

**21 December 2012**

**Trust Deed**

U.S.\$750,000,000 5.50 per cent. Notes due 2022

between

**“BTA Bank” JSC**

as issuer

**BNY Mellon Corporate Trustee Services Limited**

as Trustee

and others

White & Case LLP  
5 Old Broad Street  
London EC2N 1DW

## Table of Contents

	<b>Page</b>
1. Interpretation.....	1
2. Amount of the Notes and covenant to pay.....	6
3. Form of the Notes .....	8
4. Stamp Duties.....	9
5. Application of moneys received by the Trustee.....	9
6. Enforcement.....	10
7. Covenants.....	11
8. Remuneration and indemnification of the Trustee.....	13
9. Provisions supplemental to the Trustee Act 1925 and the Trustee Act 2000 .....	15
10. Trustee liable for negligence.....	22
11. Trustee not precluded from entering into contracts .....	22
12. Waiver and proof of default.....	22
13. Modification and substitution .....	23
14. Appointment, retirement and removal of the Trustee.....	25
15. SK Loan Schedule .....	26
16. Currency indemnity .....	29
17. Communications .....	29
18. Further issues .....	30
19. Notes held in clearing systems.....	31
20. Governing law; arbitration and jurisdiction.....	31
21. Severability .....	32
22. Counterparts.....	32
Schedule 1 Form of Definitive Note Certificate.....	33
Schedule 2 Forms of Global Note .....	40
Part 1 Form of Unrestricted Global Note.....	40
Part 2 Form of Restricted Global Note.....	46
Schedule 3 Provisions for meetings of Noteholders.....	53
Schedule 4 Terms and Conditions of the Notes .....	60
Schedule 5 Form of Certificate of Residency.....	84

**This Trust Deed** is made on 21 December 2012

**Between:**

- (1) **“BTA Bank” JSC** a joint stock company incorporated in accordance with the laws of the Republic of Kazakhstan, with registered number 39031900 AO, whose registered office is at 97, Zholdasbekov str., Samal-2, Kazakhstan, 050051, Almaty, Kazakhstan (the **“Bank”**); and
- (2) **BNY Mellon Corporate Trustee Services Limited** of One Canada Square, London E14 5AL, United Kingdom (the **“Trustee”**, which expression, where the context so admits, includes any other trustee for the time being of this Trust Deed).

**Whereas:**

- (A) The Bank has authorised the issue of U.S.\$750,000,000 notes due 2022 (the **“Notes”**) to be constituted by this Trust Deed.
- (B) The Trustee has agreed to act as trustee of this Trust Deed on the following terms and conditions.

**This deed witnesses and it is declared** as follows:

## **1. Interpretation**

### **1.1 Definitions**

In this Trust Deed the following expressions have the following meanings:

**“Agency Agreement”** means the agreement referred to as such in the Conditions, as amended from time to time, and includes any other agreements approved in writing by the Trustee appointing successor paying and transfer agents or amending any such agreements;

**“Agents”** means the Principal Paying and Transfer Agent, the Paying Agents, the Transfer Agents and the Registrar or any of them;

**“Almaty Business Day”** means any day other than a Saturday or a Sunday on which banks are open for business (including dealings in foreign currencies) in Almaty;

**“Applicable Law”** means any law, regulation, ordinance, order or decree of or by any authority in effect from time to time having jurisdiction over the Bank, its assets and/or its operations;

**“Approved Stock Exchange”** means a recognised stock exchange established in any member state of the European Economic Area;

**“Appointee”** has the meaning given to it in Clause 9.11 (*Agents*);

**“Auditors”** means the auditors of the Bank for the time being or, if they are unable or unwilling to carry out any action requested of them under this Trust Deed, such other internationally recognised firm of accountants as may be nominated or approved in writing by the Bank and failing such nomination, as may be nominated by the Trustee;

**“Authorised Signatory”** means, in respect of a person, an individual duly authorised by such person to sign specified documents on behalf of such person; in relation to anybody corporate, a person who is duly empowered to bind such body corporate in relation to the relevant document(s) and, if necessary under the laws of the country of incorporation of such body corporate to ensure that such person is duly authorised, whose authority is evidenced by a resolution or an approval and authorisation of the directors of such body corporate;

“**Board**” means the board of directors of the Bank from time to time;

“**Business Day**” means any day other than a Saturday or a Sunday on which banks are open for business (including dealings in foreign currencies) in London and New York City;

“**Clearstream**” means Clearstream Banking, *société anonyme*, Luxembourg;

“**Conditions**” the terms and conditions set out in Schedule 4 (*Terms and Conditions of the Notes*) as modified from time to time in accordance with this Trust Deed and, with respect to any Notes represented by a Global Note, as modified by the provisions of such Global Note, any reference to a particularly numbered Condition or the Conditions generally being construed accordingly;

“**Definitive Note Certificate**” means a Note in definitive form substantially in the form set out in Schedule 1 (*Form of Definitive Note Certificate*) and having the relevant Conditions endorsed thereon or attached thereto, and “**Restricted Note Certificate**” means a Definitive Note Certificate issued upon exchange of an interest in a Restricted Global Note for a Definitive Note Certificate or upon any transfer thereof and bearing the same ISIN and Common Code, and “**Unrestricted Note Certificate**” means a Definitive Note Certificate issued upon exchange of an interest in an Unrestricted Global Note for a Definitive Note Certificate or upon any transfer thereof and bearing the same ISIN and Common Code;

“**Director**” means a director appointed to the Board;

“**Distribution Compliance Period**” means the period which expires on and includes the 40th day after the later of the commencement of the offering of the Notes and the Issue Date;

“**Euroclear**” means Euroclear Bank SA/NV;

“**Event of Default**” means an event of default as described in the Conditions;

“**Extraordinary Resolution**” has the meaning given in Schedule 3 (*Provisions for Meetings of Noteholders*);

“**Further Note**” means any note issued pursuant to Condition 16 (*Further issues*);

“**Global Note**” means the Restricted Global Note or the Unrestricted Global Note and “**Global Notes**” shall be construed accordingly;

“**Group**” means the Bank and each of its Subsidiaries from time to time;

“**IFRS**” means International Financial Reporting Standards as promulgated by the International Accounting Standards Board in effect from time to time;

“**Indebtedness**” means any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

“**Information Memorandum**” means the information memorandum published by the Bank and dated 8 November 2012 (as supplemented from time to time prior to the Issue Date);

“**KASE**” means the Kazakhstan Stock Exchange;

“**Legend**” means the transfer restriction legend set out in each of the Global Notes and any Definitive Note Certificate issued in respect thereof;

“**Management Board**” means the management board of the Bank from time to time;

“**Noteholder**” means a Person in whose name a Note or Further Note is registered in the Register (or in the case of joint holders, the first named holder thereof); and the words

“**holder**” and “**holders**” and related expressions shall (where appropriate) be construed accordingly;

“**Note Certificate**” means the Global Note and the Definitive Note Certificate;

“**outstanding**” means, in relation to the Notes, all Notes issued except (i) those which have been redeemed in accordance with the Conditions and this Trust Deed, (ii) those in respect of which the date for redemption has occurred and the redemption moneys (including all interest accrued on such Notes to the date for such redemption and any interest payable under the Conditions and this Trust Deed after such date) have been duly paid to the Trustee or to the Principal Paying and Transfer Agent as provided in Clause 2 (*Amount of the Notes and covenant to pay*) and remain available for payment in accordance with the Conditions, (iii) those which have become void, (iv) those which have been purchased and cancelled as provided in the Conditions, (v) those mutilated or defaced Notes which have been surrendered in exchange for replacement Notes, (vi) (for the purpose only of determining how many Notes are outstanding and without prejudice to their status for any other purpose) those Notes alleged to have been lost, stolen or destroyed and in respect of which replacement Notes have been issued and (vii) any Global Note to the extent that it shall have been exchanged for another Global Note pursuant to its provisions and any Global Note to the extent that it shall have been exchanged for Definitive Note Certificates pursuant to its provisions; *provided that* for the purposes of (a) ascertaining the right to attend and vote at any meeting of the Noteholders, (b) the determination of how many and which Notes are outstanding for the purposes of Conditions 11 (*Events of Default*) and 13 (*Meetings of Noteholders; modification and waiver*) and Schedule 3 (*Provisions for Meetings of Noteholders*), (c) the exercise of any discretion, power or authority which the Trustee is required, expressly or impliedly, to exercise in or by reference to the interests of the Noteholders and (d) the certification (where relevant) by the Trustee as to whether a Potential Event of Default is in its opinion materially prejudicial to the interests of the Noteholders, those Notes which are beneficially held by or on behalf of the Bank or any of its Subsidiaries and not cancelled shall (unless no longer so held) be deemed not to remain outstanding;

“**Person**” means any individual, company (including a business trust), corporation, firm, partnership, joint venture, association, organisation, trust (including any beneficiary thereof), state or agency of a state or other entity, whether or not having a separate legal personality;

“**Potential Event of Default**” means an event or circumstance which could with any one or more of the giving of notice, lapse of time, issue of a certificate or fulfilment of any other requirement provided for in the Conditions become an Event of Default;

“**Principal Paying and Transfer Agent**” means The Bank of New York Mellon, London Branch or any Successor Principal Paying and Transfer Agent;

“**Rating Agency**” means Standard & Poor’s Rating Services, a division of The McGraw Hill Companies, Inc., Moody’s Investors Service Limited, or Fitch Ratings Limited, or any of their affiliates or successors or any other rating agency substituted for any of them or added by the Bank with the prior written approval of the Trustee.

“**Registrar**” means The Bank of New York Mellon (Luxembourg) S.A. or any Successor Registrar appointed under the Agency Agreement;

“**Restricted Global Note**” means the registered permanent global note representing beneficial interests in such Notes initially issued to Eligible Investors (as defined in the Agency Agreement), each in the form or substantially in the form set out in Part 2 of Schedule 2 (*Form of Restricted Global Note*);

“**Samruk-Kazyna**” means joint-stock company Sovereign Wealth Fund “Samruk-Kazyna”;

“**Securities Act**” means the U.S. Securities Act of 1933, as amended;

“**SK Bonds**” means 4 per cent. bonds issued by Samruk-Kazyna in a total principal amount of KZT 645 billion, each with a denomination of KZT 1,000, and which Samruk-Kazyna issued in March 2009 and sold to the Bank in consideration for the issue by the Bank and sale to Samruk-Kazyna of the Bank Bonds with identification numbers KZP01Y16D391, KZP02Y16D399, KZP03Y16D397, KZP04Y16D395, KZP05Y16D392, KZP06Y16D390, KZP07Y16D398, KZP08Y16D396, KZP09Y16D394, KZP10Y16D392, KZP11Y16D390, KZP12Y16D398, KZP13Y16D396, KZP14Y16D394, KZP15Y16D391, KZP16Y16D399, KZP17Y16D397, KZP18Y16D395, KZP19Y16D393, KZP20Y16D391;

“**SK Loan**” means the U.S.\$1,592,000,000 4 per cent. loan due 2024 to be made by Samruk-Kazyna to the Bank on or about the date hereof, to be denominated in Tenge;

“**SK Loan Agreement**” means the agreement entered into between the Bank and Samruk-Kazyna setting out the terms of the SK Loan dated on or before the Issue Date;

“**SK Loan Schedule**” means the schedule to the SK Loan, under which Samruk-Kazyna has agreed that the obligations of the Bank to it under the SK Loan Agreement will be subordinated in certain respects to the Notes and the facility provided pursuant to the RCTFF Agreement;

“**Stock Exchange**” means the Luxembourg Stock Exchange or the Kazakhstan Stock Exchange;

“**Subsidiary**” means:

- (a) an entity of which a person has direct or indirect control or owns directly or indirectly more than 50 per cent. of the voting capital or similar right of ownership (and “control” for this purpose means the power to direct the management and policies of the entity whether through the ownership of voting capital, by contract or otherwise); or
- (b) an entity whose financial statements are, in accordance with applicable law and IFRS, consolidated with those of another person,

and for these purposes, when determining whether an entity is a “Subsidiary” of another, the registration of any shares in such “Subsidiary” in the name of any nominee or any other person holding security over such shares shall be ignored so that such entity is deemed to be the Subsidiary of the person who created that security or on whose behalf the nominee holds the relevant shares (as the case may be);

“**Successor**” means, in relation to the Agents, such other or further person as may from time to time be appointed by the Bank as an Agent with the written approval of, and on terms approved in writing by, the Trustee and notice of whose appointment is given to Noteholders pursuant to Clause 7(a)(iv) (*Change in Agents*);

“**Tax**” means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same);

“**Termination Date**” means the earlier of the date upon which (i) the Bank no longer has any obligations in respect of any of the Notes or (ii) the Notes receive a rating of at least BBB- or the equivalent from two or more of Standard & Poor's, Moody's Investor Service and Fitch Ratings on a post-termination basis;

“**trust corporation**” means a trust corporation (as defined in the Law of Property Act 1925) or a corporation entitled to act as a trustee pursuant to applicable foreign legislation relating to trustees;

“**Trust Deed**” means this Trust Deed (as amended from time to time in accordance with this Trust Deed) and any other document executed in accordance with this Trust Deed (as from time to time so amended) and expressed to be supplemental to this Trust Deed;

“**United States**” has the meaning ascribed to it in Regulation S under the Securities Act; and

“**Unrestricted Global Note**” means the registered permanent global note representing beneficial interests in the Notes initially issued to Persons who are not U.S. persons each in the form or substantially in the form set out in Part 1 of Schedule 2 (*Form of Unrestricted Global Note*).

1.2 Terms defined in the Conditions are used in this Trust Deed as so defined.

### 1.3 **Construction of certain references**

References to:

- (a) costs, charges, remuneration or expenses include any value added, turnover or similar tax charged in respect thereof;
- (b) “**U.S. dollars**” and “**U.S.\$**” are to the lawful currency for the time being of the United States of America;
- (c) an action, remedy or method of judicial or other procedure for the enforcement of creditors’ rights include references to the action, remedy or method of judicial proceedings in jurisdictions other than England as shall most nearly approximate thereto;
- (d) the masculine gender shall include the feminine gender and references to the singular shall include the plural, save where the context otherwise permits; and
- (e) a transaction on “arm’s length terms” is one which is on terms that would be agreed between two parties who are not related or on close terms and who have similar bargaining power.

### 1.4 **Headings**

Headings shall be ignored in construing this Trust Deed.

### 1.5 **Schedules**

The Schedules are an integral part of this Trust Deed.

### 1.6 **Statutes**

Any reference in this Trust Deed to a statute or statutory provision shall, unless the contrary is indicated, be construed as a reference to such statute or statutory provision as the same shall have been or may be amended or re-enacted.

### 1.7 **Contracts**

References in this Trust Deed to this Trust Deed or any other document are to this Trust Deed or those documents as amended, supplemented or replaced from time to time.

### 1.8 **Contracts (Rights of Third Parties) Act 1999**

A person who is not a party to this Trust Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Trust Deed, except as set out herein.

## 1.9 **Alternative clearing system**

References in this Trust Deed to Euroclear and/or Clearstream shall, wherever the context permits, be deemed to include reference to any additional or alternative clearing system approved by the Bank, the Trustee and the Principal Paying and Transfer Agent.

## 2. **Amount of the Notes and covenant to pay**

### 2.1 **Amount of the Notes**

The initial aggregate principal amount of the Notes shall be U.S.\$750,000,000. The Notes are constituted by this Trust Deed.

### 2.2 **Covenant to pay**

(a) The Bank will:

- (i) on any date when any amounts in respect of principal of the Notes become due to be redeemed unconditionally pay or procure to be paid to, or to the order of, the Trustee for the benefit of the Noteholders (not later than 10:00 a.m. London time) in U.S. dollars in same day immediately available, freely transferable and cleared funds such amounts in respect of principal of the Notes becoming due for redemption or repayment, without exercising any counterclaim, lien, right of set-off or similar claim in respect thereof; and
- (ii) (subject to the Conditions) until such payment (both before and after judgment or other order of a competent court) unconditionally so pay or procure to be paid to or to the order of the Trustee (and unless otherwise instructed by the Trustee, will make such payment to the Principal Paying and Transfer Agent) interest on the principal amount of the Notes outstanding as set out in the Conditions;

*provided that:*

- (A) payment of any sum due in respect of the Notes made to the Principal Paying and Transfer Agent, as provided in the Agency Agreement, shall, to that extent, satisfy such obligation, except to the extent that there is failure in its subsequent payment to the relevant Noteholders under the Conditions; and
- (B) a payment made after the due date or pursuant to Condition 11 (*Events of Default*) will be deemed to have been made when the full amount due has been received by the Principal Paying and Transfer Agent or the Trustee and notice to that effect has been given to the Noteholders, except to the extent that there is failure in its subsequent payment to the relevant Noteholders under the Conditions.

The Trustee will hold the benefit of this covenant on trust for itself and the Noteholders. The covenant contained in this Clause 2.2(a) shall only have effect while the Notes are issued and outstanding under this Deed.

(b) In any case where:

- (i) payment of principal is not made to the Trustee or the Principal Paying and Transfer Agent on or before the due date, interest shall continue to accrue on the principal amount at the Rate of Interest (as defined in the Conditions) up to and including the date which the Trustee determines to be the date on and

after which payment is to be made to the Noteholders in respect thereof as stated in a notice given to the Noteholders in accordance with the Conditions;

- (ii) payment of the whole or any part of the principal amount of any Note is improperly withheld or refused upon due presentation thereof (other than in circumstances contemplated above) interest shall accrue on that principal amount of payment which has been so withheld or refused (both before and after any judgment or other order of a court or arbitral tribunal of competent jurisdiction) at the Rate of Interest from and including the date of such withholding or refusal up to and including the date on which, upon further presentation of the relevant Note, payment of the full amount (including interest as aforesaid) in U.S. dollars payable in respect of such Note is made or (if earlier) the day after notice is given to the relevant Noteholder.

### 2.3 Discharge and cancellation

Subject to Clause 2.4 (*Payment after a Default*), any payment to be made in respect of the Notes by the Bank or the Trustee may be made as provided in the Conditions and any payment so made shall (subject to Clause 2.4 (*Payment after an Event of Default*)) to that extent be a good discharge to the Bank or the Trustee, as the case may be.

### 2.4 Payment after an Event of Default

At any time after an Event of Default or a Potential Event of Default has occurred or the Notes shall otherwise have become due and payable or the Trustee shall have received any money which it proposes to pay under Clause 5 (*Application of moneys received by the Trustee*) to the relevant Noteholders, the Trustee may:

- (a) by notice in writing to the Bank and the Agents require the Agents, until notified by the Trustee to the contrary, so far as permitted by applicable law:
  - (i) to act as agents of the Trustee under this Trust Deed and the Notes on the terms of the Agency Agreement (with consequential amendments as necessary and except that the Trustee's liability for the indemnification, remuneration and expenses of the Agents shall be limited to the amounts for the time being held by the Trustee in respect of the Notes on the terms of this Trust Deed which are available for that purpose) and thereafter to hold all Notes and all moneys, documents and records held by them in respect of Notes to the order of the Trustee; or
  - (ii) to deliver all Notes and all moneys, documents and records held by them in respect of the Notes to the Trustee or as the Trustee directs in such notice; and
- (b) by notice in writing to the Bank, require it to make all subsequent payments in respect of the Notes to or to the order of the Trustee and not to the Principal Paying and Transfer Agent.

### 2.5 Covenant to comply with the Trust Deed and Schedules

The Bank covenants with the Trustee to comply with the provisions of this Trust Deed and the Conditions which are expressed to be binding on it and to perform and observe the same. The Notes are subject to the provisions contained in this Trust Deed, all of which shall be binding on the Bank and the Noteholders.

### **3. Form of the Notes**

#### **3.1 Global Notes**

The Notes shall initially be represented by an Unrestricted Global Note and a Restricted Global Note. Interests in the Unrestricted Global Note and the Restricted Global Note shall be exchangeable, but only in accordance with their respective terms, for Definitive Note Certificates.

#### **3.2 Definitive Note Certificates**

Definitive Note Certificates shall be printed in accordance with the applicable legal and Stock Exchange requirements substantially in the form set forth in Schedule 1 (*Form of Definitive Note Certificate*). Definitive Note Certificates shall have attached thereto or endorsed thereon the Conditions and form of transfer. Unless otherwise determined by the Bank, Definitive Note Certificates issued in exchange for interests in the Restricted Global Note shall bear the Legend and Definitive Note Certificates issued for interests in the Unrestricted Global Note during the Distribution Compliance Period shall bear the Legend.

#### **3.3 Signatures**

Each Global Note and Definitive Note Certificate (if issued) shall be signed manually or in facsimile by an Authorised Signatory of the Bank and shall be authenticated by or on behalf of the Registrar. The Bank may use a facsimile signature of an Authorised Signatory of the Bank on a Global Note or Definitive Note Certificate notwithstanding the fact that when such Global Note or Definitive Note Certificate, if applicable, shall be delivered any such person shall have ceased to hold such office *provided that* such person held such office at the date on which such Global Note or Definitive Note Certificate, if applicable, is expressed to be issued. A Global Note or Definitive Note Certificate, if applicable, so executed shall be a binding and valid obligation of the Bank.

#### **3.4 Legends**

The Bank may require such legend or legends on the Global Notes and the Definitive Note Certificates (if any) as it shall from time to time deem appropriate.

#### **3.5 Title**

Title to the Global Notes and, if Definitive Note Certificates are issued, Definitive Note Certificates, passes by registration of transfer in the relevant Register. All Definitive Note Certificates and any relevant Global Note issued upon any registration of a transfer or exchange of Definitive Note Certificates or the relevant Global Note (as the case may be) shall be valid obligations of the Bank evidencing the same obligation, and entitled to the same benefits under this Trust Deed, as the Definitive Note Certificates or the relevant Global Note (as the case may be) surrendered upon such registration of the transfer or exchange.

#### **3.6 Transfer**

Every Definitive Note Certificate and the relevant Global Note presented or surrendered for registration of a transfer or for exchange shall (if so required by the Bank or the Trustee) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Trustee and the Registrar duly executed, by the holder thereof or his attorney duly authorised in writing.

#### **3.7 Notice of Conditions**

Noteholders are deemed to have notice of and to have accepted the Conditions.

### 3.8 **Noteholders**

To the fullest extent permitted by applicable law, the Bank, the Trustee and each Agent may treat the person or persons in whose name or names any Note is registered in the relevant Register for the purpose of making payments and all other purposes as the absolute owner thereof (whether or not such Note shall be overdue and notwithstanding any notice which any person may have of the right, title, interest or claim of any other person thereto).

### 3.9 **Status**

The Notes rank *pari passu* and rateably without any preference or priority among themselves but the payment obligations of the Bank in respect thereof are solely as defined in these presents and the Conditions.

## 4. **Stamp Duties**

The Bank shall pay any stamp, issue, documentary, registration or other taxes and duties, including interest and penalties, payable in Kazakhstan, the United Kingdom, Belgium, Germany, Luxembourg or the United States in respect of the creation, issue and offering of the Notes, any action taken by the Trustee (or any Noteholder where permitted or required under this Trust Deed to do so) to enforce the provisions of the Notes or this Trust Deed and the execution or delivery of this Trust Deed. The Bank shall also indemnify the Trustee and the Noteholders from and against (i) all stamp, issue, documentary or other taxes, including interest and penalties, paid or payable by any of them in any jurisdiction in connection with any action taken by or on behalf of the Trustee or, as the case may be, the Noteholders to enforce the Bank's obligations under this Trust Deed or the Notes and (ii) any claim, demand, action, liability, damages, cost, loss or expense (including, without limitation, legal fees of the Trustee and any applicable value added tax) which they may incur as a result of, arising out of or in relation to any failure of the Bank to pay or delay by the Bank in paying any of the same.

### 4.1 **Change of taxing jurisdiction**

If the Bank becomes subject generally to the taxing jurisdiction of a territory or a taxing authority of or in that territory with power to tax other than or in addition to Kazakhstan or any such authority of or in such territory then the Bank shall (unless the Trustee otherwise agrees) give the Trustee an undertaking satisfactory to the Trustee in terms corresponding to the terms of the Condition 9 (*Taxation*), with the substitution for, or (as the case may require) the addition to, the references in that Condition to Kazakhstan of references to that other or additional territory or authority to whose taxing jurisdiction the Bank has become so subject. In such event this Trust Deed and the Notes shall be read accordingly.

