

Hybrid Sukuk (Ijarah cum Murabaha) 3 , 5 and 10 years The Structure

1. PSX will announce an Auction process for the issuance of new Sukuk. The announcement of Auction process would be accompanied with a detailed term sheet for the information of investors. The term sheet will specifically mention the target size of the issue, the name of the issuer, eligible investors, composition of asset pool, tenor of the Sukuk and the process of redemption at the end of the tenure. Along with the term sheet, the approved Shariah Structure of the transaction would be attached for information of the investors.
2. Prior to the Auction date, it would be ensured that the registration process of the potential investors is completed. Along with the registration form, the investors would provide an authorisation that in case their bids are accepted, then Pakistan Domestic Sukuk Company Limited (PDSCL), acting as their agent (“Investment Agent”) can utilize the sukuk funds/proceeds for creation of Asset Pool on their behalf and for the purposes set out in Sukuk Issuance Undertaking. Additionally, the Investors shall also authorize an identified IFI to act as Transaction Agent for execution of Commodity Murabaha transaction on their behalf. The potential investors would also give their explicit consent to the Investment Agent to add/merge/comeingle New Asset and/or additional share in the existing asset(s) in the future, subsequent to the reopening of Sukuk, which may dilute/change their ownership share in their asset and create their share in the new/additional asset.
3. On the Auction date, the potential investors would submit their bids in the Auction system. The bids would mention the Total Investment Value in the Sukuk and proposed Profit Rate/spread. In case of Fixed Rate Sukuk the potential investors would bid for the specific percentage of profit. However, in case of Variable Rate Sukuk the potential investors would bid on the Spread* (either negative or positive) over and above the benchmark rate i.e. Weighted average yield of 6-month T-Bill as decided in last auction OR 6 month tenor rate as given on the Reuters PKRV page (121-180 days) in terms of SBP-FSCD Circular No. 13 dated September 6, 2008
(*The profit rate for the variable rate Sukuk = benchmark + spread.)
4. Upon the successful completion of the Auction process the cut off Profit Rate/ Spread of the Sukuk and the total Value of the Sukuk to be issued would be announced and successful investors would be notified accordingly. The cut off Profit Rate/ Spread shall be applicable on all the successful investors. The periodic profit payment(s) on Hybrid sukuk shall be the return to be earned by the investors from Commodity Murabaha transaction and Ijarah transaction (i.e. sum of Murabaha profit instalment + Ijarah rental)
5. PDSCL and National Clearing Company Pakistan Limited (“NCCPL”) will execute an Agency Agreement whereby PDSCL will appoint NCCPL as its agent (“Paying Agent”) to collect proceeds from the Investors, collect profit payments (Ijarah rentals and Murabaha Profit) and other payments due from GoP and distribute the same to the Investors, and act as reference agent and registrar for the Investors.
6. A Sukuk Issuance Undertaking will be executed by PDSCL, the Investment Agent, the GoP (acting through Ministry of Finance “MoF”) and the Relevant Authority for Ijarah leg (under whom the Ijarah Asset is in control) in favor of the Investors, whereby PDSCL will undertake to issue the Hybrid Sukuk (Ijarah cum Murabaha) to the Investors. Subsequent to the auction for the Sukuk,

the Investors will provide their funds to Paying Agent enabling it to utilize the funds (on behalf of the Investment Agent acting as agent of Investors) for creation of Asset Pool (comprising of the Ijarah and Murabaha receivables) for the purpose of issuance of Sukuk. Each Sukuk to be issued will represent an undivided share in the ownership in the Asset Pool (including both the Ijarah Assets and Murabaha receivables). Under the Sukuk Issuance Undertaking, Investment Agent will also give its acceptance to appointment agent of Investors.

7. The composition of Asset Pool shall be such that at least 55% of the Sukuk issuance proceeds shall be utilized for the Ijarah transaction while the remaining 45% shall be utilised for commodity Murabaha transaction(s) executed in the approved commodity Murabaha platform. Both transactions would need to be executed on the same day and it should be ensured that during the tenure of the Sukuk, at all times, the percentage of tangible assets (Ijarah Assets) in the Asset Pool should not be below 33% after accounting for Murabaha price including profit. The process of sukuk issuance would be completed upon conclusion of all the steps of Ijarah and Commodity Murabaha transaction.
8. Redemption of the Sukuk at maturity shall be the sum of values/amounts determined as per points 13 and 21.

