

Terms and Conditions for Wakala Investments

1. Scope

These terms and conditions for Wakala Investments (the “Wakala Terms”) govern your Wakala Investments (as defined below) with the retail branch of Arab Banking Corporation (B.S.C.) in Bahrain (“ila”, “we”, “us”, and “our”). These terms and conditions apply in addition to our other terms and conditions and our privacy policy which are incorporated herein by reference and apply to the services offered by ila.

For purposes of these Wakala Terms,

- “Muwakkil” means you; and
- “Wakil” means ila.

You and ila wish, from time to time, to enter into transactions whereby the Muwakkil will transfer certain funds to the Wakil and appoint the Wakil as its investment agent to invest such funds on its behalf in a manner compliant with the principles of Shari’a and in accordance with the terms of these Wakala Terms.

Each Wakala Investment shall be governed by these Wakala Terms.

2. Definitions

The following expressions have the following meaning:

“Anticipated Profit Rate” means, in relation to a Wakala Investment, the profit rate specified in the Wakil Offer Notice, which the Wakil expects to achieve during relevant Wakala Transaction Period by investing the Investment Amount for and on behalf of the Muwakkil in accordance with the provisions of these Wakala Terms.

“Actual Profit Rate” means, in relation to a Wakala Investment, the profit rate actually achieved by the Wakil during and upon the maturity of the relevant Wakala Transaction Period by investing the Investment Amount for and on behalf of the Muwakkil in accordance with the provisions of these Wakala Terms.

“Business Day” means, a day (other than a Friday, Saturday or public holidays) on which banks in Manama, Bahrain are open for general business.

“Early Termination Date” means a date designated or occurring in accordance with Clause 7.2 (Acceptance of Early Termination Request) or Clause 7.4 (Muwakkil’s right to continue or terminate).

“Investment Amount” means, in relation to a Wakala Investment, the amount specified in the Wakil Offer Notice to be transferred by the Muwakkil to the Wakil on the Investment Date provided that such amount shall be equal or greater than the minimum investment amount (if any) and no more or less than the maximum investment amount (if any) prescribed by the Wakil from time to time.



“Investment Date” means, in relation to a Wakala Investment, the date specified in the Wakil Offer

Notice, on which the Muwakkil shall transfer the relevant Investment Amount to the Wakil.

“Maturity Date” means, in relation to a Wakala Investment, the date specified in the Wakil Offer Notice, on which the Maturity Proceeds in respect of the relevant Wakala Investment shall be payable by the Wakil to the Muwakkil.

“Maturity Proceeds” means, in relation to any Wakala Investment, the sums due (if any) by the Wakil to the Muwakkil on the Maturity Date of the relevant Wakala Investment calculated in accordance with Clause 4.4 (Payment and calculation of Maturity Proceeds) and Clause 7.5 (Payments upon early termination).

“Muwakkil Acceptance Notice” means an acceptance notice to be sent by way of the ila App by the Muwakkil to the Wakil accepting the Wakil Offer Notice.

“Specified Currency” means, in relation to a Wakala Investment, the currency specified in the Wakil Offer Notice.

“Wakala Contract” means an individual agency contract evidencing the terms of a Wakala Investment concluded in accordance with Clause 4 (Wakala Investments) on the terms set out in the relevant Wakil Offer Notice and the Muwakkil Acceptance Notice.

“Wakala Investment” means each investment transaction entered into between the Muwakkil and the Wakil subject to these Wakala Terms and the relevant Wakala Contract to which such investment transaction relates.

“Wakala Pool” means the pool of assets in which the Wakil shall invest the Investment Amounts which may consist of the Wakil’s general treasury pool comprising the funds held and invested by the Wakil from time to time in a manner compliant with the principles of Shari’a.

“Wakil Offer Notice” means, in relation to a Wakala Investment, an offer notice to be sent by way of the ila App by the Wakil to the Muwakkil.

“Wakala Transaction Period” means, in relation to a Wakala Investment, the period commencing on the Investment Date and ending on the earlier of the Maturity Date and the Early Termination Date.