## 5. **Application of moneys received by the Trustee**

### 5.1 **Order of payment**

The Trustee shall hold on trust and apply all moneys received by it under Clause 2.4 (*Payment after an Event of Default*) or Clause 6 (*Enforcement*) of this Trust Deed or under Clause 5 (*Turnover*) of the SK Loan Schedule, in each case in respect of the Notes (subject to Clause 5.2 (*Accumulation*)), despite any attempt at appropriation of all or part of them by the Bank:

- (a) *first*, in payment or satisfaction of all costs, fees, charges, expenses and liabilities properly incurred by the Trustee in or about the preparation, execution, performance and/or enforcement of the trusts of this Trust Deed (including remuneration of the Trustee and any Appointee appointed hereunder) and the Agency Agreement;

- (b) *secondly, pari passu and pro rata* in payment or satisfaction of all costs, fees, charges, expenses and liabilities properly incurred by the Agents in or about the performance of the Agency Agreement (including remuneration of the Agents);
- (c) *thirdly*, in or towards payment *pari passu* and rateably of all outstanding and unpaid interest in arrear in respect of the Notes;
- (d) *fourthly*, in or towards payment *pari passu* and rateably of outstanding principal amounts then due or, if no principal amount is then due to effect a partial redemption of outstanding Notes by the Bank in accordance with Condition 8(c) (*Redemption at the option of the Bank*) and Clause 7(g) (*Notice of Redemption*).
- (e) *fifthly*, in payment of any balance to the Bank for itself.

If the Trustee holds any moneys in respect of Notes which have become void, or in respect of which claims have become prescribed, the Trustee shall apply them in accordance with the order of payment set out above.

## 5.2 Accumulation

If the amount of the moneys at any time available for payment in respect of the Notes under Clause 5.1 (*Order of payment*) is less than a sum sufficient to pay at least one-twentieth of the principal amount of the Notes then outstanding, the Trustee may, at its discretion, invest such moneys on the basis set out in Clause 5.3 (*Authorised investments*) below. The Trustee may retain such investments and accumulate the resulting income until the accumulations, together with any other funds for the time being under the control of the Trustee and applicable for this purpose, shall amount to a sum sufficient to pay at least one-twentieth of the principal amount of the Notes then outstanding. Such investments, accumulations and funds (after deduction of, or provision for, any taxes and any other reductions applicable thereto) shall be applied as specified in Clause 5.1 (*Order of payment*).

## 5.3 Authorised investments

Moneys held by the Trustee which may be invested by the Trustee pursuant to Clause 5.2 (*Accumulation*) may be invested in its name or under its control in any investments or other assets (though the Trustee shall be under no obligation to do so) anywhere, whether or not they produce income, or deposited in its name or under its control at such bank (including itself) or other financial institution in such currency as the Trustee may, in its absolute discretion, think fit. If that bank or institution is the Trustee or a subsidiary, holding or associated company of the Trustee, it need only account for an amount of interest at such rate as stated in the Conditions.

Any such moneys may be invested in such currency as the Trustee in its absolute discretion may determine and the Trustee may at any time vary or transfer any of such investments for or into other such investments or convert any moneys so deposited into any other currency and shall not be responsible for any loss occasioned by reason of any such investments or such deposit, whether by depreciation in value, change in exchange rates or otherwise.

# 6. Enforcement

## 6.1 Proceedings brought by the Trustee

At any time after an Event of Default occurs and is continuing, the Trustee may at its discretion and without further notice take such steps, actions or proceedings as it may think fit against the Bank to enforce repayment thereof together with premium (if any) and accrued interest and any other moneys payable pursuant to this Trust Deed and may, in order to enforce the obligations of the Bank under this Trust Deed at its discretion and without further

notice take such steps, actions or proceedings as it may think fit against the Bank for the purposes of enforcing or preserving any rights or remedies available to it under this Trust Deed in respect of the Notes, but the Trustee shall not be bound to take any action under this Clause 6.1 unless:

- (a) it has been so requested in writing by the holders of not less than one fifth in principal amount or has been so directed by an Extraordinary Resolution of Noteholders of such outstanding Notes; and
- (b) it has been indemnified and/or prefunded and/or provided with security to its satisfaction,  
  
and *provided that* the Trustee shall not be held liable for the consequences of taking any such action and may take such action without having regard to the effect of such action on individual Noteholders.

Only the Trustee may enforce the provisions of the Notes or this Trust Deed and no Noteholder shall be entitled to proceed directly against the Bank to enforce the provisions of the Notes or this Trust Deed unless the Trustee, having become bound so to proceed on behalf of the Noteholders, fails to do so within a reasonable time and such failure is continuing.

The Trustee shall not be deemed to be responsible for the consequences of having acted in good faith upon any such request or direction as set out in paragraph (a) herein.

## 7. Covenants

So long as any of the Notes are outstanding, the Bank will comply with each of the following covenants:

### (a) Information covenants

The Bank shall:

- (i) **Notification of Default:** promptly on becoming aware thereof inform the Trustee of any Event of Default or Potential Event of Default (and the steps, if any, being taken to remedy it) and, upon receipt of a written request to that effect from the Trustee, confirm to the Trustee that, save as previously notified to the Trustee or as notified in such confirmation, no Event of Default or Potential Event of Default has occurred;
- (ii) **Notification of Non-Payment:** use its reasonable endeavours to procure that the Principal Paying Agent notifies the Trustee forthwith in the event that it does not, on or before the due date for any payment, receive unconditionally the full amount in the relevant currency of the monies payable on such due date;
- (iii) **Notice of Late Payment:** forthwith upon request by the Trustee give notice to the Noteholders of any unconditional payment to the Principal Paying Agent or the Trustee of any sum due in respect of the Notes made after the due date for such payment;
- (iv) **Change in Agents:** give at least 14 days' prior notice to the Holders of the Notes of any future appointment, resignation or removal of any agent or of any change by any agent of its specified office and not make any such appointment or removal without the Trustee's written approval;
- (v) **Notes Held by the Bank, etc.:** send to the Trustee within 10 Almaty Business Days of being so requested by the Trustee a certificate of the Bank

signed by a member of the Management Board of the Bank stating the principal amount of Notes held at the date of such certificate by or on behalf of the Bank or any of its Subsidiaries;

- (vi) **Further Information:** promptly upon request, so far as permitted by applicable law, give the Trustee such other information as it reasonably requires:
  - (A) regarding the financial condition, business and operations of any member of the Group; and
  - (B) to perform any of its functions and discharge the duties, trusts, powers, authorities and discretions vested in it under this Trust Deed or by operation of law;
- (vii) **Notices to be circulated to Holders:** send to the Trustee for approval in English and at least seven days (or such longer period as the Trustee may determine) prior to publication the form of each notice to be given to Holders of the Notes in general and, once given, two copies of each such notice, such notice to be in a form approved by the Trustee. For the avoidance of doubt, this clause shall not apply to any of the documents provided pursuant to Condition 5(j) (*Financial Statements*);
- (viii) **Bank Website:** make available on its website copies of the financial statements delivered to the Trustee pursuant to Conditions 5(j) (*Financial Statements*) as soon as possible and, in any event, within five Business Days of sending such information to the Trustee;
- (ix) **Provision of copies:** send to the Trustee such number of copies of the documents referred to in Conditions 5(j) (*Financial Statements*) as the Trustee may reasonably request; and
- (x) **Language:** ensure that all information provided by it or on its behalf in connection with this Clause 7(a) is provided in the English language or, if that is not possible, provided together with a certified English translation.

(b) **Covenants relating to the subordination of the SK Loan**

Until the Termination Date, the Bank shall not (and shall ensure that no Subsidiary will):

- (i) **No Payments of Interest except as Permitted:** make any payment of interest on the SK Loan except for Permitted Payments (as defined in the SK Loan Schedule);
- (ii) **No Set-off:** exercise, or consent to, any set-off against the SK Loan;
- (iii) **No Credit Support:** create or have outstanding any security over any of its assets for, or any guarantee for, or in respect of, the SK Loan; and
- (iv) **No Amendment:** agree to amend, vary, waive, release or supplement any provision of the SK Loan Agreement except as expressly permitted by the terms of the SK Loan Agreement (including the SK Loan Schedule),

provided, however, that for the purposes of (i) and (iv), the Bank shall be entitled to assume that the terms of the SK Loan Schedule are in the form attached to the version of the SK Loan Agreement signed on or about 19 December 2012.

(c) **Covenants relating to the SK Bonds**

Until the earlier of the Termination Date and the date on which the Bank no longer holds an interest in the SK Bonds (or any of them), the Bank shall not consent to any amendment, variance, waiver, release or supplement to any provisions of the SK Bonds, which may materially adversely affect the Bank.

(d) **Credit Rating**

The Bank shall use its reasonable commercial endeavors to obtain and to maintain a rating of the Notes from at least one Rating Agency.

(e) **Pari passu ranking**

Ensure that its payment obligations under the Notes rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application.

(f) **Maintenance of proper books and records**

Keep, and procure that each of member of the Group keeps, (A) proper books of account and accounting records (including, for the avoidance of doubt, the annual and semi-annual financial statements and quarterly management accounts required pursuant to Clause 7(a) (*Financial and other information covenants*) in accordance with applicable law; and (B) so far as permitted by applicable law, allow the Trustee and anyone appointed by it to whom the Bank has no reasonable objection, access to its books of account at all reasonable times during normal business hours.

(g) **Notice of Redemption**

Should the Trustee receive amounts pursuant to Clause 5 (*Turnover*) of the SK Loan Schedule which is, pursuant to subclause (d) of Clause 5.1 (*Order of Payment*) to be applied to redeem outstanding Notes, the Trustee shall provide notice thereof (including the amount to be applied) to the Bank and the Bank shall, as soon as reasonably practicable thereafter, send a notice to Noteholders of a redemption pursuant to Condition 8(c) (*Redemption at the option of the Bank*) and provide timely instructions to the Trustee in relation to the application of such funds to Noteholders upon which the Trustee may rely absolutely without liability to any person for so doing.

(h) **Further acts**

So far as permitted by applicable law, do such further things, including but not limited to the execution of any further documents, as may be necessary in the opinion of the Trustee to give effect to this Trust Deed in respect of the Notes.

## **8. Remuneration and indemnification of the Trustee**

### **8.1 Normal remuneration**

So long as any Note is outstanding, the Bank shall pay the Trustee as remuneration for its services as Trustee such sum on such dates in each case as set out in the Combined Proposal for Services of Trustee and Agency Services dated 1 November 2012. Such remuneration shall accrue from day to day from the date of this Trust Deed. However, if any payment to a Noteholder of moneys due in respect of any Note is improperly withheld or refused, such remuneration shall again accrue as from the date of such withholding or refusal until payment to such Noteholder is duly made.

## 8.2 **Extra remuneration**

If an Event of Default or Potential Event of Default shall have occurred or if the Trustee considers it expedient or necessary or is requested by the Bank to undertake duties which they both consider to be of an exceptional nature or otherwise outside the scope of the Trustee's normal duties under this Trust Deed, the Bank shall pay such additional remuneration as they may agree or, failing agreement as to any of the matters in this Clause 8.2 or as to such sums referred to in Clause 8.1 (*Normal remuneration*) as determined by an investment bank (acting as an expert) selected by the Trustee and approved by the Bank or, failing such approval, nominated by the President for the time being of The Law Society of England and Wales. The expenses involved in such nomination and such investment bank's fee shall be payable by the Bank. The determination of such investment bank shall be conclusive and binding on the Bank, the Trustee and the Noteholders.

## 8.3 **Expenses**

The Bank shall within 15 Almaty Business Days of any receipt of a demand by the Trustee, pay or discharge all costs, charges, liabilities and expenses properly incurred by the Trustee in the preparation and execution of this Trust Deed and the performance of its functions under this Trust Deed including, but not limited to, legal and travelling expenses and any stamp, documentary or other taxes or duties paid by the Trustee in connection with any legal proceedings brought or contemplated by the Trustee against the Bank to enforce any provision of this Trust Deed or the Notes. Such costs, charges, liabilities and expenses shall be payable or reimbursable by the Bank against presentation by the Trustee of invoices and such additional documents as the Bank may reasonably request (taking into account the availability of such invoices or documents) in order to comply with the Bank's internal procedures and shall:

- (a) in the case of payments made by the Trustee before such demand carry interest from 15 Almaty Business Days after the date of the demand at the rate of 2 per cent. per annum over the base rate of Barclays Bank Plc on the date on which the Trustee made such payments; and
- (b) in other cases carry interest from 30 days after the date of the demand or where the demand specifies that payment is to be made on an earlier date from such earlier date at the rate of 2 per cent. per annum over the base rate of Barclays Bank Plc on the date on which the Trustee made such payments.

## 8.4 **Indemnity**

Without prejudice to the right of indemnity given by law to trustees, the Bank shall on demand by the Trustee indemnify it in respect of Amounts or Claims paid or incurred by it in acting as trustee under this Trust Deed including (i) any Agent/Delegate Liabilities and (ii) in respect of disputing or defending any Amounts or Claims made against the Trustee or any Agent/Delegate Liabilities. The Bank shall on demand by such agent or delegate indemnify it against such Agent/Delegate Liabilities. "**Amounts or Claims**" means losses, liabilities, costs, claims, actions, demands or expenses and "**Agent/Delegate Liabilities**" means Amounts or Claims which the Trustee is or would be obliged to pay or reimburse to any of its agents or delegates appointed pursuant to this Trust Deed.

## 8.5 **Continuing effect**

Clauses 8.3 (*Expenses*) and 8.4 (*Indemnity*) shall continue in full force and effect as regards the Trustee even if it is no longer the Trustee and notwithstanding any discharge of this Trust Deed.

## 8.6 **Payments**

All payments to be made by the Bank to the Trustee for its own account under this Trust Deed shall be made free and clear of, and without withholding or deduction for, any taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed under any applicable law by or within any relevant jurisdiction or any authority therein or thereof having power to tax, unless such withholding or deduction is required by law. In that event, subject to the Trustee having provided a certificate of residency in accordance with Clause 8.7 (*Certificate of Residency*), the Bank shall increase the amount payable so as to result in the receipt by the Trustee of such amount as would have been received by it had no such withholding or deduction been required.

## 8.7 **Certificate of Residency**

For the purposes of the application of any applicable double taxation agreement concluded between the Republic of Kazakhstan and the country in which the Trustee is resident, the Trustee will deliver to the Bank prior to the date of the first payment to be made by the Bank to the Trustee in any calendar year a residence certificate issued by the relevant authority of the country in which the Trustee is resident (certified and apostilled) confirming that the Trustee is resident in that country during the period in which the relevant services will be rendered. The form of such certificate shall be substantially in the form set out in Schedule 7 (*Form of Certificate of Residency*) hereto or such other form as may be agreed upon from time to time by the Bank and the Trustee.

In the event the Trustee provides any services related to this Trust Deed in the territory of the Republic of Kazakhstan, in addition to the residence certificate, the Trustee shall, on request, deliver to the Bank notarially testified copies of its constitutional documents.

If the Trustee has not delivered to the Bank the above stated documents prior to the date of the first payment to be made by the Bank in any calendar year, or in the absence of a double taxation treaty concluded between the Republic of Kazakhstan and the country in which the Trustee is resident, the Bank shall make any payment hereunder less any deductions for tax required by law.

## 8.8 **Value Added Tax**

The Bank shall pay to the Trustee an amount equal to the amount of the value added tax or similar tax chargeable in respect of its remuneration of its costs, charges, liabilities or expenses under or in respect of this Trust Deed or in respect of any amount payable under the indemnity in Clause 8.4 (*Indemnity*) or any interest payable under Clause 8.3 (*Expenses*).

## **9. Provisions supplemental to the Trustee Act 1925 and the Trustee Act 2000**

By way of supplement to the Trustee Act 1925 and the Trustee Act 2000, it is expressly declared as follows.

### 9.1 **Advice**

The Trustee may in relation to this Trust Deed act on (or not act on) the opinion or advice of, or a certificate or information obtained from, any expert, auditor, lawyer, banker, valuer, surveyor, broker, auctioneer or professional entity and shall not be responsible to anyone for any loss occasioned by so acting (or not acting). Any such opinion, advice or information may be sent or obtained by letter, email or fax and the Trustee shall not be liable to anyone for acting (or not acting) on any opinion, advice or information purporting to be conveyed by such means even if it contains some error or is not authentic. The Trustee may rely without liability to Noteholders on any certificate or report prepared by any of the above experts, including specifically the Auditors, or any auditor, pursuant to the Conditions or this Trust

Deed, whether or not the expert or auditor's liability in respect thereof is limited by a monetary cap or otherwise or all such liability is disclaimed.

## **9.2 Trustee to assume performance**

The Trustee need not notify anyone of the execution of this Trust Deed or do anything to find out if an Event of Default or Potential Event of Default has occurred. Until it has actual knowledge or express notice to the contrary, the Trustee may assume that no such event has occurred and that the Bank is performing and observing all its obligations, covenants and provisions under this Trust Deed and the Notes and that no event has occurred as a consequence of which any of the Notes may have become repayable.

## **9.3 Resolutions of Noteholders**

The Trustee shall not be responsible for acting upon any resolution purporting to have been passed at a meeting of Noteholders in respect of which minutes have been made and signed or a written resolution made in accordance with paragraph 31 (*Written resolutions*) of Schedule 3 (*Provisions for Meetings of Noteholders*) or any direction or request of Noteholder, even if it is later found that there was a defect in the constitution of the meeting or the passing of the resolution or that the resolution was not valid or binding on the Noteholders or the giving of the direction or request.

## **9.4 Certificate signed by Authorised Signatories**

If the Trustee, in the exercise of its functions, requires to be satisfied or to have information as to any fact or the expediency of any act, it may call for, rely on and accept as sufficient evidence of that fact or the expediency of that act a certificate signed by any two Authorised Signatories of the Bank or any other person duly authorised on their behalf as to that fact or to the effect that, in their opinion, that act is expedient and the Trustee need not call for further evidence and shall not be responsible for failing to do so or for any loss occasioned by acting on such a certificate.

## **9.5 Reliance on certification of clearing system**

The Trustee may call for any certificate or other document issued by Euroclear, Clearstream or any other relevant clearing system in relation to any matter. Any such certificate or other document shall, in the absence of manifest error, be conclusive and binding for all purposes. Any such certificate or other document may comprise any form of statement or print out of electronic records provided by the relevant clearing system (including Euroclear's EUCLID or Clearstream's Creation Online system) in accordance with its usual procedures and in which the holder of a particular principal or nominal amount of the Notes is clearly identified together with the amount of such holding. The Trustee shall not be liable to any person by reason of having accepted as valid or not having rejected any certificate or other document to such effect purporting to be issued by Euroclear or Clearstream or any other relevant clearing system and subsequently found to be forged or not authentic.

## **9.6 Noteholders as a class**

Whenever in this Trust Deed the Trustee is required to have regard to the interests of the Noteholders in connection with any exercise of its powers, trusts, authorities or discretions, it shall have regard to the interests of the Noteholders as a class and in particular, but without prejudice to the generality of the foregoing, shall not be obliged to have regard to the consequences of such exercise for any individual Noteholder resulting from his or its being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory or any political sub-division thereof and the Trustee shall not be entitled to demand from the Bank, nor shall any Noteholder be entitled to claim, from the Bank, the Trustee or any other person any indemnification or payment in respect of any tax consequence of any such exercise upon individual Noteholders except to the extent

already provided for Condition 9 (*Taxation*), and/or any undertaking given in addition thereto or in substitution thereof under this Trust Deed, and without prejudice to the right of the Trustee to be indemnified by the Bank pursuant to Clause 8.4 (*Indemnity*) of this Trust Deed.

#### 9.7 **Trustee not responsible for investigations**

The Trustee shall not be responsible for investigating any matter which is the subject of any recital, statement, representation, warranty or covenant of any person contained in this Trust Deed, the Notes, or any other agreement or document relating to the transactions herein or therein contemplated or for the execution, legality, effectiveness, adequacy, genuineness, validity, enforceability or admissibility in evidence thereof. Without limitation to the generality of the foregoing, each Noteholder shall be responsible for making its own independent appraisal of an investigation into the financial condition, creditworthiness, condition, affairs, status and nature of the Bank and the Trustee shall not at any time have any responsibility for the same and no Noteholder shall rely on the Trustee in respect thereof.

#### 9.8 **No obligation to monitor**

The Trustee shall be under no obligation to monitor or supervise the functions of any other person under this Trust Deed, the Notes or any other agreement or document relating to the transactions herein or therein contemplated and shall be entitled, in the absence of actual knowledge of a breach of obligation, to assume that each such person is properly performing and complying with its obligations.

#### 9.9 **Deposit of documents**

The Trustee may appoint as custodian, on any terms, any bank or entity whose business includes the safe custody of documents or any lawyer or firm of lawyers believed by it to be of good repute and may deposit this Trust Deed and any other documents with such custodian and pay all sums due in respect thereof. The Trustee is not obliged to appoint a custodian of securities payable to bearer. The Trustee shall not be responsible for or required to insure against any loss incurred in connection with any such deposit. If the fees for such custodian shall exceed U.S.\$10,000 per annum, the Trustee shall obtain the Bank's prior written consent.

#### 9.10 **Discretion**

The Trustee shall have absolute and uncontrolled discretion as to the performance of its functions and all the trusts, powers, authorities and discretions vested in it by this Trust Deed or by operation of law and shall not be responsible for any loss, liability, cost, claim, action, damage, demand, expense or inconvenience which may result from their performance or non-performance but when the Trustee is under the provisions of this Trust Deed bound to act at the request or direction of Noteholders, the Trustee shall not be bound to act at the request or direction of the Noteholders or otherwise under any provision of this Trust Deed unless it shall first be indemnified, secured or prefunded to its satisfaction against all liabilities to which it may render itself liable for which it may incur by doing so.

#### 9.11 **Agents**

- (a) Whenever it considers it expedient in the interests of the Noteholders, the Trustee may, in the conduct of its trust business, instead of acting personally, employ and pay an agent selected by it (and, if reasonably practicable, notify the Bank of the identity of the agent employed), whether or not a lawyer or other professional person, to transact or conduct, or concur in transacting or conducting, any business and to do or concur in doing all acts required to be done by the Trustee (including the receipt and payment of money).

- (b) Provided the Trustee exercises reasonable care in selecting any Receiver, attorney, manager, custodian, agent, delegate, co-trustee or nominee under this Clause 9.11 (an “**Appointee**”), the Trustee shall not have any obligation to supervise the Appointee or be responsible to the Noteholders for any loss, liability, cost, claim, action, demand or expense incurred by reason of the Appointee’s misconduct or default or the misconduct or default of any substitute appointed by the Appointee.

#### 9.12 **Delegation**

Whenever it considers it expedient in the interests of the Noteholders, the Trustee may delegate to any person on any terms (including power to sub-delegate) all or any of its functions, powers, trusts, authorities and discretions vested in the Trustee hereby and any such delegation may be by power of attorney or in such other manner as the Trustee may think fit and subject to such regulation as the Trustee may think fit. The Trustee shall exercise reasonable care in its appointment of any delegate on the terms of this Clause 9.12. Any exercise by the Trustee of its rights under this Clause 9.12 shall not preclude the subsequent exercise of those powers or discretions by the Trustee, any revocation of the delegation, or any subsequent delegation of any such powers and discretions. The Trustee shall not have any obligation to notify anyone of such appointment or to supervise such delegate or be responsible for any loss, liability, cost, claim, action, demand or expense incurred by reason of any misconduct or default by any such delegate or sub-delegate. Subject to exercising reasonable care in its appointment, the Trustee shall not be responsible for any misconduct or default on the part of any person appointed by it hereunder or be bound to supervise the proceedings or acts of any such person and, without prejudice to the generality of the foregoing, the Trustee shall be entitled at any time following an Event of Default to appoint an agent (subject to the provisions of applicable law) in the name and on behalf of the Bank.

#### 9.13 **Nominees**

In relation to any asset held by it under this Trust Deed, the Trustee may appoint any person to act as its nominee on any terms, provided the Trustee exercises reasonable care in so doing.

#### 9.14 **Forged Notes**

The Trustee shall not be liable to the Bank or any Noteholder by reason of having accepted as valid or not having rejected any Note purporting to be such and later found to be forged or not authentic.

#### 9.15 **Confidentiality**

Unless ordered to do so by a court of competent jurisdiction or duly authorised governmental authority the Trustee shall not be required to disclose to any Noteholder any confidential financial or other information made available to the Trustee by the Bank in connection with this Trust Deed and no Noteholder shall be entitled to take any action to obtain from the Trustee any such information.

#### 9.16 **Determinations conclusive**

As between itself and the Noteholders, the Trustee may determine all questions and doubts arising in relation to any of the provisions of this Trust Deed. Such determinations, whether made upon such a question actually raised or implied in the acts or proceedings of the Trustee, shall be conclusive and shall bind the Trustee and the Noteholders.

#### 9.17 **Currency conversion**

Where it is necessary or desirable to convert any sum from one currency to another, it shall (unless otherwise provided hereby or required by law) be converted at such rate or rates, in

accordance with such method and as at such date as may reasonably be specified by the Trustee in its sole discretion but having regard to current rates of exchange, if available. Any rate, method and date so specified shall be binding on the Bank and the Noteholders. With respect to any amount received under Clause 5 (*Turnover*) of the SK Loan Schedule in Kazakh Tenge, the Trustee shall convert such amount into U.S. dollars at such time and such manner as reasonably specified by the Trustee in accordance with this Clause.

