or sub-contractors** 24.1 Except as the Client may otherwise agree in writing, the Financial Adviser shall not make any change in the sub-contractors mentioned in the SCA.
- 24.2 Notwithstanding the above, the substitution of a key professional staff or sub-contractor during Agreement execution may be considered only based on the Financial Adviser written request and due to circumstances outside the reasonable control of the Financial Adviser. In such case, the Financial Adviser shall forthwith provide a replacement acceptable to the Client.
- 25. Removal of staff or Sub-contractors** 25.1 If the Client finds that any of the professional staff or sub-contractor has committed misconduct or has been charged with having committed an offence, or professional staff or sub-contractor has engaged in corrupt or fraudulent practice, or collusive, coercive or obstructive practice while performing the Services, the Financial Adviser shall, at the Client's written request, provide a replacement.
- 25.2 In the event that any of the professional staff or sub-contractor is found by the Client to be incompetent or incapable in discharging assigned duties, the Client, specifying the grounds therefore, may request the Financial Adviser to provide a replacement.
- 25.3 Any replacement of the removed professional staff or sub-contractor shall possess equal or better qualifications and experience and is acceptable to the Client.
- 25.4 The Financial Adviser shall bear all costs arising out of or incidental to any removal and/or replacement of professional staff or sub-contractor.

## **E. OBLIGATIONS OF THE CLIENT**

- 26. Assistance and Exemptions** 26.1 Unless otherwise specified in the SCA, the Client shall use its best efforts to:
- (a) assist the Financial Adviser by providing requisite information or documents as are necessary to enable the Financial Adviser to perform the Services.
  - (b) provide to the Financial Adviser any other assistance as is specified in the SCA.
- 27. Payment Obligation** 27.1 In consideration of the Services performed by the Financial Adviser under this Agreement, the Client shall make such payments to the Financial Adviser for the deliverables as specified in SCA.

## **F. PAYMENTS TO THE FINANCIAL ADVISER**

- 28. Agreement Price** 28.1 The Agreement price is fixed and is set forth in the SCA.
- 28.2 Any change to the Agreement price specified in Clause 31 can be made only if the Parties have agreed to the revised scope of Services pursuant to Clause GCA 14 and have amended in writing the Terms of Reference in **Appendix A**.
- 29. Taxes and Duties** 29.1 The Financial Adviser is responsible for meeting the tax liabilities arising out of the Agreement.
- 30. Currency of Payment** 30.1 Any payment under the Agreement shall be made in the currency specified in SCA.
- 31. Mode of Billing and Payment** 31.1 The total payments under this Agreement shall not exceed the Agreement price set forth in Clause GCA 28.1.
- 31.2 The payments under this Agreement shall be made in the following manner:
- (i) lump-sum payment shall be paid against the deliverables;
  - (ii) out of pocket expenses shall be paid on lump-sum basis against deliverables along with remuneration or as per actual expenses (within the limit fixed in SCA) against receipts or bills specified in the SCA; and
  - (iii) success fee shall be paid upon successful financial closure of the transaction.

31.2.1 The Financial Adviser shall perform the tasks and complete the milestones within the time frame mentioned in the implementation schedule. The Client shall verify the deliverable and convey its approval within the period specified in SCA.

31.2.2 On receipt of approval of deliverable from the Client, the Financial Adviser shall submit invoice against the approved deliverable and the Client shall make payment within thirty (30) days of receipt of the invoice.

31.2.3 In case there is a delay in verification of the deliverable by the Client due to the reasons conveyed in writing to the Financial Adviser, the Client shall make a part payment against the deliverable as specified in SCA. In any eventuality, the verification of a deliverable by the Client shall not exceed forty five (45) days.

31.2.4 If a deliverable is found unsatisfactory, the Client shall convey its observations with remedial measures to the Financial Adviser. The Client shall ensure that all of its observations on the deliverable are conveyed to the Financial Adviser in a consolidated form and not in a piecemeal manner. The Financial Adviser shall, within the period specified in SCA, submit the revised deliverable to the Client.