3. Wakil as the Muwakkil’s investment agent

3.1 Appointment of Wakil as investment agent

- (a) The Muwakkil appoints the Wakil to act as its investment agent in relation to each Wakala Investment entered into between the Wakil and the Muwakkil from time to time to invest the relevant Investment Amount on behalf of the Muwakkil in accordance with the principles of Shari’a and these Wakala Terms.

- (b) In relation to each Wakala Investment the appointment of the Wakil shall take effect from the relevant Investment Date and terminate on the earlier of the relevant Maturity Date and the Early Termination Date.
- (c) The Muwakkil authorises the Wakil to exercise the rights, powers, authorities and discretions specifically given to the Wakil under or in connection with these Wakala Terms together with any other incidental rights, powers, authorities and discretions.
- (d) The Wakil shall be acting as agent for the Muwakkil on a limited agency basis in relation
- (e) to each Wakala Investment. Except as expressly provided in these Wakala Terms, the Wakil shall not have any authority to represent or bind the Muwakkil in any other respect and shall not purport to do so.
- (f) The Muwakkil acknowledges and agrees that, by entering into each Wakala Investment as contemplated in Clause 4 (Wakala Investments), the Muwakkil shall not have any right to retrieve the investment funds other than as described in Clause 4 (Wakala Investments) during the agreed Wakala Transaction Period.

3.2 Acceptance of appointment

Subject to the offer and acceptance process described in Clause 4 (Wakala Investments) the Wakil accepts its appointment as investment agent of the Muwakkil pursuant to Clause 3.1 (Appointment of Wakil as investment agent) and agrees to be bound by the terms of these Wakala Terms and each Wakala Contract.

3.3 Duties of the Wakil

- (a) In respect of each Wakala Investment, the Wakil shall invest the Investment Amount in the Wakala Pool and ensure that the Wakala Pool is, at all times, invested in accordance with the principles of Shari'a.
- (b) In performing its duties pursuant to these Wakala Terms, the Wakil shall act with professionalism and exercise utmost due care and diligence.
- (c) The parties agree that the Wakil may, but shall be under no obligation to, segregate the Investment Amounts received from the Muwakkil from its own funds and the funds of other customers but shall be entitled to commingle any Investment Amounts received from the Muwakkil with the general Shari'a compliant treasury pool of the Wakil in its ordinary course of business.
- (d) The Wakil shall not propose to enter into a Wakala Investment unless it reasonably and genuinely believes, after due inquiry with respect to market conditions, past performance and future projections, that the Actual Profit Rate, in relation to the relevant Wakala Investment, will be equal to or greater than the Anticipated Profit Rate.

3.4 Liability of the Wakil

The Muwakkil as principal shall bear all the risks associated with the acts of the Wakil as its investment agent and the Wakil shall have no liability (including any liability relating to any reduction to the Actual Profit Rate) to the Muwakkil other than any liability for any genuine actual losses (not to include any opportunity cost or funding costs) arising as a result of the Wakil's willful misconduct, negligence, misrepresentation or breach of the terms and conditions of these Wakala Terms.

3.5 No fiduciary duties

Nothing in these Wakala Terms shall be interpreted as constituting the Wakil as a trustee or fiduciary of the Muwakkil or any other person.

4. Wakala Investments

4.1 No obligation to enter into transactions

Nothing in these Wakala Terms shall be construed as creating an obligation on the part of the Wakil or the Muwakkil to enter into any Wakala Investment prior to a Wakala Contract coming

into effect in accordance with Clause 4.3 (Muwakkil acceptance and transfer of Investment Amount).

4.2 Notification and Wakil offer

By way of the ila App the Muwakkil may notify the Wakil of its desire to enter into a Wakala Investment. The Wakil shall then send by way of the ila App to the Muwakkil the Wakil Offer Notice setting out the terms of the proposed Wakala Investment.

4.3 Muwakkil acceptance and transfer of the Investment Amount

If the Muwakkil is willing to enter into the proposed Wakala Investment it shall send to the Wakil,

- the Muwakkil Acceptance Notice; and
 - transfer the Investment Amount in full to the Wakil,
- as prescribed by the Wakil Offer Notice.

