

## 1. NAME OF CLOSED-END SCHEME

UBL CAPITAL PROTECTED FUND - I

## 2. PARTICIPATING PARTIES AND DEED OF TRUST

### 2.1. PARTICIPATING PARTIES

This Trust Deed is made and entered into at Karachi, on this \_\_\_\_ day of \_\_\_\_\_2007 by and between:

(A) UBL Fund Managers Limited (UBL Funds), a company incorporated under the Companies Ordinance, 1984 with its registered office at 8<sup>th</sup> Floor, State Life Building, I. I. Chundrigar Road, Karachi and Corporate Office at 11<sup>th</sup> Floor, Executive Tower, Dolmen City, Block 4, Clifton, Karachi, Pakistan through its authorized representatives Mr.\_\_\_\_\_, Chief Executive holding CNIC No. \_\_\_\_\_ and Mr.\_\_\_\_\_ holding CNIC No. \_\_\_\_\_(hereinafter called the “Investment Advisor”, which expression, where the context so permits, shall include its successors-in-interest and assigns) of the one part;

and

(B) Muslim Commercial Financial Services (Pvt.) Limited (the Trustee), a company incorporated under the Companies Ordinance, 1984. A wholly owned subsidiary of MCB Bank Limited with its registered office at 3rd floor Adamjee House , I. I. Chundrigar Road, Karachi through its authorized representatives Mr.\_\_\_\_\_ Chief Executive holding CNIC No. \_\_\_\_\_ and Mr.\_\_\_\_\_ holding CNIC No. \_\_\_\_\_(hereinafter called the “Trustee”, which expression, where the context so permits, shall include its successors-in-interest and assigns) of the other part.

## WHEREAS

(a) The Investment Advisor is licensed as an investment advisor under the Non- Banking Finance Companies (Establishment and Regulation) Rules, 2003, (the Rules) to inter-alia establish and operate closed-end schemes (license to carry on the business of investment advisory services attached hereto as Annexure ‘A’);

(b) The Investment Advisor has been authorized by the Securities and Exchange Commission of Pakistan (the Commission) vide its letter No. SEC/NBFC-II/JD I/UCGF/842/2007 dated November 8, 2007 appended hereto as Annexure “B” to constitute a closed-end trust scheme under the name and title of UBL Capital Protected Fund - I (hereinafter referred to as “the Closed-end Scheme, or UCPF I, or the Fund, or the Trust”) and to register this Trust Deed, pending authorization for the establishment and operation of the Scheme in accordance with the provisions of the Rules and this Trust Deed;

(c) The Investment Advisor has nominated and appointed the Trustee as trustee of the Scheme and the Trustee has accepted such appointment upon the terms and conditions herein contained and the tariff structure for trusteeship as per Annexure “C”;

(d) The Commission has approved the appointment of Trustee, vide letter No. SEC/NBFC-JD-I/UCPF/2007-841 dated November 8, 2007, appended hereto as Annexure “D”.

Unless the context requires otherwise the following words or expressions shall have the meaning respectively assigned to them in section 19 hereof:

**NOW THIS DEED WITNESSETH:**

## **2.2. DECLARATION OF TRUST**

**2.2.1 A Closed-end Scheme is hereby constituted as a Trust under the Trusts Act, 1882, under the name of UBL Capital Protected Fund - I. The Trustee is hereby nominated, constituted and appointed as the trustee of the Scheme herein created and the Trustee hereby accepts such appointment and declares that:**

**(a) the Trustee shall hold and stand possessed of the Trust Property that may from time to time be vested in the Trustee upon trust as a single fund for the benefit of the Certificate Holders ranking *pari passu* inter se, according to the number of Certificates held by each Certificate Holder;**

**(b) the Fund Property shall be invested from time to time by the Trustee at the direction of the Investment Advisor strictly in terms of the provisions contained and the conditions stipulated in this Deed, the Offering Document and the Rules and the conditions (if any) which may be imposed by the Commission from time to time; and**

**(c) the Investment Advisor shall manage, operate and administer the Fund in terms of the provisions contained and conditions stipulated in this Deed, the Rules and any conditions which may be imposed by the Commission from time to time.**

**2.2.2 The Scheme shall have such minimum investment which is in compliance with the requirement of Rule 33 (b) of the Rules, out of which the Investment Advisor shall subscribe to and pay for in cash, or otherwise hold or beneficially own equity securities of the Closed-end Scheme of an amount which is neither less than 10% (ten percent), nor more than 20% (twenty percent) of the paid-up value of the Certificates. Details of the size of the Fund and any relaxation in minimum investment compliance of Rule 37(b) of the Rules shall be included in the Offering Documents that shall be issued after approval from the Commission.**

**2.2.3 The Investment Advisor may appoint a Distributor or Distributors (as defined in Clause 19.14 for placement of the certificates of the Fund.**

**2.2.4 The Investment Advisor shall offer Certificates of the aggregate par value of Rs.10/ each of the Funds to investors, including but not limited to banks and financial institutions by an Offering Document as a private placement.**

**2.2.5 The Investment Advisor shall also offer the Certificates of the Fund to the general public by circulation of offering document. The Investment Advisor/Distributor may elect, with permission of the Stock Exchange concerned and the Commission, to list the Fund through a technical listing or OTC listing in one or more Stock Exchange(s). In case the Certificates are unlisted, the Investment Advisor or its appointed Financial Institution(s)**

shall provide liquidity through market making, the terms and limitations of which will be disclosed in the Offering Document.

2.2.6 The Offering Document shall be in the form and substance as prescribed under the Rules, which shall be subject to the approval by the Commission and if required, the Stock Exchanges.

2.2.7 The Fund shall cease to operate at Maturity i.e. 3 years from the date of the Initial Public Offer as defined in Clause 19.21. The Investment Advisor shall give a notice to Certificate Holders, the Trustee and the Commission on termination of the Fund and wind-up the affairs of the Fund within three months of such notice including repayment of capital.

2.2.8 The Fund will consist of two Segments, an Investment Segment and a Capital Protection Segment. The Fund Property will be allocated to separate Investment Segment and Capital Protection Segment by the Investment Advisor.

2.2.9 The Investment Adviser may increase the Fund size by virtue of Bonus Certificates or Rights subscription with the consent of the Certificate Holders and with the approval of the Commission, after fulfilling the legal formalities.

2.2.10 The Public Offering shall be underwritten by Underwriters approved by the Commission and firm underwriting commitments shall be obtained from the Underwriters before issuing the Offering Documents. The Underwriters shall be caused to subscribe or to procure subscribers to subscribe to the un-subscribed Certificates, if any, offered through Public Offering to the extent of their respective underwriting commitments.

2.2.11 The Trustee upon the direction of the Investment Adviser may offer bonus certificates in lieu of undistributed profits to the Certificate holders, in accordance with the decision of the Investment Adviser's Board of Directors and with the approval of the Commission.

2.2.12 The Trustee, upon the direction of the Investment Adviser and with the approval of the Commission, offer Right issue of Certificates in proportion to the existing certificate holders' respective holdings of Certificates. In the event that any Right issue remain unsubscribed, the same may be offered to the existing Certificate holders or to the Financial institutions or to other investors at the same price as offered to the existing Certificate holders, as and when the Investment Adviser, in consultation with the Trustee may decide.

2.2.13 The Trustee shall hold and stand possessed of the Fund Property that may from time to time hereafter be vested in the Trustee upon Trust as two Segments pooled into a single common fund for the benefit of the Certificate Holders ranking *pari passu* inter se according to the number of Certificates held by each Certificate Holder. The Investment Advisor and the Trustee hereby further declare that:

(a) The Fund Property shall be invested from time to time by the Trustee at the directions of the Investment Advisor strictly in accordance with the provisions and conditions stipulated in this Deed, the Offering Documents, the Rules and the conditions (if any) which may be imposed by the Commission from time to time.

**(b) The Investment Advisor shall operate and administer the Scheme in accordance with the Rules.**

**(c) Where this Deed has been altered or supplemented the Investment Adviser shall notify the Certificate holders in accordance with procedure mentioned in this Deed.**

## **2.3. TRUST DEED**

**2.3.1 This Deed shall be subject to and be governed by the Non-Banking Finance Companies (Establishment and Regulation) Rules and other applicable laws and regulations.**

**2.3.2 The Investment Advisor may from time to time with the consent of the Trustee frame rules or regulations for conducting the business of the Trust or in respect of any other matter incidental thereto; provided such rules or regulations are not inconsistent with the provisions of this Deed or the Offering Documents or the Rules.**

## **3. GOVERNING LAW**

**This Deed shall be subject to and be governed by Laws of Pakistan, including the Ordinance, the Rules and all other applicable laws and regulations and it shall be deemed for all purposes whatsoever that all the provisions required to be contained in a trust deed by the Rules are incorporated in this Deed as a part and parcel thereof and in the event of any conflict between this Deed and the provisions required to be contained in a trust deed by the Rules, the latter shall supersede and prevail over the provisions contained in this Deed. Subject to the Arbitration Clause 18.2 hereafter, applicable between the Investment Advisor and the Trustee inter se, each party, including the Unit Holders irrevocably submit to the exclusive jurisdiction of the Courts at Karachi.**

## **4. FOR THE TRUST**

**4.1. Binding on Certificate Holders: The terms and conditions of this Deed and any deed supplemental hereto shall be binding on each Certificate Holder and each Certificate Holder authorizes and requires the Trustee and the Investment Advisor to do as required of them by the terms of this Deed.**

**4.2. Limited Liability: The liability of each Segment of the Fund will be limited to the investment initially made in that Segment at financial close of the Fund and a creditor if any of a Segment will have no claim on the assets of the other Segment of the Fund. A Certificate Holder is not liable to make any further payments after he had paid the purchase price of his Certificates and that no further liability shall be imposed on Certificate Holders in respect of Certificates they hold.**

**4.3. Certificate Holders Ranking Pari Passu: The Trustee shall hold and stand possessed of the Fund Property that may from time to time hereafter be vested in the Trustee upon trust for the benefit of the Certificate Holders ranking pari passu inter se, according to the number of Certificates held by each Certificate Holder.**

**4.4. Trustee Reports to Certificate Holders: The Trustee shall issue a report to the Certificate Holders included in the annual report or at any frequency prescribed by the**

Commission whether in its opinion, the Investment Advisor has in all material respect managed the Fund Property in accordance with the provisions of the Rules and this Deed and if the Investment Advisor has not done so, the respect in which it has not done so and the steps the Trustee has taken in respect thereof.

**4.5. Retirement of Trustee:** The Trustee shall not be entitled to retire voluntarily or otherwise except upon the appointment of a new trustee. In the event of the Trustee desiring to retire, the Investment Advisor, within a period of six months (or in default the Trustee) with the prior written approval of the Commission, may by a deed supplemental hereto under the seal of the Investment Advisor or the Trustee (as the case may be) appoint a new trustee under the provisions of the Rules in place of the retiring Trustee and also provide in such deed for the automatic vesting of all the assets of the Trust in the name of the new trustee. Provided that the Trustee shall continue to perform its functions, as Trustee of the Scheme and to receive its remuneration until appointment of, and assumption of the assets of the Scheme by, the new trustee.

## **5. INVESTMENT ADVISOR**

### **5.1. ROLE OF THE INVESTMENT ADVISOR**

The responsibilities of the Investment Advisor are to invest and manage the assets of UCPF I according to the provisions of the Deed and the Rules, in good faith, to the best of its ability and without gaining any undue advantage for itself or any Connected Persons or its officers. The Investment Advisor shall maintain proper accounts and records of UCPF I for giving a complete view of assets and liabilities, income and expenditure and amounts received in respect of subscriptions of the Certificates. The Investment Advisor shall prepare and transmit to Certificate Holders and the Commission the annual report, together with balance sheet and income and expenditure accounts and auditors report within four months of the closing of the accounting period and shall comply with the requirements set out in the NBFC Rules. The Investment Advisor shall also prepare and transmit to Certificate Holders and the Commission the balance sheet and income and expenditure accounts in respect of the first, second and the third quarters of each Accounting Period. In the unlikely event of its occurrence, the Investment Advisor shall account to Trustee for any loss in value of the assets of the Fund caused by its negligence, reckless or willful act or omission. The Investment Advisor shall be responsible for all acts and omissions of all persons or agents to whom it may delegate the performance of its functions as a manager as if they were its own acts or omissions. The Investment Advisor shall not be under any liability except such liability as may be expressly assumed under the Rules and the Deed, nor shall the Investment Advisor (save as otherwise provided) be liable for any act or omission of the Trustee nor for anything except its own negligence or willful breach of duty.