31.2.5 The Financial Adviser shall verify a deliverable submitted by a sub-contractor before submission to the Client. In case of any payment required under SCA to be made directly to sub-contractor, the Financial Adviser shall verify the invoice of the sub-contractor before submission to the Client.

31.2.6 All payments under the Agreement shall be made to the accounts of the Financial Adviser or a sub-contractor as specified in the SCA.

31.2.7 With the exception of the final payment under Clause GCA 31.2.2 above, payments do not constitute acceptance of the whole Services nor relieve the Financial Adviser of any obligations under the Agreement.

## **G. FAIRNESS AND GOOD FAITH**

### ***32. Good Faith***

32.1 The Parties undertake to act in good faith with respect to each other's rights under the Agreement and to adopt all reasonable measures to ensure the realization of the objectives of the Agreement.

## **H. SETTLEMENT OF DISPUTES**

### ***33.Amicable Settlement***

33.1 The Parties shall seek to resolve any dispute amicably by mutual consultation.

33.2 If either Party objects to any action or inaction of the other Party, the objecting Party may serve a written notice of dispute to the other Party providing in detail the dispute and the basis of the dispute. The Party receiving the notice of dispute will consider it and respond in writing within fourteen (14) days after its receipt. If the other Party fails to respond within fourteen (14) days, or the dispute cannot be amicably settled within fourteen (14) days following the response of the other Party, Clause GCA 34 shall apply for resolution of dispute.

### ***34.Dispute Resolution***

34.1 Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, that is not resolved by the parties amicably under Clause GCA 33 after a party's delivery to the other party of 14 days prior notice of such dispute shall, upon the written request of either party, be referred to and finally resolved by arbitration under the arbitration rules of the London Court of International Arbitration (the "Rules"), which Rules are deemed to be incorporated by reference into this Clause. The arbitration shall be determined by a single, independent, impartial arbitrator.

34.2 The seat, or legal place, of arbitration shall be London, England.

34.3 In the absence of any agreement on venue of arbitration between the parties, London, England shall be venue of arbitration.

34.4 The Parties agree that the Courts in London, England shall have exclusive jurisdiction with respect to the award or any litigation relating to or arising out of the Agreement.

## **I. MISCELLANEOUS**

### ***35.Indemnification***

35.1 The Financial Adviser shall indemnify, protect and defend at Financial Adviser's own expense, the Client, its Chairman, Secretary, members, consultants, officers and employees, from and against any and all actions, claims, losses, damages or liabilities of a third party arising out of any act by the Financial Adviser, its professional staff, sub-contractor or employee to the extent that such fault is finally determined by a court or arbitral tribunal to have resulted from any act of the Financial Adviser, its professional staff, sub-contractor or employee.

35.2 If any action, suit, proceeding or investigation is commenced, as to which the Client propose to demand indemnification, the Client shall not, without the prior written consent of the Financial Adviser, settle or compromise any claim, or permit a default or consent to the entry of any judgment in

respect thereof, unless such settlement, compromise or consent includes, as an unconditional term thereof, the giving by the claimant to the Financial Adviser of an unconditional and irrevocable release from all liability in respect of such claim. To the extent of any settlement, compromise or consent which requires payment to be made by the Client to the claimant, the Financial Adviser's liability hereunder shall continue to subsist.

35.3 The Financial Adviser shall, at its own cost and expense, upon request of the Commission, re-perform the Services in the event of Financial Adviser's failure to exercise the skill and care required under the Agreement.

35.4 The Client undertakes to keep the Financial Adviser, its professional staff, sub-contractor or employee indemnified from and against any losses, claims, damages or liabilities of a third party related to, arising out of any act by the Client to the extent that such fault is finally determined by a court or arbitral tribunal to have resulted from any act of the Client, its consultant or employee.

35.5 The Financial Adviser's or Client's aggregate civil liability to each other under this Agreement shall not exceed twice the amount of remuneration fees and out of pocket expenses fixed under the Agreement.

35.6 Notwithstanding anything to the contrary contained in this Agreement, neither Party shall be liable to the other Party for any indirect or consequential loss or damage which may be suffered by the other Party in connection with the Agreement.

36.1 The Financial Adviser shall take out and maintain adequate professional liability insurance as well as adequate insurance against third party liability and loss of or damage to equipment.

