



COMPENDIUM OF SHARIAH STANDARDS ADOPTED BY STATE BANK OF PAKISTAN

Updated till October 31, 2024

ISLAMIC FINANCE POLICY DEPARTMENT
STATE BANK OF PAKISTAN

Preface

The State Bank of Pakistan (SBP) has been notifying adoption of Shariah standards from time to time with a view to strengthen the Shariah compliance framework and harmonize the Shariah practices in the Islamic banking industry. The instructions notifying adoption of Shariah standards are spread in various IBD/IFPD circulars since the year 2010. In order to provide ease of access to the end users, the compendium of Shariah standards as adopted by the SBP has been issued.

The compendium contains all amendments / clarifications made and notified by the SBP from time to time in adopted AAOIFI Shariah standards, as well as the Shariah standard issued by the SBP on 'Sharikat ul Milk and Diminishing Musharakah (based on Sharikat ul Milk)'.

The complete text of AAOIFI Shariah standards is available at AAOIFI's website and is also published by AAOIFI in book form.

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AAOIFI SHARIAH STANDARD NO. 2 - DEBIT CARD, CHARGE CARD AND CREDIT CARD¹

1. **Clause 1:** The following is added as footnote to the clause:
The term 'purchased' for this clause means 'acquired'.
2. **Clause 2/1/5:** The following is added as footnote to the clause:
The term 'for goods and services' is added at the end of the clause.
3. **Clause 3/2/2:** The following is added as footnote to the clause:
The SBP's 'Instructions for Profit & Loss Distribution and Pool Management for Islamic Banking Institutions' shall be followed.
4. **Clause 4/4:** The following is added as footnote to the clause:
In case of Debit or Charge card, it is also permissible to purchase Gold, Silver and foreign Currency on deferred delivery basis.

¹ Adopted vide IBD Circular No. 01 of 2019 dated March 01, 2019

AAOIFI SHARIAH STANDARD NO. 3 - DEFAULT IN PAYMENT BY A DEBTOR²

1. Sub- Clause (e) of Clause 2/1- Amendment

The words “on giving the debtor reasonable notice of sale” shall be added after the word “debt” in 2nd line of above sub- clause.

² Adopted vide IBD Circular No. 01 of 2010 dated January 12, 2010

AAOIFI SHARIAH STANDARD NO. 4 - SETTLEMENT OF DEBTS BY SET-OFF³

1. **Clause 1:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Scope of the Standard

This standard covers the settlement of debt by way of set-off. The standard shall not apply to discharge of liability by way of transfer, waiving of obligation, settlement through reconciliation of debt, acquisition of a right payable or bilateral cancellation of a contract, as they are covered by their respective Standards.”

2. **Clause 2:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Definition of Set-Off and Its Various Forms

To extinguish a debt receivable for a person from his debtor against a debt payable on that person to his debtor. It is divided into two main forms: mandatory set-off and contractual set-off.”

3. **Clause 2/1:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Mandatory set-off

A mandatory set-off is a set-off that occurs without the need for bilateral agreement or consent of both indebted parties and, in some cases of mandatory set-off, it is one party that is forced to comply with the request of the other party for set-off. It is divided into (1) compulsory set-off (on both parties) and (2) set-off on demand.”

4. **Clause 2/1/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “The conditions of the permissibility of compulsory set-off are the following:

- a) Each party should be a creditor and debtor of each other.*
- b) Both debts should be equal in kind, type, description and maturity. However, if the two debts are not equal in amount, a set-off will take place of an equivalent amount on both sides, and the party that is owed the larger debt will remain a creditor for the remaining balance.*
- c) Neither of the two debts should be encumbered by an obligation to a third party, with an intention to avoid damage to the third party such as the right of a mortgagee.*
- d) The set-off should not be arranged in a manner that results in violation of a rule of Shari’ah, such as Riba (usury) or Shubhat al-Riba (a transaction potentially involving Riba).”*

5. **Clause 2/1/3:** The following is added as footnote to the clause:

This clause may be read as follows: “A set-off on demand is the discharge of two debts at the request of the creditor for the superior debt and his consent to forgo from the feature which

³ Adopted vide IFPD Circular No. 01 of 2024 dated January 22, 2024

distinguishes his right. This set-off will take place whether or not the creditor of the inferior debt consents.”

6. **Clause 2/1/4:** The following is added as footnote to the clause:

This clause may be read as follows: “The conditions of permissibility of a set-off on demand are the following:

- a) Each party should be a creditor and debtor of each other.*
- b) The person with the superior right agrees to forgo his right in superiority e.g. in terms of the characteristics of the debt such as his debt is secured through mortgage or guarantee or superiority in tenure of debt such as tenure of his debt is shorter or his debt has become due and the other debt is deferred.*
- c) Both debts should be similar in kind and type, but not in quality and date of maturity. However, if the two debts are not equal in amount, a set-off will take place of an equivalent amount on both sides, and the party that is owed the larger debt will remain a creditor for the remaining balance.*
- d) The set-off should not be arranged in a manner that results in violation of a rule of Shari’ah, such as Riba (usury) or a transaction potentially involving Riba (شبهة الربا).”*

7. **Clause 2/2/2:** The following is added as footnote to the clause:

This clause may be read as follows: “The conditions of the permissibility of a contractual set-off are the following:

- a) Each party should be a creditor and debtor of each other.*
- b) The two parties should mutually consent to the set-off.*
- c) The set-off should not be arranged in a manner that results in violation of a rule of Shari’ah, such as Riba or a transaction potentially involving Riba (شبهة الربا).”*

8. **Clause 2/2/3:** The following is added as a footnote to the clause:

This clause may be read as follows: “A contractual set-off is permissible even without the need for two debts to be similar in kind, type, description or maturity. This is because the agreement on contractual set-off means that each party has agreed to relinquish any extra privilege associated with his debt. A contractual set-off is also permissible if the two debts are not equal in terms of amount, in which case a set-off will take place of an equivalent amount on both sides, and the party that is owed the larger debt is entitled to demand payment of the remaining balance. [see item 2/10 (a) of the Shari’ah Standards on Trading in Currencies].”

9. **Clause 3:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Bilateral Exchange of Promises to Conclude a Set-Off in the Future

Bilateral promise between the institution and its customers or between the institution and other institutions on settlement of debts that may be created between them in the future is permissible, in this case all the conditions mentioned in the items 2/1 and 2/2 will be applicable. However, if the currencies of the two debts differ, a bilateral exchange of promise of set-off should be

concluded on the basis that a set-off will take place based on the prevailing exchange rate at the time of settlement. This ruling is to prevent from the possible concealment of Riba."

10. **Clause 4:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Contemporary applications of rules of set off (Muqassa)

Following are some contemporary applications for the rules of set-off:"

11. **Clause 4/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "Stipulating set-off between the customer and the Institution in respect of debts to the Institution arising out of sales on deferred payment. The agreement on contractual set-off of future debts, commonly known as set-off and consolidation, is a practice employed by a large number of financial Institutions. This form of set-off may take place either compulsorily or contractually according to the condition of any of the two forms. Moreover, by pre-stipulating this type of set-off in the agreement, a fresh agreement may be avoided at the time of set-off when the two currencies are different or when one of the debts is superior to the other."

12. **Clause 4/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "A set-off may take place between a financial Institution accepting a cheque and the drawer of the cheque, through the clearing-house. This form of set-off may also take place either compulsorily or contractually according to the condition of any of the two forms."

13. **Clause 4/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "Set-off that is concluded among financial Institutions through international or national networking systems, such as credit card or debit card organisations. This form of set-off may be either compulsory or contractual according to the condition of any of the two forms."

14. **Clause 5:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Swaps

The swaps that are concluded on the basis of Riba are not permissible. This is because in this process it is the set-off between interests of interest-based securities."

AAOIFI SHARIAH STANDARD NO. 5 - GUARANTEES⁴

1. **Clause 1:** The following is added as footnote to the clause:
The term 'Liability' should be read as 'indemnifiable assets (Mazmoonaaat)'.
2. **Clause 3:** The following is added as footnote to the clause:
In this clause, word 'Personal' shall be considered as deleted in the heading as well as in the text.
3. **Clause 4:** The following are added as footnotes to the clause:
The term 'financial' may be read as 'valuable'.
The term 'Rahn' includes and covers mortgage, lien, charge, pledge, etc.
4. **Clause 6/5/2:** The following is added as footnote to the clause:
For this clause, reference may be made to AAOIFI Shariah Standard # 39 on Rahn.
5. **Clause 6/8/1:** The following is added as footnote to the clause:
For this clause, reference may be made to AAOIFI Shariah Standard # 39 on Rahn.

⁴ Adopted vide IBD Circular No. 01 of 2019 dated March 01, 2019

AAOIFI SHARIAH STANDARD NO. 7 - HAWALAH⁵

1. **Clause 1:** The following are added as footnotes to the clause:

This clause may be read as follows:

“Scope of the Standard

This standard covers Hawalah transactions that involve a change of debtor, i.e. assignment of debt. The scope of this standard does not cover transfer of rights and banking remittances except the remittances that take the form of Hawalah (transfer of debt).”

Following is added for clarity:

“This standard does not, in any way, permit fund transfers through Hawala/Hundi, which are illegal.”

2. **Clause 2:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Definition of Hawalah

Hawalah of debt is the assignment of debt from the assignor (Muheel) to the assignee (Muhal Alaihi). In this, the debtor changes to another debtor and it differs from transfer of right which is replacement of a creditor with another creditor.”

3. **Clause 3/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “The acceptance of Hawalah is recommended for the creditor if the assignee is known to be solvent and a person who honours payments. This is because Hawalah benefits the creditor and gives relief to the debtor.”

4. **Clause 3/3:** Following is inserted as Clause 3/3 to make it consistent with Arabic text, which is as follows:

This clause may be read as follows: “If the financial status and creditworthiness of the assignee is not known to the creditor, then Hawalah becomes Mubah (permissible).”

5. **Clause 4/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “A contract of Hawalah can be concluded by an offer from the assignor and acceptance from the creditor (Muhal) and the assignee in a manner that offer and acceptance fulfill its requirement and indicates transfer of the debt from the obligation of one party towards the obligation of other party without the requirement of the usage of word Hawalah in itself.”

6. **Clause 4/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “Hawalah is a binding contract. Therefore, it is not permissible for any party to terminate or void it unilaterally.”

⁵ Adopted vide IFPD Circular No. 01 of 2024 dated January 22, 2024

7. **Clause 4/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is a requirement that a transfer of debt take effect immediately, not to be contingent, time bound or commencing on a future date. However, it is permissible to defer payment of the assigned debt until a future specified date."

8. **Clause 5/1/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "Restricted Hawalah: It is a transaction where the assignee is restricted to settling the amount of the assigned debt from the amount of a debt or a tangible asset that belongs to the assignor and is in the possession of the assignee. Restricted Hawalah is permissible by Shari'ah."

9. **Clause 5/1/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "Unrestricted Hawalah: It is a transaction where the assignee does not have any debt or tangible asset belonging to assignor and he undertakes to pay the debt owed by the assignor from his own funds and to have recourse afterwards to the assignor for whatever he has paid on behalf of the assignor, provided that the assignment for payment was made on the order of the assignor. Unrestricted Hawalah is permissible by Shari'ah."

10. **Clause 5/1/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is permitted to conclude a Hawalah on a spot payment basis. This is a Hawalah in which the debt transferred to the assignee becomes payable on the spot whether the debt has already fallen due and the obligation is then assigned to the assignee for immediate settlement, or the assigned debt is yet to fall due and the creditor has required, as a condition for accepting the assignment, that it be paid immediately by assignee."

11. **Clause 5/1/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is permissible to conclude a Hawalah contract on a deferred payment basis. This is a Hawalah in which the debt assigned to the assignee is to be paid in the future, whether the payment of the debt is not yet due and was assigned as such to the assignee, or the payment of such debt is due but the assignee required that it should be transferred for future agreed date. In the latter case, the assignee cannot be asked for payment before the agreed date."

12. **Clause 6/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "The permissibility of Hawalah requires the consent of all the three parties, namely the assignor, the creditor and the assignee."

13. **Clause 6/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "The permissibility of a Hawalah requires that the assignor be a debtor to the creditor. Therefore, an assignment by a person, who is a non-debtor, is an agency contract for collection of the debt and not an assignment of debt."

14. **Clause 6/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is not a condition in a Hawalah that the assignee be a debtor to the assignor. If the assignee is not a debtor to the assignor, the Hawalah will be an unrestricted Hawalah. [see item 5/1/2]."

15. **Clause 6/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is a condition that assignee, assignor and creditor should be competent to act."

16. **Clause 6/5:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is a condition in Hawalah that both the assigned debt and the debt to be used for settlement be known and transferable."

17. **Clause 6/6:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is a condition for concluding restricted Hawalah that the assigned debt or the assigned portion of the debt be equal to the debt owed to the assignee in terms of kind, type, quality and quantity. However, the assignor may assign a lesser amount of a debt owed to the assignee to be settled from a larger amount owed by the assignor on condition that the assignee be entitled only to the equivalent amount of his debt."

18. **Clause 7/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "A valid Hawalah discharges the assignor from both the debt liability and any claims in respect of it. In other words, the creditor will have no right of recourse against the assignor for payment. However, if the acceptance of the transfer was based on the condition that the assignee must be solvent, then the creditor will have a right of recourse if the assignee is found to be insolvent."

19. **Clause 7/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "The creditor is entitled to have a right of recourse against the assignor if the debt becomes irrecoverable, even if the recourse is not stipulated in the contract. The irrecoverability of debt is death of the assignee in bankruptcy, or liquidation of an Institution in the case of bankruptcy before payment of the debt, or he denies concluding the Hawalah contract and has taken a judicial oath to this effect and there is no evidence to prove otherwise or the assignee is declared as bankrupt in his lifetime, or the Institution (that is the assignee) is declared bankrupt by a court order."

20. **Clause 8:** The following is added as a footnote to the clause:

The clause may be read as follows:

"Effect of Hawalah on the Relationship between the assignor and the assignee

After the conclusion of a restricted Hawalah, the assignor is no longer entitled to reclaim from the assignee an amount transferred to the assignee in respect of the debt to be settled, because the right to receive this amount has now passed to the creditor."

21. **Clause 9:** The following is added as a footnote to the clause:

The heading may be read as "Effect of Hawalah on the Relationship between the Creditor and the assignee"

22. **Clause 9/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "The creditor is entitled to claim the amount of the debt assigned to him through Hawalah from the assignee in accordance with conditions of Hawalah contract. The assignee, on the other hand, is obliged to pay him and has no right to refuse payment."

23. **Clause 9/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "The assignee takes the place of the assignor in respect to all rights, legal protections and obligations. The creditor in restricted Hawalah takes the place of the assignor in respect to all rights, legal protections and obligations against the assignee."

24. **Clause 10:** The following is added as a footnote to the clause:

The heading may be read as "Effect of Death and Insolvency on a Hawalah Transaction"

25. **Clause 10/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "A Hawalah shall not be annulled by the death of the assignor or liquidation of an assignor institution. This debt which is on the assignor is now exclusively for the creditor and this assigned debt shall not be included in the distribution amongst the other creditors of the assignor."

26. **Clause 10/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "A Hawalah transaction shall not be annulled due to the death of the assignee or the liquidation of the Institution acting as assignee. The creditor will have the recourse on the inheritance of the assignee if whatever assets he leaves behind has the capacity to pay off his debts or on the personal guarantor of the assignee, if available, or on the assets of the liquidated institution. However, if the assignee dies in the state of declared insolvency/bankruptcy or the assignee institution is liquidated due to declared insolvency/bankruptcy, then the creditor shall be entitled to have recourse to the assignor [see item 7/2]."

27. **Clause 10/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "A Hawalah transaction shall not be annulled due to the death of the creditor and the heirs shall replace the creditor. The Hawalah will also not be void in case

of liquidation of a creditor Institution in which case the liquidator takes the place of the Institution for settlement.”

28. **Clause 11:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Conclusion of a Hawalah

A Hawalah will come to an end by settlement of the debt to the creditor or by a mutual agreement of assignor and creditor to terminate it or by the debt being written-off by the creditor in favour of assignee.”

29. **Clause 12:** The following is added as a footnote to the clause:

*The heading may be read as “**Modern Applications of Hawalah**”*

30. **Clause 12/1:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Withdrawals from a current account

An issuance of a cheque against a current account is considered as a form of Hawalah if the beneficiary is a creditor of the issuer (withdrawer or the writer of the cheque) or the account holder for the amount of the cheque, in which case the withdrawer would be the assignor and the bank would be assignee and the beneficiary would be the creditor. If the beneficiary is not a creditor to the issuer of the cheque, then this is not a Hawalah transaction because Hawala of debt cannot be considered without an existence of a debt. However, it would be considered as an agency contract for possession which is permissible by Shariah.”

31. **Clause 12/2:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Overdrawing from an account or overdraft

If the beneficiary of the amount of a cheque is a creditor to the issuer, then issuing a cheque against the account of the issuer without a balance is unrestricted Hawalah if the bank accepts the overdraft. If the bank rejects the overdraft, then this is not considered a Hawalah, in which case the holder of the cheque will have recourse to the issuer.”

32. **Clause 12/3:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Travellers’ cheques

The holder of a travellers’ cheque, the value of which has been paid by him to the issuing Institution, is a creditor to such an Institution. If the holder of the travellers’ cheque endorses the cheque in favour of his creditor, it becomes a transfer of debt in favour of a third party against the issuing Institution that is a debtor to the holder of the traveller’s cheque. This is a restricted Hawalah and the amount of the debt is the value of the cheque for which the Institution received payment.”

33. **Clause 12/4/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "A bill of exchange is considered a form of Hawalah if the beneficiary is a creditor to the drawer on whose instructions the bill of exchange is issued. The drawer is, in this case, the assignor who gives orders to the drawee to pay a certain sum of money at a specified date to the defined beneficiary. The party which is obliged to pay the ascertained amount (drawee) is the assignee whereas the beneficiary, i.e. the holder of the bill of exchange, is the creditor. If the beneficiary is not a creditor of the drawer, then the issuance of the bill of exchange becomes an agency contract to recover or collect the amount of the bill of exchange on behalf of the drawer."

34. **Clause 12/4/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "In the absence of a debt obligation between the drawer and the drawee, the bill of exchange would be considered as an unrestricted Hawalah."

35. **Clause 12/5/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "Subject to item 12/5/1, it is permissible for the first beneficiary of a bill of exchange to endorse it in favour of any other party. The second beneficiary may also endorse such a bill of exchange in favour of a third party and so on, in which case the subsequent endorsements are a form of successive Hawalah which is not objectionable in Shari'ah."

36. **Clause 12/5/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is not permissible to discount bills of exchange by transferring the ownership of their value by its holder, before their due date, to an Institution or others for a discounted immediate payment. This is because the transaction in this manner is a form of Riba."

37. **Clause 12/6:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Transfer of money (remittances)

The request of a customer for the Institution to transfer a certain amount of money in the same currency from his current account to a particular beneficiary is a Hawalah when the customer is a debtor to such a beneficiary. The fee that the Institution charges in this situation is the consideration against delivery of the amount to the creditor and it is not an additional amount gained by the Institution over the amount transferred. However, if it is not in the same currency, then the transaction consists of a combination of Sarf and Hawalah which is permissible. [see item 2/11 of the Shari'ah Standard on Trading in Currencies]"

AAOIFI SHARIAH STANDARD NO. 8 - MURABAHA TO THE PURCHASE ORDERER⁶

1. Clause 2/2/2- Clarification

The phrase, “prior contractual relationship” shall refer to “prior sale contract”.

2. Clause 2/2/5- Clarification

This clause is not applicable to Shirkat ul Milk.

3. Clause 2/3/1- Amendment

Currently, in the context of Murabaha in Pakistan, a bilateral promise / agreement is permissible.

4. Clause 2/5/6- Amendment

The institution shall return to the customer the amount of Urbon (earnest money) after deducting the actual damages incurred.

5. Clause 3/1/3- Clarification

The agent shall not consume or sell, goods purchased on behalf of the institution until such goods are sold by the institution to the customer.

6. Clause 3/1/4- Amendment

The payment mechanism presently adopted by Islamic Banking Institutions, whereby the supplier is paid by the bank through the transaction account opened in the name of agent and the customer may also acts as an agent, achieves the rationale behind this clause. However, in exceptional cases where the agent has to be given cash for onward payment to supplier, the matter can be decided by the Shariah Adviser and his specific approval would be required for this purpose.

7. Appendix A & Appendix B- Amendment

Instead of Appendix A (Notice for Purchase of goods / assets by the agent) and Appendix-B (Notice of the acceptance by the institution), the Model Murabaha Facility Agreement, shall be followed which is available on SBP website:

<http://www.sbp.org.pk/press/Essentials/Murabaha%20Facility%20Agreement-1.htm>.

⁶ Adopted vide IBD Circular No.01 of 2010 dated January 12, 2010

AAOIFI SHARIAH STANDARD NO. 9 - IJARAH & IJARAH MUNTAHIA BITTAMLEEK⁷

1. **Clause 3/2- Amendment**

"Prior approval from Shariah Advisor of the IBI shall be sought whenever an IBI is going to use it as a mode of Islamic finance".

2. **Clause 3/4- Amendment**

"In special cases prior approval from Shariah Advisor shall be sought"

3. **Clause 7/2/5- Amendment**

The above clause will now read as, "The two parties may terminate the Ijarah contract with mutual consent before it begins to run."

4. **Clause 8/1 - Amendment**

At the end of above clause the words, "it is also permissible to ask the customer to give an Undertaking to Purchase Ijarah Asset from the bank in case of early purchase or default" shall be added.

⁷ Adopted vide IBD Circular No.01 of 2010 dated January 12, 2010

AAOIFI SHARIAH STANDARD NO. 10 - SALAM AND PARALLEL SALAM⁸

1. **Clause 1:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Scope of the Standard

This standard covers Salam and Parallel Salam transactions, whether the institution is the buyer or the seller, but it does not cover Salam Sukuk which will be covered under 5/1/5/3 of the Sukuk Standard. Please see Clause 7 of this standard. Similarly, it does not cover Istisna’a because the latter is covered under a separate standard.”

2. **Clause 2/1/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is permissible to negotiate execution of various Salam contracts where each transaction will end on its due date. It is also permissible to draw up a general framework or a master agreement that consists of an understanding to conclude successive Salam contracts, each of which will take place at an appropriate time. In the latter case, the transactions shall be concluded on the basis of a memorandum of understanding in which the contracting parties determine the framework of the contract and the intention of the parties to buy and sell. The parties shall also determine the quantity and specifications of the goods, the manner of their delivery, the basis for determining the price, and the mode of payment. The types of guarantees and other prospective arrangements shall also be specified in the memorandum. The execution of each Salam contract may then take place separately on appropriate dates.”

3. **Clause 2/1/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “When the Salam contract is concluded on the basis of what was initially agreed in the memorandum of understanding, the contents of the memorandum become part and parcel of the contract. This will hold true unless the parties agree as to when the contract is concluded to exempt themselves from some of the provisions referred to in the memorandum of understanding.”

4. **Clause 2/2:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Form of a Salam Contract

A contract of Salam may be concluded using the word Salam, or Salaf, or sale, or any term that indicates sale of commodity undertaken to be delivered on deferred basis according to accurate specification in exchange for immediate payment of the price.”

5. **Clause 3/1:** The following are added as footnotes to the clause:

The heading may be read as follows: “Capital of Salam and its conditions”

Following is added for clarity:

“Capital of Salam means price in a Salam contract”.

⁸ Adopted vide IBD Circular No. 01 of 2022 dated July 04, 2022

6. **Clause 3/1/1:** The following are added as footnotes to the clause:

This clause may be read as follows: "It is permissible for the capital of Salam to be in the form of tangible goods from the category of Misliyaat (fungible), (such as wheat and other cereals), provided that it does not lead to Riba. The capital of Salam may also be from the items falling under the category of Qeemiyaat (non-fungible), (such as livestock/animals). It is also permissible for it to be in the form of the general usufruct of a particular asset such as living in a house or having the use of an aircraft or a ship for a certain period. In such a case, delivery of the asset whose usufruct has been transacted is regarded as immediate receipt (possession) of the Salam capital."

Following is added for clarity:

"Misliyaat (fungible): The commodities/goods/things which, if destroyed, can be compensated by similar commodities in quality and quantity e.g. wheat, rice, etc. If 100 kilograms of wheat are destroyed, they can easily be replaced by another 100 kilograms of wheat of the same quality.

Qeemiyaat (non-fungible): The commodities/goods/things which cannot be compensated by similar commodities like cattle. Each head of sheep, for example, has its own characteristics which cannot be found in any other head. Therefore, if somebody kills the sheep of a person, he cannot compensate him by giving him a similar sheep. Rather, he is required to pay its price."

7. **Clause 3/1/2:** The following are added as footnotes to the clause:

This clause may be read as follows: "The capital of Salam should be made known to the two parties in a manner that removes all uncertainties and eliminates the possibility of dispute. In principle, the capital of Salam should preferably be in the form of cash. In this case, the currency of payment, the amount and the manner of payment shall be clearly defined. If the capital of Salam is in the form of Misliyaat (fungible), then the kind, type, specifications and quantity thereof shall be clearly defined."

Following is added for clarity:

"Misliyaat (fungible): The commodities/goods/things which, if destroyed, can be compensated by similar commodities in quality and quantity e.g. wheat, rice, etc. If 100 kilograms of wheat are destroyed, they can easily be replaced by another 100 kilograms of wheat of the same quality."

8. **Clause 3/1/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "The capital in a Salam contract must be paid to and possessed by seller (al-Muslam Ilaihi) immediately at the time of the conclusion of the contract. However, it is permissible to delay the delivery of the capital for two or three days at the most either by stipulation in the contract or otherwise subject to the condition that the period of delay is not equal to or longer than the delivery period for al-Muslam Fihi (subject matter)."

9. **Clause 3/1/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "A debt cannot be the capital of Salam such as cash loans or debts owed by the customer (seller) to the institution (buyer) as a result of previous transactions."

10. **Clause 3/2/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "Salam contracts are permitted for Misliyaat (fungible), like those that may be weighed, measured or counted, the units of which do not differ from each other in any significant manner, provided that it does not lead to Riba."

11. **Clause 3/2/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "Among the closely similar countables, are the items for which variations in units make no difference like the products of companies that manufacture goods in similar units that are identified by trademarks, standardized specifications and are regularly and commonly available at any time, keeping in view the Clause 3/2/8."

12. **Clause 3/2/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "Salam is not permitted for anything identified like "this car". Nor is it permitted for anything that cannot become an unidentified liability (dhimmah), like land, buildings or trees; or for articles that cannot be fully described (such as those whose values change according to subjective assessment) like jewelry and antiques. It is also not permissible to stipulate that it (al-Muslam Fihi (subject matter)) must be from an identified piece of land. On the delivery date the seller may deliver to the buyer the available goods (that meet the contract specifications), irrespective of whether such goods are from his own fields or factories or from elsewhere."

13. **Clause 3/2/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is not permissible for al-Muslam Fihi to be gold or silver, if the capital of the Salam contract was paid in the form of gold or silver."

14. **Clause 3/2/5:** The following is added as a footnote to the clause:

This clause may be read as follows: "Al-Muslam Fihi (subject matter) must be capable of being adequately described and capable of becoming an unidentified obligation (dhimmah). It will be sufficient if the specifications are explained in a manner that removes uncertainty, except for minor discrepancies that are customarily ignored, and considered acceptable; hence do not lead to dispute."

15. **Clause 3/2/6:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is a requirement that al-Muslam Fihi (subject matter) be clearly known to the contracting parties in a manner that eliminates any possibility of uncertainty or ambiguity. The method of description of the goods in a fully distinguishable way should be based on customary practice and the experience of the experts."

16. **Clause 3/2/8:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is a requirement that al-Muslam Fihi (subject matter) be commonly available under normal circumstances at the place and time of delivery, so that the seller can discharge his obligation by delivering it to the buyer."

17. **Clause 3/2/10:** The following is added as a footnote to the clause:

This clause may be read as follows: "In principle, the parties should specify the place at which al-Muslam Fihi is to be delivered. However, if the parties to the contract do not determine the place of delivery, then the place at which the contract was concluded will be regarded as the place of delivery unless it turns out to be impossible to make delivery at such a place. In that case, the place of delivery shall be determined according to customary practice."

18. **Clause 3/3:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Security for al-Muslam Fihi

Al-Muslam Fihi may be secured by a pledge or a guarantee or any other permissible means of security."

19. **Clause 4/2:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Replacement of al-Muslam Fihi (subject matter)

It is permissible for the buyer to take other/substitute goods instead of al-Muslam Fihi, except currency, after the delivery date falls due, as long as such a substitution was not stipulated in the contract. This rule applies whether or not the substitute is similar in kind to al-Muslam Fihi. This is provided that the substitute is suitable for being purchased as al-Muslam Fihi for the capital of the Salam contract, and that the market value of the substitute should not be greater than the market value of al-Muslam Fihi at the time of delivery."

20. **Clause 4/3:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Cancellation (Iqalah) of a Salam contract

It is permissible, when both parties agree, to cancel the entire Salam contract by returning in full the amount of the Capital of Salam. Partial cancellation, that is, cancellation of the delivery of part of al-Muslam Fihi, by returning corresponding part of capital of Salam, is also permissible."

21. **Clause 5/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "The seller is under an obligation to deliver al-Muslam Fihi to the buyer on the due date in accordance with the terms of the contract, such as agreed specifications and quantity. The buyer, is also obliged to accept the goods if they meet the specifications stipulated in the contract; and he shall be compelled to do so if he refuses to accept the same."

22. **Clause 5/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "If the seller offers to deliver goods of a superior quality, the buyer must accept the goods, provided the seller does not demand a higher price for the better quality. This shall be by way of fulfilling one's obligation in a better manner than what is contractually required. However, this will apply only if the (inferior) description specified in the contract is not itself required by the buyer."

23. **Clause 5/3:** The following are added as footnotes to the clause:

This clause may be read as follows: "If the quality of the delivered goods is inferior to that required by the contractual specifications, the buyer is entitled either to reject or to accept the goods in that condition. If he accepts the goods, his action is considered as waiving of right as a goodwill gesture. It is also permissible for the two parties to agree to on a settlement for acceptance of the goods even at a discounted price."

Following is added for clarity:

"In case al-Muslam Fihi delivered is of inferior quality, the buyer among other options also has the right of recourse to security to acquire the agreed al-Muslam Fihi from the market."

24. **Clause 5/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is not permitted for a seller to deliver al-Muslam Fihi in the form of a commodity different from the one agreed upon even if the commodity belongs to the same genus as al-Muslam Fihi (e.g. al-Muslam Fihi is corn and the commodity that the seller wants to deliver is wheat) unless such a substitution takes place on the basis of the conditions for the replacement of al-Muslam Fihi with other goods (see item 4/2)."

25. **Clause 5/5:** The following is added as a footnote to the clause:

This clause may be read as follows: "Delivery of al-Muslam Fihi may take place before the due date, provided that the goods conform to the agreed specifications and quantities. If the buyer has a valid reason for rejecting the goods, then he will not be compelled to accept them. Otherwise, the buyer is obliged to accept the goods."

26. **Clause 5/6:** The following is added as a footnote to the clause:

This clause may be read as follows: "The buyer may add a Clause in the Salam contract that if the seller delays the delivery of al-Muslam Fihi, charity may apply on the seller."

27. **Clause 5/8:** The following is added as a footnote to the clause:

This clause may be read as follows: "In case all or part of al-Muslam Fihi is not available to the seller on the due date in the market, the buyer shall have the following options:"

28. **Clause 5/8/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "To wait until al-Muslam Fihi is available in the market."

29. **Clause 6/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "In both the two situations mentioned in Clauses 6/1 and 6/2, it is not permissible for the parties to link the obligations under the two Salam contracts together so that the execution of the obligations of one contract is contingent on the outcome of the other. Hence, it is necessary that both the obligations and the rights under the two contracts stand alone in all respects. Therefore, if one party breaches his obligation under the first Salam contract, the other party (the injured party) has no right to transfer this damage or loss to the party with whom

a parallel Salam has been concluded and hence he has no right to terminate the second Salam contract or delay in carrying it on.”

30. **Clause 7:** The following are added as footnotes to the clause:

This clause may be read as follows:

“Issuance of Salam Sukuk

It is not permitted to issue tradable Salam Sukuk. [see item (4/1)]”

Following is added for clarity:

“This Clause may be read with IBD Circular Number 3 of 2013 (Adoption of AAOIFI Shariah Standard No. 17 on ‘Investment Sukuk’) and any amendments therein as notified from time to time.”

AAOIFI SHARIAH STANDARD NO. 11 - ISTISNA'A AND PARALLEL ISTISNA'A⁹

1. **Clause 1:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Scope of the Standard

The standard covers Istisna'a and parallel Istisna'a transactions whether the institution is acting as a purchaser or as a seller (manufacturer or a builder). But it does not cover 'Istisna'a Sukuk' whose rules have been mentioned in Sukuk Standard.”

2. **Clause 2/1/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is permissible that the institution and a customer conclude an Istisna'a contract even if the institution is yet to hold title to the subject matter of the sale or to the material from which the subject matter will be produced (manufactured or constructed).”

3. **Clause 2/1/3:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is not permitted for the institution to finance an already concluded Istisna'a contract between a buyer and a third party, especially if the buyer has become unable to meet his obligations toward such a third party, whether the financing takes place before or after commencement of the work. (see item 4/2/2)”

4. **Clause 2/2/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “A contract of Istisna'a is binding on the contracting parties provided that certain conditions, such as determination of the type, kind, quality, quantity, price of the subject matter to be produced, and ascertaining the delivery date if necessary, are fulfilled. If the subject matter does not conform to the specification agreed upon, the customer has the option to accept or to refuse the subject matter.”

5. **Clause 2/2/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “Since a contract of Istisna'a is binding, the parties to the contract are inevitably bound by all obligations and consequences following the execution of the agreement. In other words, the contracting parties need not to renew an exchange of offer and acceptance after the subject matter is manufactured. This is different from the promise in a contract of Murabaha, which requires execution of a sale contract through an offer and acceptance by the parties when the title to and possession of the items to be sold is taken by the institution.”

6. **Clause 2/2/4:** The following is added as a footnote to the clause:

The text “All the circumstances mentioned above would make the deal an interest-based financing deal in which the subject-matter never genuinely changes hands” is deleted.

⁹ Adopted vide IBD Circular No. 01 of 2022 dated July 04, 2022

7. **Clause 3/1/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "An Istisna'a contract is permissible only for those materials that can be transformed from one state to another by a manufacturing or construction process. Therefore, if the manufacturer undertakes to deliver the subject matter of Istisna'a, the contract is valid."

8. **Clause 3/1/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is permissible that a contract of Istisna'a be concluded for the production of a subject matter having unique descriptions according to the requirement of the purchaser even if such a subject matter has no available sample in the market, provided it can be adequately described. Similarly, it is permissible that the subject matter of a contract of Istisna'a be items that are commonly available in the market, and can be substituted for one another in fulfilling an obligation, because they share common characteristics by virtue of the process of manufacture or construction. This rule applies whether the items to be produced are intended for consumption or use with their corpus kept intact."

9. **Clause 3/1/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is not permissible that the subject matter of an Istisna'a contract be an identified asset; for example, the seller says I sell this car or this factory. This is because Istisna'a is a sale contract applicable to items that are described by specification and not by identification. Unless the items are completely or partially delivered, the purchaser has no prior right on the items that are the subject matter of the contract. In addition, the purchaser cannot be regarded as the owner of the materials in the possession of the manufacturer for the purpose of producing the subject matter of the contract, except when the manufacturer has undertaken, as a guarantee for the completion of the work, that such materials will only be used for the order of the purchaser."

10. **Clause 3/1/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "The contract of Istisna'a may be concluded with a condition that the production shall be carried out by the institution itself, in which case it has to abide by this condition and has no right to assign the process of production to another entity."

11. **Clause 3/1/5:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is permissible for the manufacturer to deliver items produced by it before entering into the Istisna'a contract or items produced by other parties. The latter option is, however, only valid if the purchaser has not stipulated that the manufacturer should manufacture the goods itself. However, this rule should not be used as a device for deferment of counter values (the price and the commodity) in selling a specified asset to be delivered by the seller, but which was not intended to be produced/manufactured."

12. **Clause 3/1/6:** The following is added as a footnote to the clause:

This clause may be read as follows: “The manufacturer is under an obligation to produce the subject matter according to specification and within the period agreed upon or within such reasonable time as the nature of the work may require, in accordance with accepted practice that is recognized by experts.”

13. **Clause 3/1/7:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is permissible for the parties to agree on a warranty period (during which the manufacturer would be liable for manufacturing defects) or to agree on manufacturer’s liability for maintenance of the asset for a period as mutually agreed or determined by customary practice.”

14. **Clause 3/1/8:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is permissible to draw up an Istisna’a contract for real estate developments on designated land owned either by the purchaser or the contractor, or on land in which either of them owns the usufruct on the ground that the subject matter of Istisna’a is specified buildings that will be constructed and not the identified place (i.e. the land).”

15. **Clause 3/2:** The following is added as a footnote to the clause:

*The heading may be read as “**Price of Istisna’a Contract**”.*

16. **Clause 3/2/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is a requirement that the price for an Istisna’a contract be known at the conclusion of the contract, whether it is in the form of cash or tangible goods or the usufruct of an asset for a particular duration, and whether such usufruct is related to an asset other than the subject-matter or to the subject-matter itself. The use of usufruct of the subject-matter itself as consideration for an Istisna’a contract is relevant to situations when a government offers a preferential contract, giving the usufruct of a project to the builder or manufacturer for a particular duration, commonly known as Build Operate Transfer (BOT).”

17. **Clause 3/2/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “The price of an Istisna’a contract may be deferred or paid in installments within a certain period of time, or if delivery of the subject-matter is to be made in stages a portion of the price may be paid immediately while the balance is paid by installments according to the stages of delivery. It is also permissible to connect payment with the stage of completion of the work, (such that an installment payment is made at the end of each stage), provided the stages of the work can be adequately defined by customary practice in a manner that would not lead to any dispute.”

18. **Clause 3/2/3:** The following is added as a footnote to the clause:

This clause may be read as follows: “If the process of manufacturing or construction is divided into phases, or the price is determined on the basis of units, then the manufacturer or contractor is

entitled to stipulate that the buyer shall make the payments for the work that has been completed according to specifications.”

19. **Clause 3/2/4:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is permissible to quote different prices in Istisna'a in accordance with variations in delivery dates and there is also no objection to a number of quotations being subject to negotiation, provided that eventually only one quotation will be chosen for concluding the Istisna'a contract. This is to avoid uncertainty and ambiguity that may lead to dispute.”

20. **Clause 3/2/6:** The following is added as a footnote to the clause:

This clause may be read as follows: “If the actual cost incurred by the institution to bring the subject matter to completion is less than the estimated cost or the institution secures a discount from the party with whom it contracted on a parallel Istisna'a basis to acquire the subject-matter in order to fulfill its contractual obligation, the institution is not obliged to give this discount to the purchaser and the latter is not entitled to the amount or part thereof the institution has gained over the estimated cost. The same rule applies conversely when the actual cost of production is greater than the estimated cost.”

21. **Clause 3/3/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is permissible for the institution, acting either in the capacity of the manufacturer or of the purchaser, to demand or give 'Arboun as a guarantee, which will either be part of the price if the contract is fulfilled, or (the 'Arboun) be forfeited if the contract is rescinded. However, it is preferable that the amount forfeited be limited to an amount equivalent to the actual damage suffered.”

22. **Clause 3/3/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “In an Istisna'a contract, it is permissible for the institution, whether acting in the capacity of manufacturer or in the capacity of the purchaser, to demand guarantees that it considers sufficient to secure fulfillment of its rights against the purchaser or the manufacturer. It is also permissible for the institution, when acting as a purchaser, to give guarantees requested by the manufacturer, which can be in a form of a Rahn, personal guarantee, assignment of a right, a current account, or an investment account or consent to blocking withdrawal from the account.”

23. **Clause 4/1/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is permissible, after the conclusion of an Istisna'a contract, for the manufacturer and the purchaser to agree on amending the manufacturing or construction specifications previously agreed upon or introducing additional specification requirements on the condition that the price is adjusted accordingly and a reasonable period for the execution of the new requirements is granted. It is also permissible to state in the contract that the consideration for amendments or introduction of additional requirements shall be determined in proportion to

the original price as per the expert opinion, custom or an identified price index which preclude any ambiguity that may lead to dispute.”

24. **Clause 4/1/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “The purchaser cannot oblige the manufacturer to introduce modifications and changes to the subject matter of an Istisna'a contract without the manufacturer's consent.”

25. **Clause 4/1/3:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is not permissible to increase the price in lieu of an extension of the period of payment. However, a rebate for early payment is permissible provided it is not stipulated in the contract.”

26. **Clause 4/2/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is permissible to amend the price in an Istisna'a contract upwards or downwards, through mutual agreement of the contracting parties or arbitration or judicial procedure, if such a price adjustment is required due to unforeseen circumstances and contingencies (force majeure). This rule must be read together with item 4/1/3 above.”

27. **Clause 4/2/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is permissible for the institution to enter into an Istisna'a contract with a customer to complete a project, which has been started by another contractor. In this case, the incomplete project should be settled fully by the customer, and the outstanding debts, if any, (that may arise from the settlement of the incomplete Istisna'a transaction) shall be the personal liability of the customer. The institution and the customer may thereafter conclude an Istisna'a contract for the remaining work without any binding on the institution that it would seek help from the previous contractor. Rather, it should be stipulated that the institution may complete the work by any means it deems fit.”

28. **Clause 4/2/3:** The following is added as a footnote to the clause:

This clause may be read as follows: “In case of constructing buildings or projects on land owned by the purchaser, it is permissible to stipulate that the purchaser has the right to carry out the Istisna'a contract, after passage of a specified time from discontinuation of the work by the contractor, at the expense of the manufacturer if the latter fails to carry out the contract or fails to complete the work.”

29. **Clause 4/2/4:** The following is added as a footnote to the clause:

This clause may be read as follows: “If the contractor is unable to complete the work, the purchaser (the owner of the land) is not entitled to own the incomplete building structures free of cost. However, this rule depends on the cause of the failure to continue the work. If the failure to perform is due to a reason attributable to the contractor, the purchaser is liable only for the value of the building structure to the extent the work completed and the builder is liable to compensate

the purchaser for any actual damage or loss. If the failure to perform is due to a reason attributable to the purchaser, the contractor is entitled to the value of the work he has completed and compensation for any damage or loss to the contractor. However, if the failure to perform has not been caused by either of them, the purchaser shall be liable only for the value of the building structure to the extent that has been completed and neither of them has any responsibility to pay compensation for the loss or damage the other party has suffered (see item 4/2/3)."

30. **Clause 4/2/5:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is permissible that a contract of Istisna'a includes a clause to the effect that if any additional conditions are inserted into the contract at a later date as a result of directives of the relevant authorities, and these additional conditions lead to extra expenses that are not to be borne by the manufacturer under the terms of the contract, and the law of the land, the extra expenses will be borne by the purchaser."

31. **Clause 5:** The following is added as a footnote to the clause:

The heading may be read as "Supervising Execution of an Istisna'a Contract"

32. **Clause 5/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is permissible for the institution, when acting as the manufacturer, to draw up an independent and separate contract of agency appointing the purchaser as an agent of the institution to supervise the manufacturing or construction process so as to ensure that the items produced conform to the specifications stipulated in the contract."

33. **Clause 5/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is permissible for the manufacturer and the purchaser to agree on who amongst them will bear the additional costs of supervision of an Istisna'a contract."

34. **Clause 6/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "The manufacturer is discharged from liability if the subject-matter is delivered to either the purchaser or to a person appointed by him or if the purchaser is enabled to exercise full control over the subject matter."

35. **Clause 6/1/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "If the subject matter does not conform to the contractual specifications at the date of delivery, the purchaser has the right to reject the subject matter or to accept it as it is, showing leniency with the manufacturer in accepting the asset (of lower standard). It is also permissible for the contracting parties to agree on acceptance of such subject matter even if it involves a price discount."

36. **Clause 6/1/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "If the seller offers to deliver a better quality, then the purchaser shall accept the same provided that the seller shall not charge any additional amount for the better quality. This shall be by way of fulfilling one's obligation in a better manner than what is contractually required. However, this will apply only if the (inferior) description specified in the contract is not itself required by the buyer."

37. **Clause 6/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is permissible to deliver the subject-matter before the due date, on the condition that the subject-matter meets the specifications agreed upon. If the purchaser refuses to take delivery of the subject-matter, the matter will be decided on the basis of the reason for this refusal. If there is a valid reason for the rejection of the subject-matter, the purchaser shall not be obliged to take delivery thereof. However, if there is no valid reason for rejecting delivery before due date, then the purchaser will be obliged to take delivery of the subject-matter."

38. **Clause 6/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "The delivery of the subject-matter may take place through constructive possession, by enabling the purchaser to take possession of the subject-matter after the production process is completed. At this point, the risks of ownership of the asset transfer from the manufacturer to the purchaser. If after enabling the purchaser to take possession of the subject-matter any loss or damage occurs to the subject-matter which has not been a result of negligence or misconduct on the part of the manufacturer, then the purchaser shall bear such loss. This is therefore the demarcation line between the liabilities of the two parties: the liability of the manufacturer and the liability of the purchaser."

39. **Clause 6/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "If the purchaser refuses to take the possession of the subject-matter without a valid reason after he is enabled to take possession, the subject-matter will remain in the possession of the manufacturer on a trust basis, in which case the manufacturer will not be liable for loss or damage that occurs to it, unless such loss or damage is a result of negligence or misconduct on the part of the manufacturer. The purchaser shall also bear the expenses of safe keeping of the subject-matter."

40. **Clause 6/5:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is permissible to stipulate in a contract of Istisna'a that the manufacturer will act as the agent of the purchaser to sell the subject-matter if there is a delay for a specific period of time on the part of the purchaser in taking delivery of the subject-matter. In this case, the manufacturer will sell the subject-matter on account of the purchaser and, after deducting the agreed contract price, the balance, if any, will be returned to the purchaser. If the price obtained is less than the contract price, the manufacturer shall have a right of recourse to the purchaser for recovery of the shortfall. In addition, the purchaser will bear the expenses incurred in selling the subject-matter."

41. **Clause 6/6:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is permissible for the contract of Istisna'a to include a fair penalty clause stipulating a mutually agreed amount of money to compensate the purchaser in case the manufacturer fails to deliver the subject-matter at maturity without the delay being caused by force majeure or unforeseen circumstances. However, it is not permitted to stipulate a penalty clause on the purchaser for delay in payment (see item 2/1/2 of the Shari'ah Standard No. (3) on Procrastinating Debtor)."

42. **Clause 6/7:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is not permissible to sell the subject-matter prior to taking either actual or constructive possession of it (see item 6/4). However, it is permissible to conclude an independent Istisna'a contract to sell an item on the basis of description or specification that is similar to an item to be acquired from a manufacturer, and this is called Istisna'a al-Muwazi: parallel Istisna'a (see item 7)."

43. **Clause 6/8:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is permissible for the institution, acting as purchaser, to appoint the manufacturer as an agent to sell the subject-matter, after taking possession of the subject-matter, to manufacturer's customers on behalf of the institution. This agency is permissible whether it is carried out free of charge, or for consideration either in the form of a fixed fee or a particular percentage of the sale price, on condition that the agency is not stipulated as a condition in the contract of Istisna'a."

44. **Clause 7/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is permissible for the institution, acting as purchaser, to buy described items to be manufactured on the basis of a clear and unambiguous specification and to pay, with the aim of providing liquidity to the manufacturer, the price in cash when the contract is concluded. Subsequently, the institution may enter into a contract with another party in order to sell, through a parallel Istisna'a in the capacity of manufacturer or supplier, items whose specifications conform to those of the items purchased by it with a delivery date occurring after delivery date of the first Istisna'a contract, provided the two contracts are fully independent from each other (see item 3/1/4)."

45. **Clause 7/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is permissible for the institution, acting as manufacturer/contractor, to conclude an Istisna'a contract with a customer on a deferred payment basis, and to enter into a parallel Istisna'a contract on an immediate payment basis with a manufacturer or builder to acquire such items as per the specifications in the first contract provided that the two contracts are independent from each other and the rule in item 3/1/4 is complied with."

46. **Clause 7/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "An institution, concluding an Istisna'a contract as a manufacturer/contractor, must assume liability for ownership risks, maintenance and insurance (Takaful) expenses prior to delivery of the subject-matter to the purchaser (the customer). The institution is not permitted to transfer these liabilities to the manufacturer/contractor in the parallel Istisna'a contract."

47. **Clause 7/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is not permitted to make any contractual link between the contract of Istisna'a and the contract of parallel Istisna'a. And it is not permissible for a party to one of these two contracts to refrain from delivery of the asset in case the asset has not been delivered in the other one, or to delay the delivery or increase the cost on the basis of a delay or increase in cost in the other one. However, there is no issue if the institution stipulates conditions and requirements when concluding a parallel Istisna'a contract as a purchaser, including a penalty clause similar to, or different from, those conditions which the customer has stipulated in the first Istisna'a contract (in which the institution is the manufacturer/contractor)."

**AAOIFI SHARIAH STANDARD NO. 12 - SHARIKA (MUSHARAKA) AND MODERN
CORPORATIONS¹⁰**

1. **Scope of the Standard:** The following is added as footnote to this para: The Standard would not be applicable on Sharikat-ul-Milk as separate Standard is issued on the same. Further, the Standard would not be applicable on Sukuk al Musharakah as the same has been covered under AAOIFI Shariah Standard No.17 related to 'Investment Sukuk Standard'.
2. **Clause 3/1/1/3:** The following is added as a footnote to the clause: "The conventional bank, not having duly licensed Islamic Banking Division shall not act as lead arranger in a syndicated Islamic financing; it may however participate in the syndicate as partner"
3. **Clause 3/1/4/1:** The following is added as footnote to the clause: "*All partners of Sharika shall be deemed to be trustees in respect of Sharika assets; however, as trustees they shall be jointly and severally liable for misconduct, negligence or breach of contract.*"
4. **Clause 3/1/5/6:** The following is added as footnote to this clause: "*IBIs may share/distribute profits on gross or net basis while ensuring equity, justice and transparency*".
5. **Clause 3/1/5/9:** The first sentence of the clause is modified as follows: "*Taking into account the provision of item 3/1/5/3, it is permissible to agree that if the profit realized is above a certain ceiling, the profit in excess of such ceiling may, at the discretion of other party, be given to a particular partner.*"

Further, the word "may" appearing in the second sentence of the clause is replaced with the word "shall". The revised sentence shall be read as: "*The parties shall also agree that if the profit is not over the ceiling or is below the ceiling the distribution will be in accordance with their agreement*".
6. **Clause 3/1/6/2:** The following is added as footnote to the clause: "*Being Sharikat ul Aqd, it is not permissible, however, to promise to buy the assets of the Sharika on the basis of face value or pre-agreed value.*"
7. **Clause 3/2/1:** The following is added as footnote to the clause: "*A Credit Partnership is an agreement between two or more parties to buy assets on credit and bear liability for the price of purchase of goods and share profit according to the ratio determined by the parties.*"
8. **Clause 3/3/1:** The following is added as footnote to the clause to cater to the treatment of loss: "*In case of loss to service partnership due to negligence of either of the partners or otherwise, the same shall be borne by all the partners as per their agreed profit sharing ratio*".
9. **Clause 4/1/1/1:** The word 'partitioned' used in the clause is changed to 'divided'.

¹⁰ Adopted vide IBD Circular No. 01 of 2013 dated April 08, 2013. This standard has been developed by SBP.

10. **Clause 4/1/2/3:** The following is added as footnote to the clause: *“The right shares can also be issued at lower than the market value as per the market norms and practices and the legal framework”*.
11. **Clause 4/2 to 4/5:** Since these clauses are not applicable in Pakistan, hence not adopted.
12. **Clause 5:** The following is added as a footnote to the clause: A self-contained Shariah Standard on ‘Sharikat ul Milk and Diminishing Musharakah’ is notified vide IBD Circular No. 2 of 2013.

SHARIAH STANDARD - SHARIKAT UL MILK AND DIMINISHING MUSHARAKAH (BASED ON SHARIKAT UL MILK)¹¹

Statement of the Standard

1. Scope of the Standard

This Standard is applicable to all forms of joint ownerships, structured on the basis of Sharikat ul Milk of asset or property excluding receivables and cash and cash equivalent. This Standard shall also be applicable to a Diminishing Musharakah based on Sharikat ul Milk.

2. Definition

2/1. Definition of Sharikat ul Milk

It is a joint ownership of two or more persons in a particular asset or property without common intention to engage in business with respect to such asset or property.

2/2. Relationship of Joint Owners in Sharikat ul Milk

Each joint owner is independent of other(s) i.e. each of them is neither a Kafeel, nor a Zamin, nor a Wakeel, nor an Ameen in respect of the share of other joint owner(s) in the joint asset/property.

3. General rules for Sharikat ul Milk

3/1. Execution of a Sharikah contract

3/1/1. "Sharikat-ul-Milk (joint ownership) may come into existence by devolving ownership right due to inheritance or by gift or by joint purchase. Such legal relationship may be optional as in case of joint purchase or mandatory/obligatory as in case of inheritance. This arrangement should be documented/registered officially.

3/1/2. The proportionate share of each joint owner in the joint asset or property shall at the inception of Sharikat ul Milk be determined as evaluated by the evaluator(s) as per market practices or the fair value fixed by mutual agreement or on the basis of cash contribution made by the respective joint owners.

3/1/3. It is permissible for institution offering Islamic financial services to offer syndicated financing by entering into Sharikat ul Milk with conventional banks and other financial institutions subject to ensuring compliance of operations in accordance with Shari'ah.

3/1/4. Each joint owner has the right to sell/gift/ rent out (Ijarah) his share in the joint asset or property to the other joint owner(s) or to anyone else unless this act affects the right of other joint owner(s).

¹¹ Issued vide IBD Circular No. 02 of 2013 dated April 08, 2013

- 3/1/5. It is permissible for a joint owner in a Sharikat-ul-Milk to undertake the purchase of share of other joint owner(s) at face value, book value, agreed value, or market value. This undertaking should be independent of the Sharikat ul Milk contract.
- 3/1/6. It is permissible for a joint owner in a Sharikat ul Milk to indemnify of the other joint owner(s), in case of misconduct, negligence and breach of contract.
- 3/1/7. Any gain and loss in the jointly owned asset/property due to any reason will be shared by joint owners in proportion of their ownership.
- 3/1/8. It is permissible for the joint owners to assign the management of the joint asset or property to joint owner(s) or appoint a manager other than the joint owner(s) for managing the jointly owned asset/property.
- 3/1/9. It is permissible to pay remuneration for managing the joint asset or property to the joint owner(s) or to the appointed manager other than the joint owner(s) whose remuneration will be included in the expenses of the Sharikat ul Milk.
- 3/1/10. It is not permissible for the joint owner(s) to use share(s) of other joint owner(s) without his/their consent. However, joint owner(s) can use the share of other joint owner(s), on agreed terms with or without recompense.
- 3/1/11. It is permissible for a joint owner in Sharikat ul Milk to stipulate that another joint owner provides personal guarantee or pledge to cover cases of misconduct, negligence or breach of contract.
- 3/1/12. Expenses including taxes, levies, fees related to the joint ownership will be borne by all joint owners in proportion of their ownership.
- 3/1/13. It is permissible for the joint owners to enter into a binding promise for the continuity of the joint ownership for a mutually agreed period of time.

3/2. Withdrawal from or Termination of Sharikat-ul-Milk

- 3/2/1. Subject to agreement or by mutual consent of joint owners, a joint owner may withdraw his share from the joint asset or property after serving a due notice to other joint owner(s).
- 3/2/2. The withdrawal can be affected by sale or gift to existing joint owner(s) or to any other person(s). In case of sale, the parties may agree on face value, book value, agreed value, or market value.
- 3/2/3. A withdrawal of one or more joint owner(s) shall not lead to the termination of the joint ownership among remaining joint owner(s).
- 3/2/4. Subject to sub clause 3/1/13, it is permissible for the joint owners to agree on termination of the joint ownership before the agreed period.

4. Diminishing Musharakah (DM) on the basis of Sharikat ul Milk

4/1. Diminishing Musharakah (DM) is a form of joint ownership in asset or property in which any of the joint owners undertakes/promises to buy the ownership share of the other joint owner(s) gradually until the ownership of the joint asset or property is completely transferred to the purchasing joint owner.

4/2. The general rules of Sharikat ul Milk are applicable to Diminishing Musharakah on the basis of Sharikat-ul- Milk.

4/3. The sale and purchase of share of a joint owner in the joint ownership must be independent of the joint ownership contract.

4/4. It is permissible for any of the joint owners to rent out (Ijarah) his share to the other joint owner(s) for any specified amount and duration. In such a case, each joint owner will remain responsible for the structural maintenance of his share on a timely basis while the operational expenses shall be borne by the lessee.

4/5. The general rules of Ijarah are applicable to the arrangement of renting out by a joint owner his share in the joint asset or property.

4/6. DM arrangements involve various contracts and undertakings which must be independent of each other and must be executed sequentially as provided in sub clause 4/9.

4/7. DM arrangement on the basis of Ijarah shall comprise of atleast the following:

- a. Sharikat ul Milk Agreement.
- b. Rental /Ijarah Agreement.
- c. Undertaking from any joint owner(s) for Sale or Purchase of share of other joint owner(s).

4/8. All other terms and conditions of relevant modes of financing, contracts or agreements are applicable on such DM arrangement.

4/9. The sequencing of the agreements and undertakings in a DM shall be as follows:

- a. There shall be a Sharikat ul Milk Agreement of joint ownership between the joint owners.
- b. There shall be an agreement of rent (Ijarah) between the lessor and lessee, both being joint owners. This agreement will be governed by the rules of Ijarah.
- c. An undertaking from any joint owner for Sale or Purchase of share of other joint owner may be given by a 'joint owner as a purchaser' to other 'joint owner as a seller' to the effect that the 'joint owner as purchaser' will purchase all the shares at a mutually agreed price (as per sub clause 3/2/2) until the entire ownership of the asset or property is transferred to him. An undertaking may also be given by the 'joint owner as a seller' to 'joint owner as a purchaser' to the effect that the 'joint owner as a seller' will sell the shares owned by him to the 'joint owner as purchaser' in the event he desires to purchase the shares

earlier than the agreed schedule on such price as determined as per sub clause 3/2/2.

4/11. The sale of shares by a joint owner to the other joint owner shall be documented in such a manner as the joint owners may mutually agree.

4/12. In case the 'joint owner as purchaser' fails to honor his undertaking with regard to the periodic payment and purchase, the asset may be sold in the open market and the joint owner as seller shall be entitled to recover:

- a. Actual loss, which is the difference between the market price and price mentioned in the undertaking, if any, not being the opportunity cost. In such a case, any gain on sale of joint asset or property over and above the price mentioned in the undertaking shall be passed on to the 'joint owner as purchaser'.
- b. In addition to the above, the joint owner shall be entitled to recover outstanding periodic rental payments in respect of the period for which the other joint owner has actually used or possessed the joint asset or property.

AAOIFI SHARIAH STANDARD NO. 13 - MUDARABA¹²

It shall be adopted in its present form without any amendment / clarification for Mudaraba financing.

¹² *Adopted vide IBD Circular No. 01 dated January 12, 2010*

AAOIFI SHARIAH STANDARD NO. 14 - DOCUMENTARY CREDIT¹³

1. **Clause 2/2/3:** The following is added as footnote to the clause:

The term 'buyer' should be read as 'seller'.

2. **Clause 3/1/1:** The following is added as footnote to the clause:

*In this clause the text 'and the provision of institutional guarantee **to** the importer' should be read as 'and the provision of institutional guarantee **for** the importer.'*

3. **Clause 3/3/1:** The following is added as footnote to the clause:

The first para of the clause should be read as follows: 'It is also permissible for the institution to charge a fee for providing the required services, whether such a fee is in the form of a lump sum or a certain percentage of the credit amount. This rule applies to services rendered for both import and export credit and amendments therein, except where the amendment is only rescheduling of the duration of the letter of credit/documentary credit and in this case, it is permissible for the institution to charge only the actual expenses incurred. It will be a definite sum and not a percentage.'

4. **Clause 3/3/1 (a & b):** The following is added as footnote to the clause:

The term 'credit facility' should be read as 'letter of credit/documentary credit'.

5. **Clause 3/4/2:** The following is added as footnote to the clause:

The clause should be read as follows: 'The interest bearing debt instruments (Shariah non-compliant) may be accepted up to the issued price (Ras-ul- Maal) or face value, whichever is less, of the instrument'.

6. **Clause 3/5:** The following is added as footnote to the clause:

The clause 3/5 is also applicable in documentary credit issued on the basis of Musawamah.

7. **Clause 3/5/1:** The following is added as footnote to the clause:

The word 'not' is expunged before the word 'precede'.

8. **Clause 3/7/1:** The following is added as footnote to the clause:

The qualifying statement prescribed in this clause should preferably be included in the documentary credit or at least in letter of credit form.

¹³ Adopted vide IBD Circular No. 01 of 2019 dated March 01, 2019

AAOIFI SHARIAH STANDARD NO. 15 - JU'ALAH¹⁴

1. **Clause 4/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "With due consideration to item (6) below in respect to the revocation of Ju'alah, Ju'alah, in principle, is not a binding contract. The offeror (Ja'il) or the worker ('Amil) are entitled to revoke it unilaterally, however, it becomes binding for the Ja'il when the worker commences work. If the worker undertakes not to revoke the contract during a specified period, it is binding on him to abide by the undertaking."

2. **Clause 5/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "The existence of legal capacity is a condition for both parties to the contract. It is not a condition that the worker be specified, therefore, Ju'alah is concluded by the issuance of an offer directed at the general public. Any person whom the offer reaches may undertake the work himself or with the help of another. If, however, the worker is specified, it is obligatory for him to undertake the work himself or with the explicit or implicit consent of the offeror through someone under his supervision and control."

3. **Clause 5/2:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Form of the contract

The Ju'alah contract is concluded by an offer directed towards a specified worker or towards the general public, irrespective of such an offer being made verbally, in writing or through any other means that indicate an invitation to work and an obligation to pay the compensation. Acceptance of the offer by 'Amil is not necessary/required."

4. **Clause 5/3/1/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "When the period is over and the worker has done (part of) the work that will benefit the offeror, the worker is entitled to prevailing market compensation (Ujrat al-Mithl)."

5. **Clause 5/3/2/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "The compensation should be known, valuable in the eyes of the Shari'ah, and deliverable. If the compensation is unknown, unlawful/Shari'ah non-compliant or not deliverable, payment of prevailing market compensation becomes binding."

6. **Clause 5/3/2/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "The compensation may be a portion of the object of work in Ju'alah, for instance, a percentage of a debt agreed upon for collection or the right to utilise, for a determined period, a project whose completion is agreed upon."

¹⁴ Adopted vide IFPD Circular No. 01 of 2023 dated August 29, 2023

7. **Clause 5/3/2/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "As a rule, entitlement to compensation is not established until the work is completed and delivered to the offeror. The following are the exceptions to the rule:

- a) Where it is evident that the work undertaken by the worker belongs to someone other than the offeror and has been decreed as such, the worker is entitled to the compensation.*
- b) Where an accident occurs during work undertaken by the worker causing loss in the value of the project that was not due to the tort or negligence of the worker, the worker is entitled to full compensation."*

8. **Clause 5/3/2/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is permissible to stipulate that all or part of the compensation be paid in advance at the conclusion of the contract or thereafter, even though this is before the completion of the entire work, however, it is considered on account basis and the worker is not entitled to it without the realisation of the result, the offeror having the right to reclaim it if the work is not realised."

9. **Clause 6/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "If the offeror prevents the worker from working after commencement of the work, the offeror is bound to pay prevailing market compensation (Ujrat al-Mithl)."

10. **Clause 6/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "If the contract is terminated due to a reason which is beyond control of the worker and the offeror has benefitted from the work, then the worker is entitled to the Ju'al up to the extent of which the offeror has benefitted."

11. **Clause 7/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "Entitlement to compensation depends on completion of work and delivery."

12. **Clause 7/5:** The following is added as a footnote to the clause:

This clause may be read as follows: "As a rule, Ju'alah is non-binding, while Ijarah is binding."

13. **Clause 8:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Applications of Ju'alah

Among the applications of Ju'alah in activities where the extent of work is not determinable and in which uncertainty is overlooked are:"

14. **Clause 8/1:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Exploration for minerals and extraction of water

Ju’alah contract may be used for the exploration for minerals and the extraction of water in situations where entitlement to wages is contingent upon the finding of minerals or water without reference to the amount of work or the extent of the period.”

AAOIFI SHARIAH STANDARD NO. 16 - COMMERCIAL PAPERS¹⁵

1. The word “Commercial papers” may be read as “Negotiable Instruments (Commercial Papers)” under the title and throughout the text of AAOIFI Shariah Standard No. 16.

2. **Clause 2/1:** The following are added as footnotes to the clause:

This clause may be read as follows: “Bill of exchange: A written, signed, and unconditional order from a person to another person to pay a certain sum of money at sight or at a particular or determinable date to a third person or to the order of that third person or to the bearer of that instrument.”

Following is added for clarity:

“Wherever the terms ‘cheque’, ‘bill of exchange’ and ‘promissory note’ appear in the standard, they will subject to the definition as per Negotiable Instruments Act 1881.”

3. **Clause 2/3:** The following is added as a footnote to the clause:

This clause may be read as follows: “Cheque: A certificate that is issued to a particular person, containing an order issued by a person (the drawer) to another person (bank-the drawee) to pay a certain sum of money to a third person (the beneficiary) at sight. In Shari’ah characterisation, it is considered a restricted Hawalah if the drawer is a creditor to the drawee. Otherwise, it is considered an unrestricted Hawalah with respect to the drawer.”

4. **Clause 3/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is permissible to undertake transactions in commercial papers of the three types (bill of exchange, promissory note and cheque) on the condition that it does not amount to the contravention of the Shari’ah, like Riba or delay that is prohibited by Shariah in accordance with the details provided in the following paragraphs.”

5. **Clause 3/3:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is permitted to use a cheque in the following types of transactions and situations:

3/3/1) A cheque, where the owner has a balance, when drawn by the client against the bank or by the bank against another bank or against itself or against one of its branches.

3/3/2) A cheque, where the owner has no balance, when drawn by the client against a bank or is drawn by the bank against another bank or against itself or against one of its branches (the so-called overdraft). From Shari’ah perspective, it is a loan (Qard) which is permissible if it is void of Riba.

3/3/3) A crossed cheque that binds the payee bank to fulfil its conditions.

3/3/4) An account payee cheque that binds payee bank to fulfil its conditions by crediting the amount of the cheque to the beneficiary’s account.

¹⁵ Adopted vide IFPD Circular No. 01 of 2024 dated January 22, 2024

3/3/5) Travellers' cheques. It is permissible for the institution issuing it to take commission in lieu of intermediation in such issuance or at the time of its payment provided this does not include Riba."

6. **Clause 5:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Collection of the Amount of Commercial Papers

The collection of the amount of commercial papers is considered an agency with the beneficiary appointing the institution as an agent to collect the value of the paper on his behalf. The institution is entitled to commission that is agreed upon between the beneficiary and the institution. In the absence of an agreement between them, the practice prevalent among institutions is to be acted upon."

7. **Clause 6/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is not permissible to discount commercial papers, but it is permitted to pay an amount that is less than the value of the paper to the first beneficiary (creditor) prior to the date of maturity."

8. **Clause 8/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "All parties whose signatures appear on the commercial paper including the drawer, the endorser and the guarantor are jointly responsible to pay to the holder the value of the paper in accordance with rules of liability, thus, the holder is entitled to have recourse to them severally or jointly after the refusal of the drawee (or the issuer in case of a promissory note) to pay."

AAOIFI SHARIAH STANDARD NO. 17 - INVESTMENT SUKUK¹⁶

1. "The word 'certificates' used in the Standard may be read interchangeably for 'Sukuk'.
2. **Clause 1:** The following clarification is added as footnote to the clause: "As the standard covers various types of Sukuk, in case of any query, the provisions/rulings of relevant mode may be referred. For example, in case of query on Ijarah Sukuk, the Shariah Standard on Ijarah may be referred. Further, AAOIFI Resolution on Sukuk issued in February 2008 which provides necessary explanation to the subject Standard is also adopted with this standard.
3. **Clause 2:** The following is added as footnote to the clause: The phrase 'undivided shares' appearing in the clause may be read as 'undivided share'.
4. **Clause 3/2/2:** The following is added as footnote to the clause which defines Ijarah Mowsoofa fi Zimmah certificates: 'The Ijarah Mowsoofa fi Zimmah' referred to in the clause means Ijarah of described but unidentified assets or services.'
5. **Clause 3/2/3:** The following footnote is added to the clause: "The phrase 'subscription income' used in the clause may be read as 'subscription revenue'."
6. **Clause 4/3:** The following is added as footnote to the clause: "The term 'Sharia-nominated' used in the clause may be read as 'Shariah-compliant'."
7. **Clause 4/4:** The following clarification is made with respect to the clause: "The clause may be read as 'The trading of investment Sukuk is subject to the terms that govern trading of the assets they represent.'"
8. **Clause 5/1/5/2 (c):** The following is added as footnote to the clause: "The holders of these Sukuk listed at a, b, and c of the clause are entitled to the revenue generated by onward sale of these services".
9. **Clause 5/1/5/10 & 5/1/5/11:** The following is added as footnote to the clause: "The phrase 'maintaining cost' in these clauses may be read as 'maintenance cost'.
10. **Clause 5/1/8/4:** The following is added as footnote to the clause: 'Islamic bank investing in such Sukuk shall put in place a mechanism to satisfy itself regarding the Shariah compliance of the Sukuk during its entire duration'.
11. **Clause 5/1/8/7:** The following is added as footnote to the clause: "The clause pertains to Sukuk based on Shirkatul Aqd and not on those based on Shirkatul Milk".
12. **Clause 5/2/2:** The following is added as footnote to the clause: "The impermissibility of undertaking by the issuer to purchase the sukuk at nominal value is not applicable on sukuk

¹⁶ Adopted vide IBD Circular No. 03 of 2013 dated July 15, 2013

based on 'Shariktul Milk' or 'Ijarah'. Further, the term 'negotiable sukuk' used in the clause may be read as 'tradable sukuk'.

13. **Clause 5/2/5:** The following is added as footnote to the clause: "This clause is applicable on sukuk issued on the basis of portfolio of already leased assets only."
14. **Clause 5/2/7:** The following is added as footnote to the clause: "In cases of sukuk based on sale-and- lease-back, the issuer shall not repurchase the leased asset from the sukuk holders before the completion of one calendar year."
15. **Clause 5/2/14:** The following is added as footnote to the clause: "However, trading of Salam sukuk is permissible only after taking delivery of the goods and before their onward sale."

AAOIFI SHARIAH STANDARD NO. 18 - POSSESSION (QABD)¹⁷

1. **Clause 3/6:** The following is added as footnote to the clause:

The term 'a tangible thing' should be read as 'an asset'.

2. **Clause 3/7:** The following is added as footnote to the clause:

This is not applicable for transactions where currency is involved.

3. **Clause 4/3:** The following are added as footnotes to the clause:

The clause 4/3 is restricted to the contract of Wadi'ah, which refers to a contractual arrangement in which one party places its asset with another party for safekeeping purpose.

The heading of the clause to be read as 'Expenses of possession in Wadi'ah' while the text of the clause should be read as: 'The expenses related to keeping of Wadi'ah or returning of it in the contract of Wadi'ah shall be borne by the owner of the Wadi'ah'.

4. **Clause 5/1:** The following is added as footnote to the clause:

Personal cheque means any instrument issued by the bank against which consideration is received.

5. **Clause 5/2:** The following is added as footnote to the clause:

The clause should be read as 'Payments through a credit card are deemed constructive possession of such payments'.

6. **Clause 5/3:** The following is added as footnote to the clause:

The clause should be read as follows: 'A deposit by or on behalf of a person (debtor/borrower) of an amount in a bank account of a creditor, upon his demand or with his consent, is deemed constructive possession irrespective of the deposit being by way of cash, by bank transfer or by cheque payable by drawee bank, and the depositor is absolved of liability when he is indebted to the extent of such amount'.

¹⁷ Adopted vide IBD Circular No. 01 of 2019 dated March 01, 2019

AAOIFI SHARIAH STANDARD NO. 19 - LOAN (QARD)¹⁸

1. **Clause 3/2:** The following is added as footnote to the clause:

The term 'legal capacity' may be read as 'legally capable'.

2. **Clause 3/3:** The following is added as footnote to the clause:

The term 'legal capacity' may be read as 'legally capable'.

3. **Clause 3/4:** The following is added as footnote to the clause:

The clause shall be read as follows: It is stipulated for the subject-matter of the contract shall be Maal-e-Mutaqawwam (valuable, and permissible from Shariah perspective) known, and fungible (mithli).

4. **Clause 3/4/2:** The following is added as footnote to the clause:

The word 'applicable' may be read as 'principal'.

5. **Clause 4/1:** The following is added as footnote to the clause:

The text "determining the period of delay for satisfaction or during the period of delay and, further, whether" may be read as "extending the repayment period or during the credit period, regardless". Accordingly the clause 4/1 will be read as, "The stipulation of an excess for the lender in loan is prohibited, and it amounts to Riba, whether the excess is in terms of quality or quantity or whether the excess is a tangible thing or a benefit, and whether the excess is stipulated at the time of the contract or while extending the repayment period or during the credit period, regardless the stipulation is in writing or is part of customary practice."

6. **Clause 4/2:** The following is added as footnote to the clause:

The text 'the satisfaction' and brackets around the word 'repayment' shall be omitted.

7. **Clause 5/2:** The following is added as footnote to the clause:

The word 'satisfaction' may be read as 'repayment'.

8. **Clause 6:** The following is added as footnote to the clause:

The text 'return its substitute (badal)' may be read as 'repay.'

9. **Clause 8:** The following are added as footnotes to the clause:

The word 'another' may be read as 'others'.

The term 'stratagem' may be added within brackets with term 'Hilah' to read as "(stratagem/Hilah)."

¹⁸ Adopted vide IBD Circular No. 01 of 2020 dated January 3, 2020

The text 'dealings among institutions' may be read as 'collusion with institutions'.

10. **Clause 9/1:** The following are added as footnotes to the clause:

The Islamic Banking Institutions shall refer to Shariah Governance Framework and amendments therein as notified by State Bank of Pakistan from time to time.

The text 'in consultation with the accounting department' shall be added after the text "...Shari'ah Supervisory Board of the institution in detail," to reflect the complete Arabic translation.

The accounting and relevant department(s) shall facilitate Shariah Board of the institution in validating the methods for determining the charges.

11. **Clause 10/1/1:** The following are added as footnotes to the clause:

The text 'and not deposits' shall be deleted.

The word 'reality' may be read as 'nature'.

12. **Clause 10/1/2:** The following is added as footnote to the clause:

The words 'demand wages' may be read as 'charge fee'.

13. **Clause 10/1/3:** The following are added as footnotes to the clause:

The text 'owners of the current accounts' may be read as 'current account holders'.

The text 'receiving the owners of some current accounts' may be read as 'some current account holders'.

This clause may be read with IBD Circular No. 1 of 2014 and any amendments therein as notified from time to time.

14. **Clause 10/2:** The following is added as footnote to the clause:

This clause may be read as follows: "It is not permitted to the institution to present to the current accounts holders, in lieu of only such accounts, tangible gifts, financial incentives, services or benefits that are not related to deposits and withdrawals. Among these are exemptions from charges in whole or in part, like exemption from credit card charges, lockers, transfer charges and letter of guarantee and letter of credit. The perquisites and incentives that are not specific to current accounts are not governed by this rule."

15. **Clause 10/3/2:** The following are added as footnotes to the clause:

This clause may be read as follows: "It is necessary that the charges imposed on credit cards for cash withdrawals from bank teller machines be a lump sum amount within the limits of reasonable charges (Ujrat ul Misl) that do not lead to making profit on qard. It is not permitted to link the charge to the amount withdrawn. It is not permitted for the institution to set slabs for withdrawals, as a device for obtaining repeated charges. (While determining the withdrawal charges) It is also not permissible to take into account the period of repayment of the amount withdrawn. Where there is a difference in currencies, the prevailing exchange rate shall be applied. See also item 4/5 of Shari'a Standard No. 2 pertaining to Credit and Charge cards."