### **5.2. DUTIES AND POWERS OF THE INVESTMENT ADVISOR**

**5.2.1** The Investment Advisor shall comply with the provisions of the Rules and this Deed for any act or matter to be done by it in the performance of its duties and such acts or matters may also be performed on behalf of the Investment Advisor by any officer or responsible official of the Investment Advisor or by any nominee or agent appointed by the Investment Advisor and any act or matter so performed shall be deemed for all the purposes of this Deed to be the act of the Investment Advisor. The Investment Advisor shall be responsible for the acts and omissions of all persons to whom it may delegate

any of its functions as manager as if these were its own acts and omissions and shall account to the Trustee for any loss in value of the Fund Property where such loss has been caused by its negligence reckless or willful act and/or omission or by its officers, officials or agents.

5.2.2 The Investment Advisor shall manage the Fund Property in the interest of the Certificate Holders in good faith and to the best of its ability and without gaining any undue advantage for itself or any of its Connected Persons, and subject to the restrictions and limitations as provided in this Deed and the Rules. Any purchase or sale of investments made under any of the provision of this Deed shall be made by the Trustee according to the instructions of the Investment Advisor, unless such instructions are in conflict with the provisions of this Deed or the Rules or the Offering Document. The Investment Advisor shall not be liable for any loss caused to the Fund or to the value of the Fund Property due to any elements or circumstances beyond its reasonable control.

5.2.3 The Investment Advisor may from time to time appoint, remove or replace the Registrar.

5.2.4 The Investment Advisor shall make available or ensure that there is made available to the Trustee such information as the Trustee may reasonably require in respect of any matter relating to the Trust or Segment thereof.

5. 2.5 The Investment Advisor shall maintain at its principal office, proper accounts and records to enable a complete and accurate view to be formed of assets and liabilities, the income and expenditure of the Trust, all transactions for the account of the Trust and amounts received by the Trust in respect of the issuance of Units and paid out by the Trust on redemption of Units and by way of distributions.

5.2.6 The Investment Advisor shall maintain a Register of Unit Holders of the Trust and inform the Trustee and the SECP of the address where the Register is kept.

5.2.7 The Investment Advisor shall not be under any liability except such liability as may be expressly assumed by it under the Rules and/or this Deed nor shall the Investment Advisor (save as herein otherwise provided) be liable for any act or omission of the Trustee or for anything except its own negligence or willful breach of duty hereunder. If for any reason it becomes impossible or impracticable to carry out the provisions of this Deed or the rules, the Investment Advisor shall not be under any liability thereof or thereby and it shall not incur any liability by reason of any error of law or any matter or thing done or suffered or omitted to be done in good faith hereunder. The Investment Adviser shall be responsible for all acts and omissions of all persons agents to whom it may delegate the performance of its functions as a manager as if they were its own acts or omissions.

5.2.8 The Investment Advisor shall be responsible for all record keeping and for producing financial reports from time to time, as provided under the Rules.

### **5.3. CHANGE OF INVESTMENT ADVISOR**

**5.3.1** The Trustee may with the prior approval of the Commission, remove the Investment Advisor by giving at least ninety days notice in writing to the Investment Advisor if any of the following events have occurred.

(a) the Investment Advisor has contravened the provisions of this Deed in any material respect and has failed to rectify the contravention within a reasonable period after the contravention has been brought to its notice;

(b) the Investment Advisor goes into liquidation (other than voluntary liquidation on terms previously agreed to with the Trustee for purpose of reconstruction and amalgamation);

(c) a receiver is appointed over any of the assets of the Investment Advisor.

**5.3.2** The Investment Advisor may retire at any time with the prior written consent of the Commission.

**5.3.3** The removal of Investment Advisor and appointment of a new Advisor shall always require the prior approval of the Commission and intimation of the same to the Trustee.

**5.3.4** If the Commission has cancelled the license of the Investment Advisor under the provisions of the Rules, the Trustee shall appoint another investment Advisor for the Scheme according to the provisions of this Deed and the Rules.

**5.3.5** Upon a new investment Advisor being appointed, the Investment Advisor will take immediate steps to deliver all the documents and records pertaining to the Trust to the new investment Advisor and shall pay all sums due to the Trustee.

**5.3.6** Upon its appointment the new investment Advisor shall exercise all the powers and enjoy all rights and shall be subject to all duties and obligations of the Investment Advisor hereunder as fully as though such new investment Advisor had originally been a party hereto.

## **6. INVESTMENT OF THE FUND PROPERTY & RESTRICTIONS**

### **6.1. INVESTMENT OBJECTIVE**

**6.1.1** UCPF I is a capital protected fund. The investment objective of the fund is to protect the principal investment of the investors and aggressively participate in equity markets to provide investors a high level of total return over the three-year protection period.

**6.1.2** The capital protection (and if applicable a minimum return) will be secured by investing the assets of the Fund in Pakistan Investment Bonds, Structured Zero Coupon Bonds, Bank Deposits/instruments or Term Finance Certificates having an appropriate life and at least an AA rating having equal or senior rights to the depositors. This investment will be made through the Capital Protection Segment of the Fund in order to ensure the Capital Protection of the Initial Investment Value at the end of the Minimum Period. The Investment Advisor will allocate a significant amount (minimum 70%) to the

**Capital Protection Segment depending upon the duration and type of the capital protection and the returns available.**

**6.1.3 The remaining assets of the Fund will be allocated to the Investment Segment and invested in equities and other high risk assets that have the potential to give a high return to investors. The investment in high risk assets may be through derivatives, futures, etc subject to SECP approval.**

**6.1.4 The capital protection structure (including percentage of capital protected and/or any minimum income) and the investment objective (including authorized investments in different asset classes) of the Investment Segment will be disclosed in the Offering Document of the Fund.**

## **6.2. GENERAL INVESTMENT POLICIES**

**6.2.1 After the registration of the Trust Deed of the Scheme, the Trustee may on the recommendation of the Investment Advisor enter into contracts with relevant parties to purchase/enter into such investments for the Capital Protection Segment so as to lock-in the rates on these investments and may disclose the locked-in rates in the Offering Document. If the Capital Protection Segment is in a minimum AA rated banking institution term deposit, then a letter can be obtained from the said institution prior to disbursement stating the rate of return, tenor and other applicable conditions.**

**6.2.2 Prior to and during the Initial Offering period, the Trustee shall hold the Fund Property, received from investors, on deposit in a separate account with a Bank of good standing (having an investment grade rating, or in absence of a rating, with the approval of the Commission) approved by the Investment Advisor or in money market investments as advised by the Investment Advisor. Any income, profit etc earned on such investments, shall after deducting all expenses that may be incurred by the management company, be paid to the investors in proportion to their respective investments and shall not form part of the Fund property.**

**6.2.3 After receipt of the full capital from Public Issue/Offer, all Fund Property, except in so far as such cash may in the opinion of the Investment Advisor be required for transfer to the Distribution Account, shall be invested by the Trustee from time to time in such Authorized Investments as may (subject always to the provisions of this Deed and the Rules) be directed by the Investment Advisor.**

## **6.3. INVESTMENT POLICY OF CAPITAL PROTECTION SEGMENT**

**6.3.1 Investments in respect of the Capital Protection Segment may only be made in 'AA' or better rated instruments or in instruments of 'AA' or better rated Banks at the time of investment. The investment made by the Capital Protection Segment must at least satisfy the capital protection clauses in the Offering Document.**

**6.3.2 Investments in the Capital Protection Segments may at any time be realized at the discretion of the Investment Advisor but only to invest in other security that in the opinion of the Investment Advisor provides a better return and in such a manner that maintains the capital protection of the Scheme after notifying SECP and the Trustee.**



**6.3.3** In case the rating of the financial institution is reduced from “AA” or institution is placed on watch list, Investment Advisor may at any time realize the investment at its discretion but only to reasonably protect the interest of the Certificate Holders.

**6.3.4** If the investments in a Capital Protection Segment are realized on a date close to but before the termination of the Scheme, the funds so realized will be invested in short term instruments such as bank account with ‘AA’ or better rated Banks, reverse repo transactions of Government securities. The funds shall not be invested without prior written approval of the Commission.

**6.3.5** The capital of the Fund is protected only in terms of the base currency i.e. the Pakistani Rupee. In addition, the capital protection is only valid in terms of the current tax and legal environment of Pakistan and is subject to force majeure factors such as bankruptcy of an ‘AA’ rated institution.

#### **6.4. INVESTMENT POLICY OF INVESTMENT SEGMENT**

**6.4.1** Investment Segment will generally invest in high return/high risk investments with an objective of providing Certificate Holders a higher return than the minimum protection provided by the Capital Protection Segment.

**6.4.2** The Investment Segment may be invested in:

- a. Domestic securities including shares and high risk rated bonds & TFCs.
- b. Securities of a domestic closed or open-end mutual fund, provided that the investment objective of the Fund, as disclosed in the Offering Document, is investment in securities of such a mutual fund subject to the prior written approval from SECP;
- c. Structured transactions in the domestic market including interest rate swap
- d. Investment in derivative and futures in the domestic market subject to the prior written approval from SECP;
- e. With the prior written approval of the Commission in the domestic commodity market and/or in domestic securities on margin;
- f. International Investments within parameters recommended by the regulatory authorities and with specific approval of the SBP & SECP.
- g. Any other investment that has a high potential for return and has been approved by the Commission.

**6.4.3** The Offering Document of the Scheme will disclose the investments that can be made by the Investment Segment of the Scheme.

#### **6.5. INVESTMENT POLICY – INVESTMENT SEGMENT - INTERNATIONAL INVESTMENT**

**6.5.1** The Investment Advisor may apply for the permissions of the Securities and Exchange Commission of Pakistan and of the State Bank of Pakistan to invest the

Investment Segment of the Scheme, subject to the approval, in international derivatives that give the fund exposure to the overall level of stock exchanges or other exchanges in different countries or in international mutual funds that provide a similar exposure.

6.5.2 These derivatives may be traded on stock exchanges outside Pakistan or may be over-the-counter derivative instrument structured by a financial institution for the Scheme. The Investment Advisor will ensure that there are such provisions in the derivative contracts that the maximum exposure of the Investment Segment of the Scheme to loss is equal to the derivative price or deposit and is in any case less than the Investment Segment amount.

6.5.3 Investment in traded derivatives may at any time be realized at the discretion of the Investment Advisor but only to invest in other derivatives that in the opinion of the Investment Advisor provides a better opportunity to the Fund. Investments in derivatives that are realized on the expiry of the derivative contracts will be invested in other derivative contracts at the direction of the Investment Advisor.

6.5.4 Investment in structured transactions or derivative including interest rate swap.

6.5.5 In case the Commission or SBP at any time directs the Fund to reduce exposures of the Investments Segment to international markets the Investment Advisor will instruct the Trustee to realize derivatives of an amount such that the Fund is in compliance with the directive within three months of receiving the said directive. Provided that if to comply with the directive, the Fund will have to unwind an over-the-counter derivative in a manner that exposes the Fund to additional charges, the compliance to the directive will be postponed (subject to approval of the Commission and/or SBP) till a time that the Fund does not face such charges or the term of that derivatives ends.

6.5.6 The amounts realized in compliance with a directive as given in 6.5.5 shall be remitted to Pakistan through normal banking channels. The amount so remitted will be invested in Pakistan markets at the direction of the Investment Advisor.

