

قرار الهيئة الشرعية رقم: (٥٢)

الحمد لله رب العالمين، والصلاة والسلام على نبينا محمد وعلى آله وصحبه أجمعين، أما بعد:

فإن الهيئة الشرعية لبنك البلاد في اجتماعها الثاني والأربعين بعد الأربعمئة، المنعقد يوم الخميس ١٤٣٥/٢/٩ هـ الموافق ٢٠١٣/١٢/١٢ م، في مدينة الرياض بالمقر الرئيس للبنك، قد اطلعت على ما ورد من شركة البلاد المالية بشأن حكم تقديم خدمة حفظ أصول الصناديق التي تُدار من قِبَل شركات استثمارية أخرى، والاتفاقية المنظمة لها.

وبعد الاطلاع على توصية اللجنة التحضيرية الصادرة عن اجتماعها الواحد بعد المئتين، المنعقد يوم الأحد ١٤٣٤/٤/٢ هـ الموافق ٢٠١٣/٢/١٢ م، وبعد المداولة والمناقشة قررت الهيئة ما يأتي:

أولاً: يجوز تقديم خدمة حفظ أصول الصناديق الاستثمارية المدارة من جهات أخرى، مع الالتزام بالضوابط الآتية:

١- أن يكون نشاط الصندوق مباحاً.

٢- أن تكون أصول الصندوق وتمويلاته مباحة.

٣- أن تكون أجرة الحفظ معلومة.

٤- ألا يكون في الرسوم والغرامات ما يخالف قرارات الهيئة الشرعية.

ثانيًا: إجازة "اتفاقية حفظ أصول الصناديق" بالصيغة المرفقة بالقرار.

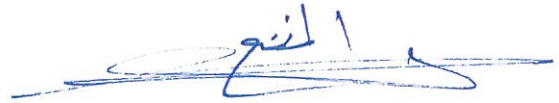
وفق الله الجميع لهده، وجعل العمل في رضاه، والله أعلم، وصلى الله على نبينا محمد وعلى آله وصحبه وسلم.

الهيئة الشرعية

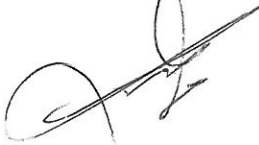
أ. د. عبدالله بن محمد المطلق (نائبًا)



عبدالله بن سليمان بن منيع (رئيسًا)



د. محمد بن سعود العصيمي (عضوًا)



أ. د. عبدالله بن موسى العمار (عضوًا)



أ. د. يوسف بن عبدالله الشبيلي (عضوًا)



د. عبدالعزيز بن فوزان الفوزان (عضوًا)



Nov. **, 2012

MASTER CUSTODIAL SERVICES AGREEMENT

FOR CERTAIN INVESTMENTS MADE BY FUND
IN THE KINGDOM OF SAUDI ARABIA
(as further described herein)

Between

.....

AND

ALBILAD INVESTMENT COMPANY

Three blue ink signatures are written in a cursive style. The first signature on the left is a single name. The middle signature is more complex, possibly including a company name or title. The third signature on the right is a single name.

TABLE OF CONTENTS

| | <u>Page</u> |
|---|-------------|
| 1. Interpretation | 1 |
| 2. Appointment | 4 |
| 3. Consideration and Expenses..... | 9 |
| 4. Representations and Warranties | 11 |
| 5. Indemnification..... | 11 |
| 6. Information and Compliance..... | 12 |
| 7. Confidential Information | 12 |
| 8. Termination..... | 13 |
| 9. Notices and Communications..... | 15 |
| 10. Miscellaneous | 16 |

Four blue ink signatures are written horizontally across the page. The first signature is on the left, followed by a second, then a third, and finally a fourth on the right. Each signature is a stylized, cursive representation of a name.

This **MASTER CUSTODIAL SERVICES AGREEMENT** (this "**Agreement**"), dated as of
(the "**Effective Date**") by and between:

(1)

.....
.....
.....

(2) **ALBILAD INVESTMENT COMPANY**, a limited liability company organized and existing under the laws of the Kingdom of Saudi Arabia, with Commercial Registration Number 1010240489, dated 10/3/1426H, and with a license to act as an Authorized Person, issued by the Capital Market Authority, No. 8100-37 dated 2/4/1429H (the "**Custodian**"),

(Each of the Fund Company and the Custodian may be referred to hereinafter individually as a "**Party**" and collectively as the "**Parties**").

PREAMBLE

WHEREAS:

- A. The Fund Company has created Fund, a Bahrain exempt collective investment undertaking fund, which has been formed to invest in companies in the, in Saudi Arabia and internationally (the "**Fund**");
- B. The Fund Company intends to make various investments on behalf of the Fund in Saudi-incorporated companies, or in ventures that operate or plan to expand into and operate in Saudi Arabia, which will require a custodian based in Saudi Arabia (the "**Investments**");
- C. The Fund Company wishes to appoint a custodian licensed by the Capital Market Authority to provide custodial services in relation to these Investments;
- D. The Custodian is an Authorized Person, licensed by the Capital Market Authority to, among other things, provide custodial services; and
- E. The Fund Company wishes to enter into this Agreement to appoint the Custodian to provide the Services for the Investments made as indicated herein, and the Custodian wishes to accept such appointment, subject to the terms and conditions as set out in this Agreement.

