



USAID FIRMS PROJECT

Agricultural Marketing Legal Framework

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March 5, 2012

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Abstract:

This report is the outcome of consultancy for drafting the subordinate legislation (rules) for Province of Sindh under the reform law, the Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Act, 2010, and the draft Punjab law, the Punjab Agricultural Produce Marketing (Development and Modernization) Act, 2012.

The first part (Sections 1-4) is theoretical in nature, while the second (Annexes A-F) contains the practical outcomes of the consultancy, i.e., the proposed rules

Thus, the report mainly focuses on the subordinate legislation in the Province of Sindh drafted under Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Act, 2010. A similar activity under the draft Punjab law, the Punjab Agricultural Produce Marketing (Development and Modernization) Act, 2012, could not be materialized because the draft law has not seen the light of the day. The main provisions of the Sindh Act are briefly explained to put the subject of subordinate legislation in the proper context of the framework of the Act.

The report briefly explains the contents of the rules framed by the consultant, along with the background and mandate of all these instruments. These rules relate to: valuation of assets and liabilities of notified markets; constitution, functions and working of the regulatory Board; auction of agricultural produce in public and private markets; establishment and working of private markets; management of public markets including the model Memorandum and Articles of Association for the market companies as successors of the notified markets; registration of both public and private markets, and dispute resolution with relation to these subjects.

The full text of these rules is given in the ANNEXES A, B, C, D, E and F, which are attached to the report.

Abbreviations/Acronyms

ADB	Asian Development Bank
ARCP	Agricultural Research Council of Pakistan
CNC	Computer Numerical Control
DR	Defect Rate
FOH	Factory Over Head
GDP	Gross Domestic Product
IE	Industrial Engineering
KPI	Key Performance Indicator
MLT	Manufacturing Lead Time
OPR	Operator
OT	Operation Time
PAMIMA	Pakistan Agricultural Machinery & Implements Manufacturers Association
PFA	Process Flow Analysis
PKR	Pak Rupees
R&D	Research and Development
SME	Small and Medium Enterprise
SMED	Single Minute Exchange of Dies
SMV	Standard Minute Value
SOW	Scope of Work
SAM	Standard Allowed Minute
Sq.ft	Square Feet
TEVTA	Technical Education & Vocational Training Authority
USAID	United States Agency for International Development
VMS	Visual Management System
WIP	Work in Process

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Executive Summary

1. The assignment related to drafting the subordinate legislation (rules) for Province of Sindh under the reform law, the Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Act, 2010, and the draft Punjab law, the Punjab Agricultural Produce Marketing (Development and Modernization) Act, 2012.

1.1. The first part (*Sections 1-4*) is theoretical in nature, while the second part (Annexes A-F) contains the practical outcomes.

1.2. *Section 1* outlines the preliminaries such as the background of consultancy, the TOR of consultant, list of the relevant materials selected for review and the methodology of the work.

2. Section 2 focuses on the subordinate legislation in the Province of Sindh. After briefly explaining the provisions of the Act, it gives some details of the following rules drafted under Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Act, 2010.

2.1. The Reforms Act enjoins that all public markets be transferred into market companies to be established under Companies Ordinance 1984. Evaluation of assets and liabilities is a prerequisite for this transformation. These matters are to be ultimately dealt with by an impartial entity (Board) constituted under the rules, but in order to utilize the time taken in the formation and activation of the Board, a high level committee has been proposed to oversee the process of evaluation of assets and liabilities during this period.

2.2. Independent Board has been provided under the rules. The Board comprising the major stakeholders is mandated to act as a buffer between the Government and the APM marketing in the Province. It is quite autonomous with some Government stewardship role. The Board has been entrusted with the transformation of notified markets into market companies, supervision of the working of public as well as private markets, scrutinizing the application for establishing and operating private markets, processing the registration cases, promoting the agricultural produce marketing and related matters.

2.3. The rules relating to management of the public markets (transferred into market companies) mainly deal with the Memorandum of Association and Articles of Association of then market companies. These instruments faithfully incorporate the provision of the Act that these companies shall be single purpose (agricultural produce market) companies, having seven members of Board of Directors, with a Chairman elected by the members from amongst themselves of whereas report growers three the market functions and one nominees of the Government. The Government shall have ownership of all the shares of the markets company which cannot be alienated without the approval of the Government. Nor can the market company be dissolved without the consent of the Government.

2.4. Private Markets are allowed under the Act to be established in the manner provided by the rules. The private market rules reiterate this dispensation provided by the Act, and, additionally some of the activities of agricultural marketing which are expressly as well as impliedly allowed by the Act. These include the grouser markets, consumer markets, value addition units, (grading, packing and presentation) of agricultural produce. These rules provide for the establishment of these markets, qualifications and disqualifications of the private market operators, requirements to be fulfilled by the applicants, infrastructure, location and related

matters. Necessary safeguards are provided to protect the interests of the investors and other stakeholders.

2.5. Auction is mandatory in the private markets as well as the public markets, though the consultants feel that it is a step backward in the reforms process. Nonetheless in order meet the requirements of the Act, a system of auction has been provided in the rules. But painstaking effort was made to embrocate the adverse effects of auction. Accordingly, the auction rules are quite elaborate and cater for foreseeable situations and issues in abundant details. The rules provide for registration of auctioneers, who fulfill the requisite qualifications, by a Registration Officer. An Auction Committee has been provided to supervise the working of the system. Detailed process is given for the three main stages of auction, i.e. pre bidding, bidding and post bidding operations. Efficient disputes resolution mechanism has also been made available in the rules.

2.6. The registration of all private market and public market with the Government is mandatory under the Act. The rules provide for the requirements and procedure of registration, as well as, suspension cancellation, and refusal of registration. The processing of application has been entrusted to the Board which has to follow a time bound schedule and transparent procedure. Appeal against the decision of the Board may be filled with the Government. The decisions of the Government, except those made in appeal, are subject to appeal before an independent tribunal comprising a retired judge of the High Court.

2.7. The section 2 ends with the need and proposals for modification of the Reform Act, 2010, to incorporate the best international practices in agricultural produce marketing. The reason for such a proposal at this stage is that the FIRMS consultants came on board at a time when the Bill to enact the new Act had already been tabled in the Sindh Assembly and was put into fast track process of suspending the Rules of Business of the Assembly. The modifications suggested relate to mode of trading, appointment of officers and employees, financial sustainability, independent regulatory entity, stewardship role of Government, diversification of markets, effective alternative dispute resolution (ADR), environment protection, consumer protection, farmer friendly marketing regime, research and development, facilitation / encouragement of collective marketing and modification of definitions necessitated by this revision. It has been further suggested that process of transformation of notified markets into market companies be taken up without losing any further time.

3. Section 3 deals with the Province of Punjab. The following are the main provisions of this section.

3.1. Starts with highlighting the weaknesses of the existing legal framework, which include, the virtual absence of private sector, inherent lack of accountability, absence of appropriate standards, no quality control with relation to food safety, grading, packing and labeling, monopoly of the market committee through licensing system, limited growers' choice, price distortions, no nexus of fees with the services, lack of alternative marketing channels, absence of value chain systems, manipulation by the middle man, etc.

3.2. Section 3 further explains the impact of these weaknesses, such as, poor quality of produce, inefficiencies in the markets, malpractices by the dealers, monopolistic regime/ lack of competition, loss to growers and consumers (30 to 50 %) and loss of US\$ 2 Billion in revenue.

3.3. It further highlights that the serious efforts of the Government of Punjab has resulted in preparation of a draft Act, the Punjab Agricultural Produce Marketing (Development and

Modernization) Act on modern lines, such as international trade based philosophy, freedom of marketing, enabling environment, diversification of marketing / alternative channels, participation of private sector, free competition and mild regulatory regime, licensing substituted by registration, autonomous regulatory Board, participation of stakeholders, redefined / reduced Government role, alternative dispute resolution (ADR), multitier/ flexible legal framework, mild enforcement provisions, redress of grievances through appeal to independent forum, smooth transition, least displacement, Removal of difficulties ,etc.

3.4. There is candid admission that the consultants' role is now limited to advocacy of the reform process and developing subordinate legislation after enactment of proposed law. Moreover, during the interim period, the consultants have assisted, though with some reservation, the Punjab Government in amendments in the Punjab agricultural Produce Markets (General) rules, 1979. These amendments cater for, enhanced incentives in new markets established by the Market Committees under rule 67 of these rules, and, establishment of Private Markets under a new rule (67- A).

4. Section 4 gives the conclusions of the work, separately, for the Province of Sindh and the Punjab along with suggestions for future course of action for them.

4.1. The conclusion for Sindh Province is that the Government can easily start the process and take first step, i.e., valuation of assets and liabilities of the notified markets under the proposed rules, that positive results are likely to come out in due course of time, and that, it is possible to establish private markets in the Province, with the proposed rules.

4.2.1 For Punjab, the report conclude that the proposed law is quite modern as it is based on best international practices and most of the stakeholders, including the Provincial Government have approved the proposed law at different levels. As the reformation of the legal framework is awaiting the final step of presenting the proposed law before the cabinet and the Provincial Assembly, it needs to be expedited by the political leadership of the Province.

1.0 Introduction

Pakistan is an agricultural country. Agriculture plays a very important role in its economy, particularly in the Provinces of Punjab and Sindh. However, the potential of these provinces has not been fully exploited due to defective legal framework of agricultural business. The institutional framework of agricultural produce marketing is based on colonial legislation in all the Provinces. Baluchistan, Punjab, KPK have more or less re enacted their laws but not for the purpose of reforms but only due to legal compulsions. Recently, the Province of Punjab and Sindh have undertaken initiatives to bring about the much needed reforms in the agricultural produce marketing.

The Government of Punjab made a request to USAID to help the Province in reforming the agricultural produce marketing in the Province. Accordingly, the FIRM consultants, in consultation with the Government and other stakeholders, prepared a policy framework and drafted a modern statute to provide for institutional framework compatible with the needs of society and the prevalent best international practices. The draft law, the Punjab Agricultural Produce Marketing (Development and Modernization) Act, 2011, has been approved in principle at the highest level and a Committee of the Cabinet has also reviewed the draft and generally agreed with its provisions.

The Province of Sindh had also requested USAID to help the Province in modernization of agricultural produce marketing, though a Bill for a reformed law had already been submitted to the Provincial Assembly. Therefore, in case of Sindh, the FIRMS Consultant were not in a position to give any input in the development of new law as the Bill was approved by the Assembly through fast track procedure and enacted as the Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Act, 2010 ("2010 Reform Act"). However, since many important aspects had been left by Act to be dealt with through subordinate legislation, some meaningful contribution was possible even after the enactment of the law.

Hence, this consultancy, meant to assist the Province of Sindh in developing subordinate legislation under the newly enacted law. In case of Punjab, the process of enacting the new law has been somewhat delayed, therefore, the Consultants' role has been limited to assisting the Government in reforms advocacy and developing the subordinate legislation, for establishing private markets, under the existing law, the Punjab Agricultural Produce Markets Ordinance, 1978.

1.1 Objective of the Consultancy:

The objective of this consultancy is to draft international best practice agricultural subsidiary legislation that makes the reform objectives of the parent Acts achievable and strengthens the institutional framework of agricultural marketing.

1.2 Methodology:

The Consultancy involved multifarious activities, which include,

- Research, i.e., the study of the available material, particularly, the new laws /draft laws along with the earlier laws and rules framed under them.
- Consultation with the Governments of Punjab and Sindh to assess the needs and extent of consultancy support.
- In-house discussions on issues relating to the subsidiary legislation
- Drafting the subordinate legislation (Rules) for the Provinces
- Consultation with the stakeholders on the draft rules
- Review of Rules in the light of the consultation with the stakeholders.
- Final drafting of the Rules.

1.3 Review of Literature:

The Consultant went through a large volume of literature related to fully understanding the work specified under the Consultancy, inter alia, the following,

- Agricultural produce markets policies and laws of at least two nations recognized internationally as being the most progressive in this regard.
- Agricultural Produce Markets Act, 1939
- Punjab Agricultural Produce Markets Ordinance 1978
- Punjab Agricultural Produce Markets (General) Rules, 1979
- Draft Punjab law on agricultural produce markets 2007
- Draft Punjab Agricultural Produce Marketing (Development & Modernization) Act
- Sindh Agricultural Produce Markets Act 1939
- Sindh Agricultural Produce Markets Rules, 1940
- Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Act
- USAID's Agricultural Marketing Policy Framework, Final Report, (18 June 2010)
- USAID's Rapid Market Appraisal, Final Report (23 June 2010)
- USAID'S Agricultural Marketing Legal Framework, Final Report, (20 August 2010)
- Agriculture marketing study by A.F Ferguson & Co.

1.4 Consultations with stakeholders

The nature of consultancy required wide ranging consultation, therefore, very extensive and intensive interaction with various stakeholders became salient feature of this assignment. Apart from the senior officers of the Agriculture Departments of Punjab and Sindh, wide ranging discussions took place at different levels.

Frequent in-house meetings, consultations and discussions were held with the BEE Team Leader, Mr. Suleman Ghani and Azim Azfar, who made valuable contributions and played a very vital role in every aspect of the consultancy.

2.0 Province of Sindh

2.1 General:

The Agricultural Produce Markets Act, 1939, a colonial law, remained in force, with some amendments, till June 2010, when the Sindh Assembly passed a new law, Sindh Wholesale Agricultural Markets (Development and Regularization) Act, 2010. This Act is a clear indication of change in colonial mindset as it abandons the concept of Notified Areas and Market Committees and allows direct marketing as well as private markets. It further provides for converting the existing public markets into private market companies within three years transition period.

2.2 Salient features of Reform Act 2010:

The salient features of new law are highlighted in the following paragraphs.

- The Market Committees will be dissolved in a phased manner within the transition period of three years.
- The existing agricultural produce markets established under the Agricultural Produce Markets Act, 1939, will be gradually converted into market companies working under the Companies Ordinance 1984, thus introducing corporate structure and operations into the system.
- The Board of Directors of market companies comprises elected members from specified categories, i.e., agriculturists, allottees etc.
- The Act enjoins that the Board of Director shall comprise of 7 directors (three agriculturists, three allottees, one government nominee) having 7 years of experience and that the Chief Executive Officer (CEO) shall be elected by the directors (7) and shall have at least 7 years of experience.
- The management of the market company includes a Chairman of the Board of Directors, a Chief Executive Officer, a Chief Financial Officer, a Secretary, etc. Additionally, the existing employees of the Market Committees will be transferred to these market companies.
- The market companies are required to be financially self sustainable and cater for income generation, though there is express provision for fees.
- The Markets Companies are single purpose companies and cannot conduct any business other than marketing of agricultural produce.
- The Government as well as its subsidiaries s not allowed to open new agricultural produce markets, thus, limiting the role of Government to the existing Notified Markets and providing sufficient space for the private sector to play its all important role.
- There is a no prohibition of the marketing of agricultural produce anywhere in the Province. However, there is a mandatory provisions of auction for both the market companies and the private markets
- The licensing system has been replaced by the time bound registration of the Market Companies and Private Markets.
- Private sector has been allowed to enter the agricultural produce business. This will certainly provide competition, which is essential for the growth and development of the system.

- The scope of business of the private market is not limited to the marketing of agricultural produce, which will allow the large scale super markets to include the agricultural produce marketing in their business.
- The Provincial Government is enjoined to establish an online information service for agricultural marketing within a period of six months, which will bring a lot of advantage to the system.
- The Act provides for a skeleton law, leaving much to the delegated / subordinate legislation at numerous places, which is likely to provide much flexibility in the implementation of reforms,
- The Government's rule making power is subject to the condition of prior publication, soliciting objections and possible modification of the proposed rules. This will not only add transparency in the rule making, but also ensure the participation of the stakeholders in this process.
- APM Act 1939 will remain in force for three years after the promulgation of the proposed law and will stand repealed after that period.

2.3 Subordinate legislation:

As pointed out above, the new law depends much on subordinate legislation, which requires extensive rule making by the Government. Therefore, the present work is primarily focused on subordinate legislation under the 2010 Reform Act. The broad policy parameters developed for Punjab, which are based on best international best practices, have been applied in developing the subordinate legislation for Sindh, though the constraints of the new law had to be kept in mind. The present report has been developed within this framework, through a composite process, involving the following:

- Review of the 2010 Reform Act from the perspective of the present assignment.
- Consultation with stakeholders on policy aspects of subordinate legislation.
- Drafting the rules for Sindh in consultation with the Government.