## 6.6. INVESTMENT RESTRICTIONS

Unless it has obtained the prior approval of the Commission in writing UCPF-I will not at any time:

6.6.1 merge with, acquire or take over any other closed-end fund ;

6.6.2 pledge any of the securities held or beneficially owned by it;

6.6.3 make a loan or advance of money to any person except in connection with the normal business of the Scheme, subject to the limits specified under the Rules;

6.6.4 effect a short sale in any security;

6.6.5 purchase any security in a forward contract;

6.6.6 purchase any security on margin;

6.6.7 participate in a joint account with others in any transaction;

**6.6.8 apply any part of its assets to real estate, commodities or commodity contracts;**

**6.6.9 acquire any security of which another closed-end fund is the issuer;**

**6.6.10 make an investment in a Company which has the effect of vesting the management, or control over the affairs, of such company in the Scheme;**

**6.6.11 purchase or sell bearer securities or securities, which may result in assumption of unlimited or undetermined liability (actual or contingent).**

**6.6.12 employ as a broker, directly or indirectly, any director, officer or employee of the Fund or its Investment Advisor or any connected Person or member of family of such person and enter into transactions with any connected broker, which shall equal or exceed ten per cent (10%) or more of the transactions of the Fund in any one accounting year of that Fund; Provided that the Commission may, in each case on merits, permit the ten per cent to exceed if the connected broker offers advantages to the Fund not available elsewhere;**

**Explanation: For the purposes of this clause the term “family” includes spouse, lineal ascendants and descendants and brothers and sisters;**

**6.6.13 issue at any time, without the prior approval of the Commission in writing, a senior security which is either stock or represents indebtedness;**

**6.6.14 apply for de-listing from Stock Exchange, unless it has obtained prior approval of the Commission in writing to the scheme of de-listing. This will however not apply to the delisting of the Certificates from a Stock Exchange on termination of the Fund in accordance with the Offering Document;**

**6.6.15 invest in any security of a company if any director or officer of the Investment Advisor owns more than five per cent (5%) of the total amount of securities issued, or, the directors and officers of the Investment Advisor own more than ten per cent (10%) of those securities collectively; and**

**6.6.16 invest in any company or security, at any time, in excess of an amount equal to ten per cent of the Net Assets of the Fund or an amount sufficient to acquire ten per cent (10%) of issued capital of the company or ten percent of that issue.**

**6.6.17 invest more than twenty five per cent (25%) of the Net Asset Value of the Fund in securities of any one business sector as per classification of the pertinent Stock Exchange in which such security is listed.**

## **6.7. EXCEPTION TO INVESTMENT RESTRICTIONS**

**6.7.1 In the event the weightage of shares exceed the limits laid down in the Offering Document or the Rules as a result of the relative movement in the market prices of the Investments and corporate actions including bonus shares and subscription to right shares, the Investment Advisor shall make its best endeavors to bring the exposure**

within the prescribed limits within three (3) months of the event. But in any case the Investment Advisor shall not invest further in such shares or sectors while the deviation exists. However, this restriction on purchase shall not apply to any offer of right shares or any such other offering, if the Investment Advisor is satisfied that accepting such offer is in the interest of the Trust provided that the Investment Advisor will make its best endeavors to bring the exposure within the prescribed limits within three (3) months of the take of the rights share or other offering.

6.7.2 The Investment Advisor subject to the approval from the Commission will invest the Capital Protection Segment in a security or instrument that is sufficient to fulfill the capital protection provided in the Offering Document.

## **7. VALUATION OF PROPERTY**

7.1.1 A security listed on a stock exchange shall be valued at its last sale price on such exchange on the date as of which it is valued, or if such exchange is not open on such date, then at its last sale price on the next preceding date on which such exchange was open and if no sale is reported for such date, the security shall be valued at an amount not higher than the closing asked price nor lower than the closing bid price.

7.1.2 An investment purchased and awaiting payment against delivery shall be included for valuation purposes as security held, and the cash account of the Fund shall be adjusted to reflect the purchase price, including brokers' commission and other expenses incurred in the purchase thereof but not disbursed as of the valuation date;

7.1.3 An investment sold but not delivered pending receipt of proceeds shall be valued at the net sale price;

7.1.4 The value of any dividends, bonus-shares or rights which may have been declared on securities in the portfolio but not received by the Fund as of the close of business on the valuation date shall be included as assets of the Fund, if the security upon which such dividends, bonuses or rights were declared is included in the assets and is valued ex-dividend, ex-bonus or ex-rights as the case may be;

7.1.5 A security bought or sold under a repurchase or reverse repurchase transaction, which has to be settled at a future date, shall be valued by taking the net effect of the complete transaction into account. The value or loss occurring shall be recognized taking into account the allocation of such value or loss over the period between the transaction date and the settlement date.

7.1.6 Any other security not listed or quoted on a stock exchange will be valued on a regular basis by the Investment Advisor using a methodology approved by the Board of the Investment Advisor.

7.1.7 Interest/mark-up/profit accrued on any interest/mark-up/profit bearing security in the portfolio shall be included as an asset of the Fund if such accrued interest/mark-up/profit is not otherwise included in the valuation of the security.

7.1.8 Any other income accrued up to the date on which computation was made shall also be included in the assets.

**7.1.9 A derivative shall be valued at current market price or, if it is an over-the counter derivative, at the value quoted for it by a financial institution or the inferred value of the derivative based on the value of the commodity for which it has been written. The valuation of the derivative shall be congruous to the valuation of the commodity for which it has been written.**

**7.1.10 All amounts in foreign currencies will be converted into Pakistani Rupees based on the quotations by the National Bank of Pakistan or any other Scheduled Bank appointed by the Investment Advisor. The conversion will take into account expected Bank commission on conversion as well as the buy-sell spread.**

**7.1.11 All liabilities, expenses, taxes and other charges due or accrued up to the date of computation which are chargeable under this Trust Deed shall be deducted from the value of the assets.**

**7.1.12 For any asset class where no specific method of valuation is prescribed in the Rules, specific approval from the Commission shall be obtained and valuation shall be done accordingly.**

**7.1.13 The valuation of the property for determining the value of assets and liabilities would be as mentioned in the Rules and in case of any deviation prior approval of the Commission shall be obtained.**

## **8. FEES, CHARGES AND LEVERAGING**

### **8.1. INVESTMENT ADVISOR REMUNERATION**

**8.1.1 The Investment Advisor shall be entitled to receive a remuneration of an amount not exceeding three percent (3.0%) per annum of the average daily Net Assets of the Fund during the first three years of the Fund and two percent (2.0%) per annum of the average daily Net Assets thereafter.**

**8.1.2 The remuneration shall begin to accrue from the date of close of Initial Offer. In respect of any period other than an Accounting Period such remuneration shall be prorated on the basis of the actual number of days for which such remuneration has accrued for the total number of days accrued in the Accounting Period concerned.**

**8.1.3 The remuneration due to the Investment Advisor shall be calculated and accrued on a daily basis but paid on the following basis:**

**(a) A fee upto 1.0% of the average daily NAV of the Fund shall be paid annually after the accounts of the Fund have been audited, provided that the Investment Advisor may from time to time draw an advance out of the accrued remuneration a sum that the Trustee shall consider reasonable and if such payment is permissible under the Rules.**

**(b) The remaining fee of the Investment Advisor will continue to accrue and will be paid on termination of the Fund and will attract a cost equal to the average six-month KIBOR offer rate from the date it should have been paid calculated bi-annually. Provided that the net amount to be paid to Certificate Holders after termination of the Fund completes the capital protection given in the Offering**

Document of the Fund. In case the net amount is not sufficient to complete the capital protection, the fee plus interest cost accruing to the Investment Advisor will be reduced to the extent such amount becomes so sufficient.

8.1.4 Notwithstanding any of the above the fee paid to the Investment Advisor excluding accrued interest will not exceed the limit prescribed in the Rules.

8.1.5 In consideration of the foregoing and save as aforesaid the Investment Advisor shall be responsible for the payment of all expenses incurred by the Investment Advisor from time to time in connection with its responsibilities as Investment Advisor of the Fund. The Investment Advisor shall not make any charge against the Certificate Holders or against the Fund Property or against the Distribution Account for its services or for its expenses, except such expenses as are expressly authorized under the provisions of the Rules and this Deed to be payable out of Fund Property.

8.1.6 The Investment Advisor shall bear all expenditures in respect of its secretarial and office space and professional management, including all accounting and administrative services provided in accordance with the provisions of this Deed.

8.1.7 The Investment Advisor shall take advantage of leveraging on the Investment Segment of the Fund upon the methodology provided in the Offering Document and subject to the approval of the Commission.

## 8.2. TRUSTEE REMUNERATION

8.2.1 The Trustee shall be entitled to a monthly remuneration out of the Fund Property based on an annual tariff of charges annexed hereto (Annexure C), which shall be applied to the average daily Net Assets during such calendar month. The remuneration shall begin to accrue from the date of close of Initial Offer. For any period other than a full calendar month such remuneration will be prorated on the basis of the actual number of days for which such remuneration has accrued for the total number of days in the calendar month concerned.

8.2.2 Such remuneration shall be paid to the Trustee in arrears within thirty days after the end of each calendar month.

8.2.3 In consideration of the foregoing and save as aforesaid the Trustee shall be responsible for the payment of all expenses incurred by the Trustee from time to time in connection with their duties as Trustee of the Trust. The Trustee shall not make any charge against the Certificate Holders or against the Fund Property or against the Distribution Account for their services or for their expenses, except such expenses as are expressly authorized to be paid out of the Fund Property under the provisions of the Rules and this Deed.

8.2.4 The Trustee shall bear all expenditures in respect of its secretarial and office space and professional management, including all accounting and administrative services provided in accordance with the provisions of this Deed.

8.2.5 Any increase in the remuneration of the Trustee agreed to by the Investment Advisor shall require the approval of the Commission.

### **8.3. FORMATION COST**

Formation Costs as explained in clause 19.17 herein below, to be amortized over a period not exceeding three years or the life of the Fund, whichever is earlier. Any income earned by the Fund before the completion of its Initial Offer, if applicable, will be set-off against Formation Costs.

### **8.4. OTHER FEES AND CHARGES**

**8.4.1 Brokerage and transaction costs related to investing and dis-investing of the Fund Property;**

**8.4.2 Legal and related costs incurred in protecting or enhancing the interests of the Fund or the collective interest of the Certificate Holders;**

**8.4.3 Bank charges, including those related to remittances for investments abroad and repatriation of disinvestment proceeds back to the Country;**

**8.4.4 Audit Fees;**

**8.4.5 Listing Fee payable to Stock Exchange (s), including technical listing;**

**8.4.6 Rating Fee payable;**

**8.4.7 Taxes applicable to the Trust on income, turnover, assets or otherwise;**

**8.4.8 Annual Fee payable to the Commission in accordance with the Rules;**

**8.4.9 Other charges and levies of the Stock Exchanges, National Clearing and Settlement Companies or Clearing House, SECP charges, CDC charges, CVT, Laga and other related charges permissible under the Rules.**

### **9. TRANSACTION WITH CONNECTED PERSONS**

#### **9.1. CASH FORMING PART OF THE PROPERTY**

**9.1.1 All cash forming part of the Fund Property shall be deposited by the Trustee in a separate account to be opened in the name of the Trustee, as a nominee of the Fund, with a Bank of Investment Grade Rating approved by the Investment Advisor. Such bank shall be required to allow profit thereon in accordance with the rules prescribed by such bank or the financial institution for sharing of profits or mark-up on deposits maintained in such account or under any other arrangement approved by the Investment Advisor.**

**9.1.2 In case cash forming part of the fund's assets is deposited with the trustee or the custodian, which is a banking company or a NBFC, return shall be paid on the deposit by such trustee or custodian at a rate that is not lower than the rate offered by the said banking company or NBFC to its other depositors on deposits of similar amount and maturity.**