NOW, THEREFORE, in consideration of the obligations and the mutual covenants herein contained and for other good and valuable consideration (the sufficiency of which is hereby acknowledged), the Parties hereby agree as follows:

1. Interpretation

- 1.1 Capitalized terms used in this Agreement but not otherwise defined herein shall have the meanings assigned to them as defined below:

Affiliate means a limited liability company, established and existing under the laws of Saudi Arabia which is 95% owned by the Custodian, with the remaining interest held by a corporate entity which is at least 50% owned by the Custodian;

Applicable Law means any decree, law, regulation, enforceable circular, or any interpretation of the foregoing by the relevant government authority or court of competent jurisdiction in Saudi Arabia (including the AP Regulations and Companies Law);

AP Regulations means the *Authorized Persons Regulations*, issued by the board of the Capital Market Authority, under Resolution #1-83-2005, dated 21/5/1426H (corresponding to 28/6/2005), as amended from time to time;

AUM means the Assets Under Management of the Fund as detailed in Exhibit 1 of Schedule 1 and as amended, from time to time, by the Fund Company through the addition of further Investments detailed in the form attached hereto as Exhibit 1;

Authorized Person means a person or company authorized by the Capital Market Authority pursuant to the AP Regulations;

Business Day means a day when the commercial banks in Riyadh are open for normal business hours, not including Thursday or Friday;

Capital Market Authority means the Capital Market Authority of Saudi Arabia;

CBB means the Central Bank of Bahrain;

Collected Fees means all the fees and consideration paid out by the Fund to the Custodian under this Agreement from the commencement of those Services as described herein;

Companies Law means the *Companies Law of Saudi Arabia*, issued by Royal Decree No. M/6, dated 22/3/1385H (corresponding to 22/7/1965), as amended from time to time;

Confidential Information has the meaning ascribed to it in Clause 7.1;

Costs has the meaning ascribed to it in Clause 3.4;

Custodian has the meaning ascribed to it in the Recitals;

CR means Commercial Registration maintained by the Ministry of Commerce and Industry;

Defaulting Party has the meaning ascribed to it in Clause 8.1(b);

Encumbrance means any mortgage, charge, pledge, lien, restriction, assignment, hypothecation, security interest, title retention or any other agreement or arrangement the effect of which is the creation of security, or any other interest, equity or other right of any person (including any right to acquire, option, right of first refusal or right of pre-emption), or any agreement or arrangement to create any of the same;

Force Majeure Event has the meaning ascribed to it in Clause 10.3;

Fund means the

Fund Company has the meaning ascribed to it in the Recitals;

General Manager has the meaning ascribed to it in Schedule 2;

Investments have the meaning ascribed to it in the Recitals;

JSC means a joint stock company, established and existing under the laws of Saudi Arabia;

مرفق رقم (١) بالقرار (٥٢)

صفحة ٦ من ٢٧

LLC means a limited liability company, established and existing under the laws of Saudi Arabia;

Non-Defaulting Party has the meaning ascribed to it in Clause 8.1(b);

Proceeds means all money which is generated by virtue of holding the legal title of the Shares, including dividends, interim dividends or any and all other payments or contributions paid with respect to the Shares, interest in SPVs, monies resulting from the sale or other disposition of the Shares or SPVs, and monies generated from the winding down of the issuer of the Shares or SPVs;

Purchase Price has the meaning ascribed to it in Clause 3.4(a);

Saudi Arabia means the Kingdom of Saudi Arabia;

SAR means Saudi Arabian riyals;

Segregation Obligations means those obligations (including segregation and safe-keeping) of a custodian regarding client assets as further described in Part 7 of the AP Regulations;

Services has the meaning ascribed to it in Clause 2.4;

Shares means the shares of JSC and LLCs which constitute the equity Investments made by the Fund in Saudi-incorporated companies as further described in Schedule 1, as amended from time to time by the Fund Company;

Share Cash Account has the meaning ascribed to it in Clause 2.4(b);

Share Record has the meaning ascribed to it in Clause 2.4(c);

Shareholder Meeting means any meeting in which the shareholders of an issuer of a Share listed in Schedule 1 (including a JSC or LLC), are invited to attend, including annual general assemblies; and

SPV means a master special purpose vehicle (or other special purpose vehicles which may be established from time to time to hold the Investments) which shall be established by the Fund Company in Saudi Arabia with the assistance of the Custodian where necessary to hold the Shares, details of which are listed in Schedule 2.

1.2 In this Agreement, save where the context otherwise requires:

- (a) The recitals constitute an integral part of this Agreement;
- (b) A reference to a clause, exhibit, schedule or recital refers to a Clause, Exhibit, Schedule or Recital of this Agreement;
- (c) The headings used in this Agreement are for convenience or reference only and are not to affect the construction of or to be taken into consideration in interpreting this Agreement;
- (d) Words in the singular shall include the plural, and vice versa, and masculine shall import the feminine and vice versa;
- (e) A person includes a reference to that person's legal personal representatives and successors;

مرفق رقم (١) بالقرار (٥٢)

صفحة ٢٧ من ٢٧

- (f) Unless expressly stated otherwise, "day" shall refer to a calendar day;
- (g) Unless otherwise stated, any reference to a calendar date or a period of time is according to the Gregorian calendar; and
- (h) If a period of time is specified and dates from a given day or the day of an act or event, it shall be calculated exclusive of that day.

2. Appointment

2.1 *Appointment of Custodian*

- (a) The Fund Company hereby appoints the Custodian to act as its custodian responsible for holding the Investments in accordance with the provisions of this Agreement.
- (b) By signing this Agreement, the Custodian hereby accepts the appointment to act as the custodian of the Shares and to perform the Services and to act as the custodian of the Fund Company in respect of the Shares as aforesaid, and hereby undertakes to the Fund Company to perform its duties and responsibilities as Custodian in accordance with the Applicable Law and the terms and conditions of this Agreement.

2.2 *Identification of Shares to be Held in Custody*

- (a) The Shares to be held under this Agreement shall be those as identified in Schedule 1, which shall be subject to the terms of this Agreement, any instructions or restrictions by the Capital Market Authority and the Applicable Law.
- (b) The Parties hereby agree that as a consequence of additional Investments being made by the Fund, the Fund Company may, at its sole discretion, amend the listing of Shares in any Exhibit attached to Schedule 1 (for example, to add or remove Shares) from time to time; and that, following due notice to the Custodian of any such amendment, such change shall be deemed automatically incorporated into this Agreement and serve as a revision to Schedule 1.


2.3 *Standard of Care*

The Custodian shall carry out its obligations under this Agreement with the care, skill and diligence under the prevailing circumstances that a prudent person acting as custodian and familiar with such matters would use.