#### 9.18 **Events of Default**

The Trustee may determine whether or not an Event of Default or Potential Event of Default is, in its opinion, capable of remedy and/or materially prejudicial to the interests of the Noteholders. Any such determination shall be conclusive and binding on the Bank and the Noteholders.

#### 9.19 **Payment for and delivery of Notes**

The Trustee shall not be responsible for the receipt or application by the Bank of the proceeds of the issue of the Notes, any exchange of Notes or the delivery of definitive registered Notes to the persons entitled to them.

#### 9.20 **Notes held by the Bank, etc.**

In the absence of actual knowledge or express notice to the contrary, the Trustee may assume without enquiry (other than requesting a certificate from the Bank to that effect) that no Notes are for the time being held by or on behalf of the Bank or its respective Subsidiaries.

#### 9.21 **Reliance**

The Trustee may rely on any notice, certificate or other communication reasonably believed by it to be genuine and to have been sent or signed by the proper parties and shall not be liable for so doing.

#### 9.22 **Entry on the Register**

The Trustee shall not be liable to the Bank or any Noteholder by reason of having accepted as valid or not having rejected any entry on the Register later found to be forged or not authentic and may assume for all purposes that any entry on the Register is correct.

#### 9.23 **Indemnity**

Notwithstanding anything else herein contained, the Trustee may refrain from taking any action or exercising any right, power, authority or discretion vested in it under this Trust Deed or any other agreement relating to the transactions herein or therein contemplated (whether at the request or direction of the Bank or the Noteholders) unless and until it has been indemnified and/or secured and/or prefunded to its satisfaction against any and all costs, expenses, charges and other liabilities which might be brought, made or conferred against or suffered, incurred or sustained by it as a result of it taking any action or exercising any right, power, authority or discretion.

#### 9.24 **Action contrary to any law**

Notwithstanding anything else herein contained, the Trustee may refrain from doing anything (a) that would or might in its opinion be contrary to any law of any jurisdiction or any directive or regulation of any agency of any state or which would or might otherwise render it liable to any person or cause it to act in a manner which might prejudice its interests and may do anything which is, in its reasonable opinion, necessary to comply with any such law, directive or regulation or (b) which, in its opinion, it would not have the power to do in any jurisdiction by virtue of any applicable law in that jurisdiction or if it is determined by any court or other competent authority in any jurisdiction that it does not have such power.

**9.25 Determination of “material”**

If the Trustee is for whatever reason required to make any determination of “material adverse effect” or like matter pursuant to the terms of the Notes or this Trust Deed, it may, in its absolute discretion, seek directions from the Noteholders by means of an Extraordinary Resolution or seek advice (at the expense of the Bank) from an expert, both in accordance with this Trust Deed, and the Trustee shall not be liable for any unavoidable delay involved in so doing.

**9.26 Professional charges**

Any trustee being a banker, lawyer, broker or other person engaged in any profession or business shall be entitled to charge and be paid all usual professional and other charges for business transacted and acts done by him or his partner or firm on matters arising in connection with the trusts of this Trust Deed and also his properly incurred charges in addition to disbursements for all other work and business done and all time spent by him or his partner or firm on matters arising in connection with this Trust Deed, including matters which might or should have been attended to in person by a trustee not being a banker, lawyer, broker or other professional person.

**9.27 Expenditure by the Trustee**

Nothing contained in this Trust Deed shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties or the exercise of any right, power, authority or discretion hereunder, including in relation to any deduction from any enforcement proceeds in connection with any insolvency proceedings following an Event of Default, if it has grounds to believe that the repayment of such funds or adequate indemnity against, or security for or prefunding for, such risk or liability is not reasonably assured to it.

**9.28 Consent of the Trustee**

Any consent given by the Trustee for the purposes of this Trust Deed may be given on such terms and subject to such conditions (if any) as the Trustee may require and may be given retrospectively.

**9.29 Actions of Trustee**

The permissive rights of the Trustee to take actions permitted by this Trust Deed shall not be construed as an obligation or duty to do so.

**9.30 Consequential loss**

In no circumstances will the Trustee be liable to the Bank, any Subsidiary of the Bank or any other person for any special, indirect, cumulative, punitive or consequential damage or loss of any kind whatsoever (including loss of business, goodwill, opportunity or profit of any kind) whether or not foreseeable, even if advised of the possibility of such loss or damage and regardless of whether the claim for loss or damage is made in negligence or otherwise.

**9.31 Information and other reports**

Delivery of reports, information and documents to the Trustee under Clauses 7(a)(vi) (*Further Information*), is for informational purposes only and shall not impose any obligation on the Trustee to take any action in respect of them and the Trustee’s receipt of the foregoing shall not constitute actual or constructive notice of any information contained therein or determinable from information contained therein, including the Bank’s or any Subsidiary’s compliance with any of their covenants hereunder (as to which the Trustee is entitled to rely on certificates signed by two Authorised Signatories of the Bank).

### 9.32 **Trustee Act 2000**

Any exercise by the Trustee of any rights or powers under this Trust Deed that are the same as or similar to any rights or powers conferred on a trustee by the Trustee Act 2000 shall be construed solely as the exercise of the relevant rights or powers under this Trust Deed and not as the exercise of the same or any similar rights or powers under the Trustee Act 2000. The disapplication of certain parts or Sections of the Trustee Act 2000 as provided herein shall constitute an exclusion of the relevant parts of the Trustee Act 2000 for the purposes of that Act.

### 9.33 **Legal opinions**

The Trustee shall not be responsible to any person for failing to request, require or receive any legal opinion relating to any Notes or for checking or commenting upon the content of any such legal opinion and shall not be responsible for any liability incurred thereby.

### 9.34 **Right to deduct or withhold**

Notwithstanding anything contained in this Trust Deed, to the extent required by any applicable law, if the Trustee is or will be required to make any deduction or withholding from any distribution or payment made by it hereunder or if the Trustee is or will be otherwise charged to, or is or may become liable to, tax as a consequence of performing its duties hereunder whether as principal, agent or otherwise, and whether by reason of any assessment, prospective assessment or other imposition of liability to taxation of whatsoever nature and whensoever made upon the Trustee, and whether in connection with or arising from any sums received or distributed by it or to which it may be entitled under this Trust Deed (other than in connection with its remuneration as provided for herein) or any investments or deposits from time to time representing the same, including any income or gains arising therefrom or any action of the Trustee in connection with the trusts of this Trust Deed (other than the remuneration herein specified) or otherwise, then the Trustee shall be entitled to make such deduction or withholding or, as the case may be, to retain out of sums received by it in an amount sufficient to discharge any liability to tax which relates to sums so received or distributed or to discharge any such other liability of the Trustee to tax from the funds held by the Trustee upon the trusts of this Trust Deed.

### 9.35 **Error of judgment**

The Trustee shall not be liable for any error of judgment made in good faith by any officer or employee of the Trustee assigned by the Trustee to administer its corporate trust matters.

### 9.36 **Not bound to act**

The Trustee shall not be bound to take any step or action in connection with this Trust Deed or the Notes or obligations arising pursuant thereto, including, but not limited to, forming an opinion or employing any financial adviser, where it is not satisfied that it is indemnified and/or secured and/or prefunded against all its liabilities and costs incurred in connection with such step or action any may demand prior to taking any such step or action that there be paid to it in advance such sums as it considers (without prejudice to any further demand) shall be sufficient so to indemnify and/or secure and/or prefund it.

### 9.37 **Rating Agency Confirmation**

The Trustee shall be entitled to assume, without further investigation or inquiry, for the purpose of exercising or performing any right, power, trust, authority, duty or discretion under or in relation to the Trust Deed (including, without limitation, any consent, approval, modification, waiver, authorisation or determination), that such exercise will not be materially prejudicial to the interests of the Noteholders, if each of the Rating Agencies then rating the outstanding Notes has confirmed in writing (whether or not such confirmation is addressed to,

or provides that it may be relied upon by, the Trustee and irrespective of the method by which such confirmation is conveyed) that the then current rating by it of the outstanding Notes would not be adversely affected or withdrawn in connection therewith.

#### 9.38 **Rating Agency Reports**

The Trustee shall be entitled to request and rely upon any information or report provided by any Rating Agency whether addressed to the Trustee or any other person.

### **10. Trustee liable for negligence**

Section 1 of the Trustee Act 2000 shall not apply to any function of the Trustee, *provided that* if the Trustee fails to show the reasonable degree of care and diligence required of it as trustee, nothing in this Trust Deed shall relieve or indemnify it from or against any liability which would otherwise attach to it in respect of any negligence, wilful default or fraud of which it may be guilty.

### **11. Trustee not precluded from entering into contracts**

The Trustee and any other person, whether or not acting for itself, may acquire, hold or dispose of any Note or other security (or any interest therein) of the Bank or any other person, may enter into or be interested in any contract or transaction with any such person and may act on, or as depositary or agent for, any committee or body of holders of any securities of any such person in each case with the same rights as it would have had if the Trustee were not acting as Trustee and need not account for any profit.

### **12. Waiver and proof of default**

#### 12.1 **Waiver**

The Trustee may, without the consent or sanction of the Noteholders and without prejudice to its rights in respect of any subsequent breach, condition, event or act, from time to time and at any time, but only if and in so far as in its opinion the interests of the Noteholders shall not be materially prejudiced thereby, waive or authorise, on such terms and conditions as shall seem expedient to it, but subject as provided in the Conditions, any breach or proposed breach by the Bank of any of the covenants or provisions contained in this Trust Deed, the Notes or the Agency Agreement or determine that any Event of Default or Potential Event of Default shall be disregarded. Any such authorisation, waiver or determination shall be binding on the Noteholders and, if, but only if, the Trustee shall so require, the Bank shall cause such authorisation, waiver or determination to be notified to the Noteholders as soon as practicable thereafter in accordance with the Conditions, *provided that* the Trustee shall not exercise any powers conferred upon it by this Clause 12.1 (*Waiver*) in contravention of any express direction by an Extraordinary Resolution of or a request in writing of holders holding not less than 20 per cent. in aggregate principal amount of Notes. No such direction or request shall affect any authorisation, waiver or determination previously given or made. The Trustee may not authorise or waive any such breach or proposed breach relating to any of the matters the subject of the special quorum resolution as specified and defined in Schedule 3 (*Provisions for Meetings of Noteholders*).

#### 12.2 **Proof of default**

If the Trustee takes legal proceedings to enforce any obligation under this Trust Deed or in respect of the Notes, proof therein that, as regards any specified Note, default has been made by the Bank in paying any amount in respect of principal, interest or any other amount due to the relevant Noteholder shall (unless the contrary is proved) be sufficient evidence that

default has been made as regards all other Notes in respect of which a corresponding payment is then due.

### **13. Modification and substitution**

#### **13.1 Modification**

The Trustee may from time to time and at any time without any consent or sanction of the Noteholders concur with the Bank in making (a) any modification to this Trust Deed or the Notes (other than in respect of the matters the subject of the special quorum resolution as specified and defined in Schedule 3 (*Provisions for Meetings of Noteholders*)) which, in the opinion of the Trustee it may be proper to make provided the Trustee is of the opinion that such modification will not be materially prejudicial to the interests of the Noteholders or (b) any modification to this Trust Deed or the Notes if in the opinion of the Trustee such modification is of a formal, minor or technical nature or made to correct a manifest error or to reflect the redemption or cancellation of the Notes. Any such modification shall be binding on the Noteholders and, unless the Trustee otherwise agrees, the Bank shall cause such modification to be notified to the Noteholders as soon as practicable thereafter in accordance with the Conditions.

#### **13.2 Substitution**

- (a) The Trustee may, without the consent of the Noteholders, agree to the substitution of the Bank's successor in business or any Subsidiary of the Bank (the "**Substituted Obligor**") in place of the Bank (or of any previous substitute under this Clause 13.2) as the principal debtor under this Trust Deed, the Agency Agreement and the Notes if:
  - (i) a trust deed is executed or some other written form of undertaking is given by the Substituted Obligor to the Trustee, in form and manner satisfactory to the Trustee, agreeing to be bound by the terms of this Trust Deed, the Agency Agreement and the Notes with any consequential or other amendments which the Trustee may deem appropriate as fully as if the Substituted Obligor had been named in this Trust Deed, the Agency Agreement and on the Notes as the principal debtor in place of the Bank or of any previous substitute under this Clause;
  - (ii) the obligations of the Substituted Obligor as principal debtor in respect of the Notes are unconditionally and irrevocably guaranteed by the Bank and the Trustee is satisfied that the Bank has obtained all governmental and regulatory approvals and consents necessary for such guarantee and such approvals and consents are at the time of substitution in full force and effect;
  - (iii) arrangements are made to the satisfaction of the Trustee for the Noteholders and the Trustee to have or be able to have the same or equivalent rights against the Substituted Obligor as they have against the Bank (or any such previous substitute);
  - (iv) the Trustee is satisfied that the Substituted Obligor has obtained all governmental and regulatory approvals and consents necessary for its assumption of the obligations and liabilities as principal debtor under this Trust Deed and the Agency Agreement and in respect of the Notes in place of the Bank (or such previous substitute as aforesaid) and such approvals and consents are at the time of substitution in full force and effect;
  - (v) without prejudice to the generality of the preceding paragraphs (i) to (iv), where the Substituted Obligor is incorporated, domiciled or resident in a

territory other than the Republic of Kazakhstan, undertakings or covenants are given in terms corresponding to the provisions of this Trust Deed and Condition 9 (*Taxation*), as applicable, with the substitution or addition to the references to *Republic of Kazakhstan*, in respect of a substitution of the Bank;

- (vi) the Substituted Obligor and the Bank shall have delivered to the Trustee an opinion of independent counsel to the effect that any and all documents entered into by the Bank, the Substituted Obligor and the Trustee are valid, binding and enforceable against the Substituted Obligor and the Bank; and
  - (vii) the Trustee is satisfied with respect to the Notes that the said substitution is not materially prejudicial to the interests of the Noteholders as a class.
- (b) The Trustee shall be entitled to refuse to approve any Substituted Obligor if, pursuant to the law of the country of incorporation, domicile or residence of the Substituted Obligor, the assumption by the Substituted Obligor of its obligations hereunder imposes responsibilities on the Trustee over and above those which have been assumed under this Trust Deed and the Agency Agreement.
  - (c) The Bank and the Substituted Obligor shall comply with such other requirements as the Trustee may reasonably direct in the interests of the Noteholders.
  - (d) In connection with any proposed substitution, the Trustee shall not have regard to, or be in any way liable for, the consequences of such substitution for individual Noteholders resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory.
  - (e) The Bank or the Substituted Obligor shall indemnify each Noteholder for any income, gain or loss for tax purposes recognised by such Noteholder as a result of the substitution.
  - (f) Subject to Clauses 13.2(a)(ii), any such agreement by the Trustee pursuant to this Clause 13.2 (*Substitution*) shall, if so expressed, operate to release the Bank (or such previous substitute as aforesaid) from any or all of its obligations as principal debtor under this Trust Deed, the Agency Agreement and the Notes. Not later than 14 days after the execution of any such documents to effect the substitution as aforesaid and after compliance with the said requirements of the Trustee, the Substituted Obligor shall cause notice of the substitution to be given to the Noteholders.
  - (g) Upon the execution of such documents and compliance with the said requirements, the Substituted Obligor shall be deemed to be named in this Trust Deed, the Agency Agreement and the Notes as the principal debtor in place of the Bank (or of any previous substitute under this Clause 13.2) and this Trust Deed, the Agency Agreement and the Notes shall thereupon be deemed to be amended in such manner as shall be necessary to give effect to the substitution and without prejudice to the generality of the foregoing any references in this Trust Deed, the Agency Agreement or in the Notes to the Bank shall be deemed to be references to the Substituted Obligor.
  - (h) The Substituted Obligor and the Bank shall use all reasonable endeavours to ensure that the Notes continue to be listed on an Approved Stock Exchange and on KASE or, if the maintenance of such listings or any of them are agreed by the Trustee to be unduly onerous and the Trustee is satisfied that the interests of the Noteholders would not be thereby materially prejudiced, instead use its reasonable endeavours to obtain and maintain a listing of the Notes on another stock exchange or exchanges to be approved in writing by the Trustee and give notice of the identity of such other stock exchange or exchanges or securities market or markets to the Noteholders.

## **14. Appointment, retirement and removal of the Trustee**

### **14.1 Appointment**

The Bank has the power of appointing new trustees but may not do so unless previously approved by an Extraordinary Resolution. A trust corporation shall at all times be a Trustee and may be the sole Trustee. Any appointment of a new Trustee shall be notified by the Bank to the Noteholders as soon as practicable.

### **14.2 Retirement and removal**

Any Trustee may retire at any time on giving at least two months' written notice to the Bank without giving any reason or being responsible for any costs occasioned by such retirement. The retirement of any Trustee shall not become effective unless there remains a trustee hereof (being a trust corporation) in office after such retirement. The Noteholders may by Extraordinary Resolution and having given not less than two months' prior written notice remove any Trustee. If a sole trust corporation gives notice of retirement or an Extraordinary Resolution is passed for its removal, the Bank shall use all reasonable endeavours to procure that another trust corporation be appointed as Trustee. If the Bank fails to appoint a new Trustee within 30 days following the notice or Extraordinary Resolution referred to in this Clause 14.2, the Trustee may do so.

### **14.3 Co-Trustees**

The Trustee may, despite Clause 14.1 (*Appointment*), by written notice to the Bank appoint anyone to act as an additional Trustee jointly with the Trustee:

- (a) if the Trustee considers the appointment to be in the interests of the Noteholders;
- (b) to conform with a legal requirement, restriction or condition in a jurisdiction in which a particular act is to be performed; or
- (c) to obtain a judgment or to enforce a judgment or any provision of this Trust Deed in any jurisdiction.

Subject to the provisions of this Trust Deed, the Trustee may confer on any person so appointed such functions as it thinks fit and on terms of appointment which it deems proper. The Trustee may by written notice to the Bank and that person remove that person. At the Trustee's request, the Bank shall forthwith do all things as may be required to perfect such appointment or removal. Such person shall (subject always to the provisions of this Trust Deed) have such trusts, powers, authorities and discretions (not exceeding those conferred on the Trustee by this Trust Deed) and such duties and obligations as shall be conferred on such person or imposed by the instrument of appointment. The Trustee shall have power in like manner to remove any such person. Such proper remuneration as the Trustee may pay to any such person, together with any attributable costs, charges and expenses incurred by it in performing its function as such separate trustee or co-trustee, shall for the purposes of this Trust Deed be treated as costs, charges and expenses incurred by the Trustee.

### **14.4 Competence of a majority of Trustees**

If there are more than two Trustees the majority of them shall be competent to perform the Trustee's functions provided the majority includes a trust corporation.

### **14.5 Powers additional**

The powers conferred by this Trust Deed upon the Trustee shall be in addition to any powers which may from time to time be vested in it by general law or as the holder of any of the Notes.

#### 14.6 **Merger**

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all the corporate trust business of the Trustee, shall be the successor of the Trustee under this Trust Deed, provided such corporation shall be otherwise qualified and eligible under this Clause 14.6, without the execution or filing of any paper or any further act on the part of any of the parties to this Trust Deed.

#### 14.7 **Bank to appoint new Trustee**

Subject to the other sub-Clauses in this Clause 14, the Bank may appoint a new trustee if the United Kingdom ceases to be the jurisdiction in which the Trustee is resident and acting through for taxation purposes.

### 15. **SK Loan Schedule**

#### 15.1 **Notices**

If at any time the Bank receives a notice from Samruk-Kazyna pursuant to the SK Loan Schedule, it shall provide a copy of such notice to the Trustee for approval in accordance with Clause 7(a)(vii) and, following approval, send such notice to Noteholders in accordance with Condition 14.

#### 15.2 **Certificate as to amounts owing**

If requested by Samruk-Kazyna pursuant to the SK Loan Schedule, the Bank shall promptly following such request deliver a certificate of the Bank (“**Bank Certificate**”) to Samruk-Kazyna (or a person specified by Samruk-Kazyna), with copies to the RCTFF Agent (as defined in the SK Loan Schedule) and the Trustee which shall:

- (a) be signed by an officer of the Bank;
- (b) specify the total amount of the Senior Obligations (as defined in the SK Loan Schedule) owed by the Bank to the Trustee and the Noteholders under the Notes and the Trust Deed as of a date no greater than 10 Business Days prior to the date of the Bank Certificate (the “**Statement Date**”);
- (c) specify the total amount of the Senior Obligations owed by the Bank to the RCTFF Agent, RCTFF Lenders (as defined in the SK Loan Schedule) and other finance parties under the RCTFF Agreement (as defined in the SK Loan Schedule) as of the Statement Date; and
- (d) in the absence of manifest error, be binding on the Trustee, the Noteholders, the RCTFF Agent, the RCTFF Lenders and other finance parties under the RCTFF Agreement.

In determining the amount owing under the RCTFF, the Bank may rely upon one or more certificates of the RCTFF Agent and information provided by other Agents.

The Bank shall deliver copies of any such certificate or any other documentation on which it has relied in preparing the Bank Certificate, to Samruk-Kazyna (with copies to the RCTFF Agent and the Trustee) with the Bank Certificate.

The Bank shall have no liability for or in respect of the Bank Certificate or the apportionment as between the Trustee and the RCTFF Agent of any amounts payable by Samruk-Kazyna to

the Trustee and/or the RCTFF Agent under the SK Loan Schedule, provided that it has acted reasonably and in good faith.

### 15.3 **Enforcement**

At any time after Samruk-Kazyna is in default in the performance, or is otherwise in breach, of any covenant, obligation, undertaking or other agreement in relation to which the Trustee has been granted the benefit under the SK Loan Schedule and such default or breach is continuing, the Trustee shall and without further notice take such steps, actions or proceedings against Samruk-Kazyna to enforce such covenant, obligation, undertaking or other agreement, provided that the Trustee shall not take any action under this Clause 15.3 (*Enforcement*) unless:

- (a) it has been so requested in writing by the holders of not less than one fifth in principal amount or has been so directed by an Extraordinary Resolution of Noteholders of such outstanding Notes; and
- (b) it has been indemnified and/or prefunded and/or provided with security to its satisfaction,

and *provided that* the Trustee shall not be held liable for the consequences of taking any such action including any reasonable delay in relation thereto and may take such action without having regard to the effect of such action on individual Noteholders.

Only the Trustee may enforce the provisions of the SK Loan Schedule and no Noteholder shall be entitled to proceed directly against Samruk-Kazyna to enforce the provisions of the SK Loan Schedule unless the Trustee, having become bound so to proceed on behalf of the Noteholders, fails to do so within a reasonable time and such failure is continuing.

The Trustee shall not be deemed to be responsible for the consequences of having acted in good faith upon any such request or direction as set out above.

The Trustee need not notify anyone of the execution of this Trust Deed or the SK Loan Schedule or do anything to monitor or enquire if a default or breach under the SK Loan Schedule has occurred. Until it has actual knowledge or express notice to the contrary, the Trustee may assume that no such event has occurred and that Samruk-Kazyna is performing and observing all its obligations, covenants and provisions under the SK Loan Agreement and the SK Loan Schedule and that no event has occurred as a consequence of which any of the Notes may have become repayable.

### 15.4 **Trustee not responsible for investigations**

The Trustee shall not be responsible for investigating any matter which is the subject of any recital, statement, representation, warranty or covenant of any person contained in the SK Loan Schedule or any other agreement or document relating to the transactions herein or therein contemplated or for the execution, legality, effectiveness, adequacy, genuineness, validity, enforceability or admissibility in evidence thereof.

### 15.5 **No obligation to monitor**

The Trustee shall be under no obligation to monitor or supervise the functions of any other person under the SK Loan Schedule or any other agreement or document relating thereto or therein contemplated and shall be entitled, in the absence of actual knowledge of a breach of obligation, to assume that each such person is properly performing and complying with its obligations.

#### 15.6 **Determination conclusive**

As between itself and the Noteholders, the Trustee may determine all questions and doubts arising in relation to any of the provisions of the SK Loan Schedule of which it has the benefit. Such determinations, whether made upon such a question actually raised or implied in the acts or proceedings of the Trustee, shall be conclusive and shall bind the Trustee and the Noteholders.

#### 15.7 **Indemnity**

Notwithstanding anything else herein contained, the Trustee may refrain from taking any action or exercising any right, power, authority or discretion vested in it under this Trust Deed, the SK Loan Schedule or any other agreement relating thereto or therein contemplated unless and until it has been indemnified and/or secured and/or prefunded to its satisfaction against any and all costs, expenses, charges and other liabilities which might be brought, made or conferred against or suffered, incurred or sustained by it as a result of it taking any action or exercising any right, power, authority or discretion.

