

Annexure II of IH&SMEFD Circular No. 12 of 2019

**Documents of
Islamic Financing Facility for
Renewable Energy**

**MASTER MUDARABAH AGREEMENT
BETWEEN STATE BANK OF PAKISTAN AND (NAME OF PIFI)**

under Islamic Financing Facility for Renewable Energy

(To be stamped as an agreement in accordance with the law in force in each province)

THIS AGREEMENT FOR INVESTMENT ON MUDARABAH BASIS

is made on the _____ day of _____ 20__

Between

[Name of the PIFI] _____, having its place of business at _____ hereinafter referred to as the PIFI (which expression shall, where the context admits, mean and include its successors in interest and assigns) acting as Mudarib of the ONE PART;

And

State Bank of Pakistan (SBP), incorporated under the State Bank of Pakistan Act, 1956, having its Registered Office at I.I. Chundrigar Road, Karachi, hereinafter referred to as SBP, (which expression shall, where the context admits, mean and include its successors in interest and assigns) acting as Rab-ul-Maal of the OTHER PART.

In consideration of SBP agreeing to provide Mudarabah investment under Section 17 (6B) of State Bank of Pakistan Act, 1956, not exceeding Rs. _____ (Rupees _____ only) under State Bank of Pakistan's Islamic Financing Facility for Renewable Energy, as may be amended from time to time (the 'Facility') in the general pool of assets of PIFI (referred to hereinafter as the 'Pool') for _____ years vide Letter No. _____ dated _____.

Now, both the parties to this agreement do hereby agree to the terms and conditions as set out herein under:-

- 1) The maximum amount of Mudarabah investment that SBP shall provide to the PIFI in the case of each customer financed by the PIFI would be in line with the provisions of the facility and will not exceed the financing amount actually disbursed by the PIFI under the Facility.
- 2) The PIFI undertakes that it shall not seek Mudarabah investment from SBP in terms of this agreement unless it is satisfied that all parties liable there under are financially sound and credit worthy.



- 3) Any demand to be made by SBP under the agreement for tendering the documents prescribed under this agreement shall be sufficiently made if it is made in writing and addressed and sent by post or otherwise to the PIFI's Head Office or its branch.
- 4) The PIFI shall neither sanction nor permit any of its customers to use the finances for any purpose other than those prescribed under the Facility. Further, the PIFI will obtain a declaration from customers to the effect that he/she/they shall not utilize the finances or any part thereof except for the purpose spelt out in the Facility and that she/he/they would promptly furnish, at their expense, such information, in such form and at such time as the PIFI or SBP may demand from time to time.
- 5) No financial assistance shall be given by PIFI to any of its Directors or to any company, firm or group or association or project in which any of its Director is interested either directly or indirectly except in financial assistance against tangible security which will be provided with the approval of the majority of its Directors, excluding the Director concerned.

Investment Maturity/Redemption:

- 6) At maturity(ies) the PIFI shall redeem SBP's share in the general pool by purchasing SBP's proportionate share in the general pool as per redemption / repayment schedule, after taking into consideration profit and loss, as the case may be.
- 7) The PIFI expressly agrees that SBP is entitled to redeem or advance the date of redemption for Mudarabah investment (as per "Instructions for Profit & Loss Distribution and Pool Management for Islamic banking Institutions (IBIs)" issued vide IBD Circular No.3 dated November 19, 2012, as amended from time to time, for profit/loss arising from the general pool) under this agreement at any time and for any reasons without any prior notice. Further, SBP can also cancel/alter the financing limit allocated to PIFI under the facility.
- 8) SBP is not obliged to invest in a PIFI any time and for any reason against this facility.
- 9) The PIFI also expressly agrees that SBP has the right to vary, amend, alter or add to the terms and conditions of the facility without any reference to the PIFI who agrees to invariably comply with the same. The PIFI shall also have the right to withdraw from the facility and redeem SBP's outstanding Mudarabah investment (after taking into consideration "Instructions for Profit & Loss Distribution and Pool Management for Islamic banking Institutions (IBIs)" issued vide IBD Circular No.3 dated November 19,



2012, as amended from time to time, for profit/loss arising from the general pool) uptill such date, if it does not agree to the amendments made by SBP.