Upon receipt by the Wakil of the Muwakkil Acceptance Notice and the Investment Amount, a Wakala Contract shall be constituted on the terms specified in the Wakil Offer Notice and these Wakala Terms.

4.4 Payment and calculation of Maturity Proceeds

On the Maturity Date of each Wakala Investment, the Wakil shall pay to the Muwakkil the Maturity Proceeds (if any) calculated as follows:

- (a) If the Actual Profit Rate is equal to or greater than the Anticipated Profit Rate, the Wakil shall pay to the Muwakkil an amount equal to the aggregate of (i) the Investment Amount and (ii) an amount equal to the Investment Amount multiplied by the Anticipated Profit Rate and the number of days in the relevant Wakala Transaction Period and divided by 360 or 365 depending on the day count convention for the corresponding Specified Currency as determined by the Wakil.
- (b) If the Actual Profit Rate is less than the Anticipated Profit Rate, the Wakil shall pay to the Muwakkil an amount equal to the aggregate of (i) the Investment Amount and (ii) an amount equal to the Investment Amount multiplied by the Actual Profit Rate and the number of days in the relevant Wakala Transaction Period and divided by 360 or 365 depending on the day count convention for the corresponding Specified Currency as determined by the Wakil.
- (c) If the Actual Profit Rate is a negative number, the Wakil shall pay to the Muwakkil the Investment Amount less an amount equal to (i) the Investment Amount multiplied by (x)
- (d) one hundred per cent. (100%) minus the absolute value in per cent. of the Actual Profit Rate and (y) the number of days in the relevant Wakala Transaction Period and divided by 360 or 365 depending on the day count convention for the corresponding Specified Currency as determined by the Wakil.

4.5 Calculation of incentive payment If the Actual Profit Rate is greater than the Anticipated Profit Rate, the Wakil shall pay to the Muwakkil the Maturity Proceeds in accordance with Clause 4.4(a) and retain the excess as an incentive payment. 4.6 No withdrawal Other than pursuant to Clause 7.1 (Early termination at the request of the Muwakkil), the Muwakkil irrevocably agrees not to withdraw any Investment Amount prior to the relevant Maturity Date.

5. Payments

5.1 Payment of Proceeds On the Maturity Date of a Wakala Investment (or, if agreed, on a periodic payment basis), the Wakil shall pay the Proceeds to the Muwakkil by crediting the Muwakkil's ila account. 5.2 Specified Currency All payments pursuant to a Wakala Investment shall be made in the Specified Currency.

6. Compliance with Shari'a

6.1 Shari'a Board Ila represents and warrants to you that the Shari'a Board of its affiliate ABC Islamic Bank (E.C.) has opined that that the provisions of these Wakala Terms and each Wakala Investment do not contravene the principles of Shari'a. 6.2 Independent satisfaction You represent and warrant to ila that insofar as you are required, for any reason, to enter into transactions, agreements, and arrangements which comply or are consistent with the principles of Shari'a: (a) you have agreed to these Wakala Terms and

each Wakala Investment after having reviewed them for the purpose of their compliance with the principles of Shari'a and, to the extent you have considered this necessary, taken independent advice from a Shari'a adviser; (b) you are satisfied that the provisions of these Wakala Terms and each Wakala Investment do not contravene the principles of Shari'a; (c) you have made your own investigation into and satisfied yourself as to the Shari'a compliance of these Wakala Terms and each Wakala Investment to be entered into under these Wakala Terms; (d) all necessary action to confirm that these Wakala Terms and each Wakala Investment to be entered into pursuant to these Wakala Terms are Shari'a compliant has been taken;

and (e) you confirm that you do not have any objections, nor will you raise any objections as to matters of Shari'a compliance in respect of, or otherwise in relation to any of the provisions of these Wakala Terms and each Wakala Investment to be entered into pursuant to these Wakala Terms.

