

# OFFICIAL DOCUMENTS

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NUMBER G-2410

## **INDEMNITY AGREEMENT**

**(Competitiveness and Growth Development Policy Financing)**

**between**

**ISLAMIC REPUBLIC OF PAKISTAN**

**and**

**INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT**

**Dated June 20, 2017**

## INDEMNITY AGREEMENT

**AGREEMENT**, dated June 20, 2017 between **ISLAMIC REPUBLIC OF PAKISTAN** (the "**Member Country**") and the **INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT** (the "**Bank**") in connection with the Guarantee (the "**Guarantee**") by the Bank in favor of Standard Chartered Bank (the "**Beneficiary**") with respect to a common terms agreement dated on or about the date hereof between, *inter alia*, the Beneficiary acting as Common Agent, Conventional Facility Agent and Investment Agent, as applicable, and the Member Country acting as obligor, and the other Finance Documents as defined therein (together, and as duly amended or supplemented, the "**Guaranteed Agreement**") in support of the Program (as defined in the Appendix to this Agreement). The Bank has decided to provide the Guarantee on the basis, *inter alia*, of (a) the actions which the Member Country has already taken under the Program and which are described in Section I.A of the Schedule to this Agreement, and (b) the Member Country's maintenance of an adequate macroeconomic policy framework. The Member Country and the Bank therefore hereby agree as follows:

### ARTICLE I

#### General Conditions; Definitions

**Section 1.01.** (a) The provisions of the General Conditions (as defined in the Appendix to this Agreement) set forth in Section II of the Appendix to this Agreement constitute an integral part of this Agreement.

**Section 1.02.** Unless the context otherwise requires, the capitalized terms used in this Agreement have the meanings ascribed to them in the General Conditions or in Section I of the Appendix to this Agreement.

### ARTICLE II

#### Indemnity by Member Country to the Bank; Opinion; Guarantee Fee

**Section 2.01.** In consideration of the Bank providing the Guarantee on the terms and conditions set out in the Guaranteed Agreement, the Member Country hereby irrevocably and unconditionally agrees:

(a) to reimburse the Bank immediately on demand or as the Bank may otherwise direct in writing for any amount paid by the Bank under the Guarantee together with interest thereon at the rate per annum determined by the Bank and notified to the Member Country (which rate shall not exceed the Bank's highest prevailing lending rate for loans with a fixed spread denominated in the Payment Currency, as may be shown from time to time on the Bank's external website) from the date such payment is made by the Bank until such amount is reimbursed in full;

(b) to indemnify the Bank on demand and hold the Bank harmless against all actions, proceedings, liabilities, claims, losses, damages, costs and expenses brought against, suffered or incurred by the Bank directly or indirectly in relation to or arising out of or in connection with the Guarantee (except as otherwise provided in Section 8.04(i) of the General Conditions);

(c) that the Bank may at any time, without thereby discharging, impairing or otherwise affecting any rights, powers and remedies hereby created or conferred upon it by this Agreement, the Guaranteed Agreement or any other related agreement or by law offer or agree to or enter into any amendment or supplement to or agreement for the variation of the Guaranteed Agreement (other than an extension or one which would or could increase the obligations of the Member Country under this Agreement; provided that the Bank shall notify the Member Country prior to agreeing to any amendment, supplement or variation to or waiver of the Guaranteed Agreement;

(d) that the obligations of the Member Country under this Agreement will not be affected by any act, omission, matter or thing which, but for this Section, would reduce, release or prejudice any of its obligations under this Agreement; and

(e) in the event that the Bank receives funds from the Member Country pursuant to Section 2.01(a) and, in respect of the same amounts, the Bank receives a refund of funds from the Beneficiary pursuant to the Guarantee or receives funds as a result of the exercise of the Bank's subrogation rights under the Guarantee (the "**Double Payment**"), then the Bank shall promptly refund to the Member Country the amount of the Double Payment together with any interest payments received pursuant to the Guarantee by the Bank from the Beneficiary in respect of such Double Payment.

**Section 2.02.** Any payment required to be made by the Member Country pursuant to the terms of this Agreement shall be applied first, to pay all interest and other charges due to the Bank and second, after such interest and other charges are paid, to pay all other amounts then due to the Bank under this Agreement.

