

**AMENDED AND RESTATED TRUST DEED**

Dated 25 August 2010

between

**KAZKOMMERTS FINANCE 2 B.V.**

and

**JSC KAZKOMMERTSBANK**

and

**BNY CORPORATE TRUSTEE SERVICES LIMITED**

relating to

U.S.\$250,000,000 8.5 per cent. Subordinated Loan Participation Notes due 2017  
originally issued on a limited recourse basis by  
KAZKOMMERTS FINANCE 2 B.V. for the sole purpose of funding a  
U.S.\$250,000,000 subordinated loan to  
JSC KAZKOMMERTSBANK

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**WHITE & CASE** LLP  
5 Old Broad Street  
London EC2N 1DW

**THIS AMENDED AND RESTATED TRUST DEED** is made on 25 August 2010 between:

- (1) **KAZKOMMERTS FINANCE 2 B.V.** (the “**Original Issuer**”);
- (2) **JSC KAZKOMMERTSBANK** (the “**New Issuer**”); and
- (3) **BNY CORPORATE TRUSTEE SERVICES LIMITED** (the “**Trustee**”, which expression includes, where the context admits, all persons for the time being the trustee or trustees of this Trust Deed).

**WHEREAS:**

- (A) Pursuant to a trust deed dated 13 June 2007 (the “**Original Trust Deed**”), the Original Issuer issued U.S.\$250,000,000 in aggregate principal amount of 8.5 per cent. Subordinated Loan Participation Notes due 2017 (the “**Notes**”) for the sole purpose of funding a U.S.\$250,000,000 subordinated loan made to the New Issuer in its capacity as borrower by the Original Issuer in its capacity as lender under a loan agreement between the Original Issuer and the New Issuer dated 11 June 2007 (the “**Loan Agreement**”).
- (B) The New Issuer now wishes to assume all of the obligations of the Original Issuer under the Notes (the “**Substitution**”) and this Amended and Restated Trust Deed is to be executed to modify and restate the Original Trust Deed in order to give effect to the Substitution and make certain corresponding amendments to the Conditions of the Notes. As a result of the Substitution, the subordinated loan structure is no longer needed and accordingly the Loan Agreement will be terminated on or about the date hereof.
- (C) The Substitution, including the amendments to the Conditions and the terms of this Trust Deed, has been approved by the holders of the Notes by way of Extraordinary Resolution passed at an adjourned meeting of the holders of the Notes held on 4 August 2010.
- (D) The New Issuer, the Original Issuer and the Trustee now wish to make all necessary modifications to the Original Trust Deed to give effect to the Substitution.

Now this Amended and Restated Trust Deed witnesses and it is hereby declared as follows:

**1. DEFINITIONS**

Subject as hereinafter provided and unless there is anything in the subject or context inconsistent therewith, all words and expressions defined in the Restated Trust Deed (as defined below) shall have the same meanings in this Amended and Restated Trust Deed.

**2. MODIFICATIONS TO THE ORIGINAL TRUST DEED**

Save for the purposes (where necessary) of construing the provisions of this Amended and Restated Trust Deed and, save as expressly set out below, with effect on and from the date hereof, the Original Trust Deed is hereby modified in such manner as would result in the Original Trust Deed being in the form set out in the Schedule hereto (such form being hereinafter referred to as the “**Restated Trust Deed**”).

**3. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

No person shall have any right to enforce any provision of this Amended and Restated Trust Deed under the Contracts (Rights of Third Parties) Act 1999.

#### **4. GENERAL**

- 4.1 Subject to Clause 2 (*Modifications to the Original Trust Deed*), the Original Trust Deed and this Amended and Restated Trust Deed shall henceforth be read and construed as one trust deed so that all references in the Restated Trust Deed to “this Trust Deed” or “the Trust Deed” shall be deemed to refer to the Original Trust Deed as amended and supplemented by this Amended and Restated Trust Deed.
- 4.2 This Amended and Restated Trust Deed may be executed in counterparts, each of which, taken together, shall constitute one and the same Amended and Restated Trust Deed and any party may enter into this Amended and Restated Trust Deed by executing a counterpart.
- 4.3 If the Original Issuer is represented by an attorney in connection with the signing of this Amended and Restated Trust Deed and the power of attorney is governed by the laws of The Netherlands, it is hereby expressly acknowledged and accepted by the other parties hereto that such laws shall govern the existence and the extent of such attorney’s authority and the effects of the exercise thereof.

#### **5. GOVERNING LAW**

- 5.1 This Amended and Restated Trust Deed and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English Law.
- 5.2 The provisions of Clauses 22.2 (*English Courts*) to 22.5 (*Arbitration*) (inclusive) of the Original Trust Deed shall apply to this Amended and Restated Trust Deed as if the same were repeated in full herein, *mutatis mutandis*.

**SCHEDULE**  
**TRUST DEED**

Dated 13 June 2007 as amended and restated on 25 August 2010

between

**JSC KAZKOMMERTSBANK**

and

**BNY CORPORATE TRUSTEE SERVICES LIMITED**

relating to

U.S.\$250,000,000 8.5 per cent. Subordinated Notes due 2017

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**THIS TRUST DEED**, made on 13 June 2007, as amended and restated on 25 August 2010  
**BETWEEN:**

- (1) **JSC KAZKOMMERTSBANK** (the “**Issuer**”); and
- (2) **BNY CORPORATE TRUSTEE SERVICES LIMITED** (the “**Trustee**”, which expression includes, where the context admits, all persons for the time being the trustee or trustees of this Trust Deed).

**WHEREAS**

- (A) Pursuant to a trust deed dated 13 June 2007 (the “**Original Trust Deed**”), Kazkommerts Finance 2 B.V. (“**KKF**”) issued U.S.\$250,000,000 in aggregate principal amount of 8.5 per cent. Subordinated Loan Participation Notes due 2017 (the “**Notes**”). Pursuant to this Restated Trust Deed KKF has been substituted as issuer of the Notes by the Issuer.
- (B) The Trustee has agreed to act as trustee of this Trust Deed on the following terms and conditions.

**NOW THIS DEED WITNESSES AND IT IS HEREBY DECLARED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

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

“**Affiliate**” of any specified person means (i) any other Person, directly or indirectly, controlling or controlled by or under direct or indirect common control with such specified Person or (ii) any other Person who is a director or officer (a) of such specified Person, (b) of any Subsidiary of such specified Person or (c) of any Person described in (i) or (ii) above. For the purpose of this definition, “**control**” when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “**controlling**” and “**controlled**” have meanings correlative to the foregoing.

“**Agency**” means any agency, authority, central bank, department, committee, government, legislature, minister, ministry, official of public or statutory person (whether autonomous or not) of, or of the government of, any state or supra-national body;

“**Agency Agreement**” means the agency agreement relating to the Notes originally dated 13 June 2007 between KKF, the Trustee and the Agents named therein as amended and restated on or about 25 August 2010 between KKF, the Issuer, the Trustee and the Agents named therein and as may be further amended and/or restated from time to time;

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

“**Appointee**” means any Receiver, attorney, manager, nominee, custodian, delegate, agent, co-trustee or other person appointed by the Trustee pursuant to the provisions of this Trust Deed;

“**Authorised Signatory**” means any Person who (i) is a Director of the Issuer or (ii) has been notified by the Issuer in writing to the Trustee as being duly authorised to sign documents and to do other acts and things on behalf of the Issuer for the purposes of this Trust Deed;

“**Calculation Agent**” means The Bank of New York Mellon acting through its London office or such other entity as may be appointed by the Issuer;

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

“**Conditions**” means, in relation to the Notes, the terms and conditions to be endorsed on the Note Certificates, in the form or substantially in the form set out in Schedule 3, and, in relation to any Further Notes, the terms and conditions endorsed on the related certificates in accordance with the supplemental deed relating thereto or substantially in the form set out or referred to in the supplemental deed relating thereto, as any of the same may, from time to time, be modified in accordance with this Trust Deed or any supplemental trust deed;

“**Euroclear**” means Euroclear Bank S.A./N.V.;

“**Event of Default**” has the meaning ascribed to it in Condition 5 (*Events of Default*);

“**Extraordinary Resolution**” has the meaning set out in Schedule 4;

“**Further Notes**” means any notes of the Issuer constituted by a deed supplemental to this Trust Deed pursuant to Clause 2.5 (*Further Issues*) and for the time being outstanding or, as the context may require, a specific number thereof;

“**Global Note Certificate**” means any global note certificate representing the Notes to be issued pursuant to Clause 3 (*The Notes*) and any global note certificate representing Further Notes or any of them (in or substantially in the form set out in Schedule 1 (*Form of Global Note Certificate*));

“**IFRS**” means International Financial Reporting Standards (formerly International Accounting Standards) issued by the International Accounting Standards Board (“IASB”) and interpretations issued by the International Financial Reporting Interpretations Committee of the IASB (as amended, supplemented or re-issued from time to time);

“**Individual Note Certificate**” means any individual note certificate representing a Noteholder’s entire holding of Notes issued pursuant to Clause 3 (*The Notes*) and any individual note certificate representing Further Notes or any of them (in or substantially in the form set out in Schedule 2 (*Form of Individual Note Certificate*));

“**Liability**” means any loss, damage, cost, charge, claim, demand, expense, judgment, action, proceeding or other liability whatsoever (including, without limitation, in respect of taxes, duties, levies, imposts and other charges) and including any value added tax or similar tax charged or chargeable in respect thereof and legal fees and expenses;

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

“**Notes**” means the notes in registered form, in denominations of U.S.\$100,000 and integral multiples of U.S.\$1,000 in excess thereof, each comprising the U.S.\$250,000,000 8.5 per cent. Subordinated Notes due 2017 constituted by this Trust Deed, and represented by a Global Note Certificate or Individual Note Certificates, in or substantially in the form set out in Schedules 1 and 2, and for the time being outstanding or, as the case may be, a specific number thereof;

“**Note Certificates**” means the Global Note Certificate and the Individual Note Certificates and any note certificate representing Further Notes or any of them (in or substantially in the

forms set out in Schedules 1 (*Form of Global Note Certificate*) and 2 (*Form of Individual Note Certificate*));

“**Officers' Certificate**” means a certificate signed by two directors of the Issuer;

“**outstanding**” means, in relation to Notes or, as the case may be, Further Notes, all Notes or, as the case may be, Further Notes other than:

- (a) those which have been redeemed in accordance with the Conditions and this Trust Deed;
- (b) those in respect of which the date for redemption in accordance with the provisions of the Conditions has occurred and for which the redemption moneys (including all interest accrued thereon to the date for such redemption) have been duly paid to the Trustee or the Principal Paying and Transfer Agent in the manner provided for in the Agency Agreement (and, where appropriate, notice to that effect has been given to the relative Noteholders in accordance with Condition 15 (*Notices*)) and remain available for payment in accordance with the Conditions;
- (c) those which have been purchased and surrendered for cancellation as provided in Condition 7 (*Redemption and Purchase*) and notice of the cancellation of which has been given to the Trustee; and
- (d) those which have become void under Condition 12 (*Prescription*),

*provided that* for each of the following purposes, namely:

- (i) the right to attend and vote at any meeting of Noteholders;
- (ii) the determination of how many and which Notes are for the time being outstanding for the purposes of Clauses 7.1 (*Enforcement*) and 16.1 (*Waiver*), Conditions 10 (*Enforcement*) and 11 (*Meetings of Noteholders; Modification; Waiver; Substitution of the Issuer*) and Schedule 4 (*Provisions for Meetings of Noteholders*); and
- (iii) any discretion, power or authority, whether contained in this Trust Deed or provided by law, which the Trustee is required to exercise in or by reference to the interests of the Noteholders or any of them;

those Notes (if any) which are for the time being held by any person (including, but not limited to, the Issuer or any Subsidiary or Affiliate of the Issuer) for the benefit of the Issuer or any Subsidiary or Affiliate of the Issuer shall (unless and until ceasing to be so held) be deemed not to remain outstanding;

“**Paying and Transfer Agents**” means the several institutions (including, where the context permits, the Principal Paying and Transfer Agent) at their respective Specified Offices appointed pursuant to the Agency Agreement and/or, if applicable, any Successor paying and transfer agents, in relation to the Notes at their respective Specified Offices;

“**Person**” means any individual, company, corporation, firm, partnership, joint venture, association, trust, institution, organisation, state or Agency or any other entity, whether or not having separate legal personality;

“**Principal Paying and Transfer Agent**” means the institution at its Specified Office appointed as principal paying and transfer agent in relation to the Notes pursuant to the



Agency Agreement or, if applicable, any Successor principal paying and transfer agent in relation to the Notes at its Specified Office;

“**Register**” means the register maintained by the Registrar at its Specified Office;

“**Registrar**” means the institution at its Specified Office appointed as registrar in relation to the Notes pursuant to the Agency Agreement or, if applicable, any Successor registrar in relation to the Notes at its Specified Office;

“**Relevant Date**” has the meaning ascribed to it in Condition 9 (*Taxation*);

“**Repay**” shall include “**redeem**” and *vice versa* and “**repaid**”, “**repayable**”, “**repayment**”, “**redeemed**”, “**redeemable**” and “**redemption**” shall be construed accordingly;

“**Reserved Matter**” has the meaning ascribed to it in Schedule 4 to this Trust Deed;

“**Senior Creditors**” means all creditors of the Issuer other than creditors whose claims are in respect of (i) the share capital of the Issuer (including preference shares) or (ii) other obligations expressed to rank equally with or junior to the claims of the Trustee and/or the Noteholders under this Trust Deed.

“**Specified Office**” means, in relation to any Agent, either the office identified with its name in the Conditions of the Notes of the relevant series or any other office notified to any relevant parties pursuant to the Agency Agreement;

“**Subsidiary**” means, in relation to any Person (the “**first Person**”) at any particular time, any other Person (the “**second Person**”): (i) whose affairs and policies the first Person controls or has the power to control, whether by ownership of share capital, contract, the power to appoint or remove members of the governing body of the second person or otherwise; or (ii) whose financial statements are, in accordance with applicable law and IFRS, consolidated with those of the first Person;

“**Successor**” means, in relation to the Agents, such other or further person, as may from time to time be appointed pursuant to the Agency Agreement as an Agent;

“**Transfer Agent**” means the institution at its Specified Office appointed as transfer agent in relation to the Notes pursuant to the Agency Agreement or, if applicable, any Successor transfer agent in relation to the Notes at its Specified Office;

“**Transaction Documents**” means this Trust Deed, the Subscription Agreement, the Agency Agreement and any other document entered into in connection with this Trust Deed and/or the Notes;

“**Trustee Acts**” means both the Trustee Act 1925 and the Trustee Act 2000 of England and Wales;

“**Trust Deed**” means this Trust Deed and the Schedules (as from time to time modified in accordance with the provisions contained herein) and (unless the context requires otherwise) includes any deed or other document executed in accordance with the provisions hereof (as from time to time modified as aforesaid) and expressed to be supplemental hereto; and

“**Written Resolution**” has the meaning set out in Schedule 4 (*Provisions for Meetings of Noteholders*).

## 1.2 Principles of Interpretation

In this Trust Deed references to:

- (a) *Statutory modification*: a provision of any statute shall be deemed also to refer to any statutory modification or re-enactment thereof or any statutory instrument, order or regulation made thereunder or under such modification or re-enactment;
- (b) *Additional amounts*: principal and/or interest in respect of the Notes shall be deemed also to include references to any additional amounts which may be payable under Condition 9 (*Taxation*);
- (c) *Tax*: costs, charges or expenses shall include any value added tax or similar tax charged or chargeable in respect thereof;
- (d) *Currency abbreviation*: “U.S.\$” and “U.S. dollar” denote the lawful currency for the time being of the United States of America;
- (e) *Enforcement of rights*: an action, remedy or method of judicial proceedings for the enforcement of rights of creditors shall include, in respect of any jurisdiction other than England, references to such action, remedy or method of judicial proceedings for the enforcement of rights of creditors available or appropriate in such jurisdictions as shall most nearly approximate thereto;
- (f) *Clauses and Schedules*: a Schedule or a Clause or sub-clause, paragraph or sub-paragraph is, unless otherwise stated, to a schedule hereto or a clause or sub-clause, paragraph or sub-paragraph hereof respectively;
- (g) *Principal*: principal shall, when applicable, include premium;
- (h) *Clearing systems*: Euroclear and/or Clearstream, Luxembourg shall, wherever the context so admits, be deemed to include references to any additional or alternative clearing system approved by the Issuer and the Trustee;
- (i) *Trust Corporation*: a trust corporation denotes a corporation entitled by rules made under the Public Trustee Act 1906 to act as a custodian trustee or entitled pursuant to any other legislation applicable to a trustee in any jurisdiction other than England to act as trustee and carry on trust business under the laws of the country of its incorporation;
- (j) *Gender*: words denoting the masculine gender shall include the feminine gender also, words denoting individuals shall include companies, corporations and partnerships and words importing the singular number only shall include the plural and, in each case, *vice versa*; and
- (k) *Remuneration of the Trustee*: References herein to the remuneration of the Trustee shall include any additional remuneration which the Issuer may be required to pay to the Trustee under the terms of any fee arrangement made between the Trustee and the Issuer in relation to this Trust Deed.