7. Early termination

7.1 Early termination at the request of Muwakkil

Notwithstanding Clause 4.6 (No withdrawal), the Muwakkil may, during a Wakala Transaction Period, send by way of the ila App a notice to the Wakil requesting that one or more Wakala Investments be terminated early prior to the Maturity Date (an "Early Termination Request"), provided that the Wakil shall not be under any obligation to accept or to take any action whatsoever in relation to such Early Termination Request.

7.2 Acceptance of Early Termination Request

- (a) The Wakil may elect, in its sole discretion, whether or not to accept the Early Termination Request and shall notify the Muwakkil of its acceptance within three (3) Business Days of receipt of the Early Termination Request, failing which the Early Termination Request shall be deemed to have been rejected by the Wakil.
- (b) If the Wakil, in its sole discretion, accepts the Early Termination Request, the date on which it notifies the Muwakkil of its acceptance shall be the Early Termination Date in respect of the relevant Wakala Investment, and the Wakil shall make the payments to the Muwakkil pursuant to Clause 7.5 (Payments upon early termination).

7.3 Revised profit rate notice

If the Wakil, at any time during the Wakala Transaction Period, determines that the Actual Profit Rate in relation to a Wakala Investment, may be lower than the Anticipated Profit Rate, the Wakil shall as soon as practicable notify the Muwakkil thereof by way of the ila App and indicate the revised Anticipated Profit Rate which the Wakil estimates that it will be able to achieve in relation to the remaining period of the relevant Wakala Investment (the "Revised Anticipated Profit Rate").



7.4 Muwakkil's right to continue or terminate

The Muwakkil shall, no later than three (3) Business Days following the receipt of a notice in accordance with Clause 7.3 (Revised profit rate notice), have the right to notify the Wakil by way of the ila App that:

- (a) it accepts the Revised Anticipated Profit Rate, in which case the relevant Wakala Investment shall continue until the Maturity Date thereof and the amount of the Maturity Proceeds shall be calculated by reference to (i) the Actual Profit Rate from the date of the relevant Wakala Investment until the date on which the Muwakkil sends a notice to the Wakil accepting the Revised Anticipated Profit Rate and (ii) the Revised Anticipated Profit Rate (instead of the Anticipated Profit Rate) from the date the Wakil notifies the Muwakkil of the Revised Anticipated Profit Rate until the Maturity Date of the relevant Wakala Investment; or
- (b) it wishes to terminate the relevant Wakala Investment in which case the day on which such notice is delivered by way of the ila App to the Wakil shall be the Early Termination Date in relation to the relevant Wakala Investment and the Wakil shall make the payment to the Muwakkil in accordance with Clause 7.5 (Payments upon early termination).

If the Muwakkil fails to notify the Wakil by way of the ila App within three (3) Business Days from the receipt of the notice pursuant to Clause 7.3 (Revised profit rate notice) in accordance with paragraph 7.4(a) or 7.4(b), the Muwakkil shall be deemed to have served a notice pursuant to paragraph 7.4(a) above on the third (3) Business Day from the receipt of such notice.

7.5 Payments upon early termination

Upon the designation of an Early Termination Date pursuant to Clause 7.2 (Acceptance of Early Termination Request) or Clause 7.4 (Muwakkil's right to continue or terminate) the Maturity Date with respect to the relevant Wakala Investment shall, irrespective of other provisions of these Wakala Terms, fall on the Early Termination Date and the Wakil shall, within two (2) Business Days of the Early Termination Date, pay the Maturity Proceeds calculated in accordance with Clause 4.4 (Payment and calculation of Maturity Proceeds), and an amount equal to the aggregate periodic proceeds payments that have already been paid to you on the Wakala Investment, if any, will be deducted from your account as if the Early Termination Date was the Maturity Date in relation to the relevant Wakala Investment, provided that if the Early Termination Date has been settled pursuant to Clause 7.2 (Acceptance of Early Termination Request), the Wakil shall be entitled to retain from the Maturity Proceeds an amount which would compensate it for any administrative and out-of-pocket costs and expenses (excluding any opportunity cost or funding costs) which it has incurred as a result of the exercise by the Muwakkil of its right granted under Clause 7.4 (Muwakkil's right to continue or terminate). The latest estimate of cost and expenses are available on our schedule of fees and charges on our website.