The clause to be read with applicable Foreign Exchange Rules and Regulations/ Directions/ Instructions issued by State Bank of Pakistan from time to time.

AAOIFI SHARIAH STANDARD NO. 22 - CONCESSION CONTRACTS¹⁹

1. **Clause 5/2/5:** The following is added as a footnote to the clause:

This clause may be read as follows: "The State may offer exploration or utilization concessions directly, and without resorting to the above-mentioned procedures."

2. **Clause 5/2/6:** The following is added as a footnote to the clause:

This clause may be read as follows: "When the State requests a specialized body to conduct survey or exploration on its behalf, the contractual relationship becomes subject to the rulings of "Ijarah" or "Ju'alah". In this case Shari'ah Standard No. (9) on Ijarah and Ijarah Muntahia Bittamleek, as well as Shari'ah Standard No. (15) on Ju'alah, should be referred to."

3. **Clause 5/3:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Shari'ah perspective on utilization concession contracts

Utilization of minerals, water resources and the likes cannot take place without exploration, which entails an unknown amount of effort. Whereas the remuneration to which the holder of concession is entitled, is usually a well-defined amount or percentage share of the output. The Shari'ah classifies such contracts as a form of Ju'alah, where the State is the "Ja'il" (Ju'alah initiator), the licensee Institution is the "Amil" (hired party) and the specific amount to be received by the latter is the "Ju'l" (compensation amount). [see Shari'ah Standard No. (15) on Ju'alah]."

4. **Clause 5/7/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "In addition to its own share in the product according to the concession contract, the State has also the preemptory right of purchasing the quantities, it needs, from the output according to the prevailing prices and contractual terms."

5. **Clause 6/1/2:** The following is added as a footnote to the clause:

The heading may be read as "Forms of construction concession contracts:"

6. **Clause 6/1/2/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "When the licensee constructs the project according to certain specifications on a piece of land owned by the State, and the project and its usufructs become the property of the licensee and will use the usufruct for a specific period after which the ownership of the project (and its usufruct) goes to the state."

7. **Clause 6/2:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Shari'ah perspective on construction concession contracts:

¹⁹ Adopted vide IFPD Circular No. 01 of 2024 dated January 22, 2024

Construction concession contracts vary with regard to their Shari'ah perspective, according to the following:"

8. **Clause 6/2/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "If the commitment of the licensee includes construction works as well as provision of materials, which is the predominant case, the contract is that of "Istisna'a". The price of the contract is the right which enables the licensee to utilize the project for one's own benefit for a specific period before handing it over to the State."

9. **Clause 6/3:** The following is added as a footnote to the clause:

*The heading may be read as "**Shariah perspective of remuneration for construction concession contracts**"*

10. **Clause 6/3/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "If the price for the construction of a project is determined in terms of a certain amount of money, the licensee retains the custody of the project as security for his right to get the price from the consideration against utilization of the project. Besides, licensee has the right of arranging a set-off between the price and the consideration of utilization with the licensor. If the licensee receives the price before the end of the contract period, then he will hand over the project to the licensor. If the licensee does not receive the price during this period, then he has the right to hold the project as security until price is received."

11. **Clause 7/2:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Ijarah

Ijarah contract may be applied where the State gives the land on lease to the licensee for a rent payable as a predetermined share of the output. The licensee may give the land on lease to a third party to establish the project thereon (sub-contracting)."

12. **Clause 7/3:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Mudarabah

Mudarabah may be applied where the State provides the land to the licensee to utilize it on the basis of a predetermined rate of profit sharing. The Institutions may either implement the project directly or through second Mudarabah."

13. **Clause 8/1:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Ijarah

In this case, the licensee hires the land from the State with the aim of constructing the project thereon and renting back the project to the State based on Ijarah Muntahia Bittamleek. The

licensee may, use a sub-contract of operating Ijarah or Ijarah Muntahia Bittamleek, to rent out the land to another party to construct the project thereon."

14. **Clause 8/2:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Istisna'a

Istisna'a and Parallel Istisna'a contracts may be applied where the State is "al-Mustasni'" and the Institution becomes "al-Sani' (the licensee is a parallel Mustasni)" and the Istisna'a price is the income generated from the fee or rent collected from the public for provision of the services."

**AAOIFI SHARIAH STANDARD NO. 23 - AGENCY AND THE ACT OF AN UNCOMMISSIONED
AGENT (FODOOLI)²⁰**

1. The word 'uncommissioned' may be read as 'Self-imposed' in the title and throughout the text of AAOIFI Shariah Standard No. 23.

2. **Clause 1:** The following are added as footnotes to the clause:

The text 'concluding' shall be deleted in the first para.

The text 'personal affairs, penalty affairs' may be read as 'civil law, criminal law'.

Accordingly, the clause may be read as follows: "This Standard covers agency and the acts of self-imposed agent in the sphere of financial transactions for the purpose of concluding contracts such as sale, Ijara and settlement (Sulah), and performing acts and rendering services such as receipt, payment and taking & giving delivery.

The Standard is also applicable in areas such as fund management, real estate and investment agency. However, it does not cover agency and the act of self-imposed agent in the field of ibadat such as disbursement of Zakah for which there is a separate standard, civil law, criminal law, legal prosecution (advocacy), and documentary credits (which have also been dealt with in a separate standard)."

3. **Clause 2/1/1:** The following is added as footnote to the clause:

This clause may be read as follows: "Agency is the act of one party delegating the other to act on its behalf, with respect to matters which can be delegated and it (Agency) is permissible."

4. **Clause 2/1/2:** The following is added as footnote to the clause:

The text 'thereto' may be read as 'therefore both the principal and agent can revoke it unilaterally'.

5. **Clause 2/2/3/2:** The following are added as footnotes to the clause:

The word 'conditional' may be read as 'contingent'.

The word 'fulfilment' may be read as 'happening'.

The word 'condition' may be read as 'event'.

Accordingly, the clause may be read as follows: "Contingent Agency: where the validity of the contract is made subject to happening of a certain event, for instance when a debtor agrees to put his own earning assets under the management of his creditor in case of default."

6. **Clause 2/2/3/4:** The following is added as footnote to the clause:

The text 'Agency, whether free or limited, should be subject to specific conditions' may be read as 'Absolute Agency and Restricted Agency'. Accordingly the clause may be read as follows: "Absolute Agency and Restricted Agency: In case of absolute agency, consideration should be given to customary practices, interest and circumstances of the principal."

²⁰ Adopted vide IBD Circular No. 01 of 2020 dated January 3, 2020

7. **Clause 2/2/4:** The following is added as footnote to the clause:

This clause may be read as follows: "Just as the conclusion of the agency contract can be contingent or restricted, in the same way, the act which is the subject matter of agency can be contingent or restricted. In this case, though the agency contract is immediately effective, its exercise is subject to the fulfilment of a specific condition, such as resorting back to the principal before disposal. The conditions set by the principal should be observed such as offering him a guarantee or lien."

8. **Clause 3/3/1:** The following is added as footnote to the clause:

The text 'dispensed with' may be read as 'ignored'.

9. **Clause 3/3/2:** The following is added as footnote to the clause:

The text 'deposing' may be read as 'disposing'.

10. **Clause 3/3/3:** The following are added as footnotes to the clause:

The text 'can be disposed of through agency' may be read as 'accepts delegation'.

The word 'personally' may be read as 'himself'.

The second para is numbered as 3/3/4 and the text 'and borrowing' may be added at the end of the clause.

Accordingly, the clause(s) shall be read as:

"3/3/3 It should be something that accepts delegation. This includes all types of financial contracts and dealings that a person can perform for himself. Any contract that a person is permitted by Shari'a to be involved in personally can be performed through agency.

3/3/4 It should not involve a Shari'a-banned practice, like trading in impermissible commodities or committing usurious lending and borrowing."

11. **Clause 4/2/1:** The following is added as footnote to the clause:

The word 'doses' may be read as 'does'.

12. **Clause 4/2/3:** The following is added as footnote to the clause:

This clause may be read as follows: "The amount payable as remuneration for agency should be known, whether in lump sum or as a share of a specific amount. It may also be defined in terms of an amount to be known in the future, as when remuneration of the first period is known and linked to a benchmark that may be referred to at the beginning of subsequent periods. However, it is not permissible to leave remuneration for agency undetermined, for example allowing the agent to take an unspecified share from the entitlements of the principal."

13. **Clause 4/2/5:** The following is added as footnote to the clause:

The text 'the output' appearing at the end of the sentence may be read as 'it'.

Accordingly, the clause may be read as follows: "Remuneration for agency may be any gain in excess of a specific amount of output of the operation, or a share of it."

14. **Clause 4/2/7:** The following is added as footnote to the clause:

This clause may be read as follows: "When the agent, for no reasonable excuse, refrains from carrying on agency that he has been paid for, and the work he has done was beneficial, he becomes entitled to the remuneration, as per market rate, commensurate with the part of work done, and within the limits of the contract value for that part of work. The agent in this case is bound to indemnify the principal for any actual loss resulting from his refusal to continue the work.

On the contrary, when the principal, for no reasonable excuse, forces the agent to discontinue the work before the completion of the work or the end of the agency period, the agent becomes entitled to the full remuneration agreed upon. However, if the principal, for a valid reason, forces the agent to discontinue the work before the end of the contract, the agent becomes entitled to remuneration for that part of work he has already performed."

15. **Clause 4/3/1:** The following is added as footnote to the clause:

This clause may be read as follows: "When it involves rights of others, such as the mortgagor appoints the mortgagee or a third party to get possession of the mortgaged asset or sell it on maturity. Agency in these cases is binding to the mortgagor (the debtor). A further example of binding agency is a case when the owner of income-generating assets assigns an agent/ manager to collect his entitlements from the assets."

16. **Clause 4/3/3:** The following is added as footnote to the clause:

The word 'injury' appearing in the clause may be read as 'loss/damage'.

17. **Clause 4/4/1:** The following is added as footnote to the clause:

This clause may be read as follows: "In principle, agency has no time limit, because the agent can be terminated at any time. The two parties, however, may agree on a certain period after which the agency becomes invalid without a request from any of them to revoke the contract."

18. **Clause 5/1/1:** The following is added as footnote to the clause:

The last line of the clause may be replaced with the following text: "It is not allowed to stipulate these expenses on the agent or to defer their payment in case of paid agency."

Accordingly, the clause may be read as follows: "In contract of procurement agency, the price and other expenses should be borne by the principal. Besides the price of purchased commodity, the principal should reimburse the agent expenses such as those of transportation, storage, taxation, maintenance and insurance. It is not allowed to stipulate these expenses on the agent or to defer their payment in case of paid agency."

19. **Clause 5/2:** The following is added as footnote to the clause:

The word 'best' is added before the text 'interest of the principal' in the third line of the clause. Accordingly, the third line of the clause may be read as: "Breach of contract for this purpose does not include acts that serve the best interest of the principal, like selling at a higher or buying at a lower price."

20. **Clause 6:** The following is added as footnote to the clause:

The heading may be read as 'Rulings applicable to the Agent'.

21. **Clause 6/1/1:** The following is added as footnote to the clause:

This clause may be read as follows: "When an agent conducts deals with his ascendant or descendant relatives, who are not under his guardianship, or with the agent's spouse, the deal is permissible unless it encompasses undue benefits or favouritism. In case there is any undue benefits or favouritism then the agent may deal with them with the consent of the principal."

22. **Clause 6/1/2:** The following is added as footnote to the clause:

This clause may be read as follows: "An agent should not conduct deals with his own self or with his son/ daughter who is still under his guardianship, or with his partner (Shareek) in relation of the subject matter of the partnership (Sharika)."

23. **Clause 6/1/4:** The following are added as footnotes to the clause:

The word 'guarantee' may be read as 'liability'. The word 'stemming' may be read as 'arising'. Accordingly, the clause may be read as follows: "An agent may purchase what he has bought for the principal, by way of offer and acceptance. The deal should be concluded in such a way that the liabilities arising from the agency contract and the sale contract are kept separate. After the completion of the conclusion of the sale contract, the commodity becomes under the liability of the purchaser/agent (see Shari'a Standard No.8 on Murabaha - item 3/1/5)."

24. **Clause 6/2:** The following are added as footnotes to the clause:

The heading may be read as 'Consequences of the Contract and its Rights'. This clause may be read as follows: "Consequences of the contract relate with the principal, while rights arising from the contract relate with the agent. However, the principal, by virtue of ownership, may pursue the agent's activities and demand the rights of the contract. Donations if made by agent on behalf of principal, are exempted from the above principle as this should be assigned to the principal and all rights in connection with donations relate with the principal."

25. **Clause 6/3/1:** The following is added as footnote to the clause:

This clause may be read as follows: "When the agent breaches the contract in a way that does not serve the best interest of the principal, the contract will be contingent upon ratification of the contract by the principal, regardless of whether the breach of the contract relates to the subject matter or part thereof, or the price, or its term of being spot or deferred or acquiring of ownership (purchase) or transfer of ownership (sale) (see items 8 and 5/2)."

26. **Clause 6/3/2:** The following is added as footnote to the clause:

This clause may be read as follows: "When the agent for purchase breaches the contract by purchasing at a price that exceeds both the market price and the price set forth by the principal, he should compensate the principal for the difference between the purchase price and the market

price. Similarly, if the breach is by selling at less than the price specified by the principal, compensation should be for the difference between the selling price and the market price only, and he will not be responsible for compensating the difference between selling price and the price specified by the principal. Hence, the case here is similar to what happens in Mudaraba or investment agency whereby selling is stipulated to take place for a profit, not less than a specified ratio and hence, the agent (or the Mudarib) will not be held responsible for this ratio, but he will be held responsible for any amount less than the Market price."

27. **Clause 7/1/3:** The following are added as footnotes to the clause:

The word 'fixed' may be read as 'specific'.

Accordingly, the clause may be read as follows: "When the agent completes the work assigned to him in the specific task agency."

28. **Clause 7/1/4:** The following are added as footnotes to the clause:

In the second sentence, the word 'himself' may be added after the word 'work'.

Accordingly, the second sentence of the clause may be read as follows: "Agency also expires if the principal has performed the work himself, or the subject matter of agency no longer exists."

29. **Clause 8/1:** The following is added as footnote to the clause:

This clause may be read as follows: "A self-imposed agent (Fodooli) is a person who discharges the affairs of others without being an agent or having a right to do so by virtue of Shari'a, even if the affairs may not be essential or urgent in nature. The deal becomes subject to the rulings on the Fodooli, even when the Fodooli shows himself as the real owner."

30. **Clause 8/3:** The following is added as footnote to the clause:

This clause may be read as follows: "The rulings on the self-imposed agent are applicable to all financial contracts, including compensatory contracts like sale, purchase, rent, hiring contracts, and non-compensatory contract such as donations by way of gift. Similarly, these rulings are applicable in agency for investment contracts."

31. **Clause 8/4:** The following is added as footnote to the clause:

The word 'retroactively' may be read as 'retrospectively'.

AAOIFI SHARIAH STANDARD NO. 24 - SYNDICATED FINANCING²¹

1. **Clause 4:** The following are added as footnotes to the clause:

Clause 4/1 should be read as 'Sale through Musawama or Murabaha either deferred or on installments.'

Following is included to make the clause 4 consistent with Arabic text of AAOIFI Shariah Standards: 'Clause 4/6 Musharakah and Diminishing Musharakah.' Accordingly, serial number of existing Clauses 4/6 and 4/7 to be read as 4/7 and 4/8, respectively.

Following is added for clarity: 'Clause 4/9 Any other mode(s) approved by Shariah Advisory Committee of State Bank of Pakistan.'

2. **Clause 5/3:** The following is added as footnote to the clause:

The clause should be read with reference to IBD Circular No. 3 of 2007 and also a self-contained Shariah Standard No. 12 pertaining to 'Sharika (Musharaka) and Modern Corporations' notified vide IBD Circular No. 1 of 2013. Consequently, the conventional bank, not having duly licensed Islamic Banking Division shall not act as lead arranger in a syndicated Islamic financing; it may however participate in the syndicate as partner.

3. **Clause 6/1:** The following is added as footnote to the clause:

The term 'item 8/9' is deleted.

4. **Clause 6/2:** The following is added as footnote to the clause:

*Following is inserted as Clause 6/2 to make the Clause 6 consistent with Arabic text of AAOIFI Shariah Standard No 24 – Syndicated Financing, due to omission in English version: '6/2 Mudarabah executed with the permission to Mudarib to commingle his capital in the Mudarabah investment. [see Shari'ah Standard No. (13) on Mudarabah, item 8/9]'. Accordingly, serial number of **existing** clauses 6/2 (Musharakah), 6/3 (Paid agency) and 6/4 (Non-paid agency) will be changed to 6/3, 6/4 and 6/5, respectively.*

5. **Existing Clause 6/3 (Paid agency):** The following is added as footnote to the clause:

The clause should be read as follows: 'With the condition that the agency contract is independent and the work to be done should be clearly defined, along with estimation of the period of agency. The agent shall become entitled to remuneration whether profit is actually materialized or not. Furthermore, the agent may be given a bonus as a lump sum amount or a share of profits above ascertain limit without prejudicing the entitlement of the institution of its share in the profit, if any'.

6. **Existing Clause 6/4 (Non-paid agency):** The following is added as footnote to the clause:

²¹ Adopted vide IBD Circular No. 01 of 2019 dated March 01, 2019

The clause should be read as follows: 'The lead manager in this case undertakes to manage the operations for no reward, and the financing Institutions including the lead manager as per his ratio of investment, if any, share the profit'.

7. **Clause 7/1:** The following is added as footnote to the clause:

*The clause 7/1 may be read in consideration with **revised** clauses i.e. 6/4 (Paid agency) & 6/5 (Non-paid agency) along with changes.*

8. **Clause 7/2:** The following are added as footnotes to the clause:

The word 'Musharaka' is deleted.

The word 'Mudarabah' should be read as 'Murabahah'.

9. **Clause 10/2:** The following are added as footnotes to the clause:

The clause should be read as follows: '...if the physical assets, usufructs and financial rights of the company exceed its cash and debts. If the company's cash and debts are predominant, Shariah rulings on currency exchange and debt-related transactions should be referred to and applied'.

The term 'nominal value' should be read as 'face value' in the last sentence of Clause 10/2.

AAOIFI SHARIAH STANDARD NO. 25 - COMBINATION OF CONTRACTS²²

1. **Clause 1:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Scope of the Standard

This standard covers transactions that comprise two or more contracts in a single arrangement. The scope of the discussion in this respect covers the definition, forms, controls, characteristics, and concessions relating to the process of Combination of Contracts and explores the characteristics of Muwata`ah (prior arrangement/understanding) and the Shari’ah rulings pertaining thereto. The discussion also embarks on contemporary applications of combined contracts.”

2. **Clause 2/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is a process that takes place between two or more parties, which consists of two or more contracts.

The Combination of contracts has following four scenarios:”

3. **Clause 2/1/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “Combining more than one contracts while imposing some of them [i.e. contract(s)] as conditions in the others, without prior agreement to do so.”

4. **Clause 2/1/4:** The following is added as a footnote to the clause:

This clause may be read as follows: “Indecisiveness between the two contracts on the same subject matter without absolute confirmation of one contract during contract session.”

5. **Clause 2/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “Forms of combined contracts in one transaction”

6. **Clause 2/2/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “Combined contracts are sometimes executed against single consideration like a party may sell his piece of land to other and simultaneously rent a car to the same party for one month, both against one thousand dinars.”

7. **Clause 2/2/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “Sometimes the contracts are executed against two separate considerations. For instance, one party may sell his house to the other for one thousand dinars, and rent his car to the same party for one hundred dinars per month.”

8. **Clause 2/2/3:** The following is added as a footnote to the clause:

²² Adopted vide IBD Circular No. 01 of 2022 dated July 04, 2022

This clause may be read as follows: "Sometimes contracts may be stipulated as a condition in the other contracts. One party, for instance, may say to the other party that I sell you my house for ten thousand dinars, on condition that you rent the house to me for two years for one thousand dinars or on condition that you sell your car to me for two thousand dinars."

9. **Clause 2/2/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "Sometimes Combination of contracts are in contractual arrangements comprising a number of successive parts and stages, in conformity with the system that governs the contracts as a single transaction, targeting towards the achievement of a specific objective intended by the two parties. A good example in this regard may be seen in a number of present day financial transactions like Ijarah Muntahia Bittamleek, Murabaha to the Purchase Orderer, and Diminishing Musharakah."

10. **Clause 3:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Shari'ah Ruling of Combination of Contracts

It is permissible in Shari'ah to combine more than one contract in one arrangement, without imposing a contract as a condition in the other, and provided that each contract is permissible on its own. Combining contracts in this manner is acceptable unless there is a specific Shari'ah restriction in which case it would be prohibited as an exception."

11. **Clause 4/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "That it should not include the scenarios that are explicitly prohibited by Shari'ah like combining sale and lending in one contract."

12. **Clause 4/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "That it should not be used as a hilah (Stratagem) for Riba such as agreement between two parties to practice Bay' al-'Inah or Riba al-Fadl."

13. **Clause 4/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "That it should not be used as means for practicing Riba. For example, combining loan and commutative contract or giving loan to somebody on the condition that the debtor gives accommodation in his house or gives him a gift or pays him with excess in quantity or quality. [see Shari'ah Standard No. (19) on Loan (Qard) – item 4/1]"

14. **Clause 4/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "That it should not be between contradictory or conflicting contracts with regard to their underlying rulings and ultimate goals, like granting an asset to somebody as a gift and selling/leasing it to him simultaneously, or combining Mudarabah with lending the Mudarabah capital to the Mudarib, or bai'-sarf with Ju'alah, or Salam with Ju'alah for the same contract value, or leasing with selling (i.e. hire-purchase in its traditional form)."

15. **Clause 5/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "In principle, some basic conditions of the contracts may be overlooked when these contracts are implicit and ancillary, but not when these are concluded independently or standalone basis. Here, implicit contracts refer to contractual commitments that are implicitly embodied in the contract or those which succeed or precede the original contract in intention or achievement of the desired result. This may be decided in the light of traditions, practices and professionals' experience, subject to clearance by the Shari'ah Supervisory Board of the Institution. "

16. **Clause 5/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "Concessions granted to implicit and subsidiary contracts with respect to following five impermissible acts (defects):"

17. **Clause 5/2/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "Gharar, which affects financial commutative contracts, in implicit and subsidiary contracts."

18. **Clause 5/2/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "The Jahalah (ambiguity) which occurs in the subject matter on an ancillary basis in financial commutative contracts."

19. **Clause 5/2/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "Sale-based Riba and non fulfilment of conditions of Bai' Sarf. Like combining between Bai' Sarf and Hawala where absence of possession in Bai' Sarf may be allowed. "

20. **Clause 5/2/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "Bai al kaali bil kaali (Selling of an obligation/debt for another obligation/debt) when it occurs in the secondary context like purchasing the shares of an indebted company on credit."

21. **Clause 5/2/5:** The following is added as a footnote to the clause:

This clause may be read as follows: "Absence of some conditions of the validity at the time of need or outweighing preference like leaving offer and acceptance in implicit sale."

22. **Clause 6/1/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "Explicit or implicit collusion of the two parties to conceal their intention to practice a Riba based stratagem in the permissible (Shari'ah) contracts."

23. **Clause 6/1/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “An unrevealed prior agreement between the two parties to perform a Shari’ah-permissible act or deal for the sake of finding a way out acceptable to Shari’ah (acceptable stratagem- حيلة محمودة (Heela Mahmooda)).”

24. **Clause 6/1/3:** The following is added as footnote to the clause:

This clause may be read as follows: “Harmony between the intentions of parties at the stage of preliminary negotiations that precede the execution of the combined contracts as indicated in item (2/2/4) above.”

25. **Clause 6/2/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is an agreement between two parties to conclude contracts and to fulfill promises in the future.”

26. **Clause 6/2/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “When Muwata`ah is stipulated as part of the contract it becomes a condition precedent to the conclusion of the contract, and the contract becomes subject to the relevant Shari’ah rulings with regard to permissibility, validity and enforceability.”

27. **Clause 6/2/3:** The following is added as a footnote to the clause:

This clause may be read as follows: “Enforceability of Muwata`ah in Shari’ah is similar to enforceability of conditions precedent to the signing of contracts. A condition that precedes the signing of the contract has the same validity and binding nature of the normal conditions of the contract, as long as the former constitutes the basis of the contract that have been mutually agreed upon between the two parties.”

28. **Clause 6/3/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “Muwata`ah to form up Riba based stratagem, like in which the two parties agree to practice, Bay’ al-’Inah or its reverse, or Bay’ al-Wafa` (Bay’ al-Raja`), or stratagem to Riba al-Fadl, which is impermissible as it leads to the invalidity of the contracts.”

29. **Clause 6/3/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “Muwata`ah for Riba based means: like agreement to combine a loan with a commutative contract or where the borrower will present a gift or make excess repayment (on the borrowed amount) in terms of quantity or quality to the lender.”

30. **Clause 6/3/2/1:** The following is added as a footnote to the clause:

*This clause may be read as follows: “Muwata`ah will make such means impermissible which are allowed in principle, subject to following two conditions:
First, as a common customary practice, the use of a permissible act leads to concluding a prohibited deal, and the accusation of the intention of the impermissibility is strong and apparent.
Second, that there is no obvious need or preferred/outweighing interest that justifies resorting to such an act.”*

31. **Clause 6/3/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "Muwata`ah on Shari'ah way-outs is permissible and it refers to acceptable stratagems that do not violate Shari'ah rules, and do not contradict with Shari'ah objectives, and do not lead to absolute or major violation."