While some of these rules may be conveniently drafted by an outside consultant, others will require heavy input from the Government. The FIRMS Consultant and the Sindh Agricultural Department agreed that, keeping in review the complexity and technicality involved in some components of subordinate legislation, such as infrastructure standards, financial instruments, salary, pension, etc, of the Market Committee employees, transitional and similar other aspects would be best tackled by the Government through its own system under the Rules of Business. Therefore, it was resolved at the outset that this functional approach will be adopted in the process of drafting the subordinate legislation.

Accordingly, the FIRMS Consultants were asked to concentrate on the rules for following-

- Conversion of Notified Markets into Companies: This would entail making rules for the procedure underpinning valuation of assets and liabilities and model memorandum and articles of association for the market companies.
- Creation of independent regulatory entity: On the recommendation of the FIRMS Project, a regulatory authority for processing registering cases of public and private markets, promoting standards and transformation of the existing public markets into market companies, was accepted for which rules for were to be drafted. Since the Board may take time for setting up, an interim committee was also proposed, which was catered for

in the "valuation of assets and liabilities rules" so that the valuation process was not disturbed.

- Auction: Since auction was deemed a mandatory mode of trading under the 2010 Reform Act, detailed procedure for auction was mandated. FIRMS Project maintains that modes of trading should be kept open and a suitable amendment be made in the 2010 Reform Act.
- Establishment of Private Markets: These rules cater for the setting up of markets by the private sector.
- Management of Notified Markets: As the Notified Markets are to be converted into Market Companies under the Companies Ordinance, 1984, the rules mainly focus on the Memorandum of Association and Articles of Association of these Companies.
- Registration: These rules provide for the criteria regarding registration of both public and private markets.

2.4 Salient features of Sindh subordinate legislation:

2.4.1 Valuation of Assets and Liabilities Rules

- The 2010 Reform Act enjoins that the Notified Markets (existing markets, established under Agricultural Produce Markets Act, 1939), are to be transformed into Market Companies in accordance with the rules framed under the Act. The Act also enjoins that the assets and liabilities of these markets shall be determined by the Chartered Accountants, before the transfer is undertaken by the Government. Accordingly, a draft of the Sindh Agricultural Produce Markets (Valuation of Assets and Liabilities) Rules, 2011, has been proposed by the FIRMS Consultants.

As the Notified Markets are public sector organizations, the proposed rules provide for valuation of their assets and liabilities through a high level official committee. The Committee comprises the Secretary Agriculture (chairman) and six members; Secretary Finance, Secretary Law, a representative each of Local Government and Planning & Development Departments, Project Director of Sindh Growth Revitalization Program and Director General Agriculture Extension (Secretary / Member). The Committee may co-opt any person to attend its meetings, constitute sub committees to aid and advise them and frame its own rules of business. In view of the urgency and the importance of the task, the Committee is required to hold at least one meeting, during the first week of every calendar month, for which the quorum requirement is 50% of the members.

- The main responsibility of the Committee is the speedy, transparent, and economical valuation of the assets and liabilities of the notified markets in accordance with the provisions of the Act and the rules, and must submit a monthly progress report to the Additional Secretary, (Planning & Development) and Minister for Agriculture. The government may give binding directions to the Committee in matters connected with the enforcement of the Act and rules regarding the valuation of the assets and liabilities of the notified markets.
- The rules provide a simple procedure for valuation of assets and liabilities. To begin with, the Committee shall identify the notified markets for which the process of transformation into market companies can be undertaken, determine the qualification,

experience and other terms and conditions of employment of evaluators and make arrangements for the selection of the evaluators in accordance with the procurement rules.

- The evaluators are enjoined to scrutinize all the record of the concerned notified market, collect necessary information from other sources and make a report of the valuation of assets and liabilities of the said market in consultation with the Chairman Market Committee and forward the report to the Director General for his information and comments, who is required to take steps to invite objections to the valuation of assets and liabilities.
- Any person who has any objection to the valuation of assets and liabilities, relating to his rights and liabilities may, within specified time, file objection before the Director General, who shall personally or through another person scrutinize the objections and send the observations within 15 days to the evaluators. The evaluators may modify the valuation in the light of the observations and submit the final report of the valuation of the assets and liabilities of the notified market to the Director General, who shall forward it to the Committee for further necessary action.

2.4.2 Development and Regulation Board Rules:

- On the recommendation of the FIRMS Project, a regulatory authority for registering public and private markets and promoting standards was accepted and rules for this entity been drafted. The Board has been entrusted with various functions – some of which are mandatory and others are conditional on the availability of resources. Since the Board may take time for setting up, an interim committee was also proposed to cater for the valuation of assets and liabilities so that the valuation process was not disturbed. In addition to the mandatory functions, but subject to availability of resources, the Board is responsible for regulating the establishment of private markets and working of all types of wholesale agricultural produce markets.
- The rules enjoin that within a period of six months of the coming into force of these rules, the Government shall appoint the chairman and equal number of official and non official members. The official members are: one nominee each of Agriculture Department, Finance Department and Planning & Development Department, the Director General; Director, Agriculture Marketing Sindh, Hyderabad (Member / Secretary). The non official members, for three years tenure, are three farmers not working as dealers or market functionaries; one person from the corporate sector; one expert from academia in the relevant field; one retailer and one wholesaler. In order to reduce territorial and gender biases, it has been provided that, other than ex-officio members, at least two members shall be women, and not more than one member shall be resident of same district. A person is not eligible to be appointed as member of the Board, if he is: a minor, insolvent or of unsound mind; convicted of an offence involving moral turpitude; disqualified to hold any public office; holding a public office except the ex-officio members.
- The Board is enjoined to hold at least one ordinary meeting during each quarter of a year. The decisions of the Board shall be supported by the majority of the members, with the quorum of at least 50% members including at least four non official members. The Board is empowered to regulate its own procedure.

- The Chairman, to be appointed by the Government, shall or in his absence, a member nominated by the members, preside over the meeting of the Board.. The Director, Agriculture Marketing Sindh, Hyderabad shall also be whole time Secretary of the Board, who shall be the head of the establishment and is enjoined to ensure that the affairs of the Board are carried on in accordance with the provisions of the Act and rules and that the decisions of the Board are faithfully implemented. He shall also perform such other functions as may be prescribed by the rules or delegated to him by the Board.
- The mandatory functions primarily relate to the speedy, transparent, and economical transformation of existing public markets established under the Agricultural Produce Markets Act, 1939 into Market Companies according to the provisions of the 2010 Reform Act, and for this purpose the Board is responsible for all matters , inter alia, connected with: identification of notified markets, phasing and prioritization of the transformation of notified markets and formulation / implementation of policy framework for this purpose; ensuring the transparent valuation of assets and liabilities of notified markets under the Act; formation of the market companies for the notified markets; transfer of assets and liabilities of the notified markets to the market companies; issuance of the shares of the market companies; registration process of market companies under the 2010 Reform Act.
- The Board is also responsible but subject to availability of resources, to: enforce infrastructure standards and other requirements for notified, private, general and specialized markets according to the rules; ensure transparent and reliable auction, disclosure standards, market standards in all wholesale market as prescribed by rules; carry out monitoring, inspection, verification, regulation, correction and confiscation of scales in use in all whole sale markets as prescribed by rules; improve the wholesale agricultural marketing system; regulate the wholesale agricultural marketing information service; promote farmers co-operatives; control unfair marketing practices; promote reliable grading, processing, standardization, packing and marking of agricultural produce; undertake research and publications in wholesale agricultural produce marketing; provide specified market extension services; cater for redress of grievances of public or consumer. A supplementary provision empowers the Board to exercise such powers and take such action which is necessary and proper for the exercise of functions under these rules.
- Due attention has been paid to the financial matters of the Board. The Board is required to establish, maintain and operate the Board Fund, comprising: market registration fees; fee for services including periodic inspections, training, etc; grants made by the Government; loans raised with the consent of the Government; market charge on market transactions fixed by the Government; fine paid under the rules framed by the Government, and all other monies received by the Board. The market companies and private wholesale markets shall contribute up to 2% of income generated by them on levy and collection from agricultural produce transactions in every market towards developmental work undertaken by the Board on the direction of the Government. The Government has been made responsible to provide necessary funds and support for carrying out the functions entrusted to the Board till such the Board becomes self sufficient in this matter.

- There are supplemental provisions which prescribe that the assets and liabilities including staff of Market Committee Pool Fund shall become the assets and liabilities of Board, that all moneys received by the Board shall be credited to the Fund in the account of the Fund to be maintained with a scheduled bank, and that all expenditure incurred by the Board shall be made out of the fund in accordance with the rules. With relation to the provision that assets and liabilities including staff of committee pool fund shall become assets of Board, it is necessary to explain that this was done at insistence of Government to avoid disruptive change.
- The matters related to budget, accounts and audit have also been catered for, albeit, in the traditional manner. The Director Finance of the Board shall prepare annual budget of the Board and present it before the Board in its Budget Meeting for approval, and the accounts of the Board shall be maintained and audited in the manner determined by the Government.
- Although the Board is quite autonomous in its working, yet it is not absolutely independent in all the matters. This is necessary because such unqualified freedom may, particularly, in our socio-politico-administrative culture may lead to ominous consequences. Thus, if the functions of the Board are not being carried on in accordance with the provisions of the Act and rules, the Government may, after due notice and inquiry, declare that the functions of the Board, to such extent as may be specified in the notification, be exercised by the Government or such person or persons as it may direct or assume to itself all or any of the powers vested in or exercisable by the Board and make incidental and consequential provisions as may appear to be necessary or expedient for giving effect to the objects of the notification.
- Furthermore, the Government may also give such directions to the Board which it may deem appropriate in the public interest, or call for any report from the Board on any matter relating to the affairs of the Board, or order an inquiry into the affairs of the Board and, on the basis of the result of the inquiry, may take such action as it deems necessary in the public interest, or terminate the membership of any member other than ex-officio members, who fails to attend three consecutive meetings of the Board except by leave of absence or due to unavoidable circumstances.
- There provision has also been made for appeal against the decisions of the Board. A person aggrieved by the decision of the Board may appeal to the Government within thirty days of the decision of the Board excluding the time spent on obtaining the copy of the impugned order. The Government has been given the option to act as appellate forum or it may establish a Tribunal, comprising a retired judge of the Sind High Court, to decide the appeals against the decisions of the Board. The fees payable on appeals except appeal before the Tribunal constituted are to be credited to the Board Fund
- The Sindh Agricultural Produce Markets (Valuation of Assets & Liabilities) Rules, 2011, which provide for valuation of assets and liabilities of public markets to allow for orderly transformation of the market into market companies under the control of a high level official committee, shall stand repealed on the day of holding of the first meeting of the Board under these rules. The further process will be taken up by the Board according to its rule of business. This is somewhat unique provision, but it was necessary to contrive a modus to utilize the time taken in the establishment and formation of the Board. The Valuation Committee has been provided as an interim arrangement pending the

formation and activation of the Board, which is likely to take at the least six months, that may be fruitfully utilized for valuation of assets and liabilities of some of the existing public markets.

2.4.3 Auction Rules:

- The 2010 Reform Act enjoins that in spite of the requirements of any other law, including any law imposing price control, all agricultural produce intended to be purchased or sold on a wholesale basis at a notified market (existing public market) or a private market shall be purchased by or sold to dealers or other buyers by open auction in such manner as may be prescribed. The FIRM Team had shown serious reservations on mandatory auction in all public and private markets as auction has been described by international expert/FIRM Consultant Dr. Preston Pattie as a backward step since it creates a disconnect between growers and retailers leading to lack of feedback and improvement of farmer practices and standards. Nevertheless, since the 2010 Act mandates this mode, a detailed procedure has been prescribed until suitable amendments can be made for repealing this provision in the reform legislation.
- Accordingly, the Sindh Wholesale Agricultural Produce Markets (Auction) Rules, 2011, have been drafted for this purpose, which make detailed provisions for various aspects of auction. However, these rules are not applicable to a grower who is allowed by the act to directly sell his agricultural produce in such manner and on such terms and conditions as he deems fit and shall not be required to sell such agricultural produce through or at a notified market or a private market or any other market howsoever established.
- The rules provide for an Auction Committee, (hereinafter referred to as Committee) appointed by the Board and comprising a Chairman and two other members, one being a consumer and other a grower. This Committee is responsible for ensuring fair, transparent and efficient auctions of agricultural produce in accordance with the Act and the Rules. Accordingly, the Committee is empowered to perform various functions with relation to the auctions, including: the supervision of the conduct of auctions; fixation of auction hours; allocation of auction area; record checking; registration of auctioneers;
- The auctions are to be conducted on the basis of number, weight or lots of agricultural produce and through registered Auctioneers under the supervision of the Committee, during the hours and in the area of the market fixed by the Committee. The auctioneers are required to keep the accurate record of all auctions showing commodity, quantity and value, which shall be regularly checked by the Auction Committee.
- The Auctioneers must be registered with the Committee through the Registration Officer, appointed by Secretary Agriculture. Any person desirous of becoming an auctioneer shall apply to the former who shall scrutinize the application and forward the case to the Committee, which shall decide the matter within twenty days and return the case to the Registration Officer for orders.
- A person is eligible to be appointed and registered as auctioneer if he is a citizen of Pakistan; has such educational qualification as may be fixed by the Secretary Agriculture; is not less than twenty five years of age; has been engaged in auctioning business for not less than five years; enjoys a good reputation in the business; has an

established office within the municipal limits of the town or city in which the market is situated; and has furnished security deposit as determined by Board from time to time.

- A person shall be disqualified, to be or to remain an auctioneer, if he is an insolvent or of unsound mind, or lacks capacity to enter into an agreement, or has not paid the registration fee, or has been convicted of an offence involving moral turpitude, or is holding any public office under any law.
- The rules prescribe an expeditious process of registration, to be completed within 30 working days of the submission of application. The registration certificate must be issued unless the applicant is informed, within that period, about the reasons for not being registered, and if the registration certificate is not issued within thirty days, it shall be deemed to have been refusal of registration. The refusal may be challenged in appeal before the Board.
- The duration of a registration certificate is one year unless cancelled or suspended earlier, however, the person concerned may apply for renewal of the registration after paying the prescribed renewal fee to the Board.
- The registration of an auctioneer may be suspended, by the Registration Officer up to a period of one month and by the Board for a period of three months, on the grounds of violation of the rules and other binding instruments, or unfair auction practices, or disorderly and unorganized auction and related activities, or default in payment of fees, fines and other dues, etc. The Board / Registration Officer may withdraw the order of suspension if the grounds, on which the order was passed, no longer exist or the Auctioneer has undertaken that the grounds of suspension will be removed within fixed time.
- The registration of any person may be cancelled, by the Board for violation of the provisions of the Act, rules or violation of the terms of registration, or misrepresentation, fraud or forgery with relation to registration, or habitual unlawful or unfair trade practices, or incurring any disqualification to be or to remain an auctioneer.
- An appeal against the order of suspension or cancellation of registration of an auctioneer may be filed, against the order of the Registration Officer, before the Board, and against the order of the Board, before the Secretary Agriculture.
- The fees for registration, renewal of registration and appeals are to be fixed by the Board, but the Government may revise them.
- The rules lay down an elaborate and transparent auction procedure, dealing with pre-bidding requisites, bidders' qualifications, bidding process, prohibition of shill bidding, post bidding processes, such as payments to the seller, auctioneer's commission, auction certificate and delivery of agricultural produce, etc.
- A simple and efficient system of dispute resolution is provided by the rules. The disputes relating to the bidding –somewhat simpler as compared to others—are to be decided by the Auctioneer against whose decision appeal lies before the Committee. All other dispute shall be decided by the Auction Committee with appeal to the Board.

