

**Annex 2**

to the Regulations on clearing participants

**AGREEMENT**  
**on clearing services**

This Agreement is concluded between Kazakhstan Stock Exchange JSC, hereinafter referred to as the "**Exchange**", and a member of the Exchange who filed an application for the conclusion of this Agreement and hereinafter referred to as the "**Clearing participant**". Further, the parties of this Agreement are collectively referred to as the Parties and individually as a Party.

This Agreement is the accession agreement. The terms of this Agreement shall be regulated by the internal documents of the Exchange such as "Rules of executing clearing activities on transactions in financial instruments" (hereinafter – the Clearing rules), the "Regulations on clearing participants" (including the annex regulating the content of this Agreement) and other internal documents of the Exchange relating to its clearing activities.

**1. SUBJECT OF AGREEMENT**

- 1.1. In accordance with this Agreement the clearing participant shall entrust the Exchange with, and the Exchange shall undertake, the obligation to provide clearing services for transactions in financial instruments concluded by the clearing participant in the trading system of the Exchange, in the manner and on terms established by the laws of the Republic of Kazakhstan, the Clearing rules and other internal documents of the Exchange relating to its clearing activities.
- 1.2. The financial instruments, for transactions in which the Exchange carries out clearing activities, shall be defined by the Clearing rules.
- 1.3. The concepts and terms contained in this Agreement shall have the meanings prescribed by the laws of the Republic of Kazakhstan and the Clearing rules.

**2. RIGHTS AND OBLIGATIONS OF PARTIES**

- 2.1. The Exchange shall:
  - 1) provide clearing services for transactions in financial instruments concluded by the clearing participant in the manner established by the Clearing rules and the laws of the Republic of Kazakhstan;
  - 2) notify the Clearing participant of amendments and/or additions (including by approval of the Clearing rules as amended) made in the Clearing rules according to deadlines and in the manner provided for in the Clearing rules;
  - 4) fulfill other obligations stipulated by the laws of the Republic of Kazakhstan and the internal documents of the Exchange.
- 2.2. The clearing participant shall:
  - 1) comply with the Clearing rules, the Regulations on clearing participants and other internal documents of the Exchange relating to its clearing activity;
  - 2) duly comply with all the obligations arising from the conclusion by the Clearing participant of transactions for which the Exchange performs clearing services, including the obligation to pay clearing fees in favor of the Exchange;

- 3) in case of failure to fulfill its obligations in accordance with the internal documents of the Exchange, pay penalties and fines;
- 4) fulfill other obligations stipulated by the internal documents of the Exchange and the laws of the Republic of Kazakhstan.

2.3. The Exchange shall be entitled to:

- 1) collect, process and store information on transactions concluded by the Clearing participant;
- 2) unilaterally make amendments and/or additions to the Clearing rules (including the approval by the Clearing Rules as amended);
- 3) open clearing accounts as provided by the Clearing rules and the laws of the Republic of Kazakhstan;
- 4) define the obligations of the Clearing participant, including the payment of clearings fees in favor of the Exchange, in the manner prescribed by the internal documents of the Exchange; make settlements on the basis of clearing results, debit the margins of the Clearing participant with clearing fees;
- 5) interact with other organizations and institutions in order to duly fulfill its obligations under the present Agreement;
- 6) require the Clearing participant to comply with the current terms of this Agreement;
- 7) unilaterally waive fulfillment of obligations under this Agreement in case of default of the Clearing participant on obligations under the Clearing rules and the laws of the Republic of Kazakhstan;
- 8) exercise other rights under this Agreement, the Clearing rules and the laws of the Republic of Kazakhstan.

2.4. The clearing participant shall be entitled to:

- 1) submit to the Exchanges requests for reports in accordance with the Clearing rules;
- 2) refuse to perform this Agreement unilaterally in the absence not to the fulfillment of obligations under the Exchange transactions and compliance with the requirements stipulated by the Clearing Rules;
- 3) exercise other rights under this Agreement, the Clearing rules and the laws of the Republic of Kazakhstan.

### **3. RESPONSIBILITIES OF PARTIES**

- 3.1. The clearing participant in case of non-performance or negligent performance of obligations hereunder shall be liable in accordance with the laws of the Republic of Kazakhstan, the Clearing rules and other internal documents of the Exchange relating to its clearing activity.
- 3.2. The Exchange shall only be liable for those transactions in financial instruments concluded by the Clearing participant for which it performs the functions of a central counterparty. Thus, the responsibility of the Exchange is limited to the clearing reserve fund amount subject to the limitations set by the Clearing rules.
- 3.3. The Parties shall be relieved from the responsibility for partial or total not-fulfillment of obligations under this Agreement, which was the result of force majeure, for the duration of such circumstances. If the duration of force majeure is more than 30 days, the Parties may terminate this Agreement.
- 3.4. The force majeure shall mean:
  - 1) natural disasters, earthquakes, floods, mudslides and fire and other natural disasters;
  - 2) war, military actions of any nature, blockade, terrorist acts, revolutions, civil unrest, strikes, lock-outs, traffic disruptions;