#### 15.8 **Consent of the Trustee**

Any consent given by the Trustee for the purposes of the SK Loan Schedule may be given on such terms and subject to such conditions (if any) as the Trustee may require and may be given retrospectively.

#### 15.9 **Not bound to act**

The Trustee shall not be bound to take any step or action in connection with the SK Loan Schedule or obligations or rights arising pursuant thereto, including, but not limited to, forming an opinion or employing any financial adviser, where it is not satisfied that it is indemnified and/or secured and/or prefunded against all its liabilities and costs incurred in connection with such step or action any may demand prior to taking any such step or action that there be paid to it in advance such sums as it considers (without prejudice to any further demand) shall be sufficient so to indemnify and/or secure and/or prefund it.

#### 15.10 **No duty to enquire**

The Trustee shall have no liability in respect of any amounts received pursuant to Clause 5 of the SK Loan Schedule and shall have no duty to enquire as to the apportionment, the quantum, to return any excess or in respect of any delay or failure by any party to make a transfer under the SK Loan Schedule.

#### 15.11 **No Obligations**

The Trustee shall have no liability in respect of the SK Loan Schedule and shall have no obligations or duties in respect thereof other than to receive funds pursuant to Clause 5 of the SK Loan Schedule.

#### 15.12 **Modification**

The Trustee may from time to time and at any time without any consent or sanction of the Noteholders concur with Samruk-Kazyna in making any modification to the SK Loan or the SK Loan Schedule if in the opinion of the Trustee such modification is of a formal, minor or technical nature or made to correct a manifest error. Any such modification shall be binding on the Noteholders and, unless the Trustee otherwise agrees, the Bank shall cause such modification to be notified to the Noteholders as soon as practicable thereafter in accordance with the Conditions.

## **16. Currency indemnity**

### **16.1 Currency of account and payment**

U.S. dollars is the only currency of account and payment for all sums payable by the Bank under or in connection with this Trust Deed and the Notes, including damages.

### **16.2 Extent of discharge**

An amount received in a currency other than U.S. dollars (whether as a result of, or on the enforcement of, a judgment or order of a court of any jurisdiction, in the winding-up or dissolution of the Bank or otherwise), by the Trustee or any Noteholder in respect of any sum expressed to be due to it from the Bank will only discharge the Bank to the extent of the U.S. dollars amount which the recipient is able to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so).

### **16.3 Indemnity**

If the U.S. dollars amount is less than the U.S. dollars amount expressed to be due to the recipient under this Trust Deed or the Notes, the Bank shall indemnify the recipient against any loss sustained by it as a result. In any event, the Bank shall indemnify the recipient against the cost of making any such purchase.

### **16.4 Indemnity separate**

The indemnities in this Clause 16.4 and in Clause 8.4 (*Indemnity*) constitute separate and independent obligations from the other obligations in this Trust Deed, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by the Trustee and/or any Noteholder and shall continue in full force and effect despite any judgment, order, claim or proof for a liquidated amount in respect of any sum due under this Trust Deed and the Notes or any other judgment or order.

## **17. Communications**

Any communication shall be in writing and in English and shall be by letter, email or fax:

in the case of the Bank, to it at:

“BTA BANK” JSC  
97, Zholdasbekov str.,  
md Samal-2, Almaty,  
050051, Kazakhstan

Fax: +7 727 250 0224  
Attention: Investor Relations and Capital Markets Department

in the case of the Trustee, to it at:

BNY Mellon Corporate Trustee Services Limited  
One Canada Square  
London E14 5AL  
United Kingdom

Fax: +40 20 7964 2536  
Attention: Trustee Administration Manager  
Email: Trustee.Admin@bnymellon.com

Communications will take effect, in the case of delivery, when delivered (and, in the case of the Trustee, when received by a responsible officer) or, in the case of fax, upon acknowledgement of receipt by the recipient. Any communication to be delivered to any party under this Trust Deed which is to be sent by facsimile will be written legal evidence. In the case of the Trustee, communications will take effect when received.

In no event shall the Trustee or any other entity of The Bank of New York Mellon Group be liable for any Losses arising to the Trustee or any other entity of The Bank of New York Mellon Group receiving or transmitting any data from any Bank, any Authorised Person or any party to the transaction via any non-secure method of transmission or communication, such as, but without limitation, by facsimile or email.

The parties hereto accept that some methods of communication are not secure and the Trustee or any other entity of The Bank of New York Mellon Group shall incur no liability for receiving Instructions via any such non-secure method. The Trustee or any other entity of The Bank of New York Mellon Group is authorised to comply with and rely upon any such notice, Instructions or other communications believed by it to have been sent or given by an Authorised Person or an appropriate party to the transaction (or authorised representative thereof). The Bank or authorised officer of the Bank shall use all reasonable endeavours to ensure that Instructions transmitted to the Trustee or any other entity of The Bank of New York Mellon Group pursuant to this Trust Deed are complete and correct. Any Instructions shall be conclusively deemed to be valid Instructions from the Bank or authorised officer of the Bank to the Trustee or any other entity of The Bank of New York Mellon Group for the purposes of this Trust Deed.

In this Clause:

“**Authorised Person**” means any person who is designated in writing by the Bank from time to time to give Instructions to the Trustee under the terms of this Trust Deed.

“**Instructions**” means any written notices, directions or instructions received by the Trustee from an Authorised Person or from a person reasonably believed by the Trustee to be an Authorised Person.

“**Losses**” means any and all claims, losses, liabilities, damages, costs, expenses and judgements (including legal fees and expenses) sustained by either party.

“**The Bank of New York Mellon Group**” means The Bank of New York Mellon and any company or other entity of which The Bank of New York Mellon is directly or indirectly a shareholder or owner. For purposes of this Trust deed, each branch of The Bank of New York Mellon shall be a separate member of The Bank of New York Mellon Group.

## **18. Further issues**

### **18.1 Supplemental Trust Deed**

If the Bank issues Further Notes, the Bank shall, before their issue, execute and deliver to the Trustee a deed supplemental to this Trust Deed containing such provisions (corresponding to any of the provisions of this Trust Deed) as the Trustee may require.

## 18.2 Meetings of Noteholders

If the Trustee so directs, Schedule 3 (*Provisions for Meetings of Noteholders*) shall apply equally to Noteholders and to holders of any Further Notes as if references in it to “Notes” and “Noteholders” were also to such securities and their holders respectively.

## 19. Notes held in clearing systems

So long as any Notes represented by a Global Note are held on behalf of a clearing system, in considering the interests of Noteholders, the Trustee may have regard to any information provided to it by such clearing system or its operator as to the identity (either individually or by category) of its accountholders or participants with entitlements to any such Notes and may consider such interests on the basis that such accountholders or participants were the holder(s) thereof.

## 20. Governing law; arbitration and jurisdiction

### 20.1 Governing law

This Trust Deed and any non-contractual obligations arising out of or in connection herewith are governed by, and shall be construed in accordance with, English law.

### 20.2 Arbitration

Any claim, dispute or difference of whatever nature arising under, out of or in connection with the Notes or this Trust Deed (including a claim, dispute or difference regarding its existence, termination or validity or any non-contractual obligations arising out of or in connection with this Trust Deed) (a “**Dispute**”), shall be referred to and finally settled by arbitration in accordance with the rules of the London Court of International Arbitration (“**LCIA**”) (the “**Rules**”) as at present in force and as modified by this Clause, which Rules shall be deemed incorporated into this Clause. The number of arbitrators shall be three, one of whom shall be nominated by the Bank, one by the Trustee and the third of whom, who shall act as Chairman, shall be nominated by the two party nominated arbitrators, *provided that* if the third arbitrator has not been nominated within 30 days of the nomination of the second party nominated arbitrator, such third arbitrator shall be appointed by the LCIA. The parties may nominate and the LCIA may appoint arbitrators from among the nationals of any country, whether or not a party is a national of that country. The seat of arbitration shall be London, England and the language of arbitration shall be English. Sections 45 and 69 of the Arbitration Act 1996 shall not apply.

### 20.3 Trustee’s option

At any time before the Trustee has nominated an arbitrator to resolve any Dispute(s) pursuant to Clause 20.2 (*Arbitration*), the Trustee, at its sole option, may elect by notice in writing to the Bank that such Dispute(s) shall instead be heard by the courts of England, as more particularly described in Clause 20.4 (*Jurisdiction*). Following any such election, no arbitral tribunal shall have jurisdiction in respect of such Dispute(s).

### 20.4 Jurisdiction

In the event that the Trustee serves a written notice of election in respect of any Dispute(s) pursuant to Clause 20.3 (*Trustee’s option*), the Bank agrees for the benefit of the Trustee itself and the Noteholders that the courts of England shall have jurisdiction to hear and determine any such Dispute(s) and, for such purposes, irrevocably submits to the jurisdiction of such courts. Subject to Clause 20.2 (*Arbitration*), nothing in this Clause shall (or shall be construed so as to) limit the right of the Trustee to bring proceedings (“**Proceedings**”) for the

determination of any Dispute(s) in any other court of competent jurisdiction, nor shall the bringing of such Proceedings in any one or more jurisdictions preclude the bringing of Proceedings by the Trustee in any other jurisdiction (whether concurrently or not) if and to the extent permitted by law.

#### **20.5 Appropriate forum**

The Bank irrevocably waives any objection which it might now or hereafter have to the courts of England being nominated as the forum to hear and determine any Proceedings and agrees not to claim in any Proceedings that any such court is not a convenient or appropriate forum.

#### **20.6 Service of process**

The Bank has agreed that the process by which any Proceedings in England are begun may be served on it by being delivered to Law Debenture Corporate Services Limited, Fifth Floor, 100 Wood Street, London EC2V 7EX or, if different, its registered office for the time being. If for any reason the Bank does not have such an agent in England, it will promptly appoint a substitute process agent and notify in writing the Trustee of such appointment. If such person is not or ceases to be effectively appointed to accept service of process on behalf of the Bank, the Bank shall, on the written demand of the Trustee, appoint a further person in England to accept service of process on its behalf and, failing such appointment within 15 days, the Trustee shall be entitled to appoint such a person by written notice to the Bank. Nothing herein shall affect the right to serve process in any other manner permitted by law.

#### **20.7 Consent to enforcement**

The Bank consents generally in respect of any Disputes (or Proceedings in accordance with Clause 20.4 (*Jurisdiction*)) to the giving of any relief or the issue of any process in connection with such Proceedings or Disputes, including (without limitation) the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgment which may be given in such Proceedings or in connection with such Disputes.

#### **20.8 Waiver of immunity**

To the extent that the Bank may in any jurisdiction claim for itself or its respective assets or revenues immunity from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process and to the extent that such immunity (whether or not claimed) may be attributed in any such jurisdiction to the Bank, or its assets or revenues, the Bank has agreed, in connection with any Disputes or Proceedings, not to claim and have irrevocably waived such immunity to the full extent permitted by the laws of such jurisdiction.

### **21. Severability**

In case any provision in or obligation under this Trust Deed shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

### **22. Counterparts**

This Trust Deed may be executed in any number of counterparts, each of which shall be deemed to be an original.

## Schedule 1

### Form of Definitive Note Certificate

Serial Number: \_\_\_\_\_

Reg S ISIN: XS0867478124/144A ISIN: XS0867573890

Reg S Common Code 086747812/144A Common Code 086757389

[THIS SECURITY HAS NOT BEEN AND WILL NOT BE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”) OR WITH ANY SECURITIES REGULATORY AUTHORITY OF ANY STATE OR OTHER JURISDICTION OF THE UNITED STATES. BY ACCEPTANCE OF THE SECURITY REPRESENTED HEREBY, EACH BENEFICIAL OWNER HEREOF REPRESENTS AND AGREES, FOR THE BENEFIT OF THE BANK THAT (A) IT IS EITHER (I) NOT A U.S. PERSON AND IS LOCATED OUTSIDE THE UNITED STATES AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT OR (II) AN ACCREDITED INVESTOR AS DEFINED IN RULE 501(a) OF REGULATION D UNDER THE SECURITIES ACT (AN “ACCREDITED INVESTOR”) OR (III) A QUALIFIED INSTITUTIONAL BUYER AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT (“QIB”). (B) THE SECURITY MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (I) TO THE BANK, (II) OUTSIDE THE UNITED STATES TO PERSONS THAT ARE NOT U.S. PERSONS AS DEFINED IN, AND IN ACCORDANCE WITH, REGULATION S, (III) WITHIN THE UNITED STATES IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A QIB THAT IS PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF ANOTHER QIB, OR (IV) PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER, IF AVAILABLE, AND IN EACH CASE IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES, AND (C) THE BENEFICIAL OWNER WILL, AND EACH SUBSEQUENT BENEFICIAL OWNER IS REQUIRED TO, NOTIFY ANY PURCHASER OF THIS SECURITY (OR INTEREST HEREIN) FROM IT OF THE RESTRICTIONS REFERRED TO (A) AND (B) ABOVE. TRANSFERS IN VIOLATION OF THE FOREGOING WILL BE OF NO FORCE OR EFFECT, WILL BE VOID AB INITIO, AND WILL NOT OPERATE TO TRANSFER ANY RIGHTS TO THE TRANSFEREE.

THIS SECURITY AND ALL RELATED DOCUMENTATION MAY BE AMENDED OR SUPPLEMENTED FROM TIME TO TIME TO MODIFY THE RESTRICTIONS ON AND PROCEDURES FOR REALES AND OTHER TRANSFERS OF THIS SECURITY TO REFLECT ANY CHANGE IN APPLICABLE LAW OR REGULATION (OR THE INTERPRETATION THEREOF) OR IN PRACTICES RELATING TO THE RESALE OR TRANSFERS OF RESTRICTED SECURITIES GENERALLY. BY THE ACCEPTANCE OF THIS SECURITY THE HOLDER HEREOF SHALL BE DEEMED TO HAVE AGREED TO ANY SUCH AMENDMENT OR SUPPLEMENT.]\*

\*only include this legend if the Definitive Note Certificate is issued upon exchange of the original Restricted Global Note.

[THE SECURITY REPRESENTED BY THIS CERTIFICATE HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”) AND MAY NOT BE OFFERED AND SOLD WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS (I) AS PART OF THEIR DISTRIBUTION AT ANY TIME OR (II) OTHERWISE UNTIL 40 DAYS AFTER THE LATER OF THE COMMENCEMENT OF THE OFFERING AND THE CLOSING DATE, EXCEPT IN EITHER CASE IN

ACCORDANCE WITH REGULATION S UNDER THE SECURITIES ACT. TERMS USED ABOVE HAVE THE MEANINGS GIVEN TO THEM BY REGULATION S.]\*\*

\*\*only include this if Note has been transferred in reliance on Regulation S under the Securities Act during the Distribution Compliance Period or has been issued during the Distribution Compliance Period upon exchange of the Unrestricted Global Note.

**“BTA Bank” JSC**  
*(incorporated with limited liability under  
the laws of the Republic of Kazakhstan)*  
(the “**Bank**”)

**U.S.\$750,000,000 5.50 per cent. Notes due 2022**

**Definitive Note Certificate**

**Introduction:** This Definitive Note Certificate is issued in respect of the U.S.\$ 750,000,000 5.50 per cent. Notes due 2022 (the “**Notes**”) of the Bank. The Notes are constituted by, are subject to, and have the benefit of, a trust deed dated 21 December 2012 (as amended or supplemented from time to time, the “**Trust Deed**”) between the Bank and BNY Mellon Corporate Trustee Services Limited as trustee (the “**Trustee**”, which expression includes all persons for the time being appointed trustee or trustees under the Trust Deed) and are the subject of an agency agreement dated 21 December 2012 (as amended or supplemented from time to time, the “**Agency Agreement**”) between the Bank, The Bank of New York Mellon (Luxembourg) S.A., as registrar (the “**Registrar**”, which expression includes any successor registrar appointed from time to time in connection with the Notes), The Bank of New York Mellon, London Branch, as principal paying and transfer agent (the “**Principal Paying and Transfer Agent**”, which expression includes any successor or additional paying and transfer agents appointed from time to time in connection with the Notes) and the Trustee.

1. **References to Conditions:** Any reference herein to the “**Conditions**” is to the terms and conditions of the Notes endorsed hereon and any reference to a numbered “**Condition**” is to the correspondingly numbered provision thereof. If the Conditions endorsed on this Definitive Note Certificate are different from those appearing in the Schedule to the Trust Deed, the Conditions endorsed on this Definitive Note Certificate prevail.
2. **Registered holder:** This is to certify that \_\_\_\_ of \_\_\_\_ is, at the date hereof, entered in the register maintained by the Registrar in relation to the Notes (the “**Register**”) as the duly registered holder or, if more than one person is so registered, the first-named of such persons (the “**Holder**”) of U.S.\$ \_\_\_\_ (**AMOUNT IN WORDS**] U.S. DOLLARS) in aggregate principal amount of the Notes.
3. **Promise to pay:** The Bank, for value received, hereby promises to pay such sum in respect of principal to the Holder on 21 December 2022 (or on such earlier date or dates as the same may become payable in accordance with the Conditions), and to pay interest on such sum in respect of principal in arrear on the dates and at the rates specified in the Conditions, together with any additional amounts payable in accordance with the Conditions, all subject to and in accordance with the Conditions.
4. **Determination of entitlement:** This Definitive Note Certificate is evidence of entitlement only and is not a document of title. Entitlements are determined by the Register and only the Holder is entitled to payment in respect of this Definitive Note Certificate.
5. **Authentication:** This Definitive Note Certificate shall not be valid for any purpose until it has been authenticated for and on behalf of the Registrar.
6. **Governing law:** This Definitive Note Certificate and any non-contractual obligations arising out of or in connection herewith are governed by, and shall be construed in accordance with, English law.
7. **Legends:** The statements set forth in the legend above are an integral part of the Note or Notes in respect of which this certificate is issued and by acceptance thereof each Holder agrees to be subject to and bound by the terms and provisions set forth in such legend.

**As witness** the manual or facsimile signature of a duly authorised person on behalf of the Bank.

**“BTA Bank” JSC**

By:

[*manual or facsimile signature*]  
(duly authorised)

By:

[*manual or facsimile signature*]  
(duly authorised)

**ISSUED on [●]**

**Authenticated for and on behalf of  
The Bank of New York Mellon (Luxembourg) S.A.**  
as registrar without recourse, warranty  
or liability

By:

[*manual or facsimile signature*]  
(duly authorised)

## Form of transfer

### “BTA Bank” JSC

*(incorporated with limited liability under  
the laws of the Republic of Kazakhstan)*

(the “Bank”)

### U.S.\$750,000,000 5.50 per cent. Notes due 2022

**FOR VALUE RECEIVED** [*insert name of transferor*] (the “Transferor”), being the registered holder of this Definitive Note Certificate, hereby transfers to [*insert name of transferee*] of [*insert address (including postcode or equivalent) of transferee*] (the “Transferee”), U.S.\$ \_\_\_\_ in principal amount of the U.S.\$ 750,000,000 5.50 per cent. Notes due 2022 (Reg S ISIN: XS0867478124 and 144A ISIN: XS0867573890, Reg S Common Code 086747812 and 144A Common Code 086757389) (the “Notes”) of the Bank and irrevocably requests and authorises The Bank of New York Luxembourg S.A., in its capacity as Registrar, in relation to the Notes (or any successor to Bank of New York Luxembourg S.A., in its capacity as such) to effect the relevant transfer by means of appropriate entries in the register kept by it.

[[NOTE: INSERT [A] FOR TRANSFERS OF NOTES BEARING THE SAME ISIN AND COMMON CODE AS THE RESTRICTED GLOBAL NOTE TO TRANSFEREES THAT TAKE DELIVERY OF NOTES NOT BEARING THE SAME ISIN AND COMMON CODE AS THE RESTRICTED GLOBAL NOTE. INSERT [B] FOR TRANSFERS OF NOTES NOT BEARING THE SAME ISIN AND COMMON CODE AS THE RESTRICTED GLOBAL NOTE TO TRANSFEREES THAT TAKE DELIVERY OF NOTES BEARING THE SAME ISIN AND COMMON CODE AS THE RESTRICTED GLOBAL NOTE PRIOR TO THE EXPIRY OF THE DISTRIBUTION COMPLIANCE PERIOD.]

[A] In connection with such request and in respect of such Notes, the Transferor hereby certifies that (i) such transfer has been effected in accordance with the transfer restrictions set forth in the Notes and in accordance with any applicable securities laws of any state of the United States or any other jurisdiction and (ii) either:

- (A) such transfer has been effected pursuant to and in accordance with Rule 903 or Rule 904 of Regulation S under the Securities Act, and accordingly the Transferor hereby certifies that:
1. the offer and sale of the Notes was not made to a person in the United States or to or for the account or benefit of a U.S. person and such offer and sale was not targeted to an identifiable group of US citizens abroad;
  2. either
    - (a) at the time the buy order was originated, the Transferee was outside the United States or the undersigned and any person acting on its behalf reasonably believed that the Transferee was outside the United States, or
    - (b) the transaction was executed in, on or through the facilities of a designated offshore securities market (as defined in Regulation S) and neither the Transferor nor any person acting on its behalf knows that the transaction was pre-arranged with a buyer in the United States;
  3. no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or 904(b) of Regulation S, as applicable;
  4. the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act; and

5. if the Transferor is an officer or director of the Bank or a distributor, who is an affiliate of the Bank or distributor solely by holding such position, such sale is made in accordance with the applicable provisions of Rule 904(b)(2) of Regulation S; or
- (B) the transfer has been effected pursuant to an exemption from registration under the Securities Act provided by Rule 144 thereunder.

[B] In connection with such request and in respect of such Notes, the Transferor hereby certifies that such transfer has been effected pursuant to and in accordance with Rule 144A under the Securities Act (“**Rule 144A**”) and, accordingly, the Transferor hereby further certifies that the beneficial interest in such Notes is being transferred to a person that the Transferor reasonably believes is purchasing the Notes for its own account, or for one or more accounts with respect to which such person exercises sole investment discretion, and such person, and each such account is a “**qualified institutional buyer**” within the meaning of Rule 144A, in each case in a transaction meeting the requirements of Rule 144A and in accordance with the transfer restrictions set forth in the Notes and any applicable securities laws of any state of the United States or any other jurisdiction.]

Dated:

}  
 .....  
 (duly authorised)  
 Name: *[insert name of Transferor]*

}  
 .....  
 (duly authorised)  
 Name: *[insert name of Transferor]*

**Notes**

- (a) The name of the person by or on whose behalf this form of transfer is signed must correspond with the name of the registered holder as it appears on the face of this Definitive Note Certificate.
- (b) A representative of such registered holder should state the capacity in which he signs, e.g., executor.
- (c) The signature of the person effecting a transfer shall conform to any list of duly authorised specimen signatures supplied by the registered holder or be certified by a recognised bank, notary public or in such other manner as the Registrar or the relevant Paying and Transfer Agent may require.
- (d) This form of transfer must be accompanied by such documents, evidence or information as the Registrar may require.
- (e) If the Transferor is a corporation, partnership or fiduciary, the title of the person signing on behalf of such Transferor must be stated.
- (f) Any transfer of Notes shall be in an amount equal to U.S.\$1 or integral multiples of U.S.\$1 in excess thereof.

*[Attached to each Definitive Note Certificate:*

*Terms and Conditions of the Notes as set out in Schedule 4 (Terms and Conditions of the Notes)*

*At the foot of the Terms and Conditions:]*

**Principal Paying  
and Transfer Agent**

The Bank of New York Mellon, London  
Branch  
One Canada Square  
London E14 5AL  
United Kingdom

**Registrar**

The Bank of New York Mellon (Luxembourg) S.A.  
Vertigo Building – Polaris  
2-4 rue Eugène Ruppert  
L-2453 Luxembourg

## Schedule 2

### Forms of Global Note

#### Part 1

##### Form of Unrestricted Global Note

Reg S ISIN: XS0867478124/144A ISIN: XS0867573890

Reg S Common Code 086747812/144A Common Code 086757389

THE SECURITY REPRESENTED BY THIS CERTIFICATE HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “**SECURITIES ACT**”) AND MAY NOT BE OFFERED AND SOLD WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS (I) AS PART OF THEIR DISTRIBUTION AT ANY TIME OR (II) OTHERWISE UNTIL 40 DAYS AFTER THE LATER OF THE COMMENCEMENT OF THE OFFERING AND THE CLOSING DATE, EXCEPT IN EITHER CASE IN ACCORDANCE WITH REGULATION S UNDER THE SECURITIES ACT. TERMS USED ABOVE HAVE THE MEANINGS GIVEN TO THEM BY REGULATION S.