2.4.4 Establishment of Private Markets Rules:

- The 2010 Reform Act provides freedom to establish and operate a private market. Any entity or person (with the exception of the Federal Government or Provincial Government or Local Government or anybody, entity or organization of any of these may establish, in the prescribed manner, one or more private market or markets for the wholesale purchase and sale of agricultural produce. but no private market (whole or part of it) shall be opened to public for the marketing of agricultural produce without obtaining the certificate of registration under the rules.
- Accordingly, the Sindh Wholesale Agricultural Produce (Private Markets) Rules, 2011, have been drafted to provide basis for a full fledged private market system, according to the prescribed standards of infrastructure, facilities, environment, services and other related matters,
- The for the sake of clarity the rules identify some special types of private marketing, allowed by the Act to the growers. Therefore, these activities have been exempted by the rules from registration requirements. These include: Grower Markets established by the growers or a group of growers in their growing area for the sale of the agricultural produce grown and harvested by the said farmer or group of farmers; Collection Points, established by a grower or a group of growers or any person carrying on the business of agricultural produce marketing, for the disposal / collection of agricultural produce; Consumer Markets, established by grower or a group of growers, with the permission of the Local Government, in a nearby town or city on such terms and conditions as may be determined by mutual agreement.
- Elaborate criteria for the establishment of private market has been given in the rules, which lays down the qualifications of the applicant, suitability of the site, design of the market and provision of facilities. However, effort has been made to open the field widely to the private sector; there are no minimum size provisions since requirements for markets differ greatly. A flower market for instance can be set up in a much smaller area compared to fruit or vegetable markets. What has been given, however, are guidelines for public convenience, so that for example, plots near hospitals or schools would not be considered eligible. It is also pertinent to mention, that the relevant experience from what the Government of Punjab attempted in the procedure for setting up private markets under Rule 67-A, has been incorporated in these rules.
- A person applying for permission to establish a private market must have sound financial position and be competent to enter into agreement. An insolvent or bankrupt, a defaulter of any financial institution, convicted of an offence involving moral turpitude, or an habitual offender under any law, is disqualified to establish a private market.
- The site of the market shall be suitable for the market and shall be located away from inhabited areas, main roads, public utilities - like hospitals, courts parks, schools, college, public offices, etc, and must be away from - but should have easy access to - the main roads and transportation networks (e.g. airport, dry port, railway). Moreover, the site should have easy drainage access, proximity to utilities (e.g. electricity, gas, telephone) and availability of clean water, etc.
- The design of the market shall cater for functional aspects relating to traffic movement, sanitation and trading requirements, boundary wall of the market with specified entry and exist, separate sufficient space for auction and trading platform, parking area (at least 25% of the total area of market), facilities for grading, packaging, storages,

commensurate to commodity requirements and space for business offices, public utilities such as bank, hotel, restaurant, mosque, etc.

- Detailed procedure for establishment of private market has been prescribed by these rules. The application is to be submitted to the Board, on the approved application form giving full details of the site where market is intended to be established along with the proposed development plan. It must also provide full information regarding person, firm, company, organization, etc making application; land measurement, location, ownership, drainage etc; development plan; design and facilities; financial plan; business plan; grading and packaging arrangements, etc.
- Other requirements include refundable cash or financial security (guarantee equal to 10% of the project cost or pledging 25% of the shops) The development plan shall include project completion time and infrastructure design according to the given Type A (Dutch Model) or Type B (Traditional Model). The financial plan must include total size of investment, with equity of about 20- 30%; and scheme for arranging the remaining amount from financial institutions, sale of shops or other sources. The Business Plan shall include details about generation of funds in terms of fees on transactions, parking, sanitation etc.
- The application is to be evaluated by the Board within a period, not exceeding sixty days, to be fixed by the Government. The Board may, within this period, return the application and the attached documents to the applicant, giving the details of any deficiency or defect in the documentation or the requirements to be fulfilled by the applicant. After evaluation of the application, the Board shall grant written permission for the establishment of the market, or require the applicant to remove, within reasonable time, the deficiencies and defects pointed out by the Board or may reject the application if the applicant is not qualified to establish a Market or has not fulfilled the requisite conditions.
- The ownership of the land shall be vested, and continue to remain vested in the applicant and no rights whatsoever, in or with relation to the market, shall be assigned or transferred to any person before the completion of the market according to the approved development plans.
- The rules cater for appeal, against the rejection of application, before the Government, to be filed within a period of thirty days (though extendible) and to be decided within another thirty days, unless there is any substantial delay intentionally caused by the appellant. The right to appeal is subject to the payment of prescribed fee.
- The Private Market Operator is responsible to manage the market, according to the Act, rules and agreed terms and conditions, efficiently for the benefit of all stakeholders and that reasonable standards of grading, weightment, sanitation, public safety, and traffic management are maintained.
- The Private Market Operator may charge market fee, up to the limit fixed by the Board, on sale and purchase of agricultural produce and may levy operations and maintenance charges from shop owners, common-use equipment and service expenses and parking fees from vehicles. Appeal against the fixing of fees by the Board, may be filed with the Government.
- The working hours of the market is to be fixed by the Private Market Operator and cleanliness operation and repair work is required to be done before or after, or during the intervals in, such timings.
- The private Market Operator is responsible to control and regulate traffic in the market and for this purpose may fix rates for the movement of carts, camels, tongas, motor-vehicles and cycles or motor cycles etc. into and out of the market.

- Necessary provisions have been made for market operation regarding weight or measurement, controlling danger of fire, prevention of adulteration, mixing and substandard quality, peaceful conditions for business, cleanliness and environmental matters, encroachments, entry of dogs, etc.
- The Private Market Operator will sign an agreement with the Board to abide by all the rules and the terms and conditions settled for the development and management of the market and in case of any violation the Board may suspend or cancel the registration of the Market.

2.4.5 Management of Notified Markets Rules

2.4.5.1 General:

The 2010 Reform Act provides that all notified markets, i.e., markets established under the Agricultural Produce Markets Act, 1939, shall be converted into private market companies established under the Companies Ordinance, 1984, as single purpose agricultural produce Market Companies, and that the Memorandum of Association and Articles of Association of these Market Companies shall be such as may be prescribed by the Government in the rules framed under the Act.

2.4.5.2 Memorandum / Articles of Association of Market Companies

The drafting of the Memorandum / Articles of Association of the Market Companies, under the Sindh Wholesale Agricultural Produce Markets (Regulation & Development) Act, 2011, is fairly complex. Under the constitutional dispensation (Fourth Schedule / Federal List) the federal legislature/ Parliament has no power to enact laws regarding the incorporation of trading companies owned or controlled by the Provincial Government and carrying on business within the limits of the said Province. Accordingly, the legislation relating to such companies falls under the domain of the Provincial Assembly. However, no Province has felt the need to enact such a law, with the result that there is no Provincial Company Law in any Province. Nonetheless, the Provincial Assembly can include provision of incorporating such companies in an enactment not specifically related to trading companies. The Sindh Wholesale Agricultural Produce Markets (Regulation & Development) Act, 2010, is such an enactment.

The Act caters for the transfer of agricultural produce markets established under the Sind Agricultural Produce Markets Act, 1939, into market companies. However, this Act has not made full provisions for incorporating these companies. Instead, the Act enjoins that these markets shall be transferred to respective market companies incorporated as Private Limited Companies under the Companies Ordinance, 1984. At the same time some major variations /special provisions have been made in the framework and working of these market companies. Some of these special provisions are given in the succeeding paragraphs. Before going into the specifics of the memorandum of association and articles, it may be mentioned that under the 2010 Reform Act, the assets and liabilities of each such market after valuation shall stand transferred from respective market committee to a separate market company and such number of shares is to be issued so as to ensure that the issued, subscribed and paid up capital of a market company as fully reflects the results of such complete valuation. The process of valuing the assets and liabilities of such market companies has been covered elsewhere in the subsidiary legislation drafted under this assignment. It may be mentioned that the 2010 Reform Act only provided for hiring of chartered accountants and overlooks the requirement under the Companies (Issue of Capital) Rules, 1996 for such valuation to be done by engineers registered

by the Pakistan Engineering Council. Subsidiary legislation developed FIRMS Project has corrected this oversight.

2.4.5.3 Memorandum of Association:

Each market company shall be established as a single purpose market company to be established and maintained exclusively for operating and managing the notified market which has been transferred to such market company. Accordingly, the model memorandum of association provides for a single purpose entity and the other objects stated therein are described as functions and powers for fulfilling this objective.

2.4.5.4 Articles of Association:

The Articles of Association of the Market Companies have been designed by keeping in line with the injunctions of the Act, including the following—

- No share of any market company shall be sold, transferred, assigned, pledged, encumbered or in any manner used as security for the procurement of any loan, liability or other advantage or right except in such manner as may be prescribed.
- Government shall ensure that, each allottee, having rights that are enforceable against a market committee, shall have similar rights available to it under a new contract or obligation, to be entered into between such allottee and the market company to which the assets and liabilities of such notified market have been transferred under this Act.
- No market company shall sell, transfer, assign, pledge, encumber or otherwise use as security, any of its fixed assets except with the approval of a resolution passed by the shareholders of such market company.
- Each market company shall have a board of directors numbering seven including three farmers, three from allottees of predecessor notified market and one shall be nominated by the Government.
- A full time Chief Executive Officer shall be appointed who has at least seven years marketing experience preferably in the agriculture sector. In addition, there shall be a Chief Financial Officer, who shall be a registered chartered accountant with at least seven years experience.

2.4.6 Registration Rules

The 2010 Reform Act enjoins that each market company to which a notified market has been transferred under section 6 and each private market, established under the said Act, shall be registered with Government in such manner and within such time as may be prescribed in the rules framed by the Government.

Accordingly, Sindh Wholesale Agricultural Produce Markets (Registration) Rules, 2011, have been developed by the FIRMS Consultants for consideration and adoption by the Sindh Government. The salient features of these rules are hereinafter given in brief summary:

- Every market company and private market shall be registered with the Government in accordance with the procedure and the conditions prescribed under the rules, and that a person shall neither use, or allow another person to use, his premises for wholesale marketing of agricultural produce, unless the premises are registered for that purpose, nor undertake the marketing of agricultural produce without being registered under the rules.
- The registration fee, fixed by the Government, is to be paid for various types of markets.
- The application for registration is to be processed through the Board, which is enjoined to do it expeditiously and must forward the case, within seven days of the compliance of the prescribed requirements, to the Government for the grant of Registration Certificate.
- The Secretary Agriculture has been enjoined to issue the certificate, within seven days of the receipt of the case from the Board unless he is of the opinion that the prescribed requirements have not been completed.
- The procedural safeguards against erroneous decisions have been provided in the form of revision and appeal against the Board and Government respectively. In case of refusal of registration by the Government, an appeal would lie before a Tribunal, comprising a retired judge of the Sindh High Court. In case of delay, inaction and refusal to forward the case for grant of registration by the Board, provisional powers are available to the Government.
- In order to ensure that the market operators maintain the prescribed standards and work according to the rules, the duration of Registration Certificate has been fixed at one year, which may be annually renewed.
- Moreover, the registration may be suspended by the Board or cancelled by the Government on the prescribed grounds.
- Appeal against the suspension of registration by the Board would lie before the Government. Similarly, appeal against the cancellation of registration by the Government will lie before the above mentioned Tribunal. A fair procedure, catering for natural justice, is to be followed in suspension and cancellation proceeding.
- Alternative dispute resolution process, through a Tribunal, has been introduced to avoid the slow, inefficient and expansive litigation process of the courts. The Government is enjoined to appoint a retired judge of the Sindh High Court as Tribunal.

2.5 Suggested course of action:

As pointed out earlier, the FIRMS consultants could not contribute in the 2010 Reform Act, because they were inducted at a time when the proposed law was quite in an advanced stage in the legislative process. The process was further shortened by adopting fast track procedure of suspending the Rules of Business of the Provincial Assembly. Nonetheless, the Consultants strongly feel that, in order to bring the law in line with best international practices identified by them, substantial amendments are necessary as well as possible at this stage. Therefore, it is suggested that the 2010 Act be reviewed with open mind to cater for these practices. It is suggested that review needs to focus on, inter alia, the following aspects.

- Mode of trading;

- Appointment of officers and employees;
- Financial sustainability;
- Independent registration entity;
- Stewardship role of Government;
- Non-political regulatory body;
- Diversification of markets;
- Effective dispute resolution (ADR);
- Environment protection;
- Consumer protection;
- Farmer friendly marketing regime;
- Research and Development;
- Facilitation / encouragement of collective marketing; and,
- Modification of definitions necessitated by this revision.

3.0 PROVINCE OF PUNJAB

3.1 General:

The colonial legislation, Punjab Agricultural Produce Markets Act, 1939, remained in force in the Province, but, due to technical problems, its application became doubtful when Punjab Local Bodies Act, 1975, came into force. Therefore, the 1939 Act was re-enacted with few changes as Punjab Agricultural Produce Markets Ordinance, 1978. The Ordinance suffers from many defects and deficiencies; therefore, the Agricultural Department is seriously pursuing the case of reforming the existing legal framework.

3.2 Weaknesses of the existing system:

- Virtual absence of private sector in the establishment, operation and management of markets due to exclusive public sector control of marketing in notified wholesale markets.
- As the market committee is created through political process, there is inherent lack of accountability in the system.
- As a result, there is no proper regulation of the markets which is evidenced by the absence of appropriate standards such as for health and hygiene, grading, optimal space utilization.
- There is no quality control exercised with relation to food safety, grading, packing and labeling.
- There is a monopoly of the market committee over marketing of agriculture produce through licensing system.
- Marketing is done through limited number of dealers who are licensed by the market committee, restricting the growers' choice and creating price distortions.
- Fees charged by the market committee have no nexus with the services provided in the market, with the result that fees are collected without providing commensurate services
- As there is no provision for alternative marketing channels such as farmers markets, consumer markets, direct marketing, etc. there is no scope for the development of value chain systems
- Owing to a limited number of dealers in the market, the scope for trading is extremely limited which results in serious price distortions
- Because of the monopolistic regime, the trading is controlled by a limited number of commission agents who finance the growers and manipulate the system

3.3 Impact

- The system is supply driven which means the grower sells what he produces and is not incentivized to produce what is in demand in the market. This seriously affects the quality of agriculture produce grown by the farmers.
- The existing marketing regime creates inefficiencies in the markets as well as marketing system as a whole.
- The system leads to malpractices by the dealers and people working in the market committees.
- The monopolistic regime excludes the role of the private sector to invest in the development of markets and value chain system.

- There is high level of profit margin with the result that both growers and consumers pay for the inefficiencies and malpractices of the middleman including market committee staff, dealers and other market functionaries. The median wholesale markup, including commissions, is estimated to be more than 18 per cent of the value of the produce. The inefficiencies in the marketing system are further passed on to consumers resulting in prices being inflated from 30 per cent to 50 per cent.
- Current distortions and disincentives are so pronounced that the system which has the potential of generating US\$ 2 Billion in revenue is not being fully realized and is losing approximately US\$ 500 Million per annum.

The Punjab Agriculture Department has made serious efforts to reform the agricultural produce marketing system in the Province in line with the prevalent international good practices. As a result of these efforts, the USAID through FIRMS project has provided support in this sector. Accordingly, the Punjab Agricultural Produce Marketing (Development and Modernization) Act, has been drafted, which after going through various stages in bureaucratic and political set up, is awaiting the final approval at the highest level.

3.4 Salient Features of the Proposed Punjab Law:

- Title: The Punjab Agricultural Produce Marketing (Development and Modernization) Act, 2011.
- Philosophy/ Policy: Unlike the previous law which was based on colonial mindset, the proposed law is influenced by the international political and business environment. The post World War II trade liberalization movement, culminating in WTO agreement and associated agreements, has brought a sea change in the international trade and put huge pressure on the production and marketing system of goods and commodities. Consequently, the domestic trading regimes have undergone necessary changes to adjust to the new trading order.
- Preamble: The Philosophy of the proposed law, explained above, is reflected in broad and descriptive preamble highlighting the participation of private sector
- Freedom of Marketing: The freedom of marketing is expressly stated and prominently placed in the first operative section of the law declaring that any person can undertake the marketing of agricultural produce in the Province.
- Enabling Environment: The proposed Act ensures enabling marketing environment by withdrawing the notifications relating to control over market area and marketing of agricultural produce therein
- Diversification of Marketing: The law provides for various types of markets including: farmer markets, consumer markets, collection points (assembly markets), private markets, public markets, super stores etc.
- Alternative Marketing Channels: The marketing of agricultural produce is not restricted to markets only but alternative channels such as direct marketing and value chains are allowed under the new law.
- Participation of Private Sector: The private sector is enabled to fully participate in the marketing of agricultural produce through different types of markets and marketing channels.
- Monopoly Abolished: The monopolistic regime under the old law has been all together abolished. The new law caters for free competition. The competitive neutrality has been maintained by placing the public markets under the same conditions required for the private markets.

- Liberal Regime: The absolute controlling regime is replaced by liberal and mild regulatory regime.
- Registration: The licensing system under the old law has been abolished. Time bound registration is required for some markets and marketing activities. Registration is not required for farmer markets, consumer markets, collection points, retail outlets, direct sale/purchase
- Appeal: The right to appeal is available to the aggrieved person against the refusal, suspension or cancelation of registration.
- Autonomous Board: A new institution, Punjab Agricultural Produce Marketing Board, has been introduced. The Board will comprise system level stakeholders and will have substantial autonomy to perform its duties which are advisory, regulatory, supportive and supervisory with relation to the agricultural produce marketing.
- Reduced Government Role: The role of the Government is restricted to governance issues and transformation of existing markets.
- Alternative Dispute Resolution: The ADR system is available under the new law to replace the lengthy and traditional litigation in the courts.
- Enforcement: The enforcement provisions are mild in punishments but provide effective deterrence through heavy fines.
- Subordinate Legislation: A three tier subordinate legislation is provided to cater for requisite flexibility in the legal framework through rules, regulations and bye-laws.
- Independent Tribunal: A tribunal comprising a retired judge of High Court is provided as an apex appellate authority in registration matters.
- Transition: An elaborate process meant to ensure smooth transition is provided in the proposed law. A three year transition period is fixed for transformation of existing markets according to the requirements of the new law.
- The Government is enjoined to take measures for transforming the existing markets into financially self sustainable, autonomous and corporate entities under the new law.
- The existing Market Committee employees will continue in their employment and will be deemed to be employees of the Government for the transition period.
- The existing dealers and market functionaries having valid licenses under the old law shall continue to carry out their functions, their licenses converted to registration for the remaining period of the licenses.
- Removal of difficulties: The removal of difficulty clause is available to cater for unforeseen eventualities cropping up in the application of law.