**Section 2.03.** The Member Country shall furnish to the Bank an opinion or opinions satisfactory to the Bank of counsel acceptable to the Bank or, if the Bank so requests, a certificate satisfactory to the Bank of a competent official of the Member Country, showing the following matters: (a) that this Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Member Country and is legally binding upon the Member Country in accordance with its terms; and (B) any other matter reasonably requested by the Bank in connection with this Agreement. The Member Country acknowledges that the receipt by the Bank of such opinion, opinions or certificate will be a condition to the effectiveness of the Guarantee.

**Section 2.04.** In consideration of the Bank providing the Guarantee on the terms and conditions set out in the Guaranteed Agreement, the Member Country shall pay directly to the Bank (i) a front-end fee (the "**Front-end Fee**") in an amount equal to 0.25% (25 basis points) of the Guaranteed Amount, (ii) a guarantee fee (the "**Guarantee Fee**") equivalent to 0.50 percent (50 basis points) per annum applied against the financial exposure of the Bank under the Guarantee payable in advance semiannually and, as applicable, (iii) a standby fee (the "**Standby Fee**") equivalent to 0.25 percent (25 basis points) per annum applied against the Bank's contractually committed but undisbursed exposure under the Guarantee, accruing within 60 days of signature of the Guaranteed Agreement. The Front-end Fee and the first installment of the Guarantee Fee, as well as the first installment of

any Standby Fee accrued after 60 days from the signature of the Guaranteed Agreement, shall be due and payable to the Bank on or before effectiveness of the Guarantee. The Front-end Fee, the Guarantee Fee and any Standby Fee shall be paid to the Bank by electronic transfer in immediately available freely transferable funds in Dollars to the bank account designated by the Bank. If, prior to the Final Maturity Date, the Member Country prepays any portion of a Facility (as defined in the Guaranteed Agreement), and as a result of such prepayment, the Bank's obligations under the Guarantee are reduced, then the Bank shall, if applicable, recalculate the amounts of Guarantee Fee due in respect of subsequent periods of coverage of the Guarantee and inform the Member Country and the Beneficiary.

### ARTICLE III

#### Program

**Section 3.01.** The Member Country declares its commitment to the Program and its implementation. To this end:

- (a) the Member Country and the Bank shall from time to time, at the request of either party, exchange views on the Member Country's macroeconomic policy framework and the progress achieved in carrying out the Program;
- (b) prior to each such exchange of views, the Member Country shall furnish to the Bank for its review and comment a report on the progress achieved in carrying out the Program, in such detail as the Bank shall reasonably request; and
- (c) without limitation upon the provisions of paragraphs (a) and (b) of this Section, the Member Country shall promptly inform the Bank of any situation that would have the effect of materially reversing the objectives of the Program or any action taken under the Program.

**Section 3.02.** The Member Country shall apply the proceeds of the financing provided under the Guaranteed Agreement in support of the Program in accordance with Section II of the Schedule to this Agreement.

### ARTICLE IV

#### Remedies

**Section 4.01.** In addition to the other remedies available to the Bank under loan and guarantee agreements between the Bank and the Member Country, in the event that: (i) the Member Country has failed to perform any of its obligations under Article III of this Agreement and such failure has continued and remained uncured in the opinion of the Bank for sixty (60) days or more after notice thereof shall have been given to the Member Country by the Bank; or (ii) any representation made by the Member Country in or pursuant to this Agreement, or any representation or statement furnished by the Member Country and intended to be relied on by the Bank in providing the Guarantee, shall in the opinion of the Bank have been incorrect in any material respect, then the Bank may suspend or cancel in whole or in part the Member Country's right to make withdrawals under any loan agreement(s) between the Bank and the Member Country, any credit agreement(s)

between the Association and the Member Country, or declare the outstanding principal and interest of any such loan(s) or credit(s) due and payable immediately.

#### **ARTICLE V**

##### **Effective Date**

**Section 5.01.** This Agreement shall come into force and effect upon signature by the parties.

#### **ARTICLE VI**

##### **Representative; Addresses**

**Section 6.01.** The Member Country's Representative is the Secretary, Additional Secretary, Joint Secretary, Deputy Secretary or Section Officer of the Economic Affairs Division of the Ministry of Finance, Revenue, Economic Affairs, Statistics and Privatization, each such person acting individually.