Structure of Murabaha Transaction

9. The Transaction Agent (on behalf of Sukuk Holders) shall then utilise not more than 45% of the sukuk proceeds (Cutoff Investment Value of the Sukuk) to purchase a specific quantity of commodity in accordance with the SAC approved process. It must be ensured that transaction size of any commodity Murabaha shall not exceed the cumulative unencumbered/unsold commodity available. The same shall also be reflected in the relevant e-certificates mentioning ownership details of commodity.
10. Once the required commodity is purchased by the Transaction Agent, it would also be evidenced through the e-certificate issued in favour of the Transaction Agent. It must be ensured that the Transaction agent retains the ownership of the commodity purchased for a reasonable time before entering into a Murabaha transaction with MOF. The Transaction Agent shall then sell the ownership in the commodity to the MOF on cost plus profit basis against deferred payment through execution of **Murabaha Sale Contract**. Subsequent to the execution of the sale contract the commodity would be transferred in the name of MOF, which shall be retained by MOF for a reasonable time before selling on spot.
11. The Murabaha price would be fixed for the whole tenure of the Sukuk and would be the sum of:

The Murabaha Cost price
Murabaha Profit
12. Upon sale to the MOF, the commodity should reflect ownership of MOF (in MoF or its appointed agent's account i.e. NCCPL) along with all the details. MOF through NCCPL shall then sell the commodity to any party other than the original supplier on spot payment terms. This payment obligation would be set off against the payment obligation created in the first leg of the

transaction

13. The Murabaha cost price shall be payable in full at maturity or upon an Event of Default / Termination.

Structure of Ijarah Transaction

14. The Investment Agent, acting on behalf of the Investors, will enter into a Purchase Agreement with Relevant Authority and GoP (acting through MoF), for purchase of undivided ownership (expressed in terms of percentage) in identified portion of the Asset (as defined in Appendix-A) at an agreed price ("Purchase Price") equivalent to at least 55% of the face amount of the Sukuk. The Paying Agent shall subsequently transfer the Purchase Price to the seller's (GoP) bank account.
15. Pursuant to the Purchase Agreement, ownership of the purchased portion of the Asset (the "Ijarah Asset") will be transferred to Investors while the registered title will remain with the Relevant Authority i.e. Pakistan Railway (under whom the asset is in control or its nominee/delegate). The Relevant Authority will then execute a Title Agency Agreement in favour of the Investors to the effect that it is holding the registered title of the Asset as Title Agent on behalf of the Investors. Once the ownership of the Asset is transferred to the Investors, a document (Schedule 3 of Purchase Agreement signed by Investment Agent and GoP, acting through MoF (as Seller), will be executed to prove that the possession of the Asset is handed over to Investment Agent for and on behalf of the Investors which will legally confirm that all the risks and rewards of the Asset have passed on to the Investors.
16. Under the Title Agency Agreement, the Title Agent (i.e. Pakistan Railway) will delegate its duties and powers under the Title Agency to PDSCL, with the exception of holding the registered title to the Asset.
17. Following the purchase of the Ijarah Asset and obtaining possession through the above mechanism, the Investment Agent, acting on behalf of the Investors, (as "Lessor") will enter into an Ijarah Agreement with GoP (as "Lessee" acting through MoF) wherein these Ijarah Asset(s) will be leased to GoP for a fixed period (Tenure) divided in rental periods of six months (each being a "Rental Period") against Ijarah rental payments ("Ijarah Rentals") in accordance with the terms and conditions as specified in the Ijarah Agreement. Under the terms and conditions of the Ijarah Agreement, GoP will be allowed to nominate any of its affiliates to use, operate and maintain the proportionate share of Investors in the identified Asset as its nominee.
18. The Ijarah Rentals for each Rental Period would be calculated as follows:

In case of variable rate:

$$\text{Ijarah Rent} = \text{Variable Rent} - ([X \text{ amount}] / \# \text{ of Rental Periods})$$

*X amount shall mean the actual profit to be charged in commodity Murabaha transaction

Variable Rent would be calculated as a product of:

- the rental rate for such period (Weighted average yield of 6-month T-Bill as decided in last auction OR 6 month tenor rate as given on the Reuters PKRV page (121-180 days) in terms of SBP-FSCD Circular No. 13 dated September 6, 2008 plus the Spread as decided

- in auction of Sukuk)
- the number of days in such rental period divided by 365, and
- face value of Sukuk.

In case of fixed rate:

Ijarah Rent = Fixed Rent – ([X amount*] / # of Rental Periods)

*X amount shall mean the actual profit to be charged in commodity Murabaha transaction

Fixed Rent would be calculated as a product of:

- the rental rate (as to be decided in the auction of Sukuk issue and applicable for the entire Ijarah term)
 - the number of days in such rental period divided by 365, and
 - face value of Sukuk.
19. The Ijarah Agreement(s) provide that it shall automatically terminate if a Total Loss Event occurs and the Lessor will be entitled to any insurance/takaful proceeds payable as a result of the Total Loss Event.
 20. A Service Agency Agreement will be executed between Investment Agent (as Agent of Investors/Sukuk Holders) and GoP (acting through MoF) whereby GoP will be appointed as Service Agent to undertake services relating to the Ijarah asset during the term of the Ijarah in consideration for a nominal fee. All routine maintenance is to be done by the Lessee whereas all major maintenance will be the responsibility of the Lessor. In case any major maintenance is required, the Service Agent would be under obligation to obtain prior permission from the Lessor, to incur the necessary expenses for carrying out such major maintenance.
 21. GoP (acting through MoF) will execute a Purchase Undertaking in favour of the Investment Agent to purchase the Ijarah Asset at the Exercise Price at maturity or upon an Event of Default and Termination. The Exercise Price shall be an amount equal to the initial Purchase Price for the Ijarah Asset plus any other amount due and payable by the GoP (excluding any accrued and payable rental by the Lessee on such date). The GoP will also be liable to pay all amounts as per the Ijarah Agreement at maturity or upon an Event of Default. Upon exercise of the Purchase Undertaking at maturity or upon an Event of Default and Termination, a sale and purchase agreement shall be executed between the Investment Agent and GoP (acting through MoF) to evidence the purchase of Ijarah Asset by GoP. The Purchase Undertaking will also specify all the events under which it will be exercised, including the time when a late payment of rental or GoP default in the performance of any other covenant or obligation in the Purchase Undertaking or Title Agency Agreement will be deemed an Event of Default, and all cross-default provisions.
 22. GoP (acting through MoF) will execute a Cost Undertaking to pay all applicable fees and expenses and provide indemnities associated with the Sukuk issuance.
 23. The Joint Financial Advisors (JFAs) of GoP shall be responsible for i) proper execution and ii) the legal documentation as per the approved Shariah Structure to ensure Shariah compliance and seamless management throughout the tenor of the Sukuk and at the time of the maturity of the Sukuk.

Transaction Structure for Reopening of Hybrid Sukuk

This document is in continuation of the approved Shariah structure for the first/fresh/initial issuance of the Hybrid Sukuk.

Preamble

Subsequent to the issuance of first/fresh/initial Hybrid Sukuk issue if the GOP is in need of additional funds and instead of issuance of a new Sukuk wishes to raise new funds by way of re-opening, then the Pakistan Stock Exchange will conduct an auction for reopening of the existing Sukuk Issue.

In the Islamic context the steps of reopening of existing Sukuk is similar as that of issuance of a completely new Sukuk i.e. utilisation of sukuk proceeds upto 55% for the purchase of Ijarah asset and utilization of remaining 45% for the commodity Murabaha transaction(s). However, since the maturity date, profit rate and profit payout frequency is kept same as the initial/first/fresh issue, therefore the new issue would be called re-opening of Sukuk instead of a new Sukuk issuance.

The transaction flow for the re-opening of Hybrid Sukuk would be same as that of an approved structure of the fresh/first/initial Issue, however, the structure of reopening of Sukuk might differ from the structure of the first issue in ways as elaborated below.

The distinguishing features of the re-opening structure are as follows:

- It must be ensured that at the time of reopening of the Sukuk, the remaining tenor of the Sukuk that is being reopened, is at least 1 year (or more than 1 year) from the reopening date.
- In the Sukuk Subscription Agreement for the reopening of Sukuk, the Primary dealers (acting on behalf of the new Sukuk Investors) would give explicit consent to the Investment Agent, that if required the Investment agent can add/merge/comeingle the existing Sukuk assets with additional assets and/or New assets, in the future (if required). The execution of Asset Comingling Declaration will result in proportionate change(addition/dilution) in the ownership of the underlying asset(s) of all sukuk holders.
- The sukuk proceeds raised through sukuk reopening would be utilized in the same manner as in case of first/fresh/initial issuance i.e. 55% of Ijarah transaction and 45% for commodity Murabaha transaction(s), based on the face value of Sukuk. The Murabaha profit for the commodity Murabaha transaction would be nominal fixed amount that would be in percentage terms equal to commodity Murabaha profit (when calculated in percentage terms) for first/fresh/initial issuance.
- In case the Sukuk reopening is done on a date other than the regular profit payment date then for the first profit period, the profit amount of the reopened Sukuk in absolute terms would be the same as the first/fresh/initial issue. However, for subsequent period, the Rental rate for the reopened Sukuk would be same as that of the first/fresh/initial issue. Similarly, the maturity of the re-opened Sukuk would also be same as the first/fresh/initial issue
- For the determination of the Bid Price the Investors at the time of re-opening would take into consideration the known Profit Rate (in terms of benchmark), the remaining tenor of the issue and the higher first profit amount. The Purchase Price (at which settlement will take place) would have the following three components which can be referred to individually or collectively for the reporting purpose:
 - Face value of Sukuk

- Market premium/ discount
 - Price premium due to higher first profit (only in case where Sukuk reopening is done on a date other than the regular profit payment date)
- The component (iii) mentioned above is based on the profit rate determined in the fresh auction and/or start of last rental period; hence will be known to the investor.
 - The investors would bid in the auction on the price for re-opening of the Sukuk, which may be at premium or discount based on market conditions, considering component (i) and (ii) mentioned above. The component (iii) will be added to the Cut-off Bid Price (as per auction result) for determining purchase price at which settlement will take place.
 - On completion of the bidding, the Purchase Agreement for the purchase of new Ijarah Assets and/or additional Ijarah Assets (i.e. 55% of the face value of Sukuk) between PDSCL (on behalf of the Investors) and GoP would be executed at purchase price (i.e. 55% of face value of sukuk, market premium/discount and price premium paid for the higher first rental).
 - The Sukuk would be recorded in the books of accounts at Absolute Auction Price i.e. the purchase price without any adjustment. However, for reporting purpose the above identified 3 components of the Purchase Price may be recorded separately or collectively as required.
 - The full amount of first profit of the re-opened sukuk would be booked as income by the Investors without adjustment.
 - On the expiry of the first profit period subsequent to re-opening of Sukuk an Asset Comingling Declaration' shall be executed by PDSCL (as agent of investors) on the last day of first profit period to inform GoP about the combined proportionate share of investors in the underlying sukuk assets.
 - Subsequently, for the underlying Ijarah a single rental notice referring to Comingled Ijarah Assets shall be executed for subsequent profit periods.

Approved By:



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Appendix-A

Identified underlying asset of **the Pakistan Railways** (“PR”) together with identified, unencumbered and undisputed land of **Pakistan Railways** (PR) surrounding the identified asset. These lands would be identifiable by survey numbers (if applicable) and area, and would be identified as the proposed Asset (the “Asset”) to facilitate issuance of GoP Hybrid Sukuk (the “Sukuk”).

The underlying Asset (Assets) on which this Sukuk would be issued include the Land, Building & Infrastructure of **Pakistan Railways** (PR) specifically located at:

S No	Railway Stations	Valuation Amount (Rs)
1	Karachi Cantt Railway Station	126,873,484,600.00
2	Rawalpindi Railway Station	121,807,926,600.00
3	Peshawar Cantt Railway Station	133,905,490,950.00
4	Multan Cantt Railway Station	8,391,896,075.00
5	Faisalabad Railway Station	447,566,897,150.00
6	Hyderabad Railway Station	43,153,274,000.00
	Net Total	881,698,969,375