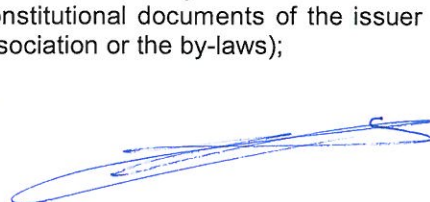

2.4 *Custodian's Services*

Subject to the Applicable Law, the Custodian shall perform all of the following services (collectively, the "Services"):

- (a) Receive and hold on behalf of the Fund Company for safekeeping documents of title and certificates evidencing title to the Shares (including amendments to the constitutional documents of the issuer of the Shares, such as articles of association or the by-laws);


مرفق رقم (١) بالقرار (٥٢)


صفحة ٨ من ٢٧

- (b) Open and maintain, from the date hereof at least, one cash account (the "**Share Cash Account**") with a Saudi-licensed commercial bank dedicated exclusively to any Proceeds that the Custodian may receive, in accordance with its Segregation Obligations;
- (c) Maintain accurate and detailed records (each, a "**Share Record**") regarding all transfers to and from the Shares;
- (d) Take all necessary steps to segregate the Shares and the Proceeds from any assets of the Custodian. For the avoidance of doubt, such steps shall include ensuring that the applicable records indicate that the Shares and Proceeds are being held as client assets pursuant to its obligations under Chapter 7 of the AP Regulations;
- (e) Cause the applicable SPV to deliver to the issuer of Shares, as directed by the Fund Company, an executed letter (with its signatures authenticated by the applicable Chamber of Commerce and Industry or commercial bank) that directs the issuer to deliver all Proceeds directly to the Fund Company or to party designated by the Fund Company, and holds that issuer harmless for complying with these instructions;
- (f) Cause the applicable SPV to permit the Fund Company to appoint any manager of the LLC, where the applicable Shares being held by the Custodian (through that SPV) under this Agreement are equity interests in an LLC and the Custodian has such right by virtue of holding legal title in that LLC through that SPV;
- (g) Cause the applicable SPV to permit the Fund Company to appoint any director, where the applicable Shares being held by the Custodian (through the SPV) under this Agreement are shares of a JSC;
- (h) Promptly deliver to the Fund Company (or, as directed, a nominee of the Fund Company):
 - (i) Those Shares, as instructed by the Fund Company pursuant to the terms of this Agreement;
 - (ii) All materials that would otherwise be delivered to the Custodian by virtue of its legal title in the applicable Shares through the SPV (it being understood that the Custodian may make copies of such materials and hold them for the duration of this Agreement);
 - (iii) All Proceeds delivered to it in a bank account designated by the Fund Company; and
 - (iv) Effective powers of attorney, as requested by the Fund Company, so that the Fund Company may fully exercise its rights and control of the Shares, upon request by the Fund Company;
- (i) Promptly forward to the Fund Company the original or a copy of any document which is delivered to the Custodian in relation to any of the Shares which was not sent from the Fund Company (provided always that the Custodian shall not be obliged to review or check the adequacy, accuracy or completeness of any such document);

مرفق رقم (١) بالقرار (٥٢)

صفحة ٩ من ٢٧

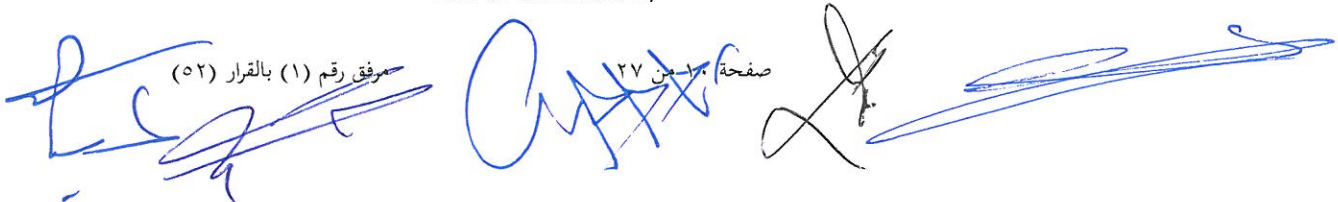
- (j) Provide duly authorized representatives of the Fund Company with reasonable access to the Share Records, during the Custodian's business hours;
- (k) Undertake all necessary steps to acquire or dispose of Shares (through an SPV) pursuant to the Fund Company's express written instructions;
- (l) Inform the Fund Company forthwith if any third party indicates (or takes any action to demonstrate) to the Custodian that any Shares held by the Custodian (through an SPV) are to be seized or transferred to a third party (including, for example, in payment for debt outstanding by the Custodian);
- (m) Keep a certified true copy of this Agreement, together with each and any amendment to it, on file in the principal office of the Custodian; and
- (n) Perform all appropriate actions to have the documents, assignments, agreements and instruments executed, delivered and filed, as the Fund Company may deem to be, necessary or appropriate, and wherever required by and in compliance with the Applicable Law, to undertake and complete the obligations listed in this Agreement; and to cause the acquirer of Shares being transferred under this Agreement to have all rights, title and interest in and to the respective Shares (as the case may be).

2.5 Subject to the Applicable Law, the Custodian acknowledges, agrees and covenants that, in furtherance of the Services:

Part 1 – Extent of Custodian's Ownership

- (a) The Custodian is holding the Shares in its care and custody through the SPV on behalf of the Fund Company who is managing the Shares on behalf of the Fund, as listed in Schedule 1. The Custodian shall not hold Shares other than through one or more SPVs as permitted by the sole discretion of the Fund Company. The extent of its ownership, as provided in this Agreement, is exclusively as Custodian for the Fund. Accordingly: (i) the Custodian has no ownership or other rights with respect to any of the Shares, and (ii) the Shares shall not form part of the assets of the Custodian for any purpose or in any way whatsoever or for any purpose (including for the avoidance of doubt in the calculation of net assets or for bankruptcy or insolvency purposes), except to the extent required to carry out its obligations under this Agreement;
- (b) The Fund Company, as creator of the Fund, will have full and ultimate control of all rights in the interests of the Shares;
- (c) The Shares shall be and remain registered in the name of the SPV (as agreed with the Fund Company) and shall be deemed controlled by the Custodian for the purposes of this Agreement only, subject to the terms of this Agreement. For the avoidance of doubt, the Custodian shall not be deemed to be controlling the SPV where this Agreement grants effective control to the Fund Company, including actions undertaken by the General Manager and actions by the minority shareholder of an SPV who was selected by the Fund Company, as further described in Clause 1.01 of Schedule 2;