**“BTA Bank” JSC**  
*(incorporated with limited liability under  
the laws of the Republic of Kazakhstan)*  
(the “**Bank**”)

**U.S.\$750,000,000 5.50 per cent. Notes due 2022**

**Unrestricted Global Note**

1. **Introduction:** This Unrestricted Global Note is issued in respect of the U.S.\$ 750,000,000 5.50 per cent. Notes due 2022 (the “**Notes**”) of the Bank. The Notes are constituted by, are subject to and have the benefit of, a trust deed dated 21 December 2012 (as amended or supplemented from time to time, the “**Trust Deed**”) between the Bank and BNY Mellon Corporate Trustee Services Limited, as trustee (the “**Trustee**”, which expression includes all persons for the time being appointed trustee or trustees under the Trust Deed) and are the subject of an agency agreement dated 21 December 2012 (as amended or supplemented from time to time, the “**Agency Agreement**”) between the Bank, The Bank of New York Mellon (Luxembourg) S.A., as registrar (the “**Registrar**”, which expression includes any successor registrar appointed from time to time in connection with the Notes), The Bank of New York Mellon, London Branch, as principal paying and transfer agent (the “**Principal Paying and Transfer Agent**” which expression includes any successor or additional paying and transfer agents appointed from time to time in connection with the Notes) and the Trustee.
2. **References to Conditions:** Any reference herein to the “**Conditions**” is to the terms and conditions of the Notes attached hereto and any reference to a numbered “**Condition**” is to the correspondingly numbered provision thereof. If the Conditions endorsed on this Unrestricted Global Note are different from those appearing in the Schedule to the Trust Deed, the Conditions endorsed on this Unrestricted Global Note shall prevail.
3. **Registered holder:** This is to certify that The Bank of New York Depository (Nominees) Limited is, at the date hereof, entered in the register maintained by the Registrar in relation to the Notes (the “**Register**”) as the duly registered holder (the “**Holder**”) of U.S.\$ \_\_\_\_ (**[AMOUNT IN WORDS] U.S. DOLLARS**) in aggregate principal amount of Notes or such other amount as is shown on the register of Noteholders as being represented by this Unrestricted Global Note and is duly endorsed (for information purposes only) in the third column of Schedule A to this Unrestricted Global Note.
4. **Promise to pay:** The Bank, for value received, hereby promises to pay such sum in respect of principal to the Holder on 21 December 2022 (or on such earlier date or dates as the same may become payable in accordance with the Conditions), and to pay interest on such sum of principal in arrear on the dates and at the rates specified in the Conditions, together with any additional amounts payable in accordance with the Conditions, all subject to and in accordance with the Conditions.
5. **Transfers:** Transfers of interests in the Notes represented by this Unrestricted Global Note for interests in the Restricted Global Note shall be made in accordance with the Agency Agreement and in accordance with the operating procedures of the relevant clearing system and any such transfers may only be made upon presentation of a transfer certificate as provided in the Agency Agreement.

6. **Exchange for Definitive Note Certificates:** This Unrestricted Global Note shall be exchanged in whole (but not in part) free of charge to the Holder for duly authenticated and completed Definitive Note Certificates (“**Definitive Note Certificates**”) in substantially the form (subject to completion) set out in Schedule 1 (*Form of Definitive Note Certificate*) to the Trust Deed if any of the following events occurs:
- (a) Euroclear and/or Clearstream, Luxembourg is closed for business for a continuous period of 14 days (other than by reason of legal holidays) or announces an intention permanently to cease business or does in fact do so; or
  - (b) an Event of Default (as defined and set out in the Conditions on the Notes) occurs.

Such exchange shall be effected in accordance with paragraph 7 (*Delivery of Definitive Note Certificates*). The Bank shall notify the Holder of the occurrence of any of the events specified in (a) and (b) as soon as practicable thereafter.

7. **Delivery of Definitive Note Certificates:** Whenever this Unrestricted Global Note is to be exchanged for Definitive Note Certificates, such Definitive Note Certificates shall be issued in an aggregate principal amount equal to the principal amount of this Unrestricted Global Note within five business days of the delivery, by or on behalf of the Holder, Euroclear and/or Clearstream, Luxembourg, to the Registrar of such information as is required to complete and deliver such Definitive Note Certificates (including, without limitation, the names and addresses of the persons in whose names the Definitive Note Certificates are to be registered and the principal amount of each such person’s holding) against the surrender of this Unrestricted Global Note at the Specified Office (as defined in the Agency Agreement) of the Registrar. Such exchange shall be effected in accordance with the provisions of the Agency Agreement and the regulations concerning the transfer and registration of Notes scheduled thereto and, in particular, shall be effected without charge to any Holder or the Trustee, but against such indemnity as the Registrar may require in respect of any tax or other duty of whatsoever nature which may be levied or imposed in connection with such exchange. In this paragraph, “**business day**” means a day on which commercial banks are open for business (including dealings in foreign currencies) in the city in which the Registrar has its Specified Office.
8. **Conditions apply:** Save as otherwise provided herein, the Holder of this Unrestricted Global Note shall have the benefit of, and be subject to, the Conditions and, for the purposes of this Unrestricted Global Note, any reference in the Conditions to “**Note Certificate**” or “**Note Certificates**” shall, except where the context otherwise requires, be construed so as to include this Unrestricted Global Note.
9. **Notices:** Notwithstanding Condition 14 (*Notices*), so long as this Unrestricted Global Note is held on behalf of Euroclear and/or Clearstream, Luxembourg or any other clearing system (an “**Alternative Clearing System**”), notices to Holders of Notes represented by this Unrestricted Global Note (“**Noteholders**”) may be given by delivery of the relevant notice to Euroclear and/or Clearstream, Luxembourg or (as the case may be) such Alternative Clearing System; provided, however, that, so long as the Notes are admitted to trading on the Luxembourg Stock Exchange and the rules of the Luxembourg Stock Exchange so require, notices will also be published in a leading newspaper having general circulation in Luxembourg and on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)).
10. **Meetings:** The Holder shall be treated at any meeting of Noteholders as having one vote in respect of each U.S.\$1 principal amount of Notes for which this Unrestricted Global Note may be exchanged.
11. **Contracts (Rights of Third Parties) Act 1999:** No rights are conferred on any person under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Unrestricted

Global Note but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

12. **Payment:** Payments of principal and interest in respect of Notes represented by this Unrestricted Global Note shall be made against presentation for endorsement and if no further payment falls to be made in respect of the Notes, surrender of the Unrestricted Global Note to or to the order of The Bank of New York Mellon, London Branch.
13. **Determination of entitlement:** This Unrestricted Global Note is evidence of entitlement only and is not a document of title. Entitlements are determined by the Register and only the Holder is entitled to payment in respect of this Unrestricted Global Note.
14. **Trustee Powers:** In considering the interests of Noteholders while this Unrestricted Global Note is held on behalf of a clearing system, the Trustee may have regard to any information provided to it by such clearing system or its operator as to the identity (either individually or by category) of its accountholders with entitlements to this Unrestricted Global Note and may consider such interests as if such accountholders were the holders of this Unrestricted Global Note.
15. **Prescription:** This Unrestricted Global Note shall become void unless it is presented for payment within a period of 10 years (in the case of principal) and five years (in the case of interest) from the appropriate Relevant Date (as defined in Condition 9 (*Taxation*)).
16. **Purchase and Cancellation:** Cancellation of any Note required by the Conditions to be cancelled following its purchase shall be effected by reduction in the principal amount of this Unrestricted Global Note.
17. **Authentication:** This Unrestricted Global Note shall not be valid for any purpose until it has been authenticated for and on behalf of the Registrar.
18. **Governing law:** This Unrestricted Global Note and any non-contractual obligations arising out of or in connection herewith are governed by, and shall be construed in accordance with, English law.

As **witness** the manual or facsimile signature of a duly authorised person on behalf of the Bank.

**“BTA Bank” JSC**

}  
.....  
(duly authorised)  
*[manual or facsimile signature]*

}  
.....  
(duly authorised)  
*[manual or facsimile signature]*

**Issued on [●]**

**Authenticated for and on behalf of  
The Bank of New York Mellon (Luxembourg) S.A.**

}  
.....  
(duly authorised)  
*[manual or facsimile signature]*

## Schedule A

### Schedule of increase or reduction in principal amount of the notes represented by this Unrestricted Global Note

The following increases or reductions in the principal amount of the Notes represented by this Unrestricted Global Note have been made as a result of (i) redemption or purchase and cancellation of Notes or (ii) transfer of Notes (including transfers of interests between the Global Notes):

<b>Date of Redemption/ Purchase and cancellation (stating which)</b>	<b>Amount of increase or decrease in principal amount of Notes represented by this Unrestricted Global Note</b>	<b>Principal Amount of Notes Represented by this Unrestricted Global Note following such increase or decrease</b>	<b>Notation made by or on behalf of the Principal Paying and Transfer Agent</b>
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**Part 2**  
**Form of Restricted Global Note**

Reg S ISIN: XS0867478124/144A ISIN: XS0867573890

Reg S Common Code 086747812/144A Common Code 086757389

THIS SECURITY HAS NOT BEEN AND WILL NOT BE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “**SECURITIES ACT**”) OR WITH ANY SECURITIES REGULATORY AUTHORITY OF ANY STATE OR OTHER JURISDICTION OF THE UNITED STATES. BY ACCEPTANCE OF THE SECURITY REPRESENTED HEREBY, EACH BENEFICIAL OWNER HEREOF REPRESENTS AND AGREES, FOR THE BENEFIT OF THE ISSUER THAT (A) IT IS EITHER (I) NOT A U.S. PERSON AND IS LOCATED OUTSIDE THE UNITED STATES AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT OR (II) AN ACCREDITED INVESTOR AS DEFINED IN RULE 501(a) OF REGULATION D UNDER THE SECURITIES ACT (AN “**ACCREDITED INVESTOR**”) OR (III) A QUALIFIED INSTITUTIONAL BUYER AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT (“**QIB**”). (B) THE SECURITY MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (I) TO THE ISSUER, (II) OUTSIDE THE UNITED STATES TO PERSONS THAT ARE NOT U.S. PERSONS AS DEFINED IN, AND IN ACCORDANCE WITH, REGULATION S, (III) WITHIN THE UNITED STATES IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A QIB THAT IS PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF ANOTHER QIB, OR (IV) PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER, IF AVAILABLE, AND IN EACH CASE IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES, AND (C) THE BENEFICIAL OWNER WILL, AND EACH SUBSEQUENT BENEFICIAL OWNER IS REQUIRED TO, NOTIFY ANY PURCHASER OF THIS SECURITY (OR INTEREST HEREIN) FROM IT OF THE RESTRICTIONS REFERRED TO (A) AND (B) ABOVE. TRANSFERS IN VIOLATION OF THE FOREGOING WILL BE OF NO FORCE OR EFFECT, WILL BE VOID AB INITIO, AND WILL NOT OPERATE TO TRANSFER ANY RIGHTS TO THE TRANSFEREE.

THIS SECURITY AND ALL RELATED DOCUMENTATION MAY BE AMENDED OR SUPPLEMENTED FROM TIME TO TIME TO MODIFY THE RESTRICTIONS ON AND PROCEDURES FOR REALES AND OTHER TRANSFERS OF THIS SECURITY TO REFLECT ANY CHANGE IN APPLICABLE LAW OR REGULATION (OR THE INTERPRETATION THEREOF) OR IN PRACTICES RELATING TO THE RESALE OR TRANSFERS OF RESTRICTED SECURITIES GENERALLY. BY THE ACCEPTANCE OF THIS SECURITY THE HOLDER HEREOF SHALL BE DEEMED TO HAVE AGREED TO ANY SUCH AMENDMENT OR SUPPLEMENT.

**“BTA Bank” JSC**  
*(incorporated with limited liability under  
the laws of the Republic of Kazakhstan)*  
(the “**Bank**”)

**U.S.\$750,000,000 5.50 per cent. Notes due 2022**

**Restricted Global Note**

1. **Introduction:** This Restricted Global Note is issued in respect of the U.S.\$ 750,000,000 5.50 per cent. Notes due 2022 (the “**Notes**”) of the Bank. The Notes are constituted by, are subject to and have the benefit of, a trust deed dated 21 December 2012 (as amended or supplemented from time to time, the “**Trust Deed**”) between the Bank and BNY Mellon Corporate Trustee Services Limited, as trustee (the “**Trustee**”, which expression includes all persons for the time being appointed trustee or trustees under the Trust Deed) and are the subject of an agency agreement dated 21 December 2012 (as amended or supplemented from time to time, the “**Agency Agreement**”) between the Bank, The Bank of New York Mellon (Luxembourg) S.A., as registrar (the “**Registrar**”, which expression includes any successor registrar appointed from time to time in connection with the Notes), The Bank of New York Mellon, London Branch, as principal paying and transfer agent (the “**Principal Paying and Transfer Agent**” which expression includes any successor or additional paying and transfer agents appointed from time to time in connection with the Notes) and the Trustee.
2. **References to Conditions:** Any reference herein to the “**Conditions**” is to the terms and conditions of the Notes set forth in Schedule 4 to the Trust Deed and any reference to a numbered “**Condition**” is to the correspondingly numbered provision thereof.
3. **Registered holder:** This is to certify that The Bank of New York Depository (Nominees) Limited is, at the date hereof, entered in the register maintained by the Registrar in relation to the Notes (the “**Register**”) as the duly registered holder (the “**Holder**”) of U.S.\$ \_\_\_\_\_ ([**AMOUNT IN WORDS**] U.S. DOLLARS) in aggregate principal amount of Notes or such other amount as is shown on the register of Noteholders as being represented by this Restricted Global Note and is duly endorsed (for information purposes only) in the third column of Schedule A to this Restricted Global Note.
4. **Promise to pay:** The Bank, for value received, hereby promises to pay such sum in respect of principal to the Holder on 21 December 2022 (or on such earlier date or dates as the same may become payable in accordance with the Conditions), and to pay interest on such sum of principal on the dates and at the rates specified in the Conditions, together with any additional amounts payable in accordance with the Conditions, all subject to and in accordance with the Conditions.
5. **Transfers:** Transfers of interests in the Notes represented by this Restricted Global Note for interests in the Unrestricted Global Note shall be made in accordance with the Agency Agreement and in accordance with the operating procedures of the relevant clearing system and any such transfers may only be made upon presentation of a transfer certificate as provided in the Agency Agreement.
6. **Exchange for Definitive Note Certificates:** This Restricted Global Note shall be exchanged in whole (but not in part) free of charge to the Holder for duly authenticated and completed Definitive Note Certificates (“**Definitive Note Certificates**”) in substantially the form (subject to completion) set out in Schedule 1 (*Form of Definitive Note Certificate*) to the Trust Deed if any of the following events occurs:
  - (a) Euroclear and/or Clearstream, Luxembourg is closed for business for a continuous period of 14 days (other than by reason of legal holidays) or announces an intention permanently to cease business or does in fact do so; or

(b) an Event of Default (as defined and set out in the Conditions on the Notes) occurs.

Such exchange shall be effected in accordance with paragraph 7 (*Delivery of Definitive Note Certificates*). The Bank shall notify the Holder of the occurrence of any of the events specified in (a) and (b) as soon as practicable thereafter.

7. **Delivery of Definitive Note Certificates:** Whenever this Restricted Global Note is to be exchanged for Definitive Note Certificates, such Definitive Note Certificates shall be issued in an aggregate principal amount equal to the principal amount of this Restricted Global Note within five business days of the delivery, by or on behalf of the Holder, Euroclear and/or Clearstream, Luxembourg, to the Registrar of such information as is required to complete and deliver such Definitive Note Certificates (including, without limitation, the names and addresses of the persons in whose names the Definitive Note Certificates are to be registered and the principal amount of each such person's holding) against the surrender of this Restricted Global Note at the Specified Office (as defined in the Agency Agreement) of the Registrar. Such exchange shall be effected in accordance with the provisions of the Agency Agreement and the regulations concerning the transfer and registration of Notes scheduled thereto and, in particular, shall be effected without charge to any Holder or the Trustee, but against such indemnity as the Registrar may require in respect of any tax or other duty of whatsoever nature which may be levied or imposed in connection with such exchange. In this paragraph, "business day" means a day on which commercial banks are open for business (including dealings in foreign currencies) in the city in which the Registrar has its Specified Office.
8. **Conditions apply:** Save as otherwise provided herein, the Holder of this Restricted Global Note shall have the benefit of, and be subject to, the Conditions and, for the purposes of this Restricted Global Note, any reference in the Conditions to "**Note Certificate**" or "**Note Certificates**" shall, except where the context otherwise requires, be construed so as to include this Restricted Global Note.
9. **Notices:** Notwithstanding Condition 14 (*Notices*), so long as this Restricted Global Note is held on behalf of Euroclear or Clearstream, Luxembourg or any other clearing system (an "**Alternative Clearing System**"), notices to Holders of Notes represented by this Restricted Global Note ("**Noteholders**") may be given by delivery of the relevant notice to Euroclear or Clearstream or (as the case may be) such Alternative Clearing System; provided, however, that, so long as the Notes are admitted to trading on the Luxembourg Stock Exchange and the rules of Luxembourg Stock Exchange so require, notices will also be published in a leading newspaper having general circulation in Luxembourg and on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)).
10. **Meetings:** The Holder shall be treated at any meeting of Noteholders as having one vote in respect of each U.S.\$1 principal amount of Notes for which this Restricted Global Note may be exchanged.
11. **Contracts (Rights of Third Parties) Act 1999:** No rights are conferred on any person under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Restricted Global Note but this does not affect any right or remedy of a third party which exists or is available apart from that Act.
12. **Payment:** Payments of principal and interest in respect of Notes represented by this Restricted Global Note shall be made against presentation for endorsement and if no further payment falls to be made in respect of the Notes, surrender of the Unrestricted Global Note to or to the order of The Bank of New York Mellon, London Branch.
13. **Determination of entitlement:** This Restricted Global Note is evidence of entitlement only and is not a document of title. Entitlements are determined by the Register and only the Holder is entitled to payment in respect of this Restricted Global Note.

14. **Trustee Powers:** In considering the interests of Noteholders while this Restricted Global Note is held on behalf of a clearing system, the Trustee may have regard to any information provided to it by such clearing system or its operator as to the identity (either individually or by category) of its accountholders with entitlements to this Restricted Global Note and may consider such interests as if such accountholders were the holders of this Restricted Global Note.
15. **Prescription:** This Restricted Global Note shall become void unless it is presented for payment within a period of 10 years (in the case of principal) and five years (in the case of interest) from the appropriate Relevant Date (as defined in Condition 9 (*Taxation*)).
16. **Purchase and Cancellation:** Cancellation of any Note required by the Conditions to be cancelled following its purchase shall be effected by reduction in the principal amount of this Restricted Global Note.
17. **Authentication:** This Restricted Global Note shall not be valid for any purpose until it has been authenticated for and on behalf of the Registrar.
18. **Governing law:** This Restricted Global Note and any non-contractual obligations arising out of or in connection herewith are governed by, and shall be construed in accordance with, English law.

**As witness** the manual or facsimile signature of a duly authorised person on behalf of the Bank.

**“BTA Bank” JSC**

}  
.....  
(duly authorised)  
*[manual or facsimile signature]*

}  
.....  
(duly authorised)  
*[manual or facsimile signature]*

**Issued on [●]**

**Authenticated for and on behalf of  
The Bank of New York Mellon (Luxembourg) S.A.**

}  
.....  
(duly authorised)  
*[manual or facsimile signature]*

## Schedule A

### Schedule of increase or reduction in principal amount of the notes represented by this Restricted Global Note

The following increases or reductions in the principal amount of the Notes represented by this Restricted Global Note have been made as a result of (i) redemption or purchase and cancellation of Notes or (ii) transfer of Notes (including transfers of interests between the Global Notes):

<b>Date of Transfer/ Redemption/ Purchase and cancellation (stating which)</b>	<b>Amount of increase or decrease in principal amount of Notes represented by this Restricted Global Note</b>	<b>Principal Amount of Notes Represented by this Restricted Global Note following such increase or decrease</b>	<b>Notation made by or on behalf of the Principal Paying and Transfer Agent</b>
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*[Attached to each Definitive Note Certificate:*

*[Terms and Conditions of the Notes as set out in Schedule 4 (Terms and Conditions of the Notes)]*

*[At the foot of the Terms and Conditions:*

**Principal Paying  
and Transfer Agent**

The Bank of New York Mellon, London Branch  
One Canada Square  
London E14 5AL  
United Kingdom

**Registrar**

The Bank of New York Mellon (Luxembourg) S.A.  
Vertigo Building – Polaris  
2-4 rue Eugène Ruppert  
L-2453 Luxembourg

## Schedule 3

### Provisions for meetings of Noteholders

#### Interpretation

1. In this Schedule:
  - (a) “**agent**” means a holder of a voting certificate or a proxy for a Noteholder;
  - (b) “**block voting instruction**” means an instruction issued in accordance with paragraphs 8 to 13;
  - (c) “**Extraordinary Resolution**” means a resolution passed at a meeting duly convened and held in accordance with this Trust Deed by a majority of at least 75 per cent of the votes cast;
  - (d) “**voting certificate**” means a certificate issued in accordance with paragraphs 6 and 7;
  - (e) references to a meeting include, unless the context suggests otherwise, an adjournment; and
  - (f) references to Persons representing a proportion of the Notes are to Noteholders or agents holding or representing in the aggregate at least that proportion in principal amount of the Notes for the time being outstanding;

#### Powers of meetings

2. A meeting shall, subject to the Conditions and without prejudice to any powers conferred on other Persons by this Trust Deed, have power by Extraordinary Resolution:
  - (a) to sanction any proposal by the Bank or the Trustee for any modification, abrogation, variation or compromise of, or arrangement in respect of, the rights of the Noteholders against the Bank whether or not those rights arise under this Trust Deed;
  - (b) to sanction the exchange or substitution for the Notes of, or the conversion of the Notes into, shares, Notes or other obligations or securities of the Bank or any other entity;
  - (c) to assent to any modification of this Trust Deed, the Agency Agreement or the Notes proposed by the Bank or the Trustee;
  - (d) to sanction any proposal by Samruk-Kazyna for any modification, abrogation, variation or compromise of, or arrangement in respect of, the undertakings of Samruk-Kazyna or the rights of the Noteholders against Samruk-Kazyna under the SK Loan Schedule;
  - (e) to assent to any modification of the SK Loan or of the SK Loan Schedule proposed by the Bank or Samruk-Kazyna;
  - (f) to direct the Trustee to take such steps, actions or proceedings against Samruk-Kazyna to enforce such covenant, obligation, undertaking or other agreement in relation to which the Trustee has been granted the benefit under the SK Loan Schedule and provided that it has been indemnified and/or prefunded and/or provided with security to its satisfaction;
  - (g) to authorise anyone to concur in and do anything necessary to carry out and give effect to an Extraordinary Resolution;

- (h) to give any authority, direction or sanction required to be given by Extraordinary Resolution;
- (i) to appoint any Persons (whether Noteholders or not) as a committee or committees to represent the Noteholders' interests and to confer on them any powers or discretions which the Noteholders could themselves exercise by Extraordinary Resolution;
- (j) to approve a proposed new Trustee and to remove a Trustee; and
- (k) to discharge or exonerate the Trustee from any liability in respect of any act or omission for which it may become responsible under this Trust Deed or the Notes;

*provided that* the special quorum provisions in paragraph 18 shall apply to any Extraordinary Resolution (a "**special quorum resolution**") for the purpose of sub paragraph 2(b) above or for the purpose of making a modification to this Trust Deed or the Notes which would have the effect of:

- (i) modifying the maturity of the Notes or the dates on which interest or principal is payable on them; or
- (ii) reducing or cancelling the principal amount of, any premium payable on redemption of, or interest on, or varying the method of calculating the rate of interest on, the Notes; or
- (iii) changing the currency of payment of the Notes; or
- (iv) converting, exchanging or substituting the Notes for any other securities of the Bank or any other Person; or
- (v) modifying the provisions in this Schedule concerning the quorum required at a meeting or the majority required to pass an Extraordinary Resolution; or
- (vi) approving the substitution of any entity for the Bank (or any previous substitute) as principal debtor under this Trust Deed other than as set out in Clause 13.2 (*Substitution*) of the Trust Deed; or
- (vii) amending this proviso.

### **Convening a meeting**

3. The Bank or the Trustee may at any time convene a meeting.
  - (a) If the Trustee receives a written request by Noteholders holding at least twenty per cent. of the aggregate principal amount of the Notes for the time being outstanding and is indemnified and/or secured and/or prefunded to its satisfaction against all costs and expenses, the Trustee shall convene a meeting of the Noteholders.
  - (b) Every meeting shall be held at a time and place approved by the Trustee.
4. At least 21 days' notice (exclusive of the day on which the notice is given and of the day of the meeting) shall be given to the Noteholders. A copy of the notice shall be given by the party convening the meeting to the other parties. The notice shall specify the day, time and place of meeting and, unless the Trustee otherwise agrees, the nature of the resolutions to be proposed and shall explain how Noteholders may appoint proxies or representatives, obtain voting certificates and use block voting instructions and the details of the time limits applicable.

