

19G. Form of Irrevocable Bank Guarantee.-

An irrevocable Bank Guarantee shall be furnished in all cases, unless specifically exempted by the Competent Authority of Pakistan, on the format as prescribed as under:

To

The President of Pakistan acting through and represented by
the Commissioner Income Tax [Enforcement],
LTU / RTO
Government of Pakistan
City

Bank Guarantee

Bank Guarantee as security for keeping the recovery of Tax Demand in abeyance during the pendency of the proceedings of Mutual Agreement Procedure (MAP) under the Agreement for Avoidance of Double Taxation

This Deed of Bank Guarantee made this day of, 20....., by [INSERT: Name and Address of Guaranteeing Bank] (hereinafter called "the Bank", which expression shall, unless excluded by or repugnant to the context, include its successors and assignees) to the President of Pakistan acting through and represented by the Commissioner Income Tax (Enforcement) [INSERT: LTU/RTO], Government of Pakistan, [INSERT: City], (hereinafter called "the Government").

WHEREAS the Government has agreed that [INSERT: Name, Address, and National Tax Number of the Taxpayer] (hereinafter called "the Taxpayer", which expression shall, unless excluded by or repugnant to the context, include its successors and assignees) shall furnish a Bank Guarantee in respect of a demand of Rs. [INSERT: Amount of Tax in dispute] for the tax year(s), in lieu of which the recovery of any part of such demand shall not be enforced until thirty days after the Commissioner receives written notice of the MAP Agreement arrived at between the Competent Authorities of the Governments of Pakistan and the [INSERT: Name of the Country]

AND WHEREAS THE Bank has, at the request of the Taxpayer, agreed to execute these presents:

NOW THEREFORE THIS DEED WITNESSES AS FOLLOWS:

In consideration of the Government agreeing to treat the Taxpayer as not in default for Rs. [INSERT: Amount of Tax in dispute, plus interest specified in paragraph 1 below] for the tax year(s).....,

1. The Bank irrevocably guarantees and undertakes, for the term provided in paragraph 2 that the Bank shall indemnify and keep indemnified the Government to the extent of the said sum of Rs [INSERT: Amount of Tax in dispute] (Rupees [written text] and the recurring additional tax accruing at the

rate specified in the Ordinance. The Bank further guarantees and undertakes that on advice from the Government that the Taxpayer has failed and neglected to observe any of its obligations to the Government with regard to the terms and conditions of any agreements between the Taxpayer and the Government or between the Competent Authority of Pakistan and that of the country on whose request MAP proceedings were initiated that may underlie or subsequently cover and encompass this Bank Guarantee, the decision of the Government as to whether any amount should be paid out by the Bank to the Government hereunder shall be final and binding.

2. The Bank further agrees that the guarantee herein contained shall remain in full force and effect for a period of one year from the date hereof or till [INSERT: *date*]; and if the Government, in case the MAP proceedings are not finalized till the aforementioned date, does not receive a renewal of this Bank Guarantee or a substitute Bank Guarantee for the amounts of tax and interest in dispute prior to thirty days before the expiration date of this Bank Guarantee, the Government may instruct the Bank to pay the guaranteed amounts prior to expiration of the Bank Guarantee.

Provided that, notwithstanding any other thing contained herein, the liabilities of the Bank shall be limited to the maximum of the guaranteed amount of Rs. [INSERT: *Amount of tax in dispute*] (Rupees [INSERT: *written text*]), as increased by interest pursuant to paragraph 1 during the term of this Bank Guarantee; and unless a claim in writing is lodged with the Bank, or action to enforce the claim under the guarantee is filed or initiated against the Bank, within six months from the date of expiry of the guarantee period fixed hereunder or where such period is extended under the terms of this guarantee from the date of such extended period as the case may be, all the rights of the Government under this guarantee shall be forfeited and the Bank shall be relieved and discharged from liabilities hereunder.

3. The obligations of the Bank to the Government under this Bank Guarantee will terminate on issuance of the Notification by the Commissioner drawing down upon the bank guarantee upon the occurrence of any of the following; namely:-
 - (i) the payment by the Bank or the Taxpayer to the Government of the guaranteed amounts;
 - (ii) the payment by the taxpayer to the Government of all amounts owed, as agreed to by the Competent Authorities in a MAP Agreement;
 - (iii) a MAP Agreement by the Competent Authorities proclaiming that the government will not seek to recover any part of the previously-demanded amount; or
 - (iv) The taxpayer furnishes to the Government a fresh security from the Bank, or a similar security from another Bank.
4. The guarantee herein contained shall not be discharged or affected by any

change in the constitution either of the taxpayer or of the Bank.

5. The Government shall have the fullest liberty without affecting the guarantee to postpone for any time, or from time to time, any of the powers exercisable by it against the taxpayer, or to either enforce or forbear any of the terms and conditions under this guarantee or under the Ordinance and the rules, and the Bank shall not be released from its liabilities under this guarantee by any exercise by the government of the liberty with reference to the matter aforesaid or by reasons of time being given to the taxpayer, or by any other act of forbearance or enforcement on the part of the Government, or by any indulgence by the Government to the taxpayer, or by any other matter or thing whatsoever which under the law relating to sureties would but for these provision have the effect of so releasing the Bank from its such liability.
6. The Bank hereby agrees and undertakes that any claim which the Bank may have against the taxpayer shall be subject and subordinate to the prior payment and performance in full of all the obligations of the Bank hereunder and the Bank will not without prior written consent of the Government exercise any legal rights or remedies of any kind in respect of any such payment or performance so long as the obligations of the Bank hereunder remain owing and outstanding, regardless of the insolvency, liquidation or bankruptcy of the taxpayer or otherwise howsoever. The Bank will not counter claim or set off against its liabilities to the Government hereunder any sum outstanding to the credit of the Government with it.
7. This Bank Guarantee shall be governed by and construed in accordance with the laws of the Islamic Republic of Pakistan (without regard to its principles of conflict of laws).
8. The Bank undertakes not to revoke this guarantee during its currency except with the prior consent of the Government in writing.
9. Notwithstanding anything hereinbefore contained liability of the Bank under this guarantee is restricted to Rs. [INSERT: *Amount of Tax in dispute, plus interest specified in paragraph 1 above*] (Rupees [*written text*]) and is valid for the period(s) described in paragraph 2 above. Unless a demand or claim under this guarantee is lodged with the Bank on or before [INSERT: *date, as established in paragraph 2 above*], all rights of the Government under the said guarantee shall be forfeited and the Bank shall be relieved and discharged from all liabilities thereunder whether or not this document shall have been returned to the Bank.

IN WITNESS WHEREOF, the Bank, through its duly authorized representative, has set its hand stamp on thisday ofat

i. Witness
Signature

Name.....

For and on behalf of the Bank
Signature.....
Name

Designation

ii. Witness
Signature

Attorney per power of Attorney No...
Date.....

Name.....