## **9.2. TRANSACTION WITH INVESTMENT ADVISOR**

**9.2.1 Neither the Trustee or the Custodian (if Trustee has appointed another person as Custodian) nor the Investment Advisor or any of their Connected Persons including employees of the Investment Advisor, or a person who beneficially owns ten percent (10%) or more of the equity securities of the Scheme or of its Investment Advisor shall sell or purchase or deal in the sale of any Investment or enter into any other transaction with the Trust save in the capacity of an intermediary.**

**9.2.2 Subject to the Rules, any transaction between the Trust and the Investment Advisor or any of their respective Connected Persons as principal shall only be made with the prior written consent of the Trustee.**

## **10. TRUSTEE**

### **10.1. DUTIES AND POWERS OF THE TRUSTEE**

**10.1.1 The Trustee shall comply with the provisions of this Deed and the Rules, for any act or matter to be done by it in the performance of its duties and such acts or matters may also be performed on behalf of the Trustee by any officer or responsible official of the Trustee or by any nominee or agent appointed by the Trustee in consultation with the Investment Advisor. Provided that the Trustee shall be responsible for the acts and omissions of all persons to whom it may delegate any of its duties, as if these were its own acts and omissions and shall account to the Trust for any loss in value of the Fund Property where such loss has been caused by negligence or any reckless act and/or omission of the Trustee or any of its directors, officers, nominees or agents.**

**10.1.2 The Trustee shall exercise all due diligence and vigilance in carrying out its duties and in protecting the interests of the Certificate Holders. The Trustee shall not be under any liability on account of anything done or not done by the Trustee in good faith in accordance with or in pursuance of any request of the Investment Advisor, provided they are not in conflict with the provisions of this Deed or the Rules. Whenever pursuant to any provision of this Deed any certificate, notice, direction, instruction or other communication is to be given by the Investment Advisor to the Trustee, the Trustee may accept as sufficient evidence thereof a document signed or purporting to be signed on behalf of the Investment Advisor by any person whose signature the Trustee is for the time being authorized in writing by the Investment Advisor to accept.**

**10.1.3 The Trustee shall not, except for willful action or omission, negligence or bad intention, be liable for any loss caused to the Fund or to the value of the Fund Property due to any elements or circumstances beyond its reasonable control.**

**10.1.4 The Trustee shall carry out the instructions of the Investment Advisor in all matters including investment and disposition of the Fund Property, unless such instructions are in conflict with the provisions of this Deed or the Rules or law.**

**10.1.5 The Trustee shall, in consultation with the Investment Advisor, from time to time appoint, remove or replace one or more Custodians for performing the Custodian Function at one or more locations, on terms and conditions to be agreed between the Custodian and the Trustee and approved by the Investment Advisor.**



**10.1.6** The Trustee shall make available or ensure that there is made available to the Investment Advisor such information as the Investment Advisor may reasonably require from time to time in respect of the Fund Property and all other matters relating to the Trust.

**10.1.7** The Trustee shall be entitled to require the Auditors to provide such reports as may be agreed between the Trustee and the Investment Advisor as may be considered necessary to facilitate the Trustee in issuing the certification required under the Rules. The Trustee shall endeavor to provide the certification at the earliest date reasonably possible.

**10.1.8** The Trustee shall, if requested by Investment Advisor and may if it considers necessary for the protection of Fund property or safeguarding the interest of Certificate Holders, institute or defend any suit, proceeding, arbitration or inquiry or any corporate or shareholders' action in respect of the Fund Property or any part thereof, with full powers to sign, swear, verify and submit pleadings and affidavits, to file documents, to give evidence, to appoint and remove counsel and to do all incidental acts, things and deeds through the Trustee's authorized directors and officers. All costs, charges and expenses (including reasonable legal fees) incurred in instituting or defending any such action shall be borne by the Trust and the Trustee shall be indemnified against all such costs, charges and expenses: Provided that no such indemnity shall be available in respect of any action taken against the Trustee for negligence or breach of fiduciary duties in connection with its duties as the Trustee under this Deed or the Rules. For the avoidance of doubt it is clarified that notwithstanding anything contained in this Deed, the Trustee and the Investment Advisor shall not be liable in respect of any losses, claims, damages or other liabilities whatsoever suffered or incurred by the Trust arising from or consequent to any such suit, proceeding, arbitration or inquiry or corporate or shareholders' action or otherwise howsoever and (save as herein otherwise provided), all such losses, claims, damages and other liabilities shall be borne by the Fund.

**10.1.9** The Trustee shall not be under any liability except such liability as may be expressly assumed by it under the Rules and this Deed nor shall the Trustee (save as herein otherwise provided) be liable for any act or omission of the Investment Advisor or for anything except its own negligence or willful breach of duty hereunder. If for any reason it becomes impossible or impracticable to carry out the provisions of this Deed the Trustee shall not be under any liability therefore or thereby and it shall not incur any liability by reason of any error of law or any matter or thing done or suffered or omitted to be done in good faith hereunder.

## **10.2. CHANGE OF TRUSTEE**

**10.2.1** If the Trustee goes in to liquidation (otherwise than for the purpose of amalgamation or reconstruction on terms previously agreed to with the Investment Advisor for purpose of reconstruction and amalgamation) or ceases to carry on business or a receiver of its undertaking is appointed or it becomes ineligible to act as a trustee of the Trust under the provisions of the Rules, the Investment Advisor shall forthwith by instrument in writing, remove the Trustee from its appointment under this Deed and shall by the same or some other instrument in writing simultaneously appoint as trustee some other company or corporation according to the provisions of the Rules and this Deed as the new trustee. However, such new appointment shall require the approval of the Commission.

**10.2.2** The Investment Advisor may, with the prior approval of the Commission, remove the Trustee after giving at least twenty-one days notice in writing to the Trustee on grounds of any material default or non-compliance with the provisions of this Deed or the Rules, and appoint another trustee if such material default or non-compliance is not rectified or cured within such notice period.

**10.2.3** Upon the appointment of a new trustee the Trustee shall immediately deliver all the documents and records to the new trustee and shall transfer all the Fund Property and any amount deposited in any Distribution Account(s) to the new trustee and make payments to the new trustee of all sum due from the Trustee.

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

## **11. DISTRIBUTIONS FROM THE FUND**

### **11.1. DISTRIBUTION POLICY AND DATE**

**11.1.1** At least 90% of the income, excluding realized and unrealized capital gains, received by the Fund reduced by such expenses as are chargeable to the Fund under the Rules shall be distributed annually. The Investment Advisor may also include realized capital gains in the amount available for distribution. The entire amount available for distribution may be distributed as cash dividend or in any other form acceptable to the Commission and that may qualify under the tax laws. The Fund will comply with regulatory and taxation requirements and the distribution policy may be amended accordingly.

**11.1.2** The income accrued by Capital Protection Segment will not be available for distribution except as specified by the Offering Document or as required by the law.

**11.1.3** The Investment Advisor shall decide as soon as possible but not later than forty-five days after the Accounting Date whether to distribute among Certificate Holders, profits, if any, available for the distribution at the end of the Accounting Period, and shall advise the Trustee of the rate of such distribution per Certificate.

**11.1.4** The amount available for distribution in respect of any Accounting Period shall be determined by the Investment Advisor after consulting the Auditors and shall be the sum total of:

(a) The total income earned on the Fund Property during such Accounting Period including all amounts received in respect of dividend, mark-up, profit, interest and fee;

(b) Whole or part of the net realized appreciation, at the option of the Investment Advisor.

(c) From the above amounts shall be deducted expenses and such other adjustment as the Investment Advisor may determine in consultation with the Auditors.

**11.1.5** The proceeds of sales of rights and all other receipts deemed by the Investment Advisor after consulting the Auditors to be in the nature of capital accruing from Investments shall not be regarded as available for distribution but shall be retained as part of the Fund Property, provided that such amounts out of the sale proceeds of the Investments and out of the sale proceeds of the rights, bonus shares and all other receipts as deemed by the Investment Advisor after consulting the Auditors to be in the nature of the net realized appreciation may be distributable to the Certificate Holders by the Trustee and shall thereafter cease to form part of the Fund Property once transferred to the Distribution Account.

**11.1.6** The income qualifying for distribution in respect of the relevant period shall be ascertained by deducting all such expenses and costs as mentioned in clause 8 above.

**11.1.7** The income qualifying for distribution in respect of the relevant period may be adjusted as under:

(a) deduction of a sum by way of adjustment to allow for effect of purchase of shares or any of the Investments cum dividend, interest, profit or mark-up;

(b) adjustment if considered necessary by the Investment Advisor to reflect the diminution in value of Fund Property in consultation with the Trustee.

## **11.2. DISTRIBUTION OF INCOME**

**11.2.1** On each Accounting Date the Investment Advisor shall instruct the Trustee to transfer such amount of cash as required to effect such distribution to the Distribution Account. The amount standing to the credit of the Distribution Account shall not for any purposes of this Deed be treated as part of the Fund Property but shall be held by the Trustee upon trust to distribute the same as herein provided.

**11.2.2** After the fixation of the rate of distribution per Certificate, distribution payments shall be made by transfer to the Certificate Holders' designated bank accounts or in the case of joint Certificate Holders to designated bank account of the joint Certificate Holder, first named on the Register. The receipt of funds by such designated bankers shall be a good discharge therefore.

**11.2.3** Before making any payment in respect of a Certificate, the Trustee or the Investment Advisor may make such deductions as may be required by law in respect of any Zakat, income or other taxes, charges or assessments whatsoever and issue to the Certificate Holder the certificate in respect of such deduction in the prescribed form or in a form approved by the concerned authorities.

**11.2.4** Where the Certificates are placed under pledge, the payment of dividends shall be made in accordance with Clause 17.8.3 below.

## **12. ANNUAL ACCOUNTING PERIOD AND DATE**

**12.1.1** Accounting Period means a period ending on and including an Accounting Date and commencing (in case of the first such period) on the date on which the Fund

Property is first paid or transferred to the Trustee and (in any other case) from the end of the preceding Accounting Period.

12.1.2 Accounting Date means the date 30th June in each year and any interim dates at which the financial statements of the Fund are drawn up. Provided, however, that the Advisor may, with the consent of the Trustee and after obtaining approval of the Commission and the Commissioner of Income Tax, change such date to any other date and such change shall be intimated to the SECP.

### **13. TRUSTEESHIP ARRANGEMENT**

#### **13.1. PRIMARY FUNCTIONS:**

13.1.1 Fund Management – The Investment Advisor has the responsibility to take all investment decisions within the framework of the Rules, this Trust Deed establishing the Scheme and the Offering Documents issued for the Scheme.

13.1.2 Control over Assets - The Trustee has the responsibility for being the nominal owner for the safe custody of the assets of the Scheme on behalf of the beneficial owners (the Certificate Holders), within the framework of the Rules, this Trust Deed and the Offering Document.

13.1.3 Investor Records – The Investment Advisor has the responsibility to maintain investor records and for this purpose it may appoint a Registrar, who is responsible for maintaining investors' (Certificate Holders') records and providing related services. The Registrar shall carry out the responsibility of maintaining investors' records, issuing statements of account, issuing Certificates representing investment of the Certificate Holders in the Scheme, processing dividend payments, processing pledge/lien applications, processing purchase requests and all other related activities.

13.1.4 Record Keeping – The Investment Advisor has the primary responsibility for all record keeping and for producing financial reports from time to time. However, the Trustee has the responsibility to ensure timely delivery to the Investment Advisor of statements of account and transaction advices for banking and custodial accounts in the name and under the control of the Trustee. The Investment Advisor shall provide the Trustee unhindered access to all records relating to the Scheme.

#### **13.2. ADMINISTRATIVE ARRANGEMENTS**

13.2.1 The Trustee shall have all the obligations entrusted to it under the Rules, the Trusts Act 1882 [II of 1882] the Trust Deed and the Offering Document of the Fund. However, the Trustee shall, in addition to the aforesaid obligations, facilitate the Investment Advisor's business in the following manner:

(a) Attorney(s) and Point Person(s): The Trustee shall nominate one or more of its officers to act as attorney(s) for performing the Trustee's functions and for interacting with the Investment Advisor.