- 10) The PIFI agrees that on delay of payment by the PIFI on any date agreed, SBP has the authority to debit without further reference to the PIFI, all of its accounts now held or held hereafter or adjust any amounts which may, howsoever, become due from SBP or come into SBP's possession or control to the extent of SBP's Mudarabah investment (after taking into consideration "Instructions for Profit & Loss Distribution and Pool Management for Islamic banking Institutions (IBIs)" issued vide IBD Circular No.3 dated November 19, 2012, as amended from time to time, for profit/loss arising from the general pool).

Profit Payments:

- 11) The PIFI agrees that all income of general pool of assets shall be applied in deriving the profit to the Mudarabah participants in the general pool including SBP and that the profit allocation would be according to "Instructions for Profit & Loss Distribution and Pool Management for Islamic banking Institutions (IBIs)" issued vide IBD Circular No.3 dated November 19, 2012, as amended from time to time. The PIFI shall hold SBP's share in profit separately for and on SBP's behalf.
- 12) The PIFI will make payment of profit of the SBP's share in the profit of the pool, as per Profit Sharing Ratio (PSR) and weightage fixed at the beginning of each month based on the SBP's expected rate of return on this facility. At the end of each month, but not later than the 7th working day of the following month, the profitability from the pool shall be determined on the basis of the un-audited accounts of the pool, and distributed between the PIFI and depositors (alongwith SBP) according to the pre-announced Profit Sharing Ratio (PSR) and weightages, in line with "Instructions for Profit & Loss Distribution and Pool Management for Islamic banking Institutions (IBIs)" issued vide IBD Circular No.3 dated November 19, 2012, as amended from time to time.
- 13) Profit shall be calculated and assigned to the SBP on monthly basis however, the same will be payable on quarterly basis, within 7 working days of completion of each calendar quarter or on maturity/redemption of the investment, whichever is earlier. Where the above schedule date falls on a public/weekly holiday the PIFI shall make payment of the due amount of profit on next working day after such due date. The monthly profits assigned to SBP but not distributed till the calendar quarter shall be kept in a non-remunerative account by PIFI on behalf of SBP; and will be made part of general pool with zero weightage.



- 14) The PIFI will be responsible for any loss incurred to SBP under this facility, if the said loss is subsequently proven to have been caused on account of negligence/mis-statement and/or misrepresentation, on the part of PIFI, determined by internal auditor, external auditor and/or SBP inspection team.

Islamic Financing Facility for Renewable Energy – Reserve Fund – (RF-IFRE):

- 15) SBP shall create a Reserve Fund (RF) at SBP-BSC from its share in profits of the scheme. If in quarter SBP's share in profit is more than the expected return; such excess profits shall be transferred to the RF-IFRE. The PIFI shall advise the SBP-BSC office accordingly, within 7 working days of close of quarter, by issuing separate advices for transfer of excess amount into 'IFRE Reserve Fund'. If any profits in the subsequent quarter(s) are less than the desired returns, the shortfall in the profit may be made good by withdrawing from the amount lying in the RF-IFRE by SBP.
- 16) If, upon annual audit, SBP's share of profit is found to be less than the expected rate, such deficit amount shall be fulfilled by withdrawing from the amount in the RF-IFRE.
- 17) If at any time, the general pool of the PIFI suffers a net loss, it shall be borne by all the participants of the general pool, including SBP, to the extent of their respective ratios of investments in the general pool. SBP shall meet its share of the loss from the RF-IFRE first, and where RF-IFRE is insufficient, SBP will absorb its remaining share of loss.
- 18) The PIFI will be responsible for any loss incurred to SBP under this facility, if the said loss is subsequently proven to have been caused on account of negligence/mis-statement and/or misrepresentation, on the part of PIFI, determined by internal auditor, external auditor and/or SBP inspection team.