- 3) embargo established by public authorities, prohibitions and restrictions, legitimate blocks or change in the law, decisions of public authorities, including authorities of countries other than the Republic of Kazakhstan;
  - 4) malfunction of software and hardware of the Exchange or other related entities of the organized securities market infrastructure, foreign exchange market, derivatives market and other sectors of the stock market;
  - 5) temporary suspension or complete termination of operation of servicing banks, as well as other circumstances that prevent the fulfillment of obligations of the Exchange and the clearing participant.
- 3.5. The document confirming the occurrence of the circumstances of force majeure and those referred to in sub-clauses 1)–3) of clause 3.4 of this Agreement, and their duration, shall be a certificate issued by the Chamber of Commerce of the Republic of Kazakhstan or a competent authority (organization) of the relevant country.
- 3.6. The document confirming the occurrence of the circumstances of force majeure and those referred to in sub-clause 4) of paragraph 3.4 of this Agreement, and their duration, shall be a certificate signed by the CEO of the Exchange or a relevant opinion of the Exchange.
- The certificate shall be provided by the Exchange within seven business days after the date of occurrence of the circumstances as set forth in sub-clause 4) of clause 3.4 of this Agreement.
- 3.7. The clearing participant shall immediately notify the Exchange of the occurrence of force majeure, its expected duration and termination.
- 3.8. The Party shall not be liable for non-fulfillment or negligent fulfillment of its obligations under this Agreement if it was caused by the failure of the other Party to comply with its obligations.
- 3.9. The payment of fines provided for in the Clearing rules and the Regulations on clearing participants by the Party shall not relieve it from fulfillment of the obligations assumed under this Agreement.

#### **4. CONFIDENTIAL INFORMATION**

- 4.1. The application for assignment of a clearing participant status submitted to the Exchange shall simultaneously serve as the clearing participant's unconditional and irrevocable consent to the disclosure by the Exchange in accordance with the laws of the Republic of Kazakhstan and its internal documents of information which may constitute trade secret and proprietary information of the Clearing participant (hereinafter – confidential information).
- The clearing participant hereby represents and warrants that in connection with the said consent it shall not have and will not have any claims against the Exchange, including property claims, both at the time of accession to the Agreement, and in the future, and also agrees with the fact that the Exchange is not liable to it for the disclosure of confidential information in accordance with the laws of the Republic of Kazakhstan and the internal documents of the Exchange.

#### **5. NOTIFICATIONS**

- 5.1. All notices and other communications under this Agreement shall be made in writing and delivered to the addresses of the Parties to this Agreement or by fax.
- Any notice or other communication delivered by fax shall be confirmed by the subsequent delivery of the original notice or communication to the addresses of the Parties to this Agreement, within three business days after the date of delivery by fax.
- 5.2. Any notice or other communication delivered in writing to the addresses of the Parties to this Agreement or by fax shall be deemed as duly transferred, sent, received or delivered in all cases on the first business day after the date of delivery to the addressee.

The delivery of a notice or other communication in writing shall be confirmed by the receipt of this delivery and signed by the courier while the delivery by fax – confirmation of transmission.

## **6. SETTLEMENT OF DISPUTES**

- 6.1. The disputes and disagreements between the Exchange and the Clearing participant arising from the clearing services provided by the Exchange in respect of transactions in financial instruments concluded by the Clearing participant in the trading system of the Exchange, as well as in relation to the determination and fulfillment of the obligations by the Clearing participants and in connection with the conclusion of this Agreement shall be settled through negotiation.
- 6.2. In case of impossibility to reach an agreement by the parties, they shall settle differences and disputes in accordance with the laws of the Republic of Kazakhstan.

## **7. TERM OF AGREEMENT**

- 7.1. This Agreement shall enter into force on the date of the decision made by the Exchange Management Board to assign a clearing participant status.
- 7.2. This Agreement shall be deemed terminated on the date of the decision made by the Exchange Management Board to terminate a clearing participant status.
- 7.3. The termination of this Agreement shall not release the Parties from the obligations arisen prior to its termination.

## **8. FINAL PROVISIONS**

- 8.1. The terms of the agreement and subsequent amendments and/or additions to it shall be defined by the Exchange independently and may only be accepted by the Clearing participant by accession the agreement as a whole.
- 8.2. The accession of the Clearing participant to the Agreement shall be made in accordance with the Regulations on clearing participants on the basis of a written application for assignment of a clearing participant status.
- 8.3. The Exchange may make amendments and/or additions to this Agreement in accordance with the laws of the Republic of Kazakhstan with the mandatory release of these amendments and/or additions on the Exchange website.
- 8.4. The rights and obligations of the Parties under this Agreement shall not be assigned to third parties.
- 8.5. This Agreement shall be governed by the substantive law and the laws of the Republic of Kazakhstan.
- 8.6. This Agreement was drawn in accordance with the laws of the Republic of Kazakhstan and the internal documents of the Exchange relating to its clearing activities.

The clearing participant hereby confirms that it is familiar with all the internal documents of the Exchange posted on its website [www.kase.kz](http://www.kase.kz) and understands the meaning of all terms, conditions and requirements of its internal documents, and unconditionally agrees with all the above internal documents of the Exchange and the terms, conditions and requirements thereof.