### Arrangements for voting

5. If a Noteholder wishes to obtain a voting certificate in respect of it for a meeting, it must deposit such Note for that purpose at least 48 hours before the time fixed for the meeting with an Agent or to the order of an Agent with a bank or other depositary nominated by the Paying and Transfer Agent for the purpose. The Paying and Transfer Agent shall then issue a voting certificate in respect of it.

A Noteholder may, by an instrument in writing in the form available from the specified office of a Paying and Transfer Agent in the English language executed by or on behalf of the holder and delivered to such Paying and Transfer Agent at least 24 hours before the time fixed for a meeting, appoint any Person (a “**proxy**”) to act on his behalf in connection with that meeting. A proxy need not be a Noteholder.

A corporation which holds a Note may, by delivering to a Transfer Agent at least 24 hours before the time fixed for a meeting a certified copy of a resolution of its directors or other governing body (with, if it is not in English, a certified translation into English), authorise any Person to act as its representative (a “**representative**”) in connection with that meeting.

### Voting certificate

6. A voting certificate shall:
  - (a) be a document in the English language;
  - (b) be dated;
  - (c) specify the meeting concerned and the serial numbers of the Notes deposited; and
  - (d) entitle, and state that it entitles, its bearer to attend and vote at that meeting in respect of those Notes.
7. Once a Paying Agent has issued a voting certificate for a meeting in respect of a Note, it shall not release the Note until either:
  - (a) the meeting has been concluded; or
  - (b) the voting certificate has been surrendered to the Paying and Transfer Agent.

### Block voting instruction

8. A Noteholder may require the Paying and Transfer Agent to issue a block voting instruction by (i) delivering electronic instructions through the clearing systems to the Paying and Transfer Agent indicating how the votes attributable to such Noteholder’s Notes should be cast at the forthcoming meeting and (ii) arranging (to the satisfaction of the Paying and Transfer Agent) for the relevant Notes to be blocked in an account with a clearing system, in each case not later than 48 hours before the time fixed for the relevant meeting. The Paying and Transfer Agent shall issue a block voting instruction in respect of the votes attributable to all such Notes.
9. A block voting instruction shall:
  - (a) be a document in the English language;
  - (b) be dated;
  - (c) specify the meeting concerned;
  - (d) certify that certain specified Notes (each a “**Blocked Note**”) have been blocked in an account with a clearing system and will not be released until the conclusion of the

meeting and that the holder of each Blocked Note or a duly authorised person on its behalf has instructed the Paying and Transfer Agent that the votes attributable to such Blocked Note are to be cast in a particular way on each resolution to be put to the meeting;

- (e) list the total number and serial numbers of the Blocked Notes, distinguishing with regard to each resolution between those voting for and those voting against it;
- (f) appoint a named Person (a “**proxy**”) to vote at that meeting in respect of the Blocked Notes and in accordance with instructions received in relation to the Blocked Notes.

A proxy need not be a Noteholder.

10. Once a Paying and Transfer Agent has issued a block voting instruction for a meeting in respect of the votes attributable to any Blocked Notes, the directions to which it gives effect may not be revoked or altered during the 48 hours before the time fixed for the meeting.
11. If a Noteholder that has blocked its Notes and provided electronic instructions to the Paying and Transfer Agent in accordance with paragraph 8 provides further electronic instructions to the Paying and Transfer Agent revoking its previous electronic instructions and providing no further instructions at least 48 hours before the time fixed for the meeting, the Paying and Transfer Agent shall exclude the votes attributable to it from the block voting instruction. If a Noteholder that has blocked its Notes and provided electronic instructions to the Paying and Transfer Agent in accordance with paragraph 8 provides further electronic instructions to the Paying and Transfer Agent revoking its previous electronic instructions and providing further electronic instructions regarding how the votes attributable to its Notes should be cast at least 48 hours before the time fixed for the meeting, the Paying and Transfer Agent shall amend the block voting instruction accordingly.
12. Each block voting instruction shall be deposited at least 24 hours before the time fixed for the meeting at such place as the Trustee shall designate or approve and in default it shall not be valid unless the chairman of the meeting decides otherwise before the meeting proceeds to business. If the Trustee requires, a notarially certified copy of each block voting instruction shall be produced by the proxy at the meeting but the Trustee need not investigate or be concerned with the validity of the proxy’s appointment.
13. A vote cast in accordance with a block voting instruction shall be valid even if it or any of the Noteholders’ instructions pursuant to which it was executed has previously been revoked or amended, unless written intimation of such revocation or amendment is received from the relevant Paying Agent by the Bank or the Trustee at its registered office or by the chairman of the meeting in each case at least 24 hours before the time fixed for the meeting.

No Note may be deposited with or to the order of a Paying and Transfer Agent at the same time for the purposes of both paragraph 5 and paragraph 8 for the same meeting.

### **Chairman**

14. The chairman of a meeting shall be such Person as the Trustee may nominate in writing, but if no such nomination is made or if the Person nominated is not present within 15 minutes after the time fixed for the meeting the Noteholders or their agents present shall choose one of their number to be chairman, failing which the Bank may appoint a chairman.
15. The chairman may, but need not, be a Noteholder or an agent of one. The chairman of an adjourned meeting need not be the same Person as the chairman of the original meeting.

## Attendance

16. The following may attend and speak at a meeting:
- (a) Noteholders, their proxies and any person holding a voting certificate;
  - (b) the chairman; and
  - (c) the Bank and the Trustee (through their respective representatives) and their respective financial and legal advisers.

No one else may attend or speak.

## Quorum and adjournment

17. No business (except choosing a chairman) shall be transacted at a meeting unless a quorum is present at the commencement of business. If a quorum is not present within 15 minutes from the time initially fixed for the meeting, it shall, if convened on the requisition of Noteholders or if the Bank and the Trustee agree, be dissolved. In any other case it shall be adjourned until such date, not less than 14 nor more than 42 days later, and time and place as the chairman may decide. If a quorum is not present within 15 minutes from the time fixed for a meeting so adjourned, the meeting shall be dissolved.
18. Two or more Noteholders or their agents present in Person shall be a quorum:
- (a) in the cases marked “No minimum proportion” in the table below, whatever the proportion of the Notes which they represent; and
  - (b) in any other case, only if they represent the proportion of the Notes shown by the table below.

Column 1	Column 2	Column 3
Purpose of meeting	Any meeting except one referred to in column 3  Required proportion:	Meeting previously adjourned through want of a quorum  Required proportion:
To pass a special quorum resolution	75 per cent. of the aggregate principal amount of the Notes outstanding	25 per cent. of the aggregate principal amount of the Notes outstanding
To pass any other Extraordinary Resolution	A clear majority of the aggregate principal amount of the Notes outstanding	No minimum proportion

19. The chairman may with the consent of (and shall if directed by) a meeting adjourn the meeting from time to time and from place to place. Only business which could have been transacted at the original meeting may be transacted at a meeting adjourned in accordance with this paragraph or paragraph 18.
20. At least ten days' notice of a meeting adjourned through want of a quorum shall be given in the same manner as for an original meeting and that notice shall state the quorum required at the adjourned meeting. No notice need, however, otherwise be given of an adjourned meeting.

## **Voting**

21. Each question submitted to a meeting shall be decided by a show of hands unless a poll is (before, or on the declaration of the result of, the show of hands) demanded by the chairman, the Bank, the Trustee or one or more Persons representing two per cent. of the aggregate principal amount of the Notes.
22. Unless a poll is demanded a declaration by the chairman that a resolution has or has not been passed shall be conclusive evidence of the fact without proof of the number or proportion of the votes cast in favour of or against it.
23. If a poll is demanded, it shall be taken in such manner and (subject as provided below) either at once or after such adjournment as the chairman directs. The result of the poll shall be deemed to be the resolution of the meeting at which it was demanded as at the date it was taken. A demand for a poll shall not prevent the meeting continuing for the transaction of business other than the question on which it has been demanded.
24. A poll demanded on the election of a chairman or on a question of adjournment shall be taken at once.
25. On a show of hands every Person who is present in Person and who produces a Note or a voting certificate or is a proxy has one vote. On a poll every such Person has one vote for each U.S.\$1 of principal amount of Notes so produced or represented by the voting certificate so produced or for which he is a proxy or representative. Without prejudice to the obligations of proxies, a Person entitled to more than one vote need not use them all or cast them all in the same way.
26. In case of equality of votes the chairman shall both on a show of hands and on a poll have a casting vote in addition to any other votes which he may have.

## **Effect and publication of a resolution**

27. Once passed, a resolution shall be binding on all the Noteholders, whether or not present at the meeting and each of them shall be bound to give effect to it accordingly. The passing of such a resolution shall be conclusive evidence that the circumstances justify its being passed. The Bank shall give notice of the passing of a resolution to Noteholders within 14 days but failure to do so shall not invalidate the resolution.

## **Minutes**

28. Minutes shall be made of all resolutions and proceedings at every meeting and, if purporting to be signed by the chairman of that meeting or of the next succeeding meeting, shall be conclusive evidence of the matters in them. Until the contrary is proved every meeting for which minutes have been so made and signed shall be deemed to have been duly convened and held and all resolutions passed or proceedings transacted at it to have been duly passed and transacted.

## **Trustee's power to prescribe regulations**

29. Subject to all other provisions in this Trust Deed the Trustee may without the consent of the Noteholders prescribe such further regulations regarding the holding of meetings and attendance and voting at them as it in its sole discretion determines including (without limitation) such requirements as the Trustee thinks reasonable to satisfy itself that the Persons who purport to make any requisition in accordance with this Trust Deed are entitled to do so and as to the form of voting certificates or block voting instructions so as to satisfy itself that Persons who purport to attend or vote at a meeting are entitled to do so.

30. The holder of a Global Note shall (unless such Global Note represents only one Note) be treated as two persons for the purposes of any quorum requirements of a meeting of Noteholders.

**Written resolutions**

31. A resolution in writing signed (a) by or on behalf of the holders of all of the Notes who for the time being are entitled to receive notice of a meeting or (b) if such holders have been given at least 21 clear days' notice of such resolution, by or on behalf of Persons holding three quarters of the aggregate principal amount of the outstanding Notes, shall for all purposes be as valid and effective as an Extraordinary Resolution passed at a meeting of the Noteholders duly convened and held. Such resolution in writing may be contained in one document or in several documents in like form each signed by or on behalf of one or more of the relevant Noteholders and the date of such resolution shall be the date of the latest such document.

## Schedule 4

### Terms and Conditions of the Notes

*The following is the text of the terms and conditions of the Notes which, subject to amendment and completion, and except for any text in italics, will be endorsed on each Note Certificate pertaining to the Notes and will be attached and (subject to the provisions thereof) apply to the relevant Global Note:*

The U.S.\$750,000,000 5.50 per cent. notes due 2022 (the “**Notes**”, which expression includes any further notes issued pursuant to Condition 16 (*Further Issues*) and forming a single series therewith) of BTA Bank (the “**Bank**”) are (a) constituted by, and subject to, and have the benefit of a trust deed dated 21 December 2012 (as amended or supplemented from time to time, the “**Trust Deed**”) between the Bank and BNY Mellon Corporate Trustee Services Limited, as trustee (the “**Trustee**”, which expression includes all persons for the time being appointed as trustee for the holders of the Notes (“**Noteholders**”) under the Trust Deed), and (b) the subject of an agency agreement dated 21 December 2012 (as amended or supplemented from time to time, the “**Agency Agreement**”) between the Bank, the Trustee, The Bank of New York Mellon, as principal paying and transfer agent (the “**Principal Paying and Transfer Agent**”; which expression includes any successor or additional paying and transfer agents appointed from time to time in connection with the Notes), and The Bank of New York Mellon (Luxembourg) S.A. as registrar (the “**Registrar**”, which expression shall include any successor registrar appointed from time to time in connection with the Notes).

Certain provisions of these Conditions are summaries of the Trust Deed and the Agency Agreement and subject to their detailed provisions. The Noteholders are bound by, and are deemed to have notice of, all the provisions of the Trust Deed and the Agency Agreement applicable to them. Copies of the Trust Deed and the Agency Agreement are available for inspection during normal business hours at the Specified Offices of the Principal Paying and Transfer Agent. Copies are also available for inspection during normal business hours at the registered office for the time being of the Trustee. References herein to the “**Agents**” are to the Registrar and the Paying and Transfer Agents and any reference to an “**Agent**” is to any one of them.

Terms defined in the Trust Deed shall, unless otherwise defined herein or the context requires otherwise, bear the same meanings herein.

#### 1. **Status**

The obligations under the Notes are unconditional, direct, unsubordinated and, subject as provided in Condition 5(a) (*Negative Pledge*), unsecured obligations of the Bank and will at all times rank at least *pari passu* amongst themselves and *pari passu* in right of payment with all other present and future (except as provided therein) unsubordinated obligations of the Bank, save only for such obligations as may be preferred by mandatory provisions of applicable law.

#### 2. **Form, denomination and title**

##### (a) ***Form and denomination***

The Notes are in registered form, without interest coupons attached, and shall be serially numbered. Notes shall be issued in denominations of U.S.\$1 and integral multiples of U.S.\$1 in excess thereof (each denomination an “**authorised denomination**”).

##### (b) **Title**

Title to the Notes will pass by transfer and registration as described in Conditions 3 (*Registration*) and 4 (*Transfers*). The holder (as defined below) of any Notes shall

(except as otherwise required by law or as ordered by a court of competent jurisdiction) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any other interest therein, any writing thereon (other than a duly executed transfer thereof in the form endorsed thereon) or any notice of any previous loss or theft thereof) and no person shall be liable for so treating such holder.

### 3. **Registration**

The Bank shall procure that the Registrar will maintain a register (the “**Register**”) at the Specified Office of the Registrar in respect of the Notes in accordance with the provisions of the Agency Agreement. A certificate (each, a “**Note Certificate**”) will be issued to each Noteholder in respect of its registered holding. Each Note Certificate will be numbered serially with an identifying number which will be recorded in the Register.

### 4. **Transfers**

- (a) Subject to Conditions 4(d) and 4(e), a Note may be transferred in whole or in part upon surrender of the relevant Note Certificate, with the endorsed form of transfer (the “**Transfer Form**”) duly completed, at the Specified Office of an Agent, together with such evidence as the Registrar or (as the case may be) such Agent may reasonably require to prove the title of the transferor and the authority of the individuals who have executed the form of transfer; *provided, however, that* a Note may not be transferred unless the principal amount of Notes transferred and (where not all of the Notes held by a holder are being transferred) the principal amount of the balance of Notes not transferred are authorised denominations. Transfer Forms are available from any Agent and the Bank upon the request of any holder.
- (b) Within five business days of the surrender of a Note Certificate in accordance with Condition 4(a), the Registrar will register the transfer in question and deliver a new Note Certificate of alike principal amount to the Notes transferred to each relevant holder at its Specified Office or (as the case may be) the Specified Office of any Agent or (at the request and risk of any such relevant holder) by uninsured first class mail (airmail if overseas) to the address specified for the purpose by such relevant holder. In this Condition 4(b), “**business day**” means a day other than a Saturday or a Sunday on which commercial banks are open for business (including dealings in foreign currencies) in the city where the Registrar or (as the case may be) the relevant Agent has its Specified Office.
- (c) The transfer of a Note will be effected without charge by the Registrar or any Agent but against such indemnity as the Registrar or (as the case may be) such Agent may require in respect of any tax or other duty of whatsoever nature which may be levied or imposed in connection with such transfer.
- (d) Noteholders may not require transfers to be registered (i) during the period of 15 calendar days ending on the due date for any payment of principal or interest in respect of the Notes (ii) after Notes have been called for redemption in whole or in part, or (iii) during the period of seven days ending (and including) any Record Date.
- (e) All transfers of Notes and entries on the Register are subject to the detailed regulations concerning the transfer of the Notes scheduled to the Agency Agreement, a copy of which will be made available as specified in the preamble to these Conditions. The regulations may be changed by the Bank with the prior written approval of the Trustee and the Registrar. A copy of the current regulations will be mailed (free of charge) by the Registrar to any Noteholder who requests in writing a copy of such regulations.

## 5. Covenants

### (a) *Negative pledge*

The Bank shall not, and shall not permit any of its Material Subsidiaries to, create or permit to subsist any Security (other than Permitted Security) upon the whole or any part of its present or future undertaking, assets or revenues (including uncalled capital) to secure any Financial Indebtedness or guarantee of Financial Indebtedness without (A) at the same time or prior thereto securing the Notes equally and rateably therewith or (B) providing such other security for the Notes as may be approved by Extraordinary Resolutions (as defined in the Trust Deed) of holders of the Notes or as the Trustee in its absolute discretion shall deem to be not materially less beneficial to holders of the Notes.

### (b) *Limitations on payment of dividends*

So long as any Note remains outstanding, the Bank will not declare, make or pay any dividend or other distribution (or interest on any unpaid dividend or other distribution) or repay or distribute any reserve constituting part of total equity, in cash or otherwise, or make any other distributions (whether by way of redemption, retirement, acquisition or otherwise) in respect of the Bank's share capital (or any class thereof) or pay any management, advisory or other fee to or to the order of any of the shareholders of the Bank, and the Bank shall not permit its Subsidiaries to make any payment having the effect of such a payment in respect of the Bank's share capital or the effect of such a fee or charge paid to Shareholders of the Bank:

- (i) at any time when there exists an Event of Default (as defined in Condition 11 (*Events of Default*)); or
- (ii) at any time when no such Event of Default exists, in an amount which exceeds, or will exceed, the aggregate amount that the Bank, or persons acting on its behalf, has applied (or, with respect to any declaration, will apply before the actual payment of such dividend or other distribution and in any event within 30 days of such declaration), to redeem Notes in accordance with Condition 8(c) (*Redemption and purchase*).

The foregoing limitation shall not apply to (i) the payment of any dividends in respect of any shares of the Bank through the issuance of additional shares or (ii) any acquisition of share capital for which the Bank does not pay monetary consideration (including, for the avoidance of doubt acquisitions pursuant to foreclosures or court orders) or (iii) any acquisition of share capital from a person who owns at the relevant time less than 2.5 per cent. of the relevant class of the Bank's share capital, *provided that* the aggregate amount of any such consideration paid from the Issue Date for such acquisitions shall not exceed U.S.\$10,000,000 or (iv) any management, advisory or other fee or charge which is paid by the Bank or any of its Subsidiaries to any shareholder of the Bank for services provided on arm's length terms and, in relation to any guarantee fee paid by the Bank or any of its Subsidiaries to any of the Bank's Shareholders does not exceed 0.125 per cent. per annum of the principal amount guaranteed.

### (c) *Restriction on repayment of SK Loan*

So long as any Note remains outstanding, the Bank shall not (and it shall not permit any of its Subsidiaries on its behalf to) repay, redeem or otherwise retire for value any principal of the SK Loan prior to the originally stated maturity thereof.

(d) ***Capital adequacy***

The Bank shall not permit its Tier 1 capital ratio calculated in accordance with the recommendations of the Basel Committee on Banking Supervision to fall below 10.0 per cent. (such recommendations as provided in the Basel Committee's original paper entitled "Basel II: International Convergence of Capital Measurement and Capital Standards: a Revised Framework" published in June 2004, as amended) with such calculation to be made by reference to the most recent audited annual or reviewed half yearly consolidated financial statements of the Bank prepared in accordance with IFRS and to other financial data derived from the Bank's accounting records in alignment with IFRS principles.

(e) ***Disposals***

The Bank shall not (and the Bank shall ensure that no member of the Group will) enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset or group of assets other than (i) to another member of the Group, (ii) on arm's length terms in its ordinary course of business, (iii) made on normal commercial terms and at Fair Market Value, (iv) of any surplus or obsolete or worn out assets not required for the efficient operation of the Group's business, (v) for the purpose of securitisation of or other asset-backed financing relating to those assets, (vi) for another asset which, in the reasonable opinion of the Bank, is comparable or superior as to type, value and quality or (vii) in a single transaction with an aggregate Fair Market Value of less than U.S.\$5,000,000 or a series of related transactions with an aggregate Fair Market Value of less than U.S.\$15,000,000; *provided that* in the case of assets with a Fair Market Value in excess of U.S.\$25,000,000, any such transaction other than as set forth in (i) above, shall require the approval of the Board of Directors of the Bank or of the authorised body of the relevant Subsidiary (excluding any directors or members of the authorised body who are interested in the transaction) and where the consideration involved exceeds U.S.\$100,000,000, any such transaction shall require a valuation and/or fairness opinion from a reputable third party, as reasonably determined by the Board of Directors of the Bank.

(f) ***Merger or consolidation***

The Bank shall not enter into any corporate reorganisation (including by way of amalgamation, demerger, merger, consolidation or corporate reconstruction) or convey, transfer, sell or lease or otherwise dispose of all or substantially all of its assets or business (determined on a consolidated basis, and in a single transaction or series of related transactions and whether directly or indirectly) to any Person unless (and subject always to the provisions in Condition 8(b)(*Redemption at the option of the Noteholders*) and Condition 5(d)(*Disposals*), if applicable):

- (i) the entity (if other than the Bank) formed by or resulting from any such transaction (or to whom the assets or undertakings are transferred or sold):
  - (A) shall assume the performance and observance of all of the obligations and conditions under the Notes to be performed or observed by the Bank and a trust deed or other written form of undertaking is given by such entity to the Trustee, in form and manner satisfactory to the Trustee, agreeing to be bound by the terms of the Trust Deed, the Agency Agreement and the Notes with any consequential or other amendments, which the Trustee may deem appropriate as, fully as if such entity had been named in the Trust Deed, the Agency Agreement and the Notes and shall have caused to be delivered to the Trustee an opinion of independent counsel to the effect that any and

all documents entered into by such entity and the Trustee are valid, binding and enforceable;

- (B) shall have obtained all governmental and regulatory approvals and consents necessary for its assumption of the obligations and liabilities as principal debtor under the Trust Deed and the Agency Agreement and in respect of the Notes;
  - (C) if such entity is incorporated, domiciled or resident in a territory other than the Republic of Kazakhstan, undertakings or covenants are given in terms corresponding to the provisions of Condition 9 (Taxation), with the references to Republic of Kazakhstan replaced with references to the place of incorporation of such entity; and
  - (D) shall indemnify each Noteholder for any income, gain or loss for tax purposes recognised by such Noteholder as a result of the foregoing,
- (ii) in any case, at the relevant time and immediately thereafter there shall not have occurred and be continuing any Event of Default or Potential Event of Default in relation to either the Bank, or such other entity, as the case may be.

(g) ***Listing***

The Bank will use its reasonable endeavours to procure the admission of the Notes to trading on KASE and on the Luxembourg Stock Exchange and to maintain the listing of such notes on such exchanges, but if it is unable to do so having used such endeavours or if the maintenance of such listings is agreed by the Trustee to be unduly onerous and the Trustee is satisfied that the interests of the Holders of the Notes would not be materially prejudiced thereby, the Bank shall use its reasonable endeavours to procure and maintain the listing on another stock exchange or market agreed with the Trustee.

(h) ***Recognition proceedings***

- (i) The Bank shall, having issued an application in the High Court of Justice of England and Wales for a permanent stay of actions or proceedings or executions against the assets of the Bank in relation to claims based on or arising out of or in connection with the Designated Financial Indebtedness (as defined in the Information Memorandum) being restructured, such stay to continue notwithstanding the termination of the restructuring proceedings then pending with respect to the Bank in Kazakhstan, use its reasonable endeavours to pursue such application. If such application is refused, the Bank shall seek such rehearing or review or pursue such appeals as the Bank reasonably determines is or are appropriate based upon the advice of its counsel.
- (ii) The Bank shall, having filed a motion with the United States Bankruptcy Court for the Southern District of New York for an order permanently enjoining creditors whose claims are being restructured pursuant to the Restructuring Plan (as defined in the Information Memorandum) from commencing or continuing any action, employing any process, or performing any act, to collect, recover or offset (except as provided in the Restructuring Plan) the Designated Financial Indebtedness against the Bank or the property of the Bank within the territorial jurisdiction of the United States, use its reasonable endeavours to pursue such motion. If such motion is denied, the Bank shall seek such rehearing or review or pursue such appeals as the Bank

reasonably determines is or are appropriate based upon the advice of its counsel.

- (iii) The Bank shall, no later than five Business Days after the Court's (as defined in the Information Memorandum) decision confirming that the Restructuring Plan has been carried out and the Restructuring (as defined in the Information Memorandum) is complete, file applications in the courts of Russia and the Ukraine requesting recognition of such decision of the Court under the laws of those jurisdictions and shall use its reasonable endeavours to pursue such applications. If one or both of such applications are refused, the Bank shall seek such rehearing or review or pursue such appeals as the Bank reasonably determines is or are appropriate based upon the advice of its counsel.