32. **Clause 6/3/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "Muwata`ah for combining contracts that contradict to or oppose each other, is prohibited based on the impermissibility of the combination of two or more contracts within which there is contradiction or conflict or repulsion in the implications and consequences because they are means of it. [see item 4/4]"

33. **Clause 7/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "One of the most distinguishable forms of contemporary financial transactions is the contractual arrangements which comprise a number of contracts and promises that the parties agree beforehand to execute in a specific manner and according to agreed number of successive stages. Such arrangements aim to achieve a given purpose or interest of the parties to the contract such as performing Murabaha to the Purchase Orderer, Ijarah Muntahia Bittamleek, or Diminishing Musharakah."

34. **Clause 7/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "The promises contained in such combined sets of contracts are binding on the respective parties."

35. **Clause 7/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "The contractual arrangements in their formation, rulings, requirements and condition come under the general rules of Shari'ah about the contracts. In this regard, the contractual arrangements will stay as fresh and independent contracts and they will be considered as valid, binding, obligatory as long as they are not against the Shari'ah acceptable rule. [see item 5/2]"

36. **Clause 7/5:** The following is added as footnote to the clause:

This clause may be read as follows: "The contractual arrangements should also observe the Shari'ah rulings pertaining to combination of contracts. [see clause 4]"

37. **Clause 7/6:** The following clauses is inserted as a footnote:

This clause may be read as follows: "It is permissible to avail the Shariah concessions upon the contractual arrangements when these are present in the distinct and independent contracts. [See clause 5]"

38. **Clause 7/7:** The following is added as footnote to the clause:

This clause may be read as follows: "Failure of any of the parties to combined contracts to honor its contractual commitments gives the aggrieved party right of claiming indemnity for the actual damage."

AAOIFI SHARIAH STANDARD NO. 28 - BANKING SERVICES IN ISLAMIC BANKS²³

1. **Clause 1:** The following are added as footnotes to the clause:

The term 'lending and borrowing' may be read as 'any debt based transactions'.

The second sentence of the clause may be read as follows: "It does not cover loan and investment services, or other banking services for which separate Shari'ah standards have already been issued, such as trading in currencies, debit and credit cards, investment accounts, remunerative and non-remunerative accounts, profit distribution and investment Sukuk."

2. **Clause 2/1:** The following is added as footnote to the clause:

This clause may be read as follows: "Institutions may receive Shari'ah permissible documents and financial papers from their customers as a custodian of such documents and financial papers on trust basis, and will be liable to return them the same on their demand, and may charge fees for such custodial services."

3. **Clause 2/3/1:** The following is added as footnote to the clause:

The term 'Shariah accepted' may be read as 'Shariah compliant'.

4. **Clause 2/6/2:** The following are added as footnotes to the clause:

This clause may be read with IBD Circular No. 1 of 2014 and any amendments therein as notified from time to time.

The text 'owners of its investment or current accounts' may be read as 'investment or current account holders'.

5. **Clause 2/7:** The following is added as footnote to the clause:

The heading 'Services of safe deposit vaults' may be read as 'Locker Services'.

6. **Clause 2/7/1:** The following is added as footnote to the clause:

This clause may be read as follows: "The institution may provide locker services (based on Ijarah) to its customers. This is done through signing a contract according to which the Institution allocates a locker within its premises for the customer to use against a specific fee. The deal here is based on Ijarah contract that entitles the customer to the locker's usufruct."

²³ Adopted vide IBD Circular No. 01 of 2020 dated January 3, 2020

AAOIFI SHARIAH STANDARD NO. 34 - HIRING OF PERSONS²⁴

1. “The word ‘person’ may be read with ‘institution’ i.e., ‘institution/person’, throughout the text of AAOIFI Shariah Standard No. 34. Further, the term ‘pay’ also includes ‘consideration against services’.”

2. **Clause 1:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Scope of the Standard

This standard covers hiring of the service/work of persons between the institution and other institutions or individuals. The standard covers the cases when the institution is the employee or the employer. However, the standard does not cover other contracts such as Mudarabah, investment agency, Musaqat, Muzara’ah, Mugharasah, and Istisna’a.”

3. **Clause 2:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Definition of the Term “Hiring of Persons”

It refers to the contract through which a service/work of a natural or a legal person is obtained against a specific amount. The service thus obtained could be specific or described as an obligation, such as educational, health and consultancy services.”

4. **Clause 3:** The following is added as a footnote to the clause:

The heading may be read as **“Promise to Hire a Service”**

5. **Clause 3/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “The institution has the right to ask the client who promises to hire its services to pay a specific amount to be retained by the institution as a guarantee for the seriousness of the client in executing his promise and honoring any commitments that may result from it. In case of back out by the client, then the deduction from this Hamish Jiddiyyah (security deposit) should not exceed the actual damage caused to the institution. The said amount can either be kept as a deposit with the institution without being disposed of, or invested on behalf of the client through Islamic Mudarabah or investment agency, or frozen in an existing current account owned by the client and guaranteed by the institution. The institution and the client may also agree at the time of signing the contract to consider the Hamish Jiddiyyah (security deposit) as a prepaid Ijarah installment. [see Shari’ah Standard No. (9) on Ijarah and Ijarah Muntahia Bittamleek, item 2/3]”

6. **Clause 4/3:** The following is added as a footnote to the clause:

This clause may be read as follows: “A private employee, who works for and under the supervision of a single employer, has no right to work, at the same time, for anyone else, except with the

²⁴ Adopted vide IFPD Circular No. 02 of 2024 dated June 12, 2024

permission of his employer. A shared employee, who works for more than one person and who is not restricted to work for a specific person at a specific time and he has the right to work for whoever he wants.”

7. **Clause 4/4:** The following is added as a footnote to the clause:

This clause may be read as follows: “The services are ascertained in case of private employee by stipulating the hiring period and the type of work he is supposed to do in general, while in case of shared employee, services are ascertained by stipulating the work, its type, and specifications. The specific period within which the work has to be done could also be added, and in that case the employee has to do the work within that specific period. When no specific period for doing the work is referred to in the contract, resort should be to the normal practice.”

8. **Clause 4/5:** The following is added as a footnote to the clause:

This clause may be read as follows: “A private employee is not responsible for damage, unless it is due to transgression, negligence, or breach of a stipulated condition on his part.”

9. **Clause 4/6:** The following is added as a footnote to the clause:

This clause may be read as follows: “A shared employee is absolutely responsible for damage, unless it is caused by a factor which is so common that it is inevitable. This, however, does not hold true in the case of an investment agent who is permitted to utilize the money, as he is not responsible under the requirements of Agency, except in case of transgression or negligence. Unlike the shared employee who is responsible to take care of what he has been hired to work on.”

10. **Clause 4/7:** The following is added as a footnote to the clause:

This clause may be read as follows: “The contract for hiring of persons is a binding contract, which neither of the two parties can terminate or amend without the consent of the other, except in case of breach of contract, or due to an emergent excuse, or because of inevitable circumstances.”

11. **Clause 4/8:** The following is added as a footnote to the clause:

This clause may be read as follows: “For a private employee, the commencement of the hiring period should be specified. The hiring period should start at the time of signing the contract, except when the two parties agree on a specific date for its beginning. Hiring in the latter case is known as (الإجارة المضافة) i.e., hiring that has to be commenced in the future.”

12. **Clause 4/9:** The following is added as a footnote to the clause:

This clause may be read as follows: “When a private employee fails to report to work on the date specified in the hiring contract he shall be entitled to no pay for the period between the specified and actual dates of work commencement, the pay for the absence period should be deducted from his total pay. The employer in this case shall have the right to terminate the contract, unless the two parties agree on a compensatory period at the end of the contract period.”

13. **Clause 4/10:** The following is added as a footnote to the clause:

This clause may be read as follows: "For a shared employee, a certain period for performing the work may be specified. When the shared employee fails to do the work during that period, the employer has the right to terminate the contract, or a new period can be agreed upon with mutual consent."

14. **Clause 4/11:** The following is added as a footnote to the clause:

This clause may be read as follows: "There is no Shari'ah prohibition for any of the two types of employees (private and shared) to receive 'Arboun (Earnest Money) at the time of signing the contract. If the hiring contract is implemented, the amount of earnest money should become a prepaid part of the employee's pay, otherwise the earnest money should go to the employee. However, when the contract is not executed the employee is preferably supposed to take from such earnest money only the portion which compensates the actual damage caused to him."

15. **Clause 5/1/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "The service/work of the employee which constitutes subject matter of the contract should be well known, accomplishable and permissible in Shari'ah."

16. **Clause 5/1/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is permissible to determine service in terms of a specific work to be done or a specific period of service, or in terms of both. If the employee is able to do all the work within the specified period, he becomes entitled to the whole pay. If he is able to do only part of it during the period, his entitlement to the pay will depend on two probable outcomes. If the part of the work he has accomplished during the period is in fact useless and cannot be beneficial, the employee shall not become entitled to any pay. If the accomplished part of the work is useful and can be benefited from, and the employer is unwilling to extend the period, the employee shall become entitled to the amount normally paid for similar work (Ajr al-Mithl)."

17. **Clause 5/1/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "When a person is hired for doing a specific service/work, the employer has no right to hire out the service/work of such person to a sub-employer, unless the contract permits subhiring, or this has been agreed upon by the two parties. If the hired service/work is described as an obligation, the employer in this case has the right to hire someone else an identical service/work (Parallel hiring). [see Shari'ah Standard No. (17) on Investment Sukuk, item 5/2/10]."

18. **Clause 5/1/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "The employer should restrict to appropriate utilization of the subject matter as per the permissible conditions that have been agreed upon."

19. **Clause 5/1/5:** The following is added as a footnote to the clause:

This clause may be read as follows: "When the hiring contract relates to a specific service, the employee (the institution) should own the service and have the ability to deliver it in actual or

constructive manner. Hence, it is impermissible for the institution to sign a contract with the client before it possesses the services and is in a position to deliver the same.”

20. Clause 5/1/6: The following is added as a footnote to the clause:

This clause may be read as follows: “Hiring can be for performing a service that is well described as an obligation to the extent which leaves no room for an ambiguity leading to a dispute. In that case the employee does not have to own the required service. Consequently, an agreement may be reached for performing the described service at a specific time in the future, with due consideration to the ability of the employee to own the service and become able to deliver it on time, by himself or through someone else. In this case, the pay for the service should not necessarily be made in advance, unless the contract is executed by the word of a Salam or Salaf. If the employee happens to deliver a service that does not conform to what has been agreed upon, the employer has the right to reject it and insist on having a service conforming to agreed upon specifications.”

21. Clause 5/2/3: The following is added as a footnote to the clause:

This clause may be read as follows: “The pay becomes obligatory when the two parties sign the contract, and payable on delivery of the service/work or making it available when the employee puts himself at the disposal of the employer even if the employer has not yet assigned a task to him. After signing the contract, there is no Shari’ah prohibition against advancing the pay as a lump sum amount, or in installments as per agreement.”

22. Clause 5/2/4: The following is added as a footnote to the clause:

This clause may be read as follows: “The pay can be variable, yet the amount of pay for the first period should be known. Following the first period, it is permissible to use an accurate benchmark for predetermination of the pay for the successive periods. However, such benchmark should be known to both parties and mutually agreed upon, for avoidance of dispute. This benchmark will be used for the determination of pay for the period, and it should have an upper and a lower limit.”

23. Clause 5/2/8: The following is added as a footnote to the clause:

This clause may be read as follows: “It is impermissible to make a condition which leads to any increment in the pay that has become liability (payable debt) of the employer, in case of default by the employer. Nevertheless, the contract may include a promise by the employer to donate, in case of default, a certain amount, or a percentage of the pay, for charitable purposes. Such donation should entirely go to charitable purposes, under the supervision of the Shari’ah Board of the institution.”

24. Clause 5/2/9: The following is added as a footnote to the clause:

This clause may be read as follows: “It is permissible to agree upon more than one rate of pay; if the work is done within a certain period the pay will be this much, and if it is done in another (longer) period the pay will decrease to that much. Similarly, two different rates of pay can also be linked to two different places, types, or specializations, of the work to be done.”

25. **Clause 6/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "The employee has the right to obtain the permissible guarantees in different forms so as to ensure that he receives the pay. Likewise, the employer has also the right to obtain such guarantees for receiving indemnity in case of any transgression or negligence or breach of the contract in the part of the employee, such as collateralization (Rahn), suretyship (Kafalah) transfer of right (Hawalat al-Haqq) and set-off (Maqassah). [see Shari'ah Standard No. (5) on Guarantees, item 2/3]"

26. **Clause 6/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is permissible to state in the contract that the pay has to be made in advance, deferred, or in installments. In case of premature termination of a contract in which the pay has already been made in advance, the two parties should resort to settlement. When the employee accepts any period of delay for a pay that has to be settled in advance, such acceptance should be considered as a respite which the employee has willingly granted to the employer, and hence it can by no means be considered as a right of the employer. Due attention shall be given here to item 5/2/2."

27. **Clause 7/1/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "The private employee has to render his services to the employer and observe the period of hiring during which he should not be absent, except with the permission of the employer, or to perform identified need. The shared employee has to perform the work as agreed upon, and within the stipulated period, if any."

28. **Clause 7/1/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "In principle, the employee is supposed to do the work by himself since he has been hired to perform a specific work required from him, unless the contract stipulates otherwise. This, however, does not hold true in case of hiring someone to do a service/work that has been described as an obligation. In this latter case, what needs to be catered for is observation of all the specifications mentioned in the contract."

29. **Clause 7/1/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "In hiring of persons, it is permissible to stipulate a penalty code indicating a specific amount which the employee should pay to the employer in case of delay in performing the work/service within the specified period. The amount to be thus paid has to be determined keeping in view normal practice as well as justice."

30. **Clause 7/2/1(a):** The following is added as a footnote to the clause:

This clause may be read as follows: "Payment of the pay in advance, on deferred payment basis, or in installments as agreed upon. In the absence of agreement on a specific form of payment, the due pay should be paid after rendering the complete service and enabling the employer to utilize the work/services done, or on expiry of the hiring period in case of private employment. When a

due pay is delayed by the employer in spite of notification the employee has the right to stop work or prevent the employer from utilizing the service that has already been done.”

31. **Clause 7/2/1(b):** The following is added as a footnote to the clause:

This clause may be read as follows: “Provision of facilities/requirements to the employee, if the work to be done so requires, or when provision of such facilities/requirements are conditional on the employee. In this case, employee is responsible to fulfill conditions stipulated in the contract.”

32. **Clause 8/1/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “When the employee refrains from delivery of the service as required, and fails to present the suitable alternative as agreed upon, the employer has the right to terminate the contract and demand indemnification for the actual damages caused to him due to this inability.”

33. **Clause 8/2/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “If specific service/work becomes completely useless, the contract becomes null and void; whereas when it is partially useless the employer has the right to terminate the contract. If, instead, the service/work that has become useless pertains to hiring described as an obligation, the contract shall remain valid, and the employee, in this case, has to deliver a similar service.”

34. **Clause 8/2/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “The hiring contract can be terminated with the consent of the two parties, yet none of them has the independent right to terminate the same, except for a contingent excuse or force majeure situation. The employer has the right to terminate the contract on the existence of such a defect, which brings hindrance in taking benefit from the service. The contract can also be terminated on the basis of a Cooling-Off Option (Khiyar al-Shart), by the party who has stipulated such option, and within its specified period.”

35. **Clause 8/2/4:** The following is added as a footnote to the clause:

This clause may be read as follows: “With the consent of the two parties, the hiring contract can be terminated before its effectiveness.”

36. **Clause 8/2/6:** The following is added as a footnote to the clause:

This clause may be read as follows: “The hiring contract can be renewed for another period, whether renewal is to be declared before expiry of the original contract, or to take place spontaneously. For spontaneous renewal, a condition is to be stated in the contract indicating that the contract shall automatically be renewed on the commencement of a new period, if none of the two parties notifies the other about his disinterest in renewal.”

**AAOIFI SHARIAH STANDARD NO. 36 - IMPACT OF CONTINGENT INCIDENTS ON
COMMITMENTS²⁵**

1. **Clause 2:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Definition of Contingent Incidents

Contingent incidents in this standard refer to those incidents which occur suddenly and cause influence on transactions or commitments arising from those transactions after their valid occurrence. Therefore, contingent incidents are different from defects of will, which exist since the time of signing the contract, although their impact occurs later on. Contingent incidents are also different from termination of commitments on mutual consent of the two parties or as per the desire of any of them; when a party is entitled to such right by virtue of the nature of the contract or due to the condition stipulated in the contract.”

2. **Clause 3:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Types of Contingent Incidents

From the standpoint of its influence, a contingent incident can be either of the type that necessitates amendments in the commitments, or the type which constitutes an external reason for termination of the contract.”

3. **Clause 4:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Contingencies Leading to Amendment of the Commitments

The impact of such contingencies is confined to necessitating amendments in the commitment rather than leading to its complete termination. Practical examples of such contingencies include the following among others:”

4. **Clause 4/3:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Prevention of importation of the goods to be delivered in fulfillment of a contract such as Murabahah or Ijarah contract. The actual harm caused to the client or the Institution can, in this case, be removed by resort to reconciliation, arbitration or legal recourse.”

5. **Clause 5:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Contingencies that terminate commitments due to external reasons:

This type of contingencies leads to termination of commitments without intervention of any of the two parties. Bearing of the consequences in this case is to be assigned to whoever is responsible in the absence of commitments, such as when an owner has to bear the consequences relating to what he owns. Examples of such contingencies include, among others:”

6. **Clause 5/1:** The following is added as a footnote to the clause:

²⁵ Adopted vide IFPD Circular No. 06 of 2024 dated October 29, 2024

This clause may be read as follows:

“When implementation becomes impossible or useless

When the implementation of commitment becomes impossible or useless; such as the commitment to supply the requirements of a conference could not be fulfilled before holding of the conference. In such case the commitment shall become null and void if:”

7. **Clause 5/1/2:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Failure to honor the commitment originates from the circumstances other than personal reasons.”

8. **Clause 5/1/3:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Failure to honor the commitment is caused by third party other than the committed party.”

9. **Clause 5/2:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Total or partial damage of the subject matter of commitment

If the subject matter of commitment is damaged before being delivered to the committing party, the loss should be borne by the committed party. Similarly, when the subject matter is completely damaged due to an act of the committing party, that party should bear the loss. In case of partial damage of the subject matter of commitment in the possession of committed party before actual or constructive delivery, or the damage is caused by a heavenly factor (Sabab Samawi) which the committed party can by no means avoid, the committing party should have the right of option.”

10. **Clause 5/3:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Entitlement to the subject matter of commitment

If the subject matter of commitment turned out to be owned by someone else other than the party who committed the delivery or has a right of use, the consideration (of the subject matter of the commitment) must be returned to the party from which the subject matter of the commitment has been taken. If the subject matter of commitment is partly owned by someone else, the commitment in that part becomes null and void, and the committing party shall have the right of option with regard to the remaining part of the subject matter; the committing party may choose to accept the remaining part against the corresponding consideration or he may terminate the contract due to fragmentation of the contract.”

11. **Clause 5/4:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Termination due to excuses

When the emergence of an incidental excuse in Ijarah leads to abnormal harm, the harmed party has the right to terminate the contract. The party who encounters the incident may also terminate the contract if his excuse is obvious. If acceptability of the excuse is doubtful the issue may be resolved by mutual agreement, or resort to law in case of dispute. [see Shari’ah Standard No. (9) on Ijarah or Ijarah Muntahiah Bittamleek; and Shari’ah Standard No. (34) on Hiring of Persons]”

12. **Clause 5/5:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Jawa`ih (calamities)

The term Jawa`ih refers to any incident (other than human acts) which cannot be avoided even if known. The effects of such incidents are – originally - noticeable in selling of fruits and other agricultural products, where the occurrence of an incident of this type leads to reduction in the price in proportion to the damage in the product. An example of this can also be seen in the “Ijarah Muntahia Bittamleek Contract”. In this case the amount of rent in excess of the normal rent of similar property is reduced when ownership cannot be transferred to the lessee for a reason which cannot be attributed to the lessee. [see Shari’ah Standard No. (9) on Ijarah or Ijarah Muntahia Bittamleek, item 8/8]”

AAOIFI SHARIAH STANDARD NO. 37 - CREDIT AGREEMENT²⁶

1. **Clause 2:** The following is added as a footnote to the clause:
This heading may be read as follows:
“Objectives of Credit Facilities”
2. **Clause 2/1:** The following is added as a footnote to the clause:
This clause may be read as follows:
“The term credit refers to the financial transaction according to which one of the two or more parties becomes indebted to the other. Indebtedness in such transactions can arise at the beginning of the transaction, and this is known as direct cash credit such as loans and discounting of commercial papers by conventional financial institutions. Instead, indebtedness could be probable at the end of the transaction, and that is incidental credit, such as bank suretyship, letters of guarantee, bills of acceptance, and letters of documentary credit. The term “credit facilities” is used to denote credit in both of its types i.e., cash and incidental credit. The concepts of credit and credit facilities are more comprehensive than the concept of financing which relates to the case of actual deferment of one of the two transacted objects.”
3. **Clause 2/1:** The following is added as a footnote to the clause:
Following is added for clarity: “The term ‘Credit facilities’ also include Islamic Financing facilities”
4. **Clause 2/2/1:** The following is added as a footnote to the clause:
This clause may be read as follows:
“Cash facilities: This type includes the transactions in which the Institution presents funds for the execution of transactions, whether in the form of cash - as is the case in Qard Hasan (benevolent loan), Musharakah and Mudarabah; or in the form of an asset (tangible assets or usufruct) - as is the case in Murabahah and lease financing. It should be noticed here that Musharakah and Mudarabah do not result in a debt owed by the client except in case of transgression or negligence.”
5. **Clause 2/3:** The following is added as a footnote to the clause:
This clause may be read as follows:
“Transactions that entail instant delivery of the transacted objects (counter values) are not considered as part of credit facilities.”
6. **Clause 2/4:** The following is added as a footnote to the clause:
This clause may be read as follows:
“The decision of granting credit facilities:
It refers to the approval of the Institution to enter into a credit facility with a specific client. The approved facility will be subject to a specific financial limit that can be used during a specific period of validity and subject to a certain date of maturity. The credit facility would also comprise specific conditions relating to guarantees, method of repayment and regulatory requirements. The

²⁶ Adopted vide IFPD Circular No. 06 of 2024 dated October 29, 2024

decision of granting the facility is usually issued in the form of a letter addressed from the Institution to the client, indicating that the letter does not constitute any commitment from the part of the Institution unless transactions are actually commenced. In some banking practices, it is endorsed/confirmed through credit facility agreements. An example of granting facilities is approval of renewal, or extension of the period of already approved facilities."

7. **Clause 2/5:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Using Credit Facilities

It refers to commencement of the client to utilize the facility such as by submitting a request for a letter of guarantee, or a letter of credit, or the customer presenting a request of offer, or making a promise to purchase a commodity, or hiring an asset through the Institution."

8. **Clause 3/1:** The following is added as a footnote to the clause:

This heading may be read as follows:

"Types of conventional credit facilities used by banks:"

9. **Clause 3/1/1:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Loans

Loans refer to facilities payable on a specific date agreed upon between the conventional financial Institution and the client. Loans can be extended directly to the client, or through participation with other conventional financial Institutions, or through acquisition of bonds issued by the client."

10. **Clause 3/1/2:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Overdraft

Overdraft is a facility which the conventional financial institution puts at the disposal of the client to draw from it on need, up to a specific limit and within a given period."

11. **Clause 3/1/3:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Discounted papers

Discounted papers comprise of commercial papers and bonds to order discounted in the conventional financial institution."

12. **Clause 3/1/4:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Issued credit cards

In this conventional form of credit facility, the indebtedness which can arise from using the credit card is determined for each client within a certain limit, and he can repay it in installments along with the interest."

13. **Clause 3/1/5:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Documentary credits

Documentary credits are among the facilities which conventional financial Institutions extend to their clients. In this case the Institution assumes the commitment to pay to beneficiaries the value of the credits opened for its client, whether the value of such credits is due on sight of the documents or on a date thereafter (at the maturity of Usance LC).”

14. **Clause 3/1/6:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Bank acceptances

This type of facilities which conventional financial Institutions offer to their clients entails a commitment from the Institution, on behalf of a client or for its own behalf, to pay to beneficiaries the value of the accepted papers when they are due.”

15. **Clause 3/1/7:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Bank guarantees

Conventional financial Institutions offer this type of facility to their clients. In such facility the bank, upon request of its client, undertakes to pay to a third party the amounts indicated in the guarantees, on request and within a specific period.”

16. **Clause 3/1/8:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Foreign exchange operations

Foreign exchange operations constitute a conventional facility offered to clients in deferred contracts of buying and selling foreign currency.”

17. **Clause 3/2/1:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Murabahah and Musawamah

Murabahah and Musawamah are two types of sale transactions which constitute methods of financing used by Islamic financial institutions to cater for client needs for owning moveable as well as immovable assets. Contrary to Musawamah, in Murabahah the cost incurred by the Institution for obtaining the goods must be indicated. [see Shari'ah Standard No. (8) on Murabahah]”

18. **Clause 3/2/2:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Mudarabah

Mudarabah is a method of financing which institutions use for financing various economic activities. According to this method the institution enters the deal as the partner who subscribes the funds (Rab al-Mal) while the other partner (Mudarib) subscribes the work and performs the managerial duties. The determined profit will be distributed according to the ratios agreed in the contract while the entire loss has to be borne by Rab al-Mal, unless it is due to transgression or negligence of the Mudarib. [see Shari'ah Standard No. (21) on Financial Papers: Shares and Bonds]”

19. **Clause 3/2/4:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Operating and finance lease (Ijarah)

It is a method used for financing clients' needs for usufructs and assets. According to this method the institution purchases the assets and rents them to clients for specific periods, against periodical amounts of rent stipulated in the contract. [see Shari'ah Standard No. (9) on Ijarah and Ijarah Muntahia Bittamleek]”

20. **Clause 3/2/6:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Salam

Salam is a method of financing which institutions use for extending finance to owners of farms and merchants who want to spend on their business as well as on their personal needs. Under this mode of financing the Institution has the right to arrange parallel Salam with another party.”

21. **Clause 3/2/7:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Other financing operations

Finance can also be extended to clients through other financing operations which include among others: Qard Hasan, customer overdraft balances, letters of guarantee, letters of credit etc.”

22. **Clause 5/1:** The following is added as a footnote to the clause:

This clause may be read as follows:

“It is impermissible to use any of the conventional facilities mentioned in item 3/1 if it involves interest or would lead to an interest-bearing loan as is the case in guarantees and uncovered credits, or it would result in deferment of one of the two or both transacted objects, as is the case of currency exchange contracts. [see Shari'ah Standard No. (14) on Documentary Credit; Shari'ah Standard No. (2) on Debit, Charge and Credit Cards; and Shari'ah Standard No. (1) on Trading in Currencies]”

23. **Clause 5/2:** The following is added as a footnote to the clause:

This clause may be read as follows:

“The institution is not committed to pay any compensation to the client on rejection of his application to utilize the approved facilities, whereas the client is free to use or not to use the facilities within the specified period. When the client refrains from using the facilities, he is not committed to pay any compensation to the Institution.”

24. **Clause 5/3/1/2:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Commission for offering credit facilities

This commission refers to the amount which the Institution charges against allocating and specifying the limit of the facility. The institution usually charges such commission whether the deal is finalized or not. However, it is impermissible for the Institution to obtain commission for offering credit facilities, because the mere indication of willingness to enter into a financing

transaction does not justify remuneration. [see item 2/4/2 of Shari'ah Standard No. (8) on Murabahah]"

25. **Clause 5/3/1/3:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Commission for renewal or extension of credit facilities

Commission for renewal or extension of credit facilities will have the same ruling as that of commission for offering credit facilities. [see item 5/3/1/2 above and Shari'ah Standard No. (8) on Murabahah]"

26. **Clause 5/3/1/4/1:** The following is added as a footnote to the clause:

This clause may be read as follows:

"The cost of preparing the contracts to be signed between the Institution and the client should be shared between the two parties unless the contract indicates that the cost is to be borne by one of the parties. Such cost should be fair and commensurate with the actual workload so as not to comprise an implicit fee for commitment or for offering the credit facility."

27. **Clause 5/3/1/6:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Hamish Jiddiyyah (security deposit)

The institution may charge the Hamish Jiddiyyah (security deposit) which refers to an amount paid as a token of seriousness forwarded by the client at the stage of offering his binding promise in Murabahah. In case of refusal to enter into the contract by the client, the amount of actual harm caused to the institution shall be deducted from the security deposit. [see item 7/8/2 of Shari'ah Standard No. (5) on Guarantees]"

28. **Clause 5/3/2:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Second type: Commissions and considerations which arise on signing of the financial contract."

29. **Clause 5/3/2/1:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Commitment fee

The institution should not charge the commitment fee which relates specially to conventional facilities of interest-bearing loans, whether in the case of direct loans or the indebted current (overdraft) loans. Such fee is charged to the client even if he has not used the facility; is also known as the "loan fee", or the "indebted current facility fee", or the "financing fee". [see item 2/4/1 of Shari'ah Standard No. (8) on Murabahah]"

30. **Clause 5/3/2/3:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Guarantee return

The institution should not obtain any considerations on the guarantee relating to documentary credits, letters of guarantee, and bank suretyship, except actual expenses, whereas it can obtain

returns for agency in documentary credits. [see item 7 of Shari'ah Standard No. (5) on Guarantees; and item 3/3 of Shari'ah Standard No. (14) on Documentary Credit]"

31. **Clause 5/3/2/4:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Considerations on debt rescheduling"

32. **Clause 5/3/2/4/1:** The following is added as a footnote to the clause:

This clause may be read as follows:

"The institution should not obtain returns against extending the date of repayment of debts in all credit facilities. It is permissible for the institution to charge the actual cost only from indebted customer for the rescheduling. [see item 5/7 of Shariah Standard No. (8) on Murabahah; Shari'ah Standard No. (3) on Procrastinating Debtor, and item 3/3/1 of Shari'ah Standard No. (14) on Documentary Credit]"

33. **Clause 5/3/2/4/2:** The following is added as a footnote to the clause:

This clause may be read as follows:

"It is impermissible to renew or extend the facility by extension of existing facility, it should be done by entering into new contracts."

34. **Clause 5/3/2/4/2:** The following is added as a footnote to the clause:

Following is added for clarity:

"Financing facilities may be rescheduled or rolled over, however, in sale based modes of financing e.g., Murabaha, Musawamah, Salam, Istisna'a etc., profit cannot be increased due to rescheduling or roll over."

35. **Clause 6:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Obtaining Guarantees on Credit Facilities"

The institution has the right to use permissible forms of guarantee in order to ascertain the fulfillment of the commitments by its client. [see item 3/4/1 of Shari'ah Standard No. (14) on Documentary Credits, and item 4/1/1 of Shari'ah Standard No. (5) on Guarantees]"

AAOIFI SHARIAH STANDARD NO. 38 - ONLINE FINANCIAL DEALINGS²⁷

1. **Clause 3/3:** The following is added as footnote to the clause:

The word 'necessary' shall be read as 'possible' in the clause.

2. **Clause 4/1/1:** The following is added as footnote to the clause:

The word 'disconnected' shall be read as 'unrelated' in the clause.

3. **Clause 7/3:** The following is added as footnote to the clause:

This is not applicable for transactions where currency is involved.

²⁷ Adopted vide IBD Circular No. 01 of 2019 dated March 01, 2019

**AAOIFI SHARIAH STANDARD NO. 39 - MORTGAGE AND ITS CONTEMPORARY
APPLICATIONS²⁸**

1. The word 'Mortgage' may be read as 'Rahn' as defined in Clause 2 under the title, definition section and throughout the text of AAOIFI Shariah Standard No. 39.

2. **Clause 1:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Scope of the Standard

This standard covers mortgages required by the Institution for securing the debts and commitments owed or to be owed to it by other individuals/Institutions. It also covers the mortgages presented by the Institution to other parties in order to secure the debts and commitments it owes to them. Furthermore, the standard covers the mortgages, which the Institution, in its capacity as a trustworthy person or agent, keeps for the benefit of other parties."

3. **Clause 2:** The following are added as footnotes to the clause:

This clause may be read as follows:

"Definition of Mortgage

To mortgage means to make a valuable asset or so, security against a debt so that the asset or its value is used to receive the debt in case of default."

Following is added for clarity:

"'Valuable asset or so' includes Shari'ah compliant tangible and intangible assets."

4. **Clause 3/1/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "The mortgage contract is binding for the mortgager once it is concluded, and the mortgager does not have the right to revoke it from his own side, whereas, the creditor mortgagee has the right to do so."

5. **Clause 3/1/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "Possession of the mortgaged asset takes place on the basis of the same requirements as that of possession of a sold asset. It could be actual possession by taking the asset in hand also known as physical mortgage; or possession could be constructive such as through registration and documentation also known as security or customary mortgage. Both types of mortgages are governed by the same rulings."

6. **Clause 3/1/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "The mortgagee has the right to appoint an agent to possess the mortgage on his behalf. The agent, thus appointed, shall have the same rights of disposition, which the principal has. The mortgage can also be put in the hands of the mortgagee or in the

²⁸ Adopted vide IFPD Circular No. 01 of 2023 dated August 29, 2023

hands of a third party known as the trustworthy person, to be agreed upon between the two parties. When the mortgage is kept by a trustworthy person neither of the two parties has the right to transfer it to any other party."

7. **Clause 3/1/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "The mortgagee has the right to stipulate a condition that the mortgagor should appoint him or his representative or any other mutually agreed person as an agent to sell the mortgaged asset and pay the debt out of its value in case of non-payment of due amount, without resorting to court of law. The mortgagor does not have the right to revoke such agency once agreed upon."

8. **Clause 3/1/5:** The following are added as footnotes to the clause:

This clause may be read as follows: "The death of the mortgagor or the mortgagee has no effect on the validity of the mortgage contract. The respective inheritors shall substitute the deceased persons."

Following is added for clarity:

"The same rulings are applicable mutatis mutandis in case of dissolution of a legal entity."

9. **Clause 3/1/6:** The following are added as footnotes to the clause:

This clause may be read as follows: "The mortgage contract is no longer valid when the mortgaged asset perishes unless a compensation is obtained, for example through takaful which will substitute it. The mortgage contract can also cease to be valid for other reasons such as termination of the contract by the mortgagee, settlement of or relief from the debt, or relinquishment of the mortgage right. Furthermore, the validity of the mortgage contract can also expire as a result of transfer of the ownership of the mortgaged asset (through sale, gift or will) on permission of the mortgagee; unless the new owner accepts to keep the mortgage contract. [see item 3/2/6]."

Following is added for clarity:

"Partial Sale /purchase of an asset, which is under Rahn: In case there is cushion available under the asset (which has been kept under Rahn) i.e. i) beyond the amount of the debt and ii) beyond the regulatory requirements of Security and margin etc. issued by SBP from time to time, following conditions shall be applicable:

- a. From Shari'ah perspective partial sale of the asset (that has been kept under the Rahn) is allowed, without permission (i.e. seeking/obtaining NOC) of the party (Murtahin- that has kept the asset under Rahn) provided the rights of the party (i.e. Creditor(s)/ urtahin) are not violated/compromised.*
- b. If obtaining NOC is a legal or regulatory requirement or due to contractual agreement(s), in that case:*
 - i. NOC from counterparty must be obtained by IBI within 120 days or the specified time, whichever is earlier.*

- ii. *If obtaining NOC requires more than 120 days then the IBI shall obtain permission, with genuine reasons/proper justification, from its own Shari'ah Board and document the permission granted along with genuine reasons/proper justification."*

10. **Clause 3/1/7:** The following is added as a footnote to the clause:

This clause may be read as follows: "The mortgagee has the right to keep the whole mortgaged asset for any part of the debt, unless he accepts partial releasing of the mortgage. On repayment of the debt the mortgagee has no right to keep the mortgaged asset as a collateral for any other debt for which the asset is not mortgaged, except when the two parties agree to keep the mortgaged asset as a collateral for any debt between them within a specific period."

11. **Clause 3/2/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "The mortgaged asset should be a Shari'ah-permissible asset. It should also be well specified (through pointing, naming or description) and be deliverable."

12. **Clause 3/2/2:** The following are added as footnotes to the clause:

This clause may be read as follows: "In principle, the mortgaged object should be a tangible asset, yet it can be a debt, a cash amount, a fungible asset or a consumable commodity. Perishable objects can also be mortgaged in a way as they should be sold and replaced by their value. Moreover, a mortgaged object can be a known share of an undivided asset (Musha) which can be sold separately."

Following is added for clarity:

"In case mortgaged object is undivided share of asset, which cannot be sold separately, an NOC shall be required from other partner(s) in order to create Rahn."

13. **Clause 3/2/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "The mortgaged asset is a trust in the hands of the mortgagee, the trustworthy person or the agent and is still owned by the mortgagor as long as it is mortgaged. Therefore, when the mortgaged asset perishes in the hands of the mortgagee, or the trustworthy person, for a reason other than transgression or negligence, no responsibility shall rest with him, and the debt shall still remain valid. If the perishment of the mortgaged asset is due to transgression or negligence of the mortgagee, or the trustworthy person, he shall be held responsible for compensation at the value of the asset on the date of its perish, whereas the debt shall remain valid. In this case, the two parties have the right to perform set off arrangements between the debt amount and the value of the perished mortgage asset. If the mortgaged asset perishes in the custody of mortgagor, he shall be liable to substitute another asset except when the mortgagee relinquishes his right to obtain mortgage."

14. **Clause 3/2/5:** The following are added as footnotes to the clause:

This clause may be read as follows: “The mortgagor can mortgage the asset that is owed to him by the mortgagee, whether the asset is kept by the mortgagee as a trust (such as an asset kept under the arrangement of ‘Wadi’ah (trust keeping)’ or ‘Aariyah’ and investment accounts); or as a guaranteed liability (such as current accounts and assets retained in invalid contracts). In the latter case, the status of the mortgagee will consequently change from keeping the asset on guarantee basis to keeping it on the basis of trust.”

Following is added for clarity:

“This clause may be read with clause 5 of this Shari’ah Standard.”

15. Clause 3/2/6: The following are added as footnotes to the clause:

This clause may be read as follows: “The mortgagor can also mortgage an Aariya asset (Musta’ar mortgage), or a rented asset (rented mortgage), on permission of the owner in both cases. If a borrowed or rented mortgage is used for repayment of the defaulted debt, the owner of the asset should have the right of recourse on the mortgagor for compensation (subject to no adverse stipulation); in kind if the mortgaged asset is a fungible asset, or in value if otherwise. When a borrowed or rented mortgage asset perishes in the hands of the mortgagor, the mortgagor has to compensate the owner of the borrowed asset, whereas for the rented asset compensation is deserved only if the perish of the mortgaged asset is due to transgression or negligence of the mortgagor.”

Following is added for clarity:

“The ‘Borrowed asset’ means ‘Aariyah’ which refers to transfer of mere usufruct (i.e. without transfer of ownership) without any consideration/compensation.”

16. Clause 3/2/8: The following is added as a footnote to the clause:

This clause may be read as follows: “Any increase (attached and detached accession/improvement) in the mortgaged asset as well as its income is considered to be mortgaged along with the principal, unless the two parties agree otherwise.”

17. Clause 3/2/9: The following are added as footnotes to the clause:

This clause may be read as follows: “The mortgagor can benefit from the mortgaged asset on permission of the mortgagee, whereas the mortgagee has no right at all to take benefit free of charge from the mortgaged asset with or without the permission of the mortgagor. However, on permission of the mortgagor the mortgagee can utilize the mortgaged asset against the market consideration/Ujrat al-Mithl (اجرة المثل) for similar assets. [see items 3/3/ and 4/3]”

Following is added for clarity:

“Refer to AAOIFI Shari’ah Standard No. (9): Ijarah.”

18. Clause 3/2/12: The following is added as a footnote to the clause:

This clause may be read as follows: “The possession of receivables to be mortgaged actually takes place when document of the debt is deposited with the mortgagee or this particular mortgage is

duly witnessed. When a debt is mortgaged, the mortgagee becomes entitled to it more than anyone else.”

19. **Clause 3/3/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “The debt for which the mortgage is signed should be a permissible debt such as sale price, indemnity against damage, Salam commodity, Istisna’a commodity or an owed usufruct. Concluding a valid mortgage contract need not necessarily be preceded by an already established debt. The mortgage contract can be signed before or at the same time of signing the debt contract. The debt for which the mortgage is signed should not be an impermissible debt (such as a usurious loan); or a non-debt deal (such as an identified asset as price, the usufruct of a specific asset, and a spot sale identified subject matter that is still in the hands of the seller).”

20. **Clause 3/3/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is impermissible to stipulate mortgage as a condition in trust-based contracts such as agency, Wadi’ah (trust keeping), Musharakah, Mudarabah and leased asset with the lessee. If mortgage in such contracts is to be confined to indemnity in case of transgression, negligence or breach of the contract, then it is permissible. [see Shari’ah Standard No. (5) on Guarantees, item 2/2/1].”

21. **Clause 3/4:** The following is added as a footnote to the clause:

*The heading may be read as follows: “**Exercise of the rights in case of default.**”*

22. **Clause 3/4/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “With due consideration to item 3/1/4, the mortgagee has the right to sell the mortgaged asset in case of default. After repayment of the mortgagee’s debt the remaining price of the mortgaged asset should be given to the mortgagor by virtue of the mortgage contract. If the sale price of the mortgaged asset happened to be less than the due debt, the difference shall be subject to Shari’ah rulings on normal debt, and the mortgagee should have the right of recourse to the mortgagor for settlement of such difference.”

23. **Clause 3/4/3:** The following is added as a footnote to the clause:

This clause may be read as follows: “When the mortgagor is bankrupt, the mortgagee should have the priority over other creditors, for getting his debt repaid from the sale value of the mortgaged asset. If the sale value of the mortgaged asset is less than the mortgagee’s debt, he becomes in the same standing with other creditors with regard to the residual indebtedness.”

24. **Clause 4/3:** The following is added for clarity as a footnote to the clause:

“Exception to this clause may be given by the Shari’ah Boards of the IBIs provided that debt instruments (Shari’ah non-compliant) may be accepted up to the issued price (Ras al-Mal) or face value, whichever is less.”

25. **Clause 5:** The following is added as a footnote to the clause:

This clause may be read as follows: "If the customer is willing to convert his current account into Mudarabah account, this clause should be applicable, otherwise clause 6/5/2 of Shari'ah Standard No. (5): Guarantees will be applicable.

(Note: In case, where the customer has freely, willingly and absolutely agreed that his current account is to be frozen (e.g. lien is marked on the current account), this would not be considered as Rahn)."

26. **Clause 6/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "The Institution can accept mortgage in the form of investment units in Islamic investment funds. In this case the Institution as a mortgagee can suspend the right of the client to get back or draw from the account, absolutely, or in proportion to the amount of the debt and this is preferable."

27. **Clause 8:** The following are added as footnotes to the clause:

This clause may be read as follows: "The mortgagee has the right at the time of signing the contract to require from the mortgagor to arrange Islamic insurance for the mortgaged asset whenever it is possible. When the mortgagor accepts to do so the compensation to be received on the damage of the mortgaged asset shall replace it. If the compensation is received in the form of a cash amount such amount shall be mortgaged along with its returns by depositing it in a frozen investment account owned by the mortgagor. [see Shari'ah Standard No. (5) on Guarantees, item 4/8]."

Following is added for clarity:

"It is also permissible that mortgagee on behalf of the mortgager may arrange Islamic insurance."

**AAOIFI SHARIAH STANDARD NO. 42 - FINANCIAL RIGHTS AND HOW THEY ARE
EXERCISED AND TRANSFERRED²⁹**

1. **Clause 1:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Scope of the Standard

This Standard provides a description of financial rights, their types, rules, conditions, parameters, the way these are exercised and transferred and the mechanisms used to protect them. It also addresses the most important rights exercised in the transactions of financial institutions. This Standard does not cover non-financial rights; khiyarat; e.g., Khiyar al-Shart and Khiyar al-Naqd; or rights relating to Waqf (endowments), as these have already been covered in separate standards.”

2. **Clause 2:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Definition of Financial Rights

A financial right is the prerogative of a (natural or artificial/juristic) person recognized by the Shari'ah as a right or obligation and has the capacity to become subject matter of compensatory transactions.”

3. **Clause 3/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “Personal rights (rights in personam): These are rights arising from the liability of a specific person, such as debts payable by a debtor.”

4. **Clause 3/2/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “Primary proprietary rights, such as rights arising from full and complete ownership, are independent rights that do not rely on the existence of any other right such as ownership rights.”

5. **Clause 3/3/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “Types of rights to intangible assets: Rights to intangible assets are of many kinds, including rights to trade name, trademarks, commercial licenses; intellectual, technical and industrial property, and patents.”

6. **Clause 3/3/3/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “Since rights to intangible assets are recognized as financial rights, it is permissible to dispose off or transfer them for consideration provided that such transactions are free of Gharar (ambiguity), deception and fraud.”

7. **Clause 3/3/3/3:** The following is added as a footnote to the clause:

This clause may be read as follows: “Commercial license: a commercial license is a right given by the relevant authority to certain businesses to engage in specified activities. It is permissible for the license holder to dispose off it for with or without consideration unless specifically prohibited by law.”

²⁹ Adopted vide IFPD Circular No. 04 of 2024 dated September 12, 2024

8. **Clause 3/4:** The following is added as a footnote to the clause:
This clause may be read as follows: "Financial rights can be acquired through all the Shari'ah compliant ways of acquiring rights, such as contract, stipulated conditions, inheritance, court order or right of first use."
9. **Clause 4/1:** The following is added as a footnote to the clause:
This clause may be read as follows: "Ownership of an asset and usufruct gives the owner the right of complete disposition, either by a complete transfer or the transfer of usufruct only, for or without consideration, except what is prohibited by the Shari'ah."
10. **Clause 4/3:** The following is added as a footnote to the clause:
This clause may be read as follows: "The right of utilization gives the right to exclusive use only."
11. **Clause 6/2:** The following is added as a footnote to the clause:
This clause may be read as follows: "Since the owners of different floors of a building co-own the underlying land, the following shall apply:"
12. **Clause 6/2/1:** The following is added as a footnote to the clause:
This clause may be read as follows: "If a lower storey collapses due to any act of its owner, he is liable to reconstruct it so that the owners of the upper-storeys are not harmed."
13. **Clause 6/2/3:** The following is added as a footnote to the clause:
This clause may be read as follows: "The right of owners to enjoy use of common facilities and services."
14. **Clause 7/1:** The following is added as a footnote to the clause:
This clause may be read as follows: "Definition of Shuf'ah (preemption): Shuf'ah is the right given to a co-owner or neighbour of real estate property to acquire a sold property from its buyer without his consent for the price at which it was sold."
15. **Clause 7/1/1:** The following is added as a footnote to the clause:
This clause may be read as follows: "The right of Shuf'ah exists only in relation to immovable property along with movable property attached to it."
16. **Clause 7/1/2:** The following is added as a footnote to the clause:
This clause may be read as follows: "The right of Shuf'ah enjoyed by a neighbour is applicable only when the two properties share all or some common easement rights".
17. **Clause 7/2/1:** The following is added as a footnote to the clause:
This clause may be read as follows: "The Shafi' (preemptor) takes the place of the buyer and, subject to circumstances being equal, enjoys the right to purchase the property on the same terms as contracted with the buyer, such as deferred payment. The Shafi' (preemptor) also assumes all the liabilities of the buyer such as the usual conveyancing costs."
18. **Clause 7/2/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "If there are multiple Shufa'a' (preemptors), each of them has the right of Shuf'ah proportionate to his share in the jointly owned property."

19. **Clause 7/2/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "Rights of Shuf'ah must be claimed immediately upon becoming aware of the sale in accordance with custom or law, if he becomes aware (of the sale) and does not claim Shuf'ah, his right to Shuf'ah would lapse."

20. **Clause 7/2/6:** The following is added as a footnote to the clause:

This clause may be read as follows: "There is no right of Shuf'ah where ownership is transferred without a sale or a transaction having the characteristics of a sale. Therefore, there is no right of Shuf'ah where transfer is effected by inheritance, bequest or gift without consideration."

21. **Clause 8/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "The Shari'ah does not prohibit the owner and the tenant agreeing that the tenant will pay to the owner a lump sum of money over and above the periodic rental amount, on condition that it is considered part of the agreed rent for the entire lease period. If the lease is terminated early; the rules applicable to rental payments apply to this amount."

22. **Clause 8/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is permitted by the Shari'ah for the owner and the tenant to agree during the lease period that the owner will pay an amount to the tenant in exchange of waiving his contractual right to the ownership of the usufruct for the remaining period on the basis that such payment compensates the tenant for waiver of his right, in favour of the owner, with respect to the usufruct that he purchased. However, if the lease period expires and the contract is not renewed, either expressly or by operation of a provision for automatic renewal, then it is not permitted to take payment for vacating the premises, and the owner has the right to take back his property after expiry of the term."

23. **Clause 8/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "If an agreement is reached between the incumbent tenant and a new tenant during the lease period on waiving (the contractual right) for the remaining period of the contract against an amount exceeding the regular rental amount, it is permitted in Shari'ah to take such compensation amount subject to the requirements of the lease contract executed between owner and incumbent tenant and applicable laws that are compliant with the rules of the Shari'ah. In long-term lease contracts, contrary to contractual terms that are based on what is permitted by the laws of some jurisdictions, the Shari'ah does not permit the tenant to sub-lease or to take compensation (for waiving the contractual right) except with the agreement of the owner. If the incumbent tenant agrees to hand over occupancy to a new tenant after the end of the lease period, the Shari'ah does not permit him to take any payment because the right of the incumbent tenant in the usufruct has expired."

24. **Clause 9:** The following is added as a footnote to the clause:

The heading may be read as "Right of Tahjir (التجير)"

25. **Clause 9/1:** The following is added as a footnote to the clause:
This clause may be read as follows: "Tahjir means taking possession of a piece of barren/abandoned land and marking it with certain recognized markers with the permission of the government."
26. **Clause 9/2:** The following is added as a footnote to the clause:
This clause may be read as follows: "Tahjir results in exclusivity and priority over others, but it does not confer the right of ownership."
27. **Clause 9/3:** The following is added as a footnote to the clause:
This clause may be read as follows: "A person who has carried out Tahjir (on a piece of land) is permitted to waive his right of first use against a consideration on the basis of settlement (Sulh), but he is not allowed to sell the land as he does not own it."
28. **Clause 10:** The following is added as a footnote to the clause:
*The heading may be read as "**Consideration for Rights**"*
29. **Clause 10/1:** The following is added as a footnote to the clause:
This clause may be read as follows: "It is not permissible to take consideration for Options whether by means of sale or otherwise."
30. **Clause 10/2:** The following is added as a footnote to the clause:
This clause may be read as follows: "It is not permissible to take consideration for the rights granted only to prevent harm, such as the right of Shuf'ah (preemption)."
31. **Clause 10/3:** The following is added as a footnote to the clause:
This clause may be read as follows: "It is permissible to take consideration for the easement rights, by means of sale or otherwise."
32. **Clause 10/4:** The following is added as a footnote to the clause:
This clause may be read as follows: "It is permissible to sell rights to use, right to exclusiveness and rights of first use."
33. **Clause 11:** The following is added as a footnote to the clause:
*The heading may be read as "**How Rights Are Exercised**"*
34. **Clause 11/1:** The following is added as a footnote to the clause:
This clause may be read as follows: "All financial rights are, in principle, disposable, and the owner of a financial right has the absolute right to exercise his right in accordance with the rules and principles of the Shari'ah and in particular, the following:"
35. **Clause 11/1/1:** The following is added as a footnote to the clause:
This clause may be read as follows: "Rights should not be exercised in an abusive manner."
36. **Clause 11/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "Subject to the provisions of this Standard, the permissible methods of disposal of rights include all types of contracts of exchange, donations, waivers, partnerships, and assignments of rights. [see Standard No. (7) on Hawalah]"

37. **Clause 12/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "In addition to the provisions of Shari'ah Standard No. (5) on Guarantees, the methods of protecting financial rights include the following:"

38. **Clause 12/2(a):** The following is added as a footnote to the clause:

This clause may be read as follows: "Rights do not extinguish by passage of time but there can be a limitation period after which a claim may not be admissible in court."

Further, the serial number of the clause may be read as 12/2(1) instead of 12/2(a).

39. **Clause 12/2(b):** The following is added as a footnote to the clause:

This clause may be read as follows: "Right of lien: A creditor has the right to retain the debtor's asset already in his possession until he receives payment of the due debt from the debtor. This may take several forms:"

Further, the serial number of the clause may be read as 12/2(2) instead of 12/2(b).

40. **Clause 12/2 (b) i:** The serial number of the clause may be read as 12/2(2)a instead of 12/2(b)i.

41. **Clause 12/2 (b) ii:** The serial number of the clause may be read as 12/2(2)b instead of 12/2(b)ii.

42. **Clause 12/2 (b) iii:** The following is added as a footnote to the clause:

This clause may be read as follows: "The right of the lessor to retain the lessee's belongings inside the leased asset until he receives the rent due, because the lessor has possession of the leased asset which contains the lessee's belongings."

Further, the serial number of the clause may be read as 12/2(2)c instead of 12/2(b)iii.

43. **Clause 12/2 (b) iv:** The following is added as a footnote to the clause:

This clause may be read as follows: "The right of a courier to retain the dispatched property until he receives his due fees."

Further, the serial number of the clause may be read as 12/2(2)d instead of 12/2(b)iv.

44. **Clause 12/2 (b) v:** The following is added as a footnote to the clause:

This clause may be read as follows: "The right of a bailee against compensation to retain the bailed property until he receives his due fee."

Further, the serial number of the clause may be read as 12/2(2)e instead of 12/2(b)v."

45. **Clause 12/2 (b) vi:** The following is added as a footnote to the clause:

This clause may be read as follows: "The right of an agent to retain the asset of the principal until he receives his due agency fee."

Further, the serial number of the clause may be read as 12/2(2)f instead of 12/2(b)vi.

46. **Clause 12/2 (c):** The following is added as a footnote to the clause:

This clause may be read as follows:

"If the buyer of an item becomes insolvent and the seller finds that specific item in the insolvent's assets, the seller has a priority right to it (retrieval right). Refer to Shari'ah Standard No. (43) on Insolvency."

Further, the serial number of the clause may be read as 12/2 (3) instead of 12/2 (c).

47. **Clause 13:** The following is added as a footnote to the clause:

*The heading may be read as **"Some Contemporary Applications of the Financial Rights"***

48. **Clause 13/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is permitted to incorporate in company's bylaws to give existing shareholders priority to subscribe for shares to increase in company's share capital. Therefore, each partner has the priority right over non-partners in subscribing at the time of deciding to increase the capital of the company. And the subscription shall be according to the ratio of partner's share to the capital of the company before the decision of increase."

49. **Clause 13/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "The right of priority in subscription can be waived in favour of others without compensation subject to the provisions of the law and the by-laws of companies approved by the general assemblies."

1. **Clause 3/1:** The following is added as a footnote to the clause:
This clause may be read as follows: "Protecting capital by permissible means is desirable in Shari'ah as it serves the objectives of Shari'ah with regard to "protection of wealth.""
2. **Clause 3/2:** The following is added as a footnote to the clause:
This clause may be read as follows: "It is compulsory for an investment manager, whether he is a Mudarib, an investment agent or a managing partner, in his fiduciary capacity, to exercise due diligence to protect the funds from loss, decrease or destruction. If he fails to do so using usual means of protection, he will be considered negligent and is liable for loss, taking into consideration items 4/1 and 7/1."*
**prima facie 7/1 should be read as 3/7.*
3. **Clause 3/3:** The following is added as a footnote to the clause:
This clause may be read as follows: "It is permissible to use Shari'ah-compliant instruments and processes to protect investment from risks that it may be exposed to whether they are risks relating to a loss of capital, depreciation in value, inflation, or fluctuation of exchange rates, etc."
4. **Clause 3/7:** The following is added as a footnote to the clause:
This clause may be read as follows: "If a loss occurs caused by the Mudarib's wilful misconduct, negligence or breach of contract, the capital provider may hold the Mudarib liable for the loss of capital but not the lost profit. However, if it is determined through actual or constructive liquidation that the investment accrued profit which was added to the capital and then suffered a loss due to the Mudarib's wilful misconduct, negligence or breach of contract, the Mudarib is liable to indemnify for loss of the profit as it has become a part of the capital. If destruction/loss of the whole or a part of the capital is caused by the Mudarib's wilful misconduct or negligence, the Mudarib is liable for the value of the capital at the time of destruction/loss."
5. **Clause 4/1/1:** The following is added as a footnote to the clause:
This clause may be read as follows: "The equality should be maintained amongst the investment partners in bearing the risks and losses according to their respective shares in the capital."
6. **Clause 4/1/3:** The following is added as a footnote to the clause:
This clause may be read as follows: "The means adopted for capital protection must not be a non-Shari'ah compliant contract and should not be a pretext to achieve an objective by violating Shari'ah."
7. **Clause 4/2/1:** The following is added as a footnote to the clause:
This clause may be read as follows: "Takaful (Islamic insurance) for the investment to protect the capital or cover the risks of wilful misconduct, procrastination, death or bankruptcy. Takaful

³⁰ Adopted vide IFPD Circular No. 04 of 2024 dated September 12, 2024

coverage may be obtained either by the investors themselves or through the investment manager on their behalf.”

8. **Clause 4/2/7/b:** The following is added as a footnote to the clause:

This clause may be read as follows: “Dividing the capital into two parts by deploying the capital in Murabahah and Musharakah contracts, respectively. The first part is used in Murabahah contracts with parties that have strong credit ratings in a way that the combination of the principal amount and the profit of Murabahah protect the initial capital and the remaining part is invested in Musharakah contracts.”

9. **Clause 4/2/7/c:** The following is added as a footnote to the clause:

This clause may be read as follows: “Dividing the capital into two parts by deploying the capital in Ijarah and Musharakah contracts respectively. The first part is used in Ijarah contracts with parties that have strong credit ratings in a way that the combination of the principal amount and the rental amount protect the initial capital and the remaining part is invested in Musharakah contracts.”

10. **Clause 4/2/7/d:** The following is added as a footnote to the clause:

This clause may be read as follows: “Dividing the capital into two parts and deploying them in Murabahah and ‘Arboun contracts respectively. The first part is used in Murabahah contracts with parties that have strong credit ratings in a way that the combination of the principal amount and the profit of Murabahah protect the initial capital. The remaining part will be used as ‘Arboun to purchase assets. If the value of the assets rises, the purchase contracts are completed and the assets are sold for a profit. If the value of the assets declines, the purchase contracts are not completed and the loss is limited to the amount of the ‘Arboun, while the capital is protected by the Murabahah contracts. It is compulsory in this method to observe the Shari’ah rules relating to ‘Arboun. This includes the requirement to reserve the assets sold under the ‘Arboun contract from the time of contract conclusion until the settlement date and the impermissibility of trading in ‘Arboun.”

11. **Clause 4/2/10:** The serial number of the clause may be read as 4/3 instead of 4/2/10.

12. **Clause 4/2/11:** The following is added as a footnote to the clause:

This clause may be read as follows: “If the investor has required the investment manager to adopt certain Shari’ah-compliant ways to protect the capital, the manager is obligated to do so. If he does not do so, he is liable for any resulting loss of capital, in accordance with item 3/7.”

Further, the serial number of the clause may be read as 4/4 instead of 4/2/11.

13. **Clause 5/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “An undertaking by a third party in favor of the investment manager to indemnify for loss of capital in the cases other than wilful misconduct or negligence of the investment manager with a right (of the third party) to have recourse to the investment manager.”

14. **Clause 5/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "A commitment by or obligating the investment manager to purchase the investment assets at their face value or at a price that was initially agreed upon."

15. **Clause 5/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "An obligation by a third party to guarantee the capital for a fee. This is a form of conventional insurance."

AAOIFI SHARIAH STANDARD NO. 46 - AL-WAKALAH BI AL-ISTITHMAR (INVESTMENT AGENCY)³¹

The word ‘uncommissioned’ may be read as ‘Self-imposed’ in the title and throughout the text of AAOIFI Shariah Standard No. 46 [as has been advised also for AAOIFI Shariah Standard No. 23 - Agency and the Act of an Uncommissioned Agent (Fodooli) adopted vide IBD Circular No. 01 of 2020 dated January 3, 2020].

1. **Clause 3/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is permissible to make the appointment of an agent contingent upon the fulfillment of certain conditions or to cause to take effect on a specified future date. It is also permissible to stipulate conditions/restrictions that are compliant with Shari’ah. For further details, see Shari’ah Standard No. (23).”

2. **Clause 3/4:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is not permissible for any one of the parties to unilaterally amend the restrictions in the restricted (المدفوعة) agency contract. [see Shari’ah Standard No. (23) for the types of agency].”

3. **Clause 4/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “Investment agency contracts, whether remunerated or unremunerated, are binding when applied by institutions because they are invariably fixed term contracts in which both parties agree not to terminate within a specified period.”

4. **Clause 4/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “Where the parties agreed not to terminate for a specified period, it is permissible to stipulate in the contract the right of one of the parties to terminate the contract unilaterally in specific circumstances.”

5. **Clause 4/3:** The following is added as a footnote to the clause:

This clause may be read as follows: “When the term of an agency expires, the agent is required not to enter into new investment activities, but is required to conclude existing investments.”

6. **Clause 5/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “If the agency is remunerated, the agent’s fee must be known by way of a fixed amount or a percentage of the amount invested. It is also permissible to link the fee to an established index/benchmark that is known to both parties and is referred to before every investment period after the fee of the first period has been determined. It should, however, be capped and floored (by assigning it maximum and minimum limits).”

³¹ Adopted vide IFPD Circular No. 01 of 2023 dated August 29, 2023

7. **Clause 5/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "If the fee was not specified in the contract and the agent customarily charges a fee as is normal practice in institutions then the agent will be entitled to a fee which is prevalent in the relevant markets (Ujrat al-Mithl). This also applies when the agent does not complete the task required after starting and realizing returns that are beneficial to the principal."

8. **Clause 5/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is permissible to stipulate that the investment agent, in addition to his fee, is entitled to all or part of any amount over and above the expected profit as a performance incentive."

9. **Clause 6/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "The agent may start investment activity before receiving the funds (from the principal), with the principal's permission, by:"

10. **Clause 6/3/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "Advancing a loan (Qard) to the principal for purchasing something on his behalf."

11. **Clause 6/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "Any loan advanced by the agent for purchasing is construed as an interest free loan which may not bring any benefit to the agent as creditor. The agent is entitled to its fee and performance incentive, without consideration to the loan advanced."

12. **Clause 7/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "The investment agent acts in a fiduciary capacity in relation to the investment and therefore is not liable for any loss in cases other than willful misconduct, negligence, or breach of contract unless the breach happens to be advantageous to the principal such as selling an asset for a price higher than the price required by the principal. In situations mentioned above where the agent is held liable for indemnification, such liability is limited to the capital amount and the agent is not liable for loss of expected profit whether the capital was invested immediately or delayed or not invested at all."

13. **Clause 8:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Consequences of the Contract and its Rights

The results of the contract (like transfer of ownership and entitlement to the consideration) belong to the principal. However, the rights arising from contract (like pursuit of payment and litigation) belong to the agent."

14. **Clause 11:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Rules of Investment Agency

If the agent co-mingles his own funds with the principal’s funds or with the funds that he manages, he may not then purchase, for his own account any assets from the assets owned by the co-mingled funds without giving notice on each occasion. This is to establish the transfer of ownership and liability for the asset from the co-mingled funds to the agent’s account. This requirement is impracticable in relation to investment accounts (and therefore this requirement may be waived). [see item 6/1/4 of AAOIFI Shari’ah Standard No. (23) as adopted by SBP vide IBD Circular No. 1 of 2020].”

15. **Clause 12/1/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is permissible to co-mingle funds on the basis of Investment Agency with funds from Mudarabah investment accounts. Such funds are treated as if they were extra funds provided by a capital provider in a Mudarabah investment or shareholder funds when they are co-mingled with funds in Mudarabah investment accounts. Allocation of profits is calculated by the standard prorated method (usually daily weighted average method) for funds invested in Mudarabah which takes into account each investor’s amount and the tenor of the investment. All the profits of the invested funds in Mudarabah belong to the principals and the agent is entitled to his fee and any performance incentive stipulated. The agent is not entitled of Mudarib’s share in profit against capital invested under agency.”

**AAOIFI SHARIAH STANDARD NO. 48 - OPTIONS TO TERMINATE DUE TO BREACH OF
TRUST (TRUST-BASED OPTIONS)³²**

1. **Clause 2/1:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Definition of Khiyar al-Taghrir

The ‘option to revoke on grounds of deception through statement (verbal or written)’ is the right of a buyer to revoke a contract due to deception by the seller or a colluding party, inaccurately describing the subject matter so that the buyer purchases it at a price higher than the market price.”

2. **Clause 2/2:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Examples of Verbal Deception (Taghrir)

2/2/1) Deliberate misinformation regarding the original cost price or expense incurred in a Murabahah (sale on markup), Tawliyah (sale at cost) or Hatitah (sale below cost) sale. [see Shari’ah Standard No. (8) on Murabahah].

2/2/2) Increasing the bid in an auction sale from the person appointed by the seller, without intention to purchase, which is known as Munajashah or Najsh.

2/2/3) Inaccurate statements to mislead the buyer into thinking that the sale item meets his requirements, or falsely claiming that it is no longer available elsewhere in the market.

2/2/4) Announcements of inaccurate (misstatement about financial) results of a company in order to entice the public to buy its shares.”

3. **Clause 2/3:** The following is added as a footnote to the clause:

The heading may be read as “Effects of ‘Option to Revoke on Grounds of Deception through Statement (Verbal or Written)’”

4. **Clause 2/3/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “The buyer has the option to revoke the contract in the event of being deceived through statement (verbal or written).”

5. **Clause 2/4:** The following is added as a footnote to the clause:

The heading may be read as “(Grounds for) Lapses of the ‘option to revoke on grounds of deception through statement (verbal or written)’”

6. **Clause 2/4/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “The ‘option to revoke on grounds of deception through statement (verbal or written)’ lapses if the subject matter is destroyed or consumed by the buyer

³² Adopted vide IFPD Circular No. 01 of 2024 dated January 22, 2024

before the deception is discovered, or if an impediment arises preventing return, or if the buyer fails to return it despite being able to do so.”

7. **Clause 2/4/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “If the option lapses, the full price of the subject matter is compulsory and the buyer is not entitled to any compensation.”

8. **Clause 2/4/3:** The following is added as a footnote to the clause:

This clause may be read as follows: “The seller is liable for expenses relating to the return of the subject matter to the place of sale.”

9. **Clause 2/5:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Transfer of the option

Khiyar al-Taghrir does not transfer to the heir(s) upon death of the option holder.”

10. **Clause 3/1:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Definition

Khiyar al-Tadlis is the option of a buyer to revoke a contract on grounds of deceptive conduct by the seller or a colluding party. Such conduct would be to portray the subject matter different than its actual condition, inducing the buyer to think that it is in a better condition and buy it.”

11. **Clause 3/4:** The following is added as a footnote to the clause:

The heading may be read as “Effects of ‘Option to Revoke on Grounds of Deceptive Conduct’”

12. **Clause 3/5:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Lapse of the option

The ‘option to revoke on grounds of deceptive conduct’ lapses due to any disposal by the buyer in the subject matter after the discovery of deception or if the buyer fails to return it despite being able to do so or if the subject matter is destroyed or consumed by the buyer.”

13. **Clause 4/3/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “Collusion between brokers and sellers that leads to price spike or increase of price above fair market levels.”

14. **Clause 4/4:** The following is added as a footnote to the clause:

The heading may be read as “Effects of ‘Option to Revoke on Grounds of Price Gouging’”

15. **Clause 4/4/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "The party deceived by price gouging has the right to revoke the contract; he may also accept it without any compensation."

16. **Clause 4/4/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "If the party deceived by price gouging accepts the contract, then he is not entitled to seek any compensation. It is permissible for the two parties (the party deceived by price gouging and the seller) to mutually agree upon an indemnification amount instead of return of subject matter."

17. **Clause 4/5:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Khiyar al-Ghabn lapses in the following situations

4/5/1) Destruction or consumption of the sale item or the occurrence of any change or defect in it. The attachment of a third-party right over the sale item has the same legal effect as its consumption.

4/5/2) No action by the buyer after the knowledge of price gouging during the period in which return was possible.

4/5/3) Any such disposal (or usage) by the deceived which can be executed by an owner of the subject matter after discovering price gouging."

1. **Clause 1:** The following is added as footnote to the clause:
The text "or effecting a disposal" may be read as "or taking an action later-on".
2. **Clause 2/1:** The following is added as footnote to the clause:
The text "with the other having the option to avail itself of the promise" may be read as "with the other having an option to exercise the promise".
3. **Clause 2/2:** The following is added as footnote to the clause:
The text 'two back to- back promises' may be read as 'two promises'. The term 'and time' shall be added at the end of the clause.
4. **Clause 3:** The following is added as footnote to the clause:
The heading may be read as 'Types of Promises and their General Rules'.
5. **Clause 3/1:** The following is added as footnote to the clause:
This clause may be read as follows: "It is impermissible to promise an act prohibited by Shariah and fulfilling it is also prohibited, and the promisor is bound to break such promise, which includes such a promise that is intended to be a ruse to circumvent the prohibition of interest bearing (Riba) transactions."
6. **Clause 3/2:** The following is added as footnote to the clause:
The term 'Qard' shall be added with the term 'loan'.
The term 'debt' may be read as 'loan'.
The text 'even if the promise is granted in a document separate from the loan contract' shall be replaced with the text 'even if the promise is granted separate from the loan contract.'
Accordingly, the clause may be read as follows: "Any promise in a loan (Qard) contract that procures benefit for the lender, over and above the repayment of the loan (Qard), is prohibited by the Shari'ah even if the promise is granted separate from the loan contract."
7. **Clause 3/4:** The following is added as footnote to the clause:
The clause may be read as "It is religious/moral obligation to fulfill a promise made to perform an action or a financial transaction permissible in the Shariah; meaning that breaking a promise without an excuse is a sin. However, a promise is not legally binding except in case of not fulfilling the promise results in a loss to the promisee then it is compulsory on the promisor to compensate the promisee legally as well. For example, if a person says to a merchant that you purchase a specific item for yourself and I promise you that I will then buy it from you. The merchant purchases the item solely in reliance on the promise and afterwards the promisor doesn't fulfill his promise, then it is legally binding on him to compensate the actual loss incurred by the trader/promisee; if the merchant is unable to sell the item for a price that covers the cost of the item, the promisor is required to bear the difference between the cost of the item and the selling price obtained by the merchant for it. Actual loss does not include opportunity cost.

³³ Adopted vide IBD Circular No. 03 of 2020 dated September 02, 2020

The clause shall be read with Clause 3/6 of Shariah standard 49.

8. **Clause 3/6:** The following is added as footnote to the clause:
 - a. The text '*moral*' shall be added in front of the term '*religious*'.
 - b. The text '*except in case of a valid excuse*' is added after the text '*Fulfilling a benevolent promise (such as a promise to make a gift or lend an item) is a religious/moral obligation*'.
 - c. The text '*the promisee performing*' being redundant in relation to the sentence is deleted.

Accordingly, the clause may be read as "*Fulfilling a benevolent promise (such as a promise to make a gift or lend an item) is a religious /moral obligation, except in case of a valid excuse, but is not binding legally, except if the promise is conditional upon an action that causes the promisee to incur a liability, in which case it is legally binding. For example, if the promisor says to the promisee: "If you buy this item from me, I will give you a gift of another specified item", fulfilling such a promise is a religious/moral obligation and is legally binding.*"
9. **Clause 3/7:** The following is added as footnote to the clause:

There is a referencing error, the text should be read as 'see item 3/4' instead of 'see item 3/5'.
10. **Clause 4/3:** The following is added as footnote to the clause:

The last sentence of this clause shall be applicable after explicit approval of Shariah Board of respective bank. The rationale of the same shall also be documented.
11. **Clause 5:** The following is added as footnote to the clause:

The heading shall be read as '*Permissible Applications of Unilateral and Bilateral Promises*'
12. **Clause 5/1:** The following is added as footnote to the clause:

There is a referencing error, the text should be read as 'item 3/4' instead of 'item 3/5'.
13. **Clause 5/2:** The following is added as footnote to the clause:

The clause shall be divided into two clauses to reflect the sequence of the Arabic version of the Shariah Standard. The sequence will be as follows containing two clauses:

Clause 5/2: The promise given by the institution in Ijarah Muntahia Bittamleek transactions to grant the leased asset to the lessee as a gift conditional on that he pays all the lease installments is legally binding as in item 3/6 of this Standard. [see Shari'ah Standard (9) on Ijarah Muntahia Bittamleek].

Clause 5/3: The promise given by the institution in diminishing Musharakah transactions that it will lease its share of the asset to the other co-owner is legally binding and the promise given by the client that he will buy units of the institution's share at stipulated intervals are legally binding by virtue of item 3/5 of this Standard. [see para 5 of Shari'ah Standard No. (12) on Sharikah (Musharakah) and Modern Corporations].

AAOIFI SHARIAH STANDARD NO. 50 - IRRIGATION PARTNERSHIP (MUSAQAT)³⁴

1. **Clause 5/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "The work should be restricted to the husbandry of trees and their output. The owner may not, (in this contract) demand any additional work from the worker (irrigator)."

2. **Clause 6/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "The worker (irrigator) is obligated to care for the trees and their output as per agreement with the owner and customary requirements, including:"

3. **Clause 6/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "The worker (irrigator) acts in a fiduciary capacity and is not liable for any loss arising from other than wilful misconduct, negligence or breach of the terms of the contract. In such a case, he is liable to indemnify the owner against any actual loss caused, but remains entitled to his share of the output."

4. **Clause 7:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Duties of the Owner of the Trees

The owner should facilitate for the worker (irrigator) full access to the trees (subject of the contract), and provide all the enablers that can only be provided by the owner."

5. **Clause 8/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "After harvesting (taking out the output), the worker (irrigator) and the owner are obligated to take care of the fruit/output. Prior to harvesting, the worker (irrigator) is obligated to take care of the fruit/output unless custom or a term of the contract dictates otherwise."

6. **Clause 8/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "The worker (irrigator) is solely responsible for performing the work customarily undertaken by the workers (irrigators)/agreed between the parties in similar Irrigation Partnerships and such work does not entitle him to any increase in his share of the output as he is already contractually obligated to carry it out. If he hires others to perform his work, their wage is his sole responsibility and should not be taken from the overall output. The worker (irrigator) may hire, on the account of the Irrigation Partnership, others to perform work that is customarily beyond the scope of his duties."

7. **Clause 8/5:** The following is added as a footnote to the clause:

³⁴ Adopted vide IBD Circular No. 01 of 2022 dated July 04, 2022

This clause may be read as follows: "If the owner stops the worker (irrigator) from conducting his duties, before the maturity of Irrigation Partnership (Musaqat) i.e. materialization of the output, or its readiness for harvesting, then the owner shall be obligated to allow the worker (irrigator) to complete his work. And if the owner does not allow the worker (irrigator), then the worker (irrigator) shall be entitled to a wage at the market rate for similar work. If this occurs after the output materializes, the worker (irrigator) is entitled to his stipulated share of the output."

8. **Clause 11/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "If the worker (irrigator) enters into an Irrigation Partnership (Musaqat) with a party who has usurped the trees, and the worker (irrigator) is not aware of the usurpation, then the output, if any, will belong to the owner of the trees and the worker (irrigator) will be entitled to the wages at the market rate. But if the worker (irrigator) knew that the trees were usurped, then he is not entitled to any remuneration."

9. **Clause 13/2/1/2:** The following is added as a footnote to the clause:

The text of Clause 13/2/1/2 as appearing in English Version is different from Arabic Version and the English version will be applicable from Shariah perspective instead of Arabic version for this clause which is as below:

"If the worker (irrigator) is unable to work for a reason within his control, he is entitled to receive a wage at the market rate for similar work for the period of time worked. He is also liable to indemnify the owner for actual loss suffered, as determined by experts."

**AAOIFI SHARIAH STANDARD NO. 51 - OPTIONS TO REVOKE CONTRACTS DUE TO
INCOMPLETE PERFORMANCE³⁵**

1. **Clause 1:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Scope of the Standard

This Standard covers ‘option to revoke due to reasons of defect’, ‘option to revoke owing to deal fragmentation’ and ‘option to revoke due to absence of desired attribute(s)’. It does not cover ‘option to revoke arising from breach of trust (dishonest inducement, deception and overcharging)’ or option of due diligence (‘cooling-off option’, and ‘options to revoke due to non-payment’) as they have separate Shari’ah standards dedicated to them.”

2. **Clause 2/1:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Definition

It is the option of a buyer to revoke the contract arising from a hidden defect that the buyer did not notice at the time of contract.”

3. **Clause 2/2/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “The removal of defect is not possible except by incurring cost.”

4. **Clause 2/2/3:** The following is added as a footnote to the clause:

This clause may be read as follows: “The buyer being unaware of the hidden defect at the time of contract, irrespective of the seller’s awareness of the defect.”

5. **Clause 2/2/4:** The following is added as a footnote to the clause:

This clause may be read as follows: “The seller has not stipulated that he is not liable for defect (Bay’ al-Bara’ah- sale on the basis of as is where is). It is prohibited to exclude liability due to defect in Ijarah and Istisna’a.”

6. **Clause 2/3:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Scope of the ‘option to revoke due to defect’

‘Option to revoke due to defect’ existing in commutative financial contracts such as sale, money exchange (Sarf), lease, division of wealth, settlement of (disputed) wealth against payment in kind and making gift conditional upon consideration (Hibat al-Thawab).”

7. **Clause 2/4:** The following is added as a footnote to the clause:

This clause may be read as follows:

³⁵ Adopted vide IFPD Circular No. 01 of 2024 dated January 22, 2024

“Time limit

Return due to the ‘option to revoke due to defect’ after taking delivery of the subject matter and appearance of the defect therein, should be within the period of time customarily allowed for revocation on such grounds.”

8. **Clause 2/5:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Effects of ‘option to revoke due to defect’

The buyer has the option either to revoke the contract and return the subject matter or continue with the contract. If the buyer chooses to return the subject matter after taking delivery, revocation is effected by mutual consent or court order. If the buyer has not taken delivery, and he has been aware of the defect before taking delivery, he can unilaterally revoke the contract by giving notice to the seller and is entitled upon revocation to a refund of the whole price by mutual consent or court order.”

9. **Clause 2/6:** The following is added as a footnote to the clause:

The clause may be read as follows:

“Conditions applicable to the return of subject matter

Return of the subject matter is subject to the following conditions:”

10. **Clause 2/6/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “Return of the subject matter not resulting in the deal fragmentation unless the seller has consented. And the buyer shall be entitled to compensation for loss due to the defect (Arsh).”

11. **Clause 2/6/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “No new defect occurs nor the subject matter is destroyed in the possession of the buyer. In this case, the buyer is entitled only to compensation for the defect and is not entitled to return (the subject matter) unless the seller accepts return of the subject matter with new defect.”

12. **Clause 2/6/3:** The following is added as a footnote to the clause:

This clause may be read as follows: “Where there is no addition to the subject matter that leads to price reduction and such addition is physically attached (to the subject matter) and is not generated out of it, such as the erection of a building on land. Return of the subject matter is not barred even if the addition to the subject matter is physically attached to it and grows out of it; or is physically separate from it whether it generates out of it, such as dividends on shares and rent from leased assets, or does not grow out of it.”

13. **Clause 2/6/4:** The following is added as a footnote to the clause:

This clause may be read as follows: “In cases where return due to the defect is very difficult (impractical), the buyer shall be entitled to compensation for loss caused by the defect.”

14. **Clause 2/7:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Impediments to the return of subject matter

The option to return the subject matter is impeded by the non-fulfilment of any of the conditions provided in item 2/2.”

15. **Clause 2/8:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Lapses of ‘option to revoke due to defect’

The ‘option to revoke due to defect’ lapses in the following situations:”

16. **Clause 2/8/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “If the defect ceases to exist before the buyer returns the item or payment of Arsh (compensation for loss).”

17. **Clause 2/8/4:** The following is added as a footnote to the clause:

This clause may be read as follows: “If the buyer implicitly accepts the defective subject matter by committing actions (with regard to the subject matter) that indicate his consent/acceptance, such as continuing to use the defective subject matter, delaying, without any reason, longer than what is customarily acceptable in exercising the option or returning the defective subject matter, utilizing, benefitting from the defective subject matter or transferring its ownership. And all these (above mentioned actions) happen after appearance of the defect.”

18. **Clause 3/1:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Definition

The ‘option to revoke a contract owing to deal fragmentation’ is the option of the buyer to revoke a contract (a complete deal) that no longer includes everything that was contracted for, resulting in the complete deal becoming fragmented.”

19. **Clause 3/3:** The following is added as a footnote to the clause:

The heading may be read as “Some scenarios of deal fragmentation in which the option to revoke is granted”

20. **Clause 3/3/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “When a person sells his own property along with the property of another person in one deal without the consent of the other person or when a partner sells the partnership property in one deal without the consent of the other partner.”

21. **Clause 3/3/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "Where it transpires that part of the subject matter is the property of a third party."

22. **Clause 3/3/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "Where part of the subject matter is destroyed before delivery (actual or constructive)."

23. **Clause 3/3/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "Where part of the subject matter in a Salam contract is not available on the delivery date. [see Shari'ah Standard No. (10) on Salam, item 5/8]."

24. **Clause 3/4:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Effects of 'option to revoke owing to deal fragmentation'

Deal fragmentation entitles the buyer either to revoke the contract or accept what remains of the deal and pay the portion of the price corresponding to it. The buyer is not entitled to any compensation unless there is a defect in what remains of the subject matter".

25. **Clause 4:** The following is added as a footnote to the clause:

*The heading may be read as "**Option to Revoke Due to Absence of Desired Attribute(s)**"*

26. **Clause 4/1:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Definition

The 'option to revoke due to absence of desired attribute(s)' is the option of a buyer to revoke the contract if the subject matter does not meet a condition stipulated in the contract, explicitly or implicitly, such as a car having a specific color."

27. **Clause 4/2:** The following is added as a footnote to the clause:

*The heading may be read as "**Requirements of desired attribute(s)**"*

28. **Clause 4/2/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "The desired attribute(s) must be permissible by the Shari'ah."

29. **Clause 4/2/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "The desired attribute(s) must be defined and free from ambiguity (Gharar)."

30. **Clause 4/2/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "The desired attribute(s) must relate to the purpose of the buyer or be the basis of an increase in price or credibility in the subject matter, such as a requirement that a car be automatic."

31. **Clause 4/2/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "The absence of desired attribute(s) must occur at (or before) the time of delivery (actual or constructive) and not after the delivery."

32. **Clause 4/3:** The following is added as a footnote to the clause:

The heading may be read as "Effects of the 'option to revoke due to absence of desired attribute(s)'"

33. **Clause 4/3/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "If it is impractical to return the subject matter, the buyer is entitled to partial refund due to absence of desired attribute(s) equal to the difference in price between a subject matter that fulfills the desired attribute(s) and one that does not."

34. **Clause 4/4:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Time limit and lapse of the 'option due to absence of the desired attribute(s)'

The 'option due to absence of the desired attribute(s)' is effective immediately subject to custom, like the 'option due to defect', and lapses in the same circumstances in which the 'option due to defect' lapses. [see item 2/8]."

35. **Clause 4/5:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Transfer

The 'option to revoke due to absence of desired attribute(s)' can transfer to all types of specific and general successors and assignees."

AAOIFI SHARIAH STANDARD NO. 52 - OPTIONS TO RECONSIDER (COOLING-OFF OPTIONS, EITHER-OR OPTIONS, AND OPTIONS TO REVOKE DUE TO NON-PAYMENT)³⁶

1. **Title:** The following is added as a footnote to the clause:

The title may be read as “AAOIFI Shariah Standard No. 52 – Options to Reconsider (‘Cooling-Off Option’, ‘Either-Or Option’, and ‘Option to Revoke Due to Non-Payment’)”

2. **Clause 2:** The following is added as a footnote to the clause:

The heading may be read as: “Cooling-Off Option”

3. **Clause 2/1:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Definition of ‘Cooling-Off Option’

‘Cooling-off option’ gives one or both of the parties or a third party the right either to continue with the contract or to revoke it within a stipulated period of time. It is effected by any phrase indicating that it is non-binding contract and revocable during the period of the option.”

4. **Clause 2/2:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Conditions of validity

‘Cooling-off option’ is subject to the following conditions:”

5. **Clause 2/3:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Scope of ‘Cooling-Off Option’

‘Cooling-off option’ applies to binding financial contracts, such as sale, lease, transfer of debt, guarantee, division of wealth and Waqf. It does not apply to non-binding contracts such as unpaid agency or contracts which require payment in advance, such as Salam or which require spot payment of both counter-values such as currency exchange.”

6. **Clause 2/4:** The following is added as a footnote to the clause:

The heading may be read as: “Effects of ‘Cooling-Off Option’”

7. **Clause 2/4/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “The owner of the option has the right to confirm the contract or revoke it during the stipulated period. If he does not revoke it during this period, the option lapses and the contract becomes binding.”

8. **Clause 2/4/2:** The following is added as a footnote to the clause:

³⁶ Adopted vide IFPD Circular No. 01 of 2024 dated January 22, 2024

This clause may be read as follows: "The owner of the option may test the subject matter and does not thereby lose his right to revoke the contract except if he does so repetitively without need or conducts himself as the owner of the subject matter in a manner that is contrary to the terms of the contract and/or custom."

9. **Clause 2/4/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "Where there is a 'Cooling-Off Option', the parties are not required to make delivery (of the subject matter to the buyer and the price to the seller) unless they agree otherwise or make delivery voluntarily. The option does not lapse as a result of making or taking delivery, except if the parties act in a way that indicates their intention to give or take ownership. If one party makes delivery but the other party refuses, the other party will not be forced and the first party shall be entitled to demand return of what has been paid/ delivered."

10. **Clause 2/5:** The following is added as a footnote to the clause:

The heading may be read as "Effects of 'cooling-off option' on ownership"

11. **Clause 2/5/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "If the 'cooling-off option' is owned by both parties or by the seller alone, there is no transfer of ownership in either counter-value. Dispositions related to the subject matter shall have legal effects, if such dispositions are made by the seller, and not the buyer."

12. **Clause 2/5/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "If the option is owned by the buyer alone, ownership of the subject matter transfers from the seller to the buyer. The buyer's disposition in the subject matter serves as confirmation of the contract."

13. **Clause 2/5/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "If the subject matter sold with the option is destroyed while in the possession of the seller, it is the seller's loss. If it is destroyed in the possession of the buyer while the buyer owns the option, he is liable to pay its price. If it is destroyed in the possession of the buyer owing to his negligence or misconduct while the seller owns the option and decides not to continue with the contract, the buyer is liable to pay its market price. However, if it is destroyed in the possession of the buyer without his negligence or misconduct, he is not liable."

14. **Clause 2/6:** The following is added as a footnote to the clause:

The heading may be read as "Rules relating to increase in the subject matter during the option period"

15. **Clause 2/6/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "Any addition that is attached to and generates out of the original (subject matter), such as growth in agricultural produce (crops) or animal produce (livestock) belongs to the buyer if the buyer owns the option and confirms the contract. And it belongs to the seller if the seller owns the option, whether he confirms the contract or not."

16. **Clause 2/6/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "Any addition that is separate from and is not generated out of the original (subject matter), such as compensation for damage to the subject matter caused by a third party during the option period, belongs to the buyer if he chooses to confirm the contract. However, if he chooses to revoke the contract, such addition belongs to the seller."

17. **Clause 2/6/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "Any addition that is separate from and is generated out of the original (subject matter), such as profits on shares and rentals from leased assets belongs to the seller."

18. **Clause 2/7:** The following is added as a footnote to the clause:

*The heading may be read as "**Lapse of 'cooling-off option'**"*

19. **Clause 2/7/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "If the subject matter is destroyed before physical or constructive possession, the contract terminates."

20. **Clause 2/8:** The following is added as a footnote to the clause:

*The heading may be read as "**Some applications of 'cooling-off option'**"*

21. **Clause 2/8/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "The institution, whether acting as a seller or buyer, stipulates an option to assess whether or not it is suitable to buy or sell the subject matter."

22. **Clause 2/8/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "The institution stipulates an option to assess when purchasing subject matter from suppliers in order to offer them to its clients without obtaining a binding promise from them to purchase the subject matter. If the clients do not wish to purchase the items, the institution shall be able to return the subject matter to the seller."

23. **Clause 2/8/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "The institution stipulates an option to assess in relation to the whole or a part of a single deal. If the various items being sold are different from each other, the items to which the option relates must be specified. If they are fungible, such as wheat or rice, the percentage to which the option relates must be specified."

24. **Clause 2/8/4:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Definition

It is not permissible to use ‘cooling-off option’ to take a benefit of a subject matter by paying the price to the seller, which may lead to stratagem (حيلة) of taking benefit against loan.”

25. **Clause 3:** The following is added as a footnote to the clause:

*The heading may be read as “**Option to Revoke Due to Non-Payment of Due Price**”*

26. **Clause 3/1:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Definition of ‘option to revoke due to non-payment of due price’

‘Option to revoke due to non-payment of due price’ is an option that is stipulated by sellers or lessor to enable them to revoke contract if the other party fails to make payment of due price or rent. This option is not exercisable unless stipulated in the contract.”

27. **Clause 3/2:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Scope of ‘option to revoke due to non-payment of due price’

‘Option to revoke due to non-payment of due price’ is permissible in contracts that do not require possession of price at the time of contract. Therefore, it is not permissible in Salam and currency exchange contracts.”

28. **Clause 3/3:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Effects of ‘option to revoke due to non-payment of due price’

The seller is entitled to revoke the contract if the buyer does not pay the price within the specified period.”

29. **Clause 3/4:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Transfer

‘Option to revoke due to non-payment of due price’ lapses upon the death of the owner of the option (whether it is the seller or the lessor).”

30. **Clause 4/2:** The following is added as a footnote to the clause:

*The heading may be read as “**Effects of ‘Either-or option’**”*

31. **Clause 4/2/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “‘Either-or option’ makes ownership associated with any one of the subject matter, to which the option relates but not to particular subject matter(s). If the

buyer takes delivery of all of them, he is liable to pay for one of them and remaining subject matter(s) shall be held by him on trust. If one of them is destroyed or damaged (in his possession), the sale shall become binding on that subject matter against its price. If all subject matters are destroyed and their prices are different, the buyer is liable to pay the proportionate price of each subject matter to the extent of what he has purchased. For example, if there are three subject matters and he purchased one of them without identifying the same, he is liable to pay one third of the price of each subject matter.”

32. **Clause 4/3:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Transfer

‘Either-or option’ transfers to the heir(s) of the owner of the option upon his death who in which case enjoy all the rights of the original owner of the option.”

33. **Clause 5/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is permissible to have two or more types of the ‘option to reconsider’ in one contract.”

AAOIFI SHARIAH STANDARD NO. 53 - 'ARBOUN (EARNEST MONEY)³⁷

1. **Clause 1:** The following is added as a footnote to the clause:

This clause may be read as follows:

Scope of the Standard

“This Standard covers the definition of 'Arboun (Earnest Money), the rules applicable to it and its applications in the activities of institutions in commutative financial transactions that do not require possession of countervalues. It does not cover payments made prior to contract such as refundable security deposits, commissions or advance payments made subsequent to contracts that are not subject to options.”

2. **Clause 2/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “Earnest money is paid by the buyer to the seller at the time of contract on the basis that the buyer has the option to revoke the contract during an agreed period of time. If he confirms the contract, the earnest money is credited towards the price. If he does not confirm the contract or fails to pay the remaining price during the stipulated time, the seller is entitled to forfeit 'Arboun (Earnest Money).”*

**What applies to the buyer also applies to the lessee and the purchaser in an Istisna’a contract, and what applies to the seller also applies to the lessor and the manufacturer in an istisna’a contract, etc.*

3. **Clause 2/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “An agreement to execute a sale contract in the future (an agreement to sell) is a promise and not a sale. If money is paid with the promise, it is not considered to be earnest money ('Arboun).”

4. **Clause 2/3:** The following is added as a footnote to the clause:

This clause may be read as follows: “'Arboun (Earnest Money) can be in cash, in kind or in the form of usufruct.”

5. **Clause 3:** The following is added as a footnote to the clause:

*The heading may be read as “**Rulings related to 'Arboun (Earnest Money)**”*

6. **Clause 3/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is permissible to pay 'Arboun (Earnest Money) in commutative contracts that do not require spot payment of one or both countervalues whether the subject matter is identified or unidentified and undertaken to be delivered according to the agreed specifications, such as sale, Istisna’a, lease of identified assets and unidentified assets undertaken by the lessor to be delivered according to the agreed specifications.

7. **Clause 3/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “Payment of 'Arboun (Earnest Money) is not permissible in Sarf and Salam contract.”

³⁷ Adopted vide IFPD Circular No. 04 of 2024 dated September 12, 2024

8. **Clause 4:** The following is added as a footnote to the clause:
This clause may be read as follows:
“Period of 'Arboun (Earnest Money)
The option of 'Arboun (Earnest Money) must be for a specific period either by express stipulation of the parties, or by custom if there is an existing custom that specifies the period.”
9. **Clause 5:** The following is added as a footnote to the clause:
The heading may be read as “Lapse of the Option of 'Arboun (Earnest Money)”
10. **Clause 5/1:** The following is added as a footnote to the clause:
This clause may be read as follows: “The buyer loses his right to revoke the contract if he informs the seller that he has confirmed the contract or uses the sold item in a manner that indicates confirmation. The contract may stipulate such conducts that indicate lapse of the option and confirmation of the contract in order to avoid dispute. [see Shari’ah Standard No. (52) on Options to Reconsider].”
11. **Clause 6:** The following is added as a footnote to the clause:
This clause may be read as follows:
“Ownership and Liability for the Sold Item During the Option Period
Prior to delivery, the seller is liable for the subject matter. If it is destroyed or damaged before delivery to the buyer or delivery is not possible, the contract is revoked and the earnest money must be returned to the buyer. After delivery, the buyer is liable for the subject matter. If it is destroyed or damaged after delivery to the buyer, the buyer's option is lapsed and he is required to pay the remaining part of the price to the seller.”
12. **Clause 7:** The following is added as a footnote to the clause:
This clause may be read as follows:
“Possession of the Subject Matter During the Option Period
The buyer may take possession of the subject matter during the option period, which does not indicate confirmation of the contract unless the buyer's conduct indicates that he has accepted the subject matter.”
13. **Clause 8:** The following is added as a footnote to the clause:
The heading may be read as “Growth and yields of the Subject Matter”
14. **Clause 8/1:** The following is added as a footnote to the clause:
This clause may be read as follows: “Growth that is physically connected is considered part of the original.”
15. **Clause 8/2:** The following is added as a footnote to the clause:
This clause may be read as follows: “In principle, any growth and yield (including output/procreation and return) of subject matter that is physically separate from it, which occurs during the option period whether prior to possession or afterward, is considered part of the subject matter. It is permissible for the party who is liable for the subject matter to stipulate that

any growth and yield that is physically separate should belong to him, even if ultimate ownership of the subject matter is not vested in him.”

16. **Clause 9:** The following is added as a footnote to the clause:

The heading may be read as “Disposal of the Subject Matter Under 'Arboun (Earnest Money)”

17. **Clause 9/1:** The following is added as a footnote to the clause:

This clause may be read as follows: “If the subject matter is identified, the seller is not entitled to use/dispose it. If the seller does dispose of it by sale or lease or otherwise, his actions are subject to the rules relating to uncommissioned agent’s (Fodooli) disposals. If the buyer ratifies the seller's actions, he loses his option and is liable for the remainder of the price to the first seller. The first seller's disposal becomes binding and the first buyer is entitled to receive the sale price. If the first buyer does not ratify the seller's actions, the second disposal is void. [see Shari'ah Standard No. (23) on Agency and Acts of Uncommissioned Agent (Fodooli)].”

18. **Clause 9/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “If the sale is related to an identified subject matter, the seller cannot deliver a different subject matter even with same specifications, except with the consent of the buyer, in which case what the buyer has paid remains 'Arboun (Earnest Money).”

19. **Clause 9/3:** The following is added as a footnote to the clause:

This clause may be read as follows: “If the buyer stipulates on the seller that he will present the subject matter to his clients during the option period and the seller accepts this, the buyer's right to revoke the contract remains valid during the option period, even after presenting the subject matter to his clients. The conclusion of a sale to the buyer’s clients is deemed to be confirmation of the contract.”

20. **Clause 9/4:** The following is added as a footnote to the clause:

This clause may be read as follows: “It is not permissible to negotiate/trade options of Arboun (Earnest Money). [see Shari'ah Standard No. (20) on Sale of Commodities in Organized Markets].”

21. **Clause 10:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Stipulating Refund of Arboun (Earnest Money)

It is permissible for the buyer to stipulate on the seller a condition in the contract providing for a refund of Arboun (Earnest Money) in specific agreed situations, such as the buyer’s failure to obtain licenses from the relevant authorities.”

**AAOIFI SHARIAH STANDARD NO. 54 - REVOCATION OF CONTRACTS BY EXERCISE OF A
COOLING-OFF OPTION³⁸**

1. **Title:** The following is added as a footnote to the clause:

The title may be read as “AAOIFI Shariah Standard No. 54 – Revocation of Contracts Due to Stipulated Conditions”

2. **Clause 2:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Definition of Revocation Due to Stipulation

Revocation due to stipulation refers to the termination of a valid and binding contract by virtue of a stipulation in the contract giving either of the parties the option to revoke the contract.”

3. **Clause 3:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Form of Revocation Due to Stipulation

Stipulation of revocation is valid in any form that indicates it, and it is not required to use the word revocation.”

4. **Clause 4:** The following is added as a footnote to the clause:

The heading may be read as “Shariah Rulings for the Stipulation of Revocation”

5. **Clause 4/2:** The following is added as a footnote to the clause:

This clause may be read as follows: “Revocation is valid if its causes exist, its conditions are satisfied and there are no impediments. It is invalid if its causes do not exist, any of its conditions is not satisfied, if there is an impediment or it is contrary to Shari’ah.”

6. **Clause 5:** The following is added as a footnote to the clause:

This clause may be read as follows:

“Cause of Revocation

The cause of revocation is the occurrence of one of the situations stipulated in the contract.”

7. **Clause 6/3:** The following is added as a footnote to the clause:

This clause may be read as follows: “Revocation notice to the other party from the one who has the right of revocation according to the custom.”

8. **Clause 6/4:** The following is added as a footnote to the clause:

This clause may be read as follows: “Exercise of the right of revocation by the owner of the option.”

³⁸ Adopted vide IFPD Circular No. 02 of 2024 dated June 12, 2024

9. **Clause 7/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "Destruction of the subject matter caused by a natural disaster after delivery."

10. **Clause 7/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "Destruction of the subject matter caused by the buyer whether before or after delivery."

11. **Clause 7/3:** The following is added as a footnote to the clause:

This clause may be read as follows: "Conduct that transfers ownership and creates rights for third parties, such as selling or gifting the subject matter resulting in ownership passing to a third party."

12. **Clause 7/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "Expiry of the period specified in the contract for exercise of the right of revocation."

13. **Clause 8:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Consequences of Revocation"

Revocation nullifies the contract right from the moment of revocation. However, any growth in the subject matter that is physically attached to it is considered part of it. Any growth in the subject matter that is physically separate from it and occurs between the time of contract and revocation and before the buyer takes delivery belongs to the seller. If it occurs after delivery, it belongs to the buyer."

14. **Clause 9:** The following is added as a footnote to the clause:

This clause may be read as follows:

"Waiver of Right of Revocation After it is Established"

If the owner of the option chooses to waive his right to revoke and the cause is the one where harm does not recur then the right of revocation lapses, however, if the cause of the revocation is such where its harm is recurring or continuous then the right of the termination does not lapse. For example, if a leased asset breaks down and the lessee chooses to waive his right to revoke the contract and repairs the asset and in case the asset breaks down again, the lessee is still entitled to exercise his option to revoke."

15. **Clause 10:** The following is added as a footnote to the clause:

*The heading may be read as **"Consideration for Waiver of Revocation Rights"***

16. **Clause 10/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "It is not permissible to stipulate consideration against revocation rights in a sale contract. As far as those contracts are concerned that continue for

agreed period of time, such as lease (Ijarah), Istisna', assignment of debt (Hawalat al-Dayn), share cropping (Muzara'ah), tree planting partnership (Mugharasah) and agency (Wakalah), it is permissible for one of the parties to forego their rights for the remaining period against the consideration agreed upon at the time of waiver."

17. **Clause 10/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "Unforeseen circumstances are excluded from the above rule."

18. **Clause 11:** The following is added as a footnote to the clause:

*The heading may be read as "**Some Applications of Revocation Due to Stipulation**"*

19. **Clause 11/1:** The following is added as a footnote to the clause:

This clause may be read as follows: "Right of revocation may be stipulated in credit facility agreements to be triggered by events of default relating to solvency, potential insolvency before it occurs or breach of a restrictive covenant in the contract."

20. **Clause 11/2:** The following is added as a footnote to the clause:

This clause may be read as follows: "If the lessor stipulates in a lease contract that he is entitled to add a supplementary rental amount at the beginning of each lease period to cover the expenses related to the previous period in respect of costs of maintenance, insurance (takaful) and taxes levied on owners, and the lessee refuses to accept that, the lessor is entitled to revoke the contract. If the lessee has given a prior promise to purchase the leased asset, the lessor can exercise his rights to demand fulfilment of the promise provided that the supplementary rent for that lease period is not added to the purchase price."

21. **Clause 11/4:** The following is added as a footnote to the clause:

This clause may be read as follows: "If the seller stipulates the buyer to provide security or surety or any other form of guarantee and the buyer fails to provide it, the seller is entitled to revoke the contract."

22. **Clause 11/5:** The following is added as a footnote to the clause:

*This clause may be read as follows: "For other applicable situations of revocation that are discussed in "**option to reconsider**", "**option to revoke due to incomplete performance**" and "**option to revoke due to breach of trust**", see the relevant Shari'ah Standards."*