### ***36. Insurance***

36.2 The Client undertakes no responsibility in respect of any life, health, accident, travel and other insurance, which may be necessary or desirable for the personnel of the Financial Adviser, including its professional staff and sub-contractors, nor for any members of any family of any such person.

### **37. Integrity Pact**

37.1 The Parties are bound by the Integrity Pact (**Appendix-C**) and acknowledge the terms and conditions of the Pact.

### ***38. Severability***

38.1 If any provision of the Agreement is rendered invalid or unenforceable then: (i) to the fullest extent permitted by the applicable law, the other provisions of the Agreement shall remain in full force and effect and the Parties agree to carry out the agreements contained herein to give effect as near as possible to the original intention of the invalid or unenforceable provision; and (ii) the invalidity or unenforceability of any provisions of the

Agreement shall not affect the validity or enforceability of such provision in any other jurisdiction.

***39. Privity of Contract***

The Financial Adviser shall coordinate the management of the transaction, act as single point of contact for the Sub-contractors and any third party hired for any part of the Services. The parties understand and undertake that the Sub-contractors and any third party hired for any part of the Services are in contractual relationship with the Financial Adviser. Nothing in this Agreement shall create or deem to create any legal or contractual relationship between the Client and a Sub-contractor or third party hired by the Financial Adviser for any part of the Services.



<b>11.1</b>	<p><b>Commencement of Services:</b></p> <p>Services will be commenced within (05) days after this Agreement comes into force and becomes effective.</p>															
<b>12.1</b>	<p><b>Expiration and Duration of Agreement:</b></p> <p>The Agreement is valid for initial period of (24) months unless extended in writing with mutual consent of the Parties.</p>															
<b>24.1</b>	<p><b>List of Sub-contractors:</b></p>															
<b>26.1(b)</b>	<p>Client shall ensure provision of copies of title documents and other record relating to the property to the Financial Adviser that is available with any entity, directly or indirectly, controlled by the Federal Government and is required for the purposes of the transaction.</p> <p>Client shall assist the Financial Adviser for coordination with any of the relevant entity of the Federal Government for the purposes of the transaction.</p>															
<b>28.1</b>	<p><b>The Agreement price is:</b> USD (in figures &amp; words including remuneration, out of pocket expenses and success fee).</p>															
<b>30.1</b>	<p>Payment shall be made to the Financial Adviser in US Dollars (USD).</p>															
<b>27.1 &amp; 31.2</b>	<p><b>The Payment Schedule:</b></p> <p>i. The Client shall make payment against the deliverables as per following schedule:</p> <table border="1" data-bbox="451 1473 1465 1933"> <thead> <tr> <th data-bbox="451 1473 571 1514"><b>Sr. No.</b></th> <th data-bbox="571 1473 1137 1514"><b>Deliverables</b></th> <th data-bbox="1137 1473 1465 1514"><b>% of Retainer fee</b></th> </tr> </thead> <tbody> <tr> <td data-bbox="451 1514 571 1585">1</td> <td data-bbox="571 1514 1137 1585">Approval of Transaction Structure by the Federal Cabinet</td> <td data-bbox="1137 1514 1465 1585">___%</td> </tr> <tr> <td data-bbox="451 1585 571 1664">2</td> <td data-bbox="571 1585 1137 1664">Prequalification of Interested Parties/Bidders by the PC Board</td> <td data-bbox="1137 1585 1465 1664">___%</td> </tr> <tr> <td data-bbox="451 1664 571 1816">3</td> <td data-bbox="571 1664 1137 1816">Finalization of Drafts of Bidding Documents &amp; Transaction Related Agreements to Pre-Qualified Bidders and its issuance by the PC</td> <td data-bbox="1137 1664 1465 1816">___%</td> </tr> <tr> <td data-bbox="451 1816 571 1933">4</td> <td data-bbox="571 1816 1137 1933">Completion of Bidding process and Approval of the Successful Bidder by the Federal Cabinet</td> <td data-bbox="1137 1816 1465 1933">___%</td> </tr> </tbody> </table>	<b>Sr. No.</b>	<b>Deliverables</b>	<b>% of Retainer fee</b>	1	Approval of Transaction Structure by the Federal Cabinet	___%	2	Prequalification of Interested Parties/Bidders by the PC Board	___%	3	Finalization of Drafts of Bidding Documents & Transaction Related Agreements to Pre-Qualified Bidders and its issuance by the PC	___%	4	Completion of Bidding process and Approval of the Successful Bidder by the Federal Cabinet	___%
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	<p>ii. The out-of-pocket expenses, paid ____ as per actual shall consist of following, where relevant, and be reasonably incurred by the Financial Adviser and its sub-contractor(s) in the performance of the Services:</p> <ul style="list-style-type: none"> <li>a) Hotel and subsistence costs actually incurred and based on corporate rates for both the FA and PC nominated officials;</li> <li>b) The cost of domestic &amp; international transportation of the FA personnel and PC nominated officials by the most appropriate means of transport and the most direct practicable route;</li> <li>c) Miscellaneous travel expenses such as the cost of the transportation to and from Airports Taxies Passport, visas, travel permits, vaccination;</li> <li>d) Expenses on marketing roadshows and adverisments; and</li> <li>e) Third party costs or fee.</li> </ul> <p>iii. The IP shall account for all remuneration and out of pocket expenses associated with successful accomplishment of the transaction process and the client shall not assume responsibility of incurring additional cost on any of the activity.</p>			
31.2.1	<b>Approval of Deliverables:</b> The Client shall convey its approval of deliverables within ____ days.			
31.2.3	<b>Part Payment of Deliverables:</b> The Client shall make part payment equivalent to ____% of the invoice value.			
31.2.4	<b>Submission of Deliverables:</b> The Financial Adviser shall submit the revised deliverable to the Client within (__) days.			
31.2.6	<p><b>The accounts of FA and its sub-contractors are:</b></p> <p>for USD:</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">_____</p>			

**SERVICES**

**IMPLEMENTATION SCHEDULE**

**INTEGRITY PACT**

Agreement Number: \_\_\_\_\_ Dated: \_\_\_\_\_  
Agreement Value: \_\_\_\_\_  
Agreement Title: \_\_\_\_\_

          (Name of Financial Adviser (FA))           hereby declares that it has not obtained or induced the procurement of any contract, right, interest, privilege or other obligation or benefit from client or any employee or consultant thereof any other entity owned or controlled by the Client or Government of Pakistan (GOP) through any corrupt business practice.

Without limiting the generality of the foregoing, FA represents and warrants that it has fully declared the brokerage, commission, fees etc. paid or payable to anyone and not given or agreed to give and shall not give or agree to give to anyone within or outside Pakistan either directly or indirectly through any natural or juridical person, including its affiliate, agent, associate, broker, consultant, director, promoter, shareholder, sponsor or subsidiary, any commission, gratification, bribe, finder’s fee or kickback, whether described as consultation fee or otherwise, with the object of obtaining or inducing the procurement of a contract, right, interest, privilege or other obligation or benefit in whatsoever form from GOP, except that which has been expressly declared pursuant hereto.

FA certifies that it has made and will make full disclosure of all agreement and arrangements with all persons in respect of or related to the transaction with Client and has not taken any action or will not take any action to circumvent the above declaration, representation or warranty.

FA accepts full responsibility and strict liability for making any false declaration, not making full disclosure, misrepresenting facts or talking any action likely to defeat the purpose of this declaration, representation and warranty. It agrees that any contract, right, interest, privilege or other obligation or benefit obtained or procured as aforesaid shall, without prejudice to any other right and remedies available to Client under any law, contract or other instrument, be voidable at the option of Client.

Notwithstanding any rights and remedies exercised by Client in this regard, FA agrees to indemnify Client for any loss or damage incurred by the Client on account of corrupt business practice of FA and further pay compensation to Client in an amount equivalent to ten times the sum of any commission, gratification, bribe, finder’s fee or kickback given by FA as aforesaid for the purpose of obtaining or inducing the procurement of any contract, right, interest, privilege or other obligation or benefit in whatsoever form from Client.

Client

FA