(i) ***Authorisations***

The Bank will promptly (and shall procure that each member of the Group shall promptly) obtain, comply with and do all that is necessary to maintain in full force and effect (and upon request supply certified copies to the Trustee of) any Authorisation required under any law or regulation of a Relevant Jurisdiction to enable it to (i) perform its obligations under the Trust Deed, Notes or Agency Agreement; (ii) ensure the legality, validity, enforceability or admissibility in evidence of any of the Trust Deed, Notes or Agency Agreement.

(j) ***Financial statements***

The Bank will send to the Trustee, in English:

- (i) at the time of issue and in any event within 150 days of the end of each Financial Year audited annual consolidated financial statements prepared in accordance with IFRS (including comparatives figures for the prior year) and an auditors' report thereon; and
- (ii) at the time of issue and in any event within 120 days after the end of each half year semi-annual consolidated financial statements prepared in accordance with IFRS and an auditors' review report thereon.

and will send to the Trustee with each set of its consolidated financial statements within 10 Business Days or, at any other time within 30 Business Days (or in each case such longer period as the Trustee shall determine) of any request by the Trustee, compliance certificates signed by any one member of the Management Board confirming that, as at a date not more than five Business Days prior to the date of the relevant compliance certificate no Event of Default or Potential Event of Default or other breach of the Trust Deed has occurred, or is continuing, since the date of the last such certificate (or if no such certificate has previously been given, since the date of the Trust Deed), or giving details of any such instances of non-compliance and (if any Event of Default or Potential Event of Default or other breach of this Trust Deed has occurred, or is continuing) what action the Bank is taking or proposes to take with respect thereto;

6. **Interest**

(a) ***Interest Accrual***

The Notes shall bear interest on their outstanding principal amount from 21 December 2012 at the rate of 5.50 per cent. per annum (the "**Rate of Interest**"), payable in arrear on 30 June and 31 December in each year (each, an "**Interest Payment Date**"), and with the first Interest Payment Date falling on 30 June 2013), subject as provided in Condition 7 (Payments).

The period from (and including) 21 December 2012, to (but excluding) 30 June 2013 (the “**First Interest Period**”), each subsequent period beginning on (and including) any Interest Payment Date and ending on (but excluding) the next Interest Payment Date and the period from (and including) 30 June 2022 to (but excluding) 21 December 2022 (the “**Last Interest Period**”) is herein called an “**Interest Period**”.

(b) ***Cessation of interest***

Each Note will cease to bear interest from the due date for final redemption unless payment of principal is improperly withheld or refused, in which case it will continue to bear interest at such rate (as well after as before judgment) until whichever is the earlier of (i) the day on which all sums due in respect of such Notes up to that day are received by or on behalf of the relevant Noteholder and (ii) the day which is seven days after the Principal Paying and Transfer Agent or the Trustee has notified the Noteholders that it has received all sums due in respect of the Notes up to such seventh day (except to the extent that there is any subsequent default in payment).

(c) ***Calculation of interest for an Interest Period***

The amount of interest payable in respect of each Note for any Interest Period (other than the First Interest Period and the Last Interest Period) shall be calculated by applying the Rate of Interest to the principal amount of such Note, dividing the product by two and rounding the resulting figure to the nearest cent (half a cent being rounded upwards). In the case of the First Interest Period and the Last Interest Period, the amount of interest payable shall be calculated as set out in Condition 6(d) (*Calculation of interest for any other period*).

(d) ***Calculation of interest for any other period***

For the First Interest Period, the Last Interest Period and for any period other than an Interest Period, interest will be rounded as aforesaid, calculated on the basis of a year of 360 days consisting of 12 months of 30 days each and, in the case of an incomplete month, the actual number of days elapsed, from (and including) the first day of the period to (but excluding) the last day of the period.

The determination of the amount of interest payable under Condition 6(c) (*Calculation of interest for an Interest Period*) by the Principal Paying and Transfer Agent shall, in the absence of manifest error, be binding on all parties.

7. **Payments**

(a) ***Principal***

Payments of principal in respect of the Notes will be made to the Persons shown in the Register at the close of business on the relevant Record Date (as defined below) upon surrender (or, in the case of part payment only, endorsement) of the relevant Note Certificates at the Specified Office of the Registrar or of any Agent.

(b) ***Interest***

Payments of interest due on an Interest Payment Date will be made to the Persons shown in the Register at the close of business on the Record Date for such Interest Payment Date, subject to (in the case of interest payable on redemption) upon surrender (or, in the case of part payment only, endorsement) of the relevant Note Certificates at the Specified Office of the Registrar or any Agent. Payments of all amounts other than as provided in Condition 7(a) (*Principal*) and this Condition 7(b) will be made as provided in these Conditions.

(c) **Record Date**

Each payment in respect of a Note will be made to the Person shown as the holder in the Register at the close of business (in the place of the Registrar's specified office) on the business day before the due date for such payment (the "**Record Date**").

(d) **Payments**

Each payment in respect of the Notes pursuant to Conditions 7(a) (*Principal*) and 7(b) (*Interest*) will be made by transfer to a United States Dollar account maintained by the payee with a bank in New York City.

(e) **Payments subject to fiscal laws**

All payments in respect of the Notes are subject in all cases to any applicable or other laws and regulations in the place of payment, but without prejudice to the provisions of Condition 9 (*Taxation*). No commissions or expenses shall be charged to the Noteholders in respect of such payments.

(f) **Payment on a business day**

If the due date for payment of any amount in respect of any Note is not a business day, the holder thereof shall not be entitled to payment of the amount due until the next succeeding business day. A holder of a Note shall not be entitled to any interest or other payment in respect of any delay in payment resulting from the due date for a payment not being a business day. In this Condition 7(f), "**business day**" means any day on which banks are open for business (including dealings in foreign currencies) in New York City and, in the case of surrender (or, in the case of partial payment only, endorsement) of a Note Certificate, in the place in which the Note Certificate is surrendered (or, as the case may be, endorsed).

(g) **Agents**

In acting under the Agency Agreement and in connection with the Notes, the Agents act solely as agents of the Bank and (to the extent provided therein) the Trustee and do not assume any obligations towards or relationship of agency or trust for or with any of the Noteholders. The Bank reserves the right (with prior written approval of the Trustee) at any time to vary or terminate the appointment of any Agent and to appoint a successor principal paying and transfer agent or registrar and additional or successor agent or agents; *provided, however, that* the Bank shall at all times maintain a principal paying and transfer agent with a specified office in a European member state, that will not be obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC or any law implementing or complying with, or introduced to conform to, such Directive, and a registrar. Notice of any change in any of the Agents or in their Specified Offices shall promptly be given to the Noteholders in accordance with Condition 14 (*Notices*).

8. **Redemption and purchase**

(a) **Scheduled redemption**

Unless previously redeemed or purchased and cancelled as provided below, subject as provided in Condition 7 (*Payments*), the Notes will be redeemed on 21 December 2022. The outstanding principal amount of each Note shall be reduced by any repayment of principal in accordance with these Conditions, with effect from the actual payment date.

(b) ***Redemption at the option of the Noteholders***

Unless the Noteholders have previously by an Extraordinary Resolution (as defined in the Trust Deed) disappplied this Condition 8(b) in relation to the applicable Change of Control, following the occurrence of a Change of Control (as defined below), the Bank shall promptly, and in any event within five Business Days thereafter, give notice (the “**Change of Control Notice**”) of such Change of Control to the Noteholders (with a copy to the Trustee) in accordance with Condition 14 (*Notices*), which notice shall specify the date (which shall not be less than 30 days nor more than 60 days after the Change of Control Notice (the “**Put Settlement Date**”)), on which the Bank shall, at the option of the holder of any Note, redeem such Note at its outstanding principal amount, together with interest accrued and unpaid to the Put Settlement Date. In order to exercise the option contained in this Condition 8(b), the holder of a Note must, not less than 15 days before the Put Settlement Date, deposit with any Paying Agent the relevant Note Certificate and a duly completed put option notice (a “**Put Option Notice**”) in the form obtainable from any Paying Agent. No Note Certificate, once deposited with a duly completed Put Option Notice in accordance with this Condition 8(b), may be withdrawn; *provided, however, that* if, prior to the Put Settlement Date, any such Note becomes immediately due and payable or payment of the redemption monies is improperly withheld or refused, such Note Certificate shall, without prejudice to the exercise of the Put Option, be returned to the holder by uninsured first class mail (airmail if overseas) at such address as may have been given by such Noteholder in the relevant Put Option Notice. The Trustee shall not be responsible for monitoring whether or not any Change of Control has occurred or may occur and shall be entitled to assume (and shall not incur liability for doing so) unless it receives written notice to the contrary, that no Change of Control has occurred. In the event that a Change of Control occurs but no Change of Control Notice is given by the Bank, the Bank shall be deemed to have given a Change of Control Notice specifying a Put Settlement Date on the date which is 60 days after the occurrence of the Change of Control, unless such day is not a Business Day, in which event the Put Settlement Date shall be the immediately following Business Day thereafter.

(c) ***Redemption at the option of the Bank***

The Notes may be redeemed at the option of the Bank in whole or, in part, at any time, on giving not less than 30 days’ (or in the event of a redemption in connection with a dividend under Condition 5(b), 20 days’) nor more than 60 days’ notice to the Noteholders and the Trustee in accordance with Condition 14 (*Notices*) (which notice shall be irrevocable), in such nominal amount as is specified in the notice at the principal amount thereof, together with interest accrued but unpaid on the relevant principal amount to, but excluding, the date fixed for redemption. Upon the expiry of any such notice as is referred to in this Condition 8(c), the Bank shall be bound to redeem in whole or in part, as the case may be, the Notes in accordance with this Condition 8(c).

(d) ***Purchase***

The Bank may at any time purchase or procure others to purchase for its account the Notes in the open market or otherwise and at any price. Notes so purchased may be held or resold (*provided that* such resale is in compliance with all applicable laws) or surrendered for cancellation at the option of the Bank, in compliance with Condition 8(e) (*Cancellation of Notes*). Any Notes so purchased, while held by or on behalf of the Bank or any member of the Group, shall not entitle the holder to vote at any meeting of Noteholders and shall not be deemed to be outstanding for the purposes of calculating the quorum at such meetings.

(e) ***Cancellation of Notes***

All Notes which are redeemed in full or surrendered for cancellation pursuant to this Condition 8 (*Redemption and purchase*) shall be cancelled and may not be reissued or resold.

9. **Taxation**

(a) ***Taxation***

All payments of principal and interest in respect of the Notes shall be made free and clear of, and without withholding or deduction for, any taxes, duties, assessments or governmental charges of whatsoever nature imposed, levied, collected, withheld or assessed by or within the Republic of Kazakhstan or any other jurisdiction from or through which payment is made, or in any case, any political subdivision or any authority thereof or therein having power to tax (each, a “**Taxing Jurisdiction**”), unless such withholding or deduction is required by law. In that event, the Bank shall pay such additional amounts as will result in the receipt by the Noteholders of such amounts as would have been received by them if no such withholding or deduction had been required, except that no such additional amounts shall be payable in respect of any Note:

- (i) presented for payment by or on behalf of a holder who is liable for such taxes, duties, assessments or governmental charges in respect of such Note by reason of the existence of any present or former connection between such holder (or between a fiduciary, settlor, beneficiary, member or shareholder of such holder, if such holder is an estate, a trust, a partnership or a corporation) and the relevant Taxing Jurisdiction, including, without limitation, such holder (or such fiduciary, settlor, beneficiary, member or shareholder) being or having been a citizen or resident thereof or being or having been engaged in a trade or business or present therein or having or having had a permanent establishment therein other than the mere holding of such Note; or
- (ii) presented (in the case of a payment of principal or interest on redemption) for payment more than 30 days after the Relevant Date except to the extent that the relevant holder would have been entitled to such additional amounts if it had presented such Note on the last day of such period of 30 days; or
- (iii) to a holder who is a fiduciary or partnership or other than the sole beneficial owner of such payment to the extent such payment would be required to be included in the income for tax purposes of a beneficiary or settlor with respect to such fiduciary or a member of such partnership or a beneficial owner who would not have been entitled to the additional amounts had such beneficiary, settlor, member or beneficial owner been the holder of the Note; or
- (iv) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to European Council Directive 2003/48/EC or any law implementing or complying with, or introduced to conform to such Directive.

In the event that the foregoing obligation to pay additional amounts is for any reason unenforceable against the Bank, the Bank shall pay to any holder of a Note (subject to the exclusions set out above) which has received a payment subject to deduction or withholding as aforesaid, upon written request of such holder (subject to the exclusions set out above), and *provided that* reasonable supporting documentation is provided, an amount equal to the amount withheld or deducted, so that the net amount

received by such holder after such payment would not be less than the net amount the holder would have received had such deduction or withholding not taken place. Any payment made pursuant to this paragraph shall be considered an additional amount.

If, at any time, the Bank is required by law to make any deduction or withholding from any sum payable by it hereunder (or if thereafter there is any change in the rates at which or the manner in which such deductions or withholdings are calculated), the Bank shall promptly notify the Trustee in writing, and shall deliver to the Trustee, within 30 days after it has made such payment to the applicable authority, a written certificate to the effect that it has made such payment to such authority of all amounts so required to be deducted or withheld in respect of each Note.

(b) ***Relevant Date***

As used in these Conditions, “**Relevant Date**” in respect of any Note means the date on which payment in respect of such Note first becomes due or (if any amount of the money payable is improperly withheld or refused) the date on which notice is duly given to the Noteholders that such payment will be made, *provided that* payment is in fact made.

(c) ***Additional amounts***

Any reference in these Conditions to principal or interest shall be deemed to include partial payments of principal as well as any additional amounts in respect of principal or interest (as the case may be) which may be payable under this Condition 9 (*Taxation*) or any undertaking given in addition to or in substitution of this Condition 9 (*Taxation*) pursuant to the Trust Deed.

(d) ***Taxing jurisdiction***

If the Bank becomes subject at any time to any taxing jurisdiction other than the Republic of Kazakhstan, references in this Condition 9 (*Taxation*) to the Republic of Kazakhstan shall be construed as references to the Republic of Kazakhstan and/or such other jurisdiction.

(e) ***FATCA***

Notwithstanding anything to the contrary in this Condition 9, neither the Bank, nor any paying agent or any other person shall be required to pay any Additional Amounts with respect to any United States withholding or deduction imposed on or in respect of any Note pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (“**FATCA**”), the laws of a Relevant Taxing Jurisdiction implementing FATCA, or any agreement between the Bank and the United States or any authority thereof entered into for FATCA purposes.

10. **Prescription**

Claims for principal and interest on redemption shall become void unless the relevant Note Certificates are surrendered for payment within ten years and claims for interest due other than on redemption shall become void unless made within five years of the appropriate Relevant Date.

11. **Events of Default**

The Trustee at its discretion may, and if so requested in writing by the holders of not less than one fifth in principal amount of the Notes then outstanding or if so directed by an Extraordinary Resolution (subject in each case to being indemnified or provided with security

or pre-funded to its satisfaction) shall, give notice to the Bank that the Notes are and they shall become due and repayable at their principal amount together with accrued interest if any of the following events (each, an “**Event of Default**”) occurs and is continuing:

(a) ***Non payment***

the Bank fails to pay any amount of principal or interest in respect of the Notes when the same becomes due and payable and such default continues for a period of ten Business Days; or

(b) ***Breach of other obligations***

the Bank is in default in the performance, or is otherwise in breach, of any covenant, obligation, undertaking or other agreement under the Notes or the Trust Deed (other than a default or breach specifically dealt with elsewhere in this Condition 11 (*Events of Default*)) or Samruk-Kazyna is in default in the performance, or is otherwise in breach, of any covenant, obligation, undertaking or other agreement under the SK Loan Schedule and, where such default or breach is, in the opinion of the Trustee, capable of remedy, such default or breach is not (in the opinion of the Trustee) remedied within 30 calendar days after notice thereof has been given to the Bank, by the Trustee, requiring the same to be remedied; or

(c) ***Cross default***

any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes (or becomes capable of being declared) due and payable prior to the due date for the payment thereof by reason of default of the Bank or the relevant Subsidiary (as the case may be), or is not paid when due or within any originally applicable grace period, *provided that* the aggregate amount of such Financial Indebtedness referred to above exceeds U.S.\$35,000,000 (or its equivalent in any other currency or currencies); or

(d) ***Judgment default***

any final judgment, ruling or decree, in each case not capable of further appeal, for the payment of an aggregate amount of not less than U.S.\$35,000,000 (or its equivalent in any other currency or currencies) is rendered or granted against and is binding on any member of the Group or any part of its assets and is neither paid when due nor within any applicable grace period provided; or

(e) ***Insolvency***

(a) any Person shall have instituted a proceeding or entered a decree or order for the appointment of a receiver, administrator, liquidator, trustee, assignee in bankruptcy, conservator or similar officer in any insolvency, rehabilitation, readjustment of debt, marshalling of assets and liabilities or similar proceedings or arrangements involving the Bank or any Material Subsidiary or all or substantially all of their respective properties and such proceeding, decree or order shall not have been vacated or shall have remained in force undischarged or unstayed for a period of 60 days; or (b) the Bank or any Material Subsidiary shall, (i) institute proceedings under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect to be adjudicated a bankrupt, or be placed into conservation under applicable banking legislation; (ii) shall consent to the filing of a bankruptcy, insolvency or similar proceeding against it, (iii) file a petition or answer or consent seeking reorganisation under any such law or consent to the filing of any such petition, (iv) consent to the appointment of a receiver, administrator or liquidator, trustee, assignee in bankruptcy, or conservator or similar officer in bankruptcy or liquidation of the Bank or any Material Subsidiary, as the case may be, or in respect of its property or substantially

all thereof, (v) make a general assignment for the benefit of its creditors, (vi) otherwise be unable or admit its inability to pay its debts generally as they become due, or (vii) commence proceedings with a view to the general adjustment of its Financial Indebtedness and, in any case as is specified in this Condition 11(e) in relation to a Material Subsidiary, the event is (in the opinion of the Trustee) materially prejudicial to the interests of the Noteholders; or

(f) ***Compulsory acquisition or disposition***

the authority or ability of the Bank to conduct its business is substantially or wholly limited or curtailed by any seizure, expropriation, nationalisation, intervention, restriction, vesting, divesting, compulsory acquisition or disposition or other action by or on behalf of any governmental, regulatory or other authority in relation to a material portion of the assets of the Group taken as a whole; or

(g) ***Cessation of business***

the Bank suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business or its Banking Licence is revoked; or

(h) ***Invalidity or unenforceability***

the validity of the Notes, the Trust Deed or the Agency Agreement is contested by the Bank (or its respective obligations thereunder are denied by the Bank), the validity of the SK Loan Schedule is contested by SK or it is or becomes unlawful for the Bank or SK to perform or comply with all or any of their respective obligations thereunder or all or any of the obligations of the Bank or SK provided therein shall be or become unenforceable or invalid.

12. **Replacement of Notes**

If any Note is lost, stolen, mutilated, defaced or destroyed, it may be replaced at the Specified Office of the Principal Paying and Transfer Agent and the Agent, subject to all applicable laws and stock exchange requirements, upon payment by the claimant of the expenses incurred in connection with such replacement and on such terms as to evidence, security, indemnity and otherwise as the Bank may reasonably require. Mutilated or defaced Notes must be surrendered before replacements will be issued.

13. **Meetings of Noteholders; modification and waiver**

(a) ***Meetings of Noteholders***

The Trust Deed contains provisions for convening meetings of Noteholders to consider any matters relating to the Notes, including the modification of any provision of these Conditions or the Trust Deed. Any such modification may be made if sanctioned by an Extraordinary Resolution. Such a meeting may be convened by the Trustee or the Bank, or by the Trustee upon the request in writing of Noteholders holding not less than one fifth of the aggregate principal amount of the outstanding Notes. The quorum at any meeting convened to vote on an Extraordinary Resolution will be two or more persons holding or representing a clear majority of the aggregate principal amount of the Notes for the time being outstanding, or, at any adjourned meeting, two or more persons being or representing Noteholders whatever the principal amount of the Notes for the time being outstanding so held or represented; *provided, however, that* certain proposals (including any proposal to change any date fixed for payment of principal or interest in respect of the Notes, to reduce the amount of principal or interest payable on any date in respect of the Notes, to alter the method of calculating the amount of any payment in respect of the Notes or the date for any such payment, to change the currency of payment under the Notes

or to change the quorum requirements relating to meetings or the majority required to pass an Extraordinary Resolution) may only be sanctioned by an Extraordinary Resolution passed at a meeting of Noteholders at which two or more persons holding or representing not less than three quarters or at any adjourned meeting, one quarter of the aggregate principal amount of the outstanding Notes form a quorum (a “**special quorum resolution**”). Any Extraordinary Resolution passed at any such meeting shall be binding on all Noteholders, whether or not present.

(b) ***Written resolution***

A resolution in writing will take effect as if it were an Extraordinary Resolution if it is signed (i) by or on behalf of all of Noteholders who for the time being are entitled to receive notice of a meeting of the Noteholders under the Trust Deed or (ii) if such Noteholders have been given at least 21 clear days’ notice of such resolution, by or on behalf of persons holding three quarters of the aggregate principal amount of the outstanding Notes. Such a resolution in writing may be contained in one document or several documents in the same form, each signed by or on behalf of one or more Noteholders.

(c) ***Modification without Noteholders’ consent***

The Trustee may, without the consent of the Noteholders, agree (i) to any modification of the Notes (including these Conditions) or the Trust Deed (other than in respect of a matter requiring a special quorum resolution) which, in the opinion of the Trustee, will not be materially prejudicial to the interests of the Noteholders and (ii) to any modification of the Notes (including these Conditions) or the Trust Deed which is (in its opinion) of a formal, minor or technical nature or to correct a manifest error or to reflect any redemption or purchase by the Issuer and cancellation of Notes in whole or in part. In addition, the Trustee may, without the consent of the Noteholders, authorise or waive any proposed breach or breach of the Notes or the Trust Deed (other than a proposed breach or breach relating to the subject of a matter requiring a special quorum resolution) if, in the opinion of the Trustee, the interests of the Noteholders will not be materially prejudiced thereby. Any such modification, waiver or authorisation shall be binding on the Noteholders and, unless the Trustee agrees otherwise, shall be promptly notified to the Noteholders in accordance with Condition 14 (*Notices*).

14. **Notices**

(a) ***To the Noteholders***

Notices to Noteholders will be sent to them by first class mail (or its equivalent) or (if posted to an overseas address) by airmail at their respective addresses on the Register. Any such notice shall be deemed to have been given on the fourth day (not being a Saturday or a Sunday) after the date of mailing. In addition, so long as the Notes are listed on an Approved Stock Exchange (as defined in the Trust Deed) and the relevant Stock Exchange so requires, notices to the Noteholders shall be published in a leading newspaper having general circulation in the jurisdiction of the Approved Stock Exchange. Any such notice shall be deemed to have been given on the date of first publication.

(b) ***To the Bank***

Notices to the Bank will be deemed to be validly given if delivered to the Bank at 97, Zholdasbekov str., md Samal-2, Almaty, 050051, Kazakhstan and clearly marked on their exterior “Investor Relations and Capital Markets Department” (or at such other addresses and for such other attentions as may have been notified to the Noteholders

in accordance with Condition 14(a)) and will be deemed to have been validly given at the opening of business on the next day on which the Bank's principal offices, as applicable, are open for business.

(c) ***To the Trustee and Agents***

Notices to the Trustee or any Agent will be deemed to have been validly given if delivered to the registered office, for the time being, of the Trustee or the Specified Office, for the time being, of such Agent, as the case may be, and will be validly given on the next day on which such office is open for business.

15. **Trustee**

(a) ***Indemnification***

Under the Trust Deed, the Trustee is entitled to be indemnified and relieved from responsibility in certain circumstances and to be paid its costs and expenses in priority to the claims of the Noteholders. In addition, the Trustee is entitled to enter into business transactions with the Bank and any entity relating to the Bank without accounting for any profit.

The Trustee's responsibilities are solely those of trustee for the Noteholders on the terms of the Trust Deed. Accordingly, the Trustee makes no representations and assumes no responsibility for the validity or enforceability of the Notes or for the performance by the Bank of its obligations under or in respect of the Notes or the Trust Deed, as applicable.

(b) ***Exercise of power and discretion***

In connection with the exercise of any of its powers, trusts, authorities or discretions (including but not limited to those referred to in these Conditions and the Trust Deed), the Trustee shall have regard to the interests of the Noteholders as a class and, in particular, shall not have regard to the consequences of such exercise for individual Noteholders resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory or taxing jurisdiction. The Trustee shall not be entitled to require, and no Noteholder shall be entitled to claim, from the Bank (in the case of a Noteholder), the Trustee any indemnification or payment in respect of any tax consequence of any such exercise upon individual Noteholders.