(b) Custodian(s): The Trustee shall act as custodian for securities for which custody services are available with the Trustee at such terms as the Trustee and the Investment Advisor may mutually agree. For other securities the Investment

Advisor may advise the Trustee to make appropriate arrangements with one or more Custodians for custody of securities in which investment may be made on behalf of the Fund. The Trustee shall provide custodial services to the extent others cannot be identified for this purpose.

### **13.3. BANK ACCOUNTS**

**13.3.1** The Trustee shall open Bank Accounts for the Fund titled “Trustee UBL Capital Protected Fund - I” at suitable Banks at the request of the Investment Advisor.

**13.3.2** The Trustee shall open additional bank accounts at such branches of banks and at such locations (including outside Pakistan), subject to applicable regulations and after obtaining all necessary approvals from the relevant regulatory authority in Pakistan as may be required by the Investment Advisor from time to time.

**13.3.3** The Investment Advisor may also require the Trustee to open separate Bank Accounts for each dividend distribution out of the Fund.

**13.3.4** Each Segment of the Scheme shall have different and separate Bank Accounts.

**13.3.5** Notwithstanding any thing contained in this Deed the beneficial ownership of the balances in the Accounts shall vest in the Certificate Holders in accordance with the provisions of this Deed and the Rules.

### **13.4. FUND PROPERTY**

**13.4.1** The Fund Property shall initially be constituted out of the proceeds of the Certificates subscribed by the Investment Advisor, the proceeds of the Certificates issued to the Pre-IPO investors and the proceeds of the Certificates issued to the general public pursuant to the Initial Public Offering, those Certificates subscribed by the Underwriters or the investors procured by the Underwriters and those Certificates subscribed by the General Public through a Green Shoe Option (if any) in case of over subscription of its Initial Public Offering. These shall all become part of the Fund Property, after deducting any applicable Duties and Charges.

**13.4.2** The Trustee shall take the Fund Property into its custody or under its control, either directly or through the Custodian and hold it in trust for the benefit of the Certificate Holders in accordance with the provisions of the Rules and this Deed. The Fund Property shall always be kept as separate property and shall not be applied to any purpose unconnected with the Fund. All registerable Investments shall be registered in the name of the Trustee and shall remain so registered until disposed of pursuant to the provisions of this Deed. All expenses incurred by the Trustee in effecting such registration shall be payable out of the Fund Property.

**13.4.3** Save, as herein expressly provided, the Fund Property shall always be kept as separate property free from any mortgages, charges, liens or any other encumbrances whatsoever and the Trustee, the Investment Advisor, or the Custodian shall not, except for the purpose of the Fund, create or purport to create any mortgages, charges, liens or any other encumbrances whatsoever to secure any loan, guarantee, or any other obligation, actual or contingent incurred, assumed or undertaken by the Trustee, the

Investment Advisor, or the Custodian or any other person, subject to the limitations contained in the Rules.

**13.4.4** The Trustee shall have the sole responsibility for the safekeeping of the Fund Property. In the event of any loss, caused through negligence on the part of the Trustee, the Trustee shall have an obligation to replace the lost Investment forthwith with similar investment of the same class and issue together with all rights and privileges pertaining thereto or compensate the Trust to the extent of such loss.

**13.4.5** Remuneration of the Investment Advisor; remuneration of the Trustee; Brokerage and Transaction Costs related to investing and dis-investing of the Fund Property; Legal and related costs incurred in protecting or enhancing the interests of the Fund or the collective interest of the Certificate Holders; Bank charges; Audit Fees; Formation Costs, Annual Fee payable to the Commission, Listing Fee and Associate Membership Fee payable to the Stock Exchanges and taxes if any applicable to the Trust shall be payable out of the Fund Property. Provided that all the Formation Costs, including expenditure incurred in connection with the establishment and authorization of the Scheme and offer of sale of Certificates, commission payable to the Underwriters, etc., shall be borne by the Investment Advisor and shall be reimbursable out of the Fund Property in equal installments over a period of not less than five years or over a period of entire term of the Fund whichever is less.

### **13.5. TRANSACTIONS RELATING TO THE FUND**

**13.5.1** The Trustee shall authorize and facilitate the Investment Advisor to receive daily statements of account for all the bank accounts being operated by the Trustee as a nominee of the Fund.

**13.5.2** The Investment Advisor shall, from time to time, advise the Trustee of the dividend distribution for the Trust. The Trustee shall establish separate Bank accounts for each dividend distribution and transfer the amount payable as cash dividend to such accounts after deducting such taxes and Zakat as may be required under the law. The Trustee shall rely on the amount certified by the Auditors as the dividend payable in cash after adjusting for dividend being distributed in the form of Certificates of the Scheme, as explained in the Offering Document.

### **13.6. TRANSACTIONS RELATING TO INVESTMENT ACTIVITY/ PORTFOLIO MANAGEMENT**

**13.6.1** The Investment Advisor shall, from time to time, advise the Trustee of the settlement instructions relating to any investment/dis-investment transactions entered into by it on behalf of the Trust. The Trustee shall carry out the settlements in accordance with the dictates of the specific transactions. The Investment Advisor shall ensure the settlement instructions are given promptly, complete and accurate after entering into the transaction so as to facilitate timely settlement and the Trustee, on its side, shall ensure that the settlement is handled in a timely manner in accordance with dictates of the transaction. Provided the instructions are in line with the rules, regulations or any exemptions thereof.

**13.6.2** The Trustee shall ensure that, where applicable, payments against investments are made against delivery and vice versa unless specified otherwise by the Investment Advisor.

**13.6.3** The Trustee shall promptly forward to the Investment Advisor any notices, reports or other documents issued by the issuers of securities, recipients of any of the Trust Funds (as deposits, refunds, distribution of dividends, income, profits, repayment of capital or for any other reason), any depository, an intermediary or agent in any transaction or from any court, government, regulator, stock or other exchange or any other party having any connection with the transaction.

**13.6.4** The Trustee shall also, if so required by the nature of such notices or documents mentioned in the foregoing clause, act in a manner that is in the best interest of the Trust/Scheme. Such action shall include legal action if called for and the Trustee shall be entitled to recover any legal costs reasonably incurred from the Trust/Scheme.

**13.6.5** The Investment Advisor shall provide the Trustee with regular reports indicating dividends, other forms of income or inflows, and any rights or warrants relating to the Investments that are due to be received. The Trustee shall report back to the Investment Advisor any such amounts or warrants that are received on such accounts from time to time.

**13.6.6** The Trustee shall provide proxies or other forms of powers of attorney to the order of the Investment Advisor with regard to any voting rights attaching to any investment.

### **13.7. VOTING RIGHTS ON FUND PROPERTY**

**13.7.1** All rights of voting attached to any Fund Property shall be exercisable by the Investment Advisor on behalf of the Trustee and it shall be entitled to exercise the said rights in what it may consider to be the best interests of the Certificate Holders and may refrain at its own discretion from the exercise of any voting rights and the Trustee or the Certificate Holders shall not have any right to interfere or complain. The Investment Advisor shall keep the record of exercising the vote for three years.

**13.7.2** The Trustee shall upon written request by the Investment Advisor, at the expense of the Fund Property, from time to time execute and deliver or cause to be executed or delivered to the Investment Advisor or their nominees powers of attorneys or proxies authorizing such attorneys and proxies to vote consent or otherwise act in respect of any Investment in such form and in favour of such persons as the Investment Advisor may require in writing. The word “vote” used in this sub-clause shall be deemed to include not only a vote at a meeting but the right to elect or appoint directors, any consent to or approval of any arrangement scheme or resolution or any alteration in or abandonment of any rights attaching to any Investment and the right to requisition or join in a requisition to convene any meeting or to give notice of any resolution or to circulate any statement or any other right as provided under the Ordinance.

**13.7.3** The Trustee shall forward to the Investment Advisor, not later than two Business days of receipt all notices of meetings and all reports and circulars received by the Trustee as the registered holder of any Investment.

## **14. BASE CURRENCY**

The base currency of the Scheme shall be Pakistani Rupee; it being clarified, however, that the Authorized Investments may be denominated in Pakistani Rupee or (subject to applicable law) any other foreign currency.

## **15. MODIFICATION OF TRUST DEED**

**15.1.1** The Trustee and the Investment Advisor acting together shall be entitled by deed supplemental hereto to modify, alter or add to the provisions of this Deed in such manner and to such extent as they may consider expedient for any purpose, subject only to the approval of the Commission, if so required. Provided that, the Trustee and the Investment Advisor shall certify in writing that, in their opinion such modification, alteration or addition is required pursuant to any amendment in the Rules or to ensure compliance with any fiscal or statutory requirement or to enable the provisions of this Deed to be more efficiently, conveniently or economically managed or to enable the Certificates to be dealt in or quoted on Stock Exchange or otherwise for the benefit of the Certificate Holders and that it does not prejudice the interests of the Certificate Holders or any of them or operate to release the Trustee or the Investment Advisor from any responsibility to the Certificate Holders.

**15.1.2** Where this Deed has been altered or supplemented the Investment Advisor shall notify the Unit Holders regarding such alteration immediately through one widely circulated newspaper in Pakistan.

## **16. TERMINATION OF THE CLOSED-END SCHEME AND DISTRIBUTION OF LIQUIDATION PROCEEDS**

### **16.1. TERMINATION AND CONVERSION**

**16.1.1** The minimum life of the Fund is 3 years. The Fund shall cease to operate at Maturity. The Fund shall stand completely extinguished and shall cease to exist on the date which shall not later than 3 months from the date of Maturity. The Investment Advisor shall give a notice to Certificate Holders, the Trustee and the Commission on termination of the Fund and wind-up the affairs of the Fund within three months of such notice including repayment of capital.

**16.1.2** The Trust may also be terminated by the Commission on the grounds given in the Rules.

**16.1.3** This Deed may be terminated in accordance with the conditions specified in the Rules, if there is any breach of the provisions of this Deed or any other agreement or arrangement entered into between the Trustee and Investment Advisor regarding the Scheme.

### **16.2. DISTRIBUTION OF LIQUIDATION PROCEEDS**

**16.2.1** Upon the Fund being terminated, the Investment Advisor shall proceed to sell all Investments then remaining in the hands of the Trustee as part of the Fund Property to



repay the Principal amount invested by the investors on the date which shall not later than 3 months from the date of Maturity.

16.2.2 The Trustee on the recommendation of the Investment Advisor shall from time to time distribute to the Certificate Holders pro rata to the number of Certificates held by them respectively all net cash proceeds derived from the realization of the Fund Property after making payment as mentioned in sub-clause 16.2.1 and retaining such sum as considered or apprehended by the Investment Advisor for all costs, charges, expenses, claims and demands.

16.2.3 In case the Trust is being terminated by the Commission on the grounds given in the Rules the Commission may appoint a liquidator in consultation with the Trustee.

## **17. CERTIFICATES**

### **17.1. LEGAL STATUS**

17.1.1 All Certificates represent an undivided share in the Fund and rank pari passu as to their rights in the net assets, earnings, and the receipt of the dividends and distributions. Each Certificate Holder has a beneficial interest in UCPF I proportionate to the Certificates held by such Certificate Holder.

17.1.2 By a deed supplemental to this Deed the Investment Advisor may at any time with the approval of the Trustee on giving not less than twenty-one days previous notice through publication in Urdu and English widely circulated newspapers subdivide or consolidate the whole or any part of the Certificates and the Certificate Holders shall be bound accordingly. The Investment Advisor shall require in such notice that each Certificate Holder to whom Certificates have been issued, (who shall be bound accordingly) deliver up his Certificates for endorsement or enfacement with the number of Certificates to be represented thereby as a result of such sub-division or consolidation; provided that any delay or failure to deliver up the Certificates shall not delay or otherwise affect any such sub-division or consolidation.

### **17.2. ISSUE OF CERTIFICATES AND LIMITATION OF LIABILITY**

17.2.1 The Investment Advisor shall be responsible for obtaining all requisite consents and approvals for the offer and issue of Certificates and for the issue, publication or circulation of the Offering Document.

17.2.2 Except as provided herein the Certificates shall be offered through the authorized branches of the bankers to the issue or the Distributor of the Investment Advisor.

17.2.3 Each Certificate Holder shall only be liable to pay the issue price of the Certificates subscribed by him and no further liability shall be imposed on him in respect of any Certificates held by him. The Certificates shall be issued only against receipt of full payment. No further liability shall be imposed on a subsequent Certificate Holder save any transfer fees or taxes applicable to transfers and transmission.

17.2.4 The Fund Property will be distributed into two segments a Capital Protection Segment and an Investment Segment at the start of the Scheme. The creditors of the fund will have no claim against the assets of Capital Protected Segment.

**17.2.5** The Investment Advisor shall only be liable to the extent of the fees paid to them for any matter related to the Scheme including the capital protection. Provided however, the Investment Advisor and the Trustee shall not be liable for any acts or omissions unless proven to be grossly negligent, or grossly in breach of the terms and conditions of this Deed or the Rules.

**17.2.6** The capital protection given in the Offering Document is only valid in terms of the current tax and legal environment of Pakistan and no claim shall lie against the Investment Advisor, Trustee or any of their agents for a breach in the capital protection due to change in law or force majeure.

**17.2.7** The Investment Adviser may require the Trustee to issue additional Certificates by way of bonus Certificate out of the distributable income of the Scheme or against the receipt of Payment at such issue price and other terms as may be set by the Investment Adviser subject to regulatory requirements.

### **17.3. ISSUE OF CERTIFICATES OUTSIDE PAKISTAN**

**17.3.1** Subject to exchange control and other applicable laws, rules and regulations, in the event of arrangements being made by the Investment Advisor for the issuance of Certificates to persons not resident in Pakistan or for delivery in any country outside Pakistan, the price at which such Certificates may be issued may, at the discretion of the Investment Advisor, include in addition to the initial offer price as hereinbefore provided a further amount sufficient to cover any exchange risk insurance, any additional stamp duty or taxation whether national, local or otherwise leviable in that country in respect of such issue or of the delivery or issue of Certificates, or any additional costs relating to the delivery of certificates or the remittance of money to Pakistan.

**17.3.2** The currency of transaction of the UCPF I is the Pakistan Rupee and the Investment Advisor is not obliged to transact the issuance in any other currency, except for receiving proceeds in foreign exchange for issuing Certificates denominated in Pak Rupees to non-residents, pursuant to the Public Offering after fulfilling all the regulatory requirements.

### **17.4. REGISTER OF CERTIFICATE HOLDERS**

**17.4.1** The Registrar at such a place as is agreed by the Investment Advisor shall maintain a Register. The Investment Advisor shall ensure that the Registrar shall comply with all relevant provisions of this Deed and the Rules.

**17.4.2** The Investment Advisor shall ensure that the Registrar shall at all reasonable times during business hours give the Trustee and its representatives access to the Register and to all subsidiary documents and records or certified copies thereof and to inspect the same with or without notice and without charge, except when the Register is closed in accordance with the provisions of this Deed, but neither the Trustee nor its representatives shall be entitled to remove the Register or to make any entries therein or alterations thereto.

**17.4.3** The Registrar shall, within two working days of receiving a written request from any Certificate Holder or occurrence of any change in the holding of a Certificate Holder,

post (or send by courier or through electronic means) to such Certificate Holder details of such Certificate Holder's account in the Register. Such service shall be provided free of charge to any Certificate Holder requesting so once in any financial year or on occurring any change in his holding. The Investment Advisor may prescribe reasonable charges for servicing of any additional requests.

**17.4.4 The Register shall contain the following information:**

**(a) Full names, nationalities, Copies of NICs (in respect of Pakistan nationals) and addresses of each Certificate Holders and joint Certificate Holders;**

**(b) The number of the Certificates held and the distinctive numbers of Certificate, if any;**

**(c) The date on which the name of every Certificate Holder was entered in respect of the Certificates standing in his name;**

**(d) The date on which any transfer is registered with distinctive numbers and certificate numbers;**

**(e) Information about pledge on Certificates;**

**(f) Tax/Zakat status of the Certificate Holders;**

**(g) Nominees;**

**(h) Information about loss of Certificates and issuance of duplicates;**

**(i) Record of specimen signatures of the Certificate Holders;**

**(j) Such other information as Investment Advisor may require.**

**17.4.5 The Register shall be conclusive evidence as to the Certificates held by each Certificate Holder.**

**17.4.6 Any change of name or address of any Certificate Holder shall forthwith be notified in writing to the Registrar, who on being satisfied therewith and on compliance with such formalities (including in the case of a change of name the surrender of any Certificate(s) previously issued to such Certificate Holder and the payment of the fee) shall alter the Register or cause it to be altered accordingly and in the case of a change of name shall, if requested, issue new Certificate(s) to such Certificate Holder. Provided that the request in respect of change of name shall be supported by appropriate evidence satisfactory to the Registrar.**

**17.4.7 The Registrar shall not register more than four joint Certificate Holders for a Certificate. In case of the death of any one of the joint Certificate Holders the survivor or survivors shall be the only persons recognized by the Trustee as having any title to or interest in the Certificates held by the joint Certificate Holders. Provided however, the Registrar or the Trustee may at their discretion request the survivors to provide succession certificates or other such mandate from a court or lawful authority, if they consider necessary.**

**17.4.8 A body corporate may be registered as a Certificate Holder or as one of joint Certificate Holders.**

**17.4.9 The Register may be closed in consultation with the Trustee for such period as the Investment Advisor may from time to time determine and after giving at least seven days notice to Certificate Holders, provided that it is not closed for more than forty-five days in any calendar year.**

**17.4.10 The Certificate Holder shall be the only person to be recognized by the Trustee, the Investment Advisor and the Registrar as having any right, title or interest in or to such Certificates and the Trustee, the Investment Advisor and the Registrar may recognize the Certificate Holder as the absolute owner thereof and shall not be bound by any notice to the contrary and shall not be bound to take notice of or to see to the execution of any trust, except where required by any court of competent jurisdiction. However, the Investment Advisor may authorize the Registrar to record a pledge on any or all Certificates held by a Certificate Holder in favour of a third party at the request of such Certificate Holder or Joint Certificate Holders, as the case may be, except for holding Certificates by the Investment Adviser under Rule 33.**

**17.4.11 The nominee(s), in case of nomination(s) and the executor(s) or administrator(s) or succession certificate holder of deceased Certificate Holder (not being one of several joint Certificate Holders) shall be the only persons recognized by the Trustee and the Investment Advisor as having title to the Certificates represented thereby.**

**17.4.12 Any person becoming entitled to a Certificate in consequence of the death or bankruptcy of any sole Certificate Holder or of the survivor of joint Certificate Holders may subject as hereinafter provided upon producing such evidence as to his title as the Trustee shall think sufficient either be registered himself as Holder of such Certificate upon giving the Trustee/Registrar such notice in writing of his desire or transfer such Certificate to some other person. All the limitations, restrictions and provisions of this Deed relating to transfer shall be applicable to any such notice or transfer as if the death or bankruptcy had not occurred and such notice or transfer was a transfer executed by the Certificate Holder. Provided however, the Registrar or the Trustee may at their discretion request such persons, or the survivors to provide succession certificates or other such mandate from a court or lawful authority, if they consider necessary.**

**17.4.13 The Trustee shall retain any moneys payable in respect of any Certificate of which any person is, under the provisions as to the transmission of Certificates hereinbefore contained, entitled to be registered as the Certificate Holder or which any person under those provisions is entitled to transfer, until such person shall be registered as the Holder of such Certificate or shall duly transfer the same.**

## **17.5. ISSUANCE OF CERTIFICATES**

**17.5.1 Upon written confirmation by the Trustee that the initial offer price for each Certificate has been received in full from the successful applicant, the Registrar shall issue certificates (or at the Certificate Holder's request, one consolidated certificate) that will constitute evidence of the number of Certificates registered in the name of the Certificate Holder.**

**17.5.2 Certificates shall only be issued against full payment of the subscription money and also in case of non-residents other applicable charges, if any.**

**17.5.3 Certificates shall be issued as herein provided not later than twenty-one Business Days after the date of receipt of evidence of payment. The Certificate may be sent to the Certificate Holder or his duly authorized nominee at his own risk by registered post or by courier service.**

**17.5.4 In the case of Certificates held jointly, the Registrar shall not issue more than one Certificate for the Certificates held by such joint Certificate Holders and delivery of such Certificate to the Certificate Holder named first therein shall constitute sufficient delivery to all joint Certificate Holders.**

**17.5.5 Certificates shall be issued in such form as may from time to time be agreed between the Investment Advisor and the Trustee.**

**17.5.6 A Certificate shall be dated, shall bear the name and address of the Investment Advisor and the Trustee, shall bear a distinctive and serial number and shall specify the number of Certificates represented thereby and the name and address of the Certificate Holder as appearing in the Register.**

**17.5.7 Certificates may be engraved or lithographed or printed as the Investment Advisor may determine from time to time with the approval of the Trustee and shall be signed on behalf of the Trustee by a duly authorized officer of the Trustee and on behalf of the Investment Advisor by a duly authorized officer of the Investment Advisor. Every such signature shall be autographic unless there shall be for the time being in force an arrangement authorized by the Trustee adopting some lithographic or other mechanical method of signature in which event all or any of such signatures may be effected by the method so adopted. The Certificates shall also bear the signature of the authorized representative of the Registrar, which shall always be autographic except for the initial issue of certificates after the initial offering where the Investment Advisor with the approval of the Trustee may allow lithographic or other mechanical method of signature. No Certificate shall be of any force or effect until signed as herein above mentioned. Certificate so signed shall be valid and binding notwithstanding that before the date of delivery thereof the Trustee or the Investment Advisor or the Registrar or any person whose signature appears thereon as a duly authorized signatory may have ceased to be the Trustee, Investment Advisor, Registrar or an authorized signatory.**

**17.5.8 Where the Certificates are in form of book entry securities registered with the Central Depository Register of the Central Depository Company of Pakistan Limited (CDC), the issue of certification or receipt in lieu of physical Certificate or any other record shall be in accordance with the procedures laid down by the Central Depository Company of Pakistan Limited Regulations.**

## **17.6. REPLACEMENT OF CERTIFICATES**

**17.6.1 Subject to the provisions of this Deed and in particular to the limitations of the denominations of Certificates as may be fixed by the Investment Advisor and subject to any regulations from time to time made by the Trustee with the approval of the Investment Advisor every Certificate Holder shall be entitled to exchange upon surrender of the existing Certificate any or all of his Certificates for one or more Certificates of such**

denominations as he may require representing the same aggregate number of Certificates.

17.6.2 In case any Certificate shall be lost, stolen, mutilated, defaced or destroyed, the Registrar with the approval of the Investment Advisor may issue to the person entitled new Certificate in lieu thereof. No such new Certificate shall be issued unless the applicant shall previously have (i) returned the mutilated or defaced Certificate or furnished to the Trustee /Registrar evidence satisfactory to the Investment Advisor of the loss, theft or destruction of the original Certificate, (ii) paid all expenses incurred in connection with the investigation of the facts; and (iii) furnished such indemnity as the Investment Advisor and the Trustee may require. Neither the Investment Advisor nor the Trustee nor the Registrar shall incur any liability for any action that they may take in good faith under the provisions of this sub-clause. Provided further that the Trustee and/or the Investment Advisor may also require issuance of public notices in newspapers and/or abstention of such indemnification, as the Investment Advisor and the Trustee may deem appropriate, at the cost of the pertinent Certificate Holder before issuing any new certificates.

17.6.3 Before the issuance of any Certificate under the provisions of this sub-clause the Registrar may require from the applicant for the Certificate the payment to it of a fee of twenty five Rupees for each Certificate, subject to revision of fee from time to time by the Investment Advisor together with a sum sufficient in the opinion of the Investment Advisor to cover any Duties and Charges, if any, payable in connection with the issue of such Certificate.

#### **17.7. TRANSFER OF CERTIFICATES**

17.7.1 Every Certificate Holder shall be entitled to transfer the Certificates held by him by an instrument in such form as the Investment Advisor may prescribe from time to time with the approval of the Trustee.

17.7.2 A Certificate shall be transferable only in its entirety.

17.7.3 Both the transferor and the transferee must sign every instrument of transfer and the transferor shall be deemed to remain the Holder of the Certificates transferred until the name of the transferee is entered in the Register in respect thereof.

17.7.4 Every instrument of transfer must be duly completed in all respects including affixation of transfer stamps of the requisite value and in case the Certificates are in form of book entry securities, the transferee shall pay the requisite stamp duty as provided under the law. Where Certificates have been issued the Trustee may dispense with the production of any Certificate where the Certificate shall have become lost, stolen or destroyed subject to compliance by the transferor with the like requirements to those arising in the case of an application by him for the replacement thereof as provided in this Deed.

17.7.5 The Registrar shall retain instruments of transfer if any and a copy shall be supplied to the Investment Advisor/Trustee.

17.7.6 The Registrar with the prior approval of the Investment Advisor and the Trustee shall be entitled to destroy all instruments of transfer or the copies thereof as the case

may be which have been registered at any time after the expiration of twelve years from the date of registration thereof and all Certificates which have been cancelled at any time after the expiration of six years from the date of cancellation thereof and all registers, statements and other records and documents relating to the Trust at any time after the expiration of six years from termination of the Trust. The Trustee or the Investment Advisor or the Registrar shall be under no liability whatsoever in consequence thereof and it shall conclusively be presumed in favor of the Trustee or the Investment Advisor or the Registrar that every instrument of transfer so destroyed was a valid and effective instrument duly and properly registered by the Trustee or the Investment Advisor or the Registrar and that every Certificate so destroyed was a valid Certificate duly and properly cancelled: Provided always that: (i) the provisions aforesaid shall apply only to the destruction of a document in good faith and without notice of any claim (regardless of the parties thereto) to which the document may be relevant; (ii) nothing in this sub-clause shall be construed as imposing upon the Trustee or the Investment Advisor or the Registrar any liability in respect of the destruction of any document earlier than as aforesaid or in any case where the conditions of proviso (i) above are not fulfilled; and (iii) reference herein to the destruction of any document includes reference to the disposal thereof in any manner.

## **17.8. PLEDGE OF CERTIFICATES**

**17.8.1** Any Certificate Holder/or all joint Certificate Holders may request the Registrar to record a pledge of all or any of his/their Certificates in favour of any third party legally entitled to invest in such Certificates in its own right. The Registrar shall register a pledge on any Certificates in favour of any third party with the specific authority of the Investment Advisor.

**17.8.2** The pledge once registered shall be removed by the authority of the party in whose favour the pledge has been registered or through an order of a competent court. Neither the Trustee, nor the Investment Advisor, nor the Registrar, shall be liable for ensuring the validity of any such pledge. The disbursement of any loan or undertaking of any obligation against the constitution of such pledge by any party shall be at the entire discretion of such party and neither the Trustee nor the Investment Advisor nor the Registrar assume any responsibility or liability in this matter.

**17.8.3** Payments of dividends, the issue of bonus Certificates or payment of proceeds in event of termination of the Fund, on Certificates under pledge shall be made to the pledge holder for the account of the Certificate Holder.

**17.8.4** In case of pledge of Certificates, which are book entry securities, the rules and regulations of the CDC shall apply.

## **18. MISCELLANEOUS**

### **18.1. DEPOSITORY ARRANGEMENTS**

**18.1.1** The Certificates, if eligible and deposited with a depository, shall be subject to the terms and conditions prescribed by the depository and any inconsistent terms and conditions applicable to the Certificates herein, shall not apply.

## **18.2. ARBITRATION**

**18.2.1** In the event of any dispute arising out of this Trust Deed or Offering Document between the Investment Advisor on the one part and the Trustee on the other part, including as to the respective rights and obligations of the Parties hereto, as well as those relating to the interpretation of the terms and conditions of this Trust Deed and/or the Offering Documents, relating to the Scheme, the same shall be referred to arbitration by two arbitrators, one to be appointed by the Investment Advisor and the other to be appointed by the Trustee. In the event of lack of consensus between the two arbitrators, the matter shall be referred to an umpire, to be selected by the two arbitrators before commencement of the reference. The unanimous decision of both the arbitrators, or the decision of the umpire, as the case may be, shall be final and binding upon both the Parties. The arbitrators and the umpire shall be selected from amongst, senior partners of renowned firms of chartered accountants, or senior partners of renowned law firms, or senior bankers or senior members of the Karachi Stock Exchange (Guarantee) Limited, (who may even be the heads of corporate members). The venue of the arbitration shall be Karachi. The arbitration shall be conducted in accordance with the Arbitration Act, 1940 and any modifications or replacement thereof. The investment Advisor and the Trustee inter se, each party, including the Certificate Holders irrevocably submit to the exclusive jurisdiction of courts at Karachi. Arbitration shall be a precondition to any court action. Each Party shall bear its own cost of Arbitration Award.

## **18.3. CONFIDENTIALITY**

The Trustee, the Investment Advisor, the Registrar and the Custodian and every director or officer of the said parties who are in any way engaged in the business of the Trust and all persons employed or engaged by the said parties in connection with the business of the Trust shall observe strict confidentiality in respect of all transactions of the Trust, its Certificate Holders and all matters relating thereto and shall not disclose any information or document which may come to his knowledge or possession in the discharge of his duties except when required to do so in the ordinary course of performance of his duties or by law or if compelled by any court of law or a competent authority.

## **18.4. OTHER**

**18.4.1** Any notice required to be served upon the Certificate Holder shall be deemed to have been duly given if sent by post or courier service to or left at his address as appearing in the Register. Any notice so served by post shall be deemed to have been served on the day following that on which the letter containing the same is posted, and in proving such service it shall be sufficient to prove that such letter was properly addressed, stamped and posted.

**18.4.2** The Trustee or the Investment Advisor shall advertise any such notice in two leading daily newspapers having wide circulation in Pakistan.

**18.4.3** Service of a notice or document on any one of several joint Certificate Holders shall be deemed effective service on the other joint Certificate Holders.

**18.4.4** Any notice or document sent by post or courier service to or left at the registered address of a Certificate Holder shall notwithstanding that such Certificate Holder be then dead or bankrupt and whether or not the Trustee or the Investment Advisor have notice



of his death or bankruptcy be deemed to have been duly served and such service shall be deemed a sufficient service on all persons interested (whether jointly with or as claiming through or under him) in the Certificates concerned.

**18.4.5** A copy of this Deed and of any such supplemental deed shall be made available for inspection at the respective Head Offices of the Trustee and of the Investment Advisor at all times during usual business hours and shall be supplied by the Investment Advisor to any person on application at a charge of fifty (50) Rupees per copy or at such rate as determined from time to time by the Investment Advisor.

**18.4.6** All obligations of either Party which expressly or by their nature survive termination or transfer of this Deed shall continue in full force and effect after the termination or transfer, until they are satisfied by their nature expire.

## **18.5. AUDIT**

**18.5.1** The Investment Advisor shall in consultation with the Trustee appoint as auditors, a firm of chartered accountants who shall be independent of the auditor of the Investment Advisor and the Trustee. The Investment Advisor may at any time, with the concurrence of the Trustee, and shall, if directed by the Commission, remove the Auditors and appoint another Auditor in its place.

**18.5.2** The Auditors shall hold office until transmission of the annual report and accounts but may be re-appointed for up to two consecutive terms of one year each. Thereafter, that the Auditors shall only be eligible for appointment after the lapse of at least one year. The Auditors shall hold office until the liquidation and determination of the proceeds of the Scheme. The following persons shall not qualify to be the Auditors of the Trust:

- (a) A person who is or at any time during the preceding three years was a director, officer or employee of the Investment Advisor or the Trustee.
- (b) A person who is a partner of, or in employment of, a director, officer, employee, or Connected Person of the Investment Advisor or Trustee.
- (c) The spouse of a director of the Investment Advisor or Trustee,
- (d) A person who is indebted to the Investment Advisor or Trustee, and
- (e) A body corporate.

**18.5.3** Appointment of a partnership firm to be the Auditors shall be deemed to be the appointment of all persons who are partners in the firm for the time being.

**18.5.4** The Auditors shall have access to the books, papers, accounts and vouchers of the Trust, whether kept at the office of the Investment Advisor, Trustee, Custodian, Registrar, or elsewhere and shall be entitled to require from the Investment Advisor, the Trustee and their directors, officers and agents such information and explanations as considered necessary for the performance of audit.

**18.5.5** The Trustee shall be entitled to require the Auditors to provide such further reports as may be agreed between the Trustee and the Investment Advisor as may be considered necessary to facilitate the Trustee in issuing the certification required under the Rules.

**18.5.6** The Auditors shall prepare a written report to the Certificate Holders on the account and books of accounts of the Trust and the balance sheet and income and

expenditure account and on every other document forming part of the balance sheet and income and expenditure account, including notes, statements or schedules appended thereto.

**18.5.7** The contents of the Auditors report shall be as required in the Rules.

**18.5.8** The Investment Advisor shall:

(a) within four months of closing of the Accounting Period, prepare and transmit the annual report together with a copy of the balance sheet, income and expenditure account together with the Auditor's report for the Accounting Period to the Commission and Certificate Holders in accordance with the Rules together with the statement stating the following information:

- i. Total number of Unit Holders: and
- ii. Particulars of the pertinent personnel (senior executives, research and other) of the Investment Advisor

(b) within two months after the close of the first half of its year of account, prepare and transmit to the Certificate Holders and the Commission a profit and loss account for and balance sheet as at the end of that half year, whether audited or otherwise, in accordance with the Rules.

(c) within a month after the close of the first and the third quarter, prepare and transmit quarterly report to the Certificate Holders, the Investment Advisor, the Trustee and the Commission, along with a profit and loss account and balance sheet as at the end of the pertinent quarter, whether audited or otherwise, in accordance with the Rules.

(d) Provided that transmission of quarterly, half-yearly and annual reports to Certificate Holders may be through electronic means i.e. through the website of the Investment Advisor as allowed by the Commission.

## **19. DEFINITIONS**

Unless the context requires otherwise the following words or expressions shall have the meaning respectively assigned to them viz.:

**19.1. "Accounting Date"** means the date 30th June in each year and any interim dates at which the financial statements of the Trust are drawn up. Provided, however, that the Investment Advisor may, with the consent of the Trustee and after obtaining approval of the SECP and the Commissioner of Income Tax, change such date to any other date.

**19.2. "Accounting Period"** means a period ending on and including an Accounting Date and commencing (in case of the first such period) on the date on which the Fund Property is first paid or transferred to the Trustee and (in any other case) from the end of the preceding Accounting Period

**19.3. "Auditors"** means, such audit firm that is appointed by the Investment Advisor with the consent of the Trustee as the auditor of the Scheme/Fund in accordance with the provisions of this Deed and the NBFC Rules;

**19.4. “Authorized Investment” means any of the following:**

**For the Capital Protection Segment(s):**

- (a) Pakistan Investment Bonds and other Government Securities;**
- (b) Bank instruments including certificate of deposits or term deposits provided the bank concerned has at least an AA rating;**
- (c) TFCs and other fixed rate instruments having at least an AA rating;**
- (d) Structured zero coupon bonds based on Pakistan Investment Bonds or TFCs and other redeemable capital having at least an AA rating;**
- (e) Money market instruments including, government T-bills, certificates of deposit and bankers’ acceptances, inter-bank transactions, spread transactions, reverse REPOs transactions against money market and fixed income securities including CFS Transactions subject to relevant Commission approvals. Spread transactions are transactions in which the Fund simultaneously buys a security on the ready market and sells it on the future market to earn a spread.**

**For the Investment Segment(s):**

- (f) Securities, bonds, debentures, warrants (subject to Commission approval), options (subject to Commission approval), participation term certificates, modaraba certificates, musharika certificates, term finance certificates, convertible bonds and other asset backed or mortgage backed securities. Such investments shall include those for ready settlement as well as those for future settlement.**
- (g) Index options traded on exchanges outside Pakistan as specifically and separately approved by the concerned regulatory authority;**
- (h) Over-the-counter derivatives issued by financial institutions in respect of stock indexes outside Pakistan provided that the total possible loss on these derivatives is equal to the derivative price or deposit and the Fund is not exposed to additional loss;**
- (i) Mutual funds, whether domestic or international, having an appropriate risk/return profile subject to approval of the Commission.**
- (j) Money market instruments including, government T-bills, certificates of deposit and bankers’ acceptances, inter-bank transactions, spread transactions, reverse REPOs transactions against money market and fixed income securities including CFS Transactions subject to relevant Commission approvals. Spread transactions are transactions in which the Fund simultaneously buys a security on the ready market and sells it on the future market to earn a spread;**
- (k) Deposits with banks or financial institutions, including deposits in currencies other than the Pakistan Rupee, as approved by the concerned regulators;**
- (l) Futures and commodities after obtaining separate written approval of the Commission.**

(m) Any other equity or debt security in respect of which permission to deal on a stock exchange is effective subject to any appropriate investment grading or as per the criteria that may be laid down by SECP;

19.5. "Bank" means a scheduled commercial bank as defined under the State Bank of Pakistan Act, 1956 and licensed to carry on banking business and shall include a bank incorporated outside Pakistan licensed to carry on banking business as scheduled commercial bank;

19.6. "Bank Accounts" means those accounts opened and maintained with Bank(s) in the name of Trustee of the Fund, the beneficial ownership in which shall vest in the Certificate Holders.

19.7. "Certificate" means one undivided share in UCPF I.

19.8. "Certificate of holding" means the definitive certificate acknowledging the number of Certificates of the par value of Rs.10/ registered in the name of the Holder issued at the request of the Holder pursuant to the provisions of the Trust Deed.

19.9. "Certificate Holder" means a Holder of one or more Certificates in the Fund whether or not definitive Certificates have been issued representing such Certificates, acknowledging the number of Certificates registered in the name of the Holder with Registrar or CDC.

19.10. "Commission" or "SECP" means the Securities and Exchange Commission of Pakistan set up under Securities and Exchange Commission of Pakistan Act, 1997 and shall include its successor.

19.11. "Connected Person" shall have the same meaning as in the Rules.

19.12. "Constitutive Document" means this Trust Deed which is the principal Document governing the formation management or operation of the Fund and all related material agreements.

19.13. "Custodian" means a bank, the central depository company, or any other depository for the time being appointed by the Trustee with the approval of the Investment Advisor to hold and protect the Fund Property or any part thereof as custodian on behalf of the Trustee; the Trustee may also itself provide custodial services for the Fund with the approval of the Investment Advisor at competitive terms, as part of the normal line of its business.

19.14. "Distributor" means Company (ies), Firms or Bank(s) appointed by the Investment Advisor to assist it in placement of Certificates through private placement and/or Initial Offer. The name of the Distributor can be joined with the name of the Fund to fully identify it.

19.15. "Distribution Account" means the account (which may be a current, saving or deposit account) maintained by the Trustee with a Bank (having an investment grade rating, or in the absence of a rating, with the approval of the Commission) as directed by the Investment Advisor in which the amount required for distribution of income to the Unit Holders shall be transferred. Interest, income or profit, if any, including those

accruing on unclaimed dividends, in this account shall be transferred to the main account of the Fund from time to time, as part of the Fund Property for the benefit of the Unit Holders.

**19.16. “Duties and Charges”** means in relation to any particular transaction or dealing all stamp and other duties, taxes, Government charges, transfer fees, registration fee and other duties and charges in connection with the offer, issue, sale, transfer, sale, transfer, cancellation or replacement of a Certificate or otherwise which may have become or may be payable in respect of or prior to or upon the occasion of the transaction or dealing in respect of which such duties and charges are payable.

**19.17. “Formation Costs”** means all preliminary and floatation expenses of UCPF I including expenses in connection with authorization of the Scheme and its application fee payable to SECP, execution and registration of the Constitutive Document, issue, legal costs, printing, circulation and publication of the Offering Document, announcements describing the Fund inviting investments therein and all expenses incurred during the period leading up to the initial issue of Certificates; provided, however that the formation costs will not exceed the amount to be specified in the Offering Document of the Fund Any income earned from Fund Property before the finalization of the Initial Offer will be paid-out to the Investment Advisor and deducted from Formation Cost.

**19.18. “Fund Property”** means the aggregate proceeds of the offer and sale of Certificates of the Fund, all after deducting there from or providing there against any expenses chargeable to the Fund; and includes the Investment and all income, profit and other benefits arising there from and all cash and other assets movable or immovable and property of every description for the time being held or deemed to be held upon trust by the Trustee for the benefit of the Certificate Holders pursuant to the Trust Deed but does not include any amount standing to the credit of the Distribution Account.

**19.19. “Initial Offering”** means the offering of Certificates to the general public by the Investment Advisor/Distributor

**19.20. “Investment”** means any Authorized Investment forming part of the Fund Property.

**19.21. “Maturity”** means the period ending three (3) years after the last day of the Public Offering;

**19.22. “Net Assets”** means the excess of assets over liabilities of the Fund, such excess being computed in the manner specified in this Deed and the Rules.

**19.23. “Net Asset Value”** means per Certificate Value of the Fund arrived at by dividing the Net Assets by the number of Certificates outstanding.

**19.24. “Nominal Exposure”** means, with respect to a derivative the amount of investment that would need to be made by the Fund so that the gain/loss on the investment equals the gain/loss on the derivative.

**19.25. “Offering Document”** means the prospectus, advertisements or other documents (approved by the Commission) for the Fund, which contain the investment and all other

information in respect of UCPF I, as required by the Rules and is calculated to invite the public to invest in UCPF I.

**19.26. “Ordinance” means Companies Ordinance, 1984.**

**19.27. “Pre-IPO Investor(s)” means the investor(s) that have subscribed to the Certificates of the Fund before the Initial Offering of the Fund.**

**19.28. “Par Value” means the initial offer price of a Certificate that shall be Rs. 10/- (Rupees Ten Only).**

**19.29. “Personal Law” means the law of inheritance and succession as applicable to the individual Certificate holder.**

**19.30. “Register” means the Register of the Holders kept pursuant to the Rules and the Trust Deed.**

**19.31. “Registrar” means an organization that the Investment Advisor shall appoint for performing the Registrar Functions and may include a department of the Investment Advisor.**

**19.32. “Registrar Functions” means the functions in respect of the Fund, with regard to:**

- (a) Maintaining the Register;**
- (b) Processing requests for issue, transfer and transmission of Certificates and requests for recording of lien or for recording of changes in data with regard to the Certificate Holders**
- (c) Dispatching income distribution warrants and bank transfer intimations;**
- (d) Maintaining record of Lien/Pledge/Charge; and**
- (e) (Keeping record of change of the addresses/other particulars of the Certificate Holders.**

**19.33. “Rules” means the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003, as amended from time to time.**

**19.34. “Segment(s)” means a part of the Scheme that has a different investment objective and is thus kept separate and includes given limited liability and means Capital Protection Segment whose objective is to provide the Certificate Holders with a minimum protection of capital given in the Offering Document and Investment Segment whose objective is to provide Certificate Holders with a return, if any, over the capital protection and will be invested in high risk/return investments as provided in the Offering Document.**

**19.35. “Stock Exchange” means Karachi Stock Exchange, Lahore Stock Exchange and Islamabad Stock Exchange or any other stock exchange registered under the Securities and Exchange Ordinance, 1969.**

**19.36. “Trust” means closed-end scheme, Scheme, or Fund.**

**19.37. “UBL Capital Protected Fund”, “Fund”, “UCPF I”, “Trust” or “Scheme” or “Closed-end Scheme” means the Trust constituted by this Trust Deed.**

Words and expressions used but not defined herein shall have the meanings assigned to them in the Rules. Words importing persons include corporations and companies, words importing the masculine gender include the feminine gender, words importing singular include plural and words "written" or "in writing" include printing, engraving, lithography, or other means of visible reproduction.

**20. SIGNATURES**

IN WITNESS WHEREOF THIS DEED has been executed on the day and year first above written.

The Common Seal of UBL Fund Managers Limited (UBL Funds) was hereunto affixed in the presence of

Seal

(1) \_\_\_\_\_  
Mr. \_\_\_\_\_

(2) \_\_\_\_\_  
Mr. \_\_\_\_\_

The Common Seal of Muslim Commercial Financial Services (Pvt.) (The Trustee) was hereunto affixed in the presence of

Seal

(1) \_\_\_\_\_  
Mr. \_\_\_\_\_

(2) \_\_\_\_\_  
Mr. \_\_\_\_\_

Witness:

(1) \_\_\_\_\_  
Name \_\_\_\_\_  
Father's Name \_\_\_\_\_  
CNIC No. \_\_\_\_\_

(2) \_\_\_\_\_  
Name \_\_\_\_\_  
Father's Name \_\_\_\_\_  
CNIC No. \_\_\_\_\_

**Annexure A**

**Copy of SECP letter No NBFC-II/20/UBLFM/AMC & IA/04/2007 dated May 29, 2007 whereby the Investment Advisor is registered as an Investment Advisor under the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003**



## **Annexure B**

**Copy of SECP letter No SEC/NBFC-II/JD I/UCGF/842/2007 dated November 8, 2007 authorizing the Investment Advisor to constitute the closed-end-scheme under the name of UBL Capital Protected Fund - I.**

## Annexure C

### Tariff Structure for Trusteeship of Closed-end Scheme.

The Trustee remuneration shall consist of reimbursement of actual custodial expenses/charges plus the following tariff:

<b><u>MUSLIM COMMERCIAL FINANCIAL SERVICES</u></b>	
<b><u>[PVT] LIMITED</u></b>	
<b><u>Schedule of Charges for UBL Capital Guarantee Product Fund</u></b>	
<b>Trustee Charges</b>	
● On Net Assets up to Rs. 250 million	0.20% per annum of the Net Assets.
● On Net Asset exceeding Rs. 250 million to Rs. 500 million	Rs. 0.5 million plus 0.15% per annum of the Net Asset exceeding Rs.250 million
● On Net Asset exceeding Rs. 500 million to Rs. 2,000 million	Rs. 0.875 million plus 0.08% per annum of the amount exceeding Rs.500 million
● On Net Asset exceeding Rs. 2,000 million to Rs. 5,000 million	Rs. 2.075 million plus 0.06% per annum of the amount exceeding Rs.2,000 million
● Over Net Asset Rs. 5,000 million	Rs. 3.875 million plus 0.05% per annum of the amount exceeding Rs.5,000 million
<b>CDC Eligible and Physical Securities</b>	
● Initial Deposit Fee (One time charge)	Actual CDC Charges [ On pass through basis ]
● Transaction / Settlement Fee [Shares, TFC, Wapda Bonds, Units]	
● Custody / Position Fee. [Shares, TFC, Wapda Bonds, Units]	
● Withdrawal Fee.	
● Participation Fee. (One time charge)	Rs. 25,000.00
● Documentation Fee.(One time charge)	At Actual
● Stamp Duty	At Actual
<b><u>All charges to be billed on a monthly basis.</u></b>	

#### **Annexure D**

**Copy of letter No. SEC/NBFC-JD-I/UCPF/2007-841 dated November 8, 2007 stating that the Commission approves appointment of Muslim Commercial Financial Services (Pvt.) Limited as Trustee of the Fund.**