Documentation, Security & Charge:

- 19) PIFI agrees and undertakes that the PIFI shall at all times execute or maintain separate legal documentation and records including but not limited to letters of credits/inland letters of credit, security documents, notes, indemnity bonds, agreements etc., including the assignment deed of securities held by the PIFI or which may be obtained by the PIFI from its customers subsequently, as are adequate to safeguard the PIFI's interest against the finances for which this agreement has been executed. The PIFI also agrees and undertakes to keep all such documents in trust for a reasonable period. The PIFI further agrees that SBP or any official authorized by SBP shall have the right of inspection of the PIFI's records and documents for which Mudarabah investment has been made by SBP. SBP shall have the right to seek and obtain full



assistance and cooperation from the PIFI for discharging SBP's duties and performing SBP's functions.

- 20) The PIFI agrees to hold the securities/security documents now held or which may be held by it as security for finance given to the customer as trust on behalf of the general pool by way of security for due redemption thereof and the PIFI undertakes to deal with the same as SBP (as regulator) may direct. The PIFI further agrees that if and when it realizes these securities or any part of it, it shall pay to the participants of the general pool, from all such realizations, in proportion to their share. Pending such payment, PIFI shall hold the same for and on behalf of the general pool.
- 21) The PIFI shall submit to SBP copies of the Demand Promissory Notes executed in the PIFI's favour by its customers, under this agreement with a certificate that (i) the same arises out of bonafide finances provided by the PIFI under the facility (ii) all parties liable there under are financially sound, solvent and credit-worthy and that by virtue of such endorsement and delivery, the PIFI certifies the genuineness of signatures as well as authority of all persons thereon (iii) the finances provided to parties liable have not been classified as doubtful/loss.
- 22) In addition to clause (20), the PIFI shall hold upon trust securities/security documents presently held by it or which may be obtained by it from its customers to whom finance is made available under this facility, as security for due payment of finance with return/profit/rent thereon. Further, on SBP's (as a regulator) demand, the PIFI undertakes to assign to SBP all such securities and secured documents, and agrees that upon such assignment the provisions of clause (20) shall, mutatis mutandis, apply.
- 23) In addition to the preceding clauses, the PIFI agrees that as and when SBP demands, it shall create valid legal charge on any or all of its assets as may be demanded by SBP for payment of any amount that is due under this agreement.
- 24) The PIFI agrees that notwithstanding anything contained elsewhere in this agreement, if the PIFI commits breach of any of the terms and conditions of this agreement SBP shall have a right to immediately redeem SBP's outstanding Mudarabah investment and profit (in accordance with "Instructions for Profit & Loss Distribution and Pool Management for Islamic banking Institutions (IBIs)" issued vide IBD Circular No.3 dated November 19, 2012, as amended from time to time) up till such date.
- 25) No indulgence or delay in exercising any of SBP's rights hereunder shall be deemed a waiver of any right and no waiver of any of SBP's right hereunder shall be construed as a waiver of any other rights you may have.



PIFI's Authorized Signatory
(with name and designation)

State Bank of Pakistan's Authorized
Signatory (with name and designation)

Witnesses:

1. _____

2. _____

MUDARABAH INVESTMENT REQUEST FORM

Under Islamic Financing Facility for Renewable Energy

(TO BE SUBMITTED BY THE PARTICIPATING ISLAMIC FINANCIAL INSTITUTIONS (PIFI))

The Chief Manager,
 SBP Banking Service Corporation (SBP BSC),
 _____ (City)

Dear Sir,

INFORMATION MEMORANDUM & REQUEST FOR MUDARABAH INVESTMENT

With reference to letter No. _____ dated _____ issued by the (Name of Department) of State Bank of Pakistan (SBP) conveying the availability of funds under the facility; we (Name of PIFI) submit herewith details of disbursement made as per terms & conditions of the facility and request SBP for Mudarabah investment facility upto the amount already disbursed by us as on (date) equivalent to Rs. (current application) (Rupees in words) only. The particulars of our above referred financing are given hereunder:

- | | |
|---|--|
| (i) Facility sanctioned under | <u>(Name of scheme & reference of Circular No. and date)</u> |
| (ii) Name of the customer/sponsor(s) and name of project | _____ |
| (iii) Business address of the customer/ sponsor of the project | _____ |
| (iv) Location / address of the Project financed | _____ |
| (v) Type & size of Renewable Energy Technology for which facility(ies) have been sanctioned | _____ |
| (vi) Particulars of finance as per financing agreement executed with the customer | Amount _____
Date of execution _____
Rate of profit _____ |
| (vii) Period for which finance has been sanctioned | _____ |
| (viii) Category of the Scheme under which loan is sanctioned | _____ |
| (ix) Mode of financing | _____ |



- (x) Name and address of ultimate owner / user (for Category III only) _____
- (xi) Purpose of the financing _____

2. We certify that the details of the financing arrangements made with the above named Customer and the financing made by us to them against the above mentioned contract / arrangement has been placed in our record and shall be invariably provided to the inspection team(s) of SBP during inspection.

3) We hereby further certify that:-

- i. the terms & conditions as stipulated in the captioned Facility have been complied with;
 - ii. all the requirements of the Facility including those at point (iii) & (iv) below have been fully met;
 - iii. the eligibility of customers and the terms of the Facility have been properly determined by us in accordance with the prescribed criteria / conditions set out in the Facility in force on the date of the Agreement/ undertaking as required under the facility;
 - iv. the existing financing of the customer from our bank as well as other banks and DFIs (both conventional and Islamic) under IFRE and SBP Facility for Renewable Energy has been determined and ascertained that the customer shall not, with this financing, breach financing limit prescribed under the Scheme (as amended from time to time).
4. We request you to provide Mudarabah investment of Rs. (Rupees only) being equivalent to the amount so far disbursed out of our whole financing of the above referred amount and credit our current account with you.
5. We understand that the SBP has the right to appoint independent consultants to verify cases of Mudarabah investment and agree to reimburse the cost so incurred in case the report of consultants indicates any irregularities on our part. We also agree to pay back any amount of Mudarabah investment provided to us by the SBP on the basis of this application if the SBP subsequently concludes that such Mudarabah investment was wrongfully claimed and also to immediately pay fine on such investment @ paisa 60 per day per Rs. 1,000 or part thereof, or such other rate as may be announced by the SBP from time to time, for the period for which such investment was availed by us.
6. We also undertake that in case irregularities are found to have been committed by the customer due to negligence of our officials/staff to ensure compliance of the same or that



such irregularities have been made by the customer with the involvement of our staff/officer(s), besides taking appropriate action against our staff under our staff regulations or code of conduct, we shall indemnify and agree to indemnify and save harmless the SBP against any action, cost, loss and expense that it may incur due to litigation or otherwise on account of recovery of amount of Mudarabah investment and the fine thereof for availing of Mudarabah investment to which we/the customer were not entitled otherwise.

7. The PIFI agrees that notwithstanding anything contained elsewhere in this agreement, if the PIFI commits breach of any of the terms and conditions of this agreement SBP shall have a right to immediately redeem SBP's outstanding Mudarabah investment and profit amount earned (after taking into consideration any loss arising) up till such date.

Yours faithfully,

(Authorized Signature with
name and designation)

(Authorized Signature with
name and designation)

DOCUMENTS TO BE ENCLOSED WITH THE REQUEST:

- a. IFRE: 3 – Debit Authority
- b. IFRE: 4 – Copy of Demand Promissory Note (by the customer)
- c. IFRE: 5 – Undertaking to be Submitted by the customer
- d. Copy of Internal Audit's certificate obtained in terms of Section 1.11.1 (ii) of the Scheme.
- e. Copy of Financing Agreement between PIFI and customer.
- f. Schedule of redemption/ retirement of financial obligation by the customer to the financing bank
- g. In case of category III:
 - i. Copy of Contract between vendor / supplier and the ultimate owner/user along with schedule of payment.
 - ii. In case of lease, proof of supplier / vendor to have received Token Money of not less than 20% of total installation price from the ultimate owner/user.
 - iii. In case of energy sale agreement, confirmation of security deposit by ultimate owner/ user equivalent to expected average three months electricity bill in an investment account in the PIFI.
 - iv. Copy of undertaking of ultimate owner/user to route his payments of lease rentals / energy bills through the PFI.



- v. Copy of tripartite agreement creating security charge of PIFI on the RE equipment installed.
- vi. Copies of approvals of all relevant government departments / agencies, including issuance of license by NEPRA, approval / no objection of relevant distribution company.
- vii. Summary of previously availed disbursements and cushion available within consolidated financing limit (in line with requirements as specified under Section 1.6.1 (viii) of the Scheme).
- h. Any other document(s), advised by SBP, from time to time

Note: Mudarabah Investment made by SBP shall constitute as acceptance and acknowledgement on its behalf.

DEMAND PROMISSORY NOTE

(To be submitted by the PIFI's Customer)

(To be stamped in accordance with the law in force in respective Province)

Place: _____

Date _____

Rs. _____

On demand we _____ (Name of Customer / sponsor of the project) _____ promise to pay to (Name of the PIFI) _____ or order the sum of Rs. _____ /- (Rupees _____ only) for value of financing received plus the profit / rental / return accruing to _____ (Name of the PIFI) _____ in respect of financing made available to us and fine, if any, as laid down by the State Bank of Pakistan under its Islamic Financing Facility for Renewable Energy.

(Authorized signature of the Customer)

(Name & Seal)

Note: - Demand Promissory Note required to be endorsed by the PIFI concerned in favour of its head office/principal office through which Mudarabah investment is being claimed.

Witnesses:

1. _____

2. _____

UNDERTAKING TO BE SUBMITTED BY THE CUSTOMER

Islamic Financing Facility for Renewable Energy

(to be stamped in accordance with the law in force in each province)

(Place) _____

Date _____

The Manager,

_____ Bank Limited/DFI,
_____ Branch,
_____ (CITY)

Dear Sir,

I/We do hereby certify and confirm that a finance of Rs. _____ (Rupees _____ only) has been allowed to me/us by you under Islamic Financing Facility for Renewable Energy of State Bank of Pakistan on the basis of _____ (Islamic Modes of Financing), it being understood that return/profit to be derived by the PIFI shall not exceed _____% when converted into annual percentage terms:-

2. I/We, further confirm and undertake that the aforesaid finance will be/has been obtained by me/us for setting up of Renewable Energy Power Projects as per the provisions of the Facility under reference. Further, I/We confirm that aforesaid finance, or any part thereof, shall not be utilized except for the purpose spelt out in the Facility.

3. I/We, do certify that the finance is being obtained by me/us against bonafide transaction and I/We submit the requisite documents along-with this application for your consideration of extension of finance facility to me/us from your PIFI under Islamic Financing Facility for Renewable Energy of State Bank of Pakistan.

4. I/We, do hereby confirm that, with aforesaid finance availed/ being availed, I/we shall not breach the maximum customer limit prescribed under IFRE, whether availed/ being under SBP Financing Facility for Renewable Energy and/ or IFRE.

5. I/We, hereby confirm and agree that in the event of my/our failure to make payment on due date, you have our Irrevocable Authority without reference to us, to recover from me/us and debit my/our Account No. _____ maintained with you along-with charity if



any as prescribed under the facility. I/We authorize you to recover the fine amount even if I/we have made a representation to SBP against imposition of fine under the facility.

6. I/We agree and understand that in the event that either SBP or PIFI avail their right of withdrawal from the facility for any reasons, all financing made as per the terms of the facility shall convert to mutually agreed regular terms and conditions of the concerned PIFI and in case of no agreement this will constitute an event of termination.

7. I/We agree that notwithstanding anything contained elsewhere in this undertaking, the amount of this finance along-with profit/rental/return due thereon due to you will become due and payable immediately, if I/we commit breach of any of the terms and conditions hereof.

Yours faithfully,

Authorized Signature of the Customer

Signature verified by the authorized
Officials of Branch of PIFI

Witnesses:

1. _____

2. _____