## 1.3 The Conditions

In this Trust Deed, unless the context requires or the same are otherwise defined, words and expressions defined in the Conditions and not otherwise defined herein shall have the same meaning in this Trust Deed.

#### 1.4 **Headings**

The headings and sub-headings are for ease of reference only and shall not affect the construction of this Trust Deed.

#### 1.5 **The Schedules**

The schedules are part of this Trust Deed and shall have effect accordingly.

#### 1.6 **Singular and Plural**

Words denoting the singular shall include the plural and *vice versa*.

#### 1.7 **Amended Documents**

Save where the contrary is indicated, any reference in this Trust Deed to any Transaction Document or any other agreement or document shall be construed as a reference to such Transaction Document or, as the case may be, such other agreement or document as the same may have been, or may from time to time be, amended, varied, novated or supplemented.

### 2. **COVENANT TO REPAY**

#### 2.1 **Issue Amount**

The sum of the aggregate face amount of the Notes is limited to U.S.\$250,000,000.

#### 2.2 **Covenant of Issuer to Repay under the Notes**

Subject always to the provisions hereof as and when the Notes or any of them become due to be redeemed or repaid in accordance with this Trust Deed, the Issuer shall pay or procure to be paid in accordance with the provisions of the Conditions and the Agency Agreement to or to the order of the Trustee in U.S. dollars in same day funds amounts corresponding to principal in respect of the Notes becoming due for redemption or repayment on that date, until all such payments (as well after as before any judgment or other order of any court of competent jurisdiction) are duly made, pay or procure to be paid in accordance with the provisions of the Conditions and the Agency Agreement to or to the order of the Trustee as aforesaid on the dates and in the manner provided for in the Conditions amounts corresponding to interest in respect of the Notes *pro rata* according to the principal amount of each Note as provided in the Conditions. *Provided that:*

- (a) every payment of an amount corresponding to principal or interest in respect of the Notes made to or to the order of the Trustee or the Principal Paying and Transfer Agent in the manner provided in the Conditions, the Agency Agreement and in this Trust Deed shall be satisfaction *pro tanto* of the relevant covenant by the Issuer contained in this Clause 2.2; and
- (b) in the case of any payment made after the due date, payment shall be deemed not to have been made until the full amount due has been received by the Trustee or the Principal Paying and Transfer Agent and notice to that effect has been given by the Principal Paying and Transfer Agent to the Noteholders in accordance with Condition 15 (*Notices*).

The Trustee will hold the benefit of this covenant and the covenant in Clause 5 (*Covenant to comply with Trust Deed and Schedules*) on trust for the Noteholders.

### 2.3 Register of Noteholders and Discharge

The person(s) in whose name any Note is registered in the Register shall (except as ordered by a court of competent jurisdiction or otherwise required by law) be treated at all times by the Issuer, Trustee and any Paying and Transfer Agent for the purpose of making payments and all other purposes as the absolute holder of such Note (whether or not such Note is overdue and notwithstanding any notice which any person may have of the right, title, interest or claim of any other person thereto including, but not limited to any notation of ownership or other writing on or any notice of previous loss or theft of the Note Certificate appertaining thereto). A Noteholder will be recognised by the Issuer, the Trustee and the Agents as entitled to its Note free from any equity, set-off or counterclaim on the part of the Issuer against the original or any intermediate Noteholder for all purposes and except as ordered by a court of competent jurisdiction or as required by applicable law, the Issuer, Trustee and any Paying and Transfer Agent shall not be affected by notice to the contrary. Payment as described in Condition 8 (*Payments*) shall operate as a good discharge of the Issuer as against such Noteholder and all previous Noteholders of such Note notwithstanding any other right, title, interest or claim in such Note and, to the extent of the sums so paid, effective to satisfy and discharge the liability for the moneys payable on the Notes. All persons are required by the Issuer and the Trustee to act accordingly and the Noteholder for the time being of each Note shall act accordingly. In case of discrepancy, the Issuer's Register (as defined in the Conditions) shall prevail over the Register.

### 2.4 Redemption

Unless previously redeemed, on 13 June 2017 all the Notes then remaining outstanding will on that date be redeemed or repaid by the Issuer at their principal amount thereof.

### 2.5 Further Issues

- (a) The Issuer may from time to time (but subject always to Kazakhstan laws and regulations and to the provisions of this Trust Deed and Condition 16 (*Further Notes*)), without the consent of the Noteholders, 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) so as to form a single series with the Notes.
- (b) Any further notes created and issued pursuant to the provisions of sub-clause 2.5(a) shall be constituted by a deed supplemental to this Trust Deed. In any such case the Issuer shall prior to the issue of any such further notes, execute and deliver to the Trustee a deed supplemental to this Trust Deed (if applicable, duly stamped or denoted) and containing a covenant by the Issuer in the form *mutatis mutandis* of Clause 2.2 (*Covenant of Issuer to Repay under the Notes*) of this Trust Deed in relation to the principal and interest in respect of such further notes and such other provisions (corresponding to any of the provisions contained in this Trust Deed) as the Trustee shall require.
- (c) A memorandum of every such supplemental deed shall be endorsed by the Trustee on this Trust Deed and by the Issuer on the duplicate of this Trust Deed.

## 3. THE NOTES

### 3.1 Global Note Certificate

The Notes are currently represented by the Global Note Certificate in the principal amount of U.S.\$250,000,000. Interests in the Global Note Certificate shall be exchangeable only in accordance with its terms for Individual Note Certificates.

### 3.2 **Individual Note Certificates**

Individual Note Certificates will be printed in accordance with applicable legal and stock exchange requirements substantially in the form set out in Schedule 2 (*Form of Individual Note Certificate*). Individual Note Certificates will have attached thereto or endorsed thereon the Conditions and the form of transfer.

### 3.3 **Signature**

Global Note Certificates and Individual Note Certificates will be signed manually or in facsimile by one director of the Issuer and will be authenticated manually by or on behalf of the Registrar. Note Certificates so executed and authenticated will be binding and valid obligations of the Issuer.

## 4. **STAMP DUTY**

The Issuer will pay all stamp duties, stamp duty reserve tax, registration, documentary and any other similar duties or taxes (including interest and penalties thereon or in connection therewith) (if any) payable upon or in connection with (i) the constitution, issue, offering and/or initial delivery of the Notes; and (ii) the execution and (when applicable) delivery of any Transaction Document. The Issuer will also indemnify the Trustee and the Noteholders against stamp duties, stamp duty reserve tax, registration, documentary and any other similar duties or taxes (including interest and penalties thereon or in connection therewith) (if any) payable upon or in connection with any action properly taken by or on behalf of the Trustee with respect to this Trust Deed or the Notes, in any jurisdiction in connection with such action.

## 5. **COVENANT TO COMPLY WITH TRUST DEED AND SCHEDULES**

The Issuer hereby covenants with the Trustee to comply with those 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 and the Conditions, all of which shall be binding upon the Issuer and the Noteholders and all persons claiming through or under them respectively. The Schedules shall have full effect in the like manner as if the same had been incorporated herein.

## 6. **SUBORDINATION**

### 6.1 **Status**

The Notes constitute the direct, unconditional and unsecured subordinated obligations of the Issuer and will rank at least equally with all other unsecured and subordinated obligations of the Issuer (whether actual or contingent) having a fixed maturity from time to time outstanding save only for such obligations as may be preferred by mandatory provisions of applicable law.

### 6.2 **Subordination**

Upon the occurrence of an Event of Default under Conditions 4(ii) through (iv) (inclusive) (each a "**Bankruptcy Event**") and so long as such Bankruptcy Event is continuing, the claims of the Trustee under this Trust Deed, the Agents under the Agency Agreement and the Noteholders under the Conditions shall be subordinated in right of payment to the claims of all Senior Creditors.

### 6.3 **Priority of Payments**

The Trustee agrees that so long as any Bankruptcy Event has occurred and is continuing, any amounts that would otherwise be due under this Trust Deed and/or the Notes will only be paid after the payment in full of all claims of the Senior Creditors (including interest and other amounts in respect of such claims accruing after the date of commencement of such Bankruptcy Event). Thereafter, such amounts will be paid equally and rateably, together with all obligations of the Issuer ranking equally in right of payment with the liabilities of the Issuer under this Trust Deed, the Agency Agreement and the Notes.

## 7. **ENFORCEMENT PROCEEDINGS; EVIDENCE OF DEFAULT**

### 7.1 **Enforcement**

At any time after an Event of Default shall have occurred and be continuing, the Trustee may, at its discretion and without further notice, institute such proceedings (including arbitral proceedings) as it may think fit to enforce the rights of the Noteholders and the provisions of this Trust Deed, but it shall not be bound to take any such proceedings unless, (i) it shall have been so requested in writing by Noteholders whose Notes constitute at least one-quarter in principal amount of the Notes outstanding or shall have been so directed by an Extraordinary Resolution; and (ii) it shall have been indemnified and/or secured to its satisfaction against all liabilities, proceedings, claims and demands to which it may thereby become liable and all costs, charges and expenses which may be incurred by it in connection therewith.

Only the Trustee may enforce the provisions of the Notes or this Trust Deed or pursue the remedies under the general law to enforce the rights of the Noteholders and no Noteholder shall be entitled to enforce such provisions or pursue such remedies unless the Trustee, having become bound to proceed in accordance with this Trust Deed, has failed or neglected to do so within a reasonable time and such failure or neglect is continuing.

In the case of an Event of Default, the Trustee may, and shall if requested to do so by Noteholders of at least one-quarter in principal amount of the Notes outstanding or if directed to do so by an Extraordinary Resolution and, in either case, subject to it being secured and/or indemnified to its satisfaction: declare all amounts payable under the Notes to be due and payable (where an Event of Default has occurred and is continuing).

### 7.2 **Trustee responsibility**

The Trustee makes no representation as to and assumes no responsibility for the performance by the Issuer of its obligations under or in respect of the Notes or this Trust Deed.

### 7.3 **Proof of Default**

Should the Trustee make any claim in respect of, or lodge any proof in a winding-up in respect of, or institute any 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 in paying any amount in respect of principal or interest due to the relative Noteholder shall (unless the contrary to be proved) be sufficient evidence that default has been made as regards all other Notes in respect of which a corresponding payment is then due.

## **8. APPLICATION OF MONEYS RECEIVED BY THE TRUSTEE**

The Trustee shall apply all moneys received by it under this Trust Deed (without prejudice to Clause 9 (*Power to Retain and Invest Less than 10 Per Cent.*)):

- (a) firstly, in payment or satisfaction of the fees, costs, charges, expenses and liabilities incurred by the Trustee in or about the preparation and execution of the trusts of this Trust Deed (including remuneration of the Trustee and of any Appointee appointed hereunder);
- (b) secondly, in or towards payment *pari passu* and rateably of all arrears of amounts corresponding to principal and interest remaining unpaid in respect of the Notes; and
- (c) thirdly, the balance (if any) in payment to the Issuer;

and without prejudice to the provisions of this Clause 8, if the Trustee shall hold any moneys which represent amounts payable in respect of Notes which have become void under Condition 12 (*Prescription*), the Trustee shall (subject to the payment or provision for the payment or satisfaction of all costs, charges, expenses, indemnities and liabilities, including the remuneration of the Trustee or any Appointee of the Trustee) pay the same forthwith to the Issuer without prejudice to any question as to how such surplus should be dealt with as between the Issuer and any other person for the time being entitled thereto in priority to the Issuer.

## **9. POWER TO RETAIN AND INVEST LESS THAN 10 PER CENT.**

If the amount of the moneys at any time available for payment in respect of the Notes under Clause 8 (*Application of Moneys Received by the Trustee*) shall be less than a sum sufficient to pay at least one-tenth of the principal amount of the Notes then outstanding, the Trustee may, at its discretion, invest such moneys upon some or one of the investments hereinafter authorised with power from time to time, at the like discretion, to vary such investments and such investment with the resulting income thereof may be accumulated 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-tenth of the principal amount of the Notes then outstanding and such accumulations and funds (after deduction of any taxes and any other reductions applicable thereto) shall then be applied as specified in Clause 8 (*Application of Moneys Received by the Trustee*).

## **10. WITHHOLDING OR DEDUCTION FROM DISTRIBUTION OR PAYMENT**

Notwithstanding anything else contained in this Trust Deed, if the Trustee shall be required to make any deduction or withholding from any distribution or payment made by it under this Deed or if the Trustee shall otherwise be charged to, or may become liable to, costs (other than in respect to its fees) as a consequence of performing its duties under this Trust Deed 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, 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 an amount in its opinion sufficient to discharge any liability or prospective liability to costs which relates to sums so received or distributed, or to discharge any such other liability of the Trustee to costs. This Clause 10 shall in no way prejudice any indemnification of the Trustee contained elsewhere in this Trust Deed, the Agency Agreement or any other agreement or document between the Trustee, the Issuer or the Agents.

## **11. AUTHORISED INVESTMENTS**

Any moneys which under the trusts herein contained ought to or may be invested by the Trustee may be invested in the name or under the control of the Trustee in any of the investments for the time being authorised by English law for the investment by trustees of trust moneys or in any other investments, whether similar to those aforesaid or not, which may be selected by the Trustee or by placing the same on deposit in the name or under the control of the Trustee with such bank or other financial institution as the Trustee may think fit and 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, fluctuation in exchange rates or otherwise.

## **12. DEPOSIT OF DOCUMENTS**

The Trustee may appoint as custodian, on such terms as it may deem appropriate, 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 the Issuer shall pay all sums due in respect thereof. The Trustee is not obliged to appoint a custodian of securities payable to bearer.

## **13. PAYMENT TO NOTEHOLDERS**

Any payment to be made in respect of the Notes by the Issuer or the Trustee may be made in the manner provided in the Conditions and in Clause 2.2 (*Covenant of Issuer to Repay under the Notes*) and any payment so made shall be a good discharge to the Issuer or the Trustee, as the case may be.

## **14. PRODUCTION OF NOTES**

Upon payment to a Noteholder under Clauses 7 (*Enforcement Proceedings; Evidence of Default*) and 8 (*Application of Moneys Received by the Trustee*) of amounts corresponding to principal, the Note in respect of which such payment is made shall, if the Trustee so requires, be produced to the Trustee or the Principal Paying and Transfer Agent by or through whom such payment is made and the Trustee shall, in the case of part payment, enface or cause such Principal Paying and Transfer Agent to enface a memorandum of the amount and date of payment on such Note or, in the case of payment of the amount corresponding in full, shall cause to be surrendered to the Trustee such Note or shall cancel or procure the same to be cancelled and shall certify or procure the certification of such cancellation.

## **15. COVENANTS OF THE ISSUER**

The Issuer hereby covenants with the Trustee that, so long as any of the Notes remains outstanding, the Issuer will:

### **15.1 Agents**

At all times maintain (i) Agents and (ii) so long as the Notes are listed on the London Stock Exchange and such exchange so requires, as specified in Clause 15.13 (*Listing*), a Paying Agent in London.



## 15.2 **Books of Accounts**

At all times keep proper books of accounts and allow, so far as permitted by applicable law, the Trustee and any person appointed by it free access to the same at all reasonable times during business hours and to discuss the same with responsible officers of the Issuer.

## 15.3 **Information**

So far as permitted by applicable law, at all times give to the Trustee such information, opinions, certificates and other evidence as it shall require and in such form as it shall require (including, but without prejudice to the generality of the foregoing, all such certificates called for by the Trustee pursuant to Clause 17.1(b) (*Certificate of directors*)) for the purposes of the discharge of the duties and discretions vested in it under this Trust Deed or by operation of law.

## 15.4 **Execution of Further Documents**

So far as permitted by applicable law, at all times execute all such further documents and do all such further acts and things as may be necessary at any time or times in the reasonable opinion of the Trustee to give effect to the provisions of this Trust Deed.

## 15.5 **Notice to Noteholders**

Send or procure to be sent to the Trustee not less than seven days prior to the date of publication for approval in advance of any publication, a copy of the form of notice (if any) required to be given by the Issuer to the Noteholders in accordance with Condition 15 (*Notices*) and not to publish such notice without such approval and, upon publication, send to the Trustee two (2) copies of any notice, (such approval, unless otherwise confirmed by the Trustee, not to constitute approval for the purposes of the Financial Services and Markets Act 2000).

## 15.6 **Compliance**

Observe and comply with its obligations under the Agency Agreement, use its reasonable endeavours to procure that the Agents observe and comply with the Agency Agreement (including that the Registrar maintains the Register).

## 15.7 **Stock Exchange**

At all times use its reasonable endeavours to procure that there will be furnished to any stock exchange on which the Notes are from time to time listed or quoted such information in relation to the Issuer as such stock exchange may require in accordance with its normal requirements or in accordance with any arrangements for the time being made with any such stock exchange.

## 15.8 **Notification of non payment**

Use its reasonable endeavours to procure that the Principal Paying and Transfer Agent notifies the Trustee forthwith in the event that it does not, on or before the due date for payment in respect of the Notes or any of them, receive unconditionally the full amount in the relevant currency of the moneys payable on such due date on all such Notes.

#### 15.9 **Notification of late payment**

In the event of the unconditional payment to the Principal Paying and Transfer Agent or the Trustee of any sum due in respect of the Notes or any of them being made after the due date for payment thereof, forthwith give notice to the Noteholders that such payment has been made.

#### 15.10 **Notes held by the Issuer**

At any time after the Issuer or any Subsidiary of the Issuer has purchased any Notes and retained such Notes for its own account (if then permitted by the Conditions), notify the Trustee to that effect and thereafter deliver to the Trustee as soon as practicable after being so requested in writing by the Trustee a certificate of the Issuer signed by the requisite number of Authorised Signatories setting out the total number of Notes which, at the date of such certificate, are held by the Issuer or any Subsidiary of the Issuer for its or the Subsidiary's own account.

#### 15.11 **Notification of redemption or repayment**

Not less than the number of days specified in the relevant Condition prior to the redemption or repayment date in respect of the Notes or any of them, give to the Trustee notice in writing of the amount of such redemption or repayment pursuant to the Conditions and duly proceed to redeem or repay such Notes accordingly.

#### 15.12 **Change of taxing jurisdiction**

If the Issuer shall become subject generally to the taxing jurisdiction of any territory or any political sub-division thereof or any authority therein or thereof having power to tax other than or in addition to Kazakhstan, promptly upon becoming aware thereof it shall notify the Trustee of such event and (unless the Trustee otherwise agrees) enter forthwith into a trust deed supplemental hereto, giving to the Trustee an undertaking or covenant in form and manner satisfactory to the Trustee in terms corresponding to the terms of Condition 9 (*Taxation*) with the substitution for (or, as the case may be, the addition to) the references therein to references to that other or additional territory to whose taxing jurisdiction, or that of a political subdivision thereof or an authority therein or thereof, the Issuer shall have become subject as aforesaid, such trust deed also to modify Condition 9 (*Taxation*) so that such Condition shall make reference to that other or additional territory.

#### 15.13 **Listing**

At all times use all reasonable endeavours to maintain the listing of the Notes on each of the Kazakh Stock Exchange and the London Stock Exchange or, if it is unable to do so having used all reasonable endeavours or if the maintenance of such listing is agreed by the Trustee to be unduly burdensome or impractical, use reasonable endeavours to obtain and maintain a quotation or listing of the Notes on such other stock exchange or exchanges or securities market or markets as the Issuer may (with the approval of the Trustee) decide and give notice of the identity of such other stock exchange or exchanges or securities market or markets to the Noteholders.

#### 15.14 **Certificate of Compliance**

Provide to the Trustee within 14 days of any request by the Trustee and at the time of the despatch to the Trustee of its annual balance sheet and profit and loss account, and in any event not later than 180 days after the end of its financial year, a certificate signed by two Authorised Signatories of the Issuer certifying that up to a specified date not earlier than

seven days prior to the date of such certificate (the “**Certified Date**”) the Issuer has complied with its obligations under this Trust Deed (or, if such is not the case, giving details of the circumstances of such non compliance) and that as at such date there did not exist nor had there existed at any time prior thereto since the Certified Date in respect of the previous such certificate (or, in the case of the first such certificate, since the date of this Trust Deed) any Event of Default or other matter which would affect the Issuer’s ability to perform its obligations under this Trust Deed (if such is not the case) specifying the same.

#### 15.15 **Authorised Signatories**

Upon the execution hereof and thereafter forthwith upon request by the Trustee, deliver to the Trustee (with a copy to the Principal Paying and Transfer Agent) a list of the authorised signatories of the Issuer (together with certified specimen signatures of the same).

#### 15.16 **Payments**

Pay moneys payable by it to the Trustee hereunder without set off, counterclaim, deduction or withholding, unless otherwise compelled by law and in the event of any deduction or withholding compelled by law will pay such additional amount as will result in the payment to the Trustee of the amount which would otherwise have been payable by it to the Trustee hereunder.

#### 15.17 **Accounts**

Deliver to the Trustee, within 180 days after the end of each of its financial years, copies of its audited financial statements for such financial year, such financial statements to include the relevant balance sheet and profit and loss account of the Issuer, prepared in accordance with IFRS or the generally accepted accounting principles of Kazakhstan and to be accompanied by the report of the auditors thereon.

#### 15.18 **Subordinated Indebtedness**

Not, without the prior approval of the Trustee incur, create, assume, grant or permit to be outstanding any subordinated indebtedness (whether actual or contingent) unless such indebtedness is subordinated, subject to applicable law, in the event of liquidation, dissolution, administration or other winding up of the Issuer by way of public administration in right of payment so as to rank *pari passu* or junior to the claims of the Noteholders under the Notes;

#### 15.19 **Financial and Other Information**

Deliver to the Trustee, without undue delay, such information and certificates (both upon which the Trustee shall be entitled to rely) as the Trustee may reasonably request in connection with the Notes.

#### 15.20 **Certificates**

Deliver to the Trustee within 14 days of any written request by the Trustee written notice stating whether any event that constitutes, or that, with the giving of notice or the lapse of time, or both, would constitute an Event of Default, has occurred and, if it has occurred, what action the Issuer is taking or proposes to take with respect thereto.

### 15.21 **Directors of the Issuer**

Upon the execution hereof and thereafter forthwith upon request by the Trustee, deliver to the Trustee a list of the directors of the Issuer, together with certified specimen signatures of the same.

### 15.22 **Notice of an Event of Default**

Promptly deliver to the Trustee, upon it becoming aware of the same, written notice of an Event of Default without waiting for the Trustee to take further action.

## 16. **AMENDMENTS AND SUBSTITUTION**

### 16.1 **Waiver**

The Trustee may, without any 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 the interests of the Noteholders shall not be materially prejudiced thereby, authorise or waive, on such terms and conditions (if any) as shall seem expedient to it, any breach or proposed breach by the Issuer of any of the covenants or provisions contained in this Trust Deed, the Notes or the Agency Agreement; any such authorisation, waiver or determination shall be binding on the Noteholders and, if, but only if, the Trustee shall so require, the Issuer shall cause such authorisation, waiver or determination to be notified to the Noteholders as soon as practicable thereafter in accordance with the Condition 15 (*Notices*), *provided that* the Trustee shall not exercise any powers conferred upon it by this Clause 16.1 in contravention of any express direction by an Extraordinary Resolution or of a request in writing made by the holders of not less than 25 per cent. in aggregate principal amount of the Notes then outstanding (but so that no such direction or request shall affect any authorisation, waiver or determination previously given or made) or so as to authorise or waive any such breach or proposed breach relating to any of the matters the subject of the Reserved Matters.

### 16.2 **Modifications**

The Trustee may from time to time and at any time without any consent or sanction of the Noteholders concur with the Issuer in making (a) any modification to this Trust Deed (other than in respect of Reserved Matters) or the Notes 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. Any such modification shall be binding on the Noteholders and, unless the Trustee otherwise agrees, the Issuer shall cause such modification to be notified to the Noteholders as soon as practicable thereafter in accordance with Condition 15 (*Notices*).

### 16.3 **Substitution**

- (a) *Procedure*: the Trustee may, without the consent of the Noteholders, agree to the substitution, in place of the Issuer (or of any previous substitute under this Clause) of any other entity (hereinafter called the “**Substituted Obligor**”) as the principal debtor hereunder 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 and the Notes

with any consequential amendments which the Trustee may deem appropriate, as fully as if the Substituted Obligor had been named in this Trust Deed and on the Notes as the principal debtor in place of the Issuer (or of any previous substitute under this Clause);

- (ii) 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 Issuer (or any such previous substitute);
  - (iii) the Substituted Obligor certifies to the Trustee that it has obtained all governmental and regulatory approvals and consents necessary for its assumption of liability as principal debtor in respect of the Notes in place of the Issuer (or such previous substitute as aforesaid) and such approvals and consents are at the time of substitution in full force and effect;
  - (iv) the Trustee is satisfied that the said substitution is not materially prejudicial to the interests of the Noteholders as a class; and
  - (v) without prejudice to the generality of the preceding sub clauses (a)(i) to (iv) where the Substituted Obligor is incorporated, domiciled or resident in a territory other than Kazakhstan, undertakings or covenants are given in terms corresponding to the provisions of Condition 9 (*Taxation*) with the substitution for (or, as the case may be, the addition to) references to Kazakhstan with references to the territory in which the Substituted Obligor is incorporated, domiciled or resident or to the taxing jurisdiction of which, or of any political sub division or authority of or in which, the Substituted Obligor is otherwise subject generally;
- (b) *Change of law:* in connection with any proposed substitution of the Issuer or any previous substitute, the Trustee may, in its absolute discretion and without the consent of the Noteholders agree to a change of the law from time to time governing the Notes and this Trust Deed, *provided that* such change of law, in the opinion of the Trustee, would not be materially prejudicial to the interests of the Noteholders;
- (c) *Extra duties:* the Trustee shall be entitled to refuse to approve any Substituted Obligor if, pursuant to the law of the country of incorporation 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;
- (d) *Directors' certification:* the Trustee shall be entitled to rely on a certificate signed by any two directors of the Substituted Obligor certifying that immediately prior to the assumption of its obligations as Substituted Obligor under this Trust Deed the Substituted Obligor is solvent after taking account of all prospective and contingent liabilities resulting from its becoming the Substituted Obligor and the Trustee may rely on such certification and shall not be required to have regard to the financial condition, profits or prospects of the Substituted Obligor or compare the same with those of the Issuer (or of any previous substitute under this Clause 16.3);
- (e) *Interests of Noteholders:* 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. No Noteholder shall, in connection with any such

substitution, be entitled to claim from the Issuer any indemnification or payment in respect of any tax consequence of any such substitution upon individual Noteholders;

- (f) *Release of Issuer:* any such agreement by the Trustee pursuant to sub-clause 16.3(a) (*Procedure*) shall, if so expressed, operate to release the Issuer (or such previous substitute as aforesaid) from any or all of its obligations as principal debtor under the Notes and this Trust Deed. Not later than 14 days after the execution of any such documents as aforesaid and after compliance with the said requirements of the Trustee, the Substituted Obligor shall cause notice thereof to be given to the Noteholders in accordance with Condition 15 (*Notices*); and
- (g) *Completion of Substitution:* 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 and the Notes as the principal debtor in place of the Issuer (or of any previous substitute under this Clause) and this Trust Deed, the Notes and the Agency Agreement 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, in the Notes or in the Agency Agreement to the Issuer shall be deemed to be references to the Substituted Obligor.

## **17. TERMS OF APPOINTMENT**

By way of supplement to the Trustee Acts, it is expressly declared as follows:

### **17.1 Reliance on Information**

- (a) *Advice:* the Trustee may in relation to this Trust Deed act on the opinion or advice of or a certificate or any information obtained from any lawyer, banker, valuer, surveyor, broker, auctioneer, accountant or other expert in the Republic of Kazakhstan or elsewhere (whether obtained by the Trustee, the Issuer, any subsidiary of the Issuer, or any Agent) and which advice or opinion may be provided on such terms (including as to limitations on liability including a financial cap or otherwise) as the Trustee may consider in its sole discretion to be consistent with prevailing market practice with regard to advice or opinions of that nature and shall not be responsible for any Liability occasioned by so acting and such opinion, advice, certificate or information may be sent or obtained by letter or facsimile transmission and the Trustee shall not be liable for acting on any opinion, advice, certificate or information purporting to be so conveyed even if the same contains some error or is not authentic;
- (b) *Certificate of directors:* the Trustee may call for and shall be at liberty to accept a certificate signed by one or more duly authorised representatives on behalf of the Issuer, as the case may be, or other person duly authorised on its behalf as to any fact or matter *prima facie* within the knowledge of the Issuer, as sufficient evidence thereof and a like certificate to the effect that any particular dealing, transaction or step or thing is, in the opinion of the person so certifying, expedient as sufficient evidence that it is expedient and the Trustee shall not be bound in any such case to call for further evidence or be responsible for any Liability that may be occasioned by its failing so to do;
- (c) *Resolution or direction of Noteholders:* the Trustee shall not be responsible for acting upon any resolution purporting to be a Written Resolution or to have been passed at any meeting of the Noteholders in respect whereof minutes have been made and signed or a direction of a specified percentage of Noteholders, even though it may subsequently be found that there was some defect in the constitution of the meeting or

the passing of the resolution or the making of the directions or that for any reason the resolution purporting to be a Written Resolution or to have been passed at any meeting of Noteholders or the making of the directions was not valid or binding upon the Noteholders;

- (d) *Reliance on certification of clearing system:* the Trustee may call for and shall be at liberty to accept and place full reliance on as sufficient evidence thereof and shall not be liable to the Issuer or any Noteholder by reason only of either having accepted as valid or not having rejected an original certificate or letter of confirmation purporting to be signed on behalf of Euroclear or Clearstream, Luxembourg or any other relevant clearing system in relation to any matter;
- (e) *Noteholders as a class:* whenever in this Trust Deed the Trustee is required in connection with any exercise of its powers, trusts, authorities or discretions to have regard to the interests of the Noteholders, 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;
- (f) *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;
- (g) *No obligation to monitor:* the Trustee shall be under no obligation to monitor or supervise the functions of any other person under 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;
- (h) *Notes held by the Issuer:* in the absence of knowledge or express notice to the contrary, the Trustee may assume without enquiry (other than requesting a certificate under Clause 17.1(b) (*Certificate of directors*)), that no Notes are for the time being held by or for the benefit of the Issuer or the Affiliates or Subsidiaries of the Issuer;
- (i) *Entry on the Register:* the Trustee shall not be liable to any person 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 can assume for all purposes in relation hereto that any entry on the Register is correct;
- (j) *Forged Notes:* the Trustee shall not be liable to any person by reason of having accepted as valid or not having rejected any Note as such and subsequently found to be forged or not authentic;
- (k) *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;
- (l) *Effectiveness of Documents:* the Trustee shall not be responsible for the execution, delivery, legality, effectiveness, adequacy, genuineness, validity, enforceability or admissibility in evidence of this Trust Deed or any other document relating thereto

and shall not be liable for any failure to obtain any licence, consent or other authority for the execution, delivery, legality, effectiveness, adequacy, genuineness, validity, performance, enforceability or admissibility in evidence of this Trust Deed or any other document relating thereto. In addition the Trustee shall not be responsible for the effect of the exercise of any of its powers, duties and discretions hereunder;

- (m) *Events of Default:* the Trustee shall not be bound to give notice to any person of the execution of this Trust Deed or to take any steps to ascertain whether any Event of Default has happened and, until it shall have actual knowledge or express notice to the contrary, the Trustee shall be entitled to assume that no such Event of Default has happened and that the Issuer is observing and performing all the obligations on its part contained in the Notes and under this Trust Deed and no event has happened as a consequence of which any of the Notes may have become repayable; and
- (n) *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) 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 in connection with its remuneration) 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 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.

## 17.2 Trustee's powers and duties

- (a) *Trustee's determination:* the Trustee may in its absolute discretion determine whether or not a default in the performance or observance by the Issuer of any obligation under the provisions of this Trust Deed or contained in the Notes is capable of remedy and if the Trustee shall certify that any such default is, in its opinion, not capable of remedy, such certificate shall be conclusive and binding upon the Noteholders;
- (b) *Determination of questions:* the Trustee as between itself and the Noteholders shall have full power to determine all questions and doubts arising in relation to any of the provisions of this Trust Deed and every such determination, whether made upon a question actually raised or implied in the acts or proceedings of the Trustee, shall be conclusive and binding upon the Noteholders;
- (c) *Trustee's discretion:* the Trustee shall (save as expressly otherwise provided herein) as regards all the trusts, powers, authorities and discretions vested in it by this Trust Deed or by operation of law, have absolute and uncontrolled discretion as to the exercise or non-exercise thereof and the Trustee shall not be responsible for any Liability that may result from the exercise or non-exercise thereof but whenever the Trustee is under the provisions of this Trust Deed bound to act at the request or direction of the Noteholders, the Trustee shall nevertheless not be so bound unless



first indemnified and/or provided with security to its satisfaction against all actions, proceedings, claims and demands to which it may render itself liable and all costs, charges, damages, expenses and liabilities which it may incur by so doing;

- (d) *Trustee's consent*: 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;
- (e) *Conversion of currency*: where it is necessary or desirable for any purpose in connection with this Trust Deed to convert any sum from one currency to another it shall (unless otherwise provided by this Trust Deed or required by law) be converted at such rate or rates, in accordance with such method and as at such date for the determination of such rate of exchange, as may be specified by the Trustee in its absolute discretion as relevant and any rate, method and date so specified shall be binding upon the Issuer and the Noteholders;
- (f) *Application of proceeds*: the Trustee shall not be responsible for the receipt or application by: (i) the Issuer of the proceeds of the issue of the Notes; or (ii) the exchange of any Global Note Certificate for Individual Note Certificates or the delivery of any Individual Note Certificate to the person entitled to it;
- (g) *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;
- (h) *Agents*: the Trustee may, in the conduct of the trusts of this Trust Deed instead of acting personally, employ and pay an agent on any terms, 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) and, the Trustee shall not be bound to supervise the proceedings or acts of and shall not in any way or to any extent be responsible for any Liability incurred by reason of any act or omission or the gross negligence, fraud or wilful default on the part of any person appointed by it hereunder or be bound to supervise the proceedings or acts of any such person;
- (i) *Delegation*: the Trustee may, in the execution and exercise of all or any of the trusts, powers, authorities and discretions vested in it by this Trust Deed, delegate to any person or persons or fluctuating body of persons (whether being a joint trustee of this Trust Deed or not) all or any of the trusts, powers, authorities and discretions vested in it by this Trust Deed and any such delegation may be made upon such terms and conditions and subject to such regulations (including power to sub-delegate with the consent of the Trustee) as the Trustee may think fit in the interests of the Noteholders and, the Trustee shall not be bound to supervise the proceedings or acts of and shall not in any way or to any extent be responsible for any Liability incurred by reason of any act or omission or the gross negligence, fraud or wilful default on the part of such delegate or sub-delegate;
- (j) *Custodians and nominees*: the Trustee may appoint and pay any person to act as a custodian or nominee on any terms in relation to such assets of the trust as the Trustee may determine, including for the purpose of depositing with a custodian this Trust Deed or any Transaction Document and, the Trustee shall not be responsible for any Liability incurred by reason of the gross negligence, fraud or wilful default on the part of any person appointed by it hereunder or be bound to supervise the proceedings or acts of any such person; the Trustee is not obliged to appoint a custodian if the Trustee invests in securities payable to bearer;

- (k) *Event of Default*: the Trustee may determine whether or not an Event of Default is capable of remedy and if the Trustee shall certify that any such Event of Default is, in its opinion, not capable of remedy, such certificate shall be conclusive and binding upon the Noteholders.
- (l) *Confidential information*: the Trustee shall not (unless required by law or ordered so to do by a court of competent jurisdiction) be required to disclose to any Noteholder confidential information or other information made available to the Trustee by the Issuer in connection with this Trust Deed and no Noteholder shall be entitled to take any action to obtain from the Trustee any such information;
- (m) *Action contrary to any law*: notwithstanding anything else herein contained, the Trustee may refrain from doing anything 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 which it would not have the power to do the relevant thing or (or if it is determined by any court or other competent authority that it does not have such power) cause it to act in a manner which might prejudice its interests and may do anything which is, in its opinion, necessary to comply with any such law, directive or regulation; and
- (n) *Determination of "material"*: if the Trustee is for whatever reason required to make any determination of "material adverse effect", "materially prejudicial" or like matter pursuant to the terms of the Transaction Documents, it may, in its absolute discretion, seek directions from the Noteholders by means of an Extraordinary Resolution or seek advice (subject to it being indemnified to its satisfaction for any Liabilities incurred in so doing) 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.

### 17.3 **Financial matters**

- (a) *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;
- (b) *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; and
- (c) *Trustee may enter into financial transactions with the Issuer*: No Trustee and no director or officer of any corporation being a Trustee hereof shall by reason of the fiduciary position of such Trustee be in any way precluded from making any contracts or entering into any transactions in the ordinary course of business with the Issuer or any of its Subsidiaries or Affiliates, whether directly or through any subsidiary, Affiliate or associated company, or from accepting the trusteeship of any debenture stock, debentures, securities or loan participation notes of the Issuer or any of its Subsidiaries or Affiliates or any company in which the Issuer is interested. Without prejudice to the generality of these provisions, it is expressly declared that such contracts and transactions include any contract or transaction in relation to the

placing, underwriting, purchasing, subscribing for or dealing with or lending money upon or making payments in respect of the Notes or any other certificates, stock, shares, debenture stock, debentures or other securities of the Issuer or any of its Subsidiaries or Affiliates or any company in which the Issuer is interested or from accepting or holding the office of trustee for the holders of other certificates, notes or bonds of the Issuer, or any of its Subsidiaries or Affiliates, and the Trustee shall not be accountable to the Noteholders, the Issuer or any its Subsidiaries or Affiliates for any profit, fees, commissions, interest, discounts or share of brokerage earned, arising or resulting from any such contracts or transactions and the Trustee shall also be at liberty to retain the same for its or his own benefit.

#### 17.4 **Disapplication**

Section 1 of the Trustee Act 2000 shall not apply to the duties of the Trustee in relation to the trusts constituted by this Trust Deed. Where there are any inconsistencies between the Trustee Acts and the provisions of this Trust Deed, the provisions of this Trust Deed shall, to the extent allowed by law, prevail and, in the case of any such inconsistency with the Trustee Act 2000, the provisions of this Trust Deed shall constitute a restriction or exclusion for the purposes of that Act.

#### 17.5 **Trustee Liability**

Subject to Section 192 of the Companies Act 1985 (if applicable) and notwithstanding anything to the contrary in this Trust Deed, the Notes or the Agency Agreement, the Trustee shall not be liable to any person for any matter or thing done or omitted in any way in connection with or in relation to this Trust Deed, the Notes or the Agency Agreement save in relation to its own gross negligence, wilful default or fraud.

#### 17.6 **Indemnification**

- (a) *Indemnity:* The Issuer shall indemnify the Trustee (i) in respect of all liabilities and expenses incurred by it or by any Appointee or other person appointed by it to whom any trust, power, authority or discretion may be delegated by it in the execution or purported execution of the trusts, powers, authorities or discretions vested in it by this Trust Deed; and (ii) against all Liabilities in respect of any matter or thing done or omitted in any way relating to the Trustee acting as Trustee under this Trust Deed, *provided that* it is expressly stated that Clause 17.5 (*Trustee Liability*) shall apply in relation to these provisions; and
- (b) *Discharges:* Unless otherwise specifically stated in any discharge or termination of this Trust Deed the provisions of this Clause 17.6 and Clause 17.7 (*Exchange rate Indemnity*) and Clause 4 (*Stamp Duty*) shall continue in full force and effect notwithstanding such discharge and resignation or removal of the Trustee.

#### 17.7 **Exchange rate indemnity**

- (a) *Currency of Account and Payment:* U.S. dollars (the “**Contractual Currency**”) is the sole currency of account and payment for all sums payable by the Issuer under or in connection with this Trust Deed and the Notes, including damages;
- (b) *Extent of Discharge:* An amount received or recovered in a currency other than the Contractual Currency (whether as a result of, or of the enforcement of, a judgment or order of a court of any jurisdiction, in the winding-up or dissolution of the Issuer or otherwise), by the Trustee or any Noteholder in respect of any sum expressed to be due to it from the Issuer will only discharge the Issuer to the extent of the Contractual

Currency 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); and

- (c) *Indemnity*: If that Contractual Currency amount is less than the Contractual Currency amount expressed to be due to the recipient under this Trust Deed or the Notes, the Issuer will indemnify the recipient against any Liability sustained by it as a result. In any event the Issuer will indemnify the recipient against the cost of making any such purchase.

## 17.8 Indemnities separate

The indemnities in this Trust Deed constitute separate and independent obligations from the other obligations in this Trust Deed, will give rise to separate and independent causes of action, will apply irrespective of any indulgence granted by the Trustee and/or any Noteholder and will 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 or the Notes or any other judgment or order. Any such Liability as referred to in Clause 17.6 (*Indemnification*) shall be deemed to constitute a Liability suffered by the Trustee, the Noteholders and no proof or evidence of any actual Liability shall be required by the Issuer or its liquidator or liquidators.

## 17.9 Remuneration

- (a) *Normal Remuneration*: So long as any Note is outstanding the Issuer shall pay the Trustee as remuneration for its services as Trustee such sum on such dates in each case as they may from time to time agree. Such remuneration shall accrue from day to day from the date of this Trust Deed until and including the date when all Notes have been unconditionally and irrevocably repaid in full. 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.
- (b) *Extra Remuneration*: If an Event of Default shall have occurred or if the Trustee finds it expedient or necessary or is requested by the Issuer to undertake duties that they agree to be of an exceptional nature or otherwise outside the scope of the Trustee's normal duties under this Trust Deed, the Issuer shall pay such additional remuneration as they may agree or, failing agreement as to any of the matters in this sub-Clause (or as to such sums referred to in sub-Clause 17.9(a) (*Normal Remuneration*)), as determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Trustee and approved by the Issuer 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 borne by the Issuer. The determination of such investment bank shall, in the absence of manifest error, be conclusive and binding on the Issuer, the Trustee and the Noteholders.
- (c) *Expenses*: The Issuer shall also on demand by the Trustee pay or discharge all costs, charges, liabilities and expenses properly incurred and documented 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 reasonably brought or contemplated by the Trustee against

the Issuer to enforce any provision of this Trust Deed or the Notes. Such costs, charges, liabilities and expenses shall:

- (i) in the case of payments made by the Trustee before such demand, carry interest from the date of the demand at the rate of 2 per cent. per annum over the base rate of National Westminster Bank plc on the date on which the Trustee made such payments; and
- (ii) in other cases, carry interest at such rate 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.

## **18. APPOINTMENT AND RETIREMENT**

### **18.1 Appointment of Trustees**

The power of appointing new trustees of this Trust Deed shall be vested in the Issuer. A trust corporation may be appointed sole trustee hereof but subject thereto there shall be at least two trustees hereof one at least of which shall be a trust corporation. Any appointment of a new trustee hereof shall as soon as practicable thereafter be notified by the Issuer and the Trustee to the Agents and to the Noteholders. The Noteholders shall together have the power, exercisable by Extraordinary Resolution, to remove any trustee or trustees for the time being hereof. The removal of any trustee shall not become effective unless there remains a trustee hereof (being a trust corporation) in office after such removal.

### **18.2 Co-trustees**

Notwithstanding the provisions of Clause 18.1 (*Appointment of Trustees*), the Trustee may, upon giving prior notice to the Issuer but without the consent of the Issuer or the Noteholders, appoint any person established or resident in any jurisdiction (whether a trust corporation or not) to act either as a separate trustee or as a co-trustee jointly with the Trustee:

- (a) if the Trustee considers such appointment to be in the interests of the Noteholders; or
- (b) for the purposes of conforming to any legal requirements, restrictions or conditions in any jurisdiction in which any particular act or acts are to be performed; or
- (c) for the purposes of obtaining a judgment in any jurisdiction or the enforcement in any jurisdiction either of a judgment already obtained or of this Trust Deed.

### **18.3 Attorneys**

The Issuer hereby irrevocably appoints the Trustee to be its attorney in its name and on its behalf to execute an instrument of appointment in accordance with Clause 18.2 (*Co-trustees*). Such person appointed by the Trustee under such instrument of appointment 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.

#### **18.4 Retirement of Trustees**

Any Trustee for the time being of this Trust Deed may retire at any time upon giving not less than 45 days' notice in writing to the Issuer without assigning any reason therefor and without 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 Issuer hereby covenants that in the event of the only trustee hereof which is a trust corporation giving notice under this Clause 18.4 it shall use its best endeavours to procure a new trustee, being a trust corporation, to be appointed and if the Issuer has not procured the appointment of a new trustee within 15 days of the expiry of the Trustee notice referred to in this Clause 18.4, the Trustee shall be entitled to procure forthwith a new trustee in such manner as it shall, in its absolute discretion, think fit.

#### **18.5 Competence of a majority of Trustees**

Whenever there shall be more than two trustees hereof the majority of such trustees shall (provided such majority includes a trust corporation) be competent to execute and exercise all the trusts, powers, authorities and discretions vested by this Trust Deed in the Trustee generally.

#### **18.6 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.

#### **18.7 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 hereunder, *provided that* such corporation shall be otherwise qualified and eligible under this Clause 18.7, without the execution or filing of any paper or any further act on the part of any of the parties hereto.

#### **18.8 Issuer to Appoint New Trustee**

Subject to the other sub-clauses in this Clause 18, the Issuer 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.

### **19. NOTICES**

#### **19.1 Addresses for notices**

All notices and other communications hereunder shall be made in writing and in English (by letter or fax) and shall be sent as follows:

(a) **Issuer:** if to the Issuer, to it at:

JSC Kazkommertsbank  
135 “Zh”, Gagarin Avenue  
Almaty 480060  
Kazakhstan

Facsimile Number: +7 3272 507072  
Attention: International Capital Markets Department,  
International Division

(b) **Trustee:** if to the Trustee, to it at:

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

Fax: +44 20 7964 2532  
Attention: Manager, Corporate Trust

or, in any case, to such other address or fax number or for the attention of such other person or department as the addressee has by prior notice to the sender specified for the purpose.

## 19.2 Delivery

Each communication and document to be made or delivered by one party to another pursuant to this Trust Deed shall be deemed to have been delivered when despatched (in the case of any communication by facsimile) or (in the case of any communication made by letter) when left at the address or (as the case may be) ten days after being deposited in the post (postage pre-paid) in an envelope addressed to it at that address.

## 20. GOVERNING LAW, JURISDICTION AND ARBITRATION

### 20.1 Governing law

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

### 20.2 English courts

Subject to Clause 20.5 (*Arbitration*), the Issuer agrees for the benefit of the Trustee that the courts of England shall have exclusive jurisdiction to hear and determine any suit, action or proceedings arising out of or in connection with this Trust Deed (“**Proceedings**”) and, for such purposes, irrevocably submits to the jurisdiction of such courts. Subject to Clause 20.5 (*Arbitration*), nothing in this Clause 20 (*Governing Law, Jurisdiction and Arbitration*) shall (or shall be construed so as to) limit the right of the Trustee to take Proceedings in any other court of competent jurisdiction, nor shall the taking of Proceedings in any one or more jurisdictions preclude the taking of Proceedings by the Trustee in any other jurisdiction (whether concurrently or not) if and to the extent permitted by law.

### 20.3 Appropriate forum

For the purpose of Clause 20.2 (*English Courts*), the Issuer 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 that any such court is not a convenient or appropriate forum

#### 20.4 Service of process

The Issuer agrees that the process by which any Proceedings are begun and any other documents required to be served in relation to those Proceedings may be served on it by being delivered to Law Debenture Corporate Services Limited at Fifth Floor, 100 Wood Street, London EC2V 7EX. If such person is not or ceases to be effectively appointed to accept service of process on behalf of the Issuer, the Issuer shall, on the written demand of the Trustee addressed and delivered to the Issuer 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 addressed and delivered to the Issuer. Nothing in this paragraph shall affect the right of the Trustee to serve process in any other manner permitted by law.

#### 20.5 Arbitration

Notwithstanding the provisions of Clause 20.2 (*English Courts*), the Issuer irrevocably agrees that the Trustee (or the Noteholders, if they shall have become entitled to enforce the terms of this Trust Deed in the Trustee's place pursuant to Clause 7.1 (*Enforcement*)) may elect by written notice to the Issuer that any claim, dispute or difference of whatever nature arising under, out of or in connection with this Trust Deed (including any claim, dispute or difference regarding its existence, termination or validity) (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 paragraph, which Rules are deemed to be incorporated into this Clause 20.5. The seat of the arbitration shall be London, England and the language of the arbitration shall be English. The number of arbitrators shall be three, each of whom shall be disinterested in the dispute or controversy, shall have no connection with any party thereto and shall be an attorney experienced in international securities transactions. Each party shall nominate one arbitrator and the two party-nominated arbitrators shall jointly nominate the third, who shall act as Chairman. If a Dispute shall involve more than two parties, the parties thereto shall attempt to align themselves in two sides (i.e. claimant and respondent) each of which shall nominate an arbitrator as if there were only two sides to such Dispute. If such alignment and nomination shall not have occurred within 30 calendar days after the initiating party serves the Request for Arbitration or if a Chairman has not been nominated within 30 calendar days of the nomination of the second arbitrator, the Court of the LCIA shall appoint the three arbitrators or the Chairman, as the case may be. The parties and the Court of the LCIA may appoint arbitrators from among the nationals of any country, whether or not a party is a national of that country. The arbitrators shall have no authority to award punitive or other punitive type damages and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of this Trust Deed.

Fees of the arbitration (excluding each party's preparation, travel, attorneys' fees and similar cost) shall be borne in accordance with the decision of the arbitrators. The decision of the arbitrators shall be final, binding and enforceable upon the parties and judgment upon any award rendered by the arbitrators may be entered in any court having jurisdiction thereof. In the event that the failure of a party to comply with the decision of the arbitrators requires any other party to apply to any court for enforcement of such award, the non-complying party shall be liable to the other for all costs of such litigation, including reasonable attorneys' fees.



**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. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

No person shall have any right to enforce any provision of this Trust Deed under the Contracts (Rights of Third Parties) Act 1999.

**23. COUNTERPARTS**

This Trust Deed may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when so executed shall constitute one and the same binding instrument between the parties.

**IN WITNESS WHEREOF** this Trust Deed has been executed as a deed by the parties hereto and is intended to be and is hereby delivered on the date first before written.

## SCHEDULE 1

### FORM OF GLOBAL NOTE CERTIFICATE

ISIN: XS0305204595

Common Code: 030520459

#### JSC KAZKOMMERTSBANK

*(an open joint stock company incorporated in the Republic of Kazakhstan)*

#### U.S.\$250,000,000 8.5 per cent. Subordinated Notes due 2017

#### GLOBAL NOTE CERTIFICATE

- 1. Introduction:** This Global Note Certificate is issued by JSC Kazkommertsbank (the “**Issuer**”) in respect of the U.S.\$250,000,000 8.5 per cent. Subordinated Notes due 2017 (the “**Notes**”) to replace an original global note certificate originally issued by Kazkommerts Finance 2 B.V. in its capacity as the original issuer (the “**Original Issuer**”) on 13 June 2007 and as substituted by the Issuer pursuant to the Amended and Restated Trust Deed (as defined below). The Notes are constituted by, subject to, and have the benefit of, a trust deed dated 13 June 2007 (the “**Original Trust Deed**”) between the Original Issuer, the Issuer and BNY 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) as amended and restated pursuant to an amended and restated trust deed dated 25 August 2010 (the “**Amended and Restated Trust Deed**” and together with the Original Trust Deed, the “**Trust Deed**” as may be further amended and/or supplemented from time to time) and are the subject of an agency agreement dated 13 June 2007 (the “**Original Agency Agreement**”) and made between the Issuer, the Original Issuer, The Bank of New York Mellon (Luxembourg) S.A. as registrar and as a transfer agent (the “**Registrar**” and “**Transfer Agent**”, which expression includes any successor registrar or transfer agent appointed from time to time in connection with the Notes), The Bank of New York Mellon as principal paying and transfer agent (the “**Principal Paying and Transfer Agent**”), The Bank of New York Mellon as calculation agent (the “**Calculation Agent**”), the other paying and transfer agent named therein (together with the Registrar, the Transfer Agent, the Registrar and the Principal Paying and Transfer Agent, the “**Agents**”) and the Trustee as amended and restated pursuant to an amended and restated agency agreement dated 25 August 2010 between the Original Issuer, the Issuer, the Trustee and the Agents (the “**Amended and Restated Agency Agreement**” and together with the Original Agency Agreement, the “**Agency Agreement**” as may be further amended and/or supplemented from time to time).
- 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.
- 3. Registered holder:** This is to certify that:

The Bank of New York Depository (Nominees) Limited

is the person registered in the register maintained by the Registrar in relation to the Notes (the “**Register**”) as the duly registered holder (the “**Holder**”) of:

**U.S.\$250,000,000**

**(TWO HUNDRED AND FIFTY MILLION UNITED STATES DOLLARS)**

in aggregate principal amount of Notes.

4. **Promise to pay:** The Issuer, for value received, hereby promises to pay such principal sum to the Holder on 13 June 2017 (or on such earlier date or dates as the same may become payable in accordance with the Conditions), and to pay interest on such principal sum 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 in Whole:** Transfers of this Global Note Certificate shall be limited to transfers in whole, but not in part, to nominees of a common depository for Euroclear Bank S.A./N.V. (“Euroclear”) and Clearstream Banking, société anonyme (“Clearstream, Luxembourg”) or to a successor of such common depository or to such successor’s nominee.
6. **Exchange for Individual Note Certificates:** This Global Note Certificate will be exchanged in whole (but not in part) for duly authenticated and completed individual note certificates (“Individual Note Certificates”) in substantially the form (subject to completion) set out in the Schedule 2 (*Form of Individual Note Certificate*) to the Trust Deed only 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
  - (b) the Issuer has failed to pay an amount in respect of the Notes within five days of the date on which such amount became due and payable in accordance with the Conditions; or
  - (c) the Issuer would suffer a material disadvantage in respect of the Notes as a result of a change in the laws or regulations (taxation or otherwise) which would not be suffered were the Notes evidenced by Individual Notes Certificates and a certificate to such effect signed by two authorised signatories of the Issuer is delivered to the Trustee.

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

7. **Delivery of Individual Note Certificates:** Whenever this Global Note Certificate is to be exchanged for Individual Note Certificates, such Individual Note Certificates shall be issued in an aggregate principal amount equal to the principal amount of this Global Note Certificate 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 Individual Note Certificates (including, without limitation, the names and addresses of the persons in whose names the Individual Note Certificates are to be registered and the principal amount of each such person’s holding) against the surrender of this Global Note Certificate at the Specified Office (as defined in the Conditions) 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 Global Note Certificate shall have the benefit of, and be subject to, the Conditions and, for the purposes of this Global Note Certificate, 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 Global Note Certificate.
9. **Notices:** Notwithstanding Condition 15 (*Notices*), so long as this Global Note Certificate 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 Global Note Certificate (“**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 listed on the London Stock Exchange and its rules so require, notices will also be published in a leading newspaper having general circulation in London (which is expected to be the *Financial Times*).
10. **Meetings:** The Holder shall be treated at any meeting of Noteholders as having one vote in respect of each U.S.\$1,000 principal amount of Notes for which this Global Note Certificate 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 Global Note Certificate but this does not affect any right or remedy of a third party which exists or is available from that Act.
12. **Payment:** Payments of principal and interest in respect of Notes represented by this Global Note Certificate will be made against presentation for endorsement and if no further payment falls to be made in respect of the Notes, surrender of the Global Note Certificate to or to the order of The Bank of New York Mellon (Luxembourg) S.A.
13. **Determination of entitlement:** This Global 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 Global Note Certificate.
14. **Authentication:** This Global Note Certificate shall not be valid for any purpose until it has been authenticated for and on behalf of The Bank of New York (Luxembourg) S.A. as registrar.
15. **Governing law:** This Global Note Certificate is 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 Issuer.

**JSC KAZKOMMERTSBANK**

By: .....  
 [manual or facsimile signature]  
 (duly authorised)

**ISSUED on 25 August 2010**

**AUTHENTICATED for and on behalf of**

**THE BANK OF NEW YORK MELLON (LUXEMBOURG) S.A.**  
as registrar without recourse, warranty  
or liability

By: .....  
[*manual signature*]  
(duly authorised)

**FORM OF TRANSFER**

**FOR VALUE RECEIVED** ....., being the registered holder of this Global Note Certificate, hereby transfers to .....  
.....  
.....of.....  
.....  
.....U.S.\$ ..... in principal amount of the U.S.\$250,000,000 8.5 per cent. Subordinated Notes Due 2017 (the “Notes”) of JSC Kazkommertsbank (the “**Issuer**”) and irrevocably requests and authorises The Bank of New York Mellon (Luxembourg) S.A. in its capacity as Registrar in relation to the Notes (or any successor to The Bank of New York Mellon (Luxembourg) S.A. in its capacity as such) to effect the relevant transfer by means of appropriate entries in the register kept by it.

Dated: .....

By: .....

(duly authorised)

**Notes**

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 Global Note Certificate.

- (a) A representative of such registered holder should state the capacity in which he signs, e.g., executor.
- (b) 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.
- (c) Any transfer of Notes shall be in an amount equal to U.S.\$100,000 or integral multiples of U.S.\$1,000 in excess thereof.

*[Attached to the Global Note Certificate:]*

*[Terms and Conditions as set out in the Schedule 3]*

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

**PRINCIPAL PAYING  
AND TRANSFER AGENT**  
The Bank of New York Mellon  
One Canada Square  
London E14 5AL  
United Kingdom

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

**CALCULATION AGENT**  
The Bank of New York Mellon  
One Canada Square  
London E14 5AL  
United Kingdom

**SCHEDULE 2**

**FORM OF INDIVIDUAL NOTE CERTIFICATE**

Serial Number: .....

JSC KAZKOMMERTS BANK  
*(an open joint stock company incorporated  
in the Republic of Kazakhstan)*  
**U.S.\$250,000,000 8.5 per cent. Notes due 2017**

**INDIVIDUAL NOTE CERTIFICATE**

**Introduction:** This Individual Note Certificate is issued by JSC Kazkommertsbank (the “**Issuer**”) in respect of the U.S.\$250,000,000 8.5 per cent. Subordinated Notes due 2017 (the “**Notes**”) to replace an original global note certificate originally issued by Kazkommerts Finance 2 B.V. in its capacity as the original issuer (the “**Original Issuer**”) on 13 June 2007 and as substituted by the Issuer pursuant to the Amended and Restated Trust Deed (as defined below). The Notes are constituted by, subject to, and have the benefit of, a trust deed dated 13 June 2007 (the “**Original Trust Deed**”) between the Original Issuer, the Issuer and BNY 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) as amended and restated pursuant to an amended and restated trust deed dated 25 August 2010 (the “**Amended and Restated Trust Deed**” and together with the Original Trust Deed, the “**Trust Deed**” as may be further amended and/or supplemented from time to time) and are the subject of an agency agreement dated 13 June 2007 (the “**Original Agency Agreement**”) and made between the Issuer, the Original Issuer, The Bank of New York Mellon (Luxembourg) S.A. as registrar and as a transfer agent (the “**Registrar**” and “**Transfer Agent**”, which expression includes any successor registrar or transfer agent appointed from time to time in connection with the Notes), The Bank of New York Mellon as principal paying and transfer agent (the “**Principal Paying and Transfer Agent**”), The Bank of New York Mellon as calculation agent (the “**Calculation Agent**”), the other paying and transfer agent named therein (together with the Registrar, the Transfer Agent, the Registrar and the Principal Paying and Transfer Agent, the “**Agents**”) and the Trustee as amended and restated pursuant to an amended and restated agency agreement dated 25 August 2010 between the Original Issuer, the Issuer, the Trustee and the Agents (the “**Amended and Restated Agency Agreement**” and together with the Original Agency Agreement, the “**Agency Agreement**” as may be further amended and/or supplemented from time to time).

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.

This is to certify that:

.....

of .....

.....

is the person registered 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.\$.....**



(..... **UNITED STATES DOLLARS**)

in aggregate principal amount of the Notes.

The Issuer, for value received, hereby promises to pay such principal sum to the Holder on 13 June 2017 (or on such earlier date or dates as the same may become payable in accordance with the Conditions), and to pay interest on such principal sum 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.

This Individual 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 Individual Note Certificate.

This Individual Note Certificate shall not be valid for any purpose until it has been authenticated for and on behalf of The Bank of New York Mellon (Luxembourg) S.A. as registrar.

**AS WITNESS** the manual or facsimile signature of a duly authorised person on behalf of the Issuer.

**JSC KAZKOMMERTSBANK**

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

**ISSUED as of** [*insert date*]

**AUTHENTICATED FOR AND ON BEHALF OF  
THE BANK OF NEW YORK MELLON (LUXEMBOURG) S.A.**

as registrar without recourse, warranty  
or liability

By: .....  
[*manual signature*]  
(duly authorised)

**FORM OF TRANSFER**

**FOR VALUE RECEIVED** ....., being the registered holder of this Individual Note Certificate, hereby transfers to.....

.....of.....

.....U.S.\$ ..... in principal amount of the U.S.\$250,000,000 8.5 per cent. Subordinated Notes due 2017 (the “Notes”) of JSC Kazkommertsbank (the “Issuer”) and irrevocably requests and authorises The Bank of New York Mellon (Luxembourg) S.A. in its capacity as Registrar in relation to the Notes (or any successor to The Bank of New York Mellon (Luxembourg) S.A. in its capacity as such) to effect the relevant transfer by means of appropriate entries in the register kept by it.

Dated: .....

By: .....  
(duly authorised)

**Notes**

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 Original Note Certificate.

- (a) A representative of such registered holder should state the capacity in which he signs, e.g. executor.
- (b) 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.
- (c) Any transfer of Notes shall be in an amount equal to U.S.\$100,000 or integral multiples of U.S.\$1,000 in excess thereof.

*[Attached to each Individual Note Certificate:]*

*[Terms and Conditions as set out in the Schedule 3]*

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

**PRINCIPAL PAYING  
AND TRANSFER AGENT**

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

**REGISTRAR  
AND TRANSFER AGENT**

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

**CALCULATION AGENT**

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

## SCHEDULE 3

### TERMS AND CONDITIONS OF THE NOTES

*The following is the text of the Terms and Conditions of the Notes which contains summaries of certain provisions of the Trust Deed and which (subject to completion and amendment) will be attached to the Notes in definitive form, if any, and will be attached and (subject to the provisions thereof) apply to the Global Notes:*

The U.S.\$250,000,000 8.5 per cent. Subordinated Notes due 2017 (the “**Notes**” which expression includes any further Notes issued pursuant to Condition 16 (*Further Notes*) and forming a single series therewith) originally issued by Kazkommerts Finance 2 B.V. (“**KKF**”), as substituted by JSC Kazkommertsbank (the “**Issuer**”) are constituted by, are subject to, and have the benefit of, a trust deed dated 13 June 2007 as amended and restated pursuant to an amended and restated trust deed dated 25 August 2010 (together, the “**Trust Deed**,” which expression includes such trust deed as from time to time further modified in accordance with the provisions therein contained and any deed or other document expressed to be supplemental thereto, as from time to time so modified) and made between KKF, the Issuer and BNY Corporate Trustee Services Limited (the “**Trustee**,” which expression shall include any trustee or trustee for the time being of the Trust Deed) as trustee for the Noteholders (as defined below).

Payments in respect of the Notes will be made pursuant to an agency agreement dated 13 June 2007 as amended and restated pursuant to an amended and restated agency agreement dated 25 August 2010 (such agreement as may be further modified and/or restated and/or novated and/or supplemented from time to time, the “**Agency Agreement**”) between, *inter alios*, the Issuer, the Trustee, The Bank of New York Mellon, acting through its London office, as principal paying agent and Transfer Agent (the “**Principal Paying and Transfer Agent**,” which expression shall include any successors) and calculation agent (the “**Calculation Agent**” which expression shall include any successors) and The Bank of New York Mellon (Luxembourg) S.A. as registrar (the “**Registrar**,” which expression shall include any successors), transfer agent and paying agent (the “**Paying Agent**,” which expression shall include any successors).

The statements in these terms and conditions (the “**Conditions**”) include summaries of, and are subject to, the detailed provisions and definitions in the Trust Deed. Copies of the Trust Deed and the Agency Agreement are available for inspection during normal business hours at the principal office of the Trustee being, at the date hereof, at One Canada Square, London E14 5AL and at the specified office of each Paying Agent, the initial Specified Offices of which are set out below. Noteholders are entitled to the benefit of, are bound by, and are deemed to have notice of, all the provisions of the Trust Deed and the Agency Agreement applicable to them.

#### 1. Definitions

“**Authorised Agency Approval**” means the written approval of the Agency of the Republic of Kazakhstan for the Regulation and Supervision of Financial Markets and Financial Organisations (the “**FMSA**”) or any successor thereto;

“**Authorised Denomination**” shall have the meaning given to such term in Condition 2 (*Form and Denomination*);

“**Bankruptcy Event**” shall have the meaning given in Condition 4(b) (*Status and Subordination*);

“**Business Day**” shall have the meaning given in Condition 8(d) (*Payments on Business Days*);

“**Capital Adequacy Regulations**” means the Instruction on Standard Values and Assessment Methods for Prudential Standards for Second-Tier Banks approved by the Resolution No. 358 of the FMSA, together with any other notices or regulations which, from time to time, amend, supplement or supersede such notice or otherwise detail the manner in which instruments issued by banks in Kazakhstan may constitute Tier 2 Capital;

“**Certificate**” shall have the meaning given to such term in Condition 3(a) (*Register*);

“**Closing Date**” means 13 June 2007;

“**Conditional Prepayment Date**” shall have the meaning given to such term in Condition 7(b) (*Optional Redemption*);

“**Event of Default**” shall have the meaning given to such term in Condition 5 (*Events of Default*);

“**Interest Determination Date**” shall have the meaning given to such term in Condition 6(a) (*Rate of Interest*);

“**Independent Investment Bank**” means a primary U.S. Government bond dealer selected by the Issuer;

“**Interest Payment Date**” means 13 December and 13 June of each year;

“**Record Date**” shall have the meaning given to such term in Condition 8(e) (*Record Date*);

“**Redemption Date**” shall have the meaning given to such term in Condition 7(a) (*Scheduled Redemption*);

“**Record Date**” shall have the meaning given to such term in Condition 8(e) (*Record Date*);

“**Redemption Date**” shall have the meaning given to such term in Condition 7(a) (*Scheduled Redemption*);

“**Relevant Date**” shall have the meaning given to such term in Condition 9 (*Taxation*);

“**Relevant Jurisdiction**” shall have the meaning given to such term in Condition 9 (*Taxation*);

“**Relevant Date**” shall have the meaning given to such term in Condition 9 (*Taxation*);

“**Relevant Jurisdiction**” shall have the meaning given to such term in Condition 9 (*Taxation*);

“**Tax Event**” shall have the meaning given to such term in Condition 7(c) (*Redemption for Tax Reasons*);

“**Tax Repayment Date**” means, following the occurrence of a Tax Event as a result of which the Issuer would thereby be required to increase the payment of principal or interest or any other payment due under the Conditions, any Interest Payment Date falling on or after the Conditional Prepayment Date provided that the prior written approval of the Authorised Agency has been obtained (unless such approval is no longer required);

“**Tier 2 Capital**” means tier 2 capital as described under the Capital Adequacy Regulations; and

“**U.S. Treasury Rate**” means:

- (a) the yield displayed on the Moneyline Telerate Page 7051 (or such other page which may replace that page on that service or a successor service) as being the yield, under

the heading which represents the average for the immediately preceding week, appearing in the most recently published statistical release designated “H.15(519)” or any successor publication which is published weekly by the Board of Governors of the Federal Reserve System and which established a yield for actively traded United States treasury notes adjusted to constant maturity under the caption “Treasury Constant Maturities”, with a maturity (or remaining maturity) closest to the time period from the Conditional Prepayment Date to the Repayment Date (if no maturity falls within three months before or after such time period, yields for the two published maturities most closely corresponding to such time period shall be determined and the U.S. Treasury Rate shall be interpolated from such yields on a straight-line basis, rounding to the nearest month); or

- (b) in the event that such yield is not so displayed, such yield as so published by the Board of Governors of the Federal Reserve System, as described in paragraph (i) above; or
- (c) in the event that such yield is not published as mentioned in paragraph (i) or (ii) above during the week preceding the Interest Determination Date, the yield shall be determined by the Calculation Agent as follows:
  - (i) the Issuer shall procure that the principal New York office of each of four primary United States government securities dealers provide a quotation of the yield it offers for United States treasury notes with a maturity (or remaining maturity) closest to the time period from the Conditional Prepayment Date to the Repayment Date to the Calculation Agent, and the Calculation Agent shall determine the average of such quotations (rounded, if necessary, to the nearest one thousandth of a percentage point, 0.0005 per cent. being rounded upwards); and
  - (ii) if the Calculation Agent has not received the quotations and is unable to determine the yield pursuant to sub-paragraph (ii)(a) above, the Issuer shall appoint an Independent Investment Bank who shall determine, on behalf of the Calculation Agent and in the manner set forth in sub-paragraph (ii)(a) above, the latest calculable yield for United States treasury notes with a maturity (or remaining maturity) closest to the time period from the Conditional Prepayment Date to the Repayment Date on the latest Business Day prior to the Interest Determination Date.

## **2. Form and Denomination**

The Notes are issued in registered form, without interest coupons attached, in minimum denominations of U.S.\$100,000 and integral multiples of U.S.\$1,000 in excess thereof, each such amount an “**Authorised Denomination**”.

## **3. Register, Title and Transfers**

### **(a) Register**

The Registrar will maintain outside the United Kingdom a register (the “**Register**”) in respect of the Notes in accordance with the provisions of the Agency Agreement. In these Conditions, the “holder” of a Note means the person in whose name such Note is for the time being registered in the Register (or, in the case of a joint holding, the first named thereof) and “Noteholder” shall be construed accordingly. A certificate (each a “**Certificate**”) will be issued to each Noteholder in respect of its registered holding. Each Certificate will be serially numbered with an identifying number which will be recorded in the Register.

The Certificate issued in respect of the Global Note will be deposited with a common depository for Euroclear and Clearstream, Luxembourg and registered in the name of a nominee of such common depository.

(b) **Title**

The holder of each Note shall (except as otherwise required by law) be treated as the absolute owner of such Note for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any other interest therein, any writing on the Certificate relating thereto (other than the endorsed form of transfer) or any notice of any previous loss or theft of such Certificate) and no person shall be liable for so treating such holder.

(c) **Transfers**

Subject to paragraphs (f) and (g) below, a Note may be transferred upon surrender of the relevant Certificate, with the endorsed form of transfer duly completed, at the Specified Office of the Registrar or any Transfer Agent, together with such evidence as the Registrar or the relevant Transfer 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. Where not all the Notes represented by the surrendered Certificate are the subject of the transfer, a new Certificate in respect of the balance of the Notes will be issued to the transferor.

(d) **Registration and Delivery of Certificates**

Within five business days of the surrender of a Certificate in accordance with paragraph (c) above, the Registrar will register the transfer in question and deliver a new Certificate of a like principal amount to the Notes transferred to each relevant holder at its specified office or (at the request and risk of such relevant holder) by uninsured first class mail (airmail if overseas) to the address specified for the purpose by such relevant holder. In this paragraph, "business day" means a day on which commercial banks are open for business (including dealings in foreign currencies) in the city where the Registrar and the relevant Transfer Agent has its Specified Office.

(e) **No Charge**

The transfer of a Note will be effected without charge by or on behalf of the Issuer, the Registrar or the relevant Transfer Agent but against such indemnity as the Registrar or (as the case may be) the relevant Transfer 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.

(f) **Closed Periods**

The Noteholders may not require transfers to be registered during the period of 15 days ending on the due date for any payment of principal or interest in respect of the Notes.

(g) **Regulations concerning Transfers and Registration**

All transfers of Notes and entries on the Register are subject to the detailed regulations concerning the transfer of Notes scheduled to the Agency Agreement. The regulations may be changed by the Issuer 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.

#### 4. Status and Subordination

- (a) The Notes constitute the direct, unconditional and unsecured subordinated obligations of the Issuer and will rank at least equally with all other unsecured and subordinated obligations of the Issuer (whether actual or contingent) having a fixed maturity from time to time outstanding save only for such obligations as may be preferred by mandatory provisions of applicable law.
- (b) Upon the occurrence of an Event of Default under Conditions 5(ii) through (iv) (inclusive) (each a “**Bankruptcy Event**”) and so long as such Bankruptcy Event is continuing, the claims of the Trustee under the Trust Deed, the Agents under the Agency Agreement and the Noteholders under these Conditions shall be subordinated in right of payment to the claims of all Senior Creditors.
- (c) The Trustee agrees that so long as any Bankruptcy Event has occurred and is continuing, any amounts that would otherwise be due under the Trust Deed, the Agency Agreement and/or the Notes will only be paid after the payment in full of all claims of the Senior Creditors (including interest and other amounts in respect of such claims accruing after the date of commencement of such Bankruptcy Event). Thereafter, such amounts will be paid equally and rateably, together with all obligations of the Issuer ranking equally in right of payment with the liabilities of the Issuer under the Trust Deed, the Agency Agreement and the Notes.

#### 5. Events of Default

Subject to the Authorised Agency Approval, unless such prior approval is no longer required on the relevant date, the occurrence and continuation of any of the following events shall be an “**Event of Default**”:

- (i) the Issuer fails to pay within ten days any principal amount in the event of repayment pursuant to Conditions 6 (*Interest*) and 7 (*Redemption and Purchase*) as and when such amount becomes payable in the currency and in the manner specified herein or any interest amount;
- (ii) the Issuer seeks or consents to the introduction of proceedings for its liquidation or the appointment of a liquidation committee or a similar officer of the Issuer;
- (iii) the shareholders of the Issuer approve any plan of dissolution, administration or winding-up of the Issuer; or
- (iv) a court of competent jurisdiction passes a resolution or an order for the winding-up of the Issuer otherwise than pursuant to a consolidation, amalgamation, merger or reconstruction, the terms of which have been approved in advance in writing by the Issuer.

For the avoidance of doubt, no payment in respect of the Notes may be made by the Issuer pursuant to this Condition 5, save with an Authorised Agency Approval that the re-payment of the principal amount of the Notes would not lead to the breach by the Issuer of the Capital Adequacy Regulations unless such prior approval is no longer required on the relevant date. This shall not affect any obligation of the Issuer to make payments in respect of interest as it falls due.

#### 6. Interest

##### (a) Rate of Interest

On each Interest Payment Date (as defined below), the Issuer shall pay or procure to be paid to the Noteholders an amount in U.S. dollars equal to the amount of interest on the Notes at a rate of 8.5 per



cent. per annum (the “Initial Rate of Interest”) up to, but excluding the Conditional Prepayment Date (as defined in Condition 7(b) (*Optional Redemption*)) and, thereafter, at a rate per annum equal to the U.S. Treasury Rate) plus 5.25 per cent. per annum (the “Reset Interest Rate”) up to but excluding the Redemption Date (as defined in Condition 7(a) (*Scheduled Redemption*)). The U.S. Treasury Rate will be determined on the second Business Day immediately preceding the Conditional Prepayment Date (the “**Interest Determination Date**”) by the Calculation Agent (such determination by the Calculation Agent being final and binding on the Issuer, in the absence of manifest error).

The amount of interest payable in respect of the Notes for any Interest Period prior to and including the Interest Period ending on the Conditional Prepayment Date shall be calculated by applying the Initial Rate of Interest to the outstanding principal amount of the Notes, dividing the product by two and rounding the resulting figure to the nearest half cent (half a cent being rounded upwards). The amount of interest payable in respect of the Notes for any Interest Period after the Conditional Prepayment Date shall be calculated by applying the Reset Interest Rate to the outstanding principal amount of the Notes, dividing the product by two and rounding the resulting figure to the nearest half cent (half a cent rounded upwards). The amount of interest payable in respect of the Notes for any period other than an Interest Period shall be calculated on the basis of a 360-day year consisting of 12 months of 30 days each and, in the case of an incomplete month, the actual number of days elapsed.

(b) **Payment**

Interest at the Initial Rate of Interest or the Reset Interest Rate, as the case may be, shall accrue from day to day, starting from (and including) the Closing Date and shall be paid in arrear not later than 10.00 a.m. (New York City time) one Business Day prior to each Interest Payment Date. Interest on the Notes will cease to accrue from the Repayment Date unless payment of principal of the Notes is improperly withheld or refused, in which event interest will continue to accrue (before or after any judgement) to, but excluding the date on which payment in full of the principal thereof is made.

(c) **Assumption when Calculating Interest**

Whenever under these Conditions interest is to be calculated to the last day of an Interest Period and the calculation is required to be paid before such last day, the parties shall assume that the amount of the Notes outstanding on the last day of the relevant Interest Period is the same as the amount of the Notes outstanding on the day of the calculation.

**7. Redemption and Purchase**

(a) **Scheduled Redemption**

Unless previously redeemed, the Issuer will be required to redeem all of the Notes then outstanding not later than 13 June 2017 (the “**Redemption Date**”) or, if such day is not a Business Day, not later than the Business Day immediately preceding the Redemption Date at 100 per cent. of the principal amount thereof provided that such redemption will be subject to an Authorised Agency Approval that such redemption of the Notes would not lead to the breach by the Issuer of the Capital Adequacy Regulations unless such prior approval is no longer required.

(b) **Optional Redemption**

The Notes may be redeemed, at the option of the Issuer, in whole but not in part, on the Business Day immediately following the fifth anniversary of the Closing Date (the “**Conditional Prepayment Date**”) in an amount equal to their outstanding principal amount plus accrued and unpaid interest to the Conditional Prepayment Date on giving not less than 30 nor more than 60 days’ prior notice thereof to the Trustee and the Noteholders in accordance with Condition 15 (*Notices*) (which notice shall be irrevocable), provided that such early redemption will be subject to an Authorised Agency

Approval that such optional redemption would not lead to the breach by the Issuer of the Capital Adequacy Regulations unless such prior approval is no longer required.

**(c) Redemption for Tax Reasons**

If, as a result of the application of or any amendment or clarification to, or change (including a change in interpretation or application) in, or determination under the laws or regulations (including a holding by a court of competent jurisdiction) of Kazakhstan or of any political sub-division thereof or any authority therein having power to tax which change or amendment becomes effective on or after the date of the Subscription Agreement (a “**Tax Event**”), the Issuer would thereby be required to increase the payment of principal or interest or any other payment due under the Trust Deed or the Notes and in any such case such obligation cannot be avoided by the Issuer taking reasonable measures available to it, then the Issuer will have the right (without premium or penalty), on any Tax Repayment Date upon not less than 30 nor more than 60 days’ prior notice to the Trustee, the Registrar and the Noteholders (in accordance with Condition 15 (*Notices*)) to redeem the Notes in whole (but not in part) on the next Tax Repayment Date at par plus accrued and unpaid interest to the date fixed for redemption, provided that the payment by the Issuer of the amounts outstanding in respect of the Notes will be subject to an Authorised Agency Approval that the repayment of the Notes would not lead to the breach by the Issuer of the Capital Adequacy Regulations unless such prior approval is no longer required.

Prior to giving any such notice under this Condition 7(c), the Issuer shall deliver to the Trustee and the Registrar:

- (a) an Officers' Certificate stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred; and
- (b) an opinion of independent legal advisers in form and substance satisfactory to the Trustee and the Registrar, to the effect that the Issuer has or will become obliged to pay such additional amounts; and the Trustee and the Registrar shall be entitled to accept such certificate and opinion as sufficient evidence of the satisfaction of the aforesaid condition precedent.

**(d) Purchase**

The Issuer or any of its Subsidiaries may at any time purchase or procure others to purchase for its account the Notes at any price in the open market or otherwise. Notes so purchased may be held or resold (provided that such resale is made outside the United States pursuant to Regulation S under the U.S. Securities Act of 1933, as amended (the “Securities Act”).

Any Notes so purchased, while held on behalf of the Issuer or any of its Subsidiaries, shall not entitle the holder to vote at any meeting of the Noteholders and shall not be deemed to be outstanding for the purpose of calculating quorums at meetings of Noteholders.

**8. Payments**

**(a) Principal**

Payments of principal shall be made by U.S. Dollar cheque drawn on, or, upon application by a holder of a Note to the Specified Office of the Principal Paying Agent not later than the fifteenth day before the due date for any such payment, by transfer to a U.S. Dollar account maintained by the payee with, a bank in New York City upon surrender (or, in the case of part payment only, endorsement) of the relevant Certificates at the Specified Office of any Paying Agent or at the Specified Office of the Transfer Agent.

(b) **Interest**

Payments of interest shall be made by U.S. Dollar cheque drawn on, or upon application by a holder of a Note to the Specified Office of the Principal Paying Agent not later than the fifteenth day before the due date for any such payment, by transfer to a U.S. Dollar account maintained by the payee with, a bank in New York City and (in the case of interest payable on redemption) upon surrender (or, in the case of part payment only, endorsement) of the relevant Certificates at the Specified Office of any Paying Agent or at the Specified Office of the Transfer Agent.

(c) **Payments subject to Fiscal Laws**

All payments in respect of the Notes are subject in all cases to any applicable fiscal 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.

(d) **Payments on Business Days**

If the due date for payments of interest or principal is not a business day, the holder of a Note shall not be entitled to payment of the amount due until the next following business day and shall not be entitled to any further interest or other payment in respect of any such delay. In this Condition 8, “**business day**” means a day on which (a) the London Interbank Market is open for dealings between banks generally, and (b) if on that day a payment is to be made hereunder, commercial banks generally are open for business in Amsterdam, Astana and New York, and in the city where the Specified Office of the Principal Paying Agent is located.

(e) **Record Date**

Each payment in respect of a Note will be made to the person shown as the holder in the Register at the opening of business (in the place of the Registrar’s Specified Office) on the fifteenth day before the due date for such payment (the “**Record Date**”). Where payment in respect of a Note is to be made by cheque, the cheque will be mailed to the address shown as the address of the holder in the Register at the opening of business on the relevant Record Date.

**9. Taxation**

All payments in respect of the Notes by or on behalf of the Issuer shall be made free and clear of, and without deduction or withholding for or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of Kazakhstan or any political subdivision or any authority thereof or therein having the power to tax (a “**Relevant Jurisdiction**”), unless the deduction or withholding of such taxes or duties is required by law.

In such event, the Issuer shall make such additional payments as shall result in the receipt by the Noteholders of such amount as would have been received by them if no such withholding or deduction had been required provided that no such additional amount will be payable:

- (a) to a Noteholder or beneficial owner of Notes who (i) is able to avoid such deduction or withholding by satisfying any statutory requirements or by making a declaration of non-residence or other claim for exemption to the relevant tax authority; or (ii) is liable for such taxes or duties by reason of such Noteholder or beneficial owner having some connection with the Relevant Jurisdiction other than the mere holding of such Notes or the receipt of payments in respect thereof;
- (b) in respect of a Note presented (where presentation is required) for payment of principal more than 30 days after the Relevant Date (as defined below), except to the extent that the

applicable payments would have been subject to such withholding or deduction and such additional payment would have been payable if such Note had been presented for payment on such thirtieth day;

- (c) in respect of any estate, inheritance, gift, sale, transfer capital gains, excise, personal property or similar tax or assessment;
- (d) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to European Council Directive on the Taxation of Savings Income in the form of Interest Payments (Directive 2003/48/EC) on the taxation of savings income or any law implementing or complying with, or introduced in order to conform to, such Directive;
- (e) in respect of a Note held by or on behalf of a Noteholder who would have been able to avoid such withholding or deduction by arranging to receive the relevant payment through another Paying Agent in a Member State of the European Union; or
- (f) any combination of items (a) through (e) above.

As used herein, “**Relevant Date**” means whichever is the later of (i) the date on which such payment under the Notes first becomes due and (ii) if the full amount payable by the Issuer has not been received by, or for the account of, the Principal Paying and Transfer Agent or the Trustee on or prior to such date, the date on which such full amount shall have been so received and notice to that effect shall have been duly given to the Noteholders.

Any reference herein or in the Trust Deed to payments in respect of the Notes shall be deemed also to refer to any additional amounts which may be payable in accordance with the Trust Deed and this Condition 9 or any undertaking given in addition thereto or in substitution therefor pursuant to the Trust Deed.

## **10. Enforcement**

The Trust Deed provides that only the Trustee may pursue the remedies under the general law, the Trust Deed or the Notes to enforce the rights of the Noteholders and no Noteholder will be entitled to pursue such remedies unless the Trustee (having become bound to do so in accordance with the terms of the Trust Deed) fails or neglects to do so within a reasonable period and such failure or neglect is continuing. The Trust Deed provides for the Trustee to take action on behalf of the Noteholders in certain circumstances, but only if the Trustee is indemnified to its satisfaction. It may not be possible for the Trustee to take certain actions in relation to the Notes and accordingly, in such circumstances, the Trustee will be unable to take action notwithstanding the provision of an indemnity to it, and it will be for the Noteholders to take action directly.

The Trust Deed also provides that, in the case of an Event of Default (as defined in the Trust Deed), the Trustee may, and shall, if requested to do so by Noteholders holding one-quarter in aggregate principal amount of the Notes outstanding, or if directed to do so by an Extraordinary Resolution and, in either case, subject to it being secured and/or indemnified to its satisfaction, declare all amounts payable under the Notes by the Issuer to be immediately due and payable. The Trustee has no right to accelerate payments under the Notes without Authorised Agency Approval (unless such prior approval is no longer required).

## **11. Meetings of Noteholders; Modification; Waiver; Substitution of the Issuer**

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

The Trust Deed contains provisions for convening meetings of Noteholders to consider any matter affecting their interests, including the modification or abrogation by Extraordinary Resolution of these Conditions or the Trust Deed. Such a meeting may be convened by the Issuer or the Trustee or on the request in writing of one or more Noteholders holding in aggregate not less than 10 per cent. in principal amount of the Notes for the time being outstanding. The quorum at any meeting for passing an Extraordinary Resolution will be one or more persons present holding or representing in aggregate more than 50 per cent. in principal amount of the Notes for the time being outstanding, or at any adjourned such meeting one or more persons present whatever the principal amount of the Notes held or represented by him or them, unless the business of such meeting includes consideration of proposals, inter alia, (i) to modify the maturity of the Notes or the dates on which interest is payable in respect of the Notes, (ii) to reduce or cancel the principal amount of, or the rate of interest on, the Notes, (iii) to change the currency of payment of the Notes or (iv) to modify the provisions concerning the quorum required at any meeting of Noteholders or the majority required to pass an Extraordinary Resolution, in which case the necessary quorum for passing an Extraordinary Resolution will be one or more persons present holding or representing in aggregate not less than three-quarters, or at any adjourned such meeting not less than one-quarter, of the principal amount of the Notes for the time being outstanding. An Extraordinary Resolution passed at any meeting of the Noteholders will be binding on all Noteholders, whether or not they are present at the meeting. A resolution in writing signed by or on behalf of the holders of not less than 100 per cent. in principal amount of the Notes who for the time being are entitled to receive notice of a meeting shall for all purposes be as valid as an Extraordinary Resolution passed at a meeting of Noteholders convened and held in accordance with the provisions of the Trust Deed. Such resolution in writing may be in one document or several documents in like form each signed by or on behalf of one or more of the Noteholders.

**(b) Modification and Waiver**

The Trustee may, without the consent of the Noteholders, agree to any modification of the Notes or the Trust Deed which in the opinion of the Trustee is of a formal, minor or technical nature, is made to correct a manifest error or is not materially prejudicial to the interests of the Noteholders. In addition, the Trustee may, without the consent of the Noteholders, also waive or authorise or agree to the waiving or authorising of any breach or proposed breach by the Issuer of the Conditions or the Trust Deed or determine that any event which would or might otherwise give rise to a right of acceleration under the Trust Deed shall not be treated as such if, in the sole opinion of the Trustee, to do so would not be materially prejudicial to the interests of the Noteholders. 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 15 (*Notices*).

**(c) Substitution**

The Trust Deed contains provisions to the effect that the Issuer may, having obtained the consent of the Trustee (which latter consent may be given without the consent of the Noteholders) and subject to having complied with certain requirements as the Trustee may direct in the interests of the Noteholders, substitute any entity in place of the Issuer as issuer and principal obligor in respect of the Notes and as principal obligor under the Trust Deed. Not later than 14 days after compliance with the aforementioned requirements, notice thereof shall be given by the Issuer to the Noteholders in accordance with Condition 15 (*Notices*).

**(d) Exercise of Powers**

In connection with the exercise of any of its powers, trusts, authorities or discretions, 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. No Noteholder is entitled to claim from the Trustee any indemnification or payment in respect of any tax consequence of any such exercise upon individual Noteholders.

## **12. Prescription**

Notes will become void unless presented for payment within ten years (in the case of principal) or five years (in the case of interest) from the due date for payment in respect thereof.

## **13. Trustee and Agents**

The Trust Deed contains provisions for the indemnification of the Trustee and for its relief from responsibility in certain circumstances, including provisions relieving it from taking proceedings to enforce payment unless indemnified and/or secured to its satisfaction, and to be paid its costs and expenses in priority to the claims of Noteholders. In addition, the Trustee is entitled to enter into business transactions with the Issuer and any entity relating to the Issuer 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 performance by the Issuer of its obligations under or in respect of the Notes and the Trust Deed. In acting under the Agency Agreement and in connection with the Notes, the Agents act solely as agents of the Issuer 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 Trustee shall not at any time have any responsibility for, or liability or obligation in respect of, the performance and observance by the Principal Paying Agent, any of the Paying Agents, the Registrar or the Transfer Agents of their respective obligations under the Agency Agreement.

The initial Agents and their initial Specified Offices are listed below. The Issuer reserves the right (with the 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 agent or registrar and additional or successor paying agents and transfer agents; provided, however, that the Issuer shall at all times maintain (i) a principal paying agent and a registrar, (ii) a paying agent and transfer agent having a specified office in a major European city approved by the Trustee and (iii), a paying agent in a member state of the European Union that will not be obliged to withhold or deduct tax pursuant to European Council Directive on the Taxation of Savings Income in the form of Interest Payments (Directive 2003/48/EC) on the taxation of savings income or any law implementing or complying with, or introduced to conform to, such Directive.

Notice of any change in any of the Agents or in their Specified Offices shall promptly be given to the Noteholders.

The Trustee may, in making any determination under these Conditions, act on the opinion or advice of, or information obtained from, any lawyer, banker, valuer, surveyor, broker, auctioneer, accountant, auditor or other expert and will not be responsible for any loss, liability, cost, claim, action, demand, expense or inconvenience which may result from it so acting or not acting notwithstanding that such opinion or advice contains a limitation on liability or, in the case of the auditors, disclaims all liability.

The Trustee shall be entitled to rely on self-certification of the Issuer (and, where applicable, certification by third parties) as a means of monitoring whether the Issuer is complying with its obligations under the Trust Deed and the Notes and shall not otherwise be responsible for investigating any aspect of the Issuer's performance in relation thereto.

Until the Trustee has actual or express knowledge to the contrary, the Trustee may assume that no Event of Default has occurred.

The Trustee shall not at any time be required to expend or risk its own funds or otherwise incur any financial liability in the performance of its obligations or duties or the exercise of any right, power,

authority or discretion pursuant to these Conditions until it has received from the Issuer the funds that are necessary to cover the costs and expenses in connection with such performance or exercise, or has been (in its sole discretion) sufficiently assured that it will receive such funds.

Unless ordered to do so by a court of competent jurisdiction or unless required by the rules of either the Kazakh Stock Exchange and/or the London Stock Exchange, the Trustee shall not be required to disclose to any Noteholder any confidential financial or other information made available to the Trustee by the Issuer.

#### **14. Replacement of Certificates**

If a Certificate shall become mutilated, defaced, lost, stolen or destroyed it may, subject to all applicable laws and regulations and requirements of each of the Kazakh Stock Exchange and the London Stock Exchange, be replaced at the Specified Office of the Registrar and at the Specified Office of the Transfer Agent on payment of such costs, expenses, taxes and duties as may be incurred in connection therewith and on such terms as to evidence, security and indemnity and otherwise as may reasonably be required by or on behalf of the Issuer or the Trustee. Mutilated or defaced Certificates must be surrendered before replacements will be issued.

#### **15. Notices**

Notices to the 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 after the date of mailing. In addition, so long as the Notes are admitted to trading on the London Stock Exchange and the rules of the exchange so require, notices shall be published in a daily newspaper of general circulation in the United Kingdom, currently expected to be the Financial Times.

If for any reason it shall be impracticable to publish any notice to holders of Notes as provided above, then such notification to such holders as shall be given with the approval of the Trustee in accordance with the rules of the London Stock Exchange and Kazakh Stock Exchange or any replacement stock exchange, as applicable shall constitute sufficient notice to such holders for every purpose hereunder.

#### **16. Further Notes**

The Issuer may from time to time without the consent of the Noteholders create and issue further notes having the same terms and conditions as the Notes in all respects (or in all respects except for the issue date and/or first payment of interest on such further notes) and so that such further issue is consolidated and forms a single series with the Notes. Such further Notes will be constituted by a deed supplemental to the Trust Deed.

Noteholders should be aware that additional notes that are treated for non tax purposes as a single series with the original Notes may be treated as a separate series for U.S. federal income tax purposes. In such case, for U.S. federal income tax purposes, the new notes may be considered to have been issued with original issue discount, which may affect the market value of the original Notes since such additional notes may not be distinguishable from the original Notes.

#### **17. 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.

## **18. Governing Law**

The Notes and the Trust Deed are governed by and shall be construed in accordance with, English law. The Issuer has submitted in the Trust Deed to the jurisdiction of the courts of England and has appointed an agent for the service of process in England.