**Section 6.02.** The Member Country's Address is:

The Secretary to the Government of Pakistan  
Economic Affairs Division  
Ministry of Finance, Revenue, Economic Affairs, Statistics and Privatization  
Islamabad  
Pakistan

Facsimile: 92-51-920 2417

**Section 6.03.** The Bank's Address is:

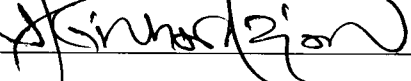
International Bank for Reconstruction and Development  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

Attention: Vice President, South Asia Region  
Facsimile: +1-202-477-6391

With a copy to: Manager, Financial Solutions  
Project Finance and Guarantees  
Energy & Extractives  
Facsimile: +1-202-522-0761

AGREED as of the day and year first above written.

**ISLAMIC REPUBLIC OF PAKISTAN**

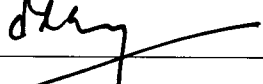
By: 

Authorized Representative

Name (printed): IFTIKHAR AMJAD

Title: DEPUTY SECRETARY (EF FCM)

**INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT**

By: 

Authorized Representative

Name (printed): FATMAHATUN ILLANHOVAN

Title: COUNTRY DIRECTOR

## SCHEDULE

**Section I. Actions Taken under the Program.** The actions taken by the Member Country under the Program include the following:

### *Improving the Business Environment*

1. In order to improve the private sector's access to credit,
  - (a) the National Assembly has passed the Financial Institutions (Secured Transaction) Bill; and
  - (b) the National Assembly has passed the Amendment to the Credit Bureau Act.
2. The Member Country has posted improved processes to simplify and streamline the payment of taxes on the website of the Federal Board of Revenue.
3. In order to improve governance and transparency of capital markets:
  - (a) the National Assembly has passed an amendment to the SECP Act, to ensure compliance of the provisions applying to securities regulators with international norms and standards and to strengthen the enforcement powers of SECP; and
  - (b) the SECP has issued an order in the matter of the integration of the three stock exchanges.
4. The National Assembly has passed the Financial Institutions (Recovery of Finances Amendment) Bill.
5. The Member Country's Ministry of Finance has implemented a new directive requiring the annual collection and publication of key financial information of all State Owned Entities by publishing the first report on the Ministry of Finance's website.
6. To attract private sector investment and remove entry barriers in the insurance sector, the National Assembly has passed the State Life Insurance Corporation (Re-organization and Conversion) Bill.

### *Improving Fiscal Management*

7. The Federal Government has submitted to the National Assembly the Finance Bill FY16/17 which includes the third and final phasing out of discriminatory concessions granted through SROs.
8. The Member Country's Federal Board of Revenue has started to implement a new audit policy that includes risk profiling of taxpayers for improved tax compliance by initiating forty comprehensive audits of large taxpayers.
9. The Member Country's Ministry of Finance has improved debt management coordination through:

- (a) ministerial notification expanding the existing functions of the Member Country's Debt Policy Co-ordination Office, and
  - (b) publication of the approved medium term debt management strategy FY 2015/16 – 2018/19.
10. In order to strengthen targeting of safety net programs, the Member Country's Federal Government, through its Ministry of Finance, has authorized BISP to update the National Socio-Economic Registry with dynamic updating of the registry going forward, in accordance with a plan submitted by BISP.
11. The Member Country's Federal Government has published a new poverty rates series going back to 2005-06, using the cost of basic needs method and the most recent survey data (2013/14).

**Section II. Availability of Proceeds of the Financing Provided Under the Guaranteed Agreement**

**A. Deposits of Proceeds.** Except as the Bank may otherwise agree:

- 1. all withdrawals of the proceeds of the financing provided under the Guaranteed Agreement shall be deposited by the Member Country into an account designated by the Member Country and acceptable to the Bank; and
- 2. the Member Country shall ensure that upon each such deposit, an equivalent amount is accounted for in the Member Country's budget management system, in a manner acceptable to the Bank.

**B. Excluded Expenditures.** The Member Country undertakes that the proceeds of the financing provided under the Guaranteed Agreement shall not be used to finance Excluded Expenditures. If the Bank determines at any time that an amount of such financing was used to make a payment for an Excluded Expenditure, the Member Country shall, promptly upon notice from the Bank, deposit into the account described in Part A of this Section II (or, if the Member Country cannot or fails to do so, prepay to the Beneficiary in accordance with the terms of the Guaranteed Agreement) an amount equal to the amount of such payment. Any such deposits made hereunder shall be utilized only for Eligible Expenditures.

**C. Closing Date.** The Closing Date is December 31, 2017.



## APPENDIX

## Section I. Definitions

1. “*Association*” means the International Development Association.
2. “*BISP*” means the Member Country’s Benazir Income Support Program.
3. “*General Conditions*” means the “International Bank for Reconstruction and Development General Conditions for Loans”, dated March 12, 2012, with the modifications set forth in Section II of this Appendix.
4. “*Excluded Expenditure*” means any expenditure:
  - (a) for goods or services supplied under a contract which any national or international financing institution or agency other than the Association or the Bank has financed or agreed to finance, or which the Association or the Bank has financed or agreed to finance under another credit, grant or loan;
  - (b) for goods included in the following groups or sub-groups of the Standard International Trade Classification, Revision 3 (SITC, Rev.3), published by the United Nations in Statistical Papers, Series M, No. 34/Rev.3 (1986) (the SITC), or any successor groups or subgroups under future revisions to the SITC, as designated by the Bank by notice to the Recipient:

Group	Sub-group	Description of Item
112		Alcoholic beverages
121		Tobacco, un-manufactured, tobacco refuse
122		Tobacco, manufactured (whether or not containing tobacco substitutes)
525		Radioactive and associated materials
667		Pearls, precious and semiprecious stones, unworked or worked
718	718.7	Nuclear reactors, and parts thereof; fuel elements (cartridges), non-irradiated, for nuclear reactors
728	728.43	Tobacco processing machinery
897	897.3	Jewelry of gold, silver or platinum group metals (except watches and watch cases) and goldsmiths’ or silversmiths’ wares (including set gems)
971		Gold, non-monetary (excluding gold ores and concentrates)

- (c) for goods intended for a military or paramilitary purpose or for luxury consumption;
  - (d) for environmentally hazardous goods, the manufacture, use or import of which is prohibited under the laws of the Recipient or international agreements to which the Recipient is a party;
  - (e) on account of any payment prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations; and
  - (f) with respect to which the Bank determines that corrupt, fraudulent, collusive or coercive practices were engaged in by representatives of the Recipient or other recipient of the Financing proceeds, without the Recipient (or other such recipient) having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur.
5. “**Federal Board of Revenue**” means Federal Board of Revenue, the Member Country’s semi-autonomous supreme federal agency responsible for auditing, enforcing and collecting revenue.
  6. “**Federal Government**” means the government of the Member Country established in accordance with Chapter 3 of the Constitution of the Member Country.
  7. “**Final Maturity Date**” has the meaning set forth in the Guaranteed Agreement.
  8. “**Guarantee**” means the guarantee provided by the Bank pursuant to the Guaranteed Agreement.
  9. “**Guaranteed Amount**” has the meaning set forth in the Guaranteed Agreement.
  10. “**Ministry of Finance**” means the Member Country’s Ministry of Finance, Revenue, Economic Affairs, Statistics and Privatization.
  11. “**National Assembly**” means the Member Country’s House of Parliament established pursuant to Section 51 of the Member Country’s Constitution.
  12. “**National Socio-Economic Registry**” means the data basis established by the BISP to target its support to households.
  13. “**Program**” means the program of actions, objectives and policies designed to promote growth and achieve sustainable reductions in poverty and set forth or referred to in the letter dated May 13, 2016 from the Member Country to the Bank declaring the Member Country’s commitment to the execution of the Program, and requesting assistance from the Bank in support of the Program during its execution.
  14. “**SECP**” means the Securities and Exchange Commission of Pakistan.
  15. “**SRO**” means statutory regulation order.
  16. “**State Life Insurance Corporation**” means corporation established and governed by the Member Country’s State Life Insurance Corporation Act.

17. “*State Owned Entities*” means, collectively, the 191 entities listed in the Member Country’s document entitled “Federal Footprint: State owned entities (SOEs) – Performance Review: FY 2013-14”.

## **Section II. General Conditions**

The following provisions of the General Conditions, with the modifications set forth below, constitute an integral part of this Agreement:

1. Article I.
2. Sections 3.06, 3.07, 3.09 and 3.10.
3. Paragraph (c) of Section 5.07, modified to read as follows:
 

... “(c) The Member Country shall retain all records (contracts, orders, invoices, bills, receipts and other documents) evidencing expenditures from the proceeds under the financing provided under the Guaranteed Agreement until two years after the Closing Date. The Member Country shall enable the Bank’s representatives to examine such records.”
4. Section 5.08, modified to read as follows:
 

“(a) The Member Country shall maintain or cause to be maintained policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators acceptable to the Bank, the progress of the Program and the achievement of its objectives.