صفحة ١٠ من ٢٧
مرفق رقم (١) بالقرار (٥٢)



- (d) The Shares are not and shall not become, at any time, subject to any right, privilege, pledge, security interest or Encumbrance whatsoever in favor of the Custodian, any of its creditors, and any receiver or administrator of the Custodian or any other person;
- (e) The Shares are not and will not be subject to any lien, security interest or other Encumbrance on any property and assets of the Custodian;
- (f) The Custodian shall not exercise any right of set off or counterclaim, which it may otherwise have in connection with any of the Shares and/or any cash in the Share Cash Account with respect to amounts due and payable to it or a third party by the Fund Company;
- (g) This Agreement shall be in addition to, and not in substitution for, any other rights which the Parties may now or hereafter have;
- (h) Except as expressly instructed by the Fund Company in writing in accordance with is Agreement or as required by the Applicable Law, the Custodian shall not transfer, assign, hypothecate, mortgage, pledge, charge, set over, deliver or otherwise dispose of any Shares or procure or facilitate the registration of title to any Shares in the name of any person or, without prejudice to any of the foregoing, exercise discretion or operations, for example managerial activities with respect to the Investments;

Part 2 – Miscellaneous

- (i) The Custodian shall perform its Services and acquire the Shares through (i) an SPV or (ii) through a series (or multiple layers) of SPVs, in accordance with the Fund Company's express instructions, which shall be made in accordance with the Applicable Law and the terms of this Agreement;
- (j) The Custodian shall dispose of the SPVs pursuant to the Fund Company's express written instructions;
- (k) In the event that further Investments are made by the Fund then the shares of such Investments shall be added as Shares to Schedule 1. The Fund Company shall be responsible for establishing the appropriate SPV(s) required for the Investments with the assistance of the Custodian where required. Furthermore, the Custodian shall assist the Fund Company in all applicable matters and requirements (including the execution of all documents necessary for such establishment);
- (l) Subject to the other provisions of this Agreement, the Custodian shall promptly comply with any instructions of the Fund Company relating to the Shares. For the avoidance of doubt and in the exercise of this Clause 2.5 (l), the Custodian shall only exercise (or refrain from exercising) any right, power, authority or discretion relating to the Shares in accordance with the written instructions of the Fund Company. Subject to Clause 5.2, the Custodian shall not be liable for any act or omission which it may conduct in compliance with instructions, directions, requests or approvals of the Fund Company;

مرفق رقم (١) بالقرار (٥٢)

صفحة ١١ من ٢٧

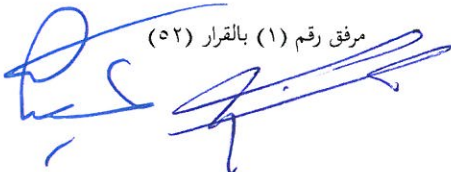
- (m) At the Fund Company's instructions, the Custodian shall deliver a duly effective power of attorney to the Fund Company or its nominee to act as shareholder with respect to an issuer of Shares and exercise all rights associated with ownership of such Shares;
- (n) Except as required by the Applicable Law, the Custodian shall not (i) attend any Shareholder Meetings, (ii) exercise the voting rights of any Shares (including preparing any applicable proxies) in such meetings, (iii) request or require the delivery of any material related to a Shareholder Meeting (except to forward such material to the Fund Company); and (iv) shall not forward any materials related to a Shareholder Meeting to any third party;
- (o) The Custodian shall immediately notify the Fund Company of any of the following:
 - (i) If the transfer of any Shares cannot be completed, as instructed by the Fund Company (including any objection to such transfer by any governmental body);
 - (ii) If any third party indicates (or takes any action to demonstrate) that the Custodian or SPV is to be seized or transferred to a third party (including, for example, in payment for debt outstanding by the Custodian);
 - (iii) Any threat, claim, or instance of bankruptcy, insolvency, litigation, breach of the Companies Law regarding the Custodian;
 - (iv) Any consolidation, amalgamation, or merger with or into, another entity that is not a Custodian under this Agreement; and
 - (v) Any transfer of all or substantially all its assets to another entity that is not a Custodian under this Agreement; and
- (p) The Services, powers and duties entrusted to the Custodian hereunder shall be exercised and performed by the Custodian, at all times, in accordance with the Applicable Law, this Agreement and applicable market practices in Saudi Arabia, subject to further direction and guidance by the Fund Company not contradictory to the foregoing.

2.6 Adding further Investments to this Agreement

For each further Investment made by the Fund, the Parties agree that the Investment shall be added to this Agreement:

- (a) The Parties shall execute a completed Exhibit, in the form as provided in Schedule 1, including the full name of the Investment, the applicable initial Shares of the Investment to be held in custody by the Custodian

مرفق رقم (١) بالقرار (٥٢)



صفحة ١٢ من ٢٧



and the fees associated with the Services related to the Shares of the Investment; and

- (b) Upon due execution of such completed Exhibit, the Parties shall procure that such Exhibit (as described above) shall be attached to Schedule 1 and form part of the Shares under custody (subject to Clause 2.2)

2.7 *Changes to Shares*

If any Share is:

- (a) converted into other securities, including but not limited to depositary receipts;
- (b) sub-divided or consolidated;
- (c) cancelled and reissued; or

in any other manner has its par value changed, then all of the securities resulting from such event shall for the purposes of this Agreement be deemed to be (and be treated together as) the same Share and the Custodian shall give notice to the Fund Company containing details of any such change as soon as reasonably practicable following such change.

3. **Consideration and Expenses**

3.1 *Consideration*

The fees and consideration which shall be payable to the Custodian for providing the Services shall be equal of the Investments.

Investments shall be payable.

The Parties agree that any calculation of the AUM of the Investments shall be based on the most recent independent valuation of the AUM before the applicable calculation is made by the Fund Company or by a third party designated by the Fund Company. The aforementioned fees and consideration shall be paid annually within five (5) business days of the anniversary date of each Investment being added to the Agreement as an exhibit in the form attached hereto as Exhibit 1 of Schedule 1.

3.2 *Invoicing and Payment*

The Custodian shall furnish the Fund Company with a quarterly invoice in proper form which shall list all amounts owing under this Agreement and include all Costs (as defined below) applicable to the Fund that have been paid by the Custodian and are to be reimbursed by the Fund Company as further described in this Agreement. The Custodian shall be paid within thirty (30) days following receipt of such invoice.

3.3 *No Additional Fees*

مرفق رقم (١) بالقرار (٥٢)

صفحة ١٣ من ٢٧

The Custodian agrees that the fees listed in Clause 3.1 serve as all of the consideration for the Services and obligations under this Agreement, and that the Custodian shall not charge any additional fees or charges outside of the aforementioned fees. For the avoidance of doubt, the Custodian hereby waives any rights which it may have to claim any additional compensation from the Fund Company for the satisfaction of the Custodian's obligations under this Agreement.

3.4 Expenses

Each Party shall be responsible for all third-party costs, expenses and disbursements (the "**Costs**") incurred in the course of carrying out its obligations under this Agreement, except:

- (a) The Costs of Shares being acquired for the initial Investment and any subsequent Investments made by the Fund (the "**Purchase Price**"), which the Fund Company shall procure will be paid directly by the Fund Company on behalf of the Fund;
- (b) The Costs associated with the establishment, where necessary, of the SPV established for each Investment made, which the Fund Company shall procure shall be paid directly by the Fund Company on behalf of the Fund;
- (c) All tax and Zakat attributable to any SPV formed under this Agreement which the Fund Company shall procure will be paid directly by the Fund Company on behalf of the Fund. The Fund Company shall provide the Custodian in prompt time with a certified copy of Zakat clearance certificate as further described in Clause 1.01 of Schedule 2;
- (d) The Costs (whether third-party costs or government fees) related to the (i) acquisition or disposal of Shares with third parties, except for the Purchase Price, and (ii) operation and management, transfer, and/or winding down of an SPV (except as provided in Clause 3.4(c)), will be paid by the Custodian to the applicable third parties and fully reimbursed by the Fund Company acting on behalf of the Fund Company (such costs to be listed in the applicable invoice as described herein), provided that the Custodian obtains the prior written approval of the Fund Company to incur all costs not related to government fees; and
- (e) Except as expressly provided in Clause 3.5 below.

3.5 Custodian's Legal Expenses

Within fifteen (15) Business Days of the Effective Date, the Fund shall pay the Custodian an amount equal to It is understood that the aforementioned amount:

- (a) is exclusively in consideration for the legal expenses incurred by the Custodian to enter into, and fulfill its obligations under, this Agreement; and
- (b) is a one-time payment and no further payments for the Custodian's legal expenses shall be owed or due to be paid by the Fund.

3.6 No Set-Off
موفق رقم (١) بالقرار (٥٢)

صفحة ١٤ من ٢٧

The Custodian shall not be permitted to set-off any amounts owed to the Custodian pursuant to this Agreement against Proceeds or other amounts being held in the care and custody of any Custodian under this Agreement (for the avoidance of doubt, this specifically excludes any compensation or expense reimbursement by the Company to the Custodian for services rendered in connection with the Shares under custody).

4. Representations and Warranties

4.1 The Custodian represents and warrants to the Fund Company that:

- (a) It is a limited liability company duly organized and validly existing under the laws of Saudi Arabia;
- (b) The obligations expressed to be assumed by the Custodian in this Agreement are legal, valid, binding and enforceable obligations;
- (c) The Custodian is duly licensed by the Capital Market Authority as an Authorized Person with the ability to undertake the custodial services as provided herein;
- (d) It has full power and authority: (i) to execute and deliver this Agreement and all notices, certificates and other documents related to this Agreement; and (ii) to comply with the provisions of, and perform all its obligations under this Agreement;
- (e) It has taken all necessary actions to authorize the execution and delivery of this Agreement;
- (f) The entry into and performance by the Custodian of this Agreement does not and will not violate, breach or default in any respect: (i) any Applicable Law or regulations or any other laws or regulations to which it is subject including for the avoidance of doubt the regulations, instruments and policies of the Capital Market Authority and the Saudi Arabia Monetary Agency; (ii) any relevant order, decree or judgment of any court or any governmental or regulatory authority to which it is a party or by which it is bound; (iii) the constitutional documents of the Custodian; or (iv) any agreement, contract or other undertaking to which the Custodian is a party or which is binding upon the Custodian or any of its assets; and
- (g) All consents, licenses, approvals and authorizations required in connection with the entry into, performance, validity and enforceability of this Agreement and the transactions contemplated hereby have been obtained and are in full force and effect.

4.2 The Custodian acknowledges that the Fund Company has relied on the representations and warranties in this Clause 4, all of which shall survive the execution of this Agreement and shall be deemed to be repeated on each day thereafter, with respect to the facts and circumstances existing at each such time.


مرفق رقم (١) بالقرار (٥٢)


صفحة ١٥ من ٢٧



5. **Indemnification**

- 5.1 The Fund Company shall indemnify the Custodian upon demand against any loss, cost or liability incurred by the Custodian in connection with the execution of this Agreement or the performance of its duties under this Agreement, except to the extent arising out of the Custodian's fraud, negligence or willful misconduct.
- 5.2 Subject to Clause 5.3, the Custodian shall indemnify the Fund Company upon demand against any loss, cost or liability incurred by the Fund Company for any breach conducted by the Custodian under this Agreement, except where the loss, cost or liability occurred:
- (a) From the Fund Company's fraud, negligence or other misconduct (or as a result of the Fund Company's instructions); or
 - (b) From the Fund Company's instructions that were provided in accordance with this Agreement; or
 - (c) From the General Manager's negligence.
- 5.3 The Custodian's aggregate liability under this Agreement, and as further described in Clause 5.2, is limited to the Collected Fees, except where such loss, cost or liability incurred by the Fund Company is the result of the Custodian's misconduct or gross negligence.
- 5.4 Notwithstanding anything to the contrary herein, neither Party shall be required to indemnify the other Party, or to hold the other Party harmless against, special, indirect or consequential, damages or loss of profits or loss of business.
- 5.5 The obligations of the Parties under this Clause 5 shall survive the termination of this Agreement.

6. **Information and Compliance**

- 6.1 Subject to any obligations of confidentiality and/or regulatory requirements, each Party will share such information with the other Party as is necessary to permit the other Party to carry out its obligations under this Agreement and/or comply with any regulatory or reporting requirements.
- 6.2 The Custodian shall promptly notify the Fund Company if any event or circumstance described in Clause 8.1 occurs or is reasonably likely to occur.
- 6.3 Each Party undertakes to the other Party to comply with all Applicable Laws.

7. **Confidential Information**

- 7.1 Subject to Clause 7.2, each Party shall hold in confidence and protect with the same degree of care that it affords to its own confidential information, this Agreement, any other related documentation, the matters or arrangements contemplated by any of the foregoing, and all other information (in whatever form) disclosed to it by the other Party in connection with any of the foregoing, the Shares, voting outcomes, dividend payments, its business, its clients or any information which is otherwise identified as being confidential (the "**Confidential Information**"). For the avoidance of doubt, the term Confidential Information does not include:

مرفق رقم (١) بالقرار (٥٢)

صفحة ١٦ من ٢٧



- (a) Information which was in the public domain at the time of disclosure by the disclosing Party to the receiving Party;
- (b) Information which after disclosure by the disclosing Party to the receiving Party entered the public domain through no breach of any obligation of confidentiality; and
- (c) Information already in the possession of the receiving Party at the time of disclosure.

7.2 Either Party may disclose Confidential Information to:

- (a) Its own employees, officers and agents on a need-to-know basis in connection with promoting the purpose of this Agreement, and subject to such persons being under a similar duty of confidentiality;
- (b) Its own professional and other advisors and auditors subject to such advisors and auditors being under a similar duty of confidentiality and exclusively for the purposes of satisfying the Party's obligations under this Agreement;
- (c) Any securities or other regulatory authority to the extent such information has been requested by the regulatory authority; and
- (d) Any other person if required by any Applicable Law or the binding order of a court or other adjudicatory authority.

7.3 Each Party will on the termination of this Agreement return to the other Party any Confidential Information in its control or possession, which belongs to or was disclosed to it by that other Party.

7.4 This Clause 7 shall survive and continue after termination or expiry of this Agreement.

8. Termination

8.1 Subject to Clause 8.2, this Agreement shall terminate upon the occurrence of the earlier of the following circumstances:

- (a) *Notice* – On the date of a notice of termination delivered by either Party to the other Party, provided that: (i) such date is not less than ninety (90) days before the termination date listed in the notice; and (ii) the notice expressly indicates that it has elected to terminate this Agreement.
- (b) *Default* – Either party (the "**Non-Defaulting Party**") giving the other party (the "**Defaulting Party**") notice (which notice shall have effect upon the date specified therein) if:
 - (i) The Defaulting Party commits a material breach of this Agreement and if the breach is capable of remedy, fails to remedy the breach to the satisfaction of the Non-Defaulting Party within thirty (30) days after being notified or becoming aware of the breach. Material breach shall include the failure of any Party to comply with any provisions of this Agreement;

- (ii) The Fund Company or the Custodian becomes, or there are reasonable grounds to believe that it will become, insolvent, or it or any of its assets becomes subject to any form of bankruptcy, winding up, dissolution, administration, insolvency proceedings or voluntary or other arrangements with creditors, enforcement of security, legal process or repossession, or otherwise ceases or threatens to cease business; or
- (iii) For any reason the Defaulting Party fails to or is unable to or is prevented from performing or complying with its obligations under this Agreement and such failure is not remedied within such period as the Non-Defaulting Party determines in its sole discretion (including the loss or suspension of the Custodian's applicable license to act as custodian).

8.2 Notwithstanding Clause 8.1 above, if the Agreement is terminated at a time when any Shares are subject to this Agreement (namely, Shares are, in fact, being held in custody under the terms of this Agreement), and unless the Fund Company agrees otherwise, such termination shall only take effect upon all such Shares and any rights, documents and instrument relating to the same have been transferred to the satisfaction of the Fund Company to the person(s) nominated by the Fund Company, and title has been registered in the name of such person(s). It is understood that in the event of termination of this Agreement because of default by the Custodian, the Custodian shall not be eligible for any consideration from the date of the default until the Shares have all been transferred.

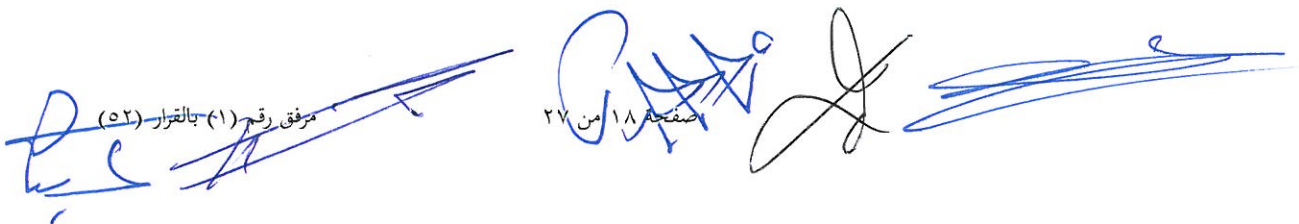
8.3 Upon or immediately following the termination of this Agreement, the Custodian (through the SPV) shall:

- (a) Take all steps necessary to transfer any remaining Shares in the care and custody of the Custodian to the nominee of the Fund Company free from all Encumbrances and with all rights attached or accruing to them;
- (b) Deliver to the nominee of the Fund Company or to another party designated by the Fund Company all remaining Proceeds;
- (c) Deliver to the Fund Company or to another party designated by the Fund Company all documents, records, materials and other information in whatever form relating to the Shares and Proceeds (including the Share Records and copies of the records related to the Share Cash Account); and
- (d) Make available to the person(s) designated by the Fund Company such documents, records and information and provide such assistance as such person(s) may reasonably request for the purposes of performing its functions as the successor with respect to the Shares, Proceeds, and the rights relating thereto or otherwise.

8.4 The termination or expiry of this Agreement shall not prejudice or affect any right of action, remedy or obligations which shall have accrued or shall thereafter accrue to any Party to this Agreement or in respect of any term of this Agreement which is expressed to survive termination or expiration of this Agreement.

مرفق رقم (١) بالقرار (٥٢)

صفحة ١٨ من ٢٧



8.5 This Agreement shall continue indefinitely unless terminated in accordance with Clauses 8.1 to 8.3. The Custodian's obligations to the Fund shall be terminated:

- (a) Automatically, upon termination of the Fund for whatever reason; and
- (b) Upon disposal of the Shares by the Fund, where: (i) the Fund Company instructs the Custodian to dispose of the remaining Shares of the Fund, by delivery of a notice substantially in the form as provided in Schedule 3; and (ii) the Fund Company duly notifies the Custodian that the Custodian's services with respect to the Fund will no longer be required. It is understood that the Custodian shall not accrue any fees for Services related to such Shares upon both notifications as provided herein.

9. Notices and Communications

9.1 All notices, confirmations, consents, requests, claims, demands, instructions and other communications given or made in connection with this Agreement shall be deemed to be sufficiently given or made if in writing and delivered by prepaid registered mail or express courier service (with way bill confirmation) or facsimile delivered or sent to the relevant Party at its address or fax number set out below or as may be otherwise advised by a Party to the other Party from time-to-time by written notice in accordance with this Clause.

9.2 Any confirmation, notice or other communication shall be given to a Party at its following address:

If to the Fund Company:

Attn.....
.....
.....
.....

If to the Custodian:

Attn.: **Mishal Al Mandil**

AlBilad Investment Company
Steen Street
P.O. Box 140
Riyadh 11411
Kingdom of Saudi Arabia
Tel: (1) 203-9830
Fax: (1) 203-9899

9.3 A notice shall be deemed to have been made and received: (i) when delivered to the appropriate address, if sent by registered mail or international courier or (ii) when dispatched and receipt is acknowledged by the receiving machine, if sent by facsimile.

9.4 Where a notice is received during a day that is not a Business Day (in place of receipt), or after 5 PM local time, it shall be deemed to have been received on the next Business Day (at such place of receipt).

مرفق رقم (١) بالقرار (٥٢)
صفحة ١٩ من ٢٧

10. **Miscellaneous**

- 10.1 This Agreement constitutes the entire agreement and understanding of the Parties with respect to its subject matter and supersedes all oral communication and prior writings with respect thereto.
- 10.2 No amendment, modification or waiver in respect of this Agreement will be effective unless in writing and executed by each of the Parties.
- 10.3 Neither party shall be liable to the other Party for any delay in performance or any non-performance of any obligations under this Agreement if and to the extent such arises from any circumstance beyond its reasonable control (a "**Force Majeure Event**"). The Force Majeure events shall include but not limited to (a) Flood, storm, earthquake or other natural event; (b) War, hostilities, terrorism, revolution, riot or civil disorder; (c) Strike, lockout or other industrial action; (d) Change in any law or any change in the interpretation or enforcement of any law; (e) Act or order of any Authority; (f) Order of any court or other judicial body; (g) Restriction or impending restriction on the availability, credit or transfer of foreign exchange; (h) Computer system malfunction or failure (regardless of cause) or any third party interference with a computer system; (i) Error, failure, interruption, delay or non-availability of any goods or services supplied to the one of the parties by a third party; or (j) Other circumstance beyond our reasonable control. The Party subject to the Force Majeure Event shall promptly notify the other party of the Force Majeure Event and will take reasonable steps to mitigate its effect.
- 10.4 Any provision of this Agreement that is prohibited or unenforceable under the Applicable Law shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of the other provisions of this Agreement. In the event that any provision hereof is determined to be prohibited or unenforceable, the Parties shall mutually agree on the replacement provision that gives effect, as closely as possible, to the intent of the Parties as evidenced by such prohibited or unenforceable provision.
- 10.5 The rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by the Applicable Law.
- 10.6 A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.
- 10.7 This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns.
- 10.8 Except as expressly provided for herein, neither Party shall transfer all or any part of its obligations under this Agreement and no Party shall assign, or declare any trust in favour of a third party over, or transfer any other way all or any part of the benefit of, or its rights or benefits under, this Agreement without the prior written approval of the other Parties, which approval shall not be withheld or delayed unreasonably.

مرفق رقم (١) بالقرار (٥٢)

صفحة ٢٠ من ٢٧

- 10.9 This Agreement does not constitute a partnership, association or any other relationship in which one or more of the Parties may (except as specifically provided for in this Agreement) be liable generally for the acts or omissions of any other Party (except to the extent as expressly provided herein).
- 10.10 The Parties shall fully co-operate, and assist each other where necessary, to fully implement the objectives of this Agreement.
- 10.11 This Agreement shall be governed by and construed in accordance with the laws and regulations of Saudi Arabia. Any dispute arising out of or in connection with this Agreement shall be finally resolved by the Committee for the Settlement for Securities Disputes administered by the Capital Market Authority.
- 10.12 This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts (including by facsimile transmission), each of which will be deemed an original.

(remainder of this page is intentionally left blank)



IN WITNESS WHEREOF, the Fund Company and the Custodian have caused this Agreement to be executed by their duly authorized officers as of the date written at the beginning of this Agreement.

By the Fund Company:

.....

Name :

Title :

Signature: _____

And

By the Custodian

Albilad Investment Company

Name: Ayham Mohammed Al Yousef

Title: CEO

Signature: _____



SCHEDULE 1

Exhibit 1 - Form of Exhibit for Investments added

With reference to the Master Custodial Services Agreement concluded between Fund Company) and Albilad Investment Company, dated [●] June 2012, (the "Agreement"), we hereby confirm the following:

Full Name of Investment of the Fund: [_____]

- 1.01 The Custodian shall hold (through the SPV, as defined and further described in the Agreement) the following Shares of Investments in JSCs in its care and custody pursuant to the Agreement:

| # | Description of Shares (incl. registration #) | Name of Issuer | CR of Issuer | # of Shares |
|---|--|----------------|--------------|-------------|
| 1 | | | | |
| 2 | | | | |

- 1.02 The Custodian shall hold through the SPV the following Shares of Investments in LLCs in its care and custody pursuant to the Agreement:

| # | Percentage of Equity Interest (or Number of Shares) | Name of Issuer | CR of Issuer | Paid-Up Capital Contribution* |
|---|--|----------------|--------------|-------------------------------|
| 1 | | | | |
| 2 | | | | |

- 1.03 The following is a description of the applicable fees associated with the carrying out of the Services and other obligations under the Agreement in relation to the Shares in this Exhibit:

مرفق رقم (١) بالقرار (٥٢)
صفحة ٢٣ من ٢٧

| Description of Fees | Set Amount in SAR/Equation | Frequency* |
|---------------------------|----------------------------|------------|
| <u>Annual Custody Fee</u> | | |

This Exhibit was amended and executed on [_____] day of [_____] , 20__, by:

.....

Albilad Investment Company

Name: _____

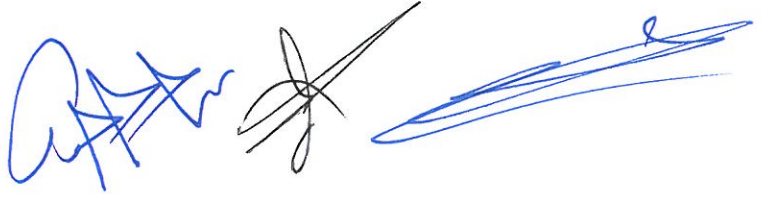
Name: _____

Title: _____

Title: _____

Signature: _____

Signature: _____

SCHEDULE 2

SPV Conditions

With reference to the Master Custodial Services Agreement concluded between
Fund Company and Albilad Investment Company, dated [●] June 2012, (the "**Agreement**"), we
hereby confirm the following:

- 1.01 The following requirements and conditions shall be observed by the applicable Parties to this Agreement, with regard to the formation and management of any SPV under this Agreement;
- (a) The SPV shall be in the form of a Saudi-established limited liability company;
 - (b) The sole purpose of the SPV shall be to hold interests in the Shares of Investments and shall, accordingly, not engage in any other business activities;
 - (c) The Custodian shall hold the maximum legal and beneficial interest in the SPV, as provided by the Applicable Law;
 - (d) The remaining interest of the SPV, which is not held by the Custodian, shall be held by one other shareholder who shall either be an Affiliate of the Custodian, a Saudi national individual selected by the Custodian or a Saudi national individual selected by the Fund Company;
 - (e) If the remaining interest is held by an Affiliate or a Saudi national individual selected by the Custodian, the Custodian shall procure that such Affiliate or Saudi national individual (as the case may be) adheres to the terms of this Agreement (including Clauses 2.4 and 2.5 as if it is the Custodian);
 - (f) The articles of association of the SPV shall indicate that:
 - (i) the sole business objective of the SPV shall be to invest in sectors;
 - (ii) the SPV shall be managed by a sole general manager (the "**General Manager**"); and
 - (iii) the General Manager shall have all powers and authority to operate and manage the SPV (and such articles of association shall stipulate such powers and authority in detail) except that the General Manager cannot obtain financial loans or other facilities on behalf of the SPV without unanimous shareholder approval;
 - (g) The General Manager shall be nominated by the Fund Company, and the Custodian shall appoint such General Manager. The Fund Company reserves the right to instruct the Custodian to change the General Manager in favor of any new nominee, at the Fund Company's discretion. The Custodian shall also reserve the right to request the Fund Company to nominate a new General Manager, terminate the services of the General Manager, and appoint another nominee as General Manager, if the current General Manager, at the time of the Custodian's request, is not cooperating with the Custodian.; and
 - (h) The Fund Company shall procure that the General Manager (i) obtains the Zakat clearance certificate for the SPV annually, and (ii) promptly delivers a copy of such certificate to the Custodian upon request.

(nothing below this line)

مرفق رقم (١) بالقرار (٥٢)

صفحة ٢٥ من ٢٧

SCHEDULE 3

Notice of Transfer

With reference to the Master Custodial Services Agreement concluded betweenFund Company and Albilad Investment Company, dated [●] June 2012, (the "**Agreement**"), we hereby confirm the following:

Full Name of Investment of the Fund Company: [_____]

- (A) The Custodian is instructed to take all necessary actions to transfer the following Shares forthwith from its care as described in this Notice:

| # | Description of Shares (including Registration Number if JSC Shares) | Name of Issuer | CR of Issuer | # of Shares or percentage of interest | Indicate JSC or LLC |
|---|---|----------------|--------------|---|---------------------------|
| 1 | | | | | |
| 2 | | | | | |

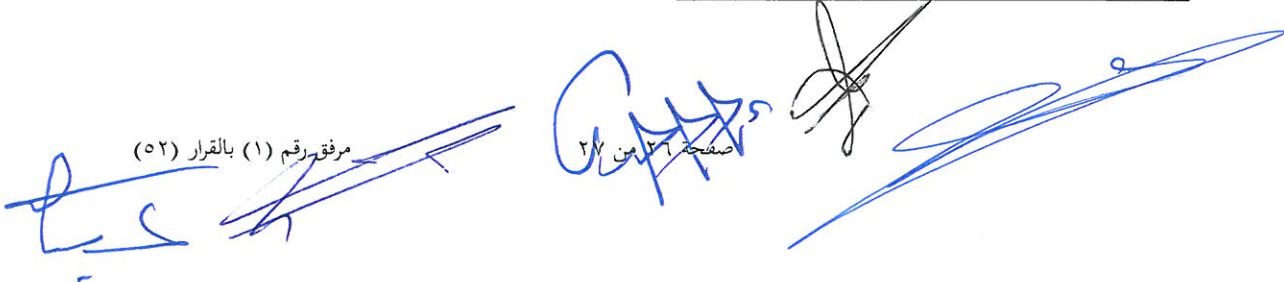
- (B) The Shares indicated in Clause (A) are to be transferred to:

Name of Transferee: _____

Commercial Registration # (if any): _____

Contact Name of Transferee: _____

مرفق رقم (١) بالقرار (٥٢)
صفحة ٢٦ من ٢٧



Transferee Telephone Number: _____

Address: _____

(C) Special Instructions: _____

Dated this: [_____] day of [_____] , 20____, by:

.....

Name: [_____]

Title: [_____]

مرفق رقم (١) بالقرار (٥٢)

صفحة ٢٧ من ٢٧

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