3.5 Subordinate Legislation in Punjab:

In due course of time subordinate legislation would be needed to complete the legal framework after the enactment of the new law.

Accordingly, the Government has requested USAID to further support the reform process.

- Advocacy of the reform process in Punjab; presentations, discussions at various levels, etc.
- Assisting the Punjab Government in developing subordinate legislation after enactment of proposed law, in due course of time.

3.6 Interim arrangements in Punjab:

In view of the fact that considerable time is likely to be taken in the process of enacting the proposed legislation and that the Punjab Government is quite anxious to improve the agricultural produce marketing in the Province, the Government desired to contrive ways and means to reform the system, albeit, partially during the interim period and although the FIRMS team had reservation on this course of action, yet keeping in view the strong desire of the Government, the team worked with the Department of Agriculture and assisted in amendments in the Punjab agricultural Produce Markets (General) rules, 1978. A Working Group, constituted by the Government, which worked the policy parameters, included a FIRMS representative as well. The proposed amendments were reviewed by the Law Consultant to put them in appropriate legislative shape. The provisions of amended Rule 67 along with the provisions prior to the amendments, newly framed Rule 67-A and the report of the Working Group are given as Annex. These amendments cater for-

- enhanced incentives in new markets established by the Market Committees under rule 67 of these rules, and,
- establishment of Private Markets under a new rule (67- A)

4.0 CONCLUSION

4.1 Sindh Province:

The Sindh Wholesale Agricultural Markets (Development and Regularization) Act, 2010, is, generally, a progressive law but requires plenty of effort in implementing it. A number of important aspects require detailed subordinate legislation, some of which are highly technical in nature, while many others particularly transformation of notified markets, have substantial political connotations. However, the Government can easily start the process and take first step, i.e., valuation of assets and liabilities of the notified markets under the proposed rules. As the Government of Sindh is working hard on these issues, positive results are likely to come out in due course of time.

However, with the proposed rules, it is possible to establish private markets in the Province, which will require a few formal notifications under the new Act.

4.2 Punjab Province:

The proposed law is quite modern as it is based on best international practices and most of the stakeholders, including the Provincial Government have approved the proposed law at different levels. The reformation of the legal framework is awaiting the final step of presenting the proposed law before the cabinet and the Provincial Assembly. This needs to be expedited by the political leadership of the Province.

The work on subordinate legislation will start after the enactment of the reformed law by the legislature. The interim arrangements, made through amendments in the existing rules may, to some extent, be able to attract the private sector in agricultural produce marketing. However, no meaningful reforms are possible without complete overhauling the obsolete legal framework introduced during the heydays of the British Raj in the subcontinent.

5.0 Annexure

5.1 The Sindh Wholesale Agricultural Produce Markets (Valuation of Assets & Liabilities) Rules, 2011

Notification No:-----In the exercise of powers vested in him under section 16 of the Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Act, 2010, the Governor of Sindh is pleased to make the following rules:

1. Short title, extent and application:

- (1) These rules may be cited as the Sindh Agricultural Produce Markets (Valuation of Assets & Liabilities) Rules, 2011.
- (2) These shall come into force at once and shall apply to the valuation of assets and liabilities of notified markets.

2. Definitions:

- (1) Unless there is anything repugnant to the subject or context –
 - (i) ‘Act’ means Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Act, 2010.
 - (ii) ‘Committee’ means Assets and Liabilities Valuation Committee constituted Under these rules
 - (iii) ‘Director General’ means Director General Agriculture Extension, Government of Sindh.
 - (iv) ‘Evaluator’ means a Chartered Accountant or a firm of Chartered Accountants established and registered under the Chartered Accountants Ordinance, 1961 and entrusted with the responsibility of the valuation of the assets and liabilities of the notified markets.
 - (v) ‘Notified market’ means a wholesale agricultural produce market established under the Agricultural Produce Markets Act 1939.
 - (vi) Rules' mean rules framed under the Act.
- (2) All other expressions used in these rules shall have the meanings assigned to them by the Act.

3. Assets and Liabilities Valuation Committee:

- (1) There shall be a committee called ‘Assets and Liabilities Valuation Committee’ to manage, expedite and oversee the valuation of assets and liabilities of notified markets under the Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Act, 2010.
- (2) The Committee shall comprise as under:-

(i) Secretary Agriculture	(chairman)
(ii) Secretary Finance or his nominee not below the rank of Additional Secretary,	(member)
(iii) Secretary Law or his nominee	(member)
(iv) a representative of Local Government Department	(member)
(v) a representative of the P&D Department	(member)

- (vi) Project Director, Sindh Growth Revitalization Program (member)
- (vii) Director General Agriculture Extension (member)

- (3) The member at (vii) shall also be the secretary of the Committee.
- (4) The Committee may co-opt any person to attend its meetings or a particular meeting.
- (5) The Committee may constitute sub committees to aid and advise the Committee.

4. **Meetings of the Committee:**

- (1) The quorum of the meetings of the committee shall be 50 percent of the members; a fraction being treated as one.
- (2) The Committee shall hold at least one meeting during the first week of every calendar month and such other meetings as may be necessary.
- (3) In the absence of the Chairman, a member nominated by the Chairman shall preside over the meetings of the Committee.
- (4) The Committee shall frame its own rules of business to regulate its procedure.

5. **Responsibilities and Functions of Committee:**

- (1) The Committee shall, subject to the rules framed under the Act, be responsible for speedy, transparent, and economical valuation of the assets and liabilities of the notified markets.
- (2) The Committee shall perform its functions in accordance with the provisions of the Act and the rules.
- (3) The Committee shall submit a monthly progress report to the Additional Secretary, Planning and Development and Minister for Agriculture.
- (4) The government may, from time to time, give directions to the Committee in matters connected with the enforcement of the Act and rules regarding the valuation of the assets and liabilities of the notified markets, which shall be binding on the Committee.

6. **Procedure for Valuation:**

- (1) The Committee shall identify, from time to time, the notified markets for which the process of transformation of these markets into market companies can be undertaken in such phases as may be determined by it.
- (2) The Committee shall make arrangements for the selection of the evaluators in accordance with the applicable procurement rules of the Government of Sindh and shall determine their qualification, experience and other terms and conditions of employment.
- (3) The evaluators shall scrutinize all the record of the concerned notified market, collect necessary information from other sources and make a report of the valuation of assets and liabilities of the said market in consultation with the Chairman Market Committee of the market area established under the Agricultural Produce Markets Act, 1939, in which the concerned notified market is situated, or as the case may be, the person appointed by the Government to manage the affairs of the said market and with the secretary of the said market committee.
- (4) The evaluator shall forward the report of valuation of assets and liabilities to the Director General for his information and comments.

- (5)The Director General shall take steps to invite objections to the valuation of assets and liabilities of the concerned notified market by the evaluator.
- (6)Any person who has any objection to the valuation of assets and liabilities, relating to his rights and liabilities, may file objection before the Director General within time specified by him which shall not be latter than 30 days of the invitation of objections.
- (7)The Director General or his nominee shall consider each such objection and give his/their observations within 15 days of the receipt of objection.
- (8)The Director General shall forward the objections along with the observations to the evaluators who, if satisfied that the objections are valid, may modify the valuation.
- (9)The final report of the valuation of the assets and liabilities of the notified market made by the evaluator shall be submitted to the Director General, who shall forward it to the Committee for further necessary action.

5.2 The Sindh Wholesale Agricultural Produce Markets (Regulation and Development Board) Rules, 2011

Notification No:-----In the exercise of powers vested in him under section 16 of the Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Act, 2010, the Governor of Sindh is pleased to make the following rules:

1. Short title, extent & application:

- (1) These rules may be cited as Sindh Wholesale Agricultural Produce Markets (Regulation and Development Board)Rules, 2011
- (2) These shall apply to all the Wholesale Agricultural Produce Markets covered under the Sindh Wholesale Agricultural Produce Markets (Regulation and Development) Act, 2010.
- (3) These shall extend to whole of the Province.

2. Definitions:

- (1) Unless there is anything repugnant to the subject or context –
 - (i) ‘Act’ means Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Act, 2010.
 - (ii) Board means the Sindh Wholesale Agricultural Produce Markets Regulation and Development Board established under these rules.
 - (iii) ‘Director General’ means Director General Agriculture Extension, Government of Sindh.
 - (iv) “Director” means Director, Agriculture Marketing Sindh, Hyderabad.
 - (v) Rules' mean rules framed under the Act.

(2) All other expressions used in these rules shall have the meaning assigned to them under the Act.

3. Establishment of the Board:

(1) Within a period of six months of the coming into force of these rules, the Government shall establish the Board.

(2) The Board shall have powers to take action on administrative, financial, commercial matters related to its functions under the Act or Rules

(3) The existing office of Directorate of Agriculture Marketing Sindh, Hyderabad shall be the office of Board with existing posts and offices at Provincial, Regional & District level.

(4) All the assets and liabilities of Directorate of Agriculture Marketing Sindh, Hyderabad will be the assets and liabilities of Board.

4. Constitution of the Board:

The Board shall comprise a chairman and other members appointed by the Government as under:

- (a) three farmers not working as dealers or market functionaries;
 - (b) nominee of Agriculture Department, Government of Sindh, not below the rank of Additional Secretary;
 - (c) nominee of Finance Department, Government of Sindh, not below the rank of Additional Secretary;
 - (d) nominee of Planning & Development Department, Government of Sindh, not below the rank of BS-19,
 - (e) Director General ;
 - (f) One person from the corporate sector;
 - (g) One expert from academia in the relevant field;
 - (h) One retailer and wholesaler each; and
 - (i) Director, Agriculture Marketing Sindh, Hyderabad (Member / Secretary)
- (2) Subject to sub-sec (1) of this section:
- (a) Other than ex-officio members, at least two members of the Board shall be women
 - (b) Other than ex-officio members, not more than one member shall be resident of same district
- (3) Subject to the provisions of sub-sec (1), a person shall not be eligible to be appointed as member of the Board, if he is:-
- (a) a minor, insolvent or of unsound mind;
 - (b) convicted of an offence involving moral turpitude;
 - (c) disqualified to hold any public office ;
 - (d) holding a public office except as provided in clauses (b) to (e) & (i) of sub-section (1) of this section.
- (4) Members other than ex-officio members shall hold office for a period of three years from the date of appointment.

5. Meetings, quorum, resolution of the Board

- (1) The Board shall hold at least one ordinary meeting during each quarter of a year and any number of special meetings as may be necessary under the circumstances.
- (2) The quorum for the meeting shall be at least 50% members including at least four non official members.
- (3) The decisions of the Board shall be supported by the majority of the members.
- (4) Subject to the Act and the rules framed there under, the Board shall regulate its own procedure.

6. Chairman and Officers

- (1) The Chairman shall be appointed by the Government from amongst the members of the Board.
- (2) The Chairman and in his absence, the members may nominate a member from amongst themselves to preside over the meeting of the Board.
- (3) The Chairman and members (except ex-officio members) shall not be paid any salary, remuneration or given any privilege, except prescribed traveling and daily allowance for attending the meetings of the Board or a committee constituted by the Board.
- (4) The Director, Agriculture Marketing Sindh, Hyderabad shall also be whole time Secretary of the Board, who shall be the head of the establishment and shall--
 - (a) ensure that the affairs of the Board are carried on in accordance with the provisions of the Act and rules.
 - (b) ensure that the decisions of the Board are faithfully implemented, and
 - (c) perform such other functions as may be prescribed
 - (d) perform such functions as may be delegated by the Board
- (5) The Board may appoint officers, consultants, advisors and employees on such terms and conditions as it may deem fit.

7. Functions of the Board

- (1) The Board shall, subject to the rules framed under the Act, be responsible for speedy, transparent, and economical transformation of the notified markets into market companies established under Companies Ordinance, 1984 as per the provisions of the Act; and for this purpose shall be responsible for, inter alia, all matters connected with--
 - (a) identification of notified markets, phasing and prioritization of the transformation of notified markets and formulation of policy framework for this purpose and implementation thereof;
 - (b) ensuring the transparent valuation of assets and liabilities of notified markets under the Act;
 - (c) formation of the market companies for the notified markets.
 - (d) transfer of assets and liabilities of the notified markets to the market companies;
 - (e) issuance of the shares of the market companies;
 - (f) registration process of market companies under the Act.
- (2) The Board shall, subject to availability of resources:
 - (a) enforce infrastructure standards and other requirements for notified, private, general and specialized markets as prescribed by rules,
 - (b) ensure transparent and reliable auction, disclosure standards, market standards in all wholesale market as prescribed by rules,

- (c) carry out monitoring, inspection, verification, regulation, correction and confiscation of scales in use in all whole sale markets as prescribed by Rules,
 - (c) improve the wholesale agricultural marketing system,
 - (d) regulate the wholesale agricultural marketing information service,
 - (e) promote farmers co-operatives,
 - (f) control unfair marketing practices,
 - (g) promote reliable grading, processing, standardization, packing and marking of agricultural produce,
 - (h) undertake research and publications in wholesale agricultural produce marketing
 - (j) provide specified market extension services.
 - (k) provide for redress the grievances of public or consumer.
- (3) The Board shall exercise such powers and take such action which is necessary and proper for the exercise of functions under these rules.
- (4) The Government shall provide necessary funds and support for carrying out the functions entrusted to the Board till such the Board becomes self sufficient in this matter.

8. Board Fund:

- (1) The Board shall establish, maintain and operate a fund called “The Sindh Wholesale Agricultural Produce Markets (Regulation & Development)Board Fund”.
- (2) The Fund shall comprise
- (a) market registration fee,
 - (b) fee for services including periodic inspections, training ,etc,
 - (c) grants made by the Government,
 - (d) loans raised with the consent of the Government
 - (e) annual market charge on market transactions fixed by the Government,
 - (f) fine paid under the rules framed by the Government, and
 - (g) all other monies received by the Board.
- (2) The assets and liabilities including staff of Market Committee Pool Fund shall become the assets and liabilities of Sindh Wholesale Agricultural Produce Markets (Regulation & Development) Board.
- (3) The market companies and private wholesale markets shall contribute up to 2% of income generated by them on levy and collection from agricultural produce transacted in every market towards developmental work undertaken by the Board on the direction of the Government.
- (4) All moneys received by the Board shall be credited to the Fund in the account of the Fund to be maintained with a scheduled bank.
- (5) All expenditure incurred by the Board shall be made out of the fund in the prescribed manner.

9. Budget, Accounts and Audit:

- (1) The Director Finance of the Board shall prepare annual budget of the Board and present it before the Board in its Budget Meeting for approval.
- (2) The accounts of the Board shall be maintained and audited in the manner determined by the Government.

10. Powers of the Government over the Board:

(1) The Government, if it is satisfied that the functions of the Board are not being carried on in accordance with the provisions of the Act, rules, or regulations, may after due notice and inquiry, by notification:-

- (a) declare that the functions of the Board to such extent as may be specified in the notification be exercised by the Government or such person or persons as it may direct;
 - (b) assume to itself all or any of the powers vested in or exercisable by the Board;
 - (c) make incidental and consequential provisions as may appear to be necessary or expedient for giving effect to the objects of the notification.
- (2) The Government may-
- (a) give such directions to the Board which it may deem appropriate in the public interest;
 - (b) call for any report from the Board on any matter relating to the affairs of the Board; or
 - (c) order an inquiry into the affairs of the Board and, on the basis of the result of the inquiry, may take such action as it deems necessary in the public interest
 - (d) terminate the membership of any member other than ex-officio members, who fails to attend three consecutive meetings of the Board except by leave of absence or due to unavoidable circumstances.

11. Appeals:

- (1) A person aggrieved by the decision of the Board may appeal to the Government within thirty days of the decision of the Board excluding the time spent on obtaining the copy of the impugned order.
- (2) The Government shall establish a Tribunal, comprising a retired judge of the Sind High Court, to decide the appeals against the decisions of the Board.
- (3) The fees payable on appeals except appeal before the Tribunal constituted under sub rule (2) of this rule, shall be credited to the Board Fund

12. Repeal:

- (1) The the Sindh Agricultural Produce Markets (Valuation of Assets & Liabilities) Rules, 2011, shall stand repealed on the day of holding of the first meeting of the Board under these rules.
- (2) Notwithstanding the repeal of rules under sub section (1) of this rule:
 - (a) all actions taken, orders made, valuation done shall continue in force as if the actions or, as the case may be, the orders or valuations were taken, passed or done by the Board under these rules;
 - (b) the evaluators appointed under the repealed rules shall complete their assignment as if they were appointed by the Board; or
 - (c) any process started under the repealed rules shall continue as the process started by the Board and the Board shall take it over and shall thereafter deal with it under these rules.

5.3 The Sindh Wholesale Agricultural Produce Markets (Auction) Rules, 2011

5.3.1 Preliminary

1. Short title commencement and extent:

- (1) These rules may be cited as the Sindh Wholesale Agricultural Produce Markets (Auction) Rules, 2011
- (2) These shall come into force at once and shall apply to all the market companies and the private markets covered under the Act.

2. Definitions: (1) In these rules, unless the text or the context otherwise requires a different meaning, the following words shall mean as under:-

- (a) "Act" means the Sindh Wholesale Agricultural Produce Markets (Regulation & Development) Act, 2010.
 - (b) "auctioneer" means an auctioneer registered under these rules.
 - (c) "bid" means the price offered at an auction by a bidder for goods separately or in lots or a combination of lots of goods put to auction;
 - (d) "bidder" means the person who gives a bid;
 - (e) "Board" means the Sindh Agricultural Produce Markets (Development and Regulation) Board established under the relevant rules.
- (2) All other expressions used, but not defined, in these rules shall have the meaning assigned to them under the Act.

5.3.2 General

3. Auction of wholesale produce: All wholesale marketing (sale and purchase) of agricultural produce in markets of market companies, notified markets or **private markets** shall be sold through open auction under these rules. Provided, that a grower may sell his produce directly without auction outside the market.

4. Conduct of auction

- (1) The auction shall be conducted under the supervision of Auction Committee through auctioneers appointed under these rules.
- (2) The auction must be conducted during the 'auction hours' to be fixed on quarterly basis by the Auction Committee and displayed at prominent places in the market.
- (3) The auction shall be conducted in the Auction Area specified for this purpose by the Auction Committee and shall not be ordinarily changed.
- (4) The Auction shall be conducted on the basis of number, weight or lots of agricultural produce
- (5) The accurate record of all auctions showing commodity, quantity and value shall be kept by the Auctioneer which shall be regularly checked by the Auction Committee, copy thereof shall also be furnished to Chief Executive of market company, or the person responsible for the management of a notified or private market, on daily basis.

5.3.3 AUCTION COMMITTEE & AUCTIONEERS

5. Auction Committee:

- (1) There shall be an Auction Committee for each private market, a notified market and any other market under the control of a market company falling under Sec6 of the Act.
- (2) The Auction Committee shall be appointed by the Board and comprise a Chairman and two other members, one being a consumer and other a grower.
- (3) The Committee shall be responsible for ensuring fair, transparent and efficient auctions of agricultural produce in accordance with the Act and the Rules formed under it.

6. Registration of auctioneers:

- (1) Subject to these rules, the Secretary Agriculture, shall by order in writing appoint an officer of Agriculture Marketing not below a District Officer as Registration Officer on such terms and conditions as may be determined by him
- (2) A person desirous of becoming an auctioneer shall apply to the Registration Officer who, after scrutiny, may forward the case to the Auction Committee, which shall decide the matter within twenty days and return the case to the Registration Officer for orders.

7. Qualifications of auctioneer.- A person shall be qualified to be appointed and registered as auctioneer

if he,-

- (1) is a citizen of Pakistan with such educational qualification as determined by the Secretary agriculture.
- (2) is not less than twenty five years of age;
- (3) has been engaged in auctioning business for not less than five years;
- (4) enjoys a good reputation in the business;
- (5) has an established office within the municipal limits of the town or city in which the market is situated;
- (6) has furnished security deposit as determined by Board from time to time.

8. Disqualifications of auctioneer: A person shall be disqualified to be or to remain an auctioneer if he-

- (1) is an insolvent or of unsound mind;
- (2) lacks capacity to enter into an agreement;
- (3) has not paid the due registration fee.
- (4) has been convicted of an offence involving moral turpitude, and
- (5) is holding any public office, including an elected office, under any law for the time being in force.

9. Expeditious processing of cases:

- (1) The registration process shall be completed within 30 working days of the submission of application and registration certificate be issued unless the applicant is informed, within that period, about the reasons for not being registered.
- (2) If the registration certificate is not issued within thirty days, it shall be deemed to be refusal of registration.

10. Appeal against refusal of registration:

- (1) An appeal against the order of refusal of registration may be filed before the Board

(2) The Board shall give a reasonable opportunity of being heard to the appellant as well as the respondent before disposing off the appeal.

11. Suspension of registration:

(1) The registration of an auctioneer may be suspended, by the Registration Officer, up to a period of one month and by the Board for a period of three months, on the following grounds namely---

- (a) violation of the rules and other binding instruments.
 - (b) unfair auction practices
 - (c) disorderly and unorganized auction and related activities falling under the control of auctioneer;
 - (d) default in payment of fees, fines and other dues.

 - (e) minor or solitary cases arising out of the grounds specified for cancellation of registration.
- (2) The Registration officer or the Board, as the case may be, withdraw the order, if satisfied that--
- (c) the suspension grounds on which the order was passed, no longer exist, or
 - (d) the Auctioneer has undertaken that the grounds of suspension will be removed within such time as may be determined by the Registration Officer or the Board as the case may, and, has deposited such amount as security, as may be determined by the Board, to fulfill the undertaking, failing which the security shall stand forfeited.

12: Cancellation of registration:

The registration of any person may be cancelled, by the Board on any of the following grounds

- (a) violation of the provisions of the Act, rules or regulations.
- (b) violation of the terms of registration;
- (c) misrepresentation, fraud or forgery with relation to registration;
- (d) habitual unlawful or unfair trade practices.
- (e) disqualification to be or to remain an auctioneer.

13. Procedure for cancellation and suspension.

(1) The competent authority may start the proceedings on the complaint of an aggrieved person, or on its own motion, if it is satisfied that there are sufficient grounds to proceed in the matter.

(2) The competent authority shall give a notice to the person concerned stating the grounds of proceedings and the possible consequences of a findings against him

14. Appeal against suspension and cancellation of registration:

(1) An appeal against the order of suspension or cancellation of registration of an auctioneer may be filed,

(a) Against the order of the Registration Officer, before the Board, and

(b) Against the order of the Board, before the Secretary, Agriculture Department.

(3) The appellate authority, in each case, shall give a reasonable opportunity of being heard to the appellant as well as the respondents.

15. Fees: The Board shall fix the fees for registration, renewal of registration and appeals: Provided that the Government may revise the fees if it is of the opinion that the amount fixed by the Board is unreasonable.

16. Duration and renewal of registration:

(1) A registration certificate shall expire after a period of one year unless cancelled or suspended earlier.

(2) The person concerned may apply for renewal of the registration after paying the prescribed renewal fee to the Board.

5.3.4 Auction

17. Pre-Auction requirements:

1. The auctioneer shall:
 - (a) identify the seller or his agent before the start of auction process;
 - (b) identify himself by announcing his name and registration number issued under these rules and must also show his registration card on demand;
 - (c) announce the description of the agricultural produce of each lot to be auctioned by him, which shall include the commonly used name of the produce, its approximate origin and to the extent available to him quantity, the approximate date of harvesting and the name of the grower if available;
 - (d) announce the minimum price fixed by the seller of each lot of agricultural produce; and
 - (e) announce the time, if any, notified by the Auction Committee for depositing the remaining (75%) amount to be deposited under sub-rule 4 of Rule 21.
2. No auction shall be valid unless the requirements given in sub rule (1) of this rule are complied with

5.3.5 Bidding / Bidder

18. Bidders

- (1) A person interested in bidding at the auction shall enlist himself with the auctioneer or his agent/employee who shall enter his name address and CNIC number in the register kept for this purpose.
- (2) A person shall be qualified to be bidder if he:
 - i. Is 18 years or above in age.
 - ii. Citizen of Pakistan and holds a valid CNIC.
 - iii. Is competent to enter into agreement under the law.
 - iv. has not been abarred from participating in bidding
- (3) A person may not bid on behalf of another person, organization or entity without producing an authority letter from the real buyer duly attested by two witnesses.

- (4) A person may get himself registered with the Auction Committee, in which case he will be exempted from enlistment and may participate in the bidding at auction without enlistment.

19. Bidding

- (1) The Auctioneer shall start bid from the minimum price fixed by the seller, and, if there is no bid of that amount or more, he shall exclude the produce from the auction process.
- (2) Each bid shall be a binding offer by the bidder and cannot be withdrawn.
- (3) If there is a bid equal to the minimum auction price, the bidder shall be obliged and entitled to purchase the said produce at that price.
- (4) If there are more than one bids for a lot, the person with the highest bid shall have a right and be bound to purchase the auctioned lot.
- (5) A bid equal to the highest bid given after the highest bid, may be considered, with the consent of other highest bidder.

20. Disqualification for shill bidding

- (1) The Auction Committee may disqualify a bidder who in collusion with the seller, participates in bidding to artificially increase the price of a lot and shall not be enlisted or registered under these rules for bidding at auction:
- (2) An appeal against the decision of Auction Committee may be filed before the Appeal Committee constituted by the Board for this purpose.

5.3.6 Post - auction process

21. Payments

- (1) The successful bidder shall, immediately after the close of auction of the lot, deposit 25% of the sale price of the auctioned lot with the Auctioneer or his employee or agent.
- (2) If the highest bidder refuses or fails to deposit the earnest money, his bid shall be cancelled by the Auctioneer and the commodity put for re auction.
- (3) The person receiving the earnest money shall issue, to the successful bidder, the receipt of the earnest money on the official pad of the auctioneer.
- (4) The successful bidder shall deposit the remaining 75% of auctioned price within such time as, may be agreed between the seller and the buyer or, in the absence of such agreement, as fixed and notified by the Auction Committee: Provided that if the bidder fails to deposit the due amount, his bid shall be cancelled by the auctioneer who shall put the produce for re-auction and the entire amount of earnest money, or a part thereof, may be forfeited by the buyer.

- (5) The auctioneer shall be entitled to receive such percentage as commission as may be determined by the Board (which shall not be more than 3% of the sale price of the agricultural produce) for conducting the auction, which amount shall be paid by the **buyer** at the time of obtaining the auction certificate, and, in case of default in payment by the buyer, the auctioneer may withhold the produce and the auction certificate till such time the buyer pays the full amount of commission to him or provides a surety, to the satisfaction of the auctioneer, for the payment of the amount.

22. Auction Certificate

- (1) After the deposit of total amount of auctioned price and the auctioneer's commission the auctioneer shall issue a duly signed and stamped auction certificate on his official pad to the successful bidder
- (2) After obtaining the auction certificate, the bidder shall become the owner of the auctioned produce and shall be allowed to remove it from the market premises.

23. Dispute Resolution:

- (1) All disputes relating to bidding at auction of agricultural produce shall be presented before the Auctioneer who shall promptly settle them and complete the bidding process.
- (2) Appeal against the decision of Auctioneer under sub-rule (1) of this rule may be filed before the Auction Committee and the decision of the Committee shall be final and not subject to any further appeal etc.
- (3) All disputes relating to auction except these covered under sub rule (1) of this rule may be presented before Auction Committee
- (4) Appeal against the decision of Auction Committee under sub rule (3) of this rule may be filed before the Board.

5.4 Sindh Wholesale Agricultural Produce (Private Markets) Rules

No-----In the exercise of powers vested in him under section ----- of the Sindh Wholesale Agricultural Produce (Development and Regulation) Act, 2010, the Governor of Sindh is pleased to make and promulgate the following rules.

1. Short title, commencement and extent:

- (a) These rules shall be cited as Sindh Wholesale Agricultural Produce (Private Markets) Rules, 2011.
- (b) These shall come into force at once.
- (c) These shall extend to the whole of the Province of Sindh.

2. Definitions:

(1) In these rules, unless there is anything repugnant to the subject or context,

- (a) “Act” means the Sindh Wholesale Agricultural Produce Markets(development and Regulation) Act, 2010,
- (b) “Board” means the Sindh Wholesale Agricultural Produce Markets (Board) Rules framed under the Act,
- (c) “commission agent” means a person, who on behalf of an another and in consideration of commission, makes or offers to make a purchase or sale of any agricultural produce, or does or offers to do anything for carrying out such purchase or sale, and for that purposes maintains a business office.
- (d) “consumer” means a person who purchases agricultural produce for consumption or use but not for resale.
- (e) “Electronically Operated Market” means a setup which facilitates and promotes e-trading, and employs network warehouses for receipt, weighing, grading, storage and delivery and settlement of agricultural commodities;
- (f) “Private Market Operator” means a person who has been granted permission to establish a market under these rules.
- (g) “market fee” means an amount levied on sale or purchase of agricultural produce in a public market.
- (h) “market functionary” means a commission agent, auctioneer, broker, warehouseman, weighman, grader, measurer or any other person declared as such the Board, who render services for marketing of agricultural produce in a market;
- (i)“ person” shall include an individual, a company, a cooperative or an association or body of individuals competent to enter into agreement under the law
- (j) “rules” mean rules framed under the Act.

(k) “value addition unit” means a premises where post harvest activity for the protection or improvement of agricultural produce is carried out, but does not include a processing unit of converting it into a product.

(l) “warehouse” means a building, premises or silos, including a cold store, used for keeping the agricultural produce therein on behalf of the owner of the agricultural produce

(2) Other expressions used herein shall have the meaning assigned to them in the Act.

3. Freedom of marketing:

(1) Subject to the provisions of the Act and rules framed under it, a person may--

(a) establish and operate any of the following entities--

- (i) a wholesale private market;
- (ii) a grower market, consumer market or a collection point;
- (iii) a warehouse or cold store;
- (iv) value addition unit or;
- (v) an electronically operated market;

(b) work as a dealer or a market functionary;

(c) sell or purchase agricultural produce;

(2) The Board shall encourage and facilitate the persons conducting or intending to conduct agricultural produce marketing in the Province under this Act.

2. Private Markets:

(1) Any entity or person (with the exception of the Federal Government or Government or anybody, entity or organization established or created or continued under the Sindh Local Government Ordinance, 2001 or any entity or person which is directly or indirectly owned or in any manner controlled by the Federal Government or Government or anybody, entity or organization established or created or continued under the Sindh Local Government Ordinance, 2001), may establish, in the manner herein after provided, one or more private market or markets for the wholesale purchase and sale of agricultural produce.

(2) A private market shall be established according to such standards of infrastructure, facilities, environment, services and other related matters.

(3) No private market shall be opened to public for the marketing of agricultural produce without obtaining the certificate of registration under the rules.

(4) When a part or whole of any market, already established under another law, is intended to be used for the wholesale marketing of agricultural produce, such market shall be registered before it is opened to public for the sale of agricultural produce.

3. Private Electronically Operated Markets:

A private electronically operated market may be established in such manner and according to such standards of electronic infrastructure, facilities, environment, services, communication standards and other related matters as may be prescribed by the Board.

4. Other Private Markets, etc: The following other private markets may be established according to infrastructure requirements and in the manner determined by the Board.

(1) Grower Markets:

- (a) A grower or a group of growers may establish a Grower Market in a growing area for the sale of the agricultural produce grown and harvested by the said farmer or group of farmers.
- (b) The mode of selling and other terms and conditions of sale shall be settled by the growers and the buyers..
- (c) Subject to sub-rule (1) this rule, the Grower Market shall not be treated as a market for purposes of registration.

(2) Collection Points:

- (a) A grower or a group of growers may establish a Collection Point for the disposal of his or its agricultural produce
- (b) A person carrying on the business of agricultural produce marketing, under the provisions of the Act, may establish collection points to collect the agricultural produce for the convenience of transit.
- (c) A Collection Point shall not be treated as markets for the purposes of registration under this Act unless the premises are used for selling or delivering the agricultural produce to another buyer.
- (d) The Board shall facilitate the establishment collection points for the convenience of the farmers to keep their produce and may charge such fees as may be determined by the regulations.

(3) Consumer Markets:

- (1) A grower or a group of growers may, with the permission of the Local Government, set up and operate a consumer market in a nearby town or city on such terms and conditions as may be determined by mutual agreement.
- (2) A Consumer Market shall not be treated as a market for the purposes of registration under the Registration rules.

5. Criteria for Private Market:

- (1) Qualifications of the applicant: The person applying for permission to establish a Private Market shall –
 - (a) be competent to enter into agreement;
 - (b) be sound financial position;
 - (c) not be insolvent or bankrupt;
 - (d) not be defaulter of any financial institution;
 - (e) not convicted of an offence involving moral turpitude;
 - (f) not an habitual offender under the l
- (2) Site of the Market: The site shall be suitable for the market and shall-
 - (a) be located away from inhabited areas.
 - (b) not be in proximity of big public utilities, like hospital, courts parks, school/college, district offices etc.

- (c) be away from main road with easy access
- (d) have link to transportation networks (e.g. airport, dry port, railway)
- (e) easy drainage access;
- (f) proximity to utilities (e.g. electricity, gas, telephone);
- (g) availability of clean water; and
- (h) shall fulfill such other requirements as may be fixed by the Board.

(3). Design and facilities: The design shall cater for-

- (a) functional aspects relating to traffic movement, sanitation and trading requirements.
- (b) boundary wall of the market with specified entry and exist.
- (c) Separate sufficient space the following:-
 - (i). auction and trading platform;
 - (ii). parking area which is at least 25% of the total area of market.
 - (iii). facilities like grading, packaging, storages, commensurate to commodity requirement.
 - (iv). space for business offices, public utilities such as bank, hotel, restaurant, mosque, etc.
 - (v). Such other requirement as may be specified by the Board.
- (d) any other aspect as may be prescribed by the board.

6. Procedure for establishment of Private Market:

- (a) The Board may grant permission to person qualified under these rules to establish a market in any area in the Province.
- (b) The application shall submitted to the Board, on the application form given in Annex appended with these rules, giving full details of the site where market is intended to be established along with the proposed development plan.
- (c) The application shall be addressed to the Secretary of the Board, giving the following information-
 - (i) Name of person, firm, company, organization, etc making application;
 - (ii) Land measurement, location, ownership, drainage etc;
 - (iii) Development Plan;
 - (iv) Design and facilities;
 - (v) Financial plan;
 - (vi) Business Plan;
 - (vii) Grading and packaging arrangements; and
 - (viii) Such other details as may be prescribed by the Board.
- (d) The applicant should furnish cash or financial security (i.e. guarantee) equal to 10% of the project cost or pledge 25% of the shops as security, which shall be returned to the applicant after the completion of the development of the market according to the approved plan.
- (e) The Development Plan shall include project completion time and infrastructure design according to Type A (Dutch Model) or Type B (Traditional Model) attached herein.
- (f) The financial plan must include total size of investment, with equity of 20- 30%; and scheme to arrange remaining amount from financial institutions, sale of shops or other sources.

- (g) The Business Plan shall include details about generation of funds in terms of fees on transactions, parking, sanitation etc..
- (h) The Board shall evaluate the application and the relevant documents within such time, not exceeding sixty days, as may be fixed by the Government: Provided that the Board may, within this period, return the application and the attached documents to the applicant, giving the details of any deficiency or defect in the documentation or the requirements to be fulfilled by the applicant.
- (i) The Board after evaluation shall grant written permission for the establishment of the market, or require the applicant to remove, within reasonable time, the deficiencies and defects pointed out by the Board or may reject the application if the applicant is not qualified to establish a Market or has not fulfilled the requisite conditions.
Provided, that Board shall afford an opportunity of being heard to the applicant or his representative before rejecting the application.
- (j) Ownership of the land shall be vested, and continue to remain vested in the applicant.
- (k) No rights whatsoever, in or with relation to the said market, shall be assigned or transferred to any person before the completion of the market according to the approved development plan.

7. Appeal against rejection:

- (a) An appeal against the decision of the Board, under rule 5 above, shall lie, within a period of thirty days, before the Government, which shall decide the appeal within thirty days unless there is any substantial delay intentionally caused by the appellant.
- (b) The Government may extend the period of limitation for filing the appeal if the appellant was unable to file the appeal due to circumstances which were beyond his control.
- (c) The Government shall provide an opportunity of being heard to the appellant or his representative to present his point of view with relation to his contentions made in the memorandum of appeal.
- (d) The Government may fix fee for filing the appeal which shall be paid by the appellant before filling the appeal and in case of non-payment or deficiency in payment of fee, the Government shall not entertain the appeal.

8. Operation of the Private Markets:

(1) General

- (a) The Private Market Operator shall manage the market according to the Act, rules framed under it and terms and conditions, not inconsistent with the Act, as agreed between the Board and the and the Private Market Operator.
- (b) The management of a Market shall be in the control of professional Market Manager, which shall ensure that the Market is run efficiently for the benefit of all stakeholders and that reasonable standards of grading, weighment, sanitation, public safety, and traffic management are maintained.
- (c) The Private Market Operator shall be responsible for repair and maintenance of the facilities relating to the trade and persons visiting the market.
- (d) The Private Market may outsource any service or facility in the Market if it cannot properly carry out a service on its own.

- (e) No dealer or market functionary shall be allowed to work in the market unless registered with the relevant authority under the applicable rules.
- (f) The area of the market under common services shall remain intact and the approved development plan of market shall not be altered without prior approval of the Board.

(2) Market Fee:

- (a) The Private Market Operator may charge market fee, up to the limit fixed by the Government, on sale and purchase of agricultural produce taking place within the premises of the market established under the rules.
- (b) Such fees shall include operations and maintenance charges from shop owners, common-use equipment and service expenses and parking fees from vehicles.
- (c) The Board may place the Markets in different categories and may fix different rates of fees, according to the services, facilities and amenities provided in these Markets.
- (d) Appeal against the fixing of fees by the Board, may be filed with the Government, which after providing an opportunity of being heard to the representative of the Board, may revise the rate of fee;

(3) Hours of Operation:

- (a) Subject to the provisions of any law for time being in force with regard to the opening and closing hours or with regard to close-days, the market shall remain open for business during such hours as may, from time to time, be fixed on all days notified by the Market Manager.
- (b) The cleanliness operation in the market shall be started before or after, or between intervals of market hours, as may be determined by the Market Manager.
- (c) Repair and maintenance activities in the market shall be started before or after, or between intervals of market hours, as may be determined by the Market Manager.
- (d) No dealer or market functionary shall do the construction work on his plot or shop in the market during market hours.

(4) Regulation of Traffic in the Market:

- (a) The Market Manager shall control and regulate traffic in the market and for this purpose may fix rates for the movement of carts, camels, tongas, motor-vehicles and cycles or motor cycles etc. into and out of the market.
- (b) The Private Market shall charge parking fee for vehicles, cycles and Motor cycles parked in the market at the rates approved by the Market Manager from time to time .The Market Manager may also contract out the collection of parking fee.
- (c) No vehicle shall be allowed to trespass the “tharas” or grassy plots or be to be parked at any place other than the place earmarked for the parking of various types of vehicles.
- (d) No person shall drive any vehicle within the limits of the market at a speed exceeding five kilometer per hour.

(5) Weighment or Measurement of Agricultural Produce:

All agricultural produce brought in the Market for sale and purchase shall be weighed or measured on charge at the weigh-bridge or measuring yard if any, maintained and operated at the entry points.

(6) Prevention of Fire Spread. No person shall be allowed to:

- (a) Smoke in the market.
- (b) Light a fire in any part of the market.
- (c) Keep or sell any explosive or highly flammable substance in the market

(7) Maintenance of peaceful conditions and environments for business:

The Private Market Operator shall be responsible to ensure that no person shall:

- (a) Ring any bell or blow any horn or use any other noisy instrument or loud speaker to attract the attention of customer or of any person.
- (b) Paste or display any bill, placard or poster in the market.
- (c) Distribute any printed matter in the market.
- (d) Boycott or encourage the boycotts.
- (e) Bring, or allow to remain, in the market any dog or other animal.

(8) Prevention of Adulteration, Mixing and Substandard Quality:

- (a) No person shall adulterate agricultural produce or offer adulterated agricultural produce for sale in the market.
- (b) An impurity percentage shall be indicated on the label of the packing, or In case of unpacked produce, verbally disclosed to the prospective buyer before the finalization of the sale deal.
- (d) Adulteration of agricultural produce shall include mixing of inferior stuff with superior produce, mixing of different varieties or different qualities, mixing of sieved remains of an agricultural produce with agricultural produce and mixing of earth, dirt or stones or any other extraneous matter with any agricultural produce.

(9) Performance Agreement:

The Private Market Operator shall sign an agreement with the Board to abide by all the rules and the terms and conditions settled for the development and management of the market and in case of any violation the Board may suspend or cancel the registration of the Market: Provided that the Board shall afford an opportunity of being heard before taking action under this rule.

(10) Miscellaneous:

- (a) No person shall make alteration in the approved design of a building or shop without previous written permission the Market Manager.
- (b) No person shall picket or tether animals in the open space in the market.
- (c) No person shall throw or deposit any filth, refuse, dirt and rubbish on, or over any open space, road, drain or 'thara' in the Market.
- (d) No person shall wash clothes or utensils at any water-tap, tank or reservoir meant for supplying drinking water to the functionaries of the market.
- (e) No person shall use any place in the market for the purpose of parking except the place specified for this purpose.
- (f) Every person shall cooperate to maintain cleanness in the Market.
- (g) Any person who uses a water tap in the Market shall ensure that it is turned off immediately after use.

- (h) No person shall unload agricultural produce at the places other than specified for this purpose in the Market.
- (i) No person shall cut or destroy the trees or damage building or wire fencing provided by the Market Company in the Market.
- (j) Any loss caused by animal shall be made good by the owner of that animal.
- (k) Every person entering into the Market shall comply with the provision of such general orders as may be issued by the Market Company from time to time.
- (l) No person shall be entitled to sublet or share “thara” with any other person.
- (m) No person shall use “thara” except for the specified purpose.

ANNEX: E

5.5 Sindh Wholesale Agricultural Produce Markets(Management of Market Companies) Rules

No-----In the exercise of powers vested in him under section ----- of the Sindh Wholesale Agricultural Produce (Development and Regulation) Act, 2010, the Governor of Sindh is pleased to make and promulgate the following rules.

1. Short title, commencement and extent:

- (a) These rules shall be cited as Sindh Wholesale Agricultural Produce (Management of Markets Companies) Rules, 2011.
- (b) These shall come into force at once.
- (c) These shall extend to the whole of the Province of Sindh.

2. Definitions:

- (1) In these rules, unless there is anything repugnant to the subject or context,
 - (a) “Act” means the Sindh Wholesale Agricultural Produce Markets(development and Regulation) Act, 2010,
 - (b) “Board” means the Sindh Wholesale Agricultural Produce Markets (Board) Rules framed under the Act,
 - (c) “regulations” mean the regulations framed by the Board.
 - (d) “rules” mean rules framed under the Act.
 - (e) “Schedule” means the Schedule attached with these rules.

(2) Other expressions used herein shall have the meaning assigned to them in the Act.

3. Transformation of Notified Markets: The Notified Markets shall be converted into Market Companies as early as possible, within the time specified, and in accordance with the procedure laid down, under the Act.

4. Formation of Market Companies: The Market Companies shall be formed under the Companies Ordinance, 1984, in accordance with the provisions of the Act.

5. Memorandum of Association of Market Companies: A model Memorandum of Association for a Market Company is given in the Schedule 1. The Memorandum of Association of every Market Company shall be, mutates mutandis, based on this model.

6. Articles Association of Market Companies: The model Articles of Association for a Market Company are given in the Schedule 2. The Articles of Association of every Market Company shall be, mutates mutandis, based on this model.

7. Registration of Market Companies: A Market Company shall be registered with the Government under the Act and rules, and shall not commence business without such registration.

8. Working of Market Companies: A Market Company shall function in accordance with the Act, rules and regulations.

SCHEDULE 1

MEMORANDUM OF ASSOCIATION

District Wholesale Marketing Company (Private) Limited

1. The name of the Company is District Wholesale Marketing Company (Private) Limited (the “Company”).
2. The registered office of the Company shall be situated in the Province of Sindh.
3. The sole object for which the Company is established is to act as a single purpose market company exclusively for operating and managing the notified market which has been transferred to such market company. The object mentioned above includes all functions and powers necessary for the furtherance of this purpose and, without prejudice to the generality of the foregoing clause, shall include the following:-
 - (1) To design, construct, own, establish, manage and operate wholesale agricultural produce markets together with all ancillary services, including but not limited to auction and trading floors, grading, packaging, and storage facilities, business offices, canteens and parking space.
 - (2) To administer agricultural produce markets and provide for hours of operation, standards of grading, weighment, sanitation, fire and public safety, and traffic management.
 - (3) To levy fees for services rendered within the market including but not limited to operations and maintenance charges from shop owners, common-use equipment and service expenses and parking fees from vehicles.
 - (4) To enter into arrangements and agreements with third parties for providing services.
 - (5) To enter into an operations and management contract for running agricultural produce markets.
 - (6) To borrow, raise or secure the payment of money in such manner as the Company shall think fit and, in particular, by mortgage or by the issue of any shares, stocks, bonds, debentures, obligations or any other securities charged or based upon the undertakings of the Company or any part of its property, both present and future, including the rights of the Company or without any such security and upon such terms as to priority or otherwise, and generally to borrow money in such manner as the Company shall think fit.
 - (7) To lend money to any company, association, firm or person, and guarantee or undertake the performance of the obligations of any company, association, firm or person and the payment of dividends and interest on, and the repayment or payment of capital or other moneys payable in respect of any stock, shares, debentures, debenture-stock, securities and obligations of whatsoever nature of any company, association, firm or person in any case in which such loan, undertaking or guarantee

may be considered likely, directly or indirectly, to further the objects of this Company or the interests of its members.

- (8) To pay all costs, charges and expenses incurred or sustained in or about the promotion and establishment of the Company and the issue of its capital or which the Company shall consider to be in the nature of preliminary expenses, including therein the cost of advertising, commissions for under-writing, brokerage, printing and stationery and expenses attendant upon the formation of agencies and local boards ,and to remunerate or make donations to (by cash or other assets or by the allotment of fully or partly paid shares or by a call or option on shares, debentures, debenture-stock or securities of this or any other company, or in any manner, whether out of the Company's capital or profits or otherwise) any person, firm or company for service rendered in introducing any property or business to the Company, or in placing or assisting to place or guaranteeing the subscription of any shares, debentures, debenture-stock or other securities of the Company, or for any other reason which the Company may think proper.
- (9) To grant pensions, allowances, gratuities and bonuses to officers, ex-officers, employees or ex-employees of the Company or its predecessors in business or the dependents or connections of such persons, to establish and maintain or concur in establishing and maintaining trusts, funds or schemes (whether contributory or non-contributory) with a view to providing pensions or other benefits for any such persons aforesaid, their dependents or connections, and to support or subscribe to any charitable funds or institutions, the support of which may, in the opinion of the Company, be calculated directly or indirectly to benefit the Company or its employers, and to institute and maintain any club or other establishment or profit-sharing scheme calculated to advance the interests of the Company or its officers or employees.
- (10) To draw, accept, make, endorse, negotiate, discount, execute, issue and assign cheques, promissory notes, bills of exchange, railway receipts, bills of lading, warrants, debentures, drafts, hundies, subject to law and all other negotiable or transferable instruments.
- (11) To acquire articles or commodities used or sold by the Company on such terms and conditions and for such period as may be determined from time to time.
- (12) To invest and deal with the moneys of the Company not immediately required for the purposes of its business in or upon such investments or securities and in such manner as may from time to time be determined.
- (13) To undertake and execute any trust or trusts which the Company may deem to be desirable, expedient or necessary.
- (14) To institute, conduct, defend, compound or abandon any legal proceedings by or against the Company or its officers or otherwise concerning the affairs of the

Company, and also to compound and allow time for payment or satisfaction of any debts due and of any claims or demands by or against the Company.

- (15) To remunerate the Directors, officials, servants of the Company and others out of or in proportion to the returns or profits of the Company or otherwise as the Company may think proper.
- (16) To refer any claims or demands by or against the Company to arbitration and perform the requisite awards.
- (17) To enter into agreement with and/or employ workers, technicians, specialists, experts, consultants and other persons having special knowledge of matters relating to the business of the Company as may be necessary or expedient for conducting the business of the Company on such terms, conditions and stipulations as the Company may deem proper.
- (18) To depute any of the representatives, Directors, managers or other employees of the Company to any part of Pakistan or abroad for any of the purposes which may be expected to benefit the Company, directly or indirectly, with such staff as necessary, and incur such expenses of journey or voyage, lodging, boarding and other expenses as may be necessary for these purposes, and to make payment or to give remuneration to such person or persons through whose agency, assistance, mediation or efforts necessary facilities and help are made available to the Company towards one or more objects of the Company.
- (19) To adopt such means of making known or giving publicity to the business of the Company as may seem proper or expedient by advertisement in the press, on the world wide web, by outdoor publicity, by show cards, calendars, pamphlets, folders, circulars, posters or by publication of books, booklets, periodicals, magazines or by other suitable media of publicity, and to grant prizes, rewards and donations which may be expected to make the Company popular and prosperous.
- (20) To pay for any property or rights acquired by the Company, either in cash or fully or partly paid-up shares, with or without preferred, deferred or guaranteed rights in respect of dividend or repayment of capital or otherwise, or by any securities which the Company has power to issue, or partly in one mode and partly in another, and generally on such terms as the Company may determine.
- (21) To accept payment for any property or rights sold or otherwise disposed of or dealt with by the Company, either in cash, by installments or otherwise, or in fully or partly paid-up shares of any company or corporation, with or without deferred, preferred or guaranteed rights in respect of dividend or repayment of capital or otherwise, or in debentures, debenture-stock, mortgages or other securities of any company or corporation, or partly in one mode and partly in another, and generally on such terms as the Company may determine, and to hold, dispose of or otherwise deal with any shares, stock or securities so acquired.

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- (22) To obtain from any government, state, municipal or other public authorities, supreme or otherwise, rights, concessions, licenses, permits and the like, periodic or otherwise, for the conduct of any of the objects for which the Company is established.
- (23) To issue any shares or securities which the Company has power to issue by way of security or indemnity to any person to whom the Company has agreed or is bound to indemnify against any debt, liability, costs, losses or expenses out of the fund of the Company.
- (24) To purchase or otherwise acquire and undertake the whole or any part of business, property, rights and liabilities of any persons, firm or company carrying on any business which this Company is authorized to carry on, or possessing property or rights and privileges suitable for any of the objects of this Company and to purchase, acquire, sell and deal in property, shares, stocks, debentures, debenture-stock of any such person, firm or company, and to conduct, make or carry into effect any arrangements in regard to the winding up of business of any such persons, firm or Company.
- (25) To enter into partnership or any joint venture, arrangement or any arrangements for sharing profits, union of interest or co-operation with any company, firm or person, and to acquire, hold, sell and deal with or dispose of shares, stock or securities of any such company, and to guarantee the contracts or liabilities of, or the payment of the dividends, interest or capital of any shares, stock or securities of, and to subsidize or otherwise assist, any such company.
- (26) To insure against losses, damages, risks, accidents and liabilities of all kinds which may affect the Company, whether in respect of its contracts, agreements, advances or securities or in respect of servants or employees of the Company, or in respect of property belonging to or leased to or by the Company, either by setting apart funds of this Company or by effecting such insurances, and in the latter case to pay the premium thereon.
- (27) To promote and form any company or companies for the purpose of acquiring all or any of the property, rights and liabilities of the company.
- (28) To promote, form, be interested in and to acquire or take by subscription, purchase or otherwise whatsoever and to hold shares or stocks in, or securities of, any company, association or undertaking in Pakistan or abroad having any objects of like nature or description with any of those of this Company or such as may be deemed by this Company likely to advance either directly or indirectly the interest of this Company, or to subsidize or otherwise assist such company or companies if it directly or indirectly benefits this Company.

- (29) To sell, improve, manage, develop, turn to account, exchange, let on rent or royalty, share of profits or otherwise, grant licenses, easements and other rights in or over, and in any other manner deal with or dispose of the undertakings of all or any of the property or assets for the time being of, the Company for such consideration as the Company may think fit.
- (30) To amalgamate with any other company whose objects are and/or include objects similar to those of this Company, whether by sale or purchase (for fully or partly paid-up shares or otherwise) of the undertakings, subject to the liabilities of this or any such other company as aforesaid, with or without winding up or by sale or purchase (for fully or partly paid-up shares or otherwise) of all or a controlling interest in the shares or stock of this or any such other company as aforesaid, or by partnership or any arrangement of the nature of partnership, or in any other manner.
- (31) To purchase, acquire, own, underwrite or guarantee the subscription of shares, stocks, debentures, debenture-stock, bonds, obligations and securities issued or guaranteed by any company, association, trust, undertaking or body constituted and carrying on business in Pakistan (or elsewhere as may be allowed by law) or issued or guaranteed by any government, state, municipality or any other public body or authority in Pakistan (or elsewhere as may be allowed by law) at such time and upon such terms and conditions as to remuneration as may be agreed upon, and to sell, exchange, transfer, dispose of, deal in and turn to account such shares, stock, debentures, debenture-stock, bonds, obligations and securities.
- (32) To sell, dispose of or transfer the business, property or undertaking of the Company or part or parts thereof for such consideration as the Company may think fit and, in particular, for shares, debentures or securities of any other company having objects altogether or in part similar to those of this Company.
- (33) To procure the Company to be registered or recognized in any foreign country or any place.
- (34) To create provident fund, reserve fund, sinking fund, insurance fund or any other special fund conducive to the interest of the Company.
- (35) To provide stock option(s) to the employees, directors and other officers of the Company in accordance with the laws of Pakistan.
- (36) To lend money to members of staff or customers of the Company or others having dealings with the Company with or without security and on such terms as the Company may deem expedient.
- (37) To make advances of such sum or sums of money upon or in respect of or for the purchase of raw materials, goods, machinery, stores or any other property, articles and things required for the purposes of the Company upon such terms and with or without security as the Company may deem expedient.

- (38) To act as trustees of any deeds constituting or securing any debentures, debenture-stock or other securities or obligations, and to undertake and execute any other trust and also to undertake the office of executor, administrator, registrar or to become manager or secretary of any business and to keep for any company, government authority or body, any register relating to any stocks, funds, shares or securities or to undertake any duties in relation to the registration of transfers, the issue of certificates or otherwise.
- (39) To open an account or accounts with any firm or company or with any bank or banker and to pay into and withdraw money from such account or accounts.
- (40) To accept stock, shares, debentures, mortgages, debenture-stock or the security of any other company in payment or part payment for any services rendered or for any sale made to or debt owing from any such company.
- (41) To capitalize such portion of the profits of the Company as are not distributed among shareholders of the Company in the form of dividends and as the Directors of the Company may think fit, and to issue bonus shares, as fully paid-up, in favor of the shareholders of the Company.
- (42) To appoint legal and technical advisers for the Company and to pay the necessary expenses.
- (43) To employ experts to investigate and examine into the condition, prospect, value character and circumstances of any business, concerns and undertakings and generally of any assets, property or rights.
- (44) To issue any shares of the Company as full or in part paid-up, and at par or at a premium.
- (45) To underwrite the shares, stocks or securities of any other company and to pay/ receive underwriting commission and brokerage on any shares, stock or securities issued by the Company.
- (46) To distribute as dividend or bonus among the members or to place, reserve or otherwise apply, as the Company may from time to time think fit, any moneys received by way of premium on shares or debentures issued at a premium by the Company and any money received in respect of dividend accrued on forfeited shares and moneys arising from the sale by the Company of forfeited shares or from unclaimed dividends.
- (47) To distribute among members of the Company in specie or otherwise any assets of the Company or any proceeds of sale or disposal of any assets of the Company, including the shares, debentures or other securities of any other company formed to take over the whole or any part of the assets and liabilities of this Company, but so

that no distribution amounting to a reduction of capital be made except with the sanction, if any for the time being required by law.

- (48) To do all or any of the above things in Pakistan or in any part of the world, either as principals, agents, trustees, contractors or others, and either alone or in conjunction with others, and either by or through agents, sub-contractors, trustees or otherwise.
- (49) To engage in the business of floating and managing modarabas as permissible under law.
- (50) To carry on any other business which, in the opinion of the Company, is capable of being conveniently and advantageously carried on by the Company in connection with or as ancillary to the objects specified above, or is calculated directly or indirectly to enhance the value of or render profitable any of the Company's property or rights.
- (51) To do and to perform all such other things and acts as may appear to be incidental or conducive to the attainment of the objects of the Company or any of them.
- (52) To do all or any of such things, and to exercise any of the above-mentioned powers and objects of the Company, by or through agents, sub-contractors, trustees or otherwise.
- (53) The objects set forth in any sub-clause of this Clause shall not, except when the context expressly so requires, be in anyway limited or restricted by reference to or inference from the terms of any other sub-clauses or by the name of the Company. None of such sub-clauses or the objects therein specified or powers thereby certified shall be deemed subsidiary or ancillary, and the Company shall have full powers to exercise from time to time all or any of the powers conferred by any part of this Clause in any part or parts of the world.
- (54) It is declared that, notwithstanding anything contained in the foregoing object clauses of this Memorandum of Association, nothing contained therein shall be construed as empowering the Company to undertake or indulge in the business of banking, finance, investment, insurance or managing agency, directly or indirectly, as restricted under law, or any unlawful operations.
- (55) It is further declared that notwithstanding anything stated in any object clause, the Company shall obtain such other approval or license from the competent authority, as may be required under any law for the time being in force, to undertake a particular activity.

4. The liability of the members is limited

5. The Authorized Capital of the Company is Rs _____ (Rupees ____ only) divided into _____ ordinary shares of Rs. ____ each with powers to increase and reduce the capital of the Company

and to divided the shares in the capital for the time being into several classes in accordance with the provisions of the Companies Ordinance, 1984.

We the several persons, whose names and addresses are subscribed below are desirous of being formed into a Company in pursuance of the Memorandum of Association and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names:-

Father's/ Husband's Name in full

AB Name and surname (present
& former) in full (in Block Letters)

1.

2.

C.N.I.C. No.

Number of shares taken by each subscriber

Signatures

AB

SCHEDULE 2

Articles of Association

___ District Wholesale Marketing Company (Private) Limited

1. (1) In these Articles-

“section” means section of the Ordinance;

“the Ordinance” means the Companies Ordinance, 1984; and

“the seal” in relation to a company means the common seal of the company.

(2) Unless the context otherwise requires, words or expressions contained in these regulations shall have the same meaning as in the Ordinance; and words importing the singular shall include the plural, and vice versa, and words importing the masculine gender shall include females, and words importing persons shall include bodies corporate.

2. The directors shall have regard to the restrictions on the commencement of business imposed by section 146 if, and so far as, those restrictions are binding upon the company.

3. The company is a private limited company and as such: (1) It will not issue invitation to the public to subscribe for any shares of the company;

(2) The company shall not register any share(s) in the name of two or more persons to hold one or more shares jointly;

(3) Number of members of the company will be limited to fifty.

4. The directors shall, as regards any allotment of shares, duly comply with such of the provisions of section 68 to 73, as may be applicable herein.

5. Every person whose name is entered as a member in the register of members shall without payment, be entitled to receive, within two months after allotment or within forty-five days of the application for registration of transfer, a certificate under the seal specifying the share or shares held by him and the amount paid up therein:

Provided that, in respect of a share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all.

6. If a share certificate is defaced, lost or destroyed, it may be renewed on payment of such fee, if any, not exceeding one rupee, and on such terms, if any, as to evidence and indemnity and payment of expenses incurred by the company in investigating title as the directors think fit.

7. Except to the extent and in the matter allowed by section 95, no part of the funds of the company shall be employed in the purchase of, or in loans upon the security of, the company's shares.

8. The instrument of transfer of any share in the company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain holder of the share until the name of the transferee is entered in the register of member in respect thereof.

9. Shares in the company shall be transferred in the following form, or in any usual or common form which the directors shall approve: -

I..... of.....in consideration of the sum of rupees paid to me by.....of.....(hereinafter called “the transferee”) do hereby transfer to the said transferee.....the share (or shares) numbered ...to.....inclusive, in the.....limited, to hold unto the said transferee, his executors, administrators and assigns, subject to the several conditions on which I held the same

at the time of the execution hereof, and I, the said transferee, do hereby agree to take the said share (or shares) subject to the conditions aforesaid.

As witness our hands this.....day of.....

Signature.....dated.....

Full Address

Witness

Signature.....

Full Address.....

10. The directors shall not refuse to transfer any fully paid shares unless the Transfer deed is defective or invalid. The directors may also suspend the registration of transfers during the ten days immediately preceding a general meeting or prior to the determination of entitlement or rights of the shareholders by giving seven days previous notice in the manner provided in the Ordinance. The directors may decline to recognize any instrument of transfer unless- a fee not exceeding two rupees or as may be determined by the directors is paid to the company in respect thereof; and the duly stamped instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.

If the directors refuse to register a transfer of shares, they shall within one month after the date on which the transfer deed was lodged with the company send to the transferee and the transferor notice of the refusal indicating the defect or invalidity to the transferee who shall after removal of such defect or invalidity be entitled to re-lodge the transfer deed with the company.

11. The executors, administrators, heirs, or nominees, as the case may be, of a deceased sole holder of a share shall be the only person recognized by the company as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or survivor, or the executors or administrators of the deceased survivor, shall be the only persons recognized by the company as having any title to the share.

Provided that no share

12. Any person becoming entitled to a share in consequence of the death or insolvency of a member shall, upon such evidence being produced as may from time to time be required by the directors, have the right either to be registered as a member in respect of the share or, instead of being registered himself, to make such transfer of the share as the deceased or insolvent person could have made; but the directors shall in either case have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or insolvent person before the death or insolvency.

13. A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

14. The company may from time to time, by ordinary resolution increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

15. Subject to the provisions of the Ordinance, all new shares shall, before issue be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be

deemed to be declined, and after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares) cannot, in the opinion of the directors, be conveniently offered under this regulation.

16. The new shares shall be subject to the same provisions with reference to transfer, transmission and otherwise as the shares in the original share capital.

17. The company may, by ordinary resolution- consolidate and divide its share capital into shares of larger amount than its existing shares; sub-divide its existing shares or any of them into shares of smaller amount than is fixed by the memorandum of association, subject, nevertheless, to the provisions of clause (d) of sub-section (1) of section 92; cancel any shares which, at the date of the resolution, have not been taken or agreed to be taken by any person.

18. The company may, by special resolution, reduce its share capital in any manner authorized by law.

19. The statutory general meeting of the company shall be held within the period required by section 157.

20. A general meeting, to be called annual general meeting, shall be held, in accordance with the provisions of section 158, within eighteen months from the date of incorporation of the company and thereafter once at least in every year within a period of four months following the close of its financial year and not more than fifteen months after the holding of its last preceding annual general meeting as may be determined by the directors.

21. All general meeting of a company other than the statutory meeting or an annual general meeting mentioned in section 157 and 158 respectively shall be called extraordinary general meetings.

22. The directors may, whenever they think fit, call an extraordinary general meeting, and extraordinary general meetings shall also be called on such requisition, or in default, may be called by such requisition, as is provided by section 159. If at any time there are not within Pakistan sufficient directors capable of acting to form a quorum, any director of the company may call an extraordinary general meeting in the same manner as nearly as possible as that in which meeting may be called by the directors.

NOTICE AND PROCEEDINGS OF GENERAL MEETINGS

23. Twenty-one days notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day and the hour of meeting to such persons as are, under the Ordinance or the regulations of the company, entitled to receive such notices from the company; but the accidental omission to give notice to, or the non-receipt of notice by, any member shall not invalidate the proceedings at any general meeting.

24. All business shall be deemed special that is transacted at an extraordinary general meeting, and also all that is transacted at an annual general meeting with the exception of declaring a dividend, the consideration of the accounts, balance-sheet and the reports of the directors, and auditors the election of directors, the appointment of and the fixing of the remuneration of the auditors.

25. No business shall be transacted at any general meeting unless a quorum of members is present at that time when the meeting proceeds to business; save as herein otherwise provided,

members having twenty five percent of the voting power present in person or through proxy shall be a quorum.

26. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if called upon the requisition of members, shall be dissolved; in any other case, it shall stand adjourned to the same day in the next week at the same time and place, and, it at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members being not less than two, shall be a quorum.

27. The chairman of the board of directors, if any, shall preside as chairman at every general meeting of the company but if there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for the meeting, or is unwilling to act as chairman, any one of the directors present may be elected to be chairman and if none of the directors is present, or willing to act as chairman, the members present shall choose one of their number to be chairman.

28. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

29. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded. Unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously or by a particular majority or lost, and an entry to that effect in the book of the proceedings of the company shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

30. If a poll is duly demanded, it shall be taken in accordance with the manner laid down in section 168 and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

31. A poll demanded on the election of chairman or on a question of adjournment shall be taken at once.

32. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place, or at which the poll is demanded, shall have and exercise a second or casting vote.

Subject to any rights or restrictions for the time being attached to any class or classes of shares, on a show of hands every member present in person shall have one vote except for election of directors in which case the provisions of section 178 shall apply. On a poll every member shall have voting rights as laid down in section 160.

33. In case of joint-holders, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

34. A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on show of hands or on a poll by his committee or other legal guardian and any such committee or guardian may, on a poll, vote by proxy.

On a poll votes may be given either personally or by proxy:

Provided that nobody corporate shall vote by proxy as long as a resolution of its directors in accordance with the provisions of section 162 is in force.

35. (1) the instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorized in writing. A proxy must be a member.

(2) The instrument appointing a proxy and the power-of -attorney or other authority (if any) under which it is signed, or a notarially certified copy of that power or authority, shall be deposited at the registered office of the company not less than forty eight hours before the time for holding the meeting at which the person named in the instrument proposes to vote and in default the instrument of proxy shall not be treated as valid.

36. An instrument appointing a proxy may be in the following form, or a form as near thereto as may be:

-----Limited.

“I ----- of ----- in the district -----
----- being a member of the----- limited, hereby appoint -----
-- of ----- as my proxy to vote for me and on my behalf at the
(annual, extraordinary, as the case may be) general
meeting of the company to be held on the ----- day of ----
----- and at any adjournment thereof.”

37. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the share in respect of which the proxy is given, provided that no intimation in writing of such death, insanity, revocation or transfer as aforesaid shall have been received by the company at the office before the commencement of the meeting at which the proxy is used.

38. The number of directors shall be seven, out of which three shall be agriculturists, three shall be nominated by the allottees of notified market of which the market company is the successor and one director shall be nominated by the Government. Out of the three directors representing agriculturists, one each shall be nominated by the Sindh Chamber of Agriculture, Sindh Abadgar Board and Government respectively.

39. The remuneration of the directors shall from time to time be determined by the company in general meeting subject to the provisions of the Ordinance.

40. Save as provided in section 187, no person shall be appointed as a director unless he is a member of the company.

POWERS AND DUTIES OF DIRECTORS

41. The business of the company shall be managed by the directors, who may pay all expenses incurred in promoting and registering the company, and may exercise all such powers of the company as are not by the Ordinance or any statutory modification thereof for the time being in force, or by these regulations, required to be exercised by the company in general meeting, subject nevertheless to the provisions of the Ordinance or to any of these regulations, and such regulations being not inconsistent with the aforesaid provisions, as may be prescribed by the company in general meeting but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

42. The directors shall appoint a chief executive in accordance with the provisions of sections 198 and 199. The Chief Executive shall have at least seven years marketing experience, preferably in the agriculture produce sector.

43. The directors shall also appoint a full time Chief Financial Officer. The Chief Financial Officer shall be a chartered accountant registered under the Chartered Accountant's Ordinance, 1961, and shall have at least seven years experience of relevant field.

44. The amount for the time being remaining undercharged of moneys borrowed or raised by the directors for the purposes of the company (otherwise than by the issue of share capital) shall not at any time, without the sanction of the company in general meeting, exceed the issued share capital of the company.

45. The directors shall duly comply with the provisions of the Ordinance or any statutory modification thereof for the time being in force, and in particular with the provisions in regard to the registration of the particulars of mortgages and charges affecting the property of the company or created by it, to the keeping of a register of the directors, and to the sending to the registrar of an annual list of members, and a summary of particulars relating thereto and notice of any consolidation or increase of share capital, or sub-division of shares, and copies of special resolutions and a copy of the register of directors and notifications of any changes therein. The directors shall cause minutes to be made in books provided for the of all appointments of officers made by the directors; of the names of the directors present at each meeting of the directors and of any committee of the directors; of all resolutions and proceedings at all meetings of the company and of the directors and of committees of directors: and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

46. The directors shall provide for the safe custody of the seal and the seal shall not be affixed to any instrument except by the authority of a resolution of the board of directors or by a committee of directors authorized in that behalf by the directors and in the presence of at least two directors and of the secretary or such other person as the directors may appoint for the purpose; and those two directors and secretary or other person as aforesaid shall sign every instrument to which the seal of the company is affixed in their presence.

DISQUALIFICATION OF DIRECTORS

47. No person shall become the director of a company if he does not have less than seven years experience in the wholesale marketing of agricultural produce or suffers from any the disabilities or disqualifications mentioned in section 187 and, if already a director, shall cease to hold such office from the date he so becomes disqualified or disabled:

Provided, however, that no director shall vacate his office by reason only of his being a member of any company which has entered into contracts with, or done any work for the company of which he is director, but such director shall not vote in respect of any such contract or work, and if he does so vote, his vote shall not be counted.

48. The directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the chairman shall have and exercise a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time, summon a meeting of directors. It shall not be necessary to give notice of a meeting of directors to any director for the time being absent from Pakistan.

49. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but, if no such chairman is elected, or if at any meeting the chairman is not

present within ten minutes after the time appointed for holding the same or is unwilling to act as chairman, the directors present may choose one of their number to be chairman of the meeting.

50. The directors may delegate any of their powers not required to be exercised in their meeting to committees consisting of such member or members of their body as they think fit; any committee so formed shall, in the exercise of the powers so delegated, conform to any restrictions that may be imposed on them by the directors

51. (1) A committee may elect a chairman of its meetings; but, if no such chairman is elected, or if at any meeting the chairman is not present within ten minutes after the time appointed for holding the same or is unwilling to act as chairman, the members present may choose one of their number to be chairman of the meeting.

(2) A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present. In case of an equality of votes, the chairman shall have and exercise a second or casting vote.

52. (1) All acts done by any meeting of the directors or of a committee of directors or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

(2) A copy of the minutes of meeting of the board of directors shall be furnished to every director within fourteen days of date of meeting.

53. A resolution in writing signed by all the directors for the time being entitled to receive notice of a meeting of the directors shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held.

54. At the first annual general meeting of the company, all the directors shall stand retired from office, and directors shall be elected in their place in accordance with section 178 for a term of three years.

A retiring director shall be eligible for re-election.

55. The directors shall comply with the provisions of sections 174 to 178 and sections 180 and 184 relating to the election of directors and matters ancillary thereto.

56. The number of directors shall remain seven as provided in the Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Act, 2010.

57. Any casual vacancy occurring on the board of directors may be filled up by the directors, but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is chosen was last elected as director.

58. The company may remove a director but only in accordance with the provisions of the Ordinance.

59. The company in general meeting may declare dividends but no dividend shall exceed the amount recommended by the directors.

60. The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company.

61. No director shall be paid otherwise than out of profits of the year or any other undistributed profits.

62. Subject to the rights of persons (if any) entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so long as nothing is paid upon any of the shares in the company, dividends may be declared and

paid according to the amounts of the shares No amount paid on a share in advance of calls shall be treated for the purposes of this regulation as paid on the share.

63. (1) The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for meeting contingencies, or for equalizing dividends, or for any other purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion either be employed in the business of company or be invested in such investments (other than shares of the company) as the directors may, subject to the provisions of the Ordinance, from time to time think fit.

(2) The directors may carry forward any profits which they may think prudent not to distribute, without setting them aside as a reserve.

64. If several persons are registered as joint-holders of any share, any one of them may give effectual receipt for any dividend payable on the share.

65. Notice of any dividend that may have been declared shall be given in manner hereinafter mentioned to the persons entitled to share therein, but, in the case of a public company, the company may give such notice by advertisement in a newspaper circulating in the Province in which the registered office of the company is situated.

The dividend shall be paid within the period laid down in the Ordinance.

66. The directors shall cause to be kept proper books of account as required under section 230.

67. The books of accounts shall be kept at the registered office of the company or at such other place as the directors shall think fit and shall be open to inspection by the directors during business hours

68. The directors shall from time to time determine whether and to what extent and at what time and places and under what conditions or regulations the accounts and books or papers of the company or any of them shall be open to the inspection of members not being directors and no member (not being a director) shall have any right of inspecting any account and book or papers of the company except as conferred by law or authorized by the directors or by the company in general meeting.

69. The directors shall as required by sections 233 and 236 cause to be prepared and to be laid before the company in general meeting such profit and loss accounts or income and expenditure accounts and balance sheets duly audited and reports as are referred to in those sections.

70. A balance-sheet, profit and loss account, income and expenditure account and other reports referred to in regulation 74 above shall be made out in every year and laid before the company in the annual general meeting made up to a date not more than three months before such meeting. The balance sheet and profit and loss account or income and expenditure account shall be accompanied by a report of the auditors of the company and the report of directors.

71. A copy of the balance sheet and profit and loss account or income and expenditure account and reports of directors and auditors shall, at least twenty one days preceding the meeting, be sent to the persons entitled to receive notice of general meetings in the manner in which notices are to be given hereunder. The directors shall in all respect comply with the provisions of sections

72. Auditors shall be appointed and their duties regulated in accordance with sections 252 to 255.

73. (1) A notice may be given by the company to any member either personally or by sending it by post to him to his registered address or (if he has no registered address in Pakistan) to the address if any within Pakistan supplied by him to the company for the giving of notices to him.

(2) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

74. If a member has no registered address in Pakistan, and has not supplied to the company an address within Pakistan for the giving of notices to him, a notice addressed to him or to the shareholders generally and advertised in a newspaper circulating in the neighborhood of the registered office of the company shall be deemed to be duly given to him on the day on which the advertisement appears.

75. A notice may be given by the company to the joint-holders of a share by giving the notice to the joint-holder named first in the register in respect of the share.

76. A notice may be given by the company to the persons entitled to a share in consequence of the death or insolvency of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or assignee of the insolvent or by any like description, at the address (if any) in Pakistan supplied for the purpose by the person claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or insolvency had not occurred.

77. Notice of every general meeting shall be given in some manner hereinbefore authorised to (a) every member of the company except those members who, having no registered address within Pakistan, have not supplied to the company an address within Pakistan for the giving of notices to them, and also to (b) every person entitled to a share in consequence of the death or insolvency of a member, who but for his death or insolvency would be entitled to receive notice of the meeting, and (c) to the auditors of the company for the time being.

78. (1) If the company is wound up, the liquidator may, with the sanction of a special resolution of the company and any other sanction required by the Ordinance, divide amongst the members, in specie or kind, the whole or any part of the assets of the company, whether they consist of property of the same kind or not.

(2) For the purpose aforesaid, the liquidator may set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the members or different classes of members.

(3) The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories as the liquidator, with the like sanction, thinks fit, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.

79. Every officer or agent for the time being of the company may be indemnified out of the assets of the company against any liability incurred by him in defending any proceedings, whether civil or criminal arising out of his dealings in relation to the affairs of the company, except those brought by the company against him, in which judgment is given in his favour or in which he is acquitted, or in connection with any application under section 488 in which relief is granted to him by the Court.

80. The company shall not sell, transfer, assign, pledge, encumber or otherwise use as security, any of its fixed assets except with the approval of a resolution passed by the shareholders.

We, the persons whose name and address is subscribed below, are desirous of forming a Company, in pursuance of these Articles of Association, and we agree to take the number of shares in the Capital of the Company as set opposite to our names.

Father's/ Husband's

Name in

Dated this day of2007.

Witness to the above Signatures:

Full Name:

N.I.C. No:

Father's/Husband's

Full Name:

Signature

5.6 Sindh Wholesale Agricultural Produce Markets (Registration) Rules 2011

No-----In the exercise of powers vested in him under section ----- of the Sindh Wholesale Agricultural Produce (Development and Regulation) Act, 2010, the Governor of Sindh is pleased to make and promulgate the following rules.

1. Short title, extent and application:

- (a) These rules may be cited as Sindh Wholesale Agricultural Produce Markets (Registration) Rules, 2011
- (b) These shall apply to all market companies and private markets established under the Act.
- (c) These extend to all such areas, within the Province, as may be notified by the Government from time to time.

2. Registration:

(1) Every market company and private market shall be registered with the Government in accordance with the procedure and the conditions prescribed under these rules, after it has been properly established but before starting the marketing of agricultural produce.

(2) No person shall--

- (a) Use or allow another person to use his premises for whole sale marketing of agricultural produce, unless the premises are registered for that purpose.
 - (b) Undertake the marketing of agricultural produce without being registered rules.
- (3) The registration certificate shall be displayed at a prominent place in the market and shall remain displayed throughout the period that the market is open to the public.
- (4) The Government shall prescribe the rate of fees for registration of various categories of markets engaged in the marketing of agricultural produce.

3. Application for Registration:

The application for registration shall be made to the Sindh Wholesale Agricultural Produce Markets Regulation and Development Board, (hereinafter referred to as Board) established under Sindh Wholesale Agricultural Produce Markets (Regulation and Development Board) Rules, 2011, in such form and accompanied by such documents and fees as may be required by the Government.

4. Expeditious Processing of cases:

(1)The Board shall process the application for the market company or, as the case may be, the private market and forward the case to the Government for grant of registration certificate within 7 working days of the compliance of the prescribed requirements, unless the applicant is informed, within that period, about the reasons for not forwarding the case.

(2) The Board shall refuse to forward the case if –

- (a) The application is not made by the person authorized to make the Application.
 - (b) The market company lacks capacity to enter into an agreement;
 - (c) The full amount of registration fee has not been paid;
 - (d) The prescribed standards have not been complied.
- (3) The Board shall inform the applicant about the reasons for refusal to proceed with the case and give him an opportunity of being heard before making the determination under this rule.

(4) The final determination by the Board shall be made in writing under the signatures of the Secretary of the Board.

5. Registration Certificate: The Secretary Agriculture shall issue the Registration Certificate within seven working days of the receipt of the case from the Board Unless he is of the opinion that the applicant has not fully complied with the Prescribed requirements: Provided that the Secretary shall not refuse the Registration without giving an opportunity of being heard to the applicant.

6. Appeal against Refusal of Registration:

(1) An appeal against the order of the Government in refusing the registration of a market company or, as the case may be, a private market may be filed before the Tribunal

(2) The appeal shall be filed within such time as fixed by the Tribunal

(3) The Tribunal shall give a reasonable opportunity of being heard to the appellant as well as the respondent before passing a final order.

7. Revision.

The Government may call for the record of any case regarding registration which is pending with the Board, or in which the Board has made a determination under rule 6, to satisfy itself about the legality and regularity of the order or proceedings, and pass such orders as it may deem proper under the law.

8. Duration and Renewal of Registration.

(1) A registration certificate shall expire after a period of three years unless cancelled or suspended earlier.

(2) The person concerned may apply for renewal of the registration after paying the prescribed renewal fee.

9. Suspension of Registration

(1) The registration of any market company or a private market may be suspended by the Board, up to a period of three months, on the grounds of:

(a) Use of the premises for activities not covered by the registration;

(b) dirty, unhealthy or dangerous premises;

(c) Disorderly and unorganized market or marketing; or

(d) Default in payment of fees, fines and other dues.

(e) Minor cases arising out of the grounds specified in the preceding rule.

(2) The Board may withdraw the order, if it is satisfied that--

(e) the grounds on which the order was passed, no longer exist, or

(f) the concerned person or the authorized agent of the entity has undertaken that the grounds of suspension will be removed within such time as may be determined by the Board and has deposited such amount as security,

(g) as may be determined by the authority, to fulfill the undertaking, failing which the security shall stand forfeited.

10. Cancellation of Registration

The registration of any market company or a private market may be cancelled on any of the following grounds:

(e) violation of the provisions of the Act, rules, instruction or bye-laws;

(f) violation of the terms of registration;

(g) conviction for offence involving moral turpitude;

(h) misrepresentation, fraud or forgery with relation to registration;

(i) unfair trade practices as prescribed.

- (j) poor maintenance or provision of services.
- (k) using the premises for unlawful activities or
- (l) such other grounds as may be prescribed.

11. Procedure for suspension and cancellation:

(4) The Board may start the proceedings on the complaint of an aggrieved person or on its own motion, if it is satisfied that there are sufficient grounds to proceed in the matter.

(5) The Board shall give a notice to the person concerned stating the grounds of proceedings and the possible consequences of a findings against him.

(3) The Board may suspend the registration of a market company or a private market under these rules.

(4) The Board may forward the case to the government, if in the opinion of the Board, there are sufficient grounds to cancel the registration of a market company or a private market under these rules.

12. Appeal against suspension and cancellation:

(1) Appeal against suspension of registration of a market company or a private market may be filed before the Government.

(2) The appeal shall be filed within 15 days of the refusal by the board;

Provided, that the Government, may entertain, for valid reasons, an appeal after the said period of fifteen days.

(3) The Government shall give a reasonable opportunity of being heard to the appellant as well as the respondent before passing a final order.

(4) Appeal against the cancellation of registration by the Government may be filed before the Tribunal.

13. Tribunal: The Government shall, within 90 days of the notification of these rules, Establish a Tribunal, comprising a retired judge of the Sind High Court, to deal with the appeals under these rules.

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