*There will appear at the foot of the Conditions endorsed on or (as the case may be) attached to each Note Certificate and the Global Note the names and Specified Offices of the Registrar, the Paying Agents and the Transfer Agents as set out at the end of this Prospectus.*



## SCHEDULE 4

### PROVISIONS FOR MEETINGS OF NOTEHOLDERS

#### 1. DEFINITIONS

In this Trust Deed and the Conditions, the following expressions have the following meanings:

“**Block Voting Instruction**” means, in relation to any Meeting, a document in the English language issued by a Registrar:

- (a) certifying:
  - (i) 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 Registrar 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; or
  - (ii) that each registered holder of certain specified Notes (each a “**Relevant Note**”) or a duly authorised person on its behalf has instructed the Registrar that the votes attributable to each Relevant Note held by it are to be cast in a particular way on each resolution to be put to the Meeting; and

in each case that, during the period of 48 hours before the time fixed for the Meeting, such instructions may not be amended or revoked;

- (b) listing the total principal amount of the Blocked Notes and the Relevant Notes, distinguishing for each resolution between those in respect of which instructions have been given to vote for, or against, the resolution; and
- (c) authorising a named individual or individuals to vote in respect of the Blocked Notes and the Relevant Notes in accordance with such instructions;

“**Chairman**” means, in relation to any Meeting, the individual who takes the chair in accordance with paragraph 7 (*Chairman*);

“**Extraordinary Resolution**” means a resolution passed at a Meeting duly convened and held in accordance with this Schedule by a majority of not less than three quarters of the votes cast;

“**Form of Proxy**” means, in relation to any Meeting, a document in the English language available from the Registrar signed by a Noteholder or, in the case of a corporation, executed under its seal or signed on its behalf by a duly authorised officer and delivered to the Registrar not later than 48 hours before the time fixed for such Meeting, appointing a named individual or individuals to vote in respect of the Notes held by such Noteholder;

“**Meeting**” means a meeting of Noteholders (whether originally convened or resumed following an adjournment);

**“Proxy”** means, in relation to any Meeting, a person appointed to vote under a Block Voting Instruction or a Form of Proxy other than:

- (a) any such person whose appointment has been revoked and in relation to whom the Registrar has been notified in writing of such revocation by the time which is 48 hours before the time fixed for such Meeting; and
- (b) any such person appointed to vote at a Meeting which has been adjourned for want of a quorum and who has not been re-appointed to vote at the Meeting when it is resumed;

**“Relevant Fraction”** means:

- (a) for voting on any Extraordinary Resolution other than one relating to a Reserved Matter, more than half; and
- (b) for voting on any Extraordinary Resolution relating to a Reserved Matter, two thirds’

*provided that*, in the case of a Meeting which has resumed after adjournment for want of a quorum, it means:

- (i) for all business other than voting on an Extraordinary Resolution relating to a Reserved Matter, the fraction of the aggregate principal amount of the outstanding Notes represented or held by the Voters actually present at the Meeting; and
- (ii) for voting on any Extraordinary Resolution relating to a Reserved Matter, one third;

**“Reserved Matter”** means any proposal:

- (a) to change any date fixed for payment of principal or interest in respect of the Notes,
- (b) to reduce the amount of principal or interest payable on any date in respect of the Notes,
- (c) or to alter the method of calculating the amount of any payment in respect of the Notes on redemption or maturity or the date for any such payment;
- (d) to effect the exchange, conversion or substitution of the Notes for, or the conversion of the Notes into, shares, bonds or other obligations or securities of the Issuer or any other person or body corporate formed or to be formed (other than as permitted under Clause 16.3 (*Substitution*) of this Trust Deed);
- (e) to change the currency in which amounts due in respect of the Notes are payable;
- (f) to change the quorum required at any Meeting or the majority required to pass an Extraordinary Resolution;
- (g) to alter the governing law of the Conditions or the Trust Deed;
- (h) to change the definition of **“Event of Default”**; or
- (h) to amend this definition;

“**Voter**” means, in relation to any Meeting, a proxy or (subject to paragraph 4 (*Record Date*) below) a Noteholder, *provided that* (subject to paragraph 4 (*Record Date*) below) any Noteholder which has appointed a Proxy under a Block Voting Instruction or Form of Proxy shall not be a “**Voter**” except to the extent that such appointment has been revoked and the Registrar notified in writing of such revocation at least 48 hours before the time fixed for such Meeting;

“**Written Resolution**” means a resolution in writing signed by or on behalf of all Noteholders who for the time being are entitled to receive notice of a Meeting in accordance with the provisions of this Schedule, whether contained in one document or several documents in the same form, each signed by or on behalf of one or more such holders of the Notes;

“**24 hours**” means a period of 24 hours including all or part of a day (disregarding for this purpose the day upon which such Meeting is to be held) upon which banks are open for business in both the place where the relevant Meeting is to be held and in each of the places where the Paying and Transfer Agents have their Specified Offices and such period shall be extended by one period or, to the extent necessary, more periods of 24 hours until there is included as aforesaid all or part of a day upon which banks are open for business as aforesaid; and

“**48 hours**” means 2 consecutive periods of 24 hours.

## **2. ISSUE OF BLOCK VOTING INSTRUCTIONS AND FORMS OF PROXY**

The holder of a Note may require the Registrar to issue a Block Voting Instruction by arranging (to the satisfaction of the Registrar) for such Note to be blocked in an account with a clearing system not later than 48 hours before the time fixed for the relevant Meeting. The holder of a Note may require the Registrar to issue a Block Voting Instruction by delivering to the Registrar written instructions not later than 48 hours before the time fixed for the relevant Meeting. Any holder of a Note may obtain an uncompleted and unexecuted Form of Proxy from the Registrar. A Block Voting Instruction and a Form of Proxy cannot be outstanding simultaneously in respect of the same Note.

## **3. REFERENCES TO BLOCKING/RELEASE OF NOTES**

Where Notes are within Euroclear or Clearstream, Luxembourg or any other clearing system, references to the deposit, or release, of Notes shall be construed in accordance with the usual practices (including blocking the relevant account) of Euroclear or Clearstream, Luxembourg or such other clearing system.

## **4. RECORD DATE**

The Issuer may fix a record date for the purposes of any Meeting or any resumption thereof following its adjournment for want of a quorum, *provided that* such record date is not more than ten days prior to the time fixed for such Meeting or (as the case may be) its resumption. The person in whose name a Note is registered in the Register on the record date at close of business in the city in which the Registrar has its Specified Office shall be deemed to be the holder of such Note for the purposes of such Meeting and notwithstanding any subsequent transfer of such Note or entries in the Register.

## **5. CONVENING OF MEETING**

The Issuer or the Trustee may convene a Meeting at any time, and the Trustee shall be obliged to do so subject to its being indemnified and/or secured to its satisfaction by the Issuer upon the request in writing of Noteholders holding not less than one tenth of the

aggregate principal amount of the outstanding Notes. Every Meeting shall be held on a date, and at a time and place, approved by the Trustee.

## **6. NOTICE**

At least 14 days' notice (exclusive of the day on which the notice is given and of the day on which the relevant Meeting is to be held) specifying the date, time and place of the Meeting shall be given to the Noteholders and the Paying and Transfer Agents and the Registrar (with a copy to the Issuer) where the Meeting is convened by the Trustee or, where the Meeting is convened by the Issuer, the Trustee. The notice shall set out the full text of any resolutions to be proposed unless the Trustee agrees that the notice shall instead specify the nature of the resolutions without including the full text and shall state that Notes may be blocked in clearing systems for the purposes of appointing Proxies under Block Voting Instructions until 48 hours before the time fixed for the Meeting and a Noteholder may appoint a Proxy either under a Block Voting Instruction by delivering written instructions to the Registrar or by executing and delivering a Form of Proxy to the Specified Office of the Registrar, in either case until 48 hours before the time fixed for the Meeting.

## **7. CHAIRMAN**

An individual (who may, but need not, be a Noteholder) nominated in writing by the Trustee may take the chair at any Meeting but, if no such nomination is made or if the individual nominated is not present within 15 minutes after the time fixed for the Meeting, those present shall elect one of themselves to take the chair failing which, the Issuer may appoint a Chairman (who may, but need not, be a Noteholder). The Chairman of an adjourned Meeting need not be the same person as was the Chairman of the original Meeting.

## **8. QUORUM**

The quorum at any Meeting shall be at least two Voters representing or holding not less than the Relevant Fraction of the aggregate principal amount of the outstanding Notes, *provided that* so long as at least the Relevant Fraction of the aggregate principal amount of the outstanding Notes is represented by a Global Note Certificate or a single Individual Note Certificate, a single Voter appointed in relation thereto or being the holder of the Notes represented thereby shall be deemed to be two Voters for the purpose of forming a quorum.

## **9. ADJOURNMENT FOR WANT OF QUORUM**

If within 15 minutes after the time fixed for any Meeting a quorum is not present, then:

- (a) in the case of a Meeting requested by Noteholders, it shall be dissolved; and
- (b) in the case of any other Meeting (unless the Issuer and the Trustee otherwise agree), it shall be adjourned for such period (which shall be not less than 14 days and not more than 42 days) and to such place as the Chairman determines (with the approval of the Trustee), *provided that*:
  - (i) the Meeting shall be dissolved if the Issuer and the Trustee together so decide; and
  - (ii) no Meeting may be adjourned more than once for want of a quorum.

## **10. ADJOURNED MEETING**

The Chairman may, with the consent of, and shall if directed by, any Meeting adjourn such Meeting from time to time and from place to place, but no business shall be transacted at any adjourned Meeting except business which might lawfully have been transacted at the Meeting from which the adjournment took place.

## **11. NOTICE FOLLOWING ADJOURNMENT**

Paragraph 6 (*Notice*) shall apply to any Meeting which is to be resumed after adjournment for want of a quorum save that:

- (a) 10 days' notice (exclusive of the day on which the notice is given and of the day on which the Meeting is to be resumed) shall be sufficient; and
- (b) the notice shall specifically set out the quorum requirements which will apply when the Meeting resumes.

It shall not be necessary to give notice of the resumption of a Meeting which has been adjourned for any other reason.

## **12. PARTICIPATION**

The following may attend and speak at a Meeting:

- (a) Voters;
- (b) representatives of the Issuer and the Trustee;
- (c) the financial advisers the Issuer and the Trustee;
- (d) the legal counsel to the Issuer and the Trustee and such advisers;
- (e) the Registrar; and
- (f) any other person approved by the Meeting or the Trustee.

## **13. SHOW OF HANDS**

Except where the proviso to paragraph 8 (*Quorum*) applies, every question submitted to a Meeting shall be decided in the first instance by a show of hands. Unless a poll is validly demanded before or at the time that the result is declared, the Chairman's declaration that on a show of hands a resolution has been passed, passed by a particular majority, rejected or rejected by a particular majority shall be conclusive, without proof of the number of votes cast for, or against, the resolution.

## **14. POLL**

A demand for a poll shall be valid if it is made by the Chairman, the Issuer, the Trustee or one or more Voters representing or holding not less than one fiftieth of the aggregate principal amount of the outstanding Notes. The poll may be taken immediately or after such adjournment as the Chairman directs, but any poll demanded on the election of the Chairman or on any question of adjournment shall be taken at the Meeting without adjournment. A valid demand for a poll shall not prevent the continuation of the relevant Meeting for any other business as the Chairman directs.

## 15. VOTES

Every Voter shall have:

- (a) on a show of hands, one vote; and
- (b) on a poll, one vote in respect of each U.S.\$1,000 in aggregate face amount of the outstanding Note(s) represented or held by him.

Unless the terms of any Block Voting Instruction state otherwise, a Voter shall not be obliged to exercise all the votes to which he is entitled or to cast all the votes which he exercises in the same way. In the case of a voting tie the Chairman shall have a casting vote.

## 16. VALIDITY OF VOTES BY PROXIES

Any vote by a Proxy in accordance with the relevant Block Voting Instruction or Form of Proxy shall be valid even if such Block Voting Instruction or Form of Proxy or any instruction pursuant to which it was given has been amended or revoked, *provided that* the Registrar has not been notified in writing of such amendment or revocation by the time which is 24 hours before the time fixed for the relevant Meeting. Unless revoked, any appointment of a Proxy under a Block Voting Instruction or Form of Proxy in relation to a Meeting shall remain in force in relation to any resumption of such Meeting following an adjournment, *provided that* no such appointment of a Proxy in relation to a Meeting originally convened which has been adjourned for want of a quorum shall remain in force in relation to such Meeting when it is resumed. Any person appointed to vote at such a Meeting must be re-appointed under a Block Voting Instruction or Form of Proxy to vote at the Meeting when it is resumed.

## 17. POWERS

A Meeting shall have power (exercisable only by Extraordinary Resolution), without prejudice to any other powers conferred on it or any other person:

- (a) to approve any Reserved Matter;
- (b) to approve any proposal by the Issuer for any modification, abrogation, variation or compromise of or any arrangement in respect of the rights of the Noteholders against the Issuer, whether such rights arise under this Trust Deed, the Notes or otherwise under or in respect of the Notes;
- (c) (other than as permitted under Clause 16.3 (*Substitution*) of this Trust Deed) to approve the substitution of any person for the Issuer (or any previous substitute) as principal obligor under the Notes;
- (d) to waive any breach or authorise any proposed breach by the Issuer of its obligations under or in respect of this Trust Deed or the Notes or any act or omission which might otherwise constitute an Event of Default under the Notes;
- (e) to remove any Trustee;
- (f) to approve the appointment of a new Trustee;
- (g) to authorise the Trustee (subject to its being indemnified and/or secured to its satisfaction) or any other person to execute all documents and do all things necessary to give effect to any Extraordinary Resolution;

- (h) 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;
- (i) to give any other authorisation or approval which under this Trust Deed or the Notes is required to be given by Extraordinary Resolution; and
- (j) to appoint any persons as a committee to represent the interests of the Noteholders and to confer upon such committee any powers which the Noteholders could themselves exercise by Extraordinary Resolution.

## **18. EXTRAORDINARY RESOLUTION BINDS ALL HOLDERS**

An Extraordinary Resolution shall be binding upon all Noteholders, whether or not present at such Meeting, and each of the Noteholders shall be bound to give effect to it accordingly. Notice of the result of every vote on an Extraordinary Resolution shall be given to the Noteholders and the Paying and Transfer Agents and the Registrar (with a copy to the Issuer and the Trustee) within 14 days of the conclusion of the Meeting.

## **19. MINUTES**

Minutes of all resolutions and proceedings at each Meeting shall be made. The Chairman shall sign the minutes, which shall be *prima facie* evidence of the proceedings recorded therein. Unless and until the contrary is proved, every such Meeting in respect of the proceedings of which minutes have been summarised 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.

## **20. WRITTEN RESOLUTION**

A Written Resolution shall take effect as if it were an Extraordinary Resolution.

## **21. FURTHER REGULATIONS**

Subject to all other provisions contained in this Trust Deed, the Trustee may without the consent of the Issuer or the Noteholders prescribe such further regulations regarding the holding of Meetings of Noteholders and attendance and voting at them as the Trustee may in its sole discretion determine.

## **22. SEVERAL SERIES**

The following provisions shall apply where outstanding Notes belong to more than one series:

- (a) Business which in the opinion of the Trustee affects the Notes of only one series shall be transacted at a separate Meeting of the holders of the Notes of that series.
- (b) Business which in the opinion of the Trustee affects the Notes of more than one series but does not give rise to an actual or potential conflict of interest between the holder of Notes of one such series and the holders of Notes of any other such series shall be transacted either at separate Meetings of the holders of the Notes of each such series or at a single Meeting of the holders of the Notes of all such Series, as the Trustee shall in its absolute discretion determine.
- (c) Business which in the opinion of the Trustee affects the Notes of more than one series and gives rise to an actual or potential conflict of interest between the holders of

Notes of one such series and the holders of Notes of any other such series shall be transacted at separate Meetings of the holders of the Notes of each such series.

- (d) The preceding paragraphs of this Schedule shall be applied as if references to the Notes and Noteholders were to the Notes of the relevant series and to the holders of such Notes.
- (e) In this paragraph, “**business**” includes (without limitation) the passing or rejection of any resolution.



**SIGNATURES TO THE TRUST DEED**

**Executed as a deed by  
JSC KAZKOMMERTSBANK as Issuer**

Signed by and acting by: \_\_\_\_\_

Name:

Title:

**Executed as a deed by  
BNY CORPORATE TRUSTEE SERVICES LIMITED as Trustee** )

Acting by two of its lawful attorneys: )

Attorney:

Attorney:

In the presence of:

Witness name:

Signature:

Address:



**SIGNATURES TO THE AMENDED AND RESTATED TRUST DEED**

IN WITNESS WHEREOF this Amended and Restated Trust Deed has been executed as a deed by the parties hereto and is intended to be and is hereby delivered on the date first before written.

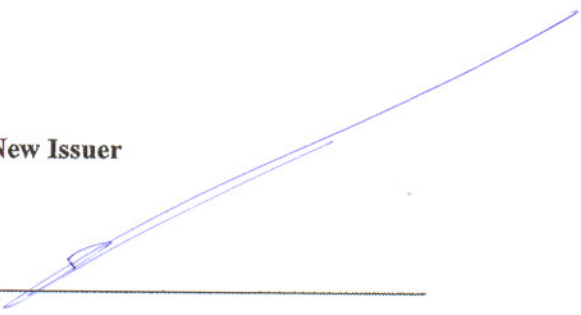
**Executed as a deed by  
KAZKOMMERTS FINANCE 2 B.V. as Original Issuer**

Signed by and acting by:   
\_\_\_\_\_

Name:

Title:

**Executed as a deed by  
JSC KAZKOMMERTSBANK as New Issuer**

Signed by and acting by:   
\_\_\_\_\_

Name:

Title:

**Executed as a deed by  
BNY CORPORATE TRUSTEE SERVICES LIMITED as Trustee** )

Acting by two of its lawful attorneys: )

Attorney: )

Attorney: )

In the presence of:

Witness name:

Signature:

Address:

