

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Islamabad 31st January, 2008

NOTIFICATION

S.R.O.94(I)/2008.- In exercise of the powers conferred by sub-section (2) of section 282B of the Companies Ordinance, 1984 (XLVII of 1984), the Securities and Exchange Commission of Pakistan hereby makes the following Real Estate Investment Trust Regulations, 2008, for the regulation of REIT Management Company and the registration and regulation of REIT Scheme and for matters connected therewith and incidental thereto, namely:

CHAPTER - I

Preliminary

1. Short title and commencement.- (1) These Regulations shall be called the Real Estate Investment Trust Regulations, 2008.

(2) They shall come into force at once.

2. Definitions.-(1) In these Regulations, unless there is anything repugnant in the subject or context,-

- (i) "Commission" means the Securities and Exchange Commission of Pakistan established under the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997);
- (ii) "Connected Person" includes,-
 - (a) any person who directly or indirectly controls, beneficially owns or holds ten (10) percent or more of the paid up capital of the RMC, Trustee, Valuer or the Quality Assurance Manager as the case may be;
 - (b) any member of a group of which persons specified in sub-clauses (a) forms part of;
or
 - (c) any director or Key Executives of the RMC, Trustee, Valuer or the Quality Assurance Manager as the case may be, or any of their Connected Person as specified in sub-clauses (a) and (b):

(Explanation):- In this definition the term "control" shall have the same meaning as assigned to the term "control" under the Listed Companies (Substantial Acquisition of Voting Shares and Takeovers) Ordinance, 2002;

- (iii) “Customer Advances” mean the monies received by the Trustee as advance from customers against the sale of the Project or a part of it;
- (iv) “Developmental REIT Scheme” means a REIT Scheme established for investment in Real Estate with the object of development of such Real Estate for industrial, commercial or residential purposes, through construction or refurbishment, and its subsequent sale;
- (v) “Fee Schedule” means the schedule of fees annexed to these Regulations as Schedule V;
- (vi) “Fit and Proper Criteria” means the criteria specified by the Commission and annexed to these Regulations as Schedule I;
- (vii) “Form” means any of the forms annexed to these Regulations or any other forms as may be specified by the Commission for the purposes of these Regulations;
- (viii) "Independent Director" means a director who is not a Connected Person of the RMC or its promoters or directors or connected with promoters or directors of the RMC on the basis of family relationship and who does not have any other relationship with the RMC, its associated companies, directors, executives or related parties;
- (ix) “IPO” means the first public offering of the Units of the REIT Scheme or the shares of the RMC;
- (x) “Key Executives” includes the chief executive officer, chief financial officer, chief accounting officer, chief operating officer, company secretary, internal auditor or the compliance officer irrespective of their designation;
- (xi) “Listed” in relation to securities or Units means securities or Units which have been allowed to be traded on a stock exchange;
- (xii) “NBFC” means a non-banking finance company incorporated and licensed by the Commission;
- (xiii) “Net Assets” means the difference between the value of the assets and the liabilities of the REIT Scheme as given in the balance sheet at any given date;
- (xiv) “NAV” of a Unit means the Net Assets divided by the number of Units outstanding at any given date;
- (xv) “Offering Document” means a document containing information specified in Schedule III in order to invite the public to buy Units;
- (xvi) “Ordinance” means the Companies Ordinance, 1984 (XLVII of 1984);
- (xvii) “Project” means a project of the REIT Scheme on a contiguous site in the case of a Developmental REIT scheme and a portfolio of buildings in the case of a Rental REIT Scheme, managed by the RMC as per the business plan approved by the Commission;
- (xviii) “Property Manager” means a person appointed by the RMC to manage the Real Estate for a Rental REIT Scheme;

- (xix) “Quality Assurance Manager” means a company appointed by the RMC, which can provide architectural or engineering design services, construction supervision and quantity surveying services;
- (xx) “Real Estate” means land and includes; (i) all attachments above and below the land; (ii) all things that form a natural part of the land; (iii) all things that are developed or installed, including buildings and site improvements; and (iv) all permanent building attachments such as plumbing, heating and cooling systems, electrical wiring and built-in items such as elevators, etc. and all rights and interests therein, whether the interest is freehold or leasehold, and whether the purpose or use thereof is residential, commercial or industrial;
- (xxi) “Register” means the register of the Unit Holders;
- (xxii) “Regulations” means the Real Estate Investment Trust Regulations, 2008;
- (xxiii) “REIT Scheme” means a real estate investment trust which is a closed-end scheme launched by the RMC and registered under these Regulations, and includes Developmental REIT Scheme and Rental RIET Scheme;
- (xxiv) “REIT Assets” means all Real Estate and other assets of the REIT Scheme acquired in the name of the Trustee;
- (xxv) “REIT Fund” means the fund raised through the issuance of Units;
- (xxvi) “RMC” means a REIT management company licensed by the Commission as a NBFC to launch REIT Scheme and provide REIT Management Services;
- (xxvii) “REIT Management Services” means the real estate investment trust management services provided by a RMC for the management of a REIT Scheme in accordance with these Regulations;
- (xxviii) “Rental REIT Scheme” means a REIT Scheme established for the object of making investments in commercial or residential Real Estate with the purpose of generating rental income from it;
- (xxix) “Rules” means the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003;
- (xxx) “Schedule” means the Schedules annexed to these Regulations;
- (xxxi) “Trust Deed” means the deed of trust executed between a RMC and a Trustee with respect to a REIT Scheme;
- (xxxii) “Trustee” means a trustee in respect of a REIT Scheme appointed in accordance with Regulation 12;
- (xxxiii) “Units” means units of the REIT Scheme;
- (xxxiv) “Unit Holder” means a person who is the legal owner of one or more Units and whose name appears in the Register of Unit Holders;

(xxxv) “Valuation Report” means the report prepared by the Valuer in accordance with Schedule IV; and

(xxxvi) “Valuer” means a person appointed in accordance with Regulation 18 to value the Real Estate;

(2) Words and expressions used but not defined in these Regulations shall have the same meaning as assigned to them in the Ordinance, the Securities and Exchange Ordinance, 1969 (XVII of 1969), the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997) and the rules and regulations made under them.

CHAPTER II. REIT Management Company

3. Conditions applicable to RMC.-(1) In addition to the conditions and requirements of the Rules, a RMC shall:

- (a) at the time of applying for a licence as a NBFC, have a paid up capital of at least fifty (50) million rupees;
- (b) within 30 working days of the registration of the REIT Scheme, increase its paid up capital to at least five hundred (500) million rupees;
Provided that the Commission may, on a reasoned request of the RMC, extend the period by a further thirty (30) days.
- (c) clearly state in its memorandum of association that its exclusive object is to launch the REIT Scheme and provide REIT Management Services;
- (d) ensure that each of its promoters, proposed directors and Key Executives satisfy the Fit and Proper Criteria specified in Schedule I;
- (e) have:
 - (i) at least two directors who are also its promoters; and
 - (ii) at least one director who has at least five (5) years experience of developing or managing Real Estate projects;
- (f) maintain adequate financial, technical, organizational and human resources, and employ appropriate systems, procedures, processes and personnel to provide REIT Management Services in a proper and efficient manner on an ongoing basis;
- (g) maintain satisfactory internal controls and written compliance procedures which address all applicable regulatory requirements; and
- (h) pay such non-refundable application fees as specified in Schedule V.

(2) A RMC shall not:

- (a) unless otherwise permitted by the Commission, hold less than twenty (20) percent of the Units of the REIT Scheme managed by it for the life of the REIT Scheme, and such Units shall be held in an account marked as blocked and shall not be sold, transferred or encumbered without the prior written approval of the Commission;
- (b) hold more than fifty (50) percent of the Units of the REIT Scheme;
- (c) except for an Independent Director, appoint a person as a director who is a director of any other RMC;
- (d) appoint a person as a director if he is serving as a director on the board of ten or more companies at that time;
- (e) obtain, acquire or takeover the management of another REIT Scheme, without the prior written approval of the Commission; and
- (f) offer Units for consideration other than cash except for those Units that are issued to the RMC in lieu of the Real Estate and are transferred to the RMC at the value approved by the Commission.

4. Obligations of the RMC.- A RMC shall:

- (a) ensure that the REIT Assets are vested in the Trustee, pursuant to the provisions of the Trust Deed, for the benefit of the Unit Holders;
- (b) appoint a Quality Assurance Manager or a Property Manager, as the case may be;
- (c) appoint a Valuer;
- (d) ensure that the Valuer prepares a Valuation Report of the Real Estate as and when required under these Regulations;
- (e) ensure that a REIT Scheme shall not undertake more than one Project and that the constitutive documents provides for this restriction;
- (f) ensure that after the disposal of the Project, the proceeds are distributed amongst the Unit Holders and the REIT Scheme is dissolved;
- (g) ensure, in the case of the registration of a Developmental REIT Scheme, that the approved value of Real Estate forming part of the REIT Scheme is not more than fifty (50) percent of the REIT Fund;
- (h) ensure that the Trust Deed is in accordance with Schedule II and provides for the time and modality of the extinguishment of the REIT Scheme and the manner in which the proportionate shares of the sale proceeds shall be transferred to its Unit Holders;
- (i) ensure that not less than ninety (90) percent of the profits arising out of the REIT

Scheme shall be distributed to the Unit Holders as dividends in each financial year, and that the constitutive documents provide for the same;

- (j) ensure that the REIT Fund shall have a minimum fund size of five (5) billion rupees and the Trust Deed provides for the same;
- (k) ensure that the Units are listed in accordance with the listing regulations of the stock exchange and shall be freely tradable subject to Regulation 3(2)(a), and the Trust Deed provides for the same;
- (l) ensure that the running bills in respect of Project payments are countersigned by the Quality Assurance Manager or the Property Manager, as the case may be;
- (m) manage the REIT Scheme, in accordance with the constitutive documents and all applicable laws including notifications, circulars, guidelines and directives issued thereunder;
- (n) carry out all transactions involving the REIT Scheme managed by it on an arm's length basis;
- (o) ensure, without prejudice to the generality of clause (n), that the financial and business aspects of the REIT Scheme are professionally managed;
- (p) maintain proper record of Customer Advances received and borrowings from financial institutions and capital markets for purposes of the REIT Scheme;
- (q) ensure that the Customer Advances are received in the name of the REIT Scheme and that the borrowings are repaid on their due dates;
- (r) ensure that the title to the Real Estate to be acquired for the purposes of the REIT Scheme is free from all defects and encumbrances and conduct due diligence to certify the same;
- (s) acquire the Real Estate approved under Regulation 6 in the name of the Trustee;
- (t) ensure that all material contracts, including Real Estate purchase agreements and rental agreements, entered in furtherance of the objects of the REIT Scheme are legal, valid, binding and enforceable by or on behalf of the Trustee in accordance with the stipulated terms of such contracts and agreements;
- (u) arrange insurance coverage in relation to the Real Estate and comply with any and all requirements of the Commission in this behalf;
- (v) have the business plan for the REIT Scheme approved by the Commission;
- (w) in case of a Developmental REIT Scheme, be responsible for the development or refurbishment and subsequent sale of the Real Estate according to the approved business plan;
- (x) in case of a Rental REIT Scheme, be responsible for the refurbishment and/or

- subsequent rental of the Real Estate according to the approved business plan;
- (y) obtain the written approval of the Commission before making a public offer of the Units;
 - (z) issue Units to the subscribers against the payment of the subscription amount into the REIT Fund;
 - (aa) issue Units to itself after the REIT Scheme is registered under these Regulations;
 - (bb) issue Units in dematerialized form which shall be deposited with a depository registered with the Commission pursuant to the Central Depository Companies (Establishment and Regulation) Rules 1996;
 - (cc) ensure that the issue and transfer of the Units by it is carried out, after the registration of the REIT Scheme, in accordance with provisions of the constitutive documents and any directions, guidelines and circulars issued by the Commission;
 - (dd) ensure that the Offering Document inviting the public to buy Units has the Valuation Report of the Real Estate and the approved business plan of the REIT scheme attached to it;
 - (ee) maintain the Register of Unit Holders or appoint an agent for the purpose;
 - (ff) obtain the written approval of the Commission before delegating one or more of its functions in relation to the REIT Scheme, and
 - (i) ensure that its delegates have sufficient experience and financial resources to enable them to conduct the delegated function;
 - (ii) demonstrate that proper due diligence procedures and management or administrative structures are in place for the selection and on-going monitoring of the delegates;
 - (iii) ensure that the agreement between the RMC and each of the delegate clearly documents (I) the demarcation of functions between the RMC and the delegate and (II) the consideration payable by the RMC for the performance of the delegated functions;
 - (iv) make payments to the delegate from its own account;
 - (v) if it delegates its power to maintain the Register to an agent approved by the Commission, inform the Commission, within two (2) working days of such delegation
 - (gg) be responsible for the acts or omissions of all persons, to whom it delegates any of its functions as RMC and account to the Trustee for any loss in value of the REIT Assets where such loss is attributable to the RMC or any delegate of the RMC due to their negligence or wilful default;

- (hh) maintain at its registered office proper books of account and record of the activities undertaken in connection with the REIT Scheme in order to enable a true and fair view to be formed of the (i) REIT Assets and liabilities; (ii) the profit and loss accruing out of the operation of the REIT Scheme; (iii) transactions undertaken with respect to the REIT Scheme; (iv) amounts received by the RMC in respect of issue of Units; and (v) pay-outs, if any, by way of distributions to the Unit Holders;
- (ii) within three (3) months of close of the financial year prepare and transmit to the Unit Holders, the Trustee, the Commission and the stock exchange(s) on which the Units are listed, the balance sheet, profit and loss statement, cash flow statement and statement of the movement in NAV of the REIT Scheme along with the report of the Trustee, the report of the auditor of the REIT Scheme the Valuation Report of the Real Estate and any other document as specified by the Commission;
- (jj) prepare and transmit to the Unit Holders, the Trustee, the Commission and the stock exchange(s) on which the Units are listed, within one (1) month of the close of the first and third quarter and two (2) months of the close of second quarter of the financial year of the REIT Scheme, the balance sheet of the REIT Scheme as at the end of that quarter along with profit and loss statement, a cash flow statement and a statement of changes in NAV for that quarter:
Provided that the Commission may, subject to such conditions as it considers necessary, allow the RMC to transmit the said quarterly accounts to the Unit Holders by placing them on its website;
- (kk) preserve the books of account of the REIT Scheme for at least five years after the extinguishment or revocation of the REIT Scheme;
- (ll) after the consent of the Trustee, appoint an auditor for the REIT Scheme for a period of one (1) year upon its establishment, and upon occurrence of any vacancy: Provided that such auditor shall be from amongst the list of auditors approved by the Commission and shall not be the auditor of the RMC or the Valuer and has not been the auditor of the REIT Scheme for more than three consecutive years;
- (mm) obtain rating for the REIT Scheme as per the rating criteria of a rating company and such rating shall be updated annually, or at such other time as may be specified by the Commission;
- (nn) publish the rating of the REIT Scheme in the annual and quarterly accounts and all advertising and marketing materials of the REIT Scheme;
- (oo) furnish in respect of the REIT Scheme, to the Commission and the stock exchange(s) on which the Units are listed, such information within such time as the

Commission may specify in exercise of powers under the Ordinance;

- (pp) ensure that a director immediately vacates his position if he becomes disqualified as per the Fit and Proper Criteria and inform the Commission of such compliance;
- (qq) before making any major change in the approved business plan of the REIT Scheme ensure that it has obtained;
 - (i) the written approval of the Commission; and
 - (ii) where the Units have been issued to the public obtain the approval of the Unit Holders through a special resolution, if directed by the Commission:
Provided that for the purpose of clause (ii) the RMC and its promoters shall not vote at such meetings and their presence shall not be counted towards requisite voting for special resolution;
- (rr) cause to happen a determination of the NAV of the REIT Assets on a quarterly basis;
- (ss) ensure that it conforms to the provisions of the Code of Corporate Governance; and
- (tt) ensure that the NAV of the REIT Scheme is published in the annual and quarterly accounts of the REIT Scheme.

5. Request for transfer of REIT Scheme and cancellation of licence of RMC.

(1) A RMC may transfer the management of a REIT Scheme managed by it to another licensed RMC, after the approval of the Unit Holders through a special resolution:

Provided that in such case the RMC and its promoters shall not vote at such meetings and their presence shall not be counted towards requisite voting for special resolution.

(2) A RMC may apply to the Commission for the cancellation of its licence after it has transferred the management and the Units of the REIT Scheme to another RMC.

CHAPTER III. Establishment of a Real Estate Investment Trust Scheme

6. Approval of the Real Estate.- (1) A RMC shall, prior to making an application for the registration of the REIT Scheme, obtain a written approval from the Commission of the Real Estate which is to be transferred to the proposed REIT Scheme.

(2) The Commission shall not accept any application where, in its opinion there may be impediments to sale, partial sale, transfer or renewal of the lease period of the proposed Real Estate or for any other reason.

- (3) For the purpose of Regulation 6(1);
- (a) the RMC shall submit to the Commission, documents which show the exact location of the Real Estate;
 - (b) the Real Estate shall be within the limits and surrounding areas of Islamabad, Rawalpindi, Karachi, Lahore, Peshawar, or Quetta; and
 - (c) the RMC shall submit to the Commission, such other documents as required by the Commission on a case to case basis.

7. Conditions for registration of a REIT Scheme.- A RMC, prior to making an application for the registration of the REIT Scheme shall:

- (a) submit a Valuation Report of the Real Estate for the approval of the Commission;
- (b) obtain approval of the name of the REIT Scheme from the Commission;
- (c) obtain from the Commission approval for the appointment of Trustee;
- (d) submit the business plan of the REIT Scheme for the approval of the Commission;
- (e) submit the draft Trust Deed for approval of the Commission;
- (f) in the case of a Developmental REIT Scheme:
 - i. acquire the Real Estate in the name of Trustee and make full payment and pay all fees for the Real Estate acquired; and
 - ii. obtain all requisite approvals from the concerned authorities for the construction of the Project:

Provided that subject to the provisions of the business plan, the RMC may after the registration of the REIT Scheme, receive cash for Units over and above twenty (20) percent Units, against the remaining value of Real Estate transferred to the Trustee.

- (g) in the case of registration of a Rental REIT Scheme:
 - i. ensure that, in the case of leasehold the minimum remaining lease period of the Real Estate is thirty (30) years; and
 - ii. ensure that a binding purchase agreement for the Real Estate to be acquired upon payment of a minimum twenty five (25) percent down payment for such Real Estate has been executed in the name of the Trustee after the approval of the Commission;
- (h) obtain a due diligence certificate from a lawyer that the Real Estate is vested in the Trustee free from defects and encumbrances.

8. Application for registration.- Subject to the fulfilment of the requirements of Regulation 7, an application for the registration of a proposed REIT Scheme shall be submitted by the RMC to the Commission and such application shall be accompanied by the following information and documents:

- (a) copy of approvals granted under Regulation 7;
- (b) copy of the registered Trust Deed as approved by the Commission;
- (c) latest audited balance sheet and profit and loss statement of the RMC:
Provided that if the financial statements are older than six months, then a certificate from the auditor evidencing the net worth of the company shall be submitted and such certificate shall not be earlier than thirty (30) days of the date of the application;
- (d) list of the directors of RMC, their profile and consent to act as directors;
- (e) names of shareholders of the RMC along with their percentage of shareholding;
- (f) latest audited balance sheet, profit and loss account, cash flow statement and statement of change in equity of the Trustee and the names of its shareholders along with their percentage of shareholding;
- (g) consent of the Valuer to act as Valuer;
- (h) Valuation Report of the Real Estate approved by the Commission under Regulation 7;
- (i) copy of the approval of the Real Estate under Regulation 6;
- (j) photographs and drawings of the Real Estate along with the accessibility and location map;
- (k) copy of the title documents of the Real Estate;
- (l) certificate from the auditor of the REIT Scheme that:
 - i. in the case of a Developmental REIT scheme the Real Estate has been acquired in the name of the Trustee;
 - ii. all requisite approvals for the Project have been obtained by the RMC; and
 - iii. the Real Estate is free of all encumbrances and all necessary approvals/permissions/ NOCs of the concerned local authorities required prior to start of project as per local byelaws has been obtained;
- (m) in case of a Rental REIT Scheme, a certificate from an independent auditor that the RMC has entered into a binding purchase agreement on twenty five (25) percent down payment to the owner of the Real Estate;
- (n) in case of a Developmental REIT Scheme, preliminary engineering design for the

development Project to be undertaken in execution of the REIT Scheme as approved by the Commission;

- (o) the names and registered addresses of the following parties, where applicable:
 - (i) Valuer;
 - (ii) Auditor of the REIT Scheme;
 - (iii) Unit Registrar of the REIT Scheme;
 - (iv) Legal Adviser of the REIT Scheme; and
 - (v) Concerned Regulatory authorities;
- (p) non-refundable application fee as specified in Schedule V;
- (q) an affidavit by the chief Executive of the RMC that it accepts responsibility for the information contained in the application as being accurate at the date of submission; and
- (r) any other document required by the Commission.

9. Registration of the REIT Scheme.— The Commission may register the proposed REIT Scheme if it is satisfied that the conditions specified in these Regulations have been fulfilled:

Provided that the Commission may direct the RMC to make such amendments to the REIT Scheme as it considers appropriate and re-submit the application.

Provided further that the Commission may while registering the REIT Scheme impose such conditions as it deems appropriate.

10. Cancellation of registration of the REIT Scheme.— The Commission may cancel the registration of a REIT Scheme after informing the Trustee and providing the RMC an opportunity of being heard if:

- (a) the Commission determines that such action shall be in the best interest of the Unit Holders;
- (b) the Unit Holders, through a special resolution, request the Commission on reasonable grounds to cancel the registration of the REIT Scheme; or
- (c) the Trustee satisfies the Commission, on reasonable grounds, that continuation of the REIT Scheme is not in the best interest of the Unit Holders.

11. Effect of cancellation of registration of the REIT Scheme.— (1) Where the Commission cancels the registration of the REIT Scheme the Commission may move for the revocation of the trust in terms of the Trust Deed.

(2) The distribution of REIT Assets, upon the revocation of the trust, shall be made by the Trustee in accordance with the terms of the Trust Deed.

(3) The trust shall stand extinguished after disposal of all REIT Assets.

(4) The provisions of these Regulations shall not preclude the authority of the Commission to exercise any other powers under the Ordinance or any other law administered by the Commission.

CHAPTER IV. Trustee

12. Appointment of Trustee.- (1) The Trustee for the REIT Scheme shall be appointed by the RMC subject to the provisions of these Regulations.

(2) The RMC shall apply to the Commission for the approval of appointment of Trustee before it applies for the registration of the REIT Scheme under Regulation 8.

(3) The Commission shall, before giving approval for appointment of Trustee, consider the availability of appropriate systems, personnel, management of the Trustee and such other criteria, as may be specified by the Commission through circulars issued under the Ordinance.

13. Trustee and the RMC to be independent. A Trustee of the REIT Scheme shall not be a Connected Person, associated company or associated undertaking of the RMC.

14. Qualifications to act as Trustee. (1) The Trustee of a REIT Scheme shall be:

- (a) a scheduled bank licensed under the Banking Companies Ordinance, 1962 (LVII of 1962), or a Development Financial Institution (DFI) which has been assigned a long term minimum rating of “AA” by a credit rating company, and has been in operation for at least five (5) years;
- (b) a trust company which is a subsidiary of a scheduled bank referred to in clause (a);
- (c) a foreign bank operating as a scheduled bank in Pakistan for at least five (5) years which has been assigned a minimum investment grade rating by a credit rating company or operating as a trustee internationally for at least five (5) years;
- (d) a depository registered with the Commission pursuant to the Central Depository Companies (Establishment and Regulation) Rules, 1996; or
- (e) such other person as the Commission may specify through circular issued under

the Ordinance;

15. Obligations of Trustee.- The Trustee shall:

- (a) exercise due diligence and vigilance in carrying out its functions and duties under the constitutive documents, these Regulations and all other applicable laws;
- (b) ensure that the REIT Assets are properly held by it on behalf of the Unit Holders in accordance with the provisions of the constitutive documents, these Regulations and all other applicable laws;
- (c) not legally or beneficially own any Units of the REIT Scheme in relation to which it is acting as a Trustee;
- (d) ensure that the title to all REIT Assets is lawfully vested in it;
- (e) deposit the money received by it in a scheduled bank which has a minimum “A” rating in the long term;
- (f) confirm to the Commission that the RMC has appointed a Valuer and a Quality Assurance Manager or a Property Manager;
- (g) confirm to the Commission that all insurance premiums have been paid by the RMC and the insurance policies are upto date;
- (h) not delegate any of its duties unless the Trust Deed allows for the delegation of the Trustee’s duties;
- (i) make payments to the delegate from its own account, if it has delegated any of its functions;
- (j) be liable for any negligent act or omission, on its part or on the part of any of its delegates;
- (k) carry out the instructions of the RMC in respect of investments and execution of the REIT Scheme, unless such instructions are in conflict with the constitutive documents, these Regulations, directions, guidelines, circulars or any other applicable laws;
- (l) carry out instructions of the RMC with respect to the Project payments after the bills are counter-signed by the Quality Assurance Manager in case of a Developmental REIT Scheme or by the Property Manager in case of a Rental REIT Scheme;
- (m) ensure that the borrowing and Customer Advance limits set out in these Regulations, the constitutive documents and the conditions of registration of the REIT Scheme are complied with;
- (n) issue a report to be included in the quarterly and the annual accounts of the REIT

Scheme;

- (o) send the Commission a biannual report about the REIT Assets; and
- (p) immediately inform the Commission of any action of the RMC that contravenes the Ordinance, the Rules these Regulations, guidelines, codes, circulars, directives or any other applicable laws.

16. Retirement of Trustee.- (1) The Trustee may, subject to the prior written approval of the Commission, retire from its office on the appointment of another Trustee proposed by the RMC and approved by the Commission, and the retirement shall take effect from the date of transfer of all REIT Assets to the newly appointed Trustee at the cost of the retiring Trustee.

(2) For the purpose of the appointment of a new Trustee under Regulation 16(1), the Trust Deed may be amended in accordance with provisions of the Trusts Act, 1882 (II of 1882).

17. Removal of the Trustee.- (1) The Trustee may be removed by the Commission after serving a written notice to the RMC and the Trustee in any of the following circumstances:

- (a) the Trustee goes into liquidation, becomes bankrupt or has a receiver or administrator appointed over its assets;
- (b) the Commission itself, or on an application by the RMC, after recording reasons in writing decides that a change of the Trustee is desirable in the interests of the Unit Holders; or
- (c) a special resolution is passed by the Unit Holders resolving that the Trustee should be removed.

Provided that no order shall be made under Regulation 17(b) or (c) unless the Trustee has been given an opportunity of being heard by the Commission.

(2) For purposes of Regulation 17(c) the Commission may call a meeting of the Unit Holders on the request of Unit Holders holding not less than twenty (20) percent of the Units, and the Connected Persons of the Trustee shall not vote at such meetings and their presence shall not be counted towards requisite voting for the special resolution.

(3) Where a Trustee has been removed under Regulation 17(1) the RMC shall, in accordance with the provisions of these Regulations, appoint another Trustee.

- (4) All costs with respect to the change of Trustee will be borne by the REIT Scheme unless directed by the Commission otherwise.

CHAPTER V. Valuer

18. Appointment and term of Valuer.- (1) The RMC shall, before making an application under Regulation 8 for the registration of the REIT Scheme, appoint a Valuer for the REIT Scheme after the terms of reference for the Valuer have been approved by the Commission.

(2) The Valuer shall be appointed for a period of two (2) years and may not be re-appointed as a Valuer for the REIT Scheme until the lapse of two years from its last retirement.

(3) The RMC shall appoint a separate Valuer for every REIT Scheme managed by it.

(4) The RMC shall within two (2) working days of the appointment of the Valuer inform the Commission of such appointment and provide a copy of the contract entered into with the Valuer.

19. Conditions applicable to a Valuer.- (1) No person shall be appointed as a Valuer unless it fulfils the following criteria:

- (a) it is incorporated as a company limited by shares under the Ordinance or gives the Commission an undertaking to convert into a company limited by share within six months of its appointment as a Valuer;
- (b) it is a member of the Pakistan Engineering Council or the Pakistan Council of Architects and Town Planners or has a minimum of three engineers or architects as full time employees registered with the Pakistan Engineering Council or the Pakistan Council of Architects and Town Planners;
- (c) it is on the list of approved valuers of Panel-I and Panel-II within the unlimited valuations category maintained by Pakistan Banks Association;
- (d) it has on its payroll a minimum of ten permanent employees comprising of surveyors, engineers and other professionals who are qualified to conduct the valuation of the Real Estate; and
- (e) the Valuer is independent and satisfies the following requirements:
 - i. the RMC or the Trustee or any of their directors or Key Executives are not Connected Persons of the Valuer;
 - ii. the Valuer does not have any financial, professional or other interests that

could affect its ability to render unbiased professional services to the REIT Scheme; and

- iii. its promoters, directors, members or partners, as the case may be, have never been convicted of any offence involving moral turpitude.

(2) Notwithstanding anything contained in these Regulations a foreign Valuer of established international repute may be appointed by the RMC after the approval of the Commission and upon such conditions as the Commission may specify.

20. Obligations of the Valuer.- The Valuer shall:

- (a) not hold Units of the REIT Scheme for which it has been appointed as a Valuer;
- (b) before the registration of the REIT Scheme and thereafter at least once every quarter value the Real Estate in accordance with Schedule IV and produce a Valuation Report on all Real Estate acquired or intended to be acquired, developed or sold by the RMC for the REIT Scheme;
- (c) ensure that the valuation methodology adopted by it is in line with the global best practices prevalent in the real estate industry;
- (d) ensure that its opinion and valuation is objective and independent of its business or commercial relationships; and
- (e) immediately inform the RMC and the Trustee of any circumstances or factors that come into the knowledge of the Valuer which can reasonably affect the accuracy of the last Valuation Report submitted by the Valuer.

21. Declaration by the Valuer.- The Valuer, at the time of appointment and at the end of each quarter, shall furnish a declaration to the RMC and the Trustee, stating that it meets the requirements specified in Regulation 19.

22. Basis of valuation.- (1) The Valuer shall value the Real Estate on the basis of market value.

(2) Any assumptions used in the valuation shall be clearly stated in the Valuation Report, and must be realistic, relevant and adequately substantiated by reference to physical, functional and market factors.

23. Annual fee of the Valuer. - The Valuer shall be paid a predetermined amount of annual fee and such fee shall not be contingent upon the value of the Real Estate as determined by the

Valuer.

24. Limitation of Approved valuation.- (1) Acceptance by the Commission of any documents enumerating the valuation of Real Estate or REIT Assets or issuance of any approvals or permissions based on such documents shall not be construed as an endorsement of accuracy of such valuation by the Commission.

(2) The Valuer shall at all times perform its obligation with competence, honesty, integrity and professionalism, and shall remain impartial while rendering professional services.

25. Removal of the Valuer.- (1) The Commission may remove the Valuer if:

- (a) the Valuer goes into liquidation, becomes bankrupt or if a receiver or administrator is appointed over its assets;
- (b) for reasonable cause, the RMC or the Trustee states in writing that a change in the Valuer is desirable in the interest of the Unit Holders;
- (c) the Unit Holders pass a resolution requiring the removal of the Valuer; or
- (d) the Valuer contravenes any provision of the Ordinance, the Rules, these Regulations, or any directives, code or guidelines issued by the Commission.

(2) For purposes of clause (c),

- (i) the Commission may call a meeting of the Unit Holders on a petition of twenty (20) percent Unit Holders; and
- (ii) the Valuer shall be given the opportunity to be present in the meeting and defend himself.

(3) The Commission shall not remove the Valuer under Regulation 25 (b) or (d) unless it has provided the Valuer an opportunity of being heard.

(4) Upon retirement or removal of the Valuer, the RMC shall appoint a new Valuer that meets the criteria under these Regulations and inform the Commission of the appointment as required under Regulation 18(4).

26. Power of the Commission to cause valuation.- (1) The Commission, if it deems necessary, may cause another valuation of Real Estate or any REIT Assets by a Valuer appointed by the Commission.

- (2) The valuation carried out under Regulation 26(1) shall be final and binding.
- (3) Any fees and costs incurred in this respect shall at first instance be paid by the Commission and then may be claimed by the Commission from the REIT Scheme.

CHAPTER VI. Investments, Borrowing and Dividend Policy

27. Investment policy.- (1) The investment policy of a REIT Scheme shall be clearly stated by the RMC in the business plan.

(2) Notwithstanding Regulation 27(1), the REIT Scheme shall not invest in such assets which are specified by the Commission through a notification in the Official Gazette.

28. Policy for Customer Advances and borrowing.- (1) In case of a Developmental REIT Scheme, the aggregate of (i) borrowings from financial institutions and capital markets and (ii) Customer Advances, shall not, at any time, exceed sixty (60) percent of the REIT Fund and shall be in accordance with the policy stated for this purpose in the constitutive documents.

(2) In case of a Rental REIT Scheme, an RMC may borrow from financial institutions and capital markets provided that the aggregate borrowing shall not at any time exceed thirty (30) percent of the REIT Fund.

(3) The policy for Customer Advances and borrowings by the RMC and maximum limits thereof, shall be disclosed by the RMC in the constitutive documents.

(4) All borrowing by the RMC shall be conducted on an arm's length basis.

(5) Disclosure about Customer Advances, borrowings and liabilities of the REIT Scheme shall be made in the quarterly and the annual accounts of the REIT Scheme and shall include:

- (a) The total borrowing as a percentage of the REIT Fund, the terms of such borrowings and the collateral provided against such borrowing; and
- (b) Customer Advances as a percentage of REIT Fund and the terms of the agreement for receipt of Customer Advances.

29. Dividend policy.- (1) The dividend policy of the REIT Scheme shall be clearly stated in its constitutive documents in consonance with the requirement that not less than ninety (90) percent of the profits arising out of the REIT Scheme shall be distributed to the Unit Holders as dividends in each financial year.

(2) Dividends shall be paid in cash, or through issuance of bonus Units if allowed by the Commission, on a reasonable request made by the RMC..

CHAPTER VII. Related Party Transactions

30. Related parties and related party transactions.- (1) Subject to Regulation 30(2) the persons to be considered “related party” for the purpose of any transaction pertaining to the REIT Scheme shall include the following:

- (a) the RMC;
- (b) the Trustee;
- (c) the Valuer;
- (e) a Connected Person, associated company or associated undertaking, director or Key Executive of any of the entities in (a) to (c);
- (f) close relative(s) of the persons in (e); and
- (g) a Quality Assurance Manager or a Property Manager in relation to a Developmental REIT Scheme or a Rental REIT Scheme, as the case may be.

(2) The services provided by the RMC, the Trustee, Valuer, Quality Assurance Manager or Property Manager under these Regulations or the constitutive documents shall not be deemed related party transactions.

31. Disclosure of related party transactions.- (1) The Offering Document, quarterly and annual accounts of the REIT Scheme, in relation to related party transactions, shall disclose the following:

- (a) beneficial interest of the related party with respect to the REIT Scheme and any changes therein;
- (b) potential conflicts of interest of the related party with respect to the REIT Scheme and the measures taken to address such conflicts; and
- (c) the amount involved in transactions in respect of each related party for the relevant period.

(2) Where the business of related party is in competition with the activities of the REIT Scheme, the Offering Document, quarterly and annual accounts of the REIT Scheme shall disclose the following description of the business of the related party and its management so as to enable the Unit Holders to assess the nature, scope and size of their business and the reasons why their business may adversely impact the business of the REIT Scheme;

(3) Where the REIT Scheme acquires Real Estate from or sells it to a related party, the Offering Document shall disclose the following:

- (a) Valuation Report for the Real Estate that the related party has agreed to sell or buy; and
- (b) the price to be deposited in or paid out of the REIT Assets and other terms of the transaction.

32. Prerequisites with regard to related party transactions.- (1) All related party transactions in relation to a REIT Scheme shall be:

- (a) carried out on an arm's length basis;
- (b) consistent with the investment objectives and strategy of the REIT Scheme;
- (c) in the interests of the Unit Holders; and
- (d) properly disclosed to the Unit Holders by the RMC.

(2) If cash is deposited with the Trustee or any other related party being an institution licensed to accept deposits, the return shall be paid on the deposit at a rate not lower than the prevalent market rate.

(3) All borrowing from a related party shall be done on strictly commercial terms and the interest or mark-up rate for such borrowing shall not exceed the rate payable in similar commercial transactions.

(4) The RMC, its delegates, the Valuer or any other related party shall not receive any benefit, monetary or otherwise, from a property agent, real estate developer or real estate builder in consideration for referring transactions involving the execution of the REIT Scheme to such property agent, real estate developer or real estate builder.

(5) Where a related party transaction has been undertaken a disclosure of the total value of such transactions and the nature and identity of the related party shall be made in the annual

accounts of the REIT Scheme and where no such transaction is conducted during the financial year, an appropriate statement to that effect shall be made in the annual accounts.

CHAPTER VIII. Miscellaneous

33. Application of the Ordinance to the activities of the REIT Scheme.- (1) The provisions of the Ordinance governing matters relating to general meetings of a company, issue of right shares, allotment and transfer of shares, prospectus, accounts and audit of listed companies, declaration of dividend, shall as far as may be, mutatis mutandis apply to the general meetings of the Unit Holders, issue of right Units, allotment and transfer of Units, prospectus, accounts and audit of the REIT Scheme and declaration of dividend:

Provided that any Unit Holder who has a conflict of interest in the matter put up for approval shall abstain from voting at the general meeting of the REIT Scheme:

Provided further that the RMC on the requisition of not less than twenty (20) percent Unit Holders, shall call for a meeting of the Unit Holders.

(2) For the purpose of meetings of the Unit Holders the company secretary of the RMC shall act as if he is the company secretary of the REIT Scheme.

(3) The International Accounting Standards notified for listed companies shall apply to the REIT Scheme

34. Offer of Units.- (1) No Units shall be offered to the public by the RMC unless the Offering Document, as cleared by the stock exchange, has been approved by the Commission.

(2) The RMC shall, prior to making an application for approval of the Offering Document by the Commission, increase its paid up capital to at least Rupees 500 million or such other higher amount as specified in the business plan.

(3) The Offering Document submitted for the approval of the Commission shall have the approved Valuation Report of the Real Estate, approved business plan of the REIT Scheme, detailed engineering design along with the construction schedule indicating Project timelines.

(4) All material information regarding the acquisition of Real Estate in the case of a

Developmental REIT Scheme, or execution of a purchase agreement in the case of a Rental REIT Scheme shall be disclosed in the Offering Document.

(5) The RMC shall make a public offering of at least twenty five (25) percent Units of the REIT Scheme.

(6) The maximum number of Units to be subscribed by an investor through IPO shall not exceed five (5) percent of the REIT Fund.

(7) The Units shall be offered to the public after the issue has been underwritten by a minimum of three underwriters appointed by the RMC, not being Connected Persons of the RMC, Trustee, Valuer, Quality Assurance Manager or one another:

Provided that where underwriting arrangements have been entered into, no single underwriter shall hold more than twenty (20) percent of the total Units of the REIT Scheme.

(8) The RMC shall not issue more than fifty five (55) percent Units of the proposed REIT Fund to pre-IPO investors and any such investor shall not hold more than ten (10) percent Units of the REIT Fund.

(9) The par value of the Units shall be Rupees ten (10).

35. Issuance of Units and expenses incurred.- (1) All expenses incurred in connection with the establishment and registration of the REIT Scheme as well as the offer for sale, allotment and issuance of the Units, including commission payable to the underwriter, shall be borne by the RMC and reimbursed after the first annual audit of the RMC and REIT Scheme to the RMC out of the REIT Fund in equal amounts paid annually over a period of five (5) years or the life of the REIT Scheme, whichever is shorter, and the same shall be clearly stated in the constitutive documents.

(2) Notwithstanding the generality of Regulation 35(1) the fees and charges payable from the REIT Scheme are specified in Schedule V.

36. Advertisements and invitations to invest.- (1) Advertisements, marketing materials and other invitations to the public to invest in a REIT Scheme through sale of Units including public announcement, shall be submitted to the Commission for approval before issuance.

(2) All advertisements, marketing materials, invitations and announcements shall have proper risk warning statements, including a reference to the Offering Document for a detailed discussion of the risk factors of the REIT Scheme, and shall be in accordance with such guidelines as the Commission may specify.

37. Management fee payable to RMC.- (1) The RMC, in case of a Developmental REIT Scheme, shall be entitled to an annual management fee not exceeding one (1) percent of the initial REIT Fund for the life of the REIT Scheme and the same shall be stated in the Offering Document.

(2) The RMC, in case of a Rental REIT Scheme, shall be entitled to an annual management fee not exceeding three (3) percent of the annual operating income of the REIT Scheme.

Explanation: Annual operating income means annual revenue minus operating cost.

(3) The annual fee payable under Regulation 37(1) or (2) shall be payable in arrears after the close of accounting year of the REIT Scheme and shall be chargeable as an expense to the said accounting year of the REIT Scheme.

38. Annual monitoring fee.- (1) The monitoring fee, in case of a Developmental REIT Scheme shall be 0.20 percent and in the case of Rental REIT Scheme shall be 0.10 percent of the initial REIT Fund and paid annually to the Commission for the life of the REIT Scheme.

(2) The monitoring fee shall be paid as arrears within three months of the close of accounting year of REIT Scheme and shall be chargeable as an expense to the REIT Scheme.

39. Fee payable to Trustee.- (1) A Trustee, in case of a Developmental REIT Scheme, shall be entitled to an annual fee not exceeding 0.20 percent of the initial REIT Fund.

(2) A Trustee, in case of a Rental REIT Scheme, shall be entitled to an annual fee not exceeding one-fifth of the fee charged by the RMC, payable in arrears on annual basis.

(3) The annual fee shall be paid as arrears after the close of accounting year of REIT Scheme and shall be chargeable as an expense to the REIT Scheme.

- 40. Fee payable to the Quality Assurance Manager or Property Manager.-** (1) The Quality Assurance Manager and Property Manager shall be entitled to a fee as negotiated by the RMC and the same shall be disclosed in the Offering Document.
- (2) The fee payable to the Quality Assurance Manager and Property Manager shall be charged as an expense to the REIT Scheme.

SCHEDULE I

FIT AND PROPER CRITERIA

APPLICATION AND SCOPE

- (1) The Fit and Proper Criteria in relation to RMC is applicable to the following persons:
- (i) Promoters of the RMC;
 - (ii) Director of the RMC;
 - (iii) Chief Executive of the RMC;
 - (iv) Key Executives of the RMC.
- (2) A proposed director or chief executive of the RMC shall not assume the charge of their respective office until their appointments have been approved by the Commission.
- (3) The application for seeking approval of the Commission under clause (2) shall be submitted by the RMC along with the requisite information required under Annex A and the Affidavit as specified in Annex B.
- (4) The appointment of Key Executives of the RMC does not require the approval of the Commission, however the RMC shall ensure at the time of appointing a Key Executive that such person qualifies the Fit and Proper Criteria.
- (5) The fitness and propriety of any person shall be assessed by taking into account all the relevant factors including but not limited to the following:
- (a) Integrity and track record of such person.
 - (b) Financial soundness of such a person.
 - (c) Competence and capability of the person.
 - (d) Conflict of interest of such person with the business of the RMC.

Provided that 5(c) and (d) may not be considered while assessing the fitness & propriety of promoters of the RMC.

ASSESSMENT OF FITNESS AND PROPRIETY

(1) Integrity and Track Record

A person shall not be considered Fit and Proper if he:

- (i) has been convicted of an offence involving moral turpitude;
- (ii) has been involved in the mismanagement of investments, financial/business misconduct, fraud, etc;
- (iii) has been the subject to adverse findings, after conducting an inquiry, by the Commission or any other regulatory or professional body or government agency;

- (iv) has been actively involved in the management of a company/ firm whose registration/ license has been revoked or cancelled or which has gone into liquidation or other similar proceedings due to mismanagement of affairs, financial misconduct or malpractices;
- (v) is ineligible, under the Companies Ordinance, 1984 or any other legislation or regulation, from acting as a director or serving in a managerial capacity of an NBFC or a company;
- (vi) has entered into a plea bargain arrangement with the National Accountability Bureau;
- (vii) does not have the requisite disclosed and verifiable financial resources in case of a promoter of the RMC; and
- (viii) does not have an established and proven track record of successfully running a business enterprise for 3 to 5 years, preferably a public listed company.

(2) Financial soundness

In determining a person's financial soundness, the following shall be considered:

- (i) whether such person's financial statements/record including wealth statements/ income tax returns/ assessment orders are available;
- (ii) whether the person has been declared by a court of competent jurisdiction as defaulter in repayment of loan to a financial institution exceeding Rupees one million;
- (iii) whether the person has applied to be adjudicated as an insolvent and his application is pending;
- (iv) whether the person is an un-discharged insolvent; and
- (v) whether the person has been declared a defaulter by a stock exchange.

(3) Competence and Capability

In determining a person's competence and capability the following shall be considered:

- (i) the directors should be individuals having management/business experience of at least five years at a senior level;
- (ii) the directors shall have experience and knowledge in any profession such as banking, mutual funds, accounting, law, real estate, engineering, valuation or information technology, etc;
- (iii) the chief executive should have a minimum experience of seven to ten years in a senior management position, preferably in the regulated financial services sector;

- (iv) the chief executive should have the capacity to successfully undertake the responsibilities of the position; and
- (v) the Key Executives must be qualified professionals possessing relevant experience and certification relating to the job/ assignment.

(4) Conflict of interest

The proposed directors or chief executive of RMC shall not:

- (i) be a director in any other RMC engaged in a similar business in Pakistan.

Provided that this condition shall not apply to nominees of the Commission, Federal or Provincial Governments on the board of any RMC;

- (ii) be a director, chief executive, chief financial officer, chief internal auditor, research analyst or a trader (by whatever name/designation called) in a stock brokerage house or in any company/entity owned and controlled by a member of a stock exchange; and
- (iii) be a member of a stock exchange engaged in the business of brokerage or is a spouse of such member.

(5) The Fit and Proper Criteria is perpetual in nature and a RMC shall ensure compliance with the provisions of Fit and Proper Criteria.

(6) All persons subject to Fit and Proper Criteria must submit any change in the submitted information through the company secretary of the RMC to Specialized Companies Division of the Commission.

(7) Any violations or circumvention of the Fit and Proper Criteria shall be dealt with under the provisions of the Ordinance.

**Information to be provided by Promoters,
proposed director and proposed chief executive of the RMC**

1.	Curriculum Vitae/Resume containing:
a	Name: (former name if any):
B	Father's/Husband Name:
b	C.N.I.C # (attach copy)
c	Latest photograph
d	Nationality:
e	Age:
f	Contact details:
	i) Residential address:
	ii) Business address:
	iii) Tel:
	iv) Mobile:
	v) Fax:
	vi) E-mail:
g	National Tax Number:
h	Present occupation:
i	Qualification(s):
	i) Academic:
	ii) Professional:
j	Experience: (Positions held during the last 10 years along with name and address of company/ institution)
2.	<p>Nature of directorship Executive <input type="checkbox"/> Non-executive <input type="checkbox"/></p> <p>Status of directorship Nominee director <input type="checkbox"/></p> <p>Number of shares subscribed/held _____</p> <p>_____ nominated by _____ (name of shareholder)</p> <p>Personal net worth (copy of wealth statement) _____</p>
3.	Names of companies, firms and other organizations of which the proposed person is a director, partner, office holder or major shareholder.
4.	CIB report issued by SBP for each company of which he has been a director (attach original CIB report for the last 10 years)

5.	In the case of appointment of directors the date of board of directors' meeting in which the appointment of proposed director was approved. (Attach copy of the minutes of the meeting of the board of directors. If the director is elected, then attach a copy of the minutes of the general meeting of the company.)
6.	Names of persons on the board of the RMC who are related to the applicant.

Signature _____

*use additional sheets if required

Annexure B

(On Stamp Paper of appropriate value)

AFFIDAVIT

Before the Securities and Exchange Commission of Pakistan

I, _____ son/daughter/wife of _____ adult, resident of _____ and holding CNIC/Passport No. _____ do hereby state on solemn affirmation as under:-

1. That I am eligible for the position of _____ according to the Fit and Proper Criteria for the position of _____, annexed to the Real Estate Investment Trust Regulations, 2008.
2. That I hereby confirm that the statements made and the information given by me is correct and that there are no facts which have been concealed.
3. That I have no objection if the Securities and Exchange Commission of Pakistan requests or obtains information about me from any third party.
4. That I undertake to bring to the attention of the Securities Exchange Commission of Pakistan any matter which may potentially affect my status for the position of _____ as per the Fit and Proper Criteria annexed to the Real Estate Investment Trust Regulations, 2008.
5. That all the documents provided to Securities Exchange Commission of Pakistan are true copies of the originals and I have compared the copies with their respective originals and certify them to be true copies thereof.

That I do hereby verify that the statements made above are correct to the best of my knowledge and belief and nothing has been concealed therein.

DEPONENT

The Deponent is identified by me

Signature _____
ADVOCATE
(Name and Seal)

Solemnly affirmed before me on this _____ day of _____ at _____ by the Deponent above named who is identified to me by _____, Advocate.

Signature _____
OATH COMMISSIONER FOR TAKING AFFIDAVIT
(Name and Seal)

SCHEDULE II
CONTENTS OF THE TRUST DEED OF REIT SCHEME

The Trust Deed must *inter alia* contain the following not necessarily in the sequence given:

- (i) Name of Trust.
- (ii) Creation of Trust.
- (iii) Transfer and grant of REIT Assets.
- (iv) Object of the Trust.
- (v) Authorization/approval of the Commission to constitute the Trust.
- (vi) Parties to the Trust Deed identifying the Trustee as well as the beneficiaries.
- (vii) Registered address of the Trustee along with place and date of creation of Trust.
- (viii) Governing law and jurisdiction.
- (ix) Duration and date of extinction of Trust.
- (x) Circumstances for the revocation of the Trust along with the mechanism specifically stating the power of the Commission to revoke the trust.
- (xi) Duties, powers and rights of the RMC in relation to the trust.
- (xii) Rights of the beneficiaries of the Trust.
- (xiii) Duties, powers, rights and obligations of Trustee.
- (xiv) Retirement or removal of Trustee, specifically giving the Commission the power to remove the Trustee.
- (xv) Mechanism for rectification of Trust Deed.
- (xvi) Duties of the Trustee which may be delegated to third parties.
- (xvii) Appointment of the auditor.
- (xviii) Circumstances and procedure for the change of RMC upon the request of the Unit Holders.
- (xix) Procedure for change of Trustee.
- (xx) Policies for borrowings and issuance of Units.
- (xxi) Provisions that Units shall be listed in accordance with the listing regulations of the stock exchange and shall be freely tradable subject to Regulation 3(2)(a) of the Regulations.
- (xxii) Specification of the size of REIT Fund.
- (xxiii) Investment policy, specifically authorizing the Trustee to invest the REIT Fund.
- (xxiv) Dividend policy.
- (xxv) Accounting period and audit;
- (xxvi) Mechanism for the distribution of REIT Assets, upon the extinction or revocation of the Trust and the manner in which the beneficiaries shall be transferred their proportionate shares of the sale proceeds specifically stating that creditors will have the first right at the time of distribution of REIT Assets.
- (xxvii) Utilization of REIT Fund, which may include the following:
 - Management fee of RMC.
 - Reimbursements of expenses to RMC which have been borne by the RMC for setting up the REIT Scheme.
 - Fee to be paid to Trustee.
 - Fee payable to Commission.
 - Auditors' fees.

- Listing fee for the REIT Scheme, including renewals payable to stock exchange;
- Legal fee and other relating expenses of the REIT Scheme.
- Underwriting commission and take-up commission.
- Commissions to the banker to the issue.
- Remuneration of service providers e.g. letting agents, security etc.
- Fees and charges of the Valuer for valuing REIT Assets.
- Fees and charges of the civil works contractor.
- Quality Assurance Manager / Property Manager fees.
- Taxes, fees, duties and other charges applicable to the REIT Scheme.
- Bank charges & financial cost with respect to the REIT Scheme.
- Any printing costs and related expenses for issuing the REIT Scheme's quarterly, half-yearly and annual accounts, etc.

(xxviii) Arbitration.

SCHEDULE III

INFORMATION TO BE DISCLOSED IN THE OFFERING DOCUMENT BY THE REIT SCHEME

Note: - No offering document shall be issued to the public unless summarised versions of Valuation Report of the Real Estate and the approved business plan of the REIT Scheme is attached to it.

The Offering Document shall in addition to the requirements contained in the Ordinance and guidelines made thereunder also contain the following information:

1. Date of publication of the Offering Document.
2. Stock Exchange's clearance for the Offering Document.
3. Commission's approval for the Offering Document.
4. **REIT Scheme**
 - (a) Name and registered address of the REIT Scheme.
 - (b) Date and registration number of REIT Scheme.
 - (c) Name and registered address of Trustee.
 - (d) Abridged version of the latest audited accounts of the Trustee not older than six months failing which a certificate from the auditor evidencing the net worth of the company;
 - (e) Summary of the entire REIT Scheme highlighting potential benefits and risks involved.
 - (f) Name of the directors of Trustee.
 - (g) Duration and date of termination of the REIT Scheme.
 - (h) Summary of the substantive provisions of the Trust Deed.
 - (i) Commission's approval of the Real Estate under Regulation 6.
 - (j) Beneficial interest of the related parties, if any, with respect to the REIT Scheme.
 - (k) Potential conflicts of interest of the related party, if any, with respect to the REIT Scheme.
 - (l) A description of the business of the related party and its management so as to enable the Unit Holders to assess the nature, scope and size of their business and the reasons as to how their business may be in competition with the Project and activities of the REIT Scheme.
 - (m) Costs of advertisements relating to the REIT Scheme.
 - (n) Fee negotiated with the Quality Assurance Manager or Property Manager.
5. **RMC**
 - (a) Name and Registered address of the RMC.

- (b) Incorporation certificate of the RMC.
- (c) Abridged version of audited balance sheet and profit and loss statement of the RMC not older than six months failing which a certificate from the auditor evidencing the net worth of the company.
- (d) Board of directors, chief executive and company secretary of the RMC and their profile/particulars.
- (e) Names of shareholders along with their shareholding in the RMC.
- (f) Duties and power of the RMC.
- (g) Certificate from the RMC that the related party is capable of performing its duty in relation to the REIT Scheme independent of its other business, if any.

6. Corporate Directory

The names, registered addresses and contact numbers of the following parties, where applicable:

- (a) Valuer;
- (b) Quality Assurance Manager;
- (c) Property Manager;
- (d) Consulting engineer/design firm or architect;
- (e) Civil works contractor;
- (f) Auditor of the REIT Scheme;
- (g) Underwriter;
- (h) Bankers to the issue;
- (i) Registrar of the REIT Scheme;
- (j) Legal adviser of the REIT Scheme; and
- (k) Regulatory authorities.

7. REIT Assets

- (a) Location map with address of Real Estate along with name of concerned authority/jurisdiction.
- (b) Photographs and drawings of the Real Estate along with accessibility map.
- (c) Type of Real Estate, whether lease hold or free hold.
- (d) Approval for the Project from the concerned regulatory authorities
- (e) Date and value at which the Real Estate has been transferred to Trustee.
- (f) Valuation Report of the Real Estate.
- (g) Copy of the certificate from the auditor of REIT Scheme that Real Estate has been transferred in the name of Trustee.
- (h) A due diligence certificate from a lawyer that the title of the Real Estate is free of all defects and encumbrances and all necessary approvals/ permissions/ NOCs of the concerned local authorities required prior to start of project as per local byelaws has been obtained.
- (i) In case of Rental REIT Scheme, certificate from auditor of the REIT Scheme that RMC has entered into a binding purchase agreement on 25 percent down payment to

the seller of the Real Estate.

- (j) Copy of the approved business plan and the engineering design.
- (k) Investments proposed to be made from the REIT Fund.
- (l) Material information regarding the acquisition of Real Estate in the case of a Developmental REIT Scheme or execution of a purchase agreement in the case of a Rental REIT Scheme.

8. Fund size

- (a) Total size of the REIT Fund.
- (b) Units taken up by the RMC and pre-IPO investors, if any.
- (c) Names and addresses of pre-IPO investors along with their percentage held.
- (d) Certificate from the auditor of REIT Scheme that Units equivalent to the value of Real Estate transferred in the name of Trustee, has been taken up by RMC.
- (e) Certificate from auditor of the REIT Scheme stating whether the subscription money from pre-IPO investors has been received or not.
- (f) Number of Units offered to the public

9. Units

- (a) Face value of Units.
- (b) Lot size of Units.
- (c) Opening and closing date of subscription.
- (d) Condition that no investor shall subscribe for more that 5 percent of the Units.

10. Detail of Expenses to be born by the REIT Scheme

- (a) Management fee of RMC.
- (b) Amount of expenses which have been borne by the RMC for setting up the Trust.
- (c) Fee to be paid to the Trustee.
- (d) Fee payable to the Commission.
- (e) Fee payable to CDC.
- (f) Auditor' fees of the REIT Scheme.
- (g) Listing fee, including renewals payable to stock exchange for the listing of Units of the REIT Scheme.
- (h) Legal fee and other relating expenses of the REIT Scheme.
- (i) Underwriting commission and take-up commission.
- (j) Distribution charges, if any.
- (k) Commissions to the banker to the issue.
- (l) Fees and charges of the Valuer for valuing REIT Assets.
- (m) Fees and charges of the civil works contractor.
- (n) Remuneration of service providers e.g. letting agents, security etc.
- (o) Fee to be paid to the Quality Assurance Manager /Property Manager.
- (p) Taxes, fees, duties and other charges applicable to the REIT Scheme on its income or its properties.
- (q) Bank charges & financial cost with respect to the REIT Scheme.
- (r) Any printing costs and related expenses for issuing the REIT Scheme's quarterly,

half-yearly and annual accounts, etc.

11. Distribution policy

The distribution policy, indicating the time period for distribution of dividend.

12. Financial Reports and accounts

- (a) The accounting year of the REIT Scheme.
- (b) Particulars and frequency of the financial reports to be sent to the Unit Holders.
- (c) Policy on valuation of the REIT Scheme's assets and determination of the NAV.
- (d) Financial projections including projected balance sheet, profit and loss and cash flow statements.
- (e) Borrowing policy including the financial close from financial institutions, if any.
- (f) Policy for Customer Advances.

13. Extinction of REIT Scheme

- (a) A summary of the circumstances in which the REIT Scheme may be extinguished and the manner in which the beneficiaries shall be transferred their proportionate shares.
- (b) Rights of creditors.

14. Risks

A statement that investment in the REIT Scheme is subject to risks and an exhaustive description of the risks involved.

15. General information

- (a) A list of documents concerning the REIT Scheme such as Trust Deed, business plan, Valuation Report, audited accounts of the RMC and Trustee, NOCs/approvals etc, shall be placed on the website of the RMC and provided free of cost to the prospective investors.
- (b) A statement that the RMC accepts responsibility for the information contained in the Offering Document as being accurate at the date of publication.
- (c) Construction schedule for the Project indicating deadlines and milestones.
- (d) The

SCHEDULE IV

VALUATION REPORT

The valuation shall conform to the applicable standards specified by International Valuation Standards Committee (IVSC).

(1) Date of valuation

The Valuation Report shall be issued within one month of the valuation.

(2) The Valuation Report shall *inter alia* contain the following information.

(i) General Information

- (a) The Real Estate being valued and the client.
- (b) The assumptions used.
- (c) Scope of assignment.
- (d) Easements associated with the Real Estate.
- (e) The following information provided by the RMC to the Valuer:
 - (i) Construction schedule along with milestones and deadlines.
 - (ii) Construction specifications.
 - (iii) Construction drawings.
- (f) Date of the valuation.

(ii) Inspection of the Real Estate

- (a) The date of inspection, name of the inspector and the site inspected.
- (b) Details, where inspection of any part of the Real Estate was not possible.

(iii) Description and Details of Real Estate

- (a) Location map and the address of the Real Estate along with the name of concerned authority/jurisdiction.
- (b) Photographs and drawings of the Real Estate along with accessibility map.
- (c) Custodian of the title record e.g. LDA, CDA etc.
- (d) Permissions/ NOCs from the concerned local authorities as per local byelaws. (Attach copies of NOCs /permissions obtained).
- (e) Any breach or violation of the local byelaws and regulations and its impact on the Project.
- (f) In the case of Rental REITs, description of improvements and the present condition of the Real Estate.
- (g) Floor plan, maps, photos, and other visual aid.
- (h) Sale/transfer history of the Real Estate.
- (i) For properties generating rental income e.g. shopping complex, office building etc, details of occupancy rate, tenancy schedule, types of income and operating costs etc.

(iv) Market and Neighborhood

- (a) A description of the surrounding area and developments, if any.
 - (b) Availability of communications, amenities and utilities in the surrounding area.
 - (c) The supply and demand situations affecting the Real Estate.
- (v) **Approach of valuation**

A determination of the fair market value of the Real Estate based upon the following:

Type of REIT Scheme	Approach (as defined by IVSC)
Developmental REIT	Cost Approach
Rental REIT (Use at least 2 methods)	1. Income Capitalization Approach 2. Sales Comparison Approach 3. Cost Approach

(vi) **Valuation Analysis**

(a) **Highest and Best Use (considering land as vacant)**

- Explain and identify physically possible uses.
- Explain and identify legally permitted uses.
- Explain and identify financially feasible uses.
- Explain and identify maximal productive use
- State a conclusion of highest and best use as if site were vacant.

(b) **Cost Approach**

- Explanation of the methodology and procedure of the Cost Approach.
- Source and data used in estimating component costs.
- Explanation of the replacement cost calculation and depreciation.
- Mention value of land and value of construction separately and sum to reach the opinion of value.

(c) **Income Capitalization Approach**

- Explanation of the methodology and procedure of the Income Capitalization Approach.
- Present Real Estate historical operating data, current leases, etc.
- Present comparable rental data in detail.
- Project potential gross income based on comparables and actual.
- Vacancy rates of similar properties and their actual occupancy rate.
- Projected vacancy rate for the Real Estate.
- Projected effective gross income for the subject Real Estate.
- Present comparable expense data in detail.
- Explanation of computation of discount rates appropriate to the Real Estate.

(d) **Direct Sales Comparison**

- Explanation of the methodology of the Sales Comparison Approach.

- Specify the market unit of comparison such as area per square foot, number of rooms, covered area, etc along with the maps, photographs and data of comparable properties.
- Factual comparable sales data in detail which inter alia includes the address of the Real Estate, selling price, date of sale, data source and physical description of comparable sales.
- The relevant adjustments for age, location, time, and area.

(e) **Opinion of value**

- Values determined by applying different valuation approaches.
- Explanation of the relative strengths and weaknesses of various approaches and a disclosure of the final value.

(vii) **Declaration by the Valuer**

A declaration according to the format attached as Annexure “A”.

DECLARATION

I,.....(Name of the person conducting the valuation)

of.....(name of the Valuer company)

carried out a valuation of.....(Name and address of the subject Real Estate)

and do solemnly and sincerely, to the best of my knowledge and belief declare:

1. That after an inspection of the Real Estate and a study of pertinent factors, including valuation trends and an analysis of neighbourhood data the market value of the subject Real Estate as on(date of valuation) is Rupees(amount in Rupee in both words and numbers).
2. That the statements of fact contained in this report are true and correct.
3. That I have not withheld any information.
4. That I have no interest in the Real Estate that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
5. That I have not been instructed either by my company or the client to report a predetermined value for the subject Real Estate.
6. That I am neither a director nor an employee of the RMC and do not have any financial interest, direct or indirect, in the RMC.
7. That I have personally inspected the Real Estate that is the subject of this report.

Declared by:

.....

Name and signature:

Designation:

Date:

Witnessed by:

.....

Name and signature:

CEO of the Valuer Company

Date:

SCHEDULE V

SCHEDULE OF FEES

[Rules 4, 5, 7A of the Rules and Regulations 8, 38 and 39 of the Regulations]

A) Application fees under the Rules:

<u>FORM</u>	<u>SUBJECT OF APPLICATION</u>	<u>AMOUNT</u> <u>(RS.)</u>
Form I	Application for permission to form an RMC.	500,000
Form II	Application for licence to undertake or carry out an activity or function.	250,000
Form IV	Application for renewal of licence to carry out an activity or function.	250,000

B) Application Fees under the Regulation 8:

<u>SUBJECT OF APPLICATION</u>	<u>AMOUNT</u> <u>(RS.)</u>
Regulation 8 Application for registration of a REIT Scheme	1,000,000

C) Other Fees under Regulations 38 and 39:

	Fee payable by REIT Scheme	Developmental REIT	Rental REIT
Regulation 38	Annual Fee payable to RMC	Up to 1 % of initial REIT Fund	Up to 3 % of the annual operating income
Regulation 39	Annual Monitoring Fee payable to the Commission	Equal to 0.20% of initial REIT Fund	Equal to 0.10% of initial REIT Fund
Regulation 40	Annual Fee payable to Trustee	Up to 0.20% of initial REIT Fund	Up to (1/5 th) of annual fee charged by RMC
Regulation 41	Fee payable to Quality Assurance Manager/ Property Manager Fee	Negotiable	Negotiable
Regulation 23	Fee payable to Valuer	Negotiable	Negotiable
	Fee payable to Valuer	Negotiable	Negotiable

(Abdul- Rehman Qureshi)
Advisor/Secretary