(c) ***Enforcement; reliance***

The Trustee may at any time, at its discretion and without notice take such steps or actions or institute such proceedings as it thinks fit to enforce its rights under the Trust Deed in respect of the Notes, but it shall not be bound to do so unless:

- (i) it has been so requested in writing by the holders of at least one fifth in principal amount of the outstanding Notes or has been so directed by an Extraordinary Resolution; and
- (ii) it has been indemnified or provided with security or pre funded to its satisfaction.

The Trust Deed provides that the Trustee may, at any time, or, in making any determination under these Conditions or the Trust Deed, act on the opinion or advice of, or information obtained from, any expert, auditor, lawyer or professional entity, without further enquiry or evidence. In particular, the Trust Deed provides that the Trustee may rely on certificates or reports from auditors whether or not such

certificate or report or any engagement letter or other document entered into by the Bank and the auditors contains any limit on liability (monetary or otherwise) of the auditors and provides further that nothing shall require the Trustee to enter into or to agree to be bound by the terms of any engagement letter or other document entered into by the Bank or any such auditor. If such evidence is relied upon, the Trustee's determination shall be conclusive and binding on all parties, and the Trustee will not be responsible for any loss, liability, cost, claim, action, demand, expense or inconvenience which may result from it so acting.

Until the Trustee has actual knowledge or express notice to the contrary, the Trustee may assume that no Event of Default or event or circumstance which could with the giving of notice, lapse of time, issue of a certificate and/or fulfilment of any other requirement provided for in Condition 11 (Events of Default) become an Event of Default has occurred.

The Trust Deed provides that the Bank is required to deliver to the Trustee, pursuant to, and in the circumstances detailed in, the Trust Deed, a certificate signed by one member of the Management Board (as defined in the Trust Deed) that there has not been and is not continuing any Event of Default, an event or circumstance which could with the giving of notice, lapse of time, issue of a certificate and/or fulfilment of any other requirement provided for in Condition 11 (Events of Default) become an Event of Default, or other breach of the Trust Deed. The Trustee shall be entitled to rely without liability on such certificates. The Trustee shall not be responsible for monitoring any of the covenants and obligations of the Bank set out in these Conditions or the Trust Deed and shall be entitled to rely upon the information provided pursuant to these Conditions and the Trust Deed and to assume, unless it receives actual notice to the contrary, that the Bank is complying with all covenants and obligations imposed upon it, respectively, herein and therein.

(d) ***Failure to act***

No Noteholder may proceed directly against the Bank unless the Trustee, having become bound to do so, fails to do so within a reasonable time and such failure is continuing.

(e) ***Retirement and removal***

Any Trustee may retire at any time on giving at least two months' written notice to the Bank without giving any reason or being responsible for any costs occasioned by such retirement and the Noteholders may by Extraordinary Resolution remove any Trustee, *provided that* the retirement or removal of a sole trust corporation will not be effective until a trust corporation is appointed as successor Trustee. If a sole trust corporation gives notice of retirement or an Extraordinary Resolution is passed for its removal, it will use all reasonable endeavours to procure that another trust corporation be appointed as Trustee. In the event of any change of the Trustee, two separate notices shall be published in two leading newspapers one of which will have general circulation in the jurisdiction of the Approved Stock Exchange.

(f) ***Substitution***

The Trust Deed contains provisions to the effect that the Trustee may (without the consent of the Noteholders) agree on such terms as it may specify to the substitution of the Bank's successor in business in place of the Bank as issuer and principal obligor in respect of the Notes and as principal obligor under the Trust Deed, subject to all relevant conditions of the Trust Deed having been complied with (including an unconditional guarantee by the Bank of the obligations assumed by the substitute). Not later than 14 days after compliance with the aforementioned requirements, notice

thereof shall be given by the Bank to the Noteholders in accordance with Condition 14 (*Notices*).

16. **Further issues**

The Bank may from time to time, without the consent of the Noteholders and in accordance with the Trust Deed, create and issue further Notes having the same terms and conditions as the Notes in all respects (or in all respects except for the first payment of interest).

17. **Currency indemnity**

If any sum due from the Bank in respect of the Notes under the Trust Deed or any order or judgment given or made in relation thereto has to be converted from the currency (the “**first currency**”) in which the same is payable under these Conditions, the Trust Deed or such order or judgment into another currency (the “**second currency**”) for the purpose of making or filing a claim or proof against the Bank, obtaining an order or judgment in any court or other tribunal or enforcing any order or judgment given or made in respect of the Notes or in respect thereof under the Trust Deed, the Bank shall indemnify each Noteholder, on the written demand of such Noteholder addressed to the Bank and delivered to the Bank or to the Specified Office of the Principal Agent or the Agent having its Specified Office in London, against any loss suffered as a result of any discrepancy between the rate of exchange used for such purpose to convert the sum in question from the first currency into the second currency and the rate or rates of exchange at which such Noteholder may in the ordinary course of business purchase the first currency with the second currency upon receipt of a sum paid to it in satisfaction, in whole or in part, of any such order, judgment, claim or proof. This indemnity constitutes a separate and independent obligation of the Bank and shall give rise to a separate and independent cause of action.

18. **Contracts (Rights of Third Parties) Act 1999**

No Person shall have any right to enforce any term or condition of the Notes under the Contracts (Rights of Third Parties) Act 1999, but this does not affect the right or remedy of any Person which exists or is available apart from such Act.

19. **Governing law; arbitration and jurisdiction**

(a) ***Governing law***

The Trust Deed, the Notes, the Agency Agreement and any non-contractual obligations arising out of or in connection therewith are governed by, and shall be construed in accordance with, English law.

(b) ***Arbitration***

The Bank agrees that any claim, dispute or difference of whatever nature arising under, out of or in connection with the Notes or the Trust Deed (including a claim, dispute or difference regarding its existence, termination or validity or any non contractual obligations arising out of or in connection with the Trust Deed) (a “**Dispute**”), shall be referred to and finally settled by arbitration in accordance with the rules of the London Court of International Arbitration (“**LCIA**”) (the “**Rules**”) as at present in force and as modified by this Condition, which Rules shall be deemed incorporated into this Condition. The number of arbitrators shall be three, one of whom shall be nominated by the Bank, one by the Trustee and the third of whom, who shall act as Chairman, shall be nominated by the two party nominated arbitrators, *provided that* if the third arbitrator has not been nominated within 30 days of the nomination of the second party nominated arbitrator, such third arbitrator shall be appointed by the LCIA. The parties may nominate and the LCIA may appoint arbitrators from among the nationals of any country, whether or not a party is a

national of that country. The seat of arbitration shall be London, England and the language of arbitration shall be English. Sections 45 and 69 of the Arbitration Act 1996 shall not apply.

(c) ***Trustee's option***

At any time before the Trustee has nominated an arbitrator to resolve any Dispute(s) pursuant to Condition 19(b) (*Arbitration*), the Trustee, at its sole option, may elect by notice in writing to the Bank that such Dispute(s) shall instead be heard by the courts of England, as more particularly described in Condition 19(d) (*Jurisdiction*). Following any such election, no arbitral tribunal shall have jurisdiction in respect of such Dispute(s).

(d) ***Jurisdiction***

In the event that the Trustee serves a written notice of election in respect of any Dispute(s) pursuant to Condition 19(c) (*Trustee's Option*), the Bank agrees for the benefit of the Trustee and the Noteholders that the courts of England shall have jurisdiction to hear and determine any such Dispute(s) and, for such purposes, irrevocably submits to the jurisdiction of such courts. Subject to Condition 19(b) (*Arbitration*), nothing in this Condition shall (or shall be construed so as to) limit the right of the Trustee to bring proceedings (“**Proceedings**”) for the determination of any Dispute(s) in any other court of competent jurisdiction, nor shall the bringing of such Proceedings in any one or more jurisdictions preclude the bringing of Proceedings by the Trustee in any other jurisdiction (whether concurrently or not) if and to the extent permitted by law.

(e) ***Appropriate forum***

The Bank has irrevocably waived any objection which it might now or hereafter have to the courts of England being nominated as the forum to hear and determine any Proceedings and agrees not to claim in any Proceedings that any such court is not a convenient or appropriate forum.

(f) ***Agent for service of process***

The Bank has agreed that the process by which any Proceedings in England are begun may be served on it by being delivered to Law Debenture Corporate Services Limited, Fifth Floor, 100 Wood Street, London EC2V 7EX or, if different, its registered office for the time being. If for any reason the Bank does not have such an agent in England, it will promptly appoint a substitute process agent and notify in writing the Trustee of such appointment. Nothing herein shall affect the right to serve process in any other manner permitted by law.

(g) ***Consent to enforcement, etc.***

The Bank has consented generally in respect of any Disputes (or Proceedings in accordance with Condition 19(d) (*Jurisdiction*)) to the giving of any relief or the issue of any process in connection with such Disputes or Proceedings, including (without limitation) the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgment which may be given in such Proceedings or in connection with such Disputes.

(h) ***Waiver of immunity***

To the extent that the Bank may in any jurisdiction claim for itself or its respective assets or revenues immunity from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process and to the extent that

such immunity (whether or not claimed) may be attributed in any such jurisdiction to the Bank, or its assets or revenues, the Bank has agreed, in connection with any Disputes or Proceedings, not to claim and have irrevocably waived such immunity to the full extent permitted by the laws of such jurisdiction.

## 20. **Definitions**

For the purposes of these Conditions:

“**acting in concert**” means a group of persons who, pursuant to an agreement or understanding (whether formal or informal), actively cooperate, through the direct or indirect acquisition by any member or members of such group of shares in the Bank or of any of the assets of any member or members of the group, to obtain or consolidate control of the Bank;

“**Affiliate**” of a person means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, that person;

“**Approved Stock Exchange**” means a recognised stock exchange established in any member state of the European Economic Area;

“**Authorisation**” means an authorisation, consent, approval, resolution, licence, permit, exemption, filing, notarisation or registration (including the Bank’s licence and/or permits to carry out banking operations and other operations permitted by applicable legislation.

“**Business Day**” means a day other than a Saturday or Sunday on which commercial banks are open for business (including dealings in foreign currencies) in London, New York City and Almaty;

“**Change of Control**” means:

- (a) Samruk-Kazyna (or a Permitted Transferee) ceases to control the Bank (other than where it ceases to control the Bank (a) by transfer of control to a Permitted Transferee or (b) in connection with a Secondary Public Offering), where “control” of the Bank means:
  - (i) the direct or indirect holding beneficially of more than 50 per cent. of the issued share capital of the Bank (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital); or
  - (ii) the direct or indirect power (whether by ownership of shares, proxy, contract, agency or otherwise) to cast, or control the casting of, more than 50 per cent. of the maximum number of votes that might be cast at a general meeting of the Bank, or
- (b) any person or group of persons acting in concert (other than where (a) such person or persons are Permitted Transferees or (b) in connection with a Secondary Public Offering) gains control of the Bank where “control” means the power (whether by ownership of shares, proxy, contract, agency or otherwise) to:
  - (i) appoint or remove all, or the majority, of the directors or other equivalent officers of the Bank; or
  - (ii) give directions with respect to the operating and/or financial policies of the Bank with which the directors or other equivalent officers of the Bank are obliged to comply,

*provided that* any agreement whereby management of the Bank is transferred to a third party (the “**manager**”) that does not, in conjunction with any acquisition of shares in the Bank by

such manager or its Affiliates (whether or not occurring at the same time), cause the government of the Republic of Kazakhstan to cease to own (directly or indirectly) more than 50 per cent. of the issued share capital of the Bank (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital), will not constitute a “Change of Control” if (a) the Trustee has been provided with an opinion in form and substance satisfactory to them of independent legal advisers of recognised standing to the effect that the management agreement, in conjunction with any acquisition of the issued share capital of the Bank (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital), does not cause the government of the Republic of Kazakhstan (directly or indirectly) to cease to “control” the Bank or to have majority economic risk and/or benefit in the Bank and continues to allow the government of the Republic of Kazakhstan (directly or indirectly) to retain the sole right to exercise its rights as majority shareholder (including in relation to the appointment of directors) and (b) the “manager” is a Permitted Transferee;

“**Development Organisation**” means any of Asian Development Bank, European Bank for Reconstruction and Development, International Bank for Reconstruction and Development, International Finance Corporation, KfW Bankengruppe, Swedish Export Credits Guarantee Board - EKN, Nederlandse Financierings Maatschappij voor Ontwikkelingslanden N.V. or Deutsche Investitions und Entwicklungsgesellschaft GmbH or any other development finance institution established or controlled by one or more states and any other person which is a, or is controlled by any, Kazakhstan governmental body acting on behalf of, or funded in relation to, the relevant Financial Indebtedness by one or more of the foregoing development finance institutions;

“**Fair Market Value**” means, with respect to any asset or property, the price which could be negotiated in an arm’s-length transaction, for cash, between a willing seller and a willing and able buyer, neither of whom is under undue pressure or compulsion to complete the transaction and, in the case of assets with a Fair Market Value in excess of U.S.\$5,000,000, being determined on the basis of principles established by the Board of Directors of the Bank, which shall include, where the consideration involved exceeds U.S.\$100,000,000, obtaining a valuation and/or fairness opinion from a reputable third party, as determined by the Board of Directors of the Bank;

“**Financial Indebtedness**” means any obligation (whether incurred as principal or surety), whether present or future, actual or contingent, for or in respect of:

- (a) moneys borrowed and debit balances at banks or other financial institutions;
- (b) any acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);
- (c) any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of Finance Leases;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis and meet any requirement for de-recognition under IFRS);
- (f) any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that Treasury Transaction, that amount) shall be taken into account);

- (g) any amount raised by the issue of redeemable shares which are redeemable (other than at the option of the issuer) before the final redemption or repayment date under the relevant Notes or are otherwise classified as borrowings under the IFRS);
- (h) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 90 days after the date of supply;
- (i) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under IFRS; and
- (j) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (j) above;

“**Finance Leases**” means any lease or hire purchase contracts which would, in accordance with IFRS, be treated as a finance or capital lease;

“**Group**” means the Bank and each of its Subsidiaries from time to time;

“**holder**” means the person in whose name a Note is registered in the Register (as defined in Condition 3) (or, in the case of joint holders, the first named thereof) and “**holders**” shall be construed accordingly;

“**IFRS**” means International Financial Reporting Standards in effect from time to time;

“**Information Memorandum**” means the information memorandum published by the Bank and dated on 8 November 2012 (as may be supplemented from time to time prior to the Issue Date);

“**KASE**” means the Kazakhstan Stock Exchange;

“**Material Subsidiary**” means at any relevant time a Subsidiary of the Bank:

- (a) whose total assets or gross revenues (for the Bank and any Subsidiary carrying on a banking business, “gross revenues” shall mean interest income plus fee and commission income) (or, where the Subsidiary in question prepares consolidated accounts, whose total consolidated assets or consolidated gross revenues) attributable to the Bank represent not less than five per cent. of the total consolidated assets or gross revenues of the Bank, as calculated by reference to the then latest audited accounts (or, if none, its then most recent management accounts or consolidated accounts, as the case may be) of such Subsidiary and the then latest audited consolidated accounts of the Group, in each case prepared in accordance with IFRS; or
- (b) to which is transferred all or substantially all of the assets and undertaking of a Subsidiary which immediately prior to such transfer is a Material Subsidiary;

“**Permitted Security**” means:

- (a) any security arising by operation of law and in the ordinary course of trading and not as a result of any default or omission by any member of the Group;
- (b) any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;

- (c) any Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to a member of the Group in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by any member of the Group;
- (d) any Security granted pursuant to the RCTFF Agreement;
- (e) any Security arising pursuant to any agreement (or other applicable terms and conditions) which is standard or customary in the relevant market (and not for the purpose of raising credit or funds for the operation of any member of the Group other than on a short-term basis as part of its liquidity management activities), in connection with (i) contracts entered into simultaneously for sales and purchases at market prices of precious metals or securities, (ii) the establishment of margin deposits and similar securities in connection with interest rate and foreign currency hedging operations and trading in securities or (iii) the foreign exchange dealings or other proprietary trading activities including, without limitation, Repos, of any member of the Group;
- (f) granted in favour of the Bank by any Material Subsidiary to secure Financial Indebtedness or other obligations owed by such Material Subsidiary to the Bank;
- (g) arising in the ordinary course of the Bank's or a Material Subsidiary's trading activities and which is necessary in order to enable the Bank or such Material Subsidiary to comply with any mandatory or customary requirement imposed on it by law or by a banking or other regulatory authority in connection with the Bank's or such Material Subsidiary's business;
- (h) on property acquired (or deemed to be acquired) under a Finance Lease, or claims arising from the use or loss of or damage to such property, *provided that* any such encumbrance secures only rentals and other amounts payable under such lease;
- (i) granted by the Bank in favour of a Development Organisation to secure Financial Indebtedness owed by the Bank to such Development Organisation pursuant to any loan agreement or other credit facility entered into between the Bank and such Development Organisation, *provided that* the amount of Financial Indebtedness so secured pursuant to this paragraph (ix) shall not exceed in aggregate an amount in any currency or currencies equivalent to ten per cent. of the Bank's Net Assets calculated by reference to the most recent financial statements of the Bank prepared in accordance with IFRS;
- (j) arising out of the refinancing, extension, renewal or refunding of any Financial Indebtedness secured by Security permitted by any of the above exceptions, *provided that* the Financial Indebtedness thereafter secured by such Security does not exceed the amount of the original Financial Indebtedness and such Security is not extended to cover any property not previously subject to such Security;
- (k) not included in any of the above exceptions, in aggregate securing Financial Indebtedness with an aggregate principal amount at any time not exceeding U.S.\$50,000,000 (or its equivalent in other currencies) at that time; or
- (l) any other Security to which the Trustee (acting on the instructions of an Extraordinary Resolution) has given its prior written consent;

“**Permitted Transferee**” means a person which is a bank or other financial institution which has:

- (a) in the case of a bank or other financial institution the ultimate parent company of which is incorporated outside or the majority of the consolidated assets of which are outside Kazakhstan (i) an ultimate parent company with a minimum consolidated net worth of U.S.\$500,000,000 calculated pursuant to IFRS as at the date of its last audited published financial statements and (ii) either prior to any public announcement of an intended transfer of control of the Bank or at any time subsequent to such announcement and up to and including the actual transfer of control of the Bank, a minimum rating of at least BB- or the equivalent from any Rating Agency; or
- (b) in the case of any other bank or other financial institution (i) an ultimate holding company with a minimum net worth of U.S.\$325,000,000 calculated pursuant to IFRS as at the date of its last audited published financial statements and (ii) either prior to any public announcement of an intended transfer of control of the Bank or at any time subsequent to such announcement and up to and including the actual transfer of control of the Bank, a credit rating from a Rating Agency which is no lower than the rating of the Bank by such Rating Agency;

and in either event is not the subject of sanctions administered by the United States Treasury Department’s Office of Foreign Assets Control or imposed by or required to be imposed by the European Union (or any Member State thereof) or the United Nations;

“**Person**” means any individual, company (including a business trust), corporation, firm, partnership, joint venture, association, organisation, trust (including any beneficiary thereof), state or agency of a state or other entity, whether or not having a separate legal personality;

“**Rating Agency**” means Standard & Poor’s Rating Services, a division of The McGraw Hill Companies, Inc. (“**S&P**”), Moody’s Investors Service Limited (“**Moody’s**”), or Fitch Ratings Limited (“**Fitch**”), or any of their affiliates or successors (with respect to a rating referred to within the definition of “*Permitted Transferee*”) or any other rating agency substituted for any of them or added by the Bank with the prior written approval of the Trustee.

“**RCTFF Agreement**” means the agreement dated 25 August 2010 between the Bank, The Royal Bank of Scotland N.V., Singapore Branch, The Royal Bank of Scotland N.V., Singapore Branch as security agent and the lenders named therein setting out the terms of the revolving committed trade finance facility extended to the Bank by certain lenders and to be used by the Bank for funding trade finance transactions, as may be amended or supplemented from time to time;

“**Redemption Date**” means the date on which any Note is to be redeemed either in whole or part;

“**Relevant Jurisdiction**” means, in relation to a member of the Group

- (a) its jurisdiction of incorporation; and
- (b) any jurisdiction where it conducts its business;

“**Repo**” means a securities repurchase or resale agreement or reverse repurchase or resale agreement, a securities borrowing agreement or any agreement relating to securities which is similar in effect to any of the foregoing and, for purposes of this definition, the term “**securities**” means any capital stock, share, debenture or other debt or equity instrument, or other derivative, whether issued by any private or public company, any government or agency or instrumentality thereof or any supranational, international or multilateral organisation;

“**Restructuring**” means the proposed overall restructuring and/or cancellation of certain of the debts and other financial obligations of the Bank pursuant to, *inter alia*, the Restructuring Plan;

“**Restructuring Plan**” means the plan to restructure certain Financial Indebtedness of the Bank in the form set out in the Information Memorandum on 8 November 2012;

“**Samruk-Kazyna**” means joint-stock company Sovereign Wealth Fund “Samruk-Kazyna”;

“**Security**” means any mortgage, charge, pledge, lien, security interest or other encumbrance securing any obligation of any Person or any other agreement or arrangement having a similar effect;

“**Secondary Public Offering**” means any sale or public offering of any equity security (including any preference shares) in the Bank or receipts or similar securities representing such equity securities by way of flotation, public placing, listing or other public offering on any recognised international exchange;

“**Specified Office**” has the meaning given to it in the Agency Agreement;

“**SK Loan**” means the U.S.\$1,592,000,000 4 per cent. loan due 2024 to be made by Samruk Kazyna to the Bank on or about the date hereof, to be denominated in Tenge;

“**SK Loan Agreement**” means the agreement entered into between the Bank and Samruk Kazyna setting out the terms of the SK Loan dated on or before the Issue Date;

“**SK Loan Schedule**” means the schedule to the SK Loan, under which Samruk Kazyna has agreed that the obligations of the Bank to it under the SK Loan Agreement will be subordinated in certain respects to the Notes and the facility provided pursuant to the RCTFF Agreement;

“**Subsidiary**” means:

- (a) an entity of which a person has direct or indirect control or owns directly or indirectly more than 50 per cent. of the voting capital or similar right of ownership (and “control” for this purpose means the power to direct the management and policies of the entity whether through the ownership of voting capital, by contract or otherwise); or
- (b) an entity whose financial statements are, in accordance with applicable law and IFRS, consolidated with those of another person,

and for these purposes, when determining whether an entity is a “Subsidiary” of another, the registration of any shares in such “Subsidiary” in the name of any nominee or any other person holding security over such shares shall be ignored so that such entity is deemed to be the Subsidiary of the person who created that security or on whose behalf the nominee holds the relevant shares (as the case may be);

“**Termination Date**” means the earlier of the date upon which (i) the Bank no longer has any obligations in respect of any of the Notes or (ii) the Notes receive a rating of at least BBB- or the equivalent from two or more of Standard & Poor's, Moody's Investor Service and Fitch Ratings on a post-termination basis; and

“**Treasury Transactions**” means any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price.

## Schedule 5

### Form of Certificate of Residency

HM Revenue & Customs

To whom it may concern

Date: .....

Our ref: .....

Certificate of Residence in [name of country in which the Trustee is resident]

Year [●]

The [name of country in which the Trustee is resident] Tax Authorities certify that to the best of their knowledge

BNY Mellon Corporate Trustee Services Limited

Is resident in [name of the country in which the Trustee is resident] for the purpose of application of Double Taxation Treaty concluded between the Republic of Kazakhstan and [name of the country in which the Agent is resident] and is subject to [name of the country in which the Trustee is resident] tax on its total income.

In witness whereof this Trust Deed has been executed as a deed on the date state at the beginning.

Executed as a Deed by

**"BTA Bank" JSC**



Print Name: .....

Authorised Signatory

Executed as a Deed by

**BNY Mellon Corporate Trustee Services Limited**

Acting by its two lawful attorneys:

Attorney:

Attorney:

In the presence of:

Witness name:

Signature:

Address: One Canada Square, London E14 5AL

In witness whereof this Trust Deed has been executed as a deed on the date state at the beginning.

Executed as a Deed by

“BTA Bank” JSC

.....  
Print Name: .....

Authorised Signatory

Executed as a Deed by

BNY Mellon Corporate Trustee Services Limited

Acting by its two lawful attorneys:

Attorney: *Michael Lee*

Michael Lee  
Vice President

Attorney: *N. Berkecz*

Natalie Berkecz  
Authorised Signatory

In the presence of:

Witness name:

*Trevor Blewer*

Trevor Blewer  
Vice President

Signature:

Address: One Canada Square, London E14 5AL