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| Draft Private Placement Memorandum |
| **Sample for Limited Liability Partnership Structure** |

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**Securities and Exchange Commission of Pakistan**

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**Name of designated Partner**

**Private Placement Memorandum**

**Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**PRIVATE PLACEMENT MEMORANDUM**

**[Name of the Private Fund]**

Private Fund sub-categorized as (Type of Private Fund as per sub-categorization provided under Venture/Alternative Fund (Hedge)/Shariah etc.) per regulation 2(i) & 11(6) of Private Funds Regulations, 2015.

[(Unlisted Closed-End (PE & VC/Alternative)/Open-End Fund (Alternative)]

**Managed By**

**[Name of Designated Partner]**

Complete Registered Office Address of Designated Partner

**Custodian**

**[Name of Custodian]**

Complete Registered Office Address of the Custodian

***Where applicable***

**(SHARIAH COMPLIANT)**

**(DULY VETTED BY SHARIAH ADVISOR)**

**(Name of Shariah Advisor)**

**(Registration No. ---------------------------)**

**Auditor to the Private Fund**

**Name of the Auditor**

**Date of Publication of Private Placement Memorandum**

**Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**DISCLAIMER**

This Private Placement Memorandum has been prepared and approved by the Directors of the Designated Partner and they collectively and individually accept full responsibility for the accuracy of all information contained herein and confirm having made all inquiries which are reasonable in the circumstances, that to the best of their knowledge and belief, there are no other facts omitted which would make any statement herein misleading.

The Securities and Exchange Commission of Pakistan (SECP) has registered the Private Fund as a Notified Entity, and that the registration of the Private Fund shall not be taken that the Securities and Exchange Commission of Pakistan recommends the investments or takes any responsibility of whatsoever nature with respect to investments.

This Private Placement Memorandum is intended solely for the use of the person to whom it has been delivered for the purpose of evaluating a possible investment by the recipient in the Units and is not to be reproduced or distributed to any other person without the prior written consent of the Designated Partner. By accepting delivery of this Private Placement Memorandum, each Eligible Investors agrees to the foregoing and agrees to return or destroy this Private Placement Memorandum if it does not wish to invest in the Private Fund.

Eligible Investors should not interpret the contents of this Private Placement Memorandum as legal, investment, tax or other advice. Each Eligible Investors must rely upon its own representatives, including its own legal advisors and accountants, as to legal, economic, tax and related aspects of the investments described herein.

**INVESTMENT WARNING**

This Private Fund has been established in Pakistan as a Limited Liability Partnership. It is only open for investments by Eligible Investors who fall within the definition of “Eligible Investors” within the meaning of Regulation 2(1)(iii) of Private Fund Regulations, 2015 which is reproduced as under:

*“Eligible Investor" means a person who has net assets of at least Rs. 15 Million excluding the value of personal residence and who furnishes a declaration to the Designated Partner /Designated Partner that he understands the risks of investment in a Private Fund.*

This Private Fund is only suitable for investment by professional or experienced Investors. Regulatory requirements, which may be seen as necessary for the protection of retail Investors or those who are not Eligible Investors, do not apply to Private Funds.

By declaring (as per Annexure-II of the Private Placement Memorandum) that you have read this warning and understood and accepted its terms you are expressly agreeing that you are an Eligible Investors within the meaning of Regulation 2(1)(iii) of Private Fund Regulations, 2015. You are also expressly agreeing that you accept the risks in the investment accordingly.

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# KEY DATA AND SUMMARY OF THE PRIVATE FUND

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| --- | --- |
| **Private Fund Name** | Name of the Private Fund |
| **Private Fund Type** | Provide the relevant type of the Private Fund i.e. [(Unlisted Close-End (PE & VC/Alternative) / Open-End Fund (Alternative)] |
| **Category of the Private Fund** | Private Equity and Venture Capital Fund, Alternative Fund etc. |
| **Designated Partner** | Name of the Designated Partner |
| **Term** | The term of the Fund will be X years from the date of First Closing. |
| **Investment Objective** | State the objectives of the Private Fund that will be employed to generate a desirable return (mentioned any specification of the return e.g. Alpha, Beta etc.) for the Partner(s). |
| **Investment Strategy** | This should be in line with the LLP Agreement.  Provide the investment strategy of the Private Fund in bullet form.   1. **State your areas of Investment.** 2. **Long/short positions in case of Alternative Fund.** |
| **Target Return** | Provide Target Return and insert disclosures on the following lines, if relevant:   1. There can be no assurance that the Private Fund will achieve its target return. 2. The provision of a benchmark rate is indicative only of the expected performance of the Private Fund and in no circumstances, whatsoever is to be construed by an Eligible Investor as a commitment, assurance, warranty or guarantee. |
| **Private Fund Size** | It is expected that the Private Fund will have assets of an aggregate maximum amount of **[Size of fund in PKR in numbers & words]** under its management. The Designated Partner, if required, may increase size of the Private Fund as per Regulations, 2015 and the Agreement. |
| **Minimum Investment**  **Amount by an Eligible Investor** | Please provide:   1. **[Size of minimum investment]** in PKR Millions per Investor. 2. Minimum number of Units offered against the minimum investment. 3. Price per Unit in PKR. |
| **Maximum Number of Eligible Investors** | Total number of Eligible Investors in a Private Fund does not exceed fifty (50) or the number as defined in Private Placement of Securities Rule, 2017.  Provided that the above restriction shall not apply to investor as Qualified Institutional Buyer. |
| **Drawdowns** | When will the commitments be called during draw down and on what basis i.e. on-need/ pre-decided plan.  Also provide utilization plan of the commitments called during draw downs.  Eligible investors will be given at least [number of] business days prior written notice before each drawdown. |
| **Formation Cost** | **Provide the following disclaimer:**  The Private Fund will bear all costs and expenses associated with the launch of the Private Fund including any government and professional fees and expenses in connection with the preparation of documents or related expenses to form the Private Fund until the final closing of the Private Fund. |
| **Transaction Cost for proposed investments** | **Provide the following disclaimer:**  Transaction costs including all third-party expenses for proposed investment to be paid by the Private Fund. |
| **Operating Expenses of the Fund.** | The Private Fund will bear all other expenses incidental to its operations and business. The Private Fund shall be responsible for and shall discharge or reimburse the Designated Partner, where applicable. |
| **Designated Partner’s Expense** | **Provide the following disclaimer:**  The Designated Partner will be responsible for providing and paying for all office personnel, employee benefits, travel expenses of employees of the Designated Partner and its affiliates, office space and office facilities required for the performance of its services to the Private Fund. |
| **Broken Deal Expenses** | **Provide the following disclaimer:**  The Private Fund will bear all fees and expenses of potential portfolio investment, including all third-party expenses incurred in connection with transactions that are not consummated (“Broken Deal Expenses”). |
| **Reinvestment of Capital Investment** | **Provide the following disclaimer:**  On realization of any investment during the life of Private Fund, an amount equal to the acquisition cost of such investment may be available for further investment by the Private Fund at the discretion of the Designated Partner |
| **First and Subsequent Closing** | The First Closing will take place once the Private Fund has received an amount against First Drawdown Notice, as the Private Fund may determine in Capital Commitments from Partner(s).  Subsequent Closing (if required) may occur at Designated Partner ’s discretion, with the Final Closing to be held no later than **[Mention Number of years]** from the date of First Closing, however, that the Designated Partner may extend the date of the Final Closing. |
| **Investment Period** | **This should be in line with the LLP Agreemen**t.  The Private Fund intends to make all initial investments in portfolio companies during an Investment Period of **[Mention Number of years]** from the date of First Closing. The Investment period could be extended by the Designated Partner to complete transactions that were in process as such date. Additional follow-on investments may be made into existing portfolio companies at any time until the termination of the Private Fund. The Private Fund may also be terminated earlier in accordance with the Constitutive Documents. |
| **Investment Restrictions and Conditions** | The Designated Partner on behalf of the Private Fund shall make investments which are in conformity with the investment strategy. Details are provided in the section 10.4 of the Private Placement Memorandum. |
| **Redemption of units** | The Units once issued shall not be redeemable until the end of the term, or until the Private Fund is revoked, or terminated, however, Units shall be transferable, subject to the condition that the transferee qualifies as an Eligible Investor. |
| **Management Fee** | The Designated Partner will be entitled to receive an annual management fee (the Management Fee) as per its discretion, details of which should be provided here. |
| **Carried interest** | Performance fee of **[Mention Percentage of Fee %]** will be distributable to the Designated Partner only after a full return to the Eligible investors of their Contributed capital and Preferred Return.  The performance fee shall be distributed as per the distribution waterfall elaborated in clause 14.4 of this memorandum. |
| **Preferred Return** | [Mention Percentage of return **%** p.a] (PKR terms) |
| **Distribution of Income** | All amounts allocated to the Partner(s) and Designated Partner, after payment of or making appropriate provision (if any) for costs, liabilities and Management Fees, shall be distributed in the following order:   1. Firstly, to the Partner(s) (pro rata to their respective Capital Contributions) until they have received back their aggregate drawn down Commitments 2. Secondly, further distributions will go to Partner(s) until they receive the preferred return [Mention Percentage of return **%** p.a], compounded annually, on their investment. 3. Thirdly, catchup of [Mention Percentage of return **%** p.a] to the Designated Partner until it has received [Mention Percentage of return **%** p.a] of the cumulative amounts distributed with respect to the Preferred Return 4. Fourthly, all remaining amount would be split on an [Mention Percentage of return **%**] **/** [Mention Percentage of return **%**] basis i.e., [Mention Percentage of return **%**] to the Unit holders and [Mention Percentage of return **%**] to the Designated Partner. |
| **Financing** | 1. The short term borrowing by a Private Equity and Venture Capital Fund shall not exceed fifteen percent (15%) of the size of that Private Equity and Venture Capital Fund; 2. The long term borrowing by a Private Equity and Venture Capital Fund shall only be repayable on the date of maturity of that Private Equity and Venture Capital Fund or shall only be obtained against an instrument convertible into equity. |
| **Investment Decisions** | The Investment Committee will be appointed by the Designated Partner and will make all investment decisions. The Designated Partner may add, replace or appoint alternative members to the Investment Committee from time to time. |
| **Liquidity Management** | The Private fund may make cash deposits, or investments in Conventional/ shariah compliant income yielding instruments with a maturity less than or equal to **[Number of Months],** to effectively manage its cash and liquidity requirement. |
| **Use of Proceeds** | The Private Fund will invest, directly or indirectly, in the investments. The Private Fund will also use the offering proceeds to pay or reimburse the Designated Partner and its affiliates for legal, accounting, due diligence and other expenses relating to the formation or operation of the Private Fund, to pay fees to the Designated Partner as described herein, to provide working capital for the Private Fund and to establish reasonable reserves to meet the Private Fund’s obligations. |
| **Defaulting Unit Holder** | A Unit Holder who fails to pay the amount specified in the Drawdown Notice the “Defaulting Unit Holder” by the date mentioned in the such drawdown notice and delay continue for more than 30 days from the due date mentioned in Drawdown Notice or Investors expressly in writing withdraw its commitment will be subject to certain remedies more fully set out in the Constitutive Documents, including suspension of all rights attached to any units held by it. |
| **Indemnification** | The Designated Partner , the Custodian , any person who serves on the board of a portfolio company (or in a similar capacity) on behalf of the Private fund at the request of the Designated Partner, the members of any Committees, and such persons’ respective partners, members, officers and agents, including the Principals (each an “Indemnitee”) shall be entitled to usual Indemnities and will not be liable to the Private Fund for any loss suffered by the Private Fund which arises out of any act performed or omission unless such course of conduct constituted fraud, wilful misconduct or gross negligence as specified in the Constitutive Documents. |
| **Custodian Fee** | |  |  |  | | --- | --- | --- | | Net Assets  (Rupees in millions) | | Tariff | | From | To | | 1 | 1,000 | **Rs. X** million or **X%** per annum of net assets whichever is higher | | 1,000 | and above | **Rs. X** million plus **X%** per annum of net assets on amount exceeding **Rs. X** billion. | |

# OVERVIEW AND CONSTITUTION OF THE PRIVATE FUND

## Regulatory Approval and Consent

The Securities and Exchange Commission of Pakistan (SECP) has authorized the offer of Units of the Private Fund and has registered the Private Fund as a Notified Entity under Regulation 5 of the Regulations vide letter no. **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** dated **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.** A copy of Private Placement Memorandum has also been submitted to the SECP pursuant to the Regulation 5 of the Regulations. no. \_\_\_\_\_\_\_ dated \_\_\_\_\_.

It must be clearly understood that, the SECP does not take any responsibility for the financial soundness of the Private Fund and Shariah compliance of the Private Fund nor for the accuracy of any statement made or any opinion expressed in this Private Placement Memorandum.

## Constitution of the Private Fund

The Fund is a Private Fund sub-categorized as a Private Equity and Venture Capital Fund /Alternative Fund in a closed-end/open-end structure and has been constituted by Limited Liability Agreement (“LLP Agreement” or the “Agreement’’) entered into at [Name of City] on [Date] between:

**Name of Designated Partner,** a Non-Banking Finance Company incorporated under the Companies Act, 2017 and licensed by the Commission to undertake Private Fund Management Services, with its principal place of business at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as the Designated Partner; and

**Name of Custodian,** incorporated in Pakistan under the Companies Ordinance, 1984, Companies Act, 2017 and registered by Commission to act as a Custodian of the Private Fund having its registered office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as the Custodian.

