



## Wakala Investment Deposit Terms and Conditions

These Terms and Conditions (T&Cs) shall be read in conjunction with the [Application Form] the customer (Principal) has signed (ref #), whereby the customer (as Principal) has appointed [ADCB Islamic] its Agent to act for and on its behalf, in accordance with the following T&Cs:

1. The Principal appoints the Agent to invest its/his/her funds in Islamically acceptable Investments. The Principal's funds will comprise part of the Agent's treasury pool of funds where such funds will be invested by the Agent in compliance with the rules and principles of Islamic Sharia as defined by the Fatwa and Sharia Supervisory Board of the Agent.
2. In this T&Cs, unless the context otherwise requires and except as otherwise defined herein, the following words shall have the following meanings:
  - (i) **'AED'** and **'Dirhams'** means the lawful currency of the UAE;
  - (ii) **'Agency Fee'** means the fixed fee mentioned in the Application Form to be paid to the Agent by the Principal as a consideration of the Agent's services under these T&Cs.
  - (iii) **'Applicable Law'** means any law, regulation, rule, executive order, decree, code of practice, circular, guidance note or information of, or made by, any Competent Authority which is binding and enforceable on or against the Principal and/ the Agent or the subject matter of, this T&Cs;
  - (iv) **'Business Day'** means a day (other than a Friday [Saturday or Sunday]) on which banks in UAE and London are open for general business and in relation to any date for payment or purchase of currency other than Dirhams in the principal financial centre of the country of that currency;
  - (v) **'Competent Authority'** means a government, supranational, local government, statutory or regulatory body or any subdivision thereof and any ministerial or governmental, quasi governmental, industry or other regulatory department, body, instrumentality, agency or official court or tribunal having jurisdiction over the Principal and/or the Agent;
  - (vi) **'Force Majeure Event'** means in relation to either Party, an act of God or intervening or supervening regulation or law, provided that no act or event shall be a Force Majeure Event in relation to an affected Party unless it has taken all steps (if any) which it could reasonably be expected to have taken in order to prevent such act or event or the consequences of the same from occurring;
  - (vii) **'Investment'** means the investment of the Principal's funds by the Agent with the expectation of generating a Expected Profit, made pursuant to and as described in the Investment Documents;
  - (viii) **'Investment Amount'** means the amount mentioned in the Application Form which shall be invested by the Agent (on behalf of the Principal) pursuant to these T&Cs;
  - (ix) **'Investment Date'** in relation to an Investment, means the date on which the Investment Amount is payable by the Principal to the Agent pursuant to these T&Cs, being the mentioned in the Application Form.
  - (x) **'Investment Documents'** means the Application Form and these T&Cs (and the subsequent amendments to the T&Cs, if any) and any other document identified by the Parties as Investment Documents.
  - (xi) **'Investment Maturity Date'** means the date on which payment of the Investment Amount (or the dates for such payment where the Investment Amount is payable in installments) is due from the Agent to the Principal, being the date mentioned in the Application Form;
  - (xii) **'Investment Profit'** means the actual realized profit (or loss) derived by reason of the Agent making an Investment in accordance with the provisions of the Investment Documents;
  - (xiii) **'Investment Period'** means the period from the Investment Date up to and including the Investment Maturity Date;
  - (xiv) **'Investment Wakala Assets'** means the assets acquired by the Agent for and on behalf of the Principal under the Investment.
  - (xv) **'Maturity Proceeds'** means the amount, in respect of the Investment, which, following actual or constructive liquidation of the Investment Wakala Assets, shall be due to the Principal on the Investment Maturity Date and which shall comprise of the following: (a) the Investment Amount; and (b) realized Investment Profit (if any), after the deduction of all costs owing to the Agent, Agency Fee and Agent's incentive (if any).
  - (xvi) **'Party'** means either the Principal or the Agent where the context suggests.
  - (xvii) **'Expected Profit'** means such percentage of amount, over and above the Investment Amount, that is expected to be generated under the Investment.

### 3. APPOINTMENT OF AGENT

- 3.1 The Agent is appointed to be the agent and attorney in fact of the Principal to do all acts in its capacity as Agent unless otherwise indicated with respect to the Investments through purchase agreements, sales agreements or other agreements as fully as the Principal could do itself and to negotiate on the Principal's behalf with any applicable parties in relation thereto.
- 3.2 The Agent shall be acting as the agent for the Principal with respect to executing Investment contemplated herein only on a limited basis. Except as expressly provided for in these T&Cs or where required by law, the Agent shall not have any authority to represent or bind the Principal, or purport to do so.
- 3.3 The Parties agree that in the event the Investment Profit realized from the investments exceeds Expected Profit, the surplus shall be given to the Agent as incentive.
- 3.4 The Agent will execute and deliver, on behalf of the Principal, such purchase agreements, sales agreements and other agreements necessary to effect the Investment, and all other certificates and documents as the Agent may deem necessary or desirable for the Principal in connection therewith.
- 3.5 The Agent undertakes to transfer the Maturity Proceeds upon the due liquidation of the Investment Wakala Assets (either on constructive or actual basis) on the Investment Maturity Date to the account of the Principal. Upon such transfer, the Investment and the Investment Documents will be terminated.



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- 3.6 The Agent agrees with the Principal that it shall in performing its obligations as the Agent and in accordance with these T&Cs, look after the interests of the Principal and act dutifully and in good faith and shall administer the Investment with the same degree of care as it would exercise as if such Investment had been made and administered on its own account and not on behalf of the Principal. The Agent shall be liable to the Principal if it acts in bad faith or with reckless indifference to the Principal's interests and shall hold harmless and indemnify the Principal on a full and unqualified basis in respect of all actual costs and expenses suffered or incurred by the Principal as a consequence of the Agent's failure to comply with any of the provisions contained in these T&Cs.
- 3.7 In relation to the Investment, the Principal shall bear all the risks associated with the acts of the Agent except those risks resulting from the Agent's gross negligence, willful misconduct, breach or fraud.
- 3.8 In consideration of the Agent acting as agent and attorney of the Principal, the Agent shall be entitled to deduct from the Investment Amount, if required, all actual costs, liabilities and expenses incurred by the Agent (including any fee payable in respect of any letter of credit issued in relation to an Investment) in relation to the Investment, together with the Agency Fee, for so acting under the Investment Documents.

#### 4. PAYMENT OBLIGATIONS

- 4.1 The Principal shall pay the Investment Amount on or before the Investment Date to the account designated by the Agent.
- 4.2 The Principal shall be absolutely and irrevocably obliged to pay the Investment Amount payable by it under the Investment Documents, unless and to the extent prohibited from making any such payment by reason of application of any Applicable Law or any Force Majeure Event.

#### 5. REPRESENTATIONS

The Principal represents and warrants to the Agent that the Principal has full power and authority to enter into the Investment Documents and the exercise of the Principal's rights and performance of its obligations hereunder have been duly authorized by all necessary action, where applicable.

#### 6. CURRENCY

- 6.1 Payments by the Principal hereunder shall be made:
- in the case of an Investment Amount, in the currency in which such Maturity Proceeds are denominated;
  - in the case of any cost, expense or tax, in the currency in which such cost, expense or tax was incurred;
  - in the case of any fee or other amount, in the currency in which such fee or other amount is expressed to be payable.
- 6.2 If any sum due from the Principal under the Investment Document ('Sum') or any order or judgement given or made in relation to a Sum has to be converted from the currency (the 'First Currency') in which the Sum is payable into another currency (the 'Second Currency') for the purpose of (i) making or filing a claim or proof against the Principal, (ii) obtaining an order or judgment in any court or other tribunal or (iii) enforcing any order or judgment given or made in relation hereto, the Principal shall as an independent obligation indemnify and hold harmless the Agent from and against any actual loss suffered as a result of any discrepancy between (a) the rate of exchange used for such purpose to convert the Sum from the First Currency into the Second Currency and (b) the rate or rates of exchange at which the Agent may in the ordinary course of business purchase the First Currency with the Second Currency upon receipt by it of the Sum.

#### 7. TERMINATION

- 7.1 The following are Termination Events for which either Party may issue a Termination Notice on the defaulting Party;
- a material breach by the other Party of any of the terms of these T&Cs where that Party has failed to remedy the default (if capable of remedy) within twenty (20) Business Days after receipt of notice giving full particulars of the default and requiring it to be remedied;
  - wrongful repudiation of these T&Cs by the other Party; or
  - a Force Majeure Event or its consequences prevail in relation to the other Party for a continuous period in excess of forty-five (45) Business Days after the date on which the Force Majeure Event began.
- 7.2 Upon termination of this Agreement, subject to the provisions of this clause, the rights and the obligations of the Parties under this Agreement will terminate and be of no future effect save the obligation of the Agent to account to the Principal on the Investment Maturity Date, to pay the Maturity Proceeds relating to the Investment to the Principal and such other provisions which expressly or by implication will survive termination.
- 7.3 Termination will not affect or prejudice any right to damages or other remedy which the terminating Party may have in respect of the event(s) giving rise to the termination or any other right to damages or other remedy which the terminating party may have in respect of any breach of this Agreement which existed at or before the date of termination.

#### 8. NOTICES

All notices and other communications under this Agreement shall be in writing and shall be sent to the respective addresses of the Parties as stated in the Application Form.

#### 9. WAIVER

No failure by the Agent to exercise or any delay by the Agent in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

#### 10. ENTIRE AGREEMENT

The Investment Documents contain the whole agreement between the Parties relating to the Investment contemplated by them and supersede all previous agreements between the parties relating to the same Investment.



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### 11. SEVERABILITY

If, at any time, any provision of the Investment Documents is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

### 12. ASSIGNMENT

The Investment Documents shall be binding on the parties hereto, their respective successors and permitted assigns, heirs and/or legal representatives. The Agent reserves the right to disclose to a potential assignee or transferee or to any other person who may propose entering into contractual relations with the Agent in relation to this Agreement.

### 13. AMENDMENTS

No amendment of or addition to the Investment Documents shall be of any force or effect unless effected in writing and signed by the Agent and the Principal.

### 14. GOVERNING LAW AND DISPUTE RESOLUTION

14.1 The operation of the Account and all other products and services that may be provided by the Bank to the Account Holder and these Terms and Conditions shall be governed by and construed in accordance with the laws of the Island of Jersey and the Account Holder irrevocably submits to the exclusive jurisdiction of the Island of Jersey.

14.2 Any dispute or difference between the Bank and the Account Holder in connection with the Account, any funds therein and all other products and services that may be provided by the Bank to the Account Holder or these Terms and Conditions will be submitted to the exclusive jurisdiction of the courts of the Island of Jersey.