(b) The Member Country shall prepare or cause to be prepared periodic reports (“Program Report”), in form and substance satisfactory to the Bank, integrating the results of such monitoring and evaluation activities and setting out measures recommended to ensure the continued efficient and effective execution of the Program, and to achieve the Program’s objectives. The Member Country shall furnish or cause to be furnished each Program Report to the Bank promptly upon its preparation, afford the Bank a reasonable opportunity to exchange views with the Member Country on such report, and thereafter implement such recommended measures, taking into account the Bank’s views on the matter.

(c) The Member Country shall prepare, or cause to be prepared, and furnish to the Bank not later than six months after the Closing Date, a report of such scope and in such detail as the Bank shall reasonably request, on the execution of the Program, the performance by the Member Country and the Bank of their respective obligations under this Agreement and the accomplishment of the purposes of the financing provided under the Guaranteed Agreement.”
5. Sections 5.10 (except that references therein to the term “Loan” shall be deleted and replaced by the term “Guarantee”), 5.11 and 5.12.
6. Section 6.01.
7. Section 6.02(a), modified to read as follows:

- (a) It is the policy of the Bank, in making loans to, or with the guarantee of, its members not to seek, in normal circumstances, special security from the member concerned but to ensure that no other External Debt shall have any priority over its loans in the allocation, realization or distribution of foreign exchange held under the control or for the benefit of such member. To that end, if any Lien is created on any Public Assets as security for any External Debt, which will or might result in a priority for the benefit of the creditor of such External Debt in the allocation, realization or distribution of foreign exchange, such Lien shall, unless the Bank shall otherwise agree, *ipso facto* and at no cost to the Bank, equally and ratably secure the amounts payable by the Member Country under this Agreement, which, for purposes of the Section only, shall be deemed to be equal to four hundred twenty million Dollars (USD420,000,000), and the Member Country, in creating or permitting the creation of such Lien, shall make express provision to that effect; provided, however, that if for any constitutional or other legal reason such provision cannot be made with respect to any Lien created on assets of any or its political or administrative subdivisions, the Member Country shall promptly and at no cost to the Bank secure all amounts payable by the Member Country under this Agreement by an equivalent Lien on other Public Assets satisfactory to the Bank.”

8. Section 6.02(c).
9. Article VIII.
10. Section 10.01, modified by deleting at the beginning of the second sentence the words “Except as otherwise provided in Section 9.03(a).”
11. Section 10.02, modified by deleting the words “(and the representative designated by the Project Implementing Entity in the Project Agreement)” and “(or the Project Implementing Entity, as the case may be).”
12. Section 10.03, modified by deleting the words “and the Project Implementing Entity.”
13. Sections 10.04 and 10.05.
14. Paragraphs 6, 7, 8, 9 and 10 of the Appendix.
15. Paragraph 11 of the Appendix, modified to read as follows:  
 ““Borrower” means the Member Country that is the party to the Loan Agreement.”
16. Paragraphs 12, 13, 24 and 33 of the Appendix.
17. Paragraph 36 of the Appendix, modified to read as follows:  
 ““Eligible Expenditure” means any use to which the financing provided under the Guaranteed Agreement is put in support of the Program, other than to finance expenditures excluded pursuant to this Agreement.”
18. Paragraphs 38, 39 and 41 of the Appendix.
19. Paragraph 59 of the Appendix, modified to read as follows:

““Legal Agreement” means the indemnity agreement between the Member Country and the Bank pertaining to the Guarantee, as such agreement may be amended from time to time. “Legal Agreement” includes these General Conditions as applied to the Legal Agreement, and all appendices, schedules and agreements supplemental to the Legal Agreement.”

20. Paragraph 61 of the Appendix.

21. Paragraph 64 of the Appendix, modified to read as follows:

““Loan Agreement” means the Legal Agreement.”

22. Paragraph 66 of the Appendix, modified to read as follows:

““Loan Party” means the Borrower.”

23. Paragraph 75 of the Appendix, modified is modified to read as follows:

““Program’ means the program referred to in the Legal Agreement in support of which the Guarantee is provided.” All references to “Project” throughout these General Conditions are deemed to be references to “Program”.”

26. Paragraphs 81, 89, 90 and 97 of the Appendix.