## LLP Agreement

* + 1. LLP Agreement of this Private Fund shall be subject to and governed by the laws of Pakistan, including LLP Act, LLP Regulations, Part VIIIA of the repealed Companies Ordinance, 1984, Companies Act, 2017, NBFC Rules, NBFC Regulations, Regulations, 2015, ITO, 2001, Foreign Exchange Manual, Foreign Exchange Regulation Act, 1947 and circulars, orders, directives or instructions issued by the Commission, FBR, SBP or any other authority having jurisdiction over the Designated Partner, the Private Fund and the Custodian, all as may be issued or amended or replaced from time to time including Shariah Advisor Guidelines (where applicable).The terms and conditions in the LLP Agreement and any supplemental (s) shall be binding on each Unit Holder. Where any Rules or Regulations are issued or amended, any directives are issued or any relaxation or exemption is allowed by the Commission, it shall be deemed for all purposes whatsoever that all the provisions required to be contained in the Agreement pursuant to such new Regulations, amendments, directive, relaxation or exemption shall be deemed to have been incorporated in the Agreement without requiring any modification unless specifically required by the Commission. In the event of any conflict between the Agreement and the provisions of the Rules Regulations, directives, circulars, the latter shall supersede and prevail over the provisions contained in the Agreement.
    2. Subject to the clause 28 of LLP Agreement hereafter, applicable between the Designated Partner and the Partner inter se, each party, including the Partner(s), irrevocably submit to the exclusive jurisdiction of the Courts at (**name of the place of Agreement creation).**

## Private Fund Property

* + 1. The Private Fund Property shall constitute all cash, properties, investments, income earned or accrued and other benefits arising therefrom and all other assets for the time being held or deemed to be held upon Private Fund by the Custodian for the benefit of the Partner(s) pursuant to the LLP Agreement. This does not include any amount payable or paid to the Partner(s) as distribution. However, any income earned or accrued on the amount payable to the Partner(s) as distribution shall become part of the Private Fund Property.
    2. Bank accounts for the Private Fund shall always be in the name of the Private Fund with the title "Name of Private Fund" and shall be operated by authorized representative(s) of the Custodian in accordance with the provisions of the Custodian Agreement.
    3. Shariah Compliant Bank accounts for the Private Fund shall always be in the name of the Custodian with the title “Name of Custodian-[Name of the Private Fund].
    4. All expenses incurred by the Designated Partner or the Custodian in effecting the registerable investments in the Private Fund shall be payable out of the Private Fund Property.
    5. Except as specifically provided in the LLP Agreement, the Placement Memorandum, the Constitutive Documents and the Applicable Laws for the sole benefits of the Partner(s), the Private Fund Property shall always be kept as separate property free from any mortgages, charges, liens or any other encumbrances whatsoever and the Custodian shall not, except for the purpose of the Private Fund and as directed by the Designated Partner, create or purport to create any mortgages, charges, liens or any other encumbrance whatsoever to secure any loan, guarantee or any other obligation actual or contingent incurred assumed or undertaken by the Custodian or the Private Fund or any other person.

## Private Placement Memorandum

This Private Placement Memorandum sets out the arrangements covering the basic structure of the Private Fund. It sets forth information about the Private Fund that a prospective Eligible Investor should know before investing in Private Fund. The provisions of the LLP Agreement, the Rules, the Regulations 2015, Regulations 2008 (and the Shariah guidelines), circulars, directives and Shariah Advisor guidelines by the Commission etc. as specified hereafter govern this Private Placement Memorandum.

All Investments of the Private Fund shall be in adherence to the principles of Shariah. It is possible that adherence to principles of Shariah will cause the Private Fund to perform differently from Private Funds with similar objectives, but that are not subject to the requirements of principles of Shariah.

The provisions of the LLP Agreement and Applicable Laws govern this Private Placement Memorandum. It sets forth information about the Private Fund that a prospective Eligible Investor should know before investing in any Unit. Prospective Eligible Investors in their own interest are advised to carefully read this Private Placement Memorandum to understand the Investment Policy and Investment strategy of the Private Fund. Investment Risks, Warnings and Disclaimers and should also consult their legal, financial and or any other professional advisor before investing. The Designated Partner shall not be liable for any loss to the Eligible Investors or Unit holder for any reason whatsoever unless caused by its gross negligence or fraud.

## Modification of Placement Memorandum

This Private Placement Memorandum shall be modified and updated to take account of any relevant material changes to the Private Fund. Any change in the fundamental attributes of the Private Fund including investment objective, policy and structure of the Private Fund shall only be affected upon approval of not less than seventy five percent (75%) of the Unit Holder on terms of value of the Private Fund unless otherwise specifically provided in the Constitutive Documents of the Private Fund. The updated Private Placement Memorandum shall be submitted to the SECP and the Custodian, and circulated to all Partner(s) subject to Applicable Laws.

The Designated Partner shall also have the right to, at its discretion, whenever the need so arises, provided that the amendment shall not adversely impact the fundamental attributes of the Private Fund or have any adverse or prejudicial impact on the interest of the Partner(s), update and modify this Private Placement Memorandum to reflect minor changes for better operation and functioning of the Private Fund.

## Approvals and Filing of the Private Placement Memorandum

The Designated Partner has filed a copy of the Private Placement Memorandum signed by the Chief Executive along with the LLP Agreement with SECP. Copies of the following documents can be inspected at the registered office of the Designated Partner or the place of business of the Custodian:

1. License No**.** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ dated **\_\_\_\_\_\_\_\_\_\_\_\_\_** granted by SECP to **Name of Designated Partner** to carry out Private Fund Management Services;
2. **Name of Designated Partner** has appointed the **Name of Custodian** as the Custodian of the Fund;
3. LLP Agreement of the Fund;
4. SECP’s Letter No. **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**dated **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** registering the Fund in terms of Private Funds Regulation, 2015.
5. Letters No. **XXXX** from Chartered Accountants, Auditors of the Fund, consenting to the issue of statements and reports;
6. Letters No. from **XXXX** Legal Advisers of the Fund, consenting to act as adviser; and
7. Letters No. **XXXX** dated from **Name of Shariah Advisors** **(in case of Shariah Complaint Fund)** consenting to act as Shariah advisor of **Name of Private Fund/**

# KEY INFORMATION AND POLICIES

## Offering

Prospective Investors will be offered an opportunity to become Eligible Investors of the Private Fund which will invest in private placement transactions or other Private Fund. An investment in the Private Fund is suitable only for certain Investors who have no need for liquidity in the investment. The Private Fund does/does not intend to offer to repurchase Units from Investors.

## Term and Duration

The Private Fund will have a finite term in case of close end and infinite term in case of open end. The Private Fund having finite term will remain in existence for a period of X years from the date of First Closing. The Investment Period for the Private Fund having finite term may be extended by the Designated Partner to allow for completion transactions that were in process as such date. Reinvestments or Additional follow-on investments may be made into existing portfolio companies at any time until the termination of the Private Fund. The Private Fund having finite term may also be terminated earlier in accordance with the Constitutive Documents.

## Capital Commitments and Drawdowns

**The below content is shared as a sample. All the major areas covered in the sample must be addressed. Although, the relevant data must be filled in accordance with the details true to the conditions the Designated Partner /Private Fund wants to lay out, which might not necessarily be exactly as pointed out in the sample.**

All major areas covered in the sample must be addressed. Although, the relevant data must be filled in accordance with the details true to the conditions the /Private Fund wants to lay out, which might not necessarily be exactly as pointed below).

The Private Fund is seeking Capital Commitments from Eligible Investors. The minimum Capital Commitment from a single Eligible Investor to the Private Fund is PKR X Million, the Designated Partner, however reserves the right to accept Capital Commitments to the Private Fund of lesser amounts at its sole discretion and subject to the Regulations,2015.

The Private Fund has not yet identified the potential portfolio investments to which it will commit. An Investor’s full Capital Commitment to the Private Fund will not be immediately invested. The Private Fund will draw Capital Commitments as capital is drawn from the underlying portfolio investments. Capital Commitments to the Private Fund may be drawn down at any time by the Private Fund issuing a capital call generally upon at least **(X)** business days’ prior written notice (including via e-mail) to each Investor or its designee under normal circumstances.

It is possible that the Private Fund may draw down all of its aggregate Capital Commitments at the start or never draw down the full amount of Capital Commitments and that the Private Fund may have unfunded Commitments. The Private Fund also may accelerate or extend any capital calls.

Eligible Investors understand that by agreeing to invest in the Private Fund, each Investor is making an irrevocable Capital Commitment to the Private Fund of the entire amount of such commitment, which will be drawn down over time. Even though not all of the money will be requested immediately, when a capital call is issued, each Investor is committing to make its funds available within the designated time.

## Closings

All the major areas covered in the sample must be addressed. Although, the relevant data must be filled in accordance with the details true to the conditions the Designated /Private Fund wants to lay out, which might not necessarily be exactly as pointed below.

The First Closing will take place once the Private Fund has received an amount against First Drawdown Notice, as the Private Fund may determine in Capital Commitments from Partner(s). Subsequent Closing (if required) may occur at Designated Partner’s discretion, with the Final Closing to be held no later than X years from the date of First Closing. as such date may be extended by the Designated Partner.

Additional Eligible Investors may be admitted by the Designated Partner at intervals from the First Closing. If the investment recorded a significant appreciation event from the date of the original investment in the Private Fund, such a development would reduce the proportion of these investments allocated to the newly Eligible Investors. Eligible Investors who participate in the closing, which takes place after the First Closing, will be required to pay an amount equal to the costs for the organizational, offering, formation costs of the Private Fund. These amounts will be paid in full as per prior Partner(s) pro-rata to their respective investments. The proportion of such amount which is attributable to the Management Fee component, will be paid to the Designated Partner.

## Purchase /Issuance of Units (Procedure and Frequency)

Person wishing to subscribe to Units would need to meet the criteria for an Eligible Investor under the Regulations,2015 and will be required to execute and deliver a copy of the completed application form before the applicable purchase date. The Private Fund will advise each Eligible Investor promptly of the Private Fund’s acceptance of an offer to subscribe for Units. Payment of the amount of the subscription in PKR should be made in accordance with the terms of the application form.

The acceptance or rejection of any application for subscription shall be at the sole discretion of the Designated Partner, who may reject an application without ascribing any reasons for the rejection. Units will be issued to an Eligible Investor each time capital is contributed by such Investor to the Private Fund.

## Rights and Liabilities of Partner(s)

All Units and fractions represent an undivided share in the Private Fund and shall rank pari passu according to the number of Units held by each Unit Holder, including as to the rights of the Unit Holder(s) in the Net Assets, earnings and the receipt of the dividends and distributions. Each Unit Holder has a beneficial interest in the Private Fund Property proportionate to the Units and fractions held by such Unit Holder and shall have such rights and liabilities as are set out in the LLP Agreement and this Private Placement Memorandum.

## Redemption or Repurchase of Units (Procedure and Frequency)

No Unit holder has the right to require the Private Fund to redeem their Units. Currently, no public market for the Units exists. In addition, the Private Fund does not intend in the future to offer to repurchase Units. As a result, Investors may not be able to liquidate their investment. An investment in the Private Fund is not appropriate for all Investors, and the Private Fund is not intended to be a complete investment program. The Private Fund is designed as a long-term investment and not as a trading vehicle. The Private Fund may be an appropriate investment for Investors who are prepared to hold Units until the expiration of the Private Fund’s term.

## Transfer of Units

(All major areas covered in the sample must be addressed. Although, the relevant data must be filled in accordance with the details true to the conditions the Private Fund wants to lay out, which might not necessarily be exactly as pointed below).

Transfers of Units may be made only with the prior written consent of the Designated Partner, subject to the condition that the transferee qualifies as an Eligible Investor. Transfer of Units from Eligible Investor to another shall be subject to a processing charge of an amount based on actual amount incurred, which shall be recovered from the transferee. This transfer fee will be additional to the number of units transferred and be paid to the Designated Partner.

## Transmission of Units to Successors

(All major areas covered in the sample must be addressed. Although, the relevant data must be filled in accordance with the details true to the conditions the Private Fund wants to lay out, which might not necessarily be exactly as pointed below).

Transmission of Units to successors in case of inheritance or distribution of the estate of a deceased Unit Holder shall be processed by the Transfer Agent or the Designated Partner itself as Registrar. The processing charge shall not be payable by successors in the case of inheritance or distribution of estate of a deceased Unit Holder. However, the legal costs and taxes, if any, shall be borne and paid by the transferees.

## Increase in the Private Fund Size and Issue of Further Units

(All major areas covered in the sample must be addressed. Although, the relevant data must be filled in accordance with the details true to the conditions the Private Fund wants to lay out, which might not necessarily be exactly as pointed below).

If the limit of the Private Fund Size as mentioned in this Private Placement Memorandum is not fully exhausted, the Designated Partner may, at its discretion, issue further Units during the Investment Period of the Private Fund. The Designated Partner may increase size of the Private Fund to meet additional investment requirements in existing portfolio companies subject to the Constitutive Documents, the Regulations, 2015.The Designated Partner, upon the approval of the Partner(s), may also issue further Units in excess of the Private Fund limit.

Also, provide circumstances and mechanism for increase in the size of Private Fund (See regulation 10 of Regulations, 2015) for further clarity on this sub-heading)

## Use of Proceeds

(All major areas covered in the sample must be addressed. Although, the relevant data must be filled in accordance with the details true to the conditions the Private Fund wants to lay out, which might not necessarily be exactly as pointed below).

The Private Fund will invest, directly or indirectly, in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Portfolio companies/securities (in case of Alternative fund)/shariah complaint investments etc.). The Private Fund will also use the offering proceeds to pay or reimburse the Designated Partner and its affiliates for legal, accounting, due diligence and other expenses relating to the formation or operation of the Private Fund, to pay fees to the Designated Partner as described herein, to provide working capital for the Private Fund and to establish reasonable reserves to meet the Private Fund’s obligations.

The proceeds from the sale of Units, will be invested by the Private Fund after receipt of such proceeds in accordance with the Private Fund’s investment objective and strategies, consistent with market conditions and the availability of suitable investments.  Such proceeds will be invested together with any profit earned in the Private Fund’s account prior to the closing of the applicable offering.  Delays in investing the Private Fund’s assets may occur because certain portfolio Private Funds selected by the Designated Partner may provide infrequent opportunities to purchase their securities, or due to the time required for Designated Partner to invest the amounts committed by the Private Fund.

## Default on Capital Commitments

(All major areas covered in the sample must be addressed. Although, the relevant data must be filled in accordance with the details true to the conditions the Private Fund wants to lay out, which might not necessarily be exactly as pointed below).

Should an Eligible Investor default on a Capital Commitment, the Private Fund may, in the Designated Partner’s sole discretion, charge a defaulting Eligible Investor with the expenses, claims and losses incurred by the Private Fund due to the default of such Eligible Investor. Such charge may be incurred by the Private Fund specially allocating such expenses and losses to the defaulting Eligible Investor’s capital account, as such is maintained on the books of the Private Fund. In addition, the Private Fund may, in the Designated Partner’s sole discretion, take other actions with respect to defaulting Eligible Investors, including without limitation (**List of actions to be provided in bullet form**):

## Private Fund Size

It is expected that the Private Fund will have assets of an aggregate amount of **PKR XXXXXXXXXX/=** (mention in words) under its management. The Private Fund will issue Units to Eligible Investors at the Subscription Price received for these Units. The base currency for the Private Fund is PKR.

## Minimum Amount of Subscription

Minimum amount of subscription for an Eligible Investor is PKR XX million (X Units at Price of PKR X million per Unit) although the Designated Partner reserves the right to accept lesser amounts at its sole discretion. Total number of Eligible Investors in the Private Fund should not exceed fifty (50) or number as defined in Private Placement of Securities Rule, 2017.

Provided that the above restriction shall not apply to investor as Qualified Institutional Buyer.

## Joint Applications

Joint application may be made; however, such persons shall be deemed to hold Units on first holder basis. Each joint holder must sign the Investment Agreement (and/or Subscription Form), Declaration and Investment Policy Statement and submit such other documents as may be necessary to comply with Applicable Laws.

In the case of Units held jointly, the Custodian shall not issue more than one Unit for the Units held by such joint Partner(s) and delivery of such Unit to the Partner(s) named first therein shall constitute sufficient delivery to all joint Partner(s).

The Designated Partner shall not register more than **X** joint Partner(s) for a Unit. In case of the death of any one of the joint Partner(s), the survivor or survivors shall be the only persons recognized by the Custodian as having any title to or interest in the Units held by the joint Partner(s). Provided however, the Designated Partner or the Custodian may at their discretion, request the survivors to provide succession certificate or other such mandate from a Court or lawful authority, if they consider necessary.

The joint unit holders for a unit should provide an undertaking to the Designated Partner regarding nomination of the Unit Holder named first.

# name of the Private Fund

**The Private Fund is constituted as “[Name of the Private Fund]”.**

# category of the private fund

The Private Fund is a (Private Equity and Venture Capital Fund/Alternative fund) sub-categorized as a (Private Equity and Venture Capital/Alternative Fund etc.) which is established in a (closed-end/open end) structure under the Regulations, 2015

# purpose & objective of the Private Fund

State the objectives of the Private Fund that will be employed to generate a desirable return (mention any specification of the return e.g. Alpha, Beta etc.) for the Partner(s).

This should be in line with the LLP Agreement of the Private Fund.

# benchmark

(All major areas covered in the sample must be addressed. Although, the relevant data must be filled in accordance with the details true to the conditions the Private Fund wants to lay out, which might not necessarily be exactly as pointed below).

**Provide Target Return and insert disclosures on the following lines, if relevant:**

1. There can be no assurance that the Private Fund will achieve its target returns.
2. The provision of a benchmark rate is indicative only of the expected performance of the Private Fund and in no circumstances, whatsoever is to be construed by an Eligible Investor as a commitment, assurance, warranty or guarantee.

# Borrowing Arrangement / Restrictions (For Private Funds/Alternative Funds), Financing Arrangements / Restrictions (For Shariah Compliant Private Fund)

This section must cover borrowing parameters for the Private fund, maximum amount and basis of borrowing, duration, and whether secured or unsecured) and the risks involved while complying with the following, if and where applicable, that

1. short term borrowing by a Private Equity and Venture Capital Fund shall not

exceed fifteen percent (15%) of the size of that Private Equity and Venture Capital

Fund.

1. the long term borrowing by a Private Equity and Venture Capital Fund shall only be repayable on the date of maturity of that Private Equity and Venture Capital Fund or shall only be obtained against an instrument convertible into equity.
2. financing arrangement will exclusively be made under the Islamic modes of finance and with the approval of the Shariah Advisor of the Private Fund, in case of Shariah compliance funds.
3. Private Fund has borrowed only from financial institution/companies;
4. the liability of the unit holder is limited to their investments in the Private Fund (also mention in the Private Placement Memorandum);

## If subsequent to such financing the Net Assets are reduced as a result of depreciation in the market value of the Private Fund Property or redemption of Units, the Designated Partner or the Custodian shall not be under any obligation to reduce such financing.

## The charges payable to any bank, non-banking finance companies or financial institution against financing on account of the Private Fund as permissible under Clause above, shall not be higher than the normal prevailing bank charges or normal market rates.

## Neither the Custodian, nor the Designated Partner shall be required to issue any guarantee or provide security over their own assets for securing financings from banks and financial institutions. The Custodian or the Designated Partner shall not in any manner be liable in their personal capacities for repayment of financings.

## For the purposes of securing any financing the Custodian may, subject to clause 2.4 (d) above, on the instruction of the Designated Partner mortgage, charge or pledge in any manner all or any part of the Private Fund Property.

## Neither the Custodian nor the Designated Partner shall incur any liability by reason of any loss to the Private Fund or any loss that a Unit Holder(s) may suffer by reason of any depletion in the Net Asset Value for any reason, that may result from any financing arrangement made hereunder in good faith.

## Disposal of Haram Income (in case of Shariah compliant Private Fund)

Where some Haram income accrues to the Private Fund, it will be donated to a registered charitable institution in order to purify the Private Fund's income. This will be done in accordance with the guidelines issued by the Shariah Advisor from time to time.

# THE Designated Partner

## Introduction of the Designated Partner

## Details of Principal Shareholders

## Profile of Board of Directors

## Management Profile

## Duties, Role and Responsibilities of the Designated Partner

## (This should be in line with LLP Agreement and Regulations,2015 and Regulations,2008).

* + 1. The Designated Partner shall manage, operate and administer the Private Fund in accordance with the Rules, Regulations, 2015 directives, circulars and guidelines issued by Commission, the LLP Agreement and the Placement Memorandum.
    2. The Designated Partner shall manage, operate, administer the Private Fund and make investment decisions on a discretionary basis in pursuit of the Investment objective and approach and restriction set out in LLP Agreement and the Private Placement Memorandum in accordance with the requirements of Rules, Regulations, directives, circulars and guidelines issued by Commission. Subject to such investment objective approach and any restriction, the Designated Partner shall have complete discretion for the account and as the agent of the Private Fund, to buy, sell, retain, convert, execute, exchange, negotiate, settle and instruct the Custodian to sign on behalf of the Private Fund account opening and any other related trading documentation or otherwise deal in investments, make deposits, subscribe to issue and offers for sale, and accept placing, underwritings, of any investments, effect transactions whether or not on any recognized market or exchange and otherwise act as it determines appropriate in relation to the management and investment of the Private Fund.
    3. The Designated Partner shall:

1. Be obliged to manage the assets of a Private Fund in the interest of the Partner(s) in good faith and to the best of its ability and without gaining undue advantage for itself or any of its related parties including connected persons and group companies or its officers;
2. Before offering a Private Fund to an eligible investor shall assess or take into consideration the financial sector experience, risk tolerance and net worth of eligible investor as per schedule VI of Regulations;
3. Prepare and fill the Investment Policy Statement in consultation with the Eligible Investor as per prescribed Schedule VI of the Regulations;
4. Account to the Custodian for any loss in value of the Private Fund where such loss has been caused by its negligence, recklessness or willful act or omission; and
5. Ensure prevention of money laundering and terrorist financing and abide by such laws, directive and circulars issued by the Federal Government and SECP regarding know your customer requirements and safe guard against the involvement in money laundering and terrorist financing;
6. Ensure that investment decisions are consistent with the objectives and investment policy of the Private Fund as contained in the constitutive documents;
7. Ensure that investments do not deviate from the Constitutive Documents, Regulations 2015 or directions of the Commission;
8. develop and follow internal investment restrictions and polices;
9. review the performance of the Private Fund on regular and timely basis;
10. ensure that proper record of investment decisions is maintained;
11. manage the Private Funds according to its Constitutive Documents, the Rules, Regulations 2015, circular or directives issued by the Commission;
12. establish and maintain sufficient risk management system and controls to enable it to identify, assess, mitigate, control and monitor risk in the best interest of the Partner(s);
13. Formulate and implement Board’s approved internal control policies and procedures ensuring:
14. appropriate segregation of duties and information barriers between the trading, risk management and processing functions, commonly referred to as the front, middle and back offices;
15. segregation between trading, research, and corporate finance functions;
16. establishes ‘Chinese Walls’ along with implementation of policies and physical apparatus designed to prevent the improper or unintended dissemination of market sensitive information from one division of a multiservice firm to another division;
17. establish polices and procedure, reasonable under the circumstances, to ensure that individuals making investment decisions for the Designated Partner are not trading on the basis of material nonpublic information obtained from another area of the Designated Partner.
18. establishes policies and procedures for managing, minimization and disclosure of conflict of interest.
    * 1. Formulate a Board approved risk management policy for identifying, measuring and managing the risks of the investments, including the sources, nature and degree of such risks and shall also make compliance manuals.
      2. Identify and assign unit, department or personnel for carrying out risk management function which shall be, hierarchically and functionally, independent of the operating units and shall be responsible for the identification, monitoring / measurement and proper management of all risks.
      3. The Designated Partner may from time to time, with the consent of the Custodian, frame procedures for conducting the business of the Private Fund or in respect of any other matter incidental thereto; provided that such procedures are not inconsistent with the provisions of Applicable Law and the Constitutive Documents.
      4. The Designated Partner shall not be under any liability except such liability as may be expressly imposed on it under Applicable Law and the Constitutive Documents, nor shall the Designated Partner (save as herein otherwise provided) be liable for any act or omission of the Custodian, nor for anything except for its own gross negligence or willful breach of duty and the acts and omission, and the acts and omission of all persons to whom it may delegates any of its functions, as if they were its own acts and omissions. If for any reason it becomes impossible or impracticable to carry out the provisions of LLP Agreement and the Placement Memorandum, the Designated Partner shall not be under any liability thereof or thereby and it shall not incur any liability by reason of any error of law or any matter or thing done or suffered or omitted to be done in good faith.
      5. The Designated Partner shall nominate by way of an authority letter /power of attorney or other document as proof of authorization, one or more of its officers(s) to act as authorized persons for interacting with and giving instructions to the Custodian, and shall notify the Custodian of the identities of such authorized persons. Any instruction or notice given by such authorized persons shall be deemed to be the instruction or notice given by the Designated Partner. Any change in such authorized persons shall promptly be notified to the Custodian.
      6. The Designated Partner shall, from time to time, advice the Custodian of any settlement instruction relating to any transactions entered into by it on behalf of the Private Fund. The Designated Partner shall ensure that settlement instructions are given promptly after entering into the transaction so as to facilitate timely settlement.
      7. The Designated Partner shall not hold client money. Money within the Private Fund shall be held in accordance with the provision of Applicable Law and the Constitutive Documents.
      8. The Designated Partner shall not have authority to hold or have possession of any Investments or other assets of the Private Fund and, unless otherwise directed by the Custodian on behalf of the Private Fund or in any particular respect, custody of all investments and other assets of the Private Fund shall be entrusted to the Custodian. In the exercise of its discretionary investment management of the Private Fund, the Designated Partner shall itself be responsible for reviewing, and taking such actions as it may consider appropriate, in respect of rights, other than income, conferred in respect of any Investments or other assets within the Private Fund.
      9. The Designated Partner shall be responsible for negotiating and establishing all agreements or arrangements with any other party in relation to the negotiation and implementation of equity and debt arrangement, whether on a secured or unsecured basis, financing, trading investment or custody of the assets of the Private Fund including, without limitation, agreements with any broker or the Custodian in relation to the assets of the Private Fund, the establishment of wholly or partly owned companies to hold the assets/including shares forming part of the Private Fund, account opening documentation, ISDA (International Swaps and Derivatives Association) master agreements, repurchase agreement, stock lending agreement or other financing or trading agreements, schedule, credit support and other annexes and all documents relating thereto.
      10. The Designated Partner is authorized to give the brokers, the Custodian, administrators, dealers and advisors or counterparties any trade instructions on behalf of the Private Fund, which may be necessary or desirable for the proper performance of the Designated Partner’s duties under the Constitutive Documents and the Custodian agrees to provide settlement instruction and confirm such authority to such parties on request.
      11. The Designated Partner may, if it considers necessary for the protection of Private Fund’s Property or safeguarding the interest of the Unit holders, request the Custodian to institute or defend any suit, proceeding, arbitration or inquiry or any corporate or shareholders action in respect of the Private Fund’s Property or any part thereof at the cost of the Private Fund.
      12. The Designated Partner shall not be liable in respect of any act or omission of any person, firm or company through whom transaction in Investments are affected for the account of the Private Fund or any other party having custody or possession of the assets of the Private Fund or any clearance or settlement system. Provided that Designated Partner has employed reasonable due care and due diligence in this regard.
      13. The Designated Partner gives no warranty that assets acquired for the Investments will not depreciate in value or that they will not be affected by adverse tax consequences.
      14. The Designated Partner will not be responsible for any loss of opportunity whereby the value of the Private Fund could have been increased or for any decline in the value of the Private Fund howsoever arising, except to the extent that such loss or decline is due to the Designated Partner`s gross negligence, willful default or fraud or that of any of its directors or employees.
      15. The Designated Partner will not be liable for any loss arising from errors of fact or judgment or any action taken (or omitted to be taken) by it howsoever arising except to the extent that any such error or action (or the omission thereof) is due to the Designated Partner`s gross negligence, willful default or fraud or that of any of its Directors or employees. No warranty is given by the Custodian or Designated Partner as to the performance or profitability of the Private Fund or its Investments or any part of it.
      16. The services of the Designated Partner hereunder are not to be deemed exclusive. The Private Fund acknowledges that the Designated Partner and its members, officers, employees or associates may from time-to-time act as director. Investment manager, manager, investment advisor or dealer in relation to, or be otherwise involved in, investment funds other than the Private Fund, which have similar or different objectives to that of the Private Fund. It is therefore possible that any of them may, in the course of business, have potential conflicts of interest with the Private Fund. Each will, at all times, have regard in such event to its obligations to the Private Fund and will endeavor to ensure that such conflicts are resolved fairly.
      17. The Designated Partner shall announce the Net Asset Value (NAV) of the Private Fund within such period and at such frequency as prescribed and disclosed in the Private Placement Memorandum of the Private Fund.
      18. Disclose at least the following information on half yearly basis to the investor;
19. Detail and composition of portfolio including value and description of the portfolio, value of each security held in the portfolio and cash balances as on the date of report;
20. Details of expense charged and expense ratio including management fee, Custodian fee, formation cost, auditor fee, brokerage commission, bank charges, other charges etc.; as per the constitutive documents;
21. Details of benefit received during that period including interest, dividend, bonus units; and
22. Performance review.
    * 1. shall maintain at its registered office, proper books and records of accounts and activities undertaken in connection with the Private Fund in order to enable a true and fair view to be formed of the:
23. assets and liabilities of the Private Fund;
24. the profit and loss accruing out of the operation of the Private Fund;
25. transactions undertaken with respect to the Private Fund;
26. amounts received in respect of issue of Units; and
27. pay-outs, if any, by way of distributions to the Partner(s).
    * 1. Maintain the books of accounts and other records of the Private Fund at least for ten (10) years.
      2. Maintain register of unit holders as part of the records and exercise due diligence and take reasonable care to ensure that the register is accurate, complete and up-to-date and ensure that persons recorded in the register are eligible investors;
      3. Only undertake sale and purchase transactions between Private Funds under its management or with client of the Designated Partner (cross trades) where the: -
28. sale and purchase decisions are in the best interest of both clients/ Private Funds;
29. transactions are executed on an arm’s length and fair value basis;
30. reasons for such transactions are documented prior to execution; and
31. activities are identified to both clients/ Private Funds in their respective periodic transaction reports or statements.
    * 1. within four (4) months of close of the financial year of the Private Fund, prepare as per the approved applicable International Accounting Standards and International Financial Reporting Standards, and transmit to the unit holders and the Commission, with respect to the Private Fund:
32. the balance sheet stating details of investments depicting cost and realizable value of such investments;
33. profit and loss statement;
34. cash flow statement; and
35. statement of movement in NAV per Unit of the private fund.
    * 1. appoint external auditor of the Private Fund with the consent of the Commission from amongst the panel of auditors from the SECP’s list of QCR approved Auditors issued vide circular no. 04 of 2023 dated April 03,2023 and the appointed auditor shall give the report on annual accounts of the Private Fund containing the following; -
36. Whether in the auditor's opinion the accounts prepared for that period have been properly prepared in accordance with the relevant provisions of the Regulations;
37. Statement to the effect that the auditor has conducted audit of the Private Fund in accordance with the international standards on auditing as applicable in Pakistan;
38. Without prejudice to the foregoing, whether in the auditor's opinion, a true and fair view is given of the disposition of Private Fund at the end of the period and of the transactions of the Private Fund of the period;
39. if the auditor is of the opinion that proper books and records have not been kept by the Private Fund or the accounts prepared are not in agreement with the books and records of the Private Fund, that fact; and
    * 1. If the auditor has failed to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purpose of the audit, that fact.
      2. The Private Fund is valued at least once in a financial year by an independent valuer appointed with the consent of the Custodian; (Provided that a fund sub-categorized as Venture Capital Fund shall be valued once in two years by independent valuer appointed with the consent of Custodian).

# INVESTMENT POLICY AND STRATEGY OF THE PRIVATE FUND

## Objective of the Private Fund

This section shall state the objectives of the Private Fund that will be employed to generate a desirable return (mention any specification of the return e.g. Alpha, Beta etc.) for the Partner(s).

## Investment Strategy

This should be in line with the LLP Agreement. The purpose of the Private Fund is to invest primarily in:

1. State your areas of Investment in bullet form
2. Long/short positions in case of Alternative Fund.

Long/Short Positions.

Any other Strategies.

## Target Return

This section shall disclose target return and provide following disclosures, if relevant:

1. There can be no assurance that the Private Fund will achieve its target returns.
2. The provision of a benchmark rate is indicative only of the expected performance of the Private Fund and in no circumstances, whatsoever is to be construed by an Eligible Investor as a commitment, assurance, warranty or guarantee.

## Investment Conditions and Restrictions

## Investment conditions /restrictions provided in this sub-head by the Designated Partner on behalf of Private Fund shall be within limits of the following:

1. only invest in SECP approved conventional/ shariah compliant assets within Pakistan. (where applicable)
2. the Private Fund may make foreign investments in the Private Fund from outside Pakistan in foreign currency subject to compliance with all the Rules and the Regulations framed by the State Bank of Pakistan with regard to the foreign investments.
3. make investments which are in conformity with its investment strategy as disclosed in this Private Placement Memorandum.
4. invest with its connected person or connected person of the Custodian only if adequate disclosure to this effect is given in this Private Placement Memorandum and provided that such transaction is done on an arm’s length basis (provide a separate sub-head for Investment with connected persons in the Private Placement Memorandum even if no such transaction is/will be entered into).
5. where the Designated Partner on behalf of Alternative Fund intends to use derivatives, details of their use must be properly and completely disclosed in the Private Placement Memorandum of the Alternative Fund. See Sub-regulation 11 (2) of the Regulations, 2015 for further clarity on this (where applicable).

## A Designated Partner may make investment in Private funds managed by it out of its surplus equity (i.e., over and above the required minimum equity requirements).

## A Designated Partner shall inform the Custodian and the Commission about any breach of the investment conditions and restrictions along with the reasons for the breach, and the proposed steps for rectification and shall rectify the breach within the period of (mention duration).

# Investment Process

This part should contain detailed information about the investment process of the Private Equity and Venture Capital/Alternative Fund.

An Example is provided hereunder, (This list is not exhaustive);

## Identification & Sourcing of Investment/Deal

## Initial Screening of Investment/Deal

## Final Evaluation of Investment/Deal

## Implementation & Execution of Investment/Deal

## Value Creation of Investment/Deal

## Risk & Performance Monitoring of Investment/Deal

## Exit Mechanism of Investment/Deal

# INVESTMENT COMMITTEE (IC)

## Terms of references (ToRs)

## Purpose

Terms of reference of IC are intended to provide a concise overview of the delineation of the key roles and responsibilities of IC members.

## Roles and Responsibilities

**Investment**

1. Act with due care, skill and diligence in carrying out its duties and responsibilities.
2. Preliminary screening of transactions and subsequent approval to proceed.
3. Approve Term Sheet / non-binding bids (if any).
4. Approve Binding Term Sheet.
5. Approve engagement of third-party due diligence advisors.
6. Approve objective and strategy. Ensure that prudent investment decisions are taken before capital drawdown and investment allocations.
7. Ensure rigorous investment analysis is presented before making any investment decision. Ensure that a structured process is adopted but not limited to sourcing, evaluating, selecting and monitoring investment for the Private Fund.
8. Ensure that deal sourcing, pre-selection, due diligence along with all assessments but not limited to tax and legal assessment are conducted.

**Monitoring**

1. Review Private Fund’s redemption rights and Private Fund managers allocation.
2. Review capital allocation and drawdowns of the respective funds.
3. Review the performance of the Private Funds on a half yearly basis
4. Review investee company’s performance (KPIs, financial, etc.) monthly (ideally).
5. Review Investors capital allocation status.
6. Review funds inflow and outflow status.
7. Review investments life cycle and determine impact analysis of funds.
8. Ensure that investments are made accordingly to the Private Placement Memorandum
9. Ensure that portfolio risk monitoring is conducted.

**Policy & Governance**

1. Ensure that investments do not deviate from the Private Placement Memorandum and the Regulations, 2015 along with relevant circulars\directives issued by Commission on periodic basis.
2. Develop investment strategies for the funds within the framework of the Regulations,2015/Private Placement Memorandum.
3. Develop and follow internal investment restrictions and policies.
4. Ensure that proper record of meetings and investment decisions is maintained.
5. Ensure that portfolio planning is conducted and approved after recommendation from IC members.

## Composition

This section shall disclose the composition of IC.

## Quorum

The IC shall have at least X members and must be \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ prior to taking any investment related decision or decisions relating to the responsibilities of the IC. The IC can call other members from the management or specialist (Advisors) to attend the meeting under an invitation by the Chairman. These Advisors will be non-voting members. All decisions shall be made by voting amongst the IC members present in the meeting. The decision with the highest votes will be implemented.

## Frequency of meetings

The IC meeting shall be conducted on monthly basis or else when needed with the approval of the Chairman.

## Decision Making Process

For each transaction evaluation list a typical transaction lifecycle and the number of meetings of IC per deal/investment as per the transaction process defined by the sellers and their advisors.

# VALUATION AND PRICING

## Valuations/Valuation Frequency

The Private Fund is valued at least once in a financial year by an independent valuer appointed with the consent of the Custodian (this requirement should be of once in two years for a venture capital Fund).

Valuations of the Private Fund's securities and assets will be conducted by the Designated Partner or any Independent Valuer designated by the Designated Partner on regular basis \_\_\_\_\_\_\_\_ (Disclose frequency). All the Investments shall be valued in accordance with International Accounting Standards (“IAS”) and International Financial Reporting Standards (“IFRS”). The Entry Value will usually be determined by using most suitable valuation approach adjusted for transaction and industry specific factors.

## Valuation Methodology

The valuation methodology must be documented and disclosed in the Private Placement Memorandum specifying how the portfolio is valued and priced; Examples of few of the valuation methodologies are mentioned below:

1. **Market Approach**

-Multiples

-Industry Valuation Benchmarks

-Available Market Prices

1. **Income Approach**

-Discounted Cash Flows

1. **Replacement Cost Approach**

-Net Assets

## Pricing

All transactions in the Units of the Private Fund shall be at the par value i.e. **PKR. X million each.** The Designated Partner will establish and maintain throughout its term, a separate capital account for each Unit Holder.

## Net Asset Value (NAV) Valuation Policy

The total Net Asset Value of the Units will be expressed in PKR. The Designated Partner will normally determine the Net Asset Value as at each Valuation Date by deducting the value of the total liabilities from the value of the total assets on **X Date** and such manner (specify the manner in which the value of the total assets and total liabilities are computed).

# INCOME DISTRIBUTION POLICY

## Dividend Policy

# (All major areas covered in the sample must be addressed. Although, the relevant data must be filled in accordance with the details true to the conditions the Private Fund wants to lay out, which might not necessarily be exactly as pointed below).

## The Private Fund does/does not intend to pay dividends either in cash or in kind.

## The Private Fund intends to reinvest /doesn’t not intend to reinvest all of the Fund’s income and gain on other projects, if considered viable by the Designated Partner.

In case the Private Fund decides to distribute dividend, the following shall be disclosed in the Private Placement Memorandum:

## Timing of Distribution

## This section shall disclose the timing of dividend distributions.

## Declaration and Distribution of Proceeds

The Designated Partner may announce the amount of realization proceeds for an Accounting Period and distribute it to the Partner(s). All payments for Proceeds shall be made through payment instruments or transfer of funds to the Unit Holder's designated bank account, or through any other mode of payment as allowed by the Commission.

## Distribution Waterfall

This section shall disclose the order in which all amounts allocated to the Partner(s) and the Designated Partner, after making appropriate provision (if any) for costs, taxes, liabilities and management fees be distributed. An example of the order in which the distribution can be made is provided as under:

1. Firstly, to the Partner(s) (pro rata to their respective Capital Contributions) until they have received back their aggregate drawn down Commitments.
2. Secondly, further distributions will go to Partner(s) until they receive the preferred return (12%), compounded annually, on their investment.
3. Thirdly, catchup of 100% to the Designated Partner until it has received 20% of the cumulative amounts distributed with respect to the Preferred Return.
4. Fourthly, all remaining amount would be split on an 80%/20% basis i.e., 80% to the Partner(s) and 20% to the Designated Partner.

# FEES AND CHARGES

**(The Designated Partner shall disclose at least the following as per Regulation 8 (xvii) (b) of Regulations, 2015 and point 19 of schedule IV of the regulations, 2015).**

**(15.1, 15.1.1 to 15.1.5 should be inline with LLP Agreement)**

## Fees and Charges Payable by the Private Fund

The Private Fund will bear all fees, costs, routine administrative expenses and other expenses, plus any applicable taxes, related to the ongoing operations of the Private Fund. Details of such expenses and costs are further explained below.

## Formation Cost

The Private Fund will bear all costs and expenses associated with the launch of the Private Fund including any government and professional fees and expenses in connection with the preparation of documents or related expenses to form the Private Fund. All formation costs will be amortized over the life of the Private Fund. The Designated Partner will be reimbursed these costs against actual costs.

## Transaction Costs

Transaction costs for successful deals including all third-party expenses for proposed investment to be paid by the Private Fund at actual as and when incurred. The Private Fund will also bear all fees and expenses of potential portfolio investment, including all third-party expenses incurred in connection with transactions that are not consummated (“Broken Deal Expenses”). If the Designated Partner is able to negotiate a compensation payment from a broken deal, such amounts would be reimbursed to the Private Fund.

## Subscription / Structuring Fee

## An initial one-time subscription / structuring Fee of up to X% of Total Committed Capital will be charged and deducted upfront from the Eligible Investor’s invested capital in the Private Fund.

## Management Fee

The Designated Partner shall clearly disclose the terms of the management fee including its amount, basis of accrual and payment mechanism.

Any increase in the current level of Management Fee, shall be subject to giving a **X days prior** notice to the Partner(s) upon approval of seventy-five (75%) percent or more unit holders, in terms of value of the Private Fund and submit the updated Private Placement Memorandum to Commission and Custodian within fifteen days of such change.

In respect of any period other than Annual Accounting Period, such remuneration shall be prorated on the basis of the actual number of days for which such remuneration has accrued in proportion to the total number of days in the Annual Accounting Period concerned.

## Performance Fee

Performance fee of **X%** will be distributable to the Designated Partner only after a full return to the Eligible Investors of their Contributed capital and Preferred Return of **X%** compounded annually as mentioned in the clause 14.4.

## Custodian Fee (This Should be in line with Custodian agreement)

The Custodian shall be entitled to a quarterly/half yearly/Annual remuneration out of the Private Fund Property. The remuneration shall begin to accrue from the First Closing. The Custodian shall, bear all expenses in relation to their respective professional management services in accordance with the provisions of the Constitutive Documents. Custodian fee will be calculated as follows:

1. For Net Assets up to PKR 1 billion: PKR **X Million** or **X%** per annum of Net Assets whichever is higher.
2. For Net Assets above PKR 1 billion: PKR **X million** plus **X%** per annum of Net Assets on amount exceeding PKR 1 billion

## SECP Annual Fee

The Designated Partner shall, within three (3) months of the close of its Financial Year pay an annual fee to the SECP at the rate of PKR 250,000 (or as amended by the SECP) per annum as specified in the Regulations,2015 and such fee shall be chargeable to the Private Fund as an expense.

## Remuneration of Distribution / Investment Agent/ Investment Facilitator.

**(In case Investment Facilitator/Investment Advisor/Sales Agent appointed by Designated Partner)**

The distribution company/investment facilitator/investment advisor /sales agent employed by the Designated Partner will be entitle to a remuneration payable by the Private Fund on terms to be agreed between the Designated Partner and company investment facilitator/investment advisor /sales agent.

The Distribution company/investment facilitator/investment advisor /sales agent located outside Pakistan may, if so authorized by Designated Partner be entitle to remuneration from the Private Fund on terms to be agreed between them and the Designated Partner subject to the law for the time being in force.

## Private Fund Raising /Investor Acquisition Expenses

The allocation of expenses related to fund raising and client acquisition activities including travelling, client entertainment, etc. incurred by Designated Partner and/or Joint Venture Partner / Service Provider (if any) up to maximum **X% p.a**. of trailing Net Assets chargeable directly to the Private Fund as per the legal service agreement signed between the Designated Partner and joint Venture/Service Provider.

## Other Charges and Expenses

Other Expenses to be borne by the Private Fund include, but are not limited to, the following:

1. Expenses of preparing, amending, printing, and distributing reports, notices, other communications to Unit holders and government agencies;
2. All fees and expenses reasonably incurred in external due diligence including but not limited to legal, financial, technical and market advice;
3. Quotation or valuation expenses;
4. Profit and fees on any financing by the Private Fund and Bank charges;
5. Legal and professional fees (including, without limitation, expenses of consultants, experts and specialists);
6. Accounting and auditing expenses;
7. All expenses incurred by the Custodian in effecting the registration of all registerable property in the Custodian’s name;
8. Fees and expenses of any sub custodian, transfer agent, and registrar, and any other agent of the Private Fund;
9. All costs and expenses incurred as a result of dissolution, winding-up and termination of the Private Fund;
10. Charges and levies of stock exchanges, National Clearing Company and CDC charges;
11. Legal and related costs incurred in protecting or enhancing the interest of the Partner(s);
12. All indemnities and other expenses related to litigation or other claims against the Private Fund;
13. Any amount which the Shariah Advisor may declare to be Haram and to be paid to Approved Charity Institution;
14. Shariah Advisory Fee;
15. Taxes, fees, duties, if any, applicable to the Private Fund and on its income, turnover and/or its properties including the Sales Tax levied on services offered by the Designated Partner (for management of Private Fund), third party advisors and the Custodian for its services;
16. Other service charges include out of pocket expenses, taxes, fees, duties and other charges directly related to or associated with the Private Fund from time to time in excess of those already covered.

## Designated Partner’s Expense

The Designated Partner will be responsible for providing and paying for all office personnel, employee benefits, travel expenses of employees of the Designated Partner and its affiliates, office space and office facilities required for the performance of its services to the Private Fund.

The Designated Partner will not be responsible for fees and expenses of the Custodian or advisors appointed by the Private Fund or the fees and expenses of any legal advisors, auditors, external advisors or other service providers appointed by the Designated Partner or Custodian solely for the purposes and benefit of the Private Fund, or for the purpose of compliance with the Rules and Regulations, 2015 and Regulation,2008 or for any expenses incurred in conducting investment transactions.

Such expenses shall include any and all taxes, stamp duty, commissions and registration fees and legal fees associated with the Private Fund Property and the Private Fund or otherwise imposed on the Designated Partner in connection with the provision of its services relating to the Private Fund. All such costs shall be borne out of the Private Fund.

# DISCLOSURES, RECORDS AND REPORTING TO THE UNIT HOLDERS

## Periodic Reporting to Partner(s)

The Designated Partner will disclose the following information on half yearly basis to the Eligible Investors;

1. Detail and composition of portfolio including value and description of the portfolio, value of each security held in the portfolio and cash balances as on the date of report;
2. Details of expense charged and expense ratio including Management fee, Custodian fee, formation cost, Auditor fee, brokerage commission, bank charges, other charges etc.; as per the Constitutive Documents;
3. Details of benefit received during that period including profit, dividend, bonus units; and
4. Performance review

## Financial Reporting

The Designated Partner within four (4) months of close of the financial year of the Private Fund, will prepare as per the approved applicable International Accounting Standards (IAS) and International Financial Reporting Standards (IFRS), and transmit to the Partner(s) and the Commission, with respect to the Private Fund:

1. The balance sheet stating details of investments depicting cost and realizable value of such investments;
2. Profit and loss statement;
3. Cash flow statement; and
4. Statement of movement in NAV per Unit of the private fund

The Designated Partner will also provide unaudited financial information for the fund on a quarterly basis for informational purpose only.

## Account Statements

The Designated Partner shall send an investment account statement to each Unit Holder on the registered mailing address (or email address) provided by the Unit Holder at least once in a year and each time when there is a transaction in the account. The Partner(s) will be entitled to request for copies of their account statement on any Dealing Day within Business Hours by applying to the Designated Partner in writing and providing such fee to the Designated Partner as may be notified from time to time, and such copies will be sent to the Partner(s) within (07) seven Dealing days.

The Designated Partner/Transfer Agent shall provide an account balance and/or account activities statement through electronic mode to all Partner(s) who have opted for such service on a half yearly basis or at least once annually to all unit holders.

## Accounting Period

Accounting Period means a period ending on and including an accounting date and commencing (in case of the first such period) on the date on which the Private Fund Property is first paid or transferred to the Custodian and (in any other case) from the next day of the preceding Accounting Period. Annual Accounting Period can mean the twelve months period commencing either on \_\_ and ending on \_\_ of the succeeding calendar year.

## Custodian Report

The Custodian's report to the Partner(s) shall be included in the Annual Report, and shall state whether in the opinion of the Custodian, the Designated Partner has in all material respects managed the Private Fund in accordance with the provisions of the Regulations 2015 and Regulations 2008, the Rules and the Constitutive Documents and if the Designated Partner has not done so and the steps the Custodian has taken in respect thereof.

## Record Maintenance

The Designated Partner will maintain the books of accounts and other records of the Private Fund at least for ten (10) years which will include complete records reflecting an accurate view of the financial position of the Private Fund, the income and expenditure of the Private Fund, all transactions executed for the account of the Private Fund, amounts received by the Private Fund in respect of issue of Units and any distributions and payments made out of the Private Fund / at the termination of the Private Fund.

The Designated Partner shall maintain a Register of Unit holders by itself or appoint a Registrar. Provided that the Designated Partner may itself also act as the Registrar. The Designated Partner may remove and/or replace the Registrar, under intimation to the Custodian.

# INVESTMENT RISKS

**(This list of risks mentioned below are not exhaustive and can include relevant risks other than the ones mentioned below).**

## Specific Risks

## Unavailability of Trading Platform

Private funds are not mutual funds. The Private Fund either a closed-end Private Fund/open-end Private Fund are designed primarily for long-term Investors and are not intended to be a trading vehicle. An Investor should not invest in the Private Fund if the Investor needs a liquid investment. Close-end Private Funds have a finite term whereas Open-end Private Funds have an infinite term. Investors in both a closed-end Private fund or open-end private fund do not have the right to redeem their units on a daily basis at a price based on NAV.

## No Guaranteed Return or Distributions

The Private Fund's performance can be volatile and cannot guarantee return of Investors' capital contributions. There can be no assurances that the Private Fund will achieve the rates of return illustrated at any point.

## Taxation Risk

The investors of the Private funds will be subject to double taxation layer. The first layer of taxation applies to the dividend distribution from a Private Fund out of its income and 2nd layer applies to each individual unit holder's income out of those distributed funds. Hence, a private fund unit holder ends up paying double tax.

## Idle Funds

While the Designated Partner will endeavor to keep the Fund’s assets invested, there may be periods of time before and after an investment position is taken when the Company has a significant portion of its assets in other liquid investments. The investment return on such “idle funds” is not expected to meet the overall return objective the Designated Partner seeks.

## Liquidity Risk

Investments in the Private Fund requires a long-term commitment, with no certainty on returns. The Private Fund does not expect to generate cash flow to the Unit holders in the near term. Most of the investments would be highly illiquid and there can be no assurance that the Private Fund would be able to realize on such investments in a timely manner. Currently, there is no public market for the Units.

## Business Risks

Investments of the Private Fund will consist primarily of securities issued by the entities that are privately owned/publicly (in case of Alternative Funds) owned. Operating results of such entities will be difficult to predict. Such investments involve a high degree of business and financial risk that can result in substantial losses.

## Equity Risk

Companies issue equities or stocks to help finance their operations and future growth. The Companies’ performance outlook, market activity and the larger economic picture influence the price of equity. Usually when the economy is expanding, the outlook for many companies is good and the equity prices may rise and vice versa.

## Events Risk

There may be adjustments to the performance of the Private Fund due to events including but not limited to a natural calamity, market disruption, mergers, nationalization, insolvency and changes in tax law etc.

## Valuation Risks and Conflicts

Certain investments in which the Private Fund may directly or indirectly hold and certain of the Private Fund's liabilities may not have a readily ascertainable market value and may be valued by the Designated Partner or any Independent Valuer in accordance with its established valuation policies. The valuation of such assets and liabilities may rely on quoted prices in inactive markets or models that have observable inputs. Certain other categories of assets may lack any readily available market information and, accordingly, the valuation of such assets may rely substantially on models and significant unobservable inputs including assumptions from market participants. As such assets are not actively traded, their value can only be estimated using a combination of mathematical models and subjective assumptions.

## Dependence on Third Party Relationships

The Private Fund is generally dependent on relationships with third parties including tax advisers, law firms, accounting and audit firms etc. There can be no assurance that such third parties may regard their relationship with the Designated Partner as important to their own business and operations. Accordingly, there can be no assurance that the Designated Partner’s existing relationships or future relationships will result in sustained business partnerships, successful service offerings, or significant revenues for the Private Fund.

## Concentration of Investments

There are no limitations imposed by the Designated Partner as to the amount of assets that may be invested in (i) any one Investee company, (ii) indirectly in any single industry or (iii) in any Private Fund. In addition, a Private Fund’s investment portfolio may consist of a limited number of companies and may be concentrated in a particular industry area or group. Accordingly, the Private Fund’s investment portfolio may at times be significantly concentrated, both as to industries and individual companies. Such concentration could offer a greater potential for capital appreciation as well as increased risk of loss. Such concentration may also be expected to increase the volatility of the Private Fund’s investment portfolio.

## Risks Relating to Distributions.

Where a Private Fund makes distributions to Unit holders, such distributions are at the absolute discretion of the Designated Partner and are not guaranteed. The amount of actual distributions that a Private Fund may pay, if any, is uncertain. Distributions may be made from profit and capital gains derived from the investments of the Private Fund. Profits may be adversely affected by events (but not limited to) investee company suffering unexpected losses and/or paying lower than expected dividends, and adverse currency exchange rate fluctuations etc. Investors should note that the declaration and/or payment of distributions (whether out of profit, capital gains, capital or otherwise) may have the effect of lowering the net asset value of the Private Fund.

## Increases in Operating and Other Expenses

The Private Fund’s operating and other expenses could increase without a corresponding increase in turnover or reimbursements of operating and other costs. Factors that may increase operating and other expenses include (i) increases in the rate of inflation (ii) increases in regulatory charges (iii) changes in laws, Regulations, 2015 or government policies which could increase the costs of compliance with such laws, Regulations, 2015 or policies.

## Third-Party Litigation.

A Private Fund’s investment portfolio is subject to the normal risks of becoming involved in litigation by third parties. Existing investors in a portfolio of investments may bring lawsuits against the Private Fund, particularly in situations where existing investors in such portfolio of investments are adversely affected by the Private Fund’s participation in such portfolio of investments. The expense of defending against claims by third parties and paying any amount pursuant to settlements or judgments would generally be borne by such portfolio of investments (and would reduce net assets) and indirectly, by the Private Fund.

## Taxation

The Private Fund will be structured in a manner that is tax efficient. However, there can be no assurance that such structure will be tax efficient in general or for any particular investor or that any particular result will be achieved. In general, tax laws, treaties and Regulations, 2015 are extremely complex and are subject to changes on a frequent basis, which in some cases may reduce existing tax benefits, and may also have a retroactive effect. Accordingly, each potential investor is urged to consult his, her or its own tax advisor regarding the applicability, effects and implications of the various tax laws with respect to such investors.

## Exit Strategies.

A number of factors may complicate exit strategies pursued by the Private Fund and portfolio of investments.

## Small Companies

(Not Applicable in case of Alternative Fund)

There is no limitation on the size of the companies in which the Private Fund may invest. Some small or mid cap companies (listed and unlisted) in which the Private Fund may invest may be speculative, lack management depth or the ability to generate internally or obtain externally the funds necessary for growth. Companies with new products or services could sustain significant losses if projected markets do not materialize. Further, such companies may have, or may develop, only a regional market for products or services and may be adversely affected by purely local events. Such companies may be small factors in their industries and may face intense competition from larger companies and entail a greater risk than investment in larger companies.

## Due Diligence Risk

Although the Investment Committee will endeavor to adopt a detailed and exhaustive internal and external due diligence process, the Private Fund can face losses due to items that were not identified during the process.

## Shariah non-compliance Risk

The risk associated with employing funds in investments that are not consistent with the principles of shariah.

## General Risks

## Credit Risk

Credit Risk comprises default risk and credit spread risk. Each can have negative impact on the value of the income and investments held by the Private Fund.

## Default Risk

The risk that the issuer of the investee security will be not be able to pay the obligation either on time or in all.

## Political and Regulation Risk

Investments made by the Private Fund may be subject to changing political environments, regulatory restrictions and changes in government institutions and policies, any of which could adversely affect such private investments.

## Economic Risk

## Economic risk refers to the likelihood that macroeconomic conditions may affect the investment. Growth rate of gross domestic product, the rate of inflation, capital reinvestment, resource self-sufficiency or balance of payments could adversely affect the Private Fund’s performance in a deteriorating macroeconomic environment.

## Foreign Currency and Exchange Rate Risk

The foreign currency risk is prevalent in investments placed outside Pakistan. The foreign investments may be affected due to foreign government actions, political instability, transaction exposure or any other factors affecting international forex market.

## Leverage Risk and Financial Risk

Investments of the Private Fund may be leveraged by financing entities in which the Private fund has invested. Such leveraging although potentially providing enhanced returns to the Private Fund can substantially increase the risk of loss for the Private Fund including in that loans to an entity would typically rank in priority or other decisions on behalf of the Private Fund or have any role in transaction for the Private Fund.

## Market risk

Market risk is the risk of losses on investments held in the portfolio caused by adverse price movements.

## Redemption Risk

Some of the underlying investments of the Private Fund are not actively traded, the Partner(s) may face difficulties in redeeming their investments;

## Price risk

The price risk is defined as when the NAV of the fund increases or decreases due to its holdings in such securities as a result of other factors. **(Please provide risk arising due to any variation in key underlying assumptions and their quantifiable impact (This should cover sensitivity and worst-case scenario analysis) on the NAV).**

## Inflation

Pakistan has experienced extremely high rates of inflation for many years. Inflation and rapid fluctuations in inflation rates have had and may continue to have negative effects on the economies and securities markets. Therefore, the performance of the Private Fund could be affected by rates of inflation.

## Pandemic & Health Risk

The occurrence of a pandemic outbreak, such as a viral or bacterial infectious disease with global reach, may have adverse consequences for underlying portfolio investments of the Private Fund and the value of the Private Fund’s investments therein, the operations of the Designated Partner and the Private Fund. Any of such pandemic outbreak events could materially and adversely affect the Private Fund’s ability to source, manage and divest its investments and its ability to fulfil its investment objectives.

# Taxation/Zakat on Private Fund

## Taxation on the Income of the Private Fund

The following is a brief description of the Income Tax Ordinance, 2001, applicable in respect of the Private Fund. Under the Tax Law in Pakistan, the definition of a public company includes a Private Fund formed under any law for the time being in force. The Private Fund will taxed at the rate applicable to a public company:

The income of the Private Fund will accordingly be taxed at the following rates

1. Dividend income as applicable according to the relevant law.
2. Capital Gain Tax as applicable according to the relevant law.
3. Return from all other sources / instruments are taxable at the rate applicable to public company

**Please provide reference of any exemption the Private Fund is seeking along with the name of the auditor providing opinion on such exemption.**

## Withholding tax

The Private Fund’s income from dividend, deposits with banks, financial institutions, commission and brokerage and capital Gains on disposal of securities will be subject to withholding tax as per Income Tax Ordinance (ITO), 2001.

## Zakat on Private Fund

The Private Fund is Saheb-e-Nisab under the Zakat and Ushr Ordinance, 1980. The balance in Islamic banks account, Islamic Banking Window of Commercial Bank Account, or similar account with a bank standing on the first day of Ramzan-ul-Mubarak will be subject to Zakat deduction @ 2.5%.

## Tax implications on High-Net-Worth Individuals and Institutional Investors

## Dividend received from a Private Equity and Venture Capital Fund and Alternative Fund

Tax rate on Mutual fund entity and REIT (charged and withheld) as provide in Income Tax Ordinance (ITO), 2001 will also be applicable on dividend received from Private Equity and Venture Capital and Alternative Fund. However, if some tax liability is discharged, by way of minimum taxes, then enhanced rate of tax would not apply and distributions out of Private Equity and Venture Capital Fund or Alternative Fund would also be subject to tax at the rate of 15%.

## Capital gains on disposal of units

As the Private Fund is registered as a Private Fund under the Private Funds Act, 2020 and as a Company under the Companies Act 2017, capital gains earned on disposal of units of Private Equity and Venture Capital Fund / Alternative Fund would therefore be subject to tax as a separate block at the applicable rate as per Income Tax Ordinance (ITO), 2001.

## Tax implications on International Investors

The tax implications would vary on case-to-case basis depending on the tax residency of the Investor. To determine the tax implications, bilateral treaty which Pakistan has executed with various countries would need to be examined to check how the taxing rights of capital gains are shared between the two countries. Multilateral convention to implement tax treaty related measures to prevent base erosion and profit shifting (MLI) may also have certain implications depending on the choices of various countries to adopt certain provisions within MLI.

## Zakat on Investors

Units held by resident Pakistani Partner(s) shall be subject to Zakat at 2.5% of the value of the Units under Zakat and Ushr Ordinance, 1980, (XVII of 1980), except those exempted under the said Ordinance. Zakat will be deducted at source from the redemption proceeds. Above deduction will not be made if Unit Holder provides declaration in due course of time to the Designated Partner.

## Disclaimer

The tax and Zakat information given above is based on the Designated Partner’s tax advisor’s interpretation of the law which, to the best of the Designated Partner’s understanding is correct. Investors are expected to seek, independent advice so as to determine the tax consequences arising from their investment in the units of the Private Fund. Furthermore, tax and Zakat laws, including rates of taxation and of withholding tax, are subject to amendments from time to time. Any such amendments in future shall be deemed to have been incorporated herein.

# THE CUSTODIAN – NAME OF CUSTODIAN

## Details of the Custodian

The Custodian of the Private Fund is **Name of Custodian** having its registered office at **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

The Custodian is required to perform the role of Custodian is specified by Applicable Laws, the LLP Agreement and this Private Placement Memorandum.

The Custodian shall perform all the obligations entrusted to it and discharge all its duties in accordance with the Applicable laws, the LLP Agreement and this Private Placement Memorandum. Such duties may also be performed on behalf of the Custodians by any officer or responsible official of the Custodian or by any nominee or agent appointed by the Custodian under intimation to the Designated Partner. Provided that the Custodian shall be responsible for the willful acts and omissions and shall account to the Private Fund for any loss in value of the Private Fund property where such loss has been caused by negligence or any reckless willful act or omission of the Custodian or any of its attorney (ies), or agents.

## Duties, Powers, Rights and Obligation of Custodian

The Custodian shall perform its role, duties and obligations and have such powers and rights, as are specified in the NBFC Rules, NBFC Regulations, Regulations, 2015 and directives issued there under Custodian Agreement and this Private Placement Memorandum.

In addition, the Custodian shall have the following obligations with respect to the Private Fund, the Designated Partner and/ or the Partner(s) as applicable:

* + 1. take under its control all the property of the Private Fund and hold it for the Partner(s) in accordance with the NBFC Rules, NBFC Regulations, Regulations, 2015 and the provisions of the Constitutive Documents. Any cash and registerable assets shall be registered in the name of, or to the order of, the Custodian in case of Private Fund;
    2. ensure that the sale, purchase, issue and transfer of Units effected by a Private Fund are carried out in accordance with the provisions of the Constitutive Documents;
    3. carry out the instructions of the Designated Partner, in respect of investments unless these are in conflict with the provisions of these Regulations, 2015 and NBFC Regulations or the Constitutive Documents;
    4. issue a report to be included in the annual report of the Private Fund and therein state whether, in its opinion, the Designated Partner has in all material respects managed the Private Fund in accordance with the provisions of the Constitutive Documents, the Rules and Regulations,2015 and NBFC Regulations and if the Designated Partner has not done so, the respects in which it has not done so and the steps that the Custodian has taken in respect thereof;
    5. not legally or beneficially own or invest in the Units of the Private Fund;
    6. obtain and maintain duplicate of all the records of register of Partner(s) maintained by the Designated Partner or the Registrar and shall update the record on a regular basis;
    7. in the event of any loss caused due to any gross negligence or willful act and/or omission, the Custodian shall have an obligation to replace the lost investment forthwith with similar investment of the same class and issue together with all rights and privileges pertaining thereto or compensate the Private Fund to the extent of such loss. However, the Custodian shall not be under any liability thereof or thereby and it shall not incur any liability by reason of any error of law or any matter or thing done or suffered or omitted to be done in good faith hereunder; and
    8. comply with any directions of the Commission given in the interest of the Partner(s).
    9. the Custodian shall nominate one or more of its officers to act as authorized persons for performing the Custodian’s functions and for interacting with the Designated Partner. Any change in such authorized persons shall be promptly notified in advance to the Designated Partner.
    10. The Custodian shall be responsible for the acts and omissions of all persons to whom it may delegate any of its duties, as if these were its own acts and omissions and shall account to the Private Fund for any loss in value of the Private Fund Property where such loss has been caused by gross negligence or any reckless act or omission of the Custodian or any of its directors, officers, nominees or agents.
    11. Bank Account of the Private Fund shall be opened by the Custodian or Designated Partner as the case may be on the title of [Mention name of Private Fund] whereas such Bank Account shall be operated by the Custodian from which account, the Custodian shall make payments on Instructions of the Designated Partner and in which account the Custodian shall receive or credit payments against income, profit, sale or disposal of Securities, maturity of Securities, proceeds against issuance of Units, Dividend etc. on account of the Private Fund in accordance with the Instructions of the Designated Partner.

* + 1. The Custodian shall on the direction of the Designated Partner appoint, remove or replace from time to time one or more bank(s) and/or other depository company(ies) etc. to act as the Custodian(s) for holding and protecting the Private Fund Property and every part thereof and for generally performing the custodian services at one or more locations and on such terms as the Custodian and the Designated Partner may mutually agree to be incorporated in custodian services agreement(s) to be entered into between the Custodian and the Custodian(s), except where the Custodian itself is acting as a Custodian. Notwithstanding appointment of any other entity to act as Custodian for any of the Private Fund Property, the Custodian shall continue to remain responsible for performance of its function and obligations under the Custodian Agreement, Constitutive Documents and Applicable Law.
    2. The Private Fund Property shall be invested or disinvested from time to time by the Custodian at the direction of the Designated Partner in terms of the provisions contained and the conditions stipulated in the Constitutive Documents of the Private Fund.
    3. Except as otherwise provided in the Constitutive Documents or Applicable Law, the Custodian shall not be under any liability on account of anything done or suffered by the Private Fund, if the Custodian had acted in good faith in performance of its duties under the Custodian Agreement or in accordance with or pursuant to any request of the Designated Partner provided it is not in conflict with the provisions of the Custodian Agreement or the Rules, Regulations, 2015 and NBFC Regulations. Whenever pursuant to any provision of Custodian Agreement, any instruction, certificate, notice, direction or other communication is required to be given by the Designated Partner, the Custodian may accept as sufficient evidence thereof.
    4. A document signed or purporting to be signed on behalf of the Designated Partner by any authorized representative(s) whose signature, the Custodian is for the time being authorized in writing by the Designated Partner to accept; and
    5. Any instructions received online through the software solution adopted by the Designated Partner/Custodian in consultation with each other shall be deemed to be instructions from the authorized representative(s).
    6. The Custodian shall not be liable for any loss caused to the Private Fund or to the value of the Private Fund Property directly caused by Force Majeure;
    7. The Custodian shall make available or ensure that there is made available to the Designated Partner such information as the Designated Partner may reasonably require from time to time in respect of the Private Fund Property and all other matters relating to the Private Fund.
    8. Custodian shall hold any securities (as defined in the of the Private Fund) in registered form in the Private Fund’s name, in which neither the Custodian nor any of its affiliates has any beneficial interest. Securities and other assets forming part of Private Fund Property shall be segregated on the Custodian’s books and records from the Custodian’s own property and the property of any other client, and no such clients shall have access to the property of the Private Fund.
    9. The Custodian shall, if requested by Designated Partner or if it considers necessary for the protection of Private Fund Property or safeguarding the interest of Unit Holder(s) subject to obtaining prior written consent of Designated Partner institute or defend any suit, proceeding, arbitration or inquiry or any corporate or shareholders’ action in respect of the Private Fund Property or any part thereof, with such powers as may be authorized by the Designated Partner to sign, swear, verify and submit pleadings and affidavits, to file documents, to give evidence, to appoint and remove counsel and to do all incidental acts, things and deeds through the Custodian ’s authorized director(s) and officer(s). All costs, charges and expenses (including legal fees) incurred in instituting or defending any such action shall be borne by the Private Fund and the Custodian shall be indemnified against all such costs, charges and expenses, provided that no such indemnity shall be available in respect of any action taken against the Custodian in connection with the Custodian ’s gross negligence or breach of its duties in connection with the Private Fund. For the avoidance of doubt it is clarified that notwithstanding anything contained in the Custodian Agreement , the Custodian and the Designated Partner shall not be liable in respect of any losses, claims, damages or other liabilities whatsoever suffered or incurred by the Private Fund arising from or consequent to any such suit, proceeding, arbitration or inquiry or corporate or shareholders’ action or otherwise howsoever and (save as herein otherwise provided) all such losses, claims, damages and other liabilities shall be borne by the Private Fund.
    10. The Custodian shall promptly forward to the Designated Partner within one Business Day any notices, reports or other documents issued by the issuers of securities, recipients of any of the Private Fund Property (as deposits, refunds, distribution of dividends, income, profits, repayment of capital or for any other reason), any depository, an intermediary or agent in any transaction or from any court, government, regulator, stock exchange or any other exchange.
    11. The Custodian shall call a meeting of the Partner(s) through notice to the Partner(s) whenever required as per the following mechanism:
    12. For all matters relating to the Fund, a meeting of the Partner(s) shall be convened by the Custodian upon the request of: (i) the Designated Partner; or (ii) Partner(s) owning or entitled to own at least X% of Fund Units.
    13. Disclose the modes through which the Partner(s) meetings will be held e.g. video-link communication by which all Partner(s) participating and constituting a quorum.
    14. Disclose the quorum which will constitute a valid meeting for agendas other than change in fundamental attributes of the Private Fund/Alternate Fund. In case of an agenda on changing fundamental attributes of a Private Fund/Alternative Fund, a quorum of at least 75% is needed to constitute a valid meeting.
    15. Disclose the mechanism of serving notice of a proposed meeting to the Partner(s).
    16. Disclose the percentage of Partner(s) required for a decision to be adopted. In case of meeting resolution related to changing fundamental attributes of a Private Fund/Alternative Fund, approval of 75% or more Partner(s) is needed as per Regulations, 2015.
    17. Disclose the other details of Partner(s) meeting, its documentation, communication and reporting of the minutes of the meeting to the Partner(s) and Designated Partner.

## Duties of the Custodian which may be delegated to the Third Parties

The Custodian may appoint any third party to act as agent of the Custodian for holding and protecting Private Fund Property and every part thereof and for generally performing the custodial services at one or more locations and on such terms as the Custodian and the Designated Partner may mutually agree to be incorporated in custodial services agreement(s). Notwithstanding appointment of any other entity to act as agent of the Custodian for any of the Private Fund Property, the Custodian shall continue to remain responsible for performance of its function and obligations under the LLP Agreement, Constitutive Documents and Applicable Law.

## Remuneration of Custodian and Its Agents

The Custodian shall be entitled to a quarterly remuneration out of the Private Fund Property determined in accordance with the LLP Agreement. The remuneration shall begin to accrue from the First Closing. Such remuneration shall be paid to the Custodian quarterly.

In consideration of the foregoing and save as aforesaid the Custodian shall be responsible for the payment of all expenses incurred by the Custodian from time to time in connection with its duties as Custodian of the Private Fund. The Custodian shall not make any charge against the Partner(s) or against the Private Fund Property or against the Distribution Account for their services or for their expenses, except such expenses as are expressly authorized to be paid out of the Private Fund Property under the provisions of the Regulations, 2015 and the Constitutive Documents.

Any increase in the remuneration of the Custodian will be on mutually agreed basis with Designated Partner and such agreement shall be recorded in writing.

# AUDITOR OF THE PRIVATE FUND

The first independent Auditor of the Private Fund is:

1. the Auditor who will hold office until the transmission of the reports and accounts, which will cover the period from commencement of the Private Fund up to the end of the accounting period of the Private Fund and will, afterwards, be eligible for reappointment by the Designated Partner with the concurrence of the Custodian. However, an Auditor may be re-appointed for such terms as stipulated by Applicable Laws as amended from time to time. The appointment of Auditor and contents of the Auditor’s report shall be in accordance with the provisions of Applicable Laws.
2. the Auditor shall have access to the books, papers, accounts, and vouchers of the Private Fund, whether kept at the office of the Designated Partner, Custodian, a custodian, transfer agent or elsewhere and shall be entitled to require from the Designated Partner, Custodians and their Directors, officers and duly authorized agents and representatives such information and explanations as considered necessary for the performance of audit.
3. the Custodian shall be entitled to require the Auditor to provide such further reports as may be agreed between the Custodian and the Designated Partner as may be considered necessary to facilitate the Custodian in issuing any certifications required under Applicable Laws.
4. The Auditor shall prepare a written report to the Partner(s) on the accounts and books of accounts of the Private Fund and the balance sheet, profit and loss account, cash flow statement and statement of movement in Partner(s)’ Fund and on every other document forming part of the balance sheet and profit and loss account, including notes, statements or schedules appended thereto in accordance with Applicable Law. The report of the Auditors shall state:

* Whether in the Auditor's opinion the accounts prepared for that period have been properly prepared in accordance with the relevant provisions of the Regulations, 2015;
* Statement to the effect that the Auditor has conducted audit of the Private Fund in accordance with the international standards on auditing as applicable in Pakistan;
* Without prejudice to the foregoing, whether in the Auditor's opinion, a true and fair view is given of the disposition of Private Fund at the end of the period and of the transactions of the Private Fund of the period;
* if the Auditor is of the opinion that proper books and records have not been kept by the Private Fund or the accounts prepared are not in agreement with the books and records of the Private Fund, that fact; and
* if the Auditor has failed to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purpose of the audit.

# BANKERS

Bankers to the Private Fund shall be any bank **(must be Shariah compliant/ Islamic banks and Shariah compliant/ Islamic banks window for Shariah Compliant Private Fund**) appointed by the Designated Partner. The Custodian shall maintain and operate the Bank Accounts of the Private Fund at the said Bank(s).

## Bank Accounts

1. The Custodian, at the request of the Designated Partner, shall open Bank Account(s) titled **“Custodian-Custodian name of Private Fund”** for the Unit Private Fund at designated Islamic Bank(s)/ Islamic Window of Conventional Banks inside or outside Pakistan, subject to the relevant laws, LLP Agreement, Rules, Regulations 2015 and Regulations 2008 for collection, investment, redemption or any other use of the Private Fund’s Funds.
2. The Designated Partner may also require the Custodian to open Bank Account(s) as Distribution Account(s) for dividend distribution out of the Unit Private Fund. Notwithstanding anything in the LLP Agreement, the beneficial ownership of the balances in the Accounts shall vest in the Partner(s).
3. All bank charges for opening and maintaining Bank Accounts for the Private Fund shall be charged to the Private fund.
4. All income, profit etc., earned in the Distribution Account(s), including those accruing on unclaimed dividends, shall form part of the Private Fund Property for the benefit of the Partner(s) and shall be transferred periodically from the Distribution Account(s) to the main Bank Account of the Private Fund.

# SHARIAH GOVERNANCE (only applicable to shariah compliant Private Fund)

All activities of the Private Fund shall be undertaken in accordance with the Shariah Guidelines provided by the Shariah Advisor or Shariah Regulatory Provisions of SECP issued from time to time. The Designated Partner has appointed a Shariah Advisor who shall advise the Designated Partner on matters relating to Shariah Compliance.

The Shariah Advisor shall be appointed for a period mutually agreed between the Designated Partner and such Shariah Advisor and may be re-appointed on completion of his term. The Designated Partner may terminate its agreement with the Shariah Advisor and appoint a new Shariah Advisor under intimation to the Custodian and SECP. Provided that till the appointment of new Shariah Adviser, the existing Shariah Adviser shall continue to perform his duties. Provided further that the Designated Partner shall inform the Commission at least 15 days in advance for change in the Shariah Advisor.

## Duties and Responsibilities of Shariah Advisor

The Shariah Advisor Shall:

1. provide technical guidance and support on various aspect of Shariah so as to enable the Designated Partner to operate the Fund as a Shariah Complaint Private Fund.
2. recommend general investment guidelines consistent with the Shariah. Any verdict issued by the Shariah Advisor in respect of any Shariah related matter shall be final and acceptable to the Custodian, the Designated Partner, the Partner(s) and other parties related with that matter.
3. at the end of Annual Accounting Period, issue a certificate, to be included in the Private Fund`s financial reports, in respect of Shariah Compliance of the preceding year`s operation of the Private Fund and the Shariah Advisor may, at the expense of the Private Fund, conduct such audit or other investigation as may be necessary for the issuance of the certificate.
4. co-ordinate with the Designated Partner in drawing up of the LLP Agreement and other related material documents including Constitutive Documents for the formation of the Unit Private Fund
5. perform the research as appropriate for the purpose of screening of investments. The Shariah Advisor will then decide as to which criteria are relevant to be used in the context of relevant markets and the instruments as per investment strategy of the private Fud, and which need to be modified/added/deleted and also decide the methodology for calculation of Haram Income
6. certify that all the provisions of the Constitutive Documents of the Private Fund and proposed investments to be made on account of the Private Fund are Shariah compliant with the established criteria.
7. determine percentage of income and cash flows included in the income and cash flows of the companies in which the Private Fund has invested from activities not in accordance with the principles of the Shariah, and recommend to the Designated Partner the criteria for selecting the registered charitable institutions as per shariah advisor guidelines under relevant Pakistani laws to whom such sums shall be donated.

## Shariah Screening Criteria

Disclose Shariah screening criteria of the Private Fund as per Shariah Governance Regulations, 2018.

## Shariah Advisor (Internal) – Name of Advisor

Disclose the profile of the internal Shariah Advisor

## Shariah Advisor (External) – Name of Advisor

Disclose the profile of the internal Shariah Advisor

# OTHER ADVISORS AND AGENTS

## Role of the Advisory Board

Disclose the role and other details of the advisory board.

## Legal and Professional Advisory

Disclose the role and other details of the legal and professional advisory.

## Registrar or Transfer Agent

Disclose the role and other details of the registrar and transfer Agent.

## Other advisor/consultant/Industry expert

Disclose profile and details of any other advisor/consultant/industry expert appointed by Designated Partner for the Private Fund.

# Change of the Designated Partner

* 1. The Designated Partner, may with the approval of Partner(s) representing 75% or more of the value of the Private Fund, voluntarily retire at any time with prior written intimation to the Commission and at least ninety days prior notice to the Custodian. The exiting Designated Partner shall appoint another Designated Partner as the Designated Partner for the Private Fund in accordance with the Regulations, 2015 and other Applicable Laws. Provided that no retirement of the Designated Partner shall become effective until the appointment of another Designated Partner (the “Successor Designated Partner”) licensed by the Commission in accordance with the Regulations, 2015 and execution of a supplemental Agreement in the name of the Successor Designated Partner.
  2. Provided that the removal or retirement of the Designated Partner shall not become effective until the Designated Partner has utilized all its legal remedies and received its remuneration as described in the section of the Private Placement Memorandum titled Remuneration of the Designated Partner. Furthermore, distribution of income and capital provision set out in the Term Sheet in Annexure I of the Private Placement Memorandum will survive any such removal/retirement and transfer.
  3. Upon appointment of the successor the Designated Partner, the Designated Partner will take immediate steps to hand over all the documents and records pertaining to the Private Fund to the successor Designated Partner and shall pay all sums due to the Custodian. The Designated Partner shall have the right to receive its remuneration up to the effective date of removal or retirement, i.e., up to the expiry of the ninety days’ notice period.
  4. Furthermore, the Custodian may immediately in case of change of Designated Partner appoint auditors with the consent of the Commission from amongst the panel of auditors from the SECP’s list of QCR approved Auditors issued vide circular no. 04 of 2023 dated April 03,2023. The Designated Partner shall ensure that accounts of the Private Fund till the day of the appointment of the new Custodian are audited by such Auditor.
  5. The auditors so appointed may be other than the existing auditors of the Private Fund, the Designated Partner and the Custodian.
  6. Upon appointment of the successor the Designated Partner shall exercise all the powers and enjoy all the rights and shall be subject to all duties and obligation of the Designated Partner hereunder as fully as though such new Designated Partner had originally been a party hereto.
  7. The Auditors shall have the same scope as that for the annual audit as set out in the Regulations, 2015 or such other enhanced scope as may be specified by the Custodian or Commission.
  8. The Auditors Report shall be submitted by the Auditors to the Custodian not later than thirty (30) Business Days from the appointment. A copy of the report shall also be provided to the Commission, the Designated Partner and the Successor Designated Partner
  9. The cost of such audit shall be borne by the Private Fund.

## Remuneration of the Designated Partner and its Agents

## The Designated Partner shall be entitled to prescribe and receive remuneration up to the maximum rate of remuneration permitted under the Private Placement Memorandum (see 15.1.4 Management Fee).

## The remuneration shall in all cases be determined with reference to and shall begin to accrue from the mention period e.g. First closing date etc. as specified in Private Placement Memorandum / Term sheet, regardless of the date on which the Partner(s) make their contributions;

## Such remuneration shall be paid to the Designated Partner in the manner specified in this Private Placement Memorandum:

## The fees payable to the Designated Partner hereunder will supplement and will not be abated by any other remuneration receivable by the Designated Partner or any associate of the Designated Partner in connection with any transactions effected by the Designated Partner for the benefit of or associated with the Private Fund or any investment transactions;

## Any increase in the management fees or remuneration of Designated Partner shall be effective only after prior notice and approval of 75% of the Unit holders. However, any decrease in remuneration, agreed to by the Designated Partner shall not require any prior notification or approval.

## The Designated Partner may from time to time, in its absolute discretion, waive or rebate all or any part of its fees to any third party. Fees may be reduced or may not be payable on such Units as may be specified in the Private Placement Memorandum.

## In the event of any dispute as to the amounts payable to the Designated Partner by the Private Fund or by the Custodian under the LLP Agreement. The certificate of the Auditors of the Private Fund acting as experts shall be conclusive and binding, and the fees of the Auditors to act as experts in this regard shall be borne by the Private Fund.

# Retirement or Removal of Custodian

## The Custodian may, subject to the prior approval of the Commission, retire from his office on appointment of a new Custodian and the retirement shall take effect at the same time as the new Custodian is appointed with the approval of the Commission or from the date of assumption of Private Fund Property of the Fund by the newly appointed Custodian, whichever is later.

## In circumstances where the Commission is of the opinion that Custodian has been in violation of the Regulations, 2015 and Regulations, 2008 or the LLP Agreement or found guilty of misconduct or failed to discharge its obligations under the Regulations,2015 and Regulations, 2008 it may remove the Custodian after giving an opportunity of being heard.

## The Designated Partner may, giving cogent reasons, apply to the Commission for change of the Custodian by simultaneously proposing appointment of a new Custodian. A new Custodian shall be appointed when the Commission is satisfied with the circumstances and reasons for this change and accords approval for appointment of such a new Custodian.

## Upon the appointment of a new Custodian the Custodian shall immediately hand over all the documents and records to the new Custodian and shall transfer all the Private Fund Property and any amount held in any Distribution Account to the new Custodian and make payments to the new Custodian of all sums due from the Custodian. The Custodian shall have the right to receive its remuneration up to the effective date of its removal or retirement.

## The new Custodian shall exercise all the powers and enjoy all the rights and shall be subject to all duties and obligations of the Custodian hereunder as fully as though such new Custodian had originally been a party hereto.

## The Designated Partner may immediately in case of retirement or removal of Custodian appoint auditors with the consent of the Commission from amongst the panel of auditors from the SECP’s list of QCR approved Auditors issued vide circular no. 04 of 2023 dated April 03,2023. The Designated Partner shall ensure that accounts of the Private Fund till the day of the appointment of the new Custodian are audited by such Auditor.

## The Auditors so appointed shall be other than the existing Auditors of the Private Fund, the Designated Partner and the Custodian.

## The Auditors shall have the scope as may be specified by the Designated Partner or Commission.

## The audit report for the audit shall be submitted by the Auditors to the Designated Partner not later than thirty (30) Business Days from their appointment. A copy of the report shall also be provided to the Commission, the Custodian and the new Custodian.

## The costs of such audit shall be borne by the Private Fund.

# Revocation of Private Fund/Private Fund

## The Private Fund may be terminated / dissolved on the occurrence of any of the below events;

1. in the opinion of the Designated Partner, the Private Fund is not commercially viable in order to be continued;
2. continuation of the Private Fund may jeopardize the interest of the Partner(s);
3. it became impractical to continue the Private Fund in terms of its investments objectives and policies due to any amendments in laws;
4. size of the Private Fund has been reduced significantly due to a continuance of losses.
5. upon application to the Commission by three-fourth in value of the total Partner(s) of the Private Fund, or if in the opinion of the Commission, continuation of the Private Fund will be detrimental to the interest of the Partner(s), the Commission may direct the Custodian to liquidate the Private Fund.
6. any other reason specified by the Commission pursuant to the Regulations, 2015.

## For clause (a, b, c, d) of clause 26.1.1, the Designated Partner shall submit to the Custodian notice in writing specifying its intention of termination/revocation to the Custodian and the Partner(s) along with the reasons for the same.

## The Custodian shall, after assessing the reasons provided by the Designated Partner, start termination/revocation by giving notices to the Partner(s) and SECP. All information related to the Private Fund shall be transferred to the Custodian who shall dispose of the Private Fund Property in consultation of Designated Partner in the best interest of the Partner(s).

## After notice of revocation of the Private Fund, all transfer of the Units in the Private Fund shall be suspended and the proceeds from the sale of the Private Fund Property/ asset of the Private Fund shall be first utilized towards discharge of the Private Fund`s liabilities and the fees /remuneration of the Designated Partner (including any Carried Interest / Performance fee) and the Custodian, accrued up to the effective date of revocation, and after appropriate provisions for meeting any expenses connected with such revocation, the balance assets shall be paid to the Partner(s) in proportion to their respective interest in the assets shall be paid to the Partner(s) in proportion to their respective interest in the assets of the Private Fund as at the date on which the decision for revocation was taken. In case of revocation of the Private Fund, all Partner(s) shall be treated pari passu.

## On the completion of the revocation process, the Custodian shall forward to the SECP and the Partner(s) a report on the revocation process containing particulars such as circumstances leading to the revocation, the steps taken for disposal of assets of the Private Fund before revocation, expenses of the Private Fund for revocation and the net assets available for distribution to the Partner(s), along with a certificate from the Auditors of the Private Fund.

## After the receipt of the termination/revocation of Custodian, if the SECP is satisfied that all actions for revocation of the Private Fund have been completed, the SECP shall cancel the registration of the Private Fund and the Private Fund shall cease to exist as of the date of such cancellation.

# Annexure “I”: Term Sheet

**This table should contain the summary of all the below headings**

|  |  |
| --- | --- |
| **Private Fund Name** |  |
| **Private Fund Type** |  |
| **Category of the Private Fund** |  |
| **Designated Partner** |  |
| **Term** |  |
| **Investment Objective** |  |
| **Investment Strategy** |  |
| **Target Return** |  |
| **Private Fund Size** |  |
| **Minimum Investment**  **Amount by an Eligible Investor** |  |
| **Maximum Number of Eligible Investors** |  |
| **Drawdowns** |  |
| **Formation Cost** |  |
| **Transaction Cost for proposed investments** |  |
| **Operating Expenses of the Private Fund** |  |
| **Designated Partner’s Expense** |  |
| **Broken Deal Expenses** |  |
| **Reinvestment of Capital Investment** |  |
| **First and Subsequent Closing** |  |
| **Investment Period** |  |
| **Investment Restrictions and Conditions** |  |
| **Redemption of units** |  |
| **Management Fee** |  |
| **Carried interest** |  |
| **Preferred Return** |  |
| **Distribution of Income** |  |
| **Financing** |  |
| **Investment Decisions** |  |
| **Liquidity Management** |  |
| **Use of Proceeds** |  |
| **Defaulting Partner(s)** |  |
| **Indemnification** |  |
| **Custodian Fee** |  |
| **Disclosures** | Disclosures required under Regulations, 2015. |

# Annexure “II” DECLARATION BY ELIGIBLE INVESTOR

All Eligible Investors are advised that completion of this declaration form is mandatory as per the Private Fund Regulations, 2015 in order to invest in a Private Fund.

I hereby acknowledge that:

* 1. I have examined the Constitutive Documents carefully and I understand that investment in this Private Fund (i.e., **Name of the Private Fund**) may involve risks which I am willing to undertake;
  2. the Units of the Private Fund have not been recommended by the SECP and in making an investment decision, I will rely on my own judgment of the Private Fund and the terms of the offer including the merits and risks involved.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name, if individual

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature, if individual

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name, if entity

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Glossary

(This is not an exhaustive list of definition)

Whenever the following capitalized terms appear in LLP Agreement, they shall have the meanings stated below, unless expressed otherwise:

|  |  |  |
| --- | --- | --- |
| Terms |  | Definitions |
|  |  |  |
| Act  Advisors/Sales Agents  Accounting Period / Financial Year | :  :  : | means the Companies Act, 2017.  means an individual, firm, corporate or other entity appointed by the Designated Partner to identify, solicit and assist investors in investing in the Private Fund. The Designated Partner shall compensate the Sales Agents.  means a period ending on and including an Accounting Date and commencing (in case of the first such period) on the date on which the Private Fund Property is first paid or transferred to the Custodian and (in any other case) from the next day of the preceding Accounting Period. |
|  |  |  |
| Alternative Fund  Applicable Laws | :  : | “Alternative Fund” means a Private Fund which invests in portfolio of securities and other financial assets other than a Private Equity and Venture Capital Fund.  The LLP Act, LLP Regulations, Part VIIIA of the repealed Companies Ordinance, 1984, Companies Act, 2017, NBFC Rules, NBFC Regulations, Regulations, 2015, ITO, 2001, Foreign Exchange Manual, Foreign Exchange Regulation Act, 1947 and circulars, orders, directives or instructions issued by the SECP, FBR, SBP or any other authority having jurisdiction over the Designated Partner, the Private Fund and the Custodian, all as may be issued or amended or replaced from time to time. |
|  |  |  |
| Auditor | : | An Auditor of the Fund which shall be appointed by the Designated Partner under intimation to the Custodian as per the Applicable Laws. |
|  |  |  |
| Bank | : | The institution(s) providing banking services under the Banking Companies Ordinance, 1962, or any other regulation in force for the time being in Pakistan, or if operating outside Pakistan, under the banking laws of the jurisdiction of its operation outside Pakistan. |
|  |  |  |
|  |  |  |
|  |  |  |
| Business Days | : | Any day (business hours thereof as specified in the Placement Memorandum) on which banks are open for business in Pakistan. |
| Capital Commitments | : | Commitments provided by the Partner(s) that they will provide funds (proceeds) on the Designated Partner's call. |
|  |  |  |
| Capital Contributions / Called Down Capital / Drawdowns | : | Actual contribution made by the Partner(s). |
|  |  |  |
| Connected Person | : | As defined in Clause 2(xv) of the NBFC Rules, Connected Persons include but not limited to:   1. Any person owning 10 % or more in the Private Fund. 2. Any person able to exercise 10 % or more voting power in the Private Fund. 3. Designated Partner. 4. Custodian. 5. Other Private Funds being managed by the Designated Partner. 6. Any director or officer of the Designated Partner and the Custodian. |

|  |  |  |
| --- | --- | --- |
| Constitutive Documents | : | The LLP Agreement, the Custodian Agreement, the Private Placement Memorandum and any other principal document governing the formation of the Private Fund established by the Designated Partner including all related material agreements. |
|  |  |  |
| Custodian | : | **Name of Custodian** which has been appointed by the Designated Partner to offer Custodial Services to the Private Fund. |
|  |  |  |
| Custodian Agreement | : | The agreement executed between the Designated Partner and the **Name of the Custodian** to hold and protect the Private Fund Property or any part thereof as a custodian on behalf of the Private Fund. |
|  |  |  |
| Custodial Services | : | Services which shall be provided by the Custodian and as defined in the Custodian Agreement. |
| Designated Partner | : | A Private Fund Management Company licensed by the Commission to provide Private Equity and Venture Capital Fund Management Services under NBFC Rules, 2003. |
| Distribution Period  Duration | : | A period (after revocation or termination of the Private Fund) where the Private Fund Property will be realized and, after payment of all expenses and liabilities of the Private Fund, the surplus amount, if any, will be distributed amongst the Partner(s) on pro rata basis in accordance with their ownership / partnership interest (Units) in the Private Fund.  The term of the Private Fund. |
| Eligible Investor | : | A person who a) has net assets of at least PKR 15 million excluding the value of personal residence and b) furnishes a declaration to the Designated Partner that he understands the risks of investment in the Private Fund. |
|  |  |  |
| FBR  Financial Institution | :  : | The Federal Board of Revenue.  carries the same meaning as defined under the Companies Act, 2017. |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Force Majeure | | | : | any occurrence or circumstance or element beyond the control of, and which cannot be avoided or overcome by, the designated partner or the custodian, and makes the performance of the constitutive documents or any obligations of designated partner or the custodian in whole or in part impossible or impracticable or otherwise delays such performance, including but not limited to any situation where performance is impossible without unreasonable expenditure. such circumstances include but are not limited to floods, fires, droughts, typhoons, earthquakes and other acts of god and other unavoidable or unpredictable elements beyond reasonable control, such as war (declared or undeclared), insurrection, civil war, acts of terrorism, accidents, strikes, riots, turmoil, civil commotion, pandemics (including covid 19), any act or omission of a governmental authority, failure of communication system, hacking of computer system and transmissions by unscrupulous persons, closure of stock exchanges, banks or financial institutions, freezing of economic activities and other macro-economic factors, etc. or any other event which prevents or significantly hinders or prevents performance of the operations of designated partner or custodian. | |
| Private Fund Property | | | : | All cash, properties, investments, income earned or accrued and other benefits arising therefrom and all other assets for the time being held or deemed to be held upon Private Fund by the Custodian for the benefit of the Partner(s) pursuant to LLP Agreement. This does not include any amount payable or paid to the Partner(s) as distribution. However, any income earned or accrued on the amount payable to the Partner(s) as distribution shall become part of the Private Fund Property. | |
|  | | |  |  | |
| Frustration of Contract  Haram Income | | | : | Rules, regulations, decisions, orders, actions or directives of federal, provincial or local governments or governmental authorities, court(s)' injunction(s) or restraining order(s) or action(s) of any investigation authorities and agencies, change of law, change of policy or regulations of federal or provincial governments or authorities preventing the Designated Partner, the Custodian and the Fund from fulfilling their respective obligations.  means any income prohibited by the Shariah | |
|  | | |  |  | |
| ICAP  Investment  Investment Facilitators | | | : | The Institute of Chartered Accountants of Pakistan.  Any Authorized Investment forming part of the Private Fund Property.  An individual, firm, corporate or other entity appointed by the Designated Partner to identify, solicit and assist investors in investing in the Scheme. The Designated Partner shall compensate the Investment Facilitators. | |
| IPS | | | : | Investment Policy Statement means a statement obtained from the Partner(s) which at least covers the information regarding the Partner’s knowledge, qualification, risk appetite and investment objective. | |
|  | | |  |  | |
| ITO, 2001 | | | : | The Income Tax Ordinance, 2001. | |
|  | | |  |  | |
| Launch Date | | | : | The date on which the Capital Contributions from one of the two Partners specified in Annex F, is received in the Private Fund’s Bank account. | |
| Limited Liability Partnership | | | : | A partnership registered under the Limited Liability Partnership Act, 2017 which will invest in portfolio of Securities and Financial assets as allowed under the Private Funds Regulations, 2015. | |
|  | | |  |  | |
| LLP Act | | | : | The Limited Liability Partnership Act, 2017. | |
|  | | |  |  | |
| LLP Agreement / Agreement | | | : | The Agreement (including the Supplemental Agreement) executed between the Designated Partner and (s) of the Private Fund. | |
|  | | |  |  | |
| LLP Regulations | | | : | The Limited Liability Partnership Regulations, 2018. | |
|  | | |  |  | |
| LLP Property | | | : | The term ‘LLP Property’ has the same meaning as Private Fund Property. | |
| Short/abbreviated name of the designated partner used throughout document | | | : | Full name of designated partner or the Designated Partner. | |
|  | | |  |  | |
| Short/abbreviated Name of the Private Fund | | | : | Full name of the fund is a Private Fund sub-categorized as \_\_\_\_\_\_\_ and will invest in \_\_\_\_\_\_\_\_\_\_\_\_. It can also be referred to as ‘the Fund’ or ‘the Private Fund’. | |
|  | | |  |  | |
| MOU | | | : | Memorandum of Understanding. | |
|  | | |  |  | |
| NBFC Regulations | | | : | The Non-Banking Finance Companies and Notified Entities Regulations, 2008. | |
|  | | |  |  | |
| NBFC Rules | | | : | The Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003. | |
|  | | |  |  | |
| Net Assets | | | : | The difference between the value of the assets and liabilities of a Private Fund established by the Designated Partner, on any given date, and computed in the manner specified in the Placement Memorandum. | |
|  | | |  |  | |
| Net Assets Value / NAV  Ordinance | | | : | Net Assets of the Fund divided by the number of Units outstanding, at any given date.  The Companies Ordinance, 1984 (XLVII of 1984). | |
| Partner(s)/ Unit Holder(s) | | | : | The Eligible investor who owns one or more units of a Private Fund and whose name appears in the Register. | |
|  | | |  |  | |
| Regulations, 2015 | | | : | The Private Funds Regulations, 2015. | |
|  | | |  |  | |
| PKR | | | : | Pakistani Rupee. | |
|  | | |  |  | |
| Placement Memorandum | | | : | A Constitutive Document issued by the Designated Partner to the Partner(s) describing details of the Private Fund and giving an offer for subscription by eligible Investor only. | |
|  | | |  |  | |
| Private Fund | | | : | An arrangement which has the purpose of pooling funds from one or more Eligible Investors for investment in a portfolio of securities or other financial assets for profit, income or other returns and where participants of the funds, neither have day to day control over the management of fund property, nor the right to give directions in respects of such management and which is established and operated by the Designated Partner:  Provided that for the purpose of these Regulations following shall not classify as a Private Fund:   1. collective investment schemes regulated under the Non-Banking Finance Companies and Notified Entities Regulations, 2008; 2. employee welfare trusts or gratuity trusts or employees provident fund or employees’ pension fund setup for the benefit of employees by companies; and   any such pool of funds which is separately regulated by the Commission or which is already established under any other specific law. | |
|  | |  | | |
| SBP | | : | | | The State Bank of Pakistan. |
|  | |  | | |  |
|  | |  | | |  |
| Shariah  Shariah Advisor  Shariah Compliant  SECP / Commission  Stock Exchange : | | :  :  :  : | | | divine guidance as given by the Holy Quran and the Sunnah of Holy Prophet Muhammad ﷺ and embodies all aspects of the Islamic faith, including beliefs, practices, rules and principles as per the interpretation of the Shariah Advisor of the fund.  an Institution or a body of Islamic scholars, or an individual Islamic scholar, appointed by the Designated Partner under Shariah Advisors Regulations, 2017 of SECP and intimation to the Commission and the Custodian, having knowledge of Islamic finance, to supervise and monitor the activities of the Fund in order to ensure that all its activities comply with Shariah.  any activity that is in accordance with the Islamic Shariah as advised by the Shariah Advisor.  The Securities and Exchange Commission of Pakistan established under the Securities and Exchange Commission of Pakistan Act, 1997 and shall include its successor.  A public company that is licensed by the Commission as a security exchange under section 5 of Securities Act, 2015. |
|  | |  | | |  |
| Supplemental Agreement | | : | | | Means an agreement supplemental to LLP Agreement, executed by the Designated Partner and the Custodian, after seeking approval of the Commission to modify, add to, alter and amend or amend and restate the provisions of LLP Agreement or any other Supplemental Agreement in such manner and to such extent as may be considered expedient for all purposes, which shall be consolidated, read and construed together with LLP Agreement. |
|  |
| Units (Partnership interest) | | : | | | the instrument of ownership of the Private Fund signifying the beneficial interest of the Partner(s) in that Private Fund. |

In witness whereof, the Parties have their hands below on the date, month, and year herein first mentioned.

**Signed for and on behalf of:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the Designated Partner)

Signature: Date:

Name:

CNIC:

Signature: Date:

Name:

CNIC:

WITNESSES:

Signature: Date:

Name:

CNIC:

Signature: Date:

Name:

CNIC:

Signed for and on behalf of:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the Partner)

Signature: Date:

Name:

CNIC:

WITNESSES:

Signature: Date:

Name:

CNIC:

Signature: Date